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BILL FOR MAINTENANCE.

Filed February 4, 1921.

In Chancery of New Jersey

Between

MARJORIE G. STEVENS,
Complainant,

and

LUDLOW R. STEVENS,
Defendant.

On Bill, etc.

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

Complaining, says unto your Honor your oratrix, Marjorie G. Stevens, of the Town of Montclair, in the County of Essex and State of New Jersey:

1. That on the 29th day of July, 1912, she was lawfully married to her present husband, Ludlow R. Stevens, at New York in the County and State of New York, by a Minister of the Gospel.

2. After her said marriage your oratrix and the defendant, her said husband, resided in Newark aforesaid, and then in the Town of Montclair, in the County of Essex, and State aforesaid, and there lived together for a period of approximately eight and one-half years, and where they cohabited until the abandonment by the defendant of your oratrix as hereinafter complained of.

3. That they have one child by said marriage named Ludlow Robert Stevens, Jr., age six and one-half years, who lives with and is supported by your oratrix.

4. That the defendant from the time of his marriage to your oratrix until the twenty-first day of January, 1921, gave meager support to your oratrix, and for a time preceding the time last mentioned the defendant began to treat your oratrix harshly, cruelly, and unjustly, threatening to leave and abandon her and her child and leave them without any support whatever, and finally culminated in abandoning her and leaving their home.

5. Your oratrix further shows and charges that on the twenty-first day of January, 1921, defendant abandoned your oratrix and separated himself from her and her child, telling her that he was through with her and would no longer support her or their child, and that he was going to get out and go to Canada, and that your oratrix gave her husband no cause for his action but has ever been a true and faithful wife to him.

6. Your oratrix further shows and charges that ever since the twenty-first day of January, 1921, defendant has abandoned your oratrix without justifiable cause and separated himself from her and has refused and neglected and still does refuse and neglect to maintain and provide for her and her child.

7. Your oratrix further shows that she is now solely dependent for support upon herself, having no means of income whatsoever except from her own physical exertions, and that some of her

time is taken up with the care of their child who is living with her.

8. And your oratrix further shows that the defendant is an eye specialist and that he has an income from his profession of at least $8,000. That he is thirty-three years of age and in good health and when willing to work is able to earn the amount herein stated, and that the defendant is abundantly able to maintain and support your oratrix and their child.

In tender consideration whereof, and forasmuch as your oratrix can be relieved only in this court:

To the end, therefore, that the said Ludlow R. Stevens may answer the premises and that he may be ordered and decreed to provide suitable support and maintenance to be paid and provided by him and for such time as the nature of the case and the circumstances of the parties render suitable and proper, and that the said defendant may be compelled to give reasonable security for such maintenance and allowance, and to pay the same from time to time under the compulsory order of this Honorable Court, as provided by the statute: And that the defendant may be required to pay to your oratrix a proper amount for counsel fees, and that she may have such further equity as your Honor may seem meet.

May it please your Honor the premises considered to grant unto your oratrix the State's writ of subpoena issuing out of and under the seal of this Honorable Court to be directed to the said Ludlow R. Stevens, commanding him upon a day and under certain penalty therein to be expressed to be and appear before your Honor

in this Honorable Court then and there to answer all and singular the said premises and to abide by and perform such order and decree as to your Honor shall seem meet and agreeable to equity and good conscience.

And your oratrix is in duty bound, will ever pray, &c.

KALISCH & KALISCH,
Solicitors for Complainant.

SAMUEL KALISCH, Jr.,
Of Counsel.

ANSWER.

Filed February 17, 1921.

IN CHANCERY OF NEW JERSEY.

Between	
MARJORIE G. STEVENS, *Complainant,*	*On Bill, &c.*
and	*Answer.*
LUDLOW R. STEVENS, *Defendant.*	

The defendant, Ludlow R. Stevens, of the Town of Montclair, County of Essex and State of New Jersey, answering the bill of complaint, says:

1. He admits the contents of paragraph one.

2. Defendant admits that complainant and defendant resided together for approximately eight and one-half years as alleged in paragraph two but denies any inference contained in said paragraph that the defendant abandoned the complainant.

3. Defendant answering the third paragraph admits that there was one child of the marriage as therein stated and admits that the said child is now with complainant.

4. He denies the contents of paragraph four.

5. He denies the contents of paragraph five.

6. He denies the contents of paragraph six.

7. He denies the contents of paragraph seven.

New Jersey State Library

Answer.

8. Answering the contents of paragraph eight defendant says that he admits that he is thirty-three years old, and in good health, and that he is an eye specialist, but denies that he has an income of at least eight thousand dollars and says that his income runs from twenty-five to twenty-eight hundred dollars a year net.

Complainant prays that the bill may be dismissed.

MERRITT LANE,
Solicitor for Defendant.

ORDER DENYING ALIMONY.

Filed March 2, 1921.

IN CHANCERY OF NEW JERSEY.

Between	
MARJORIE G. STEVENS, *Complainant,*	*On Bill, &c.*
and	*Order.*
LUDLOW R. STEVENS, *Defendant.*	

This matter coming on to be heard in the presence of Samuel Kalisch, of counsel with complainant, and Merritt Lane, of counsel with defendant, upon application for alimony and counsel fee, and having been argued:

It is, on this 15th day of February, 1921,

ORDERED, that the application for temporary alimony be denied, without prejudice to a future application.

It is further ORDERED that there be allowed to the solicitor of complainant a counsel fee of $75, to be paid by defendant.

E. R. WALKER,
C.

Respectfully advised,

JOHN E. FOSTER,
V.-C.

CONSENT TO ORDER OF REFERENCE.

Filed March 4, 1921.

IN CHANCERY OF NEW JERSEY.

Between MARJORIE G. STEVENS, *Complainant,* *and* LUDLOW R. STEVENS, *Defendant.*	*On Bill, etc.* *Consent to Order of Reference.*

This matter being opened by the Court by Samuel Kalisch, Jr., of Kalisch & Kalisch, solicitors for and of counsel with the complainant, and Merritt Lane, solicitor for and of counsel with the defendant; and upon reading the consent hereto underwritten;

It is thereupon on this 4th day of March, nineteen hundred and twenty-one, ORDERED, that the above-stated cause be referred to Hon. J. E. Foster, one of the Vice-Chancellors of this court, to hear the same for the Chancellor and to report thereon to him and advise what order or decree should be made therein.

E. R. WALKER,
C.

We consent to the making of the above order.

KALISCH & KALISCH,
Solicitors of Complainant.

MERRITT LANE,
Solicitor of Defendant.

PETITION AND ORDER TO FILE.

Filed March 8, 1921.

Between

MARJORIE G. STEVENS,
Petitioner,

and

LUDLOW R. STEVENS,
Defendant.

} *Petition.*

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

The petition of Marjorie G. Stevens respectfully shows, that she is the petitioner in the above-entitled action for support under the statute.

1. That your petitioner was married to the defendant on the twenty-ninth day of July, 1912, in the State of New York by the Reverend Dr. Chance, a Minister of the Gospel.

2. That after her said marriage, your petitioner and the defendant resided in Newark, County of Essex and State of New Jersey, for six years and then moved to the Town of Montclair, County and State aforesaid, at which place they continued to reside up to the time of the filing of the bill for support mentioned above.

3. There has been born to your petitioner and said defendant, as the fruit of their marriage, one child, Ludlow Robert Stevens, Jr., six and one-half years of age, who is residing with your petitioner.

4. Defendant, during the time of his marriage to your petitioner, until the month of December, 1920, gave to your petitioner and the child, a meager support and for a period covering your petitioner's married life, defendant has neglected her and treated her with great cruelty. He at various times would threaten your petitioner's life by attempting to shoot her with a revolver and was only restrained from doing so by someone interfering and taking the revolver from him. At various times while your petitioner and defendant were residing in Montclair, defendant would assault your petitioner and strike her with his fist calling her vile names, such as whore, bitch, etc., and up to as late as November, 1920, the defendant threw your petitioner down a flight of stairs, whereby her left shoulder was dislocated and she was obliged to have medical attention for one week. He has compelled your petitioner to submit to three abortions and each time, your petitioner was at the point of death as the result of these abortions. He has continually, during the latter part of their married life accused your petitioner of committing adultery with various men, at various times and at various places, so that your petitioner was made a nervous wreck and she was obliged to seek medical attention by reason of these various cruelties practiced upon her. That when your petitioner complained of his treatment toward her, he would again call her various vile names, among which would be whore, prostitute and son of a bitch, and threaten and assault her so, that she was obliged to go to a sanitarium and remain there for a month in order to regain her strength and health; yet, she continued to live with her husband, trusting that she might regain his love

and reclaim him to a sense of duty. Nevertheless, he continued the course of cruel treatment above set forth so that petitioner was obliged to cease cohabitation with him and defendant left your petitioner about the seventeenth day of January, 1921. Petitioner says that from his past extreme cruelties and abusive treatment of her and his present hatred for her, it would be improper and unsafe for her to live with him as his wife.

5. Defendant is an ophthalmologist and is in receipt of an income of at least $8,000.00 a year.

6. Your petitioner prays that she may be allowed by this Honorable Court to file a supplemental petition that she may be divorced from the bed and board of her said husband for the cause aforesaid and that the defendant may be compelled by the decree of this Honorable Court to support her and the said child of the marriage.

And your petitioner will ever pray, etc.

KALISCH & KALISCH,
Solicitors of Petitioner.

SAMUEL KALISCH, Jr.,
Of Counsel.

Petition and Order to File.

IN CHANCERY OF NEW JERSEY.

Between

MARJORIE G. STEVENS,
Petitioner,

and

LUDLOW R. STEVENS,
Defendant.

Order.

Upon reading and filing the petition of the above-named petitioner, it is on this 8th day of March, 1921, ORDERED, that the petitioner may file her petition for divorce, *a mensa et thoro,* and serve a true copy of the petition within five days from the filing of this order upon the defendant or his solicitor.

E. R. WALKER,
C.

Respectfully advised,

JOHN E. FOSTER.

Supplemental Petition.

SUPPLEMENTAL PETITION.

Filed March 11, 1921.

IN CHANCERY OF NEW JERSEY.

Between MARJORIE G. STEVENS, *Petitioner,* and LUDLOW R. STEVENS, *Defendant.*	*Supplemental Petition.*

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

The petition of Marjorie G. Stevens, of the Town of Montclair, County of Essex and State of New Jersey, respectfully shows:

1. Your petitioner was lawfully joined in the bonds of matrimony to her present husband, Ludlow R. Stevens, the defendant in this suit on the twenty-ninth day of July, 1912, by the Reverend Dr. Chance, a Minister of the Gospel, at New York, in the State of New York.

2. Petitioner and defendant cohabited in the City of Newark and in the Town of Montclair, County of Essex and State of New Jersey, since their marriage.

3. Defendant, during the time of his marriage to your petitioner, until the month of December, 1920, gave to your petitioner and the child of the marriage, a meager support and for a period covering your petitioner's married life, defendant neglected her and treated her with

great cruelty. He at various times would threaten your petitioner's life by attempting to shoot her with a revolver and was only restrained from so doing by someone interfering and taking the revolver from him. At various times while your petitioner and defendant were residing in Montclair defendant would assault your petitioner and strike her with his first, calling her vile names, such as whore, bitch, etc., and up to as late as November, 1920, the defendant threw your petitioner down a flight of stairs, whereby her left shoulder was dislocated and she was obliged to have medical attention for one week. He has compelled your petitioner to submit to three abortions and each time, your petitioner was at the point of death as the result of these abortions. He has continually, during the latter part of their married life, accused your petitioner of committing adultery with various men, at various times and at various places, so that your petitioner was made a nervous wreck and she was obliged to seek medical attention by reason of these various cruelties practiced upon her. That when your petitioner complained of his treatment toward her, he would again call her various vile names, among which would be whore, prostitute and son of a bitch, and threatened and assault her so, that she was obliged to go to a sanitarium and remain there for a month in order to regain her strength and health; yet, she continued to live with her husband trusting that she might regain his love and reclaim him to a sense of duty. Nevertheless, he continued the course of cruel treatment above set forth so that petitioner was obliged to cease cohabitation with him and defendant left your petitioner about the seventeenth day of January, 1921. Petitioner

says that from his past extreme cruelties and abusive treatment of her and his present hatred for her, it would be improper and unsafe for her to live with him as his wife.

4. Petitioner and defendant were bona fide residents of the State of New Jersey when this cause of action arose, and petitioner has ever since continued to be a bona fide resident of this state, down to the time of the commencement of this action, residing at Montclair, County of Essex, New Jersey.

5. One child was born of the marriage, to wit, Ludlow Robert Stevens, Jr., six and one-half years of age, that by reason of defendant's habits of intemperance, and his habitual violent and ungovernable temper towards all the members of his household, he is unfit to have the charge and custody of said infant child.

6. Petitioner has no means of support except from her own exertions. Defendant is an ophthalmologist and is in receipt of an income of at least $8,000.00 a year.

7. Your petitioner prays that she may be divorced from the bed and board of her said husband for the cause aforesaid; and that the defendant may be compelled by the decree of this Honorable Court to support her and the said child of the marriage; and that she may be awarded the custody of the said child; and that she may have such further relief as may be just.

And your petitioner will ever pray, etc.

KALISCH & KALISCH,
Solicitors of Petitioner.

Supplemental Petition.

STATE OF NEW JERSEY,
COUNTY OF ESSEX. } *ss.*

MARJORIE G. STEVENS, being duly sworn according to law, upon her oath deposes and says, that she is the petitioner in the foregoing petition; and that her said petition is not made by any collusion between her and the defendant, but in truth and good faith, for the causes set forth in the petition.

MARJORIE G. STEVENS.

Sworn and subscribed to before
me at Newark, this 10th day
of March, 1921.

LILLIAN A. DELTAN,
Notary Public of New Jersey.

ANSWER TO SUPPLEMENTAL PETITION.

Filed March 19, 1921.

IN CHANCERY OF NEW JERSEY.

Between MARJORIE G. STEVENS, *Petitioner,* *and* LUDLOW R. STEVENS, *Defendant.*	*On Bill, &c.* *Answer to Supplemental Petition.*

The answer of Ludlow R. Stevens to the supplemental petition filed by the petitioner respectfully shows:

1. Defendant protests and sets up that the pleading filed entitled a "Supplemental Petition" is not in any respect a supplemental petition. It does not set forth facts occurring subsequent to the filing of the original pleading, nor does it pray for supplemental relief. That the relief prayed for in said supplemental petition is inconsistent with the relief prayed for in the original pleading. That the original pleading was commenced by bill. That the pleading now filed is entitled "Supplemental Petition." That the cause of action set forth in the original bill and in the so-called supplemental petition cannot properly be joined. That the Court has no jurisdiction upon the pleading entitled a "Supplemental Petition" to grant the relief therein prayed.

2. Defendant protesting, therefore, that he is not obliged to answer said pleading entitled "Sup-

plemental Petition" nevertheless says that he admits the contents of the first and second paragraphs thereof. He denies the contents of the third paragraph thereof.

He admits the contents of the fourth paragraph.

He admits the contents of the fifth paragraph to the extent that it alleges that there was one child born; the balance of said paragraph he denies.

He denies the contents of the sixth paragraph.

He prays that the petition may be dismissed.

MERRITT LANE,
Solicitor for Defendant.

Notice.

NOTICE.

Filed March 29, 1921.

IN CHANCERY OF NEW JERSEY.

Between	
MARJORIE G. STEVENS, *Petitioner,*	*On Petition, &c.*
and	*Notice.*
LUDLOW R. STEVENS, *Defendant.*	

To Ludlow R. Stevens, or Merritt Lane, counsel for defendant:

SIRS:

PLEASE TAKE NOTICE that on Tuesday, the twenty-ninth day of March, 1921, I will apply to the Chancellor for an order requiring you to pay to your wife, Marjorie G. Stevens, the above-named petitioner, a proper allowance for her support and maintenance and that of the child of the marriage in her custody, pending this suit. And annexed hereto and served upon you herewith are copies of the petition and affidavits upon which said application will be made.

Dated March 23, 1921.

KALISCH & KALISCH,
Solicitors of Petitioner.

SAMUEL KALISCH, JR.,
Of Counsel.

PETITION FOR ALIMONY AND AFFIDAVITS

Filed March 29, 1921.

IN CHANCERY OF NEW JERSEY.

Between MARJORIE G. STEVENS, *Petitioner,* *and* LUDLOW R. STEVENS, *Defendant.*	*On Bill, etc.* *Petition for Alimony.*

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

The petition of Marjorie G. Stevens, the above-named petitioner, respectfully shows:

1. She has recently filed her bill for maintenance in this cause against her husband, Ludlow R. Stevens, alleging therein that her said husband abandoned her and refused to support her.

2. Process of subpoena is about to be served upon the said defendant.

3. The charge made in her said petition is true, as she is ready to maintain and prove as your Honor shall direct.

4. The defendant left the petitioner about the seventeenth day of January, 1921, since which time he has not supported petitioner and she is destitute of means to support herself and the child of her marriage to the said defendant and to prosecute her said cause in this court.

5. One child was born of the marriage, to wit, Ludlow Robert Stevens, Jr., aged six and one-half years.

6. Petitioner is informed and verily believes that her husband has an income from his profession of at least $8,000.00 a year and petitioner says that her husband's means are amply sufficient for her to raise and pay such sum as may be necessary for the purpose aforesaid.

7. She prays that an order may be made requiring the defendant to pay her a proper allowance for her support and maintenance and that of her child of the marriage, in her custody until the termination of this suit.

And your petitioner will ever pray, &c.

KALISCH & KALISCH,
Solicitors of Petitioner.

SAMUEL KALISCH, Jr.,
Of Counsel.

STATE OF NEW JERSEY,
COUNTY OF ESSEX. } *ss.*

MARJORIE G. STEVENS, being duly sworn upon her oath deposes and says: I have read the foregoing petition and know the contents thereof, and the same is true; and particularly is it true that I have in truth and good faith and without collusion, brought the above-entitled suit against my husband for maintenance and support, as stated in my petition.

MARJORIE G. STEVENS.

Sworn and subscribed to before
me this 23rd day of March,
1921.

LILLIAN A. DELTAN,
Notary Public of N. J.

IN CHANCERY OF NEW JERSEY.

Between

MARJORIE G. STEVENS,
Petitioner,

and

LUDLOW R. STEVENS,
Defendant.

Affidavit.

STATE OF NEW JERSEY,
COUNTY OF ESSEX. } *ss.*

MARJORIE G. STEVENS, being duly sworn, upon her oath deposes and says:

I am the petitioner in the above-entitled action for alimony. That on a previous application for alimony on the eighth day of February, 1921, my petition for alimony *pendente lite* was denied with leave to renew at a future time my application upon the ground that the defendant, through his attorney, stated that he was willing and anxious to have me return to our home at 79 Midland avenue, and that he would properly support me. Since that time the defendant has not been near me or attempted in any way to carry out his statement in open court, that he was anxious and willing for me to return to our

home. I instructed my attorney, Samuel Kalisch, Jr., to write a letter to Mr. Lane, who is attorney of the defendant, requesting the defendant to make good his assertion in open court, that he was willing and anxious to receive me at our home in Montclair, and also to support me properly, a copy of which letter is hereto attached. Neither has he offered me any support whatever for myself and child.

As I set forth in my previous affidavit, ever since my marriage to the defendant he has given me meager support and treated me with great cruelty; and has frequently threatened to kill me, so that he has impaired my health and I was and am still obliged to have medical attention. The constant worry concerning my finances and my inability to procure any support whatever from my husband has rendered me at the present time physically unfit to attend my household duties, or take proper care of my son, Ludlow R. Stevens.

When I married my husband, the defendant, I received two houses which were situated in the City of Paterson and which I inherited from the estate of my grandfather; I was compelled to sell the two houses for about $8,300.00, in order to start a home for myself and husband; I was compelled to spend all this money which I received from my grandfather's estate in order to keep the house where we lived together; and after this money was spent, I received another $1,600, in the form of a mortgage from the said estate, which money was spent in the support of our home. When our child was born, in the year 1914, I was obliged to borrow money to pay for my confinement and for the clothes for myself and child. In the month of April, 1919, I received

from the estate of grandfather, which was then settled, about $25,000, and out of this $25,000 I bought a house in Montclair, N. J., for which I paid $14,500; there was a $9,000 mortgage on the house bearing interest at 6 per cent., which remained and which interest I paid from the time that myself, husband and child lived in Montclair. My husband never gave me sufficient money to run the house, and I was obliged to pay for whatever help I had out of my own money; in addition I furnished the house from top to bottom, which furniture cost me about $8,000; the remainder of the money, which I received from my grandfather's estate, which is about $9,000.00, I invested in Liberty bonds.

While we were living together in Montclair, I continuedly had fights with my husband because he refused to give me enough money to keep house or pay for house bills, or clothing for myself and boy; whenever I requested my husband to give me money he would say: "I will not give you any, you God damn son of bitch; get out of here." When he would not give me money to keep house and to buy clothing for myself and child, I would ask him to at least return the money I loaned him, and he would say: "You God damn son of a bitch, what is your money, it is only cigarette money." Since my husband has been practising in Montclair, he has had a large practice and has made a good deal of money, and what he has done with the money he has made in his practice I do not know; except that in the month of December when I asked him why he did not bring us any Christmas presents, he said: "You God damn son of a bitch, do you think that I would give you a Christmas present. I bought my

German secretary, Marie Sutz, a sealskin coat"; and I am informed that he has spent other moneys upon her. While we were living in Montclair, the office was continuedly crowded with patients, because I used to make appointments for him. He has often made the remark to me that his practice was worth at least $10,000 a year and that if things would keep up he would make at least $15,000; and from the affidavit of Lowell Houchin, which is attached, it would appear that his business amounted to between $12,000 and $15,000. I might add that besides the profits on the purchase of the glasses the defendant, my husband, received $3.00 for examination in addition.

There was never sufficient food in the house and in desperation, I was compelled to go to various trades people in Montclair and charge whatever food was necessary for immediate consumption. In the month of January, this year, I was unable to have any coal in the house and I was unable to purchase any food because my husband had stopped all credit with trades people; since then I also tried to get credit at the various trades people in Montclair, for whatever I needed, and the various tradesmen refused to extend credit to me, and I was unable to get any food there. About the seventeenth of January, 1921, my husband left me without any money to keep house and without any food, and I was obliged to leave the house and move to a hotel in East Orange, and am obliged to pay $45 a week for myself and child. In desperation I was compelled to rent my house for a period of two and one-half months for $500, in order

to meet the payment of interest and taxes which is due on the $9,000 mortgage on the house.

MARJORIE G. STEVENS.

Sworn and subscribed to before
me this 23rd day of March,
1921.

LILLIAN A. DELTAN,
Notary Public of N. J.

March 15, 1921.

Mr. Merritt Lane,
196 Market St.,
Newark, N. J.

Stevens vs. Stevens.

Dear Sir:

In the above matter we are waiting for the support which Dr. Stevens said he was willing and able to give Mrs. Stevens, in open court when I made my application for temporary alimony. Up to the present time he has not given Mrs. Stevens any money whatever in fulfillment of the statement which was made in open court to that effect. If this is not done immediately I shall be obliged to renew my application for temporary alimony.

Yours respectfully,

SK/EM

Petition for Alimony and Affidavits.

STATE OF NEW JERSEY, }
COUNTY OF ESSEX. } *ss.*

MRS. ELIZABETH SHORTER, residing in Bloomfield, N. J., of full age, being duly sworn on oath, deposes and says:

That she is well acquainted with Mrs. Marjorie G. Stevens, wife of Dr. Ludlow R. Stevens, residing in Montclair, N J.; that in January 19, 1921, she called on Dr. Ludlow R. Stevens for medicine; that she met Mrs. Stevens there, who told her that she had been very ill with a nervous breakdown, due to harsh treatment on the part of her husband, one of his acts to throw her down stairs; that Dr. Stevens had threatened to shoot her and that three revolvers had been taken from him; that she was about to go to Atlantic City with Mrs. Walter J. Sperling for rest and recuperation, being at that moment in a very nervous state; that Dr. Stevens owed money to many tradesmen of Montclair for 1919 bills; that he also owed Bamberger Co., of Newark bills for 1919 purchases, which he refused to pay and endeavored through violence to force her to pay them; that she was about to separate from Dr. Stevens and take the boy (her son) with her, because Dr. Stevens had never wholly supported her or her son; that Dr. Stevens had received from her various sums of money from time to time and that she then held Dr. Stevens' note for $1,300 and besides Dr. Stevens had squandered other sums of her money, speculating on the Stock Market; that she owned the house where they were then living; that she had furnished the house with money inherited from her grandfather's estate; that Dr. Stevens drank to excess and frequently came home intoxicated.

Mrs. Elizabeth Shorter further states that Dr. Stevens called on her on Monday evening, February 14, 1921, in company with a lawyer and asked her questions about her conversation with Mrs. Stevens on January 19, 1921. That she told Dr. Stevens, what is substantially here and before set forth, which statements were set down in writing by the lawyer and signed by her. That she made no statements detrimental to the character of Mrs. Stevens and further states, she has no knowledge of any facts, detrimental to the character of Mrs. Stevens.

MRS. ELIZABETH SHORTER.

Sworn to before me this 15th
day of February, 1921.

HOWARD B. DAVIS,
Notary Public in N. J.

STATE OF NEW JERSEY,
COUNTY OF ESSEX. } *ss.*

R. H. SEE, being duly sworn, upon his oath deposes and says:

I am in the coal business in Montclair, N. J., and that in the month of January, 1921, Marjorie G. Stevens, 79 Midland Ave., Montclair, asked me to deliver some coal to her residence. That I was informed by Dr. Stevens that he would not be responsible for any coal delivered to his wife's residence, I therefore, did not deliver any coal to her, although Mrs. Stevens requested me to do so.

R. H. SEE.

Sworn and subscribed to before me this 22nd day of March, 1921.

LOUIS LARSEN,
Notary Public.

STATE OF NEW JERSEY,
COUNTY OF ESSEX. } *ss.*

W. O. HENKE, being duly sworn, upon his oath deposes and says:

I am treasurer and manager of the Connor Coal Co., situated at 85 Walnut street, Montclair, N. J., and that on or about the fourth day of February, 1921, I received a letter signed by Dr. Ludlow R. Stevens, in which he says that he will not be responsible for any debts contracted by his wife, Marjorie G. Stevens. I, therefore, could not deliver any coal to Mrs. Stevens at her residence, 79 Midland avenue, Montclair.

W. O. HENKE.

Sworn and subscribed to before me this 18th day of March, 1921.

LOUIS LARSEN,
Notary Public.

Petition for Alimony and Affidavits.

STATE OF NEW JERSEY, }
COUNTY OF ESSEX. } *ss.*

HENRY G. BOBBE, being duly sworn, upon his oath deposes and says:

That I am the manager of the Borden's Farm Products Company, Inc., of Montclair. That I was in the habit of supplying Dr. L. R. Stevens or Marjorie G. Stevens with milk at the residence, 79 Midland avenue, Montclair. That about the month of February 4, 1921, I received a registered letter from Dr. Stevens, saying that he would not be responsible for any milk which we supplied to Marjorie G. Stevens at this residence.

HENRY G. BOBBE.

Sworn and subscribed to before me this 18th day of March, 1921.

E. L. KOFFMAN,
Notary Public of New Jersey.

STATE OF NEW JERSEY, }
COUNTY OF ESSEX. } *ss.*

HELEN M. SOMMERVILLE, of full age, being duly sworn, upon her oath deposes and says:

I am a resident of Montclair, N. J., and I know Dr. and Mrs. Stevens. That I was in the habit of calling daily on Mrs Stevens, and she appeared to me to be in a very nervous and hysterical condition on several occasions when I called, and upon my asking what the trouble was she told me that her husband assaulted her and threatened to kill her. That on several oc-

casions when I called I found Mrs. Stevens in bed suffering from nervous exhaustion, and she told me she was in fear of her life and that her husband had threatened to shoot her and was continually swearing at her and called her vile names, making her life miserable.

About the middle of December, 1920, on one of my visits to Mrs. Stevens I found her in bed in a very nervous condition and she informed me that her husband had thrown her downstairs and injured her left shoulder, that he had left the home and that she had no money to keep house with. About the middle of January, 1921, Dr. Stevens finally left Mrs. Stevens and has not returned since. During my visits at the home and while Dr. Stevens was away, Mrs. Stevens telephoned for some coal which she needed badly, and from what Mrs. Stevens told me they would not give her any coal because they wanted cash payments.

HELEN M. SUMMERVILLE.

Sworn and subscribed before me this 22nd day of March, 1921.

JOHN L. COX,
Notary Public for N. J.

STATE OF NEW JERSEY,
COUNTY OF ESSEX. } *ss.*

LINNIE T. GORTON, being duly sworn, upon her oath deposes and says:

I have been a resident of Montclair, N. J., for over twenty years, and I am the wife of Joseph A. Gorton, we reside at 77 Midland avenue, next door to where Mrs. Ludlow Stevens resided with her husband.

About the middle of December, 1920, their son Bobbie came into my house and said: "Why don't you come in and see mother, she has been sick in bed several days and daddy has left." I called and found her very ill indeed, she said she had been unable to keep food on her stomach for several days, she said her nervous breakdown had been caused by the dreadful strain she had been under and the cruel treatment she had received from her husband. She told me he had threatened to kill her and had knocked her downstairs, hurting her shoulder. Dr. Eddie had been giving her treatment for same. She asked me if I would phone Dr. Stevens to come home, and tell him the heater was out and Bobbie was taking cold. I did not phone him that day, but without telling her I made the fire in the boiler myself and took Bobbie home and gave him his dinner. The maid said she was going out that evening, so I went in and stayed with Mrs. Stevens, I saw she was much worse, and thought she was weak from having no food. I went home and fixed her some broth, but she could not keep one mouthful down. I tried to call her mother on the telephone, also Dr. Stevens' mother, and also her lawyer, but could get no one.

In the morning she was so very sick I phoned Dr. Stevens at his office and told him her condi-

tion, I said I could not leave her there alone with the maid (I had an all day meeting of which I had to take charge), she must either go to a hospital or have a trained nurse, or he must come home and take charge of things, he answered, "Well, Mrs. Gorton, this has been coming on for a long time, and it might as well end now as any time, I will bring my lawyer up today and see what I can do to settle things." I said, "Whatever you do ought to be done at once, for Mrs. Stevens is too ill to be here alone with this maid, that can hardly talk English, she could not keep a fire in the heater and I made it for her twice, when it was all out and the house was very cold.

I called again that night and Mrs. Stevens said Dr. Stevens had not been home, she told me Dr. Stevens had left her without any money to buy food, I tried to lend her some but she would not take it. I went to a drugstore and bought her some clam bouillon, of which she took a little. The next day she seemed better but still said the doctor had not been home. When Mrs. Stevens got better she came into my house and said she could not stay there any longer as Dr. Stevens had cut off all her credit and she could not buy even a loaf of bread, that was about the middle of January. Dr. Stevens returned, but finally left home about the middle of January and did not return. As to Dr. Stevens' practice, he seemed to have a great many calls, both morning and evenings, he fitted my son's eyes, also my own and remarked to each of us, that it was a pretty poor day when he didn't have from sixty to eighty patients, and I know his charge to me was $3.00 for an examination.

LINNIE T. GORTON.

Sworn and subscribed to before me this 21st day of March, 1921.

SAMUEL KALISCH,
Master in Chancery of New Jersey.

STATE OF NEW JERSEY,
COUNTY OF ESSEX. } *ss.*

DR. J. T. EDDY, 14 The Crescent, Montclair, N. J., being duly sworn, upon his oath deposes and says:

I am a practicing osteopath in Montclair, and was called upon by Marjorie G. Stevens to treat her in the month of December, 1920, and the month of January, 1921, at her residence, 79 Midland avenue, Montclair. I called at the residence of Mrs. Stevens, who was confined to her bed and was in a hysterical and very nervous condition. I treated Mrs. Stevens for her nervous condition and advised her to stay in bed. Mrs. Stevens informed me that her husband had thrown her downstairs and threatened to shoot her, and I ascribed her condition to the treatment she received from her husband. He was not living with Mrs. Stevens at the time I treated her. In the month of February, I received a registered letter from Dr. Stevens saying that he would not be responsible for any bills which his wife incurred, by reason of the treatment she was receiving from me. This affidavit is made at the request of the said Marjorie G. Stevens.

JOHN T. EDDY.

Sworn and subscribed to before me this 19th day of March, 1921.

PHILIP GOODELL,
Master in Chancery of New Jersey.

STATE OF NEW JERSEY,
COUNTY OF ESSEX. } *ss.*

ISAAC H. KASHMANN, being duly sworn, upon his oath deposes and says:

I am engaged in the vegetable and meat business in Montclair, and up to the time of Dr. Stevens leaving his wife in the month of January, 1921, I was in the habit of supplying Mrs. Stevens with the meat and vegetables for her home.

After Dr. Stevens left the home at 79 Midland avenue, Montclair, and while Mrs. Stevens was still residing there, Dr. Stevens telephoned me and told me not to extend any credit to Mrs. Stevens for meat and vegetables, and that he would not pay any more of the bills contracted by Mrs. Stevens. I also received a letter in which he said he would not be responsible for any debts contracted or to be contracted by Mrs. Stevens, for any food that she purchased at my store. I consequently can not supply Mrs. Stevens with any meat or vegetables, unless she pays in cash. During the time that Dr. and Mrs. Stevens were living together, Mrs. Stevens used to make daily purchases at my store, and she was very economical in her purchases.

ISAAC H. KASHMANN.

Sworn and subscribed to before me this 17th day of March, 1921.

SAMUEL KALISCH, JR.,
Master in Chancery of New Jersey.

STATE OF NEW JERSEY,
COUNTY OF ESSEX. } *ss.*

LESLIE D. SIMPSON, being duly sworn, upon his oath deposes and says:

I am in the real estate business in Montclair. In September, 1918, I entered into an agreement between Dr. and Mrs. Stevens, whereby Dr. Stevens was to pay $112 a month for a period of one year for property situate at 79 Midland avenue, Montclair. At that time Dr. Stevens informed me that Mrs. Stevens would receive some money from an estate and she would then purchase said property, and which property was purchased by Mrs. Stevens in the month of November, 1919. There was a $9,000 mortgage of Anna M. Dickinson on the property at 6 per cent., which Mrs. Stevens assumed and agreed to pay.

LESLIE D SIMPSON.

Sworn and subscribed to before me this 19th day of March, 1921.

THOMAS F. ROCHE,
Notary Public for New Jersey.

Petition for Alimony and Affidavits.

STATE OF NEW JERSEY,
COUNTY OF ESSEX. } *ss.*

AARON W. GODFREY, being duly sworn, upon his oath deposes and says:

I am a resident of Montclair, and in the month of September, 1918, I purchased property at 79 Midland avenue, Montclair, from Anna M. Dickinson. Mrs. Dickinson retained a mortgage of $9,000 at six per cent. At this time I entered into an agreement with Dr. and Mrs. Stevens whereby Dr Stevens was to pay a monthly rental of $112 a month, for a period of one year, and at the end of the year Mrs. Stevens did purchase the property from me with money Dr. Stevens said she received from an estate. In November, 1919, Mrs. Stevens took title to the property and assumed a mortgage which was already of the property of $9,000 at six per cent.

AARON W. GODFREY.

Sworn and subscribed to before me this 19th day of March, 1921.

THOMAS F. ROCHE,
Notary Public for New Jersey.

STATE OF NEW JERSEY,
COUNTY OF ESSEX. } *ss.*

LOWELL HOUCHIN, being duly sworn, upon his oath deposes and says:

I am president of the Houchin Optical Co., which is situate at 811 Broad street, Newark, N. J. That during the year beginning January 1st, 1920, up to March 15th, 1921, Dr. Stevens, who has offices in the Kinney Bldg., Newark, has

received glasses and optical material which we manufacture for him, and which business on the 15th of March, 1921, amounted to about $4,700. Of course, this is the wholesale price and Dr. Stevens' charge to the retailer is at least three times the cost to him.

I have been in the optical business eighteen years and have been employed by some of the largest houses in the United States, and I know that the profit which I have stated above is a conservative one, for a person doing the amount of business which Dr. Stevens does.

LOWELL L. HOUCHIN.

Sworn and subscribed to before me this 19th day of March, 1921.

SAMUEL KALISCH, JR.,
Master in Chancery of New Jersey.

STATE OF NEW JERSEY,
COUNTY OF PASSAIC. } *ss.*

FREDERIC BEGGS, being duly sworn according to law, upon his oath deposes and says:

I am a counsellor at law (and Surrogate of Passaic County), with offices at 140 Market street, Paterson, N. J.

I have acted as attorney for Marjorie G. Stevens (formerly Marjorie G. Van Riper), ever since she became of age and also acted as attorney for her mother, who was her guardian during her minority.

I know of my own knowledge that Marjorie G. Stevens has no property except that which she inherited through the will of her deceased grand-

father, Hartman Van Riper, late of the Township of Saddle River, in the County of Bergen.

The said Marjorie Stevens received approximately $35,000 from the estate of her deceased grandfather at the time of a settlement in the summer of 1919. Considerable of this money was paid out through me.

In the final settlement that was made with Mrs. Stevens she was charged with the sum of $500 and accrued interest of $149.84 because sometime in June, 1914, being without funds and just prior to the birth of her child she felt the necessity of raising some money and Mr. Robert H. Fordyce, who was then the trustee, advanced the same to her and it was charged against her in the final adjustment. In March, 1918, Mrs. Stevens applied to me for a loan. She appeared to be physically run down and in a nervous condition. Upon questioning, she informed me at the time that she had appealed to her husband but he said he was without funds to help her; and she had also appealed to the then trustee of her grandfather's estate (The Hackensack Trust Company) and they replied that they were without authority to make the advance. Finally I arranged to advance the money upon her note of $850 payable upon settlement of the estate and she repaid the said $850 to me at the time of the settlement.

In order to protect me on the advances that were made, Mrs. Stevens gave me a power of attorney directed to the trustee of her grandfather's estate authorizing them to pay to me her interest in the estate, and in June 4, 1919, I received for her account $5,000 and paid it to her; on June 18, I received $1,000 and on August 8, another $5,000, all of which I paid to her.

There was some money in addition to this that she collected herself, but from the money received I deducted the amount of my note and bill for services which she paid. I know of my own knowledge that she paid out altogether about $4,000 of obligations that she had incurred from the time she was 21 until the division of the estate. Mrs. Stevens received at the settlement of the estate some real estate and the sale of this was handled through my office, and my records show that it yielded $7,125.28.

I represented Mrs. Stevens when she purchased the premises known as 79 Midland avenue, Montclair, N. J. I never saw her husband with reference to this transaction. Mrs. Stevens engaged me and I examined the title for her and she paid the bill. The title was passed at the office of Edwin B. and Phillip Goodell of Montclair, N. J. Mrs. Stevens was present and gave her personal check for the consideration which was paid by her. As I recall it she bought the property subject to a $9,000 mortgage and I think assumed the payment.

I know of my own knowledge that Mrs. Stevens has been obliged almost entirely since her marriage to use her own funds and credit for the support of herself and her child. She has a number of times complained to me and discussed with me the fact of her husband's failure to properly support her and the fact that she was obliged to use not only her income, but a large part of her principal, which has now been reduced so that she has about $18,000, which includes the money that she has put in the Montclair house. She has discussed with me the collection of a note of $1,275 which her husband gave her for cash which she loaned to him and

which she claims was never repaid. She has also discussed with me another loan of $2,500 which she made to him and with which he claims to have bought some St. Paul stock. None of this money was ever returned.

FREDERIC BEGGS.

Sworn and subscribed to before me this 19th day of March, 1921.

JACOB STAM,
A Notary Public of New Jersey.

Service of a copy of the within petition, affidavits and notice is hereby acknowledged this 23rd day of March, 1921.

MERRITT LANE,
Solicitor of Defendant.

AFFIDAVITS.

Filed April 7, 1921.

IN CHANCERY OF NEW JERSEY.

Between

MARJORIE G. STEVENS,
Petitioner,

and

LUDLOW R. STEVENS,
Defendant.

} *Affidavits.*

STATE OF NEW JERSEY, } *ss.*
COUNTY OF ESSEX. }

LUDLOW R. STEVENS, of full age, being duly sworn according to law, upon his oath deposes and says:

1. I have had read to me the affidavit of Mrs. Stevens, sworn to on the 23rd day of March, 1921.

2. I deny, as I denied in my affidavit sworn to on the 15th day of February, 1921, that since my marriage to the petitioner I have given her meager support and treated her with great cruelty, and I deny that I have frequently threatened to kill her, or that I have impaired her health. I deny that constant worry concerning her finances and her inability to procure any support has surrendered her unfit physically to attend to her household duties; if she is unfit physically to take care of her household duties it is from other causes.

3. I have already in paragraph 3 of my previous affidavit set forth in detail the circumstances with respect to my wife's finances.

4. I deny that when the child was born in the fall of 1914 she was obliged to borrow money to pay for her confinement, and for the clothes for herself and child. I admit that she received about the month of April, 1919, approximately $25,000 out of the estate of her grandfather. The details with respect to the purchase of the house in Montclair are as set forth in my affidavit heretofore sworn to, paragraph 3. I purchased the house originally in September, 1918, for $14,500. I paid $1,000 in cash, and entered into an agreement under the terms of which I was to pay $112.50 per month representing a payment on account of interest and principal. What was left after paying interest and taxes was to be applied to the purchase price of the house. I kept these payments up until about November, 1919, at which time I turned over the house to my wife and agreed to pay her $150 a month rent for the house, and I paid it up until November or December, 1920. If my wife intends by her affidavit to indicate that she paid $14,500 in addition to the $9,000 mortgage this is not true. The entire purchase price of the house was $14,500. There was a $9,000 mortgage on it for which I received credit, and I had made payments for which credit was received, so that of the $25,000 my wife received from the estate of her grandfather, the limit of the amount which she could have put into the house, was approximately $4,000. That left her out of this payment with approximately $21,000. As set forth in my previous af-

fidavit she has spent some money in furnishing the house. I do not believe, however, that the amount spent by her is in excess of $2,000. It was not nearly the sum stated by her of $8,000. The house was not furnished from top to bottom at that time as stated in my previous affidavit. She received in addition to the $25,000, from the estate of her grandfather subsequent payments amounting to approximately $9,000 more, making a total received from the estate of her grandfather of $34,000 and there is fifteen or twenty thousand dollars yet to be divided among the heirs. Giving her credit for having expended all the moneys, of which I have any knowledge, that is, moneys which she spent in the purchase of the house and the moneys which she spent for furniture, she should have approximately $28,000 or $29,000. I remember that about three weeks before the separation she counted up, in my presence, that she had invested in Liberty Bonds and securities of various kinds, approximately twenty-eight of twenty-nine thousand dollars. Her statement that she has invested only the sum of $9,000 in Liberty Bonds is false.

5. As stated in my previous affidavit, paragraph 4, we did not continuously have fights because I refused to give her money enough to keep the house or pay household bills or buy clothing for herself and boy. I deny that I said: "I will not give you any, you God damn son of a bitch; get out of here," or words to that effect, and I deny that I have treated her cruelly.

As I admitted in my previous affidavit, paragraph 4, there has been difficulty between us, but that difficulty has not been on my account,

but due to other causes, and I refer particularly to what I said in paragraphs 5 and 6 of my previous affidavit. I deny that when she asked me for a Christmas present I said: "You God damn son of a bitch, do you think that I would give you a Christmas present. I bought my German secretary, Marie Sutz, a sealskin coat," or words to that effect.

I concede that there has been difficulty between us and the most serious difficulty was that which took place in the spring of 1918. I do not desire to refer to this, and would not refer to it, were it not for the fact that Mrs. Stevens has attributed the difficulty which arose to my cruelty whereas whatever difficulties there were were due to an entirely different source.

In March or April, 1918, Mrs. Stevens met a man who was supposed to be a Edward Burton, who was afterwards discovered to be known throughout the country as Paterson, Allen and Carter, and who afterwards was discovered to have served time in various jails. When she came home she told me that she had met this man and raved about him; he was in uniform, and she continually talked about him. After she was home for three or four days she telephoned me at the office and told me that Burton had called her up on the telephone, and that she had invited him to the house. I protested at this because I did not know the man, who was merely a chance acquaintance. Subsequently, however, as we were passing the Robert Treat Hotel, where apparently he was staying, he apparently by accident met us and Mrs. Stevens introduced us. After that Mrs. Stevens had him at the house on several occasions and we had several quarrels with respect to him. I protested

against her continuous association with him. I had no suspicion, however, of any impropriety until just before Burton was arrested under the name of Paterson when I found Mrs. Stevens lying to me with respect to whether she was telephoning or not. About that time a check which I had cashed for Burton, at his request, appeared to be forged, and I swore out a complaint against him, and he was arrested in the Robert Treat Hotel in his rooms where he was registered under the name of Burton. When the police arrested him they took from him certain papers, one a picture of my wife, snap shot, taken somewhere, with my wife in riding clothes, I do not know where it was taken, he tried to destroy it and it is in pieces, pasted together by the police. There was also taken from him a letter, or piece of paper, with the names of a great many women upon it, in the handwriting of Burton, indicating upon its face that Burton had had sexual relation with the women whose names appear on the paper, and among the names was that of Mrs. Stevens. That paper is in my possession, ready to be produced to the Court, if necessary. As soon as I got this information I went right down to the house, and there was a frightful time. She admitted what had occurred; she said she had been with him for two hours on the same day he was arrested at the York Hotel in New York. She carried on at a great rate; she said I had been brought up without a father and was I going to compel my boy to be brought up without a father; she became hysterical and we were up all night, and I finally forgave her. I did this on the understanding, however, that she would not have any further communication with this man, and I thought for sometime that she had

had no further communication. In July, 1918, a letter came addressed to Mrs. Stevens at 1009 Broad street, Newark, New Jersey, which letter was written upon the stationery of the Hotel McAlpin and which I opened. It reads as follows:

> "I was in Trenton today to see my husband. He told me you had sent a letter and book. He refused to accept either and they were destroyed. You also sent him a book in Newark which you probably have now. Let this be the last thing you send him. The Superintendent of Mails in Trenton has his orders to destroy anything that may come from you, and not to admit you in case you call.
>
> "Looks to me as though you have no self-respect running after a man who despises your very name.
>
> (Signed) D. E. PATERSON."

This person, "D. E. Paterson" is the wife of Burton. When I received this letter there was another quarrel.

The only time that I was at all harsh with Mrs. Stevens, if you may call my conduct harsh, was when the trouble was on between us with respect to her episode with this man. Since that time for no reason that I know of she became extremely violent, and she has given exhibitions of her temper, as I stated in my previous affidavit. She has paid less and less attention to me; she continued to upbraid and curse and sworn at me whenever I was in the house until finally, as stated in my previous affidavit, she ordered me out of the house and threatened to call the police if I didn't go out of the house, as indicated in my previous affidavit.

I stated in my previous affidavit that Mrs. Stevens has stated that she would ruin my business. I deny her statements that I have stated that my practice was worth $10,000 a year, and I say that the true condition of my business is shown in paragraph 8 of my previous affidavit. Since the publicity caused by this business my practice has been steadily declining, and I have lost all of the business that I had in Montclair.

6. I have read the affidavit of Mr. Houchin. The affidavit of Mr. Houchin conveys a wrong impression. I do not act as a wholesaler, selling to retailer. A considerable part of the $4,700, if the amount be $4,700, I have not had an opportunity to check up my books, as yet, is made up of moneys which I paid for leather cases engraved with my name. Owing to market conditions I thought there would be difficulty in obtaining real leather cases so that I stocked up with cases. A great quantity of these cases are at the present time on the shelves in my office, and a lot of them are still in the possession of the Houchin Optical Co. But taking the figures of Mr. Houchin at their face it would appear that I bought material for a period of fifteen months amounting to $4,700. This would make an amount for twelve months of $3,700. Assuming that my charge to my patients was three times the cost to me there would be a gross profit to me of $7,400 a year. This is without deducting any expense except the expense of material. From that gross profit there must come rent, $900; services of stenographer, $900; stationery, telephone service, and all of the other incidentals that go into the conduct of a business, so that although the inference from the

affidavit Mr. Houchin is incorrect nevertheless assuming his figures to be correct and the inference to be made correct the condition of my business is as stated in paragraph 8 of my previous affidavit.

7. I have read the affidavit of Leslie D. Simpson. I never said to him that Mrs. Stevens would receive some money from an estate.

8. I have read the affidavit of Aaron W. Godfrey. I never told Aaron W. Godfrey that Mrs. Stevens would receive any money from an estate.

9. I have read the affidavits of Mr. Simpson, Mr. Godfrey and Mr. Beggs and I draw the attention of the Court to the fact that in none of those affidavits, although they go into some detail with respect to the purchase of this property, is the amount in cash which Mrs. Stevens paid for the property stated. Throughout the affidavits it is stated that the property was purchased subject to a mortgage of $9,000, but it is not stated whether the $9,000 was in addition to the purchase price of $4,500 or not. As previously stated if this is the inference to be gathered from the affidavit of Mrs. Stevens it is untrue, although in these affidavits the consideration, particularly that of Mr. Beggs, is referred to as for instance "Mrs. Stevens was present and gave her personal check for the consideration which was paid by her"; the amount of the consideration is not expressed. If Mrs. Stevens applied in March, 1918, to Mr. Beggs for a loan, it was because she desired money in the Burton-Paterson incident. She bought considerable clothing at that time and Burton went over to Worth & Company with her while she purchased a coat. I have no doubt at all but that she may

have applied to Beggs for money for the purpose of purchasing clothing of this kind, and I have no doubt but that the money which she raised on her note of $850 was used for that purpose. She was in a nervous condition at that time and she did appear to be physically run down. It was not, however, on account of what I had been doing but because of her relations with the said Burton-Paterson.

10. I have read the affidavit of Dr. Eddy. I deny that I ever threw her downstairs and threatened to shoot her. I do not know what she may have told the doctor. I do not remember any occasion which would warrant her in making the statement attributed to her by Dr. Eddy.

11. In reference to the statement contained in the affidavit that I have taken no steps to support my wife although I offered to have her return to me, &c., I desire to say that almost after the determination of the motion for alimony and counsel fees a supplement petition was filed in this cause, to which I refer, in which supplement petition, paragraph 3, it is charged: "He (referring to me) at various times would threaten your petitioner's life (referring to my wife) by attempting to shoot her with a revolver and was only restrained from so doing by someone interfering and taking the revolver from him. At various times while your petitioner and defendant were residing in Montclair, defendant would assault your petitioner and strike her with his fist calling her vile names, such as whore, bitch, etc., and up to as late as November, 1920, the defendant threw your petitioner down a flight of stairs, * * * He has com-

pelled your petitioner to submit to three abortions * * * He has continually, during the latter part of their married life, accused your petitioner of committing adultery with various men * * * Petitioner says that from his past extreme cruelties and abusive treatment of her and his present hatred of her, it would be improper and unsafe for her live with him as his wife." The petitioner then prays for a divorce from bed and board. In the face of this petition I do not know what more I can do, and the charges in this petition are wholly inconsistent with the statements contained in her affidavit. My wife has not attempted to take advantage of any offer which I may have made through counsel. This petition is still pending.

12. As indicated by the affidavits of Mrs. Shorter and my mother, previously submitted, I did not leave home. I was ordered out of the home, and to those affidavits I refer. There has been no act on the part of Mrs. Stevens to indicate a change in attitude on her part. She has filed a petition for divorce from bed and board, which makes it impossible for me to do anything except to remain in the attitude as I did, that I expressed through counsel upon the hearing.

13. I stated in my previous affidavit that Mrs. Stevens was attempting to ruin my business. I have a letter from her which I received by messenger on or about January 23, 1921. In that letter she said, among other things: "However, if you do not give the Montclair office instructions to resume phone service at once (tomorrow), I will pay for same. You can expect me to give all information to Montclair Medical

Board together with evidence and I might inform you I have witnesses who can testify. * * * Assuming that you will be sensible enough to resume the phone service here at my expense thus avoiding any cataclysm with Post Graduate Hospital and Medical Board." This letter is in my possession, ready to be produced when called for.

On or about the 30th day of March, 1921, a constable from the District Court came to my office. I heard him say that he had a warrant for my arrest. I got out of the office with out his recognizing me and left the jurisdiction. I did not know what was up. I wanted to arrange for bail before I submitted to arrest. I finally discovered through investigation of counsel, that there was a complaint against me by the Medical Board in the East Orange District Court for practising medicine without a license sometime back in 1919. I finally arranged for bail and surrendered myself on Saturday, April 2nd, and was released. I know that this prosecution is directed by my wife. It follows her threat and there is no other way in which to account for it. As stated in my previous affidavit she has communicated with my patients and has endeavored to destroy my business. I am practically doing no business at the present time whatever.

The papers and letters to which I refer in this affidavit I can produce at any time.

I reiterate everything that I said in my previous affidavit. I deny any cruelty upon my part towards my wife. My wife has ordered me out of the house and she has constantly threatened that she would kill me down to the present time. She has recently made remarks to persons, whose affidavits I cannot at this time produce, that if I

came back she would shoot me, and has made no attempt to indicate a desire that she would come back to me.

LUDLOW R. STEVENS.

Sworn and subscribed to before me this 6th day of April, 1921.

ELIZABETH COONS,
Notary Public of N. J.

STATE OF NEW JERSEY,
COUNTY OF ESSEX. } *ss.*

MERRITT LANE, of full age, being duly sworn according to law, deposes and says:

I am the solicitor for Ludlow R. Stevens. At no time has there been no expression on the part of Mrs. Stevens indicated to me through herself or by counsel that she desired or would consent to live again with Dr. Stevens. I did not at any time indicate to the Court that Dr. Stevens would support his wife separate and apart from himself.

The statements contained in the affidavit of Dr. Stevens with respect to the filing of a petition for limited divorce are true.

MERRITT LANE.

Sworn and Subscribed to before me this 6th day of April, 1921.

ELIZABETH COONS,
Notary Public, N. J.

Affidavit of Ludlow R. Stevens.

STATE OF NEW JERSEY,
COUNTY OF ESSEX. } *ss.*

LUDLOW R. STEVENS, of full age, being duly sworn according to law, upon his oath deposes and says:

1. I am the defendant named in the foregoing answer; the matters and things therein set forth are true.

2. I deny that ever since my marriage to the defendant I have given her meager support, in fact so meager that she has been compelled to borrow money for the support of herself, husband and child.

3. I have no knowledge of her inheriting two houses situated in the City of Paterson, and I have no knowledge of her selling any houses for $8,300 in order to start a home for herself and myself. So far as I know my wife never had, before she received the estate of her grandfather, in April, 1918, $8,300 or any sum approximating that sum. At the time we were married it is true I was without money. My wife had in the neighborhood of a thousand dollars and spent it in furnishing the house. I do not know of her receiving any money from a mortgage. My wife kept to herself most of her financial affairs. I have no knowledge that she ever borrowed any money to pay for her confinement. It is true that in April, 1919, she received from the estate of her grandfather approximately $25,000. Thereafter she has received other moneys from the estate making a total of about $34,000. She has invested this money and has made money upon her investments. The house in Montclair was bought by

me in September of 1918. I paid $1,000 in cash and entered into an agreement under which I was to pay $112 per month, representing a payment on account of interest and principal; what was left after paying interest and taxes, was to be applied to the purchase price of the house. I kept up these payments until about November, 1919, at which time I turned over the house to my wife. I agreed to pay her $150 a month rent for the house and I paid it up until November or December, 1920, and some money in 1921, these payments being made by check. Besides this $150 per month I gave my wife money for the living expenses of the house. It is not true that my wife furnished the house from top to bottom. Some of the furniture was brought from the house we had in Broad street. It is true, however, that she has spent some money in furnishing the house. I do not believe that the amount spent by her is in excess of $2,000. The $1,300 which she states as having loaned me about two years ago came about in this way: It is true that I was short about two years ago, and I had lost money in the market, and she loaned me $500. She had previously paid certain moneys for insurance, &c., and at that time I gave her a note for $1,300. She fully understood at the time that the money had been lost in the stock market and I suggested at that time that the St. Paul stock referred to in her affidavit of 100 shares be bought in an attempt to recoup. It is a fact that the market broke and I was unable to put up further margin and she then took it over. She dealt with the stock brokers direct. I do not know how much she put up and the orders were given by her. I assigned all my interest in the transaction.

4. I deny that while we were living in Montclair we continually had fights because I refused to give her money enough to keep the house and buy clothing for herself and boy. I deny that when she requested money from me I would say: "I will not give you any, you God damn son of a bitch; get out of here" or words to that effect. I deny that I ever said to her: "You God damn son of a bitch, what is your money; it is only cigarette money." It is a fact that for the past several years we have not been living happily together. Indeed, we have not been living happy since 1915. My wife has a very violent temper; she is very profane. I remember in 1915 she had struck the boy, who was about a year old, in temper; I remonstrated, whereupon she said: "It is none of your damn business" and she grabbed up a carving knife and came at me; my sister, who was present, interfered and took the knife away from her. She used to beat the child when he was a year old so that he could not stand. She was extremely violent. At the slightest provocation she would beat him and tell him that if he cried she would beat him again and again; and she would take him in the room and close the doors so that no one could hear.

5. About this time she started going out and staying out late at night, sometimes all night, without telling me where she was going and whenever I remonstrated with her and asked her where she was going she would say it was none of my damn business. In May of 1915, there was also trouble between us with respect to her actions with a roomer who was in the house.

6. Conditions kept up about the same way until May of 1918, when there was a serious difficulty between us. I forgave her, however, and we continued to live together. As time went on she became more and more violent and paid less and less attention to me. It was one continuous turmoil. She would upbraid me and curse and swear at me whenever I was in the house. She has threatened many times that she would shoot me. The Wednesday or Thursday preceding January 23rd, she went to Atlantic City; she did not tell me anything about going until the day before she went. She said: "I am going down to Atlantic City"; she did not consult me as to going; she merely said she was going. She went. I did not hear from her until Saturday night. She called me up on the telephone and said: "How is everything going?" I said, "Never better"; she asked me how the baby was, who was left in the care of my mother, who was staying at the house while she was away; when my wife left she always called upon my mother to come and take care of Bob. She asked how the baby was and I said he was all right. She said: "I think I will be home Sunday night, but I am not sure." I was home for dinner Sunday noon; my wife had not yet returned. I left and did not return home until about midnight. I opened the door with my passkey and found a heavy chain on the door, and I rang the bell for sometime; it seemed like an hour to me; there was no response. I went around to the rear of the house; I saw a light burning in her bedroom. I hollered up, and there was no reply. I returned to the front of the house again; I hollered through the door: "Come down and open the door" three times; there was no reply.

I said: "If you don't open the door I am going to break it in." I pushed against the door and broke the chain. When I got upstairs she said: "What right have you got to go out?" She started in to curse and swear at me, and she said: "If you don't get out I will call the police." She called me "whore master," "dirty son of a bitch," I was "no damn good" and she said: "A woman who has money can do as she pleases."

7. I never said to her that I would go to Canada; I never made any statement that I intended to leave the state or that I would not comply with any order of the Court. I do not intend to leave the state. My business is here. My mother lives with my married sister at 171 South Ninth street, Newark. There is no reason or inducement for me to leave the state.

8. I deny that my practice is worth at least ten thousand dollars a year, and I deny that I ever told her that if things kept up I would make at least fifteen thousand dollars. It takes considerable space of time to get established in practice such as I am engaged in. I have kept books and my books clearly indicate my income. It was for the year 1920, the sum of $2,700 or $2,800 net, that is, excluding moneys for living expenses. I deny that there never was sufficient food in the house. I deny that my wife was compelled in desperation to go to trades people charging whatever food was necessary for immediate consumption. When I left the house there was about six tons of coal in the house; I do not understand what she means by stating that in the month of January there was no coal. I deny that she was unable to purchase any food

because I had stopped credit with trades people. I did not stop credit with trades people until I was advised within the last few days by counsel to do so.

9. The Edith Reid, who makes an affidavit, is a colored servant. I do not understand what she means by her statement that during the month of December, 1920, the neighbors brought food to Mrs. Stevens and her child; I was away for a week during December and during that time Mrs. Stevens was ill, so she informed me, and she informed me that Mrs. Gorton brought some broth into her while she was sick. There was sufficient food in the house and this is the only incident to which I can imagine Edith Reid refers to. The statement with respect to my calling my wife names I absolutely deny.

10. My wife has been endeavoring to ruin my business ever since I left, and prior thereto. Patients who would call at my house were treated by her in such a way as that it was necessary for me to have the telephone cut off. She has made statements that she would kill me.

LUDLOW R. STEVENS.

Sworn and subscribed to before me this 15th day of February, 1921.

WILLIAM PROUT,
Attorney at Law of the
State of New Jersey.

Affidavit of Eugenie Stevens.

STATE OF NEW JERSEY,
COUNTY OF ESSEX. } *ss.*

EUGENIE STEVENS, of full age, being duly sworn according to law, on her oath doth depose and say:

I am the mother of Ludlow R. Stevens. I live on South Ninth street, Newark, New Jersey. I know Marjorie G. Stevens. On the Wednesday before the Sunday, which was the day of the separation, Marjorie G. Stevens went to Atlantic City. My son asked me to go up to the house and stay there with the boy, who otherwise would be left alone with colored help. I went up to the house on Wednesday morning. She left for Atlantic City on Wednesday afternoon. She said she would be back Saturday night or Sunday. She did not know which. I stayed there with my son. She did not come back Saturday night. On Sunday, my son went out after dinner. She had not returned up to that time. She came back at eight o'clock. She wanted to know where he was at once. I said I said that he had gone out, and she wanted to know what time, and I said, "After dinner." She said, "What time did he have dinner?" I told her between one and one-thirty. Then she started in. She wanted to know why he did not take us to the movies, and I told her it was too far to take the little boy and the automobile was being repaired and we could not use it. She called him a "son of a bitch and a low down scullion," and she said she was going to fix him; that she was going to put him out of the house and have him arrested.

I was trying to get away all the time. I was nervously upset. I am sixty-six (66) years

old. I went up to bed and told her not to touch the door as he had left it so that he could get in. She said, "Before I go to bed, I am going to lock the door." Then I went to bed. Later in the night, sometime between twelve and two o'clock, I heard my son trying to get in the house. The door had been chained. He shook it and tried to break the chain which he finally did, and then he came upstairs, and he said, "You locked me out." He went into the room and shut the door and I could not hear what was said. He was in there about two or three minutes. He then came out and I heard her say something about fixing the furnace. He started downstairs and when he got to the foot of the stairs, she stopped him, calling him every name she could think of. She called him a low down scullion. She finally said, "You get out, and if you come back again I will have you arrested." She said she would call up the police and put him out. He left. I left the next morning. She said that she was going to end it; that she was going down to Newark to buy a revolver and she said, when the doctor comes back she would fill his head with bullets. I told her if she did anything like that she would get in trouble, and I also told her that the little boy ought not to be where there was such language as that all the time. I left immediately after breakfast.

I have attempted to keep out of any trouble between my son and his wife, and I have said nothing. His wife has always spoken of him behind his back in a way that was not right. She has often referred to him as a fool and slut, and low down scullion, and I have heard her say that of him when the servants were present

and also in the presence of the little boy. This has not only happened once, but many times.

EUGENIE STEVENS.

Sworn and subscribed to before me this 15th day of February, 1921.

WILLIAM PROUT,
Attorney at Law of the
State of New Jersey.

STATE OF NEW JERSEY,
COUNTY OF ESSEX. } *ss.*

EUGENIE STEVENS, being duly sworn according to law, on her oath deposes and says:

I intended to say in my previous affidavit that while Mrs. Stevens and I were talking on the Monday morning after she returned from Atlantic City, that she said that when she got through with the doctor, he would not have a patient left; that she intended to write to all of them. She also said that he was practically in the gutter now.

EUGENIE STEVENS.

Sworn and subscribed to before me this 15th day of February, 1921.

SAMUEL S. STERN,
Attorney at Law of the
State of New Jersey.

Affidavit of Mrs. Elizabeth Shorter.

STATE OF NEW JERSEY, }
COUNTY OF ESSEX. } *ss.*

MRS. ELIZABETH SHORTER, of full age, being duly sworn, upon her oath deposes and says:

1. I live at 35 New street, Bloomfield, N. J.

2. Marjorie G. Stevens is a relative by marriage.

3. On January 3, 1921, I spoke with Mrs. Stevens relative to the trouble between Mrs. Stevens and her husband, Dr. L. R. Stevens. She told me that she was about to separate from her husband. She said, "I am going to leave the doctor and am going to take Bob with me" (Bob is the child). She told me that "I ought to have left him long ago." She also told me that she was going to take the child away from the doctor, leave the Montclair home and establish a home in New York or elsewhere. All of this conversation took place while Mrs. Stevens was bringing me home, in her car from her Montclair home where I was spending the evening. At her house she led me to a closet and pointed out certain clothes, stating she had laid aside all of the clothes to take away with her when "I leave the doctor" and she also said she would close up the doctor's office in Newark.

4. On or about January, 1921, Mrs. Stevens called at my home. She told me she was going to Atlantic City to take a rest, and when she came back she was "going to break up our home and leave my husband and take the boy with me." A few days later I called at the Stevens home in Montclair and rang the bell. Nobody answered. A neighbor told me that Mrs. Stev-

ens had closed the house and left. I did not see her since this time.

MRS. ELIZABETH SHORTER.

Sworn to and subscribed before me this 14th day of February, 1921.

A. HARRY ADELMAN,
Attorney at Law of New Jersey.

Order for Alimony.

ORDER FOR ALIMONY.

Filed April 12, 1921.

IN CHANCERY OF NEW JERSEY.

Between

MARJORIE G. STEVENS,
Petitioner,

and

LUDLOW R. STEVENS,
Defendant.

Order.

This matter being opened to the Court by Samuel Kalisch, Jr., of counsel with petitioner, and in the presence of Merritt Lane, of counsel with defendant, and good cause being shown by petition and affidavits why the petitioner is entitled to relief in the premises;

It is thereupon, on this eighth day of April, nineteen hundred and twenty-one, ORDERED, that Ludlow R. Stevens, the above-named defendant, do pay to his wife, Marjorie G. Stevens, the above-named petitioner, or to her solicitor, the sum of thirty dollars per week, at the beginning of each and every week from the date of this order until the termination of this suit, for her support and maintenance, and that of the child of the marriage, now in the custody of the said wife. And it is further ordered that the costs of this application be taxed.

E. R. WALKER,
C.

Respectfully advised,
JOHN E. FOSTER,
V.-C.

Decree of Dismissal.

DECREE OF DISMISSAL.

Filed June 17, 1924.

IN CHANCERY OF NEW JERSEY.

Between

MARJORIE G. STEVENS,
Petitioner,

and

LUDLOW R. STEVENS,
Defendant.

Order.

This cause coming on to be heard in the presence of Jacob L. Newman, of counsel with the petitioner (complainant), and Merritt Lane, of counsel with the defendant; and being tried in conjunction with the case entitled between "Ludlow R. Stevens, petitioner, and Marjorie G. Stevens, defendant"; upon the pleadings and oral proofs taken in open court; and after considering said pleadings, proofs and arguments of counsel; and the Court being of the opinion that the said Marjorie G. Stevens is not entitled to the relief prayed in her bill, or in the pleadings filed by her supplementary thereto, and that the defendant, Ludlow R. Stevens, is not guilty of the charges made against him therein;

It is, thereupon, on this seventeenth day of June, 1924, by his Honor, Edwin Robert Walker, Chancellor of the State of New Jersey, ordered, adjudged and decreed, and the said Chancellor, by virtue of the power and authority of this Court, and of the acts of the Legislature in such case made and provided, doth hereby order, ad-

judge and decree that the bill of complaint herein be and the same is hereby dismissed upon the merits.

E. R. WALKER,
C.

Respectfully advised,

JOHN E. FOSTER,
V.-C.

PETITION.

Filed August 29, 1922.

IN CHANCERY OF NEW JERSEY.

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

The petition of Ludlow R. Stevens, of the City of Newark, County of Essex and State of New Jersey, respectfully shows:

1. Your petitioner was lawfuly joined in the bonds of matrimony to his present wife, Marjorie G. Stevens, the defendant in this suit, on July 29, 1912, by a Minister of the Gospel, at New York City, County of New York and State of New York.

2. Defendant, since her marriage to your petitioner, and on the twenty-fifth day of August, 1922, committed adultery with J. H. Paswaters, at 79 Midland avenue, Montclair, New Jersey; defendant, since her marriage to your petitioner on the twelfth and thirteenth days of August, 1922, committed adultery with the said J. H. Paswaters, on a steamer going from the harbor of

New York to the Island of Bermuda. The defendant, since her marriage to your petitioner, and on each and every day between the fourteenth day of August, 1922, and the twenty-second day of August, 1922, committed adultery with the said J. H. Paswaters at the Island of Bermuda; defendant, since her marriage to your petitioner and on the twenty-second and twenty-third day of August, 1922, committed adultery with the said J. H. Paswaters on a steamer going from the Island of Bermuda to the harbor of New York.

3. Petitioner and defendant were bona fide residents of the State of New Jersey when this cause of action arose, and have ever since continued to be bona fide residents of this State, down to the time of the commencement of this action, residing at Newark, New Jersey, and the defendant at Montclair, in the County of Essex and State of New Jersey.

4. One child was born of the marriage aforesaid; to wit: Ludlow R. Stevens, Jr., age eight years.

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

And your petitioner will ever pray, etc.

MERRITT LANE,
Solicitor of Petitioner.

Petition of Ludlow R. Stevens.

STATE OF NEW JERSEY,
COUNTY OF ESSEX. } *ss.*

LUDLOW R. STEVENS, of full age, being duly sworn on his oath according to law, deposes and says: I am the petitioner named in the foregoing petition; my said petition is not made by any collusion between the defendant and myself, but in truth and good faith, for the causes set forth in the petition.

LUDLOW R. STEVENS.

Sworn and subscribed to before me this 28th day of August, A. D. 1922.

MAURICE J. BREEN,
Master in Chancery of New Jersey.

Affidavit of Ludlow R. Stevens.

AFFIDAVIT AND CITATION.

Filed September 20, 1922.

IN CHANCERY OF NEW JERSEY.

Between	
LUDLOW R. STEVENS, *Petitioner,*	*On Petition, &c.*
and	*Affidavit.*
MARJORIE G. STEVENS, *Defendant.*	

STATE OF NEW JERSEY, } *ss.*
COUNTY OF ESSEX. }

LUDLOW R. STEVENS, of full age, being duly sworn on his oath, says: I am the petitioner named in the foregoing petition; I know the residence of my wife. She resides at No. 79 Midland avenue, Montclair, Essex County, New Jersey, in a house which is owned by her. She may be described as follows:

Age: 31 years.
Height: 5 ft. 5 in.
Weight: 120 pounds.
Complexion: Blonde.

She has small features, nervous disposition and usually very well dressed.

LUDLOW R. STEVENS.

Sworn and subscribed to before me this 28th day of August, A. D. 1922.

MAURICE J. BREEN,
Master in Chancery of New Jersey.

Citation.

NEW JERSEY, *to wit:*

The State of New Jersey to Marjorie G. Stevens, GREETING:

(SEAL) You are hereby cited to answer the petition of Ludlow R. Stevens, a copy of which petition is herewith served upon you, by filing your answer in writing in the office of the Clerk of the Court of Chancery at Trenton, within twenty days after the twenty-fifth day of September, 1922; and in default of your so doing such order or decree will be made against you as the Court shall think equitable and just.

WITNESS, his Honor Edwin Robert Walker, Chancellor of our said State, at Trenton, the 29th day of August, 1922.

JESSE R. SALMON,
Clerk.

MERRITT LANE,
Solicitor.

Citation.

IN CHANCERY OF NEW JERSEY.

Between

Ludlow R. Stevens,

Petitioner

and

Marjorie G. Stevens,

Defendant.

CITATION

Returnable September 25, 1922.

Merritt Lane, Sol'r.

I hereby appoint and depute Carl C. Schneider to serve the within writ.

WITNESS my hand and seal this thirtieth day of August, 1922.

SAMUEL F. WILSON,

(SEAL) Sheriff.

Sheriff Fee $5.80.

Served the within citation September 16, 1922, personally upon Marjorie G. Stevens, the within named defendant, by delivering to her a true copy thereof, together with a certified copy of the petition.

SAMUEL F. WILSON,
Sheriff.

By CARL C. SCHNEIDER,
Special Deputy Sheriff.

ANSWER AND CROSS PETITION.

Filed October 14, 1922.

IN CHANCERY OF NEW JERSEY.

Between LUDLOW R. STEVENS, *Petitioner,* *and* MARJORIE G. STEVENS, *Defendant.*	*On Petition, &c.* *Answer and Cross-petition.*

The answer of Marjorie G. Stevens, defendant, to the petition of Ludlow R. Stevens, petitioner:

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

2. This defendant denies that since her said marriage, and on the twenty-fifth day of August, 1922, at 79 Midland avenue, Montclair, New Jersey, on the twelfth and thirteenth days of August, 1922, or on the steamer going from the harbor of New York to the Island of Bermuda, she committed adultery with J. H. Paswaters. This defendant denies that since her marriage to the petitioner and on each and every day between the fourteenth day of August, 1922, and the twenty-second day of August, 1922, she committed adultery with J. H. Paswaters at the Island of Bermuda; she denies that she committed adultery on the twenty-second and twenty-third days of August, 1922, with the said J. H. Paswaters on a steamer going from the Island of Bermuda to the harbor of New York. This

defendant denies that since her marriage to the petitioner that she at any time, at any place or with any person committed adultery, but on the contrary this defendant says that she has ever faithfully observed her obligations as the wife of the petitioner.

3. Defendant admits it to be true that the petitioner and this defendant were bona fide residents of the State of New Jersey when this supposed cause of action arose as alleged in the petition, and that this defendant has ever since continued to be a bona fide resident of this state down to the commencement of this action, residing at East Orange and at Montclair, Essex County, New Jersey.

4. This defendant admits it to be true that one child was born of the marriage aforesaid; to wit, Ludlow R. Stevens, Jr., age eight years, who has been and now is in the custody and care of this defendant.

This defendant prays to be hence dismissed, with her reasonable costs and charges in that behalf most wrongfully sustained.

And this defendant by way of cross-petition exhibited against the petitioner, says:

1. Petitioner since his marriage to your defendant on the twenty-third day of December, 1920, committed adulery with Marie Sutz at the petitioner's office, 790 Broad street, Newark, New Jersey; that petitioner since his marriage to your defendant on the twenty-third and twenty-fourth days of December, 1920, at petitioner's office aforesaid, committed adultery with the said Marie Sutz.

That petitioner since his marriage to your defendant, and on each and every day between the 1st day of April and the 8th day of April, 1921, committed adultery with said Marie Sutz, in the City of Newark, Essex County, New Jersey, that petitioner on January 14th, 15th, and 16th, 1921, committed adultery with the said Marie Sutz at petitioner's office, 790 Broad street, Newark, New Jersey.

2. Petitioner and defendant have been bona fide residents of the State of New Jersey for the period stated in petitioner's petition and as admitted in the previous part of this answer.

3. Defendant's maiden name was Marjorie G. Van Riper.

Defendant prays, that the marriage between this defendant (as cross-petitioner) and the petitioner (as defendant to said cross-petition) may be dissolved for the cause aforesaid, according to the statute in such case made and provided; and that the petitioner may be compelled by the decree of this Honorable Court to support her and the said child of the marriage, and that she may be awarded the custody of said child, and that she may have such further relief as may be just.

And this defendant will ever pray, &c.

MARJORIE G. STEVENS,
Defendant.

W. EUGENE TURTON,
Solicitor for Defendant.

Answer and Cross-petition.

STATE OF NEW JERSEY, }
COUNTY OF ESSEX. } *ss.*

MARJORIE G. STEVENS, being duly sworn according to law, upon her oath deposes and says: that she is the cross-petitioner named in the foregoing cross-petition; and that her cross-petition is not made by any collusion between her and the defendant therein, but in truth and good faith, for the causes set forth in said cross-petition.

MARJORIE G. STEVENS.

Subscribed and sworn to before me this 13th day of October, 1922.

ROY J. HARDING,
Master in Chancery of N. J.

ANSWER TO CROSS PETITION.

Filed October 28, 1922.

IN CHANCERY OF NEW JERSEY.

Between LUDLOW R. STEVENS, *Petitioner,* *and* MARJORIE G. STEVENS, *Defendant.*	*On Petition, &c.* *Answer.*

The answer of Ludlow R. Stevens to the cross-petition of the defendant:

1. Petitioner denies the contents of paragraph one.

2. Petitioner admits the contents of paragraph two of the cross-petition.

3. Petitioner admits the contents of paragraph three of the cross-petition.

MERRITT LANE,
Solicitor for Petitioner.

Order of Reference.

ORDER OF REFERENCE.

Filed November 18, 1922.

IN CHANCERY OF NEW JERSEY.

Between LUDLOW R. STEVENS, *Petitioner,* *and* MARJORIE G. STEVENS, *Defendant.*	*On Petition, &c.* *Order of Reference.*

It is, on this seventeenth day of November, 1922, on motion of Merritt Lane, of counsel with the petitioner,

ORDERED, that the above-entitled cause be referred to the Honorable J. E. Foster, one of the Vice-Chancellors of this court, to hear the same for the Chancellor, and to report thereon to him, and advise what order or decree should be made therein.

E. R. WALKER,
C.

Above order consented to.

W. EUGENE TURTON,
Solicitor for Defendant.

MERRITT LANE,
Solicitor for Petitioner.

Order for Counsel Fee.

ORDER FOR COUNSEL FEE.

Filed January 9, 1923.

IN CHANCERY OF NEW JERSEY.

Between LUDLOW R. STEVENS, *Petitioner,* *and* MARJORIE G. STEVENS, *Defendant.*	*On Petition for Divorce. Order.*

This matter being opened to the Court by W. Eugene Turton, of counsel with the defendant, and in the presence of Merritt Lane, of counsel with the petitioner, and it appearing that due notice of this application has been given to counsel for the petitioner; and the Court being satisfied of the sufficiency of said application;

It is thereupon, on this ninth day of January, nineteen hundred and twenty-three, ORDERED, that the petitioner, Ludlow R. Stevens, do pay to W. Eugene Turton, solicitor for defendant, a counsel fee of two hundred dollars.

E. R. WALKER,
C.

Respectfully advised,

JOHN E. FOSTER,
V.-C.

Petition to Intervene.

PETITION TO INTERVENE.

Filed February 28, 1923.

IN CHANCERY OF NEW JERSEY.

Between LUDLOW R. STEVENS, *Petitioner,* *and* MARJORIE G. STEVENS, *Defendant.*	*On Petition, &c.* *Petition to Intervene.*

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

The petition of J. H. Paswaters, of the City of East Orange, County of Essex and State of New Jersey, respectfully shows that he is charged in the petition for divorce filed in this cause with having committed adultery with the defendant, Marjorie G. Stevens, as will appear by reference to the said petition; and he says that said charge is wholly unfounded and untrue.

Wherefore, he prays that he may be made a party to this cause, upon such terms and conditions as shall seem to your Honor fit and proper.

And your petitioner will ever pray, &c.

W. EUGENE TURTON,
Solicitor for and of Counsel
with Petitioner.

Order Admitting Party.

STATE OF NEW JERSEY, } *ss.*
COUNTY OF ESSEX. }

J. H. PASWATERS, being duly sworn according to law, upon his oath deposes and says:

I am the petitioner named in the foregoing petition. The charge adultery whereof mention is therein made is untrue.

JOHN H. PASWATERS.

Subscribed and sworn to before me this fifteenth day of February, A. D. 1923.

FRANK VOIGT,
A Master in Chancery of New Jersey.

ORDER ADMITTING PARTY.

Filed March 1, 1923.

IN CHANCERY OF NEW JERSEY.

Between LUDLOW R. STEVENS, *Petitioner,* *and* MARJORIE G. STEVENS, *Defendant.*	*On Petition, &c.* *Order Admitting Party.*

Upon reading the duly verified petition of J. H. Paswaters, praying to be made a party in this cause;

It is, on this twenty-seventh day of February, 1923, on motion of W. Eugene Turton, solicitor

for John H. Paswaters, ORDERED, that John H. Paswaters, a person charged in the petition for divorce filed in this cause, as a *particeps criminis,* be made a party defendant in this cause, upon the terms and conditions following: that is to say, that the said John H. Paswaters will abide by and perform such order or decree as may hereafter be made in this cause respecting the payment of the costs and expenses of this suit, and will within ten days hereafter file his answer to the petitioner's petition for divorce and serve a true copy thereof to the solicitor of the petitioner.

And it is further ORDERED, that the title of this cause be amended by writing the name of John H. Paswaters therein, "intervening as defendant."

E. R. WALKER,
C.

Respectfully advised,

JOHN E. FOSTER,
V.-C.

ANSWER OF INTERVENOR.

Filed February 28, 1923.

IN CHANCERY OF NEW JERSEY.

Between LUDLOW R. STEVENS, *Petitioner,* *and* MARJORIE G. STEVENS, *Defendant.* *and* J. H. PASWATERS, intervening as defendant.	*On Petition, &c.* *Answer of Intervenor.*

The answer of J. H. Paswaters, admitted as a defendant, to the petition of Ludlow R. Stevens, petitioner:

This defendant, answering so much of the petition as he is advised is material for him to answer, says:

He denies that on the twenty-fifth day of August, 1922, at 79 Midland avenue, Montclair, New Jersey, and the twelfth and thirteenth days of August, 1922, on the steamer going from the harbor of New York to the Island of Bermuda, and on each day between the fourteenth day of August, 1922, and the twenty-second day of August, 1922, at the Island of Bermuda, and on the twenty-second and twenty-third days of August, 1922, on a steamer going from the Island of Bermuda to the harbor of New York, he committed adultery with Marjorie G. Stevens, defendant,

as in said petition is alleged, or that he committed adultery with the said defendant at any other time or place.

This defendant prays, that the said petition, as to himself may be dismissed with costs.

JOHN H. PASWATERS,
Intervenor.

W. EUGENE TURTON,
Solicitor of Intervenor.

Order of Substitution.

ORDER OF SUBSTITUTION.

Filed March 24, 1923.

IN CHANCERY OF NEW JERSEY.

Between LUDLOW R. STEVENS, *Petitioner,* *and* MARJORIE G. STEVENS, *Defendant.*	*Order for Substitution.*

It appearing to the Court that W. Eugene Turton, the solicitor of record for J. H. Paswaters, intervening defendant in the above-stated cause has filed a consent that Riker & Riker be substituted in his place and stead, and no cause appearing to the contrary;

It is thereupon, on this twenty-fourth day of March, in the year of our Lord one thousand nine hundred and twenty-three, ordered that Riker & Riker be substituted as solicitors for the intervening defendant, in the place and stead of the said W. Eugene Turton.

E. R. WALKER,

C.

Order of Substitution.

ORDER OF SUBSTITUTION.

Filed March 27, 1923.

IN CHANCERY OF NEW JERSEY.

Between

LUDLOW R. STEVENS,
Complainant,

and

MARJORIE G. STEVENS,
Defendant.

Order for Substitution.

It appearing to the Court that W. Eugene Turton, solicitor of record for the complainant in the above-stated cause has filed a consent that Jacob L. Newman be substituted in his place and stead, and no cause appearing to the contrary;

It is thereupon, on this twenty-seventh day of March, in the year of our Lord one thousand nine hundred and twenty-three, ordered that Jacob L. Newman be substituted as solicitor for the defendant, in place and stead of the said W. Eugene Turton.

E. W. WALKER,
C.

AMENDED ANSWER AND AMENDED CROSS-PETITION.

Filed April 18, 1923.

IN CHANCERY OF NEW JERSEY.

Between LUDLOW R. STEVENS, *Petitioner,* *and* MARJORIE G. STEVENS, *Defendant.*	*On Petition, &c.* *Answer and Cross-petition.*

The defendant, Marjorie G. Stevens, answering the petition of Ludlow R. Stevens, petitioner, says:

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

2. This defendant denies that since her marriage and on the twenty-fifth day of August, nineteen hundred and twenty-two, at 79 Midland avenue, Montclair, New Jersey, and on the twelfth and thirteenth days of August, nineteen hundred and twenty-two, or on the steamer going from the harbor of New York to the Island of Bermuda, she committed adultery with J. H. Paswaters. This defendant denies that since her marriage to the petitioner and on each and every day between the fourteenth day of August, nineteen hundred and twenty-two, and the twenty-second day of August, nineteen hundred and twenty-two, she committed adultery with J. H. Paswaters at the Island of Bermuda; she denies

that she committed adultery on the twenty-second and twenty-third days of August, nineteen hundred and twenty-two, with the said J. H. Paswaters on a steamer going from the Island of Bermuda to the harbor of New York. This defendant denies that since her marriage to the petitioner that she at any time, at any place or with any person committed adultery, but on the contrary this defendant says that she has ever faithfully observed her obligations as the wife of the petitioner.

3. Defendant admits it to be true that the petitioner and this defendant were bona fide residents of the State of New Jersey when this supposed cause of action arose as alleged in the petition, and that this defendant has ever since continued to be a bona fide resident of this state down to the commencement of this action, residing at East Orange and at Montclair, Essex County, New Jersey.

4. This defendant admits it to be true that one child was born of the marriage aforesaid, to wit, Ludlow R. Stevens, Jr., age eight years, who has been and now is in the custody and care of this defendant.

This defendant prays to be hence dismissed with her reasonable costs and charges in that behalf most wrongfully sustained.

And this defendant by way of cross-petition exhibited against the petitioner, says:

FIRST COUNT.

1. Defendant cohabited with petitioner for nine years after their marriage, and petitioner during the time of their marriage to the defend-

ant, until the month of December, nineteen hundred and twenty, gave to the defendant and the child very meager support and for said period covering defendant's married life, the petitioner neglected her and treated her with great cruelty. He at various times would threaten defendant's life with a loaded revolver and was restrained from carrying said threat into effect by someone interfering and taking the revolver from him. Almost from the begining of her married life, defendant suffered from the violent and ill-governed temper of her husband. Petitioner was especially cruel and abusive to her when he was under the influence of liquor in which he very frequently indulged. Petitioner has compelled defendant to submit to three abortions during their married life, falling into a violent rage when he was informed that defendant was pregnant; called her whore, bitch, sow and other like names, accused her of lying and would leave defendant alone for periods of two, three and four days without any word as to his whereabouts, and if defendant attempted to communicate with petitioner's office at Newark, she was told by petitioner's secretary to stop calling on the 'phone and that petitioner did not want to talk to her. Petitioner after a time would return home and immediately start abusing and nagging defendant, using vile and profane language continually, and when defendant would ask him where he had been, he would use violent profane language, telling defendant it was none of her g—— d—— business and on one occasion struck defendant on the eye with his fist causing defendant great agony and suffering, and causing defendant to become so fearful that she had to appeal to neighbors for protection.

During all this time, petitioner was not only not supporting this defendant and the child, but borrowed from defendant various sums of money which petitioner has never paid back to defendant, and when defendant spoke to petitioner about the money, he would fall into a violent rage and call defendant vile and profane names, telling defendant to "go to hell." In the month of November, nineteen hundred and twenty, petitioner came home and immediately began to abuse defendant. Defendant became aware of the fact that petitioner had been indulging in liquor and was in an ugly, vicious mood. Petitioner suddenly made a leap for defendant, chased defendant around the room and when he finally caught defendant, he deliberately threw her down a flight of stairs, whereby her left shoulder was dislocated and she was under the medical care for one week. Defendant tried to bear up under the strain of petitioner's cruel and harsh treatment, endeavoring in every way to pacify him and induce him to treat her kindly and as a husband should treat a wife, but the more defendant tried the worse petitioner treated her, until defendant had a complete breakdown and was compelled to go to a sanitarium and remain there for a month in order to regain her strength and health. Defendant again returned to live with her husband, still trusting that she might regain his love and reclaim him to a sense of duty. Nevertheless, petitioner continued the course of cruel treatment above set forth so that defendant was obliged to cease cohabitation with him and had so decided when petitioner in a violent rage, left the defendant on the seventeenth day of January, nineteen hundred and twenty-one, and immediately cut off everything from defend-

ant, ordered merchants, where defendant and petitioner had been dealing, not to serve defendant with any goods or merchandise, ordered the telephone company to discontinue the service and left defendant to manage the best way she could, ever since which time and for more than two years last past the petitioner has wilfully, obstinately and continuedly deserted the defendant. Defendant says that from his extreme cruelties and abuse treatment of her and from his apparent hatred for her, it became improper and unsafe for her to live with him as his wife; that he has never given her any assurance upon which she could rely that he would ever treat her any differently. Defendant further says that by reason of his treatment and abuse, her health has failed and broken, and she has ever since been under the care of physicians.

2. Petitioner and defendant have been bona fide residents of the State of New Jersey, for the period stated in petitioner's petition, and as admitted in the preceding part of this answer.

4. Defendant's maiden name was Marjorie G. Van Riper.

SECOND COUNT.

1. Petitioner since his marriage to this defendant, and on the third day of December, nineteen hundred and twenty, committed adultery with Marie Sutz, at the petitioner's office, 790 Broad street, Newark, New Jersey; that petitioner since his marriage to this defendant, on the twenty-third and twenty-fourth days of December, nineteen hundred and twenty, at petitioner's office aforesaid, committed adultery with the said Marie Sutz.

That petitioner since his marriage to your defendant, and on each and every day between the first day of April and the eighth day of April, nineteen hundred and twenty-one, committed adultery with said Marie Sutz, in the City of Newark, Essex County, New Jersey; that petitioner on the fourteenth, fifteenth, and sixteenth days of January, nineteen hundred and twenty-one, committed adultery with the said Marie Sutz, at petitioner's office, 790 Broad street Newark, New Jersey.

2. Defendant re-alleges each and every allegation contained in paragraphs 2 and 3 of the first count of the within cross petition.

3. Defendant prays that the marriage between this defendant (as cross petitioner) and the petitioner (as defendant to said cross petitioner), may be dissolved for the cause aforesaid, according to the statute in such case made and provided; and that the petitioner may be compelled by the decree of this Honorable Court to support her and the said child of the marriage, and that she may be awarded the custody of the said child, and that she may have such further relief as may be just.

And this defendant will ever pray, etc.

JACOB L. NEWMAN,
Solicitor for and of Counsel
with Defendant.

Dated, April 16, 1923.

Amended Answer and Amended Cross-petition.

STATE OF NEW JERSEY,
COUNTY OF ESSEX. } *ss.*

MARJORIE G. STEVENS, being duly sworn according to law on her oath, deposes and says that she is the cross petitioner in the foregoing cross petition named, and that her cross petition is not made by any collusion between her and the defendant therein, but in truth and good faith, for the causes set forth in said cross petition.

MARJORIE G. STEVENS.

Subscribed and sworn to before me this 17th day of April, 1923.

FLORA MILLER,
Notary Public of N. J.

Service of a copy of the within amended answer and amended cross petition is acknowledged and leave is given to file the same as of time.

April 17, 1923.

M. LANE,
Solicitor of Petitioner.

ANSWER OF PETITIONER TO CROSS-PETITION.

Filed May 3, 1923.

IN CHANCERY OF NEW JERSEY.

Between

LUDLOW R. STEVENS,
Petitioner,

and

MARJORIE STEVENS,
Defendant.

On Bill.

Answer of Petitioner to Cross-petition.

The petitioner, Ludlow R. Stevens, answering the cross petition of the defendant filed herein says with respect to the first count:

1. He denies the statements contained in paragraph 1 of the first count.

2. He admits the contents of paragraph 2 of the first count.

3. He sets up the statements contained in paragraph 3 of the first count do not constitute a cause for divorce under the statute in such case made and provided.

4. He says that the said defendant left him on or about the 17th day of January, 1921, without just cause or provocation and that for more than two years last past she has wilfully, continually and obstinately deserted him.

As to the second count.

1. He denies the statements contained in paragraph 1.

Answer of Petitioner to Cross-petition.

2. With respect to the allegations of paragraphs 2 and 3 of the first count repeated in paragraphs 2 and 3 of the second count he makes the same answer to the allegations of paragraphs 2 and 3 of the second count as to the allegations of paragraphs 2 and 3 of the first count.

He prays that the cross petition may be dismissed.

MERRITT LANE,
Solicitor for Petitioner.

IN CHANCERY OF NEW JERSEY.

LUDLOW R. STEVENS,
Petitioner,

and

MARJORIE G. STEVENS,
Defendant.

Transcript of testimony taken in the above-entitled cause before Hon. John E. Foster, Vice-Chancellor, at the Chancery Chambers, Newark, New Jersey, on June 27, 1923, at 10 A. M.

Appearances:

Mr. Merritt Lane for petitioner.

Mr. Jacob L. Newman, for defendant Marjorie G. Stevens.

Mr. Andrew Van Blarcom, for co-respondent, J. H. Paswaters, a party defendant.

The Court: Let it appear that when this cause of Ludlow R. Stevens, the petitioner, against Marjorie Stevens, defendant, was moved for hearing according to the designation this morning, the Court found on examining the record that in February, 1921, Marjorie G. Stevens, as petitioner, began an action against Ludlow R. Stevens, for divorce, on the ground of constructive desertion; that that cause was fixed for hearing, but by some arrangement between counsel was never brought on, and no date fixed for its continuance; that subsequently, on August 29, 1922, Ludlow R. Stevens filed a petition against the defendant Marjorie G. Stevens for divorce on the ground of adultery; that the defendant,

Mrs. Stevens, filed her answer denying the adultery charge; filed her counter-claim setting up again the charge of desertion and asking for relief thereon, and in addition pleaded recrimination, and charging the petitioner, Ludlow Stevens, with certain acts of adultery. There has been no formal consolidation of these divorce cases, but counsel have agreed that if all the issues involved can be properly tried and heard together, that that is the course to be taken, and that if necessary, of course, counsel on both sides will be given an opportunity to produce the proofs that they may desire on any or all of the issues raised by the pleadings.

I think that will preserve and protect your respective rights as fully as you desire them. That will put the burden upon Mr. Lane to proceed on his petition.

FRANCIS L. HAVERON, sworn for petitioner.

Direct examination by Mr. Lane.

Q Mr. Haveron, where do you live? A Irvington, New Jersey.

Q What is your relationship to Dr. Stevens? A Brother.

Q Your names are different? A Half-brother.

Q Do you remember when he was married? A Yes.

Q Were you present at the marriage? A I was.

Q Do you remember about the date? A I should say it was in the summer, about 1912.

Q Do you know where it was? A It may have been 1913, Grace Church, New York.

Lewis LeCompte, direct.

Q Do you know who performed the ceremony? A No, I don't recall the minister's name.

Q Was he a minister? A Yes.

Q Do you know where Dr. Stevens now resides? A With his mother.

Q Where? A Irvington.

Q Do you know how long he has been residing there? A I don't know—a year or so. Not at this particular house, though, but with his mother.

Q In what place generally? A Either at Park Place or on Sanford Place.

Q In New Jersey? A Yes.

Q Do you know how long he has resided in New Jersey? A Over ten years anyway; fifteen or twenty years.

Q To your knowledge? A Yes.

Q Do you recognize Mrs. Stevens in court? A Yes.

Q Sitting alongside of counsel? A Yes.

Q And is she the lady who was married to Dr. Stevens, in Grace Church? A She is.

No cross examination.

LEWIS LeCOMPTE, sworn for petitioner.

Direct examination by Mr. Lane.

Q Where do you live? A 20 Pennington street, Newark.

Q How old are you? A Twenty-three.

Q What relation are you to Dr. Stevens? A Cousin.

Q Do you know Mrs. Stevens? A Not personally.

Q Do you recognize her? A Yes.

Q On or about the twenty-fifth day of August, 1922, did you see Mrs. Stevens? A Yes, sir.

Q Where first? A First I saw her on the twenty-fourth, in the afternoon.

Q Where? A At the Bermuda Line Steamship, in New York.

Q Where? A I don't know just what street the Bermuda Line comes in; I believe around Fifty-ninth street.

Q Was she with anyone at that time? A Yes.

Q With whom? A Mr. Paswaters.

Q Do you recognize the gentleman? A Yes.

Q Sitting alongside of Mr. Van Blarcom? A Yes.

Q What were they doing when you saw them there? A Walking up the aisle.

Q From the boat? A Yes, sir.

Q What did you do? A I followed them.

Q Just describe what you did, where did you follow and who and what. A From the boat; they took a taxicab to the Twenty-third Street Ferry of the Erie and I followed in another cab. They bought the tickets on the New York side of the ferry for Montclair. I also purchased a ticket for Montclair and was in the same coach they were in the train, and got off at Montclair Station. There was only one taxicab at the station. I stood in the station until they took that, and later followed them. And a few minutes later I called Dr. Stevens up and told him that Mr. Paswaters and Mrs. Stevens had arrived in Montclair, and waited there until Dr. Stevens arrived later.

Q What time did Dr. Stevens arrive? A Between five and five-thirty.

Q Was he accompanied by anybody? A Yes.

Q By whom? A Mr. Corbally.

Q And who else? A I believe that was all.

Q Then what did you do? A We waited there for awhile and finally some more of the gentlemen came up and Mrs. Stevens left the house about six o'clock and went to the store; we followed her in the car and when she came back we waited on the corner.

Q Wait a minute—you are at the store. A No, this was after I had called up Dr. Stevens. I waited at the corner of Midland avenue until he arrived.

Q What corner did you meet Dr. Stevens? A I don't know the intersection of the street.

Q How far from 79? A One block.

Q Did you see Mr. Paswaters and Mrs. Stevens go in the house? A No.

The Court: Whose house was it?

The Witness: 79 Midland avenue, I believe, Mrs. Stevens' home.

Mr. Lane: It is her home.

The Court: The home of herself and Dr. Stevens at that time?

Mr. Newman: Dr. Stevens wasn't living there.

Mr. Lane: It appears in the pleadings that 79 Midland was at that time the home of Mrs. Stevens, and they were not living together and hadn't been living together from the time the first bill was filed.

Mr. Newman: I would like to suggest to the Court, the witnesses in this case, the detectives, be excluded from the room and examined one by one as they are called.

The Court: How many are there?

Mr. Newman: I don't know.

Mr. Lane: There are three here; there were six altogether.

The Court: Any reason why that course should not be adopted?

Mr. Lane: No.

The Court: They will be excluded from the room.

(As directed, the witnesses referred to left the room.)

Q You say you did not see Mrs. Stevens and Mr. Paswaters go into 79 Midland avenue. Where was it that you lost sight of them? A At the railroad station at Montclair; there was one taxicab there when we arrived.

Q After Dr. Stevens and Mr. Corbally and the rest came what did you do? A We waited around there; that is all.

Q How long? A From six o'clock until 4:30 the next morning—between four and four-thirty.

Q Then what did you do? A We entered the house by the rear door.

Q Then what did you do? A Descended to the first floor, and then entered Dr. Stevens' room—what had been his room.

Q And then? A And Mrs. Stevens and Mr. Paswaters were in the room together.

Q Where? A In bed.

Q What were they doing when you went in? A Sitting up.

Q And who went in with you? A We all went in.

The Court: Who was in the party?

The Witness: Dr. Stevens and myself and the detectives.

Q How many detectives? A I really cannot say; about ten or twelve.

Mr. Newman: Ten or twelve detectives?

The Witness: Yes.

Q Was anything said there? A Mrs. Stevens was somewhat surprised; she didn't say very much, except—

The Court: What did she say?

The Witness: I really cannot recall the exact words.

Q Did Mr. Paswaters say anything? A Yes.

Q What? A Why—that I really cannot say; the only thing I remember was his last remark that he made.

Q What was that? A He asked us to be kind enough to lock the door when we went out.

The Court: To lock the door when you went out?

The Witness: Yes.

The Court: You mean you found them occupying the same bed or separate beds?

The Witness: Yes, the same bed.

Q Was anything done about his clothes? A I believe the detective, Corbally, took some garment or other.

Q Did you see Detective Corbally take them? A Yes.

Q Did you see the garments? A Yes.

Lewis LeCompte, cross.

Q Can you identify them if you saw them again? A Yes.

Q I show you this package; will you open it and tell me whether those are the garments or not? A Yes.

The Court: What are they?

The Witness: A shirt.

Q More than one? You say garments. A Garment.

Mr. Lane: I ask that that be marked.

(Marked Exhibit P. 1.)

Q How were Mrs. Stevens and Mr. Paswaters dressed? A Mr. Paswaters had on a pair of pajamas and Mrs. Stevens—I really don't know the name for the lingerie she was wearing—some feminine affair.

Q How long a time did you remain in the room? A I should say about ten minutes.

Q Where did you go then? A We left the house; locked the door and went back to Newark.

Cross examination by Mr. Newman.

Q You first saw these people in New York? A Yes.

Q How did you know Mrs. Stevens, if you had never seen her before? A I had seen her once before.

Q I thought in your direct testimony you had never seen her before. A I said I didn't know her personally.

Q How long ago was it when you first saw her? A Three or four weeks previous to that, in Dr. Haveron's office.

The Court: Was that the last witness who was here?

The Witness: No.

Q Can you tell us what occasion it was that you saw her in Dr. Haveron's office? A Yes, she came in to see Dr. Walsh about her son, a chiropractor.

Q That was three or four weeks prior to this occurrence? A I really don't know, but during the same summer.

Q After you saw them in New York, you say you followed them? A Yes, in a taxicab.

Q What was the time you first saw them in New York? A Between one and one-thirty.

Q You went up to the railroad station? A Twenty-third Street Station of the Erie Railroad.

Q What train did they take out? A The train some time between two and two-thirty.

Q In the afternoon? A Yes.

Q And you went on the same train? A Yes.

Q No one else was with you? A No, sir.

Q And no detective or other person accompanied you on the train or at the wharf? A No, sir.

Q And when they arrived at Montclair they took a taxi and went away? A Yes.

Q You didn't see where they went to? A No, outside of the fact that they went straight up the road—I don't know the name of the street.

Q About what time was that when they arrived at Montclair? A It takes, I should imagine, about thirty-five minutes to run to Montclair on the railroad; it must have been around three o'clock.

Lewis LeCompte, cross.

Q Then I understood you to say you saw them come out of the house about six o'clock? A Mrs. Stevens alone; she left the house in the car to go shopping.

Q Did you follow her? A No.

Q Did you follow her? A Yes, downtown.

Q And no one was with her in the car? A No, she was alone.

Q Did you stay in front of the house from the time you got up to Montclair until four-thirty? A In that vicinity.

Q How did you get into the house that night? A Broke the rear door down.

Q With bricks? A No.

Q With what? A Pushed against it. Mr. Corbally pushed against it with his shoulder.

Q Prior to that time had you endeavored to enter the house? A No, sir.

Q Do you know whether any of the parties in this raid opened the window in the rear of the house? A No, sir—yes, they did, they tried that first and the pantry door was locked.

The Court: How long before effecting the entrance?

The Witness: About two or three minutes.

Q Sure about that? A Yes, positive.

Q Was that window closed? A It was open.

Q But was the window closed when you went in to make the raid? A The window was closed.

Q Someone had come down and closed the window, had they? A That I cannot say.

Q Did you see anyone come down? A No.

Q But you found the window was closed? A Absolutely; not locked.

Q Why didn't you effect your entrance through the window if it wasn't locked? A The pantry door was locked leading into the kitchen.

Q Did you go in there to find that out? A No.

Q How did you know that? A One of the detectives made the entrance.

Q When you got into the house where did you first see Mrs. Stevens? A In the room upstairs.

Q Did you hear her in the hall at all? A No.

Q You were the first one to go upstairs? A No, sir.

Q How many preceded you upstairs? A Three.

Q They were upstairs in the room when you got there, then, is that it? A I crossed the threshold maybe three or four feet behind them.

Q Was there a light burning in the hall downstairs? A Yes, a small light.

Q And was there a light burning in the hall upstairs? A That I don't recall.

Q You don't know as a matter of fact whether the light was burning or not? A I cannot say positively.

Q Where was this garment procured from? A Mr. Corbally got it in the front room.

Q Not the bedroom in which you said these people were? A No.

Q He got it in the front room? A So I understand.

Q Did you see him get it? A I didn't see him take it, but I saw him when he brought it in the room.

Lewis LeCompte, cross.

Q You saw him bring it into the room? A Yes.

The Court: What room do you mean, the bedroom?

The Witness: Yes.

Q Where was the bedroom situated that you saw these parties in? A I don't know the directions—I think it was off of the room—to be sure, but I really cannot say.

Q Was it the front or back part of the house? A Coming upstairs in the back of the house.

The Court: Did you put the lights on?

The Witness: The lights were on at the time we got upstairs in the room.

Q The lights were on in the room? A Yes.

Q You stated you were a cousin of the petitioner? A Yes.

The Court: Did you go to the pier for the purpose of following these people?

The Witness: Yes.

Q That is how you came to be at the pier? A Yes.

Cross examination by Mr. Van Blarcom.

Q Who sent you over there? A Dr. Stevens.

Q What time did he tell you to go? A He called me up the evening previous at the house and asked me if I wouldn't procure this evidence for him, and I gladly accepted his offer.

Q Coming to the time you got to Montclair, you called up Dr. Stevens what time? A Around three o'clock, I should imagine, or a little after.

Q Where did you wait? A At Midland avenue and the intersecting street, one block below 79, I don't know the name.

Q By arrangement did you meet him there? A Yes, I said I would be there.

Q He appeared with how many other people? A Two in the party besides Dr. Stevens.

Q Who were they? A Mr. Corbally's son and some other gentleman, I don't know who he was.

Q What was his name? A I don't know.

Q Is he in court today? A Yes, he is.

Q That is Corbally's son and another man? A Yes.

Q Was Dr. Stevens there, too? A Yes.

Q Where did you men go to then? A We stayed right in the vicinity.

Q Just standing on the corner? A No, we had a motor car; we parked the car on the side of the street.

Q How near to the house, 79 Midland avenue? A Within sight of it.

Q How near? A Perhaps one hundred and fifty yards.

The Court: Were there any other parties in this case in the morning when you broke in.

The Witness: No, sir.

The Court: But you or anyone else?

The Witness: No one at all.

Q When did you see her go out in the car? A About six o'clock.

Lewis LeCompte, cross.

Q Who was in the party when you saw her go out? A Mrs. Stevens alone.

The Court: Did she drive?

The Witness: Yes, she drove the car.

Q Who was in your party? A Myself and two detectives.

Q And Dr. Stevens had gone? A Yes, he had left.

Q Did you follow her? A We followed her; yes, sir.

Q Where did she go? A I think a delicatessen or grocery store.

Q Had you seen her go out before that? A No, sir.

Q Or after that? A No, sir.

Q How long was she gone? A Perhaps about twenty-five minutes or so.

Q And then when did your whole crowd congregate? A Around eight o'clock.

Q Whereabouts? A Corner of Midland avenue and another intersecting street—I don't know the intersecting street.

The Court: These eight or ten detectives?

The Witness: Yes.

The Court: At eight o'clock?

The Witness: Yes, something in that neighborhood.

The Court: You and the doctor were there?

The Witness: Dr. Stevens was there at the time.

The Court: Do I understand you remained then in the vicinity of the house until 4:30?

The Witness: Yes. Dr. Stevens left later after that and came back later.

Q Where did he go? A I cannot tell you; I don't know.

Q Did you have any police officers from Montclair? A No police officer.

Q You had no local police officer? A No.

The Court: What are these, private detectives?

The Witness: I believe they are.

The Court: Operatives from some agency?

The Witness: Yes.

Q How many finally congregated in the party at nine o'clock? A After we finally assembled, about ten or twelve; I didn't count the number.

The Court: What is that?

The Witness: I didn't count them; about ten or twelve.

The Court: You were there six or seven hours?

The Witness: We were not all there at the time; we had only one car during the early part of the evening.

Q I thought you said the whole crowd assembled about eight o'clock? A No.

Q When did you get your whole party together? A Not until around midnight; they kept leaving, coming back and leaving, but we always had a crowd on the street.

Q When did your whole crowd finally assemble? A I should imagine around twelve o'clock.

Q You waited until four o'clock? A Four-thirty.

Q Then there were in the car how many altogether, do you think? A I said between ten and thirteen; I cannot say the number; at least a dozen.

Q Is this a residence street? A Yes.

Q Did you see any police officers that night? A Yes, two or three.

Q How were you assembled in the crowd? A We had a Hudson Super-six.

Q Were you all together or separated in small blocks? A We had one car at one end of the block and one at the other.

Q How many cars did you have? A Two.

Q When did you finally approach the house? A About four or quarter after four.

Q Did you go along with the party? A Yes.

Q Where, front or behind? A In the rear.

Q How many people preceded you? A I was right in amongst them all, I cannot say that.

Q What part of the house did you go in first? A The window leading to the pantry.

Q Why did you go to that window? A We expected that perhaps that might be open and the pantry door open and we wouldn't have to use any force to open that rear door.

Q You could see a light in the house? A There was a small light in the hall.

Q The shades were up? A No.

Q The shades were down? A I am pretty sure they were; I cannot definitely say.

Q How could you see whether the lights were in the hall? A I could see it through the front door.

Q Did you go up on the front stoop? A No, but you could see that from the street.

Q You can see right from the street then into the house? A Yes, you could see a light in the hall.

Q The shades were down? A I cannot say whether they were or not.

Q Did you go around and look at this pantry window yourself? A I was in the crowd at the time but I didn't make the inspection.

Q Was there a screen in the window? A No, there was not.

Q And the window was unlocked? A Unlocked.

Q You saw someone raise it? A Yes.

Q Did they go in at that time? A They did.

Q One of the officers went in? A Yes.

Q As soon as the window was raised? A Yes.

Q Then two or three minutes after that you went around to the back door? A We were at the door at the time.

Q Was the pantry door right at the back? A Yes, right next to the kitchen door.

Q Had you seen any light downstairs before that? A None except the one in the hall.

Q Had you been around there all the time? A In that vicinity.

Q What do you mean? A No light in any other part of the house.

Q No, what do you mean by being in that vicinity? A During the evening the only light I saw there during the time we raided the house was in the hallway.

Q How long were you around the house altogether? A From the time I left the train until the next morning, practically.

Q Right around the house on the premises? A Maybe twenty or thirty minutes.

Q And all that time you were in the back or side or front of the house? A We went to the back first.

Q Were you right around the house for twenty-five or thirty minutes? A I might not have been as long as that; I don't really know.

Q Did you see a light in the kitchen at any time? A No.

Q Were you right up where you could see it? A Yes.

Q Mr. Corbally, Sr., you say pushed the door open? A Yes.

Q Did he make much noise? A Considerable.

Q Who went in first? A I really don't know; I didn't see the face of the man who went in first; we practically all went in, right in a bunch. I cannot say which one was first.

Q About a dozen people went in together? A Yes.

Q Did you have your search lights? A No search lights.

Q None at all? A One of them, I believe, did have a search light, come to think of it.

Q One of those hand flashlights? A Yes.

Q Who had that? A I cannot say.

Q Was there only one? A I don't know; I didn't inspect that closely enough.

Q Which flight did you go up, the front or back? A Front.

Q Anyone go up the back? A No.

Q How did you go up; walk up softly or run up? A Not very softly, I will say; we ran up.

Q What rooms did you go in? A The room on the left, at the head of the stairs.

Q That is the only room which you were in? A That is the only one I was in.

The Court: That is, on that floor?

The Witness: On that floor.

Q Did anybody have any bricks wrapped up in paper? A I don't know; I couldn't say; I didn't see any.

Q You saw no bricks? A No.

Q Did you see Mr. Corbally break the door in with his shoulder? A Yes.

Q How near to him were you? A A few feet.

Q You say there was a light in the bedroom when you got upstairs? A Yes, when we got up to the top of the stairs.

Q Were you in the last of the crowd? A Right in the middle, perhaps three or four feet.

Q Was Dr. Stevens in front of you or behind? A Before me.

Q How many people were before you? A I think the third or fourth.

Q Did everybody go in the bedroom? A Yes.

Q Quite a crowd in there? A Yes, there was quite a congregation.

Q Was there a light in the bedroom when you went in? A At the time we entered, yes.

Q What sort of a light; electric light? A Yes.

Q Was that burning when the first man in your party entered? A I believe it was.

Q You believe so; do you know? A Not definitely, because I was the third or fourth man; I didn't get the first view of the door.

Q Did you hear any noise when the bedroom door was opened? A Not particularly.

Q Did you hear that bedroom door crash in, as though it was opened violently? A No.

Q Did you see who opened the door? A No.

Q Were you upstairs when the door was opened? A Yes.

Q There was a light burning? A Yes.

Q And a light burning in the upper hall when you got upstairs? A I cannot say definitely whether there was or not.

Q Who spoke first when you went in? A That I don't know.

Q Why not? A I didn't take any particular pains to notice.

Q Did Dr. Stevens speak at all? A Yes, he did.

Q What did he say? A I don't know what he said; I cannot recall.

Q How many of these detectives spoke? A That I don't know; I guess they all had something to say.

The Court: Is this your first experience in making a raid?

The Witness: Yes.

Q How old are you? A Twenty-three.

Q Did you say anything? A No, sir.

Q You cannot remember any of the conversation at all except what Mr. Paswaters said at the end? A That is all.

Q Which door did you go out of? A The same door we entered, the rear door of the kitchen.

Q How did you lock that door, if it was broken? A I think there was a spring lock on the door.

Q Did you break it? A The peculiar thing is the lock didn't spring when we sprung the door.

Q How long were you in the house? A Anywhere from five to ten minutes.

Q Didn't you go out of the front door? A No.

Q You are sure about that? A I really cannot say; I am not sure.

The Court: Was there a good deal of excitement and noise there?

The Witness: Yes, there was.

Q You don't know whether you went out the front or back door? A I wouldn't be able to swear and say yes or no.

Re-direct examination by Mr. Lane.

Q Did Dr. Stevens at the time he asked you to go there and meet this boat, tell you how it was that he had received his information? A No, he did not.

Q He said nothing about that? A No.

The Court: Did he pay you for your trouble?

The Witness: Absolutely not.

Q Has he promised to? A No, sir.

Q Do you expect payment? A No, sir.

Re-cross examination by Mr. Newman.

Q I assume he paid your expenses? A He gave me a ticket for the train.

Q And taxicab? A No.

JOHN H. PASWATERS, sworn for petitioner.

Direct examination by Mr. Lane.

Q On the 25th of August, 1922, where was your home? A 100 Roosevelt avenue, East Orange, New Jersey.

Q How long had that been your home? A About three years.

Q And who lived there? A It was a two-family house; which floor do you refer to?

Q Who lived with you? A My mother, my daughter and my wife.

No cross examination.

THOMAS J. CORBALLY, sworn for petitioner.

Direct examination by Mr. Lane.

Q What is your business? A Detective agency.

Q How long have you been in that business? A Two years.

Q What was your business before being engaged in private detective work? A Inspector of police, City of Newark.

Q How long had you been inspector of police? A Six years.

Q And been connected with the police department of Newark how long? A Thirty years.

Q You were engaged by Dr. Stevens on this night of the 25th of August? A Yes.

Q You either were paid or expect to be paid for the services which you rendered on that night? A Yes.

Q Were you at 79 Midland avenue, Montclair, that night? A Yes, sir.

Q When did you get there? A I got there at midnight, first, and I came back at four-thirty in the morning.

Q After you got there at four-thirty in the morning what occurred? A We surrounded the house and forced the rear door.

The Court: You didn't surround the house alone; who was with you?

The Witness: Five or six of my operatives.

Q Anyone else? A Dr. Stevens and a friend of his called Mr. LeCompte.

Q Tell us what you did? A After forcing the door, Dr. Stevens—I went in first, Dr. Stevens next, Mr. LeCompte, Steve Floraty, Frank Corbally, Ray Adams; we went to the front stairs with flash lights.

The Court: What, flash lights?

The Witness: Yes.

The Court: You will have to talk louder.

A (Continuing.) And went to the front bedroom; there was nobody in there, and Dr. Stevens, he led me over to a room—you go to your left and then to your right, and we found a couple in bed; as I put the flash lights on the couple in bed, Mrs. Stevens turned on her left side and turned on the electric light; she said, "What is the matter?"

The Court: She said, "What is the matter?"

The Witness: She said, "What is the matter?" I said, "We are detectives." I said to Dr. Stevens, "Do you know this lady?" He said, "Yes, that is my wife." I then asked him if he knew the gentleman in the bed alongside of her, and he said, "Yes, that is Mr. John Paswaters." I asked his witness LeCompte if he knew the lady in the bed, he said, "Yes, that is Mrs. Stevens." I said, "Did you know her when she lived with Dr. Stevens as his wife," and he said, "Yes." Mrs. Stevens got excited and she wanted to jump out of bed, and I said, "keep quiet," and Mr. Paswaters told her to keep cool. I went in the bedroom to the front and I found a pair of golf pants and this shirt (indicating), and I asked Mr. Paswaters if that was his shirt, and he said "Yes," and he said, "You are not going to take the golf pants, are you? I want to play golf tomorrow. Please don't take them." I said, "All, right, I will let you have the pants."

The Court: What else was said while you were there, by anyone?

The Witness: Mrs. Stevens asked me how we got in; I told her we got in the back door.

Q How did you get in the back door; did you break it down? A We forced it in.

Q You personally? A I forced it in, and Mr. Paswaters said as we were going away, "Won't you please secure that back door?" and I said, "Yes."

Q Anything said to account for Mr. Paswaters' presence in the room and bed at that time by him or anyone else? A I asked him was

he Mr. Paswaters, and he said he was. I asked him what he had to say about being there and he said he had nothing to say.

Q Were they both in their night clothes, apparently? A They were both in their night clothes; she had pink night clothes on—I think they call them Billy Burkes, and he had white pajamas on; neither of them left the bed while we were there. She attempted to get out, but Mr. Paswaters told her to keep quiet and she remained in the bed.

Q Was it a double bed or twin bed? A double bed.

Q Who put the light on in the bedroom, or was it on when you entered? A I put the flashlight on and Mrs. Stevens turned on her left side; there was an electric light right at the back, and she turned it on.

Q How long were you in there? A Less than ten minutes.

Q Then where did you go?

The Court: Did Dr. Stevens do any talking while he was there, to either of them?

The Witness: Not much.

The Court: Much or little, what did he say?

The Witness: She said it was a dirty trick for him to do. He said he thought he was doing the right thing and he was justified in what he was doing.

The Court: Any reply made to that statement of his.

The Witness: No, sir.

The Court: Anything else said by anyone?

Thomas J. Corbally, cross.

The Witness: Before we left Dr. Stevens and I went through all the rooms on that floor and there was no one else in the house.

The Court: No maid?

The Witness: No.

Q What did you afterwards do? A I went downstairs and secured that back door; I put a chair to it and went out the front way.

Q Did you secure the back door? A Yes.

Q Do you recognize Mrs. Stevens in court? A Yes.

Q Do you recognize Mr. Paswaters in court? A Yes.

The Court: They are the parties sitting by counsel here?

The Witness: Yes.

Cross examination by Mr. Newman.

Q You were there around this house on two occasions that night? A Yes.

Q About twelve o'clock at night and four-thirty A. M. in the morning? A Yes.

Q How long were you there at twelve o'clock? A Only a few minutes; I went down to the Montclair police and told them I was working on that block.

Q You were there a few minutes and then you left? A Yes.

Q Then you came back about four-thirty? A Yes.

Q At the time you arrived there at four-thirty was the window to the pantry open? A No, sir.

Q It was closed, was it? A It was.

Q You took no part in opening the window to the pantry? A Yes.

Q You opened it, did you? A We looked in the pantry.

Q You personally? Did you open the window going into the pantry? A It wasn't locked; I shoved it up.

Q When did you do that? A At four-thirty.

Q Before effecting an entrance into the house or after? A Before.

Q How long before? A Just a minute.

Q Then did you go into the pantry? A No.

Q Nobody went into the pantry? A I think one man went into the pantry and the pantry door was locked.

Q You don't know that? A No, I don't know that. I went to see if any of the other windows were opened.

Q Was there a light in the kitchen at that time? A No, sir.

Q Had you seen any light in the kitchen prior to the time you went to the pantry window? A No.

Q When you got into the house, you got in by the back door? A Yes.

Q You had bricks wrapped up, didn't you; you used them to force an entrance? A No.

Q What did you use to force an entrance? A Just my body.

Q After you got in there, did you observe a light in the hall? A No, sir.

Q The lower hall? A No, sir.

Q Was there a light in the upper hall? A No light.

Q Were you the first one that went up the stairs? A The first one; I had hold of Stevens' hand.

Q You were not afraid, were you? A No, certainly not.

Q You had him by the hand because it was dark? A I had a flash light.

Q Did you see anyone run across the hall when you got up there? A Nobody.

Q Did you hear anyone shriek? A No, sir.

Q You made quite a noise going up, didn't you? A I don't know how much noise the door made, but we went up very easy, up the stairs.

Q There were six of you? A No, six didn't go up.

Q How many? A Probably six counting Dr. Stevens and his witness, five.

Q There was Floraty, your partner, is that correct? A Yes.

Q And there was Dr. Stevens? A Yes.

Q LeCompte? A Yes.

Q Who else? A Frank Corbally.

Q Your son? A Yes.

Q And who else? A Mr. Adams.

Q He is an operative; he works for you? A I don't know how quick they got up, but Stevens and I got up very quick.

Q When you came up to the room, was the door of the room open? A Yes.

Q Was there any light in the room? A No.

Q I understand that before you went to that room you went to the front room? A Yes.

Q The door was open there? A Yes.

Q Did you turn on the light there, or use your flash light? A Afterward.

Q You saw no one in the room there? A We saw the bed there and it wasn't occupied, and we made a rush then for the other room.

Q Could you give us any idea of how long it took you from the time you burst in the door

until you made your examination—went up the stairs and made your examination in the other room and then came to the room where you say you found those parties? A Less than a minute.

Q Your men had been around that house all night? A Yes.

Q How long is this hall, the upper hall? A I cannot tell you anything about that.

Q What is your best recollection as to its length? A Probably 25 feet.

The Court: The upper hall?

The Witness: After you got to the left of the stairs until you get in the room.

Q Where was the room situated in which you found these parties? A In the back.

Q And the room you say you went into first was in the front? A I didn't go in the room; I just looked in.

Q You threw your flashlight in? A Yes.

Q Was there a bed in the room? A Yes.

Q Had it been occupied, so far as you could observe? A It had not.

Q You had never been in this house before? A No.

Q Never seen Mrs. Stevens before? A No.

Q Was it the first time you ever saw her when you got in the room? A Yes.

Q Isn't it a fact that she was sitting in the chair right near the bed? A No, sir.

Q And isn't it a fact that when you come up the hall, she rushed across to that room? A No, sir.

Q That isn't the fact? A No, sir.

Thomas J. Corbally, cross.

Q That door was open, the bedroom door was open? A Yes, and his clothes were in the other room.

The Court: In the first room that you looked into?

The Witness: Yes.

Q That is where you found his shirt? A Yes.

Q You found a grip there? A I don't know as to the grip.

Q Didn't you open the grip to get that? A No, all his clothes were lying on the chair.

The Court: Didn't you see a grip there?

The Witness: I didn't look.

The Court: Did you see one?

The Witness: No, sir.

Q You don't know whether there were any grips there at all? A No.

Q You say that this shirt and his golf trousers were lying there in the front room on a chair? A On a chair.

Q That is the room that wasn't occupied? A Yes.

Q And you got this after you had been in the room where these parties were? A Yes, sir.

Cross examination by Mr. Van Blarcom.

Q You went upstairs first? A Yes.

Q Right back of you came Dr. Stevens? A Alongside of me.

Q Then back of him this young man named LeCompte? A Yes.

Q How far were you and Dr. Stevens ahead of this third person? A I didn't look for them; I don't know how far he was behind me; I wanted to get up the stairs quick.

Q When did you first hear LeCompte upstairs? A Just as I got in the door.

Q The door to what room? A Where I found the couple.

Q Was he right back of you then? A Yes.

Q How many people had flashlights? A I cannot say; probably two or three, I am not sure.

Q Did Stevens have one? A No, I had one.

Q Did the petitioner in this case have one—Dr. Stevens? A I cannot say that.

Q Did young LeCompte have one? A I don't know.

The Court: Any one of your men have one?

The Witness: Yes, they had one.

Q They were using that? A You mean inside?

Q Yes. A I don't know what they did with the flashlights; we turned on the lights after we caught the couple in the bed.

Q Before you turned on the lights were you using your flashlights? A There was no one—I don't know what they did behind me.

Q Could you see the light? A I was up there first and I couldn't see what they were doing.

The Court: You made use of your own flashlight?

The Witness: Yes.

Q Did you see anyone else using a flashlight? A No, sir; I did not.

Thomas J. Corbally, cross.

Q Did you go in the front room when you got up to the top of the stairs? A No, sir.

Q You just put the flashlight in? A I just looked in.

Q Did you go in later? A Yes.

Q Did you light the light later when you went in? A Yes.

Q What did you go in the second time for? A To see if there was anyone in the room and to look for his clothes. The lady's clothes were in the bedroom where we found her and him.

Q You say there was no light upstairs at all on the second floor? A No, sir.

Q Did you notice a glass with some water or ginger ale in? A I saw a bottle and glass there.

Q Where were they? A I think they were over on a sideboard.

The Court: In which room, where you found this couple?

The Witness: Where we found the couple.

Q Weren't they outside in the hall? A No, sir.

Q Wasn't there a glass of ginger ale out on a table on which a light or telephone sat? A I didn't notice that.

Q Did you notice the telephone out in the hall? A No, I did not.

Q When you went there at twelve o'clock, was there a light downstairs then? A I didn't go in the back at all; I went up to see the operators, to see what they had to say.

Q You didn't go anywhere near the house? A No, I passed the house.

Q Were the shades down or up, downstairs? A I cannot say that.

Thomas J. Corbally, cross.

Q Couldn't you see from the outside? A I didn't look at the house much at all; it seemed to me to be dark.

Q Can you tell whether the shades were up or down? A I drove in a machine past the house.

Q I am talking about four-thirty. A Everything was dark then.

Q When you walked around the house at four-thirty were the shades up or down? A I am not sure about that

Q You don't know? A No, sir.

Q Can't you remember whether you could see in the house or not? A I tried the windows; I think the shades were up.

Q Couldn't you see a light burning in the front hall when you got there at four-thirty? A No, sir, no light.

Q Downstairs; sure about that? A I am pretty sure.

Q Do you know? A I am stating to you that I don't remember seeing any lights in the house.

Q How many men were in the room upstairs altogether? A At least five.

The Court: That is in your party?

The Witness: Yes, Dr. Stevens and Mr. LeCompte—

The Court: All right.

Q About five in the whole crowd? A Yes.

Q Have you been paid yet for your services? A I have.

Q How much were you paid?

Mr. Lane: I object as immaterial.

The Court: I will receive it.

John H. Paswaters, direct.

A I cannot tell you the exact bill.

The Court: Approximately.

The Witness: Something around a couple of hundred dollars.

Q What? A I think around a couple of hundred dollars; I am not sure.

Q How many men did you have on this job? A We had seven or eight men.

The Court: Had you been working on this case prior to the 24th of August?

The Witness: No, sir.

The Court: Did you work on it after the 25th of August?

The Witness: No, sir.

Q When were you hired? A On the 24th.

Q You were hired on the very day this thing happened? A Yes.

Q Had you made any arrangements before that? A I saw the doctor a few days before that and he told me he might be calling on me for men.

JOHN H. PASWATERS, recalled for petitioner.

The Court: Any reason why Mr. Corbally should be further excluded?

Mr. Newman: No.

Direct examination by Mr. Lane.

Q Between the 12th or 13th of August, 1922, and the 22nd of August, 1922, were you in the

Island of Bermuda? A Not between the 12th; no, sir.

Q When did you go? A The 12th.

Q When did you get back? A Twenty-fourth.

Q What boat did you sail on? A Fort Victoria.

Q What boat did you come back on? A The same boat.

Q And was Mrs. Stevens on the boat? A On the steamer.

Q And were you at 79 Midland avenue on the 25th of August, 1922? A Yes.

The Court: Any questions.

Mr. Van Blarcom: Not at present.

FRANK W. CORBALLY, sworn for petitioner.

Direct examination by Mr. Lane.

Q Where do you live? A 571 Warren street, Newark.

Q What is your business? A Investigator.

Q Connected with whom? A Corbally Detective Agency.

Q The last witness on the stand was your father? A Yes.

Q On the 25th of August, 1922, were you at 79 Midland avenue, Montclair? A Yes.

Q What time did you get there? A I got there between four-thirty and five P. M., on August 24th.

Q What did you do? A I covered Mrs. Stevens' home from that time until four-thirty A. M., August 25th.

Q Were you one of the raiding party so-called? A Yes.

Q When did you start, and tell us what happened. A I left our office with Dr. Stevens—

Q What happened after you started at four-thirty? A Inspector Corbally broke through the back entrance of the back door and through the hall and up the stairs and went as far as the front bedroom and put the flashlight in the room; not seeing anyone in there, he turned around and went to the back bedroom and we found Mrs. Stevens and Mr. Paswaters in bed together.

Q How were they dressed? A Mr. Paswaters had pajamas on and Mrs. Stevens had Billie Burkes.

Q Who went in the room first, do you remember? A Inspector Corbally.

Q Who all went into the room, if you remember? A Inspector Corbally, Mr. Floraty, Dr. Stevens' cousin, Mr. Adams and another operator of our agency and myself.

Q Were there other operators, too? A Yes.

Q How many? A I imagine about eight or nine altogether.

Q Where did the others stay? A We had one or two in the front and one on the side; we had them scattered all around the house.

Q After the door was broken how quickly did you go upstairs? A Just as quick as we possibly could. We didn't tarry a moment.

Q Did you all go up in a crowd? A Yes, Inspector Corbally and Dr. Stevens after and Mr. Floraty, and myself following Dr. Stevens.

Q Did you hear Mrs. Stevens or Mr. Paswaters say anything after you got into the room? A When Inspector Corbally asked Dr. Stevens if that was his wife, the doctor said "Yes"; he

he asked Mr. Paswaters' name and he told him, and inspector asked Dr. Stevens' cousin who the lady in bed was and he said, "Dr Stevens' wife."

Q Did you hear Mrs. Stevens say anything? A Mrs. Stevens asked us to leave the room.

Q Did you hear Mr. Paswaters say anything? A Only when Inspector Corbally was going to take his golf trousers, he pleaded with him to leave them there, that he wanted to go golfing the next day.

Q How soon after Inspector Corbally went into the room did you go in? A I followed the inspector right in behind Dr. Stevens.

Q Do you remember whether there was a light in the room when you went in or not? A I don't remember if there was a light.

Q Was there any excitement in the room? A No, sir; there didn't seem to be any excitement, only after we got in the room Mr. Paswaters got up and Mrs. Stevens sat up in the bed and Mrs. Stevens wanted to go in the other room, if I remember, and we asked her to stay right in the bed.

Q Did you know where Inspector Corbally got this shirt that has been offered in evidence? A Yes.

Q Were you with him? A Yes.

Q Where did he get that? A In the front bedroom.

The Court: Where was it?

The Witness: It was lying on a chair. The inspector took Mr. Paswaters' shirt and trousers in to him and we told him we would take the trousers, and that is the time he pleaded with him not to take the trousers.

Frank W. Corbally, cross.

Q What did you do next? A After the inspector asked Dr. Stevens if that was his wife and asked his cousin if he knew Mrs. Stevens, then we left.

Q Do you know which way he went out? A We went out the back door.

Q All of you? A I know I went out the back door to shut the back door after we went out, because Mr. Paswaters asked us to be sure and shut the back door when we went out.

Q Do you recognize Mrs. Stevens and Mr. Paswaters in the court? A Yes.

Cross examination by Mr. Newman.

Q Was the lock broken on the door? A I didn't notice.

Q How was it forced open? A The inspector put his back against it.

Q When he forced it open was there a light in the kitchen? A No, sir.

Q Did you observe a light in the lower hall? A I believe there was a light in the lower hall.

Q And did you observe a small light on the second floor? A No, sir.

Q Right over a table there? A No, sir.

Q Did you notice a telephone table? A No, sir.

Q You didn't notice that? A No.

Q When you got up you went to the front bedroom first? A Yes, as far as the door, and the inspector put his flashlight in, and not seeing anyone in there, we turned around, and went back.

Q When you came to the other room was the door open or closed? A I don't remember that; the inspector was first: I don't remember whether he opened the door or not.

Q You were right behind him? A I was behind Dr. Stevens.

Q You cannot tell us whether that door was open or closed? A The inspector had the flashlight and it was very dark upstairs.

Q You cannot tell us whether the door was open or closed? A No, sir.

Q Could you tell us whether there was a light in that room? A There wasn't.

Q When you got in the room, who turned on that light? A I believe Mrs. Stevens did.

Q And did you see her do it? A I think I did; I am not positive.

Q Was Mrs. Stevens seated on a chair near the bed? A No, sir; she was in bed.

The Court: At any time did you see her in a chair?

The Witness: I believe she did get up and sit on a chair or on the edge of the bed.

Q On the edge of the bed? A Or on a chair.

Q Didn't Inspector Corbally grab her by both arms and keep her right close to the bed? A No, sir.

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

Q How was Mr. Paswaters in the bed at the time you saw him? A When I got in the room he sat up in the bed.

The Court: The bed in the front room, did it have the appearance of having been occupied.

The Witness: I didn't notice that.

Q The door to that room was also open when you went up and threw the flashlight in from the outside? A I believe it was.

Frank W. Corbally, cross.

Q You didn't go out the front door, did you? A No, sir; I didn't.

Q You went out the back door? A Yes.

Q You had been around there prior to four-thirty o'clock? A Yes, I was there from the day before.

Q From the day before? A Yes, between four and five-thirty.

Q Did you see Mrs. Stevens go out at all? A Yes.

Q What time? A I believe it was around between six and seven o'clock.

Q In the evening? A Yes.

Q This was in the summer time, wasn't it? A Yes.

Q And was Mr. Paswaters with her when she went out? A No, sir.

Q Where did she go to? A She went to the delicatessen store on Bloomfield avenue.

Q Did you go and follow her? A Yes.

Q That evening after dark, was the house lit up downstairs? A Only the light in the hall.

Q Did you notice any light in the front porch or the front room? A Yes, sir; I did.

Q Didn't you see Mr. Paswaters sitting there reading? A No, sir; I did not.

Q But there was a light there? A Yes.

Q How long was that light burning in the front room on the ground floor? A I cannot tell; I just cannot say how long it was lit because I went from one corner to the other, covering the house.

Q Was it burning about four o'clock in the morning? A I cannot say; I am not sure.

Q Just before four-thirty A. M., did you raise that window in the pantry? A No, sir; I did not.

Q Did one of your operatives do it? A Yes.

Q And did he take the screen out? A I don't know whether there was a screen in it or not.

Q And after he had raised the window and opened the screen out, was that pantry window subsequently closed? A Yes, I believe it was.

Q When was it that he opened the pantry window; about what time? A Just before we entered the back door.

Q And just before the pantry window was closed down by someone in the inside, did you see a light in the kitchen? A The pantry window wasn't closed down by someone in the inside.

The Court: At any time just before breaking in did you see a light in the kitchen?

The Witness: No.

Q Didn't you testify a few moments ago that the pantry window was closed down?

The Court: He did. He said the window was down; he thinks someone raised it. Then you asked him if it was closed down, and he is not sure about that.

Q You don't know whether the pantry window was closed down or not after it had been raised? A No, sir.

Q At all events you didn't go through the pantry window? A No.

Q And did you see anyone in the kitchen between four A. M. and four-thirty A. M. that morning? A No.

Q Did you see a light in the kitchen? A No, sir.

Q Were you watching there all the time? A Not in the kitchen.

Q Where did you see Mrs. Stevens' car first? A A gentleman brought it and drove it in the driveway.

Q About what time was that? A About half an hour before Mrs. Stevens came out—about half an hour.

Q That is between five and six o'clock, as you have it? A Yes.

Q Were there any other cars in the garage that night? A I didn't notice any.

Q Any on the outside, outside of your own cars? A There were cars on the street.

Q Any in Mrs. Stevens' yard? A I believe there was; I believe the man next door drove a car in there and went through the yard, but I am not positive.

Q After you had been in the room and this conversation had occurred, and the inspector went in the other room to get the shirt, did you go in with him? A Yes.

Q At the time you went in there did you throw a light on? A The inspector did.

Q He threw a light on from his flashlight or electric light? A From his flashlight.

Q That is the only light he lit? A That is the only light he lit.

Q At any event you didn't at that time when he got the shirt or threw that flashlight? A Yes, sir.

Q Was that bed opened? A What do you mean was it opened?

Q Was it used, that bed? A I didn't notice that.

Q Were there any carpets in the room? A I didn't notice that.

Frank W. Corbally, cross.

Q Were there any carpets in the hall? A I didn't notice any.

Cross examination by Mr. Van Blarcom.

Q Was there a good deal of noise when you broke in the back door? A I wouldn't say a good deal; no, sir.

Q Did the door fall down on the floor? A No.

The Court: Was it broken from the hinges, the door?

The Witness: I don't think it was; just broken from the lock.

Q Did it bang back when it was smashed open? A No.

Q How was that? A The way we opened it.

Q How did you open it? A You will have to ask the inspector; he opened it.

Q You say it made no noise; how do you account for the fact— A It made a little noise.

Q How did you go upstairs; running up or walking up quietly? A Very fast.

Q Made quite a lot of noise going up the stairs? A No.

Q Hardwood floors, weren't they? A I believe so.

Q You had your shoes on? A Yes.

Q Any carpet in the upper floor? A I think there was carpet on the stairs.

Q You say there was carpet on the stairs? A I think—

Q You don't know? A No.

Q How many men had flashlights? A Three—about three men.

Q All detectives? A Yes.

Q They took the flashlights in the house? A The inspector, I believe, was the only one who had a flashlight in the house.

Q Was he using it? A Yes.

Q Did you see that the door leading into the bedroom where you claim to have found these people was open or closed? A I said I didn't know.

The Court: Any reason for his further exclusion?

Mr. Newman: No, sir.

STEPHEN P. FLARITY, sworn for petitioner.

Direct examination by Mr. Lane.

Q Where do you live? A 348 High street, Newark.

Q What is your business? A Secretary and treasurer of the Corbally Detective Agency.

Q How long have you been such? A Two years.

Q Were you present on the morning of August 25th at 79 Midland avenue? A I was.

Q Were you there at four-thirty? A I was.

Q Were you in the party that went up to the room? A I was.

Q Tell us what occurred from the time you attempted an entrance into the house until you left? A We went around to the rear of the house; there were about eight or nine of us—and first opened a window leading into the pantry, which was unlocked.

The Court: Who is "we"?

The Witness: Another one of the operators, and the inspector was there at the time. We saw that we couldn't get in that way and then went to the rear door and forced that door, and didn't have much trouble getting in through the door, and went upstairs immediately, and we had flashlights. There was a small light burning in the front hall on the first floor. It was burning low. I was behind Inspector Corbally, and Dr. Stevens; I was right alongside of them; they looked in one room and there didn't seem to be anyone there, and then turned to the left to the rear, and when we went in the room Mrs. Stevens turned on the light. Mrs. Stevens and Mr. Paswaters were in bed. Mrs. Stevens was attired in a blue or a pink night or bed dress—I think they call them Billie Burkes, and Mr. Paswaters wore a light pair of pajamas. He sat up in bed and Mrs. Stevens got up out of bed and she threatened to do something to herself and wanted to go in the bathroom, and Inspector Corbally and others held her back and Mr. Paswaters asked her to calm herself.

The Court: You say she threatened to do something. Did you mean injure herself?

The Witness: She wanted to—yes, to do some harm to herself.

Q How do you know that; how did she indicate that? A She said she would.

Q What did she say? A She said that she was going in the bathroom to do something. I took Mr. Paswaters' name and address and he told me he was treasurer of McCreery & Com-

pany's in New York. Mr. Corbally had his shirt and he was going to take his golf pants, but Mr. Paswaters asked him not to take his golf pants, because he said he was going to play golf that afternoon. We were in the house about ten minutes, I should say, and went down, and we secured the rear door and went out the front way.

Q Can you recollect the language used by Mrs. Stevens? A No, I cannot recollect the exact words.

Q Did Mr. Paswaters say anything? A Mr. Paswaters told her to calm herself and told her it would be all right, and I remember her saying, "Lud, take these men out of the room. I don't want to be in the room with all these men."

The Court: "Lud" being Dr. Stevens?

The Witness: Yes.

Q How many men were in the room? A There was Inspector Corbally and his son and myself and Dr. Stevens and Mr. LeCompte and there were some others in the hallway.

Q Can you tell me about how many minutes you were in the room? A I would say about ten minutes.

Q Who did most of the talking on your side? A Inspector Corbally and myself. I talked to Mr. Paswaters; I got his full name and his address; he told me he lived at 100 Roosevelt avenue, East Orange; he told me he was treasurer of McCreery & Company in New York. He sat in the bed while he talked to me, and Mrs. Stevens was standing alongside of the bed, resting against the bed at the time.

Stephen P. Flarity, cross.

Cross examination by Mr. Newman.

Q Did you have Mr. Paswaters' picture there at that time? A Yes.

Q You showed him his picture? A Yes.

Q Asked him if he was the man represented by the photograph? A Yes; Inspector Corbally did that.

Q You are the financial man of the Corbally Detective Agency? A I am secretary and treasurer.

Q How much were you paid for this job? A I don't remember the exact amount of the bill; it was around $300, I think

Q Sure about that? A I am not sure.

Q It might have been $500? A I don't handle the accounts at all; I see the bills when they go out, but I don't just recall the exact amount of that bill.

Q What time of the day or night did you go up there? A I went up there early in the night and looked the place over and then I went up again around midnight and then later when we made the raid, three times.

Q When you went up there on your several visits prior to the raid did you see a light burning in the front room on the ground floor? A No, sir; the light was in the hall.

Q And that light was in the hall when you came in that night? A Yes, that light was in the hall.

Q Did you observe a small light on the second floor landing burning? A No, no light there; the second floor was in complete darkness.

Q When you went up with Mr. Corbally was the door leading into the room occupied by these

two parties, as you say, opened? A I think it was partly opened.

Q Are you sure? A I am not sure. It was dark and we had flashlights, and I wasn't the first one up there.

Q Did you go in the front room? A I did not go in the front room.

Q So you know nothing about the condition of the front room? A Except I saw Mr. Corbally come out with the shirt.

Q But I mean you know nothing about that; you were not in there? A No.

Q That was after you had gone in the other room, that Mr. Corbally went out and got the shirt? A Yes.

Q Did you see any carpets there that night? A No, I didn't see any carpets.

Q Did anybody ask anything about carpets, in your presence? A I don't remember.

Q When you got up there the first time what hour was it? A Around ten o'clock.

Q At night? A Yes, of the 24th.

Q Were curtains up in the house, or shades, rather? A The house was in darkness except this one light in the hall, and you could see that from the street; there were no other lights. Around twelve o'clock I went around the house; I circled the house and there was no light burning in the house at twelve o'clock, except the one in the hall.

Q There wasn't one in the front room? A No.

Q You didn't see anyone in the front room reading? A No.

Q Did you see the neighbor, Mrs. Gorton, come to the house about half-past ten? A No.

Stephen P. Flarity, cross.

Q Were you there all the time? A When I went up at ten o'clock I was in the car; I passed the house; the house was pointed out to me; I didn't bother much with the house until twelve o'clock; I went up and walked around the premises and got the general outlay of the building.

Q Did you see the cars in the garage? A There was a car in the rear; it was very dark when I was there.

Q How many? A I only saw one car.

Q Do you know what the car was? A No, it was dark.

Q When was it you first saw, if you did see, this window in the pantry open? A When we went in there it was around four-thirty, and Mr. Corbally was near that window with some of the men, and I was over like—I think it would be the west side of the house.

Q Was that window open then when you got there? A They were at the window.

Q Was the window open? A Yes.

Q When you got there, it was open? A Yes.

Q Had you seen it closed? A No, I don't think I did.

Q At ten o'clock that night when you went around was that window open or closed? A I didn't go around.

The Court: He merely passed it.

Q So that the only time you observed the window was just before the raid, and then it was open? A I went around the house at twelve o'clock; I walked around the premises then.

Stephen P. Flarity, cross.

Q Did you observe the window in question? A I noticed the window, but I don't remember whether it was open or not.

Q But you did see it open at four-thirty A. M.? A Yes.

Q Did you see anyone go in the pantry? A No one went in the pantry—one of the men looked in, put his head in the pantry.

Q After the raid was over did you go out the front way or the back way? A The front way.

Q Who secured the back door? A Mr. Corbally—Inspector Corbally.

Q Did you observe on the second floor at any time a little table there with a telephone on it? A No, I didn't.

Q Did you see a glass there containing ginger ale? A I saw a glass and whiskey bottle.

Q Where, in the hall? A In the bedroom where Mr. Paswaters and Mrs. Stevens were.

Q Where was that? A I think they were on a table; maybe on the dresser, I am not sure.

Cross examination by Mr. Van Blarcom.

Q Did anybody get in the pantry through this open window of your crowd? A Nobody went in except put their head in.

Q Why didn't you make your entry through the window instead of breaking open the back door? A I was on the west side of the house. I was not in the rear of the house.

Q (Last question repeated.) A The pantry door was locked.

Q How do you know that? A One of the men told me that the pantry door was locked, and they couldn't get in that way.

Q Were you there all the time around the pantry window? A There was quite a few of us there; I was on the west side of the house; I was not in the rear at the time.

Q You didn't go in the front room at all? A No.

Q Did you look in? A No, I was in the hall and the others were in there.

Q After you got upstairs did you light the light in the hall? A We had flashlights and someone did light the light; I don't know who it was.

Q How many of you had flashlights? A Four or five.

Q Did young LeCompte have one? A He may have; I cannot tell you.

Q Who was the first man upstairs? A Mr. Corbally—Inspector Corbally.

Q Who with him? A Dr. Stevens with him and I was with him, too.

Q You were with him, too? A Yes.

Q Who came right behind him? A I don't just remember—Frank Corbally and three or four other operators, and then Mr. LeCompte was there, too. I didn't look behind—it was very dark.

Q Do you know where he was with reference to the rest of them? A He was right—we were all in the crowd going up the stairs.

Q You went upstairs quite fast? A Yes, we ran up.

Q Did you make much noise when you broke down the back door? A We made some noise, not a terrible lot, I don't think.

Marjorie G. Stevens, direct.

Q You made quite a little noise running upstairs? A Yes.

Q Was there a light in the back room when you went in there? A There was not.

Q Who lit the light? A Mrs. Stevens.

Q What furniture was there in the back room? A I remember a couple of chairs; there was a dresser there and bed.

Q Were there any bags around there? A I didn't notice any bags.

Q You didn't see any baggage in the whole house? A I only went in that one room and the hall on the second floor. I think there was some baggage on the first floor, in the hall.

Q Downstairs? A Yes.

PETITIONER RESTS.

MARJORIE G. STEVENS, defendant, sworn.

Direct examination by Mr. Newman.

Q You are the defendant in this case? A Yes.

Q You lived where? A 79 Midland avenue, Montclair.

Q Where do you live now? A East Orange.

Q What is the address? A 32 North Arlington avenue, East Orange.

Q You know Mr. Paswaters, do you? A Yes, I do.

Q Mrs. Stevens, it is charged in this petition, that on the 25th day of August, 1922, you committed adultery with one J. H. Paswaters at No. 79 Midland avenue, Montclair, New Jersey; is that charge true or untrue? A That is untrue.

Q It is also charged that since your marriage, and on the 12th and 13th of August, you committed adultery with Mr. J. H. Paswaters on a steamer going from the Harbor of New York to the Island of Bermuda; is that true or untrue? A That is untrue.

Q It is also charged that each and every day between the 14th of August, 1922, and the 22nd of August, 1922, you committed adultery with J. H. Paswaters at the Island of Bermuda; is that charge true or untrue? A It is untrue.

Q It is also charged that on the 22nd and 23rd of August, 1922, you committed adultery with J. H. Paswaters on a steamer coming from the Island of Bermuda to the Harbor of New York; is that charge true or untrue? A It is untrue.

Q When did you first meet Mr. Paswaters? A February, 1922.

Q And at that time were you living with your husband? A No, I had been separated.

The Court: How long had you been separated from your husband?

The Witness: A year and a half.

Q When did you separate? A January, 1921. It wasn't quite a year and a half. I thought you meant August.

Q Where did you meet Mr. Paswaters? A I met him at a party at a mutual friend's.

Q Who were the mutual friends? A Family named Schwartz, who lived in the same house that he did.

Q And where was that? A 100 Roosevelt avenue.

Q And after that did you meet him occasionally? A Yes, I did.

Q Where did you meet him? A At parties at 100 Roosevelt avenue and at house parties—at different house parties, evening parties at mutual friends.

Q Was his wife with him at those times? A Yes, she was.

Q You went to Bermuda, did you? A Yes, I did.

Q When was that? A August 12.

Q And on what steamer? A On the Fort Victoria.

Q Will you tell us who procured your ticket for your passage to Bermuda? A Mr. Paswaters.

Q And how did it come that he procured your passage? Tell us about it. A I was up at Camp Wonpoint in Bantam Lake, Connecticut, where my son was at a camp; I had been there the entire summer, with the exception of a couple of weekends, and I received a check from the Hackensack Trust Company, executor for my grandfather's estate—a check in the amount of over $90, around $98, that I didn't intend to get, that came impromptu, when they settled some accounts, and I decided that I would use that for a trip before the boy got back from camp, because I knew he was well taken care of, and I couldn't go after he returned from camp, so I was over to Torrington, Connecticut, at Mr. and Mrs. Bonnell's home—

Q Friends of yours? A Yes, and Mr. Paswaters—when Mr. Paswaters called up Mr. Bonnell, and in the course of a conversation I said to Mrs. Bonnell I didn't want to go down to New York to get my ticket, and I said to Mrs. Bonnell, "I will ask J. H. if he will kindly get my ticket for me and mail it up to camp and I won't

have to go back." So I asked him to get the ticket and mailed him the check made out to me from the estate of my grandfather, Herman B. Van Riper; re-signed the voucher over to him, and mailed it to him, with a letter.

Q Asking him to procure your ticket? A Yes. He said, "I will get the ticket and you can send me a check for the amount," and I refused to allow him to do it; I sent the check to him.

Q Were you talking on the telephone? A Yes.

Q Did you send him the check? A Yes.

Q And did he notify you whether or not he had procured the passage? A Yes, he telephoned.

Q And at that time did you have any knowledge whether he was going to Bermuda or elsewhere? A I knew he was going to Canada.

Q How did you know that he was going to Canada? A Because Mr. and Mrs. Bonnell had invited him to go on a tour through the Berkshires, and he refused because he was going to Canada.

Q When did you first learn that he was going on the boat to Bermuda? A The following morning.

Q How did you learn that? A He telephoned to Mrs. Bonnell.

Q Did you talk to him on the 'phone yourself? A No, I didn't talk to him at that time.

Q You learned through Mrs. Bonnell? A Yes.

Q Then did you speak to him about going to Bermuda yourself? A I don't understand?

Q Did you speak to him about going to Bermuda; did you express any— A Yes.

Q When and how? A He called up that afternoon and said that he had the ticket and he would mail it to me, and it didn't cost as much as the $98 or $99, and he said, "When I went over to get the ticket, I decided I would take a trip to Bermuda, too, and not go to Canada." I thought he was just jollying—we were friends; I said, "You don't mean it." He said, "Yes, I have a ticket," and I was provoked about it, and I said, "You certainly are not going on the same steamer as I am"; he said, "There is no reason why I should not go on a steamer with thousands of people, if I want to go," and he was provoked about it. So nothing more was said, and I thought then he was jollying, but then he said he had a ticket and he was going.

Q When you were on the steamer where was your room situated? A Right at the stairway leading to the dining-room, midship.

Q Do you know the number? A No, sir; I do not.

The Court: What was the rate of passage you paid, do you remember?

The Witness: Between $70 and $80.

The Court: For one way or the excursion?

The Witness: Return.

Q How many were in the stateroom? A Three—two other women and myself.

Q Did you know those women? A No.

Q Had you ever seen them before? A No.

Q Where was Mr. Paswaters' state room, if you know? A No, I don't know the number.

Q On your way down did you make any acquaintances? A Yes, I made several.

Q Who were the parties that you were friendly with? A Mr. Simpson, president of the Rabestos Lining Company, of Bridgeport, Connecticut; Mr. Lavery, vice-president of the Hydraulic Water Company, Bridgeport, Connecticut; Mr. Don Lovejoy and his mother, from New Rochelle.

Q Anybody else? A There were any number—Mr. and Mr. Kocher, from Suffern, New York; Miss Vogel and Miss Sullivan. I could name a dozen people.

Q Was there anyone you especially went with on the trip and kept in company with? A During the entire trip I went around with Mr. Lovejoy and his mother and Mr. Simpson and Mr. Laverty.

Q Was Mr. Paswaters there more or less all the time? A Yes, he was there all the time.

The Court: He was at your table?

The Witness: Yes.

Q When you arrived in Bermuda where was your room situated? A On the third floor of the hotel.

The Court: What hotel?

The Witness: The St. Georges Hotel.

Q Where did he go, to St. Georges? A St. Georges. Hamilton was not opened; it was in the summer time.

Q Who occupied the room with you, if anyone? A A young lady from Brooklyn.

Q What was her name? A I just don't recall now; you have the name there.

Q Sullivan? A No, Miss—it is there.

Q And during the time you were at the hotel in whose company were you there most of the

time? A I was in the company of Mr. Simpson, Mr. Lavery, Mrs. Lovejoy and Mr. Paswaters.

Q Do you know where Mr. Paswaters' room was at the hotel? A Yes, I do.

Q Where was it? A He occupied a room with Mr. Lovejoy on the second floor.

Q Did you come home with these people? A No, I didn't.

Q Whom did you come home with? A I came home alone, with Miss Sullivan and Mr. and Mrs. Vogel from New York.

Q Was Mr. Lavery with you coming home? A No.

Q Had they preceded you home? A They came on the steamer before; I had intended to come Saturday morning, but owing to the fact that I couldn't get a reservation, I had to take the next boat. I intended coming home on the boat with them.

Q And when you came on this boat toward home, where did you go to after you arrived in New York? A I took a taxi to the Twenty-third street ferry, I think it was.

The Court: Who had the state room with you coming back?

The Witness: I was alone.

The Court: What rate of passage did you pay?

The Witness: I don't know, your Honor.

Q Anybody in the room with you at all? A Coming back.

Q Any lady? A No, I was alone.

Q That was your return trip? A Yes.

Q You had engaged that before you got there or when you got there? A Oh, before; I had

got the purser of the boat to get it for me; I paid him in English money; I don't know how much it was.

Q Before you sailed? A Yes.

The Court: Before sailing from New York; that is Mr. Newman's question.

The Witness: I didn't get the ticket until—big boats didn't go in the St. George and we had to go on the lighter, and I didn't have my ticket until after I got on the big boat, because the purser had my ticket that I had bought over in Hamilton, so I didn't see the ticket until I was on the boat out in the channel somewhere.

The Court: You don't know what you paid?

The Witness: No, I paid English money; I don't remember.

Q When you got back to New York where did you go, you say, first? A To the Twenty-third street ferry. I think it was Twenty-third—we took a taxi.

Q On board the boat did you have any physical ailment? A I was very seasick and suffering from a terrible hemorrhage.

Q Are you subject to those hemorrhages? A Yes, I have been for several years back.

Q Due to what cause? A Caused by abortions insisted upon, and insisted on by Dr. Stevens.

The Court: When were you and the doctor married?

The Witness: 1912.

The Court: Have you any children by the marriage?

The Witness: One.

The Court: When was that child born?

The Witness: July 2, 1914.

The Court: It is a boy, you say?

The Witness: Yes.

The Court: He is living?

The Witness: Yes.

The Court: With you?

The Witness: With me.

Q In any event you were suffering from these hemorrhages on your way back and seasickness? A Yes.

Q And when you got off, you say you took a taxi to Twenty-third street ferry; was Mr. Paswaters with you? A He was, but I had three bags and I had to hire a man to cross the ferry, come all the way over on the ferry and carry my three bags; he even took my umbrella, I was so sick. He made the entire trip over on the boat, to take my grips.

Q The man did? A Yes.

Q What train did you take out, if you recall, to Montclair? A I don't recall.

Q About what time did you arrive at Montclair? A Sometime around three or four.

Q In the afternoon? A Yes, in the early afternoon.

Q And was your house open or closed? A It had been closed all summer with the exception of the night that I came down from camp; I left the next morning for Bermuda; came down one night, on the 11th, and left on the 12th.

Q When you got in the house what did you do? A The first thing I did.

Q Then what did you do? A Then I telephoned down to the Franklin Service Station to get my car that was being repaired.

Q And was your car brought up to you? A My car was brought up to me.

Q About what time was that? A Around six o'clock.

Q And then did you go anywhere in the car? A Yes, I did.

Q And did Mr. Paswaters accompany you? A Mr. Paswaters drove me around.

Q He drove the car, did he? A Yes.

Q Where did you go to? A We went over to Cross street, Montclair.

Q For what purpose? A I went over to get Nellie Lee, my laundress, to get my laundry that had been there for several weeks prior to my going away, and also to ask her to come and stay with me that night.

Q Is Nellie Lee in court? A Yes, she is here.

Q Did you ask her to stay with you that night? A Yes, I did.

Q What was her answer? A Why, she said that her house—she had a fire and burned her house down, or burned it partly down, and that her daughter had broken her collarbone, and she has a little girl about six years old, and she said she couldn't come.

Q Did you make any effort to get anyone else through her? A Yes, I waited out in front of her house and she brought the laundry out and she went around to three or four places—I don't know where, and inquired, and each time came back to the car and gave me a report on the people.

Q They couldn't come? A No.

Q Then did you go back to the house? A Yes, I went back to the house, but I told Mrs. Lee before I went back, if she could get the former maid that I had had before I closed the house up for the summer, I said, even if it were late, would she have her come around; it was Thursday and they were out to some colored dance.

Q Did you stop at any delicatessen store? A No.

Q Did you go out about six o'clock at night to go to a delicatessen store? A No, I telephoned for an order.

Q You telephoned for some delicatessen to eat? A I telephoned to Caro & Kashman, my regular butcher.

Q When you came back and had no one with you, did you see Mrs. Gorton? A Yes, she came.

Q Who is she? A She is my next door neighbor. She came to the door; she said she had seen the car come in, and I told her that—she looked at me and said I looked so bad.

Mr Lane: Objected to.

The Court: Objection sustained

Mr. Newman: I think it is competent to show the intent and state of mind. I am trying to show the state of mind of the parties; intent is an important part of the matter.

The Court: State of mind of what parties, Mrs. Stevens?

Mr. Newman: Yes. Mrs. Gorton wanted to stay there that night.

The Court: I will let that in. What was said, if anything?

The Witness: She said, "Are you going to stay here tonight, Mrs Stevens"? I said, "Why, yes, I am." I said I had intended—

The Court: What did she say, if anything.

The Witness: She said, "I will come in and stay with you, if you are going to be alone."

The Court: What did you tell her?

The Witness: I said, "I will telephone to Connecticuit to have Mr. and Mrs. Bonnell come down.

The Court: Then you declined her offer, did you?

The Witness: I declined her offer.

Q You said Mr. and Mrs. Bonnell; you were going to telephone to them? A Yes.

Q Were there people at Mrs. Gorton's? A Can I add, the reason I declined Mrs. Gorton's was that she had ten guests over the week-end, and the first time she came in she apologized for using my garage for these two cars during my absence.

Q Did you telephone to Mr. and Mrs. Bonnell? A Yes, I tried to get them and couldn't.

Q You tried to get them on the 'phone? A Yes.

Q Where did they live at that time? A Torrington, Connecticuit.

Q Did you subsequently get them on the 'phone? A I did.

Q About what time? A Around nine o'clock.

Q That evening? A Yes.

Q And did you expect that they were coming down there? A I did. Mrs. Bonnell said

that they had returned from Boston the night before and they still had their bags packed and they were waiting to hear from me and they had tried to get me in the meantime, and they were ready to leave there.

Q From the conversation you had with them you anticipated they were coming to your home that night? A Yes.

Q They said they were leaving? A Yes, Mrs. Bonnell was coming down especially because I told her the condition I was in; she had been at my house other times and even brought her maid down to take care of me.

Q When did you definitely learn that they wouldn't come down? A At twelve o'clock the 'phone rang.

Q And whom did you talk to on the phone? A Mr. Bonnell.

Q What did he tell you?

The Court: I don't care for that, but the substance of it was that they would not be down, and they did not come.

The Witness: They had come—

Q Where did he telephone from? A He telephoned from Yonkers, New York.

Q What did he say about coming? A He said that after Mrs. Bonnell—he was out in the garage when I talked to them—that after she had rung up on the telephone, he came in the house and she told him that I had called, and she said, "We are going with you." They started to get on their things and Mr. Bonnell—they delayed him all day in coming down on a business trip purposely to come with him, and he said, "As long as Mrs. Stevens is coming back tomorrow to camp, there is no excuse of you going down

there with me at this hour, because we cannot possibly get there until twelve or one o'clock," and a family fuss ensued, because this friend was there, and she said, "I will call Marjorie up right away and tell her." He said, "No, I am going down, I will telephone her on my way down."

Q So he did come down himself? A Yes.

Q And he telephoned from Yonkers? A Yes.

The Court: Did he come to Montclair?

The Witness: Down to where? Down to Yonkers, where he telephoned us.

The Court: Did he come to Montclair that night?

The Witness: No.

The Court: Did he telephone you again?

The Witness: No, he didn't.

The Court: He telephoned you about midnight that his wife would not be down?

The Witness: Yes. He said he was on his way down and the women hadn't come, and I said, "Won't you come down yourself?"

Q Tell us what he said; what did he say about coming to Montclair? A He said, "When I get down to the Torrington Apartments I will drive down myself."

Q Where are these apartments? A In New York City, Forty-fifth street.

Q At this time where was Mr. Paswaters? A In my house.

Q What part of the house? A Down in the music room.

Q Where is that; what part of the house? A On the first floor, northwest corner.

Q Where were you? A Upstairs.

Q And what happened after that? A I went down—

Q Are you talking of the midnight telephone conversation? A Yes.

Q After the telephone conversation? A I went downstairs to Mr. Paswaters and said that the Bonnells were not coming, and I said, "Well, they are not coming, and," I said, "You must go home now, it is twelve o'clock, it is midnight." I didn't have any time, because the clocks were stopped, but I said, "Mr. Bonnell said if he wasn't too tired he might come over when he got down to the apartments." I said, "I am here alone and Mr. Paswaters is here." He knows Mr. Paswaters very well. He said, "If he is there, all right, you need not worry." I told him that Mrs. Gorton had endeavored to stay, and just on the pretext that they were coming, that Mrs. Gorton did not come in and stay with me, and he said he would come, and I said, "Probably he may come."

The Court: I don't want all this; the question is, what did you say to Mr. Paswaters?

The Witness: I told him he must go home, and he said, "You cannot get anyone to stay with you at this hour of the night, and I won't leave you in this condition, I will not go."

The Court: Had you retired before midnight that night?

The Witness: I had gone upstairs.

The Court: Had you gone to bed?

The Witness: Yes.

The Court: What was he staying there until midnight for?

The Witness: He was waiting for the Bonnells to come, because at nine o'clock they said they would come, and they never get to my house until after midnight when they drive down.

Q What was he doing downstairs, if you know? A I think he was reading; I left him reading.

Q Then after you told him that you thought he ought to go home and he said he wouldn't leave you in this condition, where did you go? A I went to bed in the north bedroom.

The Court: Do you know if he telephoned his family that he wouldn't be home?

The Witness: I don't know.

The Court: Do you know whether he communicated with his family from the time of his arrival from Bermuda?

The Witness: I don't know.

Q You took the bedroom in the northern part of the house? A Yes.

Q Where did Mr. Paswaters go? A In the south room.

Q What room is that? A That is the room that I usually occupy, but the reason I didn't occupy it this night was that the night I had come down from the camp to pack my bags to go to Bermuda, I had had all my clothes laid out there and had repacked my Connecticut clothes and the clothes I took away, and all my things were in there, and I had slept in the bed the night before in the next room, and I felt so weak and so sick that I didn't feel like changing the linen.

The Court: You said you slept in this room the night before?

The Witness: Before I went to Bermuda.

The Court: And the bed had not been made up prior to your sailing?

The Witness: No, because I left so early.

Q Was the room Mr. Paswaters occupied the one where the clean linen was? A Yes.

Q And your room hadn't been made up, the room you occupied? A No, it hadn't.

Q After he had retired to his room and you retired to your room, do you recall whether there was any light burning in the hall? A I left both lights on.

Q In the upper or lower hall? A Both lights, they work alternately.

Q Both in the lower and upper hall? A Yes.

Q Did you get up that night at all or early morning hours? A Yes, I don't know what time Mr. Paswaters came upstairs, but I awakened sometime after I had fallen asleep with another recurrence of this terrible hemorrhage, so I got up and put my slippers on and I was dressed; I had a negligee with long pajamas that reached to my ankles; I was dressed and I went downstairs.

Q Where did you go to? A I went to my pantry to get a drink; it was a hot night; I went in the pantry, the second outside pantry, and when I opened the door, the door was not locked which leads into the outside pantry; the window was up and the screen was entirely out.

Q What did you do? A It sort of startled me, and I got the drink and came back in the

office that Mr. Stevens occupied for his patients, and there is a little light over the desk, I turned that on, opened the door and made the bandages that I wanted to make and came upstairs, leaving the lights on, and with a glass of ginger ale and the bandages.

Q Did you or did you not close the window in the pantry? A I did, and locked it, and then locked the outside door.

Q And after you got upstairs and put that glass of ginger ale on the table in the hall, what did you do? A I stayed there, and I am not a coward, because I have been alone there nights before, but I thought it was queer because the house had been locked all the time I was away, and I knew the window wasn't open. And I sat at the telephone stand deliberating whether I should telephone Mrs. Gorton or waken Mr. Paswaters, knock on his door or wake him up, and I sat there deliberating a moment, and went into the north room again.

Q Your own room, the one you occupied? A A Yes, and put the bandages on that I had made downstairs, and just a few minutes afterwards I heard this crash, and when I heard the crash I screamed—I don't know what I screamed; I ran out into the hall, across the hall, and then I called Mr. Paswaters—I don't know what it was, and I saw all these men with flashlights right on me, and I don't know whether they pushed me in the door or I went right through his door and sat on the chair. There is a little chair right inside the room.

Q Then what did you do? A Then as I was sitting, I could see two men—Mr. Corbally, go toward the room that I had fled from.

Q Then what happened? A They all came into the room and the first thing I remember Mr. Corbally said, "Who is this woman?"

Q Did you turn on the light? A No, someone did, over my head, because I didn't turn it on. Mr. Corbally said, "Who is this woman?" And Mr. Stevens said, "That is my wife." And then, of course, I tried to—as I went to reach up, then I tried to turn on the light, and someone grabbed me, Mr. Corbally's son, I think, and threw me down on the edge of the bed.

Q And turned off the light? A I wanted to turn it off, because I thought I could get out and take the receiver off of this little stand and call the police or call Mr. Gorton, and they held me forcibly.

Q Held you forcibly? A By the arms, until I was black and blue.

Q At what place were you at the time? A I had been on the chair, but when I went to get up, to turn the light off, to rush through into the hall, or try to evade them or get away, that is when they grabbed me and threw me down and black-and-blued my arms.

Q Where did they throw you? A In the edge of the bed, alongside of the chair.

Q At that time was Mr. Paswaters there? A Mr. Paswaters, he was sitting up; they had rushed around and grabbed him. I don't know if they sat him up, but he was in a sitting position, sitting up.

Q What else did they say that night? A One of the men went around and held up a picture and said, "Is this your picture?" And I think Mr. Paswaters said, "Yes," and they asked him his name and where he lived, and he was so dazed from being awakened up, he just

answered like a school boy; he sat there dazed, and they said, "Where are your clothes?" He said, "They are in the closet," because he had worn a business suit home from Bermuda and he said, "We don't want those clothes; we followed you all the way back; we know you have three grips, where are the grips?" Someone proceeded to go out and unstrap the grips and take the soiled clothes—this soiled shirt they produced, and his golf trousers, and bring them in the bedroom, and he said, "Don't take my clothes," I remember him saying that.

Q Where were these grips? A One was in the hall—in the long sixteen foot hall upstairs, and then I turned around to Mr. Stevens and I said, "Why do you do a thing like this?" I started to have a nervous chill, and someone grabbed hat box which was in this room that Mr. Paswaters was in, and the lid was thrown up—a large patent leather hat box; someone grabbed this pink negligee and threw it around my shoulders, and it was then that these men tried to—that I tried to get in the bathroom, because of the hemorrhage, but they held me forcibly.

RECESS.

Q Did you ever see this man LeCompte before? A No, I didn't.

Q Is today the first time you ever saw him? A The first time I ever saw him.

Q Was he in the house that night, as far as you saw? A No, I couldn't recognize him.

Q Did you recognize the other gentlemen that took the stand here as being in the house that night? A Yes.

Marjorie G. Stevens, cross.

Q Did you have occasion that next morning after this event to examine the kitchen door? A Yes, the lock was entirely ripped right out of the wood, and the wood come with it, splintered.

Q Did you notice what way the detectives left the house that night? A They went out of the front door, all that were in the house went out the front door, to my knowledge, and there wasn't any chair by the door at all.

Q Was there anything to drink in the room where the detectives were that night? A No.

Q Did you ever go to Dr. Haveron's office when Mr. LeCompte was there? A No, I was not in Newark, never in Dr. Haveron's office last summer, because I was away all summer and hadn't seen him since I have been separated from Dr. Stevens.

Q You told us that one of the detectives seized hold of your arms; do you know which detective that was? A Mr. Corbally's son.

Q As a result of his seizing hold of your arms did that leave any impression there? A I was black and blue on both arms, and when I went to make a mad dash, another one grabbed me, I think the large man that testified.

Q Did you show anyone the condition of your arms the next morning? A I showed them to Mrs. Gorton.

Q That is your neighbor? A My next door neighbor.

Cross examination by Mr. Lane.

Q How do you know that all the detectives went out the front door? A Because when they went out, as soon as they let go of me I came

immediately out in the hall, and heard them slam the door, and all laughed and ha-haed; they said, "You can do anything you see fit, Paswaters, you can stay or go."

Q Did you follow them downstairs? A No, I can see.

Q You followed them out of the room? A Yes.

Q You did follow them out of the room, is that right? A Yes.

Q And followed them to the head of the stairs? A Yes.

Q And watched them all go out the front door? A They all went down in one body, and they slammed the door; I didn't watch each consecutive one.

Q Did you see anybody go out the front door? A Yes, I saw them, they didn't go to the back, they all turned and went toward the front door.

Q You stood there watching? A Yes, I stood at the head of the stairs.

Q How long did you stand there watching? A A couple of minutes.

Q You were not so ill but that you could stand there watching those detectives go out the front door, were you? A I was so ill that I held onto the balustrade that holds the stairs up.

Q So that you had to hold onto the balustrade of the stairs in order that you might support yourself so you could watch the detectives go out, is that right? A I wasn't there for the purpose of seeing them go out.

Q What were you there for? A When they let go of me I rushed out in the hall and I just happened to be there.

Q Where was Paswaters? A I think he was still in the room or in the bed; I don't know whether he had even got out.

Marjorie G. Stevens, cross.

Q What did you do after the detectives left? A I dropped; I collapsed in the hall, right in front of the telephone stand, and I said to him, "Call the police," and he said, "Compose yourself, don't be foolish," and set me on a chair by the telephone stand in the hall, and I said, "Call up the police and call up Mr. Gorton." He said, "Calm yourself and don't lose your head; there is nothing to lose your head about," and he tried to make me calm myself, and tried to revive me, and then he picked up his glass—I think he picked up the glass; he offered me a sip of water or ginger ale; the glass was on the telephone stand, and I was in a complete state of collapse.

Q And then? A As soon as I composed myself I got dressed.

Q And then? A What do you mean by "and then?"

Q After you got dressed what did you do? A I came downstairs and sat on the sofa in the music room.

Q And then? A I sat there until I came to; I don't remember whether I lost consciousness or not; I came to and as soon as I came to, I pulled myself together and I called Mrs. Gorton.

Q But you got dressed before you went downstairs, didn't you? A Yes.

Q So you must have come to when you dressed? A I slipped on a one-piece dress.

Q Where was Paswaters in the meantime? A He was in getting dressed, in the back room.

Q What time was it you called Mrs. Gorton? A Around between seven and eight; she had just come out to sweep the porch.

Q She is the first person you called? A Yes.

Q Where was Mr. Paswaters when you called Mr. Gorton? A I don't know, Mr. Lane, he was in the house.

Q But where in the house? A I don't recall; he was in the house downstairs somewhere, but I don't know where.

Q What was he doing? A He was sitting, sitting down somewhere.

Q I know, but this raid so-called took place at half-past four, didn't it? A Yes.

Q And from half-past four until between seven and eight? A They said half-past four; I cannot say whether it was half-past four or not.

Q From whatever time it was, that the raid took place until seven or eight o'clock, you and Paswaters were in the house together and no one was called and you don't know where he was, is that right? A No, I don't know where he was.

Q So during all that space of time, being one hour or three hours, you don't know where Paswaters was? A No, I don't know where; he was in the house, but I don't know where he was, what room he was in.

Q Was he assisting you? A I remember when I told him to call the police and collapsed, I remember he said, "Now, calm yourself and pull yourself together," because he thought I was going to—I didn't know what he thought, and he tried to remonstrate with me, so that I wouldn't die on his hands, or something.

Q How long was it before you came to so that you knew what you were doing? A Just before I called Mrs. Gorton.

Q You were unconscious then, or practically unconscious for three hours? A I don't remember from the time that I told him to call the police; I remember putting this one-piece dress—slipping that on—it didn't have any hooks or anything—over my head, and coming down, and

I think I collapsed on the davenport in the music room; my mind is a blank, I don't remember anything until I came to, and the first one I called was Mrs. Gorton.

Q When you came to where was Mr. Paswaters? A I think he sat in the chair opposite me, in the music room, to my recollection.

Q Did he come out of the bedroom after the raid before you collapsed? A I don't know whether he did or not.

Q He must have for you to tell him to call the police; isn't that so? A My mind was in a dazed condition.

Q Or did you go back in the bedroom and tell him to call the police? A No, my mind is such a blank that I cannot truthfully tell you whether he came out or he was still in the bedroom and I called, because the bedroom was right at the head of the stairs where I stood.

Q Why didn't you call the police? A He said no.

Q Why not; what reason did he give for not calling the police? A He said, "See your attorney"; he said, "Hold your head and don't call the police," and he didn't do it, evidently. "No," he said, "see your attorney," and he tried to calm me; that was his main idea.

Q Was he dressed when he said that? A No, I wasn't dressed when I collapsed.

The Court: Was he dressed when he said that, not to call the police?

The Witness: I don't think he was; I don't know. I cannot truthfully say; I don't remember seeing him, but I remember telling him to call the police.

Q After you called Mrs. Gorton between seven and eight o'clock— A I telephoned to Newark.

Q —then what happened? A I tried to get Mr. Turton, my attorney, on the wire, and the girl told me that he had gone—he was away over the week-end and wouldn't be back until Monday.

Q Then what did you do? A I got dressed and Mr. Paswaters—I telephoned my mother and after that Mr. Paswaters drove me up to Paterson to Mr. Beggs, Surrogate of Passaic County, who has been my guardian for years.

Q And when was that? A That was right after I talked to Mrs. Gorton.

Q How soon after? A A reasonable time, a few minutes.

Q What time did you get up to Mr. Beggs' office? A I don't know.

Q Was it noon? A No, it was before noon.

Q Then what did you do? A I told Mr. Beggs just what had happened.

Q Then what did you do? A I asked him what I should do.

Q After you told him that what else did you do, if anything; did you remain there or go home? A Mr. Paswaters drove me home.

Q Then what did you do; go in the house again? A Yes.

Q Then what did you do? A Mr. Bonnell called up from New York.

Q What time was this? A About one o'clock noon.

Q Then what did you do? A I told him what had happened.

Q Then what was the next thing that happened after your talk with Mr. Bonnell; after

that talk what happened? A I left for Torrington, Connecticut.

Q What time was that? A Around two o'clock, somewhere around two.

Q Where did Mr. Paswaters go? A Mr. Paswaters drove me; I wasn't able to drive.

Q He drove you where? A He drove me to Torrington, Connecticut.

Q What time did you get to Torrington, Connecticut, with Mr. Paswaters? A Around—in the evening sometime.

Q How long does it take to go from here to—from Montclair to Torrington, Connecticut? A About six hours.

Q What kind of a car was it, a Franklin? A A Franklin.

Q So you must have got up there about nine o'clock at night? A Ten o'clock—I don't know the time; I was just so prostrated that I cannot tell you any time.

Q But Mr. Paswaters did the driving? A Yes, he drove me, at the instruction of Mr. Bonnell.

Q Anyone else in the car? A No.

Q When you got to Torrington, Connecticut, where did Mr. Paswaters go? A He stayed at the Bonnells.

Q How long? A Until the next noon, I think. Mr. Bonnell took him to Waterbury; Mr. Bonnell came back from New York also, and Mr. Paswaters stayed at the Bonnells all night, and I think the next noon drove him to Waterbury in his car to get a train—I don't know what train.

Q You didn't go on the trip? A No.

Q You stayed in Torrington? A Yes.

Q From the time that this raid took place at half-past four in the morning, until nine or ten

o'clock that night, with the exception of the space of time that you were with Mr. Beggs, you were alone with Mr. Paswaters? A Yes.

Q Didn't you think that under the circumstances it would be wise for you to get someone with you instead of Mr. Paswaters? A Mr. Lane, I was so sick and suffering from such a hemorrhage that I didn't think—I don't think I was even myself rationally; nothing mattered to me whether Mr Paswaters drove me or not; I collapsed.

The Court: What was your purpose in going there?

The Witness. My boy was in camp.

The Court: How far was the camp from Torrington?

The Witness: Nine miles.

The Court: In your sick condition why did you take that trip at that particular time?

The Witness: I had nobody with whom to stay, or no friends that were home, and I telephoned to my mother in Paterson and she said one of the girls was very sick that she couldn't come down; I told my mother the whole affair, and I was so sick that I didn't—

The Court: Why didn't you go to your mother's instead of taking the long trip to Connecticut?

The Witness: Because she hasn't any room for me.

Q Why didn't you communicate with some friends? You have friends in Montclair? A I haven't any intimate friends, because I have been

away from there so long; Mrs. Brown in the court room here.

Q You knew that it wasn't a proper thing for Mr. Paswaters to stay there that night, didn't you? A Yes, I knew it wasn't.

Q You told Mr. Paswaters at midnight that it was time for him to go home, hadn't you? A Yes.

Q So there wasn't any question in your mind that it was a very indiscreet thing to do? A It was very indiscreet.

Q Why did you carry it out the next day and continue having him for a period of almost twelve hours—more than twelve hours? A Because Mr. Bonnell called up at one o'clock and we told him the conditions; he said to Mr. Paswaters, "You had better get in the car and drive her right up here, because we will take care of her." It was at his solicitation that I went to Torrington, because they have a big home and a maid to wait on me.

Q Did anyone suggest or did it occur to you to call up Mrs. Paswaters? A No.

Q Why not? A I told you before, Mr. Lane, that I didn't think to call anybody; I just didn't have the composure to do anything.

Q Mrs. Paswaters was this man's wife and you were a friend of Mr. and Mrs. Paswaters, so you told us; why in the world didn't you call up Mrs. Paswaters? A Because Mr. Beggs told me not to do one thing.

Q Why didn't you call up Mrs. Paswaters before you ever saw Mr. Beggs? A I didn't; that is all that I can say; I didn't.

Q But why not? A I don't know why, Mr. Lane.

Q You came off the boat with Mr. Paswaters? A Yes.

Q Came off the boat arm in arm with him? A No.

Q How close together? A My luggage was in S and Mr. Paswaters' in P.

Q Came down the pier arm in arm? A No.

Q How close together? A His steward had not fixed his bags, and he was not even with me; I came down alone and had to stand in line to get a man to examine my baggage, and when he came back and went all through my baggage, I had some fern or some weed, and I had some trouble, because they don't allow any kind of plants. He didn't even get off with me; he came back to S after his baggage was examined.

Q After your baggage was examined, what did you do then?

The Court: Did you come off the pier together?

The Witness: Oh, yes.

Q You and he came out of the dock or pier together, didn't you? A Yes.

Q You took the same taxicab? A Yes.

Q You came right over to 79 Midland avenue? A Yes.

Q And you got in there early in the afternoon? A Yes.

Q So early that you could go to a laundress and get your clothes? A Yes.

The Court: It was about three o'clock?

The Witness: Yes, or half-past.

Q You never telephoned Mrs. Paswaters during all that time, did you? A No.

Q You didn't see or hear Mr. Paswaters telephone Mrs. Paswaters? A No.

Q You didn't suggest that it might be that his wife would like to know where he was? A No, I didn't think that she was even interested enough to know.

Q Why not? A By past performances.

Q Had Mr. and Mrs. Paswaters had trouble? A Yes, I believe, through friends who had discussed it.

Q Then, through friends' discussion you knew that Mr. and Mrs. Paswaters were not living harmoniously together? A Yes, I did.

Q How long a period had you known that? A I knew it when I first met him.

Q You knew as a matter of fact that Mrs. Paswaters didn't know that her husband was going to Bermuda, didn't you? A She did know it.

Q She did? A Yes.

Q How do you know she knew? A I knew Mr. Paswaters' mother before I knew him.

Q That doesn't tell me how you knew that his wife knew that he was going to Bermuda. A Because he said that he wrote home from the hotel; I saw him write home from the hotel when we were all together.

Q I didn't catch that. A He had written home from the hotel.

The Court: To his wife?

The Witness: Yes.

Q Do you know he had written to his wife? A No, I didn't see any letter.

Q This was a sudden idea on his part, going to Bermuda? A Yes.

Q It occurred immediately after you asked him to purchase your ticket for Bermuda, didn't it? A Yes.

Q Did he tell you what had been the inducing cause? A No.

Q Did you ask him? A He just said that he needed a vacation, and some of the office men told him it was a very nice trip, and he wouldn't use a car, because there are no automobiles in Bermuda.

Q But you didn't like it? A No, not at first.

Q You told him so? A Yes.

Q Why didn't you like it? A Knowing him casually, and we had been thrown together on different parties, and so forth, that the mere fact of being friendly with him, I thought it would sort of reflect on me, and I never do anything that reflects on me, and in view of the fact that knowing that Mr. Stevens, as I know him, that he would have me trailed—having detectives for two years hounding me, that I didn't want Mr. Paswaters to go, because I thought that it would be misconstrued as an indiscretion.

Q Why did you go at all, when you knew he was going? A Knowing Mr. Paswaters to be a gentleman and never anything else, and believing him to be, he was just going on the trip, and I knew whether he was there or not, it would make no difference to me, as far as carrying on with him.

Q What had his being a gentleman to do with appearances? A He wasn't with me; he wasn't taking me.

Q He was going on the same boat? A Yes; he was.

Q He had arrived at his conclusion to go immediately after you had telephoned him that you were going, and he was going back on the same boat and he was staying in the same hotel? A He wasn't going back on the same boat.

Q But he did? A Yes, he did, through force of circumstances, that I couldn't get passage home.

Q It was the force of circumstances that brought him back on the same boat and brought him into your house that night? A Yes.

Q It was the force of circumstances that impelled you to remain with him until ten o'clock the next night? A I wasn't with him until ten o'clock.

Q And all of the time you were fearful of appearances, is that right? A After this thing happened, Mr. Lane, appearances or nothing else mattered; I knew I was innocent. I didn't have any regrets in the matter. I knew I was innocent and nothing else mattered

Q Why didn't Mr. Bonnell take you back to Torrington? A Because he was leaving then and he is the general manager of the Torrington Company, and it is very important for him to be at certain places at certain times, and he knowing Mr. Paswaters—Mr. Paswaters even drove his own wife up to Torrington, getting in his own home at one o'clock in the morning, although the hotel in Torrington, Connecticut, is only five minutes from their home, while Mr. Paswaters stayed at the Bonnell home. He is a gentleman, and Mr. Bonnell didn't even think anything of it. You can look at him and you can tell.

Q What time did you call up Mr. Bonnell, or did Mr. Bonnell call you the next day? A About noon, when I came from Paterson.

Q Where was Bonnell? A I think he was at the apartment, I don't know.

Q Where? New York? A New York apartment.

The Court: Where is the apartment?

The Witness: Thirtieth or Fortieth; I have never been there.

Q Did you tell him what had happened that morning? A Yes, I told him everything.

Q And he was leaving for Torrington? A Yes.

Q And no one suggested that Mr. Paswaters might drive you over to the apartment and Mr. Bonnell might take you up to Torrington, did they? A No.

The Court: Did they?

The Witness: No.

Q Let me go back to the Bermuda episode. Did you ask Mr. Paswaters to accompany you home on the arrival in New York? A I don't know whether I did or not. He knew that I was awfully sick.

Q Did you suggest that he should accompany you home? A He said if the Bonnells are not at the pier, as they had planned to, if they could, that he would go home with me and see that I got home, and take care of my luggage.

Q Did you think it was a proper thing for him to go home with you to this house that was closed up? A I don't see why he should not in broad daylight. I wasn't sneaking in at night.

Q Notwithstanding the fact that you thought he should not have gone down to Bermuda with you in broad daylight; is that right? A I don't understand what you mean.

Q You have already told us that you realized from the beginning that this trip of Paswaters and yourself simultaneously to Bermuda had a bad appearance, and you didn't like it; is that right? A Yes.

Q Why did you continue it, by not only going back, but also taking him home to your own house alone, when you knew there was no one in the house? A The only reason he accompanied me home is because I was so seasick and so sick.

The Witness: May I ask a question?

Mr. Newman: No.

Q Did you telephone your mother from the pier? A No.

Q Why not? A Because ever since I have been married to Mr. Stevens, I had to leave home to marry him, run off, and my folks have been very estranged; I am not very friendly with my family. They have never gotten over the bitter disgrace.

Q Did you telephone any other woman friend? A No.

Q Why not? A Because I wanted to get to camp to see my boy.

Q You wanted to get to camp; I am talking about before you went to Montclair, you were so sick and you were so seasick that it was necessary for you to have this man take you to your home at 79 Midland avenue; why didn't you telephone some woman friend? A I haven't any intimate women friends in Montclair.

Q So you had no one you could telephone to, not even Mrs. Gorton? A No, Mrs. Gorton—she is a middle-aged woman; I never impose on anyone.

Q After you got to your house, about three o'clock I understand it was, what did you do then? A I rested.

Q What did Mr. Paswaters do? A I think he sat on the porch or read; I don't know what he did, Mr. Lane.

Q You were ill? A Yes.

Q From the effects of the seasickness; why didn't you try to communicate with some woman friend? A I did try to get Connecticut, and I couldn't get the call through.

Q Why didn't you communicate with some woman friend nearer Montclair than Torrington, Connecticut? A I haven't any intimate women friends? I have been to Connecticut all summer. Mrs. Bonnell was just like a sister to me.

Q Why didn't you communicate with a nurse? A I didn't?

Q Why not? A Those conditions don't warrant a nurse; no one can do anything for you.

Q But it warranted a man in staying with you. If it warranted a man in staying with you and you couldn't be left alone, why didn't it warrant a nurse? A You are unfair and misconstrue that meaning. The only reason Mr. Paswaters stayed in case I needed anyone, he could call. He was just someone in the house, that is all. It wasn't a question of—

Q Did you think it was proper for you and Mr. Paswaters to be in the house alone when you were estranged from your husband and you knew that Mr. Paswaters was estranged from his wife? A I know now that it was.

The Court: That it was or was not proper? Did you consider it was a proper thing to do, is the question.

The Witness: I considered it was indiscreet, but in view of the condition I was in, I didn't think it was improper.

Q If it was necessary for you to have someone there, why didn't you get someone there whom it

would not be indiscreet to have there? A I told you I tried to, and the efforts I made.

Q You tried to get one person? A No.

Q How many? A I even telephoned Alice Lennon, an old nurse that had taken care of the baby, and she was on her vacation in Massachusetts.

Q Who else? A Mrs. Lee. I never have anyone stay at the house in Montclair with me.

Q You never had anyone? A Only a maid. I didn't have friends, only at house parties, people that come back and forth and stay with me. I don't usually have anyone stay with me.

Q Very often in that house alone? A Yes.

Q And had been up to this time? A Not all summer I hadn't been alone.

Q But you had been before that alone? A Yes.

Q Without a maid part of the time? A I had a maid.

Q You have been there part of the time without a maid? A No, when I was there without a maid, I always stayed at Mrs. Gorton's.

Q Why didn't you stay with her that night? A Because she had ten guests over the week-end and her house is smaller than mine.

Q And they couldn't make room for you? A No.

Q Impossible? A Yes.

Q Otherwise you would have stayed there? A Yes.

Q You thought it was better to risk the appearance that there was of having this man at your house than to discommode this Mrs. Gorton by putting one more in her house? Yes or no. A It was at Mrs. Gorton's suggestion; she knew Mr. Paswaters was there, and she asked

him if he was going to be there, when she knew that I telephoned to Bonnells to come; that is the only reason why she didn't come over and stay with me herself.

Q When you ascertained that the Bonnells, or whatever their name was, were not coming over by one o'clock, why didn't you then get in touch with Mrs. Gorton? A It was late at night and she had retired, and she was tired out from all the company; I didn't think it was necessary to get her.

Q Did you consider that your reputation was not worth the disturbance of Mrs. Gorton at one o'clock at night? A Mr. Lane, my reputation—friends that know me, know that I never do things that are not proper; I never carry on with anyone at any time, any place, anywhere, and Mrs. Gorton is a woman, a religious woman, you will hear her testify. Even Mrs. Gorton, as well as she knew me, knew that I would not come back to my home to Montclair for any immoral purpose; realizing my condition, she didn't think any indiscretion at all; she thought the Bonnells were coming; she was so tired that she didn't think it was necessary for her to come in; she was worn out from ten guests over the week-end.

The Court: He is asking you about yourself; you don't answer the question. He asked you if you thought it was proper to jeopardize your reputation, that is what he asked you.

Mr. Lane: I am satisfied with the answer.

Q Why didn't you go to a hotel? A If I had been trying to do anything, cover myself up or

commit adultery, I could have committed adultery in the afternoon, and then gone to a hotel, but I had nothing to conceal.

Q Why didn't you go to a hotel? A I didn't see any reason; it didn't even occur to me, no reason to go.

The Court: That is the answer.

The Witness: There was my big home; I didn't see any reason to go.

Q But you knew that Paswaters should not be there; you have said that. A I think it was indiscreet.

Q Why not go to a hotel in Montclair and not be indiscreet? There is a hotel within a quarter of a mile of you that has a good reputation. A But I had no occasion to be afraid of Mrs. Paswaters.

Q You did have occasion to be afraid of the public, didn't you? A No.

Q You didn't? A No.

Q Then what did you mean a few moments ago, when you said that at midnight you told Mr. Paswaters he should go home and that wasn't the place for him; why order him home or suggest that he go home, if it was perfectly all right? A Mr. Bonnell knew that he was there when he telephoned, and I told him Mr. Paswaters was there; he said, "If he is there, he will take care of you."

The Court: Why did you tell him to go home at midinght?

The Witness: I don't know.

Q At what time did you go to bed? A Midnight.

Q In what room? A The north bedroom.

Q What time did Mr. Paswaters go to bed? A I don't know,

Q You went to bed first? A Yes.

Q Was Mr. Paswaters in what is called the south bedroom? A Yes.

Q In which room were your clothes? A Do you mean the clothes I took off or the clothes I had from Bermuda?

Q The clothes you took off. A In the north bedroom.

Q Where were your other clothes? A My grips were in the room that Mr. Paswaters occupied.

Q In the south bedroom? A Yes; they were not unpacked.

Q Which was your room? A The south room.

Q And as I understand it, the only reason why you gave that to Mr. Paswaters was because the north room bed had not been made up. A It had not been made up with clean linen.

Q That is the only reason? A Yes.

Q None of his clothes were in the bedroom? A No, they were not.

Q None of your clothes, except those you brought back from the country, were in the south bedroom? A No.

Q And when you heard this noise downstairs where were you? A I was upstairs.

Q Where? A In the north bedroom.

Q Where; were you in bed? A No, I wasn't in bed.

Q Where? A I had come to the window to look out, observing the window open—I think I was in front of the window, in the north bedroom.

Marjorie G. Stevens, cross.

Q What had caused you to get up that hour of the night and stand at the window? A I didn't get up and stand at the window; I had been downstairs and getting a drink and making the bandages, and I brought them upstairs.

Q Then what did you do? A Came back into the room. Set the ginger ale down on the telephone stand.

Q Where? A In the hall.

Q For whom was the ginger ale? A For myself.

Q How many glasses were there? A One.

Q You brought that up to drink upstairs? A Yes, I brought it up with me.

Q Why didn't you take it in the room with you? A Because before I went in the room I sat down by the table and deliberated whether I should call Mrs. Gorton or call Mr. Paswaters.

Q Deliberated upon what? A Because the window had been opened and the screen was entirely out, and that screen is never out, summer or winter, and I knew there was something unusual about it; I didn't know whether burglars—I had been away all summer—were trying to get in; I didn't know what to think.

Q How long did you deliberate sitting there? A A couple of minutes; then I went in the bedroom, to change the bandages, and looked out the window, and I didn't see anything—hear any noise, or see anything, and all of a sudden, I heard this crash and noise.

Q Then what did you do? A I rushed out into the hall and I screamed.

Q How were you dressed, by the way? A A I had on a negligee and pajamas.

The Court: What you sleep in ordinarily?

The Witness: Yes.

Q Then what did you do? A As I got across the hall, just on the threshhold—

Q Of what? A Of the door, Mr. Paswaters' door, I think I screamed his name—I don't know. All these men were on top of me, and I don't know whether they shoved and pushed the door open or I voluntarily went through it.

Q What next? A The next I remember I was on a chair.

Q You tried to light the light? A No, I tried to turn it out after it was lighted.

Q Why? A I wanted to go to the telephone and call the police.

Q Why turn the light out? A They were right in the door way; I thought I could dodge past them.

Q You were trying to dodge past them and get out? A To get to the telephone to call Mrs. Gorton or the police.

Q Although there were five or six men there, at least, between you and the door? A No, they had come in the room; it happened so quickly—it is one of those things; it is like an automobile accident, you don't know until you are ditched.

Q You don't remember what went on in that room? A I remember hearing the noise and seeing the flashlights.

The Court: Do you remember all that went on in that room exactly?

The Witness: I remember some things, not everything.

Q Did you hear Mr. Paswaters say anything? A The first thing I heard him say his name; they flashed this picture.

Marjorie G. Stevens, cross.

Q You answer this question. That is the first thing you heard him say, was his name. What else did you hear him say? A He said that was his picture.

Q What else? A And they asked him where his clothes were.

Q The question is what did you hear him say. A He said his clothes were in the closet?

Q What else?

The Court: Did you hear him say anything else?

The Witness: He said he was vice-president of the McCreery's, when they asked him.

Q Did you hear him say for you to keep calm? A Yes, I did.

Q When he said that, where were you; when he told you to keep calm, where were you? A Alongside of the bed.

Q Away from the door or between the door? A Right in the door, right inside the door.

Q How far from the door is the bed? A About three feet inside.

Q Were you sitting on a chair? A When?

Q When he told you to keep calm. A No, I was sitting on the edge of the bed when he told me to keep calm.

The Court: Where was this chair you sat in; was that between the bed and the door?

The Witness: Yes.

Q Did you sit on the bed at any time? A Yes, when I went to turn the light off, I was pushed; they held me and shoved me down on the edge of the bed.

Q Did you lie or sit on the bed? A Sat—just shoved on the edge of the bed, with my feet hanging off.

Q How did you come to sit down on the chair? A As I went through the door, I don't know how far I was shoved, or I dropped down as I went through the door.

Q Did you say anything? A I screamed.

Q What did you scream? A I don't know.

Q Did you ask him what they wanted? A Not right away.

Q Did you at any time ask them what they wanted? A No.

The Court: How long was it before you recognized your husband being one of the party?

The Witness: I didn't recognize him being one of the party until Mr. Corbally screamed out, "Who is this woman?"

Q Were you then sitting on the bed or in the chair? A I was sitting on the edge of the bed then.

Q What did you say to your husband? A I said, "Why do you do anything like this", or something like that; "Why did you come in to do anything like this?" or something to that effect.

Q You said, didn't you, "Lud, you needn't to have done this"? A No, I never used English like that.

Q Did you say you need not have done that? A No.

The Court: One of the witnesses said that this was a dirty trick and he said he was justified in doing it; did any such conversation take place?

The Witness: No.

Q Did anything like that take place; what did you say to your husband? A I did ask him—he has seen me in these hemorrhages before, and he knows that I get these nervous chills and my teeth started to chatter, and I think he was right there; I said, "Why do you let me stay here?" I then flew through the sixteen-foot hall from the north bedroom, and there had been a rain storm that night and my teeth were chattering. I had slippers on, and with that someone—

Q You said, "Why do you let me stay here?" A Yes.

Q What response did he make? A Mr. Stevens grabbed this robe which was on the top of the hatbox and wrapped it around me.

The Court: Wrapped what?

The Witness: A negligee—a robe.

Q Didn't you think that the nature of these hemorrhages was such as that you should have a woman attendant upon you rather than a man? A Oh, I had so many of them; I have them every month.

Q Have you had medical treatment at all, any physician attend you? A Yes, osteopath, that is all.

Q Who was your physician? A Dr. Eddy.

Q Did you have any other physician than Dr. Eddy? A No.

The Court: Where is Dr. Eddy?

The Witness: Montclair.

Q This was a particularly vicious attack, wasn't it? A Yes, with the seasickness it was more than usual, but I always have hemorrhages.

Q Did you telephone him? A No.

Q Did you get in touch with any doctor? A In Bermuda.

Q After you got home? A No.

The Court: Either in New Jersey or Connecticut, did you get in touch with a doctor in Connecticut at any point?

The Witness: No.

Q These women friends—you came back on the boat with a couple of women friends? A Several.

Q Who were they? A Miss Sullivan, Miss Vogel, Mr. and Mrs. Van Duyne.

The Court: Were any of them residents of Montclair or near it?

The Witness: No, Brooklyn was the nearest.

Q Did anyone suggest that one of these people should go home with you, or get someone to go home with you? A No.

Q You were not so ill as to lead any one of your women companions to suggest that you should be accompanied home? A Mr. Paswaters told Miss Sullivan, who was with me, that he intended to take me home.

The Court: He asked you if any of those ladies you met suggested coming home with you because of your condition?

The Witness: No.

Q Did they suggest it? A No.

Q Did any of the ladies come off the boat with you? A Yes.

Marjorie G. Stevens, cross.

Q Did any of the ladies come out of the dock with you after the baggage had been passed? A No.

Q You and Mr. Paswaters came out alone? A Yes, he followed me.

Q Where did you meet Mr. Paswaters when you went down to Bermuda? A I met him after I had gotten on the boat.

Q You knew he was going to be there, or did you still think he was jollying you? A I thought—he had telephoned that he was coming, and I thought he would be there; I didn't know. I didn't go with him to the boat.

Q You said today when he first spoke of it you thought he was jollying? A Yes.

Q When did you make up your mind that he wasn't jollying? A I didn't make up my mind at all.

Q You knew he wasn't jollying when you saw him on the boat? A Yes.

Q How long before that had you made up your mind that you might expect to see him on the boat? A I hadn't even made up my mind, because I had been at camp.

Q Were you ill when you went to Bermuda? A How do you mean ill?

The Court: In any way; suffering from any ailment.

The Witness: I have never recovered from—

Q Were you any iller than you are today? A No, I was just tired out and fatigued.

Q That has been a continuous condition for the last two years? A Yes.

Q Were you any iller during the week you were in Bermuda than you were during the rest of the year? A No, I wasn't.

Q Were you any iller when you were in Montclair the night of August 24 than you were the rest of the year?

The Court: Was your condition any worse or any more serious or more painful?

The Witness: It was more serious, together with the vomiting from the seasickness, that is about all.

Q That had been over, hadn't it; you had recovered from that before you landed? A No, the only reason I took the ferry boat was that he wanted to go on the tubes, and on account of Mr. Paswaters said, "You had better go on the ferry boat," I said, "I cannot stand another boat."

Q Were you so ill that you needed an attendant? A No, I just needed rest.

The Court: You don't answer his question. Were you so ill on your arrival in New York that you needed an attendant?

The Witness: To bring my bags home, I did.

Q Did you need an attendant for any other purpose? A No.

Q For your personal wants? A Not any more than the house hadn't been opened, it had been closed, and I was just going home.

Q Did you need an attendant because of your physical condition? A You mean to personally administer to me?

The Court: Yes, care for you.

The Witness: No.

Q So that wasn't because of any fear that during the night or what not something would

happen that would require personal attendance, that Paswaters stayed, was it? A Not his personal attendance, but he could get someone.

The Court: Whom could he get? I ask you that, in view of your failure to get anyone.

The Witness: I mean in case I needed it, he could call a physician.

Q Did you anticipate that you might be so ill that you couldn't call for a physician? A I didn't anticipate anything; I was so sick nothing occurred to me.

Q But you now say you said that your husband had had you followed by detectives? A Yes, I knew it.

Q You knew that? A Yes, previous.

Q And notwithstanding the fact that you knew that your husband had had you followed with detectives, you were willing to put yourself in an equivocal position? A I didn't realize then that it was such a position.

Q You don't mean that? A I do.

Q You mean to say now, after your testimony, that you didn't realize at the time that you were putting yourself in an equivocal position? A No, because I went home in broad daylight; Mrs. Gorton knew Mrs. Paswaters, and she even asked me to stay with him; it was her solicitation.

Q It wasn't broad daylight for eight hours that you and Paswaters were in the house together, both of you undressed, even if you were in separate beds, was it? A No.

Q You mean to say that you thought at the time that that wasn't permitting yourself to be in an equivocal position?

The Court: Did you think that at the time, or didn't you think at all?

The Witness: I expected the Bonnells and I didn't think at all.

Q So you were depending on the Bonnells? A Yes, I was.

Q What time was it that you had your first telephone call to Connecticut? A Around nine o'clock.

Q At night? A Yes, at night.

Q Was that the first you called them up? A No, I tried several times.

Q But you couldn't get them until nine o'clock? A No.

Q You had no communication whatever with them until nine o'clock, is that right? A Yes, that is right.

Q And then you got them, and they didn't get you? A They had tried to get me; they tried all the afternoon and couldn't get me.

Q You didn't get them? A They didn't get me, but I got them.

Q You got them at nine o'clock? A You asked me if they didn't try; they had tried.

The Court: Is this the first time you got in communication with them, whether through your efforts or theirs, at nine o'clock at night?

The Witness: Yes.

Q What was said then; with whom did you talk, in the first place? A Mrs. Bonnell.

Q What was said? A Mrs. Bonnell said she had received my letter and that she had intended to be at the dock, if she could, if Mr. Bonnell's business would carry him down; he

usually was in New York two or three times a week.

Q The letter she referred to being the one you had written from Bermuda? A Yes.

Q When did you write her? Some time before your departure? A I wrote her several days; I don't know exactly.

Q Go on, what else was said? A I inquired about Bob, and she said she had taken food over to the camp to him, and she said they were very sorry that I hadn't gotten home on the boat previous, because they had a musical at the camp; that is why I wanted to come home on the boat previous; she said that they had come in from Boston the day before, and she hadn't even unpacked her bags, and they were waiting to come down with Mr. Bonnell.

Q Go on. A She asked what was the matter with the 'phone, that she had tried several times to get me and waiting all day on the q.v. and then they tried to get me, and they had presumed that the boat was late and didn't know what happened. She knew the car was laid up; I said it hadn't been delivered to me to drive to Torrington; I was too sick to drive there, and she said Mr. Bonnell was in the garage and "We will leave right away". She said, "You don't mind if I bring my daughter with me?" She said, "If you are able and well enough we will go home with you and you can come up with us" and have some friend drive my car up. I hung up. She said, "We will get down there some time about midnight." I told her Mr. Paswaters had brought my grips home, and she asked if he was still there.

The Court: This was after nine o'clock?

The Witness: About nine o'clock.

Q I understood you to say it took you six or more hours to go from Montclair with Mr. Paswaters the following day, when you went to Torrington; how could they get down by midnight, if they were talking with you at nine o'clock? Do I understand you correctly about the hours and time you mentioned? A Yes, Mr. Bonnell is a very fast driver, and driving late at night, you can make very good time, much better than during the day. He made Yonkers by twelve o'clock, when he called up.

The Court: Yonkers is a considerable distance from Montclair.

Q To go to Torrington to Montclair, you have got to go to New York, and from New York to Bridgeport, Connecticut? A No.

Q How do you go? A Go from Dyckman street ferry and continue up along White Plains, through White Plains on the back road, up through Bantam Lake.

Q You have got back roads up through there? A Yes.

Q Through the hills in the eastern part of Connecticut, and Torrington is northeast of Bridgeport, isn't it? A I don't know.

Q Do you know how many miles it is from Torrington to Montclair? A One hundred and thirty miles.

Q You expected that they would leave nine o'clock and get to Montclair at midnight? A Some time after midnight.

The Court: What sort of a car does Mr. Bonnell drive?

The Witness: A Jordan Blue Boy.

Q They couldn't get there, in any event, before three o'clock in the morning, could they? A Oh, yes. I don't know, they have gotten to my house as late as two and after on other occasions.

Q You were going to wait with Mr. Paswaters until they got there, and you told them so? A I don't know as I said that I was going to wait with him; I said, "J. H. is here"; I didn't say "Mr. Paswaters." "He is here with me," I said.

Q Didn't you tell him he was going to stay? A At twelve o'clock I told him he was still there, when Mr. Bonnell called up.

Q Did you tell him at that time that he would remain there? A I don't know—no, I didn't tell him.

Q Did you tell him he would stay until they got there? A I don't know whether I did or not.

The Court: Did you know if he was going to stay there?

The Witness: No, I expected that he would go.

The Court: Why didn't he go?

The Witness: He didn't.

Q Why didn't he? A You will have to ask him.

Q I am asking you. A He couldn't, on account of my physical condition; that is the reason he didn't go.

Q What happened after nine o'clock, between nine and twelve, so far as your physical condition is concerned, that retained him there in your house, rather than let him go to his own

house, or at least communicate with his wife, as to where he was? A I don't understand.

Q (Last question repeated.)

The Court: Anything happen?

The Witness: No, nothing happened.

Q Then I ask you again why he stayed?

The Court: If you know. Do you know why he stayed?

The Witness: No, I don't.

Q Why didn't you ask him to leave? A I did ask him.

The Court: When?

Q Some time between nine and twelve o'clock? A I was resting: I was lying down. I didn't talk to him; he was reading; I didn't talk to him until the 'phone rang at twelve o'clock.

Q Did he tell you where he was going that night? A No.

Q Did he tell you where he was going after he left your house? A No, I didn't talk to Mr. Paswaters.

Q After you told him he should go home—was that before or after this telephone conversation? A That was twelve o'clock.

Q Was it before or after your telephone conversation with Mrs. Bonnell? A After the telephone conversation.

Q Did he say when he got through there where he was going? A No.

Q Had you any idea as to where he was going? A No.

Q Do you know whether he was going to his own home? A No.

Marjorie G. Stevens, cross.

Q When he left on the trip to Torrington, the day following the raid, did he take his baggage along? A Yes, he did; I think he took his golf sticks. Wait a minute—I think he checked them at the station; he checked his bags at the station.

Q Which station? A I think the Erie.

Q Where, what town? A I cannot think; I think it was New York; he took his golf bag back with him.

The Court: This is the day after when he took you to Torrington.

The Witness: I know he checked them some where, but I don't know where.

Q When he came over to your house in Montclair, the afternoon of the 24th, he brought his bags with him? A Yes.

Q Everything he had on the boat he brought with him? A Yes.

Q Did he tell you where he was going after he got through there? A No.

Q Did you know? A No; he didn't discuss it.

Q Did you ask him? A No.

Q Did he tell you he wasn't going home to his wife? A No.

Q You knew he was living with his wife? A In the same house, Mr. Lane; it seems to me that Mr. Paswaters did say that he belonged to the Athletic Club; that he was going—

Q Which club? A The New York Athletic Club—that he was going to play golf in some tournament the next day; that is why he told these men that he needed his trousers, I have a faint recollection.

Q So after he left your house in Montclair that night you thought he was going back to the New York Athletic Club in New York? A I didn't say that; I don't know.

Q You knew that he was at that time living in the same house with his wife? A Yes.

Q There had been no separation, so far as physical separation was concerned in the household up to that time, had there been? A I don't understand you.

The Court: They had not separated, he and his wife?

The Witness: No.

Q They were living together? A Yes.

Q Up to that time?

The Court: Were they, to your knowledge?

The Witness: Yes.

Q Although, in your opinion, there was, from what you had heard, an estrangement between them? A I understood—I don't know—that they had some sort of an agreement where Mr. Paswaters paid her so much money, under a special agreement; I don't know whether it is so.

Q Did you know that at that time? A Yes, I knew it.

Q At the time of the Bermuda trip you had that knowledge? A Yes, Mr. Paswaters' mother had told me that.

Q But so far as the world was concerned, outwardly they were living as husband and wife, under the same roof? A What do you mean by "the world"?

The Court: Don't quibble about that. You are not here to ask questions; you are

here to answer them. Strike it out. You know what he means. So far as the people in his circle of acquaintance went, he and his wife were living in the ordinary course of man and wife and family, were they not, so far as you know?

The Witness: Yes.

Q How old are you? A Thirty-two.

The Court: You referred to Dr. Stevens and Mr. Stevens. Why do you do that? Isn't he a doctor?

The Witness: No, he isn't.

Q What sort of a doctor is he; what does he claim to be, a dentist? A He claims to be an eye specialist, but they say it is against the law to call him doctor.

Q You don't want to violate the law, so you call him Mr. Stevens? A Yes.

Q What was your telephone number in Montclair on August 24th, at the time of this occurrence? A 980-W.

CHARLES R. THOMPSON, sworn for defendant.

Direct examination by Mr. Newman.

Q Are you connected with the New York Telephone Company? A I am.

Q In what capacity? A Toll traffic manager.

Q I show you slip dated August 24, and ask you what that indicates? A That indicates that on August 24, 19—, I cannot make out the date,

presumably 22, at 9:03 P. M., a call from Montclair, 980-W, was filed, person calling named Stevens, for T. G., abbreviation for Torrington, 219, recorder's number was 701. That is the number of the operator on each ticket. She had no further association with it. The ticket was then taken to what we call a directory operator, who entered on the back of it the directions for handling the call, H. F. D., meaning Hartford; S. H., meaning short haul. Class of circuit to be used for the best grade of transmission; the number 564, on the back of the ticket, represents the directory operator. She had no further association with the ticket. The ticket was then taken to an outward position, in which such calls are actually completed; operator 657 handled the call and completed it from that time on. The ticket, as I mentioned before, shows that it was filed at 9:03 P. M.; that is the finish of the time at which ticket was recorded, and it shows a passed time at 9:07 P. M., which means that is the time it was passed to Torrington.

The Court: Does that indicate that the person Stevens calling Torrington got the party?

The Witness: Yes, on the back of the ticket it shows that the conversation started at 9:08 and continued for a period of approximately five minutes, and a trifle over—forty-five seconds.

The Court: Have you any record of unsuccessful calls from the same number in Montclair to the same number in Torrington on that day?

Charles R. Thompson, cross.

The Witness: The records of incompleted calls, on which there are no charges, are only filed for a month.

Cross examination by Mr. Lane.

Q Could there be an incompleted call from Montclair to Torrington without any charge? A If we failed to reach the number and secure any information under it—what we would call a blank report—there would be no charge whatever; such as a "busy," or "don't answer," there is no charge for that whatever, or if they ring in a delay; if there was a delay report, there wouldn't be such a charge.

Q That call was put through between 9 and 9:08? A Yes.

Q Is there any record of any call about midnight, on that same occasion?

Mr. Newman: That would be incoming.

Q Have you any record of an incoming call for the same number, Stevens, in Montclair? A I would have no record.

Q From Torrington? A I would have no record.

The Court: That came from Yonkers, New York.

The Witness: We would have no record.

The Court: You have no record of any incoming calls. Is a record kept?

The Witness: We kept no record of any incoming calls; no, sir; except in exceptional cases.

The Court: I don't quite follow you there—what you call incoming calls. If I

were in Torrington, I would say that was an incoming call from Montclair to Torrington.

The Witness: Yes, but Torrington would have no record.

The Court: But you, as the traffic manager, have a record of that call. It is, therefore, an incoming one in Torrington?

The Witness: Yes.

The Court: Why wouldn't you have a call from Yonkers to Montclair, and treat that as incoming one to Montclair?

The Witness: There should be a Yonkers ticket somewhere.

The Court: There is such a record?

The Witness: Yes, provided the connection is completed.

The Court: On the same date?

The Witness: Yes.

Q And the record would be at Yonkers, if there was any record? A The Yonkers commercial office should be in charge of that.

The Court: The same as you are in charge of this?

The Witness: Yes.

Q Are there any records of calls between—

Mr. Newman: I offer the ticket in evidence, for identification.

(Marked Exhibit D. 1 for identification.)

Q Are there any records of calls between East Orange and Montclair? A I don't know whether that is a local call or not.

Nellie Lee, direct.

The Court: What district does your management cover?

The Witness: All long distance business.

Q In the New York and New Jersey Telephone Company? A Newark and vicinity going out or coming in.

Q Of Newark District? A Yes.

Q You say you don't know where this came from?

The Court: Mr. Newman produced it.

Mr. Newman: I got it from the company.

Q Where should it be? A It should be in the files of the commercial files.

Q Of the company? A Yes.

Q Where? A I don't know where they file them, whether in the files in our building or not.

Q Would there be any record of incoming call, if it had been from a pay-station in New York or Yonkers? A Not on an A. B. toll call; just at the originating—there might be a ticket on file in the commercial office there.

NELLIE LEE, sworn for defendant.

Direct examination by Mr. Newman.

Q Where do you live? A 22 Cross street, Montclair.

Q Do you know Mrs. Stevens? A Yes.

Q How long have you known her? A About two years.

Q Did you do her washing? A Yes, I did her laundry.

Q Have you served her on occasions as maid? A No, just did laundry for her.

Q And did you ever help her procure a maid? A Yes.

Q Do you recall August 24, 1922? A Yes.

Q On the afternoon of that date, did you see Mrs. Stevens? A Yes, I did.

Q Where did you see her? A She came to my house and asked me if I could come—a gentleman came to the door and knocked, and I was having my dinner, and he asked me, "Is this Mrs. Lee?" I said, "Yes." He said, "Can you see Mrs. Stevens?" I said, "Yes," and I goes to the car. Mrs. Stevens was lying back in the car; she said, "I am so sick, I don't know what to do; can you come and stay with me?" I said, "No, I cannot come, Mrs. Stevens, my little girl has just come out of the hospital with a broken collarbone." She said, "Well, can you get me someone?" I said, "I will try." I goes next door and tried to get Mary Scovin, but she was out. Then I sent a little girl across the street to try to get Pauline Davidson. I sent across the street to get Pauline Davidson, but she was out, and then I told her if I could get someone, I would send them, and I would try Mrs. Jackson to get Mary Brown, so I couldn't get anyone to stay with her.

Q Was Mr. Paswaters with her at that time, this gentleman here? A I don't know the gentleman at all; I had never seen him before. Mrs. Stevens usually always comes up herself when she come for the clothes and when she brung them.

Nellie Lee, cross.

Q Did you give her any clothes that night? A Yes, I give her her clothes.

Q You said she was sitting in the back of the machine and looked very pale? A Yes.

Q Had you ever seen her sick before? A No, I hadn't never seen her look like that before.

Q Had you ever been about her when she was sick? A When she was feeling badly, but she didn't look as bad as she did then.

Q She looked pretty bad that night? A Yes, she looked very pale.

Cross examination by Mr. Lane.

Q What night was this? A On the 24th of August.

Q What year? A 1922.

Q How do you remember that night? A Because I had a fire in my house; it was burned on the 10th of August, and from the 10th to the 24th, it was two weeks that I hadn't seen Mrs. Stevens; she came to me on the 24th, and that made it two weeks; the day I had the fire was on the 10th.

The Court: Had you seen her the day of the fire?

The Witness: No, but she came to me on the 24th.

The Court: Counsel is trying to find out what connection the 24th has with the 10th of August, and why you remember the 24th of August.

The Witness: The day that I had the fire I had her laundry in my house, and a good part of her laundry got smoked up, and I

was expecting her the next week, but she wasn't in town, and she came on a Thursday, and it was on the 24th of August; I usually have to take my little girl back and forth to the hospital to have her collarbone dressed.

Q What day was it that Mrs. Stevens brought the clothes? A I don't remember the day she brought the clothes, but I know she brought them; it was about the latter part of July she brought the laundry, and then she went right away, and I didn't see her any more until the 24th.

Q What date was it? A I don't remember the date.

Q Why not? A I cannot remember.

Q Can you say how many days or weeks it was before this fire on the 10th? A It was about a week before I had the fire.

Q A week or two weeks before the fire? A A week before the fire. I don't remember the date.

Q If you can remember so distinctly that it was precisely the 24th, or two weeks after the fire, that she came to get them, I ask you why you cannot remember precisely the date or how many days it was before the fire when she brought them? A Why, I remember that is because I had to go back and forth to the hospital. I would keep the records of it but we needed to go to the hospital.

Q It was one of the days that you had to go to the hospital that she was there? A Yes.

Q Where is the record? A I have the record here—I haven't the record of the day that I had the fire, but I have the record of the date

that I take the child to the hospital, and I have the record of the date that they give me.

Q What record was that; what record does that show? A Of the day that I had the fire, on Thursday afternoon, which was the 10th. On Friday, the 11th, I had to take my little girl to the hospital to have her collarbone set. They let me take her home on Friday night and on Saturday morning, on the 12th, I had to take her back and they admitted her to the hospital, and they let me bring her out.

Q When? A I brought her out Monday.

Q And then? A Then I had to take her back.

Q When? A On Thursday.

Q Is there any record of that? A I haven't the record, but I can get it from the hospital; I haven't a record of that.

Q You haven't a record of Thursday, the 24th, now? A No, not with me, but I did have a record of it at home, because I always marked the date I go with her to the hospital on the calendar.

Q Why did you bring these other records? A This was the first record I got. This was my bill.

Q Why did you bring it here with you? A I thought if they asked me what day I had the fire, I would know.

Q You knew you were going to testify about the 24th, didn't you? A I knew that was the date that Mrs. Stevens come for her clothes.

Q Why didn't you bring the record you have, which you left home, which shows the visit to the hospital on the 24th? A I can get that record.

Q Why didn't you bring it here now with your other record? A I came from my work place and since I have the fire I have all the bills and things and they have been there all the time painting and everything is pulled to pieces in the house, but the record is there and I didn't have time to pull things together to get it.

Q You knew you were going to be asked about the 24th. A I didn't know particularly what date they would ask me about.

Q You didn't know what you would be asked about? A No, I didn't know.

Q Then why did you bring any records at all? A Because this is the one I have kept in my pocket book.

Q You just happened to have that? A Yes.

Q You have a record home which shows you about the 24th, but you haven't it here? A Yes, I have it marked on the calendar every day I took her to the hospital.

Q What time in the day did you take her to the hospital? A Three o'clock at the clinic.

Q What time of the day did Mrs. Stevens call? A Between six-thirty and seven o'clock. I was having my dinner.

Q Where was your little girl then? A She was sitting on the stoop.

Q Who came in the house? A A gentleman came to the door and knocked.

Q Do you recognize the gentleman? A No, I did not.

Q Do you recognize him now? A No, I wouldn't know him again, if I seen him. I never saw him before.

Q What did the gentleman say? A He asked me, "Is this Nellie Lee?" I said, "Yes." He said, "Can you see Mrs. Stevens?" and I said, "Yes," and then I go to the car.

Q What kind of a car was it? A It was kind of a light car.

Q What color? A A lightish gray like.

Q Anything peculiar about the car? A No.

Q You have seen automobiles, quite a number of them? A Yes.

Q You have seen different makes? A Yes.

Q Different kinds? A Yes.

Q Haven't you? A Yes.

Q You know the names of cars? A No, I doesn't know that much.

Q You know a Packard when you see it? A I don't know that much about a car.

Q You mean you don't know a Ford? A Oh, yes; I know a Ford.

Q Do you know the Franklin? Was there anything about this car that distinguished it from any other car that there is? A No.

Q Just by looking at it? A No, not to my knowing.

Q It looked like any other car? A Yes.

Q Did you look at the hood? A No, I did not.

Q Was it a closed car or open car? A Closed car.

Q Five passenger or seven, do you know? A No.

The Court: You were never in it, were you?

The Witness: No, sir—yes, I was in it once, with Mrs. Stevens, to get a maid.

Nellie Lee, cross.

Q Did you go up to the door of the car? A Yes.

Q Open it? A Yes, I opened it and talked with Mrs. Stevens.

Q Where was the gentleman with Mrs. Stevens sitting? A He was sitting in the front.

Q Were there any bags in the car? A No, there wasn't anything in there until we put the laundry in.

Q What did Mrs. Stevens say? A She asked me if I could come up to stay with her; I told her I couldn't go; then she asked me if I could get her someone, and I tried to get her someone, but I couldn't get anyone.

Q Where did Mrs. Stevens sit while you were there? A She sat in the car.

Q And this gentleman with her? A Yes, only he was sitting in the front.

Q He was sitting in the car, in front? A Yes.

Q She was in the rear seat? A Yes.

Q Very sick? A Yes, she seems to me she was very sick; she looked as if—I had never seen her look like that before.

Q So that she needed attention? A Yes.

Q She needed someone with her? A Yes, she needed someone to be with her.

Q Did she say what she was going to do when you couldn't get anyone for her? A I told her, "If I can get anyone, I will send them to you"; she said, "I hope you can get someone."

Q Did you try to get anyone afterwards? A Yes, I tried to get Mary Brown, but she had taken a steady place.

Q Did she say anything about a nurse? A No.

Nellie Lee, cross.

Q Where is this hospital you were sending your girl to? A Mountainside Hospital.

Q It is across from the Erie station? A Yes.

Q About four blocks or five blocks away from Bloomfield avenue? A Yes, or probably more.

Q You are sure this wasn't the 25th? A No, the 24th, because I kept account of this because I had my hospital bill to pay.

Q You are sure it was Thursday? A Yes, Thursday afternoon, because that is the day I always take her to the clinic.

Q It couldn't be Friday? A No, it was Thursday.

Q How long did they stay there at your house? A Long enough for me to try to get—

The Court: Were they there ten minutes or half an hour?

The Witness: Just about half an hour, because I sent next door.

Q Were there any bags in the car at all? A No, I didn't see anything in the car but the clothes that we put in there.

Q When did Mrs. Stevens speak to you about this visit that she made to you, afterwards? A I saw her in April, 1923.

Q How did she come to see you in April, 1923? A She came to my place and she asked me would I do some more laundry for her, and asked me if I remembered the date she came to get her laundry and the day she was sick, and I told her I did, because I had all the dates marked down, the dates I took my little girl to the hospital.

Q So that from August, 1922, until April, '23, you didn't think about this date at all, did you? A The date I was to come here?

Q No, you didn't think about this visit that she made to you in August, 1922; nothing brought it back to your mind from August, 1922, until April, '23? A No, until she spoke to me did I remember the date, and I had the calendar hanging up there and I remembered the date, because I hadn't seen her from that date until she came to me in April.

Q You hadn't thought about this date, had you? A Not especially.

Q You took your little child to the hospital the next week, didn't you? A I took her there every week until they discharged her.

Q When did they discharge her? A They discharged her the last Thursday in August.

Q How long did you do washing for Mrs. Stevens during August? A Only one washing for her during August; she was away and the last wash she came and got on the 24th and I didn't see her again until—I didn't see her any more until April, 1923.

Q You didn't do any washing for her from the time you did this particular one wash? A No, I did her washing all along when she was back and forth in Montclair.

Q When did she go away? A I don't know; she went away in July, because I got the clothes—she brought me the laundry before she went away.

Q This was laundry that you had before she went away? A Yes, this is the laundry I had—she brought the laundry to me and then she went away and I didn't see her until the 24th, when she came to me.

Q What was in the laundry? A Ordinary wearing clothes.

Q Was it a large amount or a small amount? Bed linen and stuff of that kind or wearing apparel? A Just her wearing apparel and face towels.

Q And had been with you from the time she went up in the country? A Yes.

VERA C. BUNNELL, sworn for defendant.

Direct examination by Mr. Newman.

Q Where do you live? A Montclair.

Q Montclair? A Yes.

Q Did you formerly live in Torrington, Connecticut? A I did.

Q What is your husband's name, please? A Mr. Charles M. Bunnell.

Q And did you in the month of August, 1922, live at Torrington? A I did.

Q You know Mrs. Stevens? A I do.

Q Have you known her for some time? A I have.

Q And are you friendly with her? A I am.

Q Did you have a conversation with her over the 'phone on the 24th of August, 1922? A I did.

Q Can you tell me about what time it was she called you up? A I should say about nine o'clock, or a little after.

Q At night? A At night.

Q What did you say to her; what was the conversation? A I was to come down there;

she was very ill and asked me to come down, and I told her I would.

Q Did you fully intend to come? A I did; I had my suitcase and everything ready.

Q Did you come down there that night? A I did not.

Q Did your husband come down? A He did.

Q Where did he go to, if you know? A He went to New York.

Q Was there anything else said at that time over the 'phone? A What do you mean?

Q Tell us as nearly as you can. A Mrs. Stevens said that the boat was several hours late that she came in on and she had been very ill, and wanted to know if I could come down—I was in the habit of coming down there—and I said I would; then my husband and I had an argument afterwards; he thought it was foolish for me to go down that night, because it necessitated his going out to Montclair, because he intended to stay in Newark, and I asked him to immediately telephone Mrs. Stevens as soon as he got in New York.

Q Was there anything said about the intention of Mrs. Stevens to come back to Torrington? A There was; she was to come up the next day with me.

Q Did you know whether her son was at camp near you? A I did.

Q Is it a fact that he was? A It was, because I visited him myself.

Q Did you know Mr. Paswaters? A I knew him, certainly.

Q And he called at your home? A He had.

Q Was anything said about Mr. Paswaters being at the house, at that telephone talk? A He was there, yes.

Q Mrs. Stevens told you so? A Yes.

Q Did you know anything about Mrs. Stevens' intention to go to Bermuda? A She had no intention of going to Bermuda; it came up very unexpectedly; she had planned a vacation some place else—in New York somewhere.

Q At that time did you know whether Mr. Paswaters had expressed any intention of where he was going on his vacation? A I believe he was going to Canada, he said.

Q Do you recall how Mrs. Stevens procured her passage to Bermuda? A It came up very unexpectedly. Yes, I do. I believe she got a check from the Hackensack Trust Company, or something, that she wasn't expecting until later, and she decided on the impulse of the moment that she was going to Bermuda.

Q How did she use the check? A I believe she called up Mr. Paswaters and asked him to get the passage for her, because she went so unexpectedly she didn't have anyone else to get the passage for her.

Q How long before she sailed was it that she received the check? A I cannot tell you that; a short time, I know.

Q A day or week or month? A I cannot tell you.

Q Do you know whether she sent the check to Mr. Paswaters? A I do.

Q Was that done? A It was done.

Q On the next day did Mrs. Stevens come to your house in Torrington? A She did.

Q What time did she come there the next day? A I don't recall that.

Q Was it toward evening? A It seems to me it must have been late in the afternoon, because it takes some time to get up there.

Q Was Mr. Paswaters with her? A He was.

Q Did she remain at your house? A She did.

Q You were home when she got there? A Yes.

Q And what was her condition physically on the next day? A She was very much upset and physically she was upset.

The Court: You say it was the next day; the next night she arrived?

The Witness: I didn't say; I said late in the afternoon.

Q Did you say day or night, or which was it? A I said late in the afternoon, I thought, of the next day, or night, I cannot tell which; I don't just remember.

SECOND DAY.

Continuation of testimony in the above-entitled cause before Hon. John E. Foster, Vice-Chancellor, at the Chancery Chambers, Newark, New Jersey, on Wednesday, December 5, 1923, at 10 A. M.

Present: Counsel as before stated.

VERA C. BUNNELL, recalled for further

Direct examination by Mr. Newman.

Q Do you recall an occasion when you loaned Mrs. Stevens your maid? A Yes.

Q When was that? A The last week in July.

Q Of what year? A 1922.

Q Just tell us under what circumstances that occurred. A Mrs. Stevens was very ill and she telephoned me for to come down; I came down with my maid and my little boy.

Q What condition did you find her in? A She was suffering from a bad hemorrhage; she had to call in Dr. Eddy.

Q Dr. Eddy was in attendance? A He was.

Q Can you fix the date in July when that was? A I cannot fix the exact date; I know it was in the last week in July, because my husband came down on a business trip; that is how I happened to come down.

Q You are quite certain it was the last week in July? A I know, but I cannot tell you the date.

Q How long did your maid remain there with her? A She remained as long as I did. I should say the first week—I know we went back the first week of August.

Q Did you have occasion to call on Dr. Stevens during that time, on the 'phone or any other way? A Not that I remember; I don't recall; it is so long ago.

Q Do you recall an incident in the month of February, 1915, when you accompanied Mrs. Stevens to the theatre? A Yes.

Q What theatre was it? A Proctor's.

Q When was it, as near as you can fix the date? A It must have been in the early spring, because it was just before I moved up to Montclair, and I moved up there in May—somewhere in the early spring.

Q Of 1915? A Yes.

Q Tell us what transpired at the theatre. A We met her at the treatre, and when we got there she was very ill, and in fact so ill that I had to go out and call up her husband; I thought I had better, I didn't know what to do with her; she was in very bad condition.

Q What did Dr. Stevens do or say? A He didn't want to come; he thought it was all nonsense. I insisted on his coming.

Q Did he come? A Yes.

Q Where was Mrs. Stevens taken to? A I told him to get a taxicab and take her to the doctor, and he took her to Dr. Firth's office, an osteopath.

Q How did he take her there? A I told him to take a taxicab, and he grabbed her by the arm and made her walk.

Q And Dr. Firth's office was in Clinton street? A Yes.

Q Did you have occasion to see her in July, 1915, on Broad street? A I didn't, but my husband did.

Q Did you see her at any time in July, 1915? A I don't say July, but I saw her before that, before I moved to Montclair in May; I remember distinctly it was one Sunday afternoon when she came up there with her eye all discolored; she had had a black eye; I cannot tell you if it was July or when.

Q And was that the time she was living at 96 Broad street, Newark? A I believe so.

Cross examination by Mr. Hauptman.

Q Where is Torrington, Connecticut; how far from New York? A I should say about 103 miles, to be exact.

Q From New York City? A Yes.

Q You visited Mrs. Stevens quite often, did you not, while you lived at Torrington? A I did, very often.

Q You drove down usually? A Usually.

Q How long did it usually take to drive down? A Usually we would leave in the evening—three hours—three and a half; sometimes longer; we never had any particular time. We have done it in three to three and a half hours.

Q From Torrington to Montclair? A Yes, at night.

Q How do you usually come? A Right through by the way of Danbury and Yonkers, through New York City.

Q It is beyond Danbury? A Yes.

Q You go to Yonkers and then where? A I don't know; Mr. Bunnell usually drove the car to Dyckman street.

Q You have no idea how long it takes to get from Jersey City, from the New Jersey side of the ferry, to Montclair, in an automobile? A I haven't any idea. It depends on traffic conditions entirely.

Q You testified, I believe, Mrs. Bunnell, that when Mrs Stevens got you on the telephone in August, it was about nine o'clock in the evening? A Yes.

Q Did you expect to leave immediately for Montclair? A Yes.

Q Why didn't you leave? A Mr. Bunnell—afterwards we had an argument about it, which necessitated his going over to Montclair, and I had a friend visiting me at the time, and he thought it was all foolish, in view of the fact that we expected Mrs. Stevens to come back the

next day. I made him promise to telephone as soon as he got to New York, as she told me she was ill.

Q How long did you expect to take to get to Montclair? A That was uncertain. If we left at nine, it would depend on how long it would take.

Q You couldn't get there before midnight? A I cannot tell you that.

Q You said a few minutes ago, I think, that in July, 1922, you loaned your maid to Mrs. Stevens? A I did.

Q You came down from Torrington? A I did.

Q Was that at Mrs. Stevens' request? A Yes.

Q You brought down your maid with you? A I did.

Q Did you leave the maid there after you left? A I did not. I stayed the whole time myself.

Q You mean, then, you loaned your maid to Mrs Stevens? A I brought my maid because Mrs. Stevens had no maid, and let her attend to the duties there in the house.

Q When Mr. Newman asked you to fix the time in July, you said you didn't remember exactly, but that your husband came down on a business trip? A What do you mean in July?

Q July, 1922. A I told you it was the last week, but I do not know the date.

Q Did you come down with your husband? A I did; he came down expecting to go on a business trip for three weeks.

Q Did you come down primarily to take care of Mrs. Stevens? A I did.

Q Did you come down primarily to visit Mrs. Stevens, or did you come because your husband was going on a business trip? A I came to be with Mrs. Stevens, because she was ill.

Q It was just a coincidence that your husband was going on a business trip at the same time? A No, it probably had been planned a long time ago; I don't know about that.

Q If it had been planned a long time ago, had Mrs. Stevens been ill a long time? A No, it came up in the last week; no, it was sudden.

Q Then you didn't plan the trip? A I didn't say I did; I said it may have been planned.

Q When you left Montclair had Mrs. Stevens recovered from her illness? A Practically.

The Court: In July, 1922?

The Witness: Practically, yes.

DR. ARTHUR P. FIRTH, sworn for defendant.

Direct examination by Mr. Newman.

Q Where do you practise your profession? A 1109 Broad street, Newark.

Q What is your profession? A Osteopathic physician.

Q Were you practising your profession in 1915? A Yes.

Q And in February, 1915, did you have occasion to attend Mrs. Stevens? A Yes.

Q How did she come to your place? A Suffering from hemorrhage of the uterus.

New Jersey State Library

Q Did you treat her on that occasion? A Yes.

Q What did you find the cause of this hemorrhage was? A The history shows that she had taken something to produce it. I didn't see that done; I only know the history.

Q Was Dr. Stevens there? A Not when I saw Mrs. Stevens; no, I saw her alone That is, I didn't see her alone; I mean Mrs. Bunnell was with her.

Q Did Dr. Stevens bring her or accompany here where to your office? A I don't really know; I cannot answer that.

Q How long was she in your office? A It is so long ago, I cannot give you an answer; I should say, from my own knowledge of this type of cases, half an hour to three-quarters, something like that.

Q Did you have occasion to treat her after that? A Oh, yes; and visit her.

Q Where did you treat her then? A On Broad street—I forget the number.

The Court: At her home?

The Witness: Yes.

Q And for this same hemorrhage? A Yes.

Q How long did the treatment continue?

The Witness: May I look at my records?

Mr. Newman: Yes, you may refresh your recollection from your memoranda made at the time.

A She was in my office on February 11 for that condition, and I saw her on the 17th and 18th, after which she was put in the hands of someone else, I don't know who that was.

Q What did you find her condition; what was the character of this hemorrhage and the character of her suffering, if any, therefrom?

The Witness: Am I at liberty to tell all about it?

Mr. Newman: Yes.

The Court: Yes, he has asked you.

A I can say that it was a pregnant condition and the coming on of a miscarriage.

Q Are you able to tell how that was induced? A Only from the history of the case; not from knowledge; and the symptoms would indicate that something must have been done.

Q Might that come from taking a dose of ergot? A Yes.

Mr. Hauptman: I object as immaterial, whether it might come from that.

The Court: I don't know what it is leading up to. I presume there is a purpose in asking the question.

Mr. Newman: I want to show that that is what it did come from.

Q Did you attend Mrs. Stevens at the birth of her only child? A Yes, I delivered the baby.

Q When was that? A The 3rd of July, 1914.

Q Who paid the charges for that? A Mrs. Stevens.

Q How long after? A I don't know the exact date; it was sometime in 1916, I think it was.

Q It was paid two years after? A About that, two or three.

Q Did you endeavor to collect it from Dr. Stevens? A Yes, sure.

Q Did he refuse or did he not refuse to pay? A He didn't pay any attention to it.

Q Did you have to take any legal proceedings to collect it? A Yes, I put it in the hands of my attorneys, Lum, Tamblyn & Colyer.

Q And as a result of your action, Mrs. Stevens paid the bill, is that correct? A Yes, surely.

Q How did she come to pay it? A By a note.

Q Has the note been paid? A Yes.

Q And the note was paid? A Yes.

Cross examination by Mr. Hauptman.

Q When was the note paid? A I don't remember; that probably could be looked up; it was paid through Lum, Tamblyn & Colyer. I didn't keep an exact date of that.

Mr. Newman: Here is the note.

The Court: When was it?

The Witness: The note is made June 7, 1918, and is for $159.50 and reads, "May 1, 1919, I promise to pay to the order of A. P. Firth $159.50: Payable at the Hamilton Trust Company, Paterson, New Jersey. Value received, with interest at 6 per cent. in full of all claims to date."

Signed "Marjorie Stevens."

The Court: It wasn't paid until 1919, in May

Mr. Newman: I offer that note in evidence.

(Marked Exhibit D. 1, December 5, 1923.)

Q Did you ever make any personal request of Dr. Stevens for the payment of your bill? When I say "personal," I mean other than merely sending him your bill; did you ever talk to him about it? A I don't remember that I ever did. It is not customary, usually, and I don't think that I changed my custom in this particular case.

Q Before the child was born to Mrs. Stevens, had Dr. Stevens spoken to you about taking care of Mrs. Stevens, requesting you to take care of her? A Of course, the case was assigned to me; I don't remember exactly whether it was Dr. Stevens or Mrs. Stevens.

Q Did Dr. Stevens ever speak to you about it before the child was born? A Yes, certainly, several times.

Q Did the question of pay ever come up? A My memory doesn't serve me well enough to answer that.

Q Where was the confinement, at home? A Yes.

Q Did you ever tell Dr. Stevens that there would be no charge because of professional courtesy? A No.

Q You are sure about that? A Yes.

Q You don't remember whether you spoke to him about the fee? I think that was your answer.

The Court: He says he doesn't remember, because it is not his practice to do so.

Mr. Hauptman: This was before the confinement.

A The only thing I can say about that, and this is simply that I do not remember exactly; usually the amount of the fee is asked, but

I am not passing judgment now; I have no recollection about it at all.

The Court: The subject being mentioned at all; have you any recollection of that?

The Witness: No, I only recollect that I was engaged on the case. Anything else would be imagination.

Q Is there a professional courtesy to not charge a fellow physician for medical services? A When a man is a physician, yes.

The Court: Am I in error? Dr. Stevens is an oculist?

The Witness: Yes; he is not classed as a physician.

Q Does not the professional courtesy extend to oculists? A No.

Q Sure about that? A Positive.

Q When you treated Mrs. Stevens in 1915 for hemorrhages, how did you treat her? A Osteopathically.

Q Was it necessary to pack Mrs. Stevens? A I didn't do it, no.

Q Wasn't Mrs. Stevens' case like thousands of other women in the same condition?

The Court: And from the same cause?

Mr. Hauptman: I don't think he testifies as to the cause.

The Court: He said there was a pregnant condition leading up to a miscarriage, and from the history of the case, it was due to something being done; that is what he testified to.

Q In answer to Mr. Newman's question, I think you said that this condition might have

been caused by the taking of ergot; is that right? A Yes, the symptoms, the extent of the hemorrhage and symptoms.

Q You are not a physician, are you? A Registered in the State of New Jersey and licensed to practice as such; my license number is three.

Q From a medical school; I mean from what branch of medicine do you practise? A Osteopathy, which is regularly recognized in the State of New Jersey, New York, Pennsylvania and forty-three other states.

Q But only as an osteopathic physician? A Which means what?

The Court: He is a regular physician. There was a time when they were not recognized as such. I had some experience with that when I was prosecutor.

Q How long has the law been in effect? A 1912.

Q The history of the case, you referred to; was the history taken by you from Mrs Stevens? A Surely.

The Court: He didn't say from whom, but I presumed it was from Mrs. Stevens.

The Witness: That is right.

JOHN H. PASWATERS, heretofore sworn, recalled.

Direct examination by Mr. Van Blarcom.

Q How old are you? A Thirty-five.

Q You live in East Orange? A Yes.

Q And in business in Newark? A Yes.

Q What is the nature of your business? A I am the New Jersey salesman for an electric product concern.

Q At the time in August, 1922, what business were you in? A First vice-president of James McCreery & Co., New York City.

Q In August, 1922, at the time of this difficulty or this raid? A Yes.

Q You are not with them any more? A No, sir, I am not.

Q Did you lose that position on account of the publicity in this case? A I lost it on account of the article which was published in the New York American, which the New York American claims was given to them by Dr. Stevens.

Q How long have you known Mrs. Stevens? A I have known her since March or April of 1922—I cannot say exactly.

Q Where did you meet her? A At a party at the house of Thomas Schwartz, 100 Roosevelt avenue, East Orange.

Q Who was present on that occasion? A Mr. Schwartz and a friend of his, his two sisters, his mother, my mother, Mrs. Paswaters, and Mrs. Stevens, and Mr. and Mrs. Male.

Q After that how frequently did you see her up to the time of this trip to Bermuda? A I probably saw her less than ten times.

Q And who were present usually? A In the presence of company, always someone present; I met her in the presence of Mr. and Mrs. Bunnell. I never met her without the presence of someone of my family.

Q And at any time was she a visitor or caller at your home? A She was at my home at a party one time, and she was also there to dinner.

Q Was your wife present? A Yes; she invited her, not me.

Q You did not invite her? A No.

Q Coming down to this trip to Bermuda, when did you determine to make that trip? A I determined to make that trip after I had purchased for Mrs. Stevens the ticket as she requested me to.

Q When did she ask you to get the ticket? A I cannot give the exact date, but it was early in August; my records were burned up.

Q You got the ticket? A I bought a ticket for her, yes, sir.

Q From whom did you buy it? A I bought it from the Furness Bermuda Line.

Q Who gave you the money to buy it? A Mrs. Stevens sent me a check.

Q I show you this check, which is drawn on the Hackensack Trust Company, which seems to be dated August 8, 1922, and ask you if you recognize that check, looking at the back? A Yes, that is the check which she endorsed to me, and I endorsed and cashed through James McCreery & Co.

Mr. Van Blarcom: I offer that in evidence.

(Marked Exhibit D. 2, December 5, 1923.)

Mr. Newman: It shows it was cashed on August 11, at McCreery & Co.'s.

Q Where did you intend to spend your vacation? A In Canada.

Q Why did you change your plans? A I changed my plans because I was very tired from overwork, and I didn't care to make the motor trip up there; I was supposed to take some friends and go to Canada, and Mr. Leffingwell,

who was an associate of mine in business, was in my office when Mrs. Stevens 'phoned and asked me to buy a ticket. I said, "It is a peculiar time to go to Bermuda, in the summer." He said, "There are certain flowers that bloom in no other time, that bloom then, and regardless of the heat, if you go to St. George, you always have a cool sea breeze," and at that time I decided to change my plans.

Q Was there any arrangement made between you and Mrs. Stevens to take the trip together? A Positively none.

Q When did you first tell her you were going to take it? A When I notified her that I had her reservation.

Q What did she say? A She said I should not go.

Q Where was your state room? A My state room—I don't remember the number.

Q Where was it, with relation to hers? A Across the companion way; she was on one side and I on the other.

Q How were those compaion ways guarded or watched? A There is a man on duty at night and a woman on duty all day.

Q Were you ever in her state room on the trip down? A No.

Q Or back? A No.

Q Do you remember when you left New York? A Yes, August 12.

Q What time did you arrive at Bermuda? A The following morning.

Q Where did you stay? A Hotel St. George.

Q How were you registered on the boat? A My own name, John H. Paswaters, East Orange, New Jersey.

Q How was she registered? A I didn't see it, Mr. Van Blarcom; she didn't register at the time I did.

Q When you landed at Bermuda, to what hotel did you and she go? A She went to the St. George and I also went there, but not with her; she got through customs first.

Q Where was your room? A My room was on the second floor, on the right wing, facing the kitchen of the hotel.

Q Where was her room? A On the third floor; I don't know what location.

Q Did you have anybody rooming with you down there? A I did.

Q Who was it? A Donald Lovejoy, New York City.

Q What was his business? A He is in the steamship business.

Q I forgot to ask you if anyone shared your state room on the way down? A Yes, two gentlemen.

Q Who were they? A I don't know the name; one of them an Armenian name; they were booked by Cook & Co. I might add that I had a lower berth, which was supposed to be the best, and this Armenian was taken sick as soon as we left New York Harbor, and I switched and took the upper berth, so he wouldn't disturb me. I was in my own state room every night, slept there.

Q What arrangements are made at Bermuda in reference to people that land under different names—couples, we will say? Is there any watch kept, or any investigations made, that you know of personally? A We landed on a lighter from the steamer Victoria off the harbor of St. George, took the lighter in, and were dumped

off at the Custom House. At the Custom House you line up and open all your baggage. I remember the first question he asked, "Is any one else's clothes in this baggage except yours?" He also has a copy, in front of him, of the emigration slip that you fill out in New York, as to who you are, and then he asks you where you are going to stop. In other words, whether you will drive to Hamilton or stop in the middle of the island or at St. George, and you tell him at that time.

Q Then you proceed to the hotel? A Yes. There are carriages which wait there, and as you get your baggage out, you take your turn to go to the hotel.

Q You registered there under your own name? A Positively.

Q How did Mrs. Stevens register? A I didn't see her register; she was at the hotel a half hour before I was.

Q Were you ever in her room? A I was not.

Q How long did you stay? A I arrived Monday and sailed the following Monday.

Q What time did you leave Bermuda? A Monday, August 22.

Q And in coming back where was your state room? A My state room was on the top deck, on the boat deck, state room A, which was given to me through my friendship with the purser on the steamer.

Q Where was Mrs. Stevens' state room? A I do not know; down in the boat somewhere.

Q While you were in Bermuda on this trip was there any wrong doing of any kind between you and Mrs. Stevens? A There was not; I was never alone with her anywhere.

Q Did you meet any friends down there or make any acquaintances? A Numbers of friends, yes, sir.

Q How did you spend your time? A I spent all my time on the veranda smoking and playing cards and having an occasional drink, and mostly in the evening we danced in the hotel, a family party.

Q When you refer to "we," do you mean Mrs. Stevens and you alone? A No, I mean Mr. Lavery, Mr. Simpson, Mr. Lovejoy and the party whom we met on the steamer going down; there were about eight or ten of us. The district attorney of the State of Ohio and Major Dill, who was major of the army, and Dr. Walker, who was a Government health officer of the island, was a member of the party at the time we were there.

Q What name did Mrs. Stevens go under? A Mrs. Majorie Stevens.

Q You went under your own name? A Yes.

Q When did you land in New York? A In the afternoon of the 24th of August, as I recall.

Q And what time did the boat land? A I should say around one o'clock—I am not positive. The boat was due at nine, but we were delayed on account of broken propeller shaft off the harbor of St. George, and had a five or six-hour late start, and instead of getting in at nine, we got in around one.

Q What was Mrs. Stevens' physical condition? A Mrs. Stevens was taken sick the first day out on Sunday.

Q You mean coming back? A Yes.

Q How long was the trip? A Two days.

Q Did you know the nature of her sickness at all? A No, sir.

Q How did you know she was sick? A Because she stayed in her state room most of the time.

Q When you got to New York was she still ill or recovered? A She was very ill when we arrived at New York.

Q What did you do? A I intended to help her get her baggage off, and see that she got through the customs all right, but my deck steward decided about seven o'clock that morning that he would get drunk, so eight of us were without a deck steward and we couldn't get off the steamer, and there was half an hour's delay until I could get a steward to take my baggage off. I didn't see her again until she had gone through customs.

Q After that where did you see her? A At the end of the pier, where you walk out the turnstile.

Q What did you do after that? A She said she was very sick; I said, "I will get a taxicab for you."

Q Did you do that? A I did.

Q Where did you go then? A We drove to the Erie ferry and during that trip she vomited three times out of the window of the cab.

Q Where had you and she arranged to go; where were you going to take her? What conversation did you have with her about that? A I said I would see her home; she had intended to go to the Grand Central and take a train to Torrington, but I said she should not take it in her condition.

Q What time did you leave for Montclair, about? A Leave the ferry?

Q You took a taxicab down to the ferry? A Approximately two o'clock.

Q What railroad did you go out on? A The Erie Railroad.

Q The Greenwood Lake Division? A I don't know that.

Q When you got to Montclair what did you do? A I took another taxi and took her home.

Q Did you have baggage? A Yes, I had baggage and she had baggage.

Q What did it consist of? A Six or seven grips, suitcases.

Q You took those along with you? A Yes. I set mine inside of the door, in the front hall, and took hers upstairs.

Q How many grips did you have? A Three.

Q What time did you reach the house, do you think? A I should say around four o'clock.

Q No one was home, I suppose? A No.

Q What did you do? A I opened the windows and did a few things, chores around the place, to make the place livable, because Mrs. Stevens said she was going to try to get the Bunnells to come down.

Q When did she say that? A After we arrived at the house and she still felt so badly.

Q Tell us what happened next? A Next she 'phoned for her motor car, which was being repaired at the Franklin Automobile Company; the motor car came up and I got in the car myself, and so did she, and we went over toward East Orange, to some street, to hunt a woman who had formerly worked for her, a laundress or someone. I got out of the car and went and knocked at the door and this colored lady came out, and I asked her if she would see Mrs. Stevens in the car, and she said she would. She came out to the car and Mrs. Stevens asked if she could get someone for her to stay with her

a couple of days; she said she couldn't, because she had had a fire, that her child had broken her collarbone or wrist, but she would try to get someone else. I stood by the car while she walked up and down the street at least four or five houses and tried to get someone.

Q What time of day was this? A In the afternoon.

The Court: What afternoon?

The Witness: That we arrived.

Q Two o'clock in the afternoon you arrived? A No, we arrived in Montclair about four o'clock in the afternoon; this was between five and six.

Q And did this colored woman produce anybody? A She didn't seem to be able to get anyone. She said there was a colored dance that night, but she thought she could be successful, and if she was, she would telephone around, and also telephone to a Mary Brown, or someone, I don't recall the name.

Q Was anything done about some laundry? A She gave Mrs. Stevens some laundry at that time which had been in her house for some time.

Q What happened next; where did you go from there? A Drove to a delicatessen store, corner of Bloomfield avenue, close to Midland avenue.

Q And bought some food? A Yes, some light food.

Q What time did you finally get back? A Between six and seven.

Q This was in August, 1922? A Yes, still daylight.

Q What was done about telephoning? A Mrs. Stevens put in a call as soon as we got back to the house for Torrington.

Q Pursuing that telephone call, when was the connection made? A I cannot tell you the exact time; I should say around nine o'clock. The reason of my not being able to answer intelligently is due to the fact that after we had a little lunch downstairs, Mrs. Stevens felt so bad that she went upstairs and she put in her calls from the extension, which I believe is upstairs in the hall or bed room or some where.

Q Did you hear part of this telephone conversation at Torrington? A No, sir, except her voice.

Q That is what I mean; what did Mrs. Stevens say? A She asked them if they would come down.

Q Was it reported to you what they said? A Yes, she said that they were leaving, I believe, right away, or something to that effect.

Q Previous to that time, and before you had supper or after supper or dinner, had you seen any of the neighbors? A Yes, Mrs. Gorton came in right after we came back from the store and talked to Mrs. Stevens.

Q Did you hear the conversation? A Yes.

Q What was said? A Mrs. Gorton said, "You look very badly," and she said, "Yes, I am not only tired out from the trip, but I am suffering"—I don't remember what she said she was suffering from, but some expression—I was in the other room and was not supposed to hear this conversation, I presume.

Q How long was Mrs. Gorton there? A I should say fifteen minutes, while they were having a conversation.

Q Did you hear her say anything about staying there, or anything of that kind? A I heard her say that she was taking the privilege of

using Mrs. Stevens' garage—she had ten guests or something like that, in her house, and she had two cars back there in the garage, that I could move the car out that was in the garage and put Mrs. Stevens' in whenever I wanted to.

Q Did Mrs. Gorton come again that night or not? A Mrs. Gorton came again later in the evening—some one had lost a ring, or something, in her party, as they were putting their car back, and she came in to tell us what the noise was in the driveway, they were walking around.

Q Had you ever met Mrs. Gorton before that? A Yes.

Q How late at night was that when she made the second call? A I should say around ten o'clock. It wasn't later than that, I am sure.

Q Was anything said about Mrs. Stevens staying at her house, or anything of that nature? A I think she made a remark that she would be glad to have her come over, but she had a lot of guests, but she probably could take care of her—I am not certain.

Q When Mrs. Gorton called the second time, where was Mrs. Stevens? A She knocked on the back door, as I recall it.

Q Where was Mrs. Stevens? A Upstairs.

Q What time did you have your meal? A I should say between six and six-thirty.

The Court: Why did you remain there?

The Witness: I remained there because Mrs. Stevens was ill and I didn't care to leave her until some one came.

Q What was said between you and Mrs. Stevens finally about your remaining? A Mrs. Stevens told me that I should go, that there was no necessity of my staying there. I said

I would not go, that I would stay there until some one came, or until she had some one to look after her.

Q After you had your supper what time did she go upstairs? A She went upstairs, I should say, around ten o'clock. She was up there off and on all the time from the time we came back.

Q After that time did she come down again? A She did not.

Q How long did you stay downstairs? A Until twenty minutes after twelve.

Q Did anything occur about that time? A No, sir.

Q Did you get a telephone call from anyone? A Mrs. Stevens had a telephone call.

Q What time was that? A I should say it was around twelve o'clock.

Q Did you hear from whom the call came, and what was the result? A She called down to me that Mrs. Bunnell would not be there and that I should go.

Q What did you say? A She said I could take her car and drive to either Newark or go up to Montclair; I said I saw no necessity to change, as long as I was there, that everything was all right, that I would stay downstairs and sit in the room there and wait until Mr. Bunnell came over.

Q What time was he supposed to get there? A Mr. Bunnell had left Torrington around nine o'clock and was expected there most any time.

Q Was any later message received from Mr. Bunnell? A Mr. Bunnell called up there—I don't know where from, Yonkers or some place.

Q What time was that? A I should say around midnight.

Q What was that message? A To the effect that it was late, and that he didn't want to come over unless it was necessary. He asked who was with her, if she was alone.

Q Was that conversation reported to you? A That was reported to me; I didn't hear it.

Q What was finally arranged about your staying? A Mrs. Stevens said I should not stay, and I said I would stay, and I would stay downstairs; she said "If you persist in staying, there is no use sitting up down there all night, might as well come up and take the south room."

Q What part of the house was that in, the front or the back? A In the back of the house.

Q What time did you go upstairs then? A Around one o'clock.

Q And did you see her? A I did not.

Q And you proceeded to go in that room? A I took one bag up there out of the hall, to the top of the stairway; I didn't take it in the room; I opened it; it was a bag in which I had my clothes in which I wore on the steamer. It was all dirty soiled linen, but it had my pajamas and comb set in. I took that out and left the bag there and went into the bath room, and brushed my teeth and did the usual things, took off my business suit which I had on, hung it on the clothes rack and went to bed, with all doors shut, both the bath room door, leading out into the hall, and the bed room door shut tight.

Q What was the next thing that occurred? A The next thing that occurred was I awoke, startled, out of a sleep, with some kind of a peculiar rushing noise, and I heard someone say "Police," and at the same time I tried to prop up in bed. The first I remember seeing there—

I was in a dazed condition—was Mrs. Stevens sitting on the edge of the bed and four men in the room. I attempted to raise up in bed and one of the gentlemen that was here at the previous testimony grabbed me—the gentleman sitting in the room, and pushed me back in the bed.

Q What was said by them? A This gentleman that is in the room is the man that did the questioning.

Q Who is he?

Mr. Newman: Mr. Flarity.

Q Tell us what he said. A He come up to me and he flashed a photograph on me; he said, "Is that your photograph?" I said, "Yes." He said, "What is your name?" I told him. He said, "Where do you work?" I told him. Then Mr. Corbally said, "There is no use of starting no rough stuff around here; for if you do, we are prepared for you. If you behave, we won't start anything rough." They looked as if they had started, and so I behaved myself. If there had been two there, it might have been different.

Q What happened; how many were there? A Four.

Q Was Dr. Stevens there? A He wasn't in the room; I didn't know who he was.

Q Did you see him later? A I never saw him, but I recognized him later, when Mrs. Stevens called him by name.

Q How long were they there? A I should say about ten minutes.

Q What else occurred? A Then Mr. Corbally went out of the room and came back with my shirt and golf pants, which he took out of the bag which was strapped in the hall, and

threw my clothes in the hall, as I found out afterwards, and he took the shirt and pair of golf trousers and said, "I am going to take these." I said, "Please don't take them, because I want to play golf tomorrow," but that wasn't the reason. Coming up on the steamer, the last night, the doctor and I had been in a party in my state room, and before I went to bed I had these linen golf trousers on; they were soiled; I had a $50-note in the watch pocket, but I didn't take it out, and the thought occurred to me when he brought them in, "Here is where I am out $50," and he said, "All right," and he took the shirt.

Q He left the trousers? A Yes, and took the shirt and didn't pay me for it.

Q How long were they there altogether? A About fifteen minutes.

Q Where was Mrs. Stevens during this time? A She just sat on the edge of the bed when I first woke up.

The Court: On what bed; in your room?

The Witness: Yes, the edge of the bed in my room, with young Mr. Corbally holding her. She attempted to get up and he forced her down, but instead of forcing her down on the edge of the bed, he forced her in a chair.

Q When you first heard this noise outside and woke up, you say that some one came in your room? A I didn't hear any noise until the door was pushed open.

Q And then Mrs. Stevens came in? A Mrs. Stevens, with men following her.

Q How close were these men back of her? A In a group.

Q How soon after she came in, with them after her, did they enter the room? A Immediately.

Q And then the conversation took place as you have described it? A Yes.

Q Had she been in your bed at any time that night? A Positively not.

Q Or had you been in hers? A Not at all.

Q Was there any wrong doing between you? A There was not.

Q What time was it, about, that they left? A I didn't look at my watch, but it was around daylight.

Q And did you remain there? A I did; I got up out of bed and slipped my trousers on and Mrs. Stevens was in the hall, standing by the stairway, and I rushed to the front window and I saw them walk across the street from the house and get into an automobile on the far corner, to the right from the house, laughing and chuckling as they went along.

The Court: You had never met Mr. Stevens up to that time?

The Witness: No.

Q You knew her husband? A No.

The Court: Didn't you know she was a married woman?

The Witness: I presumed she was divorced; I had no idea about her husband's relations; he never was mentioned in my presence.

Q Had you ever been to that house before? A Alone, no.

Q With other people? A Yes.

Q Had you ever met Dr. Stevens there? A No, I never heard of the gentleman.

Q Then did you go back to bed that night? A No, sir, I did not.

Q What time did you leave the house? A I left the house about eight o'clock the next morning, and drove Mrs. Stevens to Paterson. I stayed there, because I tried to calm her; I rushed to the front window and saw these men drive away. I hadn't said a word in the meantime, because I was trying to think. You must remember that a man under those circumstances does some tall thinking for a few minutes. My first impression was that not ever having heard of Dr. Stevens before, and she calling him, I said, "Who was the man you talked to?" In the meantime I asked Mr. Corbally what they were there for, and he said it was none of my damn business.

Q What did she tell you when you asked her that question? A She said that was her husband, Dr. Stevens. I said, "That is a fine way to frame a fellow." That was my first impression, that she and Dr. Stevens had framed me. She said, "I will call the police." I said, "You will do nothing of the kind. You will sit down until I have time to think this thing over, if I have to force you to do it." For the next hour I don't know what happened to her, but I walked the hall, back and forth, trying to figure out what to do, whether it was a blackmail plot or what it was. I didn't know; I couldn't figure it out.

Q In any event, she was sick? A Very sick.

Q And there was no one else in the house besides yourself to look after her? A That is true.

Q You went to Paterson with her? A I asked her who took care of her legal affairs; she said she had a man named Mr. Turton, but her guardian was Mr. Beggs, who I knew as the Surrogate of Passaic County, and I said, "I want to take you there, because I want to put myself on record the first thing as to the happening of this case," because I didn't know what would come out of it.

Q You took her where? A To Paterson; I drove her to Paterson, to Mr. Beggs' office.

Q Where did you go from there? A From there we went back to Montclair.

Q What time did you leave Montclair? A About eight o'clock, I should say, not later than eight o'clock. We met Mr. Beggs when he came in the office.

Q You went back to Montclair? A Yes.

Q When did you leave Montclair again? A I left Montclair, I should say, around one o'clock.

Q Where were you going then? A I drove Mrs. Stevens to Torrington, Connecticut, to Mr. Bunnell's house, at his request.

Q You had been in communication with him? A Mrs. Stevens had; he called her up, as I recall.

Q About what time? A I think around noon time, I am not sure.

Q How long did you stay at Torrington then? A I came back the next day.

The Court: Where was your family during this period of time while you were on your vacation?

The Witness: Home.

The Court: And your home was in East Orange?

The Witness: Yes.

The Court: Did you go home at all?

The Witness: No, sir.

The Court: Why not?

The Witness: Because I wasn't supposed to go home; I hadn't arranged to go home.

Q When did you go home? A I went home the following Monday night.

The Court: You arrived in New York on Wednesday from Bermuda?

The Witness: Yes. I drove to Connecticut on Thursday.

The Court: You spent from Wednesday until the following Monday either at Montclair or Torrington?

The Witness: No, sir.

The Court: Where else?

The Witness: In New York City.

Q Why didn't you go out to East Orange after you came back from Torrington? A I wanted to consult some people about the affair.

Q Did your wife know that you were going to take this trip? A She did.

Q To Bermuda? A Yes.

Q Had you and she arranged to be away together that summer? A No, sir, two years ago she said she would rather die than ever go anywhere with me again. I didn't want her to die.

Q What family did you have? A One child, and my mother living with me.

Q How old is the child? A Now twelve years old.

Q You and your wife are not living together at the present time? A No, sir; she deserted me on the 15th of September, 1922.

Q After this trouble? A After I lost my position.

Q It was after this trouble, wasn't it? A Yes.

Q Are you supporting her and the child at the present time? A Yes, sir, I am.

The Court: Under a court order?

The Witness: No, sir.

Q Voluntarily? A Yes, sir.

Q How much are you paying her? A Fifteen dollars a week.

Q She is living home? A Yes, I believe so.

Q Has she begun any proceedings against you? A Not to my knowledge. In addition to that, Mr. Van Blarcom, when she went away she took my motor car, my Liberty Bonds, the money that I had in bank and all my furniture and everything, and even my own presents that were given to me.

Q Where did she go to? A I understand she went to New Haven, Connecticut. I know that she did, in fact.

Q To her father's? A Yes.

Q Have you been up to see her since? A No.

Q Have you seen the child? A She used to let the child come down about every two months; last year she stopped it, and this summer I sent Mr. Dailey after the child. I had her during the month of August with me. In addition to this support I have also clothed the child ever since she has been away from me. I have sent for her and brought her down.

The Court: Had there been an estrangement between you and your wife prior to August, 1922?

The Witness: Yes, for about three years.

Q During all your acquaintanceship with Mrs. Stevens, has there ever been any wrong doing between you and her? A There has not.

Cross examination by Mr. Hauptman.

Q You say you had never heard of Dr. Stevens before he appeared that night, August 24? A Yes, that is right.

Q Had Mrs. Stevens ever heard of Mrs. Paswaters? A Yes.

Q You had told her about Mrs. Paswaters? A I gave testimony that she had been in her company.

Q When you arrived in Montclair, what was your purpose in staying there on the return from Bermuda, on the 24th of August? A To stay there until someone came to Mrs. Stevens' assistance, so that she would not be alone.

Q Was she so seriously ill that she could not remain alone? A She was too ill to remain alone, in my opinion.

Q Where were you living at that time? A 100 Roosevelt avenue, East Orange.

Q Was your wife living there, too? A Yes.

Q Where do you live now? A In East Orange.

Q 172 William street? A Yes, you know; you were there yesterday.

The Court: Don't be impertinent in your answers.

Q With whom are you living now? A My mother.

Q Where did your mother live in August, 1922, last August, a year ago? A With me, at 100 Roosevelt avenue.

Q Where your wife lived? A Yes.

Q When you returned to Montclair from Bermuda on the 24th day of August, you went with Mrs. Stevens to get a former laundress or maid of hers? A Yes.

Q What was the purpose of that? A So that she would stay with her.

Q Then where did you go after that? A After that I went to the delicatessen store.

Q Alone? A No, Mrs. Stevens was in the rear seat of the car.

Q Are you sure that you went to the delicatessen store? A Yes, I am as positive as I am sitting here.

Q If Mrs. Stevens testified at the last day that we took testimony here, that she never went to a delicatessen store that day, but that she telephoned, was she telling the truth?

Mr. Van Blarcom: I object.

The Court: Objection sustained; I don't care to have him characterize it. You will get the benefit of it if they are telling conflicting stories.

Q After you left the delicatessen store with Mrs. Stevens where did you go then? A To her home.

Q Did you make any further effort to get anyone to stay with Mrs. Stevens? A She called up someone, I don't know who.

Q Do you know anyone whom she did call up? A She called up someone in Montclair, some other laundress.

Q And then she called up Mrs Bunnell? A Yes.

Q Did you know anyone that you might have gotten for Mrs. Stevens, to stay with her? A No.

Q Rather than go all the way to Connecticut? A No.

Q Did it occur to you that you might have called your mother? A It did not.

Q Or your wife? A I certainly wouldn't call my wife.

Q Why didn't you call your mother? A I just didn't do it.

Q Why? A I have no reason.

Q Did it occur to you to call a physician? A I asked Mrs. Stevens; she said she didn't want a physician.

The Court: Was it anything more than seasickness that ailed her at that time?

The Witness: She said there was something else; I didn't inquire what it was.

Q You didn't know at that time? A I didn't ask, no.

Q When you went to bed that night you say you went into the north bedroom? A I said I went into the south bedroom.

Q And you say you shut the door? A Both doors, the door leading from the bathroom and from the bedroom.

Q Is there a bathroom connected with your room alone? A Yes, a private bathroom.

Q Why did you shut the doors tight? A From my custom.

Q Didn't it occur to you to leave the doors open so you might be of some assistance to Mrs.

Stevens, if she needed any help? A I presumed she was asleep at that time.

Q But you were staying there for the purpose of taking care of her, because you couldn't get anyone else? A That is true.

Q You closed your doors so you couldn't have heard anything if she called you? A I presume I could have heard if she called.

The Court: What room did she occupy, do you know?

The Witness: The extreme north end of the house.

Q How far apart or away from your room? A I should say a twenty-foot hallway.

Q You think you would have heard Mrs. Stevens if she called you, if she needed you? A I presume I would.

Q Did you know that when you went to bed—did you know that the bedroom in which she was asleep was twenty feet away from your bedroom? A Yes, I had been at the house before.

Q Had you ever been in the bedroom before? A The billiard room is on the third floor and you go through that hall to get there.

Q You knew it was Mrs. Stevens' bedroom? A I didn't know which was her room, no.

Q How many bedrooms are there on that floor? A I cannot tell you; I know of three.

Q You know, then, that there are more than the one that you say you occupied and the one that Mrs. Stevens occupied? A Yes.

Q There are more than that? A Yes.

Q You didn't know which was Mrs. Stevens' bedroom? A She said she was going in the north room and for me to take the south room.

Q Did you know which room she meant by that? A No, there were two north rooms.

Q You didn't know, then, which room you were to take? A Yes, I knew which room I was to take; you didn't ask me that.

Q When you were in Torrington, Connecticut—before you went to Bermuda—Mrs. Stevens gave you a check for $91? A Mrs. Stevens mailed me the check.

Q Had she arranged with you that she was going to Bermuda before you left Torrington for New York? A I wasn't in Torrington before.

Q How did you know, then, that she wanted a ticket for Bermuda? A I was talking with Mrs. Bunnell on the telephone at Mr. Bunnell's house and she came on the wire and Mrs. Stevens asked me if I would purchase a ticket for her.

Q You said you would? A Yes.

Q Up to that time you had never planned to go to Bermuda? A No intention whatsoever.

Q How much did you pay for Mrs. Stevens' ticket? A I think it was $85.

Q Round trip? A Yes.

Q With four in a room? A Yes, with four in a room.

Q Then Mrs. Stevens is mistaken when she said she purchased her ticket for the return trip in Bermuda?

Mr. Van Blarcom: I object to that, if Mrs. Stevens is mistaken.

The Court: Did Mrs. Stevens say it?

Mr. Hauptman: Yes.

Q Do you recall? A Yes, I purchased a round trip ticket, but on the steamer back she

paid the purser something to change her room for a better room; that was the reason.

The Court: When did it occur to you to go to Bermuda?

The Witness: At the time that I purchased her ticket.

The Court: What date in August was it you bought her ticket?

The Witness: I cannot say exactly.

The Court: What date did you sail?

The Witness: On Saturday; I imagine around Tuesday.

The Court: Saturday was what date of the month?

The Witness: The 12th.

The Court: How long before the 12th did you make up your mind to go to Bermuda.

The Witness: About four days.

Q Did you wait for Mrs. Stevens' check to arrive before you bought her ticket? A I made the reservation and cashed her check and then bought the ticket.

Q Did you buy your own ticket at the same time? A I did.

Q When did you first tell Mrs. Stevens that you were going? A When I notified her that I had her ticket.

Q And when did you first tell your wife that you were going to Bermuda? A The same time.

The Court: How long was that before you sailed.

The Witness: I think about four days. I am not quite certain whether it was three or four days.

Q Did you tell your wife also that Mrs. Stevens was going to be on that boat? A I did not.

Q Did you tell Mrs. Paswaters how it occurred to you to go to Bermuda in the summer? A I did not.

Q Did Mrs. Paswaters know anything about your proposed trip to Canada, which you cancelled? A She did.

Q Did she inquire as to why you didn't go to Canada and were going to Bermuda instead? A She did not.

Q She was utterly indifferent? A Absolutely.

Q Mrs. Stevens was going unescorted? A Yes.

Q You knew that, didn't you? A I don't know that I knew it or didn't know it; I didn't ask the question.

Q How many tickets did you buy? A One ticket.

Q Then you knew that Mrs. Stevens was going alone? A I wouldn't be positive.

Q Did it occur to you that there was any impropriety in your going to Bermuda on the same boat with Mrs. Stevens? A It did not.

Q You thought it was perfectly proper? A Yes.

Q Do you still think it was perfectly proper? A I do, yes.

Q And you say it never occurred to you that it wasn't proper? A No, sir.

Q Didn't Mrs. Stevens tell you that she didn't want you to go? A Yes, she did.

Q Didn't it occur to you at that time that it was improper? A It did not.

Q What did you tell her when she said that? A I told her I had gone lots of places and been with lots of people in parties on steamers, and I couldn't see any difference whether I went to Alberta on a steamer with a thousand passengers, or Bermuda on a steamer with a dozen passengers.

Q You didn't go into the matter of your being married and going without your wife, or Mrs. Stevens being a married woman going without her husband? A I didn't know she was a married woman going without her husband.

Q You didn't know that she was married? A I didn't know that she was still married.

Q When you went to Bermuda did you intend to come back at the same time with Mrs. Stevens? A No.

The Court: Did you have your return reservation when you left New York?

The Witness: It was open; I had the tickets, but open reservation.

The Court: Was hers also open?

The Witness: Yes.

Q What do you mean by "open"? A You buy a round trip ticket, which entitles you to passage, but the return steamer is not specified.

The Court: When did you book your return reservation, how long after your arrival in Bermuda?

The Witness: I booked mine on the day the return steamer arrived.

The Court: And hers at the same time?

The Witness: Hers was before.

The Court: Did you attend to that for her?

The Witness: No, she did it herself, as far as I know.

Q Were you very friendly with Mrs. Stevens before you went to Bermuda? A I was not.

Q You mean it was merely a coincidence that you both were on the same steamer for Bermuda at the same time? A Yes, if you—

Q So that the fact that Mrs. Stevens was going to Bermuda had nothing to do with your going? A Any more than it brought the matter to my attention; it gave me the thought to go to Bermuda.

Q But you had already made plans to go to Canada with some friends, hadn't you? A I had.

Q The mere fact that someone was going to Bermuda and brought Bermuda to your mind was enough for you to break your plans and cancel your engagement with your friends who were going to Canada? A As I said before—the trip to Bermuda came to me as a suggestion, and then I inquired about it and found it was a nice place to go in the summer, so I changed my plans.

Q You said this was in August, in the summer? A Yes.

The Court: Was there a large passenger list?

The Witness: The steamer was full. When the tickets were purchased, they couldn't give me any reservations; they were open reservations.

Q You said on direct examination that you went to Bermuda because you were told that if you stayed near the ocean it was cool in the summer? A Right.

Q You didn't have to stay near the ocean to be cool in Canada, did you? A No, but I intended to go first to Canada and drive a motor car, and one of the reasons I didn't go was so as not to drive the car; I changed in favor of an ocean trip.

Q On the way down to Bermuda did you see Mrs. Stevens on the trip? A Yes.

Q I mean when you were on board ship? A Yes.

Q Was Mrs. Stevens ill on the way down? A She was ill on Sunday, the first day out.

Q You there picked up and made acquaintance with Mr. Lovejoy, I believe? A Yes.

Q And some others? A Yes.

Q And you spent most of your time with them? A Practically all of it.

Q You didn't spend any time with Mrs. Stevens at all? A Not alone.

Q Did you spend any time with her accompanied by anyone else? A She was with those other people in this party most of the time.

The Court: Did you spend any time sightseeing on the island?

The Witness: Yes, in carriages.

Q Did she accompany you? A She didn't accompany me; she was in the party sometimes, not always.

Q Was Mrs. Stevens assigned to the same table on board ship? A She was.

Q Did you ask that that assignment be made? A I did.

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Q Why? A Because I knew her; it is preferable to have someone you know to sit at the table with you than strangers.

Q In response to my question you said you didn't see Mrs. Stevens alone on board ship? A True.

Q What do you mean by that? A Without anyone else being present.

Q Was there any purpose in your always having someone else present? A No, except I didn't go for that purpose, to be alone with her.

Q Didn't it occur at any time that you saw her alone on the ship by accident? A I did not.

Q Was there always someone present? A There was.

Q Had you made any reservations at a hotel in Bermuda before you left New York? A No, I had not.

Q Had anyone for you? A No.

Q Where did you decide to go?

The Court: Before leaving New York?

Q On board ship; where were you when you decided on the hotel to which you were to go? A On the steamer.

Q With whom did you decide? A The purser.

Q At his suggestion? A Yes.

Q You went to which hotel? A The St. George, which is the Furness Bermuda people, the same line which owns the steamship.

Q Did Mrs. Stevens go to that hotel? A She did.

Q When did she decide to go there? A At my recommendation.

Q When? A At the same time that I did.

Q And did all the party who were together on board ship go to the St. George? A They did.

Q She had a room with whom? A I don't know.

The Court: Did you share the room with anyone in the hotel?

The Witness: Yes, I shared the room with Mr. Lovejoy.

Q The purpose of that was to cut down expenses? A Yes, and we could get a room together so much better than a room we could get without a bath alone.

Q Was Mrs. Lovejoy there? A His mother.

Q Is Mr. Lovejoy married? A He is not.

Q Did you take any sightseeing trips in Bermuda? A I did.

Q Did Mrs. Stevens ever go with you? A She did on some occasions.

Q Did the two of you ever go alone? A No, sir.

Q Always some of the other party with you? A Right.

Q How many were usually in the group that went on these parties? A On the boat trip—she didn't take any of the boat trips.

The Court: The trips she did go on.

The Witness: From five to ten.

Q So there were always from three to eight people other than Mrs. Stevens and yourself on these trips? A Right.

Q Who usually arranged these parties? A No one in particular. Dr. Walker arranged some of them.

Q And did Dr. Walker do the inviting of the various people who went on the parties? A He did on one or two occasions.

Q Did you ever do any of the inviting? A Yes, I did.

Q Did Mrs. Stevens ever do any of the inviting? A I don't know that.

Q You never went alone with Mrs. Stevens? A I never did.

Q Why? A Because I had no occasion to.

Q You were more friendly with Mrs. Stevens certainly than you were with anyone else that you met there? A I wouldn't say that is so.

Q You knew her better? A Yes, but I wasn't more friendly with her.

Q Wasn't the reason for your not going alone with Mrs. Stevens, that these other people might think there was something wrong? A I don't know that that occurred to me.

Q Did it ever occur to you? A No.

Q It never occurred to you that if you did go with Mrs. Stevens alone, that other people might think that it wasn't proper? A It didn't occur to me, because I didn't attempt to plan anything else; if you understand the island, you would—

Q In the dining room you had most of your meals there, or most of your meals on the variout sightseeing trips? A Most of the meals we had at the hotel.

Q Did Mrs. Stevens sit at the same table in the dining room? A Yes.

Q At whose request was that? A At Mr. Lavery's.

Q Was he one of the men you were with, too? A Yes.

Q He is a married man? A Yes.

Q Was his wife with him? A No, he and Mr. Simpson were together.

Q You didn't request that Mrs. Stevens be seated at your table? A We all sat at the same table on the steamer and when we got off and ashore and went to the hotel Mr. Lavery suggested that we continue to keep our seating arrangement as we did at the table on the boat.

Q To whom did he suggest that? A To all of us.

Q And you agreed? A Yes.

Q Who suggested at the hotel that you sit at the same table? A Mr. Lavery.

Q It wasn't at your suggestion? A No.

Q It didn't make any difference whether Mrs. Stevens sat at your table or not? A No, I don't know as it did.

Q But it did on board ship on the way down? A Yes, because I didn't know anyone to begin with.

Q So these other acquaintances that you made were more interesting to you than Mrs. Stevens, after you met? A No, they were equally interesting.

Q What ship did you return to New York on from Bermuda? A The Victoria.

Q Did Mr. Lovejoy and the rest of the gentlemen you met on the ship going down, come back? A Mr. Lovejoy did not return on the steamer.

Q Or any of the other people? A Yes, some of them.

Q Most of the people left on a previous steamer, isn't that right? A No, about half.

Q Do you remember what day it was you sailed from Bermuda? A Monday.

Q What day was it that the rest of the party left? A Saturday.

Q The previous Saturday? A Yes.

Q Were there any women in the group that went together? A Yes, there were several women.

Q Were there any women who remained back after Saturday? A Yes.

The Court: Who sailed with you on Monday?

The Witness: Yes.

Q Other than Mrs. Stevens? A Yes.

Q Who? A Two young ladies from Brooklyn.

Q The Misses Sullivan? A Yes.

Q Who else? A I cannot remember their names—a man and his wife from New Rochelle—I cannot recall their names.

Q It was purely an accident that both you and Mrs. Stevens returned from Bermuda to New York on the same ship? A It was not an accident, it was a victim of circumstances.

Q What necessitated your returning on the same ship? A Mrs. Stevens told me that she was going back on the steamer on Saturday, but was unable to get reservations. Mr. Lavery attempted to get them for her, and also Dr. Walker, and they were unsuccessful.

Q Did you attempt to get reservations for Saturday? A No.

Q You had planned all the time to go back on Monday? A Yes.

Q Had anything occurred between you and Mrs. Stevens while in Bermuda which made her want to come back on Saturday and you on the

following Monday? A No, I believe it was her original intention to come back then.

Q Was there any particular reason why you should have waited two days after Mrs. Stevens left? A No, no reason other than I at that time desired to stay.

Q Wasn't the purpose so that you would return back to New York without Mrs. Stevens, so that it wouldn't appear that you both were together? A No, it was not.

Q It never occurred to you? A No.

Q So far as you were concerned, you would both come back on the same ship if Mrs. Stevens was satisfied? A Yes.

Q Then it was a mere force of circumstances that you both came back on the same ship? A Yes.

Q What ship was that? A Victoria.

Q Where was your state room on that ship, on the return trip? A On the boat deck A, on the top deck.

Q Did you have that alone? A I did; it is a single cabin; an officer's cabin.

Q Was Mr. Lovejoy on that boat? A He sailed on Saturday previous.

Q Of the party of you who had gone together to Bermuda, who was on the boat on the return trip? A Mr. Mosel, of the Fifth Avenue Bus.

Q Was he married? Was his wife with him, if he was married? A No.

Q He was alone? A Yes.

Q Who else? A Miss Sullivan and two or three girls, I cannot remember their names; it has been nearly two years ago.

Q Were there any other men other than this Mr. Mosel? A This man and his wife from

New Rochelle—I cannot remember their names—von Holendorf.

The Court: Any other men who were alone?

The Witness: Not that I remember.

Q Why didn't you share your state room with Mr. Mosel? A Because I had a very desirable state room.

Q Did Mr. Mosel have a very desirable one, too? A No, he did not.

Q Where was Mrs. Stevens' state room? A Down in the boat somewhere, I don't know where.

Q You never saw her state room? A I did not.

Q Did you see Mrs. Stevens on the way back on the two days' return trip? A I saw her some, I don't recall how many times.

Q Where did you see her usually? A On the deck.

Q Did you sit at the same table? A One meal as I recall.

Q Was Mrs. Stevens ill on the way back? A She was seasick.

Q Was anyone else seasick on the return trip, of your party? A Yes, the young lady that I cannot remember her name—Miss Vogel, she was sick.

Q Did Mrs. Stevens have a state room by herself on the return trip? A I believe she said she did; I am not sure.

Q Do you remember whether there was anyone taking care of Mrs. Stevens on the return trip? A She said—

The Court: The stewardess?

The Witness: Yes.

Q Did you take care of her? A No, I did not.

Q Were you solicitous about her condition at all? A I asked her how she felt when I saw her.

Q But besides that you were not interested? A Not if she had someone to look after her.

Q Then your solicitation for Mrs. Stevens' health or welfare didn't arise until you arrived in New York at the pier, is that right? A Yes.

Q What occurred then to awaken your interest? A Purely the fact that I didn't think a gentleman should leave a woman when she is in distress.

Q That was your only reason for staying with Mrs. Stevens? A That is my reason.

Q You said that you didn't think a gentleman should leave a woman who was in distress? A That is true.

Q Yet it never occurred to you as a gentleman that it might be improper for you to remain all night in Mrs. Stevens' house? A It did not occur to me.

Q Had you ever stayed at Mrs. Stevens' house before you left for Bermuda? A I had not.

Q Had you ever been in her house before? A I had.

Q Alone? A No.

Q With whom? A With various people, at parties; I don't recall who.

Q But never alone? A Never alone.

Q Was your car ever outside of Mrs. Stevens' house as late as three o'clock in the morning, before you went to Bermuda? A No, sir.

Q Did your wife ever speak to you about that? A No, sir.

Q Did your wife threaten to leave you, or did she leave you, as the result of finding your car outside of Mrs. Stevens' house at three o'clock in the morning? A No, she did not.

Q Wasn't that one of the causes of your estrangement? A No, sir; it was not.

Q What was the cause of your estrangement with your wife?

Mr. Newman: I object.

The Court: He said this so-called raid was one of the causes.

The Witness: That was the cause of her directly leaving.

Q Did you come off the pier in New York, on your return from Bermuda, with Mrs. Stevens? A I took her to a taxicab, accompanied her.

Q Did you walk off the pier together? A Yes.

Q And then you got into a taxicab? A Yes.

Q Where did you go? A Erie Ferry, 23rd street.

Q And went out to Montclair? A Yes.

Q When was the first effort made by either Mrs. Stevens or yourself to get in touch with someone to take care of Mrs. Stevens? A About five o'clock, when her car arrived.

Q When you got off the ship in New York Mrs. Stevens had planned to go to Torrington, Connecticut? A Yes.

Q Why didn't she go to Torrington? A I told her she wasn't in condition to go.

Q You thought she was in condition to go out to Montclair? A There is much difference in the trip to Montclair.

Q How much difference? A About two hours.

Q As much as two hours? A By train, yes.

Q Did you discuss with Mrs. Stevens, while you were still in New York, as to whom you might get to take care of her when you got back to Montclair? A No.

Q It didn't occur to you, until you got out to Montclair, she needed someone? A That is right.

Q But still she was seriously enough ill for you to object or prevent her going to Torrington? A That is right.

Q Did it occur to you while in New York that Mrs. Stevens might stay at a hotel in New York? A It did not.

Q What time in the afternoon did you get to Montclair? A Between three and four, I should say; I am not positive.

Q Until five o'clock no effort was made to get anyone? A That is right.

Q It was about five o'clock before either you or she thought that her illness was serious enough to necessitate your staying with her? A No, that is not right.

Q Why didn't you call up someone before five o'clock? A She would arrange for that.

Q Why didn't she call? A I don't know.

Q You were there to take care of her? A I was there to give any assistance I could.

Q You mean in a negative manner, you merely waiting for her to call on you? A If

she asked me to do anything, I was there to do it.

Q Was Mrs. Stevens ill other than the effects of her seasickness? A I don't know.

Q Did you at that time know? A No.

Q Did you suspect there was anything else the matter? A I might have suspected.

Q Did you suspect? A I did not, no.

Q What did you intend to do if Mrs. Stevens called on you for help? A I would get someone to help her.

Q Whom would you get? A Get a physician or someone.

Q Why didn't you get a physician before she might become seriously ill, if you were hanging around there to take care of her? A She didn't desire me to get a physician.

Q Did you suggest that you would get one? A I don't recall, I think I did.

Q And she said, "Never mind"? A Yes.

Q Did she say why she didn't want a physician? A She said she had these attacks right along and that she was getting the Bunnells—she was going to get the Bunnells to come down.

Q The trip to New York to Torrington would be too long, you say, for Mrs. Stevens to take, much longer than coming from New York to Montclair? A Yes.

Q About two hours longer? A I should say two hours longer.

Q Can't you make faster time coming down from Torrington in an automobile than you can by train? A About half the time.

Q Can you come down from Torrington, Connecticut, to Montclair more quickly in an automobile than you can in a train? A You can.

Q You can go in half the time by automobile? A On certain trains, yes.

Q Have you ever gone to Torrington in an automobile or come back from there in an automobile? A Yes, I have driven from Torrington in an automobile.

Q How long did it take? A About three hours.

The Court: To New York or Montclair or where?

The Witness: I have never driven to Montclair.

Q Where did you drive to? A New York.

Q Whereabouts? A Columbus Circle.

Q How long did it take you? A About three hours.

Q How far is it from Columbus Circle to Torrington? A About one hundred miles.

Q Have you ever driven from New York, from Columbus Circle or 42nd street, to East Orange? A Yes, I have.

Q How long did that take you? A It depends on the ferry trips. If you make quick connection by going to 23rd street, you can make it in three-quarters of an hour.

Q How long would it take you to go in an automobile from 59th street to 23rd street? A I should say twenty minutes, twenty-five, according to traffic.

Q So all in all it would take at least four hours to go from Torrington, Connecticut, to Montclair, wouldn't it? A It would take me that long.

Q You cannot do it in four hours if you went at the rate of fifteen or twenty miles an hour, can you?

The Court: That is quite evident you cannot, if it is 103 miles.

Q You say you can make it much faster than that? A Yes.

Q For anyone to make it in quicker time than four hours, they would have to go quicker—

The Court: Faster than he drove.

Q About how fast a rate of speed do you keep up on a trip like that? A I refuse to answer.

The Court: What rate of speed do you keep up? You are neither intimidating yourself nor degrading yourself by telling about it.

The Witness: About thirty miles.

Q Did you personally telephone to anyone when you were in Mrs. Stevens' home in Montclair on the 24th of August? A No.

Q You didn't telephone to your wife? A I did not.

Q Or your mother? A I did not.

Q Where was your wife at that time? A I presume at 100 Roosevelt avenue.

Q You didn't know? A No.

Q You were not interested? A No.

Q You have a son? A I have a daughter.

Q She is twelve years old? A Yes.

Q Was she with your wife? A Yes.

Q Where was she at that time? A 100 Roosevelt avenue, East Orange.

Q Your mother was at Roosevelt avenue at that time? A Yes.

Q Did you telephone to her? A No.

Q When did you first get in touch with your home or anyone in it? A The next morning.

Q What time? A Between around ten o'clock after I left Mr. Beggs' office in Paterson.

Q With whom did you communicate? A My mother.

Q What was the purpose of that? A Simply communicated with her to find out if she knew anything about what was going on.

Q Your purpose in communicating with your home was not to let them know you were home, or find out whether they were well, but merely to let them know what had occurred the night before, before the newspapers would tell them, is that right? A No, it is not.

The Court: What do you mean by your answer, to find out if they knew what was going on?

The Witness: If my mother knew anything about what had occurred the night before.

The Court: Did you suspect that your wife had a hand in this matter of having Mr. Corbally and his party call at this house?

The Witness: I did.

Q Why did you suspect that she had anything to do with it? A Because they had a photograph that came out of a trade publication. As I thought it over, I didn't think of anyone else that had a copy of that except her.

Q Is that the picture the officer showed you? A Yes.

Q You suspected that Mrs. Paswaters had something to do with this raid? A I did.

Q Was there anything else that made you think that your wife had some hand in this raid? A No, sir.

The Court: Anything other than the picture?

The Witness: That is all.

Q Did Mrs. Paswaters know of any relationship that you had with Mrs. Stevens? A I had no relationship with Mrs. Stevens.

Q Did Mrs. Paswaters know that you were at all intimate with her? A I wasn't intimate with Mrs. Stevens.

Q I mean in a friendly relationship. A I was never in her company except when she was there.

Q When your wife was present? A Yes.

Q So the mere fact that they had a picture from a trade publication made you think that your wife must have given it to them? A Yes.

Q Whether your wife knew that you knew Mrs. Stevens or not, or whether you knew Mrs. Stevens intimately or not? A Yes, sir.

Q You also suspected Mrs. Stevens of having something to do with this raid? A I did, until she denied it in Mr. Beggs' office.

Q Why did it occur to you that Mrs. Stevens framed you up, if you were the one, as you say, who insisted throughout the evening before to stay over night with her? A Because I went to bed perfectly alone in a room, with the door shut; I awakened out of sound slumber and found Mrs. Stevens sitting on the edge of the bed and her husband standing there, and someone asking if she was his wife.

Q In spite of the fact that Mrs. Stevens told you to go home? A Yes.

Q Did that occur to you? A No, not at the time.

Q Didn't it occur to you that you were the one that insisted on staying with her from the time you left the pier in New York until the following morning? A Yes.

Q Then why did you think that Mrs. Stevens framed you up? A I have given you the only reason I can.

Q You say you are sure that Mrs. Paswaters had never spoken to you about Mrs. Stevens? A Positive.

Q And that she never found your automobile out in front of Mrs. Stevens' house at three o'clock in the morning? A The only time it was ever in front of her house at night was when she was with me.

The Court: Was it ever there as late as three o'clock in the morning?

The Witness: No, never.

Q When were you persuaded that Mrs. Stevens didn't frame you up? A In Mr. Beggs' office the next morning, in Paterson.

Q Was that your purpose in going out to Paterson with Mrs. Stevens? A To find out the status of her relations with Dr. Stevens.

Q What did Mr. Beggs know about this raid? A What I told him.

Q How could you find out from Mr. Beggs whether or not Mr. Stevens framed you up? A I could find out whether she was telling the truth about her relations with him.

The Court: With her husband, you mean?

The Witness: Yes.

Q What did she say as to her relations between herself and Dr. Stevens, in Mr. Beggs' office? A That he never supported her, never kept her, never paid her bills, and deserted her before that time; hadn't lived with her for two years, approximately.

Q What did they say there that persuaded you that she didn't have anything to do with this raid? A Because if that condition existed and if she hadn't communicated with him and wasn't friendly with him, there wouldn't be any collusion between the two of them.

Q What difference did it make to you whether or not Mrs. Stevens was friendly with Dr. Stevens? A If she convinced me that she wasn't friendly with him and had not lived with him and was not on friendly terms, there couldn't be any collusion between them to blackmail me or trap me.

Q Isn't it a fact that you knew of Mr. Stevens and that after the raid you felt sure that Mrs. Stevens informed Dr. Stevens that you were going to be there on that night? A No, it is not the fact.

Q Have you ever taken care of any women for any illness? A I don't understand the question.

Q Have you ever taken care of any women for any illness? A Do you mean act as a nurse?

Q Yes. A No.

Q What did you think you could do for Mrs. Stevens, if she should become suddenly seriously ill on this night? A I answer that by saying that I would get in touch with someone, a hospital or someone, that would take care of her.

Q Mrs. Stevens was sick enough to have someone there to watch her? A She was sick enough that she should not be left alone in the house.

Q Did you make any effort to get a nurse to come to the house? A No, I did not.

Q Why didn't you take her to a hospital? A Because she expected these people until it was late in the night.

Q The Bunnells? A Yes.

Q How late in the night was it? A After twelve o'clock.

Q Then you knew at nine o'clock it was impossible for the Bunnells to be there until one o'clock in the morning? A They usually came at that time, yes.

Q How do you know that? A Because I do know it.

Q How do you know it? A Because he told me so.

Q Who? A Mr. Bunnell.

Q That he usually comes through at one o'clock in the morning? A That he usually comes down at night.

Q You knew that until one o'clock in the morning there would be no one with Mrs. Stevens except yourself? A I did.

Q Then you knew also that if anything should occur between eleven-thirty and one o'clock in the morning, you would have to get a physician? A Yes.

Q Did it occur to you that there might be any difficulty in getting a physician or nurse at that hour in the night? A No.

Q Did you have anything to drink that night? A I did not.

Q Nothing? A Nothing.

Q Have any ginger ale? A I did not.

Q Did you have anything to drink when you had your supper that night? A I did not.

Q Was there anything to drink in your room? A There was not.

The Court: You mean liquor?

Mr. Hauptman: Yes.

Q Was there a bottle of whiskey? A No.

Q And two glasses? A There was not.

Q Ginger ale? A There was not.

Q Did you hear Mrs. Stevens go downstairs for ginger ale at about midnight? A I did not.

The Court: What hour did you retire?

The Witness: Sometime after 12:20.

Q Was that before or after Mr. Bunnell telephoned that he wouldn't come out? A I retired after he telephoned.

Q To whom did he speak? A Mrs. Stevens.

Q Mrs. Stevens retired at ten o'clock? A Yes.

Q You were there to take care of Mrs. Stevens? A Yes.

Q When Mr. Bunnell called from Yonkers, who answered the telephone? A Mrs. Stevens.

Q You were there to take care of her, and yet Mrs. Stevens got up out of bed to answer the telephone after ten o'clock at night? A She did.

Q Why didn't you answer the 'phone? A Because she was expecting a call from the Bunnells.

Q Didn't you refrain from answering the telephone because you didn't want anyone to

know there was a man in the house? A I did not.

Q With Mrs. Stevens? A I did not.

Q You are sure that Mrs. Stevens told Mr. Bunnell you were there? A I am positive.

Q Is that why Mr. Bunnell said it was all right? A Yes.

The Court: How well had you known the Bunnells up to that time?

The Witness: I knew Mr. Bunnell quite well and his family also, through business.

Q For some time prior? A Yes.

Q On the day following the raid you went to Paterson with Mrs. Stevens to see Mr. Beggs? A Yes.

Q And then where did you go? A Back to Montclair, after telephoning.

Q Telephoning to whom? A My mother.

Q And you went back to Montclair with Mrs. Stevens? A Yes.

Q To Mrs. Stevens' house? A Yes.

Q What did you do there? A I didn't do anything.

Q How long did you remain there? A I should say approximately an hour, long enough for her to get her baggage ready to go to Torrington.

Q Was she still very ill? A She was ill, very nervous and excited.

Q What did you do besides getting your baggage in Montclair; what else did you do? A That is all.

Q Did you telephone to anyone? A I telephoned previous to that.

Q To whom? A To my mother.

Q Did you telephone anyone else? A No.

Q Did Mrs. Stevens telephone anyone else? A I don't remember.

Q Do you know whether she telephoned to Mrs. Bunnell that she was coming? A I don't remember.

Q What time was it that you left for Torrington? A Between twelve and one o'clock; I am not positive.

Q At noon? A Yes.

Q What time did you get out to Torrington? A About six o'clock I imagine.

Q It wasn't ten o'clock in the evening? A It was not; it was early.

Q Did you stay at Torrington until ten o'clock? A I stayed there all night.

The Court: At the Bunnell's?

The Witness: Yes.

Q Was Mr. Bunnell at home when you got back to Torrington? A He was home, yes.

Q When did he get home, do you know? A I don't know. He came up from Yonkers or from New York.

Q From his apartment in New York? A I believe he said he did.

Q What was your purpose in going back to Torrington with Mrs. Stevens? A To leave her there.

Q Because you didn't want to let her go alone? A Yes.

Q Why didn't you get in touch with Mr. Bunnell, who you knew was in New York, and have him take her back? A I believe she did; she talked to him about it.

Q Before? A Before we went to Torrington.

Q In the morning? A I don't remember; when he called, I said.

Q He called up about noon? A That is my impression.

Q If he called up why didn't she go with him? A I don't know why.

Q Did it occur to you that it might be a good idea for her to go to Mr. Bunnell, so you could go home to your family? A No, it did not.

The Court: Who suggested that you accompany her to Torrington?

The Witness: Mr. Bunnell.

The Court: To whom did he suggest that?

The Witness: He suggested it to Mrs. Stevens.

The Court: What was the purpose of her trip to Torrington at that time, if you know?

The Witness: She had been there all summer, as I understand it.

The Court: Do you know why she was returning to Torrington again at that time?

The Witness: She was going back to complete her visit; her son was in camp up in that neighborhood.

Q Do you know why Mrs. Bunnell didn't come down to Montclair the night before? A I do not.

Q Do you know why she didn't come down on Monday instead of Mrs. Stevens taking this trip to Torrington?

Mr. Van Blarcom: That wasn't Monday.

Mr. Hauptman: I mean the day after the raid.

A I do not.

Q Did this raid have any effect on Mrs. Stevens' condition? A Naturally, yes.

Q In what way? A She was very nervous.

Q Was she more sick as a result of this raid; did it make her more nervous and more uncomfortable? A Yes.

Q Was she more ill? A I wouldn't say that she was more ill.

Mr. Newman: I would like to withdraw this witness, to examine two physicians.

The Court: You may do that.

DR. JOHN THEODORE EDDY, sworn.

Direct examination by Mr. Newman.

Q Where do you practise your profession? A Montclair.

Q What is your profession? A Osteopathic physician.

Q And did you sometime in the month of July, 1922, treat Mrs. Stevens? A I did.

Q And can you tell us when you called there? A I called there on the 26th of July, 1922, and two days later.

Q What did you treat her for? A Cramps and hemorrhage, apparently.

Q What was that due to? A Menstrual disturbance, apparently.

Q That was her menstrual period? A Supposedly.

Q Did you have occasion to treat her again in the month of September? A I treated her on the 22nd of September.

Q What was that for? A That was a series of cramps and hemorrhage.

Q Was that her menstrual period? A I understood so.

Q Who was present the first time you treated her in July? A I don't know.

Q Was Mrs. Bunnell there, do you remember? A There was a woman there; I don't know who it was.

Q At your office or her home? A At her home.

Q Would you recognize the lady? Is this the lady (indicating Mrs. Bunnell)? A Yes, I should say so.

Q You say you treated her on September 22, 1922? A I did.

Q And that was her menstrual period? A Yes.

Q Doctor, assuming that Mrs. Stevens was normal in her menstrual period, that is, they were regular, and that you had treated her on July 26th and again on September 22, 1922, would it be quite probable and reasonable that her menstrual period would have occurred on or about August 25th? A It would.

Q Or been present at that time? A Yes.

Q These dates that you have given us, you have taken from some memoranda, have you? A They were taken from my books at the time I signed an affidavit.

Q Was her menstrual period severe—Mrs. Stevens'? A It was spasmodic; it was in hemorrhage and then cramp.

Q Was that painful and severe? A I should say yes, very; she seemed to be prostrated; she was in cramps spasmodically.

Q What treatment did you give her; how did you relieve the condition? A Lower spinal treatment.

Q Did that relieve her, doctor? A It did relieve her.

Q Doctor, do you recall treating Mrs. Stevens in November, 1920? A I cannot say I treated Mrs. Stevens in 1920.

Q Do you recall treating her in 1920 for a dislocated shoulder? A I treated her in 1920 for a bruised and sprained shoulder, which I wouldn't state was a completely dislocated shoulder.

Q Can you tell us whether that wasn't in the month of November, 1920? A I cannot.

Q Were you the family physician of the Stevens'? A I had been called there quite frequently at different times.

Q By Dr. Stevens and Mrs. Stevens? A Dr. Stevens, for the boy and himself and his wife.

Q Do you recall getting a letter from Dr. Stevens in the month of February, 1921, with respect to your service to Mrs. Stevens? A I cannot say positively that I did get one.

Q Did you ever receive a letter from him to this effect—

The Court: Is this the letter?

Mr. Newman: Letters were written to several people; this is a copy of a letter:

"I wish to inform you that Mrs. Stevens has set up a separate establishment and is suing me in the courts of this State with reference to our matrimonial matters. I will

not be responsible for any debts contracted or to be contracted by her in my name or otherwise."

Dated February 4, 1921.

Q Do you recall receiving a letter to that effect? A I cannot say that I did, although I have either heard those words or seen the letter to that effect. Someone may have told me that.

Mr. Hauptman: No cross examination.

DAVID H. CRAWFORD, sworn for defendant.

Direct examination by Mr. Newman.

Q You are a practising physician and surgeon in this city? A I am, for about twenty-two years.

Q Where is your office located? A 26 Elizabeth avenue.

Q Where was it located in July, 1915? A 331 Belleville avenue.

Q Do you know Mrs. Stevens? A I do.

Q Did you have occasion to treat her in July, 1915, when she lived at 96 Broad street? A I did.

Q Did you treat her at her home? A No.

Q At your office? A At the office.

Q What did you treat her for? A She had several contusions about the forehead, and then the eyes, the upper eyelid, and there was a swelling of the left lower eyelid, which later, of course, became discolored in a day or two; I saw her two or three times after that.

John H. Paswaters, further cross.

Q That is what is commonly known as a black eye? A A black eye, a black and blue eye.

Q How did Mrs. Stevens come to come to your office? A She was brought there by the manager of the Oriental Pharmacy, a Mr. Hatch; it was about half-past eleven at night that she came to my office with him.

Q Did she give you a history of the case? A As I recall the history—

Q (Last question repeated.) A Yes.

Q What was the history of the case?

Mr. Hauptman: How is that competent? A conversation between her and this gentleman occurring eight years ago.

The Court: I will sustain the objection.

Mr. Hauptman: No cross examination.

JOHN H. PASWATERS, recalled for further

Cross examination by Mr. Hauptman.

Q Did you drive Mrs Stevens' car part of the way up to Torrington from Montclair? A Yes.

Q All the way? A Yes.

Q And on the day before, in the afternoon of your arrival in Montclair, did you drive the car when you went to Mrs. Lee's and to the delicatessen store? A Yes.

Q What kind of a car do you own? A Now?

Q Then, at that time. A Stutz and a Chandler, two cars.

John H. Paswaters, further cross.

Q What kind of a car did Mrs. Stevens own at the time? A Franklin.

Q Mrs. Stevens wasn't too ill to make the trip to Torrington, was she? A She probably was so ill that she should not have made the trip, but it seemed to me the advisable thing to do, under the circumstances.

Q Wouldn't it have been easier for you still to get a nurse? A No, not under those conditions.

Q Why? A Because of the happenings the night before I thought it was the place where she should go, among friends, where they would take care of her.

Q Did it occur to you to telephone to Mrs. Bunnell to come down there so Mrs. Stevens could be with friends at her own house? A No, it did not; this was my plan.

Q Which was your plan? A To have her go to Connecticut.

Q Then it wasn't Mr. Bunnell who suggested that you take her up? A Yes, he suggested that I take her up.

Q But it was your plan that she go? A Yes.

Q What was it that occurred, so that your mind was changed from the day preceding; that day you didn't think that Mrs. Stevens was well enough to take a trip to Torrington, and after she had gone through the raid, you felt that she could make the trip. Was her condition any better? A I wouldn't say that it was.

The Court: Why did you change your mind?

The Witness: Because of the happening.

John H. Paswaters, further cross.

The Court: Because of the raid?

The Witness: Yes.

Q How did the raid affect the situation so that your mind would be changed in that way? A Because I felt that she should be with her friends, away from the proposition, after what had happened.

Q How long had Mrs. Stevens lived in Montclair at that time? A I don't know.

Q Over a year, wasn't it? A I don't know.

Q How long had you visited her over in Montclair? A About four or five months.

Q And at those visits—you say they were always at parties, you never visited her alone? A No, never.

Q About how many people used to go to those parties ordinarily? A Various numbers—four, five and eight.

Q Of those numbers, were any of them friends of Mrs. Stevens? A They were all friends of Mrs. Stevens.

Q Any of them live around Montclair? A Not that I recall.

Q Any of them live any nearer to Montclair than Torrington, Connecticut? A East Orange.

Q Did you or Mrs. Stevens, either on the day of the raid or the day after, make any effort to get any of these friends to take care of Mrs. Stevens? A I did not.

Q Did Mrs. Stevens, as far as you know? A I don't know.

Q Was it suggested that one of her local friends be called in? A Not that I recall.

Q Were you with Mrs. Stevens at any time after the raid, when she telephoned to her husband? A No.

John H. Paswaters, further cross.

Q Do you know that she telephoned to her husband? A I do not.

Q Were you there when she telephoned to the doctor, that the doctor should give her credit for picking a good one? A Not to my knowledge; I didn't hear the conversation.

Q Are you sure you were not there at that conversation? A I did not hear any such conversation.

Q When you telephoned to your mother that morning after the raid, did you tell her about the raid? A In some respects, not fully.

Q Had she known anything about the raid until you telephoned her? A Did she know about it?

Q Yes. A She said she did.

Q Did you learn how she knew? A Yes, she told me how she knew.

Q What did she say, Mr. Paswaters? A She said that Dr. Stevens and my wife had been riding up near Orange in my car, hatching some kind of a plot; she tried to get me on the 'phone when she found out that Dr. Stevens had communicated certain information. She tried to get me on the 'phone and he called up—do you want the conversation in full?

Q Yes. A Called up my mother on the 'phone and said, "You call up the house and say someone is trying to get in touch with him up there. If you double-cross me, by God, I will come down and fix you."

Q Who said this? A Dr. Stevens, to my wife. The next morning when I telephoned to my mother, I asked for my wife, and she said, "She is out with Dr. Stevens now, that is why you cannot talk to her."

John H. Paswaters, further cross.

Q That is the morning after the raid? A Yes, riding in my car.

Q Were they still hatching up a plot? A No, I don't know what they were doing; you will have to draw your own conclusions.

Mr. Van Blarcom: Did your mother tell you anything else?

The Witness: She told me the whole story.

Q Then your wife certainly knew all about Dr. Stevens and your relationship with Mrs. Stevens before the raid? A I was away when she made her acquaintance with Dr. Stevens.

Q You know now that your wife knew about your relationship with Mrs. Stevens before the raid? A I don't quite understand your question with regard to relationship.

Q That you were intimate with Mrs. Stevens. A I was not intimate with her.

Mr. Hauptman: I don't mean the way you mean.

The Court: You don't mean improperly, but that he had acquaintance with her?

Mr. Hauptman. Yes, intimate acquaintance with her.

The Witness: Yes, she knew it, certainly.

Q You had had some trouble with your wife about Mrs. Stevens? A I had not.

Q You said she tried to hatch a plot with Dr. Stevens to catch you? A Yes, she did.

Q Had your wife ever made any effort before that to get rid of you? A Yes, she had tried to blackmail me twice before.

Q How? A Tried to get money out of me twice before.

Q Blackmail? A If you want to call it that.

Q Because of your relationship with other women? A Because of my suspected relations with other people, one being an aunt forty-five years of age.

Q Your wife is of a very suspicious nature? A Yes, almost to the point of insanity.

Q Was it unusual for anyone to suspect improper relationship where a man stayed over night in the same house alone with a married woman?

The Court: I don't think we care about his opinion.

Re-direct examination by Mr. Van Blarcom.

Q While you were in Bermuda did you send any letters or postal cards home? A Yes, I sent letters and postal cards.

Q To whom? A To both Mrs. Paswaters and my child, both of the Mrs. Paswaters.

Q To your mother, also? A Yes.

The Court: Your mother, your wife and child?

The Witness: Yes.

Q Did you let them know what steamer you were coming back on? A Yes.

Q And the date? A Yes.

Q Whom did you send that letter to? A A general letter to the family.

The Court: To whom did you address it, your wife or mother?

The Witness: I think the envelope was addressed to my wife; the letter was addressed to the family.

Q Who is this Dr. Walker you spoke of? A British Health Officer of the Island of Bermuda.

Q Did you say that he tried to make a reservation for Mrs. Stevens for Saturday instead of Monday? A He did; he tried to use his influence.

Q You also said that she was sick on the way back; do you know whether there was anything else the matter with her or not? A I do not know.

Q When you say she was sick, that was as far as you knew? A I know she didn't come to her meals.

The Court: Did she have a deck chair?

A Yes.

Q Near yours? A I think three away.

CHARLES M. BUNNELL, sworn for defendant.

Direct examination by Mr. Newman.

Q Mr. Bunnell, where do you live? A Montclair, New Jersey.

Q Where did you formerly live? A I moved from Torrington, Connecticut, in March of this year.

Q What is your business? A I am in the electrical appliance business.

Q What capacity? A General sales manager of the Torrington Company.

Q How long have you been connected with that concern? A Three years.

Q And prior to that where were you? A Fourteen years with the General Electric Company.

Q In what place? A At Harrison, New Jersey.

Q And in what capacity did you act there? A I had charge of the automobile lamp sales department.

Q The Torrington Company you are now connected with? A Yes, we have eleven million capital and over one hundred branches from coast to coast.

Q Do you recall, Mr. Bunnell, getting a telephone call from Montclair on the night of August 24, 1922, from Mrs. Stevens? A I recall a telephone conversation; I think Mrs. Bunnell received the call.

Q What as a result of that call did you do? A Mrs. Bunnell came out in the garage and said that she and Mrs. Stitchbury, a relative of ours from Baltimore, were ready to accompany me to New York. As I had driven in from Boston the night before and understood that Mrs. Stevens was coming up the next day, I thought it was very foolish to take Mrs. Bunnell down and back the next day, so I told them that they could not go, I was going to go alone; I was to be very busy the next morning, and I couldn't be bothered with lugging a couple of women over to Montclair that night.

Q Did you go? A I did.

Q What time about did you leave Torrington? A I should say I left about nine o'clock, shortly after.

Q Where did you go to, if I may ask? A My final destination?

Q Yes. A My apartment, 40th street—34 East 40th street, New York City.

Q Did you maintain an apartment in New York City? A The company maintains an apartment there for the executives; I had a room there.

Q And when you got to New York, what did you do? A When I got to Uptown New York, I decided I was pretty tired, and I called Mrs. Stevens up and learned that she was not feeling very well, and that Mr. Paswaters was there, and I told her if I got downtown in the apartment and didn't feel too tired, I would come over to Montclair, and when I got down to the apartment I was tired, and I did not go over to Montclair.

The Court: What hour was that?

The Witness: It was shortly after midnight.

The Court: Did you 'phone?

The Witness: I 'phoned previously to my arrival at the apartment, from Uptown New York.

Q What did you say to Mrs. Stevens with reference to Mr. Paswaters? A I knew that Mr. Paswaters was there before I left Torrington, and I knew he was there when I called her up, and I felt if there was anything serious to develop, he was there and would see that she was properly taken care of.

Q How long have you know Mr Paswaters? A Oh, a couple of years, I guess.

Q And has he been to your home? A He has, many times.

Q Did he ever stay there over night, at your home? A He has.

Q At any time alone with your wife? A I think one time I told him to take Mrs. Bunnell back to Torrington; I think he stayed there; we had a big house, and there were always a number of guests staying there, and it didn't make much difference whether he was there or not. I don't know as he was alone; it wouldn't have made any difference if he had been alone.

Q Do you recall in 1915 seeing Mrs. Stevens, when she was bruised? A I do.

Q What was her condition at that time? A She had a black eye and she was very much excited over it.

Q Did you have occasion to call on Mr. and Mrs. Stevens during their married life? A A number of times; we lived in the same apartment with them, and then we visited them many times after we moved to Montclair, and they moved down into Broad street, Newark, or some other place—Mt. Pleasant avenue.

Q Can you tell us how they got along together, what you observed, fixing the date as near as you can?

Mr. Hauptman: I object to the first part of the question; as to what he observed, we have no objection, but as to how they got along together.

The Court: I will receive it.

A It is pretty hard to fix the time.

Q From what you observed did they get along happily or harmoniously? A No, I should say not; the situation seemed to be very much strained, and a very disagreeable atmosphere, so that we merely called on Mrs. Stevens, be-

cause we sympathized with her and we liked her.

Q How did they treat each other in your presence? A Mr. Stevens was always very disagreeable and ugly to her.

Q How was she? A She seemed to be very subdued and afraid to say anything when he was around.

Q Did you ever hear him use any language to her that was improper? A I frequently heard him threaten to knock her block off and knock her teeth out, and things like that.

Q When and where were they living at the time? A It was after the baby was born, and I think they were living on Broad street in an apartment, and then later after they moved to Montclair, they lived in a house in Midland avenue, I would say in 1915 right up to 1920.

Q Did he evince the same attitude toward her that you observed on this occasion that you are telling us about? A As I said, at all times, and it was very unpleasant, and Mrs. Bunnell and I simply called on Mrs. Stevens because we liked her, but it was a very disagreeable visit, and after awhile we didn't call so frequently.

The Court: There is a counter-claim?

Mr. Newman: Yes.

The Court: On what ground?

Mr. Newman: Constructive desertion.

The Court: Alleged to have occurred when? From what time?

Mr. Newman: January, 1921.

The Court: Up to what date did you and Mrs. Bunnell continue your visits at her home?

The Witness: From 1914 right up to 1920, the fall of 1920, and then again in 1921, and from there on.

Q What time in 1920 did you resume? A In the fall of 1921, I believe, I am not positive about that.

RECESS.

Q Do you recall seeing Dr. Stevens at the Robert Treat Hotel about the time that Mrs. Stevens was in Chicago at the sanitarium? A I do.

Q Can you fix the date? Perhaps I can, without offense, fix the time. Was it in the year 1918? A I should say it was about four or five years ago last summer.

Q In any event it was at the same time that Mrs. Stevens was in Chicago being attended to medically? A Yes.

Q Did you have a talk with Dr. Stevens? A I saw Dr. Stevens in the dining-room with a lady, and after he left and went out into the lobby, he approached me and asked me not to say anything to Marjorie about seeing him there.

Q What did he do after that? A Mrs. Bunnell and I came over to the corner of Hahne's department store and we saw him come across the park and walk up Broad street and catch a car and go up Broad street.

Q Was the lady with him? A Yes.

Q Do you recall some time in May, 1921, meeting Mrs. Stevens on Broad street? A I do.

Q Did you see anyone following her or with her? A I was walking along Broad street and saw Mrs. Stevens and Mr. Stevens on the curb,

and I went up to her and I said, "What is the matter, Billie?" And Mr. Stevens turned about and walked rapidly away, and she told us that he had been following her along Broad street and threatening her.

Cross examination by Mr. Hauptman.

Q On this occasion that you met Mr. and Mrs. Stevens on Broad street, Newark, didn't you speak to Mr. Stevens at that time? A No, I did not; I said, "What is the matter, Billie?"

Q You had known Dr. Stevens before that? A Yes.

Q Didn't Mrs. Stevens say to you, "Meet my husband"? A I don't recall; I don't think she did; I don't think he stayed long enough after that.

Q On this occasion that you say that you saw Dr. Stevens with some lady in the Robert Treat Hotel, what time of the day was that? A I think that was around lunch time.

Q You say he came out of the dining room with this lady? A Yes.

Q You are friendly with Mrs. Stevens, aren't you? A Mrs. Stevens was a very good friend of my wife's and myself.

Q Is Dr. Stevens a very good friend of yours? A I never considered him so.

Q You are far more interested in Mrs. Stevens than you are in the doctor? A I was never so very much interested in Mr. Stevens.

Q In whom?

The Court: Dr. Stevens.

Q On August 24th, when you telephoned to the home of Mrs. Stevens and spoke to her, from

where did you telephone? A Uptown New York.

Q Whereabout? A I don't recall the exact place; it was very late at night; I think I stopped and got some cigars and telephoned from a little cigar store on upper Broadway, New York City, or Yonkers, right near the line.

Q You don't know whether it was Yonkers or New York City? A I know it was above 204th street where I would normally turn to go over the Dyckman Street Ferry.

Q Do you know whether it was from Yonkers? A I don't remember that.

Q Were you here at the last hearing in this matter? A No, I was not.

Q When you telephoned to Mrs. Stevens that night, what was your purpose in telephoning? A Telling Mrs. Stevens that Mrs. Bunnell and Mrs. Stitchbury were not with me, and finding out how she was, and if she was in such shape, or not attended, I would have come over.

Q Did Mrs. Stevens tell you that Mr. Paswaters was with her? A I knew it; she did tell me then; I knew it before I started from Torrington.

Q How did you know that? A Because she telephoned Mrs. Bunnell in Torrington. She told Mrs. Bunnell that Mr. Paswaters was there.

Q Then why did you want to find out whether she was attended or not? A I left at nine; I didn't know but what he had left before I got to New York.

Q You felt he might have left? A I telephoned to find out how she was and whether she needed my help.

Q Did you suggest to Mrs. Stevens that she get a physician or a nurse? A I don't remember.

Q What time was it when you telephoned to Mrs. Stevens from Yonkers or from New York? A Shortly after midnight, I should say.

Q It took you, then, a little over three hours? A About three hours to drive down, yes.

Q At that rate how long do you think it would have taken you to get to Montclair? A I could have reached Montclair in another hour.

Q Did you know at that time, on August 24, 1922, of any friction between Dr. Stevens and Mrs. Stevens? A I did.

Q Do you know what the cause of that friction was? A I should say from my observation in that home, that it was Dr. Stevens' very disagreeable manner.

Q Do you know the cause of that? A I don't know why he was disagreeable, no.

Q Do you know of any episode due to a difficulty which in turn was due to Mr. Paswaters? A I do not.

Q Or to a Mr. Burton? A No, I never heard of him.

Q Never heard of him? A No, sir; never did.

Q Did you know the Stevenses in 1918, in June? A I knew the Stevenses from the summer of 1912.

Q You knew nothing of any incident in connection with Mr. Burton? A I never heard of him.

Q Either heard it from Dr. Stevens or Mrs. Stevens? A No, I did not.

Q Ever read about it in the newspapers? A No, I did not.

Q You are sure about that? A I am quite sure.

Q You are quite intimate with Mr. Paswaters? A Very friendly with him.

Q Did you know that Mr. Paswaters was estranged from his wife? A I did.

Q Did you suggest to Mrs. Stevens that there might be some impropriety in a man who was estranged from his wife staying with a woman who was estranged from her husband? A There was no occasion to make such a suggestion.

Q Did you? A No, I did not.

Q Mrs. Stevens stayed at your home at Torrington on occasions? A Very many times.

The Court: Before and after August, 1922?

The Witness: Before and after.

Q And Mr. Paswaters has stayed at your home in Torrington? A Yes.

Q Have they ever stayed there over night at the same time? A We have had a number of parties at my home, and week-end parties.

The Court: Have they stayed over night at any time that you recall?

The Witness: Yes.

The Court: Both of them?

The Witness: Yes.

Q Is your friendship for Mrs. Stevens such that if you knew of any impropriety between Mrs. Stevens and Mr. Paswaters, that it would make no difference? A Will you repeat that question?

Q (Last question repeated.)

The Court: To you or your feeling toward her.

A In my testimony?

The Court: No, generally.

The Witness: I have never considered it because—

The Court: Will you consider it now?

The Witness: You cannot consider something that—you are putting a hypothetical question.

The Court: If it were so; he has and is asking you if it were a fact, would it make any difference in your relations or friendship for her?

The Witness: I would say no.

Q Wasn't it an accepted fact in your crowd, that is, the people that went together around Torrington, that Mrs. Stevens and Mr. Paswaters were quite intimate; friendly, I mean? A No more than any other friends in my home in Torrington.

Q Was Mr. Paswaters showing her any attentions? A Not that I ever have noticed.

Q Usually at dinner at your house who usually escorted Mrs. Stevens to dinner? A Our dinners are very informal; we suspense with anybody escorting anyone.

Q When you went off on parties—you did go off on parties in Torrington, various little trips? A We had many friends we visited.

Q Didn't you divide off in couples? A We did not.

Q Always went as one group? A Yes, always.

Q And Mr. Paswaters was never thrown in the company of Mrs. Stevens any more than anyone else? A Not at all; we had many ladies there and other gentlemen and there was no pairing off of couples.

Q Was there anyone else in your group that stayed over at your house in Torrington, any woman who was not living with her husband, or any man who was not living with his wife? A Not that I know of.

Q Did you ever hear from Mrs. Paswaters? A Yes.

Q Do you know her? A I wouldn't say I know her; I have met her.

Q Has she ever been at your house in Torrington? A No, never.

Q Has she ever been at your house anywhere else? A I don't recall; she might have been while I was away.

Q All this time that Mr. Paswaters would stop at your house on parties, Mrs. Paswaters was never there? A No.

The Court: Was she ever invited?

The Witness: I invited Mr. Paswaters. I never took the trouble to invite the members of his family.

(Last question repeated.)

The Witness: No.

The Court: Answer my question and don't dodge it the next time I ask you one.

Q Wasn't there anything unusual about that?

The Court: About what?

Q About having a married man without his wife? A No, because I took a number of men to my house on business.

Q On business? A Yes.

Q Was Mr. Paswaters there on business? A Later on he was.

Q You mean after the raid, don't you? A I mean he was in business, he was associated

with me after that in business and was at my house.

The Court: Do you refer to August, 1922, by "that"; what are you referring to by the word "that"?

The Witness: I am confused.

The Court: You are confusing everyone. Just listen to the question and answer it responsively.

Q What do you mean by "that"? A I mean he was associated with me in business after the raid.

Q He was not associated with you before that? A No. He was employed by me after the raid, and before that he was associated with business friends of mine, and that was the reason he was there.

Q Did he ever have any business relationship with you before this raid? A Yes.

Q In what way? A I called on him at McCreery's regarding having McCreery sell our vacuum cleaner.

Q Did he ever visit you at your home so you might sell him vacuum cleaners? A He visited at my home before the raid and I talked the vacuum cleaner business over with him.

Q So his visits to Torrington were business visits? A Business and pleasure when he came up to the week-end parties at my house.

Q And Mrs. Stevens was there on business, too? A Mrs. Stevens was not always there.

Q I mean when Mrs. Stevens was there she was there for business? A She was there visiting Mrs. Bunnell and myself.

Q Was there any occasion when Mrs. Stevens was in that house when you and your family were away?

The Court: In Mr. Bunnell's home, when none of the members of the family were there?

Mr. Hauptman: Yes.

A I don't recall.

Q Would you say that she never was there? A I don't recall it.

The Court: Don't take up time with unnecessary repetition now.

Q Is it a fact or not that Mrs. Stevens stayed in the house with Mr. Paswaters when none of your family was there? A It is not a fact.

Q After Mr. Paswaters gave up his position at McCreery's in New York, you got him his present position? A I employed him after he left McCreery's.

Q Do you employ him now? A I do.

Mr. Newman: If you knew that Mr. Paswaters and Mrs. Stevens had been guilty of impropriety and had sexual relations with one another, would you have permitted Mrs. Stevens to come to your home, knowing that fact?

The Witness: No, I would not.

Q If you knew that Mr. Paswaters and Mrs. Stevens were guilty of improper relations, would that have made any difference in your feeling towards them? A I would always feel friendly towards Mrs. Stevens and Mr. Paswaters, but I would not permit them to come into my home.

Q Did you know when they came to Torrington that there had been a raid the night before at Mrs. Stevens' house, on August 24th? A Yes, I talked to Mrs. Stevens around noon time on the 25th, and she told me about it, and—

Q Mrs. Bunnell, as a matter of fact, told Mrs. Stevens to come right up there that morning, when Mrs. Stevens telephoned up? A I told Mrs. Stevens to have Mr. Paswaters take her right up to Torrington, my home.

Q You knew there was a raid the night before? A Yes.

Q You didn't bother to find out whether there was anything to the raid or a frame-up or not, but you told them to go up to your house? A Knowing Mrs. Stevens, knowing Mr. Paswaters and knowing Mr. Stevens, I didn't think very much of it; I thought it was a stunt that he pulled off and it didn't amount to very much.

Q But if you knew that as a matter of fact they did have improper relationship, it would make a difference, and you wouldn't have invited them up to your house? A No, if I had believed that there was anything improper I wouldn't have invited them to my house.

The Court: He has told us that three times; don't let us have it again.

WILLIAM O. HENKE, sworn for defendant.

Direct examination by Mr. Newman.

Q Where do you live? A Montclair, New Jersey.

William O. Henke, direct.

Q Are you connected with the Connor Coal Company? A Yes.

Q In what capacity? A Treasurer.

Q Did you on February 4, 1921, receive a letter from Dr. Stevens? A Yes.

Q Have you the letter with you? A Yes.

Q Will you please produce it? A (Producing same.)

Mr. Newman: I offer in evidence this letter of February 4, 1921, the same letter that I read before in the record, but it is a letter that he has received.

(Marked Exhibit D. 3, December 5, 1923.)

"J. H. Connor,
85 Walnut Street.

Gentlemen:

I wish to inform you that Mrs. Stevens has set up a separate apartment and is suing me in the courts of this state with reference to our matrimonial matters. I will not be responsible for any debts contracted or to be contracted by her in my name or otherwise.

Very truly yours,
L. R. STEVENS."

Q Prior to that time had you been furnishing coal to the Stevens home? A Yes.

The Court: Did you stop furnishing as a result of that notice?

The Witness: Yes.

The Court: Did you withdraw credit from Mrs. Stevens as a result of that notice?

The Witness: Yes.

The Court: Has it ever been restored, the credit on the doctor's account?

The Witness: No, sir.

ISAAC H. CASHMAN, sworn for defendant.

Direct examination by Mr. Newman.

Q What is your business? A Butcher and meat and vegetables.

Q Where is your place of business? A 122 Walnut street, Montclair.

Q How long have you been in business there? A About twenty years.

Q Did you prior to February, 1921, supply meat and vegetables to Mrs. Stevens and Dr. Stevens? A Yes.

Q Did you on February 4, 1921, receive a letter from Dr. Stevens, which I show you? A I received a letter, but I didn't know what it was.

Q Looking at the letter directed to you and the date, that is the letter? A Yes.

The Court: The same letter.

Q As a result of that, did you withdraw credit from Mrs. Stevens? A I did.

Q And didn't supply her any more with meats? A I supplied her, but Mrs. Stevens paid for it.

Mr. Newman: It is the same tenor.

The Court: Offer it if you wish. Let it appear that it is the same tenor as the other.

(Marked Exhibit D. 4, Dec. 5, 1923.)

Cross examination by Mr. Hauptman.

Q For how long had you supplied the Stevenses with meat and vegetables before this letter? A Probably two or three years.

Q Did you have any idea how much per month Mrs. Stevens was spending in your place? A I cannot tell you exactly.

Q Was she one of your good customers? A She was a good customer, probably $50 or $60 a month, probably more than that, I wouldn't say for sure.

Q You say probably more than that? A Probably more or probably less.

Q Was there any one year that you furnished Mrs. Stevens with meat and vegetables that the bill for the year was as much as $1,800? A I cannot tell you.

Q That comes to about $35 a week? A I don't think they used that much.

Q Mrs. Stevens used to order her oranges and grape fruit by the case from you? A Yes, they had it by the case.

Q And the other things, meat and vegetables, did Mrs. Stevens order them in the same liberal portions? A I don't think they got any more than they needed.

Q From what they bought you could tell that they bought as much as they did?

The Court: If they bought, he could tell whether they bought as much as they did, naturally.

After he took credit from her, did she continue to buy on the same scale?

The Witness: She didn't buy as much.

Q Do you know whether Dr. Stevens lived at the house after that? A I cannot tell.

FRED S. BREESE, sworn for defendant.

Direct examination by Mr. Newman.

Q Where do you live? A Morris Plains.

Q Are you connected with the Public Service Gas and Electric Company? A I am.

Q And were you connected with them in February, 1921? A Yes, sir.

Q Did you receive a letter from Dr. Stevens with regard to withdrawing credit from Mrs. Stevens? A I did.

Q And have you the letter with you? A I have.

Q And the letter is to the same effect as the other letter that you heard read, is it? A (Producing letter.)

Mr. Newman: It is the same letter and same date.

Q As a result of that, did you discontinue serving Mrs. Stevens with electric light and gas until she had signed her own application? A I don't recall that the service was actually suspended. The doctor wrote us, as our customer, stating he would no longer be responsible, and we took application with Mrs. Stevens, making her the customer.

Q She signed a new application? A Yes.

ISIDOR KALISCH, sworn for defendant.

Direct examination by Mr. Newman.

Q Mr. Kalisch, you are a member of the bar of this state? A Yes.

Q And you have been called upon to produce a certain revolver and bullets? A Yes.

Q Under a subpoena? A Yes.

Q Have you the revolver with you? A Yes.

Q Will you produce it and the bullets? A (Producing same.)

Q Where did you receive them from? A From Mrs. Stevens.

A Of my own recollection, I cannot tell you; there is a memorandum put on it when I got it.

Q Will you refresh your recollection? A November 27, 1920.

Cross examination by Mr. Hauptman.

Q Where did you say you got them? A From Mrs. Stevens.

Q Where? A At my office.

Q Why did she deliver them to you? A She said something about some difficulty she had had with her husband the night before.

Q Did she come and consult you professionally? A Yes, I was at that time representing Mrs. Stevens.

Mr. Newman: You were her attorney?

The Witness: Yes.

Q Did you notify anyone that Mrs. Stevens was coming through the halls of the Kinney Building with a revolver in her hand? A No.

Q Did you telephone to Mr. Fransue, the superintendant? A I telephoned to him, but I didn't mention about the revolver.

Q What did you say? A I telephoned that Mrs. Stevens was in a rather excited state and wanted to visit the doctor's office, and that I thought it advisable that if that were permitted, that someone go down with her. At that time I had already put the gun and the bullets in the safe; I wouldn't let those remain with her.

The Court: Did you take them away from her forcibly?

The Witness: No.

Q Is that revolver loaded now? A I have taken the bullets out.

Q It was loaded? A Yes.

Q Did Mrs. Stevens say that she would attack the doctor with that revolver? A No.

Q Did Dr. Stevens have an office in the Kinney Building at the time? A Yes.

Mr. Newman: I will offer the revolver and the bullets in evidence.

The Court: They will be considered as marked.

(Marked Exhibit D. 5, December, 1923.)

MRS. MARGARET SCOTT, sworn for defendant.

Direct examination by Mr. Newman.

Q How old are you? A I am eighty-two.

Q What relation are you to Mrs. Stevens? A Her grandmother.

Mrs. Margaret Scott, direct.

Q Did you have occasion to call on Mr. and Mrs. Stevens frequently during their married life? A No, not very frequently.

Q You have been there on occasions, have you? A Yes.

Q Did you observe how Dr. Stevens treated Mrs. Stevens? A I was called there over the sickness of Mr. Stevens and he was in bed, I think, a week, and he got up, and dressed and came downstairs, on a Sunday morning, and his mother came that morning, I suppose to see—

Q Is his mother here in court? A Yes, she is here.

Mr. Newman: Will you stand up (addressing Dr. Stevens' mother)?

Q Is that the lady? Dr. Stevens' mother? A Yes, and Mrs. Stevens had occasion to go out to the avenue, a Sunday morning, and she took the car and went out to the avenue, and Mrs. Stevens, the doctor's mother, said late Saturday night she saw this office girl on the street, and they spoke about the money, so Mrs. Stevens, Mr. Stevens' wife, went down to see whether the girl had taken the money out of the safe, but she didn't get the money; she came back.

Q Mrs. Stevens did? A Yes, Mrs. Stevens did, and Mr. Stevens asked her, naturally—she was gone longer than it would take to go to the avenue, and he asked her what kept her, and she told him where she had been, and he was enraged then.

Q What did he do? A He got up and went to grab hold of her, and she ran through the kitchen, into the dining-room, and his mother

got up and said, "Luddy, Luddy, don't get excited, you know how sick you have been." He chased her twice through and the last time, in the kitchen, a kettle stood on the sink, he picked it up and threw it at her, and it just passed my head; it struck the casing of the door. I hollered at her to run out, and it was in January, and there was sleet and snow on the ground, and she had very light shoes on and no coat, and I told her to run next door, so she hollered, "Grandma, get me my coat," and I threw her the coat, and I looked for the overshoes, but through the excitement couldn't find them, so she went to Mrs. Gorton's—the lady is here; she telephoned for Mr. Worms, a brother-in-law, and Mr. Worms came and brought his wife, but I am before my story; when Marjorie ran out of the door, he ran back and got a revolver and told her if she dare run that car out, he would shoot her through the door.

Q Was that the revolver (indicating)? A I don't know, for I didn't look at it; I was so excited I didn't want to see it. I cannot testify to the revolver, but he declared he would shoot her through the door, so I said, "Don't come in the house, but run next door."

Q Did you see the revolver? A I did, I saw it in his hand.

Q Was he loading it? A He was holding it, and ran in the door with it.

Q Where was she at the time he was holding it? A Out in the yard; she had gone down to get the automobile and he hollered and told her not to bring it out, and she didn't bring it out; it was down by the garage.

The Court: You say this was in January, in what year?

The Witness: Year before this last.

Q That would be in 1921? A Yes—1922, wouldn't it be?

Mr. Newman: I think she means 1920.

Q How long before the doctor left Mrs. Stevens was it? A About a year ago.

Q A year ago what? A A year ago this coming year, the first of this coming year; it was last year.

Q That would be 1922? A 1922, that is what I think it was.

Q Was it a year before he left? A Yes, a year before he left.

The Court: Do you agree on when he left?

Mr. Newman: Yes, there is no doubt about when he left; that was January, 1921; the letters bear that out.

Mr. Newman: Mrs. Worms, will you stand up.

Q Is that the Mrs. Worms that you referred to that was present at the time? A That is the lady.

Q And her husband was the Mr. Worms that you referred to? A Yes, he was; he took the revolver from Mr. Stevens.

Q He took that revolver from Mr. Stevens at that time? A Yes.

Q After this event were you still friendly with Dr. Stevens? A Yes, sir, we tried to pass it over, and I always give him a pleasant word.

Q Do you recall whether you sent him a patient after this? A I sent him a good many

patients, but withheld my name, but this one patient, I couldn't, because she was a friend of a niece of mine, and they had a little boy going blind, and as Mr. Stevens was very good, I recommended this lady to take this blind child to him, and through that, of course, the lady took her son there to have his eyes treated.

Q Did the doctor write you a letter of appreciation afterwards? A Yes.

Q Do you recall that? A Yes, he did.

The Court: What was the date of the letter?

Mr. Newman: January 20, 1923. I will offer that letter in evidence.

(Marked Exhibit D. 5, December 5, 1923.)

Q The illness he speaks of is the illness you have just told us about? A Yes.

Q Do you know what he meant by saying come in and see him when you were alone? A No, I do not.

Cross examination by Mr. Lane.

Q How long was Mrs. Stevens gone when she went out, as you say? A I don't think she was gone more than an hour.

Q Were you present during the entire time that Mrs. Stevens and the doctor quarrelled? A Yes.

Q Just what took place at that quarrel? A You mean the last quarrel?

Q The one when the revolver incident occurred. A What took place, Mr. Stevens after Mr. Worms came and took the revolver away from him—Mrs. Stevens went upstairs and

packed her trunk—started to pack it, to go away—

The Court: I don't want a repetition of it; she has already told us what took place.

Q I mean what was said in the quarrel. A There was nothing said, only he said that he would blow her brains out if she took the car out.

Q Why did he say that? A Because he was aggravated because she went down to this girl's house after the money; he said it was none of her business to meddle.

Q Was anything else said, something about going down for some letters that were in the safe? A No.

Q Nothing said about letters? A No.

Q Was Mr. Burton's name mentioned? A No.

Q Nothing said about letters from Mr. Burton? A No.

Q Or about the photograph in the safe? A No.

Q You are sure about that? A Yes.

Q Are you sure that Mrs. Stevens, the doctor's mother, was there? A Yes, she came there Sunday morning.

Q And was there throughout the trouble? A Yes, and I think she went away with her daughter and her husband when they went away after this quarrel.

Q Is Mrs. Worms her daughter? A Yes.

Q You are sure that Mr. and Mrs. Worms were there throughout this trouble? A Yes, I think Mrs. Stevens went away with them; I know they were there.

Mrs. Linnie T. Gorton, direct.

Q Were they there during the quarrel? A Yes. Not when the quarrel commenced; we telephoned for them to come.

Re-direct examination by Mr. Newman.

Q When you say "Mrs. Stevens," you mean Mr. Stevens' mother? A Yes.

The Court: That is what she said.

Q Did he on that occasion say that he would break every bone in her body?

The Court: That is too leading.

Q Did he say anything else on that occasion? A I don't remember it.

MRS. LINNIE T. GORTON, sworn for defendant.

Direct examination by Mr. Newman.

Q Where do you live, Mrs. Gorton? A 77 Midland avenue, Montclair.

Q How long have you lived there? A I have lived there over nineteen years.

Q Are you a married woman? A Yes.

Q What is your husband's name? A Joseph A. Gorton.

Q Do you recall August, 1922, when Mrs. Stevens came back to the house after her trip to Bermuda? A Very plainly.

Q Did you have occasion to go in there? A I called there and offered that some of us should stay the night with her—I didn't think it was safe for her to stay there alone.

Q Why was that? A From things that had happened before, I had always offered when she came back, that either she come into our house or we go there, and this time, for the first time, she came back with a gentleman, and she said she was ill and she had been seasick, and she also said she was very desperately ill and could hardly stand up; she had cramps and regular—her sickness; it was not uncommon, I had seen her that way before, but I had a houseful of guests which had been using her garage, and I had friends from the West that had two cars there, and when I saw her come home, I went over and asked her if we should take the car out of the garage, and she said no, hers could stay outside.

Q About what time was that? A I think they came back around six o'clock, before dusk, and I went over, as I always did, and offered—I said, "Our house is full," I couldn't ask her to our house, but we would be glad to come in and stay, any one of us, to stay with her.

Q When you say because of what happened before, explain just briefly what happened before, not the details. A I mean from what had happened between Dr. Stevens breaking in the house and knocking her downstairs and beating her.

Q What did she say when you offered to have one of your family stay with her? A She said that Mr. and Mrs. Bunnell were coming, she expected that they would be there about eleven o'clock, and I said, "If they don't come, will you come and let us know, and one of us will come in and stay."

Q What did she say to that? A She said she was sure they were coming. Then we lost

a pin, a valuable pin, and we were poking around her house and I was afraid she would think it was the doctor, and I went in, I rang the back door bell, and said we were hunting for a pin, and "Have you heard yet from the Bunnells?" She said, "I haven't heard yet, but," she said, "I have been for a woman; I am all in. I have been for my washwoman to see if she cannot get me someone to get their breakfast for them; I cannot do it." And at that time I offered again—that was around, I should think, ten o'clock at night, and she said, "I won't be alone; I expect them." So I said, "You let me know."

Q Was Mr. Paswaters there at the time? A Yes, he was; he came back with her.

Q At ten o'clock, was he there also? A Yes, he was waiting for the Bunnells.

Q Did she say he would stay all night? A She said he was going on the 11:20; when the Bunnells came, he was going. She was not well, I know.

Q Did you have occasion to go in there the morning after the raid? A I had the occasion, for I was sweeping my porch, when she called over and said that they had broken in.

The Court: Are you the next-door neighbor?

The Witness: Yes, and lived there all the while. She said, "You want to see the brick that was brought in." And I went to the back door and it had been broken in, and there it wasn't an ordinary brick, it would weigh as much as two or three bricks. Then she told me that they pursued her back in the room, and showed me her black

and blue arm and how they had broken in; she was sick and in a nervous condition.

The Court: Did you go upstairs with her that morning?

The Witness: I think I only went to the kitchen.

Q Did you observe the lock? A I know the door was broken, because a piece of the door was broken.

Q Where was Mr. Paswaters at that time? A He was in the other room.

Q Was he there while she was talking? A She told me she was unwell.

Q Was he there while you were talking? A No, he wasn't; I knew he was there, though.

Q Did you hear at any time the night before that the Bunnells were actually on their way? A Yes, Mrs. Stevens told me that they were on their way down. That was at another time when I stepped to the door; I wanted to be sure she wasn't going to be there alone.

Q What time did your family retire that night? A There were a lot of them, I think I had ten guests; I don't remember; I should say around eleven o'clock.

Q Did you hear the noise that night next door? A No, I wouldn't have heard it, because I was dead tired; I had a house full of guests.

Q Did you have occasion to call on Mrs. Stevens at the time she was in bed? A Yes.

Q Can you fix the time? A Yes, I can very distinctly, because it was just at the same time—yesterday was our Guild day; I was president at the time and had charge of the

business meeting; we took our lunch and were there all day.

The Court: What time do you fix?

The Witness: It was nine o'clock when I called the doctor up.

Q What month? A It was in December, the first Tuesday, for we always have our Guild day the first Tuesday.

Q What time? A Three years ago; it was the fall before he left; I can remember calling him on the phone.

Q December 20th? A Just about three years ago.

Q Tell us what you observed on that occasion and what happened? A The day before, on Monday, Bobby came in—

Q Who is he? A The son, the little boy—five or six he was then, and he always came to me if he was in any trouble; I thought a great deal of him, and Bobby came and he said, "Why don't you come in and see my mamma; she is upstairs sick. Papa knocked her downstairs." And I said, "I didn't know your mother was sick," and I went right in and found her very ill; so ill that she couldn't keep a mouthful on her stomach and hadn't for days. I tried to get her to take something, and she couldn't keep anything down; she couldn't swallow, and I went in and made her some clam bouillon and tried to get her to keep something on her stomach; that was Monday. That night the maid wanted to go out, and I said, "Don't you leave her here alone, she is desperately ill." I said, "If you go out, you come and tell me." So I went in and spent the evening. I tried to get a doctor and tried to get his mother and her

mother on the phone. In the morning before the Guild meeting I went in. I couldn't talk with her, she was quite ill, and I could not leave her there, so I called the doctor up at his office, and I said, "Doctor, Mrs. Stevens is so ill I cannot leave her here today alone, I shall try to get a trained nurse, or send her to the hospital. I cannot leave her here alone. She is too desperately ill." I said, "Are you coming back, or what shall I do?" He said, "Mrs. Gorton, this has been going on a long time, and I might as well bring my lawyer and have this thing settled." I said, "I think for her nerves and all around, it would be better to have it attended to at once," and he said, "I will do it today." So I went on and took charge of my meeting, and at 4:30, when the meeting was over, I went back to the house, at the back door, and the maid told me that the doctor had not been there, but that Mrs. Stevens had kept down a little of this broth and was feeling better and didn't need me. And I had a strenuous day and I went back home. I know the doctor didn't come for two or three days after that.

Q What was the condition of the house at that time? A It was—well, I don't know how to express it; I never saw any meals being gotten; I took little Bobby home and had him for meals right along there while she was so ill; I never saw the maid cooking anything; she said Mrs. Stevens couldn't keep anything on her stomach, anyway.

Q Was the house warm? A I made the fire out of what little coal I could scrape up on the cellar bottom.

Q How did you make the fire? A I cut my own kindling wood; the maid didn't seem capable

of doing anything; I made the fire, as I had many times before when she was ill; there was no coal then at all, except just about a scuttle, for I coaxed up the fire and cut up wood, mostly on Bobby's account; she was in bed, and I thought it wouldn't matter; he was a frail little fellow and I knew he was taking cold, and it worried her to have him out of her sight and in our house; I had him with me.

Q How was the boy dressed in the house? A I don't remember how he was dressed; I have been in there lots of times when he had his bath-robe on over his suit, because he was cold.

Q You say the doctor, after you 'phoned him of her condition, didn't come to the house for two or three days; wasn't he living at home at that time? A No, he had left the week before, at the time they had their trouble.

Q He did come back and live at the house after that? A Yes, a short time.

Q Do you recall an episode concerning the liquor that was stolen up there? A I do.

Q When was that and what happened? A I could only say that it must have been in the summer time, because Mr. Gorton and I were in the garden.

Examination by the Court.

Q In the same year you spoke of this December incident? A Yes; we were in the garden and the doctor stepped across the lawn to our garden and said, "I have had $200 worth of booze stolen out of my cellar." I said, "Praise the Lord for that," and he said—I said, "That is nasty stuff," and I told the doctor that I wouldn't give any more for the man that takes

a social glass than a man who is in the gutter. He said, "I have got the $200 in my pocket; it was insured." I said, "I hope you will use it in a better way." He said, "I will have the booze with it." That is how I know that he had booze.

Q Did you ever see any other trouble between Dr. Stevens and Mrs. Stevens? A Nothing very definite that I could say that I personally had—I heard through Bobby; I have no right to tell that?

The Court: No.

Q Did you see any marks of violence upon her, any bruises? A I did at this time that she was knocked downstairs.

Q In December? A In December. Her shoulder was dislocated; it was badly bruised and strained. Dr. Eddy at that time came there and said that—I didn't see her knocked downstairs, of course. I supposed it was from that; that is what was told me.

Further direct examination by Mr. Newman.

Q Was that when Dr. Eddy was there to attend her? A He was attending her at that time.

Q For the shoulder? A For the shoulder.

Q Did you telephone for your doctor, too? A I did at one time; it wasn't that time, I don't think; that was another time, when she had her cramps, her monthly period, then Dr. Eddy came.

Q When was that, in September; do you remember?

The Court: She hasn't fixed the time.

A I don't remember what time that was.

Q What doctor was it? A Dr. Eddy, and I tried to get my own doctor, because Dr. Eddy was off on a case and she was desperately ill and in cramps, and I tried to get my own doctor and couldn't, but Dr. Eddy got there before my doctor got there.

The Court: Can you fix the time when that was?

The Witness: I don't think I can.

The Court: Was it the same year?

The Witness: Yes, that same fall sometime; it might have been farther along in the winter.

Q Were you at Mrs. Stevens' home after this raid, in September of that year? The raid occurred in August; were you there in September? A I was there right along; I left things for her all the time.

Q Do you remember being there after the raid in September at all? A I was; I had my eyes fitted by the doctor in January, but in September you mean? I don't know.

Q After this occurrence, when she was sick. A I went in and saw the door broken.

Q After that did you go in the next month? A Oh, yes, I used to run in.

The Court: What was her condition of health after the raid, generally?

The Witness: She was just as she is usually once a month.

Q Did she have a doctor in attendance? A She had a doctor at each time.

Q Every month? A I don't know as it was every month.

Q Frequently? A Oh, yes.

Q You haven't any distinct recollection as to the time, then? A No, I don't remember.

Cross examination by Mr. Hauptman.

Q Did you say that Mrs. Stevens had the doctor several times when she had these spells? A Yes, I know she had Dr. Eddy at least twice when she had these spells, cramps.

Q On August 24, 1922, what time did you first see Mrs. Stevens on her return? A Around six o'clock in the evening.

Q Did you see Mr. Paswaters with her there at that time? A My brother-in-law was visiting me from the West.

Q (Last question repeated.) A And he came in and told me that he had come with Mrs. Stevens.

Q You didn't see him personally? A No, I didn't see him as he came in the door, but I did later on, when I went to offer for us to stay there.

Q Did you see Mr. Paswaters outside of the Stevens house at any time that day? A When they drove off to get the maid I saw them.

Q Was she with him? A Yes. I remarked at that time it was the first time I ever saw her with a man, ever since they lived there by us, all that time.

Q When did you first know that Mrs. Stevens had returned from Bermuda? A When my brother-in-law came in and told me that they had come back and had a gentleman with her.

Q Who had come back? A Mrs. Stevens had come back from Bermuda.

Mrs. Linnie T. Gorton, cross.

The Court: And had a gentleman with her.

Q Did your brother-in-law know Mr. Paswaters? A No.

Q Then he didn't know who the gentleman was? A No, that is why he came in to us; I said, "That is the first time I ever saw her come there without a household—without a whole lot of folks."

Q When you saw her at six o'clock or about six o'clock, did she tell you that she wasn't well? A She did, and she told me in this way: She said, "I am so ill; I can hardly stand up," and she sat down on the back steps while she was talking to me; she said she had been so sick.

Q Did she tell you what was the matter with her? A She did.

Q What did she say? A She said it was her monthly cramps and she was having hemorrhage.

The Court: That she had been so sick and ill?

The Witness: Yes, that she had been so sick all the way back, and she did look desperately ill.

Q Had you ever seen her as sick before as she was that night? A Yes, I think I had. I had seen her about the same way.

Q Was this a common ailment of hers almost every month? A Yes, I had known she had had the doctor.

Q Frequently? A Yes, a good many times.

Q And it was for this sort of thing that Mrs. Stevens had the doctor? A To my knowledge at least two or three times.

Q Did Mrs. Stevens ask you to stay with her that night? A She said the Bunnells were coming.

Q (Last question repeated.) A No, I went over and offered for some of us to come.

Q When did you go over and offer? A Around just after she came, a little after six.

Q Offered to stay with her? A No, that someone would stay all night; that some of us would come in and stay all night.

Q Why did you offer? A Because I couldn't ask her to my house; I had a house full of guests.

Q She had told you that she was too sick? A I always asked her to come to my house when she was home there alone, and so this time I offered that some of us would come in and sleep with her, and not have her there, when she told me that the Bunnells were coming.

Q Was that the first time you learned that Mr. Paswaters was staying with her? A Yes, that was the first time that he had ever been there that I know of.

Q (Last question repeated.) That he was to stay with her? A He wasn't going to stay with her; he was going on the 11:20, when the Bunnells got there.

Q Who told you that? A Mrs. Stevens, when I offered to come.

Q The 11:20 train to where? A She said he was leaving on the 11:20, as I remember it; around eleven sometime.

Q When the Bunnells might get there? A When they came.

Q This was about six o'clock she told you that? A I asked her again, around ten o'clock, if she had heard from them, and she had heard that they were on the way down.

Q I ask you now about six o'clock, Mrs. Gorton, did she tell you that Mr. Paswaters was staying there until they came? A She didn't refer to him in any way. She told me the Bunnells were coming, and that is all she referred to. She said they were coming on.

The Court: Later on, at ten o'clock, when she said she had heard from the Bunnells, you repeated your invitation, and she then said he was going on the 11:20 train when the Bunnells got there?

The Witness: Yes.

Q Then it wasn't until ten o'clock that you knew that Mr. Paswaters was there?

The Court: She hasn't said anything of the kind. She said her brother-in-law told her that this man came in and Mrs. Stevens at six o'clock told her. Don't try to confuse the witness; you are not confusing me.

Q When did you first learn that Mr. Paswaters was there? A About six o'clock they came home and my brother-in-law came in.

The Court: You said about six o'clock; that is enough.

Q When were you first told that the Bunnells were coming down? A The first time I went over there and offered to stay all night with her.

Q That was about six o'clock? A Yes.

Q Did Mrs. Stevens tell you at any time during the night that the Bunnells were not coming down? A No.

Mrs. Linnie T. Gorton, re-direct.

Re-direct examination by Mr. Newman.

Q One line I had forgotten about—after Dr. Stevens had left the house in January, 1921, did you have occasion to call the police? A I did.

Q When was that? A It was in January. It was that following January after this time in December—the following January.

Q And why did you call the police? A Mrs. Stevens had told me that she was going away and she was afraid the doctor would break in, and a neighbor called me up and said—

Mr. Newman: Never mind what the neighbor said. Tell us what you saw.

The Witness: I found it out that way.

Q You telephoned the police? A I saw them break in the house.

Q Saw who break in? A I don't know who they were.

Q Men or women? A I know the doctor was there.

Q Some men broke in the house? A Three men, yes, and his study is right near our house, and they didn't even pull the shades down, and they lit all the lights in the house, and I couldn't help seeing it.

Q What did they do? A They had a truck outside and they carried out the things, and I called the police and said Mrs. Stevens was away and I wanted them to protect her property. I did that before I knew the doctor was there, and the police came up and went back again.

Q You saw the doctor with these men removing the stuff from the house? A I did. I

saw the doctor distinctly through the windows, because they were all open.

The Court: What time of the night?

The Witness: I think it was just nine o'clock when I called the police.

Q Do you know what window they broke in? A The back pantry window.

Re-cross examination by Mr. Hauptman.

Q Do you know what he removed from the house that night? A I do know he took books and some furniture.

Q So far as you could see, do you know what he removed? A They filled quite a truck load from what I saw—all his furniture from his office, I think.

Q Could you tell what the items were at nine o'clock at night? A No, only as I saw them, with the windows open.

The Court: What did you see actually?

The Witness: The books and bookcase. I don't know what he filled the wagon with; I know he filled it.

Q The room from which these books were taken is the room adjoining your house? A Yes, he went all over the house; the lights were up in the bedrooms, all through the whole house.

Q Was the light up in the room from which the books were removed? A They were from the front room.

The Court: Was there a light in that room?

The Witness: Yes.

Edward F. Riley, direct.

Q Is that the room that is next to your house? A Yes.

Q You could see in that room? A Very plainly.

Q Did you see him take these books? A Yes.

Q Those were from the doctor's office? A I presume they were his books.

Q And the furniture that was taken was the office furniture? A Yes, I think so.

DR. PAUL TRUESDELL, sworn for defendant.

Direct examination by Mr. Newman.

Q Doctor, what is your business? A I am a dentist.

Q Do you know Dr. Stevens? A I do.

Q Did you on February 4, 1921, receive a letter from the doctor withdrawing Mrs. Stevens' credit? A I am not sure of the date, but I received a letter from him.

Q Did you afterwards have occasion to hear a similar letter read, at a meeting of the Board of Trade at Montclair? A Yes.

Q There was such a letter read? A Yes.

No cross examination.

EDWARD F. RILEY, sworn for defendant.

Direct examination by Mr. Newman.

Q You are connected with the Montclair Police Department? A Yes.

Q In what capacity? A Chief now.

Q You were not chief at the time of this occurrence at Dr. Stevens' home? A No.

The Court: You mean the raid?

Mr. Newman: No.

Q The occurrence in January, 1921, when the doctor broke in and carried away his stuff, did you bring the records with you? A That was in February; February 4, 1921.

Q Did you bring your records with you, sir? A I got one record there that shows February 4, 1921.

Q And did you have a complaint prior to that time? A I had been over there several times.

The Court: What do you think the significance of that is about removing his goods?

Mr. Newman: To show that he did not want to go back and live with her, and that he deserted her.

The Court: Did he remove anything more than his office effects? Are you going to show anything more?

Mr. Newman: Yes.

The Court: Household effects?

Mr. Newman: Yes.

Q Have you the record there? A Yes.

Q Will you produce the record? A I can.

Q What does the record show as to how many times you were over there? A That I cannot say.

Mr. Newman: I desire to say that she called for police protection, and that the record of the Montclair Police Department

shows that she telephoned to them for police protection.

The Court: Have you any such records?

The Witness: Yes.

Q Give the dates? A February 4, 5:10 P. M., telephone received from Mrs. Dr. Stevens, 79 Midland avenue, requesting to have an officer on post keep an eye on house; she said that her husband is under bonds and at present he has no right to enter premises.

Q Prior to that did you get a call? A On the same page, 8:45 P. M., telephone received from a neighbor of Dr. Stevens, 79 Midland avenue; house closed, somebody going through rooms with a flashlight. Lieutenant Riley and John McLoughlin.

Q In January? A I don't know anything about January; I couldn't find anything.

Q Did you examine the record? A I went over it last night, but I didn't see nothing in January.

Q Did you go over there that night? A I did.

Q What did you observe when you got over there? A We saw flashes of light in the house and went in there and found Dr. Stevens and two other gentlemen in there; he was removing books and stuff like that; I didn't take particular notice; when I found it was Dr. Stevens I didn't say anything.

Q This record here, what is the date of that? A On page 347, January 29th.

Q Tell us what the report was on that occasion. A 10:45 P. M., Dr. Stevens, 79 Midland avenue, requesting to have an officer on post.

Q Doctor or Mrs. Stevens? A Mrs. Doctor, requesting to have officer on post keep an eye on residence. Special attention tonight. The doctor and herself having trouble. Had paid his attentions to his stenographer. He has also threatened to shoot her several times and has the telephone discontinued.

The Court: Do you think any of this is competent? It is absolutely hearsay, every bit of it. I will strike out the entire testimony.

Mr. Newman: That only relates to the reports over the wire; not as going over to the house and what he saw.

The Court: No, his seeing the doctor removing furniture will stand.

MRS. ANNA N. BARBARA, sworn for defendant.

Direct examination by Mr. Newman.

Q Mrs. Barbara, you are the mother of Mrs. Stevens? A Yes.

Q Where do you live? A 59 Jasper street, Totowa, Paterson.

Q Did you call on Dr. and Mrs. Stevens during their married life? A Yes.

Q And more or less regularity? A Yes.

Q How did they get along after they were married? A She never came home and never told me anything; the first I ever knew of their trouble, Mr. Worms came up to the house with her, and he said, "I brought—

Q Don't tell us what he said to you; you cannot tell us that. A He brought her around with her eye black, her neck and arms all black.

Q When was that? A That was 1915, and after that I took particular notice that he certainly did treat her with the greatest disrespect a man could treat his wife, because he scarcely gave her a decent word unless he cursed at her.

Q Do you recall going to 96 Broad street when they lived there? A Yes.

Q When was that? A That I cannot just recall.

Q Tell us the occasion of your going and what you observed? A I went over and she was ill, very ill.

Q Where was she when you came there? A She was in bed.

Q And who was there? A Her husband was there that night, and two or three doctors, but afterwards I had a doctor from Paterson and went down and had her examined, for I was frightened; I didn't know the nature of what they were there for. I heard so much whispering going on that I was frightened on account of her life, and after that she came up and I was living out in the country, and she left her home and came to my house; she had to go to the hospital in Paterson.

Q How long was she in the hospital in Paterson? A She was there, I should judge, about four weeks at one time; I should judge, six weeks; it may be more or less.

Q What year was this? A About seven years ago.

Q Was this before the occasion in 1915 when you saw her eye black? A Oh, yes.

Q Before 1915? A Yes.

New Jersey State Library

Q Did she come to your home at that time? A Yes, she came to my home. She went from my home to the hospital and her husband came up every Saturday night. The doctor would stay there with me, and I furnished everything she had in the hospital, and even paid for her laundry and everything.

Q What hospital was that? A The General Hospital, Paterson.

Q Do you know who was the doctor in attendance upon her when you called in Broad street? A No, I do not know the doctors that they had there.

Q What doctor did you bring there? A I took Dr. George when I went down to her and had him examine her.

Q Did Dr. George treat her medically? A Yes, he did.

Q Was it an operation? A Yes.

Q And where was that operation performed? A At Broad street.

Q Their home? A Yes.

Q And what was Mrs. Stevens' condition at that time? A Very low.

Q Do you recall any other incidents or trouble between Mr. and Mrs. Stevens? A Well, yes; I never knew it to be any different.

Q What subject was the trouble about? A That I could scarcely tell, unless it was that the least thing that she would do he would fly at her, and I have heard her repeatedly say, in front of me and every member of my family, "The only time you can treat me decent is when you are after me for money." When she was in Chicago that time he came up to me and asked me to go to her lawyer and get money to send to her. I said, "You are married to her and it is a man's

place to keep his wife and not come and ask for her money." Her money had furnished the home and had paid for everything.

Q At that time she was in Chicago, what was she there for? A That was general breaking down of health and nerves. I had her son; he was taken very sick; they brought him to me and I took sole care of him, and I got no pay for it. He came and left him there until I was taken sick, and then his sister came and took him away.

Q Do you know of any other incident? A I could recall lots of instances that I went down there. One time when he had been away for two or three days and the grandmother came and brought a little book to the son, and there was trouble that night, and she insisted upon getting the dinner.

Q Who did? A Mrs. Stevens, and she said, "Why is all this trouble, this whispering, talking?" She had found out that her husband had been to Asbury Park, but he had been away, so I was led to believe, where the grandmother was, and she started to talk to him, and he flew in a rage, and I stepped between them; I had all I could do to keep him from knocking her down that night, as he had done repeatedly.

Q How do you know that? A I know that he had.

Q Did you ever see him knock her down? A I had been there when he tore a waist off of her.

Q When was that? A I cannot recall that. That was all in Broad street; she stayed out a little late one night.

Q Did you ever see any marks on her person? A Yes.

Q Where? A Her eye and shoulder and arm.

Cross examination by Mr. Hauptman.

Q Did you ever see Dr. Stevens knock Mrs. Stevens down? A Yes, I saw him grab her that night and throw her, and I jumped between them.

Q Did you ever see him knock or throw her down? A Yes.

The Court: What night is it you saw that; what year?

The Witness: I should judge that was when the boy was little—about eight years ago; I think that is about the time; I wouldn't say for sure.

Q Did she actually fall to the floor? A Yes.

Q Did you know of your own knowledge any of the causes of the difficulty between Dr. and Mrs. Stevens? A Unless I could tell it was all because of money, because she wouldn't constantly furnish money.

Q Was there any time that you know when the difficulty was caused by another man? A No, absolutely no.

Q Did you ever hear the doctor accuse Mrs. Stevens of going with other men? A No.

The Court: When you spoke of money—did Mrs. Stevens have independent means?

The Witness: Yes, very independent means.

Q And was this quarrel about money when the doctor first started in his work or in the later years? A It was all about money; she furnished the home in the beginning.

Q Toward the end of their relations, before they separated, did they have any quarrels over money then? A Yes.

Q Do you know a Mr. Burton? A No.

Q Or Allen or Paterson? A No.

Q Do you know any man that went by either or all three of those names? A No, I don't.

Q The man that was arrested here in Newark for forgery, an army officer? A Oh, yes.

The Court: What name do you know him by?

The Witness: I don't remember the name. I accidentally met him on Broad street, and he came up to me, and I was with my daughter, and he said, "I beg your pardon; are you Mrs. Stevens' mother?" I said, "Yes." He said, "Can I speak to you for a few minutes?" I said, "You are a stranger to me." "I would like to converse just a few minutes." We stopped—

Q Was Mrs. Stevens with you? A Yes. He said, "We cannot talk here." We stepped over here to the Robert Treat, and he started to tell about the cruelty; he said he was a good friend of the doctor's, and the cruelty of the doctor to his wife; after about fifteen minutes I left him; that is the only time I ever saw him.

Q Did you have lunch with him that day? A No, I had a glass of soda with him; we had no lunch then. He wasn't there any more than fifteen minutes.

Q Did he speak to you about your daughter? A About what kind of a mother I was to allow a daughter to furnish a home and furnish all the money, and the man could treat the daughter the way the doctor treated her.

The Court: Did he give any explanation of why he took so much interest in the family?

The Witness: He had been there; he was a friend of the doctor's and had seen the actions; I can only say what he told me.

Q He said he was a friend of the doctor's? A Yes.

Q That is why he was complaining of the doctor? A Yes.

Q Did he say he was a friend of Mrs. Stevens? A No.

Q Did he express any affection for Mrs. Stevens? A No, none, only the boy.

Q Did you say he expressed affection for the boy? A For the little boy, the way the father had spoken so harsh to him.

Q You are sure he didn't express any affection for your daughter? A None whatever.

Q This same Mr. Burton, or alias Paterson or Allen, was the same man who was arrested immediately thereafter for forgery, isn't he? A No, I cannot tell you that, for I don't know.

Q Did you ever hear that he was arrested for forgery? A No, I never knew nothing about it.

Q Didn't you know that he forged a check of Dr. Stevens? A No.

Q Is this the first time you have ever heard of that—that he forged Dr. Stevens' check? A Yes.

Q Did you ever remonstrate with Dr. Stevens for his alleged cruelty to Mrs. Stevens? A Yes.

Q When? A At different times.

Q Do you remember any one occasion when you spoke to him of it? A Yes, that night about the Asbury Park episode.

Q What did you say to him? A I cannot remember what I said to him.

The Court: That is when you came between them and stopped him from hurting her?

The Witness: Yes.

Q That was eight years ago? A About that length of time, I think.

Q Do you remember any other occasion when you saw the doctor strike Mrs. Stevens or knock her down? A The night he tore her waist off.

Q When was that? A It was about the same year, because it was all at the same time.

Q Was there any time that you remember since eight years ago? A Oh, yes.

Q When? A I never saw him hit her after that.

Q Is there any occasion since that occasion eight years ago that you had to remonstrate with Dr. Stevens for his treatment of your daughter? A Yes.

The Court: When did you do that the last time?

The Witness: After he had left home I went to his office.

Q What did you say to him, in remonstrating with him? A Telling him he ought to be a man and appreciate a wife giving him and he taking the money and using it as he had, not giving her nothing in return, not even any decency.

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

Q Did the doctor deny to you at that time that he ever got any money from Mrs. Stevens? A No, he couldn't.

Q He never did? A No.

Q You mean, then, that this money, this income, I think you called it, that your daughter had independent means; was that used for household expenses? A Used for whatever she wanted to use it for.

Q Was it used for household expenses? A Yes, for everything in her home; she bought her own home and everything.

Q And paid her butcher bills, &c.? A Yes, even the birth of her child.

Q So that as far as you know, then, the doctor was not supporting Mrs. Stevens at any time? A No.

The Court: He was not?

The Witness: He didn't furnish the home.

Q Did he support her? A I don't know that; I cannot answer that.

Mr. Van Blarcom: Mr. Paswaters is still here; there is a possibility of his getting a position in Kansas City and he may not be here after today, if they want to cross examine him.

The Court: Do you wish to cross examine further?

Mr. Hauptman: I think not, sir; that is all.

EDITH REED, sworn for defendant.

Direct examination by Mr. Newman.

Q Did you formerly work at the Stevens home? A Yes.

Q Do you remember when that was? A Yes; 13th of September, 1920, I went there.

Q How long did you continue to work there? A I was there five months.

Q Did you know Mrs. Gorton, the next-door neighbor? A Yes.

Q You have seen her on the witness stand, have you? A Yes.

Q During the time that you were there did you observe how the doctor treated his wife? A For the first few weeks I noticed they were always quarrelling, and once I was in the kitchen, doing something, I heard an uproar, and when I went to see what it was I saw Mrs. Stevens on the floor below the stairs.

The Court: Lying on the floor?

The Witness: Yes; so I helped her up and I asked her what was the matter, and she told me that the doctor knocked her down, and then she wanted to get the doctor, and when she went to the telephone the doctor would not allow her. Mr. Stevens wouldn't allow her to 'phone, and then the next morning she asked me to 'phone to the doctor when Mr. Stevens went, and then I did, but I didn't get the doctor at the time I 'phoned to him, and she asked me to go next door and get Mrs. Gorton, so that she could come over and 'phone to Dr. Eddy.

Q Did Mrs. Gorton come over? A Yes.

Q Where was Mrs. Stevens at that time? A She was in bed; she stayed in bed.

Q Did Dr. Eddy then come? A He didn't come out just the first time when I called.

Q Did he come later? A Yes.

Q Did you see any bruises on her? A I did.

Q What did he treat her for, if you know? A I don't know, but she just asked me to get the doctor, and when the doctor came—

Q She was in bed when the doctor came? A Yes.

Q Do you know what they quarrelled about? A I don't know; Mrs. Stevens told me on account of his secretary.

Q What was his secretary, a man or woman? A She was a woman.

Q Did you see her? A I didn't see her at the house, but I saw her in the office. Sometimes he didn't come home, when Mrs. Stevens was always crying.

Q When you were there how was the coal supply? A I don't remember, but I remember once the coal was almost out, and we always got Mrs. Gorton, next door, to attend to it when Mrs. Stevens was sick, and sometimes she would send her son over to attend to it or come over herself.

Q How about the food in the house? A Sometimes Mrs. Stevens gave me the order to 'phone down for them, and sometimes when we had no butter or flour we would go next door for them to Mrs. Gorton, and ask her to loan us some things, and then she would give us some.

Q Do you remember when the doctor left the house? A He left on Sunday; it was in January.

Q What happened to the telephone? A They were all disconnected.

Q During the five months you were there, during these quarrels, did you hear what the doctor called Mrs. Stevens? A Yes, once Mrs. Stevens asked him for some money, and then he called her some bad names.

Q Tell us what it was. A "Oh, damn you, damn son of a bitch, where am I to get it from?"

Q Did you hear him use that language on more than one occasion? A No, the time she asked him for the money.

The Court: How much did she ask him for, do you know?

The Witness: I don't know.

Q No amount of money? A No.

Q Did you ever see the doctor do anything else to Mrs. Stevens? A I don't remember.

The Court: Did you ever see him strike her?

The Witness: No.

Q Did you ever see him chase her around the house? A Yes, once.

Q What did you see? A I don't know what they were quarrelling about, but they were quarrelling, and afterwards I saw Mrs. Stevens running around the kitchen, through the dining room and over the place, but I didn't know what it was.

Q Was the doctor following her? A Yes.

Q What did he do? A I didn't see, because I was in the kitchen.

Q Did you hear—what was he saying as he ran after her? A I don't know.

Edith Reed, direct.

Q Didn't you hear what he said? A No; I don't remember.

The Court: I will have to suspend now. I will direct the witnesses to come back when notified. I will advise counsel of the first open day when I can continue this case.

THIRD DAY.

Continuation of the examination in the above-entitled cause before the Hon. John E. Foster, Vice-Chancellor, at Chancery Chambers, Prudential Building, Newark, New Jersey, on Monday, the 14th day of January, A. D. 1924, at ten o'clock A. M.

Appearances:

Merritt Lane, Esq., by D. Eugene Blankenhorn, Esq., for the petitioner; Jacob Newman, Esq., for the defendant; Andrew Van Blarcom, Esq., by Bernard V. McGovern Esq., for John H. Paswaters.

Mr. McGovern: The last time this case was up Mr. Paswaters was contemplating taking a business trip. Mr. Paswaters is out of town at the present time.

Mr. Newman: Mr. Van Blarcom is also out of town. I think Edith Reed was on the stand, but I doubt whether she will be here. I am going ahead without her. I will call Mr. Lovejoy.

DONALD M. LOVEJOY, sworn for defendant.

Direct examination by Mr. Newman.

Q Your name is Donald M. Lovejoy? A Yes, sir.

Q Where do you live, sir? A My definite residence is 18 Fairview Place, New Rochelle, New York.

Q What is your business? A Cotton.

Q For yourself? A I am connected with A. E. Rothstein, 41 East 11th street, New York.

Q How long have you been connected with them? A About a year.

Q Prior to that where were you? A A. H. Bull & Sons Company, for three years.

Q Were you a passenger on a boat going to Bermuda on August 12, 1922? A I believe that was the right date.

Q And what was the boat, do you recall? A I think the Victoria, going down.

Q And who did you room with? A I roomed alone.

Q Did you know Mr. Paswaters and meet him on the trip? A I met him on the trip.

Q How long were you in his company? A I met Mr. Paswaters about three hours after I went aboard the steamer on the 12th and I was in his company, off and on, until Saturday of the following week, when I returned.

Q To New York? A Yes, sir.

Q And during the time you were in Bermuda did you go with the party? A No, I went alone with my mother.

Q Did you go with the party when you got down there? A No, I did not.

Q Were you together at times with Mr. Paswaters? A Practically all the time.

Q And did you room with him at the hotel? A I did.

Q And did you have occasion to observe who got to bed first? A No, I don't remember how we picked our beds.

Q Who got to bed first at night? A Who got to bed first?

Q Who went to bed first? A I think, so far as I remember, that he was in bed before I was every night but one.

Q Did anyone else room with you? A No one.

Q And did you take any trips with him on the island while you were there? A A bicycle ride. I think that was the only one.

Q Where did you meet Mrs. Stevens? A I met Mrs. Stevens about an hour after I met Mr. Paswaters.

Q Was she introduced to you as Mrs. Stevens? A Yes, sir.

Q And was Mr. Paswaters introduced to you as Mr. Paswaters? A We introduced ourselves, he giving me his card and introducing himself.

Q Did you, while on the boat or on the island, observe anything improper between Mrs. Stevens and Mr. Paswaters? A Absolutely not —to the contrary, I should say that.

Q Did their conduct, so far as you observed, always appear proper and chaste, in every respect? A Absolutely.

Q Was your mother with you on the trip? A She was.

Q What is your mother's physical condition? A An invalid.

Donald M. Lovejoy, cross.

Q Did you have occasion to have Mrs. Stevens assist your mother? A Yes, at least two or three times a day she would spend a half hour assisting her to fix her hair and so forth.

Q When you arrived at Bermuda, do you recall how you went to the hotel? A I do.

Q How did you go to the hotel? A We had to take a carriage up to the hotel from the steamer. After getting our baggage together I had to help my mother. We got into the carriage, and, if I remember clearly there was my mother, and myself and Mrs. Stevens. On account of not being able to locate all the baggage I don't think Mr. Paswaters went up to the hotel. So I think that is how we went up to the hotel, the three of us together and my baggage.

Q Did you know Miss Sullivan? A I met Miss Sullivan there.

Q And Mr. McKenna? A Mr. McKenna I met there, I believe.

Q Didn't they kind of form a party occasionally? A They would often join us when we were sitting down.

Cross examination by Mr. Blankenhorn.

Q Did you know that Mr. Paswaters had a wife living? A No, I don't even know that now.

Q Did you know that Mrs. Stevens had a husband living? A I think towards the end of the time that I was in Bermuda something was mentioned to that effect, but I have no interest in things of that order and paid no attention to it whatsoever. I told my mother that I didn't want to ask any questions on a trip like that.

Q Then some question arose in your mind as to the propriety of Mr. Paswaters and Mrs. Stevens traveling together? A Never did.

Q Why did you say that to your mother? A On account of the people aboard the steamer and people on the trip, just the same as people on the night boat.

Q Had it entered your mother's mind that something was improper? A No, but I didn't want to make anything difficult for her. I didn't want mother to use poor diplomacy and ask about names, and so forth.

Q When you spoke about that subject, to whom did you refer? A No one.

The Court: Did you have anyone in mind?

Witness: No, I can't say that.

Q Why did you make the remark, then—

The Court: He says it was like a night boat trip, whatever that might mean—it put him in mind of a night boat trip.

Q How old are you? A Twenty-seven in February.

Q And Mrs. Stevens was introduced to you by Mr. Paswaters? A Yes, that is right.

Q You knew that they were traveling together? A I did.

Q Isn't that the reason you spoke to your mother about the matter? A No, absolutely not. It is a condition on steamers traveling today, if you get my idea.

Q Why didn't you say that to her before you started on the trip? A Because I saw no need of it at all.

Q Then, after you had started you saw the need of it? A Yes, I didn't want anything to embarrass my mother in any way, most especially because she is an invalid.

The Court: Why didn't you tell your mother this, or give her this information until after you got on the steamer, and then you say after you got on the steamer you saw the necessity of that. What was the occasion that gave rise to the notion?

The Witness: All I can say is that on a steamer going to Bermuda you will find quite a few names that don't jibe, and lots of things that are open to argument. I told my mother not to pay any attention to things that she saw and not to ask for names.

Q Didn't your mother say anything about Mrs. Stevens? A Never.

Q But you knew all this before you left for Bermuda, didn't you? A About this condition on steamers?

Q About this condition of people traveling on steamers? A Yes, I should say I did.

Q And there wasn't anything that occurred before you left on that trip to cause you to warn your mother that she might encounter those conditions? A I don't believe in crossing my bridges until I get to them.

The Court: Well, was there?

The Witness: No, sir.

Q Then after you met certain people on the boat you thought you were called upon to give her that warning? A Yes, sir.

Q And had you met Mrs. Stevens and Mr. Paswaters at that time? A Yes, sir.

Q And had they been introduced to your mother? A Yes, sir.

Q Did you introduce them? A I believe I did.

Q Did you introduce them at the same time? A That I couldn't say; I don't remember exactly.

Q Did your mother, during that trip, speak to you about Mrs. Stevens traveling in company with Mr. Paswaters? A She did not, as I remember.

The Court: What did you mean when you said you knew they were traveling together?

The Witness: Well, I first met Mr. Paswaters, and then he brought me outside and introduced me to Mrs. Stevens. As the trip went on I saw them together at the hotel there. They had their meals together.

The Court: Did they have a table to themselves?

The Witness: I believe they were with Mr. Simpson and Mr. Lavery.

The Court: Did you notice how they registered?

The Witness: I don't think I looked over the register.

Q Do you know who registered for Mrs. Stevens? A No, I don't think I remember.

Q Do you know where Mrs. Stevens' stateroom was? A No, I do not, sir.

The Court: Did you come back on the same ship with them?

The Witness: No, sir.

Q You say you knew Mrs. Stevens was married and had a husband living? A I think that before the trip was over I understood something to that effect.

Q How did you get that understanding? A I didn't pay much attention to it, sir. I don't recall it exactly.

The Court: If you don't recall, say so.

Q Do you remember whether Mr. Paswaters mentioned it? A No, sir.

Re-direct examination by Mr. Newman.

Q Did your mother correspond with Mrs. Stevens after the trip and to this day—do you know that? A Yes, sir.

Q Wasn't the information that Mrs. Stevens was married given to you by your mother, and hadn't Mrs. Stevens given that information to your mother?

Mr. Blankenhorn: I object to that as leading.

The Court: If he knows he may say so.

A I don't recall, sir.

MISS MARY SULLIVAN, sworn for defendant.

Direct examination by Mr. Newman.

Q Miss Sullivan, you live in Brooklyn, do you? A Yes, I live in Brooklyn.

Q You are a school teacher? A Yes, sir.

Q Connected with one of the public schools of that city? A Yes, sir.

Q Were you aboard the steamship Victoria, going to Bermuda? A Yes, sir.

Q Did you meet Mrs. Stevens there? A Not while on the trip going to Bermuda.

Q You didn't meet her on the trip going? A No, sir.

Q Where did you first meet her? A On the lighter after we left the steamer. I saw Mrs. Stevens and Mrs. Lovejoy sitting together and asked them questions concerning the trip, as I had been seasick.

Q After you landed did you have occasion to see her frequently? A Every day.

Q And were you in her company during the evenings also? A Yes.

Q And did you ever see anything improper or unchaste pass between Mrs. Stevens and Mr. Paswaters? A Why, no.

Q Did you meet Mr. Paswaters? A Yes.

Q And how was he introduced to you? A As Mr. Paswaters.

Q And how was Mrs. Stevens introduced to you? A As Mrs. Stevens.

Q And at the time Mrs. Stevens was introduced to you was her place of residence given to you? A Yes, as Montclair, New Jersey.

Q Do you recall a party by the name of Lovejoy? A Yes, sir.

Q Was Mrs. Lovejoy with the party most of the time? A She was on the veranda all the time, and in the evening she came down to watch the dancing in the ballroom.

Q Did you ever see Mrs. Stevens or Mr. Paswaters with themselves, apart from the company? A No, whenever I observed them I was

either with them or observing them with other people.

The Court: Did he pay her particular attention?

The Witness: I couldn't say so, your Honor, because it was simply a party of friends together.

The Court: Did you return on the steamer with them?

The Witness: Yes.

The Court: Do you know what stateroom Mrs. Stevens occupied?

The Witness: I am not positive, but I remember one day I met her as she came out of her stateroom, and I know it was on the same deck as mine—on B deck.

The Court: Was anyone occupying the stateroom with her?

The Witness: I couldn't tell you.

Q On the way back what was her physical condition? A She always struck me as being quite ill and pale and languid.

Q On the night before the boat sailed, do you recall some of the party going in swimming? A Yes, sir.

Q Did Mrs. Stevens go in swimming? A No.

Q Why not--did she express any reason? A She told me her physical condition was such she had to spend the afternoon in bed.

Q And she went to her room, did she? A Yes, sir.

Q Was Mr. Paswaters along with you, swimming, that day? A He asked me if I would join the party that was going down to this little

private beach. I told him I was tired, and I remained on the veranda of the hotel all afternoon.

The Court: Do you know if he left the hotel?

The Witness: Yes; he left the hotel with his bathing suit all rolled up.

Q Did Mrs. Stevens, the night before she sailed, come downstairs? A In the evening.

Q Do you know Dr. Walker? A Yes, sir.

Q Did she go out that night with Dr. Walker and a party of friends? A We remained in the hotel. I was a member of the party that evening in the ballroom of the hotel.

Q She remained at the hotel? A Yes, sir.

Q Do you remember whether the night before she sailed she had intended to go to Hamilton? A Well, in the early evening she told me something about being asked by Dr. Walker to go over to Hamilton, because he was a friend of some of her friends, but she was in bed all afternoon and said she expected to spend a quiet evening.

Q And did Dr. Walker, as a result, come over to the hotel? A He came over about eight o'clock; after dinner, I know it was.

Q And did he have occasion to prescribe anything for her that night? A I remember her taking something strange, some little stimulant of some sort. He asked one of the men in the hotel to get it for her. I remember her taking it, some little thing in a small glass. I don't know what it was.

Q On the return trip from Bermuda was Mrs. Stevens in your company very much? A

Practically all the time, so far as I remember. It was a very quiet trip.

Q Do you know why Mrs. Stevens didn't leave there on Saturday, prior to the time she actually left? A Well, the Saturday previous that she stayed over?

Q Yes. A Well, I simply heard her say that they couldn't get accommodations—I don't know if there was any truth in that. I have found difficulty in coming back myself.

Q Did you know Mr. Lovejoy? A I was introduced to him.

Q Do you know Mr. McKenna? A Yes.

Q Did you know Mr. Lavery? A I met Mr. Lavery.

Q And did they form a party most of the time they were there? A They were nearly always together; any time that I recall them they were in a party.

Cross examination by Mr. Blankenhorn.

Q You say Mrs. Stevens gave her address as Montclair? A Yes, sir.

Q Did she tell you she had divorced her husband and moved to South Orange? A No; I wasn't well acquainted with her. I didn't know; Montclair and East Orange would mean the same to me.

Q Why do you say East Orange? A I didn't say East Orange. I know this section as one place. I never come out here.

Q Do you know now that at the time Mrs. Stevens was introduced to you as living in Montclair, as a matter of fact she was living in East Orange? A She was living in East Orange at the time.

The Court: Do you know that?

The Witness: I know she had a house at Montclair. She told me she owned a house at Montclair, and I took for granted she lived there.

Q And didn't she tell you she had closed it and moved to East Orange? A We didn't discuss personal matters that way.

Q She didn't tell you she had a husband living? A Not Mrs. Stevens. I heard it from Mr. Lavery. He asked me if I objected to someone who had not as yet had her divorce granted.

Q Mr. Lavery said that to you? A Yes. I said, "No, so long as their conduct is above reproach."

Q And when you told him that he then introduced Mrs. Stevens? A Yes, as Mrs. Stevens.

Q And Mr. Paswaters? A As Mr. Paswaters.

Q And did he ask you if you had any objection to meeting Mr. Paswaters? A Yes, to both. He asked me if I had any objection to meeting either of them.

Q Did he associate their names together at the time he made the inquiry? A No.

Q But he told you that Mr. Paswaters' wife was living? A No, I don't believe he knew it. I didn't know it. It is news to me.

The Court: Did he mention the fact that Mr. Paswaters was connected with the divorce matter of Mrs. Stevens in any way?

The Witness: No.

Q But he did mention the fact that Mrs. Stevens was contemplating a divorce? A It was

just about granted—that is the way I understood it.

Q That is what Mr. Lavery told you? A Yes, sir.

Q And it was generally understood by the members of this party? A I wasn't a member of the party.

Q I thought you said you became a member of the party after the lighter left the ship? A Yes, sir.

Q And then continued with them more or less until after you went back to New York? A Yes, more or less.

Q And you were almost constantly in Mrs. Stevens' company from the lighter to Bermuda, and then in Bermuda and then back to New York on the following Saturday night? A Except when I stayed away from some excursion or party and remained at the hotel. It was purely optional, you understand whether we went or not. If I felt like remaining home I didn't go.

Q And that party was made up of Mrs. Stevens, Mr. Lavery, Mr. McKenna, Mr. Lavery, Mrs. Lovejoy, Mr. Lovejoy and yourself? A And my friend.

Q Is she here? A No, she is not here; my traveling companion.

Q It was generally understood at that time that Mrs. Stevens and Mr. Paswaters were traveling together? A I didn't understand it that way.

Q Well, you understood that the particular person in whom Mrs. Stevens was interested was Mr. Paswaters? A Well, she seemed to be friendly with everybody.

Miss Mary Sullivan, cross.

Q With reference to the time when Mr. Lavery asked you if you had any objection to meeting a woman who was not already divorced— A (Interrupting.) I had met her. He emphasized the matter, and they took it for granted that everything was open and above board.

Q And that Mr. Paswaters was traveling with her? A I don't understand exactly what you mean by traveling with a person.

Q What possible objection could you have to meeting a woman not already divorced? A If she were a divorcee—there are times when I wouldn't want to meet a divorcee.

Q Is that what Mr. Lavery referred to? A Why, he may have done so.

Q He asked you whether Mrs. Stevens was going to be objectionable to you? A Yes, because of the fact that she was about to be divorced.

Q And because of the fact that she wasn't traveling with her husband? A That didn't enter into it.

Q What possible objection would you have to that? A I might object to a divorced woman. I am Catholic you know, and there are Catholics who object to divorced people.

Q Had you told Mr. Lavery you were a Catholic? A Yes. He judged from my name.

The Court: Had you known him before you took this trip?

The Witness: No.

Q Well, after that warning—

The Court: It was an inquiry.

Miss Mary Sullivan, cross.

Q After the inquiry then, it was generally understood, was it not, by the members of that party that Mr. Paswaters was traveling with Mrs. Stevens? A Well, I knew that he knew her in New York, if you know what I mean. He knew her in the States.

Q That is what he had told you? A He didn't tell me that, but I took it for granted because they mentioned so many things in common, that they lived in the Oranges and different parts of Jersey. You don't ask questions of traveling acquaintances, you know.

Q But Mr. Paswaters never told you that his wife was living? A No, absolutely.

Q And Mrs. Stevens told you, did she, that she had deserted her husband and was getting a divorce? A She told me something about being in a camp in Connecticut.

The Court: Did she make any reference to the divorce case?

The Witness: No.

The Court: Was Mr. Paswaters particularly attentive to Mrs. Stevens?

The Witness: Not any more so than to the other members of the party.

The Court: And no more so than the other gentlemen in the party?

The Witness: No more so.

Q And did Mr. Lavery ask you if you objected to meeting Mr. Paswaters? A No, Mrs. Stevens.

Q Now you don't attempt to say, do you, Miss Sullivan, that you are able to testify that at no time during the trip was Mr. Paswaters

improper in any of his actions toward Mrs. Stevens, you don't attempt to testify to that?

The Court: She has already sworn to that. Mr. Newman asked her point blank, "did she ever see any improper conduct between these parties." There is no attempt about it.

Q You weren't with them all the time you were there?

The Court: She can only tell what she was in a position to observe, hear or see.

Q How much was there that you were not able to see?

The Court: You might ask her with reference to what she saw, or how many times she saw them.

Q How much time was there during that trip in Bermuda that both Mr. Paswaters and Mrs. Stevens were out of your sight?

The Court: Half of the time?

The Witness: No, you see you would have to be in Bermuda to understand the situation. The hotel we stayed at is isolated. You are under observation nearly all the time. There is all the difference in the world between St. George's and Hamilton. We are thrown together as much as we would be in this building.

Q You didn't sleep with Mrs. Stevens, did you? A No.

Q Then every night she was away from you? A Yes, sir.

The Court: After she retired, I suppose you mean?

Mr. Blankenhorn: Yes, sir.

The Witness: Yes, sir.

Q And some of the nights before you had retired Mrs. Stevens was away? A Yes, sir.

Q And Mr. Paswaters also? A Yes, sir.

Q And that happened frequently? A Oh, no.

Q How frequently? A They would come and go, Mr. Simpson and Mr. Lavery, Mr. Paswaters and Mrs. Stevens were associated. I have seen them take carriage drives and I have seen them come back in a four-seated carriage and drive up to the hotel in the light, in time for dinner.

Q And when was she taken sick? A Well, the first intimation I had of it was that time I mentioned, the afternoon before we sailed for home, when she couldn't go in bathing.

Q That was the first time she was taken sick? A That week she was ill.

Q Did she tell you what was the matter? A She told me her physical condition prevented her from going bathing and I drew my own conclusions.

Q How did you know what stimulant it was, or what medicine it was that the doctor gave her? A I don't know.

Q All you know is that he gave her some medicine? A Yes.

The Court: She presumed it was a small stimulant.

Q Do you recall where Mr. Paswaters' stateroom on the boat was? A He told us at one time—

The Court: On the boat returning.

The Witness: He came up and we said we were complaining of the heat below A deck. He said, "You know how wonderful it is to be either in the captain's stateroom or adjoining the captain's stateroom. I have a better opportunity of enjoying my trip than any of the rest of them, because I am on A deck.

Q Were you on board going down? A Yes.

Q You didn't meet them on the boat going down? A I was ill threatened with ptomaine poisoning.

Q You were ill? A Very ill, in my stateroom.

Q Were you together when you reached New York? A Yes, sir.

Q Were you together with Mrs. Stevens and Mr. Paswaters and the rest of the party? A We were alone. There were just four of us when we arrived.

Q You and your friend? A Me and my friend, and Mr. Paswaters and Mrs. Stevens.

Q The rest had already returned? A Yes, on the trip previous; on the boat previous.

Q Mrs. Stevens was able to walk off the boat? A Yes, sir. She was pale and wan and very languid and looked as if she might faint any minute, that is all.

Q She and Mr. Paswaters got a taxi and drove off? A I don't know that part of it.

Q Where did you bid them good-bye? A When the Customs inspector was looking over our baggage. Her baggage and mine was examined at the same time. We have the same initial letter.

Q Did she tell you where she was going? A No, I didn't ask her.

Q You didn't discuss her divorce at any time with her? A Absolutely, she didn't know I knew anything about it.

Re-direct examination by Mr. Newman.

Q Did you know whether Mr. Lavery and Mr. Simpson were both married men? A They both explained that after we met. Mr. Lavery told me at the time he was a man over fifty.

Q I show you a photograph and ask you whether you took that photograph? A Yes, I sent this to Mrs. Stevens.

Q Whose pictures are on it? A This is Mr. Paswaters (indicating), Mr. Lavery and Mr. Simpson, and the others were people who were members of the trip and I don't know who they are. I simply saw them.

Mr. Newman: I will offer that in evidence.

(Photograph marked Exhibit .)

MR. ROBERT M. McKENNA, sworn for defendant.

Direct examination by Mr. Newman.

Q Where do you live, Mr. McKenna? A 336 West 95th street, New York City.

Q What is your business, please? A Detective Agency.

Q And how long have you been in that line? A I have been there nearly three years.

Robert M. McKenna, cross.

Q Did you meet Mrs. Stevens in Bermuda? A I did.

Q You weren't on the boat when they went down, were you? A I don't know.

Q And where did you first meet her? A In the hotel at Bermuda.

Q How was she introduced to you? A Well, I don't know whether it was Miss Stevens or Mrs. Stevens—I can't remember. It was Stevens, I know.

Q And did you have occasion to see Mr. Paswaters there? A I did.

Q And how long were you in their company? A I was very little in their company. I was a very short time in their company.

Q Would you repeat that again? A Yes, that is I met Mr. Paswaters before I met Mrs. Stevens, and only on one evening was I in her company. She was in company with three or four men there most of the time and I would just see her going in the hotel and going around with these men.

Q Who were they? A Mr. Lavery, Mr. Simpson, I believe, Mr. Paswaters and Mr. Lovejoy and his mother.

Q Mr. Lovejoy's mother? A Yes, sir.

Q Did you, at any time, observe anything improper or unchaste between Mrs. Stevens and Mr. Paswaters? A I did not.

Q Did you come back on the same boat with them? A I did not.

Cross examination by Mr. Blankenhorn.

Q Did you hear Mrs. Stevens' divorce case discussed? A I did not. I have read since in the paper about it. I heard nothing and knew nothing about it.

Q Did you know she was a married woman? A I did not.

Q Did you know that she was traveling about with Paswaters? A I did not.

Q There were excursions, weren't there, from the hotel every day? A There was.

Q On those trips Mrs. Lovejoy didn't go, did she? A No, she did not. The trips you speak about—there are trips these people took by themselves. The trips I took I joined the Cook Tours' people. Those were the only trips from the hotel. The Cook people took away the people who bought tickets through them. These four or five people used to go off by themselves on tours.

Q These tours which these people took were taken by themselves? A Yes, sir.

Q And those parties were composed of Mrs. Stevens— A Mr. Lovejoy—

Q Lovejoy, Paswaters and— A Paswaters and Lovejoy and Mr. Simon.

Q You mean Simpson? A Simpson.

Q Was any other lady in the party besides Mrs. Stevens? A Sometimes, well I saw this Miss Sullivan who was on the stand.

Q And you didn't see what happened after the parties broke up for the night? A No, because we all retired. I saw her a great deal in company with this old lady.

The Court: You said Mr. Simon—you mean Mr. Simpson?

The Witness: Yes, sir. Mr. Paswaters and myself and Mr. Lavery oftentimes didn't retire until twelve o'clock. We remained downstairs after the guests had gone to bed for an hour or so.

Q Who do you say didn't retire? A Mr. Paswaters, Mr. Lavery, Mr. Simpson and myself.

Q How often did that happen? A That happened about three nights.

Q And Mr. Lovejoy retired on those three nights, did he? A I think one of the evenings he was sitting up. I think the other two evenings he retired.

Q Then when your party broke up do you know what became of Paswaters? A He went up to his room. We all went up together.

Q Up on the elevator? A No, we walked up—one flight up.

FREDERIC BEGGS, sworn for defendant.

Direct examination by Mr. Newman.

Q Mr. Beggs, you are a counsellor at law of the State of New Jersey, and Surrogate of the County of Passaic? A Yes, sir.

Q Did you have occasion to act for Mrs. Marjorie Stevens as her attorney? A Yes, sir, I was her attorney for a number of years. She was formerly a resident of Paterson.

Q And her maiden name was what? A Her maiden name was Marjorie Van Riper.

Q And did she inherit some money through her grandfather? A She did.

Q And did you have that estate in charge? A No, I had her interest and her sister's interest.

Q And after her marriage did she call on you more or less frequently about moneys? A She did.

Q And did she tell you what they were for?

Mr. Blankenhorn: That is objected to as immaterial.

The Court: How is it material?

Mr. Newman: The purpose of it is to show that during her married life she took this money from her estate for the support of herself and her husband. I think it has some bearing on the matter of cruelty.

The Court: I don't see how it can possibly affect it. She may have told Mr. Beggs all sorts of things. In the absence of Mr. Stevens it would not be binding upon him.

Q Well, just before the birth of Mrs. Stevens' child she called on you and received money from the estate? A I can't answer that—I don't recall the birth of the child.

Q Did you represent her when she purchased the property on Midland avenue? A Midland avenue, Montclair?

Q Yes. A I did.

Q Do you recall, Mr. Beggs, that after this raid—the morning after the raid, Mrs. Stevens and Mr. Paswaters coming up to see you? A Yes. I don't know who was with her. I remember Mrs. Stevens and a gentleman coming to see me.

Q That was the first time you ever saw him? A The only time.

Q The first time? A The only time I know of.

Q And did they tell you of the incident that had occurred? A They did.

Frederic Beggs, cross.

Q And did they ask your advice with regard to the matter? A I can't recall.

Cross examination by Mr. Blankenhorn.

Q Just what did they tell you, Mr. Beggs? A They told me something about Mr. Stevens and some detectives, I think they said, breaking in a house in Montclair where they said they were. I didn't go into any details with them at all. I think that the real reason of their visit at that time was that Mrs. Stevens was trying to sell her Montclair property, and I think she had brought somebody over a few days prior to that, a prospective purchaser, and we discussed the terms and they made some objection; I think they wanted to get Mr. Stevens' signature on the contract. But I don't think there was much said about this raid, except that it had occurred.

The Court: Was there any explanation made by Mrs. Stevens of Paswaters' presence in the house at the time of the raid?

The Witness: No.

Q Did you ask for any? A I did not.

Q Didn't you understand that it was her house that was broken into? A Yes, sir.

Q And she didn't ask your advice as to that? A I don't think she did. My recollection is that at that time there were some differences between them and—

Q Between whom? A Mr. and Mrs. Stevens. I think she had her attorney here in Newark representing her, and I think Mr. Stevens—I think she had some suit pending against him.

Q For divorce? A I don't recall. I didn't know. I didn't represent her in that. I merely represented her with reference to her property which came from her grandfather in Bergen County.

Q Didn't you request Mr. Stevens to transfer this house in Montclair over to Mrs. Stevens? A I asked him if he would, two or three times that I saw him.

Q And what reply did he give to that? A I think the first time he told me to see Mr. Lane—I don't recall whether that was the first time or not. I remember being there twice, but I think it was three times. I think the third time he said he would do it provided his wife gave him custody of the child.

Q Wasn't it that he wanted the house placed to the benefit of the child? A No, I think I suggested that.

Q Who suggested that? A I think I suggested that.

Q Was that done? A No.

Q Was Dr. Stevens agreeable to that? A I think he was, except that the first time he said he wanted to have his counsel approve it. We never heard from his counsel and the second time I think he made the condition that he have custody of the child.

Q Now the conveyance has been actually made, hasn't it? A Not that I know of—not through me.

Q Don't you know what happened after they left your office in Paterson that day?

The Court: The morning after the raid?

The Witness: I don't think I have ever seen Mrs. Stevens since.

Re-direct examination by Mr. Newman.

Q Don't you recall, Mr. Beggs, that the morning after the raid and after she had told you of the raid that she asked your advice as to whether or not a warrant should be sworn out for the arrest of the raiding party—do you recollect that? A I couldn't remember it.

Q That might have occurred? A It might have done, but I don't recall it.

The Court: What was her physical condition, do you recall? Did she appear to be ill?

The Witness: I don't recall that, no.

MRS. MARJORIE G. STEVENS, recalled.

Direct examination by Mr. Newman.

Q Mrs. Stevens, you were married when; you have given us the time but I want to get it again. A July 2, 1912.

Q Do you remember shortly after your marriage, in the month of August, an incident that occurred when Dr. Stevens came home?

Mr. Blankenhorn: What year?

Mr. Newman: In 1912.

Q Do you remember that? A I don't believe it was August. We were away.

Q It wasn't August? A No, it was in October.

Q Prior to October, what were his habits, if any? A Why he drank very much and he be-

came very drunk in Canadensis, Pennsylvania, and this made us very much embarrassed.

Q He became intoxicated? A Yes, sir.

Q In October, 1912, where were you living? A Eleven Thomas street.

Q Were you keeping house there? A Yes.

Q Do you recall an incident in the month of October that occurred at 11 Thomas street? A Dr. Stevens had promised to take me out for the evening and he went out, presumably to get a cigar, and came back very intoxicated. I remonstrated with him and instead of taking me out he knocked me down and my head hit the bureau and I was knocked unconscious and they called Dr. Ward in to revive me.

Q In November, 1912, were you still living at 11 Thomas street? A Yes, I was.

Q And did you know a Dr. Blyn?

The Court: You have amended your counterclaim by charging cruelty?

Mr. Newman: Yes, sir.

The Court: And that is what you are adding now?

Mr. Newman: Yes, sir.

Q Did Dr. Blyn have occasion to attend you in December, 1912? A He did.

Q What was the occasion? A He performed an abortion on me at the time and Dr. Stevens gave me the anesthetic.

Q Did you consent to that? A Why no, I remonstrated and Dr. Stevens said he didn't want any children and I just simply had to subject myself to it, that is all.

Q Where was Dr. Blyn when you last heard of him? A He was in the penitentiary.

The Court: In this State?

The Witness: Trenton.

Q Now, following the abortion in December, 1912, what was your physical condition? A I was sick and anemic and very much run down and I went to Dr. Fechtig's sanitarium.

Q Sanitarium? A Sanitarium, at Lakewood.

Q And how long did you remain there? A I was there about a week or two weeks, ten days to two weeks.

The Court: When was the child born?

The Witness: 1914, July 2, 1914.

Q Did Mr. Stevens communicate with you there? A No, he did not—he didn't even come to see me until I sent him a check for $6.00, his carfare to come down to Lakewood.

Q And did you send him the carfare to come to Lakewood? A Yes, sir, I did.

Q And did he come? A Yes, he did.

Q And did he stay there? A He stayed over night.

Q And who paid his expenses for staying over night? A It was on my bill.

Q And did you pay them? A Yes, I did.

Q Do you recall any incident in July, 1913, in the presence of the Haverons? A Yes, I remember, on Broad street, that Mr. Stevens came home drunk one evening and his sister, Miss Haveron was there. He always had a revolver and he had a revolver this night and chased me around the apartment with it. Mr. Worms came over and took it away from him and Mrs. Worms has it still, and he took it home with him.

Q That was in October, 1914? A That was when we lived in Broad street.

Q I am talking of the time before the baby was born, in July, 1913. A That happened before Bob was born.

Q When was Bob born? A July 2, 1914.

Q And who attended you, what doctor? A Dr. Firth.

Q And who paid the bill for the confinement? A I paid it by a note, when the boy was over five years old, through Lum, Tamblyn and Colyer.

Q Do you recall in October, 1914, while living at 96 Broad street—or do you recall the incident of the gun? A Yes, I just spoke about that.

Q You think that was before Bobby was born, you say? A No, that was after he was born, because we didn't live in Broad street until after he was born.

Q Where were you living when Bobby was born? A Up on 2nd avenue. I remember what you mean. A month before Bobby was born, Dr. Stevens came home drunk and Miss Haveron, Mrs. Minnie Haveron, was there, from Brooklyn He came home and threw me over the foot of the bed.

The Court: Was she present?

The Witness: She was present.

The Court: What was the cause of that assault?

The Witness: I don't know. He just seemed to be insane when he was drinking and he was drinking most of the time.

Q He quarreled with you without cause? A Constantly.

Q In January, 1915, what incident occurred while you were living at 96 Broad street, on Dr. Stevens' return home? A It was one of the occasions my mother came to see me. My mother rarely came to see me. In the ten years she was at the house only a few times. She came down this day to have her eyes examined. We went down to Dr. Stevens' office early in the afternoon. The door was locked and several patients were standing in the hall. I inquired at Henry Brothers, the brokers across the hall, where he was. Dr. Stevens was very badly in debt and we needed the money so I opened the office and stayed around trying to keep the patients there.

Q You waited some time and then you went home? A Yes, sir.

Q What happened when you went home? A Dr. Stevens came home and I told him the patients were waiting and asked him why he neglected his business when we needed the money so, and he chased me around the apartment and tore a waist in shreds.

Q In February, 1915, what was your condition? A I was again pregnant.

Q And what happened when you were pregnant? A Well, he flew into a rage and said Bobby was just six months old and he couldn't afford to keep one, let alone any more, and I couldn't afford to be in that condition.

Q And then what happened? A He gave me some medicine.

Q Did he administer it to you? A No, Dr. Blyn. Dr. Blyn had an office in our house and worked with Dr. Stevens in Bamberger's in the optical department.

Q And then what happened? A I took the medicine. I made a protest about it, but anything he said to do I had to do.

Q You took it? A Yes, sir.

Q Did you go out that night? A I met Mrs. Bunnell and Mrs. Stitsbury, from Baltimore, at Proctor's theatre.

Q And then what happened at Proctor's theatre? A I had only been there a few minutes when I became violently ill. Mrs. Bunnell called Dr. Stevens. He said he wouldn't come down for me. I vomited green, and people told her they thought I had been poisoned. Finally he did come down, and get me.

Q Where did he take you? A He dragged me by the arm to Dr. Firth's office.

Q Where were you taken from Dr. Firth's office? A Dr. Firth told him he had to take me home in a taxi.

Q And you were taken home? A He took me home.

Q Do you recall whether your mother was sent for then? A Why, I think—I had a girl, Katherine Neary, who was very faithful, and I think she telephoned to my mother.

Q In any event your mother came? A She came.

Q And did she bring anyone with her? A She brought a Dr. George, from Paterson.

Q Did he attend you? A He performed an operation on me that evening, to save my life.

Q Did he stay there all night? A I don't know whether he did or not—I was unconscious.

Q At any event, Dr. George came down? A Yes, sir.

The Court: Your mother lived in Paterson at the time?

The Witness: Yes, sir.

Q In July, 1915, do you remember an episode with Dr. Stevens when he gave you a black eye? A He came home drunk again, and with seemingly no provocation because all I did ask him was why he was so late coming home, and I had been sick and everything since that operation, and he knocked me down and blackened my eyes and bruised one side of my face.

Q What did you do to relieve that? A I went over to the Oriental Drug Store and asked the clerk to give me something because my eye was swollen and he said he thought it was a concussion, and he took me to Dr. Crawford's office on Belleville avenue. It was about midnight.

Q Dr. Crawford attended you then? A Yes.

Mr. Newman: Dr. Crawford testified here.

Q What was your physical condition then, in July, 1915? A Well, I was still sick and the doctor said from the effects of the two other operations that I had a tumor.

Q And where did you go to be attended? A I started in the morning, around the first of July, to go to the Paterson General Hospital. After I arrived at the hospital the doctors examined me and said I was in such a nervous condition that they couldn't give me the anesthetic. They wanted to keep me there—

The Court: Did you go there with the intention of having an operation that morning?

The Witness: Yes, I did.

The Court: Had you talked to Dr. Stevens about what you had contemplated?

The Witness: Yes. Dr. Graham had communicated with him.

The Court: How long had he had that knowledge before this trip to Paterson?

The Witness: Some time—it was after the other operation was performed.

The Court: Either you or Dr. Stevens knew that you had the tumor?

The Witness: Yes, they used to put collodion in my legs to stop hemorrhages I had.

The Court: Why didn't Dr. Stevens go with you?

The Witness: He never did treat me as he should have. He should have come with me.

The Court: Did anyone else accompany you to the hospital that morning?

The Witness: No, I went alone.

Q You didn't stay there, did you? A No, I asked them what it would cost a day to stay, but the doctors told me it would cost what seemed to be a large amount, so I couldn't stay, and I told them I would return home and rest up at home.

Q What happened when you got home? A I arrived home early in the evening and I waited dinner thinking Dr. Stevens would come home early. Dr. Hibbard had rented the two front rooms in the apartment and she had come in in the meantime. I said, "Haven't you heard from Dr. Stevens?" She said, "No," he hadn't been home. Dr. Hibbard waited in the apart-

ment. When he did arrive he had been drinking heavily and when he saw me it so incensed him that he grabbed me and dragged me around the apartment by my hair.

Q That same night did you go to your father's house, in Paterson? A That same evening Dr. Hibbard took me over to the Fourth avenue station and put me on the train to go to Paterson.

Q At night? A I arrived at nine o'clock.

Q Then what happened? A I telephone to my father—my step-father, and he was busy in his business and my mother said they would meet me. They had a summer home and were living there. I went up to the end of the Haledon line on the trolley, and they met me at the end of the Haledon line.

Q How long did you stay home? A I stayed at my mother's there about two or three days.

Q And then where did you go? A They took me to the hospital.

Q And was an operation performed at the hospital? A It was.

Q Do you remember at what hour the operation was performed? A Other than it was some time during the day I don't know. I was there about three weeks and when I came out they thought they had stopped the hemorrhages. The day I was taken home—I was staying with my sister on Broadway, in Paterson. I was too weak to make the trip home. Just as I was about to come home another violent hemorrhage started and they took me up to my mother's. While at my mother's that evening they tried to get in touch with Dr. Stevens and in the meantime he arrived there very late that evening, and they all ran for dif-

ferent doctors and finally had a consultation and took me back to the hospital at four o'clock in the morning.

Q And did they perform another operation? A Yes, sir.

Q At this time, where were you living? A At 96 Broad street.

Q What was the rent of that house? A $35 a month.

Q Did you have a maid? A Just a girl to help.

Q What did you pay her? A Fourteen or fifteen dollars a month.

The Court: Was this before you came into the inheritance to the Van Riper estate?

The Witness: When I was married the estate read that when I was married I was to get $500 cash, property on West street, and get certain rents. I sold everything, furnished the house and paid the rent, paid all Dr. Stevens' bills, when I was married.

The Court: Out of your inheritance?

The Witness: Yes, sir, and the money that came in from the meager rents my sister and I had in common, I would spend. A month before Bob was born I appealed to the head of the German American Trust Company and he advanced me $500, and that $500 had been spent.

Q What did Dr. Stevens contribute about that time to your support? A He gave me $17 a week.

Q Who paid the expenses of these operations? A I gave notes for them. Dr. Philander Harris, of Paterson, has not been paid.

The Court: Did you pay for the nurses, and so on, or did Dr. Stevens pay that?

The Witness: No, I paid that.

Q In 1917, did you move from Broad street? A I think Dr. Bender—the second time I was taken back to the hospital his bill was $32 and after two or three years Dr. Stevens finally settled for $16.

The Court: So far as you recall is that the only expense Dr. Stevens paid in connection with your illness and operation?

The Witness: Yes, sir.

Q Do you remember moving to Broad street, the Elberon apartment? A Yes, I do.

Q In October, 1917? A Yes, sir.

Q What was the rent of that apartment? A $75 a month.

Q Did you have any talk with Dr. Stevens about going to this apartment? A Yes.

Q What was it? A He came home, and he had just started business in the Kinney Building, which was very good, and wanted to move to the Elberon. I said that I couldn't pay $75 a month rent and the bank had refused to give me any more money, and that I didn't think he should incur that expense of $75 a month.

Q What did he say to that? A As usual he had his way and we moved.

Q What did you do to assist him? A I worked in his office in the Kinney Building.

The Court: Who cared for the child?

The Witness: I had a Polish nurse girl, twelve years old. It was just a few blocks between the building and the office. At that

time Dr. Stevens wouldn't allow me to wear his wedding ring.

The Court: What did he say about wearing your wedding ring?

The Witness: He didn't want it known that his office girl was his wife.

The Court: What did he say?

The Witness: He said a professional man—it is ethical to have a big show, and have it appear as though he could have a suite of offices, and a girl in the office, and he wanted it to appear as if he were prosperous.

The Court: Were you known as Mrs. Stevens?

The Witness: He would never mention my name.

Q At this time what was your condition? A I was still sick and run down and weighed about 89 pounds.

Q Were you under any physician's care? A Under Dr. Firth.

The Court: How long after the operations you speak of, in Paterson, did you continue under a physician's care?

The Witness: It was only during the operations that I had any medical doctors, because I had always had osteopaths.

The Court: Regarding him as a practicing physician how long did you continue under the care of any physician?

The Witness: It was constant, almost.

The Court: Until when, up to the present time?

The Witness: Following the operation Dr. Firth treated me more or less—

The Court: For some years.

Q The Vice-Chancellor doesn't only mean Dr. Firth—how long were you under medical care?

The Court: That is what I mean, and how long has that continued—up to what year?

The Witness: It is still continuing.

The Court: You are at times in need of medical attention?

Th Witness: Oh, yes.

The Court: And you have someone attend you?

The Witness: I do.

Q Do you remember in January and February, 1918, having a breakdown and suffering physical paralysis? A We moved to the Elberon on Broad street in October.

The Court: October of what year?

The Witness: 1917, and it was two or three months after that my youngster was bitten very badly by a dog and together with everything else and my terrible condition, it upset me so, I was entirely paralyzed. We had Dr. Tabe, an osteopath; Dr. Firth, Dr. Lowy and Dr. Lawrence.

The Court: How long did that continue?

The Witness: I know it was said I had paralysis of the extremities.

Q How long did that continue, that condition? A It continued right on until I was almost helpless.

The Court: Who paid the expenses in connection with that?

The Witness: I don't remember who paid them.

The Court: Did Dr. Stevens pay any of them?

The Witness: I paid Dr. Lowy and Dr. Firth, of course. I always paid Dr. Firth.

The Court: Do you recall whether Dr. Stevens paid any of these doctors you have mentioned?

The Witness: I think I paid Dr. Lawrence.

Q What did you do in order to get relief, Mrs. Stevens? Did you go to Chicago in March, 1918? A I did, but the reason I went to Chicago was that my brother-in-law, Dr. Stevens' half-brother, a very fine fellow, had been a student and had studied under Dr. McCormick, and they don't believe in the medical doctors, or as they call them, "medical fakers," and they said they were going to treat my spine. Dr. Haveron is my brother-in-law, and he had studied under Dr. McCormick. He wrote to Dr. McCormick, asking that he take me as a patient. Dr. McCormick wrote back and said that if I was anything like Lud Stevens he didn't want me in the place as a patient.

Q Did you go out to Dr. McCormick? A I did.

Q And where did you get the money? A From Mr. Beggs.

Q How much did you get? A Two notes, one for $500 and another for $350; they were discounted through the bank with my sister's signature on them.

The Court: You mean you borrowed the money from Mr. Beggs?

The Witness: I discounted the notes with my sister's endorsement on them.

Q How old was Bobby at that time? A Around three and a half.

Q In whose care did you leave him? A Miss Winkermahr, an old woman.

Q How long did you remain in Chicago? A I was there about seven weeks.

Q Why did you come back, were you cured? A No, I was not.

Q Why did you return then? A Dr. Stevens telephoned to Chicago and sent me such harrassing letters, and baby was very sick, and I was told that doctor wasn't looking after his business. With the child sick, and everybody writing conflicting letters, Dr. McCormick said I was wasting time and money, and being harrassed and all and he couldn't help me while that went on. He said I was wasting time and money there. I had already spent $450.

Q And you returned? A I returned the first of May.

Q In September, 1918, did you buy the house in Montclair? A Yes, but prior to that, after I came home I was really so sick I couldn't stand the noise at the Elberon. I returned in May and the first of June I went to live up at a little farm house at Verona. We lived there from June until September 28th, when we went to Montclair.

The Court: How was Dr. Stevens' treatment of you during that period?

The Witness: Well, he wasn't so bad. One thing Dr. Stevens did give me credit

for was that I was a wonderful cook. One thing he insisted on was that I get up in the mornings and cook for him.

The Court: Were you able to do that?

The Witness: No, I was partially paralyzed.

The Court: Did he commute to Newark?

The Witness: Yes, he commuted to Newark. He wouldn't telephone me when he was coming to dinner. They waited and there was always sort of a hubbub.

Q In September, 1918, you purchased the house in Montclair? A Yes, sir.

Q And you took up your residence there? A Yes, sir.

Q And you paid the money for the house? A At that time there was an agreement made. I didn't have the estate money and Dr. Stevens gave a note to Clarence Conners, for $500 and I paid to the Godfrey Corporation $112 a month rent. In order to pay that we rented the front two rooms in the house at Montclair and I got the revenue from it and paid the difference up until the time I took title.

Q At that time was an automobile purchased? A We had only been in Montclair a short time, I don't remember the date.

Q Just tell us about the automobile. A Dr. Stevens said it was very necessary that he have a medical diploma. He worked hard and having only attended Dr. McCormick's college he couldn't even enter college, so he then got in touch with the Oriental Medical School in Washington, D. C., and they told him that if he could come out there he could buy a diploma. He said he couldn't go out on the train because that would

look too cheap and said if I could get the money to buy an automobile we would drive to Washington, D. C., and he would obtain this medical diploma to cover him in Montclair. At this time the German American Bank in Paterson wasn't the executor of my grandfather's estate any more—it had been turned over to the Hackensack Trust Company. I went to the Hackensack Trust Company and appealed for some money and they agreed to give me the money on a note and I got $3,000.

Q And did you get an automobile? A I did.

Q Franklin car? A Franklin brougham.

Q Did you go to Washington? A Yes, we did and he got the diploma.

The Court: From what college?

The Witness: Oriental Medical School, Washington, D. C.

The Court: How much did the diploma cost?

The Witness: I don't know, your Honor.

Q At that time did you advance him any money? A Yes, I loaned him—Henry Brothers was across the hall from his office and he had been dabbling in Stutz stock. They called up and threatened to put him in jail unless he took the stock up and finally I loaned him $1,300 and besides that I gave Henry Brothers $700. I had bought through Post & Flagg, $5,000 worth of Liberty Bonds and when this Stutz stock was falling they were calling on him for collateral. I got a $1,000 Liberty Bond and applied it on the stock to try and save him. The stock went from fifty to twelve.

Q In any event you loaned him the money to take care of the debt due Henry Brothers on this stock? A In the $1,300 I had $500. The $500 was to pay Clarence Connors the note.

Q And the $1,300 was to pay what? A His general debts.

Q And you allowed him to put up a Liberty Bond of yours as part of the obligation due Henry Brothers? A I didn't allow him—he did it.

Q Didn't you know he was going to do it? A Not until after he had done it.

Q Where were the Liberty Bonds? A In Post & Flagg's office.

Q In January, 1920, do you recall when Dr. Stevens was home suffering from a cold? A I do.

Q What incident occurred at that time? A Well, at that time Bobby was also sick and my grandmother came down to the house to visit me and any time she came Dr. Stevens was so grumbly that I couldn't please him and I thought I had better have her down. It was in January, one Saturday evening, as a result of a telephone call the previous day that Dr. Stevens' mother came and after she came I went out to get a loaf of bread and I drove over to South Orange.

Q For what purpose, and to see whom? A To see Mary Sutz, Dr. Stevens' secretary.

Q What for? A To get some money she had collected, because her mother had said the night before she was not home.

Q She was in the doctor's office, and you went there to get the money? A Yes, sir, to her home.

Q Did you find her in? A I did.

Q Did you get the money? A No.

Q When you came back what occurred? A I came back and when I came home Dr. Stevens was up and dressed and he asked me where I had been, and I told him.

Q What did—what hour was this? A Around two o'clock in the afternoon.

Q What did he do after you told him where you had been? A He flew into a rage and asked me why I dared. I think the reason he flew into a rage was because when he was sick I had bought him "Country Gentleman," and he used to show me the fine houses in it and say, "That's the kind of a place Miss Sutz lives in," and he would always rave about Miss Sutz. When I saw Miss Sutz living in a little bit of a two-room hut I didn't know what to think. I asked him why he had told me this girl lived in a gorgeous home. So he flew into a rage and took this revolver—

Q The revolver that was offered in evidence here the other day? A The revolver that was offered in evidence—and he chased me through the house and, in fact I had my hat on and I had just taken off my coat—I didn't have my hat off yet, and I ran out the back door and as I came through the kitchen door he picked up this aluminum kettle and he fired it at me just as I had gotten through the back door.

Q What was the condition of the weather at this time? A It was getting worse and worse. My grandmother threw my fur coat out of the window. He told me if I took the car out, he said, "I will fire right through the window."

The Court: What did you do?

The Witness: I went over to a family by the name of Gardner and I telephoned

to my brother-in-law, Mr. Worms, and I told him the conditions and asked him to come up, that I didn't dare go home.

Q Did he come up? A Mr. and Mrs. Worms came up.

The Court: He took the gun away from him, didn't he?

The Witness: Mr. Worms took it away from him.

The Court: I remember hearing it.

Q After this incident where did you go?

The Court: After Mr. Worms came you returned home?

The Witness: Yes.

Q After that incident where did you go—do you remember going to Lakewood? A A short time after that I went to Lakewood, to Laurel-in-the-Pines hotel.

Q How long did you stay there? A About a week or ten days.

Q Did Dr. Stevens come there? A He did, for the week-end.

Q And who paid his hotel bill? A I paid it—it was on my bill, even the bus to the station. You have the bill there, Mr. Newman.

The Court: Did he give any satisfactory explanation as to why he had become so angry when you went to get the money from this girl?

The Witness: No, we had more or less had a lot of trouble over this girl. He said, "I would rather live with her in that two-room hut in South Orange than live with you in this beautiful home."

Q In October, 1920, do you recall an incident when you went out with a Mr. and Mrs. Summerville? A I do.

Q Tell us about that? A Mrs. Summerville was in a play, the Thirteenth Chair, up in Caldwell. All the college crowd that I went around with were in this play. Dr. Stevens was all dressed to go, but the patients came until it was almost time to go. At nine o'clock, when we started to go, he just became angry and said, "I don't enjoy these things," and refused to go. I said, "I am going anyway," because I had promised to take these friends home. Dr. Summerville had attended him when he was sick. He said, "If you go, when you come home I will blow your brains out." I did go.

Q When you came back was he there? A Incidentally, he said he would lock me out of the house, too. When I came back Mr. and Mrs. Summerville came with me. His office was in back of the waiting room. He sat back of his desk and had the gun up on top of it. Mr. Worms took that gun back with him that night in January, 1920. It was several months after that that he called up Mr. Worms and demanded that he return it.

Q Was that the same gun? A The same gun, lying on the table.

Q The same gun that has been offered in evidence here? A Yes.

Q Do you remember in November, 1920, an incident when a collector came up from Bamberger's to collect a bill? A Yes, I do.

Q Tell us about that. A During that summer we had a summer home up at Greenwood Lake and Dr. Stevens had promised to pay half the expenses. I haven't been able to get that

money. I have had to sell all the securities I had, and spend the principal entirely.

The Court: About what amount did you spend from the estate, in all?

The Witness: Around $35,000. All I have left is the house with the $9,000 mortgage now.

Q Just bring your attention to this episode at the house in Montclair when the collector from Bamberger's came up. A It was one of the days when we were going to drive up to the summer place. Doctor asked me to pay the bill. I refused. I had paid all the other bills, but I refused to pay this personal bill of Dr. Stevens. Up to this time I couldn't get any charge accounts in his name so every account was in my name.

Q You refused to pay what account? A The account in my name for what he had purchased.

Q In Bamberger's? A In Bamberger's. So Mr. Lefkowitz, a collector in the credit department, came up this afternoon. I told him to come—that Dr. Stevens would be there. He said he didn't have any money—he couldn't afford to pay it. He said I should pay it. Rather than have an embarrassing argument I went up to my room. He flew into a deliberate rage and finally sent this collector up to the second floor up to my room.

The Court: What did you do?

The Witness: I said, "What do you mean by coming up to my room?" He said, "I thought you were in a sitting room." He said, "Dr. Stevens tried to

get you to give a note for it." I said, "I am through paying bills."

Q What happened after Mr. Lefkowitz went away? A He went out and he drank. When he came back he wouldn't eat any dinner. He called me vile names.

Q What kind of names did he call you? A Whores and sons of bitches and everything that was vile.

Q Tell us what happened that night. A He kept on quarreling and quarreling, and I asked him why did didn't eat and try to pass it over, but he grew very violent. I went upstairs for something and he followed me up. When I got on the second landing he threw me downstairs.

Q Did that injure you? A It injured my shoulder.

Q Who helped you? A Edith Reed, the maid.

Q And did you send for a physician to attend you? A I couldn't do that, because he wouldn't allow me to.

Q Who did you telephone to? A Mrs. Gorton.

Q Mrs. Gorton was there next morning? A Yes, sir.

Q As a result of this episode were you confined to your bed? A I was.

Q For how long? A For several days, I don't remember.

Q Do you remember in December of the same year calling at Dr. Stevens' office in the Kinney Building? A I do.

Q And what occurred there? A Following this broken shoulder, he didn't come home for

several days and the patients—of course, he had a practice, a very good practice in Montclair. We had a lovely home and everything. He used to have patients at the house. The patients kept coming and I kept telling them Dr. Stevens was on a trip—he would be back at any time, trying to keep the patients. I didn't know why he didn't return. Finally, he didn't return and I drove down to the office on this particular afternoon to get him. I usually did drive down to get him when he was coming home.

Q What happened there—you say you went down to the office—he hadn't come home. Can you give us the time, as near as possible? A Well, it was before Christmas.

Q Just before Christmas, 1920, you mean? A 1920, the month before he left for good. I called him on the telephone and Miss Sutz refused to let me talk to him, and finally I drove down to the office. I parked the car and went upstairs. It was around five o'clock; it was dark. When I got up to the office she met me at the door and said Dr. Stevens had gone home. I said, "I don't believe you—I am going to wait." I went in and looked to see if his instruments were there. He used the same instruments at home and in the office, and he used to carry them back and forth with him. His grip was there with the instruments and I knew he hadn't gone home—that he just sneaked out. I said, "I will wait for him; he hasn't gone home." She abused me and asked why I came to the office. I told her to leave. Before she left the 'phone rang, and she answered it and said, "Dr. Stevens, Mrs. Stevens is here." Every fifteen minutes he telephoned the office. There wasn't any coal at home. Usually in Montclair you

have to order the coal the summer before to get service, and there was no coal home, and Mrs. Gorton was keeping Bobby, and I telephoned Mrs. Gorton and told her I was waiting for him. Every fifteen minutes the 'phone rang, and he just knew I was there and wouldn't come back. Around 7:30 I drove home and had dinner at Mrs. Gorton's, and I telephoned my brother-in-law, Mr. Worms. He asked me to come down to their apartment, and I did, and talked to him. I asked him what I should do.

Q What happened subsequently? A At eight o'clock this same evening Miss Sutz called up on the 'phone, and I had told her before she left that if Dr. Stevens didn't come home the next night I would go to the office the next morning. She dared me and told me if I came down to the office she would throw me out. After I got home she called me up and threatened me some more. In a few minutes Dr. Stevens called me up. He evidently was in touch with her and called me vile names and told me if I came down to the office the next day he would beat me up and she would beat me up. He was a slacker and this girl's father was a German, not even a citizen, and I was incensed.

Q Did you go down the next morning? A I did. Before I went—this night he had called, I knew this gun was loaded—I never had my suit off all night, a suit I had had dyed twice—I didn't have any other clothes. I sat up all night, fearing he would come home, alongside the telephone. The next morning I went down to the office, and before I went in I took this gun up to Mr. Kalisch. Before I went home—

Q You took the gun to Dorey Kalisch and gave it to him?

The Court: Mr. Kalisch has testified to that.

Q What happened in the office at that time? A I told Mr. Kalisch what had gone on the day before when I had been there and what had happened at home and that the doctor had broken my shoulder.

Q Did you go down and see Dr. Stevens? A Yes, but as a result of what I told Mr. Kalisch he got the engineer of the building to protect me. The superintendent said, "I will send the engineer on a pretext to fix the windows, to protect you."

Q What happened when you got down there? A I don't know what all happened. I went in and Miss Sutz jumped up, and I apologized to the patients. I told them that this woman had incensed me and abused me. When she made a grab for me I knocked her down. In the fracas Dr. Stevens picked up a chair by the back and was going to kill me. Mr. Slobone held him down and said, "Doctor, doctor, you are not going to kill your wife?" He had invited us to the Shongun Fishing Club. At any rate, the agent for the Kinney Building took me out.

Q After that where did you go? A I went home.

Q Did the doctor come home? A No, he did not.

Q Did he ever come home after that? A Yes.

Q When did he come home? A Following this incident when Dr. Stevens knocked me down, my injured shoulder that had not quite knitted caused a relapse and I was in bed, very weak, and that is the time that Mrs. Gorton mentioned that she looked after me.

Q Did he come home? A Just before Christmas, a few days, but I was so sick they thought I was dying, and Mr. Kalisch brought both his secretaries up and held me up in bed to sign my will. This Mr. Gardner came over and was very much horrified and telephoned Dr. Stevens' office at least a dozen times. He went down to talk to him.

Q Don't tell us that. A Mr. Kalisch told Dr. Stevens if I died and he didn't come home before I died they wouldn't allow him in the house.

Q Did he stay there? A Yes, he did.

Q Was that the last time he was in the house? A This was a few days before Christmas. He hadn't made any preparations for Christmas for Bobby, and he came home terribly drunk. He stood over me for two hours in the music room and wouldn't let me move. The next day there was nothing in the house for Christmas and Mrs. Gorton invited me into her house. He was so ashamed of himself that he took us to the Washington Restaurant for dinner.

Q When did you see him after that? A The first two weeks in January he came home a night and stayed away a night and came home a night and stayed away a night.

Q After the month of January did you see him at all? A Yes, he came home, and I was feeling very badly and sick, and a friend of mother's was going to Atlantic City and asked me if I would accompany her. My mother-in-law said she would come up and look after Bobby. My mother-in-law came up to look after the house while I was away.

Q This was in the month of January, 1921? A Yes, three days before the 14th.

Q Then what happened? A I left on a Thursday, but before I went away Dr. Stevens promised he would give me the interest on this note of $1,300 in order to pay my expenses. The morning I went he swore and abused me and refused to give me the interest. He had telephoned Mr. Slobone, and he asked Mr. Slobone to get him a license and detach the speedometer of my car, and because Mr. Slobone hadn't done that he wouldn't give me the interest and abused me.

Q You went to Atlantic City? A Yes, sir.

Q How long were you there? A I stayed until Sunday.

Q Then what happened? A I telephoned to Dr. Stevens. He cursed and swore at me on the telephone and said I didn't leave the key to the car, and it didn't make any difference and he didn't expect to take me or Bobby because I hadn't left the key to the car.

Q Did you come home from Atlantic City? A Yes, sir.

Q Was he there? A No, sir. When I arrived home I found my mother-in-law was huddled in a chair with some wraps around her. The furnace was broken and there was no coal in the cellar, and he wasn't home and hadn't come home. He had been gone all that day, leaving his mother and the youngster alone in the house. He came home about quarter of three in the morning, broke the front door in and had a bottle of liquor in his pocket, and he chased me through the house so violently that his own mother locked herself in her room. I tried to call the police, and he left the house and didn't return again.

Q You never had anything to do with him from that time to this as a wife? A No.

Q Where did you go after he left? A I stayed there a couple of days, trying to get the furnace fixed.

Q Where did you go then? A Marlborough Hotel, for four days.

Q Then you went back to the house in Montclair? A Then I went back to the house in Montclair.

Q And you lived in the house in Montclair until what time? A I have lived there off and on until it was rented. When I went to Bermuda I had been living there for several months.

Q Do you still own the house? A Yes, sir.

Q It is rented now? A Yes, sir.

The Court: Where are you living now?

The Witness: On Grove street.

The Court: Boarding?

The Witness: No, I have a two-room apartment.

The Court: You rent the other house furnished?

The Witness: Yes, sir, furnished.

The Court: After he left you and you say he never returned, has he ever contributed anything to your support and to the support of the child?

The Witness: Voluntarily?

The Court: Yes.

The Witness: No, not voluntarily. I only got a check last Saturday for back alimony, before this case came up.

The Court: That represented arrearages of how many weeks?

The Witness: Six weeks.

Q Now, when you were living at Midland avenue in the month of February, 1921, did the doctor come to the house in your absence? A Yes; Edith Reed was still at the house. She kept a little fire in the kitchen, but she didn't stay at night. That evening Mrs. Gorton telephoned me that Dr. Stevens had broken in with a crowd of five men and a car and was looting the house.

Q As a result of what she told you you went over? A Yes, sir.

Q What did he remove from the house? A He had broken into a rear window. He took out the bookcases, but he didn't take his instruments and didn't take his clothes. He ransacked all the drawers, presumably looking for these notes and papers I kept in the house.

Q Did he subsequently return? A No, but he sent a moving man later.

Q To get what? A To get his clothes.

Q And his instruments? A Yes, sir, and Mr. Fear moved me when I moved, and he said that Dr. Stevens had told him to hold them and he would give him a forwarding address, and I think they are still there.

Q Mr. Fear got them and removed them from the house? A Yes, sir, he did.

Q Did you have occasion to call up the Police Department about the Court order? A After Vice-Chancellor Foster made the order to contribute, and he called me up when he was arrested on the ne exeat, and I was so frightened that I called the police before he would break in after he had cut the telephone off.

Mrs. Marjorie G. Stevens, cross.

Q I don't think I asked you on your direct examination, Mrs. Stevens, when was your menstrual period in July? A It was the end of August, and I had medical treatment on the 26th and 28th of July.

Q And when, in the month of September, was that menstrual period? A On the 21st of September.

The Court: I think you have gone into that very fully.

Q In any event, Dr. Eddy treated you in July and in September? A Yes.

Cross examination by Mr. Blankenhorn.

Q You say Dr. Eddy treated you in July and September? A Yes.

Q When in July did he treat you? A July 26th and 28th.

Q Why? A For hemorrhage. At this time I was sick in bed, and that is the time when Mrs. Bunnell and her maid were in Montclair taking care of me.

Q In September when did he treat you? A September 21st.

Q And why? A For hemorrhage.

Q Now, you have testified at the prior hearing, if I understand it correctly, you were very much more sick in August than you had been in July, is that so? A I don't remember; if I did you have it there.

Q Why didn't you have Dr. Eddy in August? A Because he was away in California—you mean in August?

The Court: That is the time you were away.

The Witness: I did have Dr. Walker in Bermuda the night before I left, but that is the only medical attention I had.

The Court: Is he the physician at the hotel?

The Witness: He is the general hotel doctor. He is the doctor of the whole islands, formerly of Fordham Hospital.

Q Have you testified to all the incidents in your married life that caused serious difficulty between you and the doctor? A Well, I have testified to so much—it was constant.

Q He was always going to shoot you, was he? A No, but he abused me.

Q He threatened you with a gun almost from the very outset of your marriage, didn't he? A Yes.

Q And you had become used to that? A Well, I don't know as I had become used to it.

Q You had heard this so frequently that it wasn't new to you? A No, it was not new to me.

Q And in all that time the only time that he had ever pointed that gun at you was at the house when you had come home from Miss Sutz's? A No, that isn't so.

Q When did he point this gun at you at any other time? A He has taken the gun up in his hands and said he would like to blow my brains out; oh, I can't tell you the number of times.

Q Do you remember any particular time? A I remember the first revolver that Mr. Worms took from him.

Q Didn't Mr. Worms take this particular revolver that was offered in evidence here at some particular time? A Yes, sir.

Q When was that? A That was a Sunday afternoon at the house.

Q That was when doctor was sick with a cold? A Why, he was up this day.

Q That was a Sunday? A Sunday.

Q Mr. and Mrs. Worms were coming to dinner? A No, they were not coming to dinner. I was late—they waited for me.

Q They were not invited for dinner? A No, sir.

Q When they got there where was the doctor? A I don't know—I wasn't there.

Q You know the gun was taken and there was no gun in the house after that? A I think he returned it.

The Court: How long did he keep the gun?

The Witness: I know he had it the following October, in Caldwell.

Q Isn't it a fact that that gun was never in the house again? A No, because I took it to Mr. Kalisch's from the house.

Q Then it was in the house once? A Again, yes.

Q Do you recall what else you took home from doctor's office besides those instruments the day you were there? A I didn't take anything else.

Q Didn't you take that gun home from the office? A No, I did not, your Honor; I certainly did not. The doctor's desk was locked. Miss Sutz locked even her own desk. There wasn't anything open—everything was closed.

Mr. Newman: Just answer the questions yes or no.

Q Where did you get it from when you went down to the office that Saturday morning? A I got it from the mantelpiece in our bedroom.

Q Would you say whether or not it was loaded? A It was in a holster.

Q Why did you take it? A He said he would shoot me. As a precaution, I took it down to Mr. Kalisch.

Q Didn't you have that gun down in the Kinney Building? A No; you can ask Mr. Kalisch that.

Q You didn't have the gun in the Kinney Building at all? A No; I took it up in the elevator and gave it to Mr. Kalisch and never saw it again until it was put in court here the other day.

Q I want to ask you if there were not some other matters in your life with Dr. Stevens that caused serious trouble between you that you haven't mentioned? A Absolutely none, only that he treated me cruelly all the time.

Q Do you remember on the trip to Chicago, when you went to the sanitarium there, meeting a man whom you afterwards met in New York? A Yes.

Q Who was that? A You mean Mr. Burton?

Q Wasn't there some trouble about Mr. Burton? A Why, the difficulty, the—

The Court: Was there some difficulty about Mr. Burton between you and Dr. Stevens. Yes or no you can say to that.

The Witness: Yes.

Q There was some trouble, wasn't there? A Yes, sir.

Q Some trouble that you haven't mentioned? A I wanted to speak of it, but Mr. Newman wouldn't let me.

The Court: Stop talking and answer the questions; Mr. Newman will ask for the explanation.

The Witness: No, I haven't mentioned it.

Q I show you a photograph and ask if that is a photograph of you. A That is.

Q When did you last see that? A I don't know, your Honor.

Q Didn't you give that away? A I certainly did not.

Q I show you another photograph and ask you if that is a photograph of you? A That is —that is the same day as this.

Q Taken by whom? A By Sergeant Lyons, in the East Orange Armory, May 14, 1915.

Mr. Blankenhorn: May I have the pictures marked for identification?

(Photographs marked Exhibits P. 2 and P. 3 for identification.)

Q Looking at Exhibit P. 3 for identification, can you tell me when you first saw that? A Dr. Stevens used to—

The Court: When did you last see it?

The Witness: Just before I went to Chicago.

The Court: If you don't recall anything say so, don't just attempt to guess at it.

Q Can you now say when you saw P. 2 last? A Why, I can't, it is so long ago.

Mrs. Marjorie G. Stevens, cross.

Q Now you say you saw P. 3 in the possession of Dr. Stevens when? A A few days before I went to Chicago.

Q Did you see it since you came back? A No, I have not seen it since.

Q When you went over to Orange to the house of Dr. Stevens' stenographer, what did you tell her? A I told her that I came over to find out why her mother had telephoned at midnight asking where her daughter was and I wanted to find out where the money was, because while the doctor was sick I hadn't gotten any.

Q Did you tell her that doctor was sick? A I don't remember.

Q Did you tell her he was about to die? A I didn't ask her.

Q I show you what purports to be a letter addressed to you, dated July 24, 1918, signed by Mr. Patterson and ask you what that is? A That is the first I have ever seen that letter. That is the first I ever saw that letter.

Mr. Blankenhorn: I offer it for identification.

(Letter marked Exhibit P. 4 for identification.)

The Witness: I haven't ever seen the letter or envelope before.

The Court: Did you ever see that before?

The Witness: No, sir.

The Court: That is the question, and that is the answer.

Q I show you two sheets of paper of the Hotel, apparently of Altoona, Pennsylvania, on which there are certain lead pencil marks, and ask you if you have seen those before? A No, sir.

Mrs. Marjorie G. Stevens, cross.

The Court: Look at both of them.

The Witness: I have never seen either one before.

The Court: She has never seen them. Let them be marked for identification.

(Two sheets marked Exhibit P. 5 for identification.)

Q Now I show you a book on the outside of which appears the word "Arbutus," and ask you if you have seen that before? A Yes, I have.

Q When did you last see that book? A The date is in the inside here.

The Court: What is the date?

The Witness: It is not in—it is cut out.

The Court: You say you have seen that book before. The question is, can you say when you last saw it?

The Witness: I can't say—the date was in the front.

Q Can you recall whether it is one or ten years ago that you saw it last?

The Court: If you can't just say you can't.

Q Did you see it in 1918? A Yes, sir.

Q Where? A At my apartment.

Q Is it a book out of your library? A It is a book a friend gave me.

Q What did you do with it? A My little boy gave it to Mr. Burton.

Q When? A In 1918.

Q And where was Mr. Burton at that time? A In Newark. That book was given in my apartment on Broad street.

The Court: From your boy to Mr. Burton?

The Witness: Yes, sir. It said "from Bobby Stevens to Mr. Burton."

The Court: The book was given by your son to Mr. Burton about when?

The Witness: The end of May.

The Court: What year?

The Witness: 1918.

Mr. Blankenhorn: I ask to have it marked.

(Book marked Exhibit P. 6 for identification.)

The Court: It won't go into evidence until it is proved properly.

Q And after your son gave it to Mr. Burton you didn't see it again? A I never saw that book again, no.

Q Until now? A Until now.

Q Did you ever talk with Dr. Stevens about it? A To the effect that he saw it?

The Court: Did you talk with him about it?

The Witness: Yes, sir.

Q What about? A Dr. Stevens had gone over to see Maude Adams, Mr. Burton's wife, and she had given him this book. He had tried to tell Mr. Burton's wife that the two weeks that I knew him I was in love with him and he was with me.

The Court: You will have to take the consequences of talking too much. I have cautioned you and so has your counsel.

New Jersey State Library

Q When your son gave this to Burton, how old was your son? A Three and a half years old.

Q Did you select the book? A The book was given to me—it wasn't selected.

Q When your son gave Mr. Burton the book, did your son select it out of the library? A No, Mr. Burton selected it.

Q And then this inscription was made in on the first page that you now say has been cut out? A Yes, sir.

Q Who wrote the inscription? A I did—my own handwriting.

Q At the time that Dr. Stevens told you he had been over to see Mrs. Burton, or Mr. Burton's wife, where was Burton?

The Court: At the time the doctor had this conversation with her?

The Witness: I don't know.

Q You know what happened with reference to him, don't you? A I knew something—

The Court: At the time of the conversation between the doctor and yourself did you know what had happened to him?

The Witness: Yes, sir.

Q What had happened? A Mr. Burton and Dr. Stevens—

The Court: What had happened to Burton is the question.

The Witness: He had been arrested but I didn't know where he was.

Q Didn't Dr. Stevens tell you he had been convicted of forgery and had been sentenced to jail? A No.

Q You know as a matter of fact that he had been, don't you?

The Court: You first directed her attention to the conversation she had with the doctor, and the conversation about Burton at that particular time. Now you are asking her for her knowledge.

Mr. Blankenhorn: I will withdraw the question.

Q Mrs. Stevens, in 1918, before Mr. Burton was arrested you knew, did you not, that your husband was going to have him arrested? A I did not.

Q You knew, did you not, that your husband had cashed a check for Mr. Burton? A I didn't know until he had come home from the Robert Treat Hotel because he had been out with Mr. Burton the night before.

Q Then you did know that your husband had cashed a check for Mr. Burton in 1918? Before Mr. Burton was arrested? A No.

Q Did you learn of Mr. Burton's arrest? A I did.

Q When? A The evening he was arrested.

Q From whom? A From Dr. Stevens, when he came home.

Q Dr. Stevens came home from the Robert Treat Hotel and told you he had had Burton arrested? A He came home; I don't know where from.

The Court: Did he tell you he had Burton arrested?

The Witness: Yes, sir.

Q I thought you said he had been in the Robert Treat Hotel? A Yes, I did.

Mrs. Marjorie G. Stevens, cross.

Q Burton was living at the Robert Treat Hotel? A I understand, yes.

Q Then on the night that the doctor came home and told you that Burton had been arrested, that was the first that you knew that the doctor had cashed a check for Burton? A The first I knew.

Q Do you know whether Burton was the correct name of that individual? A I don't know.

Q Have you been given any information on that subject by anybody? A Only by Dr. Stevens.

Q And what did he tell you? A That he had been over to see his wife in New York and incidentally he had seen Mr. Burton, because the day that the check was cashed; it was $169, and he had gotten a license to drive Mr. Burton's car.

The Court: You are doing a lot of talking. He asked you what Dr. Stevens told you about whether this man's name was Burton or not. You don't pay attention to the question. You are trying to give him something you want him to know. Strike out what she just said. What did Dr. Stevens tell you about this man, as to whether his name was Burton or not?

The Witness: He said he was known as Patterson, also.

Q And under several other names, too? A That I can't say.

Q When was the trial, do you recollect? A I don't remember any trial. I didn't know of any.

Q When Dr. Stevens came home that night didn't he show you these photographs P. 2 and P. 3? A No, he certainly did not.

Q Didn't he tell you about finding one of them in Burton's pocket? A No.

Q Where did you meet Burton? A March 6th, when I left for Chicago.

Q Where did you meet him? A In the railroad station in Newark.

Q Who introduced you to him? A Nobody introduced me to him. My grips were in front of the station and as the train pulled in—it was during the war and there were not many women traveling, they were all officers—and as the train pulled in, I was in train 22, and Dr. Stevens went and got the porter and asked him to come back and get my bags, and the porter was very busy and told Dr. Stevens to wait a minute and Dr. Stevens called him all sorts of names. Mr. Burton picked up the grips and says, "I beg pardon, I will put your bags on the train." He put my bags on the train. He wasn't on the train. I didn't see him again until I had returned from Chicago.

Q Where did you see him? A With my husband in the Robert Treat Hotel, in the lobby.

Q Who introduced him to your husband? A After I had been home from Chicago a few days someone called up and Dr. Stevens answered the 'phone, and he said, "This is Mr. Burton," and he said, "I am doing civil service work in the hotel," and he said, "I would like to see you if you are not going to be busy this evening." That evening Dr. Stevens and I went down to the Robert Treat Hotel and incidentally Dr. Stevens apologized for the way he had spoken to that porter.

Q Didn't you meet him in the park in front of the hotel? A No.

Q Didn't you meet him there? A No.

Q How did he know your address? A I had given him the address on the train, and asked him if he would call up my husband. I had written my husband, and I asked him to call up my husband and he would thank him for taking care of my bags.

Q He called you up, didn't he? A No, he called Dr. Stevens' office in the Kinney Building.

Q Now, when the doctor came home that night and informed you he had Burton arrested, didn't he show you these slips of paper, Exhibit P. 5? A No.

Q Didn't you have some discussion about some papers he had taken out of Burton's pocket? A No.

Q You had some difficulty with him about Burton, didn't you? A The only difficulty that I had is that Dr. Stevens—I heard he had gone to the jail to Mr. Burton, and tried to make Burton admit he had been friendly with me.

Q Didn't Burton admit that? A Not to my knowledge.

Q Did the doctor make any charges of your relations with Burton to you? A Yes, sir; he asked me if he had gone on to Chicago with me and what about my relations, etc.

Q Didn't he say he had found your name written on this slip of paper in Burton's pocket? A No.

Q And didn't he accuse you of having had sexual intercourse with Burton? A No.

The Court: Did that occur?

The Witness: No.

Q What jail was it that the doctor saw Burton in? A I don't know—Trenton, I think.

Q I thought you told me that you didn't know Burton was in jail? A You are mistaken. I said I didn't know what day the trial came up.

Q I think you stated positively that you didn't know he was in jail.

The Court: Did you know he was in jail?

The Witness: I don't know he was in. I had no way of knowing it.

Q Isn't it a fact that you wrote him when he was in jail? A No, it is not a fact.

Q Didn't the doctor remonstrate with you because you wrote him while he was in jail? A No, it isn't a fact.

Q Didn't the doctor come home with this letter, Exhibit P. 4, and say to you that he had forgiven you for your relations with this man because he believed you would break them off, and that now he found you were communicating with him? A No.

Q And did you grab this paper out of his hands and try to get it from him? A No—let me see it.

The Court: That is the correct answer if you never saw it before.

The Witness: No—I never saw that.

Q And don't you know that this paper was in the safe in the doctor's office? A No.

Q And isn't that why you went out to the stenographer's home, in order to get the combination of the safe, so as to get this letter? A In 1921?

Q You only went to the stenographer's house once? A Yes, sir.

Q And was that the time you went there to get the combination of the safe so that you could get this letter out of it? A Positively no.

Q And didn't the doctor tell you that from this paper that he had gotten from Burton that he had discovered that you had had sexual intercourse with that man?

The Court: Did the doctor tell you that?

The Witness: No.

Q And didn't he tell you that he had gotten this book, Exhibit P. 6, back from Burton's wife? A I think he told me that.

Q When was it that you found that Dr. Stevens had gone to see Burton at the jail? A I don't remember when.

The Court: Who told you?

The Witness: Mr. Worms, my brother-in-law.

Q Did you say anything to the doctor about it? A No.

Q Did the doctor threaten to shoot you at that time? A No, he did not—I only weighed 89 pounds.

The Court: Did he threaten to shoot you —it doesn't make any difference about what you weighed; you say he didn't?

The Witness: That is right.

Q There was trouble over Burton between you and the doctor, wasn't there? A No, only I advised him not to cash the check. I told him it was foolish—he didn't know who Burton was.

Q When did you advise him not to cash the check? A I didn't advise him. I said it was

a foolish thing to do. During the war everyone accepted these officers at their face value.

Q When did you tell him it was foolish to cash the check? A After it was done.

Q When did you do it?

The Court: Before the arrest?

The Witness: After the arrest.

The Court: How long after?

The Witness: I don't know—in the course of conversation.

The Court: During the two weeks that you say your acquaintance lasted how many times was Mr. Burton at your home?

The Witness: He was at my home three or four times.

The Court: In the daytime or at night?

The Witness: In the evening.

The Court: Was the doctor present or absent?

The Witness: Doctor was always present, and he allowed this man to take Bobby to the circus.

The Court: Was the doctor present when you say Bobby presented this book to this man?

The Witness: He was.

The Court: At whose suggestion was that presentation made?

The Witness: Mr. Burton's.

The Court: What did he say about it?

The Witness: I don't know what.

The Court: What led up to it?

The Witness: The day he had taken Bobby to the circus, when he brought the

youngster home he was very sick, and he was very fond of the youngster during that time. That evening he came to the house. My brother-in-law was there, and he brought my youngster a large box of soldiers and said he was going away—that was the last we would see of him. He said, "I would like something to remember that child by; I never had any children of my own." He always seemed very fond of his wife. This book was on the table. I said, "I would like to give you something to remember Bobby by," and I took the ink and wrote in it, "From Bobby Stevens," and the date.

The Court: What did Mr. Stevens say?

The Witness: He didn't say anything.

The Court: Did he make any objection to it?

The Witness: No, none whatsoever.

Q Now, read over that letter, Exhibit P. 4 for identification. A (After reading.) All right.

Q Do you still say you never wrote to Burton while he was in jail at Trenton? A I still say so, absolutely.

Q Did you ever write to him at any time?

The Court: Before or after his arrest?

Q Before his arrest? A I don't remember.

The Court: What occasion would you have had for writing, if you had any, if you recall?

The Witness: He sent me flowers on Mother's Day and I answered that letter.

The Court: Was that before the arrest?

Mrs. Marjorie G. Stevens, cross.

The Witness: Before the arrest.

Q Did you at any time meet Burton at the Robert Treat Hotel? A No.

Q Didn't you have lunch in the soda room with Burton? A I didn't meet him at the hotel; I met him on Broad street with my mother and sister.

Q And went to the hotel with him? A We just had an ice cream soda.

Q Who was there? A My mother and young sister.

Q And at the time Burton communicated with your mother about the way Dr. Stevens treated you? A I can't say it was that way.

Q Well, what did he communicate to your mother about, concerning you? A He said that the night before that Dr. Stevens and I had been at the theatre, down at the Broad, and I was very sick and pale. When we came out of the theatre I said, "I am so weak I can't possibly walk home." He said, "I'll take you home on the trolley."

The Court: He asked you what Mr. Burton talked about.

The Witness: He told my mother about this matter.

The Court: He talked about your illness of the night before, is that it?

The Witness: Yes, sir.

RECESS.

AFTER RECESS.

MRS. MARJORIE STEVENS, recalled.

Further cross examination by Mr. Blankenhorn.

Q When doctor came home from the Robert Treat Hotel on the occasion when Burton was arrested, isn't it a fact that you had a quarrel with him? A No, it is not.

Q Isn't it a fact that you had a quarrel which lasted all night? A No.

Q No trouble at all? A He told me of the affair, but that was all.

Q And accused you of having been intimate with Burton? A No.

Q When did that happen? A He didn't accuse me.

Q Well, I thought you testified before recess that he had accused you of having been intimate with Burton?

Mr. Newman: There is no such testimony in the case.

The Court: What is that?

Mr. Newman: He said that the doctor accused her of being intimate with Burton. I remember no such testimony in the case.

The Court: He asked her this morning if he hadn't, and she said he hadn't.

Mr. Blankenhorn: I thought she said he had accused her.

The Witness: Not that evening.

Q When did he? A He never accused me, but he talked about it after he said he went over to see this Mr. Burton's wife. He never openly accused me—he just made inference to it.

Q He intimated to you, then, that you had been intimate with Burton? A No, he intimated to me that he tried to make Mr. Burton say so—he tried to find out if I had been and said that if Mr. Burton would say I had been he would release that charge of the check against him.

Q Who told you that? A Mr. Worms.

Q Did you talk with the doctor about that? A This is the first that Dr. Stevens has known that Mr. Worms told me of these conditions.

Q And you never discussed with the doctor the subject of the possibility of your having been intimate with Burton? A No.

Q Well, was there a quarrel between you and the doctor over Burton at that time? A No, no quarrel.

Q No trouble at all; do you remember the date when your husband came home from the Robert Treat Hotel? A I know about—I don't know the exact date.

Q Well, give it as nearly as you can. A It was just shortly after I returned from Chicago, in May some time.

Q Nineteen—? A Nineteen eighteen.

Q Nineteen eighteen? A Yes.

Q Now, after that incident the first trouble that you had with Dr. Stevens was when? A Well, real trouble, I can't think. We were boarding, and then we bought the house in Montclair, and the first incident was the trouble over the account, if I remember correctly, in Bamberger's.

Q That was the first real trouble? A Have I said before? I have forgotten—I think that is the first.

Q And the next was the time you went to Atlantic City—was that the next? A No, there was something else, when he chased me with the gun, in the Montclair home in the year—in January, 1920.

Q Well, you became reconciled to him after that, didn't you? A Reconciled to the extent that we lived in the same house.

Q Didn't you live together as man and wife? A Hardly.

Q Well, did you have sexual intercourse with him? A Yes, I did.

Q Until what time? A I don't remember.

Q Well, as nearly as you can tell—how long after he had chased you with the gun, the matter to which you have just referred? A Well, I think up until that summer.

Q In 1920? A 1920. I don't remember; I think—

Q When was it that you decided to return your wedding ring to him? A I sent it with a letter—I don't remember the date.

Q Well, I show you a letter and ask you if that is the letter to which you refer? A I think it is.

Mr. Blankenhorn: I will ask to have it marked.

Q Is this the envelope in which it was sent? A It wasn't sent—I think I delivered it.

(Letter and envelope marked Exhibit P. 6.)

The Court: Is that the envelope containing the letter?

The Witness: I don't remember.

The Court: Is the handwriting on the envelope your handwriting?

The Witness: That handwriting is mine.

(Envelope marked Exhibit P. 6.)

Q The wedding ring was enclosed in this letter, was it? A Yes.

Q And you delivered it to him? A I didn't say I delivered it, but I did say I didn't see any stamp on it, and I said it must have been delivered.

Q Do you know how it reached Dr. Stevens? A No, I don't; I can't recall.

Q But when it left your possession it had your wedding ring in it? A Yes.

The Court: Is that so?

The Witness: Yes.

Q Now, is this the ring that you sent (indicating ring)? A It looks like it. There never was any engraving on my ring, and it looks as if it might be the same one.

The Court: What is the date of that letter you just marked?

Mr. Blankenhorn: There is no date on it.

The Court: And no postmark?

Mr. Blankenhorn: No. There is a lead pencil mark put on there by someone as to its receipt.

Q Look at that mark, Mrs. Stevens, and see if that will refresh your recollection as to when it was delivered? A No, sir. I looked at that date. It was long after I had separated and my separate maintenance case had come up. It wasn't while we were living together. It was

after he had been away from me some time and the case had been started.

Q And you separated on the August night that you returned from Atlantic City; is that the night? A Yes.

Q Mr. Stevens' mother was there? A Yes.

Q She was present when her son came in? A No.

Q Where was she? A She was in the north room, on the second floor.

Q In the house? A In the Montclair house.

Q And she had retired? A Yes, sir.

Q The door had been locked, had it not? A Yes.

Q And Dr. Stevens had to break it in? A He did—he didn't have to—he did.

Q You mean that he might have stayed outside?

The Court: Couldn't he ring? Is there a bell?

The Witness: Yes, sir.

Q Did he ring it? A I don't remember whether he did or not.

Q Well, you heard him trying to get in, didn't you, Mrs. Stevens? A I heard him cursing and swearing downstairs and I didn't go down.

Q Outside the house? A No, in the vestibule.

Q Well, what happened when he got in? A He came upstairs and came directly into my room and chased me around the room.

Q Where was his mother then? A She was still in the front. She locked herself in the front before he even came in.

Q You told him to get out of the house that night? A No; I said if he struck me again I would call the police.

Q How did he get out of the house? A When I went to the telephone on the second floor he went out.

Q Couldn't he have stopped you from going to that 'phone?

Mr. Newman: I object—I don't see how it is material.

A In chasing me around, I ran out in this hall, and this hall is 16 to 20 feet long, and I grabbed this 'phone to call the police—

Q And he went out? A And then he ran out downstairs and out the front door of his own volition.

Q Hadn't you said prior to your separation that night that you intended breaking up your home? A No.

Q Hadn't you said you wouldn't live with him any longer? A No.

Q Mr. Beggs, the man who was on the stand this morning, is a relative of yours, is he not? A He is not.

Q Not related to you by marriage? A In no way.

Q Is Mrs. Shorter related to you? A She is a distant relative.

Q What relation? A I don't know.

Q Well, had you talked with Mrs. Shorter about breaking up your home? A No.

Q Never said anything like that to her? A No.

Q Did you ever tell Mrs. Shorter that you were going to leave the doctor and take Bob with you? A No.

Q Were you ever away from your husband over night when the doctor didn't know where you were going, or where you were? A No—one case, yes.

Q When was that? A When we lived in Broad street, and after he had chased me around with the gun or abused me I went one evening to a family by the name of Holmes, in Plainfield, over night.

Q Now, have you mentioned all the serious difficulties you have had with the doctor during your married life? A Well, I have mentioned all the important ones. I haven't mentioned each little item because my attorney wouldn't let me. He said, "You will be on the stand for years." I would tell everything, but he wouldn't let me.

Q Didn't the doctor accuse you of being intimate with another man early in your married life? A No.

Q He was very poor when you married him, was he not? A Quite.

Q In very moderate circumstances? A Yes, sir.

Q Earning about $35 a week? A Why, he wasn't making that when I married him—he didn't have any position.

Q When did he get one? A The following October.

Q And then he earned about $35 a week? A And commission.

Q And didn't he give you money to put in the savings bank? A Never.

Q Did you state the amount he paid you each week for house money? A Seventeen dollars.

Q Seventeen dollars? A Not in the beginning—that is when we lived in Broad street.

Q Now, you had several men boarding at the house, had you not, to help out with the rent?

The Court: Shortly after they married, you mean; in the early years?

Mr. Blankenhorn: Immediately after the marriage.

The Witness: No.

Q Wasn't there a Mr. Van Brunt living with you? A We did not have anybody living with us, or even in the house, until we moved to Broad street.

Q Did this man live with you at that time? A He didn't live with me.

The Court: Did he board there?

The Witness: He and his wife had the two front rooms, the two front rooms that Dr. Blyn had there before he was arrested and taken to jail, when he was with Dr. Stevens at Bamberger's, and he rented the rooms.

Q How long did Mrs. Van Brunt stay? A Three months.

Q And he continued to live there after she went away? A No, Mr. Lewis came after that.

The Court: Did Van Brunt leave at the time his wife left?

The Witness: Van Brunt left when his wife left.

The Court: How long did Lewis remain?

The Witness: Mr. Lewis was there about two or three weeks and he went.

The Court: Were they boarders or did they just rent the rooms?

The Witness: They just rented the rooms; didn't eat or board.

Q Didn't you have trouble with the doctor about Van Brunt? A No.

Q Isn't it a fact that on one of these occasions you have testified to, when you say the doctor struck you, he had found you lying on the bed in Van Brunt's room? A No.

Q Isn't that so? A No.

Q Didn't you tell that to Mr. Worms? A No.

Q Didn't you tell Mr. Worms you often lay on that bed? A No.

Q Well, but you did have trouble about Van Brunt, didn't you? A No.

Q No trouble at all? A No trouble about Van Brunt.

Q Mr. Haveron was your husband's brother? A Yes, sir.

Q Is there an R. H. Haveron? A Yes, sir.

Q When you loaned money to Dr. Stevens for the purpose of speculating in the market, that had nothing to do with your living expenses, had it? A I didn't loan him money to speculate in the market.

Q Wasn't the account in your name? A No.

Q Now, you recall the time that you went to the Paterson General Hospital? A Yes, sir.

Q Did your husband know why you were going there? A Yes.

Q Who told him? A Why, he had made arrangements with me, or knew that I was going —he knew that I was sick.

The Court: Did you tell him—did you talk it over with him?

The Witness: Why, I believe the doctor—at one of the conferences I saw the doctor.

Q Well, Dr. Stevens went up to the Paterson General Hospital while you were there, didn't he? A Yes, sir.

Q And didn't he secure another doctor to treat you? A Not to my knowledge.

Q Hadn't the doctors in the hospital given you up? A You mean given me up to die?

Q Yes. A Yes, practically.

Q And after that had occurred, isn't it a fact that Dr. Stevens got another doctor to treat you? A No.

Q Do you know Dr. Harris? A I don't know as I would know him now, but I knew him at that time.

Q He is the doctor that treated you, isn't he? A Yes.

Q He was brought in by Dr. Stevens, wasn't he? A I don't know—I think he was brought in by Dr. Bender. I think he was a surgeon at the hospital who was called in consultation—I don't remember that.

Q You were operated on at the hospital? A Yes.

Q At that time? A Twice.

Q Well, you were only at the hospital on one occasion? A No, twice, two distinct times.

The Court: After she had apparently recovered she had another operation.

The Witness: It wasn't until the second time that I had Dr. Harris. I didn't have Dr. Harris until the second time.

Q The second time was when they had given up hope? A Yes.

Q Now, what was the cause of the trouble, when you say the doctor blackened your eye? A There wasn't any trouble, only he just came home drunk.

Q But after that had subsided you continued to live with him? A Did I? Well, no, I beg your pardon. A lawyer here in town by the name of Rafferty, William Rafferty, William V. Rafferty—he was a patient of Dr. Stevens'—the doctor was straightening his eyes—and through the solicitation of Dr. Stevens he came up to see me to try and arrange to separate and I don't quite recall—and he saw my eye, and everything, and he wanted me to get a separation from Dr. Stevens at that time.

Q What did you say? A I said my family hadn't known of my troubles and if we could make up, why not affect a reconciliation.

Q And you did? A Yes, we did.

Q Were there any other separations before the final separation to which you have referred? A Yes, one talked of.

The Court: That actually took place?

The Witness: No.

Q Well, when was the one talked of? A Before I went to Chicago, when I was so sick. A lawyer by the name of—

The Court: (Stopping witness.) I don't care for the detail.

Q It was just before you went to Chicago? A Yes, sir.

Q And you had difficulty with him then? A No.

The Court: Who made the suggestion to separate?

The Witness: Dr. Stevens.

The Court: Why?

The Witness: I couldn't give him any more money and he persistently drank. He got Mr. Shoemaker to say I would sign over my entire right in the Van Riper Estate if he would advance me the money to go to Chicago. I wouldn't do it. That is why I went to Mr. Beggs to get the money.

Q Do you remember an occasion in 1915 when you chased Dr. Stevens with a carving knife? A No.

Q Don't you remember one Sunday when the Worms were at dinner? A No, I don't.

Q Do you remember one day when the Worms were at dinner? A No.

Q Don't you remember that at all? A No.

Q Did that ever happen? A I can't say it did, because that isn't my usual procedure.

Q It might have?

The Court: What might have doesn't help us.

Q The doctor doesn't owe any rent for the places you were occupying in any of these places in Newark, does he?

The Court: What difference does it make whether he does or not.

Mr. Blankenhorn: The intimation is that he didn't pay and she had to.

The Court: I don't see that it makes any difference.

Q Isn't it a fact that you are living in the same neighborhood as Mr. Paswaters at the present time?

Mr. Newman: I object to that.

The Court: I will receive it. I don't know quite what you mean by neighborhood.

Q Within a block. A No, I am not living within a block.

The Court: How close do you live to him?

The Witness: About eight squares or so.

Q Do you know Mrs. Painter? A Yes, sir; I do.

Q She was a servant in your house, was she not? A Yes.

Q For how long? A Until she—

The Court: For how long, the year or month.

The Witness: Couple of months.

The Court: For what period?

The Witness: Right after I came out of the hospital in Paterson, immediately.

Q And where were you living at that time? A 96 Broad street.

Q Did she see any of the differences between you and your husband? A No, the principal thing that she did was to drink with my husband.

The Court: Strike it out. Answer the question—did she see any of the trouble between you and your husband, or hear it?

The Witness: Oh, yes; she heard some of it, the wranglings.

Q What other gun did the doctor have besides the one that has been exhibited here? A He has another revolver that his sister there did

have, and has always had it and kept it under her mattress, in her home.

The Court: What revolver was it you refer to when you said he had one on the top of his desk?

The Witness: That was on the top of the mantelpiece in my home.

The Court: I understood you to say it was on his desk in his office in the Kinney Building.

The Witness: No, that was home.

Mr. Blankenhorn: That is the one on his desk in Montclair.

Q This revolver that you say his sister had was in the doctor's possession when he first married you? A I don't know.

Q Well, when did you first see that? A I don't know.

Q Well, was that revolver used by the doctor in threatening you? A Yes, on one occasion only.

Q On one occasion—when was that? A That was in October, 1919. I have forgotten. I testified to when it was. I have forgotten.

Q You can't remember when that revolver was taken by the sister? A No.

Q Well, when was this present revolver purchased, or when did that first show up in the house? A Why, he bought it to protect himself.

The Court: When was that—what year?

The Witness: Sometime after 1918, when we went to Montclair. I think it was after we went to Montclair.

The Court: 1918, then?

The Witness: Yes, sir. He had a permit.

Q Did Mr. Worms take that revolver? A Yes.

Q On that day when you say you sent for him? A Yes, sir.

Q When did it last show up in the house? A Well, I can't tell you the time, but I remember the incident.

The Court: You said seven or eight months later you thought, is that right?

The Witness: It was some time afterward.

The Court: Some months later; some months afterwards?

The Witness: Yes. It was brought home casually. He brought it home in his brief case. I remonstrated with Mr. Worms for having given it to him again.

Q Where did he put it? A He kept it on the shelf over the mirror in the bedroom—the mantelpiece in the bedroom.

Q When he had told you that if you came down to the office that Saturday morning he would beat you up, why did you take the revolver with you? A Well, I know that if I had gone down or left the house, he might come back to the house and get it and have it in his possession, so I wanted to be safe and took it down and gave it to Mr. Kalisch.

Q Do you remember going to the theatre with your husband and Burton? A Yes, I remember.

Q Isn't it a fact that you quarreled with your husband during the performance? A No.

Lambert Transue, direct.

Q Well, didn't you have a quarrel with him at your home that night? A No.

Q About having allowed Burton to hold your arm? A No.

Q That isn't true at all? A No.

Mr. Newman: That is all. That is our case, your Honor.

LAMBERT TRANSUE, sworn for complainant.

Direct examination by Mr. Blankenhorn.

Q What is your business? A Superintendent of Help in the Kinney Building.

Q And were you superintendent of the Kinney Building on an occasion when Mrs. Stevens called there? A Yes, sir.

Q In November, 1920? A Yes, sir.

Q Did you see Mrs. Stevens? A Yes, I did.

Q Just state where you saw her? A Well, our stenographer, Miss Egan, had called up the first floor and told us there was some trouble up in Dr. Stevens' office. I takes the elevator and comes up on the third floor. Just as I got to Dr. Stevens' office there I seen Mrs. Stevens coming out of the office in a hurry and she had a gun in her hand. I goes and tells Mr. Joseph, managing agent of the building. He tells me to go upstairs and get Mr. Kalisch which Mr. Kalisch turned around to Harry Kalisch and Harry Kalisch says—

Q Was Mrs. Stevens there? A Where?

Lambert Transue, cross.

Q In Kalisch's office? A No, downstairs with the bunch. Finally Isidor Kalisch came downstairs and that is all I know about it.

Q What happened when he came down? A That I don't know. I left at that time.

Q When he came down she still had the gun? A I presume—I couldn't say that.

Cross examination by Mr. Newman.

Q You are still working for the Kinney Company? A Yes, sir.

Q When was this occasion of which you just told us? A Saturday morning.

Q What year? A That I couldn't tell you?

Q What month? A I guess it was in November.

Q And did you speak to this lady at all? A Well, only just going out of the hall I said, "Miss Stevens, that's no way to act."

Q Did you know her? A Yes, sir.

Q You had seen her before? A Yes, sir.

Q You had seen her in the building? A Yes, sir.

Q And did she have anything else in her hand? A This morning?

Q This particular morning, yes. A No, sir.

Q You didn't see any grip? A No, I didn't see any grip.

Q You weren't in the room? A I wasn't in the room.

Q You didn't see anybody else in the room? A I wasn't in the room. I got there just as she was coming out of the room.

Q Did you see Mr. Slobone there? A I don't know him.

The Court: How long were you talking to Mrs. Stevens?

The Witness: I don't think it was over a minute or two.

The Court: Why did you stop to converse with her?

The Witness: After my manager come there that let me out.

The Court: You said you went to him?

The Witness: Yes, sir; I got him.

The Court: When you first saw Mrs. Stevens and she had this revolver, how long did you stay there?

The Witness: Just a minute or so.

The Court: Was she excited?

The Witness: She was crying.

The Court: Did you examine the revolver?

The Witness: No, sir.

The Court: Why did you go to Mr. Kalisch's office?

The Witness: I know Mr. Kalisch was her attorney because I have seen her there several times.

The Court: What floor are they on?

The Witness: Sixth floor.

The Court: Did you come down with Isidor Kalisch?

The Witness: Yes, sir.

The Court: Did you get off there?

The Witness: I went to the office with Mr. Kalisch.

The Court: What did Mr. Kalisch say to her?

The Witness: That I couldn't say.

The Court: You had her in the office?

The Witness: Mr. Kalisch and Mr. Joseph.

The Court: Where did you find Mr. Joseph?

The Witness: In the entrance of our office door.

The Court: Is your office on the same floor as Dr. Stevens'?

The Witness: Yes, sir.

The Court: How far is it away?

The Witness: About fifteen feet away.

The Court: Had she gotten over her excitement?

The Witness: No, she was still excited.

The Court: Did she offer any resistance?

The Witness: I don't know.

Re-direct examination by Mr. Blankenhorn.

Q You first saw her coming out of Dr. Stevens' office? A Coming out the door.

Q Before you saw her coming out of the door with a revolver in her hand, had you received any message from Kalisch's office? A No, sir.

The Court: Mrs. Stevens said she had Mr. Kalisch call the engineer.

The Witness: That is what she said. I am not the engineer.

The Court: Did she say anything to you?

The Witness: No, sir; I went up just because Mr. Kalisch is a tenant and Dr. Stevens is a tenant and we didn't want any uproar in that corridor.

MRS. EUGENIE STEVENS, sworn for complainant.

Direct examination by Mr. Blankenhorn.

Q You are the mother of Dr. Stevens? A Yes, sir.

Q And do you know his wife? A Yes, I know her.

Q Do you remember the day that they separated? A On the 16th of January, 1921.

Q Nineteen twenty-one? A Nineteen twenty-one.

Q Were you in the house on that occasion? A Yes, I had been there for several days.

Q And how did you happen to be there? A I went to take care of the little boy while she went to Atlantic City.

Q Who asked you to do that? A The doctor.

Q You mean your son? A Yes, sir, my son.

Q And when you got there was Mrs. Stevens at home? A Yes, she was at home—she hadn't gone. I went there a Wednesday, I think, and she didn't go until Thursday.

Q Where did she go? A She went to Atlantic City.

Q Did her husband and she have any difficulty before she went? A No, I didn't hear anything.

Q When did Mrs. Stevens come back? A Sunday night.

Q Were you there? A Yes, I was there.

Q Was the doctor there? A No; the doctor went out for the afternoon.

Q Did you know that Mrs. Stevens was coming back? A Well, yes, I expected her back.

Q How did you know that? A Well, I think she said she would be back Sunday night about eight o'clock, and she came in between eight and nine.

Q Well, when did the doctor come back? A Well, that was very late; that was after I retired; it was after 12 o'clock.

Q Did you hear him come in? A Yes, I heard him.

Q Now, before the doctor came back, what, if anything, did Mrs. Stevens say about his getting into the house? A Well, the doctor left orders to have the inside door left unlocked, and she shut it before she went to bed.

Q Did you speak to her about that? A Yes, I did.

Q What did you say? A I told her that he wanted it left open. She said she wouldn't leave it open—she intended to lock it before she went to bed.

Q Did she say why? A No, she didn't say why.

Q Well, did she say anything else about her husband? A Well, she was angry because he was out. She thought he ought to have stayed at home with me and the boy.

Q What did she say about that? A Oh, nothing particular—she used some abusive language and wanted to know why he didn't stay home.

Q How did she use the abusive language? A Well, about her husband.

Q What did she say? A Well, have I got to repeat that?

Q Yes. A It is in the affidavit.

Q Well, what was it she said? A Well, she called him a low-down scoundrel and a son of

a b., and that is all I can remember she called him.

Q Did she say why he was those particular things? A No, just called him names; that is all.

Q Well, how did the doctor get in? A Well, he had to break the door down.

Q Did you hear him do that? A Well, I heard him.

Q Did you get up? A No, I didn't get up.

Q Well, did you hear the conversation that took place between your son and his wife then? A No, I didn't hear that. There was a room between us, and they went in a bedroom and shut the door.

Q What finally happened? A When they came out she asked him to go down and fix the furnace, which he did, and when he came upstairs she told him to get out of the house.

Q What did she say to him? A She told him to get out, and she said, "If you come back I will call up Police Headquarters."

Q Did she go to the telephone? A I don't remember that. I don't think so. I don't remember about the telephone. You see, my door was closed and there was a room between us and I couldn't hear everything.

Q Where were you when she told him to get out and stay out? A I was in my bedroom.

The Court: Where was the boy?

The Witness: He was in his room.

Q Had the boy gone to bed when Mrs. Stevens got in from Atlantic City? A No; he was up, but she put him to bed shortly after.

Mrs. Eugenie Stevens, cross.

Q And did he hear this language she used? A Well, I don't know whether he was asleep or not.

The Court: Could you tell whether the doctor was sober or had been drinking?

The Witness: Oh, I don't think he had been drinking. He didn't sound as if he had.

The Court: Do you know whether your son drank to excess at that time?

The Witness: Well, I never saw him intoxicated. I wasn't always there.

Q Did you ever see him abuse his wife? A No, I did not.

Q Did you ever see him strike her? A No.

Q Did you ever hear him call her vile names? A No.

Cross examination by Mr. Newman.

Q You and Mrs. Stevens got along very well, didn't you? A Yes, sir.

Q You had no difficulties with her? A No.

Q And the night of this occurrence you were locked in your room and the door was closed? A Yes, sir.

Q And you didn't hear what went on? A Only what I just said.

Q And you didn't know whether Mrs. Stevens went to the telephone to call up the police or not, did you? A Yes, I would have heard that.

Q You heard her say she would call up the police? A After he came back.

Q Did he go out? A Yes, sir.

Q Your son is a drinking man, isn't he? A No, he doesn't drink at all.

Mrs. Eugenie Stevens, re-direct.

Q At that time wasn't he a drinking man? A I never saw him under the influence of liquor.

Q You knew he drank? A I didn't know anything about it.

Q You never saw him drink? A No.

Re-direct examination by Mr. Blankenhorn.

Q Have you ever seen Mrs. Stevens punish the baby? A She used to be very severe with him when he was restless and whipped him a great deal, I know.

Q Just describe how she did that? A Well, she whipped him—

Mr. Newman: I object to that as leading.

Q With a whip? A No, with her hand, I think.

Q How did she whip him?

The Court: You mean she spanked him?

The Witness: She slapped him; yes, sir.

Q Did you ever remonstrate with her about it? A Yes, I did.

The Court: I suppose as a grandmother you didn't like to see the child whipped?

The Witness: No.

Q Did you think it was severe or otherwise? A I thought he was too small to be whipped.

Q How old was he? A One or two.

Q Have you seen any quarrels between your son and his wife over that? A I never saw anything particular. They didn't agree very well.

The Court: Over that or other matters?

The Witness: I couldn't tell you, judge; I wasn't there all the time. I know they didn't agree very well.

The Court: You don't know the cause of the disagreement?

The Witness: No.

MR. WILLIAM WORMS, sworn for petitioner.

Direct examination by Mr. Blankenhorn.

Q What is your business, Mr. Worms? A Optical inspector.

Q And what relation are you to Mr. and Mrs. Stevens? A Son-in-law and brother-in-law.

Q You are the son-in-law of the woman just on the stand? A Yes.

Q Have you ever visited the Stevens at their home? A Which one?

Q Dr. Stevens and his wife, Marjorie Stevens? A At home?

Q At any of their homes? A Yes, sir, quite often.

Q Now, do you remember an incident in the year 1915 when you visited the Stevens and some trouble took place? A Well, if you tell me the trouble I will be able to remember it. I visited them so many times.

The Court: Did you ever see any trouble?

The Witness: Yes, different times.

Q State what you did see. A There was always lots of trouble. What do you mean by trouble?

The Court: You tell us what trouble you think you saw.

Q What kind of trouble did they have? A In 1915?

The Court: What did you see done, or hear—go on.

The Witness: I am trying to think back.

Q Were you invited to dinner? A Lots of times.

Q Did you ever go? A Yes.

Q On one of these occasions when you went to dinner, what happened? A There was an argument about something. I was with my present wife, Miss Haveron, she was. That was on 96 Broad street.

Q What happened? A That was one severe argument and I think my wife was cut.

Q Tell us what happened. A An argument started with Dr. Stevens and his wife about the little fellow, and both of them got up, and Mrs. Stevens grabbed a knife, and my wife jumped in and got cut with the knife.

The Court: Cut where?

The Witness: On the finger, with the knife.

Q How did your wife come to get cut? A She wanted to jump between them and separate them.

Q Between whom? A Stop Mrs. Stevens from cutting Dr. Stevens with the knife.

The Court: What was it, a carving knife on the dinner table?

The Witness: Carving knife on the dinner table.

Q What was the difficulty about? A She censured the boy for something, and I can't just tell what it was.

Q How did she censure him? A By talking to him.

Q And the doctor interfered? A Yes.

Q Now do you know, or did you know a man named Van Brunt? A Yes, sir.

Q Who was he? A He was living at 96 Broad street.

Q Did you know of any trouble occurring between the doctor and his wife over that man? A He was a traveling man and he came back from the road. Dr. Stevens claimed—

The Court: Did you see anything?

The Witness: No, I didn't see anything.

Q Did you talk with Mrs. Stvens about it? A I was talking to both of them about it.

Q What did you say to Mrs. Stevens about Van Brunt? A Well, Dr. Stevens told me—

The Court: In her presence—did he tell you anything about it in Mrs. Stevens' presence?

The Witness: Yes. The argument came up and she said it wasn't so. Dr. Stevens said he came in the house one night and saw Mrs. Stevens lying on Mr. Van Brunt's bed, and Mr. Van Brunt was there and he wasn't fully clothed. She said she was lying there all right, and Mr. Van Brunt was fully clothed. Mrs. Stevens said she rested there quite often.

Q Mrs. Stevens said that? A Yes, sir.

Q On Van Brunt's bed? A Yes, sir, on Van Brunt's bed.

The Court: Was Van Brunt present at the time of this conversation?

The Witness: No, I never met the man.

Q Did you ever talk to Mrs. Stevens about any other man that had caused trouble between her and her husband? A Well, there was arguments about this man, and later one by the name of Blyn, one by the name of Lewis, and Charlot.

The Court: Well, was there trouble between Doctor and Mrs. Stevens over each one of these men?

The Witness: She would take automobile rides with these men and he used to get sore about it and it would start a fight.

Q Did you hear her say anything about these men in Dr. Stevens' presence? A If she had a good ride she would talk about it, and he would get mad.

Q What did he say? A "Oh, keep your damn mouth shut."

Q That would start a fight? A Yes, sir, certainly did.

Q You have been present at many of those? A Quite a great number.

Q At the time when Dr. Stevens accused her of lying on Van Brunt's bed, did Mrs. Stevens tell you then that he chased her with a gun? A No, sir.

Q Did she ever tell you that he had done such a thing? A Chased her with a gun?

Q Yes. A No, it was only an occasion the time of that knife episode when she called me to come back. He left the house he was so

sore. She says, "Don't go away—he will come back and shoot me."

Q She said her husband would do that? A She hollered police and called me back to stay with her. He went out soon. He went out ahead of me.

The Court: Did you ever take a revolver away from him?

The Witness: Yes, sir, that is the time.

Q When was that?

The Court: From their house?

The Witness: Yes, sir, from the house.

Q How did you come to go to their home on that occasion? A That was in October.

Q When? A A Sunday afternoon.

Q What year? A I couldn't say what year it was. Doctor was sick, if he knows what time that was.

Q Was that the only time you have been there when you came away with a gun? A Yes, sir.

Q How did you come to go to the house that day? A By invitation.

Q Who invited you? A Mrs. Stevens invited us for Sunday dinner and to spend Sunday there.

Q When were you invited? A Saturday or Friday—doctor was sick about four or five days.

Q What did you find there? A Mrs. Stevens asked me in the kitchen. She said, "There is an awful rumpus now." I says, "What is the matter now, kid?" She says, "Doctor is sore as a crab," see, "because she went over to the stenographer's house," see, and I says,

"What is the matter?" She says, "I went over there and when I came back I told him I went there and he got sore as a crab and now I am afraid," see.

Q Did she say he had chased her around the house? A No, sir.

Q What did she say then? A She says, "Take the gun before you go because I will be afraid to stay in the house."

Q Where did you go then? A I went upstairs and doctor was in his bathrobe. I says, "Marge is afraid to stay in the house with you with the gun." He says, "She is crazy—always talking about that gun." I says, "Where is the gun, I will take it anyway."

The Court: Was it loaded?

The Witness: No, sir, it wasn't loaded. I wouldn't take it loaded—my wife wouldn't come with me.

Q Did he show you the chamber of the gun? A Yes, sir.

The Court: How long did you keep the gun?

The Witness: I believe that was right after the holidays. I kept that gun until housecleaning time—until May or June.

The Court: Why did you give it back?

The Witness: My wife didn't want it in the house.

Q What did you do with it? A I took it down to his office.

Q Did you see what he did with it? A He opened the drawer of his desk and threw it in.

The Court: Did you ever see it in his house after that?

The Witness: No, sir.

Q Did you know a man named Burton? A Who?

Q Burton? A I have heard of him—I didn't know him.

Q You have seen him? A I seen him in Judge Martin's court, yes, sir.

Q What was he doing? A He was being sentenced by Judge Martin.

Q Do you know what for? A For forging checks in Newark.

Q Did you ever have any conversation with Mrs. Stevens about Burton? A About Burton?

Q Yes. A No, sir, not that I know of.

Q Did you ever tell Mrs. Stevens that her husband had gone to see Burton in the jail? A No, sir.

Q And that he had asked Burton to give evidence against her? A No, sir.

Q You never told her that? A No, sir.

Q Did you ever tell her anything like that? A No, sir, I never knew the man—who he was.

Q You never told Mrs. Stevens that her husband had tried to get Burton to give evidence against her? A No siree.

The Court: Did Stevens ever tell you that?

The Witness: No, sir.

Q Were you ever with Stevens when he went to see Burton at the jail? A No, sir.

Cross examination by Mr. Newman.

Q Where do you live? A 180 Park place, Irvington.

Q You live with Dr. Stevens? A No, he lives with me.

Q And he has been living with you how long? A Since May, of last year.

Q You said you were in the optical business? A Yes, sir.

Q What do you sell? A Glasses, ground for any prescription.

Q You have business relations with the doctor? A Yes, sir.

Q Do you remember seeing Mrs. Stevens with a black and blue eye? A No, sir.

Q Don't you remember that occasion at all? A I have heard of a case like that, but I never seen it.

Q Who did you hear it from? A I believe I heard it from Mrs. Stevens.

Q Did you speak to the doctor about it? A I was a traveling man at that time. I used to go away.

The Court: Did you speak to the doctor about it?

The Witness: No.

Q On that day you took this gun, didn't Mrs. Stevens call you up on the 'phone? A No, sir.

Q You had been invited for dinner? A We had been called Saturday, to come up for dinner on Sunday.

Q You were up there for dinner? A We didn't have dinner. The argument started.

Q And then you left? A Yes, sir.

Q Wasn't it after you arrived home that Mrs. Stevens called you up on the 'phone? A Not that I know of.

Q And then you came back to the house? A After we left we never went back.

Q Did you go back to get the gun? A The first trip we took the gun with us.

Q As a matter of fact you said Mrs. Stevens called you into another room? A She called me into the dining-room and told me what the argument was about.

Q Wasn't the doctor's mother there, Mrs. Stevens? A She was in the house at the time.

Q Wasn't it snowing that day? A I believe it was.

Q Did you see Mrs. Stevens out in the yard in the snow without a coat on? A She wasn't out in the yard while I was there.

Q Did you see him throw anything at her that day? A He was up in his room all the time.

Q And Mrs. Stevens told you she was afraid and you should go up and get the gun? A Yes, sir.

Q And you went up and got the gun? A Yes, sir.

Q And took it away with you? A Yes, sir.

Q And you returned it to the doctor later? A Yes, sir.

The Court: Was he sober that day?

The Witness: Yes, sir, he was sober that day. He was in the house four days, sick.

Q Did you ever see him under the influence of liquor? A No, I never seen him drunk. He was a drinker like any gentleman takes a drink.

William Worms, re-direct.

Q You never saw Dr. Stevens under the influence of liquor? A What do you mean by that, able to stand up?

Q I mean intoxicated? A No, sir.

Q What were these quarrels between Dr. and Mrs. Stevens over? A As I used to tell both of them, it was like that (snapping fingers) and there was an argument.

Q Wasn't it principally a quarrel over money matters? A That was in the early part of their life.

Q That is on Second street? A Second street, when he wasn't earning much.

Q And on Broad street, too? A That is when she was getting him some money.

Q How many times did you hear quarrels over money? A I couldn't say.

Q A number of occasions? A Yes, sir, sure.

Re-direct examination by Mr. Blankenhorn.

Q This carving knife quarrel wasn't over money, was it? A No, sir, no money mentioned.

Q Did you ever see Dr. Stevens hit his wife? A No, sir, I did not.

Q Did you ever hear him call her a vile name? A Oh, "Get the hell out of here," or "Get the hell away," or "shut up," or "shut up your damn mouth," or such things as that.

Q That was in the heat of the quarrel?

The Court: If the witness knows.

Q You heard quarrels over things other than money? A Oh, yes.

Q What? A As I said before, about going automobile riding and then coming home and talking about it.

Mrs. Alla B. Painter, direct.

Q Did you ever talk with Mrs. Stevens about the advisability of discontinuing such a practice? A That is none of my business.

MRS. ALLA B. PAINTER, sworn for petitioner.

Direct examination by Mr. Blankenhorn.

Q What is your business, Mrs. Painter? A I keep a boarding house.

Q Do you know Dr. Stevens and his wife? A I do, sir.

Q Have you lived with them? A I was a servant there.

Q When? A When the baby was a little fellow.

Q How long were you there? A Well, about a year, a little over.

The Court: Are you sure it was a year?

The Witness: I am not sure, no.

The Court: Mrs. Stevens said this morning it was about two months.

The Witness: Longer than that, judge.

The Court: How much longer?

The Witness: Seven months.

The Court: When was it?

The Witness: When the baby was about a year old.

The Court: How many years ago would that be?

The Witness: Quite some time.

The Court: Ten years?

The Witness: About eight, nine or ten.

Q Do you know a Mr. Van Brunt? A He was in the house when I was there.

Q Living there? A Yes, sir.

Q Was his wife living there? A Not then.

Q How long did he stay? A I was there when he went away.

Q Was he there the whole time you were there? A Practically.

Q Did you ever see Mrs. Stevens in his room? A Yes.

Q Very frequently? A Yes.

Mr. Newman: This is not set up in the petition.

The Court: What was she doing?

The Witness: I don't know.

The Court: What was she doing, sitting down, standing or what was she doing?

The Witness: Sitting down, talking with Mr. Van Brunt.

The Court: Was the door open?

The Witness: No, latched.

The Court: Did you go in?

The Witness: Not without permission.

The Court: Well, you did go in?

The Witness: Yes, sir.

The Court: What did you go in for?

The Witness: Following her, to go to the kitchen.

Q Was there ever a time when Mrs. Stevens was in there that you couldn't get in? A Yes, sir.

Q When was that? A Several times.

Q Was the door open? A I tried the door, but it wouldn't open.

The Court: It was locked?

The Witness: I don't know whether it was locked or not; I tried the door but it wouldn't open.

Q How do you know Mrs. Stevens was in there? A I heard them talking.

Q Van Brunt was in there, too? A Yes, sir.

Q Do you recall how Mrs. Stevens was dressed on this occasion? A I don't know, but I have seen her on other occasions in a flimsy garment.

Q What was her treatment of the child? A Very cruel.

Q What do you mean by that? A At one time, he was a litttle fellow and he was sitting in front of the sink in the kitchen and Mrs. Stevens was giving him a drink of water and the baby cried and she threw a glass of water right in his face.

Q Cold water? A Of course it was cold.

Q How old was the baby? A Oh, he was creeping.

Q How old is that? A A little fellow—he wasn't walking.

Q Did that happen many times? A Why she was very cross with the baby and called him vile names.

Q What did she call him? A Do you want me to tell it?

Q Yes. A Son of a bitch.

Q When did she do that? A Many times.

Q Why? A Because the baby cried.

Q What did she do when the baby cried? A She also slapped him.

Q Was the doctor there then? A He seen her slap him.

Q Was there any difficulty on account of that? A Well, not so much.

Q Did you ever talk with Mrs. Stevens about Van Brunt? A I had no occasion to—I was a servant.

Q Well, did she ever tell you anything about Van Brunt? A She told me one night she was going away.

Q What did she tell you? A She always called me Painter. She said, "Painter, I have got a very handsome gown, you can see for yourself." She said, "I am going away tomorrow and," she said, "you won't say anything about it."

Q To whom? A Mrs. Stevens said that to me when she showed me this new gown.

Q Did she say with whom she was going out? A She said with Van Brunt.

Q Where, did she say? A She didn't, but she went out.

Q Did he, too? A He went out.

Q He wasn't home all night? A Well, he wasn't there in the morning.

Q Was she there? A Not so very early.

Q When did she come in? A Later on.

The Court: Where was the doctor?

The Witness: Home, taking care of the baby.

The Court: All night?

The Witness: All night.

Q Was there trouble when she got home? A I didn't hear it, because I was nearly all the time in the kitchen.

Q Did you ask Mrs. Stevens where she had been? A No, I did not.

Q Well, did she ever tell you? A She did not.

The Court: Did she ever tell you whether she took that gown with her or not?

The Witness: I don't know—she said she had a good time.

Q What kind of a gown was that? A Sort of a pink lingerie.

Q Evening gown, or night gown? A Night gown.

The Court: Did you ever tell the doctor about it?

The Witness: I am telling him now.

The Court: You haven't told him before?

The Witness: No, never talked to the doctor about it.

Q Did you ever remonstrate with Mrs. Stevens about it? A About the gown?

Q About going out with Van Brunt? A I said, "Please don't hurt the baby so"—that is all I ever said.

Q When did you say that? A The time she threw the cold water in his face.

The Court: When would these occasions be when you saw her sitting in this room with Van Brunt?

The Witness: In the evenings I seen them and I seen them in the afternoon, mostly, before the doctor came home.

The Court: She was alone with Van Brunt?

The Witness: Of course.

The Court: She had no reason to go out with him at night?

The Witness: I don't know.

The Court: She had him alone in the house?

The Witness: Yes, sir.

The Court: Did you and she have any trouble?

The Witness: No.

The Court: You left good friends?

The Witness: I left because I didn't like the way she treated me.

The Court: How did she treat you, badly?

The Witness: She didn't call me the names she called the doctor or the baby, but if she did there would have been trouble.

The Court: What did she do to you that wasn't right?

The Witness: She made me do washing which I didn't have to do and said lots of cranky things.

The Court: Have you kept away from her since?

The Witness: I have never bothered with her.

Q What washing did you have to do? A I shouldn't have done Van Brunt's washing.

Q Did the doctor know that? A I don't know—Mrs. Stevens did.

The Court: Were you paid extra for doing that?

The Witness: No, sir.

Q Did you ever hear Mrs. Stevens use any bad language in addition to what you have just testified to? A Yes, sir, I certainly did.

Q On what occasions? A Many occasions.

Q With the doctor? A With the doctor, yes.

Q Did you ever see the doctor strike her? A Why mercy, no.

The Court: How did he treat her?

The Witness: Well, I thought very nicely.

The Court: How did she treat him?

The Witness: She was very rough at times.

Cross examination by Mr. Newman.

Q How did Mr. Van Brunt happen to take those rooms there, do you know? A That I don't know.

Q Didn't you rent them to him? A I don't know.

Q Wasn't it a fact that Mrs. Stevens was in the hospital at the time you came there? A That I don't know.

Q Didn't you know she had just come out of the hospital when you went to work there? A I didn't know—if I did know I have forgotten it.

Q You were discharged by Mrs. Stevens? A I wasn't discharged.

Q How did you come to go? A Because I didn't like the way she treated me.

Q Do you remember what month you went to work there? A I do not.

Q Do you know the month you left there? A I don't. I don't know—from the baby is about one.

Q How long ago is that? A Well, it must be eight or nine years ago.

Q You don't remember that, though? A About what?

Q The exact date that you went there? A I certainly don't.

Q Did you have any money matters with Dr. Stevens—did you loan him any money? A Me loan him any money?

Q I am asking you, did you? A Certainly not.

Q Did you ever see him take a drink? A Not that I know anything about. I went to the Bamberger's for my money when the doctor didn't pay me.

Q Did you ever go and procure liquor for him? A Certainly, I never was in a saloon.

Q You don't drink, do you? A I don't, sir.

Q Don't you recall the fact that while you were working there this little boy was in the hospital and that you called at the hospital to see him? A Certainly not.

Q That is, at the Baby's Hospital? A Certainly not—I was never in a hospital in my life.

MRS. ELIZABETH SHORTER, sworn for petitioner.

Direct examination by Mr. Blankenhorn.

Q Where do you live, Mrs. Shorter? A 35 New street, Bloomfield.

Q Are you related to Dr. Stevens? A My husband is, to Mrs. Stevens.

Q What relation? A Why her mother is a cousin; her mother, Mrs. Stevens' mother, is Mr. Shorter's cousin.

Q Do you know, or did you know of trouble occurring on the third of January, 1921, or about that time, between Mrs. Stevens and her husband? A Well, I had a prescription to secure and Dr. Stevens had it filled for me and I called at the house that night to get it.

Q Who did you see? A Mrs. Stevens opened the door.

Q Did you have a conversation with her? A Mrs. Stevens told me that her and the doctor were going to part.

Q Going to part? A Part.

Q What did she say? A I asked her what the trouble was.

Q Did she say where she was going? A No, she didn't say where she was going.

Q Did she say what she was going to do? A No.

Q Just told you that they were going to part? A Yes.

Q When you asked her what the trouble was, what did she say? A She said it was through the girl at Dr. Stevens' office.

Q Did she say whether she was going to take the child with her or not? A I asked her who was going to take the child and she said she was.

Q Did you ever have any other conversation with Mrs. Stevens concerning her husband? A Well, Mrs. Stevens brought me home that night I got the medicine and she talked about other different things; what had occurred.

Q Did Mrs. Stevens come to see you? A Yes, Mrs. Stevens took me home that night in the car.

Q Mrs. Stevens took you home? A Mrs. Stevens, yes. I had supper there with them that night, that night I got the prescription filled. I took supper with them and then Mrs. Stevens took me home.

Q What was the last time Mrs. Stevens was at your house? A Well, I think it is a year ago anyway.

Q Well, was that the occasion you were referring to?

The Court: No, this is the third of January, 1921, when she told her they were going to part. She said she remained that night for supper and Mrs. Stevens took her home.

The Witness: Yes, Mrs. Stevens took me home.

Q Did you make an affidavit in a cause in this Court, between Mrs. Stevens and her husband? A Why, yes.

The Court: Do you remember making such an affidavit?

The Witness: Yes.

Q And you made it and signed and swore to it? A Yes, sir.

The Court: She says she did.

Q And did Mrs. Stevens say to you on January 3, 1921—

The Court: As recited in the affidavit?

Mr. Blankenhorn: Yes.

Q (Continuing.) "I am going to leave the doctor and I am going to take Bob with me?" A No, she said that her and the doctor was going to part and I asked her who was going to take the boy and she said she was going to keep the boy.

Q Did she say to you, "I ought to have left him long ago?" A Yes.

Q And did she say that she was going to take the child away from the doctor, leave Montclair, and establish her home in Montclair or elsewhere? A I asked her where she was going to go and she said she might go to New York or elsewhere.

The Court: We will take a recess until Wednesday morning, January 16, 1924, at ten o'clock.

FOURTH DAY.

Continuation of examination of witnesses before Honorable John E. Foster, Vice-Chancellor, on January 16, 1924, at 10:00 A. M.

Appearances: Counsel as before stated.

MRS. ELIZABETH SHORTER, recalled for

Further direct examination by Mr. Blankenhorn.

Q On Monday you were testifying to certain facts that you had put in an affidavit which was filed in this Court in a cause wherein Mrs. Marjorie Stevens is petitioner and Ludlow R. Stevens defendant, and you testified to what Mrs. Stevens had said on January 3, 1921, when

you were driving from her home to your home while you had been at Montclair in the home of Mrs. Stevens. On that occasion do you remember what she said about taking her clothes or having her clothes ready to leave? A No, she didn't say anything about clothes.

Q Did you in your affidavit say this, "At her house she led me to a closet and pointed out certain clothes, stating that she had laid aside all of the clothes to take away with her" "when I leave the doctor" and she said that she would close up the doctor's office in Newark? A Yes, she did.

Q Did she say that? A Yes.

Q Do you now recall what happened with reference to these clothes? A I do. She did show me a closet she had things packed in.

Q What were the things? A I cannot say.

Q (By the Court.) Wearing apparel you mean? A I cannot say that, whether wearing apparel or not.

Q (By the Court.) Did she state what they were? A No.

Q (By the Court.) Simply told you that she had her things packed? A Yes, she opened the door and showed me.

Q (By the Court.) Did she say she was going to take them with her? A She didn't say that she was going to take them with her.

Q (By the Court.) Do you remember she did do that? A Yes. She said she would close up the doctor's office.

Q (By the Court.) Do you remember the other part, showing you the things she was going to take away? A Yes.

Q Did she call on you shortly after that? A No.

Q At which time you had a conversation with her relative to her going to Atlantic City? A No, I don't think so.

Q I will read you another paragraph in the affidavit and ask you if you recall this, "On or about January, 1921, Mrs. Stevens called at my home. She told me she was going to Atlantic City to take a rest and when she came back she was going to 'break up our home and leave my husband and take the boy with me'." That last part is in quotations. Do you remember that? A Yes. I do remember that she called at the house and told me she was going to Atlantic City for a rest.

Q (By the Court.) Did she say anything about leaving her husband and taking the boy with her? A No, I don't think so.

The Court: Read that last part.

Mr. Blankenhorn: "And that when she came back she was going to break up her home and leave her husband"; those words are hers "and leave my husband and take the boy with me." Did she say that?

The Witness: Yes.

Q Did you go to the Stevens' home in Montclair after that? A No.

Q Do you recall going there on one occasion after that, when you couldn't get in? A Yes, there was no one at home.

Q Have you seen Mrs. Stevens since that time? A I haven't seen Mrs. Stevens in two years.

Q Has she called on you recently? A No.

Mrs. Elizabeth Shorter, cross.

Cross examination by Mr. Newman.

Q You made another affidavit, Mrs. Shorter, in this case and I ask you whether it is not a fact you stated that you called on Mrs. Stevens at her home in Montclair in January, 1920? A Yes.

Q And that you said that Mrs. Stevens then told you she was very ill with a nervous breakdown due to the treatment she had received at the hands of her husband? A Yes.

Q And that she informed you that he threw her down the stairs? A Yes.

Q And that Doctor Stevens had threatened to shoot her? A Yes.

Q And that three revolvers had been taken from him? A Yes.

Q And that she also informed you she was going to Atlantic City with Mrs. Walter J. Sperling for a rest and recuperation, being at that time in a very nervous state; is that correct? A That is correct.

Q And that she also told you that Doctor Stevens owed money to many tradesmen in Montclair for 1919 bills, that he also owed Bamberger & Company bills for 1919 purchases and he refused to pay them, and endeavored through violence to force her to pay them; did she tell you that? A Yes.

Q And that she was about to separate from Doctor Stevens and take the boy with her, because Doctor Stevens had never wholly supported her and her son and that Doctor Stevens received from her various amounts of money from time to time. Did she tell you that? A Yes.

Mrs. Elizabeth Shorter, further direct.

Q And that Doctor Stevens then owed her on a note for $1,900 and besides that he had squandered other sums of money speculating on the stock market; is that correct? She told you that, did she? A Yes.

Q And she also told you that Doctor Stevens drank to excess and frequently came home intoxicated; is that correct? A Yes.

Q You also stated in that affidavit that Doctor Stevens called on you on Monday, February 14th, in company—

The Court: What is the purpose of all the quotations? She said she made the affidavit and made the same statements here; she has also said the same thing here. She has practically covered the same ground in her testimony now.

Further direct examination by Mr. Blankenhorn.

Q How did you come to make the affidavit that Mr. Newman has just read to you? A Doctor Stevens brought a lawyer to the house.

Q Doctor Stevens? A Yes.

Q I mean the affidavit that Mr. Newman has just read to you.

The Court: Do you remember you made two affidavits in this matter?

The Witness: Yes.

The Court: The first one, do you recall which it was; the one Mr. Newman has just quoted from?

Mr. Newman: Ours was the second.

The Witness: Mr. Newman's was the second one.

The Court: Did Dr. Stevens ask you to make the first affidavit?

The Witness: Yes.

The Court: Who asked you to make the second?

The Witness: Mrs. Stevens.

Q When were all of the things in the affidavit told you, in Mrs. Stevens' affidavit? A The day that Mrs. Stevens took me to the notary public.

Mr. Newman: On January 19th the affidavit says.

Q (By the Court.) The day she took you to the notary public to swear to the affidavit is that the day she told you all these things? A Yes.

Q When she called she told you all these things, that is almost a month later than the time you state you called to get the— A I called for it personally.

Q Did you have any conversation about these various things at that time? A No.

Q It was when you went to the notary's office? A Yes.

Q When did you learn of these facts that are in the affidavit that you made at the request of Dr. Stevens; was that prior to going to the notary with him or on the same day? A No, that was before.

Q How long before you went to the notary, do you recall, at the doctor's request? A I think a week or so or two weeks, something like that.

Mr. Blankenhorn: Our affidavit is dated February 14, 1921.

Mr. Newman: And ours is the 15th.

The Court: She states she got the information in Dr. Stevens' affidavit about a week before and she got most of the information in Mr. Newman's affidavit on the day she swore to it.

CHARLES F. WORMS, sworn for petitioner.

Direct examination by Mr. Blankenhorn.

Q You are the brother of Mr. Worms who testified on Monday? A Yes.

Q Do you know Dr. Stevens? A Yes.

Q And Marjorie Stevens, his wife? A Yes.

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

Q Since they were married? A They were married then, yes.

Q In the year 1920 did you have any conversation with Mrs. Stevens concerning Dr. Stevens? A The only conversation I ever had—

Q (Question repeated.) A Oh, 1920, with Mrs. Stevens? I wouldn't say the year; I cannot put it that way.

Q Can you fix it by any instance that occurred by which you know? A Yes.

Q What incident? A Mrs. Stevens called at our factory one Saturday afternoon about one-thirty or one o'clock and all excited and flustered up about some trouble she had in the morning and she wanted to see my brother.

Q What was the affair that she had in the morning? A I understand she had an affair in the Kinney Building; a scrap. She was very

excited and said she was going to kill Miss Sutz Monday morning.

Q Who is Miss Sutz? A The secretary of Dr. Stevens.

Q Did she say how she was going to kill her? A No, she didn't mention how.

Q Or why? A No; just going to kill her; she was all excited at the time.

Q What did you do then? A I didn't do anything then. She went away and all afternoon I worried about it, then Sunday afternoon I called Mr. Honohew up at four o'clock who had a car.

Q Who is he? A Mr. L. L. Honohew. At that time I asked him to drive me up to Miss Sutz's house, the secretary, and I asked her not to—

Mr. Newman: I object.

The Court: Strike it out.

Q Did you tell Dr. Stevens anything about it? A No, sir, I did not. I didn't see him.

Q Did Mrs. Stevens tell you whether or not she had been at the doctor's office that morning? A No, she did not.

Q Do you remember having any business transaction with Mrs. Stevens? A Yes, I did, in her home.

Q What business were you in? A Furniture at that time.

Q At what time? A About 1915, I think that was or 1916.

Q What transaction did you have with Mrs. Stevens at that time? A Mrs. Stevens ordered a bed spring and mattress for a roomer she was going to put in the house. I went to Mr.

Stevens for the money and asked if it was O. K., and he said he didn't want any roomer.

Mr. Newman: I object.

Q (By the Court.) Was she present when you talked with him? A No.

The Court: Strike it out. I will allow it to stand that she gave the order and he reported to Dr. Stevens, asked for payment, and that Dr. Stevens refused to pay. That part can stand.

Q Did you tell Mrs. Stevens what Dr. Stevens had said to you concerning payment for the mattress? A I did, and she said she would pay and I delivered the goods.

Q What did you tell Mrs. Stevens the doctor had told you? A That he wouldn't pay for it.

Q Did you tell her why he wouldn't pay for it? A That he didn't want any roomers in the house.

Q Did you tell that to her? A Yes.

Q And then she said what? A She would pay.

Q When Mrs. Stevens came to you concerning this Miss Sutz, did she say anything about the doctor? A No, sir, she did not say any more than this: She was going to drive him in the gutter, drive him out of business and put him in the gutter.

Q Anything else? A That is all.

Q (By the Court.) She told you that the same day she said she would shoot Miss Sutz? A Just after that.

Q After that on the same day? A Yes.

Mr. Newman: No cross examination.

Eugene P. Haveron, direct.

EUGENE P. HAVERON, sworn for petitioner.

Direct examination by Mr. Blankenhorn.

Q Do you know Dr. Stevens? A Yes.

Q You are his brother? A I am his half-brother.

Q Do you know Mrs. Stevens, Mrs. Marjorie Stevens? A Yes, I do.

Q And did you know them when they were living in Second avenue, Newark? A I did.

Q Do you remember an incident occurring in that year when you visited them at their house? A Very well.

Q State what it was. A I had just returned from Chicago and I went to my brother's house on Mt. Prospect avenue—I forget the number—and I met Dr. Stevens there and invited him to go fishing with me. In the meantime Mrs. Stevens came in and raised objection to him going and he said, "Well, we are going anyhow." So we proceeded to his house on Second avenue to change his clothes. He wanted to put on his old clothes, so we got to Second avenue and we had left there and walked up Second avenue to Clifton avenue, we were going down Clifton avenue and about midway between Second and Bloomfield, when the doctor turned around and he said, "My God, here she comes; I don't want a scene here," so he started to run, and at first I ran with him, but Mrs. Stevens was hollering and people came out of the houses on both sides of the street and I thought, they will probably take us for a couple of burglars, so I thought I would stop. I didn't want to be mixed up in any excitement and in the meantime Mrs. Stevens

caught up to me, so I told her to be quiet. I said, "If you haven't any respect for yourself, have a little for me, otherwise go on the other side of the street." She said, "What do you think I am?" I said, "I think you are a damn fool" and that ended our conversation.

Q You say she threatened to kill—

The Court: He didn't say that.

Q When you told her to have more respect for you if she didn't have any for herself, what did she say? A Nothing at that time, but I went back to the house afterwards and Mrs. Stevens was in the hall talking to my brother and my other brother and she said that she was going to New York and hire a room and she was going to commit suicide and my mother was greatly worked up over it, so I told her not to pay any attention, she wouldn't do it, and tried to calm my mother down, and passed it off in a sort of a joke. Then we went fishing that night to Canarsie and we returned the following day to Newark about two o'clock and I went home. After I arrived home I found that Mrs. Stevens had been up to my house early Sunday morning to find out whether the doctor and I were really out together.

Mr. Newman: I object.

The Court: Strike it out.

Q Did you go to Dr. Stevens' home in Montclair at that time? A About twice; on one particular occasion.

Q (By the Court.) When was it? A I went up with the doctor—

Q What year was it? A The year I cannot state; I can not recall the exact date.

Eugene P. Haveron, cross.

Q What took place that time? A I went up with the doctor with some of his books and clothes and some of his optical instruments.

Q Was that after he had separated from his wife? A I believe it was.

Q And what did you take out of the house? A I just took some books and some clothes that he gathered in his arms and a few optical instruments.

Q What time was it when you went there? A About 8:30 in the evening.

Q Were the police there? A Yes, the police came in.

Q Was Mrs. Gorton there; do you know Mrs. Gorton? A I do not.

Q Was there a Mrs. Gorton there? A Not to my knowledge.

Q No one but you and the doctor? A No one but the doctor and I and my other two brothers.

Cross examination by Mr. Newman.

Q Was that the night the doctor broke in the house? A I don't know that he broke in.

Q How did he get in? A He went in the back door, I believe.

Q Did you see him? A I did not.

Q You don't know how he got in, then? A No.

Q In any event, he took away his books and his clothes? A Some of them.

Q Can't you tell us what year that was in? A I cannot.

Q The incident that you speak of on Mt. Prospect avenue, that was about four or five

months before the baby was born, wasn't it? A I don't know.

Q You don't know that? A No.

Q Can you tell us the year that was in? A Nineteen thirteen.

Q Don't you know that Mrs. Stevens had a child about four or five months later? A I do not.

Q You did not know at that time that she was in a very delicate condition? A I did not.

Q And wasn't that about the time she had been to Paterson working? A I never knew anything about that.

Q You didn't know that she had just returned back from Paterson, where she had been working for many weeks to get money enough to take care of the probable birth of the child? A No, sir; I had never met them but twice before that.

Q (By the Court.) Was that all that happened or was said, the mere fact that he was going fishing that caused her to get in this frenzy? A That was all.

MR. FRANCIS R. HAVERON, sworn for petitioner.

Direct examination by Mr. Blankenhorn.

Q You are the brother of Doctor Stevens? A Yes.

Q Do you know Mrs. Marjorie Stevens? A I do.

Q Have you called on them at their home during their married life? A Oh, yes.

Q Very frequently? A Frequently up to 1914.

Q Why did you stop? A I got married and moved to New York.

Q Do you remember the incident occurring in 1914 or previous to that at the house? Where did they live, on Second avenue? A Yes.

Q Just state what it was. A My brother, he was with Bamberger then, and one of his assistants apparently had been in the habit of taking a day or two, sometimes two days or a week, or occasionally, anyway, off, and saying that she was sick, so he was always suspicious of her, and this evening I was up to the house to dinner, and he announced that he would go up there and see if she really was sick, and if she wasn't he was going to discharge her, so Mrs. Stevens objected to his going, and there was quite a fracas.

Q (By the Court.) What did she say to indicate her objection? A I don't remember the exact details, but a lot of nonsense, that he was going there, that he was going to run around with some woman or we were going to get drunk or something else just as foolish.

Q What did he say? A They had a few words and one thing led to another, and a table was almost upset.

Q (By the Court.) By whom? A I don't know just by whom, and the furniture was disarranged generally.

Q What about the curtains? A Either the curtains or the portieres, I don't remember which came down, and the doctor lost part of his wearing apparel.

Q How did he lose them? A By having it pulled off.

Q By whom? A Mrs. Stevens.

Q She pulled off his clothes? A Yes.

Q What part? A Either his shirt or his collar; I don't know.

Q Who pulled down the portieres? A I don't know who pulled those down; I know they came down.

Q Do you know Doctor McCormick in Chicago? A Yes, I have met him.

Q Is he the proprietor of the sanitarium that has been referred to in the testimony? A Yes.

Q Did you visit him? A I did.

Q When? A While I was on my way to the coast, I think about 1920 or 1921, either one of those two years; it may have been 1922.

Q Was that before or after Mrs. Stevens had been there? A It was subsequent to her visit.

Q Did you have any conversation with Dr. McCormick? A I did.

Q Concerning Mrs. Stevens? A Her name was mentioned.

Q What did he say?

Mr. Newman: I object.

The Court: Objection sustained.

Q Did you go to Montclair with Dr. Stevens after he had separated from his wife? A Yes.

Q Were you present when he took anything out of the house? A Yes.

Q What did he take? A He took his books and a few of his clothes and some optical instruments.

Q Who else was there? A My other two brothers.

Q And who else? A And the doctor and myself.

Francis R. Haveron, cross.

Q Were the police there? A They came in about--we had been there a short while.

Q Was Mrs. Gorton there? A I didn't see her.

Q Did you see any woman there? A I didn't see any woman there.

Q What clothes did he take, how many? A He either took his evening suit or his dinner coat, and probably a couple of shirts and maybe a collar or something. I don't believe he took them all. He just gathered them up in his arms hastily.

Q Did he leave any clothes there? A He said he did.

Mr. Newman: I object to what he said.

The Court: Strike it out.

Cross examination by Mr. Newman.

Q This quarrel which you mentioned occurred in 1914, did it? A Nineteen fourteen.

Q When did it occur? A I will have to go back. 1914—it was 1913.

Q Didn't you testify in your direct examination a few minutes ago it was in 1914?

The Court: No, he did not.

Q Was that the day the baby was born? The baby was born in 1914, July 2nd, if that will help you any. A Yes, because he is a year older than my oldest boy.

Q How long before the baby was born did this quarrel occur? A I don't know. I know it was in the summer or warm weather, because we were not wearing overcoats; I know that.

Q And the quarrel started over a Miss Walling? A Yes.

Q And she was employed by Bamberger & Company? A Yes.

Q And working under Doctor Stevens as one of his assistants? A Yes.

Q At that time the doctor was working for Bamberger? A Yes; he was one of the buyers.

Q And the quarrel arose because the doctor said he was going to go up and see why Miss Walling didn't come to work? A Yes, and invited me along.

Q Was anything said at that time about Miss Walling being in a pregnant condition? A Not in my presence.

Q Was that a fact, do you know? A I don't know.

Q And then didn't Mrs. Stevens then remonstrate and say that it wasn't his business to go up there, that she was employed by Bamberger and it was their duty to go up there? A I don't recall that.

Q In any event, a quarrel arose? A Yes.

Q And it was a kind of free-for-all? A Except we wasn't included in it.

Q And as a result of that quarrel some of the doctor's clothes came off? A Yes.

Q Did some of Mrs. Stevens' clothes come off? A I didn't see any of them.

Q The furniture was disarranged and the portieres came down? A Yes.

Q Did you see the doctor do anything at all? A Except I saw him try to hold her arms so she couldn't strike him or scratch him.

Q Is that all you saw the doctor do? A Yes.

Q You didn't see him tear any part of the furniture? A No.

Q You didn't see him take down the portieres? A No.

Q Or see him upset anything? A No.

DR. REGINALD H. HAVERON, sworn for petitioner.

Direct examination by Mr. Blankenhorn.

Q You are a brother of Dr. Stevens? A Yes.

Q Do you know Mrs. Marjorie Stevens? A Yes.

Q How long have you known her? A Since they were married.

Q Were you at Dr. Stevens' house in Montclair after the separation? A Yes, on two occasions.

Q What for? A One was at the request of Mr. Kalisch, one evening, to go up with Dr. Stevens, which didn't amount to anything, and on the second one simply to accompany him to obtain his clothes and some books and a few instruments for his optical work.

Q Did you see what was taken at that time? A Yes.

Q What were they? A An instrument and a little clothing, such as neckties, suits, and the instrument and some books.

Q Anything else? A Nothing else that I know of.

Q Was Mrs. Gorton there? A I did not see her.

Q Were the police there? A Yes.

Q What time was it? A Approximately half-past eight.

Dr. Reginald H. Haveron, cross.

Q Did he take all of his clothes? A Oh, my, no; just a few.

Q Do you know Harry A. Swan, Jr.? A No.

Q Did you have a conversation with Dr. Stevens concerning Swan? A Yes.

Q What was that conversation?

Mr. Newman: Objected to.

The Court: The offer will be overruled. The offer of all that line of testimony is overruled.

Q Do you know whether or not your wife ever received a letter from Mrs. Stevens? A Yes, she did.

Q Do you know where the letter is now? A No; that letter has long since been destroyed.

Q Did you read it? A I did.

Q State what was in the letter.

Mr. Newman: I object, the contents of a letter that Mrs. Stevens wrote to his wife.

The Court: If he saw it and read it, why can't he state it. He says the letter is lost. Do you want to cross examine about the receipt of the letter? If so, you may.

Cross examination by Mr. Newman.

Q This letter, you say, was directed to your wife? A Yes.

Q How did you come to see it? A She showed it to me on my return to the house that evening from business.

Q How do you know it is lost? A Because she destroyed it herself; she told me she did.

Mr. Newman: I object to that; what she told him.

Q (The Court.) How do you know it was from Mrs. Stevens? A It was signed.

Q (The Court.) Are you familiar with Mrs. Stevens' handwriting? A Yes.

Q How often have you seen her writing? A A dozen or more times; she writes a very fine hand.

Q What was the date of the letter? A I cannot tell you; just following the separation of Dr. and Mrs. Stevens.

Q When did you last see it? A A day or two after Dr. Stevens left her.

Q How long after it had been received by your wife? A About two or three days.

Q When did you notice that it was lost or missing? A My wife just told me that she would destroy it because she considered it was inconsequential.

Q She told you she would destroy it? A Yes.

Q You didn't see her? A She said she did.

Q When did she tell you that? A The same day.

Q She told you first she was going to destroy it, then she told you later that she had done so? A I cannot say.

Q How many times did you read the letter? A Once.

Q You don't know when it was? A No; just a few days after Dr. and Mrs. Stevens—

Q How many pages were there to the letter? A One sheet of writing paper, and it covered most of the four sides.

The Court: Do you think it is competent for him to give his recollection under such vague circumstances; he don't recall the date of receipt.

Dr. Reginald H. Haveron, further direct.

Mr. Newman: He only proves by hearsay that it was destroyed.

Q What was the year in which you received the letter? A I cannot recall the year.

The Court: I don't think I care for his vague recollection of its contents under such circumstances.

Further direct examination by Mr. Blankenhorn.

Q You have an office in Plainfield? A Not at this time. In 1912.

Q And until what time? A March, 1913.

Q Did Mrs. Stevens call on you at that office? A On one occasion.

Q Did you have any conversation with her about Dr. Stevens? A Not about the doctor, about something which later arose which ended up in a mental riot. I cannot remember the details except that it created a scene that upset me for a time.

Q What created the scene? A The outburst of mentality on the part of Mrs. Stevens.

Q Do you remember what she said? A No.

Q What did you do? A I locked the office up as quick as I could and got out, because I was broken up and didn't feel I was fit to conduct my business for the rest of the day; I was in such a confused state of mind.

Q What was the trouble over? A Something between her and the doctor. I did not enter into it.

Q Did she say what it was? A I cannot recall what it was, some trivial affair. That is as near as I can repeat.

Dr. Reginald H. Haveron, further direct.

Q (By the Court.) Do you know whether it was trivial or serious? A It was moderate and I recollect that, but it didn't result in anything; later it all died out, the next day.

Q Ever talk with her about that since? A No.

Q Has she ever visited you in your office in Newark? A On one occasion.

Q What about? A Doctor Stevens went in one evening about half-past five and five minutes later Mrs. Stevens appeared on the scene in the same excited state of mind and started to create a scene, so that people could see from the street, on the first floor. I asked her to please leave the place, she could have all the row she wished in her own home, but not in my office.

Q When was that? A That was about 1916 or 1917 in the spring.

Q What was that about? A Something personal between the doctor and herself; she was evidently trailing him.

Q Did she use any bad language? A No bad language that I know of, except she was rather wild and excited.

Q Did she make any attack on the doctor?

Mr. Newman: I object. That is very leading.

A No, she did not make any attack.

Q Do you know whether or not the doctor is a drinking man? A I do not know, because I am seldom with him.

Q Ever see him drunk? A I never saw him drunk.

Mr. Newman: No cross examination.

DR. ROBERT BRUMBERGER, sworn for petitioner.

Direct examination by Mr. Blankenhorn.

Q Do you know Dr. Stevens? A I do.

Q Do you know Mrs. Stevens? A I do.

Q How long have you known her? A About nine years, or nearly that time.

Q Did you ever have any conversation with Mrs. Stevens about the doctor? A I did.

Q When? A I cannot remember the date but it was shortly after they separated.

Q How do you know that it was shortly after they separated? A Reading the account in the paper.

Q Can you say how long after they separated that it was? A I can't remember the date; I should judge about 1921.

Q What was the conversation? A I really cannot give it in detail, because it was for nearly half an hour or so. I was neutral in the affair; I just paid no particular attention.

Q Where did you meet her? A On Broad and Market.

Q State as near as you can what she said? A That she was separating and that she was up in his office, and she had a little tussel with the girl in the office and that she would fix him; she would see him in the gutter.

Q Did she use any bad language? A No, no bad language.

Q Did she call any names? A No.

Q Did she tell you about the raid? A The raid didn't take place at that time.

Dr. Ludlow R. Stevens, direct.

Cross examination by Mr. Newman.

Q That was the time they had separated, shortly after? A Yes.

Q And she was pretty much excited over the affair, wasn't she? A Yes.

Q And she told you the story of the separation? A Yes.

DR. LUDLOW R. STEVENS, petitioner, sworn in his own behalf.

Direct examination by Mr. Lane.

Q Where do you reside, doctor? A 180 Park Place, Irvington.

Q When were you married? A Legally?

Q When were you married, I asked you? A 1912.

Q Do you remember the date? A July the 29th.

Examination by the Court.

Q What did you mean by that answer, legally? A I didn't hear that.

Q What did you think he said; what did you use that word for? A I didn't quite get the question.

Q What was in your mind when you used the word "legally"? I am trying to find out. A Well, I was just wondering when—

Q When what? A When he thought we started to keep house.

Q Is that what was in your mind when you used that word "legally," in connection with

your marriage? A Well, we were married in 1912.

Q That does not explain. Go on, if that is the best explanation you can give me.

Further direct examination by Mr. Lane.

Q How old are you? A Thirty-four.

Q How old is your wife? A She is about thirty-two.

Q What was your business at the time of your marriage? A I was in the optical business.

Q In what capacity? A In the capacity of opthamologist.

Q How long had you been in business? A I wasn't in business for myself at that time.

Q Who were you with? A I was working for Dr. Greenspan.

Q What were you getting at that time? A I wish to say that I made a mistake there. I was in business when I was married.

Q How much were you making at that time? A I was making about thirty-five dollars a week.

Q You say you were working for yourself at that time? A Yes. When I was married; that is correct.

Q Did you continue to work for yourself? A Yes, I did, for about a year and a half.

Q And then what happened? A And then we were married and we took a trip for a week or two and came back and I accepted a position as buyer for L. Bamberger & Company.

Q How much did you make there? A Thirty-five dollars a week and commission.

Q What did the commission amount to, on the average? A I never got all that was coming to me.

Q Will you answer my questions and don't volunteer anything? A I would say about three hundred dollars a year.

Q How long did that continue? A For about three years and a half.

Q Did your salary remain thirty-five dollars a week during that three years and a half? A Yes.

Q Did you make any more in commissions than that average of three hundred dollars a year? A A little more.

Q Amounting to how much at the outside? A Not over five hundred dollars.

Q In any one year? A Yes, sir.

Q Then what did you do? A I was with them three and a half years and started in business for myself in the Kinney Building.

Q Where? A 790 Broad street.

Q What year was that? A That was in December, 1915.

Q When you started out in business for yourself in 1915 do you know what your income has been since that time? A It differs according to the business conditions of various years, but the first year the gross income I cannot state exactly.

Q I prefer then net rather than gross. A I would say about eighteen hundred dollars.

Q That was the year 1916? A That would be the entire year.

Q How much did you make in 1917? A I cannot say exactly, but it was somewhere around two thousand dollars.

Q 1918? A A little different, but just what it was I don't know; it was very little.

Q Was there a variation of as much as a thousand dollars? A No.

Q As much as five hundred dollars? A It was somewhere between there and eight hundred dollars and five hundred dollars.

Q 1919? A 1919 was a pretty good year.

Q How much did you make in that year? A I would say somewhere around twenty-five hundred dollars.

Q 1920? A 1920 I made twice that.

Q That would be four thousand dollars gross? A Yes. Because I had two offices.

Q I am talking about net now; are you also talking about net?

Q (By the Court.) Is this your net profit for the year that you speak of, about four thousand dollars for that year? A No. That wouldn't be net.

Q (By the Court.) That is what Mr. Lane is talking about. A No, that wouldn't be net for the two years.

Q (By the Court.) The amounts you have named for the various years, were they the net or gross receipts? A They were the net.

Q What was the net for the year 1920? A I cannot say exactly, about five hundred dollars more.

Q And more than the preceding year of twenty-five hundred dollars? A Yes, I had two offices.

Q (By the Court.) Then it would be about three thousand dollars? A I would assume three thousand dollars.

Q 1921? A That was very bad.

Q Approximately what was it? A I think about twenty-six hundred and fifty dollars; something like that.

Q 1922? A I should say it was twenty-eight or twenty-nine hundred.

Q The last year? A About three thousand dollars.

The Court: I have it that his income since he resumed business in 1915, his net income ran from eighteen hundred dollars to not over three thousand dollars up to and including 1923, is that correct?

The Witness: That is correct.

Q Have you any other resources or had you any other resources, which you made from your professional work? A No, sir.

Q At the time of your marriage did your wife know that? A Yes. I didn't have a job when I was married.

The Court: I understood you to say you were in business for yourself.

The Witness: Yes, that is right.

Q You didn't have a job or were in business for yourself? A I am confused.

Q (By the Court.) Don't get confused, because you will then confuse me. Take your time and state what the fact is according to your best recollection.

The Witness: Will you read the question again?

(At the request of the witness the following testimony was read:

"Q Have you any resources or have you any other resources, which you made from your professional work?

A No, sir.

Q At the time of your marriage did your wife know that?

A Yes. I didn't have a job when I was married.

Q (By the Court.) I understood you to say you were in business for yourself?

A Yes, that is right."

Q (By the Court.) At the time of your marriage did she know that? A Certainly.

Q At the time of your marriage did your wife have independent means of her own? A I believe she had a little money in the bank.

Q Did she have an interest in the estate of—

The Court: At the time of your marriage?

A Yes, she told me she had an interest in an estate.

Q Do you know when she received the first money on that interest in the estate?

The Court: This is the Van Riper Estate which you are referring to?

Mr. Lane: 1919.

The Court: Was the first time she received any money from it?

The Witness: Yes, to my knowledge.

Q Do you know how much she received at that time? A She told me she received around $20,000.

Q Did you have any knowledge of her inheriting two houses in the City of Paterson? A No, sir.

Q Did you have any knowledge of her selling any house for any three hundred dollars or any

other sum in order to start a home for herself and yourself? A No, sir.

Q Nor anything of that kind occurred? A Not to my knowledge.

Q Do you know how much money in cash your wife had at the time of the marriage? A Only what she told me, about a thousand dollars.

Q Did you have any money at that time? A I had about a hundred dollars.

Q What was that thousand dollars used for? A To buy furniture to start housekeeping.

Q (By the Court.) How long did you know Mrs. Stevens before you married her? A About two years.

Q (By the Court.) Had you been paying attention to her during that time? A Yes.

Q She knew your circumstances? A Yes.

Q Have you any knowledge of her receiving any money from a mortgage, which she cashed? A When was that?

Q Sometime prior to April, 1919? A No, sir.

Q After April, 1919, when she received certain moneys have you any knowledge of her receiving other moneys from the estate? A After 1919?

Q Yes. A Yes, sir.

Q Do you know to what extent, to what amount? A I would say about fifteen thousand dollars.

Q Fifteen in addition to the twenty you mentioned? A Yes.

Q What did she do with that money? A She invested it in various bonds; $9,000 in Liberty bonds and various other bonds and utilities and things like that.

Q (By the Court.) You are referring to the fifteen thousand or the entire thirty-five? A To the entire thirty-five.

Q When was the house in Montclair bought? A I bought the house September 1, 1918.

Q How did you come to buy it? A That was the day that we had some trouble over Mr. Burton and I was sick and disgusted and I thought I would like to go to Montclair and get out in the country so I would forget about it, and a friend of mine told me that an eye specialist who was practicing in Montclair had lived there and he thought it would be a good buy. I didn't have any money at the time; I had five hundred dollars and I borrowed five hundred dollars and I went there and entered into contract to buy this house for $14,500 and paid $1,000 down and I paid $112.50 a month's rent, but that rental was to be applied to the purchase price of the house after taxes and interest had been deducted for the first year. After the first year I was to pay him—I forget, about a hundred and fifty to two hundred dollars a month, something like that.

Q On account of the purchase price? A Yes, on account of the purchase price.

Q Did Mrs. Stevens buy that house or put up any part of that thousand dollars? A Not a cent.

Q Did you continue those payments? A What payments?

Q The one hundred and twelve dollars. A Oh, yes.

Q Up until when? A I paid up until the contract—I think the contract was for a year or a year and a few months at a hundred and twelve dollars and then I forget just what the

amount was, and I kept that up for awhile and then I got in difficulties in the stock market and I saw things were not going just right and I told Mrs. Stevens, I said, "Here is an opportunity, here is a house that is worth a great deal more than we paid for it and if you want to you can take the house over and I will pay you a hundred and fifty dollars a month and when the thing is paid for if you would like to again turn it over to me, or we can own it jointly, it doesn't make any difference to me."

Q When was that? A Sometime in 1920.

Q Did you transfer the property to your wife? A At that time she took in a mortgage as I understood it.

Q Was the property transferred? A Yes, it was transferred to her name at that time.

Q Are you sure it was in 1920 or was it in the latter part of 1919? A It was either in the latter part of 1919 or the early part of 1920 because that is just about the time when she got her money and that is why she was able to do it.

Q Did you make any payments on account of this hundred and fifty dollars a month which you agreed to pay? A Yes, I paid a hundred and fifty dollars a month for a year or longer.

Q (By the Court.) Can you tell what you had paid up to the time you turned the property over to Mrs. Stevens, and what it would total? A I hadn't figured it up.

Q Approximately. A I don't remember just what the figures were.

Q I want what you paid on account of the property at the time you turned it over to Mrs. Stevens. A I paid Godfrey about fifteen or sixteen hundred in rental and a thousand dollars

as a payment down, about twenty-five or twenty-six hundred dollars I paid. I paid Godfrey more than that because the hundred and twelve dollars increased; I would say I paid Godfrey somewhere around three thousand dollars as near as I can rceall.

Q By the time you turned it over to Mrs. Stevens? A Yes.

Q Do you know how much you paid your wife? A A hundred and fifty dollars a month.

Q The aggregate. A About around eighteen hundred or two thousand dollars.

Q (By the Court.) Was that after the title was transferred? A Yes.

Q How were those payments made, by check? A Mostly by check.

Q Have you those checks? A The majority of them were in Montclair, and I have changed around so much they have been lost, but she has a record of them.

Q The house was furnished how?

The Court: Was the house completely and well furnished?

A When we first went there it wasn't, no. I bought second-hand furniture from the people I bought the house from to help, because it was a big house, about 11 or 14 rooms, and I bought some second-hand furniture and an old bookcase and some carpets for the floors.

The Court: Don't go into all that detail.

Q But you did buy furniture? A Yes.

Q And some of the furniture taken from the Broad street house? A It was all taken.

Q Did she at that time spend some money to furnish the house? A Not at that time, because she didn't have her money yet.

Q Did she subsequently? A When she got her money she bought a few things, yes.

Q Have you any idea as to how much money she spent furnishing the house? A I would say somewhere between fifteen hundred or sixteen hundred dollars; somewhere around there.

Q You gave your wife at one time a note for $1,300, did you not? A Yes.

Q Tell us how that came about. A Well, I was making money in the market at the time, and she would ask me about it, and she would say, "Why can't I make money like that." I said, "If I were you I would stick to bonds; I wouldn't bother around with the stock market; it is not a lady's game." I said, "I can make mine, but you probably will never make any more unless you work for it," and she said, "Well, here is a check for $500; what do you think is good?" I said, "I will take a fly in St. Paul, rails look good," so I bought a hundred shares of St. Paul from Mr. Miller, of Henry Brothers, in her name, and subsequently the market went to pieces, and I told her—I said, "Well, I guess there goes the $500"; she said, "Well, I don't want to lose the $500." I said, "It is certainly a wonderful railroad, I can see from the analysis I have read about it; if I were you I would buy it; some day it will be worth more money." She went down and got the stock in. First she paid, I think, a thousand dollars more, but anyway, eventually it was sold, 50 shares of it and bought 50 in, and the balance of that—I don't think it was a thousand dollars; it might have been.

Q (By the Court.) What has this to do with the thirteen-hundred-dollar note which Mr. Lane asked you about? A The $500 was part of that

note I signed. I said, "Well, I will pay you back that $500 if you lose it."

Q Make up that loss? A Yes.

Q How was the rest of the note made up? A The balance of that was insurance on an automobile which she owned, that I couldn't afford to pay.

Q Why did you give her the note; why didn't you let her pay it, as long as you couldn't afford it? You say she owned these things. A To keep peace.

Q (By the Court.) Did you have in mind Mr. Lane's last question? A Yes. I signed the note just to stop so much talk about it. I heard about it so much I signed the note to get the thing—

Q (By the Court.) You still leave unaccounted for that $500. A The balance of that would be for insurance premiums.

Q Did that sum represent a loan to you? A No, because she paid the insurance company by check.

Q There was $500 the stock transaction and certain insurance money; was there anything else included in the thirteen-hundred-dollar note? A Not to my knowledge.

Q Was the note ever paid? A I believe I did give her some money from time to time, a few hundred. Yes, I think the note was reduced to, I think I reduced it to $1,300.

Q (By the Court.) You said it was $1,300. Mr. Lane isn't asking you about the thirteen-hundred-dollar note. A I said I didn't know whether the 1,600 or the 1,300.

The Court: Pay attention to his question.

The Witness: Anyway, it was reduced to about $300.

Q Was it $1,600 or $1,300 originally? A I cannot positively state; that is so long ago.

Q When did you last see that note? A I haven't seen the note in over three years, anyway.

Q (By the Court.) Has she made any demand on you for its payment since your separation? A Not to my knowledge.

Q You remember a letter she wrote demanding payment, or have you forgotten. Do you remember now without having your recollection refreshed, as to whether she did write a letter to you after the separation? A Oh, yes.

Q Asking for the payment of this note? A Yes, that is correct.

Q Who supported the family after the marriage; who paid for the necessities of the house after the marriage? A I did.

Q Do you remember when the child was born? A July 2nd, 1914.

Q Do you know whether or not she paid for the confinement expenses? A Only what she testified to.

Q Did you pay for the confinement expenses yourself? A No, sir.

Q And why didn't you? A Because Dr. Firth—the physician at the time, he was a personal friend of ours; during Mrs. Stevens' pregnancy I went to him and explained the situation, and I said, "Doctor, I would rather have an osteopath do this work," and he said, "All right." A week before Mrs. Stevens was confined I went to him and I said, "Now, I want to pay you something in advance; I want things right." He said, "Doctor, you won't owe me a cent." I said, "No, this is going to be my child and I want to give you something." He said, "No,

you cannot pay me a cent." And after it was over and things were going along so nice, I said, "Doctor, I feel as though I should pay you what I owe you." He said, "You don't owe me anything." About two years after that—

Mr. Newman: This is all hearsay.

The Court: I will let it stand; ask him why he didn't pay; he is entitled to give an explanation of it.

A (Continuing.) About two years after that I sent a patient to Dr. Firth, and Dr. Firth and I had a fuss over the 'phone about the patient, and I wouldn't send him any more business, and Dr. Firth took exception to it and subsequently sent a bill.

Q (By the Court.) For the confinement expenses? A Yes, I guess that is what it was for; somewhere around a hundred and fifty dollars, and he said if I didn't pay it immediately he would start suit.

Q (By the Court.) And you didn't pay him? A I didn't pay him, but I gave Mrs. Stevens the money later.

Q (By the Court.) To pay to the doctor or to reimburse her? A To reimburse her for paying him.

Q (By the Court.) How long after the confinement was it that the doctor first made the demand for payment? A About two years.

Q (By the Court.) How long after Mrs. Stevens paid the doctor did you reimburse her? A I cannot say.

Q Did you, as a matter of fact, know when she paid, at the time? A I didn't know anything about it until some time after.

Q When did you begin to have any difficulties with your wife? A Just a few months after we started housekeeping.

Q What was the occasion of that first trouble? A She brought a Dr. Falconer to the house, and he kept calling there all the time, and I didn't like it.

Q Professionally, to attend her? A No, a friend of hers. She used to go out riding in the automobile, and I said, "Why do you have that man come here all the time; it doesn't look very well." I said, "I am away all day and you are in this little apartment; I don't know what the other tenants in the house will think about it."

Q What kind of a doctor was he, a physician? A A gynecologist.

Q Practising here in Newark? A No, Paterson.

Q You were then living in an apartment on Broad street? A No; on Thomas street.

Q Did that lead to any trouble? A We quarreled about it; nothing serious.

Q Did she stop permitting Dr. Falconer to call? A No; he kept calling. After that he finally brought another doctor there to the house at one time, and I became acquainted with the other doctor and things kind of got all right and we got to be friends.

Q Friends with whom? A This other doctor and Dr. Falconer.

Q What was his name? A The other doctor was Dr. Blyn.

Q Did you upon any occasion when you were living in Thomas street knock your wife down? A No, sir.

Q As a result of one of these quarrels? A No, sir.

Q Did you upon any occasion knock her senseless? A No, sir.

Q Was there any doctor who had to be called in to revive her upon any occasion; do you remember any such incident? A There was a doctor there that came first.

Q What incident was that; tell us about that. A Dr. Fort came, and I was out at the time, and as I returned I saw a gentleman sitting at the table. I said, "Who are you?" He said, "I am Dr. Fort or Wort," or something peculiar like that; I really don't remember his name exactly. I said, "What are you doing here"; he said, "Mrs. Stevens sent for me." He said, "I am writing out a prescription." I said, "Let me see it." He showed me the prescription, and I said, "Do you expect her to take this stuff," and he said, "Yes." I said, "That is nothing but sugar and water." "Well," he said, "she is all excited and I will give her something to quiet her."

Q Where had you been? A I had been working; I had just returned from Bamberger's at the time, and I was buyer there, and one or two nights a week I used to go down there to see how things were going along.

Q What time of the day was it? A In the evening this was; I should say around eight o'clock.

Q Had there been a quarrel between you and your wife at that time? A There might have been during that time.

Q (By the Court.) Why do you say there might have been? A I don't know if it was in the day or night.

Q (By the Court.) Do you know what caused her to become excited so that this doctor was brought in? A Over this Dr. Falconer.

Q (By the Court.) You and she had quarreled over that? A Yes.

Q Tell us about it. A About her going out in the automobile with this man.

Q What was said at the time that led to your going back home and finding a doctor there? A She said, "I have known him for a number of years and I don't know why you should take exception to it; he is a man around 50." And I said, "That doesn't make any difference to me how senile he is; I don't want him coming here."

Q How long before you found the doctor at the place did you have this conversation with your wife? A We had that conversation that evening.

Q What did you do after the conversation? A She flew in a rage and was spiteful, as usual, and started to throw things around and was going to commit suicide. I never paid much attention to that.

Q What did you do? A I didn't do anything. I had to go to the office, and I came back in about an hour or hour and a half.

Q When you returned you found Dr. Fort there? A I said, "You are not going to give her that stuff."

Q Was it when you returned that you found this doctor there? A Yes.

Q During the quarrel you had with your wife had you struck her? A No, sir.

Q Was that the first quarrel you had had over this Dr. Falconer, or was it not? A Oh, no; it came up before.

Q You say or intimated that she had a common practice of threatening to commit suicide or becoming hysterical? A Yes.

Q (By the Court.) What would cause that? A She had always been that way; her mother told me that.

Q (By the Court.) Were there any serious quarrels over any other man while you lived at that place? A Not that I recall.

Q When did the next difficulty over men occur? A 96 Broad street.

Q How soon after the episode with respect to Dr. Falconer? A About three years, two and a half or three years.

Q Who was involved in that? A There were several. One man particularly that I remember was a Mr. Van Brunt.

Q 96 Broad street, was that your house? A It was an apartment.

Q Were there any boarders in that apartment? A One in my apartment.

Q How did you come to have boarders there?

The Court: Boarders or roomers?

The Witness: He had his breakfast there and he had a room.

Q How did you come to have boarders there? A I just started in business and I was struggling to build it up, and the rent was too high; Mrs. Stevens wanted to live there and I couldn't afford to pay the rent so she suggested we get someone in.

Q What did you say? A I told her I didn't like to have anyone else in the house, it wouldn't look well and I said, this is a pretty nice apartment, I wouldn't want anyone here.

Q What was the result of it all? A A short time after that I came home, I saw a bed in the back parlor and a dresser and one thing and another and I said, what is all this; she said, I have rented the room and I said, oh, you have. She said, yes, I have rented it for so much a week, I don't know what it was. I said, who is this fellow; she said, he is a swell fellow, he came here with a taxicab, with golf sticks and he had baggage galore. I said, what has that to do with it, he might be a crook. I said, did you look up his reference; she said, no. So I investigated the thing and found out he was a salesman or manager for some automobile concern.

Q (By the Court.) Was his wife with him? A No, his wife was not with him at that time. She came later and they stayed about a week or two.

Q When did he come to the house, do you remember? A 1916.

Q How long did he remain there? A Somewhere around ten months or a year.

Q How long after he first came there was it that his wife came? A I don't remember.

Q You say she stayed about a week? A She stayed just a very short time.

Q Was there any difficulty over Van Brunt? A Oh, yes.

Q (By the Court.) This is Van Brunt you are referring to? A Oh, yes.

Q What was your difficulty? A I was away at the office one evening; that was when I first started in business, and I used to stay down nights to try to get things going. I came home one evening early, around nine or ten o'clock, it wasn't very late I know, and Van Brunt's bed-

room door was closed, and I stepped into the front parlor to get a pipe or something and as I did I could look right into his room that he occupied; he occupied the back parlor, the room right off the parlor, and I saw Van Brunt standing there. I said, what is the matter, did you take the veil or something? He said, what do you mean, did I take the veil. I said, you must have reformed. He said, I never heard you come in. He said, I am tired out. I stood there by the door and I happened to look on the bed and Mrs. Stevens was lying there. I was so dumbfounded I couldn't say a word. I couldn't move; I stood there for a minute. I went in the kitchen and she came out of there, or rather in the dining-room and she came out of there in a few minutes. I said, what is all this; I said what were you lying on Van Brunt's bed for? She said, do you suspect that there was anything wrong; I said, oh, no. I said, you get that fellow out of here tomorrow or I will throw him out. The next morning he left.

Q Was that the first quarrel you had over him? A No. I wasn't particularly suspicious about him, but we had quarreled about him, that is, so far as the impropriety of his being there, but we had quarreled, because I was getting all the leavings and I was getting the poor eggs and ground up meat and I got sick of it, and I said who is paying for all these steaks or chops; I am paying for them, where are they all going; I said, what are you living on pheasants or what?

Mr. Newman: This is a line of hearsay brought in here; there is no jury, of course.

Examination by the Court.

Q Who got the money from Van Brunt's board, you? A No.

Q What was done with it? A Mrs. Stevens collected it.

Q What did she do with it? A That I cannot tell you.

Q I thought I understood you to say that the reason for taking the roomer was you had an expensive apartment and just starting and you wanted some help. A Yes.

Q And she suggested this as a solution? A Yes.

Q Did she use the money from the roomer to reduce your expenses? A I remember she did part of it, but before Van Brunt was there two weeks she immediately went out and rented a piano by the week or month.

Q How much was he paying? A I never knew what he paid.

Q Did you upon any occasion while living at 96 Broad street threaten to shoot your wife? A No, sir.

Q Did you have a revolver in that place? A No, I didn't have any revolver at 96 Broad street.

Q When did you first get your revolver? A That was in 1918, I think.

Q While you were at 96 Broad street? A No, 1007 Broad.

Q Do you remember any occasion in January, 1916, or any other time at 96 Broad street, when you came home after her mother had been there and chased your wife around the house and tore her waist to shreds? A No, sir.

Q Is there anything in that story that identifies any particular occasion to you? A 96 Broad street?

Q Your wife says that you returned about 7:30 o'clock, after her mother had been there, and you chased her around the house and tore her waist, and it was over nothing. A I do remember something about that.

Q What incident is she referring to? A I arrived home about six o'clock at supper time, and as I was about to open the door Mrs. Stevens and her mother and her sister were there, and they were trying to open the door, and she said to me, "Where the hell have you been." I said, "That is a fine way for you to talk with your mother present here." She said, "I was down to your office and it was locked up." I said, "Certainly, it was locked up; I didn't stay there all night; I am home for supper," and I don't know why, but her sister or mother made some objection to the conversation which she carried on, and one thing led to another, and she kept talking.

Q How did she get her waist torn on that occasion? A It wasn't torn.

Q How do you identify that occasion with the torn waist with what Mr. Lane asked you? A I first identify it by reason of the embarrassing situation before her mother.

Q After this man Van Brunt left there were there any further quarrels between your wife and yourself? A Yes.

Q About what? A It was over a Mr. Harry A. Swan, Jr.

Q When was that? A About around the same time. He used to come to the house. He

was a personal friend of mine, or pretended to be.

Q What caused you to have any difficulty over him? A We used to play cards evenings and I didn't just think the situation looked right. He looked at her and she looked at him. I didn't say anything. That kept up, and one occasion he came there, he came there with a flower in his buttonhole, and all that business, and my wife raved about what wonderful wavy hair he had and he always looked as though he got out of a bandbox and was a handsome man, so I quarreled with her about that.

Q Who did the raving? A Mrs. Stevens. And finally one thing led to another, and she said, "He don't come here to see you, anyway; he comes here to see me." I said, "Is that so; he won't come here again." That was really the reason that I stopped him coming to the house. A short time after that I met my brother—

Q Over something your brother told you? A Yes.

Q After your brother told you something, did you subsequently talk to your wife about it? A Yes.

Q What did you tell your wife? A I said, "I understand you tried to seduce Mr. Swan." She said, "What do you mean, seduce Mr. Swan?" I said, "He went down and Redge said you threw yourself at him and he wanted you for improper relations with him." We had a row about that.

Q Did she say she had or hadn't? A Yes.

Q She denied that she had told your brother that? A Yes.

The Court: Swan, I understand, had told your brother; is that right?

The Witness: Swan told my brother that.

Q She denied that there was anything in it? A Yes.

Q Did you suspect at this time that your wife had been unfaithful to you? A From her actions at the table.

Q I don't mean in that particular case, but with her and Van Brunt and Dr. Fort and the others? A Yes.

Q Why did you continue to live with her if you thought she was unfaithful? A Bobby was a baby, and I was brought up without a father myself, and I thought, well, I will forget about it.

Q Why did you quarrel about it if you wanted to forget about it? A There was always a new man.

Q Did you suspect your wife of every man who came in your house having improper relations with her? A No, sir.

Q Did you accuse her of having improper relations with many men? A No, only those I have mentioned.

Q There were others who came to the house? A Oh, yes, we had a great many people come to the house.

Q Did you at that time love your wife? A Yes; Bobby was a baby; certainly.

The Court: Which time are you referring to?

Mr. Lane: After the episode with Swan.

Q (By the Court.) Did you then have any affection for your wife? A Yes.

Q When was the next occasion?

The Court: Let me see. Do you want me to understand that you still had affection for your wife notwithstanding that she had been unfaithful to you; is that what you wish me to understand?

The Witness: I didn't for some time.

The Court: Mr. Lane directed your attention to the time after the trouble over Swan. Did you then have any affection for your wife?

The Witness: Not at that time, no.

Q When was the next trouble over any particular individual? A That was in 1918.

Q Over whom? A Over a man, an ex-convict by the name of Burton.

Q Tell me about that; who was Burton? A I don't know if that was his name or not.

The Court: He has been referred to as Patterson, too?

The Witness: Yes. In March, 1918, Mrs. Stevens went to a former doctor whom I had studied under to consult regarding a nervous condition that she had a great many years.

Q (By the Court.) Is that Dr. McCormick of Chicago? A Yes. And on the train, she told me, she met this man Burton, who was in full army uniform, dressed as a lieutenant, and she wrote me a letter and told me about him, and on her return home she told me about this wonderful man, and a fine looking fellow, and looked elegantly in his uniform, and said when he returned he would call and see me, see us.

Q (By the Court.) Do I understand you didn't meet Burton at the train the day your wife departed for Chicago? A No.

Q (By the Court.) She said you had trouble with the porter over the bags and Burton paid that; is that true? A No. After Mrs. Stevens returned from Chicago, she had only been home a short time, and I arrived home one evening from business, and she said, "What do you think—you know that man I told you about I met on the train"; I said, "Yes." She said, "He called me up today." I said, "What did he want?" She said, "He is a fine fellow; he wants us to come down to the hotel tonight, to the Robert Treat Hotel"; he was staying there. I said, "Is he? You don't know anything about him; all you know he has a uniform on and you met him on the train; you don't know anything about him." I said, "I don't know why you pick up with these people." So that was all that was said about it, and that evening we took a walk. We walked down past Military Park, here in Newark, and, lo and behold, who comes along but this fellow Burton, and she says, "There he is now"; I said, "Who?" She said, "This man I was telling you about," and so we talked for four or five minutes, and he seemed like a congenial sort of a fellow. He said, "I should not tell you this, but I am a United States Secret Service man. You are in business in Newark; you might be able to help me out." I said, "Yes," and I said, "Well, let us not stand here in the street and talk." I said, "Let us go over to the Washington Restaurant," which was a block or two from there. We went in there and had a little something to eat and drink. I forget, anyway, we were there

a little while, and he said to me, "That is a pretty good looking suit you have there; where did you get it?" I said, "A Jew tailor," and he said, "Give me the name of him," and then we left.

Q Was that the first time you met him? A Yes.

Q Who introduced you? A Mrs. Stevens. And after we left him I said, "It will be a good joke if he goes to that tailor and orders a couple of suits of clothes and sticks him for them and I will have to pay for them," but I, of course, didn't know anything about him. I said that in a joke. A few days after that she said, "Mr. Burton called up again and he is on a case and wants to speak to you about it, and I told him to come down to the house for supper." I said, "He is getting quite friendly, isn't he?" Anyway, he came down to supper and we became friends after that.

Q How long did that intimacy continue, or friendship, whatever you want to call it? A It continued until some time in July, 1918—about two months, I should say.

Q Then what happened? A He called up my office one day and said, "Doctor, I have a Government check for $58," or some amount; "will you cash it for me"; I said, "I haven't the cash, but if you come down I will endorse it and you get the money; the bank will give it to you"; and he came down. I met him in the corridor of the building and I looked up the check. I said, "This don't look like a Government check."

Q Did you cash it? A I did.

Q What happened? A I became suspicious. I thought it was a foolish thing for me to do,

cash that check, so I telegraphed the bank that it was drawn on in Pittsburgh, and they telegraphed me back that the check was a forgery.

Q Then what did you do? A I immediately went to Police Headquarters and swore out a complaint.

Q What, by the way, was the name that man was known as? A I knew him by the name of Burton—Edward S. Burton.

Q Was an arrest made? A But when he was arrested he gave the name of Patterson.

Q Was an arrest made that night? A Three o'clock in the morning.

Q Where? A The Robert Treat Hotel.

Q Were you present when he was arrested? A Yes.

Q Were you present when he was searched? A Yes.

Q I show you two photographs, which have been marked P. 2 and P. 3, of that date, and ask you whether these photographs were taken from him? A Yes, sir.

Q Take Exhibit P. 2; do you know whether that was taken from him or from his person? A Yes; that was taken out of his pocket.

Q Exhibit P. 3; do you know where that was found? A That was found in the waste basket in his room, torn up, and Sergeant Rottenberg pasted it together, that particular one.

Q Were you present when this endorsement was made on it? A Yes.

Q Whose handwriting is that endorsement? A Sergeant Rottenberg.

Mr. Lane: I offer these photographs in evidence.

(Marked Exhibits P. 2 and P. 3 today, January 16, 1924.)

Q I show you the two sheets of paper, which have been marked in evidence P. 5 for identification, and ask you whether those two sheets were taken from him at the same time? A Yes, those are the two sheets.

Q There is marked on this letter, "taken from the defendant by the police"; whose handwriting is that? A Detective Sergeant Daniel Rottenberg.

Q Was that endorsement made at the same time they were taken? A Yes.

Q In your presence? A Yes.

Q On the back of the second sheet are the words, "May 25, 1918, this found in the desk, room 1104, Robert Treat Hotel, City, occupied by Edward Patterson, arrested for forgery at 2:15 A. M., above date"; was that endorsement made at the time? A Yes.

Q Did you read this—what was on this sheet of paper? A Yes.

Q Did you make any inquiry from Patterson or Burton, as the case may be, where he got these photographs at the time? A Yes, I went up to ask him.

Mr. Newman: One moment; you've only asked whether he made the inquiry.

Q (By the Court.) At the time of his arrest did you make the inquiry or later on? A I think twice. I asked him when they were taken from him. I asked him then and we talked about it.

Q You asked him later on? A Yes.

Q Did you subsequently have a conversation with your wife about these papers and her relationship with Burton? A Yes.

Q How soon after you saw these sheets of paper and these photographs? A That night he was arrested.

Q You spoke to Mrs. Stevens about it? A Yes.

Q What did you say to her? A Well, I came home and I said, "I see you are not on the level," or something to that effect, and I said, "I suppose you know Burton is in jail." She said, "No." I said, "I just had him arrested for forging a check against me for $150," and I said, "There was a paper found in his pocket with your name on it and your photograph." I said, "It is a most filthy—the filthiest, vilest paper that I ever looked at in my life and your name is on it"; I said, "what explanation have you got for that," and then she told me that she had had intimate relations with this man Burton, and told me that they stayed for two hours and had intercourse at the York Hotel, in New York; she also said that they took a trip to Chatham, New Jersey, to find out about a summer cottage that we anticipated going to for the summer. He went up there with her, and she also told me that he went with her to New York to buy clothes.

Q What happened? A Well, we had quite a set-to over it; we were up all night.

Q Where were you living then? In Montclair? A No, 1010 Broad street.

Q What was the net result of all this? A I told her I was going to get out. I said, "If this has been going on I am going to get out." Then the question of Bob, my son, came up again, and I was in an awful state mentally, and I wasn't in any position to decide what to do on account of Bob, so I went away, and I was away three or four days, and I talked to my mother about it, and she said, "Well, it is not a safe thing to have Bob brought up under those conditions."

The Court: You cannot tell us this conversation; strike it out.

The Witness: Finally, we had a talk.

The Court: You and Mrs. Stevens?

The Witness: Yes.

Q (By the Court.) After you returned from this absence of three or four days? A Yes, and she asked me if I wouldn't forget about it and we would go out to Montclair or some place; we would go out in the country some place; and I thought, well, maybe if we do get out in the country things will be better, and forget about it.

Q (By the Court.) Is that paper in Mrs. Stevens' handwriting? A No, it is in Mr. Burton's handwriting.

Q Did you tell her what was on the paper—the substance of what was on it? A Yes.

Q Did you tell her that? A Yes.

Q In Burton's handwriting? A Yes; I told Mrs. Stevens that her name was incorporated on that paper describing her sexual relations with Burton.

Q How long was it before you again went back to live with your wife after Burton's arrest? A It was a few days after that.

Q (By the Court.) Did you say you decided at that time to forgive her? A Yes.

Q You condoned it, did you not? A Yes, I condoned it.

Q What did your wife say with respect to any further relations to this man Burton? A She said she would give him up and forget it; that was our understanding and the reason I forgave her.

Q I show you Exhibit P. 6 for identification and ask you where and when you saw that before? A For the first time?

Q Yes. A It was in my library.

Q And when did you see it next? A When this man Burton's wife gave it to me.

Q How long after Burton's arrest was that? A A few weeks.

Q Did you subsequently intercept a letter addressed by Patterson to Mrs. Stevens? A Yes, sir.

Q I show you Exhibit P. 4 for identification—addressed by Mrs. Patterson to Mrs. Stevens—written on the letterhead of the Hotel McAlpin. How did that envelope and paper get in your possession? A Well, after she promised that she would give this man up and cease her relations with him, I wanted to see that she really would, and I went to the office and had the address changed for all mail to come to 790 Broad street, our office, instead of our home, and that letter came addressed to Mrs. Stevens to my office.

Q How long after the arrest was it that that letter came? A It was several weeks.

The Court: Did Burton get out on bail after you had him arrested?

The Witness: No; he was never out on bail.

Q (By the Court.) I don't quite follow your reasoning, then, in having your mail changed. How could she resume her relations with him while he was in jail, in your mind? A She was not to correspond with him.

Q Did you speak to Mrs. Stevens about the receipt by you from the wife of Patterson or Burton of this book? A Yes.

Q And of this letter? A Yes, sir.

Q How soon after the receipt? A I don't remember. The day that she gave me the book I went home and told her about it.

Q Was that the occasion of a quarrel? A Yes.

Q What did she say? A She didn't have very much to say.

Q (By the Court.) What did you say? A I said, "Well, I see you are lying again. You are writing to this man Burton; you are sending him books; you said you would stop it."

Q (By the Court.) What did she say? A She said she wasn't.

Q What explanation did she have with respect to the book? A She didn't have any explanation to make respecting the book.

Q Did you tell her what Mrs. Patterson or Mrs. Burton had told you as to the history of that book? A Yes.

Q What did you tell her? A I told her that Mrs. Burton had received a letter from her husband—oh, no, she had been over to see her husband and she gave him that book.

Q Who gave him the book? A Mr. Burton gave the book to his wife.

Q Did he have it in jail with him? A Yes, he had it in jail with him. I don't know if he got it from Mrs. Stevens or not.

Q Did you have a conversation with your wife with respect to this, July 24, 1918? A Oh, my, yes.

Q From Mrs. Patterson to your wife? A Yes.

Q How soon after the receipt by you? A Right away.

Q Did you show it to her? A Yes. She tried to tear it; it is all mussed up.

Q What did happen? A She said, "You are not going to keep that letter." I said, "I certainly will keep it; I just happened to find it among my effects."

Q Was that book when you got it from Mrs. Burton in the condition it is in now? A Yes.

Q With the writing in it as it appears? A Yes.

Q (By the Court.) A page seems to have been torn from it, I understand. A He tore that out when he mailed it to his wife, I understand.

Q (By the Court.) Who told you that? A Mrs. Burton.

Q (By the Court.) He didn't mail it to his wife; you said he gave it to his wife when she went there to see him; which is it? A I think he mailed it to her.

Q (By the Court.) Do you know anything about it? A Yes. I will say he mailed it.

Q Why do you say he mailed it if you don't know anything about it? A I only know what he told me.

Q Did he tell you he mailed it or she? A She, I remember distinctly.

Q You just corrected yourself and said she told you by saying that she afterwards called upon him in the jail. A Yes.

Q After that call did he mail her this book or give it to her while she was calling on him? A I distinctly remember that she received that book by mail from Burton.

Q (By the Court.) You don't remember that; you remember she told you. A No, she showed me the wrapper, your Honor.

Q She told you and she showed you the wrapper at the same time; you remember that? A Yes; she had the wrapper.

Examination by the Court.

Q Did you know that your son is claimed to have made a present of that book to Burton? A I never heard that until the other day.

Q In court you mean? A Yes.

Q Were you present when the inscription was made on the blank page of the book, from your son to Burton? A No, sir.

Q Were you there when Burton bade your family good-bye; was that the night you had him arrested? A He didn't see the family. He was arrested at three o'clock in the morning at the Robert Treat Hotel.

Q At that same night, or some other night, did he call to bid your family good-bye when he was about to leave Newark? A He spoke about being about to leave Newark at that time.

Q Did he call at your home to bid you and Mrs. Stevens and the child good-bye? A That night?

Q Any night. A Yes, he did.

Q On that occasion, was anything said about this or any other book? A No, sir; no books were mentioned.

Q Was the child there at the time he called? A No, the child was in bed when he was there.

Further direct examination by Mr. Lane.

Q Was this page torn out when you got this book? A The book as it is is just as I received it.

Q From Mrs. Patterson or Burton, as the case may be? A Yes.

Q These marks which are in this book—check marks in lead pencil—were those check marks there at the time you got the book? A Yes.

Q There are none of your check marks in the book? A No, I never do anything like that to a book.

Q What is the book named? A Some philosophical remarks, life in general.

Q (By the Court.) Nothing improper or immoral about it? A No, it is a very nice book.

Q Go back to when we were talking about this letter, July 24, 1918; tell us what occurred between your wife and yourself in respect to that. A We had, as usual, a big argument about it.

Q She saw the letter, didn't she? A She tried to—

Q The letter says, "I was in Trenton today to see my husband. He told me you sent a letter and book. He refused to accept either and they were destroyed. You also sent him a book in Newark, which you probably have now." What did she say with respect to the statement in that letter, that she had been communicating with Burton in Trenton? A What did she tell me?

The Court: Yes.

The Witness: She told me that Mrs. Stevens had written him in State's Prison in Trenton.

The Court: No; what did Mrs. Stevens say when she saw that charge in that letter?

The Witness: She didn't reply.

Q Did she deny it? A No, sir.

Q How long did this fight or quarrel, whatever you want to term it, continue? A For several hours.

Q What was the net result of that? A We didn't speak for some time.

Q For how long? A Several weeks, I guess. In fact, things were never the same after that.

Mr. Lane: I offer the book and letter.

The Court: The book I will admit, because Mrs. Stevens has identified it, as well as the picture. The letter from Mrs. Patterson, or whatever her name is, I will admit as a letter addressed to Mrs. Stevens, intercepted by him, and, as he states, shown to her and stated by him an effort made by her to destroy it, as well as to deny the truth of any part of it. The other two sheets—I don't recall their identification number—P. 5—which Dr. Stevens says is in the handwriting of Mr. Burton, I cannot see how they are competent as against Mrs. Stevens. Suppose this man without the slightest warrant had placed upon paper all sorts of offensive matters reflecting upon the chastity of Mrs. Stevens, how is it competent to allow that to go in evidence?

Mr. Lane: I don't offer it as against her upon the issue of adultery. It is to show in response to the charge of Mrs. Stevens with respect to cruelty the real trouble that there was between these parties; not for

the purpose of charging her with adultery at all, but she has given an explanation with respect to these things—

The Court: To show the frame of mind that they placed the doctor in, and had quarrels because of it.

Mr. Lane: That is all; that is the sole purpose.

The Court: For that purpose, what do you say about it, Mr. Newman? I am inclined to admit it for that purpose, and for that purpose only; namely, as showing that this had a tendency to provoke a frame of mind in the doctor that brought about these quarrels; I am inclined to think that it is competent for that purpose, and for that purpose only.

(Book marked Exhibit P. 6, Jan. 16, 1924.)

(Letter from Mrs. Patterson marked Exhibit P. 4, Jan. 16, 1924.)

Q Do you remember the date of Burton's arrest? A I think it was in June, 1918.

Q I show you a clipping that has apparently been taken from a paper with respect to his being sentenced. It carries a date. Can you tell me where you got that paper and when you got it? A I cut it out of a newspaper.

Q At the time? A Yes, at the time of his sentence.

Q Did you put that date there? A Yes.

Q Does that refresh your recollection as to the date of the sentence? A That was the day after the sentence.

Q What was the date? A June 29, 1918, is the date of his being sentenced.

Q It is a statement with respect to the passing of a worthless check while living at the Hotel Robert Treat May 24th.

The Court: Is there any question as to when it was?

Mr. Lane: I am trying to fix the date.

The Court: When the arrest was made?

Mr. Lane: May 25, 1918. It appears on the endorsement on the photograph.

Q Looking at Exhibit P. 3 the photograph of a lady in a riding habit standing up, do you know where that photograph was taken or anything about it? A No.

Q Did you ever know your wife had a photograph of that kind? A No.

Q Did your wife ride horseback? A Yes, sir.

Q After her marriage? A Yes.

Q The photograph which is taken in the riding habit, Exhibit P. 2, which bears a date May 14, 1915, is that your wife's handwriting? A Yes.

Q Do you know anything about that photograph? A No.

Q Had you ever seen it before it was taken out of this man's pocket? A No, sir, not to my knowledge.

Q When was it that you and your wife separated; what is the date? A January 16, 1921.

Q What was the manner of your life between July, 1918, and January, 1921? A I don't quite understand.

Q How did you get along? A We didn't get along at all after 1918.

Q Were there any particular quarrels that you remember? A There were quarrels all the time but the one particular one, I was sick at the time and confined to bed and so weak my brother came over to give me a bath and Mrs. Stevens went to Miss Sutz home in South Orange and she came back and told me the circumstances under which their living conditions were.

Q Tell us what she said. A Told about how they lived.

Q (By the Court.) Tell what she said. A She said they lived in very humble circumstances and she was frizzing up her hair and fluffing it all up and she looks like what she is and a few remarks like that, and she kept it up, and I said, "You ought to know better; you know how sick I am feeling, I don't know why you continue this," so she kept it up and kept it up and finally I said, "You have got to stop it," so I think she went downstairs then and her grandmother said, "You ought to know better, Lud has been so sick, to talk like that."

Q Is that the occasion at which she says you chased her around the house and threw a water kettle at her? A Yes.

Q Did you chase her around the house? A I was too sick to chase her; no, sir.

Q Did you have a gun? A No.

Q Did you throw a water kettle at her as she went out the kitchen door? A No, sir.

Q Did you have a gun in the house? A There was a revolver in my drawer upstairs, yes.

Q Did Mr. Worms come? A He came that evening.

Q Tell us what happened after he came. A He came up to my room and I was lying

there. He said, Hello, Lud, what has gone on? Billy said something about a gun, I call my wife Billy. What about this gun? I said, "I don't know anything about a gun." He said, "She won't stay in the house as long as you have a gun." I said, "Nothing was said about any gun at all." He said, "Where is it?" I said, "I don't know where it is; it is there on the shelf; over there in one of my drawers in the chifferobe." And he said, "Which one?" I said, "Go over and look," so he went over and looked and opened the drawer and he said, "This looks like a cannon." He said, "I wouldn't carry that." I said, "It is not loaded." I said, "I wouldn't have a loaded revolver in the house on account of Bob." So he said, "All right, I will take it home," so he took it home.

Q What time of the night or day was it he was there? A He got there I presume around after supper, around eight o'clock.

Q (By the Court.) Is that the occasion he and his wife said you and your wife were invited to supper, your wife didn't have supper; and he took the revolver away after he unloaded it? A Yes.

Q (By the Court.) Then he is mistaken when he says he was invited to supper? A He was invited to supper two or three times before that.

Q (By the Court.) Is this the occasion to which he refers? A Yes.

Q He says he called in the afternoon in order to have supper with you when this quarrel came on. A I don't remember him calling in the afternoon.

Q (By the Court.) Did he take that revolver away from you on more than one occasion? A No, sir.

Q Did you unload it at his request? A No, sir.

Q (By the Court.) It was loaded? A No, sir.

Mr. Lane: He said he opened the chamber to see that it was unloaded.

The Court: He said he wouldn't take it home until he did unload it.

Q Did the revolver have any cartridges in it while it was in the drawer? A No, sir.

Q (By the Court.) What did you have a revolver for anyway; why did you need one? A I don't know. I did have a reason now that I come to think of it.

Q What was it? A I didn't have any safe at the time in the office and I used to carry my money back and forth. I had a notion that someone would take all I had some night so I went to the Police Department and got a permit to carry it.

Q (By the Court.) Did you carry it unloaded? A No, I carried it loaded but always unloaded it when I got home, on account of Bob.

Q (By the Court.) Did you leave it in the drawer overnight and carry it with you every day? A Oh, no, I only carried it once in awhile.

Q How old was the child at that time? A About six years old.

Q Did your mother stay in your house that night, the night the revolver was taken away

by Worms? A Yes, I think she stayed at the house all night.

Q Did your wife go to Lakewood? A She went to Lakewood. I don't know just when she went to Lakewood.

Q Did you go down over the week-end? A Yes.

Q Did your wife pay the bill? A She paid her own; I paid mine.

Q (By the Court.) Why was that done; why didn't you pay both? A I couldn't stand the pressure of twenty-five dollars a day and I paid my own over the week-end.

Q Where did she stay? A She stayed at, I think they call it the Laurel-in-the-Pines; I don't remember exactly.

Q How long did Mr. Worms keep the revolver? A It was several months, five or six months I should say. That was in the winter and my sister told me he would have to get it out of the house in the spring; she started in to clean and she found it.

Q (By the Court.) Why did she object to it; it was unloaded, wasn't it? A Yes.

Q (By the Court.) Why did she object to it? A It made her nervous.

Q Did you remember an occasion in October, 1920, when she went with a Mr. and Mrs. Summerville to some entertainment? A No.

Q And you refused to go and said you would lock her out of the house if she went, and when she returned you had the gun or something of that kind? A No, I don't remember that.

Q When Mr. Worms returned the gun to you where did you take it, first, where did he return it to you? A He brought it over to the office.

Q What did you do with it? A It was in my desk drawer.

Q Did you ever take it home again? A No, sir.

Q When did you next see that gun, if you recollect? A After Mr. Worms brought it back.

Q And after you put it in the desk drawer? A The next day I saw that Mrs. Stevens came in the office with it and threatened to shoot the place up.

Q When was that? A November, 1920.

Q Tell us what occurred. A She came in and Mr. Slobaum was there and she was as white as a sheet and Slobaum looked at her and said, "How do you do?" he said, "What is the trouble?" She looked agitated. She told him, "Mr. Slobaum, I am going to clean this place up." He said, "My God, don't do anything like that." Then she walked in in the other office. I was making an examination, and grabbed my secretary's coat and I looked to see who was taking the coat, it wasn't lunch time yet, only about half-past ten and I saw Mrs. Stevens taking it. I said, "Where are you going with that coat?" She said, "I am going to throw this hussy out." I said, "Let me have that coat," and I went to get it and it got torn in the scrimmage and she went to grab it back and the table went over and the young lady—by that time I had the coat and the young lady had taken it and as she did Mrs. Stevens got her by the hair and clawed her with her nails. I said, "This is the limit, this has gone far enough," and I stepped over to a few patients of mine. I said, "You can see that the circumstances are entirely beyond my con-

trol. I am very sorry for this'' and I locked the door and then I went to Mrs. Stevens. I said, ''You will have to leave, if you don't I will have to put you out.'' She said, ''I will not get out of here.'' I said, ''All right,'' and I went away and I put the catch on the door and I said, ''Now go ahead,'' and she went out.

Q What had become of the revolver in the meantime? A She had it.

Q (By the Court.) All the time you had this fight? A Yes.

Q (By the Court.) Upsetting the chairs and table? A Yes.

Q Did she get the gun from your desk that day or not? A No. I don't know if it was that day she got the gun or not.

Q (By the Court.) Was it loaded then? A No. I didn't have the gun loaded; it wasn't loaded.

Q Do you know if it was loaded? A I don't know if it was loaded or not.

Q Did she take the gun from the desk during that scrimmage just immediately prior—had it disappeared before? A It disappeared before.

Q How long before? A Just a short time.

Q Do you know who got it out of your desk? A Yes, she came down there in my absence very late in the afternoon.

Q Do you know that from hearsay; how do you know? A I was out of the office; when I returned the young lady told me that Mrs. Stevens had been there.

Q (By the Court.) That was the night before this trouble you speak of? A I wouldn't say it was the night before, but I know it was

very shortly, maybe a day or week and the revolver was gone.

Mr. Newman: What the lady said is not evidence.

The Court: She admits she was there and waited for hours for him.

Q During the scrimmage as you call it, did you strike her? A No, sir.

Q Did you tell her prior to that scrimmage that if she would come down Saturady you would beat her up? A No, she telephoned that she was coming down, as I remember it. She telephoned the young lady.

Q You didn't take the telephone message? A No.

Q (By the Court.) Had she told you before this trouble that she was jealous of this young woman? A No, the question never came up about jealousy.

Q On this visit which she made to the home in South Orange as I understand it, that was some time before? A Yes.

Q Did she indicate that she was jealous of your attentions to this woman? A It appeared to me that she was jealous, ridiculing the poor circumstances under which she lived, and a lot of nonsense like that.

Q Did she tell you that you had represented to her that the girl lived in a very attractive home and she found it wasn't true, and she lived in this condition? A I never talked about the girl.

Q Did Mrs. Stevens tell you that on this occasion you speak of when she came back from the visit at South Orange that the circumstances

under which she found the girl was entirely different from what you had told her? A No.

Q Did she indicate on this occasion that she was jealous of this girl? A No.

Q What was her object in going to the girl's house that day? A She told the girl and the family that I was dying with tuberculosis.

Q (By the Court.) What did she tell you her object was in going there? A I don't know as she made any explanation.

Q How did you learn that she had been there? A I remember I was very sick and she came upstairs when I was lying in bed and said, "I am going to the store to get a loaf of bread." I said, "You are going to get that bus wagon out in a blizzard and get a loaf of bread; I should think you would make some biscuits." She said, "Yes, I have got to go," and her grandmother told her not to go out in the blizzard but she went out.

Q And then did she tell you whether she took this long trip in this blizzard? A No, when she came back—she was gone so long, I said, "I thought you were going to the store," and then she started in to laugh and joke and ran around there, and say about this girl the conditions under which she was living, and she was a fine kind of a girl to have in the office. I said, "What difference does it make to me how poor she is, I am not interested in that. She is a good stenographer and she handles my business all right. I don't care a rap about that."

Q Did she tell you she had gone there to get any money that had been collected? A No, sir.

Q (By the Court.) Why did she tell her that you were dying with tuberculosis? A She told her that to get the combination of the safe in the office.

Q What was there in the office of importance? A The only thing I know of is that letter from Burton's wife and these pictures, one thing and another.

Q Were they in your office safe? A Yes.

Q Did she know it? A Yes.

Q How did she know it? A I told her.

Q When did you tell her that those things were in that office safe? A I cannot tell you.

Q After the call at your office did you go home that night? A No, sir.

Q How many nights was it before you did go home? A Three or four months.

Q And when you did go home what happened? A As near as I can remember she said something about seeing a lawyer.

Q Were you intoxicated when you did go home? A No, sir, I went home with my brother.

Q What was the next thing that happened? A I remained home until—that was in November. I remained home until January.

Q Then what happened? A Then she came to Atlantic City.

Q Did you know that she was going to Atlantic City? A She spoke of it the day before.

Q (Last question repeated.) A No.

Q What did she say? A She said she was going to Atlantic City.

Q Did she consult you with respect to going? A No, sir.

Q Did you still continue home? A Yes, sir.

Q When did she leave for Atlantic City? A About the 12th of January; I cannot tell you exactly. She was down there for three or four days.

Q What day was it that the break-up came? A That was on January 16th.

Q Are you sure of that? A I am positive it was January 16th.

Q Was it January 16th or 23rd; we might as well have that date right. A As near as I can recall it was January 16th.

The Court: What date do you claim, Mr. Newman?

Mr. Newman: The morning after the 16th, early in the morning of the next day.

The Court: Why do you say the 23rd?

Mr. Lane: Because in the affidavit sworn to on the 15th of February, 1923, which was only about a month afterwards the date of January 23rd is given as the date by Dr. Stevens. I may be mistaken. It may be that the 16th is right. If they say the 16th or 17th, that must be the date. The doctor is right now and wrong before.

Q During the time that she was in Atlantic City did you remain home? A Yes, sir.

Q Did she take Bobby with her? A She did not.

Q Where was Bobby? A Home and my mother took care of him.

Q When did you hear from her? A After she had gone to Atlantic City she called me up on Saturday. She left on Wednesday, I think, and she called me up on Saturday from Atlantic City and asked me how things were going.

I said, "All right"; and I asked her when she was going to be home and she said she thought Monday.

Q Were you home on Sunday? A I was home up until two or three o'clock in the afternoon.

Q Did you have your dinner home? A Yes, sir.

Q Then where did you go? A I took a walk and went to Newark.

Q What time did you return? A About eleven o'clock or half-past eleven. It was just before twelve o'clock I know. It was after eleven.

Q What did you do? A I used my pass key to get in and I opened the door all right but the bolt was on. I rang the bell several times to have someone come down and open the door. I went around the back and I hollered up to open the door. I saw Mrs. Stevens standing there undressing in the upper back bedroom window. She didn't pay any attention to me so I went around to the front again. I told her that unless she opened the door I would break it in. She didn't pay any attention and I just simply pushed the door in and went upstairs.

Q What did she say? A She asked me where I had been and called me some names.

Q What did she call you? A She called me a whore master and son of a bitch, that is about all, I guess.

Q (By the Court.) Is she in the habit of using language of that kind? A Yes.

Q Did you indulge in that kind of language? A No, sir.

Q When did she first start to use that kind of language? A After association with some of these people.

Q When? A About 1915, I would say.

Q What else did she say? A She told me to get out of the house and if I didn't get out she would blow my brains out and she would call the police, and I wasn't to come back again.

Q Did she say anything about you as to how good you were and so forth. Did she say anything about what a woman with money could do? A Yes, she told me that a woman with money could do as she pleased.

Q Did you leave? A I did.

Q (By the Court.) Why did you leave? A Well, she threatened me and said she would call the police and mother was there; I didn't want another big scene.

Q Why was she going to call the police? A I don't know. That was a saying of hers; she was always going to call the police.

Q Were you frightened when she threatened you? A Yes.

Q Were you in fear of— A I didn't know if she would get the gun or not, because she went down to the office with the gun and I didn't know what she would do.

Q Did she give any explanation for her anger on that occasion? A For locking me out?

Q Yes. A She asked me what business I had out. I said, "I didn't question you about going to Atlantic City and you didn't tell me until a few hours before and now I go out a few hours and you won't let me in."

Q (By the Court.) What time of the night was this? A Some time between eleven and twelve.

Q Were you at that time under the influence of liquor? A No, sir.

Q (By the Court.) Had you been drinking? A No, sir.

Q When did you next hear from your wife? A No answer.

Q (By the Court.) When you left that night did you take any of your effects with you, your clothing or anything? A No, sir.

Q (By the Court.) Where did you go? A I went to a hotel.

Q Where? A In Newark.

Q When was the next time you heard from your wife? A When I was arrested on a *ne exeat.*

Q Can you give me about the date of that?

The Court: How long after you left?

The Witness: I think about two or three weeks.

Q (By the Court.) About the time these affidavits were made or shortly before—they were made the 14th or 15th of February.

Mr. Lane: That was succeeding the filing of the bill in the original suit. There was first a suit started for a limited divorce by her and after that, suit for separate maintenance was started.

Q Did you in February, 1921, go to the house and get your effects or some of them? A Yes, sir.

Q Who went with you? A My brother.

Q Will you tell me about when that was? A I cannot tell you exactly when that was.

Q Was that after the arrest? A Yes, sir.

Q When you got to the house did you find it occupied or not? A There was no one in.

Q What did you do? A I went around and tried to get in the back door and the back door was closed and I saw the back window was open and I went in there.

Q (By the Court.) Didn't you have a key to the house at any time? A Yes, but she had the locks changed.

Q (By the Court.) When was that? A I don't know.

Q Your pass key opened the door when you went there on the night of January 17th? A Yes.

Q When you went there in February, to get your clothes and so forth, did your pass key open the door then? A No, sir.

Q (By the Court.) If your pass key opened the door on the night of the 16th or 17th why did you have to break in? A There was a heavy chain on it.

Q Tell us what you did when you got to the house. A We went in and I got my medical books and some instruments and a few clothes and while we were there the police came in and I said, "What do you police want?"

Mr. Newman: Don't tell us the conversation; I don't think that is important.

Q What did you take? A Books, some clothes and instruments.

Q Did you take all of your clothes? A No, sir.

Q Since that time has your wife been at your office? A No, sir.

Q Have you been at the house? A No, sir.

Q For how long a time prior to this so-called raid was it that you had detectives working for you? A Just a few days.

Q From whom did you get your information which resulted in your employing detectives? A Mrs. Paswaters.

Q Did you communicate with her or did she communicate with you? A She communicated with me.

Q Had you ever heard of Paswaters prior to that occasion? A Never heard of him, no, sir.

Q Were you present at the raid, so-called? A Yes, sir.

Mr. Lane: I do not propose—I say on the record I do not propose to ask any questions of this witness with respect to the raid. I understand his testimony is incompetent. I make that statement to indicate that I am not trying to conceal anything from this witness and he is open to general cross examination, if counsel on the other side desire to bring that testimony in. I understand I am not privileged to ask him anything with respect to it.

Mr. Van Blarcom: It that the rule?

The Court: I haven't been asked to make a ruling.

Mr. Lane: If you make no objection to it I will go on. I think the statute specifically provides that a husband and wife are incompetent witnesses the one against the

other so far as adultery is concerned except to prove the fact of marriage.

The Court: That is what you are basing it on?

Mr. Lane: Yes. I may be mistaken.

Q Do you remember the episode testified to by one of the witnesses of a fishing trip and some excitement with respect to that? A Yes.

Q Can you tell me what that was? A That was in the summer of 1913.

Q At that time Mrs. Stevens was pregnant, was she not? A She was not.

Q Tell us about it, what you recall of it. A She couldn't have been pregnant; Bobby wasn't born until a year later. He was born in July.

Q Tell us what happened? A My brother came to the house and suggested we go fishing and I said, "All right," so I proceeded to change my clothes to go fishing. My wife started in a tirade and said, "You are not going," and some other things and she became so tyranical about it. I said, "If you are going to act that way about it I am going." So we went fishing, but before going fishing—my brother and I started down the street and we had only gone about half a block when Mrs. Stevens came running down the street and I saw her running and I ran away because I didn't want any scene on the street, but my brother stood still.

Q Mrs. Stevens testified that in November or December, 1912, a Dr. Blyn performed an abortion upon her; do you know anything about that? A No, sir.

Q She likewise said that you administered the anaesthetic; did you? A I did not.

Q Did you know anything about it? A No, sir.

Q (By the Court.) You knew Dr. Blyn? A Yes.

Q (By the Court.) He was your assistant or associate? A For a short time.

Q What assistant, what was he? A He was my assistant when I was with Bamberger.

Q What did he do? A He took care of things generally, my affairs, when I wasn't there, or when I was busy.

Q Was he a regular physician? A Yes.

Q She said in February, 1915, that she was pregnant and that you were angry about it and gave her medicine which Dr. Blyn furnished; is that true? A It is not true.

Q Did you know, as a matter of fact that she was pregnant in 1915? A No, sir.

Q (By the Court.) Did you object to her having children? A No, sir, I did not.

Q Do you know anything about Dr. Blyn furnishing her with medicine in 1915? A I do not.

Q She says that upon that same occasion she met Mrs. Bonnell and Mrs. Strassburg and went to Proctor's and got sick and vomited and then called you and you refused to come and you did finally come and dragged her to a cab and took her home; do you remember an incident of that kind; does that bring you back to any incident which happened about that time? A I don't remember that, no, sir.

Q Do you remember anything that occurred in 1915 or in February that might give rise to

that; do you know of any quarrel where that could be used to furnish the basis for this testimony? A No, I cannot remember it.

Q Do you remember any occasion of your being called by phone upon the representation that your wife was ill, having gone to a theater, and you finally going and taking her home in a cab? A I don't at this time remember that.

Q And it was followed up by her mother coming from Paterson with a Dr. George; do you know a Dr. George? A No, I do not.

Q Do you know a Dr. George? A No, sir.

Q Did you ever meet a Dr. George in 1915 to your knowledge? A There was a Dr. George came to the house, yes.

Q When? A I think it was about 1915 he came to 96 Broad street. Dr. Blyn and Dr. Falconer. I was down in the office that evening, and when I got home they were there. He came to treat Mrs. Stevens at that time. After I got there the affair was all over. They did treat her.

Q They had been there to attend to her? A Yes.

Q Was that in 1915? A I would say that was about 1915.

Q What was the matter with her on that occasion? A As she told me she had a uterine tumor but subsequently it turned out that she had an abortion. She seemed to get better after these doctors were there that night, and her mother was staying in the country at the time, and she went up to see her for a rest. She had only been there a short time and her mother was there taking care of Bobby.

Q (By the Court.) Did you know she was taking steps to produce an abortion? A No, sir.

Q (By the Court.) Did you know she was pregnant? A No.

Q (By the Court.) Did she give any reason for undertaking this act without consulting you? A No, sir.

Q (By the Court.) Did you ask her why she did so without consulting you? A I didn't know about the abortion until later on.

Q (By the Court.) Who did you learn it from? A She went to stay with her mother.

Q (By the Court.) Who did you learn it from; did she tell you herself? A No, the doctor told me.

Q (By the Court.) Which one? A A specialist that I called in at the time.

Q Who was he? A Dr. Harris.

Q Do you remember July, 1915, your wife being at the Paterson General Hospital? A Yes, sir.

Q So far as you know what did she go there for? A After she had that operation at the house in 1915, as I started to say before, she went to recuperate from that operation with her mother who was then in the country and while at her mother's another illness developed and they called in some local doctor up there and they took her to the hospital and then the other doctor that performed the operation came in to see her and he called me up on the telephone and he said, "Mrs. Stevens is very ill and I think you had better come right up"; I said, "Very well; I thought she was getting better." He said, "No, it looks very bad to me." And I went up there, and they had such

grave faces on them I didn't like the situation. I said, was she going to die; they said they didn't know. I said, "We will find out," so I went out and got a specialist over there, Dr. Philander Harris of Paterson.

Q (By the Court.) Had she ever met him up to that time? A Not to my knowledge.

Q Had you? A No, sir.

Q Had you ever discussed the subject alone with her? A No, sir.

Q Was an operation performed then? A When Dr. Harris came in?

Q Yes. A No.

Q Did she leave the hospital? A I told them that she had nothing done to her; leave her alone and she would get better. She did recover and get home.

Q (By the Court.) Was that the occasion when she stayed about three weeks in the hospital? A Yes.

Q (By the Court.) Did she go back to the hospital at the end of that period? A No, sir.

Q Was there an operation performed on her at the Paterson General Hospital at any time? A I cannot answer that question.

Q You testified Monday there were two. A She was taken to the hospital because she had a hemorrhagic condition, but they just

it, or what they did I don't know. They might have performed a curetage.

Q She said she went to the Paterson General Hospital, and the doctors wouldn't operate until her nerves quieted down and she couldn't afford a room and then she went home to her own home and you came in about eight o'clock and struck her and dragged her around by the hair and Dr. Hibbard sent her to Paterson

again and after a few days she went to the hospital and had an operation performed. Do you know anything about that? A No, she went to Paterson after that, one occasion that I—

Q Do you remember an occasion when she returned from the hospital when she came in at eight o'clock and was mad and when you dragged her around by the hair. Do you remember any instance which would give rise to that statement? A No, sir.

Q Did anything like that take place? A Not that I remember.

Q When she came home from the hospital she was very sick? A I remember that.

Q Was there ever a time when you dragged her around by the hair? A No, sir.

Q Do you remember Dr. Hibbard sending her to Paterson? A She wouldn't have anything to do with it.

Q Do you remember a Dr. Hibbard? A Yes, I know a woman osteopath, who acted as a nurse when my boy was born. She never acted as a physician to us.

Q You don't know of her ever sending Mrs. Stevens to Paterson for an operation? A No, sir.

Q Do you remember moving to 96 Broad street or do you remember moving to the Elberon Apartments? A Yes.

Q At whose suggestion was that move made? A My wife's.

Q Did she object to the move at all? A No, sir.

Q What was her condition of health during the year 1917? A About the same as it always was.

Q (By the Court.) What was that? A Always in a rational state of mind and healthy. She was always very nervous.

Q What do you mean by being rational and being very nervous? A Irrational. Her rational state of mind.

Q I am talking about physical condition now, not mental. A She was nervous.

Q What do you mean by that word "irrational," you don't mean that she was irrational in fact, do you? She was not rational? Is that what you are trying to say? A Yes.

Q Continuously? A A good deal.

Q She was not accountable for her conduct or actions or speech? A No.

Q She would have to be if she were irrational. A Not pathologically so. I wouldn't say she was ever in a condition that she was irrational. I say it was through nervousness.

Q What do you mean by the word "irrational" as you use it and employ it? A Very emotional.

Q Highly temperamental? A Yes.

Q Do you remember a day in January or February of 1918 when she was entirely paralyzed? A She was never paralyzed since I lived with her.

Q Do you know Dr. Lowrie? A A pathologist, yes.

Q Do you remember him diagnosing her difficulty as that of pernicious anaemia? A He made a blood test and pronounced it O. K. as I remember it.

Q Did he say she was suffering from pernicious anaemia? A I don't remember.

Q Do you remember an occasion in November, 1920, when some collector from Bamberger called for the payment of a bill? A Yes, sir.

Q Tell us about that. A He called at the house; it was on Thursday. I happened to be home and I was always home on Thursday in Montclair and that is how I remember it and he asked if Mrs. Stevens was home and I said, "Yes, what do you want?" He said, "I came from Bamberger and I want to collect a bill," so I told her that Bamberger's man was downstairs and she said, "I suppose he wants to collect that bill." She said, "I don't want to see him," so I told him just what she said and he said, "Well, will you pay me?" I said, "I told you repeatedly when that charge account was opened that I wouldn't be responsible for any account." I said, "You have opened it against my judgment in the matter of your own volition, now you come to me to be paid."

Q (By the Court.) How much was the bill? A I cannot remember what it was.

Q Large or small? A Around a couple of hundred dollars.

Q Tell us what happened. A He left the house without the money.

Q Did you at any time during that interval between January, 1920, and January, 1921, throw your wife downstairs? A No, sir.

Q Was there anything that happened that would give rise to that or give foundation for that or anything like that that you recollect? Was there any episode which took place which indicates an occasion respecting your throwing your wife downstairs?

The Court: And injuring her shoulder; is that the occasion?

Mr. Lane: Yes.

Q Was there a time when she was thrown downstairs or fell down? A There was never a time she fell downstairs. If so it would have killed her.

The Court: She said she was seriously injured; she said she was quite seriously injured.

Q Could she be thrown down those stairs without serious injury? A No, she would receive serious injury.

Q (By the Court.) She said she was seriously injured; she said she was quite seriously injured.

Q Do you remember a time when she was injured in the shoulder? A Only what Dr. Eddy said. I asked Dr. Eddy about it.

Q What did he say that she was or was not injured? A He said her shoulder was sprained. She drove over there in the car; I wondered how her shoulder was sprained and yet she drove there in the car.

Examination by the Court.

Q Who was Dr. Eddy? A An osteopath.

Q Did he treat her? A Yes.

Q Did he treat her for this sprained shoulder? A I don't know.

Q How did he come to tell you she had a sprained shoulder? A That is one of the things he treated her for.

Q I thought you said you didn't know whether he did or not. How many other things did he treat her for? A She used to go to him all the time.

Q How did he come to tell you that she had a sprained shoulder? A I met him in East Orange after Mrs. Stevens had that affidavit, a long time after that. He was our general physician.

Q At the time she was suffering from this sprained shoulder you were not aware of it? A I asked him and said, "What is this affidavit about?" He said he remembered the shoulder being sprained.

Further direct examination by Mr. Lane.

Q That was after this affidavit was made in this cause by Dr. Eddy which spoke of this sprained shoulder and you were trying to get information? A Yes.

Q (By the Court.) Was that the first knowledge you had of it, from the affidavit? A Yes.

Q Is there any way by which you can locate an occurrence like that in your own mind? A No, sir.

Q Did you ever curse and swear at your wife, using such language as son of a bitch? A No, I never did.

Q Or words to that effect? A No, sir.

Q Do you know of any occasion on which you struck your wife? A No, sir.

Q (By the Court.) You never struck her or you don't recall having done it? A I never struck my wife.

Q Were there occasions when there were physical encounters? A Yes.

The Court: What do you mean by physical encounters? I ask you, what do you mean by that?

The Witness: She would come at me with various things, a carving knife on one occasion, and anything she could lay her hands on and run after me.

The Court: What would you do?

The Witness: I would grab her by the arms and take it away from her.

Q Do you remember a carving knife incident? A Yes.

Q Tell about that. A My brother and brother-in-law and sister were at the house and they were having supper and she remonstrated with the boy, Bobby, he was about a year of age at that time, over something, not that it was very harsh and I spoke to her about it and one word led to another and she grabbed the carving knife and came rushing for me, and my sister jumped up and said, "Don't do that," and grabbed the carving knife out of her hand and was cut in doing it.

Q How did that finally end? A Things were not very harmonious.

Q I mean that particular quarrel. Who took the knife away from her? A My sister took the knife away from her and was cut in doing it.

Q Were there quarrels over the way in which she chastised the child? A Yes, sir.

Q When did they start? A Almost right away, as soon as the child was born.

Q What did she do that brought them about? A If the baby cried she would curse at him and slap his face.

Q What did you do? A I remonstrated with her about it.

Q With what result? A It didn't do any good.

Q Did she resent the remonstrance? A Yes, she told me to mind my own business.

Q Now about the fake diploma, will you tell us about that? A Mrs. Stevens was supposed to have bought a car, so I understood, and Mrs. Stevens, of course, never bought a car for me. I was never allowed to drive it unless she was with me and never allowed to take the car out of the garage unless she was along and I was always with her, or she was always with me when that car went out. She always referred to it as "my car." It would never be "our car," always "my car." My brother was in Washington at the time, a short time after she got the car, I don't know just how long, we drove down there to see him. While I was down there I called to see a doctor that I knew down there who conducted a university and I delivered a lecture to the faculty.

Examination by the Court.

Q You did? A Yes, and after that I wrote several treatises and then I had had two years' experience in a hospital in New York and a short time after that he conferred some honorary degree upon me, but I didn't look upon it seriously.

Q What kind of a degree? A Doctor, M. D.

Q Why do you call that an honorary degree? A It was an honorary degree on account of the work that I did.

Q It wasn't a degree you earned in the course of study? A No.

Q How long did your entire course of study or lectures consume? A I cannot say exactly. I should say I think about two years.

Q I am talking at this institution in Washington; how long were you there? A We went down there, I think, in 1919.

Q Is that when you got your degree? A No; I didn't get that until a year or so later.

Q Did you go down there for the purpose of buying a degree? A No; I went down there to see my brother.

Q What was the name of the university? A Oriental University.

Q Whereabouts in Washington is it located; has it any buildings there? A No; they have a building of their own.

Mr. Lane: Did you go down there for the purpose of buying a diploma; did you buy a diploma there?

The Witness: No, I didn't go down there for that purpose.

Q How much did it cost when you got this degree of M. D.? A It didn't cost me anything.

Q At that time? A No, sir.

Q Had it cost you anything previous to that? A No, sir.

Mr. Lane: Did you ever pay anything for it?

The Witness: No.

Mr. Lane: You have a license from the State, have you not?

The Witness: Yes.

Mr. Lane: As a physician?

The Witness: As an optomologist, but there is no State board, so I practise under the Optometry Law.

Q That limits your activities to treating the eyes? A Yes.

Q Where did you get your training for that? A In various places.

Q Did you ever graduate formally, after a formal course of study? A Yes.

Q Where? A McCormick Medical College in Chicago.

Q That is the institution where Mrs. Stevens went? A Yes.

Q She called it a sanitarium. A Yes; a medical college, and by reason of my connection with the institution. He is a neurologist himself; he took her as a private patient.

Q At the time you left the house in January was there coal in the house? A Yes, plenty of it.

Q How much, do you know? A About six tons.

Q Mrs. Stevens said something about when she returned the house was cold and that your mother and the child were sitting around with overcoats on or what-not; was there any necessity for that? A No, sir.

Q Did you stop the credit of Mrs. Stevens until after she started her suit for limited divorce? A No, sir.

Q (By the Court.) Did she have credit in the stores on your account or on her own? A On my account.

Q That wasn't true as to Bamberger's? A No; that is the only one.

Q Did you ever tell your wife that you were going to Canada? A No, sir, I did not.

Q Did you ever tell her that you intended to get out and leave the house? A I never did.

Q And not support her? A No, sir, I never said that.

Q Did you ever tell her that you would never comply with any orders that the Court made prior to her leaving you? A No, sir, I never talked to her.

Q Was there any conversation at any time prior to the separation with respect to which you threatened to leave the State and to throw her over, or anything of that kind? A There was no conversation to that effect; I was in business here. I wouldn't have any necessity for going out of town.

Q Your mother lives where? A 180 Park Place, Irvington.

Q And at the time of the separation she lived where? A At 171 South Ninth street, Newark.

Q Did you ever make any threats or statements to your wife with respect to what would happen in case of a separation which would give the basis of a statement that you had said to her that you were going to leave the State or anything of that kind? A No, sir.

Q Did you ever make any such statements? A I never did.

Q The first you knew of the suit for limited divorce was when? A When I was arrested—a few days after I was arrested.

Q And you knew you were arrested, didn't you? A Yes.

Q You didn't know anything about a suit being brought before that? A No, sir.

Q You received this letter, marked Exhibit P. 6 for identification? A Yes.

Q Whose writing is it? A Mrs. Stevens the writer.

Mr. Lane: I offer it in evidence.

The Court: It is admitted.

Q To whom was it sent?

Mr. Newman: That was after the separation, when she returned the ring.

Q Do you remember the date? A A short time after I left home; I cannot remember the date; a few weeks.

Q Was it as long as that? A I know it was a very brief time—about a week.

Q Was it before or after the suit was started? A That was after the suit was started.

Q Are you a drinking man? A No, sir.

Q Does that mean that you never take anything to drink, or what does it mean? A I do drink once in a while.

Q Are you in the habit or custom of getting intoxicated? A I never do; no, sir.

Q Do you know of any occasion when you have been intoxicated at your home? A No, I never have been intoxicated at the house.

Cross examination by Mr. Newman.

Q You never were intoxicated at any time during your married life? A I might have had several drinks; I wouldn't say that I was intoxicated.

Q You came home feeling pretty good on a number of occasions? A I might have been in a good humor.

Q Did you ever during your married life lay your hands on your wife? A No.

Q You love your wife now? A No.

Q When did you cease to love her? A After these various things happened.

Q I don't know what you mean by that, the various things; give me the dates. A The row we had at the house, for one thing, on August 25, 1922.

Q Then you loved her up to August 25, 1922? A No; I wouldn't say that.

Q Then tell me when. A I would say the Burton affair in 1918.

Q Then after 1918 you didn't love her at all? A I respected her; I tried to.

Q And you respected her notwithstanding you found she had been unfaithful on a number of occasions? A On account of my son, Bob.

Q And you believed that she had been intimate with Burton? A Yes.

Q And you believed that she had been intimate with Dr. Falconer? A Yes.

Q And you believed that she had been intimate with Van Brunt? A Yes.

Q And notwithstanding that she had been intimate with all these men and unfaithful to her marriage vows, you still respected her? A Because she is the mother of my child.

Q Your memory is pretty good, doctor. A I don't know whether it is or not.

Q Can you tell me how long you were down to Lakewood when you went there? A From Saturday night until Monday morning.

Q That would be two days. A I think that; I wouldn't be positive how long.

Q You are quite sure you paid your hotel bill for those two days? A I paid mine.

Q Isn't it a fact that Mrs. Stevens showed you a bill dated January 27, 1920, on which they

charge Dr. Stevens two days, six dollars, and that she paid it? A If she paid I reimbursed her, but I paid the hotel $37, I think, as near as I can remember it.

Q Why did you pay $37 if you only paid your own hotel bill? A It was about $25 a day, as I remember it.

Q Here it says only six dollars a day for your two days that you were there. In any event, you didn't pay the hotel bill, but you reimbursed Mrs. Stevens for paying your bill, is that it? A I wouldn't say.

Q What is Miss Sutz's full name? A Marie.

Q And when was she first employed in your establishment? A 1919.

Q She is still employed by you? A Yes.

Q You knew, didn't you, that Mrs. Stevens objected to your employing Miss Sutz? A She never made any suggestion that she did until November, 1920.

Q Didn't she repeatedly tell you that she didn't want you to employ this woman? A No, sir.

Q And you said to her that you didn't care what she said about it, you would continue to employ her? A No, sir.

Q And wasn't there a good deal of trouble between you and Mrs. Stevens over Miss Sutz? A Only what she caused herself by going over to her house.

Q And wasn't it a fact that she went over there to her house that night to get the money that had been taken in in the office? A She wouldn't have any right to do that.

Q Wasn't it a fact that that is why she went over there? A No.

Q Wasn't that what angered you because she had gone over there? A No, sir.

Q And because of what she told you as to the manner of living of this woman? A No, sir.

Q As a matter of fact, when she did go down to the office she and Miss Sutz had an awful row there, didn't they? A Miss Sutz didn't have any row; Mrs. Stevens had the row.

Q Will you tell me how old was Dr. Falconer? A I never asked him his age, but I thought he was around 50.

Q Don't you know he was a man of at least 70 to 75? A I don't know that.

Q Now, is your memory refreshed, would you say that he wasn't about 70 or 75? A If he was he was certainly well preserved.

Q Wasn't he a Civil War veteran? A Not to my knowledge.

Q He was very well preserved if he was 75? A Yes.

Q And he might have been of that age? A I don't think so.

Q You wouldn't say that he wasn't? A I should say that he was about 50.

Q Was he a married man? A Yes.

Q Did you meet his wife? A Yes.

Q Was he and his wife at your home on a number of occasions? A Well, he would come there in a machine, and she generally stayed outside. Once or twice she had been there, I believe.

Q And didn't you go to dinner with them on a number of occasions? A I might take a ride in the car.

Q And how many times did you go out in the car with them? A Myself?

Q Yes, you and your wife. A I, personally, didn't go very often. I couldn't stand the expense; I had to buy the gas—half of the gas and meals and one thing and another.

Q That is why you didn't go so often with them? A I couldn't stand the expense.

Q Didn't Dr. Falconer have a chauffeur? A At times.

Q Notwithstanding he had a chauffeur, you paid the gas bill as a rule? A Yes.

Q How long did the acquaintance between Mrs. Stevens and Dr. and Mrs. Falconer and yourself continue? A She has always known Dr. Falconer, and I met him in 1912.

Q How long has it continued up to the present time? A I don't know about herself, but I haven't seen Dr. Falconer in three or four years, anyway.

Q When was the last time you saw him? A I cannot tell you.

Q Did it continue for a year or two at your home? A I had known him a year or two before Mrs. Falconer ever came to the house. She was seldom with him.

Q You knew him a year or two, did you, in any event, coming to the house? A Yes.

Q And then subsequently Mrs. Falconer and he came to the house? A Once or twice.

Q How long did that continue? A That I cannot tell you.

Q Did it extend over a period of three or four years that their visits were going on? A Mrs. Falconer very seldom came to the house.

Q Then Dr. Falconer, did that continue for a period over three or four years? A Yes.

Q And when did you speak to Mrs. Stevens about Dr. Falconer's intimacy with her? A I don't remember the date exactly.

Q How long after he first came to the house? A A year or two.

Q And then the relationship between you continued, notwithstanding you had spoken about it, did it? A No; there wasn't the same feeling there at all.

Q You went out with him just the same? A Maybe once or twice.

Q You knew Dr. Blyn very well, didn't you,? A Well, he worked for me.

Q And he lived at the house with you, didn't he? A Mrs. Stevens brought him there.

Q And how long was he living at the house with you? A I cannot say offhand; a few months, I think.

Q And during that same few months he was employed at Bamberger's under you? A No, not all the time. He was only with me about a month in Bamberger's.

Q And prior to that he had been living at the house with you? A Yes.

Q And he had his instruments there, didn't he? A I don't know.

Q You don't know that? A No.

Q Do you know, as a matter of fact, that he was convicted of performing an abortion and sent to State's Prison? A I didn't know it until after his trouble, after that.

Q You knew it the night of the trouble, didn't you? A No, sir.

Q As a matter of fact, didn't you know that prior to his conviction here he had been convicted in New York and sent to Sing Sing for

performing an abortion? A No, I don't know that.

Q Do you know it now? A You tell me.

Q Is this the first you have ever learned it? A I learned it, as I say, the night he was arrested or a short time after that.

Q And wasn't he taken from Bamberger's store when he was placed under arrest? A Yes, I believe he was.

Q (By the Court.) Was he then working for you? A He was working for L. Bamberger & Company.

Q (By the Court.) Under you? A Yes.

Q At the time of his arrest? A Yes.

Q He worked at Bamberger's during the day and he did some business at the house at night? A He had an office at the house.

Q Do you recall him prescribing for your wife at any time at your request? A No.

Q Do you know whether he operated on your wife at your request? A He did not.

Q Did he operate on her at all? A I don't know if he was in the clique with George and Faulkener or not.

Q Don't you know that he operated on your wife? A No.

Q And you didn't administer the anaesthetic? A I certainly did not.

Q When did Van Brunt first come to your house? A I think it was some time in 1915.

Q Right after Dr. Blyn had gone, wasn't it? A I think so.

Q Dr. Blyn had been paying rent for the use of his apartment or part of it? A Yes.

Q And then when he left, in order to have an income, Van Brunt was given part of the suite; is that correct? A Yes, sir.

Q What rent did he pay? A I don't remember.

Q How long was he there? A I should say six months or more.

Q And he was a married man, was he? A Yes.

Q How old was he? A About 35 or 40.

Q No older than that? A Oh, no.

Q And when did you notice any intimacy between him and Mrs. Stevens? A I saw it.

Q When was it? A You mean the date?

Q Yes; how long after he came to the house? A Only a short time.

Q A short time isn't definite enough; a week or two weeks? A I cannot say exactly.

Q Can't you give us any idea? A No, I cannot say exactly.

Q He was there in all how long, do you say? A I said about six months; he might have been there longer. That is years ago.

Q And was it a short time after he came here that you saw this incident that you speak of? A It wasn't very long—a short time.

Q Within a month or so? A I wouldn't want to be pinned down to time, because I am not sure just how long it was; I know it wasn't very long.

Q Was it within two months? A I cannot say.

Q At any event, after you saw this episode he continued to live there, for about four months? A No.

Q For how long after this occasion? A He left right after that.

Q How long after that? A He left right away.

Q Then it didn't occur right after he came to the house or shortly after, did it? A No; you refresh my mind on that occasion.

Q Then, as far as you could observe, his conduct toward Mrs. Stevens was perfectly proper until about six months after he came there; is that correct? A With the exception of what she told me herself, that she used to go out in automobiles with him, and various servants that we had there used to tell me about it.

Q You hadn't any suspicion that she had done anything wrong by riding in the automobile, had you? A I couldn't.

Q And so the only thing that you ever saw wrong was this occasion when you found her lying on the bed in his room, and this was at or near the end of the period that he was in the house? A The end of the period that he was put out.

Q You put him out, did you? A Yes.

Q And did anybody come to live there after that? A Yes, a Mr. Sharlo.

Q How long did he remain there? A I cannot tell you how long.

Q How old a man is he? A He is a man about 50, I should say.

Q Did you ever see anything improper between Mr. Sharlo and Mrs. Stevens? A Yes; I have seen her pull up her clothes and show him her legs.

Q You saw improper conduct between them? A Yes.

Q How long was that after Sharlo came to the house? A Some time.

Q He remained after that? A Not long.

Q How long? A I cannot tell you.

Q Did you put him out? A No, he was—I don't know under what circumstances—no, we moved; that was it.

Q Why didn't you put him out when you saw her make an exhibition of herself? A He was doing sculptorial work; he was a sculptor.

Q What did that have to do with the display of her limbs? A He was talking to Mrs. Stevens, and she held up her clothes and said, "What do you think of this leg." I said, "Just because he is a sculptor there is no reason why you had to do that."

Q And that was done in your presence, was it? A Yes, I was there.

Q That was all you said, that was no reason for her to do that? A That is all I remember saying.

Q Can you tell us how long he remained in your house after that? A I could not.

Q Who came there to live after Mr. Sharlo left? A No one, that I recall.

Q Don't you recall Mr. Lewis? A Yes.

Q You knew him very well, didn't you? A Yes, just from meeting him.

Q He was a friend of yours? A No, he wasn't a friend of mine.

Q Did he come there and rent the rooms? A He rented it from Mrs. Stevens.

Q And how long did he remain there? A I cannot tell you how long he remained.

Q Do you know how he came there to rent the room? A No.

Q Do you know whether Mr. Van Brunt brought him there? A I do not.

Q You don't know how long he remained? A No.

Q What was his business? A I don't know; I think he was in the automobile business.

Q Wasn't he a salesman for Van Brunt in the Mitchell Motor Car Company? A I don't know; he might have been. I know he was always talking automobiles.

Q You cannot tell us how long he remained in that house? A No, sir.

Q Did you see any improper conduct between this gentleman and Mrs. Stevens? A No, I didn't.

Q Did you suspect anything wrong between them? A I had no reason to suspect him.

Q Did you? A No.

Q Mr. Sharlo, after he had left your place on Broad street, he continued to visit you, didn't he, down at the Broad street apartment? A He consulted me professionally.

Q You advised with him professionally, did you; you took care of him? A Yes.

Q Where is Mr. Sharlo now? A He is dead, for one thing.

Q When did he die? A I don't know when he died.

Q Do you remember when he died? A No, I do not.

Q Do you recall where he died? A No, I do not.

Q Didn't he go to live with Dr. Hibbard, your brother, when he left the apartment? A Not to my knowledge.

Q Did you ever know it? A No.

Q Do you know it now? A No, I don't know it now.

Q You don't know he died at Dr. Hibbard's home, either? A I don't know that he died at Dr. Hibbard's home.

Q Where did he die? A I don't know.

Q You say you first met Mr. Burton at Military Park; is that correct? A In front of Military Park.

Q Your wife had told you about Burton, had she? A Yes.

Q And she told you that he was at the Robert Treat Hotel; is that correct? A I don't know that she told me he was at the Robert Treat Hotel.

Q Didn't you so testify in your direct examination? A Yes.

Q And you said that you didn't want to meet him, didn't you? A Yes.

Q Notwithstanding the fact that you didn't want to meet him and you were two miles from the Robert Treat Hotel, you walked down with your wife to Military Park. A We only lived a few blocks.

Q Where did you live at that time? A Elberon, about four blocks.

Q Were you not living on Broad street at that time? A No.

Q You walked to Military Park? A Yes.

Q Why did you go there? A Just to take a walk; my wife walked me there.

Q Your wife took you there? A Yes.

Q And notwithstanding you knew the man was at the Robert Treat Hotel and didn't want to meet him, you went right to the park? A I didn't know I was going to meet him.

Q You did meet him? A Yes.

Q Your relations were very friendly, were they not? A Yes.

Q You thought quite a little of that man Burton? A He had a pleasing personality and

he won my confidence or I wouldn't have cashed the check.

Q Exactly. I show you a letter and ask you if that is a letter you received from Burton? A I never saw that letter.

(Letter marked Exhibit A, January 16, 1924.)

(Bill from the Laurel-in-the-Pines marked Exhibit B, January 16, 1924.)

Q I show you a letter written to Mrs. Stevens by Burton and ask you if Mrs. Stevens didn't show you that letter? A She never showed me any letter that was from Burton. I can tell you that without reading it.

Q That letter in which he congratulated her on Mothers' Day, you never saw that? A No.

(Letter is shown witness, marked Exhibit C, January 16, 1924.)

Q Did you ever get any liquor through Burton? A No, I did not.

Q Didn't you go out and do Secret Service work with him? A He wasn't any Secret Service man, so I couldn't have gone out with him.

Q Did you go out with him at all to do any work with him? A No, sir.

Q I show you memorandum marked Exhibit P. 5 of today, and I ask you where did you get that paper from? A Police Headquarters.

Q Who handed you the paper? A Sergeant Rottenberg.

Q How long ago did you get it? A At the time he was arrested.

Q That is the time it was taken from Burton, you mean? A Yes.

Q I ask you when you got it from Sergeant Rottenberg? A As near as I can remember, a short time after he was arrested or at that time.

Q Isn't it a fact you only got that paper a few days ago from Sergeant Rottenberg? A That is not a fact.

Q Didn't you subpoena Sergeant Rottenberg to produce that paper? A No, sir; I already had it in my possession.

Q When did you get this book? A I received that book from Mrs. Patterson.

Q When? A When Burton was in jail; that was in June, 1918.

Q And you went over and got that book from her? A No; she mailed the book to me.

Q Did you request her to mail it to you? A Oh, no.

Q How did she come to mail the book to you? A I cannot answer that.

Q You had never seen her, had you? A No.

Q When did you see her? A I saw her just before—after he was arrested.

Q Where did you meet her? A At 20th street, New York.

Q At what place? A In an apartment house. I cannot tell you; I know it was in the slums.

Q And did she continue to live there, do you know? A I don't know; I didn't follow her.

Q (By the Court.) What was your purpose in calling on her? A Why, I wanted to find out—he said that he lived at this address when he was arrested, and I wanted to find out if he did live at that address or if it was a fictitious address that he was giving.

Q (By the Court.) You went over there because you had received this address from Bur-

ton; is that it? A No; he gave his address to the police at headquarters when he was arrested.

Q You went over there to see his wife? A I went under the advice of Police Headquarters to see if that was a fictitious address.

Q You met his wife there? A Yes.

Q That is the only interview you ever had with her? A Yes.

Q What kind of a looking woman was she? A She looked like a chorus girl.

Q You never had any other talk with her? A Not to my knowledge.

Q And after that she mailed you that book? A Yes.

Q You never solicited it? A No, oh, no.

Q And you didn't know anything about the book, did you? A No.

Q You never heard anything about it before? A No, not to my knowledge.

Q And it just came through the mails to you? A Yes.

Q And her name was on the top? A That is how I knew where it came from.

Q (By the Court.) Didn't you tell me some time ago that you knew about this book; you told us when she received it through the mail and saw the wrapper? A No; she mailed it to me.

Q Didn't you say that it came in the wrapper? A She mailed it to me in the wrapper.

Q And you said Mr. Lane had the wrapper? A Yes; I gave it to him.

Q Did you say it came through the mail or handed to you in the wrapper? A Through the mails.

Q It came to you though the mails?

The Court: He said it came to her through the mails.

The Witness: No, to me.

Q Didn't you, on direct examination, say it came to her through the mail? A To whom?

Q To Mrs. Burton; didn't you say that? A He mailed it to her and then she mailed it to me.

Q That is what you say now? A Yes.

Q That is what you said before? A Yes.

Q He mailed it to her and she mailed it to you? A Yes.

Q No explanation with it? A No.

Q No letter? A No.

Q No statement? A No.

Q You didn't see it when you called on her? A No.

Q When did you get the book? A I cannot tell you the date when I got it.

Mr. Newman: Have you the wrapper?

Mr. Lane: I have not. That is, as far as I know, I haven't.

Q You can't give us any idea when you got that book? A It was some time after he was arrested.

Q How long after he was arrested? A I cannot say.

Q Before or after he was sentenced? A I think it was after he was sentenced, but that is a think; I cannot say positively.

Q When was he sentenced? A The end of June; about the 28th or 29th of June, that was the sentence, I think.

Q (By the Court.) Is there a reference to the book in the letter she wrote after making the visit down in Trenton?

Mr. Newman: Yes.

Q On July 24 you received this letter through the mail, Exhibit P. 4? A Yes; it was dated July 24.

Mr. Van Blarcom: That is the intercepted letter.

Q Were you there when Mrs. Patterson wrote that letter, when she prepared it? A Why, no, indeed not.

Q And did you think it was unusual that a letter was typewritten from the Hotel McAlpin? A I didn't consider that at all, where it was written from.

Q She says in this letter: "I was in Trenton today to see Mr. Burton. He told me you had sent a letter and book. He refused to accept them and they were destroyed. You also sent him a book in Newark, which you probably have now." Can you tell what she meant by that? A This is the book that she thought I had given back to my wife, I suppose.

Q Was there any reason why you should not give this book back to your wife? A I don't know any reason why I should.

Q Is there anything in there that refers to your wife in this book at all? A It only proves that she gave it to him.

Q There is nothing in there that is improper, is there? A No.

Q The reference on the front page is to Dorothy. That was the name of Mrs. Patterson? A Yes.

Q Will you show me on that paper marked Exhibit P. 5 today where the reference is to Mrs. Stevens? A (Indicating.) The fifth name from the bottom on the first page.

Q That says "Miss", doesn't it? That is "Miss" up there, isn't it? A (No answer.)

Q There is a pencil mark over that name; did you notice it? A You want me to testify as an expert?

Q Can you say it was or not? A It doesn't look like it to me.

Q Might that name have been Miss Stone? A It certainly looks like Stevens to me.

Q Is there any "s" on the end of the name? A He writes such a small hand; that looks like it to me.

Q You say he writes very small, do you? A He does at times, and other times he writes very large.

Q You are quite familiar with his handwriting? A I know by the check he forged against me.

Q He did that very well, did he? A He didn't forge my signature.

Q He didn't write very small on this Exhibit A today. A I don't know that he could have.

Q You don't know that that is in his handwriting? A I cannot identify that as his handwriting.

Q You cannot identify it now as his handwriting? A No.

Q Can you identify this as his handwriting, the Mothers' Day letter? A That is just exactly like the other one.

Q How do you know Exhibit P. 5 is in his handwriting? A He admitted it when he was arrested.

Q I show you a picture marked P. 3, a torn picture, and ask you if you haven't an enlarged photograph of that in your office? A No, I

haven't an enlarged photograph of that in my office.

Q You never made an enlarged photograph from that? A Not to my knowledge.

Q You would know if you had a photograph enlarged? A Yes, I certainly would.

Q You don't recollect ever writing to your wife about having the photo enlarged for you? A I might have.

Q And then if that be so, you did have an enlarged photo of it; isn't that so? A If I wrote and told her I did, I did.

Q I show you a letter, written at the time your wife was at the McCormick Medical College and directed to you, in which she said to you, "I am glad to hear you have my picture and care enough to miss me." Do you remember receiving that letter? A I will have to read the whole thing.

Q Look it over; it is very short. A I don't remember the letter, but it is addressed to me, and presumably I got it.

Q Do you refer to that picture in the letter? A I don't know if I refer to that picture.

Q To some picture? A To some picture.

Q You spoke about borrowing $1,300 from Mrs. Stevens; do you remember that? A Some amount.

Q I show you a note dated October 15, 1920. That is your signature to that note? A Yes.

Q (By the Court.) What is the amount? A $1,275.

Q You paid $25 back, didn't you? A On what?

Q On the thirteen-hundred-dollar loan. A Oh, no; I paid a great deal more than that; two

or three thousand dollars, I testified this morning.

Q And she still kept the note for $1,275? A Evidently, she did.

Q What was the date when you entered into the agreement to purchase the house? A September, 1918, I think.

Q Do you remember your wife giving you a check for $500 in July, 1919, on account of the purchase price of the house? A That is absolutely not so.

Q What did your wife give you that $500 for in July, 1919? A That is that $500, I presume, that she invested in the market.

Q Isn't it a fact that it wasn't until November, 1919, that the market transaction took place beween Henry Brothers and yourself? A I traded in the market before that.

Q You referred to St. Paul today. A Yes.

Q You put all that stock in your own name? A No; it was all in her name.

Q Positive of that, are you? A Positive, and carried on the books in her name.

Q How many shares? A I think 100.

Q I show you a paper dated November 19, 1919, from Henry Brothers to Dr. L. Stevens, "We have bought 50 St. Paul," and I ask you whether at the bottom of that paper there is not in your handwriting a purported assignment of those shares? A I bought it for her and assigned it to her.

Q The paper writing itself, is this in your handwriting, "I hereby assign 100 shares Chicago, Milwaukee & St. Paul Railroad stock to Mrs. L. R. Stevens, for which she advanced me $1,500, which made her possessor and owner of

the above stock''; is that correct and signed by you? A That is in my handwriting.

Q Did you take a bond of $1,000 belonging to your wife—a Liberty Bond—and give it to Henry Brothers as security for your stock market transaction? A I believe—I don't know just how those arrangements were made, but I know she put up some collateral when the stock started to slide down; just what the collateral was I don't remember.

Q You don't remember that at all? A I know she put up some collateral.

Q You don't know what it was? A Yes.

Q Your memory is very good on these matters. Can you remember whether it was a bond or not? A I don't remember.

Q As a matter of fact, didn't you take her Liberty Bond and put it up as security for your speculation? A Oh, indeed not.

Q Doctor, I show you a receipt dated November 28, 1914, and ask you if that receipt is in your handwriting?

The Court: Answer his question.

A Yes.

(Receipt referred to marked Exhibit G, January 16, 1924.)

Further taking of testimony in this cause is adjourned to February 13, 1924, at ten A. M.

FIFTH DAY.

Continuation of examination of witnesses in the above-entitled cause before the Honorable John E. Foster, Vice-Chancellor, at the Chancery Chambers, Newark, N. J., on Wednesday, February 13, 1924, at ten A. M.

Appearances: Counsel as before stated.

Mr. Blankenhorn: With Mr. Newman's permission, I want to interrupt the cross examination and ask permission to reopen the direct examination of Dr. Stevens to testify with reference to the raid.

The Court: Any objection to that?

Mr. Newman: Counsel has reversed himself.

The Court: He told me why he did and I imagine he told you. He just had the wrong impression of the law in his mind for the moment. I thought he had some other reason for making the announcement. I shall allow it.

Mr. Newman: I don't object to it.

The Court: Unless you wish it done after the cross examination.

Mr. Newman: No; I prefer to have it put in now.

LUDLOW R. STEVENS, heretofore sworn.

Further direct examination by Mr. Blankenhorn.

Q You were present at the residence of your wife on the night of this so-called raid? A Yes, sir.

Q At what hour; what was the date? A August 25, 1922, 4:30 about.

Q In the afternoon? A No; in the morning.

Q Had you been there previously? A Yes, sir.

Q On that same night? A At midnight, yes.

Q And prior to that? A Yes, we were there until eight o'clock, and five o'clock prior to that.

Q Did you see Mr. Paswaters at any time while you were there before you went into the house? A No, sir; I did not.

Q When did you go into the house? A About 4:30.

Q Who was with you? A Inspector Corbally, his son, a man named Flarity, a man named Adams, and there were several others, I don't remember their names, and myself.

Q How did you get in? A We entered by the rear door and went through the kitchen and ascended the front stairs.

Q Who went in first? A Inspector Corbally forced the lock on the door, and I was right alongside of him, and we were practically in at the same time.

Q You went in right behind Inspector Corbally? A Yes.

Q Then what did you do? A We quickly went to the front of the house and ascended the front stairs, and first went to the front room—the south room, as we used to call it—and Inspector Corbally flashed his light in there and we saw it wasn't occupied, so we quickly went to the rear, and just as we were coming in Mrs. Stevens turned over on her left side and turned the light on and off quickly.

Q Just as soon as you were going in where? A The room that they occupied.

Q (By the Court.) The bedroom? A Yes.

Q Had that been Mrs. Stevens' bedroom during the time that you were living there with her? A That had been our bedroom; yes, sir.

Q Who did you find in the bedroom? A Mr. Paswaters and Mrs. Stevens.

Q Where were they? A They were in bed.

Q Could you tell what clothing they had on? A She had on a pair of pink "Billy Burkes" and he had on a pair of light pajamas.

Q What happened when you got in there? A The first thing that happened, Inspector Corbally asked me if I recognized this woman. I said, "Yes, this is my wife." He asked me if I knew who the man was; I said, "Yes; Paswaters."

Q Did you know Paswaters? A I never saw him before in my life.

Q How did you know it was Paswaters? A By his photograph his wife gave me.

Q Where did you get that photograph? A Well, about two or three days before the raid.

Q From whom? A From Mrs. Paswaters.

Q You say when you went into the room Mrs. Stevens turned on the light? A She turned it on and off very quickly.

Q When was it turned on again? A Not until after I turned it on, just a few seconds later.

Q What was said, if anything? A The first thing that was said she thought it was a dirty trick.

Q Who said that? A Mrs. Stevens. She said, "There was no need of this." I said, "Well, you did it of your own volition; I didn't bring you here; you have brought this on yourself." She said, "Why do you let me stay here

like this with all these men in the room." So I looked at the foot of the bed, and all her clothes were on the foot of the bed, or, rather, on a chair near the bed, and I took some—I don't know what it was—some lingerie of some kind, and I threw it over her shoulders, and she said, "Let me up; I want to go to the bathroom"; she said, "I want to do something desperate." I said, "It is bad enough; you had better keep quiet," and Inspector Corbally said, "Yes, don't get excited," and Paswaters also tried to calm her.

Q Did you see Paswaters here in court? A Yes.

Q Was he the man who was in bed with your wife? A Yes.

Q Did Paswaters say anything? A He answered questions.

Q Who asked the questions? A A man named Flarity, Inspector Corbally's partner, I believe he is.

Q What were the questions? A He asked him if he was married and where he lived and his age and occupation and if he had any family.

Q Did he ask his name? A Yes, sir; he said his name was John Paswaters.

Q And what other answers did he give? A He told him he lived at 100 Roosevelt avenue, in East Orange, and was married and had a daughter ten years of age.

Q Did you see his clothing in the room? A No, his clothing wasn't in the room.

Q Do you know where it was? A In the front room.

Q Was that a bedroom? A Yes, sir.

Q Was there a bed in it? A Oh, yes.

Q Had it been occupied? A No, sir.

Q Was that the room you had gone in first? A Yes, sir. Inspector Corbally threw his light into that room. We didn't go into that room; we just threw the light in, and saw there was no one in there.

Q Did you see in there? A Yes, surely; I was with him.

Q How do you know it hadn't been occupied? A We inspected that later before we left the house. We went in every room in the house before we left to see if there was anyone else in the house or had the rooms been occupied previous to our entrance, and we found—

Q How could you tell the room hadn't been occupied? A I will refer to the beds. The beds had not been occupied, because they were not mussed.

Q Did Inspector Corbally or anyone else take any of Paswaters' clothing? A Yes.

Q What? A He took a pair of golf knickers and a shirt.

Q Did he take them away with him? A He came in the bedroom and asked Paswaters if they were his, and his said, "Yes," and he said, "I am going to take these as evidence," and Paswaters said, "Take the shirt, but don't take the knickers; I want to play golf tomorrow," so Corbally said, "If you will promise to take good care of her and see that she don't harm herself," or something to that effect, "I will leave the trousers," which he did, and he took the shirt.

Q And then did you leave? A Yes; we were only in there a few minutes.

Q And how did you get out of the house? A Some went out the rear and some went out the front; I went out the front.

Q (By the Court.) Was Paswaters very much agitated at being caught in this position you have described? A He was mute and passive; he was, absolutely.

Q (By the Court.) Are you sure he stated under these circumstances that he intended to play golf the following day? A Yes, sir, he did; he absolutely said that.

Q Did he say anything as you were leaving? A As we were descending the stairs he said, "Don't forget to close the door as you are going out."

Q Did he say anything about fastening it? A Yes, he said, "Lock the door."

Q When you came into the house was there a light downstairs? A As I remember, there was an amber light we always kept lighted, and was burning then in the hall.

Q (By the Court.) How did you effect an entrance? A Inspector Corbally sprung the lock on the rear door.

Q Making any noise? A No, it didn't make much noise; he did it in such a way—

Q What do you mean by springing the lock? A I cannot describe.

Q (By the Court.) Did he break the door in? A No; the lock sprung as he pushed against the door.

Q The back or front door? A The rear back door.

Q Did it make any noise at all? A Very little noise; I was surprised.

Q How many men were in your party? A Well—

Q Including the men surrounding the house and the men who came in the house with you? A They all came in, eventually.

Q (By the Court.) No, at the time you went upstairs? A I should say six, maybe eight.

Q Did you make any noise going up the stairs? A No; we didn't make very much noise; we got up there quickly.

Q Before you had gone into the house and at 12 o'clock when you were up there, did you look in to see whether there was anyone sitting downstairs? A I didn't, no.

Q Did you at any time just prior to the raid? A I never looked in at any time.

Q (By the Court.) Why was the raid delayed until 4:30 in the morning if you were around there at midnight? A Inspector Corbally, as I understand, was waiting for a very important telephone call, and he didn't go—

Q In relation to this case? A No, in relation to some other case, and he told me it was very important and he was holding it off. He said it didn't make very much difference anyway. "They are in there, so maybe it would be better to wait."

Q Where did the party wait between midnight and 4:30, in the neighborhood? A Yes, in the neighborhood.

Q Where did you wait? A I was in Newark.

Q Where? A Inspector Corbally's house.

Q You were waiting with him? A Yes.

Q How did you start the matter at 4:30 in the morning; did someone send you to the— A The operator telephoned him.

Q What was the telephone message? A Asking him if he was ready. He said he received a telephone call of something to that effect.

Q Then you and he started for Montclair from Newark? A Yes.

Q Did you see anything to drink up in the bedroom? A Yes, I saw something to drink.

Q What? A A bottle of ginger ale and a bottle of whisky.

Q How many glasses? A Two or three glasses.

Q Had Mrs. Stevens been in the habit of indulging in whisky and intoxicating liquor? A Not when I lived with her, but she did after she left.

Q (By the Court.) That is what you were told? A That is what she told me.

The Court: Mr. Newman, I would much prefer to have you make your cross examination on this branch of the case while it is fresh before me.

Mr. Newman: Mr. Van Blarcom will cross examine on that.

Cross examination by Mr. Van Blarcom.

Q When did you meet Mrs. Paswaters? A August 16th, I think it was.

Q Did she communicate with you? A Oh, yes.

Q And you got Mr. Paswaters' picture when? A As I remember it, it was a few days before the raid.

Q How long? A A few days; three or four days; something like that.

Q You learned that they were coming up on this boat? A We suspected; we didn't know exactly.

Q Didn't you send a wireless to the boat? A No.

Q Didn't make any inquiry? A No, I didn't bother with it at all.

Q Didn't Mrs. Paswaters tell you they were coming up on that boat? A She said she wasn't sure, because he told her that he wasn't coming in until Monday; instead of that he came in on Thursday.

Q Were you watching all the boats? A No.

Q Had you watched any previous to that? A No.

Q Did Mrs. Paswaters tell you she had gotten a letter from her husband telling her that— A No.

Q A postal card? A No.

Q How had she learned, then? A Because when he left, he left behind him a sailing schedule, and on this schedule was marked the day he expected to leave and the day that he expected to return, and also the amount of two fares figured up, and that is what made her suspicious, when she saw two fares figured there and back; so she went to the steamship company.

Q You have answered that question. Then, that return sailing list showed a Thursday, did it? A That was checked on the timetable— yes, that is correct.

Q What day of the week was this, Monday, that you sent your nephew over? A As I remember, it was on Thursday.

Q The same day the boat was due to arrive in New York, on Thursday? A Due to arrive in New York on Thursday; it was the 24th of August.

Q This occurred when? A On the 25th.

Q Then, he left the day you thought he was going to leave? A Yes, that is correct.

Q What time did you tell your nephew to go over? A It was a few days before that.

Q When did you see Corbally first? A The day before the raid.

Q (By the Court.) You first employed him, you mean? A Yes.

Q You first employed him then? A Yes, the day before the raid.

Q Who communicated with you first on the day of the raid, or the day before, really, that they had landed? A My cousin.

Q Is LeCompte your cousin? A Yes.

Q Where were you then, at your office? A Yes.

Q What time did he call you? A He called me somewhere around three o'clock.

Q And did you tell Corbally or did he? A No; I went to Corbally's office.

Q And told him? A Yes.

Q What did your cousin tell you? A He told me that he had seen them get off the steamer arm in arm and they had taken a cab, and he had taken a cab to follow them, and they got on the ferry, and then crossed 23rd street at the ferry, and they had taken a train and came to Montclair, and taken a taxicab from the station.

Q What time did he call you up? A Around three o'clock; I am not sure it was exactly three.

Q When did you first go up to these rooms? A Shortly after he telephoned I went up with Corbally.

Q What time did you arrive at the house the first time? A I didn't go anywhere near the house. I went up in the vicinity—somewhere around four or half-past four; it may have been five. I know it was before supper.

Q What did you go up there about five o'clock for? A To have a conference with Mr. LeCompte.

Q Why didn't you go down to your place? A There was no one there to watch the house.

Q Weren't any of Corbally's operatives on the job? A No; they went up with me when I went up at four o'clock.

Q How long were you there, about four or five? A Well, not very long; just a short time.

Q How far from the house were you? A I kept about half a block, maybe a block, away.

Q You had been told at that time that your wife and Mr. Paswaters were in the house? A Yes.

Q Then what did you do between five and the next time you went up? A I went to Mr. Corbally's office.

Q You stayed there? A Yes.

Q When did you come back? A To Montclair?

Q Yes. A I went back to Montclair—I stayed until about eight o'clock.

Q Who went back then? A I don't know who went back, whether Mr. Corbally or Mr. Corbally's son.

Q Were Corbally's men up there in the meantime? A Yes.

Q What did you go back for at eight o'clock? A To see what the operatives had to say.

Q Weren't they reporting by telephone? A Sometimes, but conferences I considered better. I didn't run that end of it.

Q And did you go near the house at eight P. M.? A No, I didn't.

Q Where did you go—where did you stay? A We were about a block from the house.

Q Then you went back to Mr. Corbally's office? A I don't know if I went back there or

not. I was in communication with them; I was at his house practically all the time.

Q When was it that he expected this important telephone message you speak of? A When he first spoke to me of it.

Q Yes, but when was it that he was going to get this telephone message? A He didn't know when he was going to get it.

Q Where was it coming from? A I cannot tell you.

Q Did you know the nature of it at all? A No, sir.

Q What time did you get back to his house after the 8:00 o'clock trip? A We went right back there.

Q Then you stayed there until about 12:00? A I don't know if I personally stayed there; I was in and out, you know.

Q Where were you, outside? A I would go out and take a walk.

Q When did you go back then to Montclair? A About twelve o'clock.

Q What for? A To see what the operatives had to say and have a conference with them.

Q Weren't they calling you on the telephone in the meantime? A Some of the time.

Q So your only object in going back was to have a conference? A That was the only object.

Q Did you walk by the house when you went back? A No, sir.

Q Was it reported to you that there were lights burning at 12:00 o'clock? A No, sir.

Q What did they say, the house was all dark? A I don't remember what they said about that.

Q Why not? A I don't remember.

Q Your memory fails you as to that? A I don't remember what was said about any lights at 12:00 o'clock that I recall now.

Q Did you talk to these men yourself or did Corbally talk to them? A Corbally did most of the talking.

Q And Corbally told you what they said, I presume? A I sat there and heard it.

Q Did they say that they were still in the house? A They said they hadn't been out of the house.

Q Wasn't it mentioned whether they had gone upstairs or not? A I think they said they saw the lights burning upstairs.

Q You think they saw the lights burning upstairs? A Yes.

Q Now you do remember something about lights? A Yes. I remember they said something about the lights burning. I don't know what trip that was on, whether the 8:00 o'clock trip or 12:00 o'clock trip, I don't remember.

Q Then was the reason that you didn't make the raid at that time because there were lights upstairs or because Mr. Corbally had this important message? A I don't know why; I think the message was the principal thing.

Q When did he mention anything about a message? A It was more by inference than his actually mentioning it. His conversation, I judged from that.

Q Did he say or intimate that he was going to get a message? A He said he had another case on and he expected to hear from it.

Q That is your only reason on your direct testimony for saying that he didn't want to make

the raid sooner than 4:30 because he had an important message? A As I remember it.

The Court: He was awaiting one.

Q How long were you there on the 12:00 o'clock trip? A I don't know. I wasn't there very long at any time.

Q I suppose you didn't go in the house on any of these trips in order that the proceedings would go on as you hoped, is that true? A You mean I didn't—

Q You didn't go in the house on any of these trips at 4:00 or 5:00 in the afternoon or 8:00 or 12:00 in order that the proceedings might go on as you hoped? A I didn't go in at any time.

Q You didn't go in previous to 4:30 because you didn't think you would find anything? A No; I wouldn't say that.

Q Why didn't you go in before that? A Because I was separated from my wife legally and I was told to keep away from the house.

Q Did you have a legal separation? A Yes.

Q Where was that obtained? A In this Court. I think it was a legal—

Mr. Newman: There was no legal separation. He means he was paying her alimony under a Court order.

Mr. Blankenhorn: There was a suit pending.

The Court: But no determination.

Mr. Newman: A prior suit. He was arrested for non-support and being held on a *ne exeat.*

The Court: You mean there was an action pending?

The Witness: Yes.

The Court: There had been no formal separation.

Mr. Newman: No.

Q How long did you stay there when you went up at 12:00 o'clock? A Not very long.

Q If you knew that this man was in the house with your wife when you went there at 5:00 o'clock, why didn't you go in and kick him out or say something to him? A I don't know why we didn't go in; we didn't go in.

Q What was the reason? A I don't know.

Q (By the Court.) He is asking you why you didn't go in if you knew the man was in your home with your wife and put him out. A It wasn't my home at the time.

Q Why didn't you go in and put him out anyhow; he was with you wife; or ask for an explanation? A I didn't see him go in in the first place. I was depending on what they told me.

Q Assuming he was there and you were told that, why didn't you go in and ask for an explanation? A Because I didn't know he was there.

Q Why didn't you go in and find out? A I only knew what they told me.

Q Your cousin told you that. A He didn't see them go in; he testified to that.

Q At 8:00 o'clock why didn't you inquire whether he was there or not? A I had no reason to inquire if he was there.

Q Why didn't you go in at 8:00 o'clock and ask what he was doing there with your wife? A He was with my wife at the time.

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Q Why didn't you do that; have you any explanation to make? A No.

Q As a matter of fact, you wanted to catch her, if you could, in a compromising situation, isn't that true; isn't that so? A If she was doing anything that was improper, yes.

Q You wanted to give her time and an opportunity to be caught in a compromising situation, didn't you? A That wasn't the cause of the delay.

The Court: He didn't ask you that. Answer his question responsively; don't volunteer something you are not asked to.

Q (Question repeated.) As a matter of fact, you wanted to catch her, if you could, in a compromising situation; isn't that true? A I would answer that question, yes.

Q And how long were you there at 12:00 o'clock? A A very few minutes.

Q And then you went back to Corbally's house? A Yes.

Q And at what time did the telephone call come to Corbally's house? A I don't know.

The Court: Answer the question.

A Somewhere between two and three.

Q Did he go right back then? A No; we waited awhile.

Q How long did you wait? A We left Newark somewhere around 3:00 o'clock or half-past three.

Q (By the Court.) What was the purpose of waiting after you got the message between 2:00 and 3:00; why did you wait? A It was somewhere around—I don't remember the exact time; it was somewhere around 3:00 o'clock.

Q I am trying to find out what was in your mind, why did you wait? A I don't know why we waited other than he had business.

Q What was the nature of the telephone message that came, the last one? A I cannot tell you.

Q Didn't Mr. Corbally tell you? A No, sir.

Q Didn't he say, "Now, we are ready to go on in"? A Yes; he said, "We will go on up now."

Q Did you ask him what the situation was? A I don't remember asking him that question, no.

Q Don't you remember any of the conversation you had with Mr. Corbally, before you made the last trip? A Yes, some of the conversation about how we were going to get in there and one thing and another.

Q I understand. Don't you remember what the operative telephoned, the last message, what he said to Mr. Corbally? A No, I don't remember what he said.

Q Corbally didn't tell you? A He might have.

Q You have forgotten? A Yes. I don't remember what he said.

Q Where did you go when you went up there the last time? A At 4:30?

Q Yes. A Right up to the house.

Q In a taxi cab? A No, we went up there in a machine.

Q Where did you leave the automobile? A On the side street.

Q That is near the house? A Oh, yes.

Q How many people were about the house at that time when you got there? A I would say ten or twelve.

Q Wasn't it getting daylight at that time? A No.

Q It wasn't? A It was stormy.

Q Was this 4:30—was it daylight saving you are talking of? A Yes, but it was a stormy morning.

Q It would be dark at daylight saving? A Yes.

Q Who went around to the back? A I don't remember who went around the back. Inspector Corbally, myself and my cousin.

Q Did you have a key to the house? A Yes.

Q (By the Court.) Did you use it or attempt to? A The lock had been changed previous to that, so I didn't attempt to.

Q How did you know they had been changed? A Because I had been up there some time prior to that to get my books.

Q You had been in the house after that, after you had left you were in there? A Yes, certainly.

Q Did you try to get in the second time and couldn't? A The night I got in I got in the window, the night I got my books.

Q (By the Court.) Was that the cause of the change in locks? A Yes.

Q Then that night how many went in the back way? A All that went in, went in the back way.

Q How many were there? A All together I would say there was—there might have been eight or ten upstairs.

Q Name them. A Adams, Flarity and Corbally, Junior and Senior and myself and my cousin, two or three others, I don't know what their names were.

Q There were two or three others? A Yes, there may have been three or four.

Q You are sure there were two or three of them? A Yes.

Q And did these two or three see this couple in bed as you have described? A Yes. They remained in bed; they didn't get out.

Q What I want to know particularly is whether those two or three saw them there. A Yes, because they didn't come in until later.

Q Then these two or three later were there and saw the couple in bed? A Yes.

Q (By the Court.) What time in the morning did the party leave the house, Corbally's party of yours? A We were only there about two or three minutes.

Q (By the Court.) You left at 4:30? A Yes.

Q You left before 5:00? A Yes.

Q What kind of a lock was on the kitchen door, that is the door you came in? A A very cheap lock.

Q A spring lock with a key or one of those old-fashioned keys and slide locks? A One of those flat locks.

Q How did he spring that door? A I cannot tell you.

Q Didn't they use a brick and break the door in? A No, sir.

Q Will you describe how Mr. Corbally sprung this lock, this flat lock as it was? A No, I cannot describe that.

Q Were you standing right alongside of him? A Yes.

Q Didn't he put his shoulder against the door and break it in? A His shoulder and

knee and elbow, and he had the technique that I cannot describe.

Q Wasn't the lock broken as a matter of fact? A No, it wasn't broken.

Q Did you lock the door on your way out? A No, I didn't lock it.

Q How long were you about the house at 4:30 before anybody went in? A A minute or two.

Q Did you walk around the house at all? A We walked around to get in, yes.

Q Where did you try to get in, did you try the back door? A The pantry window.

Q Why did you try that? A Because that is where I got in to get my books at that time and I thought that would be a good place.

Q Did someone try that pantry window? A They pushed it open, yes.

Q It was open, then? A It was open.

Q They pushed it open? A Yes, that is correct.

Q Did they go in the window ? A They put their head in the window and a hand and tried the pantry door and found it locked.

Q Can you reach any portion of the pantry window without going in the pantry and feeling the door? A Yes.

Q The window is as near the door as that? A Yes, a very small pantry.

Q Was there any light in the pantry when you first walked up there? A No.

Q Any light in the kitchen? A No.

Q (By the Court.) Where did you say the small light was burning, in the hall? A Yes.

Q (By the Court.) The lower hall? A The lower hall; an amber light it was, a very dim light.

Q The stairs carpeted or uncarpeted? A They are uncarpeted.

Q The halls were uncarpeted? A No, the halls had rugs on them.

Q The stairs were bare though? A Yes.

Q You didn't take off anything like that when you went up? A No.

Q And then you ran upstairs rapidly, seven or eight or ten of you? A We went up three or four stairs at a time.

Q And went in the first room first—the south room, rather? A We looked in and flashed the light in.

Q And you saw his clothes there? A Not at that time.

Q Later then? A Yes, and that is where Corbally got the golf trousers and shirt out of that room.

Q What other clothes were there, his socks and shoes and so forth? A Yes.

Q Was the pantry window afterwards closed? A Yes, I believe one of the men closed it; I am not sure.

Q You were standing right there at the time? A When it was opened?

Q Yes. A Yes.

Q Mr. Paswaters wasn't very excited then? A No; he seemed stunned.

Q That is your description of his attitude? A He was stunned.

Q That is your description of him? A Yes.

Q What did he say? A He didn't have very much to say.

Q (By the Court.) What did he say? A He gave his name and address and occupation and said he was married and had a

daughter ten years of age and he told Mr. Corbally not to take his trousers, as I explained before, then he called our attention to the doors as we departed.

Q What about the doors? A He told us to be sure to lock the doors as we went out.

Q Did he offer any explanation to account for his presence in the house? A No, sir.

Q Or Mrs. Stevens? A No, there was nothing said about that.

Q Did you? A I don't think I said anything—no, Corbally made me promise before I went in that there would be no rough-house or any trouble.

Q Did you call up Mrs. Paswaters that night and tell her the result of the raid? A At her request, yes.

Cross examination by Mr. Newman.

Q I show you Exhibit P. 5 and ask you when that came into your hands? A Dr. Rottenberg gave it to me.

Q And when did he give it to you? A As I remember it when he was arrested—or before he was sentenced.

Q Which was it? A I think when he was arrested.

Q So you had it in your possession from the time he was arrested up to the present time? A Yes.

Q I show you a notation on the back dated May 25th and ask you in whose handwriting it is. A That is Rottenberg's.

Q That is in the handwriting of the detective? A I would say so.

Q It is not in your handwriting? A No.

Q As a matter of fact this paper which you say is on the Hotel Colonia paper in Altoona, Pennsylvania? A That is correct.

Q And Dr. Rottenberg took it from the desk of Burton; he handed it to you, is that correct? A As I remember it, yes.

Q And it has been in your possession ever since? A Yes.

Q Did you change or alter it in any way? A I haven't touched the paper.

Q Did anyone on your behalf change it or alter it in any way? A No.

Q Positive about that, are you? A I know Mr. Lane wouldn't do it.

Q I ask you whether— A No.

Q I call your attention to the fact that opposite the sixth name from the bottom of the first page is "N. J." in print in the form of a printed letter, is that correct? A Yes, "J" its looks like.

Q N. J.? A Yes.

Q Can you see any letter on this paper, Exhibit P. 5, that is printed outside of the N. J.? A Do you want me to look this all over?

Q If you want to.

The Court: Wouldn't this paper speak for itself?

Mr. Newman: Very well; then it will speak for itself.

Q In any event you do not know how it comes that N. J. is the only printed letter, if that be so, on this paper? A No, sir, I do not.

Q There is no other State mentioned there on the paper, is there? A I haven't looked.

Q Is it not a fact that it appears opposite the name of a city and not the State?

The Court: That what appears?

Mr. Newman: The other name.

Mr. Blankenhorn: I object to that; the paper will speak for itself and it is not a fact.

The Court: I think that is so. The paper will speak for itself better than the witness can.

Q Do you recall what year Mrs. Painter was in your employ? A 1915 or 1916.

Q And at the time she was in your employ was the baby in the hospital? A I don't know if it was at the time she was there or not.

Q Do you know when the baby was in the hospital? A When we first moved to 96 Broad street.

Q In the year 1915? A I think it was, I am not sure.

Q In the month of October? A I cannot say about the month.

Q At any event the baby was in the hospital about a week, was it not? At about that time that Mrs. Painter was employed there? A It might have been a week.

Q I show you a check made to the order of Henry Brothers by Mrs. Stevens dated February 13, 1920, and ask you if you remember what that check was given for? A That was at the time she was trading in St. Paul.

The Court: What is the amount?

Mr. Newman: $700.

The Witness: That is, I think, I cannot say.

Q Isn't it a fact that this check was delivered to Henry Brothers by Mrs. Stevens and on your account, because they had threatened to commence criminal proceedings against you? A No, they never threatened.

(Check referred to received in evidence and marked Exhibit D. 1, Feb. 13, 1923.)

Q You say that was the time—this check was dated February 13, 1920, was the time that Mrs. Stevens was speculating in St. Paul stock? A I wouldn't say that; I don't know.

Q Didn't you say that? A I think so.

Q I show you a paper dated November 17, 1919, and a bill dated November 17, 1919, of Henry Brothers, and another bill dated November, 1919, which is marked in evidence Exhibit F, Jan. 16, 1924, and wasn't that the time you say Mrs. Stevens was speculating in St. Paul? A We both were speculating at the same time.

Q (By the Court.) He asked you if that was the time. You don't answer the question. A About the time.

The Court: Don't waste my time any longer; answer the question responsively.

Q And isn't it a fact that both of these bills alleging the purchase of 100 St. Paul stock are in your name, those you have there? A Yes.

Mr. Newman: I offer in evidence bill of Henry Brothers dated November 17, 1919.

(Marked Exhibit D. 2, Feb. 13, 1924.)

Q I show you three checks as one exhibit, one dated May 6, 1919, to the Franklin Motor

Company for $2,818.90; May 6, 1919, $14.40; another check to the Franklin Motor Car Company for $13.35 dated May 14th; another dated June 6, 1919, to Payne, Stevens & Newcomb and ask you if those checks represent the $3,000 Mr. Stevens paid for the Franklin motor car? A She bought the car, yes.

Q Do they represent that? A They represent the price of that car.

Q And the check pay to the order of Payne, Stevens & Newcomb representing what? A She paid the insurance at that time on the car.

Q So you didn't pay the insurance out of the $1,300 on that car as you testified on your direct examination? A That was the reason I gave her a note.

Q You gave her a note for what? A $1,300 was part of the insurance that was paid on the car.

Q So you gave her the note on October 15, 1920, did you, of $1,300 that has been marked in evidence as Exhibit D. 1, Jan. 16, 1924? A Yes.

Q So that you gave her this note long after she had purchased the car? A Yes, sir.

Q A year after? A I don't know how long.

Mr. Newman: I offer the checks in evidence as an exhibit.

(Marked Exhibit D. 3, Feb. 13, 1924.)

Q I show you two checks dated December 15, 1919, one for three hundred dollars to your order, $200 to your order from Mrs. Stevens and ask you what those checks were for? A I don't recall what they were for.

Q Don't these two checks represent the $500 deposit on the house? A They do not.

Q You said on your direct examination that you had made a $500 deposit on account of the house in Montclair. A A thousand dollars, I think.

Q You borrowed $500 from whom? A From Clarence Gardner.

Q How did you get the other $500? A That was mine.

Q Where did you get it? A I got it out of my office, my business.

Q Did you draw it from a bank? A Yes.

Q Where did you have the bank account? A Federal Trust Company.

Q And was that $500 that you had borrowed from Clarence Gardner returned by your wife to him? A It certainly was not.

Q And those checks don't represent that? A They do not.

Q Subsequent to your purchase of the Franklin car was it wrecked and destroyed while you were driving it? A We had an accident. It wasn't destroyed, no.

Q And was another car ordered in its place instead? A No. Wasn't ordered for a year later, I think.

Q I show you check dated November 18, 1919, to the Franklin Motor Car Company for $1,300 and ask you whether that don't represent the purchase price of the new car with the value of the old car which was delivered to the Franklin Company? A I cannot say that.

(Check November 18, 1919, offered in evidence and marked Exhibit D. 4, Feb. 13, 1924.)

Q As I recall your testimony, doctor, this book you received, Exhibit P. 6, Jan. 16, 1924, from Mrs. Burton; is that correct? A Yes.

Q You received it at her home in New York when you went there? A No, sir.

Q When did you receive it? A She mailed it to me.

Q She mailed it to you? A As I remember.

Q Is that correct? A Yes.

Q Where did she get it from? A He mailed it to her.

Q Didn't you testify that she had told you that when he was up in the jail she called there and he handed it to her? A No.

Q Didn't you so testify? A No.

Q In any event you now state that it was mailed to her? A As I remember, yes.

Q Is there any doubt about it, sir? A That is eight years ago, as I remember it; I would say yes.

Q How do you know it was mailed to her? A She sent me a wrapper as I remember it.

Q Have you the wrapper? A I gave the wrapper to Mr. Lane with the papers.

Q You gave that wrapper to Mr. Lane? A Yes.

Q You received it at her hands, did you, in New York City? A I did not.

Q I say, after you went to New York to see her she delivered the book to you? A She mailed the book to me.

Q And then that came in a wrapper, too, didn't it? A Yes.

Q So there are two wrappers that you gave to Mr. Lane, is that correct? A Yes.

Q The one that it came from the County Jail to her in and the one that she mailed it to you in? A Yes.

Q So it is not a fact that she handed it to you at her home? A No, she didn't give it to me at her home.

Q I direct your attention to testimony on page 500, where you were asked concerning a letter.

"Q How soon after the receipt?
A I don't remember. The day that she gave me the book.
Q And told her about it?
A Yes."

Q So that it is not a fact that she gave you the book at all, but that it was mailed to you? A That is correct.

Q So you couldn't go home and tell your wife about it, when she hadn't given it to you? A When I received it I went home.

Q You meant when you received it through the mail you went home and told your wife about it? A Yes.

Q I believe you testified that you got along all right with your wife up until 1918, is that correct? A Practically, yes.

Q And it was in the same year that you employed Miss Sutz? A No, it was not.

Q When did you employ Miss Sutz? A It was in the latter part of 1919 or the first part of 1920, I forget which.

Q That you employed Miss Sutz? A Yes.

Q And I believe she is still in your employ? A Yes, at the present time.

Q And has been since 1919? A Not all the time.

Q Practically all the time? A Yes.

Q The only time she was away was when she was employed by your brother? A She was never employed by my brother.

Q When was she away from you, when was she out of your employment? A She was away for two or three months.

Q (By the Court.) When was that? A I don't know just when it was.

Q When was the date that you separated from your wife? A On the 16th of January, 1921, as I remember.

Q Up to that time you had been living together as man and wife? A Yes.

Q And you hadn't ceased relations as man and wife? A It was about that time.

Q You lived together and had sexual relations with your wife right along up until that time? A Yes.

Q You told of an incident when the collector for Bamberger's came to the house in 1920. It is a fact, isn't it, that Mrs. Stevens on that occasion did not see the collector at all? A Yes, he talked to her.

Q Didn't you testify on your direct examination that you spoke to him first downstairs? A Yes, I spoke to him, too.

Q Didn't you say that you had spoken to him downstairs and told him that Mrs. Stevens wouldn't pay him and that he went out and didn't you so testify? A I don't remember testifying to that exactly.

Q You don't remember that? A No.

Q What is the fact? A As I remember I didn't pay very much attention at the time. As I remember, he came there to collect for it and I told him that—I told him, "I told you people before you ever opened up this account not to open it, that I wouldn't be responsible for any debts that she ran up" and I said, "You have gone ahead and opened up this account, and

now you come to me and ask for the money, since she refused to pay for it." And I said, "I will not pay for any debts run up down there." I told her I couldn't afford it, I didn't want any charge account.

Q It is not a fact that you directed the collector to go upstairs to see Mrs. Stevens in her bedroom? A Not to my knowledge.

Q And that didn't occur at all? A I wouldn't say that he didn't go upstairs.

Q You wouldn't say that? A I don't know if he went upstairs or she came down; I don't remember the details.

Q In the year 1918 your office was in the Kinney Building, was it? A Yes.

Q And you had an account at that time in the Newark Trust Company? A I think I did.

Q And there is where you deposited your money, wasn't it? A Yes.

Q And while you had that account you thought it was necessary to have a gun, did you? A That was at the time of the war—yes.

Q You had your gun, as I understand you, for the purpose of—because you had your money home? A Yes.

Q The bank was right in the same building, wasn't it? A Yes, certainly.

Q You could have deposited your money in the bank? A Most of my business was done after 3:00 o'clock.

The Court: Answer the question.

The Witness: Yes.

The Court: And stop that argument or I will put you off the stand; I am getting tired of it.

Q As a matter of fact you did deposit there daily, didn't you? A I cannot answer that question.

Q Did you have a safe in your office at that time? A I don't think I had a safe at that time.

Q Don't you know you did have a safe at that time? A Now I don't think I did. I might have gotten one about that time.

The Court: If you don't remember, say so, stop arguing, you are wasting a lot of time and I am getting very impatient about it.

Q On page 535 of your testimony with reference to the Bamberger statement you stated:

"Q Tell us about that.

A He called at the house; it was on Thursday, I happened to be home and I was always home on Thursdays in Montclair and that is how I remember it and he asked if Mrs. Stevens was home and I said, 'Yes, what do you want'; he said, 'I came from Bamberger and I want to collect a bill' so I told her that Bamberger's man was downstairs and she said 'I suppose he wants to collect that bill.' She said, 'I don't want to see him,' so I told him just what she said and he said, 'Well, will you pay me?' I said, 'I told you repeatedly when that charge account was opened that I wouldn't be responsible for any accounts' I said, 'You have opened it against my judgment in the matter of your own volition, now you come to me to be paid.'

Q (By the Court.) How much was the bill?

A I cannot remember what it was.

Q Large or small?

A Around a couple of hundred dollars.

Q Tell us what happened.

A He left the house without the money."

Q That is all that occurred on that occasion? A As I remember it.

Q Do you recall in 1915 meeting Dr. George at your home in the evening at the time Dr. Falconer and George were then attending your wife? A I believe there was a Dr. George there.

Q You stated in your testimony that they were treating Mrs. Stevens at that time and when you got there the affair was over. A Yes.

Q What do you mean by the "affair"? A I didn't understand very much about it, what was going on at the time, except what Mrs. Stevens told me.

Q What had she told you? A She told me she had a tumor of the uterus or something of that kind.

Q Don't you know that was the time that an abortion had been committed on your wife? A I didn't know that until after this.

Q You did know it subsequent? A Yes, when she was in the hospital.

Q When she told you about it, weren't you sufficiently interested to find out what the difficulty was? You said you didn't know much about that; didn't you make any inquiries about it? A Why certainly; I made inquiries at the hospital.

Q Didn't you ask the doctors what they were treating her for? A Yes.

Q What did they tell you? A That she had a tumor or something.

Q That was the same day you had taken her to Dr. Firth's office? A That I cannot say.

Q Don't you know that was the same evening of the afternoon that you had been at Dr. Firth's office? A I don't think it was, because she was ill at the time, I think.

Q You do recall the fact that shortly after she went to the Paterson General Hospital for treatment, don't you? A She never went there for treatment.

Q How many occasions was she at the Paterson General Hospital in 1915? A Once.

Q It is not a fact that she was there between July 19th and July 26th, 1915, and then in August of that same year from the 1st to the 16th? A Not as I remember. I remember her being there once.

Q That is what you swore to, it was only once? A Yes.

Q That is correct? A As I remember it, yes.

Q This Exhibit P. 5, the letter, Jan. 16, 1924, where has that been since you got it at Police Headquarters? A In my office.

Q How long has it been in Mr. Lane's possession? A Since 1921, 1920 or '21.

Q How soon after you got it did you take it to Mr. Lane? A Right away.

Q Then he has had it since that time, has he? A Yes, he has had it.

Q What did you do with the wrappers? A I gave those to Mr. Lane.

Q How long after you received them? A I don't remember.

Q You said in answer to Mr. Van Blarcom's question that you wanted to find your wife in a compromising position; what did you mean by that? A I meant by that, that if she was using the house for taking other men there I wanted to know about it, because my son also lived there; I didn't want the house made into a house of assignation.

Re-direct examination by Mr. Blankenhorn.

Q You said you didn't want your house to be a house of assignation, then why didn't you go in and stop what was going on? A I didn't know they were going to stay all night.

The Court: When do you think this question relates to?

He has covered from 3:00 o'clock the preceding afternoon when you got information from your cousin until 5:00 o'clock the next morning in his question. What did you mean by that, you didn't know they were going to stay all night?

The Witness: We decided to go in there around 12:00 o'clock.

The Court: He asked you why you didn't go in there if you thought it was being used for such a purpose.

The Witness: That was Corbally's business.

The Court: You thought if you went there earlier in the evening he wouldn't stay all night.

Thomas R. Zulich, direct.

Further cross examination by Mr. Newman.

Q Didn't you testify in your direct examination that the paper marked Exhibit P. 5, Jan. 16, 1924, on the desk in front of you was in your possession in your safe and that you thought Mrs. Stevens came down there to break in to take it away? A I did.

Q Then how long was it in the safe before it was taken to Mr. Lane's office? A Well, I had possession of it since 1918 until the time that I gave it to Mr. Lane.

Q How long was that? A 1918 to about 1920 or '21.

Q Two or three years? A Yes.

Mr. Blankenhorn: We rest.

THOMAS R. ZULICH, sworn in rebuttal on behalf of Mrs. Stevens.

Direct examination by Mr. Newman.

Q Are you connected with the Paterson General Hospital? A I am.

Q Have you produced a record of the hospital at my request here? A I have, yes, sir.

Q Can you turn to the year 1915 and tell us from the record whether Mrs. Stevens was in the General Hospital at Paterson in July and August, 1915?

Mr. Blankenhorn: I object to that; that is not proper proof.

The Court: Do you want more formal proof? Examine him if you do.

Thomas R. Zulich, direct.

Q Do you keep the records? A I am the custodian.

Q Did you make the entries? A I did not.

Mr. Blankenhorn: I object.

The Court: If you press your objection I will give them time to bring anybody and everybody here to prove these records.

Examination by the Court.

Q How long have these records been in your custody? A Ever since they have been made. I have been there over sixteen years.

Q Who made the record in relation to the case of Mrs. Stevens; can you tell? A They were made by probably half a dozen people, the notations and headings.

Q Do you make out the bills based on the records? A Yes.

Q Did you make out the bill in this case? A My bookkeeper did, I didn't personally.

Q Under your supervision? A Yes.

Mr. Blankenhorn: I withdraw the objection.

Further direct examination by Mr. Newman.

Q (Repeated.) Can you turn to the year 1915 and tell from the record whether Mrs. Stevens was in the General Hospital in Paterson in July and in August, 1915; tell us what it says with reference to it. A In 1915 she was admitted to the hospital July 19th, discharged July 26th, and in August of that same year she was admitted August 1st and discharged August 16th, 1915.

Q Do the records in July show what she was suffering from?

Mr. Blankenhorn: I object to that. It does not seem to me it is proper to prove what she was suffering from.

The Court: I am inclined to think that that is so. If you wish to go into that, it would merely be hearsay at the best. It is an entry made by five different parties. Bring the doctors here who treated her; that is the best evidence. I sustain the objection on that branch of it.

MRS. MARJORIE STEVENS, defendant, recalled in rebuttal.

Direct examination by Mr. Newman.

Q Mrs. Shorter testified that she received certain information contained in an affidavit secured by you on the same day that she learned the facts therein contained. When was it that you had the conversation with her relative to that matter? A On or about January 3rd she called at the house and had dinner; I drove her to her home.

Q Was Dr. Stevens still in the house? A Yes.

Q Was he present at the time that the conversation between you and Mrs. Shorter was being held? A Yes, he was at dinner.

Q What was your situation with Dr. Stevens at that time? A He wasn't speaking to me.

Q And when did you next see Mrs. Shorter? A I next saw her on the day that the affidavit was made.

Q February 15, 1920? A Yes.

Q What was the occasion of your seeing her? A February 14th—the case was to come up for separate maintenance, for temporary alimony, through a sworn statement of Dr. Stevens and Mrs. Shorter. I was denied alimony, and Mr. Kalisch called up and asked me who Mrs. Shorter was and said she had made an affidavit very derogatory to me.

Q In any event, it was to get a counter affidavit by you from her? A Yes.

Q Mrs. Stevens, were you at the office of Charles Worms the day of the row at the Kinney Building? A No.

Q Did you ever threaten Miss Sutz and say so? A No.

Q Did you ever have any business transactions with Mr. Charles S. Worms? A Yes; I bought a rug.

Q Did you ever purchase a bedspring and mattress from him? A No.

Q Did you ever have any conversation with him about purchasing furniture or having roomers or anything like that? A No.

Q Did you ever say to Mr. Worms that you would drive Dr. Stevens to the gutter? A No.

Q When did you move to Second avenue? A The spring of 1914.

Q And were you at that time in a pregnant condition? A I was.

Q Did you ever have an argument at Second avenue with Dr. Stevens when he went out with his brother? A Yes.

Q What was that about, just briefly? A I had worked for R. M. Eckings, in his real estate office in Paterson, and at the end of two weeks the money I had earned, it was planned that we were going up the Hudson on a trip, the doctor and myself, and Friday night when I came home prepared to go, incidently Mr. Haveron came to the house.

Q The half brother? A Yes; and as a result of that I didn't want him to go fishing. I said if he did go I wanted him to take me. I had worked and he was going to use my money for the other trip. He grew violent, as usual. He did go fishing, but he didn't take me.

Q (By the Court.) Was that the occasion when you were said to have followed him down the street and made the disturbance? A Yes, but I didn't follow him.

Q Where did the argument occur? A At my apartment, Second avenue.

Q Did you ever tell Eugene Haveron that you were going to New York and hire a room and commit suicide? A No.

Q Dr. Reginald Haveron testified about a visit to him in Plainfield, New Jersey; do you remember that occasion? A Yes.

Q He said also that as a result of what you said to him, it created a scene and upset him and that he was broken up and didn't feel fit to conduct his business for the rest of the day; do you remember that? A Yes.

Q Was he upset and broken up? A Very much.

Q Why, what caused that? A Dr. Stevens accused me of being intimate with Reg.

Q And did you so inform Reg? A I so informed him.

Q Was that the occasion of his being all broken up? A Yes.

Q And Reg, so-called, is another half brother? A Yes.

Q And is that what caused you to go to his office? A It is.

Q Dr. Bramberg testified that you had a conversation with him about a pistol at Dr. Stevens' office, and you said that you would fix him and would see him in the gutter; did you say that to him? A No.

Q What did you say to him that would give rise to such a statement? A I said that I had always tried to keep him respectable, did everything in my power to keep him out of jail, and so forth, and the girl in the office was dragging him down to the gutter.

Q Dr. Stevens testified that he bought the house in Montclair; is that the fact? A No, it is not the fact.

Q The title was taken in your name? A Yes; directly to my name.

Q I show you a check dated November 2, 1918, for $4,292.28, and drawn by you and endorsed by you, and ask you whether that check represented the balance of the purchase price of the house? A Yes.

Q (By the Court.) To whom was it payable—to whom did this money go? A To the Orange National Bank—Mr. Holmes, president of the Orange National Bank, who represented the interest in the Godfrey Corporation.

Q The Godfrey Corporation was the corporation you purchased the house from and who deeded it to you? A Yes.

Q (By the Court.) Your husband states that he made the first payment of a thousand

dollars; is that so? A No. We have here a $500 check I gave him for the note to pay back the money he had gotten from Mr. Gardner, and when the note was due, and also that $300 and $200 made the $1,000. The sale was consummated at the Gardner home; it was through Mr. Gardner that we bought the house in Montclair.

Q And what did it cost? A $14,500, and the mortgage is $9,000, and this check is for $4,292.28.

Q I show you deed dated November 20, 1919, from the Godfrey Corporation to you, which is recorded on the 29th of November, 1919, Book 62 of Deeds for Essex County, and ask you if that is the deed that you received from the Godfrey Corporation for the property? A It is.

Q And that deed was delivered to you the same day you delivered the check? A It was.

Q And recorded the next day, from its appearance? A Yes.

Q (By the Court.) Then Dr. Stevens paid no part of the purchase price of this property? A No.

Q (By the Court.) Or whatever he did pay was repaid to him from your funds? A Yes.

Q (By the Court.) He made the initial payment of $1,000? A Yes.

Q (By the Court.) Which you repaid him as you have indicated? A Yes.

Q I show you a check marked E, 1-16-24, July 14, 1919, for $500 and ask you if you know what that check was given for? A That check was given in payment of a $500 note that he got from Mr. Gardner.

Q To pay on account of the deposit money?
A Yes.

The Court: The two checks produced by Dr. Stevens for $300 and $200 were for what?

The Witness: The balance due on commission on the house. I had affidavits to that effect in the other suit.

Q The two checks, $300 and $200, that represents the balance of the deposit—the $1,000 deposit—made when the property was bought?
A Yes.

Mr. Newman: We ask that the check for $4,292.28 be marked as an exhibit.

(Marked Exhibit D. 2, February 13, 1924.)

This check has been shown to you, and I want it marked in evidence. Check dated June 2nd, 1919, made to the order of Dr. Firth, or Lum, Tamblyn & Colyer, $169.07, made by you and deposited to the credit of Lum, Tamblyn & Colyer—I ask you if that is the check you refer to and which you say you paid Dr. Firth's bill for his attention to you when you were suffering from the effect of some drug you had taken?

The Witness: No; that was from Bobby's birth.

(Check marked Exhibit D. 7, February 13, 1924.)

Q I show you a note for $3,000, dated May 6, 1919, signed by you, and ask you if that is the note you referred to in your testimony as being discounted at the Hackensack Trust Com-

pany and for which you purchased the automobile? A Yes.

Q (By the Court.) From the proceeds of that note? A Yes; Mr. Beggs got the note discounted for me.

Q That is correct, is it? A Yes.

Q I show you two notes, one dated 1918 for $350 to the order of Frederic Beggs, marked by him and cancelled, and I ask you what that note represents? A That represents part of the money that I got to go to Chicago.

(Note referred to offered in evidence; marked Exhibit D. 9, February 13, 1924.)

Q I show you another note dated February 27, 1919, for $500, payable three months after date at the Hamilton Trust Company and signed by you and endorsed by Mr. Beggs, and ask you what that note was for? A That was the balance of the note to pay Dr. McCormick in Chicago.

Mr. Newman: I offer that note in evidence.

(Marked Exhibit D. 10, February 13, 1924.)

Q I show you this receipt, marked Exhibit D, January 16, 1924, for a Liberty Bond, November 28, 1919, and ask you what that receipt represents? A That is a receipt for a Liberty Bond that Dr. Stevens got through Post & Flagg at the Kinney Building, $1,000.

Q Whose bond was it? A My bond.

Q And who did he put it up with? A With Henry Brothers as collateral on that stock.

Q What stock? A The St. Paul.

Q (By the Court.) Did you give him the bond? A No.

Q Where did he get it from? A Mr. Dennis, of Post & Flagg.

Q How did he get it? A Mr. Dennis is a patient of Dr. Stevens.

Q (By the Court.) The bond belonged to you? A Yes.

Q (By the Court.) Why did he deliver the bond to him; did you give him authority to? A No, I didn't give him authority, but I think that Mr. Dennis, while Dr. Stevens was at Post & Flagg, called me up from there.

Q (By the Court.) Then, did you consent that he deliver the bond to him? A I think I did.

Q Did you give him the bond as a gift? A No; it says as a loan; I have the receipt.

Q From Dr. Stevens? A Receipt there.

Q Dr. Stevens? A Yes.

Q Did you know Dr. Falconer? A Yes.

Q Who is he? A I have known him since I was a child three or four years old. He is a man now about 80 years old, and totally blind. He is retired and living in St. Petersburg, Florida. I know his wife, his children and his grandchildren; his great-grandchildren and his grandchildren are patients of my husband's.

Q Do you know whether he is a Civil War veteran? A Yes; he had a bullet through one of his arms and his left arm is paralyzed; he cannot use it.

Q Were your relations with him proper? A Always.

Q Did you ever have any words or quarrel with Dr. Stevens over Dr. Falconer? A No; never at any time.

Q Did you ever have any improper or sexual relations at any time of any character with Dr. Falconer? A No.

Q Do you know a Mr. Van Brunt? A Yes.

Q Who was he? A He was the man who answered an ad in the paper when we lived at 96 Broad street and rented the room for a period of about two months.

Q And when was that? A September, 1915, two weeks after I had come out of the Paterson General Hospital.

Q And what was his business? A Manager for the Mitchell Motor Car Company.

Q Married or single? A Married, and his wife was with him.

Q His wife lived in the room with him? A Yes; his wife was there and stayed all the time he used to take trips.

Q How long did he remain away? A Two months.

Q What were your relations? A Proper at all times. I didn't see him very much.

Q Did you ever have any relations with him of an improper nature? A No.

Q Or questionable character? A No.

Q After he left who occupied that room? A Mr. Lewis, a salesman of Mr. Van Brunt's.

Q Did Dr. Stevens put Van Brunt out? A No.

Q How did he come to leave? A He left for two reasons.

Q What were they? A One reason was that he was to go on the road, but if it hadn't been for the other condition he would have allowed his wife to stay. Mrs. Painter was working for me at the time. She came to work as soon as I came out of the hospital, and when Dr. Haveron

had taken me on one of the occasions to Dr. Firth's office and I came home Dr. Stevens had come home with an earache. Mrs. Van Brunt was in the house at the time, and she had boiled or roasted an onion to put on Dr. Stevens' ear on account of this earache. Mrs. Painter—the type that she was—when I came home, she tried to cause trouble between Dr. Stevens and me over the incident of the onion. Knowing Mrs. Van Brunt to be a very fine woman, I took exception to Mrs. Painter telling me this. Mr. Van Brunt was away, and when he came two days later Mr. Van Brunt had breakfast at the house, which consisted only of rolls and coffee, and he always had his breakfast very early and left before Dr. Stevens was up, and he was having his breakfast two days later and Mrs. Painter told him of the incident of the afternoon that Mrs. Van Brunt had roasted an onion and put it on Dr. Stevens' ear, and tried to cause trouble between Mr. and Mrs. Van Brunt.

Q Is that why he left? A No, but that is the reason he took his wife with him when he did go.

Q (By the Court.) How long after that was it when he and his wife left? A The end of that week.

Q And that was the reason for their departure? A He was going on the road and that is why he took her with him. He wouldn't allow her to stay there.

Q Did Dr. Stevens ever complain to you or quarrel with you about all the chops and steaks and his getting the leavings? Was there ever any quarrel about that? A No.

Q Did he take anything there but his breakfast? A No.

Q Dr. Stevens testified that you were friendly and had intimate relations with one Harry Swan and that he told you of a conversation that he had had with his brother in substance that you tried to seduce Swan; is that true? A No.

Q Did you ever have any improper relations with Swan? A No.

Q Dr. Stevens has testified that you knew a man named Burton and that your friendship lasted with him two months; what is the fact?

The Court: Haven't we gone into that very carefully?

Q How long was he here in Newark? A Two weeks.

Q When did you return from Chicago? A The first part of May, 1918.

Q And when was he arrested? A May 24, 1918.

Q Did you ever go with Burton after his arrest? A No.

Q Ever send him anything? A No.

Q Did you know Burton had any of your photos? A No.

Q Did you ever give him any? A No.

Q Mrs. Stevens—I think you answered this, but I will put the question—Dr. Stevens says that the night of Burton's arrest or shortly thereafter he spoke to you about these pictures and these sheets of paper which were said to have been found on Burton; is that true? A No, sir.

Q And also that you had been intimate with Burton and that you had stayed with Burton at the York Hotel in New York; is that true or untrue? A That is untrue.

Q Did you ever have any improper or intimate relations with Burton? A No.

Q Did you ever go to Chatham, New Jersey, with Burton, either to look for a summer cottage or for any other purpose? A No.

Q Was there any quarrel over Burton between yourself and the doctor? A No.

Q Did Dr. Stevens ever show you the letter marked Exhibit P. 4, January 16, 1924, dated July 24, 1918. Did he show you that letter? A In court.

Q Ever show it to you before you saw it in court? A No.

Q Did you ever attempt to grab the letter out of his hands? A No.

Q Do you know whether Dr. Stevens had a safe in his office? A He bought the safe in the Kinney Building in January, 1915, from Floren Safe Company.

Q Did you ever secure any revolver from Dr. Stevens' office? A No.

Q Did you ever tell Dr. Stevens that you had said to Miss Sutz that he was dying of tuberculosis and that you wanted to get the combination of the office safe? A No.

Q Dr. Stevens has testified that you had improper relations with one Sharlo; is that true? A No.

Q How old a man was Sharlo, do you know? A He was, I thought, about 75 or 78. His daughter was much older than I was. I knew his daughter.

Q Dr. Stevens has testified that when he left the house there were six or seven tons of coal there; is that so? A That is not so.

Q Shortly after he had left the house, in February of that year, did you buy some coal? A Yes; that is the day I came back to the house.

Q What is the date? A February 15, 1921.

Q (By the Court.) Did he actually leave the house on the 16th of January, 1921? A He actually left.

Q How much coal did you have then on the 16th of February? A I have a bill for $11.75 for half a ton of pea coal and half a ton of stove.

Q And that is the check you paid for the coal with? A Yes.

(Bill and check marked Exhibit D. 12, February 13, 1924.)

Q Did you ever ill-treat your child Bobby? A No.

Q Mrs. Painter, I think it is, has testified to an incident when you slapped the child or threw water in its face. Do you recall that? A I threw water in his face, but the occasion was that I had only been out of the hospital about a month and she was taking—I was practically an invalid and she was taking care of the boy, and he had a sort of stomach trouble and didn't get any better, and finally he was taken with convulsions on the night of the hospital record—I forget—in October, and he was unconscious and I threw water—the occasion which she recites is the night I threw water in his face to bring him to, and that was as a result of she having fed the child whisky, and he was dying; the night she says that I went out with Van Brunt in his car, was the night that Mr. Van Brunt and his wife drove me to the baby hospital, and Dr. Stevens wasn't home; he hadn't been home for several days.

Mrs. Marjorie G. Stevens, cross.

Q Did you take your child to the baby hospital? A I did.

Q And was this incident of the throwing of the water before you took him there? A Yes, just a very few minutes before.

Cross examination by Mr. Blankenhorn.

Q You say that was at night? A At night.

Q What time? A Midnight.

Q (By the Court.) That the child had these convulsions? A Yes.

Q Where was it that this happened? A 96 Broad street.

Q What room in the house? A In the kitchen.

Q What was the child doing in the kitchen at that time of night? A He had been sick all night, and I had been up with him and Mrs. Painter had been up with him, and the child was unconscious and was lifeless, and I threw water in his face to bring him to.

Q How do you know the condition was the result of Mrs. Painter giving him whisky? A I afterwards found that out.

Q (By the Court.) From her? A When I discharged her. I know from the whisky bottles that I found in the room at the time I discharged her.

Q (By the Court.) How do you know that she had given any to the child? A She admitted that she gave it to him.

Q You had quarrels with your husband about Van Brunt? A No, no quarrels; only the ear incident. That is the only quarrel we ever had that entered into it.

Q Did you quarrel with him about any other men? A I don't understand the question.

Q Did you have any quarrels about your relations with other men? A Not my relations; he accused me, as I stated there.

Q (By the Court.) Of being intimate and improperly so with other men? A With every one that came to the house.

Q When was it that you made the statement that the girl in his office was dragging him to the gutter? A The day I met Dr. Brumberger.

Q When was that? A I cannot say.

Q Do you remember the year? A After we separated. It is in the testimony, isn't it?

The Court: If you don't know, say so.

The Witness: I don't know.

Q This deed that you got from the Godfrey Corporation for the house, was that the first paper that you ever got from them?

The Court: Did you get a contract before the deed?

The Witness: A rental contract; yes.

Mr. Newman: That was in the form of a rental contract.

Q Who has that, Dr. Stevens or yourself? A He has it; I haven't it.

Q (By the Court.) Was it in his name or yours? A It was joint.

Q When was that entered into? A That was entered into November 28, 1918.

Q You were living in the house? A That is the day we moved there.

Q And the rent was applied on account of the purchase price? A The rent didn't even pay for the upkeep.

Q But the rent that was paid to the Godfrey Corporation was applied on account of the purchase price, wasn't it? A No; on account of expenses to keep the place up.

The Court: The lease will speak for itself. I don't care for a lot of this detail. Give me the lease if you want to give it; one of you can offer it.

Mr. Newman: I haven't the lease.

Q At the time you took this deed, it wasn't necessary to take the deed at that time, was it? Didn't your contract have a long period to run? A No; it was specially understood the night that the sale was consummated in the Gardner home that as soon as I got this money from the estate that I was to take title, and then if Dr. Stevens saw fit to pay me back I was going to put it in both our names.

SAMUEL LEFKOWITZ, sworn on rebuttal for Mrs. Stevens.

Direct examination by Mr. Newman.

Q Mr. Lefkowitz, you are connected with the firm of L. Bamberger & Company? A Yes.

Q Were you in their employ in 1920? A Yes.

Q And did you act as the collector for them? A Yes.

Q And did you have occasion, in November, 1920, to go to the house of Mrs. Stevens in Montclair? A I recall that it was around the fall; I don't remember exactly the month.

Samuel Lefkowitz, cross.

Q Will you tell us just what occurred on that occasion? A My object, of course, in going up was to meet both Mr. and Mrs. Stevens, and after I had gone into the house I saw both Mr. and Mrs. Stevens, with the object of securing payment from either one, and finally after sitting there Mrs. Stevens went upstairs, and I tried to get Dr. Stevens to pay the bill, and, frankly, I was unsuccessful. He asked me to go up to Mrs. Stevens, who was upstairs, and get it from her, inasmuch as she had promised to take care of it, and so forth. I hesitated for a moment, but he told me it was perfectly all right, and I went upstairs, and when I got there I saw Mrs. Stevens sitting in the bedroom and I apologized, telling her that I didn't know that she was in that room, and I walked right down.

Q Was that the first time you had occasion to go to the house in Montclair to collect a bill? A As far as I can recall, it was the only time.

Q Prior to that where did you go when you wanted to collect a bill? A Dr. Stevens' office.

Q In the Kinney Building? A Yes.

Cross examination by Mr. Blankenhorn.

Q Did you ever collect any bill from Dr. Stevens in his office? A How do you mean? About two years, that was before; I don't recall whether I was the one that collected it.

Q As far as you know, you never got any money from Stevens in his office? A I don't remember.

Q What did you mean when you said that at other times you called on the doctor in his office? A Because I remember having something to do with Dr. Stevens relative to the ac-

count at Bamberger's. I don't remember the exact nature of what it was, whether I went there to collect it or called him up or whether it was writing him a letter.

Q You don't know whether you went there or not? A I don't remember.

Q Mrs. Stevens had been downstairs and had seen you before you went upstairs? A Yes, she knew I was there.

Mr. Newman: We had another witness, but he hasn't arrived; it was Mr. Slaybaum, who was to be here at 12 o'clock in reference to the incident in the Kinney Building that Mrs. Stevens didn't have the revolver. I hope to be able to prove it by him.

The Court: If he should come in—I will call this other case—if he should come in I will permit you to call him.

BOTH SIDES REST.

The Court: You can arrange with Mr. Lane about exchanging briefs and submitting the case on briefs.

Petitioner's Exhibits.

EXHIBIT P. 1.

Shirt belonging to John H. Paswaters.

EXHIBIT P. 2.



Petitioner's Exhibits.

EXHIBIT P. 3.



EXHIBIT P. 4.

(Envelope.)

Hotel McAlpin
Broadway at 34th St.
New York City

Mrs. Marjorie Stevens
No. 1009 Broad Street.
Newark N. J.
790 Broad St

(Letterhead.)

Hotel McAlpin
Broadway at 34th St.
New York City

July 24, 1918.

Mrs. Marjorie Stevens,
No. 1009 Broad Street,
Newark N. J.

Madam:

I was in Trenton today to see my husband. He told me you had sent a letter and book. He refused to accept either and they were destroyed. You also sent him a book in Newark which you probably have now. Let this be the last thing you send him. The Superintendent of Mails in Trenton has his orders to destroy anything that may come from you, and not to admit you in case you call.

Looks to me as though you have no self-respect, running after a man who despises your very name.

D. E. Patterson.

EXHIBIT P. 5.

Memorandum of two sheets found in desk of room occupied by Edward Burton at the time of his arrest, May 25, 1918.

EXHIBIT P. 6.

Book entitled "Arbutus." A medley by Mabel Ryerson Charles.

Petitioner's Exhibits.

EXHIBIT P. 6a.

"It is done! In the fire's fitful flashes
The last line has withered and curled;
In a tiny white heap of dead ashes
Lie buried the memories of our world.
There were mad, foolish vows in each letter
It is well they have shriveled and burned;
And this Ring, you now curse it a fetter—
It is better removed and returned.
For eight years I've worn it unlettered,
Fearing the wrath of the world.

But, ah! It is done? In the embers,
Where promises and honor were cast,
Have you burned up the heart that remembers
And treasures this beautiful past?
Do you think in this swift reckless fashion
To ruthlessly burn and destroy
The Year that was freighted with passion,
The dreams that were drunken with joy?

Can you burn up the rapture of kisses
That flashed from the lips to the soul?
Or the heart that grew sick for lost blisses
In spite of its strength of control?
Have you burned at the touch of cursed fingers
That now thrill your pulse and each vein,
Or, the sound of Bobby's voice that still lingers
And hurts with a haunting refrain?

It is done? The life drama ended?
You have put all the lights out and yet,
Though the curtain rung down has descended,
Can the actors go home and forget?
Ah, no! They will turn in their sleeping,
With a strange, restless pain in their hearts,

Defendant's Exhibits.

And in darkness and anguish and weeping
Will dream they are playing their parts."
Mother and
BOBBY

(Envelope.)

Dr. L. R. Stevens,
317-318 Kinney Bldg.,
Newark, N J.

"Personal"

EXHIBIT D. 1 FOR IDEN.

Telephone Slip.

Date—Aug 24
Spec Inst.—C
Filing Time—9:30 M Trunk—3
Place—MTC
Tel. No.—980W
Person—Stevens
Place—T C
Tel. No.—219
Recorder—70x
Passed—987 M
Operator—657

EXHIBIT D. 1.

Newark, N. J. June 7, 1918

May 1st, 1919, I promise to pay to the order of A. P. Firth One hundred fifty-nine and 50/100 Dollars payable at Hamilton Trust Co of Paterson, New Jersey. Value received with interest at 6%, in full of all claims to date.

$159. 50/100 Marjorie G. Stevens.

Defendant's Exhibits.

EXHIBIT D. 2.

Voucher Check.

ESTATE OF Hartman V. Van Riper—Ackerman
Van Riper Trust Income Account
THE HACKENSACK TRUST COMPANY
Sub. Trustee in accordance with Court
Decree dated June 7, 1921

To Marjorie G. Stevens
1922
July 28 Account of income $91.82

THE HACKENSACK TRUST COMPANY
Will Pay the Above Amount When the Receipt Below is Properly Signed and Dated.

C. W. BENTY,
Secretary, Treasurer.

Received Aug 8 1922 from THE HACKENSACK TRUST COMPANY, Sub. Trus. in accordance with Court Decree dated June 7-1921 Ninety-one and 82/100 Dollars in full for above account.

Marjorie G. Stevens.

This Voucher will not be paid if receipt is detached.

Defendant's Exhibits.

ESTATE OF
Hartman V. Van Riper
Income Account
Ackerman Van Riper Trust
THE HACKENSACK TRUST CO.
HACKENSACK, N. J.
Sub. Trustee in
accordance with Court Decree
dated June 7, 1921.
Dated July 28th, 1922
No. 10965
Payable at
THE HACKENSACK TRUST CO.
HACKENSACK, N. J.

ENDORSEMENTS.

Pay to the order of J. H. Paswaters, Marjorie G. Stevens.

J. H. Paswaters.

(Rubber stamp) Paid Aug. 11, 1922. McCREERY.

(Rubber stamp.) Pay to the order of Garfield National Bank Aug. 14, 1922. James McCreery & Co. No. 84.

Defendant's Exhibits.

EXHIBIT D. 3.

(Letterhead)

DR. LUDLOW R. STEVENS

Newark, N. J., February 4, 1921.

J. H. Connor Coal Co.,
85 Walnut St.,
Montclair, N. J.

Gentlemen:

I wish to inform you that Mrs. Stevens has set up a separate establishment, and is suing me in the courts of this State with reference to our matrimonial matters.

I will not be responsible for any debts contracted, or to be contracted, by her in my name or otherwise.

I will communicate with you in few days—Thank you.

Very truly yours,

L. R. Stevens.

REGISTERED.

EXHIBIT D. 4.

(Letterhead)

DR. LUDLOW R. STEVENS

Newark, N. J., February 4, 1921.

Messrs. Caro & Kashmann,
118 Walnut St.,
Montclair, N. J.

Gentlemen:

I wish to inform you that Mrs. Stevens has set up a separate establishment, and is suing me

in the courts of this State with reference to our matrimonial matters.

I will not be responsible for any debts contracted, or to be contracted, by her in my name or otherwise.

Very truly yours,

L. R. STEVENS.

REGISTERED.

EXHIBIT D. 5.

(Letterhead)

DR. LUDLOW R. STEVENS

January 30, 1923.

Mrs. Margaret Scott,
Wharton, N. J.

Dear Grandma:

As you know by now, Mrs. Porter and her son were in to see me. While his case is unusual they respond very nicely when managed properly; so I am very confident he will have no future difficulty with his eyes, when I have finished his case, which will take about three months.

I feel assured the family will be grateful to you for recommending him to me, as he certainly could not continue his studies as he was.

When you are in Newark alone, I wish you would kindly come in and see me. I shall always remember and shall never forget your great kindness to me in my illness at Montclair.

With sincerest respects,

Sincerely,

LUD.

LRS:M

EXHIBIT D. 6.



Defendant's Exhibits.

EXHIBIT A.

THE ROBERT TREAT
Charles A. Carrigan
Manager
NEWARK, NEW JERSEY

Thursday A. M.

Dear Doctor

Enclosed find Cartoon I mentioned Good but rather raw. I must again thank Mrs Stevens and yourself for one of the most pleasant evenings I ever experienced and crave your pardon for remaining so late

Sincerely

Ed———

EXHIBIT B.

Lakewood, New Jersey, 1/27 1920

Mrs Ludlow R. Stevens
& Son

To THE LAUREL-IN-THE-PINES, Dr.

228 Frank F. Shute,
All Bills Payable Weekly Manager

Board	Wk	105	
Dr. Stevens 2 dys @ 6.00		12	
		Bus 50	
Livery			
Wines			
Telegrams			
Telephones 90 45 55 40 40 50 10		3 35	
			120 85

Defendant's Exhibits.

Laundry			
News Room			
Baggage 1/28 1 Dy		15 00	
Trays Tel. 40-10 — Trays 75		1 25	
Express	Livery	2	
			18 25
			10
Valet			139 10
	Livery		2
			141 10

(Rubber stamped): "Paid Jan 28 1920 W"

EXHIBIT C.

THE ROBERT TREAT
Charles A. Carrigan
Manager
NEWARK, NEW JERSEY

My Dear Mrs Stevens

As I was leaving the Hotel for New York this evening the thought flashed into my mind that Sunday May 12th was "Mothers Day." And with this thought came the pleasant idea that I might by sending you the token of the occasion express both my admiration of you as a mother and my appreciation of the extreme kindness shown my humble self by yourself and the Doctor. I returned to the Hotel and am pening these very inadequate words, and shall request that on Sunday these words with the carnation may reach you. My compliments to the Doctor and yourself, and Bobbie.

Sincerely

"Ed"

Defendant's Exhibits.

EXHIBIT D.

$1275.00 Montclair, N. J. Oct 15 1920

Three months after date I promise to pay to the order of Marjorie G. Stevens Twelve Hundred Seventy five and 00/100 Dollars at Bank of Montclair 55-184

Value received LUDLOW R. STEVENS.

No. 8

EXHIBIT E.

No. 870 Newark, N. J. July 14, 1919.

NEWARK TRUST COMPANY 55-20

Pay to the order of Dr. L. R. Stevens $500.00

Five hundred and 00/100 Dollars

MARJORIE G. STEVENS.

(Endorsed): "L. R. Stevens" and usual stamped bank endorsements.

EXHIBIT F.

HENRY BROS. & CO.
71 Broadway, New York

Newark Office
790 Broad Street
Kinney Building
Newark N. J., November 19th, 1919.

Dr. L. R. Stevens

We have this day bought for your account and risk

Quantity	Description	Price	Name
50	St. Paul	42⅜	.....

Defendant's Exhibits.

I hereby assign one hundred shares of C M & St Paul RR Stock to Mrs L R Stevens for which she advanced me ($1500.00) fifteen hundred dollars, which makes her possessor and owner of above stock

HENRY BROS. & CO.
Per (initialed)

10

EXHIBIT G.

11-28-19

Received of Mrs. M. G. Stevens 1000 Liberty Bond as loan on Stock Security with Henry Bros

L. R. STEVENS.

20

EXHIBIT D. 1.

No. 184 Montclair, N. J. Feb. 13 1920.

2-B BANK OF MONTCLAIR 55-184

Pay to the order of Henry Bros. $700.00
Seven Hundred and 00/100 Dollars
Collectible at par through the Federal Reserve Bank of New York.

30

MARJORIE G. STEVENS.

(Endorsed): "Pay to the order of Natl. Newark & Essex Banking Co. Newark, N. J. Henry Bros. & Co.

(Usual rubber stamped bank endorsements.)

40

Defendant's Exhibits.

EXHIBIT D. 2.

HENRY BROS. & CO.
71 Broadway, New York

Newark Office
790 Broad Street
Kinney Building
Newark, N. J. November 17th, 1919.

Dr. L. R. Stevens

We have this day bought for your account and risk

Quantity	Description	Price	Name
50	St. Paul	44⅝	.....

EXHIBIT D. 3.

No. 860 Newark, N. J. May 6 1919

NEWARK TRUST COMPANY 55-20

Pay to the
order of Franklin Motor Car Co. $2818.90
Twenty Eight hundred, eighteen and 90/100
Dollars

MARJORIE G. STEVENS.

(Stamped on face): "No Protest."

(Endorsed): Pay to the order of the National Newark & Essex Banking Co. Newark, N. J. Franklin Motor Car Co.

(Usual rubber stamped bank endorsements.)

Defendant's Exhibits.

No. 861 Newark, N. J. May 6 1919

NEWARK TRUST COMPANY 55-20

Pay to the
order of Franklin Motor Car Co. $14.40
Fourteen and 40/100 Dollars

MARJORIE G. STEVENS.

(Stamped on face): "No Protest."

(Endorsed): Pay to the order of the National Newark & Essex Banking Co. Newark, N. J. Franklin Motor Car Co.

(Usual rubber stamped bank endorsements.)

No. 862 Newark, N. J. May 14 1919

NEWARK TRUST COMPANY 55-20

Pay to the
order of Franklin Motor Car Co. $13.35
Thirteen and 35/100 Dollars

MARJORIE G. STEVENS.

(Stamped on face): "No Protest."

(Endorsed): Pay to the order of the National Newark & Essex Banking Co. Newark, N. J. Franklin Motor Car Co.

(Usual rubber stamped bank endorsements.)

No. 867 Newark, N. J. June 6 1919

NEWARK TRUST COMPANY 55-20

Pay to the
order of Payne, Stevens & Newcombe $111.68
One hundred, Eleven and 68/100 Dollars

MARJORIE G. STEVENS.

(Endorsed): Pay to the order of The Chatham and Phenix National Bank. Payne, Stevens & Newcombe.

(Usual rubber stamped bank endorsements.)

Defendant's Exhibits.

EXHIBIT D. 4.

Montclair N. J. Nov. 18, 1919 No. 163
(2-B) BANK OF MONTCLAIR

Pay to the
order of Franklin Motor Car Co. $1350.51
Thirteen Hundred, fifty and 51/100 Dollars
MARJORIE G. STEVENS.

Collectible at par through the Federal Reserve Bank of New York or the collection department of the New York Clearing House.

(Endorsed): Pay to the order of the National Newark & Essex Banking Co. Newark, N. J. Franklin Motor Car Co.

(Usual rubber stamped bank endorsements.)

EXHIBIT D. 5.

Montclair, N. J. Nov. 28 1919. No. 165
(2-B) BANK OF MONTCLAIR

Pay to the
order of Marjorie G. Stevens $4292.28
Forty-two hundred, Ninety-two & 28/100 Dollars
MARJORIE G. STEVENS.

Collectible at par through the Federal Reserve Bank of New York or the collection department of the New York Clearing House.

(Stamped on face): "Certified at the request of the maker, Nov. 28, 1919. Bank of Montclair." (signed)————————"

"Not Over Five Thousand 5000"

(Endorsed): "Marjorie G. Stevens."

(Usual rubber stamped bank endorsements.)

Defendant's Exhibits.

EXHIBIT D. 7.

No. 866 ..... Newark, N. J. June 2 1919

NEWARK TRUST COMPANY 55-20

Pay to the
order of Dr. Firth, or Lum, Tamlyn &
Colyer $169.07

One hundred, sixty nine and 07/100 Dollars

In full payment note & all
claims to date.

MARJORIE G. STEVENS.

(Stamped on face): "Certified at request of holder Jun 9 1919 Newark Trust Co. Newark, N. J. (signed) ————————"

"Pay $169 and 07 cts."

(Endorsed): "For deposit with National State Bank in the name of Lum, Tamblyn & Colyer."

(Usual rubber stamped bank endorsements.)

EXHIBIT D. 8.

$3000.00 Hackensack N. J. May 6th, 1919.

One month after date I promise to pay to the order of The Hackensack Trust Co.

Three thousand Dollars

At The Hackensack Trust Company
Hackensack, N. J.

Value received with interest.

MARJORIE G. STEVENS.

(Cancelled documentary stamps on back.)

(Written across face): "Cancelled."

Defendant's Exhibits.

EXHIBIT D. 9.

$350. .....1918.

Three months after date I promise to pay to the order of Frederic Beggs
Three hundred fifty Dollars
at Hamilton Trust Company, Paterson, N. J.
Value received

MARJORIE G. STEVENS.

No..... Due.....

(Written on face): "Cancelled F. Beggs."

EXHIBIT D. 10.

$500.00 Paterson, N. J. Feb. 27, 1919.

Three months after date I promise to pay to the order of myself
Five hundred and 00/100 Dollars
at Hamilton Trust Co., Paterson, N. J.
Value received

MARJORIE G. STEVENS.

No..... Due.....

(Endorsed): Marjorie G. Stevens.

Defendant's Exhibits.

EXHIBIT D. 12.

No. 719 Montclair, N. J. Feby 15th 1921

(2-B) BANK OF MONTCLAIR 55-184

Pay to the
order of J H Conner Coal Co $11 75/100
Eleven & 75/100 Dollars
Collectible at par through the Federal Reserve Bank of New York.

MARJORIE G. STEVENS.

(Endorsed): "Pay the Essex National Bank or order J. H. Connor Coal Co."

(Usual rubber stamped bank endorsements.)

OPINION OF VICE-CHANCELLOR.

Filed June 13, 1924.

IN CHANCERY OF NEW JERSEY.

Between

LUDLOW R. STEVENS,
Petitioner,

and

MARJORIE G. STEVENS, *et al.*,
Defendants.

Submitted May 21, 1924.
Decided June 7, 1924.

Mr. Merritt Lane for petitioner.

Mr. Jacob L. Newman for defendant Marjorie G. Stevens.

Mr. Andrew Van Blarcom for co-respondent John H. Paswaters.

FOSTER, *V.-C.:*

The litigation between these parties began in February, 1921, when Mrs. Stevens filed a bill for maintenance. Petitioner filed an answer thereto, denying the charge; thereupon the bill was amended, to charge extreme cruelty, and asking for a divorce from bed and board, and Mr. Stevens in his answer denied this charge. This action was never brought on for hearing.

In August, 1922, petitioner filed his petition for a divorce on the ground of adultery. Mrs. Stevens filed an answer thereto denying the charge and in a counter-claim charged petitioner with desertion and asked for relief thereon, and in

addition pleaded recrimination and also charged petitioner with certain acts of adultery, at his office, with one Marie Sutz, on December 23 and 24, 1920; on January 14, 15 and 16, 1921, and on every day between April 1 and April 8, 1921. At the hearing these charges of adultery were apparently abandoned, and no proof was offered to establish them, and petitioner filed an answer denying all these charges.

There was no formal consolidation of these various causes, but counsel at the hearing agreed that they should be tried together. The hearing then proceeded, the petitioner first assuming the burden of proving the allegations of the petition that the defendant committed adultery on August 12 and 13, 1922, on a steamer going from New York to Bermuda, and between August 14 and August 22, 1922, at Bermuda, and on August 22 and 23, 1922, on a steamer sailing from Bermuda to New York, and on August 25, 1922, at 79 Midland Avenue, in Montclair, in this state.

The marriage and residence of the parties have been duly established, and all of the parties are between 30 and 35 years old.

The record is a voluminous one; the proofs offered to establish the allegations of the petition are substantially as follows:

Petitioner is engaged in the optical business; his wife has, or had, independent means through inheritance and she owns the house at 79 Midland avenue, Montclair.

A child was born on July 2, 1914. From about 1917 the parties had occasional quarrels over men who called on Mrs. Stevens, or who boarded with them, and particularly over her relations with one known as Edward S. Burton, and over

petitioner's relation with Miss Sutz, who was employed in his office. Although they continued to occupy the residence in Montclair for some time after that, the parties appear to have ceased cohabitation and to have lived separately since January, 1921.

Mrs. Stevens met Paswaters at a party in February, 1922, and met him at social affairs occasionally thereafter. There was some estrangement between Paswaters and his wife over his acquaintance with Mrs. Stevens and other women during the spring and summer of 1922, and they separated in September of that year.

In August, 1922, Paswaters had decided to spend his vacation in Canada; when Mrs. Stevens requested him to secure passage for her for a trip to Bermuda, he bought the tickets, for which she paid him, and at the same time he cancelled his Canadian trip and secured passage for himself on the same steamer on which Mrs. Stevens sailed, without notifying his wife of the change in his plans. They returned to New York from Bermuda on the afternoon of August 24, and went to her residence on Midland avenue, Montclair. Dr. Stevens and his witnesses had kept them under observation from the hour of their arrival in New York until about 4:30 A. M. on August 25, when Dr. Stevens, accompanied by Detective Corbally and several others, effected an entrance into the house and found Mrs. Stevens and Paswaters in bed together. He was in pajamas and she was wearing some kind of night clothes. His clothing was found in another room and part of it was taken and offered as an exhibit. Paswaters requested the detectives to leave his golf knickerbockers as he wished to play golf the following day and also re-

quested them to fasten the door through which they had entered, when they went out, and Mrs. Stevens asked Corbally how they got in and what they wanted. She also told Dr. Stevens it was a dirty trick for him to do, and he told her he thought he was doing the right thing, and was justified in what he was doing.

There was no maid and no one else in the house at the time this raid was made.

The following day the defendants called on the representative of an estate in which Mrs. Stevens has an interest and told him what had happened and later they went to friends of Mrs. Stevens in Connecticut where they also told of the visit by Dr. Stevens, and the detectives.

In addition to a general and complete denial of all petitioner's charges and evidence defendants show that Mrs. Stevens knew Paswaters intended to spend his vacation in Canada; that she objected when she learned that Paswaters had booked passage on the same ship to Bermuda; that they occupied separate staterooms on the steamer and also occupied different rooms in the hotel during their stay of a week in Bermuda; that Mrs. Stevens on the entire trip on the steamer was ill from sea-sickness and also suffered from severe hemorrhages, which was customary during her period of menstruation; that on their arrival in New York, Mrs. Stevens was seriously ill and that because of this Mr. Paswaters assisted her to her home in Montclair; that upon their arrival there, they tried unsuccessfully to get someone to look after her, and that Paswaters was therefore obliged, so he thought, to remain all night alone in the house with her, in order to render her any assistance he could; that they occupied separate bedrooms,

with the door of each room closed, and Paswaters states that at this time he did not know Dr. Stevens and presumed that she was divorced. He further testifies that at the time Dr. Stevens and the detectives entered the house he was asleep and when the noise of their entrance awoke him he found Mrs. Stevens sitting on his bed, and when she attempted to get up the detective pushed her into a chair, but tried to push her down on the bed in which he was lying.

He further states that when he found her sitting on, or by his bed, he thought it was a frame-up, that she was acting in collusion with Dr. Stevens to blackmail him and to get money from him.

Defendant also offered evidence to show that Mrs. Stevens' period of menstruation was about the second or third week in the month; that at these times she was very ill and was subject to severe hemorrhages and that it was therefore impossible for her to have had intercourse with Paswaters on any of the dates named, and particularly on August 24 or 25, when the so-called raid was made.

This summary presents substantially the evidence offered on the part of the defendants, as no particular effort was made, aside from the testimony of Mrs. Stevens which is largely uncorroborated, to establish any of the allegations of her bill, her cross-petition, or her amended cross-petition.

From my consideration of the entire record, I find the proofs to clearly and convincingly establish the charges of adultery alleged in the petition, and I will advise a decree for the petitioner and will also advise that the bill, cross-petition and amended cross-petition be dismissed.

Decree Nisi.

DECREE NISI.

Filed June 17, 1924.

IN CHANCERY OF NEW JERSEY.

Between LUDLOW R. STEVENS, *Petitioner,* *and* MARJORIE G. STEVENS, *et al.*, *Defendants.*	*On Petition for Divorce.* *Decree Nisi.*

This cause coming on to be heard in the presence of Merritt Lane, of counsel with the petitioner, and Jacob L. Newman, of counsel with the defendant and cross petitioner, and Andrew Van Blarcom, of counsel with John H. Paswaters, intervening defendant, on petition, answer, cross petition and answer thereto, and the answer of the intervening defendant, and oral proofs taken in open court; whereupon, and upon duly considering the said pleadings and proofs and hearing and considering the argument of counsel; from all of which it now appears satisfactorily to the Chancellor, that the petitioner, Ludlow R. Stevens, and the defendant, Marjorie G. Stevens, were lawfully joined in the bonds of matrimony on or about the 29th day of July, 1912, and that the defendant, Marjorie G. Stevens, has been guilty of the adultery charged against her in the said petition, and that at the time the cause of action for divorce therefore arose the said petitioner, Ludlow R. Stevens, and the said defendant, Marjorie G. Stevens,

were bona fide residents of this State, and both the said Ludlow R. Stevens and the said Marjorie G. Stevens have continued so to be down to the commencement of this action; and it further appearing that jurisdiction herein has been acquired by personal service of process upon the said defendant, Marjorie G. Stevens, within this State; and it further appearing satisfactorily to the Chancellor that the said petitioner, Ludlow R. Stevens, is not guilty of the charges made against him in the cross petition and the amendments thereof;

It is, on this 17th day of June, 1924, by his Honor, Edwin Robert Walker, Chancellor of the State of New Jersey, ORDERED, ADJUDGED and DECREED, and the said Chancellor by virtue of the power and authority of this Court, and of the acts of the Legislature in such case made and provided, doth hereby ORDER, ADJUDGE and DECREE that the said petitioner, Ludlow R. Stevens, and the said defendant, Marjorie G. Stevens, be divorced from the bond of matrimony for the cause aforesaid, and the said parties, and each of them, be freed and discharged from the obligations thereof, unless sufficient cause be shown to the Court why this decree should not be made absolute, within six months from the date hereof.

And it is further ORDERED, ADJUDGED and DECREED, that the intervening defendant, John H. Paswaters, do pay to the said petitioner his costs of this suit, incurred and to be incurred, to be taxed, in which said costs there shall be included the cost of the transcript and copy thereof, amounting to the sum of $318.00, and that the said petitioner do have execution therefor, according to the practice of this Court.

Decree Nisi.

And it is further ORDERED, ADJUDGED and DECREED, that the matter of the custody of the child of the marriage and its maintenance and support be reserved for further proceedings.

E. R. WALKER,
C.

Respectfully advised,

JOHN E. FOSTER,
V.-C.

Notice.

NOTICE AND AFFIDAVIT.

Filed June 30, 1924.

IN CHANCERY OF NEW JERSEY.

Between LUDLOW R. STEVENS, *Petitioner,* *and* MARJORIE G. STEVENS, *et al.*, *Defendants.*	*On Petition, etc.* *Notice.*

To Merritt Lane, Esq., solicitor for petitioner, Prudential Bldg., Newark, N. J.

SIR:

PLEASE TAKE NOTICE that on Tuesday, the twenty-fourth day of June, nineteen hundred and twenty-four, at the Chancery Chambers, in the City of Newark, at ten o'clock in the forenoon of that day or as soon thereafter as counsel can be heard, I will apply to the Honorable JOHN E. FOSTER, one of the Vice-Chancellors of the State of New Jersey, for an order to place the possession, control and custody of LUDLOW R. STEVENS, JR., child of the marriage of the above parties, with MARJORIE G. STEVENS, one of the defendants above named, and will at the same time and place apply for an order fixing the amount to be paid by the petitioner for the support and maintenance and education of the said

infant child, and for such other and further relief as to the Court may seem just and proper.

Dated June 19, 1924.

Yours, etc.,

JACOB L. NEWMAN,
Solicitor for and of Counsel with the
Defendant, Marjorie G. Stevens.

IN CHANCERY OF NEW JERSEY.

Between LUDLOW R. STEVENS, *Petitioner,* *and* MARJORIE G. STEVENS, *et al.*, *Defendants.*	*On Petition, etc.* *Affidavit.*

STATE OF NEW JERSEY, }
COUNTY OF ESSEX. } *ss.*

MARJORIE G. STEVENS, being duly sworn on her oath according to law, deposes and says:

That she is one of the defendants in the above-entitled proceedings and has the possession, custody and control of LUDLOW R. STEVENS, JR., infant child of the petitioner and deponent.

That she has had said custody at all times since the birth of the said child and that no time has the petitioner ever evidenced any desire or intent to assume the control, possession or custody of said child.

That said infant, LUDLOW R. STEVENS, JR., is of the age of ten years and has finished the

fourth grade in the Grammar Schools of East Orange and is about to have a vacation for the months of July, August and part of Sepember.

That the above-entitled proceedings have been terminated by the entry of a final decree in favor of the petitioner and against your deponent, but that the custody of the said infant has not as yet been determined by this Court.

That since the marriage of deponent to the said LUDLOW R. STEVENS she has inherited the sum of thirty-five thousand dollars ($35,000.00), all of which, with the exception of an equity in the property now owned by deponent which does not exceed eight thousand dollars ($8,000.00), has been spent by her for the maintenance and support of the petitioner, LUDLOW R. STEVENS, and for the maintenance and support and education of the said infant child, and during all these years deponent has been able to afford the expense of caring for said infant during his school life during the winter months and has been able to send him to a camp during the summer months.

That deponent has expended her last cash moneys and is absolutely without funds of any kind, character or description, and while she has the equity in the house at 79 Midland avenue, Montclair, New Jersey, she is unable to realize sufficient to sustain herself and properly maintain and educate her infant son, LUDLOW R. STEVENS, JR.

That it is the intention of your deponent to seek employment in order to properly maintain herself and continue to make a home for her infant son, but it is impossible for her to earn sufficient to afford to her infant son a proper education and as she does not desire him to be

left upon the city streets during the summer she is anxious to enroll her said infant son in Camp Wonposet, at Banton Lake, Connecticut, which camp is conducted by St. James Episcopal Church, East Seventy-first street, New York City, at which place deponent feels that the said infant child will be under proper and competent leadership and which place she believes to be in the best interests of said infant child; that the tuition fee and maintenance at said camp will cost approximately five hundred dollars ($500.00). This is the same camp at which the said infant child attended during the summer of nineteen hundred and twenty-three, at deponent's expense as she at that time still had a small sum of money left, which she used for that purpose.

That your deponent desires in the fall to place the infant child in some school where his time can be occupied during the day so that she may be relieved during the daytime of the care of said infant and be permitted to seek employment and she has ascertained that the approximate cost thereof will be about one hundred and fifty dollars ($150.00) per month and this intention on the part of your deponent is for the purpose of keeping the child from the streets during the hours that he is not actually in attendance at school, but so that she will be able to control him during the evening as she has in the past.

That your deponent has been informed by her family physician, Dr. Cahill, that as a result of injuries sustained by the infant child in an automobile accident about a year and a half ago, it is imperative that his tonsils and adenoids be removed so that the health of the infant child will not be further impaired and deponent has been

informed that the costs of this necessary operation will be approximately one hundred dollars ($100.00).

Deponent further says that having spent her entire legacy she is forced to make this application, but in the event that the petitioner, LUDLOW R. STEVENS, will repay to deponent the sums of money which he has received from her out of the legacy above referred to she stands ready and willing to withdraw this application entirely.

Deponent is informed and verily believes that the petitioner, LUDLOW R. STEVENS, is engaged in a lucrative practice as an optician in the City of Newark and has an income exceeding five thousand dollars ($5,000.00) net a year, which information is based upon the fact that for several years prior to their separation deponent prepared in one instance and inspected in others his income tax return, all of which returns were made upon forms supplied by the United States Government for the return of net incomes of more than five thousand dollars ($5,000.00), and that out of said business deponent is informed that said LUDLOW R. STEVENS maintains two automobiles as well as a home for himself and that said automobiles are not necessary in the conduct of his business as all of his business is conducted at his office in the Kinney Building, in the City of Newark; that said automobiles your deponent is informed are a Durant sedan and a Ford coupe and deponent says that the means of the said LUDLOW R. STEVENS are sufficient for him to raise and pay such sums as may be necessary for the purposes aforesaid.

MARJORIE G. STEVENS.

Affidavit of Marjorie G. Stevens.

Subscribed and sworn to before
me this 20th day of June,
1924.

SAUL J. ZUCKER,
An Attorney at Law of N. J.

Service of the within notice and affidavit is hereby acknowledged this 21st day of June, 1924.

MERRITT LANE,
Solicitor for and of Counsel
with the Petitioner.

ORDER AS TO CUSTODY.

Filed July 25, 1924.

IN CHANCERY OF NEW JERSEY.

Between LUDLOW R. STEVENS, *Petitioner,* *and* MARJORIE G. STEVENS, *et al.*, *Defendant.*	*On Petition, etc.* *Order.*

Application having been made to the undersigned for an order to place the possession, control and custody of Ludlow R. Stevens, Jr., the child of the marriage of the above-named parties, with Marjorie G. Stevens, one of the defendants, and for an order fixing the amount to be paid by the petitioner for the support, maintenance and education of the said infant child, and said matter having duly come on to be heard in the presence of Lionel P. Kristeller, appearing for Jacob L. Newman, of counsel with the defendant, Marjorie G. Stevens, and Merritt Lane, of counsel with the petitioner, and the petitioner making no objection to the entry of this order, except to advise the Court that the defendant, Marjorie G. Stevens, had taken an appeal from the decree *nisi* entered in this cause to the Court of Errors and Appeals, and the Court being satisfied of the necessity of this application, it is on this day of June, 1924,

Order as to Custody.

ORDERED, ADJUDGED and DECREED that until otherwise ordered the control, possession and custody of Ludlow R. Stevens, Jr., child of the marriage of the above-named parties, be given and committed to the said defendant, Marjorie G. Stevens, subject, nevertheless, to the right of the said petitioner to visit his said child during the hours of ten o'clock in the forenoon and five o'clock in the afternoon, Saturday and Sunday of each week at the residence of the defendant, Marjorie G. Stevens, and it is further

ORDERED, that the said defendant, Marjorie G. Stevens, shall do all things necessary to afford the said petitioner the enjoyment of the aforesaid right of visitation whenever by him requested, and it is further

ORDERED, ADJUDGED and DECREED that the said petitioner, Ludlow R. Stevens, pay unto the said defendant, Marjorie G. Stevens, for the support, maintenance and education of the said minor child the sum of Fifteen Dollars ($15.00) per week, said payments to commence with the payment of June 13, 1924, and to be made payable on Friday of each and every week thereafter until the further order of this Court.

E. R. WALKER,
C.

Respectfully advised,

JOHN E. FOSTER,
V.-C.

A true copy.

THOMAS BARBER,
Clerk.

NOTICE OF APPEAL.

Filed June 23, 1924.

IN CHANCERY OF NEW JERSEY.

Between LUDLOW R. STEVENS, *Petitioner,* *and* MARJORIE G. STEVENS, *et al.*, *Defendants.*	*On Petition, etc.* *Notice of Appeal.*
Between MARJORIE G. STEVENS, *Complainant,* *and* LUDLOW R. STEVENS, *Defendant.*	*On Bill, etc.* *Notice of Appeal.*

Marjorie G. Stevens, one of the above-named defendants, hereby appeals from the decree *nisi* filed in the first cause above entitled, dated June 17, 1924, and from each and every part thereof, and from the decree of dismissal filed in the second cause above entitled, dated June 17, 1924, and from each and every part thereof, to the Court of Errors and Appeals in the last resort in all causes.

Dated June 20, 1924.

JACOB L. NEWMAN,
Solicitor for and of Counsel with the
Defendant, Marjorie G. Stevens.

Notice of Appeal of John H. Paswaters.

I conceive there is good cause for appeal in the above-stated cause.

LIONEL P. KRISTELLER,
Of Counsel.

Service of the within notice is hereby acknowledged this 20th day of June, 1924.

MERRITT LANE,
Solicitor for and of Counsel
with Ludlow R. Stevens.

NOTICE OF APPEAL OF JOHN H. PASWATERS.

July 7, 1924.

IN CHANCERY OF NEW JERSEY.

Between LUDLOW R. STEVENS, *Petitioner,* *and* MARJORIE G. STEVENS, *Defendant,* *and* JOHN H. PASWATERS, *Intervening Defendant,*	*Notice of Appeal.* *On Petition.*

John H. Paswaters, the above-named intervening defendant, hereby appeals from the decree *nisi* filed in this cause, and dated June 17, 1924,

and from every part thereof, to the Court of Errors and Appeals in the last resort of all causes.

RIKER & RIKER,
Solicitors for and of Counsel
with Intervening Defendant.

Dated June 25, 1924.

I conceive there is good cause for appeal in the above-stated cause.

ANDREW VAN BLARCOM,
Of Counsel.

Due and legal service of the within notice of appeal is hereby acknowledged this 26th day of June, 1924.

MERRITT LANE,
Solicitor for Petitioner,
Ludlow R. Stevens.

PETITION OF APPEAL OF MARJORIE G. STEVENS.

Filed.

NEW JERSEY COURT OF ERRORS AND APPEALS.

Between LUDLOW R. STEVENS, *Petitioner-Respondent,* *and* MARJORIE G. STEVENS, *et al.*, *Defendants-Appellant.*	*On Appeal, etc.*
Between MARJORIE G. STEVENS, *Complainant-Appellant,* *and* LUDLOW R. STEVENS, *Defendant-Respondent.*	*Petition on Appeal.*

To the Honorable, the Court of Errors and Appeals in the Last Resort in All Causes:

The petition of Marjorie G. Stevens, one of the defendants named in the cause first above entitled and the complainant in the second cause above entitled, residing in the City of East Orange, County of Essex and State of New Jersey, as appellant, respectfully shows:

1. That your petitioner finds herself aggrieved by a decree *nisi* made in the Court of Chancery of New Jersey by his Honor, Edwin Robert Walker, Chancellor of the State of New

Jersey, in the cause first above entitled on the 17th day of June, 1924, in that, the said decree recites and adjudges that your petitioner is guilty of the adultery charged against her in the petition filed in said cause and that the petitioner, Ludlow R. Stevens, the respondent herein, is not guilty of the charges made against him in the cross-petition and the amendments thereof, and doth decree that the marriage existing between your petitioner and the respondent, Ludlow R. Stevens, be dissolved for the cause aforesaid.

And your petitioner appeals from the said decree and from each and every part thereof on the ground that the same is erroneous for that the said Chancellor should have recited and adjudged that your petitioner was not guilty of adultery and should have dismissed the petition of the respondent, and should have adjudged that the respondent, Ludlow R. Stevens, was guilty of the charges made against him in the cross-petition and the amendments thereof and should have made a decree in favor of your petitioner, the appellant herein, and against the said petitioner, the respondent on this appeal.

2. That your petitioner finds herself aggrieved by a decree final made in the Court of Chancery of New Jersey by his Honor, Edwin Robert Walker, Chancellor of the State of New Jersey, in the cause second above entitled, on the 17th day of June, 1924, and that the said decree recites and adjudges that your petitioner has not sustained the allegations of her bill of complaint and is not entitled to the relief therein prayed and doth decree that your petitioner's said bill of complaint be dismissed.

this respondent is advised and believes, that the said decree *nisi* is agreeable to equity, and he prays that the same may be affirmed, with costs to be adjudged to this respondent.

MERRITT LANE,
Solicitor and Counsel with Respondent.

NOTICE AND AFFIDAVIT.

Filed.

NEW JERSEY COURT OF ERRORS AND APPEALS.

Between

LUDLOW R. STEVENS,
Petitioner-Respondent,

and

MARJORIE G. STEVENS, *et al.*,
Defendants-Appellant.

On Appeal, etc.

Between

MARJORIE G. STEVENS,
Complainant-Appellant,

and

LUDLOW R. STEVENS,
Defendant-Respondent.

Notice.

To Merritt Lane, Esq., solicitor for respondent, Prudential Bldg., Newark, N. J.:

SIR:

PLEASE TAKE NOTICE that on Thursday, the 26th day of June, 1924, before the Court of Er-

Notice.

rors and Appeals, at Trenton, at the opening of the court on that day, or as soon thereafter as counsel can be heard, I will move the said court for an order in this cause requiring Ludlow R. Stevens, the respondent above named, to pay to Marjorie G. Stevens, the appellant in the above-entitled cause, a reasonable sum for her support and maintenance and that the child of their marriage, now in her custody, pending this appeal, and for a reasonable sum to be paid to her counsel for prosecuting this appeal, and that the respondent be required to furnish a printed State of the Case and printed points required by the rules of this court and that the said appellant be relieved from making a deposit for security for costs required by said rules, and annexed hereto are affidavits upon which said motion will be made.

Dated June 20, 1924.

Yours, etc.,

JACOB L. NEWMAN,
Solicitor for and of Counsel
with the Appellant.

And your petitioner appeals from said final decree and from each and every part thereof on the ground that the same is erroneous and that the Chancellor should have found and adjudged the several allegations of your petitioner's bill of complaint to have been proven and the respondent to have been guilty of the cruelty and continued and obstinate desertion for the term alleged in your petitioner's bill of complaint, and should have ORDERED, ADJUDGED and DECREED that your petitioner be entitled to a decree for maintenance and support in accordance with the prayer of the bill of complaint and that your petitioner have such other and further relief as was prayed for in said original bill of complaint.

3. Your petitioner, therefore, prays that the said decree *nisi* and the said final decree of dismissal may be reversed, rescinded and for nothing holden, and that your petitioner may have such further relief as shall be just and proper.

Dated June 20, 1924.

JACOB L. NEWMAN,
Solicitor for and of Counsel
with the Petitioner.

Service acknowledged June 21, 1924.

MERRITT LANE.

ANSWER TO PETITION OF APPEAL.

Filed.

NEW JERSEY COURT OF ERRORS AND APPEALS.

Between

LUDLOW R. STEVENS,
Petitioner-Respondent,

and

MARJORIE G. STEVENS, *et al.*,
Defendants-Appellant.

On Appeal, &c.

Between

MARJORIE G. STEVENS,
Complainant-Appellant,

and

LUDLOW R. STEVENS,
Defendant-Respondent.

Answer to Petition of Appeal.

The answer of the above-named respondent to the petition of appeal of the above-named appellant.

This respondent, not acknowledging all or any of the matters which in the said petition of appeal are contained, to be true, for answer thereto, nevertheless, says and admits, that a decree *nisi* was, on the 17th day of June, 1924, made and entered in the Court of Chancery, in the cause for that purpose mentioned in the said petition, as is therein stated; but as to the substance and form thereof, this respondent prays to refer thereto when the same shall be produced. And

Affidavit of Marjorie G. Stevens.

NEW JERSEY COURT OF ERRORS AND APPEALS.

Between

LUDLOW R. STEVENS,
Petitioner-Respondent,

and

MARJORIE G. STEVENS,
Defendant-Appellant.

On Appeal, etc.

Between

MARJORIE G. STEVENS,
Complainant-Appellant,

and

LUDLOW R. STEVENS,
Defendant-Respondent.

Affidavit.

STATE OF NEW JERSEY,
COUNTY OF ESSEX. } *ss.*

MARJORIE G. STEVENS, being duly sworn on her oath according to law, deposes and says that she is the appellant in the above-entitled causes, having duly filed her notice of appeal and petition of appeal in accordance with the rules of this court and said appeals are now pending.

That the said appeals are taken:

(a) From a decree *nisi* in the cause first above set out, in which the Chancellor has adjudged and decreed that your deponent is guilty of the charge of adultery alleged by the respondent in his said petition and doth decree that the marriage existing between the appellant and respondent be dissolved for the cause aforesaid.

(b) From a final decree entered in the cause second above entitled, which recites and adjudges that your deponent has not sustained the allegations of her bill of complaint for separate maintenance and is not entitled to the relief therein prayed, and doth decree that your deponent's said bill of complaint be dismissed.

That both of said decrees were entered on the 17th day of June, 1924, and both of said decrees your deponent alleges to be erroneous, in that, in the cause first above entitled the said decree should have adjudged that your deponent was not guilty of the adultery set forth in the petition and that the respondent, Ludlow R. Stevens, was guilty of the cruelty and desertion charged against him in the cross-petition filed in said cause; and that in the second cause above entitled the said decree should have adjudged that your deponent had sustained the allegations of her said bill of complaint and should have decreed maintenance and support for your deponent by the said respondent.

That the said respondent, Ludlow R. Stevens, is not now paying any alimony or support to your deponent and she has no funds whatsoever and is destitute of means to support herself and the child of her marriage and to prosecute her said cause in this court as she is unable to pay for the printing of the record or the printed points on appeal as required by the rules of this court as she has expended all of her moneys in the preparation of her case for trial and has absolutely no means of her own wherewith to pay for said printing or to pay the deposit for security for costs as required by the rules of this court.

Affidavit of Marjorie G. Stevens.

And your deponent further says and verily believes that her husband is in receipt of a large income in the practice of his profession as optician, which said income is approximately five thousand dollars ($5,000.00) per year, out of which he maintains two automobiles, one a Durant sedan and one a Ford coupe, although his said business does not require the use of an automobile as all of his business is conducted in an office in the Kinney Building, in the City of Newark, and verily believes that her husband's means are amply sufficient for him to raise and pay such sums of money as may be necessary for the purposes aforesaid.

Deponent further says that the appeals herein have been taken in truth and good faith and in the honest belief that the said decrees of the Court of Chancery should be reversed and she has been advised by her said counsel and verily believes that she has a good cause for appeal in the above-entitled causes.

WHEREFORE, your deponent prays that an order may be made directing the respondent, Ludlow R. Stevens, to pay her a proper allowance for her support and maintenance and that of Ludlow R. Stevens, Jr., child of the marriage, now in her custody, pending this appeal; a reasonable sum for counsel fees for prosecuting this appeal, that she may be relieved from making the deposit for security for costs required by the rules of this court, and that the respondent may be required to furnish the printed state of the case and the printed points required by the rules of this court.

MARJORIE G. STEVENS.

Affidavit of Marjorie G. Stevens.

Subscribed and sworn to before
me this 20th day of June, 1924.

SAUL J. ZUCKER,
An Attorney at Law of N. J.

STATE OF NEW JERSEY,
COUNTY OF ESSEX. } *ss.*

SAUL J. ZUCKER, being duly sworn on his oath according to law, says that he served a copy of the within notice and affidavit upon Merritt Lane, solicitor for Ludlow R. Stevens, personally, by handing him a copy and informing him of its contents.

SAUL J. ZUCKER.

Subscribed and sworn to
June 21, 1924.

FLORA MILLER,
A Notary Public of N. J.

AFFIDAVIT OF LUDLOW R. STEVENS.

Filed.

NEW JERSEY COURT OF ERRORS AND APPEALS.

Between

LUDLOW R. STEVENS,
Petitioner,

and

MARJORIE G. STEVENS,
Defendant.

Affidavit.

STATE OF NEW JERSEY, }
COUNTY OF ESSEX. } *ss.*

LUDLOW R. STEVENS, of full age, being duly sworn according to law, upon his oath deposes and says:

I am the respondent in the appeals in the above-entitled matter.

Mrs. Stevens and myself were married July 29, 1912. There is one child, ten years old. The separation took place in January, 1921. In February, 1921, through Kalisch & Kalisch, her solicitors, my wife filed a bill for maintenance, upon the institution of which I was arrested upon a writ of *ne exeat*. I filed an answer. In the month of March, 1921, my wife through Kalisch & Kalisch, her solicitors, filed a supplemental petition in which she set forth that she was obliged to leave me because of cruelty and in which she prayed for a divorce from bed and board. I filed an answer. This suit was set down for hearing but not tried.

Affidavit of Ludlow R. Stevens.

On or about August 25, 1922, I, accompanied by five or six people, at 4:30 in the morning, entered the house where my wife was residing, owned by her in Montclair, New Jersey, and found my wife and one John H. Paswaters in bed together. The information upon which I acted was conveyed to me by the wife of Mr. Paswaters. I found that my wife and Mr. Paswaters sailed to return from Bermuda on or about August 12 1922, and that upon their arrival they immediately proceeded to Mrs. Stevens' house as aforesaid. My wife filed an answer denying the charges and a cross-petition charging me with adultery on the 23rd and 24th days of December, 1920, at my office with a Miss Marie Sutz. To that cross-petition I filed an answer whereupon my wife filed an amended answer and cross-petition charging cruelty upon my part and likewise abandonment by me on the 17th day of January, 1921, and for an absolute divorce. During the course of the proceedings my wife has been represented by several counsel, Kalisch & Kalisch, Eugene Turton, and I am informed, by Lum, Tamblyn & Colyer and finally Jacob L. Newman, who tried the case in the Court of Chancery. The co-respondent filed an answer and appeared by Mr. Van Blarcom. The case came up to be heard before Vice-Chancellor Foster on the 27th of June, 1923; 5th of December, 1923; 14th of January, 1924; 16th of January, 1924 and the 13th of February, 1924, and 636 pages of testimony were taken. The Vice-Chancellor decided the case upon the 7th day of June, 1924, and I annex hereto a copy of his conclusions. On the same day that notice was given of an application before the Court of Errors and Appeals for an allowance to my wife and her

child and for custody, etc., a notice was given returnable before Vice-Chancellor Foster on the 25th of June, 1924, to settle the custody of the child and for the support of the child and on that application in view of the appeal I agreed that the custody of the child remain with Mrs. Stevens subject to my right of visitation and the Court made an order directing the child to remain in the custody of Mrs. Stevens pending the appeal, and directed me to pay $15.00 a week for its support.

Upon the trial of the case both my wife and Mr. Paswaters admitted that they had gone to Bermuda on the same ship. They admitted that they were in the house in Montclair when I broke in and they admitted that she was in the room occupied by Mr. Paswaters but they contended that she was in that room because she had heard the noise of the breaking in and in her excitement had run to the room. My wife's explanation of the trip to Bermuda is contained in her testimony, page 64 of the Record:

> "I was up at Camp Wonpoint in Bantam Lake, Connecticut, where my son was at a camp; I had been there the entire summer, with the exception of a couple of weekends, and I received a check from the Hackensack Trust Company, executor for my grandfather's estate—a check in the amount of over $90, around $98, that I didn't intend to get, that came impromptu, when they settled some accounts, and I decided that I would use that for a trip before the boy got back from camp, because I knew he was well taken care of, and I couldn't go after he returned from camp, so I was over to Torrington, Connecticut, at Mr. and Mrs. Bonnell's home * * * When Mr. Paswaters called up Mr. Bonnell, and in course of a conversa-

tion I said to Mrs. Bonnell I didn't want to go down to New York to get my ticket, and I said Mrs. Bonnell 'I will ask J. H. if he will kindly get my ticket for me and mail it to Camp and I won't have to go back.' So I asked him to get the ticket and mailed him the check made out to me from the estate of my grandfather, Herman B. Van Riper; re-signed the voucher over to him, and mailed it to him, with a letter."

The letter is not produced, as I recollect it.

"Q Asking him to procure your ticket? A Yes. He said, 'I'll get the ticket and you can send me a check for the amount,' and I refused to allow him to do it; I sent the check to him."

Mr. Paswaters' explanation of the trip to Bermuda is as follows:

"He says that when Mrs. Stevens phoned and asked him to buy her ticket—'* * * and Mr. Leffingwell, who was an associate of mine in business, was in my office when Mrs. Stevens phoned and asked me to buy a ticket.' I said, 'It is a peculiar time to go to Bermuda, in the summer.' He said, 'There are certain flowers that bloom in no other time, that bloom then, and regardless of the heat, if you go to St. George, you always have a cool sea breeze.' "

Mr. Paswaters' explanation of Mrs. Stevens being present in the room when they broke in at 4:30 in the morning is that after he went to bed the next thing that occurred he awoke startled, with some kind of a peculiar noise "and at the same time I tried to prop up in bed. The first I remember seeing there—I was in a dazed condition—was Mrs. Stevens sitting on the edge of the bed and four men in the room. I attempted to raise up in bed and one, the gentleman that

was there at the previous testimony grabbed me, the gentleman sitting in the room, and pushed me back in the bed."

I was fully examined as to my earning capacities and as to my income during the trial and I then said and now say that when we were married in 1912, I was making $35.00 per week and a commission which amounted to about $300.00 a year. That this continued for three and a half years. That the commission increased some but never was over $500.00 a year. That in the year 1916 I made a net income of $1,800.00. That during the year 1917 I made a net income of $2,000.00. That during the year 1918 it was approximately the same. In 1919 I made a net income of $2,500.00. In 1920 I made a net income of $3,000.00. In 1921 I had a net income of $2,650.00. In 1922 I had a net income of $2,800.00 or $2,900.00. In 1923 I had a net income of $3,000.00. In 1924 my receipts are running about the same as they did last year and I do not expect that the net will be in excess of $3,000.00.

I am an opthamologist and ever since my wife has left me I have had great difficulty in my business. During the time that my wife has been away from me almost immediately after she left me, she caused charges to be made against me with the State Board of Medical Examiners charging me with treating the eyes medically and a complaint was made against me and I was arrested on that complaint. I was obliged to retain counsel. The case never came to trial. She also in her testimony in this cause charged me with having bought a certificate or diploma from some medical college in Washington. During the time that she was away from me upon more than one occasion she came to my office and

created disturbances. Upon one occasion as testified to in court, in November, 1920, she came down to my office one evening when I was not there and secured a revolver that I had in my desk, and the next day she came down to my office with the revolver and created such a disturbance with the gun as that she had to be taken out. On the stand she admitted that she went down and she admitted that she had the revolver with her and her excuse for bringing the revolver with her was that she was afraid to leave it home. She charged me with adultery with Miss Sutz, who is employed by me and then upon the trial of the case, abandoned that charge and did not seek to press it. The result of her disturbances and the result of the publicity that I have had, has been practically to ruin my business and it is a wonder to me that under the circumstances I have been able to make any net income at all. I have no money except my earnings. I have already paid out in this case for testimony, the sum of $486. It was extremely difficult for me to raise the money to pay for the testimony and after the testimony was taken and when it was necessary that the Court should have it for its determination, because of my lack of money I could not supply it and months elapsed before I could get it together which delayed the decision of the case. Of course, I wanted the case decided and if there had been any possible way of raising the money, I would have done so.

My wife has independent resources of her own. She owns the house in Montclair which is worth approximately $21,000.00. There was a mortgage of $7,000.00 on this house, but I am informed that she has paid it off. The house is now rented. She rents it for $350.00 a month,

which is $4,100.00 a year. From this source of income she has more than I have net. She received from her grandfather's estate approximately $35,000.00. Some of this she has spent and she has approximately, as I know of, some $9,000.00 worth of bonds. These are Liberty Bonds. In 1921 she bought a new Franklin sedan, which she is now running. She says in her affidavit that she has absolutely no means of her own wherewith to pay for said printing or pay for costs as required by the rules of the court. In an affidavit made at the same time which she used before Vice-Chancellor Foster for the custody of the child, she concedes that she has an equity of $8,000.00 in the house. She says nothing in either affidavit with respect to the renting of the house although the house is rented and she is getting $350.00 a month for it, as I am informed. I understand that she is living within a block of where the co-respondent now resides and that she is paying $90.00 a month rent for three rooms. She has adequate means to pay for the cost of printing and her counsel fees and I have none. She knew the situation that she was in when we were married and a great difficulty has been occasioned by the fact that she has desired to live much more extravagantly than I, who was building up a practice, could afford to live.

I am 35 years of age and she is 33. In my profession even if I had been left alone I would not have been able to get the money to live on as she desires but with this on, my practice has been, to a great extent, ruined.

LUDLOW R. STEVENS.

Affidavit of Ludlow R. Stevens.

Sworn and subscribed to before
me this 25th day of June, 1924.

THOS. H. HAGGERTY,
Commissioner of Deeds for N. J.

STATE OF NEW JERSEY,
COUNTY OF ESSEX. } *ss.*

LUDLOW R. STEVENS, of full age, being duly sworn according to law, upon his oath deposes and says:

In addition to the statements in the affidavit I have heretofore made I say that because of my debts and the effect upon my business because of my wife's conduct I was obliged to go through bankruptcy in 1921. I had nothing at that time and I have gathered together nothing since as I have had no source whatever of income except my earnings from my business.

LUDLOW R. STEVENS.

Sworn and subscribed to before
me this 25th day of June, 1924.

THOS. H. HAGGERTY,
Commissioner of Deeds of N. J.

ORDER FOR PRINTING RECORD.

Filed June 27, 1924.

NEW JERSEY COURT OF ERRORS AND APPEALS.

Between LUDLOW R. STEVENS, *Petitioner-Respondent,* *and* MARJORIE G. STEVENS, *et al.*, *Defendants-Appellant.*	*On Appeal, etc.*
Between MARJORIE G. STEVENS, *Complainant-Appellant,* *and* LUDLOW R. STEVENS, *Defendant-Respondent.*	*Order.*

This matter being opened to the Court by Lionel P. Kristeller, appearing for Jacob L. Newman, of counsel with the appellant, in the presence of D. E. Blankenhorn, appearing for Merritt Lane, of counsel with the respondent, and it appearing that due notice of this application has been given, now upon reading and filing the affidavits offered in this behalf and for good cause shown, it is on this 27th day of June, 1924, on motion of Jacob L. Newman, of counsel with the appellant,

ORDERED, that the respondent shall furnish such printing as the appellant's solicitor shall require

for the purpose of printing the State of Case for use on this appeal, and printed points, to the cost of which points on appeal the respondent shall contribute a sum not exceeding twenty dollars ($20.00), agreeably to the rules of this Court, and it is further

ORDERED, that the appellant be relieved from making the deposit of one hundred dollars ($100) required by the 21st rule of this Court, and it is further

ORDERED, that the solicitor of the appellant may apply for counsel fees on the argument on appeal.

E. R. WALKER,
C. & P. J.

Endorsed:

"Filed June 27, 1924.

THOMAS F. MARTIN,
Clerk."

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PETITION.

Filed August 29, 1922.

In Chancery of New Jersey

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

The petition of Ludlow R. Stevens, of the City of Newark, County of Essex and State of New Jersey, respectfully shows:

1. Your petitioner was lawfully joined in the bonds of matrimony to his present wife, Marjorie G. Stevens, the defendant in this suit, on July 29, 1912, by a Minister of the Gospel, at New York City, County of New York and State of New York.

2. Defendant, since her marriage to your petitioner, and on the twenty-fifth day of August, 1922, committed adultery with J. H. Paswaters, at 79 Midland avenue, Montclair, New Jersey; defendant, since her marriage to your petitioner on the twelfth and thirteenth days of August, 1922, committed adultery with the said J. H. Paswaters, on a steamer going from the harbor of New York to the Island of Bermuda. The defendant, since her marriage to your petitioner, and on each and every day between the fourteenth day of August, 1922, and the twenty-second day of August, 1922, committed adultery with the said J. H. Paswaters at the Island of Bermuda; defendant, since her marriage to your petitioner and on the twenty-second and twenty-third day of August, 1922, committed adultery with the said J. H. Pas-

waters on the steamer going from the Island of Bermuda to the harbor of New York.

3. Petitioner and defendant were bona fide residents of the State of New Jersey when this cause of action arose, and have ever since continued to be bona fide residents of this State down to the time of the commencement of this action, residing at Newark, New Jersey, and the defendant at Montclair, in the County of Essex and State of New Jersey.

4. One child was born of the marriage aforesaid, to wit: Ludlow R. Stevens, Jr., age eight years.

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

And your petitioner will ever pray, etc.

MERRITT LANE,
Solicitor of Petitioner.

Petition.

STATE OF NEW JERSEY, }
COUNTY OF ESSEX. } *ss.*

Ludlow R. Stevens, of full age, being duly sworn, on his oath according to law deposes and says: I am the petitioner named in the foregoing petition; my said petition is not made by any collusion between the defendant and myself, but in truth and good faith, for the causes set forth in the petition.

LUDLOW R. STEVENS.

Sworn and subscribed to before
me this 28th day of August,
A. D. 1922.

MAURICE J. BREEN,
Master in Chancery of New Jersey.

ANSWER OF INTERVENOR.

Filed February 28, 1923.

IN CHANCERY OF NEW JERSEY.

Between	
LUDLOW R. STEVENS, *Petitioner,*	
and	*On Petition, &c.*
MARJORIE G. STEVENS, *Defendant,*	*Answer of Intervenor.*
and	
J. H. PASWATERS, *Intervening as Defendant.*	

The answer of J. H. Paswaters, admitted as a defendant, to the petition of Ludlow R. Stevens, petitioner.

This defendant, answering so much of the petition as he is advised is material for him to answer, says:

He denies that on the 25th day of August, 1922, at 79 Midland avenue, Montclair, New Jersey, and on the 12th and 13th days of August, 1922, on the steamer going from the harbor of New York to the Island of Bermuda, and on each day between the 14th day of August, 1922, and the 22nd day of August, 1922, at the Island of Bermuda, and on the 22nd and 23rd days of August, 1922, on a steamer going from the Island of Bermuda to the harbor of New York, he committed adultery with Marjorie G. Stevens,

defendant, as in said petition is alleged, or that he committed adultery with the said defendant at any other time or place.

This defendant prays, that the said petition, as to himself, may be dismissed with costs.

J. H. PASWATERS,
Intervenor.

W. EUGENE TURTON,
Solicitor of Intervenor.

Decree Nisi.

DECREE NISI.

Filed June 17, 1924.

IN CHANCERY OF NEW JERSEY.

Between LUDLOW R. STEVENS, *Petitioner,* *and* MARJORIE G. STEVENS, *et al.*, *Defendants.*	*On Petition for Divorce.* *Decree Nisi.*

This cause coming on to be heard in the presence of Merritt Lane, of counsel with the petitioner, and Jacob L. Newman, of counsel with the defendant and cross petitioner, and Andrew VanBlarcom, of counsel with John H. Paswaters, intervening defendant, on petition, answer, cross petition and answer thereto, and the answer of the intervening defendant, and oral proofs taken in open court; whereupon, and upon duly considering the said pleadings and proofs and hearing and considering the argument of counsel; from all of which it now appears satisfactorily to the Chancellor, that the petitioner, Ludlow R. Stevens, and the defendant, Marjorie G. Stevens, were lawfully joined in the bonds of matrimony on or about the 29th day of July, 1912, and that the defendant, Marjorie G. Stevens, has been guilty of the adultery charged against her in the said petition, and that at the time the cause of action for divorce therefore arose the said petitioner, Ludlow R. Stevens, and the said defendant, Marjorie G. Stevens,

were bona fide residents of this State, and both the said Ludlow R. Stevens and the said Marjorie G. Stevens have continued so to be down to the commencement of this action; and it further appearing that jurisdiction herein has been acquired by personal service of process upon the said defendant, Marjorie G. Stevens, within this State; and it further appearing satisfactorily to the Chancellor that the said petitioner, Ludlow R. Stevens, is not guilty of the charges made against him in the cross petition and the amendments thereof:

It is, on this day of June, 1924, by his Honor, Edwin Robert Walker, Chancellor of the State of New Jersey, ordered, adjudged and decreed, and the said Chancellor, by virtue of the power and authority of this Court, and of the acts of the Legislature in such case made and provided, doth hereby order, adjudge and decree that the said petitioner, Ludlow R. Stevens, and the said defendant, Marjorie G. Stevens, be divorced from the bond of matrimony for the cause aforesaid, and the said parties, and each of them, be freed and discharged from the obligations thereof, unless sufficient cause be shown to the Court why this decree should not be made absolute, within six months from the date hereof.

And it is further ordered, adjudged and decreed, that the intervening defendant, John H. Paswaters, do pay to the said petitioner his costs of this suit, incurred and to be incurred, to be taxed, in which said costs there shall be included the cost of the transcript and copy thereof, amounting to the sum of $637, and that the said petitioner do have execution therefor, according to the practice of this Court.

Decree Nisi.

And it is further ordered, adjudged and decreed, that the matter of the custody of the child of the marriage be reserved for further proceedings.

E. R. WALKER,
C.

Respectfully advised,

JOHN E. FOSTER,
V.-C.

Notice of Appeal.

NOTICE OF APPEAL.

Filed July 8, 1924.

IN CHANCERY OF NEW JERSEY.

Between	
LUDLOW R. STEVENS, *Petitioner,*	
and	*On Petition.*
MARJORIE G. STEVENS, *Defendant,*	*Notice of Appeal.*
and	
JOHN H. PASWATERS, *Intervening Defendant.*	

JOHN H. PASWATERS, the above-named intervening defendant, hereby appeals from the decree nisi filed in this cause, and dated June 17, 1924, and from every part thereof, to the Court of Erorrs and Appeals in the last resort of all causes.

RIKER & RIKER,
Solicitors for and of Counsel
with Intervening Defendant.

Dated, June 25, 1924.

I conceive there is good cause for appeal in the above-stated cause.

ANDREW VAN BLARCOM,
Of Counsel.

Notice of Appeal.

Due and legal service of the within notice of appeal is hereby acknowledged this 26th day of June, 1924.

MERRITT LANE,
Solicitor for Petitioner,
Ludlow R. Stevens.

PETITION OF APPEAL.

Filed July 7, 1924.

New Jersey Court of Errors and Appeals

Between LUDLOW R. STEVENS, *Petitioner-Respondent,* *and* MARJORIE G. STEVENS, *Defendant-Appellant,* *and* JOHN H. PASWATERS, *Intervening Defendant-Appellant.*	*On Appeal from Chancery.*

To the Honorable the Court of Errors and Appeals in the last resort in all causes:

The petition of John H. Paswaters, appellant, respectfully shows, that your petitioner finds himself aggrieved by a decree nisi made in the Court of Chancery of New Jersey by his Honor, Edwin Robert Walker, Chancellor of the State of New Jersey on the seventeenth day of June, A. D. nineteen hundred and twenty-four, in that the said decree recites and adjudges that the defendant, Marjorie G. Stevens, is guilty of adultery as charged against her in the petition filed in the Court of Chancery, which petition alleges that said adultery was committed with your petitioner; and doth decree that the marriage existing between the respondent, Ludlow

R. Stevens, and the appellant, Marjorie G. Stevens, be dissolved for the cause aforesaid.

And your petitioner appeals from the said decree, and from every part thereof, on the ground that the same is erroneous, for that the said Chancellor should have recited and adjudged that the appellant, Marjorie G. Stevens, was not guilty of adultery with your petitioner, and should have dismissed the petition of the respondent, Ludlow R. Stevens.

Your petitioner, therefore, prays that the said decree nisi may be reversed, rescinded and for nothing holden, and that your petitioner may have such further relief as shall be meet.

RIKER & RIKER,
Solicitors for Appellant,
John H. Paswaters.

ANDREW VANBLARCOM,
Of Counsel.

ANSWER TO PETITION OF APPEAL.

Filed.

NEW JERSEY COURT OF ERRORS AND APPEALS.

Between	
LUDLOW R. STEVENS, *Petitioner-Respondent,*	*On Appeal from Chancery.*
and	
MARJORIE G. STEVENS, *Defendant-Appellant,*	*Answer to Petition of Appeal of John H. Paswaters.*
and	
JOHN H. PASWATERS, *Intervening Defendant-Appellant.*	

The answer of the above-named respondent to the petition of appeal of the above-named appellant.

This respondent, not acknowledging all or any of the matters which in the said petition of appeal of John H. Paswaters are contained, to be true, for answer thereto, nevertheless, says and admits, that a decree nisi was, on the 17th day of June, 1924, made and entered in the Court of Chancery, in the cause for that purpose mentioned in the said petition, as is therein stated; but as to the substance and form thereof, this respondent prays to refer thereto when the same shall be produced. And this respondent is advised and believes, that the said decree nisi

Statement.

is agreeable to equity, and he prays that the same may be affirmed, with costs to be adjudged to this respondent.

MERRITT LANE,
Solicitor and of Counsel
with Respondent.

STATEMENT.

NEW JERSEY COURT OF ERRORS AND APPEALS.

Between

LUDLOW R. STEVENS,
Petitioner-Respondent,

and

MARJORIE G. STEVENS,
Defendant-Appellant,

and

JOHN H. PASWATERS,
Intervening Defendant-Appellant.

On Appeal from Chancery.

As the testimony, exhibits and opinion of the Vice-Chancellor are printed in the appeal of Marjorie G. Stevens in this case, by consent of counsel the reprinting thereof is omitted in the appeal of John H. Paswaters.

New Jersey Court of Errors and Appeals

OCTOBER TERM, 1924.

No. 49. *Between* LUDLOW R. STEVENS, *Petitioner-Respondent,* *and* MARJORIE G. STEVENS, *et al.*, *Defendants-Appellant.*	*On Petition for Divorce.* *On Appeal from Court of Chancery.*
Between MARJORIE G. STEVENS, *et al.*, *Complainant-Appellant,* *and* LUDLOW R. STEVENS, *Defendant-Respondent.*	*Sat Below* FOSTER, *V.-C.*

BRIEF FOR RESPONDENT.

History of the Case.

The parties were married July 29, 1912. There is one child, a boy, Ludlow Robert Stevens, Jr.; about nine years old. They lived together until about the month of December, 1920.

The wife, in February of 1921, through Kalisch & Kalisch, her solicitors, filed a bill for maintenance (p. 1), upon the institution of which proceedings the husband was arrested upon a writ of *ne exeat*. The husband filed an answer (p. 5); whereupon, and in the month of March, 1921, the wife, through Kalisch & Kalisch, her

solicitors, filed, what was called, a supplemental petition (p. 13), in which she set forth that because of the cruelty of her husband, she, the petitioner, "was obliged to cease cohabitation with him, and defendant left your petitioner on or about the 17th day of January, 1921," and she prayed for a divorce from bed and board. To that supplemental petition the husband filed his answer denying its charges and likewise questioning the jurisdiction of the court upon the facts stated.

In August, 1922, the husband filed a petition against his wife for absolute divorce (p. 67) alleging the commission of adultery by her, on the 25th of August, 1922, with John H. Paswaters, at 79 Midland avenue, Montclair, New Jersey, and on the 12th and 13th days of August, 1922, with the said Paswaters on a steamship going from the Harbor of New York to the Island of Bermuda, and between the 14th of August, 1922, and the 22nd of August, 1922, with the same person at the Island of Bermuda, and on the 22nd and 23rd days of August, 1922, with the same person on a steamer going from the Island of Bermuda to the Harbor of New York.

To this petition the wife filed an answer (p. 73) denying the charges and a cross petition (p. 74) charging the husband with adultery on the 23rd and 24th days of December, 1920, at his office with a Miss Marie Sutz.

To that cross petition the husband filed an answer (p. 77), whereupon the wife filed an amended answer and cross petition denying the charge of adultery and setting forth, in the first count, cruelty upon the part of the husband and likewise an abandonment by him upon the 17th

of January, 1921, and praying for an absolute divorce (p. 87).

In the second count she again charged her husband with adultery, alleged to have been committed upon the 14th, 15th and 16th days of January, 1921, and on each and every day between the 1st of April and the 8th of April, 1921, with Marie Sutz, at his office, and prayed for an absolute divorce upon that ground.

To that cross petition the husband filed an answer denying the charges.

Upon this later case, commenced by the husband for an absolute divorce upon the ground of adultery, the hearing came on before the court, on the 27th of June, 1923 (p. 97). Upon the opening of the trial it was announced by counsel for the wife that the charge against the husband for adultery was abandoned, and no testimony was taken upon that issue.

During the course of these proceedings the wife has been represented by numerous counsel. First by Kalisch & Kalisch, who filed the original bill and the supplemental petition, and then by Eugene Turton, who was substituted in that proceeding, and then by Lum, Tamblyn & Colyer, who came into the case after the filing of the husband's petition for a divorce upon the ground of adultery, and finally by Jacob L. Newman, who tried the case for her. The co-respondent, John H. Paswaters, appeared through Mr. Van Blarcom.

The house at No. 79 Midland avenue, Montclair, belongs to the wife, and since the separation, in January of 1920, until recently, when she moved to a place which, as she puts it, is eight squares or so from where Paswaters is

living (p. 436) she has occupied it, save only for such times as she may have been away for more or less extended visits. The parties are comparatively young. Paswaters is about the same age as the parties (p. 231). In August of 1923 he was 1st vice-president of James McCreery Co., New York (p. 232). He had known Mrs. Stevens from March or April of 1922 (p. 232) having met her at a party. He and his wife, although they were living in the same house, were, in fact, separated (pp. 274, 275, 258). Mrs. Stevens knew of the existence of Mrs. Paswaters (p. 252). She likewise knew of the difficulty between Paswaters and his wife (pp. 182, 177), but Paswaters, if we believe his testimony (p. 247), did not know that Mrs. Stevens was married. It is conceded by both Mrs. Stevens and Paswaters that, upon the night of August 24th, they were in the house at 79 Midland avenue, alone, from early in the afternoon until the next morning, and that at the time of the so-called raid they were on the second floor, Paswaters in bed, and Mrs. Stevens in bed, but a little while before the raiding party arrived, but in different beds, in different rooms, so they say. It is likewise conceded that they went to Bermuda upon the same boat about the 13th day of August, 1922, and remained there for a week at the same hotel, and came back on the same boat and went from the boat directly to the house at Midland avenue. Dr. Stevens obtained the information, which led him to the house at Midland avenue upon the night of the raid, from Mrs. Paswaters (p. 544), and Paswaters says (p. 275) that he suspected that his wife had a hand in the matter of having Corbally and this party call at this house.

The facts above set forth are conceded.

The wife attempted to meet the incriminating circumstances by, first a denial that adultery took place and an assertion that, as matter of fact, they did not sleep in the same bed, although everyone who was there, except the wife and the co-respondent, testified that when the party broke into the room they were in bed together; second, by suggesting to the court that at the time of the raid she was menstruating and that, therefore, adultery was out of the question.

I.

APPELLANT'S BRIEF.

Appellant's brief is filled with criticism of Dr. Stevens. He is pictured as a man who loses no opportunity to besmirch and vilify the character and reputation of appellant, a man with apparent malice in his heart, hatred upon his lips and sneers upon his countenance (p. 5) of a parasitic nature (p. 8), and, again (p. 24), it is stated—"His testimony is replete with sarcasm, hatred, malice, irony and a most evident endeavor to befoul and sully the character of the appellant." And, on page 25, it is stated that it is mostly upon his evidence "that the decree of the court depends." He is said on page 25 to be an odious character.

The statement that the decree of the court below depends mostly upon the evidence of Dr. Stevens indicates to what extent reliance can be placed upon appellant's brief and the statements therein contained. Neither upon the charge of adultery nor upon the counter charge of cruelty does the decree of the court below depend upon the evidence of Dr. Stevens. *If his testimony be excluded from the record it is submitted*

that the decree of the court would be precisely the same as it was.

His testimony upon the charge of adultery was not offered in his main case. Counsel erroneously considered that it was inadmissible. Subsequently counsel considered that he should be submitted for cross examination upon the events of the raid and he was so submitted (p. 554), whereupon, it being made to appear that counsel was mistaken in his idea of the law, Dr. Stevens was examined with respect to the raid (p. 581).

On the counter charge of cruelty his testimony is certainly sufficient to offset that of appellant. Wholly aside from the affirmative evidence offered by Dr. Stevens from other mouths to contradict the testimony with respect to cruelty, as the court below said upon this issue (p. 660):

> "This summary presents substantially the evidence offered on the part of the defendants, as no particular effort was made, aside from the testimony of Mrs. Stevens, *which is largely uncorroborated,* to establish any of the allegations of her bill, her cross-petition, or her amended cross-petition."

There is no basis whatever for the statement that Dr. Stevens married Mrs. Stevens for her money. She had no money of any amount at the time of the marriage but she *did* have an interest in an estate, and she subsequently received money from that interest, and it is a fact, as stated by counsel that he earned "at the most three thousand per year" (p. 16). It is not a fact, as stated by counsel, that he desired to live extravagantly, and such a statement depends wholly upon the evidence of Mrs. Stevens. The fact is that when she got her money she was not content with the manner in which they were

living. She made the various moves which were made against the will of her husband. She bought the car, and she owned the car, and in passing I need hardly say that she did not refrain from bringing to the attention of Dr. Stevens the fact that she was independent. This will be considered in detail under the charge of cruelty.

In examining the acts of Dr. Stevens the Burton incident, I submit, should not be overlooked. It will be referred to in detail in dealing with the charges of cruelty. Suffice it to say here that when Burton was arrested in 1918 for passing a worthless check on Dr. Stevens there was found on his person a photograph of Mrs. Stevens (Ex. P. 2, p. 636), and torn up in a waste basket at the Robert Treat Hotel a photograph of Mrs. Stevens (Ex. P. 3, p. 637). There was also found two sheets of paper in his handwriting (Ex. P. 5) offered and admitted in evidence (pp. 527, 528) not printed. These two sheets of paper were in the handwriting of Burton, also known as Paterson, and consisted of a list of women with whom he had had illicit sexual intercourse, with details, and among the names was that of Mrs. Stevens. The effect of this upon the mind of Dr. Stevens can be imagined. He told his wife about it (pp. 526, 527). She admits that Dr. Stevens talked to her about Burton. She admits that Dr. Stevens asked her about her relations with Burton (p. 418) but she denies that he said anything about these sheets of paper. See her testimony pp. 409, 410, 411, 412, 413, 417, 418, 419. Her story about the book "Arbutus" which she says was presented to Burton by her three-and-a-half-year-old child is found on page 421, and compare her testimony on page 318 with her testimony on pages 424, 426.

Whatever trouble there may have been between these parties, in view of the Burton incident, it is not hard to find the cause.

Assuming her story to be true, why did she, when she went to the office of Dr. Stevens in the Kinney Building, bring with her a loaded revolver? The statements of counsel with respect to Dr. Stevens having had this revolver are certainly met by her bringing the loaded revolver down to the office building in which the office of Dr. Stevens was located when she went to that office for the specific purpose of clearing it out as her own testimony demonstrates nor can her counsel charge Dr. Stevens with losing no opportunity to besmirch and vilify her in the face of the testimony that she has attempted in every way in which she possibly could to ruin him, and in the face of the fact that she deliberately filed a cross petition (p. 75) charging Dr. Stevens with adultery with Marie Sutz on specific dates "on each and every day between the 1st of April and the 8th of April, 1921, and on January 14, 15 and 16, 1921," and filed an amended cross petition in which she repeated the charges (pp. 75, 92). The cross petition was filed on or about the 13th of October, 1922. She repeated her charge in the amended cross petition filed on or about April 16th, 1923, and when the case was opened, June 27, 1923, *she abandoned them wholly and made no attempt to prove them.* Did she ever have evidence upon which she could base these charges on these specific dates? If she did, why did she not attempt to prove them? If she did not, why make them? Were the specific dates solely a matter of imagination?

Much is made of the fact that all of the detectives who participated in this raid were not

called. Counsel bases his contention that there were ten or twelve upon the statement of LeCompte that he thinks there were ten or twelve persons involved. LeCompte is not a detective but a friend and cousin, I think, of Dr. Stevens. There were not ten or twelve involved. Upon the outside of the house there were five or six of the operatives (p. 118) and Thomas J. Corbally and Dr. Stevens and LeCompte (p. 118). There were only six who went into the house—Thomas J. Corbally, Dr. Stevens, LeCompte, Steve Flarity, Frank Corbally and Ray Adams, and they were the only ones who had an opportunity to see anything (p. 123). The detectives differ as to the number, but Thomas J. Corbally, who was the leader, is the one who actually knows. All of these were called except Adams; he was the last to go upstairs (pp. 123, 131) and, according to Flarity's recollection (p. 141), it is clear that Adams was in the hall. He could not have done anything except to corroborate that which was admitted. In any event he was available for the defense to call him if they had so desired. It was dark. There were flash lights (p. 146). It is not at all unusual that these detectives, going upstairs in the way in which they say they did, should not agree as to just who was in that room? As matter of fact, all those who were in the room were called. And Paswaters, the co-respondent, agrees (p. 245) that there were no such number as eight or ten in the room, "There were four." As matter of fact there were five—Dr. Stevens, LeCompte, the two Corballys and Flarity.

There are two matters contained in appellant's brief which indicate that its conclusions of fact are to be carefully scrutinized.

FIRST.

Counsel says (p. 3):

"Mrs. Stevens says that one of the detectives, the elder Corbally, grabbed her by both arms and sat her on Paswaters' bed. The light was then turned up, and not until that time did the others enter the room. It is distinctly corroborated by all the witnesses that no one entered the room until the light was turned on except Mr. Corbally."

"Detective Thomas J. Corbally was very anxious to put the appellant in a compromising position before anyone else came into the room, because it is clear from the evidence which will be set out in detail hereafter, that until he had them in a compromising position no light was turned on, nor was anyone else admitted to the room. Mrs. Stevens said that Corbally grabbed her by the arms and sat her on the bed and caused black and blue marks on both arms. * * *"

This statement of counsel has no support in the testimony. Mrs. Stevens says (p. 164) that when she heard the crash downstairs she—

"ran out into the hall, across the hall, and then I called Mr. Paswaters—I don't know what it was, and I saw all these men with flashlights right on me, and I don't know whether they pushed me in the door or I went right through his door and sat on the chair. There is a little chair right inside the room.

Q Then what did you do? A Then as I was sitting, I could see two men—Mr. Corbally, go toward the room that I had fled from.

Q Then what happened? A They all came into the room and the first thing I remember Mr. Corbally said, 'Who is this woman?'

Q Did you turn on the light? A No, some one did, over my head, because I didn't

turn it on. Mr. Corbally said, 'Who is this woman?' And Mr. Stevens said, 'that is my wife.' And then, of course, I tried to—as I went to reach up, then I tried to turn on the light (she meant off as the context shows), and someone grabbed me, Mr. Corbally's son, I think, and threw me down on the edge of the bed.

Q And turned off the light? A *I wanted to turn it off,* because I thought I could get out and take the receiver off this little stand and call the police or call Mr. Gorton, and they held me forcibly.

Q Held you forcibly? A By the arms, until I was black and blue.

Q At what place were you at the time? A I had been on the chair, but when I went to get up, *to turn the light off,* to rush through into the hall, or try to evade them or get away, *that is when they grabbed me and threw me down and blacked and blued my arms.*

Q Where did they throw you? A In the edge of the bed, alongside of the chair.

Q At that time was Mr. Paswaters there? A Mr. Paswaters, he was sitting up; they had rushed around and grabbed him. I don't know if they sat him up, but he was in a sitting position, sitting up."

What basis counsel can find in this testimony for the statement that one of the detectives, the elder Corbally, grabbed Mrs. Stevens, sat her on the bed, and then turned up the light, and that no one was admitted into the room until this was done, I cannot conceive. Mrs. Stevens' testimony is to the effect that when they *all* came into the room with flashlights she was on the chair; that the light was then turned up; that she, in the presence of all, then got up out of the chair, attempted to turn the light off, and to escape, and it was *then* that they grabbed her and sat her down "in" the edge of the bed and blacked and blued her arms.

The difficulty is that the statement as made by counsel on page 4 of the brief is a statement of what was to have been the explanation of her compromising position, but, unfortunately, the testimony does not support the explanation.

SECOND.

Counsel says (p. 4):

> "It is also significant that if the parties were in a guilty or compromising situation, the noise made by ten or twelve detectives breaking down the door and tramping upstairs, would have given them ample opportunity to have secreted themselves or for Mrs. Stevens to leave the room and place herself in a position of innocence."
>
> "It is highly incredible that Mrs. Stevens was found in bed with Mr. Paswaters when she had such an opportunity to get away after she heard the first sound of the door being broken down and a number of persons rushing through the lower part of the house and up the stairs. It would not be natural, not likely that she would remain there calmly and not try to get out of the bed and secrete herself. Such conduct on her part was most unlikely."

The difficulty with this is that these detectives did not make such a noise as counsel depicts and that they did not *is proven by Paswaters himself* for he swears (p. 244) that he went to bed and—

> "Q What was the next thing that occurred? A The next thing that occurred was I awoke, startled, out of a sleep, with some kind of a peculiar rushing noise, and I heard someone say 'Police,' and at the same time I tried to prop up in bed. The first I remember seeing there—I was in a dazed condition—was Mrs. Stevens sitting on the edge of the bed and four men in the room. I attempted to raise up in bed and

> one of the gentlemen that was here at the previous testimony grabbed me—the gentleman sitting in the room, and pushed me back in the bed.''

The testimony of Paswaters therefore demonstrates that there was no such noise and no such warning as counsel indicates (p. 4).

And the testimony of Paswaters at this point likewise demonstrates that the story told by Mrs. Stevens as to her movements is false, using the same argument that counsel uses. Is it conceivable that there should have been this crash, as testified to by Mrs. Stevens, and that she should have run through the hall, and should have called Paswaters and that all this noise and confusion should be going on before she went into his room and that he should remain asleep, so that the first he knew of it would be when he awoke and found Mrs. Stevens on the edge of his bed.

II.

THE LAW.

Counsel has cited on page 71 of the brief many cases having to do with the burden of proof in actions for adultery and the necessity of proving two facts, that is, a criminal disposition and an opportunity to commit the crime, etc. The difficulty is that all of the cases referred to are cases in which the attempt has been to establish adultery by inferences from proven circumstances. This is not such a case. It is a case of direct proof where the parties were, if the testimony of the detectives is to be believed, in *flagrante delicto*. It is a case similar to that considered by this Court in *Willie* v. *Willie,* 88 N. J. E. 581, reversing the Court of Chancery, and,

while this Court said that evidence of a husband's motive might be the subject of inquiry to test his credibility, it held that his motive cannot bar his legal right to a divorce. And this Court said:

> "The husband is legally justified in using any and all lawful means to procure testimony as to enable him to get rid of a wife whom he has reasonable grounds to believe is guilty of infidelity."

The decree in the Willie case was based upon the evidence of detectives, and when it was sought, as here, to be argued that certain acts testified to by the detectives were improbable, this Court said:

> "How parties would naturally have acted under the circumstances which confronted the alleged guilty pair in the present case can only be a matter of the purest conjecture. Much would depend upon the temperament, social position, moral sense, presence of mind and state of nerves of the parties."

Certainly, the situation in the case at bar was such as that it called for a reasonable explanation from appellant and Paswaters.

A consideration of their explanation hereafter to be made will indicate, I submit, that it is wholly unreasonable.

In *Daggers* v. *Van Dyck*, 37 N. J. E. 130, 132, Vice-Chancellor Van Fleet says:

> "Evidence to be believed must not only proceed from the mouth of a credible witness, but must be credible in itself—such as the common experience and observation of mankind can approve as probable under the circumstances. We have no test of the truth of common testimony, except its conformity to our knowledge, observation and experience."

In *Harris* v. *Barrett,* 75 N. J. E. 386, at p. 392, Vice-Chancellor Garrison said:

> "The Court is not bound to accept everything as true a witness may say."

And he then quotes from *Daggers* v. *Van Dyck,* the statement heretofore quoted.

And so it is in divorce cases.

Vice-Chancellor Backes said, in *Slack* v. *Slack,* 89 N. J. E. 589:

> "To overcome, or to neutralize the presumption of guilt, her explanations must be probable; they must have the ring of truth; they must be supported. I do not say supported by the testimony of others, but by the surrounding circumstances, at least, to lend probability. It is true, as her counsel argued, that we cannot conjecture, we cannot speculate, as to crimes of this kind having been committed, and that we must have proof, clear and convincing, but when we have that proof in the form of admitted circumstances of a decidedly incriminating nature, unsatisfactorily explained, we are not driven to either in arriving at a verdict."

In *Graham* v. *Graham,* 50 N. J. E. 701, at p. 705, Vice-Chancellor Green said:

> "It is true the defendant and Stiles deny the adultery under oath, and I think she proves her inability to produce Kirby as a witness. But this evidence, while competent, weighs but little in the face of positive proof and overwhelming circumstances."

And the attacks upon Dr. Stevens, assuming some of the attacks to be well founded, which is denied, are met by the statement of Vice-Chancellor Leaming in *Taylor* v. *Taylor,* 73 N. J. E. 745, where he said:

> "That to justify a wife in separating herself from her husband physical violence need not be proved, but such conduct of the hus-

band must be shown as will reasonably convince the Court that her life or health was in danger, or her life rendered one of such extreme discomfort and wretchedness as to incapacitate her to discharge the duties of a wife, or that the conduct of the husband, if continued, would have brought about these conditions."

English v. *English,* 27 N. J. E. 579;
Black v. *Black,* 30 N. J. E. 215.

And in considering the conduct of the husband in *Taylor* v. *Taylor, supra,* Vice-Chancellor Leaming said:

"The conviction brought to my mind is not that Mr. Taylor was a model husband. I think the proofs justify a conclusion very much to the contrary. I cannot help believing, under all the evidence, that Mr. Taylor fell very far short of the standard which the good of society demands of a husband in his treatment of a wife. But it would be a misjudgment upon all the testimony in this case for this Court to treat as proven the averments of the bill that Mr. Taylor was cruel, in the sense of the statute, towards his wife."

And see

Atwood v. *Atwood,* 85 N. J. E. 87, affirmed 87 N. J. E. 212, on the opinion of Vice-Chancellor Lewis.

III.

THE WIFE HAS BEEN PROVEN GUILTY OF ADULTERY.

LeCompte (p. 99), a cousin of Dr. Stevens, saw Paswaters and Mrs. Stevens at the pier in New York, where the Bermuda boat lands, come off the pier, take a taxicab to the 23rd Street Ferry, take the Erie train to Montclair, and get off at the Montclair station. He then called up

Dr. Stevens and waited until Dr. Stevens arrived, accompanied by Corbally, about five or five-thirty. LeCompte watched the house from a position one block away. About six o'clock Mrs. Stevens left the house and went to the store. They followed in the car (p. 100). They then waited, watching the house, until about four-thirty in the morning, when they entered the house by the rear door; they went upstairs to the second floor, entered the bedroom and found Mrs. Stevens and Paswaters in bed together (p. 101). They took some of Paswaters' clothes, which were offered in evidence, and marked Exhibit P. 1 (p. 102). Paswaters had on a pair of pajamas and Mrs. Stevens had some feminine affair (p. 103). They were sitting up in bed. Paswaters' clothes were not in the room in which they were sleeping. The clothes were in another room (p. 106), *i. e.*, the room Mrs. Stevens says she had occupied.

Much is made of discrepancies between the stories told by the different witnesses to this raid. As an illustration (p. 113), LeCompte first says that there were no searchlights in the party. He then says, "One of them, I believe, did have a searchlight, come to think of it." This is an illustration of the kind of discrepancies there may be—discrepancies which prove the truth of the stories told. The witness might not remember whether there was a searchlight or whether there was not, or who went in first or last, or whether there was a low light on the lower floor or on the second floor, or whether the shades were down or up, or who locked the door, or whether the door was locked. It took but a few minutes for this raid, and things happened speedily, and the various witnesses who participated saw things differently, and some remem-

ber some things and some remember others, and, as the courts have always held, this indicates truth. No two witnesses will remember every detail in the same way. But the one thing on which they could not be mistaken, because it was the important thing upon which their minds would center, was the fact that Mrs. Stevens and Paswaters were in bed together when they went into that room, and with respect to that they all agreed. This witness did what he did solely out of friendship for Dr. Stevens and not for pay (p. 116). Neither his testimony nor his credit is disturbed on cross examination or is otherwise attacked.

Thomas J. Corbally, the head of the Corbally Detective Agency (p. 118), got to 79 Midland avenue, Montclair, New Jersey, about midnight, and then left, and came back about four-thirty in the morning; they surrounded the house and went in through the rear. They went upstairs and went to the front bedroom. There was nobody there. They went to the other bedroom, and went in and found Mrs. Stevens and Paswaters in bed; she lit the electric light and said, "What is the matter" (p. 119)? Mrs. Stevens became excited. Paswaters told her to keep cool. Corbally went in the front and found a pair of golf pants and a shirt and took them away. Paswaters said, "You are not going to take the golf pants, are you? I want to play golf tomorrow. Please don't take them." Paswaters was asked what he had to say about being there, and he said he had nothing to say. Both were in nightclothes. He had on pajamas and she had what are called Billie Burkes. Mrs. Stevens said to Dr. Stevens that it was a dirty trick for him to do. Corbally denies absolutely that she was sitting on a chair, and he denies that when they

came up in the hall she rushed across to the room (p. 124). He says he went into the other bedroom in which Mrs. Stevens says she had gone to bed, and *the bed had not been occupied* (p. 124). This was brought out on cross examination. It was in this room, which had not been occupied, that Paswaters' clothes were found lying on a chair (p. 125). He denies that there was any bottle and glass in the hall (where Mrs. Stevens says there was), but he says that there was a bottle and a glass on a sideboard in the room where they were (p. 127).

The testimony of Corbally is not like that of most detectives (see his testimony, pp. 125, 127). Most detectives tell a stereotyped story. They always remember everything. Corbally does not. He frankly confesses that with respect to details he either does not know or is not sure. These are details about which, if he were sure, there would be some question as to whether the story was not prepared. He does not even remember, nor does LeCompte, how many men there were. And this is a detail that they would not remember unless notes had been made. Far from justifying the attack of counsel for the wife on the testimony, the frankness of Corbally stamps his story as true.

Frank W. Corbally, the son of the preceding witness, was present at the time the house was broken into, and he testifies that they all went upstairs together, and to the front bedroom, and finding no one there, went to the back bedroom and there found Mrs. Stevens and Paswaters in bed together (p. 131). Paswaters had pajamas on and Mrs. Stevens had Billie Burkes, which is a form of nightdress for women (p. 131). Inspector Corbally asked Dr. Stevens if that was

his wife, and the doctor said, "Yes"; he asked Paswaters his name and Paswaters gave it, and Mrs. Stevens asked them to leave the room (p. 132). The shirt of Paswaters was obtained from the front bedroom, where it was lying on a chair with Paswaters' trousers (p. 132). Mrs. Stevens turned on the light. They had flashlights (p. 133). He denies that Mrs. Stevens was seated on a chair when they got in, and he denies that Inspector Corbally grabbed her and held her close to the bed and that anything of that kind took place (p. 134). During the afternoon, he says he was at the house and saw her go out between six and seven o'clock; that she was alone; that she went to a delicatessen store on Bloomfield avenue and then returned (p. 135). He denies that there was any considerable noise when they broke in, and the other detectives say the same thing (p. 138). There was only one flashlight used, and that was carried by the inspector (p. 139).

Stephen P. Flarity (p. 139), a detective, testifies that he was in the party that went upstairs; that there was a small light burning on the first floor, burning low; that he was behind Inspector Corbally; that they looked in one room and there didn't seem to be anyone there, and they then turned to the left, to the rear, and as they went into the room Mrs. Stevens turned on the light. Mrs. Stevens and Paswaters were in bed. Mrs. Stevens was attired in a blue or pink bed dress, and "I think they call them Billie Burkes, and Paswaters wore a light pair of pajamas" (p. 140). Paswaters sat up in bed and Mrs. Stevens got out of bed and threatened to do something to herself, and Paswaters asked her to calm herself. Corbally took Paswaters' shirt and was going to take his golf pants, but Paswaters asked

him not to take them because he was going to play golf that afternoon (p. 141). There was not much noise when they broke in (p. 146).

Dr. Stevens testifies (p. 581) with respect to the details of that night. They entered by the rear door, went through the kitchen, up the front hall, up the front stairs and to the front room—"the south room, as we used to call it—and we saw it wasn't occupied, so we quickly went to the rear"; as they were coming in Mrs. Stevens turned over on her left side and turned the light on and off quickly (p. 582); that bedroom was the bedroom that was occupied by Mr. and Mrs. Stevens when they were living together. Paswaters and Mrs. Stevens were in bed; he had on a pair of light pajamas and she had "Billie Burkes"; he did not know Paswaters except from the photographs which had been given to him by Mrs. Paswaters two or three days before the raid. Dr. Stevens said to her, "Well, you did it of your own volition; I didn't bring you here; you have brought this on yourself." She said, "Why do you let me stay here like this with all these men in the room." And Flarity says that she said (p. 141), "Lud, take these men out of the room; I don't want to be in the room with all these men." *Her clothes were in this room* (p. 584), and the doctor took some of them and threw over her. *Paswaters' clothing was not in the room; his clothing was in the front room* (p. 584). The bed in the front room had not been occupied. He also tells about the taking of Paswaters' shirt and leaving the trousers at his request. There was very little noise in breaking in (p. 586).

There is no doubt but that if this story be true Mrs. Stevens is guilty. Both Paswaters and

Mrs. Stevens admit that they were in the house, alone, together, and that they were in the room together. We look, therefore, for their *reasonable* explanation. Paswaters was a married man, with a wife and children, having quarreled with his wife, to Mrs. Stevens' knowledge. Paswaters intimates that he thought Mrs. Stevens was divorced, or at least that she was in some way legally separated from her husband, or a widow. There is some doubt as to what he really did think, but no doubt but that he desired to have the Court believe that he did not know that there was a husband in existence entitled to any consideration. Mrs. Stevens says that she first met Paswaters in February of 1922, after she had separated from her husband in 1921, and met him afterwards at house parties, at evening parties, at different friends'. She went to Bermuda on August 12th on the Fort Victoria. Paswaters procured her ticket, and her story is (p. 149):

> "I was up at Camp Wonpoint in Bantam Lake, Connecticut, where my son was at a camp; I had been there the entire summer, with the exception of a couple of week-ends, and I received a check from the Hackensack Trust Company, executor for my grandfather's estate—a check in the amount of over $90, around $98, that I didn't intend to get, that came impromptu, when they settled some accounts, and I decided that I would use that for a trip before the boy got back from camp, because I knew he was well taken care of, and I couldn't go after he returned from camp, so I was over to Torrington, Connecticut, at Mr. and Mrs. Bonnell's home * * * When Mr. Paswaters called up Mr. Bonnell, and in the course of a conversation I said to Mrs. Bonnell I didn't want to go down to New York to get my ticket, and I said to Mrs. Bonnell,

'I will ask J. H. if he will kindly get my ticket for me and mail it to Camp and I won't have to go back.' So I asked him to get the ticket and mailed him the check made out to me from the Estate of my grandfather, Herman B. Van Riper; re-signed the voucher over to him, and mailed it to him, with a letter.''

The letter is not produced.

''Q Asking him to procure your ticket? A Yes. He said, 'I will get the ticket and you can send me a check for the amount,' and I refused to allow him to do it; I sent the check to him.''

She says she thought at that time that he was going to Canada. Mr. and Mrs. Bonnell had invited him to go on a tour through the Berkshires, *and he refused because he was going to Canada.* The following morning he telephoned to Mrs. Bonnell and that afternoon he telephoned Mrs. Stevens, and said he had the ticket and he would mail it and it didn't cost as much as the $98 or $99 and he said, ''When I went over to get the ticket, I decided that I would take a trip to Bermuda, too, and not go to Canada.'' (He had refused to go with the Bonnells, mutual friends, for a trip through the Berkshires because he was going to Canada, and this was in the summer time and Bermuda is not noted as a summer resort.) ''I thought he was just jollying—we were friends; I said, 'You don't mean it.' He said, 'Yes, I have a ticket,' and I was provoked about it, and I said, *'You certainly are not going on the same steamer as I am;'* (Why not?) (And see her attempted explanation on cross examination. As usual in these cases, where there is an attempted false explanation the parties go too far. Why the ''provokeness.'') ''he said, 'There is no reason why I should not go on a steamer with thousands of people, if I

want to go,' and he was provoked about it." (Another provokeness.) "So nothing more was said, and I thought he was jollying, but then he said he had a ticket and he was going."

She says (p. 151) that she paid seventy or eighty dollars for a return ticket. She describes the people whom she met on the trip (p. 151) and she says that during the entire trip she went around with Mr. Lovejoy and his mother and Mr. Simpson and Mr. Lavery, but Paswaters was at her table and was there all the time (p. 152). They went to the St. George Hotel and a Miss Sullivan occupied the room with her. Their room was on the third floor. Paswaters' room was on the second floor with Mr. Lovejoy. She did not come home with the Simpsons, Lavery and Lovejoys, she came home with Miss Sullivan and Mr. and Mrs. Vogel from New York (p. 153). The others had come home on the steamer before. "I had intended to come Saturday morning, but owing to the fact that I couldn't get a reservation, I had to take the next boat. I intended coming home on the boat with them." She was alone in her stateroom on the trip back (p. 153). The Court asked her—"What rate of passage did you pay?" She answers—"I don't know." She says she paid the purser in English money. But she had previously testified that, before leaving New York, she had bought a return trip ticket.

In view of the fact that it was injected into the case on one of the later days of the trial that she was, during the time she was at Bermuda and at the time of the raid, menstruating and therefore that it is impossible that the crime should have been committed, her testimony on

page 154 is highly significant. She is asked the question:

> "Q On board the boat did you have any physical ailment? A I was very seasick, and suffering from a terrible hemorrhage.
> Q Are you subject to those hemorrhages? A Yes, I have been for several years back.
> Q Due to what cause? A Caused by abortions insisted upon and insisted on by Dr. Stevens."

The last child was born on July 2, 1914. *Nothing is said by her with respect to menstruation.* It would have been no more difficult for the witness to have stated at the *outset* the true fact, if it were a fact, rather than to say that she was suffering from hemorrhages, caused by abortions, and seasickness.

Significantly, Paswaters was not to take the boat with the others who had gone down, but happened to be taking the later boat. Paswaters and she took a taxi from the boat to the 23rd Street Ferry and went to the Montclair house. This house was closed. It had been closed all summer with the exception of the night that she had come down from Camp. *Why did they go to this closed Montclair house?* When they got to the house she telephoned to the Montclair Service Station to get her car, which was brought to her, about six o'clock and she says that Paswaters accompanied her and they went over to get Nellie Lee, her laundress, to get the laundry which had been left "for several weeks" prior to her going away, and also to ask her to come and stay that night. According to her story the house was closed for the summer. Mrs. Stevens did not intend to return during the summer, yet, several weeks after closing the house, she had left laundry at Mrs. Lee's, and for some reason

or other she called to get that laundry at that particular moment. If Paswaters had, in fact, accompanied her when she drove her car around Montclair that afternoon there was no object whatever in the detectives testifying that she was alone. *From the standpoint of the detectives it would have been much better if Paswaters had been with her.* There being no object in the detectives testifying falsely, is it to be assumed that all these detectives deliberately lied when they said she drove this car around Montclair, alone, that afternoon and that Paswaters was not with her.

She says she asked Nellie Lee to come and stay with her and her answer was that "she had a fire and burned her house down, or burned it partly down, and that her daughter had broken her collar bone, and she has a little girl about six years old, and she said she couldn't come" (p. 156). They waited outside in front of the house and Nellie Lee brought the laundry out and then went around to three or four places and inquired for people to go back with Mrs. Stevens and stay with her in the house and gave her a report that she could get no one. One of the persons whom she approached was a former maid "And it was Thursday and they were out to some colored dance." She says (p. 157) that they did not go to a delicatessen store. But see Paswaters' testimony that they did.

And why should the detectives have falsified with respect to this?

Mrs. Gorton is her next-door neighbor (p. 157), and Mrs. Gorton, when they got back from attempting to get someone to stay with her, came to the door and said she had seen the car come

in and she said, "Are you going to stay here tonight, Mrs. Stevens?" I said, "Why, yes, I am." She, Mrs. Gorton, then said, "I will come in and stay with you if you are going to be alone." Mrs. Stevens declined the offer and said she would telephone to Connecticut to have Mr. and Mrs. Bunnell come down. She says she declined Mrs. Gorton's offer because Mrs. Gorton said she had ten guests over the week-end, but Mrs. Gorton, according to Mrs. Stevens' story, was perfectly willing to stay. Mrs. Stevens had gone all over Montclair looking for someone to stay with her. But she declined the offer of Mrs. Gorton, willing as Mrs. Gorton was, and preferred to telephone Mr. and Mrs. Bunnell in *Connecticut;* she was going to bring Mr. and Mrs. Bunnell down from Connecticut; at that hour of the night, to stay with her. She attempted to telephone Mr. and Mrs. Bunnell but could not get them at Torrington, Connecticut. About nine o'clock she did get them and Mrs. Bunnell said that they had returned from Boston the night before and still had their bags packed, and were waiting to hear from her, and were ready to leave then; that from the conversation she understood that they, the Bunnells were coming down to the house that night. At twelve o'clock midnight the phone rang and Mr. Bunnell was on the phone and said that he was telephoning from Yonkers; "he said that after Mrs. Bunnell—he was out in the garage when I talked to them—that after she had rung up on the telephone, he came in the house and she told him that I had called, and she said, "We are going with you." They started to get on their things and Mr. Bunnell—they delayed him all day in coming down on a business trip purposely to come with him, and he said, "As long as Mrs.

Stevens is coming back tomorrow to camp, there is no excuse of you going down there with me at this hour, because we cannot possibly get there until twelve or one o'clock," and a family fuss ensued, because this friend was there, and she said, "I will call Marjorie up right away and tell her." He said, "No, I am going down, I will telephone her on my way down."

In other words, according to Mrs. Stevens, she did not telephone Mrs. Bunnell until about nine o'clock, describing her condition and indicating in what serious straits she was in, and Mrs. Bunnell had then promised to come down and said she was starting right away (p. 150), and then a family fuss ensued between the Bunnells which resulted in Mrs. Bunnell not coming down, and although this woman was waiting in Montclair, believing that Mrs. Bunnell was coming, they never telephoned her. Mrs. Stevens at midnight asked Mr. Bunnell if he would not come over himself and he said, "When I get down to the Torrington Apartments I will drive down myself" (p. 160).

Paswaters was in the music room downstairs (p. 160). She went to him and said that the Bunnells were not coming and said, "Well, they are not coming, and I said, 'You must go home now, it is twelve o'clock, it is midnight.' I didn't have any time, because the clocks were stopped, but I said, 'Mr. Bunnell said if he wasn't too tired, he might come over when he got down to the apartments.' I said, 'I am here alone and Mr. Paswaters is here.' He knows Mr. Paswaters very well. He said, 'If he is there, all right, you need not worry.' I told him that Mrs. Gorton had endeavored to stay, and just *on the pretext* that they were coming, that Mrs. Gorton did not come

in and stay with me, and he said he would come, and I said, 'Probably he may come'."

Right here is the complete explanation of these telephone calls which were, in fact, made. I believe that Mrs. Gorton came to the door and saw Mrs. Stevens and offered to stay with her. Mrs. Gorton says she did. Mrs. Stevens said that, notwithstanding that she had been attempting to get somebody to stay with her, and had gone all over Montclair for that purpose, she *declined* Mrs. Gorton's offer. She declined Mrs. Gorton's offer because she did not want anybody in the house that night with Paswaters. But Mrs. Gorton knew that Paswaters was in the house and she knew that Mrs. Stevens was a married woman, living apart from her husband, and Mrs. Stevens knew that it would not look right to Mrs. Gorton if she and Paswaters stayed alone in that house *without some excuse.* So she refuses the offer of Mrs. Gorton, as she said, "*just on the pretext* that they (the Bunnells) were coming" (p. 161). She advisedly used the word "pretext." That she had any idea that the Bunnells were actually coming down from Torrington, Connecticut, that night is absurd. Why did she not telephone the Bunnells when they reached the pier in the middle of the day? Why did not they telephone earlier in the afternoon? *Why wait until nine o'clock at night* when they knew that at best, if the Bunnells did, in fact, come down, they could not get to the house before every opportunity in the world for adultery would have been offered. They could not under the circumstances, have gotten there until after midnight if they had come, and I do not believe that there was any intent that they should come, and Mrs. Stevens

says the offer of Mrs. Gorton was declined on the "pretext."

Mrs. Stevens said she had gone to bed *before* this midnight call. She had gone to bed, notwithstanding that the Bunnells had not yet arrived. Paswaters was downstairs reading. When she told him that he must go home he said, "You cannot get anyone to stay with you at this hour of the night, and I won't leave you in this condition, I will not go." She says she went to bed in the north bedroom, which is the front room. That Paswaters went to bed in the south room, which is the rear room. This is the room that *Mrs. Stevens usually occupied.* Her excuse for not occupying her own room that night is, to say the best, naive. She says (p. 162) "* * * but the reason I didn't occupy it this night was that the night I had come down from camp to pack my bags to go to Bermuda, I had had all my clothes laid out and had repacked my Connecticut clothes and the clothes I took away, and all my things were in there, and I had slept in the bed the night before in the next room, and I felt so weak and so sick that I didn't feel like changing the linen." The time she slept in this bed was before she went to Bermuda, and she left so early that she had not made it up prior to her sailing.

She says she was awakened in the night by the recurring (p. 163) of this terrible hemorrhage. She got up and put her slippers on and dressed; she had a negligee with long pajamas that reached to her ankles. She went downstairs to the pantry to get a drink; when she opened the door the window was up and the screen was entirely out; that sort of startled her; she got the drink and went back to the office that

Mr. Stevens occupied for his patients, turned on a light there, opened the door, made the bandages that she wanted to make and went back upstairs, leaving the lights on, and with a glass of ginger ale and the bandages, having closed the window in the pantry, locking it. She was startled but maintained her self control to the extent necessary to get the ginger ale and to prepare the bandages. This was in the summer time, in August. She was going to drink the ginger ale. She does not tell us anything about the ginger ale being in the ice box because she would then have to tell us about getting ice during the day, and for the same reason she does not tell us about getting ice to put in the ginger ale. She then says she put the glass of ginger ale on the table in the hall.

She says she is not a coward; that she thought that it was queer because the house had been locked all the time she was away, "and I knew the window wasn't open. And I sat at the telephone stand deliberating whether I should telephone Mrs. Gorton or waken Mr. Paswaters, knock on his door or wake him up, and I sat there deliberating a moment, and went into the north room again." This is the rear room, the room she says she occupied. She deliberated, sitting at the telephone, whether she would call Mrs. Gorton up, somewhere in the neighborhood of 4 A. M., because she was afraid, or whether she would waken the man who was sleeping within a few feet of her, *who had insisted upon staying there for the sole reason that she was alone, and no one was there to take care of her.* Is not this perfectly absurd?

But her deliberation amounted to nothing, for she then went into the room which she had been

occupying, the front room, "and put the bandage on that I had made downstairs." She then heard a crash and she screamed "and ran out into the hall, across the hall, and then I called Mr. Paswaters—I don't know what it was, and I saw all these men with flashlights right on me, and I don't know whether they pushed me in the door, or I went right through this door and sat on the chair," and as she was sitting she could see these two men—Mr. Corbally—go toward the room that she had fled from, and then they all came into the room and Corbally asked who is this woman? She says she did not turn on the light but some one did. (In other words, when she was in this room, sitting on this chair, with Paswaters in the room, and while Corbally was going to the front bedroom, as Corbally says he did, she was in this rear room, *in the dark.*) When Corbally said (p. 165) "who is this woman?" Mr. Stevens said, "That is my wife." "And then, of course, I tried to—as I went to reach up, then I tried to turn on the light, and someone grabbed me, Mr. Corbally's son, I think, and threw me down on the edge of the bed. Q And turned off the light? A *I* wanted to turn it off, because I thought I could get out and take the receiver off of this little stand and call the police or call Mrs. Gorton, and they held me forcibly." She said she had been on the chair, "but when I went to get up, to turn the light off, to rush through into the hall, or try to evade them or get away, *that* is when they grabbed me and threw me down and black and blued my arms." And they threw her (p. 167) "In the edge of the bed, alongside of the chair." Paswaters was sitting up, "One of the men went around and held up a picture and said, 'Is this your picture?' And I think Mr. Paswaters said

'Yes,' and they asked him his name and where he lived, and he was so dazed from being awakened up, he just answered like a school boy; he sat there dazed, and they said, 'Where are your clothes?' He said, 'They are in the closet,' and the detectives said, 'We don't want those clothes; we followed you all the way back; we know you have three grips, where are the grips?' Someone proceeded to go out and unstrap the grips and take the soiled clothes''—(Why in the world would not the detectives be content with the business suit? There was no reason for anything else.) But Mrs. Stevens said, ''Someone proceeded to go out and unstrap the grips and take the soiled clothes—this soiled shirt they produced, and his golf trousers, and bring them in the bedroom, and he said, 'Don't take my clothes.' '' She said that one of the grips was in the hall, and she turned to Dr. Stevens and said, ''Why do you do a thing like this?''; she started to have a nervous chill. She says that someone grabbed a pink negligee and threw it around her shoulders, ''and it was then that these men tried to—that I tried to get in the bathroom, because of the hemorrhage, but they held me forcibly.''

With respect to what transpired in this room, the testimony of Mrs. Stevens is in substantial accord with that of the detectives. The one striking difference is that the detectives all swear, as does Dr. Stevens, that when they came into this rear room they found Paswaters and Mrs. Stevens in bed together, and that she turned over and turned on the light. The testimony of Mrs. Stevens is that she was in the room; that she was sitting on a chair; that the room was dark and that when the detectives came in someone turned on the light and she tried to turn it off. She says that she was on the edge of the

bed at one time, but her explanation of that is that when she tried to get away the detectives threw her back on the edge of the bed.

Her explanation as to how she got into this room is not believable. On page 164 she says that she does not know whether the detectives pushed her in the door, or whether she went through this door and sat on the chair. But, according to her story, the detectives must have seen her go in this room. In going in the room she could *not* have been in the position where she may have thought that the detectives pushed her unless they were so close as that they would have seen her, yet she puts these detectives, under these conditions, of doing the impossible thing, of, instead of intercepting her, following her, going on past her and to the front room (p. 165). She puts the detectives in the position of doing something entirely uncalled for, to wit, going out and getting clothes from grips when the man's clothes were in the room. Her explanation was, as to why she wanted to get past the men, that she tried to get in the bathroom "because of the hemorrhage." But, according to her own story, she had made the bandage downstairs a very few minutes before, and had gone into the room and put it on. She does not explain why she went *downstairs* for that purpose. She showed the condition of her arms the next morning to Mrs. Gorton (p. 167).

It is quite significant that during the entire direct examination of this witness *she says nothing whatever upon the subject upon which so much reliance was finally placed, to wit, the fact that she was menstruating.* She talks of hemorrhages, but she says they are hemorrhages caused by abortions. And if it be the fact that

she was menstruating the natural thing for her to have done upon her direct examination was to have mentioned it. It was no reluctance upon her part to go into intimate details that restrained her because from the rest of her examination it appears that she had no hesitancy whatever in going into the most intimate details.

There is another significant thing which may be here mentioned also as bearing upon the claim later advanced with respect to menstruation, and that is, although she showed the condition of her arms to Mrs. Gorton next morning, as she says (p. 167), she did not show to Mrs. Gorton evidence that she was menstruating, which, if the tale told by her with respect to the preparation of bandages, etc., be true, must have been in existence.

It is quite significant that, although she was examined by a doctor in July and in September, *she was not examined by a doctor in August.* If she had been menstruating that night, or, if she had been suffering from the hemorrhages as she says, a doctor's examination the next morning would have, without question, disclosed it, and we would not have been left to rest upon inference.

After the detectives left she wanted to call the police, but Paswaters said, "compose yourself, don't be foolish," and as soon as she composed herself she got dressed and went and sat on the sofa in the music room, and she then pulled herself together and called Mrs. Gorton. It was between seven and eight when she called Mrs. Gorton (p. 169). She was the first person called. But this episode took place at four-thirty in the morning, so that, for a period of three hours, she was composing herself, getting dressed. She

does not know, during all this time, where Paswaters was (p. 170). She thinks she became unconscious after she got dressed, her mind is blank. The first she knew was that she was downstairs and Paswaters was sitting in the chair, etc., in the music room. Her mind was a dark blank (p. 171). She did not call the police because Paswaters said not to. His advice was "see her attorney." In the morning, after calling Mrs. Gorton, she tried to get Mr. Turton, her attorney on the wire (p. 172), and she then got dressed and telephoned her mother, and Paswaters drove her up to Paterson to Mr. Beggs, the Surrogate of Passaic County. She does not remember what time she got to Mr. Beggs' office, but she thinks about noon, *and she then told Mr. Beggs what had happened.* Paswaters then drove her back to the house again. Mr. Bunnell called up from New York about nine o'clock, and she told him what had happened. About two o'clock she left with Paswaters for Torrington, Connecticut, and got there in the evening, about ten o'clock. It takes six hours to get from Montclair to Torrington. If this be so, and she had telephoned the Bunnells to come down at nine o'clock, and the Bunnells had immediately left it would mean that they would not have gotten to the Montclair house *until three o'clock in the morning.* Of course, for all practical purposes, if adultery was to be committed they might just as well not have come at all. Paswaters stayed at the Bunnells until the next day. She was alone with Paswaters from four-thirty in the afternoon the date of the arrival until ten o'clock the next night, with the exception of what space of time she spent with Mr. Beggs (pp. 173-174). Her explanation is that she was so sick and suffering from such a hemorrhage

that she does not think that she was rational. And, if she was suffering from such a hemorrhage, under the circumstances, the nature of the hemorrhage being such as it was, why in the world did she desire to stay with this one man, Paswaters, from four o'clock in the morning until ten o'clock at night. She needed the attendance of women. She said she telephoned to her mother in Paterson and the mother said one of the girls was very sick, that she couldn't come down, and when asked by the Court why she didn't go to her mother's house she said because "she didn't have any room for me." The mother's house was in Paterson, Mrs. Stevens was in Paterson, having gone there and seen Mr. Beggs, but, instead of going to her mother's house in Paterson, she continues on with Paswaters to Torrington, Connecticut, and got there about ten o'clock. But to believe the existence of circumstancs which made it impossible for Mrs. Stevens to get anybody, except Paswaters, during that twenty-four hours is almost inconceivable.

Why she did not go direct to Torrington, to which place she was bound, from the pier instead of going to the closed house in Montclair, she gives no reasonable explanation.

Why she waits, after she gets to the closed house, from two o'clock in the afternoon until six, before attempting to get anybody, she does not explain reasonably. She starts to get somebody at a time when people of ordinary intelligence would know that it would be impossible to get anybody. She trys to get her former laundress. "And she had had a fire and burned her house down, or partly burned it down, and her daughter had broken her collar bone."

Nellie Lee tries to get some persons, among others, a former maid, and she, the former maid, "It was Thursday and they were at some colored dance." She never thinks of *asking* Mrs. Gorton, her next-door neighbor, but Mrs. Gorton, illadvisedly, offers to come. But she is so solicitous for Mrs. Gorton and so little solicitous for her own good name that, because Mrs. Gorton had some guests over the week-end, on the *pretext* that the Bunnells are coming down she declines Mrs. Gorton's offer. (The word "pretext" is hers, not mine.) She waits until nine o'clock before she telephones the Bunnells, when she knows that if they come down as fast as they can, they will not be able to get there until about three o'clock in the morning. Mrs. Bunnell says, that she was willing to come down, but *unfortunately* Mr. Bunnell, when he comes in from the garage says something which causes a family fuss, and Mrs. Bunnell does not come down. Mr. Bunnell waits until midnight to communicate this fact to Mrs. Stevens, and he says that if he is not too tired when he gets to the Torrington Apartments, he then being in Yonkers, he would come over. But Mr. Bunnell is apparently too tired when he gets to the Torrington Apartments because he does not come. She goes to Paterson to Mr. Beggs' office, and she telephones her mother, whose home is in Paterson. But her mother cannot come down because she said "one of the girls was very sick; that she couldn't come down" (p. 174); and she cannot go to her mother's house because she did not have room for her. A very highly interesting tale of mis-adventure.

And her trip to Bermuda is likewise interesting for its remarkable, unexpected happenings.

She has no intention of going to Bermuda until she gets an unexpected check from the estate; upon getting this unexpected check she makes up her mind to go to Bermuda. Paswaters unexpectedly calls up Mr. Bunnell, whereupon she immediately thinks it would save her a trip if she asked "J. H." to get the ticket, whereupon she asked "J. H." to get the ticket; she mails him the check; Paswaters had intended to go to Canada, has declined a trip through the Berkshires with the Bunnells because of this Canadian trip; he, unexpectedly, changes his mind, and the next day telephones her that he is going to Bermuda. She is very provoked, but when she talks "he becomes provoked," and as he becomes provoked she apparently loses her mental attitude of provokness, and goes and has a good time. Most of the persons whom she knows go home on Saturday. She intends to go home Saturday, but, for some reason, something happens that she cannot, and she goes on the next boat, and Paswaters, unexpectedly, does the same thing, and, to cap the climax, she and Paswaters are in the same room, both attired for the night, when the detectives break in, and she does not know whether she was pushed in or walked in, because she was startled at a crash (p. 164).

It is submitted that to believe this tale taxes human credulity to its utmost.

All of this time she knew that what she was doing was indiscreet (p. 175). She did not call up this man's wife, although she was a friend of hers, "because Mr. Beggs told me not to do one thing" (p. 175). She knew all the time that Mr. and Mrs. Paswaters were having trouble (p. 177). She says that she knew that his wife knew that he was in Bermuda, because he wrote home

from the hotel. She never thought to ask Paswaters why he changed his mind and went to Bermuda (p. 178). She concedes that she thought that the Bermuda trip "would sort of reflect on me, and I never do anything that reflects on me"; she would have the Court believe that during all of this time she was being so indiscreet she knew that Mr. Stevens was having her trailed. She wanted nothing that she did "to be misconstrued as an indiscretion" (p. 178), and she believed Paswaters to be such a gentleman that "It (his presence on the trip) would make no difference to me as far as carrying on with him."

During the day following the raid she called up Mr. Bunnell and told him all about it, and although Mr. Bunnell was going to Torrington (p. 179), it was not suggested that he might take her to Torrington, instead of Paswaters (p. 180), and this, notwithstanding that he knew "I was awfully sick." She wanted to get right back to camp to see her son (p. 181), and she was sick and seasick, but she went over to the closed house at 79 Midland avenue. She says her condition did not warrant a nurse. She says that no one could do anything for her, and that the only reason Paswaters stayed was in case "I needed anyone he would call them" (p. 182).

Another instance of misadventure.

In order to get someone to stay with her, she even telephoned Alice Glennon, who had taken care of the boy, but, unfortunately, "she was on her vacation in Massachusetts." She is asked (p. 185), "Why didn't you go to a hotel?" and her answer is significant. It shows her worldly wisdom and that she knew exactly what was going on all the time and was perfectly able to

take care of herself. Her answer is, "If I had been trying to do anything, cover myself up or commit adultery, I could have committed adultery in the afternoon, and then gone to a hotel, but I had nothing to conceal." There is a hotel within a quarter of a mile of her house, the Montclair Hotel, and it enjoys a very good reputation (p. 185). In one breath she would have the Court believe that she did not see anything wrong, and in another she says that she knew it was indiscreet. And she told Paswaters that it was time for him to go at twelve o'clock, but he stayed. The Court asks her (p. 185), "Why did you tell him to go home at midnight," and the witness answers, "I don't know."

She admits that her clothes, which she had brought with her from Bermuda, in grips, were in the room occupied by Paswaters (p. 186). *Why were her clothes in the room occupied by Paswaters?* The only reason why she gave Paswaters the rear room was because the front room had not been made up with clean linen. The fact is, of course, that this bedroom, the rear room, is the room *usually occupied by Mrs. Stevens, as she herself says. Her grips were in that room, and she went to bed in that room. Paswaters went to the front bedroom. His clothes were in that bedroom. He undressed in that bedroom and left his clothes there, where they were found by the detectives. He then went into the room in which she was, and there they slept. There can be no question of what actually took place.*

Her explanation of leaving the ginger ale out in the hall, instead of carrying it into the room, is that she stopped at the table to deliberate as to whether she would call Mrs. Gorton or call Paswaters, because the window was up. She

admits, on page 187, that she was attired in the clothes in which she usually sleeps.

She tells an impossible story (p. 188) of trying to put the light out in order to dodge past all these men and get to the telephone. She admits that she was sitting on the edge of the bed when Paswaters told her to keep calm (p. 189). She says she sat on the bed (p.114), "Just shoved on the edge of the bed, with my feet hanging off." Her explanation as to how she got in the chair is that, "I dropped down as I went through the door." When she recognized her husband she was "sitting on the edge of the bed then" (p. 189). She could not have stayed on the chair very long if this be true. She admits asking her husband, "Why did you do anything like this?" and that she asked her husband why he let her stay there and that her husband grabbed a robe that was on top of a hat box and wrapped it around her (p. 191). On page 191 she makes light of her physical condition. She says—"Oh, I have so many of them; I have them every month." She has no physician except an osteopath, Dr. Eddy. She had no doctor in Bermuda and no doctor after she came home either in New Jersey or in Connecticut (p. 192). She made no suggestion to her friends, who came home with her on the boat, that they should accompany her home. At the time she went to Bermuda her condition, as she testifies:

"Q Were you ill when you went to Bermuda? A How do you mean ill?

The Court. In any way; suffering from any ailment.

The Witness. I have never recovered from—

(She intended here to inject abortions.)

Q Were you any iller than you are today? A No, I was just tired out and fatigued.

Q That has been a continuous condition for the last two years? A Yes.

Q Were you any iller during the week you were in Bermuda than you were during the rest of the year? A No, I wasn't.

Q Were you any iller when you were in Montclair the night of August 24th than you were the rest of the year?

The Court. Was your condition any worse or any more serious or more painful?

A *It was more serious, together with the vomiting from the seasickness, that is about all.*

Q That had been over, hadn't it; you had recovered from that before you landed? A No, the only reason I took the ferry boat was that he wanted to go on the tubes, and on account of Mr. Paswaters said, 'You had better go on the ferry boat.' I said 'I cannot stand another boat.'

Q Were you so ill that you needed an attendant? A No, I just needed rest.

The Court. You don't answer his question. Were you so ill on your arrival in New York that you needed an attendant?

The Witness. To bring my bags home, I did.

Q Did you need an attendant for any other purpose? A No.

Q For your personal wants? A Not any more than the house hadn't been closed, it had been closed, and I was just going home.

Q Did you need an attendant because of your physical condition? A You mean to personally administer to me?

The Court. Yes, care for you.

The Witness. No."

The witness was here again given a perfect opportunity to tell about this condition, alleged menstruation. *By her testimony she excludes any idea of menstruation.* She says that she was no

iller than she had been during the entire year except only the condition resulting from the vomiting from the seasickness. She says she was in the same condition as she was in before she went to Bermuda and that she was in the same condition after she came back from Bermuda as she was before she went, and that she was in the same condition before she went to Bermuda as she had been for the past two years.

Now, if this condition of menstruation, which it is claimed by counsel indicates that adultery was not committed, was, in fact, present, here was a perfect opportunity to indicate it. Instead of that she says that her illness was simply accentuated by the seasickness.

With respect to Paswaters staying she testified (p. 199):

"Q Did you tell him he would stay until they got there? A I don't know whether I did or not.

The Court. Did you know if he was going to stay there?

The Witness. No, I expected that he would go.

The Court. Why didn't he go?

The Witness. He didn't.

Q Why didn't he? A You will have to ask him.

Q I am asking you? A He couldn't, on account of my physical condition; that is the reason he didn't go.

Q What happened after nine o'clock, between nine and twelve, so far as your physical condition is concerned, that retained him there in your house, rather than let him go to his own house, or at least communicate with his wife, as to where he was? A I don't understand.

Q (Last question repeated.)

The Court. Anything happen?

The Witness. No, nothing happened.

Q Then I ask you again why he stayed?

The Court. If you know. Do you know why he stayed?

The Witness. No, I don't."

The call from the Stevens house in Montclair at 9:03 P. M. to Torrington (p. 204) is proven by the telephone company (p. 204), and I have no doubt that the call was made. The question is as to its purpose and what was said. *Significantly there is no record of any unsuccessful call before nine o'clock, nor is there any record of the call from Yonkers to the Stevens house, nor any record of any of the alleged numerous other telephone calls.*

Nellie Lee, the colored woman (p. 208), is produced and corroborates Mrs. Stevens as to her calling with Paswaters at her house on the afternoon of August 24th to get the laundry, etc., and to induce someone to stay with her. On direct examination her attention is directed to the 24th of August, 1922. It appears on cross examination, on page 210, however, that this date, August 24, 1922, is arbitrary. The witness has absolutely no means of checking it. She does not remember any other dates. She claims to have a record, which would assist her, but she does not produce it (p. 211), although she says she can get it (p. 212). She says she has a record home which shows about the 24th. She says that some gentleman came to the door, whom she did not recognize, nor did she recognize the make of the car. I suppose there is no more distinctive car than the Franklin, which Mrs. Stevens had. The shape of its hood is different from that of any other car running. The witness recognized nothing on the car which distinguished it from any other car. This raid, so-called, occurred on

the 24th of August, 1922. The petition for divorce was filed immediately thereafter. Mrs. Stevens knew that she had to defend this suit. She must have known the importance of this Nellie Lee testimony, if it existed, to at least corroborate some part of Mrs. Stevens' testimony. Nevertheless, Nellie Lee says it was not until April, 1923, or eight months after, that she was asked anything of what she knew about the occasion. This is, of course, almost inconceivable. Although it was eight months after the event that she was asked about this occasion, nevertheless from her record she fixes the date (p. 215) although she had never thought of the event after it occurred. She had not seen Mrs. Stevens between August 24, 1922, and the 22nd of April, 1923.

Mrs. Bunnell (p. 217) testifies to the receipt of the telephone call at nine o'clock on the 24th of August, and that she intended to go down but that her husband and herself had an argument and he thought that it was foolish for her to go down that night "because it necessitated his going out to Montclair, because he intended to stay in *Newark*, and I asked him to immediately telephone Mrs. Stevens as soon as he got to New York."

Nothing was said in Mrs. Stevens' testimony with respect to Mr. Bunnell going to Newark. If he intended to go to Newark, Montclair is but a fifteen-minute drive farther on. It would perhaps be reasonable for him to decline to go from New York to Montclair, but there was no earthly reason, if he intended to stay in Newark, that he should not go on to the aid and assistance of this sick friend of his wife's. Again, is it conceivable that Mrs. Bunnell, knowing that Mrs.

Stevens was depending upon her coming down, should have let this woman wait until her husband could drive down to New York before telephoning.

Another coincidence. It would appear from Mrs. Bunnell's testimony (p. 219) that Mrs. Stevens had no intention of going to Bermuda; that she had planned a vacation some place else, in New York somewhere, so that the going to Bermuda necessitated a change in her plans as it necessitated a change in the plans of Paswaters. Mrs. Bunnell testifying, upon the first day of the hearing, upon the 27th day of June, 1923, says that when she saw Mrs. Stevens the next day:

> "Q And what was her condition physically on the next day? A *She was very much upset and physically she was upset.*"

Nothing is said by this witness with respect to a condition of menstruation which could have been easily demonstrated at the time.

She testifies (p. 221) to an event in July, 1922, when Mrs. Stevens was suffering from a hemorrhage and Dr. Eddy was called in.

Dr. Firth testifies that he is an osteopath physician; that in July of 1915, he examined Mrs. Stevens and found she was suffering from a hemorrhage of the uterus (p. 225).

Mrs. Stevens is thirty-two years old and Paswaters is 35 years old (p. 231). Paswaters says he had probably seen Mrs. Stevens ten times before going to Bermuda, and that he *never,* prior to the time he stayed in the Montclair house, met her except in the presence of somebody else. He determined to make the trip to Bermuda after he had purchased the ticket for

Mrs. Stevens (p. 233). He said he had intended to go to Canada, and his explanation, for the change of his plans is—

> "* * * because I was very tired from overwork, and I didn't care to make the motor trip up there."

He says that when Mrs. Stevens phoned and asked him to buy her ticket—

> "* * * and Mr. Leffingwell, who was an associate of mine in business, was in my office when Mrs. Stevens phoned and asked me to buy a ticket. I said, 'It is a peculiar time to go to Bermuda, in the summer.' He said, 'There are certain flowers that bloom in no other time, that bloom then, and regardless of the heat, if you go to St. George, you always have a cool sea breeze."

He says that when he told Mrs. Stevens about it she said that he should not go. But he went, and they left New York on August 12th, and they all went to the Hotel St. George. He says that while they were in Bermuda he was never alone with Mrs. Stevens anywhere.

This insistence on the part of Mrs. Stevens and of Paswaters that they were never alone at any time during this Bermuda trip is an overstatement. It would not have been remarkable, indeed, it would have been a natural thing, if, at one time or another, these two people should have been alone. The significant thing is that the thing which would be natural to occur did not. The thing which would be unnatural, if adultery was not committed, is practically admitted. It would not be at all remarkable for these people, on the Bermuda trip, to have been alone at one time or another. It is extremely remarkable that these two people should have been at the house at Midland avenue, at night, alone,

and all the more remarkable because they had been so careful, prior to that time, never to be alone. He says that the trip took two days coming back (p. 237), and that Mrs. Stevens was sick the first day out.

> "Q Did you know the nature of her sickness at all? A No, sir.
> Q How did you know she was sick? A Because she stayed in her stateroom most of the time."

Apparently by this time, *5th of December, 1923, the alibi of menstruation had been thought of.* It is quite apparent from the testimony that it had not been thought of before, and that *it was not in the minds of the parties on June 27th, 1923, when the first testimony was taken.*

Here, again, Paswaters is guilty of an overstatement. Having in mind the fact that the alibi of menstruation is going to be made, when asked the question as to whether he knew of the nature of her sickness, believing that it would not be reasonable that he should know that the woman was going through the menstrual period, he answers unqualifiedly "No." The difficulty is that Mrs. Stevens had testified in great detail, at the hearing in June, *that she was terribly sick of seasickness, and that because of the fact of the seasickness she said to Paswaters that she would not go on a ferry boat.* Now, there is nothing unusual in a man knowing that a woman is suffering from seasickness. Indeed, it would be a most remarkable thing if this woman should be so terribly sick from seasickness, as she says she was, without Paswaters knowing it. It would be the natural thing to talk about it. But Mrs. Stevens had told Paswaters, when she got in New York, that she would not go on the ferryboat because of her condition from seasickness.

This denial of knowledge on the part of Paswaters of the nature of the illness of Mrs. Stevens is cogent evidence that *the alibi of menstruation was not thought of until sometime between June and December.*

They did go on the ferry notwithstanding Mrs. Stevens objection, and that it was seasickness she was suffering from is indicated by the fact that during the trip in the taxi cab to the Erie ferry, as Paswaters testifies, she vomited three times out of the window of the cab. *Paswaters says that she had intended to go to the Grand Central and take the train to Torrington, but Paswaters said she should not take it in her condition.* This is perfectly absurd. She could have gone to the Grand Central Station, remaining in New York, and have taken a train direct to Torrington. To go to Montclair she had to go either over the ferry or through the tubes and take a train out to Montclair, and, then having arrived at Montclair, she had to open a house, which had been closed for the summer, and she had no one to assist her in that house, whereas, had she gone direct to Torrington she had the Bunnells, Mrs. Bunnell being, as she testified, like a sister to her. Paswaters says they reached the house about four o'clock and they then opened the windows, and did some chores around the house to make the place livable. She then telephoned for her motor car and got it. It was between five and six o'clock that they went out to get somebody to stay with Mrs. Stevens. Paswaters then testifies (p. 240) that they *"drove to a delicatessen store, corner of Bloomfield avenue, close to Midland avenue"* and bought some light food, and finally got back to the house, between six and seven o'clock.

But Mrs. Stevens had testified, distinctly and definitely (p. 157):

> "Q Did you stop at any delicatessen store? A No.
>
> Q Did you go out about six o'clock at night to go to a delicatessen store? A No, I telephoned for an order."

The detectives say that Mrs. Stevens went to a delicatessen store and went alone. What is the explanation of Mrs. Stevens' unqualified denial that they went to a delicatessen store, and Paswaters' unqualified statement that they did go to a delicatessen store?

The statement of Paswaters on page 241 is extremely disingenuous. He says that Mrs. Gorton came in right after they came back from the store and talked to Mrs. Stevens:

> "Q What was said? A Mrs. Gorton said, 'You look very badly,' and she said, 'Yes, I am not only tired out from the trip, but I am suffering'—I don't remember what she said she was suffering from, but some expression—I was in the other room and was not supposed to hear this conversation, I presume."

It is significant that this man heard everything of a conversation which he was not supposed to hear, except the expression which would indicate what the woman was suffering from. Paswaters was a married man, so it would not have been at all remarkable for him to be familiar with whatever expression was used, which would indicate that the woman was menstruating. He missed this expression, however, although he heard everything else. It is another over-statement. Paswaters says that Mrs. Gorton came in later in the evening about some ring or another. Mrs. Stevens says nothing about this visit of Mrs. Gorton (p. 241).

Paswaters had met Mrs. Gorton before. The second visit of Mrs. Gorton was about ten o'clock (p. 242). He is uncertain as to what Mrs. Gorton said about coming over. He says he remained because Mrs. Stevens was ill and he did not care to leave her alone until someone came, although Mrs. Stevens told him to go—that there was no necessity of his staying.

Mrs. Stevens went upstairs about ten o'clock. Paswaters stayed downstairs until twenty minutes after twelve. Mrs. Stevens had a telephone call and called down to him that Mrs. Bunnell would not be there and that he, Paswaters, should go; she said he could take her car and drive to either Newark or go up to Montclair:

> "I said I saw no necessity to change, as long as I was there, that everything was all right; that I would stay downstairs and sit in the room there and wait until Mr. Bunnell came over."

About midnight the message came in from Mr. Bunnell "to the effect that it was late and that he didn't want to come over unless it was necessary," and that:

> "Mrs. Stevens said I should not stay, and I said I would stay, and I would stay downstairs; she said 'If you persist in staying, there is no use sitting up down there all night, you might as well come up and take the south room."

Another misadventure to be added to those already noted.

Mrs. Stevens said *he should not stay.* She was so concerned with respect to the situation that she did not want him in the house. But he said he would stay, but that he would stay downstairs so there could be no difficulty whatever. Thereupon, Mrs. Stevens, although she was in

the frame of mind where she wanted him out of the house, said that, inasmuch as he would not go in response to her request, he might as well come upstairs and take the south room.

Mrs. Stevens in her testimony says nothing whatever about indicating to Paswaters that he should not stay when the first telephone call came through at nine o'clock, but Paswaters says that both at nine o'clock and again at twelve she notified him to go. He says that he went upstairs about one o'clock. He did not take his bags in the room. The reason why he did not take his bag in the room was that he had all his clothes on that he had worn on the steamer, and the bags had the dirty soiled linen in them, except "my pajamas and comb set." Instead of taking his bags into the room, as would be the natural thing, he removed these things which he needed for the night, he opened the bag in the hall and took his things out, and went to bed, and then he says that the next thing that occurred he awoke, "startled, with some kind of a peculiar rushing noise, and at the same time I tried to prop up in bed. The first I remember seeing there—I was in a dazed condition—*was Mrs. Stevens sitting on the edge of the bed and four men in the room.* I attempted to raise up in bed and one of the gentlemen that was there at the previous testimony grabbed me—the gentleman sitting in the room, and pushed me back in the bed."

Now, compare his testimony with his testimony on page 246:

> "Q Where was Mrs. Stevens during this time? A *She just sat on the edge of the bed when I first woke up.*
>
> The Court: On what bed; in your room?

> The Witness: Yes, the edge of the bed in my room, with young Mr. Corbally holding her. She attempted to get up and he forced her down, but instead of forcing her down on the edge of the bed, he forced her in a chair.
>
> Q When you first heard this noise outside and woke up, you say that someone came in your room? A I didn't hear any noise until the door was pushed open.
>
> Q And then Mrs. Stevens came in? A Mrs. Stevens, with men following her."

The witness had missed the point when he first testified and was telling his story as it occurred. He says on (page 244) in answer to the very proper question as to what was the next thing that occurred, that he was awakened with some kind of a peculiar rushing noise and heard someone call "police" and at the same time he tried to prop up in bed "*The first* I remember seeing there—I was in a dazed condition—*was Mrs. Stevens sitting on the edge of the bed and four men in the room.* I attempted to raise up in bed and one of the gentlemen * * *." No suggestion here that he saw or heard the door open. *No suggestion that he saw Mrs. Stevens come through the door.* On the contrary, an unqualified statement that the first he knew "was Mrs. Stevens sitting on the edge of the bed and four men in the room."

Now, Mrs. Stevens' story is that when the four men came into the room she was sitting on the chair, and when she got up and tried to get out of the room *she was forced down on the edge of the bed.*

But Paswaters' testimony is that she was sitting on the edge of the bed and when she tried to get out of the room, and the detectives forced her back, the detectives forced her back

on a chair (p. 246). According to Paswaters' testimony, on (p. 245) *the first he knew was when he awoke seeing her sitting on the edge of the bed.*

This would not do, however, so counsel, on p. 181, asks him leading questions:

> "Q When you first heard this noise outside and woke up, you say that someone came in your room? (*The witness had said no such thing.*) A I didn't hear any noise until the door was pushed open.

(The witness has not yet gotten the idea, so counsel follows:)

> "Q And then Mrs. Stevens came in?"

The witness had not suggested that he saw Mrs. Stevens come into the room. Indeed, he had testified to the direct contrary. He has, however, now gotten the idea and his answer is:

> "A Mrs. Stevens, with men following her."

The truth is indicated by the testimony given on pages 245 and 246. Paswaters did not wake up until the door was opened by the detectives, and when he did wake up what he saw was not Mrs. Stevens on the edge of the bed, as he says, but Mrs. Stevens alongside of him, in the bed, reaching up to turn on the light, and that is what he really means, assuming he intends to tell the truth, when he says that when he first woke up he saw Mrs. Stevens on the edge of the bed. Paswaters was not particularly disconcerted because he thought, when the detectives were going to take his golf pants that he had fifty dollars in the golf trouser's pocket "here is where I am out fifty dollars." Mrs. Stevens' reputation had apparently little effect on him.

He says he presumed that Mrs. Stevens was divorced. He did not go to bed again that night and the next morning he drove Mrs. Stevens to Paterson.

Another remarkable thing, assuming now that Paswaters' story with respect to his innocent relations with Mrs. Stevens is to be believed, is that his first impression (p. 248) as expressed by him was "not ever hearing of Dr. Stevens before and she calling him" he said "Who was the man you talked to?" In the meantime I asked Mr. Corbally what they were there for, and he said "it was none of my damn business."

> "Q What did she tell you when you asked her that question? A She said that was her husband, Dr. Stevens, I said, 'That is a fine way to frame a fellow.' That was my first impression, that she and Dr. Stevens had framed me. She said, 'I will call the police.' I said, 'You will do nothing of the kind. You will sit down until I have time to think this thing over, if I have to force you to do it.' For the next hour I don't know what happened to her, but I walked the hall, back and forth, trying to figure out what to do, whether it was a blackmail plot or what it was, I didn't know; I couldn't figure it out."

The relations between Paswaters and Mrs. Stevens had been perfectly proper and there was nothing of the sinister about Mrs. Stevens, and yet the first impression of this gentleman was that she and Dr. Stevens had been guilty of attempting to blackmail him, and he drove her to Paterson (p. 249) and saw Beggs, because "I wanted to put myself on record the first thing as to the happening of this case, because I didn't know what would come out of it."

During all this time he did not go home (p. 250) because he wanted to consult some people about the affair, and with respect to the relations between his wife and himself, he says (p. 250):

> "Q Had you and she (his wife) arranged to be away together that summer? A No, sir; two years ago she said she would rather die than ever go anywhere with me again, *I didn't want her to die.*"

And the way this alibi of menstruation is injected into the case is not indicative of truth. On p. 254:

> "The Court: Was it anything more than seasickness that ailed her at that time?
>
> The Witness: She said there was something else; I didn't inquire what it was.
>
> Q You didn't know at that time? A I didn't ask, no."

If the woman said that there was something else what did she say? Did she say "There is something else the matter with me?" If she had mentioned the subject at all she would not have mentioned it in a secretive way. She would not have simply said "There is something else the matter with me." The moment she said "there is something else the matter with me" he would have asked what it was? It was a natural question. If it were something about which she did not desire to speak she would have said nothing about it or it would have opened the door.

> "Q You didn't know at that time? A *I didn't ask, no.*"

Although Paswaters stayed in order to give assistance to Mrs. Stevens if she desired it he closed the door of his room, and also the door

of the bathroom (p. 254). He had been at the house before (p. 255).

Paswaters states (p. 256) that the ticket he bought for Mrs. Stevens was a round-trip ticket. He explains that what Mrs. Stevens paid at Bermuda was something to the purser to change her room for a better room (p. 257). But, referring back to the testimony of Mrs. Stevens, we find that that is not her story. She says that it was her ticket back that she bought with English money (p. 154). He bought his own ticket at the same time as he bought Mrs. Stevens (p. 257). He notified Mrs. Stevens, that he was going some three or four days before sailing. He *did not* tell his wife that Mrs. Stevens was going (p. 257) nor did he tell her why he had changed his plans with respect to the trip to Canada. And he quibbles on p. 258:

"Q Mrs. Stevens was going unescorted? A Yes.

Q You knew that, didn't you? A I don't know that I knew it or didn't know it; I didn't ask the question.

Q How many tickets did you buy? A One ticket.

Q Then you knew that Mrs. Stevens was going alone? A I wouldn't be positive."

He does not think there was anything improper about it although Mrs. Stevens told him that she did not want him to go.

Both had open reservations. In other words, they had tickets which entitled them to passage, but the return steamer was not specified. The matter is one again merely of coincidence (p. 260). He asked that Mrs. Stevens be assigned to the same table (p. 261). He insists (p. 262) that during this trip he never saw Mrs. Stevens alone. Mrs. Stevens went to the same hotel,

on his recommendation (p. 262) and he says he never went alone with Mrs. Stevens on any trips because he had no occasion to (p. 264). Mrs. Stevens sat at the same table in the dining-room at the hotel (p. 264). And on p. 266:

> "Q It was purely an accident that both you and Mrs. Stevens returned from Bermuda to New York on the same ship? A It was not an accident, it was a victim of circumstances?"

And, again, the nature of Mrs. Stevens' illness is indicated (p. 268)—

> "Q Was Mrs. Stevens ill on the way back? *A She was seasick.*"

The witness had apparently forgotten that he had testified, on his direct examination, that he did not know what was the matter with her (p. 237). He was not at all solicitious for Mrs. Stevens' health on the boat (p. 269). He had been at the house of Mrs. Stevens before but never alone (p. 269).

No attempt was made to get in touch with anyone, after they got to Montclair, to take care of Mrs. Stevens until about five o'clock (p. 270)—

> "Q It didn't occur to you, until you got out to Montclair, she needed someone? A That is right.
>
> Q But still she was seriously enough ill for you to object or prevent her going to Torrington? A That is right."

He does not know why it was that no attempt was made to get anyone until five o'clock (p. 271). And page 272—

> "Q Was Mrs. Stevens ill other than the effects of her seasickness? A I don't know.
>
> Q Did you at that time know? A No.
>
> Q Did you suspect there was anything else the matter? A I might have suspected.

Q *Did you suspect?* A *I did not, no.*"

Now, consider this with his testimony on page 190—

"The Court: Was it anything more than seasickness that ailed her at that time?

The Witness: She said there was something else; I didn't inquire what it was."

And with his testimony page 241—

"A Mrs. Gorton said, 'You look very badly,' and she said, 'Yes, I am not only tired out from the trip, but I am suffering—I don't remember what she said she was suffering from, but some expression—I was in the other room and was not supposed to hear this conversation, I presume."

And yet he says (p. 272) *that he did not know or suspect that there was anything the matter except seasickness.* He communicated with no one while at the Stevens' house (p. 270). He has a daughter twelve years old who was with the wife, and page 274—

"Q Where was your wife at that time? A I presume at 100 Roosevelt avenue.

Q You didn't know? A No.

Q You were not interested? A No."

Although he did not get in touch with his mother that night at his Roosevelt avenue house, when he thought it necessary to get some one to take care of Mrs. Stevens, nevertheless, the next morning he communicated with her when he suspected that his wife had had a hand in the raid (p. 275). The picture which the detectives had was from a trade publication, nevertheless the fact that they had that picture made him suspect his wife, and again, he says, that he suspected that Mrs. Stevens had something to do with the raid until she denied it in Mr. Beggs' office. Here, again, his testimony, on page 276,

is significant with respect to the occurrences in that room on that night. He says:

> "A Because I went to bed perfectly alone in a room, with the door shut; *I awakened out of sound slumber and found Mrs. Stevens sitting on the edge of the bed* and her husband standing there, and someone asking if she was his wife."

I have already adverted to the fact that this is the story told by the witness on his direct examination when he was not led by leading questions (p. 245) on page 246, he is led to say—

> "Q When you first heard this noise outside and woke up, you say that someone came in your room? A I didn't hear any noise until the door was pushed open.
>
> Q And then Mrs. Stevens came in? A Mrs. Stevens, with men following her."

A comparison of his testimony on page 245 with that on page 246 and on page 276 indicates that the story with respect to Mrs. Stevens coming into this room, of being pushed into it, is a pure fabrication. He says page 277 that his purpose in going out to Paterson to Mr. Beggs was "to find out the status of her relations with Dr. Stevens," and to find out "whether she was telling the truth about her relations with him," that is, with her husband. He said that she told Mr. Beggs in his office "that he (Dr. Stevens) never supported her, never paid her bills, and deserted her before that time; hadn't lived with her for two years, approximately."

In other words, this man apparently was so suspicious of this woman that he thought that she and Dr. Stevens might be guilty of a frame-up, and of course that meant blackmail by the institution of an alienation suit by Dr. Stevens against Paswaters. He was so afraid of this that he took Mrs. Stevens out to Mr. Beggs'

office in Paterson to find out what Mrs. Stevens' relations were with her husband, *and it is only when she tells him that her relations with her husband were of such a nature as that no alienation suit would lie against Paswaters that Paswaters is satisfied.*

Is this the conduct of an innocent man, or is it the conduct of a man who has been caught with another man's wife and is attempting to protect himself from a money judgment.

Mrs. Stevens would have the Court believe that she went to Mr. Beggs' office because Mr. Beggs was the *only* one she could go to, he being her "guardian," as she expressed it. But Paswaters says that the reason why they went to Beggs' office is that he, Paswaters, insisted that they go so that he might know where he stood.

He *now* says that he knew from one o'clock in the morning that there would be nobody in the house with him but Mrs. Stevens (p. 279). Notwithstanding that he was in the house to take care of Mrs. Stevens and notwithstanding that Mrs. Stevens had gone to bed about ten o'clock, when the telephone call came in from Mr. Bunnell *he* did *not* answer the phone, but waited and let Mrs. Stevens *get out of bed to go and answer it.* He did not answer it because he says, "She was expecting a call from the Bunnells." But *he* was a friend of the Bunnells and the natural thing for him to have done, *unless he desired to conceal his presence,* was for him to have answered it. He says (p. 281) that he knew the Bunnells quite well for sometime prior.

Although when they came back from Mr. Beggs' office she was ill and nervous they did

not get a doctor. *Then was the time to get a doctor.* If Mrs. Stevens had had a perfect alibi, now claimed by her counsel, because of menstruation, why did she not do the thing which would protect her reputation *at that time?* Why did she not show, to some of her woman friends at least, objective symptoms that would indicate clearly that she was menstrauting. Why did she not get a doctor who could testify to that effect? Why did not she and Paswaters do something to protect her reputation, and to prove the truth, or the fact that there had been no adultery? Instead of that they go from Montclair to Paterson for the purpose of having Paswaters assured that the relations between Mrs. Stevens and her husband were of such a nature as that no suit for alienation would lie against Paswaters. They thought much of money and nothing of Mrs. Stevens' reputation or what might happen to her in a divorce suit because of the appearances. *She did not get a doctor although the effect of the raid was to make her more uncomfortable and more ill.*

Mr. Bunnell is called (p. 295) to corroborate the story of the telephones, etc., and he says that when he received the word from his wife (p. 295)—

> "As I had driven in from Boston the night before and understood that Mrs. Stevens was coming up the next day,

(If she could come up the next day why could she not come up the afternoon of August 24th.)

> "I thought it was very foolish to take Mrs. Bunnell down and back the next day, so I told them that they could not go, I was going to go alone; I was to be very busy the next morning, and I couldn't be bothered

with lugging a couple of women over to Montclair that night.''

This, notwithstanding that Mrs. Stevens was desperately ill, so ill that she could not come up to Torrington, and so ill that Paswaters had to remain in the house. Under the circumstances, this gentleman permitted a friend of his wife's to put herself in a position, knowingly, with a friend of his, where circumstances, to say the best for them, would be against her, and he says the reason why he himself did not come over to Montclair was that he was pretty tired, notwithstanding that he had told Mrs. Stevens on the telephone that if he could get down to the apartments and didn't feel too tired he would come over. He does not remember whether he suggested to Mrs. Stevens that she get a physician or a nurse (p. 301). He telephoned about midnight to find out *whether she was alone,* notwithstanding that he knew that Paswaters was with her, but he says he did not know but that he, Paswaters, had left before he got to New York (p. 301).

In other words, these friends were leaving Mrs. Stevens in this state of uncertainty from nine o'clock until twelve. Both Mrs. Stevens and Paswaters have stayed over night at the Bunnells' house (p. 303).

The weight to be given to this witness' testimony is indicated clearly on page 303 of the record when he says that it would make no difference to him in his feeling toward Mrs. Stevens whether there was any impropriety between Mrs. Stevens and Paswaters or not.

Mrs. Paswaters was never invited to the Bunnells' house and the following testimony is indicative of this witness' attitude (p. 305)—

> "The Court: Was she (Mrs. Paswaters) ever invited?
>
> A No. I invited Mr. Paswaters. I never took the trouble to invite the members of his family.
>
> (Last question repeated.)
>
> The Witness: No.
>
> The Court: Answer my question and don't dodge it the next time I ask you one."

The witness, notwithstanding that, on cross examination, he had stated, on page 304 that it would make no difference whatever in his relation of friendship with Mrs. Stevens whether she had been guilty of any impropriety or not, when asked by Mr. Newman, on page 307, says that had he known that Paswaters and Mrs. Stevens had been guilty of impropriety he would never have permitted Mrs. Stevens to come to his home. How can these two statements be reconciled? His thought of the raid seems to be (p. 308)—

> "A Knowing Mrs. Stevens, knowing Mr. Paswaters and knowing Mr. Stevens, I didn't think very much of it; I thought it was a stunt that he pulled off and it didn't amount to very much."

Mrs. Gorton is called (p. 320) and says that on August 24, 1922,

> "I called there and offered that some of us should stay the night with her; I didn't think it was safe for her to stay there alone."

The testimony of Mrs. Stevens is that Mrs. Gorton offered to stay *herself* and that she refused the offer because Mrs. Gorton had a week-

end party and visitors, and she used the *pretext* that the Bunnells were coming down.

Now, Mrs. Gorton says that she not only offered to stay herself but that "*some of us* should stay the night with her." There were others in Mrs. Gorton's house who could have stayed the night with Mrs. Stevens. There could have been no objection to that.

For the first time in the testimony there is definitely injected (p. 321) *the idea of menstruation.* Mrs. Gorton said that Mrs. Stevens stated that she was ill and had been seasick, "and she also said she was very desperately ill and could hardly stand up; she had cramps and regular—her sickness; it was not uncommon, I had seen her that way before." But, if this were so, why did not Mrs. Stevens testify in June, definitely and precisely, that she had told Mrs. Gorton that she was menstruating. Mrs. Stevens did not say one word with respect to that, and it is left for a period of six months after Mrs. Stevens testified to have this idea injected by Mrs. Gorton, who tells about a conversation *with Mrs. Stevens, to which Mrs. Stevens had not testified.* She repeats (p. 322) that she offered Mrs. Stevens that any one of them would be glad to come in and stay with her.

She says that, upon Mrs. Stevens telling her that Mr. and Mrs. Bunnell were coming, whom she expected about eleven o'clock, she, Mrs. Gorton, stated if they did not come "will you come in and let us know and one of us will come and stay." Why did not Mrs. Stevens, when she found that the Bunnells were not coming, notify Mrs. Gorton, as Mrs. Gorton had requested? The first time Mrs. Gorton was in to see Mrs. Stevens was about six o'clock.

Sometime after she was looking for a pin which had been lost in the garage and went to the Stevens' house and saw Mrs. Stevens and asked her wehther she had heard from the Bunnells, and Mrs. Stevens said she hadn't. She said— "'I haven't heard yet, but,' she said, 'I have been for a woman; I am all in; I have been for my washwoman to see if she cannot get me someone to get their breakfast for them; I cannot do it.' And at that time I offered again— that was around, I should think, ten o'clock at night, and she said, *'I won't be alone; I expect them.'* So I said, 'You let me know.'" *She told Mrs. Gorton that Paswaters was leaving on the 11:20 train.* This for propriety's sake. She saw Mrs. Stevens the next morning and Mrs. Stevens told her that the detectives had "pursued *her back in the room.*" This is not the story told by Mrs. Stevens. *According to her story there was no pursuing whatever.* She herself went into the room. Far from the detectives pursuing her they went into the other room.

Again, the idea of menstruation is suggested when this witness says (p. 323)—

"Q Where was Mr. Paswaters at that time? A He was in the other room.
Q Was he there while she was talking? A She told me she was unwell."

Both Mrs. Stevens and Paswaters knew that they were to be accused of adultery. Mrs. Stevens contents herself by telling Mrs. Gorton that she was unwell. She apparently did this for no other purpose than to indicate that she had not committed adultery. But she contents herself with *telling* this to Mrs. Gorton. If it were the fact *she could have proven it to Mrs. Gorton* without any difficulty whatever, and if it were the fact she could have, as I have asserted

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before, been immediately examined by physicians. She did not have any physician on this crucial occasion, although Mrs. Gorton testified (p. 328) she had a physician every month when she was menstruating.

The fact that Paswaters was there with her was the subject of comment in the Gorton house, because Mrs. Gorton (p. 329), "Yes, I remarked at that time it was the first time I ever saw her with a man, ever since they lived there by us, all that time."

It was the *first* time that Mrs. Gorton saw her, about six o'clock, that she, Mrs. Stevens said that the Bunnells were coming down, and therefore that it was not necessary for Mrs. Gorton to stay. *But* Mrs. Stevens did not know at the time that the Bunnells were coming down for she did not get any telephone communication from the Bunnells until nine o'clock. Mrs. Stevens, therefore, spoke quite advisedly when she said in her testimony that she used the Bunnells were coming down as a pretext (p. 331). At that time she (Mrs. Gorton) thought that Paswaters was leaving on the 11:20 train.

Mrs. Barbara, the mother of Mrs. Stevens, is called (p. 338). She is not, however, asked to corroborate the testimony of Mrs. Stevens that, on the 25th of August, the day after the raid, Mrs. Stevens called her up from Paterson, and that she could not take Mrs. Stevens in because her house was too small, and that she could not go to her because her daughters had been sick, the excuse given by Mrs. Stevens for not going to her mother's, instead of going to Torrington with Paswaters.

The testimony of Frederic Beggs, Surrogate of Passaic County, called to corroborate Pas-

waters and Mrs. Stevens (p. 373) not only fails to corroborate, *but indubitably stamps, it seems to me, the entire story of Mrs. Stevens and Paswaters as a fabrication.* He said (p. 373)—

"Q Do you recall, Mr. Beggs, that after this raid—the morning after the raid, Mrs. Stevens and Mr. Paswaters coming up to see you? A Yes. *I don't know who was with her.* I remember Mrs. Stevens and a gentleman coming to see me.

Q The first time? A The only time I know of.

Q And did they tell you of the incident that had occurred? A They did.

Q And did they ask your advice with regard to the matter? A I can't recall."

On cross examination he is asked to tell just what they said, and his answer is:

"A They told me something about Mr. Stevens and some detectives, I think they said, breaking in a house in Montclair where they said they were. I didn't go into any details with them at all. I think that the real reason of their visit at that time was that Mrs. Stevens was trying to sell her Montclair property, and I think she had bought somebody over a few days prior to that, a prospective purchaser, and we discussed the terms and they made some objection; I think they wanted to get Mr. Stevens' signature on the contract. But I don't think there was much said about this raid, except that it had occurred.

The Court: *Was there any explanation made by Mrs. Stevens of Paswaters' presence in the house at the time of the raid?*

The Witness: *No.*

Q Did you ask for any? A I did not.

Q Didn't you understand that it was her house that was broken into? A Yes, sir.

Q And she didn't ask your advice as to that? A I don't think she did. My

recollection is that at that time there were some differences between them and—

Q Between whom? A Mr. and Mrs. Stevens. I think she had her attorney here in Newark representing her, and I think Mr. Stevens—I think she had some suit pending against him."

Mrs. Stevens had testified that she went to Beggs immediately after the raid, *because she tried to get her lawyer, Mr. Turton in Newark, and could not;* that Mr. Beggs had acted as her "guardian"; that she had no other place to go.

Paswaters had testified that he thought that Mrs. Stevens and Dr. Stevens were engaged in blackmailing him, and *he* had insisted that they go to Mr. Beggs for the purpose of ascertaining the relations existing between Mrs. and Mr. Stevens, and that it was not unitl after he had seen Mr. Beggs that he was satisfied that she was not guilty of a frame-up. The uppermost thing on Mrs. Stevens' mind, of course, was the fact that she had been caught in a compromising position by these detectives. The uppermost thing on the mind of Paswaters according to his own testimony, was that he had been caught in a compromising position, and he was afraid of the consequences which could mean nothing else than an alienation suit. And yet Mr. Beggs says that the real reason of their visit to him was that Mrs. Stevens was trying to sell her Montclair property and there was some difference as to terms and she came to discuss those differences. They told him of the raid apparently but in an incidental way. They told him none of the details. No explanation whatever was made by Mrs. Stevens of Paswaters' presence in the house at the time of the raid. Mrs. Stevens goes to Mr. Beggs, her "guardian,"

for advice; Paswaters goes to Mr. Beggs, for assurance, they being innocent; when they get to Mr. Beggs *they tell him nothing of the details of the raid, and they do not even give him an explanation of the presence of Paswaters in the house.* If any such conversation had occurred between Paswaters, Mrs. Stevens and Mr. Beggs, as they indicate had occurred, Mr. Beggs would be the last man to forget it. Why did she not explain to her "guardian," as she calls him, the circumstances of this raid which put her in this position and indicate, at least to him, that she was innocent?

Lovejoy is produced (p. 351) and testifies that he was on the boat going to Bermuda and that he roomed with Paswaters, and that he likewise roomed with him at the hotel. He thinks that Paswaters was in bed every night but one before he was. He saw no impropriety on the trip (p. 352). He did not know that Paswaters had a wife living (p. 353). This witness' testimony on page 353 is highly significant. He is asked the question (p. 353):

> "Q Did you know that Mrs. Stevens had a husband living? A I think towards the end of the time that I was in Bermuda something was mentioned to that effect, but I have no interest in things of that order and paid no attention to it whatsoever, *I told my mother that I didn't want to ask any questions on a trip like that.*"

Why not? And further:

> "Q Why did you say that to your mother? A On account of the people aboard the steamer and people on the trip, *just the same as people on the night boat.*"

There is no question as to what the witness referred to when he used the expression "on

the night boat" (p. 354). In any event, the witness quite clearly explains it on page 307:

"A All I can say is that on a steamer going to Bermuda you will find quite a few names that don't jibe, and lots of things that are open to argument. I told my mother not to pay any attention to things that she saw, and not to ask for names."

Page 355:

"Q But you knew all this before you left for Bermuda, didn't you? A About this condition on steamers?

Q About this condition of people traveling on steamers? A Yes, I should say I did.

Q And there wasn't anything that occurred before you left on that trip to cause you to warn your mother that she might encounter those conditions? A I don't believe in crossing my bridges until I get to them. * * *

Q Then after you met certain people on the boat you thought you were called upon to give her that warning? A Yes, sir.

Q And had you met Mrs. Stevens and Mr. Paswaters at that time? A Yes, sir.

Q And had they been introduced to your mother? A Yes, sir."

On p. 354:

"Q And Mrs. Stevens was introduced to you by Mr. Paswaters? A Yes, that is right.

Q You knew that they were traveling together? A I did."

And the question by the Court:

"What did you mean when you said you knew they were traveling together?

The Witness: Well, I first met Mr. Paswaters and then he brought me outside and introduced me to Mrs. Stevens. As the trip went on I saw them together at the hotel there. They had their meals together."

And he then says they ate at the same table as Mr. Simpson and Mr. Lavery.

Of course, Paswaters, man of the world as he was, knew as much as Lovejoy did, before he went on this trip to Bermuda, at the same time as Mrs. Stevens, of the fact that there were conditions existing which, to say the best, would put Mrs. Stevens and Paswaters in a very compromising position. It is significant that although Lovejoy knew of these conditions before he went on the trip he saw no reason to advise his mother about them (p. 355) *until after the trip had started, and he had been introduced to Mrs. Stevens and Paswaters.* His conduct speaks much louder than does his testimony to the effect that he saw nothing improper between Mrs. Stevens and Paswaters.

Miss Mary Sullivan is called (p. 358) and says that in Bermuda she saw them every day, and then (p. 358):

> "Q And did you ever see anything improper or unchaste pass between Mrs. Stevens and Mr. Paswaters? A Why, no."

She was on the trip back and said that, with respect to Mrs. Stevens' physical condition—

> "She always struck me as being quite ill and pale and languid."

Miss Sullivan was with Mrs. Stevens most all the way up (pp. 360-361). She says (p. 361):

> "Q Do you know why Mrs. Stevens didn't leave there on Saturday, prior to the time she actually left? A Well, the Saturday previous that she stayed over?
>
> Q Yes. A Well, I simply heard her say that they couldn't get accommodations—I don't know if there was any truth in that. I have found difficulty in coming back myself."

The marital situation of Mrs. Stevens as seems to be discussed, to some extent at any rate for this witness testified (p. 362):

> "Q She didn't tell you she had a husband living? A Not Mrs. Stevens. I heard it from Mr. Lavery. He asked me if I objected to someone who had not as yet had her divorce granted.
>
> Q Mr. Lavery said that to you? A Yes. I said, 'No, so long as their conduct is above reproach.'"

It appears, therefore, that the members of this party realized the position that Mrs. Stevens was in.

And also it was assumed that there might be some objection to Paswaters:

> "Q And did he ask you if you had any objection to meeting Mr. Paswaters? A Yes, to both. He asked me if I had any objection to meeting either of them."

Why was this?

This witness testified (p. 365), she did not know that Paswaters had a wife living. She says it was not any connection between Paswaters and Mrs. Stevens that caused Lavery to ask her whether she had any objection to either of them, and there was no reason why Paswaters should have been included in the objection.

And see her testimony (p. 364) with respect to why it was that Lavery asked this question.

Again, bearing upon the question as to whether Mrs. Stevens was, in fact, going through the menstrual period on August 24th, the testimony of Miss Sullivan is important (p. 367):

> "Q And when was she taken sick? A Well, the first intimation I had of it was that time I mentioned, the afternoon be-

fore we sailed for home, when she couldn't go in bathing.

Q That was the first time she was taken sick? A *That week she was ill.*

Q Did she tell you what was the matter? A She told me her physical condition prevented her from going bathing and I drew my own conclusion."

If Mrs. Stevens was suffering from her menstrual period during the time she was in Bermuda, or, in the language of Miss Sullivan, *that week,* there is no possible inference that she was still suffering on the 24th of August.

And, here again I repeat that there is no testimony from *Mrs. Stevens* either as to the date when upon this particular occasion, she started to menstruate or the day that she stopped, nor is there any testimony from her with respect to her usual length of time, nor is there any medical testimony as to the usual length of time. The reason for this is, that there could not be such medical testimony because there is no such thing as a usual length of time. It varies in every individual.

McKenna, who is in a detective agency (p. 369), is produced, and says he met Mrs. Stevens and Paswaters in Bermuda. That he was very little in their company, and that "she was in company with three or four men there most of the time and I would just see her going in the hotel and going around with these men." He says he observed nothing improper. He did not know she was a married woman (p. 371).

The only testimony of Mrs. Stevens with respect to her menstrual periods is on page 406 of the record:

"Q I don't think I asked you on your direct examination, Mrs. Stevens, when was

your menstrual period in July? A It was the end of August, and I had medical treatment on the 26th and 28th of July.

Q And when, in the month of September was that menstrual period? A On the 21st of September.

* * * *

Q In any event, Dr. Eddy treated you in July and in September? A Yes."

Note the exactness as to July and September and the uncertainness as to August "the end of August."

The only medical testimony in is that of Dr. Eddy (p. 284) and he says that he is an osteopath and that he called on Mrs. Stevens on July 26, 1922, and two days later, and treated her, and—

"Q What did you treat her for? A Cramps and hemorrhage, *apparently.*

Q What was that due to? A Menstrual disturbance, *apparently.*

Q That was her menstrual period? A *Supposedly."*

Can any reliance be placed upon a physician's testimony of this kind? Does he not *know* what he treated her for? Does he not *know* whether her condition was due to menstrual disturbance or not? Does he not *know* whether that was her menstrual period? From his testimony I should say apparently not. He further says—

"Did you have occasion to treat her again in the month of September? A I treated her on the 22nd of September.

Q What was that for? A That was a series of cramps and hemorrhage.

Q Was that her menstrual period? A I *understood* so."

Did he not know? He say, on page 285—

"Q Doctor, assuming that Mrs. Stevens was normal in her menstrual period, that is,

they were regular, and that you had treated her on July 26th and again on September 22, 1922, would it be quite probable and reasonable that her menstrual period would have occurred on or about August 25th? A It would.

Q Or been present at that time? A Yes."

If there is any weight to be given to this testimony it is completely destroyed by the witness' next answer (p. 285)—

"Q Was her menstrual period severe, Mrs. Stevens'? A It was *spasmodic;* it was in hemorrhage and then cramp."

This medical testimony is worthless, if for no other reason than that there are no facts in the testimony upon which it can be based. The doctor says that he treated her on the 26th of July, 1922, and two days later, for what was *apparently* or *supposedly* something created by a menstrual disturbance, and that he treated her again on the 22nd of September for something supposedly a menstrual disturbance and he said that *if* her menstrual periods were regular it would be quite probable and reasonable that her menstrual period would have occurred on or about August 25th, or been present at that time. The difficulty with this is that *there is no testimony whatever that her periods were regular.* On the contrary, the indication from the doctor's own testimony, with respect to the cramps and hemorrhages and the spasmodic nature of the condition, is that the periods were not regular. There is no one who knows better as to whether her periods were regular or not than Mrs. Stevens and I have been unable to discover in her testimony anything with respect to that. There is nothing in the doctor's testimony with respect to whether, when he treated her on the

26th of July, assuming that she at that time was going through the menstrual period, at what stage of the period she was. For aught that the doctor says she might have been commencing or ending. And the same thing is true with respect to his testimony as to September 22nd. This makes some difference with respect to whether or not it would be probable that she was going through the period upon the 25th of August. There is nothing in the testimony to indicate the usual length of time that the period lasted with respect to Mrs. Stevens and as to this it carries in the individual. And, as bearing upon this question, it cannot be overlooked that Miss Sullivan testified, that Mrs. Stevens had been ill *for the week* that she was in Bermuda. Counsel attempted to lead her into saying that the night that Mrs. Stevens refused to go in bathing, which was the night before they sailed, was the *first* time, but *Miss Sullivan said that she had been ill for the week.* And it was not until three days after this that the alleged adultery occurred.

Mrs. Stevens on p. 378 of the record said that she was anemic. This testimony and this condition, makes it clear that it cannot be said that there was any probability that she was menstruating upon the night in question or that she was suffering from hemorrhages.

Had she been ill but for forty-eight hours before the night before she sailed, under ordinary circumstances the menstrual period would be over by the 24th. Depending entirely upon the length of time that Mrs. Stevens' period usually lasted it might well have been over some time before the 24th. But, after all, who knew better than Mrs. Stevens as to

whether or not she was suffering in this way, and why did she not, if it were the fact, testify upon the 27th of June, 1923, when she first took the stand, with respect to it? *I do not find that she has ever testified that on the 24th of August she was suffering from the menstrual period.* Her failure to testify in detail and to avert to this subject in unequivocal terms when she was first called in June, and the manner in which this alibi was injected in the hearing upon the 5th of December, 1923, indicate, I urge that it is a last minute thought. Mrs. Stevens testified that she *was no more ill on this trip than she had been for a long time prior.* She, herself, in her testimony in June, forecloses the idea of menstruation for she said that the *only complication there was of her condition, was that caused by seasickness.* Had the thought of menstruation then been in her mind she would have said so.

Paswaters' testimony that he did not know what the matter was with her upon the trip home, when it is apparent that if she was suffering from nothing else she *was* suffering from seasickness, and his subsequent testimony that he overheard a conversation between Mrs. Stevens and Mrs. Gorton, which he was not supposed to overhear, in which Mrs. Stevens used some expression with respect to her condition, which he heard enough to know that she *did* use *some* expression but which he did not hear well enough to know *what* expression was used, is significant of the falseness of the alibi. Mrs. Gorton's testimony that, upon the occasion when she saw Mrs. Stevens, that she, Mrs. Stevens, told her that she was *not well,* does not ring true, and a perfect answer to the contention is that if the condition *had* existed it would have

been so easy to have furnished indubitable proof of its existence. Mrs. Stevens indicates that, upon the night in question, she went downstairs for the purpose of preparing bandages and she went upstairs and put the bandages on, she says for hemorrhages. There was objective evidence in that house which would have demonstrated beyond preadventure to Mrs. Gorton, or to any other of her women friends, whether she was, in fact, in that condition. Better than this she could have immediately gone to a physician. She had a physician in July and in September. Why did she not have a physician in August at the crucial moment when, if her testimony is to be believed, she was more ill than she had been before? Here this woman was charged with adultery. There were means within her control to prove that which apparently her counsel thinks would be proof conclusive that the act was not committed, but, yet, although she forthwith gets in touch with Mr. Beggs, "her guardian," no offer is made to perserve that proof. All that she needed was an examination by a physician, either in Montclair or in Torrington. Instead of doing that she and Paswaters go to Beggs for the purpose of having Paswaters assured that, because of her relations with her husband and his refusal to support her, there is no danger that he will be sued for alienation of affections.

She has changed counsel since that time and it is not until the second day of the hearing, in December, 1923, that the suggestion, which is now made, is indicated. After all, the fact that she was going through her menstrual period depends wholly upon the testimony of Mrs. Stevens. All of the rest is hearsay of the loosest kind and very little of that. And when we take

the testimony of Mrs. Stevens we find that there is no precise testimony upon the subject.

In view of the attempted explanation of this trip to Bermuda by Paswaters and Mrs. Stevens, can the Court believe her testimony as to this condition? And will the Court go farther than this and say that, upon this indefinite testimony with respect to this condition, the Court will hold that, because that condition existed, the act of adultery did not take place? If the Court will go so far as this, then it would be impossible to secure a decree of divorce upon the ground of adultery unless the adultery was alleged to have been committed during a period of two weeks in the middle of the space between the menstrual periods. If the Court will take the position that the existence of the menstrual period is a complete answer to a charge of adultery, where the facts and circumstances show guilt, to the extent that the facts and circumstances go in this case and where the attempted explanation is so ridiculous as is the explanation in this case, then I urge that the fact of the existence of the menstrual period should be shown by *clear and convincing proof.* And it is not shown in the case at bar.

It is also significant that Mrs. Stevens is no longer living in the Midland avenue house, having rented that and moved to a place which is about, as she puts it, eight squares or so where Mr. Paswaters is now residing (pp. 435-436).

It is respectfully submitted that the act of adultery charged against this defendant was proven beyond question.

IV.

THE PETITIONER HAS NOT BEEN PROVEN GUILTY OF ANY CONDUCT SUFFICIENT TO BAR RELIEF.

A.

Inasmuch as at the time the adultery is alleged to have taken place two years had not expired since the separation of the parties, it is only in case the defendant is held not guilty of the adultery charged that it becomes necessary to consider the allegations of cruelty, &c., so as to determine whether the defendant and cross petitioner is entitled to a divorce.

In the cross petition Mrs. Stevens sets up cruelty. She likewise sets up, in the second count, adultery. The charge of adultery is abandoned.

As bearing upon the issue of cruelty, the fact that the charge of adultery was made is of significance.

That there were quarrels between these people is admitted. The cause is disputed. Dr. Stevens says, substantially, that the cause for the quarrels was largely that his wife insisted upon receiving attentions from other men. Mrs. Stevens retaliates by charging that the quarrels were due to the fact that she had money and he had not, and that he did not support her in the manner in which she thought she should be supported, and that he made use of her money. Where the wife has money and the husband has none or little there is room for quarrels. Mr. Stevens says that while she was receiving attentions from other men she was jealous of him, and accused him of all kinds of misconduct.

As bearing upon where the truth lies it is significant that she, in this case, formally made the charge of adultery against him with Miss Sutz. She made no attempt to prove it. She had no basis upon which to found her charge. *Nevertheless she made it.* Her husband made no charge against her in court until he had evidence to support it. I think that the fact that she made this charge, as she did, bringing in the name of this third party, a woman, and then failed to support it with one word of testimony, on the contrary withdrawing it, is highly significant.

She says, on the issue of cruelty, that they were married July 2, 1912 (p. 376) and that in October of that year, when they were away he drank very much and she was very much embarrassed, that one evening he promised to take her out for the evening and he went out, presumably to get a cigar, and came back very intoxicated; whereupon she remonstrated and instead of taking her out he knocked her down and her head hit the bureau and she was knocked unconscious and they called in Dr. Ward to revive her. She testifies that in December, 1912, there was an abortion performed; that Dr. Blyn performed it, and Dr. Stevens gave her the anesthetic.

She remonstrated and Dr. Stevens said he did not want any children, and she just simply had to submit to it. The child was born July 2nd, 1914, when she was in Lakewood, and Dr. Stevens did not come down to see her until she sent him a check for six dollars, his carfare, and that his bill for staying overnight was on her bill, which she paid; that in July, 1913, in the presence of the Haverons, Dr. Stevens came home one eve-

ning, and had a revolver, and chased her around the apartment; Mr. Worms came over and took it away from him, "and Mr. Worms has it still," and he took it home with him. This was in October, 1914.

She testifies to another incident a month before the child was born, when Dr. Stevens came home drunk, and Miss Haveron was present from Brooklyn, and he threw her over the foot of the bed. When asked by the Court what the cause of the assault was, she said she did not know; "he just seemed to be insane when he was drinking, and he was drinking most of the time," and that he quarreled without cause constantly.

She testifies to an occurrence in January, 1915, when she went down with her mother to Dr. Stevens' office early in the afternoon and found the door locked and several patients standing in the hall; whereupon, when he came home that night she told him that the patients were there waiting, and asked him why he neglected his business when he needed the money so, and he chased her around the apartment and tore a waist in shreds.

She says in February, 1915, Dr. Blyn gave her some medicine to cause a miscarriage (p. 377); that night she met Mrs. Bunnell and another lady at Proctor's Theatre, and there became violently ill, and Mrs. Bunnell called Dr. Stevens, and he said he would not come down; finally he did come down and dragged her by the arm to Dr. Firth's office, and he told her to go home in a taxi, and he took her home; that her mother came and brought a Dr. George from Paterson and that he, Dr. George, performed an operation that evening to save her life.

She says in July, 1915, Dr. Stevens came home drunk and that, without any provocation, "be-

cause all I did ask him was why he was so late coming home, and I had been sick and everything since that operation, and he knocked me down and blackened my eyes and bruised one side of my face," and that Dr. Crawford attended her for that. She says that around the 1st of July she had started to go to the Paterson General Hospital, but the doctor examined her and said that she was in such a nervous condition that that could not give the anesthetic. First she says she left when they could not give her the anesthetic, and then, on page 383:

> "A I asked them (the doctors) what it would cost a day to stay, but the doctors told me it would cost what seemed to be a large amount, so I couldn't stay, and I told them I would return home and rest up at home."

When she got home her husband had not arrived and did not come home until late, and then he had been drinking, and that he was so incensed that he grabbed her and dragged her around the apartment by her hair, and that same evening Dr. Hibbard took her over to the Fourth avenue station and put her on the train to go to Paterson. She stayed at her mother's house two or three days, and then they took her to the hospital, where an operation was performed; she was there for three weeks, but the day she was taken to her sister's home on Broadway, in Paterson, she had another violent hemorrhage, and was taken to her mother's; they tried to get in touch with Dr. Stevens and he arrived very late; they all ran for different doctors, and had a consultation, and took her back to the hospital and performed another operation at four o'clock in the morning. Dr. Stevens was at that time giving her $17.50 a week; she gave notes for the operation.

In October, 1917, they moved to the Elberon Apartments, in which the rent was $75 a month; she had a talk with Dr. Stevens about going there; he wanted to go, having just started business in the Kinney Building, but she said she could not afford to pay $75 a month; he, however, had his way, and she to help out worked in his office in the Kinney Building, Dr. Stevens not allowing her to wear her wedding ring (p. 387).

In January or February, 1918, she had a breakdown and was treated by physicians, and she does not remember who paid them (p. 389).

In March, 1918, she went to Chicago, where her brother-in-law, Dr. Haveron, had been a student under Dr. McCormick. She went to Dr. McCormick's Sanitarium in Chicago, getting the money from Mr. Beggs on notes, one for $500 and another for $350. Bobby was three and one-half years old. She was there seven weeks. She came back before she was cured, because Dr. Stevens telephoned to Chicago and sent her such harrassing letters and the baby was very sick, and she had been told that the doctor was not looking after his business, and Dr. McCormick said she was wasting time and money there. She was so ill when she returned in May that she could not stand the noise at the Elberon, so she went to live at Verona, where they lived from June to September 28th. During that time,

> "The Court. How was Dr. Stevens' treatment of you during that period?
>
> The Witness. Well, he wasn't so bad. One thing Dr. Stevens did give me credit for was that I was a wonderful cook. One thing he insisted on was that I get up in the mornings and cook for him."

In September, 1918, she purchased the house in Montclair. At that time there was an agreement made. She did not have the estate money. Dr. Stevens gave a note to Clarence Conners for $500, and she paid to the Godfrey Corporation $112 a month rent. In order to pay that she rented the front two rooms in the house at Montclair and got the revenue from it and paid the difference up until the time she took title. About that time Dr. Stevens thought it was necessary that he should have a medical diploma, so he got in touch with the Oriental Medical School in Washington, D. C., and they told him if he could come out he could buy a diploma; she got $300 and it was used to buy a diploma, and at the same time she bought a Franklin car (p. 392). She does not know how much the diploma cost. The $300, apparently, was used to purchase the car.

She says about the same time she loaned her husband $1,300 in a stock transaction, and besides that she gave Henry Brothers, brokers, $700. In the meantime she had bought from Post & Flagg $5,000 of Liberty Bonds, and she advanced $1,000 and applied in on the stock to try and save her husband.

She says on page 393 that she did not let him do it; that he just did it.

She then skips to January, 1920, and says that upon an occasion when Dr. Stevens was home suffering from a cold and his mother was at the house she went out (ostensibly to get a loaf of bread), but instead drove over to South Orange to see Marie Sutz, who is the doctor's secretary, and who is the co-respondent named by Mrs. Stevens in her cross petition for divorce for adultery, to get some money that she, Marie Sutz,

had collected. When she came back Dr. Stevens was up and dressed and asked her where she had been, and she told him; whereupon he flew into a rage and chased her around the house with a revolver. That Worms was sent for.

Her description of this event shows that, whatever trouble occurred, was because she went out that night and went to see Miss Sutz and was endeavoring to cause trouble in the doctor's business, and corroborates the doctor, particularly when taken in conjunction with the fact that she has named Miss Sutz as co-respondent, and then has not attempted to sustain her charges.

The witness herself says (p. 395) that they had more or less trouble over this girl, and she introduces no evidence to show any justification for her conduct.

In October, 1920, she says that she was invited to go out with a Mr. and Mrs. Summerville; that Dr. Stevens was going, but patients came in until it was almost time to go, and at nine o'clock, when they were ready to start, he became angry and said he did not enjoy those things; whereupon she stated she was going anyway, and he said if she did go he would blow her brains out; she did go, and when she came back he was sitting back of his desk and had a gun on top of it. It was the same gun which Mr. Worms had taken away in January, 1920. But the witness had testified that in July, 1913 (p. 378), the gun was taken away by Mr. Worms, and she then said, "Mr. Worms came over and took it away from him and Mr. Worms has it still. * * * " We have the same gun figuring in the episode of 1920 and Worms taking the same gun away, and we have the same gun in October, 1920. The manner in which the witness transports this gun is in-

capable of satisfactory explanation and her various statements cannot be reconciled.

She tells of an incident in November, 1920, of a collector calling from Bamberger's to collect a bill which she had refused to pay. The account in Bamberger's was in her name. Dr. Stevens refused to pay the bill and sent the collector up to her on the second floor (p. 396). She told the collecter that she was through paying bills. Stevens went out and got drunk and came back, and refused to eat any dinner, and called her vile names, and at that time threw her downstairs.

She then tells of an incident in December, 1920, of calling at the office of Dr. Stevens. Her excuse for going down to the office was that the doctor did not come home and he had a very good practice in Montclair; he had a lovely home and everything; the patients kept coming in and she kept telling them the doctor was on a trip, and finally, when he did not return (it was just before Christmas 1920), she called him on the telephone and Miss Sutz refused to let him talk to her, but she finally went down to the office, about five o'clock, and then her description as to what took place follows: She asked for Dr. Stevens and Miss Sutz said that he had gone home; Mrs. Stevens said she did not believe her; she went in and saw his instruments and said she would wait for him; Miss Sutz abused her and asked her why she had come to the office, and Mrs. Stevens told Miss Sutz to leave; before she left the phone had rang and Miss Sutz answered it and said, "Dr. Stevens, Mrs. Stevens is here," she waited until 7:30 and then drove home and telephoned Mr. Worms; at eight o'clock Miss Sutz called her up and dared her to come down to the office next morn-

ing and told her if she did come down to the office she would throw her out and Dr. Stevens called her up and told her the same thing. And then Mrs. Stevens said (p. 400):

"He was a slacker and this girl's father was not even a citizen, and I was incensed."

She went down to the office the next day, after sitting up all night *fearing he would come home,* alongside of the telephone. *She had gone down to the office to get him, and yet she was afraid that he would come home.* Before she went in the office the next morning she took the gun up to Mr. Kalisch; she then went down to see Dr. Stevens; at Kalisch's request an engineer of the building had been sent down to protect her; she went to Dr. Stevens' office and Miss Sutz jumped up and Mrs. Stevens apologized to the patients and told the patients "this woman had incensed me and abused me. *When she made a grab for me I knocked her down.* In the fracas Dr. Stevens picked up a chair by the back and was going to kill me. Mr. Slobone held him down and said, 'Doctor, Doctor, you are not going to kill your wife?' We had been invited that day to the Shongum Fishing Club. At any rate the agent for the Kinney Building took me out." *Slobone is not produced.*

This is an improbable tale and is not at all corroborated.

She then went home. Dr. Stevens remained away for some time. During the first weeks in January he came a night and stayed away a night; she was feeling very badly and sick and a friend of her mother's was going to Atlantic City and asked her to accompany them; Dr. Stevens' mother said she would come up and look after Bobby, and on Thursday night Mrs.

Stevens left; the morning she left Dr. Stevens swore at her and abused her (p. 403); she stayed until Sunday; she telephoned Dr. Stevens and he cursed and swore at her over the telephone; she came home and when she arrived she found that his mother was huddled in a chair with some wraps around her; the furnace was broken and there was no coal in the cellar and the doctor was not home and had not come home; he came home about quarter of three in the morning, broke the front door in and had a bottle of liquor in his pocket and he chased her through the house so violently that his mother locked herself in her room; she tried to call the police and he left the house and did not return again, except when he went to get his clothes in February, 1921 (p. 405).

On cross examination she testified, on page 407, that *from the very beginning* he abused her and threatened her with a gun; that his conduct was not at all new to her. Her excuse for taking the gun down to the doctor's office upon the last occasion was that she was afraid to leave it in the house (p. 409). She denies that she had the gun in Dr. Stevens' office at all. She was asked on page 407 whether she had testified to all the incidents of her married life that caused serious difficulty between her and her husband and she left the impression that she had. Her attention is then brought on page 409 to Burton. She is asked:

> "Q Do you remember on the trip to Chicago, when you went to the Sanitarium there, meeting a man whom you afterwards met in New York? A Yes.
>
> Q Who was that? A You mean Mr. Burton?
>
> Q Wasn't there some trouble about Mr. Burton? A Why the difficulty, the—

The Court. Was there some difficulty about Mr. Burton, between you and Dr. Stevens. Yes or no, you can say to that.

The Witness. Yes.

Q There was some trouble, wasn't there? A Yes, sir.

Q Some trouble that you haven't mentioned? A I wanted to speak of it but Mr. Newman wouldn't let me."

A photograph is shown her and she says that she did not give it away. (Ex P. 2).

This photograph was found in Burton's pocket when he was arrested. She denies ever having seen a letter addressed to her, signed by a Mr. Patterson (Burton), July 24, 1918 (p. 411, Ex. P. 4), and she denies ever having seen the sheets written on the stationery of a hotel in Altoona, Pa., the last taken from Burton's pocket when he was arrested (p. 412, Ex. P. 5). She admits that she saw the book "Arbutus" in 1908. Her explanation is that her little boy gave it to Mr. Burton (p. 413, Ex. P. 6). She says she never had seen it again. She admits, however, that she had a talk with Dr. Stevens about this book and she says, "Dr. Stevens had gone over to see Maude Adams, Mr. Burton's wife, and she had given him this book. He had tried to tell Mr. Burton's wife that the two weeks that I knew him I was in love with him and he was with me."

When the son gave this book to Burton the son was 3½ *years old.* When Dr. Stevens went over to see Mrs. Burton, Burton was in jail (p. 414). She knew of the arrest of Burton from Dr. Stevens, *the night he was arrested.* He came home and told her that he had had him arrested. Dr. Stevens told her that Burton was known as Patterson. She denies absolutely that when Dr.

Stevens came home that night he showed her the photographs P. 2 and 3. She denies that he told her anything about finding them in Burton's pocket and she likewise denies that he ever showed her the Ex. P. 5 or said anything about it.

There can be no question but that these photographs and this writing, P. 5, were found on Burton when he was arrested. There can be no question, for Mrs. Stevens herself admits it, that Dr. Stevens talked to her about Burton. There can be no question but that at that time he had in his possession these photographs and this writing. Is it possible that this man did not show her the photographs and the writing? As I have already stated this writing contains in Burton's handwriting a list of names of women with whom he had had sexual relations with intimate details, and among these names was Mrs. Stevens.

The way Burton met Mrs. Stevens is interesting (p. 417). It was when she left for Chicago on March 6th. Dr. Stevens was putting her on the train and was trying to get the porter to come back and get her bags, and the porter was very busy and told Dr. Stevens to wait a minute and the Doctor called him all sorts of names. Mr. Burton, who was present, picked up the grips and said, "I beg pardon, I will put your bags on the train." She says she did not see him again until she returned from Chicago.

Her explanation, as to how she met him after she returned from Chicago, is:

> "After I had been home from Chicago a few days someone called up and Dr. Stevens answered the phone, and he said, 'This is Mr. Burton,' and he said, 'I am doing civil service work in the hotel,' and he said,

'I would like to see you if you are not going to be busy this evening.' That evening Dr. Stevens and I went down to the Robert Treat Hotel and incidentally Dr. Stevens apologized for the way he had spoken to that porter."

It is hard to believe this. The witness said the way Mr. Burton knew her address was that she, Mrs. Stevens, had given it to him on the train (but he was not on the train) and asked him if he would call up her husband. She had written her husband and asked him to call up her husband and he would thank him for taking care of her bags. (Is this to be believed.) A man casually standing on the station platform, known neither to Dr. Stevens nor his wife, courteously offers to carry the bags of the wife into the train; the husband, in the mean time, being engaged in calling down a porter; the man does not go on the train but before the man leaves the wife gives him her addres and tells him that he should call up her husband and if he did so call up her husband would then thank him for carrying her bags into the train. This is ridiculous, and it is a clear indication that the story of Dr. Stevens, with respect to Burton, presents the true facts, and that the story of Dr. Stevens, with respect to the trouble, during all his married life, being occasioned by the undue attention which Mrs. Stevens gave to men, and the undue attentions which she received from them is true.

Notwithstanding that the witness admits (p. 418) that the doctor made charges with respect to her relations with Burton and asked her if he had not gone to Chicago with her, and that she had heard that he had gone to the jail and tried to make Burton admit that he had been friendly with her, she nevertheless, denies that

Dr. Stevens exhibited these photographs and these sheets of paper to her during the time that he was making the charges, when there is no doubt but that he had the things in his pocket. Notwithstanding the fact that the doctor received the letter postmarked July 25, 1918, written on the Hotel McAlpin stationery by Mrs. Paterson, to Mrs. Stevens, and notwithstanding that he was making charges against his wife with respect to her relations with Burton, she denies on page 419 that he ever referred to this letter.

The purpose of these denials is to keep these papers out of evidence.

She admits that the doctor told her that he had gotten the book, P. 6, from Mrs. Burton or Mrs. Paterson. Mr. Worms told her that Dr. Stevens had been to Mr. Burton. She says that when this book was presented to Mr. Burton by Bobby the doctor was present (p. 421).

She denies that she wrote Burton while he was in jail. She first cannot remember whether she ever wrote Burton before he was arrested (p. 422) and then she remembers that Burton sent her some flowers on Mother's Day and she answered the letter. She admits that she met Burton on Broad street with her mother and sister and went to the Robert Treat Hotel and had an ice cream soda, on which occasion Burton told Mrs. Stevens' mother *something about the conduct of Dr. Stevens.*

On pages 424 to 426, *after* a recess, she denies that the doctor ever accused her with respect to her relations with Burton, but, on page 418 *before* the recess, she *had* testified—

> "Q Did the doctor make any charges of your relations with Burton to you? A Yes, sir. He asked me if he had gone on to

Chicago with me and what about my relations, etc."

The witness sent back her wedding ring with the letter marked Exhibit P. 6. This was in January, 1921. P. 6 is some poetry which *is quite inconsistent with Mrs. Stevens charge of cruelty.*

Assuming that this letter expressed the sentiments of Mrs. Stevens, and I assume it does, because it is signed by her and Bobby, and the words "This ring" are underlined, it is *not* quite the kind of poetry that a woman would send to a husband *who had chased her, blackened her eyes, and otherwise maltreated her?*

In view of the testimony of Dr. Stevens, the testimony of Mrs. Stevens on page 430 is significant—

"Q Didn't the doctor accuse you of being intimate with another man early in your married life? A No."

She details, on page 430, that they were very poor when they were married. She denies absolutely having any trouble with the doctor over a Mr. Van Brunt (p. 432.).

No charges which the doctor ever made, with respect to her relations with other men, had any effect on her.

And Mrs. Painter, a servant in the house, had testified against Mrs. Stevens, and Mrs. Stevens pays her respects to her (p. 436):

"Did she (Mrs. Painter) see any of the differences between you and your husband? A No, the principal thing that she did was to drink with my husband."

The only corroboration of the acts of cruelty produced by the wife is as follows:

Mrs. Bunnell, whom I have already referred to, testifies to an occasion in May of 1915 when she and Mrs. Stevens were at Proctor's theatre, and Mrs. Stevens became ill and Dr. Stevens was sent for and did not want to come; he thought it was all nonsense, but finally did come and she was then taken to Dr. Firth's office, an osteopath. Mrs. Bunnell told him to take a taxicab but "Dr. Stevens grabbed her by the arm and made her walk" (p. 222).

In view of the friendship between Mrs. Bunnell and Mrs. Stevens and Paswaters and the length to which Mr. Bunnell says he would go for Paswaters very little reliance can be put upon this witness's testimony.

Dr. Firth says that he treated Mrs. Stevens in February, 1915 for hemorrhage of the uterus (p. 225) and he thinks that it was a pregnant condition and the coming on of a miscarriage. His opinion is not from knowledge, but from the history of the case. He had delivered Mrs. Stevens at the birth of her child on the 3rd of July, 1914. He attempted to collect from Dr. Stevens, but was finally obliged to place the bill in the hands of his attorney and as the result Mrs. Stevens paid the bill.

Dr. Crawford testifies (p. 287) to treating Mrs. Stevens in July, 1915, for several contusions about the forehead and the eyes.

Mr. Henke testifies (p. 309) that on February 4, 1921, he received a letter from Dr. Stevens, (Exhibit D. 3), stating, "I wish to inform you that Mrs. Stevens has set up a separate apartment, and is suing me in the courts of this State with reference to our matrimonial matters. I will not be responsible for any debts contracted

or to be contracted by her in my name or otherwise."

The statements contained in this letter were true. According to the doctor's testimony Mrs. Stevens had put him out of the house in January, 1921, and she was suing him in the courts for divorce from bed and board.

Mr. Cashman testifies (p. 310) to the receipt of a similar letter.

Prior to that time Henke had been supplying coal to the Stevens house, on the credit of Dr. Stevens (p. 309) and Cashman had been supplying vegetables and meats for a period of two or three years on the credit of Dr. Stevens. Dr. Stevens "was a good customer, probably fifty or sixty dollars a month, probably more than that, I wouldn't say for sure."

This disposes of the contention that Dr. Stevens never supplied any of the necessities of life.

Breese, of the Public Service Gas Company, testifies to the receipt of a similar letter in February, 1921. Prior to that time the Public Service had been furnishing gas upon the credit of Dr. Stevens.

This disposes of the contention that the doctor never supported the house.

Isidor Kalisch testifies and produces a gun which he says he received from Mrs. Stevens (p. 313) on November 27, 1920. He telephoned to Transue, superintendent of the building: "I telephoned that Mrs. Stevens was in a rather excited state, and wanted to visit the doctor's office, and that I thought it advisable that if that

were permitted, that someone go down with her." The revolver was loaded (p. 314).

The testimony of Transue (p. 439) does not agree with that of Mr. Kalisch. Mr. Kalisch may well have forgotten the circumstances.

Mrs. Scott, Mrs. Stevens' grandmother, 82 years old, testifies to an occasion when Mrs. Stevens took the car and went over to see Miss Sutz, and she says that "Mrs. Stevens, the doctor's mother, said late Saturday night she saw this office girl on the street, and they spoke about the money, so Mrs. Stevens, Mr. Stevens' wife, went down to see whether the girl had taken the money out of the safe, but she didn't get the money; she came back." When she came back Dr. Stevens asked where she had been, and she told him, and he was enraged and grabbed hold of her and his mother got up and said, "Luddy, Luddy, don't get excited, you know how sick you have been." And she says that Mr. Worms came (p. 317) and took the revolver. This was in January, 1920. The witness cannot fix the date of this event, but it was the same event testified to by Mrs. Stevens. The witness also testifies that Mrs. Worms was present. She says that Dr. Stevens' conduct was because aggravation at Mrs. Stevens going down to this girl's house after the money; "he said it was none of her business to meddle."

Mrs. Gorton testifies to an occasion in December three years ago (p. 324), when Bobby came to her and said "WHY DON'T you come in and see my mamma; she is upstairs sick. Papa knocked her downstairs." She went in and found Mrs. Stevens so ill that she could not keep a mouthful on her stomach. She wanted the doctor and the doctor said, "Mrs. Gorton, this

has been going on a long time, and I might as well bring my lawyer and have this thing settled."

In describing the condition of the house she says (p. 325)—

> "A It was—well, I I don't know how to express it; I never saw any meals being gotten; I took little Bobby home and had him for meals right along there while she was so ill; I never saw the maid cooking anything; she said Mrs. Stevens couldn't keep anything on her stomach anyway.
>
> Q Was the house warm? A I made the fire out of what little coal I could scrape up on the cellar bottom."

But during this very time, according to the testimony produced by Mrs. Stevens, Mrs. Stevens had credit both for coal and for vegetables, and for everything else that she wanted in Montclair.

Dr. Truesdell, a dentist, testifies (p. 335) that he received a letter February 4, 1921, stating that Mrs. Stevens' credit was withdrawn. She had credit for dentist work up to that time.

Mrs. Barbara, Mrs. Stevens' mother, testifies that in 1914, Mr. Worms brought Mrs. Stevens to her house with her neck and arm all black. She also testifies to the occasion when Mrs. Stevens was in the General Hospital in Paterson which occasion she places before 1915 (p. 339). The only occasion when she saw any evidence of physical cruelty was eight years ago (p. 342). She says the quarrels were over money (p. 342). She does not know of any other occasion for them. When first asked about whether she knew what the quarrels were over, or if they were over Burton, she said she did not know Mr. Burton. She then remembers that she does know him and says she met him

and (p. 343) he said, "'Are you Mrs. Stevens' mother?' I said, 'Yes.' He said, 'Can I speak to you for a few minutes?' I said, 'You are a stranger to me.' 'I would like to converse just a few minutes.' We stopped—He said, 'We cannot talk here.' We stepped over here to the Robert Treat Hotel, *and he started to tell about the cruelty;* he said he was a good friend of the doctor's, and the cruelty of the doctor to his wife; after about fifteen minutes I left him; that is the only time I ever saw him." And he spoke "About what kind of a mother I was to allow a daughter to furnish a home and furnish all the money, and the man could treat the daughter the way the doctor treated her." The Court injected this question (p. 344)—

> "Did he give any explanation of why he took so much interest in the family?
>
> The Witness: He had been there; he was a friend of the doctor's, and had seen the actions; I can only say what he told me."

The witness had said that Burton had said that he was a friend of the doctor's, and that was the reason why he was *complaining* of the doctor. All the physical cruelty that this mother tells about took place at one time about eight years ago. She testifies (pp. 344-5)—

> "Q Do you remember any other occasion when you saw the doctor strike Mrs. Stevens or knock her down? A The night he tore her waist off. Q When was that? A It was about the same year, *because it was all at the same time.*"

Edith Reed, the maid, testifies, that she was at the house in September, 1920, and that the doctor and Mrs. Stevens were always quarreling and once, when she was in the kitchen, she heard an uproar and when she went to see what it was she saw Mrs. Stevens on the floor below

the stairs. Mrs. Stevens said that the doctor had knocked her down.

In view of the testimony of Mrs. Stevens and her mother that the quarrels were *over money,* and because Dr. Stevens *did not support the family,* the testimony of this witness, Edith Reed (p. 348), is highly significant:

> "Q Do you know what they quarrelled about? A I don't know; Mrs. Stevens told me on account of his secretary.
>
> Q What was his secretary, a man or woman? A She was a woman."

The length to which Mrs. Stevens will go is indicated by the attempt to get the witness (p. 348) to say that there was no coal in the house. This was in the winter of 1920 at the time of the coal shortage, and there may not have been much coal in the house. The inference to be conveyed, however, was that Dr. Stevens refused to furnish the coal, and this notwithstanding the testimony of Mrs. Stevens' own witness that she had credit for coal and could order it when she pleased.

And the same thing may be said with respect to the attempt to get the witness to say that there was not sufficient food in the house.

This witness' testimony will have to be disregarded because she was not produced for cross examination. (See p. 351.)

This is all the corroboration that there is with respect to the charge of cruelty.

From the testimony of Mrs. Stevens and her own witnesses it appears that there were continual quarrels between the parties, and that the quarrels were occasioned by the doctor's idea that his wife was giving and receiving from

other men, attentions which she should not (and with respect to that he supports his contentions by testimony), and the charge by the wife that the husband was unduly familar with his secretary (and with respect to that she supports it with no testimony).

The doctor's story of their married life is found on page 492, etc. He was poor when they married. For three and a half years, after they married, he got but $35 a week as commissions, increasing a little year by year. In December, 1915, he started in business for himself in the Kinney Building. In 1916 he made about $1,800. In 1917 about $2,000; in 1918 about $2,000; 1919, $2,500; 1920 about $3,000 net (p. 494); 1921 about $2,650; 1922 about $2,800; 1923 about $3,000. His net income ran from $1,800 in 1915 to not more than $3,000 in 1923, and he had no other resources. His wife had known him for two years before the marriage, and knew his financial condition when she married him. He did not have a job. His wife, in 1919, received $20,000 from the Van Riper estate, and after that about $15,000 which she invested in bonds. The house was bought September 1, 1918. He had had difficulty with his wife over Burton, and he thought that he would like to go to Montclair and get out in the country so that he could forget about it. He entered into the contract to buy the house which is described on page 498. He then got in difficulties in the stock market and he arranged to transfer the house to his wife, in the latter part of 1918, under an agreement by which he was to pay his wife $150 a month, which he paid (p. 499). He describes, on page 502, giving to his wife a note for $1,300 and the details. He admits that he did not pay the confinement

expenses. He says he did not know however that his wife paid them. He thought the matter was one of professional courtesy, and he says that Dr. Firth did not send any bill, and refused to accept any pay until he and Dr. Firth had a fuss over the phone about a patient, about two years later. He says he reimbursed Mrs. Stevens when he ascertained that she had paid him. He admits the quarrels with his wife, but he says that the first quarrel was due to the attentions which she was receiving from a Mr. Falconer, a gynaecologist, from Paterson. He introduced Dr. Blyn to her. He denies that at any time when they were living on Thomas street did he knock his wife senseless. He admits that upon an occasion when a Dr. Fort, or some such name, was present when he came home; he had had trouble about her going out with Dr. Falconer in his automobile (p. 506) and she had gotten into a rage. Mrs. Stevens was in the habit of threatening to commit suicide, and became hysterical over nothing. He describes a quarrel which they had over a Mr. Van Brunt (p. 508). This was in 1916. Mrs. Stevens received the money for Van Brunt's board (p. 511). He denies he made any threats to shoot his wife. He explains the occasion in June, 1916, at 96 Broad street, when it is charged that he tore his wife's waist in shreds. He denies that the waist was torn to shreds, but he admits that there was a quarrel. He refers to difficulty with his wife over a Harry A. Swan (p. 512). His brother had told him something which Mr. Swan had told the brother and he taxed her with it, whereupon she became angry and denied it. He said that the next trouble was in 1918 over a man named Burton or Paterson. His story is that she told him that *on the train* she

had met Burton. He denies that he met Burton "on the day that his wife departed for Chicago." He denies the whole story about the porter and the bags or that he knew anything aboutit. He says that Burton called her up and that she told him about it, and that Burton came to the house on her invitation, and that was the first time he met him (p. 516). Stevens cashed a check for him (p. 517); then became suspicious, and made investigations and found that the check was a forgery and then had Burton arrested at three o'clock in the morning at the Robert Treat Hotel, and when he was arrested they found in his pocket the photographs, Exhibit 2 and Exhibit 3, and also the sheets of paper Exhibit 5. There is no doubt but that these papers were found on Burton, and there is no doubt but that Stevens had them and read them. He then says that that same night he went back to Mrs. Stevens (p. 520) and there was a violent quarrel. He told her that he was going to get out. Then the question of the child came up; he was in an awful state mentally, and went away, consulted with his family and finally returned and Mrs. Stevens asked if he could not forget about it, and they would go out to Montclair or some place and things would be better. They were then living at 1010 Broad street. He says that he showed the papers to Mrs. Stevens (p. 520). Is his story more likely than that of Mrs. Stevens? Exhibits P. 2 and P. 3 are photographs of Mrs. Stevens. They were undoubtedly found in Burton's possession when he was arrested at the Robert Treat Hotel. There is no question but that Exhibit P. 5 is in Burton's handwriting. There is no question but that the name "Stevens" appears on this list. There is no question but that it was

enough to make any man mentally irresponsible and it is not conceivable that he would not have taken these things up with his wife, and it is not conceivable that there would not have been a frightful set-to. He condoned it (p. 521) upon the promise of his wife that she would give Burton up. He recognized the book "Arbutus" (Exhibit P. 6), and says the first he saw it was in his library and the next time he saw it was when Mrs. Burton or Mrs. Paterson gave or sent it to him. He testifies to intercepting a letter postmarked July 24, 1918, addressed to Mrs. Stevens by Mrs. Paterson or Burton, which indicated to his mind that his wife had not been carrying out her promise; that she was corresponding with Burton. He took this letter home and showed it to his wife and this was the occasion of a quarrel. His wife tried to tear the letter up (p. 524). He says he did not know, until Mrs. Stevens testified in court, that there was any claim that the son Bobby, who was 3½ years old at the time, presented this book to Burton. He does not know what inscription there was written on the blank page which was torn out at the time the book was received by Mrs. Burton from her husband according to Mrs. Burton's story. The page was torn out when he got it (p. 524). There is nothing immoral or indecent in this book. If there was intended to be a "frame-up" some other book than this would have been selected.

As a result of this quarrel in July, 1918, over this letter they did not speak for several weeks. He did not know that Mrs. Stevens had a photograph similar to Ex. P. 3 (p. 529). He admits that there was a quarrel when Mrs. Stevens went over to Miss Sutz's house in South Orange. He was ill. He denies that he chased her around

the house, or that he chased her with a revolver, and his story appears on page 530. He says that Mrs. Stevens said something to Worms about the revolver and Worms asked where it was and Stevens said it was in the drawer in the chiffe-robe, and that Worms went and got it and after seeing that it was unloaded took it home with him and that was the only occasion when Worms did take the gun home. *The gun was not loaded at the time.* At p. 531 the Court injected that Worms had stated that he would not take it home until he had *unloaded* it. A reference to Worms' testimony on page 453 indicates that the Court was mistaken in its recollection with respect to the testimony. Worms testified:

> "The Court. Was it loaded?
>
> The Witness. No, sir, it wasn't loaded. I wouldn't take it loaded—my wife wouldn't come with me.
>
> Q Did he show you the chamber of the gun? A Yes, sir."

There is no inference from this testimony that the gun was loaded and that it was unloaded by Dr. Stevens. The testimony is quite consistent with that of Dr. Stevens' that the gun was not loaded and that he showed the chamber of the gun to Worms to indicate to him that it was *unloaded.* Worms returned the gun to Dr. Stevens at his office and it was there kept in his desk drawer and he never took it home again.

After this gun had been returned to his office he did not see it again until November, 1920, when Mrs. Stevens came into his office in the morning about ten o'clock. She came in the office and attempted to break things up. *She had the gun.* He does not know whether it was loaded then or not (p. 535). He says that she had taken the gun when she was at the office the afternoon

before. She admits that she was at that office. She admits that she went down to the office the next morning on a dare from Miss Sutz. The story of Dr. Stevens as to what took place at the office is quite capable of belief. At the time she had gone over to Miss Sutz's house he never told him about going over to get any money.

After this episode in November, 1920, at the office she went to Atlantic City without consulting him. She went about January 16th. His mother was with him taking care of the baby. Mrs. Stevens called up from Atlantic City. He asked her when she was coming home and she said she thought Monday. Mr. Stevens stayed in the house until two or three o'clock in the afternoon of Sunday and then left and returned about 11:30 and he then describes what took place (p. 540). He says he used his pass key to get in and opened the door but the door was bolted. He went around to the back and saw Mrs. Stevens standing undressing in the upper back bedroom window. She did not pay any attention to him so he went around to the front again. He told her that unless she opened the door he would break it in. She paid no attention and he pushed the door in and went upstairs. She called him all kinds of names and ordered him out of the house and said she would call the police; *that a woman with money could do as she pleased* and he left (p. 541). He was not under the influence of liquor. He went to a hotel in Newark, and *the next thing he knew he was arrested on a writ of ne exeat.* After the arrest he went back to his house and got his clothes (p. 542).

He testifies with respect to the fishing trip referred to by his wife in the summer of 1913,

and says that the trouble was because he insisted that he was going fishing.

He denies that he knows anything about any abortion performed by Dr. Blyn in November or December, 1912, and he denies absolutely that he administered the anaesthetic (and there is no corroboration of Mrs. Stevens with respect to this).

He denies absolutely that in February, 1915, she was pregnant and he gave her medicine which Dr. Blyn furnished. There is absolutely no corroboration with respect to that).

He does not remember the episode testified to by Mrs. Bunnell in 1915, the Proctor incident. He did not know, until after it had occurred, that Mrs. Stevens was taking any steps to produce an abortion in 1915 nor did he know that she was pregnant. He did not know until he was told by Dr. Harris, a specialist, that he called in. He got Dr. Harris after he knew of the critical condition (p. 548). He explains the moving to the Elberon Apartments and says that it was at his wife's suggestion.

He explains the Bamberger incident (p. 552) and says that he had told his wife that he would not be responsible for charge accounts. He could not be responsible for charge accounts and she knew it.

He has no knowledge whatever of any incident which would give rise to the story of her being thrown downstairs spraining her shoulder. He knew nothing about it until he learned what Dr. Eddy had said in the affidavit made in this case (p. 554). He then went to Dr. Eddy to find out what he had meant and he could not understand why, if her shoulder was sprained, she

could drive to Dr. Eddy's office in her car as she said she did (pp. 553).

He denies that he struck his wife and threw her down, although he admits physical encounters and says that she, on various occasions, would come at him with things such as carving knives and anything that she could lay her hands on, and that he would grab her and take whatever article she had away from her, and he describes the carving knife incident (p. 555), which *is corroborated.* He denies that he bought a degree (pp. 556-7).

He says, and the evidence of his witnesses supports him, that he did not stop her credit *until after she commenced her proceedings* (p. 558), and it is significant with respect to the conduct of Mrs. Stevens that she started this proceeding for a limited divorce and had a writ of *ne exeat* issued. There is not a scintilla of evidence or indication that there was any excuse whatever for the issuance of such a writ. There were no threats on the part of the husband to leave the State, and no suggestion to leave the State. Nevertheless, she commenced this suit by such a writ causing his arrest.

The first time that Mrs. Stevens objected to Miss Sutz was in November, 1920 (p. 562).

With respect to substantial details Dr. Stevens is corroborated.

William Worms testified (p. 449) to visiting the Stevens; he remembers trouble in 1915 at a time when they were invited to dinner when the Stevens were living at 96 Broad street. An argument started about Bobby "and both of them got up and *Mrs. Stevens grabbed a knife* and my wife jumped in and got cut with the

knife." His wife tried to stop Mrs. Stevens from cutting Dr. Stevens with the knife.

He remembers that there was difficulty between the Stevens at the time they were living at 96 Broad street about a Mr. Van Brunt and he says (p. 450), "The argument came up and she said it wasn't so. Dr. Stevens said he came in the house one night and saw Mrs. Stevens lying on Mr. Van Brunt's bed, and Mr. Van Brunt was there and he wasn't fully clothed. *She said she was lying there all right, and Mr. Van Brunt was fully clothed.* Mrs. Stevens said she rested there quite often." Mr. and Mrs. Stevens were present with the witness Worms. Van Burnt was not present.

He also testifies to difficulty between the Stevens with respect to Blyn, Lewis and Charlot (p. 451).

Mrs. Stevens would take automobile rides with the men and Dr. Stevens would get angry. Mrs. Stevens, in Dr. Stevens presence, would talk about the rides she had with them and spoke of the good times she had and if he objected she would say: *"Oh, keep your damn mouth shut."*

He remembers an incident when Dr. Stevens was sick and he took the revolver away. They had been invited for Sunday dinner. When they arrived Mrs. Stevens told them that there was an awful rumpus and that (p. 453):

> "'Doctor is sore as a crab'—because she went over to the stenographer's house * * *."

She said nothing whatever about being chased around the house but she did say, "Take the gun before you go because I will be afraid to stay in the house." He went upstairs and saw Dr. Stevens who was in a bath robe and said

to him, "Marge is afraid to stay in the house with you with the gun." He said, "She is crazy, always talking about that gun." I says, "Where is the gun, I will take it anyway." He said the gun was not loaded and that Dr. Stevens showed him the chamber of the gun; that he kept the gun until that May or June, and then took it down *to the office of Dr. Stevens* and Dr. Stevens opened the drawer of the desk and put it in.

Mrs. Stevens had testified that Worms had told her that Dr. Stevens was trying to get Burton to testify against her. Worms denies this.

Mrs. Painter testifies (p. 458) that she was a servant in the boarding house in which Dr. Stevens and his wife lived. She does not remember the date; it was about eight or nine or ten years ago; she knew Van Brunt. She had often seen Mrs. Stevens in Van Brunt's room, upon some occasions with the door locked, or at least the door would not open (p. 459). She testifies with respect to the manner in which Mrs. Stevens treated her child.

According to the testimony some of the quarrels between Dr. Stevens and Mrs. Stevens arose because Dr. Stevens did not approve of the harsh manner in which Mrs. Stevens corrected the child. Mrs. Stevens used bad language. She testifies to Mrs. Stevens stating that she was going out with Van Brunt and not to say anything to the doctor (p. 461). She frankly admits that she left because she thought that Mrs. Stevens did not treat her right.

Mrs. Shorter testifies (p. 466) that in the early part of January she saw Mrs. Stevens and Mrs. Stevens told her that she and the doctor

were going to part and that it was over the *"girl at Dr. Stevens office."* This answers the claim of Mrs. Stevens that she was obliged to leave because of cruelty. It also answers the contention that Dr. Stevens left her. She also led Mrs. Shorter to a closet and pointed out certain clothes, stating that she had laid aside all of the clothes to take away with her when she left the doctor and she said that *she would close up the doctor's office in Newark* (p. 469). She told Mrs. Shorter that she was going to Atlantic City and that when she came back she was going to break up her home and leave her husband and take the baby with her (p. 470). She denies having seen Mrs. Stevens since that time (p. 470).

The credence to be put upon the entire case of Mrs. Stevens, including that with reference to adultery, is indicated by the method in which Mrs. Shorter was used by Mrs. Stevens.

It was quite apparent upon the examination of Mrs. Shorter that she had been approached by Mrs. Stevens after she had made the affidavit for Dr. Stevens and that she was qualifying her testimony, and it became necessary, in order to get her to testify, to refer to an affidavit which she had signed (p. 467). When her attention was brought to the affidavit she admitted that Mrs. Stevens had stated to her the things which she had related in her affidavit. When she was taken up on cross examination, at p. 471, Mr. Newman, counsel for Mrs. Stevens, proceeds to read to her statements purporting to have been made by her in an affidavit sworn to by her in behalf of Mrs. Stevens, dated February 15, 1921, the day after she made the affidavit for Dr.

Stevens. I will repeat one or two of the questions:

> "You made another affidavit, Mrs. Shorter, in this case and I ask you whether it is not a fact that you stated that you called on Mrs. Stevens at her home in Montclair in January, 1920? A Yes.
>
> Q And that you said that Mrs. Stevens *then* told you she was very ill with a nervous breakdown due to the treatment she had received at the hands of her husband? A Yes.
>
> Q And that she informed you that he threw her down the stairs? A Yes.
>
> Q And that Doctor Stevens had threatened to shoot her. A Yes."

Her visit to Mrs. Stevens' house was in January, 1920.

Turning to the examination by Mr. Blankenhorn, at p. 472, we find that these statements said *in the affidavit* to have been made by Mrs. Stevens to Mrs. Shorter at the time she visited the house of Mrs. Stevens in Montclair were *not* made to her at *that* time at all but *were* made to her by Mrs. Stevens *on the day that Mrs. Stevens took her to the notary public on the 15th of Feburary, 1921, to sign her affidavit* (p. 473).

This is a deliberate attempt upon the part of Mrs. Stevens to perpetrate a fraud on the Court, and the criticism indulged in by Vice-Chancellor Buchanan in ..... applies. It affects the credit of the whole case.

Charles F. Worms testifies (p. 474) that Mrs. Stevens called at his factory one Saturday afternoon excited and said that *she was going to kill Miss Sutz on Monday morning.* He testifies that it was Mrs. Stevens who in 1915 insisted upon having a roomer. She bought the bed, spring and

mattress for the roomer, Mrs. Stevens to pay for the bed, spring and mattress. When she saw Worms in 1920 and spoke about Dr. Stevens she said, "*She was going to drive him into the gutter, drive him out of business and put him in the gutter.*"

Eugene P. Haveron testifies (p. 477) with respect to the fishing incident when the Stevens were living on Mt. Prospect avenue, Newark, and to Mrs. Stevens coming down the street hollering and catching up to him and he (Haveron) saying, "I think you are a damn fool," and that afterwards she threatened that she was going to New York and hire a room and commit suicide.

Francis Haveron (p. 481) testified that Mrs. Stevens was always jealous of Dr. Stevens and that he was present at one quarrel when Mrs. Stevens pulled off Dr. Stevens' clothes (p. 482). That was in 1913 or 1914 (p. 483). The quarrel started over a Miss Walling, because the doctor said he was going up to see her (Miss Walling), because she did not come to work (p. 484). During the quarrel all that the doctor did was to try and hold her arm so that she could not strike or scratch him. Dr. Haveron was prevented by the Court (p. 486) from testifying to what he had told the doctor with respect to Swan. I submit that the testimony was competent to show the condition of Dr. Stevens' mind at the time of these quarrels. It was not competent, of course, to prove adultery against Mrs. Stevens. It *was* competent to show that what Dr. Stevens said to Mrs. Stevens was a repetition of what had been told to him and was not a fabrication on his part.

Francis Haveron testifies to an occasion in March, 1913, when Mrs. Stevens came to his of-

fice in Plainfield in a very excited condition over something which he says was trivial. And he remembers an occasion when Dr. Stevens was present and later Mrs. Stevens appeared and tried to create a scene "so that people could see from the street, on the first floor. I asked her to please leave the place, she could have all the row she wished in her own home, but not in my office." That was in 1916-1917.

Dr. Brumberger testifies (p. 490) that he met Mrs. Stevens about the time of the separation and she said to him, "That she was separating and that she was up in his office, and she had a little tussel with the girl in the office *and that she would fix him; she would see him in the gutter.*"

Lambert Transue (p. 439) is called. He is the superintendent of the Kinney Building. In November, 1920, he was called by the stenographer from the first floor and told there was some trouble in Dr. Stevens' office. He went up on the elevator and got off at the third floor and as he got off there, "*I seen Mrs. Stevens coming out of the office in a hurry and she had a gun in her hand.*" Mr. Isidor Kalisch was sent for and came downstairs and when he got downstairs she still had the gun (p. 440). He had not received any communication whatever from Mr. Kalisch.

This is contrary to Mr. Kalisch's testimony. Mr. Kalisch undoubtedly in the stress of business has forgotten the details. The testimony agrees with that of Dr. Stevens.

It is significant that, although it is suggested by counsel for Mrs. Stevens that the man Slowbaum may know something about it (p. 440), he is not called (p. 635).

Dr. Stevens' mother, Mrs. Eugenia Stevens, was present on the Sunday night of the separation, and she testifies (p. 443) that Mrs. Stevens went to Atlantic City on Thursday; she, the mother, went to the house to take care of Bobby while she was gone; Dr. Stevens came in late on Sunday night; the doctor had left orders to have the inside door left unlocked; she told Mrs. Stevens and Mrs. Stevens said that she would not leave it open; she was angry because he was out. She used abusive language about her husband. She called him a low-down scoundrel and a son of a B. (pp. 444-445). The mother heard the son come in, and he had to break the door to get in. The son and the wife had a conversation in the bedroom with the door shut which the mother did not hear. When they came out of the bedroom the wife told him to go down and fix the furnace, which he did, and when he came upstairs *she told him to get out of the house and that if he came back she would call up Police Headquarters.* The doctor did not appear to have been drinking. She has never seen him intoxicated. She was very often at the house; she never saw him ill-treat his wife or heard him call her vile names (p. 446). She is friendly with Mrs. Stevens. She testifies that Mrs. Stevens punished the boy and whipped him a great deal. She was very severe with him (p. 447); she, the grandmother, remonstrated with her about it (p. 447). This whipping was when he was but two years old.

Mrs. Stevens was called again (p. 619). *She does not deny Mrs. Shorter's testimony to the effect that she told Mrs. Shorter all these things upon the day the affidavit was sworn to, although from the affidavit it would appear as if she had told Mrs. Shorter at the time Mrs. Shorter called*

and saw her in January. She went to see Mrs. Shorter, she says, because Mrs. Shorter had made an affidavit and she, Mrs. Stevens, had been denied temporary alimony. She denies the testimony of Charles Worms that she was at his office the day of the trouble in the Kinney Building. She therefore makes *Charles Worms a perjuror.* She denies that she ever purchased a bed spring and mattress from Charles Worms. *She makes him a perjuror again.* She denies that she told him that she would drive Dr. Stevens to the gutter. She denies that she ever threatened Miss Sutz (p. 619). *Her own previous testimony refutes this.* She denies Haveron's testimony that she followed them down the street the day of the fishing incident, so that *she makes Haveron a perjuror.* She denies Dr. Brumberger's testimony about the conversation to which he testified to the effect that she told him that she would see the doctor in the gutter, etc., *and makes him a perjuror.* She tells a story on page 627 with respect to Van Brunt to the effect that Mrs. Van Brunt boiled or roasted an onion to put on Dr. Stevens' ear and that Mrs. Van Brunt tried to cause trouble between Dr. Stevens and Mrs. Stevens over the incident of the onion, and likewise between Mr. and Mrs. Van Brunt, *and she makes Mrs. Painter a perjuror.*

A question is put to her on page 628 which assumes that Dr. Stevens testified that she was friendly and had intimate relations with one Harry Swan. Dr. Stevens did not so testify. He *did* say that he had had a conversation with Mrs. Stevens, in which he had repeated to her a conversation which he had had with his brother. She denies that she ever gave Burton her photographs (p. 628). The photographs were found in

Burton's pocket when he was arrested. She denies (p. 629) that there ever was a quarrel between the doctor and herself over Burton. *This is directly contrary to her own previous testimony, and it is likewise contrary to what one would reasonably expect in view of what Dr. Stevens discovered in Burton's pocket.* She admits throwing water in the child's face (p. 630), but says it was upon an occasion when the child had convulsions and that Mr. Van Brunt and his wife drove her with the baby to the baby hospital. She intimates that he had convulsions because Mrs. Painter fed him whiskey, and she says she knows this because Mrs. Painter admitted it to her (p. 635).

This is the testimony upon the issue of cruelty.

Going back, we find that when she first instituted her suit for divorce from bed and board she relied primarily *upon an actual abandonment* by Dr. Stevens in January of 1921. Her complaint then was not that it was unsafe and improper for her to live with him, that *he had left her.* In the present suit in her original answer and cross petition she *set up no defense whatever of cruelty.* Her answer was a mere denial of adultery. Her cross petition charged the doctor with adultery. This petition was filed on or about October 13, 1922. It was not until on or about the 17th of April, 1923, that she amended her cross petition by inserting, in the first count, charges of cruelty, retaining in the second count the charge of adultery.

The defense of cruelty to the suit for adultery is as much a last-minute thought as is the allegation now made that she was menstruating at the time of the alleged adultery. Her charges must be examined with this in view. She is al-

most wholly without corroboration. What little corroboration she has—Mrs. Bunnell, Mrs. Scott and Mrs. Gorton—goes to events which happened years ago. Edith Reid's testimony, if it is to be regarded at all, is corroborative rather of the doctor's story, because she says that the difficulty between the doctor and his wife was on account of the doctor's secretary, which the wife denies. This witness was not produced for cross examination, and her testimony must be disregarded. Mr. Kalisch's testimony only goes to the effect that she delivered to him a gun before she went into Dr. Stevens' office in the Kinney Building, and Mr. Kalisch's testimony is met by that of Transue, the superintendent of the building, but assuming that Mr. Kalisch is not mistaken, it is conceded that she brought that gun down to the Kinney Building with her on that morning, and her explanation that she brought it because she was afraid to leave it in the house is ridiculous. She either got it from the doctor's desk on the morning in question or she brought it with her to the Kinney Building that morning for the purpose of exhibiting it as a threat. She admits she was at the doctor's office the night before and that she came back the next morning on a dare. Her testimony with respect to Dr. Stevens being responsible for any abortions *is entirely without corroboration.*

On the contrary, the testimony of Dr. Stevens with respect to the causes of the difficulties between himself and his wife *is fully corroborated.* He is corroborated by Worms with respect to the incident of his wife chasing him with a carving knife; Worms denies the story of Mrs. Stevens with respect to Dr. Stevens ill-treating her physically and Worms must be a perjuror if Mrs. Stevens is telling the truth. He is corroborated

by Eugene Haveron and Francis R. Haveron, and Dr. Reginald H. Haveron, and all these three witnesses must be perjurors if Mrs. Stevens' versions be correct. He is corroborated by William Worms and this witness must be perjuring himself if Mrs. Stevens' story be correct. He is likewise corroborated by Miss Painter, and this witness must be falsifying likewise.

As to the incident of the night of the leaving he is corroborated by his mother and this old lady must be falsifying if Mrs. Stevens is telling the truth.

As to the general attitude of Mrs. Stevens toward him he is corroborated by Dr. Brumberger, and this witness must be falsifying if Mrs. Stevens is telling the truth. As to her general attitude he is also corroborated by Mrs. Shorter, and I here again refer to the efforts which were made by Mrs. Stevens to get this witness to swear to an affidavit *which did not correctly represent the facts.* Mrs. Stevens herself said that she went to Mrs. Shorter's because she had learned that her alimony application had been denied largely because of statements made by Mrs. Shorter with respect to statements having been made to Mrs. Shorter by Mrs. Stevens in January, 1921, before she went to Atlantic City (p. 619) and because of that fact she got Mrs. Shorter to swear to an affidavit in which Mrs. Shorter is made to say that *upon this same occasion* Mrs. Stevens had made statements to Mrs. Shorter that the reason she was taking this position was that she was ill because of ill-treatment visited upon her by her husband, whereas *she had never told Mrs. Shorter any such thing and these statements were made to Mrs. Shorter the very day she signed the affidavit.*

Under the circumstances what possible credit can be put in the story of Mrs. Stevens? She places herself in an impossible position. She insists that her husband never complained of her relations with Burton in 1918, and yet there is no doubt but that her husband, at the arrest of Burton, found the photographs and the papers in Burton's pocket. Is it possible to conceive that a man should have these papers in his pocket, and not say something about it?

And in considering the charge of cruelty her explanations with respect to her association with Paswaters must be taken into consideration. Her story of the episode of the night of August 24, 1922, is so ridiculous as to cast discredit upon anything that she may say with respect to anything.

The truth sticks out and is not hard to find. These people were young when they were married. The husband had no money and has had no money. His income has run from $1,800 to $3,000 approximately, a year. There is no denial of this. The wife had an interest in an estate from which she has gotten some $35,000. She desired to live better than the husband could afford, and there was undoubtedly trouble over money matters. She was also desirous of the attention of men, and, unless a great many witnesses besides Dr. Stevens, are deliberate prejurors, there was considerable difficulty over this. This culminated in the Burton affair in May, 1918. Her story with respect to this is not reasonable. There were undoubtedly accusations made by him to her with respect to Burton. Undoubtedly he condoned, as he says he did, everything. Unquestionably *in retaliation for what the doctor had discovered in the Burton*

matter she accused him of improper relations with his secretary. According to the testimony she had earlier accused him and had objected to his going to Miss Walling's house to find out why she did not come down to work at a time when he was employed in Bamberger's. The trouble at the house when the doctor was sick, according to her own testimony, was that, without his knowledge, she went over to Miss Sutz's house demanding money which she says had been collected by Miss Sutz. This all culminated, a few weeks before the separation, in the visit of Mrs. Stevens to the doctor's office in the Kinney Building, and then on the morning of the next day, from her own testimony, it appears that she went there for the purpose of creating trouble. *Before she went to Atlantic City she had fully made up her mind to oust the doctor from the house.* Mrs. Shorter testifies to this. She returned on Sunday evening. The doctor did not return until late that night and she refused to permit him to come in the house; whereupon, he broke in and she ordered him out and said she would send for the police if he did not go. He went. She thereupon immediately started her suit for divorce from bed and board, and had him arrested on a writ of *ne exeat,* although there was not the least legal justification for any such conduct on her part, and she then later sent to the doctor the wedding ring with the piece of poetry which, as I have heretofore stated, is quite inconsistent with any thought of physical cruelty. *If there was a desertion it was her desertion.*

Upon this branch of the case the burden is on her.

And at the time of the commission of the act of adultery, August 24th, 1922, assuming that the desertion was the desertion of the husband in February of 1921, the two-year period had not expired and his desertion of her, if it was his desertion, is not a defense to his action for divorce upon the ground of adultery.

V.

ON THE QUESTION OF APPELLANT'S APPLICATION FOR COUNSEL FEES.

Appellant gave notice of an application to this Court on June 26, 1924, for an allowance to counsel for prosecuting the appeal and to furnish a printed state of case and printed points (p. 679). She presented an affidavit (p. 681); the respondent presented an affidavit (p. 685). This Court made an order (p. 693) that the respondent should furnish such printing as the appellant's solicitor should require for the purpose of printing the state of case and printed points, the limit to which he was obliged to contribute for the printed points not exceeding $20, and was given leave to apply for counsel fees on the argument on appeal. Under the order of this Court the respondent has expended the sum of $779 for printing the state of case and points of appellant.

In answer to the application for counsel fees I could only repeat what Dr. Stevens states in his affidavit (p. 685). The appellant, I submit, by her brief (p. 16) concedes that Dr. Stevens never made more than $3,000 a year. Because of the conduct of his wife in attempting to ruin his business, as stated by him in his affidavit (p. 689) it was necessary for him, in 1921

(p. 692), to go through bankruptcy. He has no earnings except through his business. I submit that a consideration of her testimony and her admitted acts indicates that the doctor is right in his assertions that Mrs. Stevens did all that she could to ruin him and in the language of some of the witnesses "drive him to the gutter." She is better able to pay her counsel than he is to pay his. He has been ruined and is without funds.

It is respectfully submitted that the decree below should be affirmed.

Respectfully submitted,

MERRITT LANE,
Solicitor for and of Counsel with Respondent.

New Jersey Court of Errors and Appeals

Between LUDLOW R. STEVENS, *Petitioner-Respondent,* *and* MARJORIE G. STEVENS, *et al.*, *Defendants-Appellant.*	*On Petition for Divorce.* *On Appeal, etc.*
Between MARJORIE G. STEVENS, *Complainant-Appellant,* *and* LUDLOW R. STEVENS, *Defendant-Respondent.*	*On Bill, etc.*

BRIEF ON BEHALF OF APPELLANT.

Statement of Facts.

This is an appeal from a decree *nisi* entered in the Court of Chancery on the 17th day of June, 1924, in the first matter above entitled wherein it was ordered, adjudged and decreed that the respondent Ludlow R. Stevens and the appellant Marjorie G. Stevens be divorced from the bond of matrimony and that each of them be free and discharged from the obligations thereof, and from the decree dismissing the bill of complaint in the second proceeding above.

The petition for divorce, based on the ground of adultery, was filed by the respondent on August 29, 1922, and in due course the matters therein contained came on for hearing before John E. Foster, Vice-Chancellor, who heard both

suits at the same time (S. C. 96). The appellant claims that the respondent is not entitled to a decree of divorce, because from the evidence adduced at the hearing, the respondent did not, by the greater weight of evidence, prove the allegations contained in his petition, and that the appellant proved by the greater weight of the evidence the truth of the allegation contained in her cross-petition, to the effect that she was entitled at her own instance to a divorce on the ground of desertion.

The respondent's case is based upon certain alleged acts of adultery set forth in the petition in the following language (S. C. 67):

> "The defendant since her marriage to your petitioner and on the 25th day of August, 1922, committed adultery with J. H. Paswaters at No. 79 Midland avenue, Montclair, New Jersey. The defendant since her marriage to your petitioner and on the 12th or 13th day of August, 1922, committed adultery with said J. H. Paswaters on a steamer going from the harbor of New York to the Island of Bermuda. The defendant since her marriage to your petitioner, on each and every day between the 14th day of August, 1922, and the 22nd day of August, 1922, committed adultery with the said J. H. Paswaters at the Island of Bermuda. The defendant since her marriage to your petitioner, and on the 22nd or 23rd day of August, 1922, committed adultery with said J. H. Paswaters on a steamer going from the Island of Bermuda to the harbor of New York."

As to the alleged acts of adultery committed on the boat or at the Island of Bermuda, there is not the slightest semblance of evidence, either direct or inferential, that substantiates these charges, and they are expressly denied by the appellant and the co-respondent. As their de-

nials are adequately supported by a large number of disinterested witnesses, and as the respondent did not rely on these assertions at the hearing below, this phase of the case will not be here argued at length.

The respondent's case must stand or fall on the allegations respecting the alleged act of adultery on August 25, 1922, at No. 79 Midland avenue, Montclair, New Jersey.

The facts relative to this branch of the case are, that Mrs. Stevens, the appellant, who had returned from Bermuda about three o'clock in the afternnon of August 24th, left the dock of the steamer in broad daylight, and, accompanied by Mr. Paswaters, the alleged co-respondent, boarded a train of the Erie Railroad and went to the appellant's home in Montclair, and that Mr. Paswaters remained there during the night and was found there in the morning of August 25, 1922, at about 4:30 A. M. The persons who are called upon to substantiate this phase of the case are Louis Le Compte, a relative of the respondent; Thomas J. Corbally, of the Corbally Detective Agency, a paid spy and detective; Frank W. Corbally, a paid spy and detective, son of Thomas J. Corbally; Stephen P. Flarity, a partner of Thomas J. Corbally, and the respondent Ludlow R. Stevens, all of whom broke into the Stevens home in pursuance of a pre-conceived raid.

Mrs. Stevens says that one of the detectives, the elder Corbally, grabbed her by both arms and sat her on Paswaters' bed. The light was then turned up, and not until that time did the others enter the room. It is distinctly corroborated by all the witnesses that no one entered the room until the light was turned on except Mr. Corbally (S. C. 165).

Detective Thomas J. Corbally was very anxious to put the appellant in a compromising position before anyone else came into the room, because it is clear from the evidence which will be set out in detail hereafter, that until he had them in a compromising position no light was turned on, nor was anyone else admitted to the room. Mrs. Stevens said that Corbally grabbed her by the arms and sat her on the bed and caused black and blue marks on both arms and this is borne out by Mrs. Gorton, who testified that she saw the bruised condition of her arms the next morning (S. C. 322).

It is also significant that if the parties were in a guilty or compromising situation, the noise made by ten or twelve detectives breaking down the door and tramping upstairs, would have given them ample opportunity to have secreted themselves or for Mrs. Stevens to leave the room and place herself in a position of innocence.

It is highly incredible that Mrs. Stevens was found in bed with Mr. Paswaters when she had such an opportunity to get away after she heard the first sound of the door being broken down and a number of persons rushing through the lower part of the house and up the stairs. It would not be natural nor likely that she would remain there calmly and not try to get out of the bed and secrete herself. Such conduct on her part was most unlikely.

The fact that she was suffering from hemorrhage is a vital point in this case and is substantiated by Mrs. Gorton, Miss Sullivan and Mrs. Bunnell, and lastly by Doctor Eddy, who testified that he treated her for a similar complaint on the 26th and 28th of July, 1922, and also the 21st of September, and the Court will take notice that normal men-

strual periods are twenty-eight days apart, which clearly and forcibly demonstrate the truth of her story, that on the 25th day of August, she was suffering from severe hemorrhage, and Mrs. Gorton's testimony on this point will be commented on in full length when the testimony is set out. This is a factor of great importance in connection with this case when considered with other facts and circumstances shown by the testimony adduced at the hearing.

POINT I.

The testimony of the respondent, coupled with his demeanor and actions throughout the trial, shows a vivid desire to free himself of his marital obligation, and is not worthy of belief.

A true picture of the attitude of the respondent, of course, cannot be portrayed except inso-far as may appear by inference, but attention is called to such portions of his testimony as will so vividly reflect his character that the Court can clearly discern what manner of man it is who is attempting to obtain a divorce at whatever the cost. He loses no opportunity to besmirch and villify the character and reputation of the appellant, the mother of his child, and his testimony, given with apparent malice in his heart, hatred upon his lips and sneers upon his countenance, seems but with one aim, an effort to hold her up to scorn and contumely.

This is first noticed when?—In answer to the second question propounded by his counsel—S. C. p. 491, l. 21.

Q When were you married? A Legally.

What inference is reflected by this answer? He apparently wished, at the earliest possible

opportunity, to convey a vile and base impression concerning the character of the appellant, his wife. That no such inference should be drawn, is clearly shown by the examination by the Court, as follows:—S. C. p. 491, l. 29.

Examination by the Court.

Q What did you mean by that answer, legally? A I didn't hear that.

Q What did you think he said; what did you use that word for? A I didn't quite get the question.

Q What was in your mind when you used the word "legally?" I am trying to find out. A Well, I was just wondering when—

Q When what? A When he thought we started to keep house.

Q Is that what was in your mind when you used that word "legally," in connection with your marriage? A Well, we were married in 1912.

Q That does not explain. Go on, if that is the best explanation you can give me.

It will be noted from the last quoted question that he failed to explain what he meant to the satisfaction of the Court.

And as further evidence of his character, it will be observed that he gives contradictory testimony, even when it is closely connected. S. C. p. 492, l. 19.

Q How long had you been in business? A I wasn't in business for myself at that time.

Q Who were you with? A I was working for Dr. Greenspan.

Q. What were you getting at that time? A I wish to say that I made a mistake there. I was in business when I was married.

Is it conceivable that a man can forget whether he was in business for himself or in someone's employ at the time of his marriage? Is marriage of so little consequence that one forgets how he

was earning his livelihood at that all important and sacred time? Yet after conceding that he made the mistake above referred to, he makes the same mistake.—S. C. p. 495, l. 20, while still on his own direct examination:

> Q At the time of your marriage did your wife know that? A Yes. I didn't have a job when I was married.
>
> The Court. I understood you to say you were in business for yourself.
>
> The Witness. Yes, that is right.
>
> Q You didn't have a job or were in business for yourself? A I am confused.

It is earnestly submitted that if a simple question, such as to whether one is employed or unemployed at the time of ones marriage, causes "confusion," that it is a forerunner of a marked tendency to adapt his subsequent testimony in a more favorable manner.

And again he changes his testimony after twice answering questions in the affirmative, one question by Counsel and one by the Court.
S. C. p. 514, l. 32.

> Q Did you at that time love your wife? A Yes; Bobby was a baby; certainly.
>
> The Court. Which time are you referring to?
>
> Mr. Lane. After the episode with Swan.
>
> Q (By the Court.) Did you then have any affection for your wife? A Yes.
>
> Q When was the next occasion?
>
> The Court. Let me see. Do you want me to understand that you still had affection for your wife notwithstanding that she had been unfaithful to you; is that what you wish me to understand?
>
> The Witness. I didn't for some time.
>
> The Court. Mr. Lane directed your attention to the time after the trouble over Swan. Did you then have any affection for your wife?
>
> The Witness. Not at that time, no.

The testimony shows, in many instances, that the respondent was of a parasitic nature.
S. C. p. 497, l. 8.

> Q Do you know how much money in cash your wife had at the time of the marriage? A Only what she told me, about a thousand dollars.
>
> Q Did you have any money at that time? A I had about a hundred dollars.
>
> Q What was that thousand dollars used for? A To buy furniture to start housekeeping.

The money of the appellant was used to "buy furniture to start housekeeping," while the petitioner retained his hundred dollars.
S. C. p. 503, l. 21.

> Q Do you remember when the child was born? A July 2nd, 1914.
>
> Q Do you know whether or not she paid for the confinement expenses? A Only what she testified to.

Mrs. Stevens had previously testified that she had personally paid this item. S. C. p. 379, l. 11. (Note by which paid, Exhibit D. 1, p. 640.)
Testimony continued—S. C. p. 503, l. 27.

> Q Did you pay for the confinement expenses yourself? A No, sir

Further, after testifying about a certain book, Exhibit P. 6, he testified that Mrs. Patterson (or Burton) had given him the book.
S. C. p. 523, l. 8.

> Q How soon after the receipt? A I don't remember. The day that she *gave* me the book I went home and told her about it.

And that Mr. Burton had given it to his wife, when the latter visited him in jail.
S. C. p. 523, l. 26.

> Q What did you tell her? A I told her that Mrs. Burton had received a letter from

her husband—oh, no, she had been over to see her husband and she gave him that book.

Q Who *gave* him the book? A Mr. Burton *gave* the book to his wife.

Q Did he have it in jail with him? A Yes, he had it in jail with him. I don't know if he got it from Mrs. Stevens or not.

There was no uncertainty about these two points, viz:

1. Mrs. Patterson gave the book to the petitioner.

2. Mr. Burton gave the book to his wife when she went over to see him in jail, and yet almost immediately he contradicts this as shown by the following:

S. C. p. 524, l. 16.

Q (By the Court.) A page seems to have been torn from it, I understand. A He tore that out when he *mailed* it to his wife, I understand.

Q (By the Court.) Who told you that? A Mrs. Burton.

Q (By the Court.) He didn't mail it to his wife, you said he gave it to his wife when she went there to see him; which is it? A I think he mailed it to her.

Q (By the Court.) Do you know anything about it? A Yes. I will say he mailed it.

Q Why do you say he mailed it if you don't know anything about it? A I only know what he told me.

Q Did he tell you he mailed it or she? A She, I remember distinctly.

Q You just corrected yourself and said she told you by saying that she afterwards called upon him in the jail. A Yes.

Q After that call did he mail her this book or give it to her while she was calling on him? A I distinctly remember that she received that book by mail from Burton.

> Q (By the Court.) You don't remember that; you remember she told you. A No, she showed me the wrapper, your Honor.
> Q She told you and she showed you the wrapper at the same time; you remember that? A Yes, she had the wrapper.

It is most significant to note carefully all the answers and particularly the following question and answer (S. C. 524):

> Q (By the Court.) Do you know anything about it? A Yes. I will say he mailed it.

If ever an answer indicated a complete lack of knowledge sufficient to be worthy of even consideration, certainly the above is one, and at this point it is well to consider that if a witness willfully makes a false statement concerning a material fact, it requires a most careful scrutiny of all of his testimony in order to learn if any of it is credible.

What more emphatic answer could be framed which would indicate willfulness? "I will say he mailed it," was his answer after several questions pertaining to the same subject and he amplifies and justifies this by his answer to the question.

S. C. p. 524, l. 37.

> Q After that call did he mail her this book, or give it to her while she was calling on him? A I distinctly remember that she received that book by mail from Burton.

Does such an answer indicate a frank statement of his recollection or does it indicate that he is "making up" the answer as he goes along? It certainly convincingly shows that he "elected" to answer in this manner and, without doubt, had in his mind some other answer.

How can all this contradictory testimony about a simple matter of whether a book was given to one person or mailed, be reconciled? Still further his testimony continues to contradict itself concerning this very matter.

S. C. p. 607, l. 39.

Q As I recall your testimony, doctor, this book you received, Exhibit P. 6, Jan. 16, 1924, from Mrs. Burton; is that correct? A Yes.

Q You received it at her home in New York when you went there? A No, sir.

Q When did you receive it? A She mailed it to me.

Q She mailed it to you? A As I remember.

Q Is that correct? A Yes.

Q Where did she get it from? A He *mailed it to her.*

Q Didn't you testify that she had told you that when he was up in the jail she called there and he handed it to her? A No.

Q Didn't you so testify? A No.

Q In any event you now state that it was mailed to her? A As I remember, yes.

Q Is there any doubt about it, sir? A That is eight years ago, as I remember it; I would say yes.

Q How do you know it was mailed to her? A She sent me a wrapper as I remember it.

Q Have you the wrapper? A I gave the wrapper to Mr. Lane with the papers.

Q You gave that wrapper to Mr. Lane? A Yes.

Q You received it at her hand, did you, in New York City? A I did not.

Q I say, after you went to New York to see her she delivered the book to you? A She mailed the book to me.

Q And then that came in a wrapper, too, didn't it? A Yes.

Q So there are two wrappers that you gave to Mr. Lane, is that correct? A Yes.

Q The one that it came from the County Jail to her in and the one that she mailed it to you in? A Yes.

Q So it is not a fact that she handed it to you at her home? A No, she didn't give it to me at her home.

(See conflicting testimony on S. C. 525):

Q I direct your attention to testimony on page 500 (S. C. 523), where you were asked concerning a letter.

"Q How soon after the receipt? A I don't remember. The day that she gave me the book.

Q And told her about it? A Yes."

Q So that it is not a fact that she gave you the book at all, but that it was mailed to you? A That is correct.

Further cross examination (S. C. 573):

Q When did you get this book? A I received that book from Mrs. Patterson.

Q When? A When Burton was in jail; that was in June, 1918.

Q And you went over and got that book from her? A No; she mailed the book to me.

Q Did you request her to mail it to you? A Oh, no.

Q How did she come to mail the book to you? A I cannot answer that.

Q You had never seen her, had you? A No.

Q When did you see her? A I saw her just before—after he was arrested.

Q Where did you meet her? A At 20th Street, New York.

Q At what place? A In an apartment house. I cannot tell you; I know it was in the slums.

Q And did she continue to live there, do you know? A I don't know; I didn't follow her.

Q (By the Court.) What was your purpose in calling on her? A Why, I wanted

to find out—he said that he lived at this address when he was arrested, and I wanted to find out if he did live at that address or if it was a fictitious address that he was giving.

Q (By the Court.) You went over there because you had received this address from Burton; is that it? A No; he gave his address to the police at headquarters when he was arrested.

Q You went over there to see his wife? A I went under the advice of Police Headquarters to see if that was a fictitious address.

Q You met his wife there? A Yes.

Q That is the only interview you ever had with her? A Yes.

Q What kind of a looking woman was she? A She looked like a chorus girl.

Q You never had any other talk with her? A Not to my knowledge.

Q And after that she mailed you that book? A Yes.

Q You never solicited it? A No, oh, no.

Q And you didn't know anything about the book, did you? A No.

Q You never heard anything about it before? A No, not to my knowledge.

Q And it just came through the mails to you? A Yes.

Q And her name was on the top? A That is how I knew where it came from.

Q (By the Court.) Didn't you tell me some time ago that you knew about this book; you told us when she received it through the mail and saw the wrapper? A No; she mailed it to me.

Q Didn't you say that it came in the wrapper? A She mailed it to me in the wrapper.

Q And you said Mr. Lane had the wrapper? A Yes; I gave it to him.

Q Did you say it came through the mail or handed to you in the wrapper? A Through the mails.

Q It came to you through the mails?

The Court. He said it came to her through the mails.

The Witness. No, to me.

Q Didn't you, on direct examination, say it came to her through the mail? A To whom?

Q To Mrs. Burton; didn't you say that? A He mailed it to her and then she mailed it to me.

Q That is what you say now? A Yes.

Q That is what you said before? A Yes.

Q He mailed it to her and she mailed it to you? A Yes.

Q No explanation with it? A No.

Q No letter? A No.

Q No statement? A No.

Q You didn't see it when you called on her? A No.

Q When did you get the book? A I cannot tell you the date when I got it.

Mr. Newman. Have you the wrapper?

Mr. Lane. I have not. That is, as far as I know, I haven't.

Now, as a final analysis of all this "book testimony" we have the following definite contradictions.

S. C. p. 523, l. 9.

1. She (referring to Mrs. Burton) *gave* me the book.

S. C. p. 423, l. 29.

2. A * * * She (Mrs. Burton) had been over to see her husband (in jail) and she *gave* him that book.

Q Who gave him the book? A Mr. Burton *gave* the book to his wife.

Q Did he have it in jail with him? A Yes, he had it in jail with him.

S. C. p. 524, l. 18.

3. When he mailed it to his wife.

4. l. 24. I think he mailed it to her.

5. l. 27. I will say he mailed it.

6. l. 30. I only know what he told me.

7. l. 32. Q Did he tell you he mailed it or she? A She, I remember distinctly.

S. C. p. 525, l. 4.

8. She *showed* me the wrapper.

9. l. 9. Yes, she had the wrapper.

10. p. 608, l. 6. She mailed it to me.

11. p. 608, l. 10. He mailed it to her.

12. p. 608, l. 22. She sent me the wrapper * * *

13. p. 608, l. 23. I gave the wrapper to Mr. Lane with the papers.

14. p. 608, l 31. She mailed the book to me.

S. C. p. 609, l. 5.

No, she didn't give it to me at her home.

His testimony would indicate that Mr. Burton mailed the book to his wife and Mrs. Burton mailed it to the respondent, and that he had both wrappers, neither of which were produced.

S. C. p. 608, l. 33.

15. Q And then that came in a wrapper, too, didn't it? A Yes.

Q So there are two wrappers that you gave to Mr. Lane, is that correct? A Yes.

S. C. p. 575, l. 22.

16. Mr. Newman. Have you the wrapper?

Mr. Lane. I have not. That is, as far as I know, I haven't.

If Burton gave the book to Mrs. Burton and she gave the book to Dr. Stevens, then, of course, Mrs. Burton could have shown him the wrapper, as indicated by references 8, and 9. If 8, and 9, are correct, then he probably received the book from Mrs. Burton as indicated by reference

number 1, and the balance of the petitioner's testimony concerning wrappers and mailing, is all "made up." It is so inconsistent that it should all be disregarded as not the truth in fact.

It is respectfully urged that this part of the respondent's story was a part to which he apparently gave little thought, prior to being asked concerning it, and yet he so lied about such a simple matter that the only inference to be drawn is that he lied generously throughout his entire testimony, and as further proof of the "manufacturing" of testimony:

S. C. p. 532, 1, 18.

> Q (By the Court). What did you have a revolver for, anyway; why did you need one? A I don't know. I did have a reason, now that I come to think of it.

Does such an answer "ring true?"

Is it possible that a person who has made application to a police department for the privilege of carrying a revolver can forget why it was necessary to secure such a permit? Is the carrying of a gun of such an everyday occurrence that one can forget why he needed such a permit? His answer clearly indicates by its very wording the manner and tone used when answering. It shows, upon analysis, it was necessary to stop and think of a reason, and that he realized after saying "I don't know," that such an answer could not be believed, added what he thought was the most natural and plausible reason. The manner and words used, however, belie its sincerity. "I did have a reason, *now that I come to think of it,*" is not the frank statement of an honest man. People earning at the most $3,000 per year do not usually have such a quantity of money about their person as to require the

carrying of a revolver. And his reason is, S. C. p. 532, l. 22.

> Q What was it? A I didn't have any safe at the time in the office and I used to carry my money back and forth. I had a notion that someone would take all I had some night so I went to the police department and got a permit to carry it.
>
> Q (By the Court) Did you carry it unloaded? A No, I carried it loaded, but always unloaded it when I got home, on account of Bob.
>
> Q (By the Court) Did you leave it in the drawer over night and carry it with you every day? A Oh, no, I only carried it once in awhile.

Can this be believed when we note the answers given upon cross examination relative to the gun?

S. C. p. 611, l. 18.

> Q And you had an account at that time in the Newark Trust Company? A I think I did.
>
> Q And there is where you deposited your money, wasn't it? A Yes.
>
> Q And while you had that account you thought it was necessary to have a gun, did you? A That was at the time of the war—yes.
>
> Q You had your gnn, as I understand you, for the purpose of—because you had your money home? A Yes.
>
> Q The bank was right in the same building, wasn't it? A Yes, certainly.
>
> Q You could have deposited your money in the bank? A Most of my business was done after 3:00 o'clock.
>
> The Court. Answer the question.
>
> The Witness. Yes.
>
> *The Court. And stop that argument or I will put you off the stand; I am getting tired of it.*
>
> Q As a matter of fact you did deposit there daily, didn't you? A I cannot answer that question.

The real reason will be discussed later, at a point where it links itself with the defendant's recital of years of cruelty and shows a very plausible reason, amply corroborated. Then note:

S. C. p. 533, l. 6.

> Q Did your wife go to Lakewood? A. She went to Lakewood. I don't know just when she went to Lakewood.
>
> Q Did you go down over the week-end? A Yes.
>
> Q Did your wife pay the bill? A She paid her own; I paid mine.
>
> Q (By the Court) Why was that done; why didn't you pay both? A I couldn't stand the pressure of twenty-five dollars a day and I paid my own over the week-end.

That the respondent did not tell the truth about paying his own bill is positively shown by the testimony of the appellant.

S. C. p. 395, l. 20.

> Q After that incident where did you go —do you remember going to Lakewood? A. A short time after that I went to Lakewood, to Laurel-in-the-Pines Hotel.
>
> Q How long did you stay there? A About a week or ten days.
>
> Q Did Dr. Stevens come there? A He did, for the week-end.
>
> Q And who paid his hotel bill? A I paid it—it was on my bill, even the bus to the station. You have the bill there, Mr. Newman.

This is corroborated conclusively by the receipted hotel bill marked in evidence, Exhibit B, p. 646.

Now let us look carefully for the truth concerning the following testimony.

S. C. p. 534, l. 15 (Respondent, direct).

> Q Tell us what occurred. A She came in and Mr. Slobaum was there and she was

as white as a sheet and Slobaum looked at her and said, "How do you do?" he said, "What is the trouble?" She looked agitated. She told him, "Mr. Slobaum, I am going to clean this place up." He said, "My God, don't do anything like that." Then she walked in the other office. I was making an examination, and grabbed my secretary's coat and I looked to see who was taking the coat, it wasn't lunch time yet, only about half past ten, and I saw Mrs. Stevens taking it. I said, "Where are you going with that coat?" She said, "I am going to throw this hussy out." I said, "Let me have that coat," and I went to get it and it got torn in the scrimmage and she went to grab it back and the table went over and the young lady—by that time I had the coat and the young lady had taken it and as she did Mrs. Stevens got her by the hair and clawed her with her nails. I said, "This is the limit, this has gone far enough," and I stepped over to a few patients of mine. I said, "You can see that the circumstances are entirely beyond my control. I am very sorry for this" and I locked the door and then I went to Mrs. Stevens. I said, "You will have to leave, if you don't I will have to put you out." She said, "I will not get out of here." I said, "All right," and I went away and I put the catch on the door and I said, "Now go ahead," and she went out.

Q What had become of the revolver in the meantime? A She had it.

Q (By the Court) All the time you had this fight? A Yes.

Q (By the Court) Upsetting the chairs and table? A Yes.

Does this "ring true?" Is it a probable story, particularly where the respondent says: "I stepped over to a few patients of mine, I said you can see that the circumstances are entirely beyond my control. I am very sorry for this."

Is it conceivable that the respondent could, as the foregoing would indicate, calmly converse with some of his patients while such a fight was going on in his office? And while his wife was carrying a revolver during the entire time she was there? Is it not more likely that if the appellant had a gun that the respondent would have taken it from her? Instead of trying to get possession of the revolver, what did he do? Why, he tried to save "his secretary's coat," and while tables and chairs were being overturned and the appellant and "his secretary" having a hair pulling and clawing match, he apparently leaves them alone and calmly announced to his patients that he could not control the situation.

It might be well to note in this regard, that the respondent, at no time during his examination concerning this "office occurrence," refers to either the superintendent of the building or Mr. Isidore Kalisch, both of whom were, by one side or the other, alleged to have been present. Now, inasmuch as the testimony of the two last mentioned witnesses relate to the details of this office fight, let us refer to first that of Mr. Lambert Transue, p. 439, and then that of Mr. Isidore Kalisch, p. 313. This testimony will not be quoted at length, but it is earnestly requested that it be re-read at this time.

After having read this, compare it with that of the respondent's statement. Now, can any reasonable person interpret this testimony except as follows:

Mrs. Stevens went to the office of her attorney, then Mr. Isidore Kalisch and gave him the revolver and stated that she wished to go to Dr. Stevens' office. Mr. Kalisch then telephoned the

superintendent of the building, Mr. Transue, to accompany her and he did so. Mrs. Stevens then describes what occurred.

S. C. p. 401, l. 18.

> Q What happened when you got down there? A I don't know what all happened. I went in and Miss Sutz jumped up, and I apologized to the patients. I told them that this woman had incensed me and abused me. When she made a grab for me I knocked her down. In the fracas Dr. Stevens picked up a chair by the back and was going to kill me. Mr. Slobone held him down and said, "Doctor, doctor, you are not going to kill your wife?" He had invited us to the Shongun Fishing Club. At any rate, the agent for the Kinney building took me out.

Mrs. Stevens admits "I don't know what all happened." Dr. Stevens' testimony would indicate a calm demeanor, not consistent with the general condition then existing, and corroborating Mrs. Stevens is Mr. Kalisch, a reputable member of the N. J. Bar. Can there be any doubt that Mrs. Stevens gave Mr. Kalisch the gun *before* she went to the Doctor's office? Therefore, if the Doctor lied about this one thing, would he not lie about the entire details? It is submitted that the foregoing discredits his entire testimony concerning this office row and that the introduction of testimony in an attempt to show that Mrs. Stevens carried a gun, was for the sole purpose of endeavoring to create a false impression of her character, and that this again illustrates that Dr. Stevens' testimony must be disregarded in many instances and scrutinized very carefully at all times.

Then there is the testimony of Mrs. Stevens that she was confined to the Paterson General Hospital upon two occasions and this is corroborated by witness, Thomas R. Zulich.

S. C. p. 617, l. 32.

Q (Repeated) Can you turn to the year 1915, and tell from the record whether Mrs. Stevens was in the General Hospital in Paterson in July and in August, 1915, tell us what it says with reference to it. A In 1915 she was admitted to the hospital July 19th, discharged July 26th, and in August of that same year she was admitted August 1st, and discharged August 16th, 1915.

And yet, the respondent swears that, to his knowledge, the defendant was in this hospital only upon one occasion.

S. C. p. 614, l. 18.

Q How many occasions was she at the Paterson General Hospital in 1915? A One.

Q It is not a fact that she was there between July 19th and July 26th, 1915, and then in August of that same year from the 1st to the 16th? A Not as I remember. I remember her being there once.

Q That is what you swore to, it was only once? A Yes.

Q That is correct? A As I remember it, yes.

Is it believable that a man's wife can be taken to a hospital upon two occasions and that he had such a casual interest he remembered only one of such occasions? And it must be noted that Dr. Stevens testified that one of the doctors telephoned him that his wife was very ill.

S. C. p. 548, l. 22.

Q Do you remember July, 1915, your wife being at the Paterson General Hospital? A Yes, sir.

Q So far as you know what did she go there for? A After she had that operation at the house in 1915, as I started to say before, she went to recuperate from that operation with her mother, who was then in the country and while at her mother's another ill-

> ness developed and they called in some local doctor up there and they took her to the hospital and then the other doctor that performed the operation came in to see her and he called me up on the telephone and he said, "Mrs. Stevens is very ill and I think you had better come right up;" I said, "Very well; I thought she was getting better." He said, "No, it looks very bad to me." And I went up there, and they had such grave faces on them I didn't like the situation. I said, was she going to die; they said they didn't know. I said, "We will find out," so I went out and got a specialist over there, Dr. Philander Harris of Paterson.

A vivid portrayal of Dr. Stevens' character is found by an analysis of his testimony concerning her confinement at the Paterson General Hospital.

Mrs. Stevens had been taken to this institution following the performance of an abortion (she says by Dr. Stevens' orders; he says he knew nothing of it until afterward). It is conceded that he knew of her admittance to the Hospital in July, 1915, which was the time she was first taken there, and yet he was so indifferent to her welfare, that he did not visit her until called by the Doctor, and what did he say then, after being told by the Doctor the nature of her illness?

S. C. p. 549, l. 17.

> Q Did she leave the hospital? A I told them that she had nothing done to her; leave her alone and she would get better. She did recover and get home.

Here we find the appellant suffering from a condition which was obviously serious—so serious, that her life was almost despaired of and the petitioner tells the attending physician to

"leave her alone." Is it not possible to see clearly an inference that the petitioner did not want her to have any medical attention, and perhaps, for all we know, wished for a fatal result.

Note particularly his words:

"She did recover and get home."

These words might easily be the words of a stranger "*passing by on the other side of the street,* leaving the sick to get home as best they could." They indicate clearly a total lack of affection or even interest. The entire answer to last mentioned question, when the spotlight of analysis is turned on, shows them to be of an ironical character, difficult to equal.

This testimony of the respondent is characteristic of the respondent's case as a whole. The references already made, I believe, are sufficient to show how difficult it is to place any reliance upon any of his testimony. It is full of contradictions, base and unjustified suspicions; full of evidence of a hatred for the appellant, long before the night of the so-called raid.

Therefore, it is most respectfully urged that great care be taken in the reading of Dr. Stevens' testimony. There is much of his character shown by so doing. It is not intended that this brief should point out all the discrepancies of his testimony, but only such as most easily are discernible by even a casual but direct reference. His testimony is replete with sarcasm, hatred, malice, irony and a most evident endeavor to befoul and sully the character of the appellant.

The real test as to the quality of Dr. Stevens' testimony is in the weighing of it as a whole. The chain is not stronger than its weakest link.

There are no strong links in his testimony; each and every step in the process of testing, shows a weakness or a flaw that renders its character unworthy of belief. The flaws which render his efforts of no value as they in part, appear most vividly, are:

1. His all too evident desire to free himself of his obligations.

2. His lying as to proven facts.

3. His surly manner, evasive attitude and parisitical nature.

4. His indifference to his wife during periods of serious illness long before this case arose.

5. His suspicions, proven by his own testimony, to be unfounded.

6. The quality and character of testimony upon which he relies to support the weight of his case.

The testimony of the respondent, himself, is not worthy of belief, and when analyzed shows: An odious character, demeanor, temperament and bias in general, to everything that pertains to the appellant. A vivid desire to free himself of his marital obligation. The introduction of immaterial issues in an attempt to discredit and degrade the appellant.

It is submitted, therefore, that in determining where the truth lies, this Court scrutinize the testimony of Dr. Stevens, the respondent, very carefully, because it is mostly upon his evidence that the decree of the Court depends and if in the Court's opinion there is the least doubt that the respondent's story is not the frank, truthful statement that it should be, the appellant urges that the decree below should be reversed.

POINT II.

The respondent's witnesses as to material allegations contained in the petition filed in the Court of Chancery, are either blood relatives of the respondent or paid spies and detectives, and, not being corroborated, their testimony does not withstand the close scrutiny which is necessary to make it believable.

In taking up the testimony of the witnesses upon whom the respondent relies for the evidence upon which he seeks to prove his case, their relationship to the respondent should be considered first:

Francis L. Haveron, his half-brother.

Lewis Le Compte, his cousin.

Thomas J. Corbally, a paid spy and detective in respondent's employ.

Frank W. Corbally, a paid spy and detective in respondent's employ.

Stephen P. Flarity, a paid spy and detective in respondent's employ.

Lambert Transue, an employe in the building where the respondent maintained his office.

Mrs. Eugenie Stevens, his mother.

William Worms, his brother-in-law.

Mrs. Alla B. Painter, a former servant, discharged by the appellant.

Mrs. Elizabeth Shorter, a friend of both.

Charles F. Worms, his brother-in-law.

Eugene P. Haveron, his half brother.

Francis R. Haveron, his half brother.

Reginald H. Haveron, his half brother.

Dr. Robert Brumberger, a "neutral" witness.

From this it will be observed that only two measure up to the standard of true disinterested-

ness—they are: Mrs. Shorter and Dr. Brumberger. Their testimony is so void of material facts as to make it unnecessary to either quote from or refer to it. The balance of the witnesses are divided into two main classes—employes and blood relations. Taking up the employe class, we find:

Thomas J. Corbally, proprietor of the Corbally Detective Agency.

Frank W. Corbally, employe of Corbally Detective Agency, son of Thomas J. Corbally.

Stephen P. Flarity, co-partner in the Corbally Detective Agency.

The case is most singular from the aspect that according to the testimony there were ten or twelve detectives surrounding this house and watching the parties from the early afternoon until four-thirty the next morning, and that of the many detectives (say ten or twelve) who entered the house, the ones produced are the interested persons that have heretofore been named.

The witnesses all testified that there was present in the room when these parties were alleged to have been found in a compromising position, and after the lights had been turned on, one, Ray Adams, a detective, together with a number of other detectives, whose names are unknown, and their absence is unexplained. This feature of the case is emphasized as it is vitally important in considering the guilt or innocence of the appellant. All the respondent's witnesses testified that there were other witnesses who were in nowise connected with the respondent, who were not partners in the detective agency nor related to Mr. Corbally, and their absence is unexplained and they were not called to give testi-

mony. Why this hiatus in the respondent's case?

Another important feature of the case and one upon which it is desired to lay great stress is that there is no explanation as to why the detectives remained in the vicinity of this house from the early afternoon of August 24, 1922, until the early morning of the next day, August 25, 1922, and why these trained detectives who were paid, did not testify to a single act of intimacy or impropriety between the parties prior to this alleged incident.

There were no acts of familiarty, no compromising situations, no clandestine meetings, no secrecy and everything was done in broad daylight. No lewdness or depravity which are invariably conditions of criminal conversations, are shown, although the detectives were in the vicinity for ten or twelve hours, and apparently none of them peeked in the windows, through the keyhole or made any endeavor to do the things that detectives usually do when they are seeking evidence of this character; or if they did these things, which is more probable, they did not have the honesty and courage to say they had done so and had found nothing of a questionable character occur.

As witness LeCompte, from his testimony, appears to have operated under the control of the respondent, he will, for the moment, be classed as an employee, as his testimony is closely connected with that of the detectives.

The first contradiction appearing in the testimony of this class is shown by the following:

S. C., p. 100, l. 6, in answer to questions on direct examination as to who arrived with

Doctor Stevens at Montclair, he replied, "Mr. Corbally," and to further questions, and "who else," he answered, "I believe that was all," yet (S. C., p. 108, l. 3) on the same point in cross examination, appears the following:

> "Q Coming to the time you got in Montclair, you called up Doctor Stevens what time? A Around three o'clock, I should imagine, or a little after.
>
> Q Where did you wait? A At Midland avenue, and the intersecting street, one block below 79, I don't know the name.
>
> Q By arrangement did you meet him there? A Yes, I said I would be there.
>
> Q He appeared with how many people? A Two in the party besides Doctor Stevens.
>
> Q Who were they? A Mr. Corbally's son and some other gentleman, I don't know who he was."

Then, too, we find Le Compte not only contradicts himself, but is contradicted by other witnesses for the respondent. An instance of this is to be found as follows:

(Le Compte's testimony on cross examination (S. C., p. 106, l. 24):

> "Q Was there a light burning in the hall downstairs? A Yes, a small light."

(Thomas J. Corbally's testimony on p. 128, l. 10):

> "A Everything was dark then."

A little further on in the cross examination of Thomas J. Corbally (S. C., p. 128, l. 18):

> "Q Couldn't you see a light burning in the front hall when you got there at four-thirty? A No, sir, no light.
>
> Q Downstairs; sure about that? A I am pretty sure."

Another witness to contradict Le Compte at this point was Frank W. Corbally, son of Thomas J. Corbally, also appearing for the respondent.

(Testimony of Frank W. Corbally (S. C., p. 135, l. 36:)

"Q Was it burning about four o'clock in the morning? A I cannot say; I am not sure."

Not alone by the contradictions is the credibility of this witness for the respondent affected; his was not impartial testimony if the inference to be drawn from his words on the stand is to be given weight and consideration; he stands in the same position as a detective or paid spy from his testimony, as will clearly appear from the following testimony.

(Testimony of Le Compte on cross examination (S. C., p. 107, l. 36:)

"Q Who sent you over there? A Doctor Stevens.

Q What time did he tell you to go? A He called me up the evening previous at the house *and asked me if I wouldn't procure this evidence for him, and I gladly accepted his offer.*"

The significance of the words used in his answer that he gladly accepted the offer and that he was glad to help his cousin, is quite characteristic of a man who wants to serve his master by seeing only the things he wanted to see and hearing the things he wanted to hear. He further testifies (S. C., p. 101, l. 29) as follows:

"Q Then what did you do? A Descended to the first floor and then entered Doctor's Stevens' room—what had been his room.

Q And then? A And Mrs. Stevens and Mr. Paswaters were in the room together.

Q Where? A In bed.

Q What were they doing when you went in? A Sitting up.

Q And who went in with you? A We all went in.

The Court: Who was in the party?

The Witness: Doctor Stevens and myself and the detectives.

Q How many detectives? A I really cannot say; about ten or twelve.

Mr. Newman: Ten or twelve detectives?

The Witness: Yes.

Q Was anything said there? A Mrs. Stevens was somewhat surprised; she didn't say very much, except—

The Court: What did she say?

The Witness: I really cannot recall the exact words.

Q Did Mr. Paswaters say anything? A Yes.

Q What? A Why—I really cannot say the only thing I remember was his last remark that he made.

Q What was that? A He asked us to be kind enough to lock the door when we went out."

Although the detectives testify somewhat in detail as to the exhibition of a picture and questions put to Mr. Paswaters and things that were said in the room, he does not seem to recollect anything except the incident that would be helpful to the respondent (S. C., p. 111, l. 31), of Le Compte's testimony):

"Q You could see a light in the house? A There was a small light in the hall.

Q The shades up? A No.

Q The shades were down? A I am pretty sure they were; I cannot definitely say."

And this most significant bit of testimony on p. 114, l. 18:

"Q You say there was a light in the bedroom when you got upstairs? A Yes, when we got up to the top of the stairs.

Q Was there a light in the bedroom when you went in? A At the time we entered, yes.

Q What sort of a light; electric light? A Yes.

Q Was that burning when the first man in your party entered? A I believe it was."

So that there was a light in the bedroom as hereinbefore stated when the first party entered the room. Mr. Thomas J. Corbally arranged the situation so that the parties would be in a compromising position when the rest of the crowd came into the bedroom. The testimony of Mr. Le Compte that they were sitting up substantiates to a large degree Mrs. Stevens' testimony on direct examination, that someone "grabbed me, Mr. Corbally's son, I think, and threw me down on the edge of the bed."

In addition to the contradictions already shown in the testimony of Le Compte, is to be also found a further mass of material affecting his credibility and the weight to be given it.

On p. 105, l. 4, he testifies that Mrs. Stevens, at about six o'clock in the evening, left the house alone:

"Q Then I understood you to say you saw them come out of the house about six o'clock? A Mrs. Stevens alone; she left the house in the car to go shopping."

Mrs. Stevens on the stand testified (S. C., p. 156, l. 9) as follows:

"Q About what time was that? A Around six o'clock.

Q And then did you go anywhere in the car? A Yes, I did.

Q And did Mr. Paswaters accompany you? A Mr. Paswaters drove me around.

Q He drove the car, did he? A Yes."

She is supported by the testimony given by Paswaters on p. 239, l. 28:

> "Q Tell us what happened next. A Next she 'phoned for her motor car, which was being repaired at the Franklin Automobile Company; the motor car came up and I got in the car myself and so did she and we went over towards East Orange, to some street, to hunt a woman who had formerly worked for her, a laundress or someone. I got out of the car and went and knocked at the door and this colored lady came out, and I asked her if she would see Mrs. Stevens in the car, and she said she would. She came out to the car and Mrs. Stevens asked if she could get someone for her to stay with her a couple of days; she said she couldn't, because she had had a fire, that her child had broken her collar bone or wrist, but she would try to get someone else. I stood by the car while she walked up and down the street, at least four or five houses and tried to get someone."

This part of the testimony is clearly substantiated by Nellie Lee, whose testimony is hereafter set out in detail. Mrs. Lillie T. Gorton, a witness for the defense, (S. C., p. 329, l. 28), on cross examination, also presented testimony which supported Mrs. Stevens and contradicts Mr. Le Compte:

> "Q Did you see Mr. Paswaters outside of the Stevens house at any time that day? A When they drove off to get the maid I saw them.
>
> Q Was she with him? A Yes. I remarked at that time it was the first time I ever saw her with a man, ever since they lived there by us, all that time."

That the story that the appellant and Mr. Paswaters were surprised in a compromising position, is not plausible, but improbable as indicated by the testimony of the respondent's own witnesses. They testify:

1. That they broke in the rear door.

2. They went to the front stairs with a large flashlight.

3. They ran upstairs, p. 113, l. 38; p. 123, l. 25; p. 138, l. 28 and p. 146, l. 36; and as has been indicated, Mrs. Stevens and Mr. Paswaters could, in the length of time afforded them by these operations, have extricated themselves from any compromising position in which they might have been found, and this clearly shows that the respondent and his witnesses' testimony is highly improbable. The manner of entry must have given the appellant and Mr. Paswaters ample warning of their coming. On p. 146, l. 36, Mr. Flarity, a detective, a witness for the respondent, testified:

> "Q You went upstairs quite fast? A Yes, we ran up.
>
> Q Did you make much noise when you broke down the back door? A We made some noise, not a terrible lot, I don't think.
>
> Q You made quite a little noise running upstairs? A Yes."

On p. 113, l. 37, of Le Compte's testimony, is the following:

> "Q How did you go up; walk up softly or run up? A Not very softly, I will say; we ran up."

and on p. 113, l. 16:

> "Q Mr. Corbally, Sr., you say pushed the door open? A Yes.
>
> Q Did he make much noise? A Considerable."

As further evidence of the inaccuracy and unreliability of Le Compte's testimony, I desire to call the Court's attention to the matter of searchlights in the hands of the parties which swooped down on the Stevens home that night.

(Le Compte's testimony on cross examination S. C., p. 113, l. 25:)

"Q Did you have your searchlights? A No search lights.

Q None at all? A One of them, I believe, did have a search light, come to think of it."

Contrary to this statement is that of Thomas J. Corbally, on p. 118, l. 20:

"A After forcing the door, Dr. Stevens —I went in first, Dr. Stevens next, Mr. Le-Compte, Steve Flarity, Frank Corbally, Ray Adams; *we* went to the front stairs with *flashlights.*"

Frank Corbally's testimony as follows (p. 138, l. 39):

"Q How many men had flashlights? A Three—about three men."

On p. 140, l. 10, Stephen P. Flarity's testimony as follows:

"A * * * we had flashlights."

Le Compte, on p. 111, l. 7, in answer to a question, how many men there were in the party of the respondent said, "I said between ten and thirteen; I cannot say the number; I think a dozen."

(Le Compte's testimony on p. 113, l. 23 as follows):

"Q About a dozen people went in together? A Yes."

He is contradicted on p. 129, l. 12, by Thomas J. Corbally, on cross examination, as follows:

"Q How many men did you have on this job? A We had seven or eight men."

Mr. Corbally's figures include all the persons in the party as indicated by his testimony on p. 118, l. 20, heretofore referred to, when he named six men as the raiding party; then, too,

Le Compte is most uncertain by which exit the raiding party left the house. On p. 115, l. 35:

"Q Which door did you go out of? A The same door we entered, the rear door of the kitchen.

Q How did you lock that door if it was broken? A I think there was a spring lock on the door.

Q Did you break it? A The peculiar thing is the lock didn't spring when we sprung the door.

Q How long were you in the house? A Anywhere from five to ten minutes.

Q Didn't you go out of the front door? A No.

Q You are sure about that? A I really cannot say; I am not sure.

The Court: Was there a good deal of excitement and noise there?

The Witness: Yes, there was.

Q You don't know whether you went out the front or back door? A I wouldn't be able to swear and say yes or no."

Thomas J. Corbally's testimony on p. 121, l. 10, as follows:

"A I went downstairs and secured that back door; I put a chair to it and went out the front way."

The testimony of Corbally is that of a paid detective, as is all the rest of them. He admits on p. 128, l. 35, on cross examination that he is such:

"Q Have you been paid yet for your services? A I have.

Q How much were you paid?

Mr. Lane: I object as immaterial.

The Court: I will receive it.

A I cannot tell you the exact bill.

The Court: Approximately.

The Witness: Something around a couple of hundred dollars.

Q What? A I think around a couple of hundred dollars; I am not sure."

Mr. Corbally sees nothing except that which he wants to see. His testimony on p. 124, l. 11, as follows:

"Q How long is this hall, the upper hall? A I cannot tell you anything about that."

On p. 125, l. 14, of Mr. Corbally's testimony:

"Q You found a grip there? A I don't know as to the grip."

Mr. Corbally's testimony on p. 122, l. 15:

"Q Nobody went into the pantry? A I think one man went into the pantry and the pantry door was locked.

Q You don't know that? A No, I don't know that. I went to see if any of the other windows were open."

Also Dr. Stevens testifies as to the character of the lock on the door, as follows p. 599, l. 23:

"Q What kind of a lock was on the kitchen door, that is the door you came in? A A very cheap lock.

Q A spring lock with a key or one of those old-fashioned keys and slide locks? A One of those flat locks.

Q How did he spring that door? A I cannot tell you.

Q Didn't they use a brick and break the door in? A No, sir.

Q Will you describe how Mr. Corbally sprung this lock, this flat lock as it was? A No, I cannot describe that.

Q Were you standing right alongside of him? A Yes.

Q Didn't he put his shoulder against the door and break it in? A His shoulder and knee and elbow and he had the technique that I cannot describe.

Q Wasn't the lock broken as a matter fact? A No, it wasn't broken.

Q Did you lock the door on your way out? A No, I didn't lock it."

What, therefore, is the substance of remaining testimony, given by the detective, wherein they do not contradict each other? Only one thing—that they found the appellant in bed with the alleged correspondent. That is what they were paid to find, and they say they found such a situation. Nothing else mattered so long as they accomplished the one thing which they set out to do.

In considering the testimony of these paid spies and detectives and bearing in mind the opinion of the Chancellor in *Hurtzig* v. *Hurtzig,* 44 N. J. E. 329, it must not be overlooked that of the ten or twelve detectives who surrounded and entered the house on the night of the raid, only three were called upon to testify, and which ones were called? The two proprietors and the son of one of them. The significance of this certainly lies in the fact that not one "employee" of the detective agency was called—why? It is not natural to assume that the others either could not or would not corroborate the three who did testify? Thus we find ourselves confronted with the situation of the employment of ten or twelve men from a detective agency and only these vitally interested in that agency being called upon to substantiate the story of the respondent. In this circumstance it is submitted that the greatest scrutiny must be given their testimony to learn if the truth lies therein.

It has been clearly shown that the respondent left the appellant January 17, 1921, and that he made no effort to resume his marital obligations. He was eager to find his wife in a compromising situation and the so-called raid was delayed in order that such a compromising situation might develop.

S. C., p. 596, l. 10:

"Q You wanted to give her time and an opportunity to be caught in a compromising situation, didn't you? A That wasn't the cause of the delay.

The Court: He didn't ask you that. Answer the question responsively; don't volunteer something you are not asked to.

Q (Question repeated.) As a matter of fact, you wanted to catch her, if you could, in a compromising situation; isn't that true? A *I would answer that question, yes.*"

It is interesting to note that the appellant was under observation from four o'clock P. M., August 24, 1922, to 4:30 A. M. August 25, 1922, before the raid was made and that the respondent and his cousin were accompanied by ten or twelve detectives.

Nor is there any credible explanation in respondent's case as to why the raid was delayed till 4:30 o'clock on the morning of the 25th. The appellant's testimony, however, shows the real reason for this delay and this will bear comment hereafter upon reference to the appellant's proof.

It is, therefore, respectfully urged that the testimony of the respondent and the paid detective witnesses relied upon to prove the alleged act of adultery upon the night of August 24, fails entirely to establish a probable or believable story. All witnesses were vitally interested in the accomplishment of one thing and one thing only—viz:—to place the appellant in a compromising situation and secure such evidence as might be necessary to prove a case of adultery in the court below.

Where such interest is so obviously manifest, it requires a very searching scrutiny of the evi-

dence submitted to cull out the truth. The comments and references heretofore made, amply show that not one witness produced by the respondent, relative to the alleged act of adultery, recite a consistent, believable, or even probable story. How then can the respondent sustain the burden of proof required to establish his case when the testimony of each witness taken singly, fails to measure up to the necessary quality to overcome the interest, both actually and inferentially shown?

It is submitted, therefore, that the testimony of the witnesses for the respondent, other than the respondent himself, does not support the burden of proof required, because they are paid spies and detectives and their evidence is not corroborated by disinterested witnesses as required, and which as a matter of law is set out later in this brief.

POINT III.

The appellant has proven herself free from any guilt by the preponderance of believable, probable and credible testimony.

> "The crime (adultery) is almost invariably clandestine, and committed only when every precaution is taken to preclude the possibility of its discovery. Familiar indicia of it are: loss of affection that is due to, and was bestowed upon, its legitimate object, and the bestowal of affection upon an unlawful object; stolen interviews; private correspondence; amorous and passionate utterance; personal freedom; indecent familiarity; compromising situations, and the like.
>
> It is often difficult to discriminate between that which points to the crime of adultery and that which indicates nothing

> more than imprudence, indiscretion and folly. It must be borne in mind that the burden of proof is upon him who asserts the adultery, and that that burden must be clearly sustained'' Hurtzig *v.* Hurtzig, (44 N. J. E. 329).

The opinion then refers to cases wherein it has been held that "where it is established that the defendant and her *particeps criminis* had the *will* and the opportunity to commit the crime the Court will infer guilt." It is to be noted that the foregoing, together with the cases cited in support of this principle, require both the *will* and the opportunity. The opinion then continues:

> "The main difficulty in the application of this rule is in the determination, from circumstances, of the condition of the minds of the defendant and her *particeps criminis.* This suggestion shows the necessity, in such determination, of the application of the precautionary test, that to establish adultery the circumstances must be such as to lead the guarded discretion of a reasonable and just man to the conclusion of guilt. The judgment must not be rash and intemperate, moving upon appearances that are equally capable of two interpretations. Loveden *v.* Loveden, 2 Hagg. Con. R. 1; and other cases cited. * * * If the circumstances, taken both singly and together, reasonably admit of two interpretations, that interpretation which favors innocence should be adopted."

This has been more recently decided in *Torrens* v. *Torrens,* 120 Atl. 189. Quoting from the syllabus by the Court:

> "held that, although there was an abundance of proof of opportunity to commit the offense, nevertheless the lack of proof of any desire or inclination to do so would preclude the petitioner from obtaining a divorce on the ground of adultery."

Under this well recognized rule, in order to establish that adultery has been committed, it is necessary to prove:

1. A criminal disposition or desire in the minds of both the defendant and her *particeps criminis.*

2. An apportunity to commit the crime.

It is earnestly urged that even though there may have been an abundance of opportunity, yet in the absence of proof of a criminal disposition, the excess of the one cannot support the deficiency of the other.

Let us look carefully at the story told by the appellant.

A short summary of the testimony as to Mrs. Stevens' explanation of the raid as here set out bears the earmarks of truth. Everything that the appellant did was done in broad daylight, without any attempt at concealment, and it is hardly believable that if Mrs. Stevens and Mr. Paswaters intended to commit wrong that they would have awakened the entire neighborhood in Montclair, telephoned the Bunnells, informed Mrs. Gorton concerning Paswaters' presence, called for the colored girl, Mrs. Lee, to stay at the house over night. They did nothing to secrete themselves, which is the usual situation when such an act is contemplated. Mrs. Stevens' story, when scrutinized carefully, is the more logical, reasonable, probable and believable one. There is produced by the respondent no evidence of misconduct going to Bermuda, or while there, or while returning. Mrs. Stevens testified that she was very seasick, suffering from terrible hemor-

rhage, and the cause of this is shown in the testimony on p. 163, l. 23, as follows:

"Q Did you get up that night at all, or early morning hours? A Yes; I don't know what time Mr. Paswaters came upstairs, but I awakened sometime after I had fallen asleep, with another recurrence of this terrible hemorrhage, so I got up and put my slippers on, and I was dressed; I had a negligee with long pajamas that reached to my ankles; I was dressed, and I went downstairs.

Q Where did you go to? A I went to my pantry to get a drink; it was a hot night; I went in the pantry—the second outside pantry—and when I opened the door—the door was not locked which leads into the outside pantry—the window was up and the screen was entirely out.

Q What did you do? A It sort of startled me, and I got the drink and came back in the office that Mr. Stevens occupied for his patients, and there is a little light over the desk. I turned that on, opened the door and made the bandages that I wanted to make, and came upstairs, leaving the lights on, and with a glass of ginger ale and the bandages.

Q Did you or did you not close the window in the pantry? A I did, and locked it, and then locked the outside door.

Q After you got upstairs and put that glass of ginger ale on the table in the hall, what did you do? A I stayed there, and I am not a coward, because I have been alone there nights before, but I thought it was queer because the house had been locked all the time I was away, and I knew the window wasn't open. And I sat at the telephone stand deliberating whether I should telephone Mrs. Gorton or waken Mr. Paswaters—knock on his door or wake him up—and I sat there deliberating a moment, and went into the north room again.

> Q Your own room, the one you occupied? A Yes, and put the bandages on that I had made downstairs, and just a few minutes afterwards I heard this crash, and when I heard the crash I screamed—I don't know what I screamed; I ran out into the hall, across the hall, and then I called Mr. Paswaters—I don't know what it was—and I saw all these men with flashlights right on me, and I don't know whether they pushed me in the door or I went right through his door and sat on the chair. There is a little chair right inside the room."

Now, is this story not probable and likely, if we consider the story of the respondent, which in substance would indicate that the detectives broke the rear door, passed through the kitchen, through the lower hall, up the stairs, went to the front of the *twenty-foot hall,* looked in the front room, and then, turning, ran the length of the *twenty-foot hallway* to the bedroom. Then connect this with Thomas J. Corbally's testimony on p. 118, l. 34, "As I put the flashlights on the couple in the bed, Mrs. Stevens turned on her left side and turned on the electric light; she said, 'What is the matter?' "

It seems absolutely improbable and unreasonable that these two persons could lie in a bed while the several detectives, numbering from five to thirteen, caused such a noise as did obviously result from their action on entering the premises, as described by them, and expect to be believed that Mrs. Stevens could act in such a casual manner as may be inferred by the testimony just quoted.

That the appellant was indiscreet is not denied, but in this connection let us bear in mind that indiscretion does not imply guilt. Let us digress a moment to see if the explanation in answer to

this is plausible; we shall find that it is not only plausible, but that even in the face of indiscreet circumstances, it is a logical and believable story.

The facts show that on the way home the appellant was sick on the ferryboat from New York to New Jersey; that when she arrived home she telephoned for her car; that she and Mr. Paswaters rode out in the car for the purpose of getting a colored girl, who previously had been employed by her as laundress, to stay there overnight, as she did not want to remain alone because of her physical condition. She went out in her own machine in broad daylight, accompanied by Mr. Paswaters, for the purpose of procuring this girl, and in this she is corroborated not only by Mr. Paswaters and the colored girl, but the latter tells the details of conversation and gives a description of the appearance of Mrs. Stevens. Mrs. Stevens also saw her next door neighbor, Mrs. Gorton, to whom she introduced Mr. Paswaters, and then told Mrs. Gorton she expected that the Bunnells, who were in Connecticut, would be down and remain there that night. The Bunnells were friends of Mrs. Stevens. Mrs. Stevens had telephoned early in the evening—about nine o'clock—from Montclair to Torrington, Connecticut, and the Bunnells had said they would leave there immediately and would arrive at Montclair about twelve o'clock. At about ten o'clock that evening, Mrs. Gorton had called on Mrs. Stevens, made inquiries as to whether she, Mrs. Stevens, had heard from the Bunnells. Mrs. Gorton said she was very sorry she could not ask Mrs. Stevens to remain at her house overnight, but she had so many guests there that the house was full, or she would gladly do it. At that time Mrs. Stevens informed her that she expected the

Bunnells to arrive about twelve o'clock midnight. As to the truth of Mrs. Stevens' statement, she is not only substantiated by the Bunnells, Mrs. Lee and Mrs. Gorton, but also by Mr. Charles R. Thompson, the representative of the New York Telephone Company, who testified as to the telephone connection, and produced the slip of said company, which constituted their record.

About twelve o'clock word came over the telephone from Mr. Bunnell, who had arrived in New York, that he was very late, and so long as Mr. Paswaters, whom he knew and regarded as a perfect gentleman, was there, he didn't see the need of his coming out that night. Mrs. Stevens, after receiving the telephone call from Mr. Bunnell, retired, and later Mr. Paswaters also retired, he occupying the rear room and Mrs. Stevens the front room.

Mr. Paswaters testifies with reference to why he remained (S. C., p. 242, l. 32):

> "The Court: Why did you remain there?
> The Witness: I remained there because Mrs. Stevens was ill and I didn't care to leave her until some one came."

What more manly or frank statement could be desired? That Mrs. Stevens was ill is not denied, but shown and conclusively proven by the testimony of the following disinterested witnesses:

S. C., p. 359, l. 25 (Miss Sullivan):

> Q On the way back, what was her physical condition? A She always struck me as being quite ill, and pale and languid.
> Q On the night before the boat sailed, do you recall some of the party going in swimming? A Yes, sir.
> Q Did Mrs. Stevens go in swimming? A No.

Q Why not—did she express any reason? A She told me her physical condition was such she had to spend the afternoon in bed.

Q Was Mr. Paswaters along with you, swimming, that day? A He asked me if I would join the party that was going down to this little private beach. I told him I was tired, and I remained on the veranda of the hotel all afternoon.

Q The Court: Do you know if he left the hotel?

The Witness: Yes, he left the hotel with his bathing suit all rolled up.

Q Did Mrs. Stevens, the night before she sailed, come downstairs? A In the evening.

Q Do you know Dr. Walker? A Yes, sir.

Q Did she go out that night with Dr. Walker and a party of friends? A We remained in the hotel. I was a member of the party that evening in the ballroom of the hotel.

Q She remained at the hotel? A Yes, sir.

Q Do you remember whether the night before she sailed she had intended to go to Hamilton? A Well, in the early evening she told me something about being asked by Dr. Walker to go over to Hamilton, because he was a friend of some of her friends, but she was in bed all afternoon and said she expected to spend a quiet evening.

Q And did Dr. Walker, as a result, come over to the hotel? A He came over about eight o'clock; after dinner, I know it was.

Q And did he have occasion to prescribe anything for her that night? A I remember her taking something strange, some little stimulant of some sort. He asked one of the men in the hotel to get it for her. I remember her taking it, some little thing in a small glass. I don't know what it was.

S. C. p. 330, l. 13. (Mrs. Gorton)

Q When you saw her at six o'clock or about six o'clock, did she tell you that she wasn't well? A She did, and she told me in this way: She said, "I am so ill; I can hardly stand up," and she sat down on the back steps while she was talking to me; she said she had been so sick.

Q Did she tell you what was the matter with her? A She did.

Q What did she say? A She said it was her monthly cramps and she was having hemorrhage.

The Court: That she had been so sick and ill?

The Witness: Yes, that she had been so sick all the way back, and she did look desperately ill.

Q Had you ever seen her as sick before as she was that night? A Yes, I think I had. I had seen her about the same way.

S. C. p. 208, l. 13. (Mrs. Lee)

Q Where did you see her? A She came to my house and asked me if I could come—a gentleman came to the door and knocked, and I was having my dinner, and he asked me, "Is this Mrs. Lee?" I said, "Yes." He said, "Can you see Mrs. Stevens?" I said, "Yes," and I goes to the car. Mrs. Stevens was lying back in the car; she said, "I am so sick, I don't know what to do; can you come and stay with me?" I said, "No, I cannot come, Mrs. Stevens, my little girl has just come out of the hospital with a broken collarbone." She said, "Well, can you get me someone?" I said, "I will try." I goes next door and tried to get Mary Scovin, but she was out. Then I sent a little girl across the street to try to get Pauline Davidson. I sent across the street to get Pauline Davidson, but she was out, and then I told her if I could get someone, I would send them, and I would try Mrs. Jackson to get Mary Brown, so I couldn't get anyone to stay with her.

Q Was Mr. Paswaters with her at that time, this gentleman here? A I don't know the gentleman at all; I had never seen him before. Mrs. Stevens usually always comes up herself when she come for the clothes and when she brung them.

Q Did you give her any clothes that night? A Yes, I give her her clothes.

Q You said she was sitting in the back of the machine and looked very pale? A Yes.

Q Had you ever seen her sick before? A No, I hadn't never seen her look like that before.

Q Had you ever been about her when she was sick? A When she was feeling badly, but she didn't look as bad as she did then.

Q She looked pretty bad that night? A Yes, she looked very pale.

S. C. p. 217, l. 32. (Mrs. Bunnell)

Q Did you have a conversation with her over the 'phone on the 24th of August, 1922? A I did.

Q Can you tell me about what time it was she called you up? A I should say about nine o'clock or a little after.

Q At night? A At night.

Q What did you say to her; what was the conversation? A I was to come down there; she was very ill and asked me to come down, and I told her I would.

Q Did you fully intend to come? A I did; I had my suitcase and everything ready.

In addition to the foregoing, Dr. Eddy's testimony should be noted carefully, insofar as it conclusively corroborates this entire line of testimony:

S. C. p. 284, l. 30.

Q And did you sometime in the month of July, 1922, treat Mrs. Stevens? A I did.

Q And can you tell us when you called there? A I called there on the 26th of July, 1922, and two days later.

Q What did you treat her for? A Cramps and hemorrhage, apparently.

S. C. p. 285, l. 21.

Q You say you treated her on September 22, 1922? A I did.

Q And that was her menstrual period? A Yes.

The Court will take judicial notice that menstrual periods are, normally, twenty-eight days apart; therefore, it is but a matter of calculation to determine the probabilities as to Mrs. Stevens condition on August 24, and prior thereto, when we consider that she was attended by Dr. Eddy for this condition on July 26, and 28, and also on September 22nd.

Now considering this uncontradicted testimony showing Mrs. Stevens' illness, both hemorrhagic and as a result of seasickness, there can be no doubt that she was in a condition which would prompt Mr. Paswaters to consider it the gentlemanly thing to do when he decided he would not leave her alone, particularly after the many efforts to secure someone had resulted in a disappointment at about 12 o'clock midnight, a time when it was no longer reasonable to expect that any other person's service might be obtained.

Testimony of this character clearly refutes any inference of possible or probable desire to commit the crime charged. There is no testimony adduced by the respondent of any acts which have the slightest tendency, even inferentially toward criminal conversation.

The detectives were, by their own admission, around and about the house from 4 o'clock P. M., August 24th, until 4:30 A. M., August 25th. It is also proven conclusively, that Mrs. Stevens, owing to her physical condition, retired to her

room, at about 10 o'clock P. M., Mr. Paswaters remained reading downstairs in the living room till after the telephone call from the Bunnells, in fact, till after one o'clock, and then retired to the *rear* bedroom. The house was then dark, except for a small light in the hall until Mrs. Stevens went downstairs for the bandages, which she required, and at that time she, of course, had the lights lit. Almost as soon as she reached the second floor, in returning to her bedroom, the detectives and respondent broken into the house.

It is submitted that a minute scrutiny and extremely careful analysis of the testimony of all the parties concerned in the events of the evening and night, will clearly establish the innocence of the appellant. It is not conceivable that the detectives did not peak in the windows and do the things detectives usually do, yet their testimony is silent as to all this. Their silence concerning what transpired in the house while they were waiting their opportunity to enter, inferentially corroborates the appellant's testimony. They do not deny that Mr. Paswaters sat during the evening in the living room; they do not deny that from 10 o'clock in the evening there was a light upstairs in Mrs. Stevens' room. they do not deny that Mrs. Stevens descended to the first floor shortly before they broke into the house.

Thus their silence is fatal to the respondent's case—Why? Because it shows they were not honest in giving their testimony. How? Because if they had honestly testified about these things and then told the same story concerning the position of the appellant, the admissions concerning the early evening events would have

stimulated belief as to the later events, and could not have possibly harmed their testimony as a whole.

Is not the reasonable deduction then, that they have "lied" willfully by their silence? Thus this characterization can also be applied to the testimony which they did give. The principle result is to clearly establish that during the entire evening they saw no lovemaking, no evidence of lewdness, nothing of a questionable character and thus the appellant's story is clearly and amply corroborated.

The circumstances clearly admit of two interpretations—one, strongly favoring innocence, and the other, weakly inferring guilt. In addition, the story of the respondent is improbable and difficult to believe, while the story of the appellant being amply, and generously supported by the testimony of many disinterested witnesses, is most probable. Therefore, there can be but one determination from such proof, viz: the appellant is not guilty of having committed adultery, and the decree below should be reversed.

POINT IV.

The evidence on behalf of the appellant shows that the respondent deserted the petitioner after many years of cruel and abusive treatment and conduct.

The charge as to the cruelty is clearly and unmistakably proven and overwhelmingly substantiated. The testimony indicates that from July, 1912, up to January, 1921, when the appellant quit the house and Mrs. Stevens no longer had any relations with him, or lived with him, that he

pursued a course of cruel and abusive treatment, that he submitted his wife to all kinds of indignities and abuse, commencing with their residence at Thomas street, where he came home in an intoxicated condition and struck his wife with his fists, knocking her down so that the back of her head struck against the piano and she lost consciousness.

Doctor Ward, a physician, was called in to revive her after that episode, and then subsequently in December of the same year, an abortion was performed on her by Doctor Blyn, at No. 11 Thomas street, Mr. Stevens, himself, administering the chloroform; all of this being against the protests of the appellant. After the abortion which took place in December, 1912, and which resulted in a nervous breakdown, it was necessary for the appellant to go to a sanitarium of Doctor St. George Fechtig, at Lakewood, N. J. She remained at the sanitarium for about a week, during which time Mr. Stevens failed to communicate with her, although she wrote him several letters, and it was necessary for Mrs. Stevens to send him the money to come and see her. When Dr. Stevens made the trip to Lakewood to visit her, she paid the expenses incurred in his remaining overnight, although he denied this fact on the witness stand, until he was confronted with the receipt showing that Mrs. Stevens had paid his board bill.

In June, 1913, in the presence of one of the Haverons, she was struck by Dr. Stevens and knocked over the foot of the bed. On July 3, 1914, a son, who is now in her custody, was born, and Dr. Firth, who was the attending physician, rendered several bills for his services, but Dr. Stevens had so little interest in his child, or in his wife, that he refused to pay the same

and upon being sued for this item, Mrs. Stevens was compelled to give a promissory note in payment thereof (Ex. D. 7 offered, S. C. 623). Subsequently this note was paid in June, 1919, when the child was 5 years old.

Dr. Stevens married Mrs. Stevens to get possession of her share of the estate of her grandfather amounting to something in the neighborhood of $35,000, and when she refused to spend her own money or refused to apply to the estate for money that he wanted, he took the occasion to nag, abuse and ill-treat her, until she was compelled to call upon the guardian of the estate for the money and thus satisfy his demands, and as soon as the money was spent he renewed his abusive conduct toward her. In October, 1914, while living at 96 Broad street, Dr. Stevens threatened to shoot Mrs. Stevens and had a revolver in his possession, and this threat occurred in the presence of Dr. Stevens' sister, Bessie Haveron, who is now Mrs. Worms, and this incident is corroborated on p. 452, l. 10, by Mr. Worms, a witness for Dr. Stevens, who, in answer to the Court's question, said:

> "Q Did you ever take a revolver away from him? A Yes, sir, that is the time.
>
> "Q How did you come to go into their home on that occasion? A That was in October."

This is in full corroboration of the episode testified to by Mrs. Stevens, that occured in October, 1914. (S. C. 378, l. 31.)

It also appears that in January, 1915, at the home, No. 96 Broad street, Dr. Stevens returned and being questioned as to where he had been for two or three days, flew into a rage and tore a waist from Mrs. Stevens and this is corroborated by Mrs. Stevens' mother, Mrs. Anna N.

Barbara (S. C. 341). In the month of February, 1915, after Mrs. Stevens had confided to the doctor that she was in a delicate condition, Doctor Blyn, who was also present, gave her some medicine, this being the same Doctor Blyn, who was subsequently convicted of performing an abortion and sentenced to State's prison. Following the taking of this medicine and while attending Proctor's Theatre in Newark, she became very ill. Mrs. Bunnell, who accompanied her, telephoned for Dr. Stevens to come to the theatre and begged him to take her home as she was very weak and sick. Dr. Stevens refused to take a taxi cab and walked her to Doctor Firth's office. Following this, she was taken home.

Dr. Blyn, it appears, was quite friendly with Dr. Stevens, as they had worked together in Bamberger's, and lived under the same roof a part of the time, and that Dr. Blyn practiced his profession at the home of the Stevens. That same night her mother was notified of Mrs. Stevens' serious illness and Dr. George, of Paterson, N. J., was brought to the home by Mrs. Stevens' mother, and he attended her and performed an operation to stop the hemorrhage, and remained there all night with her (S. C. 340). In July, 1915, Mrs. Stevens informed Dr. Stevens that she was again in a delicate condition and he became so enraged about it that he struck her and gave her a black eye. She then went to the Oriental drug store to be treated for her bruised eye, and the young man at the drug store took her to Dr. Crawford's, who treated her for her condition, and this episode is clearly corroborated by Dr. Crawford, (p. 287). A short time afterwards she was compelled to go to bed because of her physical condition, and still later went to the

Paterson General Hospital. A necessary operation could not be performed at that time and she returned home. When her husband saw her he flew into a rage, notwithstanding her delicate physical condition, and her nervous breakdown. He dragged her around the room and pulled her by the hair. In August, 1915, after the July episode, she again went to the Paterson General Hospital and an operation was performed. It was a very serious one and absolutely necessary because of her condition and had to be performed in the early morning hours. The fact that she was twice to the Paterson General Hospital was stoutly denied by Dr. Stevens, but was amply and clearly proven by the records of the hospital (p. 616 Zulick). In the meantime, their financial situation was very poor. Mrs. Stevens rented out rooms and did a great deal of work in order to save money and in order to be able to meet the expenses of the household. Dr. Stevens' earnings were then very irregular. Dr. Stevens, notwithstanding this fact, in October, 1917, against the advice of Mrs. Stevens, took an apartment in the Elberon Apartment House, where the rent was considerably higher than in Broad street. The Elberon Apartment being seventy-five dollars per month and the home in Broad street, being only thirty-five dollars per month. Mrs. Stevens' physical condition was still very poor, but notwithstanding that, the doctor insisted upon her renting the apartment and their means being insufficient, she could not retain a maid for herself, and it was necessary to use the room fixed by Doctor Stevens, as his office, also as the sleeping apartment. At this time Mrs. Stevens was still under the care of Doctor Firth, Doctor Lowry, Doctor Tate and Doctor Lawrence.

In January or February, 1918, she was stricken with paralysis and went to Chicago for treatment under Dr. McCormick. She obtained from Mr. Beggs, her guardian, sufficient money to make the trip and pay for part of her treatments, by discounting a note for eight hundred and fifty dollars, and although she was away quite awhile, she had to return before she was cured as she learned that her son, who was supposed to be in the care of his father, had been taken to her mother's home and was violently ill, and also because she had not sufficient money to continue the treatments, and further, because of the doctor's constant nagging over the telephone and sending her communications which made her uneasy and worried, so that she thought she had better come home.

And just about this time, it was testified by Mr. Bunnell, that he has seen Dr. Stevens dining at the Robert Treat Hotel with Miss Sutz, who was employed as his secretary and nurse against the repeated protests and objections of Mrs. Stevens. Miss Sutz is still in his employ, and was the cause of a great deal of difficulty, unpleasantness and friction between the parties and was undoubtedly the main cause of the determination of Dr. Stevens to leave Mrs. Stevens.

It also appears that in September, 1918, Mrs. Stevens purchased a house in Montclair, and took up her residence at that place, and it is amply borne out that Mrs. Stevens paid the entire consideration for the house out of her own funds and that further, because of the constant nagging of the doctor, and because he desired to create a better impression and increase his business, she secured three thousand dollars from the Hackensack Trust Company (Exhibit D. 8 of February 13, 1924, p. 653), and

purchased a Franklin sedan. About this time she gave Dr. Stevens five hundred dollars to pay a note, which he had given to one, Clarence Gardner, and in January 1919, she loaned him thirteen hundred dollars, with which to pay his debts, he having stated he was in debt to this extent, (all of which is borne out by the exhibits in the case).

Shortly thereafter she paid to Henry Brothers, Brokers, upon Dr. Stevens' account, twenty-five hundred dollars, to protect certain of his interests in stock transactions and as a result of the last payment he assigned to her (as appears from exhibits) thirty shares of St. Paul stock and Dr. Stevens received at the same time, a Liberty bond of Mrs. Stevens of the par value of one thousand dollars and gave his receipt therefor, admitting thereby the twenty-five hundred dollars loan that Mrs. Stevens had advanced to him to protect this stock transaction. It also appears clearly in the evidence that in November, 1919, Mrs. Stevens, because of a wreck or a disaster to the original Franklin sedan, which occurred while Dr. Stevens was operating it, and at a time when he did not have a driver's license, was compelled to purchase a new sedan and paid, therefor, out of her own funds, the difference between the value of the old car and the new car, the sum of $1,350.00 (S. C. 652, Ex. D. 4).

In January, 1920, Dr. Stevens was home in bed for a period of about a week or ten days, suffering from a cold, and as Mrs. Stevens had heard that Miss Sutz had taken the money received from Dr. Stevens' business to her own home the day before, she went to the home of Miss Sutz to get this money. When she returned and told Dr. Stevens where she had been and

the reason she had been there, and also told him that Miss Sutz was not living in the fine style that Dr. Stevens had taunted her about and described, he grabbed a thirty-eight calibre revolver and chased her around the house and out of the back door and threatened to shoot her if she moved the automobile which was down in the driveway, and threw a pan at her, which just missed her grandmother, Mrs. Scott, whose testimony is here set out in full (p. 314).

Direct examination by Mr. Newman.

"Q How old are you? A I am eighty-two.

"Q What relation are you to Mrs. Stevens? A Her grandmother.

"Q Did you have occasion to call on Mr. and Mrs. Stevens frequently during their married life? A No, not very frequently.

"Q You have been there on occasions, have you? A Yes.

"Q Did you observe how Dr. Stevens treated Mrs. Stevens? A I was called there over the sickness of Mr. Stevens and he was in bed, I think, a week, and he got up, and dressed and came down stairs, on a Sunday morning, and his mother came that morning, I suppose to see—

"Q Is his mother here in Court? A Yes, she is here.

Mr. Newman. Will you stand up (addressing Dr. Stevens' mother)?

"Q Is that the lady? Dr. Stevens' mother? A Yes, and Mrs. Stevens had occasion to go out to the Avenue, a Sunday morning, and she took the car and went out to the Avenue, and Mrs. Stevens, the doctor's mother, said late Saturday night she saw this office girl on the street, and they spoke about the money, so Mrs. Stevens, Mr. Stevens' wife, went down to see whether the girl had taken the money out of the safe, but she didn't get the money; she came back.

"Q Mrs. Stevens did? A Yes, Mrs.

Stevens did, and Mr. Stevens asked her, naturally—she was gone longer than it would take to go to the Avenue, and he asked her what kept her, and she told him where she had been, and he was enraged then.

"Q What did he do? A He got up and went to grab hold of her, and they ran through the kitchen, into the dining-room and his mother got up and said 'Luddy, Luddy, don't get excited, you know how sick you have been.' He chased her twice through and the last time, in the kitchen, a kettle stood on the sink, he picked it up and threw it at her, and it just passed my head; it struck the casing of the door. I hollered at her to run out, and it was in January, and there was sleet and snow on the ground, and she had very light shoes on and no coat, and I told her to run next door, so she hollered, 'Grandma, get me my coat,' and I threw her the coat, and I looked for the overshoes, but through the excitement couldn't find them, so she went to Mrs. Gorton's—the lady is here; she telephoned for Mr. Worms, a brother-in-law, and Mr. Worms came and brought his wife, but I am before my story, when Marjorie ran out of the door, he ran back and got a revolver and told her if she dare run that car out, he would shoot her through the door.

"Q Was that the revolver (indicating)? A I don't know, for I didn't look at it; I was so excited I didn't want to see it. I cannot testify to the revolver, but he declared he would shoot her through the door, so I said, 'Don't come in the house, but run next door.'

"Q Did you see the revolver? A I did, I saw it in his hand.

'Q Was he loading it? A He was holding it, and ran in the door with it.

"Q Where was she at the time he was holding it? A Out in the yard; she had gone down to get the automobile and he hollered and told her not to bring it out, and

she didn't bring it out; it was down by the garage.

The Court. You say this was in January, in what year?

The Witness. Here before this last.

"Q That would be 1921? A Yes, 1922, wouldn't it be?

Mr. Newman. I think she means 1920.

"Q How long before the Doctor left Mrs. Stevens was it? A About a year ago.

"Q A year ago what? A A year ago this coming year, the first of this coming year; it was last year.

"Q That would be 1922? A 1922, that is what I think it was.

"Q Was it a year before he left? A Yes, a year before he left.

The Court. Do you agree on when he left?

Mr. Newman. Yes, there is no doubt about when he left; that was January, 1921; the letters bear that out.

Mr. Newman. Mrs. Worms, will you stand up?

"Q Is that the Mrs. Worms that you referred to that was present at the time? A That is the lady.

"Q And her husband was the Mr. Worms that you referred to? A Yes, he was; he took the revolver from Mr. Stevens.

"Q He took that revolver from Mr. Stevens at that time? A Yes.

"Q After this event were you still friendly with Dr. Stevens? A Yes, sir, we tried to pass it over, and I always give him a pleasant word.

"Q Do you recall whether you sent him a patient after this? A I sent him a good many patients, but withheld my name, but this one patient, I couldn't, because she was a friend of a niece of mine, and they had a little boy going blind, and as Mr. Stevens was very good, I recommended this lady to take this blind child to him, and through

that, of course, the lady took her son there to have his eyes treated.

"Q Did the doctor write you a letter of appreciation afterwards? A Yes.

"Q Do you recall that? A Yes, he did.

The Court. What was the date of the letter?

Mr. Newman. January 20, 1923. I will offer that letter in evidence.

(Marked Exhibit D. 5, December 5, 1923.)

"Q The illness he speaks of is the illness you have just told us about? A Yes.

"Q Do you know what he meant by saying come in and see him when you were alone? A No, I do not.

Cross examination by Mr. Lane.

"Q How long was Mrs. Stevens gone when she went out, as you say? A I don't think she was gone more than an hour.

"Q Were you present during the entire time that Mrs. Stevens and the doctors quarreled? A Yes.

"Q Just what took place at that quarrel? A You mean the last quarrel?

"Q The one when the revolver incident occurred. A What took place, Mr. Stevens after Mr. Worms came and took the revolver away from him—Mrs. Stevens went upstairs and packed her trunk—started to pack it, to go away—

The Court. I don't want a repetition of it; she has already told us what took place.

"Q I mean what was said in the quarrel. A There was nothing said, only he said that he would blow her brains out if she took the car out.

"Q Why did he say that? A Because he was aggravated because she went down to this girl's house after the money; he said it was none of her business to meddle.

"Q Was anything else said, something about going down for some letters that were in the safe? A No.

"Q Nothing said about letters? A No.

"Q Was Mr. Burton's name mentioned? A No.

"Q Nothing said about letters from Mr. Burton? A No.

"Q Or about the photograph in the safe? A No.

"Q You are sure about that? A Yes.

"Q Are you sure that Mrs. Stevens, the doctor's mother, was there? A Yes, she came there Sunday morning.

"Q And was there throughout the trouble? A Yes, and I think she went away with her daughter and her husband when they went after this quarrel.

"Q Is Mrs. Worms her daughter? A Yes.

"Q You are sure that Mr. and Mrs. Worms were there throughout this trouble? A Yes, I think Mrs. Stevens went away with them. I know they were there.

"Q Were they there during the quarrel? A Yes. Not when the quarrel commenced; we telephoned for them to come.

Re-direct examination by Mr. Newman.

"Q When you say 'Mrs. Stevens,' you mean Mr. Stevens' mother? A Yes.

The Court. That is what she said.

"Q Did he on that occasion say that he would break every bone in her body?

The Court. That is too leading.

"Q Did he say anything else on that occasion? A I don't remember it."

There was present at this time, Mrs. Eugene Stevens, mother of Dr. Stevens, and it is very significant that she was not asked one word concerning this occurrence for the very vital reason that she did not want to lie on the stand as she would have corroborated this entire occurrence. Mrs. Stevens then went to the home of Mr Gardner to telephone William Worms, the brother-in-law of Dr. Stevens, and he came to Montclair, and took the gun from Dr Stevens, after it had

been unloaded. This was a bitter cold and stormy day and as Mrs. Stevens was out in the snow, Grandmother Scott threw her a coat, because Dr. Stevens would not let her in the house. This is corroborated by Worms, on p. 452, l. 34, as follows:

"Q What did you find there? A Mrs. Stevens asked me in the kitchen. She said, 'There is an awful rumpus now.' I said, 'What is the matter now, kid?' She said, "Doctor is sore as a crab,' see, because she went over to the stenographer's house, see, and I said, 'What is the matter?' She said, 'I went over there and when I came back I told him I went there and he got sore as a crab, and now I am afraid, see?'

"Q Did she say he had chased her around the house? A No, sir.

"Q What did she say then? A She said, 'Take the gun before you go because I will be afraid to stay in the house.'

"Q Where did you go then? A I went upstairs and Doctor was in his bathrobe. I said, 'Marge is afraid to stay in the house with you with the gun.' He said, 'She is crazy—always talking about that gun.' I said, 'where is the gun, I will take it anyway.'

The Court. Was it loaded?

The Witness. No, sir, it wasn't loaded. I wouldn't take it loaded—my wife wouldn't come with me.

"Q Did he show you the chamber of the gun? A Yes, sir.

The Court. How long did you keep the gun?

The Witness. I believe that was right after the holidays. I kept that gun until house-cleaning time—until May or June."

Mr. Worms thus clearly corroborates Mrs. Stevens' story. He fixes the occasion right after the holidays, and retained the gun until May or June of the following year.

Following this episode Mrs. Stevens again had a nervous breakdown and was obliged, on the advice of her physician to go to Lakewood, where she remained for a time and Stevens came down for the week-end, remaining at the Laurel-in-the-Pines from Friday until Monday. He failed to pay his bill and also his taxi service. These items were paid by Mrs. Stevens, although Dr. Stevens denied this until confronted with the receipted bills (p. 646), showing the truth of Mrs. Stevens' statement.

In October, 1920, Mrs. Stevens attended an entertainment with Mr. and Mrs. Somerville, and Dr. Stevens had been invited and refused to go. He threatened to shoot Mrs. Stevens if she attended. When Mrs. Stevens returned from this event with Mr. and Mrs. Somerville, she found Stevens was seated in front of his desk in his office with a gun lying on the desk. This was the same gun that had been returned by Worms in June, 1920.

In November, 1920, there occurred the episode with Leftkowitz, a collector of Bamberger's, when he called at the home demanding payment of a bill then owing to the store, which account, while still in the name of Mrs. Stevens, covered items purchased by Dr. Stevens for his personal use. Mrs. Stevens refused to pay this bill, having warned Bamberger's that she would not pay for things that Dr. Stevens purchased and she left Dr. Stevens and Lefkowitz arguing downstairs (S. C. 633). She returned to the second floor and a few minutes later, Mr. Lefkowitz, the collector, came to her room to the second floor. She asked him what he meant by coming to her private room and he then apologized for the intrusion and told her that the Doctor had sent him up. This was strenuously denied by the Doctor, but Lef-

kowitz, who was totally disinterested in the matter, told the story and corroborated Mrs. Stevens in every detail. He stated on the witness stand he was still employed by Bemberger & Co. Following this incident, Dr. Stevens started an argument because of her refusal to pay the bill, and chased her around the house, finally striking her and knocking her downstairs, thus injuring her shoulder. Edith Reed, the colored maid employed by her, was present, and testified (S. C. 347) to some of the details connected with the transaction, and Dr. Eddy (p. 284), who was called in to treat the injury to her shoulder, testified to it and to her condition. Mrs. Gorton, while not present at the occurence, visited her when Dr. Eddy was there treating her.

In December, 1920, Mrs. Stevens went down to the Kinney Building, because the doctor had been absent from home for about two weeks, without giving any reason for his absence, and a "free for all," as it is described, occurred in the office, as a result of which, Mrs. Stevens was knocked down and struck by Dr. Stevens. Prior to her going to the office, she had repeatedly endeavored to get the Doctor on the 'phone, because there was no coal in the house and no money to buy food, and Miss Sutz, who answered the 'phone, would not permit her to speak with the Doctor. It was this situation which brought about her visit at the Doctor's office.

There is some discrepancy as to the testimony with reference to the fact as to whether Mrs. Stevens was armed with a gun when she came into Dr. Stevens' office in the Kinney Building, but Mrs. Stevens testified that before she went to the Kinney Building, she delivered the gun into the hands of Mr. Kalisch, who had been retained as attorney, and this is corroborated by

Mr. Kalisch, who came into Court and produced the gun and stated that it was in his possession at the time Mrs. Stevens testified she went to the office of Dr. Stevens. Also, he stated that he arranged with the engineer of the building to go with Mrs. Stevens to Dr. Stevens' office, as Mrs. Stevens had expressed herself that some ill results might occur in the office, unless she was protected.

Just before Christmas, and in December, 1920, Mrs. Gorton, knowing of Mrs. Stevens' illness, suffering and want, (Mrs. Gorton has testified that she scraped up about a scuttle of coal, and that this was the last of the supply), telephoned Dr. Stevens and urgently requested that he come home and straighten things out. His reply, that he might as well bring his lawyer and settle it now, indicates clearly that at that time his mind was made up to legally rid himself of his wife, and he, thereafter, did return home and brought Mr. Kalisch, an attorney, with him. At this time, Mrs. Stevens was so ill that she was confined to her bed.

He then left home again and remained away until Christmas Eve. It has been testified that at the time he returned upon this occasion, the house was cold, because of the fact that there was no coal in the house and that it was necessary for Mrs. Stevens and her son, Bobbie, to wear their heavy street garments, in fact, the child was in the house wearing his overcoat, as were Mrs. Stevens and Dr. Stevens' mother. About this time Dr. Stevens had refused to pay any tradespeople in Montclair, for the provisions used by Mrs. Stevens. Upon this Christmas Eve, he returned home thoroughly intoxicated, stood over and threatened Mrs. Stevens with a bottle of liquor in his hand, instead of provid-

ing, as a right-minded husband and father would do, a Christmas tree for the child.

Subsequently and in the month of January, 1921, he returned home only upon alternate nights. His periods of remaining away from home gradually became more and more frequent and of longer duration. At about this time, Mrs. Stevens was in poor health and as a friend of her mother's was going to Atlantic City, and had invited Mrs. Stevens to accompany her, Mrs. Stevens arranged for Dr. Stevens' mother, to take care of Bobbie. Mrs. Stevens left on a Thursday, leaving Dr. Stevens' mother in the Midland avenue, home, in charge of Bobbie and she returned home on the following Sunday, being absent two and one-half days. Upon her return, Dr. Stevens did not meet her, nor was he at home when she arrived at Montclair. She found her mother-in-law huddled up with extra clothes wrapped around her, in order to keep warm. The furnace grate was broken, the ashes had not been removed and the house was generally in a very neglected state. In the early morning hours, Dr. Stevens returned home, again thoroughly intoxicated, at which time he broke the chain upon the front door. He carried a bottle of liquor with him, chased Mrs. Stevens violently through the house. His mother, apparently fearful of what might transpire, locked herself in the room, and Mrs. Stevens, herself, found it necessary to threaten to telephone to the police if Dr. Stevens did not leave at this time. Dr. Stevens did leave the house and with the exception of one occasion, when he broke in and removed some furniture, never returned to the Midland avenue home. It is quite significant to note the testimony of Dr. Stevens' mother relative to this instance. It is quite apparent

that she had no desire to observe the continued cruel and inhuman acts of her son. It is also very significant to note that she remembered only that Mrs. Stevens threatened to call the police (S. C. 445). Her mother nature was foremost in that she did not desire to see or hear and particularly testify about anything which might reflect upon the character of her son and this general interpretation is clearly discernible throughout her entire testimony.

Directly following this night, Mrs. Stevens found it necessary, because of the broken condition of the heater to go to the Edgemere Hotel, until such time as repairs to the heater might be made and also to permit the restoration of gas, electric and telephone service, which had been curtailed by Dr. Stevens.

The appellant maintains, therefore, that the evidence adduced on her part, clearly shows that for many years she endured the cruel and abusive treatment of her husband, Ludlow R. Stevens, and that she is entitled to a divorce on the ground of desertion.

POINT V.

The testimony offered by the respondent through his relatives in an effort to rebut the charge of cruelty fails to do so, and, in many instances, corroborates the testimony offered by the appellant.

Upon reference to this testimony of the class of witnesses produced by petitioner, referred to as blood relations, it is interesting to note that they are all called for the purpose of rebutting the evidence of cruelty shown in the testimony adduced upon behalf of the appellant. The ex-

isting relations between the respondent and these witnesses is such as to show a natural desire to "assist" him, and, therefore, their testimony is that of interested witnesses. As such, it must be carefully culled to learn the truth, to see if this natural interest has swayed their testimony from the honest course it would have taken were it not for such interest. It will be noticed that in many instances these witnesses unconsciously corroborate the appellant's story.

Relying upon the Court's recollection, after reading the testimony, it is submitted that, as to specific acts of cruelty shown by the appellant, the respondent's denials are general. This is, of course, to be expected. Yet a close scrutiny will show many instances of inferential corroboration of the appellant's claim.

Perhaps the most vivid illustration of this is the silence of the petitioner's mother relative to what occurred at the house in January, 1921. It will be recalled that "Grandmother Scott" testified in detail concerning the acts of respondent upon that occasion and also identified respondent's mother as having been present. The mother of respondent, however, is entirely silent as to this incident and by her silence, clearly corroborates the appellant's recital as to what transpired.

As there is no denial that the respondent deserted the appellant on January 17, 1921, the relief prayed for in the cross petition of the appellant should have been granted and the decree of the Court of Chancery should be reversed and a decree of divorce entered in favor of the appellant and against the respondent.

POINT VI.

The circumstances, under which a divorce on the grounds of adultery is granted, must be such as to lead the guarded discretion of a reasonable and just man to the conclusion of guilt. If the circumstances, taken both singly and together, reasonably admit of two interpretations, that which favors innocence should be adopted.

The charge partakes strongly of the nature of a criminal proceeding, so much so, as to place the complainant under the necessity, not only of placing a decided preponderance of testimony in favor of the charge, but of proving it to the satisfaction of the Court almost beyond a reasonable doubt.

In a petition for divorce on the ground of adultery, it is not necessary to prove the adultery by direct evidence. Circumstantial evidence will sustain the charge, but it must be proximate as will satisfy the legal conviction of the court that the crime has been committed.

In *Day* v. *Day,* 4 N. J. Eq., 444 (1844), Chancellor Haines cited with approval, the doctrine enunciated by Lord Stowell, in *Williams* v. *Williams,* 1 Hagg Con. R., 299, to the effect that:

> "It is a fundamental rule of evidence on this subject that it is not necessary to prove the direct fact of adultery, because if it were otherwise, there is not one case in a hundred where that case would be attainable; it is very rarely, indeed that the parties are surprised in the direct fact of adultery. In every case, almost, the fact is inferred from circumstances that lead to it by fair inference, as a necessary conclusion, and unless this were so held, no protection whatever could be given to marital rights.

> The only general rule to be laid down is, that the circumstances must be such as to lead the guarded discretion of a reasonable and just man to the conclusion, for it is not to lead a rash, intemperate judgment, moving upon appearances, that are equally capable of two interpretations. Neither is it to be a matter of artificial reasoning, judging upon such things differently from what would strike the careful and cautious consideration of a discreet man."

Again, in *Stackhouse* v. *Stackhouse,* 36 Atl. 884 at 885, Grey, *V.-C.*, said:

> "Adultery is very rarely shown by direct proof. If the evidence is sufficient to lead to the belief that the crime has been committed, by reasonable inference from the circumstances proved, it is enough to support a decree."

citing *Day* v. *Day, supra.*

And in *Hurtzig* v. *Hurtzig,* 44 N. J. Eq. 329,, Chancellor McGill accedes to the doctrine that to establish adultery by inference, the circumstances from which the inference is drawn must be such as would lead the guarded discretion of a reasonable and just man to a conclusion of guilt.

In *Berckmans* v. *Berckmans,* 16 N. J. Eq. 122, at page 143, the Court had said:

> "In order to prove adultery by circumstantial evidence, two points are to be ascertained and established; the opportunity for the crime, and the will to commit it. Where both are established the Court will infer guilt."

Considering the rule thus stated by Chancellor Green, Chancellor McGill in *Hurtzig* v. *Hurtzig, supra,* says:

> "The main difficulty in the application of this rule is in the determination, from the

> circumstances, of the condition of the minds of the defendant and her *particeps criminis*. This suggestion shows the necessity, in such determination of the appliaction of the precautionary test, that to establish adultery the circumstances must be such as to lead the guarded discretion of a reasonable and just man to the conclusion of guilt. The judgment must not be rash and intemperate, moving upon appearances that are equally capable of two interpretations. Loveden *v.* Loveden, 2 Hagg Con. R. 1; Day *v.* Day, 3 Gr. Ch. 444; Berckmans *v.* Berckmans, 1 C. E. Gr. 122, 140: Culver *v.* Culver, 11 Stew. Eq. 163. If the circumstances, taken both singly and together, reasonably admit of two interpretations, that interpretation which favors innocence should be adopted."

In accord on this point are *Sargent* v. *Sargent,* 114 Atl. 428, aff'd 92 N. J. E. 703, and *Torrens* v. *Torrens,* 94 N. J. E. 480.

Leaming, *V.-C.,* in *Luderitz* v *Luderitz,* 88 N. J. Eq. 103, adhering to the principle enunciated in *Berckmans* v. *Berckmans, supra,* that it is not necessary that the charge be established by such an amount of overwhelming and unmistakable evidence as to render it impossible to be otherwise, states that, because adultery is a crime, the view has long been entertained that to justify a decree for divorce for adultery, the evidence must establish the charge with practically that degree of certainty which is required to justify conviction in a criminal case.

Quoting Justice Van Dyke, in *Berckmans* v. *Berckmans,* on appeal in 17 N. J. E. 453 at p. 454;

> "The charge made by the complainant, if true, is known to our law as a crime; consequently this prosecution partakes strongly of the nature of a criminal proceeding, so much so as to place the complainant under the necessity, not only of placing a decided

> preponderance of testimony in favor of the charge, but of proving it to the satisfaction of this Court beyond a reasonable doubt. I do not mean to say that it must be done by such an amount of overwhelming and unmistakable evidence as to render it impossible to be otherwise, but the evidence must be such as to satisfy the human mind, and leave the careful and guarded judgment of the Court, free from any conscientious and perplexing doubts as to whether the charge be proved or not. If, after a careful examination of all the competent testimony, such doubts remain immovable, it is clearly our duty to give the defendant the benefit of such doubts, and to refuse the prayer of the complainant."

The test, as phrased, in *Culver* v. *Culver,* 38 N. J. Eq. 163, at 165, is:

> "The circumstances must be such as will lead the guarded discretion of a reasonable and just mind to the conviction that the crime has been committed."

The question now arises as to what are the circumstances which in the absence of direct proof will lead the guarded discretion of a reasonable and just man to the conclusion of adultery. They are stated succinctly in *Hurtzig* v. *Hurtzig, supra,* at page 330:

> "The crime is almost invariably clandestine, and committed only when every precaution is taken to preclude the possibility of its discovery. Familiar indicia of it are: loss of affection, that is due to, and was bestowed upon its legitimate object, and the bestowal of affection upon an unlawful object; stolen interviews; private correspondence; amorous and passionate utterance; personal freedom; indecent familiarity; compromising situations, and the like. There may also be slight, delicate and undefinable circumstances, proximate to the adultery, and peculiar to a given case, that though

less prominent as *indicia,* are nevertheless, powerful factors in producing conviction of guilt.

"It is often difficult to discriminate between that which points to the crime of adultery, and that which indicates nothing more than imprudence, indiscretion and folly. It must be borne in mind that the burden of proof is upon him who asserts the adultery, and that that burden must be clearly sustained."

In *Black* v. *Black,* 30 N. J. Eq. 228, the Court says:

"A guilty love generally precedes adultery. A wife never commits it until after she is depraved in mind and heart. Her affections must be debauched before she will allow her person to be. In cases of this class where infidelity is charged against a wife, it is always important to inquire whether the evidence shows she has so far suffered herself to be alienated from her husband as to allow a criminal love or desire for another man to enter her heart. If such a passion has found a dwelling there, proof which would otherwise be scarcely sufficient to raise a passing cloud of suspicion, will possess a most convincing force."

Continuing, the Court deals with correspondence between the defendant and the *particeps criminis* as evidence of adultery:

"A guilty attachment is shown conclusively in this case. Four of the defendant's letters to one of her ilicit lovers are in evidence. Their authenticity is undisputed. They present a sad picture of moral degradation. They accuse her of lascivious love, of stolen interviews and clandestine correspondence. * * * Proof that the parties have carried on a clandestine correspondence, made strong expressions of attachment and held secret interviews, will furnish very strong evidence of cirminal inclinations and desires. 2 Bish, on Mar. & Div., Sec. 616."

According to Garrison, *J.*, in *Osborn* v. *Osborn*, 44 N. J. E. 257 at 261:

> "The elements of lust, lewdness, depravity or secrecy" are "the invariable concomitants of criminal conversation. * * * If we give to the testimony the construction most unfavorable to the defendant, a decree based upon adultery must rest upon one of two grounds; either that opportunity is tantamount to guilt, or that a decree may rest upon a crime half proven, even though the half it rests upon is that half that is not proven."

Backes, *V.-C.*, in a short opinion in the case of *Cooper* v. *Cooper*, 82 N. J. Eq., 581, affirmed in 82 N. J. E. 660, set forth clearly and concisely the proof which must be adduced for divorce on grounds of adultery. The opinion is well worth being set down in full:

> 'Cooper, the petitioner, charges his wife with adultery, naming one, Bumstead, as co-respondent. Her conduct with the co-respondent, as she admits, was highly indiscreet and venturesome, if not reckless. To some extent she was led in her indiscretion by an older female companion. The defendant admits the circumstances from which it is claimed guilt should be inferred, but she and the co-respondent emphatically deny the commission of the crime. A denial by the defendant and co-respondent is, as a rule, entitled to very little weight, but I watched and carefully observed the defendant while testifying. She was absolutely frank in relating her conduct and in confessing her imprudence. Her deportment on the stand was simple and modest, and her testimony was given in a straightforward and impressive manner, especially in the denial of her guilt. She impressed me as a truthteller. She unhesitatingly admitted suspicious circumstances which she could as well have suppressed without fear of contradiction. She told and confessed all that

could be used to build a story around her from which guilt might be deduced, even relating to matters which had not been brought out on the petitioner's case. She struck me as one who appreciated to its fullest the moral obligation of her oath, the *indicia* of honesty was written all over her story. I think her denial is entitled to serious consideration.

"The testimony did not satisfy my mind that she went so far as to submit her body to the co-respondent. While the appearances are against her, and the fact that she entertained him at her home, went out with him to public places, visited him at his office, and that he, upon two occasions, kissed her, may arouse suspicion that all was not right between the two, I am not convinced that she took the fatal step; that she broke her marriage vow; that she committed adultery. In fact, I believe she did not.

"There is no testimony indicating that she was amorously inclined toward the co-respondent and disposed to commit the crime charged against her. While the two had many opportunities to gratify a lustful desire, yet there is no evidence manifesting that the defendant had such desires toward Bumstead, the co-respondent. There is no evidence of lust and lewdness on the part of the defendant. She is not shown to be depraved. She was a flirt and a fool, but not a criminal.

"There is testimony that she is chaste of speech and well behaved. Even her bitter enemy, Mrs. Flower, testified that she was a good woman at the time of her marriage and it is difficult to believe that she changed her moral code within so short a time as two and one-half years thereafter.

"I cannot, in the circumstances, although they quicken suspicion, denounce this young wife, the mother of two babies, as an adulteress. I will advise a decree dismissing this petition."

The rules set forth above:

1. That in order to prove adultery by circumstantial evidence, two facts must be established; a criminal disposition or desire in the minds of the defendant and the *particeps criminis,* and an opportunity to commit the crime:

2. That to establish adultery by inference, the circumstances from which the inference is drawn must be such as would lead the guarded discretion of a reasonable and just man to a conclusion of guilt; and,

3. That, if the circumstances, taken singly and together, admit of two interpretations, that which favors innocence; are approved of and applied in a recent case, *Torrens* v. *Torrens,* passed upon by the Court of Errors and Appeals, March 5, 1923, to be found in 120 Atl. 189.

The testimony of detectives is always received with great caution and is never accepted unless it is clearly and convincingly corroborated.

V.-C. Van Fleet, in case of *Cane* v. *Cane,* 39 Equity 148 (Ch. 1884), at 150, says:

> "His efforts to discover evidence of guilt were of a character which should excite the most jealous vigilance of the court. A person employed for money to discover evidence to establish any fact, is naturally eager to attain his object, and whether such be the arrangement in fact or not, he is very likely to believe, especially in a case like this, where his employer has the deepest interest in his success, that his reward will to a very large extent depend upon the success of his efforts; while evidence emanating from such a source cannot be rejected as unworthy of credit, it is manifest, that the security of the citizen and the safe administration of justice both demand that the court should examine it with the utmost caution, and never act upon it

> until it has been tried by the most vigorous tests."

In speaking of testimony of detectives, Chancellor McGill in re: *Hurtzig* v. *Hurtzig,* 44 Equity 334 (Ch. 1888), used the following language:

> "I do not think that their testimony should be unceremoniously thrown out, but I have no hesitation in saying that it should be subjected to close scrutiny and received with great caution."

The employment itself is an incentive to an unscrupulous witness to shade his testimony to his employer's purpose and must in some degree, influence the perceptive powers of one who intends to be honest. The credit to be given must depend upon the character and surroundings of each witness and the extent to which he is corroborated, either by the testimony of others, or by the inherent probability of the truth of his story.

In *Sargent* v. *Sargent,* 114 Atl. 428 (Ch. 1920), at page 431, *V.-C.* Fielder says:

> "I think this case is a striking example of the reason for the rule that, while the testimony of detectives, paid spies and household servants is competent, it should be scrutinized carefully and should not be relied on unless it is corroborated," citing:
>
> *Cane* v. *Cane,* 39 N. J. Eq., 148-150;
>
> *Hurtzig* v. *Hurtzig,* 44 N. J. Eq., 329-334;
>
> *McGrail* v. *McGrail,* 48 N. J. Eq. 532;
>
> Reversed, 49 N. J. Eq., 348;
>
> *Brown* v. *Brown,* 63 N. J. Eq., 348;
>
> *Farrow* v. *Farrow,* 70 N. J. Eq., 777;
>
> *Slack* v. *Slack,* 89 N. J. Eq., 589.

POINT VII.

It is, therefore, respectfully urged, with much vigor, that the respondent's petition should be dismissed, and the cross petition should be sustained, and the appellant be awarded a decree of divorce on the ground of desertion, according to the prayer of her petition.

JACOB L. NEWMAN,
Solicitor of Appellant.

October Term, 1924.

40 OCT.T.1924
49 OCT.T.1924

Arthur W. Cross, Law Printer, 55-57 Lafayette Street, Newark, N. J.

New Jersey Court of Errors and Appeals

Between

LUDLOW R. STEVENS,
Petitioner-Respondent,

and

MARJORIE G. STEVENS,
Defendant-Appellant,

and

JOHN H. PASWATERS,
Intervening-Defendant, Appellant.

On Petition for Divorce.

On Appeal of John H. Paswaters.

BRIEF ON BEHALF OF APPELLANT, JOHN H. PASWATERS.

Statement of the Case.

This is an appeal from Chancery. On June 17, 1924, a decree *nisi* was entered in the above cause, wherein it was ordered, adjudged and decreed that the parties be divorced for adultery committed by Mrs. Stevens with the appellant, John H. Paswaters. It was further ordered, adjudged and decreed that the appellant, John H. Paswaters, pay the respondent's costs of suit and $318 for the transcript and copy.

John H. Paswaters, the co-respondent, and Marjorie G. Stevens have both appealed from said decree. The cases are numbers 40 and 49 on the list of causes for this Court at the present term, and will be argued together.

By agreement of counsel the printing of the testimony, exhibits and opinion of the Vice-Chan-

cellor are omitted from the state of the case on behalf of the appellant, John H. Paswaters, as the same are printed in the state of the case on the appeal of Mrs. Stevens.

The question involved in the appeal of John H. Paswaters is whether or not he was guilty of adultery with Marjorie G. Stevens, at her home in Montclair, New Jersey, on the 25th day of August, 1922. This appellant is not concerned with the other issues between Mr. and Mrs. Stevens relative to her claim of cruelty.

Specification of Errors.

The appellant complains of the decree *nisi* that the same is erroneous in adjudging that Ludlow R. Stevens and Marjorie G. Stevens be divorced upon the ground of adultery committed between the said Marjorie G. Stevens and John H. Paswaters (this appellant), and is further erroneous in adjudging that this appellant pay the court costs of the said Ludlow R. Stevens and the cost of the transcript and copy.

BRIEF OF THE ARGUMENT.

It is alleged in the respondent's petition that the appellants committed adultery on the 25th day of August, 1922, at No. 79 Midland avenue, Montclair, New Jersey, and on the 12th and 13th days of August of the same year committed adultery on a steamer going between New York and Bermuda, and committed adultery on the Island of Bermuda and on a steamer going from Bermuda to New York.

The case was barren of any evidence of wrong doing between the appellants, except at No. 79

Midland avenue. It is true that Mrs. Stevens and Mr. Paswaters were on the same steamer going to and coming from Bermuda, and also stayed at the same hotel, but there is no evidence whatever of any conduct between them that might even be viewed with suspicion.

The real contest in the case arises from the testimony submitted by the respondent and the appellants concerning what took place at Mrs. Stevens' home, No. 79 Midland avenue, on the 25th day of August, 1922. On this day Mrs. Stevens and Mr. Paswaters landed in New York from a steamer, where they were watched by Lewis LeCompte, who described what he saw (C., p. 99). (See state of the case in the appeal of Mrs. Stevens.) This witness followed the parties.

At this point the Court's attention is directed to the testimony of Mr. Paswaters (C., p. 293, l. 30), where he testified that while in Bermuda he had written both to his wife, his child and his mother, and had written to his wife telling her the steamer upon which he was returning. It may be inferred from this that Mr. Paswaters' wife communicated this information to Mr. Stevens, and thereby the witness, Lewis LeCompte, was at the pier when Mrs. Stevens and Mr. Paswaters landed.

The witness, Lewis LeCompte (C., p. 99), testified that Mrs. Stevens and Mr. Paswaters proceeded from New York to Montclair, and at Montclair he called up Mr. Stevens and waited until he arrived, which was between five and five-thirty o'clock. He was accompanied by Thomas J. Corbally, a detective. They waited around the neighborhood from six o'clock until between four and four-thirty the next morning (C., p.

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101, l. 25) when they entered the rear door of the house. Besides the witness and Mr. Stevens there were about ten or twelve detectives (C., p. 102, l. 10). The witness testified that Mrs. Stevens and Mr. Paswaters were sitting up in bed when he and the others went into the room. This witness was a cousin of Mr. Stevens (C., p. 107, l. 23), and was sent there by Mr. Stevens, who asked him if he would not procure the evidence. He telephoned to Mr. Stevens about three o'clock (C., p. 108, l. 1). The witness and ten or twelve detectives (C., pp. 109-110) stayed around the vicinity of the house from about eight P. M. to 4:30 A. M. He could not see whether the shades were up or down (C., p. 111, l. 35). He saw someone raise the pantry window (C., p. 112). This corroborates Mrs. Stevens' story that she went downstairs late at night and found the pantry window open, and that the raid immediately followed.

Mr. Corbally, Sr., pushed the door in, making considerable noise (C., p. 113, l. 20). When the first man entered the room the witness believes the electric light was burning (C., p. 114, l. 35).

Thomas J. Corbally, the next witness, at the time of the hearing, had been engaged in private detective work for about two years and previous to that had been an inspector of police in the City of Newark about six years, and also had been in the Newark Police Department for about thirty years. No doubt he is known personally to some members of this Court.

Mr. Corbally described what happened when he went into the house, and among other things he testified that he found in the room a pair of golf trousers and a shirt (C., p. 110, l. 20).

This shirt was marked in evidence as Exhibit P. 1 (C., p. 103, l. 15). It is significant that he did not find in this room any clothing belonging to Mrs. Stevens. This witness says that there were probably six persons present, counting Mr. Stevens and his witness (meaning LeCompte) (C., p. 103, l. 20). They were Frank Corbally, his son and Mr. Adams. He does not mention the others referred to by Mr. LeCompte. The witness received about $200 for his services, which were only rendered on the night of the raid (C., p. 129).

The next witness, Frank W. Corbally, was the son of Thomas J. Corbally. He testified that his father, Mr. Flarity, Mr. Stevens' cousin (Mr. LeCompte), Mr. Adams, another operator, and himself went into the room (C., p. 131, l. 20); that altogether there were eight or nine operators. He testified substantially to what his father did, even to the taking of Mr. Paswaters' shirt, although he does not say anything regarding any garments of Mrs. Stevens' being in the room.

The next witness was Stephen P. Flarity, a business partner of Thomas J. Corbally's. He testified substantially the same as the other witnesses. The petitioner then rested, although subsequently Mr. Stevens was called (C., p. 582). He said he identified Mr. Paswaters by a photograph which Mr. Paswaters' wife had given him two or three days before the raid (C., p. 583, l. 35). This witness says that they went into every room in the house, although he is the only one who says so (C., p. 585, l. 20).

These were all of the witnesses who were called to relate what took place the night of the raid. The detective, Adams, who was present

was not called, nor his absence accounted for, neither was the other operator, referred to by Frank W. Corbally.

In considering the interest of these witnesses, it must be borne in mind that Mr. Stevens was a party defendant in an action by his wife for maintenance, and naturally was anxious to procure evidence against her. Thomas J. Corbally, his son and partner were private detectives engaged for hire. It may be said that Mr. Adams and the other detective were also private detectives, but at least they were not relatives of Mr. Stevens' or the Corbally's, or partners of Corbally. Their testimony would be entitled to more credence than the other persons who were called as witnesses.

The evidence offered on behalf of the respondent relative to the occurrence on August 25, 1922, was met by the appellants by their own testimony and that of Mrs. Linnie T. Gorton, a neighbor; Lillie Lee, a colored woman; Mr. Charles M. Bonnell, Mrs. Vera C. Bonnell, and Dr. John T. Eddy. There was also testimony introduced on behalf of the appellants relative to the trip to Bermuda. The witnesses giving this testimony were Donald M. Lovejoy, Miss Mary Sullivan and Robert M. McKenna. Mr. Paswaters testified that in August, 1922, he was First Vice-President of James McCreery & Co., of New York City; that he had known Mrs. Stevens since March or April of 1922 (C., p. 232), and that up to the time of the Bermuda trip he had seen her less than ten times, and never saw her unless someone of his family was present, either his wife or mother.

Early in August Mr. Paswaters purchased a ticket for Bermuda for Mrs. Stevens, at her re-

quest; her check for the trip was offered in evidence, marked "Exhibit B. 2" (C., p. 232, l. 30). He says (C., p. 234) that there was no arrangement between him and Mrs. Stevens to take the trip together. Mr. Paswaters says (C., p. 235) that Donald M. Lovejoy occupied the same room with him at Bermuda, and this is corroborated by Mr. Lovejoy, and that going down on the boat another man occupied the stateroom with him (C., p. 235, l. 30).

Without referring further to the Bermuda trip, which will be taken up later, Mrs. Stevens and Mr. Paswaters arrived in New York on August 25, 1922, where they were followed to Montclair by Mr. LeCompte, as hereinbefore mentioned. Apparently there was nothing clandestine about their departure from the boat. In fact, as before mentioned, Mr. Paswaters says that he had written home, stating the boat on which he would arrive. They proceeded to Montclair in the broad daylight. Mrs. Stevens was sick on the return trip (C., p. 237, ll. 35-38), and was very sick when they arrived in New York.

As soon as they arrived in Montclair Mrs. Stevens telephoned for her automobile, and Mr. Paswaters and she went to East Orange to look for her laundress (C., p. 239), and Mrs. Stevens asked the laundress, who was Nellie Lee, a witness, if she could get somebody to stay with her for a couple of days. Mr. Paswaters explained what took place between Mrs. Stevens and the colored woman, and the reason given for the colored woman not being able to come (C., p. 240). As soon as they returned to Mrs. Stevens' home, which was between six and seven P. M. (C., p. 240), Mrs. Stevens put in a call for Tor-

rington, Connecticut, where the Bonnells live. This telephone call came through about nine o'clock, and Mr. Paswaters heard Mrs. Stevens ask Mrs. Bonnell to come to Montclair, and Mrs. Stevens told him that they were leaving right away, or something to that effect (C., 241). Before this time Mrs. Gorton, a neighbor, came in after Mrs. Stevens and Mr. Paswaters returned from the store where they had gone to get some food (C., p. 240, l. 30). There was a conversation between Mrs. Gorton and Mrs. Stevens (C., p. 241) concerning the personal appearance of Mrs. Stevens. Mrs. Gorton came later in the evening (C., p. 242). About twelve o'clock (C., p. 243) Mrs. Stevens received a telephone call from the Bonnells. Apparently Mrs. Bonnell was not coming, but Mr. Bonnell was (C., p. 243). Later Mr. Bonnell called up from Yonkers that he would not come to Montclair, as it was too late (C., p. 244). Mr. Paswaters says that he did not want to leave because Mrs. Stevens was ill (C., p. 242, l. 35); that he went to bed about one o'clock (C., p. 244); that he went to sleep and next heard somebody crying "Police" (C., p. 244, l. 39). He awoke and found Mrs. Stevens sitting on the edge of the bed and four men in the room. What occurred is detailed by him at pages 245-246.

Mr. Paswaters denies that Mrs. Stevens and he occupied the same room, and denies any wrong doing between them. Mrs. Stevens testified to the same sequence of events as Mr. Paswaters, and explains the Bermuda trip at C., pp. 149-150. Her testimony in reference to the people she met at Bermuda is found at pages 150 and 154. She says that she was sick on the return trip (C., p. 154). Mrs. Stevens testified (C., p. 158) that she telephoned to Mr.

and Mrs. Bonnell, and that she declined Mrs. Gorton's invitation because Mrs. Gorton had ten guests over the week-end. She says that she got Mrs. Bonnell on the telephone, and that they were ready to leave. About twelve o'clock Mr. Bonnell telephoned (C., p. 159), that Mrs. Bonnell had promised to come without asking him, and did not think that she should make the trip. After Mrs. Stevens found that the Bonnells were not coming she talked with Mr. Paswaters (C., p. 161), and told him he had better go home, and Mr. Paswaters said that he did not want to leave her alone in the house. Mrs. Stevens also testified (C., p. 156) that she had asked Nellie Lee to stay with her. This is corroborated by Nellie Lee (C., p. 208).

The testimony of Mrs. Stevens, relative to what happened when the detectives came, is found at C., pp. 163-166. Her testimony has been analyzed by her counsel, and will not be further referred to.

Mrs. Gorton, a neighbor of Mrs. Stevens, testified that she offered to have one of her family stay with Mrs. Stevens, but was told that Mr. and Mrs. Bonnell were coming and would be there about eleven o'clock.

Mr. and Mrs. Bonnell both testified to the telephone calls (C., pp. 217, 218, 295 to 296). Charles R. Thompson, an employee of the New York Telephone Company, testified to the calls (C., pp. 203-205).

Dr. John T. Eddy testified to treating Mrs. Stevens and the Court's attention is directed to his testimony (C., pp. 284 to 287).

Donald M. Lovejoy, Miss Mary Sullivan and Robert McKenna testified relative to the conduct

of Mrs. Stevens and Mr. Paswaters in Bermuda and on the boat.

Mr. Lovejoy met Mr. Paswaters on the trip to Bermuda, and was with Mr. Paswaters practically all of the time (C., p. 352), and roomed with him at the hotel. He says that he saw nothing improper or anything to be criticized in the conduct of Mrs. Stevens and Mr. Paswaters. Miss Sullivan testified that she lived in Brooklyn and was a school teacher. She first met Mrs. Stevens after they landed at Bermuda (C., p. 358), and after that she saw her every day. She met Mr. Paswaters, and both he and Mrs. Stevens were introduced under their own names. She returned on the same steamer (C., p. 359). On the way back Mrs. Stevens was apparently quite ill (C., p. 359). She says that Mr. Paswaters was no more attentive to Mrs. Stevens than to the other members of their party (C., p. 265, l. 30). Mr. McKenna saw Mrs. Stevens in the company of three or four men going in the hotel, and did not see anything improper (C., p. 370).

It is true that the testimony of Mrs. Stevens and Mr. Paswaters stands against three detectives and Mr. Stevens and his cousin, but nevertheless the corroborating circumstances are with the appellants. The trip to Bermuda was taken openly. Mr. Paswaters' family knew that he was going. He wrote to them while he was there and told them the name of the boat he was returning on. The parties registered and were introduced under their own names. Upon their return to New York they left the boat together, came to Montclair in broad daylight, talked with a neighbor, went out together in an automobile to obtain a servant and food, and all this while

Mrs. Stevens had pending against her husband an action for maintenance. There was not a single instance of secrecy in their entire conduct. Mrs. Stevens even telephoned to her friend, Mrs. Bonnell, and told her that Mr. Paswaters was there. The fact of his presence could hardly have been more extensively advertised. Her physical condition is also of extreme importance, and this is corroborated by Dr. Eddy, Mrs. Gorton, Nellie Lee and Miss Sullivan.

The case is barren of any evidence showing secret meetings between Mrs. Stevens and Mr. Paswaters. There is no evidence of telephone calls, letter writing, the use of affectionate language and other acts which are attendant on the usual case of this kind. What deductions will the Court draw from the long interval between the time when Mrs. Stevens and Mr. Paswaters were first located in the house and until the time of the raid? Is it not a fair inference that until one o'clock, or thereabouts, Mr. Paswaters was sitting downstairs reading? Is it not a fair inference that the detectives saw Mrs. Stevens come downstairs shortly before the raid? Is it not a fair inference that as daylight was fast approaching, the hour then being after four A. M., the raiders determined that it was then or never, and if the parties were not caught in a compromising position they would, by their testimony, put them in such a situation?

The testimony of detectives is looked on with suspicion, and without quoting the decisions the Court is referred to the following cases:

Hurtzig v. *Hurtzig,* 44 N. J. Eq. 334 (Ch. 1888);

Sargent v. *Sargent,* 114 Atl. 428 (Ch. 1920);

Cane v. *Cane,* 39 N. J. Eq. 148-150;

McGrail v. *McGrail,* 48 N. J. Eq. 532;
Reversed 49 N. J. Eq. 348;

Brown v. *Brown,* 63 N. J. Eq. 348;

Farrow v. *Farrow,* 70 N. J. Eq. 777;

Slack v. *Slack,* 89 N. J. Eq. 589.

It is respectfully submitted that the decree should be reversed.

Submitted October Term, 1924.

ANDREW VAN BLARCOM,
Of Counsel with Appellant,
John H. Paswaters.

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Arthur W. Cross, Law Printer, 55-57 Lafayette Street, Newark, N. J.

New Jersey Court of Errors and Appeals

OCTOBER TERM, 1924.

Between LUDLOW R. STEVENS, *Petitioner-Respondent,* *and* MARJORIE G. STEVENS, *et al.*, *Defendants-Appellant.*	*On Petition for Divorce.* *Appeal Nos. 40 and 49, October, 1924, Term.*
Between MARJORIE G. STEVENS, *Complainant-Appellant,* *and* LUDLOW R. STEVENS, *Defendant-Respondent.*	

MEMORANDA ON APPLICATION FOR COUNSEL FEES.

Pursuant to an order entered in this Court on June 27, 1924, the solicitor of the appellant was permitted to apply upon the argument of this appeal, for counsel fees (S. C., p. 693).

In accordance with that order the solicitor for the appellant was prepared to refer the Court to the services performed in this matter, but the case having been submitted on briefs and not orally argued, at the suggestion of the Chancellor and the Chief Justice, this memorandum of services is herewith submitted.

In the original proceedings in the Court of Chancery the appellant was represented first by

the firm of *Kalisch & Kalisch,* in the maintenance suit and upon the first order for alimony (S. C., p. 65) no counsel fees were allowed.

In the divorce proceedings the appellant was first represented by *W. Eugene Turton,* as her solicitor, and filed an answer and cross-petition to the petition for divorce (S. C., p. 73). In that proceeding Vice-Chancellor Foster allowed Mr. Turton, the appellant's solicitor in the Court of Chancery, a counsel fee of Two Hundred Dollars ($200.00) (S. C., p. 79).

I was substituted in this case as solicitor for the appellant on March 27, 1923 (S. C., p. 86), and have since then been Mrs. Stevens' solicitor throughout the entire proceedings.

Immediately after my substitution in the case I prepared an amended answer and amended cross-petition (S. C., p. 87-93), which amendment I deemed advisable after an examination of the pleadings and an inquiry into the facts of the case. Thereafter this cause came on to be heard before Vice-Chancellor Foster in the Chancery Chambers, in the City of Newark, on the following days, at which times the entire day was spent in the taking of testimony, to wit:

June 27, 1923 (S. C., p. 96);
December 5, 1923 (S. C., p. 220);
January 14, 1924 (S. C., p. 350);
January 16, 1924 (S. C., p. 468);
February 13, 1924 (S. C., p. 581).

Before the commencement of the trial it was necessary for me to spend a period of upwards of two days in preparation of the case for trial, conferring with witnesses and questioning them as to their knowledge of the facts in the case. After the final hearing on February 13, 1924,

the cause was postponed for oral argument on May 21, 1924, but the Vice-Chancellor suggested that it would be better to present the matter on briefs, and accordingly I spent upwards of two days in preparing a voluminous brief setting out the appellant's contentions in detail, which brief covered upwards of seventy typewritten pages.

I made a fatal mistake of not applying to Vice-Chancellor Foster for a fee while the proceedings were in progress before him, but felt that I would await the final decree, which I had hoped would be in favor of my client.

After the decision of the Vice-Chancellor in the Court below, I appeared upon the entry of the final decree of dismissal in the maintenance suit and the entry of the decree nisi in the divorce suit; I prepared the record on appeal, which consists of 694 printed pages and attended before this court at conferences for the purpose of obtaining an order to print the record by the respondent after having properly filed my notice of appeal and petition on appeal.

I spent upwards of two days in the preparation of the briefs to be submitted to this court and considerable time in reading the proofs, both of the State of Case and the brief, and arranged for the filing of all of the papers in the case. I have spent upwards of twelve days' actual work in the preparation of the case for trial, in the trial of the cause itself, in the preparation of the brief, both to the court below and to this court and in the general preparation of the appeal to this court.

I have received absolutely no money whatsoever from the respondent in this case and so far as I am able to learn from the records, the only

fees that respondent has paid is the Two Hundred Dollars ($200.00) to Mr. Turton.

I have had considerable disbursements in this case and the printer's bill for the preparation of the brief was one hundred eighteen dollars and seventy-five cents ($118.75), which I have paid, although the court stated the respondent would be compelled to pay twenty dollars ($20.00) towards the printing of the brief, a sum totally inadequate because of the length and importance of the case.

I feel that a counsel fee of one thousand five hundred dollars ($1,500.00) would be reasonable, but not adequate compensation for my services.

Dated, November 5, 1924.

JACOB L. NEWMAN,
Solicitor for Appellant.