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**Notice of Appeal.**  
(Filed October 18, 1927.)

IN CHANCERY OF NEW JERSEY.

<p>Between:</p> <p style="text-align: center;">MARGUERITE E. SHERIDAN, Petitioner,</p> <p style="text-align: center;">and</p> <p style="text-align: center;">MICHAEL SHERIDAN, Defendant.</p>	}	<p>On Petition, &amp;c.      10</p>
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The defendant, Michael Sheridan, hereby appeals from the Order and the Decree Nisi made on the 18th day of July, 1927, in the above entitled cause and from the whole and every part thereof to the Court of Errors and Appeals in the Last Resort in all Causes.      20

Dated, August 3, 1927.

PESIN & PESIN,  
Solicitors of Defendant.

I conceive there is good cause for appeal in the above entitled cause.      30

SAMUEL PESIN,  
Of Counsel with Defendant.

**Petition of Appeal.**  
(Filed Nov. 18, 1927.)

NEW JERSEY COURT OF ERRORS AND APPEALS.

10	MARGUERITE E. SHERIDAN, Petitioner-Appellee,  vs.  MICHAEL SHERIDAN, Defendant-Appellant.	}	On Appeal From the Court of Chancery.
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TO THE HONORABLE THE COURT OF ERRORS AND APPEALS IN THE LAST RESORT IN ALL CAUSES:

20 The petition of Michael Sheridan appellant in the above entitled cause, respectfully shows that:

1. Petitioner finds himself aggrieved by a Decree Nisi made in the Court of Chancery by his Honor Edwin Robert Walker, Chancellor of the State of New Jersey, bearing date July 18th, 1927, in a certain cause in said Court of Chancery wherein Marguerite E. Sheridan was Petitioner and the said Michael Sheridan was Defendant, in this respect to wit:

30 That the said Decree dismisses the allegations of the cross-petition filed by the defendant on the ground that the defendant has failed by his proofs to sustain the same and it further decrees that the defendant has been guilty of wilful, continued and obstinate desertion of the petitioner for the term of two years as alleged in the said petition, and petitioner appeals from such Decree on the ground that the same is erroneous in respect that the proofs adduced by the defendant clearly and convincingly

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*Petition of Appeal.*

sustain the allegations of his cross-petition wherein it is alleged that the petitioner in the court below has wilfully, continuedly and obstinately deserted the defendant at such time as mentioned in his cross-petition, and also that in fact the petitioner in the court below has failed to prove her petition that defendant was guilty of wilful, continued and obstinate desertion not only by clear convincing proof but has failed to prove the same by any evidence of true and intrinsic value.

10

Petitioner has been informed by his Solicitors and verily believes that the said Decree was erroneous in the respects aforesaid and that the Decree should have been in favor of the defendant on his cross-petition dismissing the petition filed on behalf of the petitioner for lack of clear and convincing proof.

20

2. Petitioner prays that the said Decree Nisi of the Chancellor may be wholly reversed in the respect that it dismisses the petitioner's cross-petition and decrees that the petitioner Marguerite E. Sheridan and the defendant Michael Sheridan be divorced from the bonds of matrimony for the cause alleged in her Petition, so that the Decree of the Court of Chancery should be in favor of the defendant on his cross-petition granting an absolute divorce unto him from the bonds of matrimony from the petitioner Marguerite E. Sheridan and that the petition filed by Marguerite E. Sheridan should be dismissed, and that the Petitioner may have such other and further relief in the premises as to this Court may seem just and proper.

30

PESIN & PESIN,  
Solicitors of Appellant.

SAMUEL PESIN,  
Of Counsel.

40

**Answer to Petition of Appeal.**

(Filed Nov. 30, 1927.)

NEW JERSEY COURT OF ERRORS AND APPEALS.

10	MARGUERITE E. SHERIDAN, Petitioner-Appellee,  vs.  MICHAEL SHERIDAN, Defendant-Appellant.	}	On Appeal From the Court of Chancery.
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The answer of Marguerite E. Sheridan, the above named appellee, to the petition of Appeal of Michael Sheridan, the above named appellant.

20 This appellee, not admitting the truth of all or any of the matters in the said petition of appeal contained, for answer thereto nevertheless admits that a certain Decree Nisi was, on July 18th, 1927, made and entered in the Court of Chancery of New Jersey, in the above entitled cause, for the purposes in said petition mentioned and as therein set forth; but as to the substance and form thereof, this appellee begs leave to refer thereto when the same shall be produced.

30 This appellee is advised and believes that the said Decree Nisi is agreeable to law and equity; and prays that the same may be affirmed with costs to be taxed in favor of this appellee.

PHILIP WM. GRECE,  
Solicitor for and of Counsel with Appellee.

**Petition.**

(Filed September 13, 1924.)

To his Honor, EDWIN ROBERT WALKER, Chancellor of the State of New Jersey:

The petition of Marguerite E. Sheridan, of the City of Jersey City, in the County of Hudson and State of New Jersey, respectfully shows: 10

1. Your petitioner was lawfully joined in the bonds of matrimony to her present husband, Michael Sheridan, the defendant in this suit, on the 21st day of June, A. D. 1905, by the Reverend Austin Gibbons, a Priest of St. Ann's Roman Catholic Church, at Jersey City, in the State of New Jersey.

2. Defendant deserted petitioner on or about the 5th day of September A. D. 1921; ever since which time and for more than two years last past, said defendant has wilfully, continuedly and obstinately deserted your petitioner. 20

3. Petitioner and defendant have been bona fide residents of the State of New Jersey continuedly since their said marriage.

4. Two children were born of the marriage aforesaid, to wit: Elmore Sheridan, born April 26, 1907, now aged 17 years and 6 months, and George Sheridan, born May 5, 1914, and now aged 10 years and 5 months, who are in the custody of your petitioner. 30

5. Petitioner's maiden name was Marguerite E. Busche.

6. Your petitioner prays, that the marriage between your petitioner and the defendant may be 40

*Petitton.*

dissolved, for the cause aforesaid, according to the statute in such case made and provided; and that the defendant may be compelled by the decree of this Honorable Court to support her and the said infant children of the marriage, and that she may be allowed to resume her maiden name; and that she may have such further relief as may be just.

10

And your petitioner will ever pray, &c.

MARGUERITE E. SHERIDAN,  
Petitioner.

PHILIP WM. GRECE,  
Solicitor for and of Coun-  
sel with the petitioner.

20 STATE OF NEW JERSEY }  
COUNTY OF HUDSON } ss.:

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

30

MARGUERITE E. SHERIDAN.

Sworn and subscribed before me at }  
Jersey City, New Jersey, this 12 }  
day of September, A. D. 1924. }

ISADOR HALPRIN,  
Attorney at Law of New Jersey.

40

**Answer and Counterclaim.**

(Filed Nov. 23, 1924.)

IN CHANCERY OF NEW JERSEY.

Between  
MARGUERITE E. SHERIDAN,  
Petitioner,  
and  
MICHAEL SHERIDAN,  
Defendant.

10

The answer of Michael Sheridan, defendant, to the petition of Marguerite E. Sheridan, petitioner.

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

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2. This defendant denies that he deserted the petitioner on or about the 5th day of September, 1921, and he denies that ever since that time, and for more than two years next preceding the commencement of this action, he has wilfully, continuedly and obstinately deserted the petitioner, but on the contrary he says that the petitioner deserted this defendant in manner particularly stated in the succeeding part of this answer which is in the nature of a cross-petition and counter-claim.

30

3. This defendant admits it to be true that petitioner and defendant were bona fide residents of the State of New Jersey when this supposed cause of action arose as alleged in the petition and that this defendant has ever since continued to be a bona fide resident of this State, down to the time

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*Answer and Counterclaim.*

of the commencement of this action, residing at Jersey City, Hudson County, New Jersey and the Town of North Bergen, Hudson County, New Jersey, but whether or not the said petitioner has, ever since said supposed cause of action arose, continued to be a bona fide resident of this State as alleged in the said petition, this defendant is without  
 10 information and neither admits nor denies the same, but leaves it to the petitioner to prove.

4. This defendant admits it to be true that two children were born of the marriage aforesaid, to wit: Elmore Sheridan, born April 26, 1907, now aged 17 years and 6 months, and George Sheridan, born May 5, 1914, and now aged 10 years and 5 months, who are in the custody of the petitioner, who by reason of her neglect and disregard of her  
 20 marriage duties, and her inability to properly support the said children, is unfit to have their custody.

5. This defendant admits it to be true that the petitioner's maiden name was Marguerite E. Busche.

6. Wherefore this defendant prays that the petition of the petitioner be dismissed and that the  
 30 relief as prayed in the said petition be denied.

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

1. Defendant cohabited with petitioner for almost sixteen years after their marriage, and petitioner deserted defendant on or about September 5th, 1921, ever since which time and for more than  
 40

*Answer and Counterclaim.*

two years last past, said petitioner has wilfully, continuedly and obstinately deserted defendant.

2. Defendant has been a bona fide resident of the State of New Jersey continuedly since his said marriage to petitioner, residing at Jersey City, Hudson County, New Jersey, and the Town of North Bergen, Hudson County, New Jersey.  
 10

3. Defendant prays that the marriage between this defendant as cross-petitioner and the petitioner, as defendant to said cross-petition, may be dissolved for the cause aforesaid according to the statute in such case made and provided, and that this defendant may be awarded the custody of the said children and that he may have such further relief as may be just.  
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And this defendant will ever pray.

MICHAEL SHERIDAN,  
 Defendant.

PESIN & PESIN,  
 Solicitors of Defendant.

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**Affidavit of Michael Sheridan.**

IN CHANCERY OF NEW JERSEY.

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Between MARGUERITE E. SHERIDAN, Petitioner,  and  MICHAEL SHERIDAN, Defendant.	}
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STATE OF NEW JERSEY }  
 COUNTY OF HUDSON    }ss.:

MICHAEL SHERIDAN of full age being duly sworn on his oath according to law deposes and says:

20 That he is the cross-petitioner named in the foregoing cross-petition and counter-claim; and that his cross-petition is not made by any collusion between him and the defendant therein, but in truth and good faith for the causes set forth in said cross-petition and counter-claim.

MICHAEL SHERIDAN.

30 Sworn and subscribed to before me }  
 this 21 day of November, 1924.    }

LILLIAN HALPRIN,  
 Notary Public of N. J.

**Replication and Answer to Counterclaim.**

(Filed Jan. 30, 1925.)

IN CHANCERY OF NEW JERSEY.

Between MARGUERITE E. SHERIDAN, Petitioner,  and  MICHAEL SHERIDAN, Defendant.	}	On Petition for Divorce. 56-482	10
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The petitioner joins issue on the answer of the defendant, but DENIES that part of paragraph four (4) of defendant's said answer which alleges that the petitioner neglected and disregarded her marriage duties; that she is or has been unable properly to support the children of said marriage; that she is unfit to have the custody of said children; or that, by reason of such alleged neglect and disregard of her marriage duties, or such alleged inability to support said children properly, she is unfit to have their custody. 20

As to the COUNTER-CLAIM contained in said answer petitioner says that: 30

1. She admits so much of the first paragraph of the counter-claim which alleges that defendant cohabited with petitioner for almost sixteen years, but DENIES that she deserted defendant on or about September 5th, 1921, or, that, ever since said time and for more than two years last past she has wilfully, continuedly and obstinately deserted defendant.

*Replication and Answer to Counterclaim.*

2. She admits the second paragraph of the defendant's counter-claim.

This petitioner prays that the counter-claim of the defendant may be dismissed; that she may be permitted to continue having the custody of said children, and that she may have the relief prayed for in her said petition.

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PHILIP WM. GRECE.  
Solicitor of Petitioner.

We hereby consent to the filing of the foregoing Replication and Answer to Counter-claim as within time.

Solicitors of Defendant.

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**Decree Nisi.**

(Filed July 18, 1927.)

IN CHANCERY OF NEW JERSEY.

Between:

MARGUERITE E. SHERIDAN,  
Petitioner,

and

MICHAEL SHERIDAN,  
Defendant.

On Petition  
for  
Divorce.

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This cause coming on to be heard in the presence of Philip Wm. Grece, of counsel with the petitioner, and Samuel Pesin, of counsel with the defendant, on petition, answer and cross-petition, and answer thereto, and oral proofs taken in open Court; whereupon and upon duly considering the said pleadings and proofs, and hearing and considering the arguments of counsel; from all of which it now appears satisfactorily to the Chancellor that the petitioner and defendant were lawfully joined in the bonds of matrimony on or about the twenty-first day of June, A. D., one thousand nine hundred and five, and that the defendant (cross-petitioner) has failed by his proofs to sustain the allegations of his cross-petition, and the same should be dismissed; and that the defendant has been guilty of willful, continued and obstinate desertion of the petitioner for the term of two years, as alleged in said petition, and that at the time the cause of action arose the petitioner and defendant were bona fide residents of this State, and that the said petitioner and defendant have continued so to be down to the time of the commencement of this action, and that the said petitioner and defendant have been, for the

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*Decree Nisi.*

two years next preceding the commencement of this action, bona fide residents of this State, and it further appearing that jurisdiction herein has been acquired by personal service of process upon the defendant within this State, as well as by the appearance and answer of the defendant and his cross-petition filed against the petitioner;

10

It is thereupon, on this 18th day of July, A. D., nineteen hundred and twenty-seven, by his Honor EDWIN ROBERT WALKER, Chancellor of the State of New Jersey, ORDERED, ADJUDGED and DECREED, and the said Chancellor, by virtue of the power and authority of this Court, and of the acts of the Legislature in such case made and provided, doth hereby ORDER, ADJUDGE and DECREE that the defendant's cross-petition be dismissed with costs and that the petitioner, Marguerite E. Sheridan, and the said defendant, Michael Sheridan, be divorced from the bond of matrimony for the cause aforesaid, and that the parties and each of them, be freed and discharged from the obligations thereof, unless sufficient cause be shown to the Court why this decree should not be made absolute, within three months from the date hereof.

20

And it is further ORDERED, ADJUDGED and DECREED, that the petitioner, Marguerite E. Sheridan, have the custody, care and education of Elmore Sheridan and George Sheridan, infant children of the marriage.

30

And it is further ORDERED, ADJUDGED and DECREED that the defendant, Michael Sheridan, do pay to the petitioner, Marguerite E. Sheridan, or her solicitor, as a suitable allowance for the petitioner's support and maintenance and for the care, maintenance,

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*Decree Nisi.*

education and clothing of George Sheridan, infant child of the marriage aforesaid, payable in equal weekly payments, that is to say, forthwith after service of a copy of this decree upon him, or his solicitor, the defendant do pay to the petitioner, or her solicitor, the sum of \$15.00/100 Dollars on account of said allowance for the week ending July 16, 1927, and that the said defendant do pay to the petitioner, or her solicitor, the further sum of \$15.00/100 Dollars and on Saturday of each and every week thereafter, and until the further order of the Court to the contrary.

10

And it is further ORDERED, ADJUDGED and DECREED that the defendant pay to the petitioner, or her solicitor, the costs of this suit to be taxed, in which shall be included a counsel fee of \$250.00/100 Dollars, and that she have execution thereafter according to the practice of this Court.

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Respectfully advised

JOHN BENTLEY,  
V. C.

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*M. E. Sheridan. Called by Petitioner. Direct.*

Q. So that your home then was where? A. Well, we boarded with my mother.

Q. Now, how long did you board with your mother? A. Until after the baby was born, the whole winter, until around May.

Q. The baby was Elmore? A. Yes, Elmore.

10 Q. Until May, about what year? A. Well, that was 1907.

Q. And then what happened? A. Then we took rooms for ourselves then.

Q. Where? A. In Tonnelle Avenue, a little ways away, and finally we had an opportunity to get the house between my mother and our rooms and we moved to 233 Manhattan Avenue.

Q. Is that near Tonnelle Avenue? A. No, it is nearer the Boulevard.

20 Q. How long did you live there? A. Well, we lived there a year or a little over.

Q. That brings us down to 1909, does it? A. Well, I moved before in that year, I guess, because I went back to New Durham and my husband was working in New Durham then and I moved back to New Durham.

30 Q. How long did you remain in New Durham? A. That year my mother died, in 1909, and then we took up our residence on the Boulevard in Jersey City again and took my two brothers to live with us.

Q. How long did you live there? A. Well, I don't just exactly remember. We lived there a few months, I guess, and then we moved to Germania Avenue near Bleeker Street.

Q. And you lived there how long? About; I don't ask you for the exact time. A. I couldn't just exactly say.

40 Q. Well, a year? A. No, I don't believe so.

*M. E. Sheridan. Called by Petitioner. Direct.*

Q. And from there where did you go? A. Down to New Durham. We had saved a little money and my husband put that in a house, and we lost that; at least, we returned the house, and then we moved to Central Avenue, and we were on Central Avenue for three months, when we went to Pennsylvania.

Q. That is what I am getting at. 10

The Court: Now, Mr. Grece, there is no dispute in the pleadings about this; suppose we shorten the examination.

EXAMINATION BY THE COURT:

Q. How long did you live there? A. Well, I guess we lived there six or seven years.

Q. Do you know what year you returned to New Jersey? A. Yes, in 1919. 20

Q. Did you ever leave the State of New Jersey after that? A. No, sir, only to go on vacation.

Q. But your home was— A. In Jersey City.

Q. Now, when did you move back to Jersey City?

The Court: Well, it doesn't make any difference; that covers the residence.

Mr. Grece: If that is satisfactory to your Honor. 30

The Court: That is satisfactory, only I shall want some corroboration.

DIRECT EXAMINATION BY MR. GRECE RESUMED:

Q. Now, Mrs. Sheridan, did you become ill in 1919 or 1920? A. In 1919.

Q. What was the trouble? A. I had gallstones. 40

*M. E. Sheridan. Called by Petitioner. Direct.*

Q. Were you operated on for relief from that trouble? A. Yes, sir.

Q. Who was your family physician at that time?  
A. Our family physician was Dr. White. The doctor that operated on me was Dr. Franklin.

Q. Is Dr. White your family physician still? A. He is.

10

The Court: Is he here?

Mr. Grece: I asked him to be here and he said he would be here.

The Court: When he comes in put him on the stand and let him get away.

20

Q. How long were you ill? A. Well, I suffered with the gall-stones for six years and a half before I went to the hospital; but we lost our home in Pennsylvania and we came to Jersey City and I was going to work at the time.

Q. What were you working at? A. I worked for a caterer and I also worked in the Waldorf Hotel, cooking and serving food at parties and weddings and the like of that.

30

Q. Now, what was your condition of health about June, 1921? A. Well, I wasn't strong. I have never been strong after that. I have always had a nervous condition and the doctor told me at that time that a vacation would do me good and it would also be beneficial for the children.

Q. How many children were there? A. I had two, George and Elmore.

Q. This is Elmore (pointing to one in court room)? A. Yes.

Q. How old is Elmore? A. 20 years old.

Q. And George? (Will you stand up, George.) How old is he? A. George is 12 years old.

40

*M. E. Sheridan. Called by Petitioner. Direct.*

Q. Now, you say the condition of the children's health was not so good in 1920? A. Well, Elmore has been anaemic ever since I had him.

Q. And did the doctor make any recommendations about your going away? A. Yes.

Q. And where did you go? A. To Keansburgh.

Q. When was it that you went there? A. I went there the 5th of June, and I was having a tent erected, and I went down to see how things were; and we really at first intended to board, but I had saved a few hundred dollars and \$100 I invested in the home and the other hundred dollars I put on a lot, because I figured it would give me many summers' enjoyment, whereas if I paid it out in board I would only have one summer.

10

Q. You say you saved this money from moneys that you had; where did you get that money? A. From work I had done.

20

Q. Was any of that money contributed by your husband? A. No, sir.

Q. Now, did your husband feel willing that you should go down there? A. Perfectly.

Q. Had you talked it over with him? A. Oh, yes.

Q. So you went down there in June, 1921; about what day? A. I went the 5th of June.

Q. Now, before you had become ill, and before you had gone down to Keansburgh with the children, were the relations between you and your husband pleasant and happy? A. Well, they were at times, and at times they weren't.

30

Q. Well, will you tell the court just what you mean by that—by telling the court what events or what things happened? A. Well, I don't know how to explain myself other than he was—well, he used me beastly at times, because he had me do things that only an animal would do.

40

*M. E. Sheridan. Called by Petitioner. Direct.*

Q. You mean with respect to your intimate relations—your sexual relations? A. Yes.

Q. And at that time was your condition of health such that you were suffering with pain? A. Yes, sir; just before I went to the hospital, the night before, he misused me in that manner and I told him of it.

10 Q. Well, did these relations cause you pain? A. Positively.

Q. And did you beg him to refrain? A. Yes, sir.

Q. And what was his answer or conduct? A. Well, there wasn't any; he merely thought it was foolish, I guess. He never spoke very much, anyway. Then most of the things that were done most of the time I had to figure out how to do them myself. He worked and earned a living and brought home the money, but when it came to worrying about anything it was up to me entirely. Before little George was born I furnished a seven-room house all by myself and he never agreed to give me a hand; he never worried if I had difficulty. Before we lost the house we hadn't a piece of wood in the cellar. I had a sick baby. I went to him and begged him to get some wood. He had to cut it. I had a gas oven and that was the only means of heating myself, and finally my brother came and told me to come and live with them. We lost the house, and we had a Liberty bond of \$50 and we took that and lived in two rooms in the store. Then there was a disagreement about the children, and we found a place and moved to Trenton. We were there only three months when my sister died and I was called to Jersey City.

30 Q. About when was that? A. That was in 1919.

40

*M. E. Sheridan. Called by Petitioner. Direct.*

Q. Now, you say you had two brothers; will you tell the court their names? A. Yes, my brother George Busche and August Busche.

Q. Where were those brothers between 1917 and 1919? A. Well, they were in the service, and my brother I always figured my main support, my standby. He was in France.

Q. Which one was that? A. My brother August. 10

Q. Where was the other one? A. The other brother was at Ft. Mount, Delaware.

Q. When were they released from service? A. Well, I don't know just when.

Q. About what year? A. My brother August came home, I believe, in 1919, and he came to our home. My brother George was boarding with other people, so I don't know.

Q. Did these two brothers come into your home? A. Yes. 20

Q. Did they contribute by paying board for the support of the family? A. Yes.

Q. How many were in the household then? A. Well, we managed to live on my husband's earnings. That was the agreement.

Q. When was this? A. After my brother came back from the other side.

Q. Will you give us some idea as to the date? Was that in 1919? 30

The Court: She said 1919.

Mr. Grece: I wanted to make it a little more plain.

Q. How much was your husband earning at that time? A. He was out of work for some time at first.

Q. Will you tell us when he was out of work. A. While I was in the hospital he was in Pennsylvania

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*M. E. Sheridan. Called by Petitioner. Direct.*

and he was on a strike. He wasn't working then and I was living alone, and when he came home—

Q. Who provided for your support at that time?

A. I earned my own the best I could.

Q. Working as you have told the court in these different places? A. Yes, sir.

10 Q. Now, in 1921, in June, you say it was that you went to Keansburgh, did you have your own place there, or how did you live there? A. We had a tent.

Q. What do you mean by a "tent"? A. Well, an army tent. My brother gave me \$20 towards the tent and my husband was agreeable that we should get one, and we lived in the tent.

Q. Who lived in the tent? A. My son and I and the little fellow.

Q. By the little fellow you mean George? A. Yes.

20 Q. Your two sons? A. Yes.

Q. How long did you stay in that tent? A. Well I was in the tent off and on. I boarded one winter—

Q. I am talking about June, 1921. A. I stayed in that tent all summer.

30 Q. Did you come back to Jersey City to take care of your husband's home at any time? A. Yes, sir; I did at first; I came home. When I went there in June, that was the 5th of June, I was just there with the little boy and I came home, and when I went back I took Elmore. I don't remember what date it was I was home, but I was home twice. The first time I came home I cleaned up everything, and the next time I went to Keansburg I took Elmore with me, because school had closed then.

Q. Where was that home? A. Tonnelle Avenue, 526.

40 Q. Before you went away did you have any argument or any scene with your husband on account of a cat? A. Yes, sir.

*M. E. Sheridan. Called by Petitioner. Direct.*

Q. Will you tell the court about that. A. Well, my husband is a man that you couldn't fool with very much, because he wasn't the right temperament. If he wanted to go out anywheres he would tell me to take Elmore along with me, and one Saturday he was fixing the floor. I would come down mornings, and when I came down there would be hop-toads and snails on the floor. I lived in that place but I had a new floor on it. My husband is a carpenter and he never made an effort to put a new floor on it. Then I had a new cat and he told me to stop petting it, and I did so and he pulled it right up and put a hatchet through the cat. My son was there with me. 10

Q. Did your husband come down to Keansburg at any time while you were there, during the summer of 1921? A. Yes, sir, he came on the 3d of July. 20

Q. Did anything happen on that occasion? A. Well, he came in the best of spirits, and we were all at the beach to have some fun in the water, and my husband was swimming, and he was in bathing with some friends, and I had made a pot of coffee before I left and left it on the stove in case anybody got cold he could come back and get it. My husband got out of the water and we were playing ball in the water. I saw that he was shivering, and I told him that he should go up and get a drink of the hot coffee and change his clothing, and he nodded his head that way (witness indicating) to get out of the water, and when I came out I asked him what was the matter, and he told me to get home—to get my things on and get back home. 30

Q. Was he paying for the place in Keansburg in any way? A. Well, the money that I had when I went down there I got from him and from what I got for board. He was going to collect board of my 40

*M. E. Sheridan. Called by Petitioner. Direct.*

brothers and I was supposed to get \$10 a week while I was there and I was supposed to stay there all summer.

Q. Well, was he under any expense down there in July for the maintenance of the place? A. Well, yes, he gave me something for that.

10 Q. How much did he give you? A. I don't remember.

Q. Was he collecting board from your brothers? A. Yes, he was collecting that.

Q. How much did that amount to? A. \$50 a month from each.

Q. And that was paid to your husband? A. Yes.

Q. Well, tell us what happened on the 3rd of July. A. On the 3d of July when he told me to get home I refused to go.

20 Q. Why? A. I came there for the children's health and my own as well, and I told him that. I said "We came for a vacation and I wouldn't go home," and I said, "When the vacation is over I would come back"; and, of course, I prepared supper and he stayed and had supper, and he went outside, and I told him I was ashamed because there were other people around. He gave me only \$3 and I told him I was indebted \$12 for one lumber bill and \$17 for another lumber bill, and I asked him if 30 he wouldn't give me any money for the lumber bill because I had to pay it, and he didn't offer me any; and then when I urged him to do so he threw \$40 on the floor to me.

Q. What did he do then? A. He went home then.

BY THE COURT:

Q. The 4th of July? A. That was the 3d of July.

40 Q. Sunday? A. I guess it was; I just don't remember.

*M. E. Sheridan. Called by Petitioner. Direct.*

BY MR. GRECE:

Q. And about when was it that you saw him the next time, if you did see him, at Keansburg? A. Well, he came again some time in August, I believe it was.

10 Q. What happened on that occasion? A. Why, I don't just exactly remember what date it was, but I know we had a sort of argument again, but what transpired was, he said, "Get those kids ready," and he wanted to take the children and I wouldn't let him take the children. I said, "I told you before when the vacation was over I would come home with the children," but he went off and he never gave me anything, and I told him then about my brothers; I said, "You are taking their board," and I said, "Gus told me that you were taking their money, but they weren't getting anything for it"; and I said, "You 20 agreed when we came down here to see to things at home and I was expected to get \$10 a week off of you, and you were to do the house" and in the meantime he was supposed to build the kitchen in the back of the house; we had all the joists in the yard before I left.

Q. That was to be while you were on vacation in Keansburg? A. Yes.

30 Q. That was at 526 Tonnelle Avenue? A. Yes, so I could get out of the basement, you see; and then about two weeks later I got sick and I sent my son home to tell his father that I was sick and if he could spare any money to let me have it.

Q. Of course, you don't know what your husband told your son except what your son told you? A. Only what my son told me.

Q. You can't tell that. Did you get the money? A. I got \$10.

*M. E. Sheridan. Called by Petitioner. Direct.*

Q. Was that brought to you by your son? A. Yes.

Q. Now, was that the last time before the 5th of September that you saw your husband? A. Yes, sir.

Q. Now, was your husband in Keansburg on the 5th of September? A. Yes, sir.

10 Q. Will you tell us what happened at that time. A. Well, the 5th of September—

Q. Was that a holiday, the 5th of September? Was that Labor Day? A. Yes, sir, I guess it was. Yes, it was Labor Day and the children were on the beach swimming, and all at once Elmore came running to me and he said, "Here comes daddy, mamma," and he called him "Pop"; he didn't call him "Daddy." He says, "Here comes Daddy," and he told us to get ready and get our clothes on.

20 Q. Had he been at your house? A. Well, he came there.

Q. I know, but had he been at the house? A. No, the children met him at the beach.

Q. And he hadn't been to see you up to that time? A. No, sir.

30 Q. Go ahead. A. I came over, and when I came over he was standing against the tree, and before I could say anything he looked at me and he told me to get those kids ready and he was going to take them home; and I told him "I am all packed up and I told you I was going to come home."

Q. How were the children dressed? A. In bathing suits. So I don't know just exactly what he said, but he started to spring at me and wanted to hit me, and the little fellow ran away, but the big one stood by me.

40 Q. That is Elmore? A. Elmore, yes, sir; and he put his hand back to his hip like this (illustrating)

*M. E. Sheridan. Called by Petitioner. Direct.*

and he says "I'll blow your brains out and your two Dutch brothers, too"; and I pushed my boy in the tent because I got scared.

Q. Did your husband say anything else to you at that time? Did he say anything about darkening his door? A. Yes, that was when he was leaving; he made a face at me and told me if I knew what was good for me that I would never darken that door again, and he would get his kinds, too. 10

Q. Were you afraid of your husband after that? A. I am afraid of him still.

Q. Were you afraid of him after that? A. Yes, sir, I was, on account of those threats, and because of the bestial life I led with him.

Q. Did you go back to 526 Tonnelle Avenue after the vacation? A. No.

20 Q. Why not? A. Because I was afraid; I was afraid; he had threatened me and I thought if I went back he might carry out that threat.

Q. Do you know whether Elmore, or somebody else, left after your husband made the threat to get your two "Dutch brothers," as he said, and try to get into telephone communication with them? A. Yes, Elmore ran over town to put my brothers on their guard so that if he would come home he would know he was coming.

Mr. Pesin: I object to that. 30

Mr. Grece: I consent that that be stricken out, except so much as "Elmore went to telephone."

Q. Then you didn't go back to 526 Tonnelle Avenue right after the 5th of September, 1921? A. No, sir.

40 Q. And where did you stay, or what did you do after that? A. I was in the tent for awhile, and then I went to board.

*M. E. Sheridan. Called by Petitioner. Direct.*

Q. Where did you board? A. I boarded right back of the tent with a neighbor.

Q. What was the name? A. Mrs. Tierney.

Q. Is she in court today? A. No, sir.

Q. How long did you stay there? A. I boarded with her seven months and a half, and then I went back to the tent.

10 Q. What month did you go back into the tent? A. Why, I just don't know what month it was, but it was in the summer time.

Q. It was in the following summer, wasn't it? A. Yes.

Q. That was more than seven months. A. Well, I boarded with her all that winter.

Q. Now, did you continue to live in the tent then during that summer of 1922? A. Yes, sir.

20 Q. And did you go back to Jersey City at that time? A. I did come home at times to bring the wash and things and to sweep and clean up. I was home during the month of November.

Q. That is, 1922 or 1921? A. No, November, 1921, and I stayed with the children expecting the father home, but he didn't come on both occasions.

Q. Well, did you go back home in 1922? A. Yes.

Q. Was your husband present when you were there? A. No, sir.

30 Q. Who was present in the home? A. My two brothers.

Q. Where was your husband in 1922? A. I guess he was working.

Q. Did he still continue to live in that home? A. Yes, sir.

Q. During the winter and summer of 1923 where did you live? A. I lived in Keansburg.

Q. Did you board with this family you have mentioned? A. No, sir.

*M. E. Sheridan. Called by Petitioner. Direct.*

Q. During the winter? A. No, sir, I took a bungalow right next door to the tent. There was a lady that lived in front and a daughter of the owner and I lived with her in back.

Q. What was her name? A. Mrs. Bennett.

Q. In the summer time did you go back to the tent? A. Yes, sir.

Q. And the children were with him? A. Yes, sir. 10

Q. They were with him both in 1922 and 1923? A. Yes, sir.

Q. How about the year 1924? A. Well, in 1924, two weeks before Decoration Day I took sick and on Decoration Day I was brought home.

Q. What was the trouble? A. Well, I don't just exactly know what was wrong with me at first, but it turned to inflammatory rheumatism.

Q. How long were you afflicted with that condition? A. Until the end of August. 20

Q. You say you were brought home; now where was it you were brought home to? A. 526 Tonnelle Avenue.

Q. Was your husband living there then? A. No, sir.

Q. Had he left that place? A. Yes, sir.

Q. How long were you ill? A. From May until the end of August.

Q. 1924? A. Yes, sir. 30

Q. Now, are you still living at 526 Tonnelle Avenue? A. Yes, sir.

Q. Have you lived there with your children and your brothers, or one of them, since 1924? A. Yes, sir.

Q. And during all the time between September 5, 1921, and up to the present time has your husband ever come to you and asked you to make up? A. No, sir. 40

*M. E. Sheridan. Called by Petitioner. Cross.*

Q. Or resume your family life with him? A. No, sir.

Q. Has he ever written to you? A. No, sir.

Q. Has anyone else ever in his behalf written to you? A. No, sir.

Q. Has he contributed any money for your support? A. Not for me, but he did for the children.

10 Q. And how does it come that he has contributed any money for the children's support? A. Well, I took it up to court right after—

Q. September, 1921? A. Yes, sir, and the court awarded me \$15 a week for the support of the two boys.

Q. Is he paying that \$15 a week at the present time? A. Yes, sir.

Q. That is for the support of the boys? A. Yes, sir.

20 Q. Has he contributed anything to your support?

The Court: She says no.

Mr. Grece: One is apt to repeat things. I think your Honor is right.

CROSS EXAMINATION BY MR. PESIN:

Q. Since 1924 you have been living at 526 Ton-  
30 nelle Avenue, Jersey City? A. Yes.

Q. And if your husband had come to ask you to resume marital relationship you would not have been interested, would you?

Mr. Grece: I object to that. There is no foundation for it. She has testified that she is afraid of her husband.

The Court: Well, I suppose that counsel has  
40 in mind the case of Hall v. Hall, 60 N. J. Eq., where it is laid down that it is the duty of a

*M. E. Sheridan. Called by Petitioner. Cross.*

man to attempt a reconciliation where he is partly to blame for the separation, or wholly to blame, but won't be required to attempt a reconciliation if he can prove that he knew at the time that any attempt would be futile.

Mr. Grece: But, your Honor, there is no foundation for such an assumption in this case, and there must be some foundation. 10

The Court: I suppose counsel has got to start somewhere. Now, there is no jury here; the witness is a party and, therefore, it is within my discretion as to how widely I should permit cross examination to go, and, of course, this woman has given a good reason why she would not go back to live with him. I overrule the objection.

A. Well, I don't believe at that time I would, because I was afraid of him, and I am to this day, and he used me in such a manner that I wouldn't want to go back with him for that reason. 20

Q. After you had been married was your husband working at that time? A. Oh, yes.

Q. And what was his business? A. Carpenter.

Q. How long after you had been married did you have your first trouble? A. Oh, I don't know; I couldn't say that we ever had any serious trouble, but like any one would have; we had little argu-  
30 ments, but we got over it again.

Q. Your husband was in the habit of bringing home his pay envelope? A. Yes.

Q. In other words, he wouldn't open it? A. No, sir.

Q. And he continued to do that up to 1921? A. Well, he took \$5 out of it and the rest he gave to me.

Q. In other words, from 1907 up to 1921 he continued to bring home his pay envelope to supply the  
40 house? A. Yes, whenever he worked.

*M. E. Sheridan. Called by Petitioner. Cross.*

Q. And isn't it a fact that when you went to work your husband remonstrated with you and told you it wasn't necessary, but you said you wanted to make some money also? A. Positively, no; I was compelled to go to work.

Q. When were you compelled to go to work? A. When we lived up in Morrisville and we lost the  
10 home.

Q. And that was when? A. Well, I can't just remember now.

Q. About when? A. (Witness pauses.)

Q. All right. What was your line of work when you did go out to work? A. I worked for a caterer.

Q. You were a waitress? A. No, sir, I was no waitress; I worked in the kitchen cooking.

Q. How much was your husband earning as a salary at that time, that you say you were compelled to go to work? A. When we lived in Morrisville he was earning \$20 a week.  
20

Q. When was that, about 1914, was it? A. Well, we lived out there in 1914, yes.

Q. And it was when that you came to Jersey City from Morrisville? A. Well, we lived in Trenton 3 months and from Trenton we came to Jersey City.

Q. Up until that time did your husband have steady employment? A. Well, no; he worked off and on. Sometimes he worked and sometimes he didn't.  
30

Q. During all of that time how much of the time was he out of employment? A. I couldn't say.

Q. You weren't compelled to go out to borrow money for the upkeep of the house? A. No, sir, but I was in such a condition that I didn't have any coal or wood.

Q. That was around 1916 or 1917? A. I don't know.  
40

*M. E. Sheridan. Called by Petitioner. Cross.*

Q. And it was that time that your husband suggested that you come to live in Jersey City? A. I don't think so.

Q. When was that? A. Well, I guess it was in that period.

Q. 1916 or 1917? A. Yes.

Q. And it was because of that that you came to live in Jersey City? A. Yes.  
10

Q. With Mr. Sheridan's sister? A. Yes.

Q. At 526 Tonnelle Avenue? A. Yes.

Q. The place where you are living at the present time? A. Yes.

Q. And the owner of the house at that time was Mr. Sheridan's sister? A. Yes, sir.

Q. How long did you stay there before you went to the family of Lawrence Ell? A. We were there, I guess, about a week when I took sick and we had a doctor come, and he said I had a case of gallstones. His sister was a very excitable woman and the children annoyed her. She couldn't stand it with the children, and when we went to this Ell's place we had no intention of staying.  
20

Q. Are the Ells related to you? A. No, sir.

Q. Did you work for them? A. No, sir.

Q. You just stayed with them? A. I did work in their home.

Q. Do you know Mr. Lawrence Ell? A. Yes, sir.  
30

Q. At the time of your operation did you admit to your husband that you were unfaithful to him by being intimate with Lawrence Ell? A. No.

Q. At the time that Dr. Franklin was about to operate on you in 1917— A. Yes, sir.

Q. —Didn't you call in your husband and admit to him that on two different occasions you were unfaithful to him with Mr. Lawrence Ell? A. No, sir, I did not.  
40

*Dr. Hugh M. White. Called by Petitioner. Direct.*

Q. Now, are you positive of that? A. Positive.

(Witness steps aside to allow Dr. White to testify.)

10 DR. HUGH M. WHITE, sworn on behalf of the petitioner, testifies as follows:

DIRECT EXAMINATION BY MR. GRECE:

Q. Dr. White, where do you conduct your practice? A. Summit Avenue, Jersey City.

Q. Do you know Mrs. Sheridan? A. Yes, sir.

Q. Was she a patient of yours in 1919? A. Yes.

20 Q. And since that time has she been a patient of yours? A. A patient of mine, yes.

Q. And in 1919 was she ill? A. Yes, sir.

Q. Was she suffering from gallstone condition? A. She had a gallstone attack, yes.

Q. And was an operation performed? A. Dr. Franklin performed an operation on her.

Q. Where was that performed? A. Fairmont Sanitarium, I believe.

Q. Has she been under your care? A. I have been her family physician, yes, ever since.

30 Q. And have you examined her recently? A. Well, within the last month, I would say.

Q. And have you been in attendance ever since 1919? A. Yes.

Q. And have you had occasion during that period of time to treat Mrs. Sheridan? A. Yes, sir.

Q. Do you know the two boys, Elmore and George? A. Yes, I do.

*Dr. Hugh M. White. Called by Petitioner. Direct.*

Q. And you have been supervising their physical condition? A. I treated the oldest boy for scarlet fever.

Q. When? A. About two or three months ago.

Mr. Pesin: I object to this line of testimony. I can't see the relevancy of it.

Mr. Grece: If you will wait a minute I will show you what the relevancy of it is. I want to show that this man was constantly in attendance there, and that he has been in this home and knows what the conditions of this home are. 10

The Court: Why not ask him that?

Mr. Grece: I will.

Q. Now, in 1921, in May or June, what was Mrs. Sheridan's condition physically? A. Well, she had rheumatism that year, in 1921. 20

Q. And had she recovered from the effects of her operation for gallstones? A. Well, I should say after 1919 she was better.

Q. Did you make a recommendation for them to go anywhere? A. After she came back from the Sanitarium I advised her to go away to recuperate.

Q. What was the condition of the children around in May and June, 1921, if you can recollect, that being the time when Mrs. Sheridan has told the court she went to Keansburgh. A. What do you mean by their condition? 30

Q. The health of the children. A. Well, in fair health.

Q. Had you made any recommendations about their going away to the shore for a vacation? A. I recommended the mother to go to the shore. She had a bungalow in Keansburgh, I believe. 40

*Dr. Hugh M. White. Called by Petitioner. Cross.*

*M. E. Sheridan. Called by Petitioner. Cross.*

CROSS EXAMINATION BY MR. PESIN:

Q. Did you advise Mrs. Sheridan to go to Keansburgh, Doctor? A. I told her to go away to the country and get strong.

Q. Go away to the country? A. Yes.

10 Q. That is all, doctor.

(Mrs.) MARGUERITE E. SHERIDAN resuming the stand for further cross examination, testified as follows:

CROSS EXAMINATION BY MR. PESIN (Continued):

20 The Court: The last was a denial that she confessed any adultery to her husband.

Q. Mrs. Sheridan, isn't it a fact that you stated to your husband that the first time you were unfaithful to him was when Mr. Lawrence Ell took you into a garage and there you had intercourse with him? A. No, sir.

30 Mr. Grece: I object. When was the time that this was supposed to be? We are entitled to know something about these things.

Mr. Pesin: When she was in the Ell family.

The Court: I assume she denied it. (Addressing the witness) Is that it?

A. Yes, sir.

40 Q. Didn't you say to your husband that one time when you were on your way from Morrisville, Pa., back to Jersey City, to your home, in 1917, that Mr.

*M. E. Sheridan. Called by Petitioner. Cross.*

Lawrence Ell met you at the Summit Tube Station, and from there you went to a wine supper and you stayed all night with Mr. Lawrence Ell? A. I said I did not; I can't say any more.

Q. You didn't tell your husband that? A. No, sir; I did not. Why don't he get Mr. Ell here and let Mr. Ell face him. (Witness here bursts out crying.) 10

The Court: There is no use getting excited. When you commence a suit for divorce you ought to realize you will be cross examined.

Q. Mr. Sheridan, at your request, assigned over all his interest in 526 Tonnelle Avenue to your name, didn't he?

Mr. Grece: I object to that. I think it is immaterial, irrelevant and incompetent. 20

The Court: Who did?

Mr. Pesin: Mr. Sheridan assigned over to his wife at her request. It will show the exact condition of their relationship.

The Court: Their whole lives is open. I overrule the objection. Do you want those boys excluded from the room?

Mr. Pesin: Might exclude them just a little longer. 30

The Court: You boys had better stay out until you are called for.

Q. Will you kindly answer that: Did your husband convey the house to you? A. Yes, sir.

Q. And that was in 1920, was it not? A. I guess it was.

Q. Just the year prior to the time that you fix the date of the desertion; is that right? A. (Witness pauses). 40

*M. E. Sheridan. Called by Petitioner. Cross.*

Q. Yes or no. A. I don't understand you.

The Court: He means, did your husband convey the property to you about a year before the time that you and he separated?

A. I don't know how long it was.

10 Q. And up until that time, until about April 12, 1920, when your husband made this conveyance of the property to you to hold in your own name you had been friendly with your husband and there was no trouble; is that right? A. Yes, sir.

Q. And he had been coming home every week handing you his pay envelope; is that right? A. Yes, sir.

20 Q. And out of his pay envelope you would give him enough for cigarettes? A. He got \$5. a week; that was his spending money.

Q. Do you know a Mr. Albert Corbley? A. Yes, sir.

Q. Isn't it a fact that when Mr. Albert Corbley or his family purchased a lot at Keansburgh you made up your mind to purchase a lot in Keansburgh too? A. No, sir; I never knew anything about Keansburgh until his sister and friends went there; when his folks went to Keansburgh I had never heard anything about the place.

30 Q. May I ask you when those folks made up their mind to go up there? A. I can't tell you.

Q. Was it in 1921, around in the spring? A. I don't know; I didn't go with the intention of buying a lot; I went with the intention of renting a bungalow that Mr. Corbley would build and he said it would be better to buy a lot.

40 Q. When did you learn that Corbley was going to build a bungalow at Keansburgh? A. Oh, I don't know just exactly.

*M. E. Sheridan. Called by Petitioner. Cross.*

Q. Was it around 1921? A. I believe they had been talking about it; I couldn't just say now; I really don't know.

Q. You went to Keansburgh around June 1st, 1921? A. Yes.

Q. Was it around in the spring or the beginning of the summer of 1921 that you knew that Corbley was building a bungalow at Keansburgh? A. Yes, sir. 10

Q. And where had you met Corbley? A. Why, I knew him pretty near all my life.

Q. And he was a frequent visitor at your sister's home, Mrs. Rickenbacher? A. He lived right in our neighborhood.

Q. I asked you if he wasn't a frequent visitor at your sister's home? A. I guess he was; I really don't know. 20

Q. And that's where you met him quite often? A. Yes, sir, I seen him quite often there.

Q. And that was what number Tonnelle Avenue? A. 509.

Q. Right in the neighborhood where you lived? A. Yes.

Q. And you were a very frequent visitor at the home of Mrs. Rickenbacher, too, were you not? A. Yes, sir.

Q. And isn't it a fact that you kept going there over the objections of your husband? A. No, sir, never. 30

Q. You would come home from there between 12 and 1 o'clock in the morning, would you not? A. No, sir, very seldom.

Q. But you would at times get home very late at night, wouldn't you? A. Well, when I went shopping with Mrs. Rickenbacher and my friend, but very seldom was I in that house until that hour. 40

*M. E. Sheridan. Called by Petitioner. Cross.*

Q. Did you ever go shopping with Mr. Corbley?

A. Yes, sir; not at that time, though. Since then I have.

Q. Did Mr. Corbley ever take you to any theatres?

A. Yes, sir.

Q. Mr. Corbley is a single man, isn't he? A. Yes, sir.

10 Q. And when your husband learned that Mr. Corbley was going out with you didn't he say to you to stay home and attend to the children? A. Why, he never knew. I never in my life went out with Mr. Corbley when he was at home only once when his sister and I went to Jersey City, and he went and asked my husband if it was all right; and he said to go; I went and asked my husband and he said surely go, and we went to Jersey City to the Majestic theatre and couldn't get any seats, and I went.

20

The Court: With whom?

A. Mr. Corbley and his sister.

Q. Did you ever have any quarrels with Mr. Sheridan about going out every night in the week to the house of Mrs. Rickenbacher? A. No, never in my life.

30 Q. Never had any quarrels at all? A. No, sir.

Q. You are sure of that? A. Positive.

Q. What did you mean on direct examination when you answered that your husband used to say to you if you did go out to take Elmore with you? A. Well, if I asked him to go to a show—many times before that he would come home in the evening and I laid his clothes out preparing to go out and he would say "Take Elmore". That was the answer that I got. It was very seldom that he would go

40

*M. E. Sheridan. Called by Petitioner. Cross.*

with me, and when the children was small he never took them like a father; the only one that took them out was me and my father and brother was the only one that showed them any attention. He never showed them any.

Q. Coming now to around September, 1921, you made a complaint in the Juvenile Court against Mr. Sheridan, did you not? A. Yes, sir.

10

Q. And the judge at that time, after hearing the case, said to you to think over the situation, did he not? A. I don't remember that at all.

Q. Who was the judge? A. Judge Grece.

Mr. Grece: Are you going to put me on the stand?

Mr. Pesin: No, I won't, Judge; I will leave you off the stand.

20

Q. And isn't it a fact that the first time you and your husband came to the Juvenile Court and you explained your relations to the court, the Judge said to you, "Mrs. Sheridan, think over your actions carefully"? A. I don't remember that at all, because I was too excited to remember anything.

Q. At that time your husband was perfectly willing to go back to live with you, was he not? A. I don't know; I don't remember what went on.

Q. Well, you weren't willing to go back to live with him? A. No, I wouldn't go back and live with him. I am afraid of him.

30

Q. Your husband never beat you, did he, during the time you lived together? A. Yes, he did, on two occasions.

Q. When were those occasions? A. I don't know just now.

Q. I would like to know. A. When we were in the house on Tonnelle Avenue.

40

*M. E. Sheridan. Called by Petitioner. Cross.*

Q. Well, about what year was that? A. Well,— (witness pauses)—it was between the time I was operated on and the time I went away to Keansburgh.

Q. There wasn't anything in that quarrel that caused him to beat you? A. I'm sorry that I can't tell you the cause of it; I don't remember.

10 Q. You don't remember a thing about the quarrels which made your husband hit you; is that right? A. No, sir. Oh, I had arguments with him at different times about his not changing his clothes, keeping himself clean, scrubbing his teeth. Today is the first time I seen my husband look clean; never before.

Q. Now, Mrs. Sheridan, you weren't allowed any money by the Court for your own support, were you? A. No, sir.

20 Q. The children were allowed \$15 a week? A. Yes, sir.

Q. And Mr. Sheridan has been sending that very religiously? A. Yes, sir.

Q. Since that time in 1921? A. Yes, sir.

Q. Now, down in Keansburgh, around September the 5th, 1921, Mr. Sheridan came down there to take the children back to school, didn't he? A. He came down and demanded the children, to take them home.

30 Q. And the reason was that school was opening and he wanted to take them back so that they could start school again? A. I suppose so, but I was going to bring the children home. It was agreed that I was to do that.

Q. Now, September the 5th, 1921, during the time that you say he came down there and demanded the children, did you prepare to come home? A. Positively. I had my clothes packed at the time.

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*M. E. Sheridan. Called by Petitioner. Cross.*

Q. Then you say your son Elmore ran to you and said "Here's pop"; is that right? A. Yes.

Q. What did you say to your son Elmore? A. I told him to go and meet his father.

Q. And what did his father say to you at that time? A. Nothing; he stood at the tree for a minute or two, and when I got near him he said: "Get those kids ready."

10

Q. Then as a dutiful wife did you follow instructions? A. No, I didn't.

Q. Why didn't you follow the instructions, to dress the kids and go home? A. Well, I had promised him that I would go home that week.

Q. Did you know that school opened the day after Labor Day? A. Yes.

Q. Why didn't you get ready? A. Because I stayed there because we had rainy weather, and it was nice weather then, and I stayed there.

20

Q. Disregarding school, you thought it would be better for the children to stay there? A. Yes, sir.

Q. During the entire summer that you were down at Keansburgh Mr. Corbley had been down there also? A. I don't know whether he was there all the time, but he was there a great deal of the time. He lived next door to us.

Q. I want to bring you back to July the 3d when your husband came down to see you; didn't you and Mr. Corbley walk arm in arm out of the water in utter disregard for your husband entirely? A. No, sir; positively no.

30

Q. You did not? A. No, sir.

Q. Do you know a Mr. Martin? A. Yes.

Q. When you saw Mr. Martin and your husband didn't you say to Mr. Martin, "Why in the devil did you bring him down," meaning your husband? A. No, sir; I didn't say that.

40

*M. E. Sheridan. Called by Petitioner. Cross.*

Q. Didn't Mr. Martin say, "I didn't bring him down; I met him on the boat?" A. No, sir; I don't remember that at all.

Q. When your husband came down there did you embrace him? A. We never did do that.

Q. Did you act very friendly with him there? A. Positively.

10 Q. And then at that time you say he shivered when he came out of the water; is that right? A. Yes.

Q. And you said, "Go home; there's some coffee on the stove?" A. I said "Mike, if you are cold go home and change your clothes."

Q. Didn't you think it was a nice thing to take your husband home and care for him at that time? A. Well, he ordered me out after awhile.

20 Q. Up to that time you had been friendly with your husband and he did not visit in Keansburgh very often, and yet you said "Mike, if you are cold go home; there's some coffee on the stove"; is that right? A. Yes, sir.

Q. When your husband came down on the 5th of September and wanted to take Elmore home, you said "Run, Elmore, run," didn't you? A. No, sir; I never told my children to run away from him in my life.

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

Q. Positive of that? A. Yes, sir.

Q. Now, you continued to stay at Keansburgh from 1921 to 1924? A. Yes.

Q. Your husband had continued to send you money? A. He sent me \$15. a week for the children.

Q. I want to bring you back again to the time you were at Keansburgh, from June, 1921, to September, 1921; did your husband give you money at that time? A. He gave me \$40 the 3d of July, out of

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*M. E. Sheridan. Called by Petitioner. Redirect.*

which I paid the lumber bill and the remainder I had, and when I was sick I sent Elmore up and he gave Elmore \$10.

Q. Didn't your husband offer you money from June, 1921 to September, 1921, and you refuse it, saying, "I don't want any of your money"? A. No, sir; I do not remember that at all.

Q. When did he say "Never darken my doorstep again"? A. When he was leaving on the 5th of September. 10

Q. Did he use those exact words? Did he very dramatically say, "Never darken my doorstep again"? Did he use those words? A. He didn't say "doorstep"; to "never darken my door again if you know what is good for you".

Q. And he was shaking his fist at you? A. Yes.

Q. And he put his hand in his hip pocket? A. Yes, sir. 20

Q. And you didn't run? A. No, I pulled my boy in the tent.

Q. Did Mr. Sheridan pull a gun from his pocket? A. No, sir.

Q. And during that time he hadn't done anything to you? A. No, sir.

REDIRECT EXAMINATION BY MR. GRECE:

Q. You say you have known Mr. Corbley ever since your childhood? A. I guess so; I can't recollect the age. 30

Q. Where were you living when you first knew Mr. Corbley? A. 43 Terrace Avenue, right back of the hill.

Q. And the Corbleys lived up in that section? A. They lived on the country road.

Q. Were you and your brothers, George and Gus, also friends of the Corbleys? A. Yes. 40

*M. E. Sheridan. Called by Petitioner. Redirect.*

Q. You had practically grown up with the Corbleys in that neighborhood? A. Yes, sir.

Q. Mr. Corbley is friendly with your brothers? A. Yes, sir.

Q. You say Mr. Corbley took you sometimes shopping? A. He did this past winter when Elmore was sick with scarlet fever; we were quarantined.

10 Q. You lived down at the Tonnelle Avenue address, which is the foot of a steep hill where Manhattan Avenue comes down into Tonnelle? A. Yes, sir; and I asked him. There was nobody to go on my errands. Little George generally ran on my errands, but we were quarantined and I had to give him fresh milk, and each evening he used to come down to see how Elmore was and take me up on the hill if I needed anything, and he took me up to Pennsylvania on a visit to my old neighbors.

20 Q. Who was with you on that trip? A. My children.

Q. You say you went to the theatre with Mr. Corbley? A. Yes, sir.

Q. Did Mr. Sheridan know about that? A. Yes, sir.

Q. Did the children go with you? A. No, I was with Mr. Corbley's sister, but my husband knew about it.

30 Q. Had he raised any objections? A. No, sir, he told me to go.

Q. Did your husband know about Mr. Corbley taking you shopping on Central Avenue? A. Well, that only happened since.

Q. Those are the only cases when you went out with Mr. Corbley? A. No, Mr. Corbley took us to Pennsylvania, as I say, and once we went to the Delaware Water Gap. My boy has a little roadster machine and he took us there.

40

*M. E. Sheridan. Called by Petitioner. Redirect.*

Q. Your boys were with you? A. Constantly; I never was in his company except with the boys.

Q. Mr. Pesin has referred to the proceeding in the Juvenile Court and I happened to be the Judge at that time? A. Yes, sir.

Q. And I did try to see if I couldn't get you and your husband to live together again? A. I just don't remember that. 10

Q. I made such a recommendation, didn't I? A. I don't remember that.

Mr. Pesin: I will admit that you were trying to get them together.

Mr. Grece: You brought it out and I want to clear up the atmosphere.

The Court: There isn't any atmosphere to clear up. I suppose was the object, and the only thing that he brought out was if you didn't tell her to think over seriously what she was doing. I don't see that that amounts to any admission on her part that she was in the wrong. 20

Mr. Grece: I thought the way counsel was asking the question that I was directing all my recommendations to the wife and not to the husband, and I wanted to show the court through this witness. 30

The Court: If I was some juror who had never been around court rooms I might have concluded as you feared I would. Of course, I know, in attempting a reconciliation you don't take the part of either one against the other; you occupy an absolutely neutral position, don't you?

Mr. Grece: Surely.

The Court: The only reason that I interrupted was that it was only a waste of time. 40

*M. E. Sheridan. Called by Petitioner. Redirect.*

Q. Now, Mrs. Sheridan, the order that was made by the court was not made for your benefit, but for the benefit of the two children? A. Yes, sir.

Q. And it was more because you had requested no funds for yourself for support? A. Yes, sir.

Mr. Pesin: I object to that.

10 The Court: How can she tell what was in your mind?

Mr. Grece: She can tell the Court what she told me at the time.

Q. Well, do you know why I made the order for the benefit of the children and not for you?

Mr. Pesin: I object to that. I don't know why she would know that.

20 The Court: She can tell what she said and what you said, or what her husband said in her presence. (Addressing the witness) What did you say in regard to support when you and your husband were before Judge Grece?

A. I said I was willing to work for my own money and support.

Q. But you wanted support for the children? A. That's all.

30 Q. Now, you say Mr. Corbley and his family had a bungalow down at Keansburgh? A. Yes, sir.

Q. And, of course being old time friends, you were naturally friendly with them at Keansburgh also? A. Yes, sir.

Q. This property at 526 Tonnelle Avenue was originally owned by Bridget Sheridan, wasn't it, the mother of your husband? A. Yes, sir.

40 Q. And Mrs. Bridget Sheridan died without leaving a will? A. No, she sold it to her daughter, I believe, before she died.

*M. E. Sheridan. Called by Petitioner. Redirect.*

Q. What daughter is that? A. Mary Sheridan.

Q. And did Mary Sheridan die without leaving a will? A. Yes, sir.

Q. And who were the brothers and sisters that were entitled to that property at that time? A. My husband and his brother Patrick and his brother Thomas, and his brother John.

10

Mr. Pesin: I will admit certain things.

Mr. Grece: I don't want you to admit anything; I want to prove something.

Q. Did John and his wife and Thomas V. Sheridan, widower, John Sheridan and Thomas Sheridan being two of the remaining heirs at law of Mary Sheridan, deceased, in April, 1920, convey to you for \$350 the property at 526 Tonnelle Avenue? A. Yes, sir.

20

Q. Your husband only had an interest in that property, did he? A. Yes, sir.

Q. So that when you said to Mr. Pesin that your husband had caused that property—which I think he has stated was his—to be transferred to you you were mistaken in giving the full meaning to your answer when you said it? A. Well, the reason, in the first place, that this property was put in my name was because I had taken out five shares in a building and loan, and that I was paying out of my brother's board money, and I put it in my husband's name because everything we ever had was in his name and I told him I never had anything in my life; everything was in his name, and he said he would put the house in my name, and that is really how he came to put it in my name, and there was a \$400 mortgage on the house.

30

Q. And the money that went into the purchase price of \$350 was your money that you had saved

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*M. E. Sheridan. Called by Petitioner. Redirect.*

out of board and other moneys that you had been able to earn? A. Well, some of it was his money and some of it was mine.

Q. How much was his money? A. I couldn't say.

Q. You spoke about something like Liberty Bonds.

10 The Court: Those were the Liberty Bonds after she lost the house.

Q. Well, tell us how you came to get that Liberty Bond and about the circumstances and the disposal of that Liberty bond. A. That was one Liberty bond we had for \$50. That was when we put our furniture in storage, and we had another Liberty Bond we were paying for, and when we moved to Trenton he had to go to Mr. Elle and ask him to  
20 pay our moving bill of \$55, because I didn't have five cents to my name, and I paid that back out of my earnings. I went to my people's home with my wages. That is why I went to work to pay this off. And he had a bond that my husband sent me home that was for \$100, and I took and cashed it and I got \$90 for it; and after he got hold he told me how he took a hundred dollar bond from the sideboard.

30 Q. How did he come to get the bond from the sideboard? A. He was saving that, paying for it.

Q. In installments? A. Yes. He was supposed to get only a \$50 one and he was getting \$100, and some foreigner was being blamed for that bond being gone, and he told me that he didn't know that he had it, and I told him to make a clean breast of this thing and he didn't do it, and I wrote a letter to Mr. James and told him I had it and my husband had sent it to me by mistake. I took the blame  
40 instead of putting it on his shoulders, and the young

*M. E. Sheridan. Called by Petitioner. Recross.*

man who was responsible for handling it at that time came from Philadelphia and thanked me for what I had done, because it saved him his position. I cashed it to make payment to the doctor, and the rest of the doctor's bill I paid out of my brother's board money.

Q. So your husband hasn't contributed anything at all to the payment of the doctor's bill? A. Not  
10 to Dr. Franklin.

Q. Did he contribute anything to Dr. White? A. Well, at times. That was before the operation he paid Dr. White.

Q. How much was the bill of Dr. Franklin? A. \$100.

Q. And he paid no part of it? A. No, sir.

Mr. Pesin: I don't see why he should bring  
20 this out again.

The Court: I overrule the objection.

Q. This Lawrence Ell—who was Mr. Ell? A. Mr. Ell is a man that my brother boarded with in their home, I guess for about 11 years or so, and when we came to Jersey City or before we ever came to live in Jersey City we were friends of theirs. We got acquainted with them through my  
brothers.

Q. Is Mr. Ell in court today? A. I don't see him.  
30

Q. Who is this Mr. Martin? A. Mr. Martin is a friend of all of us. I couldn't say anything of him.

Q. Is he in court today? A. I don't see him.

RECROSS EXAMINATION BY MR. PESIN:

Q. How old were you, Mrs. Sheridan, when you left your husband? A. Why, I was in the 30s; I was about 34 I guess.  
40

*M. E. Sheridan. Called by Petitioner. Recross.*

Q. How old was your husband when you left him? A. Well—

Mr. Grece: I object to the form of the question, "when she left her husband."

Mr. Pesin: All right, "When you separated," I will say that.

10 The Court: You separated in September, 1921.

Q. About 34, would you say? A. I guess about that.

Q. And your husband was about what? A. I don't just exactly know. I know he is good many years older than me but I don't exactly know.

20 Q. Did you at any time say to the old lady, the mother of Mr. Corbley, a woman that was about 85 years old—

Mr. Grece: When?

Mr. Pesin: I mean at any time.

The Court: I overrule the objection. Of course he has a right to search her memory. He doesn't have to confine himself to any specific date or time.

30 Q. —did you say to her that your husband was "too darned old" for you? A. No, sir.

BY MR. GRECE:

Q. Is Mrs. Corbley senior in court? A. I don't see her, no, sir.

BY THE COURT:

40 Q. How old is Mr. Corbley? A. I don't just exactly know.

*E. A. Sheridan. Called by Petitioner. Direct.*

Q. Is he here? A. Yes, sir.

Q. Is Mr. Ell here? A. No, sir.

Q. How old a man is he? A. I don't know how old a man he is.

A Voice in the Audience: About 51.

The Court: You must keep quiet. I don't want any response from anyone except the witness on the stand. 10

ELMORE AUGUST SHERIDAN, sworn on behalf of the petitioner, testified as follows:

DIRECT EXAMINATION BY MR. GRECE:

Q. Are you the son of Mrs. Sheridan who was on the witness stand? A. I am. 20

Q. How old are you, Elmore? A. Twenty.

Q. When were you 20? A. April 26, 1927.

Q. Are you employed? A. I am.

Q. And where are you employed? A. Kidder, Peabody & Company, investment brokers, Newark.

Q. How long have you been so employed? A. Since September 8, 1924.

Q. Did you graduate from high school? A. I did. 30

Q. What high school? A. Middletown Township high school.

Q. When did you graduate? A. In the spring of 1924.

Q. You were then about how old? A. About 17.

Q. Are you living with your mother? A. I am.

Q. Where? A. 526 Tonnelle Avenue.

Q. Who else lives in that household at this time? A. My mother, my brother, myself, my uncle 40

*E. A. Sheridan. Called by Petitioner. Direct.*

George P. Busche, and Mr. Corbley is boarding with us now.

Q. And do you remember the month of June, 1921? A. Yes.

Q. That was the time when you went down to Keansburgh with your mother? A. That's right.

10 Q. Now, your mother has described an incident happening in your home shortly before that, and she said it was caused over some cat, and described your father's actions; will you tell the court whether or not you were present at that time. A. Yes, I was.

20 Q. Well, tell the court just what happened, as you observed it. A. As I remember it, dad was fixing the floor and he was wearing his dark hat, and mother was sitting near by and she was fooling with the button on the hat and he resented it and told her to stop, and he was cutting with the hatchet and he put it right through this hat.

Q. Now, what was your father's conduct prior to you and your mother and brother going down to Keansburgh, in the course of his family life? A. Well, dad worked all day and he came home at night, and he usually would eat, and after that he would sit around with the paper.

30 Q. Did he ever take your children out anywhere? A. Not to my knowledge.

Q. Now, it was about the 5th of June, wasn't it, when you went down to Keansburgh? A. That's right.

Q. Was that with your father's approval? A. Oh, yes.

Q. Did you and your father and mother in your hearing discuss it quite a bit? A. Yes.

40 Q. Why was it that you and your mother and brother went down to Keansburgh? A. Both my

*E. A. Sheridan. Called by Petitioner. Direct.*

brother and my mother and myself were not in the best of health, at the time, and it was suggested that a change of air would do us good.

Q. Was that after you had consulted with Dr. White? A. I believe it was.

Q. Did your father visit you down at Keansburgh? A. Oh, yes; he came down a couple of times. 10

Q. Do you remember the first time when he came down? A. I remember he came down once around July 3d; I don't know whether that was the first time; I believe it was.

Q. And what, if anything, happened on that occasion that you remember? You were then about 14 years of age? A. That's right.

Q. And these things that happened, are they clear and distinct in your memory? A. Very much so. 20

Q. All right, tell the court what happened on the 3d. A. Well, this particular July 3d, myself, my brother, and my mother and dad and some friends were down to the beach some distance of where we were staying.

Q. Was your father in bathing also? A. Yes, we were all in bathing for a while.

Q. Let me ask you another question before you proceed: How far was this tent bungalow from where you were bathing? A. About two blocks. 30

Q. Go on. A. We were down bathing, and dad got out of the water, and he was sitting up on the bulkhead along the beach, and mother asked him if he was cold, and she suggested if he had had enough swimming he might go back to the tent and change his clothes and have some hot coffee, and he didn't answer, but just nodded his head, and he did that; and on the way home mother asked dad what was wrong, and he told her, and he told us to come home. 40

*E. A. Sheridan. Called by Petitioner. Direct.*

Keansburgh mother told him about it, and he had gotten ready and was going to go home, and that, I believe was on July 3d, and just before he left she spoke to him again, and so he took \$40 and threw it in the door of the tent.

The Court: That was on July 3d?

10 Mr. Grece: On July 3d.

Q. Did I ask you about the condition of your health before you went down to Keansburgh? A. My health was rather poor at the time.

Q. What was the condition of your brother's health? A. He wasn't very strong at that time, either.

20 Q. Do you know what the condition of your mother's health was? A. Not well at all; just after having an operation previous to that.

Q. Did your mother come home to Jersey City after September 5th? A. She was home after that once or twice; I believe it was twice.

Q. Were you there with her at that time? A. I was.

30 Q. And what was she doing at the home then? A. She came home to straighten up the place, clean the place and make up the beds, and things of that sort, and we stayed until I got into the office waiting for dad to come home, but dad didn't come home and we left. We had to make the boat back to Keansburgh.

Q. How often did that occur, those visits? A. I don't remember.

Q. And then you went back to Keansburgh and you were living in that bungalow tent? A. That's right.

40 Q. Did your mother make any arrangements about removing from the tent and coming back to

*E. A. Sheridan. Called by Petitioner. Direct.*

Jersey City or going elsewhere to live? A. Well, when the cold weather came on we boarded with Mrs. Tierney. It was too cold to stay in the tent.

Q. In Keansburgh? A. Yes.

Q. And stayed there how long? A. We stayed there the whole winter.

10 Q. Now, I overlooked asking you some questions about this 5th of September; I want to go back to that: When your father made these threats, as you say, grabbing his hip pocket, do you know whether or not he had a pistol? A. I didn't know whether he had a pistol or not.

Q. Did your father ever carry a pistol to your knowledge? A. Not to my knowledge.

Q. Was there any feeling at that time between your uncle and brothers of your mother and your father? A. Not that I know of.

20 Q. What did your little brother do after your father made this threat? A. My brother went away.

Q. What did you do? A. I was really frightened. The first thought that came into my mind was to warn my uncle, and I wanted to telephone, and my mother was afraid I might meet him on my way, and Mr. Corbley went with me.

30 Q. Was Mr. Corbley living down there? A. He had a place of his own, living there.

Q. With whom? A. His mother.

Q. You went with Mr. Corbley, then, to the telephone station? A. Yes.

Q. And did you telephone? A. He got the number for me and I spoke to my uncle afterwards.

Q. Do you know your uncle's voice on the 'phone? A. I do.

40 Q. What did you say to him? A. I told him just what happened and I warned him about it.

*E. A. Sheridan. Called by Petitioner. Direct.*

Q. What did you do then? A. Then I went back to my mother.

Q. Have you been staying with your mother ever since that time? A. Ever since.

Q. How long did you stay in Keansburgh, living, as you say, in a bungalow in the winter and a tent in the summer time? A. From that time until I graduated at high school. 10

Q. Is this place where you went to high school near Keansburgh? A. Between Keansburgh and the Atlantic Highlands, the only school in that township.

Q. How long did you stay there in Keansburgh? A. From this time in 1921, I believe that was until 1924.

Q. And where did you go then? A. Then we came to Jersey City. 20

Q. Was your father living in the house at Jersey City at that time? A. At the time we came back?

Q. Yes. A. No.

Q. Do you know whether your father had removed any of the household goods,—bedding or anything of that sort? A. I believe he did remove some bedding.

Q. Why do you believe that? A. Well, I didn't see him do it.

Q. You knew it was there? A. I knew it was there, yes. 30

Q. And your father wasn't living in the 526 Tonelle Avenue place when you returned from Keansburgh? A. No.

Q. When was it that you returned from Keansburgh? A. It was in 1924, I believe in the Fall.

Q. Wasn't it on Decoration Day? A. Why, yes, that's right; mother was taken ill then and that's the reason we came. 40

*E. A. Sheridan. Called by Petitioner. Cross.*

Q. Who brought her back? A. Mr. Corbley brought her back in his car.

Q. Who was with her? A. I believe we were all with her.

Q. Do you remember what your mother was suffering with at that time? A. It started with a sore throat, and I believe she was ill with rheumatism then. 10

Q. Did your father at any time after the 5th of September visit your mother, to your knowledge? A. No.

Q. Did he ever come to see you or your brother? A. Yes.

Q. Where did he meet you? A. In the home of Mrs. Tierney where we were boarding.

Q. That was where? A. In Keansburgh.

Q. Do you know whether he ever wrote your mother? A. Never, to my knowledge. 20

Q. Did he ever ask you to see your mother and endeavor to have you try to patch up the quarrel between himself and your mother? A. Never.

Q. Did he ever make any suggestion to you that he thought it would be a good thing to live together in one home and family? A. No, sir.

Q. Did he ever say anything of that sort to you or talk about those things? A. No, sir. 30

CROSS EXAMINATION BY MR. PESIN:

Q. Where are you working? A. Kidder, Peabody & Co.

Q. That is an investment house? A. Investment brokers.

Q. What do you earn a week? A. About \$20.

Q. And you have been working there a couple of years? A. That's right. 40

*E. A. Sheridan. Called by Petitioner. Cross.*

Q. Now, up until 1921, July 3d, your mother and father were on friendly terms? A. Well, I had never noticed any serious trouble between them.

Q. Just the ordinary arguments such as people have now and then? A. Yes.

Q. They spoke together and they joked together? Is that right? A. I don't know about the joking part. 10

Q. But there was a friendly spirit existing between your father and mother until July, 1921? A. Not too friendly.

Q. When you say "not too friendly" what do you mean? A. Sometimes when I was there they seemed to get along very well.

Q. What was the trouble with your father and mother? A. Marked quietness.

Q. What else? A. No joking and spats now and then. 20

Q. What were the spats about? A. Well, I don't know.

Q. You observed they were friendly; what happened? A. The only striking incident was what I said before.

Q. But what did you observe that makes you say he was different from other men? A. His joking spirit, I believe, was lacking.

Q. But you never heard any arguments between your father and mother which separated them? A. No. 30

Q. So that, coming down to September of 1921, when your father came down to take you boys back to school, there still continued a friendly feeling between your father and mother; isn't that so? A. Yes.

Q. And you had no occasion to fear for your mother's health, in the way of your father beating 40

*E. A. Sheridan. Called by Petitioner. Cross.*

her up at any time, not up until that date? A. That's right, not until that date.

Q. So that when your father made a threat to blow her brains out it was quite a surprise to you, wasn't it? A. Oh, yes.

Q. But you had no occasion to fear it, knowing there was a friendly relation existing between them before that time? A. I did have occasion to fear it. 10

Q. But knowing that there were friendly relations up until that time why do you say you had occasion to fear it? A. Because it was not friendly. I had notice Dad at times had a nasty temper.

Q. So that, knowing that he had a nasty temper, you were afraid; is that the idea? A. Yes.

Q. What did your dad say to your mother as he put his hand in his back pocket? A. Just what I said: "I will blow your dam brains out and I will get your two Dutch brothers, too," shaking his first in her face, and then he said "Don't darken my door again." 20

Q. Do you know that that is word for word that your mother said on the stand? A. I happened to be present at the time.

Q. Would it be surprising to you to know that those are the exact words that your mother repeated on the witness stand this morning? A. Well, I happen to know it was the truth. 30

Mr. Grece: As a matter of fact, it wasn't the same thing that his mother said, because if I remember correctly the mother didn't say anything about blowing her brains out.

The Court: She didn't qualify it by what kind of brains. I will sustain the objection, because it appears that the question is based on an unwarranted assumption of fact. 40

*E. A. Sheridan. Called by Petitioner. Cross.*

Q. The incident which you relate happened what time of the day? A. I think it was around noon or the early afternoon.

Q. And that was on Labor Day? A. That was on September 5th.

Q. Was that Labor Day, do you recall? A. I don't recall.

10 Q. You don't recall whether or not it was Labor Day but still you recall that those were the exact words used by Dad six years ago? A. I do.

Q. Did you take a notation of it in a diary, or make memorandum of any kind? A. I did not.

Q. Did you think that some day you would have to remember on the witness-stand to testify as to the exact words used by Dad? A. I did not.

20 Q. And yet you deliberately recall that those were the exact words that Dad used? A. Because of the frequent times I have thought of it.

Q. Why did you go over it frequent times and think of it if you knew that you would not have use it? A. I didn't know that I would have to use it, but I expected to.

Q. Did you think that you would have to use it? A. I didn't know.

Q. And yet you kept on repeating and repeating those words? A. I didn't keep on repeating the words; I kept the thing in my mind.

30 Q. You didn't keep on repeating the words, but you kept them in mind? A. Occasionally.

Q. And that incident was not a very pleasant one to keep in your mind? A. Not at all; that's the reason I thought of it.

Q. And you didn't care to forget about it? A. I couldn't forget about it very well.

Q. Now then, during the time, that is in 1921, commencing in June, when your mother, and you,

40

*E. A. Sheridan. Called by Petitioner. Cross.*

and your brother moved to Keansburgh was Mr. Corbley there? A. Mr. Corbley has a place down there. He was there at the time.

Q. And did he stay there all during the week? A. I don't recall.

Q. Well, was he in bathing at all during the week days? A. I don't remember.

Q. Between June, 1921, and September, 1921? A. 10 He might have been; I don't remember.

Q. How close to your place was Corbley's place? A. There is a vacant spot between the two places of, I should imagine, three or four building lots.

Q. And then comes Corbley's place? A. That's right.

Q. So that it might be about 100 feet from Corbley's place? A. I think that's it. I think it may be a little more than that.

Q. He had a bungalow there? A. Yes. 20

Q. And you people had a tent there? A. That's right.

Q. And Corbley was quite friendly with your family, that is, with you boys and your mother, was he not? A. Oh, yes.

Q. He would visit you very often, would he not? A. Sometimes.

Q. That is, he would come in your tent on certain occasions and just make a friendly visit? A. That's 30 right.

Q. And were there any times that Corbley took you and your mother to any places of amusement there at Keansburgh? A. I don't remember that.

Q. Well, think hard; you remember other incidences very well; see if you can't remember that, that Mr. Corbley didn't take your mother and you to some places of amusement? A. We may have at times with a party of people; I don't remember of going with just him. 40

*E. A. Sheridan. Called by Petitioner. Cross.*

Q. You remember he was quite frequently in the tent? A. Yes.

Q. Now, see if you can't remember that Mr. Corbley took you and your brother and your mother to some places of amusement. A. I don't recall any such.

10 Q. They have a plenty of places of amusement there? A. Yes.

Q. Well, did you and your mother ever go to those places of amusement? A. We did.

Q. And on any of those occasions did Mr. Corbley accompany you? A. I don't remember; he might have.

Q. You won't say that he didn't accompany you there? A. Oh, no.

20 Q. Now, think again and let me know whether Mr. Corbley was there during week days? A. I don't know; I don't remember.

Q. Well, you were there all the time, were you not? A. Oh, yes, I was there all the time.

Q. Don't you remember that? A. I don't remember his being there any specific time.

30 Q. Now, how often did your Dad visit you down in Keansburgh? A. Well, he came down on July 3rd, and he was down September 5th, and he was down there once before September 5th, I believe, when he wouldn't come up to the tent.

Q. Did he tell you the reason why he wouldn't come up to the tent? A. I don't believe he did; I believe he said he was going back on the same boat.

Q. Why did he say he was going back on the same boat when he had come there just a few hours previously and didn't visit your mother? A. I don't know.

40 Q. Did your mother have an argument with Dad around July the 3d? A. Just what do you mean by "argument"?

*E. A. Sheridan. Called by Petitioner. Cross.*

Q. You know what an argument is, don't you?

The Court: —quarrel.

A. Yes, one incident of his coming out of bathing.

10 Q. What was that incident? A. We were all down bathing together, and Dad got up out of the water and he was shivering quite cold, and mother told him she thought it would be a good idea if he would go up to the tent and change his suit and get some hot coffee, and he didn't answer but just nodded to come out, and mother asked him what was wrong, and he told her to get her things on and come on home.

Q. Was she with Mr. Corbley that day bathing?

A. He may have been in the party; there were several other people there; I don't just remember who.

20 Q. What else did your mother say at that time?

A. I don't remember my mother saying anything, excepting she was down there for the summer, until the vacation period was over.

Q. Did Dad give any reason why he wanted your mother to come home? A. He said he was running one ranch and not two.

30 Q. Did he give any other reason? A. Not that I know of. He told me at that time that mother was a pretty expensive proposition.

Q. Did he give her money every week, do you know, at that time? A. I don't know.

Q. Now, you said before that Mr. Corbley is now boarding at your home; is that right? A. Yes.

Q. How long has he been boarding there? A. I don't remember.

Q. When did you come back to 526 Tonnelle Avenue? A. After I graduated, the latter part of May, 1924.

*E. A. Sheridan. Called by Petitioner. Cross.*

Q. Did Corbley come with you down there, to live with you? A. No.

Q. When did he come? A. I don't remember.

Q. Well, give us approximately the date he came to live with you. You remember everything so very well, I want you to remember that. About when did Corbley come to live with you after 1924?

10 A. I'm afraid I couldn't say that.

Q. Was it a couple of months after you came back from Keansburgh to live in Jersey City? A. I don't know.

Q. Was it a year after you came from Keansburgh to live in Jersey City? A. Well, he has boarded with us at different times.

Q. Do you know what business Mr. Corbley is in? A. I do.

20 Q. What is it? A. Carpenter.

Q. And does he work around Jersey City? A. Sometimes.

Q. And was working in Jersey City when he boarded with you? A. Yes.

Q. And between 1924 and the present date how long has Mr. Corbley been with you as a boarder? A. Oh, I couldn't say.

30 Q. About how long in weeks, or months, or years? A. I don't know. When Mr. Corbley is working in Jersey City he is boarding with us, and other times, his folks live there, he stays with them.

Q. They live right near you? A. Yes, on the same street.

Q. While Mr. Corbley was boarding with you his folks still resided on the same block? A. No, he stayed with his mother then.

40 Q. I want you to answer that question: While he was boarding with you his folks were living a few doors away from you? A. His sister's family was.

*E. A. Sheridan. Called by Petitioner. Cross.*

Q. His sister and brother-in-law's family? A. Yes, that's right.

Q. Did you, while Mr. Corbley was boarding with your mother, ever go to any theatres or places of amusement with Mr. Corbley? A. Oh, yes.

Q. You have? A. Yes.

10 Q. How often has your mother gone out with Mr. Corbley and yourself or your brother, during the time he was boarding with you up to the present date? A. Quite often.

Q. Well, when you say "quite often" just what do you mean, every night, twice a week, or what? A. I couldn't say that because sometimes we might go once or maybe twice in a week, and maybe not for another month or so.

Q. Where would you go? A. Usually to the moving picture show.

20 Q. Did she ever go on automobile rides with him? A. Yes.

Q. Where would you go? A. Sometimes we would take long trips and sometimes just a few hours.

Q. When you took long trips where would you go? A. One time we went to Delaware Water Gap.

Q. How long did you stay there? A. Stayed over night.

30 Q. Who was present on that occasion? A. My mother, my brother, myself, and Mr. Corbley.

Q. Did you ever take any other long trips outside of the Delaware Water Gap trip? A. We have been to Morrisville, Penn.

Q. Whose car was it, Mr. Corbley's? A. On that trip to Delaware Water Gap?

Q. I mean to Morrisville, Pennsylvania. A. Mr. Corbley's.

40 Q. How long did you stay in Morrisville, Pa.? A. We have been in my car, too.

*E. A. Sheridan. Called by Petitioner. Cross.*

Q. When you were there in your car was Mr. Corbley also there? A. Yes, that was the first trip.

Q. You made a second trip in Mr. Corbley's car? A. Yes.

Q. Did you make a third trip? A. No.

Q. On any of those occasions did you stay over night? A. Once.

10 Q. How many miles is Morrisville, Pa.? A. Right across the river.

Q. When was the last time you took a trip with your mother and your brother and Mr. Corbley? A. I don't know.

Q. Very recently? A. Sometime ago.

Q. How long ago? A. I believe in 1926.

Q. Where did you go to at that time? A. That was to Morrisville.

20 Q. When? A. In 1926, sometime in the summer.

Q. Dad has been paying for your support and your brother's support; did you know that? A. I do.

Q. In the winter of 1921 your Dad visited you, didn't he? A. He did.

Q. Was your mother present at any of those visits? A. He was in the same house but not in the same room.

30 Q. She didn't want to see your dad, did she? A. He didn't want to see her.

Q. Answer my question: Did she come out and greet your Dad when he came down there in the winter of 1921? A. No, she didn't.

Q. In other words, she didn't care to see him, did she?

Mr. Grece: I object to that. It calls for a conclusion.

The Court: Yes, that calls for a conclusion.

40 Mr. Pesin: I withdraw the question.

*E. A. Sheridan. Called by Petitioner. Cross.*

Q. Now, when did your dad attempt to strike your mother, before he put his hand to his hip pocket? A. Oh, yes.

Q. Or after he put his hand to his hip pocket? A. I believe it was before.

Q. What did he do, aim blows at her? A. He swung at her.

Q. How far away was she from him when he swung at her? A. Quite close. 10

Q. Did she dodge the attempted blow? A. She did.

Q. How many times did he swing at her? A. I couldn't say; I don't know.

Q. Well, you were present at the time? A. Yes, but I didn't count the swings.

Q. And you remember very well the words which Dad used towards mother; now tell us about how many times he swung at her. A. I'm afraid I can't do that; I didn't count them. 20

Q. Well, was it more than once? A. Yes.

Q. More than twice? A. Yes.

Q. Was it more than three times? A. It may have been; I don't just know.

Q. Was it more than four times? A. I couldn't say.

Q. When he stopped swinging at your mother was it when you interfered and tried to separate them? A. I pulled my mother back. 30

Q. Was it then when he stopped? A. I think it was, yes.

Q. What did you say to him when he kept on swinging at your mother? A. Perhaps I asked him not to hit mother.

Q. You have told us what he said to your mother; can't you tell us what you said to Dad? A. I'm afraid I couldn't. 40

*E. A. Sheridan. Called by Petitioner. Cross.*

Q. How recently did you go over the testimony with your mother before coming to court this morning? A. I don't know; since I have known of the trouble I have spoken to my mother about it often.

Q. How did you know there was a divorce proceeding pending; did your mother tell you? A. Yes.

10 Q. And was it then that she asked you if you remembered what Dad said to her at Keansburgh? A. No, she didn't.

Q. When did you know there was a divorce proceeding pending? A. I don't know.

Q. About when? A. I don't know.

Q. Can't you give me, approximately, what year it was? A. I'm afraid I can't.

20 Q. Well, did you learn it in 1922? A. I couldn't say when I learned it.

Q. Did you know there was a divorce suit pending when your dad came down to see you in the winter of 1921? A. No.

Q. Did you know there was a divorce suit pending in the winter of 1922? A. I couldn't say; I don't know just when it was I learned of it.

Q. When was the last time you talked over this testimony with your mother? A. I have been speaking of it right along.

30 Q. What was the last date; was it yesterday that you discussed the matter with your mother; was it yesterday? A. Yes, it was yesterday.

Q. So that yesterday you rehearsed all this testimony with your mother? A. No, I didn't rehearse it with her.

Q. What did you do, go over it with her? A. No, I didn't.

40 Q. Did your mother say what you would have to say on the witness stand? A. Yesterday we made a trip to Mr. Grece's office.

*E. A. Sheridan. Called by Petitioner. Cross.*

Q. I mean before you made a trip to Mr. Grece's office. A. At home?

Q. Yes. A. We didn't go over it at all.

Q. But you finally did go over this testimony with your mother? A. Only so far as seeing Mr. Grece about it.

Q. I mean, did you make very many visits to Judge Grece's office? A. No, not many. 10

Q. But you continually went over the testimony with your mother? A. I have spoken about the matter quite a bit.

Q. When you say "quite a bit", what do you mean? A. Very often.

Q. When your mother went to Keansburgh did she have rheumatism at that time?

Mr. Grece: What time was this?

Mr. Pesin: I beg pardon, in June, 1921. 20

A. No.

Q. Was she troubled with rheumatism at that time? A. She had been afflicted with rheumatism at various times.

Q. But she had had traces of rheumatism in 1921? A. I don't know whether she had in 1921.

Q. You said she had traces on and off; now when was it? A. Ever since I can remember.

Q. Then it was before 1921, wasn't it? A. Yes. 30

Q. Did you hear the conversation with the doctor and your mother where he advised her to go away? A. No.

Q. Did your mother ever tell you that the damp climate down at Keansburgh would do her rheumatism any good?

Mr. Grece: I object to that. What bearing has that? It is not cross examination. He was only 14 years old at the time.

Mr. Pesin: I will withdraw that. 40

*E. A. Sheridan. Called by Petitioner. Redirect.*

Q. You say you earn \$20 a week at the present time? A. I am.

REDIRECT EXAMINATION BY MR. GRECE:

Q. Elmore, you have been at my office on a number of occasions to talk over the facts in this case with me, haven't you? A. I have. 10

Q. And your mother has been with you? A. She has.

Mr. Pesin: I object to that, if Your Honor please. I didn't go into the conversation in Judge Grece's office. In the first place, it is confidential relation.

Mr. Grece: You can't object on that ground. Counsel has opened the door, asking this young man what conversations he had. 20

The Court: I think that is so.

Q. After talking these things over with you and your mother haven't I suggested that your father and your mother get together and try to reconcile their differences in connection with this matter?

Mr. Pesin: I object.

The Court: It is very leading; you are testifying. 30

Mr. Grece: He has opened the door on this question by practically making this witness his witness on the subject of discussions; I think I have a right to lead.

The Court: Oh no, he did it under no objection on your part. He didn't make him his witness. If you had objected, on the ground that it was beyond the scope of your direct examination you ought to have said so. 40

*E. A. Sheridan. Called by Petitioner. Redirect.*

Mr. Grece: I don't think it makes much difference. We went over the whole matter in my office yesterday.

Q. Didn't we? A. That's right.

Q. Your mother was present, and you and your brother? 10

Mr. Pesin: I again object.

Mr. Grece: I want to show that we discussed this matter.

Mr. Pesin: I know that a lawyer discusses a matter with his client.

The Court: Of course, you discussed it; every lawyer goes over his case. I have no doubt that this lawsuit has been discussed and that it has been one of the leading topics of conversation. 20

Mr. Grece: I don't think I will waste time to go over that any more.

Q. On this trip to Delaware Water Gap, you have told us, Elmore, that your brother, your mother and Mr. Corbley went there in your car? A. Yes.

Q. Where did you stop? A. At the hotel.

Q. What hotel? A. The Broadhead.

Q. How were the rooms occupied among the members that composed your party? A. Mother and my brother had a room and Mr. Corbley and myself had a room. 30

Q. And were those rooms in different parts of the hotel? A. They were.

Q. They weren't adjoining rooms? A. I don't remember whether they were adjoining or in between; they were on the same floor.

Q. Now, in regard to your trip to Morrisville; were you at one time neighbors of Mr. and Mrs. 40

*E. A. Sheridan. Called by Petitioner. Redirect.*

Glackin? A. We formerly lived in Morrisville, and we lived right across the street at the time.

Q. Do you remember them as neighbors? A. Oh, yes.

Q. How long did you stay there? A. On the first occasion we came back the same day.

Q. From the Glackin place? A. That's right.

10 Q. Was Mr. Corbley with you on the second occasion? A. He was.

Q. How were the rooms occupied on that occasion? A. Mother slept with Mrs. Glackin in one room and Mr. Glackin and Mr. Corbley occupied a room.

The Court: Where did you and your brother sleep?

20 A. We stayed with Mrs. Glackin's daughter.

Q. Now, Elmore, were you very ill several months ago? A. I was, around Christmas time.

Q. Last Christmas time? A. That's right.

Q. Do you know what your trouble was?

Mr. Pesin: I object to this as irrelevant.

Mr. Grece: I am going to lead up to the relations of Mr. Corbley in these automobile trips and why certain things transpired. I think that is perfectly proper.

30

The Court: I will allow it, because it is more in the nature of redirect.

Q. You said in December you were ill; I ask you what the nature of your illness was. A. Scarlet fever.

Q. Was Mr. Corbley in Jersey City at the time? A. Yes.

40

*E. A. Sheridan. Called by Petitioner. Redirect.*

Q. And do you know whether your mother and Mr. Corbley went out in the automobile in going on any errands in your behalf?

The Court: You mean while he was stricken with disease? How could he know? It would be hearsay. (Addressing the witness) Were you in a position so that you could see what they did? 10

A. Before they went out they asked me if I wanted anything.

Q. Do you know whether your mother went alone or with Mr. Corbley? A. I don't, no.

Q. Now, you told Mr. Pesin that in the winter of 1921 your Dad visited your mother at 526 Tonnelle Avenue, and Mr. Pesin asked you whether your mother had come out to speak to him; I am going to ask you whether your Dad asked you for your mother? A. Pardon me, Mr. Grece; that was in Keansburgh; that wasn't in Jersey City. 20

The Court: The winter following the separation of the parties, I understand; that must have been in Keansburgh, because that is where she stayed.

Mr. Grece: Well, they were under some misapprehension. 30

Q. On this occasion when your Dad came to visit your mother at Keansburgh in 1921 where were you staying with your mother? A. At the home of Mr. Corbley's sister, Mrs. Tierney.

Q. Did your Dad ask for your mother at that time? A. No.

Q. Did he say anything about your mother at all? A. Didn't mention mother at all. 40

*E. A. Sheridan. Called by Petitioner. Recross.*

Q. Did he request you to get your mother to come and speak with him? A. No.

Q. Did he manifest any sort of interest in your mother at that time? A. None at all.

Q. Did he leave any message with you for your mother? A. No message.

10 Q. Did he leave any money with you for your mother? A. No.

Q. With respect to the commencement of these proceedings between your father and mother, were they started, so far as you know, after your mother came back from Keansburgh in May, 1924; do you remember? A. I don't know; I believe they were. I have an idea they were; I'm not positive.

20 Q. Do you know anything about the proceedings that were started in the Juvenile Court by your mother against your father in September, 1921? Do you know about those proceedings? A. I don't know much about that.

Q. You were quite young at that time? A. I was.

Q. Did you know that she had some sort of proceeding in the Juvenile Court or the Domestic Relations Court of Hudson County? A. Yes, I did.

30 Q. Is it perhaps that you may be confusing in your mind the proceedings in the Domestic Relations Court and the proceedings in the Court of Chancery that prompts you to say you don't know when these cases were started?

Mr. Pesin: I object to that; it is very leading.

The Court: It is very leading. I think I shall have to sustain the objection.

REXCROSS EXAMINATION BY MR. PESIN:

40 Q. How long, Elmore, has Mr. Corbley been boarding with you since he last came to live with you? A. About a month.

*E. A. Sheridan. Called by Petitioner. Recross.*

Q. About a month? A. I think so.

Q. And has your mother gone out with him evenings at all? A. My mother gets out very seldom because of her rheumatic condition.

Q. But he has gone out with her during that month? A. I don't know; I really don't know whether he has gone out. Any time they have gone out I always go with them with my brother. 10

Q. But, as a matter of fact, you know that your mother and Mr. Corbley are together a great deal? A. I never watched them.

Q. What do you mean, you are rather busy and away from home? A. I have different activities.

Q. Social activities outside of your home? A. Yes.

Q. Club affairs? A. Yes.

20 Q. So that if they went out together you wouldn't know? A. I would know, because my brother is home.

Q. But you personally wouldn't know because of your social activities outside? A. I wouldn't know, no.

Q. Prior to the last time he came to live with you, how long a time did he live with you? A. I couldn't say.

30 Q. Well, about how long? A. I really don't know.

Q. Well, was it a month; was it two months, three months, four months, or five months? A. I don't know, it is quite a long period of time.

Q. When you say "a long period of time" might it have been a year? A. I don't think it was that long.

Q. Nine months? A. It might have been; I don't know.

40 Q. It might have been about 9 months; now, then, during those nine months did your mother and Mr.

*E. A. Sheridan. Called by Petitioner. Recross.*

Corbley go out together when you and your brother were not present? A. No.

Q. Sure of that? A. Yes.

Q. Were you interested in outside activities during those nine months? A. Off and on.

Q. What? A. Fraternities, and the De Molay.

10 Q. How many evenings did that take you away from home? A. The De Molay activities takes two evenings every month.

Q. And what about the other activities? A. Two evenings.

Q. How about your other activities outside of the De Molay and your fraternities; how often are you out attending to those? A. Not very often.

Q. Well, do you go to moving pictures? A. Not frequently; once in a while.

20 Q. Have you gone with your brother when your mother was not present? A. No, I have not.

Q. Is your mother always present when you do go to moving pictures? A. Pretty near.

Q. When you say "pretty near", is that any time? A. The only time is when she is with my brother and I go with other people. That's the only time.

Q. When did you see your father last? A. In the winter of 1921, I believe it was, the time that he came to see us in Keansburgh.

30 Q. Did you ever try to find out where Dad was, so that you could visit him? A. I wrote to him.

Q. You wrote to him at what address? A. At home, I believe, 526 Tonnelle Avenue.

Q. Did you know where your dad was working? A. I knew that he was working for a lumber company in New Durham; I didn't know where it was.

Q. Did you know the name of that lumber company? A. I did know it, but I don't now.

40 Q. Did you ever write a letter to that address? A. No.

*E. A. Sheridan. Called by Petitioner. Recross.*

Q. Why? A. I didn't know what to say.

Q. You knew he was your father? A. He might have communicated with me, too; I am his son.

Q. You made no effort to communicate with him? A. I did; I wrote to him last.

Q. What did you write to him about? A. I don't remember the gist of that letter.

Q. Did you write asking for money? A. I don't 10 think so—no, I know I didn't.

Q. Did you write to him telling him how you and your other brother were getting along? A. I don't think I did either.

Q. What did you write to him about? Did you write to him and invite him out to see you at Keansburgh? A. I didn't think it was necessary.

Q. Did you write to your dad after coming to Jersey City, asking him to come to see you? A. No, 20 I didn't.

Q. Did you think it was necessary at that time? A. No, I didn't.

Q. Was it because your mother told you not to write that you didn't write? A. Not at all.

Q. Just used your own discretion? A. Yes, sir.

Q. You had a mind of your own in that matter? A. I did.

Q. Did your dad do anything that caused you to act that way? A. I didn't like the treatment he ac- 30 corded my mother.

Q. How about the treatment your mother accorded Dad? A. Yes, sir.

Q. You were in favor of it? A. Yes, sir.

*George Sheridan. Called by Petitioner. Direct.*

GEORGE SHERIDAN, sworn on behalf of the petitioner, testified as follows:

DIRECT EXAMINATION BY MR. GRECE:

Q. George, where do you live? A. 526 Tonnelle Avenue.

10 Q. With your mother? A. Yes.

Q. Did you go out in Mr. Corbly's automobile with your mother? A. Yes, sir.

Q. Where did you go to with them? A. Delaware Water Gap and Morrisville.

Q. How old were you when you went to the Delaware Water Gap? A. 12 years old.

Q. That is about a year ago? A. Yes.

Q. When you got to the Delaware Water Gap whom did you sleep with? A. My mother.

20 Q. When you went to Morrisville did you stay over night there? A. Only once we did.

Q. Where did you stay? A. I stayed with Mr. Glacken's daughter's house.

Q. Where did you sleep? A. I slept with my brother.

Q. Where did your mother sleep? A. She slept with Mrs. Glacken.

30 Q. Where did Mr. Corbly sleep? A. With Mr. Glacken.

Q. Have you gone up on Central Avenue in Mr. Corbly's automobile? A. Yes, sir.

Q. With your mother? A. Yes, sir.

Q. You were with her at all times while on those trips? A. Every time she went out with Mr. Corbly I was with her.

Q. And when she went up to Central Avenue what did she go for, do you know? A. Either medicine or house hold necessities.

40

*George Sheridan. Called by Petitioner. Cross.*

CROSS EXAMINATION BY MR. PESIN:

Q. How many rides did you take with Mr. Corbly and your mother? A. I don't know.

Q. Well, would you say about a dozen of them? A. About that.

Q. If I were to ask you whether there were a dozen and half would you say there were that many? A. No. 10

Q. About a dozen? A. About a dozen.

Q. And when was the first time that your mother and you and your brother began going out in Mr. Corbly's automobile together on rides? A. I don't know.

Q. Well, you certainly ought to know when was the first time Mr. Corbly got his automobile? A. About a year ago. 20

Q. And at that time where was the first place your mother and Mr. Corbly went with your brother and you? A. I don't know.

Q. Was it a long trip to Delaware Water Gap, or was it a short trip to New York? A. We never went to New York.

Q. What places did you go to? A. We would go out in the afternoon and come back at 5 o'clock.

Q. What time did you start? A. After 2 o'clock.

Q. And come back at 5 o'clock? A. Yes, sir. 30

Q. Where did you go? A. Out in the country and come back.

Q. On this trip that you took up to Delaware Water Gap with your mother and your brother and Mr. Corbly how many days did you stay there? A. We went up one day and came back the next day.

Q. Do you know what hotel you stopped at? A. The Broadhead.

Q. What place? A. Delaware Water Gap. 40

*George Sheridan. Called by Petitioner. Cross.*

Q. You remember the name of the hotel pretty well, don't you? A. Yes, sir.

Q. Now, you say at that time you slept with your mother and Mr. Corbley stayed in another room? A. Yes.

Q. Was that immediately adjoining your room? A. I don't know whether it was or not.

10 Q. On the next morning when you got up did you call for your brother and Mr. Corbley in the next room? A. I met them downstairs.

Q. And when they returned to take their belongings with them did they go to the room immediately adjoining your room? A. I don't know whether they did or not. We met them downstairs.

Q. When they went back for their belongings do you know where they went to? A. No.

20 Q. Was their room on the same floor or the next floor? A. Both rooms on the same floor.

Q. One next to the other? A. I don't know.

Q. How do you know they were on the same floor? A. My mother and my brother said so.

Q. Didn't you see it yourself? A. No; I saw Mr. Corbley and my brother going down the hall towards their room.

Q. How do you know they were on the same floor if, as a matter of fact, you never saw their room?

30 A. Well, you go up stairs and our room was at the head of the stairs, and Mr. Corbley and my brother went down the hall.

Q. Did you see them going down the hall? A. Yes, sir.

Q. Was their room right near your room? A. I don't know.

Q. Did you see them walk into their room? A. No.

40 Q. Where were they walking when you saw them? A. I don't know; I suppose to their room.

*George Sheridan. Called by Petitioner. Cross.*

Q. Didn't you stay there and wait for them to go into their room? A. No, I went into our room and got my belongings.

Q. How do you know they had a room on the same floor? A. I didn't say they had a room on the same floor; I just suspected it.

Q. How long has Mr. Corbley been boarding at your house? A. I don't know. 10

Q. What? A. Since the last time he came?

Q. Yes; how long has he been with you since then? A. About a month.

Q. Do you say a month because your brother said so, or because you know? A. I know it was.

Q. What was the date he came the last time? A. I don't know; his mother left Keansburgh when he came to live with us.

Q. When did she leave Keansburgh? A. I don't know. 20

Q. Was it April 3d? A. About April 1st.

Q. What is her name? A. Mrs. Corbley.

Q. An elderly woman, isn't she? A. Yes.

Q. About 85 years old? A. Yes, sir.

Mr. Grece: I object to this because it is absolutely out of the scope of the direct examination. I don't think he ought to go into that.

The Court: What do you say to that Mr. Pesin? 30

Mr. Pesin: Well, I realize the Judge's objection is sound. I withdraw the question.

Q. Now, on these short trips, where was the farthest point that you would go from home? A. About up to Oakland and back.

Q. Where is Oakland? A. On the Ramapo River, in New Jersey.

Q. Do you know how many miles that is? A. About 35 miles up. 40

*George Sheridan. Called by Petitioner. Cross.*

Q. And you would usually make that trip in three hours? A. Hour up, hour down and stay there about an hour.

Q. And during the time you would stay there what would you do, go and have refreshments? A. We would watch them in swimming.

10 Q. And all that time you and your brother were present with Mr. Corbley and your mother? A. Yes.

Q. You wouldn't leave their sight at all for one minute? A. No, except when I was in school.

Q. I am talking about these trips? A. No.

Q. You wouldn't leave their sight at all? A. No, I was always with my mother.

Q. What kind of an automobile does Mr. Corbley have? A. Now he has a Nash and these trips were made in a Dodge.

20 Q. How many seats in that Dodge? A. Touring car, five seats.

Q. Would your mother drive the car sometimes? A. No.

Q. Who would drive? A. Mr. Corbley.

Q. And your mother would be sitting up front with him? A. No.

Q. Who would sit up in front? A. Elmore.

30 Q. Is that the way the seating arrangement was made on all the trips? A. Except sometimes Elmore sat in back and I would sit in front.

Q. But your mother never sat in front? A. No.

Q. Now, George, how many times did you talk this case over with mother before coming here? A. I never talked it over with mother.

Q. You never talked this case over with your mother at all? A. No.

40 Q. In fact, you didn't know what you were going to say until you took the witness stand? A. No.

*Albert Corbley. Called by Petitioner. Direct.*

ALBERT CORBLEY, sworn on behalf of the petitioner, testified as follows:

DIRECT EXAMINATION BY MR. GRECE:

Q. Where do you live now? A. 526 Tonnelle Avenue is where I stop.

Q. What are you doing there, boarding? A. 10 Boarding.

Q. How long have you been boarding there? A. Well, I have been boarding there about a month.

Q. What is your business? A. Carpenter.

Q. Does your business take you in and out of Jersey City and to other places? A. Yes, sir.

Q. When you are in Jersey City where do you board as a general thing? A. I have been boarding this last time but before that I lived with my parents. 20

Q. When were you living with your parents in Jersey City? A. My parents lived in Jersey City up to about a month ago.

Q. Then you have been a boarder at different times at the home of Mrs. Sheridan? A. Yes.

Q. How long have you known Mrs. Sheridan? A. Well I have known her for 20 years.

Q. Do you know his brothers? A. Yes.

Q. Did you go to school with them? A. I didn't go exactly to the same school. 30

Q. During those 20 years did you and Mrs. Sheridan and her brothers live in the same immediate neighborhood? A. Yes.

Q. You have grown up with them? A. I have grown up with them.

Q. You have known them very well all that time? A. Very well.

Q. Now, did you visit at the Sheridan home before June, 1921? A. Yes. 40

*Albert Corbley. Called by Petitioner. Direct.*

Q. Frequently? A. No, only I was helping Mr. Sheridan paper his house and fix up the front.

Q. Were you very well acquainted with Mr. Sheridan also? A. Yes, sir.

Q. You say you were helping him fix around the house? A. I helped him wall-paper his house, you know, his rooms.

10 Q. Was that at Mr. Sheridan's request? A. Yes, he was there.

Q. Did you get any pay for those services? A. Well, I wouldn't receive any payment, so my sister and Mrs. Sheridan went off and got me a ring. I wouldn't accept payment; I have got the ring.

Q. That was given to you for the work you did? A. Yes.

20 Q. Did Mr. Sheridan know about it? A. Yes, he was there. He knew about my getting the ring; he saw me getting it. Whether he knew his wife was getting it I don't know.

Q. But your sister knew what you were getting it for? A. Yes. I didn't know about it myself until I got it.

Q. Now, have you lived in Keansburgh also? A. Yes, I lived in Keansburgh.

Q. Is your mother and another sister living down there? A. Yes.

30 Q. How far away from where Mrs. Sheridan lived is the home in which you lived? A. Well, I should judge about 100 feet, on the same street.

Q. Have you had the same cordial relations with the Sheridan family in Keansburgh that you had up here in Jersey City when you lived here? A. Yes.

Q. Is your mother living in Keansburgh? A. My mother is living in Keansburgh also.

Q. What is your sister's name? A. Mrs. Tierney.

40 Q. She is in court, is she? A. No.

*Albert Corbley. Called by Petitioner. Direct.*

Q. Did you help to construct a bungalow tent in Keansburgh for Mrs. Sheridan? A. Yes.

Q. Were you paid for those services? A. No, I wasn't paid for the services; I was just paid for the lumber; she just paid the lumber bills.

Q. How much was the lumber bills? A. Well, the lumber bill was at least \$30; something like that. 10

Q. Do you remember what time the lumber bill was paid? A. It was in that same year; I don't remember the date.

Q. Was it during the summer? A. During the summer.

Q. That was in 1921? A. That was in 1921.

Q. Now, have you got an automobile? A. Yes.

Q. Dodge? A. Well, I got a Dodge.

20 Q. You used to have a Paige? A. No, I have got a Dodge, or had one; I have got a Nash now. The Dodge won't go; it has been standing for years.

Q. Have you ever taken Mrs. Sheridan on any automobile trips? A. Yes.

Q. Did you ever go to the Delaware Water Gap? A. Yes.

Q. Did you take Mrs. Sheridan and her two boys with you? A. Yes, I did.

Q. When was that? A. That was in the neighborhood of 1925. 30

Q. 1925? A. I should figure about 1925.

Q. About a year or two ago? A. About a year or two ago.

Q. Where did you stop? A. We stopped at the Broadhead.

Q. Did you stay there over night? A. We stayed there over night.

Q. Is that a hotel? A. Yes.

40 Q. How did you register? A. Well, I registered "Mr. Corbley."

*Albert Corbley. Called by Petitioner. Direct.*

Q. Do you know how Mrs. Sheridan registered?

A. They registered their names.

Q. After you got to this hotel how were the rooming arrangements made? A. Well, we were one flight up and my room was about two doors away from hers.

Q. Were there any adjoining rooms next to Mrs. Sheridan? A. No.

Q. Who stayed with you? A. Elmore stayed with me.

Q. And you stayed there only that night? A. Just that night.

Q. Did you ever make a trip to Morrisville, across the way from Trenton, in Pennsylvania? A. Yes.

Q. Where did you stop then? A. With friends of Mrs. Sheridan.

Q. Glackel? A. Yes.

Q. Did you stay there over night? A. Yes.

Q. With whom did you pass the night? A. With Mr. Glacken. I shared the room with him.

Q. You don't know how the others accommodated themselves? A. No, I don't.

Q. Do you remember whether there was some lumber delivered to the premises of 526 Tonnelle Avenue sometime prior to the time when Mrs. Sheridan left for Keansburgh, in June, 1921? A. No, I don't really know about that lumber.

Q. Were you to help build an extension? A. Oh, there was lumber delivered there when I was building an extension of the rooms on top. That was why I was stopping there.

Q. When was that? A. I guess that was in 1924, after we got back.

Q. After you back from Keansburgh? A. Yes. That is the reason I was there, because I was building it. He asked me would I build it.

*Albert Corbley. Called by Petitioner. Cross.*

Q. Now, had the relations between you and Mrs. Sheridan always been proper ones? A. Yes, proper ones.

Q. Never been anything wrong between you and her? A. No.

Q. You never had any illicit relations with her of any kind? A. No.

10

CROSS EXAMINATION BY MR. PESIN:

Q. You realize, Mr. Corbley, that you are under oath? A. Yes, I do.

Q. If you had had any illicit relations with Mrs. Sheridan would you admit it on the stand here? A. Yes.

Q. In 1921 how long a time did you spend at Keansburgh during the summer? A. Well, I was there until I sold my place.

20

Q. Did you spend the entire summer at Keansburgh without employment? A. I didn't spend the entire summer there. After I had my house built I couldn't get employment there and I had to go back to the city to get employment, and I used to go to my mother's week ends.

Q. Did you spend any time weekdays during the summer of 1921 at Keansburgh? A. Only when I was working on my own place.

30

Q. How long did you work on your own place there? A. Two months.

Q. So that you spent two months there during the summer? A. I did.

Q. How often during that time did you see Mrs. Sheridan? A. Mrs. Sheridan wasn't living there yet.

Q. Did you visit them during the summer of 1921 in their tent, quite frequently? A. I did.

40

*Albert Corbley. Called by Petitioner. Cross.*

Q. Every night? A. Oh, no.

Q. Every day? A. Not every day.

Q. Every other day? A. Once a week while I was there.

Q. And at that time were her children present?  
A. Yes.

10 Q. In other words, you never visited her while her children were not present? A. No.

Q. And did you take her to any amusement places during 1921, in the summer, at Keansburgh? A. Not at Keansburgh, no.

Q. Where? A. No place.

Q. While you were stopping at Keansburgh did you take her to any pleasure resort? A. No.

Q. Did you go bathing with her every day? A. No.

20 Q. Did you bathe at the same beach that she did while you were there? A. When I bathed, I did.

Q. And when she stayed at Mrs. Tierney's were you there? A. At Mrs. Tierney's?

Q. Yes. A. Well, was living with my mother.

Q. And your mother also boarded with Mrs. Tierney? A. No.

Q. Whom does she live with when she is there?  
A. She lives with me.

30 Q. How far from Mrs. Tierney's do you both live?  
A. Where Mrs. Tierney lives now, it is about 20 feet from where she lived.

Q. After September, 1921 where did you go to live at Keansburgh? A. At my own home.

Q. How long did you continue to live at your own home at Keansburgh? A. Well, I lived there, I guess, for the whole summer, off and on. That was my home.

40 Q. I mean after September, 1921. A. After September, 1921?

*Albert Corbley. Called by Petitioner. Cross.*

Q. Yes. A. I guess I lived there all the time.

Q. You continued to live there down to May, 1924, at Keansburgh; is that right? A. Yes.

Q. And Mrs. Sheridan lived at Keansburgh during the same time, did she? A. Yes.

Q. You didn't live at all with Mrs. Tierney during the time you stayed at Keansburgh? A. No, I didn't. 10

Q. How often did you visit Mrs. Sheridan after September, 1921? A. Well, when I came home, maybe on a Saturday, I would go over and see how they were.

Q. How often would you do that? A. Once a week or so, when I came home. Mrs. Sheridan used to visit our house.

Q. Didn't you take them for any automobile rides during that time? A. No. 20

Q. You never did during that entire time? A. No.

Q. Coming down to Jersey City in 1924, did you begin boarding with them in May? A. No.

Q. When did you commence boarding with them?  
A. After my mother moved to Keansburgh again, why, I had a room.

Q. At Mrs. Sheridan's? A. No, no, at Jefferson Avenue, Jersey City. Mrs. Sheridan asked me would I do this work for her. 30

Q. What work is that? A. Putting rooms on her house, and I said I would; and I went as far as Mrs. Sheridan's money lasted to do that. She couldn't pay me any more, and so I said "The only way I can do I will have to go to work," and I went to work, and I was going there nights doing what I could to try to complete her place.

Q. From what time at night to what time would you do the work? A. Well, I would start in when 40

*Albert Corbley. Called by Petitioner. Cross.*

I came home. I used to get my supper there, and I would work from seven o'clock to ten, and do whatever I could do.

Q. How long did that continue? A. That continued pretty near all winter.

Q. That was the winter of 1924? A. Yes.

Q. And at that time were you boarding with them at all? A. Yes, I was, after awhile.

Q. When did you start boarding with them in 1924? A. After I was working there nights for about weeks they said "You may as well stay here instead of renting a room."

Q. How long did you stay with them and board with them? A. I guess about six months.

Q. That would bring you down to 1925; is that a fact? A. About that.

Q. When did you leave in 1925? A. I don't just exactly remember the date.

Q. Well, how many months after you came with them did you leave in 1925? A. Oh, I guess, I was there about six months stopping there, and I left them and went home.

Q. Where did you go to? A. Keansburgh.

Q. When did you return from Keansburgh? A. When my mother moved up.

Q. All right; did you go back to board with Mrs. Sheridan again? A. No, no; I lived with my mother.

Q. During that six months' absence from Jersey City did you visit Mrs. Sheridan at all during that time? A. Once or twice during that time, when I had work to do for her.

Q. Did she ask you to come and do some more work for her? A. Yes.

Q. And you came? A. Yes, I did.

Q. You came and did some work for her during that six months' period? A. Yes.

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*Albert Corbley. Called by Petitioner. Cross.*

Q. How long did that work last? A. I guess that work went along for eight months.

Q. Did you commute during that time? A. I wasn't living at Keansburgh then; I came down on Sunday once in a while.

Q. You made it a social visit as well as a business visit? A. On Sundays.

Q. Now, then, coming down to 1926; how long a time did you spend in Mrs. Sheridan's home as a boarder during that year? A. I don't think I was there any more than a month or so.

Q. Just a month in 1926? A. Yes.

Q. When did you take these automobile rides with her to Morrisville, and also to Delaware Water Gap? A. I guess that was around in 1925.

Q. And about how many automobile trips did you take with her—long trips? A. I took three.

Q. Where was the other place outside of Delaware Water Gap and Morrisville? A. That's all.

Q. How is that; I thought you said you took three trips? A. I was twice in Morrisville and once in Delaware Water Gap.

Q. How long did you stay in Morrisville the second time? A. I came back the same day.

Q. And that is how many miles up? A. I guess 70 or 80.

Q. And all this time you knew Mrs. Sheridan was married, didn't you? A. Yes, I knew that.

Q. And despite that fact you kept taking her out in your automobile? A. I took her out in her own son's automobile.

Q. You kept taking her out in your automobile, despite the fact that she was a married woman? A. Yes.

Q. Did you think it was the right thing to do? A. I didn't think it was wrong; her husband couldn't.

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*Albert Corbley. Called by Petitioner. Redirect.*

Q. Did you think it was the right thing to do, you a single man, to take her out in trips? A. I didn't think it was wrong at all.

Q. You didn't think it was wrong at all? A. No, I didn't think so.

Q. Did you know there was a suit instituted for divorce by Mrs. Sheridan? A. No, I didn't.

10 Q. When did you first learn that a suit had been instituted? A. I guess about a week or so ago.

Q. A week or so ago you first learned that Mrs. Sheridan had instituted a divorce suit against her husband? A. Yes.

Q. She never told you she had instituted a suit for divorce? A. No.

REDIRECT EXAMINATION BY MR. GRECE:

20 Q. That place in which Mrs. Sheridan lived, at 526 Tonnelle Avenue, who else was living there with her besides her sons? A. Her two brothers.

Q. Were they living there all the time? A. All the time while I was living there until about a month or two ago, when her brother got married.

Q. When you say they said you might as well stay here" who do you mean by "they"? A. Her brothers.

30 Q. They also invited you to stay there and board there while you were working on the house? A. Yes.

*August F. Busche. Called by Petitioner. Direct.*

AUGUST FRANK BUSCHE, sworn on behalf of the petitioner, testified as follows:

DIRECT EXAMINATION BY MR. GRECE:

Q. Where are you living? A. Now, 3415 Boulevard, Jersey City.

Q. Are you married? A. Yes, sir. 10

Q. How long have you been married? A. Since October 29, 1926.

Q. And have you lived at this place on the Boulevard since that time? A. No.

Q. Are you living in Jersey City? A. Yes.

Q. Since your marriage have you been living in Jersey City? A. Yes, sir.

Q. Now, did you formerly, before you were married, live at 526 Tonnelle Avenue, Jersey City? A. Yes, sir. 20

Q. In Mrs. Sheridan's home? A. Yes, sir.

Q. From what time until you got married did you live there? A. I lived there up until December 9, 1926.

Q. From what time? A. I lived there from the time the war was closed, May 29, 1919.

Q. Where were you during the war? A. I was with 113th Infantry in France.

Q. And when you were mustered out or discharged from the service did you come right straight down— A. I came right to my sister's home. 30

Q. In 1919? A. In 1919.

Q. Well, they were living at 526 Tonnelle Avenue while you were resident there? A. Yes, sir.

Q. Will you please tell the court what you observed while you were there? A. Well, Mr. Sheridan would come home evenings, he would sit down and get a paper, somewhat as though that was all 40

*August F. Busche. Called by Petitioner. Direct.*

he was interested in was a newspaper, and his pipe. He never would take his family out like any other man would. If the subject was broached he always had some kind of excuse; he didn't want to go.

Q. And at the time that Mrs. Sheridan went down to Keansburgh in June, 1921, did you know of the arrangement that had been made toward that end, towards the latter part of it? A. I understood it was said for her to go. 10

Q. Whom did you understand that from? A. From her husband.

Q. Did you visit them down in Keansburgh? A. Oh, yes; I was a regular visitor there.

Q. What do you mean by "a regular visitor"? A. Well, I would be down there once or twice a week.

Q. Do you know what kind of a place they had there? A. Yes, sir. 20

Q. Will you describe the place. A. They had an army tent, and this army tent had a framework and it was built more like a little bungalow than a tent; it had wooden sash to it.

Q. When you stayed down there did you stay in the tent over night? A. Oh, yes.

Q. Who else was in the tent while you were there? A. My sister and her two children.

Q. Do you know how long they stayed there? A. They stayed there all summer. 30

Q. Are you the brother that Elmore had the telephone conversation with? A. No, he didn't have any telephone conversation with me; that is George.

Q. Up to the time when you got married last December I understood you to say you were living at 526 Tonnelle Avenue? A. I was married in October, and I lived with my sister up to December the 9th. 40

*August F. Busche. Called by Petitioner. Direct.*

Q. 1926? A. Yes, sir.

Q. And you lived with your sister, did you, from the time she came back from Keansburgh? A. Yes, sir.

Q. Do you know when she came back from Keansburgh in 1924—about when it was? A. Well, she came back in the latter part of May.

Q. What was her physical condition at that time? A. She was very sick. 10

Q. Do you know what her trouble was? A. The doctor said she had inflammatoy rheumatism.

Q. Do you know what her condition was previous to her going to Keansburgh? A. Yes, sir.

Q. What was it? A. Well, she was very sick, and Dr. White told me he thought she had gallstones.

Q. When did he tell you that? A. That was in the early part of July. 20

Q. 1920? A. 1919.

Q. Was that before she was operated on? A. Yes, sir, before.

Q. And then in 1919 sometime she was operated on? A. Yes.

Q. Do you know what the physical condition of her sons was? A. Elmore was always frail as a small boy; he is none too heavy now.

Q. And George also? A. George wasn't very husky. 30

Q. Did the doctor say something to you as to the advisability of their going away? A. He said he thought it would be a good thing if my sister could go away for a while.

Q. Do you know whether or not Mr. Sheridan knew about those advises of the doctor? A. Oh, yes, he knew; the doctor had told him himself. 40

*August F. Busche. Called by Petitioner. Direct.*

Q. Now, do you know whether or not, prior to their living in Keansburgh any load of lumber had been delivered to 526 Tonnelle Avenue? A. Yes.

Q. Do you know what the nature and purpose was of that lumber? A. It was to build an extension on the house in the rear.

Q. While Mrs. Sheridan was away? A. Yes.

10 Q. Was there any contract let for that? A. I couldn't tell you anything about that.

Q. What is your business? A. Why, at the present time I work for the Hudson County Mosquito Extermination Commission.

Q. Were you to help in the construction of the extension at 526? A. I would have helped if it had been started.

Q. Was it started? A. It never was started.

20 Q. Was the lumber still there? A. No, sir, the lumber was taken away.

Q. By whom? A. By one of the drivers.

Q. That works at the place where Mr. Sheridan works? A. Wherever he works, in New Durham somewheres; I don't know where.

Q. Now, during the time you were staying there, prior to 1924, Mr. Sheridan was also residing at 526? A. Yes, sir.

30 Q. How long did he stay there after September, 1921? A. I think it was toward the end of 1921 that he left there.

Q. Do you know of any reason why he left there? A. No.

Q. Did he say anything to you about that? A. No, he never said anything about that.

Q. Did he take anything such as household furniture with him? A. I don't know whether he did or not; I didn't see him leave.

40 Q. When was it that this lumber was taken away? A. It was taken away after he left.

*August F. Busche. Called by Petitioner. Cross.*

Q. Do you know Mr. Corbley? A. Oh, yes; I have known him pretty near all my life.

Q. Has he been a boarder at your home 526 Tonnelle Avenue? A. Well, he was staying there for awhile when he was doing this work and putting this new roof on.

Q. And at whose suggestion was that? A. I suppose it was at my sister's suggestion. 10

Q. Did you agree to that? A. Why, certainly.

Q. Did you ever notice any improper relations between him and your sister while he was there and while you resided in this place? A. No, sir.

Q. Do you know of any automobile trips that Mr. Corbley would take your sister on when they were living at 526 Tonnelle Avenue, say, at the time Elmore was sick? A. Yes, at the time Elmore was sick and at other times. 20

Q. Did you see anything improper in that? A. No, sir. 20

Q. Were you perfectly satisfied to have him do so? A. Yes.

Q. Did you know Mr. Corbley's character and reputation? A. I did.

Q. What is it? A. His character is good. I never heard anybody say a word against him.

Q. Is that the reason why you were satisfied, for one thing? A. Yes, sir. 30

Mr. Pesin: That is very leading.

Mr. Grece: I am trying to avoid it, but it is almost irresistible not to lead him. Take the witness.

CROSS EXAMINATION BY MR. PESIN:

Q. You came from Keansburgh about the fall of 1921, did you not? A. I came back from Keansburgh? 40

*August F. Busche. Called by Petitioner. Cross.*

Q. Yes. A. What do you mean by "I came back"?

Q. I won't argue with you. You were in the house 526 Tonnelle Avenue in the fall of 1921, around September? A. Yes, sir.

10 Q. How long did you stay there during the balance of the year 1921? A. I stayed there a whole year.

Q. Was Mr. Sheridan there during that time? A. No, sir.

Q. Are you sure of that? A. Yes, sir.

Q. When did Mr. Sheridan leave that house? A. He left that house in 1921.

Q. What date? A. I couldn't tell you.

Q. Why not? A. I don't know; I never paid any attention to anything like that.

20 Q. Didn't you just say he was out of the house in 1921? A. But I don't know the date.

Q. When he was going away did you attempt to have him stay? A. No, sir.

Q. Or try to effect a reconciliation? A. That's none of my business.

Mr. Grece: There was no obligation on his part to try to effect a reconciliation between himself and his wife.

30 Mr. Pesin: I am trying to show the surrounding facts.

The Court: How you can argue from the fact that he didn't help bring about a reconciliation I can't see.

Mr. Pesin: Just to show his feelings in the matter as a witness, that is all.

A. Yes, I can tell you a few things—

40

*August F. Busche. Called by Petitioner. Cross.*

Mr. Grece: Just keep quiet.

The Court: I will sustain the objection, on the ground that I consider his failure to attempt a reconciliation to be irrelevant and immaterial.

Q. Did you stay in the place at 526 Tonnelle Avenue in 1922? A. I did, up to the latter part of July. 10

Q. Was Mr. Sheridan there during that time? A. No, sir, he was not.

Q. In 1921, towards the latter part of the year, did your sister come up to that house 526 Tonnelle Avenue? A. Yes, sir.

Q. She came there? A. Yes.

Q. How often did you see your sister out with Mr. Corbley? A. I never saw my sister out with Mr. Corbley.

20 Q. I thought you said they took automobile trips together? A. They told me that they were going out.

Q. Did you notice where they were going out to, whether they were going into an automobile? A. Oh, yes.

Q. Did you see them going in an automobile together? A. Yes.

30 Q. How often did you see them in an automobile on a trip? A. Two or three times.

Q. Did you see your sister and Mr. Corbley go out to other places rather than in the automobile? A. No, sir.

Q. You never did? A. No, sir.

Q. What is your line of work? A. Traveling.

Q. Where do you travel? A. All around the county in an automobile doing inspector work.

40 Q. What are your hours? A. Three o'clock in the afternoon until 11 o'clock at night.

*August F. Busche. Called by Petitioner. Redirect.*

Q. Around in May on you were very little in the home of your sister? A. In May I was working from midnight until 7 in the morning.

Q. During that time how many times did you see Mr. Corbley go out with your sister? A. None.

Q. In other words, you didn't see him at all? A. I saw him around, yes.

10 Q. How often did you see him around at the time you say you had this night work? A. I never kept track of it.

Q. Was it a half dozen times, a dozen times, two dozen times? A. It might have been.

Q. What might have been? A. A half dozen times.

Q. You knew Mr. Corbley was a single man? A. Yes.

20 Q. You had no objections to his going out with your sister; you thought it was perfectly proper? A. I didn't see anything wrong in it.

REDIRECT EXAMINATION BY MR. GRECE:

Q. Mr. Busche, did you make any contributions toward the maintenance and support of your sister while Mr. Sheridan was away while your sister was living at this Tonnelle Avenue house and also at Keansburgh? A. Yes, sir.

30 Q. Will you tell the Court what you did in that respect. A. Well, I paid all the taxes on that property in the beginning, back taxes and everything else.

Q. How much did that amount to? A. I kept a record of it and I destroyed it; and while my sister was sick and Mr. Sheridan was in Pennsylvania he was not working and I kept the home together and paid all the expenses.

40

*August F. Busche. Called by Petitioner. Recross.*

Q. What year was that? A. That was around 1920.

Q. That was after you came back from France? A. Yes, sir; I think it was a part of 1919 and 1920.

Q. All right; go ahead. A. And I kept the home together until she got better and went to work. I also advanced him money.

Q. What for? A. To help him along. He came home one time to visit his family and he told me it was a long walk back to Pennsylvania; and I says, "What do you mean by a long walk?" and he says, "I haven't any money to go back" and I gave him money for that. 10

Q. Do you know who paid the cost of your sister's operation? A. She did herself.

Q. Do you know how she raised the funds? A. Through my brother and I. 20

Q. Did she always work? A. She was working for a caterer in New York.

Q. Did you also make some contributions for clothing for the children? A. Yes.

Q. Do you know whether her husband made any contributions in that respect? A. I suppose he did.

RECROSS EXAMINATION BY MR. PESIN:

Q. How long was Sheridan out of work? A. I couldn't tell you that. 30

Q. That was around 1916 or 1917, wasn't it? A. No, sir, I am speaking about 1919 and 1920.

Q. Was that around the time that your sister had the operation? A. Yes.

Q. As a matter of fact, didn't Mr. Sheridan stay home two weeks to help around the house while Mrs. Sheridan was sick? A. Not that I know.

40

*George Busche. Called by Petitioner. Direct.*

Q. Do you know that Mr. Sheridan always came home and gave his pay envelope to his wife? A. I don't know anything about that.

Q. Didn't your sister tell you about that? A. No, I never talked with her about her business.

10

GEORGE BUSCHE, sworn on behalf of the petitioner, testified as follows:

DIRECT EXAMINATION BY MR. GRECE:

Q. You are a brother of the petitioner, Mrs. Sheridan, and the last witness who was on the stand? A. Yes, sir.

Q. Where do you live? A. 526 Tonnelle Avenue.

20 Q. How long have you lived at 526? A. Since the latter part of February, 1920.

Q. And prior to that time where were you living? A. New Durham.

Q. What is your business? A. I am a bridge attendant for the Paterson Plank Road Bridge.

Q. And in 1919 where did you live? A. New Durham.

30 Q. And prior to that time? A. I was in the army.

Q. Where were you in service? A. Fort Meade Post, Artillery.

Q. Where is that? A. Salem County, N. J., on the Delaware.

Q. Also you were down on the Mexican border? A. Yes, sir, in 1916.

Q. And what outfit were you in down there? A. First Sergeant of Company H, in the 4th N. J. Infantry.

40

*George Busche. Called by Petitioner. Direct.*

Mr. Pesin: I can't see the relevancy of all this information, unless he wants to display his war record.

Mr. Grece: I want to show who this man is.

The Court: I understand it is customary to show that a witness is a man who has been in the service, because it gives him some standing at the time of the war, but to go into details and ask him where he served—

10

Mr. Grece: That was volunteered. I didn't ask him that.

The Court: You asked him in what company he served on the Border. It doesn't make any difference.

Q. I want to bring you down to June, 1921; at that time you were living at 526 Tonnelle Avenue? A. Yes, sir.

20

Q. Do you know what the condition of your sister's health was at that time? A. Her health at that time was poor.

Q. And had she been operated on previous to that time? A. Well, I wasn't living with her when she was operated on. She was operated on, I think, sometime in 1919.

Q. You had heard discussions in the family about it? A. Yes, I heard about it.

30

Q. Do you know what the condition of the boys was? A. Well, yes; the boys, I would say, were sickly; that is, not very strong.

Q. And do you know who the attending physician was? A. Dr. White.

Q. Did Dr. White, in your presence, make any recommendations about her going away? A. Not in my presence.

40

*George Busche. Called by Petitioner. Direct.*

Q. At any rate, they did go to Keansburgh about the 5th of June? A. Sometime about that.

Q. Do you know whether Mr. Sheridan was agreeable to that arrangement? A. Absolutely.

10 Q. Did you visit them at Keansburgh after your sister got there? A. I was down there three or four timest maybe; I didn't go down during any particular period of time. I made one trip with my brother and one or two trips after that.

Q. Between what time and what time? A. Between the time she went down there until the latter part of the summer.

Q. You made two or three trips during that summer of 1921? A. Yes.

Q. Did Mr. Sheridan go down there with you? A. No.

20 Q. Around Labor Day, or on Labor Day, 1921, did anything occur that is fixed in your memory? A. Yes, I got a telephone call about 3 o'clock.

Q. From whom? A. From the boy Elmore.

30 Q. Did you know her boys? A. Oh yes. And he told me that there was a threat made against my life by his father and to watch out; and also he threatened his mother, and just as soon as I got the message I called up my brother's boys on the Lackawanna Railroad, and told him so and so was the case, and for the brother to stop at the 6th Street Police Station coming home from work and ask him to have one of the officers come down with him, and that message was delivered.

Q. Well, did you go home that night? A. No, I didn't get home until 8 o'clock the next morning.

Q. After that did you continue to live in that place? A. Oh yes, I am living there today.

40 Q. How long did Mr. Sheridan live there? A. Well, I should judge about a year.

*George Busche. Called by Petitioner. Direct.*

Q. Or to the end of the year? A. No, I would say he lived there about a year.

The Court: A year from when?

A. From September, 1921. That would make it to December, 1922.

10 Q. And did Mrs. Sheridan come back from the shore? A. Well, she made several trips, yes.

Q. What did she do there? A. Cleaned up the place, cleaned the beds, washed the windows and such as that.

Q. Some of his clothing? A. Yes.

Q. And your clothing? A. Yes, mine.

Q. Was he present when she was there? A. No.

20 Q. The time I am speaking of, of course, was the time when you were there. You say Mr. Sheridan left about September, 1922; do you know where he went to? A. Well, I don't know; I think to New Durham.

Q. Do you know whether there was any lumber delivered prior to June, 1921? A. Yes, there was lumber; there was timber and stuff in the yard.

30 Q. Do you know what the purpose of that was? A. Yes, to build the kitchen extension on the back of the house, and that was to be ready in September when my sister came back from her vacation.

Q. Did that stay there? A. No, that was taken away from there.

Q. You don't know when, do you? A. Well, sometime—well, I would say about the beginning of the summer of 1922.

Q. That was taken away then? A. Yes.

Q. Did you see it taken away? A. Yes, I saw it taken away.

40 Q. Who called for it? A. I went to work in the morning—

*George Busche. Called by Petitioner. Direct.*

The Court: I suppose you don't know; you weren't there?

A. Yes, I saw it.

Q. Who called for it? A. Why, it was taken away in an automobile, a Ford machine.

Q. Was Mr. Sheridan present? A. No, because  
10 I chased two men out of the yard.

Q. Was it after they had taken it? A. Oh, yes, after they had a regular load. They were going to take some more and I wouldn't let them do it.

Q. Mr. Sheridan hadn't communicated with you about it? A. He did not. He was still living there then.

Q. Now, when was it that your sister came to 526 Tonnelle Avenue? A. The latter part of May.

Q. What year? A. 1924.  
20

Q. Was it on Decoration Day? A. Well, now, that I couldn't just say.

Q. How did she come there? A. Why she was brought in a machine a very sick woman.

Q. Do you know what her illness was? A. Well, as I understand it, the doctor operated on her and she has a sore throat and it turned into inflammatory rheumatism.

Q. How long was she ill? A. Until the latter  
30 part of August.

Q. From the time Mr. Sheridan left, as you say, about September, 1922, did he ever come and visit the place 526 Tonnelle Avenue? A. Not to my knowledge.

Q. Did he ever ask you to approach your sister and endeavor to effect a reconciliation between him and her? A. No, he did not.

Q. De he, to your knowledge, ever come to that  
40 place while your sister was living there after 1924,

*George Busche. Called by Petitioner. Direct.*

and attempt to effect a reconciliation with her? A. No, sir.

Q. Do you know whether, during the period last mentioned, he ever sent anybody else to see her for that purpose? A. Not to my knowledge.

Q. Or write any letters to her to that effect? A. No, sir.

Q. Did he ever write any letters to you? A. No, 10  
sir.

Q. And from the time he left in September, 1922, as you say, until the present time has he made any efforts whatsoever to get his wife back to him? A. Never, to my knowledge.

Q. Did I ask you about contributing to the support of the children? A. Oh, yes, I have been giving my sister \$50 a month.

Q. Since what time? A. Well, since the time she  
20 left.

Q. In June, 1921? A. Yes, sir.

Q. And have you also contributed for the purchase of clothing for the children? A. Oh, yes.

Q. Do you know whether Mr. Sheridan ever took his children out to any moving picture? A. Not that I know of.

Q. Did you ever take them out? A. No, I never had any occasion to take them out.

Q. Was it your brother that took them out? A. 30  
Yes, my brother took them out.

Q. You know that? A. Yes.

Q. Do you know Mr. Corbley? A. Yes, I know  
him.

Q. How long have you known Mr. Corbley? A. Well, pretty near my whole life.

Q. And has he been a boarder in the home at 526 Tonnelle Avenue? A. Yes, he is boarding with us at the present time.  
40

*George Busche. Called by Petitioner. Direct.*

Q. Has he boarded with you at other times? A. Yes, previous to that he was boarding with us, too.

Q. When was he boarding with you? A. I think it was in the winter of 1925, in the fall of the year.

Q. What was the reason of his boarding there? A. He was repairing our house.

10 Q. And was it with your sanction and at your suggestion that he boarded there? A. No, it wasn't my sanction; I didn't suggest that he board there; I think it was my sister who suggested it, but I was satisfied to have the man there.

Q. Why were you satisfied to have the man there? A. Why, because I think the man is all right.

Mr. Pesin: I don't think that is a proper question to ask him.

20 Mr. Grece: Well, I will withdraw it.

Q. Did you have any objection to his being there? A. Why, no.

Mr. Pesin: I object to that. I don't see the relevancy of it.

The Court: I don't either.

30 Mr. Grece: Counsel has made some rather sinister suggestions and cast some suspicion and reflection upon Mr. Corbley, and here is a man who knows Mr. Corbley, and if Mr. Corbley was the type that counsel has suggested he is, I think this witness would know it, and it would be proper for him to tell what he thinks about a man in the house.

The Court: That is giving his opinion.

40 Mr. Grece: He was the brother of this woman and if Corbley was this type of man certainly this man, who lived in the house, wouldn't have him there.

*George Busche. Called by Petitioner. Cross.*

Mr. Pesin: That doesn't follow.

The Court: It all comes down to a question as to this witness's opinion of the character and reputation of Corbley, and his opinion doesn't amount to a row of pins. That is not a question upon which opinion evidence may be given, as upon the subject of special learning or training, and it is for the court to determine whether or not there was anything improper in the friendship that existed between the petitioner and Corbley. 10

Mr. Grece: I will withdraw it. But may I suggest this:

Q. Do you know of any reason why Mr. Corbley, by reason of his character would be an objectionable man in your home? A. No. 20

Mr. Pesin: Just a moment; I object to that.

Mr. Grece: I am asking him now if he knows anything that would cause him to object to having him in the home.

The Court: That is merely an opinion. What he might think was proper you might think was improper, or vice versa.

Mr. Grece: Possibly that is true. I won't press it. You may cross examine. 30

CROSS EXAMINATION BY MR. PESIN:

Q. Did you hear your brother testify, directly before you? A. Well, not all of it.

Q. Your brother testified that Mr. Sheridan removed from 526 Tonnelle Avenue sometime in September of 1921. Is that right? A. What do you mean? 40

*George Busche. Called by Petitioner. Cross.*

The Court: Are you going to characterize his statement?

A. What I know I tell you. I didn't hear the whole statement.

Q. When did Mr. Sheridan move? A. I told you that he moved September, 1922.

10 Q. In other words, he stayed there about a year after the time that they separated in Keansburgh? A. After she left.

Q. Now, then, what were your hours of employment during the time between 1921 and 1926? A. I worked from 8 to 4 one week and 4 to 12, and 12 to 8.

Q. And have you been with your sister since the 24th of May, 1926, at 526 Tonnelle Avenue? A. Yes.

20 Q. During all that time has Mr. Corbley boarded at 526 Tonnelle Avenue? A. Yes, he has.

Q. For how long a time would you say that he has boarded there, on and off, up to the present day? A. I would say about 7 months.

Q. At any time did you ever see Mr. Corbley and your sister out shopping together? A. Yes, with the children.

Q. How often would they go out together? A. Maybe he would run her up to the avenue on Saturday night to buy groceries and stuff.

30 Q. How many other times would he do that? A. When she needed medicine.

Q. Who would go with her? A. Just one of the children.

Q. In other words, one of the children would always be with her? A. Yes.

Q. Did they go out together alone? A. That I couldn't say.

40

*George Busche. Called by Petitioner. Cross.*

Q. You say you spent some time at Keansburgh in the summer of 1921? A. Well, I just made a trip down and came back that same day.

Q. Did you ever see Corbley down there in the presence of Mrs. Sheridan? A. No, I did not.

Q. Did you have a telephone at 526 Tonnelle Avenue? A. No, sir.

Q. In September of 1921? A. September, 1921, 10 the telephone was across the way in the saloon.

Q. That was where you received the telephone message? A. Yes, they called me over.

Q. What was the conversation with Elmore? A. The conversation was that his father was down there and started a rumpus and threatened to kill his mother, and he also said he would kill me and my brother Gus; was going to shoot us.

Q. And then after that, that same night, did you see Mr. Sheridan? A. No, I did not; I waited until half past nine. 20

Q. Did you see him? A. The next day.

Q. Did you have a conversation with him? A. I certainly did.

Q. What did he say to you? A. I asked him about it and he said it was a lie—whatever telephoned was a liar. I told him, no, I don't think he was a liar, because it was his own son.

Q. What did he say to that? A. He didn't say nothing. 30

Q. At first, he said it was a lie? A. Yes.

Q. Did he tell you what happened? A. No, he did not.

Q. Did you ask him what happened? A. Yes, I'll tell you what I asked him.

Q. Did you ask him what happened? A. No, not at the same time.

Q. Did you ask him at that particular time as to how the rumpus arose? A. No. 40

*George Busche. Called by Petitioner. Redirect.*  
*Helen Sommers. Called by Petitioner. Direct.*

Q. Why didn't you? A. I didn't think it was necessary.

REDIRECT EXAMINATION BY MR. GRECE:

10 Q. You said you did have some talk with him about something or other but you didn't have the opportunity to do so; will you tell the court what happened. A. That night I waited for him to come home. I had changed shifts; I think it was after Labor Day. I went in and asked him about the shooting business and he denied it and I said to him, "Mike, what's the trouble?" I says, "Why didn't you come to me and brother Gus like a man before this thing had gone too far and talk this thing over," and he told me he didn't have to explain his business to outsiders. I was considered an outsider.

20 Q. Is that all the conversation? A. That's all.

(Mrs.) HELEN SOMMERS, sworn on behalf of the petitioner, testified as follows:

DIRECT EXAMINATION BY MR. GRECE:

30 Q. Mrs. Sommers, do you know Mrs. Sheridan? A. I do.

Q. Where do you live? A. I live at 279 Manhattan Avenue.

Q. Where did you live in June, 1921? A. Down in Tonnelle Avenue, 526.

Q. How long did you live there? A. I lived there about four years and a half.

40

*Helen Sommers. Called by Petitioner. Direct.*

Q. Did you live there when Mrs. Sheridan came back on Decoration Day, in 1924? A. I did.

Q. Were you present when she returned? A. I was.

Q. How well did you know Mrs. Sheridan? A. Why, I only knew her about three months then. That was the second time I ever had the pleasure of meeting her.

10

Q. Did she visit at your home, and you hers? A. Yes.

Q. And where was that you were living? A. 526 Tonnelle Avenue.

Q. You were living at 526? A. No, 531.

Q. How far is that away? A. Just across the way, on the other side of the street.

Q. What was the condition of her health after Decoration Day, 1924? A. Why, she was very bad, and I heard, the latter part of August, she couldn't get out of bed at all; she had rheumatism so bad that you couldn't go near her.

20

Mr. Pesin: I would like to object to this one line of testimony. I don't see the relevancy at all, whether she was sick at that time or not.

Mr. Grece: I will show you in a minute.

The Court: What is the purpose?

Mr. Grece: I want to show that Mr. Sheridan never came down to visit his wife during that illness.

30

The Court: All right; go ahead. I will allow it.

Q. Do you know Mr. Sheridan? A. I never met him.

Q. Do you know that gentleman there (pointing to the defendant)? A. No, I never seen him before.

40

*Helen Sommers. Called by Petitioner. Cross.*

Q. Do you know who was in the household of Mrs. Sheridan living with her? A. Her two brothers.

Q. And the two children? A. And the two children.

Q. Did you know whether she had a husband or not? A. Why, I knew she had a husband, because she spoke of him.

Q. You never saw her husband at that time? A. I never seen him at that time, no.

Q. How frequently did you visit her home? A. Why, I guess twice or three times a day.

Q. From what period until when? From Decoration Day until when? A. Every day.

Q. How long did you live at 531? A. Three years.

Q. And you were almost every day visiting her? A. Yes.

Q. And she was at your home, too? A. Yes, every day.

CROSS EXAMINATION BY MR. PESIN:

Q. Do you know Mr. Corbley? A. Yes.

Q. When did you first meet Mr. Corbley? A. Why, I met him—

Mr. Grece: I don't know whether I ought to interpose an objection or not, because that is not relevant to the direct examination. I made no reference to Mr. Corbley, but I haven't any reason to fear anything Mr. Pesin might elicit. I will withdraw my objection.

Q. Will you tell us just what you started to tell us, Mrs. Sommers. A. I met Mr. Corbley the day that he brought her home from Keansburgh, and he had to carry her out of the automobile.

*Helen Sommers. Called by Petitioner. Cross.*

Q. And he brought her home from Keansburgh? A. Yes.

Q. That was when? A. Decoration Day, three years ago.

Q. And who else was there at the time that she was brought from Keansburgh? A. Why, her two brothers.

Q. Now, about that time did you see Mr. Corbley around Mrs. Sheridan's home? A. No, he never came up until she was well.

Q. When was that, about? A. That was the latter part of August.

Q. 1924? A. Yes.

Q. And then did you see him? A. Then he came up and took us all for a ride—my four children and myself, and her little George, and herself.

Q. That was in August, 1924? A. Yes.

Q. And after that did you see Mr. Corbley in Mrs. Sheridan's house at all? A. Just when he was working around the house, that's all.

Q. Did he ever, in the company of Mrs. Sheridan, visit your home? A. Yes.

Q. They came together? A. Yes, with her children.

Q. How often with her children would she pay you a visit? A. Only once or twice, that's all.

Q. How often would you see Mr. Corbley around? A. He would only come up week ends for the day, to fix the house.

Q. In other words, he used to come up week-ends and stay over? A. Yes, he was boarding there.

Q. Was he boarding there when he came week ends? A. No, he was down to Keansburgh.

Q. When did he start boarding with Mrs. Sheridan? A. That I couldn't say.

Q. Have you any idea? A. No, I haven't any idea at all.

*Helen Sommers. Called by Petitioner. Cross.*

Q. But you know that he used to come week ends to do some work around Mrs. Sheridan's house? A. Yes.

BY THE COURT:

10 Q. When did you say you first met Mrs. Sheridan? A. She came up a Christmas—

Q. What Christmas? A. I guess it was about 1923.

Mr. Grece: I think that is our case, if your Honor please.

The Court: How many witnesses have you for the defense?

20 Mr. Pesin: I have Mr. Sheridan, sir, and I have just one witness to corroborate him as to the residence, and then I have two witnesses who are related to Corbley, so I won't ask very many questions.

The Court: Perhaps we can finish with those three witnesses this afternoon. It is out of the question to conclude the defendant's case.

Mr. Pesin: This is the defendant's case going on now.

30 The Court: I realize that, but I mean, of course the orderly way in a divorce case is to put the parties on first, but we couldn't finish with Mr. Sheridan this afternoon with the time that is left; so why not try to dispose of the other witnesses you have, so as to obviate the necessity of bringing them back.

Mr. Pesin: Fine; yes, sir. Thank you.

*Joseph R. Natasi. Called by Defendant. Direct.*

(The Defense)

JOSEPH RALPH NATASI, sworn on behalf of the defendant, testified as follows:

DIRECT EXAMINATION BY MR. PESIN:

Q. Mr. Natasi, where do you live? A. I live at 10 935 Monroe Street, North Bergen.

Q. How long have you lived there? A. I have lived there for 13 years.

Q. What is your business? A. I got a fireworks factory up there.

Q. Do you know the defendant, Mr. Sheridan? A. Yes, sir, I nok Mr. Sheridan 7 years.

Q. Where does Mr. Sheridan live? A, He lives 955 Monroe Street, North Bergen.

Q. Is that next door to you? A. Two doors. 20

Q. How long has he lived there? A. Well, as long as I know, 7 years. Well, he is living there 5 years.

Q. But you have known him personally 7 years? A. Yes, sir.

Q. How do you know that he lives there? A. We got some work down at the Lumber Company.

Q. Whom is he working for? A. P. D. Randall of New Durham. I got some work down there, and of course I got talking with him. 30

Q. Did you ever visit his place? A. I am there every night, mostly for an hour or half hour.

Q. Does he visit you? A. He has supper sometimes with us.

Q. And does he live there at the present time? A. He does live at his home at the present time.

Q. (By the Court) How long has he lived there, to your knowledge? A. Living there five years, but I know him seven. 40

*Joseph R. Natasi. Called by Defendant. Cross.*  
*Joseph R. Natasi. Called by Defendant. Redirect.*

Q. You have been visiting him at that address for five years? A. Yes.

Q. (Direction examination resumed.) And he has been visiting you at your house? A. Yes, sir, just right next door.

10 Q. Do you know whether he has been out of the state, or taken his residence in some other state? A. For five years he has not.

Mr. Grece: There is no contention that he has.

CROSS EXAMINATION BY MR. GRECE:

20 Q. What sort of a place is it he is living in? A. He has got a regular house—small house.

Q. How big is it? A. Two rooms.

Q. All on one floor? A. All on one floor.

Q. How big a house is this? A. Well, I never measured it.

Q. I know, but you have some idea? A. About 30 feet by 20.

Q. 30 feet deep by 20 feet wide? A. Yes.

Q. Just two rooms? A. Yes.

30 Q. Consisting of a kitchen and bedroom? A. Yes.

Q. On the back of the hill? A. Yes.

Q. In that neighborhood there is a gas house? A. Yes.

Q. That is at the lower end of New Durham? A. Yes.

REDIRECT EXAMINATION BY MR. PESIN:

Q. Whom does he live with? A. Himself.

40 Q. For the last five years? A. All alone; never been out of town.

*John Reichenbacher. Called by Defendant. Direct.*

JOHN REICHENBACHER, sworn on behalf of the defendant, testified as follows:

DIRECT EXAMINATION BY MR. PESIN:

Q. Mr. Reichenbacher, where do you live? A. 483 Tonnelle Avenue.

Q. How long have you lived there? A. All my 10 life, but not in that house.

Q. Around that vicinity? A. All my life, yes.

Q. What is your relationship to Mr. Albert Corb-ley? A. Brother-in-law.

Q. Do you know the petitioner, Mrs. Sheridan, and the defendant, Michael Sheridan? A. Yes, sir.

Q. Did Mrs. Sheridan visit your house? A. Yes, 10 sir.

Q. Between the years 1919 and 1921? A. Yes, 20 sir.

Q. How often would she visit your house? A. Well, that is something I couldn't tell you; I was working nights.

Q. What time did you start work? A. 4 to 12 in the afternoon.

Q. Four in the afternoon until twelve at night? A. Yes.

Q. How long a period did that continue? Did you ever work in the daytime at all? A. I did be- 30 fore the trouble in 1920.

Q. Before what trouble? A. The strike we had on the railroad.

Q. Now, coming to the year 1919 down to 1920, when you worked during the day, did you ever see Mrs. Sheridan in your home? A. Oh, yes.

Q. In the evening? A. Yes, sir.

Q. From what time until what time would she be there? A. Sometimes 8, 9, 10 or 11 o'clock. 40

*John Reichenbacher. Called by Defendant. Direct.*

Q. Would Mr. Corbley, your brother-in-law, be there? A. Yes, sir.

Q. Was he there all the time when she was there? A. No, sir.

Q. Most of the time? A. No, sir.

Q. How often would he be there when she was there? A. Maybe once or twice a week and maybe not at all sometimes.

10 Q. But she visited there practically every evening, didn't she? A. No, sir.

Q. Well, now, from 1919 to 1920 how many times did she visit your place when Mr. Corbley was there the same time? A. The whole year?

Q. Yes, during that whole year. A. I couldn't tell you.

Q. Well, was it very many times? A. That is something I couldn't tell you; I didn't keep tabs on it.

Q. And she would leave, on an average, of 10 or 11 o'clock in the evening? A. Sometimes 9.

Q. When she left did she leave with Mr. Corbley? A. No, sir.

Q. Would she leave alone? A. Sometimes.

Q. Would she at any time leave with Mr. Corbley? A. Yes, they would go out together.

Q. And where would they go? A. I never followed them up.

Q. Do you know whether or not they stayed in the hall and spoke together? A. No, sir.

Q. Did you ever see Mrs. Sheridan leave with Mr. Corbley 9 or 10 o'clock and stay in the hallway until about 12 o'clock at night? A. What do you mean, up in my room?

Q. No, no, when they went away, in the hall. A. I never seen them in the hall; no, sir.

Q. Never saw them in the hall at all? A. No, sir.

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*John Reichenbacher. Called by Defendant. Direct.*

Q. They never left after 12 o'clock, did they? A. Not to my knowledge, no, sir. Always 11 or half past 11, I think was the latest.

Q. Were you down in Keansburgh in June of 1921? A. No, sir.

Q. Were you there on July the 4th? A. The 4th of July; yes, sir.

Q. Were you there the 4th of July, 1921? A. 10 Yes, sir.

Q. Did you see Mr. Corbley there at that time? A. Yes.

Q. And did you see Mrs. Sheridan there with Mr. Corbley at that time? A. Yes, sir.

Q. Were they bathing together? A. No, sir.

Q. Where were they? A. In the tent, and Albert Corbley in his own house.

Q. I am asking you when you saw them together on the 3rd of July or 4th of July, in 1921. 20

Mr. Grece: Counsel is very artfully insinuating that Corbley and Mrs. Sheridan were together. Now, this witness hasn't said that he has seen them together; he has seen them down in Keansburgh.

A. We were all together.

Q. And where were they all together? A. Down on the beach, down on the board walk. 30

Q. Did you see Mr. Sheridan there at all? A. Not that day; no, sir.

Mr. Grece: Is this on the 3rd of July?

A. I think he went home. He came down on the 3rd and went home on the 3rd.

Q. Do you know for what reason he went home? A. No, sir; I don't.

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*John Reichenbacher. Called by Defendant. Cross.  
May Reichenbacher. Called by Defendant. Direct.*

Q. Did the actions of Mrs. Sheridan appear to be friendly to you? A. As far as I could see, yes.

Q. They appeared to be friendly? A. Yes.

CROSS EXAMINATION BY MR. GRECE:

10 Q. You never told Mr. Sheridan that you had seen Mrs. Sheridan and Corbley in your hallway talking affairs over? A. I never did.

BY THE COURT:

Q. Did you say anything of any such kind as that? A. To Mr. Sheridan? No, sir.

20

(Mrs.) MAY REICHENBACHER, sworn on behalf of the defendant, testified as follows:

DIRECT EXAMINATION BY MR. PESIN:

Q. Mrs. Reichenbacher, you are the wife of the gentleman who just testified, John Reichenbacher? A. Yes.

30 Q. You live at what address? A. 483 Tonnelle Avenue.

Q. And you have lived there how long? A. About 5 years. I have lived there all my life, but at that address about five years.

Q. Now, Mr. Albert Corbley, who has been so frequently mentioned in this case, is your bhothor, is he not? A. Yes, sir.

Q. And in 1919 did he visit you quite frequently? A. He came there off and on.

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*May Reichenbacher. Called by Defendant. Direct.*

Q. And when he came there would Mrs. Sheridan be there? A. Yes, once in a while she was there.

Q. How often would that happen during the year 1919? A. I couldn't tell the number of times it happened.

Q. How many nights a week would she visit you in 1919? A. About two or three times a week.

Q. And during that time how many times would 10 Mr. Corbley be there during the week that Mrs. Sheridan was there? A. I don't know the number of times; maybe once.

Q. In 1919? A. A week.

Q. No, I mean the entire year. A. Oh, I don't know the number of times.

Q. Well, would you say that during the entire year he was there at least once a week when Mrs. Sheridan was there? A. Once a wek? Not every 20 week, he wouldn't come.

Q. Well, was he there about 25 times during that year when Mrs. Sheridan was there?

Mr. Grece: I think if counsel would ask questions that wouldn't so leading—

Q. Can you tell us how many times? A. I don't know the number of times, I tell you; I didn't keep track of them. 30

Q. Coming down to 1920, did Mr. Corbley visit you quite frequently in the evening? A. Yes.

Q. And did Mrs. Sheridan visit you quite frequently in the evening? A. Yes.

Q. Were they together more in 1920 than they were in 1919? A. No, sir; I don't remember.

Q. Would you say they were together less? A. I don't understand you.

Q. All right. In 1920, during that entire year, were the visits of Mr. Corbley and Mrs. Sheridan 40

*May Reichenbacher. Called by Defendant. Direct.*

more frequent than they were in 1919. That is what I want to know. A. I don't know.

Q. How about 1921; did she visit you in 1921 during that entire year? A. I don't know whether she did or not. I didn't keep track of the years.

Q. When they left your home did they leave together? A. Sometimes.

10 Q. But it would be most of the time, wouldn't it? A. No.

Q. Sometimes they left together? A. Yes.

Q. And in 1921, during the summer, were you at Keansburgh? A. Well, I was there, but I don't know the year. It might have been that year.

Q. And was Mrs. Sheridan down there then? A. Yes, sir.

Q. Did you see your brother, Mr. Corbley, there at that time? A. Yes, sir.

20 Q. Was your brother and Mrs. Sheridan together quite frequently during the summer of 1921? A. We were all together.

Q. She was in his company and he was in her company quite often during that summer? A. No, sir; she was in my company the most.

Q. And your brother would come around? A. No, sir.

30 Q. How often would they be together? A. Well, she was always with me when he came around; we were always together.

Q. Now, did Mrs. Sheridan write you a letter, asking you to testify for her in this case? A. No, sir.

Q. She did not? A. No, sir.

Q. Would your brother accompany Mrs. Sheridan on any shopping trips?

40 Mr. Grece: I object to that, because there is no foundation laid to show that she has any knowledge of it.

*May Reichenbacher. Called by Defendant. Cross.*

The Court: You may answer. (Addressing the witness.) Did Mrs. Sheridan accompany your brother on shopping trips?

A. I don't know.

Q. Did they go together to any theatre, do you know?

Mr. Grece: The same objection, if your Honor please. 10

The Court: The same ruling, if she knows.

A. Well, we went to the movies.

Q. You and who else? A. And my brother and Mrs. Sheridan.

Q. And where did your brother live during the year 1919 and 1920 when he and Mrs. Sheridan frequently visited your home? A. At my mother's.

Q. And where did your mother live? A. My mother lived on the County Road. 20

Q. Is that right near your place? A. About a block.

CROSS EXAMINATION BY MR. GRECE:

Q. Now, Mrs. Reichenbacher, Mrs. Sheridan, and you, and your brother Mr. Corbley, and the Busche boys grew up together in that neighborhood, didn't they, from boyhood and childhood on? A. Yes. 30

Q. And your relations have always been rather cordial and intimate as neighbors by reason of their old-time child friendship; is that true? A. Yes.

Q. Now, it was a perfectly natural thing for you to expect Mrs. Sheridan to call at your house?

Mr. Pesin: I object to that, if the Court please. I don't think that that is a proper question, what she would expect or might not expect. 40

*May Reichenbacher. Called by Defendant. Cross.*

The Court: This is cross examination. I overrule the objection.

Q. While you were living in that neighborhood down on Tonnelle Avenue? A. Yes, sir.

Q. And while you were living out in Keansburgh it was perfectly natural for you to expect Mrs. Sheridan to visit you down there, wasn't it? A. Yes, sir.

Q. You never noticed anything wrong in the relations between your brother and Mrs. Sheridan? A. No, sir.

Q. And it was perfectly proper for him to escort her to her home in the neighborhood, wasn't it, after the visits to your home? A. Yes, sir.

Q. And that is what he did, didn't he? A. Well, I don't know why he did it.

Q. He left and, so far as you know, went home with her? A. Yes, sir.

Q. And nothing ever took place that was wrong, whether at your home or at the Keansburgh place? A. No, sir.

BY THE COURT:

Q. Were you present at the wedding ceremony of these parties, the Sheridans? A. No, sir.

Mr. Pesin: We have the defendant yet to testify and that will be our whole case.

The Court: The defendant is the only remaining witness?

Mr. Pesin: Yes, sir.

Mr. Grece: I may want to put in some rebuttal of the testimony that the defendant gives.

(The further hearing laid over to June 21, 1927.)

*Michael Sheridan. Called by Defendant. Direct.*

Hearing of Tuesday, June 21, 1927, 10 A. M.  
All Counsel present as before.

MICHAEL SHERIDAN, sworn in his own behalf, testified as follows:

DIRECT EXAMINATION BY MR. PESIN:

Q. Mr. Sheridan, where do you live? A. 957 Monroe Street, North Bergen.

Q. How long have you resided there? A. Five years.

Q. About what date did you go to live at that address in North Bergen? A. 1922.

Q. Do you recall the month, Mr. Sheridan? A. September, I believe.

Q. And before that where did you live? A. 526 Tonnelle Avenue, Jersey City.

Q. Now, when were you married? A. June 21, 1905.

Q. Just 22 years ago today? A. Yes.

Q. And when you were first married did you provide a home for your wife? A. Yes, sir.

Q. Where? A. At 907 Tonnelle Avenue, Jersey City, or, rather, 709.

Q. Now, during the entire time that you were married to your wife how much of that time were you out of work? A. About two weeks, when I was in the hospital.

Q. And during your entire married life, with that exception, were you always in work? A. Yes, sir.

Q. And what were the various salaries you were earning during the various years? A. From 20 to 75 dollars a week.

Q. And what did you do with those salaries that you earned? A. Give it to my wife.

*Michael Sheridan. Called by Defendant. Direct.*

Q. The whole salary? A. Yes, sir, the closed envelope.

Q. Now, when was the first time during your married life that you began having some difficulties with your wife? A. About 1920.

Q. And what was the nature of those difficulties? A. Staying out nights.

10 Q. What would she do? A. Every night in the week she would be ready to go out when I would come home from work, and I told her she should attend to her house and stay in and attend to the children.

Q. And you say this was in 1920? A. About that time.

Q. And did she go out any after that? A. Yes, sir.

20 Q. Where would she go? A. Generally to Mrs. Reichenbahe's, across the street, about a block away.

Q. Who is Mrs. Reichenbahe? A. Sister of Albert Corbley.

Q. That is the Albert Corbley who has testified in this case? A. Yes, sir.

Mr. Pesin: Stand up, Mr. Corbley.

(A gentleman rises in the audience.)

30 Q. Is that the gentleman? A. Yes, sir.

Q. Did you speak to her about it after that time? A. Oh, we had a lot of wrangle about it, but she still continued to go.

Q. While you were thus wrangling, tell the court what you said and what she said. A. She was neglecting the children and the house.

Q. About what time would she leave the house in the evening? A. Generally about a half an hour

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*Michael Sheridan. Called by Defendant. Direct.*

or so after I got home from work; sometimes 7 o'clock and sometimes earlier.

Q. What time would she return? A. Sometimes 11 and 12 o'clock—all hours; sometimes later than that.

Q. Sometimes later than 12 o'clock? A. Yes, sir.

Q. And did you know who took her home? A. 10 Well, at one time I seen who took her.

Q. Who? A. Albert Corbley.

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

Q. What did you say to her? A. That was a time they were giving a farewell party, when they were leaving the county road.

Q. Who was leaving? A. Mr. Corbley.

Q. And did you speak to her about that affair, 20 when he took her home that night? A. Yes, sir.

Q. What did you say to her? A. She pretended she was sick at the party. I was there myself and all of a sudden I missed her, and I asked Mrs. Corbley where my wife was and she said sick upstairs, and she was laying across the bed.

Q. Was there any body in that room? A. No, not at that time.

Q. What did you say to her? A. I said, "What 30 is the matter; are you sick?" I says, "If you are sick come on home." She says, "Get out of here; go home yourself" and I got my hat and went home myself, and I heard her talking at the gate and I looked out and saw her talking with Corbley at the gate.

Q. What time was that? A. That was in the spring of 1921.

Q. Now, coming down towards the summer of 40 1921, did you consent that your wife go to Keans-

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*Michael Sheridan. Called by Defendant. Direct.*

burgh? A. She told me that Corbley had moved to Keansburgh, and then she said she was going to get a bungalow and take the children down there for their health. I was satisfied with anything that would do the children any good. And the next thing I found she bought two lots down there.

10 Q. Did she consult you about buying the two lots?

Mr. Grece: I don't think that has any bearing on this case.

Mr. Pesin: Your Honor, I want to show the circumstances surrounding the entire affair,—surrounding the desertion, and just exactly what happened, around the spring and summer of 1921, when she went to Keansburgh. That is the time they charge desertion.

20 The Court: Well, I will allow it for the purpose of showing the plan or arrangement under which she went there. (Addressing the witness). Did she talk to you about buying them before she bought them?

A. No, sir. She told me she was going to buy them, but she didn't ask me to go and see them.

Q. Did you give her the money to buy the lots?

30 A. I gave her my wages always; that is all I ever had.

Q. When she went to Keansburgh did you visit her there? A. Yes, sir.

Q. When was the first time after she left for Keansburgh with the children that you first visited her? A. While she was down at Keansburgh, one evening I came home from work and I got a letter from her that I should go down there and fix the tent.

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*Michael Sheridan. Called by Defendant. Direct.*

Q. Who wrote that letter? A. My wife.

Q. That was when? A. A short time after she had gone there.

Q. And did you go down to Keansburgh to fix the tent? A. Yes, sir.

Q. About when was that? A. It must have been about June.

Q. Up to that time had you been on friendly terms with your wife? A. Yes, sir. 10

Q. Outside of the little wrangles you mentioned? A. Yes.

Q. And after she had the tent set up in Keansburgh and was living in it with the two children, when did you next visit her? A. The fourth of July.

Q. 1921? A. Yes.

Q. And when you got there where did you see her? A. In bathing. 20

Q. Whom was she with? A. The children, Mrs. Reichenbaher and her children, and Albert Corbley.

Q. And did she see you on the beach? A. Yes, sir.

Q. Did she come right out? A. No, sir; the children did, she didn't.

Q. How long a time elapsed before she came out of the water? A. About a half an hour. 30

Q. During that time you say she was in the water with Corbley and Mrs. Reichenbaher, and who else? A. And the children.

Q. After she came out of the water did she greet you in a friendly way? A. Just said "hello" and then went on the beach with Albert Corbley. I and Mrs. Reichenbaher was about 50 feet in the back.

Q. Did you speak to your wife that afternoon? A. Yes, I did. 40

*Michael Sheridan. Called by Defendant. Direct.*

Q. What did you say to her? A. I says, 'What's the idea of your acting that way; that is no action for a married woman.'

Q. What did she say? A. She said she wasn't doing nothing.

Q. Did you tell her what she was doing that displeased you? A. I told her I was going home; I was disgusted with the place.

Q. Did you leave any money with her at that time, A. Yes, sir; I gave her the money then.

Q. Full pay? A. Part of it and a part I used for the house.

Q. Now, when was the next time you went to Keansburgh after the time you just mentioned? A. About two weeks, I imagine.

Q. Did you receive any letters from your wife to come down? A. No, sir; never only the one.

Q. But you went down? A. Yes.

Q. What happened on that occasion? A. She asked what I was trying to do, starve out herself and the children.

Q. What happened on that occasion, that is, the two weeks after, which is the last visit you made? A. I told her that wasn't so; there was plenty to eat in the ice-box. Of course, I didn't do the cooking; I brought the stuff there; and I offered her money and she wouldn't take it; said her brother would take care of her, and I put it in my pocket and came home.

Q. Were the brothers staying with you in Tonelle Avenue? A. Yes, sir.

Q. Were they paying you board? A. No, sir; never did.

Q. Were you leaving any supplies for them? A. Yes, sir.

Q. Then when was the next time you visited your wife at Keansburgh? A. Labor Day.

*Michael Sheridan. Called by Defendant. Direct.*

Q. That was the next time? A. Yes, sir.

Q. Labor Day of what year? A. 1921.

Q. What time of the morning or what time of the day did you arrive? A. It must have been near noon.

Q. And where did you go? A. I went to that tent.

Q. Directly to their tent? A. Yes, sir; I met them outside.

Q. Was your wife there? A. Yes, sir.

Q. Tell us what happened. Was anybody else in the tent? A. No, sir, they were outside.

Q. Tell us exactly what happened when you came. What did you come there for? A. I told her to get ready and come back; the children had to go to school the next day, and I told her to give the children their clothes; but she wouldn't do that. And then I said, "I will take them to the store and buy them clothes;" and she said "Run, Elmore;" and he ran across the lots.

Q. Was Elmore the older of the two boys? A. Yes, sir.

Q. Well, did she come home that day with you? A. No, sir.

Q. On Labor Day? A. No, sir.

Q. And to what school did the children go at that time? A. Elmore went to the Dickinson High School; Georgie went to No. 25 on Zabriskie Street.

Q. Both of them in Jersey City? A. Yes, sir.

Q. And then after that did your wife come home with the children? A. No, sir; I never seen them after that in my house.

Q. Did you call the high school to find out whether your boy Elmore was there? A. Yes, sir, twice.

Q. What were you told?

Mr. Grece: I object.

*Michael Sheridan. Called by Defendant. Direct.*

Q. Never mind. But you found he wasn't there?  
A. Yes, sir.

Q. How about the boy in No. 25 school? A. I knew if Elmore wasn't there that the other one wasn't there, so I didn't 'phone there.

Q. When was the next time after Labor Day that you heard from your wife? A. I got a notice to go  
10 to the Juvenile Court.

Q. That is in Hudson County? A. Yes, sir.

Q. Did you go to the Juvenile Court? A. Yes, sir.

Q. About what time was that? A. I believe it was sometime in September.

Q. 1921? A. Yes, sir.

Q. And when you came to the Juvenile Court who was present? A. My wife and children and brothers, and lawyer Besson.  
20

Q. And lawyer Besson was representing whom?  
A. My wife.

Q. When the case was heard before Judge Grece what did you say, what did your wife say, and what did the Judge say? A. My wife said that I refused to support her and the children; that I threatened to kill her brothers, and, in fact, she had a whole lot of stuff against me.

Q. What else did she say? A. That's the important part of it.  
30

Q. Did you answer that charge? A. Yes, sir.

Q. What did you tell the judge? A. I told the judge that I didn't refuse to support her; that she refused to take my money.

Q. What did Judge Grece say at that time? A. He asked her why didn't she take the money, and she said something I don't know exactly what it was; and he said "The worst of you women is you don't give the man half a chance."  
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*Michael Sheridan. Called by Defendant. Direct.*

Q. What else did the judge say? A. He said, "You had better reconsider your action; you may be sorry for this," and he put the case off one month.

Q. At that time did Judge Grece suggest that your wife resume marital relationship with you? A. Yes, sir.

Q. What did Judge Grece say to you and your wife? A. He wanted her to go back and she wouldn't do so. She said she wouldn't ever live with me again, for some reason.  
10

Q. Did she mention the reason to the Judge? A. Yes, sir.

Q. So that the Judge failed to get you together?  
A. Yes, sir.

Q. Now, then, did you return to the Juvenile Court a month later? A. Yes, sir.

Q. What happened then? A. I couldn't tell you; I wasn't there.  
20

Q. At that time were you ready to take back your wife and children to live with you? A. Yes, sir.

Q. Did you see your wife and children after that time in the Juvenile Court? A. No, sir.

Q. Now, how long did you remain at Tonnelle Avenue after the little quarrel with your wife down at Keansburgh? A. Pardon me; I believe I did see my wife once after that at Keansburgh.  
30

Q. Well, just answer my question now: How long did you remain at Tonnelle Avenue after you had the quarrel with your wife at Keansburgh? A. About a year.

Q. Who was living at that house with you? A. Only her two brothers.

Q. And why did you move away from Tonnelle Avenue? A. I didn't care to be molested.

Q. Were the brothers on friendly terms with you?  
A. No, sir.  
40

*Michael Sheridan. Called by Defendant. Direct.*

Q. Did they quarrel with you? A. Yes, sir, very often.

Q. Did they abuse you? A. They called me all kinds of names.

Q. What names? A. That I was a dirty loafer and everything, even worse than that.

Q. And that is the reason you moved from Ton-  
10 nelle Avenue? A. Yes, sir.

Q. And did you own that house at Tonnelle Ave-  
nue? A. I did.

Q. Did you assign it over to your wife? A. Yes.

Q. When? A. I think it was about 1920.

Q. How did you come to 'sign it over to her? A.  
She asked me to do it.

Q. What did she say when she asked you to do  
it? A. She said she wanted to have it in her name,  
20 and I thought she would take an interest in the  
house and it would be a home for the children any-  
how, and it didn't matter whose name it was in,  
and so I 'signed it over to her.

Q. That was in about 1920? A. Yes, sir.

Q. Now, around 1920 or so, did your wife ever  
go through an operation? A. Yes, sir.

Q. Around that time did she tell you something  
about her affairs with somebody? A. Yes, sir.

Q. What did she say to you?

30 Mr. Grece: What is this date?

Mr. Pesin: Around 1920.

A. 1919.

Mr. Grece: Is he now going to tell any state-  
ment by the wife as to her relations with any-  
body else, he lived with her and condoned that.

The Court: Yes, there is no doubt about that.  
40 It is not for the purpose of obtaining a divorce

*Michael Sheridan. Called by Defendant. Direct.*

upon the ground of adultery, but I suppose the  
purpose is to show her state of mind with re-  
gard to leaving him and not wanting to live  
with him.

Q. About when was that? Can you give us more  
definitely when that conversation occurred? A.  
10 Around the 3d of July, 1919.

Q. And how do you remember that date? A. On  
the 4th of July she was at the point of death at  
the hospital after an operation the afternoon before,  
and it was before the operation that she told me  
that, the morning of the day she was operated on.

Q. What did she tell you? A. She says, "I have  
something terrible to tell you; I have been un-  
faithful to you." I says, "What is it; who is the  
other fellow?" And she says, "Lawrence Ell".  
20

Q. What else was said at that time; what else did  
she say to you and what did you say to her? A. I  
asked her what happened, and she said he was work-  
ing in a garage and she went in to see what he was  
doing, and he locked the door on her and made ad-  
vances to her. And she was first afraid to tell me,  
and I told her not to be afraid; that he was a crim-  
inal; and after that she was going to tell me, and  
I said not to tell me; that I didn't want my home  
broken up, and if it wasn't for the fact that she was  
going to die she wouldn't ever have told me.  
30

Q. Did she tell you something else? A. Yes, once  
coming home from the Pennsylvania he met her at  
the tube station and he called a taxicab and took  
her to a hotel and took a room and used her, and  
she paid for it with her money.

Q. Did you ask her whether she was coerced? A.  
Yes, I asked her if he threatened her, and she said  
no, she consented. I asked her where the hotel was  
40

*Michael Sheridan. Called by Defendant. Direct.*

and she said she didn't know. I says, "Was it around the tube station?" "No." I says, "How did you know that he would be here" and she says she heard from Mrs. Ell that he was coming back that evening. I didn't press her any more, because she was very sick.

10 Q. And you didn't question her further? A. No, sir.

Q. And the reason why was? A. She was very sick.

Q. Now, then, after you finished your trial at the Juvenile Court did you ask your wife to return to you? A. No, sir.

Q. Why? A. Because she refused when I did ask her, and she refused at the Juvenile Court, and I knew it was hopeless.

20 Q. Was there any other reason why you didn't ask her to come back to live with you? A. She has an uncontrollable temper and I know when she makes up her mind to do a thing she carries it out.

Q. Now, had you any reason other than the two reasons that you mention that you didn't ask her to come back to live with you? A. None that I know of.

30 Q. Did you know, at the time that she was down to the Juvenile Court, that she was friendly with Corbley? A. Yes, I knew it before she went to Keansburgh.

Q. And you spoke to her about it? A. Yes, sir.

Q. What was the usual answer that she gave to you when you spoke to her about that? A. Well, I spoke to her about attending to her house and taking care of the children and not go out nights, and she told me nights was for her.

40 Q. I mean when she spoke about Corbley. A. I didn't speak directly about the matter, because I

*Michael Sheridan. Called by Defendant. Direct.*

knew it would cause an argument in the house, and that I always tried to avoid.

Q. Now, have you been contributing to the support of your children since the Juvenile Court hearing? A. Yes, sir.

Q. How much a week were you to pay the children? A. \$15.

10 Q. Were you paying the wife anything? A. No, sir; Judge Grece told her she couldn't demand anything from me.

Q. What is that? A. Judge Grece told her she couldn't demand anything from me because she refused to live with me, and she said she didn't want it, her brothers would take care of her.

Mr. Pesin: I think we can shorten this case. I just want to rebut what the petitioner said.

20 Q. Did you, on September 5th, that is, Labor Day, 1921, go down to Keansburgh and while you were standing at your tent put your hand to your hip pocket as if to draw a revolver, or some instrument of death, and say "I will blow your brains out; never darken my doorstep again"? A. No, sir, never made such a remark in my life.

30 Q. Did you have a revolver or instrument of death in your pocket when you went down to Keansburgh? A. No, sir, I never owned a revolver; never carried a weapon of any kind.

Mr. Grece: It is immaterial whether or not he had a revolver; the allegation was that he made the threat.

The Court: Oh, I will allow it.

40 Q. You are sure you never said to your wife, "Never darken my doorstep again"? A. No, sir, I didn't say it.

*Michael Sheridan. Called by Defendant. Cross.*

had been unfaithful to you with a man named Ell on two different occasions? A. Yes, sir; I was willing to forgive and forget everything if she lived right.

Q. Did you ever tell her that when you tried to get her to come back and live with you? A. Yes, sir.

10 Q. You told her that? A. I not only told her, but she said whens he got better she would leave me.

Q. You loved her just as dearly as you had loved her before, notwithstanding the fact that she made these confessions to you? A. Yes, sir.

Q. You don't mean to say that you loved your wife just as much? A. Yes, sir.

Q. Did you have relations after that? A. Yes, sir; just the same as I always did.

20 Q. Now, you say she was a very sick woman, on the point of death, when she made this confession? A. Yes, sir.

Q. Where was this confession made? A. In our house, 526 Tonnelle Avenue.

Q. And the next day, on the 4th of July, she was operated on? A. No, that same afternoon.

Q. What was the trouble? A. Gallstones.

30 Q. She always suffered from rheumatism? A. At times. The doctor treated her for everything for several years until Dr. Franklin operated on her for gallstones.

Q. Now, you are friendly with the Corbley family on Tonnelle Avenue, and Mrs. Reichenbaher? A. Yes, sir.

Q. Mrs. Reichenbaher is Mr. Corbley's sister? A. Yes.

Q. You and Mrs. Sheridan visited a few times in that home? A. Yes, I was there a few times.

40

*Michael Sheridan. Called by Defendant. Cross.*

Q. You never saw any undue familiarity between Mr. Corbley and your wife? A. No more than they were together as much as possible.

Q. You never saw him kiss her, or put his arm around her, or anything like that, did you? A. No, sir.

Q. And as far as being together was concerned, you were there in their company also? A. Yes, 10 once or twice.

Q. And Mr. Reichenbaher and Mrs. Reichenbaher were also there in the party? A. Yes.

Q. A small house? A. A regular house.

Q. And they had to be together in that house, didn't they? A. Yes, sir.

Q. You knew that Mr. Corbley was an old-time family acquaintence with the Busche family, didn't you? A. Yes. 20

Q. And Mrs. Busche and the Corbleys had practically grown up together? A. I knew them before they did.

Q. And you knew that this family grew up together in that neighborhood? A. Well, they didn't grow up together.

Q. They were about the same age? A. Yes.

Q. They were the same as one that lived in the same family? A. Yes, I never had any trouble of any kind with them. 30

Q. And you saw nothing wrong in the relationship of Corbley and your wife? A. Not before they went to Keansburgh.

Q. Was there anything wrong in the relationship between Mr. Corbley and your wife that you know of? A. The only thing I objected to was the visiting down at Keansburgh.

Q. Now, let's see: Tonnelle Avenue lies away back on the westerly line of Jersey City? A. Yes. 40

*Michael Sheridan. Called by Defendant. Cross.*

Q. And the Reichenbaher house is near the vicinity of your house, isn't it? A. About a block away.

Q. The Reichenbachers and you and your wife were friendly, weren't you? A. Yes, sir.

Q. And the Reichenbahers called at your house, didn't they, at times? A. Yes, sir.

10 Q. And you and Mrs. Sheridan returned those visits and called at their house? A. Occasionally.

Q. Now, on this occasion when you say your wife got sick, why didn't you wait for her in the Reichenbaher house? A. I never knew her to be sick there.

Q. Where was it? A. At Mrs. Corbley's.

Q. That is the mother of this man? A. Yes.

Q. Where did they live? A. On the County Road.

20 Q. How far away from your house? A. About a block or probably a little more.

Q. And although Mrs. Corbley was there, and Mr. Corbley's sisters Mrs. Sheridan was taken ill at their house? A. She said so. I smelled liquor on her.

Q. Had you been drinking liquor that night? A. No.

Q. You went right out to see her? A. Yes.

30 Q. And she complained of being ill? A. She said, "Get out of here; get home yourself."

Q. Why didn't you tell her to go home with you? A. I did.

Q. Was your wife there until she recovered? A. No.

Q. Why wouldn't she go with you? A. I could see she wasn't sick.

Q. Was she drunk? A. I couldn't say that.

40 Q. You don't know whether she was drunk or not? A. No, sir.

*Michael Sheridan. Called by Defendant. Cross.*

Q. What time did you leave? A. About half past 11.

Q. And you say she came back to your home what time? A. After the party broke up.

Q. Do you know what time the party broke up? A. No, I don't.

Q. Why didn't you try to do something for her when you thought she was dying? A. I tried to. 10

Q. What did you do? A. I tried to get her to come home.

Q. You hadn't seen her do anything improper? A. When she was sick she never told me.

Q. I asked you if you had seen her do anything improper? A. No.

Q. What was her condition when she got home that night; she was sober, wasn't she? A. Yes.

Q. When you saw this conduct of hers you thought it strange, didn't you? A. I didn't know what to think of it. 20

Q. It struck you as rather peculiar? A. Yes, sir.

Q. You knew that she had been operated on for gallstones? A. So I understood.

Q. And had bad spells many times after the operation? A. Why, I don't know about that.

Q. You knew it was an operation that subjected her to great strain? A. I knew she was weak.

Q. And she had these spells afterwards? A. Well, she was ill; I don't know about spells. 30

Q. Did you ever find out whether this spell she had that night was one of those occasions? A. No.

Q. You didn't care about that? A. I done everything I could.

Q. What did you do on that particular occasion except to leave her in the house and go home yourself?

*Michael Sheridan. Called by Defendant. Cross.*

Mr. Pesin: I object to that as argumentative.

Mr. Grece: He said he did everything he could for her; now I ask him what he did.

The Court: There is nothing argumentative about that.

Mr. Pesin: I withdraw the objection.

10

A. I asked her to come home with me if she was sick, and she refused, and then I went home myself. I couldn't carry her.

Q. Didn't she refuse because she was so sick she couldn't go home? A. I don't know how sick she was.

Q. You don't know how sick she was? A. No, sir.

20

Q. You didn't care very much, did you? A. I certainly did.

Q. Why didn't you stay there and wait until she recovered? A. I thought if she was sick she ought to have gone home, because that was a better place for her.

Q. She was treated as one of the family almost, wasn't she? A. Yes, sir.

Q. And nobody was there with her except some of the women folks? A. Nobody at all.

30

Q. And you didn't stay there with her to give her any help or comfort? A. I tried to get her home with me.

Q. But all you did was to say, "Come on home?" A. No, I asked her what was the matter and she wouldn't answer.

Q. Wasn't that because she was so sick she couldn't? A. I don't know.

Q. Did you get the doctor for her? A. No, sir; she was all right when she got home.

40

*Michael Sheridan. Called by Defendant. Cross.*

Q. Why didn't you get a doctor for her before she was all right? A. She told me to go away.

Q. Wasn't that a perfectly natural thing for you to do? A. I think she should have told me how she felt.

Q. Maybe she wasn't in any condition to do so. A. She told me to go away from her and go home.

Q. And you just went home? A. Yes.

10

Q. And you didn't care very much about how she felt? A. I thought she didn't need much help, from the way she acted.

Q. Now, I understood you to say that when your wife went down to Keansburgh with the children it was entirely with your consent? A. Yes, sir, for her health.

Q. For her health and for the health of the children? A. For the children's health she told me she wanted to go down, and so I consented.

20

Q. And you were perfectly satisfied to have her stay down there with the children so that their health might be recuperated? A. Yes, sir.

Q. Now, why did you want her to come back, then around about the 4th of July? A. It was after the 4th of July.

Q. Well, wasn't it around about the 4th of July that you went down there and wanted her to come back? A. It was after that; the 4th of July I scolded her about her actions.

30

Q. What actions? A. The way she treated me when I went down there.

Q. How did she treat you? A. Wouldn't notice me and walked away with another man.

Q. Are you talking about that time when she was on the beach for half an hour? A. Yes.

Q. The children came up to speak to you? A. Yes.

40

*Michael Sheridan. Called by Defendant. Cross.*

Q. You were way over on the beach? A. Yes, I was.

Q. You don't know whether she saw you? A. The children saw me.

Q. You don't know whether she saw you? A. I can't say that she did.

10 Q. You didn't go down and say to her "I am here"? A. I didn't go to the water.

Q. You didn't send the children down to have them tell her that you were present? A. No, sir; I didn't.

Q. Why didn't you do that? A. Because they went back and told her.

Q. You don't know what they told her; they went back after they came up to greet you, and you say it was a half hour before she came out to see you?

20 A. About that, yes.

Q. Why are you so positive that it was a half hour? A. I'm not positive; I say "about".

Q. It might have been five or ten minutes? A. No, it was quite sometime before they came out of the water.

Q. But you wouldn't say it was a half an hour? A. I couldn't say exactly.

Q. You wouldn't say it was more than a quarter of an hour, would you? A. Yes, more than that.

30 Q. What leads you to believe it was more than a quarter of an hour? A. Because I was waiting there a long while.

Q. But you can't tell positively whether it was five minutes or half an hour? A. I am certain it was nearer a half an hour than five minutes.

Q. A moment ago you said you weren't sure that it was more than 15 minutes. A. I say it was more than 15 minutes.

*Michael Sheridan. Called by Defendant. Cross.*

Q. You didn't take your watch out? A. I don't think I had one with me.

Q. Well, she finally came out? A. Yes, sir.

Q. Was that the occasion when she told you to go up and get yourself some coffee in the tent? A. Well, we all went up to the tent.

Q. Was that the occasion? A. Every time I went down she usually said "Come up and have coffee." 10

Q. On this occasion did she say "Come up and have some coffee?" A. I think she did.

Q. So that she was justified in remaining there while you went up and got some coffee? A. Well, she didn't say anything about that.

Q. I know, but she would have been justified in staying in the water while you went up to the tent to get some coffee?

Mr. Pesin: I object to that as calling for a conclusion. 20

The Court: It surely does call for a conclusion.

Mr. Grece: This is cross-examination. He has testified about her staying in the water for a certain length of time, and he has told us just how she stayed there. I am trying to find out whether there was something in this man's mind to prompt him to say that he was satisfied for her to stay there while he was going up to get the coffee. However, I will withdraw the question. 30

Q. Did your wife on this occasion tell you to go back to the tent and get some coffee? A. No, sir.

Q. Let me bring your recollection back to the 4th of July; you were down on the 4th of July, weren't you? A. Yes. 40

*Michael Sheridan. Called by Defendant. Cross.*

Q. And at that time you wanted your wife to bring the children home, didn't you? A. No, sir.

Q. You were up on the beach then, weren't you? A. Yes.

Q. You were feeling kind of cold, weren't you? A. Very little. That is when we were in bathing.

10 Q. You had been in bathing and you felt kind of cold? A. Yes.

Q. And your wife noticed it, didn't she? A. I don't know.

Q. Didn't she tell you on that occasion to go up and get some hot coffee that was there? A. No, sir.

Q. She never told you anything about going up and getting some hot coffee? A. Not alone. She said, "We will go up and get some coffee."

20 Q. Did she say on the 4th of July, "We will have some coffee up at the tent?" A. When we came out of the water.

Q. She said that, did she; then she was interested in you, wasn't she, at that time?

Mr. Pesin: I object to that, if the court please, as calling for a conclusion?

The Court: I think it is argumentative.

30 Q. Now, on Labor Day, 1921, you had made up your mind that those children were going to come back whether they were recuperated enough or not, hadn't you? A. No, sir.

Q. Sir? A. No, sir.

Q. But you made up your mind they were going to come back? A. It was time for their schooling; school opened the next day.

40 Q. If their health at that time was such that it was the proper thing for them to stay there weren't you satisfied to leave that to the judgment of your wife? A. Yes, sir; I was.

*Michael Sheridan. Called by Defendant. Cross.*

Q. And was their health sufficiently recuperated, so far as you know, to allow them to come back at that time? A. Yes, sir; it was.

Q. What investigation did you make to find out whether they were sufficiently recuperated in health? A. I saw them in bathing and saw them playing around the place.

10 Q. And you judged from that that they had recovered their health? A. They weren't sick when they went down, but they were delicate.

Q. They are delicate yet? A. Yes, sir.

Q. They were very delicate in September, 1921? A. About the same as they are now, I believe.

Q. And your wife was not very strong at that time, either, was she? A. Well, she was getting along very nicely, although she had been really sick.

20 Q. She was beginning to recover; so that it would have been a proper thing, wouldn't you think, for her to stay there until her health was fully recovered?

Mr. Pesin: I object to that on the same ground. He is arguing with the witness, sir.

The Court: I will allow it.

A. Well, I would if I thought she didn't have good health.

30 Q. Did she have good health on Labor Day, 1921? A. Yes, she could attend to her duties.

Q. Did she have good health? A. I don't know just how good; it was as good as it is now, I believe.

Q. And her health isn't very good now, is it?

Mr. Pesin: I object to that.

40 A. As far as I could see, she was able to attend to her duties.

*Michael Sheridan. Called by Defendant. Cross.*

Q. That is the only way you can answer that question? A. Yes, sir.

Q. Then you don't know, as a matter of fact, whether her health was good or whether it was bad? A. It wasn't then.

Q. You don't know whether it was good or bad? A. I would judge that it was good.

10 Q. Don't you know that she has had to have a doctor attend her ever since she went down to Keansburgh? A. No, sir.

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

Q. Now, that day in Keansburgh you wanted your wife to come home, you say, and just told her to get the kids ready and you were going to take them back to school? A. I told her it was time for the children to go to school and she was to get them ready.

20 Q. And she told you she didn't think their health was sufficiently recuperated, nor was her own sufficiently recuperated to warrant doing that, didn't she? A. No, sir; she told me she wasn't going back and never would while I was in that house.

Q. You had had no quarrels that prompted her to say that, had you? A. Not until the time before that, when she said I was starving her brothers and children.

30 Q. What did you say? A. This time when she told me I was starving her brothers and children she refused to take my pay.

Q. Now, as a matter of fact, didn't her brothers send her money? A. Not that I know of.

Q. Why, didn't you refuse to send her any money because you didn't want her to stay down there? A. No, sir.

40 Q. And didn't you tell Elmore, "This is a goddam expensive proposition" or words to that effect? A. No.

*Michael Sheridan. Called by Defendant. Cross.*

Q. In the month of July, 1921? A. No, sir; I told Elmore—I sent my pay previously and I had \$12. in my pocket and Elmore came up for more money and I gave him ten and I still had \$2. left, and I says "This double house proposition is an expensive proposition;" but I never questioned it.

Q. Well, you went down there in September and you and your wife had an argument about coming home Labor Day? A. Yes, sir. 10

Q. And you were on that occasion pretty much provoked yourself? A. Not exactly, but I wanted them to come back.

Q. You weren't a bit provoked, were you? A. Yes, sir; I was mad.

Q. Very mad? A. No, not a great deal.

Q. Didn't you say to your wife on that occasion: "Don't ever darken my door again if you know what is good for you"? A. No, sir. 20

Q. "I will fix you and I will fix your two Dutch brothers, too"? A. No, sir; I never called them such names in my life.

Q. And isn't that the reason why the little boy ran away because you were in such a fit of temper? A. No, sir; the reason was, because I said I would go down to the store and buy them clothes.

Q. Didn't you want to take them right home in their bathing suits on that occasion? A. No, sir. 30

Q. They were in their bathing suits? A. Yes, sir.

Q. And you were going to grab them and take them home as they were? A. No, sir; I said I would take them down to the store and buy clothes.

Q. To buy clothes? A. Yes, sir.

Q. They had clothes, didn't they? A. Their mother wouldn't give them their clothes.

Q. How much money were you earning in 1921? A. \$40. a week. 40

*Michael Sheridan. Called by Defendant. Cross.*

Q. You were then employed by Randall & Company, weren't you? A. Yes, sir.

Q. Was it some time in September that your wife brought you to the Juvenile Court, in 1921? A. Yes, sir.

Q. Because you weren't making provision for her? A. She refused to take it.

10 Q. She brought you there and complained that you didn't make a provision for her? A. I never refused.

Mr. Grece: He is evading an answer to this question, if the Court please.

The Court: (Addressing the witness) Isn't that what your wife told you at the Juvenile Court?

20 A. Yes, sir, she told me—

Q. And then I made an order for you to pay \$15 a week to the Clerk of the Court for the support of the children? A. (no answer).

Q. You say you continued to live in the house with Mrs. Sheridan's brothers after she refused, as you say, to come back from Keansburgh? A. Yes, sir.

30 Q. And, finally, you moved away from there some time later? A. Yes, sir.

Q. And you went up to the place near where you work? A. Yes, sir.

Q. And when was it that you moved away from 526 Tonnelle Avenue? A. 1922.

Q. And did you take any things away with you? A. Only a few blankets that were on my bed.

Q. You took the blankets that were on your bed? A. Yes, sir.

40

*Michael Sheridan. Called by Defendant. Cross.*

Q. And your personal belongings, and you left everything else in the house? A. Everything that was in the house was my personal belongings.

Q. You didn't have any trouble with your brothers? A. We had arguments before that.

Q. After Labor Day, 1921, and while you were staying with her brothers you had no trouble with them, did you? A. Oh yes. 10

Q. What was it about? A. They called me all kinds of names.

Q. What did they call you? A. Well, indecent names.

Q. What indecent names? A. One brother said I used my wife unhumanly.

Q. And she had complained about that to you, hadn't she? A. No, sir.

Q. She never had complained about that? A. No, 20 sir; I never did that.

Q. What else was said? A. All kinds of names.

Q. Well, what names did they call you? A. Son-of-a-bitch and all that sort of stuff.

Q. Do you know why they called you those names? A. Because they were mad.

Q. What were they mad at? A. Because they believed what they had heard from my wife.

Q. And they were sore at you because they believed you hadn't treated your wife right? A. I 30 don't know what they were sore about, but they were sore, and they told me they would be in that house after I was gone.

Q. You went of your own accord? A. Yes.

Q. You didn't tell them to go out? A. No, sir.

Q. It was your house? A. No, sir, my wife's.

Q. How did it come to be your wife's house? A. I had given it to her.

Q. You didn't own the whole interest in that house did you? A. Before, I did; yes, sir. 40

*Michael Sheridan. Called by Defendant. Cross.*

Q. When did you own the entire title in that house? A. When I bought out my two brothers' share.

Q. Who was the original owner of this house? A. My mother.

Q. Was that Bridget Sheridan? A. Yes, sir.

Q. And in December, 1898, did she sell it to Mary Sheridan? A. Yes, sir. 10

Q. Then did Mary Sheridan die? A. Yes, sir.

Q. And how many brothers and sisters were there? A. Only two brothers and myself, three.

Q. What were the names of your two brothers? A. John and Thomas.

Q. John was a married man in 1920, wasn't he? A. Yes, sir.

Q. And Thomas was a widower? A. Yes, sir.

Q. And Thomas and John, and John's wife, made a deed over to Margaret Sheridan, of all their interest in that property? A. No, not direct; it should have went to me, but they put it in her name. 20

Q. Wait a moment: I say they did make a deed, and that is a fact? A. Well, it may be that way on paper.

Q. I show you a deed, dated April 22, 1920, made by John E. Sheridan and Amelia Sheridan his wife to Thomas B. Sheridan, John E. Sheridan and Amelia being two of the three heirs-at-law of Mary Sheridan, deceased, to Marguerite Sheridan, setting forth the consideration of \$350. paid to them, and they conveyed property known and distinguished on map of property of E. C. Bromhall, and others, in Hudson County, New Jersey, known as lot No. 10 in block 50, on the easterly side of Tonnelle Avenue, being 25 feet wide and 112.7 feet deep on the southerly side, and— 30

40 The Court: Is this all going in the record?

*Michael Sheridan. Called by Defendant. Cross.*

Q. Is that the deed by which they sold to your wife? A. They gave it to me and I deeded the property over to my wife.

Mr. Grece: I ask that this deed be marked for identification.

The Court: Do you want to offer it now?

Mr. Grece: Yes. 10

Mr. Pesin: I have no objection, provided he has the other two deeds. But I don't know the purpose of it.

Mr. Grece: It is to contradict this witness with respect to turning this property over.

Mr. Pesin: The deed speaks for itself.

(Admitted and marked Exhibit D-1.)

Q. Mr. Sheridan, did you on the same day, April 22, 1920, join with your wife in making a deed to Frederick Bugasch of the same property? A. Yes, sir. 20

Q. What was the purpose of having that deed? A. My wife wanted it, and I made a deed of it to her, and it had to be done through Mr. Bugasch.

Q. You were perfectly willing to have that interest conveyed over to your wife? A. Yes, sir.

Q. Did Mr. Bugasch make a deed to your wife? A. Yes, sir. 30

Q. I show you two deeds, both dated April 22, 1920, one made by Michael Sheridan and wife to Frederick Bugasch and the other by Frederick Bugasch to Margaret Sheridan, and I ask you whether they are the two deeds by which the interest that you had in that property was transferred to your wife? A. Yes, sir.

Mr. Grece: I offer them in evidence.

(The former is marked D-2 and the latter D-3.) 40

*Michael Sheridan. Called by Defendant. Cross.*

Q. You didn't give your wife \$350 to buy that property at that time? A. No, sir.

Q. She had that money of her own? A. No, sir; my money; I paid it to my two brothers in Mr. Bugasch's office.

Q. \$350.? A. Yes, sir.

10 Q. Isn't it a fact that that was money your wife saved? A. No, sir; that was money I saved working for Mr. Hoffman to remodel his house, \$400. I worked all summer.

Q. Now, you say at another time in Pennsylvania your wife had some relations with a man named Ell; she confessed that she had some relations? A. No, sir; in Jersey City; he met her coming from Pennsylvania at the tube station.

Q. She told you that he had met her at the tube station? A. Yes.

20 Q. And that she had gone with him to a hotel? A. Yes, sir.

Q. And that he had relations with her? A. Yes, sir.

Q. And she told you also that she had paid for all of the pleasure that way? A. Yes, sir.

Q. Paid the hotel bills and everything? A. No, sir; she said she paid it with her honor.

30 Q. Was this on the occasion just prior to her going to the hospital to be operated upon? A. Yes, sir.

Q. At the same time that she told you about the other garage experience? A. Yes.

Q. Did you ever go to see Mr. Ell about it? A. No, sir.

Q. Why didn't you? A. Because I didn't want anybody to know it, not even my children.

40 Q. I know, but he had done you a grievous injury, hadn't he, by ravishing your wife; and you

*Michael Sheridan. Called by Defendant. Cross.*

didn't feel a bit incensed about that? A. Well, I didn't want the disgrace in the family.

Q. It wouldn't be any disgrace to go to him and ask him to answer to you for that.

Mr. Pesin: I object to that. It is argumentative.

Mr. Grece: This man seems to have sat idly 10 by and allowed these things to go like this.

The Court: Well, it might be of great personal interest to you, but I don't think it would be of any interest to me.

Q. Mr. Sheridan, there was a building and loan fund that was in your name, wasn't there? A. Yes, sir.

Q. And the moneys which went into that fund were moneys which were put in there by your wife? 20 A. It was my money.

Q. Weren't they moneys which your wife had earned and saved herself? A. No, sir; it was my money.

Q. And wasn't some of that money used for the purpose of paying for this property, and used by yourself for other purposes? A. No, sir the money used for the property was money that I got from Mr. Hoffman for doing work for him on his house. 30

Q. Now, let us get back to the confession of your wife: Was there a Mrs. Loth, a neighbor, present with your wife before she was taken to the hospital? A. Yes, for a short while.

Q. Was anybody else present? A. Not that I know of.

Q. And you didn't have funds with which to pay for the hospital expenses at that time, did you? A. No, sir. 40

*Michael Sheridan. Called by Defendant. Cross.*

Q. Well, did you go to Mr. Ell and borrow \$200?  
A. My wife told them to do it.

Q. And she said, "Won't you go to save my life?" A. Yes.

Q. You went to Mr. Ell to borrow \$200? A. \$100 first and \$100 afterwards.

10 The Court: When was that?

A. The same day.

Q. The same day that she told you this story?  
A. Yes.

Q. And right after that? A. Yes, sir.

Q. And then after that Mr. Ell came in and you and Mr. Ell took your wife to the hospital? A. Yes, sir.

20 The Court: Has the defendant any corroboration of that confession?

Mr. Pesin: None, Your Honor; we couldn't get hold of him.

The Court: You needn't spend any time on it. I am not going to give any effect to an alleged confession made by the wife to a husband that is uncorroborated.

30 Mr. Grece: The reason I am spending time on it is because I would like to give Mrs. Sheridan an opportunity of justifying herself in the eyes of the Court, and denying this story.

The Court: Well, you will have an opportunity to deny it, but I will say to you now, I can't give any effect to a confession testified to by her husband without any corroboration. You know that, as a matter of law. So that, so far as cross examination is concerned you can save yourself the labor of cross examining on that.

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*Michael Sheridan. Called by Defendant. Redirect.*

Q. Did you ever have any talks afterwards, during the period of time when you were living alone in the house at 526 Tonnelle Avenue, with Mrs. Sheridan's brothers, in which you told them that you had nothing against your wife? A. No.

Q. Never said anything like that? A. No.

REDIRECT EXAMINATION BY MR. PESIN: 10

Q. How old are you, Mr. Sheridan? A. 47.

Q. How old is your wife? A. She is about 40 now.

Q. About 7 years younger than you? A. Yes.

EXAMINATION BY THE COURT:

Q. When you went to Keansburgh on July 3d, how did you go? A. By boat. 20

Q. Where did that land you? A. It landed me at the Keansburgh dock.

Q. What time did it land on July 3d? A. I think around 11 o'clock—between 11 and 12; I got the boat about 9.

Q. In the morning? A. Yes.

Q. How far is it from the landing to the place where you found your family bathing? A. About 15 or 20 minutes' walk.

Q. Did you first go there, or did you go to the tent? A. I went to the beach. 30

Q. And you say that you found your wife and boys and Mrs. Reichenbaher in bathing? A. Yes, sir.

Q. Were they already out when you arrived there? A. Yes, it was low tide, and they were way out.

Q. Who was the first among the party that saw you? A. The children. Elmore was the first. 40

*Michael Sheridan. Called by Defendant. Redirect.*

Q. How long had you been on that beach before Elmore noticed you? A. About five minutes.

Q. And he came to the shore to greet you? A. Yes, sir.

Q. Did anyone else come? A. Mrs. Reichenbafer and the children—three children—came to the shore.

10 Q. Did you call your wife or anybody else? A. I didn't call for her; she was out and the children went out and they came back again.

Q. How long after the children originally came did the grown people come to shore? A. About 15 or 20 minutes.

Q. Did any of the grown people give any sign of recognition, such as waiving their hand, or calling to you, or anything of that sort? A. No, sir.

20 Q. When they came out of the water—I mean the grown people—how long did you remain on the beach? A. We didn't stay long; we went from there up to the tent.

Q. About how long? A. Just a few minutes.

Q. Well, would you say as many as 10 minutes? A. No, I would say about 5 minutes.

30 Q. What did you do while you were staying there; what occupied the 5 minutes? A. Well, we were talking together at the edge of the bulkhead, and then we started to walk towards the tent.

Q. Well, what was said as you started walking toward the tent? A. I don't remember exactly.

Q. Was there any unpleasantness between you and your wife while you remained on the beach? A. That afternoon?

Q. No, while you remained on the beach? A. No, sir.

40 Q. What did she do when she came to shore? A. She started to walk toward the tent.

*Michael Sheridan. Called by Defendant. Redirect.*

Q. What did she do while you remained on the shore? A. She just said, "Hello", and started off.

Q. Did you kiss each other? A. No, sir.

Q. And it was later in the day that you reproved her for neglecting you? A. Yes, sir.

Q. At the party that gathered at Corbley's in the spring of 1921 did you and your wife go there as invited guests? A. Yes, sir. 10

Q. How many people were there? A. I should say about 20 or 25.

Q. When you went upstairs and found your wife in the bedroom was there anybody attending to her? A. No, sir.

Q. All alone? A. All alone.

Q. What was she doing? A. Laying across the bed.

20 Q. Did she tell you that she was feeling ill? A. Mrs. Corbley told me she was sick. I asked her if she was sick and she wouldn't answer me, and I said, "If you are sick come on home; this is no place to be."

Q. Did she ever answer you when you asked her if she was sick? A. No, sir.

Q. You never did find out what she was complaining of? A. No, sir.

30 Q. This you say was in the neighborhood of 11 o'clock at night? A. Yes, sir.

Q. How did you and your wife get along when you were first married? A. Very good.

Q. Up until about when? A. Until about 1920.

Q. What was it that first caused disagreements between you—I mean serious ones? A. Her staying out at night.

Q. When had she commenced staying out at night? A. 1920, toward the winter it was.

The Court: I have nothing further. 40  
Defendant rests.

*Marguerite Sheridan. Called in Rebuttal. Direct.*

PETITIONER'S REBUTTAL.

MRS. MARGUERITE SHERIDAN, recalled in her own behalf, in rebuttal, testified as follows:

DIRECT EXAMINATION BY MR. GRECE:

10 Q. Mrs. Sheridan, did you and your husband ever have any trouble about your staying out late nights?  
A. Not to my knowledge.

Q. Did you ever stay out late nights during 1920 and thereafter? A. I might have come in at 11 o'clock or so; I can't just recall, but we never had any argument over it.

Q. Was that a frequent occurrence, your staying out late evenings? A. No, sir.

20 Q. And when you did stay out late nights where had you been? A. Why, across the street to May's house.

Q. Who is May? A. Mrs. Reichenbaher.

Q. Was Mr. Sheridan a visitor at that home, too?  
A. Yes, sir; at times.

Q. Did he go there with you and stay late with you nights sometimes? A. Well, we seen each other every day; we were neither in their place or they were in ours.

30 Q. Was this a thickly settled section of Tonnelle

Q. At that time were there so many people there?  
A. Not so many, no.

Q. Now, did your husband ever chide you for staying out nights? A. No, sir; not to my knowledge; I never heard him say anything.

Q. Did you have any quarrels about it the next day or the day after? A. No, sir.

Q. I want to bring your mind down to the time when this property was purchased: Where did the

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*Marguerite Sheridan. Called in Rebuttal. Direct.*

money come from, the \$350 which was given to Mr. Busche? A. Well, that money really did come from Mr. Hoffman; that money was given to me by Mr. Hoffman for the work that my husband did. Mrs. Hoffman was a personal friend of mine, and I went and asked her if her husband wouldn't give him the work so that we could buy this thing. Of course, I went to work at the time I was sick and my husband was quite a while in Pennsylvania without work. 10

Q. When was that? A. It was before the time I was in the hospital; when I was in the hospital.

Q. How long had he been there? A. Well, he was working there—I couldn't just say how long he was there. But, you see, we had the property up there; at least my husband did, and my brother went in the service and his income was cut off and he lost that property. All we had was a building and loan that I had taken out with my brother's board that I had earned. I went and took it, five shares in the building and loan, and instead of putting it in my name I put it in my husband's name. 20

Q. So that it was really your money? A. Yes.

Q. Why did you put it in your husband's name?  
A. Everything that we held was in his name; and when we got this last house it was his own suggestion that it should go in my name, and because he was to collect the cash for the building and loan. That is how he came by the house. 30

Q. Now, were you present when these transactions were made? A. I was sick abed with quincy sore throat, and those deeds were all drawn up without my knowledge until Mr. Busche told me.

Q. Mr. Sheridan says it was his money that he had paid over to Busche, the \$350; do you know 40

*Marguerite Sheridan. Called in Rebuttal. Direct.*

where he got it? A. \$400 came from Mr. Hoffman, and he gave us the money long before he did the work, and I and Freddie Busche was the one that did all this work.

Q. Do you know at whose suggestion it was that the property was to be placed in your name? A. It was my husband's.

10 Q. Now, what became of the money that was in the building and loan? A. Well, when my husband and I separated, why, the book was taken out of the box, and I have learned since that my husband has collected the money from the building and loan.

Q. And that was money which you say was your money and saved out of your earnings? A. Yes, sir, I had put it there.

20 Q. How much have you in that savings account? A. I couldn't say exactly. I know I paid \$5 a month and there were some arrears, and I wrote to Mr. White and asked him if he would give a chance to pay it, and I sent \$50 at a time.

Q. How long had you paid in? A. I guess about six or seven years.

Q. Have you any idea of the amount? A. No, sir, I haven't.

Q. You don't know whether it was \$100 or \$900?

30 Mr. Pesin: I object to this.

Mr. Grece: Mr. Sheridan has testified that he paid it, and I am trying to show now that he took the money for his own use.

The Court: It seems to me that you went all over this on direct examination.

Mr. Grece: If your Honor feels that way I don't want to take the time.

40 Q. Now, was any money borrowed from Mr. Ell about the time that you were about to go through

*Marguerite Sheridan. Called in Rebuttal. Direct.*

this operation? A. Yes, sir; my husband borrowed it.

Q. Can you tell us how that came about? A. Well, I don't know how near death I was, but the doctor had said there was nothing for me but an operation, and we didn't have five cents. I hadn't got any money at all, only what my brother gave me. 10

Q. Who was this Mr. Ell? A. Well, my brother boarded with him and we made these people's acquaintance in that way.

Q. Did Mr. Sheridan know Mr. Ell? A. Oh, yes.

Q. And whose suggestion was it that the money be gotten there? A. It was my suggestion.

Q. Now, Mrs. Sheridan, at the time you were in need of an operation—I think you said that was about the 3d of July? A. Yes. 20

Q. Were you operated on in the morning or afternoon? A. In the afternoon.

Q. Who prepared you for the reception at the hospital? A. Mrs. Loth, a neighbor. She came over when she heard I was going away.

Q. How long was she with you? A. A little over an hour or so.

Q. Was she there when you went to the hospital? A. She was there until I went out in the automobile, and then she went home. 30

Q. Mr. Sheridan says you have made some confession to him about some relations with Mr. Ell, first in a garage and secondly in Jersey City; did you ever make any such confession as that? A. No, sir; positively not.

Q. Did you ever have any— A. No, sir.

Q. —relations with Mr. Ell at any time? A. No, sir. 40

*Marguerite Sheridan. Called in Rebuttal. Direct.*

Q. Did you ever say to Mr. Sheridan that you wanted to confess your infidelity to him at any time? A. No, sir.

Q. Before you went to the hospital? A. No, sir.

Q. Did you ever make any confession to him at any time subsequent to that time that you had relations with Mr. Ell or with anybody else? A. No, sir; I never did.

Q. Did you ever have any illicit relations with Mr. Ell? A. No, sir.

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

Q. Did Mr. Sheridan at any time after Labor Day, 1921, ask you to come back to live with him? A. No, sir; he never did.

Q. And at the time that he was at Keansburgh on Labor Day did he ask you then to come back with him? A. No, sir.

Q. What did he say at that time? A. Well, Elmore came to me, and he says, "Mamma, here comes papa."

Q. Was it said in his presence? A. Yes, he says, "Here is papa." We were all at the tent and my husband stood up against the tent, and he said, "Get those kids ready; I am going to take them home." I had all my things packed up and I was going the coming week, and I figured we would stay another week. The children had their bathing suits on, and he says, "Get them ready or I will take them as they are," and I told him they were coming home with me when I came. Then he tried to hit me and my son, Elmore, and my husband made a reach for his hip pocket and he said he would blow my brains out, and I pushed Elmore in the tent, and my husband was as white as death and I was scared. And then he went away, and when he was going out of the tent he told me never to darken his door again, and he would get the children.

*Marguerite Sheridan. Called in Rebuttal. Cross.*

Q. Was it in the latter part of September when you had to appeal to the Juvenile Court? A. I don't just know.

Q. It was after Labor Day? A. Yes, sir.

Q. Now, were you present at the same time when your husband was present in the Juvenile Court? A. Yes, sir.

Q. Did you hear everything that I said there? A. I don't remember. I heard it, I guess, but I don't remember what was said.

Mr. Grece: Well, I am sorry to say that I am loth to take the stand—

The Court: I would rather discourage you in doing that.

Mr. Grece: —because I feel that it would be my duty to deny some of the allegations Mr. Sheridan has made.

Q. Did you refuse to return to him because he had threatened you and told you never to darken his door? A. Yes, sir.

Q. At the time you appealed to me sitting in the Juvenile Court did I endeavor to compose the differences between yourself and your husband? A. I don't just recall; I suppose you did.

Mr. Pesin: We admit that you tried to, Judge.

Q. Did I at that time make an order for \$15 a week for the support of the children? A. Yes.

CROSS EXAMINATION BY MR. PESIN:

Q. If your husband had asked you in the Juvenile Court whether you would come back and resume marital relations with him would you have done it? A. I believe I would have been too scared.

*Marguerite Sheridan. Called in Rebuttal. Cross.*

BY MR. GRECE:

Q. Why were you scared? A. Why, he threatened my life; and at Christmas time—the first Christmas we were separated—I made up a box of chicken and I put everything into it imaginable, and I sent it to him and he never even acknowledged it. 10

Q. Whom did you send it by? A. Mr. Loth sent it to him, but I still have proof that he got the box.

Q. That was the Christmas of 1921? A. The first Christmas.

EXAMINATION BY THE COURT:

Q. Did you ever say anything to your husband about Mr. Ell that could be manufactured into the story of your confession? A. No, sir. 20

Q. When did you meet Mr. Ell? A. Well, I met him with husband, I don't know how many years ago. It was quite a few years ago, in the presence of my husband.

Q. Well, many years before your separation? A. Oh, yes.

Q. Did he become a friend of the family? A. Oh, he visited us in Pennsylvania with his family.

Q. What was his business? A. Well, at one time he was in the saloon business, and then when prohibition went into effect he went into the butcher business. 30

Q. Where did he live? A. In Tonnelle Avenue. I just don't know the number, but Paterson Plank Road and Tonnelle Avenue, in that neighborhood.

Q. How far? A. Right in North Bergen.

Q. How far was that away from your home? A. You mean at the time I came to Jersey City, where we are today? 40

*Marguerite Sheridan. Called in Rebuttal. Cross.*

Q. How far is that from 526 Tonnelle Avenue? A. I should judge about a mile. I don't know whether I am exactly right or not.

Q. Well, some considerable distance? A. Yes.

Q. What sort of a building did he live in, a one-family house or apartment house? A. No, no; they had the whole house to themselves. 10

Q. One-family house? A. Yes, sir.

Q. Did you visit there? A. Yes.

Q. Were you friendly with Mrs. Ell? A. Yes.

Q. You mean to say you never visited there except with your husband? A. Well, I lived there a whole year.

BY MR. PESIN:

Q. You lived there all that winter while your husband was up in Pennsylvania? A. Yes, sir; my husband visited me every week-end at that home, and I was working while I was there and Mrs. Ell took care of the children. 20

BY MR. GRECE:

Q. You had two children at that time? A. Yes.

Q. How old were the children? A. I don't know. It was when my brother was in the service. 30

CASE CLOSED.

**Decision.**

(At the conclusion of the arguments the Court made the following decision, orally:)

BENTLEY, V.-C., (orally):

This is a proceeding for divorce, based upon a petition filed by the wife on the ground of desertion and an answer and counterclaim charging adultery.

10 These people were married in 1905 and appear to have gotten along together, at least ordinarily well for some portion of fifteen years, during which they had two sons born to them who are now—well, one is a grown boy and the other a young man. The trouble between them seemed to rapidly increase in gravity until the spring of 1921, when matters had become so bad that upon the occasion when they attended a party, defendant left his wife there and returned home alone without her. He says she com-  
20 plained of being ill, and when he tried to get her home she refused to go and he went home alone, and that she was brought home by a man named Corbley about two o'clock in the morning, when the defendant heard them conversing at the gate or front door of his home.

In the following June of 1921, the petitioner went to Keansburgh with her two boys, who were then, of course, mere boys, and she purchased a piece of  
30 land upon which there was erected a frame foundation over which was erected a large army tent. There, she and her boys spent the summer. They were delicate, and the idea of both their parents was to get them to a place where they could spend the entire day out in the sunshine and get the effect of the fresh air and the sun on their bodies.

Corbley was a close neighbor of the petitioner that summer. The first serious difference that occurred between the husband and wife was on the  
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*Decision.*

3d of July, 1921. The defendant went to Keansburgh for the purpose of spending the holiday with his family, and what transpired being an important serious matter, of course they disagree as to what actually did occur. The petitioner says that her husband joined them in the water, and that he stayed in so long as to become chilled, and she suggested that he return to the tent and drink some hot coffee which had been left upon the stove. Upon  
10 the other hand, he says that when he came to the bathing party it was low tide and his wife and their two boys, as well as Corbley and a Mrs. Reichenbaber with her child, or children, were way out from shore; that his boys saw him and all the children came tramping to greet him; that they went back and joined the bathing party of adults, and that it was a full fifteen minutes after that before the petitioner displayed enough interest to even re-  
20 turn to shore. He says that when she did come ashore she gave him a casual how-do-you-do, or hello, and almost immediately suggested going to the tent to have some coffee, which was done. That she and Corbley preceded the rest of the party by about 50 feet, paying no attention to himself, and after that, later in the day, he reproved her and that brought on a quarrel.

The next important episode is the one which the petitioner bases her case. On Labor Day of that  
30 same year the defendant made his next visit, and demanded that his wife return to the city with the children, so that they could resume their schooling on the following day. There is no question but what they agree that that was what he demanded, and they also agree that she refused to bring them up at that time, differing, however as to what she did actually say. The petitioner says that she explained  
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*Decision.*

to him that she intended to give these children the benefit of an extra week and that she would bring them up during that week, sometime, but not on Labor Day. He says that she told him that she would never return to the home as long as he was there.

10 Now, as between these two people, the true situation is somewhat difficult to solve. The corroboration of the petitioner's story is, of course, of the most unsatisfactory manner. These boys testified to what occurred between their parents at Keansburgh—witnesses of the most interested kind imaginable, and yet, of course, their testimony must be accepted and taken into account. They made a very favorable impression upon me, both of them, and I thought that Elmore made a remarkably good witness, when  
20 you consider the fact that he had never been in court as a witness and, consequently, did not know the alleys he might be led into on cross examination where there might be some variance that might be fatal to his testimony or that of his mother, or both. That he was very guarded in his answers, I don't think should be taken against him.

Of course, as I have already said, I cannot place any credence in the defendant's uncorroborated story of a confession of adultery made by this  
30 woman on July 3, 1919. It would be an intolerable thing if such confessions were to be given any effect. But still it does have a somewhat important bearing. There is no doubt in my mind that there is a strong affection existing between the petitioner and Corbley. There is no doubt about that. But there hasn't been a scintilla of proof of any criminal desire on the part of either of them. Opportunity, to be sure, but if every woman was to be convicted of adultery who at some time had an opportunity to  
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*Decision.*

commit the act, we would live in a dreadful state of society and the lot of a woman would be worse than it was in the dark ages. There isn't a shred of evidence of holding of hands, or kissing, or anything to indicate that the relation of this man and woman to each other is anything but the decentest, purest kind of feeling; but, of course, the testimony is important as showing her state of mind. I think that as  
10 early as 1920, the chance are, she had lost all affection for her husband, and that he subsequently lost all affection for her. But, in the last analysis, I feel that, close as the case is, a decree should go in favor of the petitioner, and for this reason: The story that she tells of this man's visit on Labor Day of 1921 is not an entirely improbable one. She has the advantage of the corroboration of her two boys. She says, and it is uncontradicted, that her trunks  
20 were packed, and that she was ready to return during the week of Labor Day. That is uncontradicted and undenied. This man doesn't say that he saw her belongings hanging around the tent in the ordinary way as they had been, and he didn't find any great joy and pleasure in the return of his wife, and then that the relation had been so strained between her and her husband is shown by the fact that he had made only two trips to see his family. But, whichever way it was, they were so  
30 estranged, so unhappy with one another, that I don't think she fancied him, and that influenced her not to retrace her steps and go back home at that time, and if that is so, her mind was changed by what transpired between her and him on the 5th day of September, 1921.

Now, that is the last time that this man ever sought the return of his wife, which is another story, indicating that it was he who terminated their re-

*Decision.*

lations and not she. Had it been a quarrel over whether the children should return on that day or some other day, and if that had been all there was to it, it seems to me that this man subsequently would have sat down and written this woman a letter, saying "Now, I want you to stop your nonsense and forget what I said to you, and I want you to come back." But he apparently considered their relations at an end forever merely because she said, according to him, that she would never return to 526 Tonnelle avenue as long as he remained there.

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Under all the circumstances, I think that the beam slightly inclines in favor of the petitioner, and I will so advise.

Now, if you gentlemen can agree upon the details of the decree you may do so; if you can't I will settle the terms of the decree, on notice.

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19 19 MAY. 1. 1928

**New Jersey Court of Errors and Appeals**

MARGUERITE E. SHERIDAN,  
Petitioner-Appellee,

vs.

MICHAEL SHERIDAN,  
Defendant-Appellant.

On Appeal  
from Court  
of Chancery.

**BRIEF FOR APPELLANT.**

**Statement.**

The petitioner commenced an action for divorce against her husband on the ground of desertion. She alleged an actual desertion on or about the 5th day of September, 1921, which is approximately 16 years after her marriage. The defendant answered by way of denial and counterclaimed for a divorce against the petitioner on the ground of desertion which he alleged had occurred on that day.

The matter was heard before Vice Chancellor Bentley, and at the conclusion of the case he orally delivered his opinion, granting unto the petitioner a decree in accordance with the prayer of her petition and dismissing the defendant's counterclaim. The Vice Chancellor's opinion, as even stated by himself, was not without considerable doubt and equivocation. In fact a reading of the opinion would lead one to believe, that he utterly disbelieved the petitioner's story, and that he cast about her an entangling net of suspicion, from which she could never absolve herself. And yet up to the last few lines of his opinion, when one would believe that he

was going to dismiss the petition, like a thunderbolt from a clear sky, he completely reverses himself, and without any rime or reason except to say that the "beam slightly inclines toward the favor of petitioner" he advises a decree in favor of petitioner.

Not alone from the bareness of the petitioner's testimony; not alone from its utter incredibility; not alone from its want of substantial and disinterested corroboration, either from surrounding circumstances or direct testimony; but also from the Vice Chancellor's own summary of the case, and his several expressions of doubt as to the right of petitioner's relief, standing as it does in strong array against that well-established doctrine required by Chancery of "clear and convincing proof"; do we feel, in all fairness to the defendant, that this appeal should have been taken.

### POINT I.

**If this action is one properly of an actual desertion, as alleged by the petition, and not a constructive desertion as shown by the proofs, then it should have been dismissed for want of corroboration and proof that was clear and convincing.**

We start with the petitioner's testimony on direct examination and find that she was married to this defendant in 1905 and lived with him for over 16 years until, as alleged, the desertion occurred in 1921. Two boys were born unto them during this time. She does not testify to any specific acts of cruelty or even unkindness during their long marital life, except as she says on one occasion he sexually abused her. It would be absurd to call this

cruelty for it could not have been without her assent. So with her own introductory remarks to the effect that he was never cruel or abusive up to the time of the desertion, she continues to picture him as of a rather carefree, and quiet disposition as she says on page 22, line 18: "He never spoke much anyway, and most of the things that were done most of the time, I had to figure out how to do them myself. He worked and earned a living and brought home the money, but when it came to worrying about anything it was up to me entirely." She therefore, was the master of the house. And it might appropriately be mentioned in passing that when such a woman rules a household with an upper hand devoid of understanding, she can have no love for home and husband, and her desire for companionship finds root in alien soil, tainted as it usually is with shame and dishonor. Such is the case here as we shall later show.

Her solicitor, as is the custom in cases of this kind, elicited testimony concerning the habits and life of the married couple prior to the alleged desertion. Such testimony is not only customary but necessary. For it is the animus and conduct of the parties, particularly when there is a counterclaim for desertion, that should be the determining factor as to who had committed the desertion. Now what testimony do we find here, not the usual story related by a woman seeking a divorce, that the chastity of her home had been violated, that the husband was extremely cruel, that he was a drunkard, that he was a gambler, or that he had made life for her miserable or intolerable—on the contrary we find a man humble, meek, sober, industrious—always working hard as she testified, always giving her the full pay envelope, never cruel, never unkind; allowing her without interference to run things as she pleased. Does such a man become a wilful, obstin-

ate and continued deserter? Does such a man who evidently treaded the humbler by-ways, and who finds his only solace and comfort in the one happiness in life, his family, suddenly become a deserter? No, there is but one cause that might possibly influence either spouse to become a deserter of home and family after those long years. It is the affection for another. And in this regard, the petitioner does not intimate one word against the defendant; whereas the defendant charges the petitioner not only with indiscretion but with actual adultery based on her actions and her voluntary confessions. The petitioner denied her confession of adultery, but did not deny her familiarity with another man, although as she said she deemed her intimacy with him quite proper.

Now, the defendant accused petitioner while she was down at Keansburg, of undue intimacy with a Mr. Corbly who maintained a bungalow next to hers. He sought to remonstrate with her about this in July, 1921 when he paid her a visit. She claims he remonstrated with her for no reason at all (p. 20). She says they were all in swimming, when all of a sudden he told her to get out of the water, pack up and come home. Now this story seems hardly credible. We must rather turn to his story to find the truth, where on pages 137 and 138, he says he remonstrated with her because she acted so intimately and affectionately with Mr. Corbley in his very presence and that she disregarded him when he came down. He once again remonstrated with her, on his next visit a few weeks later, about the same matter. Nothing further happens until Sept. 5th, 1921 (the day of the alleged desertion) when petitioner says he came down and without any words ordered her to pack up and come home. (Then, of course, she must supply to the necessary testimony to constitute a desertion), so she contin-

ues saying that he put his hand to his hip pocket (p. 28, l. 40) and said, "I'll blow your brains out." Of course, she didn't pack up and didn't come home until a few weeks later (p. 32) and instead of going to her home in the city, she makes her residence elsewhere and lodges a complaint against her husband in the Juvenile Court for non-support, etc.

We cannot go further, until we reflect for a moment upon the case made out by petitioner's testimony—How empty and barren it seems. A wife lives with a husband for 16 years. He never abuses her; is kind, sober and industrious. She becomes ill. He consents to let her go away for the summer. Her doctor advises her to go to the country, page 38. She goes to the seashore. Can the reason be because Corbley, the man with whom she is accused of undue intimacies, is spending the summer at the same seashore resort? The defendant visits her once; he remonstrates with her (she says for no reason whatever). He visits once more and again remonstrates with her. Then, but one more visit, on Labor Day, the day before school opens for the children, he comes there, as she says, with no further ado than to place his hand to his hip pocket, as if he had a gun there, and tells her never to darken his door again. This is the only instance in her testimony of cruelty, if such it is. So she never returns to him. What would have been the actions of any faithful and devoted wife who had no interest in any one else but her family? Would she not go to any extremes to become reconciled to her husband upon such slight provocation, instead of haling him immediately to court for desertion and non-support. Her actions only bespeak one thing—that she was waiting eagerly for an opportunity to divorce herself. And how she weaves a story that might conform with the requirements of the law for a divorce; a warning not to return to his home accompanied

by a threat of bodily harm. Evidently, her solicitor believed such a story warranted a petition for divorce on the ground of actual desertion, when in reality only a petition would lie for constructive desertion, if any. But as long as petitioner proceeded on the theory of actual desertion, we contend that the evidence required in such a case must show a desertion on the part of the husband which was obstinate, continued and wilful. There is no such evidence here. If a wife leaves a husband because he chases her from their home or she leaves because of his extreme cruelty, the desertion is his by construction. Therefore, this case being one of actual desertion, the petition must fall because of lack of proper evidence. We therefore urge that the petition should have been dismissed on that ground. But granting for sake of argument, that the petition is properly one for an actual desertion, we feel that the testimony of the petitioner, corroborated only by her two sons, which, as the Vice Chancellor says, is of the "most unsatisfactory manner" (p. 180) is not such testimony that Chancery require of clear and convincing proof; and the Vice Chancellor's own expression of grave doubt as to the reliability of petitioner's testimony, should certainly disentitle her to relief from this Court. Our Courts should not sever the ties of matrimony between parties, who for 16 years have lived comparatively, in domestic tranquility upon the mere testimony of an isolated instance of an unfounded threat of harm to life. We fear to mention the direful results that would follow the adoption of such policy.

And so on this point we respectfully urge a reversal of the decree, dismissing the petition for want not only of sufficient corroboration, but for want of convincing proof.

## POINT II.

**The petition should have alleged a constructive desertion, as the proofs offered to show this, but such proof fell far short of the evidence required in contemplation of our decisions.**

As stated in Point I the petition was based on an actual desertion, and the proofs surely tended to show a constructive desertion if anything. The petitioner should have amended her petition, for we feel that the evidence does not in any manner show an actual desertion on the part of the defendant. If the petitioner desires to amend her petition in this tribunal, it would not permit the same unless it was satisfied that the proofs entitled petitioner to a divorce on the grounds of constructive desertion, and this it most certainly does not show. It is well settled that a constructive desertion is one where an existing cohabitation of the parties is put to an end by misconduct of one of them, provided such misconduct is itself a ground of divorce a vinculo or a mensa, *Csanyi vs. Csanyi*, 115 Atl. Rep. 76. So that in order to justify a constructive desertion we must have as in this instance acts of extreme cruelty. There is no fixed standard as to what acts are necessary to justify one spouse to withdraw from cohabitation, but it is the well-defined rule that the acts must be tantamount to such an extreme cruelty as will either justify a divorce or separation. This rule is well discussed in the case of *Arnaboldi vs. Arnaboldi*, 138 Atl. Rep. 116, decided by Vice Chancellor Bentley, the same Jurist who presided in this case. Our present Chancellor in the case of *Succhierelli vs. Succhierelli*, 137 Atl. 838, says that "when

a wife is compelled to leave the matrimonial abode, either because her husband drives her away or by *conduct so cruel* as to show that he means to force her away or by such conduct compels her to leave for her own safety then in theory and intendment of law the husband is the deserter; *but this is a constructive desertion*" and so in the present case the petitioner intended by her proof to set up a constructive desertion which she did not allege.

We feel, therefore, that the petition should have alleged a constructive desertion, which, if alleged, even by amendment in this Court, could not stand under the evidence offered here. For, as stated above, the only instance of cruelty, throughout the record of this case, is the last act of the defendant, in threatening to shoot her, which is denied by defendant, and corroborated by petitioner only by her two sons. And we repeat that this unfounded isolated act of cruelty, if such it can be called, after 16 years of married life without any blemish of cruelty, is utterly insufficient to charge the defendant with a constructive desertion. This Court will surely agree therewith, if it will refer to the cases above cited.

### POINT III.

**There was an actual desertion on the part of the wife, which should have entitled defendant to a decree of divorce on his counterclaim.**

At the top of page 178, the Vice Chancellor in his opinion says that the defendant charged adultery in his counterclaim. This is not so, as the counterclaim seeks a decree of divorce on the ground of desertion, alleging that petitioner de-

serted on the day she charges. Probably this misapprehension on the part of the Vice Chancellor was quite material in his rendering of the decision. We do not know what possessed the Vice Chancellor to say this. It is true that the defendant did testify to certain adulterous acts committed by petitioner, certain of which on her sick-bed she had confessed. But no specific charge of this was contained in the counterclaim. We feel that this evident misunderstanding by the Vice Chancellor must have been detrimental to a fair consideration of the defendant's evidence of desertion.

That the desertion on September 5th, 1921, was the petitioner's and not the defendant's seems to us almost to be indisputable.

We glean from petitioner's own testimony a faithful and industrious husband, thus devoted for over 16 years. We gather from defendant's testimony, infidelity, insincerity, and moral indiscretion on the part of the petitioner (these actions admitted by petitioner herself of being in the steady company of Corbley over the objections of defendant). We find the petitioner going to the seashore, when advised by her doctor to go to the country. She knew Corbley, her devoted friend, who took her to the movies and for auto rides (in the testimony) was also going to spend the summer at the same seashore resort. The husband still faithful, still desirous of keeping the family ties together knowing of her liaisons, of her immoral actions, of her confessed adultery, allows her to go to the sea-shore, although he would not have been so dull as not to suspect the reason for her desire to go to the seashore (p. 135, l. 40). He visits her at the seashore on July 4th. She sees him on the beach, she ignores him and continues bathing for a half hour with the children and Corbley, her alleged paramour. When she comes out she greets him with a

casual "hello" and continues up the beach with Corbley. He remonstrates with her about these actions (p. 138). Nothing further happens until two weeks later when he visits her. She acts coldly and refuses to take any money from him (p. 138). The next and last time he comes down is September 5th, the day of the desertion (p. 139). He tells her to pack and come home, as school would be opening the next day for the children. She refuses to come home and doesn't come home. But two weeks later, she lodges a complaint against him for non-support and desertion. The judge tries to reconcile them. She refuses to return. He is willing to accept her. From thence on she remains away. Who then is the deserter? Under the circumstances of this case, can there be any doubt as to who the deserter is, when a spouse away on a vacation refuses to return to her home upon no founded pretense or justification.

And let us here repeat lest she says that a constructive desertion was created by his threat; that without the brandishing of firearms to carry out such threat, and without any evidence tending to show that this was the culmination of a long series of threats, and abuses, it is then unfounded, and if uttered was a comparatively mild utterance made in the heat of anger, and cannot be said in any degree of common sense and decency as being justification of a desertion by the threatened spouse. That this was an unfounded threat, and only an isolated instance can be seen from the testimony of their child, who testified on the petitioner's behalf. On page 64, "And you had no occasion to fear for your mother's health in the way of your father beating her up at any time not up till that date? A. That's right, not up till that date. Q. So that when your father made a threat to blow her brains out it was quite a surprise to you, wasn't it? A. Oh, yes."

We respectfully urge this Court to read but the petitioner's testimony and the defendant's to see whose desertion it was. Although this case presented, in one respect, a question of fact for the determination of the Vice Chancellor, it nevertheless presented the legal questions raised under Point II which should have been determined in favor of defendant. And even the question of fact determined by the Vice Chancellor was not on clear and convincing proof, but on doubt and equivocation, as stated by the Vice Chancellor himself which must of necessity, yield to sympathy. Upon the foregoing we therefore respectfully submit that the decree below should be reversed, dismissing the petition and granting a decree to the defendant on his counterclaim.

Respectfully submitted,

PESIN & PESIN,  
Solicitors of Defendant-Appellant.

Samuel Pesin,  
of Counsel with Defendant.

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## New Jersey Court of Errors and Appeals

Between

MARGUERITE E. SHERIDAN,  
Petitioner-Appellee,

vs.

MICHAEL SHERIDAN,  
Defendant-Appellant.

On Appeal from  
Court of Chancery.

### Brief for Petitioner-Appellee STATEMENT

This matter comes before this Court on an appeal from a Decree Nisi of the Court of Chancery. The action was instituted by the petitioner-appellee by a petition for divorce on the ground of desertion. The defendant-appellant denied the alleged desertion and filed a counter-claim in which he alleged desertion on the part of the petitioner-appellee. The trial court found for the petitioner-appellee, granting a decree nisi for an absolute divorce in favor of the petitioner-appellee and against the defendant-appellant, and dismissing the counter-claim above mentioned.

The desertion, as alleged by both parties, happened on Labor Day, September 5, 1921. Two versions of this desertion are described, one by the petitioner-appellee and the other by the defendant-appellant. Either story, if true, constituted a de-

sersion. The issue, therefore, is narrowed down to the truthfulness of one story or the other.

The petitioner-appellee, on the one hand, (page 28, from line 10 to page 29, line 22 inclusive) says that on September 5, 1921, when defendant-appellant visited the place where she was staying at Keansburgh, N. J., he demanded that she return immediately with the children to Jersey City, N. J., to enable them to resume their studies; that she told him she was all packed to go, but had determined to remain a week longer because the weather, which for some time previous had been rather inclement, had then become pleasant and a week's extension of their vacation would greatly benefit them all; that upon her refusal to return immediately, her husband became violently abusive, threatened to shoot her, placed his hand on his hipocket and admonished her never to darken his door again. Their son, Elmore (page 58, from line 20 to page 59, line 33 inclusive), testified that the defendant-appellant made several attempts to strike his mother and corroborated her version of the events happening on the day in question.

The defendant-appellant, on the other hand, says he called at the place where his wife was stopping, met her and the children outside the tent. The following testimony (page 139, line 13) is his version of the affair:

"Q. Tell us what happened. Was anybody else in the tent?"

"A. No, sir, they were outside."

"Q. Tell us exactly what happened when you came. What did you come there for?"

"A. I told her to get ready and come back; the children had to go to school the next day, and I told her to give the children their clothes; but she wouldn't do that. And then I said, 'I will take them to the

store and buy them clothes,' and she said, 'run, Elmore,' and he ran across the lots."

"Q. Was Elmore the older of the two boys?"

"A. Yes, sir."

"Q. Well, did she come home that day with you?"

"A. No, sir."

"Q. On Labor Day?"

"A. No, sir."

This version by the defendant-appellant was elicited by his own counsel.

The next time he sees his wife is when he is summoned before the Court because of his failure to support his wife and children. He admits he made no attempt to seek a reconciliation and justifies himself for not doing so by explaining that his wife had an ungovernable temper and a strong will (page 146, line 20).

His only complaint respecting his wife was that she remained out nights. He never accused her of improper relations with Corbley. In answer to a question by his own counsel, he says:

"I didn't speak directly about the matter, because I knew it would cause an argument in the house, and that I always tried to avoid" (page 144 from lines 38 to page 145, line 2 inclusive).

#### POINT I.

THIS ACTION IS ONE PROPERLY OF ACTUAL DESERTION, AS ALLEGED IN THE PETITION, AND NOT OF CONSTRUCTIVE DESERTION, AS DEFENDANT-APPELLANT ALLEGES IS SHOWN BY THE PROOFS, AND SHOULD NOT BE DISMISSED FOR WANT

## OF PROOF.

This cause is one of actual desertion, as alleged in the petition of the petitioner-appellee. The rambling statements of counsel for the defendant-appellant to the effect that she desires for companionship of the petitioner-appellee found root in an alien soil, tainted as it usually is, with shame and dishonor, are too absurd for serious consideration and are founded, not on any testimony, but solely on imaginary bases. An examination of the defendant-appellant's testimony discloses clearly that such statements are wholly unwarranted. May I be permitted to direct the Court's attention to the testimony of the defendant-appellant on page 149, line 1 to 8 inclusive?

"Q. You never saw any undue familiarity between Mr. Corbley and your wife?"

"A. No more than they were together as much as possible."

"Q. You never saw him kiss her, or put his arm around her, or anything like that, did you?"

"A. No, sir."

And may I be permitted to say that a careful scrutiny of all the testimony in the case will disclose no such actions on the part of the petitioner-appellee with Corbley or anyone else?

And again on page 144, from line 28 to page 145, line 4, inclusive:

"Q. Did you know, at the time that she was down to the Juvenile Court, that she was friendly with Corbley?"

"A. Yes, I knew it before she went to Keansburgh."

"Q. And you spoke to her about it?"

"A. Yes, sir."

"Q. What was the usual answer that she gave to you when you spoke to her about that?"

"A. Well, I spoke to her about attending to her house and taking care of the children and not go out nights, and she told me nights was for her."

"Q. I mean when she spoke about Corbley."

"A. I didn't speak directly about the matter, because I knew it would cause an argument in the house, and that I always tried to avoid."

A careful scrutiny of this testimony must certainly impress the reader with the idea that the defendant-appellant's notion of his wife's alleged improper conduct was developed solely by his powers of imagination inspired by an insane and unfounded jealousy on his part. And may I say again that statements of defendant-appellant's counsel regarding the alleged improper intimacy between Corbley and petitioner-appellee have absolutely no foundation in fact, as evidenced by the record in this case? The trial court passed upon this phase of the case in its opinion, on page 180 from line 33 to page 181, line 10 inclusive, saying:

"There is no doubt in my mind that there is a strong affection existing between the petitioner and Corbley. There is no doubt about that. But there hasn't been a scintilla of proof of any criminal desire on the part of either of them. Opportunity, to be sure, but if every woman was to be convicted of adultery who at some time had an opportunity to commit the act, we would live in a dreadful state of society and the lot of a woman would be worse than it was

in the dark ages. There isn't a shred of evidence of holding of hands, or kissing, or anything to indicate that the relation of this man and woman to each other is anything but the decentest, purest kind of feeling; but, of course the testimony is important as showing her state of mind."

The whole case, therefore, rests upon the evidence of what happened on the day of the desertion, as alleged by both parties to the instant case.

The defendant-appellant's version stands alone and is uncorroborated. In passing, let us consider the conduct of the defendant-appellant up to and just prior to the date of the desertion. The picture reveals a sickly woman with two small children, all in poor physical condition, advised by their family physician to recuperate their health in the country. The woman purchases a plot of ground in Keansburgh, upon which she erects a tent, having a wooden floor. She lives there with her two children; one, a boy of fourteen, and the other, a lad of seven years. Her husband admits that she told him she was going to buy this plot of ground (page 136, line 26). Her testimony indicated that he was to provide ten dollars weekly for the support of herself and children. She arrives there in June, 1921. From the time of her arrival in Keansburgh, this husband, described so beautifully by counsel as a perfect paterfamilias, meek, humble, sober, industrious, hardworking, finding solace and happiness in the blessed bosom of his family and anxiously solicitous about his family's well being, visits his beloved family just three times during the entire vacation. And this family was located only a short boat ride from his home in Jersey City. And on the occasion of each short visit he manifests his great love and affection for his dear wife and children by creating a nasty dis-

turbance, making their lives miserable by wrangling over the cost of maintaining two establishments, sulks over purely imaginary matters and exhibits a silly jealousy based on nothing but unfounded suspicions. Is there any testimony to indicate affectionate greetings by him for his children or wife? Is there anything at all in the whole story of this case to indicate that he ever tried to make his children's lives happy and joyous? The only thought he seems to have had in his mind, from the first visit to the last, was to have his boys pack up their baggage and go home to Jersey City with him. While he seems to affect a sort of solicitude for the children he doesn't seem to be actuated by the slightest concern about his wife's welfare. He never tries to persuade her in a kindly way to return home. The Vice Chancellor, who presided at the hearing, comments on defendant-appellant's very apparent lack of interest in his wife, noting that he could easily have written to his wife, if the Labor Day quarrel had been about the children's return to school, the following letter: "Now, I want you to stop your nonsense and forget what I said to you, and I want you to come back" (page 182, line 8). Excepting for his statement that he visited or telephoned to the Jersey City schools, which his sons had attended, and the fact that he made one more visit to Mrs. Tierney's home in Keansburgh to see his sons for a few minutes, there is absolutely no evidence in the record that thereafter he had any interest in his children or his wife. In fact, on cross-examination (page 146, line 18 to 24 inclusive) he admitted that since Labor Day, September 5, 1921, he had never requested his wife to return to his home and live with him.

The wife's story, on the other hand, is very probable; and, when we take into consideration the fact that it is corroborated by her two children, we

must be satisfied that she has sustained the burden or proving her case in accordance with the rules of Court and the Statutes of this State.

After reading the testimony of all the witnesses, there can be no doubt but that the parties to this action had lost affection for each other. No sane man can argue reasonably that any persons who witnessed what happened during the three visits of this husband to his wife at Keansburgh could detect any evidence of love and affection on the part of this husband for his wife and children. His own testimony plainly reveals the insanely jealous husband domineering his wife and capriciously commanding her return from what this husband made himself believe were the haunts of a lover. On September 5, 1921, she is found at the tent; her husband arrives; he says nothing to her but "get ready and come back" (page 139, line 16). She declines. He takes the next boat to New York. Let us not forget that this tent is their home at Keansburgh; that it was built partially by his funds, and that his wife and children are domiciled therein by his consent and with his approval. It is, without doubt, the home of the parties involved in this case at that time. She does not run away from the home provided by him, but stands her ground. He leaves, never to return or make provision for her support or the children's support until summoned to Court on his wife's complaint.

A truer case of desertion cannot be found anywhere. This particular case meets the essential requirements as to proof for the desertion as stated by the petitioner-appellee, whose allegations are amply corroborated notwithstanding the fact that the corroborating witnesses are, so to speak, not disinterested persons. It should be borne in mind also in this connection, that married people, as a rule, do not generally quarrel publicly.

## POINT II.

AS THE PETITION IS BASED UPON ACTUAL DESERTION AND NOT CONSTRUCTIVE DESERTION, AN ALLEGATION OF SUCH ACTUAL DESERTION SUFFICES.

As stated in point I. the instant case is one of actual desertion. The husband consented to and approved of the summer vacation in the tent at Keansburgh. It was the home of the parties to this suit at that time. It was purchased with money of the defendant-appellant and of his wife. It was their home.

He deserted this home, not she.

Furthermore, even if, for the sake of argument, it might be admitted that the desertion complained of were constructive, this question should have been raised in the trial court for adjudication. Whatever rights defendant-appellant may have had to such defenses at the trial were waived by him. He cannot now properly urge his objections before this Court on appeal. This principle of law is too elementary to require the citation of precedents.

## POINT III.

THERE WAS NO ACTUAL DESERTION ON THE PART OF THE WIFE, WHICH WOULD HAVE ENTITLED THE HUSBAND TO A DECREE OF DIVORCE ON HIS COUNTERCLAIM.

The statemnet appearing at the top of page 178, in the opinion of the Vice Chancellor, is apparently a typographical error, or, an error in the transcription of the stenographic notes; for, in no other part of the opinion does the learned Vice Chan-

cellor make any reference to such a defense. That the Court was fully cognizant of the issues involved, attention is respectfully called to the last paragraph on page 179 and the first paragraph on the following page, and also to the last paragraph on page 181.

It is amusing to note the eagerness with which counsel grasps such a forlorn hope (and surely not commendable) to bolster up his cause with an insinuation that the trial court erred in reading, or, did not read the pleadings, or, had an erroneous conception of the case. That the Vice Chancellor well knew that the counter-claim alleged desertion is evidenced in the discussion of petitioner-appellee's counsel with the court (page 142 from line 36 to page 143, line 6 inclusive).

The counter-claim was properly dismissed. Counsel undoubtedly has overlooked the statutes of our State, the precedents and the rules of our Court of Chancery requiring corroboration of all material facts necessary to constitute grounds for divorce. His contention that the petitioner-appellee deserted the defendant-appellant is sworn to only by the defendant-appellant himself. Not a syllable of corroborative proof of his contention appears anywhere in the record. Neither does he show in his own testimony, nor does it appear anywhere in the evidence, that defendant-appellant met his obligations as a just husband in proper endeavors to persuade his wife, who, he alleges deserted him, to return to his home.

This case, as submitted to this Court, obviously is one of facts narrowed to the issue of the truthfulness of the petitioner-appellee's version of the affair of September 5, 1921, as against that of the defendant-appellant. The trial court weighed and considered the evidence, commenting at length upon it and the character of the witnesses sworn. I respectfully submit that, in the absence of preju-

dice or bias, the finding of the Trial Court below should not be disturbed.

In conclusion, may I be permitted to say that the defendant-appellant has had his day in court. He has had his opportunity to prove this charge of desertion and defend himself on a similar charge made by his wife against him. He has made use of every weapon of defense and offense. This husband, who maintains that he has always loved his wife, has even tried to introduce uncorroborated evidence of his wife's death-bed confession in the hope of ridding himself of her and the expense of supporting her and his children.

I therefore respectfully submit that the appeal should be dismissed and the decree of the Court below affirmed.

Respectfully submitted,

PHILIP WM. GRECE,  
Solicitor of Petitioner-Appellee.

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# INDEX

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