

# New Jersey Court of Errors and Appeals

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Between

JESSIE LOUISE BOWERS,  
*Respondent,*

and

JOHN C. BOWERS,  
*Appellant.*

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On Petition for Divorce.

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## Brief for Appellant.

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RUSSELL E. WATSON,

Solicitor and of Counsel with Appellant.

# N. J. COURT OF ERRORS & APPEALS.

Between

JESSIE LOUISE BOWERS,

On Bill for Divorce.

Respondent,

On Appeal from Decree

and

of Court of Chancery.

JOHN C. BOWERS,

Brief for Appellant.

Appellant.

## STATEMENT OF FACTS

### I.

John C. Bowers, the appellant, and Jessie Louise Bowers, the respondent, were married in Brooklyn, New York, on March 17, 1892, and from 1909 to 1915 resided at Metuchen, New Jersey. Mrs. Bowers, and Mrs. Waite, the co-respondent, had been friends for thirty years, and Mrs. Waite had been a friend of the Bowers family during the four years that the latter had lived in Metuchen. Mrs. Waite is a widow and has two sons, Dwight Waite and Leonard Waite, both young men in their twenties.

Mrs. Bowers testified that she became suspicious of the relations between Mr. Bowers and Mrs. Waite in October, 1914. Mrs. Waite left Metuchen in June, 1915, and took up her residence at No. 162 Chadwick avenue, Newark, New Jersey, where she did nursing, sewing and took boarders, for a living. From July, 1915, until December 7, 1915, when Mrs. Bowers left Mr. Bowers' home, the relations between them were such that they did not speak, and they occupied separate rooms since March, 1914, not having co-habited together thereafter.

On November 17, 1915, Mrs. Bowers went to stay with Mrs. Josephine Kratzig, who resided at No. 161 Chadwick avenue, Newark, New Jersey, across the street from the house in which Mrs. Waite resided, and remained until November 20, 1915. On December 8, 1915, Mrs.

Bowers returned to Mrs. Kratzig's house and boarded with her about three months.

Prior to the separation, Mrs. Bowers had employed detectives to follow Mr. Bowers, to try to apprehend him in suspected wrong-doing, but they reported nothing incriminating or even suspicious.

Mrs. Kratzig testified that from June until November, 1915, Mr. Bowers went by automobile to the home of Mrs. Waite three or four times a week, and that after November 7, 1915, she kept a record of the dates of Mr. Bowers' visits.

Mrs. Kratzig testified to incriminating actions on the part of Mrs. Waite and Mr. Bowers during the month of August, 1915, (page 31) which is absolutely uncorroborated. Mrs. Kratzig's description of this occurrence is as follows:

"A. I saw Mrs. Waite and Mr. Bowers. I saw them come, it was before twelve, I think, along about eleven o'clock, and it was about 1:30 that he was going away; they looked up and down out of the window first, to see if anybody was looking; he came out and came very quickly across the street to get into the machine; he changed his mind and he went back, and I told you it was a railing—it is what the carpenters call a water table, which is about an inch and a half, and he put his foot up onto this molding and put his arms up onto the window to look into the window; she didn't come to the window, and the first thing I knew she came to the door; she appeared at the door, and as she did, she saw the machine there, she coughed, and he got down and went to the stoop, to the door——"

MR. BUCKMAN—I object.

"A. (Continuing.) She stood against the side of the door she was in her nightdress with her hair hanging down her back; he put his arm around her and kissed her and he came down and came across and as he did, he had to go—he turned the machine around and he waved, and as he waved going past she sunk down on the stoop like; she

didn't wave as she usually did, she just dropped her hand and sat down, and he had gone, I presume, about two blocks, when he returned, and he took her in his arms, then and loved and kissed her, and then went down and went off in his machine. That was during the extreme hot weather."

"Q. How long did that demonstration continue?"

"A. It continued long enough for him to go about two blocks. He didn't merely just take her in his arms, but he hugged and kissed her. Anyone would know how long that would take."

On November 11, 1915, Mrs. Kratzig said that she saw Mr. Bowers with his coat and vest removed, sitting by a window with the shade raised, hugging Mrs. Waite.

(Page 33.) There is no corroboration of this. On Sunday, November 14, 1915, she says that she saw Mr. Bowers kiss Mrs. Waite good-night at her doorway about 1:45 A. M., she being in her nightdress. (Page 34.)

This testimony is also uncorroborated. On November 22, 1915, Mrs. Kratzig says that she saw Mr. Bowers at 11:50 P. M. kiss Mrs. Waite, and heard him make an appointment with her for the 24th. (Page 34.) There was an attempt to corroborate this testimony by the testimony of Gertrude Stevens, who resided in the third story apartment at No. 161 Chadwick avenue. The following is her relation of the occurrence: (Page 45.)

"Q. What did you see?"

"A. I don't just remember what I saw that night, I know that Mr. Bowers came out of Mrs. Waite's house, and she had a fur coat on."

"Q. The point I am getting at is, did you ever see any evidence of regard, if I might use that term, between Mrs. Waite and Mr. Bowers?"

"A. I didn't know yes, I did, now it comes to my mind, they kissed one another; then I didn't know Mr. Bowers nor Mrs. Waite; I thought they were man and wife."

"Q. Was that on November twenty-second?"

"A. Yes. She comes out to the car, and then they went back and they kissed on the porch; that was it, he kissed her on the porch."

All of the foregoing was absolutely uncorroborated excepting the feeble attempt made by Gertrude Stevens as to the alleged occurrence of November 22, 1915. The principal occurrences in the case are those alleged to have happened on the night of November 18, 1915, and the morning of December 26, 1915. Mrs. Bowers' testimony as to November 18, begins at page 8. In the beginning of the testimony she gives the date as December 18, but she intended November 18. She said that from Mrs. Kratzig's front room window she saw Mr. Bowers go into Mrs. Waite's house at 11:45 P. M. and that he came out at 4:05 A. M. She was able to observe what occurred by the electric arc light in front of and near to Mrs. Waite's house, and that she saw Mr. Bowers kiss Mrs. Waite while standing on the front porch, Mrs. Waite being attired in her nightdress, and red kimona. Mrs. Kratzig's testimony concerning this alleged occurrence is found at page 29. It appears that she and Mrs. Bowers were in different rooms. She says that she first saw Mr. Bowers kiss Mrs. Waite at the doorway the door being ajar, and that then Mr. Bowers came out got into his machine and returned and spoke to Mrs. Waite on the porch, then went again to his car and drove off.

Mrs. Bowers and Mrs. Kratzig both testified as to the alleged occurrence of December 26, 1915. Mrs. Bowers' testimony is found at page 9. She said that at about 8:15 in the morning Mrs. Waite stood in the doorway with the door open, and that Mr. Bowers kissed her, after which they both looked up at the window in which she was sitting, and sneered. It appears that Mr. Bowers and Mrs. Waite both knew that Mrs. Bowers was then boarding at Mrs. Kratzig's. Mrs. Kratzig's testimony is found at page 36, and is substantially similar to Mrs. Bowers' testimony. Excepting the alleged occurrence of November 22, 1915, above referred to, those of November 18 and December 26, are the only charges testified to by more than one witness.

Mrs. Kratzig testified (page 31) that during the period from June to November, 1915, Mr. Bowers sometimes

stayed all night. Mrs. Bowers who was then living in the same house with Mr. Bowers at Metuchen, did not testify to any all night absences on his part. Mrs. Kratzig testified (page 39) that the conduct of Mr. Bowers and Mrs. Waite had aroused the entire neighborhood. No one in the neighborhood other than Mrs. Kratzig and Mrs. Stevens testified. Mrs. Kratzig also testified that she had seen Mrs. Waite come out of her house and put out the tail light on Mr. Bowers' car at 5:45 A. M. wearing a kimona. She says that this occurred on a Sunday night early in October. (Page 37.) Mrs. Stevens also alleges that something of this sort took place (page 45) but she fixes the time as November, and says that Mrs. Waite wore a fur coat.

Ella Crawford, a maid, testified that Mr. Bowers was away all night on two nights between November 1 and December 8, 1915, (page 48) but Mrs. Kratzig's diary does not show that Mr. Bowers was at Mrs. Waite's home all night any time during that period.

There is nothing whatever in the petitioner's case showing either of the parties to be of a licentious or immoral nature, and there is nothing whatever implicating either Mrs. Waite, or Mr. Bowers, or impeaching their characters or reputations during the time the families had lived together in Metuchen, and had been friendly. There was no correspondence between them, no clandestine meetings and nothing, aside from the testimony of Mrs. Kratzig, and Mrs. Bowers, showing improper desire on the part of either. Mrs. Waite and Mr. Bowers both denied absolutely any improper relationship between them. It appeared in the evidence that another family occupied a part of the house in which Mrs. Waite lived, and that Mrs. Waite slept in a bedroom on the third floor with her sister-in-law. Mrs. Waite's family consisted of her sister-in-law, Mrs. Torbert, and her two sons, Dwight and Leonard. Mr. Bowers testified that he went several times a week to Mrs. Waite's house to study with Leonard Waite, with whom he was taking a course in the correspondence school. (Page 103.) Dwight N.

Waite testified that he knew Mr. Bowers very well; had spent a great deal of time in his garage, and that the relations between his mother and Mr. Bowers were proper. It was stipulated by Counsel that Leonard Waite would have testified if present. That Mr. Bowers called at his house to study with him, they together taking a course in a correspondence school, and that he had never seen any act of impropriety between Mr. Bowers and his mother.

The case was tried below in behalf of Mr. Bowers by Counsel who withdrew from the case in open court. The author of this brief is reluctant to comment upon the manner in which the defendant's case was presented, but it is his duty to point out that the cross-examination of Mrs. Bowers as to the occurrence of November 18 and December 26, 1915, they being the principal ones in the case, was weak, and did not examine into the details of the event; that there was no adequate cross-examination of Mrs. Bowers as to the circumstances under which she became acquainted with Mrs. Kratzig, the relationship which existed between them, and the reason for Mrs. Kratzig's extreme interest in the case; that there was no cross-examination tending to show the utter improbability that Mrs. Waite would stand on her porch fronting on a public street, under an arc light, kissing and hugging a man, she clad only in a nightgown, on a cold November morning; that Mrs. Kratzig was not cross-examined at all as to her narration of the alleged events of November 18 and December 26, 1915, the vital dates in the case, nor as to how she could hear the conversation between Mr. Bowers and Mrs. Waite alleged to have been held on November 22; and that Mrs. Stevens, who attempted to corroborate Mrs. Kratzig, as to the "tail light" episode, and the occurrence of November 22, left the stand absolutely uncross-examined as to the important parts of her story.

the correspondence school. (Page 103) Dwight N. Leonard Waite with whom he was taking a course in times a week to Mrs. Waite's house to study with and Leonard. her sister-in-law.

II.  
**THE PROOF OF ADULTERY  
 WAS INSUFFICIENT TO WARRANT A DECREE  
 OF DIVORCE.**

The entire contention of the appellant is that the decree of the Court of Chancery should be reversed because the evidence was insufficient to prove the acts of adultery alleged. There was an abundance of proof of opportunity, which indeed was not denied. The evidence of criminal desire and of actual wrongdoing, was so incredible and so improbable as to be overcome by the explicit denials of the defendant and the co-respondent. There is no proof of clandestine correspondence, of expressions of attachment, or of secret interviews.

*Black vs. Black, 30 Eq. 228.*

On the contrary, Mr. Bowers' visits to Mrs. Waite's home were openly made, and there was no attempt at concealment whatsoever. Undoubtedly it was imprudent and indiscreet, under the circumstances, for Mr. Bowers to call at the home of Mrs. Waite, even to see her son, but it was within his rights and that is not conclusive evidence of guilt.

*Berckmans vs. Berckmans, 16 Eq. 123.*

The facts of the Berckman case tending to show the guilt of the defendant were much stronger than in the case at bar, but the complainant's bill was dismissed, and the decree was affirmed by the Court of Errors and Appeals, upon the ground that the proof was insufficient. At page 143 the opinion reads as follows:

"She has been watched by spies, and yet, exclusive of the two acts sworn to by the mother, and which have already been disposed of, there is evidence of no stolen interview; no private correspondence; no amorous or passionate utterances; no expression of affection; no licentious expression of lip or eye; no indecent familiarity; no personal freedom (aside from the performance of professional duties); no proximate act, leading up to the commission of the crime."

Although Mr. Bowers had been similarly watched by detectives, save for the testimony of Mrs. Kratzig and the petitioner, there is absolutely no evidence of facts such as are referred to in the last quotation and such as are usually found in such cases.

In considering this case, a controlling case is that of

*Osborne vs. Osborne*, 44 *Eq.* 257.

The facts in that case show that the defendant and the co-respondent were very intimate in their relationship and that after the institution of the suit the defendant continued in the daily presence of the co-respondent, they visited Philadelphia together, made a trip to Niagara Falls and spent some time in the Catskill Mountains. The only important fact to be found in the case at bar not to be found in the Osborne case is that Mr. Bowers and Mrs. Waite indulged their affections under an arc light, she attired in a nightgown, which will be dealt with more particularly hereafter, and which is on its face highly incredible.

It is impossible to distinguish the Osborne case from this, and as in that case, the decree should be reversed.

The Osborne case is also important in that it appears that in that case, through inadvertence on the part of counsel, both the defendant and the co-respondent failed to deny specifically having committed adultery and the Court permitted the decree and proofs to be opened and the defendant examined on this point.

Much is made in the conclusions of the Court below of the fact that Mr. Bowers boarded with Mrs. Waite after the institution of the suit but this circumstance was also present in the Osborne case.

In the case of *Mount vs. Mount*, 15 *N. J. Eq.* 162; it was held that although it is not necessary to prove the direct fact of adultery, it is necessary to show that adultery is the only necessary conclusion from the facts of the case. Excluding the highly improbable part of the testimony given by Mrs. Kratzig and Mrs. Bowers, the commission of adultery is not only unnecessary but on the contrary unreasonable.

The contention of the respondent is that the testimony of Mrs. Kratzig and Mrs. Bowers that they saw Mr. Bowers and Mrs. Waite kiss and hug each other on the porch of her home, under an arc light, she attired in a nightgown on a presumably cold November morning, and that they saw him kiss her on the porch on December 26, 1915, in full view of passersby, is so contrary to ordinary human expectation, that it is not worthy of belief, and that without that there is proof of nothing more than opportunity, which in the words of the opinion in Osborne vs. Osborne, is not "tantamount to guilt."

Is it possible to believe that Mr. Bowers and Mrs. Waite, whose life in Metuchen had been blameless, whose relationship had been subjected to a searching but fruitless investigation by detectives employed by Mrs. Bowers, would kiss and hug each other practically on the public street under an arc light? Is it not incredible that Mrs. Waite would so conduct herself, attired only in a nightgown, not to mention the possibility of contracting pneumonia through exposure to the cold air of the early November morning? What reason was there for them so to act, when, if the conclusion of the Court below is warranted, they had just satisfied their lascivious desires? Why would they manifest their affection by indulging it on the front porch at 8:15 on the morning of December 26? Unless people are utterly depraved, and without morals or virtue, they do not violate their marriage vows in public, particularly when publicity is quite unnecessary. Under such circumstances, concealment of the crime is the first instinct of those perpetrating it. Ignoring the fact that there was no searching cross-examination designed to reveal the falsity of this testimony, even in itself, it fails to bear analysis, and is not worthy of belief. Certainly over against the explicit denials of Mr. Bowers and Mrs. Waite, and the testimony of her two sons, the fact of adultery is not the only necessary conclusion from the evidence.

It is submitted that in the following cases the facts tending to show guilt were at least as strong if not stronger than those in the case under examination, yet either

because of the improbability of the testimony adduced by the petitioner or because of its inconclusiveness, decrees were refused.

*Mayer vs. Mayer*, 21 N. J. Eq. 246.

*Scheffling vs. Scheffling*, 44 N. J. Eq. 438.

In this case, the evidence of the principal witness for the petitioner was dismissed as being too improbable to be believed, in the following language:

"Adultery is a crime which is generally committed under the cover of darkness or in secret, and the parties who commit it usually, if not invariably, try to conceal and destroy all evidence of their guilt."

*Clare vs. Clare*, 19 N. J. Eq., 37,

*Steifel vs. Steifel*, 35 Atl. Rep., 287,

in which it was testified that the defendant and her friend, Carrie Jennings, had sexual intercourse with two men in the two small sitting rooms back of the bar room. The following is cited from the opinion:

"The story as told by the two men is not corroborated, and appears to be incredible. It is impossible to believe that any but the lowest and most shameless prostitutes could have participated in such an affair as these two men speak of. There is no evidence to show that the saloon was of such a character, or so situated, as to make the place a suitable one for such an occurrence; and there is no evidence outside of the testimony of the men themselves, to impeach the character of Miss Jennings, or to indicate that the defendant herself was so lost to all sense of shame that she could have been the contriver of it."

*Farrier vs. Farrier*, 58 Atl. Rep., 1079.

*Farrow vs. Farrow*, 60 Atl. Rep., 1103.

In this case one portion of the testimony is that the correspondent, Oliver, left the house of the defendant, Mrs. Farrow very early in the morning, immediately after she had come out of her front door and looked up and down the street. The following quotation from the opinion is apropos:

"Both Oliver and the defendant explicitly deny that any such occurrence took place, and further deny that they ever had any improper relations of any kind at any time or place. Nor is it possible that any woman who had harbored her paramour over night would in daylight herself come out to the front of her home openly exhibit anxiety lest some one should be looking and then bring him directly in view of her own front door."

*Rector vs. Rector*, 78 N. J. Eq., 386.

*Letts vs. Letts*, 79 N. J. Eq., 630.

from which the following is quoted:

"The story told by Connett is so contrary to the natural order of things and so contrary to the natural operation and manifestation of the human passions and feelings upon such an occasion, in which Connett claims to have been an actor, that it may be regarded as a highly improbable one. To entitle it to belief it should receive convincing corroboration."

Particular emphasis is laid on the case of

*Brown vs. Brown*, 62 N. J. Eq. 29,

in which a decree for the petitioner was advised, and the same case reported in 63 N. J. Eq. p. 348, in which the decree was reversed. It is pointed out in the opinion of the Court of Errors and Appeals that the meetings of the defendant and the co-respondent were not clandestine; that there was no blemish upon their reputation; and that the particularly incriminating testimony adduced by the petitioner, although satisfying the minds of the trial court, was so improbable, distorted and exaggerated as not to warrant a decree.

As it was said in *Culver vs. Culver*, 38 N. J. Eq. 165,

"adultery is always clandestine; it is generally committed in secret, and it rarely happens that direct proof of the fact can be obtained, but it is also true that parties living in adultery almost always, by their conduct towards each other, so plainly indicate their true relations as to furnish highly satisfactory evidence of their crime."

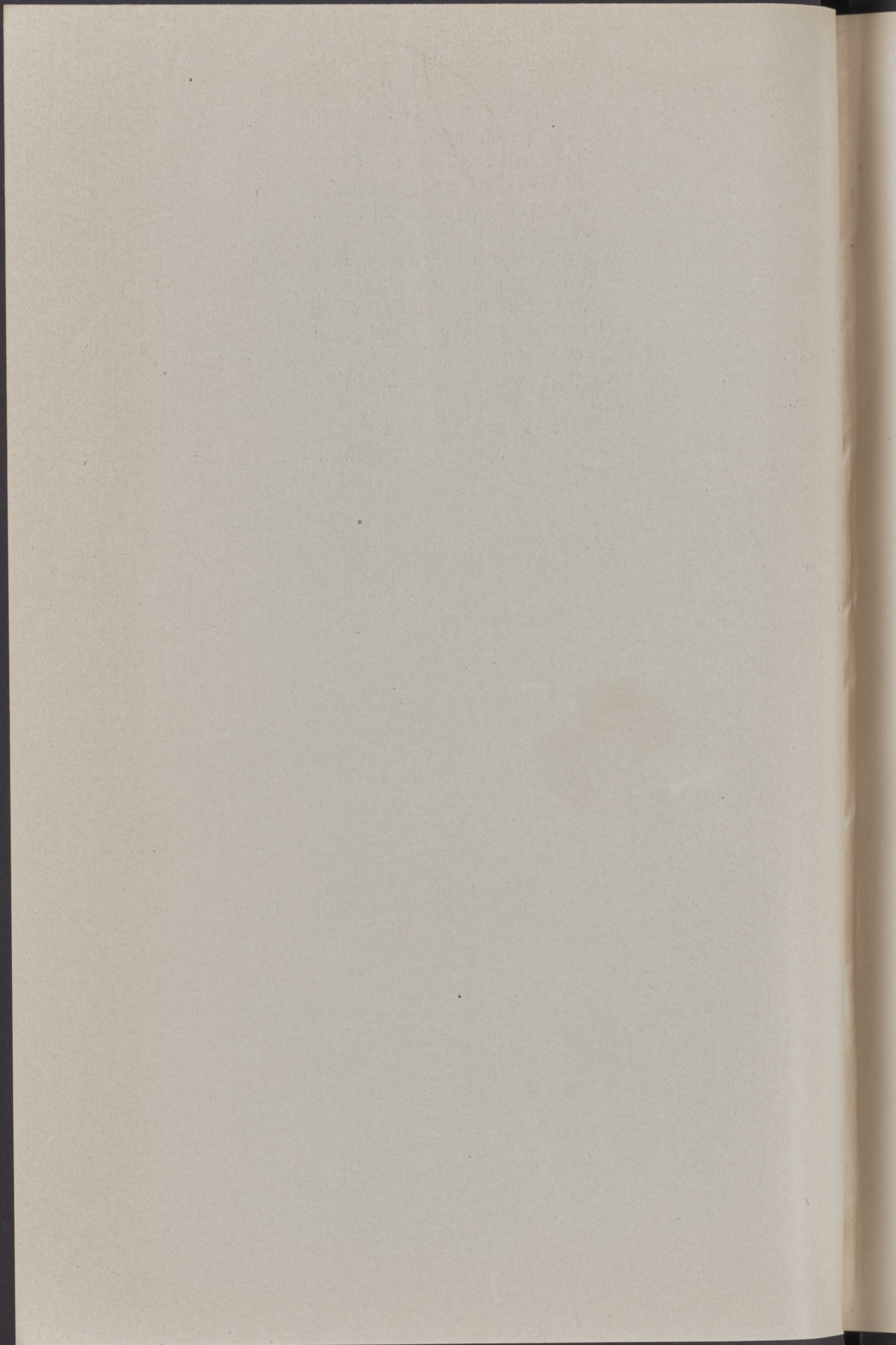
During the years that they lived in Metuchen, there is no evidence of such relationship on the part of Mr. Bowers or Mrs. Waite; none of those living in the neighborhood, which according to Mrs. Kratzig was thoroughly aroused, testified to anything indicating such relationship. None of those living in the house in which Mrs. Waite resided were called to testify to any incriminating facts. The allegations of wrongdoing are denied by the oaths of the defendant and Mrs. Waite.

The case rests entirely upon the testimony of Mrs. Bowers and Mrs. Kratzig imputing to Mrs. Waite conduct brazen in its dissolute effrontery, contrary to all human experience, and entirely at variance with their previous conduct and character.

It is submitted that weighed by the rules applied in the cases cited, the decree should be reversed.

RUSSELL M. WATSON

*Solicitor of Appellant.*



B

## New Jersey Court of Errors and Appeals.

Between

JESSIE LOUISE BOWERS,  
Petitioner-Respondent,

and

JOHN C. BOWERS,  
Defendant-Appellant.

### RESPONDENT'S BRIEF.

#### Statement.

The petitioner and the defendant were married on March 17, 1892, and on December 7th, 1915, the petitioner left the defendant's home, in the Borough of Metuchen, County of Middlesex and State of New Jersey, where they had resided for six years prior thereto, and on the 8th day of December, 1915, petitioner filed her petition in this cause for divorce on the ground of adultery.

The case was contested and tried before Vice-Chancellor Foster on the 11th day of May, 1916, and upon the conclusion of the case the Vice-Chancellor stated that he was satisfied that the petitioner had made out a *prima facie* case and was entitled to a decree of divorce.

The Vice-Chancellor's opinion contains such a clear analysis of the evidence that I respectfully refer to it for the Court's consideration, as

there is little I can add to a proper presentation of the facts in this case.

It is true that the petitioner rests her case upon circumstantial evidence, but in this respect, considering the nature of the offenses charged, I quote the language of the Chancellor in the case of *Hurtzig v. Hurtzig*, 44 N. J. Equity, page 329:

“The crime is almost invariably clandestine and committed only when every precaution is taken to preclude the possibility of its discovery.”

I have not seen the appellant's brief, nor do I know what he contends, but I take it that there are no questions of law involved in this appeal, but entirely a question as to whether the petitioner has made out a *prima facie* case. In other words, the appellant asks this Court to review all the facts for the purpose of obtaining a different conclusion of the defendant's guilt, than was reached by the Vice-Chancellor.

In this connection, however, this Court, in reviewing the facts, does not have the advantages of passing a personal opinion upon the quality of the testimony of the witnesses and to gather any impressions therefrom which Vice-Chancellor Foster had by the appearance of such witnesses before him.

The question of veracity not only plays an important part in cases of this character but was likewise a vital issue in the case at bar, and the impressions the Vice-Chancellor gathered in forming his opinion as to the truthfulness of a witness's testimony and the inferences to be drawn therefrom is referred to in the Vice-Chancellor's opinion when he makes a comparison of the conduct and manner of testifying of Mrs. Bowers, the petitioner, and Mrs. Waite, the co-respondent. So that, this Court, in the con-

sideration of the evidence, does not find itself in a position to gather impressions in arriving at the falsity or truthfulness of a material fact. As was said by the Court in the case of *Berckman v. Berckman*, 16 N. J. Equity, page 122:

“It is not an unnatural presumption, if parties are guilty of adultery, that they will not hesitate to resort to perjury to conceal their guilt.”

A decree *nisi* was entered in this cause on the 30th day of June, 1916, from which the defendant took an appeal on the 26th day of December, 1916.

### POINT I.

**The petitioner established a prima facie case of “inclination” and “opportunity.”**

If both these two prerequisites to a case of this character are satisfactorily established, this Court has held that it constitutes a *prima facie* case.

In the case of *Hurtzig v. Hurtzig*, 44 N. J. Equity, page 329, the Chancellor said:

“It is not requisite that there shall be direct proof of this crime, for if that were the rule, there is not one case in a hundred when such proof would be attainable. 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; personal freedom; amorous and passionate utterance; compromising situations, and the like.”

In the case of *Scheffling v. Scheffling*, 44 N. J. Equity, page 438, the Court said:

“Adultery is a crime which is generally committed under the cover of darkness, or in secret and the parties who commit it, usually, if not invariably, try to conceal or destroy all evidence of their guilt.”

In the case of *Culver v. Culver*, 38 N. J. Equity, page 163:

“No general rule, defining what circumstances will constitute sufficient evidence of adultery, can be laid down which will furnish a safe guide for every case, yet this much may be safely said; that the circumstances must be such as will lead the guarded discretion of a reasonable and just mind to a satisfactory conclusion that the crime has been committed. Adultery is always clandestine; it is generally committed in secret and it rarely happens that direct proof of the fact can be obtained, but it is always true that parties living in adultery almost always, by their conduct towards each other, so plainly indicate their true relations as to furnish highly satisfactory evidence of their crime.”

Again, in the case of *Berckman v. Berckman*, 16 N. J. Equity, the Court said:

“To establish the existence of adultery, the circumstances must be such as would lead the guarded discretion of a reasonable and just man to that conclusion. The mind of the Court must be satisfied that there was an intimacy between the parties entirely inconsistent with the duty which a virtuous wife owes to herself and to her husband.”

In the case at bar it is uncontradicted that between the month of June, 1915, and the 7th day of December, 1915, while the petitioner and the defendant were residing at Metuchen, at which place the defendant conducted a garage business, that this defendant was seen three or four

times a week at the home of the co-respondent, Mrs. Waite, at 162 Chadwick Avenue, in the City of Newark, arriving there late in the evening and leaving in the early hours of the morning, or as Vice-Chancellor Foster said, "he was a very frequent visitor at her home, calling there three or four times a week, apparently driving from Metuchen to Newark in his car; he usually arrived late at night and left very early in the morning, leaving usually from one to four A. M." This testimony offered by the petitioner was not contradicted by either Mr. Bowers or by Mrs. Waite (the co-respondent), and, therefore, stands as an admitted fact and must be considered, in the light of all the testimony, as *prima facie* proof of "opportunity." It is self-evident that if a man would travel this distance (approximately twenty miles) by auto arriving late at night and leaving early in the morning, that there was a relation of intimacy between the defendant and the co-respondent, and as was said in the case of *Berckman v. Berckman*, "The mind of the Court must be satisfied that there was an intimacy between the parties entirely inconsistent with the duty which a virtuous wife owes to herself and to her husband," and when we substitute "husband" for "wife" in the quotation we have Mr. Bowers guilty of an intimacy with Mrs. Waite entirely inconsistent with a duty he owed to his wife. The natural results that follow from such an intimacy were present with Mrs. Bowers, namely, loss of affection that was due to her, neglect, indifference, etc. As was said in the case of *Hurtzig v. Hurtzig, supra*:

"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; personal

freedom; amorous and passionate utterance; compromising situations, and the like."

Immediately following the breaking up of petitioner's home and the institution of this suit, it appears uncontradicted that the defendant boarded and lived at the home of the co-respondent which continued to the day of the trial, namely, from December 8, 1915, to May 11, 1916. He would arrive at her home in Newark late at night and would leave, daily, at about 8 A. M., although during this entire time both he and the co-respondent knew that the petitioner was boarding directly opposite and constantly observing their actions which was accompanied on the part of the co-respondent by jeers and sneers directed to the petitioner, and all done defiantly and apparently to add to the petitioner's distressed state of mind. During this time the defendant's business continued at Metuchen. There was no doubt in the mind of the Vice-Chancellor that this relationship was evidence of intimacy that was sufficiently satisfying, and when considered in connection with the numerous caressing scenes, the hour of their occurrence and the co-respondent's attire on some of these occasions, testified to by other witnesses, established ample and convincing proof of "inclination" and "opportunity". The conduct and manner of testifying of the co-respondent conclusively satisfied the Vice-Chancellor that her language and demeanor was not such as would be expected from one innocent of such charges and he cites certain instances therefrom.

In the Berckmans' case, *supra*, the Court held:

"If the circumstances established the fact of a general co-habitation, it is enough although the Court may be unable to decide at what time the offense was committed."

No one in Mrs. Waite's home corroborated her testimony in respect to the details of her home, and of their occupying separate rooms, although, if her testimony were true, there would be an abundant amount of such proof available but none was offered. This same proof was available to the defendant. It is a singular circumstance that no witnesses were called and the testimony of Mrs. Waite in connection with this feature of the case is entitled to be disregarded.

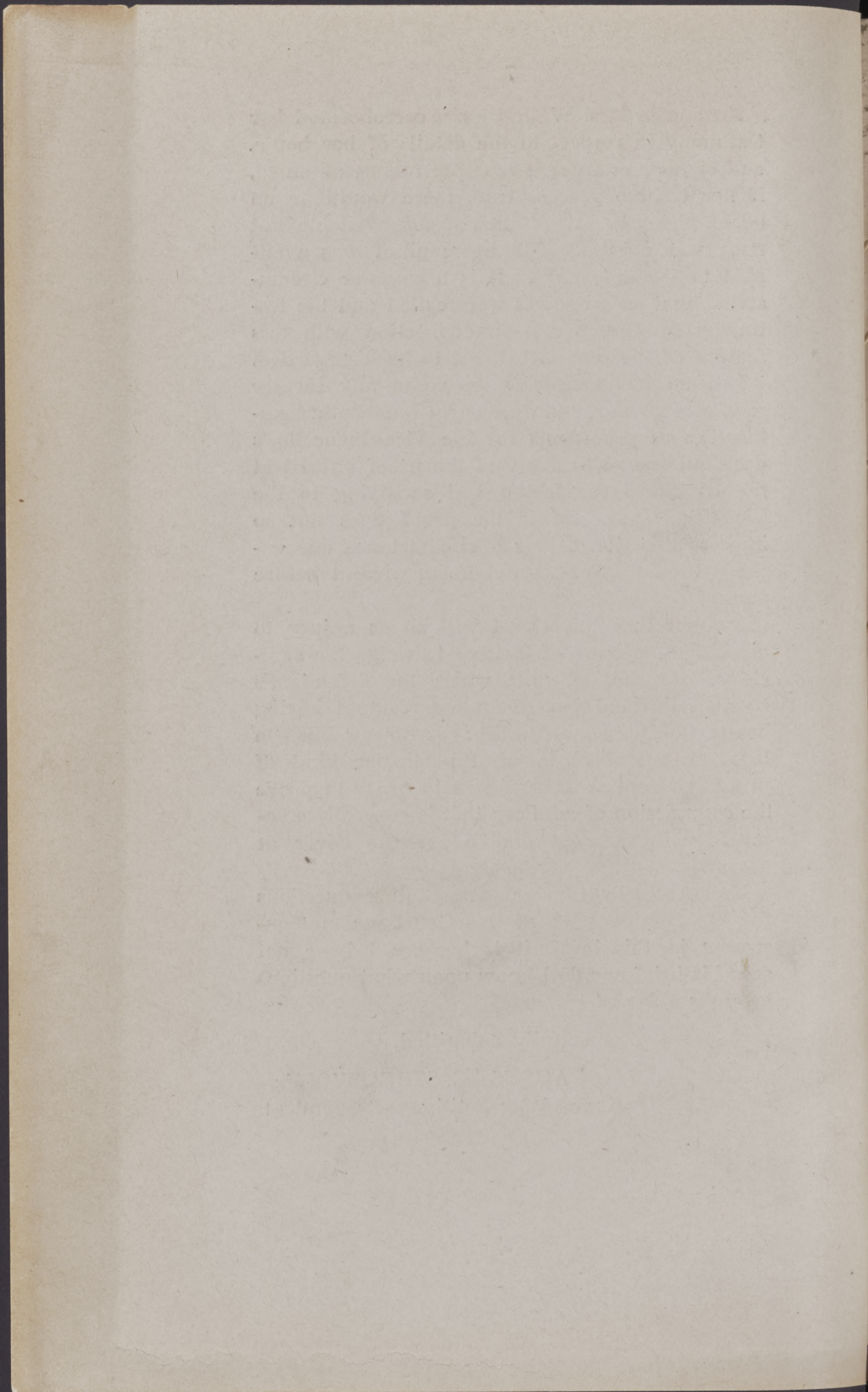
I deem it unnecessary to make any further reference to the evidence, or to quote other authorities as precedents for the Vice-Chancellor's decision, except to say that the proof offered at the trial was convincing and satisfying to the Vice-Chancellor and if the proof does not so impress this Court, it is a circumstance due entirely to the witnesses not being present before you.

I doubt that this Court will sit as a jury to determine an issue of fact; or to weigh the sufficiency of proof of guilt, where the defendant's conduct justified such a finding, without having heard the witnesses testify; or to establish a legal precedent as to what particular kind of proof is essential to be shown in order to prove the commission of adultery that is generally committed with secrecy and under the cover of darkness.

If the appellant presents any other questions for the consideration of this Court and not answered in this brief, it is because I have not seen his brief nor do I know upon what questions he seeks a reversal.

Respectfully submitted,

AUGUST C. STREITWOLF,  
Counsel for Petitioner-Respondent.



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# In Chancery of New Jersey

NEW JERSEY, to wit: The State of New Jersey to

JOHN C. BOWERS

(Seal) GREETING: You are hereby cited to be and appear before our Chancellor in Court of Chancery, to be held at Trenton, the tenth day of January next, to answer to the petition of 10

JESSIE LOUISE BOWERS

exhibited against you, and hereof fail not.

WITNESS, EDWIN ROBERT WALKER, Esquire, our Chancellor, at Trenton, the ninth day of December, in the year of our Lord, one thousand nine hundred and fifteen. 20

AUGUST C. STREITWOLF, Solicitor.

ROBERT H. McADAMS, Clerk.

NOTICE—The defendant is NOT required to appear at Trenton in person, at the return day, but if he intends to make a defense, it is only necessary for him to answer the petition within the time required by law. 30

ROBERT H. McADAMS, Clerk.

## In Chancery of New Jersey

TO THE HONORABLE EDWIN ROBERT WALKER, CHANCELLOR OF THE STATE OF NEW JERSEY:—

10 The petition of JESSIE LOUISE BOWERS, of the Borough of Metuchen, in the County of Middlesex and State of New Jersey, respectfully shows:

20 That your petitioner was lawfully joined in matrimony to her present husband, JOHN C. BOWERS on the 17th day of March, 1892, in the City of Brooklyn, State of New York, and for six years last past, your petitioner and her said husband have continuously resided in the Borough of Metuchen, in the County of Middlesex and State of New Jersey, where your petitioner resided at the time of the commission of the grievances hereinafter complained of, and where she resided at the time of the filing of her petition herein.

30 And your petitioner avers that since her marriage to the defendant, the said John C. Bowers, he has wickedly disregarded the solemnity of his vows and the sanctity of the marriage state by committing adultery with Mrs. Louisa Waite, at her home, No. 162 Chadwick avenue, in the City of Newark, State of New Jersey, and more particularly on the 3rd day of October, 1915, and the 17th and 18th days of November, 1915, and at divers other times, at the place aforesaid, with the said Louisa Waite within a period of six months preceeding the filing of this petition, and prior thereto, at the home of the said Louisa Waite, during her residence in Metuchen, in the State of New Jersey.

And your petitioner avers that since the discovery

of said offenses, she has not cohabited with the defendant nor has she condoned the same.

And your petitioner avers that the only issue of said marriage is a son, Charles E. Bowers, an adult.

Your petitioner therefore prays that the marriage between your petitioner and the said John C. Bowers may be dissolved, for the cause aforesaid, according to the statute in such case made and provided; that the defendant may be decreed to pay her reasonable alimony and that she may be granted alimony pendente lite; that the defendant may be decreed to pay counsel fees; that your petitioner may have such other and further relief as may be just and equitable in the premises. And your petitioner will ever pray, etc. 10

JESSIE L. BOWERS, Petitioner.

AUGUST C. STREITWOLF,

Solicitor and of Counsel for Petitioner. 20

40 Paterson Street, New Brunswick, New Jersey

STATE OF NEW YORK, }  
COUNTY OF NEW YORK, } ss:

JESSIE LOUISE BOWERS, being duly sworn according to law on her oath says: That she is the petitioner named in the foregoing petition; that her petition is not made by any collusion between her and the said defendant therein named, but in truth and in good faith for the cause set forth in the petition. 30

JESSIE L. BOWERS.

Sworn and subscribed before me  
this            day of Dec., 1915.

(Seal)            WALTER J. GRAHAM.

STATE OF NEW YORK, }  
COUNTY OF NEW YORK, } ss:

I, William F. Schneider, Clerk of the County of New York, and also Clerk fo the Supreme Court for the said County, the same being a Court of Record, do hereby certify that

WALTER J. GRAHAM

10

whose name is subscribed to the deposition or certificate of the proof or acknowledgement of the annexed instrument, and thereon written, was, at the time of taking such deposition, or proof and acknowledgement, a Notary Public in and for such County, duly commissioned and sworn, and authorized by the laws of said State, to take depositions and to administer oaths to be used in any Court of said State and for general purposes; and also to take acknowledgements and proofs of deeds, of conveyances for land, tenements or hereditaments in said State of New York. And further, that I am well acquainted with the handwriting of such Notary Public, and verily believe that the signature to said deposition or certificate of proof or acknowledgement is genuine.

20

(Seal)

30

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the said Court and County, the 7th day of December, 1915.

WM. F. SCHNEIDER, Clerk.

# In Chancery of New Jersey

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Between  
JESSIE LOUISE BOWERS  
Petitioner  
and  
JOHN C. BOWERS  
Defendant

---

On Petition.  
ANSWER.

10

The answer of the defendant, John C. Bowers, answering the petition, says that

1. He admits the marriage with the petitioner at the time and place set forth in said petition, and that the said petitioner and this defendant resided continuously together in the place and during the time as said petition alleges. 20

2. This defendant denies that he committed adultery with Mrs. Louisa Waite, at her home in the City of Newark, at the time and place alleged and charged in said petition, or at any other time, and also denies that within a period of six months before the filing of said petition, that he committed adultery with the said Louisa Waite at her residence in Metuchen as alleged in said petition, and denies 30 that he ever committed adultery with her, the said Mrs. Louisa Waite, at any time or place, and says such allegations of petitioner's are false and untrue and wholly unwarranted.

BEEKMAN & SPENCER,  
Solicitors of Defendant.

JOHN W. BEEKMAN, of Counsel.

# In Chancery of New Jersey

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between  
JESSIE LOUISE BOWERS,  
Petitioner.  
and  
10 JESSIE LOUISE BOWERS,  
Defendant.

} REPLICATION

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Petitioner joins issue on the answer of defendant.

AUGUST C. STREITWOLF,

Solicitor and of Counsel for Petitioner,

20 No. 40 Paterson Street, New Brunswick, N. J.

30

# In Chancery of New Jersey

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Between  
JESSIE LOUISE BOWERS  
Complainant,  
and  
JOHN C. BOWERS  
Defendant

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Consent and  
Order of  
Reference.

10

It is on this                      day of January, 1916, on  
motion of August C. Streitwolf, solicitor for the com-  
plainant.

ORDERED, that the above-stated cause be refer- 20  
red to Honorable John 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.

I hereby consent to the entry of the foregoing  
order.

Dated, January                      1916.

BEEKMAN & SPENCER, 30  
Solicitors for Defendant.

## In Chancery of New Jersey

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	between	}	Notice of Hearing.
	JESSIE LOUISE BOWERS, Petitioner.		
	and		
10	JESSIE LOUISE BOWERS, Defendant.		

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PLEASE TAKE NOTICE that the above entitled cause will be brought on for trial before Honorable John E. Foster, one of the Vice Chancellors of this Court, at the Prudential Building, in the City of Newark, State of New Jersey, on May 1st, 1916, at 10 o'clock in the forenoon of said day or as soon  
20 thereafter as counsel can be heard.

Dated, March 22nd, 1916.

Yours, etc.,

AUGUST C. STREITWOLF,

Solicitor and of Counsel for Petitioner,

No. 40 Paterson St., New Brunswick, N. J.

30 To:—

Messrs. Beekman & Spencer,

Solicitors for Defendant, Perth Amboy, N. J.

# In Chancery of New Jersey

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Between  
JESSIE LOUISE BOWERS  
Petitioner  
and  
JOHN C. BOWERS  
Defendant

---

10

Transcript of shorthand notes of testimony and proceedings taken in the above entitled cause before Hon. John E. Foster, Vice Chancellor, at the Chancery Chambers, Newark, New Jersey, on Thursday, 20 May 11th, 1916, at 10 A. M.

## APPEARANCES:—

Mr. August C. Streitwolf for Petitioner.

Messrs. Beekman & Spencer for Defendant.

30

It is admitted that Jessie Louise Bowers and John C. Bowers were married in the City of Brooklyn on the seventeenth day of March, 1892, and that for six years prior to the filing of this petition they resided in the Borough of Metuchen, County of Middlesex and State of New Jersey, and that Mrs. Bowers did reside there at the time of the filing of the petition ~~away from his father and mother.~~ *that there is one child, the only issue of the said marriage a young man, now an adult and married living at the time of filing the petition away from his father and mother,*

JESSIE LOUISE BOWERS, petitioner. sworn.

DIRECT EXAMINATION BY MR. STREITWOLF:

Q. When were you married?

A. I was married on the seventeenth day of March, 1892, in the City of Brooklyn, to John C. Bowers, the defendant.

Q.. Where do you reside now?

A. In Short Hills, New Jersey.

10 Q. How long have you known Mrs. Louise Waite?

A. I have known her for about thirty years.

Q. Since that time how long has she been living at Metuchen, to your own knowledge?

A. About four years, as near as I can remember.

Q. When did she leave Metuchen, to your knowledge?

A. Last June.

20 Q. So that up until June last,, and for a period of four years prior thereto, she resided in Metuchen?

A. Yes.

Q. When did you first notice anything strange in the relations between your husband and Mrs. Waite?

A. A year ago last October.

Objected to. Objection sustained.

Q. Did you speak to your husband at that time concerning Mrs. Waite; and if so, when?

30 A. A year ago last July, about the twelfth of July—I don't know if it was the twelfth or fourteenth of July; it was on a Sunday afternoon.

Q. What did you say to him?

A. I told him I got tired of having him come home two and three and four o'clock in the morning, and that he would have to give up that woman or he would give me up.

Q. Did you say what woman?

A. Yes.

Q. Who?

A. Mrs. Waite..

Q. What is her full name?

A. Mrs. Louise Waite.

Q. What did he say in reference to that remark of yours?

A. He didn't say anything at all at that time; he didn't deny it.

COURT: What did he say; did you speak to  
Mrs. Waite? 10

WITNESS: Yes, I went up to her home.

Q. When?

A. On Sunday night, in the evening.

Q. When; fix the time?

A. About between half past seven and eight o'clock of that same Sunday night that I accused him

Q. What did you say to her?

A. She was sitting on the stoop and as I went to go by her she saluted me as though nothing had happened, and I had spoken to her son that afternoon in front of the garage, and I told him to tell his mother to keep her hands off of my husband, and when I slighted Mrs. Waite she addressed me by the name of Jessie, and I said, "Mrs. Waite, you have broken up my home, and I hope you are satisfied." "Oh, yes," she said, "I believe Leonard had something to say about that this afternoon." She said, "You go down the block and go home and mind your own business," and as I left her, I said, "Believe me, the town will know what you are and what you have done." 20 30

COURT: Where was she living then?

WITNESS: In Metuchen.

Q. You said that she had broken up your home; had there been any change in your home that you

had reference to, in the relations between you and your husband?

MR. BEEKMAN: Objected to.

COURT: I will allow it.

A. Yes.

Q. When did that change take place?

10 A. I became suspicious of Mr. Bowers and the relations with Mrs. Waite in October previous, and I came very near accusing him in April.

COURT: The question is, when did this change that you noticed take place?

WITNESS: In October, when I had occasion to—

Q. 1914?

A. Yes.

20 Q. Please tell me the various stages in which these changes were noticeable, and in what way they were noticeable.

MR. BEEKMAN: I shall insist that she should say what the changes consist of.

MR. STREITWOLF: I want those.

COURT: State the facts.

30 A. He neglected me night after night; I was there alone at the time without any maid, and one night I was taken ill, and the doctor that I called in was in the garage at the time—Dr. Lippincott—and Mr. Bowers knew that I was ill, and he had that woman out until quarter of twelve that night in an automobile.

Q. After you noticed these things did Mr. Bowers ever take you out in his car?

A. No.

Q. Did he show any manifestations of affection for you?

A. None at all.

Q. Did he prior to this time show manifestations of affection?

A. No, I was suspicious of him.

Q. Tell the Court exactly the different stages of changes that occurred in your home up until the time you left on December 6th.

A. We didn't have anything to say, only in the way of business; he refused me money—oh, the 10  
Tuesday after I accused him, I went into the garage and asked him what he was going to do about this affair; he was standing at the desk making out some bills, and he didn't have anything to say; I said, "Don't think you are going to bluff this thing off, because you are not," and he said, "You can have anything you like or you ask for, but I will go with any woman I d—please"; I said, "Very well, I am glad to know your attitude." I said, "I will fight 20  
this thing now to the bitter end." And I have; there hasn't been a week since I accused him that I haven't tried to do something to get my proof against him.

COURT: Going back to Mr. Streitwolf's question; what other change did you notice?

WITNESS: He refused me money.

COURT: For household expenses or other expenses? 30

WITNESS: No, not for household expenses. His saying he would go with any woman he d— pleased, I made up my mind to open up a charge account, and he paid my bills, but as for giving me money, he wouldn't give it to me.

Q. Did he refuse your request for money?

A. Yes, and I was thrown on my own resources.

Q. Did it get worse, this situation, or improve, as time went on?

A. It got worse.

COURT: In what way?

WITNESS: He didn't speak, and every time I would ask for money he would refuse me.

10 Q. From July, 1915, until December following did you and your husband engage in general conversation?

A. Only on business.

Q. You would speak when you were spoken to on business matters?

A. Yes.

Q. How long have you been occupying separate rooms in your home?

20 A. Since March, 1914; I was convinced in my own mind that he was in with Mrs. Waite and I left his bed.

Q. As a matter of fact you and your husband haven't cohabited as man and wife since that time?

A. No.

Q. Although you lived in the same home?

A. Yes.

Q. Coming down to an occasion when you went over to 161 Chadwick avenue, will you tell me when you went there?

30 A. I went there on December 17, 1915, for the purpose of getting evidence against Mr. Bowers.

Q. Did you secure a room there in the home of one Mrs. Kratzig?

A. I did.

Q. Did you ever know Mrs. Kratzig before?

A. No.

Q. Who is she as you found her to be?

A. She was a dressmaker I found her to be.

Q. She is living there with her husband?

A. Yes.

Q. You secured a room there?

A. Yes.

Q. How long did you stay there?

A. I stayed there from Wednesday night until Sunday night, and in the meantime her mother died; I intended to stay longer, but her mother died, so I left there Sunday night.

10

Q. 161 Chadwick avenue is situated, with relation to 162 Chadwick avenue, in what way?

A. Directly opposite.

Q. Mrs. Kratzig lives on what floor?

A. First floor.

Q. Do you mean the ground floor?

A. It is a two-family house and she occupies the first apartment.

Q. To go up into the rooms occupied by Mrs. Kratzig, do you or do you not go up a flight of stairs? 20

A. Oh, yes, sir, in Mrs. Kratzig's.

Q. That is what I asked you, does she live on the ground floor?

A. Oh, I thought you meant Mrs. Waite; that is where I made the mistake.

Q. Mrs. Kratzig lives on what floor?

A. On the second floor.

Q. Do the rooms in her home face or not the 30 apartments 161 Chadwick avenue?

A. Yes, they do, directly opposite.

Q. So that standing in the front room of Mrs. Kratzig's apartment you can look toward and into the apartments 161, on the opposite side of the street?

A. Yes.

Q. You got there on November 17, 1915, and

stayed there three or four days; did you see Mr. Bowers while you were there?

A. I saw him on the night of the 18th; he got there at 11.40 with Mrs. Waite; she got out of the car with Mr. Bowers.

Q. She was in the car at the time?

A. Yes.

Q. Where did the car stop?

A. In front of Mrs. Kratzig's.

10 Q. Was the car leaving or had it just arrived?

A. Just arrived.

Q. What did you see then? Tell in your own words.

A. They both went into her home 162.

Q. About what time of the day or night?

A. 11.40 at night, and I saw him leave at 4.05

A. M. in the morning.

20 COURT: Where was the car during all that time?

WITNESS: In front of Mrs. Kratzig's.

Q. Was Mrs. Kratzig with you at the time you saw him?

A. Yes.

Q. The woman that you saw with your husband that night, do you see her in court here?

A. Yes, she is here.

Q. Will you describe where she is sitting?

30 A. She is sitting behind Mr. Ambrose Mundy.

Q. The woman with the white feather in her hat?

A. Yes.

Q. You recognize her as the woman you saw that night?

A. Yes.

Q. Tell me what you observed as you saw your husband leaving.

A. He kissed her.

COURT: Was there any light or illumination?

WITNESS: Yes, there is an arc light in front of the house. It is nearer Mrs. Waite's home than Mrs. Kratzig's. The light was burning.

Q. Will you describe how Mrs. Waite was clothed as you saw your husband kiss her at 4.05 in the morning?

A. She was in her nightdress with a red kimono on. 10

Q. Did you ever see your husband kiss Mrs. Waite after that?

A. Yes, on December 26th, the day following Christmas.

Q. At what time?

A. About 8.15 in the morning.

Q. Relate the circumstances; what did you see and where did you see this?

A. She stood in the doorway with the door open, I should say about so far (indicating three feet), and he leaned over and kissed her. 20

COURT: Chadwick avenue is in Newark, and the Christmas occasion was at the same place?

Q. You and Mrs. Kratzig were at the window of 161?

A. Yes.

Q. Did you and your husband observe each other, as far as looking into each other's countenance, before that took place? 30

A. Yes, they both looked up at the window and sneered.

COURT: When do you refer to?

WITNESS: December 26.

Q. You filed your petition here on December 8, 1915; when did you break up your home?

A. On December seventh.

Q. You took your effects and did what with them?

A. Put them in storage, part of them.

Q. Did you see Mr. Bowers at 162 Chadwick avenue after the occasion when you saw him leaving at 4.05 A. M. November 18th, up until the time you filed the petition; did you ever see him there again from November 18th to December 8th?

10 A. No, I did not, but I asked Mrs. Kratzig—I didn't see him myself.

Q. Since December 8th have you seen him there?

A. Yes, after I broke up my home I went to board with Mrs. Kratzig and I was with her about three months.

Q. During that period how often has Mr. Bowers called at 162?

A. I saw him leave every morning with the exception of two mornings, while I was there.

20 Q. Did you see him come there at night?

A. Sometimes, not always; sometimes I saw him come there at night.

Q. Did you see any manifestation of affection during that time between Mrs. Waite and your husband?

MR. BEEKMAN: Objected to.

COURT: I will allow it.

30 A. On December 26 and the following week.

Q. What did you see the following week?

A. He kissed her again.

Q. Where were they?

A. In the doorway, in the morning as he was leaving.

COURT: What hour in the morning did he usually leave there?

WITNESS: Sometimes he left a little before eight, and sometimes anywhere from ten minutes to eight to quarter past eight or twenty minutes past eight.

CROSS EXAMINATION BY MR. BEEKMAN:

Q. You and Mrs. Waite were old friends?

A. No, Mrs. Waite was never a friend of mine.

Q. Were you not schoolmates?

10

A. No, sir; absolutely not.

Q. Where did you first get acquainted with Mrs. Waite?

A. It was when I was around twenty-two, I guess, and she was about fourteen, when she came down to my mother's home and asked my mother if she wouldn't allow her to paint a plaque for her.

COURT: Is it necessary for us to go back that far?

Q. Where did you first meet Mr. Bowers?

20

A. At my father's home.

Q. You were a divorced woman when you married him?

A. Yes, I was.

Q. Did you get a divorce from your husband or did he get a divorce from you?

A. I got a divorce from my husband.

Q. On what ground?

A. On the ground of adultery.

30

COURT: How is it material?

Q. When you went away did you used to go from your home and your husband, Mr. Bowers, used to board at Mrs. Waite's at that time, or he got his meals there?

A. After I accused Mr. Bowers I was very much broken up and on the doctor's advice, he advised

me to go away, and I went to Vermont and stayed five weeks.

COURT: When was that?

WITNESS: A year ago last July.

Q. When you were away where did Mr. Bowers get his meals?

COURT: She don't know except from hearsay.

10 Q. Was there any talk between you and Mr. Bowers when you went away and shut up the house?

A. I didn't shut up the house; my daughter was home with a maid and he made an excuse that Mrs. Waite was a poor woman and he went up there to get his meals; I had a maid at home, and myself and daughter there.

20 Q. You say your suspicions were aroused that your husband was intimate with Mrs. Waite; when were your suspicions first aroused in that direction?

A. In the October before I accused him; October, 1913.

Q. What did you see at that time between your husband and Mrs. Waite that aroused your suspicion that there was something wrong between them?

A. Because I found her in the garage on three or four different occasions.

Q. Did you ever find any other women in the garage?

30 A. Yes, women that had business, women that owned cars and had occasion to go there, but she didn't; I found her in there one night at half past ten with her three dogs.

Q. And she hadn't any car then?

A. -No.

Q. Was Mrs. Waite the only woman in Metuchen that you had an idea that your husband was too intimate with?

Objected to. Objection sustained.

Q. In 1913 your suspicions were aroused that your husband was too intimate with Mrs. Waite; is that right?

A. Yes.

Q. Please state what was done by your husband or what was done by Mrs. Waite that caused you to have suspicions of that kind.

COURT: In addition to what you have already 10 told us.

A. I went to her home one afternoon—

Q. Are you repeating over what you already told?

A. No, I haven't mentioned this; I went up to her home and found her out, and her son was home and there was something the matter with his knee; I got back from New York about four o'clock one afternoon—I cannot remember the month.

Q. How long ago was it, about?

A. During that time that I was suspicious of 20 Mr. Bowers, and it was cold weather; Leonard was home alone, and as I was going toward home I met Dr. Lippincott and he said, "Where are you going?" I said, "Up to Waite's," and he said, "There isn't anybody home."

COURT: You cannot tell what he said.

A. (Continuing) I went in and she was not home and as we left the house she insisted on walking 30 down.

Q. Who did?

A. Mrs. Waite—on walking down.

COURT: I thought you said she wasn't at home?

WITNESS: She returned while I was there, and I said "It is not necessary," and when she came in, I said, "You look as if you had been out for a ride," and she said, "Oh, no," and as we went down the

stairs Leonard said, "You need not leave me for two hours again as you did," and I found out afterwards that he had been to Rahway that day.

COURT: Strike that out; you cannot tell what someone told you.

WITNESS: I found her in the garage when she had no occasion to be there.

10 COURT: Is there anything else that aroused your suspicions?

WITNESS: Yes, after I came home from Vermont I saw Mr. Bowers going towards her home one night and I went down the street and spoke to Chief Hutchinson and asked him to go up to Rector street with me, and he did, and I said, "I want to go up to Mrs. Waite's home," and we got almost opposite her house before I discovered there was a car in front  
20 of the door; there was no rear light on it and I couldn't see it until I got almost up to it.

COURT: What did you see, if anything; whose car was it?

WITNESS: Mr. Bower's car.

Q. Where; in front of Mrs. Waite's house?

A. Yes.

30 Q. What else did you observe of a suspicious character?

A. His staying away night after night and coming home anywhere from two to four o'clock in the morning.

Q. What I want to know is, I want you to state what you saw or what you heard yourself, that aroused your suspicions that your husband was too intimate with Mrs. Waite.

A. After I went to Newark to live my suspicions were confirmed.

Q. When was that?

A. November 17th, this last year.

Q. Was that after you had broken up your home and had Mr. Bowers gone to Newark to live with Mrs. Waite?

A. I went to Newark on the 17th of November I didn't break up my home until the seventh of December. 10

Q. You own a house there, don't you?

A. Yes, there is a mortgage on it.

Q. What is that house worth?

A. I am asking \$6,500 for it.

Q. What is the mortgage on it?

A. \$1800.

Q. Then there is an equity of some \$400; did you break up the home yourself?

A. I did, upon the advice of counsel. 20

Q. What counsel is that?

A. Mr. Streitwolf.

Q. What did you do with your furniture?

A. Put it in storage.

Q. Where?

A. In New Brunswick.

Q. Is that your husband's furniture?

A. I claim it is mine.

Q. Who bought it?

A. I suppose he bought it. 30

Q. What is the furniture worth, about?

A. He didn't buy all the furniture, because I got a great many things from my father's home.

Q. What is it worth?

A. A couple of thousand dollars.

COURT: Which he bought?

WITNESS: No.

Q. \$1200?

A. I couldn't get \$500 for what I have got.

Q. Did your husband know that you were going to break up the home?

A. No.

Q. That was done unbeknown to him?

A. Yes.

10 Q. And take the key?

A. Yes.

Q. Then when you broke up your home he had no place to go?

A. No.

Q. Did you employ detectives for a long time to try to find out something against your husband?

A. I did.

Q. Who paid them?

A. I paid them.

20 Q. Where did you get the money from?

A. From my own personal account.

Q. You had no income of your own?

A. I had a small bank account.

Q. You had no income of your own?

A. I had a small bank account of \$300.

Q. Where did you get that from?

A. Money left to me by my father.

30 Q. And the money that you spent for the detectives was money that your husband furnished you, wasn't it?

A. No, sir.

Q. How much did the detectives cost you?

A. \$100.

Q. That was before you employed these detectives, before you broke up your home?

A. Yes.

Q. Did you break up your home as the result of what the detectives discovered?

A. No, sir; I broke up my home on the strength of what I discovered while sitting in Newark for four days.

Q. Then up to that time you had discovered Mrs. Waite once in the automobile?

A. Yes, she got there at 11.40 at night.

Q. What else had you discovered then besides Mrs. Waite being in the automobile—what time was that?

A. 11.40 P. M., Mrs. Waite was with him. 10

Q. Who was with Mrs. Waite?

A. Mr. Bowers

Q. Which way were they going?

A. They stopped in front of her house.

Q. Do you know where they came from?

A. No.

Q. As far as you know, Mr. Bowers may have overtaken Mrs. Waite on the street?

COURT: That is argument. 20

Q. You don't know where they came from or been to?

A. No, sir.

Q. As far as you know, he may have overtaken her along the road and brought her home, as far as you know?

A. She often came to Metuchen after—

Q. (Last questioned repeated.) 30

A. Yes, he may have done so.

Q. After you saw him in the automobile and saw him in the garage, what next did you see—then on the strength of that you broke up your home?

A. Yes.

Q. And filed a bill for divorce?

A. Yes.

Q. What next did you see that you considered

out of the way or improper, between Mrs. Waite and your husband?

A. After I broke up my home on December 7th, I got into Newark at dusk, and he got there in the early evening, and I don't know just the time, and as I said before, I saw him go away every morning, with the exception of two mornings; I didn't always sit up and see him return at night; I have seen him come there at half past eleven at night.

10

MR. BEEKMAN: We admit all that.

Q. Did you know that after you broke up your home that your husband went to board at Mrs. Waite's?

A. I saw him at Mrs. Waite's after that.

Q. Then you got your room there for the purpose of watching your husband?

A. Yes.

20

Q. That was your object?

A. Yes.

Q. Did you employ anybody to help you watch him?

A. No, sir.

Q. How long were you watching him there?

A. I boarded with Mrs. Kratzig about three months after I broke up my home on December 7th.

Q. And then you went to live there immediately?

30

A. Yes, I went right to Mrs. Kratzig's.

Q. Why did you go there?

A. To watch him.

Q. How did you know that he would be there? Didn't you know he went there to live?

A. I felt pretty sure he would be there.

Q. During the three months you were there you saw Mr. Bowers come there and go away?

A. Yes.

Q. Now, about the kissing affair, when was that?

A. In the morning about 8.15, after Christmas.

Q. Where were you.

A. In the window.

Q. They knew you were living there?

A. I suppose so; I don't know.

Q. You went in and out every day, didn't you; you didn't stay in the house all the time?

A. I kept in seclusion.

10

Q. Which room did you have?

A. Front bedroom, overlooking Mrs. Waite's.

Q. Did you mark down every time you saw him entering Mrs. Waite's?

A. I have lost my calendar that I had.

Q. You kept a calendar of it?

A. Yes, and marked it, but I lost it.

Q. When you testify that this was the day after Christmas, December 26th, at 8.15 in the morning, 20 right on the minute, was it?

A. I didn't know as I had to be so explicit as that; about 8.15.

Q. You were sitting there watching?

A. I was sitting in the bedroom, I was sitting on the bed.

Q. How long had you been sitting there watching him?

A. From seven o'clock I used to sit there.

30

Q. What time did you get up for that purpose?

A. Six o'clock, half past six.

Q. And after you got up and got your breakfast?

A. No, I sat there on the bed until he went away.

Q. You wouldn't eat your breakfast until he went away?

A. No.

Q. What time would he get there at night?

- A. I have seen him come there at twenty minutes of ten and I have seen him come there at half past eleven at night.
- Q. Would you stay up every night watching for him?
- A. No, I didn't admit I would; I thought if I saw him go away in the morning that was enough.
- Q. Then you weren't watching through the middle of the day?
- 10 A. No, at night I was watching and in the morning until after he left.
- Q. Then when you thought it was about time for him to come back you commenced watching again?
- A. At nights occasionally I did, but I didn't lose any sleep over it.
- Q. Anyone relieve you watching?
- A. Yes, Mrs. Kratzig.
- 20 Q. What time would you relieve each other?
- A. We wouldn't relieve each other at all; we would relieve each other—sometimes I would go to the kitchen and she would watch, and sometimes she would go in the kitchen and I would watch.
- Q. Where did this kissing take place?
- A. I only saw him twice at the doorway, when I saw it, and that night in Newark I saw him kiss her as he left her at 4.05 A. M. in the morning.
- 30 Q. Four o'clock in the morning?
- A. Yes.
- Q. You got up as early as that?
- A. Mrs. Kratzig was sitting up at the time; she suffers with asthma.
- Q. Was she rooming with you?
- A. No, she sat in her front room and my bedroom was right alongside of the front room and I sat there with her.

Q. Four o'clock out on the front porch in the morning?

A. Yes.

Q. Was he leaving the place?

A. Yes.

Q. Where did he kiss her; on the steps or stoop or sidewalk?

A. Up near the door; she was right outside the door.

Q. How was she dressed? 10

A. She had something white underneath a red kimona.

Q. Have anything on her head?

A. No.

Q. Bareheaded?

A. Yes.

Q. And he put his arm around her?

A. I didn't see that.

Q. She put her arm around him? 20

A. I didn't see that; just kissed.

Q. Was the house all lit up at that time in the morning?

A. No, but there is an arc light in front of the house.

Q. How far from the house?

A. I cannot tell; it is nearer her side of the street than Mrs. Kratzig's side.

Q. How wide is that street?

A. I cannot tell you. 30

Q. 100 feet?

A. I cannot tell you.

COURT: Is it a very wide street or an ordinary street?

WITNESS: An ordinary width street.

Q. Then he kissed her, and no more he kissed

her did he run down the steps and go away; did he have an automobile?

A. Yes.

Q. When was the other time that you saw this familiar demonstration?

A. About a week after Christmas.

Q. What did he do the next time?

A. I saw him kiss her again in the doorway.

10 Q. What time of the day or night?

A. About 8.15 in the morning.

Q. Do you know who composed Mrs. Waite's family?

A. When I first went there to board with Mrs. Kratzig, she had with her her aunt and she had a brother who didn't live with his wife and didn't work, at least he wasn't working at the time.

Q. Does her son live there?

A. The son Leonard.

20 Q. Is he married?

A. No, he is a young man.

Q. When you made your affidavit for alimony, why didn't you offer that; when Vice Chancellor Howell said you hadn't made out a prima facie case, why didn't you put that in your affidavit for alimony, and why did not Mrs. Kratzig swear to it?

A. I cannot answer you.

30 Q. You knew at that time about kissing Mrs. Waite on the sidewalk and near the door?

A. I didn't say on the sidewalk.

Q. On the stoop at the door?

A. I didn't think the time had come to bring out that testimony.

Q. A week after Christmas when you saw your husband kiss Mrs. Waite, or Mrs. Waite kiss your husband, were people coming along the street at that time in the morning?

A. I cannot tell you; I didn't notice anybody particularly.

Q. It was in broad daylight?

A. Yes.

Q. It is a street that is traveled a good deal?

A. Yes.

Q. Carriages coming up and automobiles and people?

A. Yes.

Q. How many detectives did you hire altogether 10 to watch your husband, do you remember?

A. I only hired Cosgrove.

Q. You had Judge Cowenhoven in this case?

MR. STREITWOLF: Objected to.

COURT: I will allow it.

A. Yes, I did.

Q. He was your first counsel, wasn't he?

A. No.

Q. Who was your first counsel? 20

A. Mr. George Litterst.

Q. Then you got Mr. Cowenhoven?

A. Yes.

Q. And then you got my esteemed friend here?

A. Yes.

Q. Why did you give up these detectives?

COURT: She said she only hired one.

Q. Have you got your detectives working for you? 30

A. No, I couldn't stand hiring detectives; I didn't have the money to keep it up.

Q. You were not satisfied with their work either?

A. They didn't get me the evidence.

Q. How long were they hunting around Metuchen?

A. About three weeks off and on.

Q. Did you see them frequently there?

A. I didn't see them; I saw them on two or three occasions. I saw a man that was doing detective work.

Q. Didn't they make a report to you what they were doing?

A. I came in to Newark to report and hear their reports, yes; my lawyer has the detectives' reports.

10 MR. STREITWOLF: I will offer them if you wish them.

Q. You had these detectives hired to watch your husband for about six months, didn't you, before you shut your house up?

A. No, sir.

Q. How long before you broke up and went off and shut your house up and took everything out?

A. I cannot just remember when I engaged  
20 them.

Q. For what period; what period did it extend over, some weeks or months?

A. No, just three weeks they were on.

Q. You say that your husband was indifferent to you; when did that start, that he didn't give you money as you wanted?

A. After I accused him in July, then I went away for five weeks and our relations were very much strained.

30 Q. Do you think it was a proper thing for you to accuse your husband of running with other women and continually telling him that every time he came in the house; do you think that was a proper thing for you as a wife?

A. I do; I was neglected night after night.

Q. How, in what way?

A. Staying away from me until three and four o'clock in the morning.

Q. Don't you know that he had a garage there and had to be in it night and day?

A. There is just as much occasion for him to be there now, but he is not there at night now every day.

Q. Then when your husband would come home you would continually accuse him of running with other women and Mrs. Waite?

A. No.

Q. When did you first commence accusing him 10 of that?

A. In July.

Q. What year?

A. 1914.

Q. And you kept that up continually until you shut up the house, didn't you?

A. No.

Q. When did it cease?

A. When I spoke to him again; after I accused him on Sunday, I spoke to him again on Tuesday— 20 I was going to the garage, it was toward evening and it was time to go up to the house and I asked him what he was going to do with this Waite woman affair, and he didn't make any reply, and I said, "Don't think that you are going to bluff this off with me, because you are not," and I said, "You will either give that woman up, or you will give me up and you will support me." And he said that I could have anything I liked to ask for, but he would 30 go with any woman he d— pleased.

Q. Don't you think that would be the natural conclusion of any man whose wife would be continually hounding him and accusing him of running with other women?

COURT: We are not interested in her opinion.

Q. Then the disturbing business between you

and your husband about other women kept agitating for two years?

A. I didn't accuse him after that; after I said what I did, he decided and he said he would go with any one he d—— pleased; I said, "Very well, I know your attitude and I shall fight this thing to the bitter end." And there isn't one thing that I said that I haven't tried to get evidence against him.

10 Q. You were hunting the evidence in every direction?

A. Yes.

Q. And using detectives in every direction?

A. I employed Cosgrove, yes.

Q. Didn't you accuse him of running with other women in Metuchen?

A. No.

Q. No other woman at all?

A. No, sir.

20 Q. Sure of that?

A. No, sir.

Q. Only Mrs. Waite?

A. That is all.

Q. Did you and Mrs. Waite visit each other?

A. After I became convinced that Mr. Bowers was in with her, I got in with Mrs. Waite for the sole purpose of finding out something.

Q. Then you wanted to get Mrs. Waite in your confidence?

30 A. Yes.

Q. You got an idea in your head, didn't you, now, in 1913, that your husband and Mrs. Waite were entirely too intimate for your peace of mind?

A. Yes.

Q. Then you made up your mind then that you were going to take the part of a detective and try to land him and her, if you could, did you not?

A. If they were guilty I wanted to find it out.

Q. And you didn't propose to leave a single stone unturned for that purpose, did you?

A. I had asked my husband—

Q. This Mrs. Waite was the only woman in Metuchen that you had any suspicion against?

A. I had suspicions, but I believe the Judge said that I don't have to answer that.

Q. You don't have to disclose names.

A. I did have suspicions, but I never accused him of it in regard to another woman. 10

Q. Then you say you had suspicions that he was running with other women?

A. Because the maid I had in my employ told me every time I went to New York my husband—

Q. From whom did you obtain those suspicions?

COURT: You need not answer that.

Q. What led you to those suspicions?

Objected to. Objection sustained.

Q. Who was that maid? 20

Objected to. Objection sustained.

THE COURT: After you saw this incident of the 18th or 19th of November, between that time and when you closed the house on the seventh of December, did your husband live at home with you?

WITNESS: Yes, in the same house.

RE-DIRECT EXAMINATION BY MR. STREIT-  
WOLF: 30

Q. You didn't say anything to him during that period, however, of what you had seen?

A. No, sir.

Q. And as I understand your testimony, you said that you hadn't cohabited with him from March a year previous?

A. No.

Q. When did you and your husband cease to have marital relations as husband and wife?

A. In the latter part of March or first part of April, 1913.

COURT: This is 1916.

WITNESS: 1914; my son was married on the sixth of May; I left his bed the latter part of March.

10 Q. It was October, 1913, you had suspicions, and in July you addressed your remarks to him?

A. Yes.

JOSEPHINE KRATZIG, sworn for petitioner.

DIRECT EXAMINATION BY MR. STREITWOLF:

Q. Where do you live?

A. 161 Chadwick avenue.

20 Q. Are you married?

A. Yes.

Q. You live with your husband there?

A. Yes.

Q. And family?

A. Yes; I have one boy and my husband.

Q. When did Mrs. Bowers come to make her home with you?

30 A. The eighteenth of November 1915—she came first the eighteenth of November, but didn't come to stay until the seventh of December, when she broke up her home.

Q. How long was she there with you in November?

A. From Wednesday until Sunday of that week.

Q. Had you ever known her before?

A. Yes, I had made her acquaintance.

Q. When?

A. I had met her in the small vegetable store on

the opposite side and had a conversation with her and had consented to take her in to board.

Q. How many weeks before that?

A. That was, I think, about the seventh of November.

Q. You never knew her, then, preceding the time that you met her, which you just referred to?

A. No, sir.

Q. Coming down to the night of November 18th, was Mrs. Bowers at your home that night? 10

A. Yes.

Q. Tell us just what you saw.

A. During the whole evening?

Q. Yes.

A. Both Mrs. Bowers and I saw them arrive just a little before twelve, between twenty and ten minutes of twelve, and we didn't see any more until he came out at just five minutes after four in the morning. 20

COURT: How did he leave there?

WITNESS: In the automobile.

Q. How do you know that it was five minutes after four?

A. From July until long into November of each year I sit up with asthma, and I always—my husband is in the adjoining room and I always have his watch so as to waken him in the morning and also to take my medicine during the night; that was why I knew the exact time. 30

Q. Tell me more minutely when you observed him leaving five minutes after four.

A. I saw him kiss her at the doorway, the door partly ajar, and then he came over and got into the car, and as he did, he looked up, and my mother was sick at the time and I made a hasty move and he

looked up and he went back and spoke to Mrs. Waite on the stoop, and then came back and got in the car and drove off.

Q. That man you saw that night, do you see him here?

A. Yes, there he is (indicating Mr. Bowers).

Q. That was the first time that Mrs. Bowers identified that man to you?

A. Yes.

10 Q. Had you seen him previously?

A. About three or four times a week from June up until that time.

COURT: You didn't know who he was?

WITNESS: No, not until Mrs. Bowers asked was he the same man that I had seen all these times and I said "Yes."

20 Q. You say you saw him as often as three or four times a week, commencing at what period?

A. It was in June that it first started.

Q. Do you remember he moving in or Mrs. Waite into 162?

A. Yes.

Q. When was that?

A. It was along in June, because I had contemplated taking the flat myself.

30 Q. How soon did these visits commence from the time she moved there?

A. About a week after that; I had noticed at first he came in the daytime.

Q. But you wouldn't say that he had not been there before that?

A. No.

Q. But you only observed him a week afterwards?

A. Yes.

Q. Go on; you say you first observed him in the daytime; then what did you observe?

A. As it come on to July and I was suffering with asthma, I noticed him nights, coming night after night, and I commented to my husband and said—

Q. Did you see an automobile?

A. Yes.

Q. Where would that be stationed when he 10  
would come?

A. Right in front of my door.

Q. How long did he remain on these various visits?

A. Until two and three—between two, three and four in the morning, and on some occasions it was there all night.

Q. Do you remember an occasion in August, something about a railing and window? 20

A. Yes, sir, that was during real hot weather; I don't just remember the date, but it was during hot weather.

Q. What month do you place it?

A. In August, I should think; I cannot say just when.

Q. What did you see? Fix the hour first.

A. I saw Mrs. Waite and Mr. Bowers, I saw them come, it was before twelve, I think along about 30  
eleven o'clock, and it was about 1.30 that he was going away; they looked up and down out of the window first, to see if anybody was looking; he came out and came very quickly across the street to get into the machine; he changed his mind and he went back, and I told you it was a railing—it is what the carpenters call a water table, which is about an inch and a half, and he put his foot up onto this molding and

put his arms up onto the window to look into the window; she didn't come to the window, and the first thing I knew she came to the door; she appeared at the door, and as she did, she saw the machine there, she coughed, and he got down and went to the stoop, to the door—

MR. BEEKMAN: I object.

10 A. (Continuing) She stood against the side of the door, she was in her nightdress with her hair hangng down her back; he put his arm around her and kissed her and he came down and came across and as he did, he had to go—he turned the machine around and he waved, and as he waved going past she sunk down on the stoop like; she didn't wave as she usually did, she just dropped her hand and sat down, and he had gone, I presume, about two  
20 blocks, when he returned, and he took her in his arms then and loved and kissed her, and then went down and went off in his machine. That was during the extreme hot weather.

Q. How long did that demonstration continue?

A. It continued long enough for him to go about two blocks. He didn't just merely take her in his arms, but he hugged and kissed her. Anyone would know how long that would take.

Q. Commencing at what period did you keep a notation of the visits of Mr. Bowers at the home of  
30 Mrs. Waite?

A. Do you mean that I kept an itemized account?

Q. Yes.

A. From November 7th.

Q. That was the first time you saw Mrs. Bowers, was it not?

A. Yes.

Q. Was it by her request that you did so?

A. Yes.

Q. Will you detail what you—

COURT: Can you testify without the memoranda?

WITNESS: They were so often, I cannot.

COURT: When did you make those memoranda; at the time?

WITNESS: Each time. I had this sheet of paper and each day I marked it, and each day as it occurred I would mark it down. It was November 7th he left at 1.45 at midnight.

Q. You mean he left the residence of Mrs. Waite?

A. Yes.

Q. Do you know what time he got there?

A. No.

A. The 9th was 3.15 in the morning he was leaving.

COURT: This is the date and hour he left the residence of Mrs. Waite?

WITNESS: Yes. The 11th he came at 5.40 and they went in the machine with an old aunt and George Krug, and they returned about eleven o'clock and he left between twelve and one; I didn't look at the time; and that is the night that there were also demonstrations, which I would mark down whenever anything would occur. And on Sunday the fourteenth he came.

Q. What happened on the eleventh?

A. On the eleventh, as soon as they returned home George Krug went upstairs—he lives upstairs—the aunt had a light and went to the third floor where she slept; Mr. Bowers removed his coat and vest and sat in the side window in his shirt sleeves; Mrs. Waite disappeared for a few minutes and then appeared, and I saw her put her arms around Mr. Bowers, and as she was sitting on the arm of the chair, and then the two of them disappeared and

they never appeared until quarter of two, and then they looked up and down the street to see if anybody was looking.

Q. When was the next occasion?

A. On Sunday the fourteenth, he came at four in the afternoon and then they went away and came back about 10.30; he left at quarter of two in the morning. November sixteenth, he was there—

10 Q. Just before November 16th; was there demonstration on the fourteenth?

A. Yes, I saw him kiss her good-night at the doorway and she was in her nightdress.

Q. Give me the sixteenth.

A. The sixteenth they both came at eleven o'clock and he left at 1.30; she went out about eight and returned with him in the machine about eleven o'clock at night.

Q. The next date?

20 A. The eighteenth of November, that is the morning he left at 4.05, as I have already testified.

Q. The next time?

A. On the twenty-second he left at ten minutes of twelve; I don't know what time he got there; I saw him kiss her that night, and here in particular, I know it was the night of my mother's funeral services, and he left the machine in front of her door that night, and my aunt was rooming next door and she saw it also.

30 Q. The next occasion?

A. On the twenty-fourth; on the night of the twenty-second I overheard him making an engagement for the twenty-fourth.

Q. What did he say; state what he said.

A. He said something about on the train—coming in on a certain train, and he didn't know whether he could make it or not, but for her to come in on a

certain train; I didn't hear the reply. The engagement was made for the twenty-fourth, and he got there on the twenty-fourth about seven o'clock.

Q. The next occasion?

A. On the twenty-fifth he was there, Thanksgiving; they came at 11.40 and he left at 1.25 at night, the following morning, and on the twenty-sixth he came in the morning and he couldn't get in, and he returned about four in the afternoon and he and her went away in his automobile. 10

Q. You didn't see him come back?

A. No.

Q. When was the next occasion?

A. On the thirtieth I saw him leave the house with her son and come back in about half an hour with the machine; that was in the morning of the thirtieth; he came back in the machine and the son got out and she got in and they returned that night at 11.30 and he left at five minutes of one the following morning. 20

Q. The next occasion?

A. December second he left at five minutes of one that morning.

Q. You don't know what time he went there on December second?

A. No, I don't; I must have dozed off and didn't know. December fifth he was there at seven o'clock and went away at 8.30 in the machine and returned about 11.30 and he left at once. 30

Q. The next date?

A. I haven't kept account of any more, because Mrs. Bowers then came to live with me.

Q. Since that time have you seen Mr. Bowers there at the home of Mrs. Waite?

A. Yes.

Q. How often?

A. Mostly every morning and occasionally at night I saw him come there; I saw him leave mostly every morning.

Q. When was the last time you saw him leave there?

A. I think it was day before yesterday; it was Saturday morning I saw him the last time, her and her son went out.

Q. Did you see him Saturday night?

10 A. No, sir.

Q. Did you see this occasion that Mrs. Bowers has testified to, on the twenty-sixth of December?

A. Yes.

Q. Tell me what you saw.

A. I saw him kiss her at the doorway; it was around eight o'clock, a little after eight in the morning.

Q. Have you seen any other manifestations of regard?

20 A. I saw them often; they are too numerous to repeat.

Q. When was the last one you saw?

A. You mean since Mrs. Bowers—

Q. The last you saw between Mr. Bowers and Mrs. Waite

Q. Yes.

30 A. The night before Easter I saw him come in on her arm, he had hold of her arm, he came across the street with her on her arm a week ago Saturday night.

Q. Going back between June and November seventh, during the period that you claim that you didn't take particular notice, do you recall any one particular thing that occurred that impressed itself upon your mind; between June and November what happened there in addition to this one in the hot weather you spoke of?

A. Yes, I remember the machine twice during that period remaining out doors all night in front of my home.

Q. What date was that?

A. I don't know; Mrs. Bowers asked me to keep an account after November seventh, and it was a week previous to that, that I had noticed that she came out in the morning with a fur coat on; his fur coat. I had seen him wear it before this date, but I don't know just exactly which date, but it was along the first part of October, and it was on a Sunday night, the first part of October, that the machine remained out all night in front of my door. 10

Q. Did you see the machine arrive that night?

A. I think I did.

Q. Did you see the machine there?

A. I did; I saw it there all night long, and quarter of six I saw Mrs. Waite with a little kimona on come over and put the tail light out, and at five minutes of seven Mr. Bowers went away in the machine, but at quarter of six she came out with a little kimona on, and put the tail light out. 20

#### CROSS EXAMINATION BY. MR. BEEKMAN:

Q. What is your husband's business?

A. He is a conductor on the Central Railroad; he has worked there twenty-one years.

Q. How long have you lived where you live now? 30

A. Five years next October.

Q. Who first called your attention to Mr. Bowers and Mrs. Waite?

A. Nobody; myself.

Q. How did you come to get interested in it?

A. Because it was interesting to me, sitting up all night, to wile away some of my time.

Q. What were you sitting up all night for?

A. I had the asthma.

Q. Have you got it now?

A. No, sir.

Q. Who is your doctor?

A. Dr. William J. Ward.

Q. Have you got cured of your asthma?

A. No.

Q. You don't talk as if you had it now?

10 COURT: She hasn't it now.

Q. Then on account of the asthma you were sitting up all night at that time?

A. I had sat up from the beginning of July until November.

Q. When did you sleep; did you get any sleep all that time?

20 A. I could generally lay down, some nights I never could lay down; some nights I could lay down after four o'clock; other times I took my rest in the day time.

Q. When your attention, then, was first called to Mrs. Waite, was when Mr. Bowers came to see her?

A. No.

Q. How did you come to run in with Mrs. Bowers?

30 A. Through a vegetable man I deal with.

Q. Is he in court?

A. Yes, sir.

Q. How did he come to call your attention to it?

A. I had repeatedly spoken to them that I was watching a small flirtation and that I knew by my personal observation that it wasn't straight, and that if I knew who his wife was I should certainly tell.

Q. That aroused your curiosity then?

A. Why, certainly, I was aroused. The whole neighborhood was aroused.

Q. What other part of the neighborhood was aroused?

A. All of them.

Q. People in that neighborhood keep such an oversight of such things?

A. They couldn't but help to in that affair, it was too bold?

Q. Did Mrs. Bowers come then and employ you as a sort of detective?

A. No.

Q. Did she pay you anything for it?

A. No, sir. I volunteered, but not until after my second conversation with her, but I had previously spoken to the neighbors that I would volunteer any information; as a married woman, I knew it wasn't right.

Q. You wouldn't want your husband to go that way?

A. I wouldn't stand for it.

Q. How did you come to have the exact hours and minutes?

A. I had the watch, as I said before.

Q. Why did you keep a watch?

A. To take my medicine and call my husband.

Q. How often did you have to take medicine?

A. Every hour. The watch was on the window ledge.

Q. Then you were watching your neighbors at the same time?

A. I couldn't help it.

Q. It was in the front room?

A. Yes.

Q. Was the light burning in Mrs. Waite's house all night?

- A. No, sir; there is an arc light in front, in the street, and if her dining-room lights were lighted I could look into her dining room.
- Q. She had no curtains on the window?
- A. They would be pulled down when Mr. Bowers was there; when he wasn't they would not.
- Q. How do you know that; is that from information?
- A. Personal observation.
- 10 Q. Did you ever see them pulled down when anybody else was there?
- A. No, sir.
- Q. How big a family has Mrs. Waite got?
- A. She now has her son, Mr. Bowers and herself.
- Q. Anybody else?
- A. At one time she did.
- Q. How many people live in that house?
- A. It is a two family house.
- 20 Q. Who is the other family?
- A. Their names are Krug.
- Q. Do you take as much interest in their affairs?
- A. No, sir! I didn't know Mrs. Krug.
- Q. How long was Mrs. Bowers boarding with you?
- A. About three months.
- Q. Pay her board?
- A. Yes.
- Q. What board did she pay you?
- 30 A. Seven dollars a week.
- Q. Then you and Mrs. Bowers sat up and watched Mrs. Waite's house after she got there?
- A. Not necessarily.
- Q. Did you or did you not?
- A. I watched it, yes.
- Q. Did you both watch at the same time?
- A. No, sir.
- Q. What would you do, relieve each other?

A. Not necessarily; I am a dressmaker and I sew in the front, and there was very little that could go by that I couldn't see.

Q. There is very little goes by but what you do see; you saw everything that went on?

A. I was interested enough to observe it.

Q. What interest had you outside of Mrs. Bowers being your boarder, to be observing these things?

A. Because it wasn't right, and if I could help her out, I was willing to do it. 10

Q. Is that a public street?

A. Yes.

Q. People going up and down?

A. Yes.

Q. Much traffic on it?

A. Yes.

Q. Any policemen?

A. Very seldom.

Q. Are you a German? 20

A. No, sir.

Q. What nationality is your husband?

A. He is an American, from French and German descent; he was born in this country.

Q. Were you born here?

A. Yes, sir.

Q. What is your nationality?

A. They are all American, they are all born here; English, I guess. 30

Objected to. Objection sustained.

Q. When did you first find out that that gentleman over there was Mr. John C. Bowers?

A. Eighteenth of November.

Q. Was that before you met Mrs. Bowers or after?

A. No, sir, Mrs. Bowers was staying at my house for three or four days.

Q. Then Mrs. Bowers came there for the purpose of getting rooms of you, boarding with you, for the purpose of watching Mrs. Waite and her husband?

A. Yes.

Q. She came there for that purpose?

A. Yes, and I took her in for that purpose.

Q. Did you know that Mr. Bowers was boarding with Mrs. Waite?

10 A. He wasn't boarding there then.

Q. How do you know he wasn't?

A. Because he was home at his wife's home; he didn't come there to board until Mrs. Bowers broke up her home.

Q. And he came there then to board?

A. Yes, sir.

Q. Did you know that Mr. Bowers came from Metuchen to Newark to Mrs. Waite's always in the automobile and went away in the automobile?

20 A. Whenever I observed him.

Q. When was the first time that you saw Mr. Bowers kissing Mrs. Waite?

A. I saw it on so many occasions, I cannot recall.

Q. The first time; mention the first time you saw Mr. Bowers kiss Mrs. Waite.

A. It was during the hot weather; I wasn't interested enough then to keep any dates.

Q. Did you keep any dates of that?

30 A. Not then, no.

Q. Where did that occur?

A. Right in the doorway or in her window.

Q. Was it in the window or doorway?

A. I saw it both at the doorway and at the window.

Q. At the same time?

A. No, I saw her kiss him in the window.

Q. Were they inside the house?

A. The side window, in the room.

Q. At night or day time?

A. At night.

Q. Curtains up?

A. The curtain was up.

Q. You said the first part of August you saw Mr. Bowers come out of 162 Chadwick avenue and cross the street and get in the car, and then he apparently changed his mind and returned to the house, whereupon he climbed up on the railing in front of the house to rap on the window and attract attention of Mrs. Waite; is that so? 10

A. Yes, sir.

COURT: Except she corrected "railing" and meant the water table.

Q. What time of the day or night was this? —

A. Along about 1:45 or so.

Q. How did you locate the time? 20

A. I tell you I didn't keep count then of the time and that is why I am just guessing at it, but I know it was past midnight, along toward two o'clock.

Q. Mrs. Bowers wasn't living with you then?

A. No, sir.

Q. The second time you saw him kiss Mrs. Waite when was that?

A. I cannot tell.

GERTRUDE STEVENS, sworn for petitioner. 30

DIRECT EXAMINATION BY MR. STREITWOLF:

Q. Will you give your name and address, please?

A. Mrs. Gertrude Stevens, 161 Chadwick Ave.

Q. How long have you lived there?

A. Going on four years.

Q. What apartment of 161 do you occupy?

A. Top floor, third floor; it is a six-family house.

Q. Do you recognize this gentleman at the counsel's table, who is Mr. John C. Bowers?

A. Yes, I do.

Q. When did you see him first?

A. Last summer sometime, in the hot weather it was.

Q. How often did you see him after that?

A. Most every day.

10

COURT: Where did you see him?

WITNESS: At Mrs. Waite's house.

Q. Did you see his automobile?

A. Yes, very often.

Q. Where was it generally stationed?

A. It was generally in front of 161 where I live.

Q. What is your business; you are a nurse?

20

A. Yes.

Q. Come home late at night?

A. I do.

A. As late as three or four o'clock in the morning, about the break of day coming on.

Q. Did you see Mrs. Waite in the car?

A. Yes.

Q. Did you ever see Mr. Bowers with Mrs. Waite?

A. Yes.

30

Q. I bring you down to one single occasion, November 22, 1916; does that bring anything to your mind?

A. On November 22nd, that night Mrs. Kratzig's mother's funeral services were being held just before twelve o'clock—I cannot say, between half past eleven and twelve o'clock—I saw Mr. Bowers and Mrs. Waite come out of Mrs. Waite's house,

and she had a fur coat on; she went to the rear of the car like—that was the other occasion.

Q. Never mind the detail; tell us what you saw on November twenty-second.

A. I saw them both coming out of Mrs. Waite's house.

COURT: At what hour?

WITNESS: Around twelve o'clock at night, because I had just left Mrs. Kratzig's house and went upstairs, and the car was in front of Mrs. Waite's house that night. 10

Q. What did you see?

A. I don't just remember what I saw that night, but I know that Mr. Bowers came out of Mrs. Waite's house and she had a fur coat on.

Q. The point I am getting at is, did you ever see any evidence of regard, if I might use that term, between Mrs. Waite and Mr. Bowers?

A. I didn't know—yes, I did, now it comes to my mind, they kissed one another; then I didn't know Mr. Bowers nor Mrs. Waite; I thought they were man and wife. 20

Q. Was that on November twenty-second.

A. Yes. She came out to the car, and then they went back and they kissed on the porch; that was it, he kissed her on the porch.

Q. Did you ever see anything other than that?

A. There was one night in the beginning of the first week in November, I was wakened by the chucking of an automobile and it was just beginning to get daylight, the arc light hadn't been put out yet, but just about ready to be turned out, and I saw Mrs. Waite come out, the car was in front of our house, 161, and whether she turned the light out or turned it on, I don't know; I saw Mrs. Waite come out and she went to the rear of the car, and I thought that she turned the tail light out. 30

Q. How was she dressed when you saw her?

A. She had a fur coat on that night.

Q. In the morning when you saw her coming out?

A. She had a fur coat on that morning, but the twenty-second of November she came out, and I thought it was her nightdress.

CROSS EXAMINATION BY MR. BEEKMAN:

10

Q. Where do you live?

A. 161 Chadwick avenue.

Whom do you live with?

A. My mother; her name is Mrs. M.

Q. Who first called your attention to this case?

A. Myself, all the summer months.

Q. Have you been talking to anybody about this case?

A. No, had no occasion to I didn't know but what they were man and wife.

20

Q. Did you tell anyone what you knew about it?

A. No.

Q. Never told anybody?

A. No, never said a word.

Q. What you saw you kept to yourself?

A. Yes. I thought they were man and wife and they were so affectionate.

Q. You never told Mrs. Bowers what you saw at all?

30

A. Not until after I had met Mrs. Bowers. Not until after I was made acquainted with Mrs. Bowers.

Q. Then you told her what you saw?

A. Yes.

Q. Are you married?

A. Yes.

Q. What does your husband do?

A. Chauffeur on an automobile.

Q. What did you see between Mr. Bowers and

Mrs. Waite; what did you see out of the way, which you considered wasn't proper for people—

THE COURT: I don't want her to characterize what she thinks wasn't proper.

ELLA CRAWFORD, sworn for petitioner.

DIRECT EXAMINATION BY MR. STREITWOLF.

Q. You were the maid in the employ of Mr. and Mrs. Bowers up until the time they broke up their home in December last?

A. Yes, sir. 10

Q. How long had you been with them?

A. Five weeks.

Q. During that period of time what did you notice between Mr. and Mrs. Bowers in the way of their relations one to the other?

A. They never spoke at all hardly; they ate at the same table and never spoke to each other.

COURT: What period of time did that five weeks cover? 20

WITNESS: Just before they left, the last five weeks.

Q. What else did you notice that was strange between Mr. Bowers and Mrs. Bowers; what did you observe in regard to their conduct to each other?

A. On two occasions Mr. Bowers hadn't been at home.

Q. When were they?

A. I didn't take any notice of the date, because I didn't think I would have to come and tell it. 30

Q. Was the first or latter part of your employment?

A. The first and latter part both, the first week and third of my employment.

Q. Do you recall an occasion when Mrs. Bowers was away while you were in their employ?

A. Yes.

Q. How many days was she away?

A. She was away three days.

Q. Was it during that period that she was away three days that Mr. Bowers did not come home at night?

A. Yes, one night.

Q. You made up his room, did you not?

A. Yes.

Q. So you knew also from the condition of that room, that he hadn't been there?

10 A. Yes, the bed never was touched.

Q. What did Mr. Bowers do, if anything, on occasions when his wife's back would be turned?

A. Sometimes he would mock and fool; he would laugh behind her back sometimes.

Q. Sneer at her is what you mean?

A. Yes.

Q. What else did you see between Mr. and Mrs Bowers?

20 COURT: What did you observe about their relations to each other?

WITNESS: They never spoke.

Q. What else was there besides not speaking; did they occupy separate rooms or not?

A. Yes, they had both separate rooms.

CROSS EXAMINATION BY MR. BEEKMAN:

Q. What period of time was it that you lived there?

30 A. Five weeks in 1915, last year.

Q. Why did you leave there?

A. Mrs. Bowers was leaving her home and I left with her.

Q. Did you say that Mr. Bowers and his wife sat at the same table and wouldn't speak to each other?

A. Yes.

Q. Would they speak at other times?

A. No, I never saw them speak to each other during the five weeks I was there.

Q. Did you ever hear Mrs. Bowers at that time accuse him of running with other women?

A. No, sir—yes, she told me.

Q. No, did she ever tell Mr. Bowers that?

A. No, sir, I never heard her say that.

Q. From what she told you, did you form the conclusion that she was very jealous?

Objected to. Objection sustained. 10

Q. Would they quarrel with each other?

A. No, sir, never heard them quarrel.

Q. Did he give her money whenever she wanted it?

A. I don't know.

Q. Who paid the household expenses?

A. I don't know.

Q. Will you swear that when Mrs. Bowers went away she didn't want you to walk up in front of his door in your nightdress? 20

A. I walk in my night dress?

Q. Did Mrs. Bowers ever ask you to do that?

A. No, sir.

Q. What else did you see; you say that they wouldn't speak to each other at the dinner table; what else unusual did you see?

A. They didn't occupy the same room.

Q. Anything else?

A. No, sir; I didn't pass any remarks about that; I didn't pass any remarks. 30

Q. That is all you know about it?

A. Yes.

MAX GREENBLAT, sworn for petitioner.

DIRECT EXAMINATION BY MR. STREITWOLF:

Q. You are engaged in business where?

A. 191 Chadwick avenue.

Q. Did you ever see this gentleman before (pointing to Mr. Bowers)?

A. A couple of times.

Q. Saw him in your place of business?

A. Yes.

Q. Who was with him?

A. Mr. Bowers a couple of times bought cigars—he was most of the time alone; one time he was alone and one time Mrs. Waite was with him.

10 COURT: When were these occasions?

WITNESS: I should think about six months ago.

Q. The occasion when Mrs. Waite was with him what time of the evening was it?

A. I cannot remember; I don't keep track of the time.

Q. How late do you keep open?

A. Eleven o'clock.

Q. What kind of business have you?

A. Cigar and stationery business.

20 Q. Did you serve them with cream that night?

A. Mrs. Waite had a soda.

Q. You say they were only in your store once?

A. With Mrs. Waite at once.

Q. Isn't it true that you would get telephone messages from Metuchen and deliver them to Mrs. Waite?

A. I don't know where they come from.

30 Q. Didn't you deliver telephone messages to Mrs. Waite?

A. I would call Mrs. Waite to the phone, but not deliver any messages.

Q. You would go from your store 191 Chadwick avenue and go up to 162 Chadwick avenue?

A. I sent the boy to call Mrs. Waite to the phone.

Q. You know that from your service with the Telephone Company you had many telephone calls

out of your place into Metuchen, don't you?

A. I don't know that, because I got a closed booth.

Q. You know what the receipts are from that booth?

A. No, sir, I do not.

Q. Didn't you get a percentage and statement?

A. I get ten per cent, but I don't know what they are; the company collects them.

Q. When you would answer the phone what did they tell you to say to Mrs. Waite? 10

A. Just call her to the phone.

Q. Didn't they say "Metuchen is calling?"

A. No.

Q. Didn't you tell Mrs. Kratzig that; you said that Metuchen would call up?

A. I think I did one time.

Q. So there was an occasion when a telephone message came in and you delivered it to Mrs. Waite? 20

A. Yes.

Q. Did she come back to your store?

A. Yes.

Q. To telephone?

A. Yes, that is it, I remember that distinctly, now.

CROSS EXAMINATION BY. MR. BEEKMAN:

Q. You simply attend to your own business and let your neighbors alone?

Q. You have calls often from all over the state? 30

A. Not all over the state, but people call customers to the phone, and I do that to help them out.

Q. And all you know is, that if there was a telephone call from Metuchen for Mrs. Waite, you don't know whom it was from?

A. No.

Q. You didn't consider it any of your business?

A. No.

FREDA DENSTMAN, sworn for petitioner.  
DIRECT EXAMINATION BY MR. STREITWOLF:

Q. Where do you live?

A. 136 hadwick avenue.

Q. You are in business where?

A. I live 531 Clinton avenue and my store is 136 Chadwick avenue.

10 Q. You do business with your husband at that store?

A. Yes.

Q. You both work together?

A. Yes.

Q. What is the nature of your business?

A. Vegetable store.

Q. Grocery store?

A. Vegetables and fruit.

Q. You know Mrs. Waite?

A. Yes.

20 Q. Do you remember a certain occasion when she called at your place and bought some peaches?

A. Mr. Bowers bought some peaches from me; that was when the peach season was on; they were in the automobile and he came down and bought peaches

Q. Was there an occasion when Mrs. Waite bought some things there and asked to have them charged?

30 A. Once she wanted to have grapes charged; she wanted grapes and she said she hasn't got enough money, so we didn't say anything.

Q. Did she say who would pay for them?

A. No, the next day she sent in the boy and he got grapes.

Q. Was there any occasion when Mrs. Waite went in your store, bought something and charged it, and said her husband would pay for it?

A. No.

Q. Sure of that?

A. No; once Mr. Bowers ran down with the automobile and he got some peaches and he paid for them.

No Cross Examination.

AMBROSE MUNDY, sworn for petitioner.

DIRECT EXAMINATION BY MR. STREITWOLF:

Q. Where do you live? 10

A. Metuchen, New Jersey.

Q. You were the landlord of the premises occupied by Mrs. Waite?

A. I was.

Q. At Metuchen?

A. I was.

Q. How long was she living there?

A. From November 5, 1913, until April 5, 1915.

Q. Mrs. Waite's leaving there, was that by your request? 20

A. Yes.

Q. Did you ever see Mr. Bowers there on your calls at that place?

A. I have.

Q. On how many occasions?

A. Very few.

Q. Was it night time or day time?

A. In the day time.

Q. Was it on account of what you saw that you asked Mrs. Waite to leave the property owned by you? 30

A. No, sir|

CROSS EXAMINATION BY MR. BEEKMAN:

Q. What you saw between Mr. Bowers and Mrs. Waite, was there anything that would be unusual between neighbors?

A. Absolutely nothing.

Q. You saw nothing in the conduct of either that wouldn't be perfectly proper in the neighborhood?

A. Absolutely so.

ANNIE PIERSON, sworn for petitioner.

DIRECT EXAMINATION BY MR. STREITWOLF:

10 Q. You live at Metuchen?

A. Yes.

Q. How long have you lived there?

A. Ever since I was born.

Q. Do you know Mrs. Louise Waite who is in court today?

A. Yes.

Q. How long have you known her?

A. About five years.

Q. And Mr. John C. Bowers and Mrs. Bowers?

20 A. I know them.

Q. Do you know where Mrs. Waite was living in 1914 and 1915?

A. Yes.

Q. Where?

A. On Clarendon Court, Metuchen.

Q. Did you ever see Mr. Bowers calling at her residence at Clarendon Court?

A. No.

30 Q. You did not?

A. No.

Q. Did you ever see Mr. Bowers and Mrs. Waite together?

A. Yes.

Q. On how many occasions?

A. One.

Q. Where?

A. He stopped at the end of the street with the

automobile and she came up and got in the automobile and they drove off.

Q. Day or night time?

A. Day time.

Q. Did you ever observe Mr. Bowers in the premises or about the premises of Mrs. Waite?

A. No.

CROSS EXAMINATION BY MR. BEEKMAN:

Q. Mrs. Waite was on the street and he came by in the automobile and he stopped and invited her to ride? 10

A. Yes.

Q. And went towards her home?

A. No.

Q. Which way did they go?

A. I don't remember.

Q. This was in the day time?

A. Yes.

Q. What time of the day was it? 20

A. I don't remember.

PETITIONER RESTS.

JOHN C. BOWERS, defendant, sworn.

DIRECT EXAMINATION BY MR. SPENCER:

Q. Where do you reside?

A. 162 Chadwick avenue, Newark.

Q. Where did you reside previous to living there?

A. Metuchen, New Jersey. 30

Q. How long?

A. About seven years.

Q. Where did you live in Metuchen?

A. On the Plainfield Road.

Q. With your family and family?

A. Yes, my wife, my son and his wife, and the maid.

Q. Where is your son living now?

- A. With his father-in-law.
- Q. Was he married while you lived at Metuchen?
- A. Yes.
- Q. Where did he live after he was married?
- A. At the house for a while.
- Q. With you and your wife?
- A. Yes.
- Q. How long?
- A. A short time; I cannot state exactly.
- 10 Q. When did they move?
- A. I cannot tell you the exact date; they were there a short time after they were married.
- Q. Where did they move to?
- A. Down to Metuchen.
- Q. Do you know why they moved?
- A. Certainly.
- Q. What was the reason?
- A. Because things were uncomfortable for the new wife.
- 20 Q. In what way?
- A. Continually nagging and so forth.
- Q. By whom?
- A. By Mrs. Bowers.
- Q. What about?
- A. She was of an extremely jealous disposition and she was jealous of male or female, it mattered not which.
- Q. Did she connect you with her jealousy?
- A. No.
- 30 Q. Why was she jealous of your daughter-in-law?
- A. The girl didn't show sufficient affection; all such things as that; didn't meet her cordially at times; probably didn't feel like it.
- Q. And the consequence is it became very unpleasant and she and your son moved away?
- A. Yes.

- Q. Where did you live before then?  
A. In Brooklyn, New York State.  
Q. What business are you conducting in Metuchen?  
A. Garage.  
Q. Where is that located?  
A. On Middlesex avenue.  
Q. A large garage?  
A. Fairly so, yes, sir.  
Q. And during the years 1914 and 1915, did you conduct the garage there at that time? 10  
A. Yes.  
Q. How much time did you spend in the garage?  
A. From fourteen to eighteen hours a day.  
Q. Sometimes very late at night?  
A. Yes.  
Q. How late?  
A. In fact, sometimes all night.  
Q. According to what you had to do?  
A. According to work that came along. 20  
Q. What did Mrs. Bowers say about that?  
A. Of course, she objected to it and really wanted me to give up the business.  
Q. Why?  
A. Because she thought it brought me in contact with too many people, I presume.  
Q. Did she ever come to the garage herself?  
A. Yes, decidedly.  
Q. When did the first trouble start between you and your wife in reference to Mrs. Waite? 30  
A. Directly after the boy was married; that was May 14—13 or 14.  
Q. How did that trouble start?  
A. I really cannot tell you, unless—I know one time Mrs. Waite was at the house to dinner and I was requested to take her home, and since then there has been this trouble.

Q. How long has Mrs. Waite and your wife been acquainted with each other?

A. I don't know; since childhood, I presume; long before my time.

Q. And you visited back and forth while you lived in Metuchen?

A. Yes.

Q. Did Mrs. Waite come to your house?

10 A. Yes.

Q. And you and your wife went to Mrs. Waite's?

A. Yes.

Q. Always friendly?

A. Yes, sir, and with her two sons also; they were in the garage very often.

Q. How many members in the family of Mrs. Waite?

A. At the present time?

20 Q. At the time she lived in Metuchen and you were visiting back and forth.

A. Four or five; sometimes four, sometimes five.

Q. She has accused you of being too intimate with Mrs. Waite; about how long ago?

A. I am trying to think of the dates; they gave them; I cannot remember; about two years ago.

Q. Were there any other families in Metuchen that you and your wife were acquainted with at that time?

30 A. Yes.

Q. That you visited?

A. We didn't visit together, no.

Q. The Waite family and your family were the two alternating visitors at that time?

A. Yes, sir.

Q. Did your wife accuse you—

A. Yes, with other persons, only too frequently.

Q. How many other persons?

A. Three or four, every one I came in contact with.

Q. Where would she display her attitude toward you of that nature?

A. Right in the garage.

Q. What would she say; can you recall any particular occasion when she displayed that attitude?

A. Nothing particular; it was quite frequent, you know.

Q. In what manner would she do it? 10

A. Accuse me of giving people attention that I should not do.

Q. In what way?

A. In a business way.

Q. How would she express herself?

A. Telling me how sweet I could be to everyone that came in.

Q. And she took exception to that?

A. Surely.

Q. And that took place in the garage? 20

A. Yes.

Q. How often did she come to the garage?

A. Every day.

Q. Did you ever notice her anywhere else in Metuchen looking after you or your interest?

A. Yes, she used to be dogging me around, of course?

Q. Who owns the house and property where you lived? 30

A. Mrs. Bowers.

Q. What does that consist of?

A. House, barn and ten acre lot.

Q. Anybody living there now?

A. No, sir.

Q. Who paid for the house and property, do you know?

A. Mrs. Bowers paid for it originally.

- Q. That was hers?  
A. Yes.  
Q. Whom did the furniture belong to?  
A. To me, and I put about \$1500 worth of improvements on the house.  
Q. In what way?  
A. Decorations, painting, and new bathroom, hardwood floors, porch all around the house, grading  
10 Q. Where is the furniture now?  
A. Stored in New Brunswick.  
Q. When was that done?  
A. December seventh last.  
Q. Did you know anything about that beforehand?  
A. No.  
Q. What did you discover about the furniture being removed?  
A. I left the home about half past eight in the  
20 morning, or eight o'clock, and about half past two, my usual time going home—I couldn't have any set time for going out—half past two when I went up there with the various things that I had picked up for the house, I found everything locked up.  
Q. Was that the first you knew the furniture was going to be removed?  
A. Absolutely.  
Q. Where was your wife?  
A. Disappeared.  
30 Q. Do you know where she went to?  
A. No, I don't.  
Q. Has she been in the habit of going away without telling you?  
A. Yes, quite frequently.  
Q. How often?  
A. On and off occasionally.  
Q. For how long a time?  
A. From three days to three weeks.

- A. And would not tell you where she was going?
- A. No, sir.
- Q. When did that occur?
- A. Quite often.
- Q. Previous to the two years past?
- A. Yes, I think she started that about two years ago.
- Q. She says that you didn't furnish her any money; what have you to say about that?
- A. I furnished everything; absolutely every- 10  
thing. She has also said that I didn't furnish her clothes; look at her apparel and see.
- Q. Where did she have the benefit of trading?
- A. Everywhere or anywhere.
- Q. Where, in particular; did you have any charge accounts
- A. Yes.
- Q. Where?
- A. All the stores in Metuchen—butcher store, 20  
grocery store, the druggist and drygood store.
- Q. Any charge accounts out of Metuchen?
- A. Yes, in Metuchen, Bamberger's and Hahne's.
- Q. Would she go there and make her purchases?
- A. Surely.
- Q. And the bills would come to you?
- A. Yes.
- Q. Do you owe any bills for that account now?
- A. Yes.
- Q. Who? 30
- A. I owe to Hahne's and to Bamberger's.
- Q. And that is in judgment?
- A. No, sir, the judgment is from Abraham & Strauss, in Brooklyn, about \$150.
- Q. Was that on a charge account?
- A. Yes.
- Q. You carry life insurance, do you not?
- A. Yes.

Q. Who is the beneficiary in that?

A. Mrs. Bowers.

Q. How much is that?

A. \$3,000.

COURT: Was that taken out prior to the trouble?

WITNESS: Yes, twenty years ago.

Q. When does that expire?

A. Next year, March 3rd.

10 Q. When the payment of premiums ceases the benefits begin?

A. It becomes payable; it is an endowment policy.

Q. Mrs. Bowers is the sole beneficiary?

A. Yes.

Q. How did you come to visit Mrs. Waite in Metuchen, as she has said; did you visit Mrs. Waite at Metuchen?

20 A. Surely.

Q. How often?

A. Quite often.

Q. And the family?

A. Yes, sir.

Q. Who were the family?

A. The two boys were really the—

Q. Who were they?

A. Dwight Waite and Leonard Waite.

Q. Was one of them married?

30 A. No, sir.

Q. And they were companions of yours?

A. I wouldn't say that, but they were continually in the garage; they used to work for me, but not for compensation; they were continually in the garage, as boys will.

Q. Did you ever go to Mrs. Waite's for lunch?

A. Surely.

Q. Why did you do that?

A. When Mrs. Bowers went away there was no other place to go; there isn't a restaurant in Metuchen.

Q. How often did that occur?

A. That occurred frequently; one time three weeks at a stretch, and I slept home.

Q. Did you visit Mrs. Waite after she moved from Metuchen to Newark?

A. Yes; in fact, I brought her down to Newark the day they came. 10

Q. Does her son live with her yet?

A. Yes, one of them.

Q. Where is the other one?

A. In New Brunswick, because his business is there.

Q. What is his business?

A. Telephone, for the Telephone Company.

Q. Do you know what his business is?

A. I don't know; he is in the line department. 20

Q. Is he out considerably?

A. Yes, all the time.

Q. Is he home much? A. In Newark?

Q. Yes.

A. Occasionally.

Q. Do you still go to Mrs. Waite's?

A. I am boarding there at the present time.

Q. How long have you boarded there?

A. Since December 8th.

Q. That was the day your wife closed up the house? 30

A. Yes.

Q. The day the furniture was moved?

A. Yes.

Q. You have boarded with Mrs. Waite ever since?

A. Yes.

Q. And boarding there now?

A. Yes.

Q. Do you know Mrs. Kratzig?

A. No, sir.

Q. You saw her on the stand?

A. Yes.

Q. Did you hear her evidence?

A. Yes.

Q. And Mrs. Kratzig's and your wife's evidence?

A. Yes.

10

Q. Is it true or not that you stood in the doorway on different occasions, and in the windows on different occasions, and hugged and kissed Mrs. Waite, in their presence or in the presence of anybody else?

A. It is absolutely untrue, for there is no sense to it; after I had been in the house for an hour or two there wouldn't be any sense in hugging on the street.

20

Q. Did you know where your wife went to live after she left your home?

A. Surely.

Q. Where did she go?

A. To 161 Chadwick avenue.

Q. Did you know she was there all the time?

A. Surely.

Q. Did you know that she had detectives after you?

30 A. Yes, sir.

Q. How many?

A. Four, I believe; I have got them all written down on that paper.

A. Yes, sir, I can name them.

Q. From Metuchen?

A. Yes.

Q. Who were they?

A. John Gedney, Harry Layon, Philip Krebs,

Frank Smith and a fellow named Bowers, of my own name, in Newark.

Q. When were they operating on you?

A. I don't remember just the dates, except this Bowers, where I have his official report.

Q. Where did you get the report?

A. I took them out of Mrs. Bowers' room.

Q. You could identify them now if you saw them?

A. Yes.

Q. Was that the first you knew you were being 10  
watched?

A. No, sir.

Q. When did you first know you were being  
watched?

A. When it happened.

Q. How did you come to find it out?

COURT: When what happened?

WITNESS: Directly they were hired.

Q. How did you find it out? 20

A. Because I was told.

COURT: Told by whom?

WITNESS: People coming in the garage.

Q. By strangers coming in the garage?

A. They were not strangers, but friends of these people who evidently gave the secret away.

Q. Did you know as a matter of fact that after  
your wife went to live at 161 Chadwick avenue, that  
she was there all the time from the time that she  
said that she was there? 30

A. She was there all the time she said so.

Q. Did you know so?

A. Yes, sir, absolutely; I saw her go out some-  
times and come in and I would see them up at the  
window as I went by, I always looked for it; I al-  
ways saw her every time I was there.

- Q. Did you ever see Mrs. Kratzig stiting in the window?
- A. Yes.
- Q. You identify her as the person you saw?
- A. Yes, that is the woman.
- Q. And this other lady?
- A. No, I never saw her.
- Q. You heard the witnesses testify as to your actions with Mrs. Waite, as to hugging and kissing?
- 10 A. Absolutely all manufactured.
- Q. Is it true or untrue?
- A. No, sir, untrue, absolutely.
- Q. Did you ever kiss her while she was on the stoop?
- A. No, sir.
- Q. Or put your arm around her?
- A. No, sir.
- Q. Did she ever appear there in her nightdress?
- A. Not that I know of, no, sir.
- 20 Q. And then all those statements as to those improper actions you say are untrue?
- A. Absolutley untrue.
- Q. Did you hear the testimony of the witnesses as to your sitting in the room with Mrs. Waite sitting alongside of you or on a chair with you and her arm around you?
- A. I heard the testimony, but I don't remember what it was.
- 30 Q. Is that true?
- A. Untrue, of course.
- Q. And it has been testified that at that time she kissed you; is that true?
- A. Absolutely untrue—not that I would object.
- Q. One of Mrs. Waite's sons attends school over here in Newark, a night school.
- A. No, sir, the National Correspnodence school.
- Q. Are you interested in that?

- A. Certainly.
- Q. In what way?
- A. I am taking it with him.
- Q. How long have you been doing that?
- A. Since last August, August 5th.
- Q. Is that one of the reasons that you keep up your friendship with the family?
- A. Yes, sir.
- Q. Have you any other place to go, if you leave the Waite house? 10
- A. No, sir.
- Q. Are these the papers that you found in Mrs. Bowers' possession in your house in reference to detectives operating on your actions?
- A. Yes, sir.
- Q. How did you come to find them?
- A. I was told that they were there.
- Q. Who told you they were there?
- A. The maid.
- Q. And which maid? 20
- A. The one previous to the one that was on the stand.
- Q. Did you ever show Mrs. Bowers those papers?
- A. No, sir.

MR. SPENCER: I offer the papers in evidence.

COURT: How are they competent?

#### RECESS

MR. SPENCER: I withdraw the offer I made 30 before recess.

Q. Did you hear Mrs. Bowers testify that she came to the garage and upbraided you about going out with Mrs. Waite or some other woman and that you said that you would go with any woman you pleased; is that true?

A. No, sir! I never made such a remark in my life.

Q. How long has it been since you and Mrs. Bowers have not been on speaking terms?

A. I haven't spoken to her more than absolutely necessary for nearly two years.

Q. And when you would speak to her, what would you talk about?

A. She would probably tell me to bring something or get something for her.

Q. Would you reply?

10 A. Most assuredly.

Q. Did she ever ask you any other question outside of that?

A. Not that I recall.

Q. Did you always keep a maid?

A. Yes.

Q. How long have you been doing that?

A. Four or five years last past, perhaps more.

Q. For how long a time has it been since you and your wife have not occupied the same room?

20 A. About two years.

Q. Has your wife, to your knowledge, employed an attorney in separation matters between you and her?

A. Yes.

Q. Who was he?

A. George Litterst.

Q. How long ago has that been?

A. I cannot remember the date.

30 Q. Do you remember if I showed you a paper?

A. Yes.

(Witness shown paper.) That was in Sep. 1914.

Q. These papers were separation papers, I take it?

A. Apparently, yes, sir.

Q. Were they ever executed?

A. No, sir.

Q. Do you know why?

MR. STREITWOLF: I object to that as incompetent.

A. Because I refused to do it.

Q. And at whose suggestion were those papers gotten up?

A. Mrs. Bowers, I presume.

Q. When did you first know about them?

A. When Mr. Litterst brought them into my office. He is an attorney she went to.

Q. Did you have your attention called by any other attorney to matters in difference between you and your wife? 10

A. No, but she consulted other attorneys.

Q. Who?

A. Cowenhoven of New Brunswick.

Q. Then after you refused to sign the separation papers, what did Mrs. Bowers do then?

A. I think she went back home! I think this is the time she went back to the house. 20

Q. You still lived home?

A. No, she went away at this time; I stayed at the house, but she was not there.

Q. Where did she go?

A. I don't know.

Q. How long was she gone?

A. About three weeks.

Q. Have you at any time refused to give her money to run the house?

A. I have always paid all the bills; at the end of the time that we were together, I refused to give her money; when I found out she was paying it out to people to trail me around—paying it to detectives—then I refused to give her any more money. 30

Q. When was that?

A. Right after this time, after September, 1914; this is about the time she got Cowenhoven in the matter.

Q. Where are you living now?

A. In Newark.

Q. With Mrs. Waite?

A. Yes.

Q. As a boarder?

A. Surely.

Q. And have been a boarded ever since you came there?

A. Yes, sir. I was a boarder at this time, too.

10 CROSS EXAMINATION BY MR. STREITWOLF:

Q. That is, when your wife went away, referring to that instrument you have there, you were boarding with Mrs. Waite?

A. Yes.

Q. Since December 8th, as you say, you have been boarding with Mrs. Waite; how do you travel from Metuchen to Newark?

A. By train.

20 Q. Pennsylvania Railroad service?

A. Yes, sir.

Q. And you either get off at South street or Market street?

A. Certainly.

Q. 162 Chadwick avenue is located in what is known as the Clinton Hill section?

A. I cannot tell you.

Q. You know where Clinton avenue is?

A. Yes.

30 Q. You go up Clinton before you reach Chadwick avenue?

A. Yes.

Q. You go some distance up Clinton avenue from Broad street before you reach Chadwick avenue?

A. Yes.

Q. So that South street station is, roughly, how far from Chadwick avenue, that is, 162?

- A. I cannot tell you.
- Q. It is two miles, isn't it?
- A. If you say so; I don't know.
- Q. You traveled both courses, didn't you, from South street?
- A. It takes about fifteen minutes to get to one and half an hour to the other.
- Q. By trolley?
- A. Yes.
- Q. Wasn't there any boarding place in Metuchen. 10
- A. Very few.
- Q. Before you went to Metuchen where were you doing business, in what city?
- A. New York.
- Q. And just preceding that time, that is, your moving to Metuchen, Mrs. Bowers' father died and left quite a little money to her?
- A. He died and left money to her.
- Q. With that fund you bought out your partner's interest in New York? 20
- A. Yes.
- Q. When you came to Metuchen and started in the garage business, you started in with funds that Mrs. Bowers gave you and which she had inherited from her father?
- A. No, sir.
- Q. Isn't it true that for a year and a half after you were located in Metuchen, Mrs. Bowers, from her own moneys which she inherited from her father, defrayed all the household expenses—all expenses incident to your living in the home? 30
- A. No, sir.
- Q. Did she give you any of the funds that she inherited from her father?
- A. No, sir.
- Q. Do you know how much money she inherited from him?

A. No, sir, not exactly.

Q. Approximately, how much?

A. About \$8,000.

Q. A part of that \$8,000 went in purchasing the home?

A. Yes.

Q. What became of the rest?

A. I don't know; Mrs. Bowers is the best answerer for that.

10 Q. You have no knowledge of it yourself?

A. No, sir.

Q. And you as husband didn't ascertain by inquiries from her what became of the difference?

A. No, sir.

Q. You have accounted for the presence of certain detectives' reports; I would like you to give me the dates from these reports.

COURT: What is the purpose of this?

20 MR. STREITWOLF: I withdraw that.

Q. Did you get possession of these reports?

A. I took them out of my wife's room.

Q. You testified to a number of gentlemen being detectives; Mr. Smith was one—

EXAMINATION BY THE COURT:

Q. Why did you and Mrs. Bowers part; why did you have this difference?

30 A. My dear sir, I have no enmity to Mrs. Bowers to this day; I don't think that she is in her right mind; what I should have done years ago was to have her mind examined; she is a natural nag.

Q. Why did you continue to aggravate her when you knew that your attentions that she complained about, of boarding or continuing to board with Mrs. Waite—when you knew that she objected to the attentions which you were giving her?

A. She left me and took my furniture away and

I had to go somewhere, and I preferred to go with friends.

Q. When you knew that she complained in July, 1914, about your attentions to Mrs. Waite, why did you find it necessary in her absence from home to board or take table board at Mrs. Waite's when she lived at Metuchen?

A. Because there was nowhere else I could go.

Q. You said in answer to counsel's cross examination that there were other places in Metuchen 10 where you could board?

A. There is no place in Metuchen where you can get a good meal, unless you go to the Hillside Inn.

Q. What is the trouble with the Hillside Inn?

A. Extremely objectionable.

Q. Why?

A. Dirty.

Q. There wasn't any other person with a home in Metuchen where you could get board without annoying your wife by what she supposed was the at- 20 tentions to Mrs. Waite?

A. No, sir, it should not have annoyed my wife.

Q. Why should you continue to take up board with Mrs. Waite after your wife filed this petition for divorce?

A. Because the same thing would be claimed against some other person as it has heretofore; these reports will show it; I cannot find a house where I can board unless there is a woman in it. 30

FRANCES LOUISE WAITE, sworn for defendant.

DIRECT EXAMINATION BY MR. SPENCER:

Q. Where do you live?

A. 162 Chadwick avenue, Newark, New Jersey.

Q. How long have you lived there?

A. Since the sixteenth of last June.

Q. Where did you live prior to that time?

A. In three different places in Metuchen.

Q. How long a time did you live in Metuchen?

A. I moved into Metuchen about the twenty-sixth of September, 1913.

Q. How long have you been acquainted with Mr. Bowers and Mrs. Bowers?

A. I have known Mrs. Bowers since I was about thirteen years old.

Q. Always been friends?

10 A. Practically; she is a great deal older than I am; I have never had any intimate connection or friendly with her until lately.

Q. Did your friendship continue while you lived in Metuchen?

A. Yes, for awhile.

Q. Did you visit each other?

A. I did; I visited her at her own invitation.

Q. She invited you?

A. She did.

20 Q. What do you do for a living?

A. Anything that is honest and decent.

MR. STRIETWOLF: I move to strike that out as not an answer.

Q. What do you mean by that?

A. I do nursing, if it comes my way; I do sewing, and just at present I am taking boarders.

Q. And is Mr. Bowers a boarder in your house?

A. He is.

30 Q. How long has he been such?

A. He has been with me since the eighth of December.

Q. Did he board at your house at any time while you lived in Metuchen?

A. Once.

Q. How long a time there?

A. He didn't sleep in my house; he took his meals there for three weeks.

- Q. Does he sleep at your house?  
A. He does, he has his own room.  
Q. How long?  
A. Since December eighth last; I live at 162 Chadwick avenue.  
Q. How many are there in your family?  
A. The members of my family, they are—I have one son at home, and Mr. Bowers, and there is a literary lady boarding with me; her board is still being paid, but she is at present away taking care of a niece who is ill, and previous to Mr. Bowers' coming I had another gentleman by the name of Bowers boarding with me for two months. My sister-in-law stops with me when she is off her case and pays her board, and my brother has been boarding with me during December and part of January, and he paid his board. 10  
Q. What is your son's name?  
A. Leonard; he lives with me.  
Q. Is he in court? 20  
A. He is not; he is out with his regiment; he could not be excused. My oldest son, Dwight N. Waite, is in court.  
Q. What part of the house 162 Chadwick avenue do you occupy?  
A. Five rooms on the first floor and two bedrooms on the third floor.  
Q. Do you know Marion Ten Eyck, now Mrs. Bowers? 30  
A. I know who she is, but I have never spoken to her.  
Q. Do you know Mr. Bowers' son?  
A. I do.  
Q. How long have the Bowers been friendly visitors at your home, the last few years, do you know?

A. I lived in Metuchen about a year before Mrs. Bowers came or I called to see her, but the children have always visited back and forth.

Q. You have a son who is taking an engineering course, have you not?

A. Yes, electrical engineering course in the Scranton school.

Q. Has Mr. Bowers anything to do with that?

A. He has; he is studying with my son; I could  
10 not help my son in anything like that.

Q. How long has that been going on?

A. Since last August.

Q. Has your son a studio?

A. He studies in his own home at 162 Chadwick  
avenue.

Q. On the seventh of November last do you recall where you were on that day?

A. No, I do not; I never knew I had to keep tabs  
20 of any dates?

Q. The seventh and eighth?

A. No, there was one week in November and one week in December that I spent in Hempstead, Long Island.

Q. Where did you go there?

A. I went to a friend of mine to do dressmaking and help her pack to leave for California.

Q. Do you know Josephine Kratzig?

A. I do not, except by sight. I saw her in court  
30 this morning.

Q. Did you ever see her before until today?

A. I couldn't help it; anybody walking the street may see her.

Q. Why?

A. She is always in her front window.

Q. Looking out the window?

A. Always.

COURT: You refer to November 7th and 8th; in

the bill it is the 17th and 18th. Are they the dates you have reference to?

MR. SPENCER: I have an affidavit here.

Q. She testified this morning; did you hear her testify? Mrs. Kratzig's testimony?

A. Yes.

Q. She testified that you and Mr. Bowers on different occasions from the window of your home and at the doorway on the stoop would embrace each other and hug each other and kiss each other; is that true? 10

A. Not that I know of.

Q. Don't you know whether it is true or not?

A. It certainly is not.

Q. Did he at any time ever hug you or kiss you?

A. I don't think it would be wise to try it.

Q. She testified here that at one time, the latter part of August, or about the first of August, Mr. Bowers came out of your house and crossed the street to his car, and returned to the house and climbed up on the railing in front of the house and rapped on the window to attract your attention? 20

A. There is no railing around my house.

COURT: She corrected that by calling it water table or something.

WITNESS: There is no railing except a small—

COURT: She referred to it as a piece of molding or water table. 30

Q. Is it true that he did anything like that to attract your attention, about four o'clock in the morning?

A. Not that I know of.

Q. That you then came to the door and were coughing to attract his attention, and that you hugged and embraced each other, with the arc light in front?

A. If I wanted to speak to him, I would do it openly.

Q. That he got into his car and went away for about two blocks and came back again and the same thing occurred, is that true?

A. Not that I know of, no, sir.

Q. Mr. Bowers wasn't paying attention to the other women in that house of yours?

A. No, I don't believe so, he didn't have much  
10 time.

Q. Any other women in the house?

A. Several.

Q. Who were they?

A. Mrs. Krug, her sister-in-law and my sister-in-law, and my sister-in-law's mother, Mrs. Wetmore, an elderly lady; I call her my aunt.

Q. Has Mr. Bowers a sleeping room in your house?

A. Yes, sir.

20 Q. Which room is it?

A. A room on the first floor alongside of the bathroom, adjoining my son's room.

Q. Mrs. Kratzig testified this morning, or did you hear her testify that Mr. Bowewrs came in late one night, it was warm, and she said that she saw him go in a room and take off his coat and sit down in a chair, and that you put your arm around him and that you kissed each other?

30 A. I heard her say it.

Q. Is that true?

A. It is not true.

Q. Did you at any time embrace or hug Mr. Bowers, or did he embrace or hug you on your stoop or in your doorway or in your rooms?

A. No, sir.

Q. And kiss you at the same time?

A. No, sir.

Q. Did he ever kiss you?

A. No, sir. When that happens I want to be alone, not with an audience.

CROSS EXAMINATION BY MR. STREITWOLF:

Q. When did you do any nursing last?

A. Mrs. Lowden's in Hempstead, about a year ago, before I moved from Mr. Mundy's house; her mother died and I was called there.

Q. That was the last occasion?

10

A. Yes.

Q. When did you do any sewing last?

A. I sew all the time.

Q. For a consideration?

A. I sew all the time, Mr. Streitwolf, for consideration, whenever the work comes in to me.

Q. Tell me some of the parties for whom you have done some sewing recently.

A. Mrs. Lowden, and my sister-in-law, I do all her sewing.

20

Q. Is Mrs. Lowden a relative of yours?

A. She did live in Hempstead, she is in California.

Q. And you are doing sewing for her now?

A. No.

Q. When did you do it last?

L. Last December.

Q. And you sew for your sister?

A. Yes.

Q. Where does she live?

30

A. With me.

Q. She lives with you?

A. Yes.

Q. Her name?

A. Lucy Hyoe.

Q. What does her husband do?

A. That I don't know.

Q. Hasn't done anything for some time, has he?

- A. That is his business, not mine.
- Q. As a matter of fact, don't you know that he is absolutely destitute?
- A. I do not know anything of the kind.
- Q. You don't know it?
- A. No.
- Q. Don't you know that he has gone among the neighbors to borrow money from them?
- A. I did not know it.
- 10 Q. Mr. Denstman—don't you know that your brother-in-law has gone to that gentleman and asked to borrow two cents on a recent occasion?
- A. It is my brother, and I know nothing about what my brother does, and I am not accountable for what he does.
- Q. How could your sister pay you for any sewing if she was not getting support from her husband?
- 20 A. She supports herself by nursing.
- Q. She does nursing?
- A. She does nursing.
- Q. Is she in the court room?
- A. She is.
- Q. When did you do sewing for her last?
- A. All the time; there is no last about it.
- Q. And she pays you?
- A. She does.
- Q. What sewing you do for her is for garments
- 30 she uses for herself?
- A. Not her tailormade suits.
- Q. The garments you sew upon are her own personal garments?
- A. Yes.
- Q. Who else do you do any sewing for?
- A. Different people.
- Q. Who?
- A. I cannot tell you the names. Mrs. Holloway

—I don't see why their names should be brought here.

Q. Who is she?

A. A very dear friend.

Q. Where does she live?

A. I cannot—

Q. You are an intelligent woman.

A. Thank you.

Q. You understand my question; I asked you to tell me since December 1, 1915, who you did sewing for, and how much you were paid by those people? 10

MR. SPENCER: I object.

COURT: L will allow it.

A. My sister-in-law, she pays me what I charge.

Q. Anyone else?

A. No.

Q. Is there any other vocation that you pursued since December first, 1915? 20

A. No, except taking care of my children and my housekeeping.

Q. How much rent do you pay there?

A. \$20 a month.

Q. I hand you a photograph and ask you if you will look at it carefully; is that a representation of the building occupied by you?

A. Yes, part of it I occupy.

Q. It is a fair representation?

A. Fair, yes. 30

Q. And you occupy the lower floor?

A. Yes.

Q. And the two front rooms upstairs, 162 Chadwick avenue?

A. Yes.

MR. STREITWOLF: I would like to offer it in evidence.

(Marked Exhibit P 1).

Q. You knew that you were charged as the co-respondent in this case before Mr. Bowers made his home with you in December?

A. I knew nothing of the kind.

Q. When did you first learn of it?

A. When I was notified by Mr. Bowers that Mrs. Bowers was going to sue him for a divorce.

10 Q. When was that?

A. Sometime when he came to live with me on December eighth.

Q. I asked you whether you knew it before that?

A. When he told me and asked for board.

Q. Notwithstanding that he acquainted you with the fact that you were openly charged as the co-respondent in this case, you nevertheless permitted the doors of your home to be opened to him?

A. Surely.

20 Q. You cared little what impression the public might gather from that?

A. I care a great deal what people care.

Q. Why didn't you tell him to leave your home?

A. Because there was nothing wrong in his boarding with me.

Q. The mere fact that you were charged as a co-respondent in this case of record, you opened the doors of your home and said there is nothing there from which the public can gather anything?

30 A. No.

Q. Is that the only answer you can give me?

A. Yes.

Q. Mrs. Waite, who is the consumer of beer in your home?

A. I drink it when I feel thirsty,

Q. Who is the consumer of a case of beer a week in your home?

A. I don't have a case of beer in my home a week.

Q. You have a case of beer left at your home a week?

A. I have had one case of beer in my home since the sixteenth of last June.

Q. No other beer has been delivered in your home?

A. Not in my home, no.

Q. Has it been delivered to the order of Mr. Bowers?

A. No. 10

Q. To whose order?

A. Mr. Krug, and he pays his own bills, and I don't.

Q. You have no relation at all with the Krug apartment?

A. Not at all.

Q. The Krug apartment is on the floor above you?

A. Yes, and one room on the top floor. 20

Q. Where is that, front or rear?

A. In the back.

Q. Mr. Bowers called upon you in Newark in June, did he not?

A. He brought me down to my home in June in his automobile.

Q. Called upon you after that?

A. Yes.

Q. How often?

A. Really, I don't keep track of it. 30

Q. That isn't my question; how often?

A. I cannot say truthfully how often.

Q. As much as three or four times a week?

A. I cannot say.

Q. Do you deny that he has called as much as three or four times a week?

A. I have answered your question; I say I have no way—

Q. I will ask you do you deny that he called up on you as much as three and four times a week?

A. I answered your question.

Q. That is the best answer you can give me?

A. I said I could not say; had I known you wanted it, I would have kept track of it.

Q. Did Mr. Bowers on any of those occasions ever leave your home after twelve o'clock at night?

A. Probably.

10 Q. Did he?

A. Evidently.

Q. You would know it if he did?

A. I might and might not. My bedroom is on the top floor; I don't know when he goes out or when he comes in.

Q. I am referring to the occasions now in June and July, particularly, of 1915, and I ask you if Mr. Bowers on any of those occasions left your home after twelve o'clock at night?

20

A. If he did, I knew it.

Q. Did he; do you deny he did?

A. I don't deny it; why, no.

Q. Mrs. Waite, whom did Mr. Bowers call to see when he called at your home in Newark?

A. He came to see the family, I presume, or my son.

Q. And your family at that time consisted of Leonard Waite and yourself?

30 A. An elderly lady and my sister-in-law were with me.

Q. He was interested in the elderly lady?

A. I didn't ask.

Q. What was her name?

A. Do I have to say that?

COURT: Is it necessary to bring it in

WITNESS: She is seventy-eight years old.

Q. Your sister-in-law was living there at the time, in June?

A. When she is not with her niece, she lives with me always.

Q. And your son Leonard was home?

A. Always.

Q. Did Mr. Bowers come all the way in from Metuchen to Clinton Hill, that is, to your home, to visit your son?

A. You had better ask him.

10

COURT: Answer.

WITNESS: He came into the house; he probably came to see us all.

Q. How old is he?

A. Twenty.

Q. If he didn't call to see you, I ask whom did he call to see?

A. He came to see Leonard, he came to see us all.

Q. Who is "all" beside you and Leonard?

A. The old lady was always present, Mrs. Torbet 20

Q. How many times did you visit the home of Mrs. Bowers when Mrs. Bowers was present?

A. I never visited Mrs. Bowers' home when she wasn't present.

Q. Answer the other way?

A. About three times, I believe.

Q. And these visits were during that time?

A. They were in March, 1914, and April, and once after her son was married, I believe.

Q. And there were no visits prior to March, 30 1914?

A. No.

Q. Where does your sister-in-law sleep; what room does she occupy?

A. She sleeps with me on the top floor in the front room.

Q. And Mrs. Torbet, where does she sleep?

A. The room adjoining mine.

Q. What room did your brother-in-law occupy?

A. He slept with my son Leonard. It is not my brother-in-law, it is my brother.

Q. What room did he occupy?

A. He slept with my son on the first floor.

Q. He didn't sleep with his wife; you slept with her?

A. My sister-in-law is on a case and has been since the middle of last September, and then she left  
10 she was in the employ of a gentleman in Metuchen; then she came back home with me, and stayed with me until about the twenty-sixth of November; then she went to Huntington, Long Island, and she has now returned to my home again.

Q. When did you say she returned from Huntington, Long Island?

A. About two weeks ago last Saturday.

Q. And from the twenty-sixth of November up  
20 to two weeks ago, she hasn't been there?

A. Yes, she gets a day off once in a while and she comes directly home, once every two weeks.

Q. Isn't it a fact that you have a single bed in that bedroom that you and your sister-in-law occupy?

A. No.

Q. I asked you if you haven't a single bed in that room?

A. No, I have not a single bed in my house, not  
30 one.

Q. You have a double bed in that small room?

A. That is a double bed. That is Mrs. Torbet's own bed and she paid for it.

Q. I am talking about the room adjacent to Mrs.

A. That is Mrs. Torbet's room.

Q. Have you a single bed?

A. No, they are all double beds.

Q. Mrs. Waite, have you any resources of any

kind except what moneys you derive from your own personal efforts?

A. No, sir, I have not.

Q. How many boarders have you?

A. My son, my sister-in-law, Mr. Bowers and Mrs. Torbet.

Q. And this sister-in-law is the one who comes and visits you once in awhile and is away so much?

A. Yes.

Q. But Mrs. Torbet, she is seventy-eight years of age? 10

A. About that; she says she is about sixty.

Q. What relation is she to you?

A. Absolutely none.

Q. No relation whatsoever?

A. No.

Q. She is not with you now?

A. And hasn't been for about five weeks; she is taking care of an ill niece.

Q. Has she any resources? 20

A. I suppose so; her nephew is one of the biggest builders in New York City; so I presume she has

Q. How much does she pay you?

A. Ten dollars a month for her room and pays me for her meals as she gets them.

Q. What does Mr. Bowers pay you?

A. Seven dollars a week.

Q. Board and meals?

A. Yes.

Q. What does your son pay? 30

A. Eight dollars and a half a week.

RE-DIRECT EXAMINATION BY MR. SPENCER:

Q. Do you as a rule have the curtains of your house in the rooms fronting upon the street up at night?

A. No, I draw them down, Mr. Spencer; since I

found that I was being watched, and people looking in my windows, I draw my curtains down now.

Q. What kind of curtains are they?

A. They are white shades, and when the lights are lit in my room, on account of the arc light almost directly in front of my house, you cannot tell whether there is a light lit in my house or not.

Q. How long has it been since you discovered that people across the street were watching your  
10 house?

A. I cannot answer that, because I never pay any attention to people going and coming.

Q. How was your attention brought to it?

A. I think Mr. Bowers or someone called my attention that they were over there watching. I will tell you, I went to the movies one night and happened to see Mrs. Bowers going past, and I never knew where she went after she left Mr. Bowers, for I was not interested.

20 Q. You knew she was over there?

A. Not until then, and then I watched her go home and I saw her go in the alleyway, and I knew what house about she was boarding in, and that is the only way.

Q. Are you on speaking terms with Mrs. Kratzig?

A. I am not.

Q. Did you ever meet the lady?

A. I never did and don't want to.

30 Q. Never was introduced to her?

A. Never.

Q. And have you noticed her particularly sitting in the window during July and August?

A. Yes. Anyone going past could see her there. I used to wonder what she did; she was always in the window.

Q. Hanging out of the window?

A. No but looking out.

Q. And watching you?

A. That I wouldn't say, for I don't know; but I found out since she was.

Q. Did you notice her at night time?

A. On one or two occasions if I had been out, I would look up and down the street, but I couldn't identify her.

Q. Early in the morning?

A. No, I am busy in the morning, I don't have time.

10

COURT: Do you know Mrs. Stevens?

WITNESS: No, sir, I know absolutely no one in the neighborhood.

Q. When you came to Newark, how did you come?

A. In the automobile; Mr. Bowers brought me.

Q. Did you come the regular route?

A. Yes, right down through Middlesex avenue.

Q. Did you ever go through back streets with Mr. Bowers?

20

A. No, sir.

Q. Do you remember one time Mr. Bowers had you in the automobile in Metuchen on the public streets there?

A. Several times; Mr. Bowers has a public hacking service, I believe; I have always paid him when I have ridden with him.

Q. Were you ever in Mr. Bowers' garage in the evening at any time?

30

A. I went in one evening about half past ten to return a gold breastpin of Mrs. Bowers, which I was asked to bring to her from New Brunswick.

Q. Did you leave it in the garage?

A. I gave it to her at the garage.

Q. Who was in there at the time?

A. Several people; Mr. Bowers was there and several other people.

Q. Did he ever take you out riding to Newark?

A. I have ridden down several times with him in daylight.

Q. So-called joy riding?

A. No, sir; not at all.

Q. You have always been friendly with Mr. Bowers and he with your family ever since you have known him; has there ever anything existed between you and Mr. Bowers except of a friendly nature?

10 A. No, sir.

Q. Or otherwise?

A. No, sir.

RE-CROSS EXAMINATION BY MR. STREIT-  
WOLF:

Q. Since December sixth you have seen Mrs. Bowers, have you not?

20 A. I have not; I did not see her from the time I left Metuchen until the—

Q. You have seen her since December sixth?

A. I have, since the middle of January, 1916.

Q. You have seen her in connection with the occupation of premises across the street?

A. Yes.

Q. You have taken occasion on those instances when you have seen her, to laugh at her and jeer at her?

A. Not at all; I laugh at no one.

30 Q. Do you deny that you laughed at Mrs. Bowers when you have seen her in the premises 161?

A. I do deny it; the first time I knew she was there I passed her on the street.

Q. You recognize Mrs. Kratzig as the woman who occupies 161?

A. Yes.

Q. You have seen her?

A. Yes.

Q. And every time you do see her, do you laugh and jeer at her?

A. I do not.

Q. Did you laugh and jeer at her since December sixth?

A. No, but she has insulted my sister-in-law and I.

MR. STREITWOLF: I move to strike that out.

COURT: Strike it out.

10

RE-DIRECT EXAMINATION BY MR. SPENCER:

Q. What would she do to you and your sister-in-law?

A. I left my porch with my sister-in-law and I said to my sister-in-law, "You wanted to see Mrs. Kratzig; she is up in her window," and she deliberately put her fingers up to her nose to my sister-in-law and kept them there.

Q. When was this?

A. About a week ago.

20

DWIGHT N. WAITE, sworn for defendant.

DIRECT EXAMINATION BY MR. SPENCER:

Q. How old are you?

A. Twenty-two years old.

Q. Are you the son of Mrs. Waite, the last witness?

A. I am.

Q. Where do you live?

A. New Brunswick.

30

Q. How long have you lived there?

A. Since April, 1915.

Q. What is your business?

A. Installation department of the New York Telephone Company.

Q. Are you home very frequently?

A. Not very often.

- Q. Up to April 15, 1915, where did you live?  
A. With my mother in Metuchen.  
Q. Are you acquainted with Mr. Bowers?  
A. I am.  
Q. And Mrs. Bowers?  
A. I am.  
Q. And her son and his wife?  
A. Yes.  
Q. How long have you known them?  
10 A. I have known Mr. and Mrs. Bowers and Charlie and Mrs. Bowers for the past seven or eight years.  
Q. You always have been on friendly relations with them?  
A. I have.  
Q. Mrs. Bowers has come to your house very often?  
A. Mrs. Bowers hasn't.  
20 Q. Has Mr. Bowers?  
A. He has at my invitation.  
Q. Where is Mr. Bowers' garage in Metuchen?  
A. On Middlesex avenue.  
Q. How far is that from where you lived?  
A. About three-quarters of a mile or half a mile.  
Q. You lived in one place in Metuchen?  
A. No, while we lived there, we lived in two places in Metuchen.  
30 Q. What was the nearest place to the garage that you lived?  
A. On Elm avenue.  
Q. How far is that from the garage?  
A. About four blocks.  
Q. Were you around there very much?  
A. Yes.  
Q. What were you doing there?  
A. Just fooling around, passing the time away.  
Q. Working there at any time?

- A. I worked there one time.
- Q. For Mr. Bowers? A. Yes.
- Q. Are you interested in machinery?
- A. I am interested in anything that moves.
- Q. And that brought you around Mr. Bowers' place quite considerable?
- A. Yes.
- Q. Are you the one that is taking the Correspondence School lessons?
- A. No, sir, my brother that is. 10
- Q. Where are you staying now?
- A. At 19 North Sixth avenue, Highland Park. Now I am staying with my mother for a few days.
- Q. Do you know Mrs. Kratzig?
- A. I do not.
- Q. Have you ever noticed anything between your mother and Mr. Bowers as to intimate relations?
- A. I have not.
- Q. And Mr. Bowers, how has he acted when he 20 came to your house?
- A. Like a gentleman.
- Q. Always?
- A. Always.
- Q. You never saw anything wrong?
- A. No, sir.
- Q. Or anything indicating that anything was wrong?
- A. No, sir.
- Q. Did you ever see any undue familiarity between your mother and Mr. Bowers? 30
- A. I have not.
- Q. And did you have opportunity to notice?
- A. I have.
- Q. Been in that house much of the time?
- A. When I lived in Metuchen I was in all hours of the day and night.

CROSS EXAMINATION BY MR. STREITWOLF:

Q. When did you live in Metuchen, covering what period?

A. I lived there, I don't exactly remember what time when we moved there, but I lived there until April, 1915.

Q. What was the last property your mother lived in in Metuchen?

10 A. On Clarendon Court, owned by Ambrose Mundy.

Q. You didn't live with your mother there?

A. I did.

Q. You said a moment ago that while you lived with your mother she lived on Elm avenue?

A. I said Elm avenue and Clarendon Court; I didn't say Clarendon Court, they didn't ask.

Q. Is that the same property?

A. No, two different properties.

20 Q. You said you lived with your mother while she lived in the Elm avenue property?

A. That is all I was asked to say.

Q. Then your mother moved from there to Clarendon Court?

A. Yes.

Q. Did you live with her there?

A. I did.

Q. Up until when?

30 A. Until April, 1915, then I moved to New Brunswick, at 105 Carroll Place.

Q. What family?

A. With George Brogley.

Q. While you were working in New Brunswick you didn't find it convenient to commute to Metuchen?

A. It wasn't very convenient, no.

Q. It is only half an hour's trolley ride out of New Brunswick?

A. Yes.

Q. Cars run every half hour?

A. Yes.

Q. Isn't it a matter of fact that you didn't desire to live with your mother at Metuchen and left her, isn't that true?

A. The idea that I left my mother in Metuchen, she was going to move to New York at that time I left Metuchen; I had hired a place in New Brunswick and had already paid my board in advance and I couldn't lose six dollars; my mother had expected to go a week following. 10

Q. She didn't go until June?

A. She did not.

Q. You continued to remain in New Brunswick?

A. Yes.

Q. After that time how often did you come to Newark?

A. I have been to Newark about five times. 20

Q. Since December last?

A. Three times.

Q. So from June until December, on two occasions; five times altogether?

A. Yes.

Q. What time was it you were working for Mr. Bowers, when was this?

A. I don't remember the date nor the year.

Q. How old were you at the time?

A. About sixteen or seventeen years old. 30

Q. Going to school then were you?

A. No, I was not.

Q. What time did you quit school?

A. When I was thirteen years old.

RE-DIRECT EXAMINATION BY MR. SPENCER:

Q. Did you ever make telephone calls from New Brunswick to Newark?

A. Yes.

Q. To whom?

A. My mother.

Q. Has your mother a phone?

A. No; I would call Mr. Greenblat, the man who was on the stand, and he would go and get her.

Q. How often did you do that?

A. Quite often.

Q. You are connected with the Teephone Co.?

A. I am.

10

DEFENDANT RESTS.

FRANK C. SMITH, sworn in rebuttal for petitioner.

DIRECT EXAMINATION BY MR. STREITWOLF:

Q. You are a policeman in Metuchen?

A. Yes.

Q. How long have you been a resident of Metuchen?

A. I have lived in Metuchen, but I have been a  
20 policeman there three years.

Q. How long have you lived there?

A. About seven or eight years.

Q. How big a place is Metuchen, approximately?

A. I think it has got about 2400 inhabitants.

Q. Are there any places there where persons could procure board?

A. I should think so; I don't know why they shouldn't; there are people boarding all the time; I have two nephews boarding there with Mrs. Van  
30 Syckel.

Q. Are there any places where a person can get a meal?

A. Yes, sir, always.

CROSS EXAMINATION BY MR. BEEKMAN:

Q. Have you ever tried to get board for yourself?

A. I get my dinner any time I want it.

Q. Answer my question.

A. I haven't tried, because I live in Metuchen; I have my home there.

Q. Did you ever keep a boarding house yourself there?

A. I have kept boarders.

Q. Where do you get a meal there?

A. You can go to Jim Lawler's and get a meal down in his basement; you don't have to go in any saloon if you don't want to.

Q. Does he keep a saloon?

10

A. He does, the Albion Hotel.

Q. What nationality is he?

A. Irish descent.

Q. He keeps a saloon there?

A. Yes.

Q. And you can get a beer there?

A. Yes.

Q. And get sandwiches and get drink at the same time?

A. You can if you want to, but I don't get a drink 20

Q. Are you an Irishman?

A. No, sir.

Q. Where is there any other place where you can get a meal there?

A. You can go into Petrien's, but you can always get sandwiches.

Q. Can a man live on sandwiches alone?

A. No, sir; there is a lunch wagon; you can go there and get a good meal; you can get good hamburger steak with potatoes or eggs and ham. 30

Q. Where can you get a boarding place?

A. Mrs. Van Syckel takes boarders and Mrs. Burnett takes boarders. I could name a good many of them.

JOSEPHINE KRATZIG, recalled in rebuttal for petitioner.

DIRECT EXAMINATION BY MR. STREITWOLF:

Q. Mrs. Waite has testified that on a certain occasion you placed your fingers to your nose either at her or her sister?

A. No, sir.

Q. Did you ever on any occasion do that?

10 A. No, sir; but she sneered at both Mrs. Bowers and I on more than one occasion.

Q. Since December?

A. Since December eighth.

Q. Has Mr. Bowers been present with her when she sneered?

A. Yes, sir; one Saturday night in particular she sneered and turned and looked at us and laughed in her face.

Q. Was Mr. Bowers with her then?

20 A. No, sir.

CROSS EXAMINATION BY MR. BEEKMAN:

Q. How long have you known Mrs. Waite.

COURT: We have been all over that.

A. I don't know her; I don't care to know her?

Q. You don't like Mrs. Waite, do you?

A. And I don't like any woman of her type.

Q. When did you take a dislike to Mrs. Waite?

30 A. When I saw what was going on last summer, before I ever knew who Mr. and Mrs. Bowers was.

Q. Then you took a dislike to her?

A. Any good woman would.

Q. Are you a good woman?

A. I think I am.

COURT: She is and the law says she is, until you can show the contrary.

Q. Do you think you are a good woman?

COURT: Yes, and the court agrees with her; she stands here as a good woman.

A. I have told the truth and absolutely nothing but the truth today and just as I expect to meet my Maker, and that is more than Mrs. Waite did.

JESSIE LOUISE BOWERS, petitioner, recalled in rebuttal.

DIRECT EXAMINATION BY MR. STREITWOLF: 10

Q. Have you seen Mrs. Waite since you have been living with Mrs. Kratzig, particularly since December 8, 1915?

A. Yes, many times, and one Saturday night I was waiting for Mrs. Kratzig to go out to the vegetable store and I was facing Clinton avenue and I didn't see Mrs. Waite come down and when she got in front of me she turned around and laughed right in my face. 20

Q. Did she do that more than on that one occasion?

A. She has often in leaving her home looked up at the windows and laughed across the street at me and sneered.

Q. You are working now?

A. I am.

Q. How long have you been working?

A. Since March 10. 30

Q. What are your duties?

A. I am a child's nurse.

Q. Did you ever work before?

A. Never.

Q. Before you were married did you ever work?

A. No.

Q. Was your home such that you didn't have to work?

A. Certainly; my father was in comfortable circumstances.

Q. After your father's death did you give Mr. Bowers any money?

A. Yes.

Q. What did you give him?

A. I gave him \$5,000.

Q. And with that money did he buy out his partner in New York?

10 A. By my putting in \$5,000, in this business, it gave him a controlling interest.

Q. And the business later on was sold?

A. Yes.

Q. And he paid you back that money?

A. Yes.

Q. Then when he started in Metuchen did you give him any money?

20 A. I paid the bills; I have the checks home to show that; I kept the bills for a year and a half.

Q. You paid all the household bills for a year and a half?

A. Yes.

Q. With the exception of the home that you have, what else have you in the way of money or the equivalent?

A. I have my bank book with me.

Q. How much have you, about?

A. I think I have a little less than \$300 now.

30 Q. And what you have in the property you have at Metuchen?

A. Yes.

Q. Your interest is due next month?

A. Yes.

#### EXAMINATION BY THE COURT:

Q. How old a woman are you?

A. Fifty-three.

Q. Are you older than Mr. Bowers?

A. Yes.

Q. How much?

A. I was born in 1862 and he was born in 1866; he is four years younger.

Q. Your son works for his father?

A. Yes.

Q. And has always worked for him?

A. Yes.

Q. He doesn't do anything for you? 10

A. No, he needs all his money for his wife and himself.

Q. It was testified here that on account of your unpleasant relations with your daughter-in-law they were obliged to leave home; was that so?

A. No.

CROSS EXAMINATION BY MR. BEEKMAN:

Q. As I understand you—how much did you get from your father, \$8,000. 20

A. Yes.

Q. What became of that?

A. I had to use it to live on; I bought the home in Metuchen?

Q. That you own now?

A. Yes.

Q. Did you ever try to rent that?

A. I have tried to rent and tried to sell it.

Q. Have you a sign on it?

A. No, but it is in several agents' hands; the 30 home don't keep me in bread and butter.

Q. How much will that rent for?

A. I was offered \$22.50.

COURT: Is it material?

Q. Part of the \$8,000 you used for buying the house?

A. Yes.

Q. How much?

COURT: Why pursue this line of examination?

A. We paid \$5,200 for the place and I have a mortgage of \$1800 on it.

Q. The difference between that \$1800 and \$5200?

A. Was paid by me in cash.

Q. What did you do with the rest of your \$8000?

A. He compelled me to use it up; he not only did that, but he pawned his diamond ring; two of the  
10 stones belonged to me; he claimed he lost hundreds of dollars in Wall street.

Q. Who did?

A. Mr. Bowers did.

Q. Whose money?

A. My money I advanced to him; he said he would make good; that is where I was foolish.

Q. Did you give the balance of the \$8,000 to Mr. Bowers?

A. I don't know as I am obliged to tell; I can  
20 show my check stubs.

Q. Did you give the balance of the \$8,000, outside of what went in the home, to your husband?

A. He compelled me to use it up for household expenses after I moved to Metuchen.

COURT: Then is this a statement of the fact, whether outside of what you put in the home, the rest of the \$8,000 was spent either for your maintenance or at your home or given to him?

30 WITNESS: No, it was spent for maintenance. We lived it up.

COURT: Then you didn't give your husband any thing except what you—

WITNESS: I did at one time; I gave him \$5000 to go into business and he repaid it; that business was sold out.

Q. Did you get that back?

A. Yes, I got \$5000 of it back.

Q. Who paid it back?

A. The concern that bought him out.

Q. Wasn't Mr. Bowers supporting you all that time?

A. As I told you before, there was about a year and a half when he didn't do anything.

Q. Out of business?

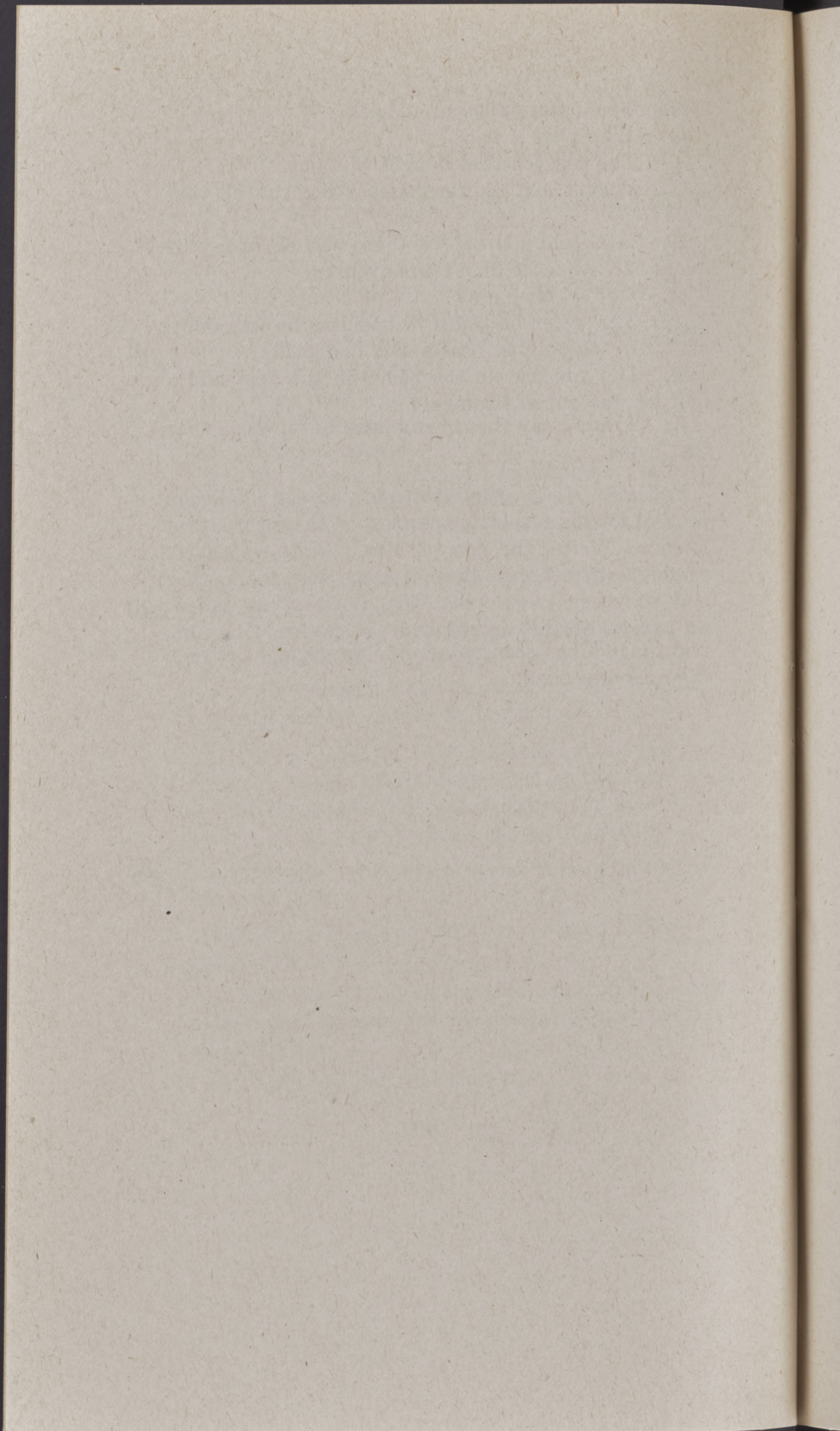
A. Yes, after he failed in business he was down and out, not only in health but financially. 10

Q. Did you use up the \$5000 in the year and a half he was out of business?

A. I didn't say that; I say most of it went in for the home.

COURT: It is stipulated and agreed between counsel for the respective parties, on the record, that Leonard Waite, the son of Mrs. Waite, if called, would testify that he lives at home with his mother and has been there when Mr. Bowers has called; 20 he has taken this correspondence course with him, and that he has seen no act of impropriety between them at any time.

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# In Chancery of New Jersey

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Between  
JESSIE LOUISE BOWERS  
Petitioner  
and  
JOHN C. BOWERS  
Defendant

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MR. AUGUST C. STREITWOLF, for petitioner.  
MESSRS. BEEKMAN & SPENCER for Defendant.

FOSTER, V. C.

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This is an action for divorcè on the ground of adultery. While there was no direct proof of the commission of the offence, the testimony satisfied me that the defendant and co-respondent had both the inclination and the opportunity to commit the act, and on the conclusion of the hearing I announced that I was satisfied of their guilt and would advise a decree for the petitioner.

The parties were married on March 17, 1892, and for six years prior to the filing of the petition they had resided in Metuchen, Middlesex County, where defendant conducted a garage business.

Petitioner is about fifty three years old and the defendant is about four years younger. The co-respondent, Mrs. Waite has been an acquaintance of theirs for some years, and in June, 1915, she moved to 162 Chadwick avenue, Newark.

Petitioner first noticed an intimacy between her husband and Mrs. Waite in October, 1913. In July, 1914, she told her husband, who had been staying out at night until two, three or four o'clock in the morning, that he would have to give her up or give up Mrs. Waite, to which he made no reply. That same night she spoke to Mrs. Waite, telling her she had broken up her home, to which Mrs. Waite replied, "Oh, yes, I believe Leonard (her son) had something to say about that this afternoon," and added, "You go down the block and go home and mind your own business." After this defendant neglected petitioner, left her alone night after night, even when she was ill, and never took her riding in his automobile, and they did not speak to each other except when absolutely necessary, and he showed no affection for her, and although he paid the household bills, he refused to give her any money; his excuse is that if he gave her money, she would spend it in employing detectives to get evidence against him.

A few days after petitioner had spoken to defendant and Mrs. Waite about their relations, she again spoke to her husband on the subject and he told her, "You can have anything you like or you ask for, but I will go with any woman I damn please."

Since March, 1914, petitioner and defendant have not cohabited and have occupied separate rooms. And while Mrs. Waite lived in Metuchen defendant occasionally took meals at her home, and after her removal to Newark he was a very frequent visitor to her home, calling there three or four times a week, apparently driving from Metuchen to Newark in his car; he usually arrived late at night and left very early in the morning, leaving usually from one to four A. M. During this time people living across the street saw him hugging and kissing Mrs. Waite while she was dressed only in her nightgown, or in

nightgown and some wrap over it. Petitioner herself saw some of this conduct while boarding opposite Mrs. Waite's for a few days in November, 1915. On December 7, 1915, petitioner closed her home in Metuchen and moved to 161 Chadwick avenue, opposite Mrs. Waite's, where she obtained board with a Mrs. Kratzig, for the purpose of obtaining what evidence she could of her husband's visits to Mrs. Waite's, and she remained there about three months and saw her husband leaving the Waite house nearly every morning and arriving there nearly every evening. She and others saw defendant and Mrs. Waite out riding in the automobile at late hours of the night or in the early hours of the morning; they saw the affectionate greetings exchanged between them when he left in the morning; Mrs. Waite was seen to put her arms around him and kiss him while they were sitting in the front room of her home, and Mrs. Waite taunted and laughed at Mrs. Bowers when she met her on the street. Defendant admits calling at Mrs. Waite's frequently after her removal to Newark, at late hours of the night and leaving at early hours in the morning; he states that the calls were made because he and Mrs. Waite's twenty-year old son were working together on an engineering course in some correspondence school; and when petitioner closed their home, he began to board with Mrs. Waite and is still boarding with her, because he claims there is not a suitable place in Metuchen where he carries on business, in which he could board; but the testimony shows that this is not true. Defendant and Mrs. Waite deny any illicit relations exist between them; they claim Mrs. Bowers is unreasonably jealous and is of a nagging disposition. She impressed me as a very mild, respectable woman, saddened by the trouble that had come upon her and by the breaking up of her home; and her appear-

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ance and conduct upon the witness stand and the manner in which she gave her evidence, were in marked contrast to the brazen, cynical and indifferent conduct and manner of the defendant and Mrs. Waite; in fact, the defendant seemed to realize the unpleasant position in which he was placed much more than Mrs. Waite did, who treated the offence with which she was charged in the lightest possible manner. A sample of her denial is shown by the following extract from her testimony, when being examined by counsel for defendant: "Did he ever kiss you? A. No, sir; when that happens, I want to be alone, not with an audience." Again on cross-examination, she stated defendant informed her that she had been named as a co-respondent in this case when he asked for board, and then,

20 "Q. Notwithstanding that he acquainted you with the fact that you were openly charged as the co-respondent in this case, you nevertheless permitted the doors of your home to be opened to him?

A. Surely.

30 Q. The mere fact that you were charged as a co-respondent in this case of record, you opened the doors of your home and said there is nothing there from which the public can gather anything?

A. No.

Q. Is that the only answer you can give me?

A. Yes."

I cannot believe an innocent woman would act or testify as Mrs. Waite has done in this case. The

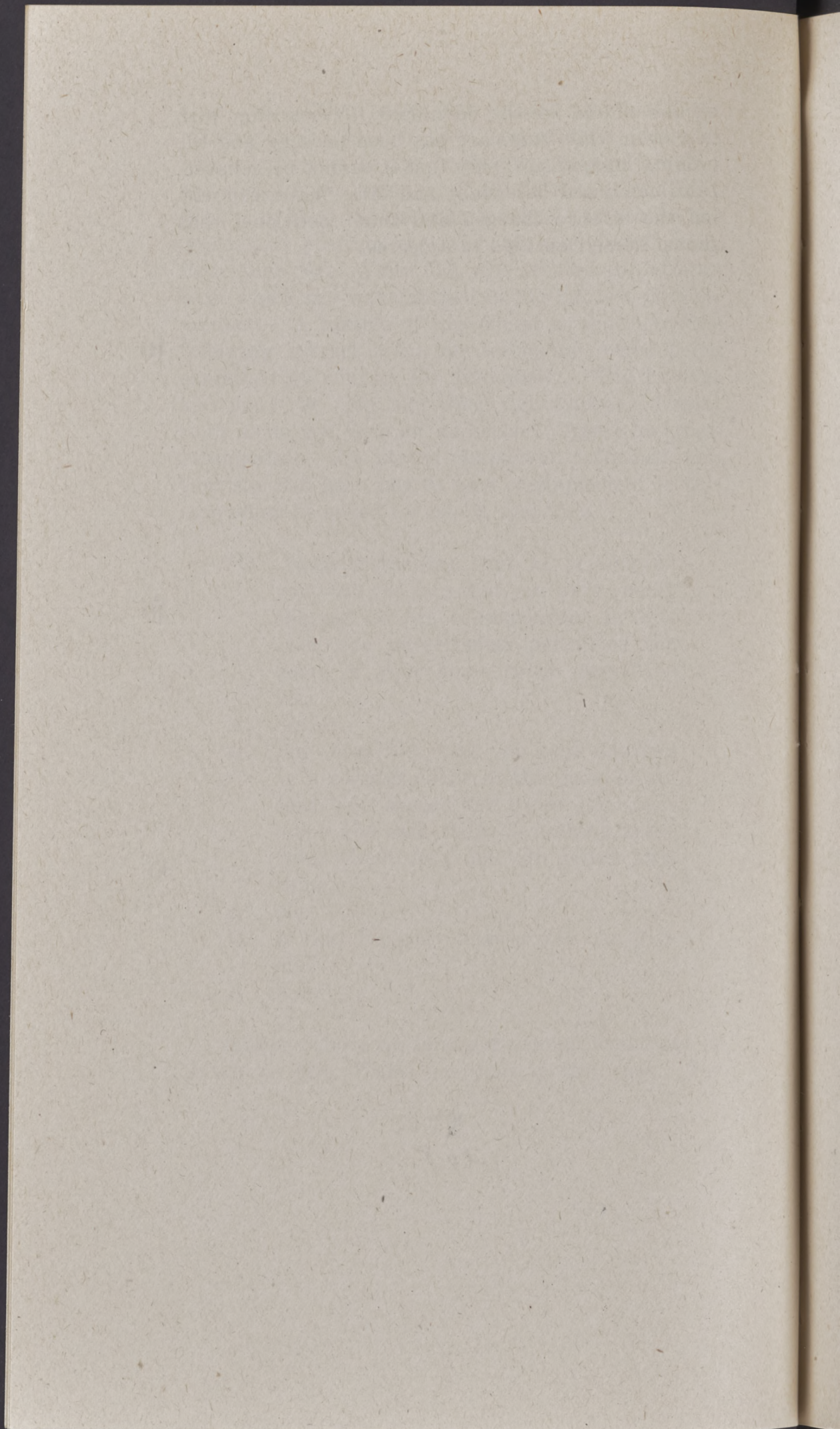
excuse offered by the defendant for boarding with her, even while this case has been pending and the hearing held, is so flimsy that it cannot be believed. I am convinced defendant and Mrs. Waite committed the offence charged and that petitioner has shown herself entitled to a decree.

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# In Chancery of New Jersey

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Between  
JESSIE LOUISE BOWERS  
Petitioner  
and  
JOHN C. BOWERS  
Defendant

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DECREE  
NISI.

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This matter coming on to be heard on final hearing before the Chancellor, in the presence of August C. Streitwolf, solicitor and of counsel for the petitioner, and Messrs. Beekman & Spencer, solicitors and of counsel for the defendant, and the respective parties having presented their proofs and arguments therein and it appearing that the petitioner and defendant were married on the 17th day of March, 1892, in the City of Brooklyn, State of New York, and that up until the filing of the petition in this cause and for a period of more than six years prior thereto, the petitioner and defendant resided in the Borough of Metuchen, County of Middlesex and State of New Jersey, and since the filing of said petition, the said petitioner has resided in the City of Newark, County of Essex and State of New Jersey, and the defendant has resided and continues to reside in the Borough of Metuchen, County of Middlesex and State of New Jersey; and that at divers times, as stated in said bill, the said defendant has violated the solemnity of his marriage vows and is guilty of commission of adultery in the City of Newark, State of New Jersey, as therein stated; it is thereupon, on

this thirtieth day of June, A. D. 1916, 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, adjudged and decree that the said petitioner, JESSIE LOUISE BOWERS and the said defendant, JOHN C. BOWERS, 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 said defendant do pay unto the said petitioner, or her solicitor, the costs of this suit incurred and to be incurred, to be taxed, and an additional counsel fee of \$50.00; and that execution issue therefor according to the practice of this Court; and it is further

ORDERED, ADJUDGED and DECREED, that the defendant pay unto the petitioner, the sum of \$10 per week at the termination of each and every week from the date of this decree.

E. R. WALKER, C.

Respectfully advised,

JOHN E. FOSTER, V. C.

# In Chancery of New Jersey

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Between  
JESSIE LOUISE BOWERS  
Petitioner  
and  
JOHN C. BOWERS  
Defendant

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} Notice of Appeal  
On Petition. 10

John C. Bowers, the above named defendant, hereby appeals from the decree nisi filed in this cause, and dated the thirtieth day of June, nineteen hundred and sixteen, and from every part thereof, to the Court of Errors and Appeals in the last resort in all cases. 20

Dated Dec. 26, 1916.

RUSSELL E. WATSON,  
Solicitor for and of Counsel With Defendant.

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

RUSSELL E. WATSON, 30  
Of Counsel.

## In Chancery of New Jersey

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	between	}	On Appeal From Chancery Petition of Appeal.
	JESSIE LOUISE BOWERS, Respondent,		
	and		
10	JESSIE LOUISE BOWERS, Appellant.		

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

The petition of John C. Bowers, appellant, respectfully shows that your petitioner finds himself aggrieved by a decree nisi made in the Court of Chancery by the Honorable Edwin Robert Walker, Chancellor of the State of New Jersey on the thirtieth day of June, nineteen hundred and sixteen, in that the said decree recites and adjudges that the appellant at divers times as stated in the petition, violated the solemnity of his marriage vows and is guilty of the commission of adultery in the City of Newark, and State of New Jersey, as therein stated, and doth decree that the marriage existing between your petitioner and the said Respondent, Jessie Louise Bowers, 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 your petitioner was not guilty of adultery, and should have dismissed the petition of the respondent.

Your petitioner therefore prays that the said de-

cree may be reversed, rescinded and for nothing holden, and that your petitioner may have such further and other relief as shall be meet.

RUSSELL E. WATSON,

Solicitor for and of Counsel With Appellant.

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# New Jersey Court of Errors and Appeals

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	Between	} On Appeal From Chancery  } Answer to Petition of Appeal.
10	JESSIE LOUISE BOWERS Petitioner-respondent,	
	and	
	JOHN C. BOWERS Defendant-appellant.	

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The answer of the above respondent to the petition of appeal of the above named appellant.

20 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 was on the 30th day of June, 1916, last past, 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.

30 This respondent is advised and believes that the said decree is agreeable to equity and prays that the same may be affirmed with costs to be adjudged to this respondent.

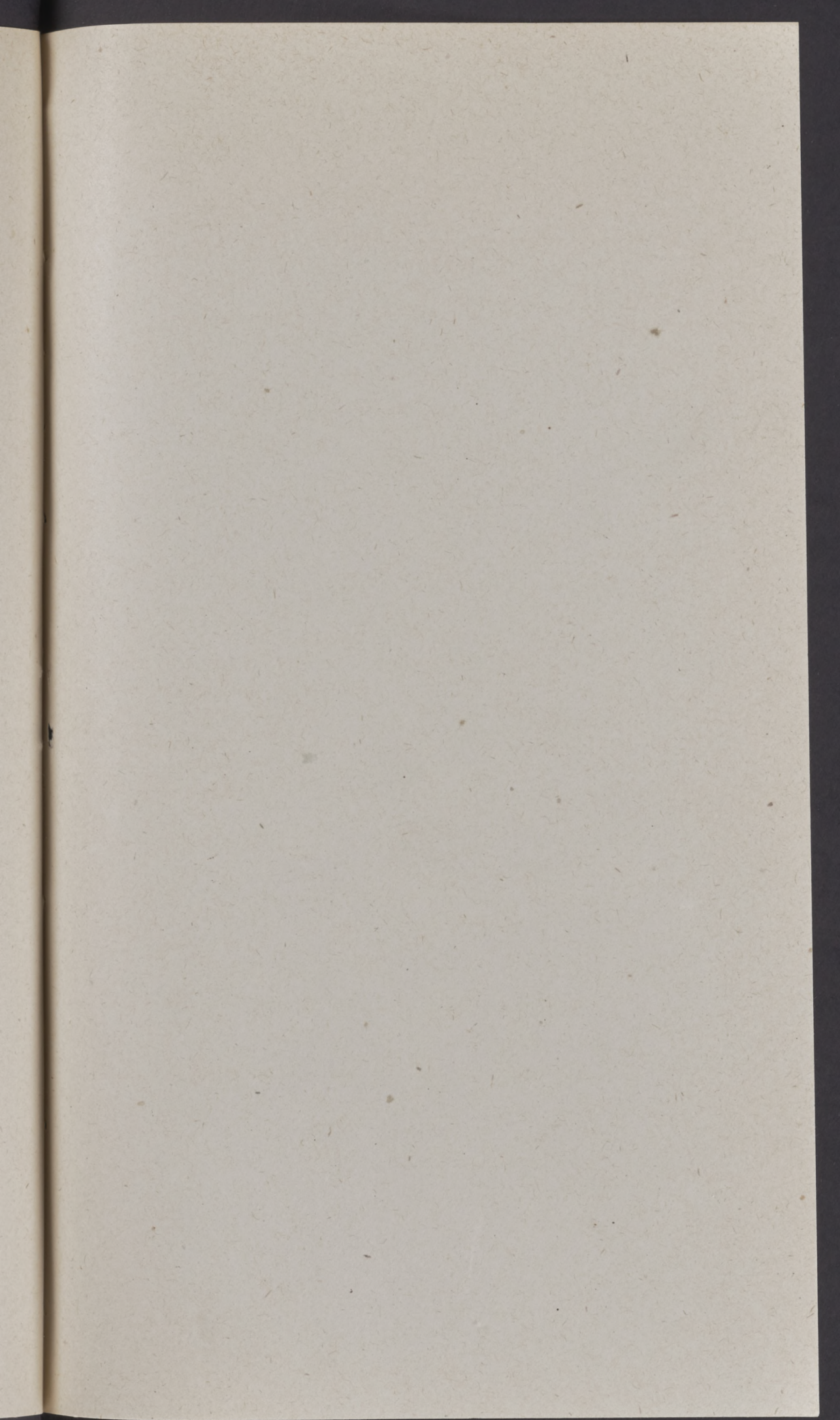
AUGUST C. STREITWOLF,

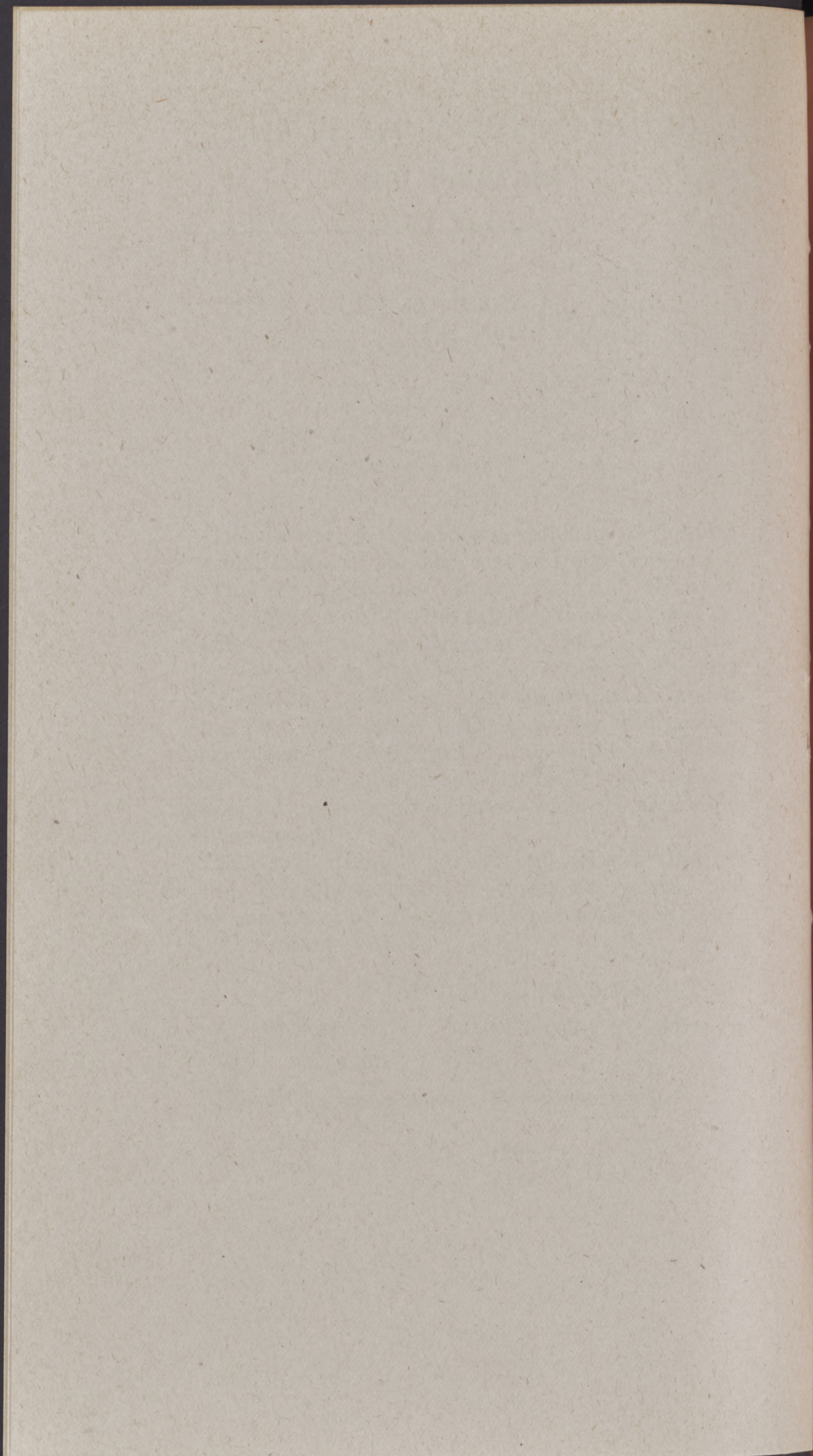
Solicitor and of Counsel for the Petitioner-respondent.

No. 40 Paterson Street, New Brunswick, N. J.

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JIMMIE BRIMOFF

HAMMER MILL