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New Jersey Court of Errors and Appeals

Between

MARIE DUDLEY,
Complainant-Appellant,
and
EDWARD DUDLEY,
Defendant-Respondent.

On Appeal from Chancery.

BRIEF FOR COMPLAINANT-APPELLANT.

This is an appeal from a decree of the Court of Chancery advised by his Honor Eugene Stevenson, Vice-Chancellor upon a bill for maintenance filed under Sec. 26 of the Divorce Act in which decree the said Court of Chancery denied maintenance to the appellant who was the complainant below.

Specification of Errors.

The decree below is alleged to be erroneous in this, that the said decree recites that the defendant did not refuse and neglect to maintain and provide for the complainant and decrees that the bill be and the same is dismissed and the decree is alleged to be erroneous as aforesaid because the evidence sustains the contention of the complainant that the defendant had refused to maintain and support her.

In the opinion of the learned Vice Chancellor he says:

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"It is well to have in mind what is now the settled law of the State so far as this Court is concerned, that adultery by the husband not at the matrimonial residence, does not constitute a constructive desertion so as to give the wife ground for an absolute divorce, *Stiles v. Stiles,* 52 N. J. Eq., 446; *Lake v. Lake,* 65 N. J. Eq., 554, but that such adultery does constitute a constructive abandonment within the meaning of section 26 of the Divorce Act, *Suydam v. Suydam,* 79 N. J. Eq. 144, and of course such adultery is a just cause for a separation by the wife and constitutes a complete defense to any action for divorce on the ground of desertion, which after two years the husband may endeavor to maintain."

(Page 831, ll. 14 to 28.)

"It is unnecessary to examine the great mass of evidence which has been produced in this case relating to the charge that Mr. Dudley committed adultery in April, 1905, in the City of Washington, D. C.—the only adultery which could possibly be held to be established by any evidence. It is sufficient to dispose of this suit for maintenance to point out what I think is very clear, ,that Mrs. Dudley utterly failed to establish the charge of non-support or inadequate support. I do not recall that counsel undertook to offer any argument to sustain this branch of Mrs. Dudley's suit under section 26. The fact is that after the final separation of the parties in the spring of 1905, whatever the cause of such separation may have been. Mr. Dudley evinced a willingness to support his wife in a manner which appears to have been ample, and which is not proved to have been inadequate. Mrs. Dudley alleges in the first suit which she brought for absolute divorce on the ground of adultery and cruelty in September, 1905, in the State of Pennsylvania, that her husband had offered to allow her $5,000 a year, and that she had refused to accept such allowance as 'totally inade-

quate for her proper support.' The offers and attempts of Mr. Dudley to furnish support to his wife before and after her first suit was commenced, which are set forth in this bill for maintenance, might make the bill demurrable were it not for the extravagant representations made in the bill that Mr. Dudley was worth a million dollars, and had an income of $50,000 per annum, which representations were not only not proved to be true but were proved to be false. Immediately after the separation in the spring of 1905, Mr. Dudley, gave his wife a letter of credit for $2,500, with which she went to Europe and on her return he manifested his willingness to give an adequate separate support which she declined to receive because of her extravagant notions of her husband's wealth. I do not think, however, that Mrs. Dudley's mistake as to one branch of her suit should have the effect of tainting her suit with bad faith."

Brief of the Argument.

Although a great deal of testimony has been printed and submitted to the Court it must be remembered that this testimony was taken upon five different suits which were consolidated, a suit for maintenance, a suit for divorce—various suits for divorce limited and absolute. Much of the testimony is irrelevant. Testimony which the appellant deems to be relevant is referred to in this argument.

Many things are admitted which would simplify the argument. It is admitted that the complainant and defendant are husband and wife. It is admitted that they separated prior to the filing of the bill. It is admitted that there was after their separation disagreements as to the amount which the defendant should pay to the complainant for her maintenance. After these admissions there are diversities. The defendant alleges that

the complainant left him without just cause or excuse at his home in Philadelphia and has ever since obstinately remained away from him. That he has at all times been willing to provide for her.

The complainant asserts that the defendant having conceived an affection for another woman and transferred his affections to this woman designedly sent her, appellant, out of the United States of America to Europe and while she was in Europe broke up the home where they were living in Philadelphia and when she returned she had no place to which she could go. That thereafter the defendant was only willing to send her $250 a month which she refused to receive because the defendant desired that she accept it in lieu of all support.

It therefore becomes important to determine which statement of the condition is correct. The case shows in the testimony of the defendant Edward Dudley (pages 60, 69, 71, 72, 77, 78, 79, 80, 91, 156, 157, 158, 159, 160, 161, 165) the following facts to have existed: That the complainant and defendant lived together in apparent harmony until the defendant became acquainted with a Mrs. Vanderpool which finally resulted in the defendant sending the complainant to Europe; that after the complainant returned from Europe the defendant continued to consort with Mrs. Vanderpool and was traced to a hotel in Washington by a man named George W. Buzzy (page 805); the hotel register was signed by the defendant and a tracing made of his hand writing which was identified by the complainant as being his handwriting; subsequently the hotel register disappeared and was traced to the defendant and the chauffeur who drove the car which brought the register from Washington to be destroyed by the said Mrs. Vanderpool. A letter written by the defendant to the chauffeur was produced in evidence, which letter has been omitted from the case but

will be supplied by the complainant under the order of the Court.

Subsequently (page 810) the said Edward Dudley, although he knew of the testimony of Buzby would not confront the said Buzby so that he could be identified by him positively as the man that was at the Hotel Raleigh. In addition to this by reading the testimony of the said Edward Dudley as on cross-examination it will appear that even during the trial the said Mrs. Vanderpool was living under an assumed name in an apartment and being visited by the said Edward Dudley and that he admitted the same on cross-examination. If this was so is it not much more likely that Mr. Dudley having conceived an amorous attachment for the said Mrs. Vanderpool would be eager to get rid of the complainant, would send her to Europe and would break up her home rather than that she voluntarily absented herself? If the Court will read his testimony it will see that although he alleges that it was against his will that she left her home; that thereafter he was in communication with her, writing letters to her, sending her money and arranging for her trip to Europe and seeming to be upon the most amicable terms with her, although he alleges that it was by reason of her conduct and his reproving her for her conduct and for an alleged article in Town Topics, that there was a disagreement and she left; but a reading of his testimony together with the other testimony showing his infatuation for the said Mrs. Vanderpool showed the real reason of the debacle in the Dudley home. The chauffeur who was originally Mrs. Dudley's chauffeur became Mrs. Vanderpool's chauffeur (page 599). That all of Mr. Dudley's testimony and Mrs. Dudley's testimony should be read together with Buzby's testimony, the testimony concerning the hotel register which will assist in turn to ascertain what was the relation

between Mr. Dudley and some other woman than his wife and would that give him a motive for breaking up his home. I think it will be apparent the complainant had no reason to leave her home where she was living with the defendant at the rate of $40,000. a year and moving in the best social circles in Philadelphia to become a wanderer over the face of the earth, living in small rooms in a hotel, forced to fight for a meagre sustenance, but it does become very probable that Mr. Dudley was tired of his wife and was eager to get rid of her and as appellant alleges herein, a careful reading of his testimony and the adja- a careful reading of his testimony and the testimony covering the hotel register, the relations with Mrs. Vanderpool, the way he cloaked his relations with her and a reading of the testimony of Mrs. Dudley will make apparent the real reason of the separation. Having separated from him Mrs. Dudley endeavored to get support. She has had many lawyers. In the beginning her husband sent her checks which she did not return. The Vice-chancellor says that the suit for maintenance must fail because (page 838 of the printed case: " The fact is that after the final separation of the parties in the Spring of 1905, whatever the cause of such separation may have been, Mr. Dudley evinced a willingness to support his wife in a manner which appears to be ample and is not proved to have been inadequate." The Vice-chancellor seems to reason that the mental condition on the part of the defendant was sufficient—his willingness to support. The evidence shows that he did not support; that he sent checks and attempted to exact an agreement that she would waive all her rights and that she refused to receive these checks on this account. Whatever may have been the condition anterior to the filing of the bill at the time of the filing of the bill it will be apparent by reading both

Mr. and Mrs. Dudley's testimony the defendant was not supporting his wife and he had no just cause or excuse under Sec. 26 for failing so to do.

The bill for maintenance was filed September 26th, 1907 (page 2 of the printed case) and it is apparent from reading both Mr. and Mrs. Dudley's testimony that at this time he was not supporting her in a manner commensurate with his means; that he was not and had no just cause or excuse for failing to support her that the bill would lie. The bill would lie just as much for failing to adequately support as for a total failure to support under the case of *O'Brien v. O'Brien*, 46 Eq., 436; *Shinn v. Shinn*, 51 N. J. Eq., p. 78. The complainant was entitled under the law as set down in Sec. 26 to be supported in a manner commensurate with her husband's means, whatever his wealth—he says at one stage of the case he is supposed to be worth $200,000—the contention of the wife is that his income was much greater, although no specific proof seems to have been introduced into the case, except his own admissions and his manner of living at the rate of $40,000. a year while he was maintaining his wife in Philadelphia—yet it is apparent that at the time the bill was filed both by his own testimony and her testimony that she was not being supported in a manner adequate to his means, and in a manner suitable to her state in life as his wife.

Page 470 shows what was the condition at the time the bill for maintenance was filed; that she had not been supported for at least two years before the filing of the bill and at the time of the filing of the bill; that she was an object of charity.

This is not denied by the defendant. He simply alleges that he had sent checks which were returned sometime prior to the filing of the bill, but at the time of the filing of the bill he was

not supporting her and had no legal excuse for not supporting her.

The parties ceased living as husband and wife in January 1901, without any apparent reason, except the subterranean attachment by the defendant for a woman other than his wife, and on page 475 it appears, by the complainant's testimony that the defendant never asked her after that time to live with him as his wife.

After reading the testimony of the defendant (and it's contradictions are apparent time after time) it is almost admitted that he was maintaining relations with the other woman; his acts in reference to the register of the hotel and writing the letter to the chauffeur make it apparent that he does hate the woman who was his wife and does not wish to support her; and the reading of her testimony shows that she had floundered about from one suit to another without getting the real issue clearly presented which seems to be very simply that she is still this gentleman's wife, and at the time she filed the bill that he was not maintaining her; that under § 26 he had not just cause in refusing or failing to maintain as he should have maintained.

The printed opinion of the Vice Chancellor takes up the many cases and I think in that way obscures the real issue on this bill for maintenance. There were five different matrimonial allegations tried and this testimony taken on them as a sort of a hodge podge of matrimonial belligerency.

September 25, 1907, there was a bill fied by Mrs. Dudley for abandonment; Mr. Dudley in November, 1907, filed an answer; and then this answer and cross-bill he charged his wife with desertion; in December, 1907, Mrs. Dudley filed an answer denying the charge of desertion alleging the defendant committed adultery; on

April 4, 1910, Mr. Dudley commenced a new suit against his wife filing a petition alleging that ever since the 22nd of May, 1905, more than two years she deserted him; on May 23rd, 1910, Mrs. Dudley filed an answer to her husband's petition denying that she had deserted the petitioner and charging on the contrary that he had deserted her.

At the end of this litigation the appellant asserted that she did not want any divorce; never had wanted any divorce from her husband and wished to abandon all divorce proceedings.

It is apparent that she has not been so maintained and that after the defendant had accustomed her to luxury, entertaining people in his house, importing fine champagnes from Europe, giving her servants and horses, carriage, he ceased to support her and has never voluntarily contributed to her support since that time in any adequate way.

It may be urged by the defendant that the complainant was guilty of indiscretions which justified her husband in separating from her, but a reading of the testimony of the man Britley will show that he at one time acted as her lawyer and he has an animus against her, as is apparent from his testimony that he was endeavoring to induce her to obtain a divorce from her husband, which seemed to be what her husband wanted and when she would not he then turned against her and testified in a manner attacking her character saying that she had been about in an intoxicated condition with a distinguished advocate of the County of Hudson named Henry M. P. Beekman who subsequently took the stand and denied this; and a reading of the different attempted attacks on her character will show that they were either meretricious or so palpably untrue as to be incredible either

because of an inherent inconsistency or the bias displayed for emotional or financial reasons, and indeed the Vice-Chancellor does not rest his decree upon any such ground and if the defendant attempts to take it up in a brief it will be outside the real issue. The Vice-Chancellor says that the proof is apparent that the defendant had never failed to adequately support his wife, although the Vice-Chancellor does not analyze the testimony on this subject.

The appellant therefore contends upon reading the testimony pointed out in her brief, it will be apparent as to the separation, the causes of the separation which were the loss of love on the part of the husband the fact that he did not maintain her which he has admitted and that there is no just cause or excuse for his failing to support or maintain her.

The learned Vice-Chancellor passes over the question of adultery on the part of the defendant, but that adultery is established by the evidence as hereinbefore referred to and if it is established then if the Court deals with the question of a constructive desertion which I do not think is present in the case although the Court may see the same, then there was constructive desertion if the defendant was guilty of adultery. (See Biddle on divorce, edition of 1912, page 163 in cases cited.)

The issue therefore is very simple and we respectfully submit that the defendant has brought this litigation upon himself by his failure to see the simplicity of the issue and that is whether a gentleman of his position should not adequately support his wife who has committed no matrimonial offense and who is living apart from him to better promote his convenience in his amorous relations with other ladies. It seems apparent that a man of his position would not compel liti-

gation to enforce the fulfilment of this very elementary duty and that there would be no reflection upon him or no litigation with its consequent annoyance if he would fulfil this most elementary marital duty.

The appellant therefore insists that the decree of the learned Vice-Chancellor was wrong and should be reversed and remitted to be modified so that the defendant be compelled to maintain his wife. The evidence shows on his own testimony that he is worth $200,000, his method of living both now and at the time that the suit was tried and while his wife was living with him in ample scale, he testified at the rate of $40,000 a year and he should be compelled at least to pay the sum of $10,000 a year to the support and maintenance of the woman who is still his wife.

The very fact that the counsel for the respondent when he printed the case omitted the testimony printed by the appellant, which should have been printed in the State of Case, shows the opinion of the counsel of the respondent as to the evidence, and it may be that in his brief many diaphanous distinctions will be drawn and many subtle arguments used to eject the appellant from her relief in court, but as Shylock said "Unless thou canst take the seal from off this bond, thou but offendest the air with this abundance of superfluous breath"; and unless there is some argument that can establish the contrary of this proposition, namely, that the appellant and respondent are man and wife and that at the time of the filing of the bill the respondent was not supporting the appellant in an adequate manner and that the respondent had no justifiable cause or excuse for his failure to support his wife, then it seems to the appellant that no argument, however fine, is available to the respondent.

Certainly it cannot be said that there was any justifiable cause spoken of in the Statute, which would excuse the non-support, for that justifiable cause as Mr. Biddle shows in his book on divorce, page 164, by an analysis of the cases, is a matrimonial offense—not that she was extravagant, lazy, quarrelsome or intemperate, or neglects her duties, spends most of her time gossiping with neighbors, receives attentions from men and even goes to saloons evenings with them.

Biddle on Divorce, Edition of 1912, page 164.

The appellant contends that whatever proof there may be of any marital disagreements, there is no proof of such a matrimonial offense as would justify the respondent in his failure to support the appellant.

Respectfully submitted,

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NEW JERSEY
Court of Errors and Appeals

Between Marie Dudley (*Compl't*), *Appellant*,
and
Edward Dudley (*Dfdt.*), *Respondent*.
} On Appeal from Chancery.

Brief for Edward Dudley, Respondent.

The bill in this case filed September 25th, 1907, charges that the defendant had committed adultery in the years 1903 and 1904 at Saugerties-on-the-Hudson and on the 13th, 14th and 15th days of April, 1905, at the Hotel Raleigh in Washington, D. C., with Elizabeth Battelle Vanderpoel (paragraphs 4 and 5, p. 3); that the complainant became suspicious of her husband's relations with Mrs. Vanderpoel in the summer of 1902 or thereabouts, but that she did not become possessed of the evidence of his guilt until the month of April, 1905; that she has not cohabited with her husband since obtaining said evidence; that she was then at the house in which she and her husband had been living, he being absent, "and thereupon left said house and has since lived separate from him" (p. 4, l. 10). "That she has been unable by reason of the adultery of her husband and his devotion to his said paramour to re-

main in the same house with him and has been compelled to seek a home away from him and support and maintain herself with the assistance of relatives and friends" (paragraph 8, p. 4).

The prayer of the bill is that the defendant may be decreed to provide suitable support and maintenance, etc. (p. 6, l. 21, etc.).

The bill admits efforts made by the defendant to induce her to accept an allowance at the rate of $250 per month (p. 5, l. 10), which she refused because she considered it inadequate.

The defendant in his answer denies all the allegations of adultery (p. 8); says that the departure of the complainant from his home and her separation from him was entirely voluntary on her part and without any cause whatever or any just or reasonable suspicion of misconduct on his part; and that since the time of her leaving his home he has at all times been willing and desirous to provide adequately and properly for the support of his said wife either at his said home or by payment of reasonable monthly sums for her maintenance since she was determined to live elsewhere (p. 9, par. 8, l. 20, etc.)

The answer further sets forth (pp. 10–11) the efforts made by the defendant to pay the complainant an allowance of $250 per month, checks for which were repeatedly returned to him, and insists "that the sum of $250 per month, or $3,000 per year, which he proposed to allow his said wife for her maintenance was and is adequate for her needs and is liberal in proportion to his means and income and more than he can afford to pay or ought to pay in justice to himself and to his two children by a former marriage who are dependent upon him for support" (p. 13, l. 28, etc.).

The answer, also by way of cross-bill, prayed a divorce on the ground of desertion (p. 14, l. 12).

Vice Chancellor Stevenson, influenced no doubt by defendant's repeated offers prior to the filing of this

bill to pay her at the rate of $250 per month, advised an order in the cause fixing that as the amount of alimony *pendente lite*.

The cause dragged along, not as the Vice Chancellor says in his memorandum by any consent on the part of the defendant, but in consequence of the ingenious efforts of the complainant to avoid bringing it to trial, until November 19th, 1912, when the trial was finally forced on against the protest of her counsel (p. 17).

In the meantime in April, 1910, Mr. Dudley had filed an independent petition for divorce on the ground of desertion, to which Mrs. Dudley had filed an answer and cross-bill praying for divorce on her part, upon the same allegations of adultery as are contained in the bill in this cause.

The two suits were tried together before Vice Chancellor Stevenson and he advised decrees dismissing all the proceedings in both causes for the reasons stated in his *memorandum* (p. 831, etc.).

The portion of said memorandum which deals with the claim of Mrs. Dudley for separate maintenance under this bill is as follows (pp. 837-838):

"Mrs. Dudley's action for maintenance under section 26 absolutely falls. It is unnecessary to examine the great mass of evidence which has been produced in this case relating to the charge that Mr. Dudley committed adultery in April, 1905, in the city of Washington, D. C.—the only adultery which could possibly be held to be established by any evidence. It is sufficient to dispose of this suit for maintenance to point out what I think is very clear, that Mrs. Dudley utterly failed to establish the charge of non-support or inadequate support. I do not recall that counsel undertook to offer any argument to sustain this branch of Mrs. Dudley's suit under section 26. The fact is that after the final separation of the parties in the spring of 1905, whatever the cause of such separation may have been, Mr. Dudley evinced a willingness to support his wife

in a manner which appears to have been ample and which is not proved to have been inadequate. Mrs. Dudley alleges in the first suit which she brought for absolute divorce on the ground of adultery and cruelty in September, 1905, in the State of Pennsylvania, that her husband had offered to allow her $5,000 a year, and that she had refused to accept such allowance as 'totally inadequate for her proper support.' The offers and attempts of Mr. Dudley to furnish support to his wife before and after her first suit was commenced, which are set forth in this bill for maintenance, might make the bill demurrable were it not for the extravagant representations made in the bill that Mr. Dudley was worth a million dollars, and had an income of $50,000 per annum, which representations were not only not proved to be true but were proved to be false. Immediately after the separation in the spring of 1905, Mr. Dudley gave his wife a letter of credit for $2,500, with which she went to Europe, and on her return he manifested his willingness to give an adequate separate support which she declined to receive because of her extravagant notions of her husband's wealth. I do not think, however, that Mrs. Dudley's mistake as to one branch of her suit should have the effect of tainting her suit with bad faith."

The only appeal pending in either of said causes is that taken by Mrs. Dudley (p. 847) from the dismissal of her bill for separate maintenance).

An appeal taken by her from the dismissal of her cross petition in the suit brought by Mr. Dudley against her for divorce, was dismissed at the last term on motion of the respondent and without opposition on her part.

No appeal was taken by Mr. Dudley in either case.

In order to succeed upon her present appeal, Mrs. Dudley must establish two things, the burden being of course upon her:

First. That she had just cause for leaving the home of her husband, such cause being his adultery.

Second. That he had neglected or refused to maintain and provide for her. 2 *Comp. Stat.* 2038, *section* 26.

I.

The Charge of Adultery Made Against Mr. Dudley is Not Sustained.

Certainly there is no such "clear and satisfactory proof" as is required by the cases.

The only one of the allegations of adultery as to which there is any evidence whatever, is the allegation that on the 13th, 14th and 15th days of April, 1905, he committed adultery with Mrs. Elizabeth Battelle Vanderpoel, at the Raleigh Hotel, in the city of Washington, D. C.

The only evidence tending to show adultery on this occasion is from the hotel books indicating that a man and woman registered as "Mr. and Mrs. Louis Craven, New York," on the dates mentioned occupied rooms 514 and 515 at said hotel, consisting of a parlor, bedroom and bath (Weston, p. 652; Owen, pp. 358, 363), supplemented by the statement of Mrs. Dudley that the handwriting in which this entry appears on the register is that of her husband.

The register itself has disappeared and consequently the Court was unable to make any comparison of the handwriting of the Louis Craven signature with any of the writings of Mr. Dudley which are in the case.

Two lead pencil tracings of the entry in question are in evidence.

But it is entirely clear that they cannot be used as a substitute for or facsimile or reproduction of the original for the purpose of comparison.

It can hardly be necessary to discuss the attempt

made to connect either Mr. Dudley or Mrs. Vanderpoel with the disappearance of the hotel register.

There is absolutely not one word of legal evidence to sustain the charge that either one of them had anything whatever to do with it.

There is also the deposition of George W. Buzby that on one occasion which may have been at any time in any one of the years 1903, 1904, 1905 or 1906 (p. 808) during which years he was very frequently in Washington and always stopped at the Raleigh Hotel, he followed a man who was pointed out to him as Edward Dudley (p. 802) and that the man so pointed out met a woman on a B. & O. train after leaving Philadelphia and went with her to the Raleigh Hotel in Washington, where they remained two, three or four days, after which they apparently returned by train together as far as Philadelphia, where the man left the train, the woman going on through to New York, where after making a number of calls around the city she went to an apartment house on 26th street. He has no recollection as to the name used by the man in registering, except that it was not Dudley. The suggestion of the names Mr. and Mrs. Louis Craven does not refresh his recollection (pp. 203, 804). He does not know who pointed out the man as Mr. Dudley except that it was one of the operatives of the Rigor Detective Agency (p. 807, l. 20).

He has never seen the man since and makes no pretence of knowing Mr. Dudley or of saying that the man was he.

He was not asked to describe the man he followed. He does not undertake to say that the woman was Mrs. Vanderpoel nor that she went by that name. He thinks he found out the name of the women but does not recognize the name Elizabeth Vanderpoel when suggested to him by counsel (p. 805).

(1) Buzby's deposition should be entirely disregarded for the reason that it is not shown to relate

to the only occasion which is important either under the pleadings or the proofs.

The proof of adultery at the Hotel Raleigh under the pleadings must (a) be confined to April 13th, 14th and 15th, 1905, and (b) it must have been committed with Mrs. Vanderpoel.

The incident to which Buzby testifies may have taken place any time within a period of four years, and there are no circumstances to connect it with the entry of Mr. and Mrs. Louis Craven on the register or to identify the couple whom he followed as the same who stopped at the Raleigh Hotel on April 13th, 14th and 15th, 1905, under the name of Mr. and Mrs. Louis Craven.

(2) Even if it could be said that the couple whom Buzby followed were the same who were registered as Mr. and Mrs. Louis Craven at the Hotel Raleigh on April 13th, 1905, and that the occasion to which he testifies is the same on which they were so registered, *there is still no proof that the woman was Mrs. Vanderpoel.*

The proof of course must conform with the allegation as to the time, place and person with whom the adultery was committed.

If the proof had been that Dudley was at the hotel and wrote Mr. and Mrs. Louis Craven on the register April 13th, 1905, but his companion was not Mrs. Vanderpoel, it would not sustain the case of Mrs. Dudley.

(3) But Buzby's evidence fails in a still more vital particular. *It does not even identify Dudley.*

All Buzby knows as to the identity of the man whom he followed to Washington is that he was pointed out to him as Edward Dudley by some operative of the Rigor Agency.

Who the operative was or what means he had of knowing that the man was in fact Edward Dudley are matters concerning which there is absolutely no testimony.

It is not shown that the man who registered as Craven ever went by the name of Dudley. On the contrary he went by the name of Craven on the only occasion when he appears in the case. It is to be presumed that that was his true name. How is it proved that his name was not in fact Craven but was Dudley? All that we have to support that theory (outside of the opinion of Mrs. Dudley, based upon her knowledge of her husband's handwriting), is the hearsay statement made to Buzby by an unknown person whose means of knowledge are undisclosed.

In *Hopt* v. *People of Utah,* 110 *U. S.* 574, evidence of this character had been received on the trial to identify a corpse. The Supreme Court reversed the judgment on this and other grounds, saying: The specific fact to be established by proof of what someone else said to the surgeon as to the identity of the body submitted to his examination was that it was the body of John F. Turner. What Fowler, who was not even shown to have been placed in charge of the body nor commissioned to deliver it to the surgeon nor to be acquainted with the deceased, said in the absence of the prisoner, as to the identity of the body was plainly hearsay evidence within the rule recognized in all the adjudged cases. As such it should, upon the showing made, have been excluded."

It is clear therefore that the evidence of Buzby affords no legal corroboration of Mrs. Dudley's statement that in her opinion the Craven entry in the register is her husband's writing.

Opposed to this opinion of Mrs. Dudley is the positive and unequivocal denial of Mr. Dudley that he saw Mrs. Vanderpoel in Washington in April, 1905, or went to Washington with her, or met her in Washington or on a train to Washington (p. 147, l. 17, etc.).

Again he says (p. 544) that he never saw the so-called register of the Hotel Raleigh upon which is said to appear the entry Mr. and Mrs. Louis Craven; that

he did not write that entry or any part of it; that he was not in Washington on that date, and that the only occasion when he was ever in that hotel was prior to 1905, on which occasion Mrs. Dudley was with him and he went under his own name.

He further says (speaking from diary entries and his letter book) that he believes that he was in Boston on April 13th and 14th, 1905 (pp. 545-546).

Doubtless comment will be made upon the fact that Mr. Dudley did not appear before the commissioner to give Buzby an opportunity to identify him.

But why should he have done so? It would have been to stake his whole case upon what Buzby, an unknown man and a detective, might choose to say as to whether Dudley was or was not the man he followed. If witnesses in general and detectives in particular were always honest and never forgetful or mistaken, there might be force in the criticism.

If Buzby should have said that the man he followed was Dudley, it would have been impossible for Dudley to have met the statement except by his own denial, discredited to some extent by his interest, while it would have been argued that Buzby was without interest.

Dudley has denied in the most emphatic manner that he was in Washington with Mrs. Vanderpoel on the occasion charged. That is all that he can do.

Why should he assist the other side to make evidence against him which must be false (either wilfully or mistakenly), but which it would be most difficult and perhaps impossible for him to overcome?

It is an inflexible rule in this State (and one that is applied with great strictness) that a divorce will not be granted upon the uncorroborated testimony of a party to the suit. See cases collected, 2 *N. J. Digest* 3804.

Even if Mrs. Dudley had testified to having actually seen her husband in *flagrante delicto* and the Court believed that she was telling the truth, a decree would

not be granted upon that evidence without corroboration and against his denial.

In *Williams* v. *Williams,* 85 *Atlantic* 611, where it was assumed that a certain letter if shown to have been written by the defendant, would have afforded sufficient corroboration to make out the petitioner's case, the decree was refused because the proof of the letter came from the petitioner alone and she was not in that respect corroborated.

The same rule requiring corroboration applies to a charge set up in bar of divorce, as, for instance, where adultery is pleaded in recrimination.

Reid v. *Reid,* 6 *C. E. Green* 331.

Cummins v. *Cummins,* 2 *McCarter* 138.

In the latter case Chancellor Green says: "It is a well settled rule of the Court, that in questions of divorce guilt cannot be established by the unsupported testimony of either of the parties." 2 *McCarter* 138, 142 (1862).

The rule must be the same in maintenance cases when the charge is that there is cause for divorce.

There is nothing in the case outside of Mrs. Dudley's own testimony to give credibility to the supposition that there was ever any impropriety between Dudley and Mrs. Vanderpoel.

Mr. Dorrance, as well as Mr. Dudley, contradicts Mrs. Dudley's statement of unusual friendship between them on the steamer.

The rest of Mrs. Dudley's evidence as to intimacy between her husband and Mrs. Vanderpoel is hearsay of the vaguest description.

She is, moreover, an entirely untrustworthy witness, contradicted upon numerous important points by *Dorrance, Brightley, Dr. Bartholow, Mrs. Knight, Stockton, Hurst, Combs* and *Quigley,* besides the defendant, and *corroborated by not a single witness.*

Mrs. Vanderpoel owned a house and had a residence in Washington. She was socially prominent and presumably well known there.

Yet the complainant's claim is that Mrs. Vanderpoel openly went to the Hotel Raleigh, one of the leading hotels of the city, and allowed herself to be registered under an assumed name as the wife of a man with whom she occupied a bedroom at the hotel, going out with him also to theatres and other public places, and keeping this up *for three days.*

It is more probable that Mrs. Dudley herself was the woman and that any similarity in the Louis Craven entry to Dudley's handwriting was due to a deliberate imitation by her or by her contrivance.

The employment of the Rigor detective agency which furnished the information as to the sojourn of Louis Craven and wife at the Hotel Raleigh is said by Brightly (p. 698, top) to have been in the interest of Mr. Beekman in order to protect himself against a possible charge of crim. con. brought against him by Mr. Dudley.

Rigor (pp. 417, 418) apparently hints at the same thing. These were the immediate parties to the employment.

In fact the charge of adultery and suits for divorce were a mere pretense to cover her desertion.

The real motive and cause for her leaving was a dislike for her husband and infatuation for Beekman.

The parties were married March 4th, 1899 (p. 23, l. 10).

During the same summer at the Brighton Hotel at Atlantic City she accused him of misconduct with a young lady (pp. 27, 28, 29).

There was a similar accusation with regard to Mrs. Tilghman in 1900 (pp. 31, 32), and with regard to Miss Walton in 1902.

Mrs. Dudley denies these accusations but she produces the very notes which Mr. Dudley says led to her making the charge against Mrs. Tilghman. Why should these perfectly innocent notes have been treasured all these years if she did not think them import-

ant? And she admits that she thought Miss Walton's action suspicious.

She was constantly charging Dudley with misconduct with women without specifying individuals.

And although now she denies this (showing that she did not really believe it), we have corroboration from an unexpected source, for Beekman says (p. 725, l. 5), "she insisted at all times he had never been true to her from the time she married him."

There was not the slightest foundation for these charges as she now admits.

There were constant outbursts of temper and she made a practice of insulting her husband in the presence of the servants (*see Stockton's evidence*). Once she threatened to kill him with a carving knife in her hand (p. 38).

Commencing in 1901 she frequently shut him out of the house at night (p. 39, l. 22). Sometimes he succeeded in getting in, at other times he spent the night elsewhere. *Coombe*, the night watchman, corroborates as to this (pp. 736, 737).

As early as January 5th, 1901, she excluded him from her room (pp. 34, 39, 126), and thereafter they occupied separate rooms except in traveling or when guests at the house of a friend. There were no marital relations after January 5th, 1901.

She admits the cessation of relations at that time, but denies that she refused (pp. 500–502) and tries to give the impression that Dudley was sick or physically incapable, which he denies (p. 568, 569).

Dr. Barthalow testifies, however, that she was in the habit of saying that she had kicked her husband out of bed and locked the door (p. 561), and also of expressing an overpowering aversion toward him (p. 565, etc.). He says she complained of Dudley's breath as offensive.

Mrs. Dudley denies speaking of it to Dr. Bartholow but curiously enough says that her husband's breath was offensive. Matters got so disagreeable in 1902 that he

told her he would not go to Europe with her again (p. 40, l. 15).

Mrs. Dudley corroborates this.

Mrs. Vanderpoel was on the steamer with them returning from Europe in 1902, and Mrs. Dudley testifies that Dudley was constantly with her to the neglect of his wife, which is denied by Dudley and also by Mr. Dorrance who says (pp. 529, 530) that he himself monopolized Mrs. Vanderpoel throughout the trip.

After 1902 Mrs. Dudley went alone to Europe in each of the years 1903, 1904 and 1905.

After 1901 she became very extravagant—whenever she was displeased with her husband she would order a $250 dress—she boasted of this (p. 40, l. 20 and 30).

When he objected to a $35 palm she threw it out and got one costing $75 (p. 42). *Stockton* (p. 191).

She had her portrait painted in 1902 without his knowledge, costing for the picture $1,500 and the frame $800 more (pp. 42, 43).

1902 and 1903 she stayed away from home weekly at the Waldorf. 1904 to May, 1905 (when she left), she was seldom at home. Already she had become thoroughly disloyal to her husband. It was not long before she became unfaithful to him.

In summer of 1904 she met Beekman in Europe. In the fall and winter of 1904 and spring of 1905 she was constantly in Beekman's company until early morning, drinking at various cafes in New York. Brightley (pp. 662–664, etc.). Her conduct with Beekman became so conspicuous and notorious that it was the subject of an article in *Town Topics* of April 20th, 1905 (pp. 54–57). See Quigley's account of her maneuvers in Philadelphia, pp. 776–778, 780, etc. Also Brightley's account of the automobile ride in Paris, pp. 667–670.

March 25th, and April 1st, 1905, she was out all night, returning the following afternoon (pp. 48, 50); Stockton (pp. 196–198); Hurst (pp. 753–755). When

he asked for an explanation she said he could go to the devil (p. 50, l. 12).

After the article in *Town Topics* (p. 56) appeared she went to New York. The Sunday following Dudley also went to New York to see if he could locate her. Monday night he saw her in Delmonico's with Beekman, between midnight and 1 A. M., drinking (pp. 57–58. They went off in an auto. She did not return to the Waldorf and he had her room opened between 2 and 3 A. M. and she was not there . Her bed had *not* been occupied (p. 174, corrected p. 350).

Louise Hurst was Mrs. Dudley's maid from December 8th, 1904, to April 8th, 1905, and was for three weeks with her at the Waldorf at the beginning of her service. During this three weeks it was Mrs. Dudley's practice to dismiss her maid at 5 P. M., telling her she would not need her till next day and not to come till she called her. She would not call her till about 2 P. M. the next day, when Mrs. Dudley would be in bed and would get up and be dressed by the maid. In the meantime Louise was in Mrs. Dudley's room at 12 or 1 o'clock and found she had not returned (pp. 748–749).

This it will be remembered was during the period when Brightly was seeing Mrs. Dudley every week with Beekman late at night or in the early morning drinking and sometimes drunk in cafes in New York.

May 13th, 1905, Dudley received an anonymous letter, warning him to look after his wife, that she could not fail to bring ruin and disgrace upon herself and him.

When Dudley showed it to his wife she only said, "Oh, what does that amount to?" (pp. 51-52). There were other letters of similar import. When the *Town Topics* article was brought to her attention by Dudley she merely screamed murder (p. 156).

It must have been evident, however, to Mrs. Dudley, even before the *Town Topics* article, that matters could not go on much longer as they were.

It was that, however, which precipitated her departure. On May 22d, 1905, nine days after the anonymous letter, she took her departure with the silverware and everything valuable and portable in the house (p. 606, l. 13).

Dudley says he sent a marked copy of *Town Topics* to Mrs. Dudley in her room the day it was issued, April 20th, 1905. The next day she left for New York.

According to her story she had information on April 13th of the presence of her husband at the Raleigh Hotel under an assumed name, and although she says he came home on the sixteenth she neither left the house then nor charged him with misconduct.

It was not *that* that drove her from home but the knowledge that her intimacy with Beekman had become public.

She went to the Waldorf Hotel on leaving her husband's house where he supplied her with a letter of credit for $2,500 and other funds with which to go abroad.

Within about a month she was in Paris with Beekman and the automobile ride occurred which Brightly describes (pp. 667-670) and in the course of which she heaped abuse upon Beekman and declared to his face that he was the cause of her leaving her husband.

When her husband called her attention to the *Town Topics* article she declared that she would ruin him financially and morally (p. 62, l. 35).

She made a similar threat to Mrs. Angeline Knight (p. 634, l. 30).

She has relentlessly pursued this object from that time till now—and it cannot be said that her efforts have been entirely without success.

II.

THE RESPONDENT DID NOT REFUSE OR NEGLECT TO MAINTAIN OR PROVIDE FOR HIS WIFE.

The appellant fails to sustain the branch of her case upon this point even more obviously than the other.

The Vice Chancellor did not find it necessary to consider the question of defendant's adultery but rested his decision upon the complainant's failure to prove that her husband had neglected or refused to maintain her.

The efforts of Mr. Dudley to induce his wife to accept an allowance of $250 per month ($3,000 per year) are detailed by him (pp. 72-77), and not denied. They are in fact set forth in her bill which, as the Vice Chancellor remarks, would have been demurrable but for her extravagant charge as to her husband's means, which was completely disproved by him without any effort on her part to sustain it.

See his testimony as to his resources (pp. 135-139). He says (p. 139, l. 20) that his net income is probably $7,500.

There is no other testimony bearing on this part of the case.

It is impossible to hold that the allowance of $3,000 which he proposed (and to which she and her different counsel have at various times consented) was inadequate.

The decree of the Court of Chancery dismissing her bill should be affirmed, with costs.

ALAN H. STRONG,
Of Counsel with Respondent.

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NEW JERSEY
Court of Errors and Appeals.

BETWEEN
MARIE DUDLEY (*Complainant*), *Appellant,*
AND
EDWARD DUDLEY (*Defendant*), *Respondent.*

On Appeal
From Chancery.

CASE.

For Complainant-Appellant,
ALEXANDER SIMPSON.

For Defendant-Respondent,
ALAN H. & THEO. STRONG.

IN CHANCERY OF NEW JERSEY.

BETWEEN

MARIE DUDLEY,
Complainant,
AND
EDWARD DUDLEY,
Defendant.

On Bill, &c.

BILL OF COMPLAINT.

(*Filed September 25, 1907.*)

To his Honor WILLIAM J. MAGIE, Chancellor of the State of New Jersey.

1. Complaining, shows unto your Honor, your oratrix, Marie Dudley, of the city of Camden, in the county of Camden, and State of New Jersey: that she was lawfully joined in the bonds of matrimony to her present husband, Edward Dudley, on the fourth day of March, in the year of our Lord one thousand eight hundred and ninety-nine, at Naples, Italy.

2. That at the time of their marriage, your oratrix was a resident of the State of New York, and her said husband was a resident of the city of Camden, in the county of Camden, and State of New Jersey; and that from the time of their said marriage until the time of the filing of this bill her said husband has been a resident of the said State of New Jersey.

3. That at the time of their said marriage your oratrix and said defendant were sojourning at Naples aforesaid, and thence for a short while traveled through different parts of Europe, until later in the spring of said year one thousand eight hundred and ninety-nine, your oratrix and her said husband returned to America, and her said husband brought her to his permanent home and fixed residence at Camden aforesaid, to his family mansion house there called "The Grange,"

whereupon your oratrix, in the spring of one thousand eight hundred and ninety-nine, took up her home and made her fixed domicile and residence with her said husband at "The Grange," in Camden aforesaid, at which latter place your oratrix has since had her fixed domicile, although at different times for short periods since then she has lived with her said husband at the city of Philadelphia, in the State of Pennsylvania, and at other places and more recently, has been, apart from him, an inhabitant of the city of New York, in the State of New York.

4. And your oratrix further shows, that the said Edward Dudley, her husband, since his said marriage with your oratrix, on different days in the months of June, July, August and September, in each of the years nineteen hundred and three, and nineteen hundred and four, at Saugerties-on-the-Hudson, in the State of New York, wickedly disregarding the solemnity of his marriage vows and the sanctity of the marriage state, committed adultery with one Elizabeth Battelle Vanderpoel, at her home, "The Meadowside," at Saugerties-on-the-Hudson, aforesaid; and on different days in each of those four months, and in each of those years, committed adultery with the said Elizabeth Battelle Vanderpoel, at other places (to your oratrix unknown).

5. And that the said Edward Dudley, her husband, on the thirteenth, fourteenth and fifteenth days of April, in the year one thousand nine hundred and five, committed adultery with the said Elizabeth Battelle Vanderpoel, at the Raleigh Hotel, Washington, in the District of Columbia, and on each of said three days in April, aforesaid, your oratrix's said husband committed adultery with said Elizabeth Battelle Vanderpoel, at other places (than the said Raleigh Hotel), in Washington, aforesaid.

6. And your oratrix further shows that she became suspicious of her said husband and his relation with the said Elizabeth Battelle Vanderpoel in the summer of

nineteen hundred and two or thereabouts, but that she did not become possessed of the evidence of his guilt until the month of April, nineteen hundred and five, and avers that she has not cohabited with her said husband since obtaining such evidence in said month of April, nineteen hundred and five; that she was then at the house in which she and her husband had been living, he being absent in Washington with his paramour, Elizabeth Battelle Vanderpoel, and thereupon left said house and has since lived separate from him.

7. And your oratrix further shows that prior to the acquisition of the proofs of her husband's guilt in April, nineteen hundred and five, she had been suspicious of him and protested to him against his association with the said Elizabeth Battelle Vanderpoel; that notwithstanding the wishes of your oratrix, her said husband and said Elizabeth Battelle Vanderpoel continued to meet and see each other in various cities in England and France and on the vessel returning to this country in the fall of 1902, to the great scandal and discomfort of your oratrix; that since your oratrix was forced to separate herself from him he has traveled about with his said paramour, spending winters with her in Florida, and visiting various cities and resorts, remaining at the same hotels with her, and visiting her at her house in Saugerties in the State of New York.

8. And your oratrix further shows that she has been unable by reason of the adultery of her husband and his devotion to his said paramour to remain in the same house with him and has been compelled to seek a home away from him and support and maintain herself with the assistance of relatives and friends.

9. And your oratrix further shows that shortly after she was compelled to leave her husband in the month of April, nineteen hundred and five, he furnished her funds with which to go to Europe for the sake of her health, which was then seriously impaired, and after her return sent her a remittance of four hundred and

seventeen dollars per month until the month of November, nineteen hundred and five; that your oratrix protested that such sum was wholly insufficient to support her in the manner that she and her said husband had been living, and was inconsistent with his circumstances in life and the expenditures theretofore made by him for your oratrix; that after November, nineteen hundred and five, her said husband neglected and refused to continue such monthly payments. In December, 1905, a check for two hundred and fifty dollars was sent to the counsel of your oratrix but was returned unaccepted by him. Since November, nineteen hundred and five, your oratrix has received no support whatever from her said husband, but has received one check for two hundred and fifty dollars, which your oratrix declined to use, because it was accompanied by a receipt which your oratrix was requested to sign, which would have operated to fix said sum as a monthly allowance; that since that time her said husband has made no provision whatever for her support and has wholly abandoned and refused and neglected to maintain and provide for her, and has taken steps to prevent your oratrix from obtaining credit at places where she had previously been accustomed to procure medical attendance, clothing and other necessaries, and has attempted to discredit her by advertising in certain New York newspapers that he would not be responsible for any debts that might be incurred by her.

10. And your oratrix further shows that her said husband, Edward Dudley, is a man of large means, his resources amounting, as your oratrix believes, to at least one million dollars; that his income is upwards of fifty thousand dollars per year, and that his expenses for your oratrix and her husband during the time they were living together were said by him to amount to about thirty thousand dollars per year; that his property was inherited to a large extent from his father, Thomas H. Dudley, who was a man of great wealth,

and the inheritance so received by him has been greatly enhanced in value under his management; that your oratrix has never known the full extent of his wealth, but his admissions to her justify the statement that he is a man of large means and that his real and personal estate aggregate at least the sum of one million dollars. That he is a man of luxurious tastes and expensive habits, and is now spending a large sum of money per year in traveling and other pleasures, and is abundantly able to make ample provision for the support of your oratrix in a manner suitable to her position.

And your oratrix further shows unto your Honor, that she has frequently applied to the said Edward Dudley and requested him to provide for her support in a manner suited to his means and her condition in life, but he has wholly refused so to do.

In consideration whereof, and forasmuch as your oratrix can only be relieved in this court: To the end, therefore, that the said Edward Dudley may answer the premises, but without oath, and that he may be ordered and decreed to provide suitable support and maintenance, to be paid by him for your oratrix out of his property, for such time as the nature of the case and the circumstances of the parties render suitable and proper in the opinion of the Court; and that the said defendant may be compelled to give reasonable security for such maintenance and allowance, and to pay the same from time to time under the compulsory orders of this Honorable Court, as provided by the statute; and that he may be required to pay to her a reasonable weekly allowance and a proper amount for counsel fees during this suit; and that she may have such other or further relief in the premises as to your Honor shall seem meet.

May it please your Honor, the premises considered, to grant unto your oratrix a writ of subpœna to be directed to the said Edward Dudley, therein and thereby requiring him, on a certain day and under a certain pen-

alty therein to be expressed, to be and appear before your Honor in this Honorable Court, then and there to answer the premises, and to stand to and abide and perform such order and decree therein as to your Honor may seem meet.

McDERMOTT & ENRIGHT,
Solicitors for and of Counsel with Complainant.

ANSWER AND CROSS BILL.

(*Filed November 19, 1907.*)

IN CHANCERY OF NEW JERSEY.

The defendant, Edward Dudley, for answer unto the bill of complaint of Marie Dudley, complainant in the above-entitled cause, saith:

1. This defendant admits that he was lawfully married to the said complainant on the fourth day of March, in the year eighteen hundred and ninety-nine, at Naples, Italy; that the complainant at the time of said marriage was a resident of the State of New York and that this defendant was a resident of the city of Camden, in the State of New Jersey, and that he has continued to be a resident of the State of New Jersey down to the present time.

2. And this defendant admits that at the time of their said marriage the complainant and this defendant were sojourning at Naples aforesaid, and that they remained abroad traveling in different parts of Europe until some time later in the spring of the year eighteen hundred and ninety-nine, when they returned to America and took up their permanent abode at the family residence of this defendant, known as The Grange, at Camden aforesaid, which place has continued to be the domicile of this defendant and of the said complainant except for her voluntary abandonment thereof.

3. And this defendant wholly and absolutely denies that since his marriage with the said complainant on different days in the months of June, July, August and September, in each or either of the years nineteen hundred and three and nineteen hundred and four, or at any other time, at Saugerties-on-the-Hudson, in the State of New York, or elsewhere, he committed adultery with Elizabeth Battelle Vanderpoel; and he also wholly and absolutely denies that on the thirteenth, fourteenth and fifteenth days of April, in the year nineteen hundred and five, or on any of said days, committed adultery with the said Elizabeth Battelle Vanderpoel at the Raleigh Hotel, Washington, in the District of Columbia, or anywhere else.

4. And this defendant denies that in the month of April, nineteen hundred and five, or at any time, the said complainant became possessed of evidence that this defendant had committed adultery; but he admits the fact to be that the said complainant left the house of this defendant in the month of April or May, nineteen hundred and five, during his absence, and that she has not since that time returned to his home or cohabited with him.

5. And this defendant denies that prior to her departure as aforesaid, in April or May, nineteen hundred and five, the said complainant had protested to him against his association with the said Elizabeth Battelle Vanderpoel, and he denies that against the wishes of the said complainant he did meet or associate with the said Elizabeth Battelle Vanderpoel in various cities in England and France or on the vessel returning to this country, or that since the said complainant separated from him he has traveled with the said Elizabeth Battelle Vanderpoel or spent winters with her in Florida or visited various cities and resorts, remaining at the same hotels with her. This defendant admits that he has made short visits to the said Elizabeth Battelle Vanderpoel at her country house in Saugerties, New

York, but only when there were several others also visiting there and upon the ordinary footing of a guest on such occasions. And this defendant says that his association with the said Elizabeth Battelle Vanderpoel arose out of and was incidental to the friendship which previously existed between her and the said complainant, which also led to deponent's being employed by the said Mrs. Vanderpoel as her attorney; but this defendant says that his association with the said Mrs. Elizabeth Battelle Vanderpoel was never attended with the slightest approach to familiarity and that all of his relations with her were fully known to and approved by the said complainant.

6. And this defendant wholly and absolutely denies that the said complainant has been unable, by reason of any conduct on the part of this defendant, either with respect to said Elizabeth Battelle Vanderpoel or otherwise, to remain in the same house with him; and he denies that she has been compelled to seek a home away from his and support and maintain herself with the assistance of relatives and friends. And this defendant says that the departure of the said complainant from the home of this defendant and her separation from him as aforesaid was entirely voluntary on her part and without any cause whatever, or any just or reasonable suspicion of misconduct on the part of this defendant; and this defendant further says that, since the time of her leaving his home as aforesaid, he has at all times been willing and desirous to provide adequately and properly for the support of his said wife either at his said home or by payment of reasonable monthly sums for her maintenance since she was determined to live elsewhere.

7. And this defendant admits that shortly after the complainant left his home he provided her with funds with which to go to Europe, and that after her return from Europe he made her an allowance of four hundred and seventeen dollars per month, which monthly

sum was paid to her in each of the months of August, September and October, in the year nineteen hundred and five, by checks of this defendant for said amount to the order of said complainant, dated respectively, August 24th, September 23d and October 24th in said year, said allowance being intended to be and being accepted by said complainant as a full provision for all the expenses of her maintenance so long as the same should be continued; that in October or November of the year nineteen hundred and five, bills were presented to this defendant by John Wanamaker and Lichtenstein Millinery Company, both of New York, for merchandise consisting principally of hats, dresses, costumes, underwear, &c., purchased by the said complainant and charged to this defendant during the months of September and October, nineteen hundred and five, amounting to over thirty-two hundred dollars, besides hotel bills at the Waldorf-Astoria and St. Regis hotels for more than seven hundred dollars. That in consequence of receiving these large and most extravagant bills, this defendant was obliged to reduce the amount of the allowance previously made to the said complainant to two hundred and fifty dollars, and thereafter in the months of December and January, nineteen hundred and six, forwarded to the said complainant, through Mr. Brightly, a counselor-at-law of the city of Philadelphia, then acting as her counsel, checks for said amount, which, however, were not accepted by her; that at about that time Mr. Brightly ceased to represent the said complainant as her counsel, and this defendant was unable to ascertain her whereabouts or her address, although he endeavored to do so, until in April, nineteen hundred and six, having learned that Messrs. Battle and Marshal, of New York, were then representing her, this defendant caused a letter to be addressed to them under date of April 12, 1906, stating that he was endeavoring to ascertain the whereabouts of the complainant in order to send to her the said allowance of two hundred and

fifty dollars per month; that a reply to said letter was received from the Hon. William McAdoo, as counsel for said complainant, dated May 1, 1906, which was followed by some further correspondence between Mr. McAdoo and Mr. Rothermel, a counselor-at-law of Philadelphia, on behalf of this defendant, with respect to the amount of the monthly allowance which should be paid by this defendant for the support of the complainant, which resulted in an agreement upon the sum of two hundred and fifty dollars per month, commencing with December, nineteen hundred and five, in accordance with which agreement this defendant caused six checks made by him, each for the sum of two hundred and fifty dollars to the order of the said complainant, dated respectively, December 24th, 1905, January 24th, February 24th, March 24th, April 24th and May 24th, 1906, to be sent to Mr. McAdoo on the twenty-fourth day of May, nineteen hundred and six, for delivery to the said complainant, which checks were returned by Mr. McAdoo on the seventeenth day of July in said year. That thereafter for several months and until October, nineteen hundred and six, this defendant had no communication from the said complainant or any one representing her (the said Battle and Marshal and William McAdoo having ceased to be her counsel), and was unable from any source to learn where she was or how he might communicate with her, although he made diligent efforts to ascertain. That in the month of October, nineteen hundred and six, the said complainant re-opened communication through Mr. Rothermel, counsel for this defendant, in reply to which communication this defendant wrote to the said complainant by registered letter dated October 20, 1906, enclosing a check for two hundred and fifty dollars, dated December 24, 1905, for which he requested her to return a receipt, and agreeing to forward in like manner a like check monthly from that time until the date of said letter, expressing in said letter his intention to further

continue the allowance thereafter, to which letter no reply was made; and from that time until the filing of the bill of complaint in this cause this defendant had heard nothing from the said complainant and was unable to learn where she might be found, she having suddenly disappeared from the address where she had been living.

And this defendant admits that as a necessary measure for his protection against further extravagance on the part of the said complainant upon his credit, and to avoid the utter ruin which a continuance thereof would have brought upon him, this defendant did cause notice to be given to various tradesmen and others who had been accustomed to trust the said complainant upon his credit, that he would not be responsible for further debts which might be incurred by her.

8. And this defendant denies that he is a man of large means or that his resources amount to any such sum as one million dollars; he denies that his income is, or since the time of his marriage has been anything like the sum of fifty thousand dollars per year; but this defendant admits that his expenses for the complainant and himself during the time that they were living together amounted to about fifteen thousand dollars per year down to about the beginning of nineteen hundred and two, and thereafter to about thirty thousand dollars per year, which, however, much exceeded his income and compelled him to sacrifice valuable securities held by him to a considerable amount in order to provide for the wasteful extravagance of his said wife.

And this defendant saith that it is true that he inherited property of considerable extent from his father, Thomas H. Dudley, and that the same has since increased in value; but this defendant saith that the said property consisted mostly of unproductive real estate which is a source of large expense to this defendant, without affording any income. That within the last few years this defendant has lost more than two hundred

thousand dollars by which, of course, his income has been greatly curtailed.

That the total gross income of this defendant from his investments (including all sources of income outside of his law practice), for the year nineteen hundred and six was eleven thousand five hundred and twenty dollars and two cents, and that he then was and still is indebted to the amount of fifty-two thousand dollars, upon which he pays interest at the rate of six per cent. per annum. That during the years nineteen hundred and four and nineteen hundred and five, in consequence of the pecuniary losses and burdens imposed upon him by the extravagance of his said wife, this defendant was compelled to sell securities of the value of forty-six thousand eight hundred and fifty-three dollars, from which he had previously derived an income of over three thousand dollars per year. That the income of this defendant from his law practice has also greatly fallen off, both because of the publicity given by the complainant to their domestic affairs and of the scandalous and unfounded charges made by her against him in the newspapers, and because of the effect upon this defendant of the notoriety thus brought about, whereby he has been reduced to a condition unfit for business and bordering upon nervous prostration; so that for the last two years his practice has not netted him more than five thousand dollars per year. That the sum of two hundred and fifty dollars per month or three thousand dollars per year, which this defendant proposed to allow his said wife for her maintenance, was and is adequate for her needs and is liberal in proportion to his means and income, and more than he can afford to pay or ought to pay in justice to himself and to his two children by a former marriage, who are dependent upon him for support.

9. And this defendant denies that his habits are expensive or that he spends a large sum of money per year in traveling and other pleasures, although it is true

that by the advice of his physician this defendant spent several months abroad in seeking to recover his health, which had been seriously impaired by the mental distress endured by him in consequence of the conduct of the complainant.

And this defendant insists that he has never abandoned the said complainant or given her any cause for leaving him, nor has he at any time neglected or refused to provide for her support; and he insists that the said bill of complaint is wholly unfounded in fact and should be dismissed.

And the said defendant, Edward Dudley, by way of cross-bill exhibited against the said Marie Dudley, complainant, shows:

1. That the said complainant and this defendant were lawfully married at Naples, Italy, on the fourth day of March, in the year eighteen hundred and ninety-nine.

2. That this defendant, at the time of said marriage, was and that he has ever since been and now is a citizen and resident of the city of Camden, in the State of New Jersey, and that after a few weeks following their said marriage spent in travel on the continent of Europe, the said complainant and this defendant returned to Camden aforesaid and there continued to live (except for temporary residence for a few months at a time in Philadelphia) until the day of May, nineteen hundred and five.

3. That on the said day of May, in the year nineteen hundred and five, the said complainant, Marie Dudley, left the house rented by this defendant in Philadelphia aforesaid, where they were then temporarily living, and deserted this defendant, and that she has from the said time of so leaving, and for more than two years last past down to the present time, wilfully, continuedly and obstinately deserted this defendant. And that this defendant, during the entire continuance of said desertion, has been and is now resident in the State of New Jersey.

4. And this defendant prays that the complainant may answer this cross-bill and that he may be divorced from the said complainant and that the marriage between them may be dissolved because of the said desertion.

ALAN H. & THEO. STRONG,
Solicitors for and of Counsel with Defendant.

State of New Jersey, ss.

Edward Dudley, being duly sworn according to law, on his oath says that he is the defendant in the above cause and the complainant in the above cross-bill; that his complaint in said cross-bill is not made by any collusion between him and the said Marie Dudley for the purpose of dissolving their marriage, but in truth and good faith for the cause set forth in the said cross-bill.

EDWARD DUDLEY.

Sworn and subscribed before me this sixteenth day of November, 1907.

ALFRED S. MARCH,
Notary Public, State of New Jersey.

REPLICATION AND ANSWER TO CROSS BILL.

(*Filed December 17, 1907.*)

The complainant joins issue on so much of the defendant's answer as is not in the nature of a cross-bill and as to that part of said answer which is in the nature of a cross-bill, she says:

1. That she admits that she and the defendant were lawfully married at Naples, Italy, on the fourth day of March, in the year eighteen hundred and ninety-nine.

2. This complainant, further answering, admits the statements set forth in paragraph two of said answer by way of cross-bill.

3. This complainant, further answering the said answer by way of cross-bill, denies that she deserted the defendant in the month of May, nineteen hundred and five, or at any other time, and further answering denies that for more than two years last past, down to the present time, or during any part of said time, or at any time, she has wilfully, continuedly and obstinately deserted defendant.

4. And this defendant, further answering, says that in the month of April, nineteen hundred and five, she became possessed of evidence that the defendant had committed adultery with one Elizabeth Battelle Vanderpoel, and thereupon left the house in which she and the defendant had been living and has since lived separate from him. That this complainant then had no intention of deserting defendant and has at no time since intended to desert him.

And this complainant prays that the said answer by way of cross-bill may be dismissed with this complainant's costs and charges most wrongfully sustained.

McDERMOTT & ENRIGHT,
Solicitors of Petitioner.

IN CHANCERY OF NEW JERSEY.

BETWEEN
EDWARD DUDLEY, *Petitioner,*
AND
MARIE DUDLEY, *Defendant.*

BETWEEN
MARIE DUDLEY, *Petitioner,*
AND
EDWARD DUDLEY, *Defendant.*

CHANCERY CHAMBERS, Jersey City,
TUESDAY, November 19, 1912, 10 A. M.

Transcript of the official stenographic report of the testimony and proceedings taken in the above stated cause on final hearing at the Chancery Chambers, in Jersey City, on Tuesday, November 19, 1912, 10 A. M., before His Honor EUGENE STEVENSON, Vice Chancellor.

Appearances—ALAN H. STRONG, ESQ., for the Petitioner, Edward Dudley; MESSRS. MCDERMOTT & ENRIGHT, by JAMES D. CARPENTER, JR., ESQ., solicitor, MARTIN CONBOY, ESQ. (of New York Bar), and CHARLES G. SIGNOR, ESQ., of counsel for the Defendant, Marie Dudley.

Mr. Conboy—I did not expect this case to be moved, especially in view of the difficulty we have experienced in securing testimony on behalf of Mrs. Dudley. As I understand it, your Honor, however, stated yesterday that the case on the cross-bill could be put in.

The Court—The husband has an independent petition or divorce on the ground of desertion, to which the wife has replied with a cross-petition praying for divorce on the ground of adultery, and these cross-actions must necessarily, to a large extent, displace the

original action. If neither party is successful in these divorce suits and the petition as well as the cross-petition should be dismissed, why the maintenance case would still stand for disposition, too. But if either party is successful in the divorce litigation, why then of course that would put an end to the maintenance suit.

Mr. Conboy—I do not think it is our intention to ask for an absolute decree of divorce.

The Court—Isn't it prayed for?

Mr. Conboy—It is prayed for in the cross-petition to the petition which your Honor has set down for trial this morning. The original petition that we presented is for separation and for separate maintenance. That is what we intended to prosecute, and although the same facts which we expect to establish eventually would entitle us to a decree, I do not think our client intends to press that matter, but would be satisfied with a decree for separate maintenance.

The Court—Do you propose to move to amend the prayer of your cross-petition?

Mr. Conboy—I had not expected to take that up, your Honor.

The Court—The whole case is here for trial. I have not intimated that the husband's case or the cross-petition would be tried, but the whole case would be tried.

Mr. Conboy—Well, in view of your Honor's statement yesterday upon our application for adjournment, we have prepared ourselves to try the husband's petition —that is, to defend against the husband's petition for a divorce, on the separate or independent petition which he presents and which your Honor set down for hearing to-day. As Mr. Carpenter explained to you yesterday, I am actually engaged in New York county. Now, it may be my fault that I am there when I ought to be here, but I am not able to do more than to let Mr. Carpenter and Mr. Signor, in our office, conduct the case on behalf of Mrs. Dudley, but we are not in any position to present our cross-petition and our original petition at

this time, owing to circumstances over which we have no control.

The Court—This case has been on the calendar for a long time, and if it should go off for the mere convenience of counsel who are engaged in another court, it would have to go to the end of the calendar nearly a year off. I think the case should be heard without further delay.

Mr. Conboy—Your Honor has in mind that we have got notice that a part of the husband's case will be taken next Friday down in Philadelphia?

The Court—I understand the wife also desires further opportunity to take some testimony. I will deal with that further on. Those matters do not present any argument for the postponement of the general trial. I am, of course, very sorry, Mr. Conboy, that you cannot be present, but there seems to be no help for it.

Mr. Strong—I understand that not only the petition of the husband and the cross-petition in that case, but the other case was set down for trial to-day. Am I right in that?

The Court—Yes, both causes.

Mr. Strong—Your Honor has indicated that the testimony on the part of the husband should first be put in?

The Court—Yes, that seems to be the natural order, unless we are going to try the maintenance case, which nobody would suggest is proper.

Mr. Strong—That was the original case, but it is discretionary, I suppose, to order the testimony in either case to be put in first. I want it understood, and Mr. Conboy should understand while he is here, that we are trying the whole case. He is constantly referring to the single case.

The Court—I think I have corrected him on that. All the cases, and I think there are four of them, are on trial now, and I think the logical order would be for the husband to start in with his evidence on the petition for divorce and then the wife can meet it, and all the evidence taken is evidence in all the causes.

Mr. Conboy—I don't want to raise any technical objection, but Mr. Carpenter informs me that no notice of the trial has been given for the defendant's case on prosecution of the cross-bill. As I say, I don't want to raise a mere technical objection to stay the trial, but shouldn't there be some notation upon the record that may obviate any possible difficulty that may arise over that. In New York we require the notice of trial to be produced.

The Court—We require those notices to be produced where the defendants do not appear, but where both parties are in court it is not necessary. Counsel may proceed.

(Mr. Strong reads the petition of Edward Dudley and the answer is read by Mr. Carpenter.)

Edward Dudley, sworn in his own behalf, testified as follows:

Direct examination, by Mr. Strong:

Q. Mr. Dudley, you are the defendant in one of these suits and the petitioner in the other?

A. I am.

Q. Where do you live?

A. I live in Camden, New Jersey.

Q. Are you a member of the Bar of New Jersey?

A. Yes, I have been a member of the Bar since 1875.

Q. Attorney and counsellor?

A. Counsellor since 1878. I think those are the dates.

Q. And you have been practicing your profession in this State ever since those dates?

A. Yes, ever since.

Q. And residing all the time at Camden?

A. I have resided there all the time, particularly in the summer, from May to November, and in the winter we used to rent a house with my sister, in Philadelphia, and after my marriage we rented a house there during the winter months.

Q. You have always lived in Camden?

A. Wlel, I was born there, but went abroad with my father in 1860 and 1861, during the Civil War. He was Consul at Liverpool, and remained there until 1873, and I was attending Harvard College, and in the meantime going back and forth, and I returned finally in 1873.

Q. Your father was the Honorable Thomas H. Dudley, a distinguished member of the New Jersey bar?

A. He was a member of the bar, yes.

Q. When did you become acquainted with your present wife, Marie Dudley?

A. Some time in the year 1892. I called on a classmate of mine in New York and met her there, with others, and was introduced to her by this classmate.

Q. And thereafter did you become better acquainted with her?

A. Yes, I occasionally took her to dinner and went to the theatre with her, and we became very much better acquainted with each other, and she never—

Q. Just a moment, let me ask you first: What was her name then?

A. Marie Mulock.

Q. Miss or Mrs.?

A. I suppose Miss. It was Miss when I met her.

Q. With whom was she living at that time?

A. Well, part of the time she was living at an apartment; I think she had an apartment, and then she was at a hotel, and then she lived with some friends, too.

Q. Well, you paid some attention to her, I suppose, and eventually married her?

A. I became quite well acquainted with her, and I think it was two or three years after this that she told me that she had been married in Ohio, in 1885, I think the date was, and that her husband had deserted her or treated her badly, or something of the kind.

Mr. Carpenter—I object to that; I don't think it is material.

Mr. Strong—Not too much in detail, but I think it is material.

The Court—I will let it stand. You are not going to pursue it any further?

Mr. Strong—No, not to any extent, only to show that through Mr. Dudley a divorce was obtained from her husband.

The Court—Oh, I will take it. I will say right here that in desertion cases there is hardly any limit to the investigation of the lives of the two parties and their relation to each other. Almost everything throws some little light upon the causes of the separation. It is very hard to draw the line. Proceed.

Mr. Strong—I will try not to be wearisome or to go beyond what seems not to be proper.

Q. You learned that Miss Mulock, as you knew her then, had been previously married?

A. Yes.

Q. And the name of her husband was what?

A. Edward Warren Duflon. I think he was a son of a Count or something of the kind here in New York, one of the Duflon family.

Q. Well, did you at her request bring about a divorce?

A. I introduced her to Mr. Cravath, of New York.

Q. Paul Cravath?

A. Paul Cravath, and he obtained her divorce for her.

Q. That was at what time?

A. I have got the papers here. I think she got her divorce in 1895—somewhere along there.

Q. Well, I suppose that is enough for present purposes. What, if anything, did Mrs. Dudley (now that she is) tell you as to her relatives?

A. She had no father or mother, or any relatives.

Mr. Carpenter—I object. How can the question of who her relatives were be concerned in this case?

The Court—It may not, but it is conversations between the parties, and I will take it.

A. She said she had no relatives at all alive; that her father and mother were dead, and that she had no sisters and brothers.

Q. Did she at any time tell you that she had a son living?

A. No, I never heard of it until August, 1905.

Q. You were married to Mrs. Dudley, I think it appears, in March?

A. March 4th, 1899, I think the date was.

Q. At that time you were traveling in Europe?

A. Yes, Naples.

Q. Following your marriage, you traveled with Mrs. Dudley?

A. Yes, we traveled through Italy and parts of France, and especially in France, and sailed from there in May, 1899, for home.

Q. (By the Court)—Prior to that, had you been married?

A. Yes.

Q. When were you first married?

A. Oh, I was married in 1878, I think. I was married a year and had a son.

Q. And when did you first wife die?

A. Just one year from the date of the marriage, upon the birth of the son.

Q. She died, leaving one son?

A. Yes.

Q. And he is now living?

A. Yes, he is a member of the bar.

Q. His name is Edward Lawrence Dudley?

A. E. Lawrence Dudley.

Q. You were married a second time?

A. I was married about three years from that date—I am not quite sure of the date, but I was married about eighteen months. My wife died of pneumonia, leaving a girl.

Q. (By the Court)—Is the daughter now living?

A. She is living.

Q. What is her age?

A. She is twenty-five or six, I think.

Q. So that you have one child by each of the previous marriages?

A. Yes.

Q. Where were these children, Mr. Dudley, when you married this lady, in Naples?

A. They were living with me. I had a home, and my married sister, who had no children, was keeping house for me in Camden, at the "Grange," and taking care of these children. In fact, she brought them up from childhood, because they were very young, and at this time I speak of, she was keeping house there for me.

Q. Just in that connection, there has been no child born of your last marriage?

A. No.

Q. (By the Court)—What is the age of your present wife, so far as you know?

A. Well, she told me when I first met her, in 1892, that she was twenty-four years of age.

Q. At that time how old were you, Mr. Dudley?

A. I was just—well, I am sixty-two now.

Q. If you are sixty-two now, you must have been forty-two then?

A. Yes.

Q. So that your age was forty-two, and hers, as you understood from her, was twenty-four?

A. She told me it was twenty-four.

Q. Well, after traveling in Europe did you return to Camden?

A. We sailed from Southampton for New York on the old "City of Paris," and arrived some time in May, and were met by Mr. George M. Dorrance at the dock.

Q. Well, where did you go to live on your return?

A. We went directly from the dock in New York to Camden, and went directly out to the Grange, where I had explained to Mrs. Dudley, before we were married, the conditions were that my sister was keeping house, and was the head of the house there, and that, although we were married, she would have to take second part there; that I wouldn't remove my sister, as my children were there, and we would stop there only while it was open in May until we closed it in November, and that in the winter I would take another house.

Q. What did she say to that?

A. She agreed to it.

Q. Well, did you make your home at the Grange?

A. Yes, we went out there and moved in. My sister, who had never met her, my aunt, and my daughter and children all met her with open arms and received her in the house.

Q. How long did you continue, you and your wife, to live at the Grange after that?

A. I think a little over two weeks.

Q. And what was it that led you to leave?

A. Mrs. Dudley at once commenced to quarrel with my daughter and sister—

Mr. Carpenter—I object, unless it was in the presence of Mrs. Dudley, and I ask what she said be put on record.

The Court—Mr. Dudley is a lawyer, and he knows he musn't testify to hearsay.

Mr. Carpenter—I furthermore wish to object, on the ground that this is too remote, it being way back in 1899, and the desertion was not until 1905.

The Court—Well, I can only say again that I know of no limit laid down between the married couple where you have a desertion case. Sometimes you have to begin at the very beginning, at the church door, and follow their lives down and see how they behave towards each other; because,

after all, the Court is to find out the causes of the separation. There isn't any rule that I know of that limits the examination in such cases as these except common sense. Of course, we shall not go into things that are utterly immaterial, but everything that happened throws light upon the life of the couple. Proceed. The same liberality, of course, applies to both sides.

Q. I was asking you the cause of your leaving.

A. I didn't intend to repeat what was mere hearsay; it was directly under my own observation at the table—dining table and breakfast table, and at other times. Mrs. Dudley seemed to be irritated at something and commenced to quarrel with my sister, which I protested against and tried to stop, and then with my daughter and others, and became very disagreeable to them.

Mr. Carpenter—I move to strike that out about her becoming very disagreeable to them. It is a mere conclusion of the witness.

The Court—We haven't got a jury here. It is almost impossible to take this testimony without having some little things of that sort. If you desire to have that cut out, it will be disregarded—the expression of opinion on the part of the witness that his wife became disagreeable.

Q. Well, what was it that caused you to leave the Grange after some two weeks?

A. I used to go out every Wednesday and Saturday nights for a game of social cards in Philadelphia, with six or eight friends of mine, with whom I have had a little social game for years, and Mrs. Dudley knew that, and I came home one evening after one, and found Mrs. Dudley up in her room, and she said she hadn't been down to her dinner and didn't intend to go, and seemed to be very much disturbed about something that somebody wouldn't send her what she wanted, and finally we discussed it and I said, "Well, don't you think we had better go?"

"Yes, I think we had."

So we packed up our things and we went from there. I think we went to New York for the day, and then I think we went to Atlantic City. This is about June, 1899, and we went to the Brighton.

Q. June of the same year you were married?

A. Yes, same year. I think we stopped at the Brighton some five or six weeks, and then went to Narragansett Pier, if my recollection serves me right.

Q. Did anything occur at the Brighton?

A. Yes; I went up in my room one afternoon and, for some unknown reason, Mrs. Dudley commenced to call me all kinds of names and commenced to pitch into me, and I tried to quiet her, and I said, "Everybody will hear you in the hotel."

Q. Can you recall any of the names which she applied to you then?

A. Oh, yes. Oh, well, I dislike very much to repeat them; some of them will not bear repetition.

Q. I think we ought to have the language, if you can give it to us.

A. Well, she called me a damn fool—

Mr. Carpenter—If you Honor please, I don't know whether this is still within the scope that your Honor permits, but I want to object as being too remote, also incompetent and irrelevant under the pleadings.

The Court—I will take it.

Q. Well, give us any part of the conversation that you can recall.

A. Well, she called me a damn fool, a damn rascal, and charged me with infidelity with a woman stopping at the hotel in rather a loud voice, and so I said to her: "Everybody will hear you talking," and I left the room. It turned out afterwards that some friends of mine did hear it and spoke of it.

Mr. Carpenter—I object to it as hearsay.

A. (Continuing)—Well, that was hearsay and I drop that. It was unintentional.

Q. Did she speak in a loud voice when she called you names?

A. Oh, yes; so that it could be heard through the rooms.

Q. What was it that led her to say these things to you?

A. I never knew. She unfortunately broke out in this manner every once in a while.

Q. Had you said anything to her?

A. Not a word; she had no cause for it at all. We had merely gone up there to dress for dinner.

Q. (By the Court)—Did she charge you with adultery with this woman at the beginning of the quarrel?

A. Right along.

Q. Was that the cause of the quarrel and her attack on you?

A. Oh, that was one of the last things she said; she did that right along for a number of years.

Q. No, I refer to this particular quarrel.

A. That one, I think, was caused by a young lady wanting me to take her along with us in the evening. We were going out in the evening to dine at another restaurant.

Q. Was that the woman that she charged you with having committed adultery?

A. Oh, no. The one in the petition?

Q. No.

A. Yes, that is the one she charged me with being familiar with.

Q. What I want to know is, was that the cause of the quarrel?

A. I think it probably was, because the girl, just before we went upstairs, had asked me to take her along, and I saw no reason why she shouldn't go.

Q. Did you argue with her about it?

A. Yes.

Q. Did she state what evidence she had?

A. Oh, no.

Q. Did she give any reason?

A. No, only she didn't want her along.

Q. And without giving you any evidence at all?

A. Absolutely.

Q. Charged you with having committed adultery with this guest at the hotel?

A. Yes.

Q. And you had been acquainted with the lady before?

A. Only while we were down there; we met her there.

Q. How long had you known her?

A. A week or ten days. She was a daughter of a prominent lawyer that I knew in Philadelphia.

Q. Married or unmarried?

A. Unmarried.

Q. Was the young lady with friends at the hotel?

A. Oh, yes; her father and mother and sister.

Q. And she had asked you to let her go along in company with Mrs. Dudley?

A. Yes, to go over to the Hotel Windsor to take dinner, or supper, or whatever it was.

Q. Well, following that quarrel or disagreement, did you remain at that hotel?

A. I think we did for some few days more. I couldn't tell exactly what part of it occurred, but we shortly went to Narragansett Pier.

Q. Then at Narragansett Pier; how long did you remain, do you remember?

A. Oh, I think we remained there two or three weeks —the better part of the rest of the summer.

Q. That fall or that winter you spent in Philadelphia, did you not?

A. Yes, we went to Philadelphia and rented a house at 1723 Locust street.

Q. For the winter months?

A. For the winter months.

Q. And kept house, did you?

A. Yes.

Q. Did you entertain?

A. Well, shortly after we got there my sister went over with my children to another house, and I thought I ought to introduce Mrs. Dudley, and perhaps our quarrels would pass off, and we gave a reception, and I persuaded my sister and daughter and aunt to come to our house with my sister and introduce her to some people, thinking these breakings out, and anger, and speeches were really caused by her ill health, because she hadn't been very well and didn't look very well at that time.

Q. You speak of "outbursts"; were there others besides what you have told us of?

A. What, breakings out?

Q. Yes.

A. Almost continually; they commenced almost immediately after our marriage. Hardly a week passed but what she had these outbreaks.

Q. Charges of what?

A. Well, charges of bad treatment, and that my children were not treating her right, and my family didn't treat her right, and charging me with staying out late at nights when I went out to play cards, saying that I didn't come in until three or four in the morning. She knew very well what time I came in.

Q. What was your habit of getting home from your card parties?

A. Why, from the card parties? Colonel McClure, an old gentleman and editor of the *Philadelphia Times,* and I always went up in a cab of an evening a little after twelve o'clock, and he dropped me at my house and went to his own.

Q. Did Mrs. Dudley, in these outbursts of hers, make any charges of misconduct?

A. Oh, certainly; she charged that I left the card table at twelve o'clock, and that I didn't get home until three or four o'clock. She not only said it to me personally, but said to friends that I spent my time from that time on with women.

Q. Specifying any particular woman?

A. Not at that time, no.

Q. (By the Court)—Did she ever specify any particular women besides the young woman whom you mentioned at the Hotel Brighton and the present co-respondent named?

A. Oh, yes; quite a number that I can tell you about.

The Court—Proceed.

Q. Well, who were some of the women that she charged you with being intimate with?

A. Well, I had a client—quite a valuable client—Mrs. Tilghman, of Boston, who had been obliged to reside in Philadelphia on account of ill health, and I had known her ever since she was a little child when I was in Cambridge. She lived out in Cambridge with her mother at that time, and she had considerable property and I was looking after it for a number of years. At Narragansett Pier Mrs. Dudley and I were walking along and we met her, and I introduced her to Mrs. Dudley, and she was very nice and stopped with Mrs. Welsh in Philadelphia, and Mrs. Dudley and I invited Mrs. Tilghman and her friend, Mrs. Conover, with us at the Casino, and we had a very pleasant dinner, and I think Mrs. Tilghman invited us to lunch. We were very friendly, and when she came to Philadelphia, while she was on her way to Philadelphia Mrs. Tilghman stopped in New York, and at that time a railroad in Boston were about to buy a lot of property, and I got word of it and had a lot of property to sell, and Mrs. Tilghman wrote me to Camden, at my office, stating she wanted to see me par-

ticularly about it, and I wrote her and said that Mrs. Dudley and I were going to be in New York on a certain day—

Mr. Carpenter—I object to the witness stating the contents of any letter that passed between them as hearsay.

Q. What followed after the letters?

A. I received a note early in the morning, when we got to the Waldorf, and went up to our room and opened it and read it and threw it on the table and thought nothing more of it. The note asked for an appointment with Mrs. Tilghman. From that time on Mrs. Dudley seemed to get it into her head that Mrs. Tilghman was a woman of bad fame, and everything else, and that I was intimate with her.

Q. At this time, when you sey you threw the note from Mrs. Tilghman on the table, was Mrs. Dudley present then?

A. Yes, I got out of bed. There was nothing excepting she asked me to appoint a time to see her. Mrs. Dudley knew perfectly well that Mrs. Tilghman was a client of mine.

Q. Did Mrs. Dudley make any charges of misconduct with Mrs. Tilghman?

A. Oh, yes; at once.

Q. At that time, you mean?

A. Right there.

Q. Well, were there other ladies that she mentioned?

A. Yes; there was a personal friend of mine, Mr. Walton, of Wilmington, Delaware. He was a personal client of mine, and I had been down near Wilmington to close up a matter, and they failed and I got Mr. Walton out of it, but Mr. Walton, two or three years after that, lost everything he had. He had a daughter, a young girl about nineteen or twenty, and he was a member of the Union League Club and that was the one thing he enjoyed—

Q. Philadelphia club?

A. Yes. I received a note from his daughter, sent to my house, asking me if I would do her a favor. She was working on a newspaper and making money. She wanted to know if I would take $60 and pay the club dues.

Mr. Carpenter—I object.

Q. Did this come to the attention of Mrs. Dudley?

A. Certainly; it was sent up to my house. The note was there and I didn't disguise it. There was nothing wrong at all; it was merely a request to do a friendly ast, and I did it.

Q. Did Mrs. Dudley see the letter and know about it?

A. It was in my house; no doubt she did, because she charged me at once with infidelity with this woman.

Q. What did you do in the matter?

A. I took the money that she sent and went down to the club and paid her father's dues, and sent her back a receipt, so that he wouldn't be mortified. He didn't want her to do it.

Q. Well, now, to return to the charge that she made in regard to Mrs. Tilghman; did you continue to represent Mrs. Tilghman after that?

A. Only a very short time. There was some lady giving a tea and Mrs. Dudley insisted upon my going that afternoon, and Mrs. Tilghman was pouring tea, and what occurred between them I don't know, bue she very shortly left. I saw there was something wrong. Mrs. Dudley had said something to Mrs. Tilghman that I didn't hear, and I got a note from Mrs. Tilghman the next day, and I found it was hopeless to continue to retain her as my client, and I wrote her and told her she would have to get other counsel.

Q. You withdrew.

A. Yes.

Q. For what reason?

A. On account of these charges Mrs. Dudley made.

Mr. Carpenter—I object to that.

The Court—Why?

Mr. Carpenter—I don't think it is material what reason there was why he didn't continue to represent her.

The Court—Anything that is immaterial does no harm, and while it may not throw very much light upon the relations of this couple, I will let it stand.

Q. Well, during the time you were living in the Locust street house, commencing in 1900, I believe, were there any disagreements between Mrs. Dudley and yourself?

A. Oh, yes; hundreds of them.

Q. Well, occurring how, for instance?

A. Well, I didn't see her the night of January 5th, 1901. We had been dining, and there was apparently no disagreement going on until we left the dinner table and I went in and was reading in the library or the drawing room, and she went upstairs to bed, apparently in a very good frame of mind, I thought, and finally I got up and started to go to my room, and went to the door and tried to open it and found it locked. I asked her what was the matter and she said, "You will never come in here again; that ends it, I don't want to see you again. You will sleep where you like." And I expostulated with her; I thought it was very strange. However, that was what occurred.

Q. (By the Court)—What is the date of that, about?

A. January 5th, 1901.

Q. And this was in the Philadelphia House?

A. Yes. And from that time to this we have never lived together.

Q. She refused to admit you that night?

A. Absolutely.

Q. And she refused to admit you on subsequent occasions?

A. Oh, things got to be so disagreeable whenever I

came to the house it was never discussed again. She had her room and I had mine.

Q. (By the Court)—Did she assign any particular reason on that occasion?

A. No, not at all.

Q. Had she, during the recent period prior to that, made charges of infidelity?

A. Oh, she made them all the time.

Q. Well, during that particular period did she?

A. Well, she did in regard to the young ladies at Atlantic City; she made that charge.

Q. Well, that was, I understand, in 1899?

A. Yes, sir.

Q. Now we are speaking of January 5th, 1901.

A. I think the other one was Mrs. Tilghman, and I think that was before 1901; but this one in regard to Miss Walton was after 1901.

Q. After you ceased to live as man and wife?

A. Yes.

Q. What I am particularly inquiring, Mr. Dudley, is whether the disagreement—the relations of animosity that resulted, on January 5th, in her excluding you from her room—whether those things were connected with the charge of adultery?

A. No, I don't think so at all.

Q. General inability to agree?

A. Yes, general inability.

Q. How frequently were these charges of adultery made?

A. Oh, well, they would be made—one was made in 1899, as I say, down at Atlantic City, and the one with reference to Mrs. Tilghman must have been somewhere in 1900, and I think the one as to Miss Walton must have been made in 1902 or 1903.

Q. But they were outbursts of temper on the part

of Mrs. Dudley whenever she would make these charges?

Mr. Carpenter—I object. The question is leading and calls for a conclusion.

A. These things occurred in about this way: Mrs. Dudley apparently wasn't very well, and in Europe, when we went abroad together, we went to see a French doctor—

Q. What year was that?

A. Somewhere along in 1900, in the summer. We went abroad together, and I went to see a French doctor, and he told me the trouble was anemia, and I asked him about these outbursts she had every once in a while—

Mr. Carpenter—I object to what he asked the doctor.

A. (Continuing)—He told me she had anemia and that her blood was in bad condition, and I concluded afterwards that many of these things were from ill-health.

Mr. Carpenter—I object to the conclusion drawn by the witness. As an attorney he knows what is relevant and what is not.

A. That is true, Mr. Carpenter.

Mr. Carpenter—And I ask your Honor to caution him not to give that kind of testimony.

The Court—Well, we are going rather far afield.

Q. Well, did these outbreaks occur at the dinner table ever?

Mr. Carpenter—I object; the question is leading.

A. That is what I was going to say a few moments ago.

Mr. Carpenter—Mr. Strong almost puts the words into his mouth.

The Court—If counsel wishes to elicit testimony on that point, how is he going to put the question?

Mr. Carpenter—I think it should be, "Where did that occur?"

The Court—That is the first question. He says they occurred in various places. Now counsel asks whether they occurred at the dinner table. I think that is proper. Proceed.

A. At the dinner table nearly every evening, whether we were with friends or alone, Mrs. Dudley would sit down, apparently in a fair frame of mind, but the very moment she took one glass of wine or two, she seemed to lose her head entirely, and then would begin to abuse me in the presence of other diners, and sometimes when I was alone, I had to leave my own table many evenings without any dinner, rather than sit there, because I didn't answer her, even in the presence of friends.

Q. Did you say anything to her about the use of wine having this effect on her?

A. Yes; I told her on several occasions that she seemed to be in good humor until she took a glass of wine, and I said, "Why don't you drop it; it seems to have a bad effect on you?"

"Well," she says, "the doctor told me to take it; I have got anemia and it has a good effect."

I says, "Well, it has a bad effect on you; it makes you cross, and I don't like it."

Q. Did she continue?

A. Oh, yes.

Q. Can you give us any instances of this kind when you were alone or when others were present?

A. Well, there were a great many of them, but one particular one was when we had a dinner party of quite a number of guests. Mr. Dorrance and quite a number of ladies and others were seated down at dinner, and we had gotten along a little ways and I don't know what occurred, whether the butler came to me first or what, but she sent him around and told him not to go near me out loud, and then turned around and said to the lady on her right, or the gentleman on her right, that my children were not fit company for anybody; that they

treated her badly, and didn't know how to treat anybody well. The only thing I said was, "Marie, don't talk about my children now; let that drop." She went on worse than ever, and I got up and left the table.

Another occasion which I have in mind occurred way back in 1902, I think it was, or 1901. We sat down to dinner and she said, "You haven't taken me to the theatre for a long time."

I says, "Well—"

And she says, "Well, won't you take me to-night?"

I says, "I will," and sent the man upstairs to telephone to the ticket agent for tickets. I asked her where she would like to go, and she told me, and I told him to hold the tickets. We were alone, except the butler, and the butler came down and said, "All right, the tickets would be held," and she told him to go and serve the dinner, and he went out of the room, and just the moment he went out of the room her eyes began to change and she said, "You devil, I am going to kill you," and she grabbed a carving knife and rushed around the table. I didn't fear her—wasn't afraid of her. I says, "That's enough; lots of time to do it." She threw her knife down and walked back to her seat. That occurred several times. I had no fear of her.

Q. (By the Court)—On this occasion, had she been drinking anything?

A. Just two glasses, but she hadn't taken enough to cause this, in my judgment.

Mr. Carpenter—I move to strike that out as a conclusion of the witness, and as incompetent and immaterial.

The Court—I will let it stand.

Q. Had you said anything to her previous to her making this remark?

A. Nothing at all. I was willing to take her to the theatre, if she had asked me, and was very willing to send her there, and sent upstairs to get the tickets and order the carriage to take her.

Q. (By the Court)—Did you go to the theatre?

A. Oh, no; not after that, but she got in the carriage and went off with the tickets.

Q. With whom?

A. I don't know.

Q. Was she in good humor?

A. I didn't see her at all; I think she left the table that night and went upstairs and dressed.

Q. Now, you said there was no relation as a husband and wife between Mrs. Dudley and yourself after the 5th of January, 1901.

A. Not after January 5th.

Q. Not at any time after?

A. No, never.

Q. Did you make any effort to enter her room after that night?

A. Oh, I sometimes wanted to speak to her, and would go to her room and knock at the door, to give some message or something.

Q. Well, did you have any difficulty ever in getting into your house at night?

A. A great many times; coming up from the card table the carriage was stopped and Colonel McClure let me out and I drew up to the door and found the door locked and the bell muffled, and several occasions I couldn't get in at all; I just had to go back to a hotel. Once or twice I called up to the windows, when it wasn't very cold, and the servants heard me and came down and let me in. But that occurred a great many times. That was one of her pet tricks, locking the outside door against me.

Q. During what period was that?

A. That commenced in 1901 and also in 1902, and then later—nearly every year.

Q. Did you go to Europe with Mrs. Dudley?

A. I went again in 1902, and Mr. George M. Dorrance joined us abroad. We traveled about in Europe,

but the trip was not very enjoyable, because Mrs. Dudley was very disagreeable to me all the time. But I had Mr. Dorrance along and we managed to get along. But I would go into a hotel and take the best rooms I could find, and she would go up in the room and look around and walk right out and said she wouldn't stay in that place at all.

Mr. Carpenter—What occasion was this?

A. This was in 1901 and 1902, both.

Q. Were you abroad both of those summers?

A. Yes; but in 1902 it became so disagreeable in the restaurants and everywhere—she insisted upon quarreling with me all the time, and called me all kinds of names and things, that I just told her there and then, in the presence of Mr. Dorrance, I said, "Marie, this is the last time I can travel with you over in Europe. This is no way to travel and I shall never come with you again."

Q. Did you go to Europe with her after that?

A. Never; but she insisted upon going in 1903, 1904 and 1905.

Q. She went alone?

A. Yes. I begged her to take a young lady with her and not go alone without a maid, but she wouldn't have any of it.

Q. Did you pay her expenses on those trips?

A. Yes, I gave her a letter of credit and had a great deal of trouble about it, because she would get the letter of credit and I would pay her passage money, and give her money besides for pocket money, and in 1903 took her down to the steamer to try to get her trunks ready, and got them ready, and then went to hunt her up to say good-bye to her and she had locked herself in her stateroom and I didn't see her.

Q. Did you knock on her door?

A. Yes, I said, "Good-bye, Marie," and I got no answer.

Mr. Carpenter—That was in 1903?

A. 1903.

Q. (By the Court)—Was there at that time any particular or special cause of disagreement between you?

A. Oh, no; it was habitual.

Q. Had she recently made any charge of adultery against you?

A. No, not at that time; but shortly after she got over there she commenced to cabling me for funds, although she had had a letter of credit, and not answering her because I knew she had money, she sent a cable to Mr. Dorrance, in Bristol, a friend of mine, to send her a thousand dollars, merely to annoy me.

Q. Well, how about her expenditures?

A. Her expenditures up to 1901 were nothing extravagant or out of the way. We lived well within our means; but after 1901 she commenced. If she would get angry at anything, if I came home ten minutes late into the house for dinner she would fly into a passion and say, "I will fix you," which meant that she would go down the next day and order a dress, costing $250 or more.

Mr. Carpenter—I object to that and ask that it be stricken out, what Mrs. Dudley meant when she said, "I will fix you."

The Court—You can consider that eliminated.

Q. What did she say about ordering dresses?

A. Well, she said to Miss Shaw or Miss Knight, I have forgotten which, in the house right before me: "Whenever he displeases me, I fix him; I go and order a $250 dress the next day." She said that in my presence.

Q. What was her action, in fact?

A. She did it.

Q. Did you say anything to her about it?

A. Yes, I protested that she was beginning to run me into debt and she was living far more extravagantly

than I could stand, and because I criticized some palms that she bought and put into the parlor, when the bill came, as being very high and outrageous in price and I didn't see any sense in it, when I came home that very night the palm that had been in the parlor was lying in the garden and another one that cost $75 in its place.

Q. Was that more expensive?

A. Just about double. I objected to one that cost about $35 or $40. My flower bill she then began to run up, and it ran into very large sums, $40 and $50 a month.

Mr. Carpenter—That was when?

A. In 1901 it started.

Q. Did she have her portrait painted?

A. In 1902, when we came from Europe, she wouldn't go home first, but insisted that she had a French maid that she brought from Paris with her, and she went to the Waldorf Hotel and remained one week and then another week, and I wrote her and telephoned her to come home, and she stayed there some three or four weeks before she came home. Just before she came home I got an anonymous telegram, saying, "You had better look after your wife, who is posing for some artist." Well, I paid no attention to that—didn't think anything of it at the time, but when she did come home I asked her what it meant.

Q. Have you got that telegram now?

A. I have got it somewhere among my papers.

Q. Well, pass that for the present.

A. I showed her the telegram and she said—I have forgotten who she said it was, some enemy of hers who sent it. I said, "What does it mean?"

She said, "I am having my portrait painted by Mr. Torrey."

I said, "Without my knowing anything about it?"

"Yes, I will do as I please; I will order what I like," and she had a large portrait ordered, and I asked her what the price was, and she said $1,500, and I went

over to investigate it a little, and found that Mr. Torrey was an artist in New York, but lived the most of his time around the Waldorf.

Mr. Carpenter—I object to this as a hearsay.

Mr. Strong—It is what he found by investigation.

A. I investigated and found what he was doing; he was painting her portrait and called by her first name around the hotel.

Q. Did you see the portrait?

A. Oh, no. It was finished, and the first thing I knew it arrived at the house with two bills, one for $1,500 for the portrait and one for $800 for the frame. I expostulated about it, and said I couldn't afford to be doing this thing, and I should be consulted about those things, and it was all wrong, but it made no difference, and I paid for it.

Q. (By the Court)—Did you show your wife the bills?

A. Yes, both of them.

Q. Did the bills specify the amount?

A. Yes.

Q. What did she say about it?

A. She said, "That is about right." She ordered a frame and it was a frame that cost $800.

Q. She told you the price of the picture herself, didn't she?

A. Yes, she told me that herself. Well, just after this, to make it a little harder, I got a letter from Mr. Torrey after I got the bill paid, in which he said, "when are you coming over"?

Mr. Carpenter—I object.

The Court—Yes, that is objectionable.

A. (Continuing) — Mr. Torrey anyway claimed he was painting a picture of me, for which he wanted me to sit, at the instigation of Mrs. Dudley.

Mr. Carpenter—I object to that.

The Court—Yes, what Mr. Torrey said will be disregarded, unless the witness communicated it to the wife. If so, the conversation between them is competent.

Q. Did you communicate this information to your wife?

A. I did; I said that her friend, Mr. Torrey, had demanded me to come and sit over there for a portrait, and said that she had ordered it for another $1,500, and I said I never saw Mr. Torrey, and I am not going to have anything to do with it or with him. Well, of course, his attorney wrote me—I got a letter from him saying that he was going to bring suit. Mrs. Dudley denied that she had ordered it.

Q. You didn't pay for that?

A. I didn't pay for it and I didn't sit for it and didn't order it.

Q. And didn't sit for it?

A. No.

Q. You said that you had an anonymous telegram. Did you get any other anonymous communication regarding Mrs. Dudley?

A. Oh, yes; I did get some, but I paid but little attention to them, for I don't believe in them.

Q. Did you call them to her attention?

A. I did, and she charged it to somebody, I don't remember whom.

Mr. Carpenter—Have we the time that this portrait was painted?

Q. What was the time the portrait was painted?

A. 1902. She had sat for it in a costume that I don't think was becoming a lady, and I therefore spoke to her about it.

Mr. Carpenter—I object.

The Court—Let the witness go on and state what he said to his wife on that subject.

Q. You did speak to your wife about the costume?

A. I did speak about what I heard, and she admitted that the costume she had on was as I have stated, and she claimed that it was all right. It was almost an undress costume that I objected to, and the French maid came to me with the information, and she said the costume was dreadful; she had hardly anything on, and I objected to it.

Q. (By the Court)—Did the picture represent her in that dress?

A. No, because it wouldn't show the costume.

Q. Was there anything in relation to Mrs. Dudley's answering telephone calls at your house?

A. Yes, that was considerably later, in 1904 and 1905. The telephone bills were always sent to me.

Q. I mean more particularly calls addressed to you?

A. Oh, yes; unfortunately I had some clients who couldn't reach me at my office in the daytime. One, particularly, was William S. Taylor, who had an office in New York and who resided in Overbrook, Pennsylvania, and was in large business transactions in which I was his counsel. He would try to call me at my house at night, and the fact is I suppose I told him to. He would call up and get a reply that my office was the place to meet me, and he complained about it, and dismissed me as his counsel because of the insulting remarks received from my house over the telephone. I came home and told Mrs. Dudley, and she says, "Yes, I don't allow anyone to call you up on your telephone."

"But," I said, "you are injuring my business."

"I don't care whether I am or not; I am not going to have anybody call you up here on business, and I told him so."

Shortly after this, in 1901 or 1902, my butler came to me and whispered to me that somebody wanted me on the 'phone.

Mr. Carpenter—I object to what was said between the witness and the messenger.

The Court—Yes, it will be xcluded, the message received from the butler.

A. (Continuing)—I went to the 'phone and was standing on the second-story floor with the receiver to my ear. I didn't hear Mrs. Dudley and Mrs. Waterhouse, who was dining with us, come upstairs, and Mrs. Dudley came up and grabbed the receiver from my ear, and she had bare arms and it scratched her, and it fell on the floor, whereupon she screamed "murder," and Mrs. Waterhouse, a friend of ours, said, "Marie, do stop; it is absurd." She said, "He tried to murder me," and Mrs. Waterhouse said, "He was trying to do nothing of the kind; you did it yourself and broke the 'phone so that it couldn't be used." That was one of the occasions where she couldn't control herself.

Q. Did you touch her with your hands at all?

A. Not at all—never touched her or struck her in my life.

Q. When was that?

A. I think that was in 1901 or the beginning of 1902, I think. It was somewhere along there.

Q. Now, did Mrs. Dudley go to Europe in June, 1904?

A. She went in May or June, 1903. She went again in May or June, 1904. She went again about the first of June, 1905.

Q. Now, during the summer of 1904 she had letters of credit from you?

A. Yes, every summer.

Q. How much did you give her?

A. Every time she went I gave her a letter of credit.

Q. For how much?

A. Generally $2,500.

Q. And in 1904 did she have that amount?

A. She had as much if not more that year, besides her ticket across the Atlantic and back, and money to pay stewards, etc., to reach there.

Q. Did you get any bills that year?

A. After she came back I received large bills from Pacquin's, dressmakers, and others, for clothes which

she bought, and also from Tiffany's abroad—bills that she contracted and had them charged to me and they sent them across the ocean.

Q. Do you remember the amount of them? What time are you speaking of, 1904?

A. I couldn't recall the number at that time, but it ran up pretty close to a thousand dollars extra.

Q. Do you remember about a hat pin?

A. Yes. $161 was the amount for that hat pin, and I think there was another bill, but that was the next year—1905—where she got a lace coat for something like $1,250, and I didn't receive it because it came through the custom house and I refused to take it.

Q. Now, did Mrs. Dudley sometimes leave your house without your knowing it and remain away?

A. During 1902 and 1903 she commenced staying away every week; she would go to New York without saying anything to me, and I would find her at the Waldorf. She would stay there for several days and then come home without my knowledge. But she got to doing it more and more, but in 1904, after she came back from Europe, until 1905, the house was run with servants and a maid and everything of that kind. She asked me to get an opera box for her, which I did—

Q. In New York or Philadelphia?

A. No; in Philadelphia, and the operas were generally Tuesdays, and the next day after the opera was over I came home and found she had gone, and all I could get from the servants was that she had gone to New York. I knew she was over there on account of the bills that were received from there. I protested and told her I couldn't afford to run the house with a lot of servants and couldn't afford to pay the hotel bills at the Waldorf. It was running me too much in debt, and it was getting worse and worse. But it kept up the entire winter long, and she insisted on having a French maid. There was this maid around the house doing nothing, and all these servants. Then it got along into March

and April and February. My telephone bills commenced to grow in size, and I couldn't quite understand it.

Q. That was in 1905, is it?

A. Yes, this is in 1905. I got looking at them and finally saw "New York calls, $9." There were New York calls and Jersey City calls when I didn't do any telephoning there at all. It got along to March 25th, on a Saturday, 1905, when I came home unexpectedly. I always went out Saturdays to dine, and generally got home about twelve o'clock or one o'clock. At this time Colonel McClure and P. A. B. Weidener were both sick and we couldn't have our cards, and we broke up, and I thought I would go home to my dinner. I walked into the house and there was no dinner table, and I asked what the matter was, and Mrs. Dudley hadn't come back. I said, "That's funny; did she go to New York?" They didn't know; she went out without a bag—just walked out and said she would be back later. I sat down and got something to eat—

Mr. Carpenter—I object to "going out without a bag," unless the witness saw her, and ask that it be stricken out.

Q. (By the Court)—I suppose you didn't see her go out; you weren't there?

A. No.

The Court—It may be stricken out.

A. (Continuing)—About seven o'clock the telephone bell rang, after I had had something to eat, and I went to the 'phone. There was a strange voice at the 'phone, saying, "Is that Margaret?" That is the chambermaid.

Mr. Carpenter—I object.

The Court—I can't tell, Mr. Carpenter.

A. (Continuing)—I said, "No, Margaret is downstairs; but my name is Mr. Dudley; what is wanted?"

She says I was to tell Margaret that Mrs. Dudley will not be home to-night, and shut off the 'phone. I called up the central and asked where the message came from, and they said at first they wouldn't tell me, and finally they said the St. James Hotel.

Q. St. James Hotel in Philadelphia?

A. Yes.

Mr. Carpenter—I move to strike all that out.

The Court—I will hear your motion a little later.

A. (Continuing)—I went down to the hotel. I first called up every friend Mrs. Dudley had, to see if Mrs. Dudley was there.

The Court—Now, it will all be stricken out. The witness says, in pursuance of inquiries he made, he went to the St. James Hotel.

Mr. Strong—Of course, what was said over the 'phone isn't a fact, but I think it is not irrelevant and ought not to go out.

The Court—Well, I think in this case all that is material is the fact that he went to the St. James, because he didn't find his wife at home, and he made inquiry by 'phone and after receiving such information went down to look for her. That seems to be necessary, and yet at the same time I cannot help saying it is hardly worth while to put in testimony of that kind.

Mr. Carpenter—But, if your Honor please, my objection is that it is hearsay, and if it is hearsay, I think it should be stricken out.

The Court—Everything is stricken out.

Q. Well, you went to the St. James, did you?

A. I went to the St. James, to the proprietor and the bell-boy, whom I knew very well, and asked them who it was that sent that message, and they told me it was Mrs. Dudley and they knew—

Mr. Carpenter—I object to this conversation and ask that it be stricken out.

Q. Was Mrs. Dudley home?

A. No.

Q. Did she come back that night?

A. I sat up until three o'clock in the morning with my butler.

Q. What was his name, by the way?

A. John Stockton. I waited for her, and finally about half-past one or two I said, "Stockton, you might as well go to bed; I will sit up." I sat up until three o'clock and she didn't come home. She finally came home the next day at three o'clock—Sunday afternoon.

Q. (By the Court)—Did you have any conversation with her upon her return?

A. I did. I asked her where she had been, and I said I wanted an explanation about it. She said I could go to the devil, and went up to her room and locked the door.

Q. Did you inform her of the communication that you had had over the 'phone and of your having gone to the St. James, and so on?

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

Q. Did you get any information from her as to where she spent the night?

A. Not at all. The same thing occurred April 1st, Saturday.

Mr. Carpenter—You didn't give the date of the other.

A. I did; March 25, 1905.

Q. That was the occasion that you have told us about in detail?

A. Yes.

Q. Now then, what happened on April 1st?

A. April 1st, 1905, was a Saturday, and she did the same thing—went out of the house and didn't come back until Sunday morning, and I tried my best to locate her and couldn't.

Q. Did you speak to her about that absence?

A. I did. She came in late Sunday night and she ran up to her room and locked the door, but we had a dinner, and Dr. Getchell and several others on Sunday evening, and after they left the house I started up to her room and I says, "Marie, you have been out all night in Philadelphia, and I want an explanation of it.

This is not right for any married woman to be out two nights that I know of personally, and you must make an explanation of it;" but she ran up stairs.

Q. (By the Court)—Was this before or after you ceased to have marriage relations with her?

A. This was in 1905; I ceased in 1901, four years before.

Q. I show you a letter and envelope and ask you what you know about that?

A. Oh, this is a letter that I got. It was posted May 13, 1905, it looks like, but I received this letter. It is marked "Mr. Edward Dudley, Camden, N. J. Personal," and this is the letter.

Q. You got that through the mail at that time?

A. Yes.

Q. (By the Court)—From whom?

A. I don't know; a man, signed R. U. M.

Q. Did you call Mrs. Dudley's attention to that?

A. Oh, yes; I showed her this.

Q. (By the Court)—You showed her that letter in your hand?

A. Yes, I showed her all the anonymous letters that came.

Q. Were there others besides that?

A. There were several, but I don't know where they have gone.

Q. You showed her that?

A. Yes.

Q. What did she say?

A. "Oh, what does that amount to?"

Q. Did she give you any further explanation?

A. Not at all, no; she never would give me any explanation.

Mr. Strong—I offer that letter in evidence.

Mr. Carpenter—I object to it, on the ground that it is incompetent, irrelevent and immaterial, because it has not been shown who wrote the letter and it cannot be relevant in this case.

The Court—It makes no difference who wrote

it or where it came from; the letter is admissible now because the witness testifies he showed the letter to his wife and she read it. Of course the letter then becomes the same sort of evidence as any statement that he might make.

Mr. Carpenter—But he said she made no admissions.

The Court—I can only repeat, Mr. Carpenter, that when a witness receives a letter, it matters not who wrote it or where it came from, or it is a piece of paper upon which words are written, and he shows it to another individual and thereupon that individual reads it and makes a statement in regard to it, the written words are just like any other conversation between them, which may not have much evidentiary force, but it is competent because it is a part of the intercourse between them, and intercourse which is admissible between two people is not confined to spoken words; it may be written. It is entirely proper and, therefore, will be admitted in evidence.

(The same is markes *Exhibit C*-1.)

Mr. Strong—The letter reads as follows:

Mr. Dudley:

As an old and tried friend I would advise you to be looking after your wife, as she cannot fail but bring ruin and disgrace both upon herself and husband. R. U. M.

The postmark is "Reading Terminal Station, Philadelphia, May 13 (I take it) 1905."

Q. (By the Court)—Have you stated, Mr. Dudley, everything that your wife said when you showed her that letter?

A. Yes, that is all that I recall she said—that it didn't amount to anything.

Q. Now, in 1905, you spoke of the matter of telephone calls.

A. Yes. The bills commenced to get very large and I couldn't understand it, and I investigated it a little and I found that the New York calls were running up to eight or nine dollars, some of them $2.50 to Jersey City. I knew I had no reason to telephone to New York or Jersey City at all, and so as I knew the telephone people very well and having represented them in Camden, I went to the office in Philadelphia and asked them what those were.

Mr. Carpenter—I object.

Q. Did you see the books in which these calls were registered?

A. I did, at the office.

Q. And were they calls from your house?

A. They were calls from my house, because they had the numbers and names who called, and I guess it must have been at my house.

Q. Did they give the number called at New York or Jersey City, as it happened to be?

A. Gave the New York calls and the numbers, and the Jersey City calls and the numbers—both of them.

Q. And bills for those calls were rendered to you?

A. Rendered to me, and I paid them.

Q. Did you call Mrs. Dudley's attention to the telephone matter?

A. No, not at that time. I spoke of it later, but not then. I spoke of it a month or two later.

Mr. Carpenter—When was this?

A. February, March, April, May and June of 1905. I never spoke to her about that until later.

The Court—All this seems to be incompetent, Mr. Strong, excepting as it throws light upon the communication between the parties. No objection is made here, but Mr. Carpenter has made so many objections that I have no doubt he intended to object to this.

Mr. Strong—Nothing escapes Mr. Carpenter.

Mr. Carpenter—I didn't think it made much

difference, and I thought I would save time by not objecting.

The Court—Proceed.

Q. Subsequently, you did speak to her, you said a month or two later?

A. Yes, about April 21st, 1905; after *Town Topics* came out then I spoke to her.

Q. What did she say then about these telephone calls?

Mr. Carpenter—I object as incompetent, irrelevant and immaterial.

A. She denied them.

The Court—One moment. It is a conversation between the parties. I cannot tell whether it is material or immaterial.

Q. You say she denied it; what do you mean by that?

A. She denied it, saying she didn't call them up. I then told her that all of them were to Henry M. T. Beekman, in New York, and as soon as I mentioned his name she turned rather pale, and turned around and says, "You coward." I says, "It is not the part of a coward to tell you whom you have been communicating with all this time," and then she didn't deny it.

Q. Did you find out what name she used?

A. She gave the name of "Miss Fisher" to the telephone people.

Q. What did you say to her?

A. I merely said to her she had used the name of Fisher in calling up Mr. Beekman. This was a month after it occurred.

Q. At that time did you call her attention to something that had appeared in *Town Topics?*

A. I did.

Q. Was it in connection with that that you spoke of the telephone matter?

A. I told her about this at the same time; and also told her about staying out all night again.

Q. Did you show her the communication in *Town Topics?*

A. I did. I went to the Pennsylvania railroad station and bought three copies; one I left with her and gave it to her.

Q. Is this that I show you now one of the copies that you bought there?

A. Yes, that is my marking.

Q. You say you bought that in the Pennsylvania railroad station?

A. Yes.

Q. Publicly exposed on a news-stand?

A. Yes, sir.

Q. When did you do that?

A. I bought it in the afternoon of Thursday, April 20, 1905.

Q. And you called Mrs. Dudley's attention to the particular language you have marked?

A. Yes, I took it upstairs to her and called her attention to it, and asked her for an explanation. At the same time I spoke to her about the telephone calls and also about staying out all night.

Q. What did she say to you then?

A. She screamed "murder," and the servants came up thinking I was beating her.

Q. Were you beating her?

A. No, I wasn't near her.

Q. Did you make any threat toward her?

A. No, I merely said if she didn't give me an explanation of these things, there was only one thing for me to do—I couldn't afford to run the house and pay the expenses, etc., and had a long talk with her there at her door—at the edge of the door. I said, "you must explain these things; we can't go on in this way; I can't afford to run the house at an enormous expense and you staying in New York and then having a scandal like this mentioned in *Town Topics,*" and then when I

got that far she screamed and called the servants to help her.

Q. Did she make any reply to what you were saying, except to scream for the servants?

A. Oh, no.

Mr. Strong—I offer this issue of *Town Topics* in evidence.

Mr. Carpenter—I object to that, on the ground that it is incompetent, irrelevant and immaterial.

The Court—I suggest that counsel for the defendant read it, or that it be read now, and then I can judge of its materiality.

Q. Let me ask, as a preliminary matter, if your residence was near Rittenhouse Square, in Philadelphia?

A. Oh, yes, it looked right out on Rittenhouse Square.

Mr. Strong—The article in *Town Topics* reads as follows:

"Philadelphia, in the neighborhood of Rittenhouse Square, is strewn with the remain of another household that has tumbled off the social ladder. Five or six years ago the establishment which consisted of a very rich lawyer and his third matrimonial venture, migrated from Camden and settled in Locust street with the avowed intention of taking the town by storm. The lady was handsome, had her portrait painted by a popular painter of women and drenched the newspapers with copies of it. She secured the assistance of the most amiable social promoter in Quakerdom, and launched upon her sea of troubles with a light and venturesome heart. It looked for a time as if success would be hers. She entertained with a generous hand, conciliated the society reporters as sweetly as Mrs. Jim Sullivan and Mrs. George Huhn, for which she was repaid in adjectival paragraphs, well meant though often misspelled. This winter she crowned her efforts with a musical at which a

thousand-dollar songstress warbled and the various tons of Philadelphia lent their presence.

"But it seems this was her swan song, for almost immediately after the splurge rumors of disruption in the household trickled through society, and the dames who had smiled before began to look askance. They heard that the lady had tired rather of the warmed-over raptures of her lord, and was seeking distraction elsewhere. Verisimilitude was given to the rumors by the closing of the Locust street house, and the departure of the lady for New York where she is now, the gossips say, tripping along a primrose way in company with a young, talented and handsome Gothamite, also a man of law. There are bated breath whisperings of automobile rides, washed down with Pommery and other things not openly approved in Philadelphia. The husband swears that all the trouble is due to his wife's vain battle for society, and she swears, they say—well, no matter. We shall hear what she swears if the anticipated climax follows and divorce courts are called in to decide the case of Social Ambition *vs.* Fireside Blisses."

Mr. Strong—I offer this article which I have read in *Town Topics* in evidence.

(The same is admitted and marked *Exhibit C-2.*)

Q. Well, in consequence of what had appeared in *Town Topics,* and your interview with Mrs. Dudley concerning it, did you make any investigation as to what was going on in New York?

A. Yes, immediately after I spoke to her, the next morning she cleared out and went to New York again, and on Sunday I went to New York, and Sunday evening I looked about to see if I could locate her. She wasn't in her room at the hotel, but had been out all day. But on Monday night I walked into different

restaurants, and one of them was Delmonico's, and Mrs. Dudley was sitting there between twelve and one o'clock in the morning in Delmonico's with Mr. Beekman.

Q. What Beekman?

A. Henry M. T. Beekman, of the firm of Traphagen & Beekman, Jersey City, residing in New York.

Q. What were they doing in the restaurant?

A. They were drinking cocktails at the time I looked in. I backed out and spoke to the head waiter. For awhile I thought I would wait for them and see what I could. I did wait, but I didn't know that he had an automobile there, and they came out and I was in the back room, and off they went into the automobile, and I thought they would get into a cab. I could not follow them, and so I waited for awhile and went down at the Waldorf Hotel. I was stopping at the Manhattan Club. I waited in the hall of the Waldorf for an hour or an hour and a half and she didn't appear, and I thought possibly she had come in another door and had gone to her room.

Q. Do you know whether she was registered at the Waldorf Hotel at that time?

A. Oh, yes. So I went up to her room, because they knew me very well at the Waldorf, and I knocked at her door and no answer came, and I then asked the night woman, the watchman there—

Mr. Carpenter—I object to any conversation between Mr. Dudley and the night-watchman.

A. I asked to have the door opened, and finally obtained an order from downstairs to open the door, and I went into the room and she was not there.

Q. You were known as Mr. Dudley?

A. Oh, yes, Mr. Boldt knew me very well. I found she wasn't in her room and it was between two and three o'clock in the morning. I then went back and came on to Philadelphia.

Q. When did you see her next after that?

A. I never saw her after that. When she came home she went to her room and locked herself in, and she never came down to a meal while I was in the house, and I don't think I saw her until I saw her in Trenton, two years ago, when we were taking testimony.

Q. You mean on the occasion when some testimony was taken?

A. Yes, Mrs. Knight. Oh, yes, I saw her once in Newark coming out of Mr. Kalish's office.

Q. Did you make yourself known to her or to Mr. Beekman when you saw her?

A. No, I did not.

Q. How long did she remain at your house in Locust street?

A. Up to May 22th, 1905. This was April, and from April 24th on Monday, I think it was, until—that was Thursday, and it was the following Monday I saw her there.

Q. (By the Court)—Saw her where?

A. At Delmonico's, and from that time until two or three years ago I have never seen her. She came home, locked herself in her room, and I didn't know what she was doing. She had Mrs. Knight there with her I think most of the time. I knew nothing about it until May 22d.

Q. Well, May 22d, 1905, what occurred that night?

A. I met Mr. Dorrance, and he and I walked up—I invited him down to my house to dine, and he and I came up to the house expecting to dine alone, because I knew Mrs. Dudley wouldn't come down, and we went into the house, and I was met with the fact that we couldn't have dinner there because there was no silver and nothing to eat with. And I asked what was the matter?

The Court—Well, never mind that.

Q. But in consequence of the fact that you couldn't

obtain silverware for your meal was your attention drawn to the condition of the house?

A. Yes. We dined with kitchen forks, and afterwards Mr. Dorrance and I walked up through the house and found it all torn topsy-turvy, with twenty-five or thirty hat boxes, empty, and trunks around and everything strewn all over the house, as if deserted.

Q. Was Mrs. Dudley in the house then?

A. No, she was gone.

Q. Did she ever return to your Locust street house, so far as you know?

A. Never. She sent me a telegram after that.

Q. Where is the telegram; have you got it there-

A. Yes (witness produces the telegram).

Q. In consequence of this telegram, did you do anything?

A. Yes, I talked with her over the 'phone.

Q. Where did you reach her?

A. At the Waldorf.

Q. And did you recognize her voice?

A. Oh, yes, without question.

Q. What conversation did you have with her?

A. I told her I couldn't afford to give her a $5,000 letter of credit; all that I could do would be to give her $2,500, which she must live on until the next October, because I hadn't sufficient money; and I said I would try to get her a passage on a steamer, and did.

Q. You did get it?

A. I did.

Q. Did you have any conversation with her with reference to having received this telegram?

A. Oh, yes, it was on account of that tlegram that I called her up on the 'phone.

Q. And in calling her you referred to the telegram?

A. Yes. She had left a bag behind, but taken everything else. She took all her winter clothes and summer clothes and everything she had, and all the silver.

Mr. Carpenter—I object, unless the witness

was there and saw whether Mrs. Dudley did or not. He simply testifies that those things were gone.

The Court—That is all the force it has, Mr. Carpenter.

Mr. Strong—I offer the telegram in evidence.

Mr. Carpenter—I object, on the ground that it has not been shown that Mrs. Dudley sent it.

The Court—It will be allowed.

Mr. Strong—The date is 5-29-'05; that would be May 29, 1905. The telegram reads as follows:

New York, May 29th, 1905.

Mr. Edward Dudley, 35 N. 2nd street. Get letter of credit five thousand. If you can come over, bring brown small hand-bag. MARIE DUDLEY.

(The same is marked *Exhibit C*-3.)

Q. Well, did you make an effort to see her?

A. I went over with a letter of credit of $2,500 from Drexel & Company, and her passage ticket and this black bag—the only thing that was left—and reached the Waldorf and called her up in her room.

Q. Was she there?

A. She was there.

Q. Did you hear her voice?

A. Oh, yes, no trouble about that at all. She was there, and I told her I was downstairs, and had her ticket and her bag and letter of credit, and would she come down or would I come up. She said, "No, you send them up."

"No," I said, "I won't do anything of the kind; they are valuable;" and the next moment Mrs. Knight came from her room and demanded the things, and I delivered them up to her.

Q. Who is Mrs. Knight?

A. Mrs. Knight was the daughter-in-law of Mrs.

Knight, who has testified already in this case. She married Horace H. Knight, son of Mrs. Mary Knight.

Q. Where is she now?

A. She is in Sedalia or St. Louis, out West, at present.

Q. Have you made any effort to have her attend here?

A. Yes. In fact, she came here twice to testify, and the case was put off.

Q. Have you made an effort to get here here this time?

A. Yes, and she can't come, so she says. I brought her on from the West twice.

Q. That was when the case had previously been set down?

A. When the case had previously been noticed for trial.

Q. Did Mrs. Dudley then go abroad?

A. She did.

Q. Did you receive any bills about that time contracted?

A. After the ship had sailed I got a large envelope filled with bills that usually had been coming to me by the month for years past, from Wanamaker's, Gimbel Brothers, and Louise the hatter, and all those things were thrust on me together, and I had to run back to pretty nearly October and November, 1904, down to just before she sailed, and while the usual bills that came from Wanamaker's in 1901, 1902 and 1903, and along there ran along about $25 or $30, when these came in they were up in the hundred, carrying out her threat which she made the day I left her, when I saw her about *Town Topics*, that she would ruin me financially and morally. That was her threat.

Q. Did she say that to you?

A. She said that to me on the 21st of April.

Q. That was on the occasion you showed her the article in *Town Topics*?

A. Yes, when I showed her the article in *Town Topics* and spoke of these other matters.

Q. Have you those bills there?

A. I have some of them here. They run up to three or four hundred. Here is one, for instance, for $444, also one for $150, $145, $262, and so on.

Mr. Carpenter—I object, unless it is shown by competent evidence that she contracted those bills.

A. Well, they are all charged to her.

Q. Charged how?

A. All of them are charged to Mrs. Edward Dudley.

Q. You say you received that bunch of bills together?

A. I received these all together. Here is a list of them.

Q. (By the Court)—The question is, did you receive them in one large envelope?

A. Yes, addressed to me and written in Mrs. Dudley's handwriting, and mailed in New York, and all these bills had been held back.

Q. Have you that envelope?

A. No, that is gone; I don't know where it is. I didn't think at the time it was worth keeping.

Q. Were all those bills that you have been referring to contained together in one envelope?

A. Yes, a large bunch of them, and then quite a number came afterwards.

Q. What was the aggregate of these bills?

A. As I remember it, three or four thousand dollars.

Mr. Carpenter—They speak for themselves.

Mr. Strong—I offer the bills in evidence.

The Court—Any objection?

Mr. Carpenter—Yes, on the ground that it is not shown that Mrs. Dudley herself contracted those bills, although they may be made out to her.

Mr. Strong—She sent them to Mr. Dudley.

Mr. Carpenter—Unless the envelope is here to show that, I shall object to them.

Q. (By the Court)—Is the envelope here, Mr. Dudley?

A. No, I don't know what has become of that?

Q. Did you keep the envelope?

A. I don't think I could have done so.

Q. Can you find the envelope now?

A. No; I have got all the papers.

Q. You said the envelope was addressed in her handwriting?

A. Yes, in an envelops from the Waldorf-Astoria.

Q. Did you recognize it at the time as being her handwriting?

A. Oh, at once.

The Court—They will be admitted. Just pick them out, the bunch that came in the envelope.

Q. (By Mr. Carpenter)—Can you tell at this time which did come in that envelope?

A. Yes, they came immediately after she sailed.

Q. I mean, can you tell out of that bunch which came?

A. Well, I couldn't tell exactly whether all of these came.

Q. (By the Court)—The question is whether you can pick out now the particular bills that came in that large envelope, and severing them and distinguishing them from the others?

A. There are some I can.

Mr. Carpenter—Then I object.

The Court—Well, we will deal with them later and see how far they can be picked out.

A. There might be some that didn't come in that package.

Q. Mrs. Dudley remained abroad how long in 1905?

A. She came home, I suppose, under some other name than her own, I think about August 1st. That was the first I heard of her being back.

Q. How did you find out that she had returned?

A. A gentleman came to my office and said, "Well, Mrs. Dudley came over in the steamer with me."

Q. She wasn't present?

A. No.

Mr. Carpenter—I move to strike that out, and I also move to strike out the statement that she came under some other name than her own.

The Court—Well, you didn't make any objection at the time.

Mr. Carpenter—That came out in response to some question that I couldn't object to.

The Court—It is immaterial. Proceed.

Q. What was the next communication of any sort that you got from Mrs. Dudley?

A. I didn't get anything direct from her; I received word from Judge Gaskill, of Camden—

Q. Joseph H. Gaskill?

A. Yes, of Camden, and he asked me to call and see him.

Q. The judge representing Mrs. Dudley?

A. The judge said he represented Mrs. Dudley, together with Judge Collins.

Q. And did you have an interview with Judge Gaskill?

A. I did.

Q. In response to that notification from him?

A. I did, and told him the whole story.

The Court—We will pause here, Mr. Strong; you are going into another topic, and take our recess until two o'clock.

AFTORNOON SESSION.

Q. What was the result of the interview with Judge Gaskill?

A. Judge Gaskill said that Mrs. Dudley had placed her case in his hands.

Mr. Carpenter—I object to what Judge Gaskill said.

Mr. Strong—I don't want to go into the matter very deeply, but I suppose it is competent, if he represented Mrs. Dudley.

The Court—Well, the competency of it is determined by the extent to which Mr. Gaskill represented his client.

Mr. Strong—As I understand it, Judge Gaskill was representing her in an effort to collect alimony, and without going into details of the conversation, I want to show what was done in the way of making an allowance to her at that time; that is all.

The Court—Was the first suit pending?

Mr. Strong—No, sir; nothing had been begun then, I think.

The Court—Then you offer it bearing upon the question whether the defendant neglected and refused to support his wife?

Mr. Strong—Yes.

The Court—I think you can show the arrangement then before the suit was brought. That seems to be entirely proper.

Q. Without going into conversations, Mr. Dudley, will you please tell us what was the result of your interview with Judge Gaskill, so far as the payment of an allowance was concerned?

A. The result of the interview was that I agreed to send her a check, as she was without any money, apparently, and I did so send it to Judge Gaskill.

Q. For what amount?

A. $417 and some cents.

Q. And were there subsequently other monthly checks sent?

A. There were three.

Q. In all?

A. In all; that month, and the next, and the following.

Q. For what months were those checks given?

A. I was just trying to remember the facts; I have got it somewhere here.

Q. (By the Court)—What month was this, Mr. Dudley?

A. Why, this was some time in August, 1905.

Q. Was it for August, September and October?

A. Here are the checks, and they speak for themselves—August, September and October, 1905—those are the checks, endorsed by Mrs. Dudley,

Q. $417 for each of those three months; is that right?

A. Yes, sir.

Q. These were payable to the order of Marie Dudley.

A. Yes.

Q. And returned to your bank paid, with her endorsement on.

A. Yes.

Q. (By the Court)—What are the dates of those checks?

A. August 24, September 23, and October 24.

Q. Do I understand that this arrangement you made with Judge Gaskill when you made these checks was before the first suit was brought?

A. Absolutely.

Q. How long before?

A. Well, the first suit was brought—

Q. September?

A. Yes, I think it was in September.

Q. (By the Court)—Of that same year?

A. Yes; that is, the first suit brought in

Philadelphia. It was before that; it was to furnish her with means.

Q. I am only geting at the date; you gave these checks just before the first suit was brought in Philadelphia?

A. I did.

Q. And how long, without putting dates in your mind, how long was it after you had given these checks was it that this suit in New Jersey for maintenance?

A. Oh, some years.

Q. About two years?

A. Yes, about two years; 1907 it was brought.

Q. (By the Court)—And can you now state when the suit was brought in Pennsylvania.

A. September, 1905; I think the last of September or the first of October.

Mr. Strong—I think, to be accurate, it was September 15th. I have the papers here to show the date.

The Court—Proceed.

Q. Were these checks all given at the same time, or month after month?

A. Oh, no, month after month.

Q. According to their dates?

A. According to their dates.

Q. $417 each month.

A. Yes.

Q. Was there any talk of any yearly sum at that time?

A. I told Judge Gaskill that I didn't want her to be without money. He said she had none, and I said, "Suppose I send her $417." I said, "that is at the rate of $5,000 a year, and I may be able to pay that; I will try to, anyway."

Q. The odd figures, $417, would be at that rate of $5,000 a year?

A. Yes, $5,000 a year.

Mr. Strong—I will offer these checks. I don't know whether it is worth while to encumber the record with too many exhibits. I offer in evidence, first, the check of August 24, 1905, for $417.00, made by Edward Dudley to the order of Marie Dudley,

(Admitted in evidencee and marked *Exhibit C*-4.)

Mr. Strong—Also check of September 23, 1905, for the same amount and same parties.

(Also admitted in evidence and marked *Exhibit C*-5.)

Mr. Strong—Also a check of October 24, 1905, same amount, same parties and the same form of check, each check bearing the endorsement of Marie Dudley and stamped "paid."

(Also admitted in evidence and marked *Exhibit C*-6.)

Q. Did the allowance of $417 a month continue beyond October, 1905?

A. It didn't continue longer.

Q. Will you explain what, if anything, occurred to change it?

A. Well, I commenced to receive enormous bills around New York, one of them for pretty nearly $3,000, from Lichtenstein's for dresses, which had been ordered just after I paid these bills.

Q. You spoke of one from Lichtenstein's?

A. Yes, one from Lichtenstein's, and one from Louise the hatter for $300 for hats; a bill from the Waldorf which was, I think, between seven and nine hundred dollars.

Mr. Carpenter—These bills speak for themselves, if your Honor please. They are the best evidence.

Q. Have you the bills there?

A. I think I have got all of these bills, yes. Here are some of the Waldorf bills. There was a lot of them during the last year.

Q. Here is a bill from the Waldorf, dated October 26, 1905.

A. That was after she had gotten her $417. She went and ran up one bill for $617.

Q. Is this one of the bills you refer to as having come in during the time this allowance of $417 would be paid?

A. Yes, that is one of them.

Q. There seems to be several of these bills here pinned together?

A. They are lumped together there.

Q. Will you now say there was a check given November 24th?

A. Yes, or I wouldn't have made that note.

Mr. Carpenter—Have you that check?

A. I thought they were all in there, but there doesn't seem to be more than three.

Q. What is it that leads you to say now that there was one given in November?

A. Because I made this right from my check-book.

Mr. Carpenter—When was that made?

A. That was made here very shortly.

Q. Are you now able to say whether that November 24th check was ever actually paid?

A. Well, no; I can't that, for I haven't got it here.

Mr. Strong—I offer these bills of the Waldorf-Astoria of the date of October 26, 1905.

Mr. Carpenter—There is nothing on there that connects Mrs. Dudley with them. They are all made out to Edward Dudley.

Q. Did you contract this bill yourself?

A. No, I wasn't at the Waldorf at all; avoided going there.

Q. Do you know whether Mrs. Dudley was?

A. I do; I know she was there.

Q. In September and October.

A. Yes; here are letters from the Waldorf about it.

Q. You had no communication directly with Mrs. Dudley about these bills, did you?

A. No, I sent word to Judge Gaskill, her attorney, and told him I should cease to pay her money.

Mr. Carpenter—I object to what was said to Judge Gaskill.

The Court—Objection sustained. The point is, after he got those bills he stopped paying the monthly allowancee.

Mr. Strong—Yes, and he notified Mrs. Dudley's attorney why he did it.

The Court—Do you object to that?

Mr. Carpenter—I object to any conversation between the witness and Mr. Gaskill.

The Court—You object to the tesetimony of the witness, to the effect that he notified Mr. Gaskill that he had stopped, or would stop, furnishing these checks because of these bills?

Mr. Carpenter—I don't understand he testifies to that.

The Court—I underestand he so testifies.

Q. Is that your testimony?

A. Yes, I notified him that I had ceased to do it on account of the running up of these bills.

Q. Now what bills? You spoke of the Waldorf-Astoria which you have produced here; what other bills?

A. Louise & Company, milliners, on Fifth avenue, New York.

Q. Have you that bill?

A. I think so. No, I think I have left it in a package I didn't bring on, but I have the bill; I have them all.

Q. You haven't it here to-day?

A. I haven't, but can produce all of them.

Q. Well, the Lichtenstein bill you haven't here, have you?

A. Yes, I have got it here somewhere, but I haven't been able to put my hand on it just at this moment.

Q. Well, after that what followed, so far as the payment of any allowance was concerned. That is the subject I want to deal with now.

A. I had considerable correspondence with the Waldorf about this enormous bill they had there, and they claimed that they had no notice of my—

Q. I don't suppose we ought to go into that; but the point is that you stopped the allowance of $417?

A. I stopped the allowance of $417, and then afterwards had to defend two or three suits for these bills. Then Mrs. Dudley disappeared. So far as I was concerned, I couldn't find her—couldn't locate her—although I got Mr. Rothermel, my attorney at that time, to write to Mr. Brightley, and he informed her.

Mr. Carpenter—I object to the conversation.

A. (Continuing) Anyway, the first thing we got was a letter from Battle & Marshall, of New York.

Q. When was that?

A. I think that was about 1906.

Q. Now, let me ask you whether before that, after you had this communication from Judge Gaskill and made this arrangement with him which terminated with the presentation of these bills—is there not something that you have skipped?

A. Yes, Mr. Brightley became her attorney and said that she ought to have some alimony, and I sent him—

Mr. Carpenter—I object to what Mr. Brightley said.

The Court—The effect of it was, in response to a demand from Mr. Brightley representing Mrs. Dudley, the witness did something.

A. I sent him two checks, which he still holds.

Q. For how much?

A. $250 each.

Q. And those have never been cashed?

A. Never been cashed. I stopped payment on them when I was notified that he didn't represent her.

Mr. Carpenter—I move to strike that out.

The Court—I will allow it to stand.

Q. When was it that those checks were given?

A. Well, as near as I can recall, it must have been

the latter part of 1905. I have got the receipts from him somewhere here.

Q. Then, after that, why weren't further checks sent?

A. Because I heard nothing at all from anyone.

Mr. Carpenter—I object. If they weren't sent I think that ends it.

The Court—I will allow it.

Q. Until when?

A. Until Mr. Rothermel produced a letter from Messrs. Battle & Marshall, of New York, asking for payment of some money.

Q. Have you got that letter?

A. No, that was written to Mr. Rothermel.

Q. Rothermel was your counsel?

A. He was my counsel in Philadelphia.

Q. Well, in response to the letter what did you do?

A. Before anything was done Mr. Rothermel received a letter from Mr. William McAdoo, stating that she had left Battle & Marshall and gone to him, and an arrangement was made through Mr. McAdoo by which I was to pay her $250 a month, beginning from a date which those letters will tell, and a telegram was received by Mr. Rothermel, which is there, asking for her personal property, and I replied that her trunks would be sent, and those checks were sent over, five or six of them, or whatever there were, payable to her by the different months.

Q. I show you a letter of May 29, 1906, from William McAdoo to Mr. Rothermel—

A. That is in acknowledgment of the checks I sent over.

Q. For how much each?

A. $250 each.

Q. Were they all dated the same?

A. No, they were dated six different months.

Q. The checks covered a period of six months, but there was one for each month?

A. Yes.

Q. And this is the letter that McAdoo wrote to Rothermel and Rothermel turned over to you; is that right?

A. Yes.

Mr. Strong—I offer this letter, acknowledging receipt of the six checks.

(The same is admitted and marked *Exhibit C-7.*)

Mr. Strong—The letter reads: It is on the office letter paper of William McAdoo, counsellor-at-law, 170 Broadway, New York, and is dated May 29th, 1906:

P. F. Rothermel, Esq.,

Dear Sir: Yours containing six checks for $250, drawn to the order of Mrs. Dudley, and with receipt to be signed for the same, came duly to hand.

Before receiving your letter Mrs. Dudley advised me that she had changed her address here to one out of town. Until I hear from her, therefore, the checks remain in my possession, and will be delivered to her in person when she has signed the receipt, and the same will be forwarded to you.

Very sincerely yours,

WILLIAM MCADOO.

P. F. Rothermel, Esq.,
Care Rothermel & Clemens,
Land Title Building, Broad St.,
Philadelphia.

Q. I show you another letter and ask you if that is from Mr. McAdoo?

A. That is from Mr. McAdoo and is addressed to Mr. Rothermel, dated June 26, 1906.

Q. On the same office paper?

A. Yes.

Mr. Strong—I also offer that letter in evidence.

(The same is admitted and marked *Exhibit C-8*, and is as follows):

June 26, 1906.

Mr. P. F. Rothermel.

Dear Sir: Acknowledging yours of the 19th, I have to say that I have not been able to communicate with Mrs. Dudley for some time past, and that she has not receipted for or accepted the checks left with me. I therefore enclose the same herewith and ask that you kindly sign the enclosed receipt.

Very sincerely yours,

WILLIAM MCADOO.

P. F. Rothermel, Esq.,
Counsellor at law,
Cor. Broad & Chestnut street,
Philadelphia, Pa.

Q. (By the Court)—Did the checks come back in that letter, Mr. Dudley?

A. Yes, sir.

Q. Just one moment, I think you may be wrong about that, because I find another letter—

A. Oh no, they came by registered letter—another letter, from Mr. McAdoo, July 17. They didn't come in this letter; he says in another letter: "I send you to-day by registered letter six checks for Mrs. Dudley."

Q. That letter is of what date?

A. July 17th.

Mr. Strong—I will offer this third letter of July 17, from Mr. McAdoo.

(Admitted and marked *Exhibit C-9* and is as follows):

July 17, 1906.

My dear Sir:

I sent you to-day by registered letter the six checks for Mrs. Dudley. I was out of town when your letter came to hand and the checks

could not be gotten at until I returned. You will, therefore, excuse the delay.

Very sincerely yours,

WILLIAM McADOO.

P. F. Rothermel, Esq.,
Land Title Bldg.,
Broad & Chestnut Sts., Phila., Pa.

Q. The checks were received back, were they?

A. They were received back.

Q. Well, what next happened after that?

A. I am under the impression that Mr. Rothermel received a letter direct from Mrs. Dudley, asking for the money, the first he had heard from her.

Mr. Carpenter—I object. The letter speaks for itself.

Q. Well, in consequence of some such arrangement, what did you do?

A. I sent a check to her for $250.

Q. Was there a letter from you enclosing it?

A. I think that letter of mine was there. Here is a copy of a letter of mine to Marie. I wrote her a letter in regard to the checks; I had forgotten that.

Q. Is this a copy of the letter?

A. Copy of the letter that was dictated at Mr. Rothermel's office.

Q. And was the original mailed to Mrs. Dudley?

A. The original was mailed to Mrs. Dudley.

Mr. Strong—Gentlemen, will you produce the original letter of October 20th, 1906, from Edward Dudley to Mrs. Dudley?

Mr. Carpenter—No notice has been served upon us to produce such a letter and we have had no opportunity to produce it, but I will look for it.

Mr. Strong—I will ask leave to put it in at a later time; or, may I use this copy subject to their producing the original?

Mr. Carpenter—I object.

The Court—No, you cannot use it without the consent of the other side. Do I understand, Mr. Strong, that notice is now given and accepted to produce the original?

Mr. Strong—Yes, sir; you understand it so, Mr. Carpenter?

Mr. Carpenter—Yes, I understand it. I don't say, however, that it is due notice. I will make every effort to find it.

Mr. Strong—Have it here to-morrow, can you?

Mr. Carpenter—I don't know that I can do that. Some of these letters are in a place where I can't get at them.

Q. Well, did you send her a check?

A. At another occasion I sent her a check for $250.

Q. It wasn't with this letter?

A. Oh, yes, that is the one in which I sent her a check for $250; I think that is the one there, if that is the letter promising to send her the balance.

Mr. Carpenter—I object; the statement speaks for itself.

Q. Well, just on that point, whether you sent her a check at the time?

A. Yes, this is the letter in which I enclosed check for $250. That is dated December 24th, 1905.

Q. What became of that check?

A. She didn't use it, and then I have never seen it since.

Q. (By the Court)—Where did you mail it to?

A. That was mailed—I think that went—I couldn't say. Oh, I think it went to a hotel she gave, Le Marquis Hotel, I think, in New York. I think I can find her letter.

Q. Have you her letter there?

A. I think so.

Q. Did you then or subsequently send a series of checks to Mrs. Dudley?

A. To McAdoo, you mean?

Q. Oh, to McAdoo; you didn't sent a series of checks to Mrs. Dudley herself?

A. Oh, no, she didn't send the receipt back, so I didn't send the others.

Q. You only sent that one?

A. Yes, because the letter said if she would send the receipt back I would send her the rest.

Q. That was October, 1906?

A. The check was sent in December, 1905, I think. The first check was dated back—dated December 4th.

Q. And sent when?

A. Sent October 30th, 1906.

Q. Now, did you get a reply to this letter?

A. Never.

Q. Or an acknowledgment of the check?

A. No, I never heard anything more about it.

Q. Well, when did you hear anything more from Mrs. Dudley in any shape or form?

A. I have never had any communication from Mrs. Dudley, directly or indirectly, after October, 1906.

Q. When you sent the check?

A. I think the next communication I had—well, she brought suit over here and I didn't hear anything from her. The next I remember hearing from her, I think, was through Judge Kalisch, of Newark.

Q. Well, after 1906 the next thing that happened was the commencement of this suit, wasn't it, or was there anything before the commencement of the suit?

A. Nothing at all that I recall.

Q. Suit was brought in 1907 and the bill is filed by McDermott & Enright?

A. There was one filed ahead of that by Judge Noonan.

Q. In fact, there were two suits before this; was there a suit in Philadelphia?

A. There was a suit in Philadelphia, and then in 1906 I think it was—it may have been 1907—she had a warrant issued for my arrest in Philadelphia.

Q. Was it served on you?

A. No, it was never served on me at all, if I remember correctly; I was told about it.

Mr. Carpenter—I object to any conversation. He said he was told about it.

A. Well, I saw the writ.

Q. When was that?

A. I had been very sick—very ill—and I had gone over to Europe for three or four weeks, and while there Mr. Rothermel cabled me that a warrant had been issued for my arrest. I came home and went straight to Mr. Rothermel's office and I went directly to the Municipal Court, or Aldermen's Court, or whatever it was, and Mr. Rothermel presented me to the judge and he says, "Here it is—here is a writ" and he handed him the writ and said to Mr. Rothermel, "You had better take it."

Q. That was in 1906?

A. I think it was in 1906; it may be 1907.

Q. Well, you had gone abroad, you said, on account of your health?

A. Yes.

Q. What was the nature of your illness?

Mr. Carpenter—I object; I don't think it is material. It is long after this suit was brought.

Mr. Strong—Only to show the effect of all this harrassing.

The Court—Well, how is that competent, Mr. Strong?

Mr. Strong—Well, perhaps it isn't. If the objection is insisted on, I don't suppose it is. I don't want to introduce anything your Honor thinks isn't competent, but yet it seems it might be. It is a part of this man's domestic life and the treatment he received for many years prostrated him nervously.

The Court—It hardly bears upon the question whether he abandoned his wife in 1907, and neglected and refused to support her, unless you intended to show that he became so ill that he was absolutely incapable of furnishing any support.

Mr. Strong—Well, it had an effect upon his income.

The Court—Well, that doesn't meet the requirements of such a defense. I don't suppose you would impose such a defense as that.

Mr. Strong—Well, I will not pursue the matter.

The Court—If you do, I think it is entirely competent. When a man is charged with the matrimonial offense which is defined by the twenty-sixth section of our Divorce Act, two points must be made out against him, first, that he abandoned his wife, and, second, that he has, without excuse, neglected and refused to provide for her. If he is stricken down, and illness prevents him from earning a dollar, and he is carried to a charity hospital, he cannot be convicted of that matrimonial offense.

Mr. Strong—Of course, I am not contending that Mr. Dudley was entirely without means, but I think I can readily show by a single question that his income was very much reduced by this illness and by the publicity that was given to this affair—I don't know by whom, perhaps I can't say by whom, but the fact is that this matter became very notorious and interfered with his clientage.

The Court—I do not understand it is claimed on the other side that while he furnished support, the support was inadequate. If so, why, of course, the whole question of the amount of money that he has—his faculties of all kinds,

including his earning capacity, are all brought into question; that he lost practice and wasn't able to support his wife in any better way than he did. The claim is that he forced his wife, by his adultery, to leave his home and then didn't provide for her at all, so that it seems it is a waste of time going into this.

Mr. Strong—If there is a claim made—

The Court—If there is, then you can show all the facts about his condition and earning capacity.

Mr. Strong—I will not offer it at present, then.

Mr. Strong—I now offer an exemplification, in accordance with the Act of Congress, of the record in the suit of Marie Dudley against Edward Dudley, in the Court of Common Pleas, No. 5, Philadelphia County, being a bill filed by Marie Dudley against her husband on the fifteenth of September, 1905, and which apparently was never proceeded with any further.

The Court—No answer filed?

Mr. Strong—No answer filed.

The Court—Any appearance?

Mr. Strong—Yes, there was an appearance by Rothermel, or rather an attorney of Rothermel. Whether there was a formal appearance by him or not I don't know.

The Court—Now then, what is the substance of the charge in the bill?

Mr. Strong—It is a charge of adultery, and she reiterates the same charge in her suits here in New Jersey.

Mr. Carpenter—The first suit has only the charge as to Washington in it, and the others mention Saugerties.

The Court—What is the date of the filing of the bill, Mr. Carpenter?

Mr. Carpenter—September 15th, 1905.

The Court—What is the prayer, for an absolute divorce?

Mr. Carpenter—Yes.

(The same is admitted and marked *Exhibit C-10.*)

Mr. Strong—I also offer in evidence a certified copy of another bill filed in this court May 24th, 1906, by Marie Dudley against Edward Dudley for divorce for adultery, Thomas F. Noonan, solicitor, and William McAdoo of counsel.

Mr. Carpenter—I object to this.

The Court—Was there any appearance there?

Q. Did that suit go any further, Mr. Dudley?

A. No.

Mr. Carpenter—I object to that as incompetent, immaterial and irrelevant; it has nothing to do with this suit.

The Court—Oh, it is entirely competent to prove the pending suit; the only question is whether this single paper can be received in evidence. We cant' tell.

Mr. Strong—I will undertake to produce the entire files in this case. This is all I have here to-day, but we will get everything that is in that suit. May 24th, 1906, was about the time the checks were sent, as you will remember.

(Admitted in evidence and marked *Exhibit C-11.*)

Q. Just one more question, Mr. Dudley.

A. You asked me for these bills here, and I have just found them.

Q. You have called my attention, Mr. Dudley, to a bill of J. E. Caldwell & Company, jewelers, Chestnut street, Philadelphia, dated July 1st, 1905, for $1,146.25; is this one of the bills that came in the envelope as you

testified this morning, addressed to you by Mrs. Dudley?

A. Yes.

Mr. Strong—I offer that in evidence.

(Admitted and marked *Exhibit C-12.*)

Q. I show you another bill or statement of July 1, 1905, Joseph K. Davidson, manufacturing jewelers, Philadelphia, for $861.75, and ask you if that is one of the bills?

A. Yes, that is one of the bills. It is only a balance.

Q. (By the Court)—Did you pay it?

A. Eventually, yes. These bills amounted to so many thousands of dollars that I had to sell some securities before I could settle them.

Q. Have you any others that you can identify as having come in that envelope addressed by Mrs. Dudley to you?

A. Yes, here is another one.

Mr. Strong—I offer that in evidence. It is a bill of Francois, for $40, dated April 13th.

(Admitted and marked *Exhibit C-14.*)

Q. That also came in that envelope, did it?

A. Yes.

Mr. Carpenter—I object to these bills, on the ground that it has not been shown that they were incurred by Mrs. Dudley. They may have been incurred by Mr. Dudley. It is not shown what they were for, and I don't think it is competent.

The Court—I have already allowed the bills that came in the envelope.

Q. Here is one from John Wanamaker for $540.06, apparently.

A. That is one of them.

Mr. Strong—I offer that in evidence.

Mr. Carpenter—If your Honor please, I wish to object to all these bills in 1904 and back of the time Mrs. Dudley, according to Mr. Dudley's allegation, left him, because taken separately

they don't show anything. In order to draw a comparison, all of the bills ought to be brought here.

The Court—I have admitted the bills that came in the envelope which the witness testifies was addressed in the handwriting of his wife. What the effect of all these papers may be I haven't ruled; it is a matter of argument. But this is a communication from Mrs. Dudley to Mr. Dudley and, therefore, it is competent.

Mr. Carpenter—But I understood Mr. Dudley to say that he could not tell at that time what came in the envelope.

The Court—We have got way beyond that. I have instructed counsel to have only those picked out that were in the envelope, and that is the work we are now engaged in,

(Admitted in evidence and marked *Exhibit C-15.*)

Mr. Strong—I also offer in evidence a bill of Wanamaker, showing a balance of $151.95, dated November, 1904, consisting of two sheets. The bill was $698.60, upon which there are some credits, showing a balance of $151.95.

(Admitted in evidence and marked *Exhibit C-16.*)

Q. During the time Mrs. Dudley was abroad did you receive a cablegram from her?

A. Several times; but in 1905, after she left the house and I never saw her again, she reached Paris and sent me that cable.

Q. You received this, did you?

A. I did.

Q. On July 12th, 1905, or about that date?

A. I did about that time. She was out of money.

Mr. Carpenter—I object, on the ground that it is not shown that it came from Mrs. Dudley.

(The same is marked *C-17* for identification.)

Q. Is this the cancelled letter of credit you gave her?

A. That is the cancelled letter of credit, dated the 29th or 30th of May, 1905, for £500.

Q. That was on the occasion of her going abroad at that time?

A. Yes.

Mr. Strong—We offer it.

Mr. Carpenter—No objection.

(Admitted and marked *Exhibit C*-18.)

Q. The entire amount was drawn, was it? 10

A. It was all drawn, almost immediately.

Q. It shows that by the endorsements?

A. Yes.

Mr. Strong—Let me read the endorsements showing the drawing of the mnoey: June 17th, 1905, 10,000 fr.; July 8th, 1905, 2,635 fr.; total, 12,625 fr.

Q. Mr. Dudley, have you at any time refused any request made of you to support your wife?

Mr. Carpenter—I object. That is a leading 20 question, and I object on that ground.

The Court—I will allow it.

A. I have not, no; have never failed to respond immediately.

Cross-examination, by Mr. Carpenter:

Q. Mr. Dudley, where did you say you first met your present wife?

A. At James S. McCob's apartment, in New York; I think it was on Lexington avenue; I am not sure. 30

Q. And at what date, please?

A. The date when I went there and met her?

Q. Yes.

A. It was some time in 1892; I couldn't tell you what date it was, but I think it was in the summer time, because I had just come up from Lawrence, Long Island, with Mr. McCob. He had been down there visiting.

Q. And your home at that time was down in Camden, N. J.?

A. Yes.

Q. And that has been your home up to the present time?

A. Yes.

Q. And you married Mrs. Dudley in Naples?

A. Yes, March the 4th.

Q. And after that you traveled in Europe a short time?

A. We did, until May some time. We went from Naples, I think, to Rome and to Florence, and I don't know whether we went to Monte Carlo or not, and then on up to Paris, and from Southampton we sailed for home.

Q. When did you reach this country?

A. Some time in May, 1899.

Q. And I understand you went direct to Camden on arriving here?

A. Direct to Camden, and went out to the Grange, my home.

Q. And living there were your sisters—

A. My sister, Mrs. Trotter and her husband and my two children, and an aunt whom I had been taking care of.

Q. How old were your children at that time?

A. At that time or now?

Q. At that time.

A. My son, I think, is now thirty. In 1892 he would be about ten years old, I think.

Q. And your daughter was a little younger than that?

A. About three years younger. My son may be thirty one, I don't know; I guess you know better than I do.

Q. No, I don't think so.

A. I meant that you passed the examination the same time he did.

Q. And after that you expected very shortly to move to Philadelphia?

A. No, I didn't expect to until the winter, because it had been our habit for many years to spend the summer at home and in the fall take a rented house in the city, and whatever one my sister got we all went to. Even before my father's death we used to do it. But I expected then that we would rent our own house and my sister would go to another house for the winter.

Q. Has she another house in Philadelphia?

A. Oh, no; only leased for the winter.

Q. Where was your house located?

A. 1723 Locust street, within one door of Rittenhouse Square.

Q. Where is the one your sister went to?

A. I don't remember where they were that year, whether they were at 1721 Spruce street or not; I am not sure.

Q. But it was within a block or two?

A. Yes, not far off.

Q. How many of them were there?

A. Well, Mr. and Mrs. Trotter, my daughter and my son, and my aunt.

Q. And that house was kept open all winter as well as your other one?

A. We always stayed out in the country until election day, and then stayed in the city after that until good weather commenced in April.

Q. It was a large house, was it not?

A. Well, fairly large, I suppose. I don't know exactly how you measure the size of a house. They had one spare room over and above what they used. I know they always tried to do that.

Q. Now your other house over on Locust street, was a large house, was it not?

A. Oh, no, it wasn't a large house; it was a peculiar house, with a long front and only one room deep. It belonged to the Harrison estate, and the Philadelphia

Trust Company had charge of it. There were very few bedrooms; we had only one spare room in the house.

Q. You entertained extensively there, didn't you?

A. We entertained considerably when we first got there.

Q. And, in fact, you did up until the end?

A. Well, we occasionally did; not so much as we did before but we entertained considerably.

Q. And you entertained in a very lavish style?

A. Oh, no, that is not so.

Q. Well, among your guests were Col. McClure?

A. O, no; the people that were there were friendly to Mrs. Dudley. We didn't entertain visitors; seldom entertained gentlemen friends, excepting those that had wives.

Q. Col. McClure had been a guest at your house?

A. Oh, yes, once or twice in five, six or seven years.

Q. P. A. Widener was a guest.

A. He came there one night to dinner. I had a gentleman's dinner at that time.

Q. At what time was that?

A. That must have been way back in 1900.

Q. You are not sure about the time?

A. I am sure it was that year, shortly after we were there and married.

Q. And Mr. Weidener is one of the wealthiest men in Philadelphia?

A. Yes, I suppose he is the wealthiest.

Q. Then you had other very wealthy men there, didn't you?

A. Well, some that were reported and turned out to be wealthy. Senator Magee, from Pittsburgh, was one. These are gentlemen that I played cards with.

Q. Who were some of the others?

A. Oh, the peoeple that were mostly entertained were ladies and gentlemen that Mrs. Dudley had been introduced to.

Q. And they were also friends of yours?

A. Oh, certainly.

Q. And then other people from the neighborhood around there, I suppose?

A. Well, a few, as there are in all neighborhoods.

Q. And they were from the first families in Philadelphia, weren't they, many of them?

A. Well now, I am not a judge; I wouldn't like to say first, second or third. We thought they were very nice people.

Q. And you know very well with your familiarity with Philadelphia people, that they were?

A. I thought they were very nice people and well-to-do.

Q. And you and Mrs. Dudley both went with the best people in Philadelphia?

A. Well, I am glad you think so; I hope so. I think so. That is my opinion.

Q. And they were your guests?

A. Of course they were my guests; they were in my house.

Q. And they were her guests—it worked both ways?

A. Oh, I never singled out individuals. If Mrs. Dudley had friends there I considered they were my guests.

Q. And you and Mrs. Dudley went out to visit those people in Philadelphia?

A. I never did very much, because I was too busy.

Q. She as your wife was welcome in all these families?

A. Certainly. She was supposed to keep up the social end of it and I suppose she did.

Q. And that continued all of the time you were living there, didn't it?

A. Up to within the last eighteen months.

Q. Well, even later than that?

A. Well, the last eighteen months we gave very few dinners, excepting to one set of people who used to come around and play cards.

Q. They were your gentlemen friends?

A. Oh, no; they didn't come there the last eighteen months.

Q. Didn't they sometimes play cards there?

A. Not in the last eighteen months; they did before. They played down at Hotel Bellevue.

Q. And you had regular rooms in the Hotel Bellevue where you played cards?

A. No, sometimes they gave us one room and sometimes another. We took our dinner there and played cards and came home.

Q. And the Bellevue is the best hotel in Philadelphia?

A. Well, it has the reputation of being the best.

Q. And those games were for money?

A. Yes.

Q. And the stakes ran high?

A. No, they weren't. I know the newspapers said at one time the stakes were very high.

Q. On account of some activities?

Mr. Strong—I object to any further examination along that line.

Q. At any rate, you finally didn't go to the Bellevue to play, but sometimes the gentlemen would go up to your house?

A. Oh, no, very seldom. I don't suppose it was once in five years, or twice in five years.

Q. Do you remember the last time that you played up there?

A. Played in my house?

Q. Yes, if you can recall it.

A. I don't recall it, but it must have been a good many years ago, because the last eighteen months I don't think any of those gentlemen ever came to my house.

Q. Your house there was very beautifully furnished?

A. Very nicely furnished, I thought.

Q. And very expensively furnished?

A. Not very expensively furnished; we had all American furniture, excepting one set that came from Japan.

Q. And that was a handsome set of furniture?

A. I thought it was.

Q. And you also had some oil paintings on your wall?

A. I had a couple of oil paintings.

Q. You had some celebrated paintings?

A. No, I haven't any celebrated paintings at all. My father had a celebrated painting that was at the Grange.

Q. And you had some by prominent artists in your town—in Philadelphia—didn't you?

A. No, not at all.

Mr. Strong—Is this material. I am inclined to think hardly so. I don't want to object.

The Court—Counsel has taken a very wide range and the Court must rely on his judgment to a very large extent. It doesn't seem to me very important to investigate the character of the paintings.

Mr. Carpenter—Of course not.

Q. Among other things was this painting of Mrs. Dudley that hung on your walls up home?

A. Yes, she hung it up there.

Q. In what room in the house?

A. She put it in the parlor, I believe

Q. And that stayed there?

A. Yes.

Q. Until when? Is it there now?

A. No, it was taken out long ago.

Q. And when was it taken out?

A. I think I moved everything out the last of June or the first of July, 1905.

Q. (By the Court)—Did you give up the house at that time?

A. Yes, it was the end of the lease.

Q. How long had the painting been hanging in your parlor?

A. Well, she got it along the last of 1902, and I closed up the house in 1905; perhaps two years and a half or maybe three years. No, the picture didn't arrive —she had it painted in 1902, October, November and

December, and it probably came there the first part of 1903. It might have been there two years.

Q. How large a painting was that?

A. Oh, it is a very large picture. It is life size, I should think; it is very high. It is as high as that door, I should think, and wider.

Q. Would it be possible for you to produce that in court?

A. Well, hardly.

Q. What kind of dress was it Mrs. Dudley had on?

A. That is beyond my description; you can only tell by looking at it. I don't think it is a dress, but sort of drapery, as I remember it. It didn't look very much like her.

Mr. Carpenter—I want to make a demand, if the Court please, that Mr. Dudley be required to produce that picture here, so that the Court can see it and judge whether or not that was painted of Mrs. Dudley in an improper dress.

A. That wouldn't show it at all.

The Court—The witness has testified that the picture that came was not anything in the nature of a nude picture; his objection was to what he understood was the way in which the wife presented herself before the artist; that she posed in an improper dress and afterwards draperies were added to the picture which made it entirely different.

A. There is nothing in the picture which could soil the eye or hurt it.

Q. Then you don't complain that the picture itself shows anything except in a proper attitude.

A. What I said was that she sat for the artist in an improper pose.

Q. You were not present at all when her picture was painted?

A. No.

Q. Now, the silverware which was in your home in

Philadelphia was almost all of it owned by Mrs. Dudley, wasn't it?

A. Not one piece.

Q. Hadn't that been presented to her?

A. Not at all; I bought it all, all but one piece that was presented to her. We were married abroad and had no presents. Every single piece was purchased by me and paid for.

Q. And presented to her?

A. Not at all, not one single article in the house. If she had asked me for it I would have probably given it to her, but she never did.

Q. That silverware was stored away in the storehouse of the Trust Company, was it not?

Mr. Strong—What time do you mean?

Q. When the silverware was stored in the spring and summer of 1905, wasn't it stored in a Trust Company?

A. It was stored in a vault in the National Bank of Camden, where I am a director.

Q. That is where she left it?

A. Excepting 1905.

Q. Where was it stored at that time?

A. I don't know; she took it out of the house.

Q. Don't you know where it is now?

A. No; I have demanded it two or three times from her attorneys to know where it was and no reply has been made.

Q. Now, after you were married when did you make your first trip to Europe?

A. In 1900.

Q. You went to Europe with her?

A. Yes.

Q. When did you go?

A. Oh, I couldn't tell you; probably May or June.

Q. Do you remember how long you stayed?

A. Probably stayed so as to get home the first of October. I say "probably," for I couldn't tell you.

Q. Then you stayed in Philadelphia all the next winter?

A. I stayed there, yes; I really had the house right along there.

Q. Then the next year you went to Europe with her, too, didn't you?

A. That is, in 1901?

Q. Yes.

Q. Yes, we went in 1901.

Q. And do you remember what steamer you sailed on?

A. In 1901, no, I couldn't tell you any of the steamers; I went quite often.

Q. She went with you?

A. Yes.

Q. How long were you gone?

A. I suppose during the summer.

Q. About three or four months?

A. I wouldn't be sure, but somewhere about that.

Q. Do you remember how many staterooms you had?

A. Probably only had one.

Q. You traveled together?

A. We were in the same room.

Q. Yes, that is what I mean.

A. Yes.

Q. And after that did you spend the winter in your city home in Philadelphia?

A. Yes.

Q. Then you went the next year again, in 1903?

A. I didn't go with her in 1903; she went alone.

Q. She went alone?

A. She went alone. I refused to go after 1902.

Q. In 1902 did anyone else travel over when you went over?

A. No, we were met over there by Mr. George M. Dorrance.

Q. And who is Mr. Dorrance?

A. Mr. George M. Dorrance, of Bristol, Pennsylvania, formerly special agent of the Pennsylvania Railroad in

settling damage claims in the legal department— a personal friend of mine and also of Mrs. Dudley.

Q. Do you remember when you returned from Europe that year?

A. Well, I should think sometime in September, as usual; I am not sure.

Q. And do you remember who came back with you on the boat?

A. You mean all the passengers?

Q. No, anyone.

A. The only person that came back with us was Mr. Dorrance.

Q. Wasn't Mrs. Vanderpoel there?

A. Mrs. Vanderpoel and Miss Brice were on the steamer.

Q. And Mrs. Vanderpoel is the Mrs. Elizabeth Batelle Vanderpoel mentioned in the papers here?

A. Yes.

Q. And who is Miss Brice?

A. Miss Brice is a great friend of Mrs. Vanderpoel from Philadelphia, who was traveling with her.

Q. Did you all sit at the same table?

A. We all sat at the same table with Governor Brown, of Maryland, his daughter and son, and Mrs. Dudley and myself; also Miss Brice and Mrs. Vanderpoel, and I think a judge of the Supreme Court of Pennsylvania. I don't know whether his name is Lichtenstein or Lichtenberg, but something of that kind.

Q. Mrs. Dudley sat on one side of you, I suppose?

A. I don't remember where we sat.

Q. You remember that Mrs. Vanderpoel sat at one side, don't you?

A. I don't remember; she may have. Mr. Dorrance may be able to tell when he comes on the stand. I don't know; he was with her on the steamer most of the time.

Q. You say the first time that Mrs. Dudley com-

plained of your conduct was when you were in Atlantic City?

A. Yes.

Q. And that was just a short time after you moved to the Grange, wasn't it?

A. Yes, after we went down there.

Q. And who is the lady that she complained about your being intimate with?

A. Well, if you want it I am perfectly willing to mention it here. It was the daughter of David Sellers, a prominent lawyer.

Q. And the name of the lady was what?

A. Miss Agnes Sellers.

Q. She was quite a young lady at that time?

A. Yes, twenty-one or twenty-two. She married afterwards and I think she is dead now; I don't know.

Q. And did she propose that she go out to dinner with you?

A. Oh, no, Miss Sellers came to us and said she was lonely and she couldn't go out to any place and see the fun.

Q. And then you introduced her to Mrs. Dudley?

A. Oh, no. Mrs. Dudley knew her before I did. She was there in the hotel and all knew each other just to speak to.

Q. How long after that was it that your wife had this conversation with you up in the room?

A. Oh, probably a week or ten days.

Q. And you had been seeing Miss Sellers around the hotel?

A. Not at all; never went with her in my life excepting this one evening; never sat down and talked with her even.

Q. She was a guest in this hotel?

A. She was.

Q. And it was some ten days after she went out that your wife said you weren't faithful to her?

A. Yes, I believe it is about that.

Q. And that is all she did say?

A. Oh, no, she called me a lot of names and other things; lost her temper.

Q. Lost her temper and said you weren't faithful?

A. She said that all the time—all the whole time.

Q. She hadn't said that before?

A. Oh, yes, she had.

Q. Wasn't that the first time she said it?

A. She said it right in her own house within four days after her arrival.

Q. That was the first time?

A. Yes, I think it was four or five days after we arrived.

Q. And I suppose as soon as you got back you went to your office?

A. Where from?

Q. When you got back from Europe that time?

A. The first time?

Q. Yes.

A. Yes, I think so.

Q. So that within four days from the time you landed in the Grange at Camden she was accusing you of being unfaithful?

A. Oh, she was doing that all the time. She didn't mean anything by it.

Q. Up to that time you didn't think she meant anything by it?

A. Not at all; she was a foolish woman.

Q. And when was the first time she ever made any charges against you of intimacy with any particular person?

A. The first time was the time when she saw this note of Mrs. Tilghman—oh, no, at Atlantic City, I believe, was the first time.

Q. At Atlantic City was the first time she mentioned any particular woman?

A. Yes, Miss Sellers.

Q. How long after that was it that you went to Narragansett Pier?

A. Oh, I think we were there five or six weeks at Atlantic City and then we went to Narragansett Pier. I am not certain whether we went on Mr. Wiedener's yacht or not.

Q. And what did you say happened in particular at Narragansett Pier?

A. What did I say what?

Q. What did you say in particular happened up there that provoked you?

A. Nothing happened up there, except I introduced her to this lady and she caused trouble.

Q. Who was this lady?

A. Mrs. Tilghman.

Q. Where was she staying at the time?

A. With Mrs. Samuel Welsh in Philadelphia.

Q. And Mrs. Tilghman is the lady you met up in Cambridge?

A. Yes, a little child.

Q. When you were in college there?

A. Yes.

Q. About how old were you at that time?

A. She was about four or five—just a little tot.

Q. When did you next see her after you were in college?

A. Oh, I didn't see her for quite a number of years.

Q. How old was she then?

A. I couldn't tell you. One time when my little girl was very small I think I met her at the Wentworth House at Portsmouth, New Hampshire. I had my child up there with a nurse. I think that is the first time.

Q. You had both your children there?

A. Yes, sir.

Q. That was after your second wife died?

A. Yes.

Q. How old was Mrs. Tilghman at that time?

A. Oh, I don't know; you know as much about ladies' ages as I do.

Q. She was a woman at that time?

A. Yes.

Q. Now, had you seen Mrs. Tilghman frequently after that?

A. Not after I told you I wrote and told her I couldn't attend to her business any longer.

Q. Did you correspond with her frequently?

A. On business absolutely, yes.

Q. You have corresponded with her?

A. Yes, when I was attending to her business.

Q. Did you have friendly communications with her?

A. Not at all.

Q. Never did?

A. Not at all.

Q. You weren't at all intimate with her?

A. Not at all.

Q. Only as a client in a professional way?

A. Only as a client.

Q. (By the Court)—Where was her property located?

A. In Boston.

Q. All of it?

A. No, some of it. She had some up there in the outskirts of Philadelphia, but the warehouse property that she had was up in Boston. She had lived in Boston and gone to Maryland. She had married a Mr. Tilghman.

Q. And was Mr. Tilghman dead?

A. He is dead now, yes. At that time they parted, I think.

Q. She was divorced, wasn't she?

A. I think so. I think Judge Sulsberger in Philadelphia got her a divorce.

Q. In 1899 was she a divorced woman?

A. Well, I couldn't answer that.

Q. You know she was, don't you?

A. I don't remember whether she was divorced then or not; I couldn't tell you, and I don't know the date she was divorced at all.

Q. Where did you say it was that you and your children were staying when you met her the second time?

A. I think it was the Wentworth House in Portsmouth, N. H.

Q. Isn't it a fact that you were requested to leave that house?

A. I never have been requested to leave any house. I never have behaved myself in any way in any hotel where that request was necessary; such a request as that has never come from anybody. I have never behaved myself improperly at any hotel, either in this country or in any other country.

Q. When did Mrs. Dudley first complain of your receiving letters from Mrs. Tilghman?

A. Only this once, when she saw this note that I had thrown on the table as I came in.

Q. Do you recall what was in that note?

A. I think she said, "Dear Mr. Dudley: Can I meet you at two o'clock or three o'clock for an interview"—whatever the hour was.

Q. That was a business communication?

A. Absolutely.

Q. And you were to meet her on a business appointment?

A. I was.

Q. How many times did you have business appointments with Mrs. Tilghman?

A. At that time very few, because I had cleaned up a good deal of her property and turned it over to the parties who purchased it. I don't think I very often saw her or heard of her.

Q. When was that occasion?

A. Well, this must have been about 1900, I guess,

or shortly after we came home. It may have been in 1899, in the fall, shortly after we came home.

Q. In the fall of 1899; then you had closed all her business for her?

A. I think so.

Q. When was it that Mrs. Dudley made any further charges of infidelity against you?

A. The only time that I remember since that—Oh, well, she did it sometimes two or three times a week, but I paid no attention to it—never did. The only time she made any specific charge was the time that she spoke to Miss Walton.

Q. What was Miss Walton's first name?

A. Eleanor.

Q. Was she the Wilmington girl?

A. She was the daughter of E. T. Walton.

Q. How long had you known her?

A. I met her once in Wilmington, and have never seen her since or before—never saw her but once in my life. Oh, I think I did see her passing along the street.

Q. Did you speak to her then?

A. I never spoke to her but once in my life.

Q. And the only time you had a letter from her is the one you testified to?

A. Yes.

Q. And she wanted you to do some business for her?

A. She wanted me to pay her father's dues and send her a receipt, and I think I probably sent it.

Q. How old a lady was she?

A. Oh, I couldn't tell you; she was a young lady—at least, I should judge so.

Q. What were the words Mrs. Dudley used to you in the hotel at Atlantic City?

A. Well, I told you as near as I could. She called me a fool. I gave you about what it was.

Q. The substance of it was that she charged you with infidelity?

A. Oh, yes, and "you are always running after women," or something of that kind.

Q. What did she say when she accused you generally of infidelity—what words did she use?

A. "You are always running after women," or something of that kind.

Q. That is about all that it amounted to?

A. Yes.

Q. You didn't pay any attention to it?

A. Yes. I knew there was no truth in it, and she knew there was no truth in it.

Q. You didn't consider it serious at all?

A. No, because she made all kinds of wild statements.

Q. But up until the summer of 1902 you were getting along with her very well, weren't you?

A. Oh, well, if you call pitching into you all the while getting along, then we did get along. I never went into the house when there was any comfort in it; never sat down to a meal when there was any assurance that my comfort would not be interfered with. She usually acted so badly that I wished I had never gone in. But I kept it up so as to avoid a scandal. I didn't know at that time that she was talking around; I was absolutely ignorant of it.

Q. You are complaining now that she was talking about you behind your back.

A. Yes, she was talking to people.

Q. And yet you continued to entertain in your home in Philadelphia?

A. Oh, yes; I tried to smooth it over the best I could.

Q. And you got along fairly well down there?

A. No, I can't say that I got along fairly well.

Q. But you lived together and entertained in that home?

A. We didn't live together; we lived separately. I never saw her at breakfast, and I never saw her at dinner very often.

Q. You were getting your luncheon over in Camden?

A. I never take any lunch at all. I did to-day, a bite, but I don't often take a lunch.

Q. And you were frequently away on business trips?

A. Oh, yes; quite often.

Q. What time would you leave your house in the morning to go to your office?

A. I don't know now; I don't leave so early now because I am not able to; but I used to leave there for the office at half-past eight or nine.

Q. And you are an early riser?

A. No, I am not a very early riser.

Q. Mrs. Dudley wasn't up yet?

A. She didn't get up for breakfast.

Q. About the only time you had to see her was in the evening?

A. Yes, but as soon as dinner was over she generally disappeared.

Q. When did she commence to do that?

A. Oh, I don't know how far back. My impression is it is somewhere in 1901, excepting occasionally she went to the theatre and I went with her, and when she went to the opera I went with her.

Q. Did you always go to the opera?

A. Nearly always; she had other guests, of course.

Q. How many nights a week would she go out without your consent?

A. Oh, I don't know how many times she went.

Q. Was it once or twice a week?

A. March 25th is the only time—

Q. I mean when she went out of the house and didn't—

A. And didn't come back until the next day?

Q. No, I don't mean that; how often did she go out in the evening?

A. I say she disappeared upstairs. I don't say that she went out in the evenings.

Q. All the time that you had the opera box you went with her to the opera?

A. Yes.

Q. And you maintained an opera box up to 1905?

A. Yes, until the end of the season.

Q. And the season ends when?

A. Sometime in the spring.

Q. Pretty late in the spring?

A. No, I don't know how long it lasts.

Q. How often did you go to the theatre with her on an average?

A. Well, I don't know how much we averaged. When we first moved in there we used to go quite often—sometimes twice a week. Towards the last when it got so very disagreeable we hardly ever went.

Q. You didn't ask her to go to the theatre, did you?

A. No, I did not.

Q. And she had to ask you herself to take you to the theatre?

A. She asked me one night—

Q. And when was that?

A. I mean the night that I said she asked me if I wouldn't take her to the theatre.

Q. When was that?

A. I think that time must have been in 1904—somewhere along there, or 1905; I can't fix the date.

Q. How long was it before that that you discontinued your visits to the theatre?

A. Oh, we didn't discontinue them, only we didn't go quite so often.

Q. First you went every few nights?

A. No, only once a week—once or twice.

Q. Isn't it a fact that you played cards with your friends twice a week?

A. Yes, Wednesday and Saturday nights.

Q. That was a regular thing?

A. Yes, I had done that for twenty years.

Q. How late at night would those card parties continue?

A. We generally stopped at twelve o'clock; some-

times took a little something to eat and then went home.

Q. And sometimes you didn't get home until three or four o'clock?

A. Never.

Q. Isn't it a fact that your wife complained that you didn't come home until three or four o'clock in the morning?

A. She didn't complain to me. She would tell people at the dining-table that I didn't come home until three or four o'clock in the morning.

Q. In whose presence did she say that?

A. Mr. Dorrance, Miss Shaw, Miss Knight, Mr. and Mrs. Cragin.

Q. Is that the Miss Knight that has testified here?

A. No, that is the other one. She hasn't testified yet.

Q. What is the name of the lady that heard her say that?

A. Oh, a half dozen heard her say that?

Q. And Miss Knight heard those conversations?

A. Mrs. Mary Knight. There was a Miss Josephine Knight, but she married; she is Mrs. Baldwin.

Q. Did she ever complain to you in privacy that you didn't get home until three or four o'clock?

A. She never did.

Q. What did she say when she accused you of not coming in until three or four o'clock in the morning?

A. She didn't accuse me at all of that?

Q. What did she say?

A. She didn't say anything to me; she was complaining to other people and I said nothing.

Q. You said nothing?

A. I said nothing; what was the use?

Q. Didn't you think it was strange that she should say that?

A. Not at all, because she made all kinds of charges. No book would hold it all.

Q. Can you remember any other charges that she made on those occasions?

A. Yes.

Q. What were they?

A. Oh, well, she charged me with turning some friends against her whom I endeavored to see, and that I spoke to the ladies and told stories about her, and I never had spoken to anybody anything of that character.

Q. Isn't it a fact that for several years after you were married you and your wife would go over to New York and spend the week end at the Waldorf?

A. No, very seldom.

Q. You did once in a while, didn't you?

A. No, I think in 1902 or '01—I don't remember that we did. I may have gone over occasionally with her Saturday or something of the kind.

Q. You went with her on those occasions, didn't you?

A. Very likely.

Q. And you stayed in the same room at the hotel?

A. No, not there.

Q. Didn't you at the Waldorf?

A. Nearly always during the last three or four years I think I went to the club and she stayed there, and I went and dined with her.

Q. What club did you stay at?

A. The University Club and the Manhattan Club.

Q. The Manhattan Club is located where?

A. 26 Madison avenue.

Q. And isn't it a fact that Mrs. Vanderpoel had an apartment right next to that club?

A. I think she did one year.

Q. What year was that?

A. I couldn't tell you.

Q. It was after 1901 or 1902, wasn't it?

A. Yes, I think it was; I am not sure. I don't know what times she had her apartment there.

Q. And in what building was her apartment?

A. I don't know as I can tell that.

Mr. Strong—If the Court please, I don't think that the cross-examination ought to be with the object of sustaining the cross-bill. There has been nothing in the direct examination along the line of his present examination.

The Court—Proceed. I will let him state.

Q. What number was the building?

A. I don't know anything about it.

Q. How far from the Manhattan Club was it?

A. I think a door or two doors from there. That is my impression.

Q. How did you enter that from the Manhattan Club?

A. Well, if I wanted to go in there I supposee I would have to go in the front door.

Q. Wasn't there an entrance from the Manhattan Club to that building other than the front door?

A. Not that I know of.

Q. Did Mrs. Vanderpoel have an apartment there all the winter?

A. I really don't know; I can't answer that.

Q. Do you remember about how often during the year 1900 that you and your wife went to New York to stay at week ends?

A. No, I can't answer that; it is too long ago.

Q. About how often was it?

A. I couldn't answer that at all; to answer a question like that would necessitate my keeping a diary.

Q. But you did keep a diary on some of these other things?

A. No, I didn't.

Q. You are pretty sure about some of these other dates?

A. Prominent dates, yes; but I don't consider it a prominent date to know when I went over to New York and when I didn't.

Q. How, for instance, do you fix the date January 1, 1901?

A. If you were a married man you could fix it.

Q. But you say after that you never went to her room excepting to deliver same messages; is that so?

A. In the house?

Q. Yes.

A. Never.

Q. You did that, didn't you?

A. I never went there and never stayed in her room again; we never lived together as husband and wife after that time.

Q. Did you ever sleep in the same room with her?

A. I think we did on the steamer.

Q. (By the Court)—What year was that?

A. January 1st, 1901.

Q. You took a trip to Cuba with her once, didn't you?

A. I think we did.

Q. When was that?

A. I couldn't tell you exactly.

Q. Can you tell what year it was?

A. 1901 possibly. I am only guessing at it.

Q. Isn't it a fact that it was 1903?

A. No, I didn't go to Cuba in 1903.

Q. Did you go to Florida with Mrs. Dudley?

A. Oh, yes.

Q. And where did you stay there?

A. With Mr. and Mrs. Cragin.

Q. Do you remember some occasions when you were there?

A. Well, he gave us a dinner and we stayed there possibly a week.

Q. How long ago was it—what year was it?

A. Well, I am only guessing now, but I should think it might be 1901, possible the winter of 1902.

Q. Was that the last time that you were there with your wife?

A. I think so; I don't remember being there more

than once. Yes, I think we did go again another year, but I don't remember when it was.

Q. That was later, wasn't it?

A. Well, I don't know which is the first. I went down to a breakfast given to Joseph Jefferson by Mr. Cragin, and at that time we stopped at the Royal Ponciania.

Q. Now, what is Mr. Cragin's full name?

A. Charles I.

Q. And he lives up in this section of the country? 10

A. I don't think he has any home here. I know he lives down in Florida and he spends his summers in the White Mountains.

Q. Whereabouts is his home in Florida?

A. Lake Worth, just below Palm Beach.

Q. And you and your wife had the same room there?

A. I think very likely.

Q. And stayed there for over a week?

A. Yes.

Q. Wasn't that the time that you went over to Cuba? 20

A. Well, now, it might have been.

Q. We are in 1903 now. You had the same state-room on the steamer, didn't you?

A. I think so, beyond question. I merely said we hadn't lived as husband and wife since January 5th, 1901. We didn't live in the same room in our own house; we may have had the same room—probably did—on the steamers, and very likely had the same room at places where we were guests.

Q. And also at hotels? 30

A. Oh, no, not at hotels, excepting down at Cuba I may have done so.

Q. And you went on visits with your wife to friends' homes and stayed over Sundays, up until 1905, didn't you?

A. No.

Q. When was the last time you stayed in the same room with her?

A. I couldn't say, but I should think in 1902, in Paris.

Q. You think that is the last time?

A. I think so.

Q. What brings that to your mind?

A. Well, merely that Mr. Dorrance and Mrs. Dudley and I took rooms in the Hotel Mirabeau.

Q. When you came back from Paris in 1902, you came back in the same stateroom, didn't you?

A. Yes, I told you that before.

The Court—We will take our adjournment until to-morrow, and I wish counsel to understand that we may be required to remain here until five o'clock or after. We must hold long sessions.

CHANCERY CHAMBERS, Jersey City.
WEDNESDAY, November 20th, 1912, 10 A. M.
All counsel present as before.

Edward Dudley resumes the stand for further cross-examination.

By Mr. Carpenter:

Q. Mr. Dudley, do you recall the first time you and your wife ever had any difficulty or any words?

A. Well, I think we had some words at the time we got to Paris, right after we were married.

Q. That wasn't anything very serious?

A. No, that wasn't very serious.

Q. When was the next time?

A. Well, Mr. Carpenter, from the time I arrived in America in May, 1899, I don't think two days ever passed without some disagreeable remark from her. It was continuous. I couldn't repeat the days and times and hours, but for some unknown reason, which I at first attributed it to ill health, because she wasn't well and she couldn't seem to treat me as she should, there

was sarcasm, ugly remarks, or something of that kind all the time.

Q. You say she was in poor health?

A. Yes. I took her to a doctor in Pars, and he said she had anemia.

Q. I don't ask you what he said, and move to strike that out, if your Honor please. She went to doctors here in America, too, didn't she?

A. Oh, yes, she went to a doctor here in New York.

Q. And to doctors in Philadelphia? 10

A. Yes, once or twice she had an attack—

Q. Never mind, I just wanted to know. And she was ill for practically all the time you were living together, wasn't she?

A. Oh, no, nothing of the kind.

Q. Well, she was ill in 1900?

A. I don't think she was.

Q. She was ill in 1901?

A. Possibly. She had these slight attacks of neuritis, or whatever you call it. 20

Q. By that you mean she was a very nervous woman?

A. Well, at times she was very nervous, no doubt about it, when she would get angry.

Q. Well, she was nervous when she wasn't angry, too, wasn't she?

A. No, not particularly.

Q. But she went to physicians for neuritis, didn't she?

A. Yes, I think she went once in Philadelphia for it.

Q. Once to your knowledge?

A. Once to my knowledge, probably no other time, 30 because I paid no other bills.

Q. You remember paying one bill for services?

A. Yes, I called him in one evening.

Q. You called him in yourself?

A. Yes.

Q. When was that?

A. I couldn't tell that.

Q. You provided her also with spending money, didn't you?

A. Certainly.

Q. You provided her very well?

A. Oh, I wasn't very lavish; I gave her what was necessary and what she needed.

Q. And did you give her a fixed allowance?

A. No.

Q. Was she ill in 1902? I think I asked regarding 1901 before.

A. Well, really I couldn't tell you Mr. Carpenter. She had no lingering illness at any time while I was with her.

Q. Was she ill in 1903?

A. I couldn't answer that positively.

Q. Was she ill in 1904?

A. Not that I remember.

Q. Was she ill in 1905?

A. I don't think so, excepting her cable from Paris said she was ill.

Q. You got a cable from her in 1905, saying she was ill?

A. I think so.

Mr. Strong—I move to strike that out unless the telegram is admitted. I had the telegram here yesterday and it was objected to. Now they are seeking to get in the contents of that as evidence.

The Court—The contents will not be allowed. As I heard the question it only calls for the fact.

Q. How was Mrs. Dudley's health before you were married?

A. Well she was all right then, so far as I know.

Q. Didn't she complain of being ill?

A. No, I don't think she complained ever of being ill then. She was pale, but that was her natural color. She was not very stout.

Q. Can you give me the name or names of physicians that Mrs. Dudley had in Philadelphia?

A. I think she went once to Dr. J. M. Andres, on Walnut street, the doctor that I called in one evening, and Dr. Mitchell was there also.

Q. Dr. S. Weir Mitchell?

A. No, a homeopathic doctor; I have forgotten his first name; fourteen hundred and something Spruce street.

Q. He was your family physician, wasn't he?

A. I had no family doctor. I had very little sickness at that time. I don't think I ever paid over two doctor's bills for Mrs. Dudley all the time she was with me.

Q. But you know, do you not, that Mrs. Dudley, during the summers she was in Europe, took the treatment at Nauheim?

A. I didn't know that except from what she said.

Q. Didn't you know she was going to take the treatment at Nauheim?

A. No, I never heard of that, except when she came home she said she had been there.

Q. That was what year?

A. It may have been 1903 or 1904. She went over in 1903; she came home and I hadn't heard from her from the time she sailed until she arrived. I got word she was coming on that steamer by cable.

Q. Did it strike you as strange that she should go and take treatment at Nauheim?

A. Not at all; I didn't know any reason for it. It was a summer resort.

Q. You know what kind of a resort it was?

A. No, I never have been there.

Q. You knew there were baths there?

A. I knew there were baths there the same as I know there are baths at Carlsbad and Aix.

Q. Didn't you write to Mrs. Dudley and tell her that was the proper place for her to go to for treatment?

A. I don't recall having done so; I say she cabled me that she was going there. I might have answered that by saying, "Well, go"; I don't know, I can't answer that.

Q. You didn't suggest that she go there?

A. I don't think so.

Q. You won't deny that you did?

A. If you show me any letter to that effect I certainly wouldn't deny it. I don't recall it. If you have got a letter of that kind it is very easy to show it.

Q. I understand from something you said a moment ago that Mrs. Dudley cabled to you in 1905, when she was on the other side?

A. Yes.

Q. And you likewise cabled to her, didn't you?

A. No, I don't think so.

Q. Do you deny you did?

A. I don't deny it. You can easily show it if I did. I may have declined to send her money.

Q. Do you think that would be the only cable that you sent?

A. Oh, I sent her more than one cable.

Q. I say in 1905.

A. I don't remember sending her a cable in 1905. It is just barely possible I did, though.

Q. I show you here a cablegram dated June 27, 1905, and ask you if that wasn't sent by you to Mrs. Dudley?

A. Well, I don't know whether it was or not. I haven't the slightest idea whether I ever sent that or not. There is no signature to it.

Q. Did you send that cable to Mrs. Dudley in 1905?

A. I can't answer that; I don't know. I don't recollect anything about it.

Q. Will you deny that you did send that to Mrs. Dudley?

A. No.

Q. It wouldn't surprise you if such cablegram was sent, would it?

A. I can't answer that question.

Mr. Strong—I object.

The Court—He doesn't deny it; he can't tell. He says he doesn't recollect.

(The same is marked *D*-1 for identification.)

Q. I show you a cablegram which bears the stamp "1905, Paris," addressed to Mrs. Dudley, and ask you if that cable was sent by you to Mrs. Dudley in 1905 when she was in Europe?

A. Well, I couldn't answer that at all. This is dated "New York"; I don't know why I should send a cable to her from New York. I don't understand it.

Q. I don't ask you that—

A. I say it is dated from here; I can't tell you anything more about it.

Q. (By the Court)—Is it in cipher code?

A. Well, it must be. It says "Amagoy whether you liberhut."

Q. Do you know what the first and last words mean?

A. No, I don't know.

Q. (By the Court)—When you did cable to Mrs. Dudley did you employ a code?

A. Yes, I always had a code; I have forgotten what it was, I think it was Drexel's. I think I could probably tell it if I saw it.

Q. I show you a code and ask you whether that is the one?

A. Let me see what the words are and see if I can make it out. (Referring to code)—"Please advise by wire" is the first word, and "expect to leave" is the last.

Q. Then that would mean "please advise me whether you expect to leave"?

A. Yes, I think that was sent to me in answer to one in which she said she was going to leave on the Deutchland.

Mr. Strong—What date is that you are figuring on?

Mr. Carpenter—Looks like July 2d, 1905, and is stamped "Grand Hotel, Paris."

A. That is probably where it was sent to.

Q. That was delivered over to the Grand Hotel?

A. It might have been. I don't know where she was stopping then.

(Cablegram marked *D*-2 for identification.)

(Code-book also marked *D*-3 for identification.)

Q. I now show you cablegram stamped "June 27, Paris," which is marked *D*-1 for identification and ask you if you will translate that from the code marked *D*-3 for identification.

A. "Camden, June 27th, 1905, remain where you are. Let me know how you are. Particulars. Expect to arrive at London last July, business. Writing."

Q. That is an interpretation of this cable?

A. So far as I can make it out.

Q. And that is also sent to Dudley Harges?

A. Yes, I suppose it must have been sent by me. It is dated "Camden." I have no recollection of it.

Q. And Harges meant what?

A. "Dudley Harges" was the cable code.

Q. And that was Mrs. Dudley's address in Paris?

A. That was mine. She had the same, I suppose.

Q. You knew she could be reached through that address?

A. Oh, yes, I knew that without a question.

The Court—We are moving very slowly. We ought not to spend fifteen minutes in deciphering a cablegram from a code. That ought to be done outside.

Q. I show you another cablegram, Mr. Dudley, and ask you if that was sent by you to Mrs. Dudley in 1905?

A. July 5th, 1905, I don't know what it is. It is dated "Philadelphia" and I suppose it must have been sent by me.

Q. That was sent by you to Mrs. Dudley?

A. Yes, I think I wrote her a letter at that time.

Q. July, 1905?

A. July 3d or 5th—it looks like "July 5, 1905."

(The same is marked *D*-4 for identification.)

Q. Those cables convince you, do they not, that Mrs. Dudley was in fact ill at that time?

Mr. Strong—Oh, I object.

A. Oh, I don't see why.

Q. Doesn't that refresh your recollection on it?

A. Not at all, that she was ill.

Q. Now then, returning to the time you had difficulties with Mrs. Dudley, just what was it that caused you and your wife to leave the Grange in Camden after your return from your wedding trip?

A. As I said in my direct examination, it was her determination to quarrel with my family there and make it uncomfortable for them.

Q. Was that all one-sided?

A. Nearly all one-sided, excepting where she made an attack upon my sister's dogs; she was very fond of dogs.

Q. Large mastiffs?

A. Yes.

Q. Do you mean to say that your wife made attacks on those large mastiffs?

A. No, on my sister, and insisted that the dogs should be sent away from the place. That was the starting point.

Q. Now, did you reach the Grange with Mrs. Dudley?

A. I did.

Q. Were you present when Mrs. Dudley and your sister had trouble?

A. Yes, I was present.

Q. And you had planned, even before that, to take up your residence in Philadelphia?

A. Not until the winter.

Q. But you didn't plan to stay at the Grange all summer?

A. Yes, unless we went off for the summer for a week or two.

Q. You were expecting to go off during the summer?

A. On little trips, yes, of course; but that was to be our home.

Q. But you planned, however, to visit Atlantic City?

A. No, I hadn't thought of it.

Q. But you always had stayed in Atlantic City?

A. Never, not before that, very seldom. If I did it was merely for a Sunday or something of that kind.

Q. Did you ever in your life spend the whole summer in Camden?

A. No, I nearly always went away in the summer, boating or yachting. Used to go back and forth.

Q. What time was it that you opened this house in Philadelphia?

A. I think it was somewhere about the first of October—along there—1899.

Q. And before opening the house you had spent the summer in traveling around the country?

A. No, I had not at all; I had spent it, as I said before, at Atlantic City, five or six weeks, and was at Narragansett Pier. I think we went up there in Mr. Wiedener's yacht, and that consisted of our summer outings. I don't remember of going anywhere else.

Q. And did you go from there direct to your house in Philadelphia?

A. No, I think we went to a hotel until we got the house ready. I think we went to the Bellevue for a day.

Q. Had you had that house before?

A. Oh, I had rented it; I sublet it from another man.

Q. And you also furnished it that winter?

A. We rented it furnished the first year.

Q. When was it that you furnished it?

A. The fall of 1900.

Q. Do you remember what part of the year it was that you bought the furniture?

A. Oh, no, it was at different times; took quite a long time. I couldn't tell you that. We got a piece at a time.

Q. When was it that Mrs. Dudley first complained of Mrs. Tilghman and your relations with her?

A. Oh, when that note came in New York at the Waldorf-Astoria.

Q. And when was that, please?

A. Well, as I said yesterday; I told you about the time I thought it was.

Q. Is that the best you can do?

A. Oh, yes. We were over there every Saturday until Monday. I couldn't tell you the date exactly or anywheres near it, and a note was sent in there from Mrs. Tilghman.

Q. I show you here a letter addressed to Edward Dudley, Waldorf-Astoria, and ask you whether that is the one of which she complained?

A. Well, it looks very much like it.

Mr. Strong—What date is it?

A. (Continuing)—It doesn't say. It says:

"Dear Mr. Dudley: I must see you to-day on important business. So please send me word what time you will be here.

"Sincerely,

"ELIZABETH M. TILGHMAN, 39 W. 25th St."

I didn't know that it was in existence even.

Q. Signed "Sincerely"?

A. Yes, "Sincerely, Elizabeth M. Tilghman."

Q. That is in Mrs. Tilghman's handwriting?

A. That looks like her handwriting.

(Letter admitted in evidence and marked *D*-5.)

Q. Will you please give me the names at this time of the gentlemen with whom you played cards?

A. Yes, P. A. B. Widener, Senator Christopher A. Magee, of Pittsburgh; George Van Bonhurst, of Pittsburgh.

Q. And the others, please?

A. Mr. P. F. Rothermel, District Attorney of Philadelphia.

Q. Oh, by the way, he was your counsel?

A. He was in Philadelphia.

Q. And who are the others?

A. Col. A. K. McClure, of the *Times,* of Philadelphia; George Huhn, Sr., banker; S. S. White—Samuel S. White, and then George M. Dorrance was one of the party. He didn't play cards often; he was with us oftentimes.

Q. Those were all?

A. At that time. They shifted around, but those were the ones for many years.

Q. Now, I show you another letter, in the handwriting that is very similar to that last letter which you identified as being from Mrs. Tilghman, and ask you if that is—

Mr. Strong—I object to the representation as to the handwriting.

Mr. Carpenter—I said "purporting."

The Court—I think that is objectionable.

A. Surely, it looks something like her writing, but there is no signature to it. Where is the rest of the letter?

Q. I think that is all of it, sir.

A. Well, there is some more of it; must be.

Q. Do you know whose handwriting that is in?

A. I am not positive. I am not an expert in handwriting. It looks a little like her handwriting.

Mr. Carpenter—I offer that for identification.

(The same is marked *D*-6 for identification.)

Q. Now, Mr. Dudley, I show you another letter, which is postmarked "January 13, 1906," and ask you if that is from Mrs. Tilghman to you?

A. Yes, that is Mrs. Tilghman's signature.

Mr. Strong—It isn't 1906, it is 1903.

Mr. Carpenter—Oh, yes, I didn't want to make that mistake.

Q. That is from her, isn't it?

A. It looks like hers. I never saw the letter before.

(The same is marked *D*-7 for identification.)

Q. I show you another letter, with envelope, and ask you if that is in Mrs. Tilghman's handwriting?

A. I don't think so; I never saw that.

Q. Do you know whom it is from?

A. No, I haven't the slightest idea.

Q. Did you ever play cards with anyone who signed his name "Frank" and called you "Ned, old man"?

A. No, I never saw the letter; I don't know the handwriting even.

(The same is marked *D*-8 for identification.)

Mr. Strong—You say you never received that?

A. I never received it; don't know anything about it.

Q. You say you never saw that before?

A. Never saw it before. I see it was addressed to the house, and I suppose it was taken and not shown to me.

Q. What was it that caused the break in your relations with Mrs. Tilghman?

A. Mrs. Dudley's remarks about her.

Q. Did you hear them?

A. Well I certainly did.

Q. What did she say?

A. She charged me direct to her face with intimacy with her, right in a public tea-room.

Q. What tea-room is that?

A. Some lady's house in Philadelphia. Mrs. Dudley insisted on my going and I went.

Q. What was the lady's name who had the tea-party?

A. I don't know whose house that was. It was quite a number of times. This is so many years ago.

Q. And do you remember what you said and what she said?

A. What Mrs. Tilghman said?

Q. Mrs. Dudley.

A. She charged me with being familiar with Mrs. Tilghman.

Q. (By the Court)—Did you hear her words?

A. Yes, I heard what she said. She said "I

am a little tired of you; you are too familiar with my husband" and said something about writing letters.

Q. What did you say?

A. She got up and left the tea-table, as I recall it. She was pouring tea for this other lady.

Q. Are you quite positive she did that?

A. I think so.

Q. Did Mrs. Tilghman talk to you afterwards?

A. She wrote me a letter and I wrote her almost immediately and told her she must get other counsel.

Q. I didn't ask you that. You don't recall what Mrs. Tilghman did except she left the table?

A. She was very angry at me and wrote me some very ugly letters afterwards.

Q. When was that time, what year?

A. I don't know whether it was 1900 or 1901—somewhere along there. We hadn't been very long in Philadelphia.

Q. Was that an afternoon tea or an evening tea?

A. One of these afternoon teas.

Q. Then you did go out in the afternoon to teas with your wife occasionally?

A. I said so a little while ago. I went to one or two afternoon teas shortly after we were married.

Q. Your relations ended with her at that time, did they?

A. I don't know. I know they didn't, because she wrote me some very ugly letters afterwards. She thought it was practically my fault.

Q. So that, as the result of that your business relations ceased?

A. Yes. They couldn't cease all at once, because I had to clean up some things and she owed me some money on an advancement on a mortgage, and some things of that kind.

Q. What I want to know is when your business relations with her ceased?

A. I can't tell you. If I had expected that was coming up I could have brought the information from the office.

Q. Did they cease as soon as or immediately after Mrs. Dudley said those nasty remarks to her at the table?

A. I told you I could not say whether it was immediately, or a week after, or a month after, but I ceased doing any more work for her.

Q. Was it within a month?

A. I can't say as to that.

Q. Was it within six months?

A. I think so.

Q. Are you positive?

A. No, I am not positive.

Q. Was it within a year?

A. I won't say that. I simply say my business with Mrs. Tilghman ceased and it was caused by Mrs. Dudley's conversation and talk with her, and it took some time to close up the matter.

Q. Then your only business relations after that were in closing up the matters that you had in hand for her; is that so?

A. I think so.

Q. And I suppose that you were greatly offended at Mrs. Dudley's conduct, weren't you?

A. I didn't think it was quite right to attack friends of mine or hers in that way.

Q. Did you ever rebuke Mrs. Dudley for doing that?

A. Yes.

Q. Right then, in the presence of people?

A. No, when we went out of the place; we left immediately afterwards, and I also rebuked her in regard to these letters that she took offense at.

Q. When did you do that?

A. When she made these remarks.

Q. Well, when was it?

A. When the letters were received at the Waldorf and

she made an attack on me, and I said "you ought to be ashamed of yourself."

Q. Your business relations with Mrs. Tilghman didn't last for two years afterwards?

A. Oh, well, I can't answer that, Mr. Carpenter, truthfully, because I really don't know.

Q. Have they ever ended?

A. Oh, Lord, long ago.

Q. But you can't tell when?

A. I can't tell you now without referring to the books and papers and letters, and things of that kind.

Q. I suppose you keep files of all the business matters you have in the office?

A. Well, I suppose I do—my clerks do.

Q. And you have all the papers in the Tilghman matter, haven't you?

A. Well, I don't know whether I have or not. I turned over all the papers and things of that kind to her new attorney.

Q. Did you turn over to that attorney any letters that she wrote to you, complaining of your wife's conduct?

A. Oh, no, not that I know of.

Q. Can you produce any such letters?

A. That I wrote and complained to her?

Q. No, that Mrs. Tilghman wrote to you complaining of your wife's conduct at that tea-party?

A. Oh, no, I can't tell you that.

Q. If there were any such letters you have them, haven't you?

A. Unless they were taken by Mrs. Dudley from the house.

Q. They were addressed to your office, weren't they?

A. Probably would be.

Q. And such letters would have been probably written to your office?

Mr. Strong—These letters were addressed to the house.

A. Yes, those letters were sent to the house.

Q. Did this occurrence at the tea-party occur before Mrs. Dudley, according to your statement, withdrew intimate relationship with you in 1901?

A. Oh, I couldn't answer that question. I can't place the exact date, Mr. Carpenter.

Q. Can't you place that at all?

A. Oh, no, I only remember the fact.

Q. What was it that caused Mrs. Dudley to withdraw from your room?

A. Nothing.

Q. Nothing at all?

A. Not a thing. There wasn't a single thing that I had done to cause it and she made no charge in regard to it; she merely just did it.

Q. What happened that night?

A. Just what I told you yesterday.

Q. Well, what was that?

A. I took her out to dinner and after we came back I went in and read awhile and then she went upstairs, apparently to her room. When I went up after reading, possibly half-past ten or eleven, I went to her door and started in and found it locked, and I said "Marie, open the door," and she said, "You can't come in here; sleep where you like."

Q. This was the door leading into the hall?

A. Her door led into one hall and the door I took led into another hall.

Q. Your rooms were adjoining rooms?

A. Yes.

Q. And they had been adjoining rooms ever since you took the house?

A. Yes.

Q. With a doorway in between them?

A. Yes.

Q. The door opened from your room right into her room?

A. Yes.

Q. And you always occupied those same rooms since you took the house?

A. No.

Q. Didn't you have one room and she the other?

A. Not at all; we slept in one room.

Q. Ever since the house was opened?

A. From the time we rented it furnished and the next year until January 5th, 1901, and then I left her room because I wasn't allowed to come in.

Q. You mean from the time you took the house furnished and took possession with your own furniture up until January 1st, 1901, you and your wife did not have separate rooms in that house?

A. I say we did not and never had had.

Q. Where did you sleep that night?

A. Well, if I recall it I think I had to make a bed upon the floor, as the next room was not quite furnished.

Q. Did you make up the bed yourself?

A. Yes, sir; I got some blankets and slept in either the bathtroom or one of the empty rooms.

Q. You had servants in the house—a lot of them?

A. Oh, yes, gone to bed.

Q. Had your butler gone to bed?

A. I couldn't tell you now.

Q. Did you try to get any servants?

A. No.

Q. Didn't call for any servants?

A. No, it is hardly likely I would expose my wife's disgrace and mine.

Q. You got out the bed covers yourself?

A. I think I did; it is either that night or one other night, but I think it is that night.

Q. You are not quite sure whether it is that night or not?

A. No, there may have been a bed in the next room.

Q. And did you sleep there?

A. I say I didn't sleep in that room because I wasn't

allowed to, and I left that room and slept in another part of the house.

Q. You don't know where you slept?

A. Well, I slept in the house.

Q. You don't know whereabouts in the house?

A. I don't know. It doesn't make much difference, I slept in the house.

Q. Now, then, after that have you slept in this adjoining bedroom?

A. I did. It was my room ever afterwards, as long as I was in the house.

Q. And that bedroom adjoining yours had been empty and unoccupied up until the time your wife refused you admittance to her room?

A. It had.

Q. And I suppose your toilet articles were all in her room—your hair brush and things like that?

A. Yes, I think they were. They may have been in the bathroom; we used the bathroom across the hall.

Q. The bathroom, I understand, was across the hall?

A. Yes.

Q. And you both used the common bathroom?

A. Yes.

Q. All the time you were in the house?

A. Yes, I had a door from my room into the bathroom and Mrs. Dudley could go across the hall and go into it.

Q. You didn't call any servants at all that night, did you?

A. Well, I certainly didn't.

Q. For any purpose?

A. Not that I know of.

Q. And none was present and saw that you could not get into her room?

A. No.

Q. Was that the night that Mrs. Dudley, according to your story, grabbed the knife and says "you devil, I will kill you?"

A. Oh, no.

Q. How long after that was that?

A. Oh, I think that was some years afterwards; I am not quite sure about that, but that wasn't then; I think that may have been in 1903 or 1904.

Q. Can you give the day?

A. No.

Q. Or the month?

A. I don't think I could.

Q. And you are not even sure of the year, are you?

A. Not positive, no; it is merely a fact that occurred during our living together.

Q. And it didn't make such a great impression on you, did it?

A. Oh, well, it made enough impression.

Q. Had you had friends at your house that night?

A. Oh, no, none was there that night, because she asked me to take her to the theatre.

Q. But before you did that you had dinner together?

A. Yes, we were sitting at opposite ends of the table and she seemed to be in very good humor and nothing disagreeable happened, and she asked me to take her to the theatre.

Q. Isn't that the time she said you hadn't taken her to the theatre for a good while?

A. She said that every once in a while.

Q. Then it was necessary for her when she wanted to go to the theatre to ask you to take her?

A. Not at all.

Q. Did you frequently ask her to go to the theatre?

A. Oh, I have asked her many times in the past. Just about that time I don't know as I did. Things were getting very strained.

Q. That was what time in 1904?

A. In 1904 and 1905 they were certainly very strained.

Q. And you weren't very cordial in your relations to each other; is that what you mean?

A. Well, we had very little to say to each other.

Q. Did you write to her when you were away?

A. I don't know; I probably wrote her or telegraphed her when I was coming home—oh, when she was in Europe, do you mean?

Q. When she was at home?

A. I may have written her.

Q. Isn't it so when you were away you were always telegraphing her you would be home?

A. Yes, I always tried to. I thought it was the proper thing to do to let her know when I would be home to dinner.

Q. And you did that up until what time?

A. Well, I don't think there was much done during 1905.

Q. You did it up to 1904?

A. I did it up to the first part or the middle of 1904, but in 1904 and 1905 she was hardly ever at home; was nearly all the time at the Waldorf, in New York.

Q. Didn't you send telegrams in 1905, saying that you couldn't be home?

A. Oh, I may have when I was away.

Q. Whenever you were away in 1905, up until March or April, you sent her telegrams saying that you could not go home?

A. I might have; I always tried to do what was right.

Q. That was so that she wouldn't make preparations for dinner for you?

A. Generally I thought that was the reason. I thought it was right, anyway.

Q. And when she grabbed the knife you had gone into the library?

A. I was going to the library? No, not at all; I was sitting at the table. She got up from the table while the butler was upstairs getting these tickets. I came to the table and was sitting down when she came there.

Q. What did she do?

A. She drew up the knife and said she was going to kill me.

Q. And she laughed when she did it?

A. No, she didn't laugh; there was no laugh in her then.

Q. What kind of a knife was it she grabbed?

A. One of these carving knives for carving a bird.

Q. It was on the table all the time?

A. It was on the table at the other end and she came around.

Q. She walked around the table and said she was going to kill you?

A. Yes.

Q. You did the carving that night?

A. I didn't do the carving at all; she carved the bird. She always did the carving or else had the butler do it, I don't remember which.

Q. You say that you did not carve that night?

A. Well, I may have carved something, I don't know; I couldn't tell you whether I did or not.

Q. What did you do when she raised the knife over you?

A. Well, I says, "It is as good now as at any time."

Q. What did she do then?

A. Threw the knife on the floor and walked back to her seat.

Q. And she sat down then?

A. Yes.

Q. How long did you stay at the table after that?

A. Did I?

Q. Yes.

A. I don't think I stayed ten minutes; probably I got up and left.

Q. And she got up and left with you?

A. She went upstairs and changed her dress to go to the theatre; we had ordered the tickets.

Q. What did you say, that you wouldn't go to the theatre?

A. I said "No, I won't go to the theatre; I will send the tickets back." She said "you needn't; I will go," and she went to the theatre.

Q. What did you do that night?

A. I think I stayed in the house and read.

Q. You didn't go down and play cards with your friends?

A. No, I never went, except on Wednesdays and Saturdays.

Q. What was the date of that occurrence, please?

A. Oh, I couldn't tell the date, Mr. Carpenter. I have told you the facts and that is all I can remember.

Q. You don't even know the year?

A. I am not certain about the year and, therefore, it is useless to testify to something I am not sure of. I remember merely the fact.

Q. Now then, when was it that you were locked out of the house?

A. Well, I think it was shortly after; during 1901 it commenced.

Q. You are not quite sure of that date, are you?

A. I know it was the early part of our married life. I came home and found the door locked and I pulled the bell and it didn't ring, and I thought the wire was broken.

Q. That was in the early part of your married life?

A. Oh, yes, it commenced very shortly. You see, I couldn't open it with a dead latch.

Q. You had a dead latch on the door?

A. Dead latch key I had.

Q. Did you have a chain and bolt on the door?

A. I think it was also bolted, because I couldn't get in; it wouldn't work.

Q. You had also a burglar alarm on the door?

A. We did.

Q. Isn't it a fact that you never had a chain bolt on the door?

A. It is not a fact.

Q. You always had wine on your table for dinner?

A. Nearly always, yes.

Q. And champagne?

A. Yes, very often.

Q. And at the card parties you always had something to drink? I mean the card parties down at the Bellevue.

A. Oh, I think they did, those who wanted to drink anything, and others did not. There was no rule about it.

Q. How often did it happen that you were unable to get in your house?

A. Well, quite a number of times; I think at least three times. I had to go to the hotel the other times. The night watchman in the street and myself were able to attract the servants in the third story and they would come down and open the door, and we were scolded pretty well for doing it.

Q. Now then, when Mrs. Dudley went to Europe in 1903 and 1904 without your being with her you always gave her how much money to spend?

A. I think—I am not sure about every year—I think I gave her a letter of credit of $2,500 at the time she went, and money in her pocket besides the tickets.

Q. And she also was allowed credit on the other side?

A. No, she was not, not a bit of credit, but she took it all the same.

Q. You mean she bought goods over there and had them charged?

A. She was supposed to pay for them out of her allowance, and she bought dresses at Pacquin's and after she returned home the bills appeared made out to me, and that is the reason I wrote a letter to Pacquin's to stop any further credit of that kind.

Q. When was it you first wrote a letter to Pacquin's?

A. I don't think I wrote them until 1905. It was after giving Mrs. Dudley warning.

Q. You paid those bills that came in 1903 and 1904, didn't you?

A. Yes, certainly; I had to.

Q. And you were proud of your wife in fine dresses?

A. Mr. Carpenter, I was very proud to have her look well, but I wasn't willing that she should ruin me financially, which she had threatened to do, again and again.

Q. In the presence of whom?

A. Well, she threatened in the presence of a great many; I don't know who heard it. I think among other things she threatened in the presence of my own butler, John Stockton.

Q. Do you remember any other place she did that?

A. She commenced to do that in very early times.

Q. What do you mean by "very early," 1900 and 1901?

A. No, not as early as that, probably 1901 and 1902. When she would get angry she would threaten to run up bills.

Q. Isn't it a fact that during the first year when you were married, when you and your wife were on your wedding trip, your wife bought dresses at Pacquin's?

A. Yes, I went with her.

Q. And they were expensive dresses?

A. Yes, but they weren't as expensive as some of them afterwards.

Q. What did they cost?

A. She had nothing at all when I married her, or very little; she had no money and I wanted her to look well and I tried to dress her to the best of my ability; bought several dresses there at that time.

Q. And that is one of the most expensive establishments in Paris?

A. Well, it is if you don't know them and it isn't if you know them and buy properly.

Q. And you knew how to do that?

A. I thought I did and Mrs. Dudley did, too. She was very good at that.

Q. And you bought her other clothes in Paris besides those dresses?

A. Yes, underclothes, and gloves, and things of that kind; I couldn't tell you now.

Q. And the second year you were over with her you bought her clothes?

A. Yes.

Q. And gowns there?

A. Yes.

Q. And they were expensive gowns, weren't they?

A. Well, they were in a way, Mr. Carpenter, but they were very moderate gowns at that time compared with what they were in 1904 and 1905, when she bought the highest priced gowns she could buy.

Q. Didn't you buy her a Russian sable coat in America?

A. Russian sable collar, you mean? Yes, there was a coat that was imported here and Mrs. Dudley found it in New York. It was a baby lamb coat, as I remember it—it may have had a Russian sable collar—and they offered to sell it for half price, because the lady couldn't wear it. She begged me hard to take it and I did.

Q. What did that cost?

A. I don't know; I think it cost five or six hundred dollars. It was very expensive to make.

Q. Isn't it a fact that it cost pretty nearly $1,500?

A. No, that was the original price; I got it for less than half price.

Q. The original price was $1,500?

A. I don't know about that, twelve or fifteen.

Q. And the other clothes that she had during all the time that you were married, bought with you consent, were mostly expensive clothing, weren't they?

A. Well, I don't think they were, Mr. Carpenter. They weren't cheap clothing, but they were nice clothes, and all that I could afford to give her.

Q. Now, this section where you lived was the most exclusive in Philadelphia?

A. Very nice location.

Q. Isn't it a fact that it was the most exclusive, Rittenhouse Square?

A. Well, it is said to be the most exclusive part of Philadelphia.

Q. And during the time you were married you had your son in Harvard College?

A. Yes.

Q. And he had an apartment at Beck Hall?

A. Yes, I think he did.

Q. And didn't you provide him with a Steinway piano that cost $800?

A. I did not.

Q. He had such a piano?

A. He had; my sister gave it to him.

Q. And your sister was living with you at that time?

A. She was living with me, yes.

Q. Now, you and all of your family lived in luxury during all of your married life?

A. Well, I thought we lived very nicely; but we didn't live in any extravagance.

Q. And you were making vast sums of money at that time?

A. No, I was not. I was doing very well; my business, at that time, was very lucrative for me; I was very successful.

Q. And you were worth, in 1915, close to a million dollars?

A. No, nor half of it, nor a quarter of it.

Q. Well, what were you worth?

A. I couldn't tell you exactly, but I suppose at that time I had in the neighborhood of $200,000.

Q. And did that include your real estate?

A. No, I had probably forty or fifty thousand dollars worth of real estate.

Q. This $200,000 was in cash and securities?

A. At that time something about that.

Q. And you had the Grange in Camden, your family home?

A. Yes.

Q. How many acres are there in that estate?

A. The Grange proper is about twenty-four acres on the main road between Camden and Mercer.

Q. And it is a house of how many rooms, twenty?

A. Oh, I don't know; it is quite a good-sized house. If it is essential I can figure it up and get the number.

Q. About thirty rooms?

A. Oh, no, probably fifteen, sixteen or seventeen rooms.

Q. What was the Grange worth?

A. Oh, that is something that I couldn't tell you at all; nobody could tell. It is one of those country places that you can't put any value on. The only thing that is valuable there now is the land.

Q. You say your real estate was worth forty or fifty thousand?

A. I should think so.

Q. And some of that was bringing in income all the time?

A. Not a dollar.

Q. Have you included in that forty or fifty thousand dollars the value of the Grange?

A. Yes, sir. I only had a half interest in it, you know; my sister has the other half.

Q. You inherited quite a lot of money from your father?

A. I inherited some. It was what might be considered a large sum.

Q. And you, by carefulness and industry, have added to it?

A. I did increase it considerably, but at a very un-

fortunate time I lost a little over $200,000 that I accumulated.

Q. What did you lose that in?

A. Metropolitan Traction Company, and some of it in large land speculation down near Asbury Park, and the last three years of my married life my expenses were so great in trying to meet the demands made upon me that I had to sell between thirty and forty thousand dollars worth of securities.

Q. It was in 1905 that you lost the block of Metropolitan?

A. No, in 1902 or 1903.

Q. When was it that you lost money in the Asbury Park speculation?

A. That is being lost since 1882 or 1883—been losing every year, getting worse and worse.

Q. You had quite a loss in 1905, didn't you?

A. Well, no, the panic, whatever time that was—1907, wasn't it?

Q. Didn't you have a pretty heavy loss in 1905?

A. Well, I have lost a good deal of money there; it hasn't all been paid yet. I owe some $38,000 now.

Q. In 1905 you had quite a loss?

A. I couldn't tell whether it was 1905 or not; I have been a little unfortunate for a number of years.

Q. Did you continue to live after that on the same scale?

A. No, indeed, I haven't. Of course, my practice, by the notoriety in the newspapers that started when these things came up, has injured by business very much.

Q. You have a nice practice in Camden, now?

A. Not as good as I have had.

Q. You represent the National Bank?

A. Yes, but that isn't a very lucrative business—about $250 a year retaining fee.

Q. And you have connections with wealthy people in Philadelphia and New York?

A. Yes, but very little business now from that source.

My business dropped down to very little, not enough even to run the offices.

Q. Over $5,000 a year?

A. Not now; it isn't over fifteen hundred.

Q. Since when has it dropped so low?

A. Oh, it has been dropping the last four or five years —been getting worse and worse every year.

Q. When last was it $5,000 a year, can you recall?

A. Well, I think in 1908 and 1909 it averaged about five; since then it has dropped considerably.

Q. Didn't you have a hundred thousand dollars in the Camden Suburban Street Railway Company?

A. No, never did.

Q. How much did you have?

A. I don't remember.

Q. Didn't you tell Mrs. Dudley that you were worth a million dollars?

A. Never spoke of my business affairs to her in my life; that is newspaper talk.

Q. Have you still your holdings in the Camden Suburban?

A. Yes, I have got some shares there; I think I have got 3,000 shares there now—2,500 or 3,000 shares.

Q. A hundred par?

A. No, $25 par.

Q. What is it worth?

A. Worth about $15 a share. I don't think there are any quotations.

Q. What do you consider that you are worth at this time?

A. Well, it is difficult to say. If you want it exact I think I could tell you. I think I have got in the neighborhood of $200,000 of securities and I owe $57,000, which is to be deducted.

Q. Whom do you owe that to?

A. I owe $38,000 of that to George Huhn, the bankers and brokers, which I have collateral up for, and I owe the National State Bank of Camden at the present time probably about thirty-one or thirty-two thousand.

Q. What is the collateral you have up on that loan?

A. Oh, I don't know; I have got some bonds and stocks up at George Huhn's. If it is necessary to have that answered I can bring you a statement.

Q. You can prepare and bring here a statement of all your assets and the value at this time?

A. If I had time I think I might.

Q. How long would it take you, sir?

A. Well, it would take a day or two, probably.

Q. Will you do that?

A. I have no objection.

Q. Will you include in that all your assets?

A. If the Court requires it I certainly shall.

Q. And will you include in that also the debts that you have, that is, the large ones; I don't care about the small ones.

A. Yes.

Q. Your total income now is between twelve and fifteen thousand dollars a year, is it not?

A. Oh, it is, gross, I suppose. It is about $11,500 not gross, about $12,000 gross, and you see I owe interest on $58,000—virtually $60,000, and the taxes and other fixed charges that I have to pay to keep up the Grange to keep it going and there is no income from it. That reduces my net income to between eight or nine thousand dollars—probably $7,500.

Q. Whereabouts are you living now, at the Grange?

A. Living at the Union League Club—got a room there.

Q. And you have lived there since when?

A. I have lived there the past year—no, the past two winters.

Q. What rooms do you have and how much do you pay for them?

A. I pay $50 a month for my room.

Q. And you take your meals there?

A. I take my meals there. It is cheaper than anywhere else.

Q. That is not the reason why you stay there?

A. Yes, it is; it is more economical to stay there than anywhere else and that is why I stay there.

Q. And there are people there who are rated way up politically and financially?

A. Oh, yes, there are probably twenty-five hundred people there.

Q. And it is a club that is known all over the country?

A. Yes, it is well known.

Q. And you visit New York and stay in the Waldorf occasionally, don't you?

A. No, I haven't been at the Waldorf since this trouble with Mrs. Dudley.

Q. But you do, however, spend a large part of your summers at Atlantic City?

A. Oh, no, I don't.

Q. You were there last summer?

A. I was there two or three times this last summer, sometimes five or six days at a time.

Q. And stayed whereabouts?

A. At the Shelburne.

Q. And isn't it a fact that Mrs. Vanderpoel was down there this last summer?

A. I heard she was.

Q. And you saw her there?

A. I saw her with her sister on the boardwalk several times.

Q. And wasn't she staying at the Shelburne?

A. No, not to my knowledge.

Q. Where was she staying?

A. With her sister in an apartment.

Q. Where was that?

A. 27 North Connecticut avenue I think she was staying. Her sister had an apartment there.

Q. And you called there, didn't you?

A. No, I didn't call there.

Q. Not once?

A. I don't think I ever called there; I telephoned there once or twice.

Q. And you took dinner with Mrs. Vanderpoel?

A. No.

Q. Didn't you go out with her at all?

A. No, I certainly did not.

Q. Are you sure about that?

A. Sure.

Q. Now, where do you stop when you are in New York?

A. Manhattan Club, usually; sometimes at the University Club.

Q. At none of the hotels?

A. No, I don't stop at the hotels, unless I cannot get into the clubs. Once in a while I have been caught.

Q. Didn't Mrs. Dudley complain to you about your intimacy with Mrs. Vanderpoel?

A. She has not.

Q. She never has to you?

A. Never has to me.

Q. Not once?

A. Not once.

Q. And she never said a word to you about Mrs. Vanderpoel while you were living together?

A. Not in that way at all, never during my married life did I ever hear her say anything about it.

Q. Not even in 1905?

A. Not even in 1905.

Q. Not after April, 1905?

A. Not after April, 1905; never said a word to me about it.

Q. You visited Mrs. Vanderpoel occasionally, didn't you, while you and your wife were living together?

A. Well, up at Saugerties once or twice, at sort of a week-end party.

Q. When you and your wife were living together?

A. We were living together, certainly. She was a friend of Mrs. Dudley.

Q. And your wife was living in Philadelphia at the time?

A. That was in the winter time. This was in the summer.

Q. And was Mrs. Dudley with you?

A. No, she was abroad.

Q. How often did you visit up there?

A. Oh, I don't know, two or three times I was invited up when she would have a house full of company.

Q. You mean you were one of a party of several?

A. Yes.

Q. And you recall, of course, who were present?

A. I think I can recall nearly everybody.

Q. Who were they, please.

A. Of course, it was her mother and son, and her sister that lived with her in the summer, and then, whenever I was up there, she had two or three of her cousins from Virginia or Washington; they were always there, prominent guests. And then she had at one week-end—I remember there was Major-General Vroom, of New Jersey, Garret Vroom's brother.

Q. Was Major Vroom's wife there?

A. No, she was not. I think his wife is dead; I am not sure, though, about that. And on another occasion was Mr. and Mrs. Penfield—Mr. Courtland Penfield.

Q. How long were they there?

A. This was his former wife, and I think it was in 1904, because she died and then he married this Mrs. Walker, of Philadelphia, a millionaire. Then there was a Mr. and Mrs. Wilkenning.

Q. When were they there?

A. I think in 1903 and 1904.

Q. At the time when you were there?

A. They were at the party when I was there.

Q. What were the names of Mrs. Vanderpoel's relatives?

A. Miss Constance Finney, Ethel Finney, Serena

Finney and Minna Finney. Two of them were there all the time I was up there.

Q. Which two were they?

A. I don't know which two.

Mr. Strong—Cousins of Mrs. Vanderpoel?

A. Yes. Three of them were from Richmond, Virginia, and one of them from Washington.

Q. The last name was Finney?

A. Yes.

Q. That was Mrs. Vanderpoel's maiden name, Finney?

A. Oh, no, her name was Battels.

Q. And she was a divorced woman?

A. Yes, I think she divorced her husband. I didn't know her at that time.

Q. She was divorced when you were calling up there?

A. Oh, yes, she had been divorced a number of years.

Q. How long did you stay up there on these occasions?

A. Well, I used to occasionally go up—I would be invited up from a Friday until Monday. It was generally stated in the note how long I was expected to stay—going up one day and leaving when we were invited to leave, as she had other guests coming.

Q. I suppose you have those notes that she wrote you?

A. Oh, no, I haven't them now.

Q. You didn't keep any of them?

A. Why, no, I didn't consider they were worth keeping. I never keep notes of that kind; no earthly use in doing so.

Q. Do you recall the last time you were there while you were living with your wife?

A. Well, the only times I have been there were in the summer. I didn't have time except then.

Q. You were there in July, 1905, were you not?

A. No, I think not; I don't remember being there. There might have been a party up there at that time.

Q. And you went there sometimes when there weren't parties?

A. No, I was never there when the house was not full or very nearly full.

Q. You slept in the same house when you were up there?

A. Of course, there was only one house there?

Q. That is Saugerties on the Hudson?

A. Yes. It is a large country place.

Q. What part of the house were you assigned to?

A. The first floor, called the "poppy room"; I think it was on the first floor—the dining-room floor.

Q. And that is where you slept?

A. Yes, that is where I slept.

Q. What part of the house did Mrs. Vanderpoel occupy?

A. Upstairs somewheres, I don't know where. There were a lot of rooms upstairs.

Q. And you met Mrs. Vanderpoel outside of her home?

A. Oh, I have met her lots of times elsewhere at parties and houses.

Q. You met her in the winter time, too, sometimes?

A. Very seldom.

Q. But you did sometimes?

A. Yes, I think quite a number of times in particular when this case was coming on; I have seen her with her lawyers again and again.

Q. And you visited her during the winter at times, didn't you?

A. I never visited her during the winter; I have probably called on her.

Q. And can you give some of the places and times when you did call on her?

A. Oh, no, I couldn't do that; I don't keep a social diary.

Q. Whereabouts did she live, then, when you did call on her?

A. Well, when are you referring to, because I have

called on her a great many times since this case was started.

Q. I mean before your wife left you?

A. Oh, no, I didn't see her in the winter time.

Q. Never at all?

A. I may have called somewhere on her; I don't remember that.

Q. Well, when did you call on her and where?

A. I couldn't tell you, for I don't remember; I don't know where she was.

Q. You called on her in her apartment next to the Manhattan Club, didn't you?

A. Oh, that was in 1905.

Q. You called on her in that apartment?

A. I did.

Q. That was before your wife went away from you?

A. Yes.

Q. And that was when she had this apartment next to the Manhattan Club?

A. Yes, down near there.

Q. How often did you call on her there?

A. I don't know, once or twice.

Q. Several times you called on her?

A. No, once or twice; I don't think I ever called more than twice in my life there.

Q. Did you go there with anybody when you went to call on her?

A. No, I think not. I went there, to tell the truth, to see if I could find some information about somebody here in New York?

Q. What kind of an apartment did she have there?

A. Well, I never saw any part of it excepting the drawing-room. I know her son and sister were there.

Q. Her son and sister were there?

A. Yes.

Q. All the time when you called?

A. I couldn't tell you; her son was there all the time; I couldn't tell you about her sister.

Q. Were they there every time that you called?

A. Yes.

Q. You are not positive about that, are you?

A. Yes, I am.

Q. You weren't a moment ago.

A. I wasn't there all the time; I said I didn't know.

Q. What floor was she on, do you recall?

A. No, I do not; I wasn't there enough to keep tab on that.

Q. What was the name of this son?

A. Floyd Lewis Vanderpoel.

Q. Do you know where he is now?

A. Well, I really don't know.

Q. And what is the daughter's name.

A. She hasn't got any daughter.

Q. Well, sister?

A. Miss Battell.

Q. Do you recall her first name?

A. I don't; I don't know whether it is Cornelia—I think that is it.

Q. And do you know where she lives?

A. I am not sure. She was for two or three years in Connecticut avenue, Atlantic City, living there.

Q. Was she living down there in 1905?

A. Oh, no, no.

Q. Where was she living then?

A. Well, I couldn't answer that; I don't know, really.

Q. How old was this son?

A. At that time?

Q. In 1905?

A. Well, he is just twenty-one now.

Q. Seven years younger at that time?

A. Yes.

Q. He was going to school at that time?

A. Yes.

Q. Whereabouts?

A. I don't know.

Q. Was he going to school in New York?

A. Yes, he was going to school somewhere, but I had nothing to do with that; I don't know anything about it.

Q. And you don't know where the sister resides?

A. I do not.

Q. Now, then, did you ever see Mrs. Vanderpoel outside of New York?

A. Where do you mean?

Q. I mean in other cities in 1905 or before that?

A. Not that I know of.

Q. You don't recall that?

A. I saw her at Meadowside, as I told you.

Q. You don't recall ever seeing her in any other city than New York City and at Meadowside?

A. I don't at this present moment. You seem to have some idea; suppose you suggest it.

Q. Did you see Mrs. Vanderpoel in Washington, in 1905?

A. I did not.

Q. You never saw her in Washington.

A. I did not.

Q. Did you go to Washington with Mrs. Vanderpoel in April, 1905?

A. I did not.

Q. Did you meet her in Washington or on a train to Washington in 1905?

A. I did not.

Q. Did you go on a train from Philadelphia, in April, 1905, and meet Mrs. Vanderpoel on that train?

A. I certainly did not.

Q. You deny that you did?

A. I do, absolutely.

Q. Did you stay in Washington in April, 1905?

A. Ah, I don't know; I have business occasionally in Washington, I may have gone there myself.

Q. Were you there in April, 1905?

A. I cannot answer that question.

Q. Were you there on April 12th, 13th, or 14th, in 1905?

A. No, I was not there then.

Q. How do you know that you were not there at that time?

A. Well, merely because Mrs. Dudley made these charges and they appeared in the paper, and I investigated at once to see if I could locate myself and I knew I was not in Washington.

Q. But you don't know where you were at that time, do you?

A. Well, my belief is that I was in my office on the 13th of April, and on the 14th I was in New York. That is my belief.

Q. And the 15th?

A. The 15th I was in my office attending to business.

Q. Now, Mr. Dudley, Mrs. Vanderpoel also had a house in Washington, didn't she?

A. Yes, she had two houses there.

Q. She lived there a part of the year, didn't she?

A. No, I think not; I think she rented it.

Q. Didn't she ever live down in Washington?

A. Oh, she has, I believe, in times past.

Q. When did she live there?

A. Oh, I don't know anything about it.

Mr. Strong—Just a moment. I don't know how far your Honor thinks it is proper to go into this matter; I suggested something the other day to the effect that they were not to make their case out of the cross-examination. I haven't renewed my objection this morning, but it seems to me now that there ought to be an end to it. After the witness has distinctly and posiively said he was not there on those days I don't think it ought to go very much further.

The Court—Well, we have taken a good deal of time this morning, it seems to me, upon matters that cannot be of very great consequence; but I can hardly say that they are not connected with some branch of this case. The charge of the

wife is that she was abandoned by her husband —that is one charge. All these cases are on trial. One charge in one case is that she was abandoned, and her counsel opens a case of constructive abandonment, and in fact her bill seems to indicate that she was forced to leave her husband's house because she discovered frequent adulterous acts with this Vanderpoel woman, and he is put on the stand to show that he did not abandon his wife—always had a home for her and always provided for her, and he is under cross-examination. I don't suppose there is any way of shutting this out if counsel thinks and insists it is important to go into all these details. Counsel spent about an hour this morning going into the faculties of the witness. In the end we may reach the time when we want to know something of that sort, but I can't see why it should be important to cross-examine Mr. Dudley, now, in regard to that matter. Of course, his means and income also bear upon the question whether he furnished his wife with proper support. It seems almost incredible, though, that such examination can be helpful in dealing with that branch of the case, but I think it is in the hands of counsel for the wife to determine how far he should go. I don't want to shut it out. Proceed.

Q. Didn't she live in Washington at all during the winter of 1905 and before your wife left you?

A. You see, I was Mrs. Vanderpoel's counsel.

Q. Yes or no, if you know. I move to strike that out.

A. I don't think she was.

Q. Now, Mr. Dudley, you say that in 1903, when your wife was starting for Europe that you went to her stateroom on the ship and knocked on the door and got no answer

A. I did.

Q. And you had given her $2,500 to go over to Europe?

A. Well, I think that was the letter of credit I gave her.

Q. That was in 1903?

A. She went over alone that year against my protest.

Q. And didn't you stand on the deck of the steamer until the last call and say good-bye and kiss her good-bye?

A. No.

Q. You didn't?

A. No. She disappeared and went in her stateroom and didn't say good-bye even.

Q. You kissed her good-bye at that time?

A. I did not.

Q. And you say at one time she ordered a palm that cost $40?

A. Why, she threw it out in the back yard there.

Q. Did you see her do that?

A. I saw it out there.

Q. Did you see who put it out?

A. No, but nobody would put it out there without her orders.

Q. You remember that occasion in 1902 when you and your wife had some difficulty at the telephone?

A. Yes, I think it was in 1902.

Q. She was at the telephone talking?

A. No, I was there talking to Mr. Taylor.

Q. And isn't it a fact that she was at the telephone?

A. The fact is she was not at the telephone, Mr. Carpenter.

Q. Isn't it a fact that you grabbed the telephone from her?

A. No, I was at the telephone, as I told you yesterday.

Q. Who was at the other end of the telephone?

A. Mr. William F. Taylor.

Q. Was that a long-distance telephone?

A. No, it was from Overbrook.

Q. Was there anybody present?

A. Not when I started to talk, but Mrs. Waterhouse and Mrs. Dudley came up from behind and I didn't see them. Mrs. Dudley grabbed the receiver out of my hand and thereby scratched her arm. Mrs. Waterhouse was there and saw it.

Q. Now, Mr. Dudley, when do you claim your wife left you in 1905?

A. I think it is May 22, 1905.

Q. What fixes that date in your mind?

A. Because it was the day that the silver was packed up by Caldwell & Company on their bill, the day that Mr. Dorrance and I went up there to dine and met there and she had gone.

Q. Have you finished your answer?

A. Yes, I think so.

Q. This same man had packed the silver every year?

A. Yes, Caldwell & Company packed it every year.

Q. Are they the ones that took the silver to the warehouse?

A. No, never; I always took it in a cab myself to my bank at Camden.

Q. And didn't that trunk have Mrs. Dudley's card tacked on it?

A. No, never.

Q. And you didn't know where your wife was going when she left the house?

A. I certainly didn't until the day after the *Town Topics* came out.

Q. And when was that?

A. The 21st of April, I think.

Q. The 21st of April, 1905?

A. Yes.

Q. You hadn't seen her since that day?

A. No.

Q. And when had you seen her before that?

A. Well, I saw her that night; I saw her the 20th, when *Town Topics* came out, and had that talk with her

and told her she must explain matters. I think that must have been the day after *Town Topics* came out.

Q. You bought this the day after it came out?

A. No, I bought it on the date of it. *Town Topics* came out on the same day it is dated, and Mr. Dorrance asked me if I had seen *Town Topics,* and I said no. "Well," he said, "you had getter get it." I went out at once and bought three copies.

Q. Did you hear about this article from another source?

A. That is the first I heard of it.

Q. Did you hear about it from anybody else?

A. No, nobody else mentioned it.

Q. Not within the next week?

A. No, I didn't hear it at all from anybody, for no one spoke to me about it.

Q. And you thought this applied to you?

A. Well, I certainly did; it couldn't apply to anybody else.

Q. What did you do after you got this article?

A. I went first of all and sent a copy up to Mrs. Dudley, in her room upstairs, and the next day, I think it was—

Q. You didn't deliver it to her personally?

A. No, I sent it up by one of the servants, marked.

Q. Who was the servant?

A. I don't know; either her maid or the butler.

Q. What did you say to her about it?

A. I didn't say anything then, because she was in her room with the door locked, but the next day—I think it was—when I did see her, I called her attention to it and also spoke again about the nights that she refused to say where she was and stayed out all night, and with these continued reports and this thing, and she couldn't explain it, I says, "There is something wrong here, and it can't go on this way."

Q. Do you know anybody by the name of P. D. Gilmore?

A. No, I do not.

Q. Or anybody by the name of P. E. Gilmore?

A. No, I think not.

Q. Did you ever hear of such a man?

A. I don't think so.

Q. Or a woman?

A. No.

Q. Nobody ever used that name in corresponding with you?

A. No, not that I know of; I don't recall it at all— never heard of Gilmore.

Q. I show you a telegram signed "P. E. Gilmore," dated "New York, April 22, 1905," and ask you if you ever saw that telegram before?

Mr. Strong—Addressed to whom?

Q. (Continuing)—Addressed to Edward Dudley.

A. I never saw the telegram before. Mrs. Dudley must have kept it.

Q. I didn't ask you that. You never saw it?

A. No, I never saw the telegram at all. It was not sent to my office but to my house, and I wouldn't get anything that went there. I never saw it before.

Q. You don't know who might have sent that?

A. I don't know; I never heard of it that I know of. This is the first I have seen of the telegram.

(The telegram is marked *D*-9 for identification.)

Q. (By the Court)—I understand you to say that you do not know of any person by the name of P. E. Gilmore?

A. I don't know any such person, and I never saw the telegram before.

Q. No, I am not speaking of the telegram, but apart from that do you know his name?

A. No, I don't know who such a man is.

Q. Do you know anybody, Mr. Dudley, that corresponded for *Town Topics?*

A. No, I never did.

Q. Did you ever know any one who was in the newspaper work?

A. Mrs. Dudley and I met Col. Mann down at Palm Beach one year.

Q. And what year was that, sir?

A. I think it was in 1902. That was when we were down there as guests of Mr. Cragin, at a Joe Jefferson breakfast there. I never saw him before.

Q. Was that the only person?

A. The only person I knew connected with *Town Topics.*

Q. He was a personal friend of yours?

A. Oh, I never spoke a dozen words excepting at the time we were being introduced. It was a large breakfast.

Q. Did you know anybody else in the newspaper work?

A. No.

Q. Or that corresponded for a newspaper?

A. No.

Q. Isn't it a fact that the Miss Walton that you have spoken about was engaged in writing for periodicals?

A. I don't think so; I think she was writing for some magazine.

Q. Did you ever inquire?

A. Never.

Q. Did you ever go to the *Town Topics,* or write to them about this article?

A. I never did.

Q. Or who sent it in?

A. No. It was too true; no use writing to them about it.

Q. You didn't speak to Mrs. Dudley on that day at all about that article, did you?

A. I don't think I did the day it came out; I think she was locked up in her room and I sent it up to her in her room, marked, without any comment. I may have put on the edge of the copy of *Town Topics*

"What does this mean?" but I don't know that I did that. I know I saw her afterwards, the next day.

Q. The next day you saw her?

A. Yes.

Q. In your own house?

A. Yes, I think so, which was the only time I ever saw her.

Q. And what did you say at that time?

A. I then called her attention—I wanted to know what this meant and I wanted an explanation of the March 25th and April 1st, and wanted to know what it meant. I told her I couldn't allow this to go on; couldn't stand any scandal of that kind.

Q. Did you say anything further about March 25th?

A. I don't think I did at that time. I didn't really know, Mr. Carpenter, until afterwards what was going on.

Q. When was it you saw your wife over in New York in Delmonico's?

A. On Monday following the day of *Town Topics*.

Q. It was the Monday following, then?

A. The Monday following; I didn't speak to her. I saw her at Delmonico's with Henry M. T. Beekman.

Q. Did you ever speak to her about that occasion?

A. Oh, I don't know that I ever had a chance; I don't think I ever saw her.

Q. You never spoke to her about that in your life, did you?

A. I don't think I did, because I never saw her again.

Q. And you say this was after this *Town Topics* article came out?

A. Yes.

Q. Do you know what day of the month it was?

A. Well, it was Monday after *Town Topics* came out, and that was April 20, and that will tell the day of the month.

Q. (By Mr. Strong)—*Town Topics* came out Thursdays.

A. Yes.

Q. You read *Town Topics,* did you, frequently?

A. Oh, once in a while I bought it, but never as a general thing. I didn't believe in the paper—don't like it.

Q. Oh, you didn't believe in it?

A. I didn't believe in reading the paper; didn't like it and didn't very often buy it. Once in a while Mrs. Dudley would.

Q. What did Mrs. Dudley say when you asked for an explanation and showed her this article?

A. She said nothing; she called to our servants and called "murder," and to come and help.

Q. Did she do that this time?

A. Yes.

Q. Did she say anything else.

A. Yes, she said it was none of my business what it meant.

Q. Then what did you say?

A. I said, "It has got to be my business; you have got to explain it or else we will have to close this house and give up the house. We can't go on this way."

Q. Isn't it a fact that you wanted to know why she was dining with Mr. Beekman?

A. I didn't know she was dining with him at that time. I asked her to explain those two occasions when she was out all night and didn't come home.

Q. And what did she say?

A. I just told you.

Q. Did you put that all in one sentence?

A. It was all done at once.

Q. And then what did she do?

A. I told you what she did. She screamed "Help! Murder!" to the servants and went in her room and shut the door, and from that time on I didn't see her.

Q. Didn't see her at all?

A. I didn't see her at all. I don't think I saw her again until I saw her in Newark two or three years ago. I didn't see her when she came home; I don't know

where she went until she commenced to get numerous counsel and then I commenced to locate her from time to time.

Q. I suppose that you were disgusted with her?

A. Well, you put the words in my mouth; I haven't said so.

Q. (By the Court)—You were telling us about an interview with your wife, in which you spoke of the article in *Town Topics,* and her being out two nights in Philadelphia, and when she screamed and shut herself in her room, and you said immediately after that you hadn't seen her since.

A. I don't think I had.

Q. How about seeing her in Delmonico's?

A. You see, this was after the Delmonico's affair that I saw her, because she locked herself up and disappeared the next morning from the house after I sent her *Town Topics.*

Q. Then you saw her in Delmonico's the following Monday evening?

A. Yes.

Q. When next did you see her?

A. A few days after this, when she came home and locked herself up and wouldn't come down to breakfast.

Q. On this occasion, when she came home and you had the interview with her, was that the time when you referred to *Town Topics?*

A. Yes, I had sent it to her before.

Q. Was that the time when she screamed "murder"?

A. That is the time.

Q. That was after you had seen her in Delmonico's?

A. Yes.

Q. The time she screamed was after you had seen her in Delmonico's?

A. Yes, because she left the day after she got hold of *Town Topics* for New York.

Q. You are positive of that?

A. She disappeared from the house; I don't know where she went.

Q. You spoke to her about this *Town Topics* article right after it came out?

A. I just told you when I had my last conversation with her was the time I mentioned these facts, and that was after I had seen her the following Monday.

Q. Did you mention that Monday scene to her?

A. No, I did not.

Q. You didn't mention it?

A. No, not specifically.

Q. You didn't mention it in any way?

A. I don't think I did.

Q. What day of the week was it you had the talk?

A. Oh, I can't tell you; it may have been the following Saturday.

Q. Oh, the Saturday after that?

A. Very likely it was some day after that. You see, I couldn't tell; she went back and forth and was away half the time when she came back that last time. It may not have been the last time she went to New York, but it was the last time I saw her, because she had to go to New York and come back, and I wouldn't see her at all.

Q. Wasn't she in your house all the time until she went away?

A. She was supposed to be.

Q. Well, was she?

A. I don't know; I think she went back and forth to New York.

Q. When was it she left your home for good?

A. May 22d, I think, 1905.

Q. And you got that date from the bill?

A. Not entirely. Mr. Dorrance and I went up there together and it was easily remembered. It wasn't difficult to remember it.

Q. Did you see her that day?

A. No, I didn't see her at all after that—after I spoke to her about the *Town Topics* affair.

Q. You think that was the Saturday of the next week?

A. I say it was sometime afterwards; might have been Wednesday, Thursday, Friday or Saturday, after I had seen her at Delmonico's. That was the last time I ever remember of seeing her.

Q. Do you know where she was between the 29th of April—that is, the Saturday after you had this last talk —until the 22d of May, when she packed up your silver?

A. I couldn't tell. She was either in her room locked up unknown to me, or in New York. She was in one of those two places.

Q. You didn't see her at all?

A. No.

Q. And didn't know where she was?

A. I suppose she was upstairs.

Q. Did you inquire?

A. I did not; it was no use.

Q. Did you have any plans that you had made with her?

A. About what?

Q. Any plans for the future during that time?

A. No, not at all, only I told her I couldn't afford to keep the house there when she was spending her time in New York and running about and staying out nights, and I would have to give up housekeeping.

Q. And that was the 29th of April?

A. Anywhere from the Monday after *Town Topics* came out until the following Saturday.

Q. And for almost a month you didn't know where she was?

A. Oh, no, all the winter she was away, excepting the bills that came from the Waldorf, and I surmised she was there.

Q. When did you first surmise that she was going to Europe?

A. By that telegram I showed you yesterday.

Q. That was the first you knew of it?

A. That was the first I knew of it.

Q. When she sent for $5,000?

A. When she sent for $5,000.

Q. And that is the 29th of May?

A. Yes.

Q. That is the first time you knew she was going to Europe?

A. That is the first time I had any idea of it, unless there was another telegram ahead of that. There was something said about a fast steamer—getting her berth on a fast steamer, and some letter of credit, and that is one telegram, and I suppose that was it.

Q. Did you ask her what she wanted the $5,000 for?

A. I did, called her up on the 'phone from my office.

Q. Is that the conversation you related here yesterday?

A. That is the time.

Q. Is that the time you said you were going to give her $2,500?

A. Yes.

Q. And you said that was from the Waldorf?

A. Yes.

Q. And you had the $2,500 arranged for her at that time?

A. I told her I would send her $2,500.

Q. And you were then in New York?

A. I was at my office.

Q. You are sure of that?

A. Yes.

Q. And you had already arranged for this letter of credit?

A. I had not.

Q. And you say when you got this telegram that you hadn't seen her to talk with her for over a month?

A. Oh, I hadn't seen her personally at all.

Q. And as soon as you got it you arranged for $2,500 for her?

A. The telegram may have been after the talk on the 'phone, but my impression is that I had a talk with her on the 'phone.

Q. Did you object when you found out where she was going?

A. Well, I couldn't say that I did; I don't suppose that I did.

Q. And you said that you would give her $2,500?

A. I said that I couldn't give her $5,000, but I would give her $2,500, which must last until the first of October.

Q. And in addition to that you bought her ticket and gave her pocket money?

A. Yes. But the day she sailed she drew $300 from the Waldorf in addition which I had to pay.

Mr. Carpenter—I ask that that be stricken out.

The Court—It will be disregarded.

Q. Did you know what steamer she was going on?

A. I bought the passage for her.

Q. And you made all arrangements yourself?

A. I did.

Q. And you say this was after she had packed up all her trunks?

A. Oh, yes, after she had left the house.

Q. When was it she left the house?

A. May 22d.

Q. That is the time she took her trunks?

A. Yes, that is the time.

Q. I show you a letter dated June 2d, 1905, and ask you if that is your signature?

A. Looks like it.

Q. No doubt about that, is there?

A. No.

Mr. Carpenter—I offer the letter in evidence.

(Admitted and marked *Exhibit D*-10.)

Q. I show you another letter and ask you if that is your signature?

A. It looks like it.

Q. That was addressed to Mrs. Dudley, room 761?

A. Well, that is probably the day I went over and replied to her request to bring the black bag and went up to her room to see her and she refused to see me, and I sent a letter up, and I offered to take her things and put them on the steamer and to help her, but she refused to see me and refused to have anything to do with me.

(Letter and envelope marked *D*-11 for identification.)

Q. Now, after that did you have any correspondence with your wife, Mr. Dudley?

A. Yes, I think I wrote her abroad.

Q. I show you a letter dated "Camden, July 14, 1905," and ask you if that is your signature?

A. It looks like my signature.

(The same is marked *D*-12 for identification.)

Q. There is no doubt about it, is there?

A. I don't think so.

Q. The whole letter is in your handwriting?

A. Yes, looks like it.

Q. That is her Paris address?

A. Yes, it is here addressed to Brighton. That is where it was forwarded to after she came home.

A. You had forgotten all about that, hadn't you.

A. Oh, yes, lots of letters I had written her.

A. Yes, looks like it.

Q. I show you another letter, dated from Camden, June 26th, 1905, and ask you if that is in your handwriting—all of it?

A. Yes.

(The same is marked *D*-13 for identification.)

The Court—These letters are not yet offered in evidence?

Mr. Carpenter—No, not yet.

The Court—Try and see if you can't identify them a little faster, Mr. Carpenter.

Q. I show you another letter dated January 20th, 1905, and ask you if that is in your handwriting, and also the envelope with it.

A. Yes.

(The same is marked *Exhibit D*-14 for identification.)

Q. And then another letter, dated September 23d, 1905, and ask you if that is in your handwriting, and also if that is the envelope in which it was enclosed, also in your handwriting?

A. Yes.

(The same is marked *Exhibit D*-15 for identification.)

The Court—I will make this suggestion: If counsel intends to put the letters in evidence it is very convenient to put them in now. Oftentimes, of course, counsel refrain from offering them; sometimes in offering them he meets with objection. In my judgment, it is very much better to put in the correspondence in a case like this. Counsel sees the letters and understands what the force of the examination is; the Court doesn't unless the letters are read, and I therefore make this suggestion, Mr. Carpenter.

Mr. Strong—I shall make no objection if they are offered.

The Court—If there is no objection I think they might as well be read. Everyone here interested knows the contents of the letters excepting the Court, and the examination proceeds. I only refer, of course, to such letters as you intend to put in evidence. I don't suppose you would identify the letters if you didn't intend to put them in evidence.

Mr. Carpenter—I will read the first one, from

the office of Mr. Dudley, on Mr. Dudley's stationery, marked *D*-10 for identification.

Exhibit D-10.

Camden, June 2, 1905.

Marie:

I have taken room 134 Kaiser for Tuesday next by telegraphing agents. Do not expect to go over before Monday. You better answer enclosed letter or let me know what to say.

You might at least have left the silver so I could have anyone to dine, as I have now nothing except knife and form. Where have you sent it? so I can have it insured, for it will now be without any insurance whatever—without notifying insurance company—. What have you agreed to pay for it? It cost nothing in vaults of the Camden Bank. If you will have all your trunks ready Monday by noon I will take them to Hoboken and put them on steamer.

EDWARD DUDLEY.

Exhibit D-11, on the stationery of the Waldorf-Astoria, New York.

New York.

Marie:—You will find ticket for the entire room 134, one of the best on ship—in back—also slips for trunks and bags, duly marked. Also letter of credit, which you need not sign until you reach Paris, but sign these two slips at once and send them down by this boy, so I can mail at once to Drexels—they wish to send them to Paris immediately in their letter announcing letter of credit.

Send word down by boy when your trunks will be down and ready to be taken to steamer and I will come here for them. Send all you can so as to have only your small state-room things for tomorrow morning. You should leave here in the morning at 8:30, as steamer

leaves at ten o'clock. I suppose you would prefer going alone to-morrow. Am I right?

E. DUDLEY.

Mr. Strong—That is undated?

Mr. Carpenter—There is no date on that.

Mr. Strong—The letter of credit is dated June 3d, 1905, and accompanied that letter, so that it was about that time.

Mr. Carpenter—There is something at the top of this letter which reads, "Margaret could not find the green stocking." I want to offer those two letters in evidence. The next letter I offer is the letter of Mr. Dudley, written on his stationery, and dated Camden, N. J., June 26th, 1905, and marked *D*-13 for identification:

Exhibit D-13.

Dear Marie:

Your cablegram was difficult to understand. It reads: "Serious health—sail Deutschland mell with letter." I have just cabled not to come—heat terrible. Am expecting to be sent to London on business the middle of July. There is some troublesome matters with Scott in England and the Scott family want me to go and settle it. I expected to be over there about two weeks in all. The heat has been fearful here and is no place for anyone sick. If I knew what the trouble was I might judge better. An American hotel is no place to be sick in summers. It is certainly better to remain over there for the present. The doctors on the steamers know little or nothing and to be ill on steamer is terrible. There would only be the hospital over here where an ill person could be looked after. Give up your passage on Deutschland for July 6th.

Yours truly,

EDWARD DUDLEY.

I offer that letter in evidence.

(The same is admitted as *Exhibit D*-13.)

Mr. Carpenter—I now offer and read in evidence letter on Mr. Dudley's stationery, marked for identification *D*-14.

Mr. Strong—Where is *D*-12 for identification?

Mr. Carpenter—I haven't offered that yet.

Camden, January 20, 1905.

Dear Marie:

We are invited to Getchell's Sunday, but I see no reason for going there if you do not care to return. But you should telegraph Mrs. Getchell if you are not going, and also let me know once. Yours, DUD.

Mr. Carpenter—I also offer and read in evidence letter on plain stationery, dated:

Camden, N. J., Sept. 23, 1905.

Dear Marie:

I enclose check for $417 today, as the 24th is Sunday. Mr. Presser has been telephoning me yesterday and today, asking where to send the dress that is finished. You better instruct them at once what to do about it. I send this to Waldorf because I do not know where else to send it. Yours,

EDWARD DUDLEY.

It is postmarked "Philadelphia, September 27, 1905," and addressed to "Mrs. Edward Dudley, Waldorf-Astoria, New York." That is all of those I care to offer at this time.

Q. Mr. Dudley, I would like to have a specimen of your handwriting, if you will give it to me.

A. Specimen of my handwriting? You have got a lot of it there.

Q. Will you write "Mr. Dudley" (handing witness pen and paper, and the witness writes as requested) and then under that "As an old and tried friend"—Do you ever write left-handed?

A. Never.

Q. Could you try it?

A. What do you want me to do, give a cercus performance?

Q. Write left-handed "I would advise you."

A. (The witness writes "I would.") Well, that is a pretty bad job. (Witness then writes "advise.")

Q. "You to be looking after your wife."

A. (Witness writes as requested.) I might be an expert after awhile.

Mr. Carpenter—I ask to have that sheet marked for identification.

(The same is marked *D*-16 for identification.)

Q. You say you got this letter when, Mr. Dudley?

A. What letter?

Q. This letter signed "Rum."

A. The only way I can tell you is by the date outside.

Q. That is the only thing you can say about it?

A. Yes, I don't know where it came from. It was evidently mailed at the Reading depot.

Q. Did you speak to your wife about it after receiving it?

A. I don't know whether I did or not; I think I showed it to her; I am not sure.

Q. After getting a thing like this you would naturally do so?

A. Oh, yes; I very likely showed it to her.

Q. What did she say?

A. I don't recall.

Q. It didn't make any impression on you at all, eh?

A. No, not very much.

Q. But you are positive you showed it to her?

A. I say I don't know; I am not sure about that.

Q. Did you ask her what it meant?

A. I very likely did.

Q. (By the Court)—Do I understand that you recollect receiving this letter?

A. Oh, yes; I received it; and there are quite a num ber of others I received.

Q. Now, Mr. Dudley, when was the last time you had a talk with Mr. Brightley, of Philadelphia?

A. I never talked to him at all, excepting the time at Mr. Rothermel's office. I went there when I received that letter from him telling me he had started a suit against me.

Q. When was the last time you saw him?

A. When you were taking his evidence.

Q. In Philadelphia, before Mr.——

A. Before the Commissioners.

Q. Have you corresponded with him?

A. Never.

Q. Have you ever talked with him since then?

A. Never.

Q. Has he been in your office since then?

A. No.

Q. Have you talked with him on the telephone since then?

A. I have not.

Q. Have you sent any one to see him since then?

A. I have not.

Q. How did you happen to be at Delmonico's the night you say you saw your wife there?

A. Simply to see what I could find out after this *Town Topic* business.

Q. How did you come to go over that particular time?

A. Oh, I went over—I think I went over on a Saturday, and I think I was all day Saturday and Sunday looking for her before I found anything. I didn't find them anywhere until Monday evening.

Q. Did you go to the Waldorf-Astoria?

A. Oh, yes; I went to the Waldorf and I didn't see Mrs. Dudley, although she was supposed to be there.

Q. Did you ask for her?

A. No.

Q. Did you let her know you were there?

A. I did not.

Q. Was she registered there at the time?

A. I didn't look on the register, but I suppose she was there. That is where she is always supposed to be going. She must have been registered there, because Monday night or early Tuesday morning, when I went there she had a room there then.

Q. You weren't watching her?

A. Yes, I did; I went over to see what she was doing after these charges.

Q. And you think it was Saturday?

A. That I went over?

Q. Yes.

A. Oh, I think I went over Saturday afternoon; it may have been Sunday morning.

Q. Was that the time of *Town Topics*?

A. The time of *Town Topics*.

Q. Saturday following.

A. I think it was.

Q. Do you remember what time you went over to New York?

A. No, I couldn't; I traveled a good deal.

Q. Where did you stay that night?

A. I think I stopped at the Manhattan Club or else the University Club.

Q. What time did you start out that night to look for her?

A. I started out the night before; went to all the known restaurants I could think of.

Q. Did you go alone?

A. I was alone.

Q. That was Saturday night?

A. No, Sunday night. I went out first on Sunday, and then I went out on Monday and saw her.

Q. It was Monday night that you found her?

A. Yes.

Q. What time?

A. As near as I can remember about between twelve and one o'clock in the morning.

Q. Let's see, what date was that?

A. Must have been on the evening of the 24th or the morning of the 25th. I won't be sure.

Q. What restaurants did you go in?

A. Oh, I looked in the Waldorf, in Sherry's; I went up Fifth avenue and looked in the Holland House, as I recall it; I went to Rector's. I think I went to Shanley's at Sixth avenue and Broadway, and the last place I went was Delmonico's.

Q. What time did you get there?

A. Oh, about, I think, somewhere about quarter past twelve and half past. I went in there and that was about the last place I was going to.

Q. And you were alone?

A. I was alone at that time.

Q. And whom did you see in there?

A. Oh, I saw a number sitting around at the tables, and among others I saw Mr. Beekman and Mrs. Dudley.

Q. Was anybody with them?

A. No, alone.

Q. In what part of the restaurant were they sitting?

A. At the side.

Q. Do you know which side?

A. The side away from the street.

Q. You men the very back end of the room?

A. I should call it the east side of the dining-room.

Q. Can you locate them more definitely than that?

A. I can't very well. It was one of the side tables between the door where you come in and 42d or 43d street, or whatever the street it. It is on the corner, about half way between.

Q. And you were looking for your wife?

A. I was looking for my wife, yes.

Q. Did you go up to speak to her?

A. I did not.

Q. What did you do when you first saw them?

A. Merely backed out at once, as soon as I could, and I asked the head waiter if they often came there, and he said "yes."

Mr. Carpenter—I move to strike that out.

A. (Continuing)—You asked me the question and I have answered it.

Q. No, I asked you what you did?

A. Well, that is what I did.

Q. Where did you go then?

A. I went in the back café, where the gentlemen were seated, and watched the door.

Q. Had you been walking from these places, one to the other?

A. Well, I think most of them I had.

Q. Did you walk into Delmonico's?

A. I did. I knew them at Delmonico's; I had been there quite often. I walked in the room first and saw them and identified them, and then walked back in the café so that they couldn't see me.

Q. Did you take a cab there or walk?

A. No, I think I walked from Sherry's, across the street.

Q. What kind of a night was it, do you remember?

A. Well, it wasn't raining; I don't think it was a very good night.

Q. Did you see anybody else in there that you knew?

A. Not that I knew. There was quite a number in there taking supper.

Q. Did you look around to see?

A. I did—just glanced around and saw what I went there for.

Q. You didn't see Mr. Brightley there, too, did you?

A. I did not. The fact is, if I had seen him I don't believe I would have known him.

Q. You had met Mr. Brightley before that?

A. I had not.

Q. You had seen him in Mr. Rothermel's office?

A. We are talking about different times. I am talk-

ing about seeing Mrs. Dudley April 24th. I didn't know Mr. Brightley and I wouldn't have known him if I had seen him at that time.

Q. Did you follow your wife when she went out?

A. I tried to but failed. They got into an automobile.

Q. What efforts did you make to follow them?

A. I didn't know there was an automobile there.

Mr. Carpenter—I ask to strike that out as not responsive.

A. What is it you want to know?

Q. I asked you what you did?

A. I told you I tried to follow them, and they went in an automobile.

Q. Did you look for a taxicab?

A. I did.

Q. Did you see any?

A. No.

Q. What did you do after that?

A. I couldn't follow them, so I went back to the Waldorf.

Q. Did you walk down to the Waldorf?

A. I did.

Q. What did you do there?

A. I stayed and waited there for quite a long time.

Q. They had driven down that way in a cab, didn't they?

A. No, they went up the other way, up Fifth avenue.

Q. What kind of an automobile was it?

A. Well, I am not very familiar with automobiles, so I couldn't tell you. It looked like it was quite a fine automobile.

Q. On which side of the street does Delmonico's face there?

A. Well, the main door is on the side street from Fifth avenue. On the Fifth avenue side are the windows there.

Q. And they came out which end?

A. Came out on the side street, the street running east and west.

Q. And they went towards which street, Fifth avenue or the other way?

A. Went right up Fifth avenue, north.

Q. How long did you sit there?

A. I didn't sit there at all; I went right down in the Waldorf.

Q. How long did you sit there in the Waldorf?

A. It must have been close onto a little after two o'clock and I thought she must have come in.

Q. Where did you sit there?

A. On what is called "Peacock Alley," if you know where that is, just opposite the entrance on Thirty-third street.

Q. Did you see your wife come in that night?

A. I did not.

Q. How many entrances are there?

A. Two or three on that street and two or three on the other street.

Q. Regular labyrinth of halls there?

A. Yes, quite a number of halls—quite a number of different entrances.

Q. You sat there until two o'clock and then what did you do?

A. I went up to Mrs. Dudley's room.

Q. What did you do there?

A. I had the room opened.

Q. Right away?

A. It took quite a while to open it.

Q. And you went right into her room?

A. I did.

Q. Did you speak to anybody before going up there?

A. No, I did not; I knew where the room was.

Q. Did you ask where the room was?

A. Yes.

Q. When?

A. About a quarter past two.

Q. You knew she was staying there?

A. Certainly; I asked.

Q. Whom did you ask?

A. The clerk at the desk.

Q. When did you ask him?

A. I asked him, I think, about half-past four or five that afternoon, before I went out on this apparently wild-goose chase. It didn't turn out that way, but I thought it was going to when I started out.

Q. Who was it that let you in the room?

A. A young boy with a pass-key.

Q. Where did you find him?

A. They sent him up from the office to open the door.

Q. What did you find when you got into the room?

A. I found nothing excepting Mrs. Dudley's things were about there, and I think there was a small trunk, and nobody in the room, and a bed she had used.

Q. Do you know the name of the boy that was with you?

A. Oh, no.

Q. Did you inquire for the boy's name?

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

Q. Did you ask anybody else to go up with you but the boy?

A. No.

Q. Didn't say anything about it to anybody else?

A. I said I was going up to Mrs. Dudley's room, and he said that was all right.

Q. Did you register there at the Waldorf?

A. Oh, no.

Recess until 2 o'clock.

Q. Mr. Dudley, when did you close up your house on Locust street?

A. About the last of June or the first of July, 1905.

Q. And what did you do with your furniture?

A. I stored it.

Q. Where?

A. With the Fidelity Storage Company.

Q. What did you do with your paintings and bric-a-brac.

A. I had very few paintings; I had two, I think.

Q. What did you do with them?

A. Sent them out home.

Q. Out to the Grange?

A. Yes.

Q. And all those things are down there now?

A. No, not all of those things; I said I sent the two paintings out there, and the other things are in storage yet.

Q. The bric-a-brac, I suppose, is out at the Grange?

A. What do you mean? I didn't have much.

Q. You had some?

A. Oh, yes, I suppose so. They are stored away in barrels, etc.

Q. Is it not a fact, Mr. Dudley, that you told Judge Gaskill that you would not refurnish your house on Locust street and declined to furnish Mrs. Dudley with a similar home? Yes or no.

A. Judge Gaskill said Mrs. Dudley demanded—

Q. Yes or no.

Mr. Strong—Do you mean that that was by letter or verbally?

Q. By letter or verbally—yes or no. (Question read by the stenographer.)

A. I declined to refurnish the house and let her run the house in the same manner as she had before.

Q. Did you also decline to furnish her with a similar house?

A. Oh, yes, I certainly did; I couldn't afford it.

Re-direct examination, by Mr. Strong:

Mr. Strong—Let me have those letters, *D*-5 and *D*-6 for identification. If you haven't put them in evidence I will do so.

Mr. Carpenter—I intended to, but it was my mistake.

I will offer them at this time, if I may be permitted to—*D*-5 and *D*-6, *D*-7 and *D*-8 for identification, all of them being letters heretofore referred to.

The Court—Do you now intend to read them?

Mr. Carpenter—I don't know about *D*-8; Mr. Dudley said he never saw it and didn't know anything about it. *Exhibit D*-5 is a letter and envelope addressed to Edward Dudley, Esq., Waldorf-Astoria, and is as follows:

Dear Mr. Dudley:

I must see you to-day on important business. So please send me word what time you will be here. Sincerely,

ELIZABETH M. TILGHMAN.

D-6 is a letter and envelope addressed to Edward Dudley, Esq., Waldorf-Astoria, answer and marked "private" on the outside. The letter is as follows:

My Dear Mr. Dudley:

I want to see you and will you come up here or will I go down to the Waldorf-Astoria, or will you name a time to see me at your office? Now, I leave it to you to make an appointment, as I wish to see you before going away.

D-7 is a letter and envelope, aldressed to Edward Dudley, Esq., 1723 Locust street, Philadelphia, Pa., January 14th, 1903, and reads:

Edward Dudley, Esq.,
1723 Locust St., Phila.

Just why you should have asked me to sign a note for you is rather difficult to understand, but of course I should not think of doing so. If you are not man enough to stand by your agreement this year then it is time for me to take a step to protect myself. I am waiting to hear from you before going to Philadelphia and if you are to be in New York soon I can see you and then save myself the trip to Philadelphia.

Yours truly,
ELIZABETH M. TILGHMAN,
133 North St., Greenwich, Conn.

Mr. Dudley—I never received that letter.

Mr. Carpenter—*Exhibit D*-8 is a letter and envelope addressed to Edward Dudley, Esq., 1723 Locust street, Philadelphia, and reads as follows:

Can you come around this evening? We are going to have a little game.

Yours,

FRANK.

At the bottom is "3-16." These letters are all offered in evidence without objection.

The Court—They will be admitted.

Q. (By Mr. Strong)—Do I understand you, Mr. Dudley, that this *Exhibit D*-5 is the letter that you referred to in your direct examination?

A. Yes; that is way back shortly after we were married.

Q. Now, what do you know about *Exhibit D*-6?

A. I don't know much about that. I don't think I ever got that.

Q. Have you any recollection about it?

A. Not at all. This evidently came to our room; it is Room 560. I would fancy that somebody else got it and opened it. I don't remember ever seeing that.

Q. I call your attention to the word "private" written on there in pencil; do you know anything about that?

A. I do not; I don't know the writing at all or who wrote it.

Q. Now this one, *D*-7, did you ever get that one at all?

A. No, I never got that letter.

The Court—I think you are repeating, Mr. Strong. The witness testified positively, when those letters were shown to him, that he never got them.

Q. Did you know of its existence until to-day?

A. No, I never heard of it.

Q. You said, as I understood you, on your cross-examination, that Mrs. Tilghman was owing you money at the time your relations ceased?

A. Yes, she owed me a settlement.

Q. Did you ask her for it?

A. I think I must have done so, and probably that is what the letter referred to. My impression is that I told her if she couldn't pay me to give me a note for it, and I think that is what her letter refers to, although I never saw that letter before—never got it.

Q. How did this indebtedness arise, without going very deeply into the transaction?

A. Some of it was money loaned on a mortgage that she had to pay off, a small amount of it; some of it was in fees, because whenever she had trouble about rents and I couldn't get her all the amount due, I oftentimes advanced it and got it later, and it got to accumulating in a small way. She didn't owe me very much, I don't suppose.

Q. Has she ever, in fact, paid you what she owes you?

A. No, I never received it.

Q. (By the Court)—Was she in the habit of addressing you without using your name?

A. No, that is a most remarkable letter.

Q. Can you tell from your experience whether that is all of the letter or not?

A. It doesn't look like it. My experience was that she was always polite. It looks like as if another sheet was missing, although I never received any of it. It went to my house, but of course it was never delivered to me.

Q. I show you a couple of receipts and ask you what they represent?

A. These are the receipts of the entire letter of credit of $2,500 that I gave to Mrs. Dudley in May or the first of June, when she sailed for Europe in 1905. She drew the whole letter of credit almost immediately after she got over there.

Q. And the date?

A. These are the dates upon which they were sent to my office, June 8th, 1905—I paid this one the day after—and July 17th, 1905.

Q. They represent the dates they were charged to your account?

A. Yes.

Mr. Strong—I offer those letters of credit in evidence.

(Admitted and marked *Exhibits C-19* and *C-20.*

Q. I would like to know when it was that you spoke to your wife about the *Town Topics* article?

A. My impression is that I said in my direct examition it was right after I got the *Town Topics,* but in recalling some facts I remember the morning after I sent up *Town Topics* to her room and she disappeared.

Q. Did you see her at all?

A. I didn't see her at all after I sent up *Town Topics.* She went to New York, I suppose; at least, I found her over there, and then I saw Mr. Beekman and Mrs. Dudley on Monday at Delmonico's, as I have told you about, and it was the latter end or some day of that very week of the 24th that I had that talk with her and told her just exactly what she must do—that she must explain these matters.

Q. Was that or not the first occasion that you had of speaking to her?

A. When I first spoke yesterday I realized that I had forgotten that I didn't speak to her the next day, because I had no opportunity, and that was the first chance I had of seeing her. I didn't see her, in fact, when I sent the *Town Topics* up; I sent it up to her room and I didn't see her again until the following week.

Q. You said that you saw Mrs. Dudley and Mr. Henry M. T. Beekman together at Delmonico's?

A. Yes.

Q. Did you know Beekman?

A. Yes.

Q. Had you ever been socially intimate with him?

A. No, not at all.

Mr. Carpenter—I object; this is not proper redirect.

The Court—Oh, well, we are not drawing the line closely on that. Sometimes I announce the enforcement of the rule and counsel are warned in advance before they are put under it. Proceed.

Q. Has he ever visited your house, so far as you know?

A. Not to my knowledge.

Re-cross examination, by Mr. Carpenter:

Q. Where did you have this interview?

A. Upstairs, outside of her bedroom in the hall.

Q. Just outside of the door?

A. Right in the hall, yes.

Q. I suppose she was in her room when you came home that time?

A. She might have been in her room, but I spoke to her, and whether I called her out on that occasion I am not sure.

Q. What time of the day was it?

A. My impression is that it was after dinner.

Q. At night?

A. Evening.

Q. Anybody else in the house that night?

A. Oh, I think the servants, but no friends.

Q. Have dinner with her that night?

A. I couldn't answer that question—Oh, no, I didn't.

Q. You are sure of it, are you?

A. Yes, I am perfectly sure, because I didn't have any dinner with her at all after the *Town Topics* affair. I just happened to catch her in the hall.

Q. She had dinner that night?

A. I suppose so, in her room. She didn't come down to any meals.

Q. Do you know whether dinner was sent up to her?

A. I don't know.

Q. You know she was in the house?

A. Yes, because I saw her that night. I know she was in the house.

Q. Where did you see her before?

A. I saw her in the hall outside of the room.

Q. That was before you spoke to her?

A. Of course I saw her before I spoke to her.

Q. Was this a separate occasion?

A. This was the only occasion that I saw her in the hall. I was going up to telephone or something, but I saw her in the hall.

Q. What time did you get home from work that night?

A. I don't know the time when I stopped. It was various times. I used to get home sometimes at half-past five or a quarter to six, sometimes a quarter-past six.

Q. Did you inquire if your wife was home?

A. I don't believe I did.

Q. Did you have a copy of *Town Topics* in your hand?

A. At that time, no.

Q. Didn't have it in your hand at all?

A. Not at all.

Q. Then you personally never put it in her hands at all?

A. If you remember I told you I sent it up by one of the servants to her room, marked.

Q. What did she say when you spoke to her about this article that night

A. She said it was none of my damn business, "I won't answer you."

Q. You are positive of that?

A. Yes, and also commenced to cry out to the servant

to come up as she was being beaten or murdered, or something like that.

Q. You don't exactly remember what she did cry out?

A. One of those remarks, because as soon as I asked her any question she would fly off.

Q. She didn't say a word about that article, did she?

A. She said she wouldn't explain it.

Q. Did she attempt to?

A. No, she said she wouldn't; it was none of my damn business.

Q. You asked her about the article?

A. I questioned her; I told her unless she could explain the article in *Town Topics* of being out on March 25th and on April 1st all night—if she couldn't satisfy me with an explanation of it there was no use talking about it, we couldn't go on living this way.

Q. She said "none of your damn business"?

A. Yes. She never explained it nor attempted to.

Q. And then you went down?

A. I went to my own room or went downstairs, I don't remember which now.

Q. Did you go out and play poker that night?

A. No.

Q. Did any of your servants come running upstairs when she "hollered" murder?

A. Yes.

Q. Who?

A. I think it was Margaret, the chambermaid, and another girl.

Q. Where are they now?

A. I don't know where they are. I have tried to find them and others have tried to find them. I would like very much to get them.

The Court—Well, Mr. Carpenter, all this matter you have cross-examined the witness upon, and applying the rule mentioned a little while ago, it is not permissible.

Mr. Carpenter—I am through, and I now move to strike out from the evidence the article in *Town Topics*. You will remember your Honor admitted it only because Mr. Dudley said he had shown it to Mrs. Dudley, and now it appears by his own examination that he did not show it to her, but he sent it to her room and afterwards spoke of it, and at the same time he spoke of two or three other matters, and she said, "it is none of your damn business." There is no evidence whatsoever to justify that remaining in evidence.

The Court—The Court will not strike it out.

John F. Stockton, sworn on behalf of the petitioner, Edward Dudley, testified as follows:

Direct examination by Mr. Strong:

Q. Mr. Stockton, where do you live?

A. At the Aldine Hotel, sir.

Q. In Philadelphia?

A. In Philadelphia.

Q. Were you at one time a butler in Mr. Dudley's family in Philadelphia?

A. I was, sir.

Q. At what time?

A. In the fall of 1903.

Q. Beginning with what time in 1903?

A. In November, 1903.

Q. And ending when?

A. Beg pardon?

Q. From that time until when?

A. Until May, 1904, when Mr. Dudley closed the house to go to Europe, or Mrs. Dudley to go to Europe.

Q. And then were you there a second time?

A. I came back the second time in January, 1905.

Q. And remained until when?

A. I remained until April the 21st, 1905.

Q. The latter part of April?

A. It might have been a little earlier than that. I should judge perhaps it might have been perhaps about the end of the second week in April.

Q. You mean that you left the end of the first week?

A. I left at that time, yes, sir.

Q. Do you know definitely just what date you did leave?

Mr. Carpenter—I object. He has answered the question.

A. Well, it was on a Monday morning; that I am positive of.

Q. But as to the particular date, I ask you whether you can be positive?

A. I can't say positively, Mr. Strong.

Q. Did your duties require you to be about the dining-table?

A. Constantly, while Mr. and Mrs. Dudley were in the dining-room.

Q. And it was your duty as butler to serve her every night, I suppose?

A. Yes, sir.

Q. Did you observe Mrs. Dudley's conduct, particularly with reference to her husband?

A. Well, in the early part of my time there, in 1903—

Mr. Carpenter—The question calls for yes or no, if your Honor please.

The Court—Yes, but that is not a matter that you can object to. The answer of the witness is competent evidence, makes no difference what the question is.

Q. I asked you what you did observe in that respect?

A. In the early part of 1903 I did observe nothing very much wrong worth noticing until 1904. In the early part of 1904, in January, 1904, Mrs. Dudley at that time began to make very uncanny remarks which I didn't quite understand.

Q. Well, remarks to whom? To whom were they addressed?

A. To Mr. Dudley.

Q. Can you repeat some of the remarks that you refer to?

A. Well, she would look at him and sometimes she would call him a filthy beast, and call him a liar, if he opened his mouth—get dramatic sometimes, and say, "Oh, you filthy beast you, you filthy beast you" (witness raising his arms in a dramatic fashion), apparently without any reason.

Mr. Carpenter—I move to strike that out, if your Honor please, as incompetent, immaterial and irrelevant.

The Court—I will allow it.

Q. Did you hear anything that Mr. Dudley said that could irritate Mrs. Dudley, or anything that he did?

A. Absolutely nothing.

Q. Well, can you give us any other of her expressions that she used towards Mr. Dudley?

A. Well, on one Sunday evening—

Mr. Carpenter—I object unless the time is shown.

Q. Well, fix the time as well as you can.

A. It was one Sunday in January—

Q. Are you speaking now of 1904?

A. We have reached 1904, as I have already said that I saw nothing in particular in the year 1903.

Q. Well, go on.

A. On this occasion, which was in January, 1904, Mr. Dudley had gone out in the afternoon, and Mrs. Dudley said to him: "Where have you been this afternoon?"

"Well," he says, "I was out for a walk."

"Well, where were you?"

"Well," he says, "I was out to Laurel Hill."

"What were you doing out there?" straightening up in her chair.

"Well," he says, "I was out there looking around."

"Yes, I will tell you what you were out there looking

around for; you were out there looking for a place to put me alongside of your first wife, weren't you?"

He says, "No, I wasn't."

Q. Laurel Hill Cemetery?

A. Yes.

"You will never put me there; I'm going off the middle of a steamship or the tail end of a ferry-boat," and I walked out of the room because I didn't want to hear that kind of talk, and Mrs. Dudley asked me—

Mr. Carpenter—I move to strike that out as incompetent, irrelevant and immaterial.

The Court—I will allow it.

Q. You were going on to say something further; did anything further occur after you went out of the room?

A. Mrs. Dudley asked me to come back into the room. "Why did you go out of this room?"

"I didn't want to hear your conversation," I says.

"Your place is in this room; your place is right here until you are dismissed."

There wasn't anything more said then and there was nothing more said through the dinner—there was no more words exchanged.

Q. Do you remember any other occasions of a similar sort?

A. Well, there were numerous occasions; where, in what particular? There was a dinner party in the house; I should think there was Mr. and Mrs. Cragin, Mrs. Waterhouse, Mr. Dorrance, and Miss Knight. There had been considerable champagne—

Mr. Carpenter—I would like to have the date, if you please.

Q. Fix the date, if you can.

A. It was Christmas—on a Christmas night in 1904.

Q. The end of 1904?

A. The end of 1904. There was a bundle of opera tickets all lying on the table, and Mrs. Dudley had been making these uncanny remarks previously to that, and this movement commenced to come on. She immediately

grabbed up the opera tickets and tried to push them down into the candle: "I want to burn these up; old Dud. went and bought these for his old women, he didn't buy them for me." Mr. Dorrance reached over and said "Don't be foolish," and took the tickets away from her out of the candle until the thing was cooled down, and then placed them back on the table again. After that I didn't see very much, because I had gone out in the meantime to fix the salad. What occurred when I was out, of course, I don't know.

Q. Let me ask you whether you are right in fixing that as December, 1904? I understood you to say you didn't go back until January, 1905.

A. No, that was in December, 1903; I am mistaken —I am ahead of myself. That was in 1903.

Q. Did you ever hear Mrs. Dudley say anything, or did she say anything to you about how you should act in saving money in your expenses—in the expenses of the house?

A. Well, on one occasion she said to me, "Why don't you get a certain kind of fruit"—

Mr. Carpenter—I object unless some time is shown.

Mr. Strong—It is competent whether the time is shown or not, I take it.

The Court—Proceed; objection not sustained.

A. Well, I said "We have considerable fruit on hand and I don't think we should get any more until that is used up."

"It is none of your business; you get what I want; I want everything that—I might as well have it or old Dud's children will get his money and spend it, and I want everything that I please, and I want everybody in the house to have it."

"Well," I said, "the bill is pretty big, the fruit bill especially is big," and there was no more said about that. That ended it.

Q. Do you know of any other occasion where the matter of spending money was referred to by her?

A. She told me on another occasion to get anything that I wanted. She said "Mr. Dudley has plenty of money and sail into it and get all the things you want and don't stint yourself."

Q. Did she say anything in that connection as to what was to become of the money if you didn't get it?

Mr. Carpenter—I object to the question as leading.

The Court—Allowed.

A. Well, I would rather not use the word.

Q. Well, I suppose you ought to.

A. I would rather not use the word in the presence of the lady.

Q. It is the lady who used the word.

A. It is the lady who used the word, yes.

Mr. Carpenter—I object unless the time is shown also.

The Court—Objection not sustained. You can bring it out on cross-examination if you wish to do so.

Q. I must tell you, Mr. Stockton, that you are obliged, as a witness, to tell what actually happened.

A. "I might as well have it; his damned old children will have it, and I might as well have it," and she said something about it would be pissed against the wall or something like that.

Q. You mean she used that expression?

A. Yes, sir.

Q. Can you tell when that was? Mr. Carpenter is anxious to know.

A. That was sometime in January, 1904, in the early part of the year 1904.

Q. Do you remember any other instance in which Mrs. Dudley spoke to you against Mr. Dudley in any way?

A. Oh, she was more or less all the time making these bad remarks about him, trying to tell me that he was running after other women and cutting her. If

he went away on a business trip she would say he was going after women.

Q. Do you remember any particular occasions of his absence when something like that occurred?

A. Yes. On one occasion he went away in the morning right after breakfast. I remember it very well, because I rolled a clean collar up and put it in his overcoat pocket. He told me to tell Mrs. Dudley that he wouldn't be home to dinner. I didn't see Mrs. Dudley until afternoon, because she didn't come down to breakfast. When I saw her in the afternoon and told her she became very angry. Later on in the afternoon Mrs. Waterhouse called and was in the parlor. I took some sherry wine and some fruit cake in and placed it on the table. As I was going out of the parlor Mrs. Dudley says: "See here, what time did Mr. Dudley go away this morning?"

I says, "Shortly after breakfast, his usual time"

"Heh—heh—heh, he is off on another cantico," she says. She says, "Off on another cantico."

I says, "I don't think he could go on much of a cantico with a linen collar in his pocket."

"Huh, you are a damn fool, you know nothing—you don't know anything."

"Well," I says, "I don't know nothin', but I think when a man goes on a cantico he needs a dress suit.'

"He doesn't need a dress suit where he is going; it is nightclothes." She immediately caught herself and got ashamed, and immediately began to fix the curtain, and Mrs. Waterhouse burst out laughing, sitting at the piano.

Q. Do you remember another occasion when Mr. Dudley went away and he didn't take his dress suit case with him, but remained in the house? Do you remember that?

Mr. Carpenter—That is very leading, if your Honor please, and I object on that ground, and I ask for the time.

The Court—How would you suggest the question should be put so as to bring into the mind of the witness the topic concerning which his testimony is desired?

Mr. Carpenter—I should think the witness ought to be asked to relate all of this what Mrs. Dudley said about her husband. I think that would bring it out without drawing his attention to anything.

The Court—When counsel wishes to elicit testimony in regard to a particular occasion do you think it would be wise to put it in such form that the witness would have to give an account of every occasion? We might be here for three hours listening to what would have nothing to do with this case and what counsel does not wish to bring out. I do not think the question is too suggestive.

Mr. Carpenter—I still object because the time is not stated.

The Court—That is not a ground of objection at all. You can bring that out on cross-examination. The testimony may not be as forceful as it stands without the date, but that is a matter for the examining counsel.

A. I remember one occasion where Mr. Dudley went away, I think it was to Boston. He took his dress-suit case with him and I think some underwear and socks, collars and cuffs, and, if I am not mistaken, a dressing gown.

Q. Well, did the dress-suit case come back to the house afterwards?

A. Yes, sir.

Q. And did anything occur that you know of with reference to it after it came back?

A. Well, the dress-suit case came by a messenger from the Broad Street Station, and I took it in at the door and brought it upstairs. Mrs. Dudley says, "What have you there?"

I says, "Mr. Dudley must be home, for here is his dress-suit case."

"Ah, bring that in here."

I brought it into Mr. Dudley's room, laid it at the foot of the bed, and opened it. We opened it up and took the things out. Mrs. Dudley examined most particularly the night-clothes—looked them all over, and then chucked them back in again. We found a Boston paper. She says, "Ho, ho, we are not any more wiser now; shut it up," and I closed the dress-suit case and left it set at the foot of the bed, and walked out of the room.

Q. On these occasions when Mrs. Dudley spoke in the way that you have already told us to Mr. Dudley, what was his manner towards her? How did he meet those expressions?

A. Always like a perfect gentleman, had nothing to say.

Q. Did you ever hear him say anything unkind to her?

A. No, sir, only on one occasion. He was a little cross about the palm.

Q. A palm plant, you mean?

A. Yes.

Q. Tell us about that.

A. Mrs. Dudley had bought a palm, or at least there was a palm that came to the house and it didn't suit her. She had Pennoch Brothers come and take the palm away and got one that cost $75, had it put up in the parlor and Mr. Dudley said, "Where did you get that plant?"

"None of your business."

"Well," he says, "I am getting large bills from the florist; I can't stand it, I won't have it."

"None of your business."

"Why, that cost $75 and I won't pay for it; it is too much. I don't mind paying $40, but I won't pay

$75; it has got to go back. I am tired of paying your crazy bills for flowers."

Mrs. Dudley ran into the pantry where I was and said, "See here, I have got to have protection; I am afraid that man will beat me."

Mr. Dudley never got up off of his chair where he was sitting. I says, "No, he will do nothing to you; he is only cross because you are buying those things and they won't live."

Q. Do you know of flowers being received at the house of Mrs. Dudley?

A. I do, sir.

Q. When did they begin to come?

A. They began to come in the beginning of 1905.

Q. How frequently did they come?

A. Well, several times a week; some weeks once a week.

Q. Do you know where they came from?

A. Well, they came from New York florists, but who I don't know, but I know they came from New York florists.

Q. Do you know anything about Mrs. Dudley being away at night?

A. Yes, sir, I do.

Q. Tell us what you know about that.

Mr. Carpenter—I object, on the ground as immaterial in this case. There is no charge made against her in the pleadings, no charge of adultery or anything of that kind on her part, and, therefore, I don't think it is material whether she was away or not. All of us are away from home sometimes. How can that be material.

The Court—Well, I am not sure that it is material, but, as I said two or three times, when we are trying the issue of desertion the whole married life of the couple comes under investigation, and the important period, of course, is that which immediately precedes the separation. What the

force of each circumstance may be will not be determined until the whole case is in. I do not pretend to exclude any questions, whether on direct or cross-examination, especially regarding the life during the part of 1905 just prior to the separation.

A. Well, when she came back to Mr. Dudley, in 1905—

Q. January, was it?

A. In January, 1905, Mrs. Dudley was away at the time that I came back and didn't come back in three days after I had reached the house. I was led to believe that she was in New York through Margaret.

Mr. Carpenter—I object to what he was led to believe.

The Court—Excluded.

A. (Continuing)—After she had come back things went on very well until one day after lunch Mrs. Dudley went out. We had the dinner ready for her as usual. Mr. Dudley came home at half-past six, which was his usual time—between six and half-past, sometimes he might be home a quarter to seven, but very rarely. Mrs. Dudley did not come home that night. Where she was on that occasion I don't know.

Q. When did she come back, do you know?

A. The next day.

Q. What time?

A. About eleven o'clock.

Q. Do you know whether when she went out she took any baggage of any kind?

A. Not that I seen.

Q. Did you see her going out?

A. Not on the first occasion.

Q. Well, tell us of any other occasions.

A. On the second occasion, which was in January, 1905. Now, this makes it more strong in my mind than all. There was tickets sent up from James' ticket office

—theatre tickets—two. They came to the door, and the boy says, "I want $5 for these tickets."

"Well," I says, "who ordered these tickets?"

He says, "Mrs. Dudley."

Mr. Carpenter—I object and move to strike that out as hearsay.

The Court—Excluded.

Q. We don't want the conversation with the boy; pass that over.

A. Well, the boy demanded the $5 of me for the tickets.

Mr. Carpenter—I move to strike that out.

The Court—How is it competent?

Mr. Strong—That part of it isn't important about the tickets.

Q. You know what I want to get at, about her absence from home.

A. I had dismissed the boy. Mrs. Dudley had come in in the meantime and gone upstairs, changed her costume to a black dress, black hat and black veil, and came downstairs with her night-gown under her arm, rolled up. She got into a hack. I don't know as anybody else was in the hack or not; I wouldn't say, because I didn't see it.

Mr. Carpenter—What is that?

A. She jumped into the hack at the door, which was a four-wheeler. Whether there was anybody else in the hack I don't know, because I didn't see it, and it drove away.

Q. Did she take anything else with her but a night-gown and her coat?

A. Absolutely nothing else excepting her clothing.

Q. What was she wearing, mourning?

A. Yes.

Q. When did she come back after that?

A. She didn't come back until the next day.

Q. Where was Mr. Dudley at that time?

A. That was on a Wednesday night and he was at his

card game, which was usually always Wednesday nights. Well, Mrs. Dudley was passing—that answer wasn't finished—and while she was passing me at the door going out, she says, "I am going out to have a new waist tried on," and it struck me as rather queer.

Mr. Carpenter—I move to strike that out.

Mr. Strong—I don't care about that.

Q. That is what she said when she went out?

A. That is all she said when she went out.

Q. What time of the day was it when she went out?

A. Eight o'clock in the evening.

Q. Were there any other occasions that you recall of her going out at night?

A. Yes, there was another occasion. Mr. Dudley went away on business and he sent a telegram from the Broad Street Station. I took the telegram up to her and gave it to Mrs. Dudley, to her room or door. In a few minutes after she read it she called me back.

"I want you to come here; I want you to look at that, just look at that, look and see what the filthy beast has done; just look at it," using other vile language. "Look what he has done, look at it." I looked it over and the telegram said, "Won't be home to-night." Of course, I knew that he was going away in the morning, because he had taken some little things with him. She immediately ordered two trunks down out of the trunk room, packed those two trunks, and went off. I didn't know where she went.

Mr. Carpenter—I move to strike it out as immaterial.

The Court—I will allow it.

Q. How long was she absent at that time?

A. Three days.

Q. Do you remember any other occasions of her going out a single night, or perhaps two nights at a time?

A. Well, I remember on one occasion where she went out in the afternoon, but didn't stay all night. She came back in a hack, had somebody with her. Who they were I don't know.

Q. What time did she come back?

A. Two o'clock in the morning, and went to the telephone when she got upstairs and tried to call somebody in Hansbury street, Germantown. Who they were I don't know.

Q. Was there more than one occasion when she went out in a black dress and black veil?

A. There was.

Q. How many times did that happen, I mean remaining over night?

A. She went out—it was sometime in February—about the middle of February. I didn't see her go out, but I saw her come home. I knew she was out all night because I didn't have to carry the tray upstairs in the morning on the breakfast tray.

Q. You saw her when she came in the next morning-

A. I let her in at eleven o'clock in the morning, on a Sunday morning.

Q. How was she dressed?

A. In black, as usual.

Q. "As usual," you say; what do you mean?

A. Well, in the way she went out when she went out to stay all night, in a black costume.

Q. Was that the usual costume she wore on other occasions?

A. No, sir; she always wore very bright, fine, gay clothes.

Q. Do you remember anything that happened on the 25th of March, 1905?

A. On the 25th of March, 1905, Mrs. Dudley went out immediately after lunch. I don't know whether she intended to come back to dinner; that I won't safely say. About eight o'clock that evening the telephone rang and I answered it, and they asked for Margaret.

Mr. Carpenter—I object and move to strike it out, unless it is shown whom the telephone call was from.

The Court—Well, Mr. Strong, what do you say?

Mr. Strong—I think it is competent, because it leads to other things, but I am not going to ask for more of it.

The Court—It may be rendered competent certainly, but I hardly can say that it is yet.

Q. Well, there was a call at the 'phone, was there?

A. There was a call at the 'phone.

Q. Was Mr. Dudley present at that time?

A. He was sitting in his own room. There was no cards that night, or at least he didn't go out, and he had gone upstairs and sat in his room after he had got his dinner and started to read.

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

A. When I had answered the 'phone, whoever it was shut off, and I hung up the receiver. Mr. Dudley says, "one minute, one minute."

Mr. Carpenter—I object and move to strike it out.

Q. Well, do you know whether he took up the 'phone at that time?

A. Yes, he took up the 'phone.

Q. And spoke, did he?

A. Yes, sir.

Q. Well, after that what did Mr. Dudley do?

A. Well, he insisted upon getting the number of where that call came from. It took him considerable while and he waited a long time at the 'phone and finally he got it.

Mr. Carpenter—I object. It is obviously not of the witness's own knowledge.

The Court—Oh, well, we will strike it out. Proceed.

Q. Did Mr. Dudley go out after that?

A. He immediately ran downstairs, grabbed his hat and coat off the hat-rack and went off in a hurry, and

was gone considerable while. It was a long time I suppose it was several hours.

Q. Were you there when he came back?

A. I was, sir.

Q. What time of night was it when he got in again, or was it the next day?

A. Well, it runs into my mind that it was after midnight.

Q. Did Mrs. Dudley return that night?

A. No, sir.

Q. When did she come back?

A. At half-past one on Sunday afternoon.

Q. That would be the next day, would it?

A. Yes, sir.

Q. You remained there until sometime in April, you said?

A. It was the early part of April, the first week I think in April, 1905.

Q. The next Saturday after the one that you have just been telling us about—you have spoken of March 25th, now the following Saturday after that did anything occur that you recall—whether Mrs. Dudley was at home that night or not?

A. Well, I couldn't very vividly recall that just at present.

Q. Why did you leave the service of Mr. Dudley?

A. Well, there was an occasion took place—

Mr. Carpenter—I object; I don't think it is material.

Mr. Strong—Well, it relates to something that Mrs. Dudley said or did.

The Court—Proceed then.

A. Mr. Dudley gave me a book to return to Dr. Getchel. When I went out I had left word with the chambermaid to look out for the door while I was gone. I told her I wouldn't be over fifteen minutes, perhaps a half an hour at the farthest. I took the book out,

delivered it, and came back, and when I had come back the door-bell or something had rung in the meantime—

Mr. Carpenter—I move to strike it out.

The Court—We do not seem to be reaching anything at all. Can't you bring this witness right to the point?

Q. Did Mrs. Dudley say anything to you when you came in?

A. She did.

Q. Tell us about that; that is the point we want.

A. She says, "Where have you been; the door-bell has been ringing and I can't spare Margaret. Where have you been?"

"I was on an errand for Mr. Dudley."

"Yes, you would rather wait on him than on me."

"Yes," I says, "I would rather wait on Mr. Dudley than on you, and I am through with you. Now, I am going right out of the house; I have got enough of you." Mrs. Dudley said something.

Q. Did you leave that day then?

A. I walked right out that day.

Cross-examination, by Mr. Carpenter:

The Court—Mr. Strong, I think perhaps it would be well to caution counsel that now probably the new rule will be followed, that the direct examination must be exhausted and then the cross-examination must also be exhausted, and if anything further is allowed by way of direct examination it will be upon the statement of counsel that some omission or some mistake has been made.

Mr. Strong—Before cross- examination is begun I will ask another question which has occurred to me since.

Q. (By Mr. Strong)—Do you remember an occasion or anything about the occasion when Mrs. Dudley was

giving a party, or giving a dinner, and there was no plate set for Mr. Dudley? Do you remember anything of that kind?

A. Oh, yes, I do.

Q. Tell us about that.

A. Mr. Dudley was away for one day on business; he told me he was going to Boston—

Mr. Carpenter—I object to what Mr. Dudley told him.

Q. I want to get down to the dinner.

A. While Mr. Dudley was gone Mrs. Dudley arranged a dinner party with Mr. Dorrance and a few other friends. She told me not to set a place for Mr. Dudley, as he wasn't in it; it was her friends.

Q. Did Mr. Dudley return in time for the dinner?

A. He returned in the meantime, in time for the dinner, and came into the dining-room, and, of course, the table was decorated very beautifully with flowers and elegant silver. Mr. Dudley says, "Why, what is going on?"

I says, "There is a dinner, Mr. Dudley."

"I didn't know it; I must get ready."

He went upstairs, changed his clothes for a tuxedo, and came down, and while he had gone upstairs I arranged his place at the table for him. Mrs. Dudley came and looked at the table. "What is this here; there are only so many?"

I told her Mr. Dudley was in the house.

"He aint in this dinner; take it right away, for he aint in this. Let him go and stay where he was all day."

Well, I says, "I don't know, it seems kind of queer."

"That is all right; you do as I tell you; I am boss."

Then Mr. Dudley came downstairs. He said something to Mrs. Dudley, and I heard her say, "Go to the devil, and get out of here—get out of here—get out of here—get right out, go to the devil—go to the devil; you aint in this party, it is my party."

Mr. Dudley deliberately walked right straight out of the house.

Q. Do you know of any occasions when Mr. Dudley left the dinner table after there had been some disagreeable words said by Mrs. Dudley?

A. He had to do that on several occasions.

Mr. Carpenter—I move to strike that out.

The Court—The testimony, that he did so on several occasions, will stand.

Q. Was that when they were dining alone or when there were others at dinner?

A. Well, once when there was three people at the table he walked out, and quite a few times when they were alone, to get rid of this sarcasm.

Cross-examination, by Mr. Carpenter:

Q. Mr. Stockton, how long have you been at the Aldine Hotel?

A. Two years.

Q. What is your position there?

A. Valet.

Q. Have you had any other positon during that time?

Q. During what time?

Q. During these last two years?

A. I have been a valet for the last two years.

Q. Do you have any side line?

A. No, valet to one gentleman.

Q. How much is your salary there?

A. $65.

Q. How much was your salary with Mr. Dudley?

A. $40.

Q. Did you get any extra compensation with him that his wife didn't know about?

A. I got a suit of working clothes and a dress suit, shirt, collars, ties and cuffs.

Q. He didn't clothe you in addition to that, did he?

A. No.

Q. And who paid you?

A. Mr. Dudley, always.

Q. And he told you to be pretty careful and keep an eye on Mrs. Dudley, didn't he?

A. He did not; absolutely not.

Q. That shocks you, does it?

A. It does, and it isn't true.

Q. As a matter of fact, you did keep pretty close watch on Mrs. Dudley, didn't you, Mr. Stockton?

A. In what way?

Q. Yes or no; you can tell, cant you?

A. I kept no watch.

Q. You observed her conduct pretty carefully, didn't you?

A. Naturally, a butler would, wouldn't he, seeing people going in and out. That's my business.

Q. And you told Mr. Dudley what she did in the meantime, didn't you?

A. I did not.

Q. You never told him?

A. Not while I was in Mr. Dudley's employ.

Q. Never told him until long afterwards?

A. Four years afterwards.

Q. When did you first tell him about it?

A. Four years ago.

Q. When and where?

A. Well, the first of that was Mr. Dudley wrote me a letter and he told me that Mrs. Dudley was behaving very badly to him—

Q. He wrote you a letter? When was that?

A. About four years ago.

Q. And he asked you to testify in the case, didn't he?

A. He asked me—

Q. Just kindly answer yes or no.

A. Yes.

Q. And you gave him a full statement, didn't you?

A. No, I did not give him a full statement.

Q. You told him all that had happened, didn't you? Yes or no.

A. He got it in sections.

Q. You wrote it out for him, didn't you?

A. No, sir; I never put my hand to a pen.

Q. You never signed a statement for him?

A. No, sir.

Q. Never signed an affidavit for him ?

A. No, sir.

Q. Did you tell him all these things some time ago?

A. When I was asked.

Q. Did you tell him all these things that you have said to-day several years ago?

A. No, I told him all these things that I have told you to-day only last Saturday.

Q. Where did you tell him that?

A. At the club.

Q. Union League Club?

A. Union League Club, yes.

Q. In Philadelphia?

A. In Philadelphia.

Q. And who were present?

A. Well, it was his counsel and Mr. Dorrance.

Q. And Mr. Dudley?

A. And Mr. Dudley.

Q. And you and Mr. Strong?

A. Yes.

Q. Who else was there?

A. Nobody.

Q. Nobody?

A. Nobody else.

Q. Where did this take place, in a room in a hotel?

A. In a room in the club.

Q. Where did you go after you left Mr. Dudley's employ in 1905?

A. Where did I go? I went as valet to Judge Thayer of 1824 Pine street, but he was at that time staying in Atlantic City.

Q. How long were you with him?

A. Until October the 8th.

Q. Of that year?

A. Of that year.

Q. And then where did you go?

A. Then I came back to Philadelphia and I took a place with Miss E. C. Roberts, 1901 Walnut street.

Q. What did you leave Judge Thayer's employ for?

A. There wasn't enough money in it.

Q. What did he pay you?

A. $40 a month.

Q. And you had your board, too?

A. I did.

Q. Didn't you have any other reason for leaving him?

A. Not a particle.

Q. What did you leave Miss Roberts for?

A. Because I got more money.

Q. Where did you go then?

A. To the Aldine Hotel.

Q. How long were you with Miss Roberts?

A. Well, I went with Roberts in October, 1905, and I went with Mr. Flagg in 1910.

Q. In 1910 you went to the Aldine?

A. Yes.

Q. Were you born in this country?

A. I was.

Q. Whereabouts?

A. Germantown, a suburb of Philadelphia.

Q. How long ago?

A. 1870, October 7th.

Q. What has been your business ever since, valet?

A. Butler and valet has been my business. If I didn't get a position as butler I took a valet's job.

Q. What were you at Mr. Dudley's?

A. I was a butler—exclusively a butler.

Q. Now, you first went to his house when?

A. I went to Mr. Dudley in November, 1903.

Q. And stayed there until what time?

A. Until May, 1904.

Q. And during that time you didn't notice anything at all out of the way between Mr. and Mrs. Dudley, did you, the first time you were there?

A. Well, Mrs. Dudley used to get off these peculiar, uncanny remarks.

Q. That was all, was it?

A. That is about all.

Q. And you thought that was a little bit peculiar?

A. No, very uncanny to me. Of course, you know the definition of that as well as I do.

Q. And that is all that happened, she made some remarks that you thought were queer during 1903 and up until you left?

A. Yes, and called Mr. Dudley bad names and tried many times to make me believe that he wasn't straight —that he wasn't right.

Q. You mean that she told you those things?

A. Yes.

Q. When was it that you began to notice those things, right from the start?

A. Well, no, I didn't notice them very much until January, 1903. They began to get gradually worse.

Q. In January, 1903?

A. Yes.

Q. You are sure of that date?

A. Yes.

Q. No doubt about it in your mind?

A. I might be a little mistaken; it might have happened earlier.

Q. (By the Court)—What year?

A. 1903.

Q. January?

A. January, 1904. I have got the dates a little twisted. It was January, 1904.

Q. So you were there for almost a year before you noticed anything out of the way?

A. No, I was not. I went there in 1903, and I noticed it in January, 1904. I said January, 1903, and it should have been 1904.

Q. You went there in January, 1903?

A. I went there in November, 1903.

Q. For two months, then, nothing happened at all?

A. Nothing only what I have told you.

Q. Well, then, right from the start she began to act queer, didn't she?

A. No, not right from the start. What do you mean by the start, in November?

A. Answer the questions, please; did she, in November or December, 1903, make any uncanny remarks?

A. Not in November, that I know of.

Q. Did she in December?

A. A few.

Q. It didn't make any impression on you, did it?

A. Well, they did somewhat.

Q. Do you remember anything happening in February, 1905?

A. Yes, I remember several things happening in February, 1905?

Q. Did you take account of every time Mrs. Dudley went out of the house?

A. Well, I must say that I kept a diary.

Q. Have you got that here?

A. I have not.

Q. Where is the diary?

A. Destroyed long ago.

Q. When did you destroy it?

A. In 1908.

Q. And you kept a record of everything that happened?

A. Not particularly everything.

Q. Everything that was at all out of the ordinary you put down in your diary?

A. No, not particularly anything more than any man would that keeps a diary.

Q. Did you keep these things in your diary?

A. A few of those things I did.

Q. How long had you been keeping a diary?

A. Oh, I guess I had been keeping a diary for about fifteen years.

Q. And you have got them all for all those years?

A. No.

Q. What do you do with them?

A. At the end of the year I destroy them.

Q. Have you got any of your diaries for 1902 and 1903?

A. No; I am not keeping one now; I haven't been keeping one since 1911.

Q. Did you keep the pages from your diary that you destroyed?

A. No.

Q. But you kept that for three or four years?

A. Yes, I did.

Q. What time in 1908 did you destroy your diaries?

A. Well, towards the first week in January.

Q. Where were you working at that time?

A. In 1908 with Miss Roberts.

Q. In Philadelphia?

A. In Philadelphia.

Q. Who were present at the dinner party that night besides Mr. Waterhouse and Mrs. Waterhouse, Mr. Dorrance and Miss Knight?

A. Mr. Dorrance, Miss Knight, Mrs. Waterhouse and Mr. Dudley. Now, it runs in my mind that Dr. Getchell was there.

Q. Sure about that?

A. I wouldn't be positive.

Mr. Strong—What time are you referring to?

Mr. Carpenter—Christmas night, 1904.

A. (Continuing)—Oh, yes, there was Mr. Dorrance, Mrs. Waterhouse and Miss Knight, and Mr. and Mrs. Cragin.

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

A. Christmas night, 1904.

Q. 1904? Just think and see if you are speaking accurately.

A. (After a pause)—No, it was Christmas night, 1903.

Q. Now, then, where did you work before Mr. Dudley employed you?

A. With Mr. Daniel Ball.

Q. In Philadelphia?

A. In Philadelphia.

Q. How did Mr. Ball get hold of you, do you knew?

A. Mrs. Dudley left an order with an intelligence office.

Q. And he got you through the intelligence office?

A. Yes.

Q. Where did you work before you worked for Mr. Ball?

A. For a man by the name of Mr. Robbins, who is now dead.

Q. Where did you work before that?

A. I was with a gentleman by the name of Mr. Justice.

Q. Where was he?

A. In Germantown.

Q. And before that?

A. Before that was before I went to work at all; I went to school.

Q. Where did you go to school?

A. Germantown.

Q. What school?

A. Germantown Grammar School.

Q. Are you married?

A. No.

Q. Ever been?

A. No.

Q. Did you think it was queer that Mrs. Dudley should tell you to go and get fruit? Was there anything funny in that?

A. Well, it did strike me kind of funny when there was so much in the house of that kind. Of course, Mrs. Dudley didn't want that kind; she wanted grapes.

Q. And that is all she said to you, "Go and get some grapes"?

A. She said more than that, of course.

Q. Were you in the habit of arguing with her when she told you—

A. No, I didn't argue but very little.

Q. You did on this occasion?

A. I did.

Q. Now, didn't she tell you that you were employed as a spy on her?

A. No, sir.

Q. Didn't she tell you that you were incompetent?

A. No, sir.

Q. Didn't she tell you that you were incompetent around the house doing work and therefore she wouldn't keep you in her employ?

A. No, sir.

Q. Do you deny that she did that?

The Court—He has denied it; there is no use asking the witness whether he does deny it. Your question has been put and answered.

Q. Didn't Mrs. Dudley complain to you that you were constantly slipping away from your duty and were not in the house, and for that reason she would discharge you?

A. Never.

Q. Isn't it a fact that you were away from the house a great deal of the time?

A. No, sir.

Q. Didn't you sometimes go to Mr. Dudley's office during the daytime?

A. No, sir, absolutely never.

Q. Now, when you had that telephone conversation, the night that somebody called up and wanted to speak

to Margaret, on that occasion did Mr. Dudley talk over the telephone before that party disconnected?

A. Did he talk over the telephone before the party disconnected?

Q. Yes.

A. He tried to.

Q. Did he talk over the telephone before the party disconnected?

A. No, he didn't.

Q. The party disconnected before he came upstairs, didn't he?

A. He was upstairs.

Q. The telephone was upstairs?

A. Yes.

Q. Do you remember again that time that Mrs. Dudley went out of the house with a night gown under her arm?

A. I do.

Q. When was it?

A. That was in February, 1905.

Q. How do you know it was February, 1905?

A. Well, certain things occurred to me that makes it very clear to me.

Q. Well, what occurred?

A. I had an invitation to take a lady to a ball and it occurred the next night, which was on a Wednesday, and I remember cancelling it, and that was in February, 1905.

Q. Whereabouts were you standing in the hall when she went downstairs?

A. At the front door.

Q. Which side of the front door, towards the ferry?

A. No, it was towards 18th street.

Q. Uptown side?

A. Towards 18th street.

Q. And she came right downstairs and straight out of the door?

A. Straight out of the door.

Q. Did you open the door for her?
A. I did.
Q. Which arm did she have her night dress under?
A. The arm next to me.
Q. Was it hanging down?
A. It was rolled up.
Q. Were you upstairs when she rolled it up?
A. No.
Q. Did you have anything to do with her room?
A. No.
Q. Did you go in her room after she went out?
A. I did not.
Q. Before?
A. I did not.
Q. Did you go to the carriage with her?
A. I did not.
Q. All you did was to stand at the door and when she came downstairs open the door and let her out?
A. Yes.
Q. And she had something under her arm?
A. She did.
Q. Something white under her arm?
A. She did.
Q. Was it wrapped up in paper?
A. It was not.
Q. Sure about that?
A. Positive.
Q. No doubt about that?
A. Positive.
Q. All you saw was a white robe under her arm?
A. I saw a night gown under her arm.
Q. She had her furs on, didn't she?
A. I won't be very positive about that, but I know she had a black dress on.
Q. What else did she have on?
A. A black hat.
Q. Black waist?
A. Black dress.

Q. Whole dress black?

A. The whole dress was black.

Q. What color was her furs?

A. Well, I won't be positive about the furs—I won't be positive about that.

Q. Did she have an umbrella?

A. No.

Q. Was it raining?

A. No.

Q. Sure about that?

A. Positive.

Q. Now, you are positive that that was a night gown she had?

A. I am.

Q. Was anybody with her?

A. No, not that I saw.

Q. She had a French maid, didn't she?

A. She had.

Q. Do you talk French?

A. I do not.

Q. Did the maid talk anything but French language?

A. Yes.

Q. How much?

A. Considerable.

Q. When did she come over to this country?

A. That I can't answer.

Q. She came over with Mrs. Dudley, didn't she?

A. No, I think Louise had been in this country before Mrs. Dudley got her.

Q. Now, Mr. Dudley was out after dinner almost every night, wasn't he?

A. No.

Q. How often was he?

A. Twice a week.

Q. Wednesday and Saturday?

A. Yes.

Q. And he was away frequently on business trips?

A. Well, not very frequently.

Q. Did you keep in your diary a record of the times he was away?

A. Yes, I did.

Q. And a record of the times Mrs. Dudley was away?

A. I did.

Q. And you did that because you were in the habit of doing it?

A. Not any more than you would keep an ordinary diary and put down things as the days came along.

Q. Have you always kept a record of the times your employers were out of the house and stayed all night?

A. I have occasionally done it.

Q. Were you asked to do it on those occasions?

A. I was not.

Q. Were you asked to do it on this occasion?

A. I was not.

Q. But you kept a record of every time Mr. and Mrs. Dudley stayed away from home?

A. I did.

Q. And you showed that diary to people, too, didn't you?

A. I did not; absolutely no living soul ever saw it.

Q. No one ever knew it was kept but you?

A. No.

Q. You never told anybody?

A. I told Mr. Dudley, but only—

Q. Just a minute, I didn't ask you another word. Now, sir, you first saw Mr. Dudley after you were discharged in 1908, didn't you? Yes or no.

A. No.

Q. You first saw him a year or two after you were discharged, didn't you? Yes or no.

A. I won't answer that question; I was not discharged.

Q. After you left?

A. Now you are talking sense.

Q. A year or two afterwards?

A. No, it was not for three years afterwards, and I didn't see him then.

Q. Now, then, do you recall the second occasion in 1905 when Mrs. Dudley left?

A. Yes.

Q. When was that?

A. The second occasion that she went out was in February.

Q. February, 1905, was it?

A. It was.

Q. And she went out to the theatre that night, didn't she?

A. Not that I know of.

Q. Didn't Mrs. Dudley often go out calling on her friends in Philadelphia?

A. Yes.

Q. You knew that?

A. Yes.

Q. You knew where she went, too, did'nt you?

A. No, I never knew where she went.

Q. And you never knew where Mr. Dudley went?

A. I knew that he went to the club, and I knew he went to play cards.

Q. And you knew that because those were card nights?

A. That is all.

Q. And you didn't know where he went except that he told you where he was going, did you?

A. That is all.

Q. And when you say that he went to Boston, you don't know of your own knowledge that he went to Boston?

A. Well, he told me so, and I know we found the Boston paper in the bag after he came back.

Q. Now, do you know where he was April 12, 13, 14 and 15, 1915? Yes or no?

A. No.

Q. He was away from home those days?

A. He was.

Q. And you also know that Mr. Dudley was in New York frequently, didn't you?

A. Well, no, I can't say that I do.

Q. Don't you know that he and Mrs. Dudley oftentimes went to New York?

A. I know that they went to the opera—that I know.

Q. Went there frequently, didn't they?

A. Quite a few times.

Q. They had an opera box in Philadelphia?

A. Yes.

Q. And whenever there was an opera Mr. and Mrs. Dudley went?

A. Always.

Q. And did right up until 1905, the time that you were there?

A. Yes, always.

Q. And went out to the theatre occasionally?

A. Yes.

Q. Did you put down in your diary when they went out together?

A. Occasionally.

Q. Were you out of employment long after you left Mr. Dudley's house?

A. I was out of employment about four weeks.

Q. And you were living where then?

A. I was living at 1634 Latimer street.

Q. And where is that?

A. That is the first street below Locust, between 16th and 17th.

Q. And were you boarding there?

A. I was.

Q. And did you have any income during that time?

A. Yes, I did.

Q. And you got that from whom?

A. From Mr. Chalk.

Q. Who is Mr. Chalk?

A. Caterer.

Q. And were you working for him?

A. Yes, just by the day.

Q. And you had nothing to live on during that time?

A. I did.

Q. How did you know that Mrs. Dudley called up somebody down in Germantown on a certain street?

A. Because I was down on the third floor listening over the baluster rail.

Q. Did you hear her come in that night?

A. No, I saw her.

Q. What time did you see her?

A. Twelve o'clock, sometimes half-past ten and sometimes twelve, and sometimes one.

Q. Wasn't that an unusual matter for her to come in at so late an hour?

A. No. I know one night I sat up until after twelve o'clock.

Q. What hour was it that she came in that night?

A. Two o'clock in the morning.

Q. And you were fully dressed?

A. I was not.

Q. Where was your room, on the third floor?

A. Right directly over the staircase.

Q. In the back of the house, wasn't it?

A. Yes.

Q. And that is the furtherest part of the house from the front door?

A. No.

Q. How many floors are there?

A. Three floors.

Q. And you had the back room?

A. I had the back room.

Q. On the third floor?

A. On the third floor.

Q. And yet you watched Mrs. Dudley come into the house?

A. I didn't watch her come in, no.

Q. And what did she do when she came in?

A. She went to the telephone.

Q. The first thing?

A. Yes, and tried to call up somebody—who it was

I don't know. It was in Hansbury street, Germantown, and I don't believe she got the party.

Q. Did you hear her give the number?

A. No.

Q. Did you hear what Central it was?

A. I did not.

Q. Did you hear her have any talk over the 'phone?

A. I did not.

Q. You didn't catch one word she said?

A. What I could understand was that she couldn't get the party. I knew she was calling for Hansbury street, because I heard her mention Hansbury street.

Q. But you don't think she got the party?

A. I can't positively say that.

Q. Did you ever hear of Hansbury street before?

A. Certainly, I know it very well.

Q. What time was it that Mrs. Dudley left the house on the second occasion as you have described that she was away—what time of the day was it?

A. That was eight o'clock at night.

Q. How do you know it was eight o'clock at night?

A. I am judging of the time on account of buying the tickets.

Q. Have you talked over this matter pretty thoroughly with Mr. Dudley and his counsel?

A. Not until last Saturday.

Q. You talked it over very thoroughly at that time, didn't you.

A. Not very thoroughly.

Q. When was the time that Mr. Dudley sent the telegram from Broad Street Station that he wouldn't be home; do you remember that. I designate that as the third time she was away. When was it?

A. Well, he sent the telegram about—oh, it must have been about two o'clock in the afternoon.

Q. That is when he sent the telegram?

A. Yes.

Q. What time was it received at the house?

A. That is the time we received it. I don't know when the telegram was sent, but we received it at two o'clock in the afternoon.

Q. And then what was done?

A. Two trunks were carried down.

Q. Who carried them down?

A. Myself and Martin.

Q. What was done with them?

A. We placed them in Mrs. Dudley's room.

Q. How long were they there?

A. Until she got them packed.

Q. What did she do then?

A. The expressman came and carried them down.

Q. Did you know what expressman did the work?

A. I did not.

Q. You saw him take them down?

A. Yes, but I didn't know his name.

Q. Didn't you try to find out?

A. No.

Q. Wasn't the name on the express wagon?

A. It was a local express.

Q. And do you remember which one?

A. It was the Philadelphia local. There is only one Philadelphia local.

Q. Is that the Union Transfer Company?

A. It is the same thing.

Q. And you say she was away how long?

A. Three days.

Q. And do you know where she was?

A. I was led to believe she was in New York. Of course, I didn't know.

Q. You got pretty strong beliefs in that matter, did you?

A. Well, from observations.

Q. Your observations led you to believe that she was in New York; what did you observe?

A. All what Margaret had told me.

Q. And Margaret was the French maid?

A. Margaret was a daughter of Erin; she was not a French girl.

Q. That was Mrs. Dudley's private maid?

A. No, Mrs. Dudley's private maid was Louise.

Q. Now, when was the fourth occasion? When did you say the third occasion was?

A. That was in February.

Q. 1905?

A. Yes.

Q. And what day of the week?

A. It was on a Thursday—no, Wednesday, because Mr. Dudley was at cards that night. It was his card night out and I recall it because he was away on that occasion.

Q. Every other Wednesday and Thursday he was playing cards?

A. He was playing cards every Wednesday night and every Saturday night; at least, I was led to believe he was.

Q. Do you remember whether it was the middle of February or the first part?

A. No, it was in the early part of February.

Q. Now then, when was the fourth occasion that she was out?

A. At the end of February, coming up towards March.

Q. How long was she away at that time?

A. Over night.

Q. Sure about that?

A. Yes.

Q. What time the next day did she come back?

A. Well, on that occasion I think it was about half-past eleven o'clock on Monday morning.

Q. Did you see her go out that time?

A. No, I did not.

Q. Did you see her return?

A. I did.

Q. Where were you standing when she did return?

A. I looked out on Sunday afternoon and I saw Mrs. Dudley coming up the street.

Q. That was Sunday afternoon?

A. That was Sunday afternoon.

Q. You had some time off during the week, didn't you?

A. Thursdays.

Q. You always took Thursdays off?

A. Thursday was my night out.

Q. What time on Thursday did you leave the house?

A. We never got out until half-past three or four o'clock. On some occasions I might get out at two o'clock.

Q. And came back when?

A. I had to be in at ten o'clock, because the house was closed at that time.

Q. And were you away sometimes on Sunday?

A. Every other Sunday.

Q. And you were gone all day that Sunday?

A. No, I never got away on Sunday until after lunch.

Q. And then you would be off until when?

A. Until ten o'clock.

Q. When Mr. and Mrs. Dudley were away were you also permitted to be away a part of the time?

A. Very rarely I went out of the house when Mr. and Mrs. Dudley were away. I was out at night.

Q. Mr. and Mrs. Dudley when they were at home always took breakfast downstairs and you served it?

A. No, Mrs. Dudley always took her breakfast upstairs.

Q. And the maid would take the breakfast up?

A. I would carry the tray up and handed it to the bed-room door.

Q. Mrs. Dudley always had dinner downstairs?

A. Yes.

Q. She did all the time that you were there, didn't she?

A. Yes, she did all the time I was there.

Q. And clear up to the time you left in 1905?

A. Up to the time I left, yes.

Q. And Mr. and Mrs. Dudley most always had dinner together, didn't they?

A. Yes.

Q. Except on very rare occasions when they had difficulty, didn't they?

A. Well, it was constantly, more or less.

Q. But you don't mean to say they were quarreling every night at dinner?

A. Not necessarily every night.

Q. Once in a while they would have a little difficulty?

A. Quite frequently.

Q. And they always had wines and liquors on the table?

A. Always had champagne.

Q. All the time you were there?

A. Yes.

Q. Did you read that telegram that Mr. Dudley sent from Broad Street station that time?

A. I did; Mrs. Dudley showed it to me—handed it right to me to read.

Q. Did you read the whole thing?

A. I couldn't see anything very much in it except "won't be home to-night," except the address and it was signed, of course.

Q. How was it signed?

A. I think it was E. W.

Q. Who were there on that night that Mrs. Dudley had the dinner party in her husband's absence?

A. Well, there was Mr. Dorrance, Mrs. Waterhouse, there was Miss Knight and there was Mrs. Knight—that is, Mrs. Mary Knight. Now, I can't remember the others' names.

Q. How much are you getting for coming up here to-day?

A. Nothing at all.

Q. Nothing at all?

A. Absolutely nothing.

Q. Are your expenses paid?

A. I am paying my own expenses.

Q. You have got a promise of something?

A. I haven't got any promise of anything. I am paying my own expenses.

Q. You have got considerable interest in this case?

A. None whatever.

Q. And you are living over in Philadelphia, aren't you?

A. I am.

Q. And whereabouts are you living?

A. At the Aldine hotel.

Q. Living there all the time?

A. Yes.

Q. Have your room there?

A. I have, yes.

Re-direct examination, by Mr. Strong:

Q. Did I understand that you destroyed your diary in 1908?

A. In 1908.

Q. Was that before or after Mr. Dudley had communicated with you about being a witness or to find out what you knew?

A. Long before. I may as well state right here that the reason I destroyed that diary was I was taken sick—

Mr. Carpenter—I object to the reason.

Mr. Strong—I am asking the question; it might be commented on.

The Court—I think it is proper.

Q. Why did you destroy it?

A. I was taken sick, Mr. Strong, and I had quite a number of things that I didn't particularly care to preserve, and I didn't know which way things were going to turn and I thought I would destroy all these things, so that if anything did happen to me and the worse came

to worst why there would be nothing known. I didn't destroy those diaries only but I destroyed a lot of other papers that belonged to me concerning myself.

Q. When did you first tell Mr. Dudley that you had kept a diary?

A. I think it was in 1911.

Q. That is the first he knew of your having kept a diary?

A. Yes, 1911.

Q. Did I understand you to say when your attention was called to the days April 13th, 14th and 15th, 1905, that Mr. Dudley was away on those days?

Mr. Carpenter—I object. He has testified to that.

Mr. Strong—I want to know if he did or not.

Mr. Carpenter—I don't think it is proper re-direct examination and I object on that account.

The Court—The question really calls for a repetition of his testimony, but as this topic was brought out on the cross it is entirely proper for him on the re-direct to lead the attention of the witness to the circumstance and see if he cannot testify to anything more.

Q. Were you or not in the employ of Mr. Dudley at that time?

A. In 1911?

Q. No, April 13th, 14th and 15th, 1905.

A. I hardly think I was in his employ at that time.

Q. (By the Court)—Can you fix those dates, Mr. Stockton?

A. I cannot, your Honor, I don't think, because I went out of Mr. Dudley's employ in the early part of April, on a Monday morning.

Q. I understood you to say while you were under cross-examination that on those dates Mr. Dudley was away; I so understood you to testify. Did you mean to testify that way?

A. Well, I think not, your Honor.

Q. Well, do you recollect those dates, April 13th, 14th and 15th, 1905; can you fix them?

A. It has kind of slipped away from me.

Q. I may have misunderstood you; what can you testify to in regard to Mr. Dudley's being away on those dates? Do you know anything about it or not, that is the question.

A. 1905, you see that was the time that I walked out, your Honor, and it was in the early days of April. I would rather not be sure about that; I am not perfectly sure just now.

Q. What did you mean by testifying, as I have stated, if you did so testify?

A. If the previous question was read, perhaps I could call it to mind.

Q. Well, we won't stop to have the stenographer look it up, but as I recall the question and answer, counsel asked you whether Mr. Dudley was away on the 12th, 13th, 14th and 15th of April, 1905, and you answered in some form by assenting that he was; I do not recall exactly what you said in reply. Now, the question is, did you mean to so testify?

A. If I did, I don't remember it. your Honor.

Q. Never mind what you said, the question now is what is the fact as you now recall it; can you tell anything about where Mr. Dudley was on those days?

A. I don't know anything about where he was on those days, but I was led to believe that he went away on a business trip.

Q. How do you fix those dates as the days when he went away on a business trip?

A. Only by the telegram.

Q. The telegram which was shown to you?

A. Yes.

Q. Do you remember the date of that telegram?

A. No, I cannot remember that.

Q. Do you know the date when you left—when you walked out of Mr. Dudley's house and left his employ?

A. I don't know the day of the month, but I know it was on a Monday morning.

Q. You don't know the day of the month?

A. No, sir, I do not.

Q. But you know the day of the week?

A. I do know the day of the week, because that was on a Monday morning. Why I know that, your Honor, is because the Ketchell's were at dinner that Sunday night, and I took the book back the next day, which was on Monday morning.

Q. Can you tell what part of April it was?

A. According to my present recollection it was the second Monday of April.

The Court—Proceed.

Q. Have you any way of telling or fixing anything with reference to Mr. Dudley's being away on any particular days in April, 1905?

A. No, I have not, Mr. Strong, I have not.

Q. Have you anything in your mind that fixes at all the dates of April 12th, 13th, 14th and 15th, 1905?

Mr. Carpenter—This is a mere repetition, and I object, if your Honor please.

The Court—Well, I will allow questions on this topic; proceed.

A. No, I have not, Mr. Strong.

Mr. Strong—Having in mind your Honor's ruling a few moments ago, I want to ask a question I overlooked.

The Court—What is the question?

Mr. Strong—As to whether Mr. Dudley and Mrs. Dudley occupied separate rooms during the time he was there.

The Court—I will allow the question.

Q. What have you to say about that, Mr. Stockton, whether they did or didn't occupy the same room?

A. They did not occupy the same room in all my time in Mr. Dudley's employ, not at any time.

Q. And did the rooms communicate that they did occupy?

A. There was a door between, but it was always locked.

Mr. Strong—One further question I wish to ask, and that is as to the use of the telephone by Mrs. Dudley in 'phoning to New York and Jersey City and using a name other than her own.

The Court—I will allow it.

Q. Did you hear Mrs. Dudley use the 'phone, calling up somebody in New York or Jersey City?

A. Yes, sir, I did.

Q. And did you hear what name she used in doing that?

A. She used a man by the name of Fisher—a Mr. Fisher.

Q. Just what do you mean by that?

A. Well, the telephone had an extension. Mrs. Dudley always carried it into the bathroom when she wanted to talk to New York and the door was closed.

Q. How do you mean?

A. There was a long cable.

Q. Attached to the receiver?

A. Yes, attached to the telephone itself. There was a bookcase that stood in the hall, and on that bookcase there was a 'phone, just the same as this ledge is here. The bathroom door was right alongside of the end of the bookcase and all there was to do was to pick the receiver up and shut the door.

Q. Did you see her do that?

A. No, but there was a radiator that went from my pantry up to the bathroom, and all of the sounds of it was sent down into that pantry. I was not aware of that until this occasion I was sitting down on a

chair cleaning a piece of silver, and I heard Mrs. Dudley say to Mr. Fisher, "Watch him, watch him, Dud. is in New York; watch him." And that is all I know. The rest of the conversation I didn't get because the words were too low.

Q. Was there more than one occasion when you heard her talking to Mr. Fisher?

A. There was one other occasion when she was talking to New York, but on that occasion I don't know whether she was talking to Mr. Fisher or whom she was talking to.

Q. What were the circumstances of that occasion?

The Court—I don't see much significance in this, Mr. Strong.

Mr. Strong—Well, I won't pursue it any further.

Examination by the Court:

Q. You speak of two rooms with a door between which was kept locked; were the rooms on the same side?

A. Right at the end of the hall, and then there are two doors side by side entering from the hall. Mrs. Dudley's room was on that side (indicating).

Q. Then they weren't across the hall from each other?

A. Oh, no, sir.

Q. They were at the end of the hall, and not at the side?

A. They were at the end and side, too, like this.

Q. Did those rooms open on the street in front?

A. Mrs. Dudley's room was on Locust street and Mr. Dudley's room faced Harrison Gardens on the rear of the house. It was a narrow, oblong house; it had quite a long front.

Re-cross examination, by Mr. Carpenter:

Q. You can give us a little idea on this how they were, can't you?

A. Here was the staircase that came up here (illustrating on paper) from the hall. Here was the lower staircase under here, but that was the end of the hall. That turned and came up around here. Here was the hall along here. Here was the bathroom door right there. The bookcase was along here. Mr. Dudley's door went in there and Mrs. Dudley's went in this way, catacornered.

Mr. Strong—From the hall, you mean?

A. Yes, Mrs. Dudley's went in here. The bathroom was here, with the receiver of the telephone there.

Q. (By the Court)—Now, was there a door from the bathroom into Mr. Dudley's room?

A. Yes, sir, there was a door here that led into his room.

Q. And was there a door also in between their bedrooms?

A. Yes, but it was always locked.

Q. You are positive of that?

A. Certain. I never tried it, but I know it was locked.

Q. You never tried it?

A. I did on two occasions.

Q. When were they?

A. It must have been in 1904.

Q. Was anybody home at that time?

A. Margaret.

Q. Anybody else?

A. No.

Q. Where was Margaret when you tried to get in?

A. Sitting in Mr. Dudley's room.

Q. And you were trying to get in there?

A. No, I was not trying to get in.

Q. What did you try the door for?

A. Well, I don't know why I did try it.

Q. Did you try it twice on the same occasion?

A. No, I did not.

Q. Did you ever have any duties that called you in her room?

A. I did once to get the dog out.

Q. Those are the two times you tried to get in there; is that right?

A. No, that is not right.

Q. Well, what is right?

A. Once I tried the door when I took the fruit up to Mr. Dudley. Every night I took it up, and on this occasion I tried it and the door was locked.

Q. Was Mr. Dudley in her room?

A. Both out.

Q. Margaret was in Mrs. Dudley's room?

A. No, sir; she was fixing Mr. Dudley's room.

Q. Mr. Dudley hadn't come home yet?

A. No.

Q. What night was that?

A. I couldn't recall the night; that would be impossible.

Q. You knew Margaret was in the other room?

A. I knew Margaret was in Mr. Dudley's room when I went in with the fruit on the waiter.

Q. What was going on in the other room?

A. Nothing at all.

Q. What did you go in there for?

A. I didn't go in.

Q. You tried to go in?

A. I could have walked in if I wanted to off the hall.

Q. Did you try to go in that room?

A. I did not.

Q. Were those the only two times you ever tried in 1903?

A. I have already told you it was in 1904.

Q. Well, tell us what you did on that occasion.

A. I have already told you.

Q. All right. You were never up there in these rooms

when they were cleaned, were you? That wasn't the butler's job?

A. I was up on one occasion to help Margaret move the bed; that was all.

Q. How far away from the bothroom was this butler's pantry?

A. It was right under the bathroom.

Q. And you say you were down there in that pantry?

A. Yes.

Q. Listening to Mrs. Dudley talking over the telephone?

A. I wasn't listening; I was sitting down cleaning a piece of silver when the conversation started.

Q. And all you heard her say to Mr. Fisher was, "Dudley is in New York, keep after him?

A. That is all, or "watch him."

Q. You didn't hear her give the number?

A. I heard nothing else because her voice was raised when I did hear her.

Q. Did you go upstairs?

A. I did not.

Q. Had you been upstairs before?

A. I had not.

Q. Did you see that wire running from the bookcase into the bathroom?

A. I did not.

George M. Dorrance, sworn on behalf of the petitioner, testified as follows:

Direct examination, by Mr. Strong:

Q. Where do you reside, Mr. Dorrance?

A. Bristol, Penna.

Q. Are you in business at present?

A. Not in any active business at this time, sir.

Q. Were you acquainted with Edward Dudley and Mrs. Dudley?

A. Yes, sir.

Q. And how long have you known them?

A. I met Mrs. Dudley first on her arrival from Europe, after being married abroad, on the pier in New York.

Q. You had previously known Mr. Dudley, as I understand it?

A. Yes, and I knew his father.

Q. Were you frequently at their house?

A. Frequently.

Q. In Locust street?

A. Frequently.

Q. About how often were you there; give us an idea of about how frequently.

A. Oh, I should fancy two or three times every week —almost that. It was very often.

Q. You remained to dinner at times; you were frequently invited to dinner?

A. I remained every time to dinner; couldn't refuse.

Q. Did you observe Mrs. Dudley's conduct towards her husband?

A. You are speaking generally?

Q. Yes, at the times that you were in the house?

A. Yes.

Mr. Carpenter—I object, if your Honor please, and ask the Court to direct Mr. Dorrance to specify the times, because it does prolong the cross-examination, if it is not given.

The Court—That is a matter withn the discretion of examining counsel. It isn't of much value, in my judgment, but it is better to have the witness, as far as possible, give testimony and confine it to specific instances.

Q. Will you give us some instances of what you saw?

A. I can't give you any specific dates when I was at that house, but, as I said before, I was frequently there —nearly always dined there, and saw the two parties at the table, of course.

Q. Now, what did you see occur, so far as you can now recall.

A. As to the relations between the two you speak of?

Q. Yes.

A. Well, there were times when I thought Mrs. Dudley was very harsh in her remarks to Mr. Dudley.

Q. What remarks, can you recall?

A. I can't repeat the remarks; I can't remember the language, I wouldn't undertake to do it. I merely designate them as "harsh remarks."

Q. What was it that called for the remarks?

A. So far as I could observe, nothing. Mr. Dudley didn't respond.

Q. How frequently did anything of that kind occur in your presence?

A. Unfortunately, quite often.

Q. Did you take occasion to say anything to Mr. Dudley about it?

A. I became very much annoyed at its being repeated so often, so that on one occasion at the table, when the three of us were present, I remarked to Mrs. Dudley that if it didn't cease I would have to stop my visits; it made me too uncomfortable.

Q. Do you remember her reply to that?

A. I don't remember that she did reply; I can't recall any.

Q. Do you remember the occasion when Mrs. Dudley finally left the house?

A. I went up in the house with Mr. Dudley one afternoon for the purpose of a visit and dining with him, and it was stated—we had learned after we got there—that Mrs. Dudley had left the house.

Mr. Carpenter—I object to what was stated.

The Court—It will be excluded.

Q. Did you see any indications that she had left?

A. The lady was not there?

Mr. Carpenter—He can say what he observed in the house. I object to the question.

The Court—I will allow it.

A. There was no service on the table—none of the

regular service—silverware and so on, and the explanation given, I don't know by whom, that she had left the house.

Mr. Carpenter—I move to strike the latter part out, "that she had left the house."

Q. Did you go with Mr. Dudley through the house at that time?

A. I think I did.

Q. What did you observe as to the condition in the house?

A. Some confusion in the chambers, and so on.

Q. Well, describe it to us as well as you can.

A. Well, band-boxes and things of that kind generally distributed around, in one of the chambers, at least.

Q. (By the Court)—Did you see Mrs. Dudley in the house

A. She was not in the house, sir; at least, I did not see her in the house.

Q. What part of the house did you go into?

A. Into the dining-room, parlor, chamber upstairs—

Q. Did you go in the bedrooms?

A. The one bedroom that I speak of. I don't remember seeing more than one.

Q. Was there anybody there?

A. No.

Q. Do you know when that was?

A. I cannot give you the date, sir, positively; I can't even give you the year.

Q. How shortly before that had you been at the house?

A. Oh, I can't specify that date, Mr. Strong.

Q. Well, I mean within a few days?

A. Oh, yes, I was there very often.

Q. Well, after the occasion that you have told us about when you went there and there was no silver service on the table and you looked through the house and

found it in confusion and didn't find Mrs. Dudley, did you go there to dine?

A. I cannot recall specifically any visits after that. I may and I may not.

Q. Can you recall ever seeing Mrs. Dudley there after that?

A. I think not, quite sure not. Oh, I am confident not.

Q. (By the Court)—Do you recollect an occasion when you were at the dinner table at Mr. Dudley's house when there was some confusion and you seized a package of opera tickets or theatre tickets and the butler removed the candle from the table?

A. Your Honor, I am not clear on the circumstances of that incident. I would not like to give any testimony about it, because it is not entirely clear in my mind. I have heard what has been testified to here, but I cannot recall it, that is, the incident as detailed.

Q. Let me ask you, Mr. Dorrance, whether your memory is quite good nowadays about matters some years back?

A. Oh, I am not going to confess to old age, I can't tell you. I repudiate anything of that kind.

Cross-examination, by Mr. Carpenter:

Q. Mr. Dorrance, you have been a friend of both Mr. and Mrs. Dudley for a number of years, haven't you?

A. Yes, been treated perfectly well by them and entertained handsomely with the greatest kindness.

Q. I wish you would tell me as near as you can when it was that you spoke to Mrs. Dudley about her speaking harshly to her husband, saying if she didn't stop you didn't think you could come any more?

A. I answered that once before, Mr. Carpenter; I stated that I could not give dates.

Q. Can you say whether it was 1903, 1904 or 1905?

A. Oh, I will give you a variant of five years, yes.

Q. Well, as a matter of fact you did continue after that to call?

A. Oh, beyond a question, yes.

Q. I understand that you called at the house during all these five years that they were married and lived there?

A. Constantly.

Q. And you knew that every summer they had their silverware stored away in the bank when they went to Europe?

A. I can't recall it now, but no doubt I did know it, for I used the house pretty much as I did my own.

Q. Now, when you went through the house with Mr. Dudley in 1905 you only went through Mrs. Dudley's room?

A. I can't recall any other room.

Q. And it was in that room that you saw the band-boxes?

A. Yes, some confusion; I can't specifically state just what it was now.

Q. You didn't go through Mr. Dudley's room?

A. I don't recall doing that.

Q. And it was that room from which Mrs. Dudley's personal apparel had been removed; isn't that so?

A. State that again.

Q. It is from that room—

A. Oh, no, no, from her own chamber.

Q. That is, from her own room?

A. Yes.

Q. Now, none of the furniture or pictures had been removed?

A. None that I recall, sir.

Q. And there was only the silverware that had been taken from the dining-room; is that all?

A. That is all I noticed, or that I can recall now.

Q. You also know that the house was closed after that, do you not?

A. After that occasion that we are speaking of, yes, it was closed, but how soon afterwards I can't tell you.

Q. It was closed during that summer, was it not?

A. Oh, yes, I am quite sure.

Q. You remember also, do you not, that there was a crash covering on the floor, covering the carpets, and that the curtains were in bags?

A. On this special occasion?

Q. Yes.

A. No, I don't remember that; I know it was the habit of the family to have them covered, both crash and bags.

Q. You remember that the plush chairs were covered?

A. I think they had slips on.

Q. The pictures were also covered for the summer, were they not?

Mr. Strong—You mean at that time?

Mr. Carpenter—At that time.

A. Oh, I can't answer that.

Q. After Mrs. Dudley returned from Europe didn't she call to see you that summer of 1905?

A. Where—call to see me where?

Q. Did she call to see you anywhere, I can't give you the time?

A. There was an occasion when both Mr. and Mrs. Dudley, together with a party, on invitation came to my house; if more than once I don't recall, but I know on one occasion with the Getchells. I remember that well.

Q. Did Mrs. Dudley ever call to see you on your birthday?

A. At Bristol?

Q. Yes.

A. I stopped the birthdays, Mr. Carpenter, recently, and I don't recall it.

Q. Didn't Mrs. Dudley have a talk with you in which she complained about the treatment that she received at her husband's hands, and didn't she cry and say it was terrible to think that her home was broken up?

A. Oh, she made these complaints to me.

Mr. Strong—One moment, this is not competent unless Mr. Dudley was there. You worked that on me a few times.

The Court—How can statements of Mrs. Dudley be proved in this way? This is not cross-examination; no objection is made on that ground.

Q. Didn't you call on Mrs. Vanderpoel at one time?

Mr. Strong—Oh, I object as not proper cross-examination.

The Court—How is that proper cross-examination. The witness has not testified on direct with regard to Mrs. Vanderpoel.

Mr. Carpenter—I will make him my own witness.

The Court—Well, you may call him afterwards.

Mr. Carpenter—If your Honor will remember, he will be out of the jurisdiction.

The Court—Well, finish your cross-examination.

Mr. Carpenter—I have.

The Court—Is there any objection to counsel making this witness his own, so as to save having the witness come here again?

Mr. Strong—I suppose it will save Mr. Dorrance another trip over here.

The Court—Proceed.

Q. Do you remember, Mr. Dorrance, going to see Mrs. Vanderpoel on one occasion at the home of Miss Brice?

A. Yes, sir, I dined there.

Q. And do you remember remonstrating with Mrs. Vanderpoel?

A. About what?

Mr. Strong—I don't think this is competent.

Q. Can you give any conversation which you had with Mrs. Vanderpoel?

A. No.

Mr. Strong—Now, I object. Certainly whatever Mrs. Vanderpoel may have said in the absence of Mr. Dudley isn't competent.

The Court—The question, however, has been answered.

Q. Do you recall whether that was before Mrs. Dudley went to Europe in 1905 or afterwards?

Mr. Strong—Well, I object to the whole business; I don't think whether before or after—

The Court—Do you wish to proceed and take the answer?

Mr. Carpenter—Yes, I do.

The Court—It may be answered.

Q. Do you remember whether it was before or after Mrs. Dudley went to Europe in 1905?

A. Oh, it must have been before; if I understand that the house was closed in 1905 at 1723 Locust street, then certainly it was before that time.

Mr. Strong—I would like now to read the deposition of Mrs. Angeline B. Knight, taken at Trenton, on January 28th, 1911, Mrs. Knight being a resident of Missouri and only temporarily in the State.

The Court—No question raised about Mrs. Knight not being produceable here?

Mr. Carpenter—There is, if you Honor please, and my objection is that the testimony of the witness is not within the provisions of the statute and contrary thereto.

The Court—Is not the impending departure from the State a sufficient cause under the stat-

ute for taking the deposition on notice *de bene esse?*

Mr. Carpenter—She was going to be back here in this country before the trial. That is the point of my objection.

Mr. Strong—Oh, no; she is a resident of Missouri.

The Court—I asked you whether on the start it was conceded that she could not be produced here. If you do not concede that we will take testimony on the subject. I would like to have you point out the statute, but I will say my recollection of the act is that it is sufficient to warrant taking the testimony *de bene esse* if it appears at the time the witness is temporarily in the State and is about to depart from the State and resides abroad. It may appear on the trial two years later that the witness has been back in the State four or five times and gone back to a foreign State where she resides. The important point is, whether at the time of the trial the witness can be produced. If the witness was here yesterday or is here to-day, why this deposition cannot be read.

Mr. Carpenter—I will read the act, if your Honor please. (Mr. Carpenter reads the act.)

The Court—Well, I do not discover any defect in this deposition. Have you another witness here now?

Mr. Strong—Not to-day; no, sir.

The Court—Do you expect to have to-morrow?

Mr. Strong—No, sir, I have nothing more to offer excepting the deposition that I expect to take on Friday of Mr. Brightley, and with that exception and this deposition we rest.

Mr. Carpenter—If your Honor please, to-morrow, after Mr. Strong rests, I suppose your Honor expects Mrs. Dudley to go on the stand?

The Court—I expect you to produce your witnesses. The order in which you put them on the stand is entirely within your own control.

Mr. Carpenter—Mr. Strong is going to take the testimony of Mr. Brightley in Philadelphia. Mr. Brightley was formerly Mrs. Dudley's counsel, and he is the one I subpœnaed to produce a paper in Philadelphia and who when asked if he had produced that paper disregarding the request of the defendant to answer said that he intended to answer the question in his own way, and then for thirty-four pages —

The Court—Yes, I recollect that.

Mr. Carpenter—Now, then, he has been subpœnaed, I believe, by Mr. Dudley to testify on his behalf on Friday. He will doubtless testify to some transactions with Mrs. Dudley. I think there are very great reasons why Mrs. Dudley's testimony should not be taken before his.

The Court—It is not at all clear that Mr. Strong will have an opportunity to take this testimony on Friday. I notified counsel that this case was on trial and that the trial would proceed yesterday, to-day and to-morrow, and that I would hear any applications on either side for leave under the rule to take the testimony of other witnesses. It is better that a case like this should be tried continuously. A break in order to take testimony in a foreign State by commission is a disadvantage and counsel will have to show that they were not able to take the testimony in advance and they will have to show that the testimony to be taken is important. The case will be tried and it will not be held up on either side in order to have any testimony taken abroad. I don't see, gentlemen, that there is any valid objection to this deposition. Mr. Frank P.

McDermott is not in the habit of making objection without any merit, and I must confess I would like to have pointed out what was really in his mind when he made that objection.

Mr. Strong—I think it is quite significant that he did not specify any particular objection.

The Court—It is true that some people make that kind of objection, but Mr. McDermott does not belong to that class. It is so near five o'clock, however, I think we will take our recess here until to-morrow morning at ten o'clock and then, Mr. Carpenter, you can confer with Mr. McDermott and find out what objection he had in mind.

Adjourned until Thursday, November 21st, 1912, 10 A. M.

CHANCERY CHAMBERS, Jersey City,
THURSDAY, November 21st, 1912, 10 A. M.

All counsel present as before.

Mr. Strong—Your Honor will recall that I was offering the deposition of Mrs. Knight when we adjourned last night.

The Court—Mr. Carpenter, have you anything further to say in regard to the technical objection to the deposition-

Mr. Carpenter—No, sir; I have not.

The Court—Well, no objection being pointed out to the Court it will be received.

Mr. Carpenter—Further than the one noted on the minutes.

The Court—The one noted on the minutes is of such a general character that I cannot take it.

Mr. Carpenter—That objection, I suppose, will stand here on record in this court?

The Court—Oh, certainly.

The deposition of *Mrs. Angeline B. Knight* is read in

the cause on behalf of the petitioner, Edward Dudley, by Mr. Strong.

(*Mrs.*) *Marie Dudley,* the petitioner, sworn in her own behalf, testified as follows:

Direct examination, by Mr. Carpenter.

Q. Mrs. Dudley, you are the wife of Edward Dudley, mentioned in this suit?

A. Yes.

Q. And when did you first meet Mr. Dudley?

A. About 1896 or 1897, somewhere along there; I don't exactly remember the date.

Q. Do you recall where it was you met him?

A. Yes.

Q. Where?

A. At the home of Mrs. Mazzanobitzh.

Q. And that was located where?

A. About 28th or 29th street, somewhere along there; I have forgotten the address.

Q. And do you remember what was going on there at the time you met your present husband?

A. Yes, I think she was giving a luncheon.

Q. And Mr. Dudley was a guest there also?

A. I think he came in afterwards.

Q. At that time you were married, were you not?

A. Yes.

Q. Can you state to whom?

A. Yes.

Q. What was your husband's name?

A. Edward Warren Duflon.

Q. And did you see Mr. Dudley after that?

A. Yes.

Q. How often until the time of your marriage?

A. Oh, quite often.

Q. And you were married when and where?

A. March 4th, 1899. Oh, when do you mean, when I married Mr. Dudley?

Q. Yes.

A. March 4th, 1899, in Naples, Italy.

Q. And between the time that you met him and the time that you married him, how frequently, as nearly as you can state, did you see Mr. Dudley?

A. Oh, I don't know; in the winter very often.

Q. Did he take you out?

A. Yes, to dinner, and theatre, and opera or shows.

Q. How often did he do that during the winter?

A. Oh, I don't know; very often.

Q. And, in fact, he requested you—

Mr. Strong—Don't lead, please.

Mr. Carpenter—Well, it is a matter Mr. Dudley has already testified to.

Q. Did he ever introduce you to a gentleman by the name of Paul Cravath, in New York?

A. Yes.

Q. For what purpose?

A. For the purpose of getting a divorce.

Q. From your first husband?

A. Yes.

Q. And after that did you get a divorce from your first husband?

A. Yes, I did.

Q. And who made the suggestion that you get that divorce?

A. Mr. Dudley.

Q. Now, how long had you been in Naples before you were married?

A. I think about six weeks.

Q. How long before you were married did you see Mr. Dudley there?

A. I don't know; I don't like to say. Maybe two weeks or something like that.

Q. And then after that where did you go?

A. To Monte Carlo first.

Q. And after that?

A. To Paris and London, and we sailed from London on the old City of Paris for New York.

Q. Do you recall the day that you sailed?

A. The day that we sailed?

Q. Or the day that you got there, either one.

A. Yes, I recall the day we arrived; I don't think I recall the day that we sailed.

Q. When was the day you arrived?

A. My recollection is it was a Saturday.

Q. And do you know the day of the month?

A. No, I don't.

Q. Do you remember what month it was?

A. I don't know; it may have been June, or May, I think.

Q. And when you were in Paris, did you do some shopping together?

A. Yes.

Q. And what was purchased for you, if anything?

A. Oh, clothes—hats and things.

Q. Can you describe what kind of clothes they were as to cost?

A. Very lovely; everything of Paquin's and Worth's and places like that.

Q. Do you remember whether he purchased any jewelry after you were married?

A. Oh, yes, he did.

Q. After arriving in New York, where did you go?

A. Why, we went directly out to Camden, to the "Grange."

Q. Do you recall what time of day you arrived there?

A. Yes, I think it was about eight o'clock in the evening.

Q. And Mr. Dudley, of course, was with you at the time?

A. Yes.

Q. Do you recall anything that happened during that time?

A. Yes.

Q. Please state what it was.

A. Why, we arrived at the city station, and there was

a rather long board walk up to the house from the station, and we were met at the gate by a great many dogs, large dogs, mastiffs, maybe fourteen or eighteen in number. There was quite a number, and they followed us all the way up; we were surrounded with them, and we finally got to the house.

Q. Did anything else occur there?

A. We arrived, and we went in the house, and we met Mrs. Trotter and Mr. Trotter and Miss Matlick. Mr. Trotter and May met us at the depot with Mr. Dorrance when we arrived.

Q. Who were Mr. and Mrs. Trotter?

A. Mrs. Trotter is Mr. Dudley's sister. We went and sat down and talked a little while and finally retired.

Q. Do you remember what day the next day was?

A. I think it was Sunday; I don't like to say.

Q. Did anything happen then?

A. Well, our breakfast was sent up, and we had our breakfast of strawberries and cream, and coffee and cream, and cream toast, and scrambled eggs, and the cows had been in the garlic, and we didn't have very much breakfast.

Q. You mean because the milk was flavored with garlic?

A. Yes, and everything was cooked with milk.

Q. Did Mr. Dudley tell you that you were to occupy a second place at the home?

A. No.

Q. Where did you sit at the table?

A. I sat beside Mr. Dudley.

Q. And he was at the head of the table, wasn't he?

A. Yes.

Q. Who sat at the other end of the table?

A. Mrs. Trotter.

Q. And did she always do that?

A. Yes, always.

Q. How long did you remain at the Grange?

A. I think about two weeks.

Q. And, by the way, the station you arrived at that night was called what?

A. Dudley Station.

Q. And that is on the line of what road?

A. Pennsylvania Railroad.

Q. And can you tell us anything else that occurred while you were at the Grange?

A. Yes.

Q. What was it?

A. I didn't go out very often. I went out on one or two occasions to sit on the piazza, and when I did so these dogs were all unfastened and let loose; they were kept out at night just to keep the tramps and burglars and prowlers away, and the dogs came snapping down on me. We didn't get time to get acquainted with the dogs—at least, I didn't. I like dogs.

Q. Now, did anything else occur there?

A. Yes, I think so. I think his sister was constantly disagreeable. I didn't see that they had any affection for Mr. Dudley; I didn't see that he was welcome even, or that his relations with them were friendly, or that he seemed to be at home there at all. There didn't seem to be any affection there.

Q. Were you made welcome there?

A. No, not at all.

Q. And can you give us anything that illustrates that?

A. Yes, I think Mrs. Trotter was constantly rude to me. I think she resented my coming there.

Mr. Strong—I dislike to object, but these are mere conclusions. We should have something else from this witness.

Q. Can you tell us anything else that happened about the trunks?

A. Yes, we had a large storeroom in our maid's room upstairs, where our trunks were, and they wished to have them sent out in a shed in which they kept a cow.

Q. Someone told you?

A. Yes, and they had clothes in them.

Q. Some of the Paris gowns?

A. Yes, many things that we had purchased, and things that I didn't have very much closet room for.

Q. And did you complain to Mr. Dudley about that?

A. No, really I don't think I did very much; I really felt sorry for Mrs. Trotter. I understood how she felt—really admired her for it.

Q. And after that, where did you go?

A. Why, I thought that we would be happier somewhere else, and I thought the others would be happier if we were somewhere else, and we went over to the Bellevue and stayed a little while in Philadelphia, and after that we went down to Atlantic City, and then I think after we were there for a while we had had an invitation to go down on Mr. Widener's yacht to Newport.

Q. Newport or Narragansett, Mrs. Dudley?

A. We did go to Narragansett Pier, yes, but we went to Newport and landed in Newport and then Narragansett Pier is very near and we went over there and stayed there for the rest of the summer.

Q. Now, when you were at Atlantic City, did you speak to Mr. Dudley about any lady that was there at the hotel?

A. Oh, yes.

Q. You remember, Mr. Dudley spoke about your quarreling with him about a young lady that was there, staying at the hotel?

A. Yes, I met Mr. Sellers and Mrs. Sellers and Miss Bessie Sellers, and Miss Agnes Sellers I had a very slight acquaintance with, and a very pleasant acquaintance with, and there was nothing on the part of either of those two ladies I thought was improper.

Q. Did you ever accuse your husband of any improper conduct?

A. Oh, no, never; couldn't.

Q. You had no complaint to make?

A. No, and my acquaintance was very slight.

A. And did you, in the hall of the hotel, or in your room with the door open, speak in a loud tone about his conduct or actions with these ladies?

A. No.

Q. And did you at that time—I must ask you this direct—call him a damn fool and damn rascal, and charge him with infidelity?

A. I don't use such language.

Q. You did not at that time?

A. No.

Q. Then in Newport, did you meet Mrs. Tilghman?

A. Yes, we met her at Narragansett.

Q. Did you ever complain to Mr. Dudley of his relations with her at Narragansett?

A. Oh, no.

Q. Did you have any cause to?

A. No.

Q. Then after you had been there, where did you go, after your stay there was concluded?

A. I think we went to the Waldorf. I don't like to say; I don't remember.

Q. Tell us as near as you can.

A. I don't know whether we stopped there—yes, I think we went to the Waldorf.

Q. And from there, where did you go?

A. Back to Philadelphia, to the Bellevue, I think; maybe somewheres else, and maybe to the Bellevue.

Q. Now, then, how long did you stay at the Bellevue.

A. I don't know. We were over there, and Mr. Dudley came in one evening and said he wanted to show me something, and wanted me to take a walk with him, and we did take a walk, and we walked up the street, and he took a key out of his pocket and went into the house and opened the door of the house and we walked in. He says, "Marie, what do you think of this?"

I says, "Well, I think it is lovely."

"Well, I have taken this house all furnished."

It was very attractive and we went all through it, and in a few days—I don't think it was very long after that—we moved in.

Q. How did you get along?

A. Very much better; it was lovely. And we gave a reception there and Mrs. Trotter assisted me in receiving, and also Mr. Dudley's daughter, Miss May Dudley, and Miss Matlick, Mr. Dudley's aunt.

Q. Now, you went there in the fall of 1899, was it?

A. Yes, I think it was.

Q. And did you stay there during the winter?

A. Yes. We may have gone away in the spring; I don't remember. I know we went back and forth to New York; always went over for the horse show week and went over to go to the theatres.

Q. And sometimes stay in New York a week at a time?

A. Yes, more. Mr. Dudley would stay a full week, but he would leave me there and then maybe come back on Friday.

Q. Was Mr. Dudley always home evenings?

A. Yes, we were always together, with the exception of his card-party nights, of course.

Q. When did he have the card parties?

A. On Wednesdays and Saturdays.

Q. And did he always stay away on those evenings?

A. Always—not at first always.

Q. When did he commence to play cards?

A. He always played cards.

Q. You mean, as early as you knew him?

A. Yes.

Q. You mean from the time you went to the Grange; did he play during that time?

A. Oh, yes; he took the last trolley out at night, and sometimes he would have extra games.

Q. Now then, did he continue his playing in Philadelphia?

A. Yes.

Q. And during the first winter did you entertain?

A. Yes, a great deal.

Q. And these people that you have mentioned were your guests?

A. Yes.

Q. Can you mention some other guests at your house?

A. Mr. Dorrance, Mr. Weidener, both Mr. and Mrs. George Weidener, Mr. and Mrs. Joseph Weidener, Mr. George Huhn, Sr., and Mr. Huhn's wife—Mr. and Mrs. Huhn, Sr., and Mr. and Mrs. Huhn, Jr., Mr. and Mrs. Waterhouse, and Mr. and Mrs. Col. McClure, Dr. and Mrs. Getchell, Miss Lily Getchell, Mr. C. L. McGee, or Pittsburg, and Mrs. McGee, a dear friend of mine, and Mr. and Mrs. George Van Bonhurst.

Q. Did you have the card parties at your house?

A. Yes.

Q. Do you remember what year that was?

A. That we had card parties at the house?

Q. Yes.

A. No, I don't recall that year. I know there was one year when we didn't play at the hotel; played at different houses for sometime.

Q. Now then, you went there in the fall of 1899?

A. Yes.

Q. When next did you go away for any extended trip?

A. Then we went abroad in the late spring or early summer—I have forgotten the month we went to Europe. We went to London.

Q. (By Mr. Strong)—That was in 1900, was it?

A. Yes, sir.

Q. How long were you in Europe?

A. Why, I don't know; two or three months maybe.

Q. And when you were there at that time did you make purchases of gowns and such things?

A. Yes.

Q. Was Mr. Dudley with you?

A. Yes.

Q. And where did he take you to purchase those things?

A. To places like Paquin's, and Worth's, and all the very best dressmakers and milliners.

Q. Can you tell us what such purchases amounted to?

A. No, I haven't any idea now. I would like to say I know he carried a letter of credit for ten thousand pounds—isn't that $10,000?

Q. Ten thousand pounds is $50,000.

A. Well, ten thousand dollars.

Q. Did he use that in making those purchases?

A. Some of it, I suppose. I don't know what he did with it. I know he carried that sort of letter of credit.

Q. He told you he did?

A. I saw it, went with him to the bank always.

Q. And did he purchase jewelry for you over there?

A. Oh, maybe some trinkets or something. We bought presents to bring home—bought a handsome ring for Lawrence.

Q. Were they expensive things?

A. Yes, just trinkets, just as souvenirs.

Q. Your relations with Mr. Dudley at that time were always of what nature?

A. Very pleasant. We had a lovely time together.

Q. And the next winter—the winter of 1900 and 1901—did you live in the same house with him?

A. Yes, but we furnished it ourselves.

Q. When was it that the other furniture was taken out?

A. At the end of that season they took it out when we went to Europe and then we had the decorators come in and the whole house was done over, and what

the owners refused to do we did ourselves, to suit our taste, and then we started in to furnish the house, and we bought a great deal of our furniture in New York, and we were in New York a great deal of time selecting the things for the house—spent a great deal of time over there, and it took us sometime to furnish the house. In 1900 we bought one set of furniture at the Paris Exposition when we were over there, for my reception room. Mr. Dudley gave it to me.

Q. And can you give us some description of it?

A. Yes, it was very beautiful.

Q. Do you know what it cost?

A. No, I haven't any idea. We always dealt in francs and when it is translated into dollars and cents I have forgotten. But we order things to go with it; we ordered a pole made for the door, to match the one they had to go over the windows so as to have everything consistent.

Q. Can you describe any of the furnishings in the house?

A. Yes, the dining-room furniture was imported set of furniture from France, and another piece Italian in the dining-room. The draperies were all made by Sloane, of New York, and the drawing-room furniture was carved mahogany and French gilt, and we had some very choice pieces in there, Louis XV table, antique table, from Herter's, in New York, and the tapestries were all French, imported, silk tapestries.

Q. And your silver service, whose was that?

A. I thought it was mine. It had my name on a great many things. We got our silver by degrees, and had quite a lot of it.

Q. Why did you think it was yours, Mrs. Dudley?

A. Why, Mr. Dudley and I would go to Caldwell's together and he would ask me what I wished, and he would select something, and generally they were marked with my full name on—Marie Dudley.

Q. In full?

A. Yes. Some were not and some were. We had none of the Dudley silver in our house. Mr. Dudley had kept house before. He was twice married, and he never had any of his silver; Mrs. Trotter had it. She did on one occasion when I first started to keep house loan me a couple of pieces, and she sent a butler for them the next day and I returned them, of course. Mrs. Trotter gave me some very handsome Christmas presents, one a silver candlestick, and May gave me a silver dish, and Lawrence gave me a silver dish, and different members of the family gave me some handsome pieces, and when I arrived at the Grange they had a handsome breakfast set for me, given by Mr. and Mrs. Trotter, and Lawrence gave me a very handsome cup and saucer, China.

Q. So that those were all in your home on Locust street?

A. Yes, sir.

Q. The house you have described was the one on Locust street?

A. Yes, No. 1723 Locust street.

Q. And that house was so situated that it overlooked Rittenhouse Square?

A. Yes, sir.

Q. And you agree with Mr. Dudley that that is the most exclusive residential section in Philadelphia?

A. Yes, sir.

Q. The most wealthy people in Philadelphia live in that neighborhood?

A. Yes.

Q. And were the people you mentioned a little while ago wealthy people?

A. Most of them were.

Q. And rank with the most wealthy people of Philadelphia?

A. Yes.

Mr. Strong—You are leading just a little.

Q. Now, do you remember when it was that you had your house completely furnished by yourself?

A. Oh, it wasn't completely furnished in 1905, because we were getting things by degrees. We preferred to get them, don't you know, in that way; but it looked lovely.

Q. When did you take possession of it, after you had made these purchases in New York??

A. Oh, yes, we went right in the house. We went in on the bare boards, almost, you know.

Q. And that was in the fall, was it, or winter of 1900?

A. Yes, 1900.

Q. During that winter did you entertain?

A. Yes.

Q. How much?

A. A great deal.

Q. Can you tell how often in a week?

A. Oh, I don't know; we had a large reception, and then of course we gave dinner parties very often. Mr. Dudley gave a dinner to all the judges around there, and he would give dinners to his men friends, and I had luncheon for my lady friends, and we entertained a great deal—had card parties, and all that.

Q. And you also were invited out?

A. A great deal.

Q. To most of these people you have mentioned?

A. Yes.

Q. And do you remember when you went away on any other trips after the fall of 1900?

A. Oh, yes, we were every year to Palm Beach, Florida, and we went once to Cuba.

Q. When did you go to Cuba?

A. In 1903, I think.

Q. Did you go to Cuba more than once?

A. No, only once.

Q. You and Mr. Dudley went together to Cuba, I suppose?

A. Oh, yes.

Q. And where did you stay in Palm Beach?

A. With Mr. and Mrs. Charles I. Cragin.

Q. And do you recall the time that you stayed with them?

A. I think it was in February.

Q. Of what year, 1901?

A. 1903, I think.

Q. In 1901 do you recall any trips that you made then?

A. I don't know that we went to Palm Beach that year; I don't know, I wouldn't like to say.

Q. And when did you go to Europe again?

A. In 1901, in the spring—late spring or early summer.

Q. Who went with you at that time?

A. Mr. Dudley.

Q. And do you recall how long you were gone?

A. We stayed all summer and came back in September, I think.

Q. You took up your residence again on Locust street when you returned.

A. Yes.

Q. And stayed there during that winter?

A. Yes.

Q. Did you give receptions again, as usual?

A. Yes, entertained more than ever, I think.

Q. The same circle of friends?

A. Yes.

Q. And you were, I suppose, also invited out often?

A. Yes.

Q. And is that the year that you went to Palm Beach?

A. I think so. I think we went in 1902.

Q. And do you recall how long you were gone?

A. About a month—five or six weeks. I should think about a month.

Q. And do you recall—

A. I went to Cuba longer than that.

Q. Did you go from Palm Beach to Cuba?

A. Yes, from down south?

Q. Now, when did you first meet Mrs. Vanderpoel, do you recall?

A. I think it was in the winter of 1901 and 1902.

Q. And where did you meet her?

A. I met her at the home of Mr. and Mrs. John Nicholas Brice. We were invited to a dinner party to meet Mrs. Vanderpoel.

Q. It was an invitation affair, was it?

A. Oh, yes.

Q. Invitations sent out?

A. Yes.

Q. Did you go?

A. Yes.

Q. And did Mr. Dudley go?

A. Yes.

Q. And met Mrs. Vanderpoel?

A. Yes.

Q. Can you tell anything that occurred?

A. Mr. Brice took me in to dinner and I think Mr. Dudley took Mrs. Vanderpoel in, but I am not sure. I know he sat beside her at the dinner party.

Q. And then what happened after that?

A. Then I invited Mr. and Mrs. Brice, Miss Anna Brice, and Mrs. Vanderpoel to my house for dinner, and invited some people there to my house.

Q. Did anything occur at that time?

A. No.

Q. Now, then, when did you give that dinner?

A. That same winter, very shortly after we had been there and met her.

Q. Did you become friendly with Mrs. Vanderpoel?

A. No, I don't think I ever was a friend of Mrs. Vanderpoel.

Q. That was the winter of 1901 and 1902, wasn't it?

A. I think so.

Q. Now, then, in 1902 did you go to Europe again?

A. Yes.

Q. And when did you leave, do you recall, for Europe?

A. Leave for Europe?

Q. Yes.

A. Late in the spring or early summer.

Q. Now, in the winter previous to your going to Europe in 1902, did you come to New York?

A. Yes.

Q. With your husband?

A. Yes.

Q. Frequently?

A. Yes, we always came over the horse-show week every year and stayed a full week, and we were over here a great deal when we were buying furniture.

Q. And did that continue all of the time that you were living on Locust street, up to 1905, that you purchased furniture?

A. Yes, and looking at things.

Q. You were always looking at these things for new additions to your house?

A. Yes.

Q. Now, did you and your husband go alone to Europe, or did anyone travel with you?

A. Why, we went alone, yes.

Q. Whom did you meet on the other side, if anybody?

A. Miss Brice and Mrs. Vanderpoel.

Q. Where did you meet them?

A. In London.

Q. Where did you go from London?

A. I think we went to Paris.

Q. And whom did you meet there, if anybody?

A. Miss Brice and Mrs. Vanderpoel.

Q. How long had you been in Paris?

A. Not very long.

Q. And do you remember where you were staying there?

A. Yes, at the Hotel Ritz.

Q. And that is one of the best hotels in Paris, is it?

A. Yes, it was considered then—most expensive.

Q. How long did you stay in Paris?

A. I got some clothes—some gowns and hats and things.

Q. Purchased by whom?

A. Oh, we went together and got them, and then we went to Aix-les-Bains.

Q. How long was Mrs. Vanderpoel there, to your knowledge?

A. She left the same time we did.

Q. And where?

A. She didn't want to go where we did; she wanted to go, but Miss Brice wouldn't allow her to follow us up further.

Q. Where did you go?

A. To Aix-les-Bains.

Q. Did anything happen on the way there?

A. Yes.

Q. Well, what?

A. No, not on the way there.

Q. Well, what happened?

A. Nothing happened on the way there, but when we came back Dudley got off the train, where the train from Switzerland came in, and ran out to see Mrs. Vanderpoel.

Q. Where was she?

A. In the train coming back from Switzerland, where she had been.

Q. With Miss Brice?

A. Yes, and when we arrived in Paris she arrived in Paris.

Q. And do you know at what hotel she stayed at?

A. Yes, the Continental, I think.

Q. And you stayed again at the Ritz?

A. At the Ritz.

Q. How long at that time did you remain in Paris?

A. I don't know; until we got some clothes and things.

Q. And was Mrs. Vanderpoel there all that time?

A. Yes.

Q. And were you intimate with her at all?

A. No.

Q. Were you ever intimate with her?

A. Never.

Q. And from Paris where did you go?

A. From Paris we sailed from Cherbourg.

Q. Did you sail alone, you and your husband?

A. Yes.

Q. Alone together?

A. Yes, and occupied the same stateroom.

Q. And did you meet anyone on the trip?

A. Yes.

Q. Whom did you meet?

A. Mrs. Vanderpoel and Miss Brice.

Q. And where did they sit at meals?

A. On the steamer?

Q. Yes.

A. He sat on one side of me, and Mrs. Vanderpoel was on the other.

Q. Did you have any other acquaintances—people that you had known previously—on the steamer at the time?

A. Yes.

Q. Who were they?

A. Governor Brown, and Mr. Brown, his son, and Miss Brown, and, of course Miss Brice I knew, and there was another couple, but I can't remember their names.

Q. Now, on the way back, on the steamer, do you remember the name of the steamer?

A. No, I can't remember it.

Q. On the way back—

A. It was a fast steamer. I have forgotten the name of it. Kaiser Wilhelm de Grosse, I guess.

Q. Was Mr. Dudley with Mrs. Vanderpoel very much on that steamer?

A. Yes.

Q. Tell me how frequently you saw them together, if you can.

A. Oh, they were always together, chasing around after each other, and Mr. Dorrance, I think, was with us, and I think—

Mr. Strong—One moment now—

Q. You think Mr. Dorrance was on the ship also?

A. Yes, I do.

Q. Were they on the deck together?

A. Yes.

Q. Can you name any other places where you saw them together?

A. Walking together, and talking together, and sitting together. He didn't pay any attention to me.

Q. At that time?

A. No.

Q. Did you at that time complain to Mr. Dudley about his attentions to Mrs. Vanderpoel?

A. Yes, sir.

Q. What did you say?

A. Oh, I didn't like it, of course, and I thought it was a public insult to me for him to pay attention to another woman in my presence.

Q. (By the Court)—What year was that?

A. 1902.

Q. And where did you make these remarks to him—do you know what part of the ship you were in at the time?

A. No, I don't; probably in my cabin.

Q. And you said before you both occupied the same cabin?

A. Yes.

Q. What did Mr. Dudley reply, if anything?

A. He didn't like it to have me say anything to him. I couldn't say anything to him but what he would fly into such a temper.

Mr. Strong—The question is, what did Mr. Dudley say in reply. I think that ought to be answered.

The Court—Well, it is for the examining counsel to determine whether he is to compel an answer to his question, unless what the witness says is not competent.

Mr. Strong—I don't think it is competent.

The Court—Well, do you object to it?

Mr. Strong—Yes.

The Court—I will let it stand. It is a description of conduct, and is allowable, I think. Proceed.

Q. Now, Mrs. Dudley, can you give me the words that your husband used when he said those things to the complaint about Mrs. Vanderpoel and he being together?

A. Oh, he said everything that was disagreeable.

Q. Can you recall anything in particular that he did say?

A. No, no.

Q. Did he say anything about going to Europe with you again?

A. I think he did.

Q. Do you recall just what it was?

A. Said he wouldn't go with me again, I kept making it so disagreeable for him.

Q. That is what he said?

A. Yes.

Q. And had you done anything else excepting not wanting him to pay attention to Mrs. Vanderpoel?

A. No.

Q. How many days had you been sailing when you said those things to him?

A. Well, in the first place I didn't see why she should be at our table.

Q. You complained about that?

A. Yes, because I didn't know her. I always spoke

to her, but I didn't cultivate her acquaintance. She insisted in forcing herself upon my society; she even tried to to have her deck chair placed by the side of mine.

Q. And did you complain to Mr. Dudley about his intimacy with her when you were on the continent?

A. Yes.

Q. Can you tell me the first time that you did speak to him about her?

A. In London; everywhere we went she would appear.

Q. What was the occasion of your speaking to him?

A. One occasion specially?

Q. Yes, if you can recall.

A. It was at some place out in the country; I don't know whether it was at a yacht race or what it was—something of that kind, don't you know, and she appeared on the scene.

Q. And did she speak to Mr. Dudley?

A. Yes, forced herself upon us.

Q. You thought she was forcing herself on your company?

A. Yes, everywhere we went.

Q. What did you say to Mr. Dudley at that time?

A. Well, I called his attention to it and told him that I objected to it, and that I would not have her as a friend.

Q. And what did he say?

A. Why, he flew in a passion and stormed, and did everything—said everything under the sun.

Q. Do you recall any particular words that he used?

A. Everything—he said everything.

Q. And did you speak to him again while you were on the Continent, about that?

A. About Mrs. Vanderpoel?

Q. Yes.

A. Oh, we were all right when she wasn't there.

Q. Did you speak to him about her in Paris when you came back and saw her there?

A. Yes.

Q. What did he say at that time?

A. About the same thing—kept going on all the time, just the same thing. I didn't see very much of her in Paris, but Mr. Dudley did.

Q. You know that she was there in Paris?

A. Yes.

Q. Did you see her?

A. Yes, driving in the Bois and places like that I didn't see her to talk to her.

Q. Were there times in Paris when Mr. Dudley was not with you?

A. She wasn't at any of the entertainments or anything like that with people that we knew. We were constantly going about at night, don't you know, to parties of all kinds—had luncheon parties out in the Bois and the races. We had a lovely time.

Q. I want to get strictly legal evidence on the record if I can. Were there times in Paris when Mr. Dudley was not with you?

A. Yes.

Q. And for how long a period of time would he be away from you?

A. About three or four hours.

Q. Could you tell the time of day he would be away?

A. In the morning, at luncheon times, and again in the afternoon, maybe until three or four o'clock, or four o'clock or five o'clock. It varied, you know. And then we would take a drive out in the Bois. Some days he wasn't away all the time and we had luncheon parties out in the Bois, quite a crowd of us.

Q. Did you speak to him on the occasion when he left the railroad train and went out and met Mrs. Vanderpoel?

A. Yes.

Q. What did he say?

A. Said nothing.

Q. What did you say?

A. I said he went out to see Mrs. Vanderpoel.

Q. And then what did he say?

A. Said he didn't.

Q. Had you seen Mrs. Vanderpoel at the time?

A. Yes, but I knew where she was from Miss Brice.

Mr. Strong—Now, I submit that this is all incompetent. It seems to rest on the statement of others. She has made the statement as of her own knowledge that Mr. Dudley got off the railroad train and rushed out to see Mrs. Vanderpoel. Now it appears that she didn't have any personal knowledge at all of that; that she was told by somebody that Mrs. Vanderpoel was there and spoke to Mr. Dudley about it and he denied it. Of course, it is competent for you to show that she didn't see him.

Mr. Strong—It doesn't seem necessary for me to show that.

The Court—I don't understand that she is referring to that incident, Mr. Strong.

A. I knew the train came down from Switzerland; I knew Mrs. Vanderpoel and Miss Brice were coming down from Switzerland; I knew where the change was made, where the stop was.

Q. Had you been informed where they were coming from?

Mr. Strong—I object as to what information she had.

Mr. Carpenter—I am only asking if she was informed.

The Court—How is that proper here?

Mr. Carpenter—To justify her remark to her husband.

The Court—Perhaps I haven't been able to follow this accurately. I understood that the witness said that she charged her husband had

met Mrs. Vanderpoel on some occasion in Paris. Did your question relate to the meeting on the train or the alleged meeting on the train?

Mr. Carpenter—My question related to this: Mrs. Dudley stated that at one time at some junction Mr. Dudley got off a train and went to see Mrs. Vanderpoel, and when he came back she said, "You have been to see Mrs. Vanderpoel?" and he said, "No, I haven't"; and she said, "Did you see Mrs. Vanderpoel," and Mrs. Dudley said, "I was informed she was on the train."

The Court—Do you understand Mrs. Dudley to testify she charged her husband with going to see Mrs. Vanderpoel on this occasion when the trains met?

Mr. Carpenter—Yes.

Q. That is a fact, isn't it?

A. Yes.

The Court—I will say that I shall allow you to put that question, because of the information, but there isn't anything else in it.

Q. Now, Mrs. Dudley, how long after you had sailed was it that you first spoke on the steamer to Mr. Dudley about Mrs. Vanderpoel?

A. When she was placed beside him at the table on the steamer that night at dinner.

Q. Did you speak to him immediately, or wait until afterwards?

A. Oh, after dinner, of course; probably in my stateroom.

Q. Was anyone present when you spoke to him?

A. Oh, no.

Q. And after that did you speak to him again on the steamer?

A. Yes.

Q. Can you tell me when it was?

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A. No, I can't.

Q. But after you had spoken to him on these occasions did he continue to be with her?

A. Yes.

Q. Frequently?

A. Yes, and then when we were landing he was with her. When I was trying to prepare my effects to land on the steamer he was with her. I had gone to find him and I found him with her.

Q. And he was not with you when you were landing?

A. No.

Q. After you landed where did you go?

A. Why, Mrs. Vanderpoel objected to my staying in the Waldorf.

Q. In your presence?

A. Oh, I have heard her talk about it—talked about my being there so much. She didn't like it; she undertook to run me in all my affairs—to arrange my life.

Q. Mrs. Dudley, this is not admissible evidence.

A. (Continuing)—And after we arrived we went to the Hotel Cambridge, right across the street from the Waldorf. We had an apartment there—a suite of rooms—and I brought a French maid over with me that couldn't speak a word of English and they had colored porters and she had never seen a colored man before, and the first thing I knew Gabrielle had hysterics, and that night we went to dinner and I knew Mr. Boldt and he always came up and spoke to us, and Mr. Dudley has known him for years. I says, "Mr. Boldt, Mr. Dudley tells me—

Q. (By Mr. Strong)—Was Mr. Dudley there at that time when you were saying this to Mr. Boldt?

A. Yes, he was present.

A. (Continuing)—Mr. Dudley informs me that we can't get in at the Waldorf; it was crowded." I says,

"Oh, Mr. Boldt, why didn't you take us in; don't you have rooms for us?"

"Mrs. Dudley, do you want to come here?"

I says, "I do,"

He says, "I will take you right in; when do you want to come?"

I says, "To-morrow morning," and we moved over there the next day,

Q. Did he give any reason why accommodations had not been provided theretofore?

A. Hadn't been asked for.

Q. Now, who was this gentleman?

A. Mr. Boldt, the proprietor of the Waldorf and also of the Bellevue, in Philadelphia.

Q. Now, prior to that had you always stayed at the Waldorf?

A. Always.

Q. And did Mr. Dudley ever give you any reasons why you had not stayed there?

A. Oh, no.

Q. Did he ever tell you that he didn't want you to stay there up until 1905.

A. No. That was 1902, you know.

Q. Up to that time he had never told you?

A. Oh, no; always went there as a matter of course. Never thought of going anywhere else.

Q. And did anyone else in the presence of Mr. Dudley ever say that there was any reason why he shouldn't stay at the Waldorf?

A. No.

Q. Now then, how long did you stay at the Waldorf on that occasion?

A. Some time.

Q. Do you remember how long it was?

A. Why, I don't think I went back. That was 1903, wasn't it, or 1902?

Q. 1902.

A. 1902, why I think we stayed there some time.

I think I stayed over there some time—let me see, I don't know; I know I was back there again very shortly because of the horse show, and I was over there that week—horse-show week.

Q. And horse-show week is about when?

A. About this time of the year.

Q. In the middle or the latter part of November?

A. Yes. We had one large room with an alcove and a bedroom, and the hotel was crowded, and we had two single beds in the one room.

Q. By "we" you mean your husband and yourself?

A. Yes, Mr. Dudley and myself, and the maid was with me—Gabrielle.

Q. And she had accommodations?

A. Yes, elsewhere in the hotel.

Q. How long did Mr. Dudley stay with you there?

A. I can't say. I know he was back and forth all the time.

Q. Between Philadelphia and New York?

A. Yes; he went to the horse show and everywhere.

Q. Did you have your portrait painted that year?

A. Yes.

Q. By what artist?

A. Mr. Torrey.

Q. Did your husband know that?

A. He didn't know it when it was being made, no.

Q. Why not?

A. I expected to give it to him as a Christmas present.

Q. And did you give it to him as a Christmas present?

A. Yes. He gave it back to me and said he didn't want it. I wanted his painted, too.

Q. You asked him to have his painted, too?

A. Yes, sir.

Q. What did he say?

A. He wouldn't do it.

Q. (By the Court)—What year was that?

A. 1902. Are we in 1902?

Q. Yes, we are in 1902. Yes, I think it was corona-

tion year, that is 1902. That is the reason we went over early, on account of the coronation.

Q. Now, did you sit for that portrait while you were staying at the Waldorf?

A. Yes.

Q. Who was with you, if anyone?

A. I always had, besides my French maid, some friend with me—some lady.

Q. Was the French maid always with you?

A. I think so. She couldn't speak a word of English and she couldn't understand English, and Mr. Dudley does not speak French.

Q. You do?

A. Yes, I did. I haven't spoken it for five years.

Q. You have forgotten it?

A. Maybe.

Q. By the way, you had traveled in Europe, had you not, before you married Mr. Dudley?

A. Yes.

Q. And can you tell me how many times you had been abroad before?

A. Many times.

Q. And traveled all through Europe?

A. Yes, sir.

Q. The parts that are traveled?

A. Yes.

Q. Now, in what attire did you sit for your picture?

A. A Packand dress.

Q. Can you describe that, for the benefit of the Court?

A. It was white; had a very wide, high belt and flowing sleeves. Mr. Dudley has the gown now.

Mr. Carpenter—Mr. Dudley, will you produce the gown?

Mr. Dudley—I don't know where it is. It must be in one of her trunks that she left behind; I have not seen it.

Q. Is it one that he bought for you?

A. Yes.

Q. And bought of Paquin's in Paris?

A. Yes.

Q. Can you describe the cut of it around the neck; was it a low-necked gown?

A. Oh, yes, it was a decollette dress—evening dress.

Q. Is the picture which Mr. Dudley has an accurate representation?

A. No, it doesn't give an accurate representation—just gives the idea.

Mr. Strong—What picture are you referring to?

Mr. Carpenter—The portrait that was painted.

Mr. Strong—It doesn't give an accurate representation?

Mr. Carpenter—That is what she says.

Q. (By the Court)—You mean that the drapery of the picture is different?

A. No, the drapery is the same, but the dress was of lace—had a pattern of lace with a white silk girdle.

Q. In what respect does the picture differ?

A. It is painted with a solid white tissue; the lines are the same.

Q. The lines are identical?

A. Yes.

Q. To give a better color effect; is that the idea?

A. How?

Q. What was the idea of changing the dress; did the artist tell you?

A. I don't know why. He claimed it looked better, I think.

Q. Have you that picture now?

A. No, I haven't it.

Q. What was done with it?

A. I don't know; I left it hanging on the wall in my home.

Q. What did Mr. Dudley say when the picture was delivered?

A. He thought it was lovely—admired it; everybody did.

Q. What did he do with it when he received it?

A. Hung it on the wall in the drawing-room.

Q. And did it stay there until the time you were last in the house?

A. Yes, it was there when I left the house to go to Europe.

Q. Did Mr. Dudley complain about the size of the bill?

A. No, not that I know of.

Q. Did he complain to you about the size of the bill?

A. No.

Q. What was the amount of the bill?

A. $1,500.

Q. And do you remember what the bill for the frame was?

A. I don't remember. The picture was not sent C. O. D.

Q. It was not?

A. No, as Mr. Dudley has stated; the bill was not sent in until a long time afterwards.

Q. How was the picture sent?

A. It was sent over there and Mr. Dudley called up an art dealer there and had him come around for a long time and he tried it everywhere to see where it would be the best place for the light.

Q. Mr. Dudley got an art dealer to do that?

A. Yes.

Q. Did you have any other oil paintings in your home?

A. Yes, he had a very handsome picture, I forget the name of the artist; it began with S; I can't recall the name. The pictures were not large in size, but were very fine. We also had very nice tapestries.

Q. Can you tell me any other oil paintings you had?

A. No, our drawing-room had many windows and at the end of the room we had a large mirror made to

reflect a piece of statuary that we got in Italy, and the frame was made by Sloane, which was very beautiful, and it was at the end of the room and filled up all the space at the end of the room. It was very wide and very high, made to fit the wall.

Q. Now, was this artist that painted it well known?

A. He painted Mrs. Huhn's portrait in Philadelphia, and Mr. Huhn is a friend of Mr. Dudley and his wife was a social friend of mine. I don't know of anyone else in Philadelphia whose portrait he painted, but he makes very beautiful pictures.

Q. And you heard of him through the Huhn's?

A. Yes, through the Huhn's.

Q. Now, after your portrait was painted did you return to the house in Philadelphia, in 1902?

A. Oh, yes. I didn't stay there continuously, I don't think; went back and forth.

Q. And did Mr. Dudley complain of your being in New York the most of the time?

A. Oh, no.

Q. He knew where you were?

A. Yes.

Q. And came over to see you frequently?

A. Oh, yes, he came over all the time.

Q. And after you returned to your house, did you go away on any other trips that winter?

A. 1902? In the spring, yes.

Q. Where did you go?

A. Spring of 1903? We went down to Palm Beach.

Q. That is the time you stayed with Mr. and Mrs. Cragin?

A. Yes, I think so.

Q. What room did you occupy there?

A. Both of us in one room.

Q. And when you stayed at the Waldorf, prior to going down there?

A. One room.

Q. And was Mr. Dudley there many nights?

A. Yes, he was there.

Q. And then from Palm Beach I understand you went over to Cuba?

A. Is that the year I said we went to Cuba—1903? I think so.

Q. And who traveled with you on that occasion?

A. Another couple—a bridal couple; they were from Philadelphia, friends of Mr. and Mrs. Cragin, and we all went to Cuba and had a lovely time.

Q. And Mr. Dudley and you were on good terms at that time?

A. Oh, yes.

Q. And occupy the same stateroom?

A. Yes, the same stateroom.

Q. And stayed in the hotels?

A. In the same room in the hotels.

Q. How long were you in Cuba?

A. I don't think very long—maybe ten days, something like that.

Q. Do you recall the occasion of your leaving Cuba?

A. Yes.

Q. What was it?

A. Dudley had a telegram.

Q. Did you see the telegram?

A. Yes, I saw it.

Q. Do you know, of your own knowledge, whom it was from?

A. Yes.

Q. Did the telegram or cable state whom it was from?

A. Yes, it stated whom it was from.

Q. Can you give me the name of the person?

A. I cannot, no.

Q. Have you the cable now?

A. I think so. I think it was in 1903—yes, that's right, 1903.

Q. Mr. Dudley showed it to you?

A. Yes, he showed it to me, because he had some excuse.

Q. And then what happened?

A. We went back.

Q. Did you go back with him?

A. Oh, yes, we all went back; took the next steamer that we could get.

Q. And did you go to New York?

A. No, we didn't go to New York directly; we went back to Florida, if I remember correctly; I think so.

Q. And still occupy the same room on the steamer?

A. Yes.

Q. And then from Florida where did you go?

A. Back to New York or Philadelphia.

Q. And you stayed there until the next spring?

A. Yes, sir.

Q. Now, you don't expect to stay in Philadelphia all summer?

A. Oh, we never stayed there in the summer; the houses all around are boarded up very early.

Q. Do that in that section, do they?

A. They never live in their houses hardly more than five months.

Q. It is a fact that people in that section of Philadelphia generally spend their vacations outside of town?

A. Yes, and they generally have homes nearby, too.

Q. You mean—

A. Near Philadelphia that they would occupy in the spring and fall.

Q. Country homes?

A. Country homes, yes. Philadelphia was deserted in the summer.

Q. You mean that section?

A. Yes.

Q. And did you go to Europe that summer?

A. 1903?

Q. Yes.

A. Yes.

Q. And did Mr. Dudley go with you?

A. No, not in 1903; he wouldn't go with me.

Q. Did he give any reason for it?

A. Yes.

Q. What was it?

A. That I was so disagreeable; because I wouldn't chaperone Mrs. Vanderpoel.

Q. Those were the words that he used?

A. Well, things to that effect—I made it so disagreeable.

Q. Did he use the word "chaperone," do you recall?

A. Yes.

Q. And what did you say?

A. I said I would not have her go; I would not chaperone her.

Q. What time of the year did you go to Europe?

A. About the same time we usually went when we went together.

Q. Now, Mrs. Vanderpoel at that time was a widow, was she not?

A. No, she was a divorcee.

Q. And did you know that at the time?

A. Oh, yes.

Q. And did you know that when she was in Paris the same time that you and Mr. Dudley were in 1902?

A. I think so.

Q. Did you ever mention that fact to Mr. Dudley when complaining about his intimacy with her?

A. Yes.

Q. And the circumstances, too, of her divorce?

A. Yes, I am sure I did.

Q. Did you speak to him of the circumstances?

A. Yes, sir.

Q. What did you say to him?

A. That I didn't like her, and I didn't think that I should be forced to associate with her.

Q. What did you tell him were the circumstances of her divorce?

A. They were very notorious.

Mr. Strong—Well, wait a moment.

Q. Did you tell him that?

A. Yes, he knew it.

Mr. Strong—I think her statement about being notorious is objectionable, and should not stand in the case.

Q. You told him those words, did you?

A. Yes.

Q. Did you give him any particulars that made it notorious?

A. I don't think I did; I think he knew all about it.

Mr. Strong—I think we are entitled to have the exact language without these side-lights of the witness.

Q. Now, Mrs. Dudley, how much money did Mr. Dudley give you to go with at that time, to go to Europe; how much did he provide you with in 1903 to go to Europe, do you recall?

A. I think $2,500.

Q. And, in addition to that, did he give you anything?

A. Bought my ticket and gave me some money.

Q. Do you recall about how much he gave you?

A. I think he gave me a hundred dollars in gold—something like that; maybe $200 in gold; I don't know. But, then, I had credit in Europe. That was simply for my hotel bills and for my wants of that nature—hotel bills and things of that nature, traveling expenses.

Q. Did he permit you to purchase goods on credit on the other side?

A. Oh, yes.

Q. Had he ever spoken to you about that?

A. About not doing it?

Q. Yes.

A. Oh, he let me do it.

Mr. Strong—One moment, I move to strike that out.

The Court—The words "he let me do it"?

Mr. Strong—Yes; the question calls for his language, and that is what we ought to have—what he said to her. This is mere conclusion.

The Court—Isn't that drawing it rather fine, Mr. Strong? The witness says, in effect, that she was permitted by her husband to buy things on credit.

Mr. Strong—If your Honor thinks it is competent, I have nothing to say.

The Court—We are rather liberal in this court; we have no jury.

Q. Mrs. Dudley, during all your married life, did your husband permit you to purchase goods on credit in the stores and shops?

A. Always from the start. He took me with him and we went shopping together over here in New York and in Paris, and everywhere we went.

Q. Had you bought goods on credit in Paris?

A. Oh, yes.

Q. And did you do that in 1902, do you recall?

A. I don't recall, probably; I couldn't say.

Q. But you didn't before going to Europe in 1903?

A. I couldn't say, Mr. Carpenter; I never had anything to do with the bills.

Q. Did your husband pay cash when he bought goods in Europe, or did he have them charged sometimes?

A. Had them charged, I think; I don't like to say, I don't know; I think so.

Q. In New York and in Philadelphia?

A. Yes; he had his shoes made in London and they were sent over. I don't think they were paid for.

Q. For both of you?

A. Yes, both of us, his shoes and my slippers and shoes, and he got clothes in London—all his clothes in London.

Q. Had he accounts in the prominent stores and shops in New York?

A. In New York and Philadelphia.

Q. Can you give us some of the names?

A. Sloan's.

Q. What was that?

A. House furnishings and furniture—expensive and high-grade furniture for houses and decorations, and Louise, the milliner, and Lichtenstein, and I don't know —Altman's, I believe; I don't know, I would like to say positively; and Wanamaker's in Philadelphia and in New York; Tiffany's in Paris.

Q. You had credit there?

A. Yes.

Q. Did Mr. Dudley ever buy things on credit there?

A. I think so.

Q. Did he, up until 1903, ever complain of your buying things on credit.

A. Never. We bought a great many things in Europe. We bought a magnificent set of crystal in Germany with my initials on it, and he gave it to me.

Q. Then I suppose he paid for it?

A. I don't know; he bought a great many things—all sorts of things.

Q. And they were all expensive things?

A. All expensive; he spent a great deal of time in going around and looking at things and buying things.

Q. Now, do you remember what your purchases in in Paris amounted to in 1903?

A. I couldn't tell you; I don't know. Just about the same we always did.

Q. Your purchases were about the same?

A. Yes, and I remember one particular occasion in 1901, when we returned from Europe Mr. Dudley was very much interested in me, and in anything that was beautiful and pretty, don't you know, and he came to the hotel and wanted to see my clothes and things I brought over—I think it was in 1901. Dudley and I went over there together on this occasion, and he bought me a beautiful sealskin coat at Packquin's, with gold brocade. It was perfectly magnificent, and I know Mr.

Dudley said, "What will they say now," referring to Mrs. Wiedener and Mrs. Huhn. We had friendly rivalry about our clothes, and he even thought that they would stop and admire it. I remember that very well.

Q. Do you remember what that coat cost?

A. I don't; I know it was very handsome. I know he had a hat made of fur to go with it.

Q. And that was bought by Mr. Dudley?

A. Yes. They were beautiful—the things were beautiful, and Mr. Dorrance admired them. They were no different—my clothes never changed very much; my clothes were always the very best that we could get in Paris. Dudley enjoyed buying them, too.

Q. Now, when did you return in 1903?

A. I didn't go in 1903; 1904 I returned just about as usual; made my usual trip to Paris, and when I returned I wrote Mr. Dudley and he met me on the dock.

Q. (By the Court)—What year are you speaking of now?

A. 1903, I think.

And when I sailed that year he saw me off.

Q. Mr. Dudley testified that when you sailed that year he went to your stateroom door and you would not admit him?

A. We stood on the deck until the last call ashore and kissed me good-bye, in the presence of many people that knew me and also in the presence of many of the passengers.

Q. Do you recall any of them?

A. Yes, quite a number of them; and he cried.

Q. That was in 1903?

A. Yes.

Q. When you sailed?

A. Yes.

Q. What steamer was it, do you recall?

A. I don't; one of the fast steamers. He got me one of the best rooms on the ship; I think he paid $600 for it, or something like that.

Q. Can you give me the name of some of those people?

A. I went with Mr. and Mrs. Silkin; they were on the steamer and Mr. Dudley asked them specially to look after me.

Q. How is that spelled?

A. I have forgotten how they spell it; it is a peculiar name. Mrs. Silkin is dead and they have lived at the Waldorf a great many years. He is a very wealthy coffee broker, and they were asked to look after me and they did, and I was placed at the Captain's table with Mr. and Mrs. Silkin. And there were other people that we knew who had stopped at the same hotel with us in Paris and we had met constantly as you know one does when in these different places; and when I arrived in Paris I heard someone say, "Do you think your husband has stopped crying"?

Q. Did Mr. Dudley, when you sailed that year, knock on your door and did you refuse him admittance at that time in 1903 when you sailed:

Mr. Strong—Answer yes or no.

A. No, he did not.

Q. Now, when you returned that year did you go direct to your home in Philadelphia?

A. No, we went to the Waldorf—Dudley took me there.

Q. He met you when you returned?

A. Yes, and he had a room for me at the Waldorf and I met him and went up there and stayed there for a little while.

Q. Do you recall how long?

A. No, I don't. He had this room engaged for me, and I was there a few days. Dudley took me there and I think he had to go back that night, but I won't say positively whether he did or not, but he didn't stay at the Waldorf with me.

Q. Do you know where he did stay?

A. I don't know; he told me he was going either

home or down to the club; I have forgotten what he did say, but in two or three days I remember the pet dog, which had been away for the summer, was there and he brought it right up to the room where I was in bed and the dog jumped up in bed and was awfully glad to see me. The name of the dog was Sharpo. At that time he asked me to go home.

Q. Did you go home?

A. I did; I went home, but he didn't expect me to go that day but wanted me to come home, and so I went home.

Q. Did you go that day or the next?

A. No, probably the next day. I wanted to rest up after that trip. We had a very rough trip crossing the ocean.

Q. Then when you had reached Philadelphia did you stay there that winter?

A. Yes, I got home and I was very ill; shortly after my arrival home something was the matter with the furnace and the house was cold, and the Waldorf had been heated properly, and I really never knew what it was that caused my illness, but I was very sick, even at the point of death, and Dr. J. Nicholas Mitchell sat up with me all night and never left me.

Q. Who called him in, do you know?

A. Mr. Dudley.

Q. How long did that spell of sickness continue?

A. For sime time.

Q. Did you have any other physician?

A. I went from my home to New York—got out of my bed and went over to New York after the remark made to me by the doctor who attended me.

Q. Concerning whom?

A. The condition I was in.

Q. The remark was concerning whom?

Mr. Strong—One moment. I don't think that

we have anything to do with that remark, unless it was made in the presence of Mr. Dudley.

Q. Was Mr. Dudley there?

A. When the physician spoke to me? No, he wasn't there.

Mr. Carpenter—I think I have a right to show what the remark was, whether it concerned her health or Mr. Dudley's health.

The Court—What is the materiality of it?

Mr. Carpenter—I withdraw the question.

Q. And you went to New York?

A. Yes.

Q. Where did you stop in New York?

A. At the Waldorf.

Q. How long did you stay at the Waldorf at that time?

A. Until I was better. Dr. Mitchell telephoned to me and consulted with me over the 'phone as to my condition and mailed me medicine to the Waldorf.

Q. And did you any other physician at the Waldorf?

A. No.

Q. And after that did you return to your home?

A. Yes, I did.

Q. We are now speaking of the winter of 1903 and 1904?

A. Yes.

Q. Did you take any trips during that winter?

A. We didn't go to Palm Beach that year, I don't think.

Q. Did you stay in your home in Philadelphia all that year?

A. Yes, we did go down to Palm Beach.

Mr. Carpenter—If your Honor please, I would like to have an adjournment at this point, because there is one witness I want to reach that is going to wait until one o'clock, so that I can telephone.

The Court—Very well. And I will say here that Mrs. Dudley need not be examined on direct

in regard to any transactions with which Mr. Beekman appears to have been connected until this deposition is in.

Recess until 2 P. M.

AFTERNOON SESSION.

Q. Mrs. Dudley, where were you born, and when?

A. I was born in New York City.

Q. When?

A. Can't I plead the privilege that Mr. Dorrance did yesterday?

Q. I won't press it. Have you any relatives now living?

A. Yes.

Q. Will you please tell me what relatives you have living?

A. I have a brother.

Q. And his name?

A. John P. Fowler.

Q. And that was your maiden name, Fowler?

A. That was the name when I was born, yes, but—

Q. And your brother is what? Who is your brother?

A. He is Consul-General to China and he has held that position for twenty-five years.

Q. What about your father and mother?

A. My mother is dead and I had a stepfather and he is dead.

Q. Any other relatives living?

A. I have a married sister. My stepfather was a member of the Massachusetts legislature and the father of the annexation bill creating greater Boston.

Q. (By the Court)—Did I understand that your name was Fowler?

A. Yes.

Q. What was your brother's name, the Consul?

A. John Fowler. I was adopted. My mother

was left a widow with three children and I was the youngest child and I was adopted by a cousin of my mother's.

Q. What name?

A. Mulloch, and after my mother married again my stepfather was then a man of very large means and they wanted me back and I was constantly pulled from one to the other of my relatives. And I was also known by the name of Cook, my stepfather's name, too. People called me by that name.

Q. Now, Mrs. Dudley, when you were in your home in Philadelphia did you play on the piano at all?

A. Yes, I have always been a musician all my life and have played and sung.

Q. Did you sing with any person?

A. Yes, I took lessons all the time, every day that I was at home I had a professional pianist at nine o'clock in the morning at my home in Philadelphia. I kept help and took lessons when I was in Paris of Madame Duff, an able and very celebrated singing teacher.

Q. Did you continue doing that after you were married?

A. After I was married, yes.

Q. Every summer?

A. No, not every summer.

Q. You sang in several different languages?

A. Yes, German, Italian and French.

Q. And did that in your own home?

A. Yes, spent a great deal of time and took lessons nearly every week, sometimes twice a week. Had a singing teacher in Philadelphia.

Q. Did you have anyone come in to play for you?

A. I had a professional pianist every morning I was home, at nine o'clock in the morning at the house.

Q. And that continued during your married life?

A. Yes, right up to 1905.

Q. Until what time in 1905?

A. Until I prepared my house for the summer.

Q. And when that year did you prepare your house for the summer?

A. I generally began the last part of May, somewhere along there before the moths got around.

Q. And that is what you did in the summer of 1905?

A. Yes.

Q. And you were speaking before recess about going to the Waldorf on account of illness; that was in 1903, was it not?

A. That was in 1903.

Q. I only want to get it straight. I am not quite clear whether it was 1903 or 1904.

A. 1903, shortly after my return from Europe, yes.

Q. And you said shortly after that you went back to your home?

A. Yes, as soon as I was able.

Q. Were your relations with Mr. Dudley pleasant after that time?

A. Oh, yes.

Q. When did Mr. Dudley first complain about extravagance on your part, if he did complain? Did he complain at all about the size of the bills you ran up?

A. I think he did sometimes.

Q. Can you tell when that started?

A. I think he sought all sorts of excuses to row with me.

Q. You mean, to quarrel with you?

A. Yes.

Q. My question is, when did he commence?

A. After he knew Mrs. Vanderpoel.

Q. About what year?

A. About 1903 mostly, he began along there. He began to be very disagreeable, to a certain extent.

Q. Did Mr. Dudley continue to play cards during 1903, in the winter?

A. Yes, regularly twice a week.

Q. How often was he away from home during that time?

A. All the winter of 1903 often—quite often.

Q. What nights of the week was he playing cards?

A. Wednesdays and Saturdays.

Q. Regularly?

A. Regularly.

Q. Was he away from home other nights a good deal?

A. Oh, yes.

Q. On an average how often?

A. Well, very often; I can't say how often—very often..

Q. Now, in 1903 and 1904, and that winter, did you go away on any extended trips?

A. In 1904 I think we went to Palm Beach, and I think we stopped that year at the hotel. Dudley will know.

Q. Had the same room together there, didn't you?

A. I don't know that we did in 1904; I can't say positively.

Q. Now, do you remember whether you went to Cuba that year or not?

A. No, we didn't go to Cuba.

Q. Do you remember how long you were at Palm Beach?

A. Not very long.

Q. Did anything occur down there to mar your happiness?

A. Yes.

Q. What?

A. Mr. Dudley received a telegram that called him back.

Q. Did you see the telegram?

A. Yes.

Q. Do you know whom it was signed by?

A. We have it, I think; I don't remember.

Q. That was sent to Palm Beach?

A. Yes, it brought us back rather suddenly, sooner than we anticipated.

Q. And you went where?

A. Went home.

Q. To Philadelphia?

A. Yes.

Q. You regarded that as your home didn't you?

A. Yes.

Q. Mr. Dudley had an office in Camden practicing law?

A. Yes.

Q. You don't know that he voted in Philadelphia?

A. I don't know that it made any difference; didn't think about it.

Q. Mr. Dudley, when he practiced law and when he was engaged in business his business was in Camden?

A. Yes.

Q. Except when he had appointments in Philadelphia?

A. Yes.

Q. Now, you say you sailed for Europe in 1904?

A. Yes.

Q. Did Mr. Dudley go with you then?

A. No.

Q. How much did he give you that year when you went to Europe?

A. I think the same amount.

Q. $2,500?

A. I think that was the size of the letter of credit. That doesn't include money or anything like that. I don't know how much I had.

Q. Did he purchase transportation in addition?

A. Yes, always got me my ticket.

Q. Your return ticket, too?

A. No, I always got that, because I didn't know what steamer I would come on.

Q. And provided you with pocket money?

A. Yes.

Q. Do you know how much that was?

A. No, I don't; it was some gold, so that I would have something when I arrived. He always cabled for a courier to meet me and for accommodations at the hotel for me.

Q. Who sent those cables?

A. Mr. Dudley.

Q. Did he notify you that that would be done?

A. I don't know; I know that he did it in 1903 and 1904.

Q. And was there anything said about his coming over by him?

A. Yes, he was always coming over.

Q. Did he, in fact, come over?

A. No, never to see me; he didn't come to see me.

Q. You didn't see him over there?

A. I never saw him over there.

Q. Now, can you mention many people with whom you traveled while on the other side?

A. Yes, I had a great many friends on the other side, the same people that we met here in the winters we met over there in the summer.

Q. Friends of both you and Mr. Dudley?

A. Yes.

Q. Were they people who called on you?

A. Yes, and people that we knew and met—Mrs. Waterhouse, my neighbor down the street, constantly in my house in Philadelphia, and we traveled over there together and went about together, and she and Mr. Waterhouse were very dear friends of ours in Philadelphia. Mr. Waterhouse died and Mrs. Waterhouse was a widow, and she came to our house and stayed for a long time, although she had a very nice house of her own down the street. She was often in my house and she was alone and I was alone, and she would come up to my house in the evening and we would have our dinner together the nights that Mr. Dudley would play cards, and some nights I would go down to her house and I would play on the piano. She was a very accomplished woman—spoke German and French, and

she would play the piano and I would sing for hours and hours together.

Q. I show you telegram dated from the State House at Trenton February 24, 1903, addressed to Mr. Dudley, and ask you if that is the one that called him back from Florida that year?

A. Yes, that is the telegram.

Q. And that is 1913?

A. 1903, yes.

Q. That is the year?

A. No, I think that is the year, 1903, yes—now, let me see, where is that sent to; that would be received at the hotel, anyhow; the telegraph office is in the hotel.

Q. This was sent to you there, and did Mr. Dudley go back?

A. Yes, we went right back when we got that.

Q. That was the year 1903, wasn't it?

A. Yes, 1903.

(The telegram is offered and admitted in evidence and marked *Exhibit D*-19.)

Q. That fixes the date that you were down there?

A. Yes.

Q. Do you remember whether, after receiving that, he went back again to Florida with you?

A. We went right back to Philadelphia.

Q. That is the time you went back?

A. Yes.

Q. Now, can you tell whether from the telegram—doesn't the date indicate to you that it was the next year that you went to Cuba with Mr. Dudley; you only went down twice?

A. Only once to Cuba.

Q. But you went several times to Palm Beach?

A. I think we went three times.

Q. You think you went three times to Palm Beach?

A. I think so; I wouldn't like to say—no, I think twice. It is all so alike, don't you know. I know one year we went to Cuba and one year we visited Mr.

and Mrs. Cragin, and one year we went to the hotel, and whether we went to the hotel again I don't know, but I think so.

Q. Will you describe the house which you had in Philadelphia and where your room and Mr. Dudley's rooms were located.

A. Yes.

Q. What was there on the first floor?

A. On the first floor was a large reception hall—vestibule and then a large reception hall with very wide staircase.

Q. How many staircases were there?

A. Only one front staircase, and then there was a separate staircase at the back of the house, and also another staircase running down the front of the house, but there was door that closed it off—wide, black walnut staircase that ran down into the basement that had formerly been used as a billiard room downstairs.

Q. Now, where were your rooms?

A. Upstairs, up one flight from the street.

Q. In what part of the house?

A. It was what would be two houses, you know. It was a shallow house that stretched along this way (indicating).

Q. You mean it was wide but not deep?

A. It was long and narrow.

Q. Long, parallel with the street?

A. Yes.

Q. But not very deep back?

A. No.

Q. Whereabouts were your rooms upstairs?

A. That front staircase ended on that landing and then the servant's staircase had a door that shut it right off at the foot of their staircase. There was a hall that ran along between the servant's staircase and the front staircase, the servant's staircase and the front rooms were on the street until they got to the back of the house and there was the bathroom after the servant's

staircase, and next to the bathroom was Mr. Dudley's room and my room was—his was at the back of the house and mine was at the front of the house at the end of the hall.

Q. Now, was there a door between your rooms?

A. Yes, and a glass transom, without anything over the transom, so that when the gas was lighted in one room and turned on the other was lighted.

Q. You say each of you had one of those rooms?

A. Yes.

Q. How long did that continue, or when did it commence?

A. As soon as we furnished the house.

Q. Each had your own room?

A. Yes. I had his all decorated, suitable for a man's room, and mine was a different style of room. He had all of his things in his room and I had all of mine in mine.

Q. And Mr. Dudley says that you ceased to live together as man and wife from the 5th day of January, 1901; is that so or not?

A. I had no recollection of any such occurrence.

Q. As a matter of fact, did you live together as man and wife after that?

A. We occupied the same room on the steamers and at hotels and other places.

Q. And that continued up until what time?

A. 1903; that I can prove. I mean, besides my own word in that way—I mean we occupied staterooms together and things like that.

Q. You mean by that you have witnesses who saw you occupying the same rooms?

A. It would be a matter of record in hotels and on steamers. Of course, in Mr. Cragin's house it would be.

Q. Did he ever occupy your bedroom after 1903; in other words, in 1904 and 1905, as a husband?

A. I think we went in a drawing-room together, but I can't say positively.

Q. You mean on a train?

A. On a train, going to some place.

Q. Do you recall when that was?

A. No, I can't.

Q. The time you were in Florida did you have the same room?

A. Not at any of the hotels, but we did in Cuba. But when we had two rooms I had a maid, don't you see, and dressing and everything. We had the same bathroom in the hotel in Florida, both rooms, you know, connected and went right into the bathroom—the same bathroom.

Q. (By the Court)—The question is, Mrs. Dudley, did you in January, 1901, cease to live with Mr. Dudley as his wife, and I take it for granted you know what that means?

A. Yes, I know what you mean, exactly.

Q. Did or did you not cease those relations at that time?

A. I didn't.

Q. Well, as a matter of fact, were those relations terminated?

A. Yes, they were.

Q. Now, was the door between your rooms locked?

A. Not always.

Q. It was occasionally?

A. I don't know whether it was or not at that time. Sometimes if I knew I was in the house alone, I am sure I would lock that door. There was a key in my side of the door.

Q. Did you ever refuse Mr. Dudley admittance to your room?

A. Never.

Q. Now, whereabouts did the servants in your house in Philadelphia sleep?

A. On the top floor.

Q. And how many floors were there?

A. Three floors, with the basement four—and it

wasn't a basement exactly, don't you know; it was all open windows and had the servants' hall down there, and the kitchen was there.

Q. You mean it was on a level with the sidewalk?

A. No, it wasn't; it was a little below the level, but it was all light, and the house stood back, don't you know, and there was a large area-way there.

Q. Did your maid sleep on the top floor?

A. Yes.

Q. Now, when your husband would stay away in the evenings, how late would the help be required to stay up in the house; what was their hour, in other words?

A. I think about half-past ten; I don't know.

Q. Would there be anybody downstairs on the lower floor after half-past ten excepting you?

A. No, only myself.

Q. Did you ever have a guest in the house staying there?

A. Yes, sir.

Q. Can you mention the name?

A. Yes; I had a young lady staying there a number of times; she stayed with me nights.

Q. Who would be with you when Mr. Dudley was out playing cards at these card parties?

A. To spend the evening?

Q. Yes.

A. Every evening Miss Shaw, Mrs. Waterhouse, Mrs. Behrens—

Q. Were there ever occasions when you would be left absolutely alone downstairs?

A. Yes, often at night. I couldn't stay in all the time.

Q. Did you tell Mr. Dudley that you objected to staying alone in that way?

A. I didn't like it.

Q. Did you tell him so?

A. Yes.

Q. What reply would he make?

A. Oh, I don't know, everything.

Q. Did you ever, Mrs. Dudley, take up a carving knife from the table at anytime during your married life and walk around to where he was and raise it above his head and threaten, either by words or actions, to stab him, or use a knife on him?

A. No, I never did the carving when Mr. Dudley was in the house.

Q. And he sat at the head of the table, didn't he?

A. Of course, and did the carving always. If we had company, we generally had the carving done outside; we generally had a man named Chock do it; it was done in the pantry.

Q. Did you ever threaten him with any weapon of any sort—threaten his life?

A. No.

Q. Did you ever call Mr. Dudley, in the presence of a servant at any time, a damn beast, or any such word as that?

A. No.

Q. Did you ever discuss Mr. Dudley with your servants?

A. Never.

Q. Did you ever speak to them about Mr. Dudley's going away?

A. No, but sometimes they gave me information and told me he was out and they didn't expect him back. Margaret would say, "I packed Mr. Dudley's bag, Mrs. Dudley." I had some very superior servants—good religious girls—that stayed with me from the time I went in my house until the home was broken up.

Q. Were there occasions when Mr. Dudley would be away from home without your expecting him to be away?

A. Yes.

Q. And when did those occasions begin?

A. 1902.

Q. And about what time of the year, do you remember?

A. No, I don't remember.

Q. Do you remember whether it was before or after he got back from Europe?

A. In 1902; it is very hard to remember those dates; you get the years confused, because I think of the winter and the summer, don't you know, and it is awfully hard to remember them.

Q. Now, how often was Mr. Dudley away from home on what he said were business trips after that, can you tell?

A. Oh, he would go away sometimes on an average of once a month.

Q. And how long would he be away then?

A. Two or three days at a time.

Q. Did you ask him when he got back where he had been?

A. Yes.

Q. And what would he say?

A. Said he had been to Boston, and been to Washington, and been to Buffalo on business.

Q. He told you that he had been to those different places?

A. Yes.

Q. I show you a telegram, dated "New York, December 12, 1904," and ask you if that is one you received from Mr. Dudley?

A. Yes, it is.

Mr. Carpenter—This telegram is addressed to Mrs. Dudley, and was sent on December 12, 1904, at 3:56 P. M. I offer it in evidence.

(The same is admitted and marked *Exhibit D-20.*)

Q. I show you another telegram, Mrs. Dudley, dated May 14th, 1903, addressed to you, and dated from New York, and ask you if that is another one that you received from Mr. Dudley?

A. Yes, it is.

Mr. Carpenter—I also offer that in evidence.

(Admitted and marked *Exhibit D-21.*)

Q. I show you another telegram, Mrs. Dudley, dated "Camden, N. J., December 19th, 1904," and ask you if that is a telegram you received from Mr. Dudley?

A. Yes.

The Court—What is the object of this testimony, Mr. Carpenter, merely to show friendly relations?

Mr. Carpenter—No, to show that he was frequently away from home and would wire her and state the time he would be away.

A. He never would tell me he was going.

The Court—I don't see the relevancy of the testimony as to his being away from home. If these telegrams are offered to show the existence of friendly relations at this time they would seem to have some bearing.

Mr. Carpenter—Yes, I had that in view also.

A. (Continuing)—No, but why shouldn't he tell me before he went away?

Q. I show you another telegram, Mrs. Dudley, dated "Albany, New York," and ask you if you remember when that was received?

A. Yes, sir, it says "Arrived here from Rochester; leave to-night, home to-morrow afternoon, Edward Dudley."

Mr. Strong—That is dated when?

A. It has a date here, but kind of blurred.

Mr. Carpenter—I also offer that telegram in evidence.

(Admitted and marked *Exhibit D-22.*)

Q. Did you receive other telegrams than those from your husband, saying he would stay away?

A. Yes, I was constantly getting them.

Q. Now, did you ever lock your husband out of the house while he was off at card parties?

A. Never.

Q. Did you ever muffle the bell?

A. I never locked the house up for the night unless something happened to the servants and it was left to me. We had a burglar alarm in our house, and I think that is the reason we all had to be in at half-past ten, as the alarm was set at half-past ten after banking the fires.

Q. Do you remember anything happening in connection with that burglar alarm?

A. Yes.

Q. Please relate it.

A. In 1905—

Q. What month?

A. In the spring.

Q. Do you remember just what month it was?

A. March, I think—yes, it was in March. It may have been the first of April, but right along there.

Q. What happened?

A. Why, Mr. Dudley was not in the house and I had gone to bed; everybody had retired. Miss Knight—Josephine Knight—was in the house, too, I think, and in the middle of the night, after two o'clock—two or three o'clock in the morning—I heard a dog whining at my door who was fastened downstairs behind those doors when the burglar alarm is on, and I opened my door and at the same time I heard men running up the street. I always slept with my window open, and the night-watchman called to me and said, "Don't open your door." I had opened my door and the little dog Sharpo was outside. Josephine Knight opened her door and came running out, and the alarm men wanted to get in.

Q. They were men from the—

A. From the burglar alarm place, and the door was bolted and they couldn't get in. I first threw them down the keys, but they couldn't get in, because the door was bolted. And I went out to the back stairs, and there by the back stairs there was a large gong which would

go off when the burglar alarm went off, because if it was in my room and I was alone I didn't want to be the only person aroused by the burglar alarm. I went out in the hall, and I says, "John, you come down and open the door and let these people in.

Q. That was John, the gentleman who was here?

A. Yes. He was trembling upstairs, and Josephine and I went downstairs and let these people in, and they went all through the house.

Q. Were the doors bolted?

A. The door was bolted, and all this time Mr. Dudley was in his room, fully dressed.

Q. How did you find out?

A. He then opened his door when these people came in the house—the night-watchman and the man from the burglar-alarm system.

Q. Did Mr. Dudley say anything?

A. No, nothing. Nothing was said or made of the matter at all.

Mr. Strong—What is the point, Mr. Carpenter? You started to ask her whether he was ever locked out, and I don't know what connection this has.

Q. What happened then?

A. Nothing more happened then after that. We found nobody in the house, and we never knew how the dog got out. The thing was repaired what was out of order. We never knew what had happened.

Q. Did you make an investigation of the burglar alarm?

A. We did. They sent men up the next day.

Q. Did you look at the alarm wires?

A. No, I didn't.

The Court—Mr. Carpenter, what is it you are trying to prove?

Mr. Carpenter—I am coming to it.

The Court—I don't think you should take ten minutes' time in coming to it. If it has any bearing on your case I think you should announce it.

Q. Did you ever speak to Mr. Dudley about coming in very early in the morning?

A. Oh, yes.

Q. Explain to him your objection to his late hours?

A. Yes.

Q. What did you say to him?

A. I thought, in the first place, it would ruin his health, sitting up and playing poker until late, and they all sat there and smoked.

Q. You have seen him do that, have you?

A. Oh, yes, and two or three of them had passed away of that company, and I didn't like to be left alone neither.

Q. And what time, in fact, did he get in?

A. Oh, different hours.

Q. Well, ranging from what hours?

A. And of course, sometimes I didn't know what time he would get in; I would go to sleep.

Q. As far as you know what time would he get in?

A. Never before one. I don't think the game broke up until about one o'clock. I think finally they did stop and break up at twelve.

Q. Did he sometimes get in as late as four o'clock in the morning?

A. Oh, yes.

Q. And what would he say when you would complain about it?

A. He would make a scene—a row—about it.

Q. Now, in 1905, in the winter, did you contemplate going to Europe again that summer?

A. Yes.

Q. Do you recall when you commenced to make those preparations to go to Europe?

A. About May, before it got too warm, you know, to hand things out in the sun.

Q. What preparations did you make; just tell us what you did?

A. Had the floors all covered with crash and camphor; had all the curtains taken down and hung on the lines and beaten and brushed, and they were obliged to put them back again so that they wouldn't be wrinkled, and they were all covered, the covers made by Sloane, with camphor—white linen coverings—and all the pictures were covered, and the furniture was all brushed and beaten and covered.

Q. What time of the year did you have that done?

A. About May.

Q. Who ordered that to be done?

A. I did.

Q. And you ordered the people that had been doing it all the time for years previous?

A. Yes, men came, I think, from Wanamaker's and put the crash down, and sometimes I couldn't get it put down when I wanted to.

Q. And were you there yourself?

A. Yes.

The Court—Can't you make this a little shorter? Surely, the details for the preparing of that house for the summer are not of consequence.

Mr. Carpenter—I think they are for this reason. Mr. Dudley says that she was not there during May.

The Court—I have no recollection of any such testimony. There is no dispute been raised about how the house was prepared in the summer of 1905. The curtains were covered, slips put on the chairs, and all that, and it is not disputed that Mrs. Dudley superintended that work, or ordered it.

Mr. Carpenter—If there is no dispute about it I will not go into the matter further.

Q. Did Mr. Dudley know you were going away for the summer?

A. Yes, we had to go away—always went away,

closed the house and turned on the burglar alarm and the servants were paid half wages.

Q. Now, do you recall in the spring of 1905 when you went away?

A. Yes.

Q. You had, you say, been suspicious of Mr. Dudley?

A. Yes.

The Court—I have not heard such testimony.

Mr. Carpenter—She complained of his conduct with Miss—

A. (Interrupting)—I thought it very suspicious that he should send me a telegram after he had left and not before and said "I am going to Boston to-morrow"; it would have given me a chance to make my social arrangements and engagements, and many a time it placed me in an embarrassing position.

Q. Did you get a telegram from him in 1905?

A. Yes, I got a letter from him, asking me to pack a bag as he was going to Boston.

Mr. Strong—I suppose you have that letter?

A. Oh, yes.

Mr. Strong—Well, we ought to have it.

Q. You got a letter from him; that is all I am asking about.

A. Yes, I got a letter from him.

Q. And was that after Mr. Dudley had been away several times?

A. Yes.

Q. Was he home as much after January, 1905, as he had been before?

A. No.

Q. And just tell what happened in 1905, that is, during the spring, from January 1st.

A. He was constantly away. He would come home and play cards and then he would disappear the next day and go off and then I think back for the next game. I don't know this, I heard so.

Q. Because he always played those nights?

A. Always.

Q. Then what happened?

A. Then he would go away like that constantly.

Q. Do you remember what you did for your own protection?

A. Yes, I had him followed by detectives, and on this occasion when he asked me to pack the bag I had them follow the bag.

Q. And who employed the detectives, did you?

10 A. Yes.

Q. And did you pay for them?

A. I did and have the receipts.

Q. I show you a paper headed "D. Miles Rigor, 13th and Market street, Philadelphia," and ask you if that is a bill paid by you for detective service?

A. It is.

Q. And also this other one accompanying it?

A. Yes.

Q. And before that time had you retained Mr. Brightley in connection with this matter?

20

A. No, not as a lawyer.

Q. How did you come to go to Mr. Brightley?

A. Through Mr. Henry M. T. Beekman.

(Papers above referred to marked *D*-23 and *D*-24 for identification.)

Q. Now what do you say about employing Mr. Brightley?

A. He was not employed by me at that time, you know.

30

Mr. Carpenter—May I meet this part of our case when we come to put in Mr. Brightley's testimony?

The Court—Everything relating to Mr. Beekman certainly.

Mr. Carpenter—And I suppose that relating to Mr. Brightley as well?

The Court—Well, I think so. For the present I think we will pass it. I am disposed to put

you in as nearly as possible the same position as if the testimony reserved by Mr. Strong had been put in.

Q. Now, Mrs. Dudley, when did you get these receipts (counsel referring to *Exhibits D-23* and *D-24* for identification)?

A. When I paid the bill; I don't know, as soon as it was presented to me.

Q. And do you remember whether it was before you went to Europe or afterwards?

A. Oh, before.

Q. And did you get some reports from this detective agency?

A. Yes.

Q. And do you recall when you got them?

A. The same time that I paid the bills.

Q. And who delivered those to you, do you recall?

A. Yes, Mr. Beekman gave them to me.

Q. And whom did you give the money to?

A. Mr. Beekman.

Q. And then did you later receive the bills?

A. The same time the bills were handed to me.

Q. Now then, after that what did you do, after getting those reports?

A. I got my few things together and I went over to the Waldorf.

Q. Can you tell now just about what month and what time of the month that was?

A. Shortly after.

Q. Shortly after what? After the 15th of April?

A. Shortly after that, yes.

Q. And you saw, however, to fixing up of your house?

A. Everything.

Q. Was that before you left?

A. Everything was fixed before I left.

Q. Did you after that telegraph Mr. Dudley for some money, or was that before?

A. From the Waldorf, yes.

Q. You telegraphed for some money to go to Europe?

A. I don't know that I telegraphed him.

Q. But he did furnish you with a letter of credit?

A. Yes.

Q. And transportation?

A. Yes, got my stateroom just the same as he always did.

Q. Did he come over to New York to see you?

A. Yes, he came there before I sailed.

Q. Did he say anything about your not going back to his house again?

A. I didn't see him at all.

Q. Did he call you up on the telephone?

A. Yes, he told me on the 'phone.

Q. What did you say to him?

A. I asked him for some things that I wanted him to bring over with him—a few little things that I thought I would need.

Q. Did he bring them?

A. He brought them over in a bag. Margaret picked them out of my things that I had left. All my clothes were at home, you know, in my house.

Q. Did he hand them to your personally?

A. No, I didn't see him.

Q. Did you tell him why?

A. No, I didn't tell him why.

Q. Did you write to him when you were in Europe occasionally?

A. I cabled him.

Q. And did he write to you when you were there?

A. Yes, and he cabled me.

Q. And then you came back at what time?

A. I wasn't over there very long—two or three weeks.

Q. And do you recall what brought you back?

A. Yes.

Q. What was it?

A. A letter from Mr. Dudley.

Q. And after that what did you do when you got to New York?

A. I went to a hotel.

Q. Which one?

A. The Earlington.

Q. Then when did you go to Philadelphia?

A. Then I went over to Philadelphia.

Q. How long were you there?

A. I went over to Philadelphia and then I went out and stayed with Mrs. Knight and Josephine.

Q. What did you do when you first went to Philadelphia?

A. I don't know what I did, but when I arrived—when I got back—the first thing I did I called up my friend, Miss Shaw, and I asked her to meet me at the Pennsylvania Railroad station. I met Miss Shaw, and I had the keys of my house in my hand and she and I went up to my house and I opened the front door and went in.

Q. What did you find?

A. There wasn't anything there. The furniture had all been taken out; all my clothes had been packed and removed—everything was taken out of the house, even the telephone had been taken out; there was nothing in there but one chandelier left in the house.

Q. The house you found entirely dismantled?

A. Absolutely .

Q. Did you know at the time you went there that your house was closed and these things were out?

A. I had been told so.

Q. I mean, you didn't have any personal knowledge?

A. No personal knowledge.

Q. Except what people had told you, that it had been closed?

A. That is all.

Q. When you got over to Europe did you go to the usual hotels that you had been going to?

A. I did.

Q. What did you find out?

A. Dudley had written them.

Q. Which hotel did you go to first?

A. I went to the Ritz, where I had always gone.

Q. Were you admitted to the hotel?

A. No, they wouldn't allow me to come in.

Q. Did they tell you the reason?

A. Yes; they said they had heard from Edward Dudley.

Q. Where did you go then ?

A. Then I went to the Scribe, and they said they would like to see me; that they had received a letter from America.

Q. And then what happened?

A. I got my things together, got passage and came back to America.

Q. Did you cash your letters of credit soon after arriving?

A. Yes.

Q. Why?

A. Because Mr. Dorrance advised me to.

Q. Did you see him there?

A. Not when he told me that; that was a long time ago.

Q. He advised you to cash it?

A. Yes.

Mr. Strong—I object to what the witness testifies Mr. Dorrance said and move to strike it out.

The Court—I will let it stand. I don't see that the testimony on either side in regard to the letters of credit has anything to do with this case, but it was shown on your side that she cashed her letters immediately after she got to Europe; now I think it is binding. I do not think particular statements like those should go in. She had them cashed because Mr. Dorrance advised her to do so, and that is all there is to it.

Q. Now, Mrs. Dudley, after going to your home and finding the place was all dismantled, then where did you go?

A. I went out to Overbrook.

Q. With whom?

A. Mrs. Knight's house at Overbrook. She was there, Miss Josephine was there, and I don't know whether Mr. Knight was there or not.

Q. What did you do then?

A. Mrs. Knight and I, maybe not the next day but a day or two after, anyhow, went over to a lawyer's office in Camden.

Q. And that was Judge Gaskill?

A. Yes.

Q. And you spoke to him about your troubles, did you

A. Yes.

Q. Did you ever see your husband after that?

A. Never. Oh, I saw him afterwards, but not to speak to him.

Q. When was the next you saw him?

A. In Newark, N. J.

Q. How long ago?

A. Oh, I don't know, between two and three years ago. I think that is the first time I had seen him for five years.

Q. Do you know where he was living when you returned to Philadelphia at that time?

A. Living at the club; I heard so.

Q. Have you ever lived with him since that time?

A. Never.

Q. Now, Mrs. Dudley, in the early part of January, 1904, when you began to make remonstrances to Mr. Dudley, did you ever call him a dirty beast and a liar, and a filthy beast?

A. Never.

Q. Do you ever use any such language or epithets in the presence of others?

A. Never.

Q. Did you ever use any such epithets in the presence of the servant that was on the stand yesterday?

A. Never.

Q. On one Sunday in January, 1904, after Mr. Dudley had gone out for the afternoon, did you ask Mr. Dudley where he had been?

A. No.

Q. And did he after that say that he had been out for a walk at Laurel Hill?

A. No, never; I never had heard of Laurel Hill before in connection with Mr. Dudley's two former wives that died.

Q. Did you know where they were interred?

A. No.

Q. And did you ever make any such statement to Mr. Dudley?

A. I wouldn't think of such a thing.

Q. That referred to Laurel Hill to him?

A. No.

Q. Did you ever, at a Christmas dinner in your home, pick up some opera tickets and throw them on the candle and try to burn them or destroy them?

A. Never.

Q. Did you ever say in the presence of any guests, or to Mr. Dudley at any time, that Dudley didn't want to use the opera tickets except for his women, or some such remark?

A. Never. How could he use them for such a purpose.

Q. Did you ever tell the servant, Stockton, to buy whatever things you ordered?

A. As a matter of fact, Mr. Dudley always purchased the oranges, the grapes and the apples; he bought them at a wholesale house near the ferry, and Mr. Dudley knew this man, Mr. Roberts, and he got him to buy Mrs. Vanderpoel's apples, and I never ate grapes. I never had any of those oranges; Mr. Dudley ate a great deal

of fruit, and he always had a large dish of fruit brought upstairs in his room, and he would use those things as a means of quarreling after he had been with Mrs. Vanderpoel.

Q. Did you, in the early part of the year 1904, say to Stockton, who was on the stand, that it didn't matter where Dudley's money went; that it might get what you wanted or his old children would get it, or some such words?

A. No; why shouldn't they get his money?

Q. Did you ever, in the presence of Stockton, continually make remarks about Mr. Dudley's going after other women?

A. Of course not, never.

Q. Did you ever, in Stockton's presence, open a suitcase that Mr. Dudley had sent home and examine the things that were in it, particularly the night clothes?

A. No.

Q. Or any such thing?

A. No.

Q. Mr. Dudley, in fact, sent home for his grip to be packed occasionally?

A. Yes, Margaret always packed it, or John, or the maid, Gabrielle, or Louise, or somebody. I never did, as a rule; and yet I think I have packed it.

Q. Did you ever make the remark that Dudley didn't need dress clothes, but night clothes, when he went away and sent for his grip?

A. Never.

Q. Is it a fact that Mr. Dudley was always a perfect gentleman to you, and never had anything to say, and never scolded you; did he, in fact, scold you?

A. Yes.

Q. And use abusive terms to you?

A. Yes, and without any reason.

Q. Did you ever purchase a $40 palm and then destroy it the same day?

A. I never destroyed a flower or plant—of course not.

Q. And did you immediately thereafter buy one that cost $70 or $75?

A. Not after destroying a plant, no.

Q. Did you ever purchase a palm that cost $75?

A. Not to my knowledge.

Q. In the beginning of 1905?

A. When we first went into the house I think we had a palm every two years almost, and Dudley bought them himself. He was very fond of them and had some beautiful ones, large ones, that reached to the ceiling.

Q. Beginning with 1905, did flowers begin to come to your house?

A. We always had flowers coming to the house constantly.

Q. And flowers for you?

A. Flowers for me.

Q. And sent to you by whom?

A. By different gentlemen.

Q. Can you name some of them?

A. Yes.

Q. Will you do it?

A. Mr. C. L. McGee, Mr. Dorrance—

Q. The gentleman who was on the stand yesterday?

A. Yes; he sent me sometimes a hundred roses at a time—sent large boxes containing a hundred long-stem roses, and I was very fond of them. And Mr. Van Bonhurst sent me flowers; a great many people sent me flowers; our house was filled with flowers.

Q. People who had been guests at your house?

A. Yes.

Q. Did Mr. Dudley present them to you?

A. Of course, right in my drawing-room and around the house.

Q. Did he ever criticise you for having these flowers given to you?

A. Never.

Q. Did some of those flowers come from New York?

A. I don't think so—may have. I had flowers very

often, and when we were at Palm Beach I have had people send them up to me there.

Q. That was nothing unusual?

A. No, very ordinary thing to do.

Q. Now, was there ever an occasion, at any time in your married life when you, in the evening and at other times, went down the stairs of your house dressed in black with a nightgown under your arm?

A. Never.

Q. Were you in the habit of going out of your house in black and staying away all night?

A. Never.

Q. Did you ever—

A Never.

Q. Did you ever drive off at night from your house in a hack with any man not your husband?

A. Never that I know of.

Q. Did you ever say to Stockton, the man who was on the stand, that you were going to have a waist tried on at eight o'clock at night?

A. Never.

Q. Did you ever at eight o'clock at night go out with something under your arm for a drive?

A. No. Why should I tell him that I was going out to have a waist tried on?

Q. Did you ever say to Stockton on one occasion when Mr. Dudley had gone away that a telegram had come saying he wouldn't be home at night, "look what that filthy beast has done"?

A. Never.

Q. Was there ever an occasion when you went out in the afternoon, not to stay all night but did return about two A. M., and then call up Hansbury street, in Germantown, or did anything like that happen?

A. Not to my recollection.

Q. Would you recollect it?

A. Yes, I think so; I don't know the street.

Q. Did you ever hear of that street?

A. I don't think I ever heard of that before; I may have heard it.

Q. Did you ever come in your house after going out in the afternoon and coming back about two o'clock in the morning?

A. Never, no. I may have gone out at night and come back at two, yes; I may have gone to some entertainment or something or other. It might have happened; we were often out very late.

Q. You were sometimes out at affairs when Mr. Dudley wasn't present?

A. Oh, yes, when he wasn't there and when I knew people well enough so that I could explain why I came alone.

Q. Was there any time when you told Mrs. Tilghman that you didn't want to have her being around your husband, or words to that effect?

A. Never.

Q. Did you ever criticise Mrs. Tilghman for any action of hers at any time?

A. Never.

Q. Did you ever say anything to Mr. Dudley about Miss Walton, that he should not be intimate with her?

A. I never met her except on one occasion. I think he received a letter from her and she asked me—

Mr. Strong—One moment, I object. I suppose you have that letter, haven't you?

A. I don't know, Mr. Strong.

Mr. Strong—Well, you had better make sure you haven't it before you testify regarding it.

A. I have a trunk full of letters; I may have that one.

Q. Did you speak to Mr. Dudley about it?

A. About this letter? Yes, I did.

Q. Did she in that letter ask Mr. Dudley to pay some dues at the Union League?

A. No, sir.

Q. Did you ever speak to him about any such letter?

A. This letter that I received?

Q. No, any such letter in which Mr. Dudley was asked to pay some dues at the Union League?

A. No, I never heard of such a letter until yesterday.

Q. Did you ever criticise him at all for anything concerning Miss Walton?

A. I don't think I ever did.

Q. (By the Court)—Did you speak to him about this letter that you got from Miss Walton?

A. Yes.

Q. What did you say?

A. I asked him for the letter, that is all.

Q. Did you turn it over to him?

A. Oh, he read it; the letter was to me.

Q. (By the Court)—What conversation did you and he have in regard to the letter?

A. Why, the letter was a request and I didn't think as I didn't know Miss Walton, that it had been properly put.

Q. What was the conversation between you and Mr. Dudley in regard to it?

A. I asked him if he could throw any light on it.

Q. What did he say?

A. He wouldn't do it.

Q. What did he say?

A. What did he say in regard to the letter?

Q. When you asked him if he would give you any light what did he reply?

A. Why, he flew into a rage.

Q. What did he say?

A. Refused to say anything further in the matter.

Q. And didn't say anything further?

A. Didn't say anything further.

Q. Now, do you remember an occasion when there was a telephone call and you went upstairs, when either you or Mr. Dudley was talking on the 'phone and there was an altercation between you?

A. Yes.

Q. Did you at that time go upstairs and find Mr. Dudley talking over the 'phone and grab the receiver away from him?

A. No.

Q. Please tell what that was.

A. We were sitting at the table and the butler came in and said there was a long-distance call for Mrs. Dudley. I went upstairs and took down the receiver and Mrs. Vanderpoel spoke and said "I would like to speak to Mr. Dudley." She recognized my voice, and I says, "Mrs. Vanderpoel, what do you wish to see Mr. Dudley about?" "I wish to make an appointment." I says, "Mrs. Vanderpoel, I must request you not to make any appointments with my husband at my house."

Q. And then what happened?

A. Dudley was coming up the stairs, and he grabbed the receiver and began beating me about the head, and I put my arm up to protect my head, and he hit my arm and the blood spurted out in a perfect rage, but the telephone was not damaged.

Q. Was Mrs. Waterhouse there?

A. Yes, she was downstairs.

Q. Did she come upstairs?

A. She came running when she heard me shriek.

Q. Was there any doubt in your mind but what that was Mrs. Vanderpoel?

A. I recognized her voice and the call came from Washington.

Q. You knew her voice?

A. Yes. I won't say from Washington; it was long distance.

Q. Do you remember when that was, Mrs. Dudley?

A. No, I don't recall when it was. I think Mrs. Waterhouse was staying in the house at the time. I think it was after Mr. Waterhouse's death; I don't recall the date.

Q. Can you tell what year it was?

A. No, I can't, but there was such an occurrence.

Q. Do you remember an occasion when Mr. Dudley was going to be away on business, and said he was going to Boston, and that a dinner party was given, and that no place was made for Mr. Dudley, and he came in, and then did you say that he wasn't in it, and said to Mr. Dudley "go to the devil," or words to that effect?

A. No.

Q. Did anything like that ever happen?

A. No.

Q. Now, Mrs. Dudley, what was the condition of your health when you got back to Camden after your wedding trip?

A. I wasn't very well.

Q. Did you have a doctor?

A. No.

Q. Do you remember how many doctors you had while in Philadelphia?

A. Two to my recollection.

Q. And were you ill any part of the time when you lived in Philadelphia?

A. Yes.

Q. Was that known to Mr. Dudley?

A. He was in the house.

Q. In fact, what length of time were you ill?

A. Oh, I don't know.

Q. Was it a week, or month, or six months?

A. Oh, longer than a week, on several occasions, that I was in bed—absolutely in bed.

Q. Was that the time before you went to the Waldorf?

A. On one occasion.

Q. There were other times than that?

A. Yes.

Q. And did Mr. Dudley ever advise you to take the treatment at Nauheim?

A. Oh, yes, he wrote me and urged me to go there.

Q. And when was that that he urged you?

A. In 1903.

Q. And did you, in fact, take the treatment there?

A. I did. 1904, I should say.

Q. 1904?

A. I think it was 1904. You see I get the winters mixed up.

Q. Did you tell Mr. Dudley that you had been there after returning from Europe?

A. Oh, he knew I was there.

Q. Now, Mrs. Dudley, do you remember being in Washington with me when depositions were taken some time ago?

A. Yes, sir.

Q. And do you remember that the hotel register of Hotel Raleigh was offered in evidence for April 12, 13, 14 and 15, of 1905?

A. Yes, sir.

Q. Do you remember the signature that appeared on the hotel register?

A. Yes.

Q. Do you remember the name that was on the register?

A. I think I do.

Mr. Strong—Does the witness say she was present?

Q. Were you present at the time of the testimony, or did you come afterwards?

A. I came afterwards.

Q. Did you on that same day or afterwards see the register of Hotel Raleigh?

Mr. Strong—One moment; how does she identify the time?

Mr. Carpenter—I will identify it, Mr. Strong.

Q. Were there any marks pointed out to you on the register? Did you see the register for that day?

A. For April?

Q. Yes, 1905. Where did you see that register for that date?

A. At Hotel Raleigh.

Q. And in what office there, in the hotel?

A. In the main office.

Q. You mean the clerk's office?

A. Clerk's office, yes.

Q. And was anything on that register pointed out to you—any mark of identification?

A. There was.

Q. And what was the signature there that you particularly noticed?

Mr. Strong—Well, I object. I don't think this is competent. There was some testimony taken in regard to some register; whether it is the same book that she is talking about I don't know. I don't believe anybody knows.

The Court—I don't quite understand your objection; it isn't a question relating to any testimony that was taken; it is whether she saw the register of the Hotel Raleigh.

Mr. Strong—The testimony began by asking her about the occasion when there was some testimony taken about a register, and then there was apparently an effort to show that this book which she saw was the register introduced on that occasion. I am sure she wasn't present on that occasion and she says herself now that she saw the book afterwards.

The Court—That is the testimony that we have to deal with?

Mr. Strong—Yes.

The Court—The fact that she was present when some testimony was taken, of course, isn't connected in this case in any way now. Counsel is simply referring to that to identify that particular occasion when she saw in the Hotel Raleigh a register, and it is with that testimony we have to deal.

Q. Was there any exhibit number on the page of that book?

A. There was.

Q. Do you at this time recall the latter and number?

A. I don't.

Q. Did you at that time make a written memorandum of what you found there?

A. I did.

Q. Have you that written memorandum now?

A. We have it somewheres.

Q. Do you know where it is?

A. No, I don't.

Q. Do you remember whether you have it or whether you turned it over to me?

A. I think you have it, Mr. Carpenter.

Mr. Carpenter—I have made a search for it, but I have been unable to find it.

Q. Did you at that time make a tracing of that signature on the hotel register?

A. No.

Q. Was there a tracing made at the time?

A. There was.

Q. Was that put in your hands?

A. It was.

Q. And what did you do with it?

A. I have it (witness producing piece of paper).

Q. I will show it to you and ask you, did you place this over the signature on the hotel register and see whether or not it was an exact tracing?

A. I did.

Q. Was it?

A. It was.

Q. Is that a tracing of the signature and of the letters that were on that hotel register?

A. Yes, sir.

Q. Did you at that time compare that signature with any other specimen of handwriting?

A. I did.

Q. Whose handwriting?

A. Edward Dudley's.

Q. Do you know Edward Dudley's handwriting and signature?

A. I do.

Q. Ever see him write?

A. Yes.

Q. Have you received many letters from him?

A. Yes.

Q. Whose signature was that on that book?

Mr. Strong—I object. I think the book is the best evidence. I think if it comes to be a comparison of signature it is very important that the Court should have the signature which is in dispute.

The Court—Well, Mr. Carpenter, how is it competent to bring out from this witness, or from any other witness for that matter, evidence that a hotel register exhibits a name—not the name of the party to the suit, Mr. Dudley, but another name in his handwriting, without producing the register?

Mr. Carpenter—If your Honor, please, I have taken the testimony of the manager of the hotel; I have proved the record, I think, very clearly; I have offered the register in evidence and the testimony is in the files at the Clerk's office. I have written to the clerk and I telegraphed to the clerk to send all the papers here and they have not come yet.

The Court—This book was offered in evidence in Washington when this deposition was taken?

Mr. Carpenter—It was.

The Court—And there produced and identified by witnesses?

Mr. Carpenter—Identified by the manager of the hotel as manager of the Hotel Raleigh on

the date that appeared on the head of the register, and it is now my recollection it was the 13th of April, 1905. This register was produced and proved according to strict rules of evidence. It showed the room numbers and the name of Mr. and Mrs. Louis Craven.

The Court—What I am asking you is, whether the register was produced before witnesses who were sworn, whose depositions were taken, and who examined this particular writing, and who can testify that that was the handwriting of the defendant?

Mr. Carpenter—No, but there was an exhibit mark put on the page of the register, and put on by the examiner, I believe, or in the presence of the examiner, and that book was offered in evidence, and I shall prove that Mrs. Dudley saw that page and those exhibit numbers on that book.

The Court—Why did you not take the evidence then to show that that was the handwriting of Mr. Dudley at that time and place when the book was present? I never heard before of introducing a book in a foreign State upon a commission when depositions are taken *de bene esse* and then having witnesses testify on the trial that they saw the book.

Mr. Carpenter—Mrs. Dudley was expected down there that particular day, but missed a train.

The Court—One difficulty lies here, Mr. Carpenter: You have presented a very novel situation; I don't think this question has ever been presented to me before. You want to prove that the name—that you, I suppose, insist was a feigned name—appears upon the register of the Washington hotel and that signature is, in fact, the handwriting of Edward Dudley, and

thus you want to have the inference drawn that Edward Dudley was there—you want to have that inference drawn from the signature of "Mr. and Mrs. Louis Croven"; that he was there with a woman; but you produce the book upon this commission, upon notice, before the master, and identify it as the register, and called no attention whatever to the handwriting. Now, with the book in Washington, you put the witness on the stand to say that he or she saw this book and in his or her opinion that handwriting is the handwriting of Edward Dudley. Is that the proper method of proving handwriting?

Mr. Carpenter—And, furthermore, I produce a tracing of that signature which the witness testifies she compared, and that it is an exact tracing on very fine paper.

The Court—What authority have you for replacing the original with a tracing?

Mr. Carpenter—I am not offering that as the original—haven't offered that yet—but I insist that she can say, using that tracing for refreshing her recollection, whether or not that signature that she saw at that time was the signature of Edward Dudley.

The Court—That brings us back to the very question I put to you: What authority have you for that method of proving handwriting of Mr. Dudley on that book? You have produced the book in Washington, and you have produced a witness here to testify to the handwriting in that book. Now I think you should produce some authority to support that very unusual method of proof. I am not ruling against you; I only want to know in what way you can sustain your position.

Mr. Carpenter—If you Honor pleases, it is proper to state that we have been allowed by the

Court up until Monday, when I made the application, $500 in this case for services covering four or five years' disbursements, which are very close onto $450. We didn't have any money to employ handwriting experts, who charge a hundred dollars or so a day. What we want to do is to prove that book and prove it strictly. Mrs. Dudley expected to be in Washington that day in order to examine the book herself, but under the stipulation we could not take the testimony of the parties except before your Honor, so that we could not take her testimony down there, and we had no one else whom we could employ to make a scientific examination of that handwriting and a comparison of it. The hotel people are opposed to producing the record and will not do so voluntarily without process to compel its production. I believe that is a universally recognized hotel rule. We should like to have an opportunity to prove that handwriting by an expert. We can't employ one; we haven't the money. We are willing to have the Court name a handwriting expert—we don't care who—any one whom the Court will nominate or appoint to make that comparison, and we will rest on that.

The Court—I do not care to hear from you, Mr. Strong, unless you wish to be heard a little later. In the absence of any authority sustaining this mode of proof I shall feel constrained to rule against it. After we have reached a later stage of the case this afternoon, as I intimated yesterday, I shall entertain any application you wish to make to have more proofs taken on either side. One application made on behalf of Mr. Dudley has been granted, and I will hear any application on behalf of Mrs. Dudley and deal with it then. Proceed with the examination.

Mr. Carpenter—I understand my offer is overruled?

The Court—Yes. I may say, if counsel will at the next session produce authority to sustain that mode of proof I shall reconsider my decision. I doubt if any authorities can be found. I never heard of such a form of proof being made before.

Q. Mrs. Dudley, what doctors did you have in Philadelphia; will you give the names of them?

A. Yes. Dr. J. Nicholas Mitchell. Dudley will know; I think that is the one. And Dr. Andrews. Those are the only two that I ever had there.

Q. When you dined with Mr. Dudley, before your marriage, did you have wine served?

A. Always.

Q. Always had wines?

A. Yes.

Q. And he knew before you were married that you did take wine occasionally?

A. Oh, yes; we had it together.

Q. Did you know of William H. Taylor or ever hear of him through Mr. Dudley?

A. No, I never heard of him.

Q. Did you ever make any insulting remarks to any of Mr. Dudley's clients, or to any one who telephoned to your house?

A. None of Mr. Dudley's clients ever called him up that I can recall, and I seldom answered the 'phone unless I was near and somebody wished to speak to me.

Q. Who generally answered the telephone?

A. One of the servants, I don't know who—whoever happened to be near. I wasn't in all of the time, either.

Q. Did you ever tell William H. Taylor over the 'phone that he must not call up at the house on business matters?

A. No.

Q. Or any gentleman by the name of Taylor?

A. Never.

Q. Did you use the name of Fisher as your own name when calling up anybody from your own house?

A. No, not that I know of.

Q. Would you know if you did?

A. I think so.

Q. Did you ever say to Mr. Dudley that you would ruin him morally and financially?

A. No.

Q. Did he ever show to you a copy of *Town Topics* that had any article in it that might have possibly referred to you and Mr. Dudley?

A. No.

Q. Did you ever see such an article?

A. I did.

Q. What time did you see it?

A. In April, 1905, I think.

Q. And who showed it to you?

A. I don't know who showed it to me particularly.

Q. Was it one of Mr. Dudley's servants?

A. I don't know; I think we took it always.

Q. You think it was in your house in Philadelphia?

A. I think it may have been; I don't know.

Q. Did Mr. Dudley ever ask you where you had been all night and did you then tell him to go to the devil?

A. No.

Q. Did you ever say to Mr. Dudley, "You will never come in my room again; you can sleep where you are"?

A. Never.

Q. Did you ever make any vile or insulting remark to Mr. Dudley about him or about his family in the presence of Stockton that was here on the stand yesterday—did you ever make any vile or insulting remark in the presence of Stockton about which he testified here yesterday?

A. No.

Q. How did Stockton come to leave your house?

A. I discharged him.

Q. For reason?

A. I knew that he was a spy.

Q. And when did you discharge him?

A. Sometime in April, I think.

Q. Had he been paying attention to his duties?

A. No.

Q. Just tell what took place there that caused you to discharge him.

A. Why, I found that the servants complained about his disappearing from the house without telling them that he was out. The door-bell would ring and nobody would go to the door.

The Court—Is it really necessary to go into that?

Q. Did you ever say, Mrs. Dudley, to Miss Knight, if Dudley displeased you you would turn around and order a $150 or $200 dress or anything like that?

A. No.

Q. Did you pose before the artist who painted your portrait in an improper costume?

A. No.

Q. Did Mr. Dudley at one time, or ever say to you, in the upper hall of your house that he had seen in *Town Topics* that you had been out all night, and had become awful extravagant, and that he couldn't stand it and wanted to know what you are going to do about it—did he ever make such a remark to you?

A. No.

Mr. Carpenter—That is all.

The Court—The direct examination is now concluded, with the exception of the reserved topics. Proceed with the cross.

Cross-examination, by Mr. Strong:

Q. Mrs. Dudley, in telling us of your relations you did not mention any children; have you a son?

A. I decline to answer.

Q. Why so?

A. For reasons.

Q. I think the Court will require you to answer.

A. I don't see that any of my former relations have anything to do with this affair at all, one way or the other.

Mr. Carpenter—I would like to have the Court rule on that.

10 The Court—It isn't necessary. The cross-examining counsel doesn't ask the Court to compel an answer.

Mr. Strong—I do ask it, yes, sir.

The Court—Why?

Mr. Strong—It seems to me to have something to do with this lady's candor and with her past life, and surroundings, and history, whether she had a son, whether she informed Mr. Dudley she had a son, or whether she declared she had no 20 relatives whatever. Your Honor said at a previous stage of the case that great latitude was allowed in this class of cases. Things that in some kinds of litigation would not be considered as germane when they touch this relation and when they touch the question of the attitude of the parties and their bearing toward each other, their intentions and purposes—everything almost that has occurred, not even confining it to their 30 married life, has its bearing.

The Court—The refusal of the witness to answer the question without assigning any reason that seems to the Court to have any force, may be taken against her—may be the subject of comment; but the Court will not force her to answer a question like this when a fact of itself which a question tends to elicit is not directly connected with the case.

Q. Did you inform Mr. Dudley that you had a son?

A. Mr. Dudley was well acquainted with every part of my life.

Q. Just answer that single question, please, whether you informed him.

A. That I had a son?

Q. Yes.

Mr. Carpenter—I object as incompetent, irrelevant and immaterial.

The Court—Question allowed.

A. I did inform him that I had a son.

Q. You did?

A. Yes, I did.

Q. When did you first tell him that?

A. When he first knew me—knew all about me. His friend and my friends were mutual friends. His most intimate friend lived on the same street with me when I was a girl.

Q. You say you did tell him?

A. Oh, yes.

Q. Then it was a fact, was it?

A. It was a fact that I had a son; that I did have a son and Dudley and I hunted for him.

Q. Hunted for him?

A. Yes, indeed; hunted everywhere.

Q. Did you and Mr. Dudley inquire of your sister, Mrs. Conley, where the son was?

A. Oh, no; she didn't know anything about where he was.

Q. Is it not a fact that you gave the son into the charge of Mrs. Conley to bring up?

A. Oh, no; not at all.

Mr. Carpenter—I object. This is not material.

A. (Continuing)—Oh, but I have letters from Dudley to prove it.

Mr. Carpenter—We are going far afield.

The Court—We are going rather far away from the case, but I won't strike it out. Proceed.

Q. Mrs. Conley is your sister?

A. Yes.

Q. Mrs. Mabel H. Conley?

A. Yes.

Q. Where does she live?

A. I don't know where she is at present. She lived for many years near Pittsburgh.

Q. Did you ever tell Mr. Dudley that you had a sister?

Mr. Carpenter—I object. I don't think it material whether she did or not. A man when he marries a woman doesn't marry the whole family, and I don't think that it is material whether this lady told Mr. Dudley that she had a sister. If Mr. Dudley asked and then was not told, why it might indicate that she had told a falsehood. I don't think it is material.

The Court—Question allowed.

Q. (Question read by the stenographer.)

A. Oh, yes; he knew all about me.

Q. When did you tell him that?

A. Oh, I can't tell you.

Q. Was it before you were married?

A. And if I hadn't told him, my friends were his friends.

Q. I am asking you what you told him.

A. I can't tell you whether I told him I had a sister or not.

Q. You don't think you did, do you?

A. I don't knew whether I did or not.

Q. Have you any recollection of ever mentioning in any way that you had a sister?

A. Oh, yes; of course I did.

Q. Now, when was that?

A. Oh, I couldn't tell you; probably when I first met him.

Q. Probably?

A. Yes, probably—very likely.

Q. Do you say now that you have a recollection of it?

A. No, I have no recollection of it; it wasn't necessary to mention it; he knew it; he knew too many of the people that I knew.

Q. How do you know that he knew it?

A. He must have.

Q. Did he ever mention her to you?

A. Oh, yes; often, often, often.

Q. Can you refer to any particular occasion, or any particular language with him that you ever said about your sister?

A. No, I couldn't.

Mr. Carpenter—I object as irrelevant, incompetent and immaterial.

The Court—I will allow it.

Q. Did you ever tell Mr. Dudley that you had a brother who was Consul General to China?

A. Oh, he knew it.

Q. Did you ever tell it?

A. I suppose I did.

Q. Did you ever mention that to him?

A. Yes, often talked about it. I was very proud of my brother.

Q. Isn't it a fact to the contrary, Mrs. Dudley, that you told Mr. Dudley before your marriage that you had no relatives whatever?

A. Is it a fact that I told him so?

Q. Yes.

A. Oh, no, of course it isn't a fact.

Q. And that he married you in the belief that you had neither mother, sister, brother or son or any other relatives?

A. Oh, no; he married me with a full knowledge of my standing, my relations; he knew too many people that I knew, and I had known for years before I married him.

Q. You had known him for years?

A. Yes, for quite a number of years.

Q. How many years?

A. I met him in about 1897.

Q. Is it not a fact that you met him several years before that?

A. To the best of my recollection, it was in 1897 that I got my divorce, or, rather, it was begun in 1896, and it was shortly after I met Mr. Dudley that I got my divorce.

Q. Was your baptismal name Annie Julia Fowler?

A. I don't know.

Q. Was it by the name of Annie Julia Fowler that you married Edward Warren Duflon?

Mr. Carpenter—I object. I don't think it is material.

The Court—Question allowed.

A. Yes, sir; that was the name.

Q. And that marriage occurred in 1885?

A. It did.

Q. Did it not?

A. If it is there, I suppose so.

Q. Don't you know?

A. Oh, I don't recollect the date.

Q. Is it so far in your past that you cannot tell us?

A. Yes.

Q. When did you assume the name of Marie Mulloch?

A. When did I assume it?

A. Yes, when did you assume it?

A. I never assumed it.

Q. You used it?

A. Oh, yes.

Q. When did you first use it?

A. I can't tell you; many years ago.

Q. After your marriage?

A. When I was adopted by my mother's cousin that name was given to me.

Q. Were you adopted after your marriage to Mr. Duflon?

A. Oh, no, I was adopted when I was a child.

Q. And yet when you married Mr. Edward Warren Duflon you used your baptismal name?

A. Yes.

Q. That is, the name of Annie Julia Fowler?

A. Yes.

Q. Did Mr. Duflon know you as Marie Mulloch?

A. He certainly did; he knew all about me; he knew my family.

Mr. Carpenter—I object to this. What difference does it make how he knew her. We are not trying that marriage relationship.

The Court—Question allowed.

Q. Did he call you Marie or Annie?

A. He called me Marie.

Q. I am speaking of Mr. Duflon.

A. Yes, he called me Marie always.

Q. (By the Court)—When you married him, Mrs. Dudley, were you known generally among your friends as Marie Mulloch?

A. Yes, I was.

Q. He knew you by that name?

A. Yes, he did.

Q. And what efforts did you and Mr. Dudley make to find your son?

A. Every effort we could think of.

Q. Tell us some of them, if you please.

A. I went to Boston, and Mr. Dudley came there, and we hunted everywhere for him.

Q. Did you inquire of your mother?

A. Oh, yes; nobody knew where he was.

Q. You did not inquire of your sister?

A. Oh, no; I did not inquire of my sister; she didn't know anything about him; didn't know where he was.

Q. You asumed that she didn't know?

A. Oh, I knew.

Q. How old was he when you last saw him?

A. Eighteen months.

Q. And how old would he have been when you first made the effort to find him?

A. I don't know.

Q. 22, 23, 24 or 25—something like that?

A. Oh, yes, maybe sixty.

Q. Are you speaking seriously now, remembering that you are under oath?

A. Yes, I am under oath.

Q. How old would he be now; how old would he have been at the time you first made an effort to find him?

A. I made an effort to find him years ago when my divorce was secured. That is when I made an effort to find him.

Q. That was in 1897?

A. Absolutely.

Q. How old would he be now?

A. 21 or 22 years old, if he is living.

Q. You don't know whether he is alive or not, do you?

A. No, I don't know.

Q. When have you last heard from him or seen him?

A. I haven't seen him since he was eighteen months old.

A. And have you any knowledge since then whether he is living or dead?

A. I have no knowledge whether he is alive or dead.

Q. When have you last seen Mrs. Conley?

A. I haven't seen her for several years.

Q. How many?

A. I couldn't tell you.

Q. Well, approximately twenty or thirty years?

A. Oh, no, I don't think it is as many as that—maybe three or four, maybe not as long as that, maybe two years since I have seen her. I haven't seen her for two years, I don't think.

Q. Do you recall her going to see you at the Waldorf and you refusing to see her, and you denied that she was your sister?

A. Oh, no, no such thing happened. My sister and I have been together in hotels in New York; she was with me at the Waldorf on many occasions. She has met my friends.

Q. Has she met Mr. Dudley?

A. I think she has.

Q. Are you able to swear positively that she has?

A. No, I am not, but I think she has.

Q. When you married Mr. Dudley in 1899 you had no means of your own, had you?

A. My husband's family had means, yes, and I had means of my own.

Q. When you say your husband's family you mean Mr. Duflon?

A. Mr. Duflon. They were people of means, of wealth.

Q. Did you receive any means from them?

A. I have, and I lived with them for a long time in Grammercy Park.

Q. That was before you met Mr. Dudley?

A. Before I met Mr. Dudley.

Q. At the time you met Mr. Dudley you had been living separate from your husband many years?

A. Two or three.

Q. And you afterwards secured a divorce from him?

A. I afterwards secured a divorce from him, yes.

Q. Just as Mrs. Vanderpoel secured a divorce from her husband?

A. Oh, not at all under the same circumstances.

Q. Not under the same circumstances, you think?

A. No, not at all.

Q. She secured a divorce and you secured a divorce?

A. Not at all under the same circumstances.

Q. Circumstances change cases, of course?

A. Very materially.

Q. But it is a fact that you secured a divorce and she secured a divorce?

A. It is a fact that I secured a divorce.

Q. And so did she. Now, were you ever suspicious of any other women in their relation with Mr. Dudley except Mrs. Vanderpoel?

A. Not that I know of.

Q. You mean, then, that you were not suspicious at all of Mrs. Tilghman?

A. No.

Q. And it isn't a fact that you spoke to Mr. Dudley about his relations with Mrs. Tilghman as improper, is it?

A. No.

Q. And it isn't a fact that you went to Mrs. Tilghman at an afternon tea and charged her with it, or made some illusion to it?

A. No.

Q. That isn't true at all?

A. No.

Q. Why is it that you have treasured all these years and now produced here these notes from Mrs. Tilghman to your husband? Why is it?

A. Why, I happened to have those by accident.

Q. By accident?

A. Only by accident.

Q. Can you explain the accident?

A. No, I cannot.

Q. They came on two or three different occasions, didn't they, and yet by accident you picked them up and kept them and are able to produce them here as of some evidence of something at this time?

A. Yes, Mr. Dudley acknowledged, I think, that he threw one of them at me or to me.

Q. Put it on the table before you?

A. Yes.

Q. He made no secret of it at all, did he? Mr. Dudley made no secret at all of these letters?

A. They came right to our apartment—right to our room. He was very much annoyed and very much upset about it.

Q. Who was?

A. He was, Mr. Dudley.

Q. About what?

A. About getting his notes.

Q. What did he say that indicated that he was annoyed and upset?

A. He didn't like it.

Q. What did he say?

A. He flew into a temper.

Q. Is he a man with a violent temper, as you have found him?

A. Yes, violent temper.

Q. Easily aroused to anger?

A. Yes, irritable disposition.

Q. And he was habitually abusive to you, was he?

A. Oh, no.

Q. You did say that he used abusive terms to you—applied abusive terms to you?

A. Yes.

Q. What were they?

A. Well, I couldn't remember exactly; they were just abuse.

Q. I know, but what was the abuse; give us a specimen of the abuse.

A. Oh, that I have lived too long, for one thing.

Q. That you had lived too long?

A. Yes, wishing that I was dead.

Q. He said that?

A. Often wished me dead.

Q. And what would be the occasion when he would say anything of that kind to you?

A. Oh, when I would ask him not to leave me alone or something like that.

Q. At night, is that it?

A. Yes.

Q. Anything else; any other occasion on which he used any of these abusive terms to you?

A. Only the occasions which I have referred to.

Q. Well, what were they?

A. Several times.

Q. Well, give any one that you remember now.

A. When I remonstrated with him about Mrs. Vanderpoel.

Q. Now, when was there any one of those occasions?

A. When he would go away and be gone from the fireside and come back, not telling me where he was, and would telegraph me sometimes.

Q. Did he ever refuse to tell you where he was?

A. Oh, yes, when I asked him before why he didn't explain what he was doing.

Q. You were annoyed and suspicious because he didn't tell you in advance where he was going and when he was going to be absent; isn't that true?

A. Well, it would have been better for all concerned if he had done so.

Q. That is what annoyed you?

A. Yes, not to know where my husband was when he would disappear.

Q. Didn't you realize that a man of business is sometimes called away suddenly from his wife and isn't able in advance to send word that he would be away from home?

A. Oh, yes, but not constantly.

Q. How constantly did it seem to be with Mr. Dudley?

A. Seemed to be frequently.

Q. How frequently was it?

A. At times, as I say, I would not get word from him, say once or twice a month, and then oftener, sometimes three times a month.

Q. Sometimes four or five times, I suppose?

A. Oh, no, not as often as that.

Q. And whenever he went away and was unable to come back the same night he sent you a telegram, didn't he?

A. Not always.

Q. Almost always? How many times can you recall that he was ever away at night without sending you a telegram?

A. Oh, just as often as the times he sent me a telegram.

Q. You have brought here several of these telegrams, haven't you?

A. Yes.

Q. Well, on those occasions when he came back and sent you a telegram you were cross, weren't you?

A. I was cross?

Q. Yes, you were annoyed?

A. Oh, no, not all the time; only once in a while. It would be beyond endurance then.

Q. Now what was it that got you beyond endurance?

A. His actions when he returned.

Q. Well, what were they?

A. Why, he would act like a demon.

Q. Well, how does a demon act?

A. Very frightful.

Q. We don't often meet them nowadays; just what was his action that resembled that of a demon?

A. Oh, he would thresh around and go upstairs and slam the doors, and make himself generally disagreeable.

Q. Have you mentioned all that you can think of that he did that was disagreeable?

A. There are a good many things that I have not mentioned.

Q. You never spoke to him, did you, about Miss Walton, in regard to your husband being too intimate with her?

A. Oh, no, I don't think so.

Q. You are positive of that?

A. I don't think so.

Q. Wouldn't you be able to recall the fact if you had done so?

A. No, I don't think I would. I have never met Miss

Walton; her name is almost unknown quantity to me, excepting I knew I saw that name once in a published list of contributors in a magazine called *Town Topics.*

Q. And you received a letter from her?

A. I received a letter from her, and I also have heard that there was some scandal in connection with her name, and I may have received a letter from her.

Q. Did you speak to your husband about it?

A. No, I didn't.

Q. Do you maen to swear positively now that you ever did hear anything of that kind in connection with Mr. Dudley and Miss Walton?

A. I think I have.

Q. Are you positive?

A. I don't like to say that about any woman unless I am positive.

Q. Then I wouldn't mention it in that way to injure her, unless you are positive.

A. No, I am not positive; I am not mentioning her name in connection with Mr. Dudley; you are doing it.

Q. You mention a letter you got from her?

A. Yes.

Q. And you applied to Mr. Dudley for some information about it, didn't you?

A. Yes.

Q. Just what was the application that you made to Mr. Dudley; what did you say to Mr. Dudley about Miss Walton?

A. "Can you explain this letter"? That is what I said to Mr. Dudley. "Can you explain this letter? I don't know anything about this."

Q. It wasn't a letter addressed to him, was it?

A. No, it was addressed to me.

Q. And you showed him the letter?

A. Yes.

Q. And asked him if he could explain it?

A. Yes.

Q. Then what did he say?

A. He flew in a passion.

Q. Well, what did he say?

A. He didn't give any explanation.

Q. But what did he say?

A. He didn't give any explanation; simply flew in a passion.

Q. Can you tell how he indicated his passion?

A. No, not any more than he didn't care to have me ask him anything more about it.

Q. How did he indicate it?

A. One thing, he grabbed the letter out of my hand, after I had taken it back to re-read it.

Q. What did he do with it when he grabbed it; did he take it away then?

A. Yes, he took it away, I think. I don't know; I think he did. I am under the impression he did take that letter.

Q. Didn't you at that time charge him with being too familiar with Miss Walton?

A. No, but I did think the letter a very strange letter, and I don't think—yes, I thought that it was a strange letter, that is all, and I wanted an explanation in regard to it.

Q. That is because you were suspicious of the relations between him and her?

A. I wanted an explanation in regard to the letter.

Q. Were you or not suspicious of the relations—

A. No, I don't think that was the reason.

Q. Your suspicions weren't aroused then as to Miss Walton?

Q. I didn't connect Mr. Dudley at that time with her, no.

Q. You have already denied that you had no suspicion of Mrs. Tilghman?

A. Yes, sir.

Q. And the only person that you ever suspected him of improper relations with was Mrs. Vanderpoel?

A. Yes.

Q. That is right?

A. Yes. I didn't have any opportunity of judging this lady, because I have never met her, but I did want some explanation in regard to the letter; that's all; and I never saw Mrs. Tilghman do anything that wasn't perfectly ladylike and proper.

Q. And you never accused her of anything?

A. No, I didn't.

Q. You never accused Mr. Dudley in connection with her?

A. No.

Q. Now, when did you become suspicious of Mrs. Vanderpoel's relation with your husband?

A. In 1902. I heard that he had met her before.

Q. You heard that?

A. Yes, 1901 and 1900; that he knew her.

Q. Let me ask you where it was that you were introduced to Mrs. Vanderpoel? I think you mentioned it, but it has gone out of my mind.

A. I met her at the home of J. Nicholas Brice; they gave a dinner for her.

Q. At that time you understood Mrs. Vanderpoel was a stranger to your husband as well as to you?

A. That is what I understood.

Q. And that was in 1901, was it?

A. No, that was in 1902, I think. No, excuse me, I think it was the winter of 1901 and 1902, but I couldn't say whether it was the first part of the winter or the last part.

Q. The end of 1901 or early in 1902?

A. Yes, that is exactly what I wanted to say.

Q. And how soon after that was it that you became suspicious?

A. When I saw Mrs. Vanderpoel—

Q. No, just tell me when—how soon after that.

A. Not very long after that.

Q. Well, a week or ten days?

A. Oh, I didn't see her again, I don't think, for another week; I may have.

Q. Now, give me your best recollection.

A. Because I entertained her very shortly after that myself and maybe it was within a week that I saw her again. Naturally, I was not jumping at any conclusion on any such short notice as that.

Q. I would like to have you tell us as well as you can how long notice you did have in jumping at that conclusion?

A. I can't. It is so jumbled up with the facts and my suspicions that I couldn't tell you when I first began to be suspicious of her.

Q. It was in 1902, was it?

A. I think so.

Q. Mrs. Vanderpoel was attentive to you, was she not?

A. She had pursued me.

Q. And you said on your direct examination that she forced herself upon you?

A. Yes.

Q. It was no sign she was with your husband when she pursued you and forced herself upon you, was it?

A. In order to be with him; it was very palpable to everybody in Philadelphia who met her.

Q. I don't see any large body of Philadelphians here to testify to that fact; have you anybody here to testify to it?

A. To-day?

Q. Yes.

A. No, I haven't.

Q. You were quite friendly with Mrs. Vanderpoel for a considerable time?

A. No, I was not friendly.

Q. Never?

A. Never friendly. I was polite to her, but there was no friendship between us.

Q. How far did the politeness extend?

A. It extended far enough for me to entertain her in my house.

Q. Frequently?

A. No, I don't thing she ever crossed my threshold more than three times in her life.

Q. And were you entertained in her house?

A. Never.

Q. Never went to her house?

A. Never went inside of her front door and never visited her at any place whatever, either at hotel or at home.

Q. You traveled with her abroad somewhat?

A. Never.

Q. Is it not a fact that you did go home on the steamer with her after this meeting in 1902?

A. Going on the steamer?

Q. Did you go on the same steamer?

A. Did she cross on the same steamer?

Q. That is what I asked you.

A. No.

Q. You did meet her over there?

A. I didn't meet her there.

Q. Didn't you see her over there?

A. I saw her there in London, yes.

Q. And you went from London to Paris with her?

A. Oh, no, not that I know of.

Q. Were you in her company at all traveling?

A. Coming back she came on the same steamer with us. We never traveled together. That is all, to the best of my recollection, that I ever traveled with her.

Q. Did you have any disagreement with her on the steamer coming back?

A. Oh, never did anything but say, "How do you do," or something like that, although she kept forcing herself on me.

Q. Now, tell us what you mean by that?

A. Trying to make herself agreeable to me; trying to come down when Miss Brice came down with Mr.

Brice to visit me—coming down under the pretext of looking for Miss Brice. She tried to have her steamer chair placed by the side of mine on the deck.

Q. Did you see her do that?

A. Yes.

Q. And she came down to your stateroom on the pretext of looking for Miss Brice?

A. Yes.

Q. Miss Brice was a friend of yours?

A. Not then. Of course she wasn't a real friend— she was a real friend, but not a really true friend.

Q. She was a real friend, you say?

A. Well, I can say she was a friend and acquaintance, and I should pay more respect to Miss Brice because I knew her father and mother.

Q. You knew Miss Brice better than Mrs. Vanderpoel?

A. Yes.

Q. And Miss Brice and Mrs. Vanderpoel traveled together?

A. Yes, but she never traveled with her again. Miss Brice was on comparatively friendly terms with her on the steamer.

Q. Isn't it a fact that when you were having this picture painted by Mr. Torrey Mrs. Vanderpoel went with you to your sitting on one occasion?

A. Why, Mr. Brice was very anxious—

Q. No, just answer the question.

A. To go with me to Mr. Torrey's studio? They may have requested—asked if they could go and I probably said, "Yes, you can come up there," and Mrs. Vanderpoel was the one that gave Mr. Dudley the information, trying to convey the idea to him that I was posing in an improper costume.

Q. Didn't Mrs. Vanderpoel then and there, when she saw the manner in which you were posing, say it was disgraceful?

A. Mrs. Vanderpoel spoke to me in that way?

Q. Yes, Mrs. Vanderpoel.

A. No, she never did; she never thought of such a thing.

Q. Do you mean to say she didn't remonstrate with you at all as to the manner in which you were dressed, posing for the artist?

A. No, never.

Q. And of course it couldn't have been that which stirred up any animosity in your mind towards Mrs. Vanderpoel?

A. Oh, my no; if she said that it wouldn't affect me.

Q. How do you know it was Mrs. Vanderpoel that tried to instil the idea into the mind of your husband that what you were doing was improper?

A. I thnk she was very jealous of me and very envious of me.

Q. What makes you think that?

A. Oh, because of the very remark that you have just made.

Q. What remark have I made?

A. You wanted to know why I should think so.

Q. You did say you thought so?

A. Yes, I think she was jealous of me.

Q. I know, but you said awhile ago that you thought she criticized you.

A. I should think that emanated from her.

Q. Why did you think so?

A. Because she would very likely do such a thing as that. She was a very vicious person.

Q. Did you say "officious"?

.A No, "vicious."

Q. And really, all that you mean to say about giving your husband that idea is that you suspected it to be so?

A. Well, I should rather think it would emanate from her if there were any criticisms made about me. It simply couldn't come from my French maid because she couldn't speak English, and didn't understand English. She couldn't have told Dudley that, and Miss Brice was

there with me, and Miss Birce has cultivated my society constantly since that time. It couldn't have been a very offensive costume.

Q. But Mrs. Vanderpoel hasn't cultivated your society?

A. Mrs. Vanderpoel has tried to.

Q. After that?

A. Oh, my, yes—yes, indeed. She didn't give up so easily.

Q. The efforts of cultivation continued after that?

A. Oh, my, yes. She came to my room in the Waldorf; Dudley, I suppose, told her the number of the room I was occupying—

Q. Down to what time did she make an effort to cultivate you?

A. Well, she tried to speak to me in the Waldorf on several occasions, and I cut her, too.

Q. When was any one of them?

A. Oh, long after that, in the spring of 1903—May, and even in 1904. I think 1904; I am sure of 1903.

Q. As late as 1904?

A. Yes.

Q. She tried to force herself on your society at that time?

A. Yes, sir.

Q. When was it that you employed a detective to follow your husband?

A. Sometime in April. I did it before that in March, I think. I think it was in March. There are the bills. It is longer, in the early spring.

Q. Do these bills covering March and April, 1905, represent the services of the detectives?

A. Yes.

Q. The whole of their services?

A. Oh, of that firm.

Q. Did you employ other detectives?

A. Yes.

Q. Where did you employ those?

A. In Philadelphia.

Q. When?

A. Just a little previous to this.

Q. How long previously?

A. Oh, I don't know, about a week maybe—somewhere along there.

Q. So that you had two sets of detectives and two distinct agencies trailing your husband?

A. No, they weren't agencies, private detectives.

Q. And two different sets of them?

A. Yes.

Q. Do you mean that you did yourself personally employ these detectives?

A. I had them employed.

Q. By Mr. Beekman?

A. Isn't this to be ruled out?

Q. Only you said so yourself; isn't that a fact?

A. It is a fact.

Q. And you said you gave the money to pay the bills to Mr. Beekman?

A. I did.

Q. And it was from Mr. Beekman that you received that receipt, I think you said?

A. Yes, I think I said so. I think that is so, yes.

Q. So that, as a matter of fact, you didn't personally employ these detectives—you didn't go to the men themselves?

A. No, I couldn't in Philadelphia.

Q. Well, you didn't?

A. No, it wasn't necessary.

Q. Now, about that time you were engaged in packing up and preparing your house for the summer, weren't you?

A. Yes, I think it was a little before that, in March—right along there.

Q. And you went on with your preparations, did you?

A. Oh, yes.

Q. Down to what time did you go ahead with your preparations?

A. Up to the very moment that I left the house.

Q. When did you leave the house?

A. Sometime in April, I think, wasn't it?

Q. Well, don't you know. The testimony has been May 22d.

A. Well, that was the time.

Q. Was that the time? Don't you recall the day?

A. I can't say exactly; it was along there in the spring months, and I am awfully tired now, sitting here and worn out.

The Court—Are you speaking now of your present condition?

A. Yes, I am so tired I can hardly sit here.

The Court—Well, the lady has had a long sitting to-day and if she complains that she is not comfortable and does not desire the examination to continue we will have to suspend it. And I will hear now the application from Mr. Carpenter to take testimony in Washington. Mr. Strong, do you raise any objection to Mr. Carpenter's leave to take this testimony in Washington?

Mr. Strong—I do in this way: The testimony that has been taken, merely relating to the book, was taken in October, 1911, over a year ago, and since that time no further effort has been made to take any further testimony down there. I have here among my papers at least ten different notices—ten or eleven different notices given me to take testimony here and there, mostly in Philadelphia, and when we would get ready to take the testimony I would be informed something would happen that they couldn't be got and the testimony would not be taken.. Now, the witnesses are most of them people socially prominent in Philadelphia, and they could have been got at any time on twenty-four hours' notice.

The Court—Surely we have enough testimony to satisfy the requirements on both sides on that subject.

Mr. Strong—Oh, yes, but I only mention it as showing that while they are bothering around there has been no effort to proceed with this Washington matter until the other day. It was opened before your Honor on the very eve of this case, apparently with the idea of putting it over.

The Court—Mr. Carpenter, that is a weak point in your application; what have you got to say in regard to your failure to come here and apply to the Court for necessary means for taking this testimony. You spoke of the amount of money you have expended, but you have made no further application for allowance.

Mr. Carpenter—I had hoped to be able to have the detective who was down there at the time Mr. Dudley was there, who saw Mr. Dudley make his signature on that register—either saw him or saw it immediately afterwards, so that it could be identified beyond any possible question.

The Court—I am disposed to give you a reasonable opportunity. This is the sort of a case where we do not always apply the strict rules which govern procedure where the action is strictly *inter parties*. I am not going to pass upon this application of Mr. Carpenter's to-day. I was about to say, there seems to be no doubt but what counsel will be able to take this testimony on the part of Mr. Dudley which seems to have been just recently discovered, so that there is no charge of *laches* on the part of Mr. Strong in not taking it. You can take that testimony and I will adjourn the further hearing to Monday, December 2, next, with the idea that no testimony will be taken; even the cross-exam-

ination of Mrs. Dudley will not be continued at that time. But Mr. Carpenter can then renew his application and I will dispose of it at that time.

JERSEY CITY, February 13th, 1913.

Met pursuant to adjournment.

Present—The Vice Chancellor; Mr. Carpenter, Mr. Comboy, for Mrs. Dudley; Mr. Strong, for Mr. Dudley.

Mr. Strong—I will read the testimony of Frank H. Brightley (does so, and Mr. Comboy reads cross-examination). (Deposition taken November 23d, 1912.)

Mr. Strong—I will now read the testimony taken on February 8th, 1913, of Henry Coombe, on behalf of Mr. Dudley (reads). (Cross-examination read by Mr. Comboy.)

Mr. Strong—I will now read the testimony of Louise Hurst (reads). (Mr. Comboy reads cross-examination.)

Mr. Strong—I will now read the deposition of Anthony Quigley, taken on behalf of Mr. Dudley (reads). (Mr. Comboy reads cross-examination.)

Recess to two o'clock.

(Mr. Strong finishes reading of Mr. Quigley's deposition.)

Mr. Strong—That is all of our case. If you Honor please, I want to make one correction which Mr. Dudley has called my attention to in his testimony, as it is written out on page 200, where Mr. Dudley is speaking of the occasion when he went up to Mrs. Dudley's room at the Waldorf, after having seen her and Mr. Beekman at Delmonico's. On page 200, about two-thirds of the way down the page, in answer to the question, "What did you find when you got into the room?" the answer there is, "I found nothing except-

ing—Mrs. Dudley's things were about there, and I think there was a small trunk, and nobody in the room and the bed she had used"; that should be "had not used."

Mr. Comboy—I do not think that correction should be made.

The Vice Chancellor—I will allow Mr. Dudley to take the stand.

Edward Dudley, recalled.

Re-direct examination, by Mr. Strong:

Q. Mr. Dudley, have you had your attention directed to your testimony, as it appears on page 200 of this book (showing)?

A. Yes, I saw it this morning coming up on the train.

Q. Is there any correction you wished to make?

A. Yes, I said at that time on my direct examination that I found the room and bed which she had occupied—I happened to notice it in reading it this morning.

Q. The answer to which I am referring is where you are reported to have said, "I found nothing excpting Mrs. Dudley's things were about there, and I think there was a small trunk and nobody in the room, and the bed she had used"; is that what you said?

A. I said "not" used.

Q. "Not used"?

A. Yes, sir.

Cross-examination, by Mr. Comboy:

Q. When was that?

A. What was that?

Q. When was that?

A. This was Monday—after Monday night—after the article in *Town Topics* came out.

Q. What was the date of that?

A. I think it was—I think the article came out on the 20th of April, 1905, as I recall it.

Mr. Strong—This has been fully cross-examined on.

Mr. Comboy—I understand that.

The Witness—This occasion I spoke of was the following Monday night.

Q. That was the time when you say you had seen her at Delmonico's.

A. I saw her with Mr. Beekman at Delmonico's.

Q. You had been telephoned to and you had gone and made inquiries around the place—at Delmonico's, and then gone to her room at the Waldorf?

A. That is right.

Q. Have you read your entire testiminy, of which the stenographer's minutes have been prepared?

A. No, sir; I have not. I picked that up this morning in the train coming over; I happened to see that.

Q. Did you happen to turn to page 200?

A. No, sir; Mr. Strong asked me if that was a mistake in my testimony.

Q. Did Mr. Strong call your attention to any discrepancy between that and anything else in the testimony?

A. No, sir; only that. He asked me if that was so, and I said no, that is not so; it should be "not."

Q. Is it your testimony now you said at that time that the bed hadn't been used?

A. My testimony now and was at the time I gave it.

Q. Your statement now is, you were incorrectly reported.

A. I am incorrectly reported by the stenographer.

Q. That when—

A. By leaving out the word "not."

Q. You used the word "not"?

A. I did.

Q. And that either the stenographer didn't get "not" when he was taking your testimony down, or if he did get it, he has improperly transcribed your testimony?

A. That is my belief; that is what I said.

Q. That is what you say now?

A. That is what I said then.

Q. Have you read any other portions of your testimony?

A. I have not, since I received it.

Q. It is only that one particular page your attention is called to?

A. That is all I have seen this far; I intend to read it now; I have not read it before.

Mr. Strong—We rest.

Mr. Comboy—I will now read the deposition of Wm. E. Weston. (Reads direct examination and Mr. Strong reads cross-examination.)

Mr. Combay—This is the testimony of Mrs. Caroline Truax, taken in New York before George D. Hendrickson, Master in Chancery, February 7th, 1913. (Reads direct examination, and Mr. Strong reads cross-examination.)

Mr. Comboy—This is the testimony of Henry Beekman, taken in New York before George D. Hendrickson, Master in Chancery, February 7th, 1913. (Reads direct examination and Mr. Strong reads cross-examination.)

Mr. Comboy—I offer the papers that contain the entries referred to by the witnesses in evidence.

Mr. Strong—I object to their admission, because they have not been shown to be in the handwriting of the witnesses, and because they are apparently only a portion of the book, the whole of which has not been produced; also because they are not books of original entry, but are admitted to have been entries made up from copies of another book, and the man who made such copies from such information has not been produced to identify them, and on the further ground, because they are incompetent, irrelevant and immaterial, and inadmissible.

The Vice Chancellor—I will admit the papers; exactly what their lawful use as an instrument of evidence may be determined hereafter—the extent of their use may be determined hereafter.

The same received and marked plaintiff's *Exhibits* 6, 6, 7, and 8 of this date.

Mr. Comboy—Now, I offer in evidence the tracings which have during the reading of the *Exhibits* 1 and 2 of this date for identification.

Mr. Strong—The admission of them is objected to; first, because they have not been proven by the man who it is testified made the tracings—they weren't tracings made by the witness himself; also, because they have not remained in the custody of the witness at all; because they have not been sufficiently or properly identified; because one of them has been mutilated, and is not in the first place a complete tracing of what it purports to represent; and in the second place, is not in the condition in which it was when the tracing was made; and on the further ground because, for the purpose of this case, they are immaterial, inadmissible and irrelevant.

The Vice Chancellor—Are you entitled to have those papers, which are offered in evidence, admitted as a mechanical reproduction of the writing, or used for the purpose of this trial, or for the purpose of being standards, or for all purposes of comparison, without producing the man who appears to have made it, and who is present in court?

Mr. Comboy—I think it will be the safest way to do that; I will do so. I offer in evidence a diagram of the Raleigh Hotel, which, during the reading of the depositions, was marked plaintiff's *Exhibit No.* 3 for identification.

The Vice Chancellor—It may be admitted in evidence.

The same received in evidence and marked plaintiff's *Exhibit* 3 of this date, the word "identification" being crossed out.

D. Miles Regor, a witness produced on behalf of the plaintiff, being first duly sworn, testified as follows:

Direct examination, by Mr. Carpenter:

Mr. Strong—I object to the swearing of the witness under arrangement made by counsel.

Q. Where do you reside?

A. Wildwood Crest, New Jersey.

The Vice Chancellor—You will be excused and you will be here on Thursday, February 20th, 1913, at 10:00 A. M. You will come again under the same subpœna. Further hearing will now stand adjourned to 10:40 A. M. to-morrow morning.

Adjourned to February 14th, 1913, at 10:40 A. M.

NEWARK, N. J., February 14th, 1913.

Met pursuant to adjournment.

Present—The Vice Chancellor; Mr. Comboy and Mr. Carpenter, for Mrs. Dudley; Howard H. Yocum, Esq., for Mr. Dudley.

Eustace C. Owen, a witness produced on behalf of the plaintiff, being first duly sworn by the Vice Chancellor, testified as follows:

Direct examination, by Mr. Comboy:

Q. Mr. Owen, you are in the employ of the Hotel Raleigh, in Washington?

A. I am, sir.

Q. In what capacity?

A. Assistant manager.

Q. How long have you been in the employ of the hotel?

A. About seventeen years.

Q. And how long have you been assistant manager?

A. About four years.

Q. What capacity were you employed in before that time?

A. I was chief clerk.

Q. Do you remember Mr. Carpenter here (indicating) coming to the hotel in the month of October, 1911, this gentleman here (again indicating)?

A. I do.

Q. Please state what was done upon that occasion?

A. Why, Mr. Carpenter asked to see our register upon that date.

Q. What was that date?

A. He asked to see the register of April 13th, 14th and 15th, 1905.

Q. What was done then?

A. We produced it.

Q. After you produced it, what was done with it?

A. Why, he asked to see a certain signature.

Q. What was the signature, if you know?

A. Mr. and Mrs. Louis Craven.

Q. After the book had been produced, was the signature exhibited?

Mr. Yocum—I don't know what that means, "Was the signature exhibited?"

Q. What was done in connection with the request that Mr. Carpenter made to see the signature?

A. He made a tracing of it.

Q. Did you see him make the tracing?

A. I did, yes, sir.

Q. Will you please look at this piece of paper—

Mr. Yocum—Just a moment, please—

Q. And state whether you have ever seen it before.

Mr. Yocum—I object unless the pieces of paper are identified by their history from that

date to this time, so that we may know where they have been, and how they happen to be in this person's custody.

The Court—That can all be shown on cross-examination; the witness is asked whether these are tracings made at that time; of course, how he can testify to that will have to be found out; unless he shows that he is capable of identifying the paper, such testimony will have no weight; I will take it.

Q. Look at these, and tell us whether you have ever seen them before (handing papers to witness)?

A. Yes, I would say that they were the tracings that were made at that time.

Q. How do you identify them as being the tracings that were made at that time, Mr. Owen?

A. By seeing the original signature on the register at that time.

Q. Were you present when the tracings were made?

A. Yes.

Q. Who made the tracings?

A. Mr. Carpenter.

Q. This gentleman here (indicating Mr. Carpenter)?

A. Yes, sir.

Q. Who furnished the tissue paper with which the tracing was made?

A. I think I did.

Q. At his request?

A. Yes, sir.

Q. Was there anybody else present at the time the tracing was made?

A. There were several clerks in the office.

Q. Was anyone present with Mr. Carpenter?

A. Yes, I think there was a lady with him.

Q. You don't know the lady's name?

A. I don't know.

Mr. Cohmboy—May we have these marked in evidence?

The Court—Mark them for identification.

The same received and marked plaintiff's *Exhibits* 1 and 2 of this date for identification.

Q. Do you know, Mr. Owen, whether the register that you have referred to was produced before a Commissioner in Washington?

Mr. Yocum—I object unless he was present.

The Court—He was asked whether he knows.

The Witness—I do.

Q. Was it produced before a Commissioner in Washington? 10

A. It was.

Mr. Yocum—May I ask the Court to strike it out later if he was not present.

The Court—If it was from hearsay, it may be stricken out.

Q. When was the last time you saw that register, Mr. Owen?

A. I should say in December.

Q. Of what year? 20

A. 1912.

Q. Do you remember receiving an order for its production at the hotel in Washington?

A. An order for its production where?

Q. Here in Jersey City?

A. I do.

Q. What was done when you received that order?

A. Why, I sent one of my clerks to the room in the adjacent building, or rather the annex, to secure the register and bring it to me. 30

Q. Did he bring it to you?

A. He did.

Q. What did you do with it?

A. I put it in the cupboard in the office of the hotel under the cashier's desk.

Q. Did you see it from that time forth?

A. From that time—I don't understand.

Q. Did you see it from that time forth?

A. I have not.

Q. Did you make a search for it?

A. I have.

Q. Did you have any investigation made at the hotel to discover what has become of it?

A. We have.

Q. What have you done in that respect?

A. We called all the clerks together who have access to this office, and we told them in detail what was done with the book, and we have also told them that we had a court order to produce it, to send it by express, and we wanted to locate it if possible; I think they used every effort to find it, without success.

Q. Do you know where the book is now, Mr. Owen?

A. I do not.

Q. Do you know anything about the examination of Mr. Weston before the Commissioner in Washington in connection with that register?

A. I knew he was examined.

Q. Do you know whether or not he took the book with him to the examination.

A. He did.

Q. Do you know what book it was he took with him to the examination?

A. It was the register of the Hotel Raleigh.

Q. Did you notice—

The Court—What volume? The one containing the signature, do you mean?

The Witness—Yes, sir.

Q. Did you notice in connection with any of your examinations of the register, any marks put upon the book itself, or upon any entry in the book?

Mr. Yocum—By him?

Q. Did you notice any marks on the book or any connection with any entry in the book?

Mr. Yocum—I object to that.

The Court—Objection—

Mr. Yocum—I will withdraw the objection.

The Witness—Yes.

Q. Please state what they were?

A. I couldn't state authentically, because I didn't pay much attention to it, but I think it was *Exhibit P*-1.

Q. Where was that?

A. That was on the left of the date, April 13th.

Q. Now, have you brought with you, Mr. Owen, the records of the hotel showing the persons who were at the hotel on the 13th, 14th and 15th of April, 1905?

A. A partial record, yes, sir.

Q. Please produce it?

A. Yes, sir (hands papers to counsel).

Q. What are the papers you have produced now, Mr. Owen?

A. These are loose leaves from our index ledger.

Q. To what dates do they refer—

Mr. Yocum—May I interrupt? If your Honor please, is it proper at this time to inquire whether those are copies from another book, and if so, to objection to their production?

Mr. Comboy—Those are records of the hotel, or copies of records of the hotel.

The Witness—Those are original records.

Q. Are they copied from another book—do they purport to be entries taken from the register?

A. They are.

Mr. Yocum—I object to their use in this case because they are merely copies of another record, and therefore for the purpose of this case are inadmissible.

The Court—I will ask the witness—Do I understand those are sheets taken out of a book?

The Witness—Yes, sir.

The Court—A book of original entry?

The Witness—It is the original entry of the hotel records.

The Court—What have you back of these

sheets from which those entries are made—loose pages only?

The Witness—No, sir; it is a loose-leaf index ledger, the original book; it weighs about twenty or thirty pounds; therefore, instead of bringing the book I took the register out for this purpose.

The Court—I understand that; those leaves you have before you were taken from a large book?

The Witness—Yes, sir.

The Court—You detached those leaves, as I understood you to say?

The Witness—Yes, sir.

The Court—Now, the inquiry is, from what are the entries made in that large book?

The Witness—From the hotel register.

The Court—What do you mean by that, the hotel register, the book kept at the desk?

The Witness—The book kept on the counter, where the guests register when they arrive they record their names and have their rooms assigned.

The Court—Are those sheets for the purpose of making the proper charges against the guests?

The Witness—Yes, sir.

The Court—A record of the time they stay at the hotel and what they have?

The Witness—Yes, sir.

The Court—And what they are to pay for?

The Witness—Yes, sir.

Mr. Yocum—I think, for the purpose of this case, that is out of the way, because it has no higher validity than the register itself.

The Court—I will admit it at the present time for this purpose: Evidence has been offered to show certain names appear upon the hotel register at a certain date, and the book was

proved to have been lost; this seems to be admissible to prove the record which has been lost.

Mr. Yocum—Will your Honor grant me an exception?

The Court—That is not necessary; you have the benefit of the objection; I will admit that subject to your objection and exception.

Q. Referring to the papers you have produced, will you please state whether or not there is an entry there under the name of Craven, and if so what it is?

Mr. Yocum—I object also to any reference to the book because of its detached condition; it is not the book itself—it is only loose leaves taken from the book, and therefore not properly identified and not properly before the court.

The Court—Proceed.

The Witness—Under date of April 13th, 1905, we have recorded, "Craven, Louis, and wife, New York."

Q. Does the entry show upon what date those parties left the hotel?

A. It does.

Q. What was the date?

A. April 15th.

Q. Does that show what rooms they had?

A. It does

Q. What rooms did they have?

A. Numbers 514 and 515.

Q. Does that show what the charges was for those rooms?

A. It does.

Q. What was the charge?

A. $12 per day for the two.

Q. Is there an entry in the pages you have produced of the registry of a man at the hotel by the name of Busby on the same day, April 13th, 1905?

Mr. Yocum—I object to that upon the ground it is irrelevant.

The Court—He may answer.

The Witness—Yes, sir.

Q. What is the entry, please?

A. "Busby, G. W."

Q. What is the date when he arrived?

A. April 13th, 1905.

Q. How long did he stay?

A. On this entry (indicating) one day.

Q. What day did he leave?

A. April 14th, 1905.

Q. Did he return to the hotel?

A. He did.

Q. On what date?

A. April 14th, 1905.

Q. The same day that he left?

A. Yes, sir.

Q. How long did he remain?

A. Until April 15th.

Q. Did he leave then?

A. Yes, sir.

Q. What was the charge made for his room?

A. $3.50 per day.

Q. What was the number of his room?

A. No. 619.

Q. Have you here the floor plans of the hotel, showing the location of rooms 514 and 515, on the 13th, 14th and the 15th of April, 1905—have you the floor plan of the hotel showing their location?

A. I have.

Q. Produce it, please.

A. Yes, sir; (hands paper to counsel).

Q. Is what you have produced the floor plan referred to in my question?

A. Yes, sir.

Q. Does it show the location of rooms 514 and 515,

as they were located on the 13th, 14th and 15th of April, 1905?

Mr. Yocum—When was that plan made?

The Witness—That particular paper (indicating)?

Mr. Yocum—Yes.

The Witness—Since the date referred to.

Mr. Yocum—I object to its use in any sense.

The Court—I will allow its use merely as a diagram; proceed.

The Witness—What is the question?

Q. Does it show the location of rooms 514 and 515, as they were located on the 13th, 14th and 15th of April, 1905?

A. It does.

Q. Will you please make a mark upon the paper itself, showing the location of those two rooms, Nos. 514 and 515?

A. Yes, sir (does so).

The Court—Have the diagram marked for identification.

Mr. Comboy—Yes.

The same received and marked Plaintiff's *Exhibit* 3 of this date, for identification.

Q. Are these rooms, 514 and 515—were those rooms on the 13th, 14th and 15th of April, 1905, connected?

A. They were.

Q. And is the connection shown upon the diagram?

A. It is.

Q. Do you remember what kind of a combination the rooms 514 and 515 were upon the 13th, 14th and 15th days of April, 1905?

A. Parlor, bedroom and bath.

Q. At the time that that tracing you have identified was made, did Mr. Carpenter have another writing with which the tracing was compared at that time?

Mr. Yocum—I object to that unless the witness is an expert in handwriting, unless he wants to show a physical attempt at comparison.

The Court—He is simply showing the physical comparison.

Q. Answer the question, please?

A. What is the question?

Q. At the time that that tracing you have identified was made, did Mr. Carpenter have another writing with which the tracing was compared at that time?

A. Not to my knowledge.

Q. You don't recall any?

A. I do not.

Q. Please tell how the tracings, plaintiff's *Exhibits* 1 and 2 of this date for identification, were made by Mr. Carpenter?

A. The tissue paper was put over the signature on the register and traced with a pencil.

Q. Did you compare the tracing with the signature after the tracing had been made?

A. I did not.

Q. Did you render any assistance to Mr. Carpenter while the tracing was being made?

A. Outside of furnishing the paper, I don't think I did.

Q. Were you there while the tracing was being made?

A. A part of the time.

Q. Have you in mind the signature itself which was traced, Mr. Owen?

A. I have.

Q. Can you tell whether this tracing is a true and correct copy of that signature (showing)?

Mr. Yocum—I will object to that upon the ground that it is leading.

The Court—I will allow the question.

Mr. Yocum—I also object to it because it calls from this witness for a degree of comparison which in the first place involves his opinion and ability as an expert; it has not been shown that he has compared this paper with the book in such a sense he can answer that question; he said

that he did not compare the paper, in answer to a previous question, and therefore, I think this is improper.

Mr. Comboy—He said he compared it with the signature in the book.

The Court—You offer this as a mechanical reproduction of the signature on the record; the witness says he saw it made; what more can you possibly prove by this witness?

Mr. Comboy—I will withdraw the question.

The Court—Did you learn what had become of that book?

The Witness—I did not.

The Court—Did you ask the clerks whether any of them had taken it?

The Witness—Yes, sir; we asked them individually, and all other employees who had access to the office.

The Court—You could get no trace of it at all?

The Witness—Absolutely none.

The Court—You could not get any clue as to how it had been removed?

The Witness—No, sir.

The Court—Was the closet kept locked?

The Witness—No, sir.

The Court—I understand it was only accessible to those persons who had access to the office?

The Witness—Yes, sir, and some outsiders occasionally—guests of the hotel.

The Court—In order to get to the closet and to the book, was it necessary to go into the office?

The Witness—Yes, sir.

The Court—Could anyone reach over and abstract the book without going inside of the office itself?

The Witness—They could not.

Q. Did you ever see this paper before (handing paper to witness) if you recall?

A. I have seen it.

Q. Upon what occasion?

A. This morning.

Q. Did you see it before that time?

A. I did not.

Q. You never saw it before?

A. Not to my knowledge.

The Court—Let it be marked for identification.

Mr. Comboy—Yes.

The same received and marked plaintiff's *Exhibit* 4 of this date for identification.

Cross-examination by Mr. Yocum:

Q. The two tracings which I have in my hand, which were handed to you a moment or so ago by Mr. Comboy, you say those tracings were made on what date?

A. I don't know the date.

Q. You have no means of recalling that date?

A. No, sir.

Q. Can you tell me how many years ago?

A. I think it was in 1911.

Q. Had you met Mr. Carpenter before?

A. Not to my knowledge.

Q. He simply introduced himself as Mr. Carpenter?

A. Yes, sir.

Q. He obtained from you the tracing paper?

A. He did.

Q. From you personally?

A. Yes, sir.

Q. When it was handed to him, who tore the slip into this size (showing)?

A. I think the lower one you have (indicating) was the original size of both slips.

Q. This is not the original size (showing)?

A. I don't think so.

Q. Some part of it has been torn off?

A. I think so.

Q. Was this originally as large as the other tracing (showing)?

A. I think it was.

Q. Do you know when that was torn off (showing)?

A. No, sir.

Q. Have you no knowledge by whom it was torn off?

A. I have not.

Q. But it is not in the condition in which you saw it after the tracing was made?

A. I don't know that I saw it after the tracing was made.

Q. Where were you—where was the tracing made?

A. On the desk—on the counter of the Hotel Raleigh.

Q. How long is that counter—how long was it then?

A. Possibly a space of about ten feet.

Q. You were then assistant manager of the hotel?

A. Yes, sir.

Q. What time of the day was it made?

A. I don't know.

Q. Morning, afternoon or evening?

A. I don't know.

Q. Were you attending to your ordinary duties as assistant manager of the hotel during the time it was made?

A. Yes, sir.

Q. During the time it was made, your ordinary duties took you to various places in the office behind the counter?

A. Yes, sir.

Q. Do you mean, during the tracing, you were not standing beside Mr. Carpenter watching the tracing being done, but you simply know that he was engaged in the tracing of something from the register; is that true?

A. A part of the time I was standing beside him, or rather in front of him.

Q. Was he standing on the outside of the counter and you on the inside?

A. Yes, sir.

Q. During what part of the time?

A. When he first began to make the tracing; I don't think I stood there until he finished.

Q. You have no idea during what part of the actual tracing you stood there?

A. No, sir.

Q. It may have been very little or it may have been during half of it?

A. That is correct.

Q. During that time you made no effort personally to notice the accuracy of the tracing—you merely noticed he was tracing?

A. I wasn't personally interested in it; no, sir.

Q. I understood you to say, in answer to my question, you weren't interested and did not observe the accuracy of the tracing.

A. I did not.

Q. And so far as that tracing being a correct tracing is concerned, you merely saw him make that tracing—that the act of tracing was being done partly in your presence?

A. Yes, sir.

Q. That is all you can say upon that subject; that is true, isn't it?

A. Yes, sir.

Q. During the rest of the time, how far were you away from the book?

A. That I couldn't say; I don't know.

Q. When Mr. Carpenter left, did he take the tracing with him, or did he leave it with you?

A. He didn't leave it with me.

Q. When did you next see it?

A. This morning.

Q. During that time you have no idea where it has been or what has been done with it?

A. I have not.

Q. There are no marks at all on it except those marks for identification made to-day, and what purports to be a tracing of something in your book; is that true?

A. No, sir.

Q. You placed no marks for identification on it?

A. I did not.

Q. You didn't compare, I understood you to say, this tracing (showing) with the signature after it had been done?

A. I did not.

Q. After Mr. Carpenter had apparently completed the act—or the mechanical act of tracing, do you say he put this in an envelope or in his pocket immediately afterwards?

A. I don't know that he did.

Q. You didn't take them?

A. I didn't.

Q. During the last part of the tracing, you were not by him standing there?

A. I may have been and may not.

Q. You have no recollection of having been there?

A. I have no recollection.

Q. Isn't it true you know merely that Mr. Carpenter made some tracing and that this is the physical piece of paper—it looks like the paper that you gave him when he asked for paper (showing)?

A. Yes, sir.

Q. That is all?

A. Yes, sir.

Q. You have no other means of identifying these papers than the physical paper; isn't that the truth?

A. Except from the memory of the original signature.

Q. When did you see that original signature last?

A. In December, 1912.

Q. You are not an expert in handwriting?

A. I am not.

Q. You have never studied handwriting as an expert in any sense?

A. No, sir.

Q. You never actually—you told me before, compared these papers with the signature?

A. No, sir.

Q. You saw the signature, you say, last in December, 1912?

A. I think in December, 1912.

Q. Under what circumstances?

A. When I sent for the register to produce it for the court order.

Q. Who asked for its production at that time—who asked you for its production—Mr. Carpenter?

A. Yes, sir.

Q. Did he open the register to a page upon which a Louis Craven was signed?

A. I think not.

Q. Did you look at the book at that time on the page upon the page upon which this name was signed?

A. I did.

Q. Merely for the purpose of seeing whether that was the book?

A. Yes, sir.

Q. That was all?

A. Yes, sir.

Q. Did you make any examination of the signature at that time—any particular examination?

A. I did not.

Q. When did you see that before—how long did you look at that at that time—just looked at the page to see whether that was the right page; is that it?

A. Yes, sir.

Q. When did you see that before?

A. I saw it when the register was produced by Mr. Weston at the hearing in Washington.

Q. In October?

A. I don't remember the date or the month.

Q. In October—do you remember when that was—do you remember what year it was?

A. No, I don't.

Q. It might have been—it was October, 1911, wasn't it?

A. I think it was.

Q. At that time you looked at it for the simple purpose merely to see whether that was the book in which the name appeared; is that true?

A. And also to inform Mr. Weston and show him where the signature was when he might produce it.

Q. Merely for that purpose, and not for the purpose of examining the character of the signature?

A. Not at all, no, sir.

Q. When did you see it before that?

A. I don't know.

Q. You have no recollection of any time you noticed it particularly before that?

A. I have not.

Q. So that from merely a general recollection founded upon such observation and the character of the paper you saw that was used in the tracing—that is all upon which you base your opinion?

A. Yes, sir.

Q. Now, were you present before the taking of testimony in Washington in October, 1911, when Mr. Weston was examined?

A. No, sir.

Q. You hadn't—you handed the register to him personally?

A. I did.

Q. In obedience to a court order asking for its production—for its presentation at that time?

A. Yes, sir.

Q. Where was it handed to him?

A. In the Raleigh Hotel.

Q. Did you notice what he did with it?

A. He took it and went out.

Q. That was the last you saw of it until when—when did you next see it?

A. Sometime after that; I don't remember.

Q. How long after?

A. I couldn't say.

Q. You don't recall?

A. I don't recall; no, sir.

Q. You handed Mr. Weston the book and he left and you saw it at some indefinite time afterwards?

A. Yes, sir.

Q. When there was an order for its production here, you didn't get it personally—you sent some one to get the book, didn't you?

A. I did, one of our cashiers.

Q. He brought to you a book.

A. He brought the book referred to.

Q. You have no idea, from your own knowledge, from where he got it—where he produced it?

A. Where he produced it?

Q. You have no—you don't know of your own knowledge where he got it?

A. No, sir; except he took it from our room of records, where we keep our books.

Q. You didn't see him take it from there?

A. No, sir; that was his statement upon his return.

Q. You have no personal knowledge of the location of that book, excepting when it was in your actual physical custody?

A. Previous to that, do you mean?

Q. Yes.

A. I have not.

Q. When it was among your papers, you had to send for it—it was obtained by whom?

A. By the employees—by the different employees of the hotel.

Q. How many.

A. I should possibly say three hundred.

Q. In other words, the three hundred employees could have had access to the book?

A. Yes, sir.

Q. During all the time it was at the hotel?

A. Yes, sir.

Q. Since 1905 up to this date—since 1905 until December last; is that true?

A. Yes, sir; the employees could have had.

Q. That is what I mean; could strangers have had access to it?

A. No, sir.

Q. Just where were the records kept—your books of record kept in the hotel?

A. Kept in a building which adjoins the hotel, or rather an annex to the hotel.

Q. In a room that was locked or in a room that wasn't locked?

A. In a room that wasn't locked.

Q. Upon which floor?

A. Upon the third floor.

Q. Was there any sleeping rooms in the neighborhood?

A. No, sir.

Q. Were there any rooms used by guests of the hotel in the same building?

A. No, sir.

Q. Was the building occupied by the employees of the hotel?

A. Yes, sir, the top floor is.

Q. The top floor?

A. Yes, sir.

Q. I assume it was put there after June, 1905, when the last entries were made in it, wasn't kept anywhere else after that time?

A. Nowhere else since the book was filled.

Q. In other words, as soon as the book was full, it was put there in the storeroom with the other books; is that right?

A. It was put in the office storeroom and transferred.

Q. The office storeroom is equally accessible to the employees of the hotel?

A. Yes, sir.

Q. These sheets that were produced here to-day are technically parts of a book kept by the hotel; what do you call the book?

A. Indexed ledger.

Q. Indexed ledger?

A. Yes, sir.

Q. That is the record of which the hotel keeps its books with its patrons?

A. Keeps its records, not its books.

Q. Its records with its patrons?

A. Yes, sir.

Q. And the entries on these papers (showing) are taken from the register?

A. Yes, sir.

Q. By whom were those particular entries made which appear on the papers you have brought with you?

A. By our cashier.

Q. Who was that at that time?

A. We had two.

Q. In whose handwriting are those entries made (indicating)?

A. I think they are made by Mr. Frank Shipe.

Q. Are you sure?

A. Not absolutely.

Q. They are not in your handwriting?

A. No, sir.

Q. They weren't made under your observation?

A. No, sir.

Q. You personally didn't carry those particular entries to Mr. Shipe for the purpose of entering them in this book (indicating)?

A. No, sir.

Q. You have no personal knowledge of the accuracy of those papers (indicating)—no personal knowledge?

A. Well, I know them to be correct records of the hotel.

Q. That is all you know of them—you only know in reference to these papers (showing) that you took them from the book of records of the hotel—a certain book of records of the hotel?

A. Yes, sir.

Q. How many pages are there in that book?

A. I don't know.

Q. Is it a book that is filled?

A. Yes, sir.

Q. When were the last entries made in it?

A. I don't know.

Q. What period of time does it cover?

A. I don't know that.

Q. How many pages would you think was in it?

A. Possibly nine hundred.

Q. Are the pages numbered serially?

A. No, sir.

Q. Where was this book you say when you got it for the purpose of bringing these papers?

A. In the same room.

Q. In the same room?

A. Yes, sir.

Q. Did you personally detach them, or did you have it done?

A. With the assistance of one of my clerks, I personally detached them.

Q. Who was that clerk?

A. Mr. L. G. Sizer.

Q. Where was that done?

A. In January, I think, 1913.

Q. What time in January, 1913?

A. I don't know the date.

Q. Were you standing beside her when she did that, or do you know where she did it?

A. In the same office—I assisted in abstracting the pages from the original book.

Q. Did they remain in your custody until to-day?

A. They did.

Q. After they were detached, where were they put?

A. In my safe deposit box.

Q. On the same day?

A. Yes, sir.

Q. And taken out when you came here?

A. Yes, sir.

Q. I believe you told us you saw the register sometime after the hearing in 1911, when it was produced by Mr. Weston?

A. Yes, sir.

Q. When a book was produced by Mr. Weston?

A. Yes, sir.

Q. Was that returned to you personally?

A. It was.

Q. Within a very short time after that hearing?

A. I think Mr. Weston brought it back after the hearing was over.

Q. You are not positive as to the day or the time?

A. No, sir.

Q. Then what did you do with it; was that the last time you saw it?

A. I gave it to the employee to be returned to the room where we kept our records.

Q. And that was the last time you saw it, wasn't it?

A. Until it was reproduced by the cashier.

Q. When was that?

A. I think about December 11th, 1912.

Q. You haven't seen it since that time?

A. No, sir.

Q. And then it was put in some place?

A. I put it in the cupboard.

Q. Under the cupboard?

A. Yes, sir.

The Court—Do I understand, Mr. Owen, you

have no recollection of seeing the book in the cupboard after you put it there once?

The Witness—No, sir, I have not.

The Court—Did you have occasion to go to the cupboard after you put the book there until you went to get it and found it wasn't there?

The Witness—I didn't, no, sir.

The Court—I am not sure whether you testified, but I will ask you: Was the cupboard kept locked?

The Witness—It was not.

The Court—Do you recall from what source you obtained the tissue paper which you supplied to Mr. Carpenter for tracing?

The Witness—As well as I can remember, we kept some house cards on the counter, or rather the card of the hotel, and in between each card was a layer of tissue paper.

The Court—How large were the cards?

The Witness—Just the same size as the piece of tissue paper that is not torn.

Q. You have absolutely no intended knowledge of any of the facts which appear on this ledger other than the fact you have read from the paper?

A. From the facts that they are true records of the Hotel Raleigh.

Q. Is that all?

A. That is all.

Re-direct examination, by Mr. Comboy:

Q. Do you know what preceded what is left of this tracing on the register of the hotel (showing)?

A. The word "Mr."

Q. The word "Mr."; will you state where that was in respect to the two exhibits, plaintiff's *Exhibit* 1 and plaintiff's *Exhibit* 2 of this date for identification?

A. It was where the end is torn off.

Q. Of which one?

A. Of this one (indicating).

Q. That is plaintiff's *Exhibit* 1 of this date for identification; looking at the word "New York" on plaintiff's *Exhibit* 2 of this date for identification, do you see anything following the word "New York" there (handing paper to witness)?

A. I do.

Q. What is that?

A. "P"—

Mr. Yocum—I think it speaks for itself.

Q. Is it "P. 2"?

A. It looks to be.

Q. Is that a reference that you made, or did you refer to that in connection with your testimony of what was on the book in addition to the entries made there by the hotel?

A. I did.

Q. If you know, what did "P. 2" refer to?

Mr. Yocum—I object to that.

The Court—Do you want to show on the original there was "P 2" on?

Mr. Comboy—Yes, sir.

The Court—Ask him that question.

Q. Was there "P. 2" in parenthesis on the original book?

A. There was.

Q. Now—

The Court—What was the location of the symbol in reference to the name of Mr. and Mrs. Louis Craven on it?

The Witness—I think it was in the same line as the signature.

The Court—Where on the book—on the margin or within the limits of the page?

The Witness—No, sir, near where the room number was assigned.

Q. When Mr. Weston came back to the hotel on the date when the examination was had, where he pro-

duced the register before the commissioner, you have said, I think, on your cross-examination, that he brought it back the same day and gave it to you—

Mr. Yocum—He said he didn't recall.

Q. Did or didn't Mr. Weston bring back the register on the same day that the examination took place, if you can recall?

A. I think he did.

Q. Do you remember a further visit that Mr. Carpenter paid at the time that the tracing was made, on that same day?

Mr. Yocum—I object to that as leading in connection with a material question.

The Court—I hardly see how the question can be framed different and bring the attention of the witness to the date.

Q. Can you answer that?

A. I cannot.

Q. When you were asked whether you could identify the pieces of paper that have been produced here to-day, the same being plaintiff's *Exhibits* 1 and 2 of this date for identification, as being the tracing of the signature contained in the book, and if I remember your testimony correctly you said that in referring to it as a tracing of the signature in the book you had in mind the signature itself; did I understand your testimony correctly in that respect?

Mr. Yocum—I object to that.

The Court—Put your question.

Q. In what way does the original entry in the book identify these two papers which have been marked plaintiff's *Exhibits* 1 and 2 of this date for identification as tracings of that name?

Mr. Yocum—I object, if it is sought in any way to show that that is an accurate tracing.

The Court—I don't know what the object in the mind of counsel may be, but I think the ques-

tion is proper in view of the cross-examination of the witness. You may answer.

The Witness—What is the question.

Q. In what way does the original entry in the book identify these two papers which have been marked plaintiff's *Exhibits* 1 and 2 of this date for identification, as tracings of that name?

A. By similarity, as I remember the original signature.

Q. Is there any objection to leaving the sheets here?

A. No, sir.

The Court—Leave them in the custody of the sergeant-at-arms and they can be returned to the hotel. This case will now stand adjourned to Thursday, February 20th, 1913, at 10:00 A. M.

Adjourned to Thursday, February 20th, 1913, at 10:00 A. M.

JERSEY CITY, N. J., February 20th, 1913.

Met pursuant to adjournment.

Present—The Vice Chancellor; Mr. Comboy and Mr. Carpenter, for Mrs. Dudley; Alan H. Strong, Esq., for Mr. Dudley.

Mr. Carpenter—Mr. Nuss, take the stand.

Mr. Strong—If your Honor please, this witness has been examined under the stipulation which was had which is here ready to be read, and there is no reason why we should take his testimony again.

Mr. Carpenter—I think there are many reasons why it should be taken again. This is one of the detectives who was engaged on behalf of Mrs. Dudley to get certain evidence for her. He was subpœnaed the last time and testified.

The Vice Chancellor—Let me see the stipulation. If he was examined *de bene esse,* of course he should be

in Court here now. If it was a deposition in the case, that is the end of it.

Mr. Carpenter (reading)—Ordered, that the respective parties hereto proceed at their convenience to take the testimony of the witness both on behalf of the plaintiff and on behalf of the defendant. It is further ordered, however, that at least ten days shall be given notice, etc.

Mr. Strong—It was at the discretion of the Court and we didn't think it was necessary to have it signed after it was agreed to.

The Vice Chancellor—I remember very well that counsel wanted to expedite the hearing and agreed that it was not necessary that an order be made that any of the witnesses should have their testimony taken in open court except the parties.

Mr. Strong—He might have been produced at any one of these numerous hearings we have had. Instead of that, the testimony was taken within the State, and has been completely taken. Now, it would not be the intention of any of us to re-form, as your Honor put it, the suggestion which you just made. I intended to carry it out, and all that the last clause means is that it shall have the effect as binding testimony in the cause, as if it had been taken *de bene esse*.

The Vice Chancellor—I am very much inclined to your view, I am sure, as to what was within the mind of the Court when the suggestion was made. I recall the situation perfectly. And I should not suggest that counsel should take the testimony of all the witnesses other than the parties, and that these depositions should be simply *de bene esse* depositions, so that either party could object at the hearings to the reading of the depositions, unless it was shown that the witness could not be produced. I had no such intention, but here is a stipulation signed by the defendant. It was framed to cover what counsel agreed upon. It was only a suggestion for counsel to make an agreement, and here

is a written agreement, and while it differs radically from the suggestion of the court, I hardly see how we can escape from the force of this language. (Read-in) "With the same force and effect as taken before a Master in Chancery *de bene esse* outside the limits of this State," I don't see, Mr. Strong, how I can get away from that language. If you stood on your rights and this witness was in court here now and the situation was reversed, so far as the objection is concerned, and Mr. Carpenter undertook to read that deposition, and you objected, and said that the witness was sitting here in this court room, I cannot see how I could allow the deposition to be read. I submit that the witness should be sworn and not allow the deposition to be read. Of course, too, it may be referred to by either counsel in the examination of the witness and made the subject of cross-examination.

William Nuss, being called as a witness on behalf of the complainant, and duly sworn by the Vice Chancellor testified as follows:

Direct examination by Mr. Carpenter:

Q. Mr. Nuss, where do you reside?

A. I reside in Holly Beach, New Jersey.

Q. On what street number?

A. 4014 Pacific avenue.

Q. And what is your business at this time?

A. Police officer.

Q. Of the borough of Holly Beach?

A. Well, it is a city now.

Q. Now, Mr. Nuss, you were formerly employed by the D. Miles Rigor Detective Agency of Philadelphia, were you not?

A. I was.

Q. And you were in their employment in February, 1905, were you not?

A. I was.

Q. Do you recognize the gentleman sitting here at the table?

A. I do.

Q. Did you see him in the year 1905?

A. Well, I would not want to say whether it was that year or not. I know him by seeing him.

Q. Mr. Nuss, I show you here exhibits marked for identification *D*-24 and *D*-23, purporting to be receipts on letter paper of the D. Miles Rigor Secret Service, Thirteenth and Market streets, Philadelphia, and ask what they are?

Mr. Strong—This witness, so far as it appears, has no familiarity with this. These appear to be bills rendered by Miles Rigor.

The Vice Chancellor—What is the object, Mr. Carpenter, of showing these papers to the witness?

Mr. Carpenter—The object is this, that on these papers appear the initials of the witness on the stand, and for the purpose of refreshing his recollection as to their certain dates.

Mr. Strong—I object to that.

Mr. Carpenter—I want to use them—

The Vice Chancellor—Well, I don't know what it will lead to, gentlemen. We can't go into it now. You can have them identified as his writing, if there is writing of the witness.

Mr. Carpenter—Not this witness.

The Vice Chancellor—You don't claim there is any writing of this witness?

Mr. Carpenter—No.

The Vice Chancellor—Well then, you must go further and state some reason why you show these papers to the witness.

Mr. Carpenter—I show these papers to the witness for the purpose of aiding him in his recollection of the facts which happened in the year 1905.

The Vice Chancellor—In other words, you offer these papers to him to be used by you

as a memorandum to refresh his recollection; is that it? Is there any other possible ground upon which they can be shown to the witness when he is testifying?

Mr. Carpenter—I suppose that is the reason, yes.

The Vice Chancellor—Well, how will that come within the well-settled rule of evidence?

Mr. Carpenter—They are a memorandum made by his new employer from statements and bills submitted to that employer from which that employer made up bills which were submitted to the person employing his employer.

The Vice Chancelor—But the difficulty is, Mr. Carpenter, that you don't say that these papers were made by the witness at the time or that they were made by anybody else and exhibited to him at the time, so that he saw them at the time, and connect them with the transaction to which they relate. That is the difficulty.

Q. Have you ever seen these before, Mr. Nuss?

A. They were shown to me in Camden one time at a court trial of some kind.

Q. Did you have them in the year 1905, if you remember?

A. No, sir.

Q. Mr. Nuss, were you on April 12th and 13th, 1905, in the city of New York?

A. I could not say.

Q. Did you in the year 1905 do any work for Mr. Rigor in following Edward Dudley or a lady by the name of Elizabeth Batelle Vanderpool?

A. I could not say.

Q. You mean you have no recollection of it.

A. I have not. That is my recollection is so vague and slight that I would not want to say under oath what year it was, what month, or anything. It is so long ago.

Q. Were you ever engaged for Mr. Rigor in following Edward Dudley or a woman by the name of Elizabeth Batelle Vanderpool?

Mr. Strong—I object as entirely too indefinite and remote. Did he ever. That may be any time within twenty or thirty or forty years.

The Vice Chancellor—Well, this is one step toward getting definite information. I will allow it.

A. To the best of my knowledge there was a time that I was told— 10

Mr. Strong—I object to what he was told.

The Vice Chancellor—Yes. You are not to testify what anybody told you. The question now is simply as to the fact whether you were engaged at some time in the past in following as a detective Mr. Edward Dudley and Mrs. Vanderpool.

A. I could not answer that question.

The Vice Chancellor—Proceed. 20

Q. Did you ever see Mr. Dudley?

A. I did.

Q. And can you say to the best of your recollection when that was?

A. No. I always know a man if I see him once and have him pointed out or something, but I could not tell what month, the date, or where I remember seeing the man.

Q. Did you at that time make written report of the work you did for Mr. Rigor. 30

A. If I worked on the case, yes.

Q. You remember that you did do some work in following Mr. Dudley, don't you?

Mr. Strong—Objected to as leading, and he has answered it already.

The Vice Chancellor—If you think he didn't, explain your question over.

(Question read.)

Mr. Strong—He has expressly said he does not remember any such thing.

The Vice Chancellor—I don't recall that the witness went that far.

Mr. Strong—He said he could not answer the question which called for whether he had or not.

The Vice Chancellor—I think he said his recollection was so vague that he was unwilling to testify under oath. That is my present recollection of it. I will allow the question.

(Question again read by the stenographer.)

Mr. Strong—I object to it as leading and objectionable.

The Vice Chancellor—Yes. The leading part of it is withdrawn.

Mr. Carpenter—I withdraw that.

Q. Do you remember testifying before Mr. Bradley in Camden—

Mr. Strong—I object. I don't think counsel can use that deposition for the purpose of reading into the case something that was said then. He can't lead his witness by asking what he said on some other occasion.

The Vice Chancellor—Assuming that counsel's general objection is correct, how is it competent?

Mr. Carpenter—Why, if your Honor please, that this witness at some other time when called upon to testify in this cause, did state positively facts which now he says he does not remember, and I submit I have the right to ask him if he has not testified thus and so at any time.

The Vice Chancellor—I understand you are now referring to the testimony of *de bene esse* before the Master, which was the subject of discussion a little while ago.

Mr. Carpenter—I am, yes, sir.

The Vice Chancellor—I shall overrule the question.

Q. Did you have this gentleman, Mr. Dudley, pointed out to you in the year 1905?

Mr. Strong—That I object to.

The Vice Chancellor—Why?

Mr. Strong—It is immaterial, and it also involves a communication of some third person. Did somebody point this man out as Mr. Dudley in 1905 or at any other time.

The Vice Chancellor—It is a mere question of whether the witness can testify that he saw and identified Mr. Dudley in 1905. We have to rely upon what really is in a last analysis hearsay when we identify persons, the identification can be gone into on direct or cross. I will allow the question.

(Question read.)

A. In the year 1905? As I said before, I don't recall exactly whether it was in the year 1905. To the best of my knowledge it was somewhere around that.

Q. Who was it pointed him out to you?

A. I don't recall.

Q. Was it anyone in the employ of Mr. Rigor?

A. It must have been.

Q. Was it Mr. Rigor himself?

A. I could not tell you.

Q. Now then, after Mr. Dudley was pointed out to you, what did you do?

A. I don't remember.

Q. You mean to say you have absolutely no recollection of this matter whatsoever?

A. I mean to say if I worked on this case, the time was so short—it must naturally have been a few hours—that I don't remember what happened, what transpired. It could not have been over four or five hours, to the best of my knowledge, and being seven or eight years ago, it is an awfully hard thing to remember without any data to refer to—original data or anything.

The Vice Chancellor—Do you remember where you saw the gentleman you think was Mr. Dudley?

The Witness—It was either on the train or in New York City.

The Vice Chancellor—Proceed.

Q. You remember that much, do you?

A. Yes, it was on a train or in New York City, but I would not say which one or the other it was.

Q. Do you recollect that it was on a train of the Reading Railroad?

Mr. Strong—I object. That is suggestive and it ought not to be allowed.

The Vice Chancellor—I haven't as yet allowed leading questions. This seems to be quite leading.

Q. Were you sent to New York on the case, Mr. Nuss?

A. No, sir.

Q. Were you in New York on the case?

A. No, sir.

Q. Do you mean by this that you were on another case in New York City?

A. To the best of my recollection, I was in New York City about three-quarters of the time of the year 1905 on some case, but not this case. I know seven or eight months I was on some case over in New York City during the year 1905, and if this happened it happened during that term, and I might have just been told this is Mr. Dudley, but as far as working on the case, it could not have been more than three or four hours, and I couldn't remember anything about the case, and would not on oath here say what I saw unless I had my original data or something to go by, and if there was anything important as far as the work I had done, I would remember it.

Q. Do you recall whether you saw Mr. Dudley in New York City with anyone else in 1905?

Mr. Strong—I object. I think he has exhausted the witness on this subject. The witness has told us very frankly what he knows and does not know.

The Vice Chancellor—What do you mean by the word "else"?

Mr. Carpenter—With any woman in New York. I will specify it.

Q. In the year 1905?

A. To my knowledge, I never saw him with any woman.

Q. Did you ever have pointed out to you or meet a woman by the name of Elizabeth Batelle Vanderpool?

A. I never met any one by that name.

Q. Did you ever have her pointed out to you or see her?

A. I believe there was a woman by that name pointed out to me.

Q. Do you recall where you saw her?

A. I do not.

Q. Did you know the apartment house where she lived or was said to be living?

A. Yes, I was told, I believe, at the time. It was pointed out to me where she was living.

Q. Do you know where it was?

Mr. Strong—Objected to. For that he simply relies on somebody's else statement of where she was living.

The Vice Chancellor—You ask him simply generally whether he was told where she was living. That seems to be objectionable.

Q. Where was the house which was pointed out to you as her residence?

Mr. Strong—I object to that as the same question.

The Vice Chancellor—I will allow that.

A. The house was next to the corner downtown from the Madison Square Garden, on the same side of the

street—east side of the street—Madison street or Madison avenue. The corner is Madison Square Garden, and it is the second house going down town.

Q. Do you know what building it is going downtown; is it the Manhattan Club?

A. It was either a hotel or a club on the corner.

Q. Did you ever see Mrs. Vanderpool at that house or going into it?

Mr. Strong—I object. Mrs. Vanderpool has not been identified in any way. It is simply some lady who he was told was Mrs. Vanderpool. We don't know whether it was or not. She is not here for identification, like Mrs. Dudley. All we know now is that a certain lady told him she was Mrs. Vanderpool.

The Vice Chancellor—What appears in the prior testimony in regard to Mrs. Vanderpool's whereabouts; is she living or dead?

Mr. Strong—She is living; of course she is.

The Vice Chancellor—Nothing in the case to show where she lives?

Mr. Carpenter—Yes, Dudley gave her address. He gave an Atlantic City address and a Philadelphia address, and I think she has a Washington address.

The Vice Chancellor—The difficulty is now that you are not apparently identifying the person who the witness thinks he saw going into this house as Mrs. Vanderpool at all. If you want to show that he saw a certain woman going in, and he can give a description of her, and can identify her by some other witness, I guess I will take this testimony. If you don't succeed in identifying her, all of this testimony will go out. It is more or less a waste of time taking testimony which will be stricken out.

Mr. Carpenter—I don't want to.

The Vice Chancellor—Do you expect to identify the lady whom the witness saw?

Mr. Carpenter—I will do that.

The Vice Chancellor—Go ahead.

Q. Can you give a description of the lady you saw at that apartment house?

Mr. Strong—He hasn't said he saw any lady going in there.

Q. Did you see a lady going in or on the street?

Mr. Strong—Objected to.

The Vice Chancellor—Counsel states he attempts to identify the lady. Therefore, for the purpose, the testimony will be admitted. It may be stricken out later.

Q. Did you see a lady that was described to you as Mrs. Vanderpool?

A. See a lady described to me as Mrs. Vanderpool?

Q. Yes.

A. There was a woman pointed out to me as Mrs. Vanderpool.

Q. Can you describe her? What she looked like?

A. No, I could not.

Q. Can you tell the color of her hair?

A. I could not.

Q. Can you give her height or weight?

A. It would be impossible.

Q. Were you in Washington in the month of April, 1905, Mr. Nuss?

A. I was not.

Q. Were you in Washington at all with reference to Mr. Dudley or to follow him there?

A. Never.

Q. Were you notified by Mr. Rigor or by any one in his employ in April, of 1905, to meet a train on the B. & O. railroad at Philadelphia and there take a trip to New York?

Mr. Strong—I object to that.

Mr. Carpenter—I submit I should have the privilege of asking leading questions of this wit-

ness for the purpose of bringing out things that I cannot get on direct questions.

The Vice Chancellor—How does it appear that the witness is hostile or unwilling to testify to the truth?

Mr. Carpenter—He says he can't testify without his original notes. Those were lost. We can't get them.

The Vice Chancellor—Well, you can lead him in the proper manner by suggesting topics and putting direct questions. But, so far, I haven't heard anything from this witness which would warrant the inference that he is hostile and is holding back, and that therefore you are entitled to cross-examine him. He simply says he does not remember. There is nothing extraordinary about that statement. A professional detective who is working on cases from time to time cannot recall a very slight amount of work that he did in a case eight years ago. Nothing remarkable in that. It would be quite remarkable if he had an accurate and definite recollection of what he did. He says positively that he did no work at all in this case, and that if he did it was very slight. He has a recollection more or less vague that he was sent on the case, and that Mr. Dudley was pointed out to him and Mrs. Vanderpool. He can't tell anything more. Now that is not unreasonable, and does not suggest that he is concealing anything. You can ask him whether he is telling the whole truth.

Q. Are you willing, Mr. Nuss, to tell the whole truth of all you know?

A. Just as sure as I sit here.

Q. Will you tell me where you saw this lady that was pointed out to you as Mrs. Vanderpool?

A. I don't recall where it was.

Q. Do you recall anything that happened at the time you saw her in New York?

A. Pardon me just a minute. It must have been in New York. I don't want to say anything that would make you believe I am not trying to tell what I know as to whether she was pointed out. I was sent on a case to New York in 1904 and did not leave until July, 1905, on one case, and worked on it every day, and that was a case where my whole mind was, and if I worked on this case it must have been a very short time.

Q. Then it was during that time, was it, in 1904, in the city of New York for a few hours, and July, 1905, that you did work on this case?

Mr. Strong—If he did?

A. Yes. If I did, because that was the time I was over there, about eight months.

Q. Now then, do you recall who pointed this lady out to you as Mrs. Vanderpool?

A. It must have been some one from the office; who, I don't know.

Q. Do you know who from your office was working on this case besides yourself?

A. No.

Q. Did you have anyone in your office who went under the style of Operative No. 2?

A. I don't know who No. 2 was. No, we had about twenty or twenty-two men employed there, and they all had a number.

Q. Did you have a number?

A. Yes, sir.

Q. What was your number?

A. At that time? I could not tell you. I was No. 1 when I quit; I might have been No. 10 or 15.

Q. It wasn't No. 2, was it, Mr. Nuss?

A. No.

Q. I ask you again do you recall where it was that

you saw this lady in New York who was pointed out to you as Mrs. Vanderpool?

Mr. Strong—Why should you ask again?

Mr. Carpenter—He has not answered the question.

A. It was somewhere in New York, but where I don't know.

Q. Do you recall what she was doing at the time?

A. No.

Q. Did you ever render any assistance to her when you saw her in New York?

A. No, positively.

Q. Was there anyone in the employ of Mr. Rigor in the year 1905 whose initials were A. B. C.?

A. Mr. Rigor might have had a half dozen people with A. B. C.

Q. Do you know anyone whose initials are A. B. C.?

A. There is a man named Coley, but I don't know what his middle name or his first name was. I never knew what his middle name or first name was.

Q. Were there any others whose initials were A. B. C. in the employ of Mr. Rigor?

A. There were none that I know of, not even this man Coley. I never knew his first name.

Q. Was there anyone else there whose initials were W. C. N. except yourself?

A. I could not tell.

Q. Was there a man there whose initials were G. W. B.?

A. Well, we had a couple of people by that name working there.

Q. Was George W. Busby in the employ of Mr. Rigor in 1905?

A. I believe he was. I don't know whether he was all of the months I was away from there. I never went near the office in eight months.

Q. What was the name of the case, sir, that you were employed on in New York for eight months?

Mr. Strong—I don't believe that is material.

A. I will ask your Honor whether I have to answer that?

Q. Was it this case?

A. It was some case of Teddy Roosevelt's, I know.

Q. Have you any original notes or memorandum made by you on the work which you did in this matter in 1905?

A. No. I only wish I did have.

Q. Have you spoken with Mr. Rigor about this matter since the subpœna was served on you last week?

A. This matter?

Q. Yes.

A. No.

Q. Have you spoken to him about it within the last year?

A. The only time I spoke to Mr. Rigor about this case was about a week before I testified to it in Camden. I asked him whether he had my original reports which we sent in every night. He said he didn't have. "Well," I says, "How am I going to testify the little I did in this case without my reports?" "Well," he says, "I haven't got them; I can't give them to you."

Q. Did he tell you what he wanted you to testify to or what he didn't want you to testify to?

A. No.

Q. Have you been asked not to tell all you knew about this case?

A. Never.

Q. Has anybody ever suggested such a thing to you about this case?

A. Never.

Q. Did you notify Mr. Rigor that a subpœna had been served on you in this case?

A. At this time?

Q. Yes.

A. No. The man that served the subpœna on me told me he had just served Mr. Rigor.

Q. Did you ask him whether he had?

A. Did I ask who?

Q. The man who served the subpœna on you?

A. No, he told me voluntarily when he served me that he had just come from Mr. Rigor's residence and had served him, and he also told me not to come here until to-day.

No cross-examination.

D. Miles Rigor, having been previously sworn and examined, was recalled for further examination as follows:

Direct examination, by Mr. Carpenter:

Mr. Strong—I wish to make the same objection to Mr. Rigor's being re-examined that I made with reference to Mr. Nuss, his testimony having been taken at the same time that Mr. Nuss's was taken at Camden.

The Vice Chancellor—I make the same ruling, based on the stipulation which counsel saw fit to sign.

Q. Mr. Rigor, you are a detective, are you not?

A. I was head of the Rigor Secret Service in Philadelphia.

Q. Is that still in business down there?

A. Yes, sir.

Q. 13th and Market streets, Philadelphia?

A. 13th and Market streets, Philadelphia, yes.

Q. And you reside in Wildwood?

A. Well, yes.

Q. You were employed in 1905, were you not, to do some work in shadowing Mr. Edward Dudley?

Mr. Strong—Objected to as leading.

The Vice Chancellor—You may ask him whether he was employed on a certain case at a certain time.

Q. Were you employed in 1905, Mr. Rigor, to do some work with reference to Edward Dudley and a

lady by the name of Mrs. Elizabeth Batelle Vanderpool?

A. Yes, sir.

Q. Did you personally do any work on that case?

A. Well, I can't tell you that, but I don't think I did.

Q. When did that employment commence?

A. That I can't tell you.

Q. You were subpoenaed to produce here, Mr. Rigor, all of your original minutes, memoranda and documents relating to this matter. You have brought them with you?

A. Only the card index.

Q. May I see it, please? Is this the card index to which you refer?

A. That is the card index.

Q. And that simply says: "Brightley, S. S., 134 South 9th street, Philadelphia, shadow," with a number 1905 and another number on the other side, 340. Is that the card index which refers to this matter?

A. Yes, sir.

Q. Have you any other papers of any kind which relate to this matter?

A. No, sir.

Q. Did any persons who were in your employ do any work on the matter other than yourself?

A. Well, I presume they did.

Q. You know they did, don't you?

Mr. Strong—How does he know; how can he know?

A. You know I can't answer your questions on account of the absence of the records in this case. I can tell you what was done and what led up to the destruction of these records.

Q. You destroyed them, did you not?

A. I ordered them destroyed.

Q. Who did you order to destroy them?

A. My brother—my assistant.

Q. And his name?

A. Mark Rigor.

Q. Where does he reside?

A. 5042 Sampson street, Philadelphia.

Q. Do you know, as a matter of fact, whether he did destroy these records?

A. I can't say; I didn't see him do it.

Q. After this subpœna was served on you, did you ask him if he had destroyed them?

A. I did not.

Q. Did you make any efforts to get them from him?

A. I did not.

Q. You are the head of this Rigor Secret Service?

A. He is now. I was then.

Q. Are you connected with it in any way now?

A. Slightly.

Q. In what way?

A. Supervisor.

Q. You didn't make any effort whatsoever to get these reports from him or to ask him if he had them?

A. I never asked a question about them. I only went to the file and looked in the file, and they were gone.

Q. And when did you do that?

A. When I was subpœnaed before the Commissioner in Camden.

Q. Have you looked for them since this last subpœna was served?

A. No, sir.

Q. Did you in March or April of 1905 have an operative in your employ whose initials were G. W. B.?

A. I believe I did; two of them.

Q. Please give me their names?

A. Well, I won't give you their names unless I am instructed by the Vice Chancellor.

Mr. Carpenter—I ask the Vice Chancellor to instruct the witness to give the names.

The Vice Chancellor—I don't see the drift of your examination. I am not disposed to help you to get from the witness irrelevant matter.

There is no indication that you are leading to anything of value. This gentleman was the head of that detective agency. He says practically that his personal acquaintance with the case was very slight. He may have done something. You are not trying to get any testimony from him of what he actually learned by personal work as a detective. Now then, what can he tell us here but what was conveyed to him in reports which have been destroyed, and how is that competent, and what difference does it make whether he had a man named G. W. B., or with any other initials in his employ at the time? You can't produce G. W. B.'s report. I don't suppose for a moment you think of doing so, or you can't prove its contents. You don't propose to do that, do you?

Mr. Carpenter—Its contents, if they were known to Mrs. Dudley, would be competent evidence in this case on this theory anyhow that they would justify Mrs. Dudley, if she ever obtained possession, in bringing the action which she brought against her husband in Philadelphia or in this city.

The Vice Chancellor—We are not trying that issue as to whether she was morally justified in bringing any action, any legal action.

Mr. Carpenter—That is a material fact in this case, your Honor. If she was justified in bringing that suit in Philadelphia, then that suit is a bar to—it justifies her desertion.

The Vice Chancellor—You are undertaking now to show that she was warranted in supporting herself. Well, just explain how that can be. Suppose Mrs. Dudley did receive information, and on the strength of it—on the strength of the detective's report—she left her husband's house

and brought a suit for divorce. Did the divorce suit follow immediately after?

Mr. Carpenter—Yes.

The Vice Chancellor—You offer that as a defense to the action for divorce upon the ground of desertion?

Mr. Carpenter—Yes, sir, and I think that for that very reason the contents of the report as stated by Mr. Beekman in his deposition, when they were excluded the other day—that reason was not offered at the time—I think that reason is sufficient to admit the contents in evidence, and later on I will make a motion that they be admitted.

The Vice Chancellor—Does it appear, as Mrs. Dudley testified, that she had the contents of the particular report brought to her knowledge which you now seek to prove?

Mr. Carpenter—It does not appear yet, no, sir. I didn't open that up because of the Bulkley testimony at all.

The Vice Chancellor—I don't think you should be allowed to prove the contents of this paper by this witness, when the only justification for it must arise from testimony which as yet has not been given by Mrs. Dudley, and, therefore, without passing on the ultimate question at all, I think at present it is very plain that this is not competent.

Mr. Carpenter—Will your Honor admit it at this time subject to being connected up by something Mrs. Dudley will give later on and strike it out if it is not connected up?

The Vice Chancellor—What do you say to that, Mr. Strong?

Mr. Strong—I don't think the record ought to be encumbered with things that may be very probably immaterial. I haven't any idea that

the witness can tell the contents of any of these reports.

The Vice Chancellor—Suppose we endeavor to save time by endeavoring to find out whether the witness does recall the contents of any of these reports. If he does not, that is the end of it.

Mr. Strong—That question may be asked without going into the matter.

The Vice Chancellor—If he does, the question will arise whether we will take his testimony now or have him withdraw and come here at a future time.

Q. Mr. Rigor, do you recall submitting any reports in this matter?

A. Yes, sir.

Q. Do you recall what was in those reports?

A. I don't, only as told to me by several lawyers who came there.

Q. Have you any copies of those reports in your office?

A. I have not?

Q. Did you keep any copies of those reports as submitted by you?

A. I would say yes to that under the ordinary procedure and routine of business.

Q. Do you know what was done with those copies?

A. They would naturally be filed with the records.

Q. And have you searched your records for those copies of reports?

A. Now since I told you, since the last I was subpœnaed before the Commissioner in Camden.

The Vice Chancellor—Do I understand that the papers you refer to were by your direction to your brother destroyed?

A. Yes, sir. To explain to you, a record, as we call it, is from the first paper received in a case to the last

one—everything bearing on the case, even a copy of the bill submitted.

Q. Did you look for copies of the bill submitted?

A. Right after Mrs. Dudley visited me.

Q. And when was that?

A. That is several years ago.

Q. Do you recall just when it was?

A. I don't know.

Q. I show you papers which have been marked for identification *B*-23 and 24, and ask you if those are the original bills that were submitted?

A. This is a regular bill and I presume it is our bill.

Q. Is there any doubt about that?

A. Neither one of them were signed by me. It was sent out by the clerk.

Q. I ask you whether there is any doubt that this was the bill sent out by your office and receipted by your office?

A. I would say no.

Q. Mr. Rigor, were you on April 13th, 14th or 15th, 1905, in the city of Washington?

A. I could not tell you that. I have been to Washington, particularly in 1904 or 1905, possibly once or twice a week.

Q. Were you there on this matter in 1905?

A. I was not; no, sir.

Q. Were you ever there on this matter?

A. No, sir.

The Vice Chancellor—By this matter, you mean the Dudley case?

The Witness—Yes, sir.

Q. You saw Mr. Dudley in the year 1905, didn't you?

A. I never saw Mr. Dudley before I met him at the Commissioner's office at Camden. That was the first time I ever saw Mr. Dudley, and the second time was here last week when I was here.

Q. And do you recall the names of the operatives

you detailed on this work in 1905, in shadowing Mr. Dudley or any woman?

Mr. Strong—I object to that.

A. No, sir.

The Vice Chancellor—By whose direction, if not on your own motion, did you direct your brother to destroy these records?

The Witness—By my instructions.

The Vice Chancellor—Did you give that instruction of your own accord or at the request or direction of somebody else?

The Witness—No, sir; my only accord.

The Vice Chancellor—Proceed.

Q. This suit of Mrs. Dudley against her husband was pending at that time, was it not?

A. I don't know. I could probably explain a little clearer, if you would like me to.

Q. You mean Mrs. Dudley called upon you to see about the matter?

A. Yes, sir.

Q. And it was right after that you destroyed them?

A. Previous to that there had been a number of lawyers to see me and there had been a large sum of money offered to me in connection with my producing evidence in this case, and I made up my mind that I had been employed by one party to do certain work in the case, and the work was finished, and I would destroy the records and step out of it. I knew absolutely nobody. I never knew Mrs. Dudley before she came in the office that day.

Q. You knew at the time you destroyed them that her suit against her husband was pending?

A. No, I didn't know anything about the suit except what they told me.

Q. This lawyer had told you there was a suit pending?

A. They said they would like to have some evidence. This judge offered me $10,000 to produce it?

Q. And that was after you had been paid to get that evidence?

A. That was done according to the receipted bills there.

Q. Then do you mean to say that you refused to give that evidence voluntarily?

A. This time—

Q. Yes or no, please.

A. I did. I want to explain why I refused.

Q. I didn't ask you for an explanation. At the time, then, when you destroyed these records, you had been informed that Mrs. Dudley had an action for divorce pending; is that so?

A. I can't say it in those words. I only understood that there was some action going to be taken. A man in my position would naturally understand that some action was going to be taken.

Q. You have been informed of the progress of this suit at various times, haven't you?

A. By yourself and others, yes, sir.

Q. And you have been informed in advance of subpœnaes having been served on you—that subpœnaes were out for service upon you, have you not?

A. Yes, on one occasion, as I told you before the Commissioner there was a memorandum on my desk that there was a subpœna out for me. I don't know how it got there except by my clerk. I don't know how they found out. Another time there was a commissioner in Philadelphia on Walnut street called me up and asked me whether I would accept service of a subpœna, and I told him yes.

Q. And was there a subpœna served on you at the time?

A. I think several times.

Q. Have you ever been employed by Edward Dudley?

A. No, sir.

Q. In no way?

A. In no way, shape or form.

Q. Have you been employed—

A. (Interrupting)—Directly or indirectly, that I know of.

Q. By any of his lawyers?

A. Or any of his lawyers that I know of. Of course I might have been employed by some of his lawyers, not knowing that they were his lawyers.

Q. Can you give me the names of those lawyers, Mr. Rigor, who asked you to produce these papers or to give them to you so that they might be used in court?

A. Mr. Carpenter was one. Neunan or Dunan was another; Mr. Phillips, I think, of Philadelphia, was another.

Q. Mr. Phillips?

A. Yes, I think Mr. M. Phillips.

Q. Do you recall any others?

A. There was a New York lawyer came over with a letter from Mrs. Dudley.

Q. And you refused each time to give that evidence?

A. I referred them all to Mr. Brightly, sir. I didn't know Mrs. Dudley in the case in any way, shape or form.

Q. And did you refuse to give her any information about the case?

A. I did.

Q. And didn't she at the time produce to you these receipted bills?

A. She did.

Q. And show them to you?

A. Yes, sir.

Q. And you compared them with your copies of bills?

A. Afterwards. I didn't compare those. I afterwards looked at the record.

Q. And you ascertained from your comparison of the records which you had that these were the original bills you submitted?

A. I think I looked at one amount there, one of the bills, just to recall what it was.

Q. And after Mrs. Dudley submitted these for your consideration did you tell her you would not give her any information with reference to the matter?

A. I told Mrs. Dudley at that time that I did not know her in the case, and as a matter of fact she did not pay for this work. It was paid for by a lawyer in New York, as my understanding was.

Q. And didn't she tell you she paid that lawyer to get this work done?

A. She told me she paid Mr. Bradley.

Q. Mr. Rigor, who are these people whose initials are on this bill, Operative A. B. C., referring to *Exhibit D-24*, at the top of the first typewritten line?

Mr. Strong—I object to that as irrelevant—

The Vice Chancellor—How is it relevant, Mr. Carpenter?

Mr. Carpenter—This work was not done by this witness, but it was done by witnesses whom he alone knows. He has refused absolutely to give any information in this case according to his own statement, and the only way we can get this information so that we may get these men is by this inquiry.

The Vice Chancellor—He has not refused to give any information he can lawfully give. I don't understand that he has made any refusal. The scope within which he can testify in this case manifestly is very limited.

(Question withdrawn.)

Q. Mr. Rigor, are you willing to give all the information you can in this case?

A. I have given it.

Q. Are you still willing to give all you can?

A. Yes, except to identifying these men.

Q. You mean you are not willing to do that?

A. I prefer not to. This is part of the secrets of the office there.

Q. I now ask you, Mr. Rigor, who the initials "Operative A. B. C." stand for?

Mr. Strong—Objected to as irrelevant.

The Vice Chancellor—And the witness, I understand, desires not to answer and will not answer unless he is directed to answer by the Court, and the Court will not direct him to answer the question which involves the personnel of the secret force in his office, unless it is necessary for the ends of justice, and therefore it is necessary for the examining counsel to show that this is a relevant matter and a part of this case to ascertain the name of the Operative whose initials are A. B. C. I guess there is no showing that it has any relevancy whatever.

Mr. Carpenter—I think it is necessary, your Honor, that we should know the names of the detectives who worked on this case, so that we may examine them one by one.

The Vice Chancellor—Well, that is not the way to prepare the case. The Court cannot sit here and allow any witness to be interrogated and compelled to disclose what he wants to keep private about his own personal business in order that counsel can go on a fishing expedition, looking up witnesses.

Mr. Carpenter—This is not prying into the affairs of a private business. This is work that has been paid for, and she has a right to get that information, and she can get it only, apparently, by getting this witness in Court and and trying to draw the information from him in this manner.

The Vice Chancellor—I have ruled, Mr. Carpenter, and this witness will not be compelled to disclose the particulars of his private business

unless the disclosure is necessary to the administration of justice, unless what he is asked to testify about is relevant in this trial, and the issues that we are trying in this case, and counsel does not state, and apparently cannot state, any reason why in the trial of this case the Court should be informed what the name of the man whose initials A. B. C. stand for. Under those circumstances the Court is compelled, in its judgment, to refuse to publish to the world—this case has been very widely advertised in the newspapers—the names of his operatives.

Q. Mr. Rigor, were you ever in New York City on this case?

A. No, sir.

Q. Did you ever do any work in Philadelphia on this case?

Mr. Strong—He has already said he never personally did any work on the case anywhere.

The Vice Chancellor—Very little, if any, he said. He said he had done a little work.

Mr. Strong—I think your Honor confuses this witness's testimony with the previous witness. He said he didn't think he had done any.

The Vice Chancellor—Mr. Carpenter has not endeavored to elicit any direct evidence in regard to discovering when he was personally engaged on the case, if he was personally engaged on the case.

(Question read.)

A. Not that I recall. It was probably office work, if I did it.

Q. What work did you do on this case; you said you did a little?

Mr. Strong—Has he said a little?

The Vice Chancellor—Let him state again.

A. The most work that I have done in this case has been interviewing lawyers. That is what has brought it promptly to my mind, without going into the record.

Q. Then do you remember stating to me that you would only give this information out at Mr. Brightley's request; did you ever make such a statement?

Mr. Strong—I object. Suppose he did; what of it? The witness now says he has no recollection.

The Vice Chancellor—I will allow him to answer it as bearing on the possible right to cross-examination later on.

A. I may have said that, from the fact that the records show F. F. Brightley, and I think it was only courtesy to Mr. Brightley for one lawyer to go to another, as I told you.

Q. Then you did think you would not furnish any information without the consent of Mr. Brightley?

A. I believe I did.

Q. If Mr. Brightley does give his consent, are you willing still to give whatever information you can in this case?

A. I have given it all without his consent.

Q. Are you willing, Mr. Rigor, to give your assent to such detectives as did work in this case for you in 1905 to give whatever information they received while working on this case for you?

Mr. Strong—I object to that. That would be incompetent evidence if he was willing to.

The Vice Chancellor—Is the consent of this witness a matter of any consequence? If these witnesses can testify to facts, you can subpœna them.

Mr. Carpenter—Suppose we take the testimony of any one of these men, and he refuses to give testimony because it was done for his employer, and he would not testify without his consent, I would like to anticipate that.

The Vice Chancellor—Are you suggesting that the witnesses would be permitted to refuse

to answer questions until this gentleman had given his consent?

Q. Did you have a man in your emplay in 1905 by the name of George W. Busby, Mr. Rigor?

Mr. Strong—I object for the reason that it is a private matter and information which the witness is not inclined to disclose.

The Vice Chancellor—The witness has not shown any disinclination to answer the question.

Mr. Strong—I think he said a moment ago that he did not wish to give information as to who were or were not members of his force.

The Vice Chancellor—He said he did not wish to disclose names of the men indicated by the initials on these reports. Now ask whether he has in his employ a man by the name of George W. Busby. If he objects to answering that, I will look into the materiality of the question.

The Witness—Yes, sir.

Q. Did you have a man in your employ in 1905 known as A. B. Coley?

A. I did.

Q. Do you remember what his first name was?

A. I do not.

Q. Do you know where he resides now?

A. I do not.

Q. Do you know where he works now?

A. The last I heard of him he was working down on the Southern Railroad.

Q. In the south?

A. Yes.

Q. Did he do any work on this case?

A. I cannot say.

Q. Do you remember the contents of the report that was submitted by you to Mr. Brightley?

A. I don't, and I don't think I saw them.

Q. Will you give me, please, the name of the man

who went under the style of Operative No. 2 after April of 1905?

Mr. Carpenter—I will ask you to direct the witness to do that because on the bill here it is stated under the head of April 14th, 1905, "Services Operative No. 2, Washington, expenses No. 2, Washington, $6.75, &c., total $7.50." Under the head of April 15th, 1905, "Services Operative No. 2, Washington, expense No. 2, Washington," &c. We have absolutely no knowledge who Operative No. 2 was, and we can't subpœna him. Mr. Rigor was asked this same question when he was examined in Camden and refused to answer, and we could not compel him to answer at that time. We have no knowledge whatsoever, unless it was one of these men whose initials are G. W. B. or A. B. C. I request that you direct the witness to answer the question.

The Vice Chancellor—The paper from which counsellor is reading is not in evidence. I will deal with that later, but counsel now states that he will offer it in evidence, using the paper as a memorandum, and he stated the fact upon which he claims that this is a material matter. How is it material?

Mr. Carpenter—You mean how is this paper material or the question?

The Vice Chancellor—No. How is the question material? You said you meant to show.

Mr. Carpenter—I want to get the information about Operative No. 2, who he was, who did some work on this case.

The Vice Chancellor—In order that you may at some future time examine this witness and bring him here?

Mr. Carpenter—Examine Operative No. 2, yes.

The Vice Chancellor—Well, Mr. Carpenter, we don't sit here to enable counsel to prepare their cases.

Mr. Carpenter—I understand that, and it is not often that counsel has to ask the Court to aid them in preparing their cases.

The Vice Chancellor—Do I understand this witness was interrogated as to this witness, Operative No. 2, when he was examined *de bene esse?*

Mr. Carpenter—I am pretty positive of it.

Mr. Strong—That is true, and he took the same position he does now. It was open to counsel at that time, if he wanted to prepare his case, to have brought the matter to the attention of the Court and compelled disclosure then, if it was competent. He might then, if your Honor thought it was competent, have obtained the name of this witness, and have had him here perhaps or taken his testimony somewhere else. Now, on the very winding up of the case he seeks to procure this information, which cannot be of any service to him, because I suppose your Honor will not delay the case in order to hunt this man up.

The Vice Chancellor—When was the examination taken in Camden?

Mr. Strong—July 29th, 1912. Counsel knew then just what he knows now, and the witness on the stand did not care to disclose who were his confidential agents, and if it was proper and competent to obtain that information, it ought to have been obtained then, or sooner afterwards, by the aid of the Court, if the Court thought it proper to give it.

The Vice Chancellor—What do you say, Mr. Carpenter? This witness is within the jurisdicton of the Court. He wasn't examined *de bene esse* out of the State. If such were the case, it

would be very different. Your only object, as I understand it now, in seeking to get this disclosure from the witness, is in order that we may look up this man, No. 2, and use him as a witness on some future occasion if you think his testimony will help your case.

Mr. Carpenter—Your Honor has given us permission to take the testimony of Mr. Busby. We promise the Court that we will not ask for any time beyond that time in which to take the testimony of Operative No. 2, if he is discovered, and if he resides in Philadelphia, provided Mr. Strong will accept short notice of the taking of his testimony.

Mr. Strong—If I may say a word, I have heard no permission given by the Court to delay the case for the purpose of taking the testimony of Busby. I have heard nothing of that kind. On the contrary, I understood that this case was to go on now to a finish. You have had an opportunity of taking Busby's testimony at any time within the last five years.

The Vice Chancellor—I have no notes here, gentlemen, and the stenographer who has the notes is not here. This matter came up the other day, and I recollect Mr. Carpenter stating that he had permission to take the deposition of Mr. Busby in Philadelphia, and my recollection does not exactly accord with that statement, but I am not sure at all. I should have to turn to the record. Have you the latest testimony?

Mr. Strong—The last week's testimony I have here.

Mr. Comboy—I think it was the session before last. If you have the record there, may I look at it.

Mr. Strong—I don't think I have the record of the week before, if that is the one, but I remem-

ber that something was said about examining Mr. Busby, and counsel was asked why he was putting off the examination of Mr. Busby, and he said he was putting off the examination of Mr. Busby in order that he might examine some other witnesses first, and I think your Honor's reply to that was entirely discouraging to any notion that he would be permitted to delay Mr. Busby's testimony. You pointed out to him that he might have taken Mr. Busby's testimony any time within an indefinite period past, and that he had not done it, and I am sure there was no permission given by the Court to delay taking his testimony until after the other witnesses were heard.

Mr. Comboy—May I give the Court my recollection of what was said on that occasion? I think I brought the matter to the attention of the Court, I told your Honor at that time that this man Busby, whom we desired to examine—that his name was registered on the hotel register down in Washington, had disappeared. That we did not want to examine him until after the examination of the assistant manager of the hotel—until he had come here and testified before your Honor and established the fact that that entry was upon the hotel register. So that upon the examination of Mr. Busby we might have established upon the record from which to proceed. At first there was a misapprehension, probably from a statement that I made not being entirely clear that we intend to examine Busby, and when I told your Honor that we intended to have him examined as soon as we could after the testimony was taken of the hotel manager, your Honor stated that you did not understand me and expected that the case would be no longer delayed than that, and the inference was not a

discouraging one at all, but on the contrary we left here on the assumption that we would take the testimony of Busby, and Mr. Carpenter has been busy upon the matter since that time.

The Vice Chancellor—Now, it is the endeavor of counsel to show by this witness that the detective No. 2 is Mr. Busby?

Mr. Comboy—Well now, we don't know that. We want to find out whether it was Busby or whether there was Busby and somebody else there. The hotel register shows Busby there. This man says he had a man in his employ at that time named Busby. A memoranda which Mr. Carpenter has offered for identification refers to another person in Washington as well as the man whose initials are G. W. B. Now Busby's name is George W. Busby, as shown by the record of the hotel in Washington, and G. W. B. is the initial of one of the men referred to in this bill as having been in Washington on those dates.

The Vice Chancellor—What has that got to do with No. 2?

Mr. Comboy—That is what we want to find out, who No. 2 was. No. 2 was at that time along with Busby, apparently, because on the 14th appears "Services operative G. W. B., Washington, expenses G. W. B., Washington," and right under that on the same date is "Services operative No. 2," which apparently is a different man from Busby working down there in connection with the same matter that this bill covers.

The Vice Chancellor—Then I understand in brief, the explanation of counsel is to show that the operator No. 2 was also in Washington with Busby, and they don't know what his name was and therefore can't subpœna him?

Mr. Carpenter—Just so. And may I say this with respect to Mr. Rigor, the Court has been occupied during the days this case has been set down for trial with the examination of witnesses. We did take the testimony of this man *de bene esse* in the State of New Jersey, and got as far as we could with him, so we could not get anything more from him without producing him actually in court.

10 The Vice Chancellor—You might have taken proceedings, as he was within the jurisdiction of the Court, to compel him to give you that information at that time. Whether the Court will take an adjournment long or short in order to enable counsel to follow up what they are now seeking to get from this witness or not, will be determined later, but under the circumstances as the case now stands, I shall have to rule that the witness must answer the question.
20 It may be answered in such a way as to practically make the communication confidential. Counsel, I suppose, have no objection to the witness writing the name.

Mr. Strong—No objection to that.

The Vice Chancellor—Mr. Rigor, the Court will protect you in every way possible, but in regard to this matter you will have to answer the question, but you may answer it by writing the name on a piece of paper.

30 The Witness—I know that the name of Operative No. 2 is in that bill. I would not testify that any of these initials are correct.

The Vice Chancellor—The question is, was there an operative in your employ at this time in 1905 who went by that designation, Operative No. 2, and if so, who was he?

The Witness—Yes, sir; I went under that designation. A man named Henry Ray went

under that designation, and he is dead now. I have probably had fifteen men under that, and I could not tell unless I could see the original records who that man was. I would not swear that any of these men were on this case, as shown in the bill there, unless I could see the records and the original reports.

The Vice Chancellor—Proceed.

Q. You don't mean to say, Mr. Rigor, do you, that you would render a bill such as this with the names of operatives who are certified by you to have been in these places on these dates without that being so in fact, would you?

A. That could happen.

Q. You would do that?

A. Yes, sir.

Q. You have done it in other cases?

A. Frequently done.

Mr. Strong—I object to some other cases.

Q. Do you mean to say you would not be able to tell whether or not Operative No. 2, as mentioned on this bill, referred to you without examining the original reports that were filed in your office?

A. I would not be able to tell who it was.

Q. Now even whether it was yourself?

A. No, sir. I can say it was not myself, because I know I was not in Washington.

The Vice Chancellor—On that case, you mean.

The Witness—On that case.

Q. If you had been in Washington on that case would you be perfectly willing to testify as to the information you found out?

A. It is a question in my mind whether I would, unless I were compelled to.

The Vice Chancellor—State your reasons.

The Witness—My reason for that is this, that when I was employed on this case I had a dis-

tinct understanding with a lawyer, with Lawyer Brightley, that any work that was done would not be used as evidence; that it was done for a lawyer named Beekman in New York, who was then a paramour of Mrs. Dudley's, and they wanted to see whether they could get the evidence against Mr. Dudley in a certain matter and it would never be used. That was the reason I destroyed any records that I might have, so that I would not enter into it.

Q. So that even now you would not be willing to give this information or any information you might have received at that time in this case without the Court compelling you to do so?

A. Had I been on the case personally in Washington, I would have to be directed by the Court to give that evidence before I would do it.

Mr. Carpenter—If your Honor please, I request the Court to direct the witness to give what information and all the information he personally obtained while working on this case.

The Vice Chancellor—He has testified that he practically did no work.

Q. Mr. Rigor, you said a while ago that you had never accepted any employment from Mr. Dudley or anybody employed or connected with him?

A. Yes, sir.

Q. Do you remember telling one of the reporters here to-day, before you were called into the court room, that you could not swear you were not employed by anybody connected with Mr. Dudley?

A. No, sir.

Mr. Strong—Objected to.

Mr. Carpenter—I ask that that be stricken out. I misread a note which was handed to me.

The Vice Chancellor—Strike it out.

Q. Mr. Rigor, the words: "Received payment, D.

Miles Rigor, per E. S. R.," were put on there by someone in your employ, were they not?

A. Yes, sir.

Q. When was that they put them on there?

Mr. Strong—Objected to.

The Vice Chancellor—What paper is shown the witness the record will not show or disclose?

Mr. Carpenter—The witness was shown a paper marked for identification *D*-23 and *D*-24.

Mr. Strong—The witness has not denied that these are receipted bills of his office. What difference does it make who receipted them?

The Witness—It is evidently one of the clerks of my assistant.

Q. Do you know which clerk it is?

Mr. Strong—Objected to. I think this ought not to go any further.

The Vice Chancellor—I don't see that it has any relevancy. I am disposed, however, to give you pretty wide range.

Q. Who wrote in the words under date of April 15th: "and New York"?

A. I can't tell you that.

Q. Is it in your handwriting?

A. No, sir. It is not my signature.

No cross-examination.

Marie M. Dudley, recalled for further examination.

By Mr. Carpenter:

Q. Mrs. Dudley, do you recall the time when the deposition of Angelina P. Knight was taken?

A. Yes.

Q. Did you ever tell Mrs. Knight in 1905 that you were going to leave Mr. Dudley?

A. At the time she states I did say so?

Q. Yes.

A. No, no such interview ever took place.

Q. Did you ever tell her you were going to leave your husband?

A. Not that I know of. When I came back, she took me to a lawyer's office, you know.

Q. And did you ever—

A. (Interrupting)—I hadn't any home. I supposed that was the only thing to do.

Q. Did you ever say to her these words: "I will ruin Mr. Dudley, if I can," or anything like that?

A. Never heard it before.

Q. Did you ever say that?

A. No, never.

Q. To her or to anyone else?

A. No, never heard that before.

Q. At the time you went to her home after you returned from Europe in 1905, did you have a satchel in which was three thousand dollars or thirty-five hundred dollars?

A. No, I don't recall anything of the kind.

Q. Mrs. Dudley, do you know Frank F. Brightley, of the Philadelphia bar?

A. Yes.

Q. When did you first meet Mr. Brightley?

A. I think I was introduced to him—he was in an automobile, and I think it was about dusk, and I didn't even know he was Mr. Brightley; I didn't know who he was, just Mr. Brightley, just a casual introduction. He was with a lady named Mrs. Moser, I think.

Q. And were you introduced to him under any other name, Mrs. Dudley?

A. No.

Q. Were you introduced to him under the name of Mrs. Dudley?

A. Yes, of course.

Q. And were you, to your knowledge, ever known to him under any other name than Mrs. Dudley?

A. Not to my knowledge. I don't know what he knew.

Q. Mr. Brightley testified he saw you in public cafés always with Mr. Beekman or in Mr. Beekman's automobile, and he saw you that night or early in the morning—very early in the morning, in New York in cafés with Mr. Beekman; is that so?

A. No.

Q. Were you ever out with Mr. Beekman early in the morning in New York or anywhere else?

A. No, sir. Of course not; perfectly ridiculous.

Q. Were you ever with Mr. Beekman in Jack's, on Sixth Avenue, early in the morning?

A. No.

Q. Were you ever in Rector's with Mr. Beekman after the theatres, about eleven o'clock, after the theatres were over, drinking with Mr. Beekman?

A. No.

Q. Were you ever under the influence of liquor in Jack's cafe in New York?

A. No.

Q. Did you ever take a ride in Paris with Mr. Beekman and Mr. Brightley?

A. I don't remember whether I did or not.

Q. And did you ever on any such occasion, if there was one, call Mr. Beekman a cur, and say, "You are the cause of my leaving my husband, and when you found yourself getting into trouble, like a cur you left me in New York, and you are a bastard"? Did you use any such words?

A. Never heard them before.

Q. Did you heap up epithets of the most infamous character on Mr. Beekman?

A. No. Mr. Brightley says I said so?

Q. Yes. By the way, you haven't read over Mr. Brightley's testimony?

A. No.

Q. Did you ever say to Mr. Brightley—

A. (Interrupting)—I can't stand everything; it is too much.

Q. Did you ever say to Mr. Brightley, "I understand you are going to London to-morrow"?

A. No.

Q. Did you ever say—

A. (Interrupting)—Why should I?

Q. Did you ever say to Mr. Brightley, "Well, I am going to London with you; I am going to leave this bastard," or any such words?

A. No.

Q. Did you ever say in the presence of Mr. Brightley that he had spent the night before he sailed with you or any such words?

A. What?

Q. Did you ever say in a loud voice in Mr. Brightley's presence, so that Mr. Beekman could hear it, he, Beekman, had spent the night before he sailed with you?

A. No.

Mr. Strong—Mr. Brightley amended that by saying not the night but the evening before.

Q. Did you say anything like that, either night or evening?

A. No.

Q. Were you ever together in Philadelphia with Mr. Beekman?

A. No, never.

Q. Were you ever in Zern's café, Philadelphia, with Mr. Beekman?

A. No, sir.

Q. Were you ever in Zern's cafe, Philadelphia, with Mr. Beekman?

A. No; been there with Mr. Dudley.

Q. Did you ever, at Delmonico's, in New York, throw dishes on the floor?

A. No, of course not. Mr. Dudley had something to say. What did you say?

Q. Were you ever at Delmonico's as late as one o'clock in the morning?

A. Oh, often been there until one o'clock in the morning at Delmonico's.

Q. And were you ever there alone with Mr. Beekman?

A. No. I have been there often, though, with other people and Dudley.

Q. Can you mention any of the other people you were there with?

A. Yes, a great many people; Justice Truax and Mrs. Truax; often been there.

Q. Did you ever go out of Delmonico's or Sherry's with Mr. Beekman as late as one o'clock in the morning, get in his automobile, drive north on Fifth avenue?

A. No. I stopped at the Waldorf when I was in New York.

Q. Mrs. Dudley, do you recall when you first engaged Mr. Brightley to represent you as your attorney?

A. No; I think he came down to Atlantic City. I would not like to state positively. I know he did come down; I don't know whether I engaged him at that time or whether I went in his office afterwards.

Q. At that time did you have any evidence in your hands of your husband's infidelity?

A. Yes.

Q. Will you tell us what you had and where you got it?

A. Yes, I had the evidence secured by the D. Miles Rigor Detective Agency to the effect that my husband left on the Baltimore & Ohio—

Mr. Strong—I object to her stating the evidence she had from Rigor. Incompetent.

The Vice Chancellor—Why not, as bearing upon the question of desertion?

Mr. Strong—Well, if there had been that evidence in her possession, and if she had promptly brought suit and prosecuted it diligently, perhaps during the time of such prosecution of the suit, that would have been an excuse for the de-

sertion and the defense against the charge of desertion on the ground of divorce, but she had no such thing as that. If she had that evidence or not, she began a suit in September, 1905 promptly enough. But what has become of that suit?

The Witness—If you want to know, I will explain it.

Mr. Strong—That suit has lain absolutely without prosecution from 1905 until this time. In the meantime, she filed another bill with the Court of Chancery of this State in 1906 and never issued process on it. Then the third suit she brought was not a suit for divorce at all, but is one of these suits which we are now trying, which is a suit for maintenance.

The Vice Chancellor—Just refresh my recollection as to the dates. The separation was in July, 1905.

Mr. Strong—May of 1905.

The Vice Chancellor—Then the suit that she brought in Philadelphia was for absolute divorce on the ground of adultery with Mrs. Vanderpool, and that was brought in September?

Mr. Strong—September of the same year.

The Vice Chancellor—The suit brought in New Jersey, in 1906, was that for absolute divorce or maintenance?

Mr. Strong—That was for absolute divorce, but simply a bill filed and no process.

The Vice Chancellor—The next suit after that.

Mr. Strong—Was one of the suits we are trying. That was for maintenance and began in September, 1907.

The Vice Chancellor—And to that a cross-bill was filed; it was under the old law.

Mr. Strong—A cross-bill was filed.

The Vice Chancellor—On the ground of desertion.

Mr. Strong—Yes.

The Vice Chancellor—And this last suit brought by Mr. Dudley against Mrs. Dudley for desertion, that was commenced in 1910, was it not?

Mr. Strong—April, 1910.

The Vice Chancellor—And that is the cause brought in April, 1910, now on trial, and with it we have the bill for maintenance?

Mr. Strong—These are the two causes.

The Vice Chancellor—The bill for maintenance which was filed in 1907?

Mr. Strong—1907, after the Philadelphia case had remained dormant for two years, and proceeding upon a ground which is a waiver of the Philadelphia case, because if she intended to prosecute the suit for divorce, the suit for maintenance proceeds upon the ground that she desires that the marriage relations shall continue. It is based on the marriage relation, whereas the divorce is a proceeding to terminate and dissolve it. Now, we have not only the fact that she allowed her suit to slumber for two years, but the character of the suit for maintenance is such that it is of itself an affirmative waiver—I don't mean a waiver so that she might not subsequently begin another suit for divorce, but while the maintenance suit is pending it leaves out of sight, and leave for the present any idea of claiming the dissolution of the marriage. Now then, that suit is the one that is now brought on for trial. In 1910, after the separation had continued for nearly five years, after the suit for divorce in Philadelphia had slumbered for four years and a half, Mr. Dudley filed his independent suit, which

is one of these on trial now, in which he asks for divorce on the ground of desertion. Now it cannot be said that the pendency of this dormant suit in Philadelphia, which even now is not definitely stated, was any excuse for her desertion for two years prior to April, 1910.

The Vice Chancellor—I suppose the petition of Mr. Dudley is in the usual form and alleges that the defendant deserted the petitioner in May, 1906, and has ever since continued such separation and alleges that the desertion was continued for the required two years—willful, continued and obstinate desertion preceding the filing of the petition for two years.

Mr. Strong—Yes. How can it be material to that desertion to show that she had some ground of reasonable suspicion of Mr. Dudley's adultery in 1905 when she filed her bill, that bill having remained without prosecution for upwards of three years before the commencement of the period of desertion alleged in 1910. The two years prior to the petition of 1910 ran back to about the first of April, 1908. The first of April, 1908, her suit in Philadelphia had been two years and a half without prosecution. Can it be of any consequence to determine whether she had any reasonable ground for suspicion in the institution of that suit? Further, there is no materiality or relevancy to the testimony. They admittedly have no such proof of any such conduct on the part of Mr. Dudley. It is merely loading into the record old and scandalous stuff which is entirely irrelevant for any purpose.

The Witness—He has lived with her ever since.

Mr. Carpenter—We shall show, and I think it appears plainly enough from the evidence already read to the Court, that Mrs. Dudley was

unable to prosecute that suit in Philadelphia because of the betrayal of Mr. Brightley. He betrayed her, would not give up the papers to her. He demanded that he withdraw from the case and he refused. He gave the whole case to the newspapers as soon as she demanded the papers from him. We shall show that during the time she asked he give up his papers and give her a substitution, we have been unable to get out of the case. We employed lawyers in Philadelphia to do so and this lady went from lawyer to lawyer and was finally forced to come into this State and go to one of the Vice-Chancellors of the State and ask that a lawyer be assigned to her, so that she could prosecute her husband. And if we show that fact and show that there is adultery with a woman in Philadelphia, we have evidence of her failure to prosecute that suit in Philadelphia.

Mr. Strong—Counsel is not seeking to prosecue that suit now. She might have prosecuted her suit in Jersey. She did file a bill but there was no process on it. She wasn't obliged to prosecute it there, she has never prosecuted the bill she did file here. She could have brought another bill instead of this maintenance bill, and by her mantenance bill she has set aside her suit for divorce. The records show that Mr. Comboy said it was not his purpose to ask for divorce, although they have prayed for it in her cross-bill. So that she does not want divorce.

The Vice Chancellor—That is not exactly the point that Mr. Strong makes.

Mr. Strong—The point is that she never has had a suit pending for divorce in good faith and sought to prosecute it.

The Vice Chancellor—The point is this. Whether at the time of the separation about

which it is always important to inquire, even though the statutory period may have been widely separated from that—it may have been four or five years later, yet, where there has been continued separation for a period of four or five or or six or ten years perhaps, and one party files a petition for absolute divorce on the ground of wilful, continued, obstinate desertion—the ruling cause of the separation is always a point for inquiry because it has a bearing upon the continued separation. Now, here, the defendant in this suit, the wife, says the original separation was not a wilful and obstinate desertion on her part. It was caused by her belief in good faith at the time that her husband was guilty of adultery, and she says I separated and I commenced such a suit against him. Now, it may be that subsequent events deprived the wife of the benefit of her proof because of separation. It may be as you have intimated. She was bound to go on and bring her cause to a finish and prove her case against her husband and ask her divorce, or have it disproved and go back to it. She could not have it remain open indefinitely, and the question now is whether it is not competent for the wife to begin her proof—her disproof of wilful desertion for two years prior to the filing of the petition in 1910 to show what the original separation was caused by.

Mr. Strong—The question is as to the relevancy of this proof. Your Honor, of course, has not forgotten the Drayton case, in which it was held that no matter how strong a ground there was for suspicion on the part of a wife against her husband, although he may have had full belief of adultery in the other party, if he acts, or if she acts upon this belief and separates, it is desertion, unless the charge can be affirmatively

proved. The mere fact that they separated in good faith does not prevent its being disproved.

The Vice Chancellor—No, but the pendency of the suit.

Mr. Strong—The pendency of the suit is out of the question when you remember that it has remained in this situation for six years.

The Vice Chancellor—That is what I have endeavored to explain in dealing with the exact question. It may be that you are right and that the pendency of that suit at the start must be deemed to deprive the desertion of the wife, or the separation of the wife of the necessary characteristics to make it willful and obstinate at the start, but for a time under our authorities pendency of a suit like that brought in good faith prevent the period from running. The question is whether the wife is not entitled to go back to the very beginning, and show that she received these reports and what they were. They contained specific charges alleged to come from eye-witnesses, which proved adultery on the part of her husband. Thereupon, in May, she separated and in a very brief period—not a very long time—within three months—that is not a very long period in the summer time—she employed counsel and brought an action for divorce. Now, if that be true, is it not true under our authorities that this testimony should be taken, leaving the character of the separation during 1906, 1907, 1908, 1909 and 1910, down to the commencement of this suit to be determined by further proof pro and con. We have a long period here. We have a rather complex situation. I think it would be unsafe to exclude the evidence which, under our authorities, as I understand them, justify the wife in removing herself from her husband's home and commencing

a suit for divorce, and the effect of such pending suit on the subsequent charge by the husband of desertion. I will say that this subject has been pretty well thrashed over in our reported cases. There are, perhaps, one or two conclusions which have been reached, or rules which have been laid down in regard to this matter, and I am obliged to enforce because it is the law which covers the case, not because personally I approve of the principle. It is that state of mind which makes it more difficult to deal with this same objection. I think the safer course would be to admit the evidence which goes to show the cause of separation.

Q. (Question read.) Will you tell us what you had and where you got it?

A. I got it from the D. Miles Rigor Detective Agency, and one statement was to the effect that a detective went with Mrs. Elizabeth Batelle Vanderpool from her apartment in Madison Square--

The Vice Chancellor—Let me understand, Mrs. Dudley. In what way were these facts communicated to you? You say you learned it from the D. Miles Rigor Detective Agency.

The Witness—The statements were shown to me.

The Vice Chancellor—Written statements?

The Witness—Written statements.

The Vice Chancellor—Purporting to come from that agency?

The Witness—Purporting to come from that agency.

Mr. Strong—If your Honor please, those statements have not been accounted for in the manner that their contents should be admitted here. The last testimony we had on that subject was that they were in Mrs. Dudley's own

possession, but it has not satisfactorily appeared that they are there.

Q. Mrs. Dudley, do you have those statements at this time?

A. No.

Q. Where was the last place you saw them?

A. Mr. Brightley had them.

Q. He had them?

A. I signed an order for him to get them.

Q. From where?

A. From Mr. Beekman's office.

Q. Have you seen them since that time?

A. No, sir; I have never been able to get them.

Q. Please continue.

Mr. Strong—Mr. Brightley testified that these were the papers that have been delivered by him to Mr. Beekman, and Mr. Beekman testified he gave them back to this lady.

The Witness—He did not. I beg your pardon. However, I read them when they were secured.

Mr. Carpenter—Mr. Beekman said he had them and left them in his office when he went to Europe in 1905. When he got back, there was a receipt in his office signed by Mr. Brightley for all of the papers in the case. There was an order of Frank Davis to give them to him, and his recollection is that either Brightley got them at that time or they were later given by him to Mrs. Dudley in his office at 27 William street. Mrs. Dudley says she has not got them.

The Vice Chancellor—Who testified to the giving of these papers to Mrs. Dudley in that office, Mr. Carpenter?

Mr. Carpenter—In what office?

The Vice Chancellor—In Beekman's office.

Mr. Carpenter—Beekman testified that he did have these reports in his custody; that he has

them in his office in Jersey City, and that while he was in Europe Mr. Brightley went to his office and there gave a receipt to Frank Davis or an order to him for these papers, and that all of the papers in the case were turned over.

The Vice Chancellor—On an order from Mrs. Dudley?

Mr. Carpenter—Yes.

The Vice Chancellor—What has Mr. Brightley testified to in regard to that?

Mr. Strong—I am not sure that I recall Brightley's testimony definitely.

Mr. Comboy—I think that all Brightley said was that he had sent the reports on to Beekman.

The Vice Chancellor—You can interrogate Mrs. Dudley on that point whether Mr. Beekman turned these reports over to her in his office on William street.

Q. Did Mr. Beekman turn these reports over to you in his office?

A. No, but he did give me some papers in regard to the case.

Q. Did they include these reports?

A. No, they did not.

Q. And the last time you saw them, I understand, was at Mr. Brightley's office?

A. Yes. Mr. Brightley had them.

The Vice Chancellor—In Philadelphia?

The Witness—In Philadelphia.

The Vice Chancellor—Was that after you had given Mr. Brightley an order on Mr. Beekman or some clerk to deliver the papers to him, Brightley?

The Witness—Yes.

The Vice Chancellor—Does counsel recall what Mr. Brightley testified to?

Mr. Comboy—I say that my recollection of Brightley's testimony was when he first received

the report from the detectives, he sent them on to Mr. Beekman and has not seen them since.

The Vice Chancellor—Well, if that is correct, Mr. Strong, is there any question further to be put except in regard to the search which has been made for the papers?

Mr. Strong—Brightley's testimony places the papers in the possession of Mrs. Dudley. I don't mean that Mr. Brightley has sent the papers to Mrs. Dudley, but that they had been sent by Mrs. Dudley to Beekman.

The Vice Chancellor—Yes, whether he got them back again by the order of Mrs. Dudley I can't recollect. Was he not questioned as to the whereabouts of those papers now at the present time and whether they were restored to the detective's files and included in the bundle which was destroyed?

Mr. Strong—All that was asked him was objected to as not proper cross-examination. It was not examination in chief upon this part of the case at all. He was called as our witness to testify to what he had seen of Mrs. Dudley's conduct months before there was any relation between him and her at all—professional relations. Then he took the opportunity, he being there and there being no one to restrain them—he took the opportunity of examining her at large, and I don't think that anything about this case is properly in the case, and even at that examination it doesn't seem to me that they traced the matter as they should have.

The Vice Chancellor—Mr. Carpenter, you can proceed to examine Mrs. Dudley about the whereabouts of these papers to-day.

Q. Mrs. Dudley, have you any knowledge whatsoever as to the whereabouts of these papers to-day or

where they may be found or where they can likely be found?

A. No, I suppose Mr. Brightley [illegible] them, naturally. He is still holding on, maybe, [illegible].

Q. Have you looked through all y[illegible] apers?

A. Oh, yes, absolutely. I only just read them and handed them back to Mr. Beekman.

Q. Mr. Beekman or Mr. Brightley?

A. You mean the last time when he had them there? I didn't even read them.

The Vice Chancellor—You are speaking now, when you say the last time, of the time you were in Mr. Brightley's office?

A. Well, when Mr. Brightley had sent the order to Mr. Beekman's office for the papers to prepare his bill of particulars.

Q. I understand that you saw them on the day in question?

A. Yes, I have seen them twice.

Q. And the first time when did you see them?

A. Mr. Beekman had them—showed them to me.

Q. And after that you gave the order for them?

A. Yes.

Q. And after that order was given, you saw them in Mr. Brightley's office?

A. Yes.

Q. Did you read them there that day?

A. No, just glanced at them, and saw they were the same papers.

Q. Have you asked him for the papers he had after that?

A. Oh, yes, I offered to pay him for them.

Q. Did he give you any papers?

A. No, never.

Mr. Carpenter—That is as far as I can go with this witness as to proving the whereabouts of those papers.

The Witness—They were in Mr. Brightley's possession, as far as I know.

Q. If they ar in existence now?

A. Yes, h bably has them still.

ce Chancellor—Was he questioned as to r he had those reports when he undertook draw the bill of particulars in the Philadelphia action?

Mr. Comboy—He was asked if he did not have those papers at the time he prepared the alleged affidavits. There is a considerable amount of his testimony here. He says: "I didn't have those papers before me. * * * They had nothing to do with it. I didn't have these papers before me when I furnished a bill of particulars, and I furnished the bill of particulars pursuant to receiving two telegrams from Mrs. Dudley stating that I should do so and mention Mrs. Vanderpool. I knew nothing of these bills except that they were paid by me, and I was reimbursed by Mr. Beekman."

The Vice Chancellor—Well, Mr. Strong, is not the purport of this testimony of Mr. Brightley that he never had those reports in his possession but once and that was when he received them, and that thereupon he sent them to Mr. Beekman?

Mr. Comboy—(Reading) "When that libel was prepared by me, I didn't have those reports."

The Vice Chancellor—That was when he prepared the libel?

Mr. Carpenter—He said afterward that the bill of particulars was furnished on the direction of two telegrams he got from Mrs. Dudley.

The Vice Chancellor—Mrs. Dudley testifies she gave him an order and Mr. Beekman to procure them and that he did procure them, because she says she saw them and identified them in Mr. Brightley's office when she was there to see about the drawing of the bill of particulars. We

were on a very technical matter. I thought it was generally recognized that those statements could not be procured, especially in view of the fact that Mr. Brightley has been on the stand and might have been questioned closely in regard to it.

Mr. Comboy—Well, the general purport of all this testimony was—I remember that during the course of the examination I asked some question about his knowledge of those papers and that called forth the remark from Mr. Strong that I had better go and ask Beekman about that and Beekman was the man who had the papers.

The Vice Chancellor—Mr. Rigor might be able to testify whether Mr. Beekman gave him those papers for his files.

Mr. Strong—These papers are different from those that Rigor destroyed. I understand that what Rigor destroyed was his private office files.

D. Miles Rigor, recalled for further direct examination, by Mr. Comboy:

Q. Did Mr. Brightley ever send back to you the reports that you had furnished him in connection with this investigation that you are interrogated about today?

A. No, sir.

The Vice Chancellor—Do you know whether those reports were in the bundle which you directed your brother to destroy, I mean the reports that were sent to Mr. Brightley; were those papers—not copies—were those papers that your office sent to Mr. Brightley in the bundle which you directed your brother to destroy?

A. Oh, no; impossible to have been there.

The Vice Chancellor—You never got them back from Brightley, as far as you know?

A. No.

By Mr. Carpenter:

Q. Mr. Rigor, will you ask your brother whether he has not destroyed those papers, and if he has not let us have them or bring them within the jurisdiction of the court?

A. There is no doubt he destroyed them, but if he did not—

Q. Are you willing to do that?

A. I am willing to do that.

Q. Will you do that and let us know?

A. Yes.

Marie M. Dudley resumes the stand, for further examination.

The Vice Chancellor—The objection is to the giving of the contents of the papers by this witness, and that, it seems to me, depends on whether it now appears that these papers should be produced. I must confess that I was under the impression that both sides were going ahead on the theory that these papers could not be found. Now it seems there is a conflict between the witnesses in regard to their last place of deposit, and practically the question seems to be whether a *subpœna duces tecum* issued in Philadelphia on Mr. Brightley would produce those papers. I am surprised to-day to know that Mr. Brightley did not testify as to the whereabouts of those papers.

Mr. Comboy—Here is a situation that Mr. Carpenter directs my attention to. We examined Mr. Brightley down there for the purpose of ascertaining this very fact, and upon that examination, instead of answering the questions promptly that were put to him, after having given some information in respect to the papers, Brightley goes on and spreads this story which was afterwards uncorroborated in the deposition on behalf of Mrs. Dudley in this case, and we can't go down there again, because without anybody to stop him from testifying, that man spreads himself for page after page

of irrelevant and immaterial answers for the purpose of injuring this woman's cause. Now, we have certain answers to interrogatories here, which establishes the fact.

Mr. Strong—Do you offer them or don't you? I don't think you should state to the court that testimony unless you are going to offer it, and I think we should know now whether it is offered or not.

Mr. Comboy—I hope the Court will indulge me to the extent of offering certain interrogatories and answers received from that witness without being obliged to offer the entire deposition in evidence as evirence on our part of Mrs. Dudley and without making the whole thing competent.

The Vice Chancellor—All of the objectionable part of the deposition I suppose was taken subject to your objection, was it not?

Mr. Comboy—Of course it was, and I, during the course of that examination down there, asked him if he had not when we inquired about the whereabouts of those papers, gone on and said I will make a statement in this statement when interrogated on behalf of Mrs. Dudley.

Mr. Strong—I repeat my question whether you do or do not offer that deposition. I will ask the Court to rule whether it is proper to refer to that deposition when counsel won't say whether he is going to put it in evidence.

The Vice Chancellor—Well, we are dealing with two things. Counsel is stating reasons which may be based upon mere information or papers not in evidence why he should have indulgence with reference to the production of these papers and proof of their contents. If he offers any part of the deposition, why then of course he must offer the whole. It is well settled in this case that either party may offer the deposition *de bene esse* taken by the other, and then it all goes in, and it goes in with objections and the objections are passed upon. I

don't understand that there is much in that deposition, if there is anything bearing on this question. This is a test question, I think, where a *subpœna duces tecum* issued in Philadelpha would produce the paper.

Mr. Carpenter—May I read to your Honor an answer of his from this deposition without binding myself to put in the deposition?

Mr. Strong—I object.

The Vice Chancellor—I hardly see that you can do that, Mr. Carpenter, because you are protected by your objections as to all matters that are not competent or relevant in that deposition. I understand a large part of it was admitted to be wholly improper because it was not proper cross-examination.

Mr. Strong—Subject to the same objections as my cross-examination.

The Vice Chancellor—Cross-examination of what witness?

Mr. Strong—Brightley, in each case.

Mr. Comboy—You can see where we get with Mr. Brightley. We go down to Philadelphia and we start to ask him questions framed to ascertain whether he has those papers, and he opens up and says I am going to tell you now all I know about this case, and he goes on and brings out a story and at the end of it you haven't got an answer, and then you put it to him again and he will probably tell you what you were after at first.

The Vice Chancellor—We are not dealing with what he may or may not testify. We are dealing with what documents he can produce under the stress of a *subpœna duces tecum*. I don't know from my recollection of this deposition. The mass of evidence is too slight. I don't know what the fair inference is from all this testimony when you examine it with reference to this particular point. It may be that the examination of the whole testimony will show that these papers cannot be produced. They are lost, and then I really think the testimony of the witness is competent. I must confess

I thought both sides had admitted that these papers could not be produced.

Mr. Strong—We have had no occasion to deal with the question at all.

The Vice Chancellor—That impression may have been conveyed to my mind by affidavits that were produced. Under the circumstances, I will say this: I will not close this case without giving the defendant an opportunity to show that she cannot produce these papers. I am not at all sure that the case as it now stands does not compel that inference. I am not at all positive.

Mr. Comboy—Does your Honor rule that the witness may not answer the question that is asked.

The Vice Chancellor—I can only state that from my present recollection of the record I am unwilling to admit proof of the contents of these papers, and I will leave the matter open, and after counsel has had opportunity and the Court has had opportunity to look carefully through these different depositions and find out what the fair inference from it all is according to Mrs. Dudley herself, these papers were last seen in the possession of Mr. Brightley, in Philadelphia. They were later exhibited to the witness and she read them and she gave an order to Mr. Beekman to get them to prepare her a bill of particulars in Philadelphia, and she swears positively that she saw and identified those papers in Mr. Brightley's office, and thereupon I inquired what Mr. Brightley said on that subject and the reply is very unsatisfactory, naturally, because counsel are not at all entirely familiar with this deposition which was quite long. If it stands right where Mrs. Dudley's testimony leaves the matter, why it seems clear and under our rule it is not competent to introduce secondary evidence without making further efforts to get the papers themselves. I can only rule that at present I won't allow the evidence as to the contents of the papers, but if this case goes on to-morrow morning, from my own examination of the testimony which has been taken or the passages which

counsel may be able to point out to me to-morrow morning, I may be persuaded that it is right to allow this secondary evidence. If, however, the record, as it now stands, does not warrant proof of the contents of these papers by Mrs. Dudley under the circumstances, I shall give counsel for Mrs. Dudley an opportunity to make further inquiries so as to lay the proper foundation for the proof of the contents of the papers by Mrs. Dudley.

Mr. Strong—I assume your Honor, will not issue letters interrogatory and send us down to Philadelphia, for they have Brightley's evidence here already which covers that subject and which they don't want to put in.

The Vice Chancellor—I don't understand that Mr. Brightley's deposition does cover that subject.

Mr. Strong—The one which has not been read.

The Vice Chancellor—You have a copy of that?

Mr. Strong—Yes, but I want the proof regularly in the case. If they have that testimony as they say, and Mr. Comboy started to read it, and I objected to it, they ought not to be allowed to drag us down to Philadelphia and take that over again.

The Vice Chancellor—They would not likely attempt to do so. You have a copy. You can state whether it does cover it or not.

Mr. Strong—I don't think I ought to.

The Vice Chancellor—The deposition is not offered, and I can't say if it does or does not cover the point. It would be manifestly improper to allow another deposition *de bene esse* to be taken down in Philadelphia which would result in the same testimony, and neither side claims that it covers the point. If there was any dispute about it, of course, I would examine that portion of the deposition. If neither side covers the point, of course, the Court will not interfere, or infer that it does. Proceed.

Mr. Carpenter—I hope your Honor will permit us to take this testimony before some one with power to rule on it as to the admissibility of what the witness may

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attempt to insert into the record. I think that would clear the matter up very speedily.

The Vice Chancellor—I don't know how that can be done. The only way we have of taking depositions in Philadelphia is by the old-fashioned form of letters interrogatory. It is possible that the counsel may show that they have inquired in Philadelphia from the person who was shown on the other side to be the last custodian of those papers. I am not making any ruling of that in advance.

Q. Mrs. Dudley, did you go to Philadelphia and apply to Mr. Brightley for all the papers he had in the case?

A. Yes, I sent him two letters also.

Q. And what was it he told you in response to your demand?

A. He would not give them to me.

Q. Did he say whether or not he had these reports the detectives had furnished?

Mr. Strong—I object as to what he said about having them. I don't think it is competent. The demand and refusal is competent enough.

The Vice Chancellor—He might have said something that would make it the duty of the witness to make inquiries. I will take it as bearing on the efforts made by the witness to secure the papers.

Q. (Question read.)

A. He knew I knew he had them.

The Vice Chancellor—The question is, was anything said between him and you about these particular reports, or did you simply talk generally about your papers.

The Witness—Well, these were the only papers he had.

By Mr. Comboy:

Q. Did you speak about these papers?

A. Yes, these were what I wanted, but I asked him for all the papers in the case. I have copies of the letter that I wrote. Judge Porter dictated them for me.

Mr. Comboy—These letters are read into Mr. Brightley's testimony and are in the transcript to show she made demand upon him for all the papers in the case.

The Vice Chancellor—Mr. Brightley's testimony was taken in Philadelphia?

Mr. Comboy—In Philadelphia, sir.

(Letter sent in November, 1905, is read by Mr. Comboy.)

He produced the original of that letter.

Mr. Strong—And he said why he didn't give up the papers he had.

Mr. Comboy—Because he demanded two thousand dollars.

The Witness—Yes.

Mr. Strong—She had agreed to pay him.

The Witness—That shows he had them, doesn't it?

Mr. Comboy—We have been going on on the assumption that Brightley could not produce these papers. Now then, the use that Brightley made of them when he got them first relates to a time immediately after the reports were made in the spring—in April of 1905, and he sent them to Beekman.

The Vice Chancellor—And you have read part of Mr. Brightley's testimony, in which he says, in substance, that he never had those reports but once. That he sent them on to Mr. Beekman, and that is the end of it, as far as he is concerned. Now, Mrs. Dudley tells a different story. She gives a very consistent account

of the course those papers took after her becoming acquainted with the contents, and then giving an order for those papers for a certain definite purpose, and that order was shown to her to be effective because she saw in Mr. Brightley's office these papers and identified them. According to Brightley's story, the papers were last in New York, and if it appears from the testimony of Mrs. Dudley and Mr. Beekman that they have not got them, and, as I understand it, he does, and if they have made a search, why then you seem to have laid a foundation for the secondary evidence for the contents. But if your own client's story is correct, Mrs. Dudley's story, then the papers are lost, because they were last addressed to Mr. Brightley, in Philadelphia. The detectives says that they were not put back in his bundles, so that they were not included in the destruction of his papers. They are with Mr. Brightley, and now I ask what Mr. Brightley has done with those papers, and I don't get a very satisfactory answer.

Mr. Comboy—After he received them, he sent them on to Beekman, and that is the only time he had them, and then there is a statement on Brightley's part that he never had them at any time since then.

The Vice Chancellor—As I said, if that testimony stood alone, then we might deem the testimony of Mr. Beekman—although I don't recall it on the point—and of Mrs. Dudley, establishing the presumption that these papers were not now procurable, but unfortunately we have this testimony of Mrs. Dudley and Mr. Brightley. You are asking the Court to rule upon the inconsistent story that he wasn't engaged on that; that he got them on an order from Mr. Beekman's office, and had them in his office. It,

therefore, seems to leave the whole thing an uncertainty.

Mr. Carpenter—As far as Brightley's actual possession of the papers is concerned, I appreciate that.

The Vice Chancellor—Undoubtedly it is true that if he sent them on to New York he never had them afterward, it would be a very simple matter, but you reject that theory, you deny that and put the witness on the stand—your own client—and say that is not true.

Mr. Carpenter—And of course, that is somewhat heightened by the assertion contained in her letter to him in 1905 wherein she says she paid for them and that they were procured for her and related to evidence collected for her and she wants them back.

The Witness—Wasn't that order on exhibition?

Recess until two o'clock.

After recess two P. M.

Marie M. Dudley resumes the stand.

Mr. Carpenter—May I ask the Court then for information as to whether or not the last question as to the contents of the record is for the present overruled?

The Vice Chancellor—For the reasons I stated a little while ago, I am going to hold that open for a while. You can go on with your examination of Mrs. Dudley in regard to her state of mind, what she believed, and that in pursuance of information she received.

Mr. Strong—I would like to say that upon reflection and for the sake of getting through with the case and avoiding what would probably be great delay in the effort to get these papers from Brightley, I have concluded to with-

draw my objection to the question she was asked.

The Vice Chancellor—As to the contents of the papers?

Mr. Strong—Yes. By that I mean to say that I withdraw my objection based on the insufficiency of search for the report, but not the objection I made to the reports of their contents.

The Vice Chancellor—Did I understand you to make an objection, Mr. Strong, to the use of these papers for that limited purpose in evidence if they were produced here?

Mr. Strong—Yes, sir.

The Vice Chancellor—I didn't so understand you. All I have said on the subject has been based on the idea that the objection before the Court was simply that the proper foundation had not been laid for the introduction of secondary evidence, and I have been turning it over in my mind, this question that lies back, and I didn't know that any objection had been made to it. I would not rule that these papers were incompetent if they were here.

Mr. Strong—Before this last question arose, your Honor will remember quite a little discussion was had here as to the admissibility of these papers for the purpose of showing good faith, and you may perhaps remember what I said in reply to the lack of diligence.

The Vice Chancellor—I am speaking now of the impression that I have been under for some time while turning this over in my mind, and I definitely considered before the adjournment the question of whether these papers themselves would be admissible in evidence for that limited purpose, of course, if objection were made on that ground, and I dismissed it from consider-

ation because I had forgotten that you had made any such objection.

Mr. Strong—The objection which we discussed at a previous stage your Honor had ruled against me and so I did not make that specific objection with reference to this last question, and I certainly intended to rely upon the objection that I thought I had made amply before. Now, since your Honor has told me you didn't understand I was objecting, I wish to put my objection to the answer on both grounds.

The Vice Chancellor—I say very frankly that I may have understood it, but it is such a complicated affair and presents so many phases, that the matter requires a considerable consideration as to whether these papers if they were here were admissible.

Mr. Strong—I want to make that objection and make it as strongly as I know how, and the other objection, namely, the insufficiency of search, I withdraw, but I wish now distinctly to make the objection that if these papers were here before the Court they would not be admissible for any purpose.

The Vice Chancellor—Before ruling on the objection or hearing arguments about it, counsel may proceed with the examination of the witness on her actual good faith, as I said a moment ago, her state of mind, and of course that includes the sources of information she had by a general description, and then will come the question as to the contents of these reports.

Q. Did you ever charge your husband and accuse him of going to visit Mrs. Vanderpool while you are living with him?

A. Oh, yes.

Q. What did he say?

A. He denied that he did, but he has admitted that he did, you know, since.

Mr. Carpenter—I contend to strike that out.

Mr. Strong—I ask to strike out what he is said to have admitted since, unless she means to say he admitted it to her.

Q. He admitted it to you?

A. Yes, he admitted it to me in court.

Mr. Strong—You refer to the testimony he gave in court?

The Witness—Yes.

Q. When did you accuse him of going to visit Mrs. Vanderpool without your knowledge?

A. I could not tell you exactly, Mr. Carpenter.

Q. Was it before you got the information in April, 1905?

A. Yes. I heard about his going around with her before that, traveling all over the country with her.

Q. And what did you do with reference to those charges you made to him and his denial in the spring of 1905 with reference to getting information?

A. I employed these detectives.

Q. And whom did you engage to employ the detectives?

A. Mr. Beekman.

Q. And he is Henry M. T. Beekman who has testified in this cause?

A. Yes.

Q. Who introduced you to Mr. Beekman?

A. Either Mr. Justice Truax or Mrs. Truax.

Q. Justice Truax of the New York Supreme Court?

A. Yes. We were all there together.

Q. And where was it that that introduction took place?

A. In Baden Baden.

Q. And when did you employ Mr. Beekman for the purpose of getting this information?

A. In the spring of 1905. Truax asked him to do it for me.

Q. In your presence?

A. Yes.

Q. And what was it that caused you to suspect, so that you spoke to Mr. Beekman about employing the detectives; what did you have in mind at the time?

A. The reports that I heard about Dudley and Mrs. Vanderpool who were seen in Baltimore and Washington and other places together constantly; his long absences from home.

Q. Tell me, were you in the city of Washington on April 13th, 14th or 15th, or either of those days, 1905?

A. No, sir.

Q. Where were you on the 13th, 14th and 15th of April, in 1905?

A. In my home in Philadelphia.

Q. Did you, on those days, get any information as to where your husband was?

A. Yes.

Q. Tell us what information you got?

A. I had a telephone message that they were at the Hotel Raleigh, registered as Mr. and Mrs. Louis Craven.

Q. Who gave you that information?

A. Mr. Beekman.

Q. And did you know how he got that information?

A. From Mr. Brightley.

Mr. Strong—This raises the question as to the admissibility of information received, whether in the form of written reports or in the form of a telephone message or what not. I wish to press the same objection I made a few moments ago.

The Vice Chancellor—I will rule on that objection, as I said before, after the witness has been interrogated as to her actual state of mind, and her good faith.

Mr. Strong—Meanwhile she is getting it in, as your Honor perceives.

The Vice Chancellor—No objection was made. If counsel does not wish to interrogate about her

actual good faith, I will consider this objection now.

Mr. Carpenter—It is rather difficult to come right down to that and prove it in a bold-faced way without leading up to it.

The Vice Chancellor—Certainly not. The witness can be questioned directly whether she believes her husband had committed adultery and brought her suit in good faith, and she may, I think, describe, generally, without objection—I don't say there is no foundation for it—the general sources of her information on which she acted, and when you come onto the particulars of that information, that raises the question upon which Mr. Strong bases ris objection.

Q. Mrs. Dudley, at the time you brought this divorce suit in Philadelphia, through your attorney, did you believe your husband was guilty of adultery?

A. Yes, I thought I had the best proof of it. Of course I had believed it before.

The Vice Chancellor—That is, proof of the act that you charged in your Philadelphia suit you mean?

The Witness—Yes, sir.

Q. You thought you had the best proof, positive proof at that time?

A. Certainly, yes.

The Vice Chancellor—What was the source of your information, Mrs. Dudley, that adduced that belief?

The Witness—The message that the detectives had located him.

The Vice Chancellor—I ask you to state in a general way the character of the information from which you were led to believe that your husband had committed adultery with Mrs. Vanderpool.

The Witness—They were located in a hotel in Washington.

The Vice Chancellor—No. How did you get this information; somebody told you or some reports came to you; if so, what were they?

The Witness—The detective reports. I first had the information over the telephone when they first went down there.

The Vice Chancellor—You need not give the particulars now. First over the 'phone from Mr.—

The Witness—Beekman.

The Vice Chancellor—And then what?

The Witness—And then afterwards I saw these reports.

The Vice Chancellor—You read the reports?

The Witness—I read the reports.

The Vice Chancellor—And were they the main sources of your information as to this alleged act?

The Witness—Yes.

The Vice Chancellor—These were the reports that came from the detective whom you had employed?

The Witness—Yes, sir.

Q. Did you have any other general information which also led you to believe that your husband was guilty of the acts which you charged in your libel filed in the Philadelphia courts?

A. Oh, my, yes.

Q. What were they?

A. Reports from different people who saw them together. Dr. Stump, who saw them getting on a train together at Baltimore, and people asked me who this awful looking woman was my husband was traveling around the country with. They were seen in New York together days at a time, and Mrs Calvert saw them in Washington together.

Mr. Strong—One minute, please. I wish to move out as far as she got started.

The Vice Chancellor—I think that can be stricken out.

Q. Did you yourself notice any conduct on the part of your husband that led you to give credence to these reports?

A. I saw him in 1902 on the steamer coming from Europe. His conduct was not what it at all should have been.

Q. Did you have any other source of information which led you to believe that?

A. Mrs. Brice saw them in a cab together in Philadelphia.

Mr. Strong—I object to that.

The Vice Chancellor—You can show only in a general way the nature of the source of information.

The Witness—It was common gossip—common scandal.

Q. How about the fact of your husband being away from home?

A. He was away all the time.

Q. What information would he give you about his whereabouts?

A. He would not give me any. He would leave and I would get a telegram after he had left.

Q. Would he say where he was going?

A. Yes, he said he was going to Boston or New York, or some other place, where he wasn't going at all.

Q. Would he inform you about his going away when he left the house?

A. Oh, no, never. Afterwards. After he had gone. I generally got a telegram, or sometimes he would send a note and ask me to have a servant pack a bag and bring it to the station, or send it to him, and on one occasion he asked me to send it to the Manhattan Club in New York.

Q. And did you do that?

A. Yes, I did that.

Q. What did you do at the same time?

A. I sent a detective.

Q. You remember what month that was?

A. Either March or the first of April—the latter part of March or the first of April.

Q. 1905?

A. 1905.

Q. And did you get reports as to his conduct there at that time?

A. Yes, and also on Mrs. Vanderpool at that time.

Q. You say you got that report?

A. Yes.

Q. Do you remember the occasion of Mr. Dudley going away April 12th, 13th, 14th or 15th, 1905?

A. Yes, sir.

Q. What were they?

A. Well, he disappeared.

Q. What date?

A. On the 13th.

Q. Do you remember what time of day he left?

A. He went away in the morning after breakfast; walked out as usual and disappeared.

Q. Did he take his bag with him?

A. Took his bag I suppose.

Mr. Strong—Do you know.

The Witness—Yes. He took his bag with him; took a dress suit case with him.

Q. And when did he return home?

A. Either the 15th or the 16th.

Q. Do you know what time of day it was?

A. He came home at night. I think he went and played poker before he came home. I think he went to the poker club first. I think his bag was sent home before he came.

Q. What time of night was it when he got in?

A. He got in late—early in the morning.

Q. After that occasion, what did you do?

A. Packed up my things and went over to New York to the Waldorf.

Q. How long did you stay there?

A. I stayed there until Dudley brought me my ticket for Europe and took me to Europe. I was going to Nauheim to take the treatment. I was very ill—very sick—and had been for months.

Q. You left your home immediately after your husband's return?

A. Yes.

Q. What was the reason of your leaving your home right after your husband's return from this stay away from home, the 13th, 14th and 15th of April, 1905?

A. I didn't want to live with him if he was living with Mrs. Vanderpool, naturally. I was sure of it. I could not have been any surer.

Q. Did you know the names of the detectives who were in Washington on this particular case at the time?

A. One was George W. Busby.

Q. When was the first time you learned his name?

A. Oh, a long time ago.

Q. In 1905?

A. No, I didn't know it then.

Q. Did you know the names of any of the other detectives who were on this particular case in April, 1905?

A. Oh, Rigor. I hired him on the case.

Q. His agency was the one that was employed?

A. Yes, but I know that he personally was on the case. I heard that he was.

Mr. Strong—Move to strike it out.

Mr. Carpenter—I submit that if she got that information from people she employed, it is competent.

The Vice Chancellor—She says she heard—was informed that he was on the case personally. I think that should be stricken out.

Q. Did you make any efforts to check up your husband's movements at the time he was away from home?

A. Yes, I had tried it before, you know.

Q. When had you tried it before?

A. Just a short time before. He asked me to pack a bag and send it to the Manhattan Club. I told you, I believe, that I had a detective go over, and a detective went over with him and they also followed Mrs. Vanderpool.

Q. Did you make any other efforts to check up his movements, except on that one occasion?

A. These two occasions, Mr. Carpenter.

Q. You are speaking of the Washington matter and the time you sent the bag over to the Hotel Manhattan?

A. Yes.

Q. Was there any other occasion when you did that?

A. No. Everybody told me things they saw. Mr. Dorrance went and visited Mrs. Vanderpool to remonstrate with her.

Mr. Strong—I object to that and ask to have it stricken out.

The Vice Chancellor—It may be stricken out.

Q. Will you please tell me what information it was you received from the detectives concerning your husband's whereabouts on April 13th, 14th and 15th, 1905?

The Vice Chancellor—In the written report.

Q. Only in the written report.

Mr. Strong—I object to that.

The Vice Chancellor—Does counsel desire to be heard on the question?

Mr. Comboy—I think, if your Honor please, the testimony is relevant and material on the subject of the good faith of Mrs. Dudley in leaving her husband on or about that time, and as to constituting actual proof of actual adultery I assume it would not be competent for that purpose. But here is a situation that has been

developed in connection with her testimony. Her husband left the house on various occasions, sometimes taking his bag with him, and sometimes sending for it without going home, or given any specific information as to where he was going. She, on one previous occasion, had sent the bag along and a detective with it and obtained information in that fashion. Upon this occasion she had detectives employed who have submitted reports to her of actual occurrences, so the reports ought to contain it at any rate, the reports cover the period covered by her husband's absence, and I submit that whether she was mistaken or not in that respect, it did afford information that her husband had been guilty of acts of misconduct, upon which grounds she left her husband's house at that time. I suppose that after having received this information, after having gone to such lengths to secure it, and it had been submitted to her in the shape of these reports, and she had remained with her husband, and the marital relations had continued, would it not be said that she had condoned the offense as a propitiating one?

Mr. Strong—The marital relations, they both say, had ceased four years before.

Mr. Comboy—Well, assume that they had. I think that under those circumstances, if your Honor please, and for the limited purpose of showing that the witness was entitled to act on that information and could not be charged with anything, except good faith in acting on it and leaving the house, they are competent, relevant and material.

Mr. Strong—It does not seem to me that they are competent, for the purpose. As I said before, the question of her good faith is not material as in answer to the charge of adultery.

Two or three cases have established in this State. If she left home upon misinformation as to her husband's conduct, she takes that risk, as the Chancellor says, in a very recent case. She took that risk, and now she has no testimony to give attaching any improper conduct on the part of her husband. She simply offers to prove that she thought and believed at the time that he had been guilty of misconduct.

The Vice Chancellor—Mr. Strong, you don't quite state the point upon which I would like to hear from you. A woman takes the risk if she goes away, if she brings no suit. But when a woman leaves and brings a suit charging her husband with adultery: In September, at the close of the summer holidays, she brings an action for divorce, absolute divorce, on the ground of adultery with Mrs. Vanderpool, and if she brought that action in good faith, I should think that here separation cannot be deemed willful or obstinate under our statute. It is not sufficient to show, in my judgment, that she brought the suit in good faith in the sense that she thought she had a case. I am strongly inclined to think, without being compelled to rule upon it in this case, that a woman who seeks to defend herself against the charge of desertion because she has brought a suit for adultery, cannot—must not only show that she acted in good faith but that she had reasonable cause. If that is the correct view, why then Mrs. Dudley can surely testify first as to her actual mental state, that she believed in her heart and conscience that her husband was guilty of adultery, and therefore brought the suit, and then she is asked to state the source of this belief, what induced her to make this charge against her husband in good faith and she says I received this report and that report. I got written

reports. That certainly is evidence of a high character justifying the state of mind. Now, the sharp question is whether she can corroborate herself in saying I brought the suit in good faith, I had a right to divorce, and can prove the fact and the source of my information was written reports from detectives employed on my behalf. These reports came to me in writing. Now, the question is whether she can corroborate herself, because she is considered as having these reports in hand. The sharp question is can she corroborate herself. Now, then, you object to her giving the particulars contained in these written papers on the ground that if they were hers she would not be allowed to read them. Are you not objecting to corroborating of the witness?

Mr. Strong—I am objecting to it just as though she were saying here that this one or that one told her that they had seen acts of misconduct. I don't think the testimony is competent for any purpose.

The Vice Chancellor—Then, you place yourself in the position of excluding, by your objection, the corroboration of Mrs. Dudley's testimony in regard to her good faith and reasonable cause, and I don't know but what under these circumstances the wisest course is to exclude the testimony in the absence of any authority which has been presented.

Mr. Comboy—May I make a suggestion. Your Honor said the question was whether she could corroborate herself. It is a corroboration by evidence *aliente*. She did not make these reports.

The Vice Chancellor—Mr. Comboy, I mean to say the question is whether it is proper to introduce, on her behalf, corroborating evidence when she says she got information and describes it,

and on the strength of that I filed this petition for divorce charging my husband with adultery. It may be she got her information from some third party. If the other side objects to it, I don't see why you want to object to it.

Mr. Carpenter—That seems to me to be reasonable.

The Vice Chancellor—I am not quite sure, gentlemen, in my mind in regard to this ruling. I have turned over the matter very carefully this forenoon and this afternoon, and more carefully now, and it is perfectly clear that the objection was made that I didn't think was in the case. I have grave doubt about ruling and if any authorities can be presented to me I will reconsider it at a future day. There is a good deal to be said on both sides. I am disposed to apply the argument from convenience and exclude the testimony as unnecessary, and this is obejcted to on behalf of Mr. Dudley's counsel. It is a mere matter of corroboration. Mrs. Dudley swears she brought suit in good faith. There was a suit pending and unless it was brought in good faith it is a fact which bears directly on the character of the original separation. She says she brought the suit in good faith, and believed she had a good cause, and you have shown that she did not as yet. She describes the source of her information and offers to prove the contents of the papers which conveyed to her the information and counsel for the plaintiff, Mr. Dudley, objects, and I am inclined, as a matter of convenience, to rule, and I don't know but what a careful examination of the matter would lead finally to confirm the conclusion that under that state of affairs the testimony should be excluded as unnecessary. If either side wish to present any direct authority at a later state of the case, I will consider the ruling. That will

be my ruling. I meant to say, as bearing upon this ruling, that there are various reasons why it would be wise to exclude this sort of testimony in this case and in any other such case. We are indirectly bringing into the case hearsay evidence tending to show what is not permissible to show in that way. The evidence is offered just for a narrow purpose—the purpose of corroborating the witness that she was acting in good faith. We might take up two days, perhaps, in finding out the contents of these papers. You have a postponement so that more letters interrogatory may be taken down in Philadelphia.

Q. Mrs. Dudley, after that the libel was filed after this information was obtained and Mr. Brightley was employed?

A. Yes.

Q. And subsequent to that, did you know of the filing of the bill of particulars?

A. Yes.

Q. How did the bill of particulars come to be filed, do you know?

A. After I had notified Mr. Brightley to withdraw from my case.

Q. I show here a letter dated November 22, 1905, addressed to Mr. F. F. Brightley, and which was offered in evidence and marked *Exhibit D* in the testimony that was taken before Mr. White, of Philadelphia, and ask you if that is a copy of the letter you sent to him asking him to withdraw?

A. Yes, that is it.

Q. I show you also a paper marked *Exhibit E* by C. H. W. also offered in Philadelphia, addressed also to F. F. Brightley, Esq., Philadelphia, and ask you whether that is a further letter which you sent to him?

A. Yes, that is right.

Q. And I show you a telegram dated November 22d, 1905, addressed to you and signed F. F. Brightley and ask you if you received that on the day of its date?

A. Yes, sir.

Mr. Carpenter—I offer these in evidence again, one of these letter being dated November 22d, *Exhibit E,* and the other one November 27th, marked *Exhibit D.*

Q. At the time of or prior to the writing of this letter of November 22d, did you have an interview with Mr. Brightley?

A. I did.

Q. Did you ask him for the papers in that case or a substitution?

A. Yes.

Q. Which?

A. For the papers in the case and offered to pay him a reasonable amount of money, and I brought a witness with me at the office of Judge Porter.

Q. You mean Judge Porter, of Philadelphia?

A. Philadelphia.

Q. What did Mr. Brightley tell you?

A. He would not give them to me.

Q. Did he say why not?

A. On any consideration. He was going to run this case.

Q. Did he say anything to you about money?

A. Making any demand for any amount of money?

Q. Yes.

A. No.

Q. Did he ask you—

A. He would not accept any money. I offered to pay him money.

Q. Did he say anything about having been offered money to settle the case?

Mr. Strong—I object to that as hearsay and unless it is to contradict Brightley, and if that is so there is no foundation for it.

The Witness—He offered me a settlement. That is in the letters there.

Q. I press the question.

The Vice Chancellor—What is it offered for, Mr. Carpenter?

Mr. Carpenter—For the purpose of showing that Brightley endeavored to enforce Mrs. Dudley to accept a certain sum in settlement of the case.

The Vice Chancellor—Of the case against her husband?

Mr. Carpenter—Yes, and for that reason Mrs. Dudley requested her papers back and endeavored to get him out of the case.

The Vice Chancellor—What has this to do with this. The objection is not made that the the matter is irrelevant, but I think—

Mr. Carpenter—Mr. Strong stated to your Honor that the case had been dormant for a number of years and I want to show the reason why it has been dormant and why it has not been prosecuted in Philadelphia rather than in this Court. Perhaps it is not competent if we show it has been brought in good faith, but I do not think so.

The Vice Chancellor—Now do I understand you offer to show the cause of the delay in the prosecution of the suit?

Mr. Carpenter—That is one thing I want to show, yes; also to show the relations of this man Brightley to Mrs. Dudley.

The Vice Chancellor—Why should we go into that? Their relations are hostile. That is very plain. She has testified that evidently she came to a falling out with her counsel in New York after he had drawn and filed his bill of particulars, and that is a quarrel. Now, we have here her shortly after in November, 1905, in the hands of another lawyer, Judge Porter of Philadelphia.

(Question withdrawn.)

Q. Mrs. Dudley, why did you go to Judge Porter?

Mr. Strong—I object to that.

A. Because of Mr. Dudley's conduct.

Q. Did you go to Judge Porter's office?

A. Yes.

Q. Why did you go to see Judge Porter about your case?

Mr. Strong—Objected to.

Q. How long was Judge Porter representing you?

A. He represented me—Dudley agreed to take care of me and to give me—

Mr. Strong—I object and move to strike that out. What she started to say. It is not responsive. I can't object on that ground, I presume, but I don't think she is stating anything she knows anything about.

The Vice Chancellor—I can't say. I will allow it.

The Witness—He made an offer to Judge Porter of a cash settlement to me.

Mr. Strong—I move to strike that out on the ground that it was made to Judge Porter and was not made in her presence.

The Vice Chancellor—It does not appear it was made in her presence. What knowledge did you have of that offer, Mrs. Dudley?

A. Why, Mr. Porter told me of it.

The Vice Chancellor—Strike it out.

Q. Did you have any other knowledge except what Judge Porter told you?

A. Yes, I believe I heard from someone else. I am trying to think. Meanwhile, Dudley was to give me a check for $417 a month.

Q. Did he do that?

A. No, his lawyer brought me a check, a man named Rochermill, a check for $250, and Mr. Porter said he didn't want anything to do with Mr. Dudley if he could not keep his word over small things.

Q. He had offered you some money?

A. Yes, until they decided what to do.

Q. Was there any condition placed on the offer of $417 a month to you?

A. At that time, no. When he gave me the cash, there was, that I get an absolute divorce.

Q. That you should get the divorce?

A. That I should get the divorce.

Mr. Strong—This was what Porter told you, was it?

The Vice Chancellor—I think you should be careful in dealing with this lady. She does not know the rules of evidence and she is mingling hearsay with facts.

Mr. Carpenter—Mrs. Dudley has testified that he offered Mrs. Dudley $5,000 a year and subsequently reduced that to $3,000 a year. It does not appear upon what terms and conditions that offer was made. Now I think I have the right to show that from her counsel Mrs. Dudley got the information that that was a condition first that she accept that much a month for life, and second that she get a divorce from her husband or stay away from him, or whatever the condition was. I think it material on that ground.

The Vice Chancellor—Suppose it is material that such a condition was imposed. Can you prove it in this way by pure hearsay?

Mr. Carpenter—I suppose not, your Honor.

Q. Do you remember any letters that passed through any lawyers that were representing you from Mr. Dudley or his counsel which gave the terms under which you were to accept any money from him?

A. I have seen papers to that effect. None from Judge Porter.

Mr. Strong—I move to have that stricken out. That I object to.

The Vice Chancellor—Yes, strike that out.

Q. Do you recall from whom these letters were received?

A. I have some letters now in my possession. I shall have to look them over before I state anything in the matter.

Q. When was it that you received the last money from Mr. Dudley in 1905?

A. In November, I think.

Q. And did he know of your whereabouts after that?

A. Oh, yes.

Q. Did he offer you any money after that?

A. He offered me some money some years after that.

Q. I mean—

A. All this time, of course, he was talking settlement, settlement, settlement. He kept the thing from being tried. Edward Dudley kept it from being tried.

Mr. Strong—Kept what?

The Witness—Kept things from being pushed or tried.

Q. How did he keep it from being tried?

A. Talking settlement all the time.

Q. Who with?

A. My lawyers.

Q. And they gave that information to you?

A. Oh, yes.

Mr. Strong—I move to strike that out.

The Vice Chancellor—Is there any legal evidence that you have put in by this witness in regard to this matter?

Mr. Carpenter—I think the next question will make that relevant.

Q. Did you at that time wait to have your case tried there in Philadelphia?

A. Oh, I wanted to get my things.

Q. What was your reason for bringing the second suit in New Jersey?

A. Well, I was afterward told that it wasn't in the proper jurisdiction in Pennsylvania. That was one reason of many. I was also told that there was no alimony after divorce in Pennsylvania.

Q. Any other reason?

A. I could not get Brightly out.

Q. For any other reason?

A. I have thought of three reasons, but—

Q. Who did you see with reference to bringing the action brought by Judge Neunan? How did you get him?

A. Through Mr. Osborne.

Q. Who is he?

A. I think it James W.

Q. A member of the New York Bar?

A. Yes.

Q. How did you come to go to Mr. Osborne?

A. Well, I heard that he was a good lawyer.

Q. What were you doing in the interval between the fall of 1905 and the time this suit was brought with Judge Neunan?

A. Talking settlement with Dudley.

Mr. Strong—This witness cannot state she personally got information about that.

The Vice Chancellor—Yes.

Q. Did you personally talk with Mr. Dudley about that?

A. Oh, no.

The Vice Chancellor—All you know about talks about settlement you have learned from your lawyers or others in Philadelphia?

The Witness—Yes, sir.

The Vice Chancellor—You didn't have any personal communications with Mr. Dudley on the subject?

The Witness—No.

The Vice Chancellor—Well, all that testimony then will be excluded.

Q. What were you doing in the meantime, Mrs. Dudley, while this talk was going on; where were you living?

A. In a small apartment.

Q. How were you doing?

A. Doing my own work, living in a very cheap place, no money from Dudley—borrowed money and pawned and sold my things.

Q. Who paid your bills?

A. I had to pay my bills.

Q. Did you endeavor to get credit from various stores?

A. Yes.

Q. And different hotels?

A. Yes.

Q. Were you able to do it?

A. No.

Q. Why not?

A. Because Dudley had given all the hotels and all the stores notice. I could not get any money even when I was sick.

Q. When were you ill?

A. I could not get any money to have an operation that was absolutely necessary for me.

Q. When was that?

A. I have forgotten the year, Mr. Carpenter. I shouldn't like to state it.

Q. I show you a letter, Mrs. Dudley, postmarked Camden, December, 1906, addressed to Miss Lyda Traphagan, West Sixty-sixth street, New York, and ask you in whose handwriting that it?

A. Edward Dudley's.

Q. Will you open the letter and tell me whose handwriting it is in?

A. Edward Dudley's.

Q. When did you receive that letter?

A. In a lawyer's office from Miss Traphagan.

Q. Who was Miss Traphagan?

A. A seamstress.

Q. What business did you have with her?

A. She did some sewing for me.

Q. What did you endeavor to have her do?

A. Send a bill to Edward Dudley.

Mr. Carpenter—I offer this in evidence, dated December 17th, 1906.

Mr. Strong—No objection.

Marked Plaintiff's *Exhibit X-1* of this date.

Q. What was the first notification you had that what credit you had formerly had was stopped?

A. When I reached Paris.

Q. I show you a letter dated Camden, June 21st, 1905, addressed to Paquin & Company, and ask you if this was the first information you had?

A. Yes.

Mr. Carpenter—I offer that in evidence.

Marked Plaintiff's *Exhibit X-2* of this date.

Counsel agree that shortly after the separation on May 22d, 1905, Mr. Dudley gave notice to parties with whom Mrs. Dudley had been incurring bills in hotels and shops, for physicians, etc., wherever he thought she was liable to hurt his credit, that they were not to give anything to her. That is correct.

Mr. Strong—Yes.

Mr. Carpenter—Yes.

Q. Now, Mrs. Dudley, returning to Mr. Brightley for a moment, after you received this telegram which has been marked *Exhibit C,* which says, "Your case is in the *Evening Bulletin.*" Was your case in the *Evening Bulletin* at the time?

A. Yes.

Q. Had it been before?

A. No. Never had been before.

Q. The telegram says, "I am sending you papers. Reporter for *North American* probably call on you to-night." Did a reporter from the *North American* call on you?

A. Yes, and also one from the *Bulletin.* There is the letter from one there.

Mr. Strong—Is this important?

Mr. Carpenter—I think it is as bearing on Mr. Brightley's conduct in the case.

The Vice Chancellor—Haven't we got beyond that, Mr. Carpenter?

Mr. Carpenter—Perhaps we have.

Q. Now, Mrs. Dudley, how did you come to go to Mr. Osborne in New York for advice?

A. I could not say, Mr. Carpenter.

Q. Did you call on more than one lawyer?

A. Oh, yes, called on a great many lawyers. As fast as I would go into a lawyer's office, Dudley would go in behind me. He would talk to me and say all sorts of things that were not true, especially something that he published in the paper in nineteen—

Q. What did you do in these lawyers' offices?

A. Tried to have them take the case.

Q. And how did you come to leave Mr. Neunan after you had employed him?

A. He wished me to sign an agreement. His conduct was such that I went to the office of the Vice Chancellor about it.

Q. What Vice Chancellor's office did you go to?

A. Vice Chancellor Pitney. I went there and told him the whole story of Brightley's conduct.

Q. What did he tell you to do?

A. He gave me lots of lawyers' names. He said it wasn't the proper thing for him to do, but I a woman alone, and he gave me letters to respectable lawyers—he gave me a list of lawyers, and on that list there was Mr. Frank P. McDermott?

Q. And you went to him?

A. Yes.

Q. And he filed this other suit for you?

A. Yes.

Q. Did you tell the whole story to him?

A. Yes, I told the whole story to him.

Q. Including—

A. (Interrupting) The Brightley episode.

Q. And the report you got from the detectives?

A. Oh, yes.

Q. And the evidence you got about your husband's infidelity?

A. Yes, and he went and saw Mr. Brightley.

Q. You instructed him about the kind of action you wanted to have brought?

A. He told me what to do. Of course, I didn't know the law.

Q. And when the answer was filed by Mr. McDermott in that action, did you instruct Mr. McDermott to prepare the cross bill that he prepare for your divorce?

A. Yes.

Q. When your husband filed his petition for divorce on the ground of desertion, did you instruct Mr. McDermott to file a cross petition praying for divorce?

A. Yes.

Q. And why was it that a maintenance suit was brought in 1907? Had you any means of support at that time?

A. No, I had no means of support.

Q. Were you getting anything from him?

A. Nothing.

Q. How long since you had received nothing?

A. I don't know those dates, Mr. Carpenter.

Q. How long before was it?

A. Two years and a half or three years.

Q. Were you supporting yourself during that time?

A. Yes. I was an object of charity.

Q. Do you remember the time you employed Mr. McAdoo?

A. Yes.

Q. Did you hear about him having received some checks from Mr. Dudley?

A. Yes, he had some checks.

Q. Was there any condition on which you were to receive those?

A. Yes.

Q. What was it?

A. That I get the divorce and agree to take $250 a month.

Mr. Strong—Who told you that, please?

The Witness—Mr. McAdoo.

Mr. Strong—I move to strike it out.

The Witness—We have it there in these papers, too, and letters.

Mr. Carpenter—We consent to strike it out.

The Vice Chancellor—Strike it out.

Q. Do you recall when it was you got the last check from your husband before the maintenance suit was started in New Jersey; what part of the year 1905 or 1906.

A. I got a check at the Marquis Hotel—one check—which, if I would sign—

Q. I show you a check dated December 24th, 1905, and ask you if that is the check.

A. Yes, that is the check.

Q. With the certificate of protest attached to it?

A. Yes.

Mr. Carpenter—I offer that in evidence.

Received and marked Plaintiff's *Exhibit X-3* in evidence.

Q. I show you a letter dated November 4th, 1906, and ask you whose handwriting that is?

A. Edward Dudley's.

Q. Where did you obtain that?

A. The manager gave it to me.

The Vice Chancellor—Is there anything more in that than we have covered by the stipulation?

Mr. Carpenter—No. I will withdraw it.

Q. Mrs. Dudley, I show you a letter dated April 27, 1905, signed "E. Dudley," and ask in whose handwriting that is?

A. Dudley's.

Q. And did you receive this from him?

A. Yes, sir.

Q. In the mail?

A. In the mail.

Mr. Carpenter—I offer it in evidence.

Mr. Strong—No objection.

Marked Plaintiff's *Exhibit X-4* and admitted in evidence.

Q. I show you letter dated July 14th and ask you if you got it from your husband?

A. Yes.

Q. Is it in his handwriting?

A. Yes.

Q. Forwarded to you from Paris to New York?

A. Yes.

Mr. Carpenter—I offer that in evidence.

Mr. Strong—No objection ?

Marked Plaintiff's *Exhibit X-5* of this date and admitted in evidence.

Q. Mrs. Dudley, you saw Louise Hirsch on the stand in Philadelphia last Saturday, or Saturday week?

A. Yes.

Q. Was she at one time a maid in your employ?

A. Yes, sir.

Q. Do you recall when it was?

A. I think I employed her on two occasions—two different times.

Q. Was she ever at the Hotel Waldorf with you?

A. Not to my recollection.

Q. Was she in your employ in the winter and spring of 1905?

A. I don't think so.

Q. When do you think it was she was in your employ?

A. In 1903 or 1904, I think. Only just part of the winter you know, and I think that a time before that I had had her for a short time.

Q. How did she come to leave your employ?

A. I discharged her.

Q. For what reason?

A. Because of her conduct. The other girls objected to her conduct.

Q. When was it that the objection was made to her conduct?

A. Mr. Dudley and I went to New York together and when we got back—we left Louise at home. She had some sewing to do for me. We left her at home because we were going down South and wanted her to finish something she was working on and we went to the Waldorf and when we came back one of the girls asked if she could speak to me and I said yes and she told me that during our absence Louise had gone in the butler's room, so I talked the matter over with Dudley and we were obliged to discharge her.

Q. Was that prior to the first of January, 1905?

A. I don't think she worked for me in 1905.

Q. Didn't she ever wait on you in the Waldorf-Astoria in New York?

A. I never had her in the Waldorf. She never went to the Waldorf with me; never.

Q. Did you ever, while staying at the Waldorf, go away in the afternoon in street dress and not return until about nine or ten o'clock the following day and then go to bed?

A. No.

Q. And then summon the maid to do work for you. Did you ever do that?

A. No.

Q. Did you ever drink in Louise Hirsch's presence a whole bottle of champagne at one time?

A. No.

Q. Did you ever drink champagne?

A. We had champagne for dinner. We have had a pint brought up if some one were ill or for entertainment or something like that.

Q. Did you ever take in her presence a pill and act strangely afterward?

A. Not that I know of. I may have taken a pill.

Q. Did you ever take an opiate?

A. I never took an opiate in my life. Yes. I have yet to take the first dose.

Q. Do you know where Louise went after she was employed by you?

A. I think I do.

Q. Where?

A. She worked for Mrs. Hughes Scott.

Q. And you got that information from whom?

A. Mrs. Scott called me on the 'phone.

Mr. Strong—I don't think this is at all competent.

The Vice Chancellor—I have been waiting for an objection.

Q. Did you see the driver Nathaniel J. Quigley on the stand in Philadelphia?

A. I did.

Q. Did you ever see him before to your knowledge?

A. Not to my best recollection, I never saw the man before.

Q. Did you ever stop at the Red House in Philadelphia called the High Bridge?

A. Never heard of it before until I heard him speak of it at that time.

Q. Did you ever in Philadelphia get out of the carriage in the afternoon and go into the Continental or various other hotels after five or six o'clock in the afternoon?

A. Not that I know of. I have been to teas in some of the hotels in Philadelphia—receptions.

Q. Did you go to the Berlitz School of Languages in Philadelphia?

A. Every day.

Q. For what purpose?

A. Took a French lesson.

Q. Did your husband know of that?

A. He paid the bills.

Mr. Carpenter—I want to offer at this time this receipt of D. Miles Rigor in evidence.

Q. Is that the receipt you got for paying the money (receipt was formerly marked *Exhibit* 23 and 24)?

A. Yes, that's right.

Mr. Strong—I object to that as irrelevant entirely.

Mr. Carpenter—I withdraw the offer.

Q. Mrs. Dudley, your husband said, while on the stand, the first he ever knew about your having a son Leo was in August, 1905. Did he know of it before that time?

A. Of course he did?

Q. When did he know of it?

A. He knew of it from the time he first knew me.

Mr. Strong—That is covered in a former examination.

Q. Did you tell him about your other relations?

A. He knew about it. He knew a great many people I knew.

Mr. Strong—She certainly said this on my cross-examination. I don't think that it gives her any right to repeat it, reiterate it on re-direct.

Q. Mrs. Dudley, I have a question to ask that was omitted before. You testified before that your husband and you ceased to live together as man and wife as early as January, 1901. Do you recall testifying to that?

A. Yes.

Q. Did he ever ask you after that time to live with him as husband and wife?

A. No, sir.

Q. Did you ever say or do anything that caused your husband to leave the table?

A. No, sir.

Q. Did you ever say in his presence or in the presence of anyone else that his children were not fit company for anybody; that they didn't know how to treat anybody well?

A. What do you mean by children, his son and daughter born in the early seventies that he abandoned over there in a house in Camden?

Q. Anybody?

A. No. I don't think that would be a very pleasant topic for anybody who wasn't interested in it.

Q. Did you ever visit friends in Philadelphia and stay away all night?

A. I could not say, Mr. Carpenter. After you asked me that, I began to think it over and I remember I did stay once in Mrs. Barnes's house.

Q. How about the nights at Overbrook?

A. I think I have stayed there.

Q. Did you stay out that night the time you left your home on Locust street?

A. Oh, yes. I stayed to have dinner or something. I could not get home at night and would stay there.

Q. Did you ever call up your house at the St. James Hotel and announce that you would not be home that night, and not get home until three o'clock the next day?

A. No, never.

Q. Did you ever hear of the 5th of March or the 15th of April, 1905?

A. No, never heard of it before I saw that letter. Making evidence for himself.

Q. Did you ever speak to Mr. Dudley with reference to the *Town Topics'* article and say that that was none of his damn business?

A. No, never discussed it with him at all.

Q. Ever discuss it with him?

A. No.

Q. Did you ever say to Mrs. Tillman "I am a little tired of you. You are too attentive to my husband"?

A. I don't think I ever saw the woman more than half a dozen times in my life.

Q. Did your husband know you drank champagne when you were living with him?

A. Of course, we all drank champagne for dinner.

Q. Who bought the champagne?

A. Mr. Dudley, of course.

Q. Was any of them bought in Europe?

A. Oh, in London. Vintage wines only for him.

Q. Who judged the qualities, then?

A. He and I. He took me with him. We went to the wine agents and had luncheon, and he would taste the different wines and would have me taste them, too.

Q. Mrs. Dudley, do you remember going to Washington with reference to the looking up the evidence of certain persons at the Hotel Raleigh, in the month of April, 1905?

A. Yes.

Q. Do you recall the date you were there?

A. No, I do not.

Q. Did you make any memorandum at the time?

A. Yes, I did.

Q. I show you two pieces of paper and ask you if these are the memorandums which you made on the occasion of seeing the register of the hotel?

A. Yes.

Q. Was a book purporting to be the register of the Raleigh Hotel shown to you?

A. Yes, sir.

Q. Where and when?

A. We went to the hotel—

Q. You can't read from that?

A. You met me at the train and we went to the hotel.

Q. What date was that?

A. I can't remember.

Q. You can refer to the paper and refresh your recollection.

A. October 28th.

Q. What year?

A. 1911.

Q. What did you do after you got to Washington that day?

A. Went to the hotel.

Q. With whom?

A. With you.

Q. What did you see there?

A. I saw the hotel register and Dudley's writing on it.

Mr. Strong—I object and move to strike that out on the ground that she is undertaking to say it was his writing on the hotel register, which admittedly cannot be produced; improper.

The Witness—I saw it.

Mr. Strong—The hotel register is not here. What they claim, as I understand, is that some name Louis Craven was in Mr. Dudley's handwriting. I believe it was ruled out by your Honor when she tried to say that once before, as improper.

The Vice Chancellor—That was because the book was not brought to the witness or the witness to the book. Now, the proof is in and the book cannot be found.

Mr. Strong—No question about that.

The Vice Chancellor—The proof seems to be ample that the book disappeared from its proper place in Washington. The gentleman who had it in his custody said he put it in a cupboard and it was abstracted or disappeared when he went to the cupboard to get it. Now why is it not competent to prove by Mrs. Dudley, who has already testified that she knows his handwriting, that she saw an entry in his handwriting. What weight is to be given to the evidence, that is another matter. There is a probability that Mrs. Dudley is mistaken. That is to be considered. Why isn't it competent?

Mr. Strong—Your Honor will recollect that this document is a disputed document, and we are without any opportunity of examining it and your Honor has had no opportunity to ex-

amine it. It is like convicting a person of forgery without the forgery having been produced. Here is a disputed document. She says that this writing is in Dudley's handwriting. Isn't it essential that that writing should be produced? Can she in the absence of the paper be allowed to venture this rash statement? I don't think it ought to be admitted.

The Vice Chancellor—Well, the signature on the hotel register in Washington is of Louis Craven and wife, in the register where the guests inscribe their names when they come in the hotel, and it seems to be established that there was such a signature made on the 13th of April, 1905, indicating that a man and woman purporting to be man and wife, came to the hotel and registered at the hotel and were assigned an apartment consisting of a bedroom, drawing room and bath, and that they spent two or three days there together as man and wife. There is no evidence to show that anybody named Craven was there, and the effort is made not to show that that was a fictitious signature and that it was made by Mr. Dudley. I see no reason, therefore, why, after it is proved the book has disappeared, and disappeared just before it was required naturally for use in this important trial—and it is established that the book cannot be produced now—I see no reason why a witness who knows the handwriting of Mr. Dudley should not testify that the handwriting on the book—the words "Louis Craven and wife" were not in the handwriting of Mr. Dudley. It is an expression of opinion, and that is the sort of testimony we take right along where the document is shown to the witness. We don't require an expert to testify if the witness simply qualifies that he or she is acquainted with the handwriting of the

individual. There are a good many instances in which it may be a very important thing to show that the handwriting down in Washington was the handwriting of a party to the suit, and it may be physically impossible to bring the writing here. It might be writing that perished. It might be in lead pencil and have been erased. It might be writing on a wall of a building in Washington which was subsequently washed off. All of these things make the proof of course of far less weight. Where we have to take the testimony of an interested witness in the case as to whether the handwriting down in Washington was a certain handwriting, of course it will have to be scrutinized with great care and weighed very carefully. But I think it is competent and I will admit it.

Q. Mrs. Dudley, do you recall the day we were there, independent of your notes at all?

A. What do you mean, Mr. Carpenter?

Q. Do you recall the occasion of our going to Washington?

A. Yes.

Q. What was that occasion?

A. You had to hold court down there and had to go to court.

Q. You mean that was the day on which Mr. Weston was examined as to the register?

A. Yes.

Q. Do you recall noticing any distinguishing remarks on the signature or on the line where the signature was?

A. You mean the handwriting?

Q. Any marks to distinguish—

A. (Interrupting)—That it was Dudley's writing?

Q. Any marks placed on the book to distinguish it—distinguishing that particular signature from the others on the page?

A. Yes, it was marked.

Q. Can you tell from your notes how it was marked?

A. Can I look at these?

Q. Yes, you may refer to those to refresh your recollection.

A. I noticed the book was marked.

Q. How was the book marked?

A. P-1 on the inside of the cover.

Q. And was the signature marked?

A. P-2.

The Vice Chancellor—Where was the signature marked P-2?

The Witness—Right at the side.

The Vice Chancellor—The margin of the book you mean?

The Witness—Yes.

The Vice Chancellor—Opposite the signature?

The Witness—Yes.

Q. I show you, Mrs. Dudley—

A. (Interrupting)—It was Mr. and Mrs. Craven, not Mr. Craven and wife.

Q. Did you at the time compare the Mr. and Mrs. Louis Craven, which was on the book, with any writings that were your husband's?

A. Yes, I did. But it wasn't necessary. His writing is very distinctive. He didn't even take the trouble to disguise it.

Q. I show you a check, dated December 4th, 1905, which has marked *Exhibit X*-3, and ask if you had that check with you at the time you examined the register?

A. Yes, I did.

Q. Can you tell from referring to your notes whether or not that is the check you had?

Mr. Strong—I submit that this is incompetent.

The Vice Chancellor—What is the object of this?

Mr. Carpenter—To show she compared it.

The Vice Chancellor—You don't offer her as an expert.

Mr. Carpenter—Perhaps I don't need that.

Q. Mrs. Dudley, did you see anything done while you were present with reference to that signature?

A. Yes, saw the tracing made.

Q. Who made the tracing?

A. You made the tracing.

Q. Who were present?

A. That gentleman held the paper, there.

Q. Which man do you mean?

A. I think Mr. Owen.

Q. I show you here *Exhibits F, D* and *E,* dated February 14th, 19th, 13th, and ask if those are the tracings that were made at the time?

Mr. Strong—I would like to understand whether these are exhibits or simply marked for identification so far.

The Vice Chancellor—For identification. They were so marked.

A. There is a little piece of this gone.

Q. Are these the tracings made at the time?

A. These are.

Q. You say a little piece of that is gone on one of these slips?

A. Yes, sir.

Q. What was before the little mark you see here?

A. Mr.

The Vice Chancellor—Mister or and?

The Witness—The and is here. He always puts that in his letter when he is writing a letter.

Mr. Strong—I object to these being received in evidence, your Honor.

The Vice Chancellor—They are not offered yet.

Q. Is there any doubt, Mrs. Dudley, about that being your husband's signature?

A. Not at all.

Mr. Strong—I move to strike that out.

The Witness—Anybody could see it. Any-

body could recognize it that ever saw his handwriting. His handwriting is very distinctive.

The Vice Chancellor—Do you press your motion.

Mr. Strong—I will let it go.

Q. Mrs. Dudley, after the tracing was made, did you have it in your hands?

A. Yes.

Q. What did you do with it?

A. Compared it with the book.

Q. And what did you find by comparing it?

A. It was a perfect copy.

Mr. Strong—I object to that.

The Vice Chancellor—How is that competent?

Mr. Carpenter—It is competent, your Honor, to prove that this is an exact tracing of the signature.

The Vice Chancellor—By this witness. The witness testifies she saw the mechanical work done of tracing that signature on that tissue paper by counsel. I don't think it is competent, from this witness. She is not an expert in handwriting at all. You can ask her if she recognizes the handwriting that is on the tissue paper.

Q. Do you recognize the handwriting that is on that paper?

A. Yes, I do.

Mr. Strong—I object. I suppose the handwriting on the tissue paper is Mr. Carpenter's. I don't see that that adds anything to the case.

The Vice Chancellor—A little later we will read the question as to the scope of the use of these tracings. They are proved now to have been made. We have what ordinarily would be a mechanical reproduction of the original writing. It may be that a tracing made like this was made is not as good an example as the original. I think it is competent to ask this witness, who

knows Mr. Dudley's handwriting, if she knows the handwriting on that tracing is similar to her husband's handwriting. She does not swear it is her husband's handwriting. She knows differently. Overruled.

Q. Mrs. Dudley, can you recognize the signature as traced on these two pieces of tissue paper, which are marked *PX*-1 and *PX*-2 as *Exhibits F* and *E* as the signatures of Edward Dudley?

A. The tracing of the signature—perfect—perfect copy of it.

Mr. Strong—I hope I have made my objection plain.

The Vice Chancellor—Yes, but my mind is open, and if you want to be heard I will hear from you. I will leave this matter of the last question open then until the next session of the court, and if Mr. Strong wishes to be heard then, I will hear him.

Adjournment taken to Friday, February 21, 1913, at ten o'clock A. M. at the same time and place.

JERSEY CITY, N. J., February 21st, 1913.

Met pursuant to adjournment.

Appearances, as before.

Mrs. Marie M. Dudley resumes the stand for further re-direct examination, by Mr. Carpenter.

Q. Mrs. Dudley, did you ever have a talk with your husband about any other divorce suit he was interested in as a party?

Mr. Strong—I object to that as irrelevant.

The Vice Chancellor—How is it relevant?

Mr. Carpenter—Your Honor has admitted all of the transactions between the parties in this suit, especially the conversations between the

parties during their married life, showing the state of mind they were in and their actions toward each other generally. I submit that this being a conversation during their married life, it is relevant to the case.

The Vice Chancellor—No, you will have to state something more than that. We can't all sit on the trial of a divorce case on the ground of desertion and hear the parties detail day-after-day conversations they had with each other. As I think I stated early in this case, and often have occasion to state in a trial of this sort of issue, a divorce on the ground of desertion, pretty much the whole married life from the start is open to review. The Court has to observe some discretionary power, or the case would run on forever and ever.

Mr. Carpenter—I will put it in the shape of an offer. I offer to prove that Mrs. Dudley charged her husband, or said she heard that he was a co-respondent in the second wife's divorce suit, and that Mr. Dudley admitted to her that it was so.

The Vice Chancellor—When was this conversation held?

Mr. Carpenter—During the time they were married. I can't specify the time.

The Vice Chancellor—What possible connection has that with this case we are trying?

Mr. Carpenter—Only upon the ground that what took place between these two parties was by your Honor ruled to be admissible.

The Vice Chancellor—Subject to the limitation I stated.

The Witness—Can't I say something?

The Vice Chancellor—No, Mrs. Dudley, you speak by your counsel.

Re-cross examination, by Mr. Strong:

Q. Mrs. Dudley, you have referred to Judge Collins as at one time representing you in this litigation with your husband?

A. Not representing me officially exactly, no; no, I have not.

Q. Well, you did go to Judge Collins, didn't you?

A. Yes. He came to see me.

Q. He came to see you first?

A. He came to see me.

Q. First, before you approached him?

A. He came to see me; he called on me.

Q. Without any request on your part?

A. Through a friend.

Q. You discussed your case with him, did you?

A. I don't know what I discussed with him.

Q. After that you had Judge Gaskill, did you not, in Camden, represent you?

A. I went to see Judge Gaskill and had a few interviews with him. I think I saw him twice and found that he was a friend of Dudley's, and of course, I could not employ him as my attorney. He never had any legal business for me in any way. He wrote a letter to Dudley to get some money from him.

Q. You did authorize him to do that?

A. I went to see him. He took it on himself to do it. He was a friend. He had been at my house and dined at my house.

Q. So that you knew he was a friend?

A. Well, I didn't suppose he was so much of a friend as to be dishonorable?

Q. You found Judge Gaskill to be dishonorable?

A. Absolutely in his dealings with me.

Q. And so you found Mr. Brightley?

A. Yes.

Q. And Judge Porter, was he dishonorable?

A. Oh, no, a lovely gentleman in every way.

Q. Is he still your attorney?

A. No, he never took any active part in it—very active. He came in it in another way.

Q. Then you employed John C. Bell?

A. He took me into John C. Bell's office because he thought he could in some way get the detective to get my property for me.

Q. Is Mr. Bell still your attorney?

A. No.

Q. Is he dishonorable?

A. Not that I know of.

Q. When did you get rid of him?

A. He simply could not put through the things he thought he could do.

Q. I say when did he cease to be your attorney?

A. I could not tell you, Mr. Strong. You have the notes there. You can tell yourself. I could not tell you. I would not like to say. You have the notes right in front of you.

Q. When was the last time you had any communication with Mr. Bell?

A. I could not tell you. My lawyers have the letters. There is a letter there from Mr. Bell.

Q. A good many years ago, wasn't it?

A. I could not tell you.

Q. Was it this year?

A. No.

Q. Was it five, six, or seven years ago?

A. I don't know, the thing dragged along. Dudley kept talking settlements.

Mr. Strong—I move to strike that out as not responsive.

The Vice Chancellor—Strike it out.

Q. Then, after that, you went to Mr. Osborne, in New York, James W. Osborne?

A. Yes.

Q. Then, after that, again to Mr. McAdoo?

A. Mr. McAdoo was associated with Mr. Osborne.

Q. And then, again, after that, you had Judge Noonan?

A. Yes, because he practiced at the Jersey bar. They brought him without any concern on my part.

Q. So that you never authorized the employment of Judge Noonan?

A. No, sir.

Q. Do Mr. McAdoo or Mr. Osborne, either of them, represent you now?

A. Not that I know of. They all tried a settlement basis with Dudley; they also tried a settlement scheme with Dudley.

Mr. Strong—I object to that and move to have it stricken out.

The Vice Chancellor—Strike that out.

Q. When did they cease to represent you?

A. I could not tell. You have the notes there.

Q. No, I have no notes in relation to that.

A. I could not tell you.

Q. You don't know at all?

A. I could not say off-hand. I will look over my papers some day and tell you later on, if you wish me to.

Q. So, then, another time Mr. George R. Walker was your attorney?

A. I hired Mr. George R. Walker and paid him ten dollars a day before he was admitted to the bar, as a witness, on the advice of Judge Porter. He could not be my attorney.

Q. Is he your attorney now?

A. He never was my attorney.

Q. After that you employed Battell & Marshall?

A. Mr. Battell, of Battell & Marshall, and Mr. McAdoo and Mr. Noonan were all in one plan together—all friends.

Q. They were all representing you at the same time?

A. At the same time, absolutely.

Q. And they have all ceased to represent you now, have they?

A. I think so.

Q. They all ceased to represent you before you went to Mr. McDermott's, did they not?

A. I don't know that they ceased to represent me, I had ceased to go to their office.

Q. You withdrew yourself from them?

A. From them, yes; exactly, exactly.

Q. Then, Mr. Edward S. Peck was also an attorney of yours, was he not, in this litigation?

A. Yes.

Q. Engaged at first was Messrs. McDermott & Enright?

A. I had many suits brought against me in New York.

Q. I am not referring to those, but I am referring to litigation with your husband.

A. I was obliged to have a lawyer to protect me.

Q. You understand that these questions I am asking about the employment of these different lawyers in your litigation with your husband. What I am asking you is about the employment of these different lawyers in the litigation with your husband. You understand me to refer to that don't you?

A. Then, why did you ask about Mr. Peck?

Q. I hadn't heard of Mr. Peck.

A. You have just been inquiring about a man named Peck.

Q. I thought you said Beck. I beg your pardon. Mr. Peck was your attorney with Messrs. McDermott & Enright in this litigation with your husband, wasn't he?

A. Yes, he was. Afterward he had information to give to Mr. McDermott. One always goes back to another lawyer, you know.

Mr. Strong—I ask to have stricken out what she volunteers.

The Vice Chancellor—Yes, anything not in direct answer to the question is stricken out.

Q. Did you have a lawyer by the name of Simpson, also engaged in your husband's affairs and your suit?

A. Yes.

Q. Does he represent you now?

A. No.

Q. Was he a New York lawyer?

A. He was a New York lawyer.

Q. And then you had also a lawyer named Hall, from Boston, did you not, in the same connection?

A. No, I never employed Mr. Hall.

Q. He acted for you?

A. No. He never acted for me in a legal capacity, never.

Q. In what capacity?

A. He was a friend. He was a friend of my family's for years.

Q. Did you consult Mr. Robert McCarter?

A. I went to his office.

Q. And you consulted with him, did you not? On this litigation with your husband?

A. Through Mr. Osborne.

Q. And also you consulted Mr. R. V. Lindabury about the same time?

A. Yes, Mr. Dudley went in right after me.

Q. Did you see him?

A. I was told of it.

Q. You were told of it?

A. Yes.

Mr. Strong—I move to strike that out.

The Witness—I know that to be a fact.

Q. From information—

A. I know it.

Q. How do you know it? From information? You didn't see him.

A. No, I didn't see him.

Mr. Strong—I move to strike that out.

The Vice Chancellor—The statement of the witness as mere hearsay is stricken out.

Q. Have you also consulted Mr. John G. Johnson, of Philadelphia?

A. Yes.

Q. On the same subject—

A. Mr. Dorrance recommended me to him in the first place, years ago. Mr. Dudley's friend, Mr. Dorrance. He got the telephone number for me.

Q. Another of your lawyers was Mr. Edmund Putney, was he not?

A. I have no recollection of any such name.

Q. In New York; a lawyer of that name; did you not have Mr. Edmund Putney? Edmund, I think it is.

A. Mr. McDermott's friend, when Dudley was trying to make another settlement?

Q. No. Did you have in your employ, Mr. Edwin Putney, a lawyer, of 2 Rector street, New York?

A. He wasn't employed by me.

Q. Another of your attorneys was Mr. Phillips, of Philadelphia?

A. I have no recollections of any such name.

Q. Monahan & Phillips?

A. I never heard of any such names that I recollect.

Q. Then you had Mr. Carl Whittaker as an attorney in connection with this matter?

A. Yes.

Q. Is he a lawyer of New York?

A. New York State.

Q. Through Mr. Carl Whittaker you brought suit against Mrs. Vanderpool, didn't you?

A. Yes.

Q. Which was, after a long time, dismissed?

Mr. Carpenter—I object to that. I don't think it is competent, relative or material.

Mr. Strong—I want to show she has brought suit and that suit was dragged along, very much as this one has, and it was dismissed because she did not bring it to trial. It was dismissed because she didn't prosecute it.

The Vice Chancellor—I will allow it. ,,

A. Mr. Carl Whittaker wasn't my lawyer. He was Mr. Dudley's lawyer.

Q. Will you answer that, please? Your suit was dismissed because you failed to bring it to trial?

A. How shall I express it? I simply was sold out; that's all. This man worked for Dudley. He didn't work for me.

Q. You were sold out by Mr. Carl Whittaker, were you?

A. Yes.

Q. As a result of that selling out—

A. I was advised to bring suit by Judge Porter to see if I could not get Dudley to support me.

Q. By suing Mrs. Vanderpool you thought you could get Dudley to support you?

A. Yes, because I had been thrown out of my home and left in a destitute condition, and they could not do anything one way or the other because he bribed my detective and held my evidence.

Q. He bought all these lawyers?

A. Yes, one after the other right along.

Q. Well, as the result of the dishonorable conduct of Mr. Whittaker, the buying up by Mr. Dudley, your suit against Mrs. Vanderpool was dismissed, was it not?

A. I don't know.

Q. You mean that the suit is still pending?

A. I could not tell you anything about it.

Q. You haven't brought it to trial, have you?

A. Mr. Whittaker is dead.

Q. But before his death wasn't the suit terminated by dismissal?

A. I went to court and before I got there my case wasn't called at the time it was supposed to be called. I was there in court myself.

Q. Will you look at this paper which I show you now; what is it?

A. It is a bill, I think. Looks like a bill. Maybe a bill you know; I don't know.

Q. Don't you know the bills of the Waldorf Astoria; you have received such, haven't you?

A. It looks like one.

Q. Do you know the appearance of the bills?

A. They are generally sent to Dudley.

Q. Weren't you at the Waldorf Astoria Hotel during the week ending April 15, 1905?

A. I could not tell you.

Q. You could not tell me?

A. No. I was in my home on the 13th of April in Philadelphia. I can swear to that.

Q. Is that all you can say in answer to my question with this bill before you?

A. That bill does not prove anything to me.

Q. It does not refresh your mind at all; your recollection as to—

A. No. I know I was in my home on the 13th of April.

Q. Is that all you can say?

A. That is all I can say.

Q. As to any other day in that week where were you?

A. I could not tell you.

Q. You don't know?

A. No. The 13th and 14th I am sure of. I was at home.

Q. How did it happen that you were billed for the week of April 8th to April 15th at the Waldorf Astoria for Room No. 563?

A. You are saying that I have one.

Q. Have what?

A. Have a bill. I haven't got any bill.

Q. What is this I am showing you?

A. Looks like a bill.

Q. For the occupation of Room 563 for seven days from April 8th to April 15th, 1905, is it not?

Mr. Carpenter—I object. It does not show whether that was August 15th or April 15th or what it is. The bill is dated the 15th of April, 1905. It does not show at all from this bill

what time it was. I object to the cross-examination on that ground.

The Vice Chancellor—What right have you, Mr. Strong, to show a bill, assuming it is a bill for the period stated, to the witness and asking the witness to testify from it or refresh her recollection from it when it is not apparent that she knows anything about it.

Mr. Carpenter—Apparently it was paid on the 25th of April, 1908.

Mr. Strong—I ask to have it marked for identification.

Marked Defendant's *Exhibit A* of this date for identification.

The Witness—Probably a forgery.

Q. Looks to you like a forgery, does it?

A. I don't know what it is. Looks like the heading of the Waldorf.

Q. Why did you say it was probably a forgery?

A. I don't know. Edward Dudley's sister says he forged her father's will, Mrs. Mary Croth.

Q. Who is Mrs. Mary Croth?

A. You haven't heard of her? Mr. Dudley's sister lived in Camden and has not spoken to him since the seventies.

Q. And who told you that Mr. Dudley has forged his father's will?

A. Who told me; it was a family matter discussed.

Mr. Strong—There doesn't seem to be any limit to the amount of scandal we can obtain from this lady.

The Vice Chancellor—You are getting an answer to your questions. It is certainly your own evidence.

Q. Why do you say that you were in your home in Philadelphia April 13th, 1905?

A. Because I received a telephone message which was very important to me.

Q. That fixes it in your mind, does it?

A. That fixes it in my mind.

Q. And also April 14th, what is there that fixes in your mind that you were in your home in Philadelphia on that date?

A. I am pretty sure I was. That is the reason, very sure I was. I know my husband was away in Washington at that time.

Q. What you know of his being in Washington is a matter of information, isn't? Not that you know it yourself?

A. Why it is written in that letter that he was there, that letter you undertook to read this morning. He went down to Washington expressed in the letter you are now referring to in which you say that the statement is contained in a letter of April 27th, 1905, which is marked *Exhibit X*-4. That is the letter in which you say the statement occurs? It is the letter which was read yesterday.

Q. And it was during the week of April 13th and 14th that he was in Washington seeing Senators and others as mentioned in this letter?

A. He didn't see the senators.

Q. Was he in Washington?

A. I would like him to state that he has or to give the name of any senator that he did interview; he could not.

Q. Do you mean to say that it was during that week he was in Washington trying to obtain interest in favor of your son?

A. No. I can't say he was trying to do anything of the kind, because he never did a thing.

Q. Did you understand he was down there for that purpose?

A. No, indeed I did not.

Q. You didn't understand so?

A. No, but he knew that I knew he was in Washington.

Q. He knew you knew that?

A. Yes.

Q. How did he know you knew that?

A. When he wrote that letter?

Q. The letter is the proof that he knew you knew he was in Washington that week?

A. Do you think so?

Q. How did you know it?

A. Other things—other proofs; other reasons.

Q. How did you get this letter of April 27, 1905?

A. I could not tell you, Mr. Strong.

Q. Why can't you tell me?

A. I think I received it through the mail, but I could not say so positively.

Q. And where did you receive it?

A. Oh, I think I told Mr. Carpenter I have the envelope that went with it.

Q. Will you produce it?

A. I am going to try to do it.

Q. Where is it?

A. I will look through all of the papers I have and if I find it I will give it to you. I saw yesterday you were raising something in regard to that envelope so I hunted for it.

Q. Did you think I was raising an issue about the envelope?

A. Yes, I do. I think you would raise it over any kind of a scrap of paper or anything else.

Q. And since then have you made any effort to find it?

A. Yes. I certainly have made an effort to find it. I spoke about it to Mr. Carpenter this morning

Q. Where do you think it is?

A. I could not tell you, Mr. Strong.

Q. Do you mean it is among the papers in court here?

A. We don't know here. No. Some of my papers down stairs are in the storehouse.

Q. In the trunks full of letters you have?

A. Yes, in the storehouse?

Q. Why should you have taken this out of the envelope? Did you get the envelope with the letter?

A. Well, nearly every other letter has an envelope.

Q. I notice in every other case you have it except this, and that is why I am particularly asking why you haven't the envelope for this one.

A. Well, Mr. McDermott had the letter reading it a good many times. I suppose the envelope was misplaced. Dudley does not deny that was his letter.

Q. You haven't given him an opportunity to answer.

A. Does he?

Q. I don't say that he does. I am asking you, at present, whether you received this letter?

A. I could not tell you, Mr. Strong.

Q. Well, don't you know whether it was in Washington or New York?

A. It wasn't in Washington; you can be sure of that.

Q. You didn't receive the letter in Washington?

A. No, I didn't receive the letter in Washington.

Q. Do you know whether you received it at the Hotel Waldorf, in New York?

A. I could not tell you.

Q. Whether it was handed to you at your home?

A. I could not tell you.

Q. You think it came through the mail, however?

A. I think so. It may have been left at the hotel desk in the Waldorf by Dudley.

Q. You were at the Waldorf on the date this letter appeared?

A. No, I say I don't know. I could not tell you. That is just it; I don't like to say because I don't know.

Q. You have no recollection where you received this letter?

A. No. I have the letter. That is enough to make anybody crazy to read it. I didn't read the letters.

Q. You did read this, didn't you?

A. No, I could not read that for a long time afterwards. No, I could not tell what was in it now, it was

so awful. I should have gone out of my head if I had read his letters.

Q. You mean you didn't read his letters at all when you received them?

A. No, I called him on the 'phone and told him I would not read them.

Q. Did you call him on the 'phone when you received this note?

A. No, I don't know about that particular one. In letters of that nature he began to abuse me, making evidence for himself.

Q. Did you receive other letters similar to this one?

A. Very abusive letters.

Q. Where are they?

A. I could not tell you where they are.

Q. Have you looked for them?

A. No, I haven't looked for them to find them.

Q. Have you any such?

A. I haven't any?

Q. Has your counsel?

A. I don't know whether they have or not. I only know what I have.

Q. And have you given any to your counsel?

A. I have given them some letters.

Q. Of this nature?

A. I could not tell you whether they were or not. I could not read that letter through now, it makes me so nervous.

Q. You are afraid of the letters in which he abused you. Now, are there any such letters in your possession or the possession of your counsel?

A. I could not tell you.

Q. I mean abusive letters?

A. I could not tell you; I haven't got any.

Q. Well, if you received such letters—

A. (Interrupting)—That I know of—I may have some.

Q. If you received such letters, didn't you keep them?

Letters of that kind, or character, abusive letters, as you call them?

A. I think so. I hired a box to put them in.

Q. And yet you haven't produced any in court?

A. It is not my business to produce letters in court.

Q. But you do produce this letter?

A. I haven't.

Q. But your counsel did it?

A. Yes.

Q. You gave it to your counsel, didn't you?

A. I did.

Q. Did you give him all the letters you got from Mr. Dudley?

A. I gave him some letters.

Q. Just please answer my question if you gave all the letters you got from Mr. Dudley to your counsel?

A. I could not say whether I gave them all to him or not.

Q. Did you hold back letters from your counsel that you did receive? That you received from Mr. Dudley, in which he spoke to you in an abusive way?

A. I haven't held back anything from my lawyers that I know of.

Q. So that all the letters that you had you handed ever to Mr. Carpenter, or to Messrs. McDermott & Enright, did you?

A. I think I handed them some letters.

Q. Won't you answer? Whether you handed them all that you had?

A. I can't tell you. I haven't been through my trunk. I have been sick for two months.

Q. This case was brought a number of years ago.

A. I could not have those letters standing around for a number of years.

Q. When did you give this letter to your counsel?

A. That letter has been back and forth to lawyers for a long time.

Q. How long has it been in the possession of your present counsel?

A. I don't know.

Q. Months or years?

A. I could not tell you. I haven't any idea, because I brought the letters back and forth, and I would read them and I would take them back and put them away again.

Mr. Strong—I believe that is all.

Re-direct examination, by Mr. Carpenter.

By the Vice Chancellor:

Q. I understand that you and your husband ceased all marital relations in the month of January, 1901, is that true?

A. Yes, sir. I didn't know the date or anything about it until he told me. I think that is the date.

Q. And who established that status between you and he?

A. Why, he went to live with Mrs. Vanderpool, evidently, from what I have heard elsewhere.

Q. Well, go back now in your memory to the time when he took a different room from you and you ceased to live as man and wife, and I ask you who established that status, you or he?

A. He did, of course.

Q. Did he give you any reason for it?

A. No.

Q. Do you recollect the occasion when he left your room or declined to go there at night?

A. Oh, no, I don't.

Q. Do you recollect the particular time which sharply divides your life as a wife with him—

A. Just about that time.

Q. What was the particular occasion?

A. Why, I suppose he became infatuated with Mrs. Vanderpool.

Q. But at the same time what was the cause, as you thought then?

A. He stayed away a great deal. He was away all the time. He was never in his home.

Q. Do you mean to say that was because you excluded him from your room?

A. Oh, no; I was right there.

Q. Did you exclude him from your room?

A. Why, no; we traveled together, and occupied the same stateroom in 1903, and we visited together and occupied the same bedroom in 1904.

Q. But I understand you had no intercourse with him as a wife?

A. No.

Q. That ceased in 1901?

A. Absolutely.

Q. Now, then, tell me who caused that to cease?

A. My husband.

Q. It was his—

A. Yes.

Q. He took himself from your room?

A. Yes.

Q. He declined to share your room with you in your home?

A. He took himself from my room.

Q. You didn't exclude him?

A. Oh, no.

Q. At that time, were you willing to continue your relations with him as his wife?

A. Why, yes. I didn't know of any reason at that time—

Q. You were surprised at the time to have your husband leave your bed and—

A. I don't know. I have heard about those things. Dudley was not very young, don't you know. I didn't know but he was sick or something. I didn't know; something of that kind.

Q. Did you ask him at the time?

A. If he was sick?

Q. No, but did you ask him why he refused any longer to share your room and bed?

A. No, of course I didn't ask hm.

Q. You didn't ask him at all?

A. No.

Q. And you then knew no reason for it at the time; is that right?

A. No.

Re-cross-examination, by Mr. Strong:

Q. At the time the situation began which the Vice Chancellor has referred to, namely, the cessation of your relations as wife with your husband, was anything said on the subject between you and him?

A. No. Nothing at all.

Q. Nothing said?

A. No.

Q. Was anything ever said on the subject between you and him?

A. In what way?

Q. Upon the subject of having any intercourse with him?

A. I just took it for granted, only I knew he was running around with another woman, or that he wasn't able to work, something like that; that he was sick, or something like that.

Q. Did you ever ask him for an explanation of it?

A. No. When I saw him going around with Mrs. Vanderpool I didn't have to. The explanation was there.

By the Vice Chancellor:

Q. Mrs. Dudley, do I understand that at this time when the separation occurred, in January, 1901, you believed that he was running with other women?

A. Oh, no; not then.

Q. Mrs. Vanderpool and others?

A. Not then, until 1902 on the steamer did I have any idea of such a thing; never dreamed of such a thing.

Q. Then in 1901, when this separation as man and wife actually took place in your Philadelphia home, you didn't know of any reason why he went away?

A. No, no reason at all.

Q. And you had suspected he had other women?

A. No, not at all. And he was very nice and faithful, too; very kind and all that sort of thing.

Re-direct examination, by Mr. Carpenter:

Q. Mrs. Dudley, was there any other occasion when Mr. Dudley made any approaches—that was after 1901—when he made any approaches with a purpose to getting your consent to such a relation?

A. No, he never kissed me until 1903, when he put me on the steamer and sent me to Europe alone.

Q. On any of these occasions when you were traveling, when you were south traveling together, that is, after 1901, was there anything said by him with that end in view?

A. Well, I think there was, and don't you know I spoke to you about it, but I could not tell you the date, on the train going down to South Carolina.

Q. And when do you think that was?

A. I could not tell you, Mr. Carpenter. I thought it was 1903, but I could not say.

Q. Did you refuse at that time, if that was the time, to permit him—

Mr. Strong—I think instead of asking for a conclusion you had better ask what took place.

Q. What took place at that time?

A. Well, I was pretty well convinced that he was a sick man, if you want to know the truth.

Q. Did you ever, up until the time you left your husband, refuse him access to your room as his wife?

A. No, never.

Mr. Strong—Up to what time?

Q. Up to the time he left, in 1905?

A. Why, there I was. He would unbutton my dress, unfasten my dress and come into my room, and I would let the maid go to bed and we would not keep her up if we were out very late.

Q. Up till what time was that?
A. To about April, 1905.
Mr. Strong—No question.

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NEW JERSEY
Court of Errors and Appeals.

BETWEEN
MARIE DUDLEY (*Complainant*),
Appellant,
AND
EDWARD DUDLEY (*Defendant*),
Respondent.

On Appeal
From Chancery.

CASE.

For Complainant-Appellant,
ALEXANDER SIMPSON.

For Defendant-Respondent,
ALAN H. & THEO. STRONG.

James D. Carpenter, being duly sworn as a witness on behalf of the plaintiff, testified as follows:

Direct examination, by Mr. Comboy:

Q. Mr. Carpenter, you are an attorney and counselor at law, are you not?

A. I am.

Q. A member of the bar of the State of New Jersey?

A. I am.

Q. And at the present time a member of the firm of McDermott & Enright?

A. Yes.

Q. Who are appearing for and of counsel for the wife of Mr. Dudley in this cause?

A. I am.

Q. Have you had charge of the preparation of this case?

A. Yes.

Q. And have been the member of that firm who has been most actively engaged in the preparation of the case, have you not?

A. Yes, for the last two years at least.

Q. And during that period of time did you conduct the examination of Mr. Weston, the manager of the Hotel Raleigh, at Washington?

A. I did. Yes, sir.

Q. When did you go there, please?

A. The date is in the records of the court. My recollection is it was on February 28th, 1911, but I get that from the minutes taken at that time, and also from a memoranda that Mrs. Dudley made at the time in my presence.

Q. Have you been in Washington before?

A. I have.

Q. What if any arrangement have you made for the production of the hotel register there?

Mr. Strong—I object.

(Question withdrawn.)

Q. When you went there upon that occasion did you see the hotel register?

A. I saw it, yes.

Q. When did you see it first?

A. My recollection is positive that the first I saw of it was in the office of Joseph G. Sullivan, in the Columbian Building, when Mr. Weston produced it under a subpoena.

Q. Had you ever seen the register before?

A. No.

Q. Was that the first time you saw it, the day when it was produced at the examination of Mr. Weston in the Raleigh Hotel?

A. Yes.

Q. And who were there at the time when the register was produced?

A. Mr. Rogers, the commissioner, the stenographer, Mr. Strong, Mr. Dudley—whether Mr. Sullivan was there at the time I can't say, and then myself.

Q. On the same afternoon did you go to the Raleigh Hotel?

A. Yes.

Q. With any one?

A. With Mrs. Dudley.

Q. What was done when you got there?

A. We asked again for the clerk to let us see the register that had been produced in the morning.

Mr. Strong—I object to that.

Q. What did you see?

Mr. Strong—I move to strike out what was said about that.

Mr. Comboy—Consented to.

A. Mr. Owen, the assistant manager.

Q. The one who was here and gave his testimony?

A. Yes, he was at the desk.

Q. What was done with the register?

A. It was produced and examined by Mrs. Dudley and myself, and then I made a tracing of the particular signature we went to see and examine.

Q. State the details and the circumstances of the making of the tracing?

A. I asked—

Mr. Strong—Objected to.

The witness—I procured two pieces of tissue paper from the hotel clerk, or assistant manager, and—

Q. Are you now referring to Mr. Owen?

A. Mr. Owen, and placed it over the signature, and with a pencil made, as carefully as I possibly could, exact tracing of that signature and the residence—that is, Mr. and Mrs. Louis Craven, and, New York, there was an *Exhibit No. P-2* in parenthesis, and the room numbers that were marked on the page. I think that was everything that was on that particular line.

Q. I show you Plaintiff's *Exhibits No.* 1 and 2, for identification of dates February 14th and 13th, and ask you if you have ever seen those papers before?

A. I have.

Q. In what connection?

A. These are the tracings I made in the Hotel Raleigh which I have just testified about.

Q. And where have they been since that time?

A. They were put in my pocket and taken by me to my office and put in the safe, and I sent them over to you comparatively recently—I think since November—when you sent them back, I think it was last Thursday, about that—and handed them to me last Thursday, and they have been in an envelope either in my pocket or my satchel or my safe ever since.

Q. And when the tracings were made was there anything upon these papers then other than what appears there now?

A. Well, there was an edge on a portion of the paper *Exhibit P-1* that was to the left of that portion of the signature that is now on the paper and on which was the word "Mrs."

Mr. Strong—I object to what was on that portion.

The Vice Chancellor—I will allow it.

A. And how about that portion of the paper; how did that become detached from the rest of it, if you know?

A. My recollection is that, in opening a sealed envelope in which I had placed it, I tore it either with a knife or in some way up to pretty near the top. In November, when we were here in New York, that portion of the signature and the paper was here—it was attached and they were lying up here and I had offered them to Mrs. Dudley to identify, and that afternoon or morning, at the close of the session, when I looked everywhere for that portion, it wasn't here. I have looked through every paper I have in this case, and I looked all around here when we left the courtroom ,and could not find it anywhere. It was a very small portion, and my recollection is that both of these sheets were of the same size.

Q. Have you ever seen that portion of it since?

A. I have not.

Cross-examination, by Mr. Strong:

Q. Will you state who were present at the taking of the testimony of Weston, on October 28th, 1911. Did you say that Mr. Dudley was there?

A. I am pretty positive he was. I know you were there, and I am pretty sure Mr. Dudley was there.

Q. Was Mrs. Dudley there?

A. No.

Q. Where was Mrs. Dudley at that time?

A. She was supposed to be down with me and to have met me in Washington that morning, but I got a telegram from Frank P. McDermott, while I was in Washington, that she had missed the train and would be down later, and she did get down later after that, some time in the afternoon I met her.

Q. You hadn't met her before taking the testimony?

A. Not that day.

Q. Not that day?

A. Not that day.

Q. Nor the day previous?

A. I can't state whether I had a conversation with her or not; I don't know.

Q. Wasn't she in Washington the day previous?

A. I don't know. I met her—

Q. You didn't see her in Washington you mean that day?

A. No, because I went down on the train leaving New York at about twelve-thirty at night.

Q. And she didn't go down with you?

A. She did not.

Q. You are not able to produce the detached portion of what was originally *P*-1?

A. No. I wish I could.

The Vice Chancellor—Do I understand, Mr. Carpenter, that the detached portion was attached when these papers were produced here in court? And exhibited to the witness?

A. My recollection is that it had been torn almost to the end and that in handling here in court, that in November when we were here in court, it became entirely detached.

The Vice Chancellor—And when the papers were exhibited to the witness in court first that paper was complete, *P*-1 was complete?

A. My recollection is that it was. That is my best recollection.

The Vice Chancellor—Can't you say positively and definitely whether the fragment of the paper on which was subscribed the word "Mrs." was here in court?

A. Oh, it was here in court, positively, the part was torn off and that part remained here and that other part was all here together.

Q. And were they here when the testimony was given?

A. They were here before the witness, and they were handled here in court by Mr. Comboy, and that is the last I saw of that portion.

Q. Of that portion?

A. Of that portion, yes.

By the Vice Chancellor—Was the detached portion still attached to the paper *P*-1 when the marks for identification was pasted on it?

Mr. Carpenter—My recollection is that it was. No, it wasn't there. That mark for identification was placed on here this last week. That identification mark, so that that mark could not have been on there at that time.

Mr. Comboy—Yet the identification is of the date of February 14th, 1913?

Mr. Carpenter—That is right.

The Vice Chancellor—How could the paper have been exhibited here before the witness was placed on the testimony, if it wasn't marked for identification?

The Witness—You will find from the notes that it was offered here and I asked her if that was—asked her a question concerning it, and it was overruled by your Honor, and it was through my oversight that they were not marked for identification—that is, if they were not marked for identification. I haven't examined that with the idea of determining whether they had any more than one mark on. I don't think they had.

Mr. Comboy—That's all. If your Honor please, we offer these as *Exhibits* 1 and 2 for identification.

Mr. Strong—I object to that as incompetent, irrelevant and immaterial.

The Vice Chancellor—They are offered, I suppose, as standards, are they Mr. Comboy?

Mr. Comboy—Why, they are offered as proof of what was on that hotel register, if the court please. I presume that as far as standards for comparison of it are concerned, that would be afforded by admitting writings of Mr. Dudley.

The Vice Chancellor—What is the objection to their purpose as stated by counsel?

Mr. Strong—I think they are manifestly not admis-

sible for that purpose. It is a lead pencil tracing of what appeared—

The Vice Chancellor—Why isn't it admissible as a sworn copy of a record which has been lost?

Mr. Strong—If it were only to say that it appeared on that record the names of Louis Craven and wife to that extent possibly—

The Vice Chancellor—That is the whole extent of the offer.

Mr. Camboy—I don't think I made myself clear at this time, if the Court please, in view of your Honor's statements. When I said that they were offered to show what was on the hotel register, I meant not only the actual name of the persons registered, together with the address, but that they were also offered as a fac simile of the actual signature written there. Perhaps I did not apprehend what your Honor meant by standard. I thought your Honor meant standard of comparison, but I say that that comes within the definition of standard.

The Vice Chancellor—I don't think we can waste any time. I will take them for the purpose as stated by counsel as a copy of a document which has been lost, and therefore the paper stands as the best proof available of what was inscribed on this hotel register. Whether these papers can be used as a standard is a question that will come up when an offer is made by the other side to use them as such. If they are to be used as standards, I should suggest to counsel the propriety of making a careful examination of the authorities to see whether that use is permissible. I would add that after many years of experience at the bar and on the bench where standards of comparison have been proved I have never known of a case where a tracing was offered as a standard after proof was presented and the original was lost.

Mr. Strong—If I may understand the limits of the purpose for which the documents are now offered is as

if it had been a copy made without an effort to produce a fac simile.

The Vice Chancellor—Certainly.

Mr. Conboy—That is not the offer we make, if your Honor please.

The Vice Chancellor—I think, perhaps, I am somewhat in error in referring to this as a standard. What I should have said is this: I will admit the paper for the purpose originally stated by the counsel, and now restated in a different form by counsel for Mr. Dudley, simply as proof of the writing inscribed in this book which has been lost as proved that the names Mr. and Mrs. Craven, New York City, or New York, appears under this date on the hotel register of the Hotel Releigh. Now, I spoke of this being used as a standard. Perhaps that was misleading. When any effort is made by an expert to use standards of Mr. Dudley's handwriting and to compare them with this writing, and prove that this writing on the hotel register thus traced by Mr. Carpenter with the proper handwriting of Mr. Dudley, that is to say, was written by the same hand that wrote the standard, why, then I will rule on the question of whether that is proper, or if the attempt should be made on the other side by experts to take standards and express an opinion from an examination of admittedly genuine signatures of Mr. Dudley that this writing on the book was not in the proper handwriting of Mr. Dudley, than I will have to rule on the question, but until such proof is offered by the other side, I don't see that I have any other ruling to make.

Mr. Strong—If the matter should rest where it is, I don't consider that these tracings are to be considered by the court as fac-similes or as representing the character of the handwriting which appeared on this book.

The Vice Chancellor—No. It is true the same ruling will have to be made if counsel in argument is limited by the Court to any signatures which are in the cause now and are held as genuine—and I think there are a

number of letters here—we have genuine signatures of Mr. Dudley, and if upon the argument counsel should undertake to urge before the Court that this tracing is the proper handwriting of Mr. Dudley, and support that argument by exhibiting the genuine signatures, the same ruling would have to be made. The Court would have to decide the matter. Of course, counsel is familiar with the fact that courts and juries pass upon the genuineness of signatures when the papers are before them without the aid of experts, and that question will come up then.

Mr. Strong—Your Honor does not intend to make any ruling on that point now?

The Vice Chancellor—I don't see any necessity for making a ruling now, because there is nothing before me. There is no expert offered here. On no side has a genuine signature been presented to the Court for comparison with these tracings, and I have no reason to know that such an argument will be made. As yet the Court has not examined any of these genuine signatures or made any comparison between them and the tracings.

Mr. Comboy—Did your Honor suggest that we should at any particular time prior to the argument present them to your Honor for the purpose of having your Honor make comparisons?

The Vice Chancellor—No, I don't see that the matter comes up until the argument of the cause.

Mr. Comboy—If we have upon the record the facts to the effect of the making of these tracings, and the witnesses have testified how they were made, and your Honor would only be called upon to use the tracings in the event that upon the argument it is submitted, along with admitted signatures, or the admitted writing of Edward Dudley for the purpose of comparison. I understand that that matter is not before the Court yet.

The Vice Chancellor—No.

Mr. Strong—So far as the admission of the papers for the purpose of showing that there appears on the register the names of Mr. and Mrs. Louis Craven, your Honor admitted it for that purpose without hearing me.

I was going to suggest that amounts to nothing so far in the case. There is no reason for admitting it for that purpose, if that is the case, because Louis Craven is not in this suit, and there is no proof whatever that Louis Craven was Edward Dudley, so that resting it upon the limited grounds your Honor has rested it, it ought to be ruled out as immaterial. It ought not to be in the case, it seems to me, put in by the other side by a kind of side wind, with the idea that on the argument it will be used for some other purpose. It is not offered to prove that the names of Louis Craven and wife were on that register. If that were all they had in mind, they would not have offered it at all. Your Honor must see that it is not in that respect important to their case at all. It is not even relevant to their case, as I see the case. They haven't connected Dudley with Craven. It is only got into the case for the purpose of being used on the argument as a fac simile and as correctly representing to the Court what was apparent upon the register. Now, for the purpose it seems to me it certainly cannot be used. A reproduction by a lead pencil tracing of an ink signature, with the idea of conveying to the mind of the Court the character of the handwriting, appeals to me as absolutely unheard of, and would be most dangerous. Some times photographic copies of signatures are used—used by experts on the stand, but used merely for the purposes of illustration. Of course, a photograph is vastly more reliable than anything that can be done with the hand with lead pencil—it is liable to blur, liable to a greater or less degree as it may be hard or soft—to inaccuracies. A photograph is very much more reliable than a lead pencil can ever be, no matter in whose hands, and the photograph of a signature is never allowed in place of the original for the purpose of conveying an idea of the character of the handwriting. It is used commonly by experts for the purpose of pointing out and illustrating theories which we have heard spun out in a good many cases to such extreme

tenuity. They use a photograph that way, but has your Honor ever seen a photograph submitted in place of an original signature to be considered by the Court or jury in place of the original?

The Vice Chancellor—I said, Mr. Strong, that I never had. But your argument is premature. This argument may be addressed to the Court at a later point. Just now I don't care to entertain it. The paper is merely admitted merely for the purpose stated, and I will say further that it has been proved in this cause that on the hotel register, above the date of April 13th, 1905, appears the name Mr. and Mrs. Craven, and it is alleged that that indicates that Mr. Dudley was there with a person passing as his wife. The proof of the record has been presented to the Court, and whether the further fact can be established is for the jury to inquire. There can be no harm in admitting a tracing as the best proof of the record, if it is not correct, connected it with Mr. Dudley, that is the end of it. If, on the other hand, counsel or Mrs. Dudley have a right to this tracing in order to avoid an argument, they can be submitted to the court with admittedly genuine signatures of Mr. Dudley for comparison, or after putting an expert on the stand, that that handwriting shown was the proper handwriting of Mr. Dudley, why, then they have the right to have the paper read. We must be prepared to meet every phase of the case. I cannot exclude now this paper, which is properly in evidence for one purpose, anticipating that some dual use may be made of it in the future, which use may be sustained or disallowed by the Court. Proceed with the case, gentlemen.

Mr. Combay—Will you admit these envelopes are in the handwriting of Mr. Dudley?

Mr. Strong—I don't care to make any admission unless I know for what purpose they are offered.

Mr. Comboy—A standard of comparison. We will put Mrs. Dudley on the stand and inquire about it.

Mr. Strong—Your purpose is to offer these envelopes

for the purpose of standard, and I object to their use for that purpose, and if that is the only reason you have for offering them, I will make no admission concerning them.

Marie M. Dudley, recalled for further re-direct examination, by Mr. Comboy:

Q. I show you, Mrs. Dudley, an envelope addressed to Mrs. Mabel L. Connelly, and ask you if you know whose handwriting that is?

A. Dudley's.

Q. Your husband, Edward Dudley?

A. Yes.

Marked for Identification as *Plaintiff's Exhibit X-6.*

Q. And do you know whose handwriting this is? Addressed to Mrs. Edward Dudley at the Hotel Waldorf?

A. That is my husband's writing.

Marked *Plaintiff's Exhibit X-7,* for identification.

Q. And do you know in whose handwriting the envelope is I hand you now?

A. Edward Dudley's, my husband.

Marked *Plaintiff's Exhibit X-8* for identification.

Q. Do you know in whose handwriting the envelope is I hand you now, if you know?

A. Edward Dudley's.

Marked *Plaintiff's Exhibit X-9,* for identification.

The Vice Chancellor—Are those four letters papers which have been marked for identification in envelopes?

Mr. Comboy—Yes, sir.

The Vice Chancellor—Does the date of mailing appear on them?

Mr. Comboy—Yes, sir.

The Vice Chancellor—Proceed.

Q. And in whose handwriting is this protested check that has been received in evidence as *Plaintiff's Exhibit X-3* for identification?

A. Mr. Dudley's.

Mr. Comboy—I offer these four envelopes that have been identified by the witness in evidence.

The Vice Chancellor—As yet they seem to be irrelevant. If the question which was discussed a little while ago is brought before the Court, the offer may be renewed.

I will rule on this later. All of this now which is marked for identification are papers which exhibit the handwriting of Mr. Dudley. The contention, of course, is that they are relevant and that they are being used as standards either by the Court or by an expert.

Mr. Comboy—Yes, your Honor.

The Vice Chancellor—And therefore I will hold that matter in abeyance.

Mr. Strong—It is irrelevant.

Mr. Comboy—I call for a bill of the Hotel Waldorf of April 15th, 1905.

The Vice Chancellor—Have you anything further?

Mr. Comboy—We have not, this morning, your Honor.

The Vice Chancellor—Anything further on the other side to-day, Mr. Strong.

Mr. Strong—Yes, sir, if they have finished their case. Have you rested, gentlemen?

Mr. Comboy—No.

The Vice Chancellor—I understand the question is whether further testimony shall be taken in Philadelphia. You are not ready to go on now until the case is closed.

Mr. Strong—I don't think we should, no, sir.

The Vice Chancellor—Well, as I said, in this case I shall give both sides a further opportunity to take testimony in Philadelphia.

Mr. Strong—We have our testimony here to-day and had hoped to finish the case and get to an argument. We were all ready to finish the case to-day, and I must earnestly protest against any further delay to get the testimony of these witnesses who have been known to Mrs. Dudley for a long time.

The Vice Chancellor—I understand, Mr. Strong, that these witnesses are presented to meet and disprove or refront testimony of witnesses which were offered on your side. I haven't the record here. I am very much embarrassed, indeed, with the technicalities of the situation, if I don't know what the technical situation is. Have you the record here?

Mr. Carpenter—That is the record of the testimony taken last week.

Mr. Strong—There was nothing said in my presence last week that gave the idea that there would be further testimony taken. If testimony is to be taken, it ought to be strictly confined to the contradiction of those witnesses who were examined by us in Philadelphia. Manifestly what they have got in this notice is not to be a contradiction. They have a whole string of names just as they have served them on us a dozen times before. Of course if counsel means to say that the testimony will be strictly confined to that which was brought out, to contradictions of that which we brought out at the last examination before the commissioner, I really don't think I can oppose it very strongly, though I regret the case should be held open for any cause. But while that is said in a general way by counsel, I apprehend that when we get down there we will find ourselves taking testimony all over the country—over the entire case, and I don't think that opportunity ought to be afforded. After all the time they have had and after the case has reached the present stage, I don't think they ought to be allowed to do that. Now if your Honor will make a ruling limiting them strictly to a contradiction of the testimony we

took there, on commission, it seems to me that ruling should be made.

The Vice Chancellor—I think they are limited. No further ruling is necessary. They are limited to a contradiction, as I understand the present situation of the case. There has not been any other arrangement made between the Court and counsel, and if they go beyond that, why what they take in addition is liable to be stricken out, but in addition to that counsel for Mrs. Dudley may now state what, under the strict limits of contradiction of this particular testimony taken on the other side, they want to put in. I suppose the testimony of Mr. Busby is not in contradiction.

Mr. Strong—I was going to say, as far as Mr. Busby's testimony is concerned, it is quite manifest that the case ought not to be kept open for that.

The Vice Chancellor—The case is not open for it. It is held open in order that they may put in their testimony contradicting the testimony which you have recently put in, and which they have not had a chance to reply to, and if the other side want to do anything foreign, now is the time to state it.

Mr. Comboy—I don't want to sit here, if the Court please, and practically be directed by your Honor to state some conditions as to our bringing in at some later time, and then be charged with bad faith. I would like your Honor to accept my statement that I am engaged, in addition to these matters, on an extremely important investigation connected with this case—something that has developed by reason of the things that have happened practically just before the testimony was to have been taken.

The Vice Chancellor—Well then, I think Mr. Comboy you should make application to the Court to open the case and confine your testimony in Philadelphia strictly to contradiction.

Mr. Comboy—I can state to your Honor this is

what we want to prove in Philadelphia. First we want to take the testimony of Busby.

The Vice Chancellor—Why should you want to take the testimony of Mr. Busby? That is not in contradiction of anything that has been put in by the other side.

Mr. Carpenter—But as Mr. Comboy said yesterday we did not feel in preparing this case for presentation to the Court that we could do so in justice to Mrs. Dudley until after we had exerted every effort to get that hotel register here, and then prove before this Court the fact that Mr. Busby was in the Hotel Raleigh in Washington on the days we claim he was. And it was for that reason we did not take his testimony before.

The Vice Chancellor—Do you want to take the testimony of Mr. Busby?

Mr. Carpenter—Yes, sir, we do most certainly.

The Vice Chancellor—Anything else except what is in strict contradiction?

Mr. Carpenter—We want to take the testimony of Miss Shaw in contradiction of what Mr. Dudley's witness has testified to in Philadelphia.

The Vice Chancellor—You can do that of course.

Mr. Carpenter—They may digress and show what happened. Whether she went into hotels and restaurants as they claim she did, and conducted herself improperly, and Mr. Harris I will state now I will not examine. Mr. Rigor is subpœnaed to produce notes which he may have and which his brother assistant said yesterday he gave them to to destroy. Mr. Coley will not be called to the stand unless those notes are produced by Mr. Rigor.

Mr. Strong—Now, why have Mr. Rigor here to be examined. That is not in contradiction, or if it is, it is testimony that might have been taken months ago. This matter of the destruction of records and papers was brought out six months ago.

The Vice Chancellor—Was it brought out six months ago that Mr. Rigor, the witness on the stand yesterday, did not destroy the papers? He directed his brother, another Mr. Rigor, to destroy them. Was that brought out?

Mr. Strong—Yes.

Mr. Carpenter—Yes, sir.

Mr. Strong—The testimony that Rigor gave—

The Vice Chancellor—What right have you here now at the heel of the trial to go back and undertake to have this man whom you knew six months ago to be the custodian or last known custodian of the papers?

Mr. Comboy—For this reason. That the witness Busby, who we are going to examine, can testify accurately about transactions which took place in Washington in his presence, if we give him these notes which we have caused Mr. Rigor to produce. We shall not want to ask him any question.

The Vice Chancellor—My question is why haven't you done that before? Is there any reason why you should not have taken the examination of Mr. Busby, with the aid of the documents produced by Mr. Rigor, the brother, by the subpœna *duces tecum* six months ago.

Mr. Comboy—Does your Honor appreciate the difficulties we have been under in the preparation of this case for trial, securing information from people we have paid for that information, in securing reports from employees of hotels, in securing the co-operation of attorneys who have been connected with Mrs. Dudley in the most sacred of all professional matters?

The Vice Chancellor—The question is a very simple one. The question is simply why you are in any better position to-day as to this matter than you were six months ago?

Mr. Comboy—We may not be, but we certainly had every reason to believe we would be when we can bring the man before your Honor here and put him on the

stand with the sanction of a judicial officer in attendance, whether he was telling the tduth about those notes or not.

The Vice Chancellor—Mr. Busby has not been produced here?

Mr. Comboy—No, sir. This is the first day we could get Rigor on the stand under the eyes of your Honor.

Mr. Strong—He has been in the jurisdiction of the Court all the time.

The Vice Chancellor—Mr. Busby has testified here, and I understand he is under the jurisdiction of the Court, and continuously has been during this trial, and you now want to take his testimony in Pennsylvania, and I ask you why, if you knew six months ago all about these things, didn't you try the experiment which you propose to try now?

Mr. Comboy—We knew what they said about these things, but in view of the fact that these men would not produce the notes that they were paid for, are we chargeable with negligence because we didn't believe that?

The Vice Chancellor—You have answered my question now for the first time, that you don't believe the information you got six months ago.

Mr. Comboy—That is the reason we didn't examine them until we could get a man here and have your Honor see him upon the witness stand.

Mr. Strong—The testimony, however, was taken under oath before a commissioner of your choosing, and if you believed there was anything wrong about that testimony, the witness whom you examined was present under the jurisdiction.

The Vice Chancellor—He testified as to the destruction of the notes.

Mr. Strong—Yes, Rigor. He came there and gave precisely the testimony before the commissioner in Camden that he gave yesterday.

The Vice-Chancellor—He was sworn in Camden and interrogated about this matter and said that he had instructed his brother to destroy the notes?

Mr. Comboy—So I understand from Mr. Carpenter.

Mr. Carpenter—Yes, sir, and he said then that he had given these notes to his brother to destroy. He didn't say his brother had destroyed them, and he didn't say that yesterday, and he was served with a subpœna to produce them here, and your Honor will recall that he was asked if he had asked his brother for them, but he had not, in pursuance of the subpœna to produce them here in Court. It is very material that these papers should be in evidence, if he was offered ten thousand dollars for them several years ago. They mean money to them.

Mr. Strong—Oh, nonsense.

Mr. Carpenter—Well, nonsense, Mr. Strong, but we have the right to exercise every effort that we can make in order to get those papers, and when we find they are destroyed, that ends it.

The Vice Chancellor—Are you inconvenienced or embarrassed by the taking of this testimony in any other way than by loss of time and more labor in the cause?

Mr. Strong—Only that it re-opens the case or holds it open, whereas, I think we are entitled to have it closed or to know what definite portion of it there is open. I think we are entitled to have the case closed, with the exception of that which they are able to say is in distinct contradiction of the testimony which has already been taken. There was not a syllable brought out yesterday which adds to what was taken in the testimony of Rigor six months ago, and I protest against the case being held open for an indefinite shape to allow a fishing excursion, and after they have had all this apportunity to complete proof, they want to go scurrying around to the ends of the earth and take testimony at the expense of Mr. Dudley. Certainly they ought to be precluded from taking it upon grounds of

lack of diligence, if for no other reason. So, as to Busby's testimony. I presume they will get the same testimony they got before; there is no reason to believe they will get anything new. They admit that they saw Busby, and he said he would not like to testify, and practically could not testify without having his original notes before him. They admit he said that. Mrs. Dudley says she long ago knew about Busby. And now they want to hold the case open for Busby's testimony, so they can see what they can get from Busby. A mere haphazard or the veriest possibility that they may get anything from him, then they ought to have made that experiment long months ago. Now, then, it seems to me, we ought to get to the conclusion of this case, or to know if there is some small and definite portion of it still open. As to Miss Shaw, I don't see how she can contradict the testimony of the witnesses in Philadelphia.

There is nothing that these other witnesses they have named can testify to in contradiction of previous testimony, in a strict sense. If they were going to say that they were often in the company of Mrs. Dudley and never observed any improprieties, what would it amount to? That is not contradiction.

Mr. Carpenter—I can answer Mr. Strong in a word.

The Vice Chancellor—It is not necessary. I am prepared to rule on this matter. I cannot, without the record before me, undertake to make any general indication of the testimony to be taken in Philadelphia, because both sides recognize that counsel for Mrs. Dudley are confined to contradictions of this testimony taken recently by the other side. They know that, and if they travel off and introduce other matters, everything thus taken beyond that will be stricken out, unless, of course, the Court gives special leave. Now, then, there is only one single matter which has been suggested as a subject of further examination, and counsel have stated it. There is nothing uncertain about it. It is

a very definite piece of testimony they want to take. They want to take the testimony of Mr. Busby, and in my judgment they have no right to take such testimony —it is not a matter of right—it is discretionary with the Court whether they will be allowed to do it. If any injury or serious embarrassment should result to the other side, I would be strongly averse to that testimony being taken at this late day, because counsel seem to have had all the information in regard to these things regarding the inability or the unwillingness of Mr. Busby to testify to the notes. On the importance of confronting him with his notes and refreshing his recollection, they knew all that six months ago, but, nevertheless, exercising the best discretion I can, I am going to allow them to take that testimony, and that alone beyond the scope of proper contradiction which I cannot define and won't undertake to. That will be the ruling, and if counsel can arrange to take this testimony promptly, we think we begin to see the end of this case.

Mr. Strong—Then I will ask your Honor to require counsel on the other side to close their case to-day with the exception of these reserved matters. I think we ought to at least get that far with it.

The Vice Chancellor—I understand that is the situation. Of course, something may develop on one side or the other which will give them the right to take further testimony. Will counsel refresh my recollection as to what the proceedings have been and what has been done.

Mr. Strong—The opening of the case was on the part of Mr. Dudley and his testimony has been taken. Mrs. Dudley's testimony has been in the course of production and is now, as I understand it, concluded except as to the portions that your Honor has reserved.

The Vice Chancellor—When you rested on your side, was there a reservation in relation to the testimony taken recently in Philadelphia?

Mr. Strong—Yes, we were allowed to—that was held open.

The Vice Chancellor—Then Mrs. Dudley went on and closed, or is her case now open?

Mr. Strong—No, she hasn't closed until this time.

The Vice Chancellor—Meanwhile you intervened and took the testimony at the earliest time you could, which was reserved.

Mr. Strong—Yes.

The Vice Chancellor—Now, we have Mrs. Dudley generally on the reply?

Mr. Strong—Yes.

The Vice Chancellor—Now, then, gentlemen, have you anything more to be put in this case except the testimony to be taken in Philadelphia, assuming that there will be no new developments, of course. In other words, your side closes with that exception?

Mr. Comboy—I don't think there is anything else, unless, as your Honor said—

The Vice Chancellor—That will take care of itself. Well, then, on the part of Mrs. Dudley the case is closed with the exception of the testimony to be taken in Philadelphia. On your side, Mr. Strong, can you say, now, what you have in reply?

Mr. Strong—We will go on with our testimony.

Mr. Comboy—Of course it goes without saying that we will have an opportunity to refute what is brought out by the other side which is yet to be taken.

The Vice Chancellor—I haven't specified any names. I can't recall the testimony. It is impossible. Counsel for Mrs. Dudley are limited. They can only put in proper testimony to contradict what was offered on a certain branch of the case on your case, and in addition to that may take the testimony of Mr. Busby and Mr. Rigor.

Mr. Carpenter—I will state now that one of these witnesses is a man named A. B. Coley. If these notes produced by Rigor show that he was down in Washington as Operative No. 2, we would like to examine him.

Mr. Strong—I would like to know about that.

Mr. Carpenter—I will state to the Court that I did not know Coley's name until the day we took the testimony of these three witnesses of the other side in Philadelphia Saturday week and saw him. I don't know where he works. Mr. Rigor, I understand, yesterday, said he though he was with the Southern Railway. I want to find his address. He visits with his brother, Dr. Coley, sometimes, and I telephoned his brother and went out there to meet him late that afternoon.

The Vice Chancellor—Do I understand you apply for leave to take the testimony of Mr. A. B. Coley—I mean conditionally.

Mr. Carpenter—Yes, sir.

The Vice Chancellor—That testimony goes with Mr. Busby's testimony.

Mr. Carpenter—Exactly.

The Vice Chancellor—I will allow that too.

Mr. Strong—I object to continually opening the case to get the notes from Rigor; is that right?

Mr. Carpenter—Oh, Mr. Strong, for gracious' sake.

Mr. Strong—But haven't you just said it was contingent on the production of those notes?

Mr. Carpenter—Mr. Coley, yes. But Mr. Busby, no.

Mr. Strong—You have several times, in the course of what was said here this morning, said that you had no hope of getting anything from Busby except you were able to show him his notes, and that your intention to examine him was conditional on the production of those notes before him.

Mr. Carpenter—I haven't said any such thing.

Mr. Comboy—It is not necessary for us to say anything about that.

Mr. Strong—You said your examination actually would depend on his notes.

Mr. Carpenter—We can't be made by you to say anything.

Mr. Strong—You can't be made by me to say any-

thing by me, but you can be made by the Court to conform yourself to the court's ruling.

The Vice Chancellor—It is certainly true that in justifying yourself in making this very late application to take this witness's testimony in Philadelphia, you have explained that you ought to get the notes, and you have made the first explanation of the way of getting the notes. Now, I understand you want to take the testimony of Mr. Busby and Mr. Coley whether you get the notes or not.

Mr. Carpenter—Yes.

The Vice Chancellor—Let it be understood definitely that in addition to the testimony strictly in contradiction, counsel for Mrs. Dudley may take the testimony of Mr. Busby, Mr. Coley and the brother of Mr. Rigor with the notes that he may produce. That is the strict definition of the extent to which you may go in contradiction.

Mr. Strong—He has stated that he will not examine Mr. Harper, and I see no reason why his name should not be stricken out of this notice.

Mr. Carpenter—Strike it out.

Mr. Strong—I therefore strike it out with the consent of counsel on the other side.

Mr. Carpenter—I submit that Mr. Strong should be requested to state what testimony he will have in rebuttal.

The Vice Chancellor—In rebuttal of the testimony you are to take in Philadelphia?

Mr. Carpenter—No. what testimony he will have in rebuttal.

The Vice Chancellor—You mean to meet the new issue—the new testimony you are about to take?

Mr. Carpenter—To meet our case.

The Vice Chancellor—He is going on with the case now.

Mr. Strong—I am going on with the case except to rebut. I presume we all know what rebuttal is.

George Morris Dorrance, recalled by the defendant for further direct examination, by Mr. Strong.

Mr. Strong—Gentlemen, as to the time of your taking this other testimony, are you particular about next Saturday, because that is a pretty bad day for me.

Mr. Carpenter—It ought to be Monday, the third, because the Commissioner could not be there, and if the commissioner cannot be there will you consent to some other commissioner?

Mr. Strong—I don't care what commissioner; no objection to that.

Q. Mr. Dorrance, I want to direct your attention to the occasion of the return from Europe of Mr. and Mrs. Dudley in the year 1902. I think it has appeared already that you were on the same steamer with them.

A. Yes, sir.

Q. And also that Mrs. Vanderpool was on the steamer?

A. Yes, sir.

Q. With regard to the association of Mr. Dudley and Mrs. Vanderpool during the voyage home at that time, can you state to what extent they were thrown in each other's company?

A. I think I monopolized the lady on that trip. I promenaded the decks with her.

Q. Mrs. Vanderpool are you referring to?

A. Mrs. Vanderpool. If Mr. Dudley had much communication with her, I certainly did not observe it, although we were together as a party.

Q. Were you in a position to observe the extent of their communication?

A. I think so.

Q. Throughout the whole voyage?

A. I think so.

Q. Just what was the manner in which Mr. Dudley spent his time on the voyage?

A. I can hardly answer that. We met at meals. The

parties that have been mentioned, together with Miss Brice, who also formed one of the party, sat together on the deck of the steamer in the steamer chairs frequently.

Q. Was Mr. Dudley with them at that time?

A. He was with us part of the time.

Q. How much of the time did he spend in Mrs. Vanderpool's company, as well as you can express it?

A. Alone you mean?

Q. Alone.

A. I can't recall any occasion when he was alone with her.

Q. And when he was with her in your presence, was there anything about their conduct that attracted your attention at all?

A. Not at all, sir.

Q. Was there anything marked in his attention to her?

A. Not at all. Not as I observed. I think I could have observed it, if there was any special attention.

Q. How much of the time were you yourself in Mrs. Vanderpool's society?

A. That is very difficult to answer, Mr. Strong.

Q. Generally, of course. You can only answer it generally, during the voyage.

A. Oh, daily, every evening.

Q. You spoke a few moments ago of your having monopolized her society, as I understand it.

A. I think that I promenaded alone with Mrs. Vanderpool during the whole of the voyage. I certainly did not see Mr. Dudley promenading with her.

Q. At any time during the voyage?

A. I can't recall any occasion.

Q. When the vessel reached the dock here in Hoboken, who attended to the details as to Mrs. Vanderpool's baggage?

A. When we reached the dock, her son was waiting for her—quite a young fellow. I assisted her as well as I was able to in gathering her baggage and getting it inspected.

Q. Did Mr. Dudley render any assistance at that time?

A. I can't recall any special attention that he gave to that, but I think he was occupied with his own. He may have assisted casually, not specifically.

Q. But who principally?

A. I did.

Q. Did you ever advise Mrs. Vanderpool to cash her letter of credit of any one amount?

A. Never.

Q. Did you give her any advice at all about cashing her letter of credit?

A. Never.

Cross-examination, by Mr. Comboy:

Q. You have been in attendance at this trial right along, haven't you, Mr. Dorrance?

A. I think this is the third day I have been here.

Q. This is the what?

A. I think this is the third attendance.

Q. You were here yesterday, were you not?

A. Yes, sir.

Q. And you were here at the last session, were you not?

A. On that occasion was Mr. Yocum here?

Q. Who is Mr. Yocum?

A. He was sitting as counsel in this case in the absence of Mr. Strong.

Q. Oh, yes, the very last session.

A. I was here on that occasion part of the day.

Q. Are you living in Philadelphia?

A. I am living near Philadelphia, sir; twenty-three miles from it.

Q. And have you any business in Jersey City that attracts you to this court room on the occasion of this hearing?

A. Nothing except to attend here as a proposed witness.

Q. As a proposed witness?

A. Yes.

Q. Well then, you were here before that too, were you not?

A. I think so.

Q. You have been practically a constant attendant at this trial?

A. No, I have not been here constantly. I have been here on several occasions part of the day and some days the whole of the hearing.

Q. And you lunched with Mr. Dudley and his attorney during the noon recesses?

A. Yes.

Q. And weren't you at Philadelphia at some of the hearings there?

A. No, sir.

Q. None of them at all?

A. No, sir.

Q. Sure?

A. Sure. You speak of the hearings before some commissioner?

Q. I am talking of any of the testimony.

A. No, sir.

Q. Were you a member of Mr. Dudley's poker club?

A. Well, off and on, yes.

Q. Just the same as you attend the trial?

A. No.

Q. More constantly? Or less constantly?

A. Less, I think.

Q. And were you ever engaged in a business enterprise with Mr. Dudley?

A. Yes.

Q. What was it?

A. On one occasion we formed a corporation for the manufacture of paint.

Q. Waterproof paint, wasn't it?

A. No. not waterproof.

Q. It wasn't waterproof? Well, it was a paint which

was not waterproof, the company to exploit which was formed with you and Mr. Dudley in it? Is that right?

A. Yes.

Q. Did you supply the paint to the Pennsylvania Railroad?

A. To some extent.

Q. Were you in the employ of the Pennsylvania Railroad?

A. For forty-three years.

Q. In what capacity?

A. Connected with the legal department.

Q. The legal department?

A. Yes, sir.

Q. And was Mr. Dudley interested in the Pennsylvania Railroad?

A. Not that I know of, sir.

Q. Was he a shareholder to a large extent?

A. I don't know.

Q. You don't know.

A. I don't know.

Q. And was Mr. Dudley ever the attorney for the Pennsylvania Railroad Company?

A. Not to my knowledge.

Q. In Camden?

A. Not to my knowledge.

Q. And his father?

A. Not to my knowledge.

Q. You don't know anything about that?

Mr. Armstrong—He doesn't say he does not know anything about it.

Q. You were the gentleman instead of Mr. Dudley who monopolized the time and attention of Mrs. Vanderpool on the ocean trip, were you?

A. I think so.

Q. And where did Mr. Dudley sit at table on that occasion?

A. I can't recall, sir, the location.

Q. Where did you sit at the table; can you answer that?

A. No.

Q. Do you remember where her steamer chair was—first,, do you remember where her state room was?

A. No, I never knew.

Q. Do you remember where your state room was?

A. I can't tell you that, now.

Q. Do you remember where your chairs were on deck?

A. Yes.

Q. Was your chair near hers?

A. All of our chairs were together.

Q. What do you mean by all of your chairs were together?

A. I mean of our party.

Q. When you speak of "our party," do you refer to Mr. and Mrs. Dudley?

A. I refer to Mr. Dudley, Mrs. Vanderpool and Miss Brice.

Q. All their chairs were together?

A. That is my recollection, sir.

Q. Is your recollection any better upon the point of where your steamer chairs were than it is upon the point where you sat at the table?

A. Oh, decidedly.

Q. That made a great impression upon you, did it?

A. Yes, sir.

Q. Did you ever visit Mrs. Vanderpool up at Saugerties?

A. Never.

Q. Did you ever attend any of her week-end parties up there?

A. Never did.

Q. Were you ever an attendant at her house; did you ever visit her at her house?

A. Never.

Q. Were your attentions to Mrs. Vanderpool confined to the monopolizing of her time upon this particular ocean voyage?

A. No. Whenever the lady desired to promenade, I joined her.

Q. Oh but that was upon this particular ocean voyage?

A. I supposed that was what you spoke of sir.

Q. Before that time had you ever shown her any attention?

A. Never.

Q. And since that time have you ever shown her any attention?

A. No I think not.

Q. You have never visited her at her house before or since?

A. Never. Never was at her house.

Q. But on the particular occasion you have spoken of it was you and not Mr. Dudley who monopolized her attention?

A. Yes, sir.

Q. Did Mr. Dudley ever tell you he went to see Mrs. Vanderpool in Saugerties?

A. I don't recall his ever telling me so.

Q. Did you have any conversation with him upon the subject?

A. I think no.

Q. That wouldn't be a matter in which you were particularly concerned?

A. Not the slightest.

Mr. Comboy—I think that is all.

Re-direct examination, by Mr. Strong:

Q. Mr. Dorrance, have you attended upon this trial in any other capacity than as a witness and as you were requested by Mr. Dudley, from time to time to attend for that purpose?

A. That is the only reason why I have been here. sir.

Re-cross examination, by Mr. Comboy:

Q. Let me see about that. You were here at the last session, when Mr. Strong was not present, were you not?

A. Yes, sir.

Q. And you knew that nobody was to be examined upon that occasion except Mr. Owen, the Assistant Manager of the Raleigh Hotel?

A. I didn't know that.

Q. Who asked you to come upon that occasion; why did you come?

A. Mr. Dudley on each and every occasion has given me notice when he requested me to be present as liable to be called upon.

Q. And he gave you notice to be present at the time Mr. Owen, the Assistant Manager of the Raleigh Hotel, was to be examined, of your also being a possible witness at that time?

A. On every occasion I have been—

Q. Answer the particular question, please.

A. Put it again, please.

Q. Did you come on the occasion when Mr. Owen was to be examined at the request of Mr. Dudley as a possible witness?

A. Exactly.

Re-direct examination, by Mr. Strong:

Q. Were you in Jersey City that day attending to any business of your own?

A. Yes, now I recall it, I was obliged to be at ten o'clock in the morning at the office of Mr. Friedenburgh, to take up some matter we had befor the Chancellor in Trenton.

Q. Not concerning Mr. Dudley at all?

A. Not the slightest. This is a private matter. I recall that now.

Q. Now, you said you were for 43 years in the Legal Department of the Pennsylvania Railroad?

A. Yes, sir.

Q. When did you connection with that company cease?

A. About six and a half years ago.

Re-cross examination, by Mr. Comboy:

Q. Are you connected with them now; are you connected with the Pennsylvania Railroad's Legal Department now?

A. No. I am on the retired list, but all men on the retired list are assumed and presumed to be in the service of the company still, but not active duties.

Q. You haven't any active duties?

A. None whatever.

Q. But Mr. Friedenburgh, for instance, here in Jersey City, is one of the counsel for the Pennsylvania Railroad?

A. He is.

Q. And was it Pennsylvania Railroad business you were on?

A. Private personal business.

Q. Were you in Jersey City on your private personal business upon that day or were you in the court-room here at the request of Mr. Dudley as a possible witness?

A. Both.

Edward Dudley, recalled for further direct examination by Mr. Strong:

Q. Mr. Dudley, was Louise Hirst dismissed from your employment?

A. Not that I ever heard of.

Q. Was she dismissed by you?

A. No, sir.

Q. Was any complaint made by any of the servants?

A. I never heard of any complaint against her myself while she was with us.

Q. Did Mrs. Dudley mention to you or have any

conversation about any charges or complaints that anyone had made against Miss Hirst?

A. No, never; never made any to me.

Q. As to the manner of Miss Hirst's leaving your employ; do you recall as to that?

A. No, I really don't, except what she said herself.

Q. I call your attention to the letter of April 27th, 1905, which you wrote to Mrs. Dudley, and which was offered yesterday as an exhibit, marked *X*-4.

The Vice Chancellor—Dated when?

Mr. Strong—Dated April 27th, 1905.

Q. (Continuing) Has that letter served to refresh your recollection with reference to Mrs. Dudley's son Leo?

A. Yes, it shows I must have been mistaken in the date in my direct testimony.

Q. Now, in what respect do you say that you were mistaken in the testimony which you gave formerly?

A. Well, I am under the impression that on my direct testimony I said the first time my sister called on me, Mrs. Connelly, was in August. That is my impression. It must have been in 1905, but evidently, from that letter, which you now show me, she must have called upon me earlier in the year 1905 and given me the information in regard to what I subsequently testified about. It is very difficult to recall dates so long past. I thought I had that right, but I evidently have made a mistake about it.

Q. Can you say, according to your present impression, when you first learned of Leo, the son of Mrs. Dudley?

A. I hestitate to try and fix a date. I am trying to recall something that would refer to the date, but I am only guessing as to the date to a certain extent. I should think it was six months before that. It must have been. At any rate it was some time before that letter was written.

Q. That is, before April 27th, 1905?

A. Yes.

Q. Was it more than five or six months before April 27th, 1905, that you learned of the existence of the boy through Mrs. Connelly?

A. Well, I won't be absolutely certain as to the date. It was time, I guess, before that. It may have been several months, because there are references there to my seeing Mr. Cook, whom I had never seen until after Mrs. Connelly had seen me, and there is a reference to my trying to get this boy, at the suggestion of Mrs. Cook, in the Annapolis Academy. Now, I don't recollect that at all. It might be possible.

Q. Who was Mr. Cook?

A. Mr. Cook was the step-father, apparently, of Mrs. Dudley.

Q. When did you become aware of Mr. Cook's existence?

A. Well, it must have been after I saw Mrs. Connelly. Mr. Cook, as he introduced himself, came into my office one day and said who he was. I had never seen him before.

Q. Reading this letter of April 27th, 1905, I find this: "You will recall Mr Cook coming here. Well, I would not allow him to see you because I knew you would not care to see him. He asked me at that time if I could aid him to get Leo into the Naval Academy, as that seemed to be his only chance. When you spoke about him, and before I could tell you where it was and what he was doing, you left the room and have never mentioned it again." To what incident does that refer?

A. I suppose that refers to the time of my telling her that her sister was there and told me about the boy and her father. That is the only way I can account for the letter or that statement.

Q. Do you recall such an incident?

A. Well, there was an incident of the kind, but I can't recall just exactly when it happened. That letter was written without doubt with knowledge of the full

facts at the time, far better than anything I can recall now.

Q. What was there that led you to say that you knew that Mrs. Dudley did not care to see Mr. Cook?

A. Well, I don't know. It evidently must have had reference to the time I said the boy was there and she probably said she didn't want to see them. It evidently was that time when she didn't want to have her attention called to it.

Q. Did you ever see the boy?

A. No.

Q. You say in your letter of April 29th or rather you refer to the evening of the 4th of April when you went to the Bellevue for dinner, and because the dinner was not cooked nicely, you—that is, Mrs. Dudley—blamed me—that is yourself—for eating it, and in anger got up from the table, went out to the desk and asked them to hand her one hundred dollars. Was there such an incident as that?

A. Well there was an incident of that kind at the Bellevue, but not asking me for a hundred dollars. She went and asked them to give her a hundred dollars at the desk.

Q. The letter further says, "When I joined you in the hall you were ordering a cab, and in a loud tone you said you would not go with me." Do you recall that?

A. Yes, she wanted a cab and when I went to get in that night we were going back home, she ordered it to go somewheres else—I don't know where—to see some lady friend of hers, and she went away I think possibly to Miss Shaw's She would not let me get in the cab and went off alone.

Q. You say in your letter again: "I called at Delmonico's and asked there whether the report I had heard was true, and also asked who was there that evening, and I found it was too true." Does that refer to the same occasion that you before testified to

when you went and saw Mrs. Dudley and Beekman together or some other evening?

A. I am not positive it referred to the same evening, but I rather think it does. I didn't tell her I had seen her there until later, because I commenced to be rather suspicious, and I thought I would keep those things to myself. I think it referred to the same evening, but I am not positive. It might refer to another evening.

Q. The letter also says: "The night we were invited by the Pancoasts to dine, I called at the Waldorf for you and telephoned to your room, and received no answer, and as the time was short, I went up to your room, and when there was no answer I asked the chambermaid to open the door This she did, and I found you were not there. I asked the starter of carriages if he had seen you go out and he then told me you had just driven in. When I later came back, I was surprised to have you tell me you had been in all the time taking a bath. I didn't contradict you, but thought your actions were strange." Do you recall that incident?

A Yes, I recall it.

Q. Did what you have stated in the letter occur?

A. Exactly as it is stated.

Q. Do you recall the writing of the letter?

A. I don't recall the time or the actual writing of it at all. I merely recognize it as my letter—my writing, and I judge—I am only judging—I can't swear whether I sent it to New York or—it looks to me as if it had been written and mailed somewhere; I can't tell that positively, because there is nothing there to tell.

Q. Excepting the date, April 27th, 1895?

A. Yes.

Q. What impression have you as to where Mrs. Dudley was at that time?

A. Well, she was nearly always at the Waldorf. I

suppose she was at the Waldorf. She was there nearly all the time that winter.

Q. I show you *Exhibit XA* of the defendant of this date and ask you what knowledge you have of that paper?

A. Only it is one of the numerous bills that Mrs. Dudley enclosed in an envelope just before she sailed for Europe in 1905.

Q. Sent to you?

A. Sent to me.

Q. You have referred in your former testimony to the fact that you received a large envelope containing a number of bills?

A. Yes.

Q. Is it your present testimony that this bill was among them contained in that envelope?

A. By all means, because these bills were so large and so surprising to me, that I could not pay them at once, but I paid them by degrees, and this one wasn't paid until 1906 apparently.

Q. Was it paid by you?

A. Oh, yes.

Q. A year after its date?

A. Pretty nearly a year—oh,, it is a year.

Mr. Strong—I offer that bill in evidence.

Mr. Comboy—I object to that as incompetent, as well as irrelevant and immaterial; and not properly proved.

Mr. Strong—This is a bill, as your Honor observes, which according to the testimony came from—

The Vice Chancellor—I understand. How is it relevant?

Mr. Strong—Well, it is one of the bills which he received, and—

The Vice Chancellor—I will admit it as part of the representation on the part of Mrs. Dudley that she was present there at the time shown by that bill.

Received and marked *Defendant's Exhibit XA.*

The Vice Chancellor—You say that Mrs. Dudley sailed for Europe in the spring or summer of 1905?

A. I think it was the first week of June. I could not tell positively. We didn't leave the house until the twenty-second day, I think the date was.

The Vice Chancellor—And then she returned in September?

The Witness—Oh, no; she returned—I don't know exactly the date. She appeared home, I think, some time about the first week in August.

Q. And then did she go to your house in Philadelphia?

A. My house was closed.

Q. Where did she go?

A. I am only talking of her own testimony. I think she went to some hotel—Arlington, I think, she said it was.

The Vice Chancellor—Do you know where she was when she brought suit against you in September?

The Witness—No, I could not positively say.

Q. Did she in any way communicate with you, directly or indirectly, on her return?

A. Oh, no, not at all.

Q. What you heard from her was through her attorney?

A. Yes.

Q. Her attorney was Judge Gaskill?

A. The first intimation I got from anyone was from Judge Gaskill. That has already been testified to by Mrs. Dudley herself, I think. I am not sure.

Q. Were you present at the taking of the testimony of the witness Weston, in October, 1911?

A. I was not.

Q. You didn't go out there at all that day?

A. No. I have forgotten why. For some reason or other I could not be.

Q. I went to represent you?

A. Yes.

Q. Have you ever seen the so-called register of the Hotel Raleigh, upon which is said to appear the entry of Mr. and Mrs. Louis Craven?

A. No, sir.

Q. Did you write that entry or any part of it?

A. I never did.

Q. I think I understood your former testimony to be that you were not in Washington on that date?

A. I did say so. I wasn't quite positive where I was on that date.

Q. Were you ever at the Hotel Raleigh?

A. Yes, Mrs. Dudley and I. The only time I was ever in the hotel we went there together.

Q. And when was that?

A. Some time previous to 1905—if I can explain—

Q. Yes.

A. Mr. James P. Scott, the son of the president of the Pennsylvania Railroad, wanted both of us to come down and dine with his sister, Mrs. Thorp, I think her name was—Thorp or Throop, and he said he would engage rooms, and I said, all right, engage them at the New Willard, where I generally stopped, or the Old Willard. He met us at the station, and said he either could get none or could get no suitable rooms, and we were taken up to the Hotel Raleigh. That was the only time I was ever there.

Q. Are you able to say approximately when that was?

A. Well, I have been trying to fix a date. My impression of that is it was a year or two before that.

The Vice Chancellor—Before what? 1905?

The Witness—Prior to 1905, but I could not fix the date positively, because I have no means of fixing it.

The Vice Chancellor — Do you recollect whether you registered on that occasion yourself?

The Witness—I have no doubt I did.

The Vice Chancellor—You don't remember that?

The Witness—No.

The Vice Chancellor—Have you examined or endeavored to ascertain whether there was a record of your visit there?

The Witness—No. I didn't think it important; I didn't think it made any particular difference.

Q. You went under your own name, I suppose, on that occasion?

A. Well, I suppose so. Of course, I did.

Q. Have you ever gone under the name of Louis Craven?

A. Never have.

Q. Since you were on the stand before, has anything come to your mind with reference to where you were during the dates of April 13th, 14th and 15th, 1905?

A. Oh, yes, I tried my best to locate myself, and have ever since I first heard of these charges, but I never kept much of a diary. I kept a little in a lawyer's diary —I sometimes put lead pencil marks of the things of that kind. I had some business with a gentleman in Boston, or rather a little out of Boston, and he was a client and also a classmate of mine, and he got into some difficulties about a corporation he had gone into down in Nova Scotia, and he consulted me about it, and finally I wrote a letter to another gentleman asking him if he could meet me, and I have a copy of that letter at home, but I find it amounted to nothing because it merely stated certain facts that I would be in Boston, on such a day, mentioning the 13th and 14th of April, 1905, on my way to Nova Scotia. Later, I found out that I did go. On the 13th I was in my office up to pretty nearly noon. I had tried to catch the train to

Boston that night, I mean for it to get there in the evening, but I took the midnight train and got to Boston the next morning and went to Mr. Young's there—Young's Hotel—and there met Mr. Hill, and talked over the matter, and I advised him he had better settle it. He settled it, and I went home again, and I was back in my house in Philadelphia Friday night.

Q. What date was Friday night?

A. The 14th of April.

Q. Thursday was the 13th, was it?

A. The 13th.

Q. Have you verified that by the calendar?

A. No, I haven't. But I am satisfied that it was Friday.

Q. That is your impression. I only wanted to know whether you have verified it.

A. No, I haven't.

Q. But at any rate you went on the 13th and came back on the 14th?

A. Yes. The only unfortunate part of it is that Mr. Hill died here about eight or nine months ago; I never expected to be called on to answer any such questions.

The Vice Chancellor—Did you register at the hotel?

The Witness—No, merely took lunch with him and went right back. I wasn't there over four or five hours. I got there in the morning. I didn't stop all night. I was very much engaged in Boston about that time in a suit with a bank—four or five banks—in the Adamson Furnishing Company—and I had to go on to Boston a great deal.

Q. Are you able to recall or have you any knowledge where Mrs. Dudley was during that week, whether she was home or not?

A. No, my recollection was that when I left home she was in New York as usual. She was generally

there from—I don't know whether it was the opera season—that was later—my impression was that she was in New York a great deal of the time during that time.

The Vice Chancellor—Coming back to this date, Mr. Dudley, you have stated when you were in Boston. I understand you fix that date by a lead pencil entry in a memoranda.

The Witness—Yes. First of all, I got a clue to it about a month ago when looking over letters to see if I could find anything.

The Vice Chancellor—Copies of your own letters?

The Witness—Copies of my own letters to others. I found a letter to a plumber, or rather a man for fixing up the roof, and he came there on the 13th, in the morning,, and I saw about having a new roof put on my office. I found that later I had written for a contract, and then I sent upstairs and sent for this legal directory we all have here in Jersey, and I found there a lead pencil note stating: "Boston. See Nova Scotia business," something like that, around April 14th. That brought it back to my mind.

The Vice Chancellor—Was that an entry you made before you went to Boston or after you returned?

The Witness—Probably made a week or so before the engagement was made.

The Vice Chancellor—You have that book in your possession?

The Witness—I have it in my room. I can bring it here any time.

Q. Did you ever deceive or attempt to deceive Mrs. Dudley as to your whereabouts or where you were going?

A. No. I always sent her telegrams or telephone

messages in order that she might know where I was.

Q. Were the messages which you sent all in accordance with the truth, either by telegraph or telephone?

A. Absolutely.

Q. On all occasions?

A. Absolutely, on every occasion. I never sent her anything to deceive her. I think a number of these telegrams have been put in evidence.

Q. And the last occasion on which you went to Europe with Mrs. Dudley was in 1902, I believe; I think that has been testified to?

A. Yes, 1902.

Q. It has also been testified that you said to her during that trip that you would never go with her again?

A. Well, I said that in Europe; yes; I said that abroad.

Q. Had that anything to do at all—I mean your refusal to go with her again—have anything to do with any disagreement between you regarding Mrs. Vanderpool?

A. Oh, no, nothing of the kind; never mentioned.

Q. Specifically, was it because Mrs. Dudley refused to chaperon Mrs. Vanderpool?

A. Oh, no; certainly not.

Q. Do you know who it was that arranged or how it happened—how it came about that Mrs. Vanderpool was with your party returning from Europe?

A. Yes, it was arranged in my own house. Miss Brice and Mrs. Vanderpool—Mrs. Vanderpool was stopping with Mrs. Dudley, or that is—Mr. Brice came up and said those two were going abroad. It was the time of the Coronation—or I think it was.

Q. Confine yourself to what occurred in your presence or in Mrs. Dudley's presence?

A. When I walked into the room, Mrs. Dudley said to me, "Don't you think it would be nice for Elizabeth and Miss Brice to come home with us?" I said, "Cer-

tainly," but I said, "Don't forget we have our passage return home on the Kaiser Wilhelm der Grosse," and Mr. Brice said he would go and try and get a stateroom for them, and that was the arrangement that was made right there.

Q. How was that arrangement carried out?

A. That arrangement was carried out as far as their coming home with us was concerned.

Q. With reference to your association with Mrs. Vanderpool on the occasion of your return on the steamer, just describe that to us, if you please.

A. Well, I had entirely nothing at all to do with her. I don't suppose I had fifty words of conversation with her during the entire trip. Mr. Dorrance and I breakfasted together—the people breakfasted together at different hours, and I left him invariably at the breakfast table, he having made an arrangement to wait until Mrs. Vanderpool got up. Mrs. Dudley didn't usually go down until lunch and I went on deck and generally joined the party there in playing cards. Mr. Dorrance, whenever I saw him, was with Mrs. Vanderpool and Miss Brice, sitting and walking and talking with them both morning, noon and night. I didn't do anything at that time. I hardly saw Mrs. Vanderpool except she sat at the table.

Q. And what was her position at the table?

A. I think Mrs. Vanderpool sat next to me and Mrs. Dudley on the other side and Mr. Dorrance on the other side.

Q. On the other side of Mrs. Vanderpool?

A. Yes. We had a whole table.

Q. All the party?

A. Yes, except the three at the end of the table. Governor Brown of Baltimore and his daughter, Miss May Brown, and his son, and our party of five—Mr. Dorrance, and there was a prominent lawyer and his wife, of New York; I forget what their names are now.

Q. With regard to the incident of the telephone that

was mentioned in your former testimony and also mentioned by Mrs. Dudley in her testimony, was there any communication over the telephone at that time with Mrs. Vanderpool?

A. Not by me, and I never heard her telephone to the house at all. At the time by you referred to, I was at the telephone. Mrs. Dudley says she was at the telephone and that Mrs. Vanderpool was telephoning to me.

Q. What is the correct statement?

A. The correct statement was that I was telephoning to a man named William S. Taylor, of Overbrook, on business. I was telephoning on the telephone and Mrs. Dudley came up behind and grabbed the telephone out of my hand and in so doing scratched her arm.

Q. Could there have been any communication with Mrs. Vanderpool?

A. Absolutely not.

Mr. Strong—May I understand that on Friday, the 14th, we will go on with the case?

The Vice Chancellor—This Philadelphia testimony will be in and Mr. Dudley's examination will then be taken up and we will go on with your case.

Mr. Strong—And upon the conclusion of our case, they go on with their case, so that there will be no further adjournment unless something unforeseen occurs.

The Vice Chancellor—Well, I will give you Tuesday. I can't say that we can go on from day to day. We can't go on the following week. You can have a full session until half past four or five o'clock.

Mr. Carpenter—At this time I would like to request the Court to direct Mr. Dudley to give us a list of his assets and liabilities and especially his stock in the Pennsylvania Railroad Company as of the 19th of November last.

The Vice Chancellor—For what purpose?

Mr. Carpenter—He testified he was willing to let us have that. Why? For the purpose of showing us how much property he has, in case—

The Vice Chancellor—Well, this is often better dealt with after the testimony upon the main issues has been taken.

Mr. Carpenter—I have a further matter to bring up, and that is the getting of an order that Mr. Dudley pay for the copies of testimony we have. I have submitted to him this morning the bills and receipts that we have and I have put it in the form of an order.

Mr. Strong—That is the matter that came up before, and your Honor directed that we pay for the testimony, and I suppose this order carries it out.

Mr. Carpenter—Do you want to sign the order?

The Vice Chancellor—It is merely an order for the payment of the stenographer's bills.

Mr. Strong—This recites a number of bills. I suppose they are correct.

Mr. Carpenter—They are all here.

The Vice Chancellor—An order signed by the Court to pay the outstanding bills for stenographic services, to the order of McDermott & Enright, within ten days.

Adjourned to Friday, March 14th, at 10 o'clock.

JERSEY CITY, N. J., THURSDAY, April 3, 1913.

Before Honorable Eugene Stevenson, Vice Chancellor.

Merrit Lane, Esq., for complainant.

Alan H. Strong, Esq., for defendant.

Mr. Lane—If your Honor please, in Dudley v. Dudley, before your Honor this morning, I move for a

continuance on the ground that counsel who is actually trying this case is actually engaged in the Hudson County Circuit Court, trying a case before a jury.

I have here an affidavit of Mr. Carpenter and a certificate from Judge Vail to that effect, and I have just received word from Mr. Carpenter, who is at the court house, that a motion for a non-suit, which was made this morning in that case has just been denied, and that the case will take the rest of the day. The affidavit of Mr. Carpenter is to the effect that he is willing to go on with the Dudley case the moment he gets out of the case now on—to-morrow morning or such other time as your Honor may see fit.

The Vice Chancellor—What does the application show about the prior history of the case in the Circuit Court?

Mr. Lane—The affidavit shows the case was reached yesterday for trial and actually went into trial yesterday, and was the first case on the call.

The Vice Chancellor—Mr. Carpenter selected this day—

Mr Lane—He did.

The Vice Chancellor—As the adjourned day, last Monday.

Mr. Lane—That is true, but your Honor knows how the Circuit list is, you cannot control it; it is impossible to control the Circuit list as you can control cases in the Court of Chancery; the case is reached, and unless it is tried it is off for the term. Now it so happens that the case in the Circuit was the first one to be called on Wednesday morning. No one knew anything about that, no one had any suspicion that it would be in that position until Tuesday. It was on Monday afternoon when the Circuit list came out which indicated the position of the case on call. It has always been the practice, when counsel are engaged in that way, to accommodate counsel to at least a reasonable extent. I know the facts are as stated by Mr. Carpenter, myself; I was in court myself.

The Vice Chancellor—What was the position for to-day?

Mr. Lane—Mr. Dudley was to be cross-examined by Mr. Carpenter or Mr. Conboy, one or the other.

Mr. Strong—Mr. Conboy was the one who indicated he wants to cross-examine. . .

The Vice Chancellor—Mr. Dudley has been cross-examined to some extent, has he not, by him?

Mr. Strong—On the last testimony. This testimony he gave was really in rebuttal, anticipating the closing of their case, which had not really occurred. They said we could go on, and Mr. Dudley was examined and turned over for cross-examination, and it was not then the hour for adjournment.

The Vice Chancellor—What is left in the case after that? I understand that if Mr. Conboy or Mr. Carpenter were here the first thing this morning would be the cross-examination of Mr. Dudley on this reserved subject. Now what else?

Mr. Strong—And that we have on our side one witness, and that I believe is all, excepting the offer of a record, I think I shall offer a record.

Vice Chancellor—Have you that witness here?

Mr. Strong—Yes, sir, and Mr. Dudley.

The Vice Chancellor—What is the nature of his testimony?

Mr. Strong—it is as to the discontinuance of marriage relations between Mr. and Mrs Dudley. Your Honor will remember Mr. Dudley testified he was locked out of his wife's room and there had been no relations since January, 1901.

The Vice Chancellor—Yes.

Mr. Strong—She, on her side, stated there had been no such relations since that time, but said it was simply a voluntary discontinuance on the part of Mr. Dudley. The gentleman we have here this morning is prepared to testify to numerous instances in which Mrs. Dudley declared in his presence not only the

greatest repugnance to her husband, but practically said she locked him out of her room and would have nothing to do with him.

The Vice Chancellor—Is there any reason we should not take that testimony this morning? This Court, as counsel knows, is often times made the football of other courts, and we are sometimes asked to adjourn, and do adjourn, hearings to accommodate counsel who are engaged in the District Court. This cause has been on a great many times and there have been a great many postponements and the counsel is now, through other counsel, asking for a postponement. It is apparently asking the Court to take care of his convenience, for it does not appear there is any reason why he should not have someone else trying the case in the Circuit Court.

Mr. Lane—There is such a reason stated in the affidavit; this is the second trial, Mr. Carpenter actually tried it before and has personal knowledge of the whole case.

The Vice Chancellor—The Court wants to help Mr. Carpenter; counsel here, and all the bar, knows the Vice Chancellors always do what they can to aid lawyers in meeting their various engagements, and they recognize that the law courts, with a jury, cannot as readily adjourn as we can. But then we have a right to demand on the part of lawyers a willingness to do everything they reasonably can to help out the situation.

Mr. Dudley was to be cross-examined, and I understand that Mr. Comboy is also engaged in a trial.

Mr. Lane—Yes, sir.

The Vice Chancellor—I do not think there is any immediate necessity for the moving of the case so far as the cross-examination of Mr. Dudley is concerned, but I see no reason why Mr. Strong should not go on with the other witness and not be obliged to bring him here again. Is there any reason? It

is a simple matter, a lawyer entirely strange to the proceedings can cross-examine on this particular kind of testimony. It is not as if a witness was brought forward to tell of matters that have been the subject of testimony by other witnesses; Mr. Strong has definitely stated what this witness will testify to and I see no reason why he should not be allowed to give that testimony. If he gives such testimony that it becomes necessary for Mrs. Dudley to go on the stand and contradict him, the Court will give her that opportunity. I want to get this case ended. It has been strung out a great while and a great many postponements have been made. Is there any reason why we should not go on with this litle fragment of testimony so as to get that done and get the case near an end?

Mr.Lane—I should say yes, your Honor, for this reason: Mr. Strong has stated generally what the effect of the testimony is going to be; I consider that the testimony must, because of the fact that it is going to be offered, have some relevancy or materiality to the case; I cannot see it myself, at the present moment I do not know what the relevancy or materiality of it is.

The Vice Chancellor—It will take you just about two minutes to understand fully the pertinancy of this testimony. One mater of inquiry is as to origin of the separation in 1901; both parties admit that then all marital relations ceased, and yet they lived together in the same house until 1905. It would be a circumstance of course, relative to the case, that they separated and the cause of the separation. Mrs. Dudley testified that Mr. Dudley absented himself voluntarily and she was examined and asked a number of questions on that subject and gave important testimony; on the other hand, Mr. Dudley says she locked him out. That is the little issue we are trying now. The question simply is what was the origin of the separation in 1901, and I do not think it requires Mr. Con-

boy, from New York, or Mr. Carpenter, from the trial on the hill, to come here when you are here to cross-examine on that subject.

Mr. Lane—Your Honor, it may not, and then again it may. Your Honor must realize that, as I understand, there have been a thousand pages of testimony taken in this case. The marital relations of these people have been gone into to the minutest degree; the friends of the different parties are known to counsel of each side; I do not know who this witness is, what his relations are to Mr. Dudley nor whether he was ever in the pay of Mr. Dudley; Mr. Carpenter or Mr. Comboy may. Of course, I am perfectly competent to cross-examine this witness with respect to his direct testimony, there is no question about that, but I do not know the ramifications of the case or the relations existing between Mr. Dudley and the witness. It may be that one question from a person who knows those relations will effectually destroy the entire testimony which is to be given without any cross-examination upon the testimony itself.

The Vice Chancellor—Where does this witness live?

Mr. Strong—He comes from New York.

The Vice Chancellor—New York City?

Mr. Strong—Yes, sir

The Vice Chancellor—That is not very far away, if Mr. Strong so desires—if he does not I will adjourn the case so as to permit the cross-examination of Mr. Dudley to be conducted by counsel who knows about the case, but in order to save time, if Mr. Strong desires, I will adjourn the case right here. If Mr. Strong, however, wishes to do so, he may put the witness on the stand, the witness may give his direct testimony and be cross-examined, and that testimony can be written out, if Mr. Carpenter on a perusal of the testimony desires to put any further question he can open the matter to the court, and if there is any real reason why he should have further opportunity, the witness may be

produced again. Is that satisfactory to you, Mr. Strong?

Mr. Strong—Yes, sir.

The Vice Chancellor—Very good. If the witness should not be again produced the deposition would be liable to be suppressed. You can proceed with your witness, Mr. Strong, unless you desire to hold him off, if you do I will put the case over. I will say right here, I will lay this case over until to-morrow if there is a reasonable expectation that Mr. Carpenter or Mr. Conboy can be here.

Mr. Strong—Why cannot Mr. Conboy be here now? Your Honor knows Mr. Conboy has been one who has—

Mr. Lane—He has not an affidavit here, but Mr. Carpenter stated to me positively that Mr. Conboy was actually engaged in a trial in the United States Court over in New York and stated it to me of his own knowledge.

Mr. Lane—That is the fact and Mr. Conboy would have had an affidavit here to-day.

Mr. Strong—I do not wish to question it, but the letter I had from Mr. Carpenter was to the effect that Mr. Conboy would be engaged to-day; really though we ought to have something to account for his absence. I would be inclined to be less insistent if the case had not gone off last week under circumstances and in a way from which I felt I had not been entirely fairly treated or that Mr. Carpenter was not entirely frank either to your Honor or myself. If he had stated to your Honor that he was unable to get the witness last week and that that was a witness he had no right under your Honor's previous ruling to examine, I don't think your Honor would have put the case off, and if he had said to me, the occasion of the case going off was not entirely on account of your Honor's health but partly because he wanted to fish for a witness in Kingston I might not have consented.

The Vice Chancellor—If I had any idea either party would proceed on Friday with the case it would not have gone off; I was ready to come back then and meeting Mr Carpenter on the street, I asked him if the case was going on, and he said something about having a witness under subpœna whom he could not possibly get here, and not recalling the situation it seemed to me it was useless to try to go on, and I told him to telephone you, but it was set for to-day at his nomination. Now what day would suit you?

Mr. Strong—To-morrow would suit me very well indeed.

The Vice Chancellor—Have we any assurance that either of these counsel can get out of Court. We do not want to come here and have the same situation precisely.

Mr. Strong—I do not think we have any assurance at any time that either Mr. Conboy or Mr. Carpenter will proceed with the case without asking for a postponement; on the contrary all our experience tends to show there will be an application for a postponement on some ground or another; the fertility of these gentlemen is beyond my capacity to determine.

The Vice Chancellor—I think I will set the further hearing for next week, with the most distinct and positive statement that at that time the engagement of either of these other gentlemen in any other court will not be accepted as an excuse for not going on, or as a ground for further postponement. If there is another case moved, or likely to be moved in the Circuit Court, Mr. Carpenter must have an understudy ready to step in. We have gone very far in the Court of Chancery in allowing postponements because of the engagements of counsel, and it is really getting to be a great burden and inconvenience, and I don't know but what we shall have to adopt the English rule; in England where counsel is engaged in one court or another such an excuse for his not being ready to proceed will not avail; counsel some-

times have three or four cases going on at the same time, and they don't show up that is all; a junior goes ahead with the case and I don't know but what we shall have to come to that. Here we make all sorts of postponements to allow lawyers to try cases in the law courts.

Mr. Strong—Your Honor knows that I am as considerate of counsel as anybody else, and perhaps as often as anybody else have had to ask for indulgence from your Honor, but this case is a peculiar one, and Mr. Dudley's condition of health and the advice he receives from his physician make it peculiarly necessary that this matter should be gotten off his mind, and for that reason I am insistent.

The Vice Chancellor—I will set this case down for next Wednesday. Mr. Lane, please notify Mr. Carpenter and have him notify Mr. Conboy as to what I have said—the engagements of counsel cannot be accepted, this case has got to be tried to a finish.

Mr. Strong—Now, may I call the witness?

Mr. Lane—Before Mr. Strong calls the witness, may I have the privilege of telephoning to the Court House, it may be that Mr. Carpenter can prevail on Judge Vail to adjourn at twelve o'clock, so that he can come here and get back at one o'clock, which will enable him to cross-examine the witness.

Mr. Strong—Counsel's engagement does not appear to be so inflexible after all!

Mr. Lane—The Circuit Court may be willing to accommodate the Court of Chancery just as the Court of Chancery is willing to accommodate the Circuit Court. I do not know, however, whether Judge Vail will be willing to change the lunch hour or not.

The Vice Chancellor—Go and telephone.

Mr. Lane (after retiring and returning)—We will go on.

Dr. Paul Bartholow, sworn on behalf of the defendant.

Direct examination, by Mr. Strong:

Q. You are a physician?

A. Yes, sir.

Q. Residing and practicing in New York City?

A. Yes, sir.

Q. What is your residence?

A. I live at 57 West Forty-fifth street, and I practice there and at 40 East Forty-first street.

Q. Do you know Mr. and Mrs. Dudley?

A. Yes, sir.

Q. How long have you known them?

A. I think I met Mrs. Dudley the first time in 1889.

Q. They were then married, were they?

A. Yes.

Q. It was after their marriage?

A. Yes, sir.

Q. Did you know them socially?

A. Yes, sir. We met at a dinner party.

Q. In Philadelphia, was it?

A. In Philadelphia.

Q. Since then, have you seen more or less of Mrs. Dudley?

A. Yes, sir.

Q. How much have you been thrown with her of late years?

A. Well, she and Mrs. Bartholow have been friends, and in that way I saw a great deal of her.

Q. Since the separation occurred, was it?

A. Since—oh, 1905.

Q. Have you ever heard Mrs. Dudley say anything with respect to the discontinuance of marital relations between herself and her husband?

A. Yes, sir, very frequently.

Q. What have you heard her to say on that subject?

Mr. Lane—I object to that until the time and place are more definitely fixed.

The Vice Chancellor—The witness is asked

now as to statements made by a party of the suit, and they are competent.

Witness—If your Honor will allow me, I can say—

Q. You may state within what period it was.

A. The summer of 1905, for instance, and in the years 1909 and 1910.

Q. Then you may answer the question I put to you before, what have you heard her say on that subject?

A. She used to say that she had kicked Mr. Dudley out of bed, and had locked the door in their apart—in their house in Philadelphia.

Q. Do you remember any of her expressions with reference to Mr. Dudley, as showing feelings toward him of one kind or another?

A. She used to speak with a sort of feeling of repugnance, always expressed in such a manner that I do not think I can repeat it very accurately. I have quoted her exact words when I said she said she had kicked Mr. Dudley out of bed. That is an exact quotation.

By the Vice Chancellor:

Q. How about statements that she had locked the door?

A. That I have heard dozens of times, your Honor.

Mr. Strong—From her?

Witness—Yes, sir.

Q. You are now testifying to two statements, doctor. Were they made at different times or were they made at the same time and connected together?

A. They were connected together, usually made at the same time.

Further direct examination.

Q. Did she in any of the statements you heard her make, state when this had occurred?

A. Well, the first statement was made in 1905, and it must have occurred before that?

Q. Did she indicate in any way when it had occurred?

A. I could not swear to that Mr. Strong.

Q. Do I understand that you heard this statement made by her more than once?

A. Oh, yes.

Q. How frequently?

A. Oh, well, I express it truthfully when I say dozens of times; it was a stereotyped expression.

Q. Was it a subject that she frequently alluded to?

A. Yes, almost always when Mr. Dudley's name was brought up.

Q. In whose presence?

A. Usually in Mrs. Bartholow's presence and myself.

Q. Was it at such times that she expressed repugnance, as you say, towards Mr. Dudley?

A. Yes, sir.

Q. Was that a frequent thing too, her expression of repugnance?

A. Yes, sir.

Cross-examination, By Mr. Lane:

Q. You were her physician?

A. Yes, I have been her physician at various times.

Q. Were you her physician at this time?

A. No, not in 1905.

Q. When were you her physician?

A. I was her physician in 1910.

Q. How long did you continue to be her physician?

A. Well, I had been her physician before then.

Q. Before that?

A. Yes, sir.

Q. When?

A. Well, my services began in January, I think 1909. I have the copies of my prescriptions, but forgot to bring them with me; I can however.

Q. And continued until when?

A. Until December, 1910.

Q. And since December, 1910, you have not been her physician?

A. No, sir.

Q. Have you been friendly with her?

A. I have not met her, I think, except just to see her.

Q. Since 1910?

A. Since December, 1910.

Q. Has your wife met her, do you know?

A. She has met her from time to time, but I do not think in such way that she spoke; they met in the street some distance from each other.

Q. Was there any disagreement between you and Mrs. Dudley when she left you?

A. No, no disagreement. I do not know whether I ought to go on and answer that question or not.

The Vice Chancellor—Just answer the question.

The Witness—There was no disagreement, but Mrs. Dudley asked me to make various affidavits for her and—

Q. You would not make them?

A. Oh, I did make them, yes, but why I dropped the case, I dropped the case—

Q. I did not ask you that.

A. Yes; I make the affidavits, yes.

Q. I asked you whether there was a disagreement or not.

A. No.

Q. Your answer is no?

A. No, no disagreement; I simply dropped the case.

Q. These statements that were made, were they made in the course of conversation or just thrown out?

A. They were made in the course of conversation, yes.

Mr. Lane—I can not cross-examine the witness any further, if your Honor please; he says he has made an affidavit or affidavits, and I do not know whether there are such affidavits; I do not know whether Mr. Carpenter has them

or not. I do not know anything about them. I am at a loss. Your Honor appreciates I cannot go any further.

By Mr. Strong:

Q. I will ask whether the affidavits you refer to were made in this case, for the purpose of applications in this case against Mr. Dudley, was that it?

A. No, they were made because her state of health seemed to me and to another physician whom I called in, to be rather alarming.

Q. To be what?

A. Alarming; she seemed very weak, and we both thought that.

Q. The question I asked you was whether they were made with reference to an application in this suit against Mr. Dudley, that is an application for an allowance?

A. Oh, no; no, simply for a postponement.

Q. Of the case?

A. Yes, sir.

By the Vice Chancellor:

Q. To account for her failure to appear as a witness, is that it?

A. Your Honor, it was in December, 1910, I believe, her case was coming up, and we both judged the physician and I—Dr. Egbert and I both judge that it would be only human if she were excused because she had been ill, very ill, in November and December.

Q. Was that Dr. Egbert?

A. Yes, sir.

By the Vice Chancellor:

I recollect that. Now, perhaps, counsel is informed. Is there anything further from this witness?

Mr. Lane—No, sir; I do not see that I can go any further.

Q. Doctor, was there anything further said by Mrs.

Dudley on any of these occasions, in regard to cessation of marital intercourse between Mr. and Mrs. Dudley—between herself and husband?

A. Why, yes; she said in various ways that she did not live with Mr. Dudley in that sense.

Q. Did she say anything about who had terminated marital relations further than what you have stated?

A. I really do not think that I can tell you positively tell you, sir.

Q. Do you recollect what she employed when she expressed aversion to Mr. Dudley—I think you said she did express aversion.

A. She expressed overpowering aversion.

Q. Do you remember any language she employed?

A. Well, it was very forcible language.

Q. Repeat it if you can remember it.

A. I am sorry to repeat it, but in the first place she said that Mr. Dudley's breath was very offensive to her; and that is the most distinct thing I can remember about those conversations.

Q. What was she talking about when she said that?

A. In reference to her aversion to Mr. Dudley.

Q. General aversion, or aversion to rooming with him?

A. I think it was general.

The Vice Chancellor—Anything further?

By Mr. Lane:

Q. This was all after the separation, was it not?

A. This was from 1905 on.

Q. Was Mrs. Dudley a highly nervous woman?

A. Yes, sir.

By Mr. Strong:

Q. Did you gather from the statement she made the cessation of marital relations was a matter of her own volition or brought about by somebody else?

Mr. Lane—The question is objected as calling for a conclusion and as leading.

The Vice Chancellor—Yes, the objection is sustained.

Q. Did she say anything to indicate whether the cessation of martial relations was in consequence of her act or in consequence of Mr. Dudley's act?

A. I think that the sense of what she said is this, Mr. Strong, that he seemed to think that her objections were well founded and that she should not bear any responsibility for her living apart from Mr. Dudley, not living with him.

Q. Not living with him, do you mean separating from his house, leaving his house, or separating from his bed?

A. Yes, in both senses.

Q. When you say she said she thought her objections were well founded, what objections are you referring to?

A. Anything physical about anybody, any physical dislike she might have, I say she felt that justified her in leaving such a person, whether a friend or a husband or anybody. In short, what I gathered was that she—

Mr. Lane—I object to what he gathered—well, never mind?

The Vice Chancellor—Do you withdraw your objection?

Mr. Lane—Yes.

Vice Chancellor—Proceed.

Witness—I gathered in what she did; she was directed by her own feelings and emotion.

Q. Toward her husband?

A. I beg pardon?

Q. What she did—

A. Towards her husband?

Q. Towards her husband?

A. Yes, sir.

By Mr. Lane:

Q. Doctor, we are generally directed by our feelings and emotions, are we not?

A. I do not think so, sir.

Q. If we are honest we are, is not that so?

A. We, we have to control them.

Q. You are going somewhat into the realms of metaphysics, now, are you not?

A. No.

Q. Psychology.

A. Not exactly that either, no; I am simply trying to express the meaning of the conversation I heard, that is all, sir.

The Vice Chancellor—The further hearing of this case is set down for April 9th, at Jersey City, at ten o'clock A. M., and it is to be understood that the case will proceed, commencing with the further cross-examination of Mr. Dudley by counsel representing Mrs. Dudley, and counsel are notified that there is very little probability that the Court will entertain any application for a further postponement based upon the engagement of counsel on either side in any court in any State.

Mr. Strong—May we understand that we may go on on Thursday if we do not get through on Wednesday?

The Vice Chancellor—Yes, this case will have the right of way.

Mr. Lane—May I suggest this to your Honor: I do not know when Mr. Carpenter reads over the testimony what position he will want to take. It may be he will want to apply to your Honor for permission to recall the Doctor. When can that application be made?

The Vice Chancellor—(After a statement by the stenographer that the proceedings of to-day could be furnished to counsel to-morrow)—He may make any application he desires to on Monday. I do not know whether Mr. Strong will care to be heard.

Mr. Strong—Yes, if he has any motion to make.

The Vice Chancellor—He may take notice that he must make the application by Monday and at no later time.

What I said before about the cross-examination of Mr. Dudley being the first thing, will be subject to that.

Mr. Strong—I do not know whether I can attend on Monday or not, but I think I should be notified whether such an application is to be made.

The Vice Chancellor—Yes, let Mr. Carpenter notify Mr. Strong on Saturday. He can telephone from his office whether he is going to make any application or not, and Mr. Strong can attend or not, as he sees fit.

Mr. Strong—Your Honor, there was another motion noticed for to-day.

Do you know about that?

Mr. Lane—What was it?

Mr. Strong—He gave me notice he would apply to-day for leave to examine some witnesses in Kingston. In other words it was to be a renewal of the application he made the other day but supported in this instance by an affidavit, and that was noticed for this morning.

The Vice Chancellor—He is not here to prosecute it and this is an end of the matter.

JERSEY CITY, N. J., WEDNESDAY, April 9th, 1913.

Before Honorable Eugene Stevenson, Vice Chancellor.

Mr. Conboy and Mr. Carpenter for petitioner.

Mr. Strong for defendant.

Edward Dudley, the defendant, recalled.

Mr. Strong—I wish to ask Mr. Dudley a further question on direct examination. His cross-examination has not yet been entered upon,

By Mr. Strong:

Q. Was there ever any physical reason on your part for the termination of marital relations?

A. Nothing of the kind, no.

Q. Mrs. Dudley, in her testimony, referred to an occasion when she stated—I think it was on a trip when you and she were going south—something had occurred that convinced her that you were sick, I think she said. Do you remember her testimony on that point?

A. No; I hadn't been sick at that time for years, Mr. Strong.

Q. Do you remember her testimony?

A. I remember the circumstance.

Q. Do you remember the testimony to which I have alluded.

A. Yes, sir; I think so.

Q. Now I want to ask you whether anything of that kind occurred at all?

A. Not at all, nothing, never referred to.

Cross-examination, by Mr. Conby:

Q. When was that time?

A. Do you mean—

Q. The time you are referring to the answer to the last question?

A. I do not know. Mrs. Dudley said going south, I cannot tell, we went south twice, and I don't know which time she referred to.

Q. As far as you can tell, you cannot testify to any particular time or any particular occasion?

A. No, I never remember such a circumstance.

Q. Do you remember any better to-day where you were in April, 1905, than when you gave your testimony at the last hearing?

A. What part of April, 1905?

Q. At the time you were said to have been at the Raleigh Hotel in the city of Washington?

A. I think it is just as good to-day as it was then.

Q. Is it any better than it was earlier in the case?

A. Yes, I think it is a little better now from some circumstances which have since taken place.

Q. It is better, you think, than it was in early part of the case?

A. Yes, sir, because I had not discovered certain letters and notes that had been made in the way of indicating engagements.

Q. You told us about those entries and the references to those supposed engagements—

A. I did.

Q. In your last examination.

A. Yes, sir.

Q. It is your testimony now, is it, that those things had all escaped your attention at the time you gave your original testimony in this case?

A. The facts of my letter book and these notes had escaped my attention, I was looking for them, and came upon them by accident.

Q. And this matter had been brought to your attention as long ago as in 1905, had it not?

A. When the first suit was filed I saw them, yes, and I could not—

Q. And then, in 1905, it was only a few months after the occurrences had actually happened?

A. Yes, sir.

Q. Were alleged to have happened?

A. Yes, sir.

Q. That had been brought to your attention from time continually down to the present?

A. Yes, sir.

Q. In each phase of this litigation?

A. They were.

Q. Still when you came to testify in this case for the first time you said you had no recollection of where you were then.

A. I could not place myself at all.

Q. You could not place yourself at all and could give no information respecting your whereabouts then, whatever?

A. No.

Q. That is true.

A. That is absolutely true.

Q. Then when you came to testify the second time you claimed to have discovered some memoranda in your diary?

A. My memory is I found my letter book, in looking through the letter book, a letter written to Boston.

Q. That was written sometime before the alleged visit to Boston, was it not?

A. How do you mean to Boston?

Q. You said that on the 13th, 14th and 15th of April you were either going up to Boston or were there or returning.

A. I think it was the 6th or 7th; I have my letter book here if you want to see it; I wrote a letter to a lawyer in Boston and referred to being there the following week.

The Vice Chancellor—You say you have that letter book here?

The Witness—I have, sir (producing a letter book).

Q. Please turn to the letter that—

A. Yes, I will try to.

Q. —You refer to Mr. Dudley.

A. I wrote on April 6th, 1905, to W. R. Underwood; it is all about another matter of business, but I will show you here what it is. Exhibiting letter book to Mr. Conboy): "It is just barely possible that I will be obliged to go to Halifax sometime the next week, and shall probably be gone," etc. "so as to be present in Boston on one day or two days of the hearing when we can take my testimony if you see fit," etc.

Q. Now, you say this sentence in the letter is of assistance to you in enabling you to—

A. Recalling.

Q. —reach the conclusion or recall the fact that you were in Boston on the 13th and 14th—

A. That made me sure I—

Q. —of April?

A. But that was not sufficient, there was—

Q. Well, let's see if we can deal with this for the present.

A. Very well.

Q. And see how far it is sufficient or insufficient.

A. Yes.

Q. Were there any hearing in the matter?

A. Oh, dozens of them.

Q. I mean at this particular time?

A. It did not take place.

Q. Was the hearing to have taken place?

A. There was a hearing to have taken place either that week or the following week, and I wanted to know if he could take my testimony while I was in Boston.

Q. Did you go up to Boston to attend a hearing?

A. I did.

Q. On the 13th and 14th of April?

A. Not then, no, sir.

Q. You are writing inquiring when the hearing will be?

A. Yes, sir, asking if it would take place that week.

Q. Was the hearing that week?

A. No, it did not take place.

Q. Did the hearing take place on the 13th, 14th or 15th?

A. No, it did not.

By the Vice Chancellor:

Q. Did you go to Halifax?

A. I did not. In connection with that—it is a very simple affair—I keep a little book in which I put engagements, motions before Vice Chancellors, and in it is this "Meet Hill, Young's Hotel, one o'clock" on April 14th. That then recalls that I did go on the following Monday; now, if I went there I was to go

to Halifax, and I see I have made an engagement in Halifax the following Monday.

Q. But you did not go?

A. I did not go because the case—Mr. Hill, a classmate of mine had been swindled in a transaction with a Nova Scotia company and they found we were going to investigate and when I got there and had three hours' conversation they decided to dismiss it.

Q Where?

A. Boston.

Q. You did go to Boston?

A. Yes, sir.

Further cross-examination:

Q. But not for the matter referred to in this letter?

A. No, sir.

Q. And you did not go to Halifax as referred to in this letter?

A. No, sir.

Mr. Strong—You mean you went to Boston on your way to Halifax.

Witness—I was going to Boston to talk to Hill and then straight on to Halifax.

Q. Did you go to Halifax?

A. I did not, the case was settled.

Q. There were no hearings in Boston?

A. Either the hearings took place the following week or the week following that; I was in Boston every two weeks for eight months.

Q. On the 17th it says here "Halifax. Get local attorney for investigation."

A. That is what I was going to do.

Q. Would that indicate you had been in Halifax?

A. Not at all; merely that was an engagement in the future.

Q. That you were to keep?

A. If the other thing went on.

Q. On the 17th of April?

A. Yes, sir.

Q. There is just as much reason for assuming you were in Halifax—

A. Oh, no.

Q. Wait until I finish my question.

A. All right.

Q. There is just as much reason for assuming you were in Halifax on the 17th of April as there is for assuming you were in Boston on the 14th.

A. Not at all, because I met Mr. Hill.

Q Mr. Hill is the man who is dead?

A. Yes; he died about eighteen months ago.

Q. How long ago.

A. Eighteen months or two years.

Q. But when you came to tesitfy about this the first time you did not make any—

A. No, I did not recall this letter.

Q. You did not recall it?

A. No, sir.

Q. And the fact was charged against you just a few months after it occurred?

A. It was.

Q. If you were not in Washington on the 13th, 14th and 15th of April, 1905, you would not be interested in the hotel register down there would you?

A. I was not. By the way, in order to help you, if you wish, there are four or five letters written in my book there, on the 13th of April.

The Vice Chancellor—By you?

The Witness—By me, signed by me

Mr. Strong—In the letter book you mean which you have there?

The Witness—There in the book.

The Vice Chancellor—Suppose you point them out.

The Witness—I will point them out; there is one of them referred to in this note-book.

The Vice Chancellor—In the diary?

The Witness—Yes, sir. The first letter is to a man named Ashers on April 13th, 1905, and I find in my diary "Write Ashers."

The Vice Chancellor—What is that?

The Witness—The office diary.

By the Vice Chancellor:

Q. What is the entry?

A. "Write Ashers."

Q. Under date of what?

A. It means to write him on April 13th, and here is the letter.

Q. A business letter?

A. Yes, sir, written to Mr. Ashers, a gentleman who is postmaster of Philadelphia, and who jumped off a pier at Atlantic City last year.

Q. Is that letter signed by you?

A. Yes, sir.

Q. And that is a letter press copy?

A. Yes, sir. The letter press copy of the letter that was sent.

Q. And that is a letter press copy of your written signature?

A. Yes, sir.

The Vice Chancellor—Proceed.

Witness—That is one and I see here is another one also signed by me at the same time to John O. Wilson, a lawyer, of Camden.

Further cross-examination:

Q. There is no corresponding entry in the diary?

A. No, sir.

Mr. Strong—What date is that Wilson letter?

Witness—April 13th, 1905.

Mr. Strong—To whom is that written?

Witness—To John O. Wilson, a lawyer of Camden, at 314 Market street, probably sent up and delivered to him.

The Vice Chancellor—Signed by you?

Witness—Yes, sir. "I hereby return search"; it was something to do with a title.

The Vice Chancellor—Mr. Wilson is living now?

Witness—Yes, sir, a lawyer in Camden.

The Vice Chancellor—Proceed.

Witness—Here is another one, also signed by me, to the West Jersey Title Guarantee Company about a title the same day. Here is another one, written to the—well, I don't know whether he is the clerk or the register of deeds in Camden—Edward De Lacroix, "I herewith enclose," etc; that is signed by me. Here is one on the fourteenth. That is not signed by me. that is signed by Mr. Lippincott; that (indicating) is signed by Mr. Lippincott on the fourteenth; on the seventeenth, there is one which is signed by me.

Further cross-examination:

Q. There are no letters between the fourteenth and the seventeenth?

A. No, sir.

Q. Is that book, in which you have been finding letters, your regular office book?

A. Regular office press letter book.

Q. Kept in the office?

A. Kept in the office; taking copies of any letter written of importance.

Mr. Strong—Those letters occur consecutively, do they, on regular dates, right along?

Witness—Yes, sir.

Mr. Strong—With other letters previously on former dates?

Witness—Yes, sir.

The Vice Chancellor—You find no letters, you say, between between the fourteenth and seventeenth?

Witness—No, sir.

Mr. Strong—That is any signed by him?

Witness—Oh, yes, there are letters there.

The Vice Chancellor—Signed by you?

Witness—No, sir, by clerks in my office.

Q. There are two letters on the fourteenth?

A. They are signed by Mr. Lippincott.

Q. Two on the fourteenth signed by Mr. Lippincott?

A. Yes, sir.

Q. It is fair, of course, to you to say that the sixteenth was Sunday, and the fifteenth was on Saturday?

A. Yes, sir.

Q. So that there would naturally not be any letters on the sixteenth.

A. No, sir, and there would not be many on the fifteenth.

Q. Probably not many on March 15th, because it was on Saturday?

A. Yes, sir, because my office always closes at 12 o'clock on Saturday.

Q. You would have no interest therefore in this hotel register, down at Washington?

A. No, sir.

Mr. Strong—What do you mean by having no interest, Mr. Conboy?

Mr. Conboy—He knows what I mean, because he has answered the question, and has said "No."

Mr. Strong—When you accuse him of adultery in Washington on that day, of course, he has an interest.

Witness—I have an interest, of course, in the proof you are trying to make.

Q. You would not be interested in having the register taken away from the hotel, down there?

A. I certainly would not.

Q. You did not attend either of the examinations at Philadelphia at which Detective Busbey testified, did you?

A. No, the first one, I did not.

Q. Were you notified to attend the second one, for the purpose of enabling the detective to identify you?

A. I don't think I was. I was not home.

Q. Mr. Strong did not tell you a demand was made for your production?

A. I do not recall that he did, for I was not home from the Sunday before for eight days.

Q. You did not attend either of them, although they were held at Philadelphia?

A. I did not.

Q. Did you have a chauffeur in your employ named George Schaeffer?

A. Yes, sir, for ten or twelve weeks.

Q. During what time was he in your employ?

A. I would not be sure of the date, when first he became employed with me.

Q. He was employed in a rather peculiar manner. Mr. Turnbull and Mr. Mills, of England—

Mr. Strong—What year was that?

Witness—That was this last summer.

Q. Is that the time when Schaeffer was employed, last summer?

A. Yes, sir, he was employed by me—I promised these two gentlemen, who had entertained me many times abroad, that if they came to this country I would try to show them some of the country, and I got a letter from either Mr. Mills or Mr. Turnbull saying they were coming over, so I tried to hire an automobile, not owning one for a few weeks while they were over here, but I found it so expensive, and was told by a man who knew something about automobiles that I could buy a second-hand automobile at a low price, and when through with it sell it, and I would not lose much money. So when I found they were coming, I bought a second-hand automobile in New York and hired this young man you are talking about—George Schaeffer.

Q. I am asking when you acquired this automobile or started to employ this young man Schaeffer?

A. I don't know, I think it was some time about the first of last April. I am sure.

Q. This gentleman, Mr. Mills, is the fiancee of Miss Vanderpool, is he not?

A. Yes, sir.

Q. He is the gentleman who is going to marry Miss Vanderpool?

A. Yes, sir; he is engaged to her, and has been for a couple of years.

Q. During what month and for what period of time did Schaeffer work for you?

A. My impression is that—I could not give you the date now, but I think these gentlemen arrived here some time in May. I am not sure just what date. I had the car before that, for they were coming at first in the first part of April, and they could not come, and then I met them when they arrived.

Q. As a matter of fact you employed him as early as March of last year, didn't you ?

A. I do not think so; I am not sure about the date.

Q. Do you remember that the first trip you took with the car was down to Atlantic City, you and Mrs. Vanderpool?

A. No, sir.

Q. You do not remember that?

A. No, I did not do anything of the kind.

Q. Do you know when Schaeffer left you?

A. Schaeffer left me about—when these gentlemen left. I think it was about the middle of August.

Q. Who did he go to work for then?

A. Mrs. Vanderpool.

Q. Who paid him?

A. Mrs. Vanderpool.

Q. Didn't you pay him?

A. I did not.

Q. He went to work for Mrs. Vanderpool, and in

the fall of that year they went down to Washington, didn't they?

A. Now I cannot tell you; they went some time in September, I think.

Q. And they opened a house on Massachusetts avenue.

A. They went down to prepare for renting.

Q. But they opened a house and lived in a house on Massachusetts avenue?

A. I don't know if they lived there. They were there for a while.

Q. You were quite friendly with Mrs. Vanderpool?

A. Oh, yes; very friendly.

Q. You know where she lived in Washington?

A. I do not recall she was living there. She went there to prepare a house for residence.

Q. Do you know when she went there?

A. Some time in September, I think.

Q. The young man who had been driving the car for you drove Mrs. Vanderpool's car in Washington?

A. Yes, sir; he was her chauffer.

Q. The car you got to entertain these gentlemen who came over from Washington, was traded in the car Mrs. Vanderpool got?

A. I sold the car. Mr. Mills wanted her to buy the car and I sold it to Mrs. Vanderpool just as soon as they went.

Q. Do you know a woman named Jennie Ford?

A. No, I do not.

Q. Did you ever hear of a woman named Mrs. Beatrice McNamarra?

A. Never.

Q. You don't know her?

A. I do not.

Q. You know George Schaeffer was suppœnaed at the last hearing of this matter?

A. I did not.

Q. You never heard of that before?

A. I did not.

Q. What were you doing up around the place where George Schaeffer lived on the last day this hearing was to have taken place before the Vice Chancellor?

A. I do not know I was anywhere near where he lived—where do you refer to, 160th street?

Q. Why do you think I refer to that?—

A. Very well. I was up there looking up a lady as a witness to the case. Mr. Strong had received an annonymous letter making certain charges against Mrs. Dudley, and I was up there looking for her.

Q. Did you find her?

A. I did afterwards.

Q. Did you find her that day?

A. No.

Q. Now Schaeffer went away. Do you know where he went to?

A. He went west.

Q. Oh, he went west, did he?

A. Yes, sir.

Q. Where did he go?

A. I think he went to Australia.

Q. Went where?

A. That is where he said he was going.

Q. Australia?

A. He told me he expected to go to Australia.

Q. Did he tell you he had been subpœnaed?

A. No, he did not.

Q. He did not say anything about that.

A. He did not tell me that, no.

Q. Did he tell you why he was going to Australia?

A. I do not know why.

Q. Try and think.

A. Very well, first of all he had a place in the West—I have nothing to conceal about George Schaeffer—he said he wanted to go out West, he asked me to try and get him a place. He was in Philadelphia again and again for two months.

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Mr. Strong—Who are you referring to now?

Witness—This chauffeur.

Mr. Strong—When?

Witness—What?

Mr. Strong—Well, it is not my time for examamination.

Witness—The chauffeur, George Schaeffer.

Mr. Strong—I ask you when.

Mr. Comboy—Suppose you answer my question, and we will give Mr. Strong an opportunity to ask his own when I get through.

Mr. Strong—That is of course proper.

Q. Now, will you tell me how you happened to know he was going out to Australia?

A. Because he notified me he was.

Q. Oh, he did?

A. Yes.

Q. How did he notify you?

A. He sent me a telegram, he hoped to go to Australia. This boy—I thought I had a letter here.

Q. Now look carefully and see if you have anything at all that would enable you to—

A. Well, I have a letter somewhere from him, written six weeks ago.

Q. Where was he then?

A. New York.

Q. Yes?

A. Asking me to get him a place. I promised to try and get him a place, and he seemed to have a great deal of difficulty about it, and I gave him letters to the Packard Company and the Pierce Arrow Company, the Hudson Company and nearly all the companies I knew of, recommending him highly as a good engineer, and he could not get a position; he had during the—first of March, no, about the middle of February, said that he had an offer of a place in San Francisco, and he only had seventy-five dollars, and asked me to try and get him a passage on the Pennsylvania Railroad, a ticket;

I went to the Pennsylvania Railroad and I could not get any reduction there, the interstate commerce law prevented it, and then I said, "George"—he came over to see me, and I said, "George, I will help you get out there if you are sure you will get a position, but you will get stranded out there," and finally he said he could not get there, and I said, "Well, I will loan you some of the money to get there."

Q. When did you loan him the money?

A. Yes. I loaned him money lots of times.

Q. When did you loan him money on this particular occasion to enable him to get out West?

A. I do not remember the date, but I think it was—I don't think I can fix a date?

Q. See if you can fix it with reference to March 14th, when the hearing was set down before his Honor here, and we did not go on.

A. Oh, I promised to help him long before that.

Q. When did you give him the money to go away?

A. I bought him a ticket; he had money himself.

Q. When did you buy him that ticket?

A. I should think somewhere about the first of March, I would not be sure of the date.

Q. Did you buy it about the day when he went West—you would not buy the ticket in advance of his going West?

A. No, it was at the time he wanted to go.

Q. Don't you know that he went West just about the time that this examination was to have been held here in the court room?

A. No, I really do not know anything about that, in regard to the examination, because I did not know anything about his being subpœnaed; he would not have been apt to have told me, if he was going to try to borrow money of me, because I would not have loaned it to him.

Q. Would you be good enough to tell me what you are referring to now?

A. I was just looking to see—I have been carrying a lot of letters around in my pocket. Yes, there is a letter from him; now that is March 5th.

Q. Yes?

Mr. Strong—Is that a letter from Schaeffer?

Witness—Yes, about his being unable to locate a position as yet. "Find things pretty slow at present, I have been to every one I know."

Q. Have you received any communication from him since that time?

A. Only the one.

Q. Which one was that?

A. He cabled—I wish I had got it, I didn't think anything about it at all—"Going to Australia with a moving picture show."

Q. Can you tell me now, with any degree of definiteness, when it was you furnished him with transportation out to—

A. Yes, I think I can from this, it may be a little guess work; March 5th, if I knew the day of March 5th, it was on Monday, I think, or the Saturday or Monday after that, either the Saturday or Monday after March 5th, whatever that is.

The Vice Chancellor—March 5th was on Wednesday.

The Witness—Then it was either the Saturday or Monday after that.

Mr. Strong—The 5th was on Wednesday.

Witness—Yes, I think so. This is the only letter I have from him. I have been expecting to hear from him.

Q. Saturday would have been the 8th and Monday the 10th of March?

A. Well, if that is right, I don't know.

Q. When did you provide him with transportation?

A. Either Saturday or Monday, I don't know which, Mr. Comboy?

Q. You say you have been expecting to hear from him?

A. I have, I did not hear from him; that is the only letter I have had from him; I supposed he would write and he merely sent me telegrams.

Q. You have not heard from him since then?

A. No, sir; I have been expecting every day to hear where he has gone; I took an interest in the boy.

Q. Where did you furnish him transportation to in California?

A. San Francisco.

Q. Whereabouts?

A. Well, I don't remember exactly, San Francisco, I think; he went and bought the ticket himself at the station.

Q. But you gave him the money?

A. I gave him the money to buy it.

Q. You do not know when he left?

A. I don't know whether I ever saw the ticket.

Q. You don't know whether you saw him after that?

A. No, I never saw him after that.

Q. Do you remember writing a letter, on the stationery of the Union League Club, of Philadelphia, under date of March 17th, 1913, to George?

A. I do not remember.

Q. What?

A. I do not remember it.

Q. Let us see if these statements in the letter will refresh your recollection?

Mr. Strong—You had better show him the letter.

Mr. Comboy—When we get the letter we will show it to him, but for the present I am asking him whether these statements are contained in the letter he wrote.

Mr. Strong—You are referring to a letter; if you want him to identify anything in the letter you will have to show it to him—so I submit to the Court.

The Vice Chancellor—As I heard the question it was directed towards bringing out from the witness the contents of a document which is not produced, not shown to the witness, and which is not shown to have been lost, or to be inaccessible.

Mr. Strong—But which is, in fact, in counsel's hand; I can see it.

The Vice Chancellor—Counsel has the advantage of the Court in seeing what is not visible to the Court.

Mr. Comboy—I think I can test the recollection of the witness on this point.

The Vice Chancellor—I do not think that is the proper method. Statements made by a witness who is a party to the suit, of course, are competent, the only question is whether he made such a statement and the proper way is to identify the letter by the witness or some other person.

Mr. Comboy—Then, we have this application to make, in view of this condition, and the objection of counsel.

We subpœnaed this chauffeur, George Schaeffer, for attendance before this Court on the 14th day of March, 1913, the day on which your Honor was ill, and under the advice of your physician could not attend here. The chauffeur did not appear. Mr. Carpenter went up to the house, the address the chauffeur had given him in New York to ascertain why the chauffeur had not appeared. He called at the house and was informed that the chauffeur was away. He met Mr. Dudley in the street in the neighborhood.

Mr. Dudley—Met me?

Mr. Comboy—Yes, saw you on the street in the neighborhood.

Mr. Dudley—Well.

Mr. Comboy—We than received a telegram requesting us to communicate with the chauffeur at Los Angeles, California, and by correspondence, by a day letter to a client of ours out there, a respectable firm in Los Angeles, without giving them any particulars in regard to the matter at all asked them to call on the man at the address stated and ascertain why he had not obeyed the subpœna served on him, and thereupon we received their communication that this chauffeur had been furnished with money by Mr. Dudley, after the subpœna had been showed on him, to go out to California, to Los Angeles—

Mr. Strong—Let me say just here, that if counsel is making an application and basing it upon something, that something ought to be evidenced by something tangible, rather than a mere statement, and we ought to have had notice of this before, as we had notice of some other matters. I do not know why he should rise here in the middle of this cross-examination and make all these statements supposed to be facts, and say he is going to base a motion on that, which is not disclosed—

Mr. Comboy—I will disclose it if you will give me an opportunity.

Mr. Strong—I say in advance of that you gave me no notice of any motion and served me no affidavits on which to base any motion, and therefore it is irregular.

Mr. Comboy—I cannot follow you gentlemen as fast as you move, and I have to take things as they come, and if your client has been sending a witness subpœnaed in this court out of the jurisdiction providing him with funds, and taking him away, we must take the information that comes to us.

I am going to tell you all I know about it if

you give me the opportunity, and I want to tell the Court all I know about it.

The Vice Chancellor—The trouble seems to be there is nothing before the Court that justifies the colloquy or these long statements. If an application is to be made, the proper course is to acquaint the Court with what the motion is.

Mr. Conboy—It is an application for the suspension of this cross-examination until we can bring this man Schaeffer back from Los Angeles and produce the letters he received from this man, and state the circumstances under which he went out of the jurisdiction of this Court while under the subpœna of this Court.

The Vice Chancellor—Proceed with your examination and then you may make the application, which properly should be based upon affidavits, and if you show a proper case for the holding open of this cross-examination on account of a charge of proof, that a witness who is a party to this litigation, has sent witnesses out of this State, the Court will hear you and act upon what you present, but there is no reason why we should have this interruption now.

Go on with the cross-examination.

Mr. Conroy—The reason I am making this application at this time is in view of the difficulty I have met with in prosecuting the cross-examination with respect to the contents of communication sent by the defendant who is now on the stand to the witness who did not obey the subpœna of this Court.

The Vice Chancellor—Finish your cross-examination on all other topics and then present the matter.

I think counsel is acting fairly and openly

in acquainting the Court and opposing counsel at the earliest possible moment with the fact that he will make this application, and all the parties interested are thus notified.

Now proceed with your cross-examination as far as you can.

Mr. Strong—Your Honor has said that we are notified; I trust we shall have some further and more definite notice, and something to base the notice on.

The Vice Chancellor—I have not intimated the matter can be heard informally; on the contrary, I have said it should be presented in formal shape, as counsel can easily do.

Q. The car that you purchased at the time you hired Schaeffer was a second-hand Hudson car, was it not?

A. It was.

Q. Didn't you tell Schaeffer that you were buying the car for Mrs. Vanderpool?

A. No, indeed, I did not.

Q. Didn't Schaeffer get the job on the recommendation of Mrs. Vanderpool's son, Floyd?

A. Not at all.

Q. Didn't Mrs. Vanderpool's son Floyd recommend the purchase of the car?

A. I can't recollect that; I saw an advertisement and went to see the car.

Q. Don't you remember having driven down to Atlantic City with Mrs. Vanderpool and the chauffeur in this car on the 19th of March, last year?

A. I don't remember that.

Q. And stopping for lunch at Freehold?

A. I do not.

Q. Don't you remember you started from New York about eleven o'clock in the morning and arrived in Atlantic City about seven o'clock in the evening?

A. Why, no.

Q. Don't you remember you stopped at 225 Seaside avenue, the cottage of Mrs. Vanderpool?

A. No, I don't recall that; I may have.

Q. You may have stopped there?

A. Not on that occasion; I meant I may have stopped there.

Q. That is where Mrs. Vanderpool had a cottage at Atlantic City?

A. No, she has no cottage there now, and I do not recollect that she had then?

Q. How long is it since she had a cottage there?

A. I really do not know there?

Q. Why do you say she has not a cottage there now?

A. Well, I know she has not got a cottage there now.

Q. She had it there this last Christmas?

A. No, she had not; I think her sister had.

Q. Oh, her sister?

A. Yes, sir.

Mr. Strong—I do not want to object to any part of this, if your Honor thinks anything that took place in the summer of last year is relevant.

The Vice Chancellor—I have been waiting to hear an objection based on that suggestion.

Mr. Strong—If your Honor wants to hear it, I have not the slightest objection to have the fullest explanation of it from Mr. Dudley, but if it is irrelevant it seems to me it ought to be stopped.

The Vice Chancellor—What was the time of the employment of this chauffeur?

Mr. Strong—During last summer sometime.

The Vice Chancellor—When first?

Mr. Strong—About April first, I think he says

Mr. Dudley—I do not remember the date.

The Vice Chancellor—What is the relevancy of it? I have been looking at the pleadings in order to see what charge on the part of Mrs. Dudley could be sus-

tained by the evidence of a chauffeur who seems not to have had any connections with the parties, and could not have known anything about them until April, 1912. I have just found the cross-petition and I do not find any charge that Mrs. Vanderpool, after 1905—

Mr. Conboy—Of course we could not charge it after the suit was started and practically during the actual progress of the trial.

Mr. Strong—Do you want to amend your pleadings so as to charge it as occurring last year?

Mr. Conboy—I am going to answer the court's question.

The reason I want to show it is this, to show the continued intimate relations between this defendant and Mrs. Vanderpool, continuing practically down to the date of this trial. We want to show, further, the situation down in Washington at the time the book was purloined from the Raleigh Hotel, the hotel register, we want to show further that Mr Dudley according to the information presented to us provided the chauffeur with funds to go away with and the chauffeur went away and that Mr. Dudley endeavored to have the chauffeur communicate with him for the purpose of showing that the disappearance was without the knowledge of Mr. Dudley, and suggested that he write a communication, a copy of which was enclosed by Mr. Dudley in the letter he sent to the chauffeur for the purpose of having that sent back by him in the same way, so that it might be exhibited to the Court.

Those are the facts that we want to show by this cross-examination.

Vice Chancellor—Have you any objection, Mr. Strong?

Mr. Strong—If your Honor thinks it at all relevant. The objection that comes in my mind is that it has nothing to do with the case. All the charges on either side go back to 1905, and there has been no pleading

filed that relates to anything earlier than 1905, or in fact—

Vice Chancellor—I have been looking at the cross-petition and there is a charge of adultery in the years 1907, 1908, 1909 and 1910, up to the 20th day of May—

Mr Strong—I lost sight of that perhaps.

Vice Chancellor—at Saugerties on the Hudson, at various hotels in the State of Florida, etc. Nothing later than that.

Mr. Strong—No, nothing later than that, and I had forgotten there was anything as late as that.

Vice Chancellor—Mr. Conboy suggests that the ultimate object he has in view is to get the testimony of this chauffeur, Schaeffer, to relations between the parties in the summer of 1912 as evidence of what the relations were in 1910, the last date in the cross-petition.

Mr. Strong—Does your Honor consider it would be legitimate?

The Vice Chancellor—I think it has been decided in this State that such evidence is competent in a divorce suit.

Mr. Strong—Assuming that they had something else, something that relates to the direct charge or to the charge itself, in issue. They have no such testimony, and they do not pretend they have, but they are going to introduce testimony, or try to, of intimacy, association, in 1912, two years after the thing happened, which they say happened. It may be if they had given some direct evidence or some evidence having a bearing on the alleged time, that a continuance of relations would be admissible; I am not questioning that; but here your Honor sees they have not offered any evidence, there is not anything in the case that the wildest imagination can say is proof of anything occurring in 1910 or after 1905, as to Mrs. Vanderpool. Now then to say they can endeavor to make that entire charge, to make the entire evidence of that charge, out of some-

thing that occurred in 1912 seems to me to be altogether beyond any reasonable suggestion.

The Vice Chancelor—My recollection of the probative force of the evidence so far presented to sustain the charge of adultery by Mr. Dudley with Mrs Vanderpool during the period covered by the cross-petition is quite vague. There is an enormous mass of testimony in the case, and I do not pretend to be able to carry it in my mind.

Perhaps, Mr. Conboy, you might state what your view is as to the admissibility of this evidence on the ground that you have stated and which the court regards as a good ground. That is to say, you propose to show by the chauffeur, conduct between Mr. Dudley and Mrs. Vanderpool in 1912, which tends to sustain the charge of adultery during the years from 1905 down to 1910. Of course there is no use wasting time in going through this cross-examination and probing into the question of whether Mr Dudley has sent this witness out of the State, if all that can be proved by him is simply the corroboration of a charge that is without foundation. I do not say that the charge is without foundation and I rule now that the testimony is admissible as corroborative of a charge, and I therefore would like to know what is the real charge which is based upon sufficient testimony to make it proper to go to all this labor and expenditure of time, in order to get in corroboration. That is the point on which I would like to hear you.

Mr. Conboy—The main charge of which we have endeavored to, and will endeavor to, convince your Honor, is this, that there was adultery committed in the Raleigh Hotel, in Washington, in 1905. As to the actual commission of adultery in 1910, I cannot say that we have any intimation, or rather any proof, of the commission—any proof that we can produce before this court of the actual commisson of any offense during the year 1910. I do say that the conduct of the

parties during the year just past, as would be established by the evidence of this man, who first drove Mr. Dudley and then drove Mrs. Vanderpool continuously for a period of eleven months—that his evidence would show to your Honor that there was an intimate relation existing between these parties during that entire year.

The Vice Chancellor—That can only be put in as corroborative evidence, it is admissable as corroborative evidence of the charge made in your cross petition.

Mr. Conboy—Yes, your Honor.

The Vice Chancellor—There is no use of corroboration if the charge itself is without foundation. Corroboration necessarily implies that there is a fact, I might say not a proved fact, but a fact—a *probandum factum* established, which evidence is produced in corroboration of. But objection is made that the Court ought not to receive the corroboration when the testimony does not sustain the main charge, does not show the charge itself has any substance. The question is this, if you get this testimony from the chauffeur, take an extreme case, suppose you prove by him and others the most intimate relations between Mr. Dudley and this lady during the summer of 1912; suppose you actually proved adulterous intercourse, that they lived together during that period, can that be taken as corroborative evidence of a charge of adultery in a hotel in Washington on April 13th, 1905?

Mr. Conboy—Yes, for this reason, that at the time when this condition was continuing these parties were preparing to take the evidence out of the hotel in Washington which proved the fact of the commission of adultery there, and that is what I want to get at.

The Vice Chancellor—Then, first of all, you should prove by evidence that these parties destroyed the hotel register, should you not?

Mr. Conboy—Oh, yes, your Honor, I should do that; I should do that,of course.

Mr. Strong—You should, of course, have something on which to base these wild charges.

Mr. Conboy—Every time I try to get any person, that person is rushed away; witnesses are sent out of the jurisdiction, money is laviously expended for the purpose of frustrating the ends of justice, money is laviously expended for the purpose of suppressing testimony, and when all this is done, and when every obstacle that means can create is placed in the way of arriving at the truth, I think the Court ought to bear with me in my endeavor to reach the bottom of this case.

Mr. Strong—I have the right to call on counsel to offer some substantiation of the charges he has made.

Mr. Conboy—I will.

Mr. Strong—That should be done before we go any further, and I ask your Honor to compel him to do so.

Mr. Conboy—I conducted an examination in Washington that lasted the greater part of a week.

Mr. Strong—Give us some affidavit of yourself or others for these outrageous charges.

Mr. Conboy—We had this man actually subpœnæd before this court for the purpose of establishing facts in connection with this transaction, but this witness has been sent away.

The Vice Chancellor—Even the fact the witness was subpœnæd to appear before this court, is not proven here. If Mr. Carpenter subpœnæd him he can make an affidavit to that effect.

Mr. Carpenter (handing a paper to the Court)—Here is the subpœna and an affidavit. I offer it in evidence.

The Vice Chancellor—This is the first piece of evidence that has been offered to sustain any of these charges.

As I said a little while ago, the Court will give you abundant opportunity to cross-examine this witness effectively, and especially to relieve your case from the evil effect of any wrongful conduct on the part of the

defendant in spiriting witnesses away. There is no question about the action of the Court if you should invoke the aid of the Court in the right way.

Now go on with your cross-examination of Mr. Dudley.

Mr. Conboy—I have no cross-examination of Mr. Dudley that has relation to the matters he testified to at the last hearing except insofar as that cross-examination deals with transactions that occurred during the last year bearing upon the matter which I have referred your Honor to, and I would, therefore, as far as I am concerned, save the time of the Court by making an application upon a fact that only culminated this morning, for the purpose of enabling me to secure here the attendance of the man who was sent out to California with the letters that were written to him, and the information he has on the subject, rather than to take up the time of the Court with a useless cross-examination of this man, who, if the facts be true, who, if it be a fact that he did send the witness out of the jurisdiction of the court and attempted to create a fictitious state of facts with respect to the absence of that witness—that man's testimony is so far impeached that cross-examination of him is useless.

The Vice Chancellor—Mr. Conboy, do you conclude for the present this examination?

Mr. Comboy—I conclude for the present this cross-examination for the purpose of enabling me to make this application to the court to bring this witness on from California.

The Vice Chancellor—Is there anything further on the direct?

Mr. Strong—I will proceed with Mr. Dudley's re-direct examination.

Re-direct examination, by Mr. Strong:

Q. Mr. Dudley, you were asked about your purchase and use of an automobile last year ?

A. Yes, sir.

Q. And you told us in part about it. These gentlemen whom you entertained—

A. Mr. Turnbull and Mr. Mills.

Q. Yes—had you met them previously the last year?

A. Oh, I have known Mr. Mills since 1873, when I was in Liverpool as Vice Counsel. Then I did not see him again until about six or eight years ago.

Q. You did see him then, did you ?

A. Yes, and I have seen him quite often when I have been over there.

Q. Were you entertained by him in England when you were abroad?

A. Yes, sir.

Q. And knew him well?

A. Yes, sir.

Q. Who is Mr. Turnbull?

A. A cousin of Mr. Mills, a Scotch cousin, a gentleman about sixty-seven years old, and also a cousin of Mrs. Vanderpool.

Q. Had you known him in England?

A. I had known him in England and over here.

The Vice Chancellor—Which of these gentlemen did you say was engaged to Miss Vanderpool?

Witness—Mr. Mills, William Stewart Mills.

Q. And you knew of that engagement prior to last year?

A. I have known of it for two years.

Q. These gentlemen were coming to this country last year?

A. Yes, sir.

Q. And you set out to entertain them?

A. I tried to.

Q. By means of an automobile?

A. Yes, sir; I drove them about four thousand miles.

Q. You purchased an automobile for that purpose?

A. I purchased a second-hand automobile.

Q. What did you give for it, by the way?

A. I gave, my recollection is, $1,300.

Q. How long did you use it?

A. I used it, as I recall, they were here about twelve weeks.

Q. During that time were you with them?

A. I was off and on with them; I took them to Atlantic City and left them there, and left the car for their use, went to my office for a week. Then Mrs. Vanderpool opened here house for them in the country; I took them to Philadelphia and kept them there three or four days, these two gentlemen, and motored them around Pennsylvania a little; then I motored them up to New York and kept them at the Manhattan Club for three or four days and finally went up the Hudson and stopped at Meadowside, Saugerties, I think.

Q. That is Mrs. Vanderpool's country place?

A. Yes, sir.

Q. And you went up there with these two gentlemen?

A. Yes, sir, and she had quite a number of other people to meet them, her house was full, and I stayed two or three days and then came home again and left the car there and the chauffeur for them to go around the country. I saw them again and ran them up to Lake George, Saratogo, Lake Champlain, the Adirondacks, up toward Montreal and across the Green Mountains, and on down the Massachusetts coast to Boston and Newport, and then came back with them to Saugerties, and then afterwards took them through the Lenox and Berkshire Hills.

Q. You were at Meadowside in company of this fiancee of Mrs. Vanderpool?

A. Yes, sir. quite often; he is quite a friend of mine.

Q. You used the car from about April until—

A. Whatever the date was, Mr. Conboy said it was March. I don't know whether I got it in March. It seems to me perhaps I did. They postponed their com-

ing for two or three weeks, and I think I got it a little ahead of time.

Q. You placed the car at the disposal of these gentlemen?

A. Yes, sir, absolutely.

Q. And went with them yourself occasionally.

A. Yes, sir, took them about, and tried to entertain them.

Q. What became of the car?

A. I sold that car just before they went back to Europe at the suggestion of Mr. Mills.

Q. What did you get for the car?

A. $800.

Q. It cost you $1,300?

A. I sold it for $800.

Q. You used it for several months and sold it for $800 to Mrs. Vanderpool?

A. Yes, sir; I ran it over four thousand miles.

Q. This man Schaeffer was the chauffer during that time?

A. Yes, sir, he was my chauffer and he then became Mrs. Vanderpool's chauffer. We supposed him to be a very straightforward young man.

The affidavit filed the other day by Mr. Carpenter mentioned Mr. Davis as a witness here; I called up Mr. Davis and asked him if he would kindly write me a letter telling me what he remembered about the dealings concerning the automobile.

Q. Who was he?

A. He is one of the firm of Forsythe and Davis, agents for the Hudson car at Kingston. I did not know if it had any reference to this case of mine, but I asked him to write a letter and he wrote it.

Q. You are referring to the motion to take his testimony?

A. Yes, sir.

Q. Did you get a letter from him stating what he thought he knew about it?

A. Yes, sir. Telling the whole thing.

Q. You have it there in your hands?

A. Yes, sir.

Mr. Strong—I do not suppose that is evidence—

The Vice Chancellor—Proceed.

Mr. Strong—That is all I have to ask.

Re-cross examination, by Mr. Conboy:

Q. Do you remember that these gentlemen came here to New York on the 18th day of May?

A. That they arrived on the 18th of May?

Q. Yes.

A. Possible they did somewhere along there.

Q. Don't you remember you had the automobile for two months before they got there?

A. As I just said, I think they wrote they were coming three or four weeks before, and I got it ahead of the time.

Q. You had it actually two months before they got here?

A. I do not remember it was as long as that, I had it some time before they arrived, I got it for that purpose.

Q. Had you ever ridden in the automobile before you used it for their benefit?

A. You mean when I owned it?

Q. Yes.

A. Well, I have forgotten that; it is so immaterial, I don't know whether I did or not.

Q. Did you ever ride in it before you paid for it?

A. I think I did.

Q. Did you ride in it after you paid for it, and before these gentlemen came here?

A. Oh, yes, several times.

Q. Where did you keep it?

A. I think I had it in Philadelphia for a while and I think I loaned it to Mrs. Vanderpool in Atlantic City.

Q. Did you ever ride in it with Mrs. Vanderpool?

A. Oh, I have ridden in it with her.

Q. Before these gentlemen came here?

A. Certainly.

Q. Did you ever go down to Atlantic City with her in it?

A. I do not recall doing that, excepting the time the gentlemen went.

Q. Before these gentlemen came I am referring to now; were you ever down to Atlantic City riding in the car with her?

A. Oh, in Atlantic City, yes, sir.

Q. Did you ever ride down to Atlantic City in the car with her?

A. Yes, with these two gentlemen.

Q. Before they came?

A. I could not—I really do not know it is so immaterial.

Q. Now do not let us characterize it in any way; just answer the question and tell me whether you did or not.

A. I do not know, I really cannot recall.

Q. What became of the automobile?

A. The one Mrs. Vanderpool bought?

Q. Yes.

A. I think she has it in storage.

Q. Where abouts?

A. You will have to ask her, I do not know; I can find out for you.

Q. Is it in storage in Philadelphia?

A. She sent it to be repaired with them in Philadelphia, but whether it has gone to her place or not I do not know.

Q. She lived in Saugerties?

A. Yes, that is her home.

Q. You think it is in storage?

A. I do not know; she sent it to the Hudson people to be repaired.

Q. Do you know the Express and Storage Warehouse Company of Atlantic City?

A. No, I do not.

Q. You never heard of one over there?

A. An automobile place?

Q. Any storage warehouse?

A. Oh, lots of them.

Q. Did you have any transactions with them over there?

A. Where?

Q. Over in Atlantic City?

A. Oh, I had several—I have a good many clients down there.

Q. Were you down at Mrs. Vanderpool's house at Christmas time last year?

A. I think I was but I am not sure.

Q. Don't you know for sure whether you were there or not?

A. No, I really do not.

Q. That does not make any impression on your mind?

A. It has not made any particular impression on my mind.

Q. After Mrs. Vanderpool bought the machine did you have any more rides in it?

A. This is the new one?

Q. Yes, this new one.

A. Oh, yes, I have had quite a number; she had it at Atlantic City.

Q. You were down at Atlantic City?

A. When I went down there I went to consult there while this case has been going on lots of times, and she would send George to meet me at the station and take me up there.

Q. You went down there about every week and stayed from Saturday to Monday?

A. Oh, I did not, no, I went to the house quite often but generally for lunch or dinner.

Q. Where did you stop when you went down there?

A. Generally I did not stop over night, but just went down and came back at night.

Q. Suppose you did stop over night, where did you stop?

A. At the Shelborne.

Q. Did you ever stop at Mrs. Vanderpool's cottage?

A. I have.

Q. During the period of time I am referring to, when she had this automobile?

A. I think I did two or three times; her sister's cottage you mean, I suppose?

Q. I don't know whose cottage it is.

A. I think it is her sister's; I really do not know.

Q. Anyway it is the cottage where she lived when she was at Atlantic City?

A. Yes, sir.

Q. That is the place you used to visit?

A. Yes, sir—when she went there.

Q. Do you remember when this man Schaeffer was discharged?

A. Oh, I do not think he was discharged.

Q. Or there was no further work for him?

A. No I cannot tell you that.

Q. Do you remember when the car was put up for the season?

A. Yes.

Q. When was that?

A. I could not tell you.

Q. While it was down in Philadelphia?

A. When he brought it to Philadelphia?

Q. Brought it to Philadelphia and put it up there.

A. It was taken there to be repaired.

Q. In whose name was it put up there?

A. In Mrs. Vanderpool's.

Q. It was not put up in your name there?

A. No, because I do not own it.

Q. Well, all right. Do you remember having this man Schaeffer go around to the Union League Club and meet you?

A. Oh, lots of times.

Q. And have you paid him off?

A. I do not remember that.

Q. You told him you would procure another position for him?

A. I tried to, yes, sir.

Q. What was your reason for providing him with transportation to California?

A. Only out of pure kindness, to avoid trouble with his friends.

Q. What trouble was he in?

A. With very little money left, he could not get a position.

Q. What distress was he in?

A. Considerable, facing poverty.

Q. He had no money or position, and you provided him with money to go out West, is that it?

A. I did; I loaned him some money to go out.

Q. How much money did you loan him?

A. I could not tell you exactly; I think I got him his ticket and loaned him $50.

Q. How much did his ticket amount to?

A. I could not tell you, $70 or $80.

Q. So that you loaned him about $120 or $130?

A. I should think it was at least $140 or $150.

Q. Did you send him any money after he got out there?

A. $50.

Q. How did you send that?

A. He lost his clothes.

Q. He lost his clothes?

A. So he said.

Q. How did you send him that money?

A. I do not know, I do not remember whether I telegraphed it to him—

Q. You telegraphed it to him?

A. I say, I do not know whether I telegraphed it to him or not.

Q. So that, all told, you expended on this young

man, in whom you had no other interest, excepting to save him from trouble and distress—

A. Absolutely.

Q. —from $150 to $220.

A. Yes, sir.

Q. You provided him transportation money and expenses to get out to California, and $50 because he told you he had lost his clothes?

A. Yes, sir.

Q. Did he tell you how he lost his clothes?

A. No.

Q. He didn't tell you he went away from New York in such quick order that he didn't have time to gather his clothes up, did he?

A. I do not remember.

Q. You do not remember whether he told you that or not?

A. I have never received a letter from him since; all the information I got was only from the telegrams and one telephone call.

Q. You had not been his employer for almost a year, had you?

A. No, I had not, I was his employer for about twelve weeks.

Q. And during all the rest of the time he had been employed by Mrs. Vanderpool?

A. Yes, sir.

Q. And paid by Mrs. Vanderpool?

A. Absolutely.

Q. And in her service?

A. In her service.

Q. Did he go to Mrs. Vanderpool to get this money?

A. No, I don't think he did.

Mr. Strong—Do you know?

Mr. Conboy—He says he does not think he did.

Witness—I do not know about it.

Q. You do not know whether he went to Mrs. Vanderpool or not?

A. I don't know whether he went to her.

Q. You know he came to you to get sympathetic aid?

A. I do.

Q. To the extent of $140 or $150?

A. I tried to persuade him not to be foolish enough to go West, because I thought he would be stranded.

Q. You gave him the money to get out there?

A. I certainly would not have given him any money if I had known he was false and a traitor.

Q. Do you think he is a traitor now?

A. Apparently.

Q. In other words you think he has told stories about you?

A. Told falsehoods.

Q. How do you know he has told falsehoods?

A. I am only surmising it from what you have said.

Q. You do not know what he has told us?

A. I don't know anything about it, no.

Q. And you are not interested, of course, in keeping him away?

A. No, I wish he would come back.

Q. You would like to have him here?

A. I would, indeed.

Q. Would you pay his carfare back?

A. No, I would not give him anything.

Q. You paid him carfare to get him away?

A. Yes, to get work.

Q. What work was he going to get ?

A. He said he was going as chauffeur.

Q. I thought you said he was going with a moving picture concern.

A. That is a telegram I got only a little while ago, saying he was sailing for Australia with a moving-picture show.

Q. Did you send him any money in response to that telegram.

A. No, sir.

Q. How did he get money to go out there?

A. I don't know.

Q. What interest had you to know that he was going to Australia with a moving-picture show?

A. Well, if you exactly want to know, the young man had started in I think to try and blackmail me; I have not said anything about it before, I did not want to bring it up.

Q. And in the course of his blackmailing he has been making demands upon you for money?

A. By telegram.

Q. Did he blackmail you for $150.

A. No, I gave him that out of kindness.

Q. When did he start to blackmail you?

A. Since he has been out West.

Q. How long ago?

A. Oh, I don't know. If I had thought of it I would have brought those telegrams.

Q. How many telegrams did you get from him?

A. I got them pretty nearly every day.

Q. I thought you said you had one communication from him.

A. I said I had no letter from him at all.

Q. You said you had one telegram from him.

A. I said I had the one I referred to, I have had others.

Q. Now you say you have had others in addition to that?

A. Yes, sir; I did not want—

Q. Did you give him this $50 on account of lost clothes because he was blackmailing you?

A. No, sir.

Q. Had he started to blackmail you then?

A. No, sir.

Q. How long ago was that?

A. That was when he got to Chicago, I think it was.

Q. Did he tell you how he lost his clothes?

A. No, he did not; I don't think so. If you want to know, I will tell you something; I did not want to

expose the young man, or anything of that kind. He came to me and he wanted help; he could not get any place here, and I had admiration for the boy, and thought he was a good boy, and finally I said to him: "I fear you will get stranded in the West but if you insist upon going—" He said, "My money is all gone, nearly all gone, now," and I said "I will lend you money"; he wanted me to loan him money, and I said, "I will loan you money if you are sure of a place"; he said he was, and I loaned it to him and he went, and I had no more idea of his being subpœnæd than a stranger. Of course, I did not know what he could say against me, particularly, or anybody else, who had anything to do with him, because we had been kind to him —I had anyhow. He got to Chicago and called me up on the 'phone. I had great difficulty in hearing, and he said, "I want to ask you something; I am very sorry, but Mr. Carpenter came over to see me in New York and asked me a whole lot of questions, and asked me if I would not go to court, and I ask you, am I obliged to pay any attention to Mr. Carpenter's request?" I said, "If it was not a subpœna, you are not; you can do as you please; what can you testify to?" He replied, "Nothing," and I said, "You are not obliged to come, but you should have told me this before you went." He said, "I did not know it when I first got your promise of the ticket, and afterwards I was afraid you would not give it to me." I said, "That is a funny thing!" He said "I have lost my clothes"; I said, "How?" He said he did not know, and could I help him a little more, and I said, "I will give you $50 to help buy your clothes, but that is all. He got the $50, and thanked me for it by telegraph—he refused to write, and the first thing I got from him was that if I didn't send him—I will produce the telegrams as soon as I can get them.

Q. Have you got them here?

A. No, I do not think so. No, I have not got them

here. I can easily get them, I have them in my office. The telegram said, "I want some more money; if you don't send it, I will communicate with Mr. Carpenter." Then I surmised—I did not think anything about the subpœna, because I didn't know about it—I thought, well, then this boy is turning out a blackmailer. I would not believe. I wrote him a letter, and asked him what he meant by this telegram, which was very garbled and a poor copy, and I could not read it very well.

Q. It was what?

A. Garbled.

Q. The telegram was?

A. Yes, sir, so that I could not make out exactly what he was driving at; he never drank to my knowledge, but it sounded like a man who had been drinking, but I did not think that of him. I wrote him a letter and called his attention to the fact that I did not understand it; if he meant that he demanded money of me—I said "If they have—if Mr. Carpenter has a right to ask you to come back I want you immediately to write me a letter stating that when you came to me and asked for money and help to go out there you never told me that you had been asked to testify or subpœnæd." I didn't even know of it until after he got away, and it evidently was before he got the ticket that he saw Mr. Carpenter, and I said, "I demand that you should write me such a letter, because it might be implied you promised to go over there, although you are not obliged to, and I want that to show if necessary," not thinking it amounted to anything, and I never heard from him since, excepting one telegram after another demanding money—he was going to see Mr. Carpenter and coming East. I have tried my best to get him in black and white.

Q. Did you keep copies of the communications you sent him?

A. Not all of them.

Q. Of these letters, this letter that you sent him out in California?

A. I do not know that I did.

Q. Did you keep a copy of that?

A. I don't think so.

By the Vice Chancellor—When this young man telephoned you from Chicago, did he tell you he had been in Mr. Carpenter's office in Jersey City?

Witness—No, he said Mr. Carpenter had seen him in New York and had a long talk with him and asked him a lot of questions?

By the Vice Chancellor:

Q. Did you know he had been in Jersey City, in Mr. Carpenter's office?

A. No, I did not.

Q. You never heard of it?

A. No, sir.

Q. Until now?

A. That is the first I have heard of that; he told me Mr. Carpenter had seen him in New York, and asked him a lot of questions.

Further cross-examination:

Q. Did he tell you where he had seen him in New York; did he give you any definite information about any place in particular that he had seen him at in New York?

A. No; this was over the 'phone from Chicago.

Q. Yes, I understand that.

A. He did not tell me where, he said he had met Mr. Carpenter, that Mr. Carpenter came to see him.

Q. Did he tell you where Mr. Carpenter saw him?

A. No.

Q. How did you gather it was in New York?

A. Well, I supposed so.

Q. He did not tell you then he had seen him in New York?

A. I thought he had seen him in New York?

Q. You thought he had seen him in New York and not in Jersey City?

A. I certainly did; I did not see why he should go to Jersey City.

Q. You do not say now he told you Carpenter saw him in New York?

A. I think he said so.

Q. You are not positive about it one way or the other.

A. No, I am not positive.

Q. You have said all the way through your examination he told you Mr. Carpenter had come to see him in New York.

A. Well, I supposed that.

Q. You supposed that?

A. Why not, if he went to see him?

By the Vice Chancellor:

Q. Do you remember the exact phrase that Mr. Schaeffer employed; you said "Came to see me"; what was that phrase?

A. As I recall it—it was on the 'phone, and it was very difficult to hear from Chicago—he said, Mr. Carpenter, I don't remember whether he said "Came to see me," or "saw me."

Q. Had seen him?

A. Yes, sir. "Came to see me" or "Saw me." I did not suppose, of course, the boy was seeking to try and injure me by going to Mr. Carpenter. I took the other view of it, that Mr. Carpenter had seen him, and he told me on the 'phone he had seen him.

The Vice Chancellor—That is all. You have answered the question.

Further re-cross examination:

Q. He then told you over the 'phone from Chicago that Mr. Carpenter had seen him, and he had made certain admissions to Mr. Carpenter, didn't he?

A. He told me he had made statements.

Q. Did he tell you what those statements were?

A. No.

Q. You told him, "Why you could not tell anything."

A. I did.

Q. And then he told you he had lost his clothes?

A. Yes.

Q. And wanted $50?

A. He had lost his clothes.

Q. And you said you would send him $50?

A. I did not right away, I did later.

Q. You did during the course of that conversation?

A. I don't remember whether I did at the conversation or not.

Q. What?

A. I do not remember whether it was during the conversation or not, I think he telegraphed me afterwards, I am not sure.

Q. I thought you said a moment ago he told you during this conversation from Chicago, over the 'phone.

A. That he had lost his clothes?

Q. That he had lost his clothes.

A. Yes, but I say when I promised him money, whether it was after that or not I do not know, I think I thought over it.

Q. You think what?

A. I think I took it under consideration.

Q. Whether you were going to supply any more money or not?

A. Yes, I think so.

Q. And you afterwards sent him $50 by telegraph, is not that true?

A. I think I sent it by telegraph or post-office order, I do not remember which now.

Q. Did you write him a letter along with that?

A. No, not that I know of, I may have written him, but I do not remember.

Q. You say you wrote him a letter out there?

A. I did.

Q. Telling him to communicate with you to exculpate you—

A. Absolutely, I did.

Q. Just let me get my question down, please.

A. I will.

Q. To exculpate you from any complicity in his departure from this section at the time when the subpœna was returnable.

A. After I got that threatening telegram—

Q. Now, if he was threatening you, did you think you could get him by that letter to exculpate you from this?

A. I thought, at least, he should.

Q. Even though he was threatening, as you say, in a blackmailing way?

A. Well, it looked like it.

Q. What did he ask you for, money?

A. No, he said compensation—something about compensation.

Q. Compensation for what?

A. I don't know.

Q. What was he going to do if he did not get compensation?

A. Going to see Mr. Carpenter, communicate with him.

Q. What was he going to communicate to him?

A. I don't know.

Q. He had already communicated with Mr. Carpenter once.

A. That I did not know.

Q. You did know from Chicago.

A. I knew then, but not when he left.

Q. The first you knew was when he telephoned you from Chicago.

A. Absolutely. He told me—

Q. Then it was no news to you that he was going to communicate with Mr. Carpenter again?

A. No, sir, it was merely a threat.

Q. But he had done it once.

A. He said he had a talk with him.

Q. But he had done it once?

A. Yes, sir, he had a talk with him, but I did not suppose he had gone to see him, as you seem to intimate.

Q. Did he tell you a subpœna had been served on him?

A. I beg your pardon.

Q. Didn't he tell you in that telephonic conversation from Chicago a subpœna had been served upon him?

A. No, sir, he did not tell me he had been subpœnaed?

Q. When did he tell you that the first time?

A. He never told me at all.

Q. Why write out there—

A. Because—

Q. Just a moment, you are thinking entirely too fast.

A. All right, go ahead.

Q. Why write out to California to have him send a letter on that would exculpate you?

A. If the question was brought up that he had promised to come, between you and I, I had commenced to be suspicious that there had been a subpœna served on him and that he had deceived me, therefore, I wanted him to write a letter to show that he had gotten money from me before I knew he had been subpœnaed, so as to produce it here, if necessary.

Q. You have not said in any time during your examination so you assert now, that you knew he had been subpœnaed, from any statement he made to you.

A. I did not.

Q. But you suspicioned it?

A. Yes, sir, I commenced—

Q. When he asked you for money, or compensation, you suspicioned he had been subpœnaed?

A. I began to suspicion it, even when he called me on the 'phone, but I was not sure, and he said he had not been.

Q. Did you ask him?

A. He asked me if he ought to go, and I said "Not unless you are subpœnaed," and he said, "I am not subpœnaed, but I got a notice, and promised to go." He said he had a conversation with Mr. Carpenter, and had promised to go.

Q. And he had gotten a notice?

A. I mean he had a talk.

Q. What did you mean by a notice?

A. Well, a talk with him.

Q. That is what you mean by a notice.

A. Yes, he had a talk and promised.

Q. He had a notice and promised to go, you said?

A. Yes, sir.

Q. And you meant by that, he had a talk.

A. I meant he had a talk with Mr. Carpenter.

Q. In this letter you sent out to him in California, did you suggest the form in which he should write?

A. I did.

Q. Did you enclose it in the letter?

A. I did.

Q. For him to sign?

A. I asked him to write it,

Q. White it out in his own handwriting?

A. Yes, sir.

Q. And send it on?

A. Yes, sir.

Q. If I were to read you the contents of that would you know it?

A. I don't know.

Mr. Strong—I object.

Q. If I were to read you the contents of the letter you sent him, would you know them?

A. No, I don't suppose I would; you produce the letters ,and I will tell you at once.

Q. Would you remember the contents of those letters?

A. I don't know whether I would or not.

Q. The terms you employed in them?

A. I do not know.

Q. The information you wanting him to subscribe to, would you not remember that?

A. I might and might not.

Q. And the character of the explanation you wanted him to make for his absence after being subpœnaed?

A. No, not the—

Q. Just look at me, will you please.

A. I prefer to see the letters.

Q. In other words, these communicatons you are referring to you would not testify to now, even though I were to ask you whether certain statements were contained in them?

A. I would not, I would wait until you produced them.

Mr. Conboy—All right. Then I think, if the Court please, we should have that opportunity.

Vice Chancellor—Have you finished your cross-examination?

Mr. Strong—You have got those letters right there; there is no reason why there should be any delay about producing them if you want to put them in.

Mr. Carpenter—We will put them in, if you will let us.

Mr. Strong—All right, put them in.

Mr. Carpenter—Will you let us put them in?

Mr. Strong—Certainly, I say you ought to put them in.

Mr. Conboy—These are not the originals.

Mr. Strong—Then I will not admit them. I took them for Mr. Dudley's letters.

Mr. Conboy—We will have to bring them on; this man is a long ways from here.

Mr. Strong—I thought the papers you had there were something in Mr. Dudley's handwriting.

Q. Was there any definite demand made by this man on you?

A. The only definite one was the last, he demanded $150.

Q. $150 more?

A. When he was about to go to Australia.

Q. Have you anything that would refresh your recollection there?

A. No; but I have those telegrams; I had no idea they would be wanted here, never thought of it.

Q. What are you consulting now?

A. I thought it was a letter I had written to him, but I find it is a letter I have written to somebody else.

Q. Did you keep copies of the letters you wrote to him?

A. I do not know, as I said before, whether I did or not; I will look them up. This is all an unexpected question from the beginning to end.

Q. I presume so! Did you write this letter from the Union League Club, in Philadelphia?

A. What letter?

Q. The letter you sent to George enclosing a copy of the—

A. That I cannot recall.

Q. Enclosing a draft of the proposed communication that you desire to have him send to you for the purpose of exhibiting to the court.

Mr. Strong—He has not said he sent such a draft.

A. I could not tell you.

Q. You could not tell me whether you kept a copy?

Mr. Strong—Has the witness said he enclosed a draft?

Mr. Conboy—Yes, he said that.

Mr. Strong—Has he said he enclosed a draft? I did not catch it so.

Witness—I said I wrote a rough draft of the letter I thought he owed me, to copy, and send to me.

Mr. Strong—All right, if that is so I have no objection.

Q. Do you remember writing that letter on the seventeenth day of March?

A. No, I cannot tell anything about the date.

Q. With me, the seventeenth day of March is a day to be well remembered. I do not know whether it is so highly important in your annual chronology.

A. What

Q. The seventeenth day of March is not particular to you?

A. No, sir.

Q. And you do not remember whether it was on the seventeenth day of March when you wrote?

A. No, sir.

Mr. Strong—I suppose he does not celebrate St. Patrick's day.

Mr. Conboy—Perhaps it would be better for him if he did, Mr. Strong

Q. You say it would not be of any value or any benefit to your recollection if I were to read the contents of these—

A. Not a particle.

Q. —communications?

A. I would prefer to have you read the letter.

Mr. Conboy—Now, your Honor, we desire to make an application, and I presume that properly it should be made on affidavits served on the other side, but the last piece of information in connection with this matter only reached us this morning, and I desire to have a very short time to prepare the affidavit and submit it to your Honor, on an application for an opportunity to conduct the examination of this young man, and may say that I have instructed our correspondent in California to furnish him with funds to bring him back to this jurisdiction, at our expense. Either he has been grossly misleading us with respect to this matter, or else a fraud has been attempted to be perpetrated upon the

court, and in either event I think we ought to be acquainted with what the facts are. Either this young man ought to be required to testify in obedience to the subpœna of this court, properly issued and properly served within the jurisdiction of this court, or else, the person who sent him out of the jurisdiction should be dealt with according to—

The Vice Chancellor—I cannot pass upon this application now. The matter is of importance, of course, and counsel for Mrs. Dudley are, under the circumstances, not chargeable with any laches in my judgment; at the earliest possible moment they have stated what application they desire to make, but the application should be made with strict regard to the rules that will be controlling.

As I pointed out a little while ago, until this subpœna was produced there was no evidence that the witness Schaeffer had been subpœnaed, none whatever, nor of the circumstances under which he was subpœnaed. If this application is to be made, and the court is to give an opportunity, as the court proposes to do, to counsel for Mrs. Dudley to make this application, it must be made upon affidavits setting forth all the facts, and the court will not listen to any statements from counsel outside of those papers, the whole matter must be presented by affidavits. Of course, the affidavits will necessarily contain hearsay, contain statements with regard to what this man Schaeffer has said, what he said, when he said it, and under what circumstances he said it, and a great many other things, of course, may be mere hearsay in the affidavits, but the court must act only upon facts presented by the affidavits, and the affidavits must be served on the other side.

It is now Wednesday, is there any reason why these affidavits cannot be prepared and served on Friday?

Mr. Conboy—None whatever.

Mr. Carpenter—They will be mailed to-morrow afternoon.

The Vice Chancellor—And Mr. Strong will get them on Friday?

Mr. Carpenter—Yes, sir.

The Vice Chancellor—I will hear the case further on Monday. What else is there in the case?

Mr. Conboy—We have some testimony to read.

The Vice Chancellor—I have a package here which has not yet been opened.

Mr. Conboy—Yes, that is the testimony probably of Buzby.

The Vice Chancellor—Apart from the reading of this deposition, which I now open—

Mr. Conboy—There is nothing further that I can think of to do.

The Vice Chancellor—Apart from the reading of the testimony is there any evidence further to be taken unless the court next Monday opens the case to permit further cross-examination of Mr. Dudley and the introduction of the testimony of this man, Schaeffer?

Mr. Strong—I was about to offer the record of the suit in the Supreme Court of Ulster county, brought by Mrs. Dudley against Mrs. Vanderpool, which was referred to in her testimony. I am offering an exemplified copy of the judgment to show the pendency of the suit, when it was begun and when it was terminated, which was referred to in Mrs. Dudley's cross-examination, I want to make a formal offer of that record now.

Mr. Conboy—I object to it on the ground that it is incompetent, immaterial and irrelevant and has no bearing on the case. It is not admissable because of anything Mrs. Dudley says, because she said she thought, as far as she knew, it had been dismissed, for want of prosecution, so there is nothing in it that makes it admissable.

The Vice Chancellor—I will admit it.

(Marked "Exhibit, judgment record. H. W. K.")

The Vice Chancellor—If there anything else?

Mr. Strong—We have closed the case as far as Mr. Dudley's rebuttal is concerned.

The Vice Chancellor—Is there anything further from the other side excepting the matters that are to be dealt with next Monday?

Mr. Carpenter—We will put Mrs. Dudley on the stand.

Marie Dudley, recalled.

Examined by Mr. Carpenter:

Q. Did you ever say to Dr. Bartholow, or say in his presence, that you kicked Mr. Dudley out of bed and locked the door in your house in Philadelphia?

A. Kicked him out of bed, how kicked him out of bed?

Q. Did you ever say that to Dr. Bartholow?

A. No, I did not.

Q. Did you ever, in Dr. Bartholow's presence, express a feeling of repugnance against Mr. Dudley, your husband?

A. No.

Q. Did you ever state in his presence, or to him or in his hearing, that you ever locked the door on Mr. Dudley?

A. No.

Q. Has Dr. Bartholow brought suit against you?

A. Yes.

Q. For the recovery of what?

A. Five hundred dollars.

Q. For what?

A. Shall I explain?

Q. Yes.

A. Why, I was—

The Vice Chancellor—Is it necessary?

Q. It was a doctor's bill, was it not?

A. Yes, sir.

Q. For how much services?

A. He alleges that it is a doctor's bill, he tried to get the money out of Edward Dudley first. I think it should be explained.

Mr. Conboy—Never mind.

Witness—No?

Q. He made some affidavits for you at some time?

A. Yes, sir. I was ill and could not appear in court, and I paid him $10 to do it, and he came in two or three times to see me, and then he built up his bill, and without consulting me or asking my advice in the matter he brought another physican in, and I presume fixed up the large bill he did.

Mr. Strong—I object, I do not see the relevancy of going into all these details.

Q. Did you ever tell Dr. Bartholow, or say in his presence, that you had stopped living with your husband voluntarily?

A. No, never.

Q. Or anything like that?

A. No.

Q. Did you ever say, in his presence or to him, that Mr. Dudley's breath was very offensive to you?

A. No, but he has a bad breath—horrible.

Cross-examination, by Mr. Strong:

Q. It is strange you never mentioned it to him.

A. I suppose Dr. Bartholow noticed it himself, he was in contact with him a great deal, and so was his wife, and Mrs. Vanderpool, together all the time.

Q. That is all.

A. There could no one be near him—

Mr. Conboy—Never mind, that is all, Mrs. Dudley. Your Honor was going to make some suggestion about reading this testimony now or holding it over till—

The Vice Chancellor—Is there anything else on either side in this case excepting the matters that will be attended to next Monday?

(There was no response to this inquiry.)

Then the case is closed on both sides, subject to being reopened on application to be made on affidavits on behalf of Mrs. Dudley next Monday, at ten o'clock. Copies of all affidavits to be used are to be mailed to Mr. Strong on or before to-morrow.

Mr. Strong—Send those to Philadelphia, please.

Mr. Conboy—We are to send copies?

The Vice Chancellor—Yes, with notice of the motion or motions.

I think it is hardly worth while to read the deposition now, but I will ask counsel to aid me in straightening out the proofs. Will you state, in order, the depositions *de bene esse* which are in the case as evidence, and which are to be read or have been read, and are to be deemed part of the evidence.

Mr. Conboy—The deposition of Angeline B. Knight, filed January 30th, 1911; filed by Mr. Strong.

The deposition of Edward L. Weston, filed October 31st, 1911, on behalf of Mrs. Dudley.

Deposition of Frank Brightley, filed December 12th, 1912, on behalf of Mrs. Dudley.

The deposition of Anthony J. Quigley, Jr., Louise Hearst and Henry Coombe, filed February 3d, 1913, on behalf of Mr. Dudley.

The deposition of Caroline Truex and Henry N. T. Beekman, filed February 13th, 1913, on behalf of Mrs. Dudley.

The depositions of Mark Rigor and George W. Busby, filed April 9th, 1913, on behalf of Mrs. Dudley.

That is a statement in the chronological order of the depositions taken, including those already read, and two filed to-day which have not yet been read.

The Vice Chancellor—I understand there are six bundles of them now.

Mr. Conboy—Yes, sir.

The Vice Chancellor—Is that your understanding of it, Mr. Strong?

Mr. Strong—Yes, those that have been enumerated are all right, I do not find any others; if I find any others—

The Vice Chancellor—If either party finds there has been a mistake it can be corrected, but if no mistake is pointed out I shall assume those six bundles now enumerated on the stenographer's minutes constitute all of the evidence in the cause that has been taken by deposition.

Adjourned until Monday, April 14th, 1913, at ten o'clock A. M., at the Chancery Chambers, Jersey City, N. J.

(Mr. Strong stated that he desired to put Mr. Dudley on the stand to correct a misunderstanding as to his former testimony.)

Edward Dudley, recalled.

Examined by Mr. Strong:

Q. It appears that in the testimony taken on April 9th, the question was asked you by Mr. Conboy, on cross-examination: "This gentlemen, Mr. Mills is the fiancee of Miss Vanderpoel, is he not?" to which you replied, "Yes, sir."

A. It should have been Mrs. Vanderpoel.

Q. How did you understand the question as it was put to you?

A. I thought he asked me "Mrs. Vanderpoel"; I did not hear the—my hearing is not very good, and I supposed he said "Mrs. Vanderpoel," because I do not know any Miss Vanderpoel.

Q. Your reply of "Yes, sir," related to whom?

A. Mrs. Vanderpool, not to Miss.

Q. Mrs. Elizabeth Batelle Vanderpoel?

A. Yes, sir.

Q. Then again, on page 39 of the stenographer's notes of that day, the Vice Chancellor asked you "Which of these gentlemen you say was engaged to Miss Vanderpool," to which you replied, "Mr. Mills, William Stewart Mills."

A. It should have been "Mrs." I thought the Vice Chancellor said "Mrs." I misunderstood him.

Q. And the engagement was to Mrs. Vanderpool?

A. Yes, sir.

The Vice Chancellor—Was the engagement announced?

Witness—How is that?

The Vice Chancellor—Was the engagement of Mrs. Vanderpool announced?

Witness—Yes, sir, some—I don't know how long ago, a month ago.

Q. Was it then?

A. They had been engaged for two years, but it was not announced until about two months ago.

By the Vice Chancellor:

Q. Are they married yet?

A. No, I think not; at least I have not heard of it.

Edward Dudley, recalled for further cross-examination, by Mr. Comboy:

Q. Do you know where Mrs. Vanderpool is at the present time?

A. I cannot tell you.

Q. What?

A. I cannot tell you.

Q. Why cannot you tell us?

A. Because I really do not know.

Mr. Strong—I submit, if your Honor please—

Q. You produced this morning a certain letter—

A. I did not.

Q. That was sent to you.

Mr. Strong—I submit this is not within the scope of any proper cross-examination.

The Vice Chancellor—I will allow it.

Q. Didn't you produce a letter which you sent to Miss Battelle or that the law firm in New York sent her?

A. Yes, sir.

Q. Where did you get that letter?

A. I have had those papers for some time in my possession.

Q. Did you anticipate—

A. Not at all. I have all the papers in the guardianship matter.

Q. Do you know where Mrs. Vanderpool is at the present time?

A. I am not sure. I think she is in Washington.

Q. Whereabouts?

A. I could not tell you that, for I do not know. She goes to different relations.

Q. What is your information on the subject?

A. Well, I think she is down to her aunt's—one of her aunt's.

Q. Who is her aunt?

A. Mrs. Finney (?).

Q. What kind of looking lady is Miss Battelles?

Mr. Strong—Does your Honor consider this proper cross-examination?

The Vice Chancellor—I will take it.

A. I don't know how to describe her. She is very stout.

Q. Very stout, is she?

A. Yes, sir.

Q. With dark hair?

A. You may call it dark hair; yes, sir.

Q. And weighs over two hundred pounds?

A. I do not know what she weighs.

Q. Mrs. Vanderpool is a lady with blonde hair?

A. Well, I should call it light hair, yes.

Q. You say you do not know where Mrs. Vanderpool is?

A. I am not sure where they are.

Q. Where *they* are?

A. Yes, sir. I think they are both together.

Q. You think so?

A. Yes, sir.

Q. Do not you know they are both together?

A. No, I am not sure at all.

Q. Do you know whether they are in this country?

A. Oh, I think they are.

Q. Are they up at Saugerties, New York?

A. I cannot tell you that. I really do not know where they are.

Q. As a matter of fact, are not those two ladies at the Hotel Stenton, Philadelphia?

A. I am not sure that they are.

Q. Under the names of Livingstone and Clayton?

A. I am not sure about that.

Q. Do you know two persons there named Livingstone and Clayton?

A. Yes, sir; they were there.

Q. Were they there yesterday?

A. I am not sure about that.

Q. What?

A. I am not sure about that.

Q. Where is the Hotel Stenton?

A. At Broad and Spruce.

Q. How far is that from the Union League Club?

A. Two or three blocks.

Q. Do you mean to say that the two ladies who are stopping there at that hotel under the names of Livingstone and Clayton are not Mrs. Vanderpool and Miss Batelle?

A. I do not say that.

Q. Are they?

A. I think they are.

Q. And you were there yesterday with those two ladies, who registered there under the fictitious names of Livingstone and Clayton, from a quarter of three until six o'clock last evening?

A. They were supposed to leave; one of them came up yesterday, or was to come.

Q. Were they not there all day on Sunday?

A. I don't know about that.

Q. How often have you seen them in the last week?

A. Not over twice.

Q. Twice a day or twice a week?

A. Oh, no—I have occasionally called there.

Q. Didn't you go there every day from the Union League Club?

A. No, I did not.

Q. Why did they register down there under fictitious names?

A. That you will have to ask them.

Q. You do not know that?

A. No, sir.

Q. How long have they been there under those names?

A. I cannot tell you; they have been off and on there.

Q. They have been there for the past six weeks?

A. I don't know. Off and on; they have been first to one place and then to another.

Q. Were you not there in Mrs. Vanderpool's room in that hotel yesterday afternoon?

A. Yes, I called there yesterday afternoon.

Q. Were you not in her room in the hotel there yesterday afternoon?

A. No, sir.

Q. Whose room were you in?

A. I was in the parlor.

Q. How long were you calling there upon them?

A. Well, not on them; I only called on her.

Q. You are sure, are you not, that those two ladies were down there at the hotel?

A. I only saw one of them.

Q. Whom did you see yesterday?

A. Mrs. Vanderpool.

Q. You know both she and her sister have been there?

A. They have been there for some time, off and on.

Q. And under those two names of Livingstone and Clayton?

A. Yes, sir.

Q. Why did you say to me, when I asked my first

question, that you did not know where Mrs. Vanderpool was?

A. Because she told me yesterday that she expected to leave.

Q. Where did she tell you she was going?

A. She did not know whether she would go to New York or to Washington?

Q. She did not know where she would go?

A. She did not know which way she would go.

Q. Do you know whether she has gone to either place?

A. I do not.

IN CHANCERY OF NEW JERSEY.

BETWEEN
MARIE DUDLEY,
Complainant,
AND
EDWARD DUDLEY,
Defendant.
} On Bill, &c.

BETWEEN
EDWARD DUDLEY,
Petitoner,
AND
MARIE DUDLEY,
Defendant.
} On Petition, &c.

Deposition of *Angeline B. Knight,* a material witness for Edward Dudley, the defendant in the first above entitled cause, and for said Edward Dudley, the petitioner in the second above entitled cause, she being a resident of Sedalia, in the State of Missouri, at present temporarily in the State of New Jersey, but about to go out of this State, taken *de bene esse* before me, a

Master in Chancery of the State of New Jersey, in said two causes, at my office, No. 150 East State street, in the City of Trenton, New Jersey, on this twenty-eighth day of January, nineteen hundred and eleven, at ten o'clock in the forenoon, pursuant to the notice hereto annexed, which I have caused to be given to Messrs. McDermott & Enright, Solictors for Marie Dudley, in the presence of Alan H. Strong, one of the Solicitors for Edward Dudley, and in the presence of Frank P. McDermott, of the firm of McDermott & Enright, Solicitors for Marie Dudley, the said Edward Dudley and Marie Dudley being both present in person.

Master in Chancery.

By the consent of Mr. Strong, Solicitor for Edward Dudley, and Mr. McDermott, Solicitor for Marie Dudley, it is agreed that the testimony of the witness may be taken stenographically by Harry Heher, and that the signature of the witness to her deposition is waived.

Mr. McDermott, the Solicitor for Marie Dudley, objects to the taking of the testimony of this witness as not being within the provisions of the statute and contrary thereto. He consents, however, that the record of the proceedings be taken stenographically, and that the signature of the witness, if the testimony be taken, be waived.

Harry Heher, the aforesaid stenographer, being duly sworn by me, did depose and say that he would take and correctly transcribe the testimony of said witness to the best of his skill and ability.

Master in Chancery.

Angeline B. Knight, a witness produced on behalf of Edward Dudley, being duly sworn according to law, on her oath, deposes and says:

Direct examination, by Mr. Strong:

I reside now at Sedalia, Missouri, and I am tem-

porarily staying in New Jersey for a few days in Princeton, N. J. I have been in the State of New Jersey since last Monday, and I expect to remain in the State until the third of February next. I am going then on a Mediterranean tour. I expect to be gone from the United States a year possibly, may be eight months or more—a year.

I know Mrs. Marie Dudley. I have known her about seven years, I think. We left Overbrook five years ago, and I think I knew her possibly about two years before that. At that time I was living at Overbrook, Pennsylvania, just outside of Philadelphia. I left there in 1905. I knew Mrs. Dudley during the time that she was living with her husband. I wasn't accustomed to see a great deal of them myself. I called there occasionally, but I didn't see a great deal of Mrs. Dudley myself. She came to our house occasionally to luncheon, and my daughter and daughter-in-law spent a great deal of time with Mrs. Dudley. She was quite intimate with my daughter and daughter-in-law. My daughter-in-law's name is Mrs. Horace Knight.

Mrs. Dudley did come out to Overbrook. She didn't come out very frequently. She came out occasionally to take luncheon with my daughter and her friends. I only observed the conduct of Mr. and Mrs. Dudley on one occasion. They were invited to the opera, and I thought that at this time Mrs. Dudley treated Mr. Dudley in a singular way.

Mr. McDermott—I object to that as incompetent.

Q. Describe the conduct of Mrs. Dudley on that occasion, without characterizing it.

Mr. McDermott—This question is objected to as immaterial, irrelevant, and being germane to no issue raised in the cause.

A. She turned her back upon him and she didn't answer him at the table. I thought she treated him, to me, very strangely.

Q. Did you finish your answer?

A. Yes; this occurred at the Bellevue-Stratford.

Mr. McDermott—I wish to strike out the testimony of the witness as being immaterial and irrelevant.

Q. Did you hear anything that she said to him on that occasion which impressed you?

A. No, I didn't.

Q. When was that?

A. I didn't hear her say anything to him.

Q. No; but when was the occasion?

A. This was one afternoon at the opera.

Q. But when, as nearly as you can fix the time?

A. Well, I suppose that was in the winter of 1904.

Q. 1904?

A. Yes, I guess so.

Q. Did you hear Mrs. Dudley express herself with reference to her husband in his absence prior to the time of the separation?

A. Yes, I heard her—I called there one day and Mrs. Dudley told me she was going to leave Mr. Dudley.

Q. Can you fix that time for us?

A. I can't fix the time.

Q. Approximately?

A. No, I can't remember the time. I think it was shortly before the separation—before she left him. I called there one afternoon and she told me this. I attempted to remonstrate with her. I thought she was making a very serious mistake.

Q. Now, what did she say, as well as you can remember?

A. She said her life was unendurable; that she couldn't stand it, and she had made up her mind that that was what she was going to do. I know it surprised me very much, because I hadn't dreamed of any trouble like that.

Q. What further did she say on that occasion you remonstrated, you say?

A. Well, I don't really remember what she said. It was always a surprise to me talking in this way, and I think there was very little said. I think my call was very short.

Q. Did she explain why it was that she was going to leave Mr. Dudley?

Mr. McDermott—Question objected to as leading, immaterial and irrelevant.

A. The subject was very unpleasant to me, and I left as soon as possible without any further conversation.

Q. What was Mrs. Dudley's manner in saying this to you?

A. Well, she seemed excited and nervous, but she had positively made up her mind. She said she had made up her mind and never would change it.

Q. Did you have any further conversation with her on the subject?

A. No, I didn't stay—when she came to Overbrook—that was later on.

Q. Well, when did you or she come to Overbrook?

A. Immediately after her return from Europe. She went to Europe and immediately upon her return she came.

Q. Can you fix the year?

A. I think it was 1905; that was the year we left. She was there just before we left. I think that was in September.

Q. Was that or not after she had left her husband?

A. That was after she left.

Mr. McDermott—I object to the question as involving a conclusion as to which there is no proof, and so objects to the answer.

Q. Answer.

A. That was after she had left her husband and gone to Europe and returned.

Mr. McDermott—I object to the answer as involving a conclusion.

Q. You say it was after her return from Europe?

A. Immediately.

Q. Did she come directly to your house on her return to this country?

A. Directly from Philadelphia. She might have stayed a few days in New York; I don't know anything about that, but she came to our house upon her return from Philadelphia.

Q. Tell us, if you please, what conversation you had with Mrs. Dudley on this last occasion you speak of?

A. At Overbrook?

Q. Yes, at Overbrook?

A. She told me that she had left Mr. Dudley, and I could scarcely believe it, because I thought that it was such a very great mistake, and I remonstrated with her and I talked with her about it.

Q. What did she say?

A. She said she could not—she never would go back to him—never would live with him again. I knew her family all felt very badly about it.

Mr. McDermott—I object to the latter part of the answer.

Q. What further did she say with respect to what she intended to do, if anything?

Mr. McDermott—Question objected to as leading.

A. What do you mean?

Q. Well, did she say anything in regard to her intention?

A She didn't say anything in regard to her intention. She said she wouldn't go back to Mr. Dudley, or how she expected to live. She said, "I will ruin Mr. Dudley if I can." I know it shocked us all very much. We thought she was saying something she oughn't to have said.

Q. How did she come to say that she would ruin him, if she could?

Mr. McDermott—Question objected to as leading, immaterial and irrelevant.

A. Just in general conversation—my husband attempted to remonstrate with her—tried to. He went down to Atlantic City and tried to remonstrate with her after she had left our house. She repeated that to him.

Mr. McDermott—The statement of the witness as to what was said to her husband is obected to as hearsay.

A. It was said in my presence and afterward to him.

Q. You will have to confine it to what you yourself heard.

Mr. McDermott—What I want to do is to get an objection as to anything that didn't occur in the presence of the witness.

Q. Confining it to what you yourself heard, please tell us what further, if anything, did she say?

A. Well, I had very little conversation with her myself—on the porch most of the time. I felt very unhappy about it, so I couldn't talk. I thought she was making such a mistake.

Q. Who was present at this conversation you are speaking of, except yourself and Mrs. Dudley?

A. My husband and myself.

Q. Is your husband now living?

A. No, my husband isn't living.

Q. Did you hear Mrs. Dudley say anything in reference to the money she had?

A. Yes, I did. I heard her say—

Q. You heard her say what?

Mr. McDermott—Objected to as immaterial and irrelevant.

A. She had a good deal of money—in a satchel—that it contained a good deal of money and valuables—jewelry.

Q. Did she mention the amount of money?

A. I think she said it was $3,000 or $3,500—something of that kind—I am not sure which it was.

Q. Was that at the time she spoke of ruining Mr. Dudley?

A. I am not sure; I think that conversation occurred earlier in the evening.

Q. Of the same evening?

A. Yes, the same evening. My husband advised her to put the satchel in the bank.

Q. Not the satchel.

A. Well, the contents of it—the valuables in the bank.

Q. Did she say anything with reference to what she had done at the time that she left?

A. No.

Q. With reference to any valuables that might have been in Mr. Dudley's house?

A. Oh, yes. She said that she had packed all the valuables—that they were packed and put away. We asked her about it and she said she had packed them all and sent them away. You know all this conversation occurred so long ago and I want to say exactly what I know and no more.

Q. You remonstrated with her, you said?

A. Yes.

Q. And what answer did she make to your remonstrances?

A. Well, I found that it was utterly useless for me to say anything.

Mr. McDermott—Answer objected to as a conclusion.

Q. Well, how did she express herself with reference to that that led you to say that her mind was made up?

A. Well, she said that she could never live with Mr. Dudley again and never would; that she had made up her mind to that and wouldn't.

Q. Did she say why she couldn't or what it was that she complained of?

A. No, she didn't. I didn't ask any questions. I thought it was her private affair and asked no questions.

Q. What was her manner in this conversation?

A. Well she seemed very much excited and very determined.

Q. Did you, in consequence of what you saw in her

behavior, reach any conclusion in your mind as to what was the cause of it?

Mr. McDermott—This question is objected to as calling for a conclusion; in fact, is asked specifically for a conclusion.

A. Well, I thought that no woman who was really quite herself would do anything as rash or as wild as she was doing, and I thought myself that she must be under the influence of some drug, or something of that kind, for I thought that no woman would behave in such an irresponsible way.

Q. Did you notice this same thing other times that confirmed that conclusion?

Mr. McDermott—This question is also objected to, and the testimony of the witness in this relation also objected to, as irrelevant, incompetent and a conclusion, and not a statement of a fact.

A. No; I told you that I saw very little of her; I wasn't capable of judging her.

Mr. Strong—That is all.

Cross-examination, by Mr. McDermott:

Q. Mrs. Knight, when did you leave Sedalia?

A. Leave Sedalia?

Q. Yes.

A. I left Sedalia on the twenty-first of this month.

Q. When do you leave for Europe?

A. We sail on the fourth; we go to New York on the third.

Q. Of what month?

A. Of February.

Q. And are you staying with friends at Princeton?

A. Yes; I am staying with my niece, Mrs. Gummere.

Mr. Strong—Mrs. Barker Gummere?

A. Yes, Mrs. Barker Gummere.

Q. Did you know when you came up that you were to be a witness in this cause?

A. I had been asked to be a witness.

Q. And you expected to be a witness?

A. I wasn't expected at this time. I really was rather surprised at this time to be called.

Q. But you knew that, from something that had happened on some previous occasion, that you had expected to be a witness?

A. Oh, yes, I expected to be a witness; that I know.

Q. You had told some one of these things that you have stated this morning?

A. No, I did not; only the family. I haven't discussed it at all outside of the family.

Q. Didn't you make any statement of it outside of the family?

A. I don't think so.

Q. You have no idea how Mr. Strong or Mr. Dudley learned that you had any information to impart?

A. Why, Mr. Dudley knew that I had. My husband had promised to be a witness, and after his death Mr. Dudley asked me if I would be a witness.

Q. When did your husband die?

A. My husband died three years ago. I hadn't expected to be a witness, but Mr. Dudley asked me.

Q. You mention an occasion at the opera and hotel, in the winter of 1904. You heard nothing said on that occasion?

A. I heard nothing said; it was only the manner.

Q. It was simply only your judgment of the manner on some occasion you had seen?

A. Yes, only the manner.

Q. Did you hear Mr. Dudley speak to her on that occasion?

A. Only in a very kind way.

Q. Well, did he talk to her at all?

A. Yes, he did.

Q. Well, did she talk to him?

A. Yes, replied in some way.

Q. You thought it wasn't quite as cordial as some people you knew?

A. Yes, that was my impression.

Q. Didn't make any impression on you?

A. Yes, it did make an impression, because I observed these things.

Q. Well, these people were very friendly after that?

A. Yes.

Q. And it didn't affect your friendship in the slightest degree?

A. No.

Q. You were still friendly with Mrs. Dudley?

A. Yes.

Q. You saw them together afterwards?

A. Yes.

Q. And they were cordial enough then?

A. Yes.

Q. Did you want to say something?

A. I was going to say that Mr. Dudley was always most courteous, and I could scarcely understand why—

Q. And except on this one occasion when you saw them together, her manner was courteous to him?

A. Well, I didn't see them together a great deal.

Q. Well, you did see them together again?

A. Yes; at a musical Mr. Dudley—

Q. And their manner was very cordial towards one another?

A. Yes.

Q. Your conclusion about this occasion then would be, that it was some little temporary puff, or perhaps irritation, or something like that, that had happened?

A. Well, I couldn't say that because I heard different.

Q. You didn't really know what it was?

A. Only that it was a very great coldness of some kind; I had heard there was trouble.

Q. Well, I didn't ask you that. You never saw anything more between Mr. and Mrs. Dudley after this opera occasion, which indicated any coldness whatever?

A. I rarely saw them together.

Q. These other conversations you referred to took place at your house?

A. Yes, took place at my house.

Q. At Overbrook?

A. Yes.

Q. And Mrs. Dudley was there on a number of occasions?

A. We were just about leaving for Sedalia and she was there for a few days. She had made other plans; was busy with her lawyer—

Q. She was your guest?

A. Yes.

Q. You were friends?

A. We were friends.

Q. She stayed with you how long?

A. I don't remember; it was only a short time, because we were leaving. I don't remember just how long it was.

Q. On one of these occasions you said that you thought that she must be under the influence of some drug?

A. I did, because I thought that no one could be so erratic.

Q. That was only one occasion?

A. Yes.

Q. On the other occasions she was very much excited and very much disturbed?

A. Yes.

Q. And nothing suggested a drug on these occasions?

A. Nothing.

Q. Simply a woman under great excitement?

A. Yes, under great excitement.

Q. Didn't she say to you that she had some grievance against her husband?

A. No, she didn't.

Q. Didn't she say there was some reason why she was going to leave him?

A. No, she didn't say; she said it was unendurable.

Q. What was unendurable?

A. Mr. Dudley.

Q. And in what respect did she say he was unendurable?

A. Well, now, I asked no questions and I don't know.

Q. Did she mention to you on these occasions another woman?

A. She didn't.

Q. Did she say anything to you about his relations to other women?

A. She didn't.

Q. Did her manner indicate that she had grievances or complaints against him?

A. Her manner indicated that she had grievances, but she didn't indicate what they were.

Q. Did she state to you that she had proof that he committed adultery with another woman?

A. She didn't. She never stated to me anything of that kind.

Q. If she had knowledge that her husband had committed adultery, would that, in your judgment, account for this excited manner of hers?

Mr. Strong—Objected to, as witness can't be called upon to express any judgment on the subject.

A. In my judgment it certainly would.

Q. Mrs. Knight, you knew, did you not, that she had complained of her husband's relations with a certain woman?

A. I had heard of it—never to me. She never complained to me, but I had heard of it.

Q. You have heard of her complaint of that kind?

A. Yes.

Q. Now, didn't you yourself relate that complaint of hers to this excited manner to which you have referred?

A. No, I didn't. I thought it was just a culmination of grievances that excited her—that was it.

Q. And this statement of hers, that she was going to leave Mr. Dudley, didn't shock you very much?

A. It didn't surprise me because I had heard it intimated before.

Q. And you had heard of these complaints?

A. I had heard of these complaints, but it had never been discussed.

Q. It didn't disturb you very much?

A. Only that I felt great sympathy for them both, and that it was the breaking up of a lovely home.

Q. They had a lovely home?

A. Yes.

Q. You had visited their home in Philadelphia?

A. Yes, a delightful home.

Q. Handsomely furnished?

A. Yes.

Q. Very luxurious, was it not?

A. Yes. Very luxurious, delightful home.

Q. Nothing that was said or done by Mrs. Dudley disturbed your friendly relations with her?

A. Nothing disturbed my friendly relations, but I disapproved of some things I had heard.

Q. But nothing that she said to you disturbed your friendly relations with her?

A. Nothing disturbed my friendly relations, but I felt as if I would like to persuade her that she was doing a great wrong by leaving her husband.

Q. That was because he was a rich man?

A. I didn't think of that—never entered my mind.

Q. Don't you think the fact that he was a rich man and had this luxurious home entered into it somewhat?

A. No, I don't; I didn't think of that at all.

Q. You knew of these complaints that had been made about his conduct with another woman?

A. I didn't know positively; I only heard it.

Q. You heard of these complaints?

A. Yes.

Q. Is that the reason it didn't disturb you?

A. I said that didn't affect me; that didn't affect me because I wasn't sure of that. I just felt as if there was a great mistake.

Q. Well, after that you and Mrs. Dudley remained very good friends?

A. Very friendly, indeed.

Q. She was your guest for some time?

A. I can't say how long. It wasn't long, because we were packing up and leaving.

Q. And you were in correspondence and cordial relations for some time after that?

A. For some time after that.

Q. This didn't shock you in any sort of way—what she said to you or what you say was her condition?

A. Well, it only made me feel very badly. It didn't shock me. I worried myself about it.

Q. It didn't change your friendly relations?

A. No, it shouldn't do that.

Q. You didn't think it was a thing to disturb your friendly relations?

A. I didn't think of it.

Q. You wrote her after that?

A. I don't think I had any correspondence with her at all.

Q. What makes you think that?

A. I don't think I had any correspondence with her.

Q. Is your memory good on that subject?

A. I think so.

Q. As good as it is on these subjects?

A. I think so.

Q. I show you a letter—an envelope postmarked "Philadelphia, Aug. 15th, 1905"—

A. That was the year we left.

Q. Is that your envelope?

A. Yes.

Envelope marked *Exhibit C-1.*

Q. I show you a letter dated August 15th, no year, and addressed, "My Dear Mrs. Dudley." Is that your letter?

A. Yes, that is my letter.

Letted marked *Exhibit C-2.*

Q. I show you another letter dated August 17th, 1905, and signed, "Angeline B. Knight."—

A. That is my—

Q. Is that your letter?

A. That is my letter.

Mr. Strong—In the same year?

Mr. McDermott—Yes.

Letter marked *Exhibit C-3*.

Q. Was any one present at these conversations at Overbrook to which you have referred, except your husband?

A. I don't think so; my daughter might have been present, but I don't think so. I think it was my husband and myself.

Q. What was your daughter's name?

A. Mrs. Baldwin.

Q. And you spoke of your daughter-in-law?

A. Yes, she wasn't present.

Q. What was her name?

A. Mrs. Horace Knight.

Q. Was your husband present on more than one occasion?

A. I think he was there—I think he was—I think he was present.

Q. You remember that Mrs. Dudley was in Europe in that summer of 1905?

A. Yes.

Q. Were these conversations before or after?

A. After she returned.

Q. Do you remember how long before she went away you visited the house in Philadelphia?

A. Oh, well, it was just a short time—she was packing up—just a short time. I was surprised to know that she was going.

Q. When she went to Europe?

A. Yes.

Q. She fixed up the house for the summer just before she went away?

A. Well, she had taken all her valuables out.

Q. Before she went?

A. Yes, before she went to Europe.

Q. Let us see if we mean the same thing. I asked you when you were at the home of Mr. and Mrs. Dudley, in Philadelphia, before Mrs. Dudley went to Europe, was it shortly before she went away?

A. Yes, it was possibly a month or six weeks.

Q. She hadn't packed anything up then?

A. Well, she was busy packing up her valuables.

Q. They went away every summer and got the house ready for the summer vacation?

A. I knew she packed up her valuable things and sent them away.

Q. What did you ever see her send away?

A. I didn't see her send the things; I only know that she told me. She told me that when she came back from Europe.

Q. What did she tell you before she went to Europe?

A. That she was going to leave Mr. Dudley. It was a very short conversation—an afternoon call.

Q. That took place at her house, on Locust street, Philadelphia?

A. Yes, a very short afternoon call.

Q. The furniture was then in the house?

A. Oh, yes; the furniture was in the house.

Q. Were the lace curtains up or down?

A. I think the house was furnished.

Q. And did you see anything was packed up at all?

A. I didn't. I made just a brief call. I don't suppose I was there more than twenty minutes or a half hour.

Q. What was this she said on that occasion?

A. She said, "Mrs. Knight, I am going to leave Mr. Dudley."

Q. Go where?

A. I don't know.

Q. She was going to Europe, wasn't she?

A. Yes.

Q. And Mr. Dudley didn't go with her?

A. No; but we had some further conversation.

Q. Did you see her after that before she went to Europe?

A. I did not.

Q. Can you locate the time?

A. I can't locate the time; I think it was just a few weeks before she went away.

Q. Did she come to your house before she went to Europe?

A. No, I don't remember; I don't think she did. She might have come out there, but I don't think she did.

Q. That was in the spring of 1905?

A. Yes, in the spring of 1905.

Q. Was it that time that she said he had made her life unendurable?

A. Yes, it was that time.

Q. Was she nervous and excited on that occasion, too?

A. Well, I don't remember really; I don't remember whether she was or not. I know that I was nervous and excited because I was surprised.

Q. When she told you it made you nervous and excited, too?

A. It did, because it wasn't expected.

Q. Didn't she say she heard something about Mr. Dudley at that time?

A. No, she didn't; she didn't tell me.

Q. Did you ever see Mr. Dudley with any other woman than his wife?

A. I never did—none at all—no.

Q. Never?

A. Never, except in his own home, playing the host to his guests at a very delightful musical they gave, that is all.

Q. But at the hotel?

A. Not at all; I never did.

Q. You didn't go about much with Mr. and Mrs. Dudley?

A. No, a very little.

Q. After her return from Europe, in the summer of 1905, where did you first see her?

A. I saw her at my house. She came out to Overbrook, and that was shortly after she got back.

Q. Shortly after she got back?

A. Yes, shortly after—a very few days.

Q. Do you know whether she had seen Mr. Dudley upon her return?

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

Q. Whether there had been any communication?

A. I don't know.

Q. Horace Knight was your son?

A. Yes.

Q. Would you give me your husband's Christian name?

A. Harry W.

Q. Harry.

A. Yes.

Q. Did you know that Mr. Dudley was using your name to cable Mrs. Dudley?

A. No, I did not.

Q. Or the name of your family?

A. I did not.

Q. You say that Mrs. Dudley said she couldn't live with her husband?

A. I do.

Q. In whose presence was that?

A. She told me; she said it several times.

Q. In your presence?

A. In my presence.

Q. Didn't you have curiosity enough to ask her why?

A. I did not; it was none of my affairs, and I didn't ask her.

Q. That is a dead secret with you yet?

(No answer.)

Q. Well—I mean so far as you are concerned?

A. As far as I am concerned—I have heard. I may

surmise the reason, but as far as my own personal knowledge goes, I don't know.

Q. You asked her no questions why?

A. I asked her no questions. I thought that was a private affair and I asked her no questions.

Q. But as her friend, and with this statement upon her lips that she could not live with her husband, you mean to say that you didn't ask her why she couldn't live with her husband?

A. No, I didn't feel at liberty to.

Q. But you did feel at liberty to remonstrate with her?

A. Upon that one occasion—I said, "Don't leave him."

Q. But whether she ought to leave him or not would depend upon some facts?

A. Well, I didn't feel as if I were intimate enough with Mrs. Dudley to ask her these questions.

Q. But could you fairly, and in a friendly way, remonstrate with her when she said she was going to leave him?

A. Well, it was an impulse, you know.

Q. It was rather an impulse on her part, as far as you can see?

A. Well, it was my impression that she had been thinking some time of doing it—that was my impression.

Q. And you didn't get at the reason at all?

A. I didn't; I didn't ask any questions; I only surmised.

Q. Do you know Mrs. Vanderpool?

A. I don't.

Q. Have you met her?

A. No. Members of my family have, but I haven't.

Q. Do you know her by sight?

A. I don't know her by sight. I have had her described to me.

Q. At any rate, it was apparent that something had occurred which made Mrs. Dudley very angry?

A. It was certain something had occurred.

Q. If she had heard of her husband's infidelity, that would explain all that she said to you, would it not?

A. I don't think it would.

Q. Don't you think that would justify all that she said to you?

A. Oh, I think it would justify.

Q. If that were the fact, that she had heard or had proof of her husband's infidelity, that would justify all that she said to you?

A. Everything.

Re-direct examination, by Mr. Strong:

Q. If she had heard of her husband's infidelity, is it your opinion that it would justify her in an effort to ruin him?

A. I don't think any one would be justified in that; but would be justified in being very disturbed.

Q. It would justify anger and indignation on her part?

A. Yes, it would.

Q. When she spoke on these occasions at Overbrook, did it seem to you to be a matter of impulse or fixed determination on her part to leave her husband?

Mr. McDermott—Objected to as calling for a conclusion.

A. I would say a fixed determination; I didn't think she had any other idea; that was my impression.

Q. And that impression you gathered from what?

A. From what she said—from what she told me.

Q. When she spoke of having packed up and sent away the valuable things from her husband's house, did she specify what things they were?

Mr. McDermott—Objected to as not re-direct examination.

A. She didn't specify to me, although I know what it was.

Q. Well, from what she said to you, did she indicate the character of the things she had taken away.

A. Well, just valuable things—she had certain things in storage—put away. I asked very few questions. It was a subject that pained me very much, and I didn't care to talk about it.

Re-cross examination, by Mr. McDermott:

Q. On this occasion, when she had something valuable in the satchel, did you learn what it was—whether it was money or something else?

A. She told us it was money and jewels.

Q. Did you see them?

A. I saw some of her jewels.

Q. Diamonds and other jewels?

A. Yes; she had some very valuable jewels and she showed them to me.

Q. Were in the satchel at that time?

A. In the satchel at that time.

Q. She had this satchel with valuables in it.

A. Yes.

Q. Did you see any of them at that time?

A. She showed me some of her jewels.

Q. Was it the value of those she said was $3,500?

A. No, she said she had money. It made my husband feel uneasy for her safety. He thought they ought to be taken care of.

Q. What was your husband's business?

A. He was in the hardware business. He was with the Biddle Hardware Company in Philadelphia.

Q. In the Biddle Hardware Company?

A. With the Biddle Hardware Company. At that time he was engaged in mining.

Q. What business was he engaged in in Sedalia?

A. In the hardware business. He bought out a hardware business there.

Q. You said something about his being in the mining business?

A. Yes.

Q. What kind of mining business?

A. Gold mine in Alaska.

Q. In Alaska?

A. Yes, in Alaska.

Q. He was what is known as a promoter?

A. Possibly.

Q. As a promoter, was he not?

A. Possibly as a promoter. He had some interest up there.

Q. In Alaska?

A. In Alaska.

Mr. McDermott—That is all.

The counsel for the respective parties here declare that the direct examination and cross-examination of the witness is closed.

I certify that the foregoing deposition was taken by Harry Heher, a stenographer selected by me and consented to by the counsel for the respective parties, and that such deposition was taken in my immediate presence and hearing by said stenographer, and I believe that it accurately states the said evidence.

Master in Chancery.

IN CHANCERY OF NEW JERSEY.

BETWEEN MARIE DUDLEY, *Complainant,* AND EDWARD DUDLEY, *Defendant.*	On Bill, &c. Depositions.

Depositions taken before the subscriber, William Edgar Rogers, a Master in Chancery of New Jersey, at the offices of Joseph D. Sullivan, Esq., Rooms 511 and 512, Columbian Building, 416 Fifth street, N. W., Washington, D. C., this twenty-eighth day of October,

A. D. 1911, at the hour of eleven o'clock in the forenoon, pursuant to notice given to Alan H. & Theodore Strong, Solicitors of defendant, October 9th, 1911, of the taking of the testimony of Edward L. Weston, a witness on the part of the complainant, at the time and place before mentioned.

Appearances on the part of the complainant, James D. Carpenter, Jr.; on behalf of the defendant, Alan H. Strong, Esq.

Edward L. Weston, being duly sworn according to law upon his oath, deposes and says, as follows:

By Mr. Carpenter:

Q. Mr. Weston, where do you reside?

A. I reside at the Raleigh Hotel.

Q. Washington, D. C.

A. Yes.

Q. What is your business?

A. Manager of the Hotel Raleigh.

Q. And you have been subpœnaed to produce here to-day the register which was in use April 13th, 14th and 15th, 1905?

A. Yes, sir.

Q. Will you produce the record?

(Register handed attorney.)

Q. Mr. Weston, what book is this?

A. I presume that is the register of the hotel.

Q. You know that it is, don't you?

By Mr. Strong—Objected to as leading.

A. It was turned over to me by the employees of the hotel as being the register. I suppose that is right—I believe it is, but I was not there at the time.

By Mr. Carpenter:

Q. Is there any doubt that this is the register of the Hotel Raleigh on April 13th, 14th and 15th, 1905?

By Mr. Strong—Objected to as leading.

A. I don't think so.

By Mr. Carpenter:

Q. When did this book come into your possession?

A. Came into my possession yesterday morning.

Q. Will you just read what is contained at the tip of each page?

A. Raleigh Hotel, European Plan, Strictly Fire-Proof. Money, Jewels and other Valuable Packages must be placed in one of the Safe-Deposit Boxes in the Office, otherwise the House will not be responsible for any loss. T. J. Talty, Manager.

Q. Mr. Weston, what period does this hotel register cover?

By. Mr. Strong—Objected to on the ground that the witness has no knowledge except as derived from an inspection of the book itself, and that the book itself is the best evidence.

A. Thursday, April 6th, 1905, to June 5, 1905.

By Mr. Carpenter:

Q. Mr. Weston, I call your attention to the top of each page of this book, and ask you what is printed at the top of the four several columns as ruled out on the pages?

By Mr. Strong—Objected to because the book is the best evidence.

A. Name, residence, room and time of arrival.

By Mr. Carpenter:

Q. On this book there appears to be numerous signatures and dates, what do those signatures and dates and addresses indicate to you?

By Mr. Strong—I object on the ground that the witness has no knowledge except from an inspection of the book, and that the book itself is the best evidence.

By Mr. Carpenter:

I will add to the above question, to you as manager of the Hotel Raleigh.

By Mr. Strong—Objection renewed.

A. They indicate the register of the hotel.

By Mr. Carpenter:

Q. And the people who were there at that time?

By Mr. Strong—I object upon the same ground as last stated, and further because the question is leading.

A. Yes, sir.

By Mr. Carpenter:

Q. Is that all that they indicate?

A. Name, residence, room and time of arrival.

Q. I show you a page which does not appear to be numbered and which has at the head thereof the date Thursday, April 13th, 1905, marked on the next page thereof "continued" and still the next page "continued," and ask you if you find under the date April 13th, 1905, the signature Mr. and Mrs. Louis Craven, New York, 514, 515 and a ditto mark under the head of time of arrival and with a red check mark thereafter, and ask you what that signature, address, the numbers 514 and 515 and the check mark and ditto mark indicate to you as the manager of the Hotel Raleigh?

By Mr. Strong—Objected to on the ground that the question is not one which the witness can answer from expert knowledge, and the book itself must stand without such explanation.

A. It would indicate that a Mr. and Mrs. Louis Craven, from New York, had registered and had been assigned to rooms 514 and 515. I don't know what the red check mark indicates, but the "D" would indicate arrival before dinner.

By Mr. Carpenter:

Q. Will you count the number of persons who registered in this book on Thursday, April 13th, 1905, and tell me how many there were on that date? I mean the number of lines of signatures on the register on that date, preceding the signature of Louis Craven and wife?

A. Forty-three.

Q. And how many signatures follow that to the end of signatures for that day?

A. Ten.

Q. Do you find any blank spaces or lines immediately before or immediately after the signatures Mr. and Mrs. Louis Craven on which guests might have signed?

A. No blank spaces.

Q. Referring to the other side, or next page following the one upon which the signature of Mr. and Mrs. Louis Craven appears, what date do you find at the top thereof?

A. April 14th, 1905.

Q. This register is filled with signatures, addresses and room numbers and checks, is it not?

A. Yes, sir.

Q. And all of the signatures appear to be in different handwritings, do they not?

By Mr. Strong—Objected to on the ground that the witness has not qualified as an expert in handwriting, and moreover the book itself is the best evidence. I make a general objection to all testimony based upon the book itself; that is to say, all statements of matters appearing by an inspection of the book.

A. All that I have seen.

By Mr. Carpenter:

Q. And you have examined all of the signatures under the date of April 13th and several other dates, have you not?

A. Yes.

Q. Can you tell, from an inspection of this book, how long Louis Craven and wife stayed at the Hotel Raleigh?

A. No, sir.

Q. I notice that there is printed at the top of each

page and under the head of "The Raleigh," the name T. J. Talty, Manager. I will ask you, if Mr. Talty is manager of this hotel at this time?

A. No, sir.

Q. You are the present manager of the hotel, are you not?

A. Yes, sir.

Q. Did you succeed Mr. Talty as manager?

A. Yes, sir.

Q. When?

A. Two years ago last spring—April 1, 1909.

Q. The Hotel Raleigh has kept this register, which has been produced and referred to at this time, together with all other registers from the period beginning April 6, 1905, to date, as a part of its archives and records, hasn't it?

Br Mr. Strong—I object because it calls for matters of which the witness has no knowledge, so far as appears, and also because the question is leading.

A. I believe they have.

By Mr. Carpenter:

Q. And how did this particular register come into your possession?

A. The company's bookkeeper turned it over to me.

Q. When was it turned over to you?

A. Yesterday.

Q. When were you served with a subpœna to come here and produce this book?

A. Day before yesterday, I think it was.

Q. And that bookkeeper is under your authority, isn't he?

A. No, he is not.

Q. Under whose authority is he?

A. The company's.

Q. And you are the manager of that company?

A. I am the manager of the Raleigh Hotel.

Q. And the company you refer to is the owner of the Raleigh Hotel?

A. Yes, sir.

By Mr. Carpenter—I offer the book above referred to in evidence and ask that the signature of Louis Craven referred to, as well as the book, be marked.

By the Master—Book marked *P*-1, signature marked *P*-2.

By Mr. Strong—Objected to as irrelevant, incompetent and immaterial and book not sufficiently proved.

Cross-examined, by Mr. Strong:

Q. You are not the custodian of this book, are you?

A. No, sir.

Q. Have you any knowledge whatever concerning it, except as derived from an inspection of the book itself, and the fact that you received it yesterday from the bookkeeper?

A. No, sir.

Q. Did you ever see this book before yesterday?

A. I have seen a lot of them in the storerooms, on the shelves where they are kept. I can't say this particular book.

Re-direct, by Mr. Carpenter:

Q. And this particular register was taken from the storeroom where all of the books of the company were kept?

By Mr. Strong—I object as leading.

A. Yes, I believe so.

Re-cross, by Mr. Strong:

Q. Did you see it taken from that place, or do you know personally where it did come from when you received it?

A. No, I did not see it taken from the place.

Q. From any place?

New Jersey State Library

A. No, sir; and I do not personally know where it came from.

Re-re-direct, by Mr. Carpenter:

Q. I see this book has pasted on the outside cover the number "133," and on the back is marked April 6th, 1905, to June 5th, 1905, and in gilt letters the word register, and ask if these markings appear on this book, also the gilt letters below register "The Raleigh," and ask if they are on the outside of this book?

A. Yes, sir.

Q. What does the number 133 mean?

A. I don't know.

Subscribed and sworn to before me this 28th day of October, 1911.

IN CHANCERY OF NEW JERSEY.

BETWEEN
MARIE DUDLEY,
Complainant,
AND
EDWARD DUDLEY,
Defendant.
} On Petition, etc. Notice.

BETWEEN
EDWARD DUDLEY,
Petitioner,
AND
MARIE DUDLEY,
Defendant.
} On Petition, etc. Notice.

Deposition in the above-entitled matter taken this 23d day of November, 1912, at 10 o'clock A. M., at the office of William C. Stoever, Esq., No. 727 Walnut street, in the City of Philadelphia, State of Pennsylvania, before Charles H. White, Esq., Commissioner

appointed by the Court of Common Pleas No. 4 of the City of Philadelphia, State of Pennsylvania, to take the same under and by virtue of letters rogatory issued at the Court of Chancery of New Jersey, bearing date November 15th, 1912, hereunto annexed.

Present—Alan H. Strong, Esq., on behalf of Edward Dudley; Martin Conboy, Esq., and James D. Carpenter, Esq., for Mrs. Marie Dudley.

(Due notice of the taking of the deposition at this time and place is admitted on behalf of Mrs. Dudley.)

Mr. Conboy—On behalf of Marie Dudley, we object to the examination of the witness Frank F. Brightly on the ground that the said Frank F. Brightly was attorney for the said Marie Dudley in connection with the institution and prosecution of a proceeding for a decree of absolute divorce in the State of Pennsylvania, and as such attorney represented her in connection with and in preparation, presentation and prosecution of such proceedings, and upon the records of the courts of the State of Pennsylvania appears as such attorney; that he therefore held a confidential relationship with the said Marie Dudley and information acquired by him in such relationship is privileged and cannot be made the subject of inquiry upon this or any other examination; that this privilege has not been waived and is not waived by the said Marie Dudley, but she claims this privilege and asserts the right to and benefit of it; that the fact of the privilege and the existence of the confidential relations between the said Marie Dudley and the witness called for examination appear of record in the present cause in New Jersey; that further participation in this examination by counsel on behalf of Mrs. Dudley is without any waiver of the aforesaid statement of protest and objection to the examination of the witness, the said objection and protest being continued throughout this examination.

(It is agreed between the solicitors and counsel of the respective parties that this deposition shall be taken stenographically and subsequently transcribed in typewriting and signed by the witness, and Mr. Paul R. Brown, a professional stenographer, is duly sworn to truly take and faithfully transcribe the said deposition.)

Frank F. Brightly, being duly sworn according to law on his oath, deposes and says as follows:

By Mr. Strong:

Q. Mr. Brightly, you reside in Philadelphia?

A. I do.

Q. You are a member of the bar of Pennsylvania?

A. For 47 years and upwards.

Q. Have you been subpœnaed to attend at this time to give evidence in these causes?

A. I am present by reason of the subpœna served upon me by the counsel for Mr. Dudley, I believe.

Q. Is that the subpœna to which you refer? (Paper shown witness.)

A. Yes.

Mr. Strong offers in evidence the subpœna referred to, which is marked for identification "*Exhibit A,* Nov. 23, 1912, C. H. W."

Q. Do you know Mrs. Marie Dudley?

A. I do.

Q. Were you attorney for her at one time in an action brought against her husband, Edward Dudley, here in Philadelphia county?

A. I was retained by her on the 29th of August, 1905.

Q. For what purpose? Was that the commencement of your relations with her as her attorney?

A. It was.

Q. Previous to that time did you know her?

A. Yes, I knew her. I knew her personally prior to that time. From the 28th of June, 1905. I was

introduced to her as Mrs. Dudley. I did meet her in October of 1904, and was introduced to her, but not as Mrs. Dudley.

Q. By whom were you introduced to her in October, 1904?

Objected to on the ground that it is not relevant to the issues of this case; does not relate to the allegation of desertion on the 22d of May, 1905, and is immaterial and irrelevant.

A. By Henry M. T. Beekman, of New York and New Jersey.

Q. Is he also a lawyer of New Jersey?

A. He is a member of the New York bar and of the New Jersey bar.

Q. How was the lady you now know as Mrs. Dudley named to you in that introduction?

Same objection.

A. That I cannot recollect. I tried to recall the name, but I cannot recollect the name; but I know she was not introduced to me as Mrs. Dudley. She was introduced to me as a single woman.

Q. Where did that introduction take place?

Same objection.

A. It took place on Thirty-third street, on the south side, immediately opposite the Waldorf Hotel, in Mr. Beekman's automobile. I was sitting in the Thirty-third street corridor of the Waldorf with a lady whom I had dined with, and Mr. Beekman came in, and by reason of something Mr. Beekman said to me, I and the lady I was with went out to the street with him and crossed over to the south side of Thirty-third street, and this lady was sitting in Mr. Beekman's automobile, and we were both introduced to the lady, and Mr. Beekman requested that we get in the automobile—myself and the lady I was with—and the four of us were driven to 19 East Fifty-seventh street, which was the residence of the lady I was with at the time. We left the automobile—the lady and myself—at that place,

and Mr. Beekman and Mrs. Dudley went off in his automobile. I did not know her then as Mrs. Dudley.

Q. Had you seen Mrs. Dudley before that or was that the first time you ever saw her?

Same objection.

A. That was the first time I ever saw her. That was, I think, in October, 1904. It might have been a month earlier—in September.

Q. Did you see Mrs. Dudley thereafter in New York?

Objected to on the same grounds as before stated.

A. Yes, very often.

Q. Under what circumstances and where?

Counsel for Mrs. Dudley makes the same objection and renews his objections stated at the the beginning of this testimony.

A. I saw her many times in New York. I saw her in public cafés; always with Mr. Beekman, and I saw her in Mr. Beekman's automobile. I saw her at night; in the early morning—very early morning, and in the afternoons.

Q. Did you ever see Mr. Dudley with her?

Objected to on the same grounds.

A. Never. I never met Mr. Dudley until about the time I brought the suit for Mrs. Dudley, in August, 1905, when I sent for Mr. Dudley and he came to my office, and I informed him I was about to bring the suit. That was my first meeting with him.

Q. At what cafés or restaurants in New York did you see Mrs. Dudley with Mr. Beekman?

Same objection as before.

A. I saw him with her; saw them together at Jack's, an all-night café on Sixth avenue, a celebrated café. I saw them at Rector's, old Rector's, which has been torn down now. I saw them at Delmonico's.

Q. At Sherry's?

A. Yes, I have seen them at Sherry's.

Counsel for Mrs. Dudley objects to counsel leading the witness.

A. Yes, I have seen them at a number of cafés which I cannot recall. It was a very usual occurrence to see them at these places. I have seen them in the afternoons in Mr. Beekman's automobile. I saw them in the Plaza one afternoon.

Q. The Plaza Hotel?

A. Yes; the old Plaza, before it was torn down. That was in the spring of 1905. I was with Mr. Beekman and Mrs. Dudley came in. She evidently had an appointment with him, for he left our party and joined her, and they went out together and got into his automobile and went off.

Q. When you say them at various restaurants, what were they doing?

Same objection.

A. Except at the time I speak of at the Plaza, they were always drinking and eating.

Q. What have you to say as to the extent of that drinking?

Same objection.

A. I recollect one occasion seeing them at Rector's. I had been to the theatre with a lady and I came into Rector's—oh, well, about 11 o'clock, after the theatre was over, and we took a seat on the second row on the north side of the café, somewhat towards the eastern end, and as I passed up the line of tables, I saw them—Mr. Beekman and Mrs. Dudley—at a table on the side, the north side of the café, about three tables from the front. They were in a very hilarious condition. She more so than him; she seemed to be very drunk. She was quarreling with the waiters and throwing around the dishes and making a disturbance.

Q. Did you ever see her in that condition besides that once?

Counsel for Mrs. Dudley makes the same objection, and directs the attention of the Court to

the fact that none of these assertions of the witness, for the securing of which the questions are directed, have anything at all to do with the allegations contained in the petition or cross petition, and that they are immaterial, irrelevant and not in issue before the Court.

A. Yes; I have seen her in that condition—possibly not so bad, but evidently under the influence of liquor, at Jack's, as late as two o'clock in the morning. They always had the same table at Jack's, in the white room, south room. I saw them at Delmonico's very late and very hilarious.

Q. When you say "they," to whom do you refer?

A. To Mr. Beekman and Mrs. Dudley.

Q. Were any persons in their company on these occasions?

A. I never saw any. They were always alone, together.

Q. Did you address them at any of those times?

A. I did not.

Q. Was there any reason why you did not?

Counsel for Mrs. Dudley objects to the question on the same ground as heretofore stated and as calling for the mental processes of the witness.

A. I did not address them because they did not address me. Possibly on several occasions they did not see me. But I was made to understand that she was a lady from Philadelphia, and, as I was from Philadelphia, she didn't want me to know anything more than was necessary about her—her doings in New York.

Q. During what period was it that you saw Mrs. Dudley and Mr. Beekman at these different places in New York?

Same objection.

A. From the time I was first formally introduced to her in the fall of 1904 until the latter part of May, 1905.

Q. And how frequently do you think that you did see them during that period?

Same objection.

A. Well, I always went to New York once a week for two or three days; a couple of days at least; sometimes twice a week. I was a member of the New York Athletic Club and lived at the club. I associated with Mr. Beekman and I was friendly with him. I am friendly with him yet, I guess. Never had any quarrel with him.

Q. Can you say how frequently you saw them together during the period you have mentioned?

A. Every week. Sometimes once a week. Sometimes two or three times a week. I always ran into them.

Q. Did you go to Europe in the summer of 1905?

A. Yes; I sailed on the Lorraine, of the French Line, on June 1st, 1905.

Q. Was Mr. Beekman with you on the steamer?

A. He sailed on the same vessel.

Q. Did you and Mr. Beekman go to the same hotel in Paris?

A. We lived at the same hotel in Paris—the Westminster, on the Rue de la Paix.

Q. When you were in Paris in the summer of 1905 did you see Mrs. Dudley there?

A. Yes; I saw here there about ten days after we got there; but I had no communication with her until I was again introduced to her, I think on the 28th day of June, 1905; and the way I recollect that year—I am almost certain as to the date—I left Paris on the 29th of June, 1905, and it was the day before I left Paris.

Q. Before that occasion, which you think was the 28th of June, had you seen her in Paris?

Same objection.

A. I had seen her. I had also been driven to her apartments in the Hotel Scribe, on the corner of Rue Scribe and the boulevard, right across from the Grande Hotel. She was living there, and I, on one of two occasions, went there with Mr. Beekman. I stayed in the automobile and he went upstairs to see her.

Q. Did you see her with Mr. Beekman in Paris?

Same objection.

A. I saw her in the Café Durand. That has been now destroyed. It was one of the cafés of Paris, I guess, before the Revolution.

Q. Was it in the daytime or night that you saw them dining together there?

Same objection.

A. I think the occasion I saw them there was in the evening.

Q. What was their condition at that time?

Same objection.

A. Eating and drinking together.

Q. Anybody else with him?

A. No.

Q. You have said that you were introduced to Mrs. Dudley in Paris?

A. Yes.

Q. And you think that was on the 28th of June?

A. Yes.

Q. By whom?

Same objection.

A. I was introduced by Mr. Beekman. He said that Mrs. Dudley wanted to meet me, and he wanted me to go with him, and he wanted to introduce me to Mrs. Dudley.

Q. She was there present, was she, at that time?

A. No. I went with him in his automobile and was taken up in that automobile, and I was introduced to her. I knew at that time she was Mrs. Dudley.

Q. When did you first know that she was Mrs. Dudley?

Same objection.

A. I first knew she was Mrs. Dudley shortly after the article appeared in *Town Topics,* which was in the latter part of the month of April, 1905.

Q. What particular article are you referring to?

Same objection, and also objected to as calling

for the contents of a paper, the paper being the best evidence of its contents.

A. An article which appeared in *Town Topics* at that time referring to the escapades of a certain married woman of Philadelphia and a lawyer in New York, and I called the attention of Mr. Beekman to it, I recall, and he told me who she was. Before that I did not know who the woman was he was going with.

Q. When you were introduced to Mrs. Dudley in Paris, as you have just now stated, by what name was she mentioned to you in the introduction?

Same objection.

A. Mrs. Dudley.

Q. Was anything said at that time by anyone in the presence of Mrs. Dudley as to your having been previously introduced to her?

Same objection.

A. I spoke to her. I said I had known her a long while by seeing her, but I had never had the recollection of being introduced to her, and she said she had always wanted to meet me, and she seemed to be very much pleased that I was introduced to her, and she let me know that it was at her request that Mr. Beekman introduced me to her.

Q. That was quite an auspicious beginning of your formal acquaintance, was it not?

A. It seemed so.

Q. You said I think that she got into an automobile at that time with you and Mr. Beekman?

A. Yes.

Q. What did you do after that?

Same objection.

A. I am a little cloudy as to whether we dined together or not. I think we did. I won't swear to it. But I know that we took a long ride in the automobile together. It was in the afternoon, and we went all through the suburbs of Paris and out the Bois de Boulong. I think we crossed the river and had a long

ride. I sat with Mrs. Dudley on the back seat and Mr. Beekman sat on the front seat with the chauffeur.

Q. How long were you in the company of Mrs. Dudley and Mr. Beekman on that occasion?

Same objection.

A. Several hours.

Q. During that time did you converse with Mrs. Dudley?

Same objection.

A. I can hardly say I conversed with her. She conversed with me and she also conversed with Mr. Beekman.

Q. In your presence?

A. In my presence.

Q. He was sitting immediately in front in the same automobile?

A. Yes.

Q. How did she behave towards him on that occasion?

Same objection.

A. Mrs. Dudley at that time was in a very excitable and disagreeable humor. She seemed to be under the influence of some sort of dope or narcotic of some kind, or intoxicating liquor, and she seemed to be wild with anger at him. Soon after we got in she got into a quarrel with him.

Q. Do you remember anything that she said to him in your presence at that time?

Same objection.

A. Of course I cannot give you the whole conversation nor the whole talk during that afternoon. It would be impossible for any man to carry it, but I can tell you some things she said to me.

Q. Do so, if you please?

Same objection.

A. She addressed him in a very loud voice and she accused him.

Q. Use her language as well as you can, of course.

A. She said to him, "You were the cause of my leaving my husband, and when you found you were getting into trouble yourself, like a cur you left me in New York and came to Europe; you are a dog; you are a bastard." She heaped up epithets of the most infamous character upon him and abused him as only a woman can a man. He said nothing. She said to me—she turned to me and she said, "I understand you are going to London to-morrow?" I said I was. "Well," she said, "I am going to London with you. I am going to leave this bastard." I said, "Mrs. Dudley, you are not going to London with me to-morrow or at any other time," and I repeated it to her and she insisted. Then she changed and said something else and went on abusing him. It was a tirade of abuse from beginning to end. It was a very disagreeable ride; but I was in the automobile and I couldn't get out of it and I had to stand what was going on. I was not interested in their quarrels.

Q. Did you hear her say anything at that time in the course of your ride with reference to his leaving her—leaving New York?

Same objection, and on the further ground that it is leading.

A. Yes, I did; now that you recall it.

Q. State that, if you please.

Same objection.

A. She told me, in a loud voice, so that Mr. Beekman could hear it, that he had spent the night before he sailed with her. I won't say it was all night—the evening I would say, or spent the evening with her; and he had told her that he was not going to Europe, and that all the time he knew he had bought his passage and that he was going; that he was going to sail next morning, and that on the next morning, just before the vessel sailed, he called her up on the telephone and told her that he was about taking the vessel to sail; and I said,

"Yes, Mrs. Dudley, I remember that; for I was in the carriage with Mr. Dudley."

Q. Mr. Dudley?

A. Mr. Beekman, rather—when he stopped the carriage at the Brevoort House, on Fifth avenue, and went into the Brevoort House to tell her. I told her that Mr. Beekman had said that while he had deceived her the night before, he could not leave the country without letting her know, and when he came back to the carriage from the Breevort House 'phone I said to him, "Did you get her on the 'phone"? and he said to me, "Yes, I am all broken up about it, for she was crying bitterly at the other end of the 'phone and upbraiding me for leaving her." I told all this to Mrs. Dudley in Mr. Beekman's presence. Mr. Beekman, I might add, did not say anything at all.

Q. Did you ever see Mrs. Dudley and Mr. Beekman together here in Philadelphia?

Same objection.

A. I knew Mr. Beekman came here to see her in Philadelphia, and I saw them together on one occasion.

Q. At what time was that?

A. That was in the evening; they were dining at Zeisse's Hotel.

Q. I mean at what period was it?

A. It was that period—in the spring of 1905; in the evening.

Q. How late was it?

Same objection.

A. I think it was early dinner; for I recollect I was about going into the hotel when I saw them and I backed out; I did not join them.

Q. Were they still alone at that time; was anybody with them at that time?

Same objection.

A. They were alone.

Q. Was there anything noticeable in their condition then?

Same objection.

A. I couldn't say; it was simply—I knew they were there, and I looked and I saw them and I backed out of the place. I did not see anything of their condition.

Q. During the period that you referred to, when you were seeing Mr. Beekman from time to time with Mrs. Dudley in New York, where was he living?

Same objection.

A. He had bachelor apartments on 56th street and 5th avenue, entrance on 56th street. It was on the southwest corner; the apartments were on the second floor, and after that he moved to the old Plaza and stayed at the old Plaza until he sailed for Europe in June.

Q. Was he married at that time?

Same objection.

A. No; married since. He was a single man and so was I a single man.

Cross-examined, by Mr. Conboy:

Q. How old are you?

A. I was 67 years of age on the 26th of last February.

Q. What year were you born in?

A. 1845, on the 26th day of February.

Q. Have you been married?

A. I have. I am married now.

Q. When were you married?

A. I was married on the 29th day of December, 1907, to my present wife.

Q. Were you ever married before?

A. Twice.

Q. When were you married the first time?

A. I was married on the 17th day of November, 1870.

Q. How long did you remain married then?

A. Eight years.

Q. When were you married the second time?

A. On the 28th day of October, 1880. I am not sure

about the 28th; may have been the 26th; but I think it was the 28th of October, 1880.

Q. Do you not know the date of your second marriage?

A. The 28th of October, 1880.

Q. Are you sure of that now?

A. It may have been the 26th, 27th or 28th. I know it was the same day of the month as the marriage of ex-Mayor William B. Smith, because I was married on the same day, but he was married the year before I was.

Q. Do you remember what day of the month it was?

A. I think it was the 28th, to the best of my recollection.

Q. How long did you remain married the second time?

A. Twenty-three years.

Q. You were a single man then from 1903?

A. From 1903 to 1907; from August, 1903, when my wife died, until I married my present wife, in December, 1907.

Q. Are you still married to your third wife?

A. I am; living with her now; living at the Gladstone Hotel.

Q. I understand you to say that during the period covered in your answers you were in New York two or three times a week?

A. I did not say three times. I said on several occasions.

Q. I understand you to say two or three times?

A. I have been there two or three days in a week. I did not say I took three trips in a week.

Q. Were you a lawyer practicing in New York?

A. Not at that time. I am now a member of the New York bar.

Q. When were you admitted to the New York bar?

A. I was admitted on my birthday, the 26th of February; I think it was 1909 or 1910.

Q. You were not a member of the New York bar then

upon the occasions that you have referred to in your former testimony?

A. No; I was admitted after that.

Q. What was your object in going up to New York on those occasions?

A. My object was—I was a single man, and I was a member of a New York Club; I went to New York because I enjoyed going to New York.

Q. Did you have any other reason for going there?

A. No.

Q. Then you enjoyed the things that were enjoyable in New York?

A. Yes.

Q. And that you could not get in Philadelphia?

A. I enjoyed living in New York when I was single better than I did in Philadelphia; and always have.

Q. Where did you put up when you went to New York?

A. The New York Athletic Club.

Q. Did you always put up there?

A. Yes; during all this period.

Q. Did you practice any law in Philadelphia during that period of time?

A. I certainly did; I have been in full practice 47 years.

Q. And you were making how many trips to New York in the course of a week?

A. I always spent my week-end in New York.

Q. What do you mean by week-end?

A. The week-end is supposed to be from Friday afternoon until Tuesday morning; sometimes every Saturday until Monday. The week-end is supposed to be from Friday afternoon until Tuesday morning.

Q. That is what you mean by week-end?

A. Yes.

Q. You always spent the week-end in New York?

A. Almost invariably.

Q. That was one trip you would make over there in the course of a week. What other trips?

A. I have occasionally—more than occasionally you might say—ran over for a day and so on.

Q. In what part of the week?

A. I would have an engagement to go to the theatre, and I visited ladies there, the same as any other single man would do. I knew people in New York. In fact, at the time—the lady I was with at the time I was first introduced, in October, 1904, to Mrs. Dudley—at that time I was with a lady that I was paying particular attention to, but she afterwards died.

Q. You frequented these places, the names of which you have mentioned in your direct testimony?

A. I did; yes. Sometimes by myself and sometimes—

Q. Sometimes with others?

A. Yes.

Q. You were in Jack's place that you speak of, in New York?

A. I have been to Jack's—yes; very often.

Q. You went to Rector's?

A. Very often; always went to Rector's after the theatre.

Q. And you went to Delmonico's?

A. Often; both for luncheon and for dinner and for supper.

Q. You went to Sherry's.

A. Often.

Q. These are the places; at least those were the places that you mention?

A. And at the Plaza.

Q. You mentioned having seen Mrs. Dudley?

A. Yes.

Q. When she was in a hilarious condition. I think you at first said a very hilarious condition. Will you please describe what you mean by that?

A. I mean she was drunk. That is what I mean.

Q. Were you ever sitting with her on such occasions?

A. No.

Q. At the same table?

A. No.

Q. How far away were you sitting from her?

A. At different times, different distances. For instance, that case in Rector's: I suppose I was four or five tables further back on the next row.

Q. That would be a distance of 20 or 25 feet?

A. No; about 15 feet.

Q. More or less ?

A. 12 to 15.

Q. Upon that occasion, I understood you to say she was calling the waiters down?

A. She was calling the waiters down, and the head waiter came over and apologized to me, on behalf of Mr. Beekman, and said that they had been there since 8 o'clock, and it was then eleven, and he did not know when they were going to leave, and they were a nuisance in the place, and he did not know what to do.

Q. She was throwing the dishes about?

A. She was throwing the napkins on the floor and throwing dishes about.

Q. Where did she throw the dishes?

A. On the floor.

Q. And smashed them?

A. Yes.

Q. What dishes did she throw?

A. I don't know.

Q. You saw them?

A. Yes.

Q. You could see from where you were?

A. I couldn't tell.

Q. You heard the crash of the dishes on the floor?

A. Yes.

Q. You could see her throw the napkins?

A. Yes; and she was quarreling with him and talking and wrangling with him?

Q. Disturbing everybody in the place?

A. Seemed to be. The head waiter came over to my table and complained to me about it, and he said Mr.

Beekman sent his apologies, and for me not to leave the place until he could try to get her home. Then he took her out, and then, in about an hour— not an hour; fifteen minutes afterwards, he came back by himself and he came to my table.

Q. At Delmonico's, did you see the same thing; did she smash plates on the floor?

A. No. I cannot say I saw her do anything of the kind there.

Q. You saw her there very hilarious?

A. Yes; I have seen her with him.

Q. She was very hilarious that time at Delmonico's?

A. Yes.

Q. Tell again what you mean by very hilarious?

A. Drinking and having a good time; that is all. I do not mean to say I saw her drunk there. I mean to say that I saw them late at night at Delmonico's; as late as one o'clock—just about as the place closed.

Q. I undedstand you to say when you saw her at Delmonico's, she was drunk?

A. I couldn't say positively.

Q. You say now although she was not drunk, she was very hilarious?

A. Seemed to be; yes.

Q. What did she do that indicated that she was very hilarious?

A. Talking loudly.

Q. What did she say?

A. I couldn't tell.

Q. How near did you sit to her?

A. I saw her as I passed through the hall. In Delmonico's, if you know, on the right there is a café, and in front a café, and as you pass from the front café you pass the door of the rear café.

Objected to.

That is all glass and you can see.

Q. Did you hear her upon that occasion?

A. No; not to know what she said.

Q. Did you hear her make any outcries?

A. No; saw her laughing.

Q. Did you hear anything that she did?

A. No.

Q. And you did not hear her throw dishes about?

A. No; I did not. I only saw her casually from time to time. I have seen her, as I say, on several occasions.

Q. Just casually?

A. Yes; as late as one o'clock.

Q. Just casually?

A. Yes.

Q. Did you see her drunk in Sherry's?

A. No.

Q. Did you ever see her hilarious in Sherry's?

A. I saw her drinking there. I cannot say I did.

Q. How near did you sit to her at any time at Sherry's?

A. On several occasions—

Q. How near did you sit to her at any time at Sherry's?

A. Not very near.

Q. Where were you employed as her attorney—here in Philadelphia?

A. My first interview with her—

Q. Excuse me. Where were you employed?

A. I am going to tell you. My first interview with her was at Atlantic City, the day, I think, before she employed me. She employed me on the 29th of August, 1905, and on the day before, or a few days before, I was at the Hotel Brighton, in Atlantic City, taking lunch, and I saw her at the other side of the dining room, and shortly a waiter brought a card over to me and said that there was a lady wanted to speak to me on the other side of the dining room. I walked over and found it was Mrs. Dudley. I had not seen her since I had seen her in Paris on the 28th of June. Then she asked me to sit at her table, which I did, and she told me her story and said she was going to sue her husbaid for divorce and would I take the case.

Q. And you told her what?

A. I told her I would. That was the first time I was ever employed or consulted by her about the case.

Q. What was the date of these discreditable happenings that you refer to that took place at Rector's?

A. They occurred in the fall of 1904 and spring of 1905.

Q. Did you see her on more than one occasion throw dishes on the floor?

A. That was in the spring of 1905.

Q. What month?

A. I couldn't tell you.

Q. What day was it?

A. I couldn't tell you.

Q. You prepared a bill for her, in Pennsylvania, did you not, for a decree of divorce?

A. I prepared a libel, which she swore to the 29th of August.

Q. You filed that in court?

A. I think that was filed the next month some time; yes.

By Mr. Strong:

Q. I suppose you meant 1905, when you said the 29th of August?

A. Yes.

By Mr. Conboy:

Q. You are positive about that of course, are you not?

A. What?

Q. About the time when the libel was sworn to?

A. I think that is the date.

Q. What date is it, again?

A. I think—let me see—

Q. Without referring to any other papers. Let us see how your memory is.

A. The 29th of August.

Q. She swore to the libel on the 29th of August?

A. That is my recollection. I guess you will find I am right, too.

Q. Did you make any preparation for the trial of her action?

Objected to as not proper cross-examination.

A. No; because the case was not ready for trial before I was out of it.

Q. Did you do any work in connection with the case at all?

Objected to as not proper cross-examination.

A. I did.

Q. Did you employ, or cause to be employed, any detectives in connection with the matter?

Objected to as not proper cross-examination.

A. Not for her.

Q. Did you receive reports of detectives?

Objected to as not proper cross-examination.

A. I have.

Q. Whether for her or not for her, did you receive reports of detectives?

Objected to as not proper cross-examination.

A. That question ought to be more specific.

Q. Do you understand the question?

A. I understand it so far.

Q. Answer it to your best understanding—according to your understanding of it.

A. I employed detectives in April, 1905, but not for Mrs. Dudley. I did not know Mrs. Dudley at that time—the early part of April.

Q. Did you receive reports from detectives?

Objected to as not proper cross-examination.

A. I did.

Q. And did those reports have to do with the matters asserted in the bill for divorce which you filed for Mrs. Dudley?

Objected to as not proper cross-examination; and also as calling for matters which should ap-

pear by the reports themselves, of which the reports are the best evidence.

A. They certainly did not, because the bill was filed afterwards.

Q. Did they not refer to the same character of acts that you referred to in the bill for divorce?

Objected to for the reasons before stated.

A. I employed these detectives for Mr. Beekman.

Q. Will you answer the question?

10 At this point the stenographer is requested to read the question to the witness, and the preceding question is thereupon read to the witness.

A. I employed these detectives at the instance of Mr. Henry M. T. Beekman, before I ever knew Mrs. Dudley.

Q. The question is repeated.

A. And the reports as received were sent to Mr. Beekman.

Q. I again direct your attention to the question, and ask you to answer it.

20 The same objection as before stated.

A. You ask the question more specifically and I will answer it.

By direction of the examining counsel, the question is again read to the witness as follows: "Did they not refer to the same character of acts that you referred to in the bill for divorce"?

A. The question will have to be more specific.

Q. In what respect?

A. Ask me what they referred to and I will tell you.

30 Q. Did they not refer to the same character of acts?

A. What character of acts?

Q. That you referred to in the bill for divorce which you filed for Mrs. Dudley?

Objected to on the ground before stated.

A. I was asked by Mr. Beekman to make an investigation of Mr. Dudley, and I employed detectives for that purpose. I was not asked to make any such inquiry on behalf of Mrs. Dudley or anybody else. I did not know anything about Mrs. Ddley at the time, and I

made the inquiries and forwarded them to Mr. Beekman.

Q. I again direct your attention to the question and ask you if those reports did not refer to the same character of acts that are alleged in the bill for divorce which you filed on behalf of Mrs. Dudley?

Objected to for the same reasons already stated.

A. The libel in the case I brought against Mr. Dudley and the charge was adultery, and Mr. Beekman's investigation of Mr. Dudley was to support such a charge; but it was not to support the charge as made. The investigation was not made with the idea that there was going to be any such suit, for I did not know that he knew Mrs. Dudley or that it was to be used by her.

Q. You employed a detective named D. Miles Rigor, did you not?

Objected to on the grounds before stated.

A. I did; in April, 1905.

Q. I show you his bill, which is marked for identification *D*-24 in the suit on trial in Chancery of New Jersey, and ask you if you did not receive that bill from him—that detective, D. Miles Rigor?

Objected to as not proper cross-examination.

A. I certainly did; both bills.

Q. When you say that you received both bills, you also refer to *Exhibit D*-23, for identification?

A. Yes. I paid those bills, and the money was paid to me by Mr. Beekman.

Q. Do you remember in the bill for divorce in the divorce cause which you started for Mrs. Dudley, in this State, the following allegations were contained: Paragraph 3 of the Bill, which is entitled, "In the Court of Common Pleas, No. 5, for the County of Philadelphia, of December Term, 1905, No. 15, between Marie Dudley, Libellant, and Edward Dudley, Respondent," paragraph 3 being as follows: "And the Libellant avers that in violation of his marriage vow and of the

laws of this Commonwealth the said Edward Dudley, the respondent, hath given himself up to adulterous practices and hath been guilty of adultery with divers women in this Commonwealth and elsewhere, and further that the said respondent, by cruel and barbarous treatment, hath endangered the life of the Libellant and offered such indignities to her person as to render her condition intolerable and life burdensome and thereby forced her to withdraw from his house and family."

Do you remember that allegation in the libel?

Objected to as not proper cross-examination.

A. I certainly do, and it was inserted at Mrs. Dudley's instance—under her instructions.

Q. Did the reports of the detective that you had received refer to that allegation in the libel?

Objected to as not proper cross-examination.

A. When I filed that libel, or when that libel was prepared by me, I did not have those reports. I had received them prior to that time and had forwarded them to Mr. Beekman.

Q. Is it not a fact that you had received those reports prior to that time?

Objected to as not proper cross-examination.

A. I had in April.

Q. Do you remember that in connection with the same suit that you were attorney in there was filed a bill of particulars under date of November 23d, 1905, in the same Court of Common Pleas, No. 5, as follows: "Libellant's Bill of Particulars. To P. F. Rothermel, Esq., attorney for Respondent. Under the charge of adultery as contained in the libel filed in the above case, the Libellant will prove on the trial of the cause the adultery of the said Respondent, Edward Dudley, with one Elizabeth Battelle Vanderpool, at the Hotel Raleigh, in the City of Washington, D. C., on April 13th, 14th and 15th, 1905. F. F. Brightly, attorney for Libellant."

Do you remember filing the bill of particulars I have just read?

Objected to as not proper cross-examination.

A. I do. I filed it at the request of and under the instructions of Mrs. Dudley. She sent me two telegrams, insisting that I should put that in the bill of particulars, and I can produce the telegrams, if you want them.

Q. Again directing your attention to *Exhibit D-24* for identification, that you have identified as a bill received by you from D. Miles Rigor, the detective whom you employed, and directing your attention to the dates contained in that bill, April 13th and the following item upon that date, "Expense operative G. W. B., Philadelphia and Washington, $9.52; services operative G. W. B., Philadelphia and Washington, $7"; and under the date of April 14th, 1905, the following items: "Services operative G. W. B., Washington, $7; expenses G. W. B., Washington, $6.95; services operative No. 2, Washington, $7; expenses No. 2, Washington, $6.75; telephone, 75 cents, $7.50. April 15th, services operative G. W. B., Washington, $7; expenses G. W. B., Washington and New York, $12.30; services operative No. 2, Washington, $7; expenses No. 2, Washington, $1; telegram, 35 cents, $1.35; services operative W. C. N., New York, $4; expenses W. C. N., New York, 25 cents," and ask you if those items contained in that bill, which you say you paid, and which you received from Detective D. Miles Rigor—the part having reference to Washington and the expenses charged for operatives in Washington— had anything to do with the allegation in the libellant's bill of particulars which you filed on the 23d of November, 1905, in which it is alleged that the libellant will prove on the trial of the cause adultery of the said respondent, Edward Dudley, with one Elizabeth Battelle Vanderpool at the Hotel Raleigh, in the City of Washington, on April 13th, 14th and 15th, 1905.

Objected to as not proper cross-examination.

A. They had nothing to do with it. I did not have those papers before me when I furnished the bill of par-

ticulars, and I furnished that bill of particulars by reason of receiving two telegrams from Mrs. Dudley, stating that I should furnish it and mentioning Mrs. Elizabeth Battelle Vanderpool. I knew nothing about it. I knew nothing about those bills except that they were paid by me and I was reimbursed by Mr. Beekman.

The answer is objected to, and for the further reason that the telegrams are the best evidence of their contents.

Q. What was the extent of your activity in this divorce suit brought by you in behalf of Mrs. Dudley against her husband, Edward Dudley?

Objected to as not proper cross-examination.

A. The records will show in that suit. I filed the bill. had it served. I filed the bill of particulars, and I presented a petition to the Court of Common Pleas, No. 5, for alimony and counsel fees, asking for a fee of $2,000 and an order on Mr. Dudley to pay it.

Q. Did you get the money from Mr. Dudley?

A. I did not. I never had any disposition of the rule. Before the rule came up for disposition, I received a revocation of my power of attorney from Mrs. Dudley and I couldn't go on with the rule. I also want to add that I never received anything at all from Mrs. Dudley, even for the costs and expenses in the case.

Q. The extent of your activities in the case was to file the libel and to make application for counsel fee. Is that true?

Objected to as not proper cross-examination.

A. Up to that time—yes.

Q. Is it not a fact that you demanded payment from Mrs. Dudley of the sum of $2,000 on or before the 22d of November, 1905?

Objected to as not proper cross-examination.

A. Mrs. Dudley agreed to pay me $2,000.

Q. Answer yes or no.

A. Yes. I will answer the question. Mrs. Dudley agreed to pay me $2,000, and she filed this petition for

an order for $2,000, and then she said she would not go on with it, and as I couldn't proceed, I claimed that she owed me $2,000, and I claimed it, and I have brought suit against her, which suit is now pending in the Court of Common Pleas of this County, and I have not been able to serve it because she had fled the county. Now, that is a fact.

Q. Did you ever receive a letter from her, under date of November 22d, 1905, of which I show you a copy?

Objected to as not proper cross-examination; and further that if anything is to be shown it should be the original and not a copy.

A. Yes, certainly I did.

Mr. Conboy offers the letter referred to in evidence.

Objected to as not proper cross-examination.

The letter, just referred to, offered in evidence, is marked *"Ex. B., C. H. W., 11/23/12,"* being as follows:

"Waldorf-Astoria,
34th Street & Fifth Avenue,
New York, November 22, 1905.

Mr. F. F. Brightly,
134 South 9th St.,
Philadelphia, Pa.

Dear Sir:—

I hereby revoke the power of attorney given you to act for me in certain divorce proceedings. I hereby withdraw from you all right to represent me in any matters whatsoever. I notify you to withdraw your appearance from the record in the proceedings in divorce which you say you have commenced. I further notify you to return to me to the above address all the papers belonging to me relating in any way to any of my affairs.

Should you fail to promptly comply with this notification I will place the matter in the hands

of Philadelphia counsel, with instructions to him to take such proceedings as may be necessary to vacate and nullify any authority I have heretofore given you.

Your conduct of my matters has been wholly unsatisfactory to me, and your demand for the payment of $2,000 before returning to me my papers I regard as excessive and exorbitant. I am willing to pay a reasonable compensation for any services you may have rendered. I notified you of this fact when I called at your office to-day.

Respectfully,

The witness—I have got the original.

By Mr. Conboy:

Q. I ask you if you did not send Mrs. Dudley, under date of November 23, 1905, the telegram I show you?

Objected to as not proper cross-examination.

Paper shown witness.

A. I do not recollect it. I do not deny it.

Q. Have you any recollection on the subject at all?

A. No.

Q. Do you say that you did not send that telegram?

A. No; I do not.

Mr. Conboy—I offer it in evidence.

Objected to as not proper cross-examination and as not proved and not admissible at this time.

The telegram referred to, offered in evidence, is marked *Exhibit C, C. H. W., 11/23/12,*" being as follows:

"Nov. 23 1905.

"Mrs. Edward Dudley,

Room 965, Hotel Waldorf, N. Y.

Your case is in full in Evening Bulletin all favorable to you am sending you papers reported for north american will probably call on you tonight thought you should be prepared for visit

tried to get you on telephone call me up at my residence when you get this

F. F. BRIGHTLY, 602p."

Q. In this telegram it is said, addressing "Mrs. Edward Dudley," "Your case is in full in *Evening Bulletin.*" Do you know what that referred to?

Objected to as not proper cross-examination.

A. I cannot recollect.

Q. "All favorable to you." Do you know what that referred to?

Objected to as not proper cross-examination.

A. I cannot recollect it.

Q. "Am sending you papers." Do you know what that referred to?

Objected to as not proper cross-examination.

A. I do not recollect.

Q. "Reporter for *North American* will probably call on you to-night." Do you know what that referred to?

Objected to as not proper cross-examination.

A. I have no recollection of it. I do not say I did not send it.

Q. "Thought you should be prepared for visit." Have you any recollection of that?

Objected to as not proper cross-examination.

A. No.

Q. Do you know what that referred to?

Objected to as not proper cross-examination.

A. If I sent it I presume it was to prepare Mrs. Dudley for a visit from a reporter.

Q. Do you say you did not send it?

A. No; but I do not remember it.

Q. "Tried to get you on telephone." Do you remember ever trying to get her on the telephone?

Objected to as not proper cross-examination.

A. I have no recollection of that at all.

Q. "Call me up at my residence when you get this."

Did you have a talk with her on the 'phone at your residence on the receipt by her of such a telegram?

Objected to as not proper cross-examination.

A. I have no recollection at all. I presume that I sent the telegram, but I cannot say I did, for I do not recollect it.

Q. Did you see her case in the paper here in Philadelphia—in the *Evening Bulletin?*

Objected to as not proper cross-examination.

A. I think it was. I think it was in several papers.

Q. On or about the 23d of November, 1905?

Objected to as not proper cross-examination.

A. I cannot tell. I have no idea.

Q. Do you know who gave the facts to the reporter?

Objected to as not proper cross-examination.

A. I do not.

Q. Do you know whether or not the statements in the papers were favorable to her?

Objected to as not proper cross-examination.

A. I think they were.

Q. Did you put those statements in?

Objected to as not proper cross-examination.

A. No.

Q. Did you have anything to do with the preparation of the statement for the press?

Objected to as not proper cross-examination.

A. No.

Q. Did you have anything to do with giving the story to the newspapers?

Objected to as not proper cross-examination.

A. I did not.

Q. Who did?

Objected to as not proper cross-examination.

A. I don't know.

Q. What papers did it appear in?

Objected to as not proper cross-examination.

A. I do not recollect.

Q. Did the reporter for the *North American* tell you that he was going to call on Mrs. Dudley?

Objected to as not proper cross-examination.

A. I do not recollect.

Q. Have you any recollection of a reporter stating that he would call?

Objected to as not proper cross-examination.

A. If I sent the telegram, I did.

Q. Do you recollect now whether you did or not?

Objected to as not proper cross-examination.

A. I do not recollect it.

Q. If a reporter of the *North American* had called on you, would you remember it?

Objected to as not proper cross-examination, and also as incompetent, irrelevant and immaterial.

A. I could not recollect it—no, I only want to add there that a reporter called me up on the 'phone only yesterday and asked me where this meeting was to be, and I declined to tell him—a reporter of the *Times, Philadelphia Times.*

Q. If you sent that telegram would you have any recollection of the fact?

Objected to on the grounds before stated.

A. No.

Q. Then the fact that you sent it would not make any impression on your mind which would be retained?

Objected to as not proper cross-examination.

A. There would be nothing unusal, if such was the fact, of sending such a telegram, that she was about to be called on by a reporter. I was her attorney.

Q. That was the very day on which you filed the libellant's bill in the case that you started in Philadelphia. Do you recall that?

Objected to as not proper cross-examination.

A. I do not.

Q. You do not recall that on that day you filed a bill of particulars, asserting that the libellant would

prove at the trial, under the charge of adultery, that the adultery had been committed by Edward Dudley with one Elizabeth Batelle Vanderpool at the Hotel Raleigh, in the city of Washington, on April 13, 14 and 15, 1905?

A. I do not. I recall that such a bill was filed under these circumstances: When I filed that libel for divorce Mrs. Dudley wanted me to charge in the libal specifically that Mr. Dudley had committed adultery with Mrs. Elizabeth Battelle Vanderpool. I declined to do it and she persisted in it. I said, "It is not necessary." I had no papers before me upon which I could base such a charge, and I said, "It is not necessary to put it in the libel. If it becomes necessary we will put it in the bill of particulars." I received two telegrams positively instructing me to charge—to put in the bill of particulars a statement making this charge the day I filed the libel or the day after, I don't know which.

Mr. Strong objects to the statement of the contents of the telegram, which should be produced, if still in existence.

A. (Continued)—The bill of particulars was not sworn to by her or by anybody.

Q. What did you want to speak to her about on the evening of November 23d, 1905?

Objected to as not proper cross-examination.

A. I don't know.

Q. Where do you send the telegrams that you send to people—where do you send them from?

Objected to as not proper cross-examination.

A. I couldn't say. I send from all offices.

Q. Have you not any regular office where you follow your practice of the law? Have you an office as attorney-at-law here in the city of Philadelphia?

Objected to as not proper cross-examination.

A. I have had an office in this city before you were born, and I have been a practicing lawyer before you

were born, and I have always had an office. I have got an office now on the northwest corner of Ninth and Walnut, and I have been in that office for 27 years.

Q. Do you send your telegrams from that office?

Objected to as not proper cross-examination.

A. I send them at the telegraph office.

Q. Have you got a call box in your office?

A. No.

Q. Where do you send out to the telegraph office?

A. Take them myself, or give them to my clerk.

Q. Is there a telegraph office near your office?

A. Several.

Q. Which telegraph office do you take them to when you take them out yourself?

A. I don't know. Whichever is the most convenient.

Q. Which is the most convenient from your office?

A. There is one on the north side of Chestnut street, below Tenth.

Q. Is that the most convenient for you?

A. I guess it is.

Q. Is that the one you go to?

A. Sometimes.

Q. Do you remember having received a letter of which I show you a copy? (Paper shown witness.)

Objected to as immaterial and also as not proper cross-examination. Also that the original should be produced and not the copy.

A. I do.

Mr. Conboy offers the letter referred to in evidence, which is marked "*Ex. D., C. H. W., 11/23/1912.*"

Objected to as not admissible as this time, and as not proper cross-examination.

The letter marked *Exhibit D, C. H. W. 11/23/12*, is as follows:

"Waldorf-Astoria
34th Street & Fifth Avenue,
New York City, Nov. 27, 1905.

F. F. Brightly, Esq.,
134 South Ninth St.,
Philadelphia, Pa.

Dear Sir:—

I hereby reiterate my direction to you contained in letter of 22 inst., not to act further in my behalf in any way. I hereby revoke any authority I may have given you to act for me in any respect, and further notify you again to return to me at once to the above address all papers, documents, etc., of mine which you are retaining and which relate to evidence collected for me and paid for by me, and any and all other such papers belonging to me, as you are unlawfully retaining. Your failure to comply with this request will result in legal steps being taken immediately to recover the same.

Yours truly,

"

Q. Have you the originals of those letters here?

A. Yes.

Q. Will you produce them—the letters of November 22d and November 27th?

Witness produces letters.

Q. Do you know the signature of your clerk?

A. Yes, I received those.

Q. Your clerk's name is George R. Walker?

A. No; George R. Walker was her lawyer then; one of her thirty-five lawyers which she had since she had me.

Q. Your clerk's name was H. L. Cheeseman?

A. Yes; at that time.

Mr. Conboy offers in evidence the originals of the letters (the copies which have already been offered in evidence, produced by the witness, under date of November 22d and November

27th, 1905, being the originals of which *Exhibits B* and *D* of this date are copies), which are marked, respectively, *Exhibit E* and *Exhibit F*, 11/23/12, C. H. W.

Mr. Strong objects to the letters just offered in evidence as not proper cross-examination; not admissible at this time, and irrelevant, immaterial and incompetent.

Q. The letter of November 22d was received by you on November 24th and the letter of November 27th was received by you on November 29th. Is that true?

Objected to as not proper cross-examination.

A. Yes.

Q. You were subpœnaed to attend before Mr. William C. Stoever, a Commissioner of Deeds of New Jersey, residing in this Commonwealth, at his office, 727 Walnut street, Philadelphia, Pa., on the 7th day of October, 1912, at 11 A. M. Do you remember that subpœna being served on you?

Objected to as not proper cross-examination, and as irrelevant, incompetent and immaterial.

A. I do. I was subpœnaed at that time at the instance of Mrs. Dudley.

Q. You were asked certain questions with respect to certain papers, were you not?

A. I was.

Q. And those papers were reports of the Rigor Secret Service. Do you remember?

Objected to as not proper cross-examination and as irrelevant, incompetent and immaterial.

A. Yes; they were papers which were once in my hands and which I had obtained by reason of and at the request of Mr. Beekman.

Q. You were asked this question were you not: "Did you have any such papers"; and your answer to that question was: "I was employed somewhere in the early

spring of 1905 by a man who resided in New York." Do you remember that question and answer?

Objected to as not proper cross-examination and as incompetent, irrelevant and immaterial.

A. Yes.

Q. Do you remember being asked this question: "I am not asking you that. I am asking you simply whether you have had such papers," and do you remember your statement, "I propose to answer the question in my own way, and further I propose to answer the question to suit myself"?

A. I certainly answered it.

Q. And then giving an answer which is the same as that which you have is substantially the same as that which you have testified here to-day in answer to questions put to you by Mr. Strong, of counsel for Mr. Dudley?

Objected to as not proper cross-examination, incompetent, irrelevant and immaterial, and also that the attempt of counsel to state the substance of the answer does not correctly state it, and that the question is not in the proper form in which it should be put.

A. Yes.

Q. You have been a member of the bar in Philadelphia for how many years?

A. Nearly 48 years; between 47 and 48 years. I was admitted on the 11th day of February, 1865, before the Civil War ended.

Q. When you received that subpœna to testify on behalf of Mrs. Dudley, did you communicate with anybody?

Objected to as not proper cross-examination.

A. No.

Q. You are sure of that?

Same objection.

A. I am, certainly.

Q. In any manner at all?

Same objection.

A. In any manner at all.

Q. And nobody knew, as far as information proceeded from you, either directly or indirectly, that you were to be examined at the instance of Mrs. Dudley?

Objected to as not proper cross-examination.

A. Not from me.

Q. Either directly or indirectly?

Objected to as not proper cross-examination.

A. Either directly or indirectly.

Q. You mentioned the fact to nobody at all?

Objected to as not proper cross-examination.

A. No.

Q. Were you asked about it by anybody?

Objected to as not proper cross-examination.

A. No.

Q. Did any information in any way come to you inquiring about it?

Objected to as not proper cross-examination.

A. No.

Q. Did you or not prepare a statement in advance of what your testimony would be?

Objected to as not proper cross-examination.

A. I did not.

Q. Did you or not furnish such statement to Mr. Strong, counsel for Mr. Dudley?

Objected to as not proper cross-examination.

A. I did not.

Q. Did you or not furnish such statement of what your testimony would be to Mr. Dudley, himself?

Objected to as not proper cross-examination.

A. I did not.

Q. Did you or not furnish such statement to anybody on behalf of Mr. Dudley or Mr. Strong?

Objected to as not proper cross-examination.

A. I did not.

Q. Did you furnish such statement to any one at all?

Objected to as not proper cross-examination.

A. I did not. I never prepared any such statement.

Q. Did you know such statement had been prepared?

Objected to as not proper cross-examination.

A. I did not.

Q. Did you know that Mr. Strong conducted the examination of you upon that occasion from such statement?

Objected to as not proper cross-examination and as misstating facts.

A. I did not.

Q. Do you know Mr. D. Miles Rigot, the dectective, personally

Objected to as not proper cross-examination.

A. I do.

Q. How long have you known him?

Same objection.

A. I knew him several years before the investigation that he conducted for me on behalf of Mr. Beekman.

Q. Has your acquaintance with him continued up to the present?

Same objection.

A. When I have detective work to do, he does it.

Q. How long ago has it been since you saw him last?

Objected to as not proper cross-examination.

A. I cannot say.

Q. Has it been a year?

Same objection.

A. I guess it has.

Q. Has it been six months?

Same objection.

A. I think it has been a year.

Q. Do you know whether it has or not?

Same objection.

A. No.

Q. What was the occasion of your last seeing him?

Same objection.

A. I cannot say. I saw him on business, that is all, when I did see him; not this business.

Q. You are not certain it was not this business?

Same objection.

A. No, it was not.

Q. Have you seen him on this business since the date of the bills?

Same objection.

A. No.

Q. You have not seen him at all in connection with this investigation?

Same objection.

A. No.

Q. Have you any objection to furnishing us, as Mrs. Dudley's attorneys, with the record of his investigation in the city of Washington in the month of April, 1905?

A. That is his business.

Q. Have you any objection to it?

Objected to as not proper cross-examination.

A. I cannot have any objection.

Q. Who can?

A. That business was not conducted for Mrs. Dudley.

Q. Have you any objection to furnishing us with the results of that information?

A. No personal objection.

Q. Or any other objection?

A. No.

Q. Have you any objection at all to furnishing us with that information?

A. No.

Q. Will you give us a written agreement that you will produce to us that information?

A. I will not.

Q. Why not?

A. Because I don't think it is competent for me to give such an order as that. If you want that you should get it from Mr. Beekman.

Q. Is that your only reason for refusing?

A. Absolutely. That work was not done for Mrs. Dudley. As I said in my other examination, it was done for Mr. Beekman in order to protect himself against any possible charge of crim. con. brought against him by Mr. Dudley.

Q. Did you ever state to Mr. Frank P. McDermott, of Jersey City, that Mr. Dudley at one time told you that he had been guilty of adultery with a woman before he and his wife separated?

Objected to as not proper cross-examination.

A. I never told Mr. McDermott any such thing.

Q. Did you ever have any conversation with Mr. Frank P. MeDermott, of Jersey City?

Same objection.

A. No; I cannot recollect.

Q. Do you know Mr. Frank P. McDermott, of Jersey City?

Same objection.

A. I do not. I will not say he did not call to see me once, because a great many people called on me about this case.

Q. Did you ever see him?

Same objection.

A. I cannot recollect; but I know I never told him anything of the kind.

Q. Did you ever tell Frank P. McDermott, of Jersey City, that Mr. Dudley admitted to you that he spent several days with a woman in the Raleigh Hotel of Washington on April 13, 14 and 15, 1905. who, Mr. Dudley said was not Elizabeth Battelle Vanderpool?

Same objection, and also that the question is entirely irrelevant and incompetent.

A. I never told him anything of the kind.

Q. Did you ever tell him that, either in those words or in substance?

Objected to as not proper cross-examination and as irrelevant and incompetent.

A. No.

Q. Did you ever have any conversation with Mr. McDermott on the subject?

Same objection.

A. No. I had no such conversation with him because I regarded Mr. McDermott as an interloper in the case.

Q. Why did you regard him as an interloper?

Same objection.

A. Because he had gone into the case without ascertaining whether I had been paid or whether I had been properly discharged and whether I consented to it.

Q. Did you tell him that?

Objected to as not proper cross-examination.

A. I don't recollect whether I told him that, but I know I would not have made a confidant of him or told him things such as you say I said, under such circumstances as that.

Q. You did regard him as a man who had no business to be in the case because of your connection with it?

Same objection.

A. I did certainly.

Q. Do you consider yourself as still in the case?

Same objection.

A. No.

Q. Then why do you regard him as an interloper?

Same objection.

A. I was not going to help a man like him.

Q. What was the matter with him?

Same objection.

A. If you do not know anything about the ethics of the bar, well and good. In New York there is an act of Assembly which prevents a man going into another man's case. In this State it is by etiquette. If you New Jersey lawyers have not got any etiquette, that is your business.

Q. Do you know anything else against Mr. McDermott?

Same objection.

A. No; I don't know anything about Mr. McDermott.

Q. That is not contained in your last answer?

Same objection.

A. No; I know nothing against him. I have nothing against him except that.

Q. Were you still in the case at that time?

Same objection.

A. No.

Q. Then Mr. McDermott was not going into any case in which you were at the time?

Same objection.

A. Mr. McDermott, I suppose like a great many others, like yourself, has been trying to find out what I knew about the case. That is all. But I would not make a confidant of you, if you asked me anything, except on the stand to tell the truth.

Q. Will you please tell me again whether at any time you and Mr. McDermott were co-temporaneously in the case?

Same objection.

A. I do not know. I do not think so.

Q. As a matter of fact, you never were in the case in New Jersey?

Same objection.

A. No.

Q. Mr. McDermott never was in the case in Pennsylvania?

Same objection.

A. No.

Q. So the cases were in different jurisdictions entirely?

Same objection.

A. Yes.

Q. But you are counsel and your attitude towards Mr. McDermott was such that you never told him anything?

Same objection.

A. I have no attitude against him, but I do not remember seeing him. I do not recollect it.

Q. You have no recollection, I suppose, either of seeing him or of not seeing him?

Same objection.

A. If he says he saw me, I presume he did.

Q. Did I understand you to say that you never saw anybody with Mr. Beekman and Mrs. Dudley upon the occasions that you saw them together—that you never saw anybody else?

A. I do not recall ever seeing anybody.

Q. And upon all of the occasions you saw them together nobody was in their company at all?

A. That is my recollection.

Q. How many times did you see and speak to Mrs. Dudley in Paris on the occasion you refer to?

A. Once.

Q. Was it only once during that entire trip?

A. Only once.

Q. What kind of an automobile were you in on this ride you speak of?

A. An open automobile; two-seated, that is three on the back seat and two on the front.

Q. Was it a taxicab?

A. Certainly not; Mr. Beekman's own automobile. He brought it over with him on the boat, when he came over from New York.

Q. What kind of an automobile was it, do you know?

A. Yes; Mercedes.

Q. How many passengers would it hold?

A. Four passengers and chauffeur.

Q. Did you live continuously with Mr. Beekman when you were in Paris—did you live at the same hotel?

A. We were at the same hotel.

Q. What hotel was it?

A. Westminster. I left Paris by myself on the 29th of June, and was away a month; I don't think I got

back to Paris; I was in London a month. In fact, I think—I know he did—Mr. Beekman came there and saw me in London a few days.

Q. On the occasion of this ride you say that Mrs. Dudley was excitable and that she appeared to be under the influence of some dope, narcotic or intoxicant. Is that true?

A. Yes.

Q. Which of these three do you mean?

A. I don't know. I am not a physician.

Q. What do you mean by "dope"? Do you mean under the influence of some drug?

A. Yes.

Q. What distinction do you draw between drug and narcotic?

A. I don't know; a narcotic or drug.

Q. Why do you use these terms?

A. Why do you use language? To convey what your idea is. I am not an expert. I only know the condition. I was trying to describe her condition.

Q. Then you think at that time that she was not responsible for what she said?

A. That is a very impossible question to answer—whether a woman is responsible when she gets mad, gets wild, either from a narcotic or from jealousy or from anger or from liquor or a combination of them all. All we know is that a woman is a tiger, and she behaved like a tiger towards him. I felt sorry for the man. I felt sorry for myself; I had to stand for it.

Q. Do you know whether she was intoxicated on that occasion or not?

A. The ordinary individual hearing her would say she was drunk.

Q. You say it might have been jealousy or excitability due to anger and jealousy?

A. Her anger, her jealousy and indignation at him she expelled without any attempt at restraint.

Q. That is the best explanation you can make of your

statement that she appeared to be under the influence of some dope, narcotic or was intoxicated?

A. Yes, sir; and the result was her jealousy and her indignation and her anger at Mr. Beekman, and then she used these expressions. Expressions that I did not think justified, except so far as they referred to the fact that he had left her and had not told her he was going to leave her.

Q. Do you know anybody connected with the *Town Topics?*

Objected to as not proper cross-examination.

A. I do not.

Q. Do you know who publishes the paper?

Objected to as not proper cross-examination.

A. I do not.

Q. You know that it is regarded as a scandal-monger, do you not?

Objected to as not proper cross-examination and as irrelevant, incompetent and immaterial.

A. I know it publishes scandal the same as all the other newspapers.

Q. You know that its particular forte is the publication of scandal, do you not?

Same objection.

A. No; I do not know.

Q. Did you ever know of its being consulted for the news of the day? For instance, would you read it to get the condition of the war in the Balkan States?

Same objection.

A. No; that is beyond the scope of the paper. It seems to be social news; dealing with social events as they affect people in society—what they are doing and where they are.

Q. It also contains all scandal relating to people who are prominent in society, does it not?

Same objection.

A. I have read scandal in it; yes. I do not say all

scandal. I have seen worse scandal in the daily papers than in *Town Topics*.

Q. You are a regular subscriber to *Town Topics?*

Objected to as not proper cross-examination.

A. I have taken *Town Topics, Puck* and *Judge* and *Harper's Weekly* and *Leslie's* every week for the last twenty years.

Q. You have taken *Town Topics* for the last twenty years?

Objected to as not proper cross-examination.

A. I have, yes. It is one of the papers I take every week.

Q. Did you attract the attention of anybody else to this article that you saw in there, with the exception of Mr. Beekman?

Same objection.

A. That I cannot remember.

Q. Do you remember what date the article was?

A. I think it was the third week of the month.

Q. Of what month?

A. April, 1905.

Q. Have you refreshed your recollection about that recently?

A. No. I have seen the article since—read it since.

Q. When did you read it last? In what connection did you read it the last time you read it?

A. I suppose shortly after it appeared.

Q. You say you have seen the article since?

A. Yes; shortly after it appeared.

Q. Is that what you mean when you said you saw the article since?

A. I did.

Q. You did not mean that you had seen the article recently?

A. No.

Q. How long has it been since you read that article?

A. Seven years.

Q. And that was what you meant when you said that you had seen it since?

A. Since it was published.

Q. That was what you mean when you said you had seen it since?

A. I certainly did; yes.

Q. That you had seen it seven years ago?

A. Certainly.

Q. Do you know a man by the name of P. E. Gilmore?

Objected to as not proper cross-examination and as irrelevant, incompetent and immaterial.

A. I do not recollect such a man. Be more specific, and I may be able to tell you.

Q. Did you ever use that name yourself?

A. I never did.

Q. Have you ever been in Mr. Dudley's office?

A. I have not.

Q. Do you know where it is?

A. It is in Camden somewhere.

Q. How do you know that?

A. I know he is in Camden. We all know that. We all know he has got an office in Camden. That is all I know.

Q. He has been in your office?

A. No; except once when I sent for him at the time I brought the suit. He came in answer to my letter.

Q. Has he ever been in your office since that time?

A. No.

Q. Have you seen him since that time?

A. No.

Q. Not at all?

A. I have seen him; certainly.

Q. Where did you see him?

A. I saw him once or twice in Mr. Rothermel's office, at the time that Mr. Bell, Mr. Dudley's brother and myself were there, in the deal about what alimony they were going to give her.

Q. They were going to give her?

A. They were going to give her—yes.

Q. Have you ever seen him since that time?

A. I saw him here at the last hearing.

Q. Have you seen him with the exception of that?

A. Not to my recollection.

Q. Are you sure of that?

A. I am.

Q. If you had seen him, would you recollect it?

A. Yes.

Q. Do you swear positively you have not?

A. I do.

Q. At any place?

A. At any place.

Q. When was the occasion that you saw Mrs. Dudley in Delmonico's acting very hilariously?

A. In the spring of 1905.

Q. What month?

A. I saw her there two or three times. I cannot tell you.

Q. Upon the occasion when she was acting very hilariously?

A. It was in the spring; along in February or January, 1905; along there.

Q. Later than that—in April?

A. I cannot tell you.

Q. Do you recall, definitely?

A. No. I cannot give you any more definite information. I did not charge my memory with it.

Q. Was it before or after the article in the *Town Topics* came out?

A. Before.

Q. How long before?

A. A couple of months. My recollection of the article is that it referred to this lawyer in New York and a society woman of Philadelphia, and gave the names of some of her friends, and so on.

Q. Did it give your name?

A. It certainly did not. I had nothing to do with it. It pointed so directly to the couple that I called Mr. Beekman's attention to it. It was then he told me who the woman was.

Q. Did you ever give a substitution to anybody in the divorce cause here in Pennsylvania?

A. I never did. I got a letter from John C. Bell asking me if he could come into the case as my associate, and I replied to Mr. Bell's letter and told him I would be very glad to have his assistance.

Q. As far as the record goes, as far as you are concerned, you are still attorney of record for Mrs. Dudley in that case?

A. Without any power to act.

Q. On the record you are still her attorney?

A. I am, and so is Mr. Bell.

Q. As far as you know?

A. And so is Mr. Bell.

Q. How did you send or deliver these papers that you referred to as having been delivered to Mr. Beekman?

A. Sent them by mail, I guess.

Q. Did you send any letter with them?

A. I think not.

Q. Did you receive any letter from him asking for them?

A. No. I sent them as I received them, from day to day, my recollection is; and when I received the bill, I sent him the bill, and he sent me a check, and I went over and paid Rigor.

Q. Is it not a fact that you obtained affidavits from those detectives?

A. No.

Q. You did not?

A. I did not.

Q. Incorporating their testimony in connection with what they had observed?

Objected to as not proper cross-examination.

A. I did not.

Q. Did you not prepare any affidavits for them to testify to?

Same objection.

A. I did not.

Q. The only information you got from them was in connection with the daily reports that you received. Is that true?

Same objection.

A Yes.

Q. Nothing further?

A. Nothing further.

Sworn to and subscribed to before me this
day of November, A. D. 1912.

Mr. Strong—I give notice to counsel for Mrs. Dudley that I shall insist upon the objections above named during the cross-examination, and shall at the proper time before the Court in Chancery of New Jersey move to strike out and suppress all the testimony above given and so objected to.

Mr. Convoy—We give notice to counsel for Mr. Dudley that we renew our objections to the entire testimony of this witness, on all of the grounds heretofore stated, and that at the proper time we shall move the Court of Chancery to suppress the entire deposition of the witness, on the grounds stated at the beginning of this deposition and in connection with the particular questions about which the witness has been interrogated.

At this point the meeting was adjourned.

IN CHANCERY OF NEW JERSEY.

MARIE DUDLEY,
Complainant,
vs.
EDWARD DUDLEY,
Defendant.
} On Bill, etc.

EDWARD DUDLEY,
Petitioner,
vs.
MARIE DUDLEY,
Defendant.
} On Petition, etc.

Testimony taken before George D. Hendrickson, a Master in Chancery of New Jersey, February 7th, 1913, at Room 1206, 111 Broadway, New York City, New York, pursuant to a notice dated January 29th, 1913.

It is stipulated that the testimony be taken stenographically and transcribed, to be signed by the witness or witnesses, prior to returning to court.

Appearances—James Carpenter, Jr., for Marie Dudley; Allen H. Strong, Esq., for Edward Dudley.

Frederick D. Elmer was duly sworn by the Master as stenographer.

Mrs. Caroline Truax, a witness produced on behalf of the complainant, being first duly sworn by the Master, testified as follows:

Direct examination, by Mr. Carpenter:

Q. Mrs. Truax, where do you reside?

A. At 667 Madison avenue.

Q. New York City?

A. New York City.

Q. And you are the wife of the late Judge Truax?

A. Widow of the late Judge Truax.

Q. What court did he sit on?

A. The Supreme Court.

Q. Of New York?

A. Of New York.

Q. Do you know Marie Dudley?

A. I do.

Q. How long have you known her?

A. I met her at Bad Neuheim; I don't remember the year; I was introduced by Mrs. Waterhouse, of Philadelphia; I don't recall the year.

Q. Can you state whether or not on or prior to the year 1904?

A. It would be hard to say; I have been going to Bad Neuheim every year for twelve years; I don't know which of these years it was; I suppose if I looked it up I could recall it, but I don't remember.

Q. Where did you meet Mrs. Dudley?

A. In the park at Bad Neuheim.

Q. Do you recall who introduced you to her?

A. Mrs. Waterhouse, of Philadelphia.

Q. Do you know whether she met Judge Truax?

A. Yes, sir; we were together at the time.

Q. After that occasion, have you seen Mrs. Dudley frequently?

A. Yes, sir; I saw her quite often; we went to Baden Baden together from Neuheim.

Q. Do you know Mr. Henry M. T. Beekman?

A. I do, yes.

Q. How long have you known him?

A. I have known him, I should say, fifteen years, or probably longer.

Q. Do you know whether Justice Truax knew Mr. Beekman?

A. He introduced me to Mr. Beekman.

Q. Did you ever see Mr. Beekman in Europe?

A. Yes, sir, we met him at Baden Baden on this trip.

Q. Was it the same trip?

A. Yes, sir, the same trip, because I was never to Baden Baden except that one trip; I had my two little

girls with me; one is now ten or twelve; I should say it was about six or seven years ago, but it is pretty hard for me to fix the date—perhaps 1905 or 1906, but I don't know.

Q. Did Mrs. Dudley meet Mr. Beekman in your presence, do you know?

A. I should say that Judge Truax brought Mr. Beekman to the Hotel Stephanie in Baden Baden and introduced him to me.

Q. That is your recollection?

A. Yes, I am quite sure; I know that Judge Truax introduced me to Mr. Beekman, but I am not positive whether it was on the street or in the hotel; I am absolutely positive that Judge Truax introduced Mr. Beekman to Mrs. Dudley, but I am not positive of the place.

Q. Can you say whether it was the same summer?

A. Yes, sir, it was the same summer.

Q. But you say you cannot place—

A. It was the same summer we met at Bad Neuheim.

Q. Were Mr. Beekman and Mrs. Dudley together at any time you can recall?

A. At that same summer in Paris, Mrs. Dudley was at the Ritz, and we were at the Continental, and my recollection is—it is so long ago I couldn't say how it was—but I know we all joined together and went to some place of amusement, but I don't remember what it was.

Q. You mean you went together?

A. Yes, sir, the five of us; another gentleman, a friend of Mr. Beekman's, was there.

Q. Do you recall whether coming back on the steamer you were all together; that is, whether you and Judge Truax and Mr. Beekman and Mrs. Dudley were all on the same steamer?

A. I remember that Mrs. Dudley returned on our steamer, with Judge Truax and me, but I don't remem-

ber whether Mr. Beekman was there on the ship or not. Oh, he was—yes, I do remember, he was on the ship with some gentleman.

Q. After you returned to New York, did you ever dine with Mr. Beekman and Mrs. Dudley in Judge Truax's company, or see them together?

A. Yes, we dined at Delmonico's on one or two occasions.

Q. Specify any occasions when you were there with them?

A. I don't know how to specify; I don't quite see what you mean.

Q. Do you recall any particular occasion when you dined together?

A. Why, I can recall on two occasions; that is, I know we dined—I don't quite know what you mean, "recall."

Q. If it comes to your mind, that you remember?

A. I remember we dined together, and Mr. Truax dined with Mr. Beekman and Mrs. Dudley on one or two occasions.

Q. Do you recall who was present on the two occasions you dined with Mr. Beekman and Mrs. Dudley?

A. Let me see; Mrs. Dudley was there with Mr. Beekman, and the Judge and myself, on one occasion.

Q. Do you remember who was present on the other occasion?

A. I do—the men and women present?

Q. You four and some other person?

A. Yes, sir; I wouldn't swear to that; I know we four, and I have an idea there was another man.

Q. Do you recall, Mrs. Truax, a trip to Yonkers in Mr. Beekman's automobile?

Q. Yes?

A. Yes, sir, to Tarrytown; I remember that distinctly.

Q. Who was present on that day?

A. Mrs. Schmidt, Mrs. Dudley, Mr. Beekman, Judge Truax and I. On another occasion Mrs. Schmidt and Mrs. Dudley and Mr. Beekman and I—we motored out with him two or three times; when you said Yonkers, I didn't recall it; but it was Tarrytown.

Q. Did you ever at any time, Mrs. Truax, see any improper conduct on the part of Mrs. Dudley, towards Mr. Beekman, or Mr. Beekman towards Mrs. Dudley, when they were together with you?

A. Certainly not, or I should not have been with them. I don't quite know what you mean by "improper conduct." We were ladies and gentlemen, out in a public place, I suppose.

Q. Did you ever see Mrs. Dudley, while with Mr. Beekman, and in your parties under the influence of liquor or acting as if she were?

A. No; we drank wine at our dinner parties.

Q. You never saw her so drunk she smashed dishes on the floor?

Mr. Strong—I object to that as leading.

Q. You never saw anything like that, did you?

Mr. Strong—I renew my objections.

The Witness—No.

Cross-examination, by Mr. Strong:

Q. Mrs. Truax, I observed you hesitated considerably in giving your answer to the question asked you by Mr. Carpenter, whether you had ever seen Mrs. Dudley under the influence of liquor. Why did you hesitate?

A. I don't know.

Q. You answered all the other questions quite promptly.

Mr. Carpenter—I object to the question.

Mr. Beekman—Is that a question?

Mr. Strong—I object to the interruption.

Mr. Carpenter—I object upon the ground that the question contains an unwarranted assump-

tion of fact, the statement that the witness hesitated, when that does not appear.

Q. You did hesitate, didn't you?

A. I didn't notice it.

Q. You really were not hesitating?

A. No, sir; I was thinking. I am under oath, and I was thinking the matter over. I do not so remember.

Q. It required some thought whether you do recall an occasion of that kind?

A. Not any more than the other questions, because that is a question pertaining directly to me.

Q. You have seen Mrs. Dudley drinking very freely?

A. I have not; I have seen Mrs. Dudley drinking.

Q. Not very freely?

A. Not at all.

Q. What would you regard as freely?

A. I have dined with Mrs. Dudley, and we have had champagne at dinner, just as we have had when we dined with other people.

Q. You have seen her drink a good deal of champagne?

A. Not any more than the others at the table. I think she was a good judge of champagne, as I remember my husband said.

Q. She seemed like one who knew good champagne?

A. Yes, sir; she said her husband had had old champagne, and she seldom drank modern or new champagne that other people did.

Q. And you now mean to say positively that you have never seen her under the influence of liquor of any kind, do you; you are again hesitating?

A. It is asking a question. Have you ever seen a person you have known for ten years under the influence of liquor, with whom you have lived in the same hotel, and dined with them—I think under oath I ought to hesitate.

Q. Do you know such times as you remember?

A. I don't recall ever having seen her that way.

Q. Do you remember the occasion when your husband introduced Mr. Beekman to Mrs. Dudley?

A. Why, I just recall; I don't recall the place.

Q. Do you recall the time at all?

A. I remember it was in the summer—late in the summer, I should say; it was either in the park or the hotel at Baden Baden.

Q. It was in Baden Baden anyway, wasn't it?

A. Yes, sir.

A. Somewhere in Baden Baden.

A. Yes, sir.

Q. But just where you don't recall?

A. No, sir; I don't.

Q. You say you never were at Baden Baden except on this one occasion—did I understand you to say that?

A. That I never was in Baden Baden on but this one occasion?

Q. This one summer. Did I understand you to say that? If I am wrong I want to be corrected.

A. I know we motored through Baden Baden the last year of my husband's life.

Q. That was what year?

A. In 1909; we motored and stopped somewhere for the night; it was in the fall or winter.

Q. Excluding that occasion in 1909, was there any other occasion when you were in Baden Baden, except the one upon which Mr. Beekman was introduced by your husband to Mrs. Dudley?

A. That is the only one I recall; I had quite forgotten that I had been there since until you asked me.

Q. Now, cannot you fix the year of that visit to Baden Baden, when you say Judge Truax introduced Mr. Beekman to Mrs. Dudley?

A. I don't see how we can fix that; we visited Mr. Salken, who lived there; it was on the Fourth of July or some other holiday; we had fireworks; I couldn't say—I don't think it was the Fourth of July—it was later.

Q. A moment or two ago you said you thought it was six or seven years ago, probably in 1905; is that your best recollection?

A. I said that because I have two little girls, and they were both with me—both of the children were with me at the time; the younger child is now ten—I should say she was four or five at the time; she may have been younger or older—I cannot swear to the time, because I have had the two little girls with me every year since they were born.

Q. When you said you thought it was 1905, you don't mean to say it may not have been 1903 or 1904?

A. No, I couldn't say; I might by photographs of the children and little snapshots—I might recall within a year or two of the time.

Q. Your present recollection about it—that is the best you can give us?

A. The child of twelve was a little girl running around; how old the baby was, I don't know; as I guess, I should say it was seven or eight years ago, but I couldn't say positively. They would know in Neuheim, because it was Mrs. Dudley's only visit there; I had been taking the cure for a number of years.

Q. We were talking about Baden Baden?

A. It was the same year; from Neuheim, we went to Baden Baden; I really cannot place the year.

Q. Were you with Mrs. Dudley other years in Europe, or was this the only year you were with her in Europe?

A. I have such a hazy recollection of my trips in Europe, it is hard to recall. I think that was the only year she took the cure; I always go to Neuheim.

Q. To your recollection, that is the only year you were with her in Europe?

A. I know I saw her in Paris another year.

Q. What other year?

A. I don't know; I remember seeing her shopping.

Q. Was that before or after the year she was introduced—when Mr. Beekman was introduced to her?

A. It must have been after, because I never met Mrs. Dudley until that summer; I couldn't swear that I met her shopping that same year—I don't recall it. I go every summer, and it is hard to remember whom you meet—it don't make very much impression.

Q. You did see, at different times, a good deal of Mr. Beekman and Mrs. Dudley, didn't you?

A. No; I don't know what all this is about—I remember reading the papers a little—I just recall, it comes to me on the occasion of our return on the ship together, Mrs. Dudley was met by Mr. Dudley at the dock. I didn't recall Mr. Dudley until this moment; I saw him at the dock.

Q. Do you happen to know whether Mr. Beekman met Mr. Dudley on the dock also?

A. I didn't pay any attention to that; I know that Judge Truax spoke to Mr. Dudley. I said, "How do you know him?" He said he was a member of the same club—the Manhattan Club. I didn't recall Mr. Dudley until this moment.

Q. Do you recall what month it was when you were at Baden Baden, on the occasion of the introduction of Mr. Beekman to Mrs. Dudley?

A. I couldn't say, but I should imagine it was August, inasmuch as we returned in September.

Q. How much time did you spend there?

A. In Baden Baden?

Q. Yes?

A. Oh, perhaps three or four days.

Q. Not more than three or four days?

A. No, sir, not a week; I don't remember whether it was three or four.

Q. It was in the early part of your stay in Europe?

A. No, sir.

Q. I mean, it was in the latter part of your stay in Europe?

A. Yes, sir, the latter part of my stay in Europe.

Q. Shortly before you came home?

A. We went to Paris then; our longest stay was in Paris.

Q. You think it was in August that first year?

A. Yes, sir.

Q. Whether the early part or the latter part of August, are you able to state?

A. I should say it was late; we sailed for Europe always in the beginning of July; we had to have the cure; that would bring us into August.

Q. The cure you took at Bad Neuheim?

A. Yes, sir.

Q. You took the cure for a short time—

A. No, sir; we went for a long while—we were supposed to stay for some time, but it was expensive and we didn't stay there very long; it is barely possible that I have been mistaken as to the month, but that is my recollection.

Q. That is, of course, the best you can give us?

A. Judge Truax held court until the end of June, and we sailed at the beginning of July, and we took our cure first and then went to Baden Baden.

Q. Did you take the cure at Bad Neuheim a number of different years?

A. Yes, sir; I have been taking them always for nine years.

Q. You mean nine years, including the year last passed?

A. Yes, sir.

Q. Including the time before Judge Truax's death?

A. Yes, sir; it is only three years this month he died; I have been there for the last three years.

The Master—Do you waive the signature of the witness?

Mr. Strong—I do not think it is necessary to have her sign her testimony.

Henry M. T. Beekman, a witness produced on behalf of the complainant, being first duly sworn by the Master, testified as follows:

Direct examination, by Mr. Carpenter:

Q. Mr. Beekman, where do you reside?

A. Corner of Forty-fifth street and Fifth avenue.

Q. In the city of New York?

A. The Lorraine, city of New York.

Q. You are a counsellor at law both in the State of New York and the State of New Jersey, are you not?

A. Iam; I have been a member of the New Jersey bar thirty-two years last June, and I have been a member of the New York bar about sixteen or seventeen years. My firm in Jersey City is Traphagen & Beekman. I am alone here at present and have been for a few years.

Q. Your practice is conducted from which office?

A. Both offices.

Q. Do you know Marie Dudley?

Mr. Strong—I wish to introduce an objection at this point; that the witness is a resident of the State of New Jersey, and that no sufficinet reason appears for taking his testimony in this matter.

Mr. Carpenter—We have got a stipulation that all the witness's testimony shall be taken, except the immediate parties.

Mr. Strong—Let the objection stand; I think, in view of the connection of Mr. Beekman with the case, there should be an exception as to his testimony, and while the stipulation may be as you say, I think his testimony should be taken in the presence of the court.

Q. You have no objection to going to court and testifying there before the Vice Chancellor?

A. I suppose not.

Q. If you will do that—

A. I think you will facilitate matters by taking it here, because I am going away tomorrow. I have not voted or lived in New Jersey for twenty years; I ran for Senator in Somerset County in 1903, but haven't voted there since; I have voted here.

Q. And you will be in Washington on the 13th and 14th of this month?

A. I expect so.

Q. You have no objection—

Mr. Strong—Of course, I cannot prevent your taking the testimony now, but I intend to make the objection before the Vice Chancellor that there is no reason why Mr. Beekman should not appear before the court and testify.

The Witness—You couldn't make me appear if I didn't want to.

Mr. Strong—I don't know about that.

The Witness—I know about it; I am not a resident of New Jersey; you can take my testimony now; I have no objection to testifying—I am willing to testify; what I say is, I am willing to testify before the Vice Chancellor.

Mr. Strong—What I say is—

The Witness—I say furthermore—

The Master—I understand this is cross-examination?

Mr. Strong—Yes, it is.

The Master—There has been no direct testimony given.

Mr. Strong—This is bearing on the objection I have made; the witness has made an observation which ought to go down.

The Witness—The witness will continue his observations; I say I am a resident of the State of New York; I am willing to testify in the Court of Chancery in New Jersey, and to put myself within the jurisdiction of the court quite voluntarily, but it must suit my convenience,

inasmuch as I was expected to testify here today, and I am now ready, but the other side does not seem to care for my testimony.

Q. Will you come to Jersey City on the 13th?

A. No, sir, I will not.

Q. Mr. Beekman, where did you—

A. I will not say I will not come there, but I will not come on the 13th; I have set apart this day for this, and the only notice I had of this was yesterday at one o'clock, after I had left court; I have not had an opportunity to read over Brighter's testimony.

Q. You know Mrs. Dudley, don't you?

A. I know Mrs. Dudley.

Q. Do you recall when and where you met her?

A. I met Mrs. Dudley at Baden Baden in the Black Forest in either the summer of 1904 or 1905, I don't remember which.

Q. Do you remember who introduced her to you?

A. Judge Truax, I think. If not Judge Truax, Mrs. Truax did—either one did; one or the other; I don't recall.

Q. Judge Truax of what court?

A. Of the Supreme Court, New York.

Q. How long have you known Judge Truax?

A. A great many years.

Q. Did you know him intimately?

A. Quite intimately; I was a member of the Manhattan Club, and he was a member; I went to Europe for a number of years; I used to take him to DeLongchamps in Paris.

Q. Now, do you recall who else was present when you were introduced to Mrs. Dudley, by Judge Truax or his wife?

A. I don't recall.

Q. After that, do you recall the next time you saw Mrs. Dudley?

A. That afternoon, if I remember right, I took Mrs. Dudley and Mrs. Truax and some other gentleman—I

don't know who it was, whether Mr. Truax or Mr. Frank Arthur, a bachelor friend of mine, who had gone from Paris to Baden Baden, to the races which were on at Baden. When we came back from the races, I think we had dinner at the Stephanie Hotel; I wasn't stopping at the Stephanie Hotel—I had two bachelor friends with me, and we were at another hotel. I didn't see anything more of them after that; I think we left the next day; from there I went on down to the Black Forest, to Aix le Baine, and came back to Paris.

Q. Do you know Frank F. Brightley?

A. Yes, sir.

Q. A lawyer of Philadelphia?

A. I do.

Q. How long have you known him?

A. I don't know; I suppose about ten or twelve years.

Q. Did you, in the year 1905, employ Mr. Brightley to procure certain information regarding Edward Dudley ,and employ detectives for that purpose?

A. Mrs. Dudley requested me to employ some detective or detectives in Philadelphia, for the purpose of securing evidence against her husband, and I saw Brightley, I think it was in the Waldorf, and brought him out to the automobile and introduced him to Mrs. Dudley.

Q. Under what name did you introduce him?

A. Under his own name; I never introduce people except under their own names.

Q. Did you introduce Mrs. Dudley to Mr. Brightley under any other name than that of Mrs. Dudley?

A. I never did, and Mr. Brightley had at that time with him Mrs. Helen Moser, a rich old widow, who lived in Fifty-seventh street; we took them home, if I remember right, in my automobile, and I brought Mrs. Dudley back, if I recall it, to the Waldorf; I don't remember whether Brightley came back with us or not. Mrs. Moser is now dead. She lived at 19 East Fifty-seventh street; I did some law business for her, both before that and I think after that.

Q. Continue your statement as to employing detectives.

A. Brightley agreed to and did employ a firm of detectives in Philadelphia, the name beginning with "R," but I don't remember who it was; it is eight or nine years ago.

Q. If I should suggest the name "Rigor"—is that the name?

A. I think that is the name; yes, sir.

Q. Did you tell him for whom you wanted that evidence?

A. I did.

Q. Who did you tell him you wanted it for?

A. I told him I wanted it for my client.

Q. Did you tell him who your client was?

A. I did.

Q. What did you tell him?

A. I told him whom my client was.

Q. Who was your client?

A. He said he knew Mr. Dudley by reputation; I don't remember whether he said he knew him personally or not. Then I received a number of reports; they were either sent directly to me from this firm or sent by Brightley to me—I don't recall which; however, I got quite a number of them, a dozen or more—probably more than that. Those reports were paid for by me, and Mrs. Dudley gave me the money, and I paid Brightley the money; I think that is the way it was done.

Q. The money you paid Brightley you got from Mrs. Dudley?

A. Yes, sir.

Q. In what capacity were you acting for Mrs. Dudley at that time?

A. As her counsel; do you want me to explain?

Q. Yes, explain that?

A. After I came from Aix le Baine, I ran against the Truaxes in a café in Paris, and Mrs. Dudley was with

them, if I recall, and we were all dined together by the Judge, Mrs. Dudley, Mrs. Truax, the Judge and I think Mr. Henry Pegram was with us. After this dinner we went to the Folies-Bergere, and after that I took Mrs. Dudley, and I think the rest of them down—I think Mrs. Dudley was stopping at the Ritz, and she was dropped off there, and the Judge and Mrs. Truax went to the Continental, if I recall it right, and Pegram came back with me. I was living at the Hotel Westminster, No. 11 Rue le Paix. I never saw anything more of them until I met them on the steamer, and that was one of the American Line ships, either the St. Paul or the one that was formerly called the Paris, and afterwards called the Lafayette. On the steamer, Judge Truax asked me if I would not help Mrs. Dudley, who was in a great deal of trouble with her husband, she made serious charges and complaints about him in his treatment of her. I knew Judge Truax very well. He said, you are a member of the New Jersey bar, I wish you would look up the matter—

Q. Did you do that?

A. A day or two after I came back to New York, I received a telephone call from Mrs. Dudley, and she asked me to come up town, as she had something important she wanted to see me about, and I went up to the Waldorf and saw her in the public dining-room, and had a long conversation with her, and as a result of that I sent my clerk, Mr. Frank Davis, who had been in the employ of Traphagen & Beekman for a good many years, to Camden, to make a very extensive search, and also to go into Gloucester county. Those notes and searches were never put in the form of an abstract, but were simply in the rough. I afterwards showed them to Mrs. Dudley; as far as I could see, I didn't see anything irregular and told her so. The deeds, etc., I found seemed to have been regularly executed and acknowledged in the regular and proper

way. Mrs. Dudley complained about her husband, attacking him in a violent way, but I don't recall what she said. As a result of that, following that, she requested me, as I said a few moments ago, to secure that evidence against him, as she insisted at all times, he had never been true to her from the time she married him. Now, I have not read over, as I said in the beginning of my testimony, fully the testimony of Frank Brightley—

Q. I will ask you to contradict that afterwards?

A. Yes, sir.

Q. Did Mrs. Dudley, when she asked you to get that information through detectives for her, tell you that she suspected her husband's infidelity with a certain woman?

A. Oh, yes, she told me that dozens and dozens of times; she told me that the first conversation she ever had with me.

Q. Did she mention the name of any particular woman?

A. I don't think she did at first, but afterwards she mentioned the name of a quite well-known woman here in New York.

Q. What was the lady's name?

A. I think her name was Mrs. Vanderpool, but I don't remember her first name; I am not exactly positive about that name, but I think it was—

Q. Do you recall what was done with those reports that were submitted to you by the detectives or by Mr. Brightly to you from the detectives?

A. I will have to explain that.

Q. Do so.

A. The following year I went back to Paris; whether it was in 1905 or 1906, I don't remember—it was one of those years. Just before I sailed—I think I took the Lorraine, of the French line of steamers, and I was taking my car over, and Mr. Brightley came to me just before I sailed, I think on the day before, or two days

before, and asked me if he could not share my room; I had a large room and I said, yes. He went over with me. We got off at Havre, and I think we waited a couple of days before we went on to Paris. During that summer I saw Mrs.—I don't remember what time in the summer it was—I saw Mrs. Dudley in Paris—I don't remember whether I met her at or some other place—I met Brightley there and we all took a drive together. I might as well say here, that all the story about the vile actions of Mrs. Dudley is an infamous lie—Mrs. Dudley was excited, but the way he characterized that, it is not true. Then Brightley left Paris, and I didn't see Mrs. Dudley again. When I came back from Paris, I think in September or October, I found a note in my office in Jersey City, written by Brightley, to my clerk, Frank Davis, to deliver all of Mrs. Dudley's papers to him, and the papers were immediately delivered. Now, whether in those papers the reports which you have just described were included, I don't know, but I don't think they were, because it is my impression—I am not absolutely certain—I think I gave those papers to Mrs. Dudley at my office in No. 15 William street, some time after that. I either gave them to Mrs. Dudley at No. 15 William street myself, or they were in the papers in my office, together with the notes of the searches that my clerk, Frank Davis, which I described before, made in Camden and in the adjoining county.

Q. And which Mr. Davis gave to whom?

A. They were all given to Brightley; whether Mr. Davis included those or not, I don't know.

Q. Now, Mr. Beekman, you read those reports, did you?

A. I read every one of them.

Q. Do you recall what was in them?

Mr. Strong—I object to that—

The Witness—The contents, as far as I can recall—

Mr. Strong—I object, on the ground that the reports are the best evidence, if they are evidence at all, and that they must be accounted for before any evidence of their contents can be given; further, that the contents of the reports themselves are not evidence, even if the originals were produced.

Q. I said, what was in them, as far as you recall, Mr. Beekman?

A. They were reports by operators or operatives— whatever they call them—of transactions from day to day with respect to following Mr. Dudley, and one report stated that Mr. Dudley had been traced—whether he had been followed from Philadelphia on the train, or whether he had been followed from the Twenty-third street ferry of the Pennsylvania Railroad, which was running at that time, I don't remember, but I do remember that he had been traced to an apartment house in Madison avenue, I think adjoining to the Manhattan Club, I think the number is number one or two, and that he remained there a short time, and took from there a blond lady and took the train to Washington, and this operator—I think they call them operatives—

Q. Operatives.

A. Followed them on to Washington, to, I think, a hotel by the name of Raleigh, or something like that. How they registered there, I don't know—I don't remember—I don't remember whether the report said, but I do remember that they went to the theatre together, and that this detective had even the number of their seats in his report, which they occupied. After two or three days in Washington, the report stated—I don't remember whether it was two or three days—Mr. Dudley returned to New York with the same woman, and left her at the same place from which he took her. That is as far as I can recall the contents of the report. Now, who the lady was, I don't pretend to know.

Mr. Strong—All of this testimony is objected to, and a motion will be made to strike it out,

on the ground that it is hearsay, and irrelevant, incompetent and immaterial, besides being not the best evidence, assuming that the reports would have been evidence, if produced.

Q. Now, at the time that you introduced Mrs. Dudley to Mr. Brightley, which you say was that time at the Waldorf, immediately afterwards they got into your car, and you took them up to—

A. Yes, sir, that is the time that he had Mrs. Moser with him.

Q. Do you think that Mr. Brightley knew that the lady's name was Mrs. Dudley?

A. Why, I think so; I mentioned it; he certainly acted as if he knew; I couldn't tell you what he knew; I couldn't swear to it.

Q. Did you ever take an early breakfast at "Jack's," described by Brightley as a well-known all-night house on Sixth avenue, at three o'clock in the morning with Mrs. Dudley?

A. Never in the world. Does he say that?

Q. He testified to that?

A. That is romancing.

Q. Did you ever apologize to Mr. Brightley, after having been with Mrs. Dudley, for not bringing him forward and introducing him?

A. Never in the world.

Q. Were you ever alone with Mrs. Dudley late at night in any restaurant dining with her?

A. I never dined with Mrs. Dudley, except in a public place—

Mr. Strong—I object to that as not responsive.

The Witness—Let me finish.

Q. Proceed.

A. I recall one or two dinners at Delmonico's when I think Judge Truax and his wife were present. I recall also a ride with Judge Truax and his wife up to Tarrytown, and I think, if I recall it, there were two. On one occasion I think we dined at a place that Judge

Truax knew there, or a hotel. On another occasion I think we went to Mrs. Schmidt's, the woman who owned the Lion Brewery, and afterwards married a Count. I never dined with Mrs. Dudley at the Waldorf. I have been there in the afternoon with her. I went there once with Judge Collins, of New Jersey, to see her. I had retained him and Mrs. Dudley had been to his office with me, and the Judge and I went to see Mrs. Dudley and had a talk with her in one of the public rooms of the Waldorf one evening. I recall now that on one occasion I think I had dinner with Mrs. Dudley; I think—I don't remember whether it was Mrs. Knight or another married lady—I don't remember names—it is a good while ago—we had dinner at Rector's; I think we went in about eight o'clock—I don't remember whether she came right in—I think she was to come. I read that part of Brightley's testimony. I talked to Mrs. Dudley—I think we were there two hours. Mrs. Dudley was very much excited, but as far as smashing dishes and throwing dishes is concerned, that is all nonsense; that never happened. I took Mrs. Dudley back to the Waldorf, and, if I recall, I went back—no, I think Brightly was coming to see me. As far as my dining with Mrs. Dudley in Philadelphia is concerned, in a restaurant there, I never heard of the place before.

Q. Did you ever dine with Mrs. Dudley in Philadelphia?

A. No, sir, never in the world; I never saw that restaurant; I didn't know there was such a restaurant; I know very little about restaurants in Philadelphia.

Q. Did you ever see Mrs. Dudley drunk having an argument with the head waiter in any restaurant?

A. I never saw Mrs. Dudley under the influence of liquor, to my knowledge. I have seen Mrs. Dudley violently angry about her husband and his conduct, so much so I was afraid at some time she would lose her mind; as far as being drunk is concerned, she might be

considered that way by someone who did not know her that she had been drinking.

Q. Was she excited because she said he was unfaithful to her?

A. She always claimed that—the first time I ever met her—I understand he admitted that at all times—

Q. Did you ever at any time come out of a restaurant, either Delmonico's or Sherry's or Rector's, very late at night, with Mrs. Dudley, no one else being in the party with you, and get into an automobile and go uptown?

A. Never; never; who said that?

Q. I think Mr. Brightley testified to that?

A. He is mistaken in the man.

Q. What restaurant was that, do you recall?

A. Delmonico's.

Q. Did you ever leave Delmonico's restaurant late at night with Mrs. Dudley and get into your automobile and then go north on Fifth avenue?

A. No, sir; the nights, as I recall it, when I took Mrs. Dudley home to the Waldorf late, were the nights we were out with the Truax's.

Q. Did you ever, at any time, see Mrs. Dudley conduct herself other than as a lady?

A. I have never, except as I say when she was under violent anger about her husband, in what she claimed was his abuse of her, and the way he treated her; I don't remember what she did say; I know she was very much excited.

Q. Do you recall a time you and Mrs. Dudley and Brightley had an automobile ride in Paris?

A. What I have said about that.

Q. At that time did Mrs. Dudley tell you that she was going to leave you forever, and insist upon Mr. Brightley taking her to London with him the next day?

A. I never heard of such a thing.

Q. Mr. Brightley testified he saw Mrs. Dudley on one occasion in Zeisler's café in Philadelphia with you?

A. I don't know what he saw; I never was in that café; I have never been there.

Q. Were you ever in such a restaurant or any restaurant in Philadelphia?

A. I never was in the—I was never in any restaurant in Philadelphia with her; I never went to Philadelphia to see Mrs. Dudley.

Q. Did you ever tell Mr. Brightley you wanted to get information regarding Mr. Dudley's conduct, because Mr. Dudley was a man of means, and you didn' know what you would be sued for crim. com.?

A. I never heard of such a thing; my relations with Mrs. Dudley were always of a professional character, except in the social way I saw her with the Truax's.

Q. Did Mr. Brightley ever tell you of any conversation he had with Mr. Dudley, in which Mr. Dudley mentioned another woman?

A. After Mr.—

Mr. Strong—I object to that as hearsay and entirely irrelevant and incompetent; also on the ground if it is intended to contradict Mr. Brightley in any way, the question should have been addressed to the one who was the witness.

Mr. Carpenter—The question was addressed to Mr. Brightley, and he denied he ever made such a statement.

Q. Proceed.

A. After Mr. Brightley had obtained the papers from my office, by order on my clerk, he met me a short time after that and told me that Mr. Dudley had admitted to him that he had a woman two or three days at the Raleigh Hotel, in Washington, I think—some hotel in Washington—but told Brightley it wasn't Mrs. Vanderpool.

Mr. Strong—I move to strike out the testimony on the ground that it is hearsay, incompetent, irrelevant and immaterial; and more-

over, no foundation for the question has been laid from Mr. Brightley's testimony.

Q. Proceed.

A. I think Mr. Brightley admitted on his testimony, in substance, if not in words, that he was the only lawyer who was going to make any money out of this case, and he told me at a subsequent time, if I recall it, that Mrs. Dudley had had as many as twelve or fourteen different lawyers.

Mr. Strong—All of which is objected to for the reasons before stated.

Q. Did Mr. Brightley ever tell you that Mr. Dudley had admitted to him that he had been for several days with a woman in the Raleigh Hotel, in Washington, but that Mr. Dudley said it wasn't Mrs. Vanderpool?

Mr. Strong—I object to that upon the ground that it is hearsay, and also for the reason that no foundation for the question has been laid from the examination of Mr. Brightley.

Q. Proceed.

A. He said, as I have said in the beginning, that Mr. Dudley admitted he had been with a woman there, but I don't remember just the month or the year—two or three days at a hotel in Washington—if I recall, it was the Hotel Raleigh, but I wouldn't be positive about that, but I do remember that he said, in the admission Mr. Dudley made, that it wasn't Mrs. Vanderpool.

Q. Were you ever in public cafés and in your automobile with Mrs. Dudley, at night and early in the morning—very early in the morning and in the afternoons?

A. In the afternoons?

Q. Yes.

A. I have been, as Mrs. Truax described, out with Judge Truax and his wife and Mrs. Dudley. I had one ride with, I think, Brightly; I don't remember whether there was anyone with us or not; that was in Paris; that was on the year after I met the Truax's

with Mrs. Dudley, at Baden Baden. I don't recall any other time.

Q. Were you ever with her alone, either very early in the morning in cafés—

A. Never in the world. I want to say, I have not seen Mr. Brightley for some considerable time, as he wanted to borrow one or two thousand dollars of me, and I declined to loan it to him. He has not been to me since.

Q. When was that?

A. I think it was about one or two years ago, after I made a motion to admit him to the New York bar, and certified to his character, which I wouldn't do now.

Mr. Strong—Counsel for Edward Dudley objects to the last remarks of this witness, as not being in response to any question, and as being entirely irrelevant and improper.

The Master—We will now take an adjournment until the hour of 1:30 this afternoon.

At 12:45 P. M., an adjournment was taken until the hour of 1:30 P. M.

No. 111 Broadway, New York City,
February 7th, 1913, 1:30 P. M.

Met pursuant to adjournment.

Present—The Master, Mr. Carpenter, Mr. Strong, Mr. Conboy and Mr. Beekman.

Harry J. Rice was duly sworn as stenographer.

Mr. Strong—I have decided not to cross-examine, so we can close this hearing right now. I want to get away on the 2 o'clock train.

Cross-examination waived.

The Witness (Mr. Beekman)—Note from me, that if the Vice Chancellor here desires, I will at any time put myself in the jurisdiction of the Court, but I cannot go on the 13th or 14th.

Mr. Conboy—Our reason for examining these two witnesses who were examined to-day by commission was, in order to complete their examination between now and the 13th and 14th of February, at which time Mr. Strong reported that it was likely that he would examine other witnesses whose testimony we now understand is to be taken by deposition; and also, at which time he expects to conclude the testimony of Mrs. Dudley and may have, as far as we know, other witnesses to examine.

Mr. Carpenter—I will further add to what Mr. Conboy has stated, that we have a stipulation in writing with Mr. Strong to the effect that we may take the testimony of any witnesses on behalf of either party *de bene esse* outside of court, excepting the parties to the suit, and that Mr. Beekman is a nonresident within the meaning of the statute, and that it is entirely proper, aside from any stipulation entered into between the respective counsel, that the testimony of Mr. Beekman be taken out of court, as it has been taken here this morning; and we shall insist at the hearing upon the introduction of this testimony in evidence.

Adjourned.

IN CHANCERY OF NEW JERSEY.

BETWEEN
EDWARD DUDLEY,
Petitioner,
AND
MARIE DUDLEY,
Defendant.
} On Petition, etc. Notice.

BETWEEN
MARIE DUDLEY,
Complainant,
AND
EDWARD DUDLEY,
Defendant.
} On Petition, etc. Notice.

Letters rogatory to Charles H. White, Esq., Commissioner, to take the testimony of Henry Coombe, Louise Hurst and Anthony J. Quigley, Jr., at Room 443, City Hall, Broad and Market streets, Philadelphia, on Saturday, February 8th, 1913, at 11 o'clock A. M., the matter being in C. P. No. 4, of Philadelphia county, Pennsylvania, of September Term, 1912, No. 5734, respecting the taking of the depositions of the above-mentioned witnesses.

Depositions in the above-entitled causes taken this eighth day of February, 1913, at 11 o'clock in the forenoon, at Room 443, City Hall, in the city of Philadelphia, before Charles H. White, Esq., the commissioner appointed by C. C. P., No. 4, of the city of Philadelphia, State of Pennsylvania, to take the same under and by virtue of letters rogatory issued out of the Court of Chancery, New Jersey, bearing date the fifth day of February, 1913.

It is agreed that the testimony shall be taken stenographically, the transcript of his notes to be submitted to the witnesses and signed by them.

Present of Counsel—Alan H. Strong, Esq., attorney for Edward Dudley; James D. Carpenter, Jr., Esq., and Martin Conboy Esq., attorneys for Marie Dudley; Edward Dudley, Marie Dudley and the following witnesses, Henry Coombe, Anthony J. Quigley, Jr., and Louise Hurst; Mr. Paul R. Brown, stenographer.

Mr. Strong requested the commissoner to note upon his record that there was presented notice of the taking of the depositions by Alan H. and Theodore Strong, solicitors of Edward Dudley, to Messrs. McDermott & Enright, solicitors of Marie Dudley, showing the acknowledgment of due service upon the latter upon February 1st, 1913, by their signatures to that effect, and that the said notice with the acknowledgment of service as aforesaid be attached to the deposition.

Henry Coombe, being duly sworn and examined, testified as follows:

By Mr. Strong:

Q. You were formerly night watchman, were you?

A. Yes, sir.

Q. At Mr. Dudley's house, 1723 Locust street?

A. Yes, sir.

Q. During what time?

A. I have been there during all the time he lived there.

Q. Which was a period of how many years?

A. Which was about five years, to the best of my knowledge.

Q. Were you there when Mr. Dudley would return at night?

A. Yes, sir; sometimes I would be there right in front of the house.

Q. Were you there when Mr. Dudley had difficulty in getting into the house?

A. One night I was there right under the window. When they pulled the bell Mrs. Dudley looked out and says, "Who is that?" He says, "Mr. Dudley." Who

put the chain over the door, I don't know. Mrs. Dudley says, "I thought you were going off to-night." He says, "You know better than that." Mrs. Dudley or somebody came down and took off the chain, and Mr. Dudley went in.

Q. He said to her that she knew better than that?

A. Yes, sir. But he went in.

Q. He got in?

A. Yes, sir.

Q. Were there other nights when he did not get in?

A. Yes; and go away—go down Locust street.

Q. How often did that happen?

A. I couldn't say that.

Q. Give your best estimate.

A. Three or four times, or half a dozen times that he would go away from the house altogether—go down Locust street. What the trouble was I don't know.

Q. Did you see him try to get in?

A. I saw him go up the steps, walk up the steps and go down Locust street—yes, sir.

Q. Did he ring the bell?

A. As far as I know he rang the bell—yes, sir.

Q. How long did he remain there trying to get in?

A. Maybe four or five minutes.

Q. Then did he give it up?

A. Then he would give it up and go down Locust street.

Q. Did he get any answer from the house?

A. No, sir.

Q. What time in the night would it be?

A. Around one o'clock, or a quarter after. Mr. Dudley always came up in a carriage with Colonel McClure—both of them together.

Q. Was that his habit always?

A. Always with that one man, it seems to me—that one gentleman; yes, sir.

Q. How did you happen to be there?

A. I was passing by the door; I cover the whole block; and passed by the door when he came. Some-

times I would be right there and I opened the carriage door for them; often did that.

Cross-examined, by Mr. Conboy:

Q. You are still employed as a watchman?

A. Yes, sir.

Q. In that same vicinity?

A. Yes, sir.

Q. I suppose you have been there for a long time?

A. Twenty-one years this last Christmas.

Q. Watching the house?

A. No; every house in the block.

Q. During that time?

A. Yes, sir.

Q. And you are still employed there, as I understand it—on the same block?

A. Yes, sir.

Q. Did you ever have a night off?

A. I never had one night off in twenty-one years—never lost a night.

Q. You were there every night in the week?

A. Yes, sir; for twenty-one years.

Q. And every week in the year?

A. Yes, sir.

Q. You do not even take off holidays?

A. No, sir.

Q. You have been a remarkably well man?

A. Yes, sir. Pretty well broke up now with a cold.

Q. You have always been there, night after night?

A. Never lost a night in twenty-one years; never had no complaint or trouble.

Q. You have a splendid record?

A. I don't want to make trouble for anybody.

Q. Very few men have a record like that?

A. Yes, sir.

Q. Did you know Mr. Dudley before he moved into that block?

A. No, sir.

Q. You were employed by him when he first moved in?

A. Yes, sir; he took the house off of Mr. Sharpless.

Q. That was the man that lived there before he did?

A. Yes, sir.

Q. And the arrangement is, I presume, that you are paid by the different people?

A. Each one pays their part.

Q. They pay a certain portion of your bill?

A. Yes; and when the house is empty the estate pays for it—the Philadelphia Trust Company.

Q. That is the landlord?

A. The Philadelphia Trust Company.

Q. And when there is a tenant the tenant pays for it?

A. Yes, sir.

Q. During that period of time, how often would you say Mr. Dudley came home late at night?

A. That I couldn't say.

Q. About how often, as far as your observation would go?

A. Around one or half-past one was generally the hour.

Q. How often during the week would that cover?

A. Sometimes they would be out and sometimes they would go in when I would not know it—without I saw them going in.

Q. How often would you say you saw him, from your observation?

A. Might be a couple of nights a week; two or three nights out during the week that I would see.

Q. Colonel McClure, you say, would come with him in his carriage generally?

A. Yes, sir.

Q. And then Colonel McClure would leave Mr. Dudley at the door and then he would go to his house?

A. Yes, sir.

Q. When the carriage stopped you would open the door?

A. Yes, sir.

Q. And Mr. Dudley got out?

A. Yes, sir.

Q. And he would go right in the house?

A. Yes, sir.

Q. How many nights do you say there were that you observed that he could not get in at all?

A. About five or six nights—four or five or six nights.

Q. Four, five or six?

A. Along there. I would go away; I would not be right there; I would go on about my business.

Q. Did you see him go up to the door?

A. Saw him go up the steps, come down and go down Locust street.

Q. Did you see him during the whole of that operation?

A. Right on Locust street.

Q. Did you ever see him go away from the house when you did not see him go up to the door?

A. No, sir.

Q. You always saw him go up to the door?

A. I spoke to him; then I would go about my business; go as far as the corner.

Q. Give, as near as you can, the dates when that occurred?

A. I couldn't say how many times.

Q. Not how many times; you have told us four or five or six times?

A. Yes.

Q. When did that happen?

A. Around about one or half-past one.

Q. That was the time of night; but on what dates did it happen; what times of the year and what years?

A. I couldn't tell you the dates.

Q. He was there for five years?

A. Yes, sir.

Q. Did any of those occurrences take place during the first year?

A. No; he was there a year and got settled down. Maybe the second year.

Q. Do you know whether they did or not?

A. I would not swear to it.

Q. You do not know how many times that occurred during the second year?

A. No, sir.

Q. Nor during the third year?

A. No, sir.

Q. Or during the fourth year?

A. No, sir.

Q. Nor during the fifth year?

A. No, sir.

Q. You do not know anything about that?

A. No, sir.

Q. Do you know where Mr. Dudley lives now?

A. No, sir.

Q. Have you seen him recently?

A. Who?

Q. Mr. Dudley.

A. Yes, sir.

Q. How long ago?

A. Mr. Dudley is here now.

Q. Have you not seen him before to-day?

A. I saw him about two weeks ago.

Q. At that time did you have—

A. Maybe two or three or three weeks.

Q. Give it as near as you can.

A. Two or three weeks maybe it has been.

Q. Did you have a talk with him about this case then?

A. I was to go to Jersey City.

Q. Why was it that you did not go to Jersey City?

A. Because I got a cold and all broke up, and I am not fit to be here.

Q. You are not a well man.

A. No, sir.

Q. You are carrying a bottle of medicine in your pocket?

A. Yes. I am sick now and ought to be home in bed.

Q. For that reason you are having your testimony taken here?

A. Yes, sir.

Q. Before the arrangements were made to take your testimony in Jersey City, did you see Mr. Dudley?

A. No, sir. He said if he wanted me would I come on. I told him, "I am sick"; sick all winter; but I have not lost a night, as I told you before; but out all night; and I got the subpœna from here.

Q. Did you ever tell anybody about having seen Mr. Dudley go up to the door and go away from the door?

A. No, sir.

Q. Where did Mr. Dudley see you two or three weeks ago?

A. At my house.

Q. He came to your house? Where do you live?

A. 1109 Fitzgerald street.

Q. Did he tell you that he and his wife were in court in an action where he was trying to obtain a divorce from her?

A. He didn't say anything about divorce—no, sir.

Q. Did he tell you that he wanted you to testify in the case?

A. Yes, sir.

Q. What kind of a case did he tell you it was?

A. He said, "I want you to go to Jersey City." He rang the bell; I was in bed; he woke me up; I was in bed, asleep. I got up and came down. He says, "Do you know me?" He says, "I am Mr. Dudley." I let him in. We sat talking there, but didn't say much—"I may want you to go to Jersey City," or something like that. I says, "Mr. Dudley, I am all broke up; I have a cold"; sick all winter; out on the street all night and in bed all day; as I told you before, I have not lost a night.

Q. What did he tell you he wanted you to go to Jersey City for?

A. If this case came up.

Q. What case?
A. This case of his.
Q. What case?
A. That is all I know.
Q. What did he tell you was the case?
A. Between him and Mrs. Dudley.
Q. What did he tell you about it?
A. He said the case between him and Mrs. Dudley.
Q. Did you know what it was about?
A. I knew it was a little trouble between him and Mrs. Dudley.
Q. How did you know that?
A. Mrs. Dudley saw me and told me that two years ago.
Q. You knew there was a divorce pending?
A. Yes, sir. I was talking to Mrs. Dudley.
Q. After Mr. Dudley told you he wanted you to come over in this case, then you knew what it was about?
A. Yes, sir.
Q. Did he say anything to you about what you were to testify about?
A. No, sir.
Q. He asked you what you knew?
A. No, sir; he asked nothing like that at all.
Q. He did not ask you about these times when he had to go away from the house?
A. No, sir; only he says, "You recollect the time I couldn't get in"- I says, "Yes, sir; I was under the window the night when you came home and couldn't get in." Very well I recall that night.
Q. But he did get in that night?
A. No, sir. Yes, sir; I beg pardon; Mrs. Dudley or somebody else came down and let him in.
Q. He did get in?
A. Yes, sir.
Q. On the other occasions when he did not get in, when you say that he went up on the porch—
A. On the steps.

Q. On the steps; you were not there at the time?

A. Not all the time.

Q. Were you there at any of the time?

A. Yes, sir.

Q. Tell what occurred.

A. He came off the steps and would go down Locust street.

Q. Were you there with him while he was ringing the bell?

A. Passing by.

Q. You had to go up the block?

A. Yes. I saw him go up to the door and I saw him go off the step and go down Locust street. That is all I know.

Re-examined by Mr. Strong:

Q. You said that Mrs. Dudley saw you some three years ago?

A. About two years ago.

Q. Did you say she spoke to you?

A. Yes, sir; I talked to her.

Q. What did you talk about?

A. Talked about nothing. She said if she wanted me, could I go to Jersey City.

Q. For what?

A. Didn't say.

Q. Did she tell you in the suit going on?

A. No, sir. She said, "If I want you will you come on to Jersey City? I will send for you." That was the remark she made; that was all that was said.

Q. What did you say in reply?

A. I said, "No; I cannot." I told her I couldn't go.

Q. How did you get any knowledge or information that there was a suit going on between her and Mr. Dudley?

A. The talk of the people; that was all; divorce case. I paid no attention to it. Mrs. Dudley used me right and Mr. Dudley; both parties.

Q. At the time that you saw Mrs. Dudley, did she say there was any suit?

A. No; only asked would I come on to Jersey City.

Q. Did she tell you what she wanted you to come there for?

A. No; she said, "If I want you to come on to Jersey City, will you come?" I says, "I cannot."

Q. Did she say whether she wanted you to testify?

A. Not to my knowledge. I was met by the police officer and he told me there was a lady looking for me, she would be back; she said, "I will be back again," so he told me, and sure enough, she walked down Locust street on a Saturday afternoon and she said, "You don't know me"; she says, "I am Mrs. Dudley." That was all that was said. She said, "If I want you to go on to Jersey City, will you come?" I says, "I cannot." We went down as far as the corner and we parted. I bid her good night.

Q. She never said anything to you after that one time?

A. No, sir; she never said anything after that time.

Q. You never spoke to her afterwards?

A. No, sir.

Sworn to and subscribed before me this day of February, 1913.

Commissioner.

Louise Hurst, being duly sworn and examined, testified as follows:

By Mr. Strong:

Q. Where do you live?

A. 1326 Jefferson Street.

Q. Philadelphia?

A. Philadelphia.

Q. In what capacity are you living there?

A. That is my sister's address.

Q. You are living with your sister?

A. Yes, sir.

Q. Were you formerly a maid for Mrs. Marie Dudley?

A. Yes, sir.

Q. During what time?

A. From December 8th, 1904, until April 4th, 1905.

Q. Was it April 4th or at the end of the month of April?

Counsel for Mrs. Dudley objects to examining counsel leading the witness in the matter of dates as to when she was employed by Mrs. Dudley, on the ground that it is improper in form and leading.

Q. How long were you with Mrs. Dudley?

A. Four months.

Q. Was it just four months?

A. Just four months; yes, sir.

Q. You went to live with her on December 8th, 1904. That is what you said?

A. Yes, sir.

Q. Then the four months ended at what time?

A. April 8th.

Q. 1905?

A. Yes, sir.

Q. At that time where was Mrs. Dudley living?

A. 1723 Locust Street.

Q. In Philadelphia?

A. In Philadelphia.

Q. Did you go to New York with her during the time you were her maid?

A. Yes, sir; almost as soon as I got there.

Q. How long did you remain with her in New York?

A. About three weeks.

Q. Whereabout were you during the three weeks?

A. At the Waldorf-Astoria.

Q. During that time you rendered her the service of a maid, did you?

A. Yes, sir.

Q. What duties did you have as maid to Mrs. Dudley during the three weeks?

A. Just dressed her and took care of her clothes.

Q. Did you see her each day?

A. Yes, sir.

Q. At what time did you see her?

A. After the first day about two o'clock in the afternoon—after the first two or three days.

Q. From that time until when?

A. Until five, I was with her there.

Q. You were with her from two to five?

A. Yes, sir.

Q. Then, after five o'clock, where did you go?

A. To my room.

Q. What, if anything, did Mrs. Dudley say to you about when she would need you again?

A. She said she would not need me until the next day, very late; not to come until she called.

Q. How would you know when she wanted you?

A. She would call for me.

Q. At what time would it be the next day?

A. About two o'clock, as far as I can remember.

Q. When you left Mrs. Dudley late in the afternoon, at five o'clock, or so, how was she dressed?

A. Dressed to go out in the street.

Q. Do you mean in street dress or evening dress?

A. A street dress.

Q. Did she have her wraps on, going out?

A. Yes, sir.

Q. With clothing over her dress?

A. Yes; a street suit; tailor-made suit.

Q. Hat on?

A. Yes, sir.

Q. Do you know whether she went out or not

A. I did not see her go out on the street; I saw her go out of the door.

Q. You saw her leaving her apartments?

A. Yes, sir.

Q. Did she lock the door?

A. She locked the door.

Q. Between the time when she went out late in the afternoon of one day, and the time when you saw her again the next day, early in the afternoon, were you in her room?

Objected to by counsel for Mrs. Dudley unless it appears to have been within the witness' personal knowledge; unless the witness was in the room herself.

Q. I ask whether she was in the room herself?

A. The first two or three days I did not pay any attention, but when I passed by the room going to my luncheon, the room was open, the chambermaid was there, and I went into the room and Mrs. Dudley was not in the room there, and the bed had not been touched.

Q. What time of the day was it that that happened—that you went in and saw the bed untouched?

A. This was some time after my lunch; I couldn't tell you exactly.

Q. What time did you take your lunch?

A. About twelve o'clock.

Q. What time would you be there?

A. Sometimes I used to go the morning before.

Q. What time would you be through your lunch, so that you would be in the room talking with the chambermaid?

A. It was sometimes one o'clock, sometimes before that.

Q. The time when you went in the room and found the bed untouched and Mrs. Dudley not there, would it be as late as one o'clock?

A. Oh, yes.

Q. How often did that occur?

A. Almost every day except the two or three first days; I did not bother then.

Q. Then, when you had passed the door and been in the room and found the bed untouched, and Mrs. Dud-

ley not in the room, after that, when did you see Mrs. Dudley on those days?

A. When Mrs. Dudley rang for me about two o'clock, most every day.

Q. About an hour later, do you mean?

A. Yes, sir.

Q. Then did you go to the room?

A. Yes, sir, then I went to the room.

Q. Where did you find her then?

A. In bed.

Q. Mrs. Dudley in bed?

A. Yes, sir.

Q. And undressed, I suppose?

A. Yes, sir.

Q. What would she say; what did she tell you to do?

A. She would get up then and get dressed.

Q. And you dressed her?

A. Yes, sir; dressed her.

Q. You did that same thing day after day?

A. Almost every day. Yes, sir; day after day.

Q. Did you go back with Mrs. Dudley to Philadelphia?

A. Yes, sir.

Q. After about three weeks?

A. After about three weeks.

Q. Did you ever go with her after that to New York?

A. No, sir.

Q. You were her maid in Philadelphia until the following April?

A. Yes, sir.

Q. Did she go to New York herself, without you?

A. Without me, yes, sir.

Q. During that time?

A. Yes, sir.

Q. How frequently?

A. Most every week—from Wednesday until Saturday.

Q. Did she go alone?

A. Alone.

Q. Why did you leave Mrs. Dudley's service?

A. Because I could not stand her any longer.

Q. You left of your own accord, did you?

A. Yes, sir.

Q. When you say you could not stand her any longer, explain that to us.

A. She was abusing me.

Q. Tell us what you mean by that? Give us the best idea of her conduct—what she said?

A. Talking nasty to me.

Q. Can you tell us any of the things she said to you when you say she talked nasty to you?

A. Called me a fool and things like that.

Q. Was it a common thing or not for her to be out of temper with you and speak cross to you?

A. Sometimes she was very nice.

Q. Did you ever see her use liquor or wine?

A. Yes, sir.

Q. Often or not?

A. Often.

Q. How often?

A. Most every day.

Q. To what extent have you seen her drink?

A. A bottle of champagne at a time.

Q. Each time, did you say?

A. Each time.

Q. Every day, do you mean?

A. Most every day.

Q. Did she have anybody help her drink it, or did she drink the whole bottle?

A. Sometimes Mrs. Knight was there.

Q. When she was there alone how much of the bottle did she get away with?

A. The whole bottle.

Q. Did she show the effect of it?

A. Not much.

Q. Did she show it at all?

A. She was nasty. She did not look as if she was staggering.

Q. She did not stagger?

A. No, sir.

Q. Could you notice in her conduct that she had been drinking?

A. Oh, yes.

Q. What was her conduct after she had drank a bottle of champagne?

A. She was irritable.

Q. How did it affect her? We want an idea of her conduct as well as you can give it.

A. She would hurry me; tell me I was not doing the right thing; one thing and another like that.

Q. That you regarded as nasty?

A. Yes, sir.

Q. When you speak of a bottle of champagne. what size bottle do you mean—a quart or a pint?

A. Quart.

Q. Do you know of her taking anything else but champagne?

A. Except she took a pill once in a while.

Q. Do you know what kind of a pill it was?

A. I don't know what kind of a pill it was. I know she felt very funny after.

Q. How do you know how she felt?

A. Because she was excited.

Q. The pill had the effect of exciting her?

A. I thought so.

Q. Was Mrs. Dudley in the habit of going out after being out at night, when she was in Philadelphia?

A. Yes, sir; she used to go out, when she was in Philadelphia, on Wednesdays and Saturdays, most always; when she was in Philadelphia.

Q. Do you know as to Mr. Dudley's habits—whether he was in the habit of being out any particular days of the week?

A. Except Wednesdays and Saturdays. That is all I know.

Q. Was he accustomed to be out Wednesdays and Saturdays?

A. Wednesday and Saturday.

Q. Was it those nights that Mrs. Dudley went out?

A. Yes, sir.

Q. When she went out, what time did she go out?

A. She would go out—I cannot tell you the exact time—I know I was there in the afternoon.

Q. Before dinner, would it be?

A. Before dinner.

Q. And dressed in what way?

A. Dressed for the street.

Q. Were you there when she returned on those occasions?

A. Yes, sir.

Q. Was it your duty to meet her when she came back?

A. To go to her room when she called for me.

Q. So you remained up for that purpose?

A. Yes, sir.

Q. What time did she get back?

A. One or two o'clock, but I cannot tell you exactly; after twelve.

Q. You went to her room, did you, and put her to bed?

A. Yes, sir.

Q. Do you know whether Mr. Dudley went out with her at those times?

A. I did not see him.

Q. Do you know whether he came back with her?

A. I do not think so. One night Mr. Dudley was in before.

Q. How was it generally? Did she generally get back before Mr. Dudley came in or not?

A. Yes, sir; generally

Q. You speak of one night when Mr. Dudley came before her?

A. Yes, sir.

Q. Have you any way of fixing the time when that was?

A. I cannot tell you exactly the time, but I think it was nearly three o'clock.

Q. I am speaking more particularly of the date?

A. That night, I do not remember the date.

Q. Do you remember a Saturday night the 25th of March?

A. Yes, sir.

Q. Tell us what happened that night? 10

A. Mrs. Dudley went out in the afternoon shopping. Then she telephoned she would not be home; so, when Mr. Dudley came home he telephoned to everybody he knew to see if she was there or if they had heard of her. She did not come home until the next day at three o'clock.

Q. What time the next day—three o'clock?

A. Yes, sir; three o'clock.

Q. Do you mean in the afternoon?

A. In the afternoon; yes, sir. 20

Q. What time was it that Mr. Dudley was telephoning to everybody?

A. I couldn't tell exactly.

Q. As near as you can tell?

A. I couldn't tell.

Q. Was it before or after midnight?

A. Oh, it was after midnight. I couldn't tell you exactly the time.

Q. When Mrs. Dudley came back the next afternoon, did she make any explanation, or did you hear 30 her say where she had been?

A. Not to me; no, sir.

Q. Did you hear her say to anybody where she had been?

A. No, sir.

Q. Did you hear her say anything to Mr. Dudley about it, or Mr. Dudley say anything to her?

A. No, sir. I heard Mr. Dudley asking her where she had been. That was all.

Q. What did you hear her say in reply?

A. Nothing.

Q. Do you mean that she said nothing or—

A. I don't remember what she said.

Q. You have no recollection at all of what she said in reply?

A. No, sir.

Q. How did she behave when he asked her that question?

A. Just didn't say nothing.

Q. Was there any cross words between them then, that you heard?

A. Not that I know; no, sir.

Q. Mrs. Dudley did make some reply, didn't she?

Counsel for Mrs. Dudley objects to this question when the witness has said that Mrs. Dudley did not make a reply.

A. I do not remember.

Q. Do you remember her making any reply at all?

Same objection.

A. I do not remember.

Q. You have told us about March 25th. Did anything of the kind occur again after that?

Objected to by counsel for Mrs. Dudley on the ground that the question calls upon the witness to characterize conduct without having the conduct stated. And further on the ground that it is leading, following the course of the leading questions that have been put to the witness.

A. Yes, sir.

Q. Was there a second occasion when she was out all night and did not come back until the next day?

A. On the first of April.

Q. Do you know what day of the week that was?

A. Saturday.

Q. What occurred that time?

A. She went out.

Q. At what time—at what hour?

A. Sometime in the afternoon.

Q. And when did she come back?

A. The next day, but I don't know what time. I cannot remember exactly what time.

Q. Was it during the morning or afternoon of the next day?

A. I cannot remember exactly what time the next day; that is the time.

Q. Did you hear Mr. Dudley speak to Mrs. Dudley at that time about being out over night?

A. I don't remember.

Q. When Mrs. Dudley was out until after midnight, who would let her in—whose duty was that?

A. It was the butler's.

Q. You did not open the door for her?

A. No, sir.

Q. Where would you see her then after she came in?

A. In her room.

Q. Would you be summoned to her room, or would you be waiting in her room for her?

A. I would be waiting in my room. I don't remember now if I let her in sometime or not; I don't remember now.

Q. Did you see her just as she had come in, with her street clothing on?

A. Yes, sir.

Q. And hat and coat on?

A. Yes, sir.

Q. Did you ever see anybody come back with her?

A. No, sir.

Q. Do you know whether she came in alone?

A. I don't know.

Q. Whether anybody brought her to the door?

A. I don't know.

Cross-examined, by Mr. Conboy:

Q. Where were you born?

A. In France.

Q. In what part of France?

A. Audicor in the District of Doubs.

Q. How old are you?

A. Thirty-seven.

Q. How long have you followed the profession of lady's maid?

A. Fourteen years the fifteenth of May.

Q. When did you come to this country?

A. The seventh of May, fifteen years ago; it will be fifteen years in May.

Q. Who are you working for at the present time?

A. With Mrs. Feltus.

Q. You do not live with her, do you?

A. I do.

Q. I thought you said you were living with your sister?

A. I gave my sister's address, 1326 Jefferson.

Q. How long have you been living with this last lady?

A. Since the last of May?

Q. Who did you live with before that?

A. With Mrs. McKean, in Germantown.

Q. How long did you live with her?

A. Five years.

Q. Who did you live with before that?

A. Mrs. Sinnickson.

Q. How long did you live with her?

A. Fifteen months.

Q. Who before that?

A. Let's see—Mrs. McFadden.

Q. How long did you live with her?

A. I was there—I cannot tell you exactly, but about eight months.

Q. Before Mrs. McFadden?

A. I was with Mrs. Dudley.

Q. You were with her five months?

A. Four months.

Q. Who did you come from to Mrs. Dudley?

A. I was then living with Mrs. Hutchinson. Of course, between the time, I was home.

Q. How long with Mrs. Hutchinson?

A. She was a Miss Stotesbury, and I was with her after she was married ten months, and before that three years.

Q. Who were you with before her?

A. That was her.

Q. Those are all the people by whom you have been employed in this country?

A. Before that with Mrs. Rhodes; that was my first place.

Q. In Philadelphia?

A. Yes, sir.

Q. These were all Philadelphia people?

A. Yes, sir.

Q. You say you left Mrs. Dudley's employ of your own accord?

A. Yes, sir.

Q. She did not discharge you?

A. No, sir.

Q. She did not discharge you; she did not complain at all?

A. Yes, sir.

Q. You are positive of that?

A. I am positive of that.

Q. What day did you leave there?

A. April 8th.

Q. Why did you say April 4th?

A. April 8th; just four months.

Q. During what period of time was it that you went with Mrs. Dudley to the Waldorf, in New York?

A. It was during the time of the horse show.

Q. What time was that?

A. I cannot remember.

Q. You were in her employ from December, 1904, to April, 1905?

A. Yes, sir.

Q. Are you sure you were there with Mrs. Dudley during the horse show?

A. Yes, sir.

Q. There is no doubt about that?

A. There is no doubt about that.

Q. Not at all?

A. Not at all.

Q. You were with her in New York during that period of time?

A. Yes, sir.

Q. And all during those three weeks you were staying at the Waldorf?

A. Yes, sir.

Q. Did you ever know Mrs. Dudley to be in her bed when you were in her room in the forenoon; did you ever know her to be in bed at that time?

A. I never knew her to be in bed.

Q. You never knew her to be in her room when you were there in the forenoon?

A. I am not sure of the first couple of days.

Q. But after?

A. But after that, every time she called for me about three o'clock, I was there in the room before.

Q. You were there in the room before and she was never there?

A. Yes, sir.

Q. You were there in that room as late as one o'clock in the afternoon and she was not there?

A. Yes, sir.

Q. And then she called for you at two o'clock?

A. Yes, sir.

Q. And then you found her in bed?

A. Yes, sir.

Q. And she would get up and be dressed?

A. Yes, sir.

Q. What time would you go to her when she was down in Philadelphia, at her house?

A. Any time; I don't know that.

Q. Did she have any orders for calling you?

A. In the morning sometime, but I don't remember what time.

Q. In the morning?

A. Yes, sir.

Q. At what time?

A. Sometime about nine in the morning.

Q. Did she ever get up as early as that?

A. Most always in bed.

Q. Did she get up at nine o'clock?

A. She would not get up at that time, but she would just get up in the afternoon when she got dressed.

Q. Her hours of getting up were no different?

A. Oh, yes, sir; she used to be in bed most of the time at home.

Q. Her hours for getting up at home were just the same as at the Waldorf during that period of three weeks; she would get up in the afternoon?

A. Yes, sir.

Q. Did she get up in the afternoon in Philadelphia?

A. Yes; sometimes.

Q. I understand you to say that she got up every day in the afternoon, in Philadelphia?

A. Not every day. I did not say every day.

Q. How often would she get up in the afternoon in Philadelphia, and how often in the morning?

A. She got up in Philadelphia when she wanted to go out.

Q. Would not she get up at all if she did not go out?

A. She would not get up at all.

Q. She would stay in bed all day long?

A. All day.

Q. Where was your apartment, or your room in the Waldorf—was it on the same floor with Mrs. Dudley's?

A. It was on the same floor. I cannot remember.

Q. How far away from her room?

A. Just turn around the hall; it was about twenty doors around; something like that.

Q. Was there any connection between your room and her apartment in the Waldorf?

A. No, sir.

Q. How did you enter her apartment at the Waldorf?

A. I went in when the door was open, and the chambermaid was in there.

Q. What was she in there for?

A. Fixing up the bedroom.

Q. If she had not slept there, what was she fixing up?

A. There are orders to go in the rooms, in hotels.

Q. Just to look around and come out again?

A. Yes; stay there and dust.

Q. Did you always get there just at the minute that the chambermaid was making that examination of the room after Mrs. Dudley had not spent the night there at all?

A. I was there because she used to tell me.

Q. Of your own knowledge, you do not know whether Mrs. Dudley was in bed all night and that the bed was made up?

A. I know it was not made up just then.

Q. If it had been made up, it would have been just the same?

A. It was done by the girl in the evening.

Q. How do you know?

A. I know, because I saw it.

Q. Saw what?

A. I saw the bed fixed up allright.

Q. You saw it turned up in the afternoon?

A. I saw it turned up the evening before.

Q. Did you not say just now that she turned it up in the evening?

A. I say the maid turned the bed the prior evening.

Q. How do you know?

A. I knew that she did. I was often there. I know

they went out around about nine o'clock; so they did not get there until the next day.

Q. Did you see the chambermaid turn the covers down?

A. I did not see the chambermaid turn the covers down, but I saw the bed turned when I went in the room in the morning.

Q. Then the chambermaid had not turned the covers back?

A. I went in with her.

Q. And the covers were turned down?

A. No. It was just open to get into the bed.

Q. Did you and the chambermaid go in together?

A. Often.

Q. You did not know before you went in whether Mrs. Dudley would be there or not?

A. I did not know before I went in.

Q. You had instructions from her to come when she called you, did you not?

A. Yes, sir.

Q. Yet, you and the chambermaid went in together?

A. I went in because the door was open; it was getting late.

Q. What time was it?

A. This was around afternoon.

Q. What time in the afternoon?

A. Some time after I came back from lunch.

Q. What time?

A. I cannot tell you exactly.

Q. You have forgotten?

A. About one o'clock.

Q. You had instructions not to come there until two, had you?

A. I didn't have instructions at all.

Q. I thought you said she told you to come at two o'clock in the afternoon?

A. No; she would call for me.

Q. She told you when she wanted you she would call you?

A. Yes, sir.

Q. Your testimony now is that you went into that room with the chambermaid, and that you went in because the door was open?

A. Sometimes when the door was open, she had just got in.

Q. She had just gotten in?

A. The girl—yes.

Q. And sometimes you were with her?

A. I did not have to be. I was in the hotel; I was around there.

Q. Sometimes you were with her. Is that right?

A. Yes, sir.

Q. What was the chambermaid's name?

A. I don't remember.

Q. You were there for three weeks, were you not?

A. But I don't remember.

Q. You were going into the room with the chambermaid during that period of time. Was it the same chambermaid?

A. The same chambermaid during that time.

Q. Didn't she have any name that you called her by?

A. I don't remember.

Q. Didn't she call you by anything?

A. No, sir.

Q. You had conversations with her?

A. Very little.

Q. But you were talking about the fact that Madame had not been in the room?

A. That was all; but I didn't have to say any name.

Q. She did not know your name?

A. I don't know if she knew it or not.

Q. You did not know her name?

A. I don't remember. I could not recall whether I knew her name then, but I don't remember.

Q. What kind of a looking girl was she?

A. I cannot remember that.

Q. Do you know which floor of the hotel it was?

A. I don't know. I cannot remember.

Q. How did you know that Mr. Dudley 'phoned to everybody that he knew?

A. I heard him telephoning one night, just once.

Q. How do you fix that night as the 25th of March?

A. Because Mrs. Dudley said she was going out.

Q. How do you fix it as the 25th of March?

A. I remember.

Q. How do you remember that date?

A. Because it was the date for me to remember.

Q. Who told you?

A. Nobody told me.

Q. How do you fix that particular day as the 25th of March?

A. Because I am sure I can remember that when she did not come home.

Q. That is the only way you can tell—that you remember that.

A. I remember that.

Q. How many people did Mr. Dudley 'phone to that night?

A. I don't know.

Q. How do you know they were all the people that he knew?

A. The girl told me.

Q. What girl?

A. The girl that was there.

Q. Her name?

A. Margaret.

Q. Have you seen anybody in connection with this testimony that you were to put in in this case?

A. No, sir.

Q. Did you notice that counsel was examining you from a typewritten statement—that Mr. Strong had a typewritten statement before him during your examination? You noticed that, didn't you?

A. Yes, sir.

Q. Do you know anything about the preparation of that statement?

A. Of course I know. Mr. Dudley asked me if I would testify for him.

Q. The typewritten statement was prepared at that time?

A. Yes, sir.

Q. You read it over?

A. Yes, sir.

Q. When was that done?

A. I don't remember exactly the day but it was done.

Q. Tell us as nearly as you can when it was. Do not try to be too accurate, but be as accurate as you can?

A. I don't remember exactly the date.

Q. Was it a month ago?

A. It was about a month.

Q. Or two months ago?

A. Not two months; about a month.

Q. Where were you at the time when it was prepared?

A. What do you mean?

Q. Where were you when the statement was prepared? Where did Mrs. Dudley see you?

A. I saw him at the Walton.

Q. What is that?

A. A hotel.

Q. Is it a hotel here in Philadelphia?

A. Yes, sir.

Q. Who was with him, if anybody?

A. No, sir.

Q. How did you get the statement to read over?

A. What do you mean?

Q. That statement? How did you get that to read over?

A. How did I get that? Mr. Dudley.

Q. Did he bring it to you?

A. Because I said I couldn't write English properly.

Q. Did they have somebody come that could write English?

A. I said it would be better for him to write.

Q. He wrote down what you said?
A. Yes, sir.
Q. Wrote there at the Walton?
A. Yes, sir.
Q. Was it subsequently put into typewriting?
A. Not then.
Q. Or some time afterwards?
A. Yes, sir.
Q. Then it was handed to you to examine, was it not?
A. Yes, sir.
Q. You read it over?
A. Of course.
Q. When was that done—when was it that you got the typewritten statement to read over?
A. A couple of days ago.
Q. Where did you get it then?
A. Mr. Dudley sent it to me.
Q. You did not bring it to him?
A. No, sir.
Q. Who brought it to you?
A. The postman.
Q. Did he bring it with a letter?
A. Yes, sir.
Q. Have you got the letter?
A. Not just that.
Q. Did you get anything else?
A. Just that.
Q. Did Mr. Dudley tell you he was going to send you such a statement?
A. No, sir.
Q. How did you know what it was for?
A. Mr. Dudley sent it to me to see if it was right.
Q. What did you do about it?
A. I said it was all right.
Q. What did you do with it then?
A. I kept it.
Q. Did you not tell him in any way that it was all right?

A. Yes, when he telephoned to me.

Q. What day did he 'phone to you?

A. Thursday.

Q. Thursday after you had received the statement?

A. Yes, sir.

Q. Where did he telephone to you?

A. To where I live.

Q. That is, at this lady's house where you are working now?

A. Yes, sir.

Q. When he telephoned, what did he say to you? Did he say, "Is the statement all right?

A. Yes, sir.

Q. You said, "It is all right, Mr. Dudley"?

A. Yes, sir.

Q. And then the arrangement was made for you to appear here this morning?

A. Yes, sir.

Q. Whereabouts in the Walton did you see Mr. Dudley?

A. Down in the entrance.

Q. Did you not sit down some place where you could write out this statement?

A. Just at the dining-room—restaurant.

Q. Did you have dinner with him?

A. No, sir.

Q. Didn't you have anything to eat—a cup of tea?

A. No, sir.

Q. You went into the restaurant?

A. Yes, sir.

Q. You and Mr. Dudley sat down at a table there and Mr. Dudley got some paper from the hotel stationery?

A. No, sir.

Q. Did he have some with him?

A. Yes, sir.

Q. He took out of his pocket a pencil or a pen?

A. Pencil.

Q. You and he had a talk and he wrote down this statement, didn't he?

A. Yes, sir.

Q. Did you sign it?

A. I didn't sign it; no, sir.

Q. Then he went away, and subsequently you received the typewritten statement; is that right?

A. Yes, sir.

Q. Did you have any communication with him between the times?

A. No, sir.

Q. Or with anybody else?

A. No, sir.

Q. Who was the butler that was employed at Dudley's when you were there?

A. John Stockton.

Q. How did you come to meet Mr. Dudley at the Walton? Did some one make the appointment?

A. He asked me to meet him.

Q. How did he ask you; did he telephone you or write you, or how?

A. Telephoned.

Q. How did he know that you were living at this lady's house?

A. I don't know. It is easy to find out.

Q. How is it easy to find out. Suppose I come down here a stranger and I want to find out where you are living, how would I find out? How was it easy for him to find out?

A. I don't know.

Q. You don't know how he found out?

A. I don't know how he found out.

Q. Do you remember when he telephoned to you first?

A. I do not remember.

Q. How long before that had you seen Mr. Dudley?

A. I don't remember.

Q. Was it a year?

A. I have not seen him for years. I don't remember.

Q. How many times have you seen him since you left the employ of the Dudleys?

A. I saw him sometimes in the street.

Q. Did you speak to him?

A. No, sir. I do not think Mr. Dudley saw me.

Q. Only on the street?

A. On the street sometimes.

Q. You have not seen him at any other time since then?

A. No, sir.

Q. Did you ever have any rest or holiday while you were working with Mrs. Dudley—any time off?

A. No; because she went to New York and I used to get away that time.

Q. How did you know she went to New York?

A. She told me.

Q. She told you she was going to New York?

A. Yes, sir.

Q. Did she tell you when she would be back?

A. Did not say exactly.

Q. Would Mr. Dudley inquire where was she going?

A. Mr. Dudley never asked me anything.

Q. Would he not make inquiry of any one around the house as to where she was going?

A. No, sir. I don't know around the house, but not to me.

Q. You seem to have known a great deal of what happened. Did you hear him make inquiries?

A. I only say what I knew.

Q. He never came to you and asked you if you knew where Mrs. Dudley was, did he?

A. No; only that one night.

Q. That one particular night he asked you?

A. Yes, sir.

Q. But not when she had gone to New York?

A. No, sir.

Q. You are sure about the dates when you were at

Mrs. Dudley's—from December 8th, 1904, to April 8th, 1905?

A. Yes, sir.

Q. Mr. Stockton was only the butler at that house?

A. Yes, sir.

Q. Those are all his duties?

A. Yes, sir.

Q. Was there another butler there?

A. Yes; Dan Curley.

Q. Do you know how long he worked there? Was he there all the time you were there?

A. I do not know exactly how long, but I do not think more than two months. I am not sure.

Re-examined by Mr. Strong:

Q. Was Curley, the butler, there after Stockton or before?

A. Before.

Q. You say that you are positive of the date when you went there as maid and when you ceased. What have you to fix those dates in your mind?

A. Because I remember them sometimes. It all depends. Sometimes I remember a date and sometimes I do not.

Q. Did you keep a diary, or have you any record that you have referred to?

A. No; I do not.

Q. So you are depending on your memory?

A. Yes, sir.

Q. Why did you say that this time when you went to New York with Mrs. Dudley was during the Horse Show? What is it that fixes that in your mind?

A. Because I remember the time of the Horse Show, because we could not get a room upstairs the first night, and I slept downstairs in the same room with Mrs. Dudley—some kind of a parlor; just one night.

Q. You remember the Horse Show?

A. That is the reason I remember it; because the hotel was filled.

Q. After the first night, did you get a room?

A. Yes; upstairs.

Q. Was the Horse Show over then?

A. Of course I don't remember; I don't know; I don't think the Horse Show was over.

Q. What was Mrs. Dudley's habit as to getting up when she was at home in Philadelphia, as to the time of day she would generally rise?

A. When she was at home she hardly ever got up—got up in the afternoon when she wanted to go out.

Q. Where would she be when she was taking this bottle of champagne?

A. In her room.

Q. In bed?

A. Up in her wrapper sometimes.

Q. Did you see Mr. Dudley and speak to him from the time that you left his service down to the time when he 'phoned you, a month or more ago? Did he ever communicate with you?

A. I just saw him that time at the Walton; that was all.

Q. Down to that time, had you had any communication with him at all—from the time you left his service?

A. Did not have any communication.

Q. You say you saw him on the street but you think he did not see you?

A. Yes; I saw him a couple of times.

Q. You think he did not see you?

A. I do not think so.

Q. The typewritten statement that he sent you afterwards—was that or not the same as what you had told him at the Walton?

A. That was just the same.

Re-cross examined, by Mr. Conboy:

Q. Did you read over the statement that he wrote out at the Walton?

A. No; not this one.

Q. What about the statement that he wrote out at the Walton?

A. I told him it was all right.

Q. He read it to you after he had written it out?

A. Yes, sir.

Q. He asked you if that was all right?

A. Yes, sir.

Q. And then afterwards sent you this typewritten statement?

A. Yes, sir.

Q. Have you got that typewritten statement?

A. Yes, sir.

Q. Where is it? Have you got it with you?

A. No, sir.

Q. Where is it?

A. I have it.

Q. Where?

By Mr. Strong:

Q. You gave it to me?

Objected to by counsel for Mrs. Dudley.

By Mr. Conboy:

Q. What did you do with it?

A. Handed it to this gentleman. (Indicating counsel for Mr. Dudley.)

Q. You handed it to Mr. Strong?

A. Yes, sir.

Q. When did you hand it to him?

A. When I came here.

Mr. Conboy—Let me see it.

Mr. Strong hands Mr. Conboy a typewritten statement, saying: "That is the statement I received from Miss Hurst this morning when she came in.

By Mr. Conboy:

Q. In this statement that Mr. Strong has just handed to me, on the first line it is: "Louise Hirst resides at 1800 Delancey street." Is that where you live?

A. That is where I live now.

Q. And then somebody was struck that out and written in "1326 Jefferson street"?

A. That is my sister's address.

Q. Who wrote that in?

A. I told Mr. Dudley.

Q. Who wrote that in in pencil?

A. Mr. Dudley I think did.

Q. When did he write that in?

A. Just then.

Q. Just when?

A. When I met him.

Q. When did you meet him?

A. Here.

Q. When?

A. This morning.

Q. How long ago? What time did you get here this morning?

A. About half-past ten.

The paper just referred to, consisting of two sheets, is, at the request of counsel for Mr. Dudley, marked by the Commissioner for identification *Exhibit A, C. H. White, February* 8th, 1913, and *Ex. B. C. H. W., February* 8th, 1913.

Mr. Strong—I offer in evidence the typewritten papers which I handed to counsel for Mrs. Dudley and from which he has examined the witness.

Objected to by counsel for Mrs. Dudley as immaterial, irrelevant and incompetent.

Counsel for Mr. Dudley replies that counsel for Mrs. Dudley called for it himself, and he is obliged to put it in evidence, or at least cannot object to counsel for Mr. Dudley putting it in evidence.

The paper referred to, consisting of two sheets, of-

fered in evidence, and marked for identification as above stated, *Exhibit A* and *Exhibit B,* is as follows:

Exhibit A, C. H. White, Feby. 8, 1913.

Louise Hirst resides at 1326 Jefferson street. She was maid for Mrs. Dudley from December 8, 1904, to April 8, 1905.

Soon after she reached 1723 Locust street, Mrs Dudley took her along to New York and they remained there nearly three weeks. During the time we were there I would dress Mrs. Dudley in the afternoon for dinner. Then she dismissed me and told me she would not require my services until the next day about noon, and I was not to go to her room until she rang the call for me. This she did nearly every day. I was often with the chambermaid who had charge of the room Mrs. Dudley occupied, and seeing the door open and the chambermaid in the room, I went in and saw the bed had not been used at all. About the middle of the day I was sent for by Mrs. Dudley, and on my way to her room the chambermaid said, "Your lady has just come in," and when I got to the room I found her in bed. She would get up and I would dress her again. This was what happened nearly every day I was with her.

When we returned to Philadelphia she never took me along again. She was absent from home very much after that, but when at home she seldom dressed all day. Sometimes she would go to dinner at home. When in her room she took a pill from a bottle, and would become very drowsy. I think she took morphia. She would also drink an entire quart of champagne in her room alone. Sometimes with Mrs. Knight. She went out very often in Philadelphia, and several times remained out very late. When Mr. Dudley was out on Wednesdays and Saturdays.

March 25th, a Saturday, she went out in the afternoon, saying she was going out shopping; then later she telephones she would not be home. On this night Mr. Dudley came home early, and when Mrs. Dudley did not come home, he telephoned to every one he knew asking if they had seen or heard of Mrs. Dudley, and he sat up until 3 o'clock. But she never came home until the next day about 3 o'clock.

This same thing happened on April 1st, also on a Saturday. This time Mr. Dudley heard over the telephone that she would not be home, and she did not return home until Sunday, the next day.

Mrs. Dudley was so cross and spoke so to me at times, that I gave notice and left April 8, 1905. I could not stand being abused so.

By Mr. Conboy:

Q. Did Mr. Dudley tell you to meet him at the Walton?

A. Yes, sir.

Q. He told you where to meet him there?

A. Yes, sir.

Q. Where did he tell you to meet him—in the dining-room?

A. No; just to meet him in front—in the entrance.

Q. Then you went with him to the dining-room?

A. Yes, sir.

By Mr. Strong:

Q. This paper, consisting of two sheets, upon which there is typewriting, and which two sheets have been marked *Exhibits A* and *B* by the Commissioner, of this date. Do those two sheets compose the typewritten statement that you have mentioned and which you said you gave me this morning?

A. I do not understand what you mean. Yes, sir.

Sworn to and subscribed to before me this
day of February, A. D. 1913.

Commissioner.

Anthony J. Quigley, Jr., being duly sworn and examined, testified as follows:

By the Commissioner:

Q. Where do you reside?

A. 1813 South 18th street.

Q. Philadelphia?

A. Yes, sir.

Q. What is your business?

A. Chauffeur.

By Mr. Strong:

Q. Were you formerly a coachman employed by Mr. Dudley?

A. Yes, sir,

Q. At what time?

A. I went with him on the 4th of March. I was not employed by Mr. or Mrs. Dudley; I was employed by the stable where they hired the team, and I was employed to drive.

Q. You were employed with the team?

A. Yes, sir,

Q. During what period was it that you were engaged with Mr. Dudley?

A. From the 4th of March up to the 4th of June I drove them.

Q. What year was that?

A. 1904.

Q. Who principally used the team and carriage?

A. Mrs. Dudley and Mrs. Waterhouse; never missed a day; I drove seven days a week and seven nights; went out every day about two o'clock—ten minutes of two.

Q. Where did you go from—your stable?

A. When I first went with them; that was first got

the call, it was in March, kind of rough or wintry; I used to go up there ten mintes of two.

Q. Up where?

A. 1723 Locust, at two o'clock.

Q. Where the Dudleys lived?

A. The residence. Maybe a little after two some days; would get Mrs. Dudley, and used to order me to go to the Berlitz School of Languages, over Loder's, 16th and Chestnut.

Q. Who went?

A. Mrs. Dudley.

Q. That would be shortly after two o'clock in the afternoon?

A. Yes; around that time. They used to 'phone when they were ready to go and then I came right around. I never went out in the morning.

Q. Then when you got to the Berlitz School, did Mrs. Dudley get out there?

A. Got out there; got out on 16th street.

Q. Where did she go then?

A. I don't know where she went. I was ordered back in an hour; I was to be back there in an hour.

Q. She would give you that hour?

A. Tell me to be back in an hour.

Q. Did you return at the time appointed?

A. Returned to the barn and came back there at the time I was told to be back. There was always books on the seat of the carriage when I drove back.

Q. What books do you mean?

A. I don't know what they were. They were books. Used to look like school books—things like that. I never seen into them. They would fall from the seat down to the floor of the carriage in driving over the rough stones.

Q. Where did they come from?

A. Came out of 1723 Locust.

Q. Did Mrs. Dudley take them with her?

A. The butler handed them to her; came out with

her; always came out with her when she came out of the house.

Q. He brought these books out?

A. He would bring them out and put them in the carriage after she got in.

Q. When she got out at the school afterwards, did she take the books with her?

A. No; they were always left on the seat.

Q. Then when you returned in the course of an hour or more—it was an hour always?

A. Never less than an hour; she would say, "Come back in an hour."

Q. When you went back at that time, was she there to meet you?

A. No; never. She never was on time there. I waited sometimes a couple of hours or an hour at a time. Sometimes she was back pretty near on time, but as a customary thing she was never on time. I don't know where she was. I always had to drive the team up and down to keep them warm; never stood.

Q. When she came back to the carriage did you see where she came from?

A. No, sir.

Q. Did she come out of the school in that building or from somewhere else?

A. Never appeared to me to come out of there—no.

Q. Did you ever see her go in there?

A. I never saw her go in there. I left her at the door and turned around and went on down 16th street and back again.

Q. Did you ever leave her at any other place than that?

A. Yes, sir.

Q. Where?

A. Different times. Never went direct from the house to other places. I have went to theatres and all the like of that. I went down to Zeisse's. I have been at the Continental; at the Bellevue, and I have been at several of these hotels. I was at the Walton. I stopped

New Jersey State Library

at all of them; been in all of them.

Q. Whom did you take to Zeisse's?

A. Mrs. Dudley.

Q. No one else?

A. No, sir.

Q. You left her at Zeisse's?

A. Left her there.

Q. What time of the day or night?

A. In the afternoon; two in the afternoon.

Q. How long would she be there?

A. Maybe five o'clock returning.

Q. Did she tell you when to come back?

A. Yes, sir; when on the return she would tell what hour to be there and you would just go there and wait.

Q. How long would the time be from the time you went there?

A. A couple of hours—three hours.

Q. Did she come out of Zeisse's when you went there?

A. Yes, sir.

Q. Alone or otherwise?

A. Alone.

Q. You took her to the Continental?

A. Yes, sir.

Q. What is that— a café?

A. It is a regular hotel, the same as any of the other hotels; on the corner of Ninth and Chestnut.

Q. Zeisse's was a café only; it was not a hotel?

A. It is a hotel and restaurant.

Q. When you took her to the Continental, was she alone?

A. Yes, sir.

Q. How long would she be there?

A. Stay there in the afternoon and stay there in the evening, in time for dinner. Then she would go over after that either to the opera or theatre, and every night to the Bellevue after that. Always went to the Bellevue before she came home at twelve o'clock.

Q. Was Mr. Dudley with her on these occasions?

A. He was with her when she went to the theatre and opera. One night going down to—I forget which theatre it was they were headed for—they got in at the house and we got to Fifteenth and Locust, and there was talking like an argument in there, and Mr. Dudley had me stop the carriage and he got out at the corner—the drug store corner. He got out and left her there; then had a couple of more words and he slammed the door, and Mr. Dudley walked away. He went up Fifteenth street and I went on to the Walnut Street Theatre. I think that was the theatre I went to that night.

Q. You said you heard some talk between them?

A. Oh, yes; I heard that often; often had all that coming home. Mrs. Dudley—she always treated people; sometimes she treated people all right and other times she would not. She treated me fine, and other times she seemed to me like she was not in just as good humor; that was all.

Q. Did you ever see her under the influence of liquor?

A. I presume she would be—anybody who did that—anybody who would tell you to exercise a team of horses 12 o'clock at night would not be in their right senses.

Q. Did she ever tell you that?

A. Yes, sir.

Q. When was that?

A. I think in front of the Bellevue, more than once. She said, "Go and exercise the team and come back in an hour."

Q. When she would go there would she be alone?

A. No. She would go to the theatre by herself. Then she would come back to the Bellevue and stay at the Bellevue, and maybe people would be waiting for her.

Q. Was there anything else that made you think she was under the influence of liquor?

A. That would make you think she was under the influence—talk like that at that time of night. You see people drinking wine, and a person who is accustomed to driving around with people, driving them every day, you can tell when they have been drinking.

Q. What did you see about Mrs. Dudley in that respect?

A. I saw she had been drinking. I would say she had been drinking one time when she was at that school; she told me I was a liar, 16th and Chestnut, and no lady that was in her right senses would tell a man that on the street.

Q. Did you ever see any man with her?

A. Yes, sir.

Q. I mean other than Mr. Dudley?

A. Yes, sir; met him at 15th street.

Q. Do you know who he was?

A. I presume he was—I have heard her mention the gentleman's name—who she was with in New York the day before; she would talk about it to Mrs. Waterhouse; she would say where she had lunch and who she had it with.

Q. Who would she say?

A. Mr. Beekman; the man had lunch; at Sherry's or Martin's; some of them. I heard her mention the name when I was driving the carriage. Whenever they started to use the Victoria she used to be talking about that. Mrs. Dudley would be there Wednesday morning and would go out between nine and ten, and she generally came back that evening about six o'clock. He was a little taller than I was.

Q. Where have you seen him?

A. I never saw him nowhere only at that time.

Q. Where did you see him then?

A. At the Broad Street Station—both at the Broad Street Station and on Market street; get in the carriage and take a drive and come back.

Q. Who would take a drive?

A. He would. I didn't know who he was at that time. I didn't know his name. Of course you haul many people you don't know who they are at that time. I didn't know until afterwards. Of course I never took it that everything was right at the time I was driving them. I did not think that things was going along between Mr. and Mrs. Dudley as they should be.

Q. What made you think that?

A. In the way Mrs. Dudley acted at all times; would have arguments with Mr. Dudley all the time. I was out at night with them and they would stop at the Bellevue, and coming back would have arguments in the carriage.

Q. What did she say?

A. I couldn't tell just what she said.

Q. About this man Beckman, as you call him, did you say that you had seen him going driving with Mrs. Dudley?

A. Yes, sir.

Q. Where would he get in the carriage?

A. Market street, above 15th.

Q. Did you drive there to meet him?

A. Always drove there.

Q. Where did the carriage go with Mrs. Dudley and Mr. Beckman?

A. Go out through the park; maybe stop up at High Bridge. I stopped there often with Mrs. Dudley There was another lady would go there; she would stop there, too.

Q. Who was it?

A. I don't know. I cannot think of her name. It was not Mrs. Waterhouse; it was another lady. Stopped at what they call High Bridge. I don't know who keeps it now.

Q. Who kept it then?

A. Old man Lofrey.

Q. What was the place—what kind of a place?

A. A restaurant, café, and all that. Everybody stops there.

Q. A sporting place?

Counsel for Mrs. Dudley objects to the counsel examining the witness characterizing the place in a way to lead the witness to give it a similar characterization.

A. Everybody goes there.

Q. Have you driven Beckman and Mrs. Dudley there?

A. Yes, sir; used to go up as far as Indian Rock; turn around and go back and if it was not too late stop there for a while and come on home.

Q. Did they get out when you got there?

A. Yes; sit there on the porch. I was standing there after we got there; standing right inside; the bar is right inside.

Q. What did you see on the porch?

A. I don't know what it was they were drinking; drinking something. I couldn't tell what it was.

Q. They were drinking something?

A. Yes, sir. I never went anywheres or never saw enough—I never could say I saw them drink anything at all. I never saw them anywheres, no matter where it was with me—I never saw Mr. or Mrs. Dudley at any time taking anything that I could say was intoxicating; but I know at times Mrs. Dudley must have taken something to act like she did.

Q. Did I understand you to say that you saw her and Mr. Beckman drinking something?

A. Yes; but I don't know what it was.

Q. How often did this happen?

A. I cannot name the exact number of times because it is a little too far off. On an average, for three months it happened right along. There was another man drove them before me, where this team was owned by another firm. When this firm bought it I went with the team. It was owned by Hand & Griest, and before that the

other fellow drove them until I took it—two years before I took it.

Q. How long would they stop at Lowrey's?

A. Half an hour or an hour; like that.

Q. Did they always remain on the porch?

A. Yes, sir.

Q. Never went inside?

A. No, sir.

Q. Have you seen this man Beekman—?

Counsel for Mrs. Dudley objects as the witness said the man's name was Beckman.

Q. (Continued)—Or Beckman, whatever you say it was. Have you seen him with Mrs. Dudley at any other place?

A. No, sir.

Objected to by counsel for Mrs. Dudley on the ground that the witness has not referred to any man by the name of Beekman, but has referred to a man by the name of Beckman; that counsel has repeated "Beckman" before making any reference to Mr. "Beekman".

The Witness—I did not say Beckman; I said Beekman.

The stenographer states that he understood the witness when the name was first mentioned to say Beckman.

The witness states that the stenographer made a mistake; that he said Beekman.

The stenographer inquires of counsel whether he shall make the correction.

Counsel for Mrs. Dudley instructs the stenographer to transcribe his notes as he has taken them.

By Mr. Strong.

Q. Did you ever take this man that you have referred to, with Mrs. Dudley, to any other place besides Lowrey's?

A. No, I never did.

Q. You referred to Zeisse's and the Continental.

Objected to by counsel for Mrs. Dudley as an attempt to suggest to the witness testimony other than that already given by him in which he has stated that he never took this man with Mrs. Dudley to any other place.

Q. Did you ever take anybody to Zeisse's or the Continental with Mrs. Dudley?

A. She always went alone as far as I can remember.

Q. Did you ever see her with anybody at Zeisse's or the Continental?

A. No, sir.

Q. The man that you have been referring to—can you describe him?

A. Yes; I could describe him the best I can remember. At that time he was not as heavy as I am now, but he was a little taller than I was, and a little mustache—very small.

Q. Small mustache?

A. Yes; and light hair, light mustache; very light; tan hair like.

Q. Had he any other whiskers except the mustache?

A. No; smooth face except the mustache. Might know him if I saw him. If I saw him anywheres I would know him. I never saw him since; that is quite a while ago; but I am pretty sure I would know him now if I saw him, because I can pretty near tell anybody I have met once—I know them again when I see them.

Q. You saw him more than once?

A. Yes; certainly more than once.

Q. How tall are you?

A. Five feet six. I think that is about what I am.

Q. Was this man stout or slender?

A. Slender; about my build now; then he was about as stout—as heavy as I am now, but a little taller. A little taller—say about a few inches taller, but I do not

think he was as heavy then as I am now. I have not seen him from that time. I got dismissed on a Sunday night. I did not leave; I got discharged on a Sunday night.

Q. Who discharged you?

A. Mrs. Dudley said I had the team out that Sunday before I took them out; said the team was dirty; had some kind of a little talk. Mr. Dudley told me when I brought them home that Sunday night—it was around one o'clock or half-past twelve—Mr. Dudley told me I was not wanted any more. I did not leave; I was discharged.

Q. From that time when did you next have any conversation with Mr. Dudley?

A. I saw him right along. I saw him at the Union League and on the street.

Q. Did you ever have any talk with him after that?

A. Always spoke to him; speak to anybody I know; around these clubs I am in every day, and I am never a day away from them.

Q. You are still driving?

A. I am driving a taxicab and touring car. I am in around these places all the time and I meet them quite frequently.

Q. When did you first tell Mr. Dudley anything about the use that Mrs. Dudley had made of that carriage?

A. I never told him outright. When the case came up in New York or Jersey City, or wherever it came up—when the thing came up, I saw it in the paper. I saw it before when it first—long ago, when it first came up—a couple of years ago when the case came up and they started talking about it. Then Stockton—I saw him every day or pretty near every day—he told me he was subpœnaed from New York or somewhere.

Q. Jersey City?

A. Jersey City. About getting a subpœna. I says, "I hope they don't subpœna me, for I ain't going to Jersey City; I cannot lose the time." Then I was up

at the Union League one day, driving for Mr. Cornish in his Thomas car—I drove several private cars—and I was talking and I saw Mr. Dudley. I told him, "If the case was only here, and if I can be of any use, I am willing to do it." I like to see everybody have a square deal, and I told him what I have told here. I don't know whether he wrote it down or not. I never saw no writing. I wrote nothing down. I cannot write very good.

Q. At that time, when you said that to Mr. Dudley, was that after Stockton had told you that he had a subpœna in Jersey City?

A. That was before. Then I went to the Union League—I was at the Union League, or when I was there and Mr. Dudley was there, and he had a paper and I told him just what I have told here. He wrote it down I think. He wrote it down. I didn't sign nothing or anything like that. It was wrote down—copied. I told Mr. Dudley: "I cannot write," nor I can't; I can write some.

Q. Was that the first time that you told Mr. Dudley anything about what you told here about the use of the carriage?

A. Yes; that was the first and only time.

Q. How long ago was that?

A. A couple of months.

Cross-examined, by Mr. Conboy:

Q. Who employs you at the present time?

A. I am employed by several people. I am driving Dr. John B. Carnett.

Q. By who else?

A. Charles Chalk Catern. I am employed by Quigley's Garage.

Q. Is that your own?

A. It is Quigley's Garage. It ain't mine. If it was mine it would be all right.

Q. Did you ever drive for Mr. Dudley?

A. What do you mean—drive a car?

Q. Yes.

A. I never drove a car for him.

Q. Do you know he has a car?

A. No; never knew he had one.

Q. You never knew anything about it?

A. I never saw him in a car.

Q. Do you know many of the people at the Union League Club?

A. Yes; lots of them. They all know me; see me go out and in there. I know them there around for the last ten or fifteen years.

Q. Do you know a man there named Brightly?

A. I cannot say I do—no, sir.

Q. A tall man with a mustache and imperial?

A. Lots of them men over there.

Q. You do not know him; you cannot place him?

A. No, sir.

Q. Mr. Dudley just met you by chance in the club and joined you?

A. Oh, no. I saw him going in and out.

Q. On the day that you and he had the talk?

A. I think it was on call. I am driving for the Bellevue.

Q. What do you mean by "on call"? Do you mean that you were there waiting for somebody?

A. Yes; went there on call. You get a call very sudden and you go to a place.

Q. You were there waiting to take somebody?

A. Yes, sir.

Q. You saw Mr. Dudley?

A. Yes, sir.

Q. Did you go up to see him? What did you say to him?

A. I said, "How are you."

Q. Did he know you?

A. Yes, sir.

Q. He said, "How are you, Mr. Quigley," or Tony?

A. No; "how are you, Quigley."

Q. Did you say to Mr. Dudley, "I understand you have got a divorce case over in Jersey"?

A. I knew it. I said, "I see the trouble is coming up again in that case." He says, "Yes." He says, "Do you know anything about it?" "Well," I says, "if there is anything I know—I don't know whether it would do anybody good—if it was here—I am not going to Jersey City; I would not go because I haven't got the time. I cannot afford to lose the time to go over there."

Q. You had talked with him the time the case was up before?

A. No.

Q. What suggested to you to say to him, "I see the case is up again"?

A. Do you mean up in Jersey City?

Q. Yes.

A. I had seen that before then.

Q. Where had you seen it that time?

A. That is the time I was talking about at the Union League.

Q. Did you only see him once in discussing this case?

A. Only—I think twice in the Union League about the case.

Q. Twice you talked to him?

A. Yes. I got the subpœna I think Thursday or Wednesday—I don't know which date. I asked, "What are you going to with the subpœna here?" He says, "You cannot go over, and I subpœnaed you here." I got the subpœna.

Q. Let us take up the first time you met him in the Union League Club. When you had that talk with Mr. Dudley, did he tell you that you should write out a statement?

A. No, sir.

Q. Then why did you tell him you couldn't write very well?

A. Because he says, "Can you make out a copy of it —what you know; put it down in some way and let me

have it." I says, "If I wrote it down you couldn't understand it. I will see you again or some time. I will stop around on my day off and you can take it down or somebody do it because I am no kind of a writer."

Q. After that explanation that you made to him, did he take your statement down?

A. Yes; he wrote down a few lines.

Q. Did he take it down?

A. Yes, sir.

Q. He took it down there and then?

A. Then and there down on the table.

Q. Did he read it to you after he took it down?

A. I read it.

Q. He handed it to you and you read it?

A. Yes, sir.

Q. You read it over?

A. Word for word.

Q. Then you told him, after you had read it, it was all right?

A. Yes, sir.

Q. You were here while the testimony of the last witness was going on, were you not?

A. I was out for a few minutes.

Q. But you were during the greater part of it?

A. Part of it.

Q. You heard me interrogate her about the method of preparing her statement?

A. That way was different from me.

Q. You want the Court to understand that your testimony was read and your statement was prepared in a different fashion?

A. My statement was prepared by me—every word of that statement. I don't know where the statement is or nothing about it.

Q. Have you seen it since?

A. No.

Q. You do not know where it is?

A. I don't know.

Q. You gave that to Mr. Dudley?

A. Yes, sir.

Q. You have not seen that to-day; counsel has not had it or shown it here; you have not seen it?

A. No, sir.

Q. How many times a week did Mrs. Dudley go to the Berlitz School of Languages?

A. I cannot tell exactly.

Q. Two or three or four?

A. Two or three days a week I think she used to go there, on the corner of the Loder building.

Q. That lasted during the entire period you were driving for her?

A. Yes, sir.

Q. She went to the Berlitz School of Languages about three times a week?

A. On an average.

Q. Did anybody accompany her on those occasions?

A. No, sir.

Q. After she had finished whatever she was doing at or about that place she would—

A. Go home—

Q. She would come back and go home?

A. Go home; I would drive her home in the carriage.

Q. How often did she take Mrs. Waterhouse out driving?

A. Quite often.

Q. Did she take her out two or three times a week?

A. Easy; never drove her until the good weather came on.

Q. When did good weather come?

A. In the spring of the year—latter end of April.

Q. All of this time was practically during the spring of the year—from March 4th to June 4th?

A. Yes, sir. Mrs. Waterhouse went out quite often. I drove Mrs. Waterhouse even after I left the Dudleys.

Q. You drove Mrs. Waterhouse with Mrs. Dudley while you were in the employ of the Dudleys?

A. Yes, sir.

Q. Do you know how often that was during the course of the week?

A. She met her every day pretty near.

Q. Some time during the day?

A. Yes; Mrs. Dudley would go down and stay down at her house the whole afternoon.

Q. Did she drive down to Mrs. Waterhouse's house and stay there?

A. Yes, sir.

Q. Who was this other lady that went out driving?

A. I don't know.

Q. How often did she go out?

A. Very often; I couldn't say just the exact times.

Q. Do you know how often during the course of the week?

A. Might not go this week and might go a couple of days next week.

Q. Did you tell Mr. Dudley anything in connection with that statement that you say you gave him about Mrs. Dudley being under the influence of liquor?

A. Did I say anything to him about it?

Q. Yes.

A. No; I didn't know whether I did or not

Q. Did you ever see Mr. Dudley with her on such occasions—

A. Yes.

Q. Let me finish the question. (Continuing the previous question)—when she was under the influence of liquor?

A. Yes; more than once.

Q. And that was at night?

A. Yes, sir.

Sworn to before me this day of February, A. D. 1913.

100 DUD *Commissioner.*

IN CHANCERY OF NEW JERSEY.

BETWEEN
MARIE DUDLEY,
Complainant,
AND
EDWARD DUDLEY,
Defendant.
} On Bill, &c.

BETWEEN
EDWARD DUDLEY,
Petitioner,
AND
MARIE DUDLEY,
Defendant.
} On Petition, &c.

Depositions taken before the subscriber, William C. Stoever, Esq., a Commissioner of Deeds of the State of New Jersey, residing in the City of Philadelphia, Commonwealth of Pennsylvania, at his office, No. 727 Walnut street, Philadelphia, Pa., this third day of March, 1913, at the hour of 11 o'clock in the forenoon, pursuant to notice duly given to Alan H. Strong, Esq., Solicitor for Edward Dudley.

It is hereby stipulated by the solicitors for the respective parties that the depositions of the witnesses be taken stenographically by Paul R. Brown, the stenographer selected by the Commissioner.

Appearances—Alan H. Strong, Esq., for Edward Dudley; McDermott & Enright, represented by James D. Carpenter, Jr., Esq., for Marie Dudley.

The Commissioner and stenographer, first being duly sworn according to law, the taking of the following depositions was proceeded with.

COMMONWEALTH OF PENNSYLVANIA,
COUNTY OF PHILADELPHIA,
} *ss.*

Mark Rigor, a witness produced on behalf of Marie Dudley, being duly sworn according to law, deposes and says:

By Mr. Carpenter:

Q. Are you connected with the Rigor Secret Service, a detective agency in Philadelphia?

A. I am.

Q. In what capacity?

A. I am superintendent.

Q. You have been subpœnaed to produce certain papers here, have you not?

A. Yes.

Q. Have you your subpœna with you?

A. Yes.

Witness hands paper to examining counsel.

Q. This subpœna, I see, requires that you, Mark Rigor, bring with you all the notes, memoranda and reports made by George W. Busby, William C. Nuss and A. B. Coley, and any and all other detectives in the employ of Rigor's Secret Service, made in the year 1905, especially in the month of April of said year, in any way relating to or concerning detective work done by said detectives in following Edward Dudley or Elizabeth Battelle Vanderpool. When was this subpœna served on you?

A. In last week, some time, or the week before last.

Q. After receiving the subpœna, did you make any search for any such notes or papers as called for in this subpœna?

A. I did.

Q. What search did you make?

A. I went through the records we have.

Q. Where?

A. In the office.

Q. Have you produced all such papers here?

A. I have none to produce.

Q. Did you ever have them in your possession?

A. Never; not that I know of; with the exception of one time my brother gave me a pocket marked "Brightly."

Q. What do you mean by "pocket"?

A. I call this a pocket. (Indicating.)

Q. Do you mean a package to hold papers?

A. Yes; it is a sheet of paper folded over; you might call it a record file.

Q. When did he give you this?

A. Some time in 1910.

Q. What did you do with them?

A. I destroyed them.

Q. How soon afterwards?

A. May have been a week or ten days; may have been a month. I destroyed a whole file of records, because I wanted the room, and these went with them.

Q. How did you destroy them?

A. Tore them up and threw them in the waste basket.

Q. All of them?

A. All of them; yes, sir; all that were given me; all I took out of this file, too. I did it myself because I wanted to tear them up in small pieces.

Q. You knew what papers they were?

A. I did not know.

Q. You knew they were papers in this case, did you not?

A. No; I did not.

Q. How do you know they are the papers that are called for by this subpœna?

A. Because my brother called my attention to them.

Q. At the time?

A. No; not at that time. He asked me what I did with the papers that were marked "Brightly"; Mr. Brightly; I think F. F. Brightly; am not sure of that, but I think "Brightly." I told him I destroyed them. There was only a small bunch of them anyhow, whatever they were.

Q. Since that have you looked for them—after you got this subpœna?

A. I have. There is nothing in the files; nothing in the cabinets, in the card case, "F. F. Brightly, 340."

That was his number and that was the case. He saw that card at Jersey City or Newark, or wherever it was.

Q. Have you got any papers in your office or elsewhere that in any way relate to this matter?

A. I have not that I know of, with the exception of a little note in my diary.

Q. What is that?

A. The fact that Mrs.—

Q. Can I see it?

A. It is March 17th. (Witness indicates on diary.) "Mrs. Dudley f. N. Y."; that means from New York; "called 1.15 to 2.45." That means between 1:15 to 2:45 "p. m.," in the afternoon. I don't say the hour, but the girl who gave me the names told me.

Q. Who made this note?

A. I made it. We were cleaning house. We had a house cleaning; we were all cleaning house.

Q. Was this before these papers were given to you to be destroyed?

A. No; after that time.

Q. Could you say how long?

A. May have been a week or a month.

Q. Did you personally do any work on this case?

A. Never; knew nothing about it at all. I do not know of any one that worked on it.

Q. Were you an employee of this agency in 1905?

A. No; I was in Baltimore then.

Q. I see that on the next day, which was Friday, March 18th, that Brightly asked to see D. M. Does that refer to Frank F. Brightly, of this bar?

A. I do not know.

Q. Is there any other Brightly that might refer to?

A. I don't know.

Q. That D. M. refers to D. Miles Rigor?

A. Yes.

Q. Was it on Thursday, March 17th, or Friday, March 18th, that these notes given to you were destroyed?

A. It was after this date. (Referring on book to March 17th.)

Q. How do you know that it was not the 18th?

A. I know it was the 17th; I am quite sure it was the 17th, because he had quite an argument in there. He came in and asked me to destroy them. They had "Brightly" marked on them.

Q. That is the only thing you saw in your possession that relates to this case in any way?

A. That is the only thing. I would not have known that, but my brother looked up the day when she came. I did not see Mrs. Dudley; I did not know her. I did not see Mr. Brightly or Mrs. Dudley. I did not know anything about the case whatever.

Cross-examined, by Mr. Strong:

Q. The date you mention, March 17th and 18th, in the diary you have referred to, were in some year. What year was it?

A. 1910.

Q. Which day was it, according to your recollection, that you received the papers from your brother with direction to destroy them?

A. I am quite sure it was the day she was in.

Q. The 17th?

A. On the 17th, yes. I am quite sure it was. He brought them into my room. My room was cleaned, and we were cleaning the other room, and for that reason my brother and this woman we have got marked down here "Mrs. Dudley" went in my room. I was in the front room. After they went out, I made a comment to my brother, asking him the next time he wanted some one to come in to see him to take him in his own room. Of course, it was not convenient to go in his room when it was being cleaned. Then they were cleaning it. My room had been cleaned. I commented on the time they were in there afterwards. I am quite sure it was that day he gave me the records.

Q. Was she in there with your brother quite a long time?

A. I have the time marked down—1:15 to 2:45. I think that is correct.

Q. About an hour and a half?

A. About an hour and a half.

Q. Did I understand you to say that they had quite an argument?

A. Yes; They had quite a talk.

Q. Did you hear it?

A. I heard just part of that, that I can recall.

Q. What can you recall of it?

Objected to as immaterial, incompetent and irrelevant.

A. I heard my brother tell her that he did not know her in this case whatever; that Mr. Brightly employed him, Mr. Brightly paid him, and if she would get an order from Mr. Brightly for the records he would only be too glad to give them to her, but he says, "You know it is unfair to ask me for these things because I don't know you in the matter."

Q. Did you hear anything that she said, so far as you can recall?

A. I am quite sure that I heard her say that she had paid something.

Q. What was her manner? Was she excited or angry?

Objected to as immaterial, incompetent and irrelevant.

A. I just heard her voice. It did not sound excited at all; more than ordinarily.

Q. They were in this room and you were outside?

A. Right in the next room.

Q. Was the door closed?

A. It has a very thin partition and the radiators go between, so in that room you can hear, if you want to, what is going on in the next room. My room is on

the corner of Thirteenth and Market, and this one is back and more quiet than my room.

Re-examined by Mr. Carpenter:

Q. But you do recall that Mr. Brightly did call on the next day?

A. No; I don't recall that. I take these memo's—when I am not there I take these memo's from the girls' slips.

Q. Did you not make that entry in that book in your own handwriting?

A. Yes.

Q. This memorandum on the next page of Friday, March 18th, is also in your handwriting?

A. Yes.

Q. That Brightly did call?

A. Yes.

Q. And that refreshes your recollection that he did call?

Objected to as the witness did not say that.

A. No; it does not.

Q. Referring to the memorandum—

Counsel makes a motion to take the book.

The Witness—This is my diary. I called your attention to the fact that "Mrs. Dudley" was here.

Q. Where you have recorded on March 18th in the same diary the memorandum that appears that Mr. Brightly called to see D. M.—that is in your handwriting?

A. Yes; at 2:55.

Q. Then Mr. Brightly called at your office after Mrs. Dudley called and before the records were destroyed. Is that right?

A. No; I don't say that.

Q. Does not your diary show that Mr. Brightly called at your office on March 18th, 1910?

A. It does.

Q. And you did not destroy your records until after that date?

A. I don't say that.

Q. You testified here, did you not, that you destroyed your records a week, ten days or perhaps two weeks—some time after that?

A. Yes.

Q. After Mrs. Dudley called?

A. Yes.

Q. So that when Mr. Brightly called those records had not been destroyed?

A. I don't say that they had been destroyed. No, I don't think they had been.

Q. Did you destroy any of your records that had been made prior to March 17th, 1910, about that time, of their kind?

A. No; I just cleaned out one file as I needed the room.

Q. And the only records you destroyed were in this particular case?

A. No; I tore up, I told you, a whole complete file; in a cabinet about that high (indicating about four feet); with about four drawers in.

Q. What you heard Mrs. Dudley tell Mr. Rigor was that she had paid his bill with her money; did she not?

A. No; I heard her say she had paid some money.

Re-cross examined, by Mr. Strong:

Q. Do you personally know that Mr. Brightly was there on the 18th?

A. No; I do not.

Q. I understood you to say that your memorandum is taken from a slip furnished you by the young lady in the office?

A. When I am not in—yes.

Q. Was that particular entry about Mr. Brightly on the 18th of March taken in that way or not, or is there

anything that enables you to say it was taken that day or otherwise.

A. I cannot tell that, for the reason I have not got down the time I went out to lunch.

Q. You simply say you do not know?

A. No.

By Mr. Carpenter:

Q. Does that diary show in there anything about the destruction of those records?

A. No.

Q. Nowhere in the diary?

A. No, sir.

Q. Did you make a note at the time you destroyed them?

A. No. I didn't think it was important at all. He has often handed me papers to tear up—destroy, and I always made it a rule to tear them up in fine pieces, too.

Q. You do not keep those papers after they have been torn up—the scraps?

A. No.

Q. You did not keep those scraps after they were torn up?

A. They went back in the waste room.

Q. You did not keep them, did you?

A. No.

Q. Did you see any of the papers that were in that packet?

A. No.

Q. Do you know what was in that packet?

A. No, I don't know. I have a drawer full up there now to destroy.

George W. Buzby, a witness produced on behalf of Marie Dudley, being duly sworn according to law, deposes and says:

By Mr. Carpenter:

Q. You reside outside of the State of Pennsylvania, do you not?

A. Yes, sir.

Q. You work here in this city?

A. Philadelphia; yes, sir.

Q. In the year 1905 were you in the employ of the Rigor Secret Service?

A. Yes.

Q. Are you perfectly willing to testify to all the facts you know in these cases?

A. I will tell you as far as I recollect. I came down here this morning in a sense at a disadvantage. I expected the original reports to be produced. I have been away from the Rigor agency since 1907, and my connections have been of an entirely different nature, and any records I might have had myself previous to that time—I don't believe they were destroyed exactly—for instance, note books, in daily work, following the movements of any man—I retained those notes.

Q. Have you got such notes?

A. I have not been able to find any such notes. I have not made any great effort to look for them, because they would simply be of such a nature as I would expect, as I might make daily records at the end of a day. For instance, a man going to—well, keeping an office with—we will say Twelfth and Walnut—would talk to some attorney, I would make a note of the fact and the attorney's name. And those records I have not been able to—as I say, I have made no great effort to find them; I don't know that I have them, because I severed my connections there, and I had no reason to retain them. I severed my connections permanently; it was not a question of going back. I recall this Dudley case.

Q. Were you in the Hotel Raleigh in the City of Washington April 12, 1905?

A. I cannot say that I would swear to it. I have been

in the Raleigh Hotel from 1902 to 1905 I presume fifty times.

Q. Were you there in April, 1905? Can you say that?

A. I couldn't swear to it.

Q. Did you ever see Edward Dudley in the Hotel Raleigh, Washington, in 1905?

A. Possibly it would be better for me to tell what I know.

Q. Yes; tell what you know about it.

A. I was assistant superintendent of the Rigor Agency in 1905, or thereabouts—I couldn't tell you—for two or three years during that time. And in that capacity I handled the work of some of our men; that is, shadow work, it is called; and we were following—covering the movements of a man by the name of Dudley. This man was pointed out to me at the Bellevue-Stratford Hotel by one of our operatives as being Dudley.

Q. Was the operative William C. Nuss?

A. No. At the same time another operative was following the same individual, and he telephoned me that he was at the B. & O. station—

Objected to as incompetent and irrelevant.

I followed this man to Washington; boarded the train.

Q. You mean the man pointed out as Mr. Dudley?

A. Yes. He met a woman on the train, after leaving Philadelphia, and he went to Washington to the Raleigh Hotel. They remained there a few days. I don't know whether it was—it was more than one day, and it might have been two, three or four days; I would not say positively. They left Washington; the man returning to Philadelphia, alighted from the train at Philadelphia, and the woman going on through to New York. The woman after she left the train made a number of calls around New York City.

By Mr. Strong:

Q. Did you follow her through to New York?

A. Yes.

By Mr. Carpenter:

Q. And then where did she go to, do you recall?

A. She went to an apartment house, I think, on Twenty-sixth street.

Q. Was it Twenty-sixth and Madison avenue, New York City?

Objected to as leading.

A. I am not positive. I do not know.

Q. Do you know the name of the apartment house?

A. I do not.

Q. Do you recall whether there was any particular club right near there or any big building that is well known in the city of New York and elsewhere, or perhaps this will be a suggestion: Was it in a well known club or near any well known club in New York?

A. I cannot tell that. I do not know.

Q. Did you register at the Raleigh Hotel at that time when they were there?

A. Yes; I registered every time I was there.

Q. You registered under your own name?

A. Always.

Q. Did this man who was pointed out as Mr. Dudley register at the same hotel?

A. Yes.

Q. Do you recollect the name under which he registered?

A. I do not. I don't remember the name. I know it was not under the name of Dudley. I do not recall the name.

Q. Did you register after he did?

A. I think so.

Q. If I suggested the names of Mr. and Mrs. Louis Craven, would that refresh your recollection as to the names he put on the register?

Mr. Strong objects to the suggestion of any name to the witness as leading and improper.

A. It would not. From this standpoint: I read that name in the papers—in the newspaper articles recently—I recall from that; but as to being the name that was put on the register at Washington, by my memory, eight, nine or ten years, I do not know.

Q. Did you see the signature that he put on the register when he did register?

A. I did.

Q. Would you be able to tell that signature if you should see it again?

A. I doubt it. I would not have any reason to store it up in my mind eight, nine or ten years you know.

Q. Do you recall in what part of the hotel the room was which was occupied by this man who was pointed out to you as Mr. Dudley?

A. I couldn't tell what floor it was on—no.

Q. Where was your room, in reference to theirs?

A. I couldn't tell you what room I had.

Q. What floor—a floor above or below?

A. If I could possibly get a room close I would get it. I don't know whether I did succeed in getting a room close or not.

Q. Did you see them go into the room?

A. Yes.

Q. Were they together when they went in?

A. I think when they were registered at the hotel first they went in together.

Q. Do you recall how many days they were there?

A. No, I do not. They were there a few days. They were there more than one day; I don't know whether it was—it was more than one day; I cannot say just how many.

Q. Mr. Dudley is not here this morning.

A. No; he is not.

Q. If you should see this man would you know him?

A. I believe I would.

Q. Have you seen him since that time?

A. I have not.

Q. Did you stay there in the hotel all the time they stayed there?

A. Yes; I was at the hotel while they were there.

Q. Do you recall whether you gave up your room and then re-registered again and got the same room the second day you were there?

A. I do not recall that.

Q. Do you recall whether there was any other operative from the Rigor Secret Service there at the same time?

A. I do not; no. I do not remember of any.

Q. Do you recall the name of the woman he had met? Did you find out what her name was?

A. I think I did in some manner. I do not know whether I talked to the woman or how I secured her name at the time.

Q. Was her name Elizabeth Vanderpool?

Objected to unless the witness is able to tell how he knows what her name was. The suggestion of the name to the witness is also objected to as improper and leading.

A. I do not know. If I would attempt to testify to that fact, it would be from recent newspaper articles. I did not recall the name I secured of the woman at that time.

Q. Was the name that appeared in the newspapers a name that refreshed your recollection as to that being the name of the woman?

Objected to as leading and improper.

A. Well, previous to seeing those newspapers, if the woman's name had been asked me, I couldn't have told.

Q. Do you recall whether or not the apartment house to which the lady went in New York was the apartment house on Madison Square, New York, opposite the Madison Square Gardens and next door to the Manhattan Club?

Objected to as leading, the witness having already testified on that subject explicitly.

A. I do not know that, Mr. Carpenter.

Q. I show you here two exhibits, marked for identification *D*-23 and *D*-24, which have been testified to in this case as the receipted bills of D. Miles Rigor Secret Service, 13th and Market streets, and ask you whether you can, by referring to these, state whether or not these are the dates on which you went to Washington, the dates on this bill being April 13th, 14th and 15th, 1905.

Mr. Strong—I object to the papers being shown to the witness and to his making any use of the papers for the purposes of a memorandum, and shall move before the Vice Chancellor to strike out any testimony elicited by means of the exhibition of this paper to the witness.

The Witness—This would not indicate anything that I could swear to. This bill was made out by the stenographer; not by me nor under my direction.

(Witness refers to papers marked *D*-23 and *D*-24.)

By Mr. Strong:

Q. They are two sheets of the same bill?

A. Yes.

By Mr. Carpenter:

Q. Under date of April 13th, 1905, on the bill are the expenses of operative G. W. B. Philadelphia to Washington $9.52. Did you go under the name or description of operative B. W. B.?

Mr. Strong renews his objection, stated to the last question, to the question just asked.

A. In signing a report, my signature—I had a number; was known as No. 6. When a bill of this kind

was rendered I believe the initials G. W. B. were used.

Q. Do you recall whether your expenses on the trip were $9.52 on April 13th?

A. I couldn't swear to it, because I have been in Washington a thousand times in the last ten years.

Q. The B. & O. Station that you said you met this man Dudley at was in Philadelphia?

A. 24th and Chestnut streets.

Q. Philadelphia?

A. Yes.

Q. It was the same man that you met as Edward Dudley that you followed to Washington?

A. That had been previously pointed out to me as Dudley?

Q. Yes.

A. Yes.

Q. Do you know who it was that pointed him out to you as Edward Dudley?

A. I am in doubt. It was one of the operatives at the office at that time. I do not know which one particularly.

Q. If you saw a tracing of anything that Mr. Dudley wrote on the hotel register of the Hotel Raleigh at the time that you say he went down there, would that refresh your recollection as to the signature that was put on there?

A. I doubt it. I think my own signature I could identify, but could not say whether that was the trip or not at this late date. I do not know whether I registered immediately following him or three or four names following his, or how I registered at that time.

Q. Did you follow them about Washington at all after they registered—going to the theatre with them or anything like that?

A. Yes; they went to one of the theatres one evening.

Q. Did you go to the same theatre?

A. Yes.

Q. After that what did they do?

A. I couldn't get down to details.

Q. They went back to the hotel?

A. Yes.

Q. Did they go to the same room they had been occupying?

A. I do not know that at that time that I followed them up to the room.

Q. They went upstairs at any rate—up in the elevator?

A. Yes.

Q. Do you recall whether your room was on the floor above theirs or the floor below?

A. I do not remember that.

Q. Do you know of any other circumstance that surrounded the trip down there?

A. I do not believe I do. I do not think there is anything other than what I have already said that I can recall. There is one feature of this case, in regard to my stopping at the Raleigh. You will find my name on the register there on numerous occasions. I used to stop there on all business dealings I had. I had considerable business with the Southern Railroad around those years. You will find my name on the register there on numerous occasions, and that confuses me in a sense in answering your questions intelligently, possibly.

Q. Do you recall what time of the year it was that you went down on this particular trip?

A. No; I do not.

Q. It might have been April 13th, 14th or 15th, 1905?

Objected to as leading.

A. I don't know. I couldn't tell you the year from my own memory. It might have been 1903, 4, 5 or 6.

Cross-examined by Mr. Strong:

Q. And it might have been any time in any one of those years, I suppose?

A. Yes, sir.

Mr. Carpenter—I call on Mr. Strong to produce here, or ask Mr. Edward Dudley to come here, for the purpose of having the witness see whether or not he is the man that he followed to Washington on the train and whom he saw register at the Hotel Raleigh, April 13th, 14th and 15th, 1905, since Mr. Dudley is not here this morning. Will you do it?

Mr. Strong—No; I will not produce Mr. Dudley to-day because I have no control over his movements.

Mr. Carpenter—Will you ask Mr. Dudley to come here to-day so that the witness can identify him if he is the man?

Mr. Strong—I have nothing to say on the subject at all.

Mr. Carpenter—Will you ask Mr. Dudley to come here at a time to which we may adjourn, or which the Commissioner sees fit to fix, to enable this witness to identify Mr. Edward Dudley as this man or not?

Mr. Strong—I decline to make any statement on the subject whatever. I will say that Mr. Dudley notified me over the 'phone last evening that he was obliged to attend upon a professional engagement to-day and would not be able to be here. That is all I can say about it.

Mr. Carpenter—If we will adjourn this hearing until a day later in the week, when the witness can be here, will you have Mr. Dudley here, or ask him to be here, so that the witness can identify him if he is the man?

Mr. Strong—I cannot undertake to do that. Mr. Dudley is under no obligation to appear here for any such purpose, or to give any assistance in the effort to identify himself. He has already testified that he was not in Washington on the occasion when you are seeking to place him there, and it seems to me that is all there is of it.

By Mr. Carpenter:

Q. Mr. Buzby, you say there is a possibility of your having some original notes you made at the time, in your possession somewhere?

A. At that time I was single. I married several years since that—since I have been connected with the railroad, and I do not know whether I would have anything at all. I doubt it. In fact I don't know where I would make an effort to search for any such thing. As to the cards I carried at that time, of the Rigor Secret Service, assistant superintendent, I destroyed all those. I do not think I could find one of those in my possession. I had in my possession 500 when I left there.

Mr. Carpenter—I will request the commissioner to adjourn this hearing until Wednesday of this week, at 11 o'clock in the forenoon, at the commissioner's office, 727 Walnut street, Philadelphia, so as to give Mr. Edward Dudley an opportunity to be here at that time, so that the witness, Mr. Buzby, may see whether or not he, Mr. Edward Dudley, is the Edward Dudley whom he followed to Washington on the occasion he has testified to, and shall request the commissioner to instruct the witness to return at that time for further examination as well as for this purpose of identification.

Mr. Strong—Have you finished with your examination of the witness at this time?

Mr. Carpenter—I wish to ask him a few question concerning a certain paper I have in my office which I, through inadvertence, did not bring with me, which I can ask him about at that time. Outside of that, my examination is closed.

Mr. Strong—I suggest to the commissioner that the testimony should be closed now, and I object to any adjournment for the purpose of holding it open with the idea of identifying Mr. Dudley and in regard to a paper which counsel says he left at his office, inasmuch as it does not appear to be one that could properly be

shown to Mr. Buzby as a memorandum to aid his recollection.

Mr. Carpenter—That is what it is for.

Mr. Strong—You had better describe the paper then. Tell what it is, so that we can know whether it is proper or not. I object to the examination being held open for any such purpose, the nature of the paper and the author of it being undisclosed. Counsel for Mrs. Dudley has already, in the course of this examination this morning, endeavored to refresh the memory of the witness by exhibiting to him a paper which could not possibly be supposed to be a proper memorandum for that purpose. I submit to the commissioner that the testimony ought to be closed at this time.

Mr. Carpenter—Will you adjourn the hearing? (Addressing the commissioner.)

Mr. Strong—To decide the matter of identification or simply take the testimony?

Mr. Carpenter—I think Mr. Dudley should be given this opportunity, and I ask for this adjournment for the purposes stated.

Mr. Strong—Mr. Dudley does not ask for any adjournment, and counsel for Mrs. Dudley has no right to ask it for him. I submit to the commissioner that no reason has been stated for continuing the testimony until any future time, and the witness ought to be allowed to go.

Mr. Carpenter (to the witness)—Will Wednesday be as convenient as Friday or Saturday?

The Witness—Wednesday will not be very convenient.

Mr. Carpenter—Will Friday or Saturday?

The Witness—I cannot say. I couldn't tell what day would suit. I ought to be out of the city this morning.

Mr. Carpenter—Would Friday be better than Wednesday?

The Witness—It would be better than Wednesday. Friday or Saturday would suit me better than Wednesday.

Mr. Carpenter—Would Saturday at noon be better?

The Witness—Saturday at noon would be all right.

Mr. Carpenter—Then I ask that Saturday at noon, which will be convenient for the witness, be fixed as the time for which this meeting shall adjourn.

Mr. Strong—I submit that the witness ought not to be obliged to come again. He has been here and told all that he possibly can. It is vexatious to keep the witness here for another day, with the idea that Mr. Dudley may want to appear for the purpose of identification.

The Commissioner—If it is up to the commissioner to decide, it seems to me that the complainant in this case ought to have the opportunity to get full testimony under the letters rogatory, and if it cannot be completed except by continuance, it seems to me that the meeting ought to be continued. That is my opinion in the matter.

Mr. Carpenter—I offer in evidence the subpœna served on the various witnesses.

Adjourned to meet on Saturday, March 8th, 1913 at 12 M.

PHILADELPHIA, March 8th, 1913.

Parties met on this day, pursuant to adjournment, at 12 M., at the office of William C. Stoever, Esq., No. 727 Walnut street.

Present—William C. Stoever, Esq., Commissioner; James D. Carpenter, Jr., representing McDermott & Enright, counsel for Marie Dudley; Alan H. Strong, Esq., counsel for Edward Dudley. George W. Buzby, witness; Paul R. Brown, stenographer.

George W. Buzby, being recalled, testified as follows:

By Mr. Carpenter:

Q. I notice here, the first question you were asked at the last meeting: "You reside outside of the State of Pennsylvania, do you not"; and that the answer re-

ported is, "Yes, sir." Is that correct, or do you reside in the State of Pennsylvania?

A. I reside in the State of Pennsylvania, but outside of the city of Philadelphia. That was what I intended to say.

Q. Can you tell who operative No. 2 was with Rigor's Agency in April, 1905?

Objected to as immaterial, incompetent and irrelevant.

A. I was No. 6. I couldn't tell you who was No. 2. I was No. 6.

Q. There is a question I omitted I want to ask: Did Mr. Dudley and the lady that he met on the train, on the occasion you have testified to—did they register as man and wife on the hotel register?

Mr. Strong—That is objected to. The question assumes that the man in question was Mr. Dudley, whereas the witness only knows that he was pointed out as Mr. Dudley. And also that the question should not be suggestive, but should call upon the witness to tell in what manner that particular registration was in fact made. Further, the witness has already testified that he does not at this time recall how the couple in question registered.

Mr. Carpenter—He said he did not recall the name.

By Mr. Carpenter:

Q. Do you recall whether they registered as man and wife?

A. The parties that I followed to Washington registered as man and wife.

Q. I show you two tracings of a signature, Mr. and Mrs. Louis Craven, New York, which have been offered in evidence in this case, and marked "*Exhibit P-1* and *P-2*, Feby. 14, 1913," both of them, and which have been proved to be tracings of the signature of

Mr. and Mrs. Louis Craven in this case on the hotel register of the Raleigh Hotel, on April 13th, 1902, and ask from an examination of these you can tell whether that is the signature of the man and the woman you followed to Washington, and the signature that they placed on the register and which you saw placed there at the time you were there.

Objected to for the reason that the paper in question cannot be used by the witness as a memorandum.

A. I couldn't identify these.

Q. Your recollection of how they registered is not sufficient?

A. No; it is not clear. I don't remember the handwriting at all.

Q. Have you found any reports that you might have had in this case since our last hearing early in the week?

A. No, sir; I have not.

Q. Is Mr. Dudley here in this room at this time?

A. I do not think so; no.

Mr. Carpenter (addressing Mr. Strong)—Will you state on the record that he is not here?

Mr. Strong—What I will say is that the only persons here present are the commissioner, the stenographer, Mr. Carpenter and the witness and myself.

Mr. Carpenter (addressing Mr. Strong)—Is Mr. Dudley in the outer office?

Mr. Strong—You can look out there and see. I am not here to answer questions.

Mr. Carpenter—I will state for the purposes of the record that Mr. Dudley is not here to-day.

Mr. Carpenter asks Mr. Strong whether he desires to cross-examine the witness. Whereupon Mr. Strong directs the stenographer to note "No cross-examination."

The signatures of the witnesses, Mark Rigor and George W. Buzby, are waived

I, William C. Stoever, Commissioner as above named, hereby certify to the taking of the testimony of the witnesses Mark Rigor and George W. Buzby, taken before me under letters rogatory in the above stated causes, said witnesses having been duly sworn.

Commissioner of Deeds for the State of New Jersey, residing in the State of Pennsylvania.

JUDGMENT RECORD.

SUPREME COURT, COUNTY OF ULSTER.

MARIE DUDLEY,
Plaintiff,
vs.
ELIZABETH BATELLE VANDERPOEL,
Defendant.
} Complaint.

The plaintiff complaining of the defendant by Carroll Whitaker, her attorney, alleges:

First. That on or about the 21st day of March, 1898, in the city of Naples, Italy, the plaintiff intermarried with Edward Dudley, and that at the time of the commission of the wrongs hereinafter mentioned plaintiff and said Edward Dudley were living together as man and wife, in the City of Philadelphia, Pa., and at other places.

Second. That the defendant contriving and wilfully intending to injure the plaintiff and deprive her of the comfort, society, aid, maintenance, affection and assistance of the said husband of the plaintiff, and to alienate and destroy his affection for her, heretofore in or about the years 1901, 1902, 1903, 1904 and 1905, on divers days and times to the plaintiff unknown, at the City of Philadelphia, Pa., Washington, D. C., New

York City, Paris, France; London, England, and on various steamships plying between the City of New York and various ports in Europe, at which places in said cities plaintiff is unable to designate, wrongfully and wickedly and without the privity or connivance of plaintiff, debauched and carnally knew the said Edward Dudley, then and ever since the husband of the plaintiff, by means whereof the affection of the said Edward Dudley for the said plaintiff was wholly alienated and destroyed, and by reason of the premises the plaintiff has wholly lost the comfort, society, aid and assistance of her said husband, which, during all the time aforesaid, she otherwise might and ought to have had and enjoyed.

Third. That plaintiff has suffered great distress in body and mind, to the damage of the plaintiff of One hundred thousand dollars ($100,000.00).

Wherefore, the plaintiff demands judgment against the defendant for the sum of one hundred thousand dollars ($100,000.00), besides the cost of this action.

CARROLL WHITAKER,
Plaintiff's Attorney,
Saugerties, N. Y.

[L. S.]

SUPREME COURT, ULSTER COUNTY.

MARIE DUDLEY
against
ELIZABETH BATTELLE VANDERPOEL. } Answer.

The defendant in answer to the complaint of the plaintiff herein.

I.

Denies each and every allegation therein contained.

Wherefore, defendant demands judgment that the complaint herein be dismissed with costs of this action.

[L. S.] WM. D. BRINNIER,
Attorney for Defendant.
Office and P. O. Address,
No. 53 John St., Kingston, N. Y.

SUPREME COURT, ULSTER COUNTY.

MARIE DUDLEY,
Plaintiff,
against
ELIZABETH BATTELLE VANDERPOEL,
Defendant.

This cause having been ready and moved for trial by the defendant at several terms of this Court, and the plaintiff being not ready for trial at either of said terms, and the cause having gone over the several terms of said Court upon motion of the plaintiff, and it being on the present calendar and ready for trial upon the part of the defendant, and the plaintiff having requested that it go over the September Trial Term of this Court.

It is hereby stipulated and agreed by the attorneys that the above-entitled action go over the September Trial Term of this Court upon the express understanding, agreement and condition between said counsel that if the plaintiff shall not be ready for trial at the December Trial Term of this Court, then the defendant shall have a dismissal of the complaint in said action on the merits with costs of this action.

Dated September 7th, 1908.

CARROLL WHITAKER,
Atty. for Plff.

WM. D. BRINNIER,
Atty. for Plff.

[L. S.]

SUPREME COURT.

MARIE DUDLEY
against
ELIZABETH BATTELLE VANDERPOEL. } Notice of Trial for Defendant.

To Carroll Whitaker, Esq.,
Attorney for Plaintiff:

SIR—The above cause will be brought to trial at a Trial Term of the Supreme Court appointed to be held in and for the county of Ulster, at the court house in the city of Kingston, N. Y., on the 7th day of December, 1908.

Dated the 21st day of November, 1908.

Yours, &c.,

[L. S.] WM. D. BRINNIER,
Attorney for Defendant.

Office and Post Office Address,
No. 53 John St., Kingston, N. Y.

SUPREME COURT—ULSTER COUNTY.

MARIE DUDLEY
against
ELIZABETH B. VANDERPOEL.

STATE OF NEW YORK,
COUNTY OF ULSTER, } *ss.*

Palmer Canfield, being duly sworn, deposes and says, he is a resident of Kingston, N. Y., in said County, and is over twenty-one years of age, and is the managing clerk in the office of W. D. Brinnier, attorney for the defendant in the above-entitled action; that on the 21st day of November, A. D. 1908, before 5 o'clock P. M., at Kingston, County of Ulster, N. Y., deponent personally served a copy of the annexed notice of trial in said action upon Carroll Whitaker, Esq., attorney for the plaintiff by depositing the same, properly and securely enclosed in a sealed envelope and with full postage prepaid thereon, in the post office at Kingston, County of Ulster, N. Y., aforesaid, that being the post office of deponent and of said W. D. Brinnier, directed to Carroll Whitaker, Saugerties, Ulster Co., N. Y., he being the attorney for the plaintiff in said action, and that being the address within this State, designated by him for that purpose upon the preceding papers in this action, and between which places there then was and now is a regular daily communication of mail.

PALMER CANFIELD.

Subscribed and sworn to before me this 8th day of December, 1908.

[L. S.]

J. S. ANDERSON,
Notary Public.

MARIE DUDLEY, *vs.* ELIZABETH BATTELLE VENDERPOEL.	Carroll Whitaker March 8th, 1906 William D. Brinnier

Issue of Fact, Trial by jury.

Nature of Issue, Action to recover $1000,000 damages for alleged alienations of affections.

SUPREME COURT—ULSTER COUNTY.

MARIE DUDLEY,
Plaintiff,
against
ELIZABETH BATTELLE VANDERPOEL,
Defendant.

STATE OF NEW YORK,
COUNTY OF ULSTER, } *ss.*

Palmer Canfield, being duly sworn, deposes and says, that he is a resident of Kingston, N. Y., and is an attorney at law and upwards of 21 years of age and is the managing clerk in office of W. D. Brinnier, attorney for the defendant in the above-entitled action; that on the 25th day of November, 1908, before five o'clock P. M., deponent filed with the Clerk of the County of Ulster a note of issue for the above case, which is hereto annexed, by delivering to and with the said County Clerk said note of issue, said day being at least twelve days before the commencement of the term of said Court beginning December 7th, 1908.

PALMER CANFIELD.

Sworn to before me this 8th day of December, 1908.

J. S. ANDERSON,
Notary Public.

[L. S.]

SUPREME COURT, ULSTER COUNTY.

MARIE DUDLEY,
Plaintiff,
against
ELIZABETH B. VANDERPOEL,
Defendant.

In the year 1905, plaintiff commenced an action in the city of Philadelphia, to recover an absolute divorce against her husband, which action, I am informed, is still pending in that city.

In February, 1906, this action was commenced and issue was joined herein on March 9th, 1906, and has therefore been at issue nearly three years.

The action was commenced to recover damages in the sum of $100,000, the plaintiff alleging that the defendant alienated the affections of her husband. The cause has been on the calendar of this court eleven different trial terms since issue was joined. The attorney for the plaintiff before each one of those trial terms sent notices to the plaintiff that the trial was coming on, notifying her to be prepared for the trial of the action, as defendant's attorney had notified the plaintiff's attorney, that the defendant wished to have the action tried as speedily as possible, and he notified the plaintiff's attorney to be ready for trial at each of said terms.

Plaintiff made no reply to her attorney's appeals to her, to come to Kingston, and have the case tried. In consequence, plaintiff's attorney was compelled to apply to the defendant's attorney at each of said trial terms, to let the case go over the term, which defendant's attorney reluctantly consented to do.

In order to get the case disposed of plaintiff's attorney has repeatedly offered plaintiff to assist on the trial —any other attorney she might select to try the same, but she has never accepted such offer.

The same conditions prevailed at the September, 1908, trial term of this court, and, in consequence, plaintiff's attorney was again compelled to ask defendant's attorney to put the case over the term; but in doing so defendant's attorney exacted the condition that if plaintiff was not ready for trial at the December, 1908, term, that the defendant should have a dismissal of the complaint upon the merits.

On the twenty-first day of November, 1908, the defendant's attorney wrote to the plaintiff's attorney as follows:

"Mr. Carroll Whitaker,
Saugerties, N. Y.

Dear Sir:—

I expect to try the Vanderpoel-Dudley case this term of court, and if it is not tried, I will have it dismissed on the merits.

Yours very truly,
Wm. D. Brinnier."

Immediately upon receipt of that letter plaintiff's attorney wrote, to the plaintiff, five letters enclosing a copy of the letter of defendant's attorney to him, and directing one letter to the Hotel Majestic, New York, one to Camden, N. J., one to Philadelphia, Pa., one to No. 7 Ashburton Place, Boston, Mass., and one to 42 Broadway, New York, care of E. S. Peck, Esq.

Plaintiff's attorney has had no answer to either of said letters from the plaintiff. The addresses to which said letters were sent were the last known addresses of the plaintiff. The one addressed to Boston is the residence of her mother.

Previous to receiving the letter from the defendant's attorney, on November 21st, 1908, plaintiff's attorney wrote to Rollin Tracey, Esq., 42 Broadway, New York, who was the last known counsel of plaintiff, requesting said Tracey for information as to the whereabouts of plaintiff. That said Tracey replied that he knew noth-

ing about the whereabouts of plaintiff, and that he had not heard anything from her in many months, nor had Mr. Edward S. Peck, who was another counsel of the plaintiff in the same office with said Tracey.

Plaintiff's attorney has not known the place of residence of plaintiff, nor her address in over two years; not since the summer or early fall of 1906, nor has plaintiff's attorney received any communication from her in over two years.

Plaintiff has had over a dozen lawyers, every one of whom, to the knowledge of the plaintiff's attorney, has abandoned her and her cases. She is now engaged, as plaintiff's attorney is informed, in other litigation with her husband in the State of New Jersey, one of said actions having been brought by her husband against her for divorce.

Plaintiff's attorney became satisfied more than a year ago that plaintiff never intended to try this action and he also became satisfied that many of the statements made by plaintiff to her attorney relating to the merits of the action were false, and, in the judgment of her attorney, this action was brought by plaintiff out of sheer malice toward defendant, and to cast obloquy upon her husband, against whom she appears to be

I make this statement to the court, as the case has attracted wide attention in this and other States, in order to justify my action in not opposing the motion that the complaint be dismissed upon the merits.

C. WHITAKER.

SUPREME COURT, COUNTY OF ULSTER.

MARIE DUDLEY,
Plaintiff,
against
ELIZABETH B. VANDERPOEL,
Defendant.
} Defendant's Costs.

COSTS.

Costs before Notice of Trial,		$10 00
Costs after Notice and before Trial,		15.00
Trial Fee, Issue of Fact,		30.00
Term fees for following terms, viz., April September and December, 1906; February, 1907; February, April and September, 1908,		50.00

DISBURSEMENTS.

Clerk's fees, entry of Judgment,	$ .50	
Paid for Affidavits and Acknowledgements as follows:	.30	
Clerk Filing execution and entering Satisfaction,	.12	
Transcript and filing,	.12	
Postage incurred, $.40; to be incurred, $.10,	.50	
Sheriff's fees on execution,	.62	
Witness' Fees as per Statement on next page,	7.30	
		9.46
Total costs and disbursements,		$114.46

SCHEDULE A.

Witness' fees Term commenced Dec., 1906:

	Miles from place of residence.	No. of days attended.
William Hommel, Saugerties, N. Y.,...	12	1
Term, Feb., 1901.		
William Hommel, Saugerties, N. Y.,....	12	1
Term, Feb., 1908.		
Wm. Hommell, Saugerties, N. Y., ...	12	1
Term, April, 1908.		
Wm. Hommell, Saugerties, N. Y., ...	12	1
Term, Sept., 1908.		
Wm. Hommell, Saugerties, N. Y., ...	12	1
	60	5
	.08	50
	$4.80	$2.50
		4.80
		$7.30

STATE OF NEW YORK, }
COUNTY OF ULSTER, } *ss.*

Palmer Canfield, being duly sworn, says he is the managing clerk in office of defendant's attorney in this action, which action was at issue and necessarily upon the calendar for trial at the several terms held in and for the County of Ulster, at the Court House in the City of Kingston, viz.,

One commenced on the day of April, 1906.
Sept., 1906.
Dec., 1906.
Feb. 1907.
Feb. 1908.
April, 1908.
Sept., 1908.

That each of the persons named in Schedule A, hereunto annexed, and which is made a part hereof, actually attended the several terms therein named, pursuant to a subpœna or upon special request of this deponent as a witness for the defendant the number of days set opposite their respective names therein. That the residences of said witnesses respectively and the distances therefrom, according to the usually traveled route to the place of said trial, and the distance for which travel fees are respectively allowed, are correctly stated and set forth in said Schedule A opposite their respective names. That each and every one of said persons names in said Schedule A was a necessary and material witness on the part of the defendant on the trial of this action.

PALMER CANFIELD.

Sworn to before me this 8th day of Dec., 1908.

J. S. ANDERSON,
Notary Public.

[L. S]

STATE OF NEW YORK, }
COUNTY OF ULSTER, } *ss.*

Palmer Canfield, of said County, being duly sworn, says he is managing clerk in the office of the defendant's attorney in the above-entitled action; that the items of disbursements above mentioned are, as deponent believes, correct and true; are reasonable in amount, and have been or will be actually and necessarily incurred in this action on the part of the defendant, as deponent verily believes; that the copies of documents or papers therein charged for were actually and necessarily used or necessarily obtained for use; that the cause was necessarily on the calendar the terms above named, and was not tried, or was postponed thereat by order of the Court.

PALMER CANFIELD.

Sworn to before me this 8th day of Dec., 1908.
J. S. ANDERSON,
Notary Public.

Taxed at $114.46 this 8th day of December, 1908.
Re-taxed at $114.46 this 14th day of Dec., 1908.
JOHN D. FRATSHER,
[L. S.] *Clerk.*

At a Trial and Special Term of the Supreme Court of the State of New York held at the Court House in the City of Kingston, Ulster County, N. Y., on the 8th day of December, 1908.
Present—Hon. George H. Fitts, Justice.

SUPREME COURT—ULSTER COUNTY.

MARIE DUDLEY,
Plaintiff,
against
ELIZABETH BATTELLE VENDERPOEL,
Defendant.
} Order and Judgment of Dismissal.

This action having come on for trial at the trial term of the above Court held on the first Monday in December, 1908, Justice George H. Fitts presiding, and having been duly and regularly reached for trial on the 8th day of December, 1908, and defendant being ready for trial and plaintiff not being ready for trial, and defendant's attorney having filed a stipulation dated September 17th, 1908, between the Attorneys for the respective parties hereto, consenting that this said action go over the September Trial Term of this Court upon the express understanding, agreement and condition that if the plaintiff herein would not be ready for trial at this December trial term of this Court, the de-

fendant should have a dismissal of the Complaint in this said action on the merits with costs, and the plaintiff's attorney having filed a statement.

Now, upon reading and filing said stipulation and statement, and on motion of William D. Brinnier, attorney for the defendant herein, it is

Ordered and Adjudged, that the complainant in the above entitled action be, and the same hereby is, dismissed on the merits, and that the defendant Elizabeth Battelle Venderpoel, recover of the plaintiff, Marie Dudley, the sum of one hundred fourteen & 46/100 Dollars, her costs and disbursements in this action and have execution therefore. Enter.

GEORGE H. FITTS, *J. S. C.*

STATE OF NEW YORK,
ULSTER COUNTY CLERK'S OFFICE, } *ss.*

I, John D. Fratsher, Clerk of the County of Ulster, do hereby certify that I have compared the preceding copy of Judgment Roll and Bill of Costs, &c., with the original on file in this office, and that the same is a correct transcript from said original Judg. Roll and of the whole thereof.

In witness whereof, I have hereunto set my hand and affixed the seal of said Court and County, this 27th day of November 1912,

JOHN D. FRATSHER,
Clerk.

[L. S.]

STATE OF NEW YORK,
COUNTY OF ULSTER,
SUPREME COURT,
ULSTER COUNTY CLERK'S OFFICE, } *ss.*

I, William C. DeWitt, Clerk of the County of Ulster, and of the Supreme Court in and for the County of Ulster, State of New York, do hereby certify that I have compared the preceding copies of the Complaint,

Answer, stipulation dated September 7th, 1908, Notice of Trial with affidavit of service thereof, Note of Issue with affidavit of filing thereof, written statement of C. Whitaker, Defendant's costs and Notice of re-taxation, and Order and Judgment of Dismissal, which constitutes the Judgment Roll in said action, with the original thereof, now remaining on file in this office, and being of record in said Court, and that the same is a correct transcript of the whole and every part of such original Judgment Roll and of said record.

In witness whereof, I have hereunto set my hand and affixed the seal of said Court and County, this 28th day of February, 1913.

WILLIAM C. DEWITT,
[L. S.] *Clerk.*

ULSTER COUNTY,
STATE OF NEW YORK, } *ss.*

I, G. D. B. Hasbrouck, one of the Justices of the Supreme Court of the State of New York and holding and presiding in the said Supreme Court in and for the County of Ulster, in said State, do certify that the foregoing record certificate and attestation made by William C. DeWitt, Esquire, Clerk of said Supreme Court in and for said County of Ulster, whose name is thereunto subscribed and the seal of said Court thereunto affixed are in due form and by the proper officer.

In testimony whereof, I have hereunto set my hand this 28th day of February, in the year of our Lord one thousand nine hundred and thirteen.

G. D. B. HASBROUCK,
Jus. Sup. Ct.

STATE OF NEW YORK,
ULSTER COUNTY, } *ss.*

I, William C. DeWitt, Esquire, Clerk of the Supreme Court in and for the County of Ulster, do certify that the Honorable G. D. B. Hasbrouck, by whom the fore-

going certificate and attestation were made and whose name is thereunto subscribed was at the time of making the same and still is a Justice of the Supreme Court of the State of New York, and the Justice of said Court holding and presiding in said Supreme Court in and for the County of Ulster, duly commissioned and sworn, to all whose acts as such, full faith and credit are and ought to be given, as well in Courts of Judicature as elsewhere.

In testimony whereof, I have hereunto set my hand and the seal of said Court, this 28th day of February, in the year of our Lord one thousand nine hundred and thirteen.

WILLIAM C. DEWITT,
Clerk.

[L. S.]

April 27th, 1914.

BETWEEN
MARIE DUDLEY,
Complainant,
AND
EDWARD DUDLEY,
Defendant.

BETWEEN
EDWARD DUDLEY,
Petitioner,
AND
MARIE DUDLEY,
Defendant.

Not to be filed or printed.

MEMORANDUM OF CONCLUSIONS.

Mr. James D. Carpenter, Jr. and Mr. Martin Conboy (of New York), for complainant and cross petitioner, Marie Dudley.

Mr. Alan H. Strong, for defendant and petitioner, Edward Dudley.

STEVENSON, *V. C.*

Two suits presenting five different matrimonial litigations have been tried at the same time upon the same evidence.

On September 25th, 1907, Mrs. Dudley filed a bill against her husband alleging abandonment and non-support, and praying for maintenance under the statute which is now section 26 of our present Divorce act. The bill charges not an actual but a constructive abandonment, setting forth that Mr. Dudley at various places, but not at the home of Mrs. Dudley, had committed adultery with a woman named, whereby Mrs. Dudley had been scandalized and subjected to discomfort and "forced to separate herself from her husband."

It is well to have in mind what is now the settled law of the State so far as this Court is concerned, that adultery by the husband not at the matrimonial residence, does not constitutes a constructive desertion so as to give the wife ground for an absolute divorce, *Stiles* vs. *Stiles*, 52 *N. J. Eq.* 446; *Lake* vs. *Lake*, 65 *N. J. Eq.* 544, but that such adultery does constitutes a constructive abandonment within the meaning of section 26 of the Divorce act, *Suydam* vs. *Suydam*, 79 *N. J. Eq.* 144, and of course such adultery is a just cause for a separation by the wife and constitutes a complete defense to any action for divorce on the ground of desertion, which after two years the husband may endeavor to maintain.

To this bill Mr. Dudley, on November 19th, 1907, filed an answer denying the charge of abandonment and non-support, and a cross-bill, charging the wife with desertion, and praying for an absolute divorce on that ground. No question has been raised as to the propriety of this cross action and it will be considered and disposed of herein.

On December, 1907, Mrs. Dudley filed an answer to her husband's cross-bill denying the charge of desertion and setting up as a separate defense to that charge that in the month of April, 1905, "she became possessed of

evidence that the defendant had committed adultery" with the same woman who was named in her bill, "and thereupon left the house in which she, the defendant, had been living, and has since lived separate from him."

This action and cross action seem to have slumbered by consent while Mr. Dudley was paying alimony to his wife at the rate of $250 a month.

On April 4th, 1910, Mr. Dudley commenced a new suit against his wife by filing a petition, alleging that "ever since the twenty-second day of May, in the year 1905, and for more than two years last past," the defendant, his wife, had deserted him, and praying for an absolute divorce on that ground.

On May 23d, 1910, Mrs. Dudley filed an answer to her husband's petition, denying in general terms that she had deserted the petitioner at any time, and charging on the contrary that her husband had deserted her. It may be noted that Mrs. Dudley does not undertake in this answer to justify or excuse the separation of herself from her husband because of adultery committed by him, as she had done in her answer or special replication to Mr. Dudley's cross-bill in the prior suit. While the form of this pleading is a matter to be considered in dealing with the question of costs, it is not necessary to lay down the rule in this case that under an answer merely making a general denial of the charge of wilful, continued and obstinate desertion contained in the petition, the defendant will not be permitted to set up the defense confessing in effect that she had separated herself from her husband, in one sense deserted him, but justifying her conduct because of adultery committed by him. Whether the rule of pleading controlling this matter corresponds exactly with the rule that where a petitioner relies upon a constructive desertion as a cause of divorce, it is not sufficient to charge the desertion merely in the language of the statute, but the conduct relied upon to constitute a constructive desertion must be specified, need not be determined.

See *Thomas* vs. *Thomas*, 74 *Atl. Rep.* 125 *and cases cited.*

Mrs. Dudley, by way of cross-petition, however, sets up the two distinct matrimonial offenses of desertion and adultery, and prays for an absolute divorce from her husband "for the causes aforesaid." This cross-petition sets up not a constructive but an actual desertion "since the summer of 1905, and for more than two years last past." The charge of adultery is entirely independent of the charge of desertion, and is relied on by the cross-petition as a separate, independent cause of absolute divorce.

This charge of actual desertion made by Mrs. Dudley in her cross-petition in 1910 is inconsistent with her prior charges and allegations, has not been supported by any argument, has, in fact, been practically ignored during the prosecution of these suits, is without a shadow of foundation, and may be dismissed from further consideration.

The adultery relied on by Mrs. Dudley to maintain this cross-petition is precisely the same offense which was the basis of her charge of abandonment made in her bill for maintenance filed September 25th, 1907.

All these causes, five in number, seem to have further slept until May 5th, 1911, when Mr. Dudley filed a replication and answer to his wife's cross-petition denying the charges of desertion and adultery.

After a still further delay of a year or a year and a half, which seems to have occurred with the acquiescence of both parties, all these matrimonial litigations were brought on for trial at the same time.

On February 24th, 1908, an order was made in the maintenance suit which is still in force, directing Mr. Dudley to pay his wife $250 per month for her maintenance, and to pay her solicitor and counsel $300 as a counsel fee for defending the cross-action brought against her by her husband for divorce on the ground of desertion. This order expressly denied to counsel any

allowance for the prosecution of the complainant's suit for maintenance. The order for the counsel fee expressly and the order for alimony impliedly are based solely upon the cross-action for absolute divorce which Mrs. Dudley was called upon to defend, and during which she would have a right to be supported by her husband to such extent as might be directed by the Court.

At the opening of the hearing on November 19th, 1912, counsel for Mrs. Dudley stated that they had intended to prosecute the suit for maintenance, and that they did not think their client intended to press the cross-action for an absolute divorce. Nevertheless, it was distinctly arranged that both suits and all the litigations set in court thereby were put on trial, all the evidence as far as applicable being evidence in each case. The understanding of the Court, which, perhaps, was in some degree a misunderstanding, was that the object or the main object of this long course of testimony, and the exhaustive and able argument on behalf of Mrs. Dudley was to establish the fact of adultery so as to entitle Mrs. Dudley to an absolute divorce under her cross-petition. A reference, however, to the elaborate brief submitted on behalf of Mrs. Dudley at the close of the argument leaves the form of decree prayed for on her behalf entirely uncertain, it being submitted that the proofs "established the allegations of the bill for separate maintenance and the cross-petition for an absolute divorce beyond question, and that a decree should be advised in favor" of Mrs. Dudley.

This Court has at no time intimated either approval or disapproval of the joinder for trial of two such incongruous causes of action as a bill for maintenance under section 26, which predicates the continuance of the marriage relation, and a petition for an absolute divorce. The Court in this case has no practical difficulty in disposing of both of these inconsistent procedures. If the matter rested in the position which it

occupied at the conclusion of the argument, and counsel for Mrs. Dudley had not called upon Mrs. Dudley to elect which case should be decided first, it would seem that the Court would have been obliged to compel such election. It would be strange, indeed, if the Court either by accident or by intention should determine the matrimonial status of these parties by the mere order in which the causes were taken up and decided. If the suit for maintenance should be decided in favor of Mrs. Dudley, it would seem that the decree taken by her in her favor, would effect a discontinuance of her suit for absolute divorce, while a decree in her favor for an absolute divorce would certainly put an end to her action for maintenance based upon the continuation of the marriage relation.

Counsel for Mrs. Dudley, as I understood him, expressed the view that the Court might decide the questions of fact in both causes, and if the facts so found constituted a complete basis for both suits, then Mrs. Dudley might elect in which of the two suits a decree should be entered. Such a practice I do not think would be countenanced even though the joinder of the causes for trial rests upon the consent of the parties and not upon any order of the Court.

Immediately upon the conclusion of the argument the Court entered upon the consideration of the causes with a view to the announcement of a decision within a few days thereafter. On December 1st or 2d, 1913, before the Court had concluded the examination of the testimony, or reached any conclusion therefrom in regard to the main issue of adultery, Mrs. Dudley wrote to the Vice Chancellor stating that she had been informed by counsel that she "was to get an absolute divorce," and that she notified such counsel at once that that was not what she was praying for, and that she "only wished a bill for separation." Counsel for both parties being notified of this letter, the result was that a motion was made on December 15th, 1913, on behalf of Mrs. Dud-

ley, to have the prayer of her cross-petition amended so as to make it pray for a limited instead of an absolute divorce. The argument of this motion on each side assumed that the cross-petition contained only an allegation of adultery, no reference being made to the distinct allegation of actual desertion, although the notice of the motion stated that counsel for Mrs. Dudley would move to strike from the cross-petition "the prayer for an absolute divorce because of the adultery of the said Edward Dudley as therein mentioned, and his desertion as therein mentioned, and inserting in the place and stead thereof a prayer for divorce from bed and board because of the adultery of the said Edward Dudley as mentioned in the said cross-petition." This motion to amend was treated by the Court in accordance with the argument of counsel, and was denied for reasons set forth in a memorandum heretofore furnished to counsel. The motion made in accordance with the above-mentioned notice seems to have amounted to an application to strike from the cross-petition the whole charge of actual desertion, leaving therein solely the charge of adultery as the basis of a prayer for a limited divorce. No motion was noticed, or, in fact, made to amend the cross-petition so as to make it pray for a limited divorce on the ground of desertion. Of course, the line of reasoning set forth in the above-mentioned memorandum has no application to a cross-petition filed for divorce on May 23d, 1910, so far as it charges a wilful, continued and obstinate desertion for two years "last past," *i. e.*, two years preceding the signing and filing of the cross-petition. The motion to amend the prayer of the cross-petition so as to have it pray for a limited divorce instead of an absolute divorce on the ground of adultery was denied because confessedly there was no proof of any adultery except in the year 1905. The failure of proof of actual desertion as originally alleged in Mrs. Dudley's cross-petition and the practical abandonment of that charge by her

counsel, make the scope and the decision of the Court on the motion to amend, and the form of the order denying such motion, matters of little or no consequence in this case, but it is worth while to point out exactly what were the nature and extent of the motion which was argued and decided by the Court. This Court certainly did not rule that Mrs. Dudley should not be allowed to amend her cross-petition by striking out the prayer for absolute divorce on the ground of desertion for two years prior to May, 1910, and inserting instead thereof a prayer for a limited divorce on that ground in accordance with the statute which went into effect January 1st, 1908.

After the motion to amend the prayer of the cross-petition had been denied, ample opportunity was given to Mrs. Dudley to express to the Court either after the proofs had been opened for that purpose, or otherwise, her desire to have her cause or causes of absolute divorce decided by the Court, and a decree thereon made in her favor. Evidently disregarding the advice of her counsel, Mrs. Dudley persisted in asking the Court for a limited divorce only, maintaining the position that she "only wished a bill for separation."

These matrimonial causes originally complex and to some extent incongruous, and now placed in a peculiar situation by the conduct of Mrs. Dudley at the end of the trial, might all, I think, be very briefly disposed of if it were not for the serious question of costs with which the Court is obliged to deal.

1. Mrs. Dudley's action for maintenance under section 26 absolutely falls. It is unnecessary to examine the great mass of evidence which has been produced in this case relating to the charge that Mr. Dudley committed adultery in April, 1905, in the city of Washington, D. C.—the only adultery which could possibly be held to be established by any evidence. It is sufficient to dispose of this suit for maintenance to point out what I think is very clear, that Mrs. Dudley utterly

failed to establish the charge of non-support or inadequate support. I do not recall that counsel undertook to offer any argument to sustain this branch of Mrs. Dudley's suit under section 26. The fact is that after the final separation of the parties in the spring of 1905, whatever the cause of such separation may have been, Mr. Dudley evinced a willingness to support his wife in a manner which appears to have been ample and which is not proved to have been inadequate. Mrs. Dudley alleges in the first suit which she brought for absolute divorce on the ground of adultery and cruelty in September, 1905, in the State of Pennsylvania, that her husband had offered to allow her $5,000 a year, and that she had refused to accept such allowance as "totally inadequate for her proper support." The offers and attempts of Mr. Dudley to furnish support to his wife before and after her first suit was commenced, which are set forth in this bill for maintenance, might make the bill demurrable were it not for the extravagant representations made in the bill that Mr. Dudley was worth a million dollars, and had an income of $50,000 per annum, which representations were not only not proved to be true but were proved to be false. Immediately after the separation in the spring of 1905, Mr. Dudley gave his wife a letter of credit for $2,500, with which she went to Europe, and on her return he manifested his willingness to give an adequate separate support which she declined to receive because of her extravagant notions of her husband's wealth. I do not think, however, that Mrs. Dudley's mistake as to one branch of her suit should have the effect of tainting her suit with bad faith.

2. The cross-bill filed by Mr. Dudley for absolute divorce on the ground of desertion in this suit for maintenance, while not abandoned was not made the subject of argument by Mr. Dudley's counsel, and calls for very slight consideration. As counsel for Mr. Dudley admitted, this suit meets difficulty from the fact

that the Pennsylvania suit for absolute divorce on the ground of adultery, brought by Mrs. Dudley in September, 1905, was still pending, and it also appears that in 1906 Mrs. Dudley being made aware that there was a jurisdictional difficulty about the successful prosecution of the Pennsylvania suit, filed a bill in this court setting up the same adultery, and praying for an absolute divorce upon which bill, however, no process was issued.

While the conduct of Mrs. Dudley in practically abandoning her cross-petition for absolute divorce on the ground of adultery, makes it unnecessary that this court should examine and consider this enormous mass of evidence, relating to the alleged adultery of Mr. Dudley in Washington, D. C., there is one purpose for which some examination of this evidence is necessary, and that is to determine whether or not Mrs. Dudley brought the actions above mentioned in good faith. Counsel for Mr. Dudley claims that the Pennsylvania action of 1905 and the New Jersey action of 1906, and I think also the action for maintenance in 1907, were brought in bad faith, and that therefore the pendency of those actions constitute no bar to Mrs. Dudley's petition for absolute divorce on the ground of desertion for the two years prior to April, 1910. As I understand the view of counsel, it is that the delay of Mrs. Dudley in prosecuting these causes, her failure to prosecute them with diligence under the authorities which he cites, clears the way for the action for divorce on the ground of desertion for two years prior to April, 1910, although the Pennsylvania action of 1905 followed by the New Jersey action of 1906, present a difficulty in the way of the maintenance of Mr. Dudley's cross-bill for a divorce on the ground of desertion, filed in November, 1907.

Without undertaking to refer to any part of this voluminous testimony, I have no hesitation in finding

that the charge of adultery which Mrs. Dudley made first in her Pennsylvania suit, and repeated in all these subsequent New Jersey litigations, was made in good faith. It may be conceded that Mrs. Dudley, long before the first suit was brought, had not only ceased to love her husband, but had come to hate him. It may be that when Mrs. Dudley thought she had discovered the infidelity of her husband she was not grieved, but on the contrary viewed the fact with satisfaction because she thought she saw a way of obtaining a separate maintenance from the man with whom she no longer wished to live as a wife. A divorce suit is brought in good faith whatever the sentiments or feelings of the petitioner may be, if such petitioner sincerely believes, and has reasonable cause to believe, that the matrimonial offense on which he bases his suit in fact has been committed and can be proved. It would seem that in determining the question of good faith in bringing and maintaining a suit for divorce, inasmuch as the mental state and sincere belief of the petitioner are the matters under investigation, hearsay evidence which the petitioner received may be competent to prove not that the matrimonial offense was committed, but the petitioner thought that one had been committed, and had a right, as a reasonable person, to so think. Without searching back through this voluminous record I incline to think that some hearsay evidence was probably excluded which would have been admitted if offered to prove the good faith of Mrs. Dudley in making these charges of adultery against her husband.

Apart from the pendency of these first suits which Mrs. Dudley, as I have found, brought against her husband in good faith, the evidence would not warrant a finding in favor of Mr. Dudley on his cross-bill that his wife was guilty of obstinate desertion. Leaving out of view the question of adultery as a justification for Mrs. Dudley's conduct in separating herself from her husband, the evidence shows that Mr. Dudley con-

sented to such separation and was prompt and ready to afford his wife an abundant support while she remained away from him. This couple had not lived as man and wife, and had been antipathetic and hostile to each other for over four years. Not the slightest evidence appears in this case that Mr. Dudley ever sought or desired to terminate the separation. There is no evidence that he ever denied to his wife that he was guilty of the adultery with which she charged him, or either before the first suit, the Pennsylvania suit, was brought in September, 1905, or after that suit was brought, gave any invitation to his wife to return to him.

Both Mrs. Dudley's bill for maintenance and Mr. Dudley's cross-bill for divorce will therefore be dismissed.

3. Mr. Dudley's petition for absolute divorce on the ground of desertion for two years prior to April 4th, 1910, is subject, I think, to both of the defenses which I have found to be fatal to the similar suit for desertion brought by Mr. Dudley by his cross-bill filed November 19th, 1907. The argument that these former suits were not prosecuted with diligence is, in my judgment, without force. These suits appear to have been steps in what was in fact a single matrimonial litigation, based upon the charge of adultery made by the wife against the husband, which eventually led to the suit for maintenance commenced September 25th, 1907. The delay in prosecuting this suit for maintenance has not been proved to have been caused by the conduct of Mrs. Dudley; there is nothing to show that such delay has not been acquiesced in by both parties and their respective counsel. Mr. Dudley, as stated above, has from February, 1908, been paying alimony to his wife at the rate of $3,000 a year, and while he filed his petition for absolute divorce, commenced his new suit on April 4th, 1910, and his wife's answer and cross-petition were filed May 23d, 1910, he did not file his replication and answer to this cross-petition until May 5th, 1911.

But laying aside the question of the sufficiency of the above-mentioned defenses to Mr. Dudley's divorce on the ground of two years of desertion prior to April, 1910, it is sufficient in my judgment to dispose absolutely of that petition to point out that during all of the period of two years in question Mr. Dudley was standing in the Court of Chancery with cross-bill in which he charged his wife with desertion for more than two years prior to the time of filing such cross-bill, and prayed on that account for an absolute divorce from her, while Mrs. Dudley was defending herself by a counter charge of adultery preferred in good faith. To hold that while Mr. Dudley occupied this position the desertion of his wife could have been wilful and obstinate, *i. e.*, against his will, would be an absurdity.

4. Mrs. Dudley's cross-petition, so far as it prays for an absolute divorce on the ground of actual desertion has already been disposed of, and in fact I think must be deemed to have been withdrawn or abandoned.

5. Mrs. Dudley's cross-petition for divorce so far as it is based upon the charge of adultery, whatever the state of the record may be, whether any order denying the motion to amend is on file or not, must be deemed abandoned. I know of no case in which either a decree of divorce *nisi* or an absolute decree of divorce will be made by this Court unless the petitioner, the actor, who has prosecuted the suit for absolute divorce, stands willing to receive it. This point is sufficiently covered I think at the end of my prior memorandum.

6. We now come to the question of costs which is the difficult question left in this case. My impression is that of the testimony in this case, consisting of over one thousand typewritten pages, and a large mass of depositions taken in Washington, Philadelphia and elsewhere, 9/10ths, if not 19/20ths, relate to the charge that Mr. Dudley committed adultery in Washington, D. C., in April, 1905. Certain it is that the greater part by far of the services of counsel rendered with zeal and

ability in this case, relates to the proof of this charge. It will be seen that the withdrawal by Mrs. Dudley after all this testimony was taken, of the only claim for relief on her cross-petition which the testimony could possibly establish, puts the question of the allowance of counsel fees in a peculiar situation. It is therefore important to determine exactly to what causes of action or grounds of defence, on the part of Mrs. Dudley in all these litigations, this mass of testimony was relevant and proper, so as to warrant its procurement under orders of the Court at the expense of Mr. Dudley.

The foregoing statement of the disposition of the five matrimonial causes between these parties which have been tried, and the relation of these causes to each other, to a large extent has been made for the purpose of setting forth the question of costs and suit money which must now be decided.

Counsel for Mrs. Dudley have received, in pursuance of four orders of the Court, in the aggregate $1,858.98, while they state their actual disbursements in the cause at $2,237.56, and they ask that they be allowed the balance of their disbursements and $10,250 as counsel fees.

Counsel for Mr. Dudley submits that about $600 of the alleged disbursements should be disallowed, and that a thousand dollars in addition to what Mrs. Dudley's counsel have already received, "would be ample to cover all the services and all the disbursements reasonably chargeable against Mr. Dudley."

It is evident that the question of costs in this case is one of very great importance, involving an amount of money greater than often constitutes the main stake in a protracted and expensive equity suit. But the difficulty of determining this question of counsel fees does not arise from the unusual amount involved, but from the complexity of the situation to which the Court must apply, whatever definite rules for the allowance of counsel fees in divorce cases are now recognized and enforced. Counsel presented their claims for counsel fees,

and the matter was to some extent discussed mainly in relation to the amount claimed and some of the items in the schedules of services and disbursements. But when this imperfect argument was had no decision had been announced, except in one of the five matrimonial causes pending between the parties hereinbefore stated. In a case like this the question of costs and counsel fee to be allowed cannot be intelligently argued by counsel until after the decision of the Court on the main issues in the litigation has been announced. After devoting a great deal of time to the consideration of the various matters which enter into the right of Mrs. Dudley's counsel to compel Mr. Dudley to compensate them for their services in these numerous and in some respects inconsistent matrimonial litigations, I have concluded that it would not be wise or just to render any decision until counsel on both sides have learned how the causes have been decided by the Court, and have had a further opportunity to be heard. This supplementary hearing on the question of counsel fees may be brought on at almost any time in Jersey City by agreement of counsel concerned or upon notice.

At this further hearing counsel for Mrs. Dudley will be allowed to present any evidence going to show that Mrs. Dudley changed her mind—that Mrs. Dudley knowingly filed her cross-petition praying for an absolute divorce from her husband, and then abandoned the purpose indicated in that cross-bill and resolved to ask the Court for the sole relief of a separate maintenance from her husband which she had originally applied for in her bill filed in 1907. One question to be discussed is whether the present application for counsel fees is merely a deferred application for suit money which was made from time to time during the progress of the litigation or strictly an application under section 91 of the present Chancery Act. If there is any other testimony than that above indicated bearing upon the question whether Mrs. Dudley's counsel occupy before

the Court a better position with respect to the allowance of counsel fees than does Mrs. Dudley herself, such evidence may be produced.

In Chancery of New Jersey.

Between
Marie Dudley,
Complainant,
and
Edward Dudley,
Defendant.
} On Bill and Cross-Bill, Etc.

DECREE.

[*Filed October 2, 1914.*]

This cause coming on to be heard in the presence of James D. Carpenter, Jr., and Martin Conboy, of counsel with the complainant, and Alan H. Strong, of counsel with the defendant, upon the bill, answer, answer by way of cross-bill, replication and answer to said cross-bill, and replication and proofs taken orally in the presence of the Court, and the arguments of counsel having been heard and considered, and it appearing to the Court that the said defendant did not refuse or neglect to maintain and provide for the said complainant; and it further appearing that the said complainant was not guilty of wilful, continued and obstinate desertion of the said defendant during the term of two years next preceding the filing of said cross-bill.

It is therefore, on this thirtieth day of September, in the year nineteen hundred and fourteen, ordered, adjudge and decreed by the Honorable Edwin Robert Walker, Chancellor of the State of New Jersey, and the said Chancellor doth by virtue of the power and

authority of this Court hereby order, adjudge and decree that the said bill and also the said cross-bill be and the same are each respectively hereby dismissed.

And it is further ordered, adjudged and decreed that the defendant Edward Dudley pay to the complainant's solicitors the cost of the defense of said complainant to the cross-bill of said defendant to be taxed, and that the complainant have execution therefor according to the practice of this Court.

Further ordered that complainant's solicitors have leave to apply to the Court hereafter on the foot of this decree for an order or decree directing the payment to them by the defendant of a reasonable counsel fee for their services to the complainant in the above entitled cause as well as for their disbursements made in connection therewith, which application may be made, however, only in the event of the reversal or modification by way of reduction of that part of a certain decree made concurrently herewith in a certain other cause pending in the Court of Chancery of New Jersey wherein Edward Dudley is petitioner and Marie Dudley is defendant directing the payment by said Edward Dudley to the solicitors of Marie Dudley of a counsel fee of four thousand dollars for their services and the sum of three hundred and sixty dollars for their disbursements.

E. R. WALKER, *C.*

Respectfully advised:

EUGENE STEVENSON, *V. C.*

A true copy.

ROBERT H. MCADAMS, *Clerk.*

IN CHANCERY OF NEW JERSEY.

BETWEEN
MARIE DUDLEY,
Complainant,
AND
EDWARD DUDLEY,
Defendant.
} On Bill, Etc.

NOTICE OF APPEAL.

[*Filed September 29, 1915.*]

The complainant hereby appeals from so much of the final decree made on the 30th day of September, 1914, in this court, in the above-stated case, as dismisses the bill of said complainant alleging abandonment and non-support and praying for maintenance to the Court of Errors and Appeals in the last resort in all causes.

Dated September 29th, 1915.

JEROME T. CONGLETON,
Solicitor for and of Counsel with Complainant.

I conceive there is good cause for appeal in the above-stated cause.

JEROME T. CONGLETON,
Of Counsel.

A true copy.

ROBERT H. MCADAMS, *Clerk.*

NEW JERSEY COURT OF ERRORS AND APPEALS.

BETWEEN
MARIE DUDLEY,
Appellant,
AND
EDWARD DUDLEY,
Respondent.
} On Appeal from Chancery.

PETITION OF APPEAL.

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

The petition of Marie Dudley, appellant, respectfully shows, that your petitioner finds herself aggrieved by a decree made in the Court of Chancery by his Honor Edwin Robert Walker, Chancellor of the State of New Jersey, on the twenty-eighth day of September, A. D. nineteen hundred and fourteen, in that the said decree recites and adjudges that the defendant was not entitled to separate support on the grounds of the adultery of the petitioner.

Your petitioner therefore prays that the said decree may be reversed, rescinded and for nothing holden, and that your petitioner may have such further relief as shall be meet.

MARIE DUDLEY,
Petitioner.

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

Marie Dudley, being duly sworn according to law, upon her oath deposes and says:

I am the petitioner named in the foregoing petition of appeal. That the matters and things therein set forth are true.

MARIE DUDLEY.

Subscribed and sworn to before me, this eighteenth day of October, 1915, at Trenton, N. J.

ADELINE F. SHEPHERD,
Notary Public of N. J.

Endorsed:

"Filed Oct. 18, 1915,
"THOMAS F. MARTIN,
"Clerk."

NEW JERSEY COURT OF ERRORS AND APPEALS.

BETWEEN
MARIE DUDLEY (*Complainant*), *Appellant*,
AND
EDWARD DUDLEY (*Defendant*), *Respondent*.
} On Appeal from Chancery.

ANSWER TO PETITION OF APPEAL.

The answer of the above-named respondent to the petition of appeal of the above-named appellant.

This respondent, not acknowledging all or any of the matters which in the said petition of appeal are contained to be true, for answer thereto nevertheless says and admits that a decree was on the thirtieth day of September, A. D. 1914, made and entered in the Court of Chancery in the cause for that purpose mentioned in the said petition, as is therein stated; but as to the substance and form thereof, this respondent prays to refer thereto when the same shall be produced.

And this respondent is advised and believes that the said decree is agreeable to equity and he prays that the same may be affirmed, with costs to be adjudged to this respondent.

ALAN H. AND THEO. STRONG,
Solicitors of Respondent.

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