

INDEX

	PAGE
Petition for Divorce	1
Answer	4
Amended Answer and Cross-petition	7
Answer to Cross-petition	17
Conclusions of Vice-Chancellor	234
Decree Nisi	259
Notice of Appeal	252
Petition of Appeal	253

TESTIMONY.

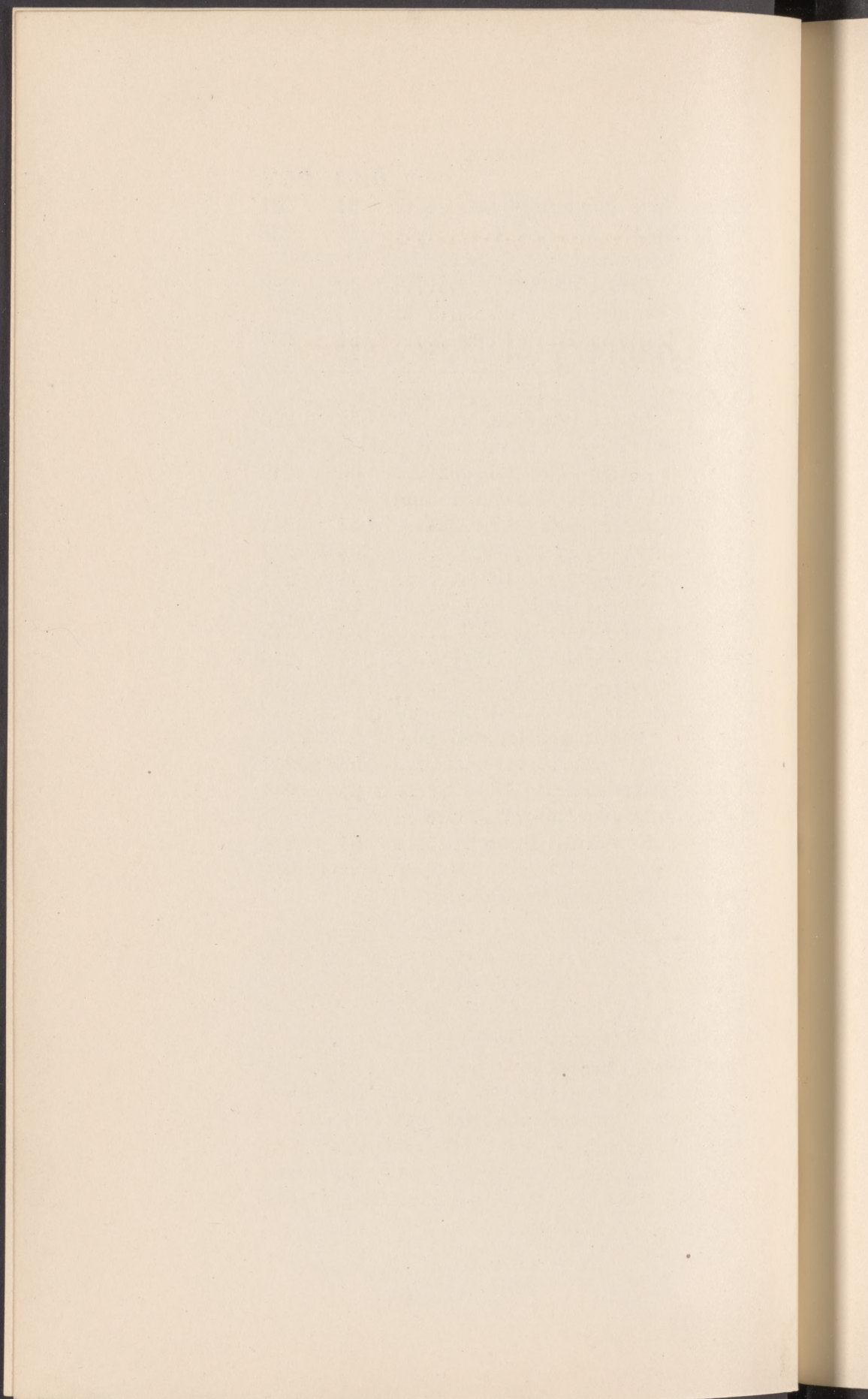
For Petitioner.

William C. Glass,		
direct examination		28
cross "		56
(recalled) direct "		123
Blanche Holmes,		
direct examination		64
Walter J. Ritchie,		
direct examination		65
cross "		69
(recalled) direct "		110
cross "		111
Minna Ritchie,		
direct examination		71
Cora E. Hayes,		
direct examination		76
cross "		86
Aldis M. Hayes,		
direct examination		87
cross "		93
re-direct "		94
Harvey B. Hayes,		
direct examination		97
cross "		100
Fred H. Carter,		
direct examination		101
cross "		104

	PAGE
William B. Ellis,	
direct examination	105
cross "	108
James L. De Rosset,	
direct examination	108
Eileen Goddard,	
direct examination	114
cross "	119
<i>For Defendant.</i>	
Sabra Bennett,	
direct examination	124
cross "	132
(recalled) direct "	230
Euphemia M. Glass,	
direct examination	132
cross "	164
Edwin H. Barker,	
direct examination	178
cross "	182
Charles H. Fornoff,	
direct examination	184
cross "	187
Florence Barker,	
direct examination	190
cross "	194
Charles Gunardson,	
direct examination	198
cross "	208
Helen Barker,	
direct examination	217
cross "	222
<i>Rebuttal.</i>	
William C. Glass,	
direct examination	223
cross "	227
(recalled) direct "	233
Harvey Hayes,	
direct examination	227

EXHIBITS.

	Off'd	P't'd
P. 1. Four Photographs	34	237
P. 2. Note	47	238
P. 3. Agreement of October 15, 1923	49	238
P. 4. Certified Copy of Birth of Gloria Edith Glass	51	239
P. 5. Letter—May 5, 1924	52	239
P. 6a and P. 6b. Envelope and Letter (no date)	52	240
P. 7 and P. 7a. Envelope and Letter—May 23, 1924...	53	242
P. 8a and P. 8b. Envelope and Letter—May 29, 1924...	53	243
P. 9. Letter—May 29, 1924.....	53	243
P. 10. Letter—June 2, 1924	54	244
P. 11. Letter—June 9, 1924	54	244
P. 12. Letter—June 10, 1924	54	245
P. 13. Letter—June 14, 1924	54	246
P. 14. Letter—June 25, 1924.....	55	246
P. 15. Leather Folding Case con- taining articles and poe- try	55	247
P. 16. Letter—August 18, 1922...	64	248
P. 17. Judgment Roll of Action in New York State	64	248



Petition for Divorce.

PETITION FOR DIVORCE.

Filed November 13, 1924.

In Chancery of New Jersey

To his Honor, Edwin Robert Walker, Chancellor 10
of the State of New Jersey.

The petition of William C. Glass, of the Town of Belleville, in the County of Essex and State of New Jersey, respectfully shows:

1. Your petitioner was lawfully joined in the bonds of matrimony to his present wife, Euphemia M. Glass, the defendant in this suit, on the 30th day of June, 1910, by Marshall B. Lytle, a Minister of the Gospel in the City of Boston and State of Massachusetts. 20

2. Defendant, since her marriage to your petitioner, and on or about July 30, 1923, and at divers other times in said month, committed adultery with Charles Gunardson in said Town of Belleville, and at divers other times and places not definitely known to your petitioner, committed adultery with said Gunardson.

3. The defendant and petitioner cohabited as man and wife after their marriage as aforesaid 30 until about the month of May, 1922, at which time petitioner, by reason of his suspicions of defendant's misconduct with other men, refused to henceforth cohabit with her as man and wife and since said time petitioner has had no access to nor sexual intercourse with said defendant; that in the month of April, 1924, defendant was delivered of a female child born after the usual period of gestation; that said defendant's con- 40

Petition for Divorce.

10 ception being the result of her adulterous relation with some person not exactly known by your petitioner, although he has diligently endeavored to ascertain the circumstances attending said relations and verily believes such person to be one Charles Gunardson; that the defendant, since
her marriage with the petitioner and during the months of May, June, July and August, 1923, committed adultery with a person whose name is not definitely known to petitioner and whom petitioner was unable to definitely describe.

4. Defendant deserted petitioner in the month of May, 1922, ever since which time and for more than two years last past said defendant has wilfully, continuedly and obstinately deserted your petitioner.

20 5. Petitioner has been a bona fide resident of the State of New Jersey, continuedly since the month of June, 1921, residing in the Town of Belleville aforesaid, and was resident of said Town of Belleville at the time of the commencement of this action; that the defendant resided in the State of New Jersey, in the Town of Belleville, from said month of June, 1921, until the month of October, 1923, since which time the said
30 defendant has resided at places not definitely known by petitioner, but to the best of his knowledge and belief, the same has been partly in the State of New Jersey, State of Massachusetts and the State of Wisconsin, and to the best of petitioner's knowledge and belief, said defendant is now residing in the Town of Blackstone, in said State of Massachusetts.

40 5. One child was born of the marriage aforesaid, to wit: William C. Glass, now age thirteen, who is in the custody of your petitioner; that the

Petition for Divorce.

welfare of said child requires that he should remain in the custody of petitioner.

Your petitioner prays that the marriage between your petitioner and defendant may be dissolved for the cause aforesaid according to the statute in such case made and provided, and that your petitioner may be awarded the custody of said child of the marriage; and that your petitioner may have such further relief as may be just. 10

And your petitioner will ever pray, etc.

G. EARL BRUGLER,
Solicitor for Petitioner.

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

WILLIAM C. GLASS, being duly sworn according to law, upon his oath deposes and says, that he is the petitioner named in the foregoing petition; and that his said petition is not made by any collusion between him and the defendant, but in truth and good faith, for the causes set forth in the petition.

WILLIAM C. GLASS. 30

Sworn and subscribed to before me this
12th day of November, A. D. 1924.

LOUISE R. ROHR,
Notary Public of New Jersey.

Answer.

ANSWER.

Filed March 24, 1925.

The answer of Euphemia M. Glass, defendant, to the petition of William C. Glass, petitioner.

10 1. The defendant admits to be true that plaintiff and defendant were married, as in said petition is alleged.

20 2. This defendant denies that since her said marriage, and on or about July 30, 1923, and at divers other times in said month, she committed adultery with Charles Gunardson in said Town of Belleville, as in said petition is alleged, or that she committed adultery with said person or with any other person at any time or place; but to the contrary, this defendant says that she has ever faithfully observed her obligations as the wife of the petitioner.

30 3. This defendant admits it to be true that the petitioner and this defendant cohabited as man and wife after their marriage, but denies that petitioner refused, from about the month of May, 1922, to cohabit with defendant as man and wife; and defendant admits and acknowledges that during the month of April, 1924, there was a female child born to her, but denies that the birth of this child was the result of any act of adultery on her part, and denies that the father of the child is Charles Gunardson, or any other person except the petitioner, and defendant denies that during the months of May, June, July and August, 1923, she committed adultery with any person whatsoever, as is alleged in paragraph three (3) of the petition.

Answer.

4. Defendant denies that she deserted petitioner in the month of May, 1922, or at any other time.

5. Defendant denies that petitioner has been a bona fide resident of the State of New Jersey continuedly since the month of June, 1921, and denies that petitioner is residing in the Town of Belleville aforesaid, and denies that petitioner was a resident of the said Town of Belleville at the time of the commencement of this action as is alleged in paragraph five (5) of the petition. 10

6. Defendant denies that only one child was born of the marriage aforesaid, and alleges that two children were born of said marriage, to wit: William C. Glass, age thirteen, referred to the second paragraph numbered five, in the petition, and a daughter named Barbara Edith Glass, born April 30, 1924. This defendant admits that the eldest child, William C. Glass, is in the custody of petitioner, but denies that the welfare of said child requires that he should remain in the custody of said petitioner. 20

This defendant, by way of separate defense answering, says that:

FIRST SEPARATE DEFENSE. 30

1. Both petitioner and defendant are bona fide residents of the City of New York, and have been bona fide residents of the City of New York since October, 1923, at which time petitioner moved from the Town of Belleville, New Jersey, to 47 Peirpont street, Brooklyn, New York, where he lived approximately seven (7) months, when he moved to 1125 Lexington avenue, Borough of Manhattan, New York City, where he resided for 40

Answer.

some time thereafter, and where, to the best of defendant's knowledge and belief, petitioner still lives. Prior to petitioner's moving to Belleville, New Jersey, in June, 1921, he resided in Elmhurst, Long Island, with defendant for a year, and at West 108th street, New York City, for about six (6) months. Shortly after the petitioner moved from Belleville, New Jersey, to Brooklyn, New York, defendant took up her residence in New York City where she now resides at No. 1-A Fifth Avenue, New York City. Defendant has been informed and believes that petitioner has recently been in Belleville, New Jersey, attempting to rent a room there, and defendant further alleges that neither the petitioner nor the defendant is now or was at the commencement of this action, a resident of the State of New Jersey or within the jurisdiction of this Honorable Court.

SECOND SEPARATE DEFENSE.

2. An action for separation and maintenance instituted by the defendant in this cause, against the petitioner in this cause, is now pending in the Supreme Court in the County of New York, State of New York, in which an order for payment for support and maintenance and of counsel fee has been signed and entered by said court and which action will proceed to final hearing some time during the month of April, 1925. In said action the Supreme Court of New York has determined that the parties thereto are residents of the State of New York.

THIRD SEPARATE DEFENSE.

3. Defendant repeats the contents of paragraphs one (1) to six (6) inclusive in the answer

Amended Answer and Cross-petition.

hereinabove set forth, and further says that on or about the 14th day of July, 1923, petitioner and defendant had marital relations, and intercourse together and that as a result thereof, a daughter Barbara Edith Glass was born on April 30, 1924.

This defendant prays to be hence dismissed, with her reasonable costs and charges in that behalf most wrongfully sustained. 10

EUPHEMIA M. GLASS,
Defendant.

PECK, DAVIS & GRAY,
Solicitors of Defendant.

AMENDED ANSWER AND CROSS-PETITION. 20

Filed May 23, 1925.

The amended answer of Euphemia M. Glass, defendant, to the petition of William C. Glass, petitioner.

1. The defendant admits to be true that plaintiff and defendant were married, as in said petition is alleged. 30

2. This defendant denies that since her said marriage, and on or about July 30, 1923, and at divers other times in said month, she committed adultery with Charles Gunardson in said Town of Belleville, as in said petition is alleged, or that she committed adultery with said person or with any other person at any time or place, but to the contrary, this defendant says that she has ever faithfully observed her obligations as the wife of the petitioner. 40

Amended Answer and Cross-petition.

10 3. This defendant admits it to be true that the petitioner and this defendant cohabited as man and wife after their marriage, but denies that petitioner refused, from about the month of May, 1922, to cohabit with defendant as man and wife, and defendant admits and acknowledges that during the month of April, 1924, there was a female child born to her, but denies that the birth of this child was the result of any act of adultery on her part, and denies that the father of the child is Charles Gunardson, or any other person, except the petitioner, and defendant denies that during the months of May, June, July and August, 1923, she committed adultery with any person whatsoever, as is alleged in paragraph three (3) of the petition.

20 4. Defendant denies that she deserted petitioner in the month of May, 1922, or at any other time.

30 5. Defendant denies that only one child was born of the marriage aforesaid, and alleges that two children were born of said marriage, to wit: William C. Glass, age thirteen, referred to in the second paragraph numbered five in the petition, and a daughter named Barbara Edith Glass, born April 30, 1924. This defendant denies that the eldest child, William C. Glass, is in the custody of the petitioner, but denies that the welfare of said child requires that he should be in the custody of said petitioner.

This defendant, by way of separate defense answering, says that:

FIRST SEPARATE DEFENSE.

40 1. Defendant repeats the contents of paragraphs one (1) to five (5) inclusive, in the an-

Amended Answer and Cross-petition.

swer herein above set forth, and further says that on or about the 14th day of July, 1923, petitioner and defendant had marital relations, and intercourse together and that as a result thereof, a daughter Barbara Edith Glass was born on April 30, 1924.

This defendant prays to be hence dismissed with her reasonable costs and charges in that behalf most wrongfully sustained. 10

PETITION OF DEFENDANT.

1. Your defendant was lawfully joined in the bonds of matrimony to her present husband, William C. Glass, on the 30th day of June, 1910, by Marshall B. Lytel, a Minister of the Gospel of the City of Boston and State of Massachusetts. 20

2. Petitioner has been a bona fide resident of the State of New Jersey continuedly since the month of June, 1921, and was a resident of the Town of Belleville, Essex County, New Jersey, and was a resident of the said Town of Belleville, at the time of the commencement of this action.

3. Your defendant and her husband, William C. Glass, aforesaid, cohabited with some interruptions as hereinafter stated, from the date of their marriage until they separated in the latter part of the year, 1923, this separation being forced upon the defendant by the conduct of her husband, William C. Glass, as hereinafter more particularly described. 30

His cruelties began several years ago, and continued, with short interruptions, down to the separation in 1923. 40

Amended Answer and Cross-petition.

In the winter of 1914-15, while defendant and petitioner were living at Woonsocket, Rhode Island, rumors came to defendant from time to time that her husband, William C. Glass, was being seen with a Mrs. Jillsen, a widow, who was the telephone operator at the Woonsocket Machine and Press Company, where said petitioner, William C. Glass, was then employed as assistant superintendent. These rumors continued until about 1916, when defendant's husband, William C. Glass, introduced this woman to defendant over the telephone. Later on said William C. Glass suggested giving a small dinner and inviting the aforementioned Mrs. Jillsen, which defendant did to please petitioner, and to show said petitioner that defendant was willing to believe that there was, as petitioner said "nothing in this gossip."

In June, 1919, defendant's husband, William C. Glass, suggested that defendant invite Mrs. Jillsen's daughter to visit us for a week as she was recovering from an operation. Defendant did so, and while the girl was visiting defendant and petitioner at their home, defendant saw several letters from Mrs. Jillsen addressed to the defendant's husband, William C. Glass.

At the end of the week's visit, defendant learned that her husband, William C. Glass, had arranged with the girl's mother for her to stay a week longer. When defendant spoke to her husband, the aforesaid William C. Glass, about it, the said William C. Glass rebuked defendant in such a severe manner that defendant suffered a nervous shock and was obliged to go to bed. Petitioner, William C. Glass, then arranged for the girl to return to her mother. Defendant saw one of the letters addressed by Mrs. Jillsen to

Amended Answer and Cross-petition.

said petitioner, and while defendant has no copy of it, said defendant can clearly recall the contents, which were indelibly impressed on her mind. It ran as follows:

Dear Tweetie:

Yesterday's scare would seem to prove that you do care for her after all, or was it necessary to act as you did. I shall always remember what you said, if it wasn't for Sonny it would not take you long to make up your mind what to do. Well, dear, I guess that you will have to make the best of it and take her to New York and try to be happy as you can. I must remember, that you are, at least in the eyes of the law, another woman's husband. 10

However, dear, you will write to me, won't you? I shall look for your letters. 20

As ever,

Your Tweetie.

Defendant called her husband, the aforesaid William C. Glass, and when said William C. Glass saw the letter in defendant's hand, defendant's husband, William C. Glass, was completely upset. He took his revolver and started out of the house. Defendant jumped up and called said William C. Glass back. He said that he was going to shoot himself, that he was not fit to live. Defendant decided to make the best of the situation for the sake of the son of the marriage. About a year later defendant saw another letter from the beforementioned Mrs. Jillsen addressed to defendant's husband, William C. Glass. 30

In 1922, the defendant's husband, William C. Glass, having continued to be morose, discour- 40

Amended Answer and Cross-petition.

teous and inattentive to defendant, defendant asked him whether he had really ceased to care for her. Petitioner, William C. Glass, said, "Yes, I do not care for you in the way that you would like to have me, and you might as well know it." One of defendant's brothers was in
10 the house at the time. Defendant fell in a heap and defendant's brother came in and tried to help defendant up. A doctor was called and said defendant had received a shock. Defendant's husband, William C. Glass, talked with the doctor and told him what a shock the recent death of defendant's mother had been to defendant, and the doctor said it would take defendant some time to get over it. The doctor suggested that defendant should have electric treatments. Defendant
20 spoke to her husband, William C. Glass, and said William C. Glass told defendant that he was tired of paying doctors' bills for said defendant. When defendant told her husband, William C. Glass, that he was the cause of all defendant's troubles he merely laughed. Petitioner said William C. Glass refused to take defendant to the doctor, and some friends of defendant took her to the doctor in their automobile.

30 A short time thereafter defendant talked with her husband, William C. Glass, and asked him for a check to pay a bill. Petitioner said William C. Glass told defendant that his check book was in his office, and that defendant would have to wait, whereupon defendant reminded him that he had another check book in his drawer and that defendant needed the money to pay the bill. Petitioner said he did not like to use that book; that defendant would have to wait. Defendant got up out of bed and followed him to the door.
40 Petitioner turned and said, "By God, I won't

Amended Answer and Cross-petition.

stand for this any longer." Defendant was terribly wrought up and excited and went to where petitioner's Masonic diploma was hanging and took it from the wall. Defendant held it up before her husband, William C. Glass, and asked him what that stood for, and how he could treat defendant so unkindly after he had learned the ideals which it stood for. Petitioner, William C. Glass, raised his hand as though to strike defendant thought better of it, and ordered defendant to "take my hands off that." When petitioner, William C. Glass, saw how excited defendant was, he sat down and made out the check, threw it at defendant, and said, "Take it and go to Hell."

When defendant was taken suddenly ill one evening, petitioner William C. Glass left defendant to the care of her friends. When defendant grew worse, her friends telephoned to the place where defendant's husband, William C. Glass, said he was going; he was not there. Defendant was informed later that her husband, William C. Glass, had been seen with a woman whose reputation was not of the best, at the theatre.

Petitioner, William C. Glass, was constantly trying all sorts of ways and means to prevent my having children. He showed great irritation when the first child was born. The means that the defendant's husband employed were extremely injurious and disagreeable to defendant, and only the fact that divorce proceedings might be instituted kept defendant living with petitioner William C. Glass as his wife. When defendant protested against living with her husband, William C. Glass, in such a manner, he warned defendant repeatedly that refusal to do so was grounds for divorce.

Amended Answer and Cross-petition.

For the four or five years preceding the separation, the petitioner, William C. Glass, frequently tried to persuade defendant to get a divorce on the ground of desertion. When defendant refused to do so, petitioner began to spy upon defendant, allowing defendant to believe that he was out of town, and then suddenly appearing at home.

For about a year preceding the separation, although petitioner continued to occupy the same house with defendant, petitioner, William C. Glass, would inform members of defendant's family, at various times, that he was not having any marital relations with defendant. Defendant assumes that this was a part of petitioner's plan to prepare the case for divorce, as those are things which defendant believes, people did not discuss freely.

In June, 1921, defendant's husband, William C. Glass, purchased a house in New Jersey, and defendant hoped that petitioner, William C. Glass, would help defendant forget the past and start life anew. For a short time the relations improved and then relapsed to their former state. In October, 1923, defendant's husband told defendant that she would have to agree to sell the house as he did not intend to live with her any longer. In the presence of defendant's brother Edwin, one day, defendant's husband, William C. Glass, suggested that defendant get a divorce from him on the ground of desertion. Said William C. Glass suggested that defendant take up her residence in New Jersey, and stated that he was willing to agree that he had deserted defendant.

Amended Answer and Cross-petition.

Defendant's husband, William C. Glass, defendant's brother Edwin, and defendant, met in New York shortly thereafter and it was agreed that there was to be a temporary separation. Defendant's husband, William C. Glass, then sold the house. After the separation, the petitioner, William C. Glass gave the defendant the address of a Mrs. Browne, 47 Pierrepont street, Brooklyn, New York, where he told defendant he was living. He told defendant she could always get him there, whenever she had any communication to make. At this time, the son of the marriage was attending school at Bordentown Military Academy at Bordentown, New Jersey. The son visited his father at the Brooklyn address and stayed with him at said address from Saturday until Monday following.

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Defendant's husband, William C. Glass, was generally morose when at home, and sometimes, would not speak a word to defendant for days at a time, and when at last speaking, would indulge in sarcastic and unkind remarks. He continually found fault with defendant, and she was obliged to give up entertaining friends when petitioner was at home, owing to the fact that he would humiliate her before her friends, by his disrespectful manner.

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Defendant's husband, William C. Glass, tried for some years to have defendant take out an insurance policy on her life. She was twice rejected by the doctors on the ground of extreme nervousness. On the third occasion defendant told the doctor frankly that she believed the cause of her nervousness was domestic unhappiness. The doctor said he would report that she was physically all right, and that her nervous-

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Amended Answer and Cross-petition.

ness was due to domestic troubles. Defendant was then accepted. Defendant's husband had represented to defendant that the son of the marriage would be the beneficiary of the policy. When defendant saw the policy she found that her husband had been made beneficiary to the extent of \$500 and the son to the extent of \$500.

10 3. Two children were born of the marriage, to wit: William C. Glass, age thirteen, and Barbara Edith Glass, born April 30, 1924, and by reason of the habits of said William C. Glass, he is unfit to have charge and custody of said children.

4. Defendant has no means of support except the alimony *pendente lite* allowed her by this Honorable Court of \$30 per week. Defendant's husband, William C. Glass, has an annual income of more than \$7,000 and also receives monies from commissions on patents.

5. Your defendant prays that the petition of William C. Glass be dismissed and further prays that the marriage between the petitioner and defendant may be dissolved for the cause aforesaid, according to the statute in such case made and provided; and that said William C. Glass may be compelled by the decree of this Honorable Court to support her and said children of the marriage; and that she may be awarded the custody of said children; and that she may have such further relief as may be just.

And your defendant will ever pray, &c.

EUPHEMIA M. GLASS,
Defendant.

PECK, DAVIS & GRAY,
Solicitors of Defendant.

Answer to Cross-petition.

ANSWER TO CROSS-PETITION.

Filed July 9, 1925.

The petitioner, William C. Glass, by way of answer to the cross-petition filed by the defendant herein, says:

1. He admits paragraph one. 10

2. He admits paragraph two.

3. He admits that petitioner and defendant became separated the latter part of the year 1923, but denies that said separation was forced upon defendant by petitioner; he denies that he was ever cruel to defendant; that he has no knowledge concerning the alleged rumors which came to defendant and denies that his relations with said Mrs. Jillson, who was a telephone operator in the place where petitioner was employed, were in anywise improper; that it is true, that petitioner, by reason of being a co-employee with said Mrs. Jillson, met her frequently; that it is possible that petitioner might have been seen by others in the company of Mrs. Jillson, either at their place of employment or on their way to and from their common place of employment, the home of Mrs. Jillson being close to that of petitioner; that the extent of petitioner's association with Mrs. Jillson, other than in a strictly business capacity, was no more than walking on the street with her to and from employment as aforesaid, and attending a local moving picture show in the Town of Woonsocket, and having been with her and others at the local beach; that petitioner never went in bathing with said Mrs. Jillson and was never alone with her in any place, publicly or privately; that all the above was with

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Answer to Cross-petition.

the full knowledge of defendant, on the occasion when defendant was on her vacation and petitioner was obliged to remain home and find such harmless diversion as permissible under the circumstances; that when defendant returned from her vacation, petitioner, as a matter of incidental conversation, related how he had passed his time in her absence; that there was no improper conduct on the part of petitioner in the affair and defendant, at the time, appeared pleased that petitioner was able to find some little diversion while she was away; that at said time, defendant also related to petitioner different occurrences on her vacation at Nova Scotia and stated that she had met, among others, certain men with whom she had been with and cited one instance as evidence of her fidelity, that she had been urged by one man to live in an apartment which he would rent for her, but that she was very glad she had not done so as the apartment turned out to be located in a district which was devastated by a terrific explosion of an ammunition ship during the recent war. Thereafter, at the suggestion of petitioner, said Mrs. Jillson was invited to their home, and to the best of petitioner's belief, defendant and Mrs. Jillson were good friends.

4. That said Mrs. Jillson was not employed with petitioner and he did not meet her until about 1915, and was never in proximity to said Mrs. Jillson other than in their mutual place of employment, until the summer of 1917, when defendant spent her vacation in Nova Scotia, as aforesaid; that petitioner does not remember when or just how defendant became acquainted with Mrs. Jillson, but it is possible that he introduced her to defendant over the telephone in

Answer to Cross-petition.

the year 1916, the circumstances being that said Mrs. Jillson was the telephone operator at the factory and it became a matter of convenience in having Mrs. Jillson acquainted with defendant to facilitate telephone calls between petitioner and defendant to and from the factory and their home; that the following year, 1918, defendant spent her vacation at Old Orchard, Maine, and prior to her leaving, petitioner and defendant discussed how petitioner could derive some recreation during the summer, owing to the fact that he was not in a position to have a vacation; that petitioner stated that he could perhaps spend his time during the summer somewhat like he did the previous vacation period; that defendant, at the time, seemed pleased that petitioner might be able to find some little diversion at home in lieu of a vacation; that thereupon, during the ensuing summer, petitioner again was with said Mrs. Jillson a few times, under the circumstances described as aforesaid.

5. That it is true that in the month of July (not June), 1919, at petitioner's suggestion, Mrs. Jillson's daughter was invited to spend a few days at their temporary home in Dover, N. H., where they had since moved; that defendant seemed very glad of an opportunity to befriend Mrs. Jillson's daughter, who was at that time somewhat ill, by reason of a recent operation, and also show some appreciation for Mrs. Jillson; that as a result, the girl remained at their home for a short while, but petitioner denies that while the girl remained at their home, he received several letters from Mrs. Jillson.

6. It is true that about the end of one week of said girl's visit, petitioner received a letter

Answer to Cross-petition.

10 from Mrs. Jillson, thanking defendant and him for their courtesy in befriending her daughter during her illness; that said letter, however, was not as described by defendant, contained no endearing terms or any matter other than of an ordinary friendly nature, which one person
20 would write to another, in appreciation of some kindness; that Mrs. Jillson, however, made a tactless mistake in addressing said letter to petitioner, and defendant seemed offended (perhaps rightfully from a social standpoint), that said letter was not addressed directly to her, although the same was wholly of an inoffensive nature, as aforesaid; that defendant, however, in accordance with what petitioner learned to be her mean and petty disposition, considered the social error to be a very grave offence, with a result that petitioner suggested that the daughter's stay at their home be terminated; that petitioner denies, however, that defendant thereby, or in any other manner, suffered a nervous shock and was obliged to go to bed, but states that on the contrary, there was not only no occasion for shock, but that defendant is of such a pugnacious nature that she would not be likely to become shocked.

30 7. That it is true that defendant read the letter received by petitioner from Mrs. Jillson, as aforesaid, and petitioner was perfectly willing and desirous that she do so, as the same was intended as much for her as for himself; that it is untrue that petitioner was upset on receipt of said letter; that on observing, however, that defendant was assuming an offensive attitude and was likely to begin a tirade against him as she had done many times previously, he left the house for the purpose of giving her a chance to sub-
40 side, and took the precaution of taking his revol-

Answer to Cross-petition.

ver with him as he feared she might endeavor to use same for some purpose, particularly while in a violent temper; that it is untrue that petitioner said he was going to shoot himself, and that he was not fit to live or made other remarks of similar nature, his only desire being in leaving the house for a short time to give defendant an opportunity to subside; that it is untrue that petitioner received another letter from Mrs. Jillson about a year later. 10

8. That it is untrue that petitioner was morose, discourteous and inattentive to defendant, but on the contrary, notwithstanding defendant's illtemper, nagging, extravagance, selfishness, lack of affection and attention on her part, petitioner, nevertheless, remained kind and attentive to defendant, although by her conduct as aforesaid, it is true that she had alienated some of his affection for her; that it is true that defendant asked petitioner on an occasion when she could not have her own way altogether, if he ceased to care for her; that petitioner replied that he did not care for her as much as he used to, and gave as his reasons the aforesaid facts; he denies that he said he did not care for her in the way she liked, as petitioner had firm belief for some time prior to said vacation, that defendant did not have any particular care whether petitioner had any affection for her or not; that defendant's chief regard seemed to be for different members of her family, who practically used their home for hotel purposes; that petitioner does not recall whether defendant fell in a heap following the aforesaid conversation, as defendant very frequently threw herself into spasms on occasions extending back within a few weeks of their marriage, all because she could not have her own 20
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Answer to Cross-petition.

way, or with the idea that her position would become more impressive and would be more the object of sympathy on acting such an ordeal; that while that defendant has no knowledge as to defendant's falling in a heap on the occasion mentioned, but recalls that on one occasion the doctor was summoned following such a scene being staged by defendant, and the doctor in question stated that the best thing for her would be to give her a little sense by a bucket of cold water.

10 9. That petitioner denies that he told the doctor defendant's said condition was due to a death in her family, and states that it was defendant who made such a statement to the doctor; that the same was on another occasion entirely; that he admits, the doctor on the occasion last mentioned, prescribed electric treatment; that he admits having told defendant that he was tired of paying doctors' bills, because the same would be unnecessary if defendant behaved herself; that it is untrue, however, that petitioner ever refused to supply defendant with the services of a doctor and it is untrue that she was obliged to have friends to take her to a doctor, but states that on the contrary, he took her to the doctor himself in company with friends.

20 30 10. Petitioner admits that thereafter defendant asked him for a check to pay a bill and that he had first refused to give her a check, for the reason that he desired to curb her extravagant expenditures and wanted to know just what she desired to use the money for; that defendant appeared greatly aggravated because petitioner should be concerned about why she was using his money and in order to prevent defendant from going into another one of her spasms, finally

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Answer to Cross-petition.

drew a check to her from another book; that it is untrue that on this occasion defendant was in bed, as the conversation occurred in the living-room of their home; that petitioner does not recall, but it may be true, that he said he would not "stand for this any longer," as he was utterly sick and tired of defendant's extravagance and acting; that petitioner believes that defendant might have been terribly wrought up and excited on this occasion as it was very common conduct on her part and no real cause was necessary for her to become in such a condition; it is true that defendant took petitioner's Masonic diploma from the wall, but it is untrue that she held it up before defendant and asked him what it stood for, and how he could treat her so unkindly after having learned the ideal for which it stood, but on the contrary, defendant immediately cast the diploma to the floor, thereby breaking the glass and frame thereof, at the same time stamping her foot on the floor with great violence, knowing that petitioner held the Masonic Lodge and its ideals in the very highest regard and about the quickest thing in the world to offend him would be a slur or an offense directed to the Masonic Order; that notwithstanding defendant's conduct, and effort to offend and move petitioner into some act of retaliation, he composed himself, gathered up the diploma with the broken pieces of glass and frame and made out a check as aforesaid; that it is untrue on said occasion that petitioner raised his hand with any idea of striking defendant but might have raised his hand for the purpose of retrieving the diploma from her, but was unsuccessful by reason of the quickness in which defendant slammed same with great violence to the floor.

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Answer to Cross-petition.

11. That it is untrue that petitioner ever left defendant when she was ill, in care of her friends, unless necessity demanded that he be elsewhere, and it is also untrue that petitioner did not show defendant any attention to which she was entitled when she was ill, or otherwise; that petitioner has
10 no knowledge as to what defendant might have been informed about him being seen with a woman but denies that he was out with a woman to the theatre, either with a good reputation or a bad reputation.

12. Petitioner denies that he constantly, or at any time, tried ways and means to prevent defendant having children; he denies that he was irritated when the first child was born, but says that he was very much pleased on said occasion;
20 he denies that any means employed by him were injurious and dangerous to defendant, and denies that defendant only assented to conditions in order to prevent petitioner bringing divorce proceedings; and he further denies that defendant ever protested living with him in such a manner or that he warned her that refusal to do so was grounds for divorce.

13. Petitioner denies that for four or five
30 years preceding their separation, he tried to persuade defendant to get a divorce on the grounds of desertion and that when she refused to do so he began to spy on her, but admits that prior to bringing this action for divorce against defendant, he tried to come to some arrangements with defendant for her future support, if she would be honest enough to admit that he was not the father of her second child; that petitioner denies that for about a year preceding their separation,
40 he would inform members of her family on vari-

Answer to Cross-petition.

ous times, that he was not having marital relations with her; that during said time, it is not true that he occupied the same bed with her, but at all times slept in a different room altogether, to the knowledge of different members of defendant's family; that the fact that petitioner was not cohabiting with defendant was very apparent to those who came to their home, as defendant had been guilty of misconduct and their estrangement was quite generally known; that petitioner denies defendant's alleged assumption as to petitioner having repeatedly informed others of not having relations with her, and is a pure invention on her part for the purpose of giving color and atmosphere to her version of the matter. 10

14. Petitioner admits that in June, 1921, he purchased a house in New Jersey, but has no knowledge as to defendant's hopes to have him help her forget the past, but realized that she had very much to forget and make amends for if she desired to live happily with petitioner; that it is untrue that petitioner told defendant that she would have to agree to sell the house as he did not intend to live with her any longer, but that petitioner was forced to sell the house because of being unable to bear the financial burden of carrying same, owing to defendant's continued extravagance and failure to be a true helpmate of petitioner; that as matters continued, it seemed impossible for them to live happily together and as a result of a severe disagreement, one day, petitioner told defendant that she could have a divorce for all he cared; that it is untrue that petitioner suggested that defendant take up a residence in New Jersey, and stated that he was willing to agree that he deserted her, as at said 20
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Answer to Cross-petition.

time, they were both living together in New Jersey, and the fact was that they had not cohabited as man and wife for a long time.

10 15. That it is true, as a result of the conversation last aforesaid, and as a result of a suggestion by defendant's brother, petitioner and defendant agreed to separate temporarily, whereupon said house was sold; that thereafter petitioner rented a room temporarily of a Mrs. Brown in Brooklyn, but continued to maintain his residence in New Jersey.

20 16. Petitioner denies that he was morose when at home but admits that following his disagreements with defendant, due to her misconduct and illtemper, frequently neither one would speak for several days at a time, except for most necessary purposes; that he admits having found much fault with defendant but rightfully so, but so far as petitioner is aware, she was not obliged to give up entertaining friends, and he denies ever having humiliated her before friends or was disrespectful to her.

30 17. Petitioner admits that he tried to have defendant take out insurance on her life, as he deemed that to be a wise procedure; that he carried insurance on his life payable to defendant; that petitioner believes that defendant was rejected by the doctors but has no knowledge as to what defendant told the doctor concerning same; that petitioner denies having represented to her that their son would be the sole beneficiary of the policy, but on the contrary avers that the application made personally by defendant was to have the policy payable \$500 each to their son
40 and petitioner.

Answer to Cross-petition.

18. Petitioner denies that two children were born of their marriage and states that there was one child, William C. Glass, who is a lawful son of their marriage; that the second child born to defendant is illegitimate and the daughter of some man with whom defendant has committed adultery; that petitioner denies that he is unfit to have charge of their son, William C. Glass, but is altogether uninterested in the custody of the child born to defendant whom she refers to as Barbara Edith Glass. 10

19. Petitioner denies the contents of paragraph four and states that in addition to the temporary alimony paid defendant by petitioner, she is the recipient of means from members of her family; that petitioner further denies he has an annual income of more \$7,000. 20

This petitioner (cross defendant), prays to be hence dismissed with his reasonable costs and charges in that behalf most wrongfully sustained.

FIRST SEPARATE DEFENSE.

The petitioner (cross defendant), will object at the final hearing in this cause, that the counter-claim or cross-petition does not set forth sufficient facts to constitute a cause of action, counter-claim or cross-petition; that the same shows no equity or right to relief and is insufficient on its face for the granting of the relief prayed for therein, and shall ask that the same be struck out and dismissed accordingly. 30

TIFFANY, BRUGLER & WITTREICH,
Solicitors for Petitioner.

William C. Glass, direct.

IN CHANCERY OF NEW JERSEY.

	<p><i>Between</i></p> <p>WILLIAM C. GLASS,</p> <p style="text-align: right;"><i>Petitioner,</i></p> <p style="text-align: center;"><i>and</i></p> <p>EUPHEMIA M. GLASS,</p> <p style="text-align: right;"><i>Defendant.</i></p>	}	<p><i>On Petition for Divorce.</i></p>
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Transcript of shorthand notes of testimony taken on final hearing in the above-stated cause, at Chancery Chambers, Jersey City, October 1 and 2, 1925, before his Honor James F. Fielder, Vice-Chancellor.

20 *Appearances:*

Messrs. Tiffany, Brugler & Wittreich (Mr. Brugler), for petitioner.

Messrs. Peck, Davis & Gray (Mr. Davis), for defendant.

PETITIONER'S CASE.

30 WILLIAM C. GLASS, the petitioner, sworn as a witness in his own behalf, testifies as follows:

Direct examination by Mr. Brugler.

Q You are the petitioner in this case? A I am.

Q You are married to the defendant? A Yes.

Q When were you married to her? A June 30, 1910.

40 Q Where did this marriage occur? A Dorchester, Massachusetts.

William C. Glass, direct.

Q By whom were you married? A Rev. Marshall Lytle.

Q Of what church is he a minister? A Episcopal.

Q Have you the marriage certificate? A I have not.

Q Do you know where it is? A As I remember, I do not think there was any marriage certificate given to either of us. 10

Q After your marriage did you commence housekeeping? A Immediately.

Q Where was that? A Beech street, Roslyn-dale, Massachusetts.

Q How long did you live at that place? A Just a few months; until the following December.

Q And then where did you go? A We lived at Millett street, Dorchester, Massachusetts. 20

Q Just give an account in time where you have resided since the time of your marriage? A We lived in Dorchester, Massachusetts, and Jamaica Plain, Massachusetts.

By the Court.

Q Give us the time? You lived on Millett street, Dorchester, until when? A Until about April, 1911 or 1912. I can say definitely 1911, I believe. 30

Q You went to live at Millett street, Dorchester, December, 1910, and you were there four or five months or a year and four or five months? A A year and four or five months.

Q That would be 1912? A That would be 1912.

Q From Millett street, Dorchester, where did you go? A From Millett street, Dorchester, I took a furnished room in Jamaica Plain, and Mrs. Glass with our young baby went to Nova Scotia. 40

William C. Glass, direct.

She returned from there in the fall and we went to live on Denster avenue, Jamaica Plain. We lived there until the following summer when we moved to Roslyndale. I don't remember the name of the street. We lived there only a short time because the house was sold. Then we moved
10 back again to Denster Road, Jamaica Plain, and lived there until about the first of November, 1913. At that time the company that I was with moved their manufacturing department to Woonsocket, Rhode Island, and we stored our furniture and went to live at Woonsocket, Rhode Island, where we boarded for about a year. Part of that time was in Woonsocket and part of that time was in Blackstone, Massachusetts, which is just across the line from Woonsocket. Then we set up housekeeping again and took our furniture down from Boston and we lived in Woonsocket until 1918 or 1919—let me see—1919 I think it was. At that time we had again to move because of the manufacturing department being moved to Dover, New Hampshire, and I was asked to go to New York to take charge of our New York office and Mrs. Glass—just before that—I am a little ahead of my story—when we gave up the Woonsocket house we didn't come directly
20 to New York because the manufacturing was mixed up with other concerns and things were unsettled and Mrs. Glass went to Old Orchard, Maine, for the summer and on account of the uncertainty we stored our furniture. As I thought that we were going to move to Boston, we stored our furniture in Boston. I continued to live in Woonsocket in a furnished room until the following July. That would be July, 1919. Mrs. Glass after the end of the season at Old Orchard went to live with friends in Medford,
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William C. Glass, direct.

Massachusetts, and that July together we went to Dover, New Hampshire, where our manufacturing department was settled, and we lived there temporarily in a furnished house until September. It was definitely decided at that time that I would take charge of our New York office with the same concern. We came over to New York together and we lived in furnished room until the following April in New York City. Then we moved to a flat in Elmhurst, Long Island, brought our furniture down from Boston and we lived there until a year from the following June. 10

Q You mean you lived there until June, 1921?
A June, 1921—that is, through May. June 1, 1921, we moved to a house which we had bought in Belleville, New Jersey. We lived there until October 13, 1923, when the house was sold. Mrs. Glass went to live at various places. Our son was in the Bordentown Military Institute, in Bordentown, New Jersey. I took a room in New York temporarily and July 13, 1924, I moved back again to Belleville, where I now live. 20

By Mr. Brugler.

Q Where do you live at the present time? A 450 Washington avenue, Belleville, New Jersey. 30

By the Court.

Q Where did Mrs. Glass go to live after October 13, 1924? A She visited until nearly Christmas.

Q Where—in the State of New Jersey or—
A Here in New Jersey until December, and then, as far as I know, she went to Massachusetts, and then out to Wallatosa, Wisconsin; then back in New York again in May, 1924, and then visited 40

William C. Glass, direct.

again at Blackstone, Massachusetts, and I believe this summer back again to New York.

Q Where does she live now? A As far as I know, 1-A Fifth avenue, New York City.

Q Did you ever see her there? A Yes, sir.

Q When did you see her there last time?

10 A About March or April, some time around March or April.

Q What was the occasion of your being there at that time? A Well, I went on different occasions because our boy was at Bordentown Military Institute, and when he would come up for his holidays, part of the time would be spent with her and part with me. I always saw that he went over safely and I went over for him, and on some of these occasions I saw her.

20 Q Did you ever stay at the place? A No.

Q What was the occasion of your last visit there? A The last visit that I saw her there was when I went with you, when you served some kind of papers on her, papers in this suit I believe.

Q Where do you live at the present time?
A 450 Washington avenue, Belleville.

Q How long have you lived at that address?

30 A Since October, 1924.

Q Do you have a home there of your own?

A No, sir, I have a furnished room there.

Q With whom? A Mrs. Blanche Holmes.

Q You have lived at this place, in this furnished room, continuously since July 13, 1924?

A I went originally with Mrs. Holmes when she was at 398 Washington avenue, in July, 1924. In October she moved to 450 Washington avenue, a few houses above that, and I of course still continued to live with her.

40

William C. Glass, direct.

Q What is your business? A Why, I am a salesman—printing machinery salesman.

Q Has that been your business ever since you have been married? A Yes.

Q For whom do you work? A United Printing Machinery Company.

Q From the time that you and the defendant were married did you live quite happily together? 10
A No, sir.

Q Did you have trouble soon after you were married? A Very soon after.

Q What was the nature of your troubles? A Most of the troubles were caused by disagreements over money matters.

Q In what manner? A Well, I never seemed to be able to make sufficient money to satisfy her requirements.

Q Did you give your wife any money? A 20
Yes, sir.

Q Did you pay her household bills or not? A Yes, sir.

Q What became of the money that you gave her? A Well, she used it. I know that some of the money which I gave her was not used for things having to do with our own immediate family, that is, for herself and the boy and I.

Q Did she complain to you or you complain 30
to her about money matters? A Usually she complained to me and I complained, of course, when bills came in that I could not meet.

Q What complaint did you make? A That there would have to be some rearrangement made so that I could keep expenditures within my income.

Q As the result of these discussions, or whatever they were, there was unhappiness? A Yes, sir.

William C. Glass, direct.

Q How soon after you were married did this occur? A A matter of weeks. I would not say exactly.

Q How long did that continue—continuously up until the time you ceased to live together? A Yes, sir.

10 Q When you moved to New Jersey, you purchased a home, did you not? A Yes, sir.

Q That was at what address? A 674 John street, Belleville, New Jersey.

Q What was the character of that home? A A small cottage house. It was a new house; we were the first tenants; two floors and an unfinished attic; six rooms and a small sun parlor.

Q How much did you pay for it? A \$8,500.

20 Q How much cash? A \$1,000. I had to borrow \$500 of that to make it.

Q I show you here some pictures and ask you what they represent? A Well, they show pictures of the house which I bought and some of the adjacent houses to it.

Q The house you refer to as having purchased, that is marked in ink "Glass?" A Yes, sir.

30 Q And the neighboring houses are marked how? A "Ellis" on one side, and "Hayes" on the other.

Q Those were your neighbors? A Yes.

Mr. Brugler: I ask to have the photographs received in evidence.

Mr. Davis: What is the purpose?

Mr. Brugler: I am laying the foundation for other proof.

(Marked Exhibit P. 1.)

William C. Glass, direct.

Q Was there any change in the relationship between you and your wife after you moved to New Jersey? A For a short time.

Q For better or worse? A For the better.

Q Was there any particular reason why you purchased this house? A Yes; I distinctly purchased that house with the sincere effort to see if we could not get along peaceably and happily and perhaps get a fresh start. 10

Q What happened after you moved into this house? A The furniture which we had was not suitable for the house and Mrs. Glass insisted on having the house refurnished. It was not refurnished and she wanted it refurnished, wanted it completely decorated and wanted the grounds improved, in other words wanted to make a big home of it immediately. 20

Q Did you have the means to do that? A I did not. I said I had to borrow \$500 to make the first payment of \$1,000. 20

Q Did anything else occur to mar your happiness? A Not just at that time.

Q Well, later? A Well, later Mrs. Glass seemed to lose interest entirely in the home and to neglect the boy. That was the thing that bothered me particularly. She spent too much time away from the house to take care of it properly. She was out with other men. 30

Q When did she start to go out with other men? A Well, it was early in 1922.

Q After you moved to New Jersey, did you still continue to go to business in New York? A Yes.

Q You would leave at about what time in the morning? A Usually the 7:52 train.

Q And get back home about what time in the evening? A Usually about 6:30. I do not recall the exact time. 40

William C. Glass, direct.

Q Did you get your breakfast before you left home? A Very fairly regularly up to within a few months of our leaving there.

Q Did your wife prepare your breakfast? A Sometimes.

Q Other times what happened? A At other
10 times, her brother James who lived there with us would do it, and other times I would get my own breakfast, and other times I had my breakfast in town.

Q Would you have dinner home evenings when you got back? A Yes, if I could get back in time for dinner.

Q In what way did your wife neglect the home? A Simply neglected it, did not take proper care to have the housekeeping done.

Q What didn't she do that she ought to have
20 done? A She didn't clean it for one thing and did not watch the bills, the grocery bills, and did not seem to have any idea of co-operating and keeping her expenses down so that the home might be built up.

Q Did you give her an allowance at that time? A Yes.

Q How much a week? A Her allowance was
30 \$20 a week, which was supposed to be only for the table purchases.

Q Were the bills paid by her out of that allowance? A Not for the last year; no, sir.

Q How about the other bills? A Well, they were paid fairly regularly. When she would get in a jam I would help her out.

Q Aside from this allowance of \$20 a week, how were the other bills paid? A I paid them by check.

Q Yourself? A Yes.
40

William C. Glass, direct.

Q In what way did she neglect the boy? A Why, she did not see that his clothes were properly taken care of. She would be out late at night and leave the boy around to shift for himself or for the neighbors to take care of him. She was not there properly to take care of his meals. Sometimes she would be away during the day so that he would have to come in the house alone at night and get his own lunch unless he had his lunch at the neighbors—simply, downright neglect. 10

Q Did you and the boy ever go out together?

A Yes, indeed.

Q Just explain the circumstances of your going out. A Of course, you understand I was away a good deal. My business carried me out of town a great deal, and when I was at home I used to make it a practice to pal with the boy, take him to the movies occasionally and when I was home every Sunday we went to church together. I endeavored to stay around with him and make a pal of him as much as I could. 20

Q Did you find the boy always to be suitably clothed? A No, sir.

Q Ready to go out? A Not unless I took care of it myself as a rule.

Q What did you do? A Well, I used to buy his clothes for him, take him to New York and buy things for him and bring home simple things as stockings and such things. I have even had to wash his waist and iron it and mend his stockings so as to take him to church. 30

Q Did that happen more than once? A Yes, sir.

Q You took the boy to church frequently, did you? A Sundays when I was there.

Q To what church? A Episcopal. 40

William C. Glass, direct.

Q In Belleville? A The church was over the line in Bloomfield.

Q How old was the boy when you came to New Jersey? A Ten years old.

Q He is now how old? A He was fourteen last June.

10 Q Where is the boy at the present time? A I don't know.

Q When did you last see him? A June 9, 1925.

Q Where was that? A Bordentown Military Institute, Bordentown, New Jersey.

Q What became of the boy following that day? A Well, I went to Bordentown with the intention of bringing him back to New York with me for a few days previous to his going to camp in Canada, and Mrs. Glass was there, and her sister had arranged to have me arrested on a trumped-up charge of embezzlement. So I was arrested by one of the State Troopers there and kept in custody until detectives got down from Newark for me, which kept me, so that when the school closed and the authorities had no more jurisdiction over the boy, Mrs. Glass was the only person there to take him.

20
30 Q You have been paying your wife an amount per week? A Yes.

Q How much? A \$30 a week.

Q You pay that by cash or how? A Check.

Q Where do you send the check to? A 1-A Fifth avenue, New York City.

Q Have you ever corresponded with your wife since you sold the property? A Yes, sir.

Q Have you corresponded with her or seen her since the closing of school at Bordentown? A Not until this morning.

William C. Glass, direct.

Q Do you know where your wife has spent the summer? A I can only deduce that she spent it at Blackstone, Massachusetts, for the reason that checks which I sent her, many of those checks were endorsed by a lady that she lived with at Woonsocket, and registered letters which I sent to my son came back with the receipt with the Blackstone postmark. 10

Q Was the boy's signature on the return receipt? A Yes.

Q How many times did you write your boy? A Four or five times, about every two or three weeks.

Q Did you ever receive any reply from him? A No, sir.

Q About when was it that you last cohabited, as man and wife, or had intercourse with your wife? A About May, 1922. 20

Q Will you tell the Court why this occurred? A Well, because living conditions with her were almost unbearable and because of her going out with other men, her extreme condition, and the quarrels over money matters.

Q During these quarrels did your wife show any great temper? A Indeed, yes.

Q What did she do? A Well, she used to have a sort of hysterical outbursts which many 30 times required a doctor to bring her out of them.

Q Did the doctor treat her for those things? A Yes, sir.

Q Did the doctor ever prescribe any treatment by you with respect to her? A Well, on one occasion, I could not get the regular physician that usually attended her and I called another one that I could get; it was late at night; after he had examined her he came downstairs and told me that he was sorry for me and that 40 it might not be professional—

William C. Glass, direct.

Mr. Davis: Objected to.

The Court: Objection sustained. Strike out what the doctor said.

10 Q What were these numerous quarrels that you speak about? A About money matters and about her conduct and about her not taking care of the house and not taking care of herself.

Q When you say "her conduct," what do you mean by "her conduct?" A Going out with other men and being away from the home too much; not taking proper care of her son.

By Mr. Brugler.

Q Did you ever remonstrate with her about going out with other men? A Yes, sir.

20 Q What did she say to you? A She told me to mind my own business, that she was old enough to take care of herself.

Q Did she ever tell you anything else about her affairs? A One night particularly she told me she had been to a party and had probably made a fool of herself. I asked her if she had done anything that she should not have done. She said "No." I said: "I guess you are all right. You should be old enough to take care of yourself."

30 Q Did she ever tell you what you could do? A I don't know what—

Q How is that? A I do not just understand your question.

Q In these conversations or quarrels, whatever you had, your discussions over these various matters, did she display any particular love for you? A Indeed she told me I could leave any time I wanted, and she threatened to leave and take Sonny with her and told me she hated

William C. Glass, direct.

me and wished she had never seen me and other things of that character.

Q Did she say where she was going? A On one occasion she said she was going to Chicago to her brother's and take Sonny with her.

Q When did you first observe that she was going out with other men? A It was early in 1922. I could not state the exact time. 10

Q What was the first occasion that that came to your attention? A The first time I really recollect is coming back from visiting friends in Jersey City with a John McDonald, in his car.

By the Court.

Q What do you mean—you came back from Jersey City with John McDonald? A Mrs. Glass came back with him after visiting friends there. 20

Q Were you visiting the friends, too? A No, sir; I was at my house.

By Mr. Brugler.

Q You were at your home in Belleville when your wife returned with this man? A Yes.

Q Was he a neighbor? A No.

Q How did they travel? A In his automobile. 30

Q Did you ever see them together after that? A Why, just on occasions of that kind when he would bring her ostensibly from visiting at friends in Jersey City.

Q Anybody with them on those occasions? A No, sir.

Q About what time of day did this usually happen? A When I saw them it was in the early evening. 40

William C. Glass, direct.

Q After you had returned from New York?

A Yes.

Q Did you complain to her about associating with McDonald? A Not particularly McDonald. I remonstrated with her about the propriety of being out with somebody in a roadster. That is all the car was.

10 Q How long did this continue—her going about with McDonald? A Well, until through the winter of 1922 or the spring of 1923—I cannot say exactly.

Q Was there anybody else that you ever saw her with? A Yes.

Q Who? A Charles Gunardson.

Q By the way, were you acquainted with McDonald? A Yes; Mrs. Glass introduced me to him.

20 Q That is the occasion that you first saw them together? A As I remember it.

Q When did you first meet Gunardson? A At my home.

Q Who introduced you? A Mrs. Glass, I believe.

Q In your own home? A Yes.

Q Were you there when they came home or were they there when you got there? A I really cannot say as to that.

30 Q Do you remember when this first meeting occurred? A No, not exactly, except it must have been in the spring of 1923 or thereabouts.

Q After you met Gunardson, did you see him frequently or not? A Very frequently.

Q Where did you see him? A At my home.

Q What time of day or night? A Usually when I got home from the office in the evening he would be there and he would remain until late in the evening.

40

William C. Glass, direct.

Q What did your household consist of at that time—yourself, your wife and your boy, and anybody else? A No; not at that time.

Q Was any explanation made of Mr. Gunardson being there so much? A He was supposed to be painting the interior of the house.

Q Did you engage him to paint the interior of the house? A No, sir. 10

Q Did you give him any instructions about the work? A No, sir.

Q Did your wife speak to you about the work? A Just told me he was going to do it.

Q Did she tell you just what he was going to do, how much? A No; she said he was going to paint the interior of the house. That is all.

Q When did he start painting there? A Well, it was either late spring or early summer of 1923. I cannot fix the date. 20

Q How long was this painting operation supposed to continue? A Up to the time we left the house and until the house was sold.

Q That was a period of five or six months? A Yes.

Q Can you tell us what painting was done there by him? A Yes; practically the whole of the interior of the house, the various rooms were painted. 30

Q And he was engaged in this work during all of these several months? A Yes, sir.

Q How many times do you say he was there from the spring or early summer until the time the house was sold in October, 1923? A Well, the only way I can answer that is to say that he was there practically every night when I came home. Of course, you understand I was away a great deal on business trips. 40

William C. Glass, direct.

Q Your business required you to be out of town on the road frequently? A Yes, sir; a great deal.

Q Where did you go some times? A Anywhere through New York State, lower Canada, Pennsylvania, New Jersey, Delaware and through
10 the south as far as Virginia.

Q How long would you be away frequently? A Anywhere from a day to ten days.

Q In your absence would your wife and your son be home alone or not, that is, would you leave them alone when you went away? A Well, after her brother James left the house, yes.

By the Court.

Q When did her brother James come to live
20 there? A He went to live there when we moved to New Jersey. He lived with us also in Long Island.

Q When did he leave? A In the year 1922.

Q What Mr. Brugler asks you is whether these visits of Gunardson which you say commenced in the spring or summer of 1923, which was after James left, whether during these visits your wife was left alone in the house? A Yes,
30 sir; they were.

By Mr. Brugler.

Q Were you ever away from home for any purpose other than to take care of business? A Yes; June 23, 1923, I went to Baltimore to have an operation performed on my eye.

Q How long were you away on that occasion? A Until July 16th.

Q Following the time when your wife and
40 you ceased to cohabit, which I understand you

William C. Glass, direct.

to say was in May, 1922, did you and your wife talk to each other? A Oh, surely.

Q Did you talk particularly friendly? A Well, when that was the atmosphere, yes.

Q Did you have any occasion to speak to her further again about being out with other men?

A No; I stopped speaking about it. 10

Q Did you ever speak to her about Gunardson's visits? A Yes.

Q What about that? A She told me to mind my own business.

Q What did you say? A I told her she should watch her conduct with him, because he was there so much and I did not like his interfering with me speaking to my son.

By Mr. Brugler.

20

Q Did you ever see Gunardson and your wife out together? A Well, actually, only when he would take her to do an errand, or something of that kind in Bloomfield in his car.

Q Do you remember Gunardson and her driving up to your place after you got home evenings? A Yes.

Q When you went to the hospital did you tell your wife where you were going? A I started to tell her, yes. 30

Q Why didn't you finish? A Because she told me she didn't care where I went or what I did.

Q Did you tell her why you were going to the hospital? A Yes, sir.

Q Did she make any reply? A Well, that is what she told me, that she didn't care where I went or what I did. 40

William C. Glass, direct.

Q After you and your wife ceased to cohabit you of course both lived in the same house? A Yes.

Q Did you sleep together? A No, sir; occupied separate rooms.

10 Q Do you mean to tell the Court that you and your wife have not slept together or cohabited, or had intercourse, since about the month of May, 19— A 1922.

Q 1922? A Yes, sir.

Q Did you and your wife occupy separate rooms at night? A Yes.

Q Did you and your wife after that become more friendly or further estranged? A Well, that would depend on conditions.

20 Q Did you have any quarrels after that? A Several.

Q Did you talk as much together after that? A Not so much.

Q Did she ever write to you after that while you were still living out in Belleville? A She wrote a note one morning and shoved it under the bathroom door while I was shaving, to the effect—

30 The Court: If you have got the note, the note is the best evidence of what it says.

Q She shoved a note under the bathroom door? A Yes, sir.

The Court: Is the note dated?

Mr. Brugler: No date on it.

By the Court.

40 Q When was it shoved under the bathroom door? A I wrote the date on it myself.

William C. Glass, direct.

By Mr. Brugler.

Q (Showing witness.) Is this the note that you refer to? A Yes, sir; that is the note.

By the Court.

Q When was it? A July 14, 1922. 10

By Mr. Brugler.

Q That date on the top of the note is in your handwriting? A I wrote that, yes, sir.

Q You know the handwriting of your wife? A Yes.

Q That is in her handwriting? A Yes, sir.

Q Having in mind the contents of that note—do you remember that? A Yes, fairly.

Q What can you say as to conditions with your wife? A Well, the language expresses the condition exactly. 20

Q What gave rise to that situation? A Presumably a grocery bill which had accumulated.

Q You continued all the while to have these quarrels? A Yes.

Mr. Brugler: I offer this note in evidence.

(Marked Exhibit P. 2.) 30

Q All of this while you continued to quarrel together? A Yes.

Q About various things? A Yes, sir; mainly money.

Q Also about men? A Yes.

Q Did she repeat her threat to leave? A She did.

Q Did she say anything further about whether she liked you or hated you? A She frequently 40

William C. Glass, direct.

told me that she wished she never met me, that she hated me, that she was going to take Sonny away so I would never see him.

Q After all this difficulty and following the receipt of this note, what was done about the property? A Well, eventually we agreed that
10 it should be sold.

Q Was there any arrangement between you about what you were to do following the sale of this house? A Yes, we were to divide the money, the equity part of it, and we were each to live by ourselves for a year; Sonny was to go to Bordentown Military Institute.

Q Following the lapse of a year what were you to do? A That was not provided for. The idea of this understanding was to let us both
20 settle down and get our bearings by ourselves, and at the end of the year we were to again confer with her brother Edwin and see what the situation was at that time and what we were to do from then on.

Q Did you make any effort to preserve the home and get along peaceably? A I certainly did.

Q What did you do? A As I told you in
30 the beginning, I bought the home. That was the best evidence I could give of that. I personally built trellises and window boxes and things of that kind and was improving the ground and did everything to make a real home of it.

Q Now, when your wife spoke to you about leaving and told you that she hated you and things of that kind, what did she say, if anything, about separation? A That she would take Sonny and go away and that I would never see him again.
40

William C. Glass, direct.

Q Did she say anything about separation papers? A No.

Q Was there anything said by either of you as to consulting somebody about breaking up the home and your living apart afterwards? A Well, when it came to a pretty definite understanding between us that the house was to be sold, she said that her brother Edwin would take care of her interests and I said that was perfectly agreeable to me, and in fact I welcomed the offer. 10

Q Did you and your wife see her brother Edwin? A Yes, sir.

Q As a result of this interview with him, a paper was drawn and signed by you both? A Yes. That was supposed to be a memorandum of what we agreed. 20

Q Who drew this paper? A I did.

Q The language, who was the author of that? A I drew one first, and it was discussed and Edwin found fault with it and so forth, and so we arrived at this particular memorandum.

Mr. Brugler: I offer this paper in evidence.

Mr. Davis: No objection.

(Marked Exhibit P. 3.) 30

Q What price did you obtain for the house? A \$7,000.

Q How much cash did you receive after allowances were made for mortgages and other adjustments on the sale? A A little over a thousand dollars; I think around \$1,100, if I remember.

Q Now, from the time the property was sold, you and your wife ceased living together, and 40

William C. Glass, direct.

you have not resided together anywhere at any time since? A No, sir.

Q Is that correct? A That is correct.

Q Do you know where your wife first went following the sale of the house? A She went with Mrs. Walter Ritchie in Jersey City.

10 Q And you moved temporarily to New York, you say? A Yes.

Q Did you ever call to see your wife after that? A Not call to see her. I called there when Sonny would have his week-ends or time off from school, in order that she might share him.

Q Following the last of the year mentioned I believe in this paper, this separation paper, did you speak to your wife about resuming cohabitation? A No, sir.

20 Q Will you tell the Court your motive or your reason for not speaking to her about that? A Well, I didn't have a chance to; that is to say, the year was not up when I was astonished with the news that she had given birth to a baby.

Q When did you first learn that? A About May 3rd, May 2nd or 3rd, 1924.

Q How did you receive that news? A I had a note from Mrs. Glass' sister-in-law in Wallatosa, Wisconsin.

30

Mr. Brugler: I offer in evidence at this time certified copy of a birth record showing the birth of a child named Gloria Edith Glass, giving as the name of the child's father William C. Glass and the child's mother's maiden name, Euphemia M. Barker, the child having been born April 30, 1924.

40 Mr. Davis: With the exception of the address of the father and mother of the child as given in this certificate, that is substan-

William C. Glass, direct.

tially correct. The original birth certificate is not here in court, but we will be able to produce it in a day or two.

The Court: Do you mean that this certified copy is not a correct copy?

Mr. Davis: According to my client, she has a certified copy which gives the address of her husband as being here in the East, not in Wisconsin. 10

Mr. Brugler: We offer this record as being what it is.

The Court: You have no objection to the form in which it is offered?

Mr. Davis: No; only that I would want to offer a certified copy of the same birth record. 20

The Court: It has got to be a certified copy; it must be certified by some official.

Mr. Davis: Yes.

The Court: All right.

(Paper is marked Exhibit P. 4.)

Q What was your wife's name? A Euphemia Margaret Barker.

Q On April 30, 1924, did you reside at 144 Garfield avenue, Wallatosa? A I did not. 30

By the Court.

Q Did you ever reside there? A No, sir.

By Mr. Davis.

Q Were you at that time vice-president of the United Printing Company? A United Printing Machinery Company. 40

William C. Glass, direct.

Q Did you hear from your wife directly or personally following the news to you of the birth of this child? A Yes. On receipt of the letter from her sister-in-law I immediately wrote Mrs. Glass disclaiming the parentage of the child and received a reply from her.

10 Q Have you got a copy of the letter which you wrote? A Well, they are there in the file; the two of them were clipped together.

The Court: Have you the originals?

Mr. Davis: No. My client says it was taken from her in the hospital.

Mr. Brugler: We produce a copy of the letter and ask that it be marked in evidence.

20 (Marked Exhibit P. 5.)

Q Did you receive a reply to the letter which has been marked Exhibit P. 5. A Yes, sir.

Q (Showing witness.) Is this it? A Yes, sir.

Mr. Brugler: I offer the reply which is enclosed in the envelope in which it came.

30 (Envelope is marked Exhibit P. 6-A, and letter is marked Exhibit P. 6-B.)

Q Did you have any further correspondence with your wife after this? A Yes, sir.

Q Will you let us have what you find, in the order in which it occurred? A There (indicating) is a letter which has no date, a letter from Mrs. Glass, which bears the postmark May 23, 1924, and refers to a date about her leaving Wal-latosa, Wisconsin.

40 Q Did you reply to that letter? A No, sir.

William C. Glass, direct.

Mr. Brugler: I offer this letter with envelope in which it was received, in evidence.

(Envelope is marked P. 7-A and letter is marked P. 7-B.)

Q Next? A Well, I have a card and a note. The note is not dated but the card is postmarked May 29, 1924, in which she says about telephoning the office to get in touch with me, that I was to go to see her about this baby that had been born. 10

Q Never mind the contents now. Let us have the letters in the order in which they were received? A Same date, a card here asking for an increase in the allowance.

Q This letter and the card were received the same date? A Well, I would not be sure they were received on the same date. No; this is postmarked May 31st, although it is dated May 29th. 20

Q Did you reply to this letter and the first card you have just referred to? A In a general way, after receiving other letters, I sent a general reply.

Q You did not reply right away? A No, sir. 30

Mr. Brugler: I offer in evidence this letter which is contained in envelope dated May 29, 1924, and the card dated May 29, 1924.

(Marked Exhibit P. 8 and Exhibit P. 9.)

Q Did you receive any other communication from your wife before you wrote to her again?

A Yes, sir.

Q Let us have it? A Letter dated June 2nd, asking for increase in the allowance. 40

William C. Glass, direct.

Mr. Brugler: I offer in evidence letter dated June 2, 1924.

(Marked Exhibit P. 10.)

Mr. Brugler: I want to offer in evidence letter dated June 9, 1924.

(Marked Exhibit P. 11.)

10

Q You thereafter wrote your wife? A Yes, sir.

Q Did you keep a copy of the letter? A Yes, sir.

Q On what date did you write her? A June 10, 1924.

Q This paper which I show you is a true copy of the letter which you sent her? A Yes, sir.

20

Mr. Brugler: I offer this copy in evidence.

Mr. Davis: No objection.

(Marked Exhibit P. 12.)

Q Did you receive another letter from her? A Yes, sir.

Q (Showing witness.) Is this it? A Yes.

30

Mr. Brugler: I offer in evidence letter dated June 14, 1924.

(Marked Exhibit P. 13.)

Q Did you reply to that letter which is marked Exhibit P. 13? A Well, not specifically to that but to letters in which she asked for increased allowance.

Mr. Brugler: I call on the other side to produce the original of this.

40

William C. Glass, direct.

Mr. Davis: We haven't it.

Mr. Brugler: I offer the copy in evidence.

(Marked Exhibit P. 14.)

Q Are you the father of the child born to your wife which has been given the name of Gloria Edith Glass, born April 30, 1924? A I am not. 10

Q Besides having seen your wife in the company of McDonald and another, did you find other things about the house which were evidence in your mind that she was associating with other men? A Well, when I cleaned out the bureau and things in the storehouse I came across this card case which belonged to Mrs. Glass, with the contents in it as they are here, a picture of Mr. McDonald on one side and with one of his cards with a memorandum on the back in the other and a poem on a piece of paper. 20

Q In other words you found this little leather folder with the contents you have mentioned just as you now show it to us? A Yes, sir.

Mr. Brugler: I offer this in evidence.

(Marked Exhibit P. 15.)

Q When you and your wife were living together, while you were sleeping together and previous to May, 1922, you of course had intercourse with your wife from time to time? A Yes. 30

Q Did your wife ever have any appliances of a personal nature that were used either before or after intercourse? A Only what any family has in their possession, that is all.

Q What did you have? A There was the ordinary fountain syringe in the house, which every family has. 40

William C. Glass, cross.

Q Anything else? A No.

Q Now, after May, 1922, did you ever find anything about the house of a nature of this character which your wife did not have prior to that time? A When I returned from the hospital in 1923 I found a new appliance of that description.

10 Q Just tell us what it was. A Well, it was one of these whirling sprays, big bulb affair in a box.

Cross examination by Mr. Davis.

Q You have stated that when you and your wife were living together in Bellwood Park, Belleville, New Jersey, you made her an allowance of \$20 per week. Did you have any arrangement with her as to what that \$20 per week was to be used for? A Yes.

20 Q What was it to be used for? A The table expenses.

Q The table expenses? A Yes.

Q Only? A Yes.

Q And then you purchased clothes for Mrs. Glass and yourself and son? A Yes.

Q Aside from that? A Yes.

30 Q This past summer, aside from writing your son, did you make any attempt to see him or to see your son? A No, sir.

Q Have you ever admitted to anyone, since the birth of this baby, Gloria, which has been mentioned—have you ever admitted to anyone since that time that you might be the father of that girl? A Absolutely not.

Q You are quite certain? A Absolutely.

40 Q This house that you and your family occupied in Bellwood Park, Belleville, was how far from the nearest trolley line? A Why, it must have been, I suppose, a mile and a half. Bloom-

William C. Glass, cross.

field Center I presume was the nearest trolley line.

Q How far from the nearest railroad station?

A Why, a matter of, well, not over a thousand feet or so, probably 1,200 feet, very short distance.

Q That is, the Bellwood Park station of the Erie Railroad? A Yes. 10

Q The Greenwood Lake branch? A Yes.

Q You used that railroad yourself? A Yes.

Q You are familiar with the trains on it? A I was.

Q And after the commuters' trains had come in at night, say along about eight o'clock, the trains running through that station are rather irregular, are they not? There are not many of them that make a stop there from Jersey City?

A Not so many; about once an hour, something like that. 20

Q Once an hour they stop at Bellwood Park station or once an hour on the line, do you mean?

A Once an hour they stop at the Bellwood Park station.

Q Do you mean to tell me that from eight o'clock there is a train on the average of once an hour, so that there might be four trains between eight and twelve o'clock coming up from Jersey City? A Just about. 30

Q You are quite certain that four trains come from Jersey City, some of which do not stop?

A I mean that they stop there, I am quite sure. You are asking me about a timetable, and I cannot tell that.

Q With regard to Mr. Charles Gunardson, you say that he was supposed to be painting the interior of that house. As a matter of fact he did paint the interior of the house, did he not?

A He did. 40

William C. Glass, cross.

Q Then, there was really no occasion for you to say he was supposed to be painting the interior of the house? A Except that he took longer to paint it than was necessary.

Q Mr. Gunardson during the day worked at his own occupation, did he not? A Presumably.

Q And the work that he did in painting the interior of your house was done during his spare time? A That is right.

Q Did you ever object to his painting the interior of the house? A Not to him.

By the Court.

Q Who paid him for the work? A I don't know.

Q Did you? A No, sir.

By Mr. Davis.

Q Were you ever spoken to by Mr. Gunardson or Mrs. Glass, with regard to paying for the work? A Only a bill that I got from him after the house was sold.

Q In reply to my question: "Did you ever object to his painting the interior of the house?" you said: "Not to him." Did you object to anyone about his painting of the house? A Not to his painting; no.

By the Court.

Q Did you object to Gunardson about his being there so much? A Not to Gunardson; no, sir.

By Mr. Davis.

Q You spoke, Mr. Glass, of seeing Mr. Gunardson and Mrs. Glass coming back in the car to

William C. Glass, cross.

the house while you were there, and you said that the only time you saw them together was when they would come back from doing errands or something of that kind. The place where you lived was a mile and a half at least from Bloomfield Center where the cluster of stores is? A From Bloomfield Center, yes.

10

Q There were occasions when something was required that could be obtained only from those stores, was there not? A That might be.

By the Court.

Q Did Mrs. Glass do her shopping in Bloomfield Center? A No, sir. There was a grocery store nearer than that where most of the supplies were bought.

20

By Mr. Davis.

Q Well, there were other articles needed for the carrying on of the household than groceries, were there not? A Surely.

Q Sometimes it was necessary to go to Bloomfield Center to get some of those articles; is that correct? A It might be.

Q And it was customary upon occasions of that kind for Mr. Gunardson who had a car, to run Mrs. Glass down to the Center to get these articles, was it not? A He did it frequently. I don't know exactly what they went for always.

30

Q There were occasions when you went along, were there not? A No, sir; not with him.

Q Did you ever object to their going down to the center on those errands? A I told Mrs. Glass I thought it was unwise to be out with him so much.

Q Well, you spoke to Mrs. Glass generally about being with him? A Yes.

40

William C. Glass, cross.

Q Subsequently to all of this you rode down to Bordentown with Mr. Gunardson and Mrs. Glass and your son to the military school, from Belleville; isn't that correct? A Yes, sir.

By the Court.

10 Q When was that? A That was September 19, 1924.

By Mr. Davis.

Q Did you ever pay Mr. Gunardson for using his car on trips of that kind? A No, sir.

Q Who paid for the gasoline consumed? A I don't know.

By the Court.

20 Q Is that the right date—September 19, 1924, the time when he took you to Bordentown? A Yes, sir. 1923. Pardon me.

By Mr. Davis.

Q On this note which you say Mrs. Glass shoved under the bathroom door, the date written in ink: "July 14, 1922," you said was written by you at the top of the note? A The date, yes.

30 Q The date was written by you? A Yes.

Q Now, how did it occur that you wrote that date? A Because I wanted to keep that memorandum.

Q In July, 1922? A Yes.

Q Why did you want to keep it? A Because I thought I might possibly need it sometime.

40 Q And for that same reason you kept carbon copies of the letters that you wrote to Mrs. Glass

William C. Glass, cross.

and kept all of the letters that she wrote you?

A Yes, sir.

Q Then, as far back as July 14, 1922, you anticipated taking some action of this kind, did you? A Not necessarily.

Q What was the purpose? Was it not in case anything did turn up that you wanted to be fore- 10
armed? A It was because conditions were such that it seemed that the only protection I had was such evidence as this as to what the conditions really were.

Q When did you write the date on the top of that note? A At the time I received the note.

Q You said that you were in the bathroom shaving. Had you locked the door? A No. I was not in the habit of locking the door.

Q With reference to the letters that you have 20
identified, dated May 29, June 9, June 14, which you say were written by Mrs. Glass asking for an increase in the allowance, how much were you paying Mrs. Glass at that time? A Well, I would have to check that up to be absolutely sure, for the reason that I continued to pay her \$20 a week; that I paid her under the agreement after the agreement expired until she was allowed \$30 a week in her New York action against me. Then I started the \$30 payments. I cannot just recall 30
the exact dates.

By the Court.

Q There was a New York action? A Mrs. Glass started an action against me in New York for separation.

Q When was that? A It was tried in the early part of 1925.

Q When was the suit commenced? A July 30, 1924.

William C. Glass, cross.

By Mr. Davis.

Q Then at the time that you received these letters you were paying her \$20 a week and she asked you for an additional amount because of the child she had to support. Is that true? A That is right.

10 Q Subsequently a New York court issued a temporary order directing you to pay her \$30 a week? A That is right.

Q And the action started by Mrs. Glass in the New York court for separation and support was not started until after you commenced the New Jersey Chancery action, was it?

The Court: He says the suit was commenced July 30, 1924. His petition for divorce was filed November 3rd. Three months later the suit was commenced here.

20

By Mr. Davis.

Q Referring to this card case which you say contained a picture of Mr. McDonald, when did you first see that? A Why I recognized it when I found it as being Mrs. Glass'. I could not say when I first saw it.

30 Q You mean you had seen it in the house before? A Surely.

Q Is that the first time you ever saw that picture in it? A Yes, sir.

Q Where did you say you found it in the house? A I didn't find it in the house. I found it in the drawer of Mrs. Glass' dresser.

Q The dresser was in the house? A No; it was in the storehouse.

Q It was in storage? A Yes.

40 Q Where was the furniture in storage? A The Lafayette Storage Warehouse in Newark.

William C. Glass, cross.

Q After it was put in storage you went over and went through the bureau of Mrs. Glass?

A Yes.

By the Court.

Q Did you find anything else in this dresser?

A Articles of clothing and other things belonging to Mrs. Glass. 10

By Mr. Davis.

Q You have stated that you never had intercourse with your wife after some date I think in May, 1922, or thereabouts, and you stated, I believe, that the reason for the discontinuance of this was the general unsatisfactory condition in your home. As a matter of fact, is it not true that cohabitation between Mrs. Glass and yourself ceased because you desired and insisted upon unnatural intercourse with her? A Absolutely not. 20

Q Did not such demands upon your part cause the breaking up of the home? A No, sir.

Mr. Brugler: With the Court's permission I would like to ask a few questions on direct which I forgot. 30

The Court: All right.

By Mr. Brugler.

Q Did you receive a communication from your wife in August, 1922, relative to her going out with somebody? A A memorandum that she was going on an auto ride with Mr. Mack, which meant Mr. McDonald.

Mr. Brugler: I offer this paper in evidence. 40

Blanche Holmes, direct.

Mr. Davis: No objection.

(Marked Exhibit P. 16.)

Mr. Brugler: I offer in evidence judgment in the Supreme Court, New York County, State of New York, in an action brought by Euphemia Glass as plaintiff
10 against William C. Glass as defendant.

(Marked Exhibit P. 17.)

BLANCHE HOLMES, sworn as a witness on the part of the petitioner, testifies as follows:

Direct examination by Mr. Brugler.

Q Where do you live? A 450 Washington
20 avenue, Belleville.

Q How long have you lived there? A Since October, 1924, last year. I went there October, 1924.

Q Previous to that time where did you live?
A 398 Washington avenue.

Q Do you know Mr. Glass? A I know Mr. Glass as he came to me in answer to an advertisement that was in the local papers. He came to see me on Sunday, May 15th, and paid me
30 a week's—

Q What year was that? A That was May—1923 it must have been—no, 1924.

Q It was May, 1924? A 1924, and the following November or October I moved in the house where I am now.

By the Court.

Q He came to live with you in May, 1924?
40 A May, 1924.

Walter J. Ritchie, direct.

Q How long has he roomed with you? A Ever since.

Q Up to the present time? A Up to the present time.

By Mr. Brugler.

Q You are not related to Mr. Glass? A Not 10
at all.

No cross examination.

WALTER J. RITCHIE, sworn as a witness on the part of the petitioner, testifies as follows:

Direct examination by Mr. Brugler.

20

Q You live at that place? A 7 Reservoir avenue.

Q Jersey City, New Jersey? A Jersey City, New Jersey.

Q Do you know Mr. and Mrs. Glass? A Yes, sir.

Q How long have you known them? A Nine years—eight or nine years—around that.

Q Do you know about the time Mr. and Mrs. 30
Glass ceased to live together? A Yes.

Q Previous to that time was your family and the Glass family on pretty good terms? A Yes, sir.

Q You saw Mr. and Mrs. Glass frequently? A Very often.

Q They were visitors at your house? A Yes.

Q Did your family ever visit his place at Belleville? A Yes, sir.

40

Walter J. Ritchie, direct.

Q Do you know Mr. John A. McDonald?
A Yes, sir.

Q When did you first meet him? A About six years ago.

Q Did you ever see Mr. McDonald in the company of Mrs. Glass? A Yes.

10 Q Do you recall the first time? A Yes. He brought me home, and Mrs. Glass was there, and we asked him would he take her home.

Q Did you ever see them together after that?
A Well, just on an occasion like that. That is all that I ever saw them together.

Q That occurred at different times? You mean that McDonald took Mrs. Glass home at different times in that way? A Yes; I guess he did.

20 Q You saw them leave in the car together?
A I saw them go away from our house together, yes.

Q About what time of day did this usually happen? A Around six o'clock in the afternoon—half-past five or six.

Q Did you ever see McDonald or a man by the name of Gunardson at the home of Mr. Glass? A No, I don't think I did. One minute.
30 Do you mean Mr. McDonald and Mr. Gunardson at the house? Yes; I saw Mr. Gunardson at the home, but not Mr. McDonald.

Q Did you see him more than once? A Several times.

Q When was that? A Well, it was when he was out there painting.

Q Do you recall when that was? A I could not tell you any date.

Q Was it last year? A Yes, it was last year
40 all right.

Walter J. Ritchie, direct.

Q During the summer? A It was during the summer and the fall.

Q Did you ever have occasion to speak to either Mr. or Mrs. Glass about Mr. McDonald or Mr. Gunardson? A Well, I tell you, I don't remember that incident at all.

By the Court.

10

Q You say the summer and fall of last year, 1924? A 1923.

Q The house was sold in October, 1923? A Yes.

By Mr. Brugler.

Q That was 1923? A Yes; 1923.

Q Did you have occasion to speak either to Mr. or Mrs. Glass about either McDonald or Mr. Gunardson? 20

Mr. Davis: Objected to.

The Court: Objection sustained.

Q Did you ever have any conversation with Mr. McDonald or Mr. Gunardson in the presence of Mr. and Mrs. Glass? A No; I did not. I don't think I got that question.

Q (Question repeated.) Did you ever have any conversation with Mr. McDonald or Mr. Gunardson in the presence of Mr. and Mrs. Glass? A I did, in the presence of Mrs. Glass, yes. 30

By the Court.

Q Which one—McDonald or Gunardson? A Both of them. He used to bring me home once in awhile and then if Mrs. Glass was at the house 40

Walter J. Ritchie, direct.

when they brought me home they would take Mrs. Glass back, if she happened to be at the house.

Q They used to drive you from where? A From work. They worked at the same place I did.

10 Q Where is that? A At the Public Service Power Station.

Q Jersey City? A Jersey City.

By Mr. Brugler.

Q Did McDonald and Gunardson both work there? A Yes; at that time; Gunardson still works there, but McDonald—

By the Court.

20 Q At the time we are talking about they both worked there? A Yes, sir; they both worked there.

By Mr. Brugler.

Q What was that conversation? A Why, I could not just tell you what conversation we had when they were together. I could not remember that.

30 Q Don't you remember anything about it at all? What was the subject of the conversation? A I could not tell you anything. I don't remember any conversation like that.

Q You don't remember any conversation at all? A No.

40 Q Did you have any personal conversation with Mrs. Glass, when you and she were alone, about either McDonald or Gunardson or Mr. Glass? A The only conversation we ever had like that, was, in fact, I cannot remember any conversation we ever did have. That is a ques-

Walter J. Ritchie, cross.

tion that I could not answer anyway. I don't know how to answer it.

Q Did you have any conversation with Mrs. Glass concerning Mr. Gunardson or Mr. McDonald that you recall? If you cannot remember it, all right. A I don't recall anything like that.

10

By the Court.

Q Did you have any conversation with Mrs. Glass concerning her relations with Gunardson?

A No.

Q Did you have any conversation with her concerning her relations with McDonald? A No.

Cross examination by Mr. Davis.

Q Mrs. Glass was a friend of yours and your wife's, was she not? A Right.

20

Q She used to visit at your house? A Right.

Q McDonald would drive you home from the works in his car as far as your house? A Yes.

Q And then, if Mrs. Glass was there, he would take her to her house? A I presume he did; yes.

30

By the Court.

Q Where did McDonald live then? A In Bloomfield.

Q Why did he take you from the power house in Jersey City to your home? A I didn't have any car.

Q How did it happen, when he lived in Bloomfield or Belleville, that he would go out of his way to take you home? A He was the chief engineer.

40

Walter J. Ritchie, cross.

Q Did McDonald take you home when he knew Mrs. Glass was at your house? A No; no.

Q How about Gunardson, did he have a car, too? A Gunardson has a car, too.

Q What was his job? A He is a boss rigger.

Q He was not a painter? A Well, he looked
10 after the painting, yes, sir.

Q Did he take you home when he lived at Belleville, or Bloomfield or wherever he lived?

A He lived in Irvington.

Q And he took you home to Reservoir avenue before he started for his home in Irvington? A Why, at that time when he first met Mrs. Glass we were up in North street by the Belleville Road. He used to drive me up there.

Q Before he met Mrs. Glass? A Yes; long
20 before he ever met Mrs. Glass he drove me home every night.

By Mr. Davis.

Q You and Gunardson and McDonald all worked together at this same place? A Yes.

Q You were well acquainted with one another? A Yes.

Q And were accustomed to drive each other if
30 one didn't have a car? A Absolutely.

Q That took place for a long while? A Yes.

Q And the fact that Mr. McDonald and Mr. Gunardson would happen to get at your house when Mrs. Glass was there, was just an accident?

Mr. Brugler: I object to that as calling for a conclusion.

40 Mr. Davis: Question withdrawn.

Minna Ritchie, direct.

By Mr. Brugler.

Q Did you introduce McDonald to Mrs. Glass?

A Yes.

Q And also Gunardson to Mrs. Glass? A

Yes, sir.

10

MINNA RITCHIE, sworn as a witness on the part of the petitioner, testifies as follows:

Direct examination by Mr. Brugler.

Q You are the wife of the gentleman who was just on the stand? A I am.

Q November, 1923, where did you and your husband live? A 7 Reservoir avenue, Jersey City.

20

Q Did Mrs. Glass ever live with you? A After they sold the house.

Q How long a time was that that she lived with you? A I could not give you the dates, but from the time they sold the house until December, 1923.

Q You and Mrs. Glass were on very friendly terms, I believe? A Very.

Q Did you have any conversation with her about her domestic condition? A No, because I did not think it was my place to butt in.

30

Q During this time she lived with you in 1923, did Mrs. Glass say anything to you about being pregnant with child? A No; nothing whatever.

Q Did she say anything to you about what her plans were for the future? A No, only going to Massachusetts, to their home; that was all.

Q Do you know where Mrs. Glass went to after she left your house? A Why, I heard it

40

Minna Ritchie, direct.

was in Wisconsin, but it was in Wisconsin, but it was many months afterward.

Q Did you ever receive any message from her? A I received a letter one time.

Q Do you know when that letter came? A I really cannot say.

10 Q About when? A It must have been in February, somewhere around there. I am not sure of the date.

By the Court.

Q 1924? A 1924.

By Mr. Brugler.

Q Have you got that letter still? A No; I have not.

20 Q What became of it? A I don't know. I never keep any letters. I always destroy them. After answering them I destroy them.

Q Do you recall whether Mrs. Glass said anything in that letter about her husband or a new baby? A I just don't remember.

Q Just think a moment and see if you cannot remember something or other that was in that letter?

30

Mr. Davis: I understand the letter has been destroyed.

The Court: Yes; she says it was destroyed.

Mr. Davis: I think the letter would be the best evidence.

The Court: Sure it would be the best evidence, but she says it was destroyed.

40

Minna Ritchie, direct.

Q Did you ever receive more than one letter from Mrs. Glass after she left you? A Yes, from Massachusetts.

Q Did you receive more than one letter from her while she was in Wisconsin? A No; I did not; only one.

By the Court.

10

Q Were you familiar with her handwriting? A Rather.

Q Have you seen her write? A Yes; I have.

Q You have seen her writing? A Yes; I know her writing.

Q This letter than you received in February, 1924, from Wisconsin, was in her handwriting? A Positively.

Q You say you don't know whether she said anything in that letter about her husband? A I do not recall. 20

Q Or the expected birth of the child? A I do not recall.

Q You don't remember that? A She never mentioned about the child.

By Mr. Brugler.

Q Do you know now, that there was a second child born to Mrs. Glass? A Positively. 30

Q When did you first find it out? A Just shortly after it was born.

Q How did you learn that? A I had a card from Mrs. Glass announcing the birth of the child.

Q Have you got that card now? A No; I have not.

Q That is also destroyed? A After I answer them, I never keep any letters. 40

Minna Ritchie, direct.

Q Do you recall what Mrs. Glass said on this card? A Just said that she was feeling much better, and she had a baby girl—the birth of a baby girl

Q Do you recall what she said about her husband, “Will,” if anything? A No; I do not.

10 Q Was this car received before or after the letter that you spoke of awhile ago? A After the letter; that the child was born.

Q You cannot recall anything that was in this letter? A No, sir; I don’t remember.

Q Before Mrs. Glass lived with you and before the home had been broken up, did you have any occasion to speak to Mrs. Glass about either McDonald or Gunardson? A I might have.

20 Q Did you speak to her? A This day that Mr. Gunardson brought Mr. Ritchie home, he introduced her to him and he said, “I am going through your way. I will take you home.” That was all.

Q Did you have any conversation with her about her being in the society of Gunardson or McDonald? A No.

By the Court.

30 Q Did either Gunardson or McDonald visit her while she was living in your house from October to December, 1923? A Mr. McDonald worked for my husband, and he was at our home; he would come in—

Q And remain there? A A certain time when Mr. Ritchie was there.

40 Q How long? A Maybe an hour or two hours, and if we were having supper he would be asked to have supper with us. That happened many times.

Minna Ritchie, direct.

Q It also happened when Mrs. Glass was living with you? A I don't think Mrs. Glass was in our house when Mr. McDonald was in the house.

Q She came there in October? A He would come in for a hour and go right out.

Q Did he ever take her out from your house during that period? A Well, a couple of times. 10

Q Who did that? A Mr. Gunardson, when Mr. Ritchie's car was out of order, and Mr. Gunardson would bring Mr. Ritchie home, and if Mrs. Glass was there—

Q I am talking about the time she lived with you from October to December, 1923. Did he ever call and take her out at that time? A No; only just to bring her home to Bellwood Park, that I know of.

Q She was not living with you at the time he did that? A You mean after her house was sold? 20

Q She lived with you from October to December, 1923. That was her home from October to December, 1923? A Yes, sir.

Q Then, there was no occasion to take her home to Belleville? A No.

Q I asked you if Gunardson called at your house and took Mrs. Glass out anywhere, from October to December, 1923? A Not that I remember of. 30

No cross examination.

Cora E. Hayes, direct.

CORA E. HAYES, sworn as a witness on the part of the petitioner, testifies as follows:

Direct examination by Mr. Brugler.

10 Q Where do you live? A 7 Belleville avenue, Bloomfield, New Jersey.

Q Do you know Mr. and Mrs. Glass? A Yes; I was acquainted with them. They were my neighbors.

Q Did you live in Belleville when they purchased a home there? A I did.

Q You saw Mr. and Mrs. Glass around their home frequently? A Certainly.

20 Q Did you ever see Mr. Glass around during the day? A Occasionally, on holidays; something like that.

Q And on Sundays? A Sunday, if he was not away traveling.

Q Did you ever visit the Glass family? A Certainly; we were very friendly.

Q Do you recognize the houses in this picture marked Exhibit P. 1? A That (indicating) is my home and this (indicating) is Mr. Glass'.

Q You recognize these houses? A Yes; this (indicating) is Mr. Glass'.

30 Q Pointing to the one at the top of the picture, whose house is that large one? A That is the side of Mr. Glass' house facing the street.

By the Court.

Q Who lived in that house? A Mr. Glass.

By Mr. Brugler.

40 Q What house is this one, referring to the second picture down? A Mr. Glass' house.

Cora E. Hayes, direct.

Q And the house at the extreme right of that second picture? A Our house.

By the Court.

Q Was your house next door to theirs? A Yes; right across the lot.

10

By Mr. Brugler.

Q Referring to the third picture down, the house shown on the extreme left, whose house was that? A Mr. Ellis' house.

Q Referring to the last picture down, the house in the center, whose house is that? A That is our house.

Q Look at it again. A Yes. This is facing down the street.

20

Q That was your house? A Yes; that was our house.

Q The house at the left of that picture? A That was Mr. Glass' house.

Q The house at the extreme right of the lower picture, whose house is that? A That is our garage.

Q Did you ever see anybody else around the Glass home besides Mr. and Mrs. Glass and the boy? A Why, several people, of course.

30

Q Whom did you see? A I have seen—

The Court: Get down to the persons you are asking about.

Q Whom did you see? A I have seen Mr. McDonald.

Q Do you know Mr. McDonald? A I know him by sight.

40

Cora E. Hayes, direct.

Q Do you know Mr. Gunardson? A Well, yes; I hardly recognized his name. We knew him as "Charlie."

By the Court.

Q Do you see him in the court room? A
10 Yes; that gentleman over there.

By Mr. Brugler.

Q (Calling on Mr. Gunardson to stand up) Is that the gentleman known as Mr. Gunardson?

A Yes, sir.

Q Do you see Mr. McDonald in the court room? A Not as he looked to me.

Q When did you first see Mr. Gunardson?

A I cannot say positively. I think the spring
20 of 1923.

Q Where was he when you first saw him? A Why, he was painting Mr. Glass' house inside.

Q Did you see him around the Glass home when he was not painting; did you ever see him around the Glass home when he was not painting? A Yes.

Q In daytime or nighttime? A Both.

Q Was he doing anything particular on those
30 occasions? A Nothing particular.

Q What did you see him do? A Why, he used to be out around the yard. Of course, it was summer and warm; we were all out; I believe he was out. Mostly he was working on the interior.

Q Did you ever see him in the company of Mrs. Glass? A Several times.

Q Where was that? A Around their home, and they used to come across into our home together.
40

Cora E. Hayes, direct.

Q Did you ever see Mrs. Glass and Mr. Gunardson in any acts of affection? A Why, I think not. I could not say that, although they seemed very, very friendly.

Q What did you see? A I never saw anything, although they seemed fond of each other in a friendly way. 10

Q What did they say or do? A I could not tell what they said, because I did not hear anything at that distance.

Q What did you see that leads you to believe that they were very friendly? A Why, their attitude towards each other.

Q Did you ever see them in embrace? A No; I never saw that.

Q Did you ever see them kiss each other? A No; I never did. 20

Q Did you ever see them sitting together? A Yes.

Q Where? A In the automobile.

Q You mean the automobile standing at the door or out along the road? A Along the road.

Q Did you ever see them driving along the road together? A Yes.

Q On more than one occasion? A Why, I think, perhaps, on more than one occasion. I could not just remember. I was with them. They were riding in the car. 30

By the Court.

Q You were riding in the car? A Yes; I was with them. Mrs. Glass invited me to go with them.

Q More than once? A Yes, but I could not say how many times; perhaps three or four times. 40

Cora E. Hayes, direct.

By Mr. Brugler.

Q This all occurred in the summer and fall of 1923? A Yes; I think it was 1923.

Q Did you ever see Mrs. Glass and Gunardson out in the automobile alone? A Yes; when they passed.

10 Q Many times? A Yes; several times.

Q Did you ever see them alone around the house? A Yes.

Q Many times? A Many times.

Q In what part of the house or what part of the yard? A Why, mostly in the kitchen where they joined my kitchen. My kitchen faced right across to theirs. I could see them working and moving around inside; that is, if I cared to look across.

20 Q Did you see anybody else around the house at those times? A Why, sometimes the boy was there and sometimes Mr. Glass was there, and my boys used to be out around some, but not inside very much.

Q Did you ever seen Mrs. Glass and Mr. Gunardson on the front porch? A Not that I could see from my house.

30 Q The back porch? A The back porch was not visible from our place.

Q Did you ever see them upstairs? A Why, yes, I have seen them moving around upstairs, when the light was on and they were both working up there.

Q What time of the day or night? A Possibly around 9:00 or 10:00, perhaps 11:00; sometimes along in the early evening.

40 Q Do you know what kind of an automobile Mr. Gunardson had? A Why, I don't remember the make. It was a small red car.

Cora E. Hayes, direct.

Q Open car or closed car? A Open car—that is, in the summer.

Q Did you see that car about the Glass home frequently during the summer and fall of 1923?

A Yes, sir.

Q Mostly every night or evening? A Mostly every night.

10

Q Beginning at what time? A You mean what time at night?

Q No. You say you saw it frequently. When did you first begin to see the car around, about what month in the year 1923? A Well, I could not—that is something I could not positively say. It was after the spring. It was warm weather. Possibly, it might have been some time in May.

Q This continued up until about what month?

A Until they moved away, I think, in September of the same year.

20

Q Would you say the car was out around the Glass premises nearly every day? A Every evening after work.

Q Did you ever see the car there early in the morning? A I have on one or two occasions.

Q Did you ever see the car anywhere else around the premises nearby? A No; only in front of the house, that is.

30

Q Is there a garage on the Glass premises?

A There is not.

Q Is there a garage on your premises? A Yes.

Q Was the Gunardson car ever in your garage? A Possibly, it might have been.

Q Do you happen to know whether or not Mr. Gunardson and Mrs. Glass were ever in the home alone? A Why, yes; they must have been.

Q Not “they must have been,” but do you know whether they were? A I could not say

40

Cora E. Hayes, direct.

positively about that. I would not want to say positively, but he was there every evening.

Q Did you observe what time Mr. Glass came home? A Very many times.

Q Do you remember when Mr. Glass went away to the hospital? A Yes.

10 Q Do you know how long he was gone? A Why, I could not say positively.

Q Was he gone two or three weeks? A I should say so.

Q During that time, did you see Mr. Gunardson around the place? A Yes; some.

Q Did you see any other man around the place? A Not at that time.

Q Now, at any time at all, from the spring of 1923 to the fall of the same year, when the house was sold, did the boy attend school? A
20 Yes; he attended the Bloomfield school.

Q That is, referring to the Glass boy? A Yes.

Q Did you ever see the boy during the evenings? A Oh, yes; he used to stay with my other boys.

Q During the nighttime? A During the nighttime.

Q All night? A No; not all night; no. He
30 would stay with me as late as between twelve and one o'clock.

Q Did he ever stay at your place all night? A No; he never stayed at my place all night, as I remember.

Q You have two sons? A I have one son just a little older than Mr. Glass' boy. I have four sons in all.

Q Your four sons live home? A Three live home and the other lives near.

Q You also have a daughter? A No; I have
40 not a daughter.

Cora E. Hayes, direct.

Q A daughter-in-law? A No; a sister-in-law.

Q I understood you to testify that you had seen Mr. Gunardson and Mrs. Glass in her house together, through the window? A Yes.

Q Could you tell what they were doing? A Why, I never—I never happened to notice them only when they were working around, painting and things of that sort, just working around, you know, as people naturally do inside when they are busy doing something. 10

Q Did you ever see them upstairs together? A Yes, I seen them when they were working up there, that is, he was working but she was looking on.

Q Did you ever see them when they were not painting, either upstairs or downstairs? A Why, I saw them frequently all the time, every day and every evening, but I could not place—I do not remember anything about— 20

Q Did you ever see them in any position or attitude which attracted your particular attention? A No; I don't know that I could name any special time.

Q Without naming the time, what did you ever see them do? A I could not name anything special more than I have. I never saw them closer than that, but as I say, they used to come into our house together, and they were frequently together all summer long. 30

By the Court.

Q Did they keep coming to your house as late as October, 1923, when the house was sold? A No; I don't remember that I ever saw Mrs. Glass after September. 40

Cora E. Hayes, direct.

Q Was Gunardson there after September, at the Glass house? A No; I don't remember seeing him there.

Q Did you ever see anything wrong in their conduct? A Personally I never saw anything that was very wrong, only they seemed extremely friendly.

10 Q Outside of that, if there had been anything wrong about their conduct, you would not have visited them? If you had seen anything wrong between them as to their conduct, you would not have visited them, would you? A No; I would not.

Q Nor would you have allowed them to come into your house either? A No.

Q You say you saw Gunardson's automobile out in front of the house early in the morning? A I did.

20 Q How early in the morning? A It must have been between five and six. My boy was sick and I went down to get something for him.

Q Was that once or more than once? A I think it was two mornings that the car was there. I don't know whether he was there.

Q I am not asking you whether he was there? A I saw the car.

30 Q Did you see him come out to get into the car and drive away? A I did not personally.

Q Did you see him leave the car the night before? A The car was always parked in front of the house.

Q Did he leave it there the night before? A He must have.

Q Why do you say "he must have"? Did you see him? A No; I did not see him at that time, in the morning.

40

Cora E. Hayes, direct.

Q Did you see him the night before when he left the car there? A Yes; he was around the house the night before the same as usual.

Q And the following morning, on two occasions, you saw his car at their house? A In front of their house.

Q At 5 o'clock in the morning? A This one 10 morning.

Q What other time was it that you saw the car there, what other hour of the day? A Mrs. Glass told me herself that he stayed there.

By Mr. Brugler.

Q When was that? A At that time, that was when Mr. Glass was in the hospital.

Q Did she tell you that he stayed there more than once? A No; I don't remember that she 20 did.

Q Did you ever hear Mrs. Glass and Mr. Gunardson call each other any pet names? A No. You see I did not hear anything of that sort. I could not hear across the lot, if they talked ever so loud.

Q I mean when they were at your house? A To be definite, they came over—we had a radio and they came over to listen in at a prize fight or something of that sort that interested them 30 both. There were several other people there at the same time.

Q Do you recall ever hearing Mrs. Glass and Gunardson talking together in a tone which you could hear? A No, I could not hear across like that. It would be impossible for me to hear.

Q You are quite hard of hearing? A Yes; I am quite hard of hearing.

Q I do not mean to offend you, but just to get the record right. A No offense. 40

Cora E. Hayes, cross.

Q Do you recall about the time that you stopped calling to see Mrs. Glass and when you stopped going out with her in the automobile, with Gunardson—do you recall that time? A It was some time in the summer, but I could not say July or August.

10 Q Did you have any particular reason for stopping that? A Well, yes, because there was so much unpleasant discussion in the neighborhood, that I did not care to be a party to anything of the kind.

Q Did you have reason because of what you saw or heard yourself? A Nothing so very incriminating.

Q Things that other people told you is what you refer to? A I refer to some things that my
20 family saw. I did not see them personally.

Cross examination by Mr. Davis.

Q With reference to the time that you say you saw the red car of Mr. Gunardson in front of the house in the morning and Mrs. Glass voluntarily told you that Mr. Gunardson had been there all night? A Mrs. Glass voluntarily told me that he stayed over night because they were
30 there all alone.

Q Who were there all alone? A Mrs. Glass and Mrs. Ritchie's daughter.

Q Do you know Mrs. Ritchie's daughter? A Certainly.

Q How old a girl is she? A Sixteen now, I think.

Q They were both there over night, according to what Mrs. Glass said? A Yes.

Q You said there were two occasions when you saw this car there in the morning; one occa-
40

Aldis M. Hayes, direct.

sion was when you think Mr. Glass was in the hospital? A Both occasions.

Q Both occasions— A (Interrupting.) He was away in the hospital.

Q How do you fix that date in your mind? A I fix it like this: I cannot absolutely remember; I know once my boy, there was something the matter with him, he called me early in the morning. The other occasion, I don't just get at that yet—I recall it now. I went down to let the cat out the other time. He used to call me if he wanted to go out; he would come up and jump on my bed and wake me up. 10

Q And how does that line up the fact that it was the time Mr. Glass was in the hospital? A I don't get your meaning.

Q Never mind. Before Mr. and Mrs. Glass left the house and moved away from Belleville, just a few days before or the day before, they were in your house for dinner, were they not? 20

A The very day they left.

Q You had them there for dinner the day they left? A Yes.

Q You never saw any wrongful actions yourself? A Not personally.

30

ALDIS M. HAYES, sworn as a witness on the part of the petitioner, testifies as follows:

Direct examination by Mr. Brugler.

Q You are a son of the lady who just testified? A Yes, sir.

Q You reside at home with your mother? A Yes, sir.

Q During the year 1923? A Yes, sir. 40

Aldis M. Hayes, direct.

Q You still reside with your mother, do you not? A Yes.

Q You have a brother? A I have three brothers.

Q Their names? A Winfield H., Carlton D., and Rutherford.

10 Q You know Mr. and Mrs. Glass? A I do.

Q You know Mr. McDonald? A I do.

Q And Mr. Gunardson? A I do.

Q When did you first become acquainted with Mr. McDonald? A I could not quite fix the date, but it was some time during 1922.

Q Where did you see him? A At Mr. Glass' house.

Q Did you ever see him there more than once? A Yes, sir; several times.

20 Q Whom was he with?

Mr. Davis: May I object at this time to any further testimony with regard to McDonald, for the reason that the man's name is not mentioned in the papers; the only correspondent mentioned is Charles Gunardson.

The Court: "And persons unknown."

30 Mr. Davis: If the persons were known the name ought to be given to enable us to prepare a proper defense. I never heard of McDonald before today.

The Court: Objection overruled.

Q You saw McDonald around numerous times? A Yes.

Q Was he in company with anyone? A No, sir; not that I ever saw.

40 Q Did he drive an automobile? A He did.

Aldis M. Hayes, direct.

Q What kind of a car was it? A Some kind of a roadster—a red roadster.

Q Did you ever see him drive up to the Glass home? A Yes.

Q With anybody? A No, sir.

Q Did you ever see him drive away with anybody? A I would not be sure on that question. 10

Q You have seen him come and also saw him go the same day? A Yes, sir.

Q How long did he stay? A Sometimes during the afternoon, maybe one hour, maybe two hours, maybe three hours.

Q Do you know whether or not he was doing any work around the premises? A I knew nothing about that.

Q Do you know whether Mrs. Glass was there on these occasions? A Yes. 20

Q Anybody else? A Mr. McDonald.

Q Anybody else besides those two? A No, sir.

Q What portion of the premises did you see them in? A Why, the only time I ever noticed them was when he would get out of the car and walk up to the door. That is as far as my interest in them went.

Q Other times you saw him leave the house? 30
A Leave the door, walk out to the car and drive away.

By the Court.

Q When he walked up to the door, did somebody let him in or did he walk in? A That would be hard to answer, because you could not see the door, who opened the door, or whether he opened it.

Aldis M. Hayes, direct.

By Mr. Brugler.

Q You never saw Mrs. Glass and Mr. McDonald in the house together, did you? A No, sir.

Q Did you ever see them out together? A That I cannot recall.

10 Q You know Mr. Gunardson, I understood you to say? A Yes.

Q You have seen him around the Glass home frequently? A Yes.

Q Did you ever see Mr. Gunardson and Mrs. Glass out together? A Yes, sir.

Q Driving in the automobile? A Yes, sir.

Q Many times? A Many times.

Q This was what time of the year? A This was during the summer of 1923.

20 Q Any other time? Did you ever see them during the fall of 1923? A Yes, sir.

Q Do you remember when Mr. Glass went to the hospital? A Yes, sir.

Q Do you remember about how long he was gone? A A few weeks.

Q During that time did you see either Mr. McDonald or Mr. Gunardson around the place? A Mr. McDonald was not there that I know of.

30 Mr. Gunardson was there.

Q Frequently or not? A Frequently.

Q Did you see Mrs. Glass and Mr. Gunardson out riding during that time? A Yes.

Q Did you see them anywhere else? A In the house.

Q What part of the house? A Why, I have seen them all over the house.

Q Upstairs? A Upstairs and downstairs.

Q Daytime or nighttime? A Daytime and nighttime.

40

Aldis M. Hayes, direct.

Q Did you ever see them in compromising circumstances? A In my opinion, yes.

Q What did you see? A Our house is so situated that from the front porch of the house 679 John street, one can look across and see the upper hall of Mr. Glass' residence, and on this one occasion that I speak of, this particular occasion, I saw Mrs. Glass and Mr. Gunardson go upstairs by the first window, and through either the light that shone from the street light or from downstairs, I saw them go into the chamber. 10

Q You saw them go where? A Into the chamber.

Q You refer to a bedroom? A Yes, I should say it was a bedroom.

Q Did you see anything further? A No, 20 sir. I was sitting there listening to my radio.

By the Court.

Q Never mind what you were doing. The question is: Did you see anything further? A No; I saw nothing further.

By Mr. Brugler.

Q Did you ever see them embrace each other? A Why, I have seen Mr. Gunardson with his arms around Mrs. Glass. 30

Q How often? A Several times I should judge.

Q What part of her body? A Around either her waist or her shoulders.

Q Did you ever see anything else, any acts of endearment other than that? A No, sir.

Q Where were they when you saw this? A Why, that happened when Mr. Gunardson would 40

Aldis M. Hayes, direct.

evidently say "Goodnight" on the front porch—it is not a porch; it is a landing.

Q Anywheres else than the front porch? A Around the grounds occasionally.

10 Q Did you ever see him embrace her with his arm out in the yard? A Yes, sir. You could not call it an embrace. It was just as they walked along he would have his arm around her waist.

Q You saw that numerous times or not? A Yes.

Q This happened in the summer when Mr. Glass was away in the hospital? A I would not state definitely.

20 Q Are you able to say whether there was anyone else around the home that time that you saw? A No; the only one would be the boy, the Glass boy.

Q Where was the boy, if you know, on those occasions? A Sometimes he would be even right there playing with the other boys.

By the Court.

Q It happened in July in the early evening in view of all the neighbors? A In view of all the neighbors.

30

By Mr. Brugler.

Q Did you ever go out with Gunardson and Mrs. Glass? A Yes.

Q In the automobile? A Yes, sir.

Q Did you ever hear them call each other any endearing names? A Not that I can recall.

Q No names whatever at all? A No, sir.

Q You do not recall? A No, sir.

40 Q Did you ever see the Gunardson car in front of the Glass premises in the morning? A

Aldis M. Hayes, cross.

Yes—not in front of the Glass premises—not in front of the residence—

Q Where did you see it? A I saw it leaving our garage.

Q Was his car in your garage during the night? A Yes, sir.

Q On more than one occasion? A One occasion that I remember. 10

Q You permitted the storing of the car in the garage? A Yes; I was requested by Mr. Gunardson to allow him to put the car in the garage.

Q How many times did that happen? A Once that I remember.

Q Aside from the one occasion that the car was put in your garage that you know of, do you know whether or not his car, that is Gunardson's car, was in proximity to the Glass premises the entire night? A Not from what I saw myself. 20

Q You saw Mr. Gunardson leave different times? A Yes, sir.

Q What time of the night was he wont to leave? A Any time from seven o'clock in the evening until two o'clock or three o'clock in the morning.

Q You stayed up late every evening yourself? A Yes. 30

Q You are quite a radio enthusiast I understand? A Yes, sir.

Cross examination by Mr. Davis.

Q When did you first acquire a radio? A Why, we first acquired a radio when I returned from California in 1922.

Q In what portion of your house was the radio kept? A It was in the living-room at first and then we moved it out onto the porch. 40

Aldis M. Hayes, re-direct.

Q Where is the living-room with reference to the house that Mr. and Mrs. Glass owned? A The living-room is on the opposite side of our house from Mr. Glass'.

10 Q From your porch how much of the Glass house could you see? A Practically all of the side. You could see all of the east side—or the west side, pardon me.

Q Did you ever meet Mr. McDonald? A No, sir.

Q How do you know who he was? A Just from hearing his name and seeing him there.

Q Hearing somebody say— A (Interrupting.) Hearing somebody say that he was Mr. McDonald.

20 Q You saw him come there in the afternoon you say and stay an hour or two? A Occasionally.

Q You don't know whether or not when he came there to call, whether Sonny was there or not? A I suppose some of the times the boy was there and some of the time he was in school or outside.

Q You "suppose so," but you don't know? A I am not positive; no, sir.

30 Q You say you don't know who opened the front door? A No, sir.

Q So that you don't know whether Mrs. Glass was there or not? A No, sir; I could not swear to that.

By Mr. Brugler.

40 Q Do you remember any other man coming around the Glass premises frequently besides McDonald or Gunardson? A I do not care to answer that question, if you please.

Aldis M. Hayes, re-direct.

Q What is your reason for not wishing to answer? A The reason is I do not care to drag anybody else into the case.

Q It does not reflect on yourself at all? A Not a bit.

Q Then, I believe I ought to insist on an answer.

19

The Court: You can insist on an answer.

A Yes, sir; there was another man.

Q Did you know him? A Yes, sir.

Q His name? A Mr. Fornoff.

Q Do you know his business? A Grocer.

Q How often did you see him around the premises? A Why, he was there I suppose, well, I would say occasionally.

20

Q That was also during the summer or fall of 1923? A That was during the summer of 1923.

Q Was that during the time when either McDonald or Gunardson were paying their visits?

A Yes; I think it was.

Q The same time? A The same time.

Q How often did you see this man around?

A Occasionally.

Q How many times would you say? A Why, I noticed him in particular once.

30

Q What did you notice on this particular occasion? A Rather I would say more than once I noticed him, but for this particular reason.

Q Tell us what impresses that upon your mind, this particular occasion. A Why, it impresses it on my mind because he would always come and park his car halfway between the two houses and sometimes it was pretty near up to our house than Mr. Glass' residence.

40

Aldis M. Hayes, re-direct.

Q Was there any discussion ever took place about parking cars there? A Yes, sir.

Q With this Mr. Fornoff? A Yes, sir.

Mr. Davis: I object to any conversation this witness had with Mr. Fornoff.

10 The Court: Objection sustained.

Q Your folks had an automobile also? A We had—that is, my dad had one.

Q You say this man parked his car sometimes in front of your place? A Yes.

Q Sometimes in between the two places? A Yes.

Q Your place adjoins the Glass place, north or south? A It adjoins it on the west.

20

By the Court.

Q What did you see Fornoff do when he came to the Glass house? A What I saw him do, he parked his car in front of our house, and then go in there and stay maybe an hour or two hours.

Q What time of day? A During the afternoon.

Q Always in the afternoon? A In the afternoon.

30

Q Always in the afternoon—yes or no? A Always in the afternoon.

By Mr. Brugler.

Q Did you see anybody else around the premises besides this man and Mrs. Glass? A No, sir.

Q Do you know where the boy was on those occasions? A No, sir.

40

Harvey B. Hayes, direct.

Q On any of these occasions when Fornoff went there did you see Mrs. Glass around? A Yes, sir.

By Mr. Brugler.

Q Did you ever see Mr. McDonald around when Fornoff was there? A No, sir; not that I recall. 10

Q Or Gunardson? A Not that I recall.

HARVEY B. HAYES, sworn as a witness on the part of the petitioner, testifies as follows:

Direct examination by Mr. Brugler.

Q You are a brother of the gentleman who just testified? A Yes, sir. 20

Q You know Mr. and Mrs. Glass? A Yes, sir.

Q And Mr. McDonald and Mr. Gunardson? A Yes, sir.

Q And Mr. Fornoff? A Yes; I know Fornoff.

Q When did you first see McDonald? A Why, it was early in the spring of 1923. 30

Q And Gunardson? A A little later in the spring or summer.

Q Tell us what you know about McDonald coming to the Glass premises? A When he came he had a roadster. I guess he brought Mrs. Glass home from Jersey City, and he would stay awhile, varying from an hour to three hours, and then he would go; one day I remember he was there from 11:00 o'clock in the morning until 4:00 o'clock in the afternoon. 40

Harvey B. Hayes, direct.

Q Did this occur during the summer and fall of 1923? A Not in the fall. I don't think I ever saw McDonald there in the fall, but in the spring I did.

10 Q When McDonald called, was Mrs. Glass there? A I know Mrs. Glass was on the premises because I had seen her.

Q Did you ever see anybody else on the premises there? A No; I did not; the boy was in school.

Q How about Gunardson? A He was there mostly after dinner at night, after 5:00 or 6:00 o'clock.

Q Did you see him at any time or not? A Every day with few exceptions.

20 Q Did you ever see his car in front of the premises in the morning? A I have seen his car in front of the premises 3:00, 4:00 and 5:00 o'clock in the morning, different times.

Q Did you ever see him leave in the morning? A I have seen him leave in the morning.

Q Alone? A Alone.

Q Did you ever see him leave in the morning when Mr. Glass was in the hospital? A Yes.

30 Q Did you ever see his car in your mother's garage? A Yes.

Q More than once? A Just once that I can remember.

Q How many times would you say that you saw the Gunardson car there around the Glass premises through the night or part of the night?

A Why, I would say three or four times that I can recall.

40 Q Did you ever see Mr. Gunardson and Mrs. Glass in any acts of endearment? A Only with his arm around her waist when walking along—

Harvey B. Hayes, direct.

Q Did you ever see them in the house together? A I have seen them moving around the house together.

Q What were they doing? A They were going through motions. I take it they were painting.

Q Did you ever see them when they were not painting? A Yes; I have. 10

Q In the house? A Yes; in the house.

Q What were they doing then? A One time I went to the back door and they were eating together.

Q In what room were they seated at that time? A Why, in the kitchen at that time.

Q What were they seated on? A Chairs.

Q Near together? A Across the table, one on one side and one on the other. 20

Q Did you ever see them doing anything else? A No; I have not.

Q Did you ever see them riding in the automobile together? A Yes.

Q How many times? A Why, only once that I can recall. Out on the road away from the neighborhood?

Q Anywhere at all, in the neighborhood or otherwise. A Yes; I have.

Q How many times? A Only once that I can remember. 30

Q Where did you see Gunardson and Mrs. Glass on this one occasion away from the house?

A In a restaurant in Bloomfield Center.

Q Eating? A They just came in to eat as I was leaving.

Q Were they alone at that time? A They were alone.

Q Can you place the time? A Why, it was between 1:00 and 2:00 o'clock in the morning. 40

Harvey B. Hayes, cross.

Q Can you give the date? A I cannot give the positive date, no. It was in the month of July.

Q 1923? A 1923.

Q What restaurant was this? A It was the Alps.

10 *By the Court.*

Q On these occasions when you say McDonald came to the house and stayed for an hour or two hours or three hours, had you seen Mr. Glass around? A No, sir.

Q Did you see him leave for business? A Why, no; I did not.

Q On any of these occasions? A One or two occasions I would say I did. The rest of the time he would leave for business before I was up.

20 Q How do you know that he was not there? A I don't know that he was not there.

Cross examination by Mr. Davis.

Q You say there was one occasion when you saw Mr. McDonald go to the house about 11:00 o'clock in the morning and stay until about 4:00 o'clock in the afternoon. Do you know whether or not Sonny was there during that time? A Why, I think—if I am not mistaken—he came home and had his lunch.

30 Q How does it happen that on these various occasions that you speak of Mr. McDonald being there in the daytime that you were home in the daytime? A That is my own private affairs.

40 Q I presume it is, but I would like to know, unless it is something personal that you do not wish to explain? A Nothing personal.

Fred H. Carter, direct.

Q You are a business man? A I am now; yes.

Q At that time you were not working? A At that time I was not working.

By Mr. Brugler.

Q This time in July when you say you met Mrs. Glass and Mr. Gunardson in the Alps restaurant between 1:00 and 2:00 o'clock in the morning, was that while Mr. Glass was away at the hospital or not? A I could not say as to that. 10

Q Do you know where Mr. Glass' son was during the month of July, 1923? A I think he was in a Boy Scout camp at Glen Wild Lake.

Q Do you know where that is? A That is up near Bloomingdale, New Jersey. 20

(At this point recess is taken until 2:00 o'clock in the afternoon.)

FRED H. CARTER, sworn as a witness on the part of the petitioner, testifies as follows:

Direct examination by Mr. Brugler. 30

Q Where do you live? A Bloomfield, New Jersey, 34 Oak street.

Q What is your business? A I am an attorney.

Q Connected with the Government of the United States? A Yes.

Q In what department? A In the Assistant Attorney General's office in New York. 40

Fred H. Carter, direct.

Q What was your business during the summer of 1923? A During my vacation I took care of the Boy Scout camp, Camp Demarest, at Bloomingdale, New Jersey.

10 Q During the summer season of that year did you have in your camp and in your charge a son of Mr. and Mrs. Glass? A Yes.

Q Do you recall about when the boy first came to the camp? A I think on the 9th of July.

Q How long did he remain? A Until about the 28th of July.

(Counsel calls upon Mr. Gunardson to stand up.)

20 Q Did you ever see this man? A Yes.

Q Mr. Gunardson? A Yes.

Q When did you first see him? A I first saw him when he and the boy and Mrs. Glass came up to the camp the first time he came.

Q Did you see him after that? A Yes.

Q Several times? A Yes.

Q Whom did you understand that man to be? A Well—

30 The Court: I will object to the question if Mr. Davis does not.

By the Court.

Q Was he introduced to you? A No.

By Mr. Brugler.

Q You saw him with Mrs. Glass? A Yes.

40 Q You saw them drive up to the place? A Well, I would not say that I saw them drive in

Fred H. Carter, direct.

actually, but I have seen them come up from the automobile, where the parking space was.

Q Do you recall what kind of an automobile they had? A No; I could not say that.

Q Anyhow, you saw them together after the automobile came in? A Well, they came up from the parking space, and other people at the same time. 10

By the Court.

Q That is, July 9th? A July 9th.

Q Then, you say you saw Mr. Gunardson and Mrs. Glass on other occasions? A Yes.

Q How often? A Once or twice a week Mrs. Glass came to see her boy and he usually came with her and other people.

By Mr. Brugler. 20

Q You spoke to Mrs. Glass when she came there? A Yes.

Q And this man also? A Yes; I talked to him.

Q Did you ever talk to him in the presence of Mrs. Glass? A I presume so. They stayed right there.

Q Did you have occasion to address him by any particular name? A Not that I remember. 30

Q Can you tell us about how many times you saw Gunardson and Mrs. Glass at the camp together in that fashion? A Well, Mrs. Glass paid the boy's board three different times, paid it on the 14th, first on the 9th and 14th and then the 21st, and then Mr. Gunardson came up when Mrs. Ritchie's girl was at camp, later in the season in August, and sometimes Mrs. Glass came with her. So I would say, perhaps, I have seen him up at camp five or six times. 40

Fred H. Carter, cross.

Q Do you recall when you first saw Mr. Glass? A Well, I actually cannot remember seeing Mr. Glass at camp.

10 Q You never saw him at all? A I would not recognize him as the man I saw there one night. There was a gentleman came with Mr. Gunardson and Mrs. Glass, but his figure has
entirely gone out of my memory. I could not recognize Mr Glass as the man. I know there was a man there.

Q There is no mistake about your recognizing Mr. Gunardson? A No; I met him several times.

Q Did you know him to be Mr. Gunardson at that time? A No; I just knew he came with Mrs. Glass.

20 Q Did you ever hear the name Gunardson? A Not that I remember.

By the Court.

Q Do I understand you to say that the boy was in camp from July 9th to the 28th? A Yes.

Q All the time? A All the time.

30 Q He was not away from the camp at all during that period? A I do not think so, unless they took him down for a day, that might be, but my record shows that he was there at that time.

Cross examination by Mr. Davis.

Q On the occasions of the subsequent visits of Mrs. Glass to see her son, after the first day when she brought him to camp, when she came in the automobile with Mr. Gunardson, there were other people in the party, were there not?

40 A Well, I cannot remember any particular date,

William B. Ellis, direct.

but I know that Mrs. Ritchie came up there often with Mrs. Glass at the same time when Mrs. Glass' boy was there, and later when Mrs. Ritchie's girl was there, Mrs. Glass sometimes came up, and Mr. Gunardson usually brought them up in the automobile.

Q He drove the car usually? A Yes. Sometimes he brought other people. 10

Q Other than Mrs. Ritchie? A Yes; I believe so.

Q Did you have occasion to talk with Mr. Gunardson while he was there at any time? A Yes; I talked with him several times. We used to stand around on the porch when Mrs. Glass was out seeing her boy.

Q There was not anything said in any way that would lead you to think he was Mr. Glass? A No; not a word, only he came with Mrs. Glass; I thought they came together. 20

Q You say Mrs. Glass paid the board for her son at the camp each time? A Always; yes.

Q You do not recall Mr. Glass coming up there in this automobile, the man that you can remember? A I would not say whether he was the man or not. The man's image has gone out of my memory.

30

WILLIAM B. ELLIS, sworn as a witness on the part of the petitioner, testifies as follows:

Direct examination by Mr. Brugler.

Q You know Mr. and Mrs. Glass? A Yes.

Q And Mr. Gunardson? A Yes; I met him once.

Q Did you ever see McDonald? A No. 40

William B. Ellis, direct.

Q Your home in Belleville is adjoining the home formerly owned by Mr. and Mrs. Glass, is it not? A Yes.

10 Q I show you Exhibit P. 1, on which there are four photographs. Can you show us or tell us whether or not on the photograph, on the top, there is any part of your house in the picture? A That (indicating) is our house there.

Mr. Brugler: The witness indicates the end of the house shown on the extreme left of the picture.

Q Now, during the summer and fall of 1923, were you home at any time? A I was home every evening and usually Saturdays. On Saturdays I took my vacation.

20 Q Did you see Mr. Gunardson around the Glass home very much? A Why, I saw a man that I was told was he. I did not know him.

Q Well, is this the man here?

(Counsel indicates Mr. Gunardson.)

A Well, he looks stouter than when I used to see him.

30 (Counsel calls on Mr. Gunardson to stand up.)

Q Do you recognize that man? A I am rather near-sighted. In our place there is a good lot of land in between—

By the Court.

40 Q The question is: Do you recognize this man who is standing up here in court as the

William B. Ellis, direct.

man you saw at the Glass place? A I don't know that I would recognize him.

Q You saw some man? A Yes.

Q You say you met Gunardson once? A Yes; the last day, the day after the goods were shipped; Mrs. Glass and he took lunch with us.

Q That was October, 1923? A It was in the fall. I don't remember the date. 10

Q Was the man whom you met on that day with Mrs. Glass the man you had seen around the place frequently in the summer and fall? A Yes.

By Mr. Brugler.

Q You know Mr. Glass very well? A Yes; I do.

Q This other man you spoke of was not Mr. Glass? A No, it was not Mr. Glass. 20

Q How long did you see this man around there? A Why, in the summer he was there, it seemed to me, practically every evening.

Q Do you know whether or not he drove an automobile? A Yes.

Q Do you know what kind of a car it was? A I was told it was a Lexington. I don't know much about cars.

Q Did you ever see this particular car in front of the Glass premises? A Yes. 30

Q Very frequently? A Yes; it seemed to be there every evening for a period.

Q Did you see the car there about as often as you saw the man around? A Yes.

Q Did you ever see the car there over night? A Why, I noticed it on two occasions in the morning.

Q What time in the morning? A That I cannot remember either. I think it was a Sunday 40

James L. De Rosset, direct.

morning. It would not be very early; I do not get up early on Sunday mornings.

Q Did you ever see this man drive up in his car and get out? A Yes.

Q Did you ever see him drive away? A I saw him go away on a ride.

10 Q On what? A On a trip with Mrs. Glass and friends, but I never saw him leave in the evening. I had generally gone to bed, I guess.

Cross examination by Mr. Davis.

Q Whom did you say you saw him drive away with—Mrs. Glass and who? A Friends. Times she took friends with her.

20 Q You say it was on Sunday morning you saw the car there? A I think so. I cannot be positive, but twice I remember seeing it there in the morning, but I don't remember the time; but it was probably on Sunday.

JAMES L. DEROSSET, sworn as a witness on the part of the petitioner, testifies as follows:

30 *Direct examination by Mr. Brugler.*

Q During the year 1923 did you live near the Glass home in Belleville? A The rear lots adjoining.

Q Your house is in the rear of their house? A In the rear.

Q Do you know Mr. Gunardson? A I do not.

40 Q (Indicating.) Did you ever see this man before? A I would not say that I have.

James L. De Rosset, direct.

Q Did you ever see any man around the Glass home other than Mr. Glass? A Quite often.

Q The same man or different men at different times? A Well, I have seen, where I would be told, friends of her family, her brother lived there—

Q Other than members and friends of her family? A I have seen Mr. Ritchie there as a visitor. I have also seen what was told me was Mr. Gunardson—I do not know him—I never met him and I would not know him if I seen him on the street. 10

Q This man whom you understood to be Mr. Gunardson, where did you see him? A Around the place, in the house, riding around in the automobile.

Q With Mrs. Glass? A Instructing Mrs. Glass how to drive the machine. 20

Q Did you see them out very frequently together? A Yes.

Q Where did you see them? A In the machine.

Q Did you ever see them out along the road anywhere? A I would not say that.

Q Did you ever see him about town anywhere besides in proximity to the home? A No; I was not interested in the matter at all. 30

By the Court.

Q Did you observe any acts of familiarity between this man— A (Interrupting.) No.

Q I haven't asked you the question yet? A No; I have not.

Q Even if I have not asked you the question you say "no"? A Yes. 40

Walter J. Ritchie, direct.

By Mr. Brugler.

Q Did you ever see Mrs. Glass go out in this man's car down near the railroad station in the morning?

10 Mr. Davis: I object as being leading.
That has already been answered by the witness.

A I have not seen him. I do not recall seeing them anywhere at the station at all; no, sir.

No cross examination.

20 WALTER J. RITCHIE, a witness already sworn on the part of the petitioner, recalled and further examined as follows:

Direct examination by Mr. Brugler.

Q Did you ever have a conversation with Mrs. Glass with respect to Mr. Gunardson? A In what way?

30 Mr. Davis: I beg pardon. I think that question was asked and answered.

Mr. Brugler: That is true. This man has since recalled something, and I desire to recall him to find out what he actually remembers.

The Court: I will permit it.

Q With respect to Mrs. Glass being in the society of Mr. Gunardson? A I do not get that question at all. That question is wrong to me.
40 I do not get that at all.

Walter J. Ritchie, cross.

By the Court.

Q Did you ever have a conversation with Mrs. Glass on the subject of her being in the society of Mr. Gunardson, or as to her relations or actions with him? A I never said anything about relations or actions with him. The only thing I ever said was I didn't like for him to be around there too much, or something like that. 10

Q What did you say? A The only thing I ever said, I didn't like the idea of him being around there so much. That was all.

Q What did she say? A She told me to mind my own business, which was perfectly proper.

Q Where did you mean that he was around so much—her house or your house? A Her house. 20

Cross examination by Mr. Davis.

Q Are you and Mr. Gunardson still in the same company where you worked at that time? A Yes.

Q You are his boss there? A Yes.

Q During the period that he was painting the interior of the Glass house, he would take an hour off occasionally from his work? A While he was over there painting the house, no. 30

Q Didn't he ever get time off and go over to paint the house? A No, sir; he had time enough to take trips down to different places like that, which I knew about.

Q That took him away from the work he was supposed to be doing? A Yes.

Q Then, you objected to his being around there so much; is that it? A (No answer.) 40

Walter J. Ritchie, cross.

Q Being with Mrs. Glass so much? A That is the idea; yes. I told Mrs. Glass I didn't think it looked good, that is all, his being around there.

Q You originally introduced them to each other? A I sure did, yes, sir.

10 *By the Court.*

Q Let me ask you a question: When was this when you made this statement to Mrs. Glass? A Why, I told her one night about it. I could not remember just what date it was.

Q Well, when did you introduce them? Can you tell me that? A Why, I cannot tell you that either, not to tell you the true day and date.

20 Q Give me as near as you can guess, or as near as you can say. A I will try and remember back. It must be about three years ago.

Q It was in 1923 or— A It might have been in 1923 I introduced them. Mr. Gunardson used to drive me up regularly all the time.

Q Up where? A To my house, and when he would not drive me McDonald would drive me up. Well, I just cannot tell you what date, but it seems to me it must have been 1922.

30 Q 1922 you introduced Gunardson to Mrs. Glass, you think? A Yes.

Q And when was it, how long after this introduction, that you spoke to her about Gunardson being around so much? A That was in 1923.

Q What time in 1923? A Well, I could not just tell you that.

Q Can you say whether it was in the spring or summer? A It was the summer.

40 Q In the summer? A Yes.

Walter J. Ritchie, cross.

Q The testimony is that the Glass house was sold in October, 1923? A Yes.

Q Can you say how long before that it was that you had this conversation with Mrs. Glass? A It would have been around May or June, something like that.

Q You think it was May or June that you talked to her about this? A Yes; I just said it in an offhand way to her. 10

By Mr. Davis.

Q I would like to ask where it was that you introduced Mrs. Glass to Mr. Gunardson? A At our house.

Q At your house? A Yes.

Q What was the occasion—she was there visiting your wife? 20

The Court: That has already been brought out in the direct testimony. She came to visit the Ritchie family and one time when she was there Gunardson drove Ritchie home and Ritchie introduced them.

Q Did you subsequently take Mr. Gunardson out to the Glass home in Belleville; did you and Gunardson and Mrs. Ritchie go to Belleville and visit Mr. and Mrs. Glass after that together? A You mean with his car? 30

Q I don't know what car, but you and Mrs. Ritchie and Mr. Gunardson, did you come out one evening, or late one afternoon, to visit the Glass house? A I told you I don't remember anything like that, because I have met Charlie out there. Charlie has gone out there lots of times and I have been out there, but I could not tell you anything about going out with him to visit Mrs. Glass. 40

Eileen Goddard, direct.

Q You don't remember that? A No; they might have, but I don't remember.

By Mr. Brugler.

Q You visited Mr. and Mrs. Glass sometimes?

A Yes.

10 Q You stopped visiting them, didn't you? A Yes.

Q When was that? A It must have been around June or July or August, one of those months.

Q Can you assign any particular reason for stopping your visits to them? A Well, yes; I said that if Charlie was going to be there I would keep away from the place.

20 Q What was your objection to Charlie? A Well, I didn't have any objection to Charlie or any other man being there, only Will was a friend of mine. I thought it didn't look nice to have any one around that house all the time, not that I thought there was any wrongdoing or anything like that.

30 EILEEN GODDARD, sworn as a witness on the part of the petitioner, testifies as follows:

Direct examination by Mr. Brugler.

Q You are some relation to Mrs. Hayes?

A Yes.

Q What relation? A Sister-in-law.

Q Were you visiting your sister-in-law during the year 1923? A Yes, sir.

40 Q What part of the year were you there? A I was there from June until the 1st of September.

Eileen Goddard, direct.

Q While you were on that visit, did you become acquainted with Mr. and Mrs. Glass? A Yes, sir.

Q You also saw other people around the Glass home? A Yes.

Q Did you ever see this man, Mr. Gunardson? A Yes, sir.

Q Did you ever see any other man besides Mr. Gunardson? A No, sir. 10

Q How long did you see Mr. Gunardson there? A About every evening and on Sundays.

Q You have a child, have you? A Yes.

Q When was that child born? A 3rd of February.

Q 1923? A No; 1922.

Q You saw Mr. Gunardson around numerous times or not? A Yes, sir.

Q Both daytime and nighttime? A Why, Sundays was about the only daytime I saw him there. 20

Q Through the week it would be at nighttime? A In the evening.

Q Was it nearly every day? A Pretty near.

Q Did you see Mr. Gunardson do anything particularly around the place? A He was painting and working around the place.

Q Did you ever see him in the company of Mrs. Glass? A Yes. 30

Q In that house? A Yes.

Q Just tell the Court in your own words. A It was just one evening; I was going out through the front of the house and I could see in through the living-room windows and she was sitting on his lap and smoothing his hair. That is the only time I ever saw him in the house.

Q What did you see out of the house? A Well, I have seen them kiss each other goodnight. 40

Eileen Goddard, direct.

Q Where did that take place? A On the front porch, on the stoop.

Q How was Mrs. Glass clothed at that time?

A Why, this once I can remember she was clothed pretty scantily; her hair was hanging down in a braid.

10 Q Do you remember what kind of a dress she had on, if any? A No; I could not say if it was a dress or not.

Q What did it look like? A It was very low necked if I can remember right.

Q When was it you say you saw her seated on his lap and stroking his hair? A It was in the evening.

Q Place the date, as near as you can remember? A I cannot remember. I think it was in
20 July. It was while Mr. Glass was in the hospital.

Q When was it that you saw them kiss on the front porch? A Well, it was the same month.

Q Within a few days of the other occasion that you mention? A Yes.

Q Did you ever see them kissing on more than one occasion? A That was several nights.

Q About what time of night would that be? A Any time between 12:00 and 1:00.

30 Q You customarily sat up very late yourself? A Yes, with the baby—Mrs. Glass had a couple of dogs and they used to wake the baby up quite often and I would sit up with him. I just glanced out of the window. My bed was alongside the window and I could see out.

Q Did you ever see them out automobile riding? A Yes.

Q Frequently? A Quite often.

40 Q Did you ever see the man known as McDonald? A No.

Eileen Goddard, direct.

Q Did you ever see any other man frequent the house besides Gunardson? A No; I don't believe I did.

Q Did you ever have any conversation with Mrs. Glass regarding Gunardson or her husband?

A Why, I did, but I cannot just remember.

Q Please tell us what you can remember. A 10
All I can remember is—I forget now.

Q Whatever it is, tell us. A She wanted some kind of friendship; her mother had died and she—

By the Court.

Q This is something that she told you? A Yes. Mr. Glass was not home very often and she took Charlie to have friendship, to have somebody take her somewheres once in awhile 20

By Mr. Brugler.

Q Did she say anything about whether she liked or disliked Mr. Glass? A No.

Q Or whether she liked or disliked Mr. Gunardson? A No.

Q Did she ever say anything about what her plans were for the future? A No.

By the Court. 30

Q What was it she said on this occasion about Mr. Glass? A That he was away and that she wanted some friendship, to have somebody to take her out evenings. I cannot just remember the words.

By Mr. Brugler.

Q Did she ever tell you about some trouble she had with Gunardson one time? A No; she never told me about that. 40

Eileen Goddard, direct.

Q Did you ever witness any trouble Mrs. Glass had with Gunardson? A I remember one evening while I was in the kitchen—it was not late—and they had come home from a ride—

10 Q You refer to Mrs. Glass and— A (Interrupting) Mrs. Glass and Mr. Gunardson had come home from a ride, and Isabel Ritchie. Mrs. Glass—the only thing I can remember, they were drinking milk in the kitchen, and the first thing I know she dropped the glass on the floor and laid her head on the table and began to cry.

By the Court.

Q Where were you when this happened? A I was in the kitchen, in Mrs. Hayes' kitchen across from Mrs. Glass'.

20 *By Mr. Brugler.*

Q And what became of Mr. Gunardson then? A He had gone. I guess he got tired of waiting—that is the way I took it—and he went.

By the Court.

Q Did she call him by his first name? A “Charlie,” yes.

30. Q She called him “Charlie?” A Yes.

Q And what did he call her? A I can remember once he called her his Indian Princess.

Q Other times? A That is about the only time I can remember.

Q Did he call her Mrs. Glass or Euphemia or Effie? A I cannot remember even that.

By Mr. Brugler.

40 Q Did you hear him call her his Indian Princess more than once? A No, I did not.

Eileen Goddard, cross.

Q She always referred to him as Charlie, or did she call him Mr. Gunardson sometimes? A "Charlie."

Cross examination by Mr. Davis.

Q How long were you visiting Mrs. Hayes? 10
A Three months.

Q Everybody around that neighborhood who knew Mr. Gunardson at all well, or associated with him, called him "Charlie" didn't they? A Yes; I believe they did.

Q It was a customary name for him? A Yes.

Q How far was the kitchen of Mrs. Hayes' house from the kitchen of Mrs. Glass' house? A Well, I could not tell you that.

Q Was it— A (Interrupting.) It is not 20
so far. It is just so that you can see in the kitchen and see the chairs and table, how everything is.

Q Is it as far as from where you are sitting to the end of the court room? A I would say a little further.

By the Court.

Q That would be about fifty feet away? A 30
Yes.

By Mr. Davis.

Q You saw Mrs. Glass one evening in there drinking milk and saw her put her head down on the table and cry? A Yes, she dropped the glass, the glass broke; I saw Isabel Ritchie sweeping the glass up.

Q Isabel Ritchie was in the kitchen with her? A Yes; they were both sitting at the table. 40

Eileen Goddard, cross.

Q Isabel Ritchie? A Yes.

Q Whom do you mean? A Mr. and Mrs. Ritchie's daughter.

Q There was nobody else there in the kitchen?

A No.

Q Mrs. Glass started to cry? A Yes.

10 Q You don't know what it was about? A No; I don't know what it was about.

Q You say that you saw Mrs. Glass on one occasion sitting on Mr. Gunardson's lap and smoothing his hair? A I did.

Q You looked through the window and saw that? A Yes; I was walking past the front of the house.

Q Lights lit? A Lights lit and the curtain was half way.

20 Q On another occasion you said you were awaked because the dogs had awaked your baby? A Yes; quite often.

Q Somewhere around midnight or a little later? A Yes.

Q And you saw Mr. Gunardson kiss Mrs. Glass? A Yes.

Q That was in July, 1923. Did you ever go up to Camp Demarest with Mrs. Glass? A Yes; just once.

30 Q That was in the latter part of July, was it not? A I could not say just when it was.

Q Well, it was after this occasion that you speak of having seen Mrs. Glass sitting on Mr. Gunardson's lap? A I could not say.

Q You do not recall whether it was before or after that? A No; I could not say whether it was before or after.

40 Q How do you base the fact that you saw these occurrences in 1923? A Because I was in my bed and I could look out across the porch from my bedroom.

Eileen Goddard, cross.

By the Court.

Q Mr. Davis means: Why don't you say it was June or August or September? A I was only there in June and July and August.

Q You left the 1st of September? A Yes.

Q When did you come there? A I came there some time in June. 10

By Mr. Davis

Q How do you place these occurrences in July? A Well, I know it was when Mr. Glass was in the hospital. I think it was. I know he was not around. I could not say whether he was in the hospital or not, but I know he was not around at the time.

Q As a matter of fact, you have heard this testimony this morning? You have been in the court room this morning? A Yes. 20

Q You have heard other witnesses testify that Mr. Glass was away in July? A I know Mr. Glass was away anyway, because I was—I cannot say whether it was July or not—I know he was away because I was there.

Q You don't recall when it was that you went to Camp Demarest? A No; I could not say what time.

Q Whether it was before or after these occurrences? A No; I could not say. 30

Q Did the observances of these occurrences make any differences in your attitude towards Mrs. Glass? A No.

Q It did not make any difference? A No.

Q Did you ever go over to Mrs. Glass' house to visit? A Yes; once.

Q Did she come to the house you were staying at, Mrs. Hayes' house, to visit? A She came over a few times while I was there. 40

Eileen Goddard, cross.

Q Do you know Sonny? A Yes.

Q Sonny and the rest of the boys, when he was not at camp, played around together in the neighborhood, didn't they? A I believe so. I never knew just where he was. I never did see him much.

10 Q Didn't you see him playing around with the other boys at all? A I never noticed him.

Q You were there three months? A Yes; I was there three months, but I was not always home.

Q You were at home these other occasions when you saw Mrs. Glass? A Yes; that was in the evening. I was always home in the evening. I couldn't get away on account of the baby.

20 Q Did you go away much? A No, not much. I have seen Sonny around, but I could not tell you when or what he was doing.

Q Did you see the other boys in the neighborhood? A There were other boys, but I don't know who they were, and there was Mrs. Hayes' youngest son.

Q Didn't you ever see Sonny playing around with the other boys? A No; I never did.

30 Q Did you ever see Sonny talking to Mr. Gunardson? A Yes.

Q Did you ever see Mr. Gunardson talking with any of the boys in the neighborhood? A No; just the Hayes boys; that is all.

Q They are your nephews? A Yes.

Q How old are they—about Sonny's age? A No; one is eighteen; the youngest is eighteen, I think.

40 Q Those are two of the boys who testified here today? A Yes, sir.

William C. Glass, direct.

Q Did you ever hear them refer to Mr. Gunardson in conversation? A No.

Q You never heard them mention his name at all, either as Mr. Gunardson or Charlie?

A No; I never did.

Q You never noticed Mr. Gunardson's attitude toward the boys in the neighborhood at all? A No. 10

WILLIAM C. GLASS, the petitioner, already sworn as a witness in his own behalf, recalled and further examined as follows:

Direct examination by Mr. Brugler.

Q I asked you this morning if you recalled ever speaking to Mr. Gunardson about his being around your place, and I think you said you did not. Do you now recall any such occasion? 20

A I recall one particular instance when there was a little disagreement between Mrs. Glass and myself as to whether Sonny should do something or whether he should not do it, whether it involved going to the movies or to bed or something of that kind. In the early evening Mr. Gunardson was there and he attempted to take part in the conversation and tell me what I should do in regard to Sonny, that I should let him do it and so forth. I simply told him that I was perfectly capable of settling that affair myself, and he went out, and after he had gone out I told Mrs. Glass that if he ever butted into affairs when I was around that he would never come there again, and Mrs. Glass told me that if there was to be anyone going, that I would be the one to go. 30 40

Sabra Bennett, direct.

Q Did you know at that time of the exact situation with respect to your wife and this other man? A I did not.

Q When you spoke to Mr. Gunardson did you call him by his first name, or how did you address him? A I avoided using his name at all.

By the Court.

Q Did you ever address him? A I might have.

Q When you did, did you call him Mr. Gunardson or Charles? A Probably "Charlie," if I addressed him by name.

Q How far is it, do you know, between your former house and the Hayes' house? A It is very nearly exactly fifty feet.

Q How do you happen to know that? A Because when I had installed a radio set for Sonny, we put an aerial up between the two houses, a fifty foot aerial, between the back windows of the two houses.

PETITIONER RESTS.

30

DEFENDANT'S CASE.

SABRA BENNETT, sworn as a witness on the part of the defendant, testifies as follows:

Direct examination by Mr. Davis.

Q Where do you live? A Blackstone, Massachusetts.

Q How long have you lived there? A Thirty years next October.

40

Sabra Bennett, direct.

Q You live there in the city or out in the country? A On a farm in the country.

Q How long have you known Mr. and Mrs. Glass? A About ten years.

Q Have Mr. and Mrs. Glass, or either of them, or both of them, ever lived with you at your home? A Yes. 10

Q And when was that? Tell the Court when they were there, either or both of them? A Mr. and Mrs. Glass came to my house to board about ten years ago—Sonny was about four years old, I believe—in the spring. Mr. Glass came about two weeks before Mrs. Glass, and they spent the summer with me until very nearly Thanksgiving. I could not remember just the dates.

Q What can you tell us as to Mrs. Glass' actions and treatment with regard to her son? 20

Mr. Brugler: I object to that, as it calls for a conclusion.

The Court: I understand that he is asking her to tell what she saw.

Q State what you saw of Mrs. Glass' treatment of her son. A I consider it all right.

Mr. Brugler: I object. 30

Q You cannot tell what you consider it, because that is your opinion.

Mr. Brugler: I will admit that as far as our case is concerned the mother has treated Sonny largely as any mother would, except that in New Jersey she did not take care of him and clothe him and did not keep him clothed. 40

Sabra Bennett, direct.

The Court: You are talking about a period ten years ago, Mr. Davis.

Q Continue and tell the Court how many times and when Mr. and Mrs. Glass were at your residence? A Mr. and Mrs. Glass were there one summer. That is all.

10 Q Were either Mr. or Mrs. Glass ever there alone? A Several occasions.

By the Court.

Q When was this summer that they were there again? A They were not there together but one summer.

Q What summer was that? A That was when Sonny was about five years old.

20 Q I thought you said they came there again one summer? A No; not together.

Q When was either of them there alone after that? A Well, I could not remember any dates. On several occasions.

Q Did either Mr. Glass or Mrs. Glass come back the next summer, nine years ago? A Not to board.

Q Did they come to visit you for a little while? A Just to visit for awhile.

30 Q When, after the first time, did either of them come to board for the summer? A Mrs. Glass came a year ago and this summer.

Q 1924 and 1925? A Yes.

Q All summer? A Yes.

Q In the meantime, between 1924 and the first time that they had been there all summer, they came to visit you occasionally for a short period? A No.

40 Q You said something to the effect that they had not been there to stay all summer, but I

Sabra Bennett, direct.

understood they had visited you through the summer? A No, not since Mrs. Glass and Sonny were there the summer of 1924.

Q Before that. A Before that?

Q Yes. A Mrs. Glass was at my house at Christmas time in 1923. Mr. Glass was there with Sonny in the spring or Easter vacation—
Sonny's Easter vacation. 10

Q What year was that? A That was 1924.

Q Now, do you know of any time when Mr. Glass was living in Woonsocket? A Yes.

Q Woonsocket, Rhode Island? A Yes.

Q About how far is that from your farm? A Three miles.

Q Did he come out to visit you on those occasions, or did he have any occasion to come out and visit you while he was living in Woonsocket? A Well, they came together on some occasions and he came once or twice with Sonny. 20

Q So that you know them both pretty well? A Very well indeed.

Q Since this little baby was born have you ever talked with Mr. Glass about the baby?

The Court: You mean the baby born April 30, 1924?

Mr. Davis: Yes; Barbara. 30

A No.

Q Have you ever seen any letters from Mr. Glass referring to the baby? A In answer to my letter, yes.

Q Have you the letter or letters received from Mr. Glass? A I have not.

Q Do you know where they are or what has become of them? A They have been destroyed.

Q Are you familiar with Mr. Glass' handwriting? A Why, I cannot say as I am awfully 40

Sabra Bennett, direct.

familiar. His letters were usually typewritten and then his name signed.

Q Were they written on any particular letterhead? A On his office letterhead.

Q On his office stationery? A His office stationery.

10 Q The same company that he told you he was working for? A Yes.

Q His name was signed in handwriting which you took to be his? A Yes.

Q Did you receive several of those letters? A Probably—why, yes, probably quite a number in regard to the son.

Q And then subsequently did you receive any communication from him on that kind of stationery, signed in the same way, in which there was a reference to this little daughter? A Yes.

20 Q What was said in that letter with regard to the daughter, if anything, if you recall? A He wrote me and asked me, in a roundabout way, not to take the little daughter and his wife to board with the son, and I had already told his wife that they could come and board with me; and he asked me not to have them come, and I wrote him that I had already told them they could come, and I had made up my mind to let them come, and so they came. Several occasions
30 he wrote me concerning Sonny, in what I considered—

Mr. Brugler: Objected to.

Q Tell us what he said. A I could not just say what he said.

Q You were going to refer to something he said about Sonny?

Mr. Brugler: I object to counsel leading the witness.

40

Sabra Bennett, direct.

By the Court.

Q Can you tell us anything that he said in his letters about the girl? A Well, I could not word for word.

Q Can you give us the substance of what he said about the girl? A Well, the substance to me was that he disowned the daughter, and I was indignant. That is the impression it had on me. 10

By Mr. Davis.

Q Did you hear him state this morning that he had never admitted to anyone that he might have been the father of the daughter, on the stand this morning? A I did not. I was not in the room.

Q With reference to that, I ask you this: Did he in any of those letters to you admit that he might have been the father of this daughter? 20

Mr. Brugler: Objected to.

The Court: Objection sustained.

By the Court.

Q What did he say in those letters, if anything, about the parentage of this child? A (No answer.) 30

Q Can you tell us? A Well, I don't know as I could give the exact wording. It was like this: Even granting that what I said to him in my letter was true, that the money matters had gone, the money matters, that the Barker family, that is, his wife and her family, had used his money as long as they were going to, and he was going to put an end to it—something to that effect.

40

Sabra Bennett, direct.

Q Is that all you can say? A That is all I can say.

By Mr. Davis.

Q Did you ever have a discussion with Mr. Glass concerning a book called "Sins of a
10 Father"? A Yes.

Mr. Brugler: I object unless we know when this occurred.

The Court: Fix the date.

Q When and where did that conversation occur? A In my home.

Q When? A Ten years ago, in my home.

Q Who was present at the time? A My
20 husband.

Q And yourself and Mr. Glass? A Yes.

Q Do you know what the book was about?

Mr. Brugler: I object to that.

By the Court.

Q Had you read the book? A Yes.

Mr. Brugler: I object. I cannot see what
30 counsel is driving at.

Mr. Davis: The idea is that we wish to show the attitude of the petitioner all through his married life with regard to the sacredness of marriage, home life, and the entire situation.

(Further argument.)

The Court: Unless you are trying to show that the petitioner in this case con-
40 nived at adultery and provided an oppor-

Sabra Bennett, direct.

tunity for it, I don't care what ideas he may have stated.

Mr. Davis: We think it is competent to show that under the testimony so far developed, to show that he connived—

The Court: If you want to show that, I will permit that. What he said or thought of "The Sins of the Father" ten years ago, I do not think would have much bearing on adultery committed in 1923. 10

Q You discussed this book with him. Did he state whether or not he had read it?

Mr. Brugler: I renew my objection.

The Court: Objection sustained.

Mr. Davis: I understood from your Honor's previous ruling that— 20

The Court: I say that you may show that he connived at, or consented to, or provided the opportunity for adultery in 1923; but if you are going back to 1913 or 1914 you are going too far back to show connivance at something that occurred nine years later.

Mr. Davis: I wish to show his mental attitude. 30

The Court: I don't care what his mental attitude was on "The Sins of the Father."

Mr. Davis: The character in the book, what the character was, and his belief as to whether that character acted rightly or not?

The Court: No.

Euphemia M. Glass, direct.

Cross examination by Mr. Brugler.

Q You said you had written to Mr. Glass expressing your indignation because he had disowned the baby? A Yes.

10 Q Of course, you do not pretend to know whether or not Mr. and Mrs. Glass co-habited so that Mr. Glass could possibly have been the father of that baby, do you? A I don't get your question.

Q You do not pretend to say, of your own knowledge, whether or not Mr. Glass was father of that baby, do you? A Oh, no.

20 EUPHEMIA M. GLASS, the defendant, sworn as a witness in her own behalf, testifies as follows:

Direct examination by Mr. Davis.

Q You are the defendant in this suit for divorce on the part of your husband? A I am.

Q You are also making a counter-claim for divorce against him? A I am.

30 Q You heard Mr. Glass' testimony this morning on the witness stand? A Yes.

Q His testimony as to the place of your marriage and the places where you lived thereafter, the various places he mentioned, was substantially correct? A Yes.

Q Will you tell the Court what took place in Belleville after you moved there?

The Court: We may be able to shorten this case up somewhat. You told me, Mr. Davis, at the outset of the case that you

Euphemia M. Glass, direct.

had a cross-petition for divorce on the ground of desertion—constructive desertion; that Mrs. Glass was forced to leave her husband?

Mr. Davis: Yes, sir.

The Court: She says that he is the father of a child born in April, 1924? 10

Mr. Davis: Yes, sir.

The Court: Then, they lived together until July, 1923, didn't they?

Mr. Davis: Yes.

The Court: Then, there could not have been desertion for a period of two years at the time the petition was filed in this case, could there?

Mr. Davis: That is correct. 20

The Court: Then, there cannot be anything in your counter-claim.

Mr. Davis: Unless the cruelty is considered—desertion on the ground of cruelty.

The Court: You don't allege extreme cruelty in your counter-claim. You say there was desertion, and you claim a divorce on the ground of desertion.

Mr. Davis: That is true. 30

The Court: There must be two years. So I think you are confined to your defense of the petition.

Mr. Davis: I believe your Honor is correct.

Q Will you tell the Court the situation with regard to your moving to Belleville, what developed there as to the presence of Mr. Gunardson, and the situation in general as it has been 40

Euphemia M. Glass, direct.

testified to by Mr. Glass and the other witnesses? Please make it as brief as you can, and yet do not omit any facts. A Previous to moving to Belleville, we lived in Long Island. We lived there a year, when our rent was raised and Mr. Glass didn't know what to do about it, and I
 10 objected to paying a high rent. I asked him if he could not in some way raise the money to purchase a little home, because it seemed to be wrong in paying so much money for rent. He said no, he could not. I said: "I will not leave Sonny here in this place. Then there is only one alternative. We will move when our lease is up. I will take him to the farm," and it was left that way, and finally he announced one night that he had borrowed \$500 and that he would buy a house if I would not go away.

20

By the Court.

Q If you would not— A If I would not go away.

Q If you would not go away? A If I would not go away.

Q What do you mean by that? A If I would not take Sonny away to the farm for the summer.

30 Q Then he bought this house in Belleville; is that right? A He bought this house in Belleville after I talked to him every night for one month steady. He couldn't see it.

Q Was the house bought in his name alone? A It was bought in his name. He said there was no reason to put my name in. The house was bought in his name.

40 Q Did you move to Belleville? A Yes; we moved to Belleville, and he said that as he was going to be away a great deal, that he would

Euphemia M. Glass, direct.

try and do his best to make the place habitable for me; and I said that was all right. The house was not finished when we moved into it.

Q He was not going to be away any more in Belleville than he had when you lived in Long Island? A I think he intended to be.

Q Did he tell you so? A Yes. My mother came with me because he said he would have to be away so much and that he didn't think I ought to be alone. Besides, my brother was contributing to my mother's support, and that money he wanted. 10

Q When did you move to Belleville? A We moved to Belleville in June.

Q 1922? A 1921.

Q And your mother came with you? A My mother came with us. 20

Q How long did she live there with you? A She lived with me until October, 1921, when she passed away. 20

Q Your brother lived with you? A My brother came with me.

Q How long did he live there? A He lived there until the following November.

Q 1922? A Yes; 1922.

Q From November, 1922, until October, 1923, you and your husband lived alone in this house, except the time he was away? A Yes, sir. 30
Time went on and he made no preparations for taking care of the house. I had no comfort in it, and I would ask him. He didn't have time; his expenses were high, and he didn't have time; he had so many outside expenses. He didn't have time to help me arrange the house. And so it went on, until finally one Sunday Mr. and Mrs. Ritchie brought Mr. Gunardson up the house. I had previously been introduced to 40

Euphemia M. Glass, direct.

him in their home—only just a passing introduction—that was all. A few weeks later they brought him up. It was on a Sunday afternoon. My brother and sister were there, and Mr. Glass and Mr. Ritchie and Mrs. Ritchie, and Mr. Ritchie and Mr. Gunardson went through the house, and Mr. Gunardson was to give an estimate of what it would cost to put the house in a livable condition, and Mr. Ritchie said: “I think we can help with that. I think we can all get together and fix that up in great shape.” Mr. Glass thought that was fine. He said: “Go ahead,” and Mr. Ritchie said: “Charlie”—everybody called him “Charlie,”—he said: “Charlie, look around and see what you think about it. I think you ought to come out here and get busy.” Mr. Glass had stated the fact that his finances were so low that he could not do the hiring of regular day help. So Mr. Gunardson agreed, and then in the presence of my brother and sister and Mr. and Mrs. Ritchie he took up the proposition of fixing our house. Then we ordered the paint—Mr. Glass ordered it—and it was a case of wrong delivery and it didn’t get there until so late that Mr. Glass cancelled the order. My mother passed away meanwhile in November. Then I did for a while, I admit, lose interest, because I had never been separated from her and we were all in all to each other, and I just couldn’t take up the proposition, because she and I had planned just what we were going to do with the premises; so I couldn’t go ahead. So in the springtime Mrs. Ritchie came up and she suggested—

Q In the spring of 1923? A 1922.

Q When did you say your mother died? A In October, 1921. In the spring, about Easter time, Mrs. Ritchie came up—Mr. Gunardson

Euphemia M. Glass, direct.

drove her and her sister up—and she suggested again that he start it—start in on the work.

Q Who—Mr. Gunardson? A Yes; and he said he would look around; and he looked around the house, and he thought it was rather a pretty little bungalow and he said he thought he would like to work on that scheme of decoration— 10

Q And he finally did start? A He finally started with Mr. Glass' consent.

Q When? A About two weeks after Easter, 1922.

Q 1922? A 1922; in the spring of 1922.

Q How long did it take him to carry out the scheme? A He came out and he worked just two or three hours in the evening.

Q When did he finish the work? A He finished the work—well, in fact it was not really completed when we went away. 20

Q Then he worked there from Easter, 1922, to October, 1923? A Yes.

Q On this scheme of decoration, from Easter, 1922, to October, 1923? A No. From Easter until October of the same year. No. I guess I am mistaken in that. It was the following year.

Q You said your mother died in November, 1921? A 1921. 30

Q And it was the following Easter that Mr. Gunardson was prevailed upon to start in on this job? A Yes.

Q And that was Easter, 1922? A 1922.

Q And then he finished, or had not finished, when the house was sold in October, 1923? A No. Because of the delay in the paint; the order was cancelled.

Q The delay in the paint was before your mother died? A No. I beg your pardon. 40

Euphemia M. Glass, direct.

Q You said so? A No. There was nothing done about the house before my mother died.

Q Tell us when he started work? A We ordered the paint in the spring of 1923.

Q He had not finished it in October— A
1923; and during that time he went back and
10 forth, and Mr. Glass was there, too, and he was very agreeable with Mr. Gunardson. He ate his dinners with him. We took him to the theatre; we took him to the movies with his son; he accepted all sorts of favors of him—

Q Whose son? A My son—his son.

Q Mr. Gunardson's son? A Mr. Gunardson would take my boy and his father to the movies.

Q Is Mr. Gunardson married? A Yes.

Q Has he a family? A Yes; he has a fam-
20 ily.

Q You mean to say that in 1923 Mr. Gunardson was married? A Why, certainly.

Q And he lived where? A He lived just about half an hour's ride from my house.

Q In Jersey City? A In Newark somewhere. I believe his family is all grown up now, and I believe his wife is—I don't know—at that time I didn't know the circumstances at all. It wasn't until later that it came up, until Mr. Glass
30 made accusations—I perhaps was not in any too sensible mood—I wanted to get it done because I had received a severe shock from my mother.

Q Your mother died in November, 1921, and this job did not start until spring of 1923? A You don't get over those things in a hurry.

Q How many rooms in this house? A Seven rooms, counting the sun parlor, and my furniture was all—

Q When did he do this work? A Every eve-
40 ning and Sunday.

Euphemia M. Glass, direct.

Q Every evening? A Practically every evening. I don't say every evening, but practically every evening.

Q How long did he stay every evening? A Sometime nine; sometimes ten. The doors were always open and my neighbors came in and out. The windows were always open.

10

Q Did he stay sometimes until 2:00 o'clock in the morning? A No; never; just once, that Mr. Glass was aware of, when Mr. Glass was at home, and then he stayed at his request.

Q How late? A He stayed all night.

Q Mr. Glass was home that night? A Yes; Mr. Glass was home.

Q Did he stay over night any night when Mr. Glass was not there? A No.

Q Mr. Glass was away in the hospital in July, 1923? A Yes.

20

Q How long was he away? A About two weeks and a half. He came home the Tuesday of the third week, I think, and everything was going along smooth. When he would come in at night I would take him out in the kitchen and show him something that Mr. Gunardson had done, and he would say: "What a fine job!" I might tell him that he was going to do something else. It was fine. He would sit down and eat his dinner in a very pleasant, friendly way, and he spoke of Mr. Gunardson as "Charlie" as everybody did. Meanwhile my boy had formed an attachment, because when he wanted anything fixed his father was not home; when he wanted anything fixed he would go to Charlie and he would ask him to fix it, and Mr. Gunardson would fix it.

30

Q Did you call him "Charlie," too? A Everybody did.

40

Euphemia M. Glass, direct.

Q Did you? A Yes. I was introduced to him as "Charlie."

Q How did he address you? A "Mrs. Glass."

Q He never called you by your first name? A No.

10 Q How about "Indian Princess?" A I never heard that. That is news to me.

Q You deny being an Indian Princess? A Well, I hadn't thought about it. Meanwhile I began to realize that Mr. Glass—there was a decided jealousy growing up on account of the fondness of his son for Mr. Gunardson; because in his presence one night Sonny wanted to see a special picture, an Abraham Lincoln picture—and he asked Charlie if he would take him and Charlie said "Yes," and Sonny came down and his father asked him where he was going. He said: "Charlie is going to take me to see Abe Lincoln." He said: "I don't want you to go out this evening," and Sonny turned around and he said: "Mother, you said I could go," and I turned around to explain that I had promised the boy that he could go, and he grew very ugly and he wouldn't kiss Sonny good-bye. We took him. I was so upset that I took him myself with me, instead of letting him take him alone as I had agreed; I went along. His picture for the evening was spoiled because his father didn't kiss him good-bye. I said it was perfectly all right, under the circumstances, since I had promised the boy. From that time on Mr. Glass vented his spite on Mr. Gunardson, and he did everything that was possible to make it unpleasant for me, and yet—

30 Q When did all that happen? A During the year 1923.

40

Euphemia M. Glass, direct.

Q What part of the year 1923? A Spring and summer up to October.

Q This evening, when he didn't want the boy to see this picture, when was that? A That was some time along about June, just after the closing of school.

Q Then he showed his dislike for Mr. Gunardson? A Yes, sir, just following, although I had seen it growing. 10

Q Didn't he tell you that he didn't like Mr. Gunardson? A No.

Q And didn't want him around the house? A No; he did not.

Q And not to have him around? A No.

Q Did Mr. Ritchie tell you that? A No. Mr. Ritchie told me one night shortly before that Mr. Ritchie drove me home and he said that he could see that Mr. Glass was getting in a very disagreeable mood and he advised me to suggest that Charlie stop the work, because he says: "I am sure that fellow is going to make trouble for him." 20

Q What did you say to that? A I said: "I think, Walter, that I am old enough to take care of my own affairs. When I need advice, I will ask for it."

Q Well, notwithstanding that you knew from your husband's attitude and from what Mr. Ritchie said that your husband did not like Gunardson and didn't want him around, you insisted that you were going to have him there? A Because he was then about middle finished; the house was about finished. 30

Q The house was not finished until October; it was not finished then. This happened in June. A Well, he had been working on it all that time. 40

Euphemia M. Glass, direct.

Q He only started in the spring. A It was just about two months one way and two months the other, but then he turned around and used different tactics; then he placed everything in the way. One night I was told that he was using field glasses on the window, that he had people trailing me and detectives on me, that he was trying to get me.

10 Q When was that? A This was, well—well, that had taken place for some time.

Q That was before June? A Yes; that was six months previous to that, and I went to him—

Q You knew that your husband was suspicious of your relations— A Yes.

Q (Continuing.) With Mr. Gunardson? A No; before Mr. Gunardson appeared on the scene.

20 Q This was Mr. McDonald? A No.

Q Who was the man that he was suspicious of? A There was no man.

Q He was following you around? A Yes.

Q And trailing you and using field glasses? A Because I was visiting Mrs. Ritchie's home and he personally made the remark to me and to my sister that Ritchie's place was not a fit place for me and he said to my sister: "If you want your sister to get out alive, keep her away from Ritchies," and he refused to accept—Mr. Ritchie offered him a cigar that night and he refused to accept it. He said he didn't smoke but he did. I said: "You don't smoke?" He said: "I wouldn't take any of his cigars."

30 Mr. Ritchie took me home one evening and Mr. Glass saw him—he started by being suspicious of Mr. Ritchie in the beginning—and Mr. Ritchie had dinner at my home that evening—
40 you asked Mr. Ritchie why he stopped coming

Euphemia M. Glass, direct.

to my home. Mr. Glass insulted him at the table and Mr. Ritchie said he would never eat another meal at the table and he never did. They were friends of mine and he tried his best to break that friendship. They were the only ones that I had.

Q You knew Mrs. Goddard, didn't you? A 10
No; I didn't know Mrs. Goddard.

Q Didn't she visit your house? A No.

Q Didn't you go out riding with her? A No.
I was interested in her because she had a little baby.

Q Did she go out riding with you? A I think Mrs. Hayes suggested taking her sister-in-law and the baby. I didn't know her at all. I had only just met her.

Q Did you say that you wanted someone's 20
friendship because of your mother's death? A
No; I did not.

Q That your husband was away a great 30
deal and that you wanted Charlie to take you out
nights? A I didn't make such a statement.
When she spoke about it, she said that Mrs.
Hayes had told her that I had lost my mother
and she felt sorry for me, and I said: "I have
lost my mother," and I said that Mr. and Mrs.
Ritchie were the friends I had; they were the
only friends that I met, because they were old
friends, and I talked about their friendship and
I made no assertion about asking—because I
have their friendship and I didn't require any
other friendship.

Q I don't understand why if you knew in 40
June that your husband objected to Mr. Gunard-
son around the house so much and Mr. Ritchie
had told you that you better have him stop,
that you still let him come to the house. You

Euphemia M. Glass, direct.

say the painting was only half done. Was the completion of the painting of more importance than the feelings of your husband? A Well, Mr. Glass made the statement that we had not lived happily, but he didn't tell you why.

10 Q Let us get this other thing settled. Did you consider the painting of more importance than the feelings of your husband? A I didn't consider it was more important. He didn't pay attention to his duties, to his home. He had not done so since he was married.

Q Then you didn't care what he thought about Mr. Gunardson? A Personally I thought I had the privilege since I had never heard anything objectionable about Mr. Gunardson. There was no objection—

20 Q Then, the point was that you were going to have Gunardson come there— A To finish the house.

Q No matter what your husband thought about it? A I do not think that Mr. Gunardson—

30 Q Is that the attitude that you took—that you were going to have him finish the job, no matter what your husband thought about it—yes or no? A Yes, if that is the question, but I do not like it put that way.

Q Then, why were you willing to put yourself in that attitude? A Since we had agreed and agreed on a price to pay Mr. Gunardson, I did not think it was fair, through spite, for Mr. Glass to close the work up; and I told him to go ahead and I would see that he got paid. It was not a question of wanting him there because Mr. Glass didn't want him there. In fact, Mr. Glass was there. He didn't really bother him, whether he was with me or not.

40

Euphemia M. Glass, direct.

It was only because his son was growing fond of him, but he didn't care whether he cared for me or not. It was just because of the fondness of his son.

Q Did you ever have improper relations with Mr. Gunardson? A Never. And after Mr. Glass makes this charge he allowed this man that he claims that I had this conduct with, he allowed him to drive him down to Bordentown and take his son down there and sit at table with him; he didn't pay for the gas. He allowed him to take him to camp where the boy was and allowed him to take the boy there because it would cost him less money than to hire a taxicab. 10

Q That was in July? A That was in July. He accepted that from him.

Q When was the trip to Bordentown? A September 19th, when the boy's school started. After he claims—he makes his allegations that in the spring of 1922 my relations with Mr. Gunardson were improper, yet in February, 1922, we went to a party in the Hotel Astor and we occupied the same room. In June, 1922, we went to Albany and we occupied the same state room on the boat. The following Christmas he sent me a gift, with a very personal card—all subsequent to my supposed improper relations with other men. 20 30

By Mr. Davis.

Q Do you know who is the father of your child Barbara? A Mr. William C. Glass is the father of my little girl.

Q When did you and your husband last have sexual intercourse? A I think July 21, 1923, or 1924. Barbara is—it was a year in 1924. 40

Euphemia M. Glass, direct.

Q How old is Barbara now? A She is 17 months old.

By the Court.

Q She was born April 30, 1924? A Yes.

10 Q I understood your counsel to say that you had a copy of the birth certificate? A So I have. It is not right here, but it is available.

By Mr. Davis.

Q She was born April 30, 1924; is that right? A Yes.

Q When do you say your husband last had intercourse with you? A July 21, 1923.

20 *By the Court.*

Q Whereabouts? A 673 John street, Belleville.

By Mr. Davis.

30 Q Will you tell the Court the surrounding circumstances of that, the whole circumstances, how it occurred that you happened to have intercourse upon that date? A Mr. Glass and I had not been happy, because it goes back over the time to a few weeks after we were married and he didn't—because of his desire for the way he wanted me to live with him, and I refused and he kept from me the fact that it was grounds for divorce, and my mother was with me—my mother was of the old school—and when Mr. Glass would go to her with his petty complaints about the way I would not live with him—

40 Q Will you tell the Court what occurred in the summer of 1923 which brought about the

Euphemia M. Glass, direct.

intercourse with your husband the last day of July of that year; were there any circumstances that caused you and Mr. Glass to patch up your little differences temporarily—anything of that sort? A Why, Mr. Glass was very desirous of having the boy go to boarding school and I would not give my consent to it. I wanted him home with me. For two months he did his best to persuade me to let him go and I would not, and he saw that he was going to have difficulty in gaining my permission, and so he turned around and after he returned from the hospital—he returned on Tuesday—he was very nice and he took Sonny into town and bought a box of candy and sent it home to me, and he was acting so differently from his usual way that I noticed it, and then I thought possibly he was turning around and for the sake of the boy, that he was going to lead a different life than he had been accustomed to lead, and we drove up one day to camp—July 21—he allowed Mr. Gunardson to drive us both up; and while we were there I saw that the boy came running out to greet us—

By the Court.

Q Come back to the question. A I am coming to the evening of our return. 30

Q We don't need such a long story. A When we returned, upon our return, I went over to him and I put out my hand and I said: "I don't know what a father is able to do, but I know what a mother is big enough to do." I said: "I can put myself in the back ground and live for the boy's future. Can you?" And he smiled and made a few remarks, and shortly after that I retired, and he had then of his own 40

Euphemia M. Glass, direct.

volition left me and occupied another room—only for a short time—and later he came to my room, and then—

10 Q He occupied the bed with you? A And that is the night that my daughter was conceived, but I didn't know about it. When I learned of it later I would not tell him, because I wanted it and I knew he wouldn't let me have it.

Q You knew in October that you were pregnant? A No; I didn't know.

Q Do you mean to say that from July to October you did not know that you were pregnant? A No; I did not know it, because I was doctoring for a fall. I had a fall; I fell down a flight of stairs, and the doctor came and said I needed electric treatment, and I had sustained internal bruises and I was doctoring for that.

20 Q When were you doctoring for that? A Why, some time around the first of July when I had the fall.

Q In August, too? A Why, no; I don't believe—I believe Mr. and Mrs. Ritchie drove me up to the doctor's while I had some treatment.

30 Q I don't care who drove you. I want to know whether you were going to the doctor for this internal trouble in August. A No; I did not. Apparently I—he told me that he would like to have me go for observation in the hospital, because—

Q Did you go? A No; I did not.

Q Did you go to the doctor again? A Yes; I went to the doctor again.

Q In August? A No.

Q September? A No.

Q October? A No.

40 Q Well, you must have known that something was the matter in August? Did you? A Yes; I did.

Euphemia M. Glass, direct.

Q Why didn't you go and see a doctor about it? A Because Mr. Glass had refused to pay any bills for me—any doctor's bills—and I didn't have any money myself, and I was laboring under the impression that I had a tumor, and I told my brothers and sisters and they wanted me to go to a hospital.

10

By Mr. Davis.

Q When did you first become aware of the fact that you were about to become a mother? A Around the first week in January. I was visiting—

By the Court.

Q Don't make such a long explanation. The question is: When did you first become aware of the fact that you were about to become a mother? A About the first week in January.

20

By Mr. Davis.

Q At that time did you convey the information to anyone? A My sister and brother-in-law.

Q Where were you living then? A I was visiting my sister in Swampscott, Massachusetts.

30

Q Did you notify Mr. Glass at that time? A No; I did not.

Q Why not? A Because when my brother-in-law asked me if he should let him know, I said no.

By the Court.

Q Why not? A Because I wanted the baby and I knew he would not let me have it.

40

Euphemia M. Glass, direct.

Q But you were in Swampscott, Massachusetts, and he was in Belleville. How could he stop it? A Well, you don't know him as I know him.

By Mr. Davis.

10 Q Did he object to having children during your married life? A Yes; he did.

Q And after Sonny was born, were there any other children that might have been born? A No; there was never any opportunity.

Q You mean by that, that he prevented there being any opportunity? A Absolutely.

Q By operation of his own?

Mr. Brugler: I object.

20 Mr. Davis: I don't care to go into details.

Q What was his attitude toward you with regard to occupying the same bed and having intercourse?

Mr. Brugler: I object because it calls for a conclusion.

The Court: Objection overruled.

30 A Mr. Glass occupied the same bed with me until about three or four months before we left Belleville, and then I was in a very highly nervous state, and he got up one night and said he couldn't stand it, because apparently—he said he needed his sleep and he went into the other room and occupied the other room and he would not—I had told him I would not live with him until he would live normally; and our whole married life was not happy because I refused to lead an immoral life with my husband.

40

Euphemia M. Glass, direct.

Q What do you mean by an immoral life?

The Court: Is it necessary? If you think it is, all right.

Mr. Davis: If your Honor understands—

The Court: I don't understand, but I do not think it is necessary. She says that they ceased cohabitation about four months before October, 1923. 10

The Witness: No. He simply went into the other room, but that did not—

By the Court.

Q Then he would go to your room at times?

A Yes.

Q And you would go to his? A I never went to his room. 20

By Mr. Davis.

Q Because he insisted upon immoral relations?

Mr. Brugler: I object. She has said that.

The Witness: Yes; I did.

Q Did you ever have any wrongful relations with a man named McDonald? A No. 30

Q Did you ever have any wrongful relations with Mr. Gunardson? A No.

Q Did you ever have any wrongful relations with any man? A No.

Q Have you been, during your married life, true to your husband? A I have.

Q Has Mr. Glass ever said to you that he might possibly be the father of Barbara? A Yes; he did. 40

Euphemia M. Glass, direct.

Mr. Brugler: I object.

The Court: I will let it stand, but the question was certainly leading.

10 Q Was anyone else present at the time? A Not in the room besides the baby, but the conversation was overheard.

By the Court.

Q By whom? A By my sister.

Q Where is your sister? A My sister was there purposely to overhear the conversation.

Q Where is your sister? A My sister is here in the court room.

By Mr. Davis.

20 Q Was the conversation between yourself and Mr. Glass? A Yes.

Q When and where did it take place? A It took place at my room, Seventy-second street, New York City. Mr. Glass tried to have me meet him—

By the Court.

30 Q The question is: Where? A Seventy-second street, New York City.

By Mr. Davis.

Q When? A That was upon my return—

Q When—what date? A About June 9, 1924.

Q Mr. Glass and you were there? A Yes.

Q What did you say, and what did he say?
40 A When he entered the room—

Euphemia M. Glass, direct.

By the Court.

Q The question is: What did you say and what did he say? A He said: "Well?" He just said: "Well?" I said: "If you will be seated. I believe you are here for the purpose of having your memory refreshed," and he sat down, and I showed him the baby, and then I refreshed his memory when I— 10

Q About what? A About the occurrence of the night of July 21. Then he said: "Well, granted the possibility of my being her father, what are you going to do about it?" And I said: "Why, it isn't what I am going to do about it. What are you going to do about it?" And he said: "Well, now, cannot we get together quietly and fix this thing up?" I said: "There is no way to fix it up." He said: "Yes; there is. You can get a divorce from me on the grounds of desertion. I won't deny the parentage of this child. I will let it go and you can continue and we will come to an agreement." I said: "I am very sorry, Will, but you went to my brother and condemned me, and my brother has said that he is going to see me vindicated and he at least is going to have the truth known," and I said: "It is in his hands," because Mr. Glass and my brother had had several conversation regarding it, and Mr. Glass said: "No; it is not too late." I said: "You will have to talk that over with my brother," and he argued there for over two hours, but it got back to the same thing— 20 30

By the Court.

Q Where was your sister? A My sister was in the room adjoining, at the door. She was there for the purpose of being there to listen as a witness to what Mr. Glass said to me. 40

Euphemia M. Glass, direct.

Q Did you know he was coming? A Yes; it was arranged.

Q She stayed there for two hours? A She stayed there for two hours, because it was arranged that she would hear what he said, so that he could not deny it.

10 *By Mr. Davis.*

Q Now, Mrs. Glass, will you tell us: Do you know a man named McDonald? A Yes, sir; I do.

Q Do you know what his first name is? A John.

Q Where did you meet him? A I met him at Mr. and Mrs. Ritchie's house.

20 Q Did he come out to Belleville to your house out there? A He drove me home from their house, as has been stated by Mr. and Mrs. Ritchie.

30 Q It was stated that he came there in the afternoon and stayed one, or two, or three hours. Can you tell us about that? A I do not recall any occasion that Mr. McDonald was at my house in the afternoon but once. He had had a very severe illness and was at the point of death. Upon his recovery he was going down to visit Mr. and Mrs. Ritchie, and on the way he had to pass my house, and he stopped, and my boy was in the room with me; and when he came in, he said: "I have just come to see if I cannot sell you some Public Service bonds"; and he was a very sick man; and I said—he was short of breath, and I said: "Won't you sit down a minute? Are you in a hurry?" And he said: "No," he wasn't in a hurry; and he sat there, and my boy sat on one side, and I sat on the other side of the room and talked for possibly an hour. Then he got in his car and drove down to Jersey City.

40

Euphemia M. Glass, direct.

By the Court.

Q That is the only visit that he paid to your house during the daytime? A During the daytime that I have any recollection of.

Q You can say "Yes" or "No." A I dislike to make a definite statement, but I think it is safe to say "Yes." 10

Q Did he call in the evening? A He didn't call at my house; he brought me home.

Q How did he get there? A He never called at my house; he brought me home from Mr. and Mrs. Ritchie's.

Q After he brought you home, did he enter the house? A Just on one occasion.

Q How long did he stay on that one occasion? A He stayed about half an hour. My boy was there and Mrs. Hayes' son. 20

By Mr. Davis.

Q Testimony has been given in reference to a man named Fornoff, who it is said came there one afternoon and stayed an hour or two or three—something of that sort I believe it was stated. Do you know who this man Fornoff is? A Why, he was my grocer and butcher.

Q Was he accustomed to come around to your house to get and deliver orders? A To take and deliver orders, yes. 30

Q Was it customary for him to stay there an hour or two? A No; it was not.

Q On one occasion did he stay there for some length of time? A He stayed there possibly longer than was usual on two occasions.

Q What were the circumstances surrounding those occasions? A On one occasion he had had the privilege of joining an order in which he 40

Euphemia M. Glass, direct.

10 knew that I was interested, and he was very enthusiastic over it; and so after he had put the groceries down on the refrigerator, he stood there telling me all about it. The second occasion—a few weeks previous, after Mr. Glass had said he would sell the house, I asked him if he ever at any time knew of a purchaser for the house, would he let me know; and that afternoon he called and Sonny was there, and he asked me if we still wanted a purchaser, and I said “Yes,” and he said he thought he had one, and he stood there and I wrote out a detail of the house, what it cost, and the grounds, and so forth, and I gave it to him. Other than that, I do not recall his having stayed any longer than grocers usually stay to take an order.

20 *By the Court.*

Q When he came to deliver groceries and take orders, did he have a business wagon or an automobile? A No; he used his own car mostly when—he was a very busy man.

30 Q Did he have time to leave his busy store to come and take orders? A He did, because his brother and father were in the business with him. He is a married man with a son and daughter, children that went to school with my boy.

By Mr. Davis.

40 Q Mrs. Glass, what was the relationship between yourself and Gunardson? A Why, I could hardly call it a friendship beyond the fact that he was introduced to me by friends; and while it was a purely business proposition, I trusted these friends so far that if he had not been what he should be, they would not have

Euphemia M. Glass, direct.

introduced me to him, and he was, I think—I don't need to tell the type of man he is. I think when he stands up, he shows it.

(At this point adjournment is taken to Friday, October 2, 1925, at 10 o'clock in the forenoon.)

10

SECOND DAY.

Court met pursuant to adjournment this 2nd day of October, 1925, at 10 o'clock in the forenoon.

Appearances as heretofore.

EUPHEMIA M. GLASS, the defendant, already 20
sworn in her own behalf, resumes the stand.

Direct examination (continued) by Mr. Davis.

Q Mrs. Glass, did Mr. Gunardson stay at your house all night on any occasion? A He stayed at my house once.

Q On what occasion was that? A The evening previous to our taking our boy out to boarding school. Mr. Glass suggested that Mr. Gunardson stay all night, so that we would be sure he would be there as we had to leave at 7:00 o'clock. He asked if it would be possible for him to stay all night, and he said "Yes." Then he said: "I think you better stay, and you can sleep on the sleeping porch," and he left the car outside, and we left Belleville in the morning at 7:30 for Bordentown, Mr. Glass and Mr. Gunardson, my boy and myself. 30

40

Euphemia M. Glass, direct.

Q Where did he leave the car that night? A Outside, in front of the house.

Q Do you know of any occasion when Mr. Gunardson left his car all night in the garage next door? A I don't recall any.

10 Q Are you quite positive that this occasion that you have mentioned was the only occasion on which Mr. Gunardson was at your house all night? A As positive as it is possible for me to be.

Q Is the daughter Barbara in the court room here? A Just outside waiting.

Q Will you be kind enough to get her?

The Court: What is the idea?

20 Mr. Davis: I would like to show the resemblance by Barbara's features and Mr. Glass' to the Court.

The Court: I won't determine on that at all.

Mr. Davis: You won't consider that element to any degree?

The Court: No.

30 Mr. Davis: Is it not a matter of importance whether the child resembles the parent?

The Court: To me it would not be. The child may not at all resemble the father and yet be a legitimate child. It may look like the father to you and not look like the father to me.

Mr. Davis: If the child looks like the father to the Court, that would have no influence on the decision?

40 The Court: No.

Euphemia M. Glass, direct.

By the Court.

Q Did you go out automobile riding with Mr. Gunardson? A Never alone.

Q Did you go out at any time when your husband was not along? A Yes; but there was some one else along.

Q Who else? A The neighbors and some- 10
times to a Boy Scouts' meeting. We picked the boys up and took them to the Scout meeting.

Q How frequently did that occur that you were out in the automobile riding with him when your husband was not along? A We didn't go automobile riding.

Q Tell me how frequently you were out in the automobile with him when your husband was not with you? A Not so very often.

Q That doesn't mean anything. A I don't 20
believe I can answer that.

Q You can say whether it was once a week or twice a week or once a month. A Possibly twice a week. We were twice a week to see the boy. That is definite.

Q Were there other times when you were out in the car with him? A One Wednesday every month we took the boys to Scout meeting, I am positive, and occasionally when I went out to do shopping. 30

Q Were there other occasions when you went out in the automobile with him when your husband was not along? A Yes.

Q How frequently did that happen? A Four times.

Q Four times altogether? A Yes.

Q Was Mr. Gunardson paid anything for this work that he did? A No, sir. He has a copy of the bill. He sent the bill to Mr. Glass at my request. 40

Euphemia M. Glass, direct.

Q Did he make any request for payment during the progress of the work? A Yes; I have a letter—

Q A letter from whom? A Mr. Gunardson. I wrote at the instigation of my brother and Mr. Glass, to tell Mr. Gunardson to send the bill to
10 him.

Q That was when the work was finished? A When the work was finished.

Q I asked you if there was any request for payment during the progress of the work. A No, sir.

Q Who bought the paint? A Mr. Glass bought some of it, and Mr. Gunardson bought some of it, because he was able to get it whole-
20 sale.

Q I understood you to say yesterday that Mr. Glass had ordered the paint and it had not been delivered and he cancelled the order. A He cancelled that order and he bought some from another company.

Q How much did he buy, do you know? A Why, no; I am not sure, because I never saw the bills. I never knew his financial affairs.

30 *By Mr. Davis.*

Q Did Mr. and Mrs. Ritchie ever leave their daughter in your care? A Yes, sir.

Q When was that? A During this summer and previous to that.

Q What summer? A During the summer of 1923 while Mr. Gunardson was there.

Q Do you recall what time of the summer it was? Was it before their daughter went to
40 Camp Demarest? A Yes; about three weeks.

Euphemia M. Glass, direct.

By the Court.

Q How old is she? A Sixteen years.

Q Now or then? A She is sixteen now I guess—

Q She was two years younger in 1923? A Yes.

Q How long was she with you? A Three weeks at one time, and then two weeks later. 10

Q You mean two weeks on a later occasion? A Yes; she returned while they went away on their vacation.

By Mr. Davis.

Q The first occasion when she was there you say was prior to her going to Camp Demarest with the girls. Can you tell us what month in 1923 that was? A Yes; it was during the latter part of June and the first part of July—the last week in June and the first two weeks in July. 20

Q So that she was there part of the time while your son was at Camp Demarest? A Yes, sir.

Q And you say that subsequently they left their daughter in your care again? A Yes; when they went on their vacation they left her in my charge. 30

Q When was that? A I think the last two weeks in August. I am not positive.

Q When this baby was born in Wisconsin, did you give to the officials out there your husband's address as being in Wisconsin? A No, sir; I did not.

Q You gave them your address as it was? A I gave my own address and told them to send the bills, that is, the hospital bill to myself, and told the doctor to send the bill for his charges 40

Euphemia M. Glass, direct.

to 38 Park Row, and I believe he did. I believe Mr. Glass received his bill.

Q You will recall that there was mention made by Mr. Hayes yesterday of a man named Fornoff? A Yes.

Q You said yesterday that he was your grocer? A Yes.

10 Q Do you see him in the court room today? A Yes, sir; I do.

(Counsel calls: "Mr. Fornoff, will you stand up?") Man in audience stands up.)

Q (Pointing to man.) Is that the man you refer to? A Yes, sir.

Q Did Mr. Fornoff ever stop at your house for any period of time in excess of three-quarters of an hour?

20

The Court. That was answered yesterday. She explained two occasions on which he stayed longer than sufficient time to get orders.

Q There was reference made to a Mr. McDonald, and I believe you said that he called at your house one afternoon? A Yes.

30 Q I neglected to ask you yesterday with regard to Mr. McDonald, whether he was a married man? A Yes, sir.

Q Do you know how old he was? A Why, I should say about sixty-five or sixty-eight.

Q Do you know where he had been for the month or two prior to the occasion of his visiting at your house or calling at your house?

40 Mr. Brugler: I object unless she knows of her own knowledge.

Euphemia M. Glass, direct.

A Yes. I called at his house and he was ill in bed, relieved of work for eight or nine weeks, very ill.

By the Court.

Q When was that? A Some time after Christmas—January, February or March, 1923; and I never saw him again from that time until he called. 10

Q When was it that he was ill in bed? A Some time around the first of the year—January or February, 1923, I think.

By Mr. Davis.

Q What was the occasion of your going to his house? A Why, we went there; we were notified. 20

Q Who were notified? A Mrs. Ritchie and I went because we were notified he was at the point of death, and they were very old friends of Mr. Ritchie and Mrs. Ritchie, and I went with her. I didn't see Mr. McDonald, but Mrs. Ritchie did. I stayed downstairs.

Q You had met him before? A At their home.

Q When you saw him in the summer of 1923, do you know whether or not he had returned to work? A I never saw him in the summer of 1923. I saw him shortly after he recovered, before he returned to work, somewhere in the month of February. He was on his way to Jersey City and he called in. Then I saw him again at Mrs. Ritchie's home during the month of November. 30

Q So that you did not see Mr. McDonald from the latter part of the month of February, 1923, until November, 1923? A No, sir. 40

Euphemia M. Glass, cross.

Q And it was in February, 1923, that you saw him at your home? A Yes, sir.

Q That was immediately after his illness? A Yes, sir.

Cross examination by Mr. Brugler.

10 Q You stated that Mr. Gunardson had started this painting work in the spring of 1922? A No, sir.

Q 1923? A 1923.

Q And he continued this work until October, 1923, and he was at your house practically every evening until nine or ten o'clock doing this work? A Practically.

Q You also stated that an agreement had been made with him for the painting work. What price was arranged for it? A Why, there was no price. The first agreement was between Mr. Glass and Mr. Gunardson, and he said that he would do it—

Mr. Brugler: I ask that that be stricken out. That is not what I asked.

Q I asked you what price was arranged for the work. A There was no price.

30 Q Was there a price discussed? A Yes, sir.

Q What price was discussed? A Mr. Gunardson said that he could not give a price in detail until the work was finished.

Q Was there any indication made as to what the price would be? A No; because it would depend upon the price of the paint and so forth and what he considered his personal time worth.

Q Was not some mention made as to what it might cost? A Approximately.

40 Q What was it? A \$150.00.

Euphemia M. Glass, cross.

Q You saw the bill that was rendered by Mr. Gunardson for the work? A No, sir; I have not.

Q Did this \$150 include the paint? A I think so.

Q You think so? A I am not sure, because I did not discuss it.

Q Do you know when that bill was rendered? A Yes.

Q When was it? A In October I presume; that is, he was told to render it in October.

Q You told him, didn't you? A Yes, sir.

Q Did he tell you whether or not he had rendered a bill previous to that time? A No, sir; I didn't see him to talk to.

Q He told you that no bill had been rendered before that? A No, sir.

10

20

By the Court.

Q Who is "he"? A I did not see or talk with Mr. Gunardson.

By Mr. Brugler.

Q Why did you tell or direct Gunardson to render your husband a bill at that time? A In the presence of my brother, my husband said that he would not pay the bill.

Q Please answer the question: Why did you tell Mr. Gunardson at that late time to render your husband a bill? A As result of an agreement between Mr. Glass and my brother.

Q When did that agreement take place? A On October 15, I think, in Mr. Glass' office.

Q You insist that you were never out alone with Mr. Gunardson in the automobile? A Except in coming back when—the only time that I was alone was when we took the boy to Scout

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40

Euphemia M. Glass, cross.

meeting, and then he would drive back a distance of half a mile to my home.

Q How many times did that occur? A Once a month. One Wednesday in the month I think was the Scout meeting.

Q For how many months did that continue?

10 A During just that time.

Q What time was that? A Why, I don't recall whether they had any meeting during the summer or not—whether it was just during June and September.

By the Court.

Q When did Mr. Gunardson start work? A Around the 1st of May.

20 *By Mr. Brugler.*

Q You stated that part of this paint was purchased by Mr. Glass and part procured by Mr. Gunardson? A Yes, sir.

Q Were you ever with Mr. Glass when he purchased paint? A No; I was not.

Q What is the source of your knowledge as to his purchase of paint? A Why, he purchased it through my brother. My brother painted first before Mr. Gunardson came on the scene at all.

30 Q When was the paint first ordered that you speak of? A I couldn't tell you.

By the Court.

Q Do I understand that your brother started the painting work? A It was the result of that, because they made fun of my brother's work.

Q Was it done all over again? A It was painted over. He painted the porch and they didn't like the way it was.

40

Euphemia M. Glass, cross.

By Mr. Brugler.

Q What part of the house did your brother paint? A The living porch.

Q Anywhere else? A Not that I recollect.

Q Gunardson painted the whole interior of the house, did he not? A Yes, sir.

Q Do you recall when your brother painted the sun parlor? A Yes; at first he painted it, and then it was painted all over again. 10

By the Court.

Q When did your brother paint the sun parlor? A Well, I don't just recollect, because there was—

The Court: Strike out the "because." 20

By Mr. Brugler.

Q You said some paint was lost, did you not? A Yes.

Q Or delayed in delivery? A The first order the order was—

Q That was in 1922? A 1922.

Q That paint was ordered for the purpose of providing material for your brother to paint with, was it not? A No, sir; for Mr. Gunardson. 30

Q Do you remember what part of the year 1922 that was ordered? A I don't just recall. Some time in the spring.

Q Did the paint actually arrive at some early date? A No, sir. We were notified it was at the station.

Q Then the paint that your brother used for the sun parlor was purchased elsewhere? A I haven't any idea where it was purchased. 40

Euphemia M. Glass, cross.

Q Do you know, were you informed, where Mr. Glass purchased the paint you said he got?

A Yes, sir; I do know. In Newark.

Q You were not along with him? A No.

Q Do you know where Mr. Gunardson got the paint that he procured? A No; I don't know.

10 Q He didn't tell you anything about that?

A No.

Q Have you any idea how much paint your husband furnished? A Not very much.

Q Do you know how much paint was used in doing this work? A A great deal—

Q A great many cans, were there not? A (No answer.)

Q Were they large cans? A Yes.

20 Q You are quite sure Mr. Gunardson was doing this work almost every evening remaining until 9:00 or 10:00 o'clock?

The Court: Please don't repeat. She testified to that yesterday and she has testified to it again today.

Q You stated that you last had intercourse with your husband on July 21, 1923? A Yes, sir.

30 Q Is that true? A Yes, sir. I think it was 1923. Yes.

By the Court.

Q You know it was 1923. The child was born in 1924. A Before I make the statement I want to be sure. It was 1923.

By Mr. Brugler.

40 Q When had you last had intercourse with him before that? A Some six months.

Euphemia M. Glass, cross.

Q Six months? A Yes.

Q During that while you had slept in different rooms and in different beds, had you not?

A Off and on. If we had a guest, they occupied Mr. Glass' room and he came into my room. We had only one guest room, which Mr. Glass would occupy.

10

Q You are sure it was not longer than six months? A No, sir.

Q You stated that you permitted him to have intercourse that time because he wanted to take your son to Bordentown. A Not particularly for that; no.

Q How is that? A Not particularly for that reason; no.

Q What did you say about it? A Why, I said that he had turned around and acted differently in order to gain my permission to send Sonny to Bordentown. That permission was not gained until two months later.

20

Q Then, on this 21st day of July, 1923, you gave your husband this permission to take your son to Bordentown? A No; I did not.

Q When did you give him that permission? A I gave that permission about a week before—about the 1st of September—two weeks before he went to school.

30

Q Don't you know that prior to this date when you said that you last had intercourse with your husband, that arrangements had been made for sending your son to Bordentown? A No arrangements had been made.

Q Don't you know that your husband had already sent his check there? A No, sir; I do not. He paid the check in my presence when he entered—I beg your pardon—I recall in June it was necessary for me to take the boy there

40

Euphemia M. Glass, cross.

and present him and ask if they would accept him, and in order to do that, you first presented a check for \$50, and I asked Mr. Glass if he did that and I took the boy—

By the Court.

10 Q You took the boy to school at Bordentown?
A In June and presented him.

Q And then you left the check there? A And then I asked Mr. Glass before I left the check, if that would be in any way binding and he said "No"; and they told me they would return it if in September I decided not to enter him; and that check was deducted from the amount—

20 *By Mr. Brugler.*

Q You told the master down there or the superintendent that the boy was coming in for school? A No. I told him that I would let him know.

Q What did you tell him when you paid the check? A The \$50?

30 Q Yes. A I told him I presented him to see if he was acceptable, and if he was acceptable, I would decide later.

By the Court.

Q Whom did you see there—Colonel Abbott?
A No, sir; I did not.

By Mr. Brugler.

40 Q Are you sure the check was for only \$50?
A I am not sure; I am not positive, but I think Mr. Glass told me it was \$50.

Euphemia M. Glass, cross.

Q Are you sure that you gave the check yourself? A No, Mr. Glass mailed it.

Q Are you sure that your going to Bordentown occurred in the month of June, 1923? A Yes; there is a witness in the court room.

Q Might it not have been in May? A I think not. I think it was the closing day of school, but I am not positive. It was some time in June I think. Mr. Hayes took us down. 10

Q Where is your son? A He is at my residence, at my home.

Q In New York? A Yes, sir.

Q 1-A Fifth avenue? A Yes, sir.

Q Were you ever out with McDonald alone in the automobile? A Yes; once.

Q When was that? A The night that I had Mr. Glass' permission to go. 20

By the Court.

Q Please answer the question: When was that? A Some time in July.

Q 1923? A 1922.

By Mr. Brugler.

Q Do you know whether the latter part of July or the first part of July? A I don't recall. I think it was about the middle, but I could not say. 30

Q Did you ask your husband if you could go out with him? A Yes; I did.

Q What time of day did you ask your husband this? A When Mr. McDonald drove me home from the Ritchie's, about 6:00 o'clock.

Q Did you go out with him that evening or the next time? A No; two or three days afterwards, and I left a note for Mr. Glass. 40

Euphemia M. Glass, cross.

Q (Showing witness.) Is this the note you left for Mr. Glass, referring to Exhibit P. 16?

A Yes; that is the note.

Q You are mistaken about the time. A I said I could not be positive, because it is so far back I could not remember.

10 Q You said it was July. A I thought it was. Maybe it was August.

Q Look at this exhibit and see if it was August. A No. I cannot see the date at all.

Q Look and see. A I would say it is correct, but I don't know. I didn't put any date on that. That date was put on by someone else.

Q Were you living alone in Wallatosa, Wisconsin, when the baby was born? A I was living with my brother and sister-in-law.

20 Q What was their street address? A 149 Grove avenue.

Q Did you enter a hospital when you were confined? A Yes, sir.

Q When you entered that hospital, you gave a statement to some one in charge? A Yes.

Q You also gave information to your doctor? A Yes, sir.

30 Q And you gave the information that you resided at that address which you have just mentioned? A I said that that was my present address.

Q And after the child was born they asked you the name that you desired to give the child? A Yes.

Q What name did you say? A I gave the name. The nurse was sitting on the side of the bed—

40 Q What name did you say? A The name that was given for the Board of Health and register was Barbara.

Euphemia M. Glass, cross.

Q Then, it is your contention that someone made a mistake in putting the name on this certificate? A Yes; it is.

Q And also a mistake as to the address of your husband? A Yes, sir; absolutely.

Q You say that your husband asked you to do immoral things? A Immoral?

10

Q Yes. A Yes, sir.

Q Would you consider that if you kissed a man other than your husband, that that would be immoral? A Why, that depends on who the man was. I have various brothers and brothers-in-law. They are men.

Q Would you consider that if you kissed Mr. Gunardson, it would be immoral? A Absolutely.

Q Or Mr. McDonald? A Yes, sir.

Q Did you ever see this before, referring to Exhibit P. 15? A Yes, sir.

20

Q That belongs to you? A The case belongs to me; yes, sir.

Q When did you last see this? A Some years ago. That was presented to me thirteen years ago—

By the Court.

Q When did you last see it? A I put it away in my belongings, and I have not seen it for ten years.

30

By Mr. Brugler.

Q Where did you put it? A In my drawer, in my dresser, in a box with some of my mother's things.

Q Do you recognize the man in this picture contained in that folder? A I do.

Q Who is it? A Mr. McDonald.

40

Euphemia M. Glass, cross.

Q Do you recognize the automobile? A Yes, sir; I do.

Q You don't know how this picture got in this folder do you? A I know how it got into the folder.

Q Did you see somebody put it in? A No; 10 but I know the circumstances surrounding it.

By the Court.

Q Did you ever see that picture before? A Mrs. Ritchie took that picture.

Q She took the picture, but did you ever see that one before? A I couldn't say that I saw that very one, but I saw the film.

Q Did you ever have one in your possession? A No, sir. I had the film. 20

By Mr. Brugler.

Q Did you ever see this card before? A No, sir.

Q Referring to the business card contained in the folder? A No, sir; I never saw it before.

Q Do you know whose handwriting that is on the back of the card? A I don't recall ever seeing the handwriting. 30

Q Do you know the man whose name appears on this card? A Yes, sir; I do.

Q John M. McDonald? A Yes, sir.

Q Referring to another paper contained in the folder do you recognize the handwriting there? A Yes, sir; it is mine.

Q When was that written by you? A Why, I could not say, because I have a book of poems.

Q Just read a little of it and see if you can refresh your memory. A I cannot see. 40

Euphemia M. Glass, cross.

Q Have you your glasses in court? A No, sir; I have not. If you will read it to me, I will be glad to answer.

Q "You taught me all I know of being glad"—does that refresh your memory? A I could not say exactly.

Q Next line: "And being loved and smiled at through days whatever they may bring"? A I don't recall any special poem because I have written a great many. 10

Q This was composed by you? A No, sir; that was not. It was copied from a book.

Q You have not the slightest idea when that was done? A No, sir; I have not.

Q Could you say whether it was done during the year 1922? A It might have been done any time during my married life. 20

Q It might have been done during 1923 also? A Any time.

Q Did you frequently copy off poetry of that kind and have it lying around the house? A Absolutely. I had books of poems that I wrote.

Q Do you remember when you started your New York action against your husband? A When the action was started?

Q Yes. A I do not. I thought it was some time in July after I was away with the boy and a two-weeks old or four-weeks-old baby. 30

Q July, 1924? A July, 1924.

Q Do you recall having received a letter from me previous to your bringing suit? A Yes, sir; I have it.

Q Do you recall what was said in that letter, or have you got the letter? A Yes, sir; it is there.

Mr. Brugler: I ask counsel to produce the letter. 40

Euphemia M. Glass, cross.

Q (Showing witness.) Is this a copy of the letter? A Yes, sir; I believe so.

Mr. Brugler: I ask to have this copy marked for identification.

(Marked P. 18 for identification.)

10 Q Then, some time following the receipt by you of this letter, you caused your attorneys to bring suit. How long was that? A I think it was some time prior to the receipt of this letter that my suit was started. I love my brother and gave him power of attorney to act for me.

Q Now, you are not sure whether it was before or after? A Are not the legal papers there to show positively? I had a little baby and I cannot remember all.

20 Q Who arranged that meeting you referred to as having taken place at your home in New York between you and your husband? A I arranged it over the telephone with my husband.

Q You arranged it with your husband? A Yes.

Q When you knew your husband was coming at a certain time you had your sister in an adjoining room for the purpose of spying? A
30 Yes, sir; I did.

Q Did you tell your sister you probably would need her as a witness at some time? A I believe she went there with that purpose.

Q Is that the purpose you had when you arranged the meeting with your husband? A To know that Mr. Glass could not go back on his word.

Q You did that with the idea of entrapping Mr. Glass into saying something? A Every
40 statement he had made, he denied. It had oc-

Euphemia M. Glass, cross.

curred so often that I thought it would be better to have someone hear what he said, because if he made any statement, he would deny it.

Q He had denied being the father of the second child? A Yes.

Q Did he deny it that day? A No, sir; he did not. 10

Q That was the first time he had admitted it? A Yes, sir.

Q You are quite certain that your sister overheard it? A Yes; I am positive.

Q Did you know to what hospital Mr. Glass went when he was operated upon? A One of the Johns Hopkins Hospitals in Baltimore.

Q Did you know it at the time? A Yes, sir; I did.

Q Did you visit him? A No, sir; I did not have money to visit him. 20

Q You were home all the while? A I was home.

Q Did you have a conversation with your husband about going to the hospital some time before he went? A He told me he was going and the circumstance of the time he was to be away and when he would be back.

Q What did you say to him? A I don't recall, because I was getting the boy ready for school. Mr. Glass was taking the train and I was getting the boy ready for school. 30

Q Did you tell him that you didn't care where he went or what he did? A I did not.

Q Did you ever lend any money to McDonald? A Never.

Q Sure about that? A Absolutely.

Q Did you ever lend any money to any gentleman friend? A I never had any to lend that I recall. 40

Edwin H. Barker, direct.

Q Didn't you tell your husband one time that you had lent money to somebody that had not been returned and you could not give it back to him? A Yes; but it was not a man.

Q Who was it? A It was a friend. I do not care to disclose her name.

10 Q It was a lady friend? A A lady; yes.

Q Your sister? A No; not my sister.

EDWIN H. BARKER, sworn as a witness on the part of the defendant, testifies as follows:

Direct examination by Mr. Davis.

20 Q Where do you live? A Actually do you mean, or legally? I have just given up my apartment.

Q Where? A In New York.

Q What is your occupation? A Investments, banking.

Q You are a brother of Mrs Glass? A Yes.

Q Were you present when Mr. and Mrs. Glass signed this agreement that has been offered in evidence? A Yes, sir.

30 Q Will you tell the Court the circumstances of that? A Well, the circumstances—

The Court: How is it material?

Mr. Davis: There were certain things in connection with the agreement that Mr. Glass said did not take place, for example, in connection with the bill for painting; Glass said he never knew anything about that bill.

40 The Court: All right. This is the same time the agreement was signed.

Edwin H. Barker, direct.

Q Tell what took place in connection with the signing of that agreement the day it was signed, your conversation with Mr. and Mrs. Glass. A Both my sister and Mr. Glass had asked me to—

By the Court.

Q Please tell us the conversation. A I was 10
only interested in the financial side—

Q I don't care what you were interested in. If you can, tell us the conversation. A They wanted me to decide how much Mr. Glass—

Mr. Brugler: I object.

By Mr. Davis.

Q Tell us the conversation that took place while you were there and while Mr. Glass and Mrs. Glass were there—what did you say, what did he say and what did she say? A I don't remember the specific question that Mr. Glass and Mrs. Glass put to me, but I told them that I could not say what was fair until they had given me a statement of his income. Mrs. Glass had given me a statement of her expected expenses, and when they gave me that, I told Mrs. Glass I didn't believe she could get along on thirty dollars a week, which she said she could. 20
The question came up as to the payment of the boy's expenses, and she said she was willing to deduct \$500 of the income and pay part of the boy's first year's tuition. So there was deducted \$500, at the rate of approximately \$50 30
a month or \$10 a week, so that her net payment was to be \$20 a week, although the actual payment agreed upon was \$30 a week.

Q What discussion, if any, took place in regard to the bill for painting? A I told Mr. Glass— 40

Edwin H. Barker, direct.

Mr. Brugler: I object to what he said.

The Court. Objection overruled.

10 Q Continue. A I told Mr. Glass that he must settle the painting bills and I wanted to know what those bills were. Mrs. Glass told me that the bill for the painting work had not been paid. I think it was something like \$135, so that amount was deductible from what Mrs. Glass was otherwise to receive, because she said that she had agreed, if necessary, to pay it herself in order to have it done. I told Mrs. Glass to write to Mr. Gunardson and have his bill sent to Mr. Glass direct because I thought it was his place to pay it and not Mrs. Glass. My understanding was—he told me he would pay that when he received it.

20 Q Mr. Glass said he would pay the bill for painting? A Yes.

Q When was this? A Well, if you will tell me the date of the agreement, I can tell you.

Q This was the date of the agreement? A Yes, sir.

Q Which was in October, 1923? A If that is the date of the agreement, yes.

30 Q Now, you had had various conversations with Mr. Glass prior to this time, had you not? A Yes, sir.

Q During those conversations did Mr. Glass at any time complain about Mr. Gunardson being at the house there? A Never.

40 Q During what period of time did these conversations take place? A I should say at least prior to the date of the son's entrance to the school—probably a year prior to that—I don't remember the date of the boy's entrance to the school. I have no records, but only during the

Edwin H. Barker, direct.

year prior; perhaps it went back to the death of my mother; I would not say specifically.

Q During the summer of 1923 particularly—the spring or summer of 1923—did you go out to Belleville to visit the Glasses? A Once or twice.

Q At that time was anything said to you about Mr. Gunardson? A I never heard of the man before, until the discussion of the painting took place. 10

Q Did Mr. Glass ever converse with you in New York from time to time? A Yes, sir.

Q With reference to his marital affairs, domestic affairs, home life and finances? A Well, finances.

Q And in the course of those conversations, did he at any time complain about his wife's conduct? A Never. 20

Mr. Brugler: I object.

The Court: It is rather leading.

Q Yesterday Mrs. Hayes stated that she had seen Mr. Gunardson's red car in front of the house or in their garage on two separate occasions early in the morning. Did Mrs. Hayes ever speak to you about seeing Mr. Gunardson's car there in the morning? 30

Mr. Brugler: I object to the question because it is immaterial, irrelevant and incompetent. There is no charge here that Mrs. Hayes or anybody else spoke to this gentleman about these things.

The Court: The witness may be prepared to testify to a different state of facts that Mrs. Hayes told him. Objection overruled. 40

Edwin H. Barker, cross.

A Yes, sir; she did.

Q What were the circumstances of the conversation, and what did she say?

The Court: Never mind the circumstances.

10 Q What did she say? A She said once that—

Q I want to know just what she said. A In answer to a question, a specific question of mine—I cannot answer your question unless I tell you what I asked her.

20 Q What did you ask her? A I told her that I wanted to know from her if she had seen anything in the conduct of my sister during the period that she had lived next door that she could tell me which would confirm the belief that Mr. Glass was not the father of the child. That was the only thing I was interested in. I told her I want to know the truth, because my attitude and my actions would be governed solely in accordance with whether I found out the truth. She said: “Absolutely not.” She said: “I did see Mr. Gunardson’s car out early in the morning, which I consider indiscreet, and only
30 the one time.” I asked my sister later in regard to that one time and received a satisfactory answer.

Cross examination by Mr. Brugler.

Q You were called in by your sister to give some assistance in this matter? A No. By Mr. Glass—excuse me, jointly.

40 Q You and Mr. Glass, your brother-in-law, were previous to this very good friends? A

Edwin H. Barker, cross.

Well, I respected him as my brother-in-law. We were not friends in the matter of intimacy.

Q Was there any ill feeling between you?

A Never.

Q No objection on the part of Mr. Glass to have you give some assistance? A He solicited it.

10

Q The assistance you gave consisted in having Mr. and Mrs. Glass arrive at some agreement at the time they separated? A No; the assistance began prior to that.

Q What was that assistance? A He wanted my approval of the school that had been selected; he asked me in regard to finances prior to this agreement.

Q In reference to the matrimonial matter between your sister and your brother-in-law, the only assistance you gave so far as their domestic relations were concerned, was with respect to this agreement, was it not? A Yes, sir.

20

Q At that time your sister agreed to assume Mr. Gunardson's bill to Mr. Glass; she was to pay that bill? A No, sir.

Q How was that? A Mr. Glass said he would not pay it. Mrs. Glass told me that was all right. She said: "I said I would pay it in order to have it done, if he would not." I said: "You must pay it."

30

Q To whom did you say that? A To Mr. Glass; but I permitted the deduction, because my sister had given him her word that if he would not pay it, she would.

Q What deduction did you permit? A Whatever the amount was; I don't remember. I told him he should pay the bill.

Q Deduction from money that would come to Mr. Glass or Mrs. Glass? A Mrs. Glass. He

40

Charles H. Fornoff, direct.

had made the statement that he would give Mrs. Glass 50 per cent. of the equity of the house and all the proceeds of the furniture.

Q Now, when the house was sold your sister got \$500, did she not? A I don't know what she received.

10 Q Do you know the proceeds of the equity of the house?

The Court: The agreement specifies it, does it not?

Mr. Brugler: I don't know whether it was carried out or not; I don't know how far it was carried out.

Q When this bill of Gunardson's was discussed at this time, was there any comment
20 made about the paint, so far as you know? A I don't recall it was ever discussed.

CHARLES H. FORNOFF, sworn as a witness on the part of defendant, testifies as follows:

Direct examination by Mr. Davis.

30 Q Where do you live? A 150 Montgomery street, Bloomfield, N. J.

Q How long have you lived in Bloomfield?
A Thirty-five years.

Q What is your occupation? A Butcher and grocer.

Q How long have you been engaged in that occupation? A The last twelve years, my own business.

Q Are you associated with anyone else in
40 that business? A My brother.

Charles H. Fornoff, direct.

Q Do you know Mr. and Mrs. Glass? A I do.

Q How long have you known them? A About two years—three years.

Q Are you a married man? A I am.

Q Wife living? A Yes.

Q Any children? A Two. 10

Q You and your family all live together?
A Yes.

Q What was the occasion of your knowing Mr and Mrs. Glass? A Why, at that time I was short of help and I was running one of the routes myself, and having customers on either side, Mrs. Hayes and Mrs. Ellis—

Q I asked you how you happened to know Mr. and Mrs. Glass. A I am going to tell you. 20

Q Did you serve them with groceries? A Yes.

Q Did you serve anyone else near them with groceries? A Hayes and Ellis, and about fifteen or twenty stops.

Q Fifteen or twenty stops? A Right in the vicinity.

Q You remember talking with Mrs. Glass some time in the summer of 1923? A About what? 30

Q Anything. Did you have any conversation with her? A I never had any conversation outside that we discussed different things. I think at that time I did join the Masonic order and I was telling her about my experience going through and so forth. She had told me she was Eastern Star at that time, and different little things that would cause discussion; I think her brother lost his little boy or little girl at that time, or after that time— 40

Charles H. Fornoff, direct.

Q When you went there in connection with your grocery business where did you call at the house? A At the back door.

Q Did you go to take orders? A Yes.

Q Did you deliver them? A No; I had a boy deliver them, unless the boy was on a different route, and I did at different times go back on the same route with the lunch orders myself.

Q What time of day did you call there? A About 8:00 o'clock or 8:15 in the morning.

Q That was for the orders? A For the orders.

Q If you delivered the orders, when did you call there? A About 2:00 or 2:30 delivery, unless it was a lunch order to be delivered at 11:30.

Q You went in your own car? A In my business car. Once in a while I used my own car for business also. I have that stated in my insurance I can use my pleasure car for business—

By the Court.

Q What Mr. Davis wants is an answer to his question. When, in 1923, you took orders or delivered orders at the Glass home, did you use your business car or your own car? A I used the business car always unless there was some trouble with the business car. I was driving a truck at that time which gave us a great deal of trouble, and at times I did use my own car, which was a Buick seven-passenger car.

By Mr. Davis.

Q When you went for orders in that neighborhood, where did you leave your car? A Why, it all depends. I didn't make any par-

Charles H. Fornoff, cross.

ticular choice, just where I happened to drive—sometimes in front of Mrs. Hayes' home, sometimes in front of Mrs. Glass'. I would make several calls while it was stopped. I didn't want to get in and stop at every foot or so. I would let the car stay in the same place.

Q Did you ever go into any other room in the Glass house than the kitchen? A No, only at one time when the house was up for sale when the painting was finished. She told me the place was up for sale and if I knew anyone wanted a nice house, if I would be kind enough to send them over. She said the painting was done. I admired the kitchen; the kitchen looked very nice; and she said: "I will show you through." I said: "All right. If anybody comes my way, I can tell them what sort of a house it is." 10 20

Q How long were you in the house on the occasions that you have stopped there? A It couldn't be so long; sometimes fifteen or twenty minutes. Mrs. Glass was a very good buyer and sometimes I would have twenty items. We handle everything in the grocery, butcher and vegetable line, and a good salesman takes a little time if he wants to sell his goods.

Q Did you ever have any wrongful relations with Mrs. Glass? A Never. 30

Q Did you ever kiss her? A Never.

Q Did you ever see anyone else be familiar with her in any way at all? A Never.

Q Did you ever have any relations with her other than purely business? A That is all.

Cross examination by Mr. Brugler.

Q The longest you ever did stay in the Glass house with Mrs. Glass was fifteen or twenty 40

Charles H. Fornoff, cross.

minutes? A Sometimes it might have been a little longer.

Q How much longer? A I couldn't say.

Q Half an hour? A Possibly.

Q Would it be any longer? A No, sir.

10 Q Was there any time at all you were in that house longer than half an hour? A Not to my recollection.

Q Might it some time have been an hour? A Never an hour, because I had to be back; I had to cover that route with forty stops and be back—

Q Will you swear that you were never in that house, talking to Mrs. Glass on business or anything else, longer than half an hour? A I certainly will.

20 Q How long were you accustomed to stay there taking orders? A Well, it all depends on the kind of order I was going to receive. Maybe only five minutes. Sometimes I never went in the house; just stood on the back stoop.

Q Was it very usual for you to be in the house fifteen or twenty minutes or half an hour? A I was never in their house longer than that, according to the size of the order.

30 Q What kind of a business car had you? A Vim and Fords and we used our Buicks.

Q What kind of a pleasure car did you have that summer? A Buick.

Q Did you ever drive up to the Glass premises and when you saw another car in front of those premises, instead of stopping, drive on? A I didn't intend to stop unless I saw Mr. Glass on that occasion.

40 Q Did you ever see Mr. Glass for the purpose of taking an order, previous to that? A Only once I met Mr. Glass at the back door.

Charles H. Fornoff, cross.

Q Did he give you an order at that time?

A I don't remember whether he did or not.

Q You said this happened on one occasion?

A What is that?

Q When you drove on instead of stopping, when you saw another car in front of the house?

A I drove past many times with my wife on different occasions, because that is a thoroughfare, and when we go to Jersey City or New York we always drive down that way. 10

Q Whose car was in front of the Glass premises at that time? A I don't know.

Q You saw it a lot of times at that place, didn't you? A Well, different times, evenings when we would be driving out.

Q When you and your wife would be driving?

A My wife and children. We always took the children with us. 20

Q Can you not give the Court any idea how often you had seen that particular car there?

A Well, I could not say positively. Whenever I went down that way, sometimes it would be there and sometimes it would not be.

Q That would be 1923? A It was about two years ago; it was about that time.

The Court: What are you trying to prove by this—that Gunardson's car was there every night? 30

Mr. Brugler: That incidentally comes out, but I am trying to prove something else.

The Court: It is admitted he was there every night.

Q Did you ever drive up to these premises to see Mrs. Glass or Mr. Glass and after you 40

Florence Barker, direct.

saw the Gunardson car in front of the Glass premises, you called at a neighboring house and telephoned in— A At the corner store, about two blocks away.

Q You drove down to the corner store and called up the Glass place? A I did.

10 Q And who answered the telephone? A Mrs. Glass.

Q What did you say to her? A I asked if Mr. Glass was home.

Q What did she say to you? A She said no, he had not arrived home yet; he was either out or he had not been home.

Q Was there any particular reason why you didn't stop and inquire at the house who was there? A I didn't care to stop when I saw the
20 car was there.

FLORENCE BARKER, sworn as a witness on the part of the defendant, testifies as follows:

Direct examination by Mr. Davis.

Q Where do you live? A 244 East Nine-
30 tenth street, New York City.

Q What is your occupation? A Social worker.

Q Are you a sister of Mrs. Glass? A I am.

Q Did you overhear a conversation between Mr. and Mrs. Glass which has been testified to by Mrs. Glass as taking place at her residence, 1-A Fifth Avenue, New York City? A I did.

Q Will you tell the Court what you heard said? A Well—

40

Florence Barker, direct.

By the Court.

Q Fix the date as nearly as you can. A Can I tell you how I refreshed my memory?

Q Just fix the date as nearly as you can. Never mind how you do it. A A few weeks after she returned from—I may have to ask somebody to help me out. 10

Q Can you fix the date from anything you have in your own mind? A It was in June.

Q 1924—last year? A Yes, sir

Q Tell us what you heard? A I was living with my sister—

By Mr. Davis.

Q Tell us what Mrs. Glass said and what Mr. Glass said. A Mr. Glass entered the room, I believe; I didn't see him. He said: "Well?" Mrs. Glass said: "Well? How do you do?" He said: "I have come to see if we can arrange this thing quietly." My sister, Mrs. Glass, said: "Will you be seated?" I suppose he did. He then asked where the doors led to opening out of that room. He then asked whether the telephone was inter-service or outside service. He then asked my sister if she would not take her affairs entirely out of my brother's hands, so that they might arrange their own affairs themselves quietly. She replied: "Will, the occasion of this visit was not to arrange our affairs. It was to refresh your memory as to the time and occasion of our last marital relations. I cannot take my affairs out of my brother's hands, since you yourself placed them there, this question of the child's parentage, because you went to him and said that you were not the father of the child, and I insist that it is settled 40 20 30 40

Florence Barker, direct.

with him, that this dishonor is removed from me and my child."

10 He said: "Can you not think for yourself and not be advised by your family?" She answered: "If my brother and every member of my family and every friend I have on earth were to advise me to settle this quietly without questioning the parentage of the child, I would still say 'No,' and a thousand times 'No.'" He further said: "But if you will come to New Jersey and allow me to get a divorce from you on the ground of desertion, we can settle this between ourselves and the parentage of the child remain unquestioned as it is and you may keep my name." She replied: "Why should I let you get a divorce from me, when you have no ground for divorce? Certainly not."

20 He said: "Well, why can't we settle this quietly?" He returned every time: "Take this out of Edwin's hands and your family have nothing to do with it and let us arrange it ourselves." She replied: "The matter of our separate living apart is a question of legal procedure to be settled between us; but the question of the child's parentage, which concerns my honor and the child's honor, has to be settled; you are either to retract or prove it, and to my family, as you made the statement to them first before giving me a chance to defend myself or explaining any circumstance to refresh your memory as to the occasion of our last marital relations." Mr. Glass was there a little over two hours and the rest of the conversation was entirely as to that point begging my sister to take it entirely out of my brother's hands and to tell my brother that she was quite satisfied to arrange it quietly with Mr. Glass and without the help or advice of her family.

30

40

Florence Barker, direct.

By the Court.

Q Have you told us all the conversation that you overheard on that occasion that had to do with the parentage of the child? A I believe so. May I change that?

Q If there is anything else, tell it. A Mr. Glass said: "Well, what do you claim is the time of our last marital relations?" She said: "Well, you remember the night we returned together from Camp Demarest. You came into my room. You were still anxious for my consent for Sonny to go to school. Do you remember now that we had marital relations at that time, the 21st of July?" Mr. Glass, after a considerable pause, said: "Yes, I do remember that occasion and the circumstance, too, but what does that prove?" She said: "You know that you are the father of this child, and I know it." He said: "Well, granted that it is possible, since I remember this circumstance and that particular occasion, still what are you going to do about it?" And she said: "It is not what I am going to do about it. It is what are you going to do about it."

Q That is all, is it, that you remember? A At this time.

Q About the conversation touching the parentage of the child? A At this time.

By Mr. Davis.

Q Did you ever meet Mr. Gunardson? A Never, until recently.

Q You never met him at Belleville? A Never.

Q Did you meet Mrs. Hayes? A I did.

Florence Barker, cross.

Q Did she ever say anything to you or to your brother, in your presence, with regard to seeing Mr. Gunardson's car there early in the morning? A She did.

10 Q What did she say? A She said that she remembered seeing it there once and other than that she had nothing to say whatever against my sister.

Cross examination by Mr. Brugler.

Q You say you are a social worker? A Welfare worker.

Q How long have you been engaged in that? A Between fifteen and twenty years.

Q You are not a married lady? A No.

20 Q Do you earn your livelihood in that manner? A Yes.

Q You live with your sister? A At that time I was living with my sister, to help her with the baby.

Q I suppose your sister informed you that her husband was coming up for that discussion at her home? A I was present when she was telephoning to him.

30 *By the Court.*

Q You knew that he was coming up to talk with his wife? A I did.

Q And you were in the other room to listen to what he had to say? A Yes.

By Mr. Brugler.

Q Where was your sister when this telephone call was made? A Downstairs in the hall.

40 Q What address? A Seventy-second street.

Florence Barker, cross.

Q Then, was the appointment made for that place or some other place? A Mr. Glass first wanted it at a hotel. My sister, Mrs. Glass, said it was too public a place.

Q Irrespective of that, where was the appointment made for? A Seventy-second street.

Q Didn't you testify on your direct examination that it was at 1-A Fifth avenue? A I did not. 10

Q And what time of day was it? A In the morning, the forenoon, I think; I am not positive about that.

Q If it was in the morning, was it early in the morning? A No.

Q Pretty late in the morning? A Yes.

Q If it was in the afternoon, was it early or late? A Early in the afternoon. 20

Q So it was around noontime? A It was either between 10:00 and 11:30 or between 12:00 and 3:30.

Q You were in the room adjoining? A I was in a room which connects with the living-room or sitting-room, and I was in the other room at the door which opens out into the room.

Q Were you sitting or standing? A I was standing part of the time and sitting part of the time. 30

Q Next to the door? A Right up to the door.

Q The door was closed? A The door was closed.

Q You were by the key-hole? A I was.

Q And you remained there in that manner for two hours? A A little over two hours.

Florence Barker, cross.

By the Court.

Q All that you overheard of this conversation was heard through a closed door? A Through a closed door.

Q Was there any transom over the door? A That I don't remember.

10 Q Your ear was to the key-hole? A It was—not to the key-hole, but to a crack of the door. Every word was distinctly audible.

By Mr. Brugler.

Q When your sister and her husband spoke about their relations, about intercourse, did they use the words, "marital relations," or some other words? A Well, I won't say that positively. It is the term that is familiar to me, so
20 I use my words.

Q You recall very distinctly that they discussed that situation? A Yes; I do.

Q You don't recall what language they used? A I think my sister used those words.

Q Those two words? A "Intercourse," "Marital relations."

Q You distinctly remember Mr. Glass admitting that he then recalled having marital relations with her at that time? A I do.
30

Q What were his words? A I think I have stated that.

Q State it again. A After a pause, he said: "Yes; I do remember the circumstance about that night of the return from camp. I do remember the circumstance of our having intercourse; but what does that prove?"

Q Was anything else said at that time as to where and under what circumstance intercourse was had? A At the Bellwood Park house.
40

Florence Barker, cross.

Q What was said as to what part of that house, what time of night, the condition of the night—anything? A It was late, after they returned from camp.

Q Was anything said about the weather?
A About what?

Q About the weather? A I don't remember that. I don't recall that. 10

Q Well, if anything had been said about the weather, you would remember it? A I am not sure that I would, because that was minor to my mind; it was not important.

Q You heard your sister recall to her husband the circumstances which she thought would tend to refresh his mind, did you not? A Yes.

Q Just tell us again what those circumstances were. 20

The Witness: Your Honor, is it necessary for me to repeat that? I have already said that.

The Court. If he wants you to repeat it, you will have to do so.

A Which circumstances?

Q You stated on your direct examination that your sister recalled some circumstances to her husband? A Yes. 30

Q Which tended to refresh his memory as to these marital relations? A Yes.

Q Tell us again what your sister said those circumstances were. A That he came into the room, into her room, and spoke about the boy, her consent to the boy's going to school, discussed that; after which the intercourse took place.

Q Anything else discussed, that she said? A I don't remember. 40

Charles Gunardson, direct.

Q Do you remember anything else that your sister at that time said about the circumstances under which or immediately prior to which intercourse occurred? A I do not at the time recollect.

Q Did she say what time of night it was?

10 A She was speaking of midnight, I suppose.

Q Did she say so? A I don't remember. It was night. It was that night.

Q Why did you say "midnight"? A She used the words "that night."

Q Why did you say "midnight"? A I assumed that.

Q That is what you would assume about circumstances such as those? A No; not exactly.

Q Now, just tell us again at what address this conversation took place? A At Seventy-
20 second street.

CHARLES GUNARDSON, sworn as a witness on the part of the defendant, testifies as follows:

Direct examination by Mr. Davis.

30 Q Where do you reside? A 78 Peshine avenue, Newark, New Jersey.

Q What is your occupation? A Boss rigger.

Q By whom are you employed; for whom do you work? A Public Service Electric & Gas Company, Marion, New Jersey.

Q Are you married? A Yes, sir.

Q Have you any children? A Yes, sir; two.

Q Have you any grandchildren? A Yes; one.

40 Q Is your wife living? A Yes.

Charles Gunardson, direct.

Q You and your wife living together? A Oh, yes.

Q Are you acquainted with Mr. and Mrs. Glass? A Yes, sir.

Q Do you recall the circumstance of your meeting Mrs. Glass? A Yes, sir.

Q Will you tell the Court where you met her and how it occurred? A I was introduced to Mrs. Glass in Mr. Ritchie's house, in 1922. 10

Q By whom? A By Mr. and Mrs. Ritchie.

Q Was Mrs. Ritchie there also? A Oh, yes.

Q Tell us what you can with regard to the arrangement for your doing the painting work in the interior of the Glass home. A I was consulted in 1922, in the fall, in regard to the painting of that property. So one day Mr. and Mrs. Ritchie and I, we went in my car out to look the property over, and I gave an estimate about what it would come to. I could not say close, not being a professional painter, but I figured the cost and material. It was a little late in the season, and I decided it could not be done by me at that time. So we postponed it until 1923. Furthermore the shipment or order of paint was mis-sent to Belleville, Pennsylvania, instead of Belleville, New Jersey, and that was the end of that that year. 20

Q When your first discussion about the painting of the house or cost of it took place, who were at the Glass house? A We discussed the painting of the house the following year, 1923, about Easter, and Mr. and Mrs. Ritchie and Mrs. Glass and I were at Mrs. Ritchie's house. 30

Q That was in 1923? A That was 1923, Easter time.

Q Did Mr. Glass talk with you about the painting of the house? A Not making any agreement or contract whatsoever; only prices. 40

Charles Gunardson, direct.

Q But he was there when you were talking about it? A In his home, when I arrived at the house.

Q He was there? A He was there.

Q You held a conversation about it? A We held a conversation about the painting; yes, sir.

10 Q Did you ever drive Mr. and Mrs. Glass to Camp Demarest or to Bordentown? A Yes, sir.

Q Was there anyone else along on the rides? A Yes, sir.

Q Who was along? A Mrs. Ritchie's brother and a lady friend in the neighborhood.

Q Which trip was this? A To Camp Demarest.

Q Who went on the trip to Bordentown? A Mrs. Glass and William Glass, the son, Junior, and myself.

20 Q Did you stay at the Glass residence in Belleville all night on any occasion? A Yes.

Q How many times? A Once.

Q When was that? A That was the night previous to going to Bordentown.

Q Who else was in the house all night? A Mr. Glass and Sonny Glass, and I think there was some friend of Mrs. Glass—I don't know—I don't remember.

30 Q And Mrs. Glass? A Oh, Mrs. Glass and Mr. Glass.

Q On that occasion your car was there all night, was it? A Yes, sir.

Q Was there any other time that your car was at the Glass residence all night, or in front of it, or next door in the garage? A Never all night.

By the Court.

40 Q Did you ever have your car in the Hayes garage? A I had it in Mrs. Hayes' garage.

Charles Gunardson, direct.

Q On this occasion? A Not this occasion, no; it was in front of the house.

Q The night before you went to Bordentown the car was out in front of the house? A Yes.

Q The other occasion you had put the car in the Hayes garage? A Once.

Q How did that come about? A Mrs. Hayes 10
requested me to place the car in the garage on account of a storm. I said: "Let the old junk stay there." Mrs. Hayes came over and said: "You are perfectly free to put your car in the garage whenever you want to, Mr. Gunardson." I said: "It is not necessary. I don't care so much about that old car," but a storm came up and I ran the car in there and I kept it there until midnight.

20

By Mr. Davis.

Q This Mrs. Hayes, did she ever accompany you on rides in the automobile with Mrs. Glass?

A Oh, yes; many times.

Q You were in the habit of taking Mrs. Glass and neighbors out for a ride quite often, were you? A Twice a week to the camp.

By the Court.

30

Q When did you start in on your painting work? A I looked over it the 1st of May and I really started the exact painting the third week of May.

Q Up to that time how many visits had you paid to the Glass home? A Oh, I was there quite often. I had worked on other work.

Q At the Glass house? A Oh, yes.

Q What else did you do there? A The cellar was full of water when I came there, and it 40

Charles Gunardson, direct.

kept on, and the sewer was blocked, and Mrs. Glass asked me to fix that and I worked a week on that.

Q When did you start that work? A That was the first part of May.

Q And you were there every night? A Not every night.

10 Q Until that work was done? A I finished that right up.

Q Did you work there holidays and Sundays? A Not Sundays; just come for dinner and go to camp.

Q You didn't work on Sundays there? A I didn't work on Sundays.

Q How about holidays? A Holidays—we only got half a day holidays.

Q You worked there how late; when did you stop work? A In the evening.

20 Q I mean what month? A I stopped in September.

Q What part of September? A Around the beginning to the 15th, when we delivered the boy to the Bordentown Military Institution.

Q Then, from the time you started to work at the Glass house until the time you finished, did you take your wife and child out automobile riding? A My wife and child, yes, sir.

30 Q When did you take them out? A In the evening.

Q What time in the evening? A Eight or nine o'clock sometimes.

Q Weren't you at the Glass house every evening? A No; I was not all the time.

Q Weren't you there every evening? A Oh, no; sometimes I had to work in my business.

Q Mrs. Glass testified that you were there every night and Sundays working? A Sundays
40 I came up during the camp month, yes.

Charles Gunardson, direct.

By Mr. Davis.

Q Did Mr. Glass at any time object to your doing this paint work? A Never to me.

Q Did he ever indicate to you in any way that he didn't want you around there? A No, sir; never.

Q When you took this ride to Bordentown in your automobile, what part of the year was that? A In September, 1923. 10

Q Where did Mrs. Glass ride in the car? A In the rear.

Q Where did Mr. Glass ride? A Mr. Glass rode in the front with me.

Q Did Mr. Glass ride on the front seat all the way down and back? A Yes, sir.

Q Did you talk with him? A Oh, yes.

Q Did he talk with you? A Sure. 20

Q What was his attitude? A Friendly conversation about Sonny.

Q When you were working there evenings painting the house, what time would you customarily get through the work; was there any particular hour? A 11:00 or 11:30.

Q Eleven o'clock or 11:30? A Yes.

Q Then you would leave; when you got through with the work, you would leave the house? A I would. Sometimes Mrs. Glass would give me a cup of coffee and sometimes I would wait until Mr. Glass arrived on the train, on account of it being a bad section there, and when Mr. Glass arrived, then I would go home. 30

By the Court.

Q During the time you worked there, was Mr. Glass away from home on any of these supposed business trips, when he was not home at 40

Charles Gunardson, direct.

night at all? A Yes; I never knew when Mr. Glass was home or absent.

Q So that you did not know whether he was going to come home or not; is that the idea?

A I never knew when Mr. Glass was home or not home.

10 Q Did Mrs. Glass tell you anything about whether he was away on business trips? A Mrs. Glass never said nothing, because I don't think Mrs. Glass knew until he telephoned.

Q Did she ever tell you that he had telephoned that he had gone away on a business trip? A I don't know.

Q Why did you mention the telephone, if you did not know? A Mrs. Glass didn't know unless she received a telephone message from Mr. Glass.

20 Q Didn't she ever tell you that she had received a telephone message from Mr. Glass that he had gone away on a business trip? A She never told me that, only, "Mr. Glass will not be home for supper; we will eat supper alone."

Q Were you there before supper? A Supper time.

Q Did you have supper there, too? A I always had supper there.

30 *By Mr. Davis.*

Q You and Mr. Glass and Mrs. Glass, all three had supper together? A Yes; we had supper every time I was there.

Q Did all three of you have supper together sometimes? A Yes; all the time.

By the Court.

40 Q Not "all the time," because Mr. Glass was not there all the time. A Whenever he was there.

Charles Gunardson, direct.

By Mr. Davis.

Q Mr. Gunardson, did you ever have intercourse with Mrs. Glass? A No, sir; never.

By the Court.

Q Did Mr. Ritchie ever tell you that you should cease your visits at the Glass house? A No. 10

Q Didn't he ever tell you that your visits there were exciting some talk? A No.

Q That you should stay away? A No; Mr. Ritchie never told me that.

Q Did you know that he told Mrs. Glass? A No.

Q Did Mrs. Glass tell you that Mr. Ritchie had told her that? A Mrs. Glass never said that. 20

Q Eh? A Mrs. Glass never told me anything.

Q Did Mr. Glass ever tell you that he didn't want you coming to that house? A No.

Q Did he ever tell you not to interfere in his affairs? A No. He did once.

By Mr. Davis.

Q Mr. Glass told you that once? A He did once. 30

Q What was the occasion of that? A The occasion was I, was giving his son instructions in automobile driving and I told Mr. Glass at the table one evening. Mr. Glass says to me: "I don't want you to do anything like that. He is too young." I says: "All right, Mr. Glass. That is final. If you don't like it, that settles it." 40

Charles Gunardson, direct.

Q Did you ever at any time say to anyone, or in anyone's presence, that Mrs. Glass was your "Indian Queen"? A No; never in my life.

By the Court.

10 Q Did you ever call her an Indian Princess?
A No.

Q By what name did you call her? How did you address her? A "Mrs. Glass."

Q You never called her by her first name?
A No.

Q She addressed you as "Charlie"? A Yes; everybody called me "Charlie."

By Mr. Davis.

20 Q Did you ever kiss Mrs. Glass "Good-night" on the front porch? A No; never.

Q Did Mrs. Glass ever sit on your lap? A No.

Q If you had kissed her "Good night" or she had sat on your lap, you would have remembered it, wouldn't you? A I sure would.

30 Q Did you ever have any improper relations of any kind with Mrs. Glass? A No.

The Court: While you are asking him hypothetical questions, Mr. Davis, will you ask him if he would answer truthfully if he had kissed her "Good night" or if she had sat on his lap.

40 Q If Mrs. Glass had sat on your lap or you had kissed her "Good night," would you answer truthfully here in court to that question?
A Being a gentleman, I don't think I would.

Charles Gunardson, direct.

Q Then, when you told us that you didn't kiss her "Good night," it may be that you did kiss her? Is that what we are to understand?

A No.

Q When you say that you didn't kiss her "Good night," are you telling the truth? A Yes.

10

Q On these rides that you took to Camp Demarest twice a week, did you go alone with Mrs. Glass at any time? A No; never.

Q There was always a group of friends or neighbors along? A Always.

Q Did you ever go out riding with Mrs. Glass alone on any trips? A No trips.

Q Did you go out riding with her alone? A Yes.

Q Where? A Bloomfield Center for errands.

20

Q What time of day would that be? A Evenings; during my work, probably some time before supper.

Q After you got through with your work that you had to do in Jersey City do you mean? Where was it, do you mean, that you had finished your work—here in Jersey City? A Yes; after I finished my work in my business.

30

Q Now, did you ever have supper with Mrs. Glass down in Bloomfield Center at midnight or later? A No; not midnight. We had supper there but not midnight.

Q You had supper there in the evening? A Yes.

Q Who else was there? A Mrs. Glass, Sonny Glass and myself.

Q Are you the father of this child, Barbara Glass? A No.

40

'Charles Gunardson, cross.

Cross examination by Mr. Brugler.

Q Do you class yourself as a gentleman?
A (No answer.)

Q Do you call yourself a gentleman? A I call myself a gentleman; yes, sir.

10 Q Did Mrs. Glass ever kiss you? A No.

Q Did you ever walk around the yard with your arm around her waist? A No; never.

Q Or touch her anywhere? A I helped her from the porch to the car.

Q You helped her? A Yes; I helped her.

Q Helped her by the arm? A Yes; helped her by the arm.

Q You helped her from the porch to the car?
A Yes; Mrs. Glass was ill.

20 Q You were never out alone in the automobile on a trip to Camp Demarest with Mrs. Glass? A Alone?

Q Yes. A Never alone. Mrs. Glass had company.

Q You never went to Camp Demarest alone with Mrs. Glass? A No; never alone.

Q You say you gave Sonny instructions in driving an automobile? A Yes.

Q You also gave Mrs. Glass instructions, didn't you? A Yes.

30 Q You went out quite a little with her around the town? A Around the block.

Q When did you give her those instructions?
A In the evenings before supper, daylight saving.

Q When did you do your painting? A After we had supper.

Q That was when—nighttime? A In the evening; yes.

40 Q Mr. Glass was not home much during the summer of 1923, was he? A I don't know when

Charles Gunardson, cross.

he was home; he came and went; I didn't pay much attention.

Q He didn't have supper, did he? A Whenever he was there.

Q Every evening? A I didn't keep track of Mr. Glass at all. I was attending to my work.

Q You never heard Mr. and Mrs. Glass have any arguments together, did you? A Every time Mr. Glass and Mrs. Glass had anything to say, they retired to their own room upstairs. 10

Q You painted the whole interior of this house? A Yes.

Q It required a lot of work, didn't it? A It was a lot of work.

Q It took a lot of paint? A Not so much paint.

Q How many cans or quarts or gallons? A I got everything down what it cost. 20

Q What did it cost? A \$195.

Q The paint cost \$195? A The labor. The paint cost \$45.

Q Where did you buy the paint? A Hockenjos, Newark.

Q Then, you rendered a bill to Mr. Glass for the value of this work and the cost of the paint?

A I gave a bill for labor and material.

Q You said the labor was \$195? A The complete job was \$195. That is 50 cents an hour. 30

Q You rendered Mr. Glass a bill for— A I gave Mr. Glass a bill for \$100.

Q When was that? A That was the last of October, 1923.

Q How much was it? A \$100.

Q Why were you so generous about your bill? A Because I made an arrangement, a contract with Mrs. Glass if I have my meal at the house I should take that from the bill. 40

Charles Gunardson, cross.

Q So the difference between \$100 and the actual value of this work represents the value of the meals that you had? A Yes; I took that off.

Q Did you charge anything for transporting Mrs. Glass in the automobile? A No; nothing for that.

10 Q Did you ever keep account of the gasoline and oil that you used? A No.

Q How often did you go to camp? A We went Wednesdays and Sundays.

Q You went whenever Mrs. Glass asked you to go? A Mrs. Glass asked me to go to camp to the son.

Q How often did you go? A Twice a week.

Q What time did you usually go? A We left about 7:30 and would get out there about quarter to nine.

20 Q What time did you come back customarily? A 11:00.

Q Do you remember the time, the day, when you drove Mr. and Mrs. Glass down to Bordentown? A Yes.

Q What date was that? A 15th of September, 1923.

Q Did Mr. Glass ever consult you about this painting work? That was all arranged by Mrs. Glass, was it not? A Yes; all arranged by Mrs. Glass.

30 Q The original conversation was had with her about the painting? A Mr. Glass was present at the time at the house, but Mr. Glass didn't enter into the conversation whatsoever.

Q Mr. Glass was not present at the Ritchie home when you first talked about the painting, was he? A No. It was Mrs. Glass and Mrs. Ritchie and Mr. Ritchie at their home.

40

Charles Gunardson, cross.

Q Did Mr. Glass ever give you any instructions about doing the work? A Not to me, so far as I know.

Q He never spoke to you about the work? A He spoke about it being pleasant looking and nice and so on.

Q Did he complain about the slow manner in which it was being done? A No; he never said anything. 10

Q Who gave instructions about fixing the cellar? A Mrs. Glass asked me if I could fix it instead of calling a plumber.

Q How long did it take you to do that? A Four days.

Q What was the nature of that work? A The sewer had clogged up and the cellar was full of water. 20

Q Was that night work? A That was nights.

Q It took you four consecutive evenings to do that? A Yes.

Q You are quite certain that your car never stayed out in front the Glass premises all night except this one occasion that you speak of? A That is all.

Q You said, I believe, that you did place your car in the Hayes garage one other night? A Yes; a stormy night. 30

Q Which of the Hayes was it offered you the garage? A Mrs. Hayes.

Q Didn't she tell you at the time that it looked bad having your car standing in front of the Glass premises so often? A No.

Q What did she say? A She said it was a shame to let that car get exposed to the rain and storm. "Put it in my garage. You are perfectly free to have it when it ain't in use." I 40

Charles Gunardson, cross.

said it didn't make any difference to that old piece of junk.

Q Did you ever leave the Glass home 1:00 or 2:00 o'clock in the morning? A No, never. Midnight was the latest I ever left there.

10 Q Being a gentleman, as you are, Mr. Gunardson, would you tell the Court if you had really had intercourse with Mrs. Glass? A I have not, truthfully.

Q Being a gentleman, if you had, would you tell it? A Being a gentleman, I don't know whether I would.

Q You insist that you are a gentleman, don't you? A Yes.

Q You said you didn't paint every night at the Glass home? A No; not every night.

20 Q There were some nights you were not painting? A Yes.

Q What were you doing those nights? A I got an invitation of Mrs. Hayes' son to come in and listen on the radio.

Q When you went to see the Hayes people, did you also stop and see Mrs. Glass? A I came to Mrs. Glass' house first.

30 Q You went to Mrs. Glass' house first, and then you went over there? A Yes; he sent an invitation to come over and listen to the radio.

Q Then you and Mrs. Glass would call? A No.

Q You went over alone? A I went over alone.

Q Always alone? A I was always alone in there. Mrs. Glass had work to do.

40 Q When you stopped working at this house, the painting was still unfinished, was it not? A No.

Charles Gunardson, cross.

Q Are you sure about that? A Yes; the painting was all completed.

Q You stopped work on what date? A The painting was done in the first part of September, but I had the furniture—the furniture of Mrs. Glass was still to do—and the separation trouble came up and I was detained in my work two week's overtime. That was from around the 17th of September to the 1st of October. 10

By the Court.

Q Then, did you start the 1st of October on the furniture? A I started in on the furniture around October 1st.

Q Did you keep a record of your time on this job? A I did, and I lost it.

Q When did you lose it? A I lost it the time that I sent the bill to Mr. Glass. 20

Q How did you lose it? A It must have got mixed in with some papers. I lost it and I couldn't find it.

Q So that you have now no record of the time that you spent on this job? A No; I haven't any record, but I did have it and I lost it.

By Mr. Brugler.

Q Did you charge Glass for the time you spent in Belleville whether or not you were painting? A I charged Mr. Glass for the labor and part of the paint what I used on Mr. Glass' residence, and I deducted so much for the meals that I had—whatever meals I had. 30

By the Court.

Q You did not make any charge for time unless you worked on the job? A No. 40

Charles Gunardson, cross.

Q The time you spent in going there? A I didn't charge for that.

Q The time that you were listening to the radio, you didn't make any charge for that time?

A Absolutely not.

10 Q Did I understand you to say that the bill that you had amounted to less than \$195? A \$195.

Q That is, after allowing Mr. Glass deductions for meals? A Yes.

Q Then, it was more than \$195 for the labor and material, and after you had given him credit for the meals, it amounted to \$195? A No.

Q Then, you deducted from \$195? A I deducted from \$195.

20 Q You deducted from \$195 the allowance for the meals? A Yes.

Q And that brought it down to what? A \$100.

Q Ninety-five dollars for meals? A Pretty near \$95.

Q How much a meal? A I don't know. I figured fifty or sixty cents a meal.

30 *By Mr. Brugler.*

Q I understood you to say that you didn't work there steady, did you? A No.

Q There were a great many nights when you were not there at all? A Whenever I went to listen to the radio I didn't work.

Q Then, also, there were a great many nights when you didn't call in Belleville? A I didn't call—I couldn't call if my work required me, and I notified I couldn't come up and paint.

40

Charles Gunardson, cross.

By the Court.

Q There were many nights that you didn't even go to Belleville, to the Glass home, were there not? You were not there steadily, night after night, were you? A No, no.

Q Were you there half the time? A Well, I could not say exactly about half of the time. 10
You mean from the time I started to the finish?

Q Were you there half of the nights from the time you commenced the work until the time you say you completed it? A I was there—sometimes I came and started and I had an appointment for 9:00 o'clock, and I left; I worked for two hours, 7:00 to 9:00, and I would be there the next day.

By Mr. Brugler.

20

Q You said there were many nights when you were not in Belleville at all? A Yes.

Q There were other nights when you were there doing painting or doing something else? A Oh, yes.

Q Were you in Belleville half of the time from the time you started this work? A I was there; yes.

Q Half the time? A Half of the time I was there—from 7:00 until half-past— 30

By the Court.

Q What he means is half of the number of evenings in the week. A More than that.

Q Were you there seven days a week? A Sometimes six, five, four.

Q The fact that you gave Mr. Glass credit for \$95 for meals would indicate that you had 40

Charles Gunardson, cross.

almost 200 meals at the Glass home during that period of time? A Sundays and everything.

By Mr. Brugler.

Q You were never there Sundays? A Yes; I was there Sundays. I had Sunday dinner at
10 Mr. Glass and Mrs. Glass'.

Q You were there every holiday? A Well, we quit half a day. That gave me a good chance to work.

Q How many hours, on the average, did you spend in the evening doing this work? A From 7:00 until 11:00, half-past 11:00 or 12:00 o'clock.

Q What time did you have supper? A 7:00.

Q How long did it take you to eat? A Quick as I could.

20 Q Half an hour? A Not half an hour. I pardoned myself to Mr. Glass or Mrs. Glass and then I went to work.

Q Then, you averaged three and a half hours every night? A Sometimes more.

Q You were around these premises after the house was sold, too, were you not? A Never; never.

Q Didn't you see Mrs. Glass after the house was sold? A Never; no.

30 Q Didn't you drive Mrs. Glass to the home of Mr. and Mrs. Ritchie after she left this place? A I drove Mrs. Glass to Mr. Ritchie's house. After the house was sold I drove her to Jersey City.

Q How soon after the house was sold? A That was the day after the house was sold. The house was sold on Saturday and I drove her down Sunday.

40 Q Did you see Mrs. Glass any other time? A No.

Helen Barker, direct.

Q After the house was sold? A No.

By the Court.

Q Did you see Mrs. Glass from that day up to the time you saw her in court? A No. I seen Mrs. Glass in her lawyer's in New York, in the Supreme Court. That was the first time I saw Mrs. Glass since the house was sold and I brought her to Jersey City. 10

HELEN BARKER, sworn as a witness on the part of the defendant, testifies as follows:

Direct examination by Mr. Davis.

Q Where do you live? A 1A Fifth avenue, New York. 20

Q What is your occupation? A My occupation is—can I explain it? I am employed by a publisher. I do various things—creative work—order work.

Q You are a sister of Mrs. Glass? A Yes.

Q Did you ever visit Mr. and Mrs. Glass when they lived in Belleville? A Why, I spent—I made an endeavor to spend the week-ends, but I could not say, in searching my memory, I have gone back— 30

Q Just tell us over what period of time your visits covered, from when until when—from the time they moved there until they moved away? A Yes; from the time they went there until they moved away.

Q During the spring and summer of 1923 did you visit them? A Yes; I did. 40

Helen Barker, direct.

Q Approximately, how often on an average, would you say? A Once a month, possibly, or twice a month, not every week-end.

Q Did you ever meet Mrs. Ritchie there? A Yes.

Q Did you ever meet Mr. Gunardson there?

10 A Yes.

Q Were you present when the question of painting the house was under discussion? A I was there the night that Mr. and Mrs. Ritchie brought Mr. Gunardson out the first time that I met him, and the painting question was discussed.

Q Who else was there? A My brother James.

Q Not the brother who has testified? A No.

20 Q Where is he now? A He is in New York City.

Q Was Mr. Glass present also? A At this meeting he was present. I was there for the week-end.

30 Q What was the nature of the discussion with regard to the painting? A They first discussed the amateur job that James had done on the front porch. James had painted the front porch and there was criticism in regard to his work, and someone suggested—I could not say whether it was Mr. Ritchie or someone else—that that would be a good job for Mr. Gunardson. They looked over the inside of the house and the outside, the group of people together, consisting of Mr. and Mrs. Glass, my brother and Mr. Gunardson.

Q Have you ever had a conversation with Mr. Glass with regard to his marital troubles?

40 A Yes.

Helen Barker, direct.

Q When was it? A Shall I go back previous to this period or only in connection with this one period? I can go back several years ago.

Q I don't know whether the Court is interested in what took place several years ago. A During this period—the period covering this summer? 10

By the Court.

Q 1923. A Yes. Mr. Glass came into my place of business frequently and discussed conditions at home. One particular time he asked me to use my influence with my sister to sell the house and place her boy in boarding school. I asked him, "Why?" He said that he could not carry the expense of the house. My sister was not well; and if they could do this thing it would give him an opportunity to straighten out his financial difficulties; and he asked me to inquire into a boarding school for his son. 20

Q Did he ever discuss with you the question of a divorce between himself and his wife? A Not during this time, but he has on previous occasions. 30

By the Court.

Q Previous to 1923? A Yes; previous to 1923.

By Mr. Davis.

Q What did he say on those occasions?

Mr. Brugler: I object.

The Court: Objection overruled. 40

Helen Barker, direct.

A He came to me—this one conversation depends on the other—he admitted—he confessed his infidelity—

Mr. Brugler: I object.

10 The Court: Strike it out. The question was: What did he say about divorce?

By the Court.

Q What did he say about divorce? A Not about divorce. About a separation. The word "divorce" was not used.

By Mr. Davis.

20 Q What did he say about a separation? A He agreed—he said that he would agree to a separation from my sister, as he had given her cause for it, and the cause I knew about.

By the Court.

Q This was previously? A Previous.

Q How long previous to 1923? A It was the fall of the year they first came to New York. I don't know the date or the year.

Q That was about 1921? A I think so.

30 Q Did you tell your sister that? A I did. I was the mediator between them.

Mr. Brugler: I object to questions along this line.

The Court: I cannot anticipate what the witness is going to say. I am admitting what she says Glass said to her.

By the Court.

40 Q Have you related all that he said? A No.

Helen Barker, direct.

Q Go ahead and let us have it. A Among discussions we had, at one time he said that he would give my sister half of his salary, including his commissions, and allow her to take her child, and asked me to live with them and help protect his son, bring him up. That is one incident that I remember, one conversation. We had various conversations on the same subject. 10

By Mr. Davis.

Q We are talking about separation. A That was one particular conversation. Shall I tell you a conversation—

The Court: Mr. Davis, I am going to depend on you not to bring out anything that has nothing to do with this issue. 20

Q Did Mr. Glass, in any of these conversations, ever complain to you about his wife's marital conduct? A Never.

Q Did he ever complain to you about Mr. Gunardson being at the house? A Never.

Q On the occasions when you visited the Glass home in Belleville during the summer of 1923, was there any complaint made to you by Mr. Glass about the situation there? A Never. 30

Q Did you ever notice anything peculiar or unusual in regard to the situation? A Except there was a general atmosphere of unhappiness that I would sense about the place, financial or whatever the cause was, was their private affair.

Q Did you ever see Mr. Gunardson about the house working? A I was there one time when Mr. Gunardson was there— 40

Helen Barker, cross.

By the Court.

Q Were you not there more than once when he was there? A Twice when he was there. One time I went out riding with him and my sister.

10 *By Mr. Davis.*

Q When you went out to visit Mrs. Glass in Belleville, did you let her know that you were going to visit her? A Sometimes I would telephone, and sometimes I would not.

By the Court.

Q What time of day did you usually call? A I usually went Saturday afternoon.

20 Q And you remained how long? A Until either Sunday night or Monday morning. Sometimes I took the morning train in to business.

By Mr. Davis.

Q Did you ever see anything wrong in Mrs. Glass' conduct? A Never.

Cross examination by Mr. Brugler.

30 Q How many times did you visit your sister, Mrs. Glass, during the summer of 1923? A I remember distinctly once when she had returned from Swampscot. That was one time. Another time I visited her when Mr. Gunardson was there. I remember calling one time when Sonny and she were there and Mr. Gunardson was not. I remember those three times distinctly.

40 Q Was there any reason you know of why Mr. Glass should confess his marital faults to you? A Yes; there was a definite reason.

William C. Glass, direct.

The Court: Now, Mr. Brugler—

Mr. Brugler: I want to meet whatever they brought out her.

The Court: You don't have to meet it.

DEFENDANT RESTS.

10

REBUTTAL.

WILLIAM C. GLASS, the petitioner, recalled in rebuttal and further examined as follows:

Direct examination by Mr. Brugler.

Q Did Mr. Gunardson do any work in the cellar of your home? A He might have, but not that I am definitely aware of. 20

Q Not to your knowledge? A No.

Q You never paid him for any work of that nature? A No, sir.

Q Did he ever speak to you about the charge he would make for the painting or other work?

A Not a word.

Q Had you ever given him any directions for doing that work around the house? A No, sir.

Q Did Mr. Gunardson ever stay overnight at your house with your consent? A On one occasion when it was arranged that he was to take us to Bordentown with Sonny. 30

Q That was the night before he took you to Bordentown? A That is right.

Q Was that the only occasion? A The only occasion I know of.

Q To your knowledge had he ever stopped at your home over night on any other occasion—to your personal knowledge? A No. 40

William C. Glass, direct.

Q When did you first learn that Gunardson had kissed your wife? A About three days ago.

By the Court.

Q When were you first informed of any acts of familiarity between Gunardson and your wife?

10 A After I started to investigate, when I learned that this child had been born.

Q That was after April, 1924? A Yes, sir.

Q Before that had you heard from any of the neighbors or any of the persons who have testified here, of the nature of their testimony?

A No, sir.

By Mr. Brugler.

20 Q Following the learning by you of the birth of this child, you made an investigation? A Yes.

Q You inquired among the neighbors to ascertain what you could find? A I did.

Q And you learned various things? A Yes.

Q As a result of which, you brought this suit? A That is right.

30 Q Did you ever have any business with Fornoff, the grocery man? A Except to pay bills which Mrs. Glass contracted.

Q Did you ever meet Fornoff? A Not that I know. I may have met him once. He said I did. I couldn't say.

Q If you did meet him, was it at your house or at his store? A It must have been in my house.

40 Q One witness testified here that there was a meeting in New York at some address, at which a discussion took place between you and your wife concerning the birth of this child. Did you

William C. Glass, direct.

meet your wife in New York some place? A I did.

Q Where was that? A At East 72nd street.

Q Was there anyone present, besides your wife, that you know of, when this conversation took place? A Not that I know of, except she had the baby part of the time.

10

Q Who made the arrangement for this meeting? A Actually we made the arrangement between us by telephone, but the preliminary arrangements had been made by her brother Edwin.

Q Following a conversation with her brother, you had a conversation with her; is that the idea? A That is right.

Q You went out to see her? A Yes.

Q What was the purpose of this meeting?

A Simply to satisfy her brother Edwin simply because he—well, I always had the utmost confidence in her brother Edwin.

20

Q Never mind that. Did you at that meeting admit directly or indirectly that you were the father of this second child? A I positively did not.

Q Did you say to your wife on that occasion that granting that you were the father of the child, what is she going to do about it? A I certainly did not.

30

Q Or words to that effect? A No, sir.

Q What time did you usually get home evenings? A When I was in town, I usually got home about 6:30.

Q Did you ever have supper with your wife and Mr. Gunardson? A Yes.

Q Many times? A No; very seldom.

Q How often? A I don't think more than four or five times altogether.

Q That was during the summer and fall of 1923? A Yes.

40

William C. Glass, direct.

Q During the summer and fall of 1923, or throughout the year 1923, did you ever kiss your wife? A I cannot recall that I did. It is barely possible that I might because I always attempted to keep up appearances for the boy's sake, as much as possible.

10 Q Did you kiss your wife that you recall after you ceased cohabiting with her as man and wife? A I do not recall any occasion of that kind.

Q You might have done so? A I might have.

Q When you say "appearances" you mean you tried to hide from the boy that there was any estrangement between you? A Principally when the boy was present.

20 Q Was the boy home during the summer of 1923? A He was up at the camp the whole of the month of July and the first week of August. My checks show the payment of the bill.

Q Do you recall when Mrs. Ritchie's daughter was at your home? A I do not. She was there quite frequently during the summer. I don't recall definitely.

Q Did she stay any protracted time? A Not while I was there.

30 Q Did you ever discuss divorce or separation with the witness who was just on the stand? A I did not.

Q Did you ever have any discussion with her at all concerning your marital relations with your wife? A Yes.

40 Q Those discussions did not include the question of divorce or separation at all? A Not legal separation. It touched upon the possibility of separation to get things settled up, but not a matter of legal separation.

Harvey Hayes, direct.

Cross examination by Mr. Davis.

Q Do you now recall having had marital relations with your wife in July, 1923? A I do not.

Q You say that you believe your son was at camp until August some time—the first week in August? 10

The Court: His son was in camp the whole month of July Mr. Carter testified—to July 28th.

Mr. Davis: I understood Mr. Glass to say he was there during the first week of August.

A My impression is that he was there during the first week in August. I cannot say positively. 20

HARVEY HAYES, a witness already sworn on the part of the petitioner, recalled in rebuttal and further examined as follows:

Direct examination by Mr. Brugler.

30

Q Did you have any conversation with Mrs. Glass wherein some other man than her husband was discussed? A Yes.

Q What did she tell you? A She told me about going to Brown's Hotel at Greenwood Lake with some man from Paterson.

Q Did she say who the man was? A She didn't mention any names.

Q Did she say when it was? A No; she didn't say the date. 40

Harvey Hayes, direct.

The Court: What are you doing now—re-opening the case?

Mr. Brugler: On her examination she said that she was never out with any man other than her husband.

10 Mr. Davis: I move that it be stricken out. It is not proper rebuttal.

The Court: Did Mrs. Glass testify that she was never out with any other man? I don't recall any such testimony. I do not remember any such question being asked. I will strike it out.

Q Did you ever have any conversation with Gunardson concerning Mrs. Glass? A No direct conversation, only one evening—

20 Mr. Davis: The question is answered.

Q The question is: Did you ever have any conversation with Gunardson concerning Mrs. Glass? A Yes.

Q When was it? A It was one evening during July, 1923.

30 Q What was it? A I came out of our house and was walking down the street and met Mr. Gunardson as he was coming out of the Glass house and he looked disgusted. I said: "What's the matter, Charlie?" He said: "I am getting sick of this. I think I will shift it."

Q When was that? A July, 1923.

Q Did he say anything else? A That is all that I recollect.

40 Q Did he say what he was sick of? A No; but—

Harvey Hayes, direct.

The Court: Just what he said.

Q Did he say anything else? A That is all he said.

Q You were out in an automobile on one occasion with Mr. Gunardson and Mrs. Glass, were you not? A No, sir; I never was.

10

No cross examination.

Mr. Brugler: We rest.

Mr. Davis: I would like to ask permission to put Mrs. Bennett on the stand again. She recalls the contents of the letter that she could not think of yesterday with regard to Mr. Glass' admission in a letter that he might have been the father of this child. I have not talked with her over night, but I understand that she now recalls the contents of the letter.

20

The Court: She was asked as to what recollection she had of the contents of letters and she stated as much as she could remember, and she said that she could not recall any more.

Mr. Davis: Yes; but her memory has been refreshed since then.

The Court: I do not want to limit any testimony that may bear on the merits of this case, and I will permit you to recall Mrs. Bennett.

30

Sabra Bennett, direct.

SABRA BENNETT, a witness heretofore sworn on the part of the defendant, recalled and further examined as follows:

Direct examination by Mr. Davis.

10 Q Yesterday, while you were on the stand, you testified receiving a letter or letters from Mr. Glass; you testified that they had been destroyed, and you testified as to the contents of some of them. I understand that you recall certain contents now that you did not think of yesterday. Is that true? A Yes.

Q Before you tell what the contents of the letters were that you remember today, that you didn't think of yesterday, will you explain to us why you did not remember them yesterday?

20 A Well, my memory—I was rather excited—I think my memory went from me.

Q Have you ever been in court before? A Once before—not in this connection.

Q You do absolutely now recall something else that was in this letter? A There was a letter—

By the Court.

30 Q The question is: Do you now recall something else that was in this letter? A I do.

By Mr. Davis.

Q Now, what is it that you now recall?

Mr. Brugler: I have copies of all the correspondence. Maybe the witness can pick out the copy of the letter that she received.

40 Mr. Davis: Are these all the letters that Mr. Glass wrote Mrs. Bennett?

Sabra Bennett, direct.

Mr. Brugler: Yes.

The Court: The record shows that Mr. Brugler produces what purport to be copies of letters from Mr. Glass to Mrs. Bennett.

By the Court.

Q Mrs. Bennett, will you look over these letters and see whether you recognize them? A I think this (indicating) would be the one. 10

Q When did you get this letter that you are talking about? A The letter I am talking about, I think was received after Mrs. Glass returned to New York.

Q How long after she returned to New York? A I couldn't say as to the date.

Q Could you tell me what month? A It must have been in September or even later. Here (indicating) is one in November. 20

Q There are no letters among these copies dated in September. The last letter in August is August 25. The next one after that appears to be dated November 25th. Have you read the second of these letters, the one dated November 25th? A Yes, sir.

Q Would you say, after reading that letter dated November 25, 1924, that that is the one to which you refer? A It is not exactly what I have in mind. It is the drift of it. 30

Q Is that the letter you think you have in mind? Please answer the question. A I think perhaps it must be.

Q Do you remember receiving a letter, of which that is a copy? A Yes; I received that letter.

Q You did? A I did, because this was the last one, I think; I didn't reply to this; I am quite sure I didn't reply to this. 40

Sabra Bennett, direct.

Q You are speaking now of the letter of November 25th? A I cannot find the letter here that I had in mind.

Mr. Davis: I understood her to say that she thought it was in September.

10 The Witness: I thought it was about September.

Q You think you got a letter from Mr. Glass in September, 1924? A Somewhere about that time.

Q And that letter is lost or destroyed? A Lost or destroyed.

Q What did he say in that letter about the parentage of the child? A In reply to what he had said, I—

20 Q What did he say? A He called me: "My dear Mrs. Bennett." He said that after the stand I had taken, he supposed that he couldn't call me "Dear Aunt Sabra" any more, and my answer to that was that the reason that—

Q I don't want your answer to him. I want to know what this letter is that you are here on the stand to testify to, relating to the parentage of the child. What did he say in this letter? A
30 "Granting what you say is true, granting what you say may be true, I am sick and tired of the Barker family."

Q "Sick and tired of the Barker family?" A Something to that effect. I have not the exact words; they may have been destroyed.

Q I understood that you were called to the stand to testify to the contents of a letter Mr. Glass wrote to you, wherein he referred to the parentage of this child or its legitimacy. Now,
40 have you any recollection of the contents of any

William C. Glass, direct.

such letter? A Well, the letter I wrote him led up to it.

Q I don't care what you wrote him. I want to know what he said. A That is what he said.

Q What did he say? A He said: "Granting what you say may be true."

Q What was it that you said to him that made him say that? A I said to him that I thought if he could see little Barbara and know her and love her as we did, that he would love her as we did, and that some day he might be glad that he had a little daughter to love; and he said: "Granting what you say may be true." 10

No cross examination.

20

WILLIAM C. GLASS, the petitioner, recalled in further rebuttal, testifies as follows:

Direct examination by Mr. Brugler.

Q You had some correspondence with Mrs. Bennett? A Yes.

Q (Showing witness.) Are these copies of all the letters which you wrote to her? A They are. 30

Q Since 1923? A Yes.

Q In my other hand I hold certain other letters. From whom did you receive them? A From Mrs. Bennett.

Mr. Brugler: I offer these letters in evidence.

The Court: Let me make this suggestion to you, that you offer them to counsel for the defendant for examination and counsel 40

Conclusions of Vice-Chancellor.

for defendant may offer any of them that he see fit to offer.

10 Mr. Brugler: I offer these copies to counsel for the defendant for his examination. He may pick out and offer any that he chooses or I will offer any that he desires put in evidence.

Mr. Davis: I don't see anything here that is material.

The Court: Is there anything that you wish counsel to offer?

Mr. Davis: No, sir.

CASE CLOSED.

(Case submitted without argument.)

20 The Court (orally): The only question before me is on the petition of the husband for divorce from his wife on the ground of adultery. The cross-petition filed by the wife is for constructive desertion. Her testimony clearly shows that if there was a constructive desertion by the husband, it could not have continued for two years prior to the filing of the cross-petition. So the cross-petition will be dismissed.

30 When a husband and wife are residing together or are residing within access of each other, it is against public policy for a court to determine that a child born of the wife, is not the child of the husband, upon the testimony of the husband and wife denying the husband's parentage. In such a case, I have grave doubt as to the admissibility of testimony by the husband or wife tending to show illegitimacy of the child. The child here in question was conceived at a time
40 when the husband and wife were living in the

Conclusions of Vice-Chancellor.

same house; that is, they were residing together up to October, 1923, and the child was born April 30, 1924. The presumption in law is that the petitioner is the father of the child of which the defendant is the mother, so that in reaching a conclusion on the petitioner's charge of adultery against the defendant, I could not decide that the child is illegitimate and is not the daughter of the petitioner. 10

Taking into consideration all the testimony, however, I consider the petitioner's charge that the defendant committed adultery with Gunardson, fully proved. From about May 1st until the middle of October, by the testimony of all the witnesses on the subject, with the exception of Gunardson, he spent practically every evening, every holiday and every Sunday at the Glass home, ostensibly upon a painting job which involved the decoration of seven rooms in a bungalow. Meanwhile he worked every week day at his own occupation, which was not that of a painter. He furnished material and he did all the work. During the progress of the work he made no claim whatever on Mr. Glass for repayment for the paint he was buying from time to time or for payment on account of his labor, although he says he always expected to be paid for the work he had undertaken. A greater part of the period from May 1st to the middle of October Mr. Glass was away from home—he was in a hospital nearly a month—and Mrs. Glass and Mr. Gunardson were in the house together during the evening, frequently as late as midnight according to the testimony of Mrs. Glass and Gunardson, and according to the testimony of neighbors, as late as two or three o'clock in the morning. And they were there alone, except for the presence part of the time of the small son of the 20
30
40.

Conclusions of Vice-Chancellor.

parties to the suit and of the Ritchie girl who was then about fourteen years of age.

The circumstances are peculiar and they place Mrs. Glass and Gunardson under suspicion. Mr. Glass and his wife had not been living happily prior to this May 1st, and while Gunardson was visiting the home, Mr. Glass objected to his coming there. Mrs. Glass knew that her husband was suspicious of Gunardson and did not want him around; yet she insisted that he do the painting work. And why was it of such importance that the rooms be decorated just at this time? The parties had moved into the house in June, 1921, and the rooms had remained undecorated up to May, 1923. About the time Gunardson commenced his work, the strained relations of husband and wife had become more acute and they were talking of a separation and a sale of the house. Why was it of such importance to Mrs. Glass that a house which might soon be sold and which was sold in October, 1923, should be decorated? Why should Gunardson sacrifice all his spare time to do the job? Why should he, who had a wife and family of his own, who had no friendship for Mr. Glass and who is supposed to have had no especial friendship for Mrs. Glass, devote practically all his evenings, holidays and Sundays for a period of five months, working on a job, without arranging in advance for his pay, without pay while the work was progressing, and merely in the hope of being paid at the end of his five months' labor, in the meantime giving no time to his own family and depriving himself of their society? But Gunardson says he did not work Sundays, that he merely went to the Glass home to visit her and her son and to take them out riding in his automobile. Why this attention

Exhibits.

to her on a day of rest and neglect of his own wife and family, if he was merely interested in a painting job? His continuous visits to Mrs. Glass and their occupancy of a dwelling house, absolutely alone, for many hours at a time, provided the opportunity for acts of adultery. Then there is the testimony of neighbors—disinterested persons—going to show that Gunardson was at this house until earlier hours in the morning than he admits, and that they saw acts of familiarity and affection between him and Mrs. Glass, such as kissing and embracing, all of which lead me to believe that there was inclination to commit adultery. Considering the strained relations between husband and wife, the peculiar circumstances under which Mrs. Glass and Gunardson account for Gunardson's visits to a woman who considered herself neglected by her husband; the opportunity and the testimony as to the inclination, I must reach the conclusion that Mrs. Glass was guilty of adultery with Gunardson during the summer of 1923, and there will be a decree for the petitioner accordingly.

Exhibit P. I.

Consists of four small photographs pasted on cardboard showing Glass home and neighboring houses in Belleville.

Note:—This card of photographs will be reproduced so as to occupy a page by itself in the State of Case.

*Exhibits.***Exhibit P. II.**

As you seem to be purposely avoiding a settlement of the conditions which are so extremely unpleasant to me, and do not want to talk about it, I will say that I have sufficient means on hand to take son and myself out west. I have held
 10 back the grocery money because I know there was no other way for me to do. Son asked me to try and see if you wouldn't be nice, and I humbled myself for his sake, but I am through now. We will probably leave here Monday or Tuesday. I may go to Nova Scotia.

Exhibit P. III.

“New York, N. Y.

20 October the Fifteenth, 1923.

Agreement between William C. Glass and his wife Effie M. Glass.

a—William C. Glass is to pay Effie M. Glass the sum of Five Hundred (\$500.00) dollars, the receipt of which is hereby acknowledged.

b—William C. Glass is to pay Effie M. Glass the sum of Twenty (\$20.00) dollars per week for the period of one year as a maintenance expense.

30 c—William C. Glass, Jr., son of William C. and Effie M. Glass is to attend Bordentown Military Institute at Bordentown, N. J., unless otherwise provided by mutual agreement, all expenses therefor to be paid by William C. Glass.

d—Effie M. Glass will not willingly contract any indebtedness of any nature for which William C. Glass may be held legally responsible, except by mutual agreement.

Effie M. Glass

40 William C. Glass”

*Exhibits.***Exhibit P. IV.**

Certified copy of birth certificate of Gloria Edith Glass, at Milwaukee, Wisconsin, on April 30th, 1924, containing the following information:—

Father's full name and residence—William C. Glass, 144 Garfield Avenue, Wauwatosa; father's occupation—vice-president of United Printing Machinery Co. 10

Mother's full name and residence—Effie M. Barker, 144 Garfield Avenue, Wauwatosa.

Exhibit P. V.

“38 Park Row
New York City
May 5, 1924. 20

My dear Dolly

I am in receipt of a letter from Edith Barker containing the very surprising information that you gave birth to a baby on April 30, 1924. In view of the fact that I have had no marital relations with you for more than two years, I most certainly am not the child's father. I will therefore, appreciate your advising me at once who is the father of your child. 30

Yours etc.

Will''

Original sent by registered mail addressed

Mrs. William C. Glass

St. Mary's Hospital

Milwaukee Wis.

*Exhibits.***Exhibit P. VIa.**

Envelope addressed to Mr. Glass in which letter Exhibit P VIb was contained.

10

Exhibit P. VIb.

“My dear Will,

How like you to write to me at a time when I was having about all I could do to hold my own and request a signed receipt. It was a cowardly thing to do, and such a characteristic letter too!

20 But what else could I expect from one who held his marriage vows as lightly as you did, promising to cherish and honor your wife, when you know that you dishonored your wife and son some time ago; also one who could so disregard his masonry vows, when you know that the past few years have been a succession of lies to me and more than once you placed me in an extremely uncomfortable position, knowing all the time then of my faith and confidence in you, and then, when I remember the night when I personally witnessed your vows of the Eastern Star, when, with your hand on the Bible and your face

30 to the east, you made such solemn vows! Where is your manhood that you could now place the stigma that you do on me, your son and this wonderful little girl? Do you think that God would have given me such a beautiful little darling, the realization of my dreams, had I committed any Sin? If such were the case, then I will say that such a perfectly formed, good-natured baby is worth sinning for

40 The Dr. said that I was an ideal mother, and that it was a crime that I did not have more

Exhibits.

children. Both the Baby's and my case seem to be on record in the Hospital as quite remarkable. If I have acted in the past in anyway unfitting to a mother, it was because I was driven beyond all human endurance. I am going to the Farm for the summer and anytime you wish to see me I shall be glad to enlighten you on a few subjects which you seem to be in the dark about. I do not think that such things are best discussed on paper. 10

I promised you I would never disclose your unfaithfulness and lies to Son, and I shall keep that promise just so long as you do not belittle me in his eyes, but just as soon as you do that, I shall show no mercy. I went through too many years of Hell for his sake. No threat, just plain fact! I have not presented any bills to you and everything will be paid for by me, much to the disgust of my family. However, I made that agreement with you, and I honor my word, even though I did not know of this event at the time. 20

You might be interested to know that the Baby looks as much like Sonny as a girl could, and just as good-natured as he was. Thank God, I endowed them both with that. I am supremely happy and I have every courage to face the future. alone, while my husband spends his surplus time learning the higher laws of Masonry, and I shall make no demands on him. I shall be very glad to refresh your memory as to the exact date of our last marital relations, etc., just as soon as I can possibly see you. 30
Dolly."

*Exhibits.***Exhibit P. VIIa.**

Envelope addressed to Mr. Glass in which letter marked Exhibit P VIIb was contained, postmarked Wauwatosa, Wis., May 23, 1924, and bearing return address of Mrs. Glass.

10

Exhibit P. VIIb.

“My dear Will:—

We are leaving for New York on Saturday the 24th arriving there on Sunday. I will call the office on Monday morning and arrange to see you at your convenience.

20 I am enclosing the Hospital bill. As it was necessary to pay this before leaving hospital, Jack paid it for me as I told him that you would reimburse him. Will you do so as soon as possible, as he needs it. You can make check out to him personally.

The Dr. has your address and will send his bill to you direct, probably the first of the month.

30 Your little daughter looks like you, but is the image of Sonny. They are as much alike as twins, only *Barbara Edith* is decidedly a little girl. I had such a dear letter from Son on Mother's Day with an invitation for the closing exercises and expressing a wish that I should be there. He also sent me a bunch of violets. Have you thought of his little heart that you are so willing to break?

Dolly”

40

*Exhibits.***Exhibit P. VIIIa.**

Envelope addressed to Mr. Glass in New York bearing return address of Mrs. Glass also in New York, postmarked May 29th, 1924, in which letter marked Exhibit P VIIIb was contained.

10

Exhibit P. VIIIb.

“Will:—

I was unable to go out on Monday on account of the baby, but I called up the office early Tuesday morning and Miss De ReVere told me that you were out of town and expected to be away until the last of the week.

I must see you as soon as possible for several reasons, one best known to yourself and another that of course I will now need an increase in my allowance to take care of our baby.

20

At the time I agreed to an allowance of \$20.00 per week for my own maintenance, I did not realize the coming of the baby, but as a matter of fact, I was then pregnant three months. If you will just think back you will have no difficulty in remembering the date yourself.

Dolly”

30

Exhibit P. IX.

“May 29, 1924.

Will:—

I have decided that my allowance will have to be increased to the extent of ten dollars (\$10) weekly in order that our baby be properly taken care of.

Yours, etc.,

Dolly”

40

*Exhibits.***Exhibit P. X.**

"June 2, 1924.

Will:—

10 Since the twenty dollars (as per check) which is allowed for my personal maintenance, barely answers for that purpose at present, I shall have to ask you to give me a check to cover the time since the baby's birth, at the rate of ten dollars weekly, which I told you in my letter would be necessary to cover her extra expense.

Yours, etc., Dolly."

Exhibit P. XI.

20 "Will:—

Relative to your conversation over the telephone on Friday, June 6, let me say that whenever you are prepared to follow up your admission to me, while here on June 2, that you were able to recall the fact of proper marital relations having taken place on July 14, (upon our return from the Boy Scout Camp, where we had gone to see Sonny) follow up with full acknowledgement your rightful relationship to our
30 little daughter, *then and then only*, will I see you again.

As I repeatedly stated to you when you were given the desired opportunity to see me alone, this question of your parentage is the primary one to be settled first and above all else, as the rest is but a mere legal formality.

To your continued pleas for a quiet settlement between ourselves, to save sonny I must reply that I hold equally sacred all filial obligations
40 to our little daughter, as she also shares equally

Exhibits.

in my love for her brother, Sonny, and that to both our children alike must and shall be accorded the most priceless and highest heritage, their Mother's honor!

You have said to me, "Can't you think for yourself? Can't you use your own mind?" In that regard, let me assure you *unqualifiedly* that I am doing just that now and as a matter of fact, if each and every member of my family were to advise me to "waive" this question, as you suggest, I still would say "No" a thousand times No! 10

You have questioned my honor, you must either retract or prepare to prove your ground.

Let me add, finally, that all further pleas and propositions from you will prove absolutely futile along any other lines than those above mentioned. 20

Dolly.

June 9, 1924."

Exhibit P. XII.

"38 Park Row
New York City 30
June 10, 1924.

My dear Dolly:

I received your letter of the 9th and assume from its strange contents that somebody must have inspired you to write as you did, for a purpose.

You know very well that the girl is not my child; you also know very well that I never admitted having marital relations with you. That is pure invention. 40

Exhibits.

I had no proposition and neither have I any proposition now. All I wanted to know was whether you still persisted in your false claim about the girl.

10 Your letter is eloquent and reads very nicely. However you are simply acting, as usual, and nobody but a stranger willing to decide the matter on your sweet and beautiful story, would be the least bit impressed."

Exhibit P. XIII.

"Will:—

20 I am in receipt of your check for twenty dollars (\$20) the usual amount for my personal maintenance, but, as I stated in my previous letter, I estimate that it will require, approximately ten dollars, (\$10) weekly, for the present, for the care of the baby, and as I have not received anything up to date, I must insist that you send the same to me immediately, together with the accrued amount.

June 14, 1914.

Dolly."

30

Exhibit P. XIV.

"38 Park Row
New York City
June 25, 1924.

My dear Dolly,

40 In reply to your letters requesting me to make you a greater allowance by reason of the child that was born to you in Milwaukee, you ought to understand that since I am not the father of

Exhibits.

the child I am under no duty to provide any support for her. I am willing, however, to continue my allowance to you until the courts have settled our status, although I am not obliged to do so by reason of your misconduct.

Very truly"

10

Exhibit P. XV.

Small ladies leather folding case in a pocket of which was contained the following articles:—

1. Name card of John A. MacDonald.
2. Small photograph of man standing alongside of an automobile.
3. Slip of paper on which the following poetry was written in pencil:—

20

“YOU TAUGHT ME

You taught me all I know

Of being glad

And being loved and smiling

Out at days

Whatever they may bring.

Their friendly ways

Cannot deceive me now,

Nor their deceit

30

Dismay me, since you

Showed me how to greet

Joy and disaster, that I

Never had

Quite known before. Now you

Are gone away

But these things with me stay

Your courage, and your

Laughter, and austere

Grave joy in finding any

40

Exhibits.

Thing so dear,
 In this so slouted world,
 As the holy ground
 That we two, groping,
 Found.
 And that we stand
 10 Though you must be
 Shut from me, foreven
 A part of Eternity.

Perhaps

It may befall some morn
 In May
 When Springtime spills her
 Magic wine,
 That you and I may know again
 20 The music that was yours and mine."

Exhibit P. XVI.

"Aug 18-22.

Dear Will:—

Mr. Mack invited me to go to Greenwood Lake tonight. Thought I might as well take advantage of it.

Dolly."

30

Exhibit P. XVII.

Duly authenticated judgment role of action
 brought by Euphemia M. Glass as plaintiff
 against William C. Glass as defendant in Su-
 preme Court, New York County, for separation
 upon the grounds of cruelty. After a hearing
 of a motion by defendant to dismiss the action
 40 because of lack of jurisdiction of defendant who

Exhibits.

resided in New Jersey, a judgment was duly entered on April 23, 1925, in favor of defendant against the plaintiff dismissing the complaint; said judgment role contains the following findings of fact and conclusions of law by Honorable Joseph W. Proskauer, one of the Justices of the Supreme Court of the State of New York.

10

FINDINGS OF FACT.

First: That the plaintiff and the defendant were married in the City of Dorchester, State of Massachusetts, on the 30th day of June, 1910.

Second: That the plaintiff and the defendant were not both residents of the State of New York at the time of the commencement of this action.

Third: That the defendant, William C. Glass, was a resident of the State of New Jersey at the time of the commencement of this action on the 30th day of July, 1924.

20

CONCLUSIONS OF LAW.

That the defendant, William C. Glass, is entitled to a decree dismissing the complaint herein, and to judgment with costs.

30

Dated, April 23, 1925.

Joseph W. Proskauer
J. S. C.

40

Decree Nisi.

DECREE NISI.

Filed October 19, 1925.

This cause coming on to be heard in the presence of G. Earl Brugler, of Tiffany, Brugler & Wittreich, of counsel with the petitioner, and
10 Raymond F. Davis, of Peck, Davis & Gray, of counsel with the defendant, on petition, amended answer, cross-petition, answer to cross-petition and oral proofs taken in open court; whereupon, and upon duly considering 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 30th
20 day of June, 1910, and that the defendant has been guilty of the adultery charged against her in said petition, except it has not been established to the satisfaction of this Court that the female child, named Barbara Edith Glass, born to defendant on April 30th, 1924, was the result of her said adulterous relations, and at the time the cause of action for divorce arose, the petitioner was a bona fide resident of this State and said petitioner has continued so to be down to
30 the time of the commencement of this action.

And it further appearing that the defendant could not be served personally with process within this State, and that (the petitioner being at the time of the commencement of this action a bona fide resident of this State) jurisdiction herein has been acquired by publication of notice to the defendant of this suit, followed by notice to the defendant without this State, as service substituted for personal service within this
40 State, pursuant to the order heretofore made

Decree Nisi.

by the Court for that purpose and as prescribed by law and the rules of this Court, as well as by the appearance and answer of the defendant and her cross-petition filed against the petitioner; and it further appearing that this defendant has failed, by her proofs, to sustain the allegations of her cross-petition and that the same should be dismissed, 10

It is, thereupon, on this 19th day of October, A. D. 1925, by his Honor, Edwin Robert Walker, Chancellor of the State of New Jersey, ORDERED, ADJUDGED and DECREED, and the said Chancellor, by virtue of the power and authority of this Court and of the acts of the Legislature in such case made and provided, doth hereby ORDER, ADJUDGE and DECREE that the said cross-petition of the said defendant, Euphemia M. Glass, be dismissed and that the said petitioner, William C. Glass, and the said defendant, Euphemia M. Glass, be divorced from the bond of matrimony for the cause aforesaid, as charged in the petition of the said William C. Glass, and that the said parties and each of them, be freed and discharged from the obligations thereof, unless sufficient cause be shown to the Court why this decree should not be made absolute within six months from the date hereof. 20 30

Leave is reserved to the petitioner, William C. Glass, to apply to this Court touching the custody of William C. Glass, Jr., a son born of the marriage of the parties hereto.

E. R. WALKER,
C.

Respectfully advised,

JAMES F. FIELDER,
V.-C. 40

Notice of Appeal.

NOTICE OF APPEAL.

Filed November 5, 1925.

The defendant, Euphemia M. Glass, hereby
appeals from the whole and every part of the
decree nisi made in the above-entitled cause in
10 the Court of Chancery upon the 19th day of
October, 1925, to the New Jersey Court of Er-
rors and Appeals, in the last resort in all causes.

Dated, November 5, 1925.

PECK, DAVIS & GRAY,
Solicitors of Defendant.

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

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MERRITT LANE,
Of Counsel Defendant.

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*Petition of Appeal.***PETITION OF APPEAL.**

Filed November 19, 1925.

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

The humble petition of Euphemia M. Glass, the appellant in the above-stated cause, shows that your petitioner finds herself aggrieved by an order made in the Court of Chancery bearing date the 19th day of October, 1925, in a cause wherein William C. Glass was petitioner and the said Euphemia M. Glass was defendant, in this respect, to wit: That the said decree adjudges that the cross-petition of the appellant be dismissed and that the petitioner, William C. Glass, and the defendant, Euphemia M. Glass, be divorced from the bonds of matrimony for the cause of adultery charged in the petitioner's petition and adjudged to have been committed by appellant; and your petitioner humbly appeals from the whole and every part of said decree upon the ground that the same is erroneous for that the proofs before the Court establish the charges made by the appellant in her cross-petition filed against the petitioner-respondent and the proofs before the Court failed to establish the charge made by the petitioner-respondent against defendant-appellant of adultery and for that the Court should have granted the prayer of the cross-petition of the defendant-appellant and should have made a decree as prayed for in said cross-petition and should have denied the prayer of the respondent's petition and should have dismissed the same.

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Petition of Appeal.

10 Your petitioner therefore prays that the said decree of the said Chancellor made be in the particulars aforesaid, reversed, set aside and for nothing holden and that the cause may be remanded to the Court of Chancery with directions to enter a decree upon the cross-petition of the appellant granting the prayer thereof and dismissing the petition of the respondent and that your petitioner should have such other relief in the premises as to this Honorable Court shall seem meet.

PECK, DAVIS & GRAY,
Solicitors of Appellant.

MERRITT LANE,
Of Counsel Appellant.

20 Formal answer filed November 21st, 1925.

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New Jersey Court of Errors and Appeals

WILLIAM C. GLASS,
Petitioner-Respondent,

and

EUPHEMIA M. GLASS,
Defendant-Appellant.

*Petition for
Divorce.*

*For Adultery.
Decree for
Petitioner.*

FIELDER, V.-C.

BRIEF OF APPELLANT.

Statement of the Case.

On November 13, 1924, petitioner filed his petition charging adultery against his wife to have been committed with one Charles Gunardson at Belleville, and other places unknown to petitioner, about July 30, 1923, and at other times unknown to petitioner (p. 1). The petition also charged desertion by the wife in May, 1922, (p. 2) although in paragraph 3 of the petition the charge is made that after May, 1922, the husband refused to cohabit with the wife because of his suspicion of her conduct with other men (p. 1). Defendant denied the charge and filed a cross-petition charging her husband with constructive desertion (p. 9). The case came on for trial before Vice-Chancellor Fielder on the 1st and 2nd of October, 1925, and at its conclusion the Vice-Chancellor orally decided it finding that the wife was guilty of adultery, not passing upon the question as to whether there was constructive desertion but holding that if there had been it had not persisted in for a period of two years (p. 234).

Thereupon the decree *nisi* was entered granting a divorce to the husband and dismissing the wife's cross-petition (p. 250). In the course of

the proceedings the husband questioned his paternity of an infant child, a daughter, born April 30, 1924. The Vice-Chancellor held the child legitimate.

The parties were married June 30, 1910, in Dorchester Mass. (p. 28). They commenced living together there and continued at other places in Massachusetts, Rhode Island and New Hampshire and finally, when Glass was given charge of the New York office of his concern, they moved to New York and there remained until June 1, 1923, when they moved to a house in Belleville, New Jersey, purchased by the husband, where they remained until October 13, 1923, when the house was sold, they then separated by consent (see agreement, Exhibit P. 3, p. 238) the husband first going to New York and then coming back to Belleville on July 13, 1924, where he remained to the time of the trial. The wife likewise left the State and has not resided therein since (p. 32).

During her residence in New York the wife started a separation suit against the husband in which a temporary order was made directing the husband to pay his wife \$30 a week. This suit was filed July 30, 1924, and it was not until November 3, 1924, that the suit here was instituted. The suit in New York resulted in a dismissal because of lack of jurisdiction (p. 249).

The husband's business is that of Vice-President of the United Printing Machinery Company (p. 33), with offices in New York. He was quite often away on business trips (p. 44). On June 23, 1923, the husband went to Baltimore to have an operation performed on his eye where he remained until July 16th (p. 44). The parties have a son born in June, 1911, who, during the

summer of 1925, attended the Bordentown Military Institute (p. 38). When they moved to Belleville in June, 1921, the mother of Mrs. Glass came with them and also her brother, James Barker (p. 135). The mother died in October, 1921. The brother continued to live with them until November, 1922 (p. 44).

There has been difficulty between the parties almost from the beginning. The husband testified that they never lived happily together (p. 33), and that the cause of the trouble was disagreements over money matters; that he never seemed to be able to make sufficient money to satisfy her requirements. She complained because of the lack of money and he complained because she would not keep her expenses within his income (p. 33). Her testimony is that there was trouble between them involving his failure to properly support her and also other matters with reference to their marital life (pp. 146-149), and that what induced them to move to New Jersey was the fact (p. 134) that the rent was raised and she objected to paying a higher rent and asked him if he could not in some way raise the money to purchase a little home because it seemed to be wrong to be paying so much rent (p. 134). He stated that he would not, whereupon she said that there was only one alternative, *i. e.*, that they move when the lease was up and she would take the boy with her and go up to the farm. After she took this position he announced that he would borrow \$500 and would buy a house, whereupon the house in Belleville was bought. It cost \$8,500 and was new. They were the first tenants. He paid \$1,000 cash, \$500 of which he borrowed (p. 34). To run the house he allowed her \$20 a week (p. 36). It was in an unfinished condition. The husband's ex-

cuse for not decorating it was that his expenses were high and he did not have time and he had so many outside expenses (p. 135). The husband took no interest in the house whatever. She was supposed to run the entire affair on the \$20 a week (p. 36).

The husband states that for a short time after they first went to Belleville things were better (p. 55); that he purchased the house to see if they could get along peaceably and happily and perhaps get a fresh start. He explains that the furniture which they had was not suitable and that the wife insisted on re-furnishing and wanted the grounds improved but he did not have the means to do it and indeed, from his own testimony, it appears *that this man did not spend one dollar in fixing up the house*. He complains that: Mrs. Glass seemed to lose interest in the house and neglect the boy; she spent too much time away from the house to properly look after it (p. 35); she did not clean it "and did not watch the bills, the grocery bills and did not seem to have any idea of co-operating and keeping her expenses down so that the home might be built up" (p. 36); she would be out late at night and leave the boy to shift for himself or for the neighbors to take care of (p. 37).

He says (p. 39) that the last marital intercourse between husband and wife was in May, 1922, and that that ceased because living conditions with her were almost unbearable, and because of her going out with other men, her extreme condition, and the quarrels *over money matters*. In his petition (p. 1) he gives but *one* reason, *i. e.*, "his suspicion of defendant's misconduct with other men." He says that she had hysterical outbursts which made it necessary for a doctor to treat her (p. 39).

It is clear that after they came to Belleville, and for some time theretofore, the husband and wife had little, if any, social intercourse. He was at his business daily and was away from home for periods of time, from between three to ten days, frequently. When he was home he did not go out with his wife upon any social affairs. He did not take her out or make any attempt whatever to entertain her. He paid her \$20 a week and expected her to perform miracles with that amount and bitterly complained when it was impossible for her to do so. He brought her into an unfinished house in a strange place and made no attempt to make the house habitable. The house was a mile and one-half from a trolley line and the same distance from the center of Bloomfield where supplies had to be purchased (pp. 56, 57).

Conditions got so in July of 1923 that the wife contemplated leaving the husband and wrote the note Exhibit P. 2 (p. 238). The conditions about which she complained had nothing to do with adultery or charges thereof, but referred to his neglect of her. These conditions led to the separation in October, 1923, by consent and agreement, Exhibit P. 3 (p. 238).

Mr. and Mrs. Walter J. Ritchie resided at 7 Reservoir avenue, Jersey City; were friends of both Mr. and Mrs. Glass, having known them for eight or nine years, and they were visitors back and forth. Mrs. Glass often visited the Ritchies (p. 65). Ritchie was employed at the Public Service power station and two men, John A. McDonald and Charles Gunardson, who were under him (p. 68), were in the habit of taking him home, and it was upon one such occasion, Mrs. Glass being at the Ritchie home when they arrived, that Ritchie introduced McDonald to

her and they asked him to take her home (pp. 66-68). And so it was that Gunardson was introduced to Mrs. Glass. Gunardson is a boss rigger, married, with two children, living with his wife (p. 198). The Ritchies brought Gunardson up to the Glass house on a Sunday (p. 135). There were present Mrs. Glass, her brother and sister, Glass, the Ritchies and Gunardson. They went through the house, and it was suggested that Gunardson give an estimate of what it would cost to decorate it. Glass acquiesced, stating that his finances were so low that he could not hire regular workers, and it was agreed that Gunardson should do the painting (p. 136). And this was after May, 1920, at which time Glass says in his petition he had refused to further cohabit with his wife because of his suspicions of her misconduct with other men. Gunardson started in the spring of 1923, working in the evenings (p. 137), and had not finished when the house was sold in October, 1923 (p. 137), and see Gunardson's testimony (pp. 199-200, etc.).

All of this was with the knowledge and acquiescence of Glass. Glass says that he met Gunardson as Mrs. Glass testified he did, and that (pp. 42-43):

“Q After you met Gunardson, did you see him frequently or not? A Very frequently.

Q Where did you see him? A At my home.

Q What time of day or night? A Usually when I got home from the office in the evening he would be there and he would remain until late in the evening. * * *

Q Was any explanation made of Mr. Gunardson being there so much? A He was supposed to be painting the interior of the house.”

And he testified that the painting continued during the time stated by Mrs. Glass and Gunardson, to wit: from the spring of 1923 until the house was sold in October, 1923. And on page 40:

“Q Can you tell us what painting was done there by him? A Yes; practically the whole interior of the house, the various rooms were painted.

Q And he was engaged in this work during all of these several months? A Yes, sir.

Q How many times do you say he was there from the spring or early summer until the time the house was sold in October, 1923? A Well, the only way I can answer that is to say that he was there practically every night when I came home. Of course, you understand I was away a great deal on business trips.”

And on page 57 Glass testified:

“Q With regard to Mr. Charles Gunardson, you say that he was supposed to be painting the interior of that house? As a matter of fact, he did paint the interior of the house, did he not? A He did.”

And on page 58:

“Q Did you ever object to his painting the interior of the house? A Not to him.
* * *

In reply to my question, ‘Did you ever object to his painting the interior of the house?’ you said, ‘Not to him.’ Did you object to anyone about his painting of the house? A *Not to his painting; no.*

By the Court: Did you object to Gunardson about his being there so much?
A Not to Gunardson; no, sir.”

He also knew that it was customary for Gunardson to run Mrs. Glass down to Bloomfield Center to get supplies. When questioned in

regard to this he said, "He did it frequently. I don't know what they went for always."

On September 19, 1923, Gunardson took Glass and Mrs. Glass and the son from Belleville to the military school, and in order that they should be able to start early Gunardson spent the night before at Glass' house (p. 220). This was the only occasion that the car of Gunardson was at the Glass house all night. See Glass' testimony (p. 223).

Gunardson was in the habit of taking Mrs. Glass and neighbors out for rides quite often, going twice a week to the camp where the son was (p. 200). He was in the habit of having supper with the Glasses (p. 214). And Glass accepted the courtesies, including the automobile rides, the painting and the fact that Gunardson, to his knowledge, took Mrs. Glass and her friends out riding, without paying, or offering to pay, for anything, and, indeed, he now says he never intended to pay even for the painting. He is wholly unconcerned apparently. When asked who paid for the gasoline, he says, "I don't know" (p. 60).

And yet during all of this time, he would now have the Court believe, he was suspicious of his wife as early as May, 1922, when he ceased (so he says in his petition) to cohabit with her because of his suspicions of her misconduct with other men, and in July, 1922, he began keeping carbon copies of letters which he wrote Mrs. Glass, because "conditions were such that it seemed that the only protection I had was such evidence as this as to what the conditions really were." And that petitioner is of a somewhat suspicious nature is indicated by the fact that he took note that in May, 1922, there was a

change in the type of syringe used by his wife, to which change he apparently attached some importance.

He also knew that his wife had met McDonald at the Ritchies and that McDonald was bringing her home (p. 41). He saw his wife and McDonald together during the winter of 1922 and the spring of 1923 "alone on occasions of that kind when he would bring her ostensibly from visiting at friends in Jersey City."

Mrs. Glass denied that her husband ever protested to her with respect to her relationship with either of these men and Gunardson denies that Glass ever spoke to him and Glass admits that he never protested to Gunardson.

Turning to Glass' story of what he did, we find that all that he did, if we believe him, was (p. 40):

"Q Did you ever remonstrate with her about going out with other men? A Yes, sir.

Q What did she say to you? A She told me to mind my own business, that she was old enough to take care of herself.

Q Did she ever tell you anything else about her affairs? A One night particularly she told me she had been to a party and had probably made a fool of herself. *I asked her if she had done anything that she should not have done. She said, 'No,' I said, 'I guess you are all right. You should be old enough to take care of yourself.'*"

And yet he had observed, as early as 1922, her going out with men alone under what he considered suspicious circumstances (pp. 41-42), and he had ceased to cohabit with her because of these suspicions, and he had observed details of her personal conduct, which also appeared to be suspicious to him, and he had begun keeping

evidence. In the face of all this he accepted, not only the courtesies, but the labor of Gunardson, dined with him and generally treated him as a friend. For months prior to Mrs. Glass meeting Gunardson, Glass had trailed his wife, using field glasses, etc. (p. 142). This is not denied by Glass. And Mrs. Glass sums it up when she says (p. 145):

“Q Did you ever have improper relations with Mr. Gunardson? A Never. And after Mr. Glass makes this charge he allowed this man that he claims that I had this conduct with, he allowed him to drive him down to Bordentown and take his son down there and sit at table with him; he didn't pay for the gas. He allowed him to take him to camp where the boy was and allowed him to take the boy there because it would cost him less money than to hire a taxicab.”

And see Glass' testimony (pp. 44-45):

“Q Following the time when your wife and you ceased to cohabit, which I understand you to say was in May, 1922, did you and your wife talk to each other? A Oh, surely.

Q Did you talk particularly friendly? A Well, when that was the atmosphere, yes.

Q Did you have any occasion to speak to her further again about being out with other men? A *No; I stopped speaking about it.*”

He says that he stopped speaking about it after May, 1922. And yet he next says:

“Q Did you ever speak to her about Gunardson's visits? A Yes.

Q What about that? A She told me to mind my own business.

Q What did you say? A I told her she should watch her conduct with him, because he was there so much and I did not like his interfering with me speaking to my son.”

There *was* an episode when Gunardson said something to the son which did not please Glass. He objected to *this* very seriously. His previous testimony is inconsistent with the fact that he did not, as he says, speak to her about her conduct with other men after May, 1922. But if he did speak to her, his conduct belied his words. He told her that she should "*watch her conduct with him*" because Gunardson was there so much and yet he encouraged him to be there *so much*. He had no objection to Gunardson's being there so much or to her being placed in a position of suspicion. He wanted her, *however*, to watch her conduct. As he had before testified (p. 40), "I guess you are all right. You should be old enough to take care of yourself."

The separation in October of 1923 had nothing to do with any alleged relations between Mrs. Glass and other men. The quarrels continued over *money matters*, such as a grocery bill which had accumulated (p. 47), although in response to a leading question, "Also about men?" he answers, "Yes." Mrs. Glass threatened to leave, according to Glass (see Exhibit P. 2, p. 238), and they finally agreed, at a conference with the brother of Mrs. Glass, Edwin H. Barker, that they would separate for one year so that they could both settle down and get their bearings, and at the end of the year they were to confer with the brother and see what the situation was (p. 49). A memorandum was signed (p. 49; Exhibit P. 3, p. 238). The house was sold (p. 49).

The brother is in the banking business in New York and is a man in whom Glass himself has confidence (p. 183), and this brother, given credit by Glass himself, testified that at the con-

ferences at which their troubles were discussed, *there was no charge made by Glass with respect to the conduct of his wife.* It was purely a matter of money (pp. 179-180). The brother was called in by Glass (p. 182). There was a discussion with respect to Gunardson's bill for painting. Glass refused to pay it. Mrs. Glass stated that if he would not pay it, she would.

Glass, after this separation in October, 1923, made no attempt whatever to see his wife or his son. He was quite content until, if his testimony is to be believed, he was "astonished with the news that she had given birth to a baby," which he first learned about May 2, 1924. Then, if his testimony is to be believed, he started to make investigations of the neighbors (p. 224), upon the result of which this suit was brought.

Not only did Glass permit Gunardson to do this work of painting but he says that Gunardson never spoke to him about any charge he would make (p. 223). I suppose that this testimony was introduced for the purpose of basing an argument that Gunardson would never have done this work unless he received a compensation and as he made no arrangement to receive monetary compensation, there must have been something illicit in his relationship with Mrs. Glass. But if that were true Glass must have, *at the time*, known it and he was perfectly content that his wife should sell her body for the painting of the interior of a house.

We have this man, according to his own testimony, in the position of being quite content that his wife should commit adultery and that he accept the avails thereof when for his own benefit, but quite incensed when, according to his story, the result of the adultery has been the

birth of a child which may place a pecuniary burden upon him. As soon as he ascertains *that* fact he hastens into court to deny the paternity of the child.

This conduct is important, not only upon the question of connivance and acquiescence, but also upon the care with which proofs presented by the husband should be scrutinized.

Brown v. Brown, 63 N. J. Eq. 348;
Derby v. Derby, 21 N. J. Eq. 38 at 40.

The evidence with respect to adultery.

Walter J. Ritchie was called for the husband (p. 65). He and his wife have known both Mr. and Mrs. Glass for years. He testified that he introduced McDonald, who was in the same employ as he was, to Mrs. Glass upon an occasion when Mrs. Glass was at the Ritchie house and that McDonald, at different times, took Mrs. Glass home from the Ritchie house about 6:00 in the evening. He also testifies to having seen Gunardson at Mrs. Glass' house at the time when he was there painting (p. 66). He it was who introduced Gunardson to Mrs. Glass. The introduction was purely accidental. McDonald and Gunardson were friends of Ritchie, as well as co-employees, and often drove Ritchie home. The introduction took place in the spring of 1922 (p. 112), at the home of the Ritchies. It is true that Ritchie, some time in the summer of 1923, told Mrs. Glass that he did not think it "looked good" to have Gunardson around the house so much and that she told him to mind his own business, which, Ritchie says, "was perfectly proper" but he also says (p. 111), that it was the mere appearance of the thing which impelled him to speak and not that he thought there was any wrongdoing or anything like that (p. 114).

Mrs. Ritchie called by petitioner (p. 71), corroborated her husband. Mrs. Glass lived with the Ritchies from the time of the separation in October, 1923, to December, 1923 (p. 75). Upon the birth of the daughter Mrs. Glass sent Mrs. Ritchie a card (p. 73).

It is apparent that Ritchie's statement, that when he made the warning remark to Mrs. Glass about Gunardson, he was not induced to do so by any thought of wrongdoing (p. 114), is true because otherwise he would not have taken Mrs. Glass into his home after the separation. The testimony of the Ritchies adds nothing to that of the husband for he knew, during all of the time that he was not objecting to Gunardson being around the house, as much as the Ritchies knew.

Cora E. Hayes was a neighbor of the Glasses (p. 76) and very friendly with the family (p. 76); she has seen McDonald and Gunardson around the house; she knew Gunardson as Charley; she saw Gunardson painting the inside of the house; she sometimes saw him in the yard but mostly he was working on the interior; she saw them in the automobile; she went out riding with them upon occasions; she saw them in the upstairs of the house working, possibly around 9 or 10, perhaps 11 o'clock, sometimes along in the early evening (p. 80); the boy was around (pp. 82-83). Mrs. Glass and Gunardson used to go over to the Hayes house quite often; they would come over to listen to the radio (p. 85). She says that Mrs. Glass and Gunardson were very friendly (p. 79), but that she never saw them kiss or embrace (p. 79), nor did she ever hear them call each other any pet names (p. 85).

It is attempted to be shown by this witness that Gunardson's automobile was out in front

of the Glass house early in the morning (p. 81), twice when Glass was in the hospital (p. 82) and she says that she knows that Gunardson stayed all night because Mrs. Glass voluntarily told her that Mrs. Glass and Mrs. Ritchie's daughter were alone in the house (p. 85). It is apparent that this witness is mistaken; that the occasion when his car was in front of the house in the morning was when they went to Bordentown when, as admitted by Glass he (Glass) was home.

Mrs. Glass (p. 139) and Gunardson (p. 200), deny that Gunardson stayed at the Glass house except that once.

Both Mrs. Glass (p. 139) and Gunardson (p. 201) testify to Mrs. Hayes going out with them in the car and Mrs. Hayes testified (p. 84) that if she had seen anything wrong she would not have visited them or allowed them to come into the house. The day before Mr. and Mrs. Glass moved away from Belleville, they were in her house for dinner (p. 87).

This witness told the brother of Mrs. Glass, Edwin H. Barker (p. 182), when he was making inquiries with respect to his sister, impelled to do so when Glass denied the paternity of the child and when Barker was striving to get at the truth, that she had not observed anything improper between Mrs. Glass and Gunardson, that she did see Mr. Gunardson's car out early in the morning which she considered indiscreet and that she saw it *but once*. And I repeat that the witness Barker is one who is trusted by Glass (p. 183).

The testimony of Mrs. Hayes adds nothing to the case.

Aldis M. Hayes, a son of Mrs. Hayes, a boy 16 years old (p. 87), and his brother, Harvey B.

Hayes (p. 97), 18 years old, are produced by petitioner and it is upon the testimony of these youths and that of a sister-in-law of Mrs. Hayes, Eileen Goddard (p. 114), that petitioner asked the Court to find this woman guilty of adultery.

Aldis M. Hayes first testifies to seeing McDonald around the house numerous times. With respect to McDonald he knew no more than did the husband. With respect to Gunardson he says he saw Mrs. Glass and Gunardson out riding during the time that the husband was in the hospital and then (p. 91):

“Q Did you ever see them in compromising circumstances? A In my opinion, yes.”

Asked what he saw he says that upon one occasion he observed, through a window, Mrs. Glass and Gunardson go upstairs and into a bedroom and saw nothing further and (pp. 91-92):

“Q Did you ever see them embrace each other? A Why, I have seen Mr. Gunardson with his arms around Mrs. Glass.

Q How often? A Several times I should judge.

Q What part of her body? A Around either her waist or her shoulders.

Q Did you ever see anything else, any acts of endearment other than that? A No, sir. * * *

Q Did you ever see him embrace her with his arm out in the yard? A Yes, sir. You could not call it an embrace. It was just as they walked along he would have his arm around her waist.”

Upon these occasions the Glass boy would be playing with the other boys, and on (p. 92):

“Q It happened in July in the early evening in view of all the neighbors? A *In view of all the neighbors.*”

He does not recall having heard them call each other endearing names. He remembers on one

occasion that he was requested by Gunardson to allow him to put the car in the Hayes garage. He has seen Gunardson leave the house any time from 7 in the evening until 2 o'clock in the morning (p. 93). This boy also brings in, as a man whom he has seen around the house, a grocer, a Mr. Fornoff. On pages 95-96:

“Q Tell us what impresses that upon your mind, this particular occasion? A Why, it impresses it on my mind because he would always come and park his car half-way between the two houses and sometimes it was pretty near up to our house than Mr. Glass' residence.

Q Was there any discussion ever took place about parking cars there? A Yes, sir.

Q With this Mr. Fornoff? A Yes, sir.”

This witness' testimony indicates that it is the product of an impressionable youth's mind. *Anything* was suspicious to him. The remaining of the grocer in the house longer than the youth thought he should stay; the indulging in what the youth says “you could not call it an embrace”; the passage of Mrs. Glass and Gunardson into a bedroom when it is conceded that they were in the house painting and there is no proof that Glass was not present. But with all this “embracing” there are no endearing names called and it all takes place “in view of the neighbors” and the son is present. But Mrs. Hayes, the mother, never saw it and she entertained both Mrs. Glass and Gunardson and went out riding with them. The episode of the leaving of the car in the garage is explained by Gunardson (p. 201). The night was rainy and upon Mrs. Hayes' invitation he ran it in and kept it there until midnight (p. 201), and this is not denied.

The other son of Mrs. Hayes, Harvey B. Hayes, aged 18 (pp. 97-98), testifies to having seen McDonald in the house and also Gunardson (pp. 97-98). He remembers seeing Gunardson's car in Mrs. Hayes' garage "just once" (p. 98) and:

"Q Did you ever see them in the house together? A I have seen them moving around the house together.

Q What were they doing? A They were going through motions. I take it they were painting."

He then says that he saw them upon one occasion in the kitchen sitting across the table, one on one side and one on the other. He also saw them once in a restaurant in Bloomfield Center, he thinks in the month of July, 1923 (p. 100). The witness is then asked:

"Q How does it happen that on these various occasions that you speak of Mr. McDonald being there in the daytime, that you were home in the daytime? A That is my own private affairs."

This witness' testimony adds nothing to the case. His talk about Gunardson walking with Mrs. Glass with his arm around her waist is apparently false, or grossly exaggerated for if anything like that had happened, out in the open, before all the neighbors, everyone would have known it.

Fred H. Carter, an attorney in the Assistant Attorney General's office, who had charge of a Boy Scout camp in Bloomingdale, N. J., in the summer of 1923, is called by petitioner and testifies to Gunardson and Mrs. Glass coming to visit the boy during the summer of 1923, but usually with other people (p. 103). He adds nothing to the case as this was all known to the husband who concededly went to this camp with Mrs. Glass and Gunardson in September, 1923, just before the separation.

William B. Ellis is called (p. 105). He has seen a man around the Glass place other than Mr. Glass; he met Gunardson once; the day after the goods were shipped, Mrs. Glass and Gunardson took lunch with him; he knows Glass very well (p. 107); he knows that Gunardson, or a man whom he could not identify, having seen him but once, was around the house very frequently during the summer of 1923, almost every evening; he saw the car almost every evening for a period (p. 107). He says he saw the car upon two occasions in the morning (p. 107). One of these occasions, at least, was when Mr. and Mrs. Glass went to Bordentown (pp. 107-108). He is mistaken when he says there were two occasions. Here is another witness who, like Mrs. Hayes, if what the boys are telling actually took place, would have observed acts of endearment, etc., but there is nothing of this kind in the testimony of Ellis, although he is a friend of Glass.

James L. De Rosset (p. 108), another neighbor, is produced. He testifies to having seen Ritchie around the house, also Gunardson. He observed no acts of familiarity of any kind.

Eileen Goddard, a sister-in-law of Mrs. Hayes, says that she was visiting her sister-in-law in 1923, from June until the 1st of September. She became acquainted with Mr. and Mrs. Glass and saw Gunardson around, but never in the daytime, excepting on Sundays (p. 115). She says, "He was painting and working around the place." She testifies (pp. 115-116):

"A It was just one evening; I was going out through the front of the house and I could see in through the living-room windows and she was sitting on his lap and smoothing his hair. That is the only time I ever saw him in the house.

Q What did you see out of the house?
A Well, I have seen them kiss each other
goodnight.

Q Where did that take place? A On
the front porch, on the stoop.

Q How was Mrs. Glass clothed at that
time? A Why, this once I can remember
she was clothed pretty scantily; her hair was
hanging down in a braid.

Q Do you remember what kind of a dress
she had on, if any? A No; I could not say
if it was a dress or not.

Q What did it look like? A It was very
low-necked if I can remember right.

Q When was it you say you saw her
seated on his lap and stroking his hair? A
It was in the evening."

She says this was in July while Glass was in
the hospital. Also:

"Q When was it that you saw them kiss
on the front porch? A Well, it was the
same month.

Q Within a few days of the other occa-
sion that you remember? A Yes."

She then testifies that she saw Mrs. Glass and
Gunardson kissing upon more than one occa-
sion when parting, between twelve and one. She
explains the reason why she was up so late. Mrs.
Glass had a couple of dogs and they used to wake
the baby up quite often and she would sit up
with the baby. She just happened to glance out
of the window. She has seen them automobile
riding. She says Mrs. Glass told her that Glass
was not home very often and she took Gunard-
son for friendship to have "somebody take her
somerheres once in awhile" (p. 117); Gunard-
son called Mrs. Glass his Indian Princess upon
one occasion. The Court seemed to be interested
as to whether Mrs. Glass called Gunardson by his
first name. She *did* and it is clear that every-
body else did. She does not remember what

Gunardson called Mrs. Glass. It was only once that he called her his Indian Princess. Mrs. Goddard herself says that everybody called Gunardson, Charley. She was fifty feet away when she saw Mrs. Glass sitting on Gunardson's lap. She also testifies to an occasion when Mrs. Glass and Gunardson were in the kitchen drinking milk when Mrs. Glass dropped a glass and broke it and put her head down and cried. Isabel Ritchie, the daughter of Mrs. Ritchie, was in the kitchen also (p. 119).

If Mrs. Goddard is to be believed the lights were lit and the curtains were up so that anybody could see Mrs. Glass sitting on Gunardson's lap (p. 120). Mrs. Goddard was in her bed. The witness is uncertain on cross examination as to when it was that she observed these alleged acts. She tries to say that it was when Glass was in the hospital but she is uncertain whether it was before or after she, Mrs. Goddard, accompanied Mrs. Glass and Gunardson on a trip to see the boy at a camp and she says on (p. 121):

“Q Did the observances of these occurrences make any differences in your attitude towards Mrs. Glass? A No.”

She continued to visit Mrs. Glass and Mrs. Glass continued to visit the Hayes house. Her attempt to describe the manner in which Mrs. Glass was clothed, when she saw her sitting on Gunardson's lap, as “pretty scantily,” reaches nearly the absurd. The way in which she happened to see this incident, lying in her bed across the porch into a kitchen window fifty feet away, is absurd. The coincidence of the window being open just in her line of vision and of her baby being kept awake by Mrs. Glass' dogs, is remarkable to say the least. And if she had seen these things and had any idea that there was any im-

propriety between Mrs. Glass and Gunardson why did she continue her acquaintance with Mrs. Glass?

Her testimony is, like that of the two Hayes boys, a gross exaggeration of admitted incidents; the invention of impressionable minds. The attempt of counsel to create an inference of guilt by the fact that Mrs. Glass called Gunardson, Charley, indicates to what extreme petitioner is obliged to go. He himself called Gunardson Charley (p. 120).

This was petitioner's case.

Defendant, to meet the allegation that she did not treat her son properly, called Mrs. Bennett (p. 124). Mrs. Bennett knows Mr. and Mrs. Glass well and Mrs. Glass stayed with Sonny (the boy) at her home in Rhode Island in 1924 (p. 126). Glass attempted to get Mr. Bennett not to receive Mrs. Glass and her little daughter (p. 128). In a letter written by Glass to Mrs. Bennett, which letter has been lost, written in response to a letter from Mrs. Bennett expressing indignation at the manner in which Glass was acting toward the daughter, Glass said, "Even granting that what I (Mrs. Bennett) said to him (Glass) in my letter was true, that the money matters had gone, the money matters, that the Barker family, that is, his wife and her family, had used his money as long as they were going to, and he was going to put an end to it." *Again the matter of money to the fore* (p. 129).

An attempt was made to show the attitude of Glass with respect to the sacredness of marriage, home life, etc., by showing a discussion between Mrs. Bennett and Glass about a book called "The Sins of the Father." This testimony was offered for the purpose of showing

connivance, but the Court overruled it, I think improperly, for the conduct of this husband has been such as that, it seems to me, it was clearly competent to show what his general mental attitude was. Suppose Mrs. Bennett had testified to a conversation with this husband, brought up by this book, in which conversation the husband had said that it was the right of any married couple to do as they pleased with respect to sexual intercourse with others so long as there was no child the outcome of illicit relations. Is it at all material *when* that expression of opinion may have been given? It is important even if given ten years before. If such a conversation did take place, it accounts for the apparent acquiescence of the husband with Mrs. Glass' relationship with Gunardson (as charged by him) until, as he now alleges, it resulted in the birth of offspring, up to which time he acquiesced and after which time he took steps to attempt to avoid the pecuniary obligation which would be cast upon him by reason of the birth of a daughter.

In the previous discussion I have already considered much of the testimony of Mrs. Glass. She tells of the visits of Gunardson with the knowledge of the family; how he ate dinner with herself and Glass; how Glass went with them and the son to the theatre and the movies. She denies that Gunardson stayed over night upon any occasion except once when he stayed so that they (including Mr. Glass) might start early for the camp the next day. She denies he ever called her his Indian Princess. She says that he always referred to her as Mrs. Glass (p. 140), and no one testifies to the contrary except Mrs. Goddard, who says that upon *one* occasion he called her his Indian Princess. She admits that

Ritchie advised her that Gunardson stop work on the house and that she replied that she thought she was old enough to take care of herself. She says, with respect to Mrs. Goddard, that she hardly knew her, and she denies that she ever told Mrs. Goddard that she continued the acquaintance with Gunardson because she wanted someone's friendship or words to that effect. She says (p. 144) that she knew nothing objectionable about Gunardson and that she took the position that she was going to continue to have him finish the painting even if she paid for it herself. She says her husband never protested against Gunardson being at the house so far as his relations with her were concerned, but that he *did* protest to Gunardson because he thought that Gunardson was interfering with the son (p. 145), and she is corroborated with respect to this by Glass himself (p. 45):

"A I told her she should watch her conduct with him, because he was there so much *and I did not like his interfering with me speaking to my son.*"

She tells how, subsequent to the time when Glass now says he observed her relations with Gunardson, they went to a party at the Hotel Astor and occupied the same room and in June, 1922, went to Albany and occupied the same state room on the boat (p. 145).

To escape responsibility for the daughter, Glass had testified that the last time he had sexual intercourse with his wife was in May, 1922 (p. 39). He says that the reason why they ceased having sexual intercourse was (p. 39):

"Because living conditions with her were almost unbearable and because of her going out with other men, her extreme condition, and the quarrels over money matters."

In his petition he says he refused cohabitation after May, 1922, because of his suspicions of her misconduct.

In no other way does he fix the date. Mrs. Glass fixes the date of the last sexual intercourse as July 21, 1923 (p. 145), and she fixes this date circumstantially (pp. 146, 147, 148). *This circumstantial story told by the wife is not denied by the husband.* She says that she did not know that she was pregnant until after the separation in October; that when she did know it she did not let her husband know because she wanted to have the child and that throughout her married life the husband had attempted to prevent the birth of children (p. 150). This testimony is not denied by the husband.

She relates an interview between herself and her husband, which was overheard by her sister, in her room at 72nd street, New York City, about June 9, 1924, in which interview she brought back to her husband the details of the last sexual intercourse and that he did not deny that what she said took place, had in fact taken place (p. 153). The husband was sent for by the wife to come to New York so that the sister might overhear the conversation because Glass had denied the paternity of the child and the brother of Mrs. Glass, Edwin H. Barker, insisted upon getting at the truth.

She is corroborated with respect to this by the sister, Florence Barker (pp. 191, 192, 193, 194), who says that when the circumstantial details of July 21, 1923, were brought to the attention of Glass he said, "Yes, I do remember that occasion and the circumstances, too, but what does that prove?"

Glass admits this interview (pp. 224-225). He denies that he directly or indirectly admitted that he was the father of the child. He says that the interview was had (p. 225), "Simply to satisfy her brother Edwin simply because he—well, I always had the utmost confidence in her brother Edwin," thus corroborating Mrs. Glass and her sister. He says he *does not recall* (p. 227) having had sexual intercourse with his wife in July, 1923. His testimony is equivocal. While denying that he ever directly or indirectly admitted his paternity of this second child at the conference which he admits he had with Mrs. Glass in New York to satisfy Edwin, her brother, in whom he had confidence, he does not deny that he used *the words* testified to by Mrs. Glass and her sister. He does not deny that she brought to his attention the circumstantial details with respect to the sexual intercourse which she says occurred in July, 1923, and that he admitted that such an event had taken place. Again while he says on (p. 227) that he does not recall having marital relations with his wife in 1923, he does not deny that he had, notwithstanding the fact that, for the purpose of disavowing responsibility for this child, he had previously said in his testimony that the last time he had had sexual intercourse with his wife was in May, 1922, although he did not fix this date in any reasonable manner.

Mrs. Glass denies unequivocally any improper relations with Gunardson, McDonald or Fornoff. She says that she never went automobile riding with Gunardson alone; that Gunardson did not stay at her house over night, except on the one occasion heretofore referred to; that very often the Ritchies let their daughter, who was sixteen years old, stay with her. Not only did Gunardson paint the house but the brother had also engaged in the painting of it (p. 166).

Fornoff, the butcher and grocer, who is brought into this case by the youth, Aldis M. Hayes (p. 87), takes the stand (p. 184). He is a married man with a wife and two children living (p. 185). He went to the house to take orders (p. 186). He had talked casually when at the house with Mrs. Glass (pp. 191, 192) upon perfectly innocent matters. He never was in the house more than 15 or 20 minutes (p. 187). He may have been upon one occasion possibly one-half hour (p. 188).

Gunardson takes the stand (p. 198), and corroborates Mrs. Glass. He admits, as stated before, his presence at the Glass house and tells of the relationship between himself and Mrs. Glass. He is a married man with a wife and child and he denies emphatically any improper relations with Mrs. Glass or any embracing or kissing.

To show the attitude of Glass towards his wife Helen Barker, a sister of Mrs. Glass, is called (p. 217). She was present at the Glass house when Gunardson was there painting. She tells how Gunardson happened to do the painting, corroborating Mrs. Glass and Gunardson (p. 218). In 1923 Glass came to her (p. 219), and tried to get her to use her influence to get Mrs. Glass to sell the house and put the boy in a boarding school. He complained because of the expense. Previous to 1923 in 1921 he had come to this sister and talked about a separation (pp. 219-220). Again it was a matter of money. There was always a general atmosphere of unhappiness in the house. When he saw the sister in 1921 he was anxious to get the separation and said that he would agree to it as he had given her cause for it. He confessed his infidelity (p. 220). He never complained about his

wife's marital conduct (p. 221). Glass admits having a discussion with this witness, Helen Barker, as to his matrimonial relations with his wife. He equivocates. In answer to the question as to whether he ever discussed divorce or separation he says "I did not" but immediately after he says (p. 226):

"Q Did you ever have any discussion with her at all concerning your marital relations with your wife? A Yes.

Q Those discussions did not include the question of divorce or separation at all? A *Not legal separation.* It touched upon the possibility of separation to get things settled up, but not a matter of legal separation."

He admits a discussion with the witness. He does not deny that he told the witness that he would agree to a separation "as he had given her cause for it" (p. 220).

In a last-minute attempt Harvey Hayes is re-called to testify with respect to an alleged statement made by Mrs. Glass that she was going to Brown's Hotel at Greenwood Lake with some man from Paterson (p. 227). He is permitted also to testify to an alleged talk with Gunardson when Gunardson came out of the house looking disgusted and when asked by Hayes "What's the matter, Charlie?" replied "I am getting sick of this. I think I will shift it." This was in July, 1923.

The testimony is too pat and in view of the attitude of the boy, as disclosed in his previous examination (pp. 97-98), is unbelievable.

The Court's Opinion.

At the conclusion of the case the Vice-Chancellor orally decided it at page 250. He held that the child was legitimate and here I note that counsel for the wife offered to produce the child in court so that the Court might judge from the appearance of the child, which offer the Court overruled, although it is submitted the evidence was perfectly proper.

The Court then held that adultery was proven with Gunardson. The Court said among other things:

“From about May 1st until the middle of October, by the testimony of all the witnesses on the subject, with the exception of Gunardson, he spent practically every evening, every holiday and every Sunday at the Glass home, *ostensibly* upon a painting job which involved the decoration of seven rooms in a bungalow.” (Italics mine.)

It is not a correct synopsis of the evidence to say that he spent practically *every* evening and *every* holiday and *every* Sunday. He did spend a great deal of time. Nor is it correct to say that it was “ostensibly” on a painting job. Everyone agrees that it was a painting job, petitioner, Glass, included.

The Court then drew attention to the fact that Gunardson furnished the material and did the work and made no claim on Glass for re-payment. If this is a suspicious circumstance, what can be said of petitioner, Glass, accepting these favors from Gunardson under the circumstances?

The Court says:

“A greater part of the period from May 1st to the middle of October Mr. Glass was away from home—he was in a hospital nearly a month—and Mrs. Glass and Mr.

Gunardson were in the house together during the evening, frequently as late as midnight according to the testimony of Mrs. Glass and Gunardson, and according to the testimony of neighbors, as late as two or three o'clock in the morning. And they were there alone, except for the presence part of the time of the small son of the parties to the suit and of the Ritchie girl who was then about fourteen years of age."

Glass was in the hospital about two weeks, Mrs. Glass' testimony (p. 139). And the time that Gunardson was in the house in the evening, according to Mrs. Glass' testimony, was until nine or ten o'clock (p. 164). Gunardson expressly denies that he was at the house every evening (p. 202), and he says he did not work on Sundays (p. 202). He went to the house sometimes on Sundays and had dinner and then went to the camp, and on many of these occasions Mr. Glass was present. While Gunardson says that he stayed at the house as late as 11 or 11:30 (p. 203), he also says that there were occasions when Glass would be away, not to return until late at night, and he waited until Glass returned and then would go home (p. 203), and this is not denied. Whenever Glass was present they all had supper together (p. 204).

The Court says (p. 236):

"The circumstances are peculiar and they place Mrs. Glass and Gunardson under suspicion."

And then the Court asks a series of questions. The difficulty is that every one of the questions put by the Court has reference to a situation known by Glass.

The Court then lays hold of what he calls the testimony of neighbors:

"* * * that they saw acts of familiarity and affection between him and Mrs. Glass,

such as kissing and embracing, all of which lead me to believe that there was inclination to commit adultery,"

as proof of desire.

I have analyzed such proof as there is from neighbors, of alleged kissing and embracing. Such as it is comes from but three sources, the two Hayes boys and Eileen Goddard. What is said by these witnesses to have occurred is circumstantially denied by Mrs. Glass and Gunardson. The testimony of the three witnesses indicates their propensity to exaggerate.

Whatever they saw could not have influenced them in any degree because the relationship between Mrs. Glass and the mother of the Hayes boys and between Mrs. Glass and Mrs. Goddard was not in any wise disturbed and there is no proof which would warrant the inference that Mrs. Hayes was the kind of a woman who, if she suspected that there was anything wrong between Mrs. Glass and Gunardson, would have continued to visit her and to receive her in her home which she did right up to the last.

The Vice-Chancellor said that Glass objected to Gunardson coming to the house (p. 236).

On the contrary the testimony of all of the witnesses including Glass, indicates *that he did not object*. What he *did* object to, as he himself says, was what he considered upon one occasion, an interference by Gunardson between himself and his son. *That* he did object to. But that he did not object otherwise is indicated by the fact, which I have heretofore referred to, that in September, 1923, he accompanied his wife and Gunardson on a visit to the boy in a camp and that Gunardson stayed, with his knowledge and acquiescence, in the house the night before

they went so that they might get an early start. It is true that both Ritchie and Mrs. Hayes spoke to Mrs. Glass about Gunardson being at the house so often and that Mrs. Glass persisted in permitting him to finish the job which he had embarked upon. This may have been indiscreet but it is not an unlikely course of conduct for a woman treated by her husband as Mrs. Glass was treated by Glass to pursue.

And it is a conceded fact in this case that Mrs. Glass was nervously ill. Not only does she herself so testify and not only does her testimony clearly so indicate, but Glass himself refers in his testimony to the fact that his wife was in such a condition during the time that they lived in Belleville as that he had to have her attended by physicians. She was subject to hysterical outbursts, which required a doctor (p. 39). She had a regular physician and, upon one occasion, her husband was obliged to call another because of the lateness of the evening (p. 39). She was a sick woman.

And yet all the protection that her husband threw around her, if his testimony is to be believed (p. 40), was:

“A One night particularly she told me she had been to a party and had probably made a fool of herself. I asked her if she had done anything that she should not have done? She said, ‘No.’ I said, ‘I guess you are all right. You should be old enough to take care of yourself.’”

There is not in this case sufficient proof of adultery and appellant has been convicted upon suspicion alone.

That appellant has been convicted upon suspicion is clearly indicated by the series of ques-

tions asked by the Vice-Chancellor in his opinion on pages 252, 253.

This Court has many times set its face against the conviction of a woman because a satisfactory answer cannot be given to such a series of questions as the Vice-Chancellor puts.

The case is within *Osborn v. Osborn*, 44 N. J. Eq. 257. Reference to the facts in that case will indicate how much stronger they were for conviction than the facts in the case at bar. The wife and the co-respondent for many years were under the same roof, traveled together to Philadelphia, Niagara and the Catskills, and not until the final decree did the wife even deny the adultery charged. Yet this Court reversed, and directed a decree upon the wife's cross-bill. Mr. Justice Garrison said:

"I have carefully examined the testimony for evidence of adultery, but have failed to discover any. Adultery is not shown, nor are the elements of lust, lewdness, depravity or secrecy, the invariable concomitants of criminal conversation, to be found in the proofs. If we give to the testimony the construction most unfavorable to the defendant, a decree based upon adultery must rest upon one of two grounds: either that opportunity is tantamount to guilt, or that a decree may rest upon a crime half proven, even though the half it rests upon is the half that is not proven."

In *Brown v. Brown*, 63 N. J. Eq. 348, despite Vice-Chancellor Pitney's abiding conviction of a wife's guilt, a decree so finding was unanimously reversed by this Court. There was direct evidence of meeting in *flagrante delicto* and the Vice-Chancellor's opinion so related:

"Frequent meetings, with more or less opportunity to indulge illicit desires, if any

they had, and acts of familiarity *such as kissing and embracing.*" (Italics mine.)

However, this Court, on review, said of these charges:

"But it will be found, I think, that such of these charges as have any foundation, are readily susceptible, when the circumstances in which these two parties were thrown are considered, of a construction consistent with entire innocence."

The Court, after approving the rule in *Berckmans v. Berckmans*, 17 N. J. Eq. 453, to the effect that in cases provable by circumstantial evidence only, the will to commit an adulterous act, as well as the opportunity must be proven, said:

"Her reputation, under the proofs stands without a stain or blemish upon it, and nowhere in them has there appeared even a word used by her either verbal or written to indicate that she possessed *a carnal mind toward the co-respondent*, or the will to commit the crimes charged" (p. 366). (Italics mine.)

In *Farrow v. Farrow*, 70 N. J. Eq. 777, there was direct evidence that defendant was seen in *flagrante delicto*. Abundant opportunities on many occasions were presented. Charges that defendant was seen "publicly drinking liquor in saloons, late at night," and that she was seen "to accept lecherous embraces of three different men" were made. "Other accusatory incidents of meetings in alleys and stores between defendant and Mr.———have been submitted." This Court, however, adopting the Vice-Chancellor's language, said of these incidents:

"None of them, *even if true*, present incidents which show the existence of *an adulterous disposition* or purpose. None go to prove that an act of adultery was committed" (p. 787). (Italics mine.)

Direct evidence was rejected as false.

Reference to the facts in the case of *Carton v. Carton*, 93 N. J. Eq. 175, will indicate how much stronger than in the case at bar was the testimony with respect to both opportunity and desire, the testimony indicating familiarity and retirement by the parties to secret places where crime might secretly be committed. The Vice-Chancellor expressed considerable doubt. This Court, however, said:

“We are not in the same state of doubt as the Vice-Chancellor expresses in regard to the charge of adultery.

Consideration of the case satisfies us that the petitioner has absolutely failed to prove anything which would justify a Court in branding this woman as an adultress.”

This Court reiterated the rule in *Torrens v. Torrens*, 94 N. J. Eq. 480, in which case it said with respect to the measure of proof required:

“We cannot say that they (the facts) were such as to lead the guarded discretion of a reasonable and just man to the conclusion of guilt.”

In *Cooper v. Cooper*, 82 N. J. Eq. 581, affirmed by this Court in 82 N. J. Eq. 660, in dealing with circumstantial evidence against a woman, the Vice-Chancellor said:

“Her conduct with the co-respondent, as she admits, was highly indiscreet and venturesome, if not reckless, * * * The defendant admits the circumstances from which it is claimed guilt should be inferred * * * she told and confessed all that could be used to build a story around her, from which guilt might be deduced, even relating to matter which had not been brought out on the petitioner’s case. * * * While the appearances are against her, and the fact that she entertained him at her home, went out with him at public places, visited him at his office, and that he upon two occasions,

kissed her, may arouse suspicion that all was not right between the two, I am not convinced that she took the fatal step, that she broke her marriage vow, that she committed adultery. In fact, I believe she did not. * * * She was a flirt and a fool, but not a criminal." (Italics mine.)

And see the cases of:

Frost v. Frost, 85 N. J. Eq. 571;

Grundy v. Grundy, 92 N. J. Eq. 687;

in each of which cases the evidence was much stronger for conviction than that in the case at bar and it was also shown in each of these cases that the idea of the defendants with respect to their marital obligations was not of a high order and yet notwithstanding that fact the Court held that the charge of adultery was not sustained.

And see *Sargent v. Sargent*, 114 Atl. 428, affirmed 92 N. J. Eq. 703.

There is no probative evidence in this case of embracing, kissing or hugging or of the calling of endearing names but if there were that alone is not sufficient to show inclination and desire.

In *Slattery v. Slattery*, 87 N. J. Eq. 673, this Court adopted the language of the Advisory Master, and said concerning the facts:

"His (co-respondent's) attentions to her have been marked and their conduct is open to severe criticism. They have, in the presence of the petitioner and his friends, and without any apparent concealment, kissed each other; in the hospital where he went as a visitor, he sat and held her hand; in many ways they gave evidence of a deep interest in each other. *Although requested by petitioner to keep away from his wife*, Hobercroft refused to do so, and has con-

tinued to live near her and for a long time in the same apartment occupied by her, her mother and other relatives" (p. 674) * * * (the wife) 'is not ready to agree to give up the association with Hobcroft even though it may effect her right to the custody of her child or the opportunity to visit it'" (p. 674). (*Italics mine.*)

What is required is evidence of lust, lewdness, depravity or secrecy. Mr. Justice Garrison, speaking for this Court in *Osborn v. Osborn*, 44 N. J. Eq. 257, at 261, said:

"Adultery is not shown, nor are the elements of *lust, lewdness, depravity or secrecy*, the invariable concomitants of criminal conversation to be found in the proofs." (*Italics mine.*)

In *Berckmans v. Berckmans*, 17 N. J. Eq. 453, this Court said there was no evidence of:

"No amorous or passionate utterance; no expression of affection; no licentious expression of lip or eye, no indecent familiarity; no personal freedom (aside from the performances of professional duties).

In *Slattery v. Slattery*, 87 N. J. Eq. 673, the Advisory Master said, and his opinion was adopted by this Court:

"While her conduct in this and other respects is reprehensible there is no evidence of lewdness on her part, or of any indecent language or action, and she is not shown to be depraved" (pp. 674-675).

In *Brown v. Brown*, 63 N. J. Eq. at p. 366, the Court said:

"* * * and nowhere in them (the proofs) * * * has there appeared even a word used by her, either verbal or written, to indicate that she possessed a carnal mind toward the co-respondent. * * *"

In each one of these cases heretofore cited, the circumstantial evidence against the defendant

has been much stronger than that present in the case at bar.

And in a case of this kind where guilt is attempted to be established by circumstantial evidence, the denial of the parties is entitled to be given weight. The Court in *Cartan v. Cartan*, 93 N. J. Eq. 175, at p. 179, said:

“To justify a decree for divorce on the ground of adultery the evidence of the defendant’s guilt must be clear and satisfactory. A full and explicit denial of the charge by the defendant and her alleged *particeps criminus* should be regarded as decisive in a case of doubt.”

And to the same effect *Reid v. Reid*, 17 N. J. Eq. 101, and *Sargent v. Sargent*, 114 Atl. 428, affirmed 92 N. J. Eq. 703.

And in this case we have that which was not present in any of the cases heretofore referred to, to wit: a knowledge on the part of the husband of every one of the incriminating circumstances now relied upon except only the slight evidence of what one of the witnesses calls, “You could not call it an embrace. It was just as they walked along he would have his arm around her waist” (p. 91). And we have the petitioner acquiescing in the situation and accepting its benefits and expressing confidence in his wife (p. 40). “I said, ‘I guess you are all right. You should be old enough to take care of yourself.’” If these so-called incriminating circumstances made no impression on the husband, and apparently they did not, I submit they should make but little impression upon the court.

But the Vice-Chancellor seems to feel that it is a circumstance to be considered of weight that Glass and his wife were not living together happily. He seems to feel that where a husband

and wife are not living happily (no matter whose fault it may be), it is the duty of the wife to, in some way, immure herself and if she does not and seeks companionship somewhere, there is desire to commit adultery. But this Court said in *Brown v. Brown*, 63 N. J. Eq. 354:

“It would be a hard rule, indeed, that would compel a youthful wife, naturally fond of society, whose companionship a husband had rejected, without the slightest complaint or hint that she had failed in any of her duties, or in the care of his children, to abstain from all the active pleasures of life, and immure herself from the world, because it might be charged against her that, in her husband’s absence, she afforded herself, ‘more or less opportunity to indulge illicit desires’ ” (p. 361).

In *Brown v. Brown*, 63 N. J. Eq. 348, the knowledge of the husband as to what was going on, and his permitting it was considered as throwing doubts upon petitioner’s main case, and so, in the case of *Berckmans v. Berckmans*, 17 N. J. Eq. 453.

This Court in *Marchese v. Marchese* in May, 1925, 129 Atl. 131, again approved *Berckmans v. Berckmans*, 17 N. J. Eq. 453, and the rule that there must be not only a decided preponderance of testimony but the evidence must be such as would satisfy the mind and leave the careful and guarded judgment of the Court free from any doubts as to whether the charges were proved or not and that if such doubts remain after a careful consideration of the testimony it is the duty of the Court to give the defendant the benefit thereof and to refuse the prayer of the petitioner, and in that case, notwithstanding the fact that the wife had confessed her guilt and had testified to it in open court, a decree for the petitioner was denied, the co-respondent intervening.

There was such conduct upon the part of the husband as bars him from relief.

In *Hedden v. Hedden*, 21 N. J. Eq. 61, at p. 74, cited with approval in a great many subsequent cases, including cases in this Court, the Chancellor said:

“It is laid down that if a husband sees what a reasonable man could not see without alarm * * * he is called upon to exercise a peculiar vigilance and care over her, and if he sees what a reasonable man could not permit and makes no effort to avert the danger, he must be supposed to see and mean the result.”

Vice-Chancellor Van Fleet in *Cane v. Cane*, 39 N. J. Eq. 148, at p. 158, repeated the language of the Chancellor in *Hedden v. Hedden*, *supra*, and says:

“And if he sees what a reasonable man could not permit and makes no effort to avert the danger he must be supposed to see and mean the result” (p. 159).

And Vice-Chancellor Fielder said in *Sargent v. Sargent*, 114 Atl. 428, at page 439:

“Our courts have said that it is undoubtedly true that a man may watch his wife without warning her of his intention to do so, but it is equally true that he may not actually participate in a course of action leading to her downfall. He may not, with his eyes open, do that which may, in some decree, conduce to it. If he sees what a reasonable man could not permit and makes no effort to avert the danger, he must be supposed to see and mean the result.”

And see the case of *White v. White*, 95 Atl. 197, affirmed in this Court upon the opinion below in 84 N. J. Eq. 512.

In *Delaney v. Delaney*, 71 N. J. Eq. 246, this Court cited with approval the language of Vice-

Chancellor Van Fleet in *Cane v. Cane, supra*, and likewise that of Chancellor Zabriskie in *Hedden v. Hedden, supra*, and this Court uses the language:

“That if a husband sees what a reasonable man could not see without alarm * * * and if he sees what a reasonable man could not permit, and makes no effort to avert the danger, he must be supposed to see and mean the result” (p. 74).

And while this Court in *Brown v. Brown*, 63 N. J. Eq. (p. 348), did not decide the case upon the issue of connivance, holding rather that the charge of adultery had not been proven, and in so holding giving weight to the evidence of the conduct of the petitioner toward the defendant, which is hereafter referred to, it said:

“The history of the lives of the parties to this suit for ten years prior to its commencement is given, in the defendant’s evidence, in extended detail, and is undenied by the petitioner. That evidence shows, beyond room for the slightest doubt, that since certainly the close of the year 1896, during which the second child was born, this husband had neglected his wife * * *. He avoided the society of his wife and estranged himself from her pleasures as well as her cares, with the inevitable consequence that the pleasures and companionship of her life became separated entirely from his pleasures and companionships. It is true that he supported her, but he did nothing else. From the undisputed evidence it is impossible to infer that he either loved or cherished her. The particulars of his conduct, other than already given, I shall not take the time and space to set down, but there is no escape from the conclusion that it had a direct and necessary tendency to furnish the very opportunities for suspicion which he now would turn against her, to his own advantage, and which have been, under the belief of the

truth of those suspicions, commented upon and denounced in the opinion below. He spoke not a word of caution to her. He made no effort, even by a single hint to her (a hint which the most experienced in the ways of the world often need), to arrest her attention to the appearances of intimacy with the co-respondent, which he knew had excited some remark from another, nor to place before her even the slightest obstacle, designed or calculated to convince her, or even lead her to think, that he objected to her finding her pleasures in the companionship of her friends. On the contrary, as we have shown, he encouraged her to accept of the escort of Mr. Cane, on different excursions at night, in order that these very acts might, through the detective instrumentalities which he had previously secured, and the aid of the testimony of servants of low character, he produced in evidence against her for the purpose of establishing her alleged carnal desire to seek the society of the co-respondent. In the opinion below it is said, in exoneration of the duty of a husband under the circumstances presented, that he was not 'under any obligation to warn his wife of his suspicions and so put her on her guard.' As the conclusions at which we have arrived on this appeal, and which I have endeavored to point out, do not rest upon the idea that the conduct of the husband has barred him from his right to maintain this suit, *but solely upon the view that it helps and serves to explain the situations and opportunities in which his wife became involved, it will not be necessary to decide whether or not the rule as to the husband's conduct, above quoted, commends itself to the judgment of the court*" (pp. 367-8). (Italics mine.)

I have italicized the latter words of the opinion so as to direct attention to the fact that this Court considered the conduct of the husband as bearing on the issue of adultery and so I urge

it should be considered in this case, for the very acts which were committed by the wife, not only with the knowledge, but with the active acquiescence of the husband, permitted her to become involved in situations, and in opportunities for suspicion, "*which he now would turn against her to his own advantage.*"

This Court in May, 1923, in *Atha v. Atha*, 95 N. J. Eq. 275, adopted the opinion of the Vice-Chancellor in 94 N. J. Eq. 692, which had in its turn followed *Hedden v. Hedden*, 21 N. J. Eq. 74, and *Delaney v. Delaney*, 71 N. J. Eq. 246, and had quoted from *Delaney v. Delaney* as follows:

"It is not necessary to find words or statements of the husband indicating connivance or consent. If his conduct indicates an intent, or even a willingness that the act of adultery may take place, or *even culpable negligence* in not preventing it, the maxim *volenti non fit injuria* applies, and the decree will be denied." (Italics mine.)

The Court also cited and relied upon *Sargent v. Sargent*, 114 Atl. 428, affirmed 92 Eq. 703. *White v. White*, 95 Atl. 197, affirmed 84 N. J. Eq. 512. *Rapp v. Rapp*, 67 N. J. Eq. 236 at 238. *Young v. Young*, 94 N. J. Eq. 155.

The Court also held that even if not pleaded upon the authority of *Rapp v. Rapp*, 67 N. J. Eq. 236 at p. 238 and *Young v. Young*, 94 N. J. Eq. 155, it was the duty of the Court to consider such a defense "under the doctrine of clean hands."

This case as stated above was affirmed by this Court upon the opinion below, 95 N. J. Eq. 275, and its principle applies here.

I have considered in detail in the statement of the case, the conduct of this husband and his failure to protest against the presence of Gunard-

son, his acceptance of the benefits of that presence, his failure even to warn his wife, his invitation, in fact, to continue for he told her she was able to take care of herself (notwithstanding that she was sick and hysterical to the extent that she had to have a regular physician), his going, as late as September, 1923, almost up to the date of the separation of the husband and wife, with the wife and Gunardson to visit the son at camp and his permitting Gunardson to remain in the house the night before in order that they could make an early start, and shall here only sum it up as that of a man who was quite content that his wife should commit adultery so long as a financial benefit came to him by reason thereof, but was highly incensed when he thought that that adultery might result in imposing a pecuniary obligation upon him by making him support another child.

This is taking his testimony at its face value. In view of the other testimony in the case and in view of his own statements made to the sister of Mrs. Glass, it is clear that he never supposed that the child was not his own and that he deliberately, for the purpose of escaping a pecuniary obligation, charged his wife with adultery, which he knew she had not committed and to prove that adultery turned to circumstances of suspicion which he had himself permitted to be created. It was with him from beginning to end, nothing but money. He never properly supported his wife. He always complained when she desired money. He never complained of anything else. His own testimony so indicates. To escape a further pecuniary obligation he is willing to brand his wife an adultress because of circumstances, during the creation of which, he told his wife that she was old enough to take

care of herself. He thus indicated that he knew that whatever she did, she would not commit adultery and his judgment at the time is of some importance.

Aside entirely from the issue of acquiescence and connivance as heretofore stated, the conduct of the husband is of importance in the main case.

Chancellor Zabriskie said in *Derby v. Derby*, 21 N. J. Eq. 36 at p. 40:

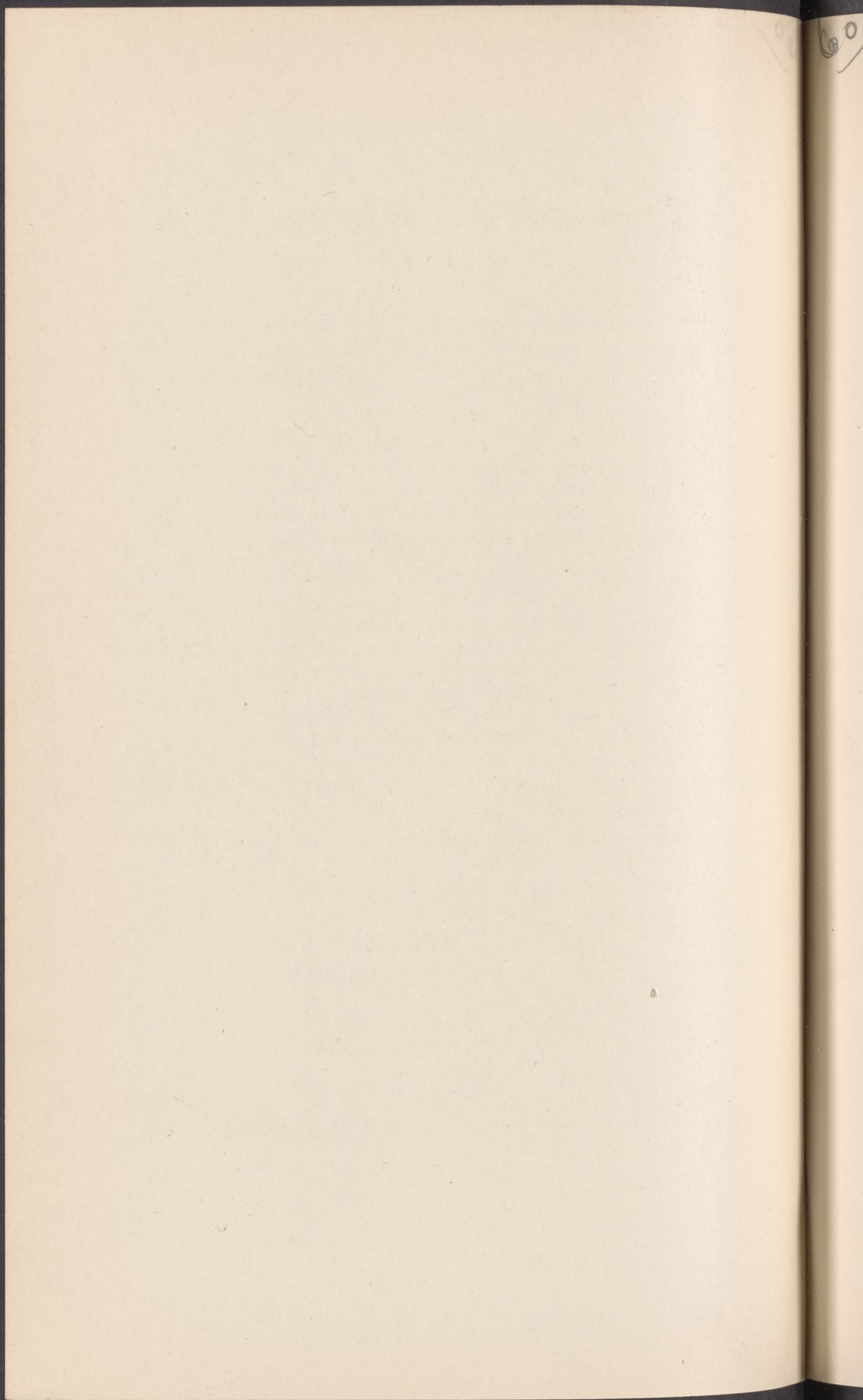
“But a party who has negatively violated a solemn contract in its two most vital parts, to love and cherish, and has only performed it in the last and least, to support, comes into a court of equity with an ill grace to complain of a positive breach by the party whom he first injured. His hands are not unclean in the sense which would apply if he had committed the same crime, but they are so weakened, blanched, and attenuated by willful non-performance, that they take but feeble hold on the horns of the altar justice. Such a complainant cannot expect any favorable leaning of the court, but must present a case free from any reasonable doubt.”

It is respectfully submitted that the decree brought up should be reversed.

Respectfully submitted,

MERRITT LANE,
Of Counsel with Appellant.

PECK, DAVIS & GRAY,
Solicitors for Appellant.



New Jersey Court of Errors and Appeals.

WILLIAM C. GLASS,
Petitioner-Respondent,

and

EUPHEMIA M. GLASS,
Defendant-Appellant.

Appeal from
Chancery
On Petition for
Divorce.

Decree for
Petitioner.

BRIEF OF RESPONDENT.

The respondent filed a petition for divorce November 13, 1924, on the ground of adultery committed by appellant with one Charles Gunardson and others at Belleville, Essex County, N. J., during the summer of 1923.

The wife filed a cross-petition alleging desertion on the part of respondent occurring in October, 1923, when the parties entered into a form of separation agreement (Exhibit P. III, page 238), which separation she alleges "was forced" upon her by respondent (9-30). Appellant's brother, a man of affluence, stated however, that he acted as a friendly advisor of both parties at the time and caused the minds of the two to finally meet on the terms of the agreement (page 183).

Counsel for appellant conceded at the trial that a case could not be made on the cross-petition (133-35), and the same was abandoned.

A child was born to appellant on April 30, 1924, which she contended was legitimate and was conceived in July, 1923, before the parties separated (133-12). We believe the learned Vice-Chancellor was fairly well convinced that the daughter born

to Mrs. Glass was illegitimate but he probably was convinced also that an infant child was entitled to something beyond a reasonable doubt or a fair preponderance of the evidence. This apparently induced the court to decline to stigmatize the child on the ground of public policy (234-33); furthermore, he had doubt of the "admissibility of testimony by the husband and wife tending to show illegitimacy of the child" (234-37).

The final hearing occupied two days and at the conclusion thereof Vice-Chancellor Fielder was sufficiently impressed with the strength of petitioner's case as to make an immediate decision from the bench without further consideration.

Respondent has been domiciled in New Jersey since June 1, 1921, when he purchased a house for his family at Belleville (31-15). Appellant is a resident of New York (32-5; 132-30). Respondent worked for a printing machinery concern ever since the marriage. The marriage was unhappy from the start (33-10), because he never seemed to be able to make sufficient money to satisfy her requirements (33-18). She complained to him about lack of money and he complained to her so that expenditures might be kept within his income (33-35).

The wife was the dominant character and that the husband bowed to her wishes is evidenced by the wife's own story that for two months he did his best to persuade her to let their son attend school at Bordentown but she opposed and the boy did not go until she later allowed him to do so (147-10). On another occasion petitioner borrowed \$500.00 to buy the home at Belleville *so that his wife would not go away*. This was as late as June, 1921, and all as related by the wife (134-20). Her testimony certainly evinces the fact that Glass was considerate, and tried to hold his fam-

ily together and live happily. The school incident probably shows also that the husband was the weaker of the two; that the wife was of a determined nature and his will was subordinated to her will.

Mr. Glass said he "distinctly purchased the house with the sincere effort to see if we could not get along more peaceably and happily and perhaps get a fresh start" (35-8); that for a short time after they moved in the new home there was a change for the better (35-5). Mrs. Glass then wanted new furniture for the house, wanted the house completely decorated, the grounds improved and wanted to make a big home of it *immediately* (35-12), although she knew Mr. Glass did not have the means and had to go in debt \$500.00 to make the first payment (35-20). That made his net equity in the house about \$600.00 (49-35).

Mr. Glass personally built window boxes, trellises and things of that kind and did everything to make a real home of the new place (48-26). Mrs. Glass admitted that her husband said one night that he would buy the house "if I would not go away" (134-18).

Glass customarily left for business in New York on the 7.52 train in the morning and returned usually about 6.30 (35-35), except when he was obliged to be away on business trips "through New York State, lower Canada, Pennsylvania, New Jersey, Delaware and through the south as far as Virginia", which was a great deal (44-1).

The wife's brother, James, lived with the parties at Belleville until 1922. He also had lived with them in Long Island (44-20). He must have had opportunity to observe a lot about the domestic life in the Glass home, but it is significant his sister did not see fit to call him as a witness. Mrs. Glass' mother also lived with the parties

until she died in October, 1921 (135-20). Mr. Glass was tired of running a hotel for his wife's family (21-34).

Trouble began in the new home when Mrs. Glass started going out with other men, neglected their boy and seemed to lose interest entirely in the home (35-25). Mr. Glass did not learn the graveness of his wife's conduct with other men until long afterwards (124-1). He did not have evidence that his wife had committed adultery until the birth of her second child, much after the time when there could have been conception as the result of intercourse with him. His chief concern was the welfare of the boy (35-28). Investigation among his neighbors elicited information furnishing proof of his wife's wrongdoing (224-20).

Appellant did not see that the boy's "clothes were properly taken care of. She would be out late at night and leave the boy around to shift for himself or for the neighbors to take care of him. She was not there properly to take care of his meals. Sometimes she would be away during the day so that he would have to come in the house alone at night and get his own lunch unless he had his lunch at the neighbors—simply downright neglect" (37-1 to 15). Appellant's brother James at times prepared Mr. Glass' breakfast, sometimes he prepared it himself and sometimes he got it in town (36-1 to 15).

The boy's clothes were neglected by Mrs. Glass (37-25). *Mr. Glass "even had to wash the boy's waist and iron it and mend his stockings so as to take him to church"* (37-34). *The boy was then 10 years old* (38-5). These facts are nowhere denied by appellant.

Mr. Glass last saw his boy on June 9, 1925, when he went to Bordentown to bring him to New York, the day previous to the boy going to camp in

Canada. Mrs. Glass and her sister were in Bordentown also. The sister arranged to have him arrested on a "trumped-up charge of embezzlement". He was arrested and removed to Newark (38-15 to 30). Glass being thus out of the way, the wife spirited the boy out of the jurisdiction. Glass thought the boy was in Massachusetts (39-1), but the wife said he was in New York (171-15). We believe the court will take judicial notice that Mr. Glass received a *nolle prosequere* on motion of the prosecutor, which ended the proceedings instituted by the false charge. However, the ruse worked and Mrs. Glass accomplished her purpose.

What reason can we give for the unwillingness of Mrs. Glass to have her husband in communication with their son and her failure to produce him at the trial? It is the second material witness which was not heard to testify because appellant preferred that they best remain away in interest of her defense. Mrs. Glass makes no denial or explanation of these significant facts.

Mr. Glass made his wife an allowance of \$20.00 weekly for table purchases only. He paid the other bills himself. Mrs. Glass, however, found \$20.00 a week insufficient for food, anyway, Mr. Glass was later obliged to pay food bills also which were contracted by appellant (36-30). Glass exhibited all the qualities of a dutiful husband. He endeavored to keep his household tranquil despite the derelictions of his wife.

As time wore on quarrels became more frequent. The wife showed great temper (39-27). These quarrels were about money matters, about her conduct with other men and neglecting the house (40-8 to 15). We will hereafter show what appellant's conduct was with other men. She denied any misconduct, but was mute as to the arguments with her husband about such affairs.

When Glass remonstrated with appellant about her going out with other men she told him "to mind his own business" (40-20; 42-5). She said *she hated him* and wished she had never seen him (40-40). She threatened to leave and go to Chicago with her brother (41-5).

The first man Glass observed his wife was out with was John McDonald who brought her to the house in an automobile after he arrived home from work (41-12 to 30). Mr. McDonald drove his wife home alone in his roadster on occasions from early in 1922 (41-10) to about the Spring of 1923 (42-12).

Mr. Glass found a small ladies' leather folding case in his wife's dresser, in a pocket of which was a name card of McDonald, a picture of McDonald standing alongside of his automobile and a piece of poetry in Mrs. Glass' handwriting, entitled: "YOU TAUGHT ME". This all appears as Exhibit P XV (247).

Appellant said she did not know if she ever had seen the picture before, but had the film (174-15). She said she had books of poems which she composed herself (175-25) but had copied the particular lines from some other author (175-15). *She did not have the least idea when, in all the years of her married life (1910 to 1923) that she copied the poetry (175-18).*

Following the appearance of McDonald in their life, the parties ceased talking so much (46-20). They occupied separate rooms and last had intercourse in May, 1922 (39-18; 46-5). On July 14, 1922, Mrs. Glass shoved a note under the bathroom door while respondent was shaving wherein she stated she had "held back the grocery money" and had "sufficient means on hand to" go west or Nova Scotia, as she found it too unpleasant at

Belleville (46-22; Exhibit P II, p. 238). On August 18, 1922, appellant left a note to respondent saying, "Mr. Mack (McDonald) invited me to go to Greenwood Lake tonight. Thought I might as well take advantage of it" (248). She said this was the only time she was out with him alone and had Glass' permission to go (171-18). Apparently the parties were not on a talking basis at the time. From the wording of the note it appears appellant, for some reason of her own, desired to advise her husband of her intended trip, not to gain his consent. Mrs. Glass' explanations of various tell-tale matters is very weak.

Mr. Ritchie testified that he saw McDonald leave his place with Mrs. Glass in Jersey City different times (66-18-22). Mrs. Hayes, a neighbor, testified she saw McDonald around the Glass home numerous times (88-38); that he had a red roadster (89-2); that he remained at the Glass home on occasions from one to three hours in the afternoon (89-13); that nobody except Mrs. Glass and McDonald were around (89-20).

Mr. Harvey Hayes testified that he remembered McDonald was at the Glass home from 11 o'clock in the morning until 4 o'clock in the afternoon; that he came in a roadster and his visits were from an hour to three hours. This was early in the spring of 1923 (97-25, etc.).

Mrs. Glass said she could only recall McDonald being at the house to see her but once and that was when he tried to sell her Public Service bonds. She then volunteered the information that McDonald was a very sick man; that they talked on this occasion possibly an hour (154-38). If her testimony is true, Mr. Glass, Mrs. Hayes and Mr. Hayes have all perjured. The testimony of these three parties might be forgotten and Mrs. Glass

would still stand condemned on the note she wrote to her husband concerning her trip with McDonald.

Before touching upon appellant's relations with Charles Gunardson, her principal consort, and against whom the great bulk of evidence exists, we will mention briefly a third man with whom Mrs. Glass associated. A man named Fornoff, according to the testimony of Mr. Aldis Hayes, paid Mrs. Glass visits in the afternoon and stayed an hour or two hours (96-20-30). Mrs. Glass said Fornoff was her grocer and butcher; that he called to take orders (155-28); that he stayed longer than necessary to take orders only on two occasions (155-35); one occasion being when he remained to tell her about joining a certain order, and another occasion when she asked him if he knew of a purchaser for the house "*and Sonny was there*" (how often she volunteers the information that "Sonny was there", but he was not in court) and she wrote out a detail of the house for Fornoff (156-10). Mrs. Glass then volunteered that Fornoff was a married man with a son and daughter (156-29), just as she deemed it expedient to volunteer that McDonald "was a very sick man; and I said—he was short of breath, and I said, &c. * * * *and my boy was in the room with me*" (154-30).

Fornoff testified he never was in the Glass house over a half hour (188-5); that it took him as long as 15 or 20 minutes to obtain some orders (187-25); that one occasion he intended to stop to see Mr. Glass but when he saw another car in front of the Glass place, he drove on and telephoned back and was informed by Mrs. Glass that Mr. Glass was not home (189-38; 190-1 to 18); *that he didn't care to stop when he saw the other car there* (190-

20). What mystery! One man seeks to disentangle himself and enmeshes another.

The wife testified that Charles Gunardson was procured by her to do certain interior painting work in the Glass house and Mr. Glass said, "Go ahead" (136-15), Gunardson looked around and said that it was rather a pretty little bungalow (137-5). He started work about two weeks after Easter in 1923 and worked until sometime in October, 1923 (137-22). Before starting, Gunardson estimated the cost of the work to be approximately \$150, depending on the cost of the paint and what he considered his personal time worth (164-30 to 40).

The painting was still unfinished on October 15, 1923, when the parties separated and sold the house (141-38), although Gunardson had been busy practically every evening from May 1st until the middle of October (164-10). He was there also Sundays and holidays (138-38). Mr. Glass was away much of the time on business trips (43-35).

Following the separation in October, 1923, Mrs. Glass went to Wisconsin and while there a daughter was born on April 30, 1924. A certified copy of the birth record shows that Mrs. Glass told somebody when she was confined that Mr. Glass resided with her in Wisconsin (Exhibit P IV, p. 239), but he never lived there (51-35). Counsel for Mrs. Glass stated he would produce the original birth certificate, showing that the husband's address was given as being in the East and that the certified copy was wrong, but he did not do so.

Mr. Glass was astonished with the news of his wife having given birth to a baby (50-25). He received the news about May 3, 1924, from his wife's sister (50-27). He immediately wrote to appellant disclaiming the parentage of the child (52-8;

Exhibit P V, p. 239). *Birth of the child under the circumstances spelled adultery to him.* He then for the first set about gleaning information as to his wife's past conduct at Belleville (224-10).

Counsel for Glass wrote appellant a letter of inquiry in compliance with the rules of the Court, preparatory to bringing suit for divorce for Glass in New Jersey (175-32). Appellant made no reply but sought to forestall her husband by bringing suit of her own in New York. Respondent defended in New York and obtained a dismissal (Exhibit P XVII, p. 248). Thereupon Mr. Glass proceeded with his intended action in this state (62-18).

POINT I.

Mrs. Glass committed adultery with Gunardson.

The court has seen how Gunardson established himself in the Glass home in the spring of 1923; how he was at the home practically every night besides Sundays and holidays, upwards of six months thereafter pretending to be engaged in painting and how the job was still unfinished on October 15, 1923, when the parties separated.

We pass the intimacies of Mrs. Glass with McDonald and Fornoff except to retain them as examples of her clandestine associations and illicit tendencies.

(MRS. GLASS, pp. 138, 140):

Q. When did he do this work? A. Every evening and Sunday.

Q. Every evening? A. Practically every evening. I don't say every evening, but practically every evening.

Q. How long did he stay every evening? A. Sometime nine; sometime ten. The doors were always open and my neighbors came in and out. The windows were always open.

(Again p. 141):

Q. The house was not finished until October; it was not finished then. This happened in June. A. Well, he had been working on it all that time.

(Again p. 166):

Q. When did Mr. Gunardson start work?
A. Around the 1st of May.

(CHARLES GUNARDSON, p. 203, l. 22):

Q. When you were working there evenings painting the house, what time would you customarily get through the work; was there any particular hour? A. 11.00 or 11.30.

(Again, p. 204, l. 27):

Q. Did you have supper there, too? A. I always had supper there.

(Again p. 208, l. 35):

Q. When did you do your painting? A. After we had supper.

Q. That was when—nighttime? A. In the evening; yes.

(Again p. 209, l. 30):

Q. Did I understand you to say that the bill that you had amounted to less than \$195?
A. \$195.

Q. That is, after allowing Mr. Glass deductions for meals? A. Yes.

Q. Then, it was more than \$195 for the labor and material, and after you had given him credit for the meals, it amounted to \$195? A. No.

Q. Then, you deducted from \$195? A. I deducted from \$195.

Q. You deducted from \$195 the allowance for the meals? A. Yes.

Q. And that brought it down to what? A. \$100.

Q. Ninety-five dollars for meals? A. Pretty near \$95.

Q. How much a meal? A. I don't know. I figured fifty or sixty cents a meal.

(Again p. 215, l. 38):

Q. The fact that you gave Mr. Glass credit for \$95 for meals would indicate that you had almost 200 meals at the Glass home during that period of time? A. Sundays and everything.

Q. You were never there Sundays? A. Yes; I was there Sundays. I had Sunday dinner at Mr. and Mrs. Glass'.

Q. You were there every holiday? A. Well, we quit half a day. That gave me a good chance to work.

Q. How many hours, on the average, did you spend in the evening doing this work? A. From 7.00 until 11.00, half-past 11.00 or 12.00 o'clock.

Q. What time did you have supper? A. 7.00.

Q. How long did it take you to eat? A. Quick as I could.

Q. Half an hour? A. Not half an hour. I pardoned myself to Mr. or Mrs. Glass and then I went to work.

Q. Then, you averaged three and a half hours every night? A. Sometimes more.

Gunardson, from May 1st to October 15th, 1923, 5½ months, worked practically every night and on Sundays and holidays. At three hours a night (he said he worked 3½ hours and sometimes more) for night work only, he had 540 hours of working time. He said he charged 50¢ an hour and his bill (before deducting \$95 for meals) was \$195, making 390 hours. His testimony does not

account for 150 to 200 hours of night time alone, omitting entirely the Sunday and holiday work.

As the trial court brought out, Gunardson, according to his own calculation, had around 200 meals at the Glass home, for which he made an allowance of 50¢ or 60¢ apiece. *And Gunardson still had the work unfinished in October!*

Having shown the fallacy of Gunardson and Mrs. Glass in their claim that painting work was *bona fide* in progress continuously all the above while, we will now show how Gunardson and Mrs. Glass really passed the pleasant summer months of 1923.

(CORA E. HAYES, a neighbor, p. 80, l. 5):

Q. This all occurred in the summer and fall of 1923? A. Yes; I think it was 1923.

Q. Did you ever see Mrs. Glass and Gunardson out in the automobile alone? A. Yes; when they passed.

Q. Many times? A. Yes; several times.

Q. Did you ever see them alone around the house? A. Yes.

Q. Many times? A. Many times.

(Again p. 82, l. 23):

Q. Did you ever see the boy during the evenings? A. Oh, yes; he used to stay with my other boys.

Q. During the nighttime? A. During the nighttime.

(Again p. 85, l. 5):

Q. And the following morning, on two occasions, you saw his car at their house? A. In front of their house.

(Same page, l. 15):

Q. When was that? A. At that time, that was *when Mr. Glass was in the hospital.*

(Page 86, l. 10) :

Q. Did you have any particular reason for stopping that? A. Well, yes, because there was so much unpleasant discussion in the neighborhood, that I did not care to be a party to anything of the kind.

Q. Did you have reason because of what you saw or heard yourself? A. Nothing so very incriminating.

Q. Things that other people told you is what you refer to? A. I refer to some things that my family saw. I did not see them personally.

(Same page, l. 38, on cross-examination) :

Q. You said there were two occasions when you saw this car there in the morning; one occasion was when you think Mr. Glass was in the hospital? A. Both occasions.

Q. Both occasions. A. (Interrupting). He was away in the hospital.

(ALDIS M. HAYES, a neighbor, p. 90, l. 15) :

Q. Did you ever see Mr. Gunardson and Mrs. Glass out together? A. Yes, sir.

Q. Driving in the automobile? A. Yes, sir.

Q. Many times? A. Many times.

Q. This was what time of the year? A. This was during the summer of 1923.

Q. Any other time? Did you ever see them during the fall of 1923? A. Yes, sir.

Q. Do you remember when Mr. Glass went to the hospital? A. Yes, sir.

Q. Do you remember about how long he was gone? A. A few weeks.

Q. During that time did you see either Mr. McDonald or Mr. Gunardson around the place? A. Mr. McDonald was not there that I know of. Mr. Gunardson was there.

Q. Frequently or not? A. Frequently.

Q. Did you see Mrs. Glass and Mr. Gunardson out riding during that time? A. Yes.

Q. Did you see them anywhere else? A. In the house.

Q. What part of the house? A. Why, I have seen them all over the house.

Q. Upstairs? A. Upstairs and downstairs.

Q. Daytime or nighttime? A. Daytime and nighttime.

(Continuing on p. 91):

Q. Did you ever see them in compromising circumstances? A. In my opinion, yes.

Q. What did you see? A. Our house is so situated that from the front porch of the house, 679 John Street, one can look across and see the upper hall of Mr. Glass' residence, and on this one occasion that I speak of, this particular occasion, I saw Mrs. Glass and Mr. Gunardson go upstairs by the first window, and through either the light that shone from the street light or from downstairs, I saw them go into the chamber.

(Same page, l. 30):

Q. Did you ever see them embrace each other? A. Why, *I have seen Mr. Gunardson with his arms around Mrs. Glass.*

Q. How often? A. *Several times* I should judge.

Q. What part of her body? A. Around either her waist or her shoulders.

Q. Did you ever see anything else, any acts of endearment other than that? A. No, sir.

Q. Where were they when you saw this? A. Why, that happened when Mr. Gunardson would (Continuing on p. 92) evidently say "Goodnight" on the front porch—it is not a porch; it is a landing.

Q. Anywheres else than the front porch? A. Around the grounds occasionally.

Q. Did you ever see him embrace her with his arms out in the yard? A. Yes, sir. You could not call it an embrace. It was just *as they walked along he would have his arm around her waist.*

Q. *You saw that numerous times or not?*
A. *Yes.*

Q. This happened in the summer when Mr. Glass was away in the hospital? A. I would not state definitely.

Q. Are you able to say whether there was anyone else around the home that time that you saw? A. No; the only one would be the boy, the Glass boy.

Q. Where was the boy, if you know, on those occasions? A. Sometimes he would be even right there playing with the other boys.

(Again, l. 38):

Q. Did you ever see the Gunardson car in front of the Glass premises in the morning? A. Yes—not in front of the Glass premises—not in front of the residence——

Q. Where did you see it? A. I saw it leaving our garage.

Q. Was his car in your garage during the night? A. Yes, sir.

Q. On more than one occasion? A. One occasion that I remember.

(Page 93, l. 22):

Q. You saw Mr. Gunardson leave different times? A. Yes, sir.

Q. What time of the night was he wont to leave? A. *Any time from seven o'clock in the evening until two o'clock or three o'clock in the morning.*

Q. You stayed up late every evening yourself? A. Yes.

Q. You are quite a radio enthusiast, I understand? A. Yes, sir.

(HARVEY B. HAYES, a neighbor, p. 98, l. 14):

Q. How about Gunardson? A. He was there mostly after dinner at night, after 5.00 or 6.00 o'clock.

Q. Did you see him at any time or not? A. Every day with few exceptions.

Q. Did you ever see his car in front of the premises in the morning? A. *I have seen his*

car in front of the premises 3.00, 4.00 and 5.00 o'clock in the morning, different times.

Q. *Did you ever see him leave in the morning?* A. *I have seen him leave in the morning.*

Q. *Alone?* A. *Alone.*

Q. *Did you ever see him leave in the morning when Mr. Glass was in the hospital?* A. *Yes.*

(Same page, l. 37):

Q. *Did you ever see Mr. Gunardson and Mrs. Glass in any acts of endearment?* A. *Only with his arm around her waist when walking along—*

(Page 99, l. 32):

Q. *Where did you see Gunardson and Mrs. Glass on this one occasion away from the house?* A. *In a restaurant in Bloomfield Center.*

Q. *Eating?* A. *They just came in to eat as I was leaving.*

Q. *Were they alone at that time?* A. *They were alone.*

Q. *Can you place the time?* A. *Why, it was between 1.00 and 2.00 o'clock in the morning.*

Q. *Can you give the date?* A. *I cannot give the positive date, no. It was in the month of July.*

Q. *1923?* A. *1923.*

Q. *What restaurant was this?* A. *It was the Alps.*

Mr. Glass was in the hospital at Baltimore from June 23rd to July 16th, 1923 (44-33). The boy was in camp at Bloomingdale from July 9th to July 28th, 1923 (102-11 to 15). There is no dispute as to these facts. The witness Fred. H. Carter had charge of the camp (102-1). While Mr. Glass was away, Gunardson and Mrs. Glass made frequent trips to the camp.

(FRED H. CARTER, p. 102, l. 19):

Q. Did you ever see this man? A. Yes.

Q. Mr. Gunardson? A. Yes.

Q. When did you first see him? A. I first saw him when he and the boy and Mrs. Glass came up to the camp the first time he came.

Q. Did you see him after that? A. Yes.

Q. Several times? A. Yes.

Q. Whom did you understand that man to be? A. Well—

The Court: I will object to the question if Mr. Davis does not.

Mr. Carter was under the delusion that Gunardson was Mr. Glass. This mistaken notion was easily acquired by him because Gunardson brought Mrs. Glass many times to the camp. The appearances created the deception.

(CARTER, p. 103, l. 31):

Q. Can you tell us about how many times you saw Gunardson and Mrs. Glass at the camp together in that fashion? A. Well, Mrs. Glass paid the boy's board three different times, paid it on the 14th, first on the 9th and 14th and then the 21st, and then Mr. Gunardson came up when Mrs. Ritchie's girl was at camp, later in the season in August, and sometimes Mrs. Glass came with her. So I would say, perhaps, I have seen him up at camp five or six times.

(Continuing on p. 104):

Q. Do you recall when you first saw Mr. Glass? A. Well, I actually cannot remember seeing Mr. Glass at camp.

Q. You never saw him at all? A. I would not recognize him as the man I saw there one night. There was a gentleman came with Mr. Gunardson and Mrs. Glass, but his figure has entirely gone out of my memory. I could not recognize Mr. Glass as the man. I know there was a man there.

Q. There is no mistake about your recognizing Mr. Gunardson? A. No; I met him several times.

(WILLIAM B. ELLIS, a neighbor, p. 107, l. 5):

Q. You say you met Gunardson once? A. Yes; the last day, the day after the goods were shipped; Mrs. Glass and he took lunch with us.

Q. That was October, 1923? A. It was in the fall. I don't remember the date.

Q. Was the man whom you met on that day with Mrs. Glass the man you had seen around the place frequently in the summer and fall? A. Yes.

(Again, l. 22):

Q. How long did you see this man around there? A. Why, in the summer he was there, it seemed to me, practically every evening.

Q. Do you know whether or not he drove an automobile? A. Yes.

Q. Do you know what kind of a car it was? A. I was told it was a Lexington. I don't know much about cars.

Q. Did you ever see this particular car in front of the Glass premises? A. Yes.

Q. Very frequently? A. Yes; it seemed to be there every evening for a period.

Q. Did you see the car there about as often as you saw the man around? A. Yes.

Q. *Did you ever see the car there over night?* A. *Why, I noticed it on two occasions in the morning.*

(JAMES L. DE ROSSETT, a neighbor, p. 109, l. 15):

Q. This man whom you understood to be Mr. Gunardson, where did you see him? A. Around the place, in the house, riding around in the automobile.

Q. With Mrs. Glass? A. *Instructing Mrs. Glass how to drive the machine.*

Q. Did you see them out very frequently together? A. Yes.

Q. Where did you see them? A. In the machine.

Mrs. Goddard, a young married woman with a small baby, was a sister-in-law of Mrs. Hayes and was a visitor at her relative's home in Bellville, adjoining the Glass place from June until September 1, 1923 (114-39). The Hayes family, at that time, consisted of Mr. and Mrs. Hayes and two grown sons and one boy who is eighteen. (122-37).

(EILEEN GODDARD, p. 115, l. 9, etc.):

Q. Did you ever see this man, Mr. Gunardson? A. Yes, sir.

Q. Did you ever see any other man besides Mr. Gunardson? A. No, sir.

Q. How long did you see Mr. Gunardson there? A. About every evening and on Sundays.

Q. You have a child, have you? A. Yes.

Q. When was that child born? A. 3rd of February.

Q. 1923? A. No; 1922.

Q. You saw Mr. Gunardson around numerous times or not? A. Yes, sir.

Q. Both daytime and nighttime? A. Why, Sundays was about the only daytime I saw him there.

Q. Through the week it would be at nighttime? A. In the evening.

Q. Was it nearly every day? A. Pretty near.

Q. Did you see Mr. Gunardson do anything particularly around the place? A. He was painting and working around the place.

Q. Did you ever see him in the company of Mrs. Glass? A. Yes.

Q. In that house? A. Yes.

Q. Just tell the Court in your own words.
A. It was just one evening; I was going out

through the front of the house and I could see in through the living-room windows and *she was sitting on his lap and smoothing his hair*. That is the only time I ever saw him in the house.

Q. What did you see out of the house? A. Well, *I have seen them kiss each other good-night*.

(Continuing on p. 116):

Q. *Where did that take place?* A. *On the front porch, on the stoop.*

Q. How was Mrs. Glass clothed at that time? A. Why, this once I can remember *she was clothed pretty scantily; her hair was hanging down in a braid*.

Q. Do you remember what kind of a dress she had on, if any? A. No; I could not say if it was a dress or not.

Q. What did it look like? A. It was very low necked if I can remember right.

Q. *When was it you say you saw her seated on his lap and stroking his hair?* A. It was in the evening.

Q. Place the date, as near as you can remember? A. I cannot remember. I think it was in July. *It was while Mr. Glass was in the hospital.*

Q. *When was it that you saw them kiss on the front porch?* A. *Well, it was the same month.*

Q. *Within a few days of the other occasion that you mention?* A. *Yes.*

Q. *Did you ever see them kissing on more than one occasion?* A. *That was several nights.*

Q. About what time of night would that be? A. *Any time between 12.00 and 1.00.*

Q. You cutomarily sat up very late yourself? A. Yes, with the baby—Mrs. Glass had a couple of dogs and they used to wake the baby up quite often and I would sit up with him. I just glanced out of the window. My bed was alongside the window and I could see out.

Q. *Did you ever see them out automobile riding?* A. Yes.

Q. Frequently? A. *Quite often.*

(Again, p. 117, l. 5):

Q. Did you ever have any conversation with Mrs. Glass regarding Gunardson or her husband? A. Why, I did, but I cannot just remember.

Q. Please tell us what you can remember. A. All I can remember is—I forget now.

Q. Whatever it is, tell us. A. She wanted some kind of friendship; her mother had died and she—

Q. This is something that she told you? A. Yes. Mr. Glass was not home very often and she took Charlie to have friendship, to have somebody take her somewheres once in awhile.

(Again, l. 30):

Q. *What was it she said on this occasion about Mr. Glass?* A. *That he was away and that she wanted some friendship, to have somebody to take her out evenings.* I cannot just remember the words.

(Again, p. 118, l. 6):

Q. Did she call him by his first name? A. "Charlie," yes.

Q. She called him "Charlie"? A. Yes.

Q. And what did he call her? A. I can remember once *he called her his Indian Princess.*

Q. Other times? A. That is about the only time I can remember.

(MRS. GODDARD, cross-examination, p. 120, l. 12, &c.):

Q. You say that you saw Mrs. Glass on one occasion sitting on Mr. Gunardson's lap and smoothing his hair? A. I did.

Q. You looked through the window and saw that? A. Yes; I was walking past the front of the house.

Q. Lights lit? A. Lights lit and the curtain was half way.

Q. On another occasion you said you were awakened because the dogs had awakened your baby? A. Yes; quite often.

Q. Somewhere around midnight or a little later? A. Yes.

Q. And you saw Mr. Gunardson kiss Mrs. Glass? A. Yes.

(Again, p. 121, l. 12):

Q. How do you place these occurrences in July? A. Well, I know it was when Mr. Glass was in the hospital. I think it was. I know he was not around. I could not say whether he was in the hospital or not, but I know he was not around at the time.

Q. As a matter of fact, you have heard this testimony this morning? You have been in the court room this morning? A. Yes.

Q. You have heard other witnesses testify that Mr. Glass was away in July? A. I know Mr. Glass was away anyway, because I was—I cannot say whether it was July or not—I know he was away because I was there.

The Court's attention has heretofore been directed to the fact that Mr. Glass knew nothing about his wife's incriminating conduct at the time. All he knew was that his wife was too much in the society of other men to please him. He knew nothing of the automobile rides, the petting parties, kissing, embracing, Mrs. Glass sitting in Gunardson's lap and stroking his hair. He did not see these things. He did not know Gunardson called Mrs. Glass such pet names as his "Indian Princess".

None of the different witnesses who were called and testified about those occurrences volunteered information of the activities of the libertine, Gunardson. The aloofness of the neighbors was probably due to the fact that Mr. Glass was obliged

to be away from home a great deal and there was not the usual opportunity for him to mingle with and learn the truth from them. Mr. Glass demurred to his wife's conduct but did not make the eruption to be expected had he been in possession of the necessary knowledge. His wife and Gunardson were so unrestricted in their actions in July, 1923, when Mr. Glass was at the hospital and the boy at camp, that they became much less guarded in their amorous proclivities.

(MR. GLASS, p. 40, l. 12) :

Q. When you say "her conduct", what do you mean by "her conduct"? A. Going out with other men and being away from the home too much; not taking proper care of her son.

Q. Did you ever remonstrate with her about going out with other men? A. Yes, sir.

Q. What did she say to you? A. *She told me to mind my own business, that she was old enough to take care of herself.*

(Again, l. 35) :

Q. In these conversations or quarrels, whatever you had, your discussions over these various matters, did she display any particular love for you? A. Indeed she told me I could leave any time I wanted and she threatened to leave and take Sonny with her and *told me she hated me* and wished she had never seen me and other things of that character.

(Page 45, l. 11) :

Q. *Did you ever speak to her about Gunardson's visits?* A. Yes.

Q. *What about that?* A. *She told me to mind my own business.*

(Again, p. 45, l. 29) :

Q. When you went to the hospital did you tell your wife where you were going? A. I started to tell her, yes.

Q. Why didn't you finish? A. Because *she told me she didn't care where I went or what I did.*

Q. Did you tell her why you were going to the hospital? A. Yes, sir.

Q. Did she make any reply? A. Well, that is what she told me, that she didn't care where I went or what I did.

On another occasion Mr. Glass was obliged to notify Gunardson not to meddle with his son and seek to tell him (Glass) what to do (123-30). Gunardson was so entrenched in the life of Mrs. Glass that he unwittingly overstepped himself. When Mr. Glass told appellant that if he (Gunardson) "ever butted into affairs" when he was around he (Gunardson) would never come there again, *Mrs. Glass told him "that if there was to be anyone going, that he (Glass) would be the one to go (123-36).*

(MR. GLASS, p. 224):

Q. When were you first informed of any acts of familiarity between Gunardson and your wife? A. After I started to investigate, when I learned that this child had been born.

Q. That was after April, 1924? A. Yes, sir.

Q. Before that had you heard from any of the neighbors or any of the persons who have testified here, of the nature of their testimony? A. No, sir.

Q. Following the learning by you of the birth of this child, you made an investigation? A. Yes.

Q. You inquired among the neighbors to ascertain what you could find? A. I did.

Q. And you learned various things? A. Yes.

Q. As a result of which, you brought this suit? A. That is right.

(Again, p. 47, l. 31, etc.):

Q. All of this while you continued to quarrel together? A. Yes.

Q. About various things? A. Yes, sir; mainly money.

Q. Also about men? A. Yes.

Q. Did she repeat her threat to leave? A. She did.

Q. Did she say anything further about whether she liked you or hated you? A. *She frequently told me that she wished she never met me, that she hated me, that she was going to take Sonny away so I would never see him.*

Counsel for appellant in his brief lays considerable stress upon Mr. Glass' affirmative answer to the question as to whether these quarrels were "also about men." He conveniently overlooks the testimony of Mr. Glass (previously recited above) to the effect there had been other quarrels about men.

The parties separated on October 15, 1923, under an agreement operative for one year (Exhibit P III., p. 238). Mr. Glass, on being asked if he had made overtures to his wife near the close of the year, looking toward a reconciliation, had this to say:

A. Well, I didn't have a chance to; that is to say, the year was not up when I was astonished with the news that she had given birth to a baby.

It will be remembered Glass had not had intercourse with his wife since May, 1922 (39-20). He promptly denied the parentage and started investigating.

The defendant wife was persistent in her preference for Gunardson's society. She cared not for the criticism of friends and neighbors, least

of all her husband to whom she had vowed to be true and cherish.

(WALTER J. RITCHIE, p. 111, l. 1):

Q. Did you ever have a conversation with Mrs. Glass on the subject of her being in the society of Mr. Gunardson, or as to her relations or actions with him? A. I never said anything about relations or actions with him. *The only thing I ever said was I didn't like for him to be around there too much, or something like that.*

Q. What did you say? A. The only thing I ever said, I didn't like the idea of him being around there so much. That was all.

Q. What did she say? A. *She told me to mind my own business, which was perfectly proper.*

Q. Where did you mean that he was around so much—her house or your house? A. Her house.

(Again, l. 38, etc.):

Q. Then, you objected to his being around there so much; is that it? A. (No answer).

Q. Being with Mrs. Glass so much? A. That is the idea; yes. *I told Mrs. Glass I didn't think it looked good, that is all, his being around there.*

(Again, p. 114, l. 6):

Q. You visited Mr. and Mrs. Glass sometimes? A. Yes.

Q. *You stopped visiting them, didn't you?* A. Yes.

Q. When was that? A. It must have been around June or July or August, one of those months.

Q. Can you assign any particular reason for stopping your visits to them? A. Well, yes; *I said that if Charlie was going to be there I would keep away from the place.*

Q. What was your objection to Charlie? A. Well, I didn't have any objection to him

or any other man being there, only Will was a friend of mine. I thought it didn't look nice to have any one around that house all the time, not that I thought there was any wrongdoing or anything like that.

(MRS. GLASS, p. 141, l. 10) :

Q. *Then he showed his dislike for Mr. Gunardson?* A. *Yes, sir, just following, although I had seen it growing.*

(Again, l. 35) :

Q. Well, notwithstanding that you knew from your husband's attitude and from what Mr. Ritchie said that your husband did not like Gunardson and didn't want him around, *you insisted that you were going to have him there?* A. Because he was then about middle finished; that house was about finished.

Q. The house was not finished until October; it was not finished then. This happened in June. A. Well, he had been working on it all that time.

Mrs. Glass swore her husband vented his spite on Gunardson, and he did everything that was possible to make it unpleasant for her (140-35). These two assertions were made conjunctively. It shows that her paramount interest was Gunardson, not her husband. She resented the spite shown Gunardson and the incidental unpleasantness caused herself. Gunardson had to be retained in all events, because "the house was about finished", she said (141-36). This happened in June and the house was still unfinished the middle of October.

The Vice-Chancellor apparently became a little provoked at Mrs. Glass' evasiveness and flimsy explanations. On page 144, we find Mrs. Glass miring deeper under the court's questioning :

Q. Let us get this other thing settled. *Did you consider the painting of more importance than the feelings of your husband?* A. I didn't consider it was more important. He didn't pay attention to his duties, to his home. He had not done so since he was married.

Q. Then you didn't care what he thought about Mr. Gunardson? A. Personally, I thought I had the privilege since I had never heard anything objectionable about Mr. Gunardson. There was no objection—

Q. Then, the point was that you were going to have Gunardson come there— A. To finish the house.

Q. No matter what your husband thought about it? A. I do not think that Mr. Gunardson—

Q. *Is that the attitude that you took—that you were going to have him finish the job, no matter what your husband thought about it—yes or no?* A. *Yes, if that is the question, but I do not like it put that way.*

Another striking feature of the case is *Mrs. Glass' alleged utter ignorance of her pregnancy until January, 1924, five months and a half after conception.* The baby was born on April 30, 1924.

The usual period of gestation would make the date of conception the latter part of July, 1923. She, of course, was able to recall the exact day in July that lawful intercourse was last had by her—with Mr. Glass. She, of course, was also able to relate the exact circumstances which made that special day so indelible in her recollection.

Between the time she filed her answer and the day of trial, however, her facile memory underwent an important change. Her filed Answer alleges that the necessary marital relations with her husband, whereby the child was conceived, took place on July 14, 1923 (7-2). Later, on prepar-

ing for trial, she found that date would not do; because Mr. Glass did not return from the hospital until July 16th, and he had been gone three weeks.

She did not know October 15th, when the separation agreement was signed, that she was pregnant. Why? Because, she was doctoring for a fall (148-11). She did not know it either, because she thought she had a tumor (149-5). This latter fact (?) certainly was true, because she so told her sisters (149-9). She generously volunteered who she told.

She said she last had intercourse with respondent prior to the one occasion above mentioned six months before (168-39). She did not impart the news to Mr. Glass even after the discovery in January. They were in communication all the while. Glass sent her weekly checks (61-25). Why didn't she do the most natural thing in the world?

“When I learned of it later I would not tell him because I wanted it and I knew he would not let me have it” (148-8).

(MRS. GLASS, p. 149, l. 32, etc.):

Q. Did you notify Mr. Glass at that time?

A. I did not.

Q. Why not? A. Because when my brother-in-law asked me if he should let him know, I said no.

By the Court:

Q. Why not? A. Because I wanted the baby and I knew he would not let me have it.

Q. But you were in Swampscott, Massachusetts, and he was in Belleville. How could he stop it? A. Well, you don't know him as I know him.

She was in Massachusetts when the discovery was made. She went to Wisconsin soon afterwards, where the child was born. She was far re-

moved from her tolerant husband, but, we suppose, she would have us believe she would not be anywhere safe from her husband's interference. January, February, March and April, 1924, all passed without her fears being allayed. What could she fear from anybody in those late months of pregnancy?

That Mrs. Glass did have fear we firmly believe, but not the fear she describes. She feared and dreaded the bringing into the world a child without a name. She suppressed her own early warnings of the coming event, hoping against hope. She tried to cast it from her mind. She went away and further away as if distance if not time, might not relieve her of that unwelcome burden. But there was no escape so she chose the easiest way out by the pleasant self-reminder she was a married woman who of right might bear a child. It was but another step further to weave the myth of lawful relations with the man she wed.

To the world her position would be easy, but as to her husband, some art would be required to either befuddle, inveigle, or to entrap him into some binding admission. The scene shifts to New York—72nd Street, she says (152-30). *Her husband had denied the parentage at the beginning and all along, she admits* (177-8), but she perceived that if he could be induced to come to her apartment and she could secrete her sister in an adjoining room he would be most apt for the first to admit.

True to the wife's plans and expectations (also her sister), Mr. Glass did admit, so she said (177-5):

Q. He had denied being the father of the second child? A. Yes.

Q. Did he deny it that day? A. No, sir; he did not.

Q. That was the first time he had admitted it? A. Yes, sir.

This is a strange story we are asked to believe. We think it is entirely too much for any sensible person to assimilate.

It would be a great deal to expect that appellant and Gunardson would come forward with a bold admission of their guilt. We, therefore, find them in denial. It was impossible, however, for them to deny that which makes conviction, the circumstances.

These denials have the effect of accusing **ten** disinterested, motiveless, intelligent, unmeddlesome neighbors who were reluctant to relate the matter of perjury. A reading of the testimony of all petitioner's witnesses will show that they came out with the details grudgingly. These witnesses were not so much the neighbors (and maybe not so much the friends) of petitioner as they were of defendant-appellant. She was around these people constantly, Mr. Glass saw them only at intervals and oftentimes long intervals.

Reverting to the testimony of Gunardson and Mrs. Glass, we find that he approximated the cost of the painting at \$150 (164-40). His net bill was only \$100 (209-37). It apparently did not develop that the work was much more extensive than was estimated. If the testimony of the parties is true, Gunardson knew he had about a six months' job, occupying all his spare time, which furnished a cover for his ulterior purposes. Assuming that these parties were innocent at the time work was commenced, it is plain that a small painting job was made to stretch many times its length to supply the required cover for ulterior purposes.

The color of Gunardson's denials had a queer

cast. They were qualified and equivocal. See what he said in answer to the serious questions as to his liberties with Mrs. Glass, put by her own counsel (206-34):

Q. If Mrs. Glass had sat on your lap or you had kissed her "Good night," would you answer truthfully here in court to that question? A. *Being a gentleman, I don't think I would.*

(And on cross-examination, page 212, l. 8):

Q. Being a gentleman, as you are, Mr. Gunardson, would you tell the Court if you had really had intercourse with Mrs. Glass? A. I have not, truthfully.

Q. Being a gentleman, if you had, would you tell it? A. *Being a gentleman, I don't know whether I would.*

Q. You insist that you are a gentleman, don't you? A. Yes.

Appellant's brief is prolix with mis-statements of facts, as the comparison of her brief with the record will show. We direct the court's attention to a few of such mis-statements.

It is stated that the parties remained in New York until June 1st, 1923. It should be June 1st, 1921. It is stated that respondent did not make any attempts whatever to entertain his wife. The record shows (p. 145, l. 22) that the parties were at the Hotel Astor in 1922 and later took a trip to Albany on the river boat. It is stated that Mr. Glass testified that the night Gunardson remained at his home when he was present was the "only occasion that the car of Gunardson was at the Glass house all night" (223, l. 27). Glass did not know but the other witnesses did know of other occasions when Mr. Glass was absent. It is stated that Arlis M. Hayes and Marvey B. Hayes, were

boys 16 and 18 years of age, respectively. This was an attempt, we suppose, to belittle the weight of their testimony. The record shows that a younger brother of the two Hayes' above mentioned, was 18 years old at the time (122-36). As a matter of fact both of said parties, as the trial court could see, were in the neighborhood of thirty years of age. New counsel for appellant on appeal should not indulge in guesses as to the evidence.

It was stated that Glass went with Gunardson and his wife to the theatre and movies. This is untrue. The only testimony as to this was by Mr. Glass himself and he stated that on no occasion was he out with Gunardson (59-33) to places of that kind. It is stated that Ritchie's daughter who was at the Glass home one time was 16 years old. She was only 14 (161-9). The age was here increased, we suppose, in order that additional weight might be given to the testimony of Mrs. Glass by showing for a short time, at least, someone was with her of a discerning age, when Gunardson was around.

“Commission of adultery will be inferred from proof of desire and opportunity.”

McKenna v. McKenna (Court of Errors and Appeals) 84 N. J. Eq. 190.

“It is not requisite that there shall be direct proof of this crime (adultery), for if that were the rule there is not one case in a hundred where such proof would be attainable. The crime is almost always clandestine and committed only when every precaution is taken to preclude the possibility of its discovery.

“Familiar *indicia* of it are: Loss of affection that is due to and was bestowed upon, its legitimate object, and the bestowal of affec-

tion upon an unlawful object; stolen interviews; private correspondence; amorous and passionate utterances; personal freedom, indecent familiarity, compromising situations, and the like. There may be also slight, delicate and indefinable circumstances, proximate to the adultery and peculiar to a good cause, that, though less proximate as *indicia*, are, nevertheless, powerful facts in producing conviction of guilt."

Hurtzig v. Hurtzig, 44 N. J. Eq. 329; affirmed on opinion below, 45 N. J. Eq. 869.

No principle of law is more firmly settled than the doctrine that where the wife and her *particeps criminis* have the will and the opportunity to commit the offense, the court will infer that they have been guilty of the offense. 2 Bishop Mar. and Div. Sect. 619. In other words, when there is a concurrence of such a will and a desire to gratify the same, "*the guilt is presumed.*" *Black v. Black*, 30 N. J. Eq. 228.

In the *Hurtzig* case, *supra*, it appeared that the defendant wife was charged with adultery with the man she had employed as a music teacher. The husband was obliged to be frequently absent from home in various parts of the country and when not at a distance was usually occupied at his place of business in New York City. After the commencement of the music lessons, an intimacy sprang up between the wife and the teacher. He joined her in walks alone or with her children, partook of her hospitalities; they went out together at various places; he was in her home many hours a day over a long period of time under a pretense of giving music instructions. The husband, having become suspicious, he caused the wife and

music teacher to be watched. The men who were employed to that purpose testified that they continued their walks together sometimes alone and in company of others. The watchers testified that they sometimes walked arm in arm and the corespondent was seen to embrace and kiss the wife. The wife and the corespondent denied the embracing and kissing and it was urged that the watchers' testimony in this regard should be rejected because they were in the employ of the petitioner. It was shown that the wife bathed the music teacher's head when he had a headache; that the friendship between them seemed to strengthen when the petitioner showed his displeasure. The wife was seen with her arms around the teacher's neck. The court held that the above conduct of the wife consisted of stolen and continued interviews and personal familiarity was sufficient to make out a cause of adultery.

The case *sub judice* we consider, strong in many respects than the *Hurtzig* case. There are several points of similarity such as the employment of the corespondent in both cases which offered a cover for the illicit relations. The two cases are also similar in that the husbands in both were obliged to be away frequently, which afforded more than the ordinary opportunity for gratification of unlawful desires. There is some evidence in both cases that the husbands caused their wives to be watched. In the *Hurtzig* case the watching produced fruit in that further evidence of the parties being together at the various places was found, but the parties were not caught in any situation that was seriously compromising in itself. The most that was shown was that they indulged in embraces and kissing. In the present case the husband employed no watchers or detectives and only learned of the real seriousness

of his wife's conduct a considerable time after they had separated, but then learned many incriminating facts from his neighbors, as a result of which his suit was brought. The Glass case, in its various details of the intimacies between his wife and Gunardson are from witnesses who were not hired but were disinterested and respectable neighbors who were loathe to testify but whose testimony established evidence of kissing, embracing, petting, trips together and time spent in the Glass home at all hours of the night over a long period of time, which is a monument of proof.

As was said in the *Hurtzig* case, adultery can seldom be proven except by circumstances showing desire of the parties as exhibited by their affection, frequent unconventional acts of familiarity. No time need be lost upon the question of opportunity because that was super-abundant. Mr. Glass' case is further strengthened by the fact that his wife was quite a mixer with men generally, perhaps to the extent of depravity. She, as has been shown, had a liking also for MacDonald, and had difficulty in accounting for the time which Mr. Fornoff spent with her at the Glass home. It seems that, Gunardson, MacDonald and Fornoff, as well as the neighbors, sensed that there was some rivalry between the three parties mentioned.

In *Bowers vs. Bowers* (Court of Errors and Appeals), 88 N. J. Eq. 608, the wife sued her husband on the grounds of adultery. All that was shown was that the husband sought the society of the corespondent; that they went automobile riding together and the husband would not return home frequently until very late at night; that he lost affection for his wife and that for a considerable time they occupied separate rooms in their home; that the husband was seen hugging and kissing the corespondent while she was dressed

only in her nightgown or in nightgown and some wrap over it; that the husband frequently took meals with corespondent and was seen to arrive at her home in the evening and leave in the morning. The husband sought to explain his automobile rides and visits to the home of corespondent by the claim that corespondent's twenty-year-old son and he were working together on an engineering course in some correspondence school. The corespondent denied any illicit relations existed between them. Vice-Chancellor Foster decided that there was sufficient evidence of inclination and opportunity to commit the act of adultery and advised a decree accordingly which was affirmed by this court.

From a reading of the *Bowers* case, it will be readily seen that Mr. Glass' case is far stronger in every way in proof of desire and opportunity, which raises the presumption of guilt. It is difficult for us to conceive a much stronger case than the one under consideration insofar as proof of adultery is concerned unless it be a case of direct evidence. We will not presume upon the intelligence of this court in arguing the efficaciousness of circumstantial evidence as against direct evidence in proof of adultery, as proper circumstances afford better and stronger proof of a fact than direct evidence thereof because it is recognized in jurisprudence that circumstances do not lie and carry moral conviction, whereas direct evidence from the mouths of witnesses as to what has been seen may be rank perjury.

The Glass case, which is under consideration, is also stronger in proof than the circumstances recited in *Giusto vs. Giusto*, 80 N. J. Eq. 355, in which a decree was entered in favor of the husband. This case was also affirmed on opinion below by this court, 81 N. J. Eq. 209.

Able counsel for appellant argues that the rejection by the trial court of an offer of testimony of Mrs. Bennett, concerning Mr. Glass' alleged reaction on a certain book which she said they had both previously read, which offer was made, as counsel states, "for the purpose of showing connivance", was improperly overruled. In the first place, as we will hereafter show under Point II, connivance was not in issue. The musing of counsel in his suppositions as to what Mrs. Bennett might have testified had she been permitted to answer this question, is all fantasy. Aside from the fact that *connivance was no part of appellant's defense*, the court was correct also in overruling the above question because it related to a matter which happened nearly ten years before. Even if we take the trouble to assume that the matter was of recent occurrence, it would have no bearing upon the guilt or innocence. No purpose would be served in showing such mental complex of Mr. Glass in passing upon his right to a divorce.

Of course, Mr. Glass did not recall having had marital relations with his wife in July, 1923. People do not recall things that never happen. He testified positively that no such relations were had by him since May, 1922 (39-20; 46-8). Appellant, in her brief on page 26, calls Mr. Glass' testimony equivocal in this respect. If direct and positive testimony of Mr. Glass, as shown on pages 39 and 46, in that respect, is equivocal in their mind, we are not surprised at the profusion of similar characterizations of counsel of the testimony of different witnesses produced by the petitioner.

Assuming for the time being that Mr. Glass had marital relations with his wife in July, 1923, as contended by her, that does not necessarily

help appellant's case. That fact would not have precluded the pursual of her lustful desires with Gunardson. Furthermore, the court below did not bastardize the child which perchance might have been born as a result of ~~un~~lawful relations at that time, if the wife told the truth as to this one matter.

We take exception to appellant's statements as to the Vice-Chancellor being incorrect in the synopsis of the evidence. Appellant states that the Vice-Chancellor was wrong in saying that Gunardson spent practically every evening, every holiday and every Sunday at the Glass home. The excerpts from the testimony set out at length hereinbefore, show that such was the case.

Appellant is wrong also in saying that Mr. Glass did not object to Gunardson. Turning to Mrs. Glass' own testimony in this respect, we find that she said that Mr. Glass "vented his spite" on Gunardson (p. 140) and that she had seen a growing dislike in Mr. Glass for Gunardson (p. 141). She admitted that she knew from her husband's attitude and from what Mr. Ritchie told her, that her husband did not want him around (p. 141, l. 35). After all, it must be always remembered, that Mr. Glass did not know his wife's true relations with Gunardson, and, of course, did not voice the same objection to be expected, had he known. It is interesting to note how appellant seeks to overcome the damaging recitals of the witnesses as to her misconduct. This is done in various ways. Her counsel says in one place that such testimony was the "product of an impressionable youth's mind," but the difficulty is that it was not a youth testifying.

In another place, counsel says that Harvey Hayes' testimony was "apparently false, or grossly exaggerated" in respect to his testimony

as to Gunardson's walking with his arm around Mrs. Glass' waist in the yard, inasmuch as the neighbors would have known it. Of course the neighbors knew it. Furthermore, the neighbors testified to that effect. This witness was one of the neighbors. In another place, counsel characterizes the testimony of Mrs. Goddard (page 22) like that of the two Hayes "boys" (grown men) as the "invention of impressionable minds". Of course, invention means perjury. By the use of the words "impressionable minds," effort is made to lead this court into believing that the witnesses in question were quite young, read a lot of wild west fiction or were dreamers whose minds might respond to suggestion. Nowhere in the record is there any intimation of the things that counsel for appellant would seek to have this court believe.

When counsel for appellant runs dry of suitable terms to denounce the veracity of the witnesses mentioned, he takes the easier course by saying "this witness' testimony adds nothing to the case", or words to that effect.

On page 27 of appellant's brief, it is stated that petitioner confessed adultery on his part. The record shows that Mrs. Glass's sister volunteered that statement in an irresponsive answer and the court very promptly struck out the same (page 220).

There are distinguishing features in the cases cited by appellant, which make them inapplicable here. For instance, in the *Slattery* case (87 N. J. Eq. 673), the defendant wife was not shown to have had opportunity and that she kissed another man in the presence of her husband without any attempt of concealment. There was no clandestine conduct shown which would suggest anything graver than a kiss.

The *Sargent* case (114 Atl. 428) was also heard in the Court of Chancery by Vice-Chancellor Fielder. He expressed the opinion that witnesses produced by the husband were discreditable and that the husband desired his wife's downfall. The trial court in this case, gave the same careful consideration to the facts as he did in the *Slattery* case, and he was affirmed by this court (92 N. J. Eq. 703).

In *Brown vs. Brown* (63 N. J. Eq. 348), cited by appellant, the court disregarded evidence of kissing and embracing because of the "*circumstances in which these parties were thrown*", which made such conduct consistent with innocence. In the *Brown* case the court held the testimony of the witnesses exaggerated and that the husband encouraged his wife in unconventional conduct. So we find other considerations which detract all the force from the various authorities of appellant.

In passing upon the sufficiency of a showing of inclination, desire and opportunity, consideration must be had for the character and setting of the parties. Every case, more or less, stands alone in that it must be considered in the light of the standing, custom, environment and social habits of the society in which the parties move. If a divorce case were being tried between citizens of the jungles, it certainly would not be considered immoral or evidence of indiscretion if it were shown that the accused party appeared nude or nearly so in the presence of the opposite sex. On the other hand, it might be considered indiscreet by persons living in polite, refined society, particularly of religious leanings, for a married woman to even dine alone late at night with a man, not a member of her family. A proper consideration is what was the character, general habits

and point of view of the parties in question. There is no evidence but what the parties in the instant case moved under the ordinary conventions and standards of people of their station of life. There is evidence that Mr. Glass was a religious man and desired his son to have a religious education. His custom was to go to church when home and take the boy with him (30, etc.). There is no evidence that Mrs. Glass was concerned with church matters but she expressed convictions, whether true or not, as to her sense of right and wrong.

(MRS. GLASS, p. 173, l. 11, etc.):

Q. Would you consider that if you kissed a man other than your husband that that would be immoral? A. Why, that depends on who the man was. I have various brothers and brothers-in-law. They are men.

Q. Would you consider that if you kissed Mr. Gunardson it would be immoral? A. *Absolutely.*

Considering the conduct of Mrs. Glass in this case, in the light of the standards and social conceptions of the parties, *according to her own measure, she stands self-convicted.*

The strong impression made by this case on the careful guarded mind of the Vice Chancellor is exhibited when he expressed his opinion curtly as follows (page 225, line 12, &c.):

“I consider the petitioner’s charge that the defendant committed adultery with Gunardson, fully proved. From about May 1st until the middle of October, by the testimony of all the witnesses on the subject, with the exception of Gunardson, he spent practically every evening, every holiday, and every Sunday at the Glass home, ostensibly upon a painting job which involved the decoration of seven rooms in a bungalow. Meanwhile he worked

every week day at his own occupation, which was not that of a painter. He furnished material and he did all the work. During the progress of the work he made no claim whatever on Mr. Glass for repayment for the paint he was buying from time to time or for payment on account of his labor, although he says he always expected to be paid for the work he had undertaken. A greater part of the period from May 1st to the middle of October Mr. Glass was away from home—he was in a hospital nearly a month—and Mrs. Glass and Mr. Gunardson were in the house together during the evening, frequently as late as midnight according to the testimony of Mrs. Glass and Gunardson, and according to the testimony of neighbors, as late as two or three o'clock in the morning. And they were there alone, except for the presence part of the time of the small son of the parties to the suit and of the Ritchie girl who was then about fourteen years of age.

The circumstances are peculiar and they place Mrs. Glass and Gunardson under suspicion. Mr. Glass and his wife had not been living happily prior to this May 1st, and while Gunardson was visiting the home, Mr. Glass objected to his coming there. Mrs. Glass knew that her husband was suspicious of Gunardson and did not want him around; yet she insisted that he do the painting work. And why was it of such importance that the rooms be decorated just at this time? The parties had moved into the house in June, 1921, and the rooms had remained undecorated up to May, 1923. About the time Gunardson commenced his work, the strained relations of husband and wife had become more acute and they were talking of a separation and a sale of the house. Why was it of such importance to Mrs. Glass that a house which might soon be sold and which was sold in October, 1923,

should be decorated? Why should Gunardson sacrifice all his spare time to do the job? Why should he, who had a wife and family of his own, who had no friendship for Mr. Glass and who is supposed to have had no especial friendship for Mrs. Glass, devote practically all his evenings, holidays and Sundays for a period of five months, working on a job, without arranging in advance for his pay, without pay while the work was progressing, and merely in the hope of being paid at the end of his five months' labor, in the meantime giving no time to his own family and depriving himself of their society? But Gunardson says he did not work Sundays, that he merely went to the Glass home to visit her and her son and to take them out riding in his automobile. Why this attention to her on a day of rest and neglect of his own wife and family, if he was merely interested in a painting job? His continuous visits to Mrs. Glass and their occupancy of a dwelling house, absolutely alone, for many hours at a time, provided the opportunity for acts of adultery. Then there is the testimony of neighbors—disinterested persons—going to show that Gunardson was at this house until earlier hours in the morning than he admits, and that they saw acts of familiarity and affection between him and Mrs. Glass, such as kissing and embracing, all of which lead me to believe that there was an inclination to commit adultery. Considering the strained relations between husband and wife, the peculiar circumstances under which Mrs. Glass and Gunardson account for Gunardson's visit to a woman who considered herself neglected by her husband; the opportunity and the testimony as to the inclination, I must reach the conclusion that Mrs. Glass was guilty of adultery with Gunardson during the summer of 1923, and there will be a decree for the petitioner accordingly."

POINT II.

There was no connivance; moreover, it not being raised as a defense below, it is not now available as a defense on appeal.

In the court below the only defense offered by appellant was a denial. Appellant having conceived that the petitioner made out a strong case on the charge of adultery, now, for the first time raises the affirmative defense of connivance. The answer of defendant-appellant did not set up such a defense. Petitioner has not been called upon before to meet such defense, and we dispute the availability of such defense for the first time on appeal, as it has deprived respondent of opportunity to meet the issue in the way provided under our practice.

“In divorce, the defense of condonation is not available unless pleaded.”

Delaney v. Delaney, 69 N. J. Eq. 602.

“In a suit for divorce, on the ground of adultery, the court cannot lay hold of any matter not properly put in issue on the ground that public policy and public morals require it; and, therefore, adultery on the part of plaintiff cannot be urged as a defense where it has not been pleaded.”

Jones v. Jones, 18 N. J. Eq. 33.

“In actions for divorce, the court cannot give the defendant the benefit of any defense not set up in his or her answer.”

Fuller v. Fuller, 41 N. J. Eq. 198.

Petitioner insists that such defense cannot be considered. It has been seen from the facts, how-

ever, that defendant did not make good this defense even had it been pleaded. We will further show by the law that there was no connivance.

Pleading and defending inconsistently is permissible but in so doing the pleader is oftentimes placed in a perilous position. To say, "I didn't do *nothin'*, but won't do it again"; I did no wrong, but my husband consented, suggests the thought as to what, if anything, is really true in the denial. In this case it can mean nothing but a dilatory admission of guilt with a plea for exoneration.

"Husband's desire to be rid of his wife, allowing her to pursue her own course, and failing to prevent her from committing adultery, is not such connivance as prevents him from securing a divorce."

Dilatush v. Dilatush, 86 N. J. Eq. 346.

"In a suit for divorce on the grounds of adultery, the watching of a suspected husband, and suffering him to avail himself of an opportunity created by himself without any previous knowledge or encouragement on the part of the wife, is not a connivance or consent on her part which will bar the divorce. All of the cases in our courts which have considered this defense of consent or of connivance; have applied the doctrine to acts or conduct which were in themselves of such a character as to cause or tend to bring about the crime."

Lehman v. Lehman, 78, N. J. Eq. 316.

In the above case, the wife had cause to suspect her husband of infidelity but having no proof of it, set about to catch her husband in some wrongful act. This she accomplished by watching herself and the employment of private detectives. The court held that the conduct of the wife was

not the effective cause and did not conduce or contribute to the misconduct of the husband and that the divorce should, therefore, be granted.

“In the absence of any proof to show that the husband’s conduct towards the wife was induced by a wish or expectation that she should commit the offense charged, the husband will be entitled to a divorce.”

Warn vs. Warn (Court of Errors and Appeals), 57 N. J. Eq. 642.

“Connivance may be implied from acts and omissions of the complainant naturally tending to bring about the other party’s adultery or otherwise showing the complainant’s consent thereto. However, mere negligence, folly, dullness of apprehension, or indifference, will not suffice to charge the complainant with connivance.”

Hoar v. Hoar, 3 Hagg. Eccl. 137; 5 Eng. Eccl. 51.

“The acts or omissions relied on to constitute the defense must be such as to show a willingness that the guilty party should commit the matrimonial offense complained of. The husband’s failure to protect the wife against temptation will not relieve her from the consequences of her adultery unless, actively or passively he consents thereto and if he suspects her of the offense he may take measures to secure proof to be used by him in an action for divorce without being guilty of connivance.”

19 Corpus Juris 91.

Conclusion.

Glass was a scrupulously honest witness. He is an intelligent man and it can be seen from his answers that he might have very frequently colored his story with the idea of bettering his case. His testimony is an indicia of the uprightness of the man and his candor. While standing alone his testimony goes far to portray a case, without the numerous incriminating details related by neighbors who had no motive but to tell the truth, his case would have failed.

From a reading of the testimony of all the witnesses, many jurists with discreet and guarded minds would be convinced that Mrs. Glass committed adultery with McDonald. Her relations with Fornoff, when isolated, do not mean so much. Mrs. Glass' course of unconventional conduct over a period of many months, particularly in July, 1923, while her husband was in the hospital and their son was away to camp, proved adultery with Gunardson beyond a shadow of doubt. In arriving at this conclusion, this court has much stronger evidence, in greater detail and of a more creditable nature than other cases affirmed by it and herein cited.

In a case of this nature where counsel pick out isolated portions of testimony, seek to construe such selections favorably and apply law in other cases thereto, we believe the easier and wiser method for a court on appeal is not to spend undue time on the argument of counsel but to read

the testimony carefully as given, for all the testimony is important and should be so read to be understood. If this is done, we believe, this court will arrive at a decision as easily and promptly as the learned Vice-Chancellor who orally decided the case from the bench.

In closing we desire to reiterate that connivance is not a defense to this case. The length of appellant's brief has distastefully required us to answer accordingly even at the risk of taxing the court's time.

We believe also that the Court of Chancery, having found in favor of respondent, the burden is on appellant to show that court to be clearly wrong. The learned Vice-Chancellor who heard the case had the advantage of observing the appearances and manner of the various witnesses on the stand and some force is entitled to be attached to his deductions in that regard, and that any doubt must be resolved in favor of the correctness of the decision below and an affirmance thereof.

We respectfully submit that the decree of the Court of Chancery should be affirmed.

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Of Counsel.

February Term, 1926.



