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Amended Notice of Appeal.

In Chancery of New Jersey.

JOHN REEDER REEVES, Petitioner-Respondent, and MARGARET D. REEVES, Defendant-Appellant.	Amended Notice of Appeal of Decree of Divorce.

Margaret D. Reeves, the above named defendant, hereby appeals from the decree in favor of the petitioner filed in this cause and dated the 30th day of June, 1930, and from every part thereof to the Court of Errors and Appeals of the last resort in all causes.

WARD & McGINNIS,
Solicitors for and of Counsel with Defendant.

Dated July 26, 1930.

I conceive that there is a good cause for appeal in the above stated cause.

ABRAHAM I. FELTMAN,
Of Counsel.

New Jersey State Library

Petition of Appeal.

Filed June 7, 1928.

IN CHANCERY OF NEW JERSEY.

JOHN REEDER REEVES, Petitioner-Respondent,	On Petition for Divorce.
and	On Appeal from Chancery.
MARGARET D. REEVES, Defendant-Appellant.	Petition of Appeal.

To the Honorable, The Court of Errors and Appeals, in the last resort in all causes:

The petition of Margaret D. Reeves, the appellant, in the above stated cause, 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, bearing date the 30th day of June, 1930, in a cause above entitled, to wit, an action brought by said John Reeder Reeves against your petitioner for divorce upon the ground of adultery, in this respect, to wit, that the said decree orders, adjudges and decrees that the said John Reeder Reeves and your petitioner be divorced from the bonds of matrimony for the cause of adultery adjudicated to have been committed by your petitioner, and that the parties to said suit, and each of them, be freed and discharged from the obligations thereof, unless within three months from the date of said decree sufficient cause be shown why the said decree should not be made absolute.

And your petitioner appeals from the said decree, and from every part thereof on the ground that the same is erroneous for that the said Chancellor should have adjudged that your petitioner was not guilty of the said acts of adultery complained of and should have dismissed the petition of the respondent.

Your petitioner therefore prays that the said decree may be reversed, set aside and for nothing holden, and that the record may be remitted to the said Court of Chancery with direction to dismiss the petition filed by the said John Reeder Reeves against your petitioner, and that your petitioner may have such further and other relief in the premises as to this Honorable Court shall seem meet.

WARD & McGINNIS,
Solicitors of Appellant.

ABRAHAM I. FELTMAN,
Of Counsel with Appellant.

Due and legal service of a copy of within Petition of Appeal hereby acknowledged this 10th day of July, 1930.

EDWARD THOMAS MOORE,
Solicitor of Respondent.

Citation.

New Jersey, to wit, The State of New Jersey to Margaret D. Reeves,

GREETINGS You are hereby cited to answer the petition of

(Seal) John Reeder Reeves

a copy of which petition is herewith served upon you, by filing your answer in writing in the office of the Clerk of the Court of Chancery at Trenton, within twenty days after the 18th day of June, 1928, and in default of your so doing such order or decree will be made against you as the court shall think equitable and just.

Witness his Honor EDWIN ROBERT WALKER, Chancellor of our said State at Trenton, the 8th day of June, 1928.

THOMAS BARBER,
Clerk.

EDWARD THOMAS MOORE,
Solicitor.

Petition.

Filed June 7, 1928.

IN CHANCERY OF NEW JERSEY.

Between
JOHN REEDER REEVES,
Petitioner,
and
MARGARET D. REEVES,
Defendant.
} Petition.

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

The petition of John Reeder Reeves of the Borough of Hawthorne, County of Passaic, and State of New Jersey respectfully shows:

1. Your petitioner was lawfully joined in the bonds of matrimony to his wife, Margaret D. Reeves, the defendant in this suit, on the 21st day of October, 1914; by Dr. Andrew McGill, Pastor of the Jamaica Presbyterian Church at Jamaica, Long Island, New York.

2. Defendant committed adultery at various times and places with one Charles D. Petry between September, 1927 and June 3, 1928, at Hawthorne, New Jersey; and also during the months of April and May, 1928, at Petitioner's home and at the church grounds at Hawthorne, New Jersey.

3. Petitioner and defendant have been bona fide residents of the State of New Jersey continuously since May 1, 1921 and were bona fide res-

idents of the State of New Jersey when this cause of action arose and have ever since continued to be bona fide residents, residing at Hawthorne, County of Passaic, and State of New Jersey.

4. Three children were born of the said marriage aforesaid, to wit, Frances Barbera, thirteen years, Edward Harvey, eleven years and Margaret Anna, ten years, who are now in the custody of the petitioner.

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

And your Petitioner as in duty bound will ever pray, &c.

EDWARD THOMAS MOORE,
Solicitor of Petitioner.

State of New Jersey, }
County of Passaic, } ss.:

John Reeder Reeves, being duly sworn upon his oath according to law, deposes and says, that he is the petitioner in the foregoing petition, and that his said petition is not made by any collusion between him and the defendant, but in truth and good faith for the cause set forth in the petition.

JOHN REEDER REEVES.

Sworn and subscribed to before me
on this 6th day of June, 1928.
Herman C. Rust,
Attorney at Law of New Jersey.

Answer.

Filed July 18, 1928.

IN CHANCERY OF NEW JERSEY.

JOHN REEDER REEVES, Petitioner, and MARGARET D. REEVES, Defendant.	On Petition for Divorce. Answer.

The following is the answer of Margaret D. Reeves, to the petition of John Reeder Reeves, filed in the above cause.

1. This defendant answering said petition admits that she was married to the petitioner as in the first paragraph set forth.

2. This defendant answering the second paragraph, denies that she committed adultery at various times with one Charles Petry, at the times and places mentioned in said paragraph, or at any other time or place, but on the contrary thereof avers that she has always been true to her obligations as the wife of the petitioner.

3. This defendant further answering avers that as a result of a bill of particulars served upon her, wherein certain specific dates and places of the alleged acts of adultery complained of are set forth, this defendant without in anywise limiting the denial in the preceding paragraph, hereby specifically denies that she committed adultery with the said

Charles D. Petry on September 9, 1917, March 19, 1928, April 11, 1928, May 10, 1928, May 15th, 1928, May 29, 1928 and June 4, 1928.

4. This defendant further answering admits the matters contained in the third paragraph.

5. This defendant further answering admits the matters contained in the fourth paragraph.

This defendant further answering by way of recrimination avers:

6. That the said petitioner, John Reeder Reeves, disregarding the solemnity of his marriage vows and the sanctity of the marriage state, on the first day of January, 1920, and on each and every day thereafter of said month, and on the first day of February, 1920, and on each and every day thereafter of said month, and on the first day of March, 1920, and each and every day thereafter, and on the first day of April, 1920, and on each and every day thereafter of said month, and on the first day of May, 1920, and on each and every day thereafter of said month, and on the first day of June, 1920, and on each and every day thereafter of said month, and on the first day of July, 1920, and on each and every day thereafter of said month, and on the first day of August, 1920, and on each and every day thereafter of said month, and on the first day of September, 1920, and on each and every day thereafter of said month, and on the first day of October, 1920, and on each and every day thereafter of said month, and on the first day of October, 1920, and on each and every day thereafter of said month, and on the first day of November, 1920, and on each and every day thereafter of said month, and on the first day of December, 1920, and on

each and every day thereafter of said month, committed adultery with one Lena Burns, wife of one Walter M. Burns at Absecon in the County of Atlantic and State of New Jersey, at Atlantic City in the County of Atlantic and State of New Jersey, and at other places unknown to your petitioner.

This defendant further answering by way of recrimination avers:

7. That from the beginning of their married life until petitioner separated himself from defendant in the month of June, 1928, the petitioner was guilty of acts of extreme cruelty and violence towards this defendant. That during these attacks of temper he would use vile epithets, curse and swear at her, reprimand and abuse her without any cause whatsoever.

8. About a month after their marriage, while they were living at Little Silver, New Jersey, for no reason whatsoever, he locked the doors of their home, and defendant was obliged to go through the window. He was at home at the time, and when she asked him why he had locked the doors, he called her vile names and told her he was sorry he had married her, that he didn't love her anyway, and told her she ought to leave him and get a divorce.

9. When their first child was born, to wit, Frances, he told petitioner he didn't believe that he was the father of said child, and when their second child was born, to wit, Edward, he also told her that he didn't believe the child belonged to him. When defendant told him he should not say such things, be became enraged and called her vile

names and told her he didn't love her; that he was in love with someone else, and the quicker she separated from him and arranged for a divorce the better it would be for them both.

10. In the early Winter of 1916, while they were living at Tuckahoe, New Jersey, petitioner was in a very extremely ugly mood, and while they were eating dinner, for no reason whatsoever, he picked up a plate with sauerkraut thereon and threw it at your petitioner, striking her with same.

11. In the Fall of 1919, he choked defendant, and slapped her and threw her on the floor, and called her vile names; this was because he objected to lady friend of defendant's visiting her.

12. In the Fall of 1919, defendant was ill, and her sister Dot, was staying with her. He attempted to kiss defendant's sister, and made an attempt to become intimate with her.

13. Petitioner made repeated attempts to have her indulge in unnatural intercourse, and when she would refuse, he would become enraged, and call petitioner vile names, such as "Son-of-a-bitch", and the like; that on these occasions he would also commit assault and battery upon her; this occurred so frequently that defendant does not recall the number.

14. Petitioner all through their married life found fault with her, criticised the way she kept house, and told her that he was in love with another woman, and wished he could get rid of defendant. He frequently urged her to leave him, so that they could arrange for a divorce, and when defendant would refuse he would abuse her and call her vile names.

Answer.

15. In the month of April, 1923, defendant heard rumors to the effect that her husband, the petitioner was going out with some woman residing in Borough of Hawthorne, and when she called his attention to same, he committed an assault and battery upon her and ill-treated and abused her, and used profane, abusive or threatening language towards her.

16. During the years 1923, 1924, 1925, 1926 and 1928, when she would refuse to indulge in unnatural intercourse he would abuse her and use profane, abusive or threatening language towards her, and frequently committed an assault and battery upon her.

17. In the Winter of 1927, he committed an assault and battery upon her, because she interfered when he threw a card board at their child Edward.

18. In the Spring of 1928, he committed an assault and battery upon defendant, and told her he could get a divorce from her because she didn't know how to keep house, and also told her if she didn't leave him and arrange for a divorce, he would get rid of her some way.

19. In the Spring of 1928, he called her a "Son-of-a-bitch", told her to go to hell. He also called her a "common slut". Defendant commenced to write the names he was calling her on paper, and when he saw her do this he became enraged and committed an assault and battery upon her. He again told her he didn't love her; that he had somebody else, and said he would find a way to get rid of her.

20. There are other occasions, the exact time she cannot at this time give, when petitioner committ-

ed assaults and batteries upon her and ill-treated and abused her and threatened her, and that all the foregoing had a serious and ill-effect upon her mental and physical health.

All of the foregoing this defendant is ready and willing to prove, and prays to be hence dismissed, with her reasonable costs and charges, in this behalf most wrongfully sustained.

WARD & McGINNIS,
Solicitors of Defendant.

Order for Bill of Particulars.

Filed July 2, 1928.

IN CHANCERY OF NEW JERSEY.

Between JOHN REEDER REEVES, Petitioner, and MARGARET D. REEVES, Defendant.	On Petition for Divorce. Order for Bill of Particulars.

This matter being opened to the Court by Louis C. Friedman, of Ward & McGinnis, solicitors and of counsel with defendant, in the presence of Edward T. Moore, solicitor for petitioner, and on due notice to the petitioner why a bill of particulars as to the time and places of the committing of the alleged acts of adultery, as set forth in the petition should not be given; and the court having heard arguments of counsel, and being of the opinion that further and better particulars should be given the defendant as to the acts of adultery alleged in the petition;

It is, on this 2nd day of July, 1928, ORDERED, that the petitioner give to the defendant within ten days from date of service of a copy hereof upon his solicitors, a bill of particulars stating the name of the person or persons with whom the defendant is alleged to have committed adultery, if known, or if not known, a description of such person or persons and also such designation of the time, place

and circumstances under which the alleged acts of adultery were committed, as will enable the defendant to distinguish and individuate the particular offense or offenses charged.

It is further Ordered that the defendant have five days after the service of said bill of particulars upon her or upon her said solicitor, in which to answer the petitioner's petition.

E. R. WALKER,
C.

Respectfully advised,
JAMES F. FIELDER,
Vice-Chancellor.

Bill of Particulars.

IN CHANCERY OF NEW JERSEY.

JOHN REEDER REEVES,
Petitioner,

and

MARGARET D. REEVES,
Defendant.

In compliance with the order made herein on the 2nd day of July, 1928, wherein it was ordered that the petitioner give to the defendant a bill of particulars stating the name of the person or persons with whom the defendant was alleged to have committed adultery and also designation of the time and place under which the alleged acts of adultery were committed, the petitioner cites as follows:

Charles D. Petry is the person with whom the defendant is allegd to have committed various acts of adultery as alleged in the petition. The place where the acts of adultery were committed took place at Hawthorne, New Jersey. The time of the commission of the various acts of adultery are specifically as follows: September 9, 1927, March 19, 1928, April 11, 1928, May 10, 1928, May 15, 1928, May 29, 1928 and June 4, 1928; and in addition to the above at other times and places for which petitioner is unable to give specific dates or places.

EDWARD THOMAS MOORE,
Solicitor for Petitioner.

Further Bill of Particulars.

IN CHANCERY OF NEW JERSEY.

Between
JOHN REEDER REEVES,
Petitioner,

and

MARGARET D. REEVES,
Defendant.

#68—416.

In compliance with order made herein on the 9th day of July, 1928, wherein it was ordered that petitioner give to the defendant a further bill of particulars naming the places that the alleged adultery took place with more particularity, the petitioner furnishes the following:

1. The commission of adultery alleged on September 9, 1927 took place at the home of the parties.

2. The commission of adultery alleged on March 19, 1928, took place at the home of the parties.

3. The commission of adultery alleged on April 11, 1928, took place at the home of the parties.

4. The commission of adultery alleged on May 10, 1928, took place at the church grounds behind the church.

5. The commission of adultery alleged on May 15, 1928, took place at the church grounds.

Further Bill of Particulars.

6. The commission of adultery alleged on May 29, 1928, took place at the home of the parties.

7. The commission of adultery alleged on June 4, 1928, took place at the home of the parties.

EDWARD THOMAS MOORE,
Solicitor for Petitioner.

Testimony.

IN CHANCERY OF NEW JERSEY.

Between JOHN REEDER REEVES, Petitioner, and MARGARET D. REEVES, Defendant.	On Petition for Divorce. Transcript of Testimony.

Transcript of shorthand notes taken in the above entitled case, on May 23rd, 1929, before HON. VIVIAN M. LEWIS, Vice Chancellor, at the Chancery Chambers, in the Court House, Paterson, New Jersey.

APPEARANCES:

EDWARD T. MOORE, ESQ., for the Petitioner.
WARD & MCGINNIS, ESQS., for the Defendant.

DR. JOHN REEDER REEVES, being duly sworn according to law, upon his oath, in his own behalf, testifies as follows:

Direct-examination by Mr. Moore:

Q. Doctor, you are the petitioner in this proceeding in which your wife is the defendant? A. I am.

Q. Where do you reside? A. With my parents at Asbury Park at the present time.

Q. How long have you lived in the State of New Jersey? A. All my life.

Q. Since the date of your birth? A. Yes, sir.

Q. When were you married to the defendant? A. October twenty-first, 1914.

Q. Who was the marriage performed by? A. By the Rev. Andrew McGill.

Q. And where was the marriage performed? A. In Jamaica, Long Island.

Q. Were any children born of your marriage? A. Three—Frances Barbara, Edward Harvey and Margaret Anna.

Q. And when did you become Pastor of the Church at Hawthorne? A. In April of 1921—the first of May. I preached in April, but my call dates from the first of May.

Q. Your wife lived with you at Hawthorne? A. Yes, sir.

Q. And until what time? A. Until June 11th, last.

Q. And then what happened? A. I served papers upon her for this divorce suit and left her.

Q. And have you lived with her since? A. No, sir.

Q. Were your suspicions aroused concerning your wife's conduct? A. Yes, sir.

Q. State the first instance? A. The first Tuesday night in March—it was at a Consistory Meeting, and among others there, Mr. Petry was present.

Q. Who is he? A. He is the corespondent in this matter.

Q. Did he have any connection with the Church? A. Yes, Treasurer and member of the Consistory and the Choir.

Q. Was he present at that meeting? A. Yes.

Q. State what took place that aroused your sus-

picions? A. Well, there was a Consistory meeting at the same time at which Mrs. Reeves was present and Mr. Petry. At the conclusion of the meeting I went into the Study with two members and talked with them a few moments, and after talking a few moments, I stepped out into the vestibule and was dumb-founded to find my wife and Mr. Petry in each others arms.

Q. About what time of night was that? A. About 10:30.

Q. Anybody else present at the time? A. No, sir.

Q. Was the room lighted? A. Yes, sir.

Q. When you witnessed this occurrence, what did you do? A. I objected most strenuously.

Q. What did you say? A. I told Mr. Petry to leave my wife alone and to stay away from her, and I told my wife she was betraying me and my children and my position.

Q. What did she say? A. She told me to mind my own business.

Q. Did you accompany your wife home on that occasion? A. Yes.

Q. What time did you arrive home? A. Between 10:30 and 11:00 o'clock.

Q. How did they act when they met you? A. When they saw me, they jumped apart and Mr. Petry seemed very much embarrassed.

Q. Did you talk to your wife on the way home? A. I did.

Q. Did anything take place when you got home? A. No, sir.

Q. Do you remember exactly what you told Mr. Petry on that occasion? A. Yes; I told him to stay away from my wife.

Q. What did he say? A. He was conciliatory,

and said that he did not know that I objected &c.

Q. Did anyone complain to you about the conduct of your wife after that? A. Yes, I had heard

---

Mr. Ward: I object to what you heard.

The Court: Objection sustained.

Q. Did anyone complain to you about the conduct of your wife? A. Yes.

Q. Who? A. Several members of the Consistory spoke to me about the intimacy which was manifested between my wife and Mr. Petry.

Mr. Ward: I object and ask that the answer be stricken out.

The Court: Yes, strike it out.

Q. Well, after this incident took place, what then occurred? A. I began to observe the actions of my wife.

Q. Did you see her with anybody? A. I saw her at every possible opportunity engaged in conversation with Mr. Petry in secreted places about the church.

Q. Did you object to this? A. Yes.

Q. Who did you object to? A. To my wife and Mr. Petry both.

Q. Did you ever find them at your home together? A. Yes; I came home frequently and found Mr. Petry just leaving.

Q. Describe, if you can, with more particularity the occasions when you came home and found Mr. Petry there. A. Well, on several occasions, around 10:30 at night, especially on lodge meeting nights of the Masonic Lodge, he always had something to see me about, but never told me what

it was. He usually left at once upon my arrival at home, saying he would see me again.

Q. Did anything take place around March 20th? A. Yes.

Q. What? A. I was at Asbury Park and came home late from Asbury and I was met by Mr. Pollitt who had come to my study—

Q. Who is he? A. A friend of mine who used to use my study on occasions. He told me of—

Q. Don't tell us what he said to you. Did Mr. Pollitt make some statement to you? A. Yes, sir; a telephone call he received which upset me very considerably.

Q. Pursuant to this information that you received from him, did you do something—did you act upon this information you received from Mr. Pollitt? A. I did.

Q. What was it that Mr. Pollitt told you? A. He told me—

Mr. Ward: Objected to.

The Court: Objection sustained.

Q. What did you do thereafter? A. I continued to watch my wife.

Q. Did anything take place on Tuesday, March 20th? A. It did; I met Mr. Stender.

Q. Was that on March 20th or April 11th? A. That was on May 10th, I believe.

Q. You have related the incident with Mr. Pollitt. A. On March 20th was the incident with Mr. Pollitt.

Q. Does that help you fix your dates at all? What was the next incident that took place? A. In which I was personally connected?

Q. Yes. A. On May 10th.

Q. State what took place on May 10th—what year? A. 1928.

Q. Just state to us what you did? A. I met Mr. Stender of the Osborne Detective Agency of New York City at the 125th Street Ferry on the Jersey side; we stopped at Ridgefield Park and met Mr. Osborne, and the three of us continued on to Hawthorne.

Q. Who was Mr. Osborne? A. Mr. Osborne was the head of the Osborne Detective Agency of New York City.

Q. Both he and Mr. Stender were detectives acting in your behalf? A. Yes, sir.

Q. Well, you accompanied them to Hawthorne. A. Yes.

Q. What time did you arrive there? A. Around 9 o'clock.

Q. In the evening? A. Yes.

Q. What did you do? A. We first went to the Masonic Temple where we found a meeting in progress. We went down Lafayette Avenue past the house and as the shades were up in the house, we saw my wife seated at the table reading or sewing; we continued on down the avenue to a little lunch stand in Paterson, where we had a cup of coffee and then we came back at about 10:30 to the Masonic Temple and saw the members coming out and among them was Mr. Petry. We followed him down Lafayette Avenue and he paused for a moment directly in front of my home and then looked into my home through the window—he came on down the street and we followed and I turned into a little street, Llewellyn Avenue, and I sat in the car with Mr. Stender while Mr. Osborne got out of the car to observe what Mr. Petry was doing. Mr. Osborne turned and beckoned us

and I came back with Mr. Stender and came up Lafayette Avenue with him just in time to see Mr. Petry turn down the walk by the south side of the Reformed Church, which is very dark. Immediately afterwards, my wife cut obliquely across the street and went within several feet of him, and she had with her a blanket rolled up under her arm. I waited with Mr. Stender, and Mr. Osborne joined us later, and later in about thirty-five or forty minutes my wife came along with a bundle under her coat and went into her home.

Q. Describe with more particularity where Mr. Petry went when he left the sidewalk, and where your wife went. A. Mr. Petry went down this dark walk to the south end of the church on Lafayette Avenue.

Q. Is it a regular street there? A. No, sir; it is not a regular street but it is used by a few people and members of the church to cut through there at times.

Q. And it leads to where? A. To the railroad.

Q. Describe how much vacant land is there. A. A very large plot of land behind it, and it is a very dark plot, about at least two hundred feet deep.

Q. Is the church situated in front of the plot? A. Yes.

Q. So that in back of the church how much land is there would you say—how large a plot? A. 200 x 100 feet.

Q. Any light on this walk, on the cinder pathway? A. The cinder path—no, sir.

Q. Any light in the rear of the church? A. No, sir.

Q. Describe what kind of a night this was. A. A balmy spring night, but a dark night.

Q. How long would you say after you saw Mr. Petry enter this dark walk or pathway was it until you saw your wife enter? A. Oh, two or three minutes.

Q. Describe the blanket she had rolled up under her arm. A. It was an old shawl or blanket belonging to my grandfather.

Q. Well, after Mr. Petry and your wife entered this pathway, what did you and Mr. Osborne and Mr. Stender do? A. We stayed in the car.

Q. State what you did. We waited on Lafayette Avenue in the car until my wife came back.

Q. And how long was that? A. Thirty-five or forty minutes later.

Q. Did she come out the same path where she entered? A. No, she did not.

Q. How did she return home? A. She came down from Diamond Bridge Avenue on Lafayette.

Q. Is that in back of the church? A. It would mean circling around by the railroad and going around the block.

Q. Well, she arrived home. A. Yes.

Q. Have the blanket with her? A. It was bundled up under her coat.

Q. When she arrived at the house? A. Yes.

Q. What did you do when you went home? A. I didn't go home. I went to Paterson and remained with friends. I was in a very much upset condition and state of mind.

Q. What did you do the next morning, if anything? A. The next morning, with Mr. Pollitt, I went to my home and secured the blanket which was stuck down and in back of the couch in the front room.

Q. The same blanket? A. Yes.

Q. Was it a blanket or a shawl? A. Well, a shawl to be exact.

Q. Describe the condition of the blanket or shawl when you opened it up. A. It was covered with short pieces of grass and small pieces of chips of wood pulp. I then went back of the church with Mr. Pollitt, and later with Mr. Osborne and Mr. Stender and we found places that might have corresponded to a place where this blanket was laid, places where there was pieces of grass and this wood pulp, pieces of this wood pulp from an old stump which was cut down.

Q. Well, did you find anything else? A. Yes, I found a handkerchief, which I recognized as my wife's.

Q. I show you this handkerchief—have you seen that handkerchief before? A. Yes.

Q. Whose handkerchief is it? A. My wife's.

Q. How do you know that? A. Because she showed it to me when she purchased it.

Q. What causes you to remember that handkerchief? A. She noted certain peculiarities about it and coloring and she asked me to observe it.

Q. And, is this the same handkerchief that you found behind the church? A. Yes.

Q. How far away from this place you have described in the grass? A. Only a few feet.

Q. What was the condition of the handkerchief at the time you found it? A. Just as you see it now.

Q. You took it home, did you? A. I gave it to Mr. Osborne who has been keeping it for me.

Mr. Moore: I offer the handkerchief in evidence.

(Received and marked Exhibit P-2)

Q. Who was with you when you found that handkerchief? A. Mr. Pollitt, Mr. Osborne, and Mr. Stender.

Q. That was on the 12th day of May, was it? A. The 10th or 12th—10th or 11th.

Q. It was on the 12th you found the blanket. A. Yes, the day after.

Q. After finding the handkerchief and the blanket, what did you do? A. I continued to observe my wife's actions. I did not comment to her about it.

Q. Did anything take place on Tuesday, May 29th? A. Yes.

Q. Describe that incident. A. I returned from the shore but did not come immediately home; I met Mr. Pollitt again and Mr. Bell, who is the sexton of the church, and—

Q. What happened then? A. I went to the church and with them observed my home from the church window. We saw Mr. Petry enter my home and I immediately left the church and went up Lafayette Avenue. I went in back of the house, where I remained, and about half an hour later, Mr. Petry left my home. I noticed the shades were all drawn downstairs in the parsonage.

Q. Just describe the position of the parsonage and the church. A. Cata-cornered across the street and slightly to the west.

Q. You saw the shades drawn down? A. Yes.

Q. What else did you observe? A. Nothing at that time. I took Mr. Pollitt back into Paterson and came home immediately. When my wife opened the door she seemed startled, and she was simply in a bathrobe minus her clothing. I asked her what she was doing downstairs in that condition, and she told me that she had taken a bath and

came down to turn off the water heater. I went back to the water heater and found it was stone cold.

Q. How long was Mr. Petry there that night? A. At least half an hour.

Q. When was the last time you had marital relations with your wife? A. The 16th of March.

Q. What year? A. 1928.

Q. When was the last time you preached at the church? A. The 10th day of June, 1928.

Q. Will you tell me where the telephone is situated in your home? A. It is located to the right of the front door as you enter the hall.

Q. Will you also describe to me where the radio is? A. Yes; the radio is in the front room—the hall and front room are open together. There are only a couple of pillars between them—and the radio is located on a table just as you enter the room to your right.

Q. Is there any part of the radio down in the cellar? A. There is not.

Q. Did you ever have any part of the radio in the cellar? A. No, sir; there is not.

Q. Are you acquainted with the handwriting of your wife? A. I am.

Q. Are you acquainted with the handwriting of Mr. Petry? A. I am.

Q. Have you seen them both write? A. I have.

Q. I show you a picture on a piece of yellow paper and ask you if you have seen that before? A. I have.

Q. Is there any writing on it? A. Yes, sir.

Q. Whose handwriting? A. Mr. Petry's.

Q. Any other handwriting? A. No, not on this piece.

Q. Where did you get that picture? A. I found it torn up in the fireplace of my home on the Sunday night two weeks before I left Hawthorne.

Q. And was it torn up at the time? A. Yes, it was.

Q. Did you put it together? A. I did.

Q. In whose handwriting is that? A. Mr. Petry's.

Q. Will you tell us why you looked in the fireplace that night?

Mr. Ward: Objected to.

The Court: I'll allow it .

A. Because Mr. Bell told me he saw my wife and Mr. Petry passing notes in the choir, and he saw her tear up one and put it in the bosom of her dress, and we also found another that night and pieced it together. Several were not torn up. When I went home that night I looked where the note might have been thrown and I found it in the fireplace.

Q. Did you show it to Mr. Bell? A. Yes.

Mr. Moore: I offer this paper with the writing in evidence.

(Said paper referred to is received and marked Exhibit P-3).

Q. Is that the same color as the program which you have at the church? A. Yes; it is the same color as the envelope of the church—we had used that particular color as the color of the Reformed Church.

Q. In whose handwriting is that word "biography"? A. Mr. Petry's.

Q. And that "Mr."? A. I believe that is print-

ed by my wife. That is printed on—I am under oath.

Q. I show you another yellow sheet of paper, and ask you if you recognize the handwriting on that? A. I see both my wife's and Mr. Petry's handwriting on this.

Q. Whose handwriting? A. Mr. Petry's and my wife's.

Q. Will you just read what is said in your wife's handwriting? A. "It makes me tired that some people can't leave one square mile of the whole continent alone; if they don't like the choir Sunday, why under the sun do they go there".

Q. And the handwriting there is what? A. "Ocean Grove should be a good market for life savers; I asked the question, on which could not be answered by my opponent".

Q. Where did you get that from? A. I found that in the rack for the bibles with the hymn books.

Q. How did you happen to look there? A. Because, as I stated, Mr. Bell told me he had seen my wife and Mr. Petry passing notes.

Q. I show you a third sheet, yellow paper, on which is printed First Reformed Church, Hawthorne, N. J.—can you state in whose handwriting that is? A. This is in my wife's handwriting.

Q. Where did you get that? A. I found it. I found it torn in the bible.

Q. What does your wife say there? A. "This afternoon he wanted to know whether or not you had anything against him. He thought you were avoiding him this morning. I said I thought he was; Petry's handwriting "I have not any hard feelings towards him".

Mr. Moore: I offer that sheet in evidence.
(Admitted and marked Exhibit P-4)

Q. I show you another piece of paper, in whose handwriting is that? A. That is my wife's handwriting.

Q. All of these notes were in the handwriting of Mr. Petry? A. Yes.

Q. Will you read that please? A. "Just as I thought; my mutual friend is collecting papers left in the rack; I left one last week as a—

Q. Is that your wife's handwriting? A. My wife's handwriting.

Q. Where did you get that from? A. That was handed to me by Mr. Bell on a visit to Asbury Park.

Mr. Moore: I offer that paper in evidence.
(Paper referred to is received and marked Exhibit P-5)

Q. Has there been any change or alteration made on the writing of these cards? A. Positively not.

Q. Are they just as you found them? A. Yes; it is shown there by the cut, the cover, the transparent paper.

Q. On this occasion, when you saw the shades were drawn down, was that an unusual occurrence at your home? A. Yes; I never knew it to happen before.

Cross-examination by Mr. Ward:

Q. Have you the title of Doctor? A. Yes, sir.

Q. Have you a degree? A. Yes, sir.

Q. From where? A.

Q. Have had it for how long? A. Since about 1915 or 16.

Q. You lived with your wife up to June, 1928, did you? A. Yes, sir.

Q. Happily? A. Yes, sir.

Q. And when was it in June that you separated? A. The 11th day of June.

Q. You have had no trouble with her up to that time? A. I often objected to her housekeeping and her care of the children.

Q. Aside from that, you have had no trouble with her? A. No.

Q. You were married in Long Island? A. Yes.

Q. And have three children? A. Yes.

Q. These three children lived with you at your home at Hawthorne, did they not? A. Yes.

Q. You say your suspicions were aroused in March, 1928? A. Yes.

Q. And that was at the time of the Consistory meeting? A. Yes.

Q. What was the date of that? A. The first Tuesday in March.

Q. You remember the day of the month? A. I do not.

Q. Did you make any note of that anywhere, or notation? A. I didn't have to; it was engraved in my mind.

Q. Did you make any? A. No.

Q. Did you tell that to anyone? A. Yes, sir.

Q. When? A. Shortly afterwards.

Q. How long after? A. Shortly afterwards.

Q. How long afterwards? A. I do not know.

Q. You mentioned this fact, however, to Mr. Petry, you had observed something. A. Yes.

Q. Where? A. In the church.

Q. When? A. Immediately.

Q. What time of night was this? A. About half past ten.

Q. Can you tell us any more definitely than that? A. No, sir.

Q. Who had been at the Consistory meeting? A. The records will show.

Q. I am asking you? A. I don't know.

Q. Have you any recollection of anyone who was there? A. Yes, sir.

Q. Who? A. Mr. Petry was there; Mr. Shoe was there; Doctor Bradley and Mr. Perry were there; I don't remember who the others were.

Q. How long did the meeting last—or when did it break up? A. Around between 10 and 10:30.

Q. How long before you saw this incident that you have mentioned? A. I saw the incident about 10:30.

Q. I am asking you now if you can tell us in minutes, 15 or 20 minutes, or half an hour, that saw this incident. A. Approximately that time.

Q. Is that as near as you can approximate it? A. 15 or 20 minutes.

Q. Where had you been? A. As I stated before, I had been in my study talking with two members of the Consistory.

Q. Was anyone with you when you saw this? A. No, sir.

Q. How long before you saw this was it that the others had left? A. Ten or fifteen minutes.

Q. And you were there alone in your study for 10 or 15 minutes, were you? A. Yes.

Q. Who were the two that were with you before that in your study? A. Doctor Bradley and Mr. Perry.

Q. Whereabouts were Mrs. Reeves and Mr. Petry when you say you saw this? A. Standing directly under a rolling curtain which rolls between two sections of the Sunday School room.

Q. Is that on the floor below the church proper? A. No, sir; on the same floor.

Q. The same floor? A. The same floor as the study.

Q. Your study is to the east or on the easterly side of the church, is it not? A. My study was on the easterly side of the church.

Q. And whereabouts is the entrance to your study? A. In the vestibule.

Q. Opening into what? A. The vestibule opening a door and into the room; the doors are of glass into the Sunday School.

Q. What were you doing in this study after these men left? A. I was simply staying there for a few moments to arrange some of my matter for the next day.

Q. Do you recollect what you were doing? A. No; I do not.

Q. You have no recollection of that at all? A. No, sir.

Q. The lights lighted in your study? A. My study?

Q. Yes. A. Yes, sir.

Q. After you left the study, was the lights still lighted there? A. I always put my lights when I went home.

Q. Light in the vestibule? A. Yes.

Q. Did you put that light out? A. Yes.

Q. As you went out? A. Yes.

Q. And made no effort to conceal it? A. No, sir.

Q. This place where you saw Mrs. Reeves and Mr. Petry, is that adjacent to the vestibule? A. Yes.

Q. How close to the vestibule? A. Within 10 feet.

Q. You say there was a curtain there? A. Yes.

Q. Were they beside the curtain and within the vestibule? A. The curtain I said before was raised, and they were standing by this curtain at where the curtain would be if it was lowered.

Q. Would that be partly in the vestibule? A. No, not in the vestibule; about 10 feet from the vestibule.

Q. From the entrance, or at least the space between the vestibule and this Sunday School room, is that correct? A. Yes.

Q. Can you describe any more accurately whereabouts in the Sunday School room they were? A. I think I have very definitely mentioned where.

Q. Can you describe any more accurately, or not? A. No, I cannot.

Q. How large is that Sunday School? A. About the size of this room.

Q. And they were within plain view of the entrance, were they? A. Absolutely.

Q. I mean the entrance leading from the vestibule into the Sunday School room. A. Certainly.

Q. And in plain view of your study door? A. No, sir.

Q. What was between your study door and where they were? A. Nothing but the study door opening from the inside.

Q. Was there anything to obstruct the view from where they were standing of your study door? A. Yes, sir.

Q. You say there was a light in that Sunday School room? A. Yes, sir.

Q. And you put out the light in the vestibule, did you? A. Yes.

Q. And you did that before you saw them, did you? A. No, sir; when I saw them.

Q. You seen them before you put your light out? A. Yes.

Q. How near to them were you when you saw them? A. About 10 feet.

Q. Was there any door between the vestibule and the Sunday School room? A. Yes, sir.

Q. Was it closed or open? A. It was closed but it is a glass and you can see right through it.

Q. What kind of glass? A. Perfectly plain window glass.

Q. No difficulty in seeing through that. A. No, sir; it was always kept clean.

Q. You had approached to that door before you saw them, had you not? A. I came hurrying out of my study to the door.

Q. Had you got right to the door before you saw them? A. Yes, sir.

Q. Had you opened the door? A. I was opening it as I saw them.

Q. Had you the door all the ways open when you saw them? A. I don't know that.

Q. You don't remember if you saw them through the door or whether you had to open the door at the time? A. No; I remember distinctly that I saw them and I was in a position to see them.

Q. Can you describe what their position was in the room with reference to whatever it was that obstructed the view of your study door? A. The study opens from the inside at my right as I am facing you.

Q. Pardon my interruption—this study is on the east side of the building, is it? A. Yes, sir.

Q. At the outside more? A. Yes.

Q. And the door to that study faces in which direction? A. North.

Q. And whereabouts with reference to that door is the Sunday School room? A. If I was seated in the vestibule at this moment—

Q. If you were to come out of your study through that door— A. The study door is exactly where this opening would be in this box; here is the Sunday School door (indicating), as they would be in front of me, and where a Mr. Stender is sitting is where I saw my wife and Mr. Petry.

Q. You came out of your study door, I understand, to the right. A. Yes, sir.

Q. And you walked out how far to get to the vestibule door? A. That is only a step.

Q. And then within that, in what position within the Sunday School room were these two people, Mrs. Reeves and Mr. Petry? A. Obliquely to my right.

Q. How far to the right? A. As far as you sit, Mr. Stender; I would say it was an exact approximation.

Q. And the study door opens in which direction, I mean the door leading from the vestibule into the Sunday School? A. Either way; it is a swinging door.

Q. Did you immediately make known your presence? A. Yes.

Q. What did you say? A. I objected to their actions.

Q. What did you say? A. I do not remember.

Q. Did you have a conversation there? A. Only a few moments.

Q. Do you recall anything you said? A. Yes.

Q. What? A. I recall I told Mr. Petry to leave my wife alone and I objected to my wifes' intimacy saying she was betraying me and my children and my position.

Q. What did Mr. Petry say? A. He said he didn't mean anything about it.

Q. He said he did not know that you would object, did he? A. Yes.

Q. What did you reply? A. I said I objected.

Q. You said you did object. A. Yes, certainly.

Q. What was Mrs. Reeves' and Mr. Petry's position when you first made known your presence? A. They were face to face with their arms about each other.

Q. He had his arms around her, did he? A. Yes.

Q. And she her arms around him? A. Yes, absolutely.

Q. Anything else you saw? A. No.

Q. What did they do when they saw you? A. They jumped apart.

Q. Did you speak before they jumped apart? A. I think they heard me open the door; I spoke as soon as I could.

Q. You didn't make any remark until you had opened the door did you? A. I don't recall.

Q. You didn't make any haste to open that door, did you? A. I did; I went out naturally as any individual would.

Q. Did you open the door in a normal way? A. Yes, I opened the door in a normal way.

Q. And you were not excited at the time when you opened that door, were you? A. Not until I saw them.

Q. When you opened the door, after that you saw them? A. Yes.

Q. And then you became excited? A. Yes.

Q. And you were within ten feet of them at that time? A. Yes.

Q. Were you in the room when you said anything? A. Yes.

Q. How far into the Sunday School room? A. I was near them as I spoke to them.

Q. Did Mrs. Reeves say anything? A. I stated that a moment ago; she told me she would do as she pleased.

Q. Did you say anything to her? A. Yes, I did.

Q. Aside from what you just told us about what you said to Mr. Petry, what did you say? A. I said to her that she was betraying my position and my children and myself.

Q. And she said she would do as she pleased, did she? A. Yes.

Q. Did that end the incident at that time? A. Yes, it did.

Q. Who left first? A. Mr. Petry walked out at once, and I took my wife home.

Q. You accompanied her home, did you? A. Yes; it was my custom to do so.

Q. And that ended the incident, did it? A. Yes.

Q. And nothing more was said about it? A. No.

Q. And nothing more was said by you to Mr. Petry about that? A. Not at that time; no.

Q. At what time, if at any time? A. I simply recalled it when I objected to his other visitations to my home.

Q. That was in March? A. Yes.

Q. The first Tuesday in March? A. Yes.

Q. And that ended the incident for the time being, for how long? A. I do not know.

Q. Well, do you recall ever having mentioned that specifically to Mr. Petry again? A. I do.

Q. When? A. I don't recollect.

Q. How long afterwards? A. I don't know.

Q. About how long? A. I don't know.

Q. So that you haven't any idea at all as to when you spoke to Mr. Petry again? A. I have an idea, yes.

Q. Well, when? A. When I found him over at my home.

Q. How long after the first Tuesday in March was that? A. A week or two.

Q. So that a week or two after that you spoke to him again for the first time? A. Yes.

Q. And after you accompanied your wife home, you made no mention of it to her? A. No further mention.

Q. You slept with her that night? A. Yes, sir. I beg your pardon—I am not sure of that. We ordinarily had separate rooms.

Q. You continued to live with her just as you had before? A. I did at that time.

Q. Did you ever mention it to her again? A. I don't think so.

Q. Were you suspicious? A. Somewhat.

Q. Did you think at that time there was anything wrong? A. I didn't know; I hoped not.

Q. But did you think there might be? A. Well, I was worried as any other man would be.

Q. Did you think there might be something wrong? A. I thought there might be; yes.

Q. Did you ever mention it to anyone else during that period of time? A. I told you yes.

Q. To whom? A. Mr. Pollitt and I think to Mr. Bell.

Q. Mr. Pollitt is an associate of yours in business? A. No, sir.

Q. Or what was it? A. No, sir.

Q. Was he promoting an oil development company, or something of that kind? A. Yes, sir; he was.

Q. And you assisted him in the development of that? A. No, sir.

Q. Why, Doctor, didn't you introduce him to people to whom stock was sold? A. To some friends of mine but not exactly in a business way.

Q. It was for the purpose of selling stock to them, was it not? A. No, sir.

Q. Did he sell some stock to them? A. Yes, sir.

Q. And you got a commision from him, did you not? A. For writing which I did for him.

Q. I say you got a commission from him? A. For writing which I did for him.

Q. Were you connected with that company? A. No, sir; only to write an advertisement for him.

Q. How long had you known Mr. Pollitt? A. About five years.

Q. Intimately acquainted with him? A. Fairly so.

Q. At the time of this incident in March, did you know him very well? A. I think so.

Q. And you were intimate with him at that time, were you not? A. I would say so.

Q. Now, Mr. Bell—he was your janitor in the Church? A. Yes, sir.

Q. This one particular transaction as you say you had with Mr. Pollitt—he paid you by check, did he not? A. I don't know about that.

Q. And, don't you recall that the check was bad and you had to make it good? A. No, I recall nothing of the kind.

Q. Do you recall anything about a check with reference to that transaction? A. I do not.

Q. Don't you recall that Mr. Pollitt gave Mrs. Reeves sister a bad check? A. I remember he did once.

Q. You do remember that, do you? A. Yes; but that had nothing to do with what you said before.

Q. It had reference to the business transaction between you and Mr. Pollitt and others? A. I deny that.

Q. You made the check good to Mrs. Reeves sister, did you not? A. Yes.

Q. Were you obligated in any way to do that? A. No, sir.

Q. Had you introduced Mr. Pollitt to Mrs. Reeves sister? A. Over in New York; yes, sir.

Q. How long had you known Mr. Bell? A. During my period in Hawthorne; about seven years.

Q. He was an intimate and confident of yours? A. Yes, sir; he was.

Q. Did you see Mr. Petry right along after that? A. Yes.

Q. How often? A. Whenever his work called him to the Church.

Q. He was connected with the Church, was he not? A. Yes.

Q. In what capacity? A. Treasurer and a member of the Consistory, he was an elder and he sang in the choir.

Q. One of the pillars of the Church, wasn't he? A. Yes; he was.

Q. Did you ever mention this to his wife? A. No, sir.

Q. You were very friendly with Mr. Petry, were you not? A. No, sir.

Q. Why, you visited her home? A. Only in my pastorial work.

Q. You visited Mr. Petry's home. A. Yes.

Q. How often? A. Oh, I don't know; not very often.

Q. You continued to visit Mr. Petry's home up until when? A. I don't know.

By the Court:

Q. Well, did you visit his home after you found him with his arms around your wife? A. I believe once or twice, but only with men of the church.

By Mr. Ward:

Q. Why, you transacted business with him at the church right along, did you or not? A. There is no use of trying to confuse the issue.

Q. Answer my question. A. I transacted business with him at the church and at his home whenever it was necessary for me to go and see him, since he was the church treasurer.

Q. He visited your home right alng after that, did he not? A. Yes, sir.

Q. And I think you said that he would come in there and tell you he wanted to see you on business and not state his business and then make another appointment and say he would come back. A. Yes.

Q. And you would make these appointments with him from time to time to come back, would you? A. Yes, sir.

Q. And so as I understand you, Mr. Reeves, you would come home and would see him there at your home about to leave and then he would make some statement about wanting to see you on some business but then he would say to you he would come

back on another occasion, and you would make an engagement with him to come back on some other occasion? A. Beg your pardon.

Q. You would make the arrangement with him to come back, and that was all after this incident in the church in March—that is correct, is it? A. Yes, sir.

Q. And that would be about all he would say at your home when he came there and found you there? A. Yes.

Q. And you lately were not friendly with Mr. Petry. A. Our relations were strained after this situation.

Q. Were your relations friendly with Mr. Petry? A. I say they were strained after this situation.

Q. Did you treat Mr. Petry in a friendly manner? A. I treated him as one gentleman would another.

Q. In a friendly manner? A. I don't know what you mean by a friendly manner.

Q. You mean, you don't know what friendly means? A. I know what it means to be a gentleman; I treated him as a gentleman would treat another one.

Q. And that is your best answer to that? A. Yes.

Q. You even went to Mr. Petry the last Sunday that you were at that church, did you not, and borrow from him as Treasurer an advance on your salary—did you not? A. In a business way; yes.

Q. Did you or not? A. I did.

Q. There was no obligation so far as the rules of your church are concerned for Mr. Petry to give you an advance of salary, was there? A. It was customary.

Q. Was there any obligation on the part of Mr.

Petry, so far as you know, under the rules of your church, to give you an advance on salary? A. It was customary.

Q. Will you answer my question, please? A. I think I have.

The Court: No, you haven't answered the question.

The Witness: Not that I know of.

Q. You had no hesitancy in going to this man and asking him for an advance on your salary? A. Not in his official position.

Q. When was it that you went to him and asked for an advance on your salary? A. Oh, frequently.

Q. When was the last time? A. I don't recall.

Q. Wasn't it the last Sunday when you were in Hawthorne as pastor of the church? A. It couldn't have been.

Q. Sure of that? A. Yes.

Q. When do you recall was the last time? A. I think it was the week prior.

Q. And when would that have been? A. The week before the 10th.

Q. The 10th of June? A. That would be the 3rd.

Q. The 3rd of June? A. Yes, I think so, although I am not sure.

Q. And after you say you discovered these things, you still went to this man and asked him for an advance on your salary, did you? A. Yes, in his official position.

Q. And with full knowledge of what you stated you knew? A. Yes.

Q. And you never said a word to him about what you knew? A. No, sir.

Q. When was the next time, Mr. Reeves, that you saw anything, that is, yourself? A. The 10th or 11th of May.

Q. And that was the time you met Mr. Osborne and this other man, was it? A. Yes, sir.

Q. Is that the first time that you saw anything of a suspicious character with reference to your wife and Mr. Petry? A. Myself, yes.

Q. You are sure of that? A. Yes, sir.

Q. So that from March until May 10th, I think, that is the date you stated, so far as you personally were concerned, you saw nothing that aroused your suspicions, is that correct? A. Yes, sir.

Q. And you said nothing to your wife? A. No, sir.

Q. And you said nothing to Mr. Petry? A. No, sir.

Q. And you are quite sure about that? A. Yes, sir.

Q. Why did you state on direct-examination then that after that, and before May 10th, every chance they got to be in a secret position, they would be in that position talking to each oher? A. Because that was the truth.

Q. Did you see them in secreted positions? A. Yes, sir.

Q. How often? A. Very often.

Q. Where? A. In the church.

Q. And alone together? A. Yes, sir, and off to one side from the group.

Q. Well, alone? A. Off to one side from the group, I would say alone.

Q. Would there be another persons in the same room? A. Yes, sir.

Q. And these secreted places to which you re-

fer, were places in the same room with other people were they? A. Yes, sir.

Q. Always? A. Yes, sir.

Q. And yet you never mentioned that to Mr. Petry before May 10th? A. No, sir.

Q. And never mentioned it to your wife? A. I certainly did mention it to my wife.

Q. You did? A. Yes.

Q. Then you were mistaken when you said a moment ago that you did not mention anything to her between March and May? Which is the truth? A. The second is the truth; the statement I make now.

Q. So that you did speak to her? A. Yes, sir.

Q. Ever in the presence of anybody? A. No, sir.

Q. You knew her mother? A. Yes.

Q. And you were friendly with her mother? A. Yes.

Q. Was this suspicion still bothering you? A. Yes, very much.

Q. Troubling you greatly? A. Yes, sir.

Q. Aside from Mr. Pollitt and Mr. Bell, did you ever mention it to anybody else? A. I don't recall.

Q. You don't remember? A. I did to Mr. Stender and Mr. Osborne and my parents.

Q. Aside from your parents and these visitors or detectives, ever mention it to anyone else? A. I don't think so.

Q. Where were your parents at that time? A. In Asbury Park.

Q. Mr. Reeves, there wasn't any reason why you should not have mentioned it to your mother if you were suspicious, was there? A. I don't know why I should or why I should not.

Q. Between March and May 10th, what did you ever say to your wife? A. I objected to her intimacy with Mr. Petry, her housekeeping and the way she kept her children.

Q. You stated a few moments ago your objection up to the time you left her was only with reference to her housekeeping and children—was that true or not? A. I stated that, yes.

Q. Was that so or not? A. That was so.

Q. So then you did not make any objection to this other condition about which you were suspicious, did you? A. I did occasionally.

Q. You said you objected; what word did you use? A. Oh, I don't know.

Q. It made a very slight impression upon you, is that right? A. No.

Q. You can't recall what you said to your wife? A. It was simply a reiteration of the objection that she was belittling me and the children and my position and herself.

By the Court:

Q. What did she say? A. She told me to mind my own business.

By Mr. Ward:

Q. She was defiant occasionally? A. Very defiant.

Q. Can you remember any more specifically what you said to your wife during that period of time? A. I can't.

Q. And all that she replied to you on that occasion was, it was none of your business. A. No; she did say something a little different.

Q. What did she say? A. She said if I interferred with her, she would ruin me in the eyes of

the public, and that the truth meant nothing to her and that the public always took a woman's word.

Q. Were you concerned about that? A. Yes; I was.

Q. Did you go to your mother about that? A. No.

Q. Did you go to your superiors in the church about that? A. Yes, I did.

Q. To whom? A. The Rev. Dr. John A. Ingram.

Q. Of where? A. New York City.

Q. When? A. At the time; several months prior to when I left, when he was preaching in my charge.

Q. So that you let this go on until several Sundays before you left without going to anyone in the church about it, is that right? A. Yes.

Q. Can you remember how often you said these things to your wife? A. No, sir.

Q. Can you remember where you said them to your wife? A. In the privacy of our home.

Q. Then on May 10th, you went down to New York; is that right? A. Yes, sir.

Q. And met Mr. Osborne? A. Yes, sir.

Q. Had you ever talked with anybody about this matter from the time of this incident in March up until May 10th? A. Yes, sir.

Q. Your father and mother? A. Yes; and my brother and Mr. Pollitt and Mr. Bell.

Q. And they were all? A. All I recollect.

Q. How often did you talk to Mr. Pollitt about it? A. I only recollect once or twice.

Q. Where? A. In my study.

Q. When? A. In the daytime.

Q. Where was Mr. Pollitt living at that time? A. In Paterson.

Q. Was that his permanent residence or his temporary residence? A. His permanent residence.

Q. How often did you see Mr. Pollitt from March until May? A. An indeterminate number of times; he came over every day or two.

Q. But you talked to him only twice? A. Yes.

Q. But you don't recollect when that was? A. No.

Q. Do you remember how long it was after the incident in March that you first talked to Mr. Pollitt? A. No, sir.

Q. How many times did you talk to Mr. Bell? A. Several times.

Q. Well, would you say three? A. I don't remember.

Q. About how many? A. We'll say three.

Q. So that is the best you can recollect? A. Yes, sir.

Q. The incident of talking to Mr. Bell? A. Yes.

Q. What was your conversation with Mr. Pollitt? A. My conversation with Mr. Pollitt?

Q. Yes, on these two occasions. A. I simply mentioned the situation to them.

Q. Is that all? A. Why certainly.

Q. Is that all that was said by you? A. Yes, sir.

Q. And nothing was said by him? A. I don't recollect.

Q. You don't recollect if he said anything or not on either occasion? A. No.

Q. When you talked to Mr. Bell on the several occasions, did you explain the situation to him? A. Yes, sir.

Q. Was there anything said by Mr. Bell to you? A. I don't recollect.

Q. Your parents and your brother were not in Hawthorne, I believe? A. No, sir.

Q. Did they come to see you during that period of time? A. No, sir.

Q. They were not up there at all? A. No.

Q. Yet, with that situation, you consulted these private detectives? A. Yes.

Q. How did you get in touch with them? A. Through my brother.

Q. You met Mr. Osborne and this other gentleman and came to Hawthorne on May 10th? A. Yes.

Q. I think you said you went to your home on that occasion and you saw your wife through the window. A. I said I passed my home on that occasion and saw my wife through the window.

Q. What time of night was that? A. Shortly after 9 o'clock.

Q. And you then went to the Masonic Hall? A. I went to the Masonic Hall first.

Q. Was Mr. Petry there? A. We saw him coming out at about 10:30.

Q. You went to the Masonic Hall first? A. I didn't go in, we just went outside of the hall.

Q. You didn't go in; you remained outside? A. Yes.

Q. Did you see Mr. Petry at that time? A. No, sir.

Q. Well, you went from there to your home, did you? A. Yes.

Q. And you saw your wife? A. Yes.

Q. And everything was apparently all right? A. Yes, sir.

Q. And you left there with these two investigat-

ors or detectives and went to Paterson to a lunch room? A. Yes, sir.

Q. You could have gone in the Masonic Hall to ascertain whether or not Mr. Petry was there? A. I could have but I didn't.

Q. Then you returned to Hawthorne about what time? A. Between 10 and 10:30.

Q. And just as you got back to the Masonic Hall with these two gentleman, Mr. Petry came out, is that correct? A. Yes, sir, after waiting a few moments.

Q. How long did you wait? A. Just a few moments.

Q. How long; five or ten minutes? A. I suppose about fifteen minutes.

Q. Did you follow him down the street? A. As I stated, yes.

Q. Had he any engagement with you that night? A. No, sir.

Q. You did not know if he was going to your home or not. A. No, sir.

Q. It would not have been unusual for him to go to your home, would it? A. No, because he knew I was away.

Mr. Ward: I object and ask that the latter part of the answer of the witness be stricken out.

The Court: I'll allow it to stand.

Q. You also said you came home very frequently and found Mr. Petry there? A. Yes.

Q. And that was not at all unusual, was it? A. No, sir.

Q. On these occasions when you came home and found Mr. Petry there, where had you went? A.

I was out about my work as a pastor.

Q. Where? A. Calling, or at meetings.

Q. Did you make any notations of these incidents? A. No, I did not.

Q. You did not see Mr. Petry enter your home that night? A. No, sir.

Q. What did he do? A. He stopped for a moment in front of my home and then went on.

Q. Did Mr. Petry come out of the Masonic Hall with anybody? A. No, sir; by himself.

Q. Did you see anyone there that you knew? A. Several.

Q. Who? A. I don't recollect who they were.

Q. Do you recollect if anybody was with Mr. Petry that night? A. No one was with him that night when he came out of the Masonic Hall.

Q. How far is the Hall from your home? A. About four blocks.

Q. That is east, is it? A. That is north, I think.

Q. North; it is out Lafayette Avenue? A. Yes, Lafayette Avenue.

Q. Where did Mr. Petry live at that time? A. He lived over at 32 Washington Avenue.

Q. And Washington Avenue runs parallel with Lafayette Avenue, is that correct? A. Yes, sir.

Q. The Masonic Hall would be as you term it, I think, north. A. Yes.

Q. And you come down Lafayette Avenue to Diamond Bridge Avenue? A. Yes, sir.

Q. And your church was about a block south on Lafayette Avenue below Diamond Bridge Avenue. A. Yes.

Q. And your Rectory was across the street? A. Yes, slightly to the north.

Q. And Mr. Petry lived on Washington Avenue, further south; is that correct? A. Yes.

Q. And Washington Avenue is how many blocks over from Diamond Bridge Avenue? A. Washington Avenue cuts into Diamond Bridge Avenue.

Q. I should have said Lafayette Avenue. There is a railroad in between and that is about all.

Q. How long did Mr. Petry stop there? A. In front of the house?

Q. Yes. A. Several minutes, two or three.

Q. You didn't approach him? A. No, sir.

Q. Where were you? A. I was in the car coming down with Mr. Stender; down Lafayette Avenue.

Q. And Mr. Osborne also? A. Yes, both of us.

Q. Where did you stop your car? A. In Llewellyn Avenue.

Q. Where is that with reference to the church? A. A block below.

Q. You passed Mr. Petry then, did you? A. No, he went on and turned into a little candy store below us.

Q. When Mr. Petry stopped at your home in front, where were you then? A. In this car.

Q. How far from where Mr. Petry was? A. From the center of the road to the sidewalk; I passed right on by him.

Q. You passed him then, that is correct? A. Yes.

Q. Had you followed him all the way down from the Masonic Hall down to your home? A. Yes.

Q. In the car? A. Yes.

Q. And when Mr. Petry stopped in front of your home, you continued with the car, did you? A. Yes.

Q. And passed him? A. Yes.

Q. And turned down Llewellyn Avenue and went into Lafayette Avenue? A. Yes.

Q. How far into Llewellyn Avenue did you go? A. Only a few feet, and parked the car; when Mr. Osborne beckoned us, he had gone across the street. We came out and got into Lafayette Avenue in time to see Mr. Petry turn and go back from this bee hive or wherever he had been; a small candy and cigar store.

Q. About how far from your home? A. About a block.

Q. Above Llewellyn Avenue? A. Yes, above.

Q. And between Llewellyn Avenue and your home? A. Yes.

Q. And you got back in time to see him come out of the store? A. Yes.

Q. How far out of the store was he? A. I saw him on Lafayette Avenue.

Q. How far from the store? A. A hundred feet from the store when I first saw him.

Q. How far did you have to walk to get from the car to Lafayette Avenue? A. I didn't walk; I was in the car.

Q. You walked back from Lafayette Avenue when Mr. Osborne beckoned you, didn't you? A. I went back in the car. The car had been turned around.

Q. You went back and did you stop on the corner with the car? A. No.

Q. Where did you stop with the car? A. We turned up Lafayette Avenue.

Q. How far up Lafayette Avenue did you go? A. Just past my home.

Q. In front of the church? A. That would be above the church.

Q. How far above the church? A. Two or three houses.

Q. You must have passed Mr. Petry then as you went up. A. We did; his back was to us.

Q. He was on the left hand side of the street and you were over to the right in the roadway of Lafayette Avenue and you passed by him. A. He would be to our right as we went up.

Q. Was he on the church side? A. No, but when we passed him going up, he was on the church side.

Q. He crossed over to the church side, did he? A. Yes.

Q. And you went up past him and went how far above the church? A. Several houses.

Q. How many feet about? A. Oh, a couple of hundred.

Q. In front of whose house were you? A. Walter Garrison's.

Q. And you stopped your car there, did you? A. Yes.

Q. Did you stop it before you saw him turn in? A. No.

Q. What did you do? A. We waited.

Q. What kind of a car were you in? A. Ford.

Q. Whose car was it? A. Mr. Stender's.

Q. Was it a closed car? A. A sedan body.

Q. Where were you? A. I was seated in the back.

Q. And you looked out of the back window, did you? A. Yes.

Q. Where were Mr. Osborne and Mr. Stender? A. They were in the car with me.

Q. In the front seat? A. Yes.

Q. The both of them? A. Yes.

Q. Where did Mr. Petry turn in? A. Mr. Petry

turned to the cinder path or walk south of the church.

Q. How close to the church is that? A. Right up against it.

Q. Was the church in darkness? A. Yes.

Q. Had there been anything going on that night? A. Yes, sir.

Q. When? A. It let out about 9:30 I should say.

Q. How do you know? A. The young men Spartons had their meeting there.

Q. You had been away all the time? A. No, I had not.

Q. From that meeting? A. I did not habitually attend that meeting.

Q. When you went down to Paterson to have lunch, what time was that? A. Between 9 and 9:30.

Q. You got back about what time? A. Between 10:00 and 10:30.

Q. Did you clock the time? A. No, sir.

Q. Did Mr. Osborne clock the time in your presence? A. No, sir.

Q. Did Mr. Stender? A. I don't know.

Q. Was it called to your attention about the time? A. I know approximately the time.

Q. You know approximately the time? A. Yes, sir.

Q. Was it called to your attention? A. Yes, it was.

Q. By whom? A. By Mr. Osborne and Mr. Stender.

Q. Did they clock the time? A. I don't know if they did or not.

Q. What time did they mention to you? A. I recollect about 10 o'clock; 10:00 or 10:30.

Q. Don't you remember the time they mentioned to you? A. No, sir.

Q. And you can't give us anything more definite than that? A. No.

Q. Did Mr. Petry disappear from you and Mr. Stender both? A. Yes, sir.

Q. You don't know what time the meeting got out? A. No, sir; I know when I came back at Lafayette Avenue the church was dark.

Q. Was Mr. Bell around? A. He would naturally be around.

Q. Was he around at the time when you came back? A. How do I know when I wasn't there?

Q. Did you know when he got back? A. No.

Q. Did you see him that night? A. No, sir.

Q. Did you see Mr. Pollitt that night at all? A. No; I learned that; I saw him after I went to Paterson; I stayed at his home that night. That was afterwards.

Q. How long had Mr. Petry come in—or rather gone in this path, cinder path, before anything happened? A. Only a minute or two.

Q. You were still in the car then? A. Yes, sir; still in the car.

Q. And the others also? A. Mr. Stender was with me at the time, but not Mr. Osborne.

Q. Where was Mr. Osborne? A. He was out in the street walking and he later joined us in the car in front of Mr. Garrison's home.

Q. And stayed there until when? A. Until we saw Mrs. Reeves come down.

Q. Where did she come from? A. Mrs. Reeves came from Diamond Bridge Avenue.

Q. You mean she came down from Diamond Bridge Avenue? A. Yes; she came down from Diamond Bridge Avenue.

Q. That would be coming south towards her home, would it not? A. Yes.

Q. And that is the first you saw her that night? A. No.

Q. I mean from the time you saw her in her home. A. No; as I was going up Lafayette Avenue with Mr. Stender I saw Mrs. Reeves cross obliquely to me across the street as close to me as that man (indicating) close to the machine. I was in the car and could have shaken hands with her out of the car.

Q. When she crossed the street, she came directly from her home, did she? A. Yes.

Q. After you parked the car, the first you saw her was not when she came down from Diamond Bridge Avenue, was it? A. Yes, it was when she came down from Diamond Bridge Avenue.

Q. And when you came out from Llewellyn Avenue you went up Lafayette Avenue and parked your car—you hadn't passed Mr. Petry, had you? A. Yes, sir.

Q. And Mrs. Reeves, one after the other? A. Yes, sir.

Q. After you saw Mr. Petry turn into the cinder path, how long was it after that you first saw Mrs. Reeves? A. Only a minute or two.

Q. Where did you see her? A. Crossing the street obliquely.

Q. Not coming down from Diamond Bridge Avenue then, was it? A. No, sir.

Q. Did she go directly into the church? A. She went directly into the cinder path that Mr. Petry had taken.

Q. Had she crossed the street opposite the path, the cinder path? A. No, obliquely from the house.

Q. How far up the cinder path did Mrs. Reeves

start to cross the street? A. Almost directly in front of the parsonage.

Q. When she went obliquely across the street, that would have been from the west side to the east side, is that correct? A. Yes; that's right.

Q. You live on the west side, or did live on the west side of Lafayette Avenue? A. Yes; I was confused at the time, that changed the position of the study. You asked if it was the east of the church but it is the west wall of the church.

Q. On the side of the church towards Diamond Bridge Avenue. A. Yes; I wanted to keep that straight so we would have no misunderstanding.

Q. So Mrs. Reeves came from the parsonage obliquely down to this cinder path, is that correct? A. Yes.

Q. Did she get on the sidewalk at the place where the cinder path was? A. Yes, there was a driveway there and she went up that driveway.

Q. She didn't get on the sidewalk until she came to the place where that cinder path runs along. A. No, she did not.

Q. How far above the church is your parsonage? A. Directly opposite the Episcopal Church; it was above my church with one house in between.

Q. Coming down from Diamond Bridge Avenue, is the Garrison house nearest to Diamond Bridge Avenue? A. Yes.

Q. How many houses between that and the Episcopal Church? A. They are on the opposite side of the street.

Q. Didn't you stop on the right side of the street, the same side as the church? A. No, sir: walked on the other side.

Q. When you came out from Llewellyn Avenue, you turned left. A. Yes.

Q. Did you look around? A. Yes, I looked around in the block.

Q. When did you look around? A. After I saw Mrs. Reeves enter the cinder path.

Q. You parked before that, did you not? A. I didn't say so.

Q. Had you come to a stop when you saw Mr. Petry going into the cinder path? A. No, we kept on going.

Q. Whereabouts were you when you saw Mr. Mr. Petry go into this cinder path? A. As far behind him as the back wall is (indicating)

Q. Behind him? A. Coming up Lafayette Avenue.

Q. Hadn't you passed him before he turned into the cinder path? A. I passed him as he was going in.

Q. Didn't you say that you looked through your back window and saw him go into the cinder path? A. I said as we passed him he was going into the cinder path.

Q. Just as you got passed him, he was going into the cinder path? A. Yes.

Q. And you went up how far? A. I went just past my home and turned around and parked in front of Mr. Garrison's home facing down.

Q. And was it then that you saw Mrs. Reeves cross the street? A. I saw her cross the street as we were going up.

Q. Your car was moving at the time, was it? A. Yes, sir, the car was moving.

Q. And she came out into the street and crossed it and your car was coming up the street and moving along; is that right? A. Yes, she crossed directly behind the car.

Q. How fast were you going at the time? A. Oh, very slowly.

Q. Now, after you turned around and parked, what then did you do? A. Waited.

Q. Until Mr. Petry had disappeared? A. Yes.

Q. And Mrs. Reeves had disappeared? A. Yes, sir.

Q. In the same direction? A. Yes.

Q. Along the cinder path towards the back of the church? A. Yes.

Q. And you and Mr. Stender and Mr. Osborne sat there and waited? A. Yes, sir.

Q. And waited for half an hour, did you; is that correct? A. Yes, sir.

Q. Did you time it? A. Well, it was more than half an hour.

Q. Well, how much more? A. It was between half an hour and forty-five minutes.

Q. Did you time it? A. I looked at my watch several times.

Q. And you are sure you are accurate as to the time, are you? A. Yes, being over half an hour.

Q. You never made any effort to go in back of the church at any time, did you? A. Yes; we went back afterwards.

Q. I mean before. A. No, sir; you couldn't; it would not be possible.

Q. Then at the expiration of 35 or 40 minutes, you were still pointed south. A. Yes, sir.

Q. And looking in the direction of the cinder path? A. Yes.

Q. And you saw Mrs. Reeves coming from in back of you; is that correct? A. Yes.

Q. Where was Mrs. Reeves when you saw her? A. Almost opposite the car before I got sight of her.

Q. On the same side of your parsonage? A. Yes, within a couple of feet of it.

Q. Opposite the car? A. Alongside of me.

Q. And that would be on the westerly side, the same side as your car. A. Yes.

Q. And that was the first you saw of Mrs. Reeves since she disappeared along the cinder path, was it? A. Yes, sir.

Q. How far did Mrs. Reeves go after she passed your car? A. She had to pass two houses and then turn into her own home.

Q. Did you go into the house? A. I did not.

Q. Where did you go? A. I went to Paterson and then I stayed with Mr. Pollitt that night and did not return until the next morning.

Q. Did you make any explanation to Mrs. Reeves as to why you stayed with Mr. Pollitt? A. No, sir.

Q. What time the next day did you see Mrs. Reeves? A. About 9 o'clock in the morning.

Q. Where? A. In her home.

Q. Did you make any explanation as to why you had been away? A. Only that I had been away; I was at my parents' home in Asbury Park and I came up a day sooner than she expected me.

Q. You had told her you were going to your parents' home. A. Yes, sir.

Q. And you had explained you were going to be away until Wednesday morning. A. I presume so.

Q. And instead of that you came home Tuesday night? A. Yes.

Q. The night before. A. Yes, sir.

Q. And watched as you have explained to us? A. Yes.

Q. And on Wednesday when you went to your home, did you make any explanation to Mrs. Reeves? A. There was nothing to explain.

Q. Did you? A. No, I did not.

Q. Did you say anything about what you had seen or what had occurred? A. No, sir.

Q. You still loved her. A. No, sir.

Q. Well, you loved her up to that time. A. Yes, sir.

Q. Loved her up to the night before, that Tuesday night. A. Yes.

Q. And that Tuesday night your love for her ceased, is that right? A. Absolutely.

Q. Had you had a great love for her before that? A. I would say so.

Q. You had never at any time wanted to put her away? A. No, sir.

Q. Never said that, anything of that kind? A. No.

Q. Do you remember an occasion when some member of the Petry family died from a cancer? A. No, sir.

Q. They were members of your parish, weren't they? A. No, sir.

Q. I am mistaken about that; do you remember Mrs. Petry? A. Yes, I remember Mrs. Petry.

Q. Do you remember her mother being sick? A. I remember her telling me about her mother being sick, but I believe she died before I came to the community.

Q. Died from a cancer so far as you were informed? A. I don't know.

Q. Were you informed about it? A. It is only hearsay on my part.

Q. I am asking you did you hear about it, or

were you informed about it? A. I don't recollect if she said cancer or what.

Q. And at that time, did you tell Mrs. Petry that you thought Mrs. Reeves had a cancer? A. I asked her if she thought Mrs. Reeves had a cancer.

Q. You do remember this conversation about that matter. A. Yes.

Q. And the conversation about Mrs. Reeves having a cancer; remember that conversation? A. Yes.

Q. Do you remember at that time saying that you would have to leave her because of her condition? A. No, I don't remember that.

Q. You don't remember that; you don't remember saying that you would have to leave her because of her condition. A. No.

Q. Did you make any remark at that time about separating from her? A. No.

Q. Who was present when you had this conversation with Mrs. Petry, anyone? A. No, sir.

Q. How long before May, 1928, was it? A. I don't know; several years I imagine.

Q. Do you think Mrs. Reeves had a cancer A. I did.

Q. Did you love her at that time? A. Why, of course.

Q. On another occasion, do you remember when you had a talk with Mrs. Petry and told her that your wife used drugs? A. No, I do not.

Q. In any doubt about that? A. Yes, I am.

Q. Some doubt? A. Yes.

Q. Did you or not say anything to Mrs. Petry about your wife, Mrs. Reeves, using drugs? A. I don't recollect anything direct.

Q. Well, do you remember anything indirect? A. Yes.

Q. When? A. I remember my suspicions were aroused on that matter.

Q. And you spoke to Mrs. Petry about it, did you not? A. I don't recollect that.

Q. Did you speak to anybody else about it? A. Not until after this case.

Q. Do you remember telling Mrs. Petry that your wife used drugs? A. I don't remember telling anyone that.

Q. And that you would have to separate yourself from her? A. No, I never said anything like that.

Q. When was it you had your suspicion that your wife used drugs; when in point of time? A. About 1918.

Q. And did you accuse her of using drugs at that time? A. I asked her if she did.

Q. Did she deny it? A. Certainly.

Q. And that ended that incident, did it? A. Yes.

Q. And yet you don't know whether or not you ever talked to anyone else about it. A. No, I do not.

Q. You didn't think she used drugs after she told you she did not, did you? A. I don't know.

Q. Well, what did you think about it? A. I had often caught her lying.

Q. Of course, you never lied to her; never. A. I don't recall it.

Q. Not that you recall. A. No.

Q. Now, you haven't answered yet what you thought about her using drugs, did you think she did or did not use drugs?

Mr. Moore: Objected to.

The Court: I'll allow it.

A. I thought she did sometimes; my suspicions were aroused.

Q. Even after she told you she didn't? A. Yes.

Q. What made you think that? A. Because of her actions at times.

Q. Anything else? A. No, sir; yes.

Q. What? A. Her intimacy with the druggist.

Q. You concluded that she was because she was intimate with the druggist? A. Yes, possibly.

Q. After this, when you were aware of her acquaintance with someone who handled drugs, did you continue to believe that she used drugs? A. I feared it at times.

Q. And that fear or suspicion on your part continued right up to the time you separated from her, did it? A. Yes.

Q. You feared that because of her actions? A. Yes.

Q. Did you ever adopt any steps to ascertain positively if she did or not? A. I found upon discussing it with my physician, Doctor Denniger, of New York City that there was no way he could tell unless she took tests, which she refused to take.

Q. And that is all you did about it? A. That is all that could be done.

Q. Do you recall also mentioning to Mrs. Petry at one time that at the time of the death of your wife's father Mrs. Reeves had carried on so that you thought she was crazy? A. I don't remember stating that.

Q. Had you thought she was crazy at that time? A. I was not in connection in any way, shape or form with my wife and therefore I would not know.

Q. Well, did you think from what you knew or learned that she was crazy at that time? A. I didn't think anything about it.

Q. That was before your marriage, was it? A. Yes.

Q. Do you remember saying to Mrs. Petry that your wife had been confined to an institution? A. I did not.

Q. Do you deny that you said that? A. I deny that I ever recollect saying that.

Q. Do you deny it? A. Yes.

Q. Do you deny that you ever spoke to Mrs. Petry about your wife using drugs? A. No, I will not deny that.

Q. As a matter of fact, you knew your wife had never been confined to any institution; you knew that, didn't you? A. No, I don't know it.

Q. You never knew of anything to confirm that in your mind, did you? A. No, sir.

Q. You would not now say that is true, would you? A. No, sir.

Q. Have you any suspicion of that? A. I have heard rumors.

Q. You heard rumors that she was confined in some institution? A. Yes.

Q. When did you hear rumors that your wife had been confined in any institution? A. I heard them at different times, a long time ago.

Q. From whom did you hear such rumors? A. From people around Asbury Park.

Q. From whom; give us a single name. A. Mrs. Margaret A. C. Hess.

Q. When? A. A couple of years ago.

Q. After your marriage? A. Yes.

Q. And from whom else? A. From Miss Harrington of Hunter College.

Q. When did you hear that from her? A. Since this case broke.

Q. When? A. About February of this last year.

Q. From whom else? A. I don't recall.

Q. Then, right before this case broke, you had heard about this? A. Yes.

Q. You heard from somebody that your wife had been confined in an institution, is that correct? A. Rumors to that effect.

Q. Well, did you believe that to be true? A. I didn't know; I tried to find out and was unable to.

Q. You tried to find that out, did you? A. Yes, sir.

Q. Did you tell Mrs. Petry that you had understood your wife had been confined to an institution after the death of her father and that you were investigating about it and if you found out that was true, you were going to leave her? A. Never said that.

Q. Anything to that effect? A. I don't remember saying anything to that effect.

By the Court:

Q. Don't you remember such a serious conversation, whether you would leave your wife for that cause? A. I don't remember ever discussing leaving my wife at any time.

By Mr. Ward:

Q. After this May 10th, from then until June, I think you said June 10th, you never discussed this June 10th incident with your wife? A. No, sir.

Q. Or with Mr. Petry? A. No, sir.

Q. Or with anyone else? A. No, sir.

Q. Except Mr. Osborne, Mr. Stender and your family? A. No, sir.

Q. And that is all? A. That is all.

Q. You, however, found this blanket you spoke of on the 11th of May. A. Yes.

Q. And found it as you said, with little pieces of wood on? A. Yes.

Q. Did you ask Mrs. Reeves for any explanation of that? A. No, sir.

Q. Why not? A. Why should I?

Q. I am asking you? A. Why; because I wanted to watch a little longer and see if my suspicions were confirmed.

Q. Your suspicions had not turned into a certainty at that time? A. They had practically.

Q. Not a complete certainty, according to you. A. I said practically a certainty.

Q. But not a complete certainty; that is right, is it not? A. Almost a complete certainty.

Q. But you wanted to be positive; is that correct? A. I wanted to be positive.

Q. You wanted to be positive. A. Yes, sir.

Q. And that is why you did not say anything to her because you wanted to be positive. A. Yes.

Q. And you were not positive at that time, were you? A. Not absolutely.

Q. And yet you did not say a word to save your wife, or protect her. A. Yes, later I did.

Q. But at that time, you didn't. A. No.

Q. Your children were with her? A. Living with her.

Q. And you continued living in the home? A. Yes.

Q. And preaching at the church? A. Yes.

Q. And you continued to have social intercourse with Mr. Petry? A. Yes, sir.

Q. Without saying a word. A. Yes.

Q. And your reason for all that was because you wanted to get positive proof, is that correct? A. Yes, sir.

Q. From then on until May 25th—was it the 29th or 25th? A. I think you will find it was the 29th.

Q. You said nothing. A. No, sir.

Q. And you said nothing to your wife. A. No, sir.

Q. Nor to Mr. Petry. A. No, sir.

Q. And you continued to act as pastor in the church. A. Yes, sir.

Q. And on the 29th—what day of the week was that? A. I don't know.

Q. You don't remember what day of the week it was? A. I think it was a Tuesday, but I do not know positively.

Q. You are sure it was the 29th. A. Yes, sir; sure it was the 29th.

Q. How do you fix that day in your mind? A. Because the day before Decoration Day I left home to go to the shore.

Q. It was the day before Decoration Day, is that right? A. Yes.

Q. And you had been away at that time? A. Yes, sir.

Q. For how long? A. I was one night in Asbury Park and I came home.

Q. You told your wife you would be away over the 29th, did you? A. I told her I might be away over the 29th.

Q. You came back at what time? A. Some time during the day, I don't remember just what time.

Q. You didn't see your wife. A. No, sir.

Q. You didn't come home. A. No.

Q. You didn't go around the place or to the church. A. I did not.

Q. Where were you? A. I was in Paterson.

Q. What time was it when you went up to your home? A. About 9 o'clock at night.

Q. Can you fix that accurately? A. Yes, I think about 9 o'clock.

Q. Sure of that, are you? A. Yes.

Q. When you went to your home at Hawthorne, where did you go? A. Over to the church building first.

Q. Anybody in there? A. Only Mr. Pollitt and Mr. Bell.

Q. Had you an appointment with them there? A. I had.

Q. That is the same Mr. Pollitt that was in the stock transaction, is it? A. Yes, sir.

Q. And the same Mr. Bell, the janitor of your church? A. The same Mr. Bell, the sexton of the church.

Q. You saw them before you went to your home? A. Certainly.

Q. You didn't go to your home before you saw Mr. Pollitt and Mr. Bell. A. No, sir.

Q. Did you take them with you? A. I didn't go to my home with them.

Q. I understood you to say you passed the home. A. After we saw Mr. Petry go in from the church.

Q. Whereabouts were you in the church? A. In the front part of the church.

Q. Had you passed your home before that? A. No; I came in the back way.

Q. And aside from making the appointment with Mr. Bell and Mr. Pollitt, you hadn't had any conversation with Mr. Pollitt and Mr. Bell from the 10th of May up until the 29th of May; is that

right? A. I don't recollect; I suppose we may have had a conversation.

Q. Except to make this appointment. A. Yes, sir.

Q. Nothing that they told you or talked to you about between those times made any impression; between those times? A. I couldn't say that.

Q. Nothing that you recollect. A. No, I do not recollect any specific instance; we may have had conversations.

Q. Were there any lights in your church? A. There were not.

Q. Did you observe your home before you saw Mr. Petry going in? A. Yes.

Q. From the church? A. Yes; it wasn't dark yet; daylight saving. ?

Q. At 9 o'clock. A. Yes.

Q. It was not yet dark? A. No, it was deep dusk, but enough to see.

Q. When you first observed your home, were your curtains down at that time? A. You couldn't see that from the church.

Q. How long after you got to the church to make your observation was it that you saw Mr. Petry? A. Oh, just a few minues, 10 or 15.

Q. Where did you first see Mr. Petry? A. First saw him as he turned into my walk.

Q. So that as he turned in, you saw him and recognized him? A. Absolutely.

Q. Were there any lights in your home at that time? A. You couldn't tell if it was lighted or not across the street, because of the light conditions outside.

Q. Didn't you observe the condition of your home? A. Yes.

Q. Did you observe if the shades were down? A. I said you couldn't tell.

Q. At the time Mr. Petry went into your home, at that time or before, had you observed whether or not the shades were down? A. I said you couldn't see from the church if they were down or not.

Q. And Mr. Petry went right in the front door, did he, the front door of your home? A. Yes.

Q. Went right up the walk into the front door. A. Absolutely.

Q. See him enter? A. Yes.

Q. Did you see who came to the door to let him in? A. No, sir.

Q. Then how long did you wait there? A. We went right out the front door of the church.

Q. Where had you been in the church? A. In the front part of the church.

Q. Did I understand you to say you went right out and went down town? A. You didn't understand me to say anything of the kind.

Q. I am asking you. A. No, you are mistaken.

Q. I was asking you whereabouts in the church you and Mr. Pollitt and Mr. Bell had been? A. In the front part of the church.

Q. What part of the front part? A. On the side aisle.

Q. Do you mean inside of the church? A. Yes.

Q. And in the church proper? A. Yes, in the church proper.

Q. Not in the vestibule? A. No, not in the vestibule.

Q. How many doors are there leading into the main part of the church? A. There is the door by which the congregation enters in the front and the door from the choir loft into the church.

Q. As you come up to the walk leading to that church, is the vestibule. A. Yes, sir.

Q. There is a door on that. A. Yes.

Q. How large is that vestibule? A. Only eight or ten feet square.

Q. Then, between the vestibule and the church proper is another door, is that right? A. Yes, sir.

Q. You go up one step to enter? A. Yes, one step.

Q. And then there is the church proper with the aisles and the pews? A. Yes, sir.

Q. Now, whereabouts were you and Mr. Pollitt and Mr. Bell in that church? A. We were on the side aisle towards my home.

Q. When you say the side aisle, you mean the aisle running at right angles to Lafayette Avenue, do you? A. Yes.

Q. The side aisle nearest your home would be the northerly side or the one nearest Diamond Bridge Avenue? A. Yes.

Q. You were there all the time until after Mr. Petry went into your home? A. Yes.

Q. And what were you doing? A. Looking through the window.

Q. What was your position in that aisle—how many pews were you from the back? A. Oh, several.

Q. Can you put it any more definitely than that? A. No.

Q. Through what window were you looking? A. The window that would correspond to the rear window of this room.

Q. That would be the window nearest Lafayette Avenue on the northerly side of the church, would it not? A. Yes.

Q. How far were you away from that window?

A. Right by the window, the aisle running along the wall.

Q. Standing next to the window, were you? A. Yes.

Q. And the church was in darkness? A. Yes.

Q. When you saw Mr. Petry go into the house, did you go up to the house? A. No.

Q. What did you do? A. We went out, Mr. Bell and Mr. Pollitt walked up Lafayette Avenue and I went around the back of the house to see if he should come out that way.

Q. What kind of a night was it, cold or warm? A. A warm night.

Q. Was your church open? A. Yes, the windows were; you couldn't see out of them if they were not, they are stained glass.

Q. This particular window through which you looked, how does that open? A. It opens on an angle, pushes out with an iron.

Q. You mean like a hanging window? A. Yes.

Q. Fastened at the top and opens in the back? A. No, fastened at the center and opens at top and bottom, swings on pivot.

Q. How long did you remain out in back of your home? A. About half an hour.

Q. Did you make any effort to go in? A. No, sir.

Q. And when you went up was the light lighted in your home? A. Yes.

Q. Whereabouts? A. Downstairs.

Q. Upstairs too? A. No, sir.

Q. And about what time was it after 9 o'clock? A. A quarter after nine, I would say.

Q. Your children were there so far as you knew? A. Yes, sir; they were there.

Q. How long did you remain in the back of the house? A. About half an hour.

Q. And you came out in front then, did you? A. I came out in front as I saw Mr. Petry come by the corner of my home.

Q. What part of your home? A. The front door.

Q. Where were you when he came out? A. I was at the back of the house.

Q. Near what part of the house, near the back door? A. Yes.

Q. How close to the back door? A. I was between the house and Orr's next door.

Q. How close to the back door were you? A. Within about 15 feet, I should say.

Q. Did you actually see him come out of the front door? A. Not actually come out of the front door.

Q. Where was he when you saw him? A. He came past the corner of the house.

Q. And that was a quarter of ten, was it? A. Approximately.

Q. What did you do then? A. I took Mr. Pollitt home in Paterson and came back at once to my home in Hawthorne.

Q. Did you accost Mr. Petry when he came out? A. No, sir.

Q. Did you ask any explanation from your wife? A. I didn't mention the situation to her at all.

Q. Were your suspicions confirmed then? A. They were.

Q. Were you positive then? A. I felt so.

Q. When you arrived back at your home after having taken Mr. Pollitt home, what time was it then? A. It must have been half-past ten or eleven.

Q. And then it was your wife came down in the bath robe? A. She was down.

Q. And it was then you asked her about being treated in that manner? A. Yes.

Q. Had she ever been downstairs in a bath robe before that? A. Very seldom.

Q. What did you say? A. I asked her what she meant by having the shades down, it was unusual for that, and why she was down there clothed in a bathrobe, and she said she went down to turn off the hot water heater, that she had taken a bath. I went down to see and it was cold.

Q. Did you do that openly or did you sneak down? A. I didn't have to sneak down; I walked out openly.

Q. And that was all you said to her, was it? A. Yes.

Q. And all she said to you? A. Yes.

Q. You made no mention then to her about what you had seen? A. No, I did not.

Q. And it was a very unusual occurrence to see your shades down? A. Yes, sir.

Q. So much so that you were impressed about it and you mentioned it to her? A. Yes, sir.

Q. Between then and June 10th, you never saw anything more, did you? A. No, sir.

Q. You never said a word to her, did you? A. Yes, I did.

Q. When? A. Over at the study of my church.

Q. When? A. The Sunday before I left.

Q. That would have been what date? A. The 3d of June, Communion Sunday.

Q. That was Communion Sunday, was it? A. Yes, sir.

Q. Did you still believe in the sanctity of your church? A. Yes, sir.

Q. And you administered communion that Sunday? A. Yes.

Q. And you administered communion to Mr. Petry that Sunday, did you not? A. Yes.

Q. You, yourself, did that, didn't you? A. Yes.

Q. You, yourself, did as a minister of God? A. Yes, I did.

Q. And at the administering of communion there must be a pledge in your church, must there not? A. Yes.

Q. And that pledge is whether or not anybody knows of any reason why the person or persons who are taking communion cannot take it, is that true? A. Yes.

Q. And you knew these things? A. Yes.

Q. And yet as a minister of the church you administered communion to this man, Petry, and permitted him to take it, did you? A. Yes, sir.

Q. And at that time, were you contemplating divorce? A. I think I was.

Q. Had you seen a counsel? A. I don't know.

Q. When did you first see any lawyer about your case? A. I don't recollect the exact time.

Q. How long before communion Sunday to which you have referred? A. I don't think I did before that Communion Sunday.

Q. That Communion Sunday was what date? A. The 3rd of June.

Q. You say you said something to your wife that day? A. Yes, I did.

Q. Before communion? A. No, after.

Q. Did you administer communion to her that Sunday? A. No, sir.

Q. You didn't? A. No, Mr. Petry did.

Q. And that was because of the custom of the church, because you were the husband? A. No,

the elder administers the communion to the congregation and the minister simply administers it to the elders.

Q. And you stood by and watched your wife take communion? A. Yes.

Q. And you raised no objection in your church? A. No.

Q. And yet, you believed at that time that you were representing God?

Mr. Moore: Objected to.

The Court: Objection sustained.

Q. Do you know if it was after or before communion you spoke to your wife? A. It was after communion.

Q. And where was it you spoke to her? A. In the church study.

Q. What did you say? A. I pled with her before God to give up with this man and play fair with me.

Q. What did she say? A. She told me what I repeated before, to mind my own business and if I interfered with her she would ruin me for the truth meant nothing to her, that the pople would always take a woman's word.

Q. And you were fearful that might ruin you, were you? A. No, I wouldn't say that.

Q. Had you been fearful the first time when she said that to you? A. No.

Q. And that was your whole conversation at that time, was it? A. Yes.

Q. Then you went home and lived in the household there? A. Yes.

Q. Until the 10th of June? A. Yes.

Q. That's right? A. Yes.

Q. And on the 10th of June you left? A. Yes.

Q. And when was it with reference to the 10th of June you commenced proceedings? A. I told you I do not recollect.

Q. You recollect surely how long after you left that you commenced them? A. I don't remember if it was before the 3rd or after the 3rd, but it was before the 10th.

Q. How long before the 10th? A. I don't remember.

Q. It may have been before the 3rd? A. It may have been before the 3rd.

Q. Right up to the time you left, June 10th, your manner of living with your wife was just the same as it had been, was it not? A. Yes, sir.

Q. The routine of your household went on in exactly the same way? A. Yes, sir.

Q. Oh, one thing I omitted. When after the 10th of May—on the 11th you found this blanket? A. Yes, sir.

Q. Had you recognized the blanket the night before? A. Yes.

Q. In the dark? A. Yes.

Q. As she passed by? A. It wasn't dark, it was a very clear night—an arc light there.

Q. It was about 10 o'clock? A. Yes, but there is an arc light there overhead, as she passed in back of me behind the car.

Q. Did you make any effort to conceal yourself at that time? A. You can't see a person in a car at night.

Q. Did you make any effort to conceal yourself at that time? A. Well, I kept as much out of sight there as possible; yes.

Q. And the next day you say you went over to the church? A. Yes.

Q. That would be the eleventh, would it? A. Yes.

Q. And you were accompanied by whom? A. Mr. Stender, Mr. Osborne and Mr. Pollitt.

Q. Did you go directly to the place where you found these imprints upon the grass? A. We went in back of the church and examined the ground.

Q. Did you go directly to the place where you saw imprints on the ground—saw where the blanket had been laid down? A. We went and examined the ground.

Q. Did you go directly to this place? A. What do you mean?

Q. When you walked around, did you go directly to this place? A. I would say so, yes.

Q. Where was that place? A. Near Van Blarcom Avenue, to the left as you go in.

Q. How far from the church? A. About 25 feet.

Q. That would be back from the church towards Washington Avenue, would it not? A. Yes, sir.

Q. And on which part of the ground was it, towards Diamond Bridge Avenue or the other side? A. Towards Diamond Bridge Avenue.

Q. There is a fence there, isn't there? A. Yes, a board fence between the property.

Q. How far from the fence was it? A. About 10 feet.

Q. These notes that you got, when did you get them? A. I think that was Communion Sunday night, the 3rd of June.

Q. Was that the first? A. No, it was the Sunday prior to that.

Q. Was that the first that you knew anything about any notes? A. No, I heard that for some time.

Q. You had heard about it for some time? A. Yes; I had a number of other notes.

Q. Still have them somewhere around? A. I don't know as I have.

Q. Where did you get them? A. Found them in the pews.

Q. When? A. Different Sunday nights.

Q. How long before June 3rd? A. On indeterminate times after March 20th.

Q. It was sometime after March 20th? A. Yes.

Q. And that is the first you heard about any notes? A. The first I paid any attention to it.

Q. The first you paid any attention to it. A. I had heard comments on notes.

Q. How many notes did you get altogether? A. I don't know exactly—three or four.

Q. The three or four that have been introduced in evidence here? A. Besides that.

Q. Where are the others? A. I don't know.

Q. What did you do with them? A. Destroyed some of them, they are immaterial.

Q. Have you any other notes in your possession or in the possession of your counsel or any other friend? A. I don't know if my counsel has any notes; he has seen them.

Q. You didn't want to give that impression a moment ago that you destroyed all of them except those that were introduced. A. No; I did not want to create any such impression.

Q. There were a certain number of notes that you got? A. Yes.

Q. Some of which were produced today? A. Yes.

Q. And some of which you destroyed? A. Yes.

Q. And some of which you don't know where they are? A. Right over there on the Major's table.

Q. Then you do know where they are? A. I just discovered them myself.

Q. Do you know how long they have been laying there? A. No, sir.

Q. Was there anything in any of those notes that you got of a nature to arouse your suspicion? A. Certainly, in those that I presented in evidence.

Q. Any others? A. No, I don't think so; there is one other that mentioned kissing in a rather peculiar way.

Q. When did you find that? A. I couldn't tell you the exact time.

Q. Did anyone give it to you? A. No, I found it myself.

Q. Whereabouts? A. In the choir racks of the church.

Q. Is that the only note aside from these introduced in evidence that mention anything of that kind? A. I think it is.

Q. Don't you know? A. Well, yes.

Q. Can you give us any more definite idea as to when it was you first saw that note? A. No, I cannot.

Q. It didn't make any impression upon your mind? A. Which?

Q. The one to which I am referring about kissing. A. Yes, it did make an impression on my mind.

Q. Well, with that thought, can't you tell us about when you got that? A. It was several weeks prior to the other notes.

Q. How long before June 3rd—about three weeks do you think? A. Oh, three or four weeks.

Q. Did you ever mention that to your wife? A. No, I did not.

Q. And that was before May 10th and 11th, was it not? A. I don't know.

Q. Well, three or four weeks would be before May 11th, would it not? A. Somewhat, yes.

Q. Well, what you say as about that? A. I don't know anything of the kind; I have said I do not know.

Q. Mr. Reeves, you say this was important on the 10th? A. Yes.

Q. It surely was important when you say you got that note about the kissing; don't you know if that note was found by you before May 10th or not? A. I do not.

Redirect-examination by Mr. Moore:

Q. Dr. Reeves, the petition in your case was signed on June 6th, 1928, was it not? A. I believe so.

Q. And served June 11th. A. Yes, sir.

Q. This incident where you had the wife in your study, I understood you to say was on what day? A. June 3rd.

Q. Will you just describe with more particularity your position when you talked to your wife? A. Yes; I knelt down in front of her and pled with her in the name of God to stop this thing and I told her I would forgive her and give her every chance if she only would.

Q. That was the very day on which you had served communion, was it? A. Yes, sir.

Q. And had you contemplated pleading with her to cease her relations with this man, Petry, at the time you had communion? A. I had.

Q. As regards these notes—I show you a note which question has been asked about on cross-ex-

amination, do you recognize having seen that note before? A. Yes, sir.

Q. Do you remember about when? A. No, but it was sometime prior to this—several weeks.

Q. Where did you get that note? A. Found it in the choir.

Q. In whose handwriting is that? A. Part is my wife's and part is Mr. Petry's.

Q. Is Mr. Petry's name on there in print? A. Yes, it is. It is on one of his letterheads, "Charles D. Petry, Real Estate, 32 Washington Avenue, Hawthorne."

Mr. Moore: I offer that note in evidence. (Note referred to is received and marked Exhibit P-6).

Recross-examination by Mr. Ward:

Q. This time when you got down on your knees and pleaded with your wife to change, you did not love her, did you? A. What do you mean? I had lost my respect and love for her.

Q. You were not very sincere in imploring her, were you? A. I sure was.

Q. Even though you had lost your respect and love for her? A. Yes, sir.

Q. And that was the only effort you ever made, was it not? A. It was enough.

Q. I haven't asked you that—was it? A. Yes, sir.

Q. She simply said it was none of your business, and that is why you made no further effort; that is so, is it? A. Yes, sir.

By Mr. Moore:

Q. Did anybody witness this occasion when you

pleaded with your wife, to your knowledge? A. Yes, sir.

Q. Who? A. Mr. Bell.

Q. Did you know he was present at the time? A. No, sir.

Q. He told you afterwards, did he? A. Yes.

MINNIE FLORENCE FELDMAN, being duly sworn according to law, upon her oath, testifies as follows:

Direct-examination by Mr. Moore:

Q. Where do you reside, Mrs. Feldman? A. Interlochen; 408 Bushmere Avenue.

Q. New Jersey? A. Yes.

Q. Are you acquainted with the petitioner and defendant in this case? A. Yes, sir.

Q. How long have you known them? A. All my life.

Q. Do you recollect visiting at the home of the petitioner on September 9, 1927? A. Yes, sir.

Q. Will you just state what took place on that particular occasion? A. This particular night I remained with the children while Mrs. Reeves went over to choir practice; Dr. Reeves was called out on a sick call. I stayed home and then about 9:30 Mrs. Reeves came in with a strange man—passed through the hall and did not come in where I was sitting and did not introduce me to him and merely stated that they were going into the cellar to fix the radio.

Q. She did not introduce you to the man. A. No; she did not introduce me. I did not know who it was at the time.

Q. It was not the petitioner, Dr. Reeves, was it? A. No, sir.

By the Court:

Q. You had never seen him before? A. No, sir.

By Mr. Moore:

Q. What did she say about the radio? A. She said, my friend is going to fix the radio for me, and with that they went down the cellar for, I suppose, about twenty minutes to a half an hour, and while there, there were footsteps heard on the front porch and Dr. Reeves came in and they both came upstairs out of the cellar very much excited and terribly flushed and they were in the hall as Dr. Reeves came in.

Q. Describe their appearance. A. They were terribly excited, that is all; their faces were quite flushed and they were excited.

Q. How was Mrs. Reeves? A. She was terribly excited and her face was flushed.

Q. What took place after that, after they had been upstairs? A. Mrs. Reeves just spoke a few words to Dr. Reeves; he said he had a headache and was in a hurry to get out and Mr. Reeves said he would like me to meet an old friend of his and he brought him in and introduced him as Mr. Petry.

Q. This was September 9, 1927, was it? A. Yes.

Q. A year before these alleged occurrences you have heard about this morning? A. Yes.

Q. How long did Mr. Petry stay? A. Only long enough to acknowledge the introduction and on going out he insisted that he was in a hurry to get out.

Q. Do you know where the radio and connections

were that night? A. There was nothing in the cellar; everything was in the room where I was sitting.

Q. Would you recognize Mr. Petry if you saw him today? A. Yes, I would.

Q. Is he here?

The Court: Is Mr. Petry in the room? If he is, stand up.

(Mr. Petry was not present).

Q. There was no radio apparatus in the cellar? A. No, even the storage batteries were in the room where I was sitting.

Q. They told you they were going to fix it, did they? A. Yes, in the cellar, but I didn't hear anything while they were there; everything was quiet, no talking or walking around.

Q. Any light in the cellar? A. I couldn't say.

Q. Any light connections in the cellar? A. Oh, yes, there are lighting connections.

Q. Do you know where the children were at that time? A. The children were all asleep.

Cross-examination by Mr. Ward:

Q. Mrs. Feldman, you have known Mr. Reeves for how long? A. All my life.

Q. Very friendly with him? A. Yes, sir.

Q. You live in Asbury Park? A. Yes.

Q. A neighbor of his? A. No.

Q. Your husband a friend of his also? A. Yes, sir.

Q. How frequently did you visit him in Hawthorne? A. Only once.

Q. You knew Mrs. Reeves? A. Yes.

Q. You knew her very well? A. No, I met her two years previous.

Q. You were very friendly with her, however? A. At that time, yes.

Q. She always treated you nicely. A. Yes, nicely.

Q. Well? A. Yes.

Q. And you had a high regard for her? A. I did.

Q. When she came in this night in September, what time was it? A. About 9:30.

Q. How long after she came in was it that Doctor Reeves came in? A. About half an hour.

Q. You were reading at the time? A. Yes, sir.

Q. How long had you been in the Reeves' home? A. I arrived that afternoon about 5 o'clock.

Q. You had examined the radio, had you? A. No.

Q. You hadn't? A. No.

Q. Did you examine it afterwards? A. No.

Q. Never examined it? A. No, why should I?

Q. I don't know. Were you familiar with the different parts of the radio? A. No.

Q. Were you familiar with where the different parts were at that time? A. No; I knew they were there; I could see them.

Q. Did you know anything about the wiring of the radio? A. No.

Q. Or about the ground wire? A. No.

Q. Did you know if there was a ground wire? A. I suppose there was; it is necessary for most of them.

Q. Yet, when Mrs. Reeves came in your suspicions were aroused? A. Not at that time.

Q. When you say that the radio and none of its parts were in the cellar, do you know that to be a fact? A. I do.

Q. How do you know that? A. Because I was down there the next day; my husband can confirm that.

Q. Looking for what you might see? A. No.

Q. Looking for the parts of the radio? A. No.

Q. Did you make any investigation at all? A. No.

Q. Just strolling in the cellar with your husband, eh? A. No; I had my baby with me at the time and I was taking care of the wash.

Q. So that you were washing, not looking for radio parts. A. No.

Q. Just naturally glancing around for radio parts? A. No, sir.

Q. You must have looked. A. No, I did not.

Q. You found out without looking, is that it? A. No.

Q. Well, did you look? A. When I spoke to my husband later on, my husband told me there were no radio parts in the cellar to fix.

Q. And that is the reason—that is the reason you say so because your husband told you? A. Yes, sir.

Q. What time was it that Mrs. Reeves went out that night? A. Before 9 o'clock—went over to choir rehearsal.

Q. And she had been gone about how long before she came back? A. She came back at 9:30.

Q. And your husband, was he there? A. No, sir.

Q. When did he come? A. The next day.

Q. How long did you stay there? A. week.

Q. Did I understand you to say that you made no investigation yourself? A. No, sir.

Q. You were not sufficiently interested? A. No.

Q. So it did not seem sufficiently strange for you to investigate the next day to find out if there were

radio parts down there in the cellar or not? A. I was a disinterested party.

Q. When did you tell Mr. Reeves this? A. Several months afterwards—when I understood he was going to institute divorce proceedings.

Q. That would be several months after September, 1927? A. Yes.

Q. Whereabouts was it that you told him? A. At his parents' home, either there or at my own home.

Q. While he was at Asbury Park? A. Yes, sir.

Q. Now, this was in September. A. Yes.

Q. Several months after would have been when? A. I would rather imagine it was in April, the following April.

Q. That is when you told him, is it? A. Yes.

Q. And that was because you understood he was going to institute divorce proceedings, was it? A. No, sir.

Q. Did you not say that just a moment ago.

Mr. Moore: Objected to.

The Court: I'll allow it.

Q. Mrs. Feldman, did you not state just a few moments ago it was a few months after September when you heard he was going to institute divorce proceedings that you told him about that? A. Yes, sir.

Q. Now, is that the truth? A. That is the truth, yes, sir.

Redirect-examination by Mr. Moore:

Q. Mrs. Feldman, you said on direct-examination that the batteries and radio apparatus are in the room where you were sitting. A. Yes, sir; all in

the room where I was. Everything was right in the room there. If you would like me to tell you more about that story, I will.

(At this time a recess was taken until 2 o'clock).

Continuing at 2 o'clock—Afternoon Session.

J. ELLSWORTH FELDMAN, being duly sworn according to law, upon his oath, testifies as follows:

Direct-examination by Mr. Moore:

Q. Mr. Feldman, are you the husband of Mrs. Feldman, who testified this morning? A. Yes, sir.

Q. Do you recollect anything that took place on September 9, 1927? A. Only from what I heard from my wife; I did not arrive in Hawthorne until the 10th.

Q. The next morning? A. Yes.

Q. Tell us what took place at that time? A. It was three weeks after we had lived in Hawthorne, being the guests of Dr. and Mrs. Reeves, that my wife told me—

Mr. Ward: I object to anything that Mrs. Feldman may have told him.

By the Court:

Q. You examined the cellar of that home, did you? A. Yes, sir; I know there was nothing whatever—

The Court: Objection sustained.

By Mr. Moore:

Q. Are you acquainted with a radio apparatus? A. Yes, sir.

Q. Any one particular radio apparatus? A. Yes, several.

By the Court:

Q. Did you see the radio apparatus in the Reeves' home? A. Yes, sir.

Q. Where was it? A. It was in the living room.

Q. Had you an occasion to go downstairs in the house—did you go down the cellar? A. Yes, sir.

By Mr. Moore:

Q. Did you make an examination of the cellar? A. No, sir.

Q. See any part of the radio apparatus in the cellar? A. No, sir; we took one battery down to the cellar to charge it.

Q. Can you state where all the radio apparatus was? A. All in the dining-room on a table.

Cross-examination by Mr. Ward:

No questions.

EDWARD J. STENDER, being duly sworn, according to law, upon his oath, testifies as follows:

Direct-examination by Mr. Moore:

Q. Mr. Stender, where do you reside? A. 72 Oakland Street, Englewood, New Jersey.

Q. In what profession are you engaged? A. Investigator.

Q. Do you recollect being employed on a case of

Reeves vs. Reeves? A. I do.

Q. Who employed you? A. I worked for Mr. Osborne; I am his employee.

Q. And Mr. Osborne is head of the Osborne Detective Agency, is he? A. Yes, sir.

Q. Do you know who employed the agency to operate in this case? A. I think Mr. Reeves. Mr. Osborne was engaged and I am his employee.

Q. Do you remember what took place on April 11, 1928? A. I do, yes.

Q. State what took place at that time—who was with you and what happened. A. Well, I was driving the car; and Mr. Reeves, Mr. Reeves' brother, Harvey Reeves, I think—we went to Hawthorne, arriving there around 8 o'clock and we parked almost in front of Mr. Reeves' residence, opposite the church, at about 9 o'clock; Mrs. Reeves and Mr. Petry and some other members of the congregation came out of the church—I believe there had been a prayer meeting, and it was raining hard, and he stopped to talk to some folks for some minutes in front of the church and Mr. Petry and Mrs. Reeves walked across the street and entered the front door of the parsonage. There was a light in the front room when they went in and as we were right in front of the door, we could see in there. We were in the car and they went to the back of the house towards what I presume is the kitchen, where it was dark, and they disappeared from sight, and Mr. Reeves and I went around to the back of the house by the kitchen but we couldn't see anything, the kitchen was dark. We came back and got in the car talking over what we would do next, and in about 10 to 15 minutes, Mr. Petry and Mrs. Reeves came out to the front door and Mr. Petry walked down the street alone. I think Mrs. Reeves

walked back in the house and we remained there until we saw the light go out in the bedroom and discontinued.

Q. Were there any children in sight at that time? A. I didn't see any.

Q. Do you remember an occurrence on May 10th, 1928? A. I do.

Q. Just describe what took place on that occasion. A. I drove the car which Dr. Reeves was in; I picked him up at 125th Street Ferry, I don't remember the time, we drove to Hawthorne—we stopped at Ridgefield Park and picked Mr. Osborne and we got to Hawthorne a little after 9 o'clock and Mrs. Reeves was in evidence in the front room of her home, sitting there, so we knew it was the meeting night of the Masonic Lodge, and Mr. Petry was as a rule up there and we drove up to the Masonic Lodge, and I think we drove back to Paterson and had coffee and went back to the Lodge about a quarter past ten. At 10:25 Mr. Petry came out of the Lodge with two other women with him walked for a couple hundred of feet down the block and he left them and he walked south on Lafayette Avenue towards the parsonage. Mr. Osborne left the car and was after Mr. Petry on foot and I drove in a hesitating manner stopping and going a little further, keeping Mr. Petry in sight. When he got in front of the parsonage, he stopped for a full minute and looked in from the sidewalk in through the front windows, still on the sidewalk looking in, and then he walked to the corner where the bus stops—it is very dark there, he stopped there for a minute or so, looked around, and he went into the Bee Hive.

Q. What is the Bee Hive? A. The Bee Hive—that is a little ice cream and confectionery store;

I think it is near what they call Llewellyn Avenue.

Q. What did you do? A. He telephoned; I saw him go in the booth and telephone, and then he came out and he walked back on the same side of the street as the Bee Hive to the next corner between Llewellyn Avenue and the church and he stood there under the tree for two or three minutes and then he crossed diagonally across Lafayette Avenue and went down the cinder path on the right side of the church.

Q. Just describe that cinder path. A. It is a cinder path; it looks like the path of an automobile drive; it don't appear to go anywhere—some cinders for 20 or more feet, and it looks as if they were putting an automobile driveway along the church. Mr. Petry crossed in there diagonally from the corner. I crossed behind him with the car slowly as he was just going down the drive. I saw him disappear as we passed very slowly out of sight in the darkness. There is an arc light in the front but as soon as he got near the edge of the church he disappeared in the back. I drove just beyond the church and came to a halt, parked against the curb and I was talking to the Doctor. I didn't know what to do next. I was out from the curb four or five feet when I turned and stopped, and I looked to my left and I saw Mrs. Reeves had come out of the house and was right almost opposite the front of our car which I was driving and she had something under her arm, grey, it looked to me at the time like a blanket and she had a long black coat on. As soon as I saw her, Dr. Reeves saw her at the same time, and if I remember correctly, he said "My God, that is my wife, where is she going?" and I looked up and saw Mrs. Reeves walk across behind the car and she went directly

over and around the corner of the church on the same side where Mr. Petry had gone.

Q. Did she enter the cinder pathway? A. Yes; on the same side and went in the same direction, not over two or three minutes after Mr. Petry had entered there. We drove up half way up the block, and turned around and parked on the other side of the street and we sat talking what to do next.

Q. How long were you there? A. About thirty to thirty-five minutes, all told, I imagine, on the west side of Lafayette Avenue.

By the Court:

Q. You didn't see the parties meet? A. No, sir.

By Mr. Moore:

Q. Was it dark at the end of the pathway? A. As soon as he got clear of the corner of the Church, you couldn't see anything. It was black. We waited about thirty or thirty-five minutes and Mrs. Reeves came down Lafayette Avenue from the direction of Diamond Bridge, and she had the same black coat on and there was a bundle as if she had the shawl under her arm, and she passed within two feet of the car and close to the curb and she went in the house.

By the Court:

Q. Did her husband speak to her at all? A. No, sir.

Q. Did he ask you to speak to her? A. He did not.

By Mr. Moore:

Q. Do you know whether or not the petitioner saw this defendant in this pathway? A. I could-

n't say. I saw her. At the time Doctor Reeves was very much excited. I had to sit on him practically to get him to sit down; he was going to get out of the car, very much excited.

Q. Did he say anything to you in this excitement—make any explanations? A. He said a lot of things.

Q. Did he carry on any conversation with you? A. With me; yes, that is the only thing I recollect; he said a number of things at the time, but I don't recollect just what; only that one expression.

Q. Did Mr. Osborne join you? A. Yes; he joined us just as before we parked after they had gone in the cinder path.

Q. Then what did you do after that? A. After the forty-five minute wait?

Q. Yes. A. We remained there—I don't know maybe fifteen or twenty minutes, and then we discontinued.

Q. Did you enter the pathway that night yourself? A. Yes; we did.

Q. What did you do? A. We went in and looked around the back with a torch as best we could, but it was so dark and hard to see in there we didn't see much that night.

By the Court:

Q. Who was in the party? A. Mr. Osborne, Doctor Reeves and myself.

Q. When you walked behind the Church, did the Doctor have a light? A. He had a flash light.

By the Court:

Q. How near did Mrs. Reeves pass to the car? A. I could have touched her with my hand. She

came towards me and I looked and she was within two feet of the window.

Q. Your car was standing still at the time? A. Yes, sure; the car was standing still.

Q. Was that the only car standing still in that locality? A. I couldn't say about parked cars. I wasn't parked, but I was within five or six feet from the curb.

By Mr. Moore:

Q. When you used this flash light, did you observe the nature of the ground back of the Church? A. Yes, after a fashion.

By the Court:

Q. Did you ask the Doctor why he did not speak to his wife? A. No, sir.

Q. What was his condition at that time—the Doctor's? A. He was very much excited.

Q. What did you find upon examining the ground with the flash light? A. We didn't find much that night.

Q. Can you describe the ground there back of the Church? A. Well, it seemed to be very dense, there was some brush there, the grass apparently had been cut and there was places where three were knocked down, and further on I saw the remains of an old wagon— a sort of a dump it was.

Q. How large a plot would describe the ground behind the Church? A. Well, at least 200 feet from the railroad.

Q. Any trees? A. No.

Q. Just vacant ground? A. Yes, sir.

Q. No lighting in the back? A. No, no lighting in the back; it don't go to anywhere.

Q. Did you go there the next morning? A. Yes; we went there the next morning.

Q. Who with? A. With Mr. Osborne and the Doctor, and I think Mr. Pollitt; I am not sure.

Q. What did you find there the next morning? A. We found a handkerchief back there.

Q. Is that the handkerchief that has been offered in evidence in this case? A. I believe it is.

By the Court:

Q. Do you know if it is or not? A. Yes, if I look at it; yes, that is it.

By Mr. Moore:

Q. What else did you find with regard to the contour of the ground? A. Uneven contour and the grass was apparently cut a day or two before up towards the Church and the back was swampy; a dump. It was kind of torn up section; it was not a well kept lawn.

Q. Is it used for anything? A. I don't think so.

Cross-examination by Mr. Ward:

Q. How long have you been in this business? A. Off and on for twenty-five years.

Q. With Osborne all the time? A. Whenever I have been in this business, yes.

Q. How long altogether for how many years have you been engaged in this business? A. I don't know exactly, perhaps seven or eight years.

Q. And you specialize in cases of this kind, do you? A. Not necessarily; we take them on certain occasions.

Q. Do you know how much Mr. Osborne was paid

on this case? A. No; I have no idea.

Q. You were paid by the week, were you? A. By the day.

Q. How much? A. Ten dollars a day.

Q. And did you work every day? A. No.

Q. How many days were you on this case? A. I couldn't say exactly, but I think roughly we were working about six weeks two or three days a week.

Q. For six weeks two or three days a week, antedating what date? A. I can't tell you the beginning or ending date. Mr. Osborne can.

Q. On the 11th of April, for how long a period of time before that had you been in the case? A. Before the 11th of April? I really don't know when we started except I went to see Mr. Reeves myself on Saturday in Paterson, but what the date was I don't know. Mr. Osborne can furnish all that data.

Q. Are you paid only when you work? A. That is all.

Q. It depends on how many days a week as to how much pay you get? A. Surely.

Q. Do you get ten dollars a day regularly? A. Depending on the job.

Q. Well, whenever you work? A. Depending on the job.

Q. Whatever days you work? A. No, it varies.

Q. Get less or more? A. More than that.

Q. What was your occupation at other times when you did not work as detective or investigator? A. In the advertising business mostly.

Q. With whom? A. With the General Outdoor O. J. Goode.

Q. The last company with which you were was what? A. The Criterion Advertising Company of New York.

Q. How long were you with them? A. Six years.

Q. Off and on? A. No steady.

Q. When did you quit your work there? A. I think I have been with Osborn two and a half years now.

Q. Since that time, for the past two and a half years, you have worked for Osborne on and off? A. Practically steady.

Q. You came to Hawthorne on the 11th of April, did you not? A. I did.

Q. Was Mr. Reeves with you on that occasion? A. Mr. Reeves' brother.

Q. Was Mr. Reeves, the minister, with you on that occasion? A. No.

Q. Did you see him on that occasion? A. No, I don't think I did.

Q. Didn't you take any notes? A. I have no notes of my own.

Q. You have no recollection if you saw Mr. Reeves, the minister, or not? A. I didn't see him.

Q. At 9 P. M., you were in front of the Church with Mr. Reeves' brother? A. In front of the house.

Q. Is Mr. Reeves' brother here? A. I believe he is.

Q. Is he? Where is he? A. I saw him a minute ago. I don't see him now.

Q. You seen him here today, did you? A. Yes; surely.

Q. Do you know what time it was when the people came out of the Church? A. Yes.

Q. What time? A. A couple of minutes after nine.

Q. They stood talking for a while, did they? A. Yes.

Q. And Mr. Petry and Mrs. Reeves were in the group that came from the Church at that time? A. Correct.

Q. Then Mrs. Reeves and Mr. Petry crossed the street? A. Yes; right.

Q. And entered the front door of the Reeves home? A. Correct.

Q. And these other people went on their way; is that correct? A. Yes, correct.

Q. Raining at the time? A. It was raining quite hard.

Q. Did you hear any part of the conversation between Mrs. Reeves and Mr. Petry? A. No, sir.

Q. Or anyone else there at that time? A. No.

Q. Mr. Petry was in the house on that occasion about ten or fifteen minutes? A. About that.

Q. Did you time the occurrence? A. I did.

Q. And is that correct; ten or fifteen minutes? A. I timed them when they went in and it was twelve and a half minutes when he came out of the house after they had entered.

Q. You say you went around in the back? A. I did.

Q. You said you went with somebody; with whom did you go around in the back? A. Mr. Reeves' brother.

Q. That is the Reeves you meant? A. Yes; Mr. Harvey Reeves.

Q. The brother of the petitioner in this case? A. Yes, sir.

Q. You saw nothing back there? A. No, nothing but two dogs.

Q. Two dogs? A. Yes.

Q. And you came around in front and saw Mr. Petry leave? A. Yes; after he remained a few minutes he left.

Q. By the front door? A. Yes.

Q. Light in the house? A. Light in the front room.

Q. There is a porch in the front of the house, is there not? A. Yes, sir.

Q. Do you know how high the windows are from the ground? A. From the sidewalk level I should say about five feet.

Q. Do you know how high the railing of the porch is? A. About two and a half feet.

Q. Did you look through any windows? A. Yes, surely; through the front windows.

Q. How high is that from the ground? A. About the same level as where we sat in the car.

Q. You sat in the car first? A. Yes.

Q. That car was in front of the house? A. Yes; the car was in front of the house.

Q. And you were sitting there when Mrs. Reeves and Mr. Petry went in, were you? A. We were.

Q. And you made no effort to conceal it at that time? A. Absolutely not.

Q. The front window through which you looked at that time was what window? A. The window, I think there is a bay-window in that house, but I am not sure. I couldn't tell you just which one it was; the one that showed us to the hall, and if I remember right there are panels alongside of the door and we could see into the living room, and to the edge of the hall as you go in.

Q. When you were in front of that house, were you in front of the pathway leading up from the street from the sidewalk to the house? A. Just a bit south of it.

Q. How far south? A. I should imagine fifteen feet or twenty feet.

Q. And in the position in which you were at the time, could you look through the door? A. Not through the door; we could see through one of the windows.

Q. And you don't know which window that was? A. I don't recollect which window it was that gave us the best view; the one further north or the one further south.

Q. Was the one through which you looked further south than you or not? A. I don't remember. We had a fair view of the interior of the front room.

Q. You don't know if that window was directly opposite you or further south, do you? A. No, I don't.

Q. And you don't remember if it was the window leading into the hallway or any other room, do you? A. It was leading into the front room and not into the hallway.

Q. That room was lighted? A. Yes.

Q. And the shades were up? A. Yes.

Q. You couldn't see into any other room, could you? A. None excepting the front room.

Q. As I understand you, Mr. Petry and Mrs. Reeves went into the hallway, and, did you see them in the living room at all? A. Yes; I saw them in the living room.

Q. What part of the living room did you see them in? A. They passed through it, apparently going to the rear room.

Q. Have you been in that house? A. I have.

Q. When? A. I moved the furniture out. I was over there and seen the water machinery there with Mrs. Reeves at that time.

Q. Do you know whether you could look into

that hallway at all from the position in which you were? A. Not the front part of it; no.

Q. And there was a light in the hallway? A. I imagine it was the reflection of the light from the living room.

Q. And you couldn't see in any part of the hallway from where you were? A. Only just the back edge of it; the back edge.

Q. What do you mean by the "back edge"? A. The back left hand corner as you go in.

Q. Do you mean to the left of the door? A. Yes, to the left of the door.

Q. As you go in? A. Yes, sir; as you go in.

Q. How much of the hallway could you see from where you stood? A. I couldn't tell you.

Q. You have no idea? A. No idea.

Q. When Mr. Petry and Mrs. Reeves disappeared from the living room, you don't know where they went? A. Certainly not.

Q. The second occasion when you saw them was May 10th? A. Yes.

Q. Just one month later? A. Yes.

Q. Had you been working on this case during the interval? A. Off and on two or three days a week.

Q. You had been working on the case right along? A. Yes, sir.

Q. And you saw nothing until May 10th? A. No.

Q. During the two or three days a week up there, between April 10th and May 10th, where were you? A. Do you mean to say if I worked?

Q. Yes. A. Outside of the house.

Q. Watching the house? A. As a rule.

Q. Watching Mrs. Reeves? A. As a rule.

Q. You had the house pretty well covered? A. Very well.

Q. At what time? A. Generally in the evening from April on, from 9 on.

Q. Who was there besides yourself? A. Sometimes Mr. Osborne and sometimes we had another operator.

Q. Were you always there when anyone else was there? A. I was always there.

Q. You were always there? A. Yes, sir.

Q. But on some occasions you were alone? A. Yes.

Q. You were the one man there on all occasions as an operative, and on some occasions there were others with you from your office? A. Correct.

Q. But there was never anyone else from your office when you were not there, so far as you know? A. So fas as I know, no.

Q. When Mrs. Reeves came over from the Church on the night of April 10th, did she pass in the rear of your car? A. On April 11th?

Q. The first time you saw her, whenever that was? A. April 11th; yes, they were behind our car.

Q. And Mr. Petry passed behind your car? A. They were together.

Q. The observation you made at that time was from the rear of your car; is that right? A. Quite right, as they were directly behind us.

Q. That was the Ford automobile? A. Yes.

Q. A closed car? A. Yes.

Q. And you observed them through the window? A. Yes, first one side and then the other side and then through the back window.

Q. Raining hard? A. Yes.

Q. Windows were wet? A. Not so much.

Q. Wet? A. The rain was playing on the front,

we saw through the side and back windows.

Q. Did the rain hit the other windows; any other windows except the front window? A. No, only just enough; well, no just against the front; it was right up Lafayette Avenue, coming up from the south.

Q. Sure the rain was coming from the south at that time? A. Yes.

Q. And it appeared the rain was coming from the front? A. Yes.

Q. And no other part of the car was dripping at that time? A. No, sir; only the top.

Q. When you observed Mr. Petry and Mrs. Reeves coming from the Church, were you looking through the back window? A. Looking through the left side windows.

Q. Had you known Mr. Petry before that? A. I had.

Q. When did you first see him? A. I think I saw him in Church on Easter Sunday night for the first time.

Q. You went to Church to see him, did you? A. Yes, sir; I went to the Church.

Q. When they started out to cross over from the Church, did they start from directly in front of the Church to cross over? A. Not directly from the front.

Q. You know where the walk comes down? A. I am not considering that the front of the Church.

Q. You know where the walk comes down from the entrance to the Church to the sidewalk, do you? A. Yes, the vestibule.

Q. Well, they came down that walk with this group, did they? A. Yes.

Q. Stood there and talked? A. I think they were a trifle south of the walk.

Q. A little below the walk? A. Yes.

Q. When they broke up and they started to walk across, did Mr. Petry and Mrs. Reeves walk across together? A. Yes; Mr. Petry walked across with Mrs. Reeves.

Q. Walked across together, did they? A. Yes, under one umbrella.

Q. They had one umbrella? A. Mr. Petry had an umbrella over Mrs. Reeves.

Q. And they walked across from the place to the south of the walk where they had been standing talking right across the street to the side where the Reeves home is; is that correct? A. Yes.

Q. Now, you are sure about all this? A. Quite sure.

Q. And your recollection is very keen and distinct about all these details? A. And the details, absolutely.

Q. It wasn't necessary to have any extraordinary light there to see them? A. There is an arc light there.

Q. That is the light by which you saw them, is it? A. Surely.

Q. On May 10th, Mr. Reeves met you at the ferry? A. At the 125th Street Ferry.

Q. With Mr. Osborne? A. We picked Mr. Osborne up at Ridgefield Park.

Q. Is Mr. Osborne here? A. He is.

Q. When you say Mr. Reeves, you mean the Rev. Reeves? A. Yes, sir; the Rev. Doctor Reeves.

Q. Briefly, you came up to Hawthorne and went up to the Masonic Lodge and then came back, passed Mrs. Reeves home and went on down to Paterson to a lunch room and then back to Hawthorne to the Masonic Lodge again and saw Mr. Petry come out? A. I did.

Q. By whom was Mr. Petry accompanied, do you know? A. No. There were two men with him for about a hundred feet down the block and then they left him.

Q. That Masonic Hall is on the same side of the street Lafayette Avenue as the Reeves home, is it not? A. Yes, sir.

Q. The opposite side from the Church? A. Yes, the opposite side of the Church.

Q. Were you in a car that night? A. I was in a car.

Q. Did you follow him that couple of blocks down the street in the car? A. Yes, in the car.

Q. Your car going slowly? A. We would go within two hundred feet of them and park; when we got five hundred feet, there was nobody else out.

Q. Lights lighted on your car? A. Absolutely, on my car.

Q. Head lights? A. Yes, sir; head lights.

Q. Ford headlights? A. Yes, Ford headlights.

Q. Were you in low gear? A. Yes.

Q. That makes an extraordinary light on the Ford car, don't it? A. Not necessarily.

Q. When you go into low gear with a Ford car, don't it cause your car to burn more brightly, the lights? A. It did on the old cars, but not on the new cars.

Q. You had one of the new cars at that time, did you? A. No, this was a '24 we had.

Q. You mean a 1924 car? A. Yes, sir; a 1924 car.

Q. And you say the lights did not operate as I have said by reason of your car going in low gear, it increased the headlights on the Ford car to a very great brilliancy? A. No, sir; before they had

the in, they did used to do that, but not any more.

Q. Well, you arrive at Hawthorne at 10:15, the second time? A. At the Temple about 10:15.

Q. At the Temple? A. Yes, at the Masonic Temple.

Q. How long did you wait there? A. I guess until 10:25, when Mr. Petry came out.

Q. You are giving this from your recollection, are you? A. I made particular note of the time he came out.

Q. And you recollect the time? A. The time was 10:25.

Q. You recollect the time? A. Absolutely.

Q. Not from having refreshed your recollection or anything of that kind, but simply because you made a note of the time at the time? A. I remember that time.

Q. Because you made a note at that time you remember? A. Yes, I remember.

Q. But you haven't refreshed your recollection since? A. I have seen it in the report, but I remember it anyhow.

Q. You say you saw Mr. Petry go on down the street and stand in front of the house? A. I did.

Q. There is a bright arc light there? A. Across the street, close to the house.

Q. He could be plainly seen at that time? A. Yes.

Q. Were the lights lighted in the house, or don't you know? A. Yes; there was a light in the front room.

Q. He waited for about a minute, did he? A. Yes.

Q. Where did you stop your car? A. Within two hundred feet of him.

Q. Towards Diamond Bridge Avenue? A. Yes, towards Diamond Bridge Avenue.

Q. Did Mr. Petry walk beyond the Reeves home? A. He walked to the corner south.

Q. How far was that? A. I don't know how far in feet it is to the corner. It must be two or three hundred feet to the corner. I don't know.

Q. Did you see Mr. Petry go into the Bee-Hive? A. Yes, I did.

Q. You were still in the car, were you? A. No, I wasn't in the car when he went into the Bee-Hive.

Q. Where was the car? A. The car was parked, I think it is Llewellyn Avenue, facing east.

Q. When Mr. Petry was standing in front of this house, did the car continue to stand there as long as he stood in front of the house? A. Yes, and giving him a head start down the street.

Q. Where was Mr. Petry when the car continued its course and went around to Llewellyn Avenue? A. When Mr. Petry was between the corner and the Bee-Hive, then I passed him.

Q. In the car? A. In the car. I made a turn into Llewellyn Avenue, and a quick sharp turn, so that I was facing east, and I got out and crossed the street and was on the other side of the street when he entered the Bee-Hive.

Q. So that you made this turn how far into Llewellyn Avenue? A. Enough to make the turn.

Q. And you parked your car there, did you? A. On the south side facing with out mudguard just clear of the sidewalk.

Q. Of Lafayette Avenue where it crosses the westerly cross-walk? A. Yes, sir; correct.

Q. So that was in pretty plain sight? A. Yes.

Q. And the turning around was in pretty plain sight? A. It could not be seen from Lafayette Avenue.

Q. If you went in far enough to turn around you could not be seen from Lafayette Avenue? A. The turn could not be seen by Mr. Petry.

Q. You got out and ran across the street? A. No, I walked.

Q. And Mr. Petry was about to enter the Bee-Hive? A. Going in.

Q. Going in? A. Yes; I watched him go in and I watched him go to the telephone booth to the right as you go in.

Q. What part of the right? A. To the right of the store. A counter is on the left, and to the right is the telephone booth.

Q. See anyone else in there at the time? A. I did not notice.

Q. See anyone in there you can describe? A. I saw someone behind the counter, but I couldn't describe him to you.

Q. Mr. Petry remained in there how long? A. Three or four minutes at the most.

Q. Then he came out? A. Yes, he came out.

Q. Up to that time, you were watching him from the other side of the street? A. Yes.

Q. And Mr. Osborne was back in the car? A. He was not in the car. I don't know where he was.

Q. He was not in the car? A. No.

Q. When Mr. Petry came out of the Bee-Hive, did the car then come up? A. I went and got in the car and started it going North on Lafayette Avenue.

Q. Where was Mr. Osborne then? A. I don't know.

Q. He was not in the car? A. No, he wasn't in the car.

Q. And you went back and got the car and brought it up? A. I was driving the car.

Q. And when you pulled out, Mr. Petry was where? A. Walking north on the west side of Lafayette Avenue between the Bee-Hive and the street I mentioned before.

Q. On the left side north? A. Yes.

Q. And he continued walking to where? A. To the corner I have spoken of before; the corner nearest to the parsonage on the south side; I don't know the name of the street.

Q. Did you say the road or street? A. It it a cross street between Llewellyn Avenue, and south of the parsonage; there is a cross street there further north; I don't know the name of the street.

Q. He walked up to that point, did he? A. Yes.

Q. What did he do? A. Stood under the tree there for three or four minutes.

Q. Where was your car then? A. On the other side, 150 feet south.

Q. Stopped? A. Yes, stopped.

Q. Mr. Reeves was with you then, the Rev. Reeves? A. Yes; he was with me.

Q. He was observing too, was he? A. He was; yes; he was observing with me.

Q. See what happened to Mr. Petry? A. He started on a diagonal course towards the Church and turned down the right side on the cinder road.

Q. Where did Mr. Petry strike, what would be the easterly sidewalk of your right hand sidewalk? A. He must have struck it fifty or sixty feet south of the Church.

Q. And then walked right up along the sidewalk, the easterly sidewalk and along up to the cinder path? A. He cut in as much as he could to the right; there is a fence there, but he cut it as short as he could in getting in there.

Q. And went into the cinder path? A. Disappeared that way.

Q. And you stayed in your car watching him; did you or not? A. We stayed in the car watching him until he got out of sight.

Q. Where was Mr. Osborne then? A. I don't know.

Q. Did you wait for him to come back? A. He came back and got in the car eventually.

Q. They had been standing there on the easterly side of the street, as you have described, had they? A. No. The last question you asked me was if we watched Mr. Petry go behind the Church.

Q. You say Mr. Petry stood underneath some trees for three or four minutes? A. Yes; I did.

Q. On the corner of this street which is between Llewellyn Avenue and the parsonage? A. Yes.

Q. And at that time you stopped your car on the right side of the street? A. Yes.

Q. And you were standing still? A. Yes.

Q. And you saw Mr. Petry crossed over to the opposite side of the street and got into this cinder pathway? A. Yes, but then we were moving.

Q. When did you start to move? A. As soon as Mr. Petry got clear of us.

Q. He had gone into the cinder pathway, do you mean? A. No.

Q. Do you mean when this man crossed the street, you started your car up towards him? A. He had 200 feet start north of us.

Q. Mr. Petry stood there? A. He did.

Q. You were standing about two hundred feet south? A. Right.

Q. On the opposite side of the street with your head to the right side? A. Yes.

Q. And when he started to cross the street, you got up? A. Yes.

Q. Where were you when he came to the other side of the street? A. Straight south of him.

Q. How far? A. Maybe fifty to seventy-five feet.

Q. Where were you when he went into the cinder path? A. We were directly behind him, straight in line with the cinder path when he disappeared.

Q. How far was that from the sidewalk on the westerly side that he disappeared from sight? A. He disappeared as soon as he got clear of the corner of the Church.

Q. How far was that back from the sidewalk? A. I don't know.

Q. Don't you know that Church is quite some distance from the sidewalk? A. It might be thirty or forty feet, I don't know.

Q. He never looked around? A. No, not that I saw.

Q. Then what did you do after that? A. I pulled up to a spot just north of the Church.

Q. On the same side of the street? A. On the same side of the street; yes.

Q. And stopped there? A. Stopped there.

Q. How far north of the Church? A. Just clear of it, that is all.

Q. How long did you stay there? A. Until we saw Mrs. Reeves.

Q. Where did you see her? A. Almost at my left window when she crossed the street.

Q. Had she already crossed the street? A. Almost.

Q. How close to the car did she cross? A. She was within three or four feet of me, and I started up.

Q. When Mrs. Reeves crossed the street, she was within three or four feet of you? A. Yes.

Q. Back of your car? A. No.

Q. Where was she? A. Right alongside of me.

Q. Did she walk out to your car and look around your car? A. I started up.

Q. When you first saw her, she was within three or four feet of you? A. Of my left side of the driving seat.

Q. Your left side? A. Right.

Q. Walking right towards your car? A. Correct.

Q. So that if she had continued on her course, she would have bumped into your car; is that right? A. Right into me.

Q. And you pulled your car out of her way; is that right? A. Yes.

Q. Was Mr. Osborne with you up to that time? A. No, sir; he was not; not then.

Q. Did you watch where Mrs. Reeves went? A. I did.

Q. Where did she go? A. She cut across the Church lawn and went down the same cinder path that Mr. Petry went down.

Q. She went in back of your car? A. Yes; she went in back of the car.

Q. Did Mr. Osborne come there then? A. No.

Q. Had Mrs. Reeves disappeared before you made your turn? A. She had disappeared before I made the turn.

Q. Then you turned around on the street to the left? A. Yes, to the left.

Q. And pulled your car up to the westerly curb? A. Yes, to the westerly curb.

Q. How far from the parsonage? A. Maybe a hundred feet north, or a trifle more.

Q. That would be up towards Diamond Bridge Avenue? A. Yes.

Q. And then you stopped your car? A. Yes.

Q. How long did you remain there? A. About thirty-five minutes.

Q. Did Mr. Osborne come up to you then? A. Shortly afterwards.

Q. How long after you stopped the car? A. Perhaps a minute.

Q. Was Mr. Reeves with you all this time in the car? A. Yes, all this time.

Q. You saw Mrs. Reeves as she crossed over, and you saw her have something in her arm? A. Something under her arm; a bundle.

Q. Seen something under her arm like a bundle? A. Yes.

Q. You couldn't see what it was? A. It was a grey parcel.

Q. You could not see what it was? A. It looked like a shawl.

Q. Have it underneath her coat? A. No, outside of her coat.

Q. After Mr. Osborne joined you, a minute or so after he joined you in the car, did he stay with you all the time? A. Yes.

Q. For this thirty-five minutes? A. Yes.

Q. And up to the time that Mrs. Reeves appeared again? A. Yes, sir.

Q. As Mr. Petry disappeared, you said you were passing, did you not; you were right about opposite

where he disappeared; is that so? A. I was right directly as if you drove out of the road, straight out.

Q. After you stopped some distance beyond that, I think you said about 100 feet— A. Just clear of the Church.

Q. How long did you wait there before you saw Mrs. Reeves? A. It wasn't over a minute.

Q. The next time you saw her, she was coming down on the westerly side of Lafayette Avenue, on the side of her home, and from Diamond Bridge Avenue going south? A. Yes.

Q. Where was she when you first saw her? A. Do you mean coming back?

Q. Yes, after this thirty-five minutes. A. I imagine she was a block away; Doctor Reeves recognized her coming down the street and called our attention to her.

Q. When she was a block away back of your car, Doctor Reeves, whom had been looking in that direction, called your attention to her; is that it? A. I imagine that was about it.

Q. And you watched Mrs. Reeves coming down until she reached the sidewalk where your car was? A. Yes.

Q. Correct? A. Yes.

Q. And within what distance of you did she pass? A. Quite close, from three to four feet, close to the curb.

Q. And she had something under her coat? A. Appeared to have something under her coat.

Q. Did Mr. Reeves so far as you could see watch Mrs. Reeves from the time she appeared a block away up to the time she passed your car? A. I imagine he did. I know I watched her.

Q. He seemed to be looking that way too? A. Yes.

Q. He hadn't been looking out towards the Church then, had he? A. I couldn't tell you that.

Q. He had been looking up the walk towards Diamond Bridge Avenue? A. I couldn't say.

Q. You were there to tell what he was doing, weren't you? A. I wasn't watching Mr. Reeves. I wasn't watching Doctor Reeves.

Q. When Mrs. Reeves passed your car, how far did she have to go to get to the crosswalk or the dark pathway leading up to the parsonage? A. I imagine a hundred feet.

Q. Then she turned right in, did she? A. Yes.

Q. And went right into the lighted house, is that correct? A. I believe she did.

Q. And then you and Mr. Osborne and Mr. Reeves left? A. Yes, very shortly after.

Q. And from the time that Mr. Osborne joined you at that time, he was with you and Mr. Reeves all the time until you left? A. Yes.

Q. How was Mrs. Reeves dressed? A. Outside of the fact that she didn't have a hat on, she had a long black coat on; that is the best I can say.

Q. What kind of a long dark coat? A. A long one, a long black coat.

Q. How long? A. I don't know. It was below her knees.

Q. Sure it was a coat below her knees? A. Yes, absolutely.

Q. And she passed within four feet of you at the time? A. Yes.

Q. And within two or three feet of you at another time? A. Yes.

Q. Right into the glare of this electric light, and

you don't know what kind of a coat it was? A. Certainly not.

Q. You are trained in the observation of these things, are you not? A. I wasn't looking for coats.

Q. You weren't looking for coats? A. Well, after a fashion I was, yes.

Q. How was Mr. Petry dressed? A. I couldn't tell you.

Q. If this coat came down below Mrs. Reeves knees, what kind of a dress did she have on underneath it? A. I don't know.

Q. Light or dark? A. I don't know.

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

Q. Why not? A. It was none of my business.

Q. Why, that was your business, was it not? A. Absolutely not.

Q. How many times had you seen Mrs. Reeves before that? A. Quite a number of times.

Q. How many times had you seen Mr. Petry before that? A. Quite a number of times.

Q. You can't tell us how he was dressed? A. He had an umbrella and dark clothes on.

Q. An umbrella? A. He carried an umbrella.

Q. On the night of May 10th he carried an umbrella? A. No, the first night, the rainy night.

Q. You knew I was speaking of the time he came down and stood on the corner, did you not? A. I don't know what night you referred to.

Q. Didn't you know I was asking you about the night when you saw Mrs. Reeves with the long dark coat on? A. Speaking of her where?

Q. Did you know I asked you about the night, the same night with reference to Mr. Petry? A. No.

Q. You thought I meant some other time, did you? A. Yes.

Q. What other time did you think I meant? A. The night it was raining.

Q. How was Mr. Petry dressed on the 10th of May? A. I told you I don't know.

Q. Dark or light clothing? A. Dark.

Q. Hat on? A. He had a hat on.

Q. What kind of a hat? A. I couldn't state; I think it was a derby.

Q. Is your impression pretty distinct about that? A. I am not sure of it. I think it was a derby. I wouldn't swear on it.

Q. Were his clothes distinctly dark? A. Distinctly dark.

Q. On Easter when you went to this Church, you went there for the purpose of observing Mrs. Reeves, did you not? A. Seeing her and Mr. Petry.

Q. And did you see her? A. Yes.

Q. And see Mr. Petry? A. Yes, I did.

Q. Who pointed them out to you? A. I think I picked them out from a description.

Q. Do you know? A. Nobody pointed them out to me.

Q. Do you know whether or not you picked them out? A. Certainly.

Q. Where were you in the Church? A. Sitting in a pew.

Q. Where was Mrs. Reeeves? A. I believe she was in the choir.

Q. What was her position in the choir? A. I don't remember.

Q. How was she dressed? A. I don't remember.

Q. Where was Mr. Petry? A. In the choir.

Q. How was he dressed? A. I don't remember.

Q. What was his position in the choir? A. I don't remember exactly.

Q. Do you remember in-exactly? A. Rather to the left as I faced him.

Q. And that was the only means of identification you had? A. At that time.

Q. Did anybody ever point them out to you later? A. Yes.

Q. Who? A. Doctor Reeves and his brother.

Q. When? A. I don't remember the specific time.

Q. How long before April 11th did Doctor Reeves point them out to you? A. I don't remember.

Q. What was the first occasion when Doctor Reeves pointed them out? A. I don't remember.

Q. Have you a good memory? A. Yes.

Q. Does it appear good today? A. Yes.

Q. Keen? A. Yes.

Q. And you don't remember when the Doctor first pointed them out to you? A. No.

Q. And don't remember any of the circumstances? A. No, sir.

Q. You don't remember when Doctor Reeves pointed them out to you? A. No.

Q. Who pointed them out first, the Doctor or the brother? A. I don't remember.

Q. Do you remember where Mrs. Reeves was when this pointing out occurred? A. No.

Q. Do you remember where Mr. Petry was when he was pointed out to you? A. I don't remember.

Q. When did you next see Mr. Petry after April 11th? A. I can't tell you.

Q. You can't tell us that either? A. No, I can't.

Q. Where did you see him? A. I can't tell you.

Q. You didn't make any notes of that? A. We have a record on every piece of work; there are reports there.

Q. And you made the notes? A. I made them originally.

Q. And despite the fact that you made those notes, your recollection is not so keen about the time, the 8:15 that you referred to? A. I certainly do not remember.

Q. On the occasion of Easter when you say you were there at the Church, who preached? A. Doctor Reeves.

Q. About what did he preach? A. I don't know. I never go to Church.

Q. So far as you were concerned, it was not very impressive, was it? A. I think it was a good sermon.

Q. It didn't impress you? A. It impressed me after a fashion.

Q. But not sufficiently to have you remember what it was? A. No, I don't know what it was about.

Q. How long after Easter was it that you next watched Mrs. Reeves or Mr. Petry? A. I don't remember.

Q. How many days elapsed between the time you say you saw them on Easter and the time when you first again went on the case? A. I couldn't tell you.

Q. For how long a time had you been watching them before Easter? A. Not at all.

Q. Can't you remember how long after Easter it was that you again went out on this case? A. I can't tell you.

Q. A week, two weeks or what? A. I can't tell you; that is all a matter of record.

Q. What is your best recollection; was it a week after? A. I can't tell you at all. I don't remember.

Q. Do you remember any other case you worked on during that time? A. No, I don't.

Q. So this was the only case so far as you recollect occupying your attention at that time? A. No. We were working on different matters in New York but I don't recollect what they were.

Q. And you have no idea about how long after Easter it was that you again worked on this case at all? A. No.

Q. About how long was it after Easter that you went up and saw Mr. Petry and Mrs. Reeves as you say go from the Church in the rain across the street? A. That was on the 11th of April.

Q. How long after Easter was that? A. I don't know when Easter was.

Q. You don't know when Easter was? A. No.

Redirect-examination by Mr. Moore:

Q. You testified to two dates, one April 11th, 1928, and one May 10th, 1928; do you see anybody in this room whom you described at that time as the defendant on this occasion? Do you see any woman in the room whom you described at that time as Mrs. Reeves? A. I don't quite get you.

Q. Is Mrs. Reeves the woman you saw at that time? A. Yes, with Mr. Petry.

Q. And is that the woman right there (indicating Mrs. Reeves, the defendant)? A. Yes.

Q. Is she the woman you speak of as having seen on May 10th and April 11th? A. Yes, sir.

By Mr. Ward:

Q. On the 11th, can you give me any description of her appearance aside from the coat? A. I don't know how she was dressed on April 11th.

Q. On May 10th, can you give me any description aside from the coat? A. A dark coat and no hat.

Q. Have her hat off? A. Yes.

Q. Anything impress you about her? A. I don't think so. I know she looked light at night, like a blonde.

Q. Like a blonde? A. Apparently, yes.

Q. You never observed that she is very grey, have you? A. I have since then.

Q. You have? A. Yes.

HARRY OSBORNE, being duly sworn according to law, upon his oath, testified as follows:

Direct-examination by Mr. Moore:

Q. Mr. Osborne, are you the head of the Osborne Detective Agency of New York City? A. Yes, sir.

Q. Were you employed to operate in this case for Mr. Reeves? A. Yes, sir.

Q. Who employed you? A. Mr. Reeves' brother first came to me, he came into my office and talked to me about the case, that is, Mr. Harvey Reeves.

Q. Harvey Reeves, he is a lawyer in New York City? A. Yes, sir, he is.

Q. Is Mr. Stender employed by you in the agency? A. Yes, sir; he is.

Q. Do you remember anything that took place on April 11th, 1928? A. No, I don't believe I was present on that date.

Q. Do you remember if Mr. Stender was in the case at that time? A. Yes; he was working on the case I think.

Q. Did you receive a report from him on that date? A. I did.

Q. When was the first date that you personally were engaged in this case? A. I was down there on one occasion opposite the Church around the early part of April and I saw Mrs. Reeves and Mr. Petry come out of the Church together; they were identified to me by Mr. Stender, and I believe that Mr. Harvey Reeevs was along; I am not positive.

Q. Is the woman alongside of Mr. Ward the woman who was pointed out to you as Mrs. Reeves? A. Yes.

Q. You recognize her? A. Yes.

By the Court:

Q. Mr. Petry in Court? See him anywhere? A. I have never seen him in the day time. I don't know if I would know him.

Q. You don't know if you are able to identify him? A. No, not in the daytime.

By Mr. Moore:

Q. What did you do on that day? A. They came out of the Church and stood in front of the Church and then Mr. Petry went in the direction of his home and Mrs. Reeves went home.

Q. Do you recollect anything that took place

May 10th? A. Yes; May 10th Mr. Stender and Mr. Reeves stopped at my home and I went to Hawthorne and we drove past the Masonic Lodge and saw there was some affair going on, and we drove past the house and there was a light in Mrs. Reeves residence and a woman sitting in the house. We drove on over to Paterson and had a bite to eat and we came back to the Lodge, getting back in the neighborhood of ten o'clock, and about, I think, 10:25 or 10:30, a gentleman came out with two other men and Mr. Reeves told me that was Mr. Petry, and I got out of the car—

Q. Which Mr. Reeves, the Reverend? A. Yes. I got out of the car and I followed Mr. Petry on foot and when he arrived in front of the parsonage he hesitated for a few seconds, glancing towards the parsonage and then he walked on up to the next corner which is very dark and she stood there for a short time while some people came out of the Church.

Q. He first hesitated in front of the parsonage? A. Yes, and then he went on down to a little ice cream store nearby and I saw him enter a telephone booth and after he left the telephone booth he walked back up to the next corner in the direction of the parsonage which is almost opposite the Church and he crossed over and entered the cinder driveway on the right side of the Church and disappeared from view.

Q. The cinder driveway is on the side of the Church? A. Yes, on the side as you face the Church, the right.

Q. See him enter the cinder driveway? A. Yes.

Q. Did he disappear in the darkness? A. Yes, he did. Almost at the same minute he entered

that cinder driveway, I observed a woman come out of Mr. Reeves house and enter the driveway after him.

Q. Who was that woman? A. That was Mrs. Reeves there (indicating to the defendant).

Q. Did she enter the same pathway? A. Yes.

Q. And disappear in the darkness? A. Yes.

Q. Then what did you do? A. Just about at that time, I saw Mr. Stender and Mr. Reeves go by in the car going in, I haven't got my geographic bearings out there, going back towards where the United Cigar Store is, going by in the car rather slow, and they turned around up the street and parked the car, and I went and got in the car with them.

Q. Then what did you do? A. We stayed there for about half an hour, when Mrs. Reeves came back walking along Lafayette Avenue on the same side of the Street where we were parked.

Q. When you first observed her, did she have anything in her hands? A. Something like under her right arm when she went by at the time; I was under the impression it was a newspaper.

Q. When she returned did she have anything under her arm? A. No, she had not.

By the Court:

Q. Why didn't you follow them up the pathway? A. That is a very dark place and when people pass back of the Church there is a noise made from anyone walking on the cinders, and I was alone and I went to get Mr. Stender and Mr. Reeves and we discussed the situatioin.

Q. Were you instructed by the petitioner not to proceed further behind them? A. No. After I joined them, yes, but not prior to that time.

Q. On this occasion when they went back of the Church? A. When I went back to the car, we discussed the thing and I told Mr. Reeves, he was doubtful whether we could find them because they would hear us coming if we went back there.

Q. What did he say about that? A. He was very much excited.

Q. What did he say? Here are you two detectives and himself and his wife disappearing from sight in back of the Church; what did he say? A. Mr. Reeves did a good deal of explaining; I don't recall his exact language.

By Mr. Moore:

Q. What did he say, any statement he made to you? A. I recall he asked me what I thought he ought to do, and I said if we go back we may find them and we may not, so we simply waited there until she came back.

Q. Your reasons for making that statement were what?

Mr. Ward: Objected to.

The Court: Objection sustained.

Q. Did Mr. Reeves make any statement at that time? A. He asked me what he should do under the circumstances, and I said well, I think we ought to wait again, because if we go back there now we will not find them, they'll probably get suspicious of our coming on account of the noise and racket and we wouldn't know where to look because of the large space in back there.

Q. You mean the noise would be made from the cinders on the cinder path? A. Yes.

Q. Had you ever been behind the Church before? A. No, not prior to that.

Q. You didn't know where it led to at that time? A. No.

By the Court:

Q. Did he say anything about giving them an opportunity to commit a crime? A. I don't know as he said anything of that kind at all.

By Mr. Moore:

Q. Will you describe Doctor Reeves condition at the time he saw his wife pass your automobile? A. He was pretty much excited all evening.

Q. Describe what he did, how he acted? A. He was talking about his brother and family and the children and what he was going to do and how it would hurt his standing and all those sort of things.

Q. When you say he was excited, do you mean he was hysterical? A. I wouldn't call him exactly hysterical, no. I think any man is excited under those circumstances.

Mr. Ward: I ask that be stricken from the record what he thinks.

The Court: Yes, strike it out.

Q. How long did you remain there in the automobile? A. I would say about thirty to thirty-five minutes.

Q, Then what did you do? A. After Mrs. Reeves came back and went into the house, we left and discontinued our work for the night.

Q. Were you on the job the following day, on the 11th? A. I went down to Hawthorne the following morning with Mr. Reeves and Mr. Stender. We went into the back of the Church and looked all around and didn't see anything of any special

importance, except that Mr. Reeves picked up a handkerchief along the railroad tracks in the grass.

By the Court:

Q. Did you examine the grass? A. Yes, sir.

Q. See any indentations in it? A. There were several; the grass was mashed down in some places, and in other places it was standing up.

By Mr. Moore:

Q. Did you find any place where wood had been cut and there were chips on the ground? A. In the back along the fence was some logs laying there as if somebody must have chopped wood there sometime.

Q. Is this the handkerchief that you say the Doctor picked up in the grass along the railroad tracks the next day? A. It looks like it.

Q. What was the condition of it? A. It is salmon and white.

Q. Did Doctor Reeves ever pay you any money for services? A. His brother brought the money over to my office from time to time.

Q. He employed you, did he? A. Yes, sir.

Cross-examination by Mr. Ward:

Q. Mr. Osborne, when was the money brought to you from time to time? A. It is too bad I haven't got my books here.

Q. About when? A. Every three or four days.

By the Court:

Q. How long were you on the case? A. We worked this case three or four days a week from the early part of April until about the middle of May, I would say.

By Mr. Ward:

Q. You say early in April you saw Mr. Petry and Mrs. Reeves come out of the Church together? A. Yes, the early part of April.

Q. Remember the date? A. No, sir; I have notes here if you want me to refer to them.

Q. Can't you remember when that was? A. No; I have so much of this kind of work I can't remember the exact date of it; the first time I saw them, there was nothing important.

Q. Was it near the middle of April? A. No, the early part of April. I would say the first week in April.

Q. The first week in April? A. Yes, sir.

Q. That was the first time you had seen them? A. Yes.

Q. And you say Mr. Stender pointed them out to you? A. Yes, he did.

Q. All you saw that night was that they came out of Church together and separated? A. Yes; that's right.

Q. Haven't you any record of when you were hired? A. It was the latter part of March or the first part of April.

Q. The latter part of March or the first part of April? A. Yes; Mr. Reeves' brother came to my office.

Q. How long after you were hired did you first send a man out? A. I imagine three or four or five days.

Q. Was that before the first of April? A. Just about the first of April.

Q. May 10th, after these preliminaries, you came back from the Masonic Hall and you saw Mr. Petry? A. Yes.

Q. And the Rev. Reeves was with you at that time? A. He was.

Q. He pointed out Mr. Petry to you? A. Yes; right.

Q. On that evening? A. Yes.

Q. This Mr. Stender was right with you at that time? A. Yes.

Q. How close was Mr. Reeves to Mr. Petry at that time? A. We stayed in the car right across from the Masonic Temple.

Q. Then you went down—you followed Mr. Petry down the street? A. I got out of the car.

Q. And you walked? A. Yes, on the opposite side of the street.

Q. What was the first thing of any particular import that Mr. Petry did? A. I think there were one or two men with him when he left the Church and they separated a block away.

Q. Did you see Mr. Petry come to the Reeves home or parsonage? A. Yes.

Q. Where was the car then, back of him? A. I don't know.

Q. How far back of Petry were you? A. I was on the opposite side of the street, where there was light on the street I would stay away from him some distance.

Q. How far back of him were you? A. I was on the opposite side of the street, not more than fifty feet.

Q. Did he come to a stop in front of the Reeves' home? A. Yes, he did.

Q. Where was the car then? A. I didn't see the car.

Q. If it passed you would you have seen it? A. I might have, and I might not. I was not looking for cars.

Q. You were not keeping track of the other two? A. No.

Q. How long did Mr. Petry stand there? A. Probably a minute.

Q. And then someone came out of the Church? A. Nobody.

Q. Petry after standing there went down the street? A. Down to the corner.

Q. Did you not say on direct-examination that while standing there someone came out of the Church? A. No, sir.

Q. Do you know if anybody did come out of the Church at that time? A. A few minutes later when he went down to the corner, almost opposite the corner there were several people came out of the Church.

Q. He moved from the front of the house and stood on the corner? A. Yes.

Q. How long was he there on the corner? A. Possibly five minutes.

Q. Where was the car then? A. I don't know.

Q. You didn't notice the car at all? A. I had.

Q. Where did you first notice the car after you got out? A. I first saw the car after Mrs. Reeves had gone into the cinder path, and I began to look around.

Q. So that from the time you left the car at the Masonic Temple you didn't see the car again until after Mrs. Reeves had gone into the cinder path? A. Not to my recollection.

Q. That is correct? A. Yes.

Q. You didn't stand on any corner and motion for that car to come up when Mr. Petry was in the Bee-Hive, did you? A. No.

Q. Sure of that? A. Positive.

Q. You saw Mr. Petry go into the Bee-Hive? A. Yes.

Q. And telephone? A. I saw him go into the telephone booth.

Q. Where were you then? A. Almost opposite the Bee-Hive.

Q. How far is that from the corner of Llewellyn Avenue, the next street south? A. If it is the next block, I would say forty feet.

Q. See any car standing in Llewellyn Avenue? A. I didn't look.

Q. You were across the street? A. Across the street, from the Bee-Hive, but not from Llewellyn Avenue.

Q. Llewellyn Street or Avenue was forty feet down? A. No.

Q. Didn't see any head lights of a car parked at that time at Lafayette Avenue, did you? A. No, I didn't look.

Q. Petry came out and walked back to where? A. In the direction of the Church, and I walked ahead of him on the opposite side of the street.

Q. How far ahead? A. I would say possibly fifty or seventy-five feet on the opposite side of the street.

Q. Mr. Petry walked up to this next corner above Llewellyn Street and crossed the street? A. Yes.

Q. Were you looking back? A. Yes, I did.

Q. When Petry crossed the street, did you see him? A. I did.

Q. See any car there then? A. I don't recall the car.

Q. Don't know if he passed in front of any car coming up the street? A. No, I don't recall seeing the car. In fact, I didn't look for it.

Q. Did you continue on your way? A. As Mr.

Petry went in the cinder path or driveway, I was exactly opposite the parsonage.

Q. Mr. Petry crossed the street—where did he get on the sidewalk with reference to the cinder driveway? A. Right near the cinder driveway.

Q. How far from it? A. I would say not more than ten feet away.

Q. He continued right across the sidewalk into the driveway, did he? A. Yes.

Q. He wasn't more than ten feet off the point of direction? A. No.

Q. And he continued right on in? A. Yes.

Q. From the time he started from the Bee-Hive where you saw him telephone up to the time he made this bee-line across Lafayette Avenue and went into this cinder driveway, did he stop at all? A. Just for a few seconds or a minute on the corner.

Q. Where? A. Opposite the cinder driveway a little to the left as you face the opposite way from the Church, facing on the same side of the street where the Church is.

Q. How long did he stay there then? A. About a minute.

Q. Did you keep on walking or did you stop? A. I walked slowly along—I was ahead of him.

Q. Did you notice any car then? A. I was not looking for the car; no, I did not.

Q. Now, when Mr. Petry went into that driveway, did you go back then? A. No.

Q. Did you stand there? A. I was directly opposite the parsonage when he went in.

Q. Did you stand there? A. Sure.

Q. Behind a tree? A. No.

Q. Right out in the open? A. Yes.

Q. Under the glare of the electric light? A. The

light is in front of the Church.

Q. Right there? A. I was up a little further.

Q. How far up? A. I would say directly opposite her house, thirty or forty feet.

Q. Pretty well in the reflection of the light? A. No.

Q. You made no effort to conceal yourself? A. No, sir.

Q. And she came out from directly opposite you and crossed, and you saw her cross? A. Yes.

Q. When you stopped there, did you continue to look back to where Petry had disappeared? A. No, I had only seen him go into the cinder pathway.

Q. What were you doing? A. I was looking at her.

Q. Mrs. Reeves did not appear there until after Mr. Petry disappeared? A. Yes; he was in the cinder path a minute or two minutes.

Q. Mr. Petry disappeared in the cinder pathway? A. Yes.

Q. What were you still looking at then further up the sidewalk forty feet above the cinder path? A. I wanted to see where she went.

Q. Did you look across the street? Did you look across the street at her house? A. She was on the way out.

Q. One or two minutes afterwards, sixty seconds or 120 seconds—when? A. At the time Mr. Petry was going into the cinder path, Mrs. Reeves was coming out of the house.

Q. Which was it when Mr. Petry disappeared, a minute or two afterwards? A. She appeared as Mr. Petry was disappearing.

Q. As Mr. Petry disappeared off the walk ito the

cinder path, Mrs. Reeves came out of the house? A. Yes.

Q. That was simultaneous, was it? A. Yes.

Q. Then you were looking across the street at the Reeves house? A. Yes.

Q. The house lighted? A. Yes.

Q. And as Mrs. Reeves appeared, was there anything to obstruct your vision at any time? A. No.

Q. No car passed then? A. I don't recall the car passing.

Q. You are sure about that? A. Positive, yes.

Q. As you were standing there looking over towards the Reeves house, you don't recall the Ford car, with which you were acquainted and familiar, passing between you and Mrs. Reeves? A. I was not looking for it.

Q. You don't recall it? A. No.

Q. Would you say it didn't pass? A. I wouldn't say.

Q. Well, if it had passed, would you not remember? A. Not unless I seen it.

Q. You are pretty self-confident, aren't you? A. No, I am not. I am telling the truth.

Q. After Mrs. Reeves disappeared, then you began looking for your car? A. Yes, sir.

Q. And you hadn't the slightest idea where it was at that time? A. No; I looked around and I soon found it.

Q. You were alert about finding the car? A. No.

Q. Had it struck you that you had better keep track of this car so that if anything happened, you could get Mr. Reeves? A. No.

Q. You were pretty thoroughly experienced in this work? A. I think so.

Q. Did you not deem it necessary for you to

know where Mr. Reeves was so that you could communicate with him? A. Not under the circumstances.

Q. As soon as Mrs. Reeves disappeared, did you locate the car immediately? A. Yes, sir.

Q. Across the street? A. Yes.

Q. Standing there? A. Yes.

Q. Correct? A. Yes.

Q. And then you went over to it? A. Yes.

Q. And this handkerchief, where did you find it? A. Mr. Reeves found that.

Q. Down by the railroad tracks? A. Yes; down by the railroad tracks.

Q. How near to the railroad tracks? A. I would say right on the edge of the road; ten feet away from the tracks along the path.

Q. And you were right there when he found it, were you? A. Yes, sir.

Q. You saw Mr. Reeves find it and pick it up? A. Yes.

Q. And he called your attention to it immediately? A. He said it was his wife's handkerchief.

Q. That was how long after Mrs. Reeves had appeared from Diamond Bridge Avenue? A. The following morning.

Q. Did you have any search light? A. Not in the morning.

Q. That night? A. Yes; we had a search light that night.

Q. Mr. Reeves didn't have any, did he? A. I don't think so.

Q. Yet when Mr. Reeves picked up the handkerchief he came to you and said "this is my wife's handkerchief?" A. We found the handkerchief the next morning.

Q. I understood you found it that night? A. No, sir.

Q. Sure about that? A. You got that all wrong.

Q. Sure you haven't got it all wrong? A. No, I am right.

Q. Didn't you state on your direct-examination that night you did not see anything of importance excepting a handkerchief near the railroad tracks —wasn't that your statement? A. No, sir; I did not.

Q. This handkerchief you say was found the next morning? A. Yes.

Q. Did you find anything of importance that night? A. No.

Q. Did you mention on direct-examination anything of importance you found that night? A. Not that I recall.

Q. You and Mr. Reeves and Mr. Stender waited in that car for thirty-five minutes? A. Yes.

Q. After Mrs. Reeves had disappeared? A. Yes.

Q. That's true? A. Yes.

Q. And you were not familiar with the locality there? A. I was not.

Q. And you were not familiar with the road back of the Church? A. No.

Q. Yet, you decided with Mr. Reeves as I understood you, it would be foolish to go back there because it was such a dark road? A. Yes.

Q. How did you know that? A. From what Mr. Reeves told me.

Q. He told you it was a dark road? A. Yes.

Q. When? A. At that time.

Q. Right at that time? A. Yes.

Q. Mr. Reeves was not anxious to go back there, was he? A. He depended on our advice.

Q. You told him, as I understood you, that you

might find them or you might not find them—is that right? A. Yes.

Q. If you found them, it would be what you wanted to do, wouldn't it? A. Yes.

Q. And if you didn't find them, there would be no harm done? A. There might have been.

Q. How soon after they disappeared in behind this Church did you and Mr. Reeves and Mr. Stender have any conversation about going in there? A. As soon as I got in the car.

Q. And then did you suggest going back of the Church? A. No, I never suggested that at any time.

Q. Did anybody suggest going back of the Church? A. Not that I recall.

Q. But you did say—you suggested it would be well not to go back of the Church just yet? A. Yes.

Q. Because if you made a noise; or you would probably make a noise? A. Yes.

Q. And if you made a noise it might warn them? A. Yes; right.

Q. Warn them of what? A. That we were coming.

Q. Warn them in time to prevent your discovering their committing adultery, that was it? A. Yes, that is right.

Q. You wanted to give them time to commit adultery, did you not? A. No.

Q. You did not want to interrupt them? A. We would if we had known where they were at.

Q. You didn't want to go back there to warn them of your approach? A. Unless we knew where

Q. That's correct? A. Yes.

Q. And didn't you say you did not want to warn them of your approach? A. Uuless we knew where they were yes.

Q. And you so advised Mr. Reeves, did you not? A. Yes.

Q. And Mr. Reeves was fully aware from what he said his wife might be committing adultery—that was the thought, was it not? A. I would assume so.

Q. He was wildly excited, was he? A. Yes.

Q. Talking about the disgrace of his wife committing adultery; that's true? A. Yes.

Q. And yet he sat there and took your advice that you should not go back there to interfere with her committing adultery or warning her; that is true, is it not? A. I would say so, yes.

HARVEY REEVES, being duly sworn according to law, upon his oath, testified as follows:

Direct-examination by Mr. Moore:

By the Court:

Q. You are a brother of the petitioner? A. Yes.

By Mr. Moore:

Q. And a Counsellor at Law of New York City? A. Yes.

Q. And a Director of Columbia University? A. Yes.

Q. And a brother of the petitioner in this case? A. Yes.

Q. Do you remember talking to Mr. Osborne? A. I do.

Q. What time? A. I first talked to Mr. Osborne in regard to this case about the middle of March. I had known him for some years before that.

Q. Did you retain him in the case? A. I did.

Q. Did you give him any instructions?

Objected to by Mr. Ward.

The Court: Objection sustained. It is not binding upon the defendant here.

Q. Pursuant to your instructions, did these men go on the case? A. They did.

Q. Mr. Osborne and Mr. Stender? A. Yes.

Q. And, did you assist them at all? A. Yes.

Q. Do you remember anything that took place on April 11th, 1928? A. Yes; I do.

Q. Just describe what took place on that day. A. On that day I met Mr. Stender by appointment in Paterson; he had a car with him according to my instructions and we went in that car to Hawthorne. We went up Lafayette Avenue and parked the car between the parsonage and the moving picture theatre on the corner of Diamond Bridge Avenue, north of the parsonage. From that position in the car, we could see the church. There were lights in the back of the church, and we had been informed a meeting was then in progress. About a little after, or half past eight, between twenty minutes of nine and ten minutes of nine, a number of persons, half a dozen or so, came out; it was raining, and walked away or drove away. Among the last ones came out a quarter or ten minutes of nine was Mrs. Reeves and Mr. Petry. Mr. Petry raised an umbrella and they proceeded across the street directly to the parsonage, and while easing across I directed or instructed Mr. Stender to move the car so that we could have a better view of the parsonage; we moved the car down the street very slowly and stopped directly opposite the window, the middle window in the parlor of the parsonage. I then lowered the window.

I was on the side nearest the curb. I wanted to have a good view, and we could see the front room which was lighted up, from the front room into the dining room. Mr. Petry and Mrs. Reeves went up the front porch into the hall and went into the front room directly in line of our vision and set down opposite each other and talked together for a few moments. Then they both arose and passed through the dining room and turned at the edge of the table towards the kitchen. I am familiar with the diagram of the house—and disappeared from out of sight into that direction.

Q. Into the kitchen? A. Yes. Mr. Stender and I talked for a moment what to do and we finally decided to go around the house, going down Lafayette Avenue; I am not sure of directions, but opposite the theatre around to Llewellyn Avenue to the back of the house and we looked at the back of the house. I opened the door of the car and we saw there were no lights either upstairs in the house or in the kitchen. We then came around in the car to the front of the house exactly where we had been before, and there was no one visible in the front room or dining room which were the only lighted rooms in the house. We then debated as to what should be done, and while talking there Mrs. Reeves and Mr. Petry reappeared from the direction of the kitchen and passed from the dining room into the front room and walked into the hall and Mr. Petry left. We followed Mr. Petry down the street—he passed within two feet of the parked car. We followed him down for several blocks. I looked at my watch and saw it was about twenty minutes past nine.

Q. How long would you say they were in the kitchen A. I am not sure that I can give that ex-

actly. They went into the house between fifteen minutes and ten minutes of nine, and as I say, Mr. Petry was followed down the street at twenty minutes after nine. It was sometime within that period, perhaps fifteen minutes.

Q. In the kitchen fifteen minutes? A. That is as near as I would say.

Q. Did Mr. Stender recognize Mr. Petry and the defendant on that occasion? A. Yes; he did.

Q. Do you remember any occasion when you pointed out Mr. Petry to Mr. Osborne? A. Yes; I went with Mr. Osborne on one occasion in front of Mr. Petry's home and we saw him on one or two other occasions; I don't remember the dates. I know that Mr. Osborne had seen Mr. Petry.

Q. How long have you known Mr. Petry? A. Ever since my brother took up this parsonage in Hawthorne; I have visited there week ends and have always met him at the church.

Cross-examination by Mr. Ward:

Q. When you went up there on the 11th of April, where did you first park your car? A. On the same side of Lafayette Street as the parsonage, just before that little street.

Q. You were facing south on the same side as your brother's house? A. That is correct.

Q. And you saw these people come out? A. Yes.

Q. And drive away? A. Yes.

Q. And then you saw Mr. Petry and Mrs. Reeves come out? A. Yes.

Q. Walk across the street? A. Yes.

Q. Did they come out of the church and walk right across the street? A. They stopped for a mo-

ment to look to see if it was raining and put up an umbrella.

Q. Alone? A. Yes.

Q. From the time you saw them come out until they entered the house, they were alone? A. Yes.

Q. No group of people to whom they were talking there? A. No.

Q. They didn't stand on the sidewalk with a group of people talking to them? A. No.

Q. When did you move your car? A. As they were coming down across the street.

Q. How far were you above their house? A. Oh, 150 feet or so.

Q. And that street is the ordinary street, is it? A. Yes; Lafayette Street.

Q. Did you start to move your car when you saw them coming across the street? A. Yes; that is my recollection.

Q. You were approaching the house to the right hand side as they were crossing the street? A. Yes.

Q. Who got there first, you or they? A. My recollection is they were first walking up the driveway.

Q. When you stopped right in front of the house? A. Yes.

Q. As they were walking up the driveway within fifteen or twenty feet of them you stopped your car? A. Yes.

Q. And you stopped your car right in front so you could look right into the window? A. Directly in front.

Q. Well, they went in? A. Yes.

Q. The house was lighted? A. Yes, as I have described.

Q. You couldn't look into the vestibule from

where you were? A. We could see the vestibule.

Q. Did you have to look through the living room window? A. No, we could look through the door of the vestibule which was curtained, and I could see persons moving.

Q. You mean there was a vestibule there? A. There was a little entrance hall in the house.

Q. And sort of a vestibule? A. Yes.

Q. Could you see beyond the vestibule into the hall-way through that door? A. There was no hall other than the entrance hall.

Q. This vestibule to which you refer is how large? A. Ten by eight, and from it the stairs go up.

Q. Lighted in that hallway, is it not? A. Yes.

Q. And that is the hallway into which you say you could look through the glass in the door? A. I saw them go into the hall.

Q. Is there any window through which you could see into that hall? A. The door is of glass.

Q. Aside from the door? A. No.

Q. Mr. Petry and Mrs. Reeves sat in the living room? A. Yes.

Q. And chatted there? A. Yes.

Q. Shades up? A. Yes.

Q. You had no difficulty in seeing? A. Not the slightest.

Q. And they got up and went into the dining room? A. Yes.

Q. And that was in darkness? A. No, it was well lighted.

Q. Any lights in the dining room? A. The dining room was lighted by the shining of the light from the front room.

Q. Aside from that, no other light? A. I didn't observe any.

Q. Then they disappeared to the right? A. Yes.

Q. Counsel asked you if you could see them go into the kitchen. You said yes, did you? A. I saw them turn to the right.

Q. As a matter of fact you didn't see them go into the kitchen? A. Turn to the right and disappear from sight.

Q. Do you know there is a door leading out of the dining room to the right into the hallway—do you know that? I mean, from the dining room into the hallway? A. There is not to the best of my knowledge and remembrance.

Q. You don't know anything about that? A. No.

Q. Then as soon as they disappeared did you move away from there in your car? A. Not immediately.

Q. How long afterwards? A. It is hard to say; two or three minutes. We decided to go around the back of the house.

Q. And you went around to Llewellyn Street? A. Yes, if that is the name of the street.

Q. The first street? A. Yes, in that direction and turned right.

Q. In the car were you and Mr. Stender? A. Yes, Mr. Stender and I.

Q. The gentleman who was on the stand here? A. Yes.

Q. Is that all? A. Yes.

Q. And you got in a position where you could see the back of the house? A. Yes, sir.

Q. Did you stay in the car there, both of you? A. I opened the door of the car.

Q. Did you stay in the car, both of you? A.I did not remain fully seated in the car, but I didn't step out.

Q. Neither did Mr. Stender? A. Correct.

Q. And you were both in the immediate vicinity of the car until you turned around and went back? A. Right.

Q. Mr. Stender did not get out and go to the back of the house? A. No.

Q. And you and Mr. Stender did not go back of the house within a few feet of the door? A. We were within about twenty feet.

Q. Did you get out of that car and go to the back of the house within some few feet of the door? A. We did not leave the vicinity of the car.

Q. And you went around to the front again and you stopped where—in the same position? A. In the same position, facing south.

Q. You went back and turned around and stood in front of the house? A. We took a right turn into Lafayette Avenue and stayed in front of the house.

Q. And you left, following Mr. Petry? A. Yes, sir.

(SECOND DAY).

IN CHANCERY OF NEW JERSEY.

Between
JOHN REEDER REEVES,
Petitioner,
and
MARGARET D. REEVES,
Defendant.

On Petition for Divorce.

Paterson, N. J., June 20th, 1929.

Before—HON. VIVIAN M. LEWIS, Vice Chancellor.

APPEARANCES:
EDWARD THOMAS MOORE, ESQ., Solicitor for the Petitioner;
JOHN M. WARD, ESQ., appearing for MESSRS. WARD & MCGINNIS, Solicitors for the Defendant.

WILLIAM H. BELL, a witness produced on behalf of the petitioner, being first duly sworn according to law, testified as follows:

Direct-examination by Mr. Moore:

Q. Mr. Bell, where do you reside? A. 3 McKinley Avenue, Hawthorne.

Q. How long have you lived in Hawthorne? A. About nine years.

Q. Where are you employed? A. I am a salesman.

William H. Bell—Direct.

Q. Are you employed in any church in Hawthorne? A. Yes; I am the sexton of the Hawthorne church.

Q. Is that the church in which Mr. Reeves is the pastor? A. Yes, sir.

Q. Do you remember anything taking place on April 11th, 1928? A. Yes, sir; it was a prayer meeting night, and Mr. Petry had charge of the prayer meeting that night. The prayer meeting was over at a quarter to nine, and people began to go out, and there were only five or six there. There were about five or six present. The prayer meeting was over at 8:45.

Q. Where was it held? A. In part of the Sunday school room of the church.

Q. What happened afterwards? A. The people left, and Mrs. Reeevs and Mr. Petry were the last going out, and they went out together, and I was behind them a little bit, and when they came to the door of the study, the door was open, and there was a light in the study, and Mr. Petry said that he had a note to write to the dominie, and Mrs. Reeves said she had a note to write, and they wrote them in the study, and after they wrote them, Mrs. Reeves picked up a brown envelope, but I don't know what was in it, and she said: "Mr. Petry, you are good at mechanics; can you come over and fix my telephone; will you come over and look at it", and Mr. Petry had an umbrella, which was partially open—it was raining, and they walked down toward her house.

Q. Did you follow them? A. No, I didn't; I looked at the clock and it was just six minutes to nine.

Q. How long did they remain after the prayer

meeting? A. From a quarter to nine until six minutes to nine.

Q. And they wrote these notes in the meantime? A. Yes, sir.

Q. And you say Mr. Petry conducted the services, that night, himself? A. He did.

Q. What did you do after that? A. I put out the lights in the place and looked out of the window, and I saw them go up the steps in the house, and I stood there quite a while, in the dark, and I afterwards even went down the path a little bit, but before I got to the foot of the path, I saw Mr. Petry come out of the parsonage, and I saw him lift his umbrella from the side of the door, where he had placed it. I came back in the church and lit the light again and it wasn't a quarter past nine yet; it was about fourteen minutes past nine.

Q. Did you see him in the parsonage? A. No; I saw him come out of the parsonage and pick up the umbrella, where he had left it.

Q. Do you remember any occurrence in April, 1928? A. I think it was probably the beginning of May. I went in the church one day, and I saw Mr. and Mrs. Reeves in the office.

Q. Was that in the church? A. In the study in the church.

Q. You say you entered the door without knocking? A. Yes; I had been told by Mr. Reeves to come in the study at any time, without knocking.

The Court: I object to that.

The Court: The objection is sustained.

Q. What did you do? A. I walked into the office.

Q. Into the study? A. The office, we call it.

Q. Who did you see there? A. Mr. Reeves and Mrs. Reeves.

Q. Did you go in there? A. Yes, sir; I did.

Q. Did you knock? A. No, sir; I did not.

Q. When you opened the door, what did you see? A. I saw Mr. Reeves, apparently, pleading with his wife.

Mr. Ward: I object to that.

The Court: Strike that out.

Q. What did you see when you opened the door? A. I saw Mr. Reeves on his knees.

Q. How far away was he from her? A. About a yard, I would say.

Q. On his knees? A. Yes, sir.

Q. Pleading with her? A. Yes, sir.

Q. When you saw that, what did you do? A. I closed the door and walked away.

Q. Do you remember any other occurrence in May, 1928? A. Yes; I remember seeing Mr. Barrett, and he came in my home, and I live across the street from the church, and I was waiting for him and he said—

Mr. Ward: I object to what Mr. Barrett said.

The Court: Yes.

Q. Just what you did. A. I went over to the back of the church and admitted Mr. Reeves in the back of the church, and then I, Mr. Barrett and Mr. Reeves went in the church.

Q. On that occasion, did you see Mrs. Reeves? A. Not at that time. I stayed in the church for quite some time, and then I said I would go to my house, and just as I went in the alley I met Mr. Petry, face to face, and he said: "Good night".

Mr. Ward: I object to what Mr. Petry said.

The Court: I will allow it. Do you object to the word "Good night"?

Mr. Ward: No, sir.

Q. You harbor no ill-feeling against Mr. Petry? A. No, sir.

By the Court:

Q. Did you see anything on this occasion? A. Just after that I saw Mr. Petry walk up Lafayette Avenue, toward the parsonage, and I saw him turn in the parsonage, and there wasn't another soul on the street, and I went back to the church and acquainted Mr. Reeves of the fact that Mr. Petry was walking toward the parsonage, and had entered.

Mr. Ward: I object to it.

The Court: I will let it stand.

Q. You saw Mr. Petry enter the parsonage? A. I saw him go up the walk; I couldn't see him enter the parsonage, or the door.

Q. And then you went back to the church? A. Yes, sir.

Q. And who did you find in the church? A. Mr. Barrett and Mr. Reeves.

Q. What did you tell Mr. Reeves?

Mr. Ward: I object to the question.

The Court: The objection is sustained.

Q. What did you all do after that? A. We were all in the church, talking, for about five or ten minutes, and we all went out of the church, with the intention—

Mr. Ward: I object to that.

The Court: The objection is sustained.

Q. What did you do? A. We all went out of the church, and then I saw Mr. Reeves after that.

By the Court:

Q. Did you see Mr. Petry again that night? A. Yes, sir; I saw him come out of the parsonage.

By Mr. Moore:

Q. When? A. About ten or fifteen minutes after we come out of the church.

Q. Did you all go to the parsonage? A. Yes; but not together.

Q. What did you do? A. I walked down Cedar Avenue, and I lost sight of them, and I walked up and I saw Mr. Barrett, but he didn't know where Mr. Reeevs was, and I didn't know where he was, either, at that time, but while I was there I saw Mr. Reeves come out of the parsonage.

Q. Was he alone? A. He was alone; yes.

Q. Will you describe the appearance of the parsonage that night? A. The shades were down in front, and that was a very unusual thing.

Mr. Ward: I object to that.

The Court: Strike it out; yes.

By the Court:

Q. What time was it? A. About half past seven, when I first saw Mr. Barrett.

By Mr. Moore:

Q. Had you ever seen the shades down before? A. Never; not like that.

Q. What did you do after that? A. I went home.

Q. Do you remember whether it was on or about June the tenth, that Mr. Reeves preached his last sermon in the church? A. I think it was June 10th.

Q. Do you remember anything on the Sunday previous to that? A. Yes; that would be June 3rd, and I remember seeing Mr. Petry and Mrs. Reeves write notes.

Q. What was your position, that you could see them writing notes? A. I was closer than I am to you—about three or four yards, and I saw them write notes.

Q. Where were they? A. In the choir.

Q. That is back of the pulpit? A. Yes; to the side and behind.

Q. What kind of paper were they writing on? A. The same color that is before Mr. Ward, but maybe a little darker color.

Q. You say you saw Mr. Petry writing? A. Yes, sir; and like drawing, it looked to me—as if he was drawing, at the time.

Q. Were you in court the other day, Mr. Bell? A. Yes, sir; I was at the last hearing.

Q. You saw certain pictures and notes offered in evidence, here? A. Yes, sir.

Q. Did you recognize them? A. Yes, sir.

Q. Are the notes that you saw—

Mr. Ward: I object to this on the ground that it is leading.

The Court: It is quite leading.

Mr. Moore: I will get them here.

Q. After you saw these notes written, what did you do? A. I gave them to Mr. Reeves.

William H. Bell—Direct.

By the Court:

Q. You gathered them up, didn't you? A. Yes, sir; I gathered them before.

By Mr. Moore:

Q. Was that the first you saw them write? A. No; the week previous I came across several notes and I gave them to Mr. Reeves. I don't know what they were. It was my business to clean up the church.

Q. Did you see what became of the notes after that? A. Yes; I saw Mrs. Reeves put one in her left breast; I saw her unloose the attachment here very carefully.

Q. Did you tell Mr. Reeves anything about that?

Mr. Ward: I object to that.

The Court: You can answer yes or no.

Q. Did you say anything to Mr. Reeves about that? A. I did; yes.

Mr. Moore: That is all.

Cross-examination by Mr. Ward:

Q. On April 11th, about 8:45, you saw Mrs. Reeves and Mr. Petry leaving the church? A. No; I don't say that. I said that was the time the prayer meeting was over—at 8:45.

Q. What time did you see them leave the church? A. 8:54.

Q. 8:54? A. Yes; six minutes to nine I saw them leave the church.

Q. What did you see after the services were over? A. I was looking for anything suspicious—

Mr. Ward: I didn't ask that, and I ask that it be stricken out.

The Court: Yes; strike it out.

Q. What did you see? A. I waited until the others got out, and there were only four or five there, and then I saw Mr. Petry and Mrs. Reeves walk out of the Sunday school room.

Q. Do you remember anyone else who was there that night? A. I can tell you who was usually there.

Q. No, I didn't ask you that. Can you tell who was there? A. Not exactly; no, sir.

Q. They followed the other people right out of the body of the church, right to the study? A. They were the last ones there.

Q. You were there? A. I don't count; I am the sexton.

Q. Were the lights all lit at the time? A. Yes, sir.

Q. And they went to the study door, and the door was open? A. Yes, sir.

Q. And you were within a yard of them at the time, weren't you? A. About four or five feet, because I followed them.

Mr. Ward: I object to the latter part of the answer, and ask that it be stricken out.

The Court: Strike it out.

Q. You were within a few feet of them when they went in the study? A. Yes, sir.

Q. And you heard what was said? A. Yes, sir.

Q. And they started to write some notes? A. Yes, sir.

Q. Mrs. Reeves wanted to write to whom? A. Mr. Barrett.

Q. And who did Mr. Petry want to write to? A. Mr. Reeves.

Q. And they wrote notes? A. Yes, sir.

Q. And you stood right there by the door until they came out? A. Yes, sir.

Q. And they came out at 9:54? A. 8:54.

Q. I beg your pardon; 8:54. A. Yes, sir.

Q. I think you said on this occasion, you heard Mrs. Reeves ask Mr. Petry something about a telephone; that right or not? A. Yes.

Q. And you were within a few feet of them then, were you? A. Yes, sir.

Q. And Mrs. Reeves and Mr. Petry went out together, then? A. Yes, sir.

Q. Over toward the parsonage? A. Yes, sir.

Q. Do you know where Mr. Reeves was? A. I don't know where he was.

Q. What date was it that you saw Mrs. Reeves and Mr. Reeves in the office? A. It was in the beginning of May; it was on a Sunday afternoon.

Q. You can't fix the date any better than that? A. No, sir.

Q. How do you know it was in May? A. Because, it was the day before Memorial Day.

Q. The day before Memorial Day? A. Oh! I beg your pardon; the other day was the twenty-ninth of May. I don't remember this date exactly, but I think it was in the early part of May.

Q. What time of day? A. It was either around half-past six—it might have been then, or after the service; it was in the evening, anyway.

Q. Don't you remember whether it was before or after the service? A. No, I don't; because I didn't pay much attention to it at the time.

Q. It didn't make much impression on your mind? A. I wasn't thinking—

Q. Did it, or not? A. No; it didn't.

Q. You say on May 29th, you and Mr. Reeves and Mr. Barrett were together in the church? A. Yes, sir.

Q. At what time? A. I think it was about nine o'clock.

Q. At nine o'clock? A. Between eight and nine.

Q. Between eight and nine? A. Yes, sir.

Q. When was it you first saw Mr. Petry that evening? A. After I had left the church, to come to my own home.

Q. What tim e was that? A. About half past eight, or twenty minutes to nine.

Q. Was that after you had attended services? A. There wasn't any service there that night at all.

Q. Where had you been? A. In the church.

Q. With Mr. Reeves and Mr. Barrett? A. Yes, sir.

Q. And then, after you left the church, and started to go home, you saw Mr. Petry? A. Yes, sir.

Q. Where? A. Between my home and the next house.

Q. Did Mr. Petry go right on past you? A. He said: "Good night" to me, and went right on.

Q. Did you go right in your house at the time? A. No; I didn't.

Q. Where were you? A. At the street; at the entry of the back way.

Q. Are you sure it was about twenty minutes to nine? A. About that.

Q. But you remember that you had left Mr. Reeves and Mr. Barrett in the church? A. Yes, sir.

Q. Had there been any particular meeting there

that night, or any church business? A. No; there was no church business.

Q. Mr. Barrett was the man who was on the stand at the last hearing? A. No; he was not; I haven't seen him here at all.

Q. Now, after you left the church, and saw Mr. Petry, and said "Good night" to him, and you went back in the church and saw Mr. Barrett and Mr. Reeves, did you see Mr. Petry at all? A. No, sir.

Q. Then, after talking to Mr. Reeves and Mr. Barrett for about five or ten minutes, you went out again? A. Yes, sir.

Q. And you went toward the parsonage then? A. Yes, sir.

Q. Had you been at the parsonage before that? A. Yes, sir; I walked past there when I saw the shades down, at half past seven.

Q. Didn't you say it was when you went out and saw Mr. Petry, and spoke to him, at your house, that you saw the shades down at the house? A. No; I did not.

Q. Isn't that what you said? A. No, sir.

Q. Then, at half past seven, you passed the parsonage that night? A. I passed it several times.

Q. Did you pass it at 7:30? A. I did, and that is when I noticed that the shades were down.

Q. You say you passed it three or four times that night? A. I live right next door.

Q. And you say you passed it three or four times? A. I will say I passed it once, for certain.

Q. What kind of a night was it; was it raining or clear? A. It was clear then.

Q. Was there any moon shining? A. Not at that time.

Q. Was it cold or warm? A. It was a very nice night.

Q. You remember that very distinctly, do you? A. Yes.

Q. Do you or not, Mr. Bell? A. I do.

Q. Where did you go at 7:30, that you noticed that these shades were down? A. Home.

Q. And you were there until what time? A. I would say until about half past eight, and then I met Mr. Barrett.

Q. And that was about half past eight? A. I said it was between eight and nine, and I think it was about half past eight.

Q. Did you meet Mr. Reeves then? A. At the back of the church.

Q. Did you meet him at that time? A. Yes, sir.

Q. Where did you stay with him? A. In the church?

Q. At any place. A. About five or ten minutes, in the church.

Q. Then you walked directly back to your home, from the church? A. Yes; I went right across to my home.

Q. When you and Mr. Barrett and Mr. Reeves left the church, where did Mr. Reeves go, do you know; did you see where he went? A. No.

Q. Did you see where Mr. Barrett went? A. No.

Q. Where did you go? A. I went down Cedar Avenue.

Q. Why did you go down there? A. I started to look for both of them.

Q. Why did you go down there? A. Because.

Q. To see if you could see Mr. Reeves? A. We were to meet somewhere outside.

Q. You were to meet somewhere on Cedar Avenue? A. No; we were not.

Q. Where were you to meet, outside? A. The intention—

Q. Do you know where you were to meet?

Mr. Moore: He started to answer that.

Q. Did you have any understanding as to where you were to meet? A. No.

Q. All right. And you wandered down to Cedar Avenue, and met them then, did you? Did you, or not, Mr. Bell? A. No; I didn't wander down.

Q. Did you go down Cedar Avenue? A. Yes, sir.

Q. For the purpose of meeting them? A. For the purpose of meeting Mr. Barrett.

Q. Where were you when Mr. Petry came out? A. I was right on the street; I would say about ten yards.

Q. From where? A. From the avenue, or little entrance up to the house.

Q. What do you mean, the pathway leading up to the house? A. Yes; and I turned and went back again right away.

Q. Were you right there by the pathway when Mr. Petry came out? A. I stood about ten yards from the pathway.

Q. I beg your pardon. About ten yards from the pathway? A. Yes, sir; about ten yards from the pathway leading up to the parsonage.

Q. Did Mr. Petry pass you then? A. No.

Q. When he came out? A. No, he didn't.

Q. Were you above the house? A. I was on the Paterson side of the house.

Q. Did you stand there? A. No, I didn't.

Q. Where were you standing? A. I was walking.

Q. Were you moving on the sidewalk? A. Yes, sir.

Q. And he simply came out and walked on his way? A. I don't know where he went, but I saw him come out.

Q. Now, the church, where you saw Mr. Reeves, is almost directly across the street from the parsonage? A. Almost; yes, sir.

Q. And when you went back to see Mr. Reeves, he was there and unconcealed? A. I can tell you what he said.

Q. I say, after you saw Mr. Petry, and he said: "Good night" to you, you went back to the church and saw Mr. Reeves? A. Yes, sir.

Q. And he wasn't concealing himself? A. He was there in the church.

Q. He wasn't hiding away; he was right there? A. The church was closed.

Q. Mr. Reeves was right where he could readily be found? A. Yes, sir.

Q. And he wasn't there, apparently, unknown to anybody; do you know what I mean by that? A. By the general public—I don't believe they knew he was there.

Q. He made no attempt to conceal himself? A. What do you mean? He went right in the church and the door wasn't open; he went in the back door. I opened the door and he and Mr. Barrett went in the church, right through the Sunday school room.

Q. Were there any lights lit in the church? A. No; no lights lit in the church.

Q. And that was before you went out and saw Petry? A. Yes; that was before I saw Petry.

William H. Bell—Cross.

Q. On June 3rd, you say you saw notes written by Mr. Petry and Mrs. Reeves? A. Yes.

Q. Where were you then? A. I was in the study.

Q. You were in the study? A. Yes, sir; in the study.

Q. What time of day was that, or night? A. It was just starting of service.

Q. At night, was it? A. Yes, sir.

Q. Were you in the study during the entire time? A. Yes, sir.

Q. When you saw these notes written? A. Yes; I was.

Q. How many notes did you see written at that time? A. I don't know how many, but I saw them both writing several times on the same paper.

Q. And you were in the study, and you saw Mr. Petry and Mrs. Reeves write several times? A. Absolutely.

Q. On paper? A. Yes, sir.

Q. And you saw the kind of paper it was? A. Yes; it was pretty near the same color as that you have there.

Q. And they were in the choir? A. Yes, sir.

Q. And the study is in the front of the church? A. It is right next to it; there is a little window.

Q. The choir is right off the pulpit? A. Yes, sir.

Q. How far away is it? A. The railing, I would say, is about four or five feet—the choir loft.

By the Court:

Q. Is it raised a little? A. Yes, sir.

By Mr. Ward:

Q. And isn't the choir loft just one step higher than the pulpit? A. Yes; that is about a foot.

Q. And how far away from them were you, when you saw them writing? A. About three or four yards, in the line of vision.

Q. What was their position when they wrote? A. They were sitting side by side, with a vacant chair between them.

Q. Were they occupying their usual chairs? A. Yes, sir.

Q. They weren't sitting next to each other? A. No; there was a vacant chair between them.

Q. Who usually sat there? A. Generally, Mrs. Knapp.

Q. But nobody was sitting between them then? A. No, sir.

Q. What did they use besides using the paper; did they write on a book? A. I don't know.

Q. You didn't observe? A. No, sir.

Q. Were you there during the entire service? A. Yes, sir.

Q. And observed them during the entire service? A. Yes, sir.

Q. And that is the time you saw Mrs. Reeves put the note down in her dress? A. Yes, sir.

Q. Was that the last time you saw that note? A. I saw the note the next day.

Q. Where? A. Mr. Reeves brought it.

Q. Mr. Reeves brought it? A. I wouldn't swear it was the same note, but it was on the same kind of paper.

Q. And then the next day you say you saw the same note? A. Mr. Reeves brought some brown piece of paper the next day.

Q. What did Mr. Petry do with the piece of paper, after he wrote on it? A. He would give it to her and then she would write something on it and hand it back.

Q. What was the last you saw there that night? A. I got a large piece of paper there that night, and I got it and gave it to Mr. Reeves.

Q. What was the last of the piece of paper? A. The one piece was put in Mrs. Reeves' bosom, and the other part was probably put on the rail.

Q. Did you see what became of it at that time? A. I didn't see them put it on the rail.

Q. Were they both writing on the same piece of paper? A. Yes; they were.

Q. Then, so far as you know, one piece of it went in Mrs. Reeves' dress, and the other part, you don't know what became of it that night? A. I didn't see them put it on the rail.

Q. Then the paper counsel asked you about, is a piece of paper that you picked up from the rail; is that right? A. What do you mean?

Q. Counsel asked you if, at the last hearing, you saw some piece of paper here? A. Yes, sir; those are the pieces of paper we are talking about now.

Q. The piece of paper that you had, you turned over to Mr. Reeves; is that right? A. Yes, sir; that is right.

Mr. Ward: That is all.

FRANCES BARBARA REEVES, a witness produced on behalf of the petitioner, being first duly sworn according to law, testified as follows:

Direct-examination by Mr. Moore:

Q. Frances, you are a daughter of Doctor and Mrs. Reeves? A. Yes, sir.

Q. Up to what time did you live with your father

and mother, at Hawthorne? A. Up to June 11th, 1928.

Q. And since that time you have been living with your grandfather, at Asbury Park? A. Yes, sir.

Q. Do you know what took place on May 29th, 1928? A. Yes.

Q. What? A. On May 29th, I retired at the usual time, between half past seven and eight o'clock, and I retired and went to bed, and later in the evening I was awakened by voices. Thinking that my father had come home, I started to go downstairs. I was clad only in my nightgown. I got to where the stairs turn, and I started to go the rest of the way and I looked in the parlor, and I saw my mother and Mr. Petry on the box couch, and I couldn't see anything of my mother but her head and feet. She had on black shoes and Mr. Petry had on blue clothes, and I was terribly frightened and I ran upstairs and went to bed.

Q. Can you describe any more, the position? A. My mother was facing me, and Mr. Petry was facing the other way, and he was lying upon her.

Q. And they were on the box couch, you say? A. On the box couch.

Q. But you didn't see Mr. Petry again after that? A. No, sir.

Q. And you went back to bed? A. Yes, sir.

Q. And when did you see your father next? A. The next day.

By the Court:

Q. He was away that night? A. Yes, sir.

Q. Who was in the house with you that night? A. My brother and sister.

Q. How old are they? A. My sister is ten, and my brother is twelve.

By Mr. Moore:

Q. Do you remember any other occurrence when Mr. Petry was at your house? A. He visited the house very frequently, especially when my father was away. One evening we were doing my home work, in the dining room, when the door bell rang, and I was in the habit of going out and following my mother, and I went to the door and Mr. Petry was there, and I asked my mother a question about my home work, and she said she couldn't answer it, and she asked Mr. Petry if he could answer it, and he said: "Yes", and he answered it, and then my mother said she wanted to speak to Mr. Petry about something, and then after she told us we had better go to bed, and then I heard my mother say: "Mr. Petry, you had better come back later".

Q. Did your mother ever say anything to you about that? A. My mother told me never to tell my father who came to see her while he was away, because, if I did, I would be very sorry.

By the Court:

Q. How old are you? A. Thirteen.

By Mr. Moore:

Q. Can you tell anything of the practice—whether your father and mother slept together; did they occupy the same bed? A. They did for a while, and then after that my father occupied another room.

Q. Do you know when that was—that your father occupied a different bed? A. No, sir; I don't.

Mr. Moore: That is all.

Cross-examination by Mr. Ward:

Q. You say you are thirteen years old, Frances? A. Yes, sir.

Q. And you go to school? A. Yes, sir.

Q. At Asbury Park? A. Yes, sir.

Q. And you say you remember on May 29th? A. Yes, sir.

Q. Do you know what time that was? A. I don't recall.

Q. Will you tell what happened? A. I retired at my usual time, and that was from half past seven to a quarter to eight, and I went upstairs, as usual, and my father had been away that day, and I got up and came downstairs, because I heard voices, and I thought it was my father, and I came down to the landing, and I started to go the rest of the way, and as I started to go the rest of the way I saw my mother and Mr. Petry on the box couch. I could only see my mother's feet, and she had black shoes on, and Mr. Petry had a dark suit on, and I couldn't see the rest of my mother, and I was terribly ashamed of my mother, and I rushed upstairs and went to bed.

Q. Could you see the position of them? A. My mother was facing me and Mr. Petry was on my mother.

By the Court:

Q. On top of her? A. Yes, sir.

By Mr. Ward:

Q. What time was that? A. I don't know.

Q. Did you ever tell this story before? A. I told it to my father.

Q. When? A. After I went to Asbury Park.

Q. How long after you went? A. To Asbury Park?

Q. How long after you went to Asbury Park? A. Quite a while.

Q. When did you go to Asbury Park? A. June 11th, 1928.

Q. And how long after June 11th, 1928, did you tell your father about it? A. Quite a while after.

Q. One month, two months, or what? A. I have forgotten.

Q. You went to Asbury Park, and in the following Fall you went to school? A. Yes, sir.

Q. Was it after you had started to go to school that you told your father? A. No.

Q. You told him before that? A. Yes, sir.

Q. How long before? A. Quite a little while.

Q. You remember the Fourth of July? A. Yes, sir.

Q. Was it after the Fourth of July, that you told him? A. No.

Q. Do you remember when you went back to school? A. A few days after Labor Day.

Q. Do you remember what date Labor Day was? A. No.

Q. Now, how long before Labor Day was it that you told your father? A. I don't know.

Q. Can you tell us whether it was a day, a week, or month, or when? A. I can't tell you.

Q. I asked you, and would like to ask you again, whether you remember whether it was after the Fourth of July, that you told him? A. I don't know.

Q. Have you any particular recollection of telling him? A. I know I told him before I went to school.

Q. Beg pardon? A. I know I told him before I went to school.

Q. And where were you when you told him? A. In Asbury Park.

Q. Whereabouts in Asbury Park? A. In my grandfather's house.

Q. Whereabouts in your grandfather's house? A. I don't know.

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

Q. Who was present when you told your father? A. No one.

Q. And you don't know what room you were in at the time? A. I think it was in his study; I am not certain.

Q. Do you know whether it was in the morning, afternoon or night? A. I don't know that.

Q. Don't know that? A. No.

Q. Was that the only time you ever told him about this? A. Yes, sir.

Q. The only time you ever talked to him about it? A. Yes, sir.

Q. So, from then up until now, you never mentioned it again? A. No.

Q. And he has never mentioned it to you? A. No.

Q. And did your grandmother ever mention it to you? A. No, sir.

Q. Did anybody ever mention it to you again? A. Mr. Moore.

Q. When was that? A. When I was at his office.

Q. When was that? A. I don't remember.

Q. More than once? A. No.

Q. Was your father present when you told Mr. Moore? A. I believe so.

Q. Don't you know? A. No.

Q. You don't remember? A. No.

Q. Will you tell us what happened on that night, again, please? A. On May 29th, 1928, my father was away, and I retired at my usual bed time, and that was anywhere between 7:30 and 8 o'clock. After I went upstairs I undressed and went to bed, and later in the evening I was awakened by the sound of voices downstairs, and thinking my father was home, I got up and I went downstairs, and I went down to the landing, and I had no shoes or stockings on, and, therefore, I made no noise, and I got down to the landing and she was lying on the box couch, with her head facing me, and all she had on her feet were black shoes, and Mr. Petry was lying on top of her, and when I saw this I was afraid and ashamed of my mother, and I ran upstairs and went right back to bed, making as little noise as possible.

Q. Did you ever write that down? A. No, sir.

Q. Did anybody tell you about that? A. No, sir.

Q. Did you ever think of what you were going to say here, today? A. Just what I saw.

Q. Have you ever thought of the words you were going to use, and what you were going to say? A. No.

Q. And you have never arranged in your own mind, how you would start that, or how you would finish it? A. No.

Q. Or the words you would use? A. No.

Q. And you are quite sure of that? A. Positive.

Q. And this has never been written up by you, or anybody for you, and read over or learned? A. No.

Q. How do you remember it was the twenty-ninth

of May? A. It was the day before Decoration Day.

Q. The day before Decoration Day? A. Yes, sir.

Q. Had you expected your father to stay away —to be away over night? A. I didn't know whether he was going to be home or not.

Q. You said your father was away? A. I did.

Q. Did you expect to see him back again that night? A. I didn't know whether he was coming back or not; he did not tell me his plans.

Q. As you heard these voices, were they loud? A. They were about the same as I am talking here.

Q. They awakened you? A. Yes, sir.

Q. And as you went downstairs, you could plainly see in the room where your mother was? A. I could.

Q. And you could see her? A. I saw her face and her feet.

Q. And she had on black shoes? A. Yes, sir.

Q. And her body was covered, but you could see her face and her feet? A. Yes, sir.

Q. And were they talking? A. Yes, sir.

Q. Still talking? A. Yes, sir.

Q. Could you hear what they said? A. No.

Q. As you stood there, they were talking? A. Yes, sir.

Q. In the same manner you are talking now? A. Yes.

Q. In the same tone of voice? A. Yes.

Q. Where was the light in that room? A. It was on the table.

Q. What kind of a light was it? A. It was a lamp like this, (indicating), it had a shade on it and a blub.

Q. An electric light? A. An electric light.

Q. As you came down that stairway—the first part of that stairway is so situated—I mean the top landing now—that when you are there you can't see, can you? A. No.

Q. And as you walk down that stairway, the first flight from the top, or second floor, there is a platform, isn't there? A. Yes, sir.

Q. And then as you get on the platform, you have to make a direct turn? A. Yes, sir.

Q. And as you start to go the other way you face in a different direction that when you come down the first stairway? A. Yes, sir.

Q. Is there a light on the stairway? A. No; but the light reflected on the stairway.

Q. Another light on the second floor? A. Yes, sir.

Q. And when you started down there, you didn't expect anything like that, did you? A. No.

Q. And when you went down there, you went down to greet your father? A. I did.

Q. And you thought the voice you heard, or one of them, at least, was the voice of your father? A. Yes, sir.

Q. And you went down the first floor? A. Yes, sir.

Q. And you started to go down the last flight? A. Yes, sir.

Q. Did you go all the way down the last flight? A. I did not.

Q. How far did you go down? A. Down far enough to see into the parlor.

Q. That wasn't the reason you went down there? A. No, sir.

Q. You started to go down, with the intention of going down all the way, didn't you? A. I did.

Q. So as to be in the company of your father? A. Yes, sir.

Q. And when you got down there, you could hear the voices in the living room? A. Yes, sir.

Q. And that living room is in the front part of the house? A. Yes, sir.

Q. And there is a hallway? A. Yes, sir.

Q. And the stairs comes right down in the hallway? A. Yes, sir.

Q. And the hallway is as large a space as from where I am to the wall, and very short? A. I would think, about.

Q. And as you come down that last flight, you come right into the hallway? A. Yes, sir.

Q. And you are then facing this living room? A. Yes, sir.

Q. Where the lights were? A. Yes, sir.

Q. And you were dressed in your night clothes? A. Yes.

Q. And you got down to where you could see? A. Yes.

Q. And that would bring you down to pretty near the bottom of the stairway? A. Yes.

Q. How many steps were you from the bottom of the stairs then? A. I don't know.

Q. How many do you think? A. About three or four.

Q. Three or four? A. Yes, sir.

Q. And then you could look directly in this room? A. Yes, sir.

Q. Was this lamp on the table—this light? Was the light you referred to on a table? A. Yes.

Q. Was the table in the center of the room? A. No.

Q. Where was the table? A. It was in the corner

toward the stairs and toward the dining room.

Q. That is, as you come down the stairway, and the hall was right in front of you, the lamp was at your right? A. Yes; on a table.

Q. And the dining room is on your right? A. Yes, sir.

Q. And the lamp was toward your right? A. Yes, sir.

Q. And the couch was in front of you? A. Yes, sir.

Q. And before you got down to where you could have seen, your body would have been plainly visible from the couch? A. It would.

Q. And you would have to continue, in order for you to see, for your eyes to get below the level of that ceiling; isn't that true? A. Yes, sir.

Q. And before that, your body was in plain sight of anybody around that couch, wasn't it? A. It was.

Q. Do you know how long you stayed on the stairway there? A. I wasn't there a second.

Q. When you first got down there to see, didn't you have to look around to see who was there? A. I saw who it was, instantly.

Q. You didn't expect to see Mr. Petry there? A. No.

Q. And you didn't expect to see your mother there? A. No, sir.

Q. And you saw the couch just as soon as you got down? A. Yes, sir.

Q. And she was facing you? A. Yes, sir.

Q. And the stairway was right in her plain view, wasn't it? A. It was.

Q. So, of course, you didn't intend to keep quiet in coming down that stairway, did you? A. No.

Q. You didn't want to creep down there, or anything? A. No, sir.

Q. When you heard what you thought was your father's voice, did you call down? A. No.

Q. Why? A. Because.

Q. Because, why? A. I didn't expect to have to call down to my father.

Q. Didn't you want to call down and say: "Hello father", or something of that kind? A. No; they were talking.

Q. Didn't you want to call down and ask your mother if he were home? A. Why should I?

Q. I asked you if you did? A. No.

Q. Up to the time that you saw him, and to the time you went back, how long a time passed? A. A part of a second.

Q. And you know what a second is? A. It was longer than a second.

Q. Do you know how much you can count in a second? A. No, sir.

Q. Would you think this was right—1-2-3? A. I think it is less than that.

Q. Do you think a second is like that—(snaps fingers)? A. Yes.

Q. It is very short? A. Yes, sir.

Q. And as soon as you can say "one"? A. Yes, sir.

Q. And as soon as you got down you saw what they were doing? A. Yes, sir.

Q. And you were ashamed, immediately? A. As soon as I got upstairs and realized what my mother was doing.

Q. You mean, then, that you felt ashamed when you got upstairs? A. After I realized what my mother was doing.

Q. After you got down and saw this, you turned right around then and went back? A. I did.

Q. Just as quickly as you could do it? A. I did.

Q. And you think the time you got down there and saw your mother and Mr. Petry, and you turned around and went right back, you think took a little more than a second? A. Yes, sir.

Q. You turned right away? A. As soon as I saw what she was doing.

Q. Do you think that took more than one or two seconds? A. I don't know.

Q. Can you show us? A. I just looked at her, as I came down; it was right in full view, and I saw that and I looked to see who it was, and as soon as I saw who it was, I turned right around and went right back upstairs.

Q. It was more than one or two seconds? A. I don't know.

Q. Then you didn't know what they were doing until you were upstairs? A. As soon as I saw it, I knew that she was out of place.

Q. Why didn't you say something? A. Because, I had been threatened, and I didn't know what she would do to me.

Q. You had been threatened? A. If I told anything to my father.

Q. That was a very strange sight to you? A. Yes, sir.

Q. And very startling? A. Yes.

Q. And did you say anything to your mother about it? A. No, sir.

Q. But you did tell your father and Mr. Moore? A. Yes, sir.

Q. Did you love your mother at that time? A. Yes, sir.

Q. Very much? A. Yes, sir.

Q. Do you love her since? A. Not since what she has done.

Q. On account of what you saw? A. And what she has done.

Q. You loved her before that? A. Yes.

Q. When you came downstairs, and you were about three steps from the floor—the hallway, could you see both ends of the couch? A. I could.

Q. Pardon me? A. I could.

Q. And you could see both ends plainly and distinctly? A. I could.

Q. And could see the position of your mother, facing you? A. I could.

Q. And the position of Mr. Petry? A. Yes, sir.

Q. What was his position? A. He was on her, and not facing me, but facing her.

Q. Frances, did you ever know anything of this kind then? A. No.

Q. What? A. I have not.

Mr. Moore: I object to this.

The Court: I think I will have to allow it; it might affect the credibility of the witness, and she says she has never seen or heard anything of this kind before.

Q. You didn't know what was happening then, did you? A. No.

Q. You hadn't the slightest idea then, had you? A. No.

Q. And your father has never told you, of course? A. No, sir.

Q. And Major Moore has never told you? A. No.

Q. Will you please just describe where the couch was at that time; how near the wall, and how near

the window, and all that? A. The parlor was in the south side or front of the house, and the stairs were on the other side.

Q. Is there a bay window there? A. Three windows in the front, going out on the porch.

Q. A bay window? A. Yes, sir; and on the south there is another window, about half way from either end of the room. Between the dining room —the dining room is next to the parlor, and from that end of the parlor, up to the window, is the box couch, right up against the wall.

Q. Between the partition of the dining room and living room— A. That is where the end of it was.

Q. And at that time the couch was right up against the wall, and the wall that I mean was between the dining room and the living room? A. The end of the couch was where the dining room, or the side the dining room was, and the length of it was on the south side of the house.

Q. And it was right up in that corner; is that right? A. Yes, sir.

Q. That would be the corner on the south side of the house, nearest the dining room; that is right, isn't it? A. Yes, sir.

Q. Frances, you didn't know what was happening, did you? A. No, sir.

Q. Why were you ashamed? A. Because, I did know my mother had no place lying on a couch with another man.

Q. That the only reason? A. Yes.

Q. And up to that time you had loved your mother very much? A. Yes, sir.

Q. And since then you said you don't love your mother? A. I don't say I don't love her.

Q. Do you love her now? A. No.

Q. Is that the reason you didn't love her? A. Not entirely.

Q. Since that time on, have you ceased to love her? A. Yes, sir.

Q. And before that, you cared as much for her as you did for your father? A. Practically.

Q. Did you care more for your father? A. Yes.

Q. Before that? A. Yes.

Q. And you have been more or less a favorite of your father, haven't you? A. I don't know what you mean by that.

Q. You don't know what I mean by that? A. No.

Q. Well, you didn't like to obey your mother, did you? A. I did everything that she told me to.

Q. Excuse me? A. I did everything that she told me to.

Q. Didn't you tell your grandmother—I will withdraw that. Do you remember the time your grandmother was visiting your home, and your mother told you to pick up a dress, and your grandmother told you to pick up a dress; do you remember that? A. She has visited our home several times.

Q. Do you remember in March—the March before you went down to live in Asbury Park? A. I know she was there then.

Q. And do you remember your grandmother asking you to pick up a dress? A. No.

Q. Do you remember telling your grandmother that you didn't have to obey your mother, because your father had told you you didn't have to? A. No.

Q. Did you ever tell her that? A. No, sir.

Q. Do you remember, on various occasions—I

mean before this—before the twenty-ninth of May —— A. Yes.

Q. Saying that you didn't have to obey her; that your father had told you you didn't have to? A. He never said that.

Q. Do you remember one occasion, when your mother called you, and you were in bed with your father? A. I didn't sleep with my father.

Q. You would get up and go in his bed, once in a while? A. Once in a while.

Q. Do you remember her calling you? A. I used to get up before she did.

Q. Didn't she ever call you? A. No.

Q. Never did, that you can remember? A. No.

Q. Did you or not, tell your mother that you didn't have to get up when she called you, and your father had told you you didn't have to? A. No.

Q. You used to have some talks with your father, in the mornings, didn't you, before coming downstairs? A. No.

Q. Didn't you talk to him when you were in bed with him? A. I wasn't in bed with him all mornings.

Q. When you were, wouldn't you talk to him? A. Yes.

Q. Didn't your father tell you about getting rid of your mother? A. No.

Q. And you didn't have to obey her? A. No.

Q. And that you wouldn't see her very much any more? A. No.

Q. You were not very anxious to stay at home, were you? A. It wasn't very pleasant to stay at home when you were being scolded all the time.

Q. You felt that you were being scolded? A. Yes.

Q. By your mother? A. Yes.

Q. And you hated your mother on account of that? A. No, sir.

Q. Didn't you tell others that you hated your mother? A. No, sir.

Q. Didn't you tell others that you didn't have to mind your mother, because your father had told you you didn't have to? A. No.

Q. And still you didn't have any feeling against your mother, because she scolded you? A. No, sir.

Q. This Christmas, before the time you went to Asbury Park, in June, you were away? A. Yes, sir.

Q. There was no trouble then between you and your mother? A. She was always finding fault.

Q. And is that why you wanted to go away? A. No.

Q. You didn't want to go away from home, and stay away from home, on account of your mother? A. No.

Q. You did go away right after Christmas, didn't you? A. Yes, sir.

Q. And you went to your grandmother's? A. I didn't go to my grandmother's.

Q. Who did you go to? A. My aunt's.

Q. Where did you go? A. To Interlacken.

Q. And did you see your grandparents? A. Yes, sir.

Q. Do they scold you? A. No.

Q. They talked about your mother, too? A. No.

Q. They didn't say anything? A. They said some words.

Q. And you are sure, now? A. Yes, sir.

Q. And you want to stay there now, don't you? A. Yes, sir.

Q. And you don't want to stay with your mother? A. No.

Q. And you want to hurt your mother? A. I don't think it is hurting her, after what she has done.

Q. Did your father tell you you could stay away today, if you wanted to? A. No.

Q. Didn't he tell you you could stay away? A. He did not.

Q. Did you want to testify? A. I did.

Q. And your mother came from Hawthorne, down to Asbury Park, once a week, to see you children, didn't she? A. Yes.

Q. And when she got down there, you were living with your grandmother at that time? A. Yes, sir.

Q. And who was living in that family; your grandmother was there? A. Yes, sir.

Q. And who else? A. My grandfather.

Q. And who else? A. My great-aunt Marion and Miss Martin; my brother and my sister and myself.

By the Court:

Q. All the children are down there? A. Yes, sir.

By Mr. Ward:

Q. And they have talked, and your grandmother and your grandfather, and your great-aunt have talked quite a lot about your mother to you? A. No.

Q. They haven't? A. Not a lot.

Q. They have talked about it? A. They have mentioned it at times.

Q. They have mentioned what a terrible woman your mother was? A. No; not all of the time.

Q. But some of the time; that is right, isn't it? A. They didn't always say she was terrible.

Q. But part of the time they did? A. Sometimes they complained about what she had done.

Q. And it was then that they would say that she was terrible? A. They didn't say she was terrible.

Q. They said she wasn't a good mother; they told you that; didn't they tell you that? A. Yes.

Q. And when your mother was coming all the way down from Hawthorne, to Asbury Park, to see you, you remember you told her you didn't want to see her? A. I did.

Q. Now, from the twenty-ninth of May, up to the time you went to Asbury Park, you were friendly with your mother? A. Yes, sir.

Q. And just as affectionate as before? A. Yes, sir.

Q. And loved your mother? A. Yes, sir.

Q. And then you went down to Asbury Park, to the home of your grandfather and grandmother? A. Yes, sir.

Q. And she came to see you? A. Yes.

Q. And you told her that you didn't want to see her? A. Yes, sir.

Q. And you didn't want to walk on the street with her? A. Yes, sir.

Q. And you didn't want to be seen with her? A. Yes.

Q. And she wanted to take you to see the Baby Parade? A. Yes, sir.

Q. And you wouldn't go? A. Yes.

Q. And you said you would rather go with Katie, the maid? A. Yes.

Q. And when she came down to see you she had

to see you on the porch? A. She could come in the house.

Q. During the summer you were put on the porch, and she could not come in the house during the summer? A. No.

Q. And then, when it got to cold, you were placed in one room, and she came in to see you? A. She came in the room and we went in to see her.

Q. And you never went out with her then, either, did you? A. No.

Q. And you have been told by your grandparents that you might have to go back to your mother? A. Yes.

Q. That was "yes" you said, wasn't it? A. Yes.

Q. And you don't want to go back with her? A. No.

Q. And you want to hurt her all you can, so you won't have to go back to her. Don't you want to hurt her? A. I don't know.

Q. You know what you are doing here today is hurting her, don't you? A. I don't know.

Q. You don't know that? A. No.

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

Q. And you see Mrs. Feldman quite often, don't you? A. Quite.

Q. Mrs. Feldman comes to visit your grandmother, too, quite often? A. Yes, sir.

Q. Were you with your father and Mrs. Feldman when she got on the train yesterday? A. Yes, sir.

Q. You and your father were escorting her to the train? A. My whole family escorted her.

Q. And you saw your grandmother there, your

mother's mother? A. I didn't see her.

Q. Do you remember your father running away from the platform of that train? A. No.

Q. Do you remember your father waiving goodbye to her, at the time? A. We all did.

Q. Did your father accompany her to the train? A. He carried Barbara.

Q. Who is she? A. She is her child.

Q. And he put her on the train? A. Yes.

Q. And did you then see your grandmother? A. No.

Q. She was on that train? A. Yes.

Q. And do you remember seeing your father running away? A. No.

Q. He moved pretty rapidly, didn't he? A. No.

Mr. Moore: I object to all this.

The Court: I am allowing Mr. Ward a great latitude, because he has a pretty intelligent witness to deal with, for her age.

Q. When you were three or four steps down on this stairway, and you looked in the living room, and you saw what was going on, were you in the center of the stairway? A. What do you mean?

Q. Was your body in the center of the stairway; could you put out your one hand and touch the rail, and one hand and touch the wall? A. I don't recall.

Q. Did Mr. Moore talk to you at his office? A. I don't recall.

Q. Don't you know whether he said anything or not? A. I don't recall.

Q. You don't know whether he said anything or not? A. I don't recall.

Q. Did he say anything since? A. No.

Q. And he didn't say anything at that time? A. He said something, but I don't recall.

Q. Do you know how long he talked to you at that time? A. No.

Q. Don't you know one thing he said to you, at that time? A. No.

Q. How long after May 29th, did your father take you to Mr. Moore's office, to see Mr. Moore? A. I don't know.

Q. Can't you tell us whether it was a day, or a week, or more? A. I said I didn't know.

Q. Do you know whether it was the next day after you arrived? A. I know it wasn't the next day after we arrived; that I know.

Q. How long after you left your home was it that you told Mr. Moore? A. Quite a while.

Q. Can't you give us any idea at all? A. No.

Q. Was it after you went to Asbury Park, or before you went to Asbury Park, that you saw Mr. Moore? A. It was after, because my father didn't know it before.

Q. Is there any way you can fix it, when you went to Mr. Moore, and told him? A. No.

Mr. Ward: That is all.

Redirect-examination by Mr. Moore:

Q. How did your mother treat you at Asbury Park? A. She was rather cold, but she carried on a conversation all the while.

Mr. Moore: That is all.

Recross-examination by Mr. Ward:

Q. Why, you know your grandmother and great-

aunt put her out of the house, don't you? A. She was told to come alone, to see us.

Q. When your mother came to see you the first time, her mother, your grandmother, was with her, and they wouldn't let her come on the premises at all, would they? A. No.

Q. That is right, isn't it? A. Yes.

Q. Your maternal grandmother lives in Ocean Grove, doesn't she? A. Yes.

Q. She has always treated you well? A. She showed more favors toward my sister.

Q. She has always treated you and your sister and your brother well? A. No.

Q. She hasn't? A. She has slighted me; she has given my sister things, and never given anything to me.

Q. Have you ever been to see your grandmother, since you have been in Asbury Park? A. No.

Q. Do you remember on occasions, when your grandmother has seen you at church, and she would try to speak to you—I am now referring to your grandmother Dickhouse—she met you one time at church? A. Yes.

Q. And she tried to speak to you? A. Yes.

Q. And your father's mother drug you away and created a scene? A. My grandmother wasn't with us.

Q. Who was? A. My father.

Q. And he grabbed you away from her? A. He took my sister, because he didn't want her to go to her.

Q. What did he do? A. Just pushed her away.

By Mr. Moore:

Q. Do you know about an order being directed

by Vice Chancellor Fielder, about your mother coming alone, and not bring her mother? A. Yes.

Mr. Moore: That is all.

EDWARD HARVEY REEVES, a witness produced by the petitioner, being first duly sworn according to law, testified as follows:

Direct-examination by Mr. Moore:

Q. How old are you, Edward? A. Twelve.

Q. Who do you live with now? A. My father and grandmother.

Q. Are you attending school? A. Yes.

Q. Do you know what it means to tell the truth, when you take an oath? A. Yes.

Q. Do you remember what took place around New Years, 1928? A. Yes.

By the Court:

Q. What did you see on New Years, 1928? A. I went to sleep at the usual hour.

By Mr. Moore:

Q. When was that? A. Between half past seven and eight o'clock.

Q. What happened then? A. I woke up and I heard voices, and I had a toothache, and I called my mother, and two were coming upstairs, and I said: "Hello, Daddy", and he didn't answer, and as they came up I saw Mr. Petry, and my mother tried to hide him, but I recognized him.

Mr. Mr. Ward: I move that it be stricken out.

The Court: Yes.

By the Court:

Q. Did you see him? A. Yes, sir; not when they came up the stairs, but after they came toward me.

By Mr. Moore:

Q. Where did your mother take him? A. In her bedroom.

By the Court:

Q. Was your father home? A. No, sir.

Q. What did your mother do? A. She came in and fixed my tooth, and she said she was going to put the lights out and go to bed, and I went to sleep again.

By Mr. Moore:

Q. Did she say anything about that? A. Yes, sir.

Q. What did she say? A. About a day or two afterwards, she said: "You won't tell Daddy what I do while he is away".

Mr. Moore: That is all.

Cross-examination by Mr. Ward:

Q. When was this? A. About a week or two after New Years, 1928.

Q. What happened? A. I called my mother, and she took care of my tooth good, and she said she was going to bed, and she turned out the hall light.

Q. What was the first thing? A. I heard voices down stairs, and I had a toothache, and I called my mother, and I called her and two of them came

up, and I thought it was my Daddy, and I said: "Hello, Daddy", and then my mother tried to hide him, and he didn't answer me, and my mother fixed my tooth, and then she said she was going to bed, and she turned out the light and went in her room.

Q. Do you know when this was? A. I think it was on a Thursday.

Q. Can you tell us how long it was after New Years day? A. I cannot.

Q. You cannot? A. No.

Q. What time had you gone to bed that night? A. About five minutes to eight.

Q. But you have no idea about what time this happened? A. No; I don't.

Q. Your father was home to supper that night? A. No, he wasn't.

Q. Where was he? A. I think he was in New York.

Q. Are you sure about that? A. No.

Q. You are not sure? A. No; I am not.

Q. But you heard voices? A. Yes, sir.

Q. Was that what awakened you? A. No; my tooth.

Q. Did you go downstairs to call your mother? A. No; I stood up in my bed.

Q. And called your mother? A. Yes.

Q. Before you called her, did you hear any voices? A. Yes, sir.

Q. And you knew that she was downstairs then? A. Yes, sir.

Q. So you called her, and called loud enough for her to hear? A. Yes.

Q. Did you say: "Mother", or say: "I have a toothache, Mother", or what? A. I just said: "Mother".

Q. When you called "Mother"; what did she say? A. "Yes".

Q. Then did you tell her to come up; you had a toothache? A. No; she came up.

Q. And she came up? A. Yes, sir.

Q. Had you gotten out of your bed? A. No.

Q. You were in your bed all the time? A. Yes; only when she took me in the bathroom to fix my tooth.

Q. Where did she take you? A. In the bathroom.

Q. Was it the first time that she came upstairs that Mr. Petry was with her? A. Yes, sir.

Q. When you called her, and she came up, Mr. Petry came up with her, too? A. Yes, sir.

Q. Where did you sleep, at that time? A. I slept in the front room, right by the hall.

Q. Where was your mothers' room? A. In the back, catticornered of the hall.

Q. This room was on the south side of the house? A. On the north—you mean my bedroom?

Q. Yes. A. It would be facing southwest—facing that way (indicating).

Q. And the entrance faced right across the hallway, to the entrance on the other side? A. Yes, and her door faced northeast.

Q. The room that she occupied at that time, was at the rear of the house? A. Yes, sir.

Q. And between that stairway that comes up—that stairway faces south, too, as you come up? A. Yes, sir.

Q. And then next to that stairway was the back stairway, and then comes your room? A. Yes.

Q. With the doorway facing south? A. Yes, sir.

Q. And in order for her to come upstairs, and come in her room, she would have to turn to the right? A. Yes.

Q. And that is the furthest room back? A. Yes.

Q. And did you see Mr. Petry go into that room, too? A. Yes.

Q. How long did they remain in that room before she came out? A. About a quarter of a minute.

Q. How long? A. They went in and she closed the door and came out.

Q. They both went inside? A. Yes, sir.

Q. And then she came out? A. Yes, sir.

Q. And how soon did she come out? A. A quarter of a minute.

Q. And you had remained in bed all that while? A. Yes.

Q. Where was your bed? A. In the corner.

Q. Which corner? A. The northeast corner, but I could sit up in the back of the bed, and I could look right through.

Q. The bed was in the northeast corner of your room; is that right? A. Yes; with the back of it facing south.

Q. Was the bed right in the corner there? A. Yes.

Q. Now, when you sat up and called, I suppose you sat right up from where you had been sleeping? A. No; I pulled myself down further.

Q. You pulled yourself down; why did you do that? A. Just to see when she was coming up.

Q. Didn't she answer you? A. Yes.

Q. When you first sat up, you called to her, didn't you? A. Yes.

Q. And she answered you right away; is that right? A. Yes, sir.

Q. And she came up right away? A. Yes, sir.

Q. Is that true? A. Yes.

Q. And there was nothing unusual about that, was there? A. No.

Q. Was there a light in your room? A. No.

Q. Was there any light upstairs or not? A. Yes.

Q. Where? A. In the hall.

Q. Where, in the hall? A. Between her room and the bath room.

Q. What kind of a light was it? A. A light like that (indicating).

Q. You mean an electric light? A. Yes; an electric light.

Q. Well, now, you say you saw someone with your mother? A. Yes.

Q. And you recognized it was Mr. Petry? A. Yes.

Q. And did you think that funny or strange? A. Yes, I did, in the beginning.

Q. You did think it was strange? A. Yes.

Q. Well, your mother closed the door and came right out again? A. Yes.

Q. Why didn't you ask your mother about Mr. Petry then? A. I don't know.

Q. But you didn't say a word to her about Mr. Petry, did you? A. No.

Q. And you didn't say anything to anybody about this, did you? A. Not until after June 11th.

Q. And you didn't talk to your mother about it? A. No, sir.

Q. Do you love your mother? A. No.

Q. But you loved her at that time? A. Yes.

Q. And you loved her up to the time you left home? A. Yes, sir.

Q. And you loved her very much, didn't you? A. Yes.

Q. And you loved her right up to the time you were taken away? A. Yes.

Q. You loved her right up to the time you were taken away, didn't you? A. Yes, sir.

Q. And you were taken away on the eleventh day of June? A. Yes, sir.

Q. And you loved her right up to the time you were taken away? A. Yes, sir.

Q. Did you ever tell your father about that? A. Yes, sir.

Q. This is your father right over here? A. The gentleman with the glasses.

Q. Did you tell your father about this at the time? A. No; not until after June 11th.

Q. Where did you tell him? A. In the music room.

Q. When did you tell him? A. The next day.

Q. Did he ask you about it? A. No, sir; I told him.

Q. Without him asking you anything, you told him? A. Yes, sir.

Q. What did he say, anything? A. No; he just looked suspicious; that was all.

Q. And he didn't ask any questions? A. No.

Q. What did you tell him? A. I told him one night I woke up around New Years, 1928, and I heard some voices downstairs and I thought it was him, and I had a toothache, and I called her, and she came upstairs, and she tried to hide a man, who was Mr. Petry, and she took me to the bath room and took care of my tooth, and put me back in bed, and turned out the hall light and went back to her room.

Q. Did you ever recite this before? A. No, sir.

Q. And you told your father? A. Yes, sir.

Q. And since the time you told your father, back in June, up to the present time, have you ever mentioned it to anybody? A. Once in a while I have mentioned it to my father.

Q. And would you tell him all these things that you have told here today? A. I have told him two or three times, when he asked me.

Q. Two or three times, when he asked you? A. Yes.

Q. And you told him just as you have told it here today? A. Yes.

Q. When did he ask you last about it? A. I don't remember.

Q. Have you told anyone else? A. Yes.

Q. Whom else? A. Mr. Moore and my grandfather.

Q. Your grandfather and Mr. Moore? A. Yes.

Q. Did Mr. Moore have anybody write it down? A. My grandfather wrote it out and gave it to Mr. Moore.

Q. Did you read it over, after? A. Yes, sir; to see if it was correct, but I didn't learn it.

Q. But you read it over to see if it was correct? A. Yes, sir.

Q. How many times did you read it over? A. Once.

Q. Before you went on the stand here today, did you read it over? A. That was the once.

Q. And didn't you read it after your grandfather wrote it? A. That was the time.

Q. Didn't you read it over just before you went on the stand? A. No.

Q. You are sure you didn't read it over this morning, or yesterday, or any time? A. No.

Q. Do you know what became of the paper that your grandfather wrote out? A. No; I think he gave it to Mr. Moore.

Q. What is your grandfathers' occupation? A. He is a lawyer.

Q. Is he here? A. Yes, sir.

Q. Where is he? A. Right by my sister.

Q. Is that your grandfather? A. Yes.

Q. When he wrote that statement out, and you read it, did he write it just as you have told it here? A. Yes.

Q. About your going to bed at such a time, and then awakened with a toothache, and all that? A. Yes.

Q. After your mother came into your room on that night, about two weeks after the first of January—the night you have been telling us about, did you tell her then that you had a toothache? A. Yes; I told her.

Q. Did you tell her before that night, before she came in your room? A. No.

Q. When she went in her room and then closed the door, and came back, did she first speak to you, or you speak to her? A. I spoke to her.

Q. What did you say? A. I said: "I have a toothache".

Q. What did you say? A. I said: "I have a toothache".

Q. Did she take you in her arms? A. No; I went in the bath room.

Q. What did she say? A. She said: "I will fix it for you".

Q. And then did she tell you to go in the bath room? A. Yes, sir.

Q. And she fixed it for you? A. Yes, sir.

Q. How long did that take? A. It didn't take more than a minute or two.

Q. What did she do? A. She put something on it.

Q. Did you see if anything would happen? A. No; I went back to bed and fell asleep, and it didn't ache any more.

Q. And you fell right to sleep as soon as you went back to bed? A. No; after a few minutes.

Q. After a few minutes? A. Yes.

Q. You were with your father at the time he wouldn't let your grandmother talk to you, down at Asbury Park, at the church? A. I don't understand you.

Q. You know your grandmother, Mrs. Dickhouse? A. Yes.

Q. Do you remember meeting her at church, at Asbury Park, one time? A. Yes.

Q. Did she try to talk to you? A. No; she tried to grab my little sister and take her away with her.

Q. Tried to take her away? A. Yes.

Q. Right while your father was there? A. Yes.

Q. Then your father pushed her gently aside? A. Yes.

Q. You loved your grandmother, didn't you? A. Yes; until this case broke out.

Q. After this case broke out, did you cease to love your grandmother? A. No.

Q. You have never been to see her, have you, at Ocean Grove? A. No.

Q. Why? A. Because, I don't want to.

Mr. Ward: That is all.

Petitioner Rests.

Mr. Ward: Your Honor, I would like a little time to go over the testimony, before going on with the defense.

The Court: All right; I will give you a date a little later. We will take an adjournment, and I will fix another date.

(THIRD DAY).

IN CHANCERY OF NEW JERSEY.

Between
JOHN REEDER REEVES,
Petitioner,
and
MARGARET D. REEVES,
Defendant.

On Petition for Divorce.

Paterson, N. J., September 17, 1929.

Before—Honorable VIVIAN M. LEWIS,
Vice Chancellor.

APPEARANCES:
EDWARD THOMAS MOORE, ESQ., Solicitor for Petitioner.
JOHN M. WARD, ESQ., appearing for MESSRS. WARD & MCGINNIS, Solicitors for Defendant.

Mr. Ward: With respect to the justification, I might say that Mrs. Reeves is only receiving ten dollars a week and she is without suit money, and in view of the fact that all the witnesses with reference to the adultery which is alleged Mr. Reeves committed, these witnesses are all in South Jersey, and I presume it will cost us ten dollars a piece to get them all here.

I might call your Honor's attention to the fact that we have received the testimony that was taken on the second day, but the evidence of the first day, in which Mr. Reeves and the other witnesses testified to, we would like to have that, but we are ready to go on today.

The Court: We will see that you are supplied with a copy of the first days' testimony.

MARGARET D. REEVES, the defendant in the above entitled cause, being first duly sworn according to law, testified as follows:

Direct-examination by Mr. Ward:

Q. Mrs. Reeves, you are the defendant in this suit, and the wife of John Reeder Reeves? A. I am.

Q. You were married on the 24th day of October, 1914; is that correct? A. Yes, sir.

Q. There are three children, are there not? A. Yes, sir.

Q. Two of them testified, at the last hearing, did they not? A. Yes, sir.

Q. Do you remember of the time of the birth of your daughter, Frances? A. Yes, sir.

Q. When was that? A. July 5th, 1915.

Q. After that, did you ever have any trouble with Mr. Reeves, with reference to his complaints about your conduct? A. Yes, Mr. Ward.

Q. How soon after the birth of your daughter Frances, was it, that you first had this trouble? A. About three weeks.

Q. What was said by Mr. Reeves, at that time?

A. Mr. Reeeves said he thought he was not Frances' father.

Q. Did he give any reason or explanation why he made this statement? A. No, Mr. Ward.

Q. Was there any truth in it? A. Absolutely none.

Q. After that, did he ever again accuse you of infidelity? A. Yes; shortly after the second child was born.

Q. When was the second child born? A. September 18, 1916.

Q. How soon after the birth of the second child did he make any accusation of that kind? A. About three months.

Q. On the first occasion, what did you say to this? A. I told him he was the father.

Q. Anything else? A. And how hurt I felt because he accused me.

Q. And on the second occasion when he said he was not the father of the second child, what did you say then? A. I told him he was mean, and I said he ought to know better than to accuse me of anything like that.

Q. Did he, on any other occasion, accuse you of infidelity with other men? A. He did; on several occasions he had suspicions.

Q. Did he have reason to have suspicions? A. Absolutely none.

Q. Did he ever accuse you, after the birth of the second child, ever again accuse you of not being the father of his children? A. No, sir.

Q. Did he ever accuse you of infidelity again? A. No, sir.

Q. Coming down to the time when Mr. Reeves left you, and before that time, rather, was there ever any occasion when Mr. Reeves had any trouble

with you, or anything? A. I don't understand your question.

Q. Well, prior to the time that he left you, just before this suit was brought, was there ever any occasion when he locked you out of your home? A. Yes.

Q. When was that? A. The first winter we were married.

Q. What reason did he give for that? A. He didn't give any reason.

Q. What was Mr. Reeves' general conduct to you up to the time of the separation? A. Mr. Reeves was very quick tempered and if I didn't do just as he wanted, then he was very disagreeable.

Q. For a period of two years before Mr. Reeves left you, was there any time, when he ever discussed, with you, a divorce? A. Several times.

Q. Do you know when the first occasion was? A. I think it was about a year and a half before.

Q. What did he say? A. He asked me what would be the terms that I would consent to a divorce.

Q. What was his reason for asking you that? A. He didn't like the way I did certain things.

Q. What did he say to you about a divorce? A. He asked me what my terms for a divorce or separation would be, and I said for me to have the three children and have adequate support.

Q. How often would he ask you about this? A. About every two months.

Q. What was his attitude at these times? A. He seemed to be tired of me and wanted to get rid of me.

Q. How long did that continue Mrs. Reeves? A. Up until about three or months before he left.

Q. For the last two months before he left you,

what was his conduct toward you? A. About the same as it had been before.

Q. Was there any difference at all in his actions toward you, up to the time he left your home? A. None that I noticed.

Q. Do you recall when it was that Mr. Reeves left your home? A. June 11, 1928.

Q. June 11— A. 1928.

Q. What was the last you saw of him at your home? A. We had lunch together on that day.

Q. What time? A. Between twelve and one.

Q. On June 11th? A. Yes, sir.

Q. And you are sure of that date? A. Yes, sir.

Q. How do you place it? A. The day the papers were served.

Q. And how long after you had luncheon, were the papers served? A. About four hours—four hours and a half.

Q. Did you know, at that time, on June 11th, that he had sworn to a petition for divorce, on the 6th day of June, 1928? A. No, sir; I did not.

Q. And did you know that that paper had been filed on the 7th day of June, 1928? A. No, sir.

Q. Four days before he had luncheon with you? A. No, sir.

Q. Did he ever mention that he had started a suit for divorce against you? A. No, sir.

Q. Had the matter ever been discussed by Mr. Reeves at all? A. No, sir.

Q. What was the first information you had that a suit for divorce had been started against you by Mr. Reeves? A. When the papers were put in my hands.

Q. What was his condition, on June 11th, when he had lunch with you? A. All right.

Q. Did he discuss matters and talk with you? A. Yes, sir.

Q. Was there any difference in his conduct at that time? A. No, sir.

Q. At the last time that he ever spoke to you about a divorce, had he ever, from that time up to the 11th day of June, 1928, had he ever accused you of adultery? A. No, sir.

Q. Had he ever accused you of adultery with Mr. Petry? A. No, sir.

Q. June 11th, fell on what day? A. On a Monday.

Q. And on the Sunday before, had he been with you? A. Yes, sir.

Q. That would be the tenth? A. The tenth.

Q. Will you just describe the general conduct of Mr. Reeves on that date? A. On June 10th, we went to church, as usual, and after dinner, he said to me: "I am going to take a walk up on Goffle Hill", and he asked me if I would like to go, and I said I would like to go, and he said the children were all ready and we went up on the Hill and took some pictures, and came home and had tea.

Q. Pictures of what? A. Returning from the Hill, and we came home and had tea and then went to church, after that, as usual.

Q. Did he sleep with you that night? A. Yes, sir.

Q. Had he lived with you, as a husband, up to that time? A. Yes, sir.

Q. And when, before the 11th day of June, had he been a husband to you? A. About the last week in May.

Q. That is, that he performed the marital relations with you? A. Yes, sir.

Q. And on this date, that you went up on Goffle

Hill, can you recall anything that occurred about his conduct toward you? A. He was very short of speech; if anything happened in the house that didn't suit him.

Q. I mean with reference to you? A. Yes; he took me to the theatre about a week before that.

Q. Whereabouts? A. In the Lyceum.

Q. Where? A. Here in Paterson.

Q. Who was with you, besides Mr. Reeves? A. Just Mr. Reeves and myself.

Q. Was it at night? A. No; in the afternoon.

Q. And do you know of any other time that he went out with you, just prior to June 11th, 1928? A. No, sir.

Q. During the last month that you and Mr. Reeves lived together what were your church activities? A. The regular Sunday meetings and the regular weekly meetings.

Q. Who attended these meetings with you? A. I went by myself.

Q. The rectory was directly across the street from the church—the parsonage? A. Yes, sir.

Q. Did Mr. Reeves attend all these meetings with you? A. There was one meeting that was a choir practice, and we had a shower for Mr. Petry's son and his fiancee.

Q. When was that? A. Either the first or eighth of June.

Q. Did you attend the shower? A. I did.

Q. Did Mr. Reeves attend it? A. He did.

Q. With you? A. He came a litttle later, I attended choir and he came a little later.

Q. And Mr. Petry's son and who, were engaged at that time? A. Miss Hensen.

Q. Where was the shower held? A. At Mrs. Barker's house.

Q. What time did Mr. Reeves get to the shower that night? A. I don't know.

Mr. Ward: I am confining myself now to the justification. I think I might as well take up the adultery at one time, and this as well.

The Court: All right.

Q. Do you recall the 9th of September, 1927? A. I do.

Mr. Ward: Mr. Moore, in the bill of particulars, the date was given as September 9th, 1917; that was obviously a mistake, and should have been 1927.

Mr. Moore: I guess you are right.

Q. Mrs. Reeves, I show you a copy of the bill of particulars, did you ever see it before? A. Yes, sir.

Q. And did you ever have the bill of particulars? A. Yes, sir.

Q. Do you know the date therein set forth? A. I do.

Q. And did you, after, study the dates mentioned in the bill of particulars? A. I did.

Q. For what purpose? A. To bring back to my mind what I did on those dates.

Q. What happened on the 9th day of September, 1927? A. It was the first night of choir practice, after vacation.

Q. Have you since verified that? A. Yes, sir.

Q. How? A. It was the first day after Labor Day, and the church activities started then.

Q. Were you at that choir rehearsal? A. I was.

Q. What time did choir rehearsal begin? A. About half past eight.

Q. Did you have a visitor at your home at that time? A. I did.

Q. Who was it? A. Mrs. Freedman.

Q. Is she here? A. She is.

Q. She is one of the ladies that testified at one of these hearings? A. She is.

Q. And she came to your home that afternoon? A. She did.

Q. As your guest? A. Yes, sir.

Q. And you were presiding over your house at that time? A. Yes, sir.

Q. Do you remember seeing Mr. Petry that night? A. Yes, sir.

Q. Where was Mr. Reeves? A. He was in the study for awhile and then he was over to the house.

Q. Do you recall anything that occurred between Mr. Reeves and Mr. Petry at that time? A. He asked him to come over to the house and look at a battery charger.

Q. Where was this? A. In the Sunday School rooms.

Q. Who was present at the time? A. Mrs. Petry and her daughter.

Q. And you were there, of course? A. I was there.

Q. What time was this? A. About half past eight, or a quarter to nine.

Q. Do you know whether Mr. Reeves left the choir practice? A. He did.

Q. Did you leave? A. I did not.

Q. What time did he leave? A. About half past eight or nine o'clock.

Q. And you have given these dates considerable consideration and thought? A. I have.

Mr. Moore: I object to the question as leading.

The Court: Yes; he may reframe the question.

Q. Have you, or not, given these dates any careful consideration and thought? A. I have.

Q. And then what happened after that; did you continue with the choir practice? A. I did.

Q. And did you go out with Mr. Reeves? A. I did not.

Q. Who did you leave with? A. Mrs. Petry and her two daughters.

Q. Did you leave that choir practice at any time, between the time you got there and you left with Mr. Petry? A. I did not.

Q. What did you do then? A. I went out and went toward the house.

Q. Where did you leave Mrs. Petry? A. I left her on the street, in front of the church.

Q. And that is right across the street from the parsonage? A. Almost.

Q. Then where did you go? A. I went into the house.

Q. Did you find Mr. Petry there? A. I did.

Q. What did you say to him? A. I told him that Mrs. Petry and the children were waiting for him.

Q. Then what happened? A. He went out.

Q. Did you go with him? A. No, sir.

Q. Were you alone, in that house, with Mr. Petry, at any time that night? A. No, sir.

Q. Were you in the cellar of your house, alone, with Mr. Petry that night? A. No, sir.

Q. Is it true that you and Mr. Petry came in your house and Mrs. Freedman was there, and you and Mr. Petry went in the cellar alone, to fix some part of the radio? A. It is not.

Q. Now, with reference to the radio, do you re-

call anything about the radio batteries? A. Yes, sir.

Q. Where were the batteries? A. The batteries are attached to the radio.

Q. Attached to the radio, where? A. Upstairs in the living room.

Q. And they were not in the cellar? A. No, sir.

Q. Was any part of the radio in the cellar? A. No; no part of the radio itself.

Q. Was any part of the radio in the cellar? A. The charger was in the cellar.

Q. When was that purchased? A. A few days before.

Q. By whom? A. Mr. Reeves.

Q. Where? A. At the Willard Battery Company, up on Park Avenue.

Q. And that was put in the cellar? A. Yes, sir.

Q. By Mr. Reeves? A. Yes, sir.

Q. Do you know whether Mr. Reeves had any trouble with that charger? A. Yes, sir.

Q. What? A. It didn't work.

Q. Was Mr. Reeves out on any sick call when you came back there? A. Not that I know of; no, sir.

Q. He was there, wasn't he, at the house? A. He was there.

Q. Was your face flushed, to your knowledge, and were you terribly excited at any time that evening? A. No, sir.

Q. Did you introduce this woman, Mrs. Feltman, to Mr. Petry? A. I did not.

Q. Did you, on the 11th of September, 1928, commit adultery with Mr. Petry? A. I did not.

Q. Do you recall the 19th of March, 1928? A. I do.

Q. How do you recall that, that date? A. I look-

ed in the newspapers to find out what had been going on in Hawthorne about that date.

Q. Have you, or not, been helped by any suggestions of your counsel? A. No, sir.

Q. What is it that fixes the 19th of March, 1928, in your memory? A. I remember speaking to Mr. Orr, about his making a subscription to the church, or he spoke to me about it.

Q. Was there any subscription made at that time? A. I think there was.

Q. Where was the record, do you know? A. It was in cards.

Q. Can you tell us fully how you fix the 19th of March? A. I remember walking down to Joe's store—

Q. I mean, how do you fix the date; I want you to try and help me in this matter, Mrs. Reeves. My memory isn't the best. I show you a subscription card and ask you if that refers to the subscription you remember? A. Yes, sir.

Q. And were you able to find that card, after having this bill of particulars in your hand? A. Yes, sir.

Q. And is that the date, March 19th, 1928? A. Yes, sir.

Q. And does that, or not, help you to fix the date? A. It does.

Mr. Ward: I offer that card in evidence.

The Court: Let it be marked.

(Card marked Exhibit D-1, as of this date.)

Q. Is that the subscription given by Mr. Orr? A. It is.

Q. And is that his signature on the card? A. I think it is.

Q. Now, with your recollection aided and refreshed by the event of Mr. Orr giving you that subscription, can you tell us what occurred on that day? A. About half past nine, I left the house and walked down to Joe's store.

Q. This was in the evening? A. This was in the evening, and on my way down there, Mr. Orr was out on the porch, and he just spoke to me, and passed the time of day, and said something about making his subscription. I walked on down to the store and did my errand and came back to the house and stayed there.

Q. Was Dr. Reeves at home that day? A. He was not.

Q. Where had he gone, do you know? A. Asbury Park, I think.

Q. How do you know that—had he told you that he was going to Asbury Park? A. Yes, sir.

Q. When did he tell you that? A. When he left, in the morning.

Q. Did he tell you anything about that evening? A. No.

Q. Whether he was coming back or not? A. I didn't expect him back until the next day.

Q. Why do you say that? A. He told me he wouldn't be back.

Q. Do you know whether or not he came back that night? A. I don't know.

Q. Did you see him? A. I didn't see him.

Q. He spoke about wandering about the house that night; did you see him? A. I did not.

Q. Did you have the shades of your home drawn that night? A. No, sir.

Q. And after you had seen Mr. Orr, where did you go, did you say? A. I went down to Joe's store.

Q. Yes; but then where did you go? A. I came back home.

Q. When did you go back home? A. About a quarter to ten.

Q. And that was July 29th? A. No; that was March 19th, 1928.

Q. Oh! I beg your pardon, March 19th? A. Yes, sir.

The Court: That is right.

Mr. Ward: I am informed that although it is in the bill of particulars, there was no evidence given on that day.

Q. Is that your recollection; no evidence given on that date? A. Yes, sir.

Q. Do you recall the date of April 11th? A. I do.

Q. That is the next date set forth—I might ask you, by the way, do you know, what did occur on the 19th of March? A. Yes, sir.

Q. Now, passing to the next date set forth, the 11th of April, 1928; do you remember that date? A. I do.

Q. How do you fix that date? A. It was Easter week.

Q. And on what day of the week did April 11th fall? A. On a Wednesday.

Q. Around that date, was Mr. Reeves home? A. He was not.

Q. How do you especially fix that date, beside the fact that it was Easter week; do you recall anything that occurred on that date? A. Yes; my mother rather surprised me on that date.

Q. Your mother came on a surprise visit that day; what time did she get there? A. About noon.

Q. Did your mother visit you quite frequently or not? A. That year she did.

Q. Who was at home when she arrived? A. The children and I.

Q. Did your mother go out at all that night? A. She did not.

Q. She is here? A. She is.

Q. Do you recall anything else that occurred on that night—whether there was any meeting or not that night? A. There was a prayer meeting that night.

Q. Did you have anything to do with the arrangement of the prayer meeting in the absence of Mr. Reeves? A. I did.

Q. What did you have to do about making arrangements about the prayer meeting that night? A. I had to get a speaker.

Q. Who told you to do that? A. Mr. Reeves.

Q. What did he say to you? A. He said to get a speaker to take care of the meeting that night.

Q. Did he suggest anybody? A. No, sir; he did not.

Q. What did you do? A. I called up Mr. Makepeace.

Q. Did he take it? A. He couldn't take it that night.

Q. Then what did you do? A. I called up Mrs. Petry.

Q. And did Mr. Petry make arrangements to conduct the prayer meeting that night? A. He did.

Q. Did you call up Mr. Petry to make arrangements with him? A. I did not.

Q. And what time was that prayer meeting? A. A few minutes before eight.

Q. And after the prayer meeting where did you go? A. I went home.

Q. What time? A. Between a quarter to nine and nine o'clock.

Q. Did Mr. Petry come in your home at all that night, after prayer meeting, and stay for about twelve and a half minutes? A. He did not.

Q. Did you go from the living room to the rear of your home with Mr. Petry at any time that night? A. I did not.

Q. When you arrived at home, after the prayer meeting, was your mother there? A. She was.

Q. Was she with you for the rest of that evening? A. She was.

Q. Did you commit adultery with Mr. Petry on the 11th of April, 1928? A. I did not.

Q. While you were in church that night, at this prayer meeting, while Mr. Pell was present, did you request Mr. Petry to come over to your home and fix the telephone? A. I did not.

Q. The next date mentioned in the bill of particulars, is May 10th, 1928. Do you recall that date? A. I do.

Q. How do you fix that date, Mrs. Reeves? A. With the affairs that were going on at the church at the time.

Q. Tell us about that, if you will, please? A. The Friday before, one of the societies had had a dinner at the church, and the Friday before that the young men cleaned up behind the church and I remember that.

Q. This is the occasion when they say you went back of the church with a shawl or something? A. Yes, sir.

Q. And you went back of the church? A. Yes, sir.

Q. May 10th fell on what day of the week? A. Thursday.

Q. On that night, do you recall what you did? A. I do.

Q. What did you do? A. I stayed home and sewed until about half past ten, and then I took a bundle of the childrens' old clothes that I was discarding and giving away, and took them over to Mrs. Whering's house.

Q. Where was that? A. About five hundred feet away.

Q. How long did you stay there? A. About ten or fifteen minutes.

Q. Then where did you go? A. Then I walked up Lafayette Street and down Diamond Bridge and home.

Q. Did you go in your home then? A. I did.

Q. And what time was it when you arrived home? A. About eleven o'clock.

Q. Did you see Mr. Petry that night at all? A. I did not.

Q. Were you in the rear of the church on that night? A. I walked through the walk that goes through that church yard.

Q. Where were you going at that time? A. Going over to Mrs. Whering's house.

Q. Did you stop there at all? A. I did not.

Q. Now, will you describe that walk to his Honor—the walk—the route that you took—how it led in through there? A. It led in through the trees and grounds that belong to the church.

Q. And was that commonly used and a path worn? A. It was.

Q. Do you know whether people frequently used that path through there? A. They did.

Q. Where did it lead? A. From Lafayette Avenue, down over the railroad track.

Q. That was a short cut, wasn't it? A. Yes, sir.

Q. Were you there alone that night? A. No, sir.

Q. And when you came back, was Mr. Reeves home? A. He was not.

Q. Coming back, did you come that way or not? A. I did not.

Q. Did you have any old blanket or shawl with you on that occasion? A. I did not.

Q. Is that your handkerchief? A. No, sir.

Q. Before that was produced at the time of the last hearing, did you ever see that handkerchief before? A. No, sir.

Q. That is the exhibit that is the handkerchief? A. No, sir.

Q. Whom did you see at Mrs. Whering's house? A. I saw her sister.

Q. And Miss Whering, what does she do? A. She is the local reporter for the Press-Guardian.

Q. For the Press-Guardian? A. Yes, sir.

Q. Did you commit adultery with Mr. Petry, at the rear of the church, at the church they have been referring to, on May 11th, 1928? A. I did not.

Q. Did you see him at all on that date? A. I did not.

Q. And the next date alleged is May 15th. There was no evidence about that, as I recall; is that correct? A. Yes, sir.

Q. You remember what happened on that date, too, don't you, Mrs. Reeves? A. Yes, sir.

Q. The next date is May 29th, 1928? A. Yes, sir.

Q. Do you remember that night? A. I do.

Q. Was Frances home that night? A. She was.

Q. And about seven or eight o'clock, did she retire at the usual time? A. She did not.

Q. What happened? A. She stayed up a half an hour later.

Q. What time did she retire? A. About half past eight.

Q. Why was that? A. The next day was a holiday and I let the children stay up a little longer.

Q. How do fix that day? A. Because, it was the day before Decoration Day.

Q. The day before Decoration Day—is that day clear in your mind or not? A. It is.

Q. What happened that night, Mrs. Reeves, after seven thirty or eight o'clock? A. The children played around until about half past eight and then I sent them up to bed; about a quarter to nine, Mr. Petry called me up and asked me if I had any picture of a jaunting car, and I said I didn't know, but that I had; I would call him back. I looked through some magazines, and I went over to the study and looked through the encyclopedia, and I looked through some magazine and I found one and then I called him back and told him I found one, and then I went back home, and picked up my sewing and then a young man came to the door—

Q. Do you know his name? A. Mr. Locker, and he wanted to know if Mr. ~~Reeves~~ Petry was there, and I told him he was not, but I expected him in a few minutes and then Mr. Petry came and I showed him the picture of the jaunting car.

Q. Was Mr. Locker there at that time? A. Yes, sir.

Q. Did they see each other? A. Yes, sir.

Q. Was Mr. Locker there? A. He was.

Q. And did Mr. Locker stay after Mr. Petry left that night? A. He did.

Q. Did Mr. Petry return again that night? A. He did not.

Q. How long after that did Mr. Locker stay? A. Twenty minutes or a half an hour.

Q. On that date, were you ever on the couch with Mr. Petry? A. I was not.

Q. You heard the testimony of Frances? A. I did.

Q. Was that true or untrue? A. Untrue.

Q. Mrs. Reeves, what has been the attitude of Frances, toward you? A. Frances has always been the hardest one to discipline of the three.

Q. Will you just tell the court what the circumstances have been between you? A. She was the hardest to discipline and when I did correct her, Frances would complain that I was nagging her, and often she would go to her father, and he would come between Frances and me about it, and it was very hard for me to get along with her.

Q. How did the father treat her? A. He treated her as if she was the favorite of the three.

Q. Tell me some incidents that would indicate that? A. He would take her with him and leave the other two at home, and he would take her over to the study to do her work there.

Q. And what else? A. He said that I made her do more work around the house than I did the other children.

Q. Who said that? A. Mr. Reeves.

Q. What else? A. And he took her away one time and didn't take the other children, on a little trip.

Q. Anything unusual? A. They were always talking to each other, to the exclusion of the others and myself, and she was the only one he showed any affection for.

Q. How old is Frances? A. She is fourteen now.

Q. And up to the time that Mr. Reeves left the parsonage, at Hawthorne, where did Frances sleep? A. In the front room, generally.

Q. And what about Mr. Reeves showing any preference about that? A. Well, often Frances would go in her father's room and they would remain in there, having long talks, and sometimes she would be so late, I would have a hard time to get her off to school.

Q. And then Mr. Reeves left you? A. Yes, sir.

Q. And where did he go? A. To Asbury Park.

Q. What happened to the children? A. He went to the school and got the children and took them to Asbury Park.

Q. Did you go to visit them at Asbury Park? A. I did.

Q. Tell the court what happened down there—how the house was and what treatment was afforded you? A. The first time I went was before I had any papers, but I went and my mother spoke for me and Katie came to the door.

Q. Who was Katie? A. The maid, and she went upstairs, and I heard them talking and then Mr. Reeves came down stairs and asked me if I had any papers to see the children, and I said I had not, and he said: "You cannot see them then", and then he slammed the door and my mother said, just before he closed the door, and she asked him if she couldn't see Frances to give her a graduation present, but he continued to slam the door.

Q. Then you got your papers from the court? A. I did.

Q. And did you go down again? A. I did, and my mother was with me, and Katie came to the door again, and then she went back in the house, and she came down again and said that I could not see the children if I had anyone with me, and then his father came up from downtown and said the court order said I couldn't see the children unless

I was alone. I said I had read the court order and there was nothing in it about me coming alone, but in order to see the children, I had my mother leave the porch, which she did, and I saw the children, but they were very cold toward me.

Q. How long was it when you last saw them, before you saw them at Asbury Park? A. About six weeks.

Q. The two younger children—how did they act toward you, and how did they leave?

By the Court:

Q. How did they act before you left? A. They were all right before they left.

By Mr. Ward:

Q. Were they affectionate or not? A. Yes; very affectionate.

Q. And how was Frances, besides these little differences? A. She was all right.

Q. How did they act toward you; just describe their conduct, not your conclusion? A. I tried to kiss them, and they drew away from me, and Katie said: "Don't kiss her, if you don't want to."

Q. Was Katie in the room with you? A. No; this was on the porch.

Q. Weren't you in a room? A. No, sir; just on the porch.

Q. Where was Katie all this time? A. Just inside the screen door.

Q. Was she there all the time? A. No; she was there a few minutes and then she left.

Q. What took place then? A. I told the children what was taking place in Hawthorne, and I asked them to take a walk down to the beach with me, but they wouldn't, and when I left, I tried to kiss them good-bye and the two oldest ones pulled away from me.

Q. Did they ever do that before that? A. No, sir.

Q. When you tried to kiss them? A. No, sir.

Q. How often did you go to see them? A. Every week.

Q. You went from Paterson, down to Asbury Park to see them? A. Yes, sir.

Q. What was their attitude toward you? A. The two oldest always pulled away and put up their hands, but the little one didn't seem to be so bad, and I could kiss her, but, on the first few occasions the children would only answer me in mono-syllables, but when I began to talk to them about the ball-games and things at school, then they would begin to talk to me, but every time I asked them to go down to the beach with me, they refused.

Q. Were you always confined to the porch, at the home of your husband's family? A. I was until it got cold, and then I was admitted to the house.

Q. Now, on this day in May, as testified to by your daughter, did you commit adultery with Mr. Petry? A. I did not.

Q. Will you describe to his Honor the interior arrangement of the house?

The Court: What is the object of the question?

Mr. Ward: The child testified that she was in a certain position and saw these things, and I have been in this house, and I would like you to visit the house, but I know it is rather difficult for your Honor. It is impossible for her to be in the position she says she was and see what she says she saw.

The Court: Propound the question to her, then.

Q. Your house is a two story, one family house? A. Yes, sir.

Q. And as you come up Lafayette Avenue, it is on the northerly side of the street? A. West.

Q. And it is back about twenty feet from the street? A. A little more than that.

Q. About twenty or twenty-five feet back from the street, and a porch on it? A. Yes, sir.

Q. And no hallway? A. No, sir.

Q. And the door opens into a square hallway? A. Yes, sir.

Q. And that is about twelve by twelve? A. No; nine by nine.

Q. And as you go in there, there is this square hallway? A. Yes, sir.

Q. And the hallway and front room occupy the front of the house? A. Yes, sir.

Q. And then there is a stairs that lead up? A. Yes, sir.

Q. And there is one flight that leads half way up, and then there is a direct turn, at a platform? A. Yes, sir.

Q. And then you make a direct turn and go up the other flight? A. Yes, sir.

Q. And the head of the stairs is at the top flight? A. Yes, sir.

Q. And then there is an archway there? A. Yes, sir.

Q. How large is that living room, about? A. Fourteen by—twelve by fourteen, I should think.

Q. In back of the living room, there is a dining room, isn't there? A. Yes, sir.

Q. And then a partition between the living room and dining room? A. Yes, sir.

Q. With an arch partition there? A. Yes, sir.

Q. And back of the doorway, on the right, is the kitchen? A. Yes, sir.

Q. That is correct, isn't it? A. Yes, sir.

Q. Did you hear Frances testify to the position she was in, when she came down the stairway, or part way down, the second flight of the stairway? A. I did.

Q. On May 29th, 1928? A. I did.

Q. Was there a couch in the living room on that day? A. There was.

Q. Where was the couch? A. The couch was between the hallway and bay window, on the south side of the house.

Q. And that would be the far side, away from the hallway? A. Yes, sir.

Q. Were you up in this house with me? A. I was.

Q. Did you stand in the position, as described by Frances? A. I did.

Q. Did you stand in the position, as described by Frances? A. I did.

Q. And were there others there? A. Yes, sir.

Q. And could you see the couch, except about two feet of the end? A. That is all.

Q. Could you see the head of the couch at all? A. No, sir; you could not.

Q. Could anybody—lying on that couch, could you see their heads at all, in that position? A. No, sir.

Q. In order to see them at all, their feet would have to be up to the head, and their head down at the foot of the couch, is that true? A. Yes, sir.

Q. Standing on that stairway would it be pos sible to see anybody lying on that couch, with their head lying on the head of the couch? A. No, sir

Q. Were you on that couch at all that night with Mr. Petry? A. I was not.

The Court: She denied that before; she made a comprehensive denial of that before.

Q. Did you ever commit adultery with Mr. Petry? A. No, sir; I did not.

Q. How do you always address Mr. Petry? A. I always called him Mr. Petry.

Q. Did you ever address him by his first name? A. No, sir.

Q. Were you very familiar with Mr. Petry? A. No, sir.

Q. Did you ever kiss or caress Mr. Petry? A. No, sir.

Q. Did he ever kiss or caress you, in any way? A. No, sir.

Q. This is Mr. Petry sitting over here, isn't it (indicating)? A. It is.

The Court: If you have overlooked anything I will let you go back to it.

Mr. Ward: All right.

Q. Do you remember Mr. Reeves coming home that night? A. I do.

Q. Did you have any bathrobe on when he came home? A. No, sir.

Q. And did you tell him that you had taken a bath? A. I did not.

Q. Did he go down and feel of the boiler, to see whether or not the boiler was hot? A. I don't know.

Q. Did he say anything of any moment to you that night, or of any importance? A. He did not.

Q. June 4th, in the bill of particulars, you are charged with having committed adultry, but there

was no evidence of that charge was there? A. No, sir.

Q. But you have that date covered also, have you not? A. Yes, sir.

Q. Your son testified—you remember his testifying, don't you Mrs. Reeves? A. Yes, sir.

Q. I believe you will never forget it? A. I don't think so.

Q. Directing your attention to your son's evidence, do you recall that he testified on a certain incident that took place after the first of the year, 1928; I think he said the first week in January—with reference to any date around that period of time, did you go upstairs on that occasion, when your boy called to you and said: "Mother, I have a toothache", when Mr. Petry was present? A. No, sir; he did not.

Q. You heard all of your boy's evidence? A. I did.

Q. Was Mr. Petry in your hallway, upstairs, with you—has he ever been up in the hallway with you? A. Not after the new church was built.

Q. Was he ever up there with you at all? A. When Mr. Reeves had his study up there.

Q. I say, up there with you? A. No, sir.

Q. Did Mr. Petry ever go up there with you, and you close the door? A. No, sir; he did not.

Q. And you closed the door, or anything of that kind? A. No, sir.

Q. As a matter of fact, Mrs. Reeves, do you know whether, Mr. Petry was actually sick and confined to his house at that time? A. I know he was.

Q. Do you know whether Mr. Reeves visited him at his home at that time? A. He did.

Q. How long was he sick, at that time? A. For several weeks.

Q. Do you know whether Mr. Petry was sick on the 29th of December? A. Yes, sir.

Q. And was sick, practically, to the 26th of January; do you know that? A. Yes, sir.

Mr. Ward: Where are the notes, Major?

Mr. Moore: There were certain notes marked in evidence.

The Court: Yes.

Mr. Moore: But I don't know what became of them.

The Court: They were probably left with Mr. King, or Mr. Berdan.

Mr. Moore: I cannot find them.

The Court: See if you can find them, and if you can let Mr. Ward see them.

Mr. Moore: I have one here, marked Exhibit P-4, on the heading of the Church paper, with the writing on it.

Q. I show you Exhibit P-4; do you recognize that as your handwriting?

Mr. Moore: I object to counsel interrogating the witness in that manner; I think he ought to stand back here.

Mr. Ward: I am showing the witness the exhibit, Major Moore.

The Court: I will let him stand there.

A. It does look something like my writing.

Q. Do you remember writing that? A. No; I don't recall that.

Q. Does this recall anything to you: "he wanted to go up; you had nothing against him. This af-

ternoon he thought he was avoiding him this morning and I said it might not—" it is covered over here—it. I have no hard feeling toward him." Do you recall that? A. No ,sir.

Q. But it is possibly your handwriting? A. Yes, sir; it is probably my handwriting.

Mr. Moore: There are two handwritings there.

Q. "I have no hard feeling toward him"; do you know whose handwriting that is? A. I do not.

Q. Do you know whose it is? A. No, sir.

Q. Now, as a matter of fact, while you were in the choir, during Mr. Reeves' sermons, did you ever receive or write notes? A. Occasionally.

Q. You used to sing in the choir? A. I did.

Q. And did Mr. Petry sing in the choir? A. He did.

Q. And Mrs. Petry? A. Yes, sir.

Q. Did Mrs. Petry sing in the choir too? A. She did.

Q. And who else? A. Mrs. Petry, and her girls, and some gentlemen.

Q. How did they sit? A. Mrs. Petry first, and Mrs. Knapp next, if she was present, but if she wasn't, I sat next, but she were there, then I sat next, and then Mrs. Petry, and then in the back was the row of basses.

Q. How close did Mrs. Petry sit? A. Five or six feet.

Q. If you had any notes to pass, how were they passed? A. Right out in the open, to whom it was to go to.

Q. Did you ever write anything on a note to go to Mr. Petry? A. No, sir.

Q. For Mr. Petry? A. No, sir.

Q. And in writing these notes, did you ever do it surreptitiously, so nobody else could see you, or was it done openly? A. It was done openly.

Q. You didn't see these notes that were introduced in evidence did you? A. I did not.

Q. Mr. Reeves testified, that in March, 1928, at Consistory meeting, he went out and found you and Mr. Petry in each others arms; is that true or not? A. That is not true.

Q. Did that ever occur? A. No, sir.

Q. He said that he said to you, that he objected, and told you to stop and he told Petry to stop; did he ever say anything of that kind to you? A. He did not.

Q. In March, or any other time? A. No, sir.

Q. And you said: "Mind your own business"; is there any truth in that? A. No, sir.

Q. Did Mr. Reeves ever see you and Mr. Petry in secluded places? A. He did not.

Q. Did he ever object to you and Mr. Petry being in secluded places? A. He did not.

Q. Did Mr. Reeves ever come home and find Mr. Petry just going out? A. He did not.

Q. Especially after lodge meetings? A. No, sir.

Mr. Ward: I think I covered about the blanket.

The Court: Yes; I think you covered everything.

Mr. Ward: There are some things he testified to generally; I haven't covered that as yet.

Q. This handkerchief; did you show that to Mr. Reeves when you bought it? A. I did not.

Q. You never bought it? A. I did not.

The Court: She says she never owned it.
Mr. Ward: Yes, sir.

Q. Up to the time that Mr. Reeves left you, on the 11th of June, 1928, how did he act toward Mr. Petry, in your presence? A. Just as he always acted, friendly, and just as one of the members of the church.

Q. Was there ever any occasion when Mr. Reeves spoke to you about Mr. Petry and you were very defiant when he spoke about your conduct, and you told him to mind his own business? A. He never said that.

Q. And did you ever say, that you would ruin him to the public, or with the public? A. I did not.

Q. Did he ever accuse you of being a drug addict? A. Not to my face.

Q. Did you ever refuse to take any tests that he suggested to find out if you were a drug addict? A. I did not.

Q. On any occasion before June 10th, upon the Communion date before the 10th, did he plead with you before God, to give up this man? A. He did not.

Q. Did he ever fall on his knees before you and speak to you about Petry? A. No, sir.

Q. Did he ever speak to you about Petry? A. Never.

Q. On any occasion, on your attitude towards Petry? A. No, sir; he did not.

Mr. Ward: That is all.

Cross-examination by Mr. Moore:

Q. Mrs. Reeves, you filed an answer in this case, did you not? A. I did.

Q. And in the answer you make no mention at all of having cohabitation with your husband, do you? A. I don't think so.

Q. You didn't make any mention either of the last time you had sexual relations with him? A. I don't think so.

Q. Have you filed several affidavits in this case? A. Yes, sir.

Q. And you make no mention of sexual relations with him? A. No, sir.

Q. And you say now, that you had sexual relationship with him during the later part of May, 1928? A. Yes, sir.

Q. Is it true that you did have sexual relationship with him in May, 1928? A. It is.

Mr. Moore: If that is so, then I think the justification part of the answer should be stricken out because she says up until May, 1928, she was having sexual relations with her husband, and the act of adultery that she alleges were condoned, and also the acts of cruelty were condoned by her sexual intercourse.

The Court: I hardly think this would be a proper time to strike it out.

Mr. Ward: She didn't know about the adultery then; she didn't find it out until later.

Mr. Moore: I withdraw the motion, at this time.

Q. The last time you had sexual intercourse with your husband was in the latter part of May, 1928; is that right? A. Yes, sir.

Q. Do you want this court to believe that after employing detectives, and you hearing the testi-

mony of the children—do you think that he would have sexual intercourse with you, after hiring these detectives and spending all this money?

Mr. Ward: I object to the question.

The Court: The objection is sustained.

Q. Do you mean to say that he did have sexual relationship with you after that? A. Yes, sir.

Q. How do you know that? A. Because, after he was very much provoked with himself.

Q. How do you fix the date? A. Because, it was just around Decoration Day.

Q. Was it before or after Decoration Day? A. I think it was a day or two after Decoration Day.

Q. Isn't it a fact that you fix that date because your daughter has testified that it was just before Decoration Day, and then your husband had testified that he came home and caught you in your bathrobe just before Decoration Day? A. No, sir.

Q. And Mr. Bell had testified—

Mr. Ward: I object to this.

The Court: I will allow it.

Q. In your answer you make no statement that you had sexual intercourse with him after the alleged act of adultery, is that true? A. Yes, sir.

Q. You didn't allege any sexual relationship as of any date, in your answer? A. No; not in my answer.

Q. Now, you haven't filed a counterclaim asking for any relief have you? A. I don't think so.

Q. You haven't asked for a divorce from your husband, have you? A. I think it is in my answer.

Q. Then, if I show you there is no such thing in your answer, then you will know that you didn't ask for relief? A. I don't think I did.

Q. Then you didn't ask for any divorce; you set that up by way of recrimination? A. Yes, sir.

Q. You lived with your husband up until June of 1928? A. Yes, sir.

Q. He left you; you didn't leave him? A. Yes, sir.

Q. And you were quite content to live on on the same circumstances that you have been living? A. Now, you mean?

Q. No; at the time he left, you were quite content to live with him as you had been? A. Yes, sir.

Q. And did you submit willingly to this act of cohabitation that you have testified to? A. I did.

Q. And so it wasn't dangerous for you to live and cohabit with him, as you have testified to, was it? A. No, sir.

Q. You are acquainted with Mr. Bell, are you not? A. Yes, sir.

Q. And you know him well? A. Yes, sir.

Q. Now, when Mr. Bell testified that he saw your husband down on his knees, pleading with you to give Mr. Petry up, is that true? A. My recollection is, that his testimony was that he saw Mr. Reeves down on his knee before me, but he didn't hear any pleading.

Q. Do you remember being in the parsonage with the petitioner, in April, 1928—in the study at the church, I don't mean the parsonage; I mean the study at the church? A. Not particularly.

Q. Do you remember Mr. Bell knocking at the door when you and Mr. Reeves were in there? A. No, sir; that happened lots of times.

Q. Do you recall Mr. Bell, knocking at the door, and opening the door, and seeing Mr. Reeves on his knees in front of you? A. No, sir.

Q. Do you remember this testimony of Mr. Bell: "Q. What did you see when you opened the door? A. I saw Mr. Reeves on his knee. Q. How far away was he from her? A. About a yard, I would say. Q. On his knees? A. Yes, sir. Q. When you saw that what did you do? A. I closed the door and walked away." Do you deny that? A. I certainly do.

Q. How long has Mr. Bell been connected with the church, do you know? A. I think about five years, and joined the church.

Q. Do you recall the testimony of Mrs. Feldman? A. I do.

Q. Was Mrs. Feldman at your home at your invitation or Mr. Reeves' invitation? A. Joint invitation.

Q. You had known Mrs. Feldman for some time, had you not? A. Oh! sure; well.

Q. She was a friend of yours and a friend of the family? A. I thought so.

Q. And also her husband? A. Yes, sir.

Q. And did you visit her? A. Yes; I visited her.

Q. And she visited you? A. Yes, sir.

Q. And I understand your testimony this morning was that she was there on a visit? A. Yes, sir.

Q. And you say, in the cellar, there was a charger for the radio? A. There was.

Q. When was that put in? A. Just a few days before.

Q. And you testified that you went down the cellar with Mr. Petry for the purpose of fixing— A. I didn't go down cellar with him.

Q. Oh! you didn't? A. No, sir; I didn't go to the house with him.

Q. Then, when Mrs. Feldman says that Mr. Pe-

try came to the house and you went down in the cellar with him and stayed there for some while, do you deny that statement? A. I deny that statement.

Q. And do you deny the statement that Mr. Petry was in the house when Mr. Reeves came home? A. Yes, sir.

Q. And do you deny that Mr. Reeves introduced Mr. Petry to Mrs. Feldman? A. He probably did.

Q. And do you say that Mr. Reeves was there that night? A. He was there, but I wasn't there.

Q. Well, when Mrs. Feldman testifies that you were there that night when Mr. Reeves was there, that isn't so?

Mr. Ward: I object to the question.

Q. Do you remember Doctor Reeves coming there that night, and seeming amazed to find Mr. Petry at the house? A. No, sir; that didn't happen.

Q. Do you recall Mr. Petry starting to leave and Mr. Reeves saying: "Wait a minute, don't be in a hurry"? A. No; I don't remember that.

Q. And you don't remember Mr. Reeves introducing Mr. Petry to Mrs. Feldman that night, at all? A. No, sir.

Q. But you do admit that Mrs. Feldman was there that night? A. Yes, sir.

Q. But you deny the statement, that Mrs. Feldman testifies, that you heard her testify that you went downstairs and stayed down there with Mr. Petry, in the cellar? A. I absolutely deny it.

Q. And came up sort of flustered? A. I deny that.

Q. And your relations with Mrs. Feldman up to

that time were perfectly friendly? A. Yes, sir.

Q. And she had an interest in the children and the home? A. I don't know how much interest she had in the children.

Q. How long did she come to stay, at that time? A. About a week.

Q. Have you ever seen this shawl, Mrs. Reeves? A. Yes, sir.

Q. Do you remember where you saw it last? A. On the couch, in the living room, in my home.

Q. When about was that, can you remember? A. No; I don't remember.

Q. Was it so, that on the night that you went behind the church, that you had that shawl, wrapped in your arm? A. I did not.

Q. Where was the shawl that night? A. I don't know.

Q. And when after that night, did you see the shawl? A. I don't remember.

Q. Do you remember what kind of a night it was that you went behind the church? A. Not particularly.

Q. Was it a dark night, or light night, do you remember? A. I think it was dark.

Q. And was it your testimony this morning, that you walked down that alley, along that church, in the darkness, all by yourself? A. I did.

Q. And you didn't have a light with you? A. No, sir.

Q. And you walked behind the church that night? A. I walked along that path that night.

Q. And then, didn't you go behind the church? A. I suppose so.

Q. And that was on May 10th, 1928? A. Yes, sir.

Q. Did you see Mr. Bell, that night? A. No, sir.

Q. Hadn't you been to church that night to prayer meeting? A. Not on May 10th.

Q. Where had you been that night? A. I had been home.

Q. And you didn't see Mr. Bell at all? A. No, sir.

Q. And you walked directly from your home to back of the church? A. Yes, sir.

Q. And you had no bundle? A. Yes, sir; I had a bundle.

Q. And you heard Mr. Bell testify that he saw you leave your house with a bundle in your arm?

Mr. Ward: I object to questions of that sort.

The Court: The right way is to ask her to deny or admit the testimony.

Mr. Ward: He says: "Do you admit or deny the testimony of their witness. He had no right to confront the witness with the testimony of another witness. He can say, is it or not true that you did, so and so.

The Court: I think that is the better method, and I think you had better follow that course.

Mr. Moore: I read from the testimony and asked her if she denied it.

Mr. Ward: That is my very point, and the court doesn't permit the reading into the testimony other witnesses evidence for the purpose of getting denials.

A. Yes; I heard that testimony.

Q. Is that a true statement of the facts? A. I did have a bundle with me that night.

Q. I beg your pardon? A. I did have a bundle with me that night.

Q. Do you recollect how long you stayed when you went behind the church and across the path you have spoken of? A. I think it takes about a minute and a half to cross that path.

Q. Did you hear the testimony of Mr. Stender? A. Yes, sir.

Q. Did you see them sitting in the automobile—Mr. Stender and Mr. , when you walked behind the church that night? A. No, sir.

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

Q. What time did you arrive home that night? A. About eleven o'clock.

Q. What did you have in the bundle? A. Some of the children's clothes that they were not going to wear any more.

Q. And did you have a bundle when you arrived home? A. I did not.

Q. But you had a bundle when you went out? A. Yes, sir.

Q. I show you a diagram of that room. Does that correctly show a representation of that hall, with reference to the stairs? A. Not exactly.

Q. Wasn't the couch where the arrow points? A. Yes.

Q. And if the couch had been there, you could see it from the stairs could you not? A. Yes; if the couch was there.

Q. And if the couch was a little further back, a person would have to go a little further down, would he not? A. Yes, sir.

Mr. Ward: That is not a correct diagram.

Q. Is that an approximately correct diagram?

A. Approximately, but a very bad diagram of distances.

Q. If the couch had been in that position, you could have seen it? A. Yes, sir.

Q. And that was the position it was in that night? A. No.

Q. So a person coming there would have to look through the hall at a different angle? A. Yes, sir.

Q. Could they or not, see from the hall? A. From the hall, they could.

Q. Is the stairway across the house? A. It is parallel with the front of the room.

Q. And coming down this way, they could look into the room? A. Look in the front part of the room.

Q. But to see the back of the room, they would have to get in a different angle? A. They would have to come further forward.

Q. And the position you say the couch was in when Frances looked in the room? A. That was the usual position of the couch.

Q. On May 10th, 1928? A. Up against the dining room wall, was the usual place for it.

Q. And so a person hearing a noise would look in that direction? A. Probably.

Q. Do you remember of it ever having occupied a different position in that room? A. Yes; at other times.

Q. Do you remember when you put it in the particular position you described it of being in that day? A. No; I don't.

Q. Is it a large room? A. About twelve by fourteen.

Q. Is it as big as this room? A. No; not as big as this room; an ordinary sized room.

Q. Is there a door between the hall and the bed-

room? A. There is no bedroom downstairs.

Q. I beg your pardon; I mean between the dining room? A. No, sir.

Mr. Ward: I object to counsel asking these questions, because the daughter, Frances, has testified that the couch was where we have placed it.

The Court: It is cross-examination and I am going to allow it.

Mr. Ward: But the witness, Frances testifies that it was in the same corner, that she says it is.

The Court: She puts it in another position.

Mr. Ward: No; she puts it in the same position.

The Court: You say she couldn't see it.

Mr. Ward: Yes, sir; but Frances said so.

The Court: I will allow it.

Q. Was the door—the entrance into this side room about half the size of the room? A. I think about that.

Q. So a person standing in the hall, at right angles to the room could see about three quarters of the room? A. Probably.

Q. You didn't see these notes the other day, when they were offered in evidence? A. No; I didn't.

Q. But on this note that was offered in evidence this morning, you admit that was in your handwriting and the other in the handwriting of Mr. Petry? A. I said the upper part was in my handwriting; I don't know the handwriting of Mr. Petry.

Q. You don't know the handwriting of Mr. Petry when you see it? A. No, sir.

Margaret D. Reeves—Cross.

Q. That writing is on the headnote of the paper of the church Consistory of the Second Reformed Church? A. It is.

Q. And did he ever pass any notes to you before? A. Not to me, particularly.

Q. Is Mr. Petry in court this morning? A. He is.

Q. How many notes did Mr. Petry pass to you? A. I don't know.

Q. Was it fifteen notes that passed between you? A. I don't know exactly.

Q. You say he asked you to look up something in your house? A. He asked me about a diagram.

Q. He is the treasurer of the church? A. Yes, sir.

Q. And you have seen him write? A. I have seen his signature.

Q. And you and him used to make up the hymns that were to be sung? A. We did not.

Q. And you attended the church matters together? A. No, sir.

Q. And did you sit next to him in the choir? A. I did not.

Q. Now, look at that note and see if that refreshes your memory? A. No it doesn't, Mr. Moore; it might be anybody.

Mr. Moore: I haven't the testimony written up and I can't cross examine her about it.

The Court: Then I will defer the cross examination in this case until you get the testimony.

Mr. Ward: Now, your Honor, please; I wanted an adjournment on account of that and your Honor said the case had to go on. We had to prepare this defense under that serious handicap.

The Court: You won't be handicapped; we will have the testimony written up. I didn't know the testimony was not written up.

Mr. Ward: Now, counsel having failed to give us this testimony, which we were trying to get all summer, that he should be allowed to defer his cross-examination until the testimony was written and I was deprived of the use of the testimony—

The Court: Counsel informs the court that he cannot proceed with the cross-examination of the witness until he has the testimony and you will have the same privilege.

Mr. Moore: All right; then I will not go any further at this time.

The Court: Then the case will be adjourned.

Mr. Ward: This woman has been getting on, on ten dollars a week, and she has hardly been able to do it, and she hasn't a cent. This defense is substantially based upon a witness to which this petitioner has made confessions of his acts of adultery, which the wife didn't know of until after the sexual actions took place.

The Court: You mean to say that you have evidence that Mr. Reeves has admitted that he has been guilty of adultery?

Mr. Ward: Absolutely, and that Mr. Reeves was put out of the church down there on account of his adulterous conduct.

The Court: Where do your witnesses come from?

Mr. Ward: Absecon, New Jersey.

The Court: I think you ought to have the witnesses here, then.

Mr. Moore: I think the court might again consider a dismissal of the answer on the ground that it was condoned.

The Court: I will not consider it again. The only thing before the court now, is the money for expenses.

Mr. Ward: Yes, and I think we ought to get at least two hundred dollars.

The Court: Two hundred dollars?

Mr. Ward: Yes, sir; because it will be necessary for Mrs. Reeves to go down there two or three times and bring her witnesses up here.

The Court: What have you to say, Mr. Moore?

Mr. Moore: Of course, the petitioner has no money, and he is unable to get employment, on account of this suit that is pending. They were allowed one hundred dollars counsel fee and it was to be paid fifteen dollars a week.

The Court: Where is she residing now?

Mr. Ward: In Hawthorne.

The Court: In the same house?

Mr. Ward: No, sir; with one of the parishioners.

The Court: What do you say about it; do you think two hundred dollars will cover it?

Mr. Ward: Yes, sir; I think so.

The Court: All right; two hundred dollars.

Mr. Ward: Is it necessary to procure an order?

Mr. Moore: I think so. My client has no money, and he may have to go to jail for contempt of court.

Mr. Ward: All right.

The Court: I will fix a day later.

FOURTH DAY.

IN CHANCERY OF NEW JERSEY.

Between
JOHN REEDER REEVES,
Petitioner,
and
MARGARET D. REEVES,
Defendant.

On Petition for Divorce.

Paterson, N. J., December 18th, 1929, at 10:00 A. M.

Continuation Hearing before
HON. VIVIAN M. LEWIS.

APPEARANCES:

HON. EDWARD THOMAS MOORE, Solicitor of the Petitioner.

JOHN WARD, ESQ., of the firm of WARD & MCGINNIS, ESQS., Solicitor of the Defendant.

MARGARET GLASS, sworn as the Stenographer.

MARGARET REEVES (sworn at previous hearing), testified as follows:

Cross-examination by Mr. Moore (continuation):

Q. Mrs. Reeves, I show you a floor plan of the property at No. 270 Lafayette Avenue, Hawthorne, N. J. Will you please examine that, and let me

know if that, as you observe it, is a correct diagram? A. It looks correct to me, Mr. Moore. I haven't the measurements here myself. I haven't the dimensions to check this up, myself. It looks correct, as far as I can tell, without measurements.

Q. I show you another diagram of the floor known as the Builder's Plan of the floor. Will you examine that, and see whether you consider that a fair description of the lay-out of the floor. A. Yes, I do.

Q. I show you a large tracing here, which I understand the photograph you just saw is a reproduction of. I want you to look at the floor plan, and see if that corresponds with the photograph?

Mr. Ward: Is this the original plan, Mr. Moore?

Mr. Moore: That is the original plan made by the measurements and lay-out of the floor. I will prove that later. I just want to see if she recognizes it.

A. I don't just remember whether there are seven steps or eight steps on that stairs.

Q. You testified before in this case, Mrs. Reeves; as far as you recollect your former testimony, does that correspond with your previous testimony? A. Generally, Mr. Moore, but I haven't the figures here.

Q. I show you a diagram, Mrs. Reeves. I wish you would examine that and see whether that corresponds with your recollection of the lay-out; while the child is pasted there, that is not binding, of course; that is to show the position that the child stood in on the stairs.

New Jersey State Library

Mr. Ward: I think this is practically useless. I am going to object to its introduction in evidence.

The Court: He can't bring it in in evidence on cross-examination.

Mr. Moore: The wife made a statement, that for the child, standing on the stairs, to see the corner of the room where the couch is, is impossible.

Q. I am asking you to see if that is correct? A. It looks about like it, but I wouldn't say it is exactly right, because I haven't measured it.

Q. Can you point out any points in which you disagree with the diagram? A. A few inches would make a lot of difference.

Q. Well, where is it wrong? A. I don't know. A few inches would make a lot of difference.

Q. Then you make the statement that you don't know where it is wrong, but a few inches would make a lot of difference? A. Yes. It is a general outline.

Q. Insofar as the stairway is concerned, is that a correct position for the stairway? A. The stairway looks too wide for the rest of the room.

Q. You say it is incorrect? A. Yes.

Q. There is no question in your mind that it is incorrect? A. It looks too wide.

Q. But you won't say it is too wide? A. I haven't measured it. I can't tell.

(Reproduction of floor lay-out with stairway and child standing on stairway, marked Id. P-3).

Q. The first photograph I showed you was the one to which you stated "It looks correct". As you

view that, can you point out on that diagram in any way, that the line of vision of a person standing on the stairway, would be cut off from seeing everything in the corner, on the side of the room where the couch is? A. The wall would be cut off.

Q. Just point it out to the Court. A. Right there (indicating on diagram). I stood on the stairway the last night, and looked at it.

Q. There, on that picture, is a lead pencil line— A. That cuts that off right there (indicating on diagram). You would have to stand in the middle of the newel post to view it from there.

Q. If a person is standing where the line is indicated, would that line be correct? A. If they stood exactly where the line starts.

Q. If they were leaning over the stairway a foot, and had their head out, it would make their vision plainer, would it not?

Mr. Ward: I object to that.
The Court: I will allow it.

Q. The line of vision would be plainer, and you could observe them, practically the whole corner of the room? A. Of course, if they leaned over.

Q. At the last hearing, Mrs. Reeves, you identified, if I recollect, your handwriting on an exhibit offered in evidence, at that time, and that was a note written, on which your handwriting was, that had passed in the choir, between you and Mr. Petry? A. No.

Q. What was it? A. It was a note that looked like my handwriting, but I couldn't identify it, as to what it was about, because I didn't remember any incident of writing that particular statement.

Mr. Ward: You recall those notes were

not here at the last hearing. Therefore, I couldn't examine directly upon them.

Mr. Moore: Yes, that's right.

Q. You said that on that exhibit, the handwriting looked like yours? A. Yes.

Q. You said you didn't know whether it was Mr. Petry's or not? A. No.

Mr. Ward: Was that here the last hearing?

Mr. Moore: No.

Mr. Ward: Then I think I should be permitted to examine on these notes directly before the cross-examination. They were mislaid at the last hearing.

The Court: You can cross-examine later on them.

Q. Will you examine that note, and see whether that handwriting is your handwriting? Please examine both sides of it. A. Mr. Moore, this looks like my handwriting, but I never remember writing anything of that kind.

Q. Would you say you didn't write it? A. I will say I didn't write this firt side.

Q. Will you read it? A. "Just as I thought. Our mutual friend is collecting papers left in the rack. I left one last week, as a trap."

Q. Do you know whom that refers to? A. No, because I don't remember writing it.

Q. It doesn't say who our mutual friend is; is that Mr. Bell? A. No.

Q. Do vou know what collecting means there? A. Sure, I know what it means, but I had no reason for writing that.

Q. Wasn't it that you had knowledge or suspic-

ion that Mr. Bell was collecting some of your notes, and giving them to Mr. Reeves, and wasn't that the reason you wrote that? A. No. I didn't know Mr. Bell was collecting any notes, or had anything to do with anything until in the middle of the summer.

Q. Did you know anybody else was collecting the notes? A. No.

Q. You haven't any recollection of it? A. No.

Q. Will you read what is on the back of the note? A. "I think it funny to make mention of the way he d - l- the rest is indistinct—wants to impress on minds." Then there's "minus something, o-f-f."

Q. Is that in your handwriting? A. No.

Q. Would you say it is in Mr. Petry's handwriting? A. No, sir. It doesn't look like it.

Q. Do you know whose handwriting it is? A. No, sir.

Q. At the last hearing, there was Exhibit P-4, marked May 27th, 1929. That is the exhibit in which the First Reformed Church heading appears. I again show you Exhibit P-4. I examined you about that last time. Would you mind reading what is on that envelope? A. "This afternoon. He wanted to know whether or not you heard anything about him. He thought you were avoiding him this morning. He said". That is all I can make out.

Q. Doesn't it say, "I haven't anything against him? A. Yes.

Q. My recollection was that you testified at that time, that it looked like your handwriting, and on cross examination by Mr. Ward, you said it was your handwriting, but you didn't know whether it was Mr. Petry's or not, is that true? A. I remember saying it looked like my handwriting.

Q. Is that your handwriting? A. It looks like it, but I wouldn't identify it positively, unless I knew I wrote it.

Q. Is that Mr. Petry's handwriting? A. I don't know Mr. Petry's handwriting well enough to identify it.

Q. At the last examination, you said fifteen notes had passed between you. You saw it a number of times, didn't you? A. Yes.

Q. Comparing that handwriting with Mr. Petry's handwriting, would you say that is his handwriting? A. I don't think it is.

Q. The answer on there is, "I haven't any hard feelings toward him"? A. I don't know if that is the answer.

Q. You don't recollect why that was written on there at all? A. Absolutely not.

Q. I show you Exhibit P-3, marked in evidence May 23rd, 1929, and ask you whose handwriting that is? A. I don't know.

Q. Have you ever seen that before? A. No, sir.

Q. Isn't it true that you took that paper, tore it up, and put it in your bosom and brought it home? A. No, sir.

Q. Isn't it true that Mr. Petry made that diagram, and gave it to you? A. No, sir.

Q. Is that on the church paper? A. I don't know.

Q. Whose handwriting is it? A. I don't know.

Q. Look on the back; whose drawings are they? A. I don't know. I never saw it before.

Q. Do you recall the testimony of Mr. Bell that he saw you tear it up and put it in your bosom? A. I remember.

Q. Do you remember Mr. Reeves testifying that he took it from the grate, and pasted it together?

A. I remember Mr. Bell saying I took a paper home.

Q. One that you tore up? A. No. One that I folded up.

Q. On this last one is written "some more biology". Do you know who drew the picture under this figure? A. I do not.

Q. Did Mr. Petry ever draw pictures? A. Not that I know of.

Q. You never saw him drawing any? A. No.

Q. May I read this portion of the testimony by Mr. Bell.

Mr. Ward: I object to that. There is no reason why counsel should read the evidence of another witness.

Mr. Moore: She says she doesn't recollect.

Mr. Ward: That doesn't make any difference. You can't compare the testimony of one witness with another.

The Court: Objection sustained.

Q. Do you remember Mr. Bell saying that the note was put in your left breast? A. I recollect that, but I don't recollect that I tore them up.

Q. Do you recollect putting them in your breast? A. No, I don't recollect that.

Q. You don't recollect tearing them up, and putting them in your breast, till you got home? A. No, sir.

Q. I show you a paper. Will you examine that, and see if any of that is in your handwriting, or Mr. Petry's? A. Some of it is Mrs. Petry's.

Q. Any of it yours? A. Yes.

Q. Isn't that writing the same as the writing on the exhibits I just presented to you? A. It looks the same, Mr. Moore.

Q. You recognized that as your handwriting. Now I want you to look at the exhibits, and see if you can't say that is your handwriting. A. I said that looked like mine, but I didn't recollect writing the notes.

Q. Now, you say that is your handwriting? A. I said the other looked like Mrs. Petry's.

Q. Whose handwriting is that (referring to last paper handed to witness)? A. That looks like mine and Mrs. Petry's.

Q. Is this your handwriting (handing another paper to witness)? A. There again, I don't remember the incident under which it was written.

Q. You don't remember any of that; the long sheets? A. If these were written, they were incidental to something that happened that didn't make any impression.

Q. Can't you recognize your handwriting? A. I say it looks like my handwriting, but I don't recollect writing the note.

Q. Is it your handwriting, or not? A. I don't want to say it is, until I remember writing the paper.

Q. Then you can't identify that as your handwriting, unless you recall the incident? A. No.

Mr. Moore: I offer this in evidence.

(Note received in evidence, and marked Exhibit P-6.)

Q. I show you another paper, on which appears April 21st, 1928, order of service, doxology, prayer, etc. Will you examine that and see if any of it is in your handwriting? A. This looks as if I might have scribbled it.

Q. Is it your handwriting? A. Mr. Moore, this again looks like it.

Q. Is it your handwriting or not? A. It is hard to identify it. It is just scribbling. This is my scribbling here on this side.

Q. Is there any of Mr. Petry's handwriting on this paper? A. Not that I know of.

Q. Would you recognize any of his handwriting if you saw it? A. I don't think I would.

Q. I show you a letter written on Mr. Petry's stationery. There is the signature. Would you recognize that? A. I recognize the J. R. R. I saw it on a check.

Q. Before, on cross examination, you said about fifteen notes passed between you. Now, I ask you to compare this letter with his handwriting. It may cause you to refresh your recollection. Will that cause you to refresh your recollection? A. Yes, because I have seen his handwriting on checks.

Q. Isn't that the same handwriting I have just exhibited to you on the exhibits marked Exhibit P-1, 2, 3 and 4? A. I don't know.

Mr. Moore: I offer that in evidence.

(Letter signed by Mr. Petry received in evidence, and marked Exhibit P-7.)

Q. I show you some post cards. Can you state in whose handwriting they are? A. That is mine.

Q. You recognize those immediately? A. Yes, because I remember sending them.

Q. You don't know what those post cards were written for? A. I probably sent them to the children.

Q. But you don't know what they were written for? A. No.

Q. But you recognize them immediately? A.

Yes, because they are written in ink, and carefully.

Q. But on these (referring to exhibits), you say you can't recollect the writing? A. There is no signature there. Those are in pencil and scribbled.

Q. But you said it looks like your writing? A. Yes, it looks like my writing.

Q. You won't say it isn't your writing? A. No, I won't say it isn't.

Q. You won't say it is your handwriting? A. No, I won't say it is my handwriting.

Q. And the reason you don't recognize it, is because you can't recall the incident? A. Yes.

Q. I show you another note. On the back of it is marked, "Mr. Petry". On the inside, "Do you remember Williams?" "No". "Up Wagner Place?" "No". Answer "I think—" Isn't that your handwriting and Mr. Petry's handwriting, too? A. I don't know whether it is Mr. Petry's, Mr. Moore.

Q. You addressed it to Mr. Petry on the outside? A. It looks as if I did.

Q. Did you? A. I suppose I did.

Q. Hasn't he answered it on the inside? A. Evidently, he has.

Q. Then it is his handwriting, is it not? A. It must be, but I don't recognize it from the shape of the letters.

Q. Do you know when that was passed? A. No.

Q. It passed in church choir, didn't it? A. I have no recollection of it.

(Note addressed to Mr. Petry, marked for identification Id. P- .)

Q. I show you another paper. Is that your handwriting on there? A. No, that doesn't look like my figures.

Q. It is on church paper? A. Yes, sir.

Q. Torn? A. Yes, sir.

Q. I show you another piece of paper; is your handwriting on there? A. Yes, sir.

Q. Any of Mr. Petry's handwriting on that paper? A. I don't know.

Q. Aren't those drawings Mr. Petry's drawings on the back? A. No, sir. At least, I don't know.

Q. Who drew them, do you know? A. I drew those.

Q. Whose handwriting, besides yours, appears on the other side of the paper? A. I don't know whose that is.

Q. Would you say it is not Mr. Petry's? A. It looks to me more like Mrs. Petry's than Mr. Petry's.

Mr. Moore: I offer this in evidence.

(Note received in evidence and marked Exhibit P-8).

Q. Mrs. Reeves, when was the last time you saw the children? A. The Wednesday after Election Day, a year ago.

Q. You haven't seen them since? A. Not to visit them.

Mr. Moore: That is all.

Redirect-examination by Mr. Ward:

Q. Why haven't you seen them since then? A. The treatment I got at the house the last time I was there, made it impossible for me to go down and see them any more.

Q. What was the treatment you got at that time? A. Just as I was leaving the house, Katie came out and had a potato masher in her hand—

Q. Who is Katie? A. The servant; and threatened me, and shook the potato masher at my head, and said I would have to account to her for some of the things that had been said.

Q. What was the treatment before? A. It was very cold, and made it very difficult for me to go and see them.

Q. Do you know whether there had been any difficulty with you and your mother, at an occasion at the church?

Mr. Moore: That has all been gone over before.

The Court: That is my recollection.

Q. Have you, or not, still love for your children? A. I have.

Q. Do you or not, desire to see them? A. I do.

Q. What is the reason you haven't seen them? A. I haven't seen them, because it was impossible for me to go down to that house to see them. The treatment I received when I went down to see them, made it impossible for me to go.

Q. Mrs. Reeves, with reference to these notes, or any notes, will you just tell us, please, what was the general custom of those in the choir, with reference to exchanging notes, or sending notes? A. Mr. Ward, if we have talked of something previous to going into the church, if someone who came in, who hadn't attended recently, or some little disturbance that would occur, that was a little different than usual, one of us would be very likely to jot down and pass it around to anyone who would be interested.

Q. Was there any secrecy about that? A. Absolutely not.

Q. I presume that would be during the Pastor's sermon? A. No.

Q. During services? A. During services.

Mr. Ward: That is all.

CHARLES D. PETRY, having first been duly sworn, according to law, testified as follows:

Direct-examination by Mr. Ward:

Q. How old are you? A. Forty-nine years.

Q. You have been named as corespondent in this suit; of course, you know that? A. I do.

Q. Are you married or single? A. Married.

Q. With whom do you reside? A. My wife and two members of my family.

Q. Who composes your family? A. Two daughters and a son.

Q. Your son lives with you? A. No.

Q. Your girls? A. They do.

Q. Your girls are here with you in court? A. Yes.

Q. Your wife is here with you in court? A. Yes.

Q. How long have you been married? A. Over twenty-six years.

Q. And have resided in Hawthorne for how long? A. About twenty-four years.

Q. Since about two years after you married? A. About that, yes.

Q. Before that, where did you reside? A. In Paterson.

Q. During all that time, since you left Paterson, up to the present time, you resided in Hawthorne? A. From 1892.

Q. Did you become connected with your church, of which Mr. Reeves was Pastor; did you become connected with the Church of which Mr. Reeves afterwards became Pastor? A. I did.

Q. When did you become connected with that church? A. Sometime after I moved into the town of Hawthorne.

Q. Can you tell us about when that was? A. Probably about twenty-two years ago. Between twenty-one and twenty-two years ago.

Q. Have you always lived with your wife? A. Yes, sir.

Q. And your family? A. Yes.

Q. After becoming connected with the church, did you occupy any position in the church? A. I was elected Elder, and ordained as such.

Q. When was that, Mr. Petry? A. About twenty-one years ago last March.

Q. And have you been an Elder in that church since your election twenty-one years ago, and have you or not fulfilled the duties of Elder? A. I have, and still fulfilling those duties.

Q. Do you know whether Mr. Reeves is a Mason? A. I do.

Q. Are you a Mason? A. I am.

Q. Did Mr. Reeves ever visit your lodge with you? A. Probably on one or two occasions.

Q. Are you an officer of that lodge? A. I am.

Q. And of what lodge are you an officer? A. Hawthorne, No. 212.

Q. Hawthorne, No. 212; what position do you occupy, Mr. Petry. I mean in your business life. A. I am a telephone wire chief.

Q. How long have you been connected with the Telephone Company? A. Twenty-four years the first of last October.

Q. When did you first become acquainted with Mr. Reeves? A. When he was candidate for the position of minister.

Q. Since your acquaintance first began, have you ever been an intimate of his? A. To a degree.

Q. To what degree? A. To the extent of various conversations when he saw fit, regarding different subjects. There has been no unfriendliness between us. Just a general commercial friendliness, if you wish to call it such.

Q. And the churchly friendliness? A. Yes, surely.

Q. Did the demeanor of Mr. Reeves ever change, we will say, from one year after your acquaintance began, until the time you knew this suit had been begun?

Mr. Moore: I object to it. There is no testimony as to his knowledge when it began.

The Court: I think it is admissible. I will allow it.

A. He only changed one time during one period, and whether there was a continuation of that or not, he never evinced it.

Q. When was that? A. During the latter part of my illness in January, 1928, when he visited me.

Q. Do you know what the cause of that change was? A. Yes.

Q. What was it? A. Because I declined to permit him, having associates in the Stagger Oil Company, to visit friends and relatives of mine, to solicit money.

Q. What company? A. Stagger Oil Company.

Q. Stagger? A. Yes. S-t-a-g-g-e-r.

Q. When was that, by the way? A. In the latter part of January, 1928, or the middle of January, if I recall it correctly.

Q. Do you know whether he was interested in the selling of stock in that company? A. I know he so represented himself, but I saw nothing to it.

Q. You made objection to his visiting friends and relatives, is that correct? A. I did.

Q. In what respect? A. I didn't think the business venture a sound one; one which a person of limited means could patronize.

Q. After that, did he become friendly with you again? A. Oh, yes, surely.

Mr. Moore: I don't think that is relevant.

The Court: I think so. It goes to the credibility of your client.

Mr. Moore: There is no testimony about any of these conversations.

The Court: It is not a conversation. He is asking if he was friendly.

Mr. Moore: My objection is going to the particular business.

The Court: This is a case where this man is a married man, and is entitled to the utmost protection and full ventilation of facts in the case.

Q. Did Mr. Petry visit your home? A. Mr. who?

Q. Did Mr. Reeves visit your home? A. He did.

Q. Up to what time? A. Up to the time the case was brought before the public.

Q. How long before the actual institution of this case was it when he visited your home the last time? A. That is something I cannot tell direct-

ly. I know he was visiting my home in May, 1928, when my daughter was ill.

Q. In May, 1928? A. Yes.

Q. And what was his conduct towards you during that month? A. Always cordial.

Q. Did you attend the Consistory meetings of your church? A. Always.

Q. You were not here when Mr. Reeves testified, were you? A. No, sir. I was not.

Mr. Ward: We still haven't the evidence of Mr. Reeves written up, so we are perhaps laboring under a little difficulty.

Mr. Moore: I have a list of telegrams and letters to Mr. Turner, asking him to get it out. Mr. Ward has proceeded with cross-examination.

Mr. Ward: I mean that I may have to ask a slight indulgence as to my recollection.

Mr. Moore: I want to register an exception. The Court has stated he has asked for the Courts' protection.

The Court: I didn't say that. I say he is entitled to the Court's protection.

Mr. Moore: He hasn't filed an interpleader. He is simply here as a witness. I don't see why he should be entitled to any protection, when he hasn't asked for the protection that the rules allow.

Q. Mr. Petry, the Consistory's meeting he mentioned was March 28th, 1928. Do you remember that Consistory meeting? A. I have no direct recollection of that one in particular; no, sir.

Q. Now, you have been informed of these charges against you, haven't you? A. I have.

Q. And have you or not read the bill of particulars that was furnished by counsel for the petitioner in this cause? A. Yes.

Q. And are you familiar with the dates and charges? A. I am.

Q. You are familiar with the dates, are you not? A. Yes, sir.

Q. How long have you been familiar with the dates mentioned in the bill of particulars? A. Oh, I looked at it months ago.

Q. How many months ago? A. Probably about sixteen months, or something like that.

Q. At that time, did you become familiar with the dates, and did you have any conversation with counsel for Mrs. Reeves? A. Yes, sir.

Q. And were you not directed to concentrate upon those dates? A. I was.

Q. What direction was given you, with reference to those dates? A. To refresh my memory, and endeavor, if possible, to place the dates.

Q. Were you also informed as to the date that was testified to with reference to a certain occurrence that took place with you and Mrs. Reeves, after a Consistory meeting, in a hallway, outside of the study, in the church? A. Now that you mention it, I recall those charges were made.

Q. Do you recall the first Tuesday in March, 1928? A. That would be a Consistory meeting.

Q. Do you recall that particular occasion? A. No. I can't say I do, because our regular meetings are held on that date, and there is no reason for me to recall them, unless something unusual occurs.

Q. Do you recall whether or not you were present at the Consistory meeting, at that time? A.

Usually, if I am not present, the meeting is not held. I am treasurer of the church.

Q. On that date, or any other date, did you hold Mrs. Reeves in your arms, and caress her, or kiss her? A. Positively no.

Q. In the hallway, outside of the study, in the rectory? A. Or any other place.

Q. Did you, on that evening, hold Mrs. Reeves in your arms, while you were in the Sunday School room? A. Most certainly, no.

Q. On that evening, did Mr. Reeves open the door of his study, and look out to the place where Mrs. Reeves and you were? A. I don't recall that Mrs. Reeves and I were together, at any time, alone.

Q. Right while I have it here in my hands, so I won't omit it, was there ever any occasion when you visited the Reeeves home when the little girl, whose name is Frances Reeves, was doing her home work in the dining room, when she went to the door, and found you at the door and she asked her mother a question about home work, and her mother didn't answer, and then Mrs. Reeves asked you if you could answer the question, and you said "Yes", and you answered it, and then Mrs. Reeevs said she wanted to speak to you about something, and then, after that—

Mr. Moore: I object to all that. Let him ask what took place.

The Court: Let him finish the question.

Q. And after that, Mrs. Reeves told the children to go to bed, and told you you had better come back later. Was there ever any such occasion as that? A. I do not recall it. No, sir.

Q. Generally, Mr. Petry, as to any notes, were

there ever any notes written to you by Mrs. Reeves, while you were in the choir? I believe you were a member of the choir, as well? A. My entire family were members of the choir.

Q. Any notes written by you to Mrs. Reeves? A. Not to Mrs. Reeves, personally.

Q. Any written by her to you? A. Not personally; usually referred to the whole choir.

Q. What was the position of the different persons in that choir? A. Mrs. Petry is alto, and took first position on the left. On her right, was Mrs. Reeves, and two other singers to her right, and I was after that.

Q. You were not next to Mrs. Reeves? A. No, sir.

Q. Were there any notes passed surreptitiously to Mrs. Reeves? A. No, sir.

Q. Were any notes passed by Mrs. Reeves to you, surreptitiously? A. No.

Q. Mr. Petry, I want to show you Exhibit P-3, and I want to ask you, and look at the other side, especially, and I want to ask you if you ever drew any such thing as that? A. Absolutely no.

Q. Do you know who drew it? A. I know of no one in the organization who would draw anything of that kind. There is only one that might do it in the entire church.

By the Court: One?

The Witness: One, yes, sir.

The Court: Who is that?

The Witness: That is the plaintiff in the case.

Q. You mean Mr. Reeves, don't you? A. Yes, sir.

Mr. Moore: I move that that be stricken out as irresponsive.

The Court: It is propounded to a question asked by the Court.

Q. On Exhibit P-3, "Some more biology", is that in your handwriting? A. I don't identify it as mine; no, sir.

Q. Is any part of that paper drawn or written by you? A. I have never seen that paper before.

Q. Any part of that paper drawn or written by you? A. No, sir.

Q. This is the first time you have ever seen it, isn't it? A. First time I have ever seen it; yes, sir.

Q. Look at the other side. Is there anything there drawn by you? A. No, sir. Positively not.

Q. Were there ever any occasions during your acquaintance with Mr. Reeves, when he called you on the phone, and asked you to stop at his house? A. He never called me personally. He always called my wife.

Q. Never mind that, if you don't know. Was there ever any occasion when Mr. Reeves asked you personally to come to his home, and avail yourself of any dark room he had there? A. Oh, yes. After he formed his dark room in the cellar, I was given a cordial invitation to go down and use it at any time I desired.

Q. When was that? A. I can't place it.

Q. How long before he started suit against his wife for divorce? A. A long time.

Q. Do you know whether he had a dark room there? A. He did, and had other friends use it.

Q. Before he sued his wife for divorce? A. I don't know, because I was not a visitor there.

Q. How many times did he invite you to avail

yourself of his dark room? A. About two or three times.

Q. Did you ever do it? A. No, sir. I did not. No, sir.

Q. Do you recall the 9th of September, 1927? A. I do.

Q. How do you recall that, Mr. Petry? A. That was the first choir rehearsal of the year.

Q. That was the first choir rehearsal of the year? A. After the vacation season, to be exact.

Q. Have you a clear and distince recollection of that date? A. I have; yes, sir.

Q. Will you tell us; did you attend the choir rehearsal? A. I did.

Q. Did your wife attend it? A. She did.

Q. Who else attended it? A. The entire choir was present.

Q. Were or were not your two daughters members of the choir? A. They were.

Q. Mrs. Reeves, too? A. Yes, sir.

Q. Did you see Mr. Reeves that night? A. I did.

Q. Just tell us what happened? A. Mr. Reeves, after the choir rehearsal had begun, Mr. Reeves came over and asked me to go over to his house, and look at a battery charger. He had put a battery charger in his radio. He requested me to go in and look at it. I don't pretend to know anything about storage batteries, or their application, or anything else, but I consented to go over, and went over. We stayed so long, that when we got through and upstairs, I was surprised to find Mrs. Reeves at the door, with information that my family was waiting outside.

Q. Were you down the cellar that night, at all, with Mrs. Reeves? A. No.

Q. Do you know Mrs. Feldman, there (indicating)? She was there, wasn't she? A. I have a slight recollection, but I don't know her well enough to identify.

Q. I believe you said you came upstairs with Mr. Reeves, and Mrs. Reeves informed you your family was waiting? A. Yes.

Q. How long were you with Mrs. Reeves? A. No longer than ten seconds, because I was anxious to get away before that.

Q. Where did you go? A. To meet my family.

Q. Whom did you meet there? A. My entire family.

Q. Who was that? A. My wife and daughters.

Q. Was Mrs. Reeves flushed on that occasion, in your presence? A. I have never seen her flushed on any occasion.

Q. Or excited? A. No.

Q. Is it true you came into the room, with Mrs. Reeves, in the Reeves home, where Mrs. Feldman was, and were introduced to her on that night, and then Mrs. Reeves made an apology, and took you down the cellar, and you were alone with Mrs. Reeves in that cellar, for some minutes? A. It is not true.

Q. Now, as a matter of fact, at that time, was there, or not, anything in that cellar, when you and Mr. Reeves went down there? Do you understand what I mean? A. No.

Q. Mr. Reeevs requested you to look at the battery, and then you say he and you went down to his house. What was there in the cellar? A. An eliminator, rectifier, and his storage battery.

Q. Those things were actually in the cellar at the time; were they not? A. They were in the cellar at the time, yes, sir.

Q. On the 19th of March, were you or not soliciting subscriptions for the church? A. Yes.

Q. Are those the two cards, the subscriptions you solicited, at that time? A. They are; yes, sir.

Mr. Ward: I offer these in evidence.

(Subscription cards received in evidence, and marked Exhibit D- .)

Q. Do you recall the 11th of April, 1928? A. I do, yes, sir.

Q. Had you had any accident prior to that time? A. I had, in the latter part of March.

Q. What was the nature of that accident? A. An automobile accident, over at Fairlawn.

Q. What injuries did you sustain, if any? A. I had the ribs on the right hand side, seriously injured.

Q. On the 11th day of April, 1928, were you suffering from the effect of those injuries? A. I was suffering very keenly from it.

Q. Do you recall any communication from Mrs. Reeves on that day? A. A direct communication; yes, sir.

Q. What was it? A. Mrs. Petry said Mrs. Reeves had called her, to ask me if I would take the prayer service. I declined, on the grounds I didn't feel like taking care of the meeting, and after that, Mrs. Reeves called back—

Q. Where? A. My house, and told my wife, and she told me, that she couldn't get anybody else, so, at last, without very good grace, I accepted the invitation to take it, and conducted the meeting.

Q. Did you conduct the meeting that night? A. I did, yes, sir.

Q. Do you recall whether or not Mrs. Reeves was

late at the meeting that night? A. She was late, and apologized for it.

Q. How does that impress itself on your mind? A. Because we have a very difficult task, at meetings. No one could play the piano, and I had to conduct the service, and play the piano.

Q. Mrs. Reeves plays the piano? A. Yes. She came in late, and played the piano.

Q. After the service, where did you go? A. I left, and went home immediately.

Q. What time was that? A. I think it was in the neighborhood of about eight-thirty, if I remember, because I cut the meeting short, on account of my physical condition.

Q. How did you come to the church that night? A. I came up the Susquehanna tracks, and Llewellyn Avenue.

Q. Did you ever use that before? A. Yes, because it was a much shorter distance.

Q. Does that take you by the church? A. No, but it cuts off about two blocks.

Q. The church property is right next to the railroad property? A. It runs from Lafayette Avenue, right through the railroad property.

Q. Coming up to the church that night, had anything happened to you that night? A. Yes.

Q. What? A. It was rather dark, and in order to walk up any steps or incline, I had to go up sideways, on account of the injury to my ribs, and in going up, I slipped and wrenched myself quite seriously, and I wanted to go back home, but being obligated to take the meeting, I continued.

Q. During the conducting of that meeting, were you actually in pain or not, Mr. Petry? A. I absolutely was.

Q. After the meeting, how did you go home; by way of the tracks, or not? A. No.

Q. Why not? A. I didn't want to take a second chance at injury.

Q. Did you go home with Mrs. Reeves? A. No.

Q. After she left the prayer meeting, did you see her at all? A. Not after we left the church. We all left in a group.

Q. Did you go to her home that night, and enter it while the shades were down, and stay there for about fifteen minutes; is that true or not? A. It is a lie.

Q. On May 10th, 1928, do you recall that date? A. I do; yes, sir.

Q. Have you, or not, been requested to concentrate as well, on that date? A. I have.

Q. Are you able to fix that date, and what occurred? A. I have.

Q. How do you fix it? A. It is a regular lodge meeting on Thursday night, but we held a rehearsal in the lodge, instead of a regular meeting.

Q. Is that the way you are able to fix it? A. It is.

Q. By going back over these things, and checking up? A. Yes, sir.

Q. On that lodge meeting, what time did you leave the lodge? A. Possibly about ten thirty, I think, or something like that.

Q. Where did you go? A. I went down Lafayette Avenue, from the lodge, to be exact, and stopped in a confectioner's, which was open, and called my residence—

Q. Called whom? A. Called my residence.

Q. Why was that? A. My daughter was ill, as I testified before, and during her illness, frequently, she enjoyed refreshments at night—

Q. What kind? A. Ice cream, or something like that, and I frequently called up to see if she was still awake, and would bring it for her.

Q. As a matter of fact, did you bring any refreshments? A. I did not.

Q. Why not? A. My wife told me she did not want any.

Q. From this store, mentioned as "Joe's" or something like that, where did you go? A. Over to the church grounds, looked over the church, and went immediately home.

Q. What was your purpose in going over there and looking at the church? A. In conformance or in compliance with a request made by Mr. Reeves a long while before that.

Q. To whom was the request made? A. To members of the Consistory.

Q. What was the request? A. His request was to go over the church property, and examine, especially the rear portion, which was accessible from the ground, that is, the roof of which was accessible from the ground, and see if anyone was loitering there, because he had suspicions that the roof of the building was being used as a playground by the youngsters and some of the older ones.

Q. When you went across Lafayette Avenue to the church property, where did you go; just explain that fully to the Court. A. I went right over to the driveway alongside the church, and walked right straight through, looked over the church, and roof, which could be seen on account of its being painted white, and immediately proceeded to the rear of the property, and I went over the railroad tracks, to my house.

Q. Is that a direct route to your house? A. From that point, yes.

Q. I mean from that point? A. Yes, from that point.

Q. How long after the telephone call you made to your wife, was it you arrived at your home that night? A. Possibly about seven minutes. Six or seven minutes.

Q. Did you see Mrs. Reeves at all that night? A. I did not. No, sir.

Q. Did you meet Mrs. Reeves in the rear of that church? A. No.

Q. Or at any other place that night? A. I never have. No, sir.

Q. Have you ever committed adultery with Mrs. Reeves? A. Positively no.

Q. Have you ever kissed her? A. I have not.

Q. Have you ever caressed her in any way? A. I have not. No, sir.

Q. Have you ever been familiar with her in any way? A. No.

Q. Were you familiar with the interior of the Reeves home? A. In regard to the architecture, do you mean?

Q. The lay-out of the rooms, etc.? A. Just moderately familiar with the first floor, only.

Q. Had you ever visited Mr. Reeves there? A. On several occasions.

Q. Had you ever visited Mrs. Reeves there? A. No.

Q. Do you recall the 29th of May, 1928? A. I do.

Q. How do you fix that date, Mr. Petry? A. Because it was the day before Decoration Day .

Q. And have you or not been able to go back in your own mind, and fix the occurrences of that night? A. I have no difficulty in recalling that.

Q. Will you please just relate to his Honor and

us, what occurred that night? A. Do you desire me to give the preliminary reason for going over?

Q. If you will? A. My younger daughter was a student in Normal School, and was required by her art instructor to produce certain conditions for qualifying along certain lines, which was the construction of a small vehicle known as an Irish Jaunting Car. Being wholly unfamiliar with that, and the encyclopedia did not give us anything that would lead us—

Q. As a result of that, what did you do? A. I called Mrs. Reeves, expecting to get Mr. Reeves, knowing him to be pretty well posted on everything. I found he was out, and I told Mrs. Reeves what I wanted, and she said he would see if he had any magazines in the place that would give me any, that would give me the information. Shortly after, we received a call from Mrs. Reeves—

Q. Did she call you back? A. Yes, saying she had a book with some illustrations in. Not knowing whether they would be good enough for me to create the desired vehicle, she said she would bring it over, but Mrs. Petry said she did not think it a good idea to borrow something and have them bring it over. I went over there, to the porch, and looked over the book with a magnifying glass, and discovered they were clear enough so I could reconstruct from that.

Q. Is this the magazine you looked over, or the book? A. Yes, sir.

Q. Is that the picture of the vehicle you mentioned? A. No, sir, that is not. This one is (indicating).

Mr. Ward: I offer this in evidence.

(Page of National Geographic, with

jaunting car thereon, received in evidence, and marked Exhibit D-).

Q. By the way, whose writing is that "jaunting car," page 309? A. That is my daughter's writing.

Q. Do you know what M. D. R. is there for? A. Yes. That is Mrs. Reeves' initials, and she said she put it there in the book to make sure she would get it back.

Q. How long were you there, Mr. Petry? A. Not more than about five minutes. Six minutes at the most.

Q. When you arrived there, do you remember someone being there? A. I do. Yes, sir.

Q. Who was it? A. Mr. Locker.

Q. Is Mr. Locker here in court; that Mr. Locker? A. Yes, sir.

Q. He was there, was he? A. He was.

Q. You say you were there how long? A. Probably five or six minutes. Not longer than that. Just long enough to look at the book, identify the picture, and leave.

Q. Did you take the book with you? A. Yes, sir.

Q. Where did you go? A. Home.

Q. Did you see the children that night, or hear them? A. I heard them. They were making noise.

Q. Where were they? A. Upstairs.

Q. What was the nature of the noise? A. It sounded as if they were having a circus. I jokingly remarked if there was a circus, because you couldn't hear yourself. There was a bedlam.

Q. How long had you been gone from the time you left your home, until the time you arrived there, after leaving Mrs. Reeves' home? A. Twenty minutes, at the most.

Q. Were you out again that night? A. No, sir. I had too much to do to go out.

Q. Was there a cart made from that drawing? A. There was. Yes, sir.

Q. Do you remember whether or not that was the cart made (producing cart) by your daughter, in pursuance with the work given her at that time? A. We collaberated on it.

Q. That is the one, is it? A. Yes, sir.

Mr. Ward: I offer that in evidence.

(Cart received in evidence, and marked Exhibit D-).

Q. And your daughter was going where, at that time? A. Paterson Normal.

Q. That was work given her at that time, is that correct? A. Yes, sir.

Q. Mr. Petry, on the 29th of May, 1928, did you go in the Reeves home, and commit adultery with Mrs. Reeves, on the couch in the front room? A. Positively not.

Q. Were you alone with her at all that night? A. No, sir. I was not.

Q. Did you hear the little boy testify; Edward Reeves testify; were you here when he testified? A. No, sir. I was not. I wasn't here at the first session.

Q. During the first week in January, where were you, Mr. Petry? A. I was in bed.

Q. During the first week in January, or the first two weeks in January, did you go to the Reeves home, and go upstairs with Mrs. Reeves, and then stand in the hallway, while Mrs. Reeves left to go to answer to the child, Edward, who had called her, and hear him ask, or say, that he had a toothache, and then did you go into one of the rooms in

the back part of the house, and close the door, go in with Mrs. Reeves, and close the door, and remain there; is anything of that kind, true, at all? A. It is a lie. A deliberate lie.

Q. Where were you at that time? A. In bed, unable even to leave the bed and go to any other part of the house.

Q. Who attended you at that time? Dr. Francis Was.

Q. He is dead, is he not? A. He is.

Q. Have you made any effort to obtain any of his records or books? A. That was the first thing I did after the paper publicity.

Q. Did you see the books? A. I did.

Q. How did you see them? A. Through his wife.

Q. Did you get a statement from her? A. I got a statement from her, through her counsel.

Q. How long had you been sick, Mr. Petry? A. I was taken sick the 27th of December, and did not return to work until the 23rd of January, and for the last week I was home, I had to practically learn to walk all over again.

Q. Mr. Petry, at that time, you were connected with the telephone company, weren't you? A. I was, yes..

Q. Was it necessary for you to make any report of your illness? A. We have a section of our company, that is known as the Employee's Benefit Plan. After a person is sick, the doctor must send in a certificate, showing the prognosis, and everything with it.

Mr. Ward: (Reading from statement) I hereby certify that I have examined the books of Dr. Francis J. T. Was, as to dates on which he treated Charles D. Petry, and

find from said books that Charles D. Petry was treated by said doctor on December 29th and 31st, 1927, and January 2nd, 4th, 6th, 9th, 12th, 14th, 16th, and 18th, 1928.

Mr. Moore: I want to object to that as incompetent testimony. That is not proper. We don't know who put it down. Simply because he finds it there, doesn't certify it as true, and that is incompetent.

The Court: I don't think it is evidential.

Mr. Ward: The doctor is dead, sir.

The Court: When did he die? Who has charge of his books and papers?

Mr. Ward: This is from his wife. We can get her, if necessary, but I thought this is perhaps a short cut. If Mr. Moore will have any one of his clerks check this up—

The Court: At the present time, I sustain the objection.

Mr. Ward: We will bring Mrs. Was, if necessary, but I think it would be simpler if Mr. Moore checks up and he finds there is any question, I will bring her here.

Mr. Moore: I will admit that is in his book, but doesn't prove anything. I will admit it is in his book.

The Court: It doesn't prove anything.

Mr. Ward: Except that the calls are in his book, charged.

Q. What was the nature of your illness, at that time? A. Internal and external hemorrhoids.

Q. How long had you been suffering? A. From the 27th of December, in this particular instance.

Q. When were you laid up? A. I called the doc-

tor a couple days after, after home treatment failed to bring any results.

Q. And from a day or so after the 27th, then you were confined to your house completely, for how long? A. Until I went to work the 23rd of January.

Q. Were you out at all during that period of time? A. During the last week, probably a day or two.

Q. Were you out at night, at all? A. No, sir.

Q. What was the extent to which you went out during the day or two you did go out? A. Just walked around the property, and got myself accustomed to walking again.

Q. Were you away from your property , your home? A. No, sir.

Q. Up to the 23rd of January? A. Up to the 23rd of January.

Q. After the 23rd of January, you went to work, and how long was it before you began to go out nights? A. I resumed my regular meetings, immediately afterwards.

Q. Well, when? A. If I recall it right, I think it was my next choir rehearsal, Friday night.

Q. Do you remember what date? A. The 23rd, I believe is a Monday. The following Friday is the time.

Q. The following Friday is the first time you went out at night; is that correct, or not? A. Unless I was out Thursday night to lodge meeting, but I can't recall that directly. It might have been either one of those two.

Q. During your illness, who visited you? A. All my friends, or those I supposed were friendly to me.

Q. That included whom? A. Mr. Reeves, members of my family, and neighbors.

Q. Mr. Reeves did come to see you? A. He did, yes, sir.

Q. Did Mr. Reeves ever make any complaint to you, or charge against you, or say anything to you, with reference to any conduct on your part, towards his wife? A. Absolutely no, sir.

Q. What was the first thing you ever knew that he thought or might think there was anything? A. The first intimation I had was in the paper, which had been handed to my wife in the daytime, and was handed to me in the evening, with the request as to what it all meant.

Q. After the institution of suit? A. Absolutely, sir.

Q. I show you these, and ask you what they are? A. Special forms put out by the telephone company, to cover employees' illnesses.

Q. Do they cover the illnesses in question? A. They do; yes, sir.

The Court: Who wrote it?

The Witness: Dr. Was.

Mr. Moore: I object. The man who made it should testify.

The Court: That has been sustained.

Q. Is this the physician's first certificate, with reference to your case? A. That is the physician's first certificate with reference to my case; yes, sir.

Q. Who is Charles D. Petry? A. That is me.

Q. Whose handwriting is that there? A. Dr. Was.

Q. And whose is this down here (indicating)? A. All of it is Dr. Was.

Q. Did you see this made out? A. No, he made

it out in his office, and sent it direct. The blank is made to the employees, and the employee gives it to his physician, and the physician mails it.

Q. This blank was given to you by your company, and then was given by you to Dr. Was? A. It was.

Q. From where did you get this? A. From my office.

Q. You mean the office of the telephone company? A. Yes, sir.

The Court: Where is your office?

The Witness: In Walker Street.

The Court: New York?

The Witness: Yes. This is from the main office, No. 195 Broadway.

Mr. Ward: If we are put to the expense of taking this evidence, the petitioner will have to pay for it, and it is important. I am perfectly willing, again, to let Major Moore investigate this. It is open, above board, a matter of record, and I do not think in view of the circumstances of the petitioner, we should be compelled to go to this expense, or at least, I don't think, when this can be accomplished so easily, without the taking of evidence, that—

The Court: It is very important. It is up to you, if you want to take it.

Mr. Ward: I will insist upon taking it unless the Major investigates and find out whether it is correct, and agrees to it. In that event, it will be a question of considerable expense to the petitioner.

Mr. Moore: He might bring five thousand people, and say we should pay. This is not a defendant. He is a witness, and has no

standing, except as a witness. He can't charge my client.

The Court: I am not going to charge anything, regarding Mr. Petry's application.

Mr. Moore: I have no objection to this going in (referring to doctor's certificate). It doesn't prove it true.

(Physician's first certificate received in evidence and marked Exhibit D-).

Q. Do you recall the second day of June, 1928? A. I think that was a Sunday, wasn't it?

Q. Do you remember Communion Sunday? A. I do.

Q. Do you remember what date that was? A. The 2nd or 3rd.

Q. This case was begun on the 6th, and with reference to the Sunday before the 6th of June, will you tell us, please, that was Communion Sunday, was it not? A. It was.

Q. On June 3rd, will you tell us, please, what took place on that Communion Sunday? A. We had our regular quarterly Communion, at which time I functioned as one of the elders of the Church.

Q. Was Mr. Reeves there? A. He was; yes, sir.

Q. Did he make any objection to your functioning? A. None, whatsoever. My duties, at that time, were to administer the sacrament, and the particular position I occupied, was that I distributed the element first to the minister, and then to the congregation. He received the element from my hands, and permitted me to continue to function throughout the congregation.

Q. Just, in your church, receiving the element, just what does that mean? A. In the Protestant

Church, we have the bread and wine as the sacrament.

Q. What does that signify? A. The broken body of Christ.

Q. Yes? A. We distribute the bread first.

Q. And then the wine? A. And then the second distribution is the wine.

Q. And what particular significance has that in your church? A. It is one of the most sacred services in the church.

Q. And Mr. Reeves received that from you, on that day? A. He did; yes, sir.

Q. Did you receive it? A. I did.

Q. From whom? A. From his hands. Briefly, the service consists of the placing of the elements. First the administration of the elements by the pastor to the officers, and then the officers, in turn, administering to the pastor and congregation.

Q. The day before that Sunday, which would have been June 3rd, do you recall whether or not there was an elders' meeting that day? A. To the best of my knowledge and belief, we had a meeting on the Saturday before, which is the day of meeting.

Q. Do you recall anything about a constitutional question? A. Oh, yes, sir.

Q. What was Mr. Reeves' treatment to you, on that day? A. Same as always. Cordial.

Q. And on that Sunday that you administered to him, and he to you, what was his treatment? A. Cordial. The same as usual.

Q. How did he act towards you? A. The same as usual. Cordial. Greeted me.

Q. What was the constitutional question; did it have anything to do with this? A. That precedes each communion and interrogation shall be made

of the elders and deacons, if they know of anyone, deviating from the path they should pursue, and if any should be excluded from Communion Service, or else reprimanded or spoken to regarding their conduct.

Q. Do you know whether or not it was asked at that time? A. It was asked.

Q. Do you know whether or not those present should speak up? A. They were all called upon singly, to make statement.

Q. With reference to themselves, and others? A. Yes, sir.

Q. Not only with reference to themselves, but with reference to others present? A. Yes, sir.

Q. Did Mr. Reeves say anything to you, or about you on that occasion? A. He did not.

Q. In 1928, on the 29th of May, the time to which I referred, with reference to Frances, when you went to Mrs. Reeves' home, and Mr. Locker was there, did you have a blue suit? A. I have never owned a blue suit.

Q. On that occasion, how were you dressed when you went over to the home, to get this magazine? A. I had a brown suit, a grey overcoat, and a hat which matched the suit, a light brown hat.

Q. Did you have your coat off at all, on that occasion? A. No, sir. I did not.

Mr. Ward: That is all.

Cross-examination by Major Moore:

Q. Do you know, Mr. Petry, or don't you know, that just a few days before this Communion Service, that Mr. Reeves and Mrs. Reeves, had had a talk, and he had got down on his knees and implored his wife to give you up, and her associations

with you? A. No. I do not. The first I learned was when I saw it published in the paper.

Q. You don't know what was in his heart at this Communion, regarding you and his wife? A. No, sir. I don't know whether he was dispirited.

Q. You are accused of having committed adultery with this defendant on four particular occasions; May 29th, September 9th, May 10th, and April 11th. In your testimony on direct examination, you admitted that you were present with the defendant on three of those dates suggested and alleged in this complaint, to wit, May 29th, September 9th, and April 11th, and May 10th, too; is that true? A. Yes, it is.

Q. You admitted in your testimony that at about eleven o'clock on May 10th, that you were behind the church; is that true? A. No, sir. You are not quoting my testimony straight. If you quote it, quote it right.

Q. Will you please quote, verbatim, then, what you said before you did that night? A. You will find that I said I passed through the walk alongside the church, looked over the church, and immediately proceeded home.

Q. Didn't you admit you were in back of the church? A. I walked beside the church; not back of the church.

Q. Were you back of the church that night? A. Not directly back of it.

Q. Were you in the rear? A. Yes.

Q. Then you were behind the church? A. Yes.

Q. What time would you say you were back there? A. It couldn't have been later than twenty minutes of eleven.

Q. What time was it when you left the lodge?

A. A little after ten o'clock. Between a quarter past and half past.

Q. Then you went and telephoned? A. Yes.

Q. Then you walked back in front of the church? A. Yes.

Q. Then in the rear? A. Yes.

Q. Wouldn't it bring you there about eleven o'clock? A. Oh, no.

Q. What time? A. It would take about fifteen minutes to walk from the lodge to the store.

Q. Didn't you leave about ten thirty? A. Yes.

Q. Then you telephoned? A. Yes. That didn't take long.

Q. Then you went to the front of the church? A. Yes.

Q. Then you went to the rear of the church? A. Yes.

Q. Didn't you get there around eleven o'clock? A. About a quarter to eleven.

Q. Do you remember the testimony of the defendant that she walked there around eleven o'clock? A. Yes.

Q. You admit you were there around eleven o'clock? A. No.

Q. A quarter to eleven? A. Yes. That is a big difference.

Q. So we find you on May 10th, 1929, at or near the time she said she was there; is that true?

Mr. Ward: I object to that. That is argumentative. He summarized both witnesses' testimony, and ask this man if it is true.

A. I will admit it was about a quarter of eleven I was passing through the church yard.

Q. So we find you on May 10th, 1929, at or near the time she said she was there; is that true? A. Within fifteen minutes of the time.

Q. Did you keep any records of the exact time you were there? A. No, sir. I did not.

Q. Was it a nice bright night? A. I do not recall.

Q. Was it dark? A. That I cannot tell you.

Q. Was it raining? A. If it had been raining, I wouldn't have been walking around there.

Q. You don't know anything about it? A. Not as far as weather conditions, no.

Q. You made no record of this? A. I do not keep a minute record of everything I do.

Q. And yet you predicate everything on fifteen minutes. Just tell us how you recollect the time as being a quarter to eleven. A. Because I asked my family, and they said it couldn't have been more than that time, and besides, we have a train that goes down the Susquehanna, and I preceded the train down the track. I think the train is about ten-fifty, and if you will examine the time table, I can place the time.

Q. Do you know whether the train was late? A. It is never late. I haven't seen it late for years.

Q. You don't know whether it was late? A. No.

Q. You didn't look at your watch? A. No.

Q. You don't know whether the train was late or early? A. I had no occasion to look at a watch.

Q. You are using the word "about", in your description of the time, because you didn't have a watch with you? A. I am using "about" in the same position you are asking me.

Q. I am asking you whether you are predicating the time because a train comes at a certain time, or because you looked at a watch? A. Be-

cause a train came, and my family. Of course, they told me.

Q. That you found out afterwards? A. Yes.

Q. When did the family tell you? A. After the case was brought up.

Q. How long after was that? A. The case was brought up in June, and that was only a month.

Q. About a month afterwards, your family told you you arrived home at what time? A. Shortly before eleven o'clock.

Q. Did they make any note of it? A. I don't suppose they did, but probably a woman's recollection is much better than a man's, anyway.

Q. So you predicate your recollection on what someone told you? A. Yes.

Q. Did you make any note of it? A. There was no reason for me to make any note of it. Just a succession of events.

Q. You admit that on September 9th, you were at the home, at the residence, of Mrs. Reeves? A. I was at the residence of Mrs. Reeves.

Q. You also admit you were present with Mrs. Reeves on May 29th? A. I was.

Q. You say on May 9th—you are familiar with the allegations—is the time Mrs. Feldman testified you went down the cellar, and remained there? A. She did, yes.

The Court: Was your wife present on any of these occasions that you were with Mrs. Reeves?

The Witness: No.

Q. On May 10th is the time the adultery is alleged to have taken place behind the church? A. According to the plaintiff, yes.

Q. That is the date alleged in the petition? A. Yes.

Q. That is the date you admit you were there, around eleven o'clock, behind the church? A. Around quarter of eleven.

Q. May 29th is the time that the child has testified to, Frances, and you admit that on that day, you were also at the home of Mrs. Reeves? A. Not alone with her.

Q. I asked, "Were you there?" I didn't say alone, or any other way. A. Yes, I was there.

Q. Characterizing your denials, one time you you said, "a deliberate falsehood"; another time, you said "Absolutely not", and another time you used some strong expression; do you feel that resentment about the accusations against you? A. I certainly do.

Q. Then why didn't you come in here and file an interpleader, and help the defendant to save her reputation? A. Because I have no financial resources.

Q. You are a mason? A. Yes.

Q. What lodge do you belong to? A. Hawthorne #212.

Q. Junior warden there? A. Senior warden.

Q. How long have you lived in Hawthorne? A. Twenty-three years.

Q. What salary do you get from the telephone company? A. About $3,000.00 a year.

Q. Your two children are employed as teachers, are they not? A. Now.

Q. Your son is employed elsewhere? A. Yes.

Q. Living in the house with you? A. No, he is married.

Q. You have a house you are living in in Hawthorne? A. I rent a place.

Q. Do you mean to tell the Court that with your connections, that you couldn't raise the amount, enough to hire a lawyer to file an interpleader?

Mr. Ward: I object to the question as offensive; "do you mean to tell the Court."

The Court: Otherwise, I will allow it. He may change the form.

Q. Do you say that living many years at this place, member of a lodge, living in a home, that you couldn't raise the amount of money necessary to hire a lawyer to file an interpleader? A. I do.

Q. Did you try? A. I spoke to attorneys in connection with the case, and received their advice.

Q. You did receive their advice? A. Yes.

The Court: How soon did you speak to attorneys or solicitors?

The Witness: I went down immediately, and saw Senator McGinnis and Mr. Ward, about it, intending to take them as my counsel.

Q. Did they advise you not to file an interpleader? A. They told me I could file it if I wanted to, but the case could go just as it was.

Q. Did you say you didn't want to? A. No.

Q. What did you say? A. I don't recall.

Q. But you didn't file it? A. I did not; no, sir.

Q. You deny the truth of the charges that you committed adultery with this woman? A. I positively do.

Q. Even today, you are living with your wife and daughters, are you not? A. I am.

Q. Can you explain why you didn't want to file an interpleader, when you knew that was the first

thing you could do to defend yourself? A. I am not acquainted enough with the law to tell that.

Q. Didn't the lawyers explain to you at all what your rights were, and what you should do? A. Senator McGinnis told me. I wanted to start suit for damages immediately.

Q. Damages? A. Yes.

Q. You wanted money? A. No. Not necessarily.

Q. You wanted to start suit for damages? A. Yes, and he told me it wasn't necessary for me to take any action on it at all. My understanding was it wasn't necessary for me to file any papers, at all.

Q. Did you get the advice from Senator McGinnis? A. That was my understanding.

Q. Was Mr. Ward present at the time? A. Mr. Ward was not.

Q. Did he explain what it was you might file if you wanted to? A. He said I could accept service in the case as co-defendant in the case, or let the case run with the defendant as it was.

Q. Hadn't you already been served? A. I was not served.

Q. Nothing but your name was mentioned? A. Yes.

Q. Didn't the Senator say the only way for you to come in was to come in and interplead and deny the charges? A. My understanding was the denial shall come in the case.

Q. No denial except the denial here today; is that true? A. What do you mean?

Q. Isn't it true you read articles in the paper that I had made a statement that you did not file an interpleader? A. I did not. No, sir.

Q. Didn't Senator McGinnis say if you filed an

interpleader, it would help the defendant to defend her good name? A. He didn't.

Q. Didn't he tell you that your not doing so was almost an admission and acquiescence on your part?

Mr. Ward: I object. I don't want Mr. McGinnis to go on the stand.

The Court: I will allow the question.

A. When the papers were first brought out, I went down to Senator McGinnis, and placed myself at his disposal, denying to him the allegations made.

Q. Did you see any other attorney? A. No.

Q. So it wasn't a question that you didn't have funds to pay counsel, at all, was it? A. Primarily, yes. My idea was not to spend money unless it was absolutely necessary.

Q. Didn't you think money was well spent to protcet your own reputation and lodge standing? Didn't you think you owed it to the members of the lodge to come in and deny the charges?

Mr. Ward: All these questions are argumentative.

The Court: Objection sustained.

Q. Didn't you feel you owed an obligation to your wife and children in the one manner afforded by the Court to deny?

Mr. Ward: I object to "the one manner."

The Court: Strike that last part out. The reason I allow great license in a matter of this character is that credibility goes very far, and you can go a long time on cross-examination, on credibility. The attitude of this witness is a very important matter.

Q. How did you happen to come here today? A. Voluntarily.

Q. Did you hear Mr. Ward state at one of the hearings before, here, that you had been subpoenaed?

Mr. Ward: What difference does that make? What connection has that? I object.

The Court: I will allow it, in view of his statements.

Mr. Ward: He wasn't subpoenaed today, and he never has been subpoenaed before.

A. For commercial reasons, yes.

Q. But were you subpoenaed? A. That was simply to cover a technical point in business.

Q. To save the wages down at the place? A. Yes.

Q. Didn't you regard your appearing here, necessary enough, in defense of your good name, and that of the woman whom you are associated with, that you should appear without a subpoena?

Mr. Ward: I object to the question, as the woman you are associated with."

Mr. Moore: Your co-defendant.

Mr. Ward: I object to that. He is not a co-defendant.

Mr. Moore: Who is a defendant in this case.

A. I felt it was my duty to do everything possible that I can. Yes, sir.

Q. Did you accept a fee, too, on the subpoena? A. I have not. No, sir.

Q. Did you present that subpoena to the telephone company, so you could get the pay back that day? A. I showed it to my superiors, as evi-

dence it was necessary for me to be away.

Q. If you had been guilty of the indiscretions you are alleged by this petition to be, would you admit it or deny it? A. That is a hard thing to tell, what I would have done. Not being guilty, how can I tell what I would do under a condition like that.

Q. Is that the only answer you can give? A. A person never knows what they will do until they get in a jam. I have told you I do not know what I would do.

Q. You have no fixed standard of conduct that would determine what you would do? A. I have been educated to do right, and have always endeavored to have done that in every case, and when it comes to a case of right or wrong, no matter who it hurts, I endeavor to speak the truth always.

Q. Then you have no scruples fixed in your mind as to whether, if you had been guilty of the charges alleged here, you would deny or admit them? A. If I had been guilty, I would have admitted them.

Q. I want to understand your doctrine, so we can get along a little better. Is it your doctrine that if a person commits a great sin, and then the exposure would cause misery, such a person would not be justified in confessing it, merely to relieve his own conscience? A. That is a big question.

Mr. Moore: That is the same question asked Henry Ward Beecher in the Tilton case.

Mr. Ward: I don't think we are interested in Henry Ward Beecher.

The Court: Strike out all reference to Henry Ward Beecher.

A. The first point to your question, I would say this: That the first impulse would be to admit anything, in my case, but as a gentleman, frequently

a gentleman might have to commit a white lie, or tell an untruth, in order to save somebody, but when one is under oath, then they are duty bound to tell the truth, which I am doing.

Q. And you tell the truth, irregardless of the woman with whom you are alleged to have committed adultery? A. When I am under oath; yes, sir.

By consent of counsel, the hearing was adjourned to a date to be fixed.

Counsel for the petitioner has a certificate from the Bishop of the Diocese of which Mr. Reeves is a pastor, and that certificate states that there was no trial or dismissal of Mr. Reeves from the church. The Bishop has stated that to his knowledge, and according to the printed records of the New Jersey Annual Conference, the Reverend John Reeder Reeves continued with the church until March, 1921, at which time he took his nunery relation (a minister left temporarily without a charge).

(FIFTH DAY).

IN CHANCERY OF NEW JERSEY.

Between JOHN REEDER REEVES, Petitioner, and MARGARET D. REEVES, Defendant.	On Petition for Divorce.

Continuation of testimony taken in the above entitled cause before the Hon. VIVIAN M. LEWIS, Vice Chancellor, at the Chancery Chambers, Court House, Paterson, New Jersey, on Thursday, the 20th day of February, 1930, at 10:30 o'clock in the forenoon.

APPEARANCES:

EDWARD THOMAS MOORE, ESQ., for the petitioner.

MESSRS. WARD & MCGINNIS, by JOHN M. WARD, ESQ., for the defendant.

MR. CHARLES D. PETRY, previously sworn, duly recalled, and testified in behalf of the defendant.

Mr. Moore: No further cross-examination.

Redirect-examination by Mr. Ward:

Q. Mr. Petry, just prior to the filing of this suit, which was on the citation of the State of New Jersey, dated the 8th of June, 1928—just prior to that

time did you come in contact with Mr. Reeves at all? A. Yes, sir.

Q. Where, and under what circumstances? A. On a Friday evening, when we had a little social gathering in honor of my son's coming marriage.

Q. The eighth of June? A. Yes, sir.

Mr. Ward: I would like to call your honor's attention to the fact that the affidavit of non-collusion was signed the sixth day of June, just before that time.

Q. Just relate to the Court what took place between you and Mr. Reeves?

Mr. Moore: I object. This is redirect examination. He must confine himself to an explanation of the matters brought out on cross examination, without introducing new matter.

The Court: I don't know. I presume Mr. Ward's examination along this line if for the purpose of indicating to the Court that Mr. Petry and the dominie had pleasant relations after the signing of the papers. I think it is important, and I should hate to shut him off. Your objection will be noted.

Be brief, Mr. Ward.

Q. (Question read.) A. On the evening in question Mr. Reeves was present. I was sitting down and Mr. Reeves came over to me and put his hand on my shoulder and asked me if he might have an advance of fifty per cent. of the following week's salary when he received his check. He asked me if there were sufficient funds to do it, and I told

him there were, and I made out the check and I gave it to him the following Sunday, and the check was for $25 in addition to his regular weekly salary.

Q. What was his conduct towards you during that evening? A. Very friendly. We had a social evening over in Mrs. Barker's residence and we played cards, and Mr. Reeves joined in for a hand.

Q. Mr. Reeevs played cards that night? A. For a while.

Q. And during the time that he had been playing, did he addresss you or not? A. Yes, sir, he always did.

Q. In what manner, friendly or unfriendly? A. Always pleasant.

Q. Any change in his demeanor from that or any other occasion? A. There was no intimation of any mental condition.

Q. Aside from playing cards, did you come in contact with him? A. Between conversations, yes, sir.

Q. Was Mrs. Reeves there at that time? A. During that time, yes, sir, and the entire choir.

ANTHONY LOCKER, duly sworn on behalf of the defendant, testified as follows:

Direct-examination by Mr. Ward:

Q. Whereabouts do you live? A. Hawthorne.

Q. How long have you lived there? A. About ten years.

Q. What is your position? A. Sketch maker.

The Court: What kind of sketches?

The Witness: Textile designing.

Q. And where are you employed? A. Central Engraving Company.

Q. Do you know Mr. Reeves? A. I do.

Q. Do you remember an occasion in May, 1928 when you visited his parsonage?

Mr. Moore: I don't believe he should put the date in the witnesses mouth. I think it is a very leading question.

The Court: He says, "Do you remember a date when you visited the parsonage?" I will allow it—you may note an objection.

A. I do.

Q. Did you ever visit Mr. Reeves' parsonage on any other occasions? A. Many times.

Q. What were your relations with Mr. Reeves prior to that time? A. Friendly. On the best of terms.

Q. You were a member of the church? A. Yes, sir.

Q. How long had you been a member? A. Two and one half years, I believe.

Q. Did you ever have any conversations with Mr. Reeves of a personal nature—I mean outside of church affairs, or outside of that discussion? A. Yes, sir.

Q. Now, how often did you visit the parsonage? A. A good many times, I can't say how many.

Q. Did Mr. Reeves ever seek you out? A. Yes, sir.

The Court: When was it?

The Witness: I can't just say the date.

The Court: Only once?

The Witness: Many times.

The Court: Do you remember what year it was?

The Witness: It was ordinary for him to call me up and tell me to come and see him.

The Court: When was the last time—do you recall the year?

The Witness: What year?

The Court: What year was the last year he called you up?

The Witness: The last time I remember was—well, it was ordinary for him—

The Court: The year he started suit for divorce, did you go up to the parsonage?

The Witness: No, sir.

The Court: A year ago?

The Witness: Up to his study.

The Court: Isn't that in the parsonage?

Q. The study is in the church, is it not? A. Yes, sir.

The Court: Who was there?

The Witness: He was.

Q. This case was begun in June 1928, you remember that? A. Yes, sir.

Q. Prior to the institution of this case, do you remember any conversation with reference to Mrs. Reeves and any other person? A. Yes, sir.

Q. Can you tell us about when that conversation was?

Mr. Moore: I object to that.

The Court: It is too late.

Mr. Ward: What objection can there be, Mr. Reeves was present in his own study?

A. Mr. Reeves called me up and asked me to come to his study. He seemed to be quite nervous and he said he had something on his mind and didn't know just how to tell it to me.

The Court: He told you he had something on his mind?

The Witness: Yes, sir.

The Court: And didn't know how to tell you?

The Witness: No, sir. He asked me about a friend of mine and asked me which one I liked the best and I told him I thought very much of both of them. He said at the time that Mrs. Bradley was sick and Mrs. Reeves went to see Mrs. Bradley and he told me on the night previous to the night I was there that he had gone to bed at about eleven o'clock and when he had been in bed a couple of hours he had heard the door slam and he asked who it was and it was Margaret. She said it was eleven o'clock then, so he told me there was something going on between Dr. Bradley and Mrs. Reeevs and if Dr. Bradley would tell anyone he would tell me, and he wanted me to spy on Mr. Bradley.

Q. What did you say? A. I didn't know what to say. I was so taken aback.

The Court: Did you have any conversations along simliar lines?

The Witness: Yes, sir. He was always imagining things about people.

The Court: In what way?

The Witness: About morals, and—

The Court: Of a sexual nature?

The Witness: Yes, sir.

The Court: Did he ever question you on any of these occasions about his wife's conduct with other men?

The Witness: That is the only time.
The Court: Who is Dr. Bradley?
The Witness: A dentist in Hawthorne.
Mr. Ward: He has been subpoenaed.

Q. Directing your mind to the 29th of May, 1928, which would be the 29th of May before suit was started, do you recall any incident that took place that night? A. I stopped up to the parsonage.

Q. How do you fix the date?

Mr. Ward: That was the date alleged, and that the little girl testified to.

Q. On the 29th of May, 1928, what was the occasion of your going to the Reeevs parsonage? A. There had been a rumor about me also which had gone on for some time and then I happened to find out about it and I wanted to find out if there was any truth in it.

The Court: A rumor in what respect?
The Witness: About a young lady of the church.
The Court: Not the minister's wife?
The Witness: No, sir.

Q. How do you fix the 29th of May? A. The next day was Memorial Day.

Q. You are sure about the date? A. Absolutely.

Q. What time did you arrive at the parsonage? A. I should judge between 8:30 and—I can't say just when, but about 8:30.

Q. Just tell his honor what happened? A. First I went to the study and I didn't see anyone, so then I went to the parsonage.

The Court: What do you mean by the parsonage?

The Witness: I mean the home they occupied across the street from the church.

A. (Continuing.) I knocked on the door and Mrs. Reeves answered and I asked for Mr. Reeves. She said he was out just at present, and she asked me to come in and wait.

Q. What time was it then? A. Around 8:30. I just can't say.

Q. While you were there did anyone else come in? A. Mr. Petry came.

Q. How long after you got there did Mr. Petry come in? A. Just a short while afterwards.

Q. How long did he remain there? A. Maybe fifteen minutes.

Q. You remember Mr. Petry leaving? A. Yes, sir.

Q. You were there when he left? A. Yes, sir.

Q. What was said? Just tell us what happened from the time Mr. Petry in the door until he left? A. Mrs. Reeves was sewing in the dining room and a knock came on the door and it was Mr. Petry. He came into the dining room and Mrs. Reeves had a magazine he wanted. He looked it over very carefully, they talked for a few minutes and then he left.

Q. You know Mr. Petry? A. Yes, sir.

Q. You knew him at that time? A. Yes, sir, very well.

Q. Is this Mr. Petry sitting here (placing hand on shoulder of man in court room?) A. Yes, sir.

Q. The conversations took fifteen minutes? A. About that.

Q. What was it about, do you know? What was

the subject of discussion? A. An Irish Jaunty Cart.

Q. You were there when Mr. Petry left? A. Yes, sir.

Q. How long did you stay there? A. Well, about fifteen or twenty minutes.

Q. Did Mr. Petry return at all after he left? A. No, sir.

Q. Then what happened? A. I said I couldn't wait any longer because I had to go to Dr. Bradley's office.

Q. While you were there this "Jaunty Cart" was discussed? A. Yes, sir.

Q. Do you know what became of the magazine? A. He took it with him.

Q. Mr. Petry was there altogether about fifteen minutes? And how long were you there altogether? A. About an hour.

The Court: What else did Mr. Petry take with him—what else besides the magazine?

The Witness: Just his hat and coat.

The Court: What else?

The Witness: I don't know anything else.

The Court: You don't remember he took anything else?

The Witness: No, sir.

Q. I think you said he did not come back again while you were there? A. I did.

Q. During the period of time Mr. Petry was there, from the time he entered the door until he left, were Mrs. Reeves and Mr. Petry ever out of your presence? A. No, sir.

Cross-examination by Mr. Moore:

Q. Did you keep a record of what took place on this date in May? A. No, sir.

Q. You made no record? A. No, sir.

Q. When was it first brought to your attention what took place? A. After Mrs. Reeves received the bill of particulars.

Q. And you know when that was? A. Last—around the first part of July.

Q. Was that the first time? A. Yes, sir.

Q. Did you go to see Dr. Reeves? A. Yes, sir.

Q. That is what you testified to on your direct-examination? A. Yes, sir, I went to see Mr. Reeves.

Q. Were you here when Mr. Petry testified the other day? A. Yes, sir.

Q. Did you hear Mrs. Reeves testify? A. I wasn't here all the time.

Q. Did you hear any of her testimony? A. Some of it.

Q. Did you recall hearing her testify that—speaking of Mr. Locker—"he wanted to know if Mr. Petry was there and I told him he was in there, and he spoke to him for a few minutes and then he left." Do you recall that?

Mr. Ward: I don't care whether the records contain that or not, that is not in evidence.

The Court: Have you asked to have the record corrected?

Mr. Ward: I ask to have it corrected now.

The Court: I will allow it to stand with your notation that the record is not correct in that particular.

Mr. Ward: I object to the question further on the ground that it is comparing the evidence of one witness as read by counsel, with the evidence of another, and is improper in form.

The Court: He just asked him a question, if he recalled such testimony.

Q. Do you recall it or do you not recall it? A. I recall saying I came to see Mr. Reeves.

Q. I ask you again, do you recall it or do you not? A. I do not.

Mr. Moore: May I have it noted that Mr. Ward moved for the correction of that statement after he heard the testimony read.

Q. Who told you to say that? A. Who told me to say it? No one.

Q. How do you recall exactly what you said? A. There wasn't very many details.

Q. You went down in the early part of the evening—did you take anybody? A. No, sir.

Q. What did you do before that? A. I took a nap.

Q. How long did you sleep? A. About an hour.

Q. When did you arrive? A. About 8:30.

Q. How long was it before Mr. Petry arrived? A. About fifteen or twenty minutes.

Q. And you stayed twenty minutes after—why did you say you stayed an hour? A. I said approximately.

Q. You mean a half hour approximately? A. No, an hour.

Q. How long were you there before Mr. Petry got there? A. About fifteen or twenty minutes.

Q. And then you testified that you stayed twenty minutes after he left? A. Yes, sir.

Q. So that you were only there forty minutes—

Mr. Ward: He said Mr. Petry was there for fifteen or twenty minutes as well, that is his evidence.

Mr. Moore: I am not cross-examining Mr. Ward.

The Court: He has a right to object. I overrule the objection. It is cross-examination and goes to the credibility of the witness.

A. I testified that I came to the house and was there for fifteen or twenty minutes and then Mr. Petry came there, and he was there for some while, and then I stayed for fifteen or twenty minutes after he left.

Q. What did you stay for? A. I was after Mr. Reeves.

Q. After him? A. Yes, sir.

Q. What for? A. I wanted to question him about the rumors about me.

Q. You talked to him before about them? A. No, he talked to me about it before.

Q. Did he ask you to tell him the truth of what had occurred? A. No, sir.

Q. Did he accuse you of some offense? A. I wasn't accused. He said—

Q. He said you were guilty of adultery with someone in the church?

Mr. Ward: I object.

The Court: I will allow it, it is cross-examination and it goes to the credibility of the witness.

A. Absolutely not.

Q. You went to the house and talked to him about it? A. Yes, sir.

MABEL B. PETRY, duly sworn in behalf of the defendant, testified as follows:

Direct-examination by Mr. Ward:

Q. Mrs. Petry, you are the wife of Mr. Petry, the person named in this case—Charles D. Petry? A. Yes, sir.

Q. How long have you been married? A. Twenty-six years last June.

Q. Where do you live? A. 32 Washington Avenue, Hawthorne.

Q. How long have you lived there? A. About fifteen or sixteen years.

Q. You have lived in Hawthorne how long? A. 1904—since 1904, twenty-six years—that is right.

Q. During that time, in fact, since your marriage, you have always lived with your husband? A. Always.

Q. Of whom does your family consist? A. One son and two daughters.

Q. Are your daughters here in court? A. Yes, sir.

Q. Who resides with you? A. Mr. Petry, the two girls and myself.

Q. Your husband, and two daughters, did you say? A. Yes, the boy is married.

Q. And whereabouts is the house? A. 32 Washington Avenue.

Mr. Moore: I understand that Mrs. Petry is not well. Perhaps we can agree on the facts that she will testify to.

Mr. Ward: It is rather hard for me to explain them. I don't know just what I would like counsel to admit.

Mr. Moore: I merely thought that we could expedite matters.

Q. What has been your married life? A. very happily married life.

Q. And what kind of a husband has Mr. Petry been? A. Very good.

Q. Have you ever had any occasion to doubt his fidelity? A. Never.

Q. Your two daughters, what do they do? A. Both school teachers.

The Court: Where do they teach school?

The Witness: The oldest one teaches in East Paterson, the youngest one in Hackensack.

Q. What is your son's occupation? A. Radio expert.

Q. How old is he? A. He is twenty-five, his next birthday.

Q. How old are your daughters? A. Twenty-three and twenty-one.

Q. You were a member of this church of which Mr. Reeves was pastor? A. Yes, sir.

Q. Did you know him? A. Yes, sir.

Q. Do you know Mrs. Reeves? A. She is one of my best friends.

Q. She is one of the members of the choir? A. Yes, sir.

Q. Did you come in contact with Mr. and Mrs. Reeves when they were together? A. Quite often.

Q. What was the attitude of Mrs. Reeves to her husband when you were present? A. Why, I can't

say that it was any different from any other people.

Q. Can you describe briefly the disposition displayed by Mrs. Reeves towards her friends? A. She was wonderful to them. Everybody liked her.

Q. Solemn, or merry, or what? A. As the occasion demanded. She could be very jolly or very serious.

Mr. Moore: I am willing to admit she is and was a very charming woman.

The Court: Do you know your husband used to meet Mrs. Reeves?

The Witness: Never knew it.

Q. You never knew it? A. I never believed it.

Q. Would you believe it if he said so? A. Yes, but he never did.

Q. You heard of the occasion when he was over at Mrs. Reeves house? A. Yes, sir, I sent him over.

Q. Did that surprise you? A. I asked him to do a lot of things and he was always very willing to do them.

Q. You have heard of the other occasion when he met her—did that surprise you at all? A. Met her where?

Q. Do you remember one occasion when he was supposed to have gone to visit a lady? Testified to by Mrs. Feldman? A. That is not correct. Mr. Reeves took Mr. Petry over there.

Q. This case, Mrs. Petry was begun in June, 1928. Keeping that time in mind—that occasion in mind, do you remember in the early part of 1928, any occasion when Mr. Reeves came to you about Mrs. Reeves? A. I do.

Q. When was that? A. When Mr. Petry was sick.

Q. When he was sick—and what conversation did you have with Mr. Reeves at that time? A. Mr. Reeves asked me if I had ever heard of cancer and I told him yes. He asked me—he told me that he thought Mrs. Reeves might have cancer and he told me if he thought she really did have cancer he would get her out of his house immediately, because he was afraid of it.

Mr. Moore: I object to that. It is immaterial and irrelevant.

The Court: It is relevant to show this man wanted to get rid of his wife—that the minister decided to rid himself of his wife. You may have an objection noted to it.

Q. Do you recall any other occasions when Mr. Reeves talked to you about his wife? A. Yes, sir, many.

The Court: I might suggest furthermore, that Mr. Ward has a right to develop the theory of connivance. I suppose that that was the object of the Locker testimony?

Mr. Ward: Yes, sir, aside from the fact that he was there when Mr. Petry was there.

Q. You say that there was another conversation that took place in May? A. Twice in May he called to see my daughters and talked to me. One time he told me he was afraid Mrs. Reeves was losing her mind. He said she had been in an institution at one time, and I asked him where, and he said he did not know but that he had to get a divorce. The following week he called again and told me he had not told me the truth, and then he said it was worse than that, she was a dope fiend. He said he had listened in on a phone conversa-

tion, and had heard someone say they had some "snow" for her. I asked him what snow meant, and he said it was the worst kind of dope. He said he must be free, and then he laid his head over on his hand like this, (indicating) and I thought he was crying, and then I realized that he was looking at me through the slits in his fingers to see how I was taking it. I didn't know how quickly I could get rid of him then, because I was frightened to death.

The Court: Did you go to hear him preach the next Sunday?

The Witness: I went to church, yes, sir.

Q. You sing in the choir? A. Yes, sir.

Q. Do you know whether or not notes were passed between members of the choir? A. Notes have been passed on different occasions.

Q. Was there anything secret about it? A. No, sir.

Q. What was the usual custom? A. One read the note, and then passed it on to the next one.

Q. About writing these notes? A. Oh, just some simple occasion. Someone would come into the church and a note would be made on a slip and it was then passed along. It saved talking.

Q. How did you sit in the choir? A. I sat just as I am now, with Mrs. Reeves to my right, next to me. The basses sat behind me, about three seats.

The Court: You were what?

The Witness: An alto.

The Court: And Mrs. Reeves?

The Witness: An alto.

The Court: The basses sat behind you?

The Witness: Yes, sir.

Q. How many were there in the choir? A. Never more than three altos and four basses. Sometimes only one bass.

Q. From one to four basses and three altos? A. Yes, sir.

Q. Do you remember any occasion on the eighth of June, 1928, two days after Mr. Reeves signed the affidavit of non-collusion in this case. Do you remember if you were present anywhere? A. Yes, at a party for my son.

Q. Will you tell us what occurred? With reference to Mr. Reeves, yourself, your husband and Mrs. Reeves? A. My husband and Mrs. Reeves were not together at all. Mr. Reeves came in late and someone got up and let him have a place. He played a hand of cards and then he asked my husband if he had enough money in the treasury to advance him the next week's salary.

Q. What was his demeanor on that occasion? A. No different—just the same as ever.

Q. And what was that? A. Always friendly.

Q. Friendly or not? A. Just the same as ever.

Q. What was his demeanor towards his wife that night? A. I can't say, because she was not at our table. She was at another table.

The Court: What were you playing?

The Witness: Pinochle.

Q. An occasion has been testified to, about the 9th of September, 1927—have you discussed this case with me? A. No, sir, I have not.

Q. Have you been to my office? A. I have.

Q. Have you seen this bill of particulars? A. Yes, sir.

Q. Have you gone over these different dates? A. I have.

Q. And were you instructed to try and remember everything you could about these dates? A. I was.

Q. Did you give any thought to the 9th of September, 1927? A. Yes, sir.

Q. What day of the week was that? A. A Friday night.

Q. Do you remember what occurred that night? A. Yes, sir, it was the first choir rehearsal after the summer vacation.

Q. Can you fix that day and date in that way? A. Yes, sir.

Q. Where were you? A. In the choir.

Q. Do you remember anything that occurred that night? A. For one thing, Mrs. Reeves said, "For one night I won't have to run back and forth to the house to take care of the children." I was in the choir and Mrs. Reeves came over that night and told me that. She said, "You know we have a visitor, Mrs. Feldman."

Q. Have you ever met her? A. No, sir.

Q. Anything else? A. Then I remember Mr. Reeves came over after and spoke to Mr. Petry. Mr. Petry came over to me and said he was going over to Mr. Reeves to fix something on the radio and he said, "I will be back as quickly as possible."

Q. When Mr. Reeves spoke to Mr. Petry, where were they? A. Just behind me, in the Sunday School.

Q. And who was present? A. The entire choir.

Q. Were your daughters there that night? A. Yes, sir.

Q. Where was Mrs. Reeves? A. Right alongside of me.

Q. What did Mr. Petry do? A. Went over to the parsonage.

Q. He left the church? A. Yes, sir.

Q. After he left, where did Mrs. Reeves go? A. She stayed with me until we left the church.

Q. Are you sure about that? A. Positive.

Q. Where did you go after that? A. After rehearsal was over we went outside, and Mrs. Reeves said, "Come over to the parsonage," and I said, "No, you tell Mr. Reeves to send Mr. Petry out," and immediately she went in, Mr. Petry came out.

Q. You went out of the church, and where did you go? A. Down the walk to the sidewalk.

Q. The sidewalk is how far from the church? A. I couldn't say.

Q. Is it thirty, or forty or fifty feet? A. It sets back—the church sets back from the street. You walk down from the church to the sidewalk or street.

Q. You walked down to the street? A. Right to the sidewalk.

Q. And who was with you? A. Mrs. Reeves, my two girls and myself.

Q. And you told Mrs. Reeves what you said before? A. Yes, sir. I hated to do it, because I knew it would hurt her feelings, not going over with her.

Q. How long after she went in the parsonage did Mr. Petry come out? A. Almost immediately.

Q. Almost immediately means what to you? A. Less than five minutes.

Q. You waited? A. Yes, sir.

Q. Where was Mr. Reeves? A. Over at the parsonage.

Q. Then when Mr. Petry came out, where did you go? A. Straight home.

Q. Where do you live with reference to the church? A. Along Lafayette Avenue, about five

blocks towards Wagaraw Road, then over a block, then over this way, this way, and this way—across the railroad tracks. (Stenographer could not record indications).

Q. About what time was that? A. About nine o'clock.

Q. Did Mr. Petry go out alone that night, at all? A. No, sir.

Q. Do you remember the 11th of April, 1928? A. Yes, sir.

Q. That would be the following April, after the incident you mentioned—tell us what effort you made to fix that date and how you were able to fix it. A. Mrs. Reeves had called me on the telephone after Easter, and I remember the conversation.

Q. What was the conversation? A. She wanted me to get in touch with Mr. Petry and see if he would lead the prayer meeting. I didn't know whether he would be able to or not, because he was suffering from fractured ribs.

Q. Had he been in an automobile accident? A. Yes, sir.

Q. And he was suffering at that time? A. Yes, sir.

Q. As a result of that telephone conversation, what happened? A. I called Mr. Petry in New York and got him on the phone. He said he preferred not to, and said to ask Mrs. Reeves to get someone else. She said she would try, and she called me back and said she couldn't get anyone, so Mr. Petry said all right, he would take care of it for her.

Q. What time did he leave the house? A. In time to be over to the church by eight o'clock.

Q. Did you go with him? A. No, sir, because I had a daughter home sick at the time.

Q. Do you know what time Mr. Petry returned home? A. Very early because I remarked it at the time. It was no later than five minutes after nine.

Q. How do you fix that time? A. As about five minutes after the meeting. It is generally later than that.

Q. About that time do you know whether or not Mrs. Reeves' mother was there on a visit to her home? A. I knew afterwards—after Mr. Petry came home. Mr. Reeves played the piano, and she was late, and she told Mr. Petry the reason she was late was because her mother had come in.

Q. Do you remember the 10th of May, 1928? A. Yes, sir.

Q. That would be May before suit was begun? A. Yes, sir.

Q. What effort did you make to fix that date, or recall that date and what occurred? A. Mr. Reeves called me on the phone to give me a message for Mr. Petry. He wanted him to call on the way to lodge.

Q. On the 10th of May? A. Yes, sir.

Q. What happened? A. I told Mr. Petry when he came home and he said, "Dr. Reeves should know we have no meeting tonight, we are going to have a rehearsal." He said to call the parsonage and tell him. I called and Mr. Reeves was not in, but Mrs. Reeves said she would tell him when he came in.

Q. There was going to be a rehearsal where? A. At the Masonic Temple.

Q. Mr. Petry was an officer of the lodge? A. Yes, sir.

Q. Did he leave the house to go to the lodge meeting that night? A. Yes, sir.

Q. At what time? A. Quarter to eight.

Q. When did you next hear from him after that? A. He called me from Joe's to see if I would like some cream for the sick girl.

Q. At what time was that? A. Shortly after ten thirty.

Q. How do you fix that time? A. I can tell by the time he called and the time he arrived afterwards.

Q. What time did he get home? A. Quarter to eleven.

Q. How far is it, from this Joe's that you mentioned to your home? A. Going over the railroad tracks, not more than three blocks.

Q. The Masonic Lodge in Hawthorne is north of Diamond Bridge Avenue? A. Yes, sir.

Q. Up towards North Paterson—how many blocks north, or further out than Diamond Bridge Avenue? A. I can't say.

Q. Some distance? About half way to Rea Avenue? A. I can't say, I don't know.

Q. Coming from the Masonic Hall, down to Diamond Bridge Avenue, the church is still further out than that? A. Two blocks.

Q. Joe's is where? A. About half a block further down.

Q. Than the church? A. Yes, sir.

Q. Would that, or not, be on the direct route from the Masonic Hall to your home? A. Yes, sir, it would.

Q. What did Mr. Petry ask you? A. He asked me if I would like some cream for the girls, and I said the girls were asleep, and he said, "All right, I'll be right home.

Q. And he was home what time? A. Quarter to eleven.

Q. How long after he called? A. Not more than seven minutes. From five to seven minutes.

Q. How long does it take to walk? A. Well, it takes me longer than it takes Mr. Petry.

Q. How long does it take you? A. When I leave for church which is at eleven o'clock, I must be sure to leave by quarter of.

Q. The church is almost directly across from Joe's? A. This way, on a slant, (indicating).

Q. On the other side of Lafayette Avenue? A. Yes, sir.

Q. Mrs. Petry, do you remember any occasion when your daughter was required to make a Jaunty Cart? A. Yes, sir.

Q. Did you have any discussion or not with your husband and daughter about that? A. We had quite a talk.

Q. At what time? A. I suggested that if we called the parsonage they might be able to give us a book with a copy of the cart in it.

Q. What time was that? A. The 29th of May, 1928.

Q. How do you fix the date? A. It was the day before Decoration Day.

Q. You are sure of these dates? A. Positive.

Q. You have gone over them and checked up on them at my request? A. Yes, sir.

Q. What time did you have this discussion? A. Right after we finished having our supper.

Q. What did you do? A. I suggested calling the parsonage to see if they had a picture and Mrs. Reeves said she would look. She said she thought she had a picture, and if she found it, she would send it over. I said if anything is worth having, it is worth going for, and I sent Mr. Petry over to get it.

Q. How long was he gone? A. He wasn't gone half an hour.

Q. And about what time was that? A. He left around quarter past eight, and he was back by quarter to nine.

Q. I show you a magazine, and ask you if that is the magazine he brought back with him? Do you remember whether or not that is the magazine? A. Yes, sir, this is the one.

Mr. Ward: Showing the witness (Exhibit D- , dated 12/18/29).

This exhibit has no number, if the Court please, but is just marked D-blank.

Q. As a result of Mr. Petry getting that picture, do you know whether or not your daughter made an effort to duplicate that cart? A. They worked all evening on the plans and the next evening they made the cart.

Q. Your husband made the cart? A. Mr. Petry and Myrtle.

Q. Is this the result of their efforts (showing witness a small wooden cart)? A. Yes, sir.

Mr. Ward: I think this has been offered in evidence.

Q. Your daughter at that time was teaching where? A. She wasn't teaching, she was a student in normal school.

Q. Do you know whether or not that particular cart was made because of some of her work? A. Yes, sir, that was taken in to the normal school.

Q. And that work was required at that time? A. Yes, sir.

Q. Mrs. Petry, did you know Dr. Was? A. Yes, sir.

Q. He is dead now? A. Yes, sir.

Q. Was he or not your husband's family physician? A. He was, yes, sir.

Q. Do you remember whether he treated your husband in the latter part of December and early part of January, during 1927 and 1928? A. Yes, sir.

Q. When was he taken ill? A. On the 27th of December.

Q. And he was confined to your home? A. He was in bed, unable to get up.

Q. Do you know—I show you exhibits D- —do you know whether or not they were signed by Dr. Was, for your husband? A. They were sent by the company to Mr. Petry and he took them to Dr. Was for his signature.

Q. These same certificates? A. Yes, sir.

Mr. Moore: They were excluded before, because the court ruled—

Mr. Ward: They were admitted for identification, and your Honor will recall that we were to get Mrs. Was to identify his signature, and further, we were to have her to testify with reference to his call books.

The Court: Have you got her here?

Mr. Ward: We have.

Q. Now you say your husband was taken sick about the 27th of December? A. Yes, sir.

Q. And confined to his bed? A. Yes, sir.

Q. How long was he confined? A. Until he went back to business—over three weeks.

Q. You saw him every day? A. Yes, sir, I was his nurse.

Mr. Moore: I didn't hear that.

The Court: She said she was his nurse and saw him every day.

Q. You weren't ever out of the house? A. Never.

Q. What was his trouble? A. External and internal hemorrhoids.

Q. Did he suffer pain? A. Yes, sir.

Q. And when did he begin to get around? A. In three weeks.

Q. And after that he went to work? A. Yes, sir.

Q. After he went to work, do you remember whether or not he was at home? A. Yes, sir, he was hardly able to walk.

Q. At what time did he return from work? A. On the 6:23 train.

Q. And that brought him home at what time? A. The train arrived in Hawthorne at 6:23.

Q. Did he get home about six-thirty? A. Just about.

Q. After that, did he go out at night? A. Well, he went to choir on Friday night.

Q. With the exception of going to choir, did he continue at his home, without going out? A. Oh, yes.

Q. He told you when he was going out? A. He stayed home every night except lodge night and choir night.

Q. For how long a period? A. He is always home. He never went any place else.

Q. Mrs. Petry, did you ever come in contact with Frances? A. Many times.

Q. Do you remember any conversation about her mother? A. She told me once that she didn't care for her mother, she would rather be down with her grandmother because her grandmother gave her

everything she wanted, and her grandmother was a better housekeeper.

Q. And when was that? A. When her mother was down at the shore, and the grandmother was taking care of the children.

Cross-examination by Mr. Moore:

Q. Did you keep any record or any memorandum of anything that happened on September 9th? A. No, sir.

Q. Or April 11th? A. No, sir.

Q. Or May 10th? A. No, sir.

Q. Or May 29th? A. No, sir.

Q. Can you tell us whether anything happened the day before or the day after September 9th—can you recall? A. No, sir, I can't.

Q. Can you recall anything that happened the day before or the day after any of the other dates? A. The day after—the day after May 29th. I remember Mr. Petry worked all day long on the "Jaunty Cart."

Q. That is one thing you recall. As to the other dates you can't remember anything that happened a week before, or a week after.

A. I remember the 11th of April, because Mr. Petry was hurt in an automobile accident.

Q. Have you ever discussed these dates or what took place on these dates with Mrs. Reeves? A. I have talked to her.

Q. She helped you recall what took place? A. No, she couldn't, because they were vividly in my mind.

Q. March 19th— A. (interrupting) Mr. Petry went out.

Q. Do you remember April 7th, 1928? A. April 8th, you mean.

Q. April 7th, I mean—you don't know anything about it? A. No, I don't.

Q. You recall one night distinctly, that your husband arrived home at a little before quarter to eleven? A. Just about.

Q. He arrived home just a little before quarter to eleven? A. Isn't that just about?

Q. Do you remember what your testimony was? A. A little before quarter to eleven.

Q. You mean you got— A. I mean it was almost quarter to eleven when he came in.

Q. You know where the parsonage is? A. Yes, sir.

Q. How long does it take to walk from the parsonage to the back of the church? A. One minute —it is almost directly across the street.

Q. I don't suppose you have any recollection about how deep the land is? A. No, sir.

Q. You have no idea of distance? A. No, sir.

Q. If your husband called you at ten-thirty, and left there immediately, and walked to the church, how long would it take him to walk to that store? A. I can't say about him, it is about half a block.

Q. A number of minutes from the parsonage? A. It wouldn't take him five minutes—about three minutes I should judge.

Q. Have you any idea of the time it would take from behind the church to your home? A. Five minutes or so.

Q. About eight minutes after he left the candy store, he would be home? A. About that.

Q. So that it must have been about twenty-one minutes of eleven, instead of quarter to eleven?

A. Well, I said it was just before quarter to eleven.

Q. You are positive he wasn't behind the church at that time? A. Positive. I know he went to Joe's.

Q. He didn't tell you how he came home, did he? How do you know where he went? A. I didn't.

Q. Didn't you say—did he tell you how he got home? A. I surmised over the railroad track. I didn't ask him. He came in the back way, and to me that means across the tracks.

Q. To get across the railroad tracks, you cross behind the church? A. No, not necessarily.

Q. You don't know how he got home? A. I didn't ask.

Q. Do you know? A. I know he got in the back door.

Q. Do you know your husband's handwriting? A. Yes, sir.

Q. You saw a couple of notes that were passed behind the church—I show you— A. (Interrupting) Passed in the church choir.

Q. You say you saw notes passed in the church choir? A. Yes, sir.

Q. I show you Exhibit P-4—do you recognize your husband's handwriting on that? A. No, sir, his handwriting is not on that paper.

Q. Have you been attending all of these hearings? A. No, sir, not all of them. I have been here to two or three.

Q. Do you recall hearing your husband say that Mrs. Reeevs never addressed a note to him personally?

Mr. Ward: I object to his asking the witness what another witness said.

The Court: I will overrule your objection,

Mr. Ward. The question asked is, "Does she recall hearing such testimony?"

A. (No answer audible.)

Q. Are you acquainted with the handwriting of Mrs. Reeves? A. No, sir, I can't tell hers from anyone elses.

Q. I show you a note marked Exhibit P-blank, on the outside addressed to Mr. Petry, can you tell me whose handwriting that is? A. No, sir.

Q. Will you look inside and see in whose handwriting the answer is? A. The handwriting inside is mine, I think.

Q. Is the letter addressed to you? A. I couldn't say.

Mr. Moore: I would like to have it noted.

The Court: You can put it in.

Mr. Moore: It has been marked in evidence evidently, but it has not been given a number.

Q. You are positive that is your handwriting? A. Yes, sir.

Q. It wasn't addressed to you? A. No, it doesn't look like it.

Q. It is addressed to Mr. Petry? A. It might have been me; but that is my handwriting.

Q. Do you recollect Mrs. Reeves' testimony that she addressed this note to Mr. Petry?

Mr. Ward: I object to it.

The Court: I will allow it.

A. No.

Q. I show you Exhibit P-3—did your husband ever study drawing or art? A. My husband can draw nothing.

Q. He could draw a check, couldn't he? A. Yes, sir.

Mr. Ward: That is silly.

Mr. Moore: I want to introduce a check to show the husband's handwriting.

Q. Can you recognize your husband's handwriting on this exhibit? A. That positively is not his handwriting.

Q. You are sure of that? A. Positive.

Q. Is that his drawing? A. No, sir.

Q. You are sure? A. He never did anything like that in his life.

Q. That is your answer? A. Yes, sir.

Mr. Moore: I think a number of papers here should be marked collectively for identification.

Q. I show you Exhibit P-5, is that in your husband's handwriting? A. No, sir, that is not his handwriting.

Q. That is not in his handwriting? A. No, sir.

Q. Is that the handwriting of your husband, (indicating paper to witness)? A. That is my handwriting. I made those notes for Mr. Petry.

Q. I show you the first part of that paper—is that your handwriting? A. That is all my handwriting.

Q. You are sure—there is no question about it in your mind? A. No, I did all of Mr. Petry's work. That is mine, every part of it. All these writings are mine.

Q. Is that lead pencil writing yours too? A. I didn't look at that. Yes, sir, as far as I know that is all my handwriting.

Mr. Moore: Will you mark these papers?

(Several notes and sheets of paper containing handwriting, marked collectively, as Exhibit P-1 for identification. 2/20/30.)

Q. Are you acquainted with Dr. Reeves' handwriting? A. I think I know his signature.

Q. Do you know the character of his writing? A. No, sir.

Q. Is that his handwriting? A. I couldn't say.

Q. Do you know in whose handwriting that is? A. No, sir.

Q. Isn't that his handwriting on the back? A. That is his signature, but I can't say about the rest of it.

Q. Is the writing the same as the signature? A. I can't say. I do know the signature is his.

Q. Is the signature any different from the rest of the writing? A. I think so.

Q. You don't recall that your husband admitted that that was his writing? A. No.

Mr. Ward: I object.

The Court: I will allow it on the ground that it will affect her credibility.

Mr. Ward: This hasn't even been marked for identification. I object to it.

Mr. Moore: I understood this was in the evidence. We took testimony about these notes the last time.

Mr. Ward: We had some trouble with that testimony.

Mr. Moore: Yes, and if there is the slightest question about this letter, I would like to recall him.

Mr. Ward: I deny it was even produced here the last time.

The Court: Mrs. Petry says she doesn't know, except the signature. I will let it rest where it stands.

Mr. Moore: I offer it in evidence.

Mr. Ward: And I object to it.

The Court: Sustained, you can't offer it on cross-examination.

Mr. Moore: I will have it marked for identification because it is in dispute now. It is a letter signed Charles D. Petry, dated 4/13/12.

(Marked Exhibit P-2 for identification, 2/20/30.)

JEANNE J. WAS, duly sworn in behalf of the defendant, testified as follows:

Direct-examination by Mr. Ward:

Q. You were the wife of Dr. Was? A. Yes, sir.

Q. And he died when? A. The 10th of May, 1928.

Q. I show you these exhibits—I am somewhat in doubt about these exhibits—they are only given a letter without any number. Do you recognize the handwriting? A. I do.

Q. And whose handwriting is it? A. The doctors.

Q. And this one? A. Likewise.

Q. I show you both of these papers marked Exhibit D-J. Ward, can you tell me what they are? A. These are two certificates that the doctor signed with reference to Mr. Petry's illness.

Q. Are you familiar with the doctor's call books as kept by him? A. I am.

Q. And are these call books? A. Yes, sir.

Q. Is this call book for December in his handwriting? A. Yes, sir.

Q. I notice the name of Mr. Petry—Charles D. Petry, and two dates are mentioned there as the dates upon which calls were made? A. Yes, sir, the 29th and 31st.

Mr. Ward: I offer it in evidence.

(Marked Exhibit P-J. Ward, 2/20/30.)

Q. And that mark indicates house calls? A. Yes, sir.

The Court: Is this printing or writing his?

The Witness: Both, sometimes he would print and sometimes he would writ.

The Court: I judge he was a Frenchman?

The Witness: No, Holland descent. He was born here.

Mr. Moore: As to the dates in that book, I will admit them.

Q. The dates are the second, fourth and sixth? A. Yes, sir.

Q. That would be of January? A. Yes, sir.

The Court: 1928?

The Witness: Yes, sir, 1928.

Q. And here? A. The 9th, 11th, and 14th of January, 1928 and here are some medicines on the 15th, 16th and 18th of January, 1928.

Mr. Ward: I offer that.

(Marked Exhibit P-J. Ward.)

Mr. Ward: Do you want to keep these books here for examination, Mr. Moore. The witness would like to keep them.

Mr. Moore: All right.

Q. All of those calls were house calls? A. Yes, sir.

MARY BROOKS BARKER, duly sworn on behalf of the defendant, testified as follows:

Direct-examination by Mr. Ward:

The Court: Where do you reside?

The Witness: 59 Tuxedo Avenue, Hawthorne.

The Court: Are you a member of this church?

The Witness: Yes, sir, I am.

The Court: Are you married?

The Witness: I am.

The Court: Is your husband alive?

The Witness: Yes, sir.

Q. You are a member of the church? A. Yes, sir.

Q. How long had you known Mr. and Mrs. Reeves? A. For the duration of my membership —three years.

Q. Do you remember a social affair at your home on the 8th of June, 1928? A. I do.

Q. Was Mr. Reeves there? A. Yes, sir.

Q. Was Mr. Petry there? A. He was.

Q. Do you remember Mr. Reeves attitude towards Mr. Petry? A. It was no different from any other time.

Q. Any apparent coldness? A. None, that I noticed.

Q. How did he treat Mr. Petry? A. Perfectly friendly, as he was with us all.

Q. And how did he treat his wife? A. Just the same as the rest of us.

Q. Did they come in together? A. No, sir, Mr. Reeves came in later, after Mrs. Reeves.

The Court: What was the occasion?

The Witness: A shower for Mr. Petry's son who was to be married.

Q. Do you remember an occasion in 1923, when something occurred between Mr. and Mrs. Reeves when there was a quartet rehearsal attended by Mrs. Reeves and you? A. That was a Saturday night.

Q. That would be back in 1923— A. (interrupting) Mrs. Carmen's quartet. I remember—

Q. Remember the rehearsal broke up at eleven o'clock, when you walked to the corner of Lafayette and Llewellyn Avenues? A. I walked with Mrs. Wilson and Mrs. Reeves, and we were on the corner for a little while and then we went home.

Q. How long did you remain out? A. It was one o'clock when I got home.

Q. And it was about what time when you left? A. About twelve.

The Court: You two ladies stayed out until twelve o'clock?

The Witness: We did.

Q. Do you remember anything about Mr. Reeves? A. After I got home, I was upstairs getting ready for bed, when Mrs. Reeves called up. She asked me how long I had been in the house and I told her not long enough to be in bed. She said, "Will you tell Mr. Reeves that?" He had been to that corner and had walked by and had not seen us. I told him we had been standing there and I could get a neighbor who would testify we had, too.

Q. What was Mr. Reeves' attitude? A. He said he had walked down there and could not see us.

Q. What did your husband say? A. My husband was in bed and asleep.

Q. Do you reside at the same place now? A. Yes, sir.

Q. Was any inquiry made by Mr. Reeves at that time as to whether or not Mrs. Reeves had been with you all that time? A. Yes, sir.

Q. What was that? A. The next morning. He apologized to me and said that he had just asked Mrs. Reeves a few questions and she flew off and ran to the telephone.

Q. Do you remember any conversation Mr. Reeves had with you around 1925 with reference to the children? A. The only conversation—I can't remember the date—it was only a short time after Mrs. Reeves had been ill, and he was afraid that I did not have very much respect for him.

Q. When was that? A. Right after Mrs. Reeves was sick.

Q. What year? A. I don't recall.

The Court: Two or three years ago?

The Witness: Possibly three and one half now.

The Court: Did you go to hear him preach after that?

The Witness: Yes, sir, I was in the choir.

The Court: Did you write all kinds of letters in the choir while he preached?

The Witness: Yes, I wrote notes.

The Court: Who to?

The Witness: All my friends.

Q. Did Mr. Reeves apologize to you? A. He

said he had misjudged Margaret because he had found his mother was trying to turn the children against her through friends of his brother Harvey, and he said he had found out his mother had been lying to him and he was very sorry, and there was a distinct change in his attitude at that time.

Q. How long did that last? A. Not very long.

Q. Did he say what it was about that he had misjudged Mrs. Reeves? A. Simply misjudged her because his mother had been misrepresenting facts.

Q. Did he say what the facts were? A. No, he did not.

Q. Are you familiar with the parsonage? A. I am.

Q. Did you hear the evidence of Frances? A. No, I did not. I wasn't here that day.

Q. Have you recently stood upon the third step from the top of the stairway of the parsonage and made observations? A. I have.

Q. Can you see the corner of the room which would be the front room and which would be—Lafayette Avenue runs north and south? A. Yes, sir.

Q. That would be the southwest corner? A. Next to the dining room.

Q. On the right and furthest from you? A. You cannot see that corner. I live in the same kind of house.

Q. Same floor plan? A. Yes, sir.

Mr. Moore: No cross-examination.

MYRTLE PETRY, duly sworn on behalf of the the defendant, testified as follows:

Direct-examination by Mr. Ward:

By the Court:

Q. Where do you live? A. 32 Washington Avenue, Hawthorne, N. J.

Q. What is your occupation? A. I teach.

Q. Where? A. Hackensack.

Q. High school? A. No, sir, public school.

By Mr. Ward:

Q. You are the daughter of Charles D. Petry, the co-respondent in this case? A. Yes, sir.

Q. You live at home? A. I do.

Q. How old are you? A. Twenty-one.

Q. Did you live at home in 1928? A. I did.

Q. In 1927? A. Yes, sir.

Q. Do you remember when your father was named in this case? A. I do.

Q. Do you remember when the papers were filed and it appeared in the newspapers? A. I do.

Q. Do you remember the bill of particulars giving the particulars of the charges with reference to the dates and places? A. I do.

Q. You visited my office? A. I did.

Q. Were these dates given to you? A. They were.

Q. Were you directed to concentrate your recollection and mind on these dates and try to recall whatever you could about them? A. I was.

Q. Did you do that? A. I did.

Q. Was the importance of these dates impressed upon you? A. It was.

Q. Do you remember the 9th of September, 1927? A. I do.

Q. Was that one of the dates given to you? A. It was.

Q. What other date was it that you got right? A. May 29th, 1928.

Q. They are two dates that you are positive of? A. Yes, sir.

Q. Any others? A. I can't recall the other dates.

Q. How did you check up on September 9th, 1927? A. That was the date of the first choir rehearsal after the summer vacation, and it was shortly after school started.

Q. Are you able to recall what happened? A. Yes, sir.

Q. Are you able to recall distinctly? A. Yes, sir.

Q. Did you talk with your mother and father and others? A. Yes, sir.

Q. Tell us what happened that night? A. We went to choir as we always do. Mr. Reeves came in after rehearsal started and asked father to go over to the parsonage to fix something on the radio. They left the rehearsal and went across the street to the parsonage. We stayed until the others had gone and then left to go home. We went out with Mrs. Reeves to the sidewalk, and she left us and went across and told father that we were waiting for him, and he came out almost immediately.

Q. When Mr. Reeves asked your father to come and fix the radio, where were they? A. Father was in the Sunday School room and Mr. Reeves came in and spoke to him.

Q. Anyone leave with him? A. He left alone.

Q. Where was Mr. Reeves then? A. Mr. Reeves went out after he spoke to father.

Q. And your father followed him? A. Yes, sir.

Q. When your father went out, who was left there? A. All the members of the choir.

Q. Including your mother? A. My mother, my sister, Mrs. Barker, myself and all the other members present that evening.

Q. From the time your father went out, until choir was finished, until you went out, did Mrs. Reeves leave at all? A. No, sir.

Q. You are sure of that? A. Yes, sir.

Q. Mrs. Reeves left you and went across to the parsonage? A. Yes, sir.

Q. Across the street? A. Diagonally.

Q. One block up? A. Not quite.

Q. Did you see her all the time? A. Oh, yes.

Q. How long after Mrs. Reeves went in, did your father come out? A. About two minutes, and he came over to us.

Q. And then where did you go? A. Home.

Q. Do you know where Mr. Reeves was then? A. I don't know.

Q. Did you see Mrs. Feldman there? A. I don't know her.

Q. Did you also make an effort to recollect what had occurred on the 29th of May, 1928? A. Yes, sir.

Q. You have gone over this with me? A. Yes, sir.

Q. And Mrs. Reeves and your mother and father? A. Yes, sir.

Q. And you told me what you knew? A. I did.

Q. What happened on the 29th of May, 1928? A. I had to construct a "Jaunty Cart" and it had to be in the following week. The next day was a holiday, and we started to plan how to get a picture of the cart. Father called the parsonage and

asked Mrs. Reeves if she could help us, and she had a picture.

Q. Was not that part of your regular work at that particular time? A. Required for the following week.

Q. Class work? A. Yes, sir.

Q. Tell us what happened? A. Father called the parsonage and Mrs. Reeves said she would look. She wasn't sure, but would look. She called back shortly after that and told him.

Mr. Moore: I object, it is incompetent.

Q. Did you receive a telephone call after that? A. The telephone rang and my father answered.

Q. As a result what was done? A. He went out and returned with a National Geographic Magazine with a picture of the "Jaunty Cart" in it.

Q. Is that the book, (showing witness magazine)? A. Yes, sir, because I wrote "Jaunty Cart" page 309 on the front of it.

Q. That is exhibit D what? A. There is no number.

Q. Is that the picture of the cart? A. This is the picture.

Q. Is this supposed to be a reproduction of that picture, (indicating miniature wooden cart to the witness)? A. That is the one I turned in to school.

The Court: Did you do that?

The Witness: I helped construct it.

Q. Who else helped you? A. My father.

The Court: Do you teach kindergarten?

The Witness: Our section had taken modes of travel, and I was given Ireland.

Q. How long was your father gone on that occasion? A. Not more than twenty-five minutes.

Q. And you were waiting for him so that you could work on this cart? A. I was.

Q. When was it you actually constructed the "Jaunty Cart"? A. The following day.

Q. Do you recall the 8th of June, 1928, when a shower was given to your brother because of his contemplated marriage? A. I do.

Q. Where was that? A. At Mrs. Barker's.

Q. Were you present? A. Yes, sir.

Q. Did you see Mr. Reeves? A. He came late.

Q. Did you see Mrs. Reeves? A. Yes, sir.

Q. Was your father there? A. Yes, sir.

Q. Was there any coldness between your father and Mr. Reeves? A. I saw him talking to my father.

Q. What was his demeanor? A. Very friendly.

Q. Was there anything unusual that you noticed? A. Just the same as always.

Q. How was his conduct towards his wife? A. The same as always.

Q. Was there any coldness that you could notice? A. I couldn't notice any.

Q. Have you—did you hear the evidence of Frances about what occurred in the home on the 29th of May, 1928? A. I wasn't present, but I read about it.

Q. Have you ever stood on that stairway and made observations? A. I have.

Q. Have you stood on the third step from the top and made observations into the rear room? A. Yes, sir.

Q. Can you or not see the corner of the room, the corner which would be the southwest corner? A. You cannot see it at all.

Cross-examination by Mr. Moore:

Q. As a matter of fact, all you know of September 9th is that your father talked over the telephone? A. September 9th—September 9th was choir. May 29th my father talked over the telephone.

Q. After he talked over the telephone, what did he do? A. He went—

Q. I am asking you if you know what he did? A. I wasn't with him.

The Court: Where were you?

The Witness: I was not present with my father. He left the house and returned fifteen or twenty minutes later with a book.

Q. Do you know what your father did after he left the house? A. I know he left; I don't know what he did.

Q. He returned home with the Geographic Magazine? A. Yes, sir.

Q. You don't know where he got it? A. No, sir.

Q. That is all that took place. You are not convinced when it actually was that this telephone conversation took place and when it was your father returned? A. I know that it was—

Q. I asked you if you were convinced— A. I know that after the telephone call he went out and he was gone for a little while and came back with the magazine.

Q. Are you certain? A. He was gone about twenty or twenty five minutes, I am certain of that.

Q. And what were you doing while he was away? A. I was busy cleaning off the table and doing the dishes.

Q. What did you do then? A. He returned while we were finishing the dishes and we remarked that he was back very quickly.

Q. What else did you talk about? A. We talked about how we could construct the "Jaunty Cart".

Q. Did your father help you? A. He did.

Q. Did he make any drawings? A. We made them.

Q. Did he help any? A. It was a diagram.

Q. Will you please answer my question—did he help any.

The Court: The court understands the testimony and your examination. She has answered.

Q. You say you talked with your father and mother and Mr. Ward about these dates, September 9th and May 29th, 1928—are you relying entirely upon your own recollection? A. I am relying entirely on my own recollection.

Q. Did you recollect them? A. I recollected them when I saw the bill of particulars.

Q. You made no notes at that time? A. No, sir.

Q. Did you tell your story to your father, and did he tell his story to you? A. I told him what I remembered.

The Court: Did he tell you what he remembered?

The Witness: Yes.

Q. You made the "Jaunty Cart?" A. My father and I.

Q. When it was exhibited, did you give your father credit? A. Yes, sir. I told the teacher that my father helped me construct it.

Q. How much of the work did you do? A. I helped with the painting and the diagrams.

Q. He actually made it? A. Most of it, yes, sir.

MABEL H. PETRY, duly sworn on behalf of the defendant, testified as follows:

Direct-examination by Mr. Ward:

The Court: Where do you teach?

The Witness: East Paterson.

The Court: Grade school?

The Witness: Yes, sir.

The Court: Are you a daughter of Mr. Charles D. Petry, named as the co-respondent?

The Witness: I am.

Q. Do you reside with him and your mother and sister? A. I do.

Q. And you were shown this bill of particulars? A. I was.

Q. Were you requested to try to fix in your own mind, what had occurred, if anything, at the times mentioned? A. I was.

Q. Were you successful? A. I was.

Q. Do you remember the 7th of September, 1927? A. The 9th, I think it was.

Q. Yes, the 9th of September? A. Yes, sir, it was the first choir rehearsal after the summer vacation.

Q. How do you fix it? A. It was shortly after the start of my first year's teaching and I was quite worn out.

Q. Can you tell us what occurred? A. We were

all assembled at the choir rehearsal, and during the rehearsal Mr. Reeves came in and asked my father to go out. He spoke to us and told us he would be back as soon as he could and then he went across to the parsonage. He remained until after the choir rehearsal, and we came out with Mrs. Reeves. She was going across the street and she said she would tell my father to come out, that we were waiting. She went in the house and he came out right away.

Q. From the time your father left the choir rehearsal, to the time Mrs. Reeves left you and went across the street, was Mrs. Reeves away at any time? A. No, sir.

Q. When she went across the street to tell your father to come out, was she in the house any length of time? A. She went in the door and he came right out.

Q. How long a time? A. Just a minute or so.

Q. Did your father leave you at all later that night? A. No, sir.

Q. Do you remember the 29th of May, 1928? A. I do.

Q. Just tell his Honor about the evening of that day? A. My sister was trying to find a picture of an "Irish Jaunty Cart" and in the course of looking for one, I suggested the minister. Mother then suggested that father call the parsonage and Mrs. Reeves said she would look, and then my father went over.

Q. How long was he gone? A. Not more than twenty-five minutes.

Q. Did he come back with this book (exhibiting magazine to witness)? A. He did.

Q. You have seen that book on page 309? A Yes, sir.

Q. Is that the book he brought back? A. Yes, sir.

Q. The "Jaunty Cart" is that cart made as a result of that picture? A. Yes, sir.

Q. Were you present when this party took place at Mrs. Barker's? A. I was.

Q. Did you see Mr. Reeves there? A. He came in and played cards and spoke to my father.

Q. Did you notice him? A. Yes, sir.

Q. What was his demeanor? A. Just as friendly as always.

Q. Was there any change in his demeanor that evening? A. None at all.

Q. What was his attitude towards his wife? A. He seemed the same as he always did.

Q. Have you made any observations from the stairs of the parsonage? A. I have.

Q. Were you present when Frances gave her evidence? A. No, sir.

Q. Have you stood on the third step from the top—in fact all of the steps and made observations of the front room which is on the southerly side of the front of that house? A. Yes, sir.

Q. Can you see the southwest corner of that room? A. No, you cannot.

Cross-examination by Mr. Moore:

Q. You are a school teacher? A. I am.

Q. On June 8th, after Mrs. Reeves left you, you don't know what she did? A. No, sir.

Q. Have you ever seen your father's writing? A. Some of it.

Q. In what department are you employed in the school? A. Third grade.

Q. Do you have pupils there? A. 32.

Q. Can you recognize the handwriting of the pupils? A. I could not distinguish them.

Q. Have you had a number of letters from your father? A. No, sir.

Q. Have you seen him writing? A. Yes, sir.

Q. Are you acquainted with his writing? A. No, sir.

Q. Doesn't he ever write you letters? A. No, I have never been away from home long enough to receive any.

Q. You can't recognize any of his handwriting? A. No, but I can recognize his signature.

Q. I show you Exhibit P-2, is that the handwriting of your father?

Mr. Ward: I object—

The Court: I will allow it and you may note an objection.

A. I know the signature is his and it might easily be his handwriting. I can't be certain.

Q. Can you say whether it is or is not? A. I will not say.

The Court: How old are you?

The Witness: 23.

Q. That is your father's signature? A. Yes, sir.

Q. Is the line just above the signature his? A. The "y" looks like his, but the "y" in sincerely does not look like his.

The Court: There is not much letter writing in your family?

The Witness: No, sir.

Q. You could not state whether it is your father's handwriting or not? A. I could not.

MARGARET DICKHAUT, duly sworn on behalf of the defendant, testified as follows:

Direct-examination by Mr. Ward:

Q. You are the mother of Mrs. Reeves? A. I am.

Q. Whereabouts do you reside? A. Ocean Grove, New Jersey.

Q. Do you remember when your daughter was residing with Mr. Reeves in Hawthorne? A. I do.

Q. Did you visit her there? A. Occasionally.

Q. Do you remember when she was sued for divorce? A. I do.

Q. Do you remember the bill of particulars that was served in this case? A. I do.

Q. Do you remember looking over that bill of particulars? A. I don't recall.

Q. I mean with reference to the dates? A. I did not see the bill of particulars but I remember the dates.

Q. You conferred with counsel about this? A. I did.

Q. Was there any date about which you had any recollection? A. There was.

Q. And what was that date? A. A date in April, in Easter week. I couldn't tell you whether it was the 11th, but it was Wednesday of Easter week.

Q. You were given all of the dates? A. Yes, sir.

Q. And did you spend any time in the consideration of the matter? A. I thought much on it.

Q. Do you remember what occurred on April 11th, 1928? A. I do.

The Court: Where were you?

The Witness: At the parsonage in Hawthorne.

Q. How did you happen to go there? A. I had been in New York over the week end with my other daughter and it was not very far out of my way home to go over to Hawthorne, and I thought I would run out and say how do you do to the family there.

Q. And what time did you get there? A. Just at noon.

Q. How do you know it was the 11th? A. Because I looked at the calender. It was Wednesday of Easter week in 1928 and I looked up the calendar.

Q. You got there about noon? A. Yes, sir.

Q. You stayed until when? A. Nearly noon the next day.

The Court: Until noon the next day?
The Witness: Yes, sir.
The Court: Did you see Dr. Reeves?
The Witness: I did not.

Q. Directing your attention to nine P. M., where were you? A. Possibly in the dining room with the sewing machine.

Q. Was Mr. Petry there at all that evening? A. Not to my knowledge.

Q. You were there the entire evening? A. Yes, sir.

Q. Was Mrs. Reeves there all evening? A. She went over to prayer meeting.

Q. What time did she go about? A. About service time.

Q. What time is that? A. I don't know. I never went.

Q. What time did she return? A. At the close of the service.

Q. What time is that? A. Possibly nine o'-clock.

Q. Do you recall her coming back about nine o'-clock? A. Yes, sir.

Q. Do you remember her coming in? A. Yes, sir.

Q. Was she alone or not? A. She was alone.

Q. After she came back were you with her? A. Yes, sir.

Q. Until what time? A. Until bed time.

Q. What time did you retire? A. Between eleven and twelve.

Q. From the time she came back after service until the time you or she went to bed, were you with her all of the time? A. Yes, sir.

Q. Was Mr. Petry in that house at all? A. Not while I was there.

Q. You were in the house all the time? A. I was.

Q. When did you last see your daughter's husband, Mr. Reeves? A. I can't say the date. It was after the papers were served when he came to the parsonage to take some of his effects out of the house.

Q. Did you have any talk with him at the time? A. No, sir.

Q. Did he make any explanation at all? A. No, sir.

Q. What was his demeanor at that time? A. Utterly detached, as far as I was concerned.

Q. Did he talk to you? A. He did not.

Q. Had he been friendly or not up to that time? A. Friendly.

Q. Prior to the service of the papers upon your daughter, how often did you see Mr. Reeves? A. I can't say that. At regular intervals.

The Court: When was the last time prior to the service of the papers?

The Witness: The first part of April.

The Court: What year?

The Witness: 1928.

The Court: Where?

The Witness: At Hawthorne, at the parsonage. I was visiting there, and I was there about a week.

The Court: How was he then?

The Witness: Normal, pleasant.

Q. That was the occasion,—the eleventh of April, to which you have just testified? A. No, sir. He was not at home then. That was prior.

Q. On the 11th of April—this time to which you testified—Easter week—did Mr. Reeves make any complaints at that time? A. He was not at home.

Q. On previous occasions to that, did he make any complaint to you about your daughter or her conduct? A. No, sir.

Q. What was the last time prior to this occasion that you were there? A. I can't give you the date. It was early in April and I was there about a week.

Q. About a week? A. Yes, sir.

Q. About a week—and you came in contact with him how often? A. At meal times.

Q. During all that week what was his conduct towards his wife? A. Nothing out of the way.

Q. Cold or aloof? A. Normal.

The Court: Did you sit up with him?

The Witness: No, sir.

The Court: Did you see them go to bed together?

The Witness: No, sir.

Q. Prior to that time you just spoke of, did he make any complaint about the conduct of his wife —I mean with reference to her intimacy or familiarity with other men? A. Never.

Q. Mrs. Hickhaut, was there any occasion when Mr. Reeves discussed his wife and married affairs with you? A. No, sir.

Q. Was there ever any occasion when he discussed his feeling towards her or her feelings towards him? A. No, sir.

Q. Did he ever discuss divorce with you?

Mr. Moore: I object to that. She has answered that question twice.

The Court: Mr. Ward apparently has something in mind. I will permit him to lead.

Your objection will be overruled and noted.

A. No, he did not.

Mr. Ward: I might say that we reserved all of this South Jersey matter because Mr. Moore wrote us that we were to have two days and in view of that we served our subpoenas in South Jersey.

Mrs. Dickhaut does know something about the South Jersey matter but I don't want to go ahead with it until we have all the witnesses here and can complete it.

Cross-examination by Mr. Moore:

Q. You were asked a question on direct examination and you answered—I can't say it was the 11th —was it February or April? A. Not February, it was April.

Q. You said you could not say it was April? A. No, sir.

Q. And later you said you could not say it was the 11th, and then still later you were sure it was the 11th? A. Because I couldn't say until I looked at the calendar. I knew it was Wednesday of Easter week.

Q. Do you go to church? A. I do.

Q. What church? A. Presbyterian.

Q. You thought you would just run out to see your daughter? A. I did.

Q. And you arrived about noon and stayed until noon of the next day? Have you anything of record to sustain that contention? A. Only my own recollection of the incident.

Q. And that is all, is it not? A. That is all.

Q. Is it not so that you were down at Ocean Grove during that entire week? A. You mean Easter week?

Q. Yes. A. I was not.

Q. Didn't Mrs. Reeves bring you down there because you were anxious to be there during Easter week as you wanted to rent your house down there? A. I went down the week before to get the house in order.

Q. You have no records, have you? A. No, sir.

Q. Relying upon your recollection? A. Perfectly.

Q. Didn't Mrs. Feldman spend the evening with the defendant, and you at Asbury Park on the 11th day or the day preceding the 11th of April? A. No, sir, I was in New York.

Q. Didn't Mrs. Reeves send a taxicab for Mrs. Feldman that morning, and weren't you at the house that very day that you say you came out from New York? A. No, sir.

Q. Didn't Mrs. Feldman and the children stop at your house on the afternoon of April 11th? A. No, sir.

Q. Did they stop out there on the morning of that day? A. No, sir.

Q. Isn't it so that when they came to your house Mr. Reeves was with you and you gave them a package? A. Mrs. Feldman has never been at our house.

Q. Did you give a package to Dr. Reeves to bring out to your wife on that day? A. I did not.

Q. Did you see Dr. Reeves at all that day? A. I did not.

Q. You are relying entirely upon your memory? A. Yes, sir.

Q. Are you telling us—will you tell us how it was you went to Asbury Park the previous week? A. We motored down.

Q. Hasn't it been your habit for years to go down there during Easter Week to try and rent your home for the summer? A. It was my home.

Q. Wasn't it your practice to go down to Asbury Park during Easter Week to try and find some people who might want to rent your cottage? A. Not particularly. I was there and it was my home.

(At this point an adjournment was taken until two o'clock in the afternoon.)

AFTERNOON SESSION.

DR. ELMER BRADLEY, duly sworn on behalf of the defendant, testified as follows:

Direct-examination by Mr. Ward:

Q. You are a practitioner of New Jersey? A. Yes, sir.

Q. And have been for how long? A. Fifteen years.

Q. You practice in Hawthorne? A. Yes, sir.

Q. Do you know Mr. and Mrs. Reeves, the petitioner and defendant in this suit? A. Yes, sir.

Q. How long have you known them? A. Six or seven years.

Q. Do you remember when this suit was instituted in the spring of—June— A. (interrupting) I couldn't state the date.

Q. Do you remember the occurrence? A. Yes. sir.

Q. About that time did you have any conversation with Mr. Reeves? A. I did sir.

Q. What was the nature of that conversation? A. He called in my office and I asked him if he had changed his mind. I asked him if he didn't think he was a little bit hasty. He said he knew of nothing to change his mind. I knew him very well, so I said to him, "Why not go to Margaret and lay your cards on the table and let her lay hers on the table. He said, "I have started it, and I am going to follow it through."

Q. Did you ask him if he had accused her of these things—if he brought these charges to her attention and made any accusations to her personally? A. He said they knew nothing about it at all. I asked him if he had not called their attention

to it, and he said they had not the slightest knowledge of it.

Cross-examination by Mr. Moore:

Q. Had Dr. Reeves confided in you to some extent? A. To a great extent in a great many things.

Q. Did he tell you he had gotten down on his knees and pleaded with her to give up Mr. Petry?

Mr. Ward: I object to that.

Q. Did you hear about it being testified to in this case? A. No, sir, I just came into the court room as it adjourned.

Q. In June, 1928, he made this statement? A. No, sir. I didn't state the date because I don't know.

Q. You don't know whether it was before or after? A. It was two or three days before.

Q. Did he say why he had not confronted Mrs. Reeves with these charges? A. I asked him, "If you have all these things on Margaret that you say you have, why don't you lay your cards on the table and give her a chance to explain?"

Q. What did he tell you? A. He said, "She gave me no show, why should I give her one?"

Q. You don't know whether she had been served or not, at that time? A. No, sir, that was before she had been served.

Q. Did he give any reasons why he had not told her? A. No, sir.

Q. Didn't he say, I am not going to tell her until after the papers are served because she has threatened to kill the children? A. Positively not.

Q. And he was afraid she would carry out her

threat if he notified her before the papers were served? A. No, sir.

Q. Your answer is no? A. Yes, sir.

ELEANOR V. H. KNAPP, duly sworn on behalf of the defendant, testified as follows:

Direct-examination by Mr. Ward:

Q. Where do you live? A. Hawthorne.

Q. You are a teacher, I believe? A. In Passaic.

Q. In what school? A. Number 3.

Q. Were you acquainted with Mr. and Mrs. Reeves, at the time he was pastor in Hawthorne? A. I was.

Q. How long before suit was started did you know them? A. From the time they came to Hawthorne—I think seven years.

Q. Were you in the choir? A. Yes, sir.

Q. What was your place? A. On the alto side.

Q. What do you mean by the alto side? A. I sang alto.

Q. Do you know whether or not notes were commonly passed by members of the choir? A. Yes, sir, sometimes.

Q. Was there any secret about that? A. No, sir, generally they went all around the choir.

Q. And was that done in an open manner or not? A. Yes, sir, in an open manner.

The Court: The girls wrote notes to the men, and the men wrote notes to the girls?

The Witness: We passed them to each other. It was not generally done unless it

was necessary. It was done instead of talking.

The Court: Did you do it each Sunday you went to church?

The Witness: No, sir.

Q. Do you remember the 9th of September, 1927 —that would have been the first choir rehearsal after the summer vacation? A. Yes, sir.

Q. Were you there? A. Yes, sir.

Q. Do you remember what occurred between Mr. Petry and Mr. Reeves? A. I don't remember anything about them.

Q. Was Mrs. Reeves there, do you remember? A. She was alongside of me.

Q. Was she there all evening? A. Yes, sir.

Q. Do you remember when the members of the choir left after the rehearsal? A. Yes, sir, but I left a little after most of them.

Q. Are you sure Mrs. Reeves went when you left? A. She was with us after we left and were in front of the church.

Q. Where did that group go? A. We separated. I don't know.

Q. Where did they go from the church? A. I presume to their respective homes.

Q. From the church, where did you go? A. Down to the sidewalk.

Q. And then you went on home? A. Yes, sir.

Q. Was Mrs. Reeves there when you left? A. She was there.

Q. Do you remember a shower given by Mrs. Barker? A. You mean for Mr. Petry's son?

Q. Yes? A. I do.

Q. On the 8th of June, 1928? A. Yes, sir.

Q. Did you see Mr. Reeves there? A. He came

in during the evening. He came in after us, after we had been there a short time.

Q. Was Mr. Petry there? A. He sat at the table towards the dining room, and I sat at a table towards the windows. Mr. Reeves came in and played cards at the table with me.

Q. Did you notice his attitude towards Mr. Petry? A. I just happened to notice.

Q. What was it? A. He seemed to be the same as usual. One thing, he put his hand on Mr. Petry's shoulder and asked him something.

Q. Did you notice Mr. Reeves attitude towards Mrs. Reeves? A. I do because it happened to deal with me. Mr. Reeves went over to Mrs. Reeves and offered her the keys for the car and said, "You take the car home," and she said, "No, I will go home with Eleanor," meaning me, which she did, and Mrs. Reeves and I were the last ones to leave Mrs. Barker's and she went home with me.

Q. What was his attitude towards his wife? A. It seemed the same as usual.

Q. You were familiar with the Reeves home when they lived in it? A. Yes, sir.

Q. Have you ever made any observations from the stairway of that home? A. I have.

Q. Standing three steps, or four, or five steps from the top is it possible for one to look into the front room, into the corner which would be the southwest corner? A. I know which corner you mean—where the couch was. I have tried it and you can't unless you lean way out over the banister.

Cross-examination by Mr. Moore:

Q. Were you here when Mr. Reeves testified? A. Part of it.

Q. Do you recall him testifying that if you lean-

ed over the railing about a foot you could see the entire corner?

Mr. Ward: I object, unless counsel will cite the page of the testimony.

A. I wasn't here when he testified to that.

Q. Leaning over the railing you can see the entire corner? A. Leaning as far as I could possibly lean.

The Court: When did you do that?

The Witness: Yesterday.

Q. From what place? A. From the middle of the first flight.

Q. You are confining your testimony entirely to the middle of the first flight? A. Yes, sir.

Q. Is that the only observation you made? A. I made it lower and farther up.

Q. Oh, you want to make it lower now? A. I was up on the higher steps and I thought that wasn't a fair test, and I went lower to make sure.

Q. Do you know where Mr. Reeves' daughter stood? A. No, sir.

Q. Could you see more of the corner, as you went further down the stairway? A. Yes, sir.

Q. Where could you see the most? A. At the foot.

Q. And a little less on the first step? A. Yes, sir.

Q. And a little less on the second step? A. Yes, sir.

Q. Did you try the fourth step? A. Yes, sir.

Q. Fifth? A. Yes, sir, fourth and fifth.

Q. You didn't try all of them? A. No, sir, I did not.

Q. You didn't try the third? A. No, sir.

KATHRYN SHEWSTER, duly sworn on behalf of the defendant, testified as follows:

Direct-examination by Mr. Ward:

Q. You live in Hawthorne? A. Yes, sir.

Q. And you resided there on the 10th of May, 1928? A. Yes.

Q. Were you a member of this church? A. Yes, sir.

Q. Did you know Mr. and Mrs. Reeves? A. Yes, sir.

Q. Did Mrs. Reeves ever visit your home? A. Yes, sir.

Q. Are you interested in charitable work? A. To a certain extent—more or less.

Q. Did you have any family in Ridgewood that you were assisting? A. Yes, sir.

Q. Do you remember on the 10th of May, 1928, any occasion when Mrs. Reeves brought anything to your home? A. I can't say as to the date.

Q. Do you remember the incident? A. Yes, sir.

Q. Relate it to his Honor? A. Mrs. Reeves came over with a package of clothing for some children we were interested in. Twice she came over. Once early in the spring, and another later.

Q. About what time? A. Once early, around seven or eight o'clock, and the other would be about ten or half-past ten.

Q. Where do you live? A. Behind the church, at number 11 Royal Avenue.

Q. Going from the rectory, or the parsonage, what would be the direct route to your home? A. Across the street from her house, turn to the right to the church, and over to our house.

Q. Along the cinder path? A. Yes, sir.

Q. Back of the church? A. Yes, sir, across the

trolley tracks and the railroad, directly to our house.

Q. How long does it take to get from her home to your home? A. Five minutes, perhaps.

Q. On this occasion which you are relating, about ten o'clock, about which you have just told us, what did she bring? A. Some used clothing.

Q. How long did Mrs. Reeves stay at your home? A. From twenty minutes to a half hour.

Q. And then left? A. Yes, sir.

Q. That is all you know? A. Yes, sir.

Cross-examination by Mr. Moore:

Q. Were you present when the petitioner testified in this case? A. No, sir.

Q. Have you any way of fixing the dates? A. No, sir.

Q. You are just guessing at the dates? A. I am not giving any dates, I just know the occurrences—twice.

Q. Do you know whether it was May 15th or not? A. I can't tell you.

Q. Whether it was May 10th or not? A. No, sir, I can't say.

Q. You could not tell the dates, but you think it was about ten or half past? A. Yes, sir.

Q. Could a person leaving the rectory at half past nine arrive—would it take them an hour going directly to your house? A. No, sir.

LILY A. WARING, duly sworn on behalf of the defendant, testified as follows:

Direct-examination by Mr. Ward:

Q. Miss Waring, where do you live? A. 11 Royal Avenue, Hawthorne.

Q. And you have lived there a number of years? A. Thirty or more.

Q. Mr. and Mrs. Reeves, he was the pastor in Hawthorne—do you remember any occasion in the spring—May—of 1928, when Mrs. Reeves came to your house to see you or Mrs. Shewster? A. I don't remember the exact date, but it was in the spring, because my mother was in bed with a broken leg. I don't remember the exact date.

Q. Do you know about when it was? A. Not any further than that.

Q. With reference to this case, which was begun in June, around June 8th—how much before the case was begun? A. That I can't remember.

Q. It was in the spring of that year? A. Yes, sir.

Q. Before the case was begun? A. Yes, sir.

Q. What happened? Tell us in your own way? A. Mrs. Reeves was in the habit of bringing these things for children over to us. Sometimes she brought them to the store and sometimes to the house and this time I wasn't home but the other times I had been home.

Q. You were not home? A. She gave them to my sister.

Mr. Moore: I think that should be stricken out, she says she wasn't home.

The Court: I think it should, Mr. Ward.

The Witness: I wasn't home at the time—later on in the evening I was.

Lily A. Waring—Cross.

Q. Was there anything left at your home that you thereafter saw? A. I still have some.

Q. What was it? A. Children's clothing.

Q. Do you remember anything of moment that occurred in your family in April? A. My mother broke her leg.

Q. When was that? A. I don't remember the exact date, but it was shortly before her birthday —shortly before the twenty-fourth.

Q. You have no way of fixing the date? A. No, sir.

Q. Did you try to fix this date? A. I would have done so, if I could.

Cross-examination by Mr. Moore:

Q. You say you still have a bundle of clothes? A. Some of the things.

Q. What were they for? A. Children's clothing. Some of them for smaller children that were in that family.

Q. Your knowledge is that at a certain time a bundle was left and that you were informed by someone in the house that it was left by Mrs. Reeves—that is the truth, isn't it? A. Yes, sir, that is it.

Q. How long would it take a person to walk from the parsonage to your house—to go from the parsonage to your house? A. It wouldn't take very long unless they had to wait for a train before they crossed.

Q. They cross over the railroad tracks? A. There is no crossing, you just cross the tracks.

The Court: How many minutes would it take?

The Witness: Ordinarily about five minutes.

HAROLD P. SCHOONMAKER, duly sworn on behalf of the defendant, testified as follows:

Direct-examination by Mr. Ward:

Q. Judge, you are a resident of Hawthorne? A. Yes, sir.

Q. And have been for how many years? A. Eight years.

Q. Have you known Mrs. Reeves during that period of time? A. Yes, sir.

Q. Do you live in the same neighborhood where she resides? A. Yes, sir, possibly two and one half blocks away.

Q. And you lived in that neighborhood on the 8th of June, 1928? A. Yes, sir.

Q. You are the recorder of the Town of Hawthorne? A. Borough of Hawthorne.

Q. Do you know what her reputation was in the neighborhood in which she resides on the 8th of June, 1928, for being a good, moral, upright citizen?

Mr. Moore: I object.

The Court: It is immaterial.

Mr. Ward: That is all.

Mr. Moore: No cross-examination.

Mr. Ward: That is all I have with the exception of these witnesses from Absecon. We actually have them subpoenaed, but in view of the fact that we had twelve or thirteen witnesses and one this one day, I recalled them for that reason. Our defense to the charges of Dr. Reeves is in.

The Court: What is the object of these witnesses?

Mr. Ward: To establish the counterclaim.

The Court: What is the counterclaim?

Mr. Ward: Recrimination.

The Court: Have you any witnesses?

Mr. Moore: Just on rebuttal.

Mr. Ward: I would like to make a motion after they put on the rebuttal.

MR. CHARLES D. PETRY, recalled.

Examination by Mr. Moore:

Q. I show you Exhibit P-2 and ask you if that is in your handwriting? A. Yes, sir.

Mr. Moore: It is marked for identification. I would like to offer it in evidence.

The Court: I don't know that it is relevant.

Mr. Moore: It is solely for the purpose of proving handwriting.

(Exhibit P-2 for identification, marked as Exhibit P-2 in evidence.)

FRANCES REEVES, previously sworn, recalled.

Direct-examination by Mr. Moore:

Q. On April 11th, were you at home or not? A. Yes, sir.

Q. 1928? A. Yes, sir.

Q. Did you testify to that before? A. No, sir.

Q. You testified you were in the house about that date, before? A. No, I did not.

Q. Was Mrs. Dickhaut there? A. No, sir.

Q. How do you recollect that date? A. My

brother Edward had joined the church on the 6th of April, Good Friday evening, and my mother had taken Mrs. Dickhaut down, the day before, to Asbury Park.

Cross-examination by Mr. Ward:

Q. What day of the week was the sixth? A. Friday.

Q. And the eleventh, what day was that? A. Wednesday.

Q. Did you go to school on the sixth? A. I presume so.

Q. What? A. No, not on Good Friday.

Q. Do you know whether you went to school on the sixth or not? A. I don't recall.

Q. Did you go to school on the eleventh? A. Yes, sir.

Q. You are sure about that? A. Positive.

Q. That wasn't the Easter Holidays? A. No, I didn't go to school on Good Friday.

Q. Did you go to school on the eleventh? A. Yes, sir.

Q. You are sure about that? A. Yes, sir.

Q. Positive? A. Yes, sir.

Q. Where did you attend school? A. Lafayette School.

Q. When was Easter? A. The Sunday following Good Friday.

Q. That would be what date? A. The eighth.

Q. And you didn't have any vacation after the eighth? A. I believe vacation was before, I am not positive.

Q. Before Easter? A. No, it is the week after.

Q. Were you in school on the eleventh? A. No.

Q. As a matter of fact you don't know whether

you were or not? A. I know I was not. I was thinking of the Asbury Park schools because they are reversed.

Q. What were the Asbury Park schools? A. They were reversed.

Q. The Asbury Park vacations aren't the same as Hawthorne? A. No, I told you, they are reversed.

Q. What do you mean by reversed? A. Down there they are the week before Easter and Easter, and at Hawthorne, they are the opposite.

Q. You mean to say then, that you had school the week after Easter in Asbury Park? A. Yes, sir.

Q. You are sure of that? A. Yes, sir, positive.

Q. That was a year ago? A. Yes, sir.

Q. You say now that you were mistaken when you say you went to school on the 11th? A. Yes, sir.

Q. You remember clearly that you did not go? A. Yes, sir.

Q. Sure of that? A. Positive.

Q. Where did you go? A. I stayed home.

Q. All day long? A. I don't remember exactly.

Q. Did you go out at all? A. I don't remember.

Q. Have you any recollection about that at all? A. Not exactly.

Q. Any recollection at all of April 11th? A. It was the week after Easter.

Q. Do you recall anybody who came to the house on that day? A. No, sir.

Q. Anybody who made a call there? A. No, sir.

William Harvey Reeves—Recalled—Direct.

WILLIAM HARVEY REEVES, duly sworn on behalf of the petitioner, testified in rebuttal as follows:

Direct-examination by Mr. Moore:

Q. I show you a tracing and ask you what it is? A. This tracing is the ground floor of the parsonage at 270 Lafayette Avenue. This tracing is made from figures secured by me in company with other persons and from those figures secured by me, it was made. I have checked the figures and found this tracing to be a correct representation in a diagramatical manner of the ground floor of 270 Lafayette Avenue.

Q. The ground floor of that residence? A. Yes, sir.

Q. Are the various dimensions set forth? A. I have checked the dimensions set forth, with notes made by me at the time when I made these measurements and they are correct.

Mr. Moore: I ask that it be marked in evidence.

Mr. Ward: I object to it.

Q. Did you prepare the map? A. No. I have checked all the measurements and checked the measurements with the figures taken by me.

The Court: Who prepared the map?

The Witness: An architect.

The Court: Objection sustained. It is not the best evidence.

Q. Have you checked all the measurements? A. I have.

William Harvey Reeves—Recalled—Direct.

Q. Have you checked the map with the floor plan? A. I have.

Q. Is that, to your knowledge a correct representation of the layout of the floor plan? A. It is.

Q. Have you stood on the steps and observed what you could see as regards the corner where it is alleged a couch was? A. Yes, sir. May I explain the method used?

Q. Will you state exactly what you did in connection with these observations? A. In company with Mr. Robert Keltie and other people I went to the parsonage on the 14th of November, 1929 and as to the observations from the stairway, I walked up and down as far as the landing, observing from each step, how much of the front room I could observe. I requested the other persons to do the same. I stood on the third step from the top and held in my hand a small balance scale around which I looped one end of a string. I stood there with this loop around this scale and the other end was carried to the front room, the far corner of the room. I requested that the string be pulled taught. It was pulled taught as was indicated by a reading of two pounds on the scale in my hand.

Mr. Ward: I object to this testimony. He is stating conversations between himself and Mr. Keltie.

A. (Continuing) a string from my hand running to the far corner of the room—I observed that it did not touch anything from the time it left my hand.

Q. From where to where? A. From the banister where my hand rested, as indicated by a reading

on the scale, to the far corner of the room, to a spot on the wall—

Q. I show you this map on which there are red lines. Three numbered red lines— A. (interrupting) Line number three represents the third step.

Q. A red line directly over to the corner, as indicated on the map? A. Correct.

Q. Describe the line of vision? A. From my position, standing erect on the third step, off into the southwest corner—in the corner represented by the intersection of the dining and living room, to a point approximately four inches from the intersection of those walls.

Mr. Ward: If your Honor please, I would like to get this objection on the record. This is not proper rebuttal.

The Court: It is very difficult to decide, owing to the length of the case. I should say offhand, that I would like it to go in, noting your objection that it is not rebuttal.

Mr. Moore: There have been witnesses here today who testified that it was impossible, standing on those steps to see into the corner of the room.

The Court: Some say they saw, and others say they stood where the daughter and the boy stood, and could not see.

Mr. Ward: My objection is that it is not proper rebuttal. This witness says it is possible to see. On the other hand we might get dozens of other witnesses who would say that it is absolutely impossible to see anything in that corner, from the same positions on those steps.

The issue is framed when one says, "Yes,

you can see," and the other says, "No, you could not see."

The Court: It makes a more concrete case for the Court, and the Court is satisfied with the evidence. I am going to allow it to go in if counsel insists.

Q. Just state all you did. Did you stand on all the different steps? A. I did.

Q. Tell the Court whether you could see all of that couch or not as it was situated in the corner between the dining room and the living room at the most extreme— A. At the time I made these observations there was a piano in that corner. I could see from my position all but the two last notes on the keyboard of that piano.

Q. That distance would be about how much— four inches, or six inches? A. Four inches, perhaps.

The Court: Did you measure the piano?

The Witness: No, I measured to a spot on the wall four inches from the corner.

Q. Have you leaned further out to try any other observations? A. I made the same one from mostly all of the steps including the landing and I could make the same observation, except from the landing and the first step and I could still make it there if I looked at it from a squatting position.

The Court: How is your vision?

The Witness: My vision is corrected to twenty-twenty, which is the standard required by the Army and Navy.

The Court: Did you have your regular glasses on?

The Witness: I had the same glasses on which I always wear.

The Court: You know, some people could go there and could not see, even if they looked.

Q. Standing on the third step of the stairway and looking towards that corner, is there anything to obstruct your vision? A. Nothing, except as indicated on that map. There is a partial partition coming out of the wall, which is indicated.

Q. Is it necessary to lean over from the third step? A. By leaning on the banister, as I am leaning on this arm of the chair, now, I could see into the corner.

Q. Are you still connected with Columbia University? A. I am.

Cross-examination by Mr. Ward:

Q. You are not a civil engineer, you are a lawyer, aren't you? A. Yes, sir, that is correct.

Q. (By the Court) You are not a member of the bar of this State? A. No, sir.

Q. You say you could observe the same things from the top—from the step next to the top that you could from the bottom? A. By leaning downwards.

Q. What do you mean? A. My vision was foreshortened by the ceiling and the upper part of that partition.

Q. You did not have to bend from one side to the other to see any different situation? A. No, sir.

Q. The only thing that obstructed your vision was the ceiling? A. Yes, sir.

Q. The situation would have been the same, had the ceiling not been there, on the bottom step as the step next to the top? A. I believe so.

Q. You could see exactly the same? A. Yes, sir.

Q. The partition isn't on the right—between the hallway and the living room? A. Yes, it is.

Q. That partition extends out beyond the westerly wall of the living room? A. I am not sure of the compass directions.

Q. You know the side that is the front of the house—that is the easterly side? A. Then it does extend out from the westerly side.

Q. How far does it extend out? A. Two feet.

Q. You mean to say if you go up those steps, that that does not interfere with your vision going from the first, to the next step from the top? A. Yes, sir.

Q. It does? A. No, sir.

Q. You mean to say that—that that partition extending out from the right hand side if you are on the steps going up—does not interfere with your vision at all? A. Yes, sir.

Q. Are you sure about that? A. Yes, sir.

Q. When were you over there? A. On the 14th of November, 1929.

Q. When? A. 14th of November, 1929.

Q. Were you there more than once? A. I was there frequently when my brother was there.

Q. Only made observations, however, on the 14th of November? A. Yes, sir.

Q. You are sure that partition, the further you go up, does not obstruct the vision of that corner? A. Yes, sir.

Q. Sure of that? A. Yes, sir.

Q. Did you make any special observations with

reference to that? A. Yes, sir, I did, and others who are here will testify—

Q. I asked about you—did you do it? A. Yes, sir.

MRS. MINNIE FELDMAN, previously sworn, recalled.

Direct-examination by Mr. Moore:

Q. You testified before, did you not? A. I did.

Q. Will you tell us whether or not Mrs. Dickhaut was at Asbury Park on the 7th day of April? A. I saw her on that day.

Q. Will you state the circumstances. A. It was a Wednesday, and a very stormy and cloudy day. I always spent those days with mother. Mr. Reeves came for me in a taxi to take me to spend the Easter vacation with his mother and he asked if I would mind traveling in the open car. We stopped at Mrs. Dickhauts and got a package which he was to give to his wife on his return to Hawthorne.

Q. You heard her testify this morning? A. Yes, sir.

Q. And you deny that she was at Hawthorne as she testified? A. I do.

Cross-examination by Mr. Ward:

Q. Where were you on April 11th, 1929? A. This was in 1928.

Q. Where were you in 1929? A. I presume in Asbury Park.

Q. Do you know? A. I presume I was there.

Q. Yes, you presume. Have you any knowledge? A. I was in Asbury Park.

Mrs. Minnie Feldman—Recalled—Cross.

Q. Were you with Mr. Reeves on that day? A. I don't remember. That I can't tell you.

Q. Were you with him on the 9th of April, 1928? A. I was not.

Q. How do you know. A. I can tell you.

Q. What reason have you? A. On April fifth, the day before Good Friday, Mrs. Reeves brought her mother to Asbury Park. She telephoned me she was going there because she was desirous of renting her home, and asked if I would go to the Natatorium with them that night.

Q. That was the fifth of April? A. Yes, sir.

Q. You are sure of that? A. Yes, sir, they were entertained that night at my home.

Q. She was there the week before that—before the 11th? A. Yes, sir.

Q. That is so? A. That is so.

Q. She came down to prepare her place for the summer? A. She told me she wanted to rent it.

Q. Did she spend the week in Hawthorne previous to that? A. I think so.

Q. She spent a week end in New York too? A. I don't know anything about that.

Q. You are sure she was in Asbury Park on the 5th and 11th, and that is all you know? A. Yes, sir.

Q. Did you see Mr. Reeves on the 12th? A. Yes, sir.

Q. Where? A. At his home.

Q. At his home in Asbury Park? A. Yes, sir.

Q. You saw him on the 11th in the taxi, and on the 12th you saw him again? A. I did.

Q. On the 13th, did you see him again? A. Possibly.

Q. You are friendly with him? A. I have been for years and I am now.

Mrs. Minnie Feldman—Recalled—Cross.

Q. You have been in Court here for every hearing? A. I certainly have.

Q. You haven't been under subpoena? A. I came here out of curiosity.

Q. And out of interest in Mr. Reeves?

Mr. Moore: I object to that.

The Court: The witness can take care of herself. I don't think this bothers her much.

The Witness: It doesn't bother me at all.

Q. No, I don't think it does. A. Not when I can tell the truth.

Q. As a matter of fact you are pretty much interested in Mr. Reeves? A. I have been for many years.

Q. You go to Asbury with Mr. Reeves? A. No, sir.

Q. Meet him at the station? A. No, sir.

Q. When he comes to Asbury Park? A. No, sir, I have never met him at the station in Asbury Park.

Q. Well, where? What station in that vicinity? A. What station are you referring to.

Q. Have you ever met him at the station? A. No, sir.

Q. Never? A. Never.

Q. You have never gone to the station when he was about to depart? A. He left from Allenhurst.

Q. When was that? A. The day before a previous hearing.

Q. Did you go along with him? A. No, sir.

Q. You didn't? A. Not alone.

Q. Who else went? A. His entire family.

Q. Who do you mean? A. His three children and my baby.

Mrs. Minnie Feldman—Recalled—Cross.

Q. You have taken an unusual interest in this case? A. Yes, sir.

Mr. Moore: I object. It is a matter of comparison.

The Court: Overruled.

Mr. Moore: I object to the use of the word "unusual."

The Court: I will allow it. She can take care of herself, Mr. Moore.

Q. Are you here under subpoena today? A. I am not.

Q. You were friendly with Mrs. Reeves before this suit? A. I was.

Q. There has nothing occurred between you since that time, has there? A. Not at all.

Q. So that you are actually a friend of both, today? A. I was friendly until I understood the circumstances.

Q. You were actually friendly before this suit? A. I was.

Q. No suspicion before that time? A. No.

Q. Absolutely not? A. No.

Q. So up to the time this suit was instituted you had every reason to believe Mrs. Reeves was a good woman and a good wife? A. I did.

Q. No doubt about that in your mind? A. No.

Q. You did not attach any significance at all to that time when Mr. Petry went down in the cellar with Dr. Reeves? A. No.

Q. On the occasion of the argument, there was no thought of suspicion in your mind? A. No, sir.

Q. And you continued your friendly feeling up to the time suit was instituted? A. I did.

Q. And then did you go to her and ask her for her explanation? A. No, it wasn't necessary.

Q. No? A. No.

Q. You took what Mr. Reeves said, didn't you? A. No, I didn't have to take it.

Q. You conferred with him about this? A. Yes, sir.

Q. You know the attitude of the children towards their mother? A. Yes, sir.

Q. You encourage them in it? A. No, sir.

Q. You heard them say they didn't care for their mother? A. I did.

Q. You encourage them in that? A. What?

Q. Do you? A. Encourage them A. Yes, sir.

Q. In disrespecting their mother? A. That is not disrespect.

Q. Not disrespect, in feeling as they say they do towards their mother? A. I happen to know a great deal.

Q. Do you encourage them in that thought? A. No.

Q. This baleful influence that you have with these children against their own mother? A. Oh, no.

Q. You do not think that is a baleful influence? A. No, sir.

Q. You think it is a good influence? A. Yes, I do.

Q. To discourage them in love for their own mother? A. Under the circumstances, I do.

Mr. Ward: That is all, madam.

The Witness: Thank you.

Mr. Moore: Mr. Reeves who was just on the stand has asked to be returned to the stand to correct his testimony.

William Harvey Reeves—Recalled—Cross.

WILLIAM HARVEY REEVES, previously sworn, recalled.

The Witness: When Mr. Ward was examining me concerning the partition wall, I thought he meant the wall across in front of the stairway. In making observations of the corner of the room from the stairs, the further up one goes the further out one has to lean.

Cross-examination by Mr. Ward:

Q. Did you not understand what I meant by the partition between the living room and the hallway? A. I thought—

Q. You did not understand between the living room and the hallway? A. I am afraid I did not.

Q. Didn't you answer on direct-examination, the same as you did on cross-examination, that your observations were the same on the bottom as on the top? A. If I did I correct it.

Q. Then you were wrong? A. Yes, sir.

ROBERT C. KELTIE, duly sworn on behalf of the petitioner, testified as follows, in rebuttal.

Direct-examination by Mr. Moore:

Q. Were you present with Mr. Harvey Reeves when he made the measurements and observations at the house at Hawthorne? A. Yes, sir.

Q. Did you go on the stairway to see how far your line of vision was clear as regards the corner —— A. Yes, sir.

Q. —between the dining room and living room? A. Yes, sir.

Q. Did you assist in making the map? A. No, sir.

Q. Did you assist in taking measurements? A. Yes, sir.

Q. I show you a diagram with measurements—compare that with your recollection, and state to the Court what you did, where you stood and looked, and what you observed? A. When we went over to the house, we took a tape measure and measured the width of the steps, the stairs going up, took the measurements of the walls, the heights of the ceilings and thickness of the walls and partitions and Mr. Reeves stretched a line attached to a scale and I walked to the far corner of the room and put it up in the corner so that he could see it and then I pulled the string tight and he stood on the center of the first, second and third steps and could see into the far corner of the room with the exception of three or four inches. The further up you went the further out you had to go to the banister on the right side, and standing on the top step, by bending forward I could see too.

Cross-examination by Mr. Ward:

Q. By bending forward—will you illustrate? A. This is the top landing (indicating witness box) and bending forward like this (witness bends from waist.)

Q. You did not have to bend to the side at all? A. On the first, second and third steps, I stood straight, and on the fourth and fifth steps I gradually bent to the right.

Q. You mean the right or left? A. In walking up the steps the railing is on the right, and turning around it is on the left.

Q. In facing the living room, you bent which way? A. To the left.

Q. When you got to the top and bent forward, did you bend to the left at all? A. I was over to the left as far as I could get.

Q. Did you bend to the left then, at all? A. No, I didn't have to.

Q. What is your name? A. Robert Keltie.

Q. Mr. Keltie, when you were on the third step from the top, standing there naturally, do you know how much you could see of that corner or don't you? A. All but about—if I was standing natural I could see it all but about eight inches.

Q. You were there to make observations? A. Yes, sir.

Q. Do you know where the girl said she stood? A. Yes, sir.

Q. On the third step from the top? A. Third step from the bottom.

Q. The third from the bottom—how did you stand on the third step from the bottom? A. Upright.

Q. Just show us. A. (Witness indicates.)

Q. You were looking into the living room? A. Yes, sir.

Q. And you were in the center of the step then? A. Yes, sir.

Q. When you were upright, looking from the third step from the bottom, into the living room, how much of the corner could you see? A. All but about four inches.

Q. About four inches of the wall? A. No.

Q. What was in the corner? A. A piano.

Q. Did you have any couch put in there? A. A piano was in there when we got there.

Mr. Moore: I would like to offer in evidence the various exhibits that were offered and marked for identification. These various notes have all been marked for identification and I would like to have them marked all at the same time, as one exhibit.

(Numerous notes in pencil marked as Exhibit P-2 of 2/20/30.)

Mr. Ward: I would like to suggest that your Honor go up to this place and make your own observations.

The Court: I had indicated at one time that I might go up there. The case is along such narrow lines that I am perfectly willing to, if it is necessary. And of course, I want to hear your arguments.

What is the basis of your counterclaim, Mr. Ward?

Mr. Ward: It is recrimination. It is based on this happening in South Jersey, and on the confessions made to several persons down there. This woman was a parishioner of his in Absecon, and this tempest arose and he confessed to an act of adultery, and then left and came up here.

The Court: How many years ago is that?

Mr. Ward: That was in 1920.

The Court: That is after the birth of his child?

Mr. Ward: Yes, sir.

Mr. Moore: Under the Selunde case, of which I have a copy, it says that a right to a divorce can not be defeated by recrimination unless the charge would entitle the defendant to a decree nisi.

The Court: That is my view too. Perhaps Mr. Ward will argue that he who seeks equity must do equity, and this court is not in a position to grant relief because of the petitioner's own conduct.

I am ready to decide the case, but I don't want to shut out any positive proof.

(SIXTH DAY.)

IN CHANCERY OF NEW JERSEY.

Between
JOHN REEDER REEVES,
Petitioner,
and
MARGARET D. REEVES,
Defendant.

On Petition for Divorce.

Paterson, N. J., April 1st, 1930.

Before—Honorable VIVIAN M. LEWIS,
Vice Chancellor.

APPEARANCES:

EDWARD THOMAS MOORE, ESQ., Solicitor for Petitioner.

JOHN M. WARD, ESQ., appearing for MESSRS. WARD & MCGINNIS, Solicitors for Defendant.

Margaret D. Reeves—Recalled—Direct.

MARGARET D. REEVES, the defendant in the above entitled cause, having already been called and sworn, is recalled and further testified as follows:

Direct-examination by Mr. Ward:

Q. Mrs. Reeves, directing your attention to the latter months of 1920, do you recall whether your husband was acquainted with a Mrs. Burns? A. I do.

Q. What was her first name? A. Lena.

Q. And were you acquainted with her? A. I was.

Q. How did you become acquainted with her, and also how did your husband become acquainted with her? A. She was a member of the church, at Absecon.

Q. How old was she, about? A. Twenty or twenty-five.

Q. Your parsonage was of what nature, in Absecon?

The Court: I wouldn't go through that; what is the object?

Mr. Ward: Only that it took place there.

The Court: All right; put it in.

Q. How many rooms were on the first floor? A. Four.

Q. What were they? A. A study, a dining room, a living room and a kitchen.

Q. What was the first thing you noticed, with reference to Mrs. Burns, with relation to anything happening? A. The first thing I noticed out of the way was, one morning Mr. Reeves suddenly left for New York.

Q. When was that? A. Early in 1920.

Q. Did he leave with any explanation? A. He said he had to see his brother.

Q. What was the next thing? A. His brother came down to Absecon and said Mr. Reeves was in trouble.

The Court: Why don't you object to that?

Mr. Moore: I do object to it, on the ground it is hearsay.

The Court: Strike it out.

Q. He told you he was in trouble? A. Yes, sir.

Q. What was the next step? A. His brother came down to Absecon and said we would have to pack up our things, because Mr. Reeves would not be back.

Q. As I understand it, he said your husband would not be back, and he told you to pack up your things? A. Yes, sir; and we stored them in Philadelphia.

Q. What position did he hold there? A. He was a minister of a church in Absecon.

Q. Was he present at all, while you were packing up? A. No, sir.

Q. Did you hear from him, during that period of time? A. Occasionally.

Q. How? A. By letter.

Q. Have you those letters? A. I have not.

Q. Did you look for them? A. I did.

Q. What did he say in those letters? A. He told me he was in Saranac Lake, and he was there because he had had a nervous breakdown.

Q. What was the condition of his health before he left? A. Just the same; I didn't notice any change.

Q. And that was in the letters? A. Yes, sir.

Margaret D. Reeves—Recalled—Direct.

Q. When did you next see him? A. In New York, one evening.

Q. When was that? A. About Christmas time.

Q. What explanation did he make? A. He wrote me and asked me to meet him in New York, and I met him, and we sat and talked over things, and at that time I asked him if any of these rumors I had heard in Absecon were true.

Q. What did you say to him about that? A. I asked him whether or not he had been intimate with Lena Burns.

Q. What did he say? A. He told me he had not.

Q. Did you believe him? A. I did.

Q. Were your two children born, at that time? A. Three.

Q. Three? A. Yes, sir.

Q. What was the next thing? A. The next thing —he came home—to his peoples' home, in Asbury Park.

Q. You met him at Asbury Park, then, did you, Mrs. Reeves? A. Yes, sir.

Q. Did you have any further discussion with him about the things you had heard? A. Yes, sir.

Q. What discussions? A. Again I asked him if he was guilty, and he told me he was not, and it came time for the conference to convene, and the question of his getting another church, and I asked him the second time, while we were living down there, and again he told me that he was not guilty.

Q. Did you make any visit with him, with reference to the church matters? A. Yes, sir.

Q. Where? A. I met him, with George Corsen.

Q. Where? A. In the basement of the church, in Asbury Park.

Q. Did you go to Philadelphia? A. Yes, sir.

Q. Did you believe him? A. Yes, sir.

Q. And you believed him until when? A. Up until June, 1928.

Q. Up until the time he brought these charges against you? A. Yes, sir.

By the Court:

Q. You say you believed him up until the time he made the charges against you? A. Yes, sir.

Q. What made you change then? A. Because, I saw some affidavits, and my mother told me some things about him that she had not told me before.

By Mr. Ward:

Q. Who showed you the affidavits? A. I don't remember who showed them to me first.

Q. Have you the affidavits here? A. Yes, sir.

Q. I show you these two affidavits, and ask you when it was that you first saw these? A. In the Summer, right after the charges were made.

Q. When you say "the charges", what charges do you mean? A. The charges Mr. Reeves brought against me.

Q. You mean the charges he made against you? A. Yes, sir.

Q. When was that? A. The Summer of 1928.

Q. Was it, or not when you first read these affidavits, that you believed him guilty? A. Yes, sir.

Q. Who was it showed you those affidavits? A. I have forgotten who brought them to the house.

Q. Who? A. I believe it was Mr. Dodd, who brought them to the house.

Q. Did you make an investigation of the matter, after that? A. Yes, sir.

Q. And did you come in contact with Mr. Crowley? A. Yes, sir.

Margaret D. Reeves—Recalled—Direct.

Mr. Ward: I offer the two affidavits in evidence.

Mr. Moore: I think the parties making the affidavits should be here.

Mr. Ward: That isn't the purpose. The purpose is to show that that was the first that it came to her mind.

Mr. Moore: If that is the only reason, then I have no objection. Are they the original?

Mr. Ward: No, they are signed, but I don't know whether they are original or not.

Two affidavits marked Exhibit D-50, as of this date.

(Mr. Ward reads affidavits).

By the Court:

Q. Those are the affidavits that were shown you? A. Yes, sir.

By Mr. Ward:

Q. Now, going back to Christmas, 1920—you have described the parsonage, Do you recall any incident when you and your husband started for Atlantic City, from Absecon? A. Yes, sir; I do.

Q. Will you describe that? A. There was a friend of mine coming to visit me, and we started to go from Absecon to Atlantic City, and I got Mrs. Burns to attend to the children, because they were too young to leave alone.

Q. And you and Mr. Reeves started for Atlantic City? A. Yes, sir; we started on the trolley, and Mr. Reeves complained of a headache, and he said he would go back, and I could go on and meet my friend.

Q. Did you meet her? A. I did not.

Q. When you got back, was she at your home? A. Yes, sir.

Q. What was her name? A. Mrs. Wharton.

Q. Did you try to subpoena her? A. Yes, sir.

By the Court:

Q. Where does she live? A. Keyport.

By Mr. Ward:

Q. Is she here today? A. She is not.

Q. When you returned, you say this lady was at your home? A. Yes, sir.

Q. Did you notice anything unusual about Mr. Reeves? A. Mr. Reeves was in a very nervous state.

Q. How soon after that was it that he left? A. About a week, I imagine; I have forgotten the exact time.

Q. Do you recall any time when persons were present at your home, when you were sent anywheres, by Mr. Reeves, about that time? A. I remember being sent to the Post Office for the mail, and when I got there I had to wait quite some time.

Q. When was that? A. Along in December.

Q. And when, with reference to the time you came home and found your husband in a nervous condition? A. About a week after that.

Q. Why were you sent to the Post Office, and by whom were you sent? A. There was no delivery in that town, and I went down for the mail, and I was too early.

Q. Who sent you for the mail? A. Mr. Reeves.

Q. What time was it? A. About seven o'clock, by our clock.

Q. What did you discover with the clock, after-

wards? A. I discovered that it was almost a half an hour fast.

Q. Was it correct any time before that? A. It was correct in the morning.

Q. Was it a clock that kept good time? A. It kept fairly good time.

Q. So, as a matter of fact, you got down to the Post Office about a half an hour too early? A. Yes, sir.

Q. When you got back home, what did you find? A. I found Mr. Reeves there.

Q. You didn't find any of the others that were present? A. No, sir; I did not.

Q. When was it that your mother related anything to you? A. In June, 1928.

Q. Was that the first that she had related anything to you? A. It was.

Q. Do you know of any other incident, or was any other incident ever brought to your attention, about that time, of any effort on the part of Mr. Reeves, with reference to your marital situation? A. Yes, sir; there was.

Q. What was that? A. I was going to Asbury Park, in November for a little visit, and I found out that Mr. Reeves was going to have me shadowed there—watched.

Q. And this was about the same time? A. About the same time.

Q. And as a result, what did you do? A. I didn't take the trip, or rather, I didn't stay in Asbury Park, after I had taken the trip with him.

Q. Is there anything else that occurs to you, with reference to anything your husband has said to you, about this matter? A. Only a third time he told me he was not guilty, just before we moved to Hawthorne.

Margaret D. Reeves—Recalled—Cross.

Q. He told you he was not guilty? A. Not guilty.

Mr. Ward: That is all.

Cross-examination by Mr. Moore:

Q. Mrs. Reeves, I understand your testimony to be that you had implicit faith in your husband, until you saw some affidavits, on June 11th, 1928; is that true? A. It is.

Q. That is the time you saw the affidavit of that date? A. Yes, sir.

Q. Do you know the date on which the petition was filed, in this case? A. Not the exact date, Mr. Moore; I think it was June 6th or 7th.

Q. June 7th, 1928, was that it? A. Sixth or seventh.

Q. And do you know when you filed your answer in the case? A. I filed my answer the latter part of June, or early part of July.

Q. I show you your answer dated, July 17th; is that the correct date? A. Yes, sir.

Q. So the petition was filed on June 7th and the answer on July 17th, 1928? A. Yes, sir.

Q. And this affidavit of Mr. Crowley was taken on July 22nd? A. Yes, sir.

Q. That was sometime after the answer was filed? A. Yes, sir.

Q. Now, in this answer you allege that Mr. Reeves had committed adultery with Lena Burns. Now, if you didn't see this affidavit until after, how did you get the knowledge for your answer? A. My mother had told me; she told me he was guilty.

Q. Do you know what was the cause of your husband's nervous breakdown that you speak of? A. No, Mr. Moore, I don't.

Margaret D. Reeves—Recalled—Cross.

Q. Now, all these acts of adultery that you charge him with, on these dates, was your knowledge based solely on the information given you by this affidavit? A. My belief was based on my—my belief of his guilt was based on that.

Q. Did you know anything about it then? A. Only the trouble at Absecon.

Q. Did you know of any trouble? A. I knew there was some trouble, and that he had left the church.

Q. Why did he leave the church? A. I don't know, only his brother came down and told me he had to leave the church.

Q. What did he tell you? A. He came down and said: "Mr. Reeves had to leave the church."

Q. And did you ask him what it was? A. No; he wouldn't tell me.

Q. Did you know? A. Only the scandal around town.

Q. What was the scandal around town? A. That he had gotten himself in a scrape.

Q. Did you know what the scrape was? A. I supposed it was the scandal with Mrs. Burns.

By the Court:

Q. Didn't you ask him? A. He told me he was innocent and I didn't see my husband for three weeks.

By Mr. Moore:

Q. You knew about this thing with Lena Burns? A. I knew it, but I didn't believe it.

Q. Didn't you say to him: "tell me the truth, are you guilty of adultery with Lena Burns?" A. Yes; I said that.

Q. And he said he wasn't guilty? A. Yes, sir.

Q. And the rumors that you heard was his adulterous relations with Lena Burns? A. Yes, sir.

Q. Did you ever go to see Bishop Berry with your husband? A. Yes, sir.

Q. Did you discuss anything with him, about these rumors between your husband and Lena Burns? A. I don't remember.

Q. Did you discuss it with him? A. The only thing was, I told Bishop Berry I didn't believe it was so.

Q. You said a moment ago that you didn't discuss it with anybody? A. I mean with anybody outside.

Q. That is your answer to that now? A. Yes, sir.

Q. What was the purpose of going to see Bishop Berry at the time? A. I have forgotten that: I think it was to obtain another church in the Methodist Conference.

Q. Were these rumors discussed with Bishop Berry at the time? A. Yes, sir.

Q. Did you remember what you discussed with Bishop Berry and what he said to you? A. No, sir; only I told Bishop Berry that I didn't believe the rumor and I had implicit confidence in Mr. Reeves.

Q. You don't know any other particulars? A. No, sir; only expressing my belief in Mr. Reeves; I remember that.

Q. That is all you do remember? A. Yes, sir.

Q. So, up to the time he filed this petition against you, you had implicit confidence in him? A. Yes, sir.

Q. Do you know how this affidavit got to Mr. Dodd? A. Yes, sir.

Q. How? A. He went to Atlantic City and got it.

Q. Did you know he was going? A. Yes, sir.

Q. Did he go with your knowledge? A. Yes, sir.

Q. Did he discuss it with you before he went down? A. He came to the house and he asked me if there had been any talk about Mr. Reeves, in Absecon, before he came to Hawthorne; yes, sir.

Q. Who came to your house? A. Mr. Dodd.

Q. Ho told you he was going down to Absecon, to see if he could find out something? A. Yes, sir.

Q. Didn't he ask you if you knew anything about it? A. Yes.

Q. Didn't he ask you anything about it? A. He told me he had heard it soon after Mr. Reeves had come to Hawthorne, and that is all he stated to me.

Q. What did you state to him, at the time? A. I told him there had been talk about Mr. Reeves, and if he wanted to go and investigate it, he could.

Q. What did you tell him about? A. About this matter with Mrs. Burns.

Q. Did you tell him about the interview with the Bishop? A. Yes, sir.

Q. And you told him you didn't believe it? A. Yes, sir.

Q. And that was after this suit was started? A. Yes, sir.

Q. And did you tell him who to go to see, to get these affidavits? A. I don't remember whether I did or not.

Q. How did he know? A. I don't know how he knew, Mr. Moore.

Q. That was the first time Mr. Dodd came to see you? A. Yes, sir.

Q. What position does Mr. Dodd have in Haw-

thorne? A. He is the owner of one of the newspapers in Hawthorne.

Q. Didn't you give these affidavits to Mr. Dodd to publish in his paper? A. I did not.

Q. So, out of a clear sky, Mr. Dodd came to your house and said he understood there had been some affidavits made against your husband? A. I don't remember the details.

Q. Did he say he was going to see Mr. Crowley, when he went to Absecon? A. I don't remember.

Q. Did he report that he had seen Mr. Crowley? A. I don't remember whether he did or not.

Q. How soon after did you see the affidavits? A. He came to the house and showed them to me.

Q. How soon after went down there, did he show them to you? A. I don't recall that.

Q. You state then, in your answer; do you recall when he came back? A. It was all within a few weeks.

Q. Do you remember whether it was the 11th day of June, that you learned about the affidavits? A. It was before that, that I saw the affidavits.

Q. Did you state in here, that I believed in him up to June 11th, and I saw the affidavits on that date? A. I hadn't seen the affidavits, then yet.

Q. Do you know when you saw the affidavits? A. Long after the suit was started.

Q. Did you authorize your attorney to make any statement in the papers, immediately after the petition was filed? A. Not immediately after; a short time after.

Q. Then, if a statement appeared in the paper three days after the petition was served on you, setting up that you were going to charge him with adulterous relations, do you know where that came from? A. No.

Q. Is Mr. Crowley in court? A. He is.

Q. When did you last see him? A. When did I last see him?

Q. Yes. A. When I was in Absecon.

Q. When you heard these rumors about this alleged adultery didn't you demand an explanation from your husband? A. I simply asked him if he was guilty.

Q. Is that all you said? A. Yes, sir; that is all I remember.

Q. Didn't you tell him about the rumor you had heard, and go in details? A. I don't remember the details; I remember asking him about it.

Q. You don't remember the exact words you used? A. No; I don't remember the exact words.

Q. Did you simply ask him if he was guilty of certain rumors you had heard? A. I don't remember, Mr. Moore.

Q. And did you discuss the rumors? A. I don't remember.

Q. Did you hear them from various people? A. I simply hear them from his brother.

Q. You just passed it on—what you heard from the brother? A. Yes, sir.

Q. Did he go into details? A. No, sir; he did not.

Q. Were you anxious to discuss it? A. I was anxious to discuss it with Mr. Reeves—not his brother.

Q. Did you discuss it with his father? A. The only thing I discussed with his father was getting another church in the conference.

Q. Can you tell us what Mr. Reeves' father told you? A. I can't give you the exact words.

Q. Can you tell anything he told you? A. That he came down to Absecon and said that Jack had

gotten himself in a scrape and he, his brother, had come down to try and help him out.

Q. Did he say what it was? A. He said it was something between he and Mrs. Burns and her husband.

Q. Do you remember that conversation? A. Not in detail.

Q. Why was he so agitated, when he came to see you? A. Who, agitated?

Q. The brother? A. I don't remember that he was.

Q. Wasn't he agitated about getting his brother out of trouble? A. Not particularly.

Q. And he sat down and discussed it with you? A. Yes, sir.

Q. Didn't he say that he was upset about the matter, because he understood that his brother had signed an affidavit, and he was trying to get him out of it? A. No, sir.

Q. Wasn't anything said about an affidavit? A. No, sir.

Q. Wasn't it talked about at the Bishop's? A. No; he had signed some paper.

Q. And that is what Mr. Reeves' brother told you about—that he had signed some paper? A. No, sir.

Q. Didn't the brother tell you that? A. No, sir.

Q. Didn't you discuss the matter with his father? A. No, sir; the discussion was with the father was getting a church in some other conference.

Q. Did Mr. Reeves leave the church? A. He did.

Q. Was he fired from the church? A. I don't know; I don't know what action the church board took.

Q. Did you authorize anybody in your behalf to

make that statement? A. What statement?

Q. That he was fired from the church, because he had some adulterous relations with somebody? A. No; I told Mr. Ward that he left the church and walked right out and left it.

Q. That all you told him? A. That he walked out and he wasn't given any other church in the conference.

Q. Didn't you tell Mr. Ward the statement you made here, that you would prove that he had left the church because of his adulterous relations with this woman?

Mr. Ward: I object to it.

Q. Then you didn't know he had been fired from Absecon? A. I know he left; I don't know what action the board took.

Q. Do you know, that he was fired from there, because of some alleged adulterous relations charged against him? A. I don't know that the board took that action.

Q. Then, so far as you know, there was no ground for that charge being made against him? A. I didn't know it then.

Q. Do you know now that he was fired from that church, because of his adulterous relations? A. I don't know what the church board done.

Q. Didn't you have any interview with the church officials? A. No, sir; and he didn't either.

Q. Do you know why your husband left the church; didn't you discuss it with your husband? A. His brother came down and told me he didn't dare to come back.

By the Court:

Q. You were friendly with your husband? A. Yes, sir.

Q. Did you ask him why he left the church there and didn't come back? A. He said he had this nervous breakdown, and he had to leave.

Q. How long did he have charge of this church in Absecon? A. From March until December.

By Mr. Moore:

Q. Did you know he was giving up the church? A. No, sir; not when he went away.

Q. Did he tell you he was giving up the church? His brother told me he didn't dare to come back.

By the Court:

Q. Did you tell your husband that his brother had told you he had to leave the church? A. Yes, sir.

Q. What did he say? A. I don't know what he said; he probably said he would stay out until the next conference, and probably get another charge.

By Mr. Moore:

Q. Did you hear the Bishop say that he had never had any charges made against him? A. I read the Bishop's affidavit.

Q. Is Mr. Dodd here in court? A. I don't think so.

Q. Do you know whether he was subpoened to appear here today? A. No.

Q. And in whose possession has these affidavits been, since Mr. Dodd went down to get them? A. In my possession.

Q. And Mr. Dodd turned them over to you? A. Yes, sir.

Q. Did he go down to get them for himself? A. I don't know whether he got them for himself or for me.

Q. Did you ask him to get them? A. No; I did not.

Q. So, out of a clear sky, he went down to get them? A. I didn't know there were any such affidavits in existence.

Q. Did he know where to go? A. He knew enough to go to Atlantic City.

Q. But you didn't know where he was going? A. I didn't know there were any such affidavits in existence.

Q. Did you tell him the character of the trouble? A. I didn't have to; he knew it.

Q. Did you discuss it with him and tell him about it? A. I did not; he told me.

Q. What did he tell you? A. He told me that he knew Mr. Reeves had been trouble in Absecon.

Q. That he had had adulterous relations down there? A. He didn't say "adulterous relations"; he said he had been in trouble with a woman down there.

Q. So it was when he told you that he had heard some rumors and you discussed it with Mr. Dodd? A. I told him I knew there were some rumors too.

Q. Did you tell him about Mr. Crowley? A. I know Mr. Burns and Mr. Crowley had been business partners.

Q. Did you tell him to go and see Mr. Crowley? A. No, sir.

Q. Did you know Mr. Burns was around there at the time? A. I knew he was down there—that it was his home.

Q. Is Mr. Burns here today? A. He is not.

Q. Is Mrs. Burns here? A. Not that I know of.

Mr Moore: .That is all.

SAMUEL E. CROWLEY, a witness produced on behalf of the defendant, being first duly sworn according to law, testified as follows:

Direct-examination by Mr. Ward:

Q. Mr. Crowley, you reside where? A. In Ventnor, New Jersey, it is a suburb of Atlantic City.

Q. And where were you residing in 1927? A. Absecon.

Q. Were you acquainted with Mr. Reeves and Mrs. Reeves? A. Yes, sir.

Q. And did you know Mr. Burns and Mrs. Burns? A. Yes, sir.

Q. Did you have any connection with Mr. Burns? A. We were partners in the real estate business at that time.

Q. When did you first meet Mr. Reeves? A. In the summer of 1920.

Q. Do you recall Mr. Reeves coming to see you? A. Yes, sir.

Q. When was that? A. Some time around five or six o'clock. I was coming home to dinner.

Q. And what did he say to you? A. He wanted to know if I had a private room, where he could talk to me; he had something he wanted to tell me, and it was dinner-time, and we had company, but he said he wanted to tell me his troubles, and I took him in a private room and he told me his troubles.

Q. What did he tell you? A. He was very excited, and he said he was madly in love with this girl and he was afraid that he would get himself in trouble with the church, and he said there had been nothing indiscrete so far, and I told him I would take him to this dominie in Atlantic City.

By the Court:

Q. Are you a church man? A. No, sir.

By Mr. Ward:

Q. Now, what happened after that? A. He came to my office the following morning, or the morning after.

Q. Just tell what took place at that time? A. He came in my office and wanted me to know that he had made a mistake the night before and that he had been guilty of an indiscrimination with Lena Burns.

Q. Can you tell us what he said at that time—as to what had happened? A. That he had arranged to go with his wife to Atlantic City, and she had arranged to have Lena Burns come up there and take care of the children, and he either had a headache or made believe he had a headache, and he got off the trolley car half way between Pleasantville and Atlantic City, and he went back and had adulterous relations with Lena Burns.

Q. Did he say where it was? A. Yes, sir; in his study.

Q. Anything else? A. Yes, sir; and that a woman friend had come in and caught him, and he was afraid it would make trouble in the church.

Q. Did you see him after that? A. Yes, sir; I went out to lunch, and when I came back all the doors were locked, and the clerk had gone, and then I opened the front door with a key, and I heard somebody in the back, and I went in there and there was Mr. Burns and Mr. Reeves, and they had locked the door, and Mr. Reeves told me he had told Mr. Burns everything, and I said, "I don't believe you have told him everything, or you wouldn't be sitting there alive" and Mr. Burns

said: "Yes, he has, but I don't believe in killing people" and he said "If he will make a statement and he and Mrs. Burns will sign it, I will overlook it", and then Mr. Reeves asked me for some large paper, and he sat down at the typewriter and he typed it out, and they said they wanted some strange Notary Public to take the affidavit and they asked me to come to the parsonage that evening and take the acknowledgment.

Q. Did you go to the parsonage that night? A. I did.

Q. Who was there? A. Mr. Reeves and Mr. and Mrs. Burns and myself.

Q. And did they swear that it was true? A. Yes, sir.

Q. Did they know the contents of it? A. Yes, sir; I read it to Mrs. Burns as my oath of office requires me to.

Q. Did anything else take place there after the affidavit was signed? A. Yes, sir.

Q. Will you relate that to the Court? A. They were on the way out, after the affidavit was already signed, and Mr. Reeves turned around and said: "Lena, I want to ask you a question, if anything happens between me and my wife, will you leave Walter and come to me"? and she said: "Yes, at any time."

Q. Then they went out? A. Yes; they went out and I left Mr. Reeves standing there on the porch.

Q. What became of the affidavit, do you know? A. Yes; Mr. Burns took the affidavit to the Trust Company and put it in his locked box, and Mr Reeves said "that is a terrible thing to hold over me all my life," and then he said "I will only hold it against you for a certain time to see how you behave yourself."

By the Court:

Q. Are Mr. and Mrs. Burns living together now? A. No, sir; they have had a divorce.

Q. Did they live together after that? A. Lived together and had three children.

Q. After that? A. Yes, sir.

Mr. Moore: Three children after this occasion?

The Witness: Yes, sir.

By Mr. Ward:

Q. Where is Mr. Burns now? A. In Absecon.

Mr. Ward: I might say to the Court that we tried to subpoena Mr. Burns and the local constable reported that Mr. Burns was in New York. That is all.

Cross-examination by Mr. Moore:

Q. I understand that you are in the real estate business? A. Yes, sir.

Q. Are you a member of any church? A. No, sir.

Q. Not a member of any church? A. No, sir.

Q. Of any church at any time? A. No, sir.

Q. Ever take part down there in any religious preceedings? A. No, sir.

Q. Had you ever had any dealings with Dr. Reeves, before this alleged confession? A. No, sir.

Q. What is the population of that town—at that time? A. About two thousand, at that time.

Q. How many churches are down there? A. Two.

Q. Both Protestant churches? A. One Methodist and one Presbyterian.

Q. So, out of a clear sky without having any dealings with you before, Dr. Reeves made this statement to you, that you have related today? A. Yes, sir.

Q. And later Mrs. Burns made a statement in your presence and said she had been guilty of adultery? A. When I read her the affidavit.

Q. In your presence? A. I read the affidavit and she signed it.

Q. Was Burns any relation of yours? A. Partners in the real estate business.

Q. Partners? A. Yes, sir; we bought and sold together.

Q. So it was quite common for Mrs. Burns to be in your presence wasn't it? A. Not so much.

Q. Can you give us any reason why Dr. Reeves came to you, of all persons in that town? A. Because, I thought he was a nut.

Q. Do you know what he thought of you? A. No, and I don't care, and he invited me to come to the Church on Sunday and hear him preach, and I said if I did I would bring a couple of brick with me and throw one of them at him.

Q. Did you believe a nut? A. I did, when the girl was there and they both admitted it.

Q. That was some ten years ago? A. Yes, sir.

Q. And you signed this affidavit sometime in 1928? A. Yes, sir.

Q. This long affidavit? A. Yes, sir.

Q. And it was all out of your mind? A. Yes, sir; I recollected most of it.

Q. And that was because a nut had stated it to you? A. That is what I said.

Q. Do you remember any other person you met that day? A. Not particularly, no.

Q. I made no impression on you? A. No, sir.

Q. But this preacher, coming to you, out of the clear sky—you remember that? A. Yes, sir.

Q. Have you anything against Dr. Reeves? A. No, sir.

Q. Or against Mrs. Burns? A. No, sir.

Q. Was her husband a partner of yours at the time of the confession? A. Yes, sir.

Q. What was the purpose of getting Mrs. Burns to sign it? A. Mr. Burns didn't want to take it, unless Mrs. Burns signed it, and Mr. Reeves promised to have Mrs. Burns there that night; he had more influence with her than Mr. Burns did.

Q. Did he tell you why he wanted to make an affidavit alleging adultery and giving it to the woman's husband himself? A. I told him what I thought, and if it had been me I think it would have been something different.

Q. Why did you make that affidavit? A. Well, because I was asked to.

Q. Then you related what you thought was a confidential communication to you? A. If you read the other affidavit—

Q. You stated before that when he made that statement you thought it was a statement made in confidence? A. I didn't tell you who asked me.

Q. I said, you thought it was a statement in confidence. Why did you sign that affidavit? A. A woman came down to my office and she had my name and name of Mrs. Burns—

Q. That isn't the question?

The Court: Let him tell the story.

A. A woman came to my office and told me she was a friend of Mrs. Reeves—I don't even recall her name, and she said she understood that Mr. Burns and I have some facts in relation to this matter.

and after telling me some things that Mr. Reeves was trying to do with his wife and children, she prevailed upon me to make the affidavit, of what I knew.

Q. Don't you know her name? A. No, sir.

Q. But you gave an affidavit that you admit was violating a confidence, to a stranger? A. Yes, sir.

Q. And she was a stranger to you? A. Absolutely, I never saw her before or since.

Q. You don't know but what she was a newspaper woman? A. She might have been.

Q. And that statement might have been put in the newspaper? A. It didn't make any difference to me.

Q. Did this woman say where she came from? A. New York.

Q. Did she tell the truth, when she said that? A. I don't know; I didn't see her before or since.

Q. She didn't tell you she was connected with a newspaper? A. I think she did tell me she was connected with some newspaper in New York.

Q. So you weren't interested in who got the affidavit? A. I understood it was to help Mrs. Reeves —that he had taken the children away from her.

Q. You didn't know her children had been taken away, at that time? A. I didn't know anything about it.

Q. Why didn't you stay out of it? A. I couldn't.

Q. You had to give the affidavit? A. No; but I was deep enough in it and I thought I might as well give the affidavit.

Q. Who was the woman that you gave this private information what did she tell you? A. That she was a friend of Mrs. Reeves' and Mr. Reeves was suing her for a divorce and she wanted the par-

ticulars and Mr. Burns was there in the office at the time, and he said it was all right to go ahead and give it.

Q. It was all right to go ahead and give it out that his wife committed adultery? A. Yes, sir.

Q. And he has had three children by his wife, at that time? A. Yes, sir.

Q. And he allowed you to go ahead and tell this story about the adulterous relations of his wife before these three children were born?

Mr. Moore: That is all.

AMBROSE L. HAMELL, a witness produced on behalf of the defendant, being first duly sworn according to law, testified as follows:

Direct-examination by Mr. Ward:

Q. Mr. Hamell you are from Absecon? A. I am.

Q. And you resided there in 1920? A. Yes, sir.

Q. And you resided there with your family? A. Yes, sir.

Q. And did you know Mr. Reeves? A. Yes, sir.

Q. Were you a member of his church? A. Yes, sir.

Q. What church was it? A. The Absecon Methodist.

Q. Did you hold any position there? A. I was President of the Board of Trustees.

Q. Do you remember the year 1920? A. I do.

Q. Do you remember what happened to Dr. Reeves at that time? A. I know he left Absecon.

Q. Was any notice given to him? A. No, sir.

Q. What was the first you knew of his departure? A. The first I knew of his departure was a rumor on the streets that he had left town.

Q. And after that he didn't appear? A. No, sir.

Q. Did he ever appear at the church again? A. No, sir.

Q. Ever appear to you again? A. No, sir.

Q. Ever offer any explanation to you? A. No, sir.

Q. Did he make any arrangements with you for his pulpit to be occupied or anything of that kind? A. No, sir.

Mr. Ward: That is all.

Cross-examination by Mr. Moore:

Q. Do you know whether Reverend Reeves was in ill health? A. No; he was in good health before then.

Q. Do you know Bishop Berry? A. He was the Bishop over our church.

Q. Do you know that on April 21st, 1921, he was given a letter of honorable dismissal from the Methodist Episcopal Church to the Dutch Reformed Church? A. I know he didn't get it with my signature.

Q. Did Bishop Berry give letters of that character by virtue of his office? A. I don't know that.

Q. You don't know whether Bishop Berry, by authority of his position, could dismiss him from the church? A. He could; dismiss him from the conference, not only our church.

Q. So his authority was superior to your? A. Certainly.

Mr. Moore: That is all.

Redirect-examination by Mr. Ward:

Q. Did Bishop Berry ever come down to make any investigation of this matter, so far as you know? A. No, sir.

Q. Did you, or your church? A. No, sir.

Mr. Ward: That is all.

Mr. Moore: May I offer the affidavit of Bishop Berry, at this time?

Mr. Ward: I will state that any part that is important, I will admit it.

Affidavit marked Exhibit D-50, as of this date.

Mr. Moore: I would like to read part of Bishop Berry's affidavit in the record.

The Court: All right.

Mr. Moore reads the following transcript from said affidavit:

"On February 16, 1921, in my office at 1501 Arch Street, Philadelphia, Penna. I met by previous appointment Rev. John Reeder Reeves and his wife, Margaret D. Reeves. The said Rev. John Reeder Reeves I had known for a number of years, during a part of which time beginning with 1915, he was appointed to and occupied various pulpits in the New Jersey Annual Conference in which he carried on the work of a minister under my supervision.

The said Rev. John Reeder Reeves in requesting the interview on the date above referred to, stated that he wished to discuss with me certain rumors of allegations which had been made, which were that he had been indiscreet with a certain Lena Lee Burns,

wife of Walter M. Burns, of Absecon, N. J. The said Mr. Reeves further requested that I meet his wife, Margaret D. Reeves, at this interview.

I met Rev. John Reeder Reeves and his wife, Margaret D. Reeves for the purpose above referred to, at my office on the date above mentioned and clearly recollect the interview. I distinctly recall that at this interview the contents of a paper were fully discussed which purported to be the confession of Mr. Reeves to indiscretions with the aforementioned Lena Lee Burns. The matter was discussed by both Rev. John Reeder Reeves and his wife, Margaret D. Reeves, in my presence and in the presence of each other."

MARGARET P. DICKHAUT, a witness produced on behalf of the defendant, being first duly sworn according to law, testified as follows:

Direct-examination by Mr. Ward:

Q. Mrs. Dickhaut, you are the mother—you testified before—you are the mother of Mrs. Reeves? A. I am.

Q. Do you remember having any conversation with Mr. Reeves—I withdraw that. Do you recall when they were at Absecon? A. I do.

Q. And do you recall them coming away from Absecon? A. I do.

Q. And they came to Asbury Park? A. Yes, sir.

Q. And Mr. Reeves was absent for a time? A. Yes, sir.

Q. And Mrs. Reeves was there with Mr. Reeves' father? A. Yes, sir.

Q. Did you have any conversation with Mr. Reeves after that? A. Yes, sir.

Q. Tell us about that? A. I was housed with a cold and he came to see me.

Q. When was that? A. In January, 1921; he had returned from Saranac.

Q. Did he tell you anything about what had happened at Absecon? A. Yes, sir.

Q. What did he tell you? A. Of course, the matter was uppermost in our minds, and he was very contrite, and he said he had become mixed up with this woman, and had become very fond of her, and he hoped nothing like that would ever happen again, but he was very fond of her and they were indiscreet.

Q. No, from that on? A. And also used the term—said that they had been unduly intimate, and I said: "What do you mean?", and he confessed that he had adulterous connections with her.

Q. What did he say about his wife? A. And he also made me promise not to tell anyone, and he said he was going to do better, and he was very contrite, and said his church—and the future of his church and home was at stake, and I promised not to tell anyone, and not to tell his wife.

Q. Did you tell his wife? A. I did not.

Q. Do you remember when this case was begun in 1928? A. Yes.

Q. Did you then tell her? A. I did, because I didn't know how he dared charge her with anything like that, with this episode in his own life.

Mr. Ward: That is all.

(No cross-examination)

MARY CARLSON, a witness produced on behalf of the defendant, being first duly sworn according to law, testified as follows:

Direct-examination by Mr. Ward:

Q. Where do you live Mrs. Carlson? A. Leeds Point, New Jersey.

Q. And did you live in Atlantic City in 1920? A. Yes, sir; Atlantic City.

Q. Were you acquainted with Mr. Reeves? A. Yes, sir.

Q. And Mrs. Reeves? A. Yes, sir.

Q. Were you acquainted with Mr. Reeves at the time he occupied the pulpit at Absecon? A. Yes, sir.

Q. How often did you see him? A. Quite often.

Q. Did Mr. Reeves ever attempt to become unduly intimate with you? A. Yes, sir.

Q. Just tell the court the circumstances?

Mr. Moore: I object to it, on the ground that the only charge alleged against this man are the adulterous acts with Lena Burns.

The Court: Of course, under the practice we can amend the pleading to meet the proofs, and I will allow it and note your objection.

Q. Just relate briefly to his Honor, what happened? A. He tried to be unduly intimate with me.

By the Court:

Q. When was it? A. In the latter part of August, 1920. Mr. and Mrs. Reeves went away on a visit, and they asked me to come and stay with the

children, and I did, and they didn't get back until so late that I had to stay all night, and while his wife was getting breakfast, he pushed open the door and came in my room and sat on the bed and began to get familiar and I told him to get out and if he didn't I would call his wife, and then I heard somebody coming up the stairs and he got out.

Mr. Ward: That is all.

Cross-examination by Mr. Moore:

Q. You are a cousin of Mrs. Caldwell? A. Yes, sir.

Q. And she is a very good friend of Mrs. Reeves? A. Yes, sir.

Mr. Moore: That is all.

DOROTHY DICKHAUT, a witness produced on behalf of the defendant, being first duly sworn according to law, testified as follows:

Direct-examination by Mr. Ward:

Q. You are a sister of Mrs. Reeves? A. Yes, Mr. Ward.

Q. The defendant in this case? A. Yes, sir.

Q. And of course you knew Mr. Reeves, in their married life? A. Yes, sir.

Q. Do you remember any incident that took place in Keyport while they were living there? A. Yes, sir.

Q. Will you tell the court what that was? A. I had a similar experience of staying with my sister for a week end and Mrs. Reeves was upstairs with the children, and I was downstairs in the living

room, and Mr. Reeves came in and started fondling me, and I objected and as he became more so I became mad, and I threatened to call Mrs. Reeves, and I did so, and then he put on his coat and hat and went out.

Q. Did anything, something similar happen at Absecon? A. Yes, sir.

Q. Just relate that incident? A. I was down at Absecon, and I had retired for the night, and Mrs. Reeves was in the bathroom, and Mr. Reeves came to my bedroom and made some remark and sat on the foot of the bed, and started to fondle me, and started to pull down the bed clothes, and I had to threaten to call somebody, if he didn't leave but the threat was sufficient and he left.

Q. What did he do? A. He first tried to kiss me and fondle me and put his hand under the bed clothes, and tried to pull the bed clothes down—it was rather embarrassing.

Q. Was there any other time when anything took place? A. The first year that Frances was born —I don't remember the year, but they were in Asbury Park and they were in Ocean Grove, and I was employed at that time, evenings, and he came up to where I was employed and walked home with me, and I went down the porch and Mr. Reeves followed me in, and there I had a similar experience, and at that time I was alone in the house, and I finally got away from him and told him that if he didn't bring Mrs. Reeves up there in fifteen minutes and tell her what happened, I would go to his wife and tell everybody what had happened, and he did go and get Mrs. Reeves and I told her what had happened, and that he had tried to force his affections on me, and that was when Frances was a few weeks old.

Mr. Ward: That is all.

Cross-examination by Mr. Moore:

Q. After you told Mrs. Reeves that, she continued to live with her husband? A. Yes, she did.

Q. You and your sister are quite confidential? A. Yes.

Q. And did she ever tell you anything about her husband? A. No, sir.

Q. Now, this matter in Absecon, how long did it take? A. Only just a few minutes.

Q. Was the wife down stairs? A. No; she was in the bath room, right next to the guest room.

Q. Did you keep absolutely quiet? A. Just the ordinary conversation and turning about.

Q. Did you scream? A. I threatened to call Mrs. Reeevs, and then he left.

Q. That was very short? A. Several minutes.

Q. You knew Mrs. Reeves was next door? A. Yes, sir.

Q. And you threatened to call for help? A. I told him if he didn't stop I would call Mrs. Reeves.

Q. And he did stop? A. Yes, sir.

Q. And Mrs. Reeves was in the house, at the other time, at Keyport? A. Yes.

Q. But you didn't scream? A. I told him I would and he stopped.

Q. How long did that take? A. Just a few minutes.

Q. When you came to the house, did he greet you by kissing you, as a sister-in-law? A. Yes; he did, but in an entirely different manner.

Q. Wasn't this, perhaps, the same thing? A. No; it wasn't.

Q. He was perfectly harmless? A. I didn't feel

that way; I said, after the incident in Absecon, I would never stay overnight at their house again, and I never have.

Q. Did you hear about the rumors down at Absecon? A. I have now.

Q. Did you ever hear anything about his leaving the church? A. I heard that he had a nervous breakdown and had to go to Saranac.

Mr. Moore: That is all.

Mr. Ward: We rest, but if there is another date that Mr. Moore is to take testimony, I would like to get Mrs. Burns, and this other lady down there, but if we close today, we close.

Mr. Moore: I think I will finish today. Will the Court entertain a motion at this time, to discharge the criminating charge?

The Court: I will entertain it and deny it.

Mr. Moore: Then I will defer it.

The Court: I don't think I could entertain it without considering it.

PETITIONER'S REBUTTAL.

WILLIAM H. T. REEVES, a witness produced on behalf of the petitioner, being first duly sworn according to law, testified as follows:

Direct-examination by Mr. Moore:

Q. Mr. Reeves, you are the father of the petitioner? A. I am.

Q. And you are a lawyer at Asbury Park? A. Yes, sir.

Q. How long have you been engaged in the practice of law? A. Since 1885.

Q. Did you visit at the home of the petitioner and defendant while they lived together? A. I did.

Q. Do you recollect any particulars regarding this Absecon incident? A. I remember conversations that we had.

Q. That who had? A. That I had with the family.

Q. With the family—who do you mean? A. Mrs. Reeves and our own family.

Q. Dr. Reeves present? A. Just before Christmas in 1920 after having heard of the rumors of this affair, I invited Mrs. Margaret Reeves up to my home, and my son, who was indisposed had been sent up to Saranac, under the advice of a physician, and I sent for his family, and during that time the conversation at Absecon was almost of daily discussion, and Mrs. Reeves herself told me a great many of the particulars, which I did not know.

Q. Did she tell you the particulars? A. Yes; she said her husband had signed a paper, which could not be true, because she was not absent from Absecon when the act was alleged in there, and, therefore, it could not be true.

Q. Did she tell you, with any particularity, what charges were made? A. Yes; she said her husband had been charged with having relations with Lena Burns, but she didn't believe it was true.

Q. What was the charge in the paper? A. That was the charge in the paper—that he had had relations with Lena Burns and it was alleged that he had signed such a statement.

Q. Did she broach the subject to you? A. No. She brought it up and she said it was discussed

there and it was discussed there for weeks and her husband was present on numerous times, when it was discussed.

Q. Did she say she had seen the paper? A. Yes, she said she had seen the paper, but he was not there on the day when it was alleged to have been signed.

Mr. Moore: That is all.

Cross-examination by Mr. Ward:

Q. What do you mean, he was not present when the paper was signed? A. She told me that when the paper was alleged to have been signed, he was not even in Atlantic City.

Q. She said that he didn't sign the paper? A. No; she said that. She said that it couldn't be true; that the act alleged in the paper, that they signed couldn't be true because he was not in Atlantic City at that time.

Q. Now, as a matter of fact, then your son very vehemently denied his guilt, didn't he? A. Naturally.

Q. Well, did he or didn't he? A. Sure.

Q. And your daughter-in-law apparently believed he was innocent? A. So she stated.

Q. So, no matter what transpired, she led you to believe that she thought he was innocent? A. Surely.

Q. This was a subject of much discussion, wasn't it? A. Yes, sir.

Q. You were admitted to the bar in 1885, in New Jersey? A. No, sir; I have never been admitted in New Jersey.

Q. Oh; I beg your pardon; you are not a practicing attorney in New Jersey? A. I was never ad-

mitted in New Jersey; I was admitted in Pennsylvania, in 1885, and in New York in 1894, but I am not practicing any more.

Mr. Ward: That is all.

Redirect-examination by Mr. Moore:

Q. You said that she felt sure he was innocent, and she believed he was innocent? A. Yes, sir; she used both of these statements—that she felt he was innocent and she knew he was innocent.

Q. Did she say why? A. Because he was not present at the time the alleged act was committed; that he was out of the city.

Mr. Moore: That is all.

Mr. Moore: The petitioner rests.

Testimony Closed.

The Court: I will set April 29th, 1930 for argument.

Opinion.

IN CHANCERY OF NEW JERSEY.

Between
JOHN REEDER REEVES,
Petitioner,
and
MARGARET D. REEVES,
Defendant.

Opinion.

(Syllabus)

1. Evidence examined and *held* that petitioner has established his charges of adultery and that defendant has not sustained her recriminatory charges.

2. Where defendant pleads recrimination the rule requires proof of the commission of a matrimonial offense by petitioner.

MR. EDWARD T. MOORE, for Petitioner.
MESSRS. WARD & MCGINNIS, for Defendant.

LEWIS, *V. C.*:

This action was instituted by John R. Reeves, former pastor of the First Reformed Church, of Hawthorne, N. J., against his wife for absolute divorce on the ground of adultery. The outstanding testimony offered to sustain the petitioner's charge is given by the two children—a daughter and son of the parties—and it is persuasive.

Petitioner alleges that on certain dates defend-

ant committed adultery with one Charles D. Petry. The co-respondent did not avail himself of his privilege to intervene and file an answer. The wife interposed an answer denying the adultery and setting up two defenses by way of recrimination only, viz: adultery alleged to have been committed by the petitioner some ten years ago and also setting up allegations of extreme cruelty on the part of the petitioner towards her.

I am convinced that the petitioner has established the essential allegations of the petition.

Besides corroborative testimony showing an undue intimacy between the defendant and the co-respondent, clandestine visits to the home of the parties in the absence of petitioner and particularly the exchange of intimate notes between the defendant and the co-respondent in church during services conducted by the petitioner, there was credible testimony directly showing the commission of the offenses charged.

The boy Edward, the son of the parties, told a straightforward story to the effect that one night he was awakened by tooth ache and called to his mother. She was in the hallway on the second floor of the parsonage at the time, on her way to the bedroom with the co-respondent, and she attempted to screen the co-respondent from the sight of the boy, and then sent the co-respondent into the bedroom closing the door after him, and then attended to the son's toothache. This testimony points clearly in one direction only, that is, to the guilt of the defendant and her paramour. Under the circumstances, there could have been no reason or excuse for the presence of the co-respondent on the bedroom floor of the parsonage at that hour of the night.

The boy fixes the time as being around the first of January, 1928. There was testimony tending to show that during this month the co-respondent was confined to his home because of an illness. Accordingly the boy may have been mistaken as to the date as to which there was nothing to fix it in his memory, but there is no doubt in my mind that he told the truth as to the incident which he witnessed.

Frances, the daughter of the parties, testified that on May 29, 1928, the day before Memorial Day, the father was away from home and she had gone to bed and to sleep. Being awakened by voices downstairs and thinking that her father had returned, she ran downstairs to greet him. When she was close to the bottom of the stairway she saw the defendant lying on a couch in the sitting room opposite the foot of the stairway and the co-respondent lying on top of defendant, obviously, in flagrante delicto. She distinctly recognized both her mother and the co-respondent. Alarmed at what she saw she ran back upstairs to bed without having made her presence known. Later that same night petitioner came home and found defendant in the sitting room only partially dressed. He commented on this condition and she gave him an explanation which he soon found to be false. Both the defendant and co-respondent admit that Petry was at the parsonage that night. There is testimony that he went away but no testimony except his own statement that he did not return later that night.

Each of these children were intelligent and mature for their ages and each of them told a clear and straightforward story and the court attaches full credence to their testimony. Both of them

were subjected to severe cross-examination which did not impair their stories to any extent.

Considerable time before this petitioner had become suspicious of the actions of defendant with the co-respondent and detectives were employed to watch the defendant. On the Tenth day of May, 1928, defendant with a bundle under her arm was seen by the detectives and petitioner to go down a dark pathway alongside the church in the rear of which was a large vacant plot of ground between the church and the railroad tracks. This was about ten forty-five in the evening. Almost immediately after the co-respondent was seen by these witnesses to enter the same cinder path and go to the rear of the church. The bundle was identified by petitioner as being the shawl which was produced in evidence and which he testified he found the next day to be covered with dirt and rubbish as though it had been spread on the ground such as existed behind the church. He found this shawl the next day in the parsonage stuck behind the sofa. The next morning there was also found behind the church a handkerchief with a distinctively colored border which petitioner identified as belonging to defendant. Defendant and the co-respondent each admitted that they had gone down this pathway and behind the church on this evening at the same hour testified to by the petitioner and his witnesses, but each insisted that they did not see or meet one another. Defendant admitted she had a bundle that night but says it was a bundle of old clothes which she was taking to a woman who lived beyond the railroad tracks. Defendant first testified that on this occasion she stopped at the house of the woman for about fifteen minutes and subsequently said she did not stop

there at all. This woman testified that some time during the Spring of 1928, defendant did bring a bundle of clothes to her house one night but the witness could in no wise fix the date. The co-respondent's explanation of his presence at that time and place was neither satisfactory nor convincing. While there is no direct evidence of the commission of adultery on this occasion there was ample opportunity both of time and place, and taking into consideration the circumstances of their going there and a degree of intimacy and adulterous inclination shown both previously and subsequently, the inference might be drawn that the offense was committed at that time.

Vogt v. Vogt, 146 Atl. Rep., 618.

The testimony of Minnie Feldman, a friend of both parties, shows that on the 9th day of September, 1927, the conduct of the parties in going to the cellar of the parsonage was scarcely compatible with their innocence. Petitioner himself testified that upon his unexpected return after this occurrence the defendant and co-respondent showed a confusion which strongly indicated improper conduct on their part. Both the defendant and co-respondent admitted that they were present at the preacher's house on this occasion.

There is considerable other testimony showing a suspicious intimacy between the parties for several months prior to the last offense charged. Petitioner himself testified that having become suspicious of his wife and the co-respondent he had begged her to give Petry up and that she refused. In this petitioner is partially corroborated by Mr. Bell, the sexton of the church. Mr. Bell also testified that he saw the exchange of notes in the choir dur-

ing the church services and in fact found some notes and turned them over to petitioner. His testimony also leads to the conclusion that the defendant and co-respondent between them wrote and drew the obscene note which petitioner found in the parsonage the next day.

The defendant placed on the stand a number of witnesses but none of them convincingly testified to any material fact which would negative the testimony as to the commission of the offense of adultery by the defendant on the occasion hereinbefore recited.

The testimony to the effect that the petitioner condoned the offenses of adultery is not at all convincing and I find that the same were not condoned.

There was no satisfactory testimony presented in support of the recriminatory charges.

As to the adultery charged by defendant, legal proof was lacking. Howard v. Howard, 77 N. J. Eq., 186.

There was no satisfactory testimony to prove that the petitioner had been guilty of a matrimonial offense. Cilente v. Cilente, 146 Atl. Rep. 469.

A decree for the petitioner is advised.

Decree Nisi.

IN CHANCERY OF NEW JERSEY.

Between JOHN REEDER REEVES, Petitioner, and MARGARET D. REEVES, Defendant.	On Petition for Divorce. Decree Nisi. #68—416.

This cause coming on to be heard in the presence of Edward Thomas Moore, Esq., of counsel with petitioner and John M. Ward, Esq. and Peter J. McGinnis, Esq., of counsel with the defendant, on petition, answer and proofs taken in open Court and the Court having duly considered the pleadings and proofs and having heard and considered the argument of counsel from all of which it appears to the Chancellor that the petitioner and defendant were lawfully married on the 21st day of October, 1914 as alleged in said petition and that the defendant has been guilty of the act of adultery charged in said petition and that at the time the cause of action for divorce for the said adultery arose the petitioner and defendant were bona fide residents of this State and that the petitioner has continued so to be down to the time of the commencement of this action; and it further appearing that jurisdiction herein has been acquired by personal service of process upon the defendant as well as by her answer:

It is thereupon, on this 30th day of June, 1930, by his Honor, Edwin Robert Walker, Chancellor of

the State of New Jersey, Ordered, Adjudged and Decreed, and the said Chancellor by virtue of the power and authority of this court, and of the acts of the legislature in such case made and provided, does hereby order, adjudge and decree, that the said petitioner, John Reeder Reeves, and the said defendant, Margaret D. Reeves, be divorced from the bonds of matrimony for the cause of adultery, as aforesaid, and that the said parties, and each of them, be freed and discharged from the obligations thereof, unless within three months from the date hereof sufficient cause be shown why this decree should not be made absolute.

It is further Ordered, Adjudged and Decreed, that the said petitioner have the care, custody and education of Frances Barbara Reeves, Edward Harvey Reeves, Margaret Anna Reeves, minor children of the parties herein, until the further order of the court.

It is further Ordered, Adjudged and Decreed that the payment of alimony under the order entered herein on the 11th day of July, 1928, be and it hereby is terminated.

Respectfully Advised,
VIVIAN M. LEWIS,
V. C.

Stipulation.

NEW JERSEY COURT OF ERRORS AND APPEALS.

JOHN REEDER REEVES, Petitioner, and MARGARET D. REEVES, Defendant.	On Petition, etc. Stipulation.

It is hereby stipulated by and between counsel of the respective parties hereinabove, that the following exhibits, which were introduced into evidence at the trial of the above entitled matter, be and the same are hereby permitted to be omitted from the record, except that they shall be printed as hereinafter mentioned:

As to the Petitioner's Case:

There was introduced into evidence, six postal cards, three postmarked Washington, D. C., October 26th, 1928, 8:30 P. M., addressed to the children of the parties. It is agreed that the cards should not be photostated, but that the message contained on the rear thereof, only should be printed. The other three cards were postmarked Reading, Pa., September 18th, 1928, 11:00 A. M., addressed to the children of the parties. It is agreeed that the cards should not be photostated into the State of Case, but that the message only shall be printed.

Stipulation.

As to the Defendant's Case:

There was introduced into evidence, a National Geographic Magazine, Vol. 51, No. 3, of the issue of March, 1927. In the upper hight-hand corner, there are the initials M. D. R. placed there by the defendant. On page 309 of such magazine there is a picture showing an Irish Jaunting Cart. It was from this picture that the daughter of the co-respondent, Charles Petry, made an actual miniature. The miniature jaunting cart, made by the daughter of the co-respondent, was introduced into evidence also, which exhibit was an exact replica of the jaunting cart shown in the picture on p. 309 of the magazine hereinabove mentioned.

There was introduced into evidence, the original books of Dr. Was, the examining physician of Mr. Petry, the co-respondent. They were the doctor's usual visiting day books, in which he marked the calls, and the day upon which he called. It is hereby agreed that the printer shall print only the pages upon which the entries are written, showing the visits to Mr. Petry.

EDWARD THOMAS MOORE,
Solicitor of Petitioner.

WARD & McGINNIS,
Solicitors of Defendant.

Exhibits.

Dear Ed.:

I know you would be interested in this, the original of both the Declaration of Independence and of the Constitution are here. In some places the ink has faded so you can scarcely make out what is written.

Lots of love

Mother.

Dear Ed.:

This is a picture of the numerous hairpin curves you have to go around to get to the top of this mountain.

Do wish you were enjoying this trip with me.

Love,

Mother.

Dear Frances:

Very sorry you could not have taken this trip with me as we had originally planned. Am having fine time getting acquainted with the town which we just drove through a couple of years ago.

Love

Mother.

Exhibits.

Dear Frances:

This is without exception the most beautiful building of any kind that I have ever seen and there are plenty of wonderful buildings and places to see.

Lots of love

Mother.

Dear Peg.:

Next to the Lincoln Memorial, this ampitheatre comes. That is in the way the buildings impress me. Will tell you all about my little trip down here the next time I see you.

Lots of love

Mother.

Dear Peg.:

Here is where I'm writing this. A wonderful view from the top. I know you'd enjoy it, if you were her.

Love

Mother.

PHYSICIAN'S FIRST CERTIFICATE.

Nome of Patient: Charles D. Petry.
Residence: 32 Washington Ave. Hawthorne, N. J.
Date of First Examination: Dec. 29, 1927.
When taken sick: Dec. 27.
Previous Condition: Good.
(History of similar attack, 16 yrs. ago).
Diagnosis: Internal and External Hemorrhoids.
Complications: Internal and External Hemorrhoids.
Is Employee able to return to work? No.
If not, on what date will employee probably be able to return? Jan. 16 (?), 1928.
Remarks: Operation for Hemorrhoids advised.

FRANCIS WAS, M. D.
75 East 16th St., Paterson, N. J.

Date: Jan. 6-'28.

PHYSICIAN'S SUPPLEMENTAL CERTIFICATE.

Name of Patient: Charles D. Petry.
Residence: 32 Washington Ave., Hawthorne, N. J.
Date of most recent examination: Jan. 16th, 1928.
Diagnosis: Hemorrhoids.
Complications: Internal and External.
Recent changes in condition: General improvement
Prognosis: Good.
Is employee able to return to work? No.
If not, on what date will employee probably be able to return? Perhaps Jan. 23.
Will employee require further treatment? No.
Is there any evidence, or do you know of any causes of employee's present condition other than as described above or on your previous certificates in this case? No.

Remarks: None.

FRANCIS WAS, M. D.
No. 75 East 16th St., Paterson, N. J.

Date: Jan. 17.

New Jersey State Library

PHYSICIANS VISITING LIST

1927

Month—Dec.
Petry, C. D.

Date	25	26	27	28	29	30	31
					x		x

1928

Month—Jan.
Petry, Chas.

Date	1	2	3	4	5	6	7
		x		x		x	

Petry, C. D.

Date	8	9	10	11	12	13	14
		x			x		x

1928

Month—Jan.
Petry, C. D.

Date	1	2	3	4	5	6	7
		x		x		x	

Month—Jan.
Petry, C. D.

Date	8	9	10	11	12	13	14
		x			x		x

5 MAY.T.1931

Filed after the Oral Argument by leave of Court.

New Jersey Court of Errors and Appeals

Between
JOHN REEDER REEVES,
Petitioner-Respondent,

and

MARGARET D. REEVES,
Defendant-Appellant.

On Appeal from Court of Chancery.

APPELLANT'S SUPPLEMENTAL BRIEF.

In the above case the Court granted permission to counsel for appellant to submit this supplemental memorandum in reference to the charge of adultery, which Mrs. Reeves set up in her answer by way of recrimination.

The charge in the brief is that in 1920, the petitioner committed adultery with a Mrs. Burns at respondent's parsonage in Absecon, Atlantic County, New Jersey. The evidence comes from the following source:

SAMUEL E. CROWLEY, page 404 to 406 inclusive. The substance of his testimony is that Mr. Reeves told witness he was madly in love with Mrs. Burns; that he had been indiscreet, and later he said that he had committed adultery with her. He finally typed out a confession in Mr. Crowley's office, and that evening signed the confession and swore to it before Mr. Crowley, in the presence of Mr. and Mrs. Burns; that Mr. Burns took the affidavit and put it in a safe deposit box; that the

adultery had been committed under the following circumstances:

Mrs. Burns had been brought over to the parsonage to care for the Reeves children. Petitioner and defendant then left for Atlantic City, but on the way over, petitioner pretending to have a headache got off the car and went back alone to the parsonage, where he had adulterous relations with Lena Burns (p. 405, ll. 15-30).

AMBROSE L. HAMELL, president of the Board of Trustees of the Absecon Methodist Church (p. 411) testified that petitioner left the Church as a result of rumors he had heard about town, with reference to himself and Mrs. Burns. He left over night and never appeared at the Church again; never offered any explanation (p. 411, at bottom; p. 412 at top.

Affidavit of Bishop Berry read into the testimony of Mr. Hamell; that the contents of the testimony were discussed by him and Mr. Reeves.

MARGARET P. DICKHAUT (p. 414), mother of defendant, said petitioner had confessed his adulterous relations with Mrs. Burns (p. 414, ll. 10-30).

In rebuttal, William H. Reeves, father of petitioner (p. 421), told of a discussion he had had with the defendant about the paper of confession that petitioner had signed with reference to his relations with Lena Burns (p. 421, ll. 30-40); that defendant had told him that she had seen this paper. This was probably in contradiction of Mrs. Reeves' statement that she had never seen this statement and knew nothing about it until after the separation of her and petitioner.

As to the law that a confession of adultery standing alone is not sufficient, we would say that generally in the cases cited, the person alleged to

have made the confession has alleged coercion or duress, or the confession has been obtained under circumstances from which could not entirely be excluded the possibility of collusion. The case at bar differs in the following respect. The petitioner sat in Court, heard all these charges and did not deny them or explain them. He did not deny or explain his confession. The case also differs from the cited authorities in that the confession was sworn to.

There are, however, corroborating circumstances to the confession. In his confession to Mr. Crowley, he said Mrs. Burns had been left in the parsonage; that he and his wife left for Atlantic City; that he pretended he had a headache, and had gotten off the car and returned to the parsonage, where he had adulterous relations with Mrs. Burns. Mrs. Reeves testified that this is what he told her. This showed opportunity. His statement to Mr. Crowley that he was madly in love with Mrs. Burns (p. 404, ll. 35-37), his turning to Mrs. Burns after the confession had been signed and saying, "Lena, if anything happens between me and my wife, will you leave Walter and come to me?" and she said, "Yes." (p. 406, ll. 20-35). His statement to Mrs. Dickhaut that he loved Mrs. Burns (p. 415, l. 15) showed desire. In connection with it, is his unexplained flight from Absecon.

May Term, 1931.

Respectfully submitted,

WARD & McGINNIS,
Solicitors for Defendant-Appellant.

Peter J. McGinnis.
Of Counsel.

New Jersey Court of Errors and Appeals

Between JOHN REEDER REEVES, Petitioner-Respondent, and MARGARET D. REEVES, Defendant-Appellant.	On Petition for Divorce. On Appeal from the Court of Chancery.

BRIEF OF RESPONDENTS.

Statement of Case.

This is an appeal from a decree granting a divorce to the respondent on the ground of adultery.

The appellant interposed an answer denying the adultery and set up two defenses by way of recrimination anly. The recriminatory charges consisted of an allegation of adultery and extreme cruelty. There was no counterclaim and the corespondent Petry named in the petition, did not intervene.

The Vice Chancellor who tried the case filed an opinion which is found in the State of the Case, page 424. In this opinion the Vice Chancellor discusses the salient points in the testimony on behalf of both petitioner and defendant. He comes to the conclusion that the testimony submitted on behalf of petitioner is amply sufficient to sustain the allegations of adultery and that the testimony adduced on behalf of the defendant is not credible.

This being so there is no ground for an appeal since the Vice Chancellor is the judge of the credibility of the witnesses, with ample opportunity to observe their demeanor and manner of testifying, provided there is evidence to support the conclu sions made by him. In this particular case the evidence proved the allegations of adultery up to the hilt and with ample corroboration by numerous witnesses.

In the case of Sturm v. Sturm, 101 N. J. Eq., 313, the rule of law applicable to this appeal is laid down.

The court says: "The question of credibility was preeminently one for the Vice Chancellor to decide, for he was in a position to observe the demeanor of the witnesses testifying before him, and had the opportunity of taking note of the manner in which they gave their testimony, of their candor and desire to tell the truth. There was testimony, if true, warranting the Vice Chancellor in finding that the charge of adultery against the wife had been established. We cannot, therefore, say that the result reached by the Vice Chancellor was not warranted by the evidence."

POINT I.

Commission of adultery by defendant was overwhelmingly proven.

The following is a resume of the more salient testimony showing the "commission of adultery by the defendant with the co-respondent Petry. In addition the record will show other facts and circumstances which point to defendant's guilt, but to which it is unnnecessary to refer. One witness saw her in the act of adultery.

Incident in Bedroom of Parsonage.

The small son of the parties, Edward Reeves, aged twelve, testified p. 194, l. 38:

> "I heard voices downstairs, and I had a toothache, and I called my mother, and I called her and two of them came up, and I thought it was my Daddy, and I said: 'Hello, Daddy', and then my mother tried to hide him, and he didn't answer me, and my mother fixed my tooth and then she said she was going to bed, and she turned out the light and went in her room."

He saw Petry and defendant, and defendant took Petry in her bedroom, (p. 194, l. 17).

No comment on this testimony is necessary, except to refer to the opinion of the Vice Chancellor as to the appearance, intelligence and straightforwardness of the boy's story which obviously carried convicted.

Incident on the Couch.

On May 29, 1928, which was the day before Memorial Day, petitioner returned from Asbury Park, but did not go immediately home (P. 27, L. 17). He met Mr. Pollitt (Barrett) and Mr. Bell, the sexton and watched the parsonage from the church. Petitioner saw Petry enter the parsonage and about half an hour later saw him leave. The shades were all drawn downstairs in the parsonage (P. 27, L. 21). Later he took Mr. Pollitt (Barrett) to Paterson and then same home. On entering the parsonage defendant seemed startled and she was clad in a bathrobe minus her clothing. Petitioner asked her what she was doing down stairs in that condition and she told him that she had taken a bath and had come down to turn off the water heater. Petitioner thereupon went to the water heater and found it was stone cold (P. 27, L. 35).

During this evening adultery was unquestionably committed by defendant and Petry and *they were seen in flagrante delicto* by Frances Reeves, the thirteen year old daughter of the parties. She testified, Page 170, L. 10, as follows:

> "A. On May 29th, I retired at the usual time, between half past seven and eight o'clock, and I retired and went to bed, and later in the evening I was awakened by voices. Thinking that my father had come home, I started to go downstairs. I was clad only in my nightgown. I got to where the stairs turn, and I started to go the rest of the way and I looked in the parlor, and I saw my mother and Mr. Petry on the box couch, and I couldn't see anything of my mother but her head and feet. She had on black shoes and Mr. Petry had on blue

clothes, and I was terribly frightened and I ran upstairs and went to bed.

Q. Can you describe any more, the position? A. My mother was facing me, and Mr. Petry was facing the other way, and he was lying upon her.

Q. And they were on the box couch, you say? A. On the box couch."

Attention of the Court is called to the opinion of the Vice Chancellor in commenting on the testimony of the daughter and of the son. He says, P. 426, L. 37):

> "Each of these children were intelligent and mature for their ages and each of them told a clear and straighforward story and the court attaches full credence to their testimony. Both of them were subjected to severe cross-examination which did not impair their stories to any extent."

The cross-examination of the boy ran to eight pages of the record and that of the daughter was dragged out to twenty pages in the futile effort to confuse them or get them to contradict their plain statements.

In desperation defendant's counsel attempted to get the daughter to admit she could not have seen what she indutiably did see, and many hours of the trial court's time were wasted in discussions as to how much of the living room was visible from various steps on the staircase in the parsonage. To add a final touch of the ridiculous counsel for the defendant later put on three or four witnesses who solemnly testified that standing three steps from the *top* of the stairway the extreme corner of the living room on the side next to the dining room could not be seen. Of course the relevant matter was as to how much could be seen from near the *bottom* of the staircase.

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Actually it is not a matter of any moment from what point on the staircase a clear view of the extreme corner of the living room could be had. The little girl did not testify definitely from exactly what point she saw what she unquestionably did see. At the time her exact position would naturally make no impression on her since she was on her way downstairs to greet her father and of course went far enough to see everything. Every effort was made to confuse her on this immaterial matter but even so she did not contradict herself. She never fixed any definite place from which she had seen her mother and Petry on the couch. The following is her testimony as to her position, (P. 177, L. 35):

> "Q. How far did you go down? A. Down far enough to see into the parlor.
>
> Q. That wasn't the reason you went down there? A. No, sir.
>
> Q. You started to go down, with the intention of going down all the way, didn't you? A. I did.
>
> Q. So as to be in the company of your father? A. Yes, sir."

and again P. 178, L. 16, she said:

> "Q. And as you come down that last flight, you come right into the hallway? A. Yes, sir.
>
> Q. And you are then facing this living room? A. Yes, sir.
>
> Q. Where the lights were? A. Yes, sir.
>
> Q. And you were dressed in your night clothes? A. Yes.
>
> Q. And you got down to where you could see? A. Yes.
>
> Q. And that would bring you down to pretty near the bottom of the stairway? A. Yes.
>
> Q. How many steps were you from the bottom of the stairs then? A. I don't know.

Q. How many do you think? A. About three or four.

Q. And then you could look directly in this room? A. Yes, sir."

It is obvious from this testimony that it is immaterial that from certain points well up the stairway a clear view of the entire couch could not be obtained. It is clear that she went far enough to see what she did see. All the witnesses, both petitioner's and defendant's, agreed that from a point at or close to the bottom of the stairway a clear vision could be had of the corner of the living room. Defendant herself testified, P. 251, L. 19, that by leaning over the newel post the whole corner of the room would be visible. William Harvey Reeves, an attorney at law in the State of New York and brother of the petitioner testified, P. 372, L. 11:

"Q. Describe the line of vision? A. From my position, standing erect on the third step, off into the southwest corner—in the corner represented by the intersection of the dining and living room, to a point approximately four inches from the intersection of those walls."

Mr. Keltie testified, P. 382, L. 20, that a line from the center of the first, second and third steps from the bottom would strike the far corner of the room within three or four inches and the further up the stairs he went the closer to the bannister it was necessary to be in order to have the same line of vision. He further said, P. 383, L. 32, that standing upright from the third step he could see within about four inches of the corner.

It is sufficiently plain that the effort to discredit the testimony of the daughter on the theory that it was impossible to have seen enough of defendant

and Petry to identify them, because of an obstruction to her line of vision by the construction of the house, is based solely on a fantastic assumption that she was in a certain definite position, where as a matter of fact she does not say she was. She says she went far enough to see them clearly and there can be no question of doubt that she did so.

Incident in the Cellar.

On September 9, 1927, Mrs. Feldman had just come to visit defendant. She was a friend of both parties and came to visit the parsonage. She came to the parsonage that afternoon as the guest of defendant, as defendant herself testified, P. 212, L. 12, and Mr. Petry came there that night as defendant further testified, (P. 212, L. 14).

Mrs. Feldman testified, P. 87, L. 26, et seq. that about nine thirty in the evening defendant came in with a strange man, afterwards identified as Petry. Petitioner was out on a sick call. Defendant did not introduce the witness to the man but went right down to the cellar with him, stating they were going to fix the radio. They remained in the cellar from twenty minutes to half an hour when footsteps were heard on the front porch and petitioner came in, whereupon defendant and Petry came upstairs out of the cellar very much excited and terribly flushed. Petitioner then introduced witness to Mr. Petry. Petry only stayed long enough to acknowledge the introduction and left, insisting he was in a hurry to get out. The entire radio apparatus, as a matter of fact, was in the sitting room and not in the cellar, so that the excuse for going to the cellar was a false one. Meantime the children were upstairs asleep.

Incident in Churchyard.

On May 10, 1928, petitioner met the detective Stender, who was in an automobile, picked up Mr. Osborne and they went to Hawthorne, (P. 23, L. 7), arriving around nine o'clock. At about ten thirty they went to the Masonic Temple, saw Mr. Petry come out and followed him (P. 23, l. 30). They followed Petry who went from the Masonic Temple to the front of the parsonage and continued down the street. Petitioner and Stender turned the car down a side street and Osborne got out and followed Petry on foot. Soon after Osborne signalled petitioner and petitioner and Stender came back to the avenue just in time to see Petry turn down the walk by the south side of the church where it is very dark, (P. 24, L. 2). Immediately afterwards petitioner saw defendant cut across the street with a blanket or shawl folded up under her arm, (P. 24, L. 7). In about thirty-five minutes defendant came back with a bundle under her arm and went to the parsonage, (P. 24, L. 10). There is a large plot behind the church which is not lighted and is approached from the street by a cinder path alongside the church, (P. 24, l. 30). The bundle she had rolled up under her arm was an old shawl or blanket belonging to petitioner's grandfather, (P. 25, l. 8). The next morning petitioner found this shawl stuck down in back of the couch in the front room of the parsonage, (P. 25, l. 37). When he found it it was covered with short pieces of grass and small pieces of chips of wood pulp. On discovering this condition he then went back of the church with Mr. Pollitt (a stenagrapher's error for Barrett) and still later with the two detectives, and found places that corresponded to a place where the shawl was laid places where there were pieces of grass and wood pulp from an

old stump which was cut down. (P. 26, L. 7). At the same time and place he found a handkerchief which he recognized as defendant's. He recognized this because she had shown it to him when she purchased it and she called his attention to certain distinctive peculiarities and coloring about it. This handkerchief was offered in evidence. (P. 26, l. 17, *et seq.*).

Petitioner was corroborated as to the incidents of May 10th by the two detectives, Stender and Osborne. Stender testified, P. 96, that about ten-twenty-five he and petitioner saw Petry come out of the Masonic Lodge, stop in front of the parsonage and look in. (P. 96, L. 23). He then went to the Beehive Confectionery store, telephoned, went to the church and went down the cinder path. (P. 96, L. 39, *et seq.*) Mrs. Reeves came out of the house with a bundle under her arm. (P. 97, L 30). She followed Mr. Petry down the cinder path two or three minutes after he had gone back of the church. (P. 98, L. 4). About thirty or thirty-five minutes afterwards defendant came down the street on the other side of the church from the cinder path. She still had a bundle under her arm and passed within two feet of the car. (P. 98, L. 24). Petitioner was very excited. Witness had to sit on him practically to keep him from jumping out of the car and attacking defendant and Petry. (P. 99, L. 3). The next morning witness went back of the church and was present when the handkerchief was found, which is the handkerchief offered in evidence. (P. 101, L. 8). Osborne the other detective, (P. 129, *et seq.*) testified as did petitioner and Stender. He says he urged petitioner not to follow defendant and petitioner back of the church because walking on the cinder path would make a noise. (P. 131, L. 28).

Opportunity and Inclination.

Petitioner was a pastor of a church in Hawthorne and lived in a parsonage almost across the street from his church. The co-respondent Petry lived in the neighborhood. He was an elder in the church and a member of the choir in which the defendant also sang.

Petitioner was often away from home in the evening on pastoral duties and frequently was away overnight on visits to his parents in Asbury Park, so that Petry had many opportunities to see defendant and also to visit her home when petitioner was away. Petitioner himself testifies, page 21, line 32, "that he often found Petry just leaving the parsonage as petitioner was coming home." Petry himself testified, P. 269, L. 38 "that he was not a visitor of petitioner." Petry admitted that he did go to the parsonage and saw defendant there. That these were secret visits is shown by the testimony of Petry's wife, P. 313, L. 14, "that she did not know Petry was meeting Mrs. Reeves." These clandestine meetings were further testified to by the children of the parties. The daughter, a thirteen year old girl, testified, P. 171, L. 6:

> "he visited the house very frequently especially when my father was away. One evening * * * Mr. Petry was there * * * and then after she told us we had better go to bed and then I heard my mother say 'Mr. Petry you had better come back later'."

The girl further testified P. 171, L. 22:

> "My mother told me never to tell my father he came to see her while he was away because if I did I would be very sorry."

The son of the parties testified, P. 194, L. 26:

> "about a day or two afterwards she said 'you won't tell daddy what I do while he is away'."

Petitioner became very suspicious of his wife's conduct with Petry in March of 1928, when in the vestibule of the church he found his wife in Petry's arms. He told Petry to leave his wife alone and told her that she was betraying him, whereupon she told him to mind his own business. Petry on the other hand was conciliatory and tried to smooth things over, P. 20, L. 6, *et seq.* It was following this incident that petitioner engaged detectives and asked some of his friends to keep an eye on her. On April 11th, his brother and William H. Bell, the sexton of the church, saw defendant and Petry go into the parsonage while petitioner was absent. (P. 153). Harvey Reeves, a brother of petitioner, testified that he followed defendant and Petry to the parsonage, they went in and disappeared into the back of the house towards the kitchen. This part of the house was dark and they stayed in the dark part of the house for fifteen or twenty minutes. The witness circled the house and said there was no light in it except in the front hall. (P. 145, L. 16, *et seq.*) In this he is corroborated by Mr. Stender, one of the detectives. (P. 95.)

On one occasion petitioner went on his knees to defendant and pleaded with her to give Petry up. (P. 85, L. 27). This incident was corroborated by Mr. Bell, the sexton, who says that he unexpectedly found petitioner on his knees pleading with defendant. (P. 155, L. 14).

During church services defendant and Petry sat in the choir together and it was admitted by them and other witnesses for defendant that it was com-

mon practice to pass notes back and forth among members of the choir during the church service. After petitioner became suspicious of his wife, he asked Bell to watch. Bell testified (Pgs. 158, 159) that about the end of May he saw defendant and Petry writing notes on scraps of paper and handing them back and forth. Some of these notes were found by Mr. Bell, and were turned over to petitioner. About a week before this suit was started, Mr. Bell saw notes pass back and forth between defendant and Petry, written on scraps of paper and at one time Mr. Petry appeared to be drawing something on the paper. Mr. Bell was only three or four yards away from them. On the last occasion he saw them writing notes Mrs. Reeves put one of them inside the breast of her dress. He recognized them as the picture and notes offered in evidence previously on the trial, namely, Exhibits P-3 and 4. This testimony is on P. 158 and 159 of the record. Petitioner himself produced the notes handed to him by Mr. Bell. The night after defendant had placed the note in her breast, petitioner found it torn up in the fireplace of the parsonage. (P. 29, L. 3). He was acquainted with the handwriting of defendant and Petry and has seen them both write, and on one of the pieces of yellow paper there is handwriting in Petry's writing. (P. 28, L. 28). This is the petitioner's exhibit P-3 reproduced obverse and reverse in photostat at the end of the State of the Case, and is the paper petitioner found torn up in the fireplace. (P. 29, L. 3). Another yellow sheet of paper he found torn up in the Bible. (P. 30, L. 34). This is in the handwriting of Petry and defendant, (P. 30, L. 10). These scraps pasted together are in evidence as Exhibit P-4 and are reproduced by photostat as part of the State of Case at the end.

Other notes passed between defendant and Petry were in the handwriting of defendant and Petry and were given to petitioner by Mr. Bell (P. 31) but have not been reproduced.

The defendant and Petry were seen to write these documents and they were found by petitioner in the parsonage, obviously torn up by defendant, who did not suppose they would be found. These documents show an extreme degree of intimacy between the parties and some of the language on the documents is suggestive and the attention of the Court is particularly called to the indecent drawing at the top on Exhibit P-3, and the words "some biology".

Both defendant and Petry were examined as to the handwriting on these notes. Defendant admitted that notes passed between them. (P. 245, L. 11). When examined as to the handwriting she testified as to Exhibit P-4, P. 231, L. 26, "it does look something like my writing"; and again on P. 232, L. 8, "it is probably my handwriting", and again on P. 251, L. 36, she testified "it was the note that looked like my handwriting but I could not identify it." On P. 252, L. 25, "this looks like my handwriting but I never remember writing anything of that kind." Again P. 253, L. 39, "I remember saying it looked like my handwriting." As to Exhibit P-3, she testified, P. 254, L. 22, "that she don't know in whose handwriting that is" and then for two or three pages of cross-examination she hesitates and cannot say whether the notes are in her handwriting or not.

The foregoing incidents of surreptitious meetings, attempts to keep the children from telling about them, the gross familiarity between them which was discovered by petitioner and more particularly the indecent note exchanged by them in-

dicate clearly that there was both inclination and opportunity for the commission of adultery by the defendant and Petry and these facts alone would almost be enough to sustain a decree of divorce.

These circumstances are cumulative to the incidents already considered which completely demonstrate the guilt of the defendant.

POINT II.

The testimony in denial of the adultery was not convincing and was not credited by the court.

In view of the overwhelming testimony as to their guilt, these denials naturally had very little weight with the court. Attention is again called to the opinion of the Vice Chancellor as to the respective credence given by him to the witnesses.

In considering the value of the denial it was noteworthy that the presence together of Petry and defendant were admitted by them on three out of four of the days set up in the complaint. (Petry's testimony, P. 288, L. 10).

As to the incident behind the church on May 10th, Petry insisted that he was behind the church at a quarter of eleven. (P. 289, L. 22). Defendant testified, (P. 220, L. 2, *et seq.*) that she left the house about half past ten, went behind the church and arrived home about eleven o'clock. These statements are in striking confirmation of the testimony of petitioner and the two detectives and lead irresistably to the conclusion that defendant and Petry were together behind the church at the same time.

Their respective explanations of how they happened to go behind the church are neither satis-

factory nor convincing. Attention is called to the opinion of the Vice Chancellor as to these explanations. (P. 427, L. 29, *et seq.*). The testimony referred to by the Vice Chancellor as to defendant's explanation will be found at P. 220. She says on that page L. 11, she stayed at the house of Mrs. Whering (correctly Waring) about ten or fifteen minutes and then contradicts herself on this point, same page, L. 27, by saying she did not stop there at all. Mrs. Waring herself testified (P. 364) she did not know what date defendant was at her house.

As to Petry's explanation of his presence behind the church, he says, (P. 275, L. 22, *et seq.*) that he went in back of the church to see whether there were any boys on the roof, although there was no reason for him to be in the neighborhood of the church at that time except for an assignation with defendant, since the passage alongside the church was well out of his way from Joe's confectionery store, from which place he says he was on his way home.

As to the testimony of the boy as to the incident in the bedroom of the parsonage, Petry did prove that he was seriously sick at the time the boy thinks the incident occurred. The boy did not claim to be exact as to the date and was in error as to the time he thought it occurred, but his story carries conviction and there can be no doubt of the truth of the incident itself. As an explanation of the boy's error as to the time, attention is called to the fact that it was not until after suit was begun on June 11th that he told anyone of the incident. (P. 199, L. 19). It is evident that the boy then overheard talk in his grandparent's home as to Petry's conduct and this is what caused him to tell for the first time what he had seen.

An attempted alibi is set up for the incident of the suspicious conduct in the kitchen of the parsonage on April 11th. Mrs. Dickhaut, the mother of defendant, testified that Petry was not alone with defendant in the house that night because she, Mrs. Dickhaut, was herself there all evening and night. Mrs. Dickhaut is flatly contradicted by the little girl, (P. 367, *et seq.*) who testified she remembered the day because of its relation to school vacation and Mrs. Dickhaut was not in the parsonage on that day as defendant had previously taken Mrs. Dickhaut to Asbury Park. Mrs. Feldman testified according to the record in the State of the Case, (P. 376, L. 15) that she saw Mrs. Dickhaut at Asbury Park on the 7th of April. This is an obvious error in the record for the 11th day of April, as is shown by her subsequent testimony and also by the fact that the 7th day was not in any way in question. Reference to a calendar shows that the 7th day of April, 1928, was a Saturday. It will be noted that on L. 18, Mrs. Feldman says, "It was a Wednesday", *i. e.* the 11th. Further confirmation of the fact that there is a clerical error in the record is given by the opening of the cross-examination of the witness on L. 33, where the date is stated as April 11th. Again on P. 377 she testified, L. 28, that she was sure that Mrs. Dickhaut was in Asbury Park on the 5th and the 11th. There would be no sense or purpose in Mrs. Feldman testifying as to what took place on the 7th. Her actual testimony with this correction of the date is that on the 11th she and petitioner stopped at Mrs. Dickhaut's in Asbury Park and got a package which petitioner was to give to defendant on his return to Hawthorne and accordingly Mrs. Dickhaut did not come to Hawthorne on that day as she claims. (P. 376, L. 23).

As to May 29th, defendant, Petry, and one Locker testified that early in the evening Petry came over to get a picture of a jaunting car and that Petry left a few minutes before Locker did. This was early in the evening and it was easily possible for Petry to come back later after Locker had gone and the children had gone to bed. There is no corroboration of Petry's statement that he did not return, except that of defendant.

POINT III.

Appellant's brief shows no grounds for reversal.

Appellant's brief is nothing but a long and involved rehash of the testimony with an attempt to attack the correctness of the decision of the Vice Chancellor on the facts. As set forth in his opinion, the Vice Chancellor believed the testimony of the witnesses for the petitioner and did not believe the testimony of the defendant. This is conclusive under the decision of the Court of Errors and Appeals in Sturm v. Sturm, 101 N. J. Eq. 313, hereinbefore quoted.

But appellant in a desperate attempt to meet the testimony has gone into a long analysis of a considerable part of it, picking out such parts as appellant considers favorable to it and ignoring the rest. There is an involved and tortured discussion of the testimony based largely on distorted interpretations and unfair inferences.

The respondent does not consider it necessary to follow through appellant's brief page by page. Respondent will however take up one or two of the matters on which appellant lays particular stress

as examples of the distortions of the testimony and actual misstatements of fact on which the arguments are based.

An effort is made to discredit the testimony of Frances Reeves, the daughter, as to the incident of May 29th. Her testimony is quoted from page 172, State of Case, that she told her father about this incident after she went to Asbury Park which was on June 11th. She testified this was quite a while after and in response to the question as to whether it was one or two months after she says she has forgotten. She then stated that in the following Fall she went to school. Counsel then proceeds to refer to the allegation in the petition herein that defendant committed adultery with Petry in May.

The brief then proceeds

> "The petitioner takes an affidavit on June 6th, files it on June 7th, and under oath says that his wife committed adultery at his home on May 29th, 1928, yet from the very mouth of his daughter, he never knew of the incident until after June 11th, and shortly before the fall. *How did the petitioner come to put this date in the petition? The man has absolutely perjured himself* before a Court of Equity, and then asks that he be given relief."

Here is an extremely gross misstatement of the facts.

The only affidavit in the case dated June 6, 1928, is that attached to the petition. *The petition does not mention the date of May 29th at all,* as reference to it on page 5, State of Case, will show; so that the statement that petitioner has perjured himself by making an affidavit to that effect as to something of which he did not know is most un-

called for, and is directly contradicted by the documents. The statment that the daughter did not tell petitioner until shortly before the Fall is wholly unsupported by the evidence. The only reference to the Fall is in regard to her going back to school and has no reference whatever to the time she told her father, except that on Page 173, she says she knows it was before she went back to school. The only definite statement she makes is that she told her father after June 11th and does not remember just when.

The petition mentions generally the month of May. At the time the petition was filed petitioner had ample reason to accuse his wife of adultery in the month of May, apart from any information he subsequently acquired from his daughter. On May 10th, occurred the incident in the church yard, and on May 29th itself the fact was, and he testified, that he himself coming home that night found his wife undressed and downstairs under suspicious circumstances and giving him a false reason for being there in such condition. So that the argument that the daughter's testimony was concocted because of an alleged false affidavit in rela tion thereto by petitioner is utterly barren of weight.

Examination of the pleadings shows that specific dates as to the commission of adultery by defendant are first given in the bill of particulars, which is undated, but which must have been filed after the second day of July, 1928, since it itself recites that it was given in compliance with an order made July 2, 1928. Here for the first time appears May 29th, along with other dates.

All the rigmarole in an attempt to contradict the petitioner by the testimony of the sexton Bell as to the night of May 29th, is based upon the sup-

pression of the fact that Mr. Bell and petitioner separated when they left the church and Bell did not know where petitioner went. Bell testified, page 157, line 18, that he walked down Cedar Avenue, lost sight of petitioner and Barrett, then saw Barrett, and did not know where Reeves was. On page 164, line 28, he testified that when Barrett and petitioner left the church he did not see or know where petitioner went. The point that appellant seeks to raise is of very little importance and at most is such a minor discrepancy as can always be found in testimony of different witnesses. If, as is probable, Petry made two visits to the parsonage that night, there is no discrepancy whatever in the testimony.

The foregoing are fair samples of the constant suppression of testimony unfavorable to appellant, and unfair inferences draw from the testimony that is quoted. Respondent will not burden this brief with any further examples.

POINT IV.

The recrimination charges were not proven.

There were two charges in recrimination. One alleged extreme cruelty, and the other adultery alleged to have been committed by petitioner in the year 1920.

In Cilente v. Cilente, 7 Adv. Rep. 1021, 146 Atl. 469, it was held that "a right to a divorce cannot be affected by recrimination unless the petitioner be guilty of a matrimonial offense which would entitle defendant to a decree were he not guilty."

Bad conduct not amounting to a matrimonial offense cannot constitute a bar to a suit based on adultery. Seibert v. Seibert, 83 Atl. 230.

The general doctrine of unclean hands does not apply in a divorce action. Jatman v. Jatman, 148 Atl. 8.

Extreme Cruelty.

Appellant apparently abandoned any effort to claim extreme, since appellant's brief is barren of any reference to any proof of it.

The only acts of cruelty related to a few items in the early years of married life. These were not corroborated and of course were condoned, since the defendant testified that up to the time of the beginning of the action she was quite content to live with petitioner, submitted willingly to an act of intercourse with him just previous to the beginning of this action and that it was not dangerous for her to live and cohabit with him, (State of Case, page 237, line 10). She testified, (page 235, line 18), that she had sexual intercourse in May, 1928. Petitioner's testimony was that the last act of intercourse was on March 16, 1928, (State of Case, page 28, line 9). These facts alone put her out of court on this charge.

Alleged Adultery by Petitioner.

The sole proof of petitioner's adultery was testimony as to alleged confessions he is supposed to have made some ten years ago.

There is not one scintilla of competent evidence or otherwise to show his guilt or connect him with any such offense.

It is well settled law that the confession of adultery without corroboration is no proof of the offense. Biddle on Divorce, page 61; Storms v. Storms, 71 Eq 549.

Here the court says "This admission is not sufficient proof of the only act charged."

Howard v. Howard, 77 Eq. 186.

Here Chancellor Walker, then Vice Chancellor, quotes with approval on page 187 from Jones v. Jones to the effect that "a divorce will not be granted when admissions of the criminal party constitute the entire basis upon which to rest the conclusion of guilt.

Even had petitioner been guilty of adultery the offense was condoned; and to be a defense the adultery of which petitioner must be guilty is necessarily adultery not condoned and accordingly the burden of showing lack of condonation was on defendant. This she has not done.

Storms v. Storms, 71 Eq. 549, holds that a condoned act of adultery by petitioner is not a defense to his suit.

Not only did defendant not prove that she did not condone the alleged adultery of petitioner, but the facts show conclusively that she continued to cohabit with him long after she was familiar with all the facts as to his alleged relations with Lena Burns.

It is only necessary on this point to call the attention of the court to the deposition or affidavit of Bishop Berry, (State of Case, Page 413) in which Bishop Berry says he discussed the alleged confession with defendant some ten years ago.

By her own testimony, (State of Case, page 235, line 18), she had intercourse with him in May, 1928. Petitioner's testimony is that the last act took place on March 16, 1928, (State of Case, page 28, line 9).

Defendant's claim that there was no condonation because she had no knowledge of the alleged

act of adultery is preposterous. Her mother would have us believe that petitioner confessed ten years ago and she never mentioned it to her daughter until after this action was started. Defendant's counsel at the trial stated, (page 246, line 33), that petitioner was put out of the church at Absecon on account of his adulterous conduct. Of course there was no proof of this. Had there been, defendant could hardly have been ignorant of it. There were some witnesses and their testimony is much elaborated by innuendo to show that this was a fact or that there was a scandal in the church. The facts are as shown by the certificate from the Bishop of petitioner's church, (State of Case, page 298), that petitioner was not tried or dismissed from the church and that petitioner continued with the church at Absecon until March of 1921 when he took a supernumerary relation.

This conclusively disposes of all the nonsensical testimony as to the alleged flight of petitioner, since the alleged confession according to Crowley was made in the summer of 1920 (State of Case, page 404, line 21).

It is obvious that the accusation of adultery against petitioner, like the accusation of cruelty, neither of which were proved, were simply brought into the case as a smoke screen to cover the clearly proved guilt of defendant.

The attention of the court is called to the comment of the Vice Chancellor in his opinion to the effect that there was no satisfactory testimony presented in support of the recriminatory charges.

Conclusion.

It is submitted that the clear opinion of the Vice Chancellor who tried this action, discussing the evidence and passing on the credibility of the witnesses, conclusively disposes of this appeal. There was ample evidence to sustain his decision. No question is raised as to the admittance or exclusion of evidence. The sole question before the court was one of fact. This having been decided favorably to the petitioner, and the defendant having wholly failed to prove her recriminatory charges, it is submitted that the decree of divorce should be affirmed.

Respectfully submitted,

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5 MAY.T.1931

Filed after the Oral Argum
by leave of Court.

New Jersey Court of Errors and Appeals

Between
JOHN REEDER REEVES,
Petitioner-Respondent,

and

MARGARET D. REEVES,
Defendant-Appellant.

On Appeal from Court of Chancery.

APPELLANT'S SUPPLEMENTAL BRIEF.

In the above case the Court granted permission to counsel for appellant to submit this supplemental memorandum in reference to the charge of adultery, which Mrs. Reeves set up in her answer by way of recrimination.

The charge in the brief is that in 1920, the petitioner committed adultery with a Mrs. Burns at respondent's parsonage in Absecon, Atlantic County, New Jersey. The evidence comes from the following source:

SAMUEL E. CROWLEY, page 404 to 406 inclusive. The substance of his testimony is that Mr. Reeves told witness he was madly in love with Mrs. Burns; that he had been indiscreet, and later he said that he had committed adultery with her. He finally typed out a confession in Mr. Crowley's office, and that evening signed the confession and swore to it before Mr. Crowley, in the presence of Mr. and Mrs. Burns; that Mr. Burns took the affidavit and put it in a safe deposit box; that the

adultery had been committed under the following circumstances:

Mrs. Burns had been brought over to the parsonage to care for the Reeves children. Petitioner and defendant then left for Atlantic City, but on the way over, petitioner pretending to have a headache got off the car and went back alone to the parsonage, where he had adulterous relations with Lena Burns (p. 405, ll. 15-30).

AMBROSE L. HAMELL, president of the Board of Trustees of the Absecon Methodist Church (p. 411) testified that petitioner left the Church as a result of rumors he had heard about town, with reference to himself and Mrs. Burns. He left over night and never appeared at the Church again; never offered any explanation (p. 411, at bottom; p. 412 at top.

Affidavit of Bishop Berry read into the testimony of Mr. Hamell; that the contents of the testimony were discussed by him and Mr. Reeves.

MARGARET P. DICKHAUT (p. 414), mother of defendant, said petitioner had confessed his adulterous relations with Mrs. Burns (p. 414, ll. 10-30).

In rebuttal, William H. Reeves, father of petitioner (p. 421), told of a discussion he had had with the defendant about the paper of confession that petitioner had signed with reference to his relations with Lena Burns (p. 421, ll. 30-40); that defendant had told him that she had seen this paper. This was probably in contradiction of Mrs. Reeves' statement that she had never seen this statement and knew nothing about it until after the separation of her and petitioner.

As to the law that a confession of adultery standing alone is not sufficient, we would say that generally in the cases cited, the person alleged to

have made the confession has alleged coercion or duress, or the confession has been obtained under circumstances from which could not entirely be excluded the possibility of collusion. The case at bar differs in the following respect. The petitioner sat in Court, heard all these charges and did not deny them or explain them. He did not deny or explain his confession. The case also differs from the cited authorities in that the confession was sworn to.

There are, however, corroborating circumstances to the confession. In his confession to Mr. Crowley, he said Mrs. Burns had been left in the parsonage; that he and his wife left for Atlantic City; that he pretended he had a headache, and had gotten off the car and returned to the parsonage, where he had adulterous relations with Mrs. Burns. Mrs. Reeves testified that this is what he told her. This showed opportunity. His statement to Mr. Crowley that he was madly in love with Mrs. Burns (p. 404, ll. 35-37), his turning to Mrs. Burns after the confession had been signed and saying, "Lena, if anything happens between me and my wife, will you leave Walter and come to me?" and she said, "Yes." (p. 406, ll. 20-35). His statement to Mrs. Dickhaut that he loved Mrs. Burns (p. 415, l. 15) showed desire. In connection with it, is his unexplained flight from Absecon.

May Term, 1931.

Respectfully submitted,

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Peter J. McGinnis
Of Counsel.

New Jersey Court of Errors and Appeals

Between JOHN REEDER REEVES, Petitioner-Respondent, and MARGARET D. REEVES, Defendant-Appellant.	On Petition for Divorce. On Appeal from the Court of Chancery.

DEFENDANT-APPELLANT'S BRIEF.

This appeal brings up for review a decree nisi of divorce, granted to the petitioner-respondent on the ground of adultery, committed by the defendant-appellant, with the co-respondent, Charles D. Petry.

The alleged adultery was charged according to the evidence, to have been committed upon the following dates as will more particularly be found in the further bill of particulars, (S. of C., 16):

1. September 9th, 1927, at the home of the parties to this cause.

2. April 11th, 1928, at the home of the parties to this cause.

3. May 10th, 1928, upon the grounds in the rear of the church at which petitioner-respondent preached.

4. May 29th, 1928, at the home of the parties to this cause.

In the bill of particulars the Court will find seven alleged commissions of the crime, but at the hearings held at Paterson, three were dropped, to wit: Nos. 2, 5 and 7 in said bill of particulars.

Brief Outline of Facts.

The parties to this cause were John Reeder Reeves, a minister of the gospel, and Margaret D. Reeves, his wife, who were married on October 21st, 1914, at Jamaica, Long Island, New York State, (S. of C. p. 19, l. 3). Three children were born of the marriage, to wit: Frances Barbara, Edward Harvey, and Margaret Anna, (S. of C., p. 19, l. 12) The parties lived together in various places in the State of New Jersey, until they came to Hawthorne in the month of April, 1921 when the petitioner took charge of the church at Hawthorne, (S. of C., p. 19, l. 15). The parties resided at Hawthorne together until June 11th, 1928, (S. of C., p. 32, l. 7).

At the outset of this brief, we desire to call the Court's attention to the fact that the dates in this case play a large part, and have a great deal of importance attached to them.

The alleged co-respondent is Charles D. Petry, who is married and has living with him, his wife and three children, two daughters and a son, (S. of C., p. 261). Mr. Petry is 49 years of age, and has been married over twenty-six years, and has resided in the Borough of Hawthorne, County of Passaic and State of New Jersey, for a period of about twenty-four years, prior to which time he resided in the City of Paterson, (S. of C., p. 261). Mr. Petry was an elder of the church in which the petitioner preached; was a treasurer of the church and a member of the consistory, and as the peti-

tioner put it, (S. of C., p. 42, l. 34) was one of the *pillars of the church.* He held such position for a period of about twenty-one years, (S. of C., p. 262, l. 21), and at present is telephone wire chief of the New York Telephone Co. in New York City, being connected with such company for a period of twenty-four years (S. of C., p. 262, l. 28).

The petitioner first became suspicious of his wife on March 6th, 1928, (S. of C., p. 32, l. 18). He testified that at a consistory meeting held the first Tuesday in March (*which was March 6th, 1928—date ours*) he stepped into the vestibule of the church, and there found his wife and Mr. Petry in each others arms, (S. of C., p. 20, l. 10).

With these facts in mind, we will proceed to brief and argue each date set forth in the bill of particulars, and presented at the trial, under a separate heading.

However, prior to going into the facts of the first date set forth in the bill of particulars, we desire to bring to the attention of the Court, the test of human evidence laid down by Vice-Chancellor Van Fleet in the case of Daggers vs. Van Dyck, 37 N. J. Eq., p. 130, at p. 132:

> "Evidence, to be believed, must not only proceed from the mouth of a credible witness, *but* it *must be credible in itself*—such as common experience and observation of mankind can approve as probable under the circumstances. We have no test of the truth of human testimony, except its conformity to our knowledge, observation and experience. *Whatever is repugnant to these belongs to the miraculous,* and is outside of judicial cognizance. Evidence is generally considered improbable when it imputes to the parties to a transaction, occurring in the ordinary course of business, conduct inconsistent with the principles by which men, similarly situated, are usually governed."

We excerpt the above at the head of this brief, so that such test can be held in mind as the facts of the alleged commission of the crime are set forth and argued, and so that we may see, as we go along, the improbability, and we can say, the impossibility, of the occurrences taking place as they were testified to.

September 9th, 1927.

This is the first date set forth in the further bill of particulars, (S. of C., p. 16) and the only witness produced by the petitioner as to such date was Minnie Florence Feldman, a very intimate friend of the petitioner, (S. of C., p. 89, l. 32). Her direct testimony took a little over two pages, pages 87, 88 and 89. She testified that on Steptember 9th, 1927, Dr. Reeves was called out on a sick call, and that Mrs. Reeves was over to choir practice, (S. of C., p. 87, l. 30). That about 9:30 Mrs. Reeves came in with a strange man, did not introduce him to her, but went directly to the cellar, stating that they were going to the cellar to fix the radio. That the defendant and such strange man remained in the cellar for a period of twenty minutes to a half hour, (S. of C., p. 88, l. 30), and that when footsteps were heard upon the porch, and Dr. Reeves made his appearance, the defendant and such man came up from the cellar and were very much excited and terribly flushed, (S. of C., p. 88, l. 19). Then Dr. Reeves introduced the man as Mr. Petry.

The Court, in applying the test set forth above, to this testimony of this uncorroborated witness, will hold in mind these salient features: That when Mrs. Reeves went to choir practice, Dr. Reeves was at home, and was called out on a sick call while

the defendant was at such choir practice, (S. of C., p. 87, l. 30); her children were all at home, (S. of C., p. 89, l. 26); and Mrs. Feldman was there. In other words, to Mrs. Reeves mind, when she left choir practice, there was at her home, her children, her husband and Mrs. Feldman. Yet, Mrs. Feldman desires to convince the Court that Mrs. Reeves flagrantly brought to her home, her alleged paramour, Petry; walked into the house and down into the cellar without any introduction, without asking whether Mr. Reeves, her husband was there yet; and then committed adultery in the cellar of her home. Applying the above test, is it probable, according to our human experience, and our observations of mankind, that a woman would bring her paramour, if he was such, into her very home, while a visitor was there, all of her children, and to her mind, her husband, for she did not know that he had been called out on a sick call, and there go into her cellar, and commit the crime of adultery?

The Vice-Chancellor, in his opinion concerning this incident said:

> "Petitioner himself testified that upon his unexpected return after this occurrence, the defendant and co-respondent showed confusion, which strongly indicated improper conduct on their part."

We have carefully examined the testimony of the petitioner, and we fail to find one scintilla of evidence concerning the incident of the evening of September 9th, 1927. The Vice-Chancellor maybe had in mind the evening of May 29th, (S. of C., p. 27, l. 34). Here he testified that Mrs. Reeves seemed startled when he returned unexpectedly; but insofar as the incident of September 9th, 1927, Mrs. Feldman is entirely uncorroborated, and

stands alone. It seems peculiar that Dr. Reeves, while on the stand, never mentioned the fact that when he returned from the alleged sick call, he there found the condition testified to by Mrs. Feldman, to wit: the very excited and flushed defendant and co-respondent.

Is this testimony of Mrs. Feldman sufficient to prove, beyond a reasonable doubt, that the defendant and her alleged paramour, committed adultery on the evening of September 9th, 1927, in view of the following testimony on the part of the defense?

The defendant, Margaret D. Reeves testified that she was given a copy of the bill of particulars after they were served, (S. of C., p. 211, l. 20) and made a careful study of them, for the purpose of bringing the dates back to her memory. The first date, which is the one we are arguing under this head, was the first night of choir practice after vacation time, to wit: September 9th, 1927. There were no church activities during the summer and until after Labor Day, (S. of C., p. 211, l. 38), and this was the first choir rehearsal after the vacation period. Mrs. Reeves testified, (S. of C., p. 212, 213 and 214) that Mrs. Feldman was there as a visitor; that she went to choir rehearsal which began at about 8:30, (S. of C., p. 211, l. 40); that Mr. Reeves left during the rehearsal to go to his home with Mr. Petry; that Mr. Reeves asked Mr. Petry to "come over to the house and look at the battery charger," (S. of C., p. 212, l. 20), having experienced trouble with such charger, (S. of C., p. 214, l. 22); that Mrs. Petry and her daughters were at such choir practice, (S. of C., p. 212, l. 28); that after choir rehearsal, she (Mrs. Reeves) left the church with Mrs. Petry and her two daughters, (S. of C., p. 213, l. 12); that she did not leave with Mr. Petry, and that she, Mrs. Petry and her two daughters, walked to the front of her

(Mrs. Reeves') home, whereupon she then left Mrs. Petry to go into her home, (S. of C., p. 213, ll. 20 to 24); that when she entered the home Mr. Petry was already there, (S. of C., p. 213, l. 27); that she told him that Mrs. Petry and his children were waiting for him, whereupon he left, (S. of C., p. 213, l. 30); that she never went down the cellar that night; that there is no part of the radio in the cellar; that Mr. Reeves was there when she arrived, and was there all of the time, (S. of C., p. 214, l. 28); that she was never down the cellar with Mr. Petry; that her face was never flushed, (S. of C., p. 214, l. 30); that she did not commit adultery with Mr. Petry on such evening.

Next we have the testimony of the alleged co-respondent, Charles D. Petry, (S. of C., p. 270) to the effect that he recalls the first choir rehearsal of the year 1927 after vacation time; that he, his wife and two daughters attended such reharsal, being all members of the choir; that just after the rehearsal began, Mr. Reeves asked him to go over to his house and look at the battery charger which he did, (S. of C., p. 270, l. 30); that after they had stayed there for some time and came upstairs, he was surprised to find Mrs. Reeves at the door, with the information that his family was waiting outside for him, (S. of C., p. 270, ll. 37 to 40). On page 271, l. 35 to 40, the Court will find that Mr. Reeves' eliminator, rectifier and the storage battery of his radio were in the cellar, but only for the time being, (S. of C., p. 271, l. 40). In other words, that having had trouble with the battery, it was down the cellar for the time being, until it was fixed. Mr. Petry testified that he was not down the cellar at any time that night with Mrs. Reeves, (S. of C., p. 270, l. 40); that Mrs. Reeves was not flushed on that occasion and had never

seen her flushed on any occasion, or excited, (S. of C., p. 271, ll. 18 to 20); that he did not come to the Reeves home with Mrs. Reeves, and go down the cellar with her and remain there alone with her for some minutes, (S. of C., p. 29, l. 22); that Mrs. Feldman was there that evening.

Next we have the testimony of Mabel B. Petry, wife of the alleged co-respondent, Charles D. Petry. Mrs. Petry testified that she was married twenty-six years (S. of C., p. 311, l. 17); that her married life has been a very happy one; that her husband was always very good; that she never had any occasion to doubt his fidelity at all, (S. of C., p. 312, ll. 9 to 14); that her son was a radio expert, (S. of C., p. 312, l. 23); that she is a member of the church of which Mr. Reeves was pastor and also a member of the choir, together with her daughters (bottom of page 312); that she was shown the bill of particulars and was instructed to recall everything she could about these dates, which she did, (S. of C., bottom of page 316, and top of page 317); that she recalled the evening of September 9th, 1927, being a Friday night, and the first choir rehearsal after the summer vacation, (S. of C., p. 317, ll. 3 to 10). She testified further that she, her daughters and her husband attended such rehearsal, and that during the rehearsal, Mr. Reeves came over and spoke to her husband, Mr. Petry, whereupon he turned to her and said he was going over to Mr. Reeves' house to fix something on the radio, and he said: "I will be back as quickly as possible," (S. of C., p. 317, ll. 25-30), whereupon Mr. Petry and Mr. Reeves left for Mr. Reeves' home; that after rehearsal was over, (S. of C., p. 318, l. 8) Mrs. Reeves said to her: "Come over to the parsonage" and I said: No. You tell Mr. Reeves to send Mr. Petry out, and .immediately she went in, and Mr. Petry came out." That she

walked down to the front of Mrs. Reeves' home. Mrs. Reeves was with her, and her two daughters, (S. of C., p. 318, ll. 21 to 25); that Mr. Petry came out in less than five minutes after Mrs. Reeves had entered the parsonage, (S. of C., p. 318, l. 30); that Mr. Reeves was at the parsonage at such time, (S. of C., p. 318, l. 35); that when Mr. Petry came out, they all went straight home, (S. of C., p. 318, l. 38); that Mr. Petry did not go out alone that night at all, (S. of C., p. 319, l. 10).

To the same effect as the above, is the testimony of Myrtle Petry, a daughter of Charles D. Petry and Mabel B. Petry, which will be found on page 339, and the first half of page 340. In order to shorten the length of this brief, we merely cite the pages of her testimony.

Also to the same effect is the testimony of Mabel H. Petry, another daughter of Charles D. Petry and Mabel B. Petry, whose testimony concerning this evening will be found on page 345, beginning at line 31 and ending at line 24 on page 346.

Corroborating Mrs. Reeves, Mr. Petry, Mrs. Petry and the two daughters, is the testimony of Eleanor V. H. Knapp, an entirely disinterested witness, who testified (S. of C., p. 359, ll. 17 to 35) that Mrs. Reeves was alongside of her all evening during the choir rehearsal on September 9th, 1927; that when she left the church, Mrs. Reeves was with her and others. They separated in front of the church to go to their respective homes, and that Mrs. Reeves was there in front of the church when she left to go to her home.

Let us apply to all of this testimony, the opinion delivered by the Learned Justice Van Dyke in the case of Berckmans v. Berckmans, 17 N. J. Eq., p. 453 at p. 454:

> "The charge made by the complainant, if true, is known to our law as a crime; con-

> sequently this prosecution partakes strongly of the nature of a criminal proceeding, so much so as to place the complainant under the necessity, *not only* of placing a *decided preponderance* of testimony in *favor* of the *charge,* but *proving* it to the satisfaction of this court, *beyond a reasonable doubt.* I do not mean to say that it must be done by such an amount of overwhelming and unmistakable evidence as to render it impossible to be otherwise, but the evidence must be such as to satisfy the human mind, and leave the careful and guarded judgment of the court, free from any conscientious and perplexing doubts as to whether the charge be proved or not."

Doesn't it appear significant to this Court, as Justice Donges said in the case of Stevens vs. Stevens, 107 N. J. Eq. 55; 151 Atl. 749, at p. 750, third paragraph, that Mrs. Feldman made no mention of this incident to Dr. Reeves until several months after, and only because she understood from Dr. Reeves that he was going to institute divorce proceedings, (S. of C., p. 92, ll. 7 to 30). Having seen his wife and a strange man, to her mind, never having met him before, remaining in the cellar for a half hour, and coming up flushed and excited, as she said, never mentioned it to the husband until after he had mentioned to her that he was going to start divorce proceedings. Did Mrs. Feldman actually see such an occurrence? We think not. If she had, and it was such as she described on her direct-examination, wasn't it a condition—wasn't it a circumstance that should have been brought to the attention of Dr. Reeves, had it actually taken place?

We contend to this Court, that in the light of the cases which we deem unnecessary to cite at this time, and of the strict rules of evidence applicable

to cases of adultery, that the incident alleged on September 9th, 1927, is not sufficient, under the law, to constitute the crime of adultery, especially after considering the weight of evidence as to such incident. Is the testimony of this single witness, absolutely uncorroborated in every detail, to preponderate over the testimony of Mr. Petry, Mrs. Reeves, Mrs. Petry, the two daughters and Miss Knapp, who was entirely disinterested? Isn't the incident as related by the defendants' witnesses, a more probable one?

January (New Year's) 1928.

At the outset of the dictation of the incident involved under this date, we desire to bring to the attention of the Court, that the testimony comes solely from the mouth of one of the children to the parties to this cause. The one who testified to this incident was Edward Harvey Reeves. He testified at the hearing, which was held on June 20th, 1929, (S. of C., p. 152) that he was 12 years of age, (S. of C., p. 193, l. 15), he testified that he lives with his father. In fact, he has always been with his father since the separation, and has always been under the dominion of the father since June 11th, 1928. From his testimony, then, in January of New Year's, 1928, he was eleven years old. This boy testifies that around New Year's, 1928, he went to bed at about 7:30 or 8:00 o'clock, (S. of C., p. 193, l. 30) ; that he woke up because he heard voices and he had a toothache, whereupon he called to his mother, and he saw two people coming upstairs. Thinking it was his father he said: "Hello Daddy," (S. of C., p. 193, l. 35) but he received no answer, and as they came upstairs, he recognized and saw Mr. Petry, and that his mother tried to hide him,

(S. of C., bottom of page 193). That his mother took him (Mr. Petry) to her bedroom, (S. of C., p. 194, l. 10). That is the boy's direct story. Before going into the argument, there is one thing we desire to impress upon the Court. Mr. Ward, on cross-examination, had the boy repeat his story in toto, without stopping, twice; once at the bottom of page 194, and secondly at the bottom of page 199. Comparing these two recitations with that of his direct testimony at the bottom of page 193, it seems to be a well-drilled story, impressed upon the boy in detail, for in each recitation he inserts "she tried to hide him." There is one important feature that we desire to bring to the attention of this Court, and that is as we said at the outset, the date. Dates have a great deal to play with this case, and almost all of the dates are of great importance. This incident happened around New Years, 1928, yet this boy did not tell his father of the incident until June 12th, 1928, (S. of C., p. 199, l. 19):

> "Q. Did you tell your father about this at the time?
>
> A. No, not until after June 11th. (June 11th is the date of the separation. This remark is counsel's).
>
> Q. Where did you tell him?
>
> A. In the music room.
>
> Q. When did you tell him?
>
> A. *The next day.*
>
> Q. Did he ask you about it?
>
> A. No, sir. I told him.
>
> Q. Without him asking you anything, you told him?
>
> A. Yes, sir.
>
> Q. What did he say, anything?
>
> A. No. He just looked suspicious that was all.
>
> Q. And he didn't ask any questions?
>
> A. No.

A bill of particulars in this case was ordered by Vice-Chancellor Fielder on July 2nd, 1928, and very shortly thereafter, a bill of particulars was served upon the defendant in compliance with such order, and a further bill of particulars was shortly thereafter ordered and served upon the defendant. The Court will see, by reading the bill of particulars, and the further bill of particulars that the date of January, or around New Years, 1928, is at no time mentioned in either one. If that boy did tell his father that an incident of that type had occurred, and his wife had taken her alleged paramour into her bedroom in their home, there could only be one conclusion in the petitioner's mind, that they had committed adultery then and there. What reason would there be in the world, in the petitioner's mind, if he was told by his boy, for the presence of Petry and his wife in her bedroom in the parsonage together and alone? Reeves had already filed a petition for divorce on June 7th, and he alleged in that petition that she committed adultery with this man Petry. This was on the 7th. If he was told on the 12th, five days afterward, and was given the circumstances related by this boy, then why under the sun did he not put it in the bill of particulars or the further bill of particulars? There is one answer—because it did not happen and the boy did not tell him, but that this minister obtained the services of his boy, put him on the stand and had the boy perjure his soul, in a last desperate effort to get some compromising circumstances from which the Court could find the commission of adultery. Being limited under the bill of particulars to the dates mentioned therein, this petitioner cannot obtain a decree of divorce upon any alleged adultery on that date, for the reason it was not set forth in the bill of particulars. The boy stands entirely uncorroborated, and

this, together with the testimony adduced by the defense, points to one conclusion—that the incident did not take place.

Mrs. Reeves, (S. of C., p. 230, ll. 10 to 30) denies ever being upstairs in the hallway or in her bedroom with Petry at any time alone. Prior to the new church being built, Petry was up there a number of times with Mr. Reeves, but never with her, because Mr. Reeves' study was upstairs.

From this point on comes the very important facts in this case—facts which will be stressed to the extreme, to indicate to what extremes the petitioner went in a desperate effort to obtain a decree of divorce, and to get rid of his wife.

While we excerpt the following evidence to the Court from the State of Case, we desire the Court to bear in mind that this incident took place around New Years of 1928. Let us see where Petry was at that time.

Charles D. Petry, the co-respondent in this case, was taken sick December 27th, 1927, did not return to work until January 23rd, 1928, (S. of C., p. 280, l. 21). Petry (on the bottom of page 279) absolutely denied being in the Reeves parsonage at any time during that period of time, and denominated the boy's testimony (S. of C., top of page 280) "a deliberate lie." Did Petry have reason to denominate the boy's testimony as a deliberate lie? Let us see. Petry says that he was taken sick on December 27th, 1927, and said (on page 280, l. 8): "in bed, unable even to leave the bed and go to any part of the house." He returned to work on January 23rd, and for the last week of his illness was entirely confined to his home, (S. of C., p. 280, l. 25). Petry was an employee of the telephone company (S. of C., p. 280, l. 28) at New York, and they have what is known as the employees benefit plan. If a person is sick, the

Doctor must send in a certificate, showing the prognosis and everything with it, (S. of C., p. 280, ll. 30 to 35). What did Petry have when he was sick? He says (on page 281 of the State of Case, l. 36): "Internal and external hemmorhoids." He was treated by Dr. Was, who since departed this life, (S. of C., p. 280, l. 13) but again being thankful for circumstances which could prove his innocence, Petry was successful in securing Dr. Was' original books showing his calls, and the original records of the New York Telephone Co. from New York City. What did they show? See page 438 of the State of Case. Counsel for the respective parties entered into a stipulation set forth on page 432 of the State of Case, part of which reads:

> "There was introduced into evidence, the original books of Dr. Was, the examining physician of Mr. Petry, the co-respondent. They were the doctor's usual visiting day books in which he marked the calls, and the day upon which he called. It is hereby agreed that the printer shall print only the pages upon which the entries are written showing the visits to Mr. Petry."

In compliance with this stipulation, we have therefore, only the pages showing the visits to Petry (on page 438, State of Case). Every visit is shown and it shows that Dr. Was called at Petry's home on December 29th, and 31st of 1927, and on January 2nd, 4th, 6th, 9th, 12th and 14th of 1928. (The printer reprinted the visits of January twice. The Court can disregard the second printing of the month of January, 1928). What did the original records of the New York Ttelephone Co. of New York show, which were introduced into evidence? (S. of C., p. 285, l. 11). The certificates are set forth on page 436 and page 437. One shows that Petry was taken sick on Decem-

ber 27th; that he was suffering from internal and external hemmorhoids, and that an operation for hemmorhoids was advised. This certificate was dated and filed January 6th, 1928, with the New York Telephone Co. at New York. This was months prior to the filing of any petition. The second certificate dated January 17th, 1928, shows that Petry was still suffering from internal and external hemmorhoids; that the most recent examination was January 16th, 1928; that there was a general improvement, the prognosis good, and that the employee might be able to return on January 23rd. Both certificates were signed by Dr. Was, and the last certificate was filed with the company on January 17th, 1928, months before there was any inkling of a petition for divorce to be filed.

Mrs. Reeves testified (S. of C., p. 230, l. 34) that she knew that Mr. Petry was actually sick and confined to his house at that time; that Mr. Reeves visited him at his home during that time, (S. of C., p. 230, l. 40).

Mrs. Petry testified (S. of C., bottom of page 323 and top of page 324) that her husband was taken ill December 27th, 1927; that he was confined to his bed; that she (Mrs. Petry) was his nurse; that he was never out of the house until he went to work, and his trouble was external hemmorhoids, (S. of C., p. 325, l. 8) and that he was suffering pain.

Furthermore, Mr. Petry testified (S. of C., top of page 283) after saying that his friends had visited him during his illness:

> "Q. That included whom?
> A. Mr. Reeves, members of my family, and neighbors.
> Q. Mr. Reeves did come to see you?
> A. He did. Yes, sir."

This is the defense. Doesn't it impress the Court as a positive one? Isn't it an open and shut case of deliberate perjury on the part of the petitioner's witness, his son? Dr. Was was the examining physician. He was not a party to this suit, not interested in it, knew nothing about it. There was no inkling of a divorce at that time, no trouble apparently whatsoever. The late doctor thereupon made his certificates, duly signed them and filed them with the New York Telephone Co. of New York City, in order that Mr. Petry might receive the benefits of his employer's benefit fund. We have had the original day books of Dr. Was introduced into evidence, and they showed house visits. In fact all of these calls were house visits, (S. of C., p. 334, l. 1). The doctor's wife testified for the defendant, and she was good enough to produce the books. She identified the two certificates that were filed with the New York Telephone Co. as the two certificates the doctor had signed with reference to Mr. Petry's illness, (S. of C., p. 232, ll. 34 to 38).

The learned Vice-Chancellor in his opinion, 151 Atl. 474, says on page 475:

> "The boy fixes the time as being around the first of January, 1928. There was testimony tending to show that during this month the co-respondent was confined to his home because of an illness. Accordingly the boy may have been mistaken as to the date, as to which there was nothing to fix it in his memory."

It is a very serious thing to be mistaken concerning dates upon which he accuses his own mother of being unduly intimate with her alleged paramour. This boy was her very flesh and blood, and no Court of Equity should permit a son of a defendant to take the stand, and accuse his own

mother of adultery, and then leave the date vague, or say he doesn't know when it took place. If that young boy was telling the truth, then Mrs. Petry, Mr. Petry, and Mrs. Reeves are absolute and positive perjurers. Dr. Was did not attend Mr. Petry, his books were falsified, and the New York Telephone Co. of New York injected into its records, something which was not there. That is a situation that is not only improbable, but impossible.

In concluding this incident of New Year's, 1928, we contend that the incident as described by the boy never did take place; that the testimony adduced by the defendant and the evidential papers introduced into evidence by her, absolutely refuted any presumption or evidence of adultery adduced by the petitioner.

March 19th, 1928.

In the petition and the bill of particulars and further bill of particulars, this date was set forth as the second date upon which the alleged offense of adultery was committed by the defendant and her alleged paramour, Petry. However, after having accused his wife in open Court, and in the public press of the world, this minister of the gospel did not have one scintilla of evidence to prove any commission of adultery on that date. We desire to impress upon the Court that this case was given publicity by the public newspapers of this State, and of the State of New York in wide print. Pictures were printed and stories were printed. The dates set forth in the bill of particulars and the petition were printed at length in the newspapers. We say this for the reason that it is of some significance to the Court, that this man charged his

wife with the crime of adultery upon a certain date, and when he was called upon in open Court to prove it under the rules of evidence, he withdrew it entirely. Did he attain his aim when he originally filed his petition? Did he at the time he filed his petition on June 7th, 1928, think that his wife would never dare contest his suit for divorce, saying to himself that she would be held up to public ridicule, public disgrace; that he would charge her with the commission of adultery on various dates whether he had evidence or not, and hoping that she would never contest it in open Court; but alas, the verdict eventually came and upon being called upon to prove such charges, he failed utterly. We mention this to show to the Court, the attitude and mental condition of this man, who from the testimony in the entire case, the Court will find, desired to get rid of his wife.

However, having been served with a bill of particulars, and the wife in an honest effort to recall the dates to her memory, went through the files of the church, and found that on March 19th, 1928, instead of having committed adultery at her home, as was alleged by her husband, in his petition and in the bill of particulars, was out soliciting subscriptions for the church, and actually did obtain one from Mr. Orr, a member of the church, (S. of C. p. 215). Such card was offered in evidence and marked D-1 (S. of C., p. 215, l. 34). Isn't this a honest effort on the part of a wife to show to a Court of competent jurisdiction, when called upon to answer a charge of her husband, where she was on a particular evening, upon which she is to have, allegedly, committed adultery? Doesn't it show her bona fides, contrasted with the man who was her husband, and who had held her up to public ridicule in the public press? Which of them impresses the Court with sincerity?

April 11th, 1928.

This is the third date mentioned in the bill of particulars, (S. of C., p. 16) but the second date concerning which some evidence was adduced at the trial. The testimony as to this incident was adduced through the mouths of Edward J. Stender, a hired detective, and Harvey Reeves, a brother to the petitioner-respondent, with a slight amount of attempted corroboration by William H. Bell, the janitor at the church in which Mr. Reeves preached, and who is now a salesman.

Detective Stender testified (S. of C., p. 95, l. 14) that on April 11th, 1928, the petitioner's brother, Harvey Reeves met him, whereupon they went to Hawthorne, to the residence of the parties to this cause. They parked opposite the church and at about nine o'clock, (S. of C., p. 95, l. 20) Mrs. Reeves, and Mr. Petry, and other members of the congregation came out of the church; that it was raining very hard; that Mr. Petry and Mrs. Reeves walked across the street, and entered the front door of the parsonage, which would be the home of the parties to this cause. There was a light in the front room, (S. of C., p. 95, l. 28). They stayed there for a while and then went back into the kitchen. In about ten to fifteen minutes, S. of C., p. 95, l. 38) Mr. Petry and Mrs. Reeves came to the front door, and Mr. Petry walked down the street to his home, and Mrs. Reeves walked back into the house, (S. of C., bottom of page 95, and top of page 96) ; that when Mr. Petry and Mrs. Reeves went back into the kitchen, he and Harvey Reeves went to the back of the house, but could see nothing, (S. of C., p. 96, ll. 30 to 35), whereupon they went back to the car.

Harvey Reeves testifies (S. of C., pp. 145 and

146, and half of 147) to practically the same thing, with the added testimony that he was familiar with the situation, familiar with the diagram of the house, and knew where they had gone, (S. of C., p. 146, l. 15). He testifies (S. of C., p. 147, l. 9) that they were in the kitchen for approximately fifteen minutes.

Mr. Bell, the janitor or sexton of the church testified (S. of C., p. 153, l. 30) that Mrs. Reeves said to Mr. Petry: "Mr. Petry, you are good at mechanics; can you come over and fix my telephone; will you come over and look at it?" That they then left and walked across the street to Mrs. Reeves house; that they went in, (S. of C., p. 154, l. 10) and later he saw Mr. Petry come out of the parsonage.

Contrasted to this, we have the testimony of the defendant, Mrs. Reeves, who testifies (S. of C., p. 217, beginning at line 30) that April 11th, 1928, was the Wednesday of Easter week of 1928; that her mother came to visit her; that when her mother came that Wednesday, she and the children were home; that Mr. Reeves was not at home (S. of C., p. 217, l. 31) but that he told her to make arrangements to have someone preside over prayer meeting that was to be held at evening, (S. of C., p. 218, ll. 10 to 20); that she called up Mr. Makepiece of Hawthorne, but he couldn't take it over; that she then called Mrs. Petry, who got Mr. Petry to preside over the prayer meeting; that Mr. Petry did not come to her house at all that evening, (S. of C., p. 219, l. 1); that she, with Mr. Petry, did not at any time, go to the rear of her home, (S. of C., p. 219, l. 5); that when she returned from the prayer meeting which she also attended, her mother was present in her home, (S. of C., p. 219, l. 10); that she did not commit adultery with Mr. Petry on April 11th, 1928, (S. of

C., p. 219, l. 15); that while she was at church that evening she did not request Mr. Petry to come over to her house and fix the telephone, (S. of C., p. 219, l. 16).

Next we have the testimony of Charles D. Petry, (which begins at line 12 of page 272, State of Case). He recalls the 11th of April, 1928. That shortly prior thereto he had had an automobile accident over at Fairlawn, Bergen County, New Jersey, (S. of C., p. 272, l. 18); that the injuries he sustained were to his ribs on the right-hand side, and such injuries were serious. That on April 11th, 1928, (S. of C., p. 272, l. 22) he was suffering very keenly from such injuries. That on the 11th of April, 1928, Mrs. Reeves had called his wife and asked her to ask him (Petry) if he would take the prayer service over for that evening, (S. of C., p. 272, l. 30). He declined on the ground that he did not feel good, (S. of C., p. 272, l. 32), but that Mrs. Reeves called back and told his wife that she could get nobody else, so that he, without very good grace, agreed to conduct the meeting, (S. of C., l. 38). That he did conduct the meeting; that Mrs. Reeves attended, but was late, and apologized for her lateness, (S. of C., p. 273, l. 2). That he remembers the occasion very well, for the reason that no one could play the piano and that suffering from his injuries, he had to conduct the service and play the piano for them, (S. of C., p. 273, l. 8); that immediately after the service he went directly home, and remembers such because he cut the meeting short on account of his physical condition, (S. of C., p. 273, l. 17); that on the way to church that evening and in taking the short cut through the railroad property, because of his condition he slipped while crossing the railroad, and wrenched himself quite seriously, (S. of C., p. 273, l. 35) and was actually in pain during the con-

ducting of the meeting (S. of C., p. 273, l. 38); that he did not go home the same way, because he did not want to take a second chance with the injury; that he did not go home with Mrs. Reeves, (S. of C., p. 274, l. 7); that he did not go to her home that night; did not stay there at all. In fact he said that such testimony on the part of the petitioner's witnesses was a lie, (S. of C., p. 274, l. 15).

Corroborating the foregoing witnesses, is the testimony of Mabel B. Petry, (beginning at line 12, p. 319, State of Case). She remembers the occasion well, for the reason that it was the prayer meeting evening of Easter week; that Mrs. Reeves called her on the telephone to see if she could get Mr. Petry to conduct the meeting, (S. of C., p. 319, l. 20); that Mr. Petry, her husband, had shortly prior thereto, been involved in an automobile accident and was suffering from fractured ribs; that she thereupon called her husband up in New York at the telephone company's offices, and asked him if he would conduct the meeting, (S. of C., p. 319, l. 30) whereupon he said that he would prefer not to, and asked to have Mrs. Reeves get someone else. That she told Mrs. Reeves, but Mrs. Reeves later called back and said that she could not get anyone, so she again called Mr. Petry, and he said that he would take care of it for her, (S. of C., p. 319, l. 35); that that evening, Mr. Petry left their home in time to be over to church by eight o'clock; that she (Mrs. Petry) did not go with him for the reason that her daughter was sick at home at the time, (S. of C., p. 319, l. 40); that Mr. Petry returned home very early that evening, and that she ascertained that Mrs. Reeves' mother was at Mrs. Reeves home at that time, for the reason that in explaining to her husband why she (Mrs. Reeves)

arrived late at the prayer meeting, was because her mother had come to visit her.

Corroborating the defense on this date is Margaret Dickhaut, mother of the defendant-appellant. She was given the dates in the bill of particulars, and out of them she recalled the one, April 11th, 1928, which was Wednesday of Easter week, (S. of C., p. 349, l. 20). She remembers on April 11th, she was in New York, over the week-end with her other daughter, (S. of C., top of page 350) and "it was not very far out of my way home to go over to Hawthorne, and I thought I would run out and say how do you do to the family there." That she got there at approximately noon of April 11th, (S. of C., p. 350, l. 10); that she stayed there until noon time the following day, (which would be April 12th) (S. of C., p. 350, l. 18). That Mr. Reeves was not there during that time; that on the evening of April 11th, 1928, her daughter went over to the prayer meeting and got back about nine o'clock, (S. of C., top of page 351). She recalls Mrs. Reeves coming home; that she was alone, (S. of C., p. 351, l. 10); that she was with her all evening until bed time, and that they retired between 11 and 12. That Mr. Petry was not in the house at any time that evening, (S. of C., p. 351, l.20).

Taking up the petitioner's case first, it is almost on all fours with the case of Stevens v. Stevens, reported in 151 Atl. Rep. 749. In the Stevens case the wife was seen to enter a house at 569 West End Avenue in Elizabeth. A few moments later, the alleged adulterer, a bus driver, was seen to enter the same house, by the same path. Detectives in the petitioner's employ saw this, together with the petitioner, but as the Court remarked "neither made any effort to find out" what they were doing. The Court said, at the top of page 750:

> "If any of these parties had been aware of the presence of the defendant and her alleged paramour in this house, under such circumstances, it is difficult to understand why they made no efforts to trap her."

The Court further said:

> "It is difficult to believe that an aroused injured husband would see his wife enter a dark house and remain for twenty minutes with a man of whose relations with his wife he was suspicious, without making some investigation to ascertain what they were doing—or to confront them in their misconduct."

We say to this Court, in the case at bar, and ask why did not this detective and a brother to the injured husband, there to trap her in the act of adultery, and who had been following her and shadowing her, go into the house, and there confront them in *flagrante delicto?* Here we have before us, a detective, hired by the petitioner to get evidence of adultery. He is with a brother of the petitioner, and both of them see the defendant and her paramour enter his employer's home, and go to the rear of the home, which they said, was in darkness. That such detective and the brother then walked around the house, (which was the same thing that occurred in the Stevens case *supra*), and could see nothing, and yet not one of them attempted to go in the house and confront them in their alleged illicit relations, as they would have the Court believe they were committing at such time and place. The brother was there. He was familiar with the rear of the house. He said he was. Why didn't he break in with the detective? The defendant and detective, hired by the petitioner to get evidence of he and the detective was. What was to have pre-

vented them, if they thought they were doing wrong, to catch them in that wrong? It is unbelievable in itself, and improbable in itself, that they would permit such a situation to exist, and not make any effort to find out whether they were committing any misconduct. The irresistible inference is that they saw nothing occur that had any evidential significance for the petitioner. If these two persons did see such an incident, it surely was not on April 11th, 1928, considering the weight of the evidence produced by the defendant.

The defendant's witnesses, whose testimony is set forth above, sufficiently proves to this Court, beyond all reasonable doubt, that no adultery was committed on the evening of April 11, 1928. Petry was injured in an automobile accident prior to such date, and on April 11th, 1928, he was still suffering. While at work he received a call from his wife to conduct a meeting, and he doesn't care to do so, because of his physical condition. Upon being called back, he agrees to conduct the meeting that evening. He does so, and he returns home immediately thereafter, because he had slipped and strained himself in crossing the track on the way to church that evening. What is more natural? Is there anything more probable than a circumstance of that nature? Does he not only give evidence which comes from a credible mouth, but credible in itself? Is there any part of his evidence improbable in itself? Considering this testimony, and the fact that we have the testimony of a hired detective before us, the opinion adopted by the Court of Errors and Appeals in the case of Slack v. Slack, 89 N. J. Eq., p. 589, would be applicable. On page 594, the opinion reads:

> "Detectives testimony is competent, but is scrutinized carefully before given credence.

> While it is competent and may be admitted, we do not rely upon it, unless it is corroborated, and the reason for that is obvious. There are some honest detectives, but very few, and the few must suffer for the misconduct of the many."

Considering all of the testimony adduced by the petitioner and defendant, we contend to this Court, that there is no evidence of adultery on the evening of April 11th, 1928; that the circumstances set forth by the petitioner's witnesses, on such date are not credible circumstances to the extent to show inclination and opportunity from which the crime will be inferred.

May 10th, 1928.

The petitioner, for the first time, comes into the case, as giving evidence to something he alleges he saw with his own eyes. He says that on the evening of May 10th, 1928, at or about 10:30 (S. of C., p. 23, l. 30) he saw Mr. Petry come out of the Masonic Temple, after a meeting; that the Masonic Temple is on the same side of the street as his home; that Petry walked down the street, paused in front of the petitioner's home, looked in (S. of C., p. 23, l. 35) then continued down the street to a little candy store, (S. of C., p. 54, l. 25) then returned, went across the street, (S. of C., p. 24, l. 8) to the church grounds; that Petry went down the path alongside of the church to the rear, which was in complete darkness. That shortly thereafter, his wife came out of the parsonage, cut obliquely across the street, with a blanket under her arm and went down the same pathway that Petry had gone down; that about thirty-five to forty minutes later, his wife came down Lafayette Avenue from

Diamond Bridge Avenue, with the bundle under her coat, and went into her home; that with him (the petitioner) was Mr. Stender and Mr. Osborne, two detectives, hired by him (S. of C., p. 24, ll. 8 to 12).

To the same effect was the testimony of Mr. Stender, a detective, (S. of C., pp. 96 and 97) and of Mr. Osborne, a detective, (S. of C., p. 129).

We are going to take the petitioner's case, and argue that before giving the defendant's version of the evening of May 10th. We have a petitioner and two detectives in a parked car on Lafayette Avenue, in Hawthorne, New Jersey, on the evening of May 10th, 1928. They see Petry leave a meeting, go down the street, look into the petitioner's home, walk down further, go into a candy store, enter the telephone booth and telephone, (S. of C., p. 129, l. 28 and S. of C., p. 97, l. 2) come out of the store, walk up the street, across to the front of the church, walk down the cinder path alongside of the church to the rear which was in complete darkness. Immediately thereafter, they see the petitioner's wife cut obliquely across the street from the parsonage to the front of the church, and go down the same cinder path that Petry had walked down, and also go to the rear, which was in complete darkness.

Before arguing the probability of this, we desire to bring to the attention of the Court, the condition of the back of the church. In other words, the petitioner and two detectives want this Court to believe that on the evening of May 10th, 1928, the defendant and her alleged paramour committed adultery on the grounds in the rear of the church. Let us describe the rear of this church to the Court. Stender, the detective says (S. of C., p. 100, l. 28):

"Well, it seemed to be very dense, there

> was some brush there, the grass apparently had been cut and there was places where trees were knocked down, and further on I saw the remains of an old wagon—a sort of a dump it—was."

It was a plot about two hundred feet. He further describes it (S. of C., p. 101, l. 19):

> "Uneven contour and the grass was apparently cut a day or two before up towards the Church and the back was *swampy;* a *dump.* It was kind of torn up section; it was not a well kept lawn."

In other words, the back of this church was a dump and swampy, yet the very man who testifies to that, wants the Court to believe that this woman, carrying a blanket, laid the blanket on the ground, and both of them lied thereon, and committed acts of adultery. We cannot conceive of a worse situation to picture to any Court. Of all the places in the world, of all the homes they could have gone to, and places where they could have committed adultery, is there any reason under the sun why they should pick the back of the church, in the dumps, and on swampy ground to commit adultery? The petitioner testified (S. of C., p. 24, l. 14) that his wife came back with a bundle under her arm. Detective Stender testified that she came back with a bundle under her arm, (S. of C., p. 98, l. 27) but Detective Osborne, the head of the detective agency testified, (S. of C., p. 130, l. 28):

> "Q. When she returned, did she have anything under her arm?
> A. No. She had not."

This bit of evidence on the part of the head of the detective agency is important, when the Court

reads the testimony of the witnesses for the defense later on.

Another feature to bear in mind, is that all three testified that the wife did not come back through this same path, but came down Diamond Bridge Avenue to Lafayette Avenue, turned down Lafayette Avenue to her home, (S. of C., p. 25, l. 20; S. of C., p. 98, l. 25 and S. of C., p. 130, l 20). At this point we deem it necessary to describe the topography of the situs of the alleged crimes.

The First Reformed Church, at which Dr. Reeves preached, was on the easterly side of Lafayette Avenue, Hawthorne, New Jersey. Lafayette Avenue runs in a northerly and southerly direction. The parsonage is obliquely across the street from the church, and therefore, on the westerly side of Lafayette Avenue. North of the church; that is going north up Lafayette Avenue, is Diamond Bridge Avenue, which intersects Lafayette Avenue, at right angles and runs in a general easterly and westerly direction. East of Lafayette Avenue and running parallel therewith, is the New York, Susquehanna and Western Railroad tracks, which are about two hundred feet to the rear of the church, (S. of C., p. 100, l. 35). Still east of the New York, Susquehanna and Western Railroad tracks, and running parallel thereto, is Washington Avenue, where Mr. and Mrs. Petry reside, (S. of C., p. 311, l. 18). The Masonic Temple is on the same side of Lafayette Avenue as the parsonage, which would be the west side. The Petry home is directly to the rear of the church, on Washington Avenue. If a person stood in front of the First Reformed Church, and wanted to go to the Petry home, he could cut alongside of the church, go down the pathway, across the railroad tracks, and come into the rear of the Petry home. The Court will find from Petry's testi-

mony, that this was often used, and was used by him also on the evening of April 11th, 1928, in going to church, (S. of C., p. 273, ll. 18 to 37).

Let us bear in mind that when Mrs. Reeves cut obliquely across the street, she passed so close to the car in which her husband, Mr. Reeves was sitting with the two detectives that he (Reeves) could, in his own words: "have shaken hands with her out of the car" (S. of C., p. 59, ll. 13 and 14). Both detectives also agree that she passed that close to the car. Bear in mind also that this husband was suspicious of his wife (S. of C., p. 32, l. 18; S. of C., p. 19, l. 27) with what he thought was her illicit relations and conduct with Petry. He hired two detectives to see whether he could obtain any evidence of adultery between his wife and Petry. In his own mind, she was conducting herself very improperly with Petry, and as he put it, was not playing fair with him. Yet this very man sat by in that car and permitted his own wife, who he said that he loved, (S. of C., p. 64, ll. 10 to 20), to go by him so close that he could have stopped her, to go to the rear of the church, and there commit, what he thought, was an act of adultery. This man stood by and saw his wife do that, and yet never made an attempt to get out of the car, and tell his wife, or prevent his wife from going there. He was supposed to have loved her. It was his wife. He was a minister of the gospel. There were three children to look up to. He did not want to be disgraced not in the public's eyes, and yet he sat by and permitted this woman, who was his wife, and the mother of his three children, to go to a place where he thought she would commit adultery, when he was in a position to prevent her from so doing. Can he, if he commits such an act of inequity, ask this Court to give him aid?

The Court will hold in mind what the learned

late Vice-Chancellor Bentley said in the case of Pike vs. Pike, 100 N. J. Eq., p. 486. The facts in this case may be somewhat stronger than the case at bar, but the rule laid down applicable to a husband who is put upon his guard, is very significant. He said on page 488:

> "Under the circumstances of this case a husband is under a peculiar duty to protect his wife against her own weakness."

And an page 489, he said further:

> "But it is sufficient to show that he knew of the visits of his wife to this establishment, and of the character and intentions of Clark. If he knew this, his standing by without interfering, and permitting it to go on, is sufficient acquiescence and connivance to deprive him of his right to divorce. It is, in law, consent."

On Page 491, he said:

> "But when a husband is put upon his guard, the peculiar duty mentioned above devolves upon him and he cannot be recreant to it and then expect the assistance of this court."

Did this husband actually love his wife to the extent that he did not want her to commit adultery, as he wants the Court to believe, because he says that on June 3rd, 1928, he got on his knees and begged his wife to give up her illicit relations with Petry, or did he stand there acquiescent, hoping and praying that he would get evidence of adultery? No doubt it was the latter, for that is just what he did. Yet after all that he did and said he saw there, he permitted his wife to go to a place where she could commit adultery, knowing as he thought, the intent of her visit to the rear

of the church, and neither he or his two hired employees made any effort to go to the rear of that church.

At this point it may not be amiss to cite the case of Stevens vs. Stevens, decided by this Court on October 20th, 1930, and reported in 151 Atl. 749. That case is almost on all fours with the incident we have before us in the present case. In the Stevens case *supra,* the petitioner's wife was seen to enter an abandoned house, shortly followed by her alleged paramour. The petitioning husband saw them enter, as did detectives hired by him. The petitioner in the Stevens case said:

> "To satisfy myself I went down out of my flat, down the street. I walked around the old house. I did not see anything visible on any side."

Then he went home. All of the detectives who saw the same incident made no effort to go into the house, which feature of the case, prompted and justified Justice Dongees in saying for this Court:

> "If any of these parties had been aware of the presence of the defendant and her alleged paramour in this house, under such circumstances, it is difficult to understand why they made no efforts to trap her." (P. 750).

The Court further said:

> "It is difficult to believe that an aroused injured husband would see his wife enter a dark house and remain for twenty minutes with a man of whose relations with his wife he was suspicious, without making some investigation to ascertain what they were doing or to confront them in their misconduct."

Aren't the facts in the Stevens case identical

with those in the case at bar, even to the extent, as the opinion reads:

> "This path (the one down which defendant and her alleged paramour went to the rear of the house) was frequently used by petitioner and defendant, as well as by other persons."

The same condition existed in this case. The path alongside of this church to the rear, in cutting across the tracks, was used by almost everyone, day and night. It was the short cut, cutting off a number of blocks to the other side of the railroad tracks.

Another case, to substantiate the defense in the present case, is the case of Farrow v. Farrow, 70 N. J. Eq., p. 777, more particularly the last paragraph on 793. The detectives testified in the Farrow case that the parties were committing adultery about three hundred yards to the rear of a hotel porch on which people were sitting, yet neither one of the detectives went back there or made any effort to see what they were doing, or to find them in, what they thought, *flagrante delicto.*

The two detectives that Dr. Reeves had alongside of him that evening were there to entrap this woman in the act of adultery. They saw her go to the rear of the church immediately after Petry, and yet the only reason they advance for not going back there, is that if they walked down the cinder path, they might make a noise, and their presence would be known to the defendant and her paramour. What a poor excuse. What a grasp for some straw to cover up their deficiency. Why didn't these detectives, and this aroused injured husband walk down the grass plot alongside of the church, to the rear? They wouldn't have made

noice by walking on grass. If they had done this, and Mrs. Reeves and Petry were committing adultery in a swampy dump, then the fruits of their labor would have been well reaped, for they would have walked in upon them and found them committing the crime of adultery.

At this point, it would not be amiss to read Detective Osborne's testimony, which finally disposes of whether they even intended to go to the rear of the church. He testified, (S. of C., p. 143, l. 14) :

> "Q. And then did you suggest going back of the church?
> A. *No.* I *never suggested* that at *any* time.
> Q. Did *anybody* suggest going back of the church?
> A. Not that I recall."

This piece of testimony from the head of a detective agency, is not only ridiculous but is preposterous, in the sense that he, the head of a detective agency, hired to obtain evidence of adultery, present at the time; knows the woman and man whom he is shadowing and has seen them go to what he knew was a dark spot in the rear of the church, yet he never suggests, and in fact no one does, to even go back there and see what was going on.

The irresistable inference, as Justice Donges said in the Stevens case, is that "nothing occurred on that occasion to serve the petitioner's purpose, as evidence of his wife's wrongdoing." (Stevens case *supra,* p. 751). These few words in the opinion of the Stevens case, hits the nail on the head in this case, in the sense that we believe that those detectives, and the petitioner, did not, on the evening of May 10th, 1928, see anything which would be beneficial or evidential, or of any evidential value, as to Mrs. Reeves' wrongdoing.

If the Court will bear with counsel for a moment and refer to page 70 of the State of Case, l. 11, there will be found the following (which was after the evening of May 10th) : (Testimony of Petitioner)

> "Q. Did you ask Mrs. Reeves for any explanation of that?
> A. *No, sir.*
> Q. Why not?
> A. Why should I?
> Q. I am asking you.
> A. Why; *because I wanted to watch a little longer and see if my suspicions were confirmed.* (S. of C., p. 71, l. 2).
> Q. And your reason far all that, was because you *wanted* to *get positive proof,* is that correct?
> A. *Yes, sir.*

In other words, Reeves himself, by his own mouth, says that his suspicions were not yet confirmed. If he saw what he thought, in his opinion, was evidence of adultery on the evening of May 10th, then why did he want to wait longer? Evidently, his suspicions had not yet been confirmed. Evidently he had no positive proof. Doesn't it seem peculiar that the man never asked Mrs. Reeves for an explanation of that incident, if he thought she had committed adultery? Again the irresistable inference is that he did not think there was any evidence of adultery on that evening.

A great bearing on the case will come from the defense. Let us see what their explanation of the evening of May 10th, 1928, is.

Mr. Petry testifies, (S. of C., p. 274) that in checking over the dates in the bill of particulars, the evening of May 10th, 1928, was a rehearsal at the Masonic Lodge, instead of the regular meeting on Thursday night, (S. of C., p. 274, l. 22) ; that he left the lodge meeting at about 10:30, (S. of C.,

p. 274, l. 30) went down Lafayette Avenue, and stopped in at the confectionery store, and called up his residence, (S. of C., p. 274, l. 33). This bit of testimony on the part of Petry, is corroborated by Mr. Reeves (on page 54, State of Case, l. 25) and by Detective Stender, (S. of C., p. 79, l. 2):

> "He telephoned. I saw him go in the booth and telephone."

Detective Stender said he was in the Bee-Hive. That is a little ice cream and confectionery store, (S. of C., p. 96, l. 40). Detective Osborne also said (S. of C., p. 129, l. 25):

> "Yes, and then he went on down to a little ice cream store nearby and I saw him enter a telephone booth."

Why did Petry enter the telephone booth? Let us find his reason. He said, (S. of C., p. 274, l. 38):

> "Q. Why was that?
> A. My daughter was ill, as I testified before, and during her illness, frequently she enjoyed refreshments at night.
> Q. What kind?
> A. Ice cream or something like that, and I frequently called up to see if she was still awake, and would bring it for her.
> Q. As a matter of fact, did you bring any refreshments?
> A. I did not.
> Q. Why not?
> A. My wife told me she did not want any.

After he left the store, he walked up Lafayette Avenue to the church property, looked over the church, and went immediately home, (S. of C., p. 274, l. 12). He said:

> "Q. What was your purpose in going over there and looking at the church?

A. In conformance or in compliance with a request made by Mr. Reeves a long while before that.

Q. To whom was the request made?

A. To members of the Consistory.

Q. What was the request?

A. His request was to go over the church property, and examine, especially the rear portion, which was accessible from the ground, that is, the roof of which was accessible from the ground, and see if anyone was loitering there, because he had suspicions that the roof of the building was being used as a playground by the youngsters and some of the older ones.

Q. When you went across Lafayette Avenue to the church property, where did you go; just explain that fully to the Court.

A. I went right over to the driveway alongside the church, and walked right straight through, looked over the church, and roof, which could be seen on account of its being painted white, and immediately proceeded to the rear of the property, and I went over the railroad tracks, to my house.

Q. Is that a direct route to your house?

A. From that point, yes.

Q. I mean from that point?

A. Yes, from that point.

Q. How long after the telephone call you made to your wife, was it you arrived at your home that night?

A. Possibly about seven minutes. Six or seven minutes."

Was there a more cogent reason why Petry should take the short cut through the church property to his home, which took him six or seven minutes to go from the store to his home, (S. of C., p. 276, l. 10, l. 22). Petry testified that he did not see Mrs. Reeves at all that night; he did not meet her in the rear of the church, nor at any other place; he had never committed adultery with

Mrs. Reeves; he had never kissed her; never caressed her in any way; and never was familiar with her. It was a complete, emphatic and positive denial on the part of Petry for any wrongdoing on that evening or at any other time.

Next we have the testimony of Mrs. Petry, wife of the alleged co-respondent, (S. of C., p. 320, l. 16):

"Q. Do you remember the 10th of May, 1928?

A. Yes, sir.

Q. That would be May before suit was begun?

A. Yes, sir.

Q. What effort did you make to fix that date, or recall that date and what occurred?

A. Mr. Reeves called me on the phone to give me a message for Mr. Petry. He wanted him to call on the way to lodge.

Q. On the 10th of May?

A. Yes, sir.

Q. What happened?

A. I told Mr. Petry when he came home and he said, 'Dr. Reeves should know we have no meeting tonight, we are going to have a rehearsal.' He said to call the parsonage and tell him. I called and Mr. Reeves was not in, but Mrs. Reeves said she would tell him when he came in.

Q. There was going to be a rehearsal where?

A. At the Masonic Temple.

Q. Mr. Petry was an officer of the lodge?

A. Yes, sir.

Q. Did he leave the house to go to the lodge meeting that night?

A. Yes, sir.

Q. At what time?

A. Quarter to eight.

Q. When did you next hear from him after that?

A. He called me from Joe's to see if I would like some cream for the sick girl.

Q. At what time was that?
A. Shortly after ten-thirty?
Q. How do you fix that time?
A. I can tell by the time he called and the time he arrived afterwards.
Q. What time did he get home?
A. Quarter to eleven.
Q. How far is it, from this Joe's that you mentioned to your home?
A. Going over the railroad tracks, not more than three blocks."

We cite the above testimony at length because it was very short, to the point and very explicit. She testified, (S. of C., p. 321, l. 34) with reference to the telephone call from the confectionery store:

"Q. What did Mr. Petry ask you?
A. He asked me if I would like some cream for the girls, and I said the girls were asleep, and he said, 'Alright, I will be right home'."

She testified, (S. of C., top of p. 322) that he was home from five to seven minutes after the telephone call.

Mrs. Reeves testified to the following, which we think is extremely important, (S. of C., p. 219, l. 22):

"Q. The next date mentioned in the bill of particulars, is May 10th, 1928. Do you recall that date?
A. I do.
Q. How do you fix that date, Mrs. Reeves?
A. With the affairs that were going on at the church at the time.
Q. Tell us about that, if you will, please?
A. The Friday before, one of the societies had had a dinner at the church, and the Friday before that the young men cleaned up behind the church and I remember that.
Q. This is the occasion when they say you

went back of the church with a shawl or something?

A. Yes, sir.

Q. And you went back of the church?

A. Yes, sir.

Q. May 10th, fell on what day of the week?

A. Thursday.

Q. On that night, do you recall what you did?

A. I do.

Q. What did you do?

A. I stayed home and sewed until about half past ten, and then I took a bundle of the childrens' old clothes that I was discarding and giving away, and took them over to Mrs. Whering's house.

Q. Where was that?

A. About five hundred feet away.

Q. How long did you stay there?

A. About ten or fifteen minutes.

Q. Then where did you go?

A. Then I walked up Lafayette Street and down Diamond Bridge and home.

Q. Did you go in your home then?

A. I did.

Q. And what time was it when you arrived home?

A. About eleven o'clock.

Q. Did you see Mr. Petry that night at all?

A. I did not.

Q. Were you in the rear of the church on that night?

A. I walked through the walk that goes through that church yard.

Q. Where were you going at that time?

A. Going over to Mrs. Whering's house.

Q. Did you stop there at all?

A. I did not.

Q. Now, will you describe that walk to his Honor—the walk—the route that you took —how it led in through there?

A. It led in through the trees and grounds that belong to the church.

Q. And was that commonly used and a path worn?

A. It was.

Q. Do you know whether people frequently used that path through there?

A. They did.

Q. Where did it lead?

A. From Lafayette Avenue, down over the railroad track.

Q. That was a short cut, wasn't it?

A. Yes, sir.

Q. Were you there alone that night?

A. No, sir.

Q. And when you came back, was Mr. Reeves home?

A. He was not.

Q. Coming back, did you come that way or not?

A. I did not.

Q. Did you have any old blanket or shawl with you on that occasion?

A. I did not.

Q. Is that your handkerchief?

A. No, sir.

Q. Before that was produced at the time of the last hearing, did you ever see that handkerchief before?

A. No, sir.

Q. That is the exhibit that is the handkerchief?

A. No, sir.

Q. Whom did you see at Mrs. Whering's house?

A. I saw her sister.

Q. And Miss Whering, what does she do?

A. She is the local reporter for the Press-Guardian.

Q. For the Press-Guardian?

A. Yes, sir.

Q. Did you commit adultery with Mr. Petry, at the rear of the church, at the

church they have been referring to, on May 11th, 1928?

A. I did not.

Q. Did you see him at all on that date?

A. I did not."

Corroborating the defense very strongly, is the testimony of a disinterested witness, Kathryn Shewster, (S. of C., p. 362) who says that she remembers the incident of May 10th, 1928, and she said:

"Q. Do you remember on the 10th of May, 1928, any occasion when Mrs. Reeves brought anything to your home?

A. I can't say as to the date.

Q. Do you remember the incident?

A. Yes, sir.

Q. Relate it to his Honor?

A. Mrs. Reeves came over with a package of clothing for some children we were interested in. Twice she came over. Once early in the spring, and another later.

Q. About what time?

A. Once early around seven or eight o'clock, and the other would be about ten or half-past ten.

Q. Where do you live?

A. Behind the church, at number 11 Royal Avenue.

Q. Going from the rectory, or the parsonage, what would be the direct route to your home?

A. Across the street from her house, turn to the right to the church, and over to our house.

Q. Along the cinder path?

A. Yes, sir.

Q. Back of the church?

A. Yes, sir, across the trolley tracks and the railroad directly to our house.

Q. How long does it take to get from her home to your home?

A. Five minutes, perhaps.

Q. On this occasion which you are relating, about ten o'clock, about which you have just told us, what did she bring?

A. Some used clothing.

Q. How long did Mrs. Reeves stay at your home?

A. From twenty minutes to a half hour.

Q. And then left?

A. Yes, sir.

Q. That is all you know?

A. Yes, sir."

At the time Mrs. Reeves delivered the package for the poor children, to Miss Waring's home, Miss Waring was not at home, but her sister, Mrs. Shewster was at home, and took the package, for Miss Waring says (at page 364, State of Case, l. 34):

"Q. You were not home?

A. She gave them to my sister.

Q. Was there anything left at your house that you thereafter saw?

A. I still have some.

Q. What was it?

A. Children's clothing."

These two disinterested witnesses, Mrs. Shewster and Miss Waring, corroborate Mrs. Reeves with reference to the bundle of childrens clothing, for the Court will recall that Mrs. Reeves' testimony was that she "took a bundle of the childrens' old clothes that I was discarding and giving away, and took them to Mrs. Whering's house," (S. of C., p. 220, ll. 2 to 4).

May we ask the Court at this point to re-apply the test of human evidence, to the evidence given by the defendant and her witnesses. Doesn't the Court come to the conclusion that it is probable, and actually what took place? Doesn't it seem highly improbable in view of the testimony of the

defense, as compared to the testimony of the petitioner, that these parties would commit adultery in the swampy dump in the rear of this church on the evening of May 10th? What would be their reason for picking a place of that nature? If Mrs. Reeves and Mr. Petry had committed adultery in the rear of that church, why then did not Mrs. Reeves come back the same way which she had entered? Why did she come down Diamond Bridge Avenue, to Lafayette, and down Lafayette to her home? There is only one answer, and that is that Mrs. Reeves cut across the rear of that church over to Royal Avenue, where Miss Waring lived, (S. of C., p. 364, l. 8) to there deliver her bundle of childrens clothes. Royal Avenue is east of the tracks and runs parallel thereto, but stops in the vicinity of the line of the church, and intersects Diamond Bridge Avenue at right angles. After she had delivered her bundle of childrens clothes to Miss Waring's house, Mrs. Reeves walked up Royal Avenue to Diamond Bridge, down Diamond Bridge to Lafayette, from Lafayette to her home. This is the natural and probable course for a reasonable person to have taken. Isn't that the only conclusion to which the Court could come? Mrs. Shewster says that she remained at her home probably twenty minutes to a half hour. Isn't that period of time, the same period of time during which Reeves and his detectives waited in front of the church? (S. of C., p. 98, l. 24; S. of C., p. 130, l. 20; and S. of C., p. 24, l. 12). In other words, Reeves and his detectives waited in front of that church for a period of thirty-five to forty minutes. Mrs. Shewster says that Mrs. Reeves was at her home for about twenty minutes to a half hour. Allowing the five or six minutes walk from the Shewster home, to the time when Reeves first saw Mrs. Reeves turn in from Dia-

mond Bridge to Lafayette, we then have the exact period of time testified by the detectives and Reeves, during which they waited. Doesn't the petitioner's testimony, together with his two detectives, corroborate the defense in every detail, with one exception, where she was during that thirty-five minutes? Mrs. Reeves tells the Court where she was, and Mrs. Shewster tells the Court where she was. Mrs. Shewster is not married to any of the parties, not inter-related to any of the parties, not interested in the least in any of these parties. Her testimony therefore, should be given great weight in the consideration of a case that involves the integrity and morality of a woman who is accused of having committed the crime of adultery, with one of the pillars of a church.

In further corroboration of Mrs. Reeves' testimony, is the testimony of Detective Osborne (S. of C., top of p. 133) wherein he says that Mr. Reeves picked up a handkerchief "along the railroad tracks, in the grass." He testified, (S. of C., p. 141):

> "Q. How near to the railroad tracks?
> A. I would say right on the edge of the road, ten feet away from the tracks, along the path.
> Q. And you were right there when he found it, were you?
> A. Yes, sir."

Does Reeves, the petitioner in this case, want the Court to believe that Petry and Mrs. Reeves had intercourse ten feet alongside of a railroad track, in a swampy dump? If he does, he is preposterous in his assertions. Surely this man, as the Court will find out in the incident to be related hereafter, desired very much to entrap his wife in an act of adultery. He was deceptive in

the highest degree and when that deception comes from a minister of the Gospel, then there is one inference—that he was highly anxious to get rid of the wife who had borne him three children. Read what he had to say, (S. of C., p. 63, ll. 30 to 40):

"Q. You had told her you were going to your parents' home?

A. Yes, sir.

Q. And you had explained you were going to be away until Wednesday morning?

A. I presume so.

Q. And instead of that you came home Tuesday night?

A. Yes.

Q. The night before?

A. Yes, sir.

Q. And watched as you have explained to us?

A. Yes."

This man, who wants the Court to believe that he loved his wife, that he on June 3rd or 5th, got down on his knees, as he said "before God" and implored and begged of her to give up her relations with this man, stood before that wife whom he loved, and positively deceived her, and told her he was going away, and would be away until Wednesday morning, but that in the practice of his deception and in an effort to entrap his wife in some act of adultery, he stood by and watched her that Tuesday evening, but as the hand of fate or fortune would have it, he did not see anything which, in his mind, was sufficient to establish his suspicions upon the ground of adultery. The Court of Equity cannot give relief to a man who practices deception upon the person who he wants that Court to believe he loved, and cannot give relief to that man, who stands by and opens the way,

and gives his wife every opportunity in the world, to carry out what was in his mind, illicit relations with another man.

Our contention to this Court, under the facts of the incident of May 10th, is that not only does the preponderance of the evidence, preponderate in favor of the defendant, but that the petitioner's case in itself, is entirely unsatisfactory and not very persuasive as to the guilt, if any, of the defendant and her alleged paramour.

May 15th, 1928.

The next date in the bill of particulars is May 15th. We repeat under this head what we said under the heading of March 19th, 1928. The bill of particulars sets forth and accuses this defendant of having committed the crime of adultery upon the church grounds on the evening of May 15th, 1928, and yet, when this man was called upon to prove his charge before a Court, he failed and failed miserably. We set this forth in our brief to show to this Court of review the type and nature of the man we are dealing with. We want the Court to distinctly understand that with reference to these dates which have been omitted from proof, but which were in the bill of particulars, there was absolutely no proof introduced at all. If there was some proof put in and an attempt made to show at least the presence of the defendant and her alleged paramour at some place alone, we would not say this, but there wasn't one scintilla of evidence at all, adduced as to these dates. They were, insofar as the proof and records stand before us, absolutely false in their inception.

May 29th, 1928.

This is the sixth date mentioned in the further bill of particulars, but which is the fourth date concerning which evidence of alleged adultery was introduced. The testimony comes from the mouth of a daughter of the parties to this cause, thirteen years of age, twelve at the time the alleged occurrence was to have taken place, for the hearing was on June 20th, 1929, and the occurrence was alleged to have taken place May 29th, 1928.

This girl, Frances Barbara Reeves, at the age of twelve, says that on May 29th, 1928, (S. of C., p. 170, l. 10) she retired between 7:30 and 8:00 o'clock, which was the "usual time." (While the Court is at this point, it may not be amiss to refere to the testimony of the son on page 193 of the State of Case, l. 27, who also testified that he retired at the "usual hour." It seems improbable that both of these children should use the same phrase "the usual hour" and "the usual time" if they had not been drilled prior to the giving of their testimony, by some person who was in the habit of using that phrase. Surely a child of twelve or thirteen doesn't say "I retired at the usual hour"). That later on in the evening she was awakened by voices, (the same reason that Edward gave in his testimony as to the incident of January, 1928). Thinking that her father had come home, she started to go downstairs. (Again the same reasoning as Edward gave in his testimony). Clad in her nightgown, she went downstairs to where the stairs turned, and started to go down the rest of the way when (S. of C., p. 170, l. 17):

> "I looked in the parlor, and I saw my mother and Mr. Petry on the box couch, and

> I couldn't see anything of my mother but her head and feet. She had on black shoes and Mr. Petry had on blue clothes, and I was terribly frightened and I ran upstairs and went to bed."

Thus a daughter of the petitioner and defendant wants to describe to the Court, a night when her mother committed adultery with her alleged paramour Petry.

Let us inquire into the circumstances. Here we have a home of the defendant, lights in the living room on (S. of C., p. 176, l. 37); her three children asleep upstairs, and yet defiantly and wilfully, this mother invites her paramour into the home knowing that her husband was liable to come home at any moment, which in fact he did, (S. of C., p. 27, ll. 37 to 41) and there in open house, commits adultery in the living room of her home.

The petitioner testifies, (S. of C., p. 27, ll. 17 to 40) that on May 29th, 1928, he returned home from the shore, but that he did not immediately go home; that he went into the church and observed his home from the church window with Mr. Bell and Mr. Pollitt. They saw Petry enter the petitioner's home, whereupon the petitioner "immediately left the church and went up Lafayette Avenue. I went in back of the house, where I remained, and about half an hour later, Mr. Petry left my home." He further states that the shades were drawn. That he thereupon did not go into the house, but took Mr. Pollitt back to Paterson, and came home immediately then. He said (S. of C., p. 27, l. 27):

> "When my wife opened the door she seemed startled, and she was simply in a bathrobe minus her clothing. I asked her what she was doing downstairs in that condition,

> and she told me that she had taken a bath and came down to turn off the water heater. I went back to the water heater and found it was stone cold."

This testimony, on the part of the petitioner, is his attempt at corroboration of his daughter's testimony.

Mr. Bell, who testified concerning this occasion, testified that he saw Petry turn into the parsonage, (S. of C., p. 156, l. 18) and that thereupon he went back to the church and acquainted Mr. Reeves of the fact that Petry was going into his home. That they stayed in the church talking for about five to ten minutes, (S. of C., p. 156, l. 39) and then went out, and that ten or fifteen minutes after they came out, (S. of C., p. 157, l. 15) Petry came out of the parsonage.

This is the petitioner's case concerning the incident of May 29th, 1928. Let us see if we can pick out the inconsistencies between the statements of all, first, with reference to the story of Frances.

Right in the very beginning, doesn't her story of what took place that evening, show upon its face, that she was drilled and drilled. That little girl used almost precisely, the exact terminology of her young brother. They retired at "the usual hour" or "the usual time." That shortly thereafter, they were "awakened by voices." Both of them, thinking that it was their father one called, and the other one went downstairs. The preliminaries to the act, on the part of both children, seem to be in identical words. Were these two children drilled? Their grandfather was a lawyer at Asbury Park, (S. of C., p. 420, l. 38). Their uncle, a brother to the petitioner, was a lawyer in the City of New York and their father, anxious to obtain a divorce. Were these two children put into a room and by some person who knew what

was wanted in cases of adultery, told what to say? Surely, a young girl, at the age of twelve in "a part of a second" (S. of C., p. 180, l. 19) couldn't see her mother with her paramour on top of her mother; that her mother had black shoes on; that Petry had blue clothes on; that she only could see her mother's feet and face; couldn't see the face of Petry; but intellectual as she was, she could recognize that it was Petry, even though his back was towards her. One salient and important feature in this girl's testimony, is the fact that she never mentioned it to her father until after she had been taken away from her mother, and taken to Asbury Park. She testified, (S. of C., bottom of page 173):

> "Q. Have you any particular recollection of telling him? (Petitioner)
> A. I know I told him before I went to school."

Let us read the girl's testimony, (S. of C., bottom of page 172):

> "Q. Did you ever tell this story before?
> A. I told it to my father.
> Q. When?
> A. After I went to Asbury Park.
> Q. How long after you went?
> A. To Asbury Park?
> Q. How long after you went to Asbury Park?
> A. Quite a while.
> Q. When did you go to Asbury Park?
> A. June 11th, 1928.
> Q. And how long after June 11th, 1928, did you tell your father about it?
> A. Quite a while after.
> Q. One month, two months, or what?
> A. I have forgotten.

Q. You went to Asbury Park, and in the following Fall you went to school?
A. Yes, sir."

Here is the important feature. This petitioner, Reeves never knew and never was told his wife had allegedly committed adultery on the evening of May 29th, 1928, until shortly before the Fall of 1928, which would be shortly before Barbara went to school, but positively after June 11th, for as she said hereinabove "quite a while after June 11th," yet the petitioner filed a petition for divorce on the ground of adultery on June 7th, 1928, and in there he said that the defendant committed adultery with Charles D. Petry in May, 1928, at the petitioner's home, (second paragraph, petition for divorce, (S. of C., p. 5). Doesn't this strike the Court as important? The petitioner takes an affidavit on June 6th, files it on June 7th, and under oath says that his wife committed adultery at his home on May 29th, 1928, yet from the very mouth of his daughter, he never knew of the incident until after June 11th, and shortly before the Fall. How did the petitioner come to put this date in the petition? There is only one conclusion. The man has absolutely perjured himself before a Court of Equity, and then asks that he be given relief. What happened if this young lady were drilled in her story? They had covered, as they thought, all of the important facts, but alas, as fate would have it, they forgot to talk about the time that she told her father about the incident. The girl then, in open court, and under oath, for the first time being asked when she told her father, gives a date after the petition had been filed. Poor little girl. She was only thirteen years of age. She didn't know the extreme im-

portance and evidential value of the date she was about to give.

Tests were made in behalf of the defendant as to whether a person standing in the position of Frances, could see the corner of the room where she said her mother was.

Myrtle Petry (S. of C., p. 342, ll. 33-40) testified that she made observations from the point of the stairway that Frances said she was and found:

> "Q. Can you or not see the corner of the room, the corner which would be the southwest corner?
> A. You cannot see it at all."

Mabel H. Petry made the same observations, (S. of C., p. 347, ll. 20 to 30):

> "Q. Can you see the southwest corner of that room?
> A. No, you cannot."

Mary Brooks Barker, who testified at the hearing, said that she recently stood upon the third step from the top of the stairway of the parsonage and made observations (S. of C., p. 337, l. 20). Then she was asked whether she could see the corner where Frances said her mother was. The corner was described to her, with reference to the points of the compass, and her answer was "you cannot see that corner. I live in the same kind of house." Then she said:

> "Q. Same floor plan?
> A. Yes, sir."

A woman who lives in the same kind of a house with the same floor plan, who stands in exactly the same position as Frances, said she was and yet can't see the corner where Mrs. Reeves was supposed to be on this particular evening.

Next, we have the testimony of Eleanor V. H. Knapp, who made the same test or experiment, and to quote her exact words, (S. of C., p. 360, l. 29):

> "Q. Standing three steps, or four, or five steps from the top is it impossible for one to look into the front room, into the corner which would be the southwest corner?
>
> A. I know which corner you mean—where the couch was. I have tried it and you can't unless you lean way over the banister."

Mrs. Reeves testifies to it in detail on the entire of pages 227 and 228 of the State of Case:

> "Q. Your house is a two-tory, one family house?
>
> A. Yes, sir.
>
> Q. And as you come up Lafayette Avenue, it is on the northerly side of the street?
>
> A. West.
>
> Q. And it is back about twenty feet from the street?
>
> A. A little more than that.
>
> Q. About twenty or twenty-five feet back from the street, and a porch on it?
>
> A. Yes, sir.
>
> Q. And no hallway?
>
> A. No, sir.
>
> Q. And the door opens into a square hallway?
>
> A. Yes, sir.
>
> Q. And that is about twelve by twelve?
>
> A. No; nine by nine.
>
> Q. And as you go in there, there is a square hallway?
>
> A. Yes, sir.
>
> Q. And the hallway and front room occupy the front of the house?
>
> A. Yes, sir.
>
> Q. And then there is a stairs that lead up?
>
> A. Yes, sir.

Q. And there is one flight that leads half way up, and then there is a direct turn, at a platform?

A. Yes, sir.

Q. And then you make a direct turn and go up the other flight?

A. Yes, sir.

Q. And the head of the stairs is at the top flight?

A. Yes, sir.

Q. And then there is an archway there?

A. Yes, sir.

Q. How large is that living room, about?

A. Fourteen by—twelve by fourteen, I should think.

Q. In back of the living room, there is a dining room, isn't there?

A. Yes, sir.

Q. And then a partition between the living room and dining room?

A. Yes, sir.

Q. With an arch partition there?

A. Yes, sir.

Q. And back of the doorway, on the right, is the kitchen?

A. Yes, sir.

Q. That is correct, isn't it?

A. Yes, sir.

Q. Did you hear Frances testify to the position she was in, when she came down the stairway, or part way down, the second flight of the stairway?

A. I did.

Q On May 29th, 1928?

A. I did.

Q. Was there a couch in the living room on that day?

A. There was.

Q. Where was the couch?

A. The couch was between the hallway and bay window on the south side of the house.

Q. And that would be the far side, away from the hallway?

A. Yes, sir.

Q. Were you up in this house with me?

A. I was.

Q. Did you stand in the position, as described by Frances?

A. I did.

Q. Did you stand in the position, as described by Frances?

A. I did.

Q. And were there others there?

A. Yes, sir.

Q. And could you see the couch, except about two feet of the end?

A. That is all.

Q. Could you see the head of the couch at all?

A. No, sir; you could not.

Q. Could anybody—lying on that couch—could you see their heads at all, in that position?

A. No, sir.

Q. In order to see them at all, their feet would have to be up to the head, and their head down at the foot of the couch, is that true?

A. Yes, sir.

Q. Standing on that stairway would it be possible to see anybody lying on that couch, with their head lying on the head of the couch?

A. No, sir."

We submit to this Court, that from the above testimony it is clearly shown that Frances could not see the southwest corner of the Reeves' living room from the position she testified she was at.

Let us go to the petitioner. He testifies (S. of C., p. 27) that he, Mr. Bell, the janitor, and Mr. Pollitt went to the church on the evening of May 29th, 1928, having just returned from the shore, and *"with them"* observed his home from the church window. He said: *"We* saw Mr. Petry

enter my home." Poor Mr. Reeves. They forgot to tell Mr. Bell about that part, for Bell, when he was on the stand, testified, (S. of C., p. 156, l. 15) on direct-examination:

> "Just after that *I* saw Mr. Petry walk up Lafayette Avenue, toward the parsonage, and *I* saw him turn in the parsonage, and there wasn't another soul on the street, and I went back to the church and *acquainted Mr. Reeves of the fact that Mr. Petry was walking toward the parsonage,* and had entered."

And further, (S. of C., p. 156, l. 30):

> "Q. And who did you find in the church?
> A. Mr. Barrett and Mr. Reeves.
> Q. What did you all do after that?
> A. We were all in the church, talking, for about five or ten minutes, and we all went out of the church, with the intention—
> *By the Court*:
> Q. Did you see Mr. Petry again that night?
> A. Yes, sir; I saw him come out of the parsonage.
> *By Mr. Moore*:
> Q. When?
> A. About ten or fifteen minutes after we —come out of the church."

The petitioner tells the Court that he personally saw Petry enter his home. Bell says that he saw Petry enter the home, and that when he did see Petry enter, he then went to the church and acquainted Mr. Reeves with that fact. One of these two witnesses is absolutely falsifying. Both cannot be correct. This is not the type of testimony which can be reconciled under the guise of being honestly mistaken. We believe Bell when his testimony is compared with that of the defense.

The second feature is that the petitioner says (S. of C., p. 27, l. 24) that he immediately left the church and went up Lafayette Avenue; he went in back of the house where he remained, and about a half hour later, Mr. Petry left his house. Again we say, poor Mr. Reeves. He should have discussed the case with Bell beforehand. Bell testified, (S. of C., p. 157, l. 10) direct-examination:

> "*By the Court*:
> Q. Did you see Mr. Petry again that night?
> A. Yes, sir; I saw him come out of the parsonage.
> *By Mr. Moore*:
> Q. When?
> A. About ten or fifteen minutes after we come out of the church."

Bell says that Petry came out of the house fifteen or twenty minutes after they stepped out of the church. Reeves says he went out of the church with Bell, walked to the parsonage, went around to the back, waited one-half hour and then Petry left.

At this point we would like to bring to the attention of the Court, the saying of an aged professor in the law. When the dictator of this brief was at the university, we were told by this professor, learned as he was in the practice of the law, and in the presentation of cases before the bar, that a witness and a lawyer, in testifying and presenting a case, was an artist drawing a picture. That picture of necessity had to have a certain amount of paint. He always emphasized that the moment a painter *overpainted* his picture, the picture would be *valueless*. He applied that to a case, to a witness, and said that the moment a witness, *exaggerated and overpainted and stretched*

his story, his story would then become *incredible and valueless.*

We apply this to the petitioner. Reeves in his desperate anxiety to obtain a decree of divorce, gives this testimony, contradictory to Bell's. Bell's testimony was absolutely correct, as to his seeing Petry enter and leaving; when he saw Petry enter he then went in to tell Reeves. They talked for five or ten minutes in the church and left; and about ten or fifteen minutes later, Petry came out of the parsonage. When this testimony of Bell's is compared to the defense, it corroborates the defendant's witnesses in every detail, for we say on the defense that Petry was there that evening, but only for the space of time that Bell testified to, and was there in the presence of a disinterested witness, Mr. Anthony Locker, as will more particularly hereinafter be mentioned.

Are we to believe Reeves, who wants the Court to believe, was waiting in the back of his home for about one-half hour? What was he doing? Twiddling his fingers? He was the master of the house. If he thought at that time that his wife was committing adultery with Petry, why didn't he walk in and catch them in the very act? The door was open for him. All he had to do was walk up the front steps quietly, and open the door to the living room, and there, as he would want you to believe, he would find his wife underneath Petry, in the act of sexual intercourse. It would have been the easiest thing for him to do. It would have been the probable thing for him to do, but no, not Reeves. He went back to Mr. Pollitt and took him to Paterson, and then returned to Hawthorne, and during all of that time that elapsed in this ride to Paterson and back, and after Petry had left, he wants the Court to believe that this derelict wife wilfully and obstinately stood on the liv-

ing room floor in her bathrobe, minus her clothing, until her loving husband returned, to there find her, destitute of clothing. Is his story credible? Did he do or act as the reasonable prudent person would have acted under the like circumstances at that time and place?

When Mr. Bell uses the name Barrett, and Mr. Reeves uses the name Pollitt, we assume that it is a misunderstanding on the part of the stenographer, and for the purpose of this brief, will assume that it is the same and identical person. Where is this third party? Where is Mr. Pollitt? He wasn't produced at the hearing. Is this one more of these unknown creatures like those that have bobbed up in the usual bootleg cases, or usual stolen automobile cases. The words of the eminent jurist in Southern Texas would somewhat become appropriate at this point when he said:

> "This unknown and mysterious gentleman who was never seen but once and never produced is bobbing up in too many cases to be satisfactory to a Court, and to be believed by it."

Now let us go to the defense. Charles D. Petry testified, (S. of C., p. 276, l. 39) that he had no difficulty in recalling the evening of May 29th, 1928, for the reason that, (S. of C., p. 277, l. 3):

> "My younger daughter was a student in Normal School, and was required by her art instructor to produce certain conditions for qualifying along certain lines, which was the construction of a small vehicle known as an Irish Jaunting Car. Being wholly unfamiliar with that, and the encyclopedia did not give us anything that would lead us * * * I called Mrs. Reeves, expecting to get Mr. Reeves, knowing him to be pretty well posted on everything."

He further testified:

> "I found he was out, and I told Mrs. Reeves what I wanted, and she said she would see if she had any magazines in the place that would give me any, that would give me the information. Shortly after, we received a call from Mrs. Reeves—"

As a result of Mrs. Reeves call back, wherein she told him she had a book of some illustrations, he went over to Mrs. Reeves home and looked the book over with a magnifying glass, and discovered that it was clear enough to construct from, (S. of C., p. 277, l. 30). The very magaine about which he was talking was introduced into evidence. The magazine was a National Geographic magazine, the printing of which was omitted under stipulation, (S. of C., p. 433). It was of the issue of March, 1927, volume 51, number three. In the upper right-hand corner of the magazine there were the initials "M. D. R." which are Mrs. Reeves' initials, (S. of C., p. 278, l. 10; S. of C., p. 433, l. 7 of the stipulation). On page 309 of such magazine there is a picture showing an Irish jaunting cart, (See stipulation, S. of C., 433, and S. of C., p. 278, l. 7 and 8).

He further testified that he was there about five or six minutes, (S. of C., p. 278, l. 17); that when he arrived at the parsonage, or Mrs. Reeves' home, Anthony Locker was there, (S. of C., p. 278, l. 19); that he took the book home with him; that he heard Mrs. Reeves' children upstairs; they were making some noise, evidently playing; that he had been absent from his home for a period of about twenty minutes at the most, (S. of C., p. 278, l. 40) and that he did not go out again that night, (S. of C., p. 279, top of page); that a jaunty cart was made from this picture, and Mr. Petry pro-

duced the jaunty cart, and it was introduced into evidence, (S. of C., p. 279, l. 15); that this was the very jaunty cart made from the very picture in the geographic magazine, and that he collaborated with his daughter and worked with her, (S. of C., p. 279, l. 21). He denied committing adultery with Mrs. Reeves. Said that he was never alone with her that evening, and denied any intimacy.

Mrs. Reeves testified that May 29th, 1928, was the day before Decoration Day; that about a quarter to nine Mr. Petry called up, and asked if she had a picture of a jaunting cart, whereupon she answered she did not know, but would look for one, would look through some of the magazines, (S. of C., p. 222, ll. 10 to 24); that she looked through some magazines, went over to the study; found one that had a picture of a jaunting cart and called Mr. Petry back, and told him that she had found one; that she then went back home (the study which she referred to is in the church building proper directly across the street) and began sewing when Mr. Locker came to the door.

At this point we desire to call the Court's attention to the fact that (S. of C., p. 222, l. 26) Mrs. Reeves said that Mr. Locker came to the door and wanted to know if Mr. Petry was there. The original testimony indicates that the name Petry was used, but surely in light of the testimony adduced by all of the parties, including Mr. Locker himself, (S. of C., p. 306, l. 9) when Mrs. Reeves used the word Petry she undoubtedly meant Reeves.

She further testified that she told Mr. Locker that Mr. Reeves was not in, but she expected him shortly; that Mr. Locker came in and waited; that Mr. Petry then came and she showed him the picture of the jaunting cart, (S. of C., p. 222, l. 29); that Mr. Locker was there at that time when Petry

came; that they saw each other; that Mr. Locker was there during the time Mr. Petry was there, and was also there after Mr. Petry left, (S. of C., p. 222, ll. 34 to 35); that Mr. Locker stayed there about twenty mintes to a half hour after Mr. Petry left, and that Mr. Petry did not return to her house that evening, (S. of C., top of p. 223); that she was never on the couch with Mr. Petry; that the testimony of Frances was untrue; and that Frances was her father's favorite of the three children.

Mrs. Petry testified that she remembers the incident of the jaunting cart, having talked over with her daughter, the advisability of calling the parsonage, to see if they could get a book with a copy of a cart in it, (S. of C., p. 322, l. 23); that it was the 29th of May, 1928, the day before Decoration Day. That Mr. Petry called the parsonage, and Mrs. Reeves said she would look for one; that she called back later and said she had found one; that thereupon she (Mrs. Petry) sent Mr. Petry over to the parsonage for it, (S. of C., p. 322, bottom); that Mr. Petry was gone for approximately one-half hour, (S. of C., p. 323, top). Mrs. Petry was then shown the magazine and asked if that was the one he brought back with him to which she answered: "Yes, sir. This is the one." The Court will find that she was shown Exhibit D-dated 12/18/29, which date indicates the date of the hearing at which it was marked, (S. of C., p. 248) and not the date of the issue of the magazine, for the date of the issue of the magazine is in the stipulation, (S. of C., p. 433) as March, 1927. That Mr. Petry and the daughter worked all evening on the plans, and the next day or evening they made the cart itself. The cart was then shown to the witness, and she identified that as

the one made at that time. The cart itself is already in evidence, (S. of C., p. 279, l. 15); that that work was part of her daughter's required work at the Montclair Normal School.

Myrtle Petry, the daughter testified to exactly the same facts; identified the book, the jaunting cart, testified that the jaunting cart was an exact reproduction of the cart set forth in the magazine. (See S. of C., p. 340, ll. 30 to 40, and S. of C., p. 341, ll. 1 to 40). She testified, (S. of C., p. 341, top) that her father was not gone from the home for more than twenty-five minutes, (S. of C., p. 342, l. 2) and that the jaunty cart was actually constructed the following day, (S. of C., p. 342, l. 8).

Next we have Mable H. Petry, a daughter, again corroborating the defendant, (S. of C., beginning on p. 346, l. 26) wherein she tells the Court of her sister trying to find a picture of an Irish jaunting cart; of the telephone calls; her father calling at the parsonage for the book; returning with the magazine that was exhibit to her, (S. of C., p. 346, l. 37); identified the magazine that was in evidence as the same one that the jaunty care was in, (S. of C., p. 309). She testified (on page 347, State of Case, l. 3) that the jaunty cart that was before her in the court room, was the cart made as the result of the picture. This young lady is a teacher, (S. of C., p. 347, l. 32).

However, there was one witness, the most important of all, entirely disinterested in this matter, related not in the slightest degree to any, but who was present in the Reeves home during the evening of May 29th, 1928. Mr. Anthony Locker of Hawthorne, a textile designer, who resided in Hawthorne about ten years, (S. of C., bottom of p. 301) testified (S. of C., p. 305) that he heard a rumor concerning himself and a young lady, a

parishioner of the First Reformed Church, (S. of C., p. 305, l. 18 to 28); that he went to the parsonage to find out about it, and to ascertain whether there was any truth in it. That he remembers the evening of May 29th, 1928, the next day being Memorial Day; that he arrived at the parsonage at about 8:30. He says he went to Dr. Reeves study in the church building, and not seeing any one, went across the street to the parsonage, (S. of C., p. 305, l. 38 to 40). He continues:

> "I knocked on the door and Mrs. Reeves answered and I asked for *Mr. Reeves.* She said he was out just at present, and she asked me to come in and wait." (S. of C., p. 306, ll. 8 to 12).

That while he was there waiting, Mr. Petry came, knocked on the door. Mrs. Reeves went to the door. That they then came into the dining room, and Mrs. Reeves had a magazine that Petry wanted; that Petry looked it over very carefully, (S. of C., p. 306, l. 30); that they talked for a few moments and then Mr. Petry left. That he was there when Mr. Petry came and was there when Mr. Petry left, (S. of C., p. 306, l. 22); that the respective conversations took about fifteen minutes, and that the subject of the conversations was an Irish Jaunting Cart, (S. of C., p. 306, l. 40; S. of C., p. 307, ll. 1 to 2). That he remained there after Mr. Petry left, for about fifteen to twenty minutes, and that Mr. Petry did not return at all. That he, (Locker) then said he couldn't wait any longer and left, (S. of C., p. 307, l. 12); that Mr. Petry took the magazine with him when he left, (S. of C., p. 307, l. 18); that Locker was there altogether that evening about one hour. That during the period of time that Petry was

there, Mrs. Reeves and Petry were never out of his presence, (S. of C., p. 307, ll. 36 to 39).

As we proceed in summarizing the defense testimony in argument, we will bring out to the Court wherein it is corroborated by the testimony of Mr. Bell, the janitor of Reeves' church, and who testified for the petitioner. Petry says, and so does Locker, and so does Mrs. Reeves that he (Petry) went to the parsonage at or about twenty minutes or a quarter to nine. Bell says it was approximately that time, for it was shortly after that he saw and met Petry face to face. He was asked, (S. of C., p. 162, l. 35):

> Q. Are you sure it was about twenty minutes to nine?
> A. About that."

Mr. Locker, Mrs. Reeves and Mr. Petry say that Mr. Petry was only there about fifteen or twenty minutes. Mr. Bell corroborates this by saying, (S. of C., p. 156, l. 17) that the moment he saw Petry enter the parsonage, he went into the church and acquainted Mr. Reeves with that fact. On the same page, line 37, when he did go in and tell Mr. Reeves, they talked for about five or ten minutes, and then all went out of the church, and that about ten or fifteen minutes after they came out of the church (S. of C., p. 157, l. 14) Petry came out of the parsonage.

In other words, according to the testimony of Bell, the petitioner's own witness, Reeves was only in that parsonage for about fifteen to twenty minutes at the most, for Bell says that he notified Reeves immediately, when Petry went in the parsonage, talked for about five minutes with Reeves and left the church, and ten or fifteen minutes after they left the church, Petry came out of the parsonage. That would be fifteen to twenty min-

utes in all. Isn't that exactly what the defendant contends? Isn't that what the disinterested witness, Locker, says? Does the petitioner and the daughter of the petitioner, want the Court to believe, that in this fifteen or twenty minutes Mr. Petry entered; Mrs. Reeves took off her clothing, both lied down on the box couch in the living room of the parsonage with the lights on, and there committed adultery, and then Petry leaves? Could the defendant and her witness have done any more or have obtained any more testimony than what they did, to aid, a Court of Equity and to show that Court that they are bona fide in the giving of their human testimony? They produced everything that was at their command. They produced the man who was there that evening, Mr. Locker. They produced the very jaunting cart that was made from the geographic magazine. They produced the very magazine from which it was modeled. The magazine is of the issue of March, 1927, a year prior to any trouble arising in this family. If the defense was a fake one, or if it was untrue in fact, would these strange coincidences occur? Would it be the hand of fate or as fortune would have it, there would be a magazine of a prior issue to May 29th, with a picture of a jaunting cart in it? The defense produced the original books of Dr. Was, since deceased. They produced his original certificate, and supplemental certificate, which he submitted to the New York Telephone Co. in the month of January, 1928, and which was filed with that company at the same time. The defense was fortunate indeed to obtain the permission of the New York Telephone Co. to allow us to take these records and introduce them into evidence. The company thought very highly of Mr. Petry. He was a very highly respected man in the company's personnel, and they offered us every

assistance possible, and the Court knows that it is very seldom that files of the New York Telephone Co. may be obtained, without the necessity of having depositions taken, by virtue of a commission directed to someone in the State of New Jersey. Surely it can't be contended that all this is fake, or was made up at the last moment. The entries in Dr. Was' book were not interlined entries, but were regularly made entries in his day book. The files of the New York Telephone Co. could not be made up at the last moment. The time clock stamp indicating the filing date, is already before the Court. These dates are long prior to any trouble arising in the Reeves family. All this is inserted in this brief to indicate and to exhibit to the Court, the sincerity with which this defendant presented her case in a Court of Equity. She did everything possible to aid the Court and to show of what caliber she was made, and in it fortune aided her.

In closing this incident of May 29th, 1928, we are deeply impressed with the fact that all of this most convincing testimony adduced in behalf of the defendant, will beyond all doubt, convince this Court, that the defendant and her alleged paramour Petry, did not, on the evening of May 29th, 1928, commit any act of adultery.

June 4th, 1928.

June 4th, 1928, is the seventh date mentioned in the bill of particulars, but concerning which no evidence was produced at the trial. We emphasize again under this head, the same argument advanced under the heads of March 19th, 1928, and May 5th, 1928. Again we have before us the caliber of man we are dealing with.

This concludes the arguments concerning the specific dates mentioned in the bill of particulars. We now desire to argue generally the entire case from the standpoint of all of the testimony concerning the petitioner's direct case, and the defense directed to the petitioner's direct case.

The petitioner, Reeves, testified, (S. of C., p. 19, l. 28; S. of C., p. 32, l. 18) that his suspicions concerning his wife were aroused on the first Tuesday in March of 1928. The first Tuesday in March of 1928, according to the calendar for that year, was March 6th, 1928. He then said, (S. of C., p. 46, l. 13):

> "Q. So that from March until May 10th (1928) I think that is the date you stated, so far as you personally were concerned, you saw nothing that aroused your suspicions, is that correct?
> A. Yes, sir.
> Q. And you said nothing to your wife?
> A. No, sir."

Further, (S. of C., p. 64) Reeves testified concerning the incident of May 10th, 1928, when he saw his wife go to the rear of the church:

> "Q. Well, you loved her up to that time?
> A. Yes, sir.
> Q. Loved her up to the night before that Tuesday night?
> A. Yes.
> Q. And that Tuesday night your love for her ceased, is that right?
> A. Absolutely.
> Q. Had you a great love for her before that?
> A. I would say so."

So that therefore, we have standing before us a man who said that he saw nothing suspicious from March 6th, until May 10th, and that up to May

10th, he loved his wife and had a great love for her, yet this very man, says that he had already, from the latter part of March, or the first of April, hired detectives from a detective agency in New York City to follow and shadow his wife. Let us see if this is not so.

Detective Osborne, the head of the agency, said that he had been on the case from the early part of April, (S. of C., p. 133, l. 39). Detective Stender says, (S. of C., p. 102, l. 15) that he doesn't recall how long prior to April 11th, 1928, it was that he was on the case but he did remember that on Saturday he went to see Mr. Reeves personally in Paterson. Giving the petitioner every doubt as to which Saturday it was prior to April 11th, we will take the last Saturday prior to April 11th, which according to the calendar was April 7th. So that therefore, we have Detective Stender already personally interviewing Mr. Reeves on April 7th.

Harvey Reeves, the brother of the petitioner, and who was the one who spoke to Mr. Osborne relative to this case said (S. of C., p. 144, l. 37):

> "I first talked to Mr. Osborne in regard to this case about the middle of March."

Therefore, we have Harvey Reeves, a brother of the petitioner, speaking to the head of the detective agency, already in the beginning of March, 1928, and surely this Court can say from that, that his brother, the petitioner in this case, already had spoken to Harvey about it, in order for Harvey to speak to a detective agency, so that therefore, even prior to the middle of March, we have the petitioner talking to his brother about a divorce, so that then is the petitioner correct when he tells the Court that he loved his wife until the date he saw her go to the rear of the church?

Another important and additional feature is the testimony of Miss Feldman, who, on cross-examination said, (S. of C., p. 92, l. 3) testifying concerning the incident of September 9th, 1927:

> "Q. When did you tell Mr. Reeves this?
> A. Several months afterwards, when I understood he was going to institute divorce proceedings.
> Q. That would be several months after September, 1927.
> A. Yes, sir."

Here is the folly in the petitioner's case. To an intimate friend, Miss Feldman, who he had known all his life, he was talking about instituting divorce proceedings against his wife, only several months after September of 1927. Later on in the cross-examination, she said she would rather imagine it was about April, when she told him. If that is so, then when Dr. Reeves retained this detective agency in the middle of March, he had not yet known about the incident of September 9th, 1927. One way or the other, it is disastrous to the petitioner's case.

Can this man impress this Court of review with the fact that he is sincere, that he loved his wife, that his suspicions were never aroused, and that he begged her in the eyes of God to give up any relations with this man, when from the mouths of his own witness, and his own dear friend, he had been talking to her about divorce several months after September of 1927? He hired detectives in March of 1928, filed his petition of divorce on June 7th, 1928, signed an affidavit under oath on June 6th, 1928, and never left his wife until June 11th, 1928. Let us see if we can gather the attitude of this man from the testimony of an entirely disinterested witness. Let us see if we can impress the Court of

the extreme deceptive character of this minister of the gospel.

Mary Brooks Barker, a member of Dr. Reeves' church, and a friend of all concerned, and who resided at 59 Tuxedo Avenue, Hawthorne, New Jersey, testified, (S. of C., p. 334) of a social affair given at her home on June 8th, 1928, (l. 28). (This was two days after Dr. Reeves had signed the affidavit to his petition, and three days before he left his wife). She testified Mr. Reeves was there, Mrs. Reeves, and Mr. Petry. That Dr. Reeves treated Mr. Petry, (S. of C., p. 334, l. 38) "perfectly friendly as he was with us all." She testified further:

> "Q. And how did he treat his wife?
> A. Just the same as the rest of us."

She further said (S. of C., p. 335, l. 7) that the affair was a shower given in honor of Mr. Petry's son who was to be married.

Mrs. Reeves testified to the incident, (S. of C., p. 210, l. 32). Mr. Petry testified to the incident, (S. of C., p. 300, ll. 3 to 40; S. of C., p. 301, ll. 1 to 28) that Mr. Reeves came over to him "put his hand on my shoulder and asked me if he might have an advance of 50% of the following weeks salary when he received his check," (S. of C., bottom of p. 300) and that he (Petry) said he would give him such check, and advance on the following Sunday. That Mr. Reeves played cards with him. He was always pleasant, (S. of C., p. 301, l. 18) and that Mrs. Reeves was there during the entire evening. Mrs. Petry testified to the incident (S. of C., p. 347, ll. 5 to 18).

Miss Eleanor V. H. Knapp was another guest at the party of this evening in honor of Mr. Petry's son, and she testified that Mr. Petry was there, Mrs. Reeves, Mrs. Petry and Mr. Reeves were

there; that Mr. Reeves played cards at the table with her, (S. of C., p. 360, l. 8) and she said (S. of C., p. 360, l. 12) "he seemed to be the same as usual. One thing, he put his hand on Mr. Petry's shoulder and asked him something." This corroborates in detail the testimony of Petry when he says that Reeves came over to him, put his arm around his shoulder, and asked him for an advance in salary. Miss Knapp further testified that his attitude towards his wife was the same as usual.

Was this minister who was supposed to uphold decency and not deceptiveness, conducting himself as an injured, aroused and deceived husband? Did he conduct himself as a man would conduct himself, who had prior thereto, signed an affidavit accusing his wife to the world of having committed adultery with the man who was standing before him? No. We have Reeves the sly, slick, deceptive man, laughing, playing cards, being congenial, putting his arms around his wife's alleged paramour, yet knowing down deep in his heart, that within a few days, his petition for divorce, accusing his own wife, the mother of his three children, of having committed adultery with the man whom he had his arms around, would be known to the world. Is this man, who conducted himself in such a fashion, entitled to relief from a Court of Equity?

Let us go on further and see what happened on June 3rd. We must bear in mind, however, before going into the facts of that day, that his love for his wife had ceased. He no longer loved her. He honestly believed, and was positive, that his wife had committed adultery with Petry, and in fact had already hired detectives, and had already consulted counsel, and three days later was to sign an affidavit accusing his wife of adultery.

We come therefore, to Communion Sunday, June

3rd, 1928. Let us see what Petry, an elder of the church had to say, who was also corroborated by the petitioner in his cross-examination. June 3rd, 1928, was Communion Sunday, (S. of C., p. 285, l. 26, at which he, Petry, functioned as one of the elders; that communion was administered that Sunday throughout the congregation, and to the minister. He testified, (S. of C., p. 286, top of page) that in the Protestant Church, as communion they have the bread and wine as the sacrament, and that that signified the broken body of Christ, and he said, (S. of C., p. 286, l. 12):

> "It is one of the most sacred services in the church."

He testified (S. of C., p. 285) that Dr. Reeves the minister received the sacrament from his (Petry's) hands, (S. of C., p. 286, l. 17); that he (Petry) received the sacrament from the hands of Reeves, (S. of C., p. 286, l. 18). Petry goes on to say that the services consists of the administration of the elements by the pastor to the officers (which would be from Reeves to Petry) "and then the officers, in turn, administering to the pastor and congregation," (which would mean Petry administering the sacrament to Reeves, the pastor). Petry testified, (S. of C., p. 286, bottom) that preceding every communion, a constitutional question must be asked and his own words were:

> "Interrogation shall be made of the elders and deacons, if they know of anyone, deviating from the path they should pursue, and if any should be excluded from Communion Service, or else reprimanded or spoken to regarding their conduct."

That Mr. Reeves was present and never said a word.

Reeves, on cross-examination, testified (S. of C., p. 78) that he still believed in the sanctity of his church. He said (S. of C., p. 78, l. 75) that on Communion Sunday, June 3rd, 1928, he (Reeves) (S. of C., p. 79, l. 3) administered communion to Mr. Petry, and that he did so as a minister of God, and that (S. of C., p. 79, l. 12) at the administering of communion there must be a pledge in his church, whether or not anybody knows of any reason why the person or persons who are taking communion cannot take it, and that while he (Reeves) knew all these things that had transpired, (S. of C., p. 79, l. 18) as a minister of the church, administered communion to Petry, (S. of C., p. 79, l. 18), and (S. of C., p. 79, l. 23) he makes the outrageous statement that at that time, he was contemplating divorce, and (S. of C., p. 79, l. 38) that he saw Mr. Petry administer communion to his (Reeves') wife, and (S. of C., p. 89, l. 6) that he (Reeves) stood by while Petry administered communion to Mrs. Reeves and never raised an objection.

Again we ask the Appellate Court what type of a man have we before us. A man who is supposed to uphold the sanctity of his church, yet brazenly, in open Court, and under oath, tells a Court of Conscience that he violated the sanctity of his own church, in an effort to obtain a decree of divorce. He tells a Court of Conscience that most of all, these facts that he testified to, and that Petry had committed adultery with his wife, he nevertheless, administered communion to him, which was forgiveness in his eyes and in the eyes of God, and stood by and received communion from the hands of the very man who he said had broken up his home, had committed the highest crime in marital life, and had de-

ceived him, and who had deceived him in the eyes of God, that he stood by and saw his own wife receive communion from the man who he said, and who in his own mind, knew had committed adultery with her, permitted that man to stand within the rail of sanctity of his church, and there administer forgiveness, knowing, as he told the Court, that he had committed adultery with his very wife. If Reeves was a minister of God, as he testified to, and which is excerpted hereinabove, and he believed in the sanctity of his church, and in the constitutional question asked prior to communion, why didn't he, if he thought he had evidence of adultery, or if he thought in his own mind that his wife had committed adultery with Petry, stand before the elders and deacons of his church, and there say that Petry should not receive communion, for the reason that he had committed adultery with his (Reeves') wife? If he had done that, all the deacons and all the elders who were present, could have testified for him as to the conduct and answer of Petry at that time. If this minister of the gospel had upheld the sanctity of his church, he would not have, as a minister of God, administered the sacrament of communion to a man kneeling before him, and who wants this Court to believe, usurped the sanctity of his home and broke it up forever.

Yet, Reeves turns around on further cross-examination and after all that he testified to concerning communion said (S. of C., p. 54, l. 14):

> Q. And that Tuesday night (May 10th, 1928) your love for her ceased, is that right?
> A. Absolutely."

There was no qualification in the answer. On the evening of May 10th, 1928, he had lost all love and affection for his wife, yet brazenly, in open Court, says (S. of C., p. 80, l. 21) that after communion

on June 3rd, 1928, he knelt down before his wife and plead to her, before God, to give up this man, and play fair with him.

Can this man impress the Court with sincerity, when he says to you and wants you to believe that having lost absolutely all love for his wife, having already, in his own mind been firmly convinced that his wife had committed adultery, having already spoken to counsel, and who was about three days later to sign an affidavit, under oath, to tell the world that his wife had committed adultery, that he knelt before his wife, and was pleading with her to give up Petry. It is not only improbable but is asinine in its very nature. His testimony is as asinine as his remarks concerning the first time his suspicions became aroused. He says that on the first Tuesday in March (March 6th, 1928) there was a consistory meeting, and that immediately thereafter he stepped out into the vestibule (S. of C., p. 20, l. 10) and was dumbfounded to find his wife and Mr. Petry in each others arms. When he was asked, in explanation of this, what Petry said, he testified, (S. of C., p. 21, l. 1) that Petry said: "He did not know that I objected." Can there be a more ridiculous, a more preposterous remark? Here we have a married man, living with his wife and three children, an elder and a pillar of the church, (S. of C., p. 42, l. 35) as Reeves said he was, in the vestibule of a church of God, hugging and kissing another woman, not married to him, but married to a man who was the minister of his church, and who was in the building, and then is allegedly caught in that embarrassing situation, and then says: "I didn't think you would object." Does he want the Court to believe that a man of the age and intelligence, and of the station in life that Petry held, would think that it was unobjectionable if he went around hugging and

kissing women married to other men? The remark is just as silly as the one he wants the Court to believe took place on June 3rd.

We hope and trust that we have brought to the attention of the Appellate Court, sufficient facts and circumstances to indicate the type of a man we have standing before the Court, asking it for its most sacred and prerogative relief. To break the bonds of matrimony should not be easily done. Law is in favor of the matrimonial status, and will do all it can to uphold it. The condition and status of life today is such that the law must give every benefit to a defendant in a suit for divorce on the ground of adultery. Of course, that is the law, but guided by those circumstances that are existent in this case, and in the light of the impossible and improbable situation described by the respective children of the petitioner, we ask that the Court reverse the decree absolving the bonds of matrimony between the parties to this cause. The purpose and intent of the petitioner can readily be seen even from the cold printed pages of the State of Case. At times members of the bar become impressed with the fact that an Appellate Court cannot see the demeanor of the parties to certain causes. It may aid them, and in this case, had this Appellate Court the opportunity to see the petitioner Reeves on the stand, the sulky, obdurate, cocky minister, as compared to the white-haired, broken, sad and forgotten Mrs. Reeves, surely the argument in support of the defense in this case would be strongly corroborated.

Can the Court find any reason why the petitioner in this case was a doubtful husband—one who always doubted the every act of his wife—one who thought she was insane at times—one who thought she was addicted to the habit of drugs—one who thought she had cancer—one who thought had been

confined to an institution. Was he arriving at that stage or point of life where he didn't want to be tied to his wife any longer?

Mrs. Petry testified (S. of C., p. 313, bottom of page) that she remembered Reeves coming to her home when Mr. Petry was sick, and there we will quote her exact words:

> "Mr. Reeves asked me if I had ever heard of cancer, and I told him Yes. He asked me—he told me that he thought Mrs. Reeves might have cancer, and he told me if he thought she really did have cancer, he would get her out of the house immediately because he was afraid of it."

Again she says (S. of C., p. 314, l. 31):

> "Twice in May he called to see my daughters and talked to me. One time he told me he was afraid Mrs. Reeves was losing her mind. He said she had been in an institution at one time, and I asked him where, and he said he did not know but that he had to get a divorce. The following week he called again and told me he had not told me the truth, and then he said it was worse than that, she was a dope fiend. He said he had listened in on a phone conversation, and had heard someone say they had some "snow" for her. I asked him what snow meant, and he said it was the worse kind of dope. He said he must be free, and then he laid his head over his hand like this, (indicating) and I thought he was crying, and then I realized that he was looking at me through the slits in his fingers to see how I was taking it. I didn't know how quickly I could get rid of him then, because I was frightened to death."

Let us see what Mr. Locker had to say about Reeves. We will quote his exact words, (S. of C.,

p. 303, bottom of page; S. of C., p. 304, top of page):

"Mr. Reeves called me up and asked me to come to his study. He seemed to be quite nervous and he said he had something on his mind and didn't know just how to tell it to me."

The Court:

He told you he had something on his mind?

The Witness:

Yes, sir.

The Court:

And didn't know how to tell you?

The Witness:

No, sir. He asked me about a friend of mine and asked me which one I liked the best and I told him I thought very much of both of them. He said at the time that Mrs. Bradley was sick and Mrs. Reeves went to see Mrs. Bradley and he told me on the night previous to the night I was there that he had gone to bed at about eleven o'clock and when he had been in bed a couple of hours he heard the door slam and he asked who it was and it was Margaret. She said it was eleven o'clock then, so he told me there was something going on between Dr. Bradley and Mrs. Reeves and if Dr. Bradley would tell anyone he would tell me, and he wanted me to spy on Mr. Bradley.

Q. What did you say?

A. I didn't know what to say. I was so taken back.

The Court:

Did you have any conversations along similar lines?

The Witness:

Yes, sir. He was always imagining things about people.

The Court:

In what way?

The Witness:

About morals, and—

The Court:
Of a sexual nature?
The Witness:
Yes, sir."

Let us go to Dr. Bradley, a dental practitioner of Hawthorne, New Jersey. He testifies that in the month of June he had a conversation with Reeves, and said (S. of C., p. 356, l. 26):

> "Q. What was the nature of that conversation?
>
> A. He called in my office and I asked him if he had changed his mind. I asked him if he didn't think he was a little bit hasty. He said he knew of nothing to change his mind. I knew him very well, so I said to him, 'Why not go to Margaret and lay your cards on the table and let her lay hers on the table.' He said, 'I have started it, and I am going to follow it through.'
>
> Q. Did you ask him if he had accused her of these things—if he brought these charges to her attention and made any accusations to her personally?
>
> A. He said they knew nothing about it at all. I asked him if he had not called their attention to it, and he said they had not the slightest knowledge of it."

Imagine if the Court will please, that he tells this man, Dr. Bradley, that they knew "nothing about it at all." We think Dr. Bradley is quoting him correctly. Dr. Bradley is an eminent dentist, whose reputation and veracity has never been assailed, and who is held in the highest esteem by his neighbors. In those few words that he gave the Court, in our opinion, he gave the sum total of what Mrs. Reeves knew of the entire thing, and that was nothing, for Reeves never told her.

Then may we go to Mary Brooks Barker, a resident of Hawthorne, and see what she has to say

(S. of C., p. 335) of an incident that took place in 1923. She remembers (S. of C., p. 335, l. 17) attending Mrs. Carmen's quartet in Hawthorne, and remembered that the rehearsal broke up at approximately eleven o'clock, (S. of C., p. 335, l. 18); that she walked with Mrs. Reeves to the corner of Lafayette and Llewellyn Avenues, and talked on the corner there until about twelve o'clock, and then in her own words:

> "After I got home, I was upstairs getting ready for bed, when Mrs. Reeves called up. She asked me how long I had been in the house and I told her not long enough to be in bed. She said, 'Will you tell Mr. Reeves that?' He had been to that corner and had walked by and had not seen us. I told him we had been standing there and I could get a neighbor who would testify we had, too."

And then she said (S. of C., p. 337):

> "Q. Did he say what it was about that he had misjudged Mrs. Reeves?
> A. Simply misjudged her because his mother had been misrepresenting facts."

Does this testimony excerpted here impress the Court with the fact that this petitioner is a kind, loving, faithful believing husband, or was he one that was always trying to get something on his wife—one that not only doubted his wife, but who wanted to doubt his wife, and who would have given anything to have caught her and found her in what he thought would be circumstances sufficient to warrant a divorce?

This petitioner was so anxious for a divorce that he even went to the extent of producing in Court, certain scrap notes alleged to have been passed between Mr. Petry and Mrs. Reeves, while in the choir of the church, and containing what he

thought was damaging matter. He testifies to these notes (S. of C., pp. 28, 29 and 30). Bell testified to these notes (S. of C., p. 158). The contents of one of the notes was read by Reeves, (S. of C., p. 30, l. 13). It reads:

> "It makes me tired that some people can't leave one square mile of the whole continent alone; if they don't like the choir Sunday, why under the sun do they go there?"

From the reading of the testimony of all the defense witnesses, it will be found that notes were passed back and forth by the members of the choir very often; that it was not an unusual practice, and in fact, is done most of the time. The note set forth at length above contains matter which was the subject of discussion by two people, evidently writing about someone who didn't like the choir. Evidently that person exhibited that feeling, for it prompted the writer of the note to say: "If they don't like the choir, why under the sun do they go there?" This was Exhibit P-3. Exhibit P-4 read by Reeves (S. of C., bottom of p. 30) contained two handwritings, as the petitioner's counsel said, (S. of C., p. 232, l. 10); that part of the note which read: "I have no hard feeling toward him," was written by a person whose handwriting Mrs. Reeves did not know. P-5 which is printed in the State of Case at p. 441, we can make nothing out of, except the head of a woman. There are so many tears in the paper and holes, that we are at a loss to know what it is desired to indicate to the Court. There is no writing on it whatsoever.

Mrs. Reeves said, (S. of C., p. 232) that as a matter of fact, while she was in the choir, she occasionally wrote and received notes during Mr. Reeves' sermons; that she sang in the choir, as did Mr. Petry, Mrs. Petry, her girls, Mrs. Knapp

and others. Mrs. Petry was only five or six feet from Mrs. Reeves, (S. of C., p. 232, l. 33); that Mr. Petry sat at the end amongst the basses, (S. of C., p. 232, l. 32); that if any notes were passed, it was right out in the open, and passed to whoever it should go, (S. of C., p. 232, l. 38); that she never wrote a note to Mr. Petry, or for Mr. Petry, (S. of C., p. 232, ll. 39 to 40). She said (S. of C., top of p. 233) that these notes were not written surreptiously, but done in the open. Mrs. Reeves was thoroughly cross-examined by Colonel Moore. She said her writing was on some of them; that Mrs. Petry's writing was on some of them, and not Mr. Petry's, and most important of all, the Court will find (S. of C., 256, l. 18))the following:

> "If these were written they were incidental to something that happened that didn't make any impression."

We think that this answer is the sum total of the entire passing back and forth of notes in a choir in a church.

Mr. Petry (S. of C., p. 268) testified that his entire family were members of the choir; that no notes were passed by him to Mrs. Reeves or by Mrs. Reeves to him; that he was not next to Mrs. Reeves in the choir, (S. of C., p. 268, l. 17); that he never drew any such thing as was indicated upon P-3 and that it was not his handwriting that was on such exhibit.

Mrs. Mabel Petry (S. of C., p. 315, ll. 19 to 40) said that she sang in the choir; that notes were passed on different occasions by the members of the choir; that there was no secret about it; that the usual custom was that one would read the note and pass it on to the next one, the subject matter being sometimes, (S. of C., p. 315, l. 28); that

"someone would come into the church and a note would be made on a slip and it was then passed along. It saved talking."

Mrs. Mary Brooks Barker (S. of C., p. 336) was asked by the Court:

> "*The Court*:
> Did you write all kinds of letters in the choir while he preached?
> *The Witness*:
> Yes, I wrote notes.
> *The Court*:
> Who to?
> *The Witness*:
> All my friends."

Eleanor V. H. Knapp, (S. of C., p. 358, l. 24) testified she was in the choir; that notes were commonly passed by members of the choir, (S. of C., 358, l. 28); that there was no secret about it at all, but that generally they went all around the choir. She then said:

> "Q. And was that done in an open manner or not?
> A. Yes, sir, in an open manner.
> *The Court*:
> The girls wrote notes to the men, and the men wrote notes to the girls?
> *The Witness*:
> We passed them to each other. It was not generally done unless it was necessary. It was done instead of talking."

The evidence adduced by the petitioner concerning these notes shows that he was grasping at every little thing, no matter how small it may be, to obtain a divorce. We mean by that, that he was ready to introduce into evidence anything that he thought in his mind, would show a relationship between Petry and Mrs. Reeves. In his desperate efforts to get evidence of that sort, he

has his janitor Bell, gather these notes that were passed back and forth by the members of the choir. A question may be proper at this time to the effect: Did Reeves anticipate instituting divorce proceedings? Was he? There is one sure thing, and that is that he instructed Bell to collect all these notes that were being passed back and forth. Reeves, who was a minister, knew that that was a common practice. He knew that members of the choir passed notes back and forth. He saw it. In an effort to see if he could get anything in those notes, he instructed his janitor to collect them. There is one conclusion that we cannot escape, and that is, if Petry and Mrs. Reeves were exchanging notes concerning Reeves, and drawing obscene pictures, would they leave those notes in the hymn books in the racks of the choir? Would a married woman and her lover, exchanging notes about her husband, leave those notes in the hymn books, and in the racks of the very church in which her husband preached? They attempted to get over that one obstacle by having Bell testify to the effect that he saw Mrs. Reeves tear up one and put it into her left breast. We must say for Bell, that he was an observing janitor, if during the services on a Sunday morning he was observant enough to see that a member of the choir, ripped up a note and put it into her left breast. They try to hook this up, by having Reeves testify that he got it from the grate of the fireplace. None of the exhibits that are printed in the State of Case, indicate as if they were in the fireplace. They are ordinary sheets of paper, wrinkled, creased, torn and pasted together, taken from hymn books in the church. Their condition indicates nothing else but that. Mrs. Reeves absolutely denies tearing up any note and putting it in her breast, (S. of C., p. 225, l. 30).

Again to show the character and desperation of this man, in his attempt to obtain a divorce, may we bring to the Court's attention, the testimony of Frances Reeves, his daughter, (S. of C., p. 368). It will be recalled by the Court, that the defendant's mother, Margaret Dickhaut took the stand, and testified she was present in the Reeves home on April 11th, 1928, and that Petry absolutely was not there that evening. In an effort to refute this, Reeves has his daughter, thirteen years of age, take the stand. Realizing that the court, (S. of C., p. 190, l. 21) had said concerning his daughter:

> "The Court: I am allowing Mr. Ward a great latitude because he has a pretty intelligent witness to deal with for her age."

Reeves thought that if she denied the defendant's mother was there that evening, it would overcome the mother's testimony, and all of the other defense witnesses. Therefore Frances takes the stand and says that she was home on Wednesday, the 11th day of April, and that Mrs. Dickhaut, the defendant's mother was not there at that time at all. She said she recalled this distinctly, because on April 5th her mother had taken Mrs. Dickhaut back to Asbury Park, and this, because her brother joined her church on the 6th, which was Good Friday. Pretty intelligent witness we must say. A young girl, thirteen years of age, can pick out a certain day of a week, and say that a person was not at her home at that time, but the big hitch came when on cross-examination she was asked, (S. of C., p. 368, ll. 10 to 40):

> "Q. Did you go to school on the 6th?
> A. I presume so.
> Q. What? (Then Frances recalls that the

6th was Good Friday, and immediately we have)

A. No, not on Good Friday.

Q. Do you know whether you went to school on the sixth or not?

A. I don't recall."

She testified (S. of C., p. 368, l. 30) that she attended Lafayette School, which is in Hawthorne. We say this for the reason that at that particular time, she was attending one school and that was in the Borough of Hawthorne, County of Passaic, and this for the reason, as will readily appear in the following testimony:

"Did you go to school on the 11th?

A. Yes, sir.

Q. You are sure about that?

A. Positive.

Q. Did you go to school on the 11th?

A. Yes, sir.

Q. You are sure about that?

A. Yes, sir.

Q. Positive?

A. Yes, sir.

Q. Where did you attend school?

A. Lafayette School.

Q. When was Easter?

A. The Sunday following Good Friday.

Q. That would be what date?

A. The 8th. (Then came the question that shocked Frances on the stand, so much so that she became very forgetful thereafter, and gave her best excuses).

Q. And you didn't have any vacation after the 8th?

A. I believe vacation was before, I am not positive.

Q. Before Easter? (Then Frances realized her mistake and said)

A. No, it was the week after. (Then came)

Q. Were you in school on the 11th?

A. No."

Poor Frances. In an effort to cover the defect, she gave as an excuse (S. of C., p. 369) that she got all mixed up between the vacations in the Asbury Park schools and the Hawthorne schools, for the reason that they are reversed. We care not whether the vacations are reversed, for the reason that on April 11th, 1928, she was attending Lafayette School in Hawthorne, and had not as yet attended any school in Asbury Park, and that she knew that in the Hawthorne schools vacation is the week after Easter, and not the week before Easter.

The petitioner, upon seeing the terrible dilemma his daughter was in, never touched her on redirect-examination, and did not even have the brazen audacity to put his boy on the stand to testify to the effect that Frances had, or to the alleged fact that he had joined the church on Good Friday, April 6th.

Counsel in the dictation of this brief, just ran across Detective Stender's testimony, (S. of C., p. 107) which we think must be brought to the attention of the Court, to indicate, to wit: the character and caliber of the petitioner, and how he utterly failed to get anything on his wife. Detective Stender testified that he had the Reeves home very well covered, (S. of C., p. 107, l. 40); that he worked on the case two or three days a week, (S. of C., p. 107, l. 27); that he had been working on the case right along, and that he watched the house between April 10th and May 10th, (S. of C., p. 107, l. 34); that his position was on the outside of the house, (S. of C., p. 107, l. 36) and that it was generally in the evening when he covered the house, (S. of C., p. 108, ll. 1 to 2).

Doesn't this bit of testimony impress the Court with the most deceptive character of the petitioner? This man who had marital relations with his

wife up to about the last week in May, (S. of C., p. 309, ll. 37 to 39) and who had, in the presence of his wife and others, been his normal self, and who continually led her on to believe that nothing was wrong, and that he still loved her, had detectives watching her, following her, shadowing her in his desperate efforts to see if he could get any damaging evidence against her. Sneaky would be a very charitable expression to use. Let us go on further and see what actually took place on or about the time, and shortly after he filed his petition for divorce, (S. of C., p. 207, l. 14):

"Q. What was Mr. Reeves' general conduct to you up to the time of the separation?

A. Mr. Reeves was very quick tempered and if I didn't do just as he wanted, then he was very disagreeable.

Q. For a period of two years before Mr. Reeves left you, was there any time, when he ever discussed, with you, a divorce?

A. Several times.

Q. Do you know when the first occasion was?

A. I think it was about a year and a half before.

Q. What did he say?

A. He asked me what would be the terms that I would consent to a divorce.

Q. What was his reason for asking you that?

A. He didn't like the way I did certain things.

Q. What did he say to you about a divorce?

A. He asked me what my terms for a divorce or separation would be, and I said for me to have the three children and have adequate support.

Q. How often would he ask you about this?

A. About every two months.

Q. What was his attitude at these times?

A. He seemd to be tired of me and wanted to get rid of me.

Q. How long did that continue Mrs. Reeves?

A. Up until about three or four months before he left."

We have then, as far as we are now, a man who for quite some time prior to the institution of his proceedings for divorce, was sick and tired of his wife, so much so that he even expressed to Mrs. Feldman, an intimate friend of his a few months after September of 1927 (S. of C., p. 92, l. 10) his intention of instituting proceedings. For a year prior to a separation, he is already asking his wife what terms she would want in order to allow him a divorce, and as many mothers would answer, realizing that her husband was sick of her, and didn't love her any longer, and wanted a divorce, said that she wanted the three children and adequate support. She was at that time, well on in years, unable to work. She had worked and worked hard with her hands to help her husband in his desperations of life. She had worked earnestly and sincerely to bring up in the world, three children that she bore for her husband, and now, she was at that age in life where she could not get employment at any time, and all she wanted was adequate support for her three children.

We then go to June 6th, 1928, when her husband attends his counsel's offices in Passaic, and there, before Herman C. Rust, an attorney of the State of New Jersey, swears to an affidavit of non-collusion and accuses to the world, his wife of having committed the highest crime in the marital relationship, with a man who was one of the pillars of his own church. On June 7th, 1928, that peti-

tion for divorce, and affidavit, was filed at Trenton. Notwithstanding this fact that he accused his wife of committing adultery, and that he knew that at any moment the papers were going to flash up to the world, he continued residing and living with his wife until June 11th, 1928, the day before the newspapers flashed it around the world. Reeves never told his wife; never talked it over with her, (S. of C., p. 208, l. 30). Let us see what took place on June 11th, the day when all arrangements were made for this man to leave his wife, the day before the big splashes were to come into the newspapers.

Mrs. Reeves testified, (S. of C., p. 208, l. 12) that that day he was home, and that they had lunch together; that lunch was had between twelve and one, and she is positive of it, for (S. of C., p. 208, l. 20) on that very same day, and about four hours later, the papers in this divorce proceeding were served upon her.

Let us go to the day before, June 10th, a Sunday, (S. of C., p. 209, l. 19). Mrs. Reeves says that on June 10th, they went to church as usual and after dinner the petitioner said to her: "I am going to take a walk up on Goffle Hill," and he asked her if she would like to go, and she said she would, and he said that the children were all ready, whereupon they all went up to Goffle Hill. That while they were up there, they took pictures. That when they returned home that evening they had tea, and then went to church afterwards, as was usual (S. of C., p. 209, l. 30) and most important of all, slept with her that night.

Let us go a week back of June 11th. At that time we have, (S. of C., p. 210, ll. 8 to 14) that about a week prior to June 11th, 1928, Mr. Reeves took Mrs. Reeves to the Lyceum Theatre in Paterson in the afternoon, and on June 8th, three

days before the separation, went to the shower given in honor of Petry's son, at Mrs. Barker's home, of which we have already told the Court.

So that, therfore, we have before us a man who had his wife shadowed from the early part of April continuously, and was having his home watched every night—a man who slept and ate with his wife, and had intercourse with his wife continuously—a man who took his wife to the theatre a week before he left—a man who the very day before he left, took a walk with her up into the mountains at Goffle Hill, had tea at her table, slept with her that night—a man who had, two days prior thereto, attended a shower in honor of a son of the very man who he had accused, and already accused under oath, of having committed adultery with his wife, a man who on the very day of his separation lunched with his wife between twelve and one, and then leaves like a criminal, knowing full well that within a very short time that afternoon, his wife was to be served with papers. He left immediately because he was afraid to face his wife when she was served with the papers, because she might ask him what it was all about, and if he honestly meant it. Is a man, who conducts himself in such a manner, and who leads his wife on in absolute fraudulent deception of what he was doing to her, and accepting her very hospitality at her hands during a time that he now tells the Court she was committing adultery and breaking up his home, entitled to relief by this Court of Conscience? Is he a man, or a party, who comes into this Court, with clean hands, in accordance with the equitable doctrine so well settled and applied for many years, or for hundreds of years?

We earnestly contend in this case that he is not entitled to a decree of divorce. This defendant

who loved him and bore him three children in his life, worked faithfully for him, and worked faithfully for the Court of Chancery. She did everything that was humanly possible to produce and adduce in Court, anything and everything that would indicate to the Court, that she was sincere in her human testimony, and that it was all truth, and nothing but the truth. She produced witnesses who were willing to come forward and testify for her, in such a scandalous case. She even went to the extent of producing character witnesses, but upon the introduction of the first one, the Court deemed it immaterial, (S. of C., p. 336, l. 26).

This petitioner wasn't able to produce one person outside of Bell to testify for him from the Borough of Hawthorne. After all this that he wants the Court to believe was true, surely there was someone in Hawthorne who knew about it. Reeves knew why he couldn't get someone from Hawthorne, outside of his janitor. That reason was because the entire Borough was up in arms against him when the newspapers flashed it to the world, so much so that he had to resign from the First Reformed Church of Hawthorne and get out, which he did. He went to Asbury Park and has never been there to preach since. Do the circumstances of this matter indicate that he was the loving, congenial, reverend minister of the Gospel that the church usually possesses. We say not.

In concluding our brief upon the petitioner's case of adultery, we contend that he has not, upon his own direct case, adduced sufficient evidence to prove adultery beyond all reasonable doubt, and in concluding this portion of the brief, we desire to submit but very few cases to the Court, concerning a rule so well established in the jurisprudence of this State.

The first case is the oft-cited case of Berckmans vs. Berckmans, 17 N. J. Eq., p. 453, wherein Justice Van Dyke speaking for this Court, said:

> "The charge made by the complainant, if true, is known to our law as a crime; consequently this prosecution partakes strongly of the nature of a criminal proceeding, so much so as to place the complainant under the *necessity,* not only of placing a *decided preponderance* of testimony *in favor of the charge,* but of proving it to the satisfaction of this court, beyond a reasonable doubt."

And on page 454 the Court said:

> "The evidence must be such as to satisfy the human mind, and leave the careful and guarded judgment of the court, free from any conscientious and perplexing doubts as to whether the charge be proved or not."

The only other case we desire to cite, is that of Stevens vs. Stevens, reported in 107 N. J. Eq., p. 55; 151 Atl. p. 749, which we contend is almost precisely similar in nature to the case at bar, with the possible exception of the testimony concerning May 29th, 1928.

We contend therefore and pray, that the decree of the Court of Chancery, dated June 30th, 1930, dissolving the bonds of matrimony between the parties to this cause, be set aside and for nothing holden, and that the record may be remitted to the Court of Chancery, with a direction to dismiss the petition filed by John Reeder Reeves against his wife, Margaret D. Reeves.

Recrimination.

The defendant in this cause, filed an answer to the petition of divorce on July 18th, 1928, setting up therein, by way of recrimination, as a bar to

the petitioner's right, if any, to a divorce, facts alleging that the petitioner was guilty of adultery in the year 1920 with Lena Burns at Absecon, in the County of Atlantic, this State.

She also sets up, by way of recrimination, in the same answer, acts of extreme cruelty, as a bar to the petitioner's right to a divorce, if any.

Summary of Facts.

The petitioner and defendant having been married, and having had three children, as a result of such marriage, resided during the year 1920, in the Township of Absecon, in the County of Atlantic and State of New Jersey. The petitioner was a minister of the church at Absecon, (S. of C., p. 388, l. 25). While they were there, they became acquainted with a Mrs. Lena Burns, (S. of C., p. 387, l. 11) wife of Mr. Walter Burns. Mrs. Burns was a member of the church at Absecon, in which Mr. Reeves preached, (S. of C., p. 387, l. 19).

Christmas, 1920.

It was around the Christmas holidays of 1920, when a friend of Mrs. Reeves, the defendant was coming down to visit her, (S. of C., p. 391, l. 29). They were to meet this friend at Atlantic City, and when we use the terms "they" we mean Mr. and Mrs. Reeves, (S. of C., p. 391, l. 30). Prior to going Mrs. Reeves made arrangements with Mrs. Burns for Mrs. Burns to take care of the three children, while they went to Atlantic City, for the reason that they were too young to leave alone, (S. of C., p. 391, l. 33). Thereupon Mr. and Mrs. Reeves left Absecon for Atlantic City on the trolley car, and while en route to Atlantic City, Mr. Reeves suddenly complained of a headache, (S. of

C., p. 391, l. 37); that Mr. Reeves told the defendant to go on and meet her friend, and that he would go back to the house, (S. of C., p. 391, l. 38). That Mrs. Reeves arrived at her destination, to wit: Atlantic City. She did not meet her friend, but when she got home, her friend was there. Her friends name was Mrs. Wharton, (S. of C., top of p. 392) and that also, when Mrs. Reeves returned home, her husband, Mr. Reeves was in a very nervous state, (S. of C., p. 392, ll. 17 to 18); that the first thing Mrs. Reeves knew of anything unusual was when Mr. Reeves suddenly left Absecon, and went to New York, (S. of C., p. 387, ll. 37 to 39); that when he left, it was about a week after the incident just recited above. Mrs. Reeves explains as her reason for not having met her friend at Atlantic City, that it was due to the fact that her husband had set the clock in their home a half hour fast, (S. of C., p. 393); that upon that very same morning the time was correct, and the clock was keeping fairly good time, (S. of C., p. 393); that the only reason he gave her when he left, was that he was going to see his brother, who was Harvey Reeves, a lawyer, (S. of C., p. 388, l. 2); that the next thing she knew was when her husband's brother, Harvey Reeves came down to Absecon and said that Mr. Reeves was in trouble, (S. of C., p. 388, ll. 3 to 14); that when the brother came down to Absecon, he told her she would have to pack her things, because the petitioner would not be back, (S. of C., p. 388, l. 18); that she stored her things in Philadelphia, and went to meet her husband; that at the time he (the petitioner) left, he was the minister of the church at Absecon, as she said before; that he was not present when she was packing, and that he never came back to Absecon, (S. of C., p. 388, l. 24 to 27); that after all this

occurred, the petitioner wrote her and asked her to meet him in New York, (S. of C., p. 389, l. 7) which she did, and where he denied that he was guilty of adultery with Lena Burns; that from New York he went to his people's home in Asbury Park. While he was in Asbury Park he talked about the fact that it was time for a conference of his church, and also about the question of his getting another church, whereupon the defendant again asked him if he was guilty of adultery, which he denied, (S. of C., p. 389, ll. 30 to 35); that Mrs. Reeves believed him at that time, (S. of C., p. 390, l. 2) and believed him implicitly until June of 1928, when she was shown affidavits, and after her mother had told her about the incident in Absecon, and a number of other matters, (S. of C., p. 390, ll. 10 to 17).

The cross-examination of Mrs. Reeves illicited the fact that when Mr. Reeves' brother came down to Absecon, he told her that the *petitioner had gotten himself in a scrape,* (S. of C., p. 400, top) and that he had come down to try and help him out; that (S. of C., p. 400, ll. 3 to 5) *the scrape was something between the petitioner and Mrs. Burns,* and Mr. Burns, and that the *petitioner didn't dare come back to Absecon,* (S. of C., p. 401, ll. 35 to 36).

The next witness who took the stand in behalf of the defendant as to the recrimination on adultery was Samuel E. Crowley, who is in the real estate business, as a partner of Mr. Burns, (S. of C., p. 404, l. 18); that he first met Mr. Reeves, the petitioner, in the summer of 1920, when he came to his (Crowley's) home about five or six o'clock one evening. He came to Mr. Crowley and asked (S. of C., p. 404, ll. 27 to 40) if he had a private room, for he wanted to talk to him. When they went into the room, the petitioner said he was

madly in love with Mrs. Burns; that he was afraid he would get himself in trouble with the church; that there was nothing indiscreet so far, whereupon Mr. Crowley told the petitioner that he would take him to the dominie in Atlantic City. The petitioner was to return the next morning, and on the following morning, went to the witness' office, (S. of C., p. 405, ll. 10 to 12) where he told the witness, Mr. Crowley, that he had made a mistake the night before, that he (the petitioner) *"had been guilty of an indiscrimination with Lena Burns"* (S. of C., p. 405, ll. 14 to 15); that the petitioner told him that he had arranged to go to Atlantic City, with his wife, and Lena Burns was taking care of the children, and that on the way to Atlantic City, he told his wife that he had a headache and got off the car halfway between Pleasantville and Atlantic City, and went back to the home where Lena Burns was; *that he there had adulterous relations with Lena Burns in the study of his home,* (S. of C., p. 405, ll. 18 to 27) and that while he was in there, having adulterous relations with Mrs. Burns, a woman friend had come in and caught him, (this woman friend apparently being Mrs. Wharton, the friend who had come to visit them. This remark is counsel's) and that he was afraid it would mean trouble in the church, (S. of C., p. 405, l. 35) that thereafter he (Mr. Crowley) went out to lunch and when he came back all the doors were locked, and the clerk of his office had gone; that he thereupon opened the front door with his key, and heard voices in the back, where he went, (S. of C., p. 405, ll. 32 to 35); that when he got to the back he there found Mr. Burns and Mr. Reeves, whereupon Mr. Reeves told him (Crowley) that he had just told Mr. Burns everything, whereupon the witness remarked: "I don't believe you have

told him everything, or you would not be sitting there alive." That Burns thereupon spoke up and said, "Yes, he has, but I don't believe in killing people. If he will make a statement and he and Mrs. Burns will sign it, I will overlook it." Mr. Reeves then asked for some large paper, and sat down at the typewriter and typed the whole thing out; that they were to return that evening with Mrs. Burns and sign the statement, and Mr. Crowley was to take the acknowledgment; that that evening they went to the parsonage of Mr. Reeves, and there was present Mr. Reeves, Mrs. Burns, Mr. Burns and (Mr. Crowley) the witness, (S. of C., p. 406, l. 16). Mr. Reeves and Mrs. Burns signed the statement or affidavit, and he swore that it was true; that the contents of the same were read to Mrs. Burns, as the witness' oath of office required him to do, (S. of C., p. 406, ll. 18 to 22); that on the way out afterward, Mr. Reeves turned to Mrs. Burns and said: "Lena, I want to ask you a question. If anything happens between me and my wife, will you leave Walter and come to me?" and Mrs. Burns answered, "Yes, at any time." That Mr. Crowley testified, (S. of C., p. 406, l. 35) that Mr. Burns took the affidavit and put it in a locked box in the trust company; that Mr. and Mrs. Burns have been divorced, (S. of C., p. 406, ll. 1 to 2).

Counsel advised the Court, (S. of C., p. 407, ll. 17 to 20) that when a subpoena was attempted to be served on Mr. Burns, the local Constable reported that Mr. Burns was in New York.

The cross-examination brought out the added fact that Mr. Crowley made his affidavit, which was later shown to Mrs. Reeves; that he gave this affidavit, (S. of C., p. 410, l. 38) to a friend of Mrs. Reeves, when Mr. Reeves sued her for a divorce, who said that she wanted the particulars of

the affair between Mrs. Burns and Mr. Reeves, whereupon he gave it to her.

The next witness was Ambrose M. Hammell, who testified (S. of C., p. 411) that he was the president of the Board of Trustees of the Absecon Methodist Church, of which Dr. Reeves was a minister, and that in the year 1920, (S. of C., p. 411, l. 37) *Mr. Reeves left Absecon;* that he absolutely *gave no notice of his leaving,* and that the first thing he (Hammell) knew of his departure was a rumor in the streets that he had left town (S. of C., p. 411, l. 40); that the petitioner, Mr. Reeves never appeared in Absecon again; never appeared at the church again; never appeared to him, as president of the Board of Trustees again; never offered any explanation to him, and never made any arrangements with the witness for his pulpit to be occupied, (S. of C., p. 412, ll. 1 to 11).

On cross-examination, Mr. Hammell was asked whether he knew that Dr. Reeves was in ill health, and the president's answer was "No, he was in good health before then." He was also asked (S. of C., p. 412, l. 22) whether he (Hammell) knew that Reeves had been given a letter of honorable dismissal from the Methodist Episcopal Church, to the Dutch Reformed Church, and his answer was: "I know he didn't get it with my signature." (We might state here that no such letter of honorable dismissal was produced at the trial and we know of none.)

The next witness was Margaret P. Dickhaut, mother of the defendant, who testifies that in January, 1921, she was home ill with a cold, when the petitioner came to see her; that of course, the matter of his relations with Mrs. Burns was a matter

uppermost in their minds, (S. of C., p. 415, l. 12) and that Mr. Reeves explained to her, (S. of C., p. 415, ll. 12 to 22) that he had become mixed up with this woman, and was very fond of her; that he hoped nothing like that would happen again, and that they were *indiscreet.* When she asked, "What do you mean?" *he confessed that he had adulterous relations with her* (Lena Burns), (S. of C., p. 415, l. 22); that the petitioner had her (Mrs. Dickhaut) promise that she would not tell her daughter, because he said he was going to be better; that he was very contrite and said that his church, and the future of his church, and his home, was at stake, whereupon Mrs. Dickhaut promised not to tell her daughter, (S. of C., p. 415, ll. 24 to 30); that the first time she told her daughter (the defendant) was when the present cause was begun in June of 1928. There was no cross-examination of Mrs. Dickhaut at all.

The next witness was Mrs. Mary Carlson, who testified, (S. of C., p. 416, l. 10) that in 1920 she lived in Atlantic City, and was acquainted with Mr. and Mrs. Reeves, during the time he occupied the pulpit at Absecon; that she often saw Mr. Reeves, (S. of C., p. 416, l. 19) and that in the latter part of August, 1920, Mr. Reeves, the petitioner, attempted to become unduly intimate with her, (S. of C., p. 416, l. 20); that the circumstances were that in the latter part of August, 1920, Mr. and Mrs. Reeves went away on a visit and asked her to come and stay with the children, which she did, but that they didn't get back until so late that she had to stay there all evening, (S. of C., p. 417, top); that the next morning, while Mrs. Reeves was getting breakfast, he came into her bedroom and sat on the bed, (S. of C., p. 417, l. 4) and began to get familiar, when she told him to get out, or she would call his wife.

The cross-examination merely brought out that she was a cousin to a friend of Mrs. Reeves. This witness is not related to Mrs. Reeves in any degree, and is merely a cousin to a friend of hers.

The next witness is Dorothy Dickhaut, a sister of the defendant, who testified to an incident when the parties to this cause lived in Keyport. She stayed with her sister for the week-end, (S. of C., p. 417, bottom) and at one time when Mrs. Reeves was upstairs with the children, and she (the witness) was downstairs in the living room, (S. of C., p. 418, top) Mr. Reeves came in and started fondling her. When she objected and threatened to call Mrs. Reeves, he thereupon put his hat and coat on and went out.

The next incident was when the parties to this cause, resided at Absecon, (S. of C., p. 418, l. 10) when she (Miss Dickhaut) had retired for the night, and Mrs. Reeves was in the bathroom, Mr. Reeves came to her bedroom, made some remark, and sat down on the foot of the bed. He tried to kiss her and fondle her, and put his hand under the bedclothes. She threatened to call someone if he didn't leave, but he did.

The third incident was when (S. of C., p. 418, l. 27) she was in Ocean Grove, and the parties resided in Asbury Park. Dr. Reeves met her at her place of employment one night, and walked home with her; that when they got to her house and on the porch, she experienced a similar situation with the petitioner, but she got away from him and told him if he didn't get Mrs. Reeves down there in fifteen minutes, she would tell her everything.

The cross-examination brought out the fact that after the incident in Absecon, she said she would never stay overnight at their house again, and she never did.

This was the defendant's direct case on the recrimination.

The petitioner put his father on the stand, who testified to the fact that he had a conversation with the defendant wherein she told him that she had read the confession of the petitioner, (S. of C., p. 421) but that she did not believe it was true.

From the testimony excerpted above, the Court now has before it, an accusation, under oath, that the petitioner committed adultery with one Lena Burns around Christmas of 1920. It further has before it, testimony under oath, and uncontradicted that the petitioner signed an affidavit confessing to the crime of adultery with Lena Burns. There was further testimony, under oath, and uncontradicted, that the petitioner left his home, his church, his wife and three children at Absecon, without any reason, and never returned, never made an explanation and never made arrangement for the occupancy of his pulpit. There is also before the Court, testimony, under oath, from Margaret P. Dickhaut, (S. of C., p. 415) that the petitioner confessed to her that he had committed adultery with Lena Burns.

We therefore have before us, admissions, contents of a confession, suddenly leaving the site of a crime without explanation, and never returning.

The petitioner, (Reeves) was present during each and every hearing held in this cause. He was present at the last—the sixth hearing, when the evidence concerning recrimination was adduced under oath. Consequently we ask then, why didn't this petitioner take the stand and deny the testimony adduced at the last hearing. Let us take the testimony, first of the direct case, and argue its probabilities.

Reeves is going to Atlantic City with his wife, when he complains of a headache, and takes leave

to go back to his home where Mrs. Burns is alone. The three children that were there, were all very young, and probably in bed. He then has adulterous relations with Mrs. Burns, but while having such relations with Mrs. Burns, who walks in but Mrs. Wharton, the friend who is coming down to visit them. Mr. Reeves became suddenly flustered and in a highly nervous state. Why shouldn't he? He is caught in the very act of adultery by a friend of the family. What happens? He is afraid that he is going to be ruined, afraid of his church relations. Who must he go to first? He could not go direct to Mr. Burns, the husband of the woman with whom he committed adultery. His next best bet is to get to the partner of Mr. Burns. He thereupon proceeds to get in touch with Mr. Crowley, Mr. Burns' partner, and tells him, and asks him if he can't do something to quiet things down. They all get together and Mr. Burns wants Mr. Reeves and his (Burns') wife to sign a confession, which they did, on the ground that nothing would be done about it. Isn't this the reason why Reeves signed that confession, because Burns promised him that nothing would be done about the matter, but that he would just simply hold the affidavit and put it in the box, and Reeves (the petitioner) probably thought everything was at an end there, but rumors were going around, people were talking of the relations that existed between Mrs. Burns and Reeves, and then, one day, about a week after the incident had occurred, Reeves, for no reason whatsoever, leaves town. He absconds from Absecon in the status of a criminal, leaves no explanation and makes no arrangements. Was he innocent? Would this man, who was a minister of the Gospel, leave his wife, leave his three infant children, leave his church, and prac-

tically his whole work at Absecon, if he were innocent? Would he sign a confession under oath, that he had committed adultery with Mrs. Burns, if he were innocent? What would the ordinary prudent person do under the same circumstances? He would do nothing but take the stand that he was innocent and would fight it through.

Let us see if Reeevs actually did sign a confession. Crowley says he did, Crowley says it was typed in his presence, and that he read the contents of the confession to Mrs. Burns and Mr. Reeves and took their acknowledgment, (S. of C., p. 406, ll. 10 to 20). Here was the very notary public before whom the affidavit was taken. The word acknowledgment is used, but undoubtedly means affidavit, as they were sworn to, because he says (S. of C., p. 406, l. 35) that he took the "affidavit." Here is an officer entrusted by the Governor of the State of New Jersey, with confidence and ability. He comes to a Court of Equity and testifies, under oath, as to the contents of an affidavit. The affidavit itself could not be produced. Mr. Burns could not even be subpoenaed, being without the jurisdiction of the State.

Let us go further. On page 413 of the State of Case, Mr. Moore, solicitor for the petitioner, insisted upon reading to the Court, an affidavit of Bishop Berry of Philadelphia. He was permitted to do so. What did the affidavit contain? The contents recites that the petitioner desired to talk with him (the Bishop) as to certain rumors and indiscretions with one Lena Burns, and that he discussed the same with the petitioner and the defendant at his office on February 16th, 1921. In other words, two months after the occurrence took place, it was being talked about before the Bishop of Reeves' own church, but let us read on further

in the affidavit, and see what the Bishop says, (S. of C., p. 413, l. 12) He said: "I *distinctly recall* that at this interview, the contents of a paper were fully discussed, which purported to be the *confession of Mr. Reeves to indiscretions with the aforementioned Lena Lee Burns.*" If that matter was discussed with the Bishop, then there was a paper writing, purporting to be a confession of Reeves concerning his adulterous relations with Mrs. Burns. If no such paper was in existence, it could not be the subject matter of a talk with the Bishop. Another thing, isn't it peculiar there is no final determination by the Bishop? What happened at the end? The affidavit merely recites that the contents of the paper were fully discussed.

Now, let us go on further and see what the petitioner's own father had to say, (S. of C., p. 421, l. 17). He says that about Christmas of 1920, having heard these rumors of the relations between his son and Mrs. Burns he invited Mrs. Reeves to his home for an explanation. At that time Mrs. Reeves told him that *her husband had signed a paper confessing his adulterous relations with Mrs. Burns,* that she (Mrs. Reeves) did not think it was true. Was there such a paper in existence? The petitioner's own father knew of the paper then at Christmas of 1920; the petitioner's own father even heard the rumors of the affair, (S. of C., p. 421, l. 27).

All these facts point out to one conclusion—that the affair actually took place; that Reeves actually signed a confession of his adulterous relations with Mrs. Burns, and that he immediately left Absecon, and never returned.

Ambrose L. Hammell, (S. of C., p. 411 and 412) tells the Court that Reeves left and never came back. He never got excused from the church,

never resigned, nothing ever happened, no notice was even given Hammell, the president of the Board of Trustees of Reeves' church.

And then the time came, on the next day of the hearing, for the petitioner to take the stand, and there, under oath, deny that he had adulterous relations with Mrs. Burns. When the time came, did the petitioner take the stand? No, indeed. This minister of the Gospel did not even take the stand, (in a Court in which he was asking for a divorce, on the ground that his wife had committed adultery,) after he had been accused, under oath, of having committed adultery shortly before Christmas of 1920. He never even offered one iota of evidence in denial of his adultery with Mrs. Burns. The accusations, the confessions and the circumstances of his leaving the town, all stood uncontradicted and undenied, before the Court of Equity. Was such a refusal on the part of the petitioner to take the stand, and deny the accusations and circumstances of his leaving Absecon, a presumption that it was all true? What has our Courts, and especially this Court, said when a defendant doesn't take the stand to deny an admission made by him of his guilt of a crime?

Our Supreme Court said, in the case of Parker vs. The State, 61 N. J. L., p. 308, bottom of p. 313, (the Court of Errors and Appeals having affirmed the Parker opinion per curiam, at 62 N. J. L., 801):

> "But when the accused is upon trial, and the evidence tends to establish facts which if true would be conclusive of his guilt of the charge against him, and he can disprove them by his own oath as a witness, if the facts be not true, then his silence would justify a strong inference that he could not deny the charges.

> Such an inference is natural and irresistable. It will be drawn by honest jurymen, and no instructions will prevent it. Must a court refrain from noticing that which is so plain and forcible an indication of guilt? In my judgment there is no rule of law requiring it."

One of the latest cases reported in the official reports and which is very much in point to the present case is that of State vs. Kisik, 99 N. J. L., p. 385, wherein the rule is laid down:

> "When in a criminal case, *facts concerning acts of the defendant* are testified to *which prove,* or *tend to prove, his guilt,* and he by his oath can deny them, his failure to testify in his own behalf *raises a strong presumption that he cannot truthfully deny those facts."*

This last mentioned case has been affirmed in two subsequent cases of State vs. Boccadaro, 7 N. J. Adv. Rep. 305, 144 Atl. 612 and in the case of State vs. Lennon, 8 N. J. Adv. Rep. 356, at p. 359. (Court of errors & Appeals).

Thus, we have this Court saying that where facts are testified to, which would tend to prove the guilt of the defendant, and he, by his oath can deny them, but does not, raises a strong presumption that he cannot truthfully deny them.

We therefore, have in this case, a strong presumption that Reeves, could not, under oath, deny that he had had adultery with Mrs. Burns. The defendants' witnesses testified, especially the notary public, that he said he had adultery with Lena Burns, and signed a confession that he had adultery with the said Lena Burns. Surely Reeves could have taken the stand and denied that, if it were not so. He could have taken the stand and

said, "I never signed a confession, admitting my guilt of adultery with Lena Burns. I never had adulterous relations with Lena Burns, and I never admitted to anyone else any such fact."

Let us take for example this case, as an *ex parte* matter. If this defendant had filed a petition for adultery against the petitioner, and let us assume that the petitioner did not file an answer, the matter would then be referred to a special master for hearing. Let us go on and ask that if the special master had the evidence that was adduced at the hearing, would he, or would he not, be justified in recommending a decree of divorce? He would have before him, admissions, a confession, the sudden absconding of the defendant, (the petitioner in this case) from the scene of his crime, never returning, no explanation, ad admitting in a Court of Equity, the words of the petition, by not filing an answer.

It surely is amazing that the petitioner in this case could sit by in a Court of Equity while he is asking for relief on his direct petition, and listen to the testimony adduced by the defendants' witnesses, to his acts of adultery with Lena Burns, and then not take the stand to deny it.

In consideration of all the facts, and the testimony adduced by the defendants' witnesses, and of the circumstances they testified to surrounding the adultery, and immediately thereafter, concerning his fleeing the scene of the crime, together with the added feature, that the petitioner did not take

the stand in his own behalf, to deny it, we contend that we adduced sufficient proof to the Court, to bar the petitioner's right, if any, to a decree for divorce, on his own petition.

Respectfully submitted,

WARD & McGINNIS,
Solicitors of Defendant-Appellant.

Peter J. McGinnis.

Of Counsel.

MAY TERM 1931.