

In Chancery of New Jersey.

Between—

JOSEPH GLUCK,
Petitioner,

and

AMELIA GLUCK,
Defendant.

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On Petition
for Divorce.

*To the Honorable Alexander T. McGill, Jr., Chancellor
of the State of New Jersey.*

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The petition of Joseph Gluck, of Hoboken, in the State of New Jersey, respectfully shows that your petitioner was married to his present wife, Amelia Gluck, the defendant, on or about the fifteenth day of August, in the year eighteen hundred and seventy-six, by the Rev. A. H. M. Held, now deceased, a Catholic priest, at his residence in Christopher street, New York City, State of New York.

And your petitioner further shows that he is a resident of the State of New Jersey, and has been for more than three years last past.

And your petitioner further shows that his said wife lived with him for about four years after they were married, and until the month of October, eighteen hundred and eighty, when she deserted him.

And your petitioner further shows that shortly after the said desertion of him by his said wife, to wit, in the year eighteen hundred and eighty-one, he removed to the City of Hoboken aforesaid.

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And your petitioner further shows that for more than three years last past his said wife has willfully, continually and obstinately deserted him.

And your petitioner further shows that there is one child, the issue of his said marriage with the said defendant, a girl, named Cecilia, aged about eleven years.

And your petitioner further shows that said defendant resides at No. 33 Clinton Place, in the City of New York, County and State of New York.

- 10 Your petitioner therefore respectfully prays that he may be divorced from his said wife, and that he may have such other or further relief as to this Honorable Court may seem to be equitable and just.

And your petitioner will ever pray, &c.

HOFFMAN & HERBERT,

Solrs. for and of Counsel

with Petitioner.

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

Joseph Gluck, being duly sworn according to law, upon his oath says that he is the petitioner named in the within petition, and that his petition is not made by any collusion between him and the defendant for the purpose of dissolving their marriage, but in truth and good faith, for the causes set forth in said petition.

JOE GLUCK.

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Sworn and subscribed before }
me at Jersey City this tenth }
day of July, A. D. 1888. }

ASA W. DICKINSON,

M. C. C. of N. J.

IN CHANCERY OF NEW JERSEY.

Between—

JOSEPH GLUCK,

and

AMELIA GLUCK,

Defendant.

Answer.

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The answer of the above named defendant Amelia Gluck, to the petition of the said petitioner filed herein respectfully shows to this Court.

FIRST. That she admits that the said petitioner and this defendant were married as stated in the said 20 petition, but by a Protestant Minister and not by a Catholic Priest as stated in said petition.

SECOND. This defendant further answering says that she denies that the said petitioner is a resident of the State of New Jersey or that he has been such resident for the period of three years prior to the filing of his said petition, and defendant avers that the said petitioner is a legal resident of the State of New York, such residence has been taken up solely 30 for the purpose of enabling the said petitioner to acquire a residence in this State for the purpose of this suit.

THIRD. For further answer to the said petition this defendant says that it is true as alleged in the said petition that defendant and said petitioner lived together from about four years, until the month of March, 1880; and not the month of October as stated in said petition, but this defendant denies 40

that she deserted the said petitioner as in said petition alleged, and avers that the said petitioner at the time aforesaid deserted this defendant and has ever since refused to live with or provide for her.

FOURTH. And this defendant avers that since the marriage of the said petitioner with this defendant and on or about the day of September, 1880, the said petitioner wickedly, disregarding the solemnity of his marriage vows and the sanctity of the marriage state committed adultery with a woman unknown to this defendant, and that since the discovery of the said act of adultery this defendant has not cohabited with her husband and said petitioner. All which matters and things this defendant is ready to aver, maintain and prove as this Honorable Court shall direct and humbly prays to be hence dismissed with her reasonable costs and charges in this behalf most wrongfully sustained.

NIVEN & MINTURN,

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Solicitors of Deft.

HUDSON COUNTY, ss.

Amelia Gluck, defendant above named, being duly sworn says, that the matters and things set forth in the foregoing answer so far as they relate to her own acts and deeds are true and so far as they relate to the facts and deeds of others she believes them to be true.

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AMELIA GLUCK.

Sworn to before me this 11th }
day of September, 1888. }

CHARLES K. CANNON,

Master in Chancery of N. J.

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IN CHANCERY OF NEW JERSEY.

JOSEPH GLUCK,
 Petitioner,
 and
 AMELIA GLUCK,
 Defendant.

On Petition
 for Divorce. 10

Examination of witnesses, &c., in the above entitled cause, before JOSEPH F. RANDOLPH, Esquire, the Advisory Master to whom the same was referred by order of reference made herein, at the Chancery Chambers in Jersey City, on Thursday, the twenty-fourth day of January, eighteen hundred and 20 eighty-nine, at ten o'clock in the forenoon.

APPEARANCES—

JOHN W. HERBERT, Jr., Esq., for Petitioner.

JAMES F. MINTURN, Esq., for Defendant.

(Bill and answer read.)

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FRITZ ERNST, sworn on part of Petitioner.

Direct examination by Mr. HERBERT.

Q. What is your business? A. I am a collector for the Metropolitan Insurance Company.

Q. Where do you live? A. 26 Bloomfield street, Hoboken.

Q. How long have you lived there? About a year and a half now, a year and a quarter.

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Q. Prior to that time where did you live? A. In First street, No. 74, and 134 Garden street.

Q. How long did you live in First street? A. In First street about two years. I lived in Garden street twice; I lived in Garden street from 1881 to 1883, and then I moved to First street No. 74 and I lived there two years, and then I moved back again to the old place, that was about 1884, something like that; I moved back again and then I stayed there at 134 Garden street until 1887, then I moved over here to
10 26 Bloomfield street where live now.

Q. Are you acquainted with the petitioner in this case Joseph Gluck? A. Yes, sir.

Q. How long have you known him? A. I have known him since 1881, the end of the year; it was between the 21st and 30th of December when he came to me and hired that room; he hired one room of me: since that time I have known him.

Q. How long has he been living in your house? A. He has been living with me until now; but he
20 went away about four months or six months where he lived with Mr. Fidler in Hoboken when he lived there.

Q. Do you remember Mr. Fiddler's first name? A. No, I do not; I don't know him at all.

Q. How long was he away from your house during that period? A. About four months, five months, I can't tell exactly.

Q. What was his business there, or what part of your house did he occupy? A. He only had one
30 room, furnished room.

Cross-examination by Mr. MINTURN.

Q. How long have you lived in Hoboken? A. Since that time until now; I have lived ten years in Hoboken, over ten years; I lived there in 1878 until 1879, then I went back to Germany again, and came back here and lived in Hoboken until that time; I have lived steady in Hoboken from 1881 until now.

40 Q. Where do you live now? A. 26 Bloomfield street.

Q. Are you a married man? A. I am.

Q. You reside with your wife? A. Yes, sir.

Q. Who was the owner of the house that you live in? A. Mr. Rame.

Q. What is Rame's business? A. He was a manufacturer of soda water in New York.

Q. How long have you lived in Rame's house? A. About a year and a quarter now.

Q. Where did you live before that? A. I lived in 74 First street.

Q. Who was the owner of that house? A. Mr. Hausen.

Q. What is his business? A. He keeps a furnishing store.

Q. How many rooms did you occupy in his house? A. I occupied four rooms there in Mr. Hausen's house.

Q. How long did you reside there? A. About two years.

Q. Where did you reside before that? A. At 134 20 Garden street.

Q. Who was the owner of that house? A. Mr. Idell.

Q. What is his business? A. I don't know his business.

Q. How long did you reside there? A. I resided there about four years altogether; one time I went out and went back again.

Q. Where did you reside before that? A. In the same place; I lived there twice; I lived there from 30 1881 to 1883.

Q. Where did you come from to Hoboken? A. From Germany.

Q. You came direct from Germany to Hoboken? A. Yes.

Q. When did you land in Hoboken. A. I arrived in Hoboken 4th of September, 1887.

Q. Didn't you live in Hoboken before that? A. Yes, sir; in 1878 and 1879; I wasn't married then.

Q. Where did you live then? A. I lived then on the corner of Eighth and Washington street.

Q. Did you board? A. Yes, sir; I boarded there.

Q. Who kept the house? A. Mr. Corker.

Q. Is his wife living? A. Yes, sir; she is living, but she went back to Germany.

Q. When did you first arrive in this country? A. 2d of August, 1878.

Q. Then you lived in Hoboken? A. Yes, sir.

Q. You boarded there? A. Yes, sir; I boarded there; 10 I had three times different rooms.

Q. When were you married? A. I was married here the 6th of December, 1881.

Q. Then you took a house? A. Yes, sir; then I took that place.

Q. Which place? A. Where I lived before, 134 Garden street; I rented there six rooms.

Q. Who kept that house? A. Mr. Idell.

Q. Did you do any business in Hoboken? A. No, not in particular.

20 Q. What were you doing for a living. A. I was working in different places.

Q. What was your business? A. I was working in a brewery; I was working in tailor trimming business; you know how that is; I didn't have any permanent business.

Q. You are now in the insurance business? A. Yes.

Q. Where is your business? A. With the Metropolitan, New York east.

30 Q. Are you in Hoboken? A. I live in Hoboken, but I work over there.

Q. You don't do business over in Hoboken? A. No, sir.

Q. When did you first meet Mr. Gluck? A. Between the 21st and 30th of December, 1881.

Q. How did you come to meet him? A. I had a bill out and he came and asked if he could have the room; I says, "There is the room, look at it." And 40 he says, "All right. What do you want for it?" I

says, "Five dollars a month." He says, "All right, I take it." So he took the room, and I met him there.

Q. Did he occupy the room then? A. Yes, sir.

Q. Did he send any furniture or baggage? A. No furniture; he only had one little trunk.

Q. Did he sleep there? A. Yes, sir.

Q. Every night? A. Oh, no, not every night.

Q. How often did he sleep there? A. I can't tell, sometimes I didn't see him in a month, sometimes I 10 didn't see him in two weeks or so; I don't know.

Q. You didn't watch him? A. No, not all.

Q. Did your wife have to make his bed up for him? A. No.

Q. Who made his bed? A. I guess he did himself; he had a key and came and went out again.

Q. He used to make his own bed? A. Yes, sir.

Q. Did your wife clean the room for him? A. No; he had a little girl there and the little girl cleaned the room; I don't know that; we never attended 20 to it.

Q. You never attended to the room at all? A. No, not at all.

Q. You think he had a little girl? A. Yes; but I never seen her or know anything about that.

Q. How old was she? About eight or nine years; we never attended to it; he had a key, I gave it to him and he pays the rent and that is all we know of it.

Q. How long did he remain as a boarder or with 30 that furnished room? A. About four years; that is so; he came there.

Q. How often did you see him there during those four years? A. Oh, I can't tell that, a good many times.

Q. Did you see him every week? A. No; I didn't see him every week; I didn't see him every week.

Q. Did you see him every month? A. Yes, every month; he pays the rent; I didn't see him; my wife saw him.

Q. He didn't pay the rent to you? A. No; he gave it to my wife, or paid it to somebody else; I always got the rent from my wife, except when my wife kept the rent; I have got enough to do without that.

Q. But you never got any rent from him? A. No; my wife got it.

Q. Do you remember when he left your place? A. He never left my place; only on account when he went away, he left a trunk there and went
10 back and I didn't see him for two years or two years and a half; he went out to Texas he told me; then he came back again and we lived in the same house again; I came back there from 74 First street and I hired the rooms again; so he was passing the house and came by, and he said "Hello, do you live here again?" and I says "Yes," and he says "Can I have the room again?" and I says "Yes, it is empty;" and from that time he stayed there until now.

20 Q. When he was going away did he bid you good bye? A. No; he didn't say a word; I didn't know that he was going; he left his trunk there and paid the rent; and I didn't see him for a long time and I didn't know anything about him.

Q. The rent was paid for the two years all the time? A. No; he pays about six months in advance and after he came back he says "Have you rented that room?" and I says "Yes, I did." I had a fellow
30 there for at least nine months and then that fellow went away, and then he came back and hired the room, and I says, "I have had very bad luck with that room. I never saw you, never knew where you was." And he pays the rent back.

Q. For the two years? A. Not for the two years, but for the nine months when I had to rent it; we said we would let that go, and he pays that other, and I says we will call it square.

Q. Do you remember the month when he left your
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place to go west? A. It was about the middle of the year.

Q. You don't remember the year? Yes; it was 1884 and 1885.

Q. You don't remember the month? A. No, I can't tell you.

Q. And you are satisfied that he was away two years? A. Certainly; I had to rent it, I couldn't keep it.

Q. Did he ever write you during those two years? 10
A. No, never had a letter; I didn't know where he was until he came back and told me so and so.

Q. Was his trunk in your place all the time? A. Yes.

Q. Did you ever examine his trunk? A. No; he didn't owe me anything; I didn't know what he had in it?

Q. What did you do with his trunk? A. I put it away, left it in the rooms, left it stand there; it was clean and quiet there; I left it until he came back 20 again.

Q. Was there anything in the trunk? A. Yes, there was something in it; I could feel that; I don't know what was in it, may be his clothes.

Q. Did he live with you from that time when he came back? A. Until now; on account of four months when he went away, when I lived with Fidler he didn't live with me.

Q. What year was that? A. It was in 1885 I guess when he came back again or before that time, 30 I don't know; if I kept all the receipts that I got from the landlord I could tell you right away, but I throw them away, I never thought I would get in trouble about that.

Q. How much rent did he pay you for the room? A. Five dollars.

Q. Does he pay that every week or every month? A. Every month he pays that; sometimes on the 5th, sometimes on the 6th, but always for the month.

Q. Who writes the receipts for him? A. Nobody does at all.

Q. You never gave him any receipts? A. No, never did.

Q. Do you remember the year that he came back from the west? A. It was about 1885, I guess.

Q. You don't remember what time in 1885? A. No.

Q. Does he still occupy the same room that he occupied before? A. Same room; it is a little small
 10 hall room; you only could put the bed and wash-stand there and a chair, that is about all; he had his key and good-bye, nobody cared for him at all; we didn't know if he was home or if he wasn't home in a month or anything about that because we didn't have any trouble about it and he could come and go.

Q. Have you met him every week since he came home, have you met him in the house? A. Yes, some-
 20 times in two weeks I seen him once and twice a week, and so on, because at that time I had a position where I used to work at nights, and so I couldn't see him every week; may be he was home every week, may be not, I don't know; I had a position where I had to work nights, and in the day time I was sleeping, and so I couldn't see him; I don't know whether he was home or not; but I saw him during the week once or twice so far.

Q. Do you know where he eats his meals in Hoboken? A. I don't think he gets them in Hoboken.

30 Q. Don't get any meals in Hoboken? A. No.

Q. What time does he leave your place in the morning? A. He leaves the place now every morning at half-past six or seven o'clock.

Q. Every morning? A. Yes.

Q. What time does he come back? About seven or six or seven o'clock at night.

Q. How long has he been coming that way to your house? A. Oh, about a year and a half or two
 40 years.

Q. Do you see him every night now? A. I see him every night—(Interrupted).

Q. Pretty regular? A. Yes; because he has to come through our room and I have to see him, but in the other place he had a little small hall room where he didn't need to come through our place, but now he has to go through our kitchen before he can pass to his room.

Q. Do you go out in the evening much in Hoboken? A. Very seldom; I go out sometimes, yes. 10

Q. Do you go to any of the neighboring places, the saloon? A. No, sir; I am a steady husband; I stay home.

Re-direct examination by Mr. HERBERT.

Q. How is the room furnished where he is now? A. It is a parlor.

Q. How long has he occupied that room? A. The same room until we moved over there, he moved along. 20

Q. How long has he occupied that room that he is in now? A. We moved over there the 1st of September, 1887.

Q. Does your wife take care of that room? A. Yes.

Q. Does she put on the sheets on the bed and take care of the clothing? A. Oh, yes; it is a different thing entirely, on account of we know Mr. Gluck so long, and so I said, "The parlor is big enough so I can put a bed—(Interrupted). 30

Q. Never mind about that. A. That is the reason my wife makes up all the work for him, cleans the room and makes the bed and so on.

Q. Hasn't she always done that? A. No.

Q. How long has she done that for him? A. Since we moved over there, moved over in 26 Bloomfield street.

Q. When you were living at 26 Bloomfield street he was living at 26 Bloomfield street with you?

A. Yes. 40

Q. How long do you say you were at 26 Bloomfield? A. A year and a quarter about, or a year and four months now.

Q. Have you any very clear recollection when Mr. Gluck came back from Mexico? A. I haven't.

Q. You do remember that for a year and a half he has been living with you at your present residence? A. Yes, sir.

Q. And a year and a quarter at Bloomfield street?

A. Yes.

10 Q. And where before that? A. At 134 Garden street.

Q. Did he make that his home? A. He did.

Q. You said that he didn't take his meals in Hoboken, do you know that to be so? A. No.

Q. Just tell what you know? A. In the evening he certainly takes his meals with me together; if he comes home in the evening then he takes his meal with me; he goes out and buys stuff and eats it, but that I call no meal, that is only lunch.

20 Q. He does not take dinner at your table? A. No.

Q. He never has boarded with you? A. No, he never did.

Re-cross-examination by Mr. MINTURN.

Q. How often has he had those meals with you?

A. You mean that evening lunch?

Q. Yes? A. Almost every night.

30 Q. Since what time? A. Since I have been living at 26 Bloomfield street.

Q. And that is how long. A. A year and a quarter.

Q. Last September a year ago? Yes, sir.

Q. Before that he never did that? A. No, never.

Q. And he does it now almost every evening? A. Almost every evening, yes.

Further re-direct by Mr. HERBERT.

Q. He lived with you on Bloomfield street you say a year and a quarter? A. Yes, sir.

Q. Now before that where did you live? A. Before that I lived at 134 Garden street.

Q. Were you living there when he came back from Mexico? A. Yes, I lived there.

Q. Do you remember the year that you lived there? A. Yes, I lived there from 1884 to 1888.

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Further re-cross by Mr. MINTURN.

Q. Do you have any other furnished rooms to let? A. Yes, sir.

Q. You had other boarders? A. Sometimes.

Q. Have you any who have been with you as long as Mr. Gluck? A. No.

Q. Have you any who have been with you over a year or two? A. I had one, yes, that is so; they are all working men there, they are all dock hands there; they pay me by the week and they leave by 20 the week and then they go away again; I didn't have that regular rent, I couldn't get any regular customer in there.

Q. Have you any boarders now who have been with you over a year or more? A. No; I have got no boarder now for at least three years, four years.

Q. Except Mr. Gluck? A. Yes, Mr. Gluck.

Q. Is Mr. Gluck the only one with you now? A. Yes, because I have got no room for any other boarders.

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Q. When you lived in Bloomfield street did you have any room there? A. No, sir.

Q. When you lived in Garden street? A. Yes, sir.

Q. That was before September, 1887? A. Yes, sir.

Q. Did you have any boarders there beside Mr. Gluck? A. I did not, no.

Q. You never met Mr. Gluck before he came to inquire for a room? A. No, I never saw him.

Q. Did your wife know him? A. No.

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JOSEPH GLUCK, the petitioner sworn.

Direct examination by Mr. HERBERT.

Q. You are the petitioner in this case? A. Yes.

Q. When were you married to your wife? A. I was married in 1876.

Q. By whom? A. By Doctor Held.

Q. The Rev. A. H. M. Held? A. Yes.

Q. Where at? A. At Christopher street.

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Certified certificate from the registry of records of the Health Department of New York city, and transcript from the records of marriages in the City of New York, showing the marriage of Joseph Gluck to Gulia Amelia Rowe on the 15th of August, 1876, by the Rev. A. H. M. Held offered in evidence on part of petitioner, and marked Exhibit P. 1.

20 Mr. MINTURN. The marriage is admitted in the answer, except as to the fact of the priest.

Q. Where did you reside immediately after your marriage? A. I resided in 242 or 224 West Tenth street, New York; I couldn't tell the exact number, 224 or 242.

Q. Who lived with you there? A. I, my wife, her brother and her mother.

Q. What business were you then engaged in? A. 30 I was working for her brother.

Q. How long did you continue there? A. I couldn't say exactly how long.

Q. Give us your best recollection. From there where did you go? A. From there I went to 131 Clinton Place.

Q. Did your wife go with you? A. Yes, the whole family did.

Q. How long did you live at 131 Clinton Place? 40 A. At 131 Clinton Place about seven or eight months, I couldn't tell exact.

Q. From there where did you take up your residence? A. From there we moved down to First Avenue between Fourth and Fifth street or between Third and Fourth street.

Q. How long did you live there? A. I was living there, I couldn't tell exact, four or five or six months it so long ago I couldn't tell exact.

Q. Give us your best recollection? A. About five or six months.

Q. Who lived there with you? A. I, my wife and 10 her mother.

Q. From there where did you go? A. From there we moved down in Fifth street between Third and Second Avenue.

Q. How long did you live there? A. There I was living a short time, I don't know how long I was living there, perhaps two or three months, I couldn't tell exact, but there I remember we was there a short time.

Q. From there where did you go? A. From there 20 we went up to Clinton Place; I couldn't tell the number.

Q. How long were you there? A. In Clinton Place I was there until I was fired out of the house.

Q. How long was you there? A. I was there perhaps a year, perhaps two years, I couldn't tell.

Q. What time of the year was it that you and your wife separated? A. That was in 1880. I guess it was in the fall; it is so long ago that I can't recollect very well, but I think it was in the fall; I 30 couldn't tell for sure.

Q. You don't remember the month? A. No; I couldn't.

Q. State the circumstances under which you and your wife separated? A. I used to have a store at 133 Eight street; I and my wife was living with her mother together in Clinton Place.

Q. What was your business at that time? A. Cigar store, cigar manufacturer.

Q. What was your work? A. I was a cigar manufacturer at 133 Eighth street, New York.

Q. What part in the manufacture of cigars did you do yourself? A. I was stripping and selling goods at that time; and I took home some Havana to strip, that my wife should strip it; she understands the business.

Q. Had she been engaged in that business before?

A. Yes, sir; she was working for her brother.

Q. At the time that you were married to her?

10 A. Yes, when I was single. When I came home I told her she should strip it and put it in the front parlor to dry, and left the stuff; and when I came home I found the whole bundle just as I had brought it home; I asked her why you don't strip this Havana; she gave me a sassy answer; I took it that same evening in the store and I stripped it myself; I was sitting at it until twelve o'clock at night, and stripped it myself; the next day I wanted to satisfy myself of what my wife was doing at home,
20 when I never found no meal regular done, what she was doing home; and I went during the day home, that was between nine and ten o'clock, to surprise her; I seen her sitting on the sofa with her mother and stripping Havana for her brother.

Q. Her brother was in the same business? A. The same business; I said to her, "Amelia, is this the way a husband to help?" She answered, "Well, if you don't like it you know what you can do. You can go your way, I go my way." When I came home
30 and never saw her to work I took my hat and went to the store; when I came home I found the trunk packed; there her mother sat and there she talked; I found my trunk packed; there was no dinner done and I don't find her home; her mother said, "There is your trunk, get out of my house."

Q. Who paid the rent for that house? A. Her mother.

Q. Did you acquiesce in that order? A. No; I
4) took my hat and went back to the store; when I

come home towards evening to see if I could find my beloved wife home, she wasn't home and her mother said there is the trunk ; I set it outside.

Q. Was that the evening of the same day ? A. Of the same day ; I went and got on a chair and took my picture down from the wall, my crayon picture, took the trunk—no, I don't take the trunk ; I send an express for the trunk and moved out.

Q. Did you see your wife that day ? A. No, sir ; I did not see her that day.

Q. How soon after that did you see her ? A. I saw her in the street a few days afterward. 10

Q. Did you have a conversation with her ? A. Yes ; I told her to leave her mother and I would furnish a room and for her to come and live with me.

Q. What did she say to that ? A. She refused, she refused to leave ; she said, "I would rather leave you than to leave my mother."

Q. She said she would rather leave you than to leave her mother ? A. Yes, sir. 20

Q. Was there anything more said ? A. Yes, sir ; I as a gentleman had sent her for pretty near one year every week money.

Q. How much money ? A. It depends ; sometimes five dollars, sometimes eight dollars, sometimes nine dollars, much as I could afford to give her, to think that she would come to think over it and come to live with me ; I asked her during the time, many a time, to come and live with me, and she refused, and after that I dropped sending her money. 30

Q. And during the year and while you were sending her money you saw her a number of times ? A. Yes.

Q. What did you say to her on those occasions ? A. I begged her always to come and live with me and leave her mother.

Q. Was any one present at any one of those times ? A. In 1881 I called her in the store, there was two gentlemen there by accident who heard it ; I said to 40

her in German "Amelia, dear, come and live with me,"

Q. Who were they? A. One gentleman is Mr. Schwarsckop and the other one is Mr. Ansein.

Q. State what the conversation was on that occasion? A. When I called her in the store I said in German "Amelia, come and live with me, I furnish you three rooms and we live together. Leave your mother." She said, "For this you called me in," and walked out, and said "no."

10 Q. Did you see her after that? A. Oh, I saw her many times; she was bound to pass.

Q. Did you ever have any conversation with her after that? A. Oh, yes, many a time I had conversation with her.

A. How soon after that time? A. I had conversation with her most to say four or five weeks once.

Q. Did she during any of that period, that is, from the time that you separated in 1880 down to the close of 1881, or has she since that time ever made any ad-
20 vances to you, ever offered to come and live with you? A. No sir; she always refused, all the time, and still she followed me to put me in every way she could in trouble, everywhere; she had me indicted here before the Grand Jury and I showed myself innocent.

Q. Did you during the years 1881, 1882, 1883 or 1884 write her any letters? A. Yes, sir; I wrote her three letters.

Q. What year did you write her? A. I wrote her
30 one in 1881, 1882 and 1883.

Q. What years? A. I wrote her in 1881 one, I wrote her in 1882 one and I wrote her in 1883 one.

Mr. HERBERT. I gave notice to produce those letters.

Mr. MINTURN. I haven't the letters here this morning. We will make search for them, and see if she has them.

40 The COURT. The examination on that point

will be deferred until the letters can be produced.

Q. Did she answer any of those letters? A. No sir.

Q. After you were driven from your home in which you lived by Mr. Gluck's mother where did you go?

A. I stayed a while in New York.

Q. For how long? A. I stayed in New York until 1881.

Q. Whereabouts? A. I stayed in New York in 10 Clinton Place, and in Clinton Place I stayed about two weeks in a furnished room, and then I went down in Second Avenue in a furnished room.

Q. From there where did you go? A. I went over to Hoboken.

Q. Do you remember with whom you lived in Hoboken when you first went over there? A. The first one I lived with when I went over there I lived a short time with a widow, I couldn't tell you how it is, in Washington street, just for a year or so. 20

Q. For a year or more? A. This was in 1881, but what month I don't know, the latter part of the first of the year, but I don't remember when it was; then after I went looking for a room I found Mr. Ernst.

Q. Did you go to Ernst before or after you came back from Mexico? A. No, I went first before I left.

Q. When you went to Mexico where were you in Mexico? A. I was in Mexico, and in Dallas, Texas, and in Indian Territory, Cherokee, the capital of the 30 Indian nation.

Q. What time did you return? A. I guess I returned in 1885, but what time I couldn't tell.

Q. Are you sure whether it was 1884 or 1885? A. I couldn't tell you what time exact; this trouble got my brain a little affected to remember everything from year to year.

Q. Was it the summer or the winter that you got home? A. When I got home I couldn't swear; I hate to swear false; I couldn't say whether it was 40 the spring or fall, I couldn't swear which.

Q. Then where did you go? A. I went back to follow Mr. Ernst where I left my clothes.

Q. How long did you live with Mr. Ernst? A. With Mr. Ernst I lived until the present day.

Q. How many years have you been there now continuously? A. Until I came back.

Q. How many years is that? A. From 1885.

Q. What time in 1885? A. That I couldn't tell you, Mr. Herbert; you can take me any way you want, I couldn't tell you.

10 Q. Can you tell the number of years you have been there? A. I went over I remember in December, 1881, until the present day; there I was missing; I was on the road, and I was missing when I went to Mr. Albert Fidler.

Q. How long did you live with Mr. Albert Fidler?

A. I think four or five months; I have got the receipts.

Q. What year was that? In 1887.

20 Q. How did you come to go from Ernst's place to Fidler's? A. I will tell you why, on account of the children; they had a child, which is dead now, it was so much noise for me, and I went over there and after that I went back again.

Q. Were you in your relations with your wife while you lived together happy? A. I think I could live very happy with my wife but on account of the mother.

30 Q. If it were not for the mother-in-law? Only for the mother, she bossed me; she had the pants on; then my wife got after the mother the same way.

Q. You spoke a little while ago about your wife having had you indicted? A. Yes, sir, she had me indicted here in Jersey City.

Q. What was that for? A. She had me indicted here in Jersey City, that I perjured myself here in Jersey City, that I am not a resident of this State.

Q. Did she appear at the trial as a witness? A.

Yes, she appeared and had a lot, a set of false witnesses.

Q. What was the result of that trial? A. The trial was that she would be a free woman to put me away.

Q. What was the result of that trial? A. I got free.

Q. You were acquitted? A. Yes, sir. She had me arrested a few times in New York and I proved I am innocent.

10

Q. For what did she have you arrested in New York? A. Oh, when she had a spell on herself she went and took out a warrant for me; I am a poor man and haven't any money, and she went and had me arrested for support.

Mr. HERBERT offers in evidence on part of petitioner exemplified copy of indictment of the State v. Joseph Gluck, marked Exhibit P. 2 of this date.

20

Q. You say she had you arrested once? A. She had me arrested several times in New York.

Q. About how many times? A. She had me arrested about three or four times, four times I think.

Q. What was the result? A. The result was for support, why don't I support her, and the Judge never gave her support.

Q. Do you remember on what ground? A. Yes, sir.

30

Objected to.

Objection sustained until further proof.

Q. Do you remember having had any conversation with your wife upon any of those occasions in the presence of the Court? A. Yes, sir.

Q. State what it was? A. It was that Judge Duffy was telling me that I should take her home to live with me, and I took her under the arm and

40

thanked him for it and in the middle of the court room she threw me away and said "I won't go," and there she sat.

Q. Did she say why she wouldn't go? A. No, she said she wouldn't go and live with me; I was ashamed, so that I didn't know what door to go out of when she threw me away like that.

Q. When was that? A. This was in 1887, on August 24th.

Q. You were never compelled to give her any support? A. No, sir; I never was compelled; I gave her for one year of my free will for the child three dollars a week.

Q. For the child three dollars a week? A. Yes, sir; not for her, for the child.

Q. When was that? A. This was in 1883.

Q. Have you contributed anything to her support since 1881? A. Not a penny.

Cross-examination by Mr. MINTURN.

20 Q. Didn't you give that support to her in 1883? A. No, sir.

Q. Because the order of the Court at Jefferson Market compelled you to do it? A. No, sir; not for her, no, sir.

Q. Well, for the child? A. For the child; I said I would before the Judge of my own free will, not compelled.

Q. Didn't the Judge at that time make an order compelling you to give three dollars for the support
30 of that child? A. That I couldn't remember, but I remember at that time when I was down before the Judge I said "Your Honor, I am willing to give for the child."

Q. Just answer my question? A. I couldn't tell you; I don't know.

Q. At the time when you were arrested when you say you took your wife by the arm and told the Judge that you wanted her to live with you? A. No, I
40 haven't said so.

Q. What did you say? A. The Judge was telling her; I had a dispute with a gentleman in the house; when I had the dispute with him he went and took out a warrant for me and had me arrested, and this gentleman run right away to my wife and told her that they can do with me something together.

Q. How do you know that? A. I tell you how I know it; I know it while he brought her up to the court and at the present time when my case was over with the gentleman Judge Duffy called her upon the 10 stand and was saying "Mrs. Gluck, is this your husband?" "Yes," "Have you got children?" "One girl." "Mr. Gluck, take her under the arm home." I took her under the arm and thanked him for it; I can bring the record; you didn't need to laugh; I thanked him; when we was in the middle of the court room she tore herself away and said, "No, I won't go." There was witnesses which I had to show that I am innocent with the party with whom I had the quarrel, and they seen it when she threw 20 me away.

Q. When was that? A. This was in 1878.

Q. 1878? A. No, 1887, on the 24th of August.

Q. Somebody else had you arrested there? A. Yes, somebody else.

Q. It wasn't a case of your wife against you? A. No.

Q. Your wife was the witness for that somebody else? A. No, she wasn't a witness.

Q. She was in court then? A. She was in court; she 30 wanted to speak to the Judge about me something, and the Judge shut her up—(interrupted.)

Q. She was in court and you were arrested by a gentleman in New York? A. Yes, sir.

Q. On his complaint? A. Yes, on his complaint.

Q. For what? A. He told me he tried to—(interrupted.)

Objected to as immaterial and irrelevant.
Question overruled.

Mr. Minturn proposes to show that this defendant was charged with having connection with this man's sister, and Mrs. Gluck refused under the circumstances to go back.

WITNESS. No, sir, it is not so ; I bring the record, Mr. Minturn.

The COURT. Question over-ruled at this stage ; the defendant can prove that.

10

Q. How many times were you arrested in New York on complaint of your wife? A. Three times;

Q. Where were you brought up, what police court?

A. Jefferson Market Police Court.

Q. Each time? A. Yes, sir.

Q. Always before the same Judge? A. I guess always before Judge Duffy, three times, yes.

Q. And each time you were discharged? A. I was discharged as free.

20 Q. The complaint was not sustained? A. No, sir.

Q. Are you acquainted with many people in Hoboken? A. No, sir.

Q. You don't know anybody over there except Mr. Ernst? A. No, sir ; I know you ; I have seen you in the meeting several times ; I know you ; I don't make friends with nobody.

Q. You saw me at a political meeting last fall?

A. I saw you several times, not only once ; I seen you on Washington street and I have seen you at the

30 Letts meeting where you went to speak. and at election night ; I know Mr. Daly, he has seen me several times ; I didn't make friends, but I am not very well acquainted in New York.

Q. You are not very well acquainted in New York?

A. Not very ; I am acquainted, but not so very much

Q. Have you relations in New York? A. Yes, sir.

Q. Who are your relatives over there? A. I have a sister and a brother.

40 Q. Where do they reside? A. My brother, the

youngest, resides in Seventy-eighth street, and my sister resides at 33 Stanton street, and my father is here now.

Q. In New York? A. Yes, sir.

Q. Where does he reside? A. He resides in Minneapolis.

Q. Out West? A. Yes, sir; he is here now, in the hospital; he is sick.

Q. Why did you come to Hoboken to live in 1880?

A. Because this lady disgraced me in New York. 10

Q. That is the reason? A. Yes, sir.

Q. How did she disgrace you? A. It is very nice to be married and not to have a woman.

Q. Because she left you, is that why she disgraced you? A. Yes, I think so.

Q. And for that reason you came to Hoboken to live? A. Yes, I came to Hoboken when my work was done.

Q. You came home there often after that? A. Yes, very often. 20

Q. And slept in the house? A. Slept in the house; sometimes I didn't come home steady every night home; perhaps I was absent when I was absent when I went to my lodges, and when it was too late I slept in New York.

Q. Did you come home more than once or twice a week to Hoboken? A. Oh, yes.

Q. What time did you reach home in the evening? A. It depends; now lately—(interrupted).

Q. Not lately; I mean generally? A. It depends; 30 sometimes nine, sometimes eight, sometimes ten o'clock; it depends altogether.

Q. And sometimes not at all? A. When I went to the lodge and it was very late I didn't come.

Q. Where did you stop then? A. I stopped there or I stopped in the shop or I stopped down by Mr. Richards, at the Summit Hotel, corner of Bowery and Canal.

Q. What time do you leave home in the morning now? A. Sometimes seven, sometimes half past six, 40 but never later than seven.

Q. What is your general hour for leaving home?

A. Sometimes I come home as soon as I close the shop.

Q. No, I mean what time do you leave home in the morning? A. I tell you what time.

Q. Half past seven? A. No, never at half past seven; in the morning I leave there at half past six or seven; the latest is seven o'clock.

Q. Where do you get your meals, in Hoboken?
A. No, sir; but when I want to eat something in the
10 house I go out and buy it and bring it in to Mr. Ernst.

Q. You bring it into the house? A. Yes, sir.

Q. Where do you buy those things that you eat in the house? A. I buy it at the grocery on the next block, Thiele's.

Q. On the corner of Bloomfield and First streets?
A. Yes, sir; I tell you where it is; there are two groceries, and you go with me down there and I can show you the place.

20 Q. Have you ever voted in Hoboken? A. No, sir.

Q. Never voted there? A. Never; I wanted to get out my papers, but I haven't got the dollar to pay for it.

Q. Are you not a citizen of the United States?
A. Of the United States I am.

Q. Then you can vote in Hoboken? A. Well, I must have a paper in Hoboken.

J. To vote? A. To vote, yes.

Q. Did you ever vote in New York? A. In New
30 York I have the first paper.

Q. Didn't you get your second papers? A. The second paper never.

Q. You never got a second paper? A. I don't remember that I got it; I got always the first paper.

Q. Have you ever voted in New York city? A. I don't remember.

Q. You don't remember? A. I don't know: perhaps I voted and perhaps I didn't.

40 Q. Do you remember whether you voted at any

election? A. I haven't voted for a good many years; I wanted to vote this time in Hoboken and I couldn't.

Q. Did you ever vote in New York city? A. No, I don't remember if I voted in New York.

Q. If you had voted would you remember it? Did you ever vote for any President of the United States?

A. No, sir.

Q. Did you ever vote for any Mayor of New York city? A. For Mayor, no, sir. 10

Q. You say that you tried to vote in Hoboken?

A. Yes.

Q. When was that? A. This election.

Q. This last election? A. Yes, this last election. I went up to the hill and they charged me for a citizen paper \$2 and \$1, and I say I haven't got the money and I walked out; I will prove it to you.

Q. Did you ever try to vote in New York City?

A. I never voted there.

Q. Did you ever try to vote there? A. How can 20 I try to vote in New York City when I am a resident in Hoboken?

Q. Before you were a resident in Hoboken? A. I couldn't tell you.

Q. Did you ever vote in New York in 1880 or at any time before?

Objected to as immaterial; question allowed.

A. I guess I am a citizen of New Jersey. 30

Q. Did you ever vote before 1880 in New York?

A. I told you; don't ask me so many questions; when I say I can't say, don't force me.

Q. You don't remember? A. Don't remember.

Q. But you did try to vote in Hoboken? A. Yes, and they charged one or two dollars for the paper, and as I hadn't it I came back; now if you want to know the truth I want to come to you to get me the paper. 40

Q. When did you go to Texas or Mexico? A. I guess I left in 1883.

Q. What time did you get back? A. In 1885.

Q. What were you doing out there those two years?
A. I went out first on business, and I couldn't succeed in what I wanted and I started something else.

Q. Did you tell Mr. Ernst that you were going?
A. No; I never told anybody.

Q. Did you ever tell your wife that you were going out there? A. No sir; never told anybody.

10 Q. Why did you leave your trunk in Mr. Ernst, place when you were going out west? A. My intention was not to stay out there; my intention was to come back and to find my home as I left it.

Q. Did you pay all your rent in advance for those two years? A. No, sir, I paid it only for six months in advance.

Q. You paid Mr. Ernst six months rent in advance before you went to Mexico? A. Yes, before I went away.

20 Q. Do you belong to any clubs in Hoboken? A. No.

Q. Any political clubs? A. No, sir; I haven't any money for clubs.

Q. Any association of any kind? A. I belong in New York, not in Hoboken.

Q. You belong to clubs in New York? A. No clubs, lodges.

Q. Why were you not transferred from those lodges from New York to Hoboken? A. I never found a kind brother to pay my dues like they do in
30 New York.

Q. What lodge do you belong to in New York?
A. I object to answer these questions. I belong to the Knights of Pythias, that is one; I got out of the Odd Fellows; I am a Mason.

Q. Why were you not transferred from the New York lodges to the Hoboken lodges when you became a citizen of Hoboken as you say? A. I have answered your questions, I haven't found a kind
40 brother who would assist me.

Q. Isn't the order just the same all over? A. All over, there is no lodge in this Court room, and I won't answer you.

Q. Do you belong to any order in Hoboken? A. No.

Q. Don't go to any church? A. No, sir.

Q. Do you remember the church that you went to be married? A. I haven't got married in any church.

Q. Where were you married? A. I was married 10 right in Mr. Held's house.

Q. What church does Mr. Held belong to? A. I tell you the fact; I don't know it; whether it was the Catholic or Protestant; I don't know: I have a marriage paper home that looks just like a Catholic paper.

Q. You have sworn in your affidavit that it was a Catholic priest? A. I swear it from my papers, and when I show it to any one in my opinion they wouldn't know it different from Catholic. 20

Q. Why did you move so many times in New York after your marriage? A. I will explain to you; when we was living at 240 odd or 220 odd West Tenth street we moved on account of her brother opened a cigar store at 133 Clinton Place; he moved with his wife down in the store and we moved upstairs; that is one thing; the second time when I moved I opened a little cigar store between Third and Fourth street or Fourth and Fifth street in First avenue; there I hadn't got a place for my wife and 30 her mother and we moved up in Fifth street, between Third and Second avenue; that was the reason; when I quit at First avenue my store I opened at 131 Eighth street, and they moved from there out and went up to Clinton Place; so this is the reason we moved so many times.

Q. How much were you earning at the time that you married your wife?

Objected to as irrelevant.

Q. How much money were you earning at the time that you say her mother put you out? A. I couldn't tell you.

Q. You don't remember that? A. No, sir; I couldn't tell you how a business man can tell what he earns when he has his own business.

Q. Were you earning five or six or seven dollars a week? A. Yes, sir.

Q. Were you earning more than that? A. Yes, sir.

10 Q. Were you earning more than ten dollars a week? A. I couldn't tell you.

Q. How much are you earning now?

Objected to as irrelevant and immaterial;
overruled.

Q. At the time that you were paying your wife \$5 or \$6 or \$8 a week, do you remember how much you were earning? A. I told you a business man can
20 never tell how much he is earning or how much he is losing.

Q. You don't know? A. No, I don't know.

Q. How long did you continue to pay her \$5 or \$6 or \$8 a week? A. Pretty near a year.

Q. Where were you living all that time? A. I was living in Hoboken.

Q. How did you pay her the money? A. I sent it in the house; once in a while when I would meet her I would give it to her on the street?

30 Q. You were not under any order of the Court at that time? A. No, sir; no order at all, no obligation, no anything.

Q. Did you ever write any letters to your wife from Hoboken? A. No, sir, not from Hoboken.

Q. All from New York? A. All from New York.

Q. Did you ever tell her that you were living in Hoboken? A. I never told her where I was living; she never had so long a conversation with me.

40 Q. Never talked much together with her? A. Never.

Q. When the conversations took place, how did they last? A. About two minutes; oh, she wanted to go.

Q. How is it that you remember so distinctly about stripping tobacco and asking your wife to strip tobacco at the time that you were put out of the house as you say and her refusal to strip the tobacco for you? A. I remember so well.

Q. And you don't remember that you voted in New York in 1880? A. These things as to the vot- 10
ing I didn't have interest in, but in this thing where I lost my family through stripping the tobacco that is always in my head.

Q. Wasn't it the fact that at the time that you were living with your wife when as you say you were put out or fired out, that you were not earning more than \$3 or \$3.50 a week? A. Yes, sir; I did earn more.

Q. Did you earn more than \$3 or \$3.50 a week?
A. Yes, sir; I did. 20

Q. You are sure of that? A. Yes, I am sure of it.

Q. Wasn't it the fact that you were unable to support your wife at that time? A. No, sir.

Q. And that she and her mother had to support the house and support you? A. No, sir; how a woman can support me when I had the store?

Q. Just answer the question? A. It is not so.

Q. Did you ever have any trouble with your mother-in-law? A. All the time.

Q. What was the trouble about? A. She wanted 30
to be boss.

Q. What did she say to you? A. When I bought a pair of pants she says, "These pants you ought to buy green and not blue." And by the meals, I never had a regular decent meal, and always cooking, never I had; I can swear on three hundred Bibles so long as I was living with my wife together I don't have a decent meal in my house; I can swear to it on a stack of Bibles.

Q. Where did you have your meals? A. I had it as I could; and when I was hungry I went outside and got it in a restaurant.

Q. How much were you earning? A. I had a business perhaps one hundred dollars a day, perhaps two hundred dollars a day.

Q. You were earning that? A. No, I say I had a business like that; you can go anywhere in Eighth street to inquire; I had a nice business in New York; how can I give her \$5 or \$6 a week through the
10 whole year.

Q. Didn't you go out of that house in Eighth street yourself without being put out? A. No, sir.

Q. Didn't you say that you wanted to go, that you couldn't live with your mother-in-law? A. No, sir.

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

Q. Didn't you pack your trunk yourself? A. No, sir, I swear it on one hundred stack of Bibles, no, sir.

Q. Didn't Mrs. Gluck's sister-in-law come to you
20 and tell you that if you didn't care to live with your mother-in-law she would take the mother-in-law from you so that she might not live with you? A. No; but I met her once when she was saying, when Mrs. Reu was saying, if the mother kept on this way she would go and leave her.

Q. Say what? A. It makes no difference at all.

Q. What did she say? A. No, she never came to me, she never came in my store; why the whole family—your Honor, I will tell you how it was; the
30 family was so on account of her mother, for her brother was just the same as I was; and Sophy says to me one day if this goes on between her mother and Amelia this way she would leave her.

Q. Didn't you in that conversation with Sophy tell her "No, you need not take my mother-in-law with you because I will not live with my wife, I can't live with her," did you tell her that in that conversation? A. No, sir.

41 Q. Didn't say anything about it? A. No, sir.

Q. Didn't you at any time make that remark?
A. No.

Q. Did you ever tell your wife that you couldn't live with her? A. No, sir, I haven't told her.

Q. You never told her? A. Never.

Q. Did your wife ever ask you to remain with her on account of the child and you said, "no, I don't like the child and I don't like you. When I look at the child I would just as soon look at the wall?" A. Never.

Q. You never said that? A. No, sir.

Q. Never said anything of the kind? A. Never;
I want to ask you one question—(interrupted.)

Q. At the time you say you called her into your store and said that you had furnished three rooms for her, when was that? A. That was in 1881.

Q. What did she say? A. She said in German, no.

Q. Is that all she said? A. You understand German?

Q. Yes. (Witness states in German what his wife said.) 20

Q. Did she remain after that, did she stay in the store? A. No.

Q. She went out? A. Yes, sir.

Q. Didn't say anything more? A. No.

Q. Did you after that see her again and make any request of her? A. Yes, I seen her in a beer saloon that I brought her in, at 25 Clinton Place.

Q. When was that? A. That was I guess in 1882.

Q. Was that where you were living at the time? 30
A. No, sir.

Q. In that house? A. No, sir.

Q. Who kept the saloon? A. Mr. Vaccas.

Q. What did you bring her into the saloon for?
A. I asked her again to live with me; I served the man with cigars at this time and I called her in; I was just coming out and she passed and I called her in, and we had that conversation; I had a glass of beer and Mr. Vaccas had a glass and she had a soda.

Q. Did you talk with her? A. Yes, sir; I talked 40

with her and asked her again to live with me, and she said, "Is this what you bring me down here? She thought I was going to give her money; and she walked out.

Q. Did Mr. Vaccas hear all this? A. Yes, sir.

Q. Where does he reside? A. He is at Coney Island.

Q. Does he still keep that saloon at 25 Clinton place? A. No, sir.

Q. Did you speak with her after that about coming
10 back to live with you? A. Oh, I spoke with her dozen of times.

Q. You don't remember how often? A. I couldn't tell you; I spoke with her dozen of times.

Q. When you wrote to her did you send it by mail or how? A. The last letter I wanted to find out something and I sent it by mail, and in 1881, 1882 and 1883 when I wrote her that she shall come and live with me I mailed that.

Q. You mailed that? A. I mailed this, and I
20 mailed all the letters, every one of them; I had a letter from her, but it got burnt on the steamer in my valise.

Re-direct examination by Mr. HERBERT.

Q. When you went to Mexico you intended to return to Hoboken? A. Yes, sir.

Q. When you were living with your wife and her mother how much did you contribute to the support of your family? A. I gave her eight dollars; not
30 her, I gave her mother eight dollars, sometimes nine dallars, sometimes seven dollars; it wasn't sure set our board, what I had to pay, it wasn't set.

Q. That is, there was no sum specified? A. No, sir; it wasn't.

Re-cross-examination by Mr. MINTURN.

Q. You told me that you knew nobody in Hoboken except Ernst? A. Yes, sir.

Q. You don't know anybody over there? A. Perhaps when I recollect, perhaps I know a dozen, but I don't go around in Hoboken.

Q. But you know a man named Frank Wenhaimer? A. He don't live in Hoboken now; he is dead and buried.

Q. Did you know him? A. Yes, sir; I know Mr. Albert Fidler.

Q. Where does he live? A. I used to live with him. 10

Q. Where is he now? A. He is in Hoboken; I don't know where he lives.

GUSTAVE AUGUS SCHWARSCKOP, sworn on part of petitioner.

Direct examination by Mr. HERBERT.

Q. Where do you live? A. At present 533 East Thirteenth street. 20

Q. How long have you lived there? A. I have lived there only three months, since I moved there.

Q. How long have you known Mr. Gluck? A. I knew him about eight years ago when I lived in that neighborhood, but I was never a friend of his or anything of the kind; I lived in the place where he had a store and as a smoker I went there.

Q. What was the place? A. Eighth street; I was driving a team for Goldberg at that time. 30

Q. What kind of store did Gluck keep? A. He kept a cigar store there.

Q. Did you ever see this lady? (Indicating Mrs. Gluck, defendant.) A. On one occasion.

Q. When was that? A. It was in 1881, in the summer; I couldn't remember the month; it was after the 4th of July I remember because I was standing there in my shirt sleeves and I felt like smoking and went over to Gluck's store, and he says "Is your business over?" And I says "Yes, there is 40

nothing to be done to-day," and we stood in the doorway when this lady passed by there, and he called to her, and he called her by her pet name in German, "Emily, dear," he called her, and she went inside and I naturally being in conversation with him went in there and he says to her in German, "Why don't you come back to me? I have got three nice rooms and I can support you pretty well if you will leave your mother and come back to me and live with me." And she answers in German, "Is this all you called
 10 me in for again? No, I will never live with you."

Q. Is that all you heard? A. Yes, sir.

Q. What did she then do? A. She walked right out; after refusing point blank she went right out of the store.

Q. Did you ever see her again until to-day? A. Not until today.

Cross-examination by Mr. MINTURN.

Q. How long had you known Mr. Gluck before
 20 this? A. Just three months before, because I was only working three months in that neighborhood.

Q. You went in there quite often to buy cigars?
 A. Every day several times.

Q. And you became quite familiar with him? A. Just the same as I am with my cigar dealer now.

Q. Did you spend any time in there? A. Yes, some times when my work was done I would sit down and smoke in the store.

Q. Right in the store? A. Only when the customers
 30 came in.

Q. When customers came in you didn't go out?
 A. No, when customers came in he would see to them, and I would sit down and have a chat with him.

Q. Had you ever seen Mr. Gluck's wife before this? A. No, I had not.

Q. Did you know that there was any trouble between Mr. and Mrs. Gluck at that time? A. I did
 40 not; after the lady was out he told me that this was

his wife ; and I knew that he was sleeping in the store sometimes then, so I says, " You are not going home every night." And he says, " Well, there is some trouble in the family." He never told me the full story ; he sent word to me that I should see him, but the full story I only heard in the court to-day ; he told me his part.

Q. Did you come into the store after that ? A. Yes.

Q. Very often ? A. The same as usual. 10

Q. How long did that continue ? A. It continued there about another month until I left that man ; the man went to Chicago ; he gave up his business, and I moved from there and I never found any business to go there again.

Q. And during any of those visits nothing was said to you in regard to his wife or about that talk on that day ? A. No, sir, never said anything to me ; I asked him the same day when this happened, I says, " Who is this lady ? " So he told me, " This 20 was my wife," as I said before ; I said, " You are not going home every day." And he says, " There is some trouble in the family and we don't live together." That was all.

Q. Do you remember the exact words that he addressed to her when he asked her to come home ? A. Yes, sir ; they were in German ; he called her by the pet name of " Emily dear," just the same as Emily, dear, " why don't you come back and live with me. I am willing to furnish three rooms and 30 do everything I can for you if you will only leave your mother and come and live with me." And the answer of this lady was, " Is this all you called me in for ? No, I will never live with you." And that is all she said ; these were the words she said, I remember them well.

Q. Did he say he had furnished three rooms or would furnish three rooms if she would come back and live with him ? A. Well, I remember his talking that about the three rooms and talking about the 40

mother, that he would furnish three rooms, and do all he could for her, if she would leave her mother, those were the words.

Q. What is your business? A. I am collecting now for the Home Forestry Company.

Q. Do you meet Mr. Gluck very often? A. No, sir, very seldom.

Q. How often have you seen him since that time, since this happened? A. After this gentleman went out to Chicago I went out west myself and I didn't
 10 come back until two years ago and then I came back to New York again and looked for a job and by accident I met Mr. Gluck about a year and a few months ago, and we had a drink and a smoke together, so I told him I was doing nothing, and in fact I asked him whether he would not give me an order for some pictures, but he said no.

Q. Does he know where you live? A. No, sir, I don't think he does; I didn't give him my address because I only lived there at that number for a little
 20 while.

Q. How did he come to find you out? A. I met his brother-in-law, and so his brother-in-law told me that Mr. Gluck wanted to see me; so I told him if he wanted to see me he must see me some time in the night time because I was working in the day time; so last week I happened to be passing his store, and he says his brother-in-law would like to see me; so I went down, and he asked me if I could possibly come and testify in court for him, and I
 30 says, "It is very hard for me to leave, but I guess I will try it."

Q. Did he tell you what he wanted you to testify to? A. Yes, he left word, his brother-in-law told me he sent for me last night, and he sent word up that he wanted to see me; so I went down to the desk last night and his brother-in-law told me that he wanted to see me here.

Q. What is his brother-in-law's name? A. Sam
 40 Greenwald.

Q. Where does he reside? A. In Stanton street.

Q. Married to his sister? A. Yes, sir.

Q. You speak German? A. Yes, sir.

Q. You understood what was said at the time in German? A. Yes, sir; there was another gentleman in the room.

Adjourned to January 31, 1889, at ten A. M.

Examination continued on January 31, 1880. 10

JOSEPH GLUCK, the petitioner, *recalled* by, Mr. HERBERT :

Q. What was Mr. Ernst engaged in when you first began living with him? A. He was engaged in a brewery.

Q. What time did he go to work and when did he return? A. He went to work towards evening and he returned the next morning. 20

Q. So that he was absent nearly all the time that you were at the house? A. Yes, sir.

Q. Is that the reason that he didn't see you oftener? A. Yes, sir.

Q. Did you take out a policy of insurance on your life for the benefit of your wife? A. Yes, sir.

Q. When was that? A. I took it out in 1880, January 25th.

Q. For what amount? A. I took out one policy of one thousand dollars, the second policy I took out for two thousand dollars. 30

Q. (Shown two papers). Are those the original policies? A. Yes, sir.

Offered in evidence on part of petitioner and marked Exhibits P. 3 and and P. 4.

Q. How long did you keep the premiums paid? A. Until 1882. 40

Q. Do you remember what was the amount you paid? A. I couldn't tell it exact.

Q. You testified the other day, I think, that you returned from Mexico in 1885? A. Yes, I made a mistake; I was excited.

Q. When was that? A. I returned in 1884, near New Year's, between Christmas and New Year's, the end of 1884.

Q. And you lived continuously in Hoboken ever since? A. Yes, sir, until the present.

10 Q. Had you any other place of residence? A. I was a few months with Mr. Fiddler in 1887, August 15th, I took the place, and I was there about five or six months.

Q. That was in Hoboken? A. Yes, sir.

Q. That is the only residence that you have had for the past four years or more since December, 1884? A. Yes, sir.

20 Mr. MINTURN. Mrs. Gluck states that she can not find the letters called for at the last sitting.

Q. You wrote your wife a letter? A. Yes, I wrote three.

Q. When? A. I wrote in 1881, in 1882 and 1883.

Q. What was the contents of the letter written in 1881? A. I was asking her to come and live with me.

Q. And in 1882? A. The same.

30 Q. And the letter written in 1883? A. The same.

Q. Did you ever get any replies to those letters? A. No, sir.

Cross-examination by Mr. MINTURN.

Q. Where were you living when you wrote those letters? A. I was living the first letter that I wrote I was working in Eighth street; I wrote them from New York all three.

40 Q. Where were you living? A. In 1881 I was

living here in Hoboken, I was living in 1881 by Fritz Ernst.

Q. What number? A. 134 Garden street.

Q. Does Ernst still live in Hoboken? A. Yes, sir.

Q. Where were you living in 1882? A. In 1882 I was the same, living there, in the same house.

Q. And in 1883 where were you living? A. In the same house; not full, until I left; I left in 1883.

Q. Is that all the letters contained? A. These 10 letters was to come and live with me, I furnish her three rooms that is all; those three letters.

Q. What did you write three times for? A. To get some answer if she come and live with me, or not.

Q. Why didn't you go to see her? A. I hadn't got pleasure to go and see her any more.

Q. Didn't have any pleasure? A. No.

Q. What do you mean by that? A. It was enough, and I was telling her all the time to come 20 and live with me and she refused, why should I run after her?

Q. Why did you write to her? A. To see what answer she wrote me.

Q. Did you want to get answer from her so as to use it in evidence in a divorce suit? A. No, sir; I had no answer at all.

Q. Is that all you wrote about in those letters? A. All; all three letters, that is all.

Q. Where were they mailed from? A. From New 30 York.

Q. Why not from Hoboken? A. The business was in New York, why should I carry a letter to Hoboken and mail it here when I wrote it there.

Q. You wrote it in New York? A. Yes, sir.

Q. In your place of business? A. At this time I hadn't business; I was working at that time.

Q. Where did you write the letters? A. In the shop where I was working.

Q. Who were you were working for? A. Winfield S. Robinson.

Q. Did you write the letters in the evening after work? A. That I couldn't tell you.

Q. At the time you wrote those letters had you seen a lawyer about this absence of your wife from you? A. No, sir.

Q. You had not consulted with any lawyer up to that time? A. No, sir.

Q. Did you ever send a lawyer to see your wife to
10 find out whether she would agree to have a divorce from you? A. No, sir.

Q. About 1881 or 1882? No, sir.

Q. Did you ever have a lawyer before Mr. Herbert came into this case? A. Yes, sir, I had.

Q. Mr. Chapman, wasn't it? A. Yes, sir.

Q. Didn't you have one before Mr. Chapman? A. No, sir.

Q. On your cross-examination at the last sitting you said that you came to live at Hoboken so as to
20 get away from your wife? A. No, sir, I haven't said so.

Q. What did you say? A. I haven't said nothing.

Q. Why did you come to live at Hoboken? A. I had reason to come to Hoboken to live; not on account of divorce.

Q. Why? A. To get out of the way for shame from the people who met me.

Q. Did you swear on your cross-examination before the Hudson County Court of Sessions, on your
30 trial for perjury, that you came to Hoboken because you wanted to avoid drinking? A. Yes; I did so.

Q. Then you didn't tell the truth the last time when you said you came from shame to Hoboken? A. I came from shame of drinking.

Q. You said you came from shame for living with your wife? A. Only from drinking; I can say to-day that nobody seen me go into a saloon so long as I have been living there.

40 Q. And you did drink before you came to Hoboken? A. Yes, sir.

Q. And you didn't have any drinks when you came to Hoboken? A. Yes, during the whole time I have had four or five times, and I will tell you where.

Q. Did you ever give your residence as 384 Bowery? A. Not that I know of; I was saying perhaps to people on account of business matters, but not on account of my residence there.

Q. Did you ever vote in New York City? A. No, sir.

Q. Didn't you vote in New York City in the year 1886, in the Nineteenth Election District and give your residence as 384 Bowery, and your room on the first floor, your name as Joseph Gluck, your nativity as Austria, your color white, and your residence in the district six months, in the county six months, in the state eighteen years, and that you were a naturalized citizen, that the date of your paper was October 9, 1878, and that you were registered, had been naturalized in the Court of Common Pleas, that you were a qualified voter? A. No, sir. 20

Q. You never gave those facts? A. No, sir.

Q. Do you know that those facts appear on record in the New York Bureau of Elections? A. I tell you this, that there is many Joseph Glucks in New York City besides me.

Q. You are not the one? A. Not the one; there is half a dozen Joseph Glucks.

Q. What is the number of this place on the Bowery? A. 384 Bowery; but this time I was never living on the first floor there; it was the ground floor; it was only a shop ground floor. 30

Q. But your present place on the Bowery is 384? A. The present is on the Bowery, the number is 384, yes.

Q. How long have you been at this place, 384 Bowery? A. Not quite three years.

Q. Were you there in 1886—November, 1886? A. I don't think so, I couldn't tell you sure, Mr. Min-turn; I won't lie, I couldn't tell you sure.

Re-direct examination by Mr. HERBERT.

Q. Where is your place of business? A. The place of business is 384 Bowery.

Q. And how much of a place have you there? A. Now it is one room.

Q. Did you occupy more than one room there? A. No, sir, only one room.

Q. And what do you do in that room? A. I am working there.

Q. What doing? A. Stripping tobacco.

10 Q. Do you have any other employees in that store? A. Yes, sir, my brother has one workman besides me.

Q. And have they been working there? A. They are working there, yes, sir.

Q. He has one now? A. Yes, sir.

Q. Has he ever had more than one in that place? A. Yes, sir.

Q. Did he have in 1886? A. In 1886 I couldn't tell you how many was there.

20 Q. More than one? A. Perhaps two, or perhaps three, I couldn't tell you exact now.

Re-cross-examination by Mr. MINTURN.

Q. Didn't you show cards from that place 384 Bowery with your own name on as Joseph Gluck? A. Yes, sir; I did.

Q. You were on the first floor in that place? A. When I showed the card?

30 Q. Yes. A. No, the ground floor.

Q. The first floor? A. No, the ground place I was then.

Q. That was the first floor? A. The ground place, what we call the ground place is below the first floor.

Q. In 1886 on what floor were you? A. I was on the ground place; now I am on the first floor.

Q. What country were you born in? A. Hungary.

Q. Part of Austria? A. No, sir; it is a state in
40 itself.

Q. Hungaria District with the same Emperor?
 A. Yes, it is the same part, yes, sir.

Q. How long have you been in this country?

A. In this country I couldn't tell you for sure, seventeen or eighteen years, I couldn't tell you for sure, seventeen or nineteen years.

Q. Won't you be here about twenty or twenty-one years next November?

Objected to as not re-cross examination. 10

Question withdrawn.

Petitioner rests, with the exception of a witness to be called this afternoon.

DEFENDANT'S CASE.

20

Mr. Minturn moves to amend the fourth allegation of the answer and put the same in the form of a cross-bill, inserting after the words, "since the marriage of the said petitioner with this defendant," the words, "in either the month of June or July, 1880."

Mr. Herbert objects as not setting forth a description of the person or such designation of time and place and circumstances under which the act alleged to have been committed 30 was committed as will enable the petitioner to distinguish and meet the particular offense intended to be charged.

The amendment is allowed if the words are added, "as nearly as this defendant can specify the same," with the understanding that the petitioner is to have time and opportunity to meet the proofs offered if there is any surprise.

40

FRANCIS HOUGHTALIN, sworn on part of defendant.

Direct examination by Mr. MINTURN.

Q. Where do you reside? A. 17 Clinton Place, New York City.

Q. What is your business? A. Private hotels, and a lawyer besides.

Q. What business do you carry on at 17 Clinton Place? A. It is a furnished room house.

Q. You let out furnished rooms? A. Yes, sir.

Q. How long have you conducted that place? A. Ten years next July, that house.

Q. Did you conduct it as a house for furnished rooms in 1880? A. Yes, sir.

Q. Do you know the petitioner in this case, Mr. Gluck? A. Yes, sir.

Q. How long have you known him? A. I have known him since he lived in that house.

Q. When was that? A. In 1880.

Q. What apartment did he occupy in that house? A. The second floor extension.

Q. When did he go to your house as a boarder? A. It was about July, 1880.

Q. How long did he remain as a boarder? A. About a month—no, not a boarder.

Q. Well, as an occupier of a furnished room? A. Yes, sir.

Q. How long did he remain there? A. About a month or six weeks.

Q. Then he left? A. No, sir; I put him out.

Q. While he was occupying a furnished room there did you notice any conduct between him and a woman in his apartment? A. It was Sunday, and the servant girl reported to me that he had a woman in his room.

Objected to.

I immediately went out and saw; of course I looked

through the key hole of the door ; of course there are ladies here and I don't care to mention what I saw. (The ladies in the room are requested to retire.)

Q. State what you saw ? A. I saw him on top of the woman ; I don't know what he was doing on top of her, that I couldn't say ; but it looked so suspicious to me that I told the servant girl to turn him out of his room ; so he got out.

Q. Then you put him out ? A. Yes, sir.

Q. Was this in his own room ? A. Yes, sir. 10

Q. On the bed ? A. Yes, sir.

Q. Was he dressed or undressed ? A. They had the sheet over them ; I don't know whether he was undressed or not.

Q. Did you know the woman ? A. No, sir.

Q. Ever see her before ? A. No, sir.

Q. Or since ? A. No, sir.

Q. Did you see the woman pass ? A. No, sir ; she was heavily veiled ; I watched for her when she came out and she was heavily veiled. 20

Q. Could you see her face when you were looking through the key-hole ? A. No.

Q. You recognized him distinctly ? A. Yes, sir ; I know it was him, yes.

Q. What month was that ? A. It was either in June or July, one or the other.

Q. You can't swear positively which ? A. No, sir, it is so long ago you know ; I know it was not cold weather.

Cross-examination by Mr. HERBERT. 30

Q. Did I understand you to say that you were a lawyer ? A. Yes, sir, that is my profession ; I don't practice it though.

Q. Where were you admitted as a lawyer ? A. In the Supreme Court in 1865, State of New York.

Q. And you keep an assignation house ? A. No, sir, not that I know of.

Q. You keep a bed house ? A. No, sir.

Q. Is your house a place frequented by men and 40 women ? A. No, sir.

Q. Who live there without any questions being asked? A. I very seldom take a lady in the house; I never take a single lady anyhow; a man may come with his wife and of course I don't know; I am a married man myself and I haven't got a certificate.

Q. How did you come on this occasion to play the eaves-dropper? A. The housekeeper reported it to me that Gluck had a woman in his room; it was Sunday.

Q. And then you considered it your business to go up there and look through the keyhole? A. Yes.

Q. Didn't it strike you that that was a little bit dishonorable? A. No, sir, because he had a woman with him.

Q. According to your ethics you considered that was perfectly proper, to peek through the keyhole? A. Yes, and I would do the same thing to-morrow again.

Q. You have in that house many rooms? A. Forty.

Q. How many inmates in the house now? A. About 20 thirty.

Q. Do you remember how many you had in July, 1880? A. About the same number; it runs about the same way all the time.

Q. Haven't you something to indicate it? A. Oh, certainly, I have books.

A. Your books will show when Gluck was at your house? A. Think they will, yes.

Q. Have you any objection to producing them here? A. No, sir.

30

Mr. HERBERT asks the production of the books for the month of June and July, 1880.

The COURT. Can you produce them this afternoon? WITNESS. Yes, I think I can produce them.

The COURT. You will bring your books over covering that year? WITNESS. Yes, I will do so.

40

Q. What was the size of the room occupied by Mr. Gluck? A. About the size of that room there. (Indicating Chancellor's private room.) It is not so wide as that but a little bit longer.

Q. Where were the windows in that room? A. The windows faced to the south.

Q. The house is on the west side then of Clinton Place? A. No, on the north side of Clinton Place; Clinton Place runs east and west.

Q. And this was a rear room? A. There is a rear 10 building on it and there is a yard between the front and the rear, and there is a window facing on the rear.

Q. This window faced the south? A. Yes, sir.

Q. And where was the door to the room? A. The door faces to the north.

Q. And the window to the south? A. Yes, sir.

Q. And how wide did you say the room was about? A. It is is not as wide as that (indicating Chancellor's private room), only a little longer. 20

Q. Where did the bed stand? A. The bed stood between the door and the partition, in that way (illustrating).

Q. Will you explain to the Court how you could possibly see on the bed by looking through the keyhole; for instance, that is the door, you looked through that keyhole, how could you see any one on the bed? A. The rooms are made rooms with wooden partitions, and the doors are old doors that I put in there, and there is a crack in there about that far 30 (indicating two inches,) and you could see as plainly as if the door was open.

Q. I understood you to say that you saw through the keyhole? A. I saw through the keyhole and the crack was there; that is an old lock; those are all old doors and the keyhole is that long (indicating six inches.)

Q. The keyhole is as long as that (indicating four inches on a book)? A. Yes, sir.

Q. Take a look at that book and see if you are 40

telling the truth? A. The keyhole was about that long (indicating four inches).

Q. First you said it was six inches? A. Yes, sir.

Q. Now you say it is about four inches? A. Yes.

Q. How wide is the keyhole? A. It is old style; it is that wide (indicating over two inches).

Q. Have you got the key ^{that} goes in that lock? A. No, sir; it is occupied.

Q. You can get the key? A. Yes, sir.

Q. I would like you to produce that key. And it
10 was through that keyhole that you saw this occurrence on the bed? A. Yes, sir.

Q. What time in the day? A. About eleven o'clock Sunday morning; the time I went up there was in the afternoon; it was reported to me about ten or eleven o'clock in the morning and I made the investigation in the afternoon. I was living over in Washington Square.

Q. What time in the afternoon did you go on this expedition? A. About two or three o'clock.

20 Q. So you waited about three hours before you worked up your moral tone to the point of making that investigation? A. Yes, sir.

Q. Why did you wait so long? A. The servant girl, the housekeeper, that I had, was kind of a quarrelsome sort of a person and I thought I would wait a while to make myself sure of it, and it being Sunday I didn't want to disturb the house, so I told her to tell Mr. Gluck that I wanted the room.

30 Q. You didn't speak to Mr. Gluck about it? A. No, sir; I didn't go into the room at all; the housekeeper locked the room, it wasn't me.

Q. Why didn't you speak to Mr. Gluck about it that day? A. She rented the rooms; and I told her to tell Mr. Gluck that I wanted the room; and he got out.

Q. And he left then within twenty-four hours after that? A. He didn't sleep there that night.

40 Q. Why not? A. Because I wouldn't allow him.

Q. You say you didn't speak to him about it until the next day? A. No, I locked the door up.

Q. You say you didn't speak to him until the next day? A. I didn't speak to him at all; he didn't sleep there Sunday night.

Q. How do you know? A. Because I asked the housekeeper.

Q. Is that the only way you know? A. Yes, that is the only way.

Q. Didn't you swear that you locked the door? 10
A. I did that night, and gave her the key.

Q. What do you mean by saying that you didn't know anything about it? A. She told me that he did not sleep there.

Q. Why do you say first that you locked the door and for that reason you know that he did not sleep there, and then right after that you say that you only know that because the housekeeper told you so? A. The housekeeper told me that she locked the door and she gave me the key, 20 and she told me the next day that he didn't sleep there.

Q. I understood you to say a while ago that all the inmates of your house have keys to their doors?

A. Not all of them, not the whole of them; they get keys to their doors but they don't use them.

Q. When Mr. Gluck went out on other occasions than on that day didn't he take the key with him?

A. No, sir, I don't think he did; he left the key with the housekeeper, I think. 30

Q. You don't know that? A. No.

Q. That is a guess? A. Yes.

Q. What kind of a bed was that in that room?
A. The bed is there; it is a pine bed with a straw and a hair mattress.

Q. Single or double? A. No, it is a three-quarter bed.

Q. How long did the woman which you say was in the room remain there after you looked through the keyhole? A. May be an hour or so, a couple of 40

hours, I don't know; she passed me when she went out of the hallway.

Q. What time in the afternoon? A. About three or half-past three o'clock in the afternoon.

Q. Did you speak to her? A. No, sir.

Q. What kind of a looking woman was she? A. She was plainly dressed, couldn't see her face.

Q. Why not? A. Because she was heavily veiled, and of course I couldn't take the liberty of lifting her veil up.

10 Q. Couldn't you see through the veil? A. No, sir.

Q. Was she large or small? A. She was a little bit bigger than his wife is.

Q. His wife is quite a small woman? A. Yes, sir.

Q. Was she taller than the wife? A. Yes, sir.

Q. And larger? A. Yes, she was stouter.

Q. How soon did you see Mr. Gluck after that?

A. I didn't see him at all.

20 Q. Why didn't you go to the room immediately after she had passed out and speak to Mr. Gluck?

A. It was Sunday and I didn't want to disturb the place; it was a part of the house that I didn't allow a woman under any circumstances; don't even allow the housekeeper; I have got a man there that does the work on those rooms.

Q. Why didn't you go to Gluck? A. Because I told the housekeeper, and that was her boarder; there was no necessity for me to interfere, that was her boarder.

30 Q. You now say that you have a man to do that work? A. Yes, to attend to the rooms.

Q. Yet you delegated the duty of informing Mr. Gluck that his room was wanted to your housekeeper? A. I told the housekeeper, yes; it was her duty to collect the rents and protect the house.

Q. So you did have a woman go into the rooms occasionally? A. Oh, yes, to go after the towels and so on.

40 Q. Why would it have caused any disturbance in

your house to have spoken to Mr. Gluck about the impropriety of having a woman in your house? A. You know what women are at times, they show fight.

Q. But the woman had passed out? A. I didn't blame the woman at all; I blamed him of course; I told him I wanted his room.

Q. You didn't blame the woman at all? A. No, sir.

Q. Why not? A. Because it wasn't the woman's 10 fault if they were coming into my house.

Q. Why not? A. He had a night key and he had the right to come in himself but not to fetch a woman in there to make a whorehouse of the house.

Q. Do you know when this woman came in? A. No.

Q. Don't know for what purpose she came in? A. No.

Q. She must have come in the night before according to your story with the use of the night key? A. 20 I don't know where they got in.

Q. So according to your idea she was there all night, and was still in bed with him on Sunday afternoon at two o'clock when you looked through the keyhole? A. Yes, sir.

Q. Have you ever been arrested for perjury? A. No.

Q. Never been in State's prison? A. No, sir, not as I know of.

Q. Do you remember whether Mr. Gluck was sick 30 at your house? A. I don't know; I never heard of it if he was.

Q. Isn't it a fact that your wife waited on him? A. No, sir.

Q. Didn't your wife bring him in some tea and stay some little time in his room and didn't you object to that? A. No, sir.

Q. And wasn't that the cause of Mr. Gluck's leaving your house? A. My wife don't know Mr. Gluck

from a side of sole leather; my wife don't don't do that kind of business with men in their rooms?

Q. Do you know whether or not your wife did wait upon Mr. Gluck in his sickness? A. I know my wife didn't; I don't know as to anybody else; I didn't know that he was sick; that is the first I ever heard of it.

Q. He may have been sick without your knowledge? A. I don't think he could have.

Q. Don't think that was possible? A. No.

10

Re-direct examination by Mr. MINTURN.

Q. What kind of a lock was this on your door?

A. It is an old fashioned lock; I bought the door second handed and put these partitions there myself.

Q. Is it an iron lock? A. Yes, sir.

Q. Very large keyhole? A. Yes, sir.

By the COURT.

Q. Is the room the same now as it was at this time in 1880? A. Yes, sir.

20 Q. The bed and the other furniture in the same position? A. Yes, sir.

Q. And the lock just the same as it was then. A. Yes.

Q. Everything about it just the same as it was then? A. Yes, sir.

Q. Have you any objection to any witness that counsel may desire to send over looking at the room and the door? A. None at all.

30

MR. HERBERT. I would like the privilege of sending over any one that the Court may name.

The COURT. I think that counsel had better send a witness of his own.

Q. Is your wife living there? A. Yes; we didn't live there at that time, we lived in Washington square; we had four houses, and it was my business
40 to go over there every morning after breakfast and

stay there until dinner-time, and go back again and then go back after dinner. I would go home about two or three o'clock in the morning.

Mr. HERBERT. I desire to have it noted that the petitioner asked for the privilege of entering the house simply for the purpose of identifying the room, and I will assure Mr. Houtaling that he will not utter a word either in going or entering the house. 10

[Mr. HOUTALING refuses to allow the petitioner to come into his house.]

AMELIA GLUCK, the defendant sworn in her own behalf.

Direct examination by Mr. MINTURN.

Q. Where were you married to Joseph Gluck? A. 20
I was married in New York, Christopher street.

Q. In a church? A. In the minister's home.

Q. Do you know the minister? A. Doctor Held.

Q. What church did he belong to? A. He belonged to the Protestant Church.

Q. How long did you continue to live with your husband after the marriage? A. I was living three and a half years with him.

Q. When did you finally separate? A. He left me the 10th of March, 1880.

Q. Where were you living at that time? A. At 115 30
Clinton Place.

Q. Why did he leave you? A. He say he couldn't live with me.

Q. Did he tell you so? A. Yes, sir.

Q. Did he tell you that before he left you? A. Yes.

Q. More than once? A. More than once.

Q. Did he say why he couldn't live with you?

A. No, he didn't say that; he said he didn't like me.

Q. When did he leave you, in the morning or evening? A. In the afternoon he comes and left his home. 40

Q. Was that the first that you knew that he was going? A. No, sir, two weeks before he told me; he sent a trunk and he said he would leave me; he sent the trunk in the house; he bought the trunk.

Q. What did you say to him? A. Well, if you like I can't help it.

Q. Was your mother living with you then? A. Yes.

Q. When he was going away, the day he was going, did he say anything then? A. He comes and
10 he say, "Now I pack my trunk." And he took his clothes and packed his trunk.

Q. He did all the packing himself? A. Yes, sir.

Q. Did he bid you good-bye? A. No, he didn't say good-bye; he say, "I miss a couple of handkerchiefs," and I told him I should give them to him next time; and the next time he comes in the house he gets them.

Q. You have one child? A. Yes, sir.

Q. Did he bid the child good-bye? A. No, sir;
20 he didn't care for the child anyhow.

Q. Did he tell you so? A. Yes, he told me so; he said he didn't care for me or for the child.

Q. On his examination he said that while he was living at Clinton Place he was fired out of the house in the fall of 1880; is that so? A. No, sir.

Q. Did he have any trouble with your mother? A. No, sir.

Q. Did your mother never put him out? A. No, sir.

30 Q. Did your mother ever tell him to go out? A. No, sir; my mother was never alone with him.

Q. Were you in the most of the time? A. Every time in the house.

Q. Were you in the house looking after your duties as a wife? A. Yes, sir.

Q. Was your mother an old lady? A. Yes, sir.

Q. How old was she at that time? A. Sixty-seven.

40 Q. Able to go about? A. No; she was sick; she couldn't do anything more.

Q. Did your mother, so far as you know, find any objection to your husband living in the house? A. No, sir; she complained when he told me so many lies; he never told me the truth, never.

Q. And she found fault with that? A. She found fault with that; and then he didn't give me enough to live on; he gave me only three and a half dollars a week, and I had to buy coal and wood and everything that belongs to the house.

Q. Had to buy it yourself? A. Yes, sir. 10

Q. Where did you get the money? A. Only from the three and a half dollars a week, and I have to buy everything, and he wasn't satisfied with the meals.

Q. That is all he gave you? A. Yes, sir.

Q. What was he doing at that time? A. He got a big business at 131 Eighth street.

Q. What was his business. A. Cigar business, cigar manufacturer.

Q. Did he ever bring any tobacco work for you to 20 do at home? A. Yes, he bring plenty of tobacco at home for me to do.

Q. Did you refuse to strip it? A. I did it so far as I could do it.

Q. He said on his direct examination that you refused to do the stripping or the making cigars in some way? A. No, sir; when I got through my work, I had to clean and do up six rooms and do the washing and ironing and cooking and everything and when I got time left to do something 30 for him.

Q. You had to clean the rooms and do the washing and ironing and the cooking and looking after the child? A. Yes, sir.

Q. And the care of the six rooms? Yes, sir.

Q. Only on three and a half dollars per week? A. Yes.

Q. Did you strip tobacco for your brother and refuse to strip tobacco for him? A. No, sir; I never

stripped any tobacco for my brother since I am married.

Q. Did you ever tell him when he gave you tobacco to strip that you wouldn't strip it and that if he didn't like it he could go his way and you go yours?

A. No, sir.

Q. Never told him anything like it? A. No, sir.

Q. He said that when he got home in 1880 one day he found his trunk packed and no dinner? A. That is a lie, that is not true.

10 Q. And that your mother said to him "There is your trunk packed, you go"? A. No, that is not true.

Q. Do you remember that? A. No, sir; that is not true.

Q. Did you ever hear your mother say that to him? A. Never.

Q. Were you present the day he went out?
A. Certainly; my mother wasn't there at that time;
my mother was with my brother; she wasn't there
20 at that time.

Q. How long had she been with your brother? A. She went in the morning and came in the evening home; this time she couldn't go out any more, she was sick.

Q. Between the time that your mother left in the morning and the time that she returned in the evening, your husband had come in and taken his trunk and gone away? A. Yes, sir.

Q. So that your mother wasn't home at that time?
30 A. No, sir, she wasn't home.

Q. Did an express wagon take the trunk away?
A. Yes, sir.

Q. Who hired the express? A. Himself.

Q. When did you see your husband for the first time after he left you then? A. He comes a couple of weeks afterwards into the house and brings me some money.

Q. How much did he give you then? A. He prom-
40 ised to give me every week five dollars.

Q. When he was going away he said he would give you five dollars a week? A. Yes, sir; and he did it for about six or seven weeks and then he stopped.

Q. Did he give you five dollars a week regularly for six or seven weeks? A. Yes, sir.

Q. Did he give any reason to you afterwards why he stopped it? A. No.

Q. Who brought the money to you in the evening?
A. Himself.

10

Q. To the house? A. Sometimes he come in the house; sometimes five dollars, and sometimes two and a half dollars; he sent it down by a boy that he has got in the store.

Q. How much did he bring? A. He brought two dollars and a half, and one dollar, just as he got it.

Q. Did he ever bring five dollars at one time?
A. No, never five dollars together.

Q. Did he bring six dollars? A. No.

Q. Or eight dollars? A. Never, no.

20

Q. When he would come with the money did you have a talk with him? A. No, sir, I don't talk with him.

Q. He simply gave you the money and went away?
A. Yes, sir.

Q. Said nothing? No, sir.

Q. At any of those times did he ask you to live with him? A. He sent only a letter, "I take a room, I take one room." He wanted me to live with him, and I didn't give him any answer; and I produce 30 the letter in Court when I got him arrested the first time.

Q. When was that letter sent? A. That was about the first year.

Q. About 1880? A. Yes, sir, 1880.

Q. And that letter was that he had taken one room in Third avenue? A. Yes, sir.

Q. Did you want to live with him? A. Yes, sir.

Q. Did you reply to that letter? A. I didn't give him an answer to this letter; so I keep the letter, 40

and the first time I got him arrested I brought the letter into court.

Q. You didn't reply to that letter, didn't answer it? A. No, sir.

Q. Did he ever ask you while out on the street where he would meet you, or in his store if you happened to go in there to go and live with him? A. No, sir.

Q. You heard the testimony of Schwarskop to the effect that he was present when Gluck asked you
10 to live with him? A. Yes, sir; I never saw the man.

Q. Did you ever have a conversation with your husband of that kind in his cigar store? A. No, sir; he sent down one time to come right down to the store and when I came up in the store he said, "I leave to-morrow." That is all he said.

Q. Leave where? A. He wanted to leave me.

Q. That was before he left you? A. Yes, sir.

Q. After he left you when you were passing by his
20 store on Clinton place, did you go in to see him? A. No, sir.

Q. Did you ever go into his store? A. No, sir; once I was in with a witness; the lawyer sent me up where I was at when I got him arrested; when I went to get him arrested the second time the lawyer sent me up with a witness, and I asked him if he wanted to support me, and he say no.

Q. How many times did you have him arrested?
A. Twice.

30 Q. For what? A. For support.

Q. Where was he arrested? A. Jefferson Market.

Q. He was brought there? A. Yes, sir.

Q. Who was the Justice? A. The first was Justice Smith and the second was Judge Duffy.

Q. Did he give you support each time? A. Certainly.

Q. After you had him arrested each of those times he gave you the support, Mr. Gluck? A. Yes, sir;
40 he have to pay it up in Eleventh street.

Q. Then you used to go up there to get it. A. Yes.

Q. How much did you get at each of those times? A. Three dollars a week; I just asked for the child's support.

Q. How long did he continue to pay the three dollars a week? A. He paid it every time for one year.

Q. Then he stopped? A. Yes, sir.

Q. And then you had to have him arrested again. 10
A. Yes, sir.

Q. Did he pay after that? A. He went away September; I got him the last time arrested the 28th of March, 1883, and then he went away until September and his bondsmen had to pay until the year was out.

Q. Where did he go in September? A. He went away to Texas.

Q. Out West? A. Yes, sir.

Q. That was for the support of the child that you 20
had him arrested? A. Yes, sir.

Q. You have never had him arrested for your own support? A. Not for my own support; the child is all the time sick; she can't see good; she has to have glasses all the time.

Q. Did he ever tell you that he was living in Hoboken? A. No, sir.

Q. Do you remember when he was arrested and brought to Jefferson Market Police Court by a gentleman? A. Yes, sir. 30

Q. On the complaint of a gentleman? A. Yes, sir, the gentleman took me for a witness.

Q. And on that occasion did he take you by the arm and ask you to live with him? A. No, sir.

Q. What did he do? A. Duffy, he say, "Well, do you want to take your wife home?" And he said "Yes," and I said "No, I don't want to live with you again." I said that in Court, and I said it the first time when I got him arrested before Judge Duffy.

Q. Why did you say that? A. Well, Judge Duffy 40

say, "You have got rights." He didn't support me right; he didn't support me like a wife and he treat me bad and once he threw a knife at me; he never bought any clothes or nothing for me.

Cross-examination by Mr. HERBERT.

Q. You felt pretty sore against your husband when in Judge Duffy's court he asked you to come and live with him again, and you replied that you would not, said, "I don't want to live with you
10 again." A. Yes, sir, that is what I said.

Q. And that bitterness was due to the fact that he had not supported you properly? A. Yes, sir.

Q. That he hadn't provided you with clothes and that he hadn't given you but three dollars and a half a week? A. Yes, sir.

Q. Where did you first make the acquaintance of Gluck? A. In our house.

Q. Was he at that time in the employment of your brother? A. Yes, sir.

20 Q. And you knew what he was receiving a week in wages? A. Certainly; I was working with him.

Q. You were doing the same work? A. Yes, sir.

Q. Stripping tobacco? A. Oh, no, we made cigars, he didn't make cigars.

Q. At that time, you remember what your husband testified to that at that time he was stripping tobacco? A. He never was engaged in stripping tobacco; he was bunch making.

Q. And what did he receive a week at that time?
30 A. Just how much he could make; he got paid by the bundle.

Q. About three dollars a week, wasn't it? A. Oh, no, he made more.

Q. Didn't your husband testify what he made? A. No, he made more; he made four, five, six dollars, according to how he worked.

Q. You were present in the court room when your husband testified? A. Yes, sir.

Q. And you remember what he testified as to the amount that he paid you a week? A. Yes, sir.

Q. Wasn't it two dollars a week for over a year that he made? A. I don't know; my brother know, he know it better; he got it in a book what he got then.

Q. And the second year three dollars a week? A. I don't know that.

Q. You don't know that he got any more? A. I wasn't married then.

Q. How long had he been working with your brother before you were married? A. I think about one year.

Q. And isn't it a fact that when he married you he wasn't receiving over four dollars a week and your brother was his employer? A. Well, you know in that cigar business they get just paid what they make, they get paid by the piece; if he didn't work so much he didn't make so much.

Q. (Question repeated.) A. Well, I don't know if he got four dollars a week, I can't say, I don't know.

Q. You lived happily for three or four years? A. Oh, no, indeed not.

Q. Were you unhappy? A. Yes, I was unhappy.

Q. Why were you unhappy? A. Why he spends all the money that he makes; he never left me any money and he went out and spent the money.

Q. That made you unhappy, did it? A. Certainly; how can I live when a man don't give me anything.

Q. He did give you three dollars and a half a week at one time? A. Yes, that is all he give me.

Q. And you had six rooms? how much rent did you have to pay? A. My mother paid twenty five dollars a month rent.

Q. Your mother? A. Yes, sir.

Q. You don't know how much your husband paid your mother? A. He paid her six dollars a month rent.

Q. That was for the use of a room? A. Yes, sir.

Q. For one room? A. No, we had three rooms where we were.

Q. And he paid you three dollars and a half a week? A. Yes, sir.

Q. And out of that you had to provide his food?

A. Food, and everything that belongs to house-keeping.

Q. Didn't he at times give you any more? A. No, sir.

Q. In January he took out a life insurance policy or two of them, for three thousand dollars, you knew about that? A. Yes, I knew about that.

10 Q. He had to pay something on account of that? A. Yes, he paid but he didn't get it: he let it drop.

Q. When did he let it drop? A. I don't think he got it one year.

Q. He got it in January 1880 and you separated on March 10th, so that it was just exactly six weeks after he gave this expression of love and affection for you and for your welfare that he left you according to your story? A. Yes, sir.

20 Q. And he informed you two weeks in advance that he was going away? A. Yes, sir.

Q. Isn't it a fact that you did have some little quarrel over the interference of your mother? A. No, sir.

Q. Your mother was an irritating woman? A. No, sir, she was a very quiet woman, and a sick woman: she was very glad that he didn't bother her.

30 Q. Didn't she find fault with Mr. Gluck for giving you so little? A. Yes, she made complaint of this: I asked my mother every time for money; when I needed a pair shoes or clothes for the child I had to ask my mother for it.

Q. And then Mr. Gluck came in for his share of the blame from your mother? A. My mother got nothing for it.

Q. (Question repeated.) A. She say he ought to give a little more, she say that I can't get along with this money, that I ought to have more.

40 Q. How often did she tell him that? A. I don't know, only when he begins to be dissatisfied with the meals.

Q. What was the trouble with the meals? A. He wasn't satisfied, he said there wasn't enough on the table.

Q. Occasionally you didn't have anything? A. I didn't get it.

Q. Sometimes he would come home and find nothing on the table? A. Oh, yes, he always find something on the table; all that I could get with the money; sometimes he would come home at three o'clock for his dinner instead of twelve, and sometimes he come at four o'clock, or how he likes it. 10

Q. In the afternoon? A. Yes, sir.

Q. Didn't Mr. Gluck at that time work very late in his shop? A. No, sir, he didn't work at all; he went around with the women; you never find him in the store; I came there at nine o'clock and at ten o'clock in the evening but he was never there; he got every time strangers in the store; I never found him there.

Q. I understood you to say at one time you found the store closed and at another time you found strangers in it? A. No, the store was never closed, but always strangers in the store. 20

Q. Was it his store? A. Yes, it was his store.

Q. When you say strangers in the store you mean he had persons there to represent him? A. Yes.

Q. Selling goods for him? A. Yes, sir.

Q. How often did you go to the store? A. I went in the evening at ten o'clock or nine sometimes, when I got the child sleeping, I can't tell you how many times. 30

Q. How many times did you go there after you and he separated? A. I was only once there.

Q. You never went there but once after that. Just tell me what took place when you went there? A. I told you all; he sent for me.

Q. Then you went in? A. Yes, sir.

Q. And what did he say to you? A. He say "I leave you to morrow."

Q. I am talking now of the time after you separated? A. After I separated I was once there and asked him if he want to support me and he said no. 40

Q. Didn't he at that time ask you to come and live with him? A. No, sir.

Q. You say he did write and request you at that time? A. Yes, sir, one letter he wrote me in 1880 and that is all.

Q. And you never replied to it? A. No.

Q. Why didn't you reply to it? A. I can't live with a man that goes around with all the women and spends the money and leave me without it.

10 Q. You did not know that he was going with anybody else? A. I know it, the people tell me; he got a bad woman in the store to attend to the store and he had her going all over with him and I was sitting at home getting the meals and getting something for him.

Q. And you had an idea that he was travelling around with a bad woman? A. Oh, yes, I saw him.

Q. With the woman that was in the store? A. Yes, sir.

Q. Do you remember her name? A. Mrs. Sport.

20 Q. Do you know where she is now? A. I don't know where she is: those kind of women they are all over.

Q. Isn't she a married woman? A. No, sir.

Q. And doesn't she live with her husband? A. No.

Q. And didn't she live with her husband at that time? A. No, sir.

Q. Are you sure about that? A. Yes, I am sure about that.

30 Q. And yet you say you don't know where she lives? A. She was living at Third avenue and Fifteenth street: she was living in a boarding house there.

Q. What did you go there for? A. I wanted to find out what it is: why he tells me lies so.

Q. But your husband employed her to attend the store? A. Yes, sir.

40 A. How often did you see that lady? A. I saw her a couple of times in the store.

Q. How long since you have seen her? A. I seen her in the store this time, and since that time I never saw her : I see her more than twice in the store.

Q. How many times? A. I can't tell you.

Q. I understood you to swear a moment ago that you knew that that woman wasn't married? A. No.

Q. And that she wasn't living with her husband? A. No, sir.

Q. And you say that you know that that is a fact now? A. I know it; I know it from the boarding 10 lady that she was living with.

Q. How do you know it now? A. I don't know what she does now? I never saw her again since she left the store.

Q. And you have no knowledge of whether she was married or not excepting as you obtained it from the woman who kept the boarding house? A. Yes.

Q. That is all you know about it? A. That is all.

Q. You never spoke to the lady yourself? A. Oh, 20 yes, I spoke to the lady.

Q. In the store? A. I told her in the store, and I told her to go out of the store.

Q. When was that? A. That is one evening.

Q. How long before you separated? A. One month before.

Q. Did that have a little something to do with your conduct with your husband? A. I objected to his spending money on that woman, and he was running around all over and to the theatre with her, and I have to stay home and work and slave and get noth- 30 ing to live with and nothing to dress myself with.

Q. What theatre did he take her to? A. I don't know.

Q. Why do you say that he took her to the theatre? A. Yes, sir.

Q. How do you know that? A. I heard it from the peoples, he was there and took her along.

Q. You never heard your husband say so? A. Oh no, he never told me that : he never tell me the truth, and when you catch him telling the truth he turns 40 around and say it isn't so.

Q. You never heard the lady say so? A. I didn't talk with her after this.

Q. And you never saw her in the theatre yourself?

A. I wasn't in the theatre.

Q. And all you know was the gossip that you got from some busy-body in the neighborhood? A. Oh, no, it is no use asking him : I just go to the boarding house and she tell me what she say.

(Objected to and ordered stricken out.)

10 Q. I have here a certificate of the Health Department of the City of New York giving the date of the birth of your child Cecelia Gluck on the 27th of January, 1887, is that correct? A. Yes, sir.

Q. I don't remember whether you stated when you received that letter from your husband? A. I can't tell you : I don't know what time it was any more.

Q. Was it in 1881, the letter? A. In 1880.

Q. But what time in 1880? A. I don't notice any more.

20 Q. About how long after you and your husband separated? A. Four or five months after.

Q. When did you first meet Mr. Houtalin? A. Oh, I saw them so long as I have been in the street, I know him so long as I have been in Clinton Place.

Q. How long is that? A. About six years.

Q. Is that when you first made his acquaintance? A. Yes, sir.

Q. Six years ago? A. Yes, sir.

30 Q. Never knew him before? A. No, I don't know him before.

Q. When did you tell him that you wanted him to testify in this case? A. He comes sometimes in our house ; there is a lawyer living there and he comes and visits the gentleman ; and I told him about this case, and I say I saw Mr. Gluck coming out of the house in 1880 and I know if he was living there, and I asked Mr. Houtalin and I say Mr. Gluck was living there, how long was he living there ; and he says

40

about this woman; I says yes; "oh, my, he says, that is a nice man."

Q. That is the first that he knew that it was your husband? A. Yes, sir.

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

Q. You explained it to him he was greatly astonished? A. Yes, and he told me about it.

Q. And that was about six years ago? A. No, he didn't tell me six years ago; that was only when that case comes on trial, when that second case comes 10 on I asked him, that was last September.

Q. And he never knew that Joseph Gluck was your husband until last September? A. No, sir.

Q. And then you explained it to him? A. Yes, sir.

Q. Did you tell him what you wanted him to testify to? A. Certainly, as soon as he tells me this I asked him to be a witness and he says of course at any time.

Q. And that is the first time that you had ever heard of that occurrence? A. Yes, sir. 20

Q. Therefore that was not the reason for your refusing to live with your husband in 1880? A. No, sir, that is only this case.

Q. That was not the reason? A. No, that wasn't it.

Q. What was his object in calling you into the store? A. He never called me in the store.

Q. I understood you to say that he sent for you once? A. Once he sent for me, and then he told me that he would leave; he never took me in the store. 30

Q. He met you once? A. I met him several times but I didn't talk with him.

Q. What did he say to you? A. Nothing.

Q. Never spoke to you? A. No, sir.

Q. Do you know a man by the name of Waccas?

A. Waccas in Twenty five Clinton Place, where he got a home, where he was living there.

Q. Do you remember being in the saloon of Mr. Rakes? A. I was in the saloon to get something for the child to drink: it was sick: he took the child in 40 his room: I didn't talk with him.

Q. What were you doing there? A. I told you that the child was thirsty, she wanted something to drink.

Q. You went to get some beer? A. Oh, no, not beer; the lady knows me and she got some milk.

Q. What did you take? A. I took it if necessary.

Q. Didn't Mr. Gluck sit at the same table with you?

A. I don't know if he sat there or not; I drank it with the lady.

Q. Didn't Mr. Gluck order the drinks? A. I don't
10 know.

Q. Oh yes you do? A. No, sir.

Q. You do remember that he was there? A. I saw him when he went up in the room and took the child up in the room, that is all I saw of him.

Q. You saw him take a drink there? A. I don't know.

Q. Why don't you? A. I didn't look for him, I did not look what he was doing.

Q. Were you not passing the store and he called
20 you in? A. No, sir.

Q. Who did call you in? A. I went all alone in, with the child.

Q. You knew that he was stopping there? A. I didn't know until this time; Mr. Rakes told me that day.

Q. And you saw your husband there? A. I didn't see him myself; Mr. Rakes took the child and he took the child upstairs; Mr. Rakes took the child, he said Mr. Gluck wanted to see the child and he
30 took it from me and took it upstairs in the room.

Q. And then did Mr. Gluck come down? A. No; I took the child when Mrs. Rakes brought it to me and I took it away.

Q. You went with a witness there to see him once, you say, and asked him whether he didn't want to support you? A. Yes, sir.

Q. Didn't he say on that occasion that if you would come and live with him he would provide you with three rooms? A. No, sir, not one word; he
40 say no, he wouldn't support me.

Q. And didn't you say, "No, I will never live with you?" A. No, sir.

Q. It is a fact that you would not live with him?
A. I can't live with a man when he don't like me.

Q. That was the reason why you wouldn't live with him? A. No, if a man don't support a wife and don't like a wife you can't live with a man like that.

Q. And that is the reason you wouldn't live with him? A. Yes, sir. 10

Q. You had no other reason for refusing to live with him than that he didn't give you money enough for your support? A. He didn't dress me, he didn't support me and he treat me bad.

Q. You had him arrested for your own support the first time, didn't you? A. For the child's support.

Q. No, the first time? A. The first time for the child's support, and the second time for the child's support. 20

Q. And for your own support too? A. No, sir.

Q. On neither occasion? A. I let him pay for the child; I make so much that I can live, but the child needs the care of the doctor, she needs something.

Q. Why didn't you have him arrested for your own support? A. Well, I make my living before this time, I was working for my living, but I could not work for two, for the child and myself.

Q. Is it a fact that you did not have him arrested because you knew that you could not maintain any action against him? A. I don't know what you mean. 30

Q. Without offering to go home with him? A. No.

Q. You don't understand that question? A. I don't know what you mean.

Q. I want to know whether you had any other reason for not having him arrested for your own support? A. He make himself poor; he was spend- 40

ing a day on the corner and making himself poor; he hardly support the child: he wouldn't support me; he makes himself poor; he is a poor working man he say, and he has got a store and eight working men and a store tender and a foreman and everything, and then he comes in the court and say "I am a poor working man."

Q. And you didn't have him arrested for your support simply because you thought he was not able to support you? A. Well, he say so.

10 Q. He brought you tobacco to strip, you remember that? Yes sir.

Q. And you remember that you didn't strip it? A. I stripped it; when I got time I strip it and when I haven't got time I couldn't strip it.

Q. And on the day he left you didn't strip it? A. When he left you think I am a regular foreman after he leave me he got it into his mind for many weeks before he left.

Q. How many weeks? A. He got it into his mind that he was going to leave me four or five weeks.

20 Q. And when he told you that you wouldn't strip any more tobacco? A. Oh, yes, I strip it; I strip it right away when I got time.

Q. He did give you some money for some little time after you separated? A. Yes, he promised me, when he went away he promised me "I give you every week five dollars a week so long as I live."

Q. How long did he do that? A. He did it for four or five weeks.

30 Q. You said seven weeks at first and now you have got it down to five weeks, which is right? A. I didn't put it down how many weeks it is.

Q. You don't remember very distinctly about that? A. No, sir.

Q. He gave it to you in driblets? A. Yes, sir.

Q. Two and a half, two, and one dollar, at a time? A. Yes, sir.

Q. Whenever he would meet you? A. No, not meet me; he comes down in the house and gave it to me.

Q. Did you on any of those occasions have any conversation with him about living with him? A. No, sir.

Q. Did you say that you wanted him to come and live with you? A. No, sir.

Q. Why not? A. No, I can't.

Q. Why not? A. Not with a man that treats a woman bad, you can't live with a man that don't support a woman, not with a man where you have to starve.

10

Re-direct examination by Mr. MINTURN.

Q. Did you in June or July, 1880, visit Mr. Houtalin's place? A. In July, yes; I went there and saw the lady; the child went up with a little girl that they have got there.

Q. Where? A. In Houtalin's place.

Q. When? A. I go there ever since a couple of years, there in Mr. Houtalin's place.

Q. Did you visit Mr. Gluck in Mr. Houtalin's 20 place? A. No I saw him coming out when I passed.

Q. You are not the lady that was up in Mr. Houtalin's house? A. Oh, no.

Q. You say that while you were living at Clinton Place your mother paid the rent? A. Yes, sir.

Q. Did you ever pay the rent to your mother out of the money that your husband gave you? A. No, sir; he gave her six dollars a month rent and he gave me three dollars and half to live on and support, what I needed for house-keeping, and that is all I 30 got from him.

Q. How many rooms did your mother have there? A. My mother had only one bed room.

Q. How many rooms did you have between you altogether? A. We had six rooms altogether.

Q. How much rent was paid for the six rooms? A. Twenty-five dollars.

Q. Out of the twenty-five dollars you paid six to your mother? A. Yes, sir.

Q. Do you remember what year it was that Mr. 40

Gluck was arrested and brought before Justice Duffy by this gentleman, on the complaint of this man that you have spoken about? A. I think it was about two years ago, I don't know sure.

SOPHY REU, sworn on part of defendant.

Direct examination by Mr. MINTURN.

Q. Where do you reside? A. 115 Clinton place,
10 New York City.

Q. You are related to the defendant, Mrs. Gluck?

A. I am her brother's wife.

Q. Do you know Mr. Gluck? A. Yes, sir.

Q. How long have you known him? A. Since I am married.

Q. How long is that? A. Thirteen years ago.

Q. Do you remember the time that Mr. and Mrs. Gluck separated? A. Yes, sir.

Q. When they were living at Clinton place? A.
20 Yes.

Q. After that separation did you meet Mr. Gluck and have a conversation with him in regard to it?

A. Yes, sir, when he separated, I think it was the day before, I went to his store, to his place, 131 Eighth street.

Q. What did you go there for? A. I went to ask him what was the reason he was going to leave his wife.

Q. What did you ask him? A. I asked him if
30 that was the mother, for my mother-in-law, and if that was the reason because of her I would take her away with me, and he lifted his hand up and says, "By my God who sees me, Sophy, I will never live with Amelia again." That was just the way he spoke the word; and I says "Why?" And he says "Because I don't like her and I can't live with her any more."

Q. That was in his own store? A. Yes, sir.
40

Q. That was all that was said about that? A. Yes, sir; I told him to go home, to try his very best, but he say no he couldn't, he wouldn't.

Q. Did he say why? A. That he couldn't live with her any more, that was the reason he said always, that he couldn't, that he wouldn't.

Q. Did he say anything about his mother-in-law at that time? A. No, sir; when I asked him he said that it wasn't because of the mother, to leave her where she was, to leave her by Amelia, that it wasn't because of the mother-in-law at all for, nothing about that.

Q. He gave as his reason then for leaving her that he didn't love her, didn't like her any more? A. Yes, sir.

Cross-examination by Mr. HERBERT.

Q. When did you repeat this conversation to Mrs. Gluck? A. Oh, I don't know.

Q. When did you tell Mrs. Gluck what her husband had said to you on that occasion? A. At first I didn't say that Mr. Gluck didn't love her any more; I only say he wouldn't live with her any more.

Q. When did you tell her that? A. Oh, I don't know, I don't remember.

Q. Since this suit was brought? A. Oh, no; she know that before; she knew very well where I was.

Q. How soon after Mr. Gluck told you that was it that they separated? A. The day after.

Q. It was the day before Mr. Gluck left? A. Yes; I think I went there the 9th of March and he left on the 10th.

Q. How did you know that he was going to leave his wife? A. He said it to his wife; when my sister came in my house she said "Gluck told me he was going to leave me." And that day I went to ask him if it was true, and what was the reason.

Q. Didn't he say he would never live with Amelia so long as she insisted upon living with her mother?

A. No sir; nobody obliged him to live with the mother; he was told that I would take her.

Q. Isn't that what he said to you, that he didn't want to live with Mrs. Gluck's mother? A. No sir, he didn't say that; he said he was going to leave her because he didn't love his wife; then I asked him if that was for the mother-in-law and he said no, the mother has nothing to do with this.

Q. Why did you think it was the mother? A. Well, I asked him first what it was, I says "What is the
10 reason, if you have some trouble whether it is for the mother?" I didn't know; I tried to put them together.

Q. Hadn't Mrs. Gluck told you that it was on account of the mother? A. No, sir.

Q. It seems very strange that you should have asked that question without knowing that there was some trouble of that kind? A. That never was the trouble at that time; of course I only talk French, and I can't say what was passing all the time because
20 I don't understand German.

Q. But you imagined that it was because of the mother and for that reason he was going to leave her? A. I asked him if that was the reason, but the trouble I never heard.

Q. Did you ever have any conversation with him about the mother? A. No, sir; I never spoke to him much even when he was in the house; I never spoke much to Mr. Gluck.

Q. Did you ever see him and his wife together?
30 A. Oh, yes.

Q. How did they seem to you, to be happy or discontented? A. I never saw any trouble.

Q. Only by their talk, they were always talking in German? A. Their talk I didn't understand at all.

Q. You don't understand German? A. No, sir; and they always talked in German, always.

Q. But from appearances you thought they were
40 living happily together? A. When I was there it

was only for a short visit, as I couldn't speak with them, it was only that I would go to see the mother.

Q. But when you were there they appeared to be happy? A. It is so seldom that I saw them together.

Q. When you did see them? A. Yes, I never saw anything.

Re-direct examination by Mr. MINTURN.

10

Q. At that time you offered to take the mother to your house to live with you if that was the cause of the trouble? A. Oh, certainly; with pleasure, too.

Q. And he wouldn't have that? A. He wouldn't have that, no, sir; and the reason I didn't go there oftener was only because the mother could only speak in German and I speak French, and that was the only objection.

20

Defendant rests, with the exception of one witness.

PETITIONER IN REBUTTAL.

JOSEPH GLUCK, the petitioner, *recalled* in rebuttal 30
by Mr. HERBERT.

Q. You have heard the testimony of Francis Houtalin this morning? A. Yes, sir.

Q. Did you, in July, 1880, at No. 17 Clinton Place, have sexual intercourse with any woman who was not your wife? A. No, sir.

Q. Have you ever had illicit intercourse with any woman? A. No, sir.

Q. Did a woman ever stay in your room at No. 17 40

Clinton Place all night. A. Not to my knowledge, never.

Q. Never while you were there? A. Never.

Q. Do you remember when you were at 17 Clinton Place? A. Yes, sir, I do; I was there the fall; not in July; I was there in the fall, while the heater was going in the hallway, the same year; it was in the fall while the heater was going in the hall.

Q. And when did you leave there? A. I presume I was staying there, when I was altogether staying
10 there, I was staying there a very short time, very short time.

Q. About how long? A. I don't like to say no lie, but I couldn't remember.

Q. Just say that you don't remember then? A. But I know it was in the fall, it was winter time, while the heater was going in the hall that I remember.

Q. When did you leave there do you remember—
how many weeks were ^{you} there? A. I guess, perhaps,
20 two weeks, perhaps it was eight weeks, couldn't tell you.

Q. You have forgotten the time? A. Yes, sir.

Q. Is it true that you were removed by Mr. Houtalin or by his direction? A. No, sir; I moved out by myself.

Q. Of your own volition? A. Yes, sir.

Q. What room did you occupy while there? A. I occupied the room, extension room, first comes a straight hall room; in front of the hall is a corner so
30 as to turn over; my room here was next to the corner one; next to the last was my room.

Q. In the rear house or the extension? A. The extension.

Q. Your wife has spoken of a woman who was in your employ, a Mrs. Sport, is that the name? A. Yes, that is the name.

Q. How long was she in your employment? A. If I am not mistaken she was in my employment
40 about five or six months.

Q. Was she married at that time? A. Yes, she was married.

Q. Was she living with her husband? A. Yes, she was.

Q. Are you acquainted with the husband? A. Yes, I am acquainted with him.

Q. Is she still living with him? A. Yes, sir.

Q. Did you ever take her out to the theatre or any other place? A. No, sir.

Q. Did you ever go with her to a private house? 10
A. No, sir.

Q. Or a hotel? A. No, sir.

Q. Did you ever spend any money on her? A. No, sir.

Q. Outside of her salary? A. No, sir.

Q. Your wife says that you paid her but three dollars and a half a week, is that true? A. She testified wrong.

Q. What did you pay her? A. I paid her occasionally sometimes five dollars, sometimes six or 20 eight dollars, it depends so much how I could.

Q. Did you pay her all that you had, all that you earned? A. All what I could possibly spare I gave her.

Q. What were you earning at the time that you first met her? A. I was earning two or three dollars a week.

Q. Was she working at your side, under the same master? A. She was working in the same room.

Q. And how much did you earn at the time that 30 you were married to her? A. About four dollars.

Q. Did she know how much you were earning at that time? A. Yes, sir; she knew it.

Q. Four dollars a week? A. Yes, sir.

Q. You heard the testimony of Mrs. Ren, do you remember having a conversation with her? A. I did once, yes, sir.

Q. State to the court what was said by both of you upon that occasion? A. It was this: I went down once in her store and she was saying that she couldn't 40

stay no more on account of her mother-in-law, and if it goes on further, if this is the way it goes on, she would leave her; we was both together and present. She was sick of her mother-in-law.

Q. Did you have anything to say about the way you felt toward your mother-in-law? A. I was telling Sophy I couldn't stay neither with her no more.

Q. You were commiserating together then? A. Yes.

Q. And she said that in your store upon that occasion that she came to see you you raised your
10 hand and said, "So help me God, Sophy, I will never live with Amelia"? A. I never said so, never.

Q. What did you say? A. I never saw her in the store, in fact.

Q. When you had that conversation with her, where was that? A. In her own store.

Q. What was the conversation, give it as near as you can? A. The conversation was I will tell you; the old lady used to like to be boss, she want to boss everybody, she want to wear the pants.

20 Q. What did you say? A. I guess Mrs. Reu wasn't used to such a life; she was an independent lady, and she couldn't stand it; if somebody bought a pair of pants it was "This was too much, or This is not so, or This is this way"; you know how old German folks are.

Q. What was said on that occasion when you had the talk with Mrs. Reu, what did you say to her? A. What I told you before.

Q. Tell it to me again? A. I went down in her
30 store, I guess it was towards evening or it was evening, I don't remember, and we were both together in her store, not in mine, and she was terribly complaining about the mother; I told her plain and prompt "I am sick and tired of her mother too, she boss me too much." That is, my wife's mother.

Q. Then what did you say to her? A. I didn't say anything more.

Q. You didn't say that you wouldn't live with
40 your wife? A. No sir, I never said so.

Q. Was anything said about your not living with her so long as she remained with her mother?
A. By me?

Q. Yes, so long as she remained with her mother, did you say anything of that kind? A. No sir, I never said it.

Cross-examination by Mr. MINTURN.

Q. Did you drink any liquor in 1880? A. Perhaps so, I couldn't tell you; in 1881 I know I drank. 10

Q. Did you ever get drunk about that time? A. In 1881—no, sir.

Q. Or in 1880? A. No, sir, I was never drunk in my life—I was drunk plenty, but never for people to say, to point out a man, “he is a drunken man.”

Q. You say that you left New York on account of drinking? A. Yes, sir; I would become regular drunkard if I stayed there.

Q. You said in your trial before the Court of Quarter Sessions in New Jersey that you left New York on account of you drinking so much? A. I say drinking like a regular—(interrupted.) 20

Q. You say that you never got drunk in 1880 or 1881? A. That nobody can say they saw me; I got drunk many times, but I went straight home.

Q. You went home and got drunk? A. No, I got drunk in New York.

Q. On the street or in a saloon? A. In the saloon.

Q. In the saloon nobody saw you? A. Yes, they 30 knew me, they saw me; I say nobody can say to-day on my reputation that they saw me drunk; I think more of myself; I was many a time drunk, I don't deny it.

Q. Were you drunk on the day that Mrs. Reu was talking to you? A. No, sir, I was sober.

Q. And then what she says to-day about your conversation with her is a lie? A. I never saw her in my store, I can swear to it, sure.

Q. She might have been in your store when you were drunk? A. When I was drunk in my store there was somebody else to take my place.

Q. You were never drunk in your own place? A. Perhaps I was many a time drunk there; but I had somebody else to take care of it; perhaps I was sleeping there, I couldn't tell you; I went straight home.

Q. Did you ever make any presents to a woman outside of your wife? A. No, sir; I got paid for it.

10 Q. Didn't you treat some young lady in New York o some jewelry? A. Yes, I got paid for it.

Q. She gave you the money to buy the things? A. Yes; I gave it to this young lady when I was boarding there; I told you I done it for pay.

Q. Who was the young lady?

* Objected to as not proper cross-examination.
Question overruled. Exception.

20 Q. Do you know a lady named Mrs. Meyer? A. Yes, I do.

Q. Did you ever spend any money on her?

Objected to as immaterial. Question overruled. Exception.

Q. Did you ever take her to the theatre?

Objected to as immaterial. Question overruled. Exception.

30 Q. What time did you go to Mr. Houtalin's place as a boarder? A. In 1881, in the fall.

Q. How long did you remain there? A. I couldn't tell you.

Q. Was it over a month? A. I couldn't tell you, I couldn't swear to it and say it was so many months.

Q. Can you swear that you were there longer than a month? A. I couldn't tell you; perhaps one
40 month, perhaps two months or three months, I don't know, I couldn't tell you.

Q. You never had a woman in your room while you were there at Clinton place A. Over nights, no, sir.

Q. Why did you leave? A. I suppose I had reason to get out of the house.

Q. Why? A. Because the house didn't suit me.

Q. Why? A. Here is a parlor—no, here is the door to come in; you come in the parlor; there from the parlor is a big window; you go into the rear a couple of steps down in the hall, and from the hall 10 you have to go back and turn to your right and go through in your room; and the place didn't suit me.

Q. You saw all that before you took the room? A. Perhaps I paid a week's rent, perhaps I paid two weeks' rent; there was no room vacant, I think, I am not sure of that, and I moved out.

Q. But you saw all that inconvenience before you took the room? A. No, sir; I don't know that I saw that.

Q. You have testified that your room opened 20 directly on the hall-way. A. On the hall-way, yes.

Q. How does the parlor come in there? A. I have explained that; here is the front parlor; here you come in from the parlor; from the parlor is the window; from the window you go three steps down and go again into the extension hall; from the extension hall you turn to your right and you go to a door, then the next room it was mine.

Q. That is the way you got into your room the first day that you went there? A. The first evening 30 I went there, yes.

Q. That was the way you always entered your room? A. Yes, sir.

Q. And did you object at the time that you hired the room for that reason? A. I don't like the house and I moved, that was all.

Q. That was the only ground of complaint that you had against the house? A. The only ground, yes.

Q. You were not put out by Mr. Houtalin. A. No, sir; never.

Q. Did you tell Houtalin that you were going away when you were going? A. I never saw him.

Q. Whom did you give your key to? A. To the servant girl, or the lady; there were so many women around.

Q. You didn't like to have so many women around? A. I beg your pardon; I have a pretty good reputation in the lodges before you ask me such things.

Q. Were you sick while you were there? A. Yes, I was sick.

10 Q. Did any lady visit you while you were sick?
A. Yes, sir.

Q. Who? A. I couldn't swear whether it was the servant girl or the lady herself; I had a terrible headache and I got some tea, and I don't know whether it was the lady or the servant.

Q. Somebody connected with the house? A. Yes, sir.

20 Q. Was that the only time that woman was in the room while you were there? A. The only time; and I can remember one time when I went to pay to the lady, not the same lady again, the other lady, I paid a week's rent.

Q. How long did you have this Mrs. Sport in your employ? A. I guess five or six months, or four months; I couldn't tell you now.

Q. What was she doing in your employ? A. She was tending cigar store; she is a perfect lady.

30 Q. Was she a young lady? A. Yes, sir. I can bring a reputation from Judge Bookstaver that she was a perfect lady.

Q. Did she live with her husband at the time? A. Yes, sir.

Q. Where? A. They were living in West Thirty-third street.

Q. How long did she remain in your employ? A. I couldn't tell you; four or five months, perhaps six or seven months, I couldn't tell you.

Q. When did she leave you? She had to leave.

40 Q. Why? A. On account of the business went to Mr. Winfield S. Robinson.

Q. What business? A. The store.

Q. You sold it? A. I had to sell it.

Q. To Mr. Robinson? A. To Winfield S. Robinson.

Q. Where was that business then? A. The same business where I was married, 133 Eighth street.

Q. Have you seen that lady since? A. No, sir; I meet him occasionally.

Q. You meet her occasionally? A. No, Mr. Sport.

Q. You meet him but you never meet the lady? 10
A. No, sir; I never meet the lady.

Q. You haven't seen her since she left your employ? A. No, sir.

Q. You are satisfied that you gave your wife five, six or eight dollars a week? A. Yes, sir.

Q. Were you earning more then than you are now?
A. I used to make outside work; how could I keep up my insurance, my clothes and my business.

Q. Were you earning more money then than you are now? A. Oh, yes, God, yes. 20

Q. How much did you earn in a week? A. In tobacco alone, outside of the business alone I used to make sometimes ten or fifteen dollars a day, I used to speculate.

Q. You don't speculate now? A. When you give me the money, with the greatest of pleasure; I am broke.

Q. Did you have money in bank then? A. At this time I did, when I was in business I had a nice pile of money in the Germania Bank and the Germania 30 Exchange Bank.

Q. Did you have any money at the time that you were living with your wife in 1880? A. Yes.

Q. How much did you have? A. I couldn't tell you.

Q. Don't remember? A. No, sir.

Q. You haven't any money in bank now? A. I wish I had.

Q. You are positive that Mrs. Rue said to you that she didn't care for her mother-in-law? A. Yes, sir; 40 we was both together in the store.

Q. And that was not your store? A. No, sir; not in mine.

Q. In her store? A. Yes, sir.

Q. What number? A. Just the same number what mine is, 131 Clinton place, and mine was 133 Eighth street.

Q. She was in the same house, was she, where your store was? A. No, sir; I told you not.

Q. Next door? A. No, sir; it is about four blocks apart.

10 Q. She came down to your store, or did you go to her store? A. Yes, I was up to her store.

Q. What for? A. When I passed I used to go in many times.

Q. What did you go up that day for? A. I couldn't tell you; I didn't go on purpose up there.

Q. How long did you remain there? A. I couldn't tell you.

Q. What time in the day was it? A. It was evening or towards evening, I couldn't tell you; I have
20 plenty of customers on Sixth avenue where I passed there.

Q. Was anybody else in the store. A. No, sir.

Q. Who was in the store attending to it at the time? A. Mrs. Reu entirely; she was in.

Q. When you went in what did you say? A. Nothing.

Q. What did you say? A. We started to talk, and then we started to talk about the mother-in-law, what kind of a fine lady she was.

30 Q. Did you say anything about your leaving home? A. No, sir, I did not.

Q. You didn't tell her anything about that? A. No, sir.

Q. Was that the first time that she ever spoke to you about the mother-in-law? A. Perhaps she spoke many times; I couldn't tell you.

Q. Do you remember whether she did or not? A. I couldn't tell you.

40 Q. You don't remember of her talking about the

mother-in-law before or after that time? A. No, sir, I couldn't tell you.

Q. Didn't she in that conversation offer to take her mother-in-law if you had any objection to keeping her in your house? A. I don't remember.

Q. Will you swear that she did not? A. I couldn't, I won't swear, perhaps she didn't say so, I couldn't swear if she say so, or if she didn't say, but I don't think she say so.

Q. You won't say that she didn't say so? A. I ¹⁰ say that she didn't say so; I say that I didn't hear it; but perhaps she was telling me some time before, but about this I can't swear.

Q. Will you swear that that conversation that took place was not in your store? A. Yes, I can swear to that.

Q. You are sure of that? A. Yes, sir, I am sure of that. I beg your pardon, it wouldn't be in my store; in my store there was always a saleslady or a salesman; I had my own sister for three years in ²⁰ the store, and I guess my sister is a respectable lady; I don't use my sister for any witness here.

Record of former suit in chancery, for divorce, by Joseph Gluck, petitioner, offered in evidence on part of defendant; the original papers to be sent by the clerk hereafter.

JOSEPH GLUCK, the petitioner, *recalled* by Mr. HER-³⁰
BERT.

Q. Do you remember the number of the room that you occupied? A. I guess it was 29 if I am not mistaken.

Q. Did it have a closet in it? A. No, sir.

THOMAS H. HAGGERTY, sworn on part of petitioner.

Direct examination by Mr. HERBERT.

Q. You went with Mr. Houtalin to examine a lock and he was to point out the door which he claimed was occupied by Mr. Gluck in 1880? A. Yes.

Q. Did you see that door? A. Yes, sir; I saw the door that he pointed out.

10 Q. Did you see the lock? A. Yes, sir.

Q. Did you measure the key hole? A. Yes, sir.

Q. Will you please give its dimensions? A. The key hole, the entire length, the opening of the key hole was three quarters of an inch; the width was one quarter of an inch at the widest part where the top part of the key went in.

Q. Did you see any key hole in that door that was four inches long and two inches wide? A. No.

20 Q. How was the bed in that room placed, at the side of the wall, or was it placed diagonally across in front of the door when you went there? A. The room that he showed me had No. 26 on the door, the first room on the right as you went into the hall-way, and that room had the bed laying slanting; I have a diagram of it here.

(Producing a diagram.)

30 Q. In room No. 26 as shown on your diagram the bed was placed as indicated there. A. Yes, sir; here is the entrance; this building lying north is the back addition of the main building on the south side of the street, in coming from the street you enter a large door, go through a hall-way, through another room, then this door, and then down half a dozen steps and go across like a court, and then you go up stairs and here is the entrance as you go up stairs, as you come up you turn to the right and then the hall is right here from the stairs; you go along this hall and the first room is 26.

Q. Is it a large or a small room? A. It is a large room; it is one of five; there are five altogether.

Q. How does it compare with the little room here, the Chancellor's private room? A. It doesn't look at all like it because it is very narrow and long; these rooms, the partitions between these rooms is nothing but a thin board partition; it may have been one big room and they boarded it off; they are all made rooms; the beds are not laid along the wall; here is the knob and the key hole is right here, 10 and in this is a crack or split which has been painted and hadn't been completely filled; and through that key hole I could see to the bed, one quarter of the bed, the foot of the bed; and then next to the wall, at the end of the foot of the bed there was a washstand; and looking straight along towards the wall I could see a closet open, and the door being open I looked in, the door was open and here was the closet; that was all I could see through the key hole; from the crack I could see there was a chair, right 20 along by this door and then a little stand right near the corner of the window, and I could see just a little corner of the bed, like that (indicating on diagram), right across the end of the room.

Q. You couldn't see as much of the bed through the crack as through the key hole? A. No, sir.

Q. Was it possible for anyone to see, looking through that key hole with the bed placed at the side of the wall—where he claims it was placed at the time—was it possible for anyone to have seen the 30 bed?

Objected to.

A. Not what I saw.

Q. (By the COURT.) Could you see this side of the wall at all? A. I went into the next room and I opened the door and the door was in the same position and the bed was along there, and I couldn't see anything of the bed in this room or in this room.

Q. (Mr. HERBERT continuing.) In No. 29, did you 40

go into that room? A. Yes, sir; this would look like a hall room, and the door opens in here and that way and there along; it took in the hall; it was just the width of the hall; larger than the house.

Q. No. 29 was the room next to it? A. Yes, sir.

Q. Was there any closet in that room? A. No closet.

Q. I understood you to say that there was a closet in room No. 26? A. Yes sir; there was an opening there; I didn't go into the room to see
 10 whether it went into a closet but there was another place to go out because that would have been right by the stairway going down; I could see the door plainly; this represents the door as opened; and I could see that it looked like a closet; I have no doubt that it was a closet; it was a corner of the building and there couldn't have been anything else there but a closet; it must have been a closet because it took in a space as you go down stairs where the hall was.

20 Q. Did you notice whether there was a single or a double bed? A. It looked to me like a single bed; I couldn't tell exactly about that the way I looked; it might have been a three-quarter bed.

Q. And in the other room No. 29 what kind of a bed was it? A. It was a single bed.

Cross-examination by Mr. MINTURN.

Q. That was the room pointed out by Mr. Houtalin? A. Yes sir.

30 Q. What was the number? A. 26; this room is No. 26; this room is No. 27; these rooms are not numbered at all. (Indicating).

Q. How near to the door was that bed in room 26? A. So near that I asked the gentleman how a person opening the door got into the room; it was very close to the door; he said that they had to go around the head of the bed to get in.

Q. If two people were in bed do you think you
 40 could see them from your key-hole, see enough of

them to know that two people were in bed? A. If they had their feet straight out, I think I could see the space taken up by two pair of feet.

Q. (Mr. HERBERT.) That would be a pretty close shave? A. Yes, sir; I couldn't see the whole of the bed.

Q. (Mr. MINTURN continuing.) If there was any talking or noise in the bed—and you had your eyes to the key-hole—there wouldn't be any doubt about your ability to hear it? A. No, sir, I think not. 10

JOSEPH GLUCK, the petitioner *re-called* by Mr. HERBERT.

Q. Which one of these rooms did you occupy? A. Room 29.

Q. (Mr. MINTURN.) You didn't mistake six for a nine? A. No, sir; I told you before, this was a corner room next to the garden. 20

Q. What did you mean by extension room? A. This is the extension. (Indicating on diagram).

THOMAS H. HAGGERTY *re-called* by Mr. MINTURN.

Q. How did you get into that rear building occupied by Gluck? A. The end of the house on Clinton Place, went through the front door, went through the whole length of the hall and the room was diagonally to the left, I should judge an ante room or a reception room; I went through that room right on an angle and there was folding glass doors opening on an entrance to the yard, and you go down a few steps, go straight across like a court, all enclosed, and then you start to go up stairs. 30

Q. The two buildings were tied together? A. Two buildings like this, by glass work, otherwise they were separated; two story building.

Q. Did Mr. Houtaling bring you directly to the 40

room as soon as he got in? A. No, sir: he went right down in the basement.

Q. Who went with you in the room? A. Mr. Houtalin; I stood at this room and it was the only door that I could see anything out of while I stood at this door.

Q. Did he have a key? A. No, this room was locked; there was two gentlemen sleeping there and I couldn't get into the room; all that I could see was through the key-hole.

10

The diagram made by witness is offered in evidence on part of Petitioner, and marked Exhibit P. 5.

Also receipts given to Mr. Gluck by H. Albert Fidler, his landlord in Hoboken.

Mr. Minturn objects to the introduction of the receipts.

20

JOSEPH GLUCK recalled by Mr. HERBERT.

Q. (Shown three papers) Are those the receipts given to you by Mr. H. Albert Fidler? A. Yes.

Q. For what? A. For rent of my room that I got of him.

Q. Did you see him sign those? A. Yes, sir; I was present.

30

The three receipts referred to offered in evidence on part of Petitioner and marked together Exhibit P. 6.

THOMAS H. HAGGERTY, *recalled* by Mr. HERBERT.

40

Q. Mr. Houtalin testified that the crack in the door was two inches wide; will you please state the width of the crack as you saw it? A. I couldn't exactly state the width of the crack; I didn't take the width of it simply because it was an ordinary split in the panel; I could just by getting my eye to the crack see through it on a line.

Q. Was it over one-eighth of an inch in width?
A. No, sir, I think not.

Q. Just a hair line? A. Just a little crack, as if somebody had split the panel; the door evidently has been painted since that time, but the paint has not run in there to fill that crack.

Q. That you don't know about? A. I say judging from the looks of the paint; I know it hadn't filled in the crack.

10

Cross-examination by Mr. MINTURN.

Q. It looks as if it had been lately painted? A. No, I can't say as it looks as if it had been lately painted.

Q. Looks as if it had been painted since 1880 or 1882? A. Yes, I should judge so.

Q. You could see the room as you have described?
A. I could see the lower end of the room through that crack.

20

Re-direct by Mr. HERBERT.

Q. Will you show on that little diagram that you have made about how wide that crack was? A. I should judge it would be about that. (Indicating about one-sixteenth of an inch).

Q. About one-sixteenth of an inch? A. Yes, sir.

Re-cross by Mr. MINTURN.

Q. Would it be as wide as your pencil? A. No, 30
sir.

Q. About half as wide as your pencil? A. No, hardly; it was just so that you could see through the crack; if you stood off at a distance you couldn't see through it at all.

Q. If you knew a man you could recognize him through that crack, couldn't you? A. If he stood at the lower end of the room.

Mr. HERBERT. The case is closed with the understanding that the book of Houtalin is to 40

be sent over if it can be procured and counsel for petitioner to have the privilege of cross-examination on presentation of the book.

The COURT. I will continue the case until next Wednesday morning with the idea that the case is to be closed at that time promptly, and nothing else reserved except the opportunity to have this book of Houtalin's produced and the witness cross-examined.

- 10 Case adjourned to Wednesday, February 6, at ten A. M. Mr. Hotaling failed to appear or send book.

Further adjourned to Saturday, February 9, at ten A. M. peremptorily. Again Mr. Hotaling failed to appear or send register.

On Saturday, February 9th, 1889, at ten A. M., no further testimony being offered on either side, the case was closed, and argument made.

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IN CHANCERY OF NEW JERSEY.

Between—

JOSEPH GLUCK,
Petitioner,

and

AMELIA GLUCK,
Defendant.On Petition
for Divorce.

Final Decree. 10

This cause coming on to be heard before the Court upon petition, answer, cross-bill and proofs in the presence of Hoffman and Herbert, solicitors for and of counsel with the petitioner, and James F. Minturn, solicitor for and of counsel with the defendant, and the pleadings having been read and the proofs taken in open court and heard, and the argument of the respective counsel having been heard and considered, and the Court having duly considered the said pleadings, proofs and arguments, and the Court being of opinion that the desertion alleged in said petition was not wilful and obstinate, and the adultery charged in the said cross-bill not having been proved.

It is thereupon, on this sixth day of April, eighteen hundred and eighty-nine, on motion of James F. Minturn, by Alexander T. McGill, Chancellor of the State of New Jersey, ordered, adjudged and decreed that the petitioner's said petition, and the defendant's said cross-bill be and the same are hereby dismissed without costs to either party against the other.

A. T. MCGILL, C.

Respectfully advised

JOS. F. RANDOLPH,
Adv. Master.

IN CHANCERY OF NEW JERSEY.

Between—

JOSEPH GLUCK,
Petitioner,

and

AMELIA GLUCK,
Defendant.On Petition
for Divorce.Notice of
Appeal.

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The petitioner hereby appeals from so much of the final decree made in this court, in the above stated cause, as decrees that "the Court being of opinion that the desertion alleged in said petition was not wilful and obstinate" and "that the petitioner's said

20 petition * * be and the same is hereby dismissed" to the Court of Errors and Appeals in the last resort in all causes.

Dated April 8th, A. D. 1889.

HOFFMAN & HERBERT,
Solicitors for and of Counsel with Petitioner.

We conceive there is good cause for appeal in the above stated case.

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WM. T. HOFFMAN,
JOHN W. HERBERT, JR.,
Counsel with Petitioner.

A true copy.

ALLAN McDERMOTT,
Clerk.

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NEW JERSEY COURT OF ERRORS AND
APPEALS.

JOSEPH GLUCK,
Appellant,

v.

AMELIA GLUCK,
~~Appellee.~~

Respondent

On Appeal
~~from~~ Divorce 10
For

To the Honorable the Court of Errors and Appeals
in the last resort in all cases.

The humble petition of Joseph Gluck, the appellant in the above stated cause, respectfully shows 20
that your petitioner finds himself aggrieved by a final
decree made in the Court of Chancery by his Honor
Alexander T. McGill, Chancellor of New Jersey,
bearing date the sixth day of April, in the year
eighteen hundred and eighty-nine, wherein the said
Joseph Gluck was petitioner and the said Amelia
Gluck was defendant in this respect, to wit, that the
said decree adjudged that "the Court, being of
opinion that the desertion alleged in said petition
was not wilful and obstinate;" and further that the 30
said decree adjudged "that the petitioner's said
petition * * * be and the same is hereby dis-
missed."

And your petitioner humbly appeals from that
part of the decree of the Chancellor which decrees
as aforesaid, upon the ground that the same is erro-
neous, for that, the said decree, ought to have been
in favor of the said petitioner and against the de-
fendant, adjudging and decreeing an absolute di-
vorce to said petitioner from the said defendant.

Your petitioner therefore prays that the said decree of the said Chancellor may be, in the particulars aforesaid, reversed, set aside and for nothing holden. And that he may be decreed a divorce from the said defendant according to the prayer of his said petition. And that your petitioner may have such other and further relief in the premises as to this Honorable Court shall seem meet.

HQFFMAN & HERBERT,

Solicitors for and of Counsel

with the Petitioner.

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New Jersey Court of Errors and Appeals.

Between—

JOSEPH GLUCK,
Appellant,

and

AMELIA GLUCK,
Respondent.

On Petition
for Divorce.

Appeal.

APPELLANT'S BRIEF.

The question presented on this appeal, is whether the continued desertion of the respondent for eight years preceding the filing of the petition, was wilful and obstinate.

The parties to this suit come from the humble walks of life. Both were reared in poverty and dependent upon manual labor for subsistence. They worked together at the same bench, under a common master, at the time of their marriage. His wages were but \$4 a week, and the amount was known to her. Thus they began life when married Aug. 15, 1876. They lived together till March 10, 1880, when the separation took place.

They were then living with her mother in a house rented by her.

The evidence as to the cause of their separation is contradictory. He testified that he was ordered by his mother-in-law to remove from the house (see page 18).

His wife testified that he left of his own accord and denied that her mother compelled him to go (see pages, 57, 58).

Several things indicate that he did not desert her, but was driven from their home :

1st. He appears to have loved his wife. They had lived happily together. On Jan. 25, 1880, just six weeks before their separation, he took out a policy of insurance upon his life for \$3000, payable to his wife and child (see page 41). Mrs. Gluck knew of it (page 66, line 7).

He would not have given this evidence of his solitude and affection if he had contemplated a separation.

2d. He did not part from her in anger. He says he did not see her at the time he went away; that she was out. That he saw her a few days afterward, and then asked her to come and live with him (see page 19). Mrs. Gluck testified that she was at home when he left and that he missed a couple of handkerchiefs, and that she told him that she would give them to him the next time; "and the next time he comes in the house he gets them."

See page 58.

She also testified, see page 60, line 35, that he came to the house a couple of weeks after and brought her some money. He says, that he paid her from \$5 to \$9 a week, all that he could spare from his business, for a year after their separation, (see page 19, line 21.) She says that he gave her \$~~4~~ a week regularly for six or seven weeks, (see page 61.) He also testified that the first time he met her after the separation, that he asked her to come and live with him, (see page 19, line 10, &c.)

Whether the separation was caused by the mother-in-law driving him from the house, or was occasioned by his refusal to remain, is immaterial.

The husband has the right to choose a new residence, and it was the duty of the wife to follow him.

Hunt v. Hunt, 2 Stewart, 96.

From the testimony of Mrs. Gluck, it would seem that the separation occurred by mutual consent, and that each was in equal fault. Assuming that to be the fact, it cannot be relied upon as any justification of her subsequent refusal to live with her husband. In *Moore vs. Moores*, 1 C. E. Green, 281-282, the Court cited with approval from *Butler vs. Butler*, 1 Parsons, see Cases 335, the following language: "Such assent or acquiescence, however are revocable acts; and if either party persists in a state of separation after such revocation, he or she thenceforth occupies the position of a party quitting cohabitation on his or her own motion." * * *

"It is well settled that a mere separation of husband and wife does not constitute desertion within the meaning of the statute. To constitute desertion, the wife must absent herself from her husband without his consent and against his will."

Webster defines "wilful" as 1st, willing; done or suffered by design; voluntary. Bouvier defines it as, intentional.

Obstinate, he defines as "stubborn, contumacious, inflexible, perverse, pertinacious, headstrong, persistent, self willed.

"Obstinacy is a pertinacious attachment to one's own source or way of acting; to persist in."

Measured by these definitions, was not the respondent's desertion wilful and obstinate; was it not intentional and persistent? Let us first examine the testimony on the part of the petitioner, and then the testimony of the respondent.

Page 19, line 9. Q. How soon after that did you see her? A. I saw her in the street a few days afterward. Q. Did you have a conversation with her? A. Yes; I told her to leave her mother and I would furnish a room, and for her to come and live with

me. Q. What did she say to that? A. She refused to leave; she said, "I would rather leave you than to leave my mother."

Page 19, line 25. I sent her money weekly for nearly one year, thinking "that she would come to think over it and come to live with me. I asked her during the time—many a time—to come and live with me and she refused."

Page 20. Particulars of their conversation that took place in the store.

Page 20. Wrote her three letters.

Page 42. As to contents of those letters? A. I asked her to come and live with me; never received a reply.

Page 42. Q. Where were you living when you wrote those letters? A. I was living in Hoboken.

Page 41. Kept the premiums paid on the policies of insurance on his life for benefit of his wife and child, for a year after their separation.

Page 23; also page 24, line 6. Q. Do you remember having had any conversation with your wife upon any of those occasions in the presence of the Court? A. Yes, sir. Q. State what it was? A. It was, that Judge Duffy was telling me that I should take her home to live with me, and I took her under the arm and thanked him for it, and in the middle of the court room she threw me away and said "I won't go." Q. Did she say why she wouldn't go? A. No; she said she wouldn't go and live with me.

Mr. Gluck also testified that he conversed with his wife many times during the first year of their separation, and that on those occasions he "begged her" "always to come and live with him and leave her mother," and that on one occasion in 1881, he called her into his store, and in the presence of Mr. Schwarsckop said to her in German, "Amelia, come and live with me. I furnish you three rooms, and we live together. Leave your mother." She refused.

See pages 19 and 20.

He also testified that he met her in a saloon on

Clinton Place, in 1882, and asked her to live with him. See page 35.

Gustav A. Schwarskop, a witness for the petitioner, testified that he was present and heard the conversation that took place between Mr. Gluck and his wife, in the segar store, in the summer of 1881. See pages 37 and 38.

If the testimony on the part of the petitioner be believed, the respondent was guilty of willful, obstinate and continued desertion for eight years preceeding the filing of his petition for a divorce.

Does the respondent's testimony change the situation or force of the petitioner's evidence? I think not. She alleged that her husband told her he was going to leave, but she made no objection, she said "Well, if you like; I can't help it." See page 58. She testified that her husband came to see her often at the house; that he brought her money and promised to pay her \$5 a week; that he did it for six or seven weeks, and then stopped. See pages 60 and 61: That he did not pay her regularly, but \$1, \$2 and \$2.50 at a time, never \$5 at once; so he must have seen her three or four times a week for the first two months.

She must have determined to desert him at that time, for she persistently refused to write, speak or have anything whatever to do with him, as indicated by the following testimony:

Q. When he would come with the money, did you have a talk with him? A. No, sir; I don't talk with him. Q. At any of those times did he ask you to live with him? A. He sent only a letter, "I take a room, I take one room. He wanted me to live with him, and I didn't give him any answer." * * *

Q. Do you remember when he (Mr. Gluck) was arrested and brought to Jefferson Market Police Court by a gentleman? A. Yes, sir; I went as a witness.

Q. What did he do? A. Duffy he say, well, do you want to take your wife home, and he said "yes," and I said "no, I dont want to live with you again."

I said that in court and I said it the first time when I got him arrested before Judge Duffy." See page 63, line 28.

The occasion referred to when she appeared as a witness was August 24, 1887. (p. 24, line 8.) The last time she had him arrested was March 28, 1883, so that the first public refusal to live with her husband took place in court before 1833.

Her answer would indicate that it was in consequence of her husband's alleged adultery that she refused to live with him, but she admits, on cross-examination, that that was not the reason (see page 71, line 24), and it could not be, because she did not hear that story till September, 1888. She appears to have had no excuse for refusing his request to cohabit with him. It does not appear that she ever inquired after his circumstances or offered to return to him. She was asked: Q. Did you on any of those occasions have any conversation with him about living with him? A. No, sir. Q. Did you say you wanted him to come and live with you? A. No, sir. Q. Why not? A. No, I can't. Q. Why not? A. Not with a man who treats a woman bad. You can't live with a man that don't support a woman; not with a man when you have to starve.

Compare this testimony with the third section of her sworn answer.

The only excuse, if any, that she offers for deserting him is that he did not furnish her with a satisfactory allowance, but that is evidently an afterthought, for nothing of the kind is charged in the answer.

For seven years the petitioner appealed to his wife to resume her marital relations with him. By interview, letter and persuasion, he endeavored to discharge his whole duty and win her back, and she as persistently refused. She resisted every appeal and discouraged any further effort on his part, by publicly stating that she would not live with him. Though it does not appear that she ever assigned

any reason for her stubborn and persistent refusal.

Mr. Gluck made every advance and concession which a just man ought to make to put an end to his wife's desertion.

In *Cornish v. Cornish*, 8 C. E. Gr. 208, the Court says: "He (the complainant) did much to provoke her going away, though his conduct did not altogether justify it. He has done nothing since to induce her to overlook or forgive his conduct, which provoked her to leave, or made any attempt to induce her to return." * * * "He has not made the advances or concessions which a just man ought to have made to put an end to this desertion."

In that case the wife left her home at midnight, owing to the improper treatment of the husband. The Court laid great stress on the circumstance, that he had never been to see her to seek a reconciliation, or ask her to return. And held "that for want of this a desertion, which was wilful and continued," could not be adjudged obstinate. See *Schanck v. Schanck*, 6 Stew. 368; *Bowley v. Bowley*, 10 C. E. Gr. 409.

In the latter case the V. Chancellor held that the desertion was not obstinate, "because not persisted in against effort or influence on his part to bring it to an end."

While in the case at bar the desertion was wilful, obstinate and continued, without an extenuating circumstance.

Hunt v. Hunt, 2 Stew. 96, is quite analogous to this case: The parties lived apart; the husband wrote to his wife to come and live with him; she made no response to his letter conveying the request. In her answer to the bill, she stated that she had always been ready and willing to live with him upon his furnishing a suitable house for her and her children. After the filing of that answer he sent for her to come to him and live with him in New York. She refused. The Chancellor held, "It was her duty to live with her husband in the place which he so des-

ignated, and when she refused to do so, it was, in law, a desertion."

In *Jennings v. Jennings*, 2 Beas. 38, Chancellor Green laid down this rule: "To establish a case of desertion, it should appear that the wife left her husband of her own accord, without his consent and against his will, or that she obstinately refused to return without just cause on the request of her husband."

In *Taylor v. Taylor*, 1 Stew. 207, V. C. Van Fleet laid down the following rule: "To make out a case of desertion three things must be shown—First, cessation of cohabitation; second, an intent in the mind of the defendant to desert, and, third, that the separation was against the will of the complainant."

Has not the petitioner brought this case within that rule in every particular?

In *Osborn vs. Osborn*, 44 N. J. Eq., 257, opinion by Garrison, J., considerable weight is given the fact that Osborn, after finally leaving his wife, did not use any inducements, or even invitations, for her to follow him to the place where he was domiciled. In the case at bar, precisely the reverse characterized the petitioner's conduct. He entreated her for years to return to him, only to meet with repulses. Not only has the respondent deserted her husband, but she has exhausted her ingenuity in making his life miserable. She has had him arrested four times and indicted once. In every instance he has been discharged and acquitted. These outrages, perpetrated by her upon him, appear to have been without any provocation.

The respondent's desertion of the petitioner has been, not only wilful, obstinate and continued for over three years, but her treatment of him has been malignant and vindictive.

The petitioner is entitled to a divorce, and the decree below should be reversed.

JOHN W. HERBERT, JR.,

Of Counsel with Petitioner.



