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Bill of Complaint.

Filed June 5, 1929.

In Chancery of New Jersey.

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

The complainant, Hannah Dinnebeil, of the Borough of Metuchen, County of Middlesex and State of New Jersey, respectfully shows:

1. On the 4th day of May, 1904, she was lawfully married to her present husband, George L. Dinnebeil, by Father Manning of St. Rita's Church New York City.

2. After her said marriage, your complainant and the defendant, her said husband, resided in the City, County and State of New York, until about 1914, when the defendant left your complainant and came to Metuchen, New Jersey, where he has lived ever since; and your complainant also came to Metuchen, New Jersey, on or about November 4th, 1928, where she resumed co-habitation with the defendant until the abandonment by the defendant of your complainant as hereinafter complained of.

3. There has been born to your complainant and her said husband, as the fruit of their marriage, two children to wit: Gladys, age 22 who is now married and William, age 24, who is living with his married sister.

4. Shortly after their marriage, the defendant began to treat your complainant harshly and un-

justly; about the early part of 1914, while they were living in New York City, your complainant received information that the defendant was going out with other women and when your complainant accused the defendant, he did not deny it and the defendant then left your complainant and came to live in Metuchen, New Jersey, where he has lived ever since.

5. Shortly after the abandonment of your complainant by the defendant, your complainant had the defendant extradited to New York where he was ordered to pay under an order of Honorable Louis D. Gibbs, the sum of twelve ($12.00) dollars per week for the support of your complainant and the two children. At the time of the defendant's arrest, he informed the said Judge Gibbs that he was employed as a carpenter and was not working steadily. In order to support both herself and the two children, your complainant had to work as a bookkeeper as the said sum of twelve ($12.00) dollars per week was inadequate.

6. On or about the 3rd day of September, 1928, on the occasion of your complainant's daughter's marriage, at New York City, the defendant informed your complainant that he was building a home in Metuchen, New Jersey, and requested your complainant to come to New Jersey and live with him and to forget what had happened in the past. Your complainant resumed co-habitation with the defendant in Metuchen, New Jersey, on or about the 4th day of November, 1928.

7. Two days after your complainant resumed co-habitation with the defendant, the said defendant received a letter in which there was enclosed

the picture of a young woman. The defendant showed said picture to your complainant and remarked: "Here is a nice shaped and well looking woman." Your complainant said nothing to this remark as she did not want to start trouble. About a week later, the defendant left word with your complainant that a certain woman would call for him and wanted your complainant to inform him when she arrived. This said woman did call and when your complainant requested her to come into the house, she refused and said that she would wait outside for the defendant. Your complainant called for the defendant, and the defendant went away with said woman in his car. The defendant had informed your complainant that he was going out with this woman on business. Upon the defendant's return about two hours later, the defendant remarked to your complainant: "She is another well shaped and fine woman that I have." That night the defendant said he was going out again and your complainant asked him where he was going, but the defendant refused to tell your complainant. Your complainant then said to the defendant: "I suppose you are going out with that customer of yours" and the defendant told your complainant to go out and find out and he left. Your complainant followed the defendant and informed the defendant that your complainant would have the defendant arrested if he went out with that woman again. The defendant then went to his sister-in-law's house.

8. On Thanksgiving Eve, 1928, the defendant informed your complainant that he was going to New York to stay with a woman friend of his, whereupon your complainant grabbed a knife to prevent the defendant from going. The defendant

then called in a policeman and upon the policeman's arrival, the defendant requested the complainant's son to make a charge against your complainant for having a knife, but your complainant's son refused to do so. The defendant went to New York and did not return for four days and when the defendant did return, the defendant remained in his room for about a week and would have nothing to do with your complainant. Your complainant then became reconciled to the defendant. Some time around Christmas of 1928, your complainant saw the defendant packing his clothes and when your complainant asked the defendant where he was going, he refused to tell your complainant, whereupon he left and was away for a period of two weeks. Upon the defendant's return, your complainant told the defendant that she had been informed that the defendant had been living with one Mrs. Frolich but the defendant denied same. Your complainant and defendant again became reconciled. On or about the 9th day of February, 1929, on the occasion of your complainant's birthday, while your complainant and defendant were in bed, the defendant said to your complainant: "How old are you?" Your complainant informed the defendant: "I am one year older than you are" whereupon the defendant told your complainant that he was 41 years. Your complainant then said: "Since when are you 41." The defendant then remarked to your complainant that he had a birth certificate to prove his age. Your complainant then said to the defendant: "Your family would forge anything." The defendant then got out of the bed and left, although all arrangements had been made for your complainant's party that day

and he did not come to the party. The defendant 'phoned and your complainant's daughter answered the 'phone but your complainant listened in on the conversation and heard the defendant say during the conversation: "I can't live with your mother any more."

9. The defendant did not come back to live with your complainant for a period of three weeks. During that period your complainant retained a lawyer in Metuchen and said lawyer communicated with the defendant and a few days later, the defendant came to your complainant and informed your complainant that he was sorry for what he had done, whereupon your complainant and defendant were again reconciled. About a week later, your complainant and defendant were out riding when the defendant began to tell your complainant about a woman friend of his and how good looking she was whereupon your complainant remarked to the defendant: "What kind of a woman is she when she strives to take away a man from his wife and two children." Whereupon, the defendant told your complainant that she was as good as your complainant. The defendant then took your complainant home and left immediately and did not return until 1 o'clock the following morning, when the defendant went direct to his own room. Your complainant heard the defendant moving about the room and entered his room. The defendant had a revolver in his hand and said to your complainant: "There are two bullets in this revolver, one for you and one for me and I am going to end it all." Your complainant tried to get the gun from the defendant and in the scuffle, the gun went off but no one was hurt. The defendant was then under the influence of liquor as your

complainant could smell the liquor on his breath. The defendant told your complainant to go away and he would put the gun away. Your complainant went downstairs and obtained a glass of warm milk and gave it to the defendant and your complainant then went to her room. On or about the 8th day of April, 1929, your complainant quarreled again with the defendant about his going out with other women and the defendant told your complainant that he hated your complainant; hated your complainant's body and that he wanted to have nothing to do with your complainant and that your complainant should get a divorce.

10. The defendant left your complainant and from that date to the present time has not lived with your complainant, nor has the defendant adequately supported your complainant. The defendant has sent your complainant only the sum of $10.00 per week. On or about the 14th day of May, 1929, the defendant came to your complainant's home and took away his trunk and belongings.

11. Your complainant shows and charges that since the 8th day of April, 1929, the defendant has deserted and abandoned your complainant without justifiable cause and has refused and neglected and still refuses and neglects to maintain and adequately provide for your complainant; your complainant gave the defendant no cause for his action but has been a true and faithful wife to him.

12. Your complainant shows that she is now dependent upon her own exertions for her support.

13. Your complainant charges that the defendant is the owner of considerable property in Me-

tuchen, New Jersey, worth in the neighborhood of $25,000.; he is President of the Modern Home Building Company, Inc. of Metuchen, New Jersey, which buys property in Metuchen and develops same; he also has a bank account in the First National Bank of Metuchen, New Jersey, the amount of which is unknown to your complainant; he also has bank accounts in the banks of Perth Amboy, New Jersey, the amounts of which are unknown to your complainant; he owns shares in Building & Loan Associations in Metuchen, Elizabeth and Perth Amboy, the amounts of which are unknown to your complainant; he owns the controlling stock in the Modern Home Building Company, Inc.; he also owns a 1928 Touring Car; your complainant is informed that the defendant is worth in the neighborhood of $75,000.00. Defendant is abundantly able to maintain and support your complainant in a manner suitable to their position.

Your complainant is without adequate remedy in the courts of law and therefore prays:

1. That George L. Dinnebeil, the defendant in this suit may answer this bill of complaint, without oath, and each statement made therein.

2. That the defendant may be ordered and decreed to provide such suitable support and maintenance to be paid and provided by him or made out of his property for the complainant, and for such times as the nature of the case and the circumstances of the parties render suitable and just; and that said defendant may be compelled to give reasonable security for such maintenance and allowance, and to pay the same from time to time under the compulsory order of this court; and that

the defendant may be required to pay to the complainant a proper amount of counsel fees; and that she may have such further relief as may be just.

3. That a writ of subpoena may issue out of and under the seal of this Court, commanding said defendant to answer this bill of complaint and to abide by such decree as the Court may make in the premises.

ALEXANDER SIMPSON,
Solicitor for and of Counsel
with Complainant.

Affidavit.

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

Hannah Dinnebeil, being duly sworn according to law, upon her oath deposes and says:

1. I am the complainant in the above entitled cause, and have read the annexed bill of complaint and the facts therein stated are true to the best of my knowledge.

2. Defendant and myself were married on May 4th, 1904, by Father Manning of St. Rita's Church, New York City.

3. After our marriage, we resided in the City, County and State of New York until about 1914, when the defendant left me and came to Metuchen, where he has lived ever since; I also came to Metuchen, New Jersey, on or about November 4th, 1928, where I resumed co-habitation with the defendant until the abandonment by the defendant of me as hereinafter complained of.

Affidavit of Hannah Dinnebeil.

4. Two children were born of our marriage, to wit: Gladys, age 22 who is now married and William, age 24, who is living with his married sister.

5. Shortly after our marriage, the defendant began to treat me harshly and unjustly. About the early part of 1914, while we were living in New York City, I received information that the defendant was going out with other women and when I accused the defendant, he did not deny it, and the defendant then left me and came to live in Metuchen, New Jersey, where he has lived ever since.

6. Shortly after the abandonment by the defendant of me, I had the defendant extradited to New York where he was ordered to pay under an order of Honorable Louis D. Gibbs the sum of twelve ($12.00) dollars per week for the support of myself and the two children. At the time of the defendant's arrest, he informed the said Judge Gibbs that he was employed as a carpenter and was not working steadily. In order to support both myself and the two children, I had to work as a bookkeeper as the said sum of twelve ($12.00) dollars per week was inadequate.

7. On or about the 3rd day of September, 1928, on the occasion of my daughter's marriage, at New York City, the defendant informed me that he was building a home in Metuchen, New Jersey, and requested me to come to New Jersey and live with him and to forget what had happened in the past. I resumed co-habitation with the defendant in Metuchen, New Jersey, on or about the 4th day of November, 1928.

8. Two days after I resumed co-habitation with

the defendant, he received a letter in which there was enclosed the picture of a young woman. The defendant showed said picture to me and remarked: "Here is a nice shaped and well looking woman." I said nothing to this remark as I did not want to start trouble. About a week later, the defendant left word with me that a certain woman would call for him and he wanted me to inform him when she arrived. This said woman did call and when I requested her to come into the house, she refused and said that she would wait outside for the defendant. I called for the defendant, and he went away with said woman in his car. The fendant had informed me that he was going out with this woman on business. Upon his arrival about two hours later, he remarked to me: "She is another well shaped and fine woman that I have." That night the defendant said he was going out again and I asked him where he was going, but he refused to tell me. I then said to the defendant: "I suppose you are going out with that customer of yours" and the defendant told me to go out and find out and he left. I followed the defendant and informed him that I would have him arrested if he went out with that woman again. The defendant then went to his sister-in-law's house.

9. On Thanksgiving Eve, 1928, the defendant informed me that he was going to New York to stay with a woman friend of his, whereupon I grabbed a knife to prevent him from going. He then called a policeman and upon the policeman's arrival, the defendant requested my son to make a charge against me for having a knife, but my son refused to do so. The defendant went to New York and did not return for four days and when

he did return, he remained in his room for about a week and would have nothing to do with me. I then became reconciled to the defendant. Some time around Christmas of 1928, I saw the defendant packing his clothes and when I asked him where he was going, he refused to tell me, whereupon he left and was away for a period of two weeks. Upon his return, I told him that I had been informed that he had been living with one Mrs. Frolich but he denied same. The defendant and myself again became reconciled. On or about the 9th day of February, 1929, on the occasion of my birthday, while the defendant and myself were in bed, the defendant said to me: "How old are you?" I informed the defendant: "I am one year older than you are" whereupon the defendant told me that he was 41 years. I then said: "Since when are you 41." The defendant then remarked to me that he had a birth certificate to prove his age. I then said to the defendant: "Your family would forge anything." The defendant then got out of the bed and left, and although all arrangements had been made for my party that day and he did not come to the party. The defendant 'phoned and my daughter answered the 'phone but I listened in on the conversation and heard the defendant say during the conversation: "I can't live with your mother any more."

10. The defendant did not come back to live with me for a period of three weeks. During that period I retained a lawyer in Metuchen and said lawyer communicated with the defendant and a few days later the defendant came to me and informed me that he was sorry for what he had done, whereupon the defendant and myself were again reconciled. About a week later, the defendant and

myself were out riding when the defendant began to tell me about a woman friend of his and how good looking she was whereupon I remarked to the defendant: "What kind of a woman is she when she strives to take away a man from his wife and two children." Whereupon, the defendant told me that she was as good as I. The defendant then took me home and left immediately and did not return until 1 o'clock the following morning, when he went direct to his own room. I heard the defendant moving about the room and I entered his room. He had a revolver in his hand and said to me: "There are two bullets in this revolver, one for you and one for me and I am going to end it all." I tried to get the gun from the defendant and in the scuffle, the gun went off but no one was hurt. The defendant was then under the influence of liquor as I could smell the liquor on his breath. The defendant told me to go away and he would put the gun away. I went downstairs and obtained a glass of warm milk and gave it to the defendant and I then went to my room. On or about the 8th day of April, 1929, I again quarreled with the defendant about his going out with other women and the defendant told me that he hated me; hated my body and that he wanted to have nothing to do with me and that I should get a divorce.

11. The defendant left me and from that date to the present, he has not lived with me, nor has he adequately supported me. The defendant has sent me only the sum of $10.00 per week. On or about the 14th day of May, 1929, the defendant came to my home and took away his trunk and belongings.

12. Ever since the 8th day of April, 1929, the

defendant has deserted and abandoned me without justifiable cause and has refused and neglected and still refuses and neglects to maintain and adequately provide for me; I gave the defendant no cause for his action but have been a true and faithful wife to him.

13. I am now depending upon my own exertions for my support.

14. The defendant is the owner of considerable property in Metuchen, New Jersey, worth in the neighborhood of $25,000; he is President of the Modern Home Building Company, Inc., of Metuchen, New Jersey, which buys property in Metuchen and develops same; he also has a bank account in the First National Bank of Metuchen, New Jersey, the amount of which is unknown to me; he also has bank accounts in the banks of Perth Amboy, New Jersey, the amounts of which are unknown to me; he owns shares in Building & Loan Associations in Metuchen, Elizabeth and Perth Amboy, the amounts of which are unknown to me; he owns the controlling stock in the Modern Home Building Company, Inc.; he also owns a 1928 Touring Car; I am informed that the defendant is worth in the neighborhood of $75,000.00. The defendant is abundantly able to maintain and support me in a manner suitable to our position.

HANNAH DINNEBEIL.

Subscribed and sworn to before me,
this 3rd day of June, 1929.
Leonard J. Mehlman,
Attorney at Law of New Jersey.

Answer and Counterclaim.

Filed Nov. 15, 1929.

IN CHANCERY OF NEW JERSEY.

Between HANNAH DINNEBEIL, Complainant, and GEORGE L. DINNEBEIL, Defendant.	On Bill, Etc. Answer and Counterclaim.

Defendant, George L. Dinnebeil, answering the bill of complaint in the above entitled cause, says that:

1. He admits the allegations contained in paragraph 1 of the complaint.

2. He denies the allegations contained in paragraph 2 of the complaint but says he did live with his wife, the complainant, in the City of New York, after their said marriage, until 1906 when, by reason of her cruel and inhuman conduct, excessive drinking and abusive and vile language, he was compelled to separate from her and live apart.

3. He admits the allegations contained in paragraph 3 of the complaint.

4. He denies the allegations contained in paragraph 4 of the complaint and says he did not treat complainant harshly and unjustly or go out with other women, but did leave the complainant in 1906 as set forth in paragraph 2 of this answer and not 1914 as in the complaint alleged as complainant

and defendant were living separate and apart from 1906 to November 1928.

5. He denies the allegations contained in paragraph 5 of the complaint that he abandoned complainant and that he was arrested and extradited to New York where he was ordered by the Honorable Louis D. Gibbs to support complainant and the two children but says that upon receipt of a summons sent by mail he voluntarily appeared before the said Judge Gibbs and after hearing the testimony of the complainant herself the action was dismissed and complainant reprimanded by the Court. Defendant at the time was contributing to the support of complainant and children and continued so to do down to November, 1928 when complainant and defendant began living together at Metuchen, New Jersey.

6. He admits that complainant resumed living with him in November, 1928 at Metuchen, as alleged in paragraph 6 of the complaint but denies that on September 3, 1928, at New York he informed complainant he was building a home at Metuchen and says that previous to September 3, 1928 complainant, on several occasions, came to Metuchen and talked with his brother and sister-in-law, with whom defendant was living, and also with defendant himself to arrange for a resumption of the marital relationship and said that defendant, because of the nature of his illness, needed a home, that she had sufficient furniture and promised she would not annoy and harass him and make unfounded complaints as she had done in the past but would conduct herself in a proper manner and make a good home for defendant and his son.

7. He denies the allegations contained in paragraph 7 of the complaint and says that during the early part of November, 1928 he expected a woman to call upon him who wanted her house decorated and as he was working in the yard he asked complainant to call him when the customer arrived. Some time thereafter the customer arrived with her father and mother in a truck and defendant proceeded with the customer to inspect the job in the car of the company which employed defendant. On this day and at dinner complainant became furious and abusive and again proceeded to make unfounded charges and charge the defendant with improper conduct and said "I won't have any bitches in this house and further more I did not come to Metuchen for love or to be a slave for you and your son but to get a settlement." Complainant's conduct became so violent and her language so abusive and vile that defendant in fear of his life left the house followed by complainant striking him and shouting vile names and threatening his life.

8. Answering paragraph 8 of the complaint, defendant denies that on Thanksgiving Eve, 1928, he told complainant he was going to New York to meet a woman friend. He denies he called in a policeman and asked his son to prefer a charge against complainant for having a knife. He denies that around Christmas, 1928, he packed his clothes preparatory to leaving the home without telling complainant where he was going. He denies that upon his return home he told complainant he had been living with a Mrs. Frolich. He denies that he said to his daughter over the telephone on or about February 9th, 1929 "I can't live with your mother any more."

On Thanksgiving Eve, 1928, defendant informed complainant it was necessary for him to go to New York on business whereupon she flew into a rage, grabbed up a carving knife, ran out into the garage and proceeded to cut the tires on an automobile owned by defendant's employer, the Modern Home Building Company. Complainant then attacked defendant with the knife and later defendant's son when he came to defendant's assistance with the result that defendant called in the police to quiet her. Contrary to the advice of the police officer no charges were preferred against the complainant but defendant thereupon left the home and went to the home of his brother in Metuchen where he remained for a few days after which time defendant, at complainant's request and upon her promise to discontinue her nagging and violent outbursts of temper, returned and did his own house work and cooking until December 22, 1928, when complainant again attacked defendant upon being told he was going out on business. Complainant informed defendant he could not leave the house until he paid $20,000 and that if he did not pay it she would kill him and drag him out in a box. Defendant, through fear called in the police and then left to live with his brother until January 30, 1929 when he returned to his wife, the complainant, having received from her a letter asking for one last chance and promising to do better.

9. Defendant denies the allegations contained in paragraph 9 of the complaint and admits complainant retained a lawyer in Metuchen but says the purpose of the retainer was to force a lump financial settlement which defendant refused to do.

Defendant admits taking his wife driving but denies there was any talk about women.

Defendant denies he had a revolver and said to complainant "There are two bullets in this revolver, one for you and one for me and I am going to end it all" but says complainant came to his room with a revolver and fired a shot at him while he was lying on a couch. Defendant denies he was under the influence of liquor and says he does not drink. He admits complainant again quarreled about other women but denies there was any justification for it or that he told complainant he hated her and her body and that he wanted to have nothing to do with her and that she should obtain a divorce.

10. He denies the allegations contained in paragraph 10 of the complaint.

11. He denies the allegations contained in paragraph 11 of the complaint and says that on April 6, 1929, when he went to his home for brooms and brushes with which to clean up the new house which complainant and defendant in early March had agreed to take. Complainant refused to permit defendant to leave, flew into a rage, became violent, proceeded to rip his overalls and then again attacked him with a carving knife threatening to take his life unless he gave her $20,000. Defendant made his escape and went to police headquarters for protection. On April 14, 1929, defendant, under guard, went to his home and removed his belongings.

Defendant denies he deserted and abandoned complainant without justifiable cause or that he has refused and neglected to maintain and provide for complainant, and says that by reason of com-

plainant's temper, cruel and inhuman conduct and threats upon defendant's life he was finally compelled through fear to separate from her which he did on April 6, 1929.

12. He denies the allegations contained in paragraph 12 of the complaint.

13. Answering paragraph 13 of the complaint, defendant denies he is the owner of any real property whatsoever or that he has bank accounts in Perth Amboy, New Jersey or that he owns building and loan stock in associations in Elizabeth and Perth Amboy or that he owns the controlling stock in the Modern Home Building Company, Inc., or that he owns an automobile or that he is worth in the neighborhood of $75,000. He admits he is President of the Modern Home Building Company and holds but one share of its stock; he admits he has a bank account in the First National Bank of Metuchen and that he owns 10 shares of building and loan stock which are pledged as collateral for a loan of $450 and says he receives from Modern Home Building Company a salary of $40.00 per week.

This defendant prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

GEORGE L. DINNEBEIL.

And this defendant, by way of cross-bill exhibited against the complainant, says:

1. Defendant cohabited with complainant for about two years after their marriage when because of complainant's cruel and inhuman conduct defendant, being in great fear, anguish and discom-

fort, was compelled to leave complainant and live apart until on or about November 4, 1928, when this defendant and complainant resumed cohabitation at Metuchen, New Jersey.

2. Almost continuously from the time defendant and complainant resumed cohabitation defendant suffered from the violent and ill-governed temper of his wife. That these attacks, together with the use of vile and indecent language, continued at intervals, until they culminated in the instances now particularly described. A few days after complainant and defendant resumed cohabitation complainant fell into a violent rage with defendant; and again without cause charged him with improper conduct and said "I won't have any bitches in this house and furthermore I did not come to Metuchen for love or to be a slave for you and your son but to get a settlement;" complainant became so violent and her language so vile defendant in fear of his life left the home followed by complainant striking him, shouting vile names and threatening his life. On Thanksgiving Eve 1928 complainant again fell into a violent rage with defendant and ran out into the garage and proceeded to cut the car's tires. Complainant then attacked defendant with the knife and later defendant's son who came to his assistance with the result that it was necessary for defendant to call in the police to quiet her. On December 22, 1928, complainant again attacked defendant with a carving knife and told him he could not leave the house until he paid her $20,000 and that if he did not pay it she would kill him and drag him out in a box. Defendant through fear called in the police and left to live with his brother until January 30, 1929,

when defendant returned to his wife having received from her at letter asking for one last chance and promising to do better. On or about February 8, 1929, complainant became enraged and charged defendant's father forged my birth certificate, called me a son of a bitch and said all my people were crooks. In the latter part of February or early March, complainant came to defendant's room with a revolver and fired at him a shot while he was lying on a couch. On April 6, 1929, complainant fell into a rage with defendant, refused to permit him to leave the house, tore his overalls and again attacked him with a carving knife threatening to take his life unless he gave her $20,000. Complainant's violent attacks were such that defendant, after making his escape, went to police headquarters for protection. During the long course of abuse and attacks to which defendant was subjected, his illness, from which he had suffered for years, became aggravated, yet he continued to live with his wife, hoping that he might regain her love, and reclaim her to a sense of duty, until the day last mentioned, when it appearing that further cohabitation with her must be attended with grave danger to his life, and being in great fear, anguish and discomfort, he left complainant, on said day, and went to the home of his brother in Metuchen, New Jersey. Defendant says, that from her past extreme cruelty and abusive treatment of him and her present hatred for him, it would be improper and unsafe for him to return to her, and live with her as her husband.

3. The last act of cruelty complained of was more than six months next preceding the filing of this counter-claim.

4. Defendant, this cross-complainant, was a

bona fide resident of this State, having his permanent home at Metuchen, in the County of Middlesex and State of New Jersey, when this cause of action arose as aforesaid, and has ever since, and for more than two years next preceding the commencement of this action, continued to be such resident, residing continuously at Metuchen, aforesaid.

5. Two children were born of the marriage, to wit: Gladys, who is now married and William, both of whom are of age.

6. Defendant prays that the marriage between your complainant and the defendant may be dissolved, for the cause aforesaid, according to the statute in such case made and provided; and that he may have such further relief as may be just.

And this defendant will ever pray, etc.

FREDERICK M. P. PEARSE,
Solicitor for and of Counsel with
Complainant George L. Dinnebeil.

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

George L. Dinnebeil, being duly sworn according to law upon his oath deposes and says, that he is the cross-complainant named in the foregoing counter-claim, and that his counter-claim is not made by any collusion between him and the defendant therein, but in truth and good faith for the reasons set forth in said counter-claim.

GEORGE L. DINNEBEIL.

Subscribed and sworn to before me
this 12th day of November, 1929.

Emma G. Korte,
Notary Public
of New Jersey.

Reply and Answer to Counterclaim.

Filed Dec. 6, 1929.

IN CHANCERY OF NEW JERSEY.

Between
HANNAH DINNEBEIL,
Complainant,
and
GEORGE L. DINNEBEIL,
Defendant.

On Bill, Etc.

Reply and Answer to Counterclaim.

The complainant joins issue on the answer of the defendant.

In answer to the counterclaim, the complainant says:

1. Complainant denies the allegations contained in paragraph one, but admits that complainant and defendant resumed co-habitation at Metuchen, New Jersey, on or about November 4th, 1928.

2. Complainant denies the allegations contained in paragraphs two and three.

3. Complainant admits that defendant was a bona fide resident of the State of New Jersey when his alleged cause of action arose as set forth in paragraph four.

4. Complainant admits the allegations contained in paragraph five.

Complainant prays that the counter-claim of the

defendant be dismissed and that she receive the relief as prayed for in her bill of complaint.

HANNAH DINNEBEIL,
Complainant.

ALEXANDER SIMPSON,
Solicitor of Complainant.

Final Decree.

Filed Aug. 29, 1930.

IN CHANCERY OF NEW JERSEY.

Between
HANNAH DINNEBEIL,
Complainant,
and
GEORGE L. DINNEBEIL,
Defendant.

On Bill, &c.
Final Decree.

This cause coming on to be heard on the 20th and 28th of February, 1930 and 6th of March, 1930, in the presence of Alex. R. DeSevo, appearing for Alexander Simpson, solicitor for and of counsel with complainant, and Frederic M. P. Pearse, Esq., solicitor for the defendant, on bill, answer, counter-claim and oral proofs taken in open court, whereupon and upon duly considering the pleadings and proofs and hearing and considering the arguments of counsel, from all of which it now ap-

pears satisfactorily to the Chancellor that the complainant and the defendant were lawfully married on or about May 4th, 1904; and that the defendant, without any justifiable cause, abandons the complainant and separates himself from her and refuses and neglects to maintain and provide for her; and that the parties have their domicile in this State; and that the defendant was personally served with process within this State;

It is thereupon on this 27th day of August, 1930, by his Honor, Edwin Robert Walker, Chancellor of the State of New Jersey, ORDERED, ADJUDGED AND DECREED that the defendant do pay to the complainant the sum of Twenty Dollars per week from and after the service of a copy of this decree upon the defendant or his solicitor.

It is further ORDERED, ADJUDGED AND DECREED that the counter-claim of the defendant be dismissed.

It is further ORDERED, ADJUDGED AND DECREED that the said defendant do further pay complainant, or to her solicitor, the costs of this suit to be taxed, and also the sum of Two hundred dollars, which is hereby ADJUDGED AND DECREED to be a reasonable counsel fee for the solicitor of said complainant; and that the said complainant do have execution for said costs and counsel fee according to the practice of this Court.

E. R. WALKER,
C.

Respectfully advised,
JAMES F. MINTURN,
Advisory Master.

Opinion.

Filed Sept. 3, 1930.

IN CHANCERY OF NEW JERSEY.

74-63

Between

HANNAH DINNEBEIL,
Complainant,

and

GEORGE L. DINNEBEIL,
Defendant.

Memorandum of Opinion.

ALEXANDER SIMPSON, ESQ.,
Solicitor of Complainant;
FREDERIC M. P. PEARSE,
Solicitor for Defendant and Counter-Claimant.

MINTURN, Advisory Master.

An examination of the extensive record in this case, and my recollection of the testimony upon the hearing has confirmed me in the view I entertained at the close of the case. The parties are of more than mature age, married for many years, living together at intervals, and possessed of two children, one a married daughter and the other a marriageable son, both of whom have clung to the mother, through the various tribulations of her married life.

A bill was filed by her for maintenance upon the ground of the husband's alleged desertion, and the husband responded by filing a cross bill for a divorce alleging cruel and inhuman treatment, upon

her part. They were married in 1904, and but two years of co-habitation sufficed to develop the troubles which seem to have pursued them like a discase through the rest of their marital life. Mrs. Dinnebeil persisted in accusing her husband of undue intimacy with other women, and as a result of the belligerent atmosphere thus created, the two separated in 1906 or 1907, the wife taking the children with her. Over twenty years elapsed before they came together to resume marital relations in the year 1928. In the interim they resided in New York City, where she, upon one occasion at least, attempted to compel him to support her by legal proceedings in the Magistrate's Court. These proceedings eventuated in nothing since it appeared that he had been voluntarily supporting her and the children by contributing a certain sum during their separation.

After that period of prolonged absence, they took up their residence at Metuchen in this State, and in and around that place seems to have been enacted the crucial ills and troubles which led to their final separation and eventually to the institution of these proceedings. She informs us that she never lost her pristine affection for her husband, and that neither the passage of the years with their enforced marital abstention nor the alleged infidelity of her spouse, lessened in any degree the ardour of her love and the intensity of her affection.

If her story of his waywardness be well founded one may naturally inquire whether there is any limitation to her self abnegation, and yet, woman's love and loyalty when honestly bestowed is according to the old lines, as "still as the night and as deep as the sea." Certain it is that viewing his indifference to her and his family, she rises above

the embers of her disappointment and disillusionment, like the Phoenix from its ashes and would crown his unfaithfulness with the triumph of her affection. But how does he receive her invitation? A glance at the testimony as she reveals his life at Metuchen and as he defends his conduct and his motives, will furnish the answer. She again accused him of leaving her and his family and seeking the charms of other women. She mentions a boarding-house keeper in the town at whose home he boarded, and who at times was introduced to friends as Mrs. Dinnebeil. With others, he admits he accompanied this lady to the local theatre and festive "parties" almost within vision of his wife, and certainly within range of the tongues of the local gossips. At other times he left the family and house and sought, as he intimates, rest and repose at his brother's home in the same town, and would return to his own home ad libitum. At other times, when the wanderlust seized him he would pack his bag and without informing his wife or family as to his mission or destination, would leave the home for several days and nights, sometimes extending into weeks. Neither the sanctity of Thanksgiving Day nor Christmas tide could restrain him, and when she pressed for information as to his destination, the reply was that it was "nobody's business." Finally, the inevitable happened, and he concedes that he left her and his home in April, 1929, and never returned, and that concession furnishes the basis for this suit.

In the interim, their home was an unhappy one, consisting of differences and intermittent accusations by the wife regarding the defendant's unexplained absence and his inexplicable regard for various women. That her disposition was aroused

to the point of jealousy must be conceded, but that conclusion carries with it the assumption of her intensive love for him. He charges, as the reason for his desertion that he feared her and that his life was in danger because of her intense jealousy, seemingly forgetful of the fact that the admission of her intensive jealousy is an implied concession of her intensive love. On one occasion, the eve of Thanksgiving Day, when she heard he was leaving home, without explanation or excuse, so exasperated did she become that she seized a table knife and rushing out to where he stood near his automobile, attempted to cut the tire of the machine, so that he might not be able to start upon his journey. He charged that she threatened his life with this domestic utensil, but she denies that, and so does her son who was present and who prevented her from using the knife upon the tire.

Upon another occasion he testified she threatened him with a revolver, but she denies this and states that he, possessed a revolver, and that while intoxicated, it was actually discharged while both were engaged in a struggle for its possession. He lived upstairs for a while, away from the family, and cooked his own meals, and he stated that his reason was that he feared she might poison him. He had no basis for the fear, he admits, except the woman's intense jealousy.

"Airy nothings" presented occasions for their disputes. Thus, they disagreed over their respective ages upon the eve of her birthday, and he again left home. They went out riding in his automobile and the conversation was diverted to the relative beauty of a woman of his acquaintance whom she then, as he thought, unduly criticized, and when they returned, the wanderlust again

seized him, and without explanation he again left home.

Absence it is said, makes the heart grow fonder, and while that seems to have been true, in her case, it seems to have been inapplicable to his. She informs us that she would gladly live with him while he scouts her invitation, in effect informing us that it is impossible, since he fears for his health and his life. To illustrate the danger, he informs us, that upon one occasion, in the presence of a witness, she belabored him with a stick or a branch on the public street and persisted in calling him vile names, as she pursued him. This she denies, and she is supported in her denial by others. She was undoubtedly in the intensity of her love a jealous woman, and one cannot refrain from marvelling if she vizualized him and his marital conduct correctly, how she well could refrain from occasionally reminding him by emphatic protest of the intensity of her affection. She doubtless felt it to be her duty to guard and protect him in the manner of a loving parent dealing with an erring prodigal. The application of argumentum ad baccalarum in such emergencies in modern times at least, is not the exclusive prerogative of a husband; while we cannot fail to recall in that connection, the philosophy of the Bard-of-Avon that "Hell hath no fury like a woman scorned." While to her such fear doubtless was a hopeful portent of returning normality upon his part, she doubtless conceived it as due to the corrective influence of a watchful, even if an over-emphatic wife, applied for the purpose of saving a docile spouse from the pernicious pitfalls of designing women. The fear thus inoculated, in reality was not fear for his life or his safety which is comprehended in our statu-

tory definition of cruel and inhuman treatment, as interpreted by the courts, but that healthy fear that the erring progeny feels for an ever watchful and loving parent. In this exciting environment he suffered from nerves and stomach, and at least upon one occasion became an inmate for treatment in a local hospital, while at other times, he resorted to his brother's home in the town, for the rest he coveted and failed to find at the fireside of his family. His physical condition doubtless is due materially to the warring family life he led as a result of his own misconception of a husband's conduct and prerogatives. No physician has been produced to describe the extent of the malady from which he suffers, and while he exhibits evidences of a nervous man, we are free to assume that the true remedy for a restoration of his normal nerve and stomach condition rests not with doctors and hospitals, but with himself in a realization of the fact that his home, properly environed with a wife's and a family's affection, should be his real refuge and the true solace and source of a normal life.

There is an old German proverb replete with philosophy:

"Suche das gluck nicht veit
Es liegt in das hauslichkeit"
(Do not seek happiness far away
It lies at your own fireside).

"As a man thinketh so he is", is the philosophy of the ages, and "Sana mens in sana corporis", still presents the fundamental conception of human healing since the says of Aesculapius.

He was engaged in the business of erecting "model homes" and selling them to families, but he apparently never learned to build a real model

home for himself. His wife and children present every indication of clean honest substantial American people who would gladly welcome him to the home, and with his own assistance, aid in restoring him to the normal condition of health which he enjoyed in his earlier manhood when he knew but one woman, and like Arthur in the "Idylls of the King" knowing but one woman in all this world "clung to her alone."

The defendant as may be imagined was neither an ascetic, nor stoic nor a gay Lothario; nor was he an unattractive man, nor one devoid of a sense of family responsibility. He gave the impression however, of a good man laboring under a misconception as to the best method of attaining happiness in a tempestuous life filled upon all sides of the pilgrims' progress with trying allurements and insidious temptations, which even the primeval and and impeccable simplicity of Father Adam was not able to resist.

If there was cruelty in this case, to any extent, it was certainly exercised by the wife in a very minor degree, and not with any desire to injure or disable the defendant, her husband. Whatever she did in that direction, which her husband now ascribes as cruelty, was a method adopted by her of exercising her conception of the duty of a wife, to endeavor to correct the shortcomings of her husband, by reminding him in a more or less emphatic manner, of the duties he owed to his family and to his home. Such, in my judgment, if it occurred, was the stick or branch episode which he charges her with using upon him upon the highway, as already referred to. If the scene actually occurred in the way in which he describes it, and which she denies in toto, it was not the result of any effort

upon her part to impose bodily injury upon him, but rather an exhibition of her determination, if possible, to remind him of the duties owing to his family, and must be considered in the aspect of an abullition of her affections for him and his family, rather than an exhibition of any disposition on her part to injure him.

In the case of Cavilier vs. Cavilier, 94 N. J. Eq. 160, Mr. Justice Trenchard, speaking for the Court of Errors and Appeals, in a case in many aspects not unlike the case at bar, observed that a single act of personal violence upon the part of a wife against her husband is not extreme cruelty justifying abandonment of, and refusal to support, the wife, where the injury was slight, and the act was committed under circumstances which do not furnish any reasonable apprehension that the continuance of co-habitation would be attended with further personal injuries. Thus he observes, at page 163:

> "We deem it the true rule to be that the conditions (other than adultery) which will justify the husband in separating himself from his wife, and refusing her support and maintenance, are those which our divorce Act has provided as a sufficient cause for the Court to grant to the husband a divorce from bed and board, namely, extreme cruelty upon the part of the wife. This is necessarily so, for a husband cannot be justified in abandoning his wife and neglecting to support her for causes which will not justify the court in granting a divorce. It follows, therefore, that when the husband as in this case, separates himself from his wife and she claims suitable support and maintenance under the statute, he must justify that separation by proof of extreme cruelty upon the part of the wife to the same extent as he

could be compelled to prove if he were suing from a divorce from bed and board."

To the same effect are the cases of Smith v. Smith, 40 N. J. Eq. 566; Taylor v. Taylor, 73 N. J. Eq. 745.

In the case of McLean v. McLean, 7 Adv. Rep. 362, it was held that a single act of cruelty does not sufficiently justify desertion where such an act was provoked by the behavior of the other party.

It was held in the case of Rector v. Rector, 78 N. J. Eq. 386, that the abandonment which must be proved in a case of this character, need not consist of the actual leaving of the matrimonial abode, and where it can be shown that the defendant has withdrawn from all of the usual matrimonial duties, such conduct will constitute abandonment to the same extent as if he had actually left the home of the family. On that subject Vice Chancellor Garrison said, at page 407:

> "In my view the true rule, as abstracted from the cases and the textbooks, and from reason and authority, is that wherever one spouse, without justifiable reason, refuses for the statutory period to have sexual intercourse with the other, and withdraws from all other marital duties than merely living under the same roof in the same relationship that could exist between a man and his housekeeper or a woman and her boarder—a condition in which the fact that she is the wife or that he is the husband is of no consequence whatever in their relation and method of living together—the desertion exists, and the one who has caused this situation against the will of the other is the offender."

Memorandum of Opinion.

The entire testimony impresses me with the conclusion that the defendant voluntarily and without just cause abandoned the complainant, and that there is no substantial foundation in the record to support the allegations of the cross bill which is hereby dismissed. The earnings of the defendant and the probability of his future income lead me to the conclusion that the defendant should pay to the complainant at the rate of $20.00 per week, and also a counsel fee to the complainant's solicitor of $200.00. Such will be the decree.

Dated: August 1, 1930.

Notice of Appeal.

Filed Sept. 6, 1930.

IN CHANCERY OF NEW JERSEY.

Between HANNAH DINNEBEIL, Complainant, and GEORGE L. DINNEBEIL, Defendant.	On Bill, &c. Notice of Appeal.

Defendant, George L. Dinnebeil, hereby appeals from a decree dated August 27th, 1930, made by the Chancellor on the advice of Advisory Master James F. Minturn, in the above entitled cause, and from the whole and every part thereof, to the Court of Errors and Appeals in the Last Resort in all Causes.

FREDERIC M. P. PEARSE,
Solicitor for Defendant.

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

FREDERIC M. P. PEARSE,
Of Counsel with Defendant.

Petition of Appeal.

NEW JERSEY COURT OF ERRORS AND APPEALS.

Between HANNAH DINNEBEIL, Complainant-Respondent, and GEORGE L. DINNEBEIL, Defendant-Appellant.	On Bill, &c. On Appeal from Court of Chancery. Petition of Appeal.

To the Honorable the Court of Errors and Appeals in the Last Resort in All Cause:

The petition of George L. Dinnebeil, the defendant-appellant in the above entitled cause, respectfully shows that:

Petitioner finds himself aggrieved by a final decree made in the Court of Chancery by the Honorable Edwin Robert Walker, Chancellor of the State of New Jersey, bearing date August 27, 1930, in a certain cause in said Court of Chancery wherein Hannah Dinnebeil was complainant and George L. Dinnebeil was defendant, in this respect, to wit:

That said final decree adjudges that the defendant, without any justifiable cause, abandons the complainant and separates himself from her and refuses and neglects to maintain and provide for her,

And further, that said final decree orders, adjudges and decrees as follows:

That the defendant do pay to the complainant the sum of twenty dollars per week;

That the counterclaim of the defendant be dismissed;

That the said defendant do further pay complainant, or to her solicitor, the costs of this suit to be taxed, and also the sum of two hundred dollars, which is hereby adjudged and decreed to be a reasonable counsel fee for the solicitor of said complainant; and that the said complainant do have execution for said costs and counsel fee according to the practice of this Court.

And petitioner appeals from the decree of the Chancellor, which orders, adjudges and decrees as aforesaid, upon the ground that the same is erroneous in that:

1. The lower court erred in decreeing that the defendant, without any justifiable cause, abandons the complainant and separates himself from her and refuses and neglects to maintain and provide for her.

2. The lower court erred in decreeing that the counter-claim of the defendant be dismissed.

3. The lower court erred in decreeing that the said defendant do further pay complainant, or to her solicitor, the costs of this suit to be taxed, and also the sum of two hundred dollars, which is hereby adjudged and decreed to be a reasonable counsel fee for the solicitor of said complainant; and that the said complainant do have execution for said costs and counsel fee according to the practice of this Court.

4. The lower court erred in failing to decree that the defendant separated himself from the complainant with justifiable cause.

5. The lower court erred in failing to decree that the counterclaim of the defendant be sustained and that the marriage be dissolved for the reasons set forth in said counterclaim.

6. The lower court erred in failing to decree that the complaint of the complainant be dismissed without costs.

7. The lower court erred in failing to decree that the complaint of the complainant be dismissed without any award of counsel fees.

8. The trial court erred in failing to decree that complainant's acts of cruelty justified the defendant in leaving her and entitled him to a decree for divorce.

Petitioner therefore prays that the said decree of the said Chancellor may be wholly reversed, set aside and for nothing holden, and that petitioner may have such other and further relief in the premises as to this Court shall seem proper.

FREDERIC M. P. PEARSE,
Solicitor for and of Counsel
with Appellant.

Service of the within Petition of Appeal from a decree of the Court of Chancery dated August 27, 1930, is hereby acknowledged this 23rd day of September, 1930.

ALEXANDER SIMPSON,
Solicitor of Complainant-Respondent.

Testimony.

IN CHANCERY OF NEW JERSEY.

Between HANNAH DINNEBEIL, Complainant, and GEORGE L. DINNEBEIL, Defendant.	On Bill, &c. Testimony.

In pursuance of an order of the Chancellor made on the 27th day of December, 1929, whereby it was ordered that the hearing of the above entitled cause be referred to JAMES F. MINTURN, one of the Advisory Masters of this Court, to hear and advise, and the said Advisory Master, having by order duly made, fixed a hearing of the said cause for the 19th day of February, 1929, at 10:30 o'clock in the morning, and counsel thereafter having agreed to the postponement of the hearing from the 19th day of February to the 21st day of February, 1930, at 10:30 o'clock in the morning, and the parties appearing personally with their witnesses, and being represented by counsel for the petitioner and counsel for the defendant, and the stenographer having been duly sworn to truly and faithfully take the testimony given upon the said hearing, the cause proceeded as follows, and the following testimony was taken:

APPEARANCES:

ALEXANDER SIMPSON, ESQ., (by ALEX R. DE SEVO, ESQ.)

For the Petitioner.

FREDERIC M. P. PEARSE, ESQ.,

For the Defendant.

Hannah Dinnebeil—Direct.

HANNAH DINNEBEIL, sworn.

Direct-examination by Mr. De Sevo:

Q. Where are you living now, Mrs. Dinnebeil? A. 15 Warren Place, Jersey City.

Q. When and where were you married to the defendant, Mr. Dinnebeil? A. There is two marriages, but the Catholic Church is in St. Rita's, before Father Manning, in the Bronx, New York City.

Q. On what date? A. On the 5th day of May, 1904.

Q. How many children were born as a result of this marriage? A. Two.

Q. What are their names? A. William Dinnebeil.

Q. How old is William? A. Twenty-five.

Q. Where is William living now? A. In New York City.

Q. Who is the other? A. Gladys Vogel—Mrs. Vogel.

Q. She is living with her husband? A. Yes.

Q. After your marriage where did you and your husband go to live? A. We resided at his sisters' residence on the west side of New York.

Q. How long did you reside there? A. Until my child was born, until the boy was born, about five or six months.

Q. From there where did you go? A. To my mother's home.

Q. Where is that? A. In the Bronx.

Q. How long have you lived there with your husband—did your husband come there too? A. Yes.

Q. How long did you live there? A. Until my second child was born; that is about two years.

Q. That would take you down to what year? A. 1906.

Q. What if anything happened in 1906 between you and your husband? A. Well, he has been going around with girls—young girls as I was informed.

Mr. Pearse: I do not see the purpose of going into a detailed account of this past history of these marital relations. It appears from the pleadings, particularly the petition, that whatever differences of opinion these people may have had—while they may have been separated for a good many years—they resumed marital relations in 1927 or 1928 at Metuchen. Therefore such statements concerning what this petitioner says the defendant did as far back as 1906—

The Advisory Master: You claim that what happened prior to the final meeting of these two people and their cohabitation, was condoned?

Mr. Pearse: Yes.

The Advisory Master: That if there were any violations of the marital rights, they were condoned?

Mr. Pearse: Yes.

The Advisory Master: I think I will allow the other side to show their method of life for the purpose of showing what light the situation as described will throw upon the minds and proceedings of these two people, so that I may be able better to reach a conclusion thereby than by merely taking the statement of the final action in the case.

You may proceed. Do you enter an objection?

Mr. Pearse: I do not enter an objection to your Honor's suggestion, but I do enter an objection and ask to have stricken out her answer that he was running around, I think she said, with young women.

The Advisory Master: You heard that he was running around with young women?

The Witness: I have been informed and I have seen him with a young woman.

The Advisory Master: She heard and on that she based her actions that she is about to describe, is that the idea?

Mr. De Sevo: Yes.

Q. As a result of what you heard, did you speak to your husband? A. Yes.

Q. What did he say? A. He told me it was all lies, he did not go around with anybody, he loved nobody but myself.

Q. That was in 1906? A. Yes.

Q. Did he live with you after that? A. Yes, we moved then to New Jersey, to Bogota.

Q. What year was that? A. That was 1906.

Q. How long did you live in Bogota, New Jersey, with your husband? A. About nine months.

Q. How did you get along during that time? A. Very well we got along.

Q. Where did you go from Bogota? A. He claimed that his position did not call for the paying of the rent there.

The Advisory Master: Speak a little louder, please.

The Witness: And he sent me back to my mother's home.

Q. Where was that? A. Bronx, New York.

Q. Where did he go? A. He lived with his brother, as usual, or his father.

Q. Where? A. In New York at the time it was.

Q. You were living separate at that time? A. Well, he came over to see me in the meantime.

Q. Did you live together up there? A. Yes.

Q. When was that, when did you get together again? A. Then we went up and moved to Mount Vernon, New York.

Q. When was that? A. Shortly after that, about six months after that.

Q. How long did you live together up there? A. About six months.

Q. What happened during the six months, how did you get along? A. He changed his position again—very well he got along, and he changed his position again and came to New York and we moved down to New York.

Q. How long did you live down there? A. On Elton Avenue—about six months.

Q. How did you get along during those six months? A. Then I found a woman's letter in his pocket.

Q. Did you show it to him and speak to him about it? A. Yes.

Q. What did you say to him and what did he say to you? A. He denied it and he went and left me. He said he was going to change his position. He did not say that he was leaving me then and there.

Q. Where did he go? A. He went out of town; I do not know where. I have not seen him in a year's time after that.

Q. For one year you did not see him. Did you hear from him? A. No.

Q. Did he send you any money or anything? A. No.

Q. When did you next hear from him? A. He came back on a Christmas Eve then.

Q. What year? A. That same year.

Q. What year was that? A. That could be about 1908, I believe, 1907 or 1908.

Q. Did you live together then? A. Yes.

Q. How long did you live together? A. We lived about six months again.

Q. What happened? A. Well, he always said he changed his—

Q. Not what he always said; what happened? A. Women again, of course.

Q. That don't mean anything.

Mr. Pearse: I move to strike that out.

The Master: That may be stricken out.

Q. I wish you would state what the defendant did. A. After we lived in New York?

Q. Yes. A. He went and changed his position, he said, and he left me with my mother and told me to go back to my mother again.

Q. You have already told us that. A. Another time he did the same thing, told me to go back to my mother.

The Master: Speak louder so that we can can all hear.

Q. This happened in what year, do you remember? A. 1908.

Q. How long did you live together after 1908? A. Back and forth, he came back and forth; we lived about two years.

Q. What do you mean by back and forth? A.

Up to 1914 we lived together. About six years that would be.

Q. From 1908 to 1914 did you say you lived separate and apart? A. Yes, but he came back to see me at the same time.

Q. Where was he living then? A. He was living with his brother, I understand.

Q. Don't you know? A. No. His brother lived in New York some place. No, they did not care for me; they never visited me.

Q. What happened in 1914? A. I was compelled—he moved over to Metuchen with another woman, Edith Hackett.

Q. How do you know that? A. A woman came to his sister-in-law and explained it to her and told it to her.

Mr. Pearse: I ask that that be stricken out.

The Advisory Master: How did you hear it?

The Witness: Through this woman. She came over to me and told me. She knew these people—Edith Hackett, and she knew the brother and my husband.

The Advisory Master: I will allow it to stand for the purpose of furnishing a basis for her action. That is all. I do not say that it is legitimate testimony in the strict common law acceptation of the term at all, but for the purpose of furnishing a basis for her action I think I will allow it to stand.

Q. As a result of this information that was conveyed to you did you speak to your husband about Edith Hackett? A. Yes.

Q. When? A. He came down to see when my girl went to school—he came down to see her, used to come down to visit.

Q. What did you say to him and what did he say to you?

Mr. Pearse: We suggest that counsel fix the date.

Q. That was 1914? A. 1914.

Q. What did he say to you and what did you say to him? A. I asked him why—if he was living with another woman. He said no, he was not. He thought too much of his wife and children.

Q. What happened after that? A. He went away. So I was compelled to have him arrested.

Q. When did you have him arrested? A. In the Bronx Court, for non-support.

Q. Where was Mr. Dinnebeil living then? A. Metuchen, New Jersey.

Q. What happened to him; how did he come to New York? A. The officers told me he was extradited.

Mr. Pearse: I ask that that be stricken out.

The Witness: The officers told me he was extradited from New Jersey to New York, to the Bronx Court.

The Advisory Master: Strike that out.

Q. Were you in court in the Bronx, New York? A. Yes.

Q. Was your husband there? A. Yes.

Q. What happened there? A. Well, him and his father and mother got in touch with this Judge Gibbs.

Q. What did you say to him and what did he

say to you? A. I told him he was out living with another woman and I was not receiving any money for my children.

Q. What happened? A. In the meantime my husband sent a telegram to me to meet him outside. So in the meantime he come dressed up very poorly and he said he did not have any money.

Q. Who did he say that to? A. To me, outside of his father's home, and naturally he said $12, that was all he could give to me for the two children's support.

Q. What if anything did the Judge do on this occasion? A. I was getting eight dollars a week from him and I thought twelve dollars was a little better, and I accepted it.

Q. That was in 1914? A. 1914.

Q. Were the children living with you at the time? A. Yes, surely I had the children living with me at the time, all the time.

Q. In 1914 when was the next time you lived with your husband? A. Not until Metuchen.

Q. When was that? A. September 3rd my daughter got married and he came—

Q. September 3rd? A. Yes.

Q. When did you actually start living with Mr. Dinnebeil? A. Oh, we were living right along with him. He came back and forth to me.

Q. What do you mean, between 1914 and 1919? A. Yes, he came back to see me about four times. He came back to see the children. The Judge told him not to.

Q. Please don't tell us what the Judge said. Between 1914 until what time did you actually live together with your husband? A. You mean moved right into the home to him?

Q. Yes. A. September 3rd—no, November 3rd, 1928.

Q. Between 1914 and 1928 you did not live together, is that right? A. Yes.

Mr. Pearse: I object: she did not say that.

The Advisory Master: Well, did you say that?

The Witness: Did I say he lived with me?

The Advisory Master: Yes, from 1914 to 1928.

The Witness: Yes, he came to see me and he lived with me in my home, and we cohabited. He lived with me between those dates. He came back and forth to me to see his children and he lived with me at the same time.

Q. Where were you living then? A. 153rd Street, 393.

Q. New York City? A. Yes.

Q. Where was he living? A. He was living in Metuchen, New Jersey—supposed to be, with his brother, but he was living with this other man.

Mr. Pearse: I ask that that be stricken out.

Q. I wish you would not volunteer so much information that has nothing to do with this case. I understand you lived together between these dates? A. Yes.

Q. Where did you live together? A. At 393 East 153rd Street.

Q. How long did you live together at this address? A. Well, if you would call that living together. He did not reside with me, no, but he

cohabited with me, if that is what you call living.

Q. How long did you cohabit? A. About three or four times.

The Advisory Master: How long did he stay on each visit that he paid you during that time?

The Witness: About four or five hours.

The Advisory Master: He did not stay all day or all night?

The Witness: One night he stayed over night.

Q. Was he supporting you in the meanwhile? A. No—he was giving twelve dollars to the children, yes.

Q. What happened on about September 28th? A. He came down and he said he was—

Q. He came down to where? A. To New York City. My daughter was married.

Q. What happened then? A. That day—he came down and said he had built a home for us and he wanted me to forget everything of the past and go back to live with him with our family.

Q. Where? A. Metuchen, New Jersey.

Q. What did you say to him when he said that? A. I said yes, I was willing to forgive everything if he turned over a new leaf.

Q. Did you go with him? A. Yes.

Q. When was that? A. September 3rd.

Q. When did you go to live with him, I said? A. September 3rd. He stayed at my house there—er, November 3rd we moved into the new house.

Q. Who went to live with you with your husband on November 3rd? A. My son.

Q. What happened after you went to live with

your husband in Metuchen? In 1928, November 3rd? A. Two days after he brought a photograph of a woman—a letter it was in, and he said, "Isn't that a nice woman?" Well, I tried to control myself, and I did not say anything at the time.

Q. What happened after that? A. But then a week after there was—two weeks after there was a woman come in—she told me there was a woman coming to see him, and I was supposed to open the door for her.

Q. Well, did this woman come? A. She came and I invited her in the house.

Q. Did she come in? A. No, she refused to come in.

Q. Did your husband come out? A. Yes.

Mr. Pearse: I ask that "She refused to come in". If there were any conversations, let us have them.

Q. What conversation did you have if any with this woman? A. That is all I had. I invited her into the home. She said, no, she wanted to see my husband.

Q. Did you call your husband? A. Yes; he was at the garage.

Q. Did he speak to the woman? A. Yes.

Q. Did you hear what was said? A. No, I could not.

Q. What happened after that? A. He came in. He took the woman out for a ride and he came in and told me—he asked me—he said she was a very fine shaped woman.

Q. When did he tell you this? A. Two hours after him coming in with the woman.

Q. What if anything did you say when he said

that? A. I said I did not think she was a well shaped woman. I said she was more like a pot wrestler.

Q. Is that all you said to him? A. Yes.

Q. What happened after that? A. Then she called him up in the afternoon after that—in the evening.

Q. How do you know that? A. I answered the 'phone and she asked me for my husband.

Q. Did you get your husband? A. She asked me for—if George was there—yes.

Q. What happened then? A. And he went out with her.

Q. How do you know he went out with her? A. He went out with her. She had made the appointment.

Q. What time did he come back?

Mr. Pearse: I ask that that be stricken out, that he went out with her.

The Master: It depends on whether she saw him go out with her.

Q. How do you know he went out with this woman? A. He told me he was going out.

Q. Did he tell you he was going out with this woman? A. Yes.

Q. What else did he say about going out with this woman? A. Oh, I said, "You are not going to bring any of this kind of women around here to my home. I want to keep a respectable home."

Q. What did he say? A. And he said she was as good as I was anyhow, he said.

Q. Do you remember the occasion of Thanksgiving Eve of 1928? A. Yes.

Q. What happened on that occasion? A. I pre-

pared a dinner for Thanksgiving. I wanted the children to come up for their home family dinner, and in the meantime he prepared to go away with another woman.

Q. How do you know that? A. He told me.

Q. He told you he was going out with another woman? A. Yes.

Q. What if anything did you say to him when you said that? A. I went out and took a knife to the car. I said, "You are not going out and leave us here, with another woman."

Q. What were you going to do with this knife? A. I tried to break the tire of the car so he could not go out and go away from us.

> Mr. Pearse: You did what?
>
> The Witness: I tried to put the tire out of the way—the car out of the way, so that he could not go out with the other woman and leave his family.

Q. Did you succeed? A. No, I did not, my son prevented me.

Q. What if anything happened after that? A. He called a policeman into me.

Q. What happened when the policeman came? A. He wanted my son to make a charge. The officer said he expected to see a wild woman there.

Q. Where was your husband at the time? A. He came in shortly after with the officer.

Q. What if anything did your husband say when the policeman was there? A. He said to my son, he said, "Make a charge against her."

Q. What if anything did your son say? A. My son said, "No, not against her", he said.

Q. What if anything did the officer say? A. The officer said—asked, "What kind of a knife was it;

was it a carving knife?" I said, "No." I showed him the knife. It was a kitchen knife.

Q. What did you tell the officer what you were going to do with the knife? A. I told the officer I was cutting the tire of the car, to prevent him going out with another woman.

Q. Was your husband there at the time you were saying this? A. Yes, sir.

Q. Did he say anything while you were saying this? A. At the same time I thought it was my car. He said, "That car don't belong to that woman", he said.

Q. What happened, did the officer leave? A. The officer asked to see the driver's license.

Q. What else did he do? A. That is all; then they went away.

Q. Did he leave? A. Yes.

Q. Did he arrest you? A. No. I did offer for them to make a charge against me. I said, "Go ahead and arrest me" I said; "maybe I will get something in the court."

Q. What happened after that? A. After that then it was Christmas then, another holiday, I prepared dinner again. He left the room altogether. He slept in his own room upstairs. His brother come with a bed.

Q. Where did you sleep? A. In another room. He moved my bed out of that, went out of our room.

Q. Did you say anything to him for doing that? A. Yes. I told him, I said, it was not a very nice thing to do. He said, "I don't want to live with you any longer."

Q. And this continued for how long? A. A week or four days at the time.

Q. What happened at the end of this week or

four days? A. Then we were reconciled again. I begged of him for the children's sake, I asked him for the children's sake to give up his bad company.

Q. What did he say? A. He said yes, if I would.

Q. What happened after that, if anything, and fix the date if you can. A. Well, then, two weeks, I believe it was two weeks after that, around Christmas again he started to leave.

Q. What was that? A. Around Christmas I think he started to leave, to pack his trunk to go again.

Q. Did you see him pack his trunk? A. Yes.

Q. Did you say anything to him? A. Yes, I asked him where he was going.

Q. What did he say? A. He said he was going to a friend, an old friend, Mrs. Frolich, in New York City.

Q. What if anything did you say to him when he said that? A. I said, "You are not going to leave this home again, for my children's sake." We wanted a home, I said, we came up for a home, and he said, "I am going to do as I please", he said, "and you are not going to stop me."

Q. Did he leave? A. Yes.

Q. When did you next see him? A. Next then he stayed away two weeks, I believe.

Q. During that time did he communicate with you in any way? A. No, I did not have no word where he was.

Q. Do you know where he was? A. No, I did not. I tried to look for him, locate him.

Q. At the end of two weeks did he come back? A. Yes.

Q. What did he say or do when he came back? A. He went back and forth for a little while. We did not speak.

Q. I understood you to say he was away for two weeks? A. Yes.

Q. When he came back what if anything did you say to him and what did he say to you? A. Well, we were talking together.

Q. Talking about what? A. In the meantime I think I have got a lawyer Potter, a Mr. Potter.

Q. What happened as a result of this lawyer? A. And Mr. Potter went over to see his family or see him at the same time.

Q. How do you know that? A. He told me.

Q. As a result of what this lawyer did, did you see your husband? A. He came in then shortly and he wanted to know what my lawyer said.

Q. What did you say to him and what did he say to you? A. I said nothing. I did not say what the lawyer said.

Q. What did you say to him; did you ask him where he had been these two weeks? A. "None of your business", he said.

Q. Do you remember the occasion of February 9th, 1929? A. Yes.

Q. The occasion of your birthday, what happened then? A. I was about to give a dinner to my family again, the children again, and that morning he came in, about one o'clock in the morning he came home, and congratulated on my age on my birthday. He said, "How old are you?" I said, "One year older than you are", and he said, "You are about fifty", he said. I said, "No, I am one year older." He said, "I have my baptismal certificate." I said, as a joke only I said, "Your family is liable to do anything with the certificates."

Q. What happened after that? A. He left the bed, he would not stay in the bed from one o'clock

that day, and in the meantime my daughter and son-in-law came up, and he called them up just for the dinner, that is all.

Q. Called who up? A. He called on the 'phone.

Q. Who answered the 'phone? A. I did.

Q. Did you know it was your husband? A. Yes, he said it was him.

Q. What did you say to him and what did he say to you? A. He asked for Gladys.

Q. Did you say anything to him? A. No, I did not say anything—yes, Gladys was there I said, and I called Gladys to the 'phone, and in the meantime I went upstairs and listened upstairs on the 'phone.

Q. What was said between your husband and your daughter? A. He said, "I am very sorry; I had flowers for her, but I cannot live with her any more", he said, "I am not going to live with her."

Q. What if anything did your daughter say? A. My daughter tried to laugh it off, that is all, she did not say anything. She says, "Why didn't you bring the flowers home to me?"

Q. How long was he away this time? A. He generally stayed about two weeks.

Q. Not generally, on this particular occasion how long was he away? A. About two weeks.

Q. During that two weeks did you hear anything from him? A. Yes, he used to come in and take care of the furnace once in a while.

Q. What would you say to him when he would come in? A. We would say, "Good morning".

Mr. Pearse: I do not think we ought to have any general conversations as to what she said to him and what he said to her when he came in.

The Court: Yes, your questions ought to be more specific.

Q. What if any conversations did you have with him; did you have any conversation with your husband? A. No—regarding the home I did. I asked him where he was staying. He said, none of my business, he would always tell me.

Q. Not always, on these different occasions, these three weeks he was away that you claim he came to the house to fix the furnace, what if anything did he say to you and what did you say to him? A. I do not remember very well, but he did take me out on occasions for an automobile ride.

Q. You mean during these three weeks? A. I cannot remember very well now.

Q. All right, tell us about this automobile ride. A. He took me as far as the Twin Lights.

Q. Twin Light House at Atlantic Highlands? A. Yes.

Q. When was that? A. Around one of those times.

Q. You mean while he was away? A. It was either before—no, before or after the ninth.

Q. Will you please tell us about this ride? A. He spoke about a woman at the time.

The Advisory Master: Where did you say he brought you?

The Witness: To the Twin Light Houses in Atlantic Highlands, what they call them, the Twin Lights.

The Advisory Master: Where?

The Witness: Atlantic Highlands.

Q. Had you been living separate and apart at

that time? A. Yes; he was living in the house, but we were separated. We were not living together.

Q. What happened on this ride? A. Well, he referred to a woman, to this Edith Hackett again.

Q. What if anything did you say to him? A. He wanted me to get acquainted with her. I says, "No, I do not care to mix in with those kind of people, any kind of a woman that would take a husband away from a wife and two children", and he says, "She is as good as you are any day."

Q. Did you finally get home? A. Yes, he took me home.

Q. What happened when you got home? A. He went away to his brother's house. He said he was going to his brother's house, but he came back about one o'clock that night under the influence of liquor.

Q. What happened? A. And I heard a tussling in his room. He was at his trunk.

Q. Did you go upstairs? A. Yes. I was asleep in bed at the time. When I woke up and walked up there I found him sitting at the end of the bed with a revolver in his hand, and he said, "There are two shots, one for you and one for me."

Q. What if anything did you do? A. I begged of him to stop for his children's sake and for everybody's sake, don't shoot.

Q. What happened? A. He did shoot. He said, "I will shoot", and he fired in the air. In the meantime I screamed and tried to prevent it, and the dog barking, and I called for help, but there was no help coming.

Q. What happened after that?

Mr. Pearse: When was this; did she fix the date when this was?

Q. Do you remember what date that was? A. Yes, he went away, no, he stayed there awhile with me.

Q. Until about what date? A. He came back and forth to work and he pretended he was working and then he—

Q. Well, do you remember the occasion on or about the 8th day of April, 1929? A. Yes.

Q. What happened then? A. Oh, that is right too. He came in the evening that night about nine o'clock and he had the car. He was under the influence of liquor again, and he had the car and he said, "I am going back to the other woman." And I went between the car. I said, "Don't go back, for your children's sake don't go to the other woman," I said, and I stood between the car. So he went upstairs to his bed. I asked him to come up and lay down, and he went upstairs. He did not lay down, but he told me he hated me, hated my body.

Q. What happened after he had used this language to you, if anything?

The Advisory Master: Where did all this happen?

The Witness: In Metuchen, New Jersey.

(Question repeated.)

A. He went away and he left me alone.

Q. Did you see him again after that? A. No, I did not see him at all.

Q. How long did you remain at this address? A. Until they put me out, May 12th they dispossessed me.

Q. What address was this? A. 227 High Street, Metuchen, New Jersey.

Q. From there where did you go? A. I did not have any place to go, I called up my niece and she came up and took me down to her home.

Q. That is in Jersey City? A. Jersey City.

The Court: Who was that?

The Witness: My niece.

The Advisory Master: I did not hear her name.

The Witness: Mrs. Dorn.

Q. Has your husband ever been over to see you at any time from that time to date? A. No.

Q. Are you willing to go back and live with him now? A. If he turns over a new leaf I am.

Q. What is your husband's business? A. He said he was president of the Modern Home Building Company.

Q. Where is that? A. Metuchen, New Jersey.

Q. Do you know who owns the home at 227 High Street where you were living? A. Yes.

Q. Who did? A. He was supposed to build it for me.

Mr. Pearse: I move to strike that out.

The Witness: He said he built it just for me—my home.

Q. You did not hear my question. Do you know who owns the building? A. I understood he owned it.

Mr. Pearse: I move to strike out what she understood.

The Witness: He did, because I seen the bills he paid for lumber while he was building, and the bricks.

The Advisory Master: Did he say anything about it?

The Witness: Yes.

The Advisory Master: That he owned it?

The Witness: Yes.

The Advisory Master: He told you that he owned it?

The Witness: Yes.

Mr. De Sevo: Does your Honor want me to go in now as far as the counterclaim is concerned?

The Advisory Master: You do not have to anticipate that. That is for the other side. Will you state to me what the purpose of your case is and what your claim is?

Mr. De Sevo: The purpose is that this defendant left her without any justifiable cause. He has made no effort whatsoever since he left her to get her back.

The Advisory Master: In other words, he deserted her?

Mr. De Sevo: Yes.

The Advisory Master: And your claim is what?

Mr. De Sevo: For separate maintenance.

The Advisory Master: You are not claiming any divorce on the ground of desertion?

Mr. De Sevo: No.

The Advisory Master: I noticed the other side makes an allegation of that kind.

Mr. Pearse: We filed a counterclaim, if your Honor pleases, of course, on the ground of cruelty.

The Advisory Master: Do you mind stating your position, Mr. Pearse, before we go on any further?

Mr. Pearse: Yes. The counterclaim was filed under what Mr. De Sevo has already

said is known as the Blackwell Act, which gives the Court of Chancery jurisdiction to grant an absolute divorce on the ground of curelty. The suit, however, may not be started until six months after the last act of cruelty. The last act which we complained of is on April 6th, I think, which is one of the occasions that the complainant has testified to. This suit was started in the month of June, 1929, and we filed our counterclaim more than six months after this last act.

The Advisory Master: What do you call the act?

Mr. Pearse: The last act of cruelty we allege was committed on the 6th day of April.

The Advisory Master: What is the act under which you say—

Mr. Pearse: That is the Blackwell Act. It was passed in 1923.

The Advisory Master: And the purpose of that act is what?

Mr. Pearse: To grant absolute divorce on the ground of cruelty.

The Advisory Master: Even though the bill be filed for maintenance?

Mr. Pearse: Of course, I could not start a separate suit. My theory was, a suit for separate maintenance having been started against the defendant, and any matrimonial cause being the proper subject of cross bill

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The Advisory Master: Your point is the court having jurisdiction of one thing may take it for almost anything?

Mr. Pearse: Yes, and we have complied

with the Act in that our suit, although it is a counterclaim in this suit, was not filed until six months after the last alleged act of cruelty. In other words, the filing of our counterclaim was the beginning of our suit?

The Advisory Master: And your suit is based on the theory?

Mr. Pearse: Of extreme cruelty.

The Advisory Master: Of extreme cruelty on her part.

Mr. Pearse: Yes.

The Advisory Master: Which forced you to leave the home?

Mr. Pearse: Which forced the husband to leave the home, yes.

Mr. De Sevo: There is one observation I want to make. We started our suit in June and the subpoena to answer was served in August and their answer and counterclaim under those facts should have been due in September. Taking the last day that they allege, that is, the last day of cruelty, which is April 6th, they could not start their suit before October 8th. Now, their answer and counterclaim was due in September, but I do not want to charge the other side with holding up their answer until the time is up. Their answer and counterclaim were not filed until November, which would make it premature, because the answer is really due in September. I have their acknowledgment here in August, acknowledging service of the subpoena, which made their answer due in September, but they actually do not file their answer and counterclaim until Novem-

ber, in order to come within the provisions of the Blackwell Act, which says a suit cannot be started until six months have elapsed since the last act of cruelty. Now, in this case their own date is April 6th. Six months won't elapse until October, and they do not file their answer until November, although it was due in September. I thought your Honor ought to be made aware of that fact. It looks as if the answer and counterclaim was held up so that it could come within this act, because if they had filed their answer in September when it was due, the action would be premature.

The Advisory Master: That Blackwell Act applies to a separate suit, does it not?

Mr. De Sevo: Yes.

The Advisory Master: Instituted by either the husband or the wife on the theory of extreme cruelty. Now, their theory is that they were brought into court by the other side.

Mr. De Sevo: Yes.

The Advisory Master: By your client and that being in court on one theory of jurisdiction, the court may deal with the entire case as presented by the facts, and grant the necessary release upon well recognized equitable principles, whatever that may be, or whatever the testimony may justify that to be, and that the Blackwell Act therefore probably does not apply. I do not know what their contention is, but I was wondering what it might be.

Mr. De Sevo: That is what I was thinking, inasmuch as this is a separate mainten-

ance act which does not seek to dissolve the marriage, that the counterclaim is not a proper counterclaim, because they seek to dissolve the marriage. We do not. Then, of course, I brought into consideration the other point about the counterclaim being—their counterclaim would not rest at all with this action, nor would the court have jurisdiction upon the ground that they allege they come under the Blackwell Act, isn't that so, Mr. Pearse?

Mr. Pearse: Yes, very true, yes. If your Honor will recall the old divorce act provided for fendis a mensi et thoro on the ground of extreme cruelty. It was not until 1923, after a somewhat vigorous opposition on the part of the members of the Legislature, tha this so-called Blackwell Act was passed, which permitted of an absolute divorce on the ground of extreme cruelty, provided, however, that the suit shall not be started—I am not quoting the exact language of the statute, but the suit shall not be started until six months had elapsed from the time of the last act of cruelty. I hope that my friend on the other side is not attempting to charge counsel with deliberately delaying the filing of the answer to this suit with any idea of seeking to get the jurisdiction of this court after six months have elapsed.

The Advisory Master: Well, the six months had in fact elapsed.

Mr. Pearse: The six months had elapsed before we filed our answer, and our counterclaim, and I take this to be the fact, if your Honor pleases, that

even though we had filed our answer within the usual time, nevertheless we would not have been debarred at the proper time from bringing in, under proper order of the court if an order was necessary, counterclaim, and in a matrimonial suit for separation, the other side may counterclaim any cause which is a matrimonial cause under the divorce act for an absolute divorce. In other words, a suit for separate maintenance may be brought and you may counterclaim by asking for an absolute divorce on the ground of desertion or adultery, and that being true the only question that has ever arisen in my mind was whether the six months, not having expired when the complainant's suit was started, whether that could be considered as the beginning of the suit, and it could not be said that our counterclaim was the beginning of the suit. That is the only thing that is bothering me, but there are very few authorities on the subject, in fact none on this particular point, and so I have taken the position, and I think the first one, that the filing of the counterclaim is the beginning of an original suit by the other party.

Mr. De Sevo: The object of the six months period has been this: The courts have always been reluctant to dissolve marriages, and when that act of 1923 was passed, they put this six months provision in there because they figured that if the husband and wife got into a squabble, that they had six months within which they could patch up their differences, and that was the object of making

the six months period before you can start your suit, because the extreme cruelty was never used as a basis for a suit for divorce, but it was all right insofar as a separate maintenance action was concerned. That was the object of putting in the six months provision. The courts have been very reluctant to allow divorces on extreme cruelty grounds, on the ground that they claim that the cruelty must be considered such that it would be unsafe for either party to live with the other party.

The Advisory Master: The old act limiting divorces provided fendis a mensi et thoro, so that if the Blackwell Act were not in existence they would still be in the position of claiming a right to a limited divorce on the ground that her conduct was such as to justify him in remaining away from her, for the reasons that he might urge and as might appear in the testimony. Now, the Blackwell Act intervenes and gives them the right, not to a limited divorce, but to an absolute divorce, and Mr. Pearse's theory is that you, having instituted this action for alimony, and so forth, support, that opened the door, so to speak, and gave him the right to take advantage of the existing law, which is simplified by this act known as the Blackwell Act, and claim the right to an absolute divorce instead of a limited divorce, or a diforce a mensi et thoro, as was formerly the law. What have you to say to that?

Mr. De Sevo: The only thing I have to say is this, that when our suit had been instituted, in order for them to have a stand-

ing in court insofar as the Blackwell Act is concerned, six months must have elapsed from the time of the alleged act of cruelty, which in this case was April, inasmuch as the suit was started in June—

The Advisory Master: In other words, the test is when you started your suit?

Mr. De Sevo: No, sir, the test is when the last act of cruelty—six months elapsed before either party started the suit. Inasmuch as we started in June, if the answer had been filed in the regular way, they could never have set up extreme cruelty as the grounds for divorce, because six months had not elapsed.

The Advisory Master: What do you mean?

Mr. De Sevo: In other words, their answer was due in September, so if the answer had been filed in September when it was due, they could never set up as a counterclaim extreme cruelty.

The Advisory Master: Didn't they get an extension of time?

Mr. De Sevo: I guess they did, I don't know.

The Advisory Master: Well, the answer was filed within the legal time?

Mr. De Sevo: No, sir.

The Advisory Master: And the counterclaim?

Mr. De Sevo: They were filed at the same time; they were filed in November.

The Advisory Master: Well, somebody must have extended the time.

Mr. De Sevo: The only reason I bring this is, can we extend the time to allow a

new suit to be instituted. Of course, it practically amounts to a new suit.

The Advisory Master: In other words, can you extend the time so as to carry out the tendency and effect of the Blackwell Act?

Mr. De Sevo: Yes.

The Advisory Master: Your contention is that the Blackwell Act must be strictly construed, I suppose?

Mr. De Sevo: Yes, because it is in derogation of the common law.

The Advisory Master: Well, I wanted to get your view of it so that I could understand it as the witnesses are examined on both sides. Now, Mr. Pearse.

Cross-examination by Mr. Pearse:

Q. When did you start these proceedings against your husband for the first time, to compel him to pay you some money? A. June 13th, I believe the papers were served.

Q. When for the first time did you start any proceedings to compel your husband to pay you money either for your support or for the support of the children? A. About two years after I was married. I was compelled to.

The Advisory Master: Were both children then born?

The Witness: Yes, about three years after I was married.

The Advisory Master: Both children were born?

The Witness: Both children were born.

Q. That was in 1906, wasn't it? A. Yes.

Q. That you started your first proceedings against your husband? A. 1907.

Q. Three years after you were married? A. Yes.

Q. And at that time he paid eight dollars a week, did he not, for the support of the children? A. Yes.

Q. And from that time on up to the present time he has paid you either eight dollars or twelve dollars a week, except during that short period when you lived together in Metuchen in the latter part of 1928 and the first part of 1929? A. No.

Q. Isn't that right? A. No, that is not right. He went away for one whole year there and I did not receive one cent from him. I was compelled to go to the Charity Department in New York.

Q. You went to the Charity in New York? A. Yes—I had to.

The Advisory Master: What do you mean by going away? Didn't you know where he was?

The Witness: No, I did not.

The Advisory Master: He did not tell you where he was going?

The Witness: No.

The Advisory Master: You never heard from him?

The Witness: I never heard from him for a whole year.

Q. As a matter of fact you and your husband did not live together? A. That time?

Q. For any length of time from 1906 down to 1928, did you? A. Yes, we did. We had three separate houses.

Q. Where did you live? A. New York—we lived in Mount Vernon. In Mount Vernon we lived about six months.

Q. Had he been ordered then to pay you money? A. No, he came back to me.

Q. I am asking you, after you started the proceedings to compel him to pay you money for the first time did you and your husband ever live together for any length of time until you finally came down to Metuchen, in 1928? A. Yes.

Q. Well, now, where? A. 393 East 153rd Street.

Q. When did you live there? A. At Elton Avenue—we lived there just before I went to Metuchen. We lived in Elton Avenue.

Q. You mean to say while you were living in Elton Avenue up here in the Bronx, that your husband lived with you then just before you went to Metuchen? A. No, not just before.

Q. You said just before. A. You said since 1906.

Q. 1907 you say it is? A. Yes.

Q. Now, what do you mean then when you say you were living together just before you went to Metuchen and you did not go to Metuchen until 1928? A. 1928.

Q. What do you mean by that? A. He came back to us for the children's sake, and he promised me a home and he stayed—

Q. How long did he stay? A. At least eight hours in the house—ten hours.

Q. Have you and your husband had a home together since 1907, up to 1928? A. Yes.

Q. Where? A. Three different places.

Q. Where? A. Mount Vernon, New York.

Q. You were six months there? A. And Bogota, New Jersey, six months.

Q. How long did you live together at Mount Vernon? A. Six months.

Q. When was that? A. It was five years, oh, that is about 1910, 1911.

Q. You lived together for six months? A. Yes.

Q. Then he was not paying you any alimony? A. No.

Q. Or support for the children? A. No, he was keeping me; yes, he was keeping the home up for us.

Q. Was he paying this money to you under an order of the court or because you were living together? A. No, because I was living with my husband.

Q. That was for six months, from 1910; then what happened? A. Then he moved down to New York City. He changed his position.

Q. What was his occupation? A. He was always in the real estate and on the side he used sign painting business.

Q. As a matter of fact he is an all around Jack of all trades, isn't he, a carpenter, a sign painter, and a handy man around buildings? A. According to his say to me.

Q. What do you say? A. I do not know what he was. I tried to get what he was. They hid it, his family.

Q. You have not been in close enough touch with him since 1907 to know what he was doing? Because his family prevented you? A. I never got in touch with him. His brother prevented me and so did his sister-in-law.

Q. And so it is his brother and his sister-in-law that have kept you two from living together? A. Yes, positively.

Q. And it is not because you did not want to live with him because you say he was running around with other women? A. No, I loved him.

Q. You loved him? A. Yes, I did.

Q. And you have been loving him ever since 1907? A. Yes, and I love him still, from the first day I married him, and I love him still.

Q. What did you start suit for divorce against him in New York then for if you loved him? A. I found him with this other woman, Edith Hackett.

Mr. De Sevo: I object to any testimony in this suit that she started a divorce proceeding in New York.

Q. Did you start suit for divorce against him in New York? A. Yes.

Q. On the ground of adultery? A. Yes.

Q. In May, 1927? A. Yes.

Q. And at that time you applied for temporary alimony, didn't you? A. Yes.

Q. And at that time you were getting twelve dollars a week, weren't you? A. Yes.

Q. What happened to your application for temporary alimony? A. I did not have enough witnesses they told me.

Q. And you were not allowed any, were you? A. No.

Q. You were not allowed any more money? A. I did not go into the court at all. I don't think the case ever came up. I was not brought into the court. I never seen the inside of the court. I do not know what action they took—settlement between themselves.

Q. So you don't know whether that suit is still pending or not? A. No, my lawyer told me it was not; it was discontinued.

Q. What did he say about it, that it had been dismissed? A. Discontinued, he said.

Q. In other words, your own lawyer told you that? A. Told me to go back to New Jersey.

Q. Who was your lawyer? A. I don't remember just now.

Q. Well, now, perhaps I can refresh your recollection, O'Brien and O'Brien, northwest corner of 159th Street and Third Avenue, Bronx? A. Yes, I believe so.

Q. Were they your lawyers? A. Yes.

Q. Are they the ones who told you that your suit had been discontinued? A. I do not remember what they said just now.

Q. What is your best recollection? A. I do not know what it was just now. I remember his brother Will coming down, and I understand there was a settlement between them.

Q. What did your lawyer say to you? A. I don't remember exactly what she said. I may think of it later on.

Q. Then when you said that they had told you that the suit had been settled—discontinued, is that correct or not correct? A. It must have been that he said.

The Advisory Master: You never got anything out of that suit, did you?

The Witness: No, it was never brought to court, your Honor. I did not see it at least in court. I was never brought before in a case like this.

The Advisory Master: While this case was pending were you receiving money from your husband?

The Witness: Twelve dollars a week.

Q. Now, he started paying you twelve dollars a week in 1907, didn't he? A. He did not.

Q. When did he start? A. 1917 he started twelve dollars a week.

Q. What brought that about? A. The court ordered him.

Q. You were again to the court? A. I was compelled to. I could not live with two small children. My health was going down, and the children were not well.

Q. How old were the children at that time? A. Eight years old, I believe.

Q. And the amount was increased to twelve? A. Yes, they were sick children and I was sick.

Q. And that had kept up from that to this? A. Well, when he keeps sending it; he owes me now three weeks.

The Advisory Master: He is now paying you twelve dollars a week?

The Witness: Fifteen dollars.

Q. He is giving you fifteen dollars now? A. Yes, he sends it to me to get rid of me up there.

Q. These children that you speak of, are they in court? A. Yes.

Q. How old is your daughter? A. Twenty-three.

Q. How old is the son? A. Twenty-five.

Q. Is the son married? A. No.

Q. The daughter is? A. Yes.

Q. It was the occasion of the daughter's marriage in 1928 when you and your husband met together, is that right, at the time of the ceremony? A. Yes.

Q. She came up to see your daughter married? A. Yes.

Q. As a matter of fact, Mrs. Dinnebeil, you are

the one that suggested coming down to Metuchen and living with him, aren't you? A. No, I did not.

Q. Isn't it a fact that after you had talked to him at the time of your daughter's marriage, about coming back or coming down to Metuchen to live with him, that you went down to Metuchen and saw Mrs. Will Dinnebeil and Will Dinnebeil, his sister-in-law and brother, and that they were the ones that persuaded you to take him back? A. I deny that.

Q. You did go down to Metuchen? A. By no means. They did not approve of us getting together.

Q. You went down to Metuchen, before you went to live there? A. Yes.

Q. What did you do that for? A. To see my husband. I did not know where my husband was, and it cost $2 to go up there, and I had to support my children and give them shoes.

Q. You say you went back to your husband in Metuchen. As a matter of fact you had never been in Metuchen with your husband, had you? A. No, not before that.

Q. And it was on the occasion of your daughter's marriage that you spoke to him about coming to live with him, is that right—he didn't want it? He said you could not get along together. A. No, he did not.

Q. What did he say? A. He came down and informed me he had a cancer of the stomach, he informed me.

Q. Now, you knew he was a sick man.

Mr. De Sevo: I object to Mr. Pearse cutting the answer off.

(Last answer repeated.)

The Advisory Master: Did you want to say anything?

The Witness: That is what he told me. I said, "If there is anybody to take care of you, I will take care of you", and I wanted to be—while he was under the operation his brother had come down and told me, and I asked him what hospital he was to go. He said Bellevue Hospital, it is nearer, and I said, "Well, I want to see him while he is in the hospital." He laughed at me then.

Q. That is the brother that did the laughing? A. Yes, and when he came home I called up the house inquiring about his health, and they closed the receiver down on me.

Q. Who closed the receiver down on you? A. His sister.

Q. Not Mr. Dinnebeil? A. No, he was not able, he was sick at the time.

Q. And when Mr. William Dinnebeil laughed at you and would not let you know whether his brother was in the hospital, did he say why? A. No, he did not.

Q. He just laughed? A. He just laughed.

Q. When was this? A. That was when he was under the operation. He went under an operation before.

Q. When? A. Do I have to remember the date?

Q. I am afraid so, if you can. A. Just before my daughter got married.

Q. How long before you went to Metuchen? A. It was before my daughter got married, it was.

Q. Now, as a matter of fact you know that your husband has been a sick man for years, don't you? A. No, not for years. He was never sick before,

only when he went up there with them people.

Q. Don't you know as early as 1914 that he started having a treatment on his stomach in the hospital, and has been to all the hospitals in the country practically from that time on? A. No, they never informed me of that.

Q. Didn't he ever tell you? A. No.

Q. And you never knew? A. No.

Q. You never knew he was sick; you thought he was a hale and hearty man; you did not find out there was anything wrong with him until just before your daughter's marriage? A. I never knew there was anything wrong with him, no. He never looked as though he was a sick man. It is only where he got it from this town there. They never informed me anything.

Q. You knew he was sick when you were living with him in Metuchen? A. He said no, he was not a sick man, he was a well man, but I treated him as a sick man.

Q. Is that the time you drew the knife on your husband? A. I never took a knife to that man, never in my life. I took it to the tire of the car, to keep him home from going with other women. If he was a sick man could he go with another woman?

Q. I don't know. A. Well, then how could I tell he was a sick man? I put the stomach thing on as best I could, and gave him his alcoholic rubs. If you call that ill-treatment—and the white meat of the chicken I had to feed him on.

Q. Did you write that letter of January 27th, 1929? (Indicating)? A. I did.

Q. Is that your signature? A. Yes. He told me he would not come back—

(Paper marked in evidence D-1.)

Q. You say this is a letter that he demanded that you write? A. He refused to come back to the house until I did.

Q. Did he say why? A. I do not know why. I had no intentions. I thought it was a joke at the time.

Q. This letter is all in your handwriting? A. I know, and he told me to do it. I remember that distinctly.

Q. Do you want to read that letter to the court? A. "Thinking what you have"—

Q. Shall I read it? A. Yes, please.

Mr. Pearse: (Reading):

"January 27th, 1929.

Dear George:

Thinking over what you have said and requested me to do, I will agree to do all in my power, that is, with your help, to be a helpmeet and not a nuisance of a wife, providing you will be the same as a husband.

"Hoping your health will be regained under my good care, and hoping you will come home to your beautiful house and enjoy it, with plenty of love,

(Signed) Hannah."

Q. You say he forced you to write that letter? A. Well, he told me to write it. He told me he would come back to me if I wrote it.

Q. He said he was not satisfied with that letter? A. He said he was not satisfied with it? Who said he was not?

Q. Didn't he say that? A. No.

Q. He dictated the subsequent letter for you to sign, so there would not be any doubt about this

thing? A. I don't know if he dictated any letter. It was never typewritten.

Q. Is that your signature "Hannah"? A. It may be. My name is "Hannah". It may be my signature.

Q. Is it or is it not? A. I do not remember writing—signing it at all.

Q. Is this your signature or not? A. I cannot remember it.

The Advisory Master: Well, look at it and examine it.

The Witness: I looked at it and I don't know if it is my signature.

The Advisory Master: I suppose that letter should come in on your side anyhow?

Mr. Pearse: Yes, simply we can identify it.

The Witness: No, that is not my signature. I never signed anything like that.

The Advisory Master: You can show the receipt of it by your client.

(Paper marked D-2 for identification.)

Q. How many times did you come down to Metuchen?

Mr. De Sevo: Please fix a date.

Mr. Pearse: I have not finished my question.

Q. How many times did you come down to Metuchen before you came there in November to live? A. I came down to see my husband, but I did not see him all the time. He was hidden by his family.

Q. I see; your husband was hidden by his family? A. Yes, he was kept away from me.

Q. Who are the family that you are referring to? A. William Dinnebeil and his wife.

Q. William is here in court today, isn't he? A. Yes.

Q. His wife is not here, is she? A. No.

Q. And they hid him. How did you find out that they were hiding him? A. I stopped in the station one day and I seen him pass in his car.

Q. That is the reason he was hidden, is that right? A. Yes.

Q. When was this occasion that you speak of that you sat down at the station and saw him pass? A. I heard he was a sick man and I went up to see him.

Q. When did you hear he was a sick man for the first time? A. When his brother Will came down to my home. He was in my home, and he said he was about to go under an operation. My son had met with an accident, and I asked for some money to take care of my son's care, for to get a doctor.

Q. When was this when he met with an accident? A. Just before we went up to Metuchen, about six months before.

Q. How old was your son at that time? A. About twenty-two.

Q. Was he working for a living? A. He was, but he met with an accident. He was not working at the time.

Q. And the son has been living with you for how long? A. All along.

Q. He came down to Metuchen and lived with you? A. Sure.

Q. He lived with you at the house where his father was? A. Yes.

Q. How long did he stay there? A. I guess three months, until he was almost put out.

Q. What happened then? A. I did not live there very much longer—I don't know, he left. He was not put in the business.

Q. Your daughter never came there? A. Yes.

Q. To live? A. No, not to live, to stay—to visit us.

Q. She was married before she went to Metuchen, wasn't she? A. Yes.

Q. So then what do you mean by keeping a house for your children? A. Our family, I said.

Q. The daughter was married and the son had gone away? A. Well, it is a family that has children, I and my children, no matter if they are married, are they not?

Q. You would not provide a home for them? A. I wanted to provide it, but I did not have the money—means to.

Q. You know this house down in Metuchen was a model house that was built by the Modern Building Home Company to sell? A. No, I did not.

Q. And that when you and your husband went to live in it in November you were supposed to show it to people that came there to look at it? A. No.

Q. And you knew that the house belonged to the Modern Homes Company and not to your husband? A. No.

Q. You heard that before you moved? A. No, my husband told me it was his and was built for me.

Q. When did he tell you that? A. The third of September when my daughter was married.

Q. When did you find out that was not so? A. Not until I was dispossessed.

Q. Who dispossessed you? A. The Modern Home Company.

Q. That was after your husband had left the house, wasn't it? A. He was coming back and forth. He had his clothing there all the time.

Q. He had his clothing in the house at the time you were dispossessed by the Modern Homes Company? A. He had part of his clothing. His hat and coat were there.

Q. His hat and coat? A. Yes.

Q. The clothing he was wearing? A. How could it be if he was away from me.

Q. Then there was a hat and coat somewhere in the house that belonged to him? A. Yes.

Q. But his trunk had gone? A. Yes, his brother came and took the trunk away and took him away, and I have not seen him from that day on.

Q. There are several other gentlemen here that came to take his trunk away? A. Yes, his workmen.

Q. His workmen? A. Yes, so they informed me. I don't know. He has informed me also.

Q. You spoke to Mr. Potter who came to see you, that you retained as an attorney, what for? A. The man left me and told me he did not want me.

Q. What? A. My husband told me he did not want me. He left me alone in the house tending the furnace. There was no coal in the cellar, there was not a thing to eat in the house, and it was a winter day, and ice and snow. I had to wade out a pathway.

Q. That is what you sent for a lawyer for? A. I was compelled to get something from him.

Q. Whatever came of this. What happened then? A. We were reconciled. I do not want a divorce, and I do not want to separate from my husband. It is not any pleasure. I want my hus-

band to be with his children where he ought to be.

Q. Your daughter is married, isn't she? A. She can be with us just the same. She can have a home. We can have a gathering just the same over weekends. We can have homecomings at least. It is his daughter just the same, and his son also.

Q. You say that shortly after you came to live in Metuchen with him there was some woman came to the house inquiring for him? A. Yes.

Q. Now, as a matter of fact, Mrs. Dinnebeil, you know what the business is that he did there in Metuchen, don't you, that the Modern Homes Company have built a lot of houses, and that they are for rent, and that they are for sale, and that your husband is employed by the Modern Homes Company to attend to those things, and that women and men come to the house making inquiries with reference to these houses. You know that, don't you? A. No, I did not know at the time, but now I do.

Q. So at the time that this woman came inquiring for your husband you did not know that she might have come on business? A. No, I did not.

Q. And it was not until later that you found out that anybody would come to your house on any business connected with the Modern Homes Company? A. Positively.

Q. In other words, you were not told before you came down to Metuchen that you and your husband were to be permitted to live in this house if you would be willing to let people come in and look at it, and see what a model home it was? A. No, sir, I was never told.

Q. You never knew anything about it? A. No, never.

Q. As a matter of fact, when this lady came to the house she was one of the tenants, wasn't she, that wanted to have some decorating done? A. To this day I don't know who the woman was. No, she did not.

Q. And you did not take any trouble to inquire of her what she wanted your husband for? A. She would not come into the door to see. She asked for my husband. I invited her into the home, and she said no. She stood at the front door and I had to call my husband from the garage. He took her out in his car. That is all I know.

Q. And he then took her out in the car? A. Yes.

Q. Was she alone with him? A. Yes, positively alone.

Q. You are sure about that too? A. Yes, sir, I seen him alone in the front seat.

Q. How many times did you see that woman? A. I believe I met her again. On the way out I met her again.

Q. What? A. I believe I met her once again on the road.

Q. On the road? A. Yes.

Q. And you stopped them? A. Yes, I asked her if she inquired—I think she came to the house and did inquire—if she wanted my husband again, after I found out she was a customer. They said she was a customer. I did not know if she was a customer or tenant.

Q. You got very excited on that occasion, didn't you? A. Yes, I did, thinking it was Edith Hackett.

Q. I see. Thinking that it was not a customer, and fearful that it might be some woman that your husband was running around with? A. Yes.

Q. And you did not know whether she was or not? A. No.

Q. You found out later that she was not. A. Yes, he told me, but I did not get excited over it.

Q. You were pretty excited the day you threw the knife? A. I never threw the knife. I can swear I never did.

Q. Oh, you are already sworn? A. I never took a carving knife to my husband, never, I was taking it to the tire of the car.

Q. What was that? A. That was that time around Thanksgiving.

Q. That was just before Thanksgiving? A. Yes.

Q. Was that just before Thanksgiving or just before Christmas? A. It was one of the Holidays, I cannot recall just now.

Q. As a matter of fact it was just before Christmas, wasn't it? A. I cannot say just now.

Q. And that was the occasion when your husband went down and got the police to protect him? A. Well, if you call that protection, I don't know.

Q. That was the time when your son was home, wasn't it? A. Yes.

Q. That was the time when your husband said to the son to prefer charges against your mother? A. Yes.

Q. Was that said in the presence of the police officer? A. Yes, sir.

Q. Is the officer here in court? A. No. That was not him. No, he is not the officer (indicating).

Q. Is that the officer (indicating person in the audience)? A. No.

Q. You do not recognize either one of them? A. No, not them two. There is one a Mr. From there, I believe is the one that put the trunk out. There

is an officer From there, is the one that came to get the trunk.

Q. In other words, your husband had the police officer two or three times on account of trouble with you? A. That was the second time.

Q. Three times, wasn't it? A. No, I do not remember the third. If you will let me recall the third I would remember it perhaps. On what occasion.

Q. As a matter of fact you spoke of your husband being under the influence of liquor probably when he shot in the air. You know as a matter of fact, Mrs. Dinnebeil, that your husband never drinks any intoxicating liquor? A. Oh, God! Yes, I did see him drinking. I see.

Q. Where did you see him drinking it? A. In the Perth Amboy saloon, in Nathan Cohen's saloon, in Perth Amboy.

Q. Who is that? A. Nathan Cohen.

Q. Where is his place? A. Commerce Street.

Q. When did this take place? A. He took me in one day with his man friend there, Eddie Nolan, to one of the worst dens. If he was a proper husband he would bring no woman in to it.

Q. When did he take you to this Perth Amboy saloon? A. On Commerce Street.

Q. When? A. One occasion there, one evening there. I do not know what time it was.

Q. Did you have something to drink? A. Yes, a glass of beer I had.

Q. You have been drinking all your life, haven't you? A. No.

Q. Ever since you were married? A. No, I never did.

Q. Isn't it a fact that you have frequently overindulged? A. No.

Q. And isn't it one of the reasons why your husband was compelled to leave you? A. Oh, my God! No.

Q. As a matter of fact, Mrs. Dinnebeil, this story about the gun that you are talking about, you got that gun or that pistol out of your husband's trunk, didn't you? A. No, I did not. I did not have the key to his trunk. He had the key to his trunk.

Q. And you had that gun in your hands when he came back that night? A. No, I did not. I never handled the gun. I am in mortal fear of a revolver.

Q. Isn't it a fact that he was laying on the couch in the room when you shot that pistol, and it went through the wall just over his head? A. No, sir, he was sitting at the end of the couch, and when he took the revolver in his hand, and he said, "I will shoot", and he shot over his head.

Q. Up in the air? A. Yes— I could not say.

Q. He did not shoot at you? A. He was aiming, I guess, at me. I could not tell you. I screamed; I was unconscious all the time, almost.

Q. You were unconscious? A. Yes, at that minute, then.

Q. I understood you to say on your direct-examination that he shot in the air. He said, "There are two bullets in here, one for you and one for me", he says, and I said, "Now, for God's sake, don't shoot, for your children's sake spare yourself a little longer".

Q. You thought he was going to commit suicide? A. Yes, and shoot me at the same time.

Q. Did he say why? A. His nervous tension and his drinking also. He drank heavily there at the time.

Q. He drank heavily in 1928, and 1929? A. He did. Only when he did go out he drank whisky very plentifully. I tried to stop him several times.

Q. How many times did you go out with him drinking? A. Twice I went out with him to stop him.

Q. So it was twice you went with him to stop him? A. Yes, to prevent him from drinking whisky.

Q. So you went out with him to stop him? A. I did not know at the time where I was going. He did not take me out to go drinking. He would take me out in the car, and I would not know where he would go to. I was in a strange town. I never knew anything, and he brought me into some road-house.

Q. In a speak-easy? A. No, he called it a road-house. After he left me and his man friend—his boy friend Nolan, Eddie Nolan.

Q. Do you mean Mr. Nolan sitting here in the court room, that man there (indicating)? A. Yes.

Q. And you and Nolan and George used to go out automobile riding together? A. Yes, just to take a drive out in the evening.

Q. And that was more than twice? A. I believe it was; yes, three times.

Q. And it was only on two occasions that you tried to stop his drinking liquor? A. I seen him every time, because it was not good for his stomach.

Q. How many times did you see him drinking liquor? A. Three times.

Q. From November 1928 until April, 1929? A. Yes.

Q. You say that you came down to Metuchen to

live with him because you loved him? A. Positively.

Q. Isn't it a fact that on more than one occasion you told him and his friends and his brother and his sister-in-law that you did not come down to live with him because you loved him, but that you came down there because you wanted a settlement? A. Oh, God, no.

Q. Isn't that right? A. No.

Q. And that you would not get out unless you got twenty thousand dollars? A. No; I deny that; positively not. I never said that.

Q. Well, now, let us see. You remember an occasion in the early part of 1929, when that conversation took place in the presence of Mr. Nolan and your husband, when you made that statement? A. No.

Q. And isn't it a fact that you retained Mr. Richard Potter, of Metuchen, for the purpose of attempting to effect a settlement, and that when he found that your husband did not have any property, that he dropped the matter? A. No; I dropped the matter. I dropped it myself.

Q. He never dropped it? A. I dropped the matter with Mr. Potter, the divorce matter. I wanted my husband to come home for his children's sake. I did not know anything about a twenty thousand dollar settlement, and never said that in front of anybody, never did.

Q. Let me ask you something else then: Isn't it a fact that in the month of January 1929, that it would not be possible for you and your husband to continue to live in this kind of house, that your husband wanted you to move to a smaller house in the vicinity? A. No.

Q. That he even got it ready for you to come

to? A. No, it was not in January.

Q. And that you absolutely refused to go? A. No, it was not in January.

Q. Wait a minute; that you absolutely refused to go out of that model house where you were living until he had paid you twenty thousand dollars, and did you not say on that occasion that if he did not pay it that you would kill him? A. Oh, God!

Q. And drag him out of the house in a box? A. I positively did not say nothing of the sort.

Q. He left you right after that day, didn't he? A. Not after January he did not leave me. He had not been living in the house since January. That was the occasion of the Christmas he did not come in until two weeks after. He informed me he was living in New York with a Mrs. Hackett—not Mrs. Hackett, Mrs. Frolich.

Q. Oh, that is another one? A. Yes, another woman friend of his.

Q. You are extremely jealous of your husband? A. Well, I am in love with him. I suppose you would call that jealousy. I do not like to see other women take him away from his family and me.

Q. Yet you say you have been seeing that since 1907? A. Well, I have been trying to prevent it too, at the same time, right along.

Q. As a matter of fact, while you say that your husband told you that he was going to live—or going away for a couple of weeks with some other woman, as a matter of fact you know that he was staying at his brother's house, which was only a few blocks away from where you were living? A. No, I did not; I never knew it at all.

Q. Didn't you ever go out of the house? A. I went out, but I never seen him, and I called up and they told me he was working in Newark. I

never knew he was in his brother's house, but in the meantime he had informed me not to annoy the neighbors when I did call him up—I was annoying the neighbors when I was looking for him.

Q. He informed you of that? A. Yes.

Q. That was on these occasions that you say he was away and he informed you not to annoy the neighbors? A. Yes.

Q. Did he mention the names of the neighbors? A. No.

Q. As a matter of fact every time your husband disappeared you were thinking he was running away with other women? A. Where was his place but at home?

Q. Yes or no? A. No, I did not.

Q. Before you were dispossessed by the Modern Homes Company your husband had already left the premises, hadn't he? A. Yes.

Q. He came there with Officer Frohm? A. Yes.

Q. And with Mr. Hokansen, and one or two other men to take his things out, didn't he? A. Yes.

Q. And it was after that? A. And his brother also.

Q. And it was after that that you were dispossessed by the company? A. Yes.

Q. And do you remember an occasion shortly after that meeting your husband on the streets of Metuchen, seeing him carrying a bankbook with a check in it, and grabbing the check out of his possession, and holding it in your possession until the police officer of Metuchen took it away from you the next day? A. No.

Mr. De Sevo: I object; as I understand it took place after the time that the defendant had left this woman, so I do not see

what materiality it has in the case. This is way in May or June, I believe.

The Master: I will allow it to show the general disposition.

Q. You did take a check out of his pocket, didn't you? A. I met him on the street; him and his friend Eddie Nolan, and I asked him for some money.

Q. You do not seem to like Mr. Nolan? A. Well, I have no objections against the man. He never did any harm whatever that I know of—and I met him on the street, and he said—I asked him for some money, and he invited me into his brother's house, and you know what I would get in his brother's house, I would get nothing but insult. I would be thrown out, in fact. So I asked him. He said he did not have it, and so his brother would give it to him. He did not say he did not have it. He said his brother had it, in his brother's house, and I refused to go into his brother's house. I asked him to give it to me on the street there. So, he did not see it, and there happened to be a check in his pocket.

Q. A check in his pocket? A. Yes, sir.

Q. What pocket? A. In his right hand pocket, right next to me.

Q. So what did you do? A. I took the check.

Q. You took the check? A. Yes, thinking it was his.

Q. You got the check away from him, didn't you? A. No.

Q. And you knew the check was not his? A. No, I did not. I did not look at the check until I got home.

Q. But you did not give it back to him? A. Why should I. I took it from my husband.

Q. You did not give it back to anybody until the police magistrate made you give it up the next day? A. No, that is a lie. That is not so. I handed it right in the court when he had me arrested for demanding twenty thousand dollars with a carving knife over him, and the court freed me of the case.

Q. Yes, but you gave the check back? A. I gave it back, certainly, because I took it from him.

Q. And he had to have you arrested before you would give the check back? A. He did not have me arrested for that.

Q. What did he have you arrested for? A. That I had a carving knife, and that I threatened his life, and demanded twenty thousand dollars over his dead body, which I did not.

Redirect-examination by Mr. De Sevo:

Q. Will you please tell us what had happened prior to January 27, 1929, when this letter was supposed to have been written, what had happened, if anything? A. That was the time when he left me in the house alone. I was all alone, and the snow was on the ground. It was a very heavy snowstorm.

Q. How long had he been away? A. About two weeks, and that was the time I—

Q. Just a minute, please. Do you know where he had been during those two weeks? A. He said he was down to Mrs. Frolichs' house, New York City.

Q. Did he come to you or did you seek him? A. He came.

Q. What did he say to you when he came? A.

He asked me what my attorney said.

Q. Did you say anything to him about being away these two weeks? A. Yes; I asked him where he was, and he said "None of your damned business."

Q. Then he asked you about an attorney? A. Yes.

Q. What else happened? A. About my attorney? Well, we spoke then. We got agoing. Yes, he said, "You know I love you just the same as I always did", he said, and I said, "And I do the same as I always did, but there is always somebody between us."

Q. What else was done or said? A. Then I said, "Why don't you try for your children's sake, to come back?"

Q. What did he say? A. "Yes, I will." He says, "If you will write me that letter," and directing me. It was to his brother's house, it was directed.

Q. What did he tell you to write in the letter? A. He said, "Write me a letter to come back home," and I wrote it.

Q. What did you mean when you said— A. Well—

Q. Just a minute. "Thinking over what you have said, and request me to do," what did you mean by that? What did he say to you? A. I do not remember, I do not know.

Q. And did he go back after he got this letter? A. He called me a nuisance of a wife. I was annoying him. That is what it was, yes.

Q. That is why you wrote the word "Nuisance"? A. Yes, I was a pest, in his eyes.

Q. Did you ever speak to him at any time that you wanted a sum of money to live with him? A.

Oh, God, no. I don't live with a man for money.

Q. Did you ever mention any money to him? A. No, positively not.

Recross-examination by Mr. Pearse:

Q. Then this letter of January 27, which was not marked in evidence, but which is marked D-1 for identification, then you did not write that letter in your husband's presence? A. That letter I wrote in my husband's presence. I said I did. He dictated it to me. He almost told me what to write.

Q. He dictated it to you? A. He dictated it to me, yes.

Q. And what did he tell you to do with the letter? A. What did he tell me to do—I don't remember.

Q. With the letter? A. Send it to his brother's house, to mail it to him at his brother's house.

Q. Did you do that? A. Yes.

Q. Where does his brother live? A. 24 Lincoln Avenue, or 18 Lincoln Avenue, I do not know which.

Q. Did he live there at that time? A. Yes.

Q. Is that the envelope in which the letter was sent? A. Oh, yes; that is what he wanted me to do.

Q. Is that the envelope in which the letter was sent? A. Yes.

Q. Was it mailed? A. Yes, he told me he would mail it. He put a stamp on it.

Q. He told you he would mail it? A. Yes, he told me he would mail it, and I laughed. It was a funny thing. I thought it was a very odd thing to do to send mail to his own home.

Q. I thought you said a moment ago that he told you to mail it to his brother's house on Lincoln Avenue? A. Well, I forgot that.

Q. What? A. Well, it was where he was sending it to.

Q. You did not say anything about his doing the mailing—that was you that was doing the mailing? A. No, he said he would mail it. He put a stamp on the envelope.

Q. That is your handwriting? A. That is my handwriting.

Q. And that is the envelope that the letter was in? A. Yes.

Q. You know as well as you knew anything else that the brother never lived at 225 High Street, don't you? A. This was not the envelope that was mailed to him. There is another envelope that was mailed to him.

Q. You say that this envelope which I am showing to you, is not the envelope which contained the letter marked D-1? A. Yes, that is the envelope. That was the paper. I had the paper that matched that envelope. That is the same envelope.

Q. And that is your explanation? A. That was mailed to him. He put it in another envelope and he put a stamp on it, and he had it addressed to his brother's house.

Q. Was this letter of January 27th in it? A. Yes.

Q. Who wrote the address on it? A. I did, I believe.

Q. And did he tell you why he wanted you to write a letter to him and put it in an envelope, then have him put it in another envelope addressed to himself at his brother's house, wherever his

brother lived in Metuchen, for him to mail it so that he would get it that way? A. He did not tell me why. I asked him why. He said, "Go ahead and do it."

Q. And you did it? A. I did it, yes.

Q. Perhaps by chance you are thinking of this letter (indicating), when you say it was mailed? A. No, that was never given to me at all. There was no typewritten document at all. It was all in my own handwriting.

Q. Will you look at that and see whether that is your signature, now that you are a little more composed? A. No, that is not my signature. I do not know where that came from; that is not my signature.

Q. That is not your signature? A. No, sir. I write "Hannah Dinnebeil", whenever I sign a typewritten document.

Q. You write "Hannah" too? A. Yes, but "Hannah Dinnebeil", as a rule to a typewritten statement.

Q. I show you D-1 again, and ask you if on that letter you wrote "Hannah Dinnebeil"? A. Yes, that is my writing to my address, but on a typewritten statement I would write "Hannah Dinnebeil."

Q. In other words, in your regular course of business when you write a personal letter to your husband you sign it "Hannah", but when you write a business letter to him you write "Hannah Dinnebeil"? A. Yes.

The Master: How many letters did you write altogether?

The Witness: That is the only one.

GLADYS O. VOGEL, sworn.

Direct-examination by Mr. De Sevo:

Q. You are a daughter of the complainant and the defendant? A. Yes.

Q. And you are married? A. Yes.

Q. Where do you live? A. 16 Elliott Place, New York City, the Bronx.

Q. When was the first time you saw your parents after they had separated, do you remember? A. After they had separated?

Q. Yes. A. When we were children, do you mean?

Q. Do you remember that? A. He used to come in occasionally to see us.

Q. Where did you live at that time? A. We were living in New York City, but I do not know the address.

Q. Were you going to school? A. Yes.

Q. Where? A. In the Immaculate Conception School, 150th Street, in the Bronx.

Q. And you went to school until what age? A. Until I was seventeen, but I was away at school.

Q. Did you visit your father any time after you left school? A. After I left school, yes.

Q. Where did you visit? A. At Metuchen, I did not visit him. I went up to see him but he was not there. I went up to his brother's house.

Q. Did you ever see him in Metuchen at all? A. Yes, sometimes at his brother's house.

Q. When was that, do you remember? A. It was in January.

Q. Of what year? A. January of 1927, I believe.

Q. Was your mother living with him at the time? A. No.

Q. What, if anything, did you say to him on that occasion? A. I did not have anything to say.

Q. Did you talk to him about your mother? A. No. Mother was there with me at the time.

Q. Did they have any conversation at the time together? A. I do not remember; they were talking, but I do not know just what they were speaking about.

Q. Do you remember the occasion on the 3rd day of September, 1928? A. Yes, that was my wedding day.

Q. Where did the wedding take place? A. In the Bronx.

Q. Did your father come there? A. Yes.

Q. Did you have any conversation with him at all? A. Well, no. He was there a couple of hours before the wedding, and it was just a general conversation.

Q. Did you hear him speak to your mother? A. No.

Q. About coming to Metuchen? A. No.

Q. When was the next time you saw your father after the wedding? A. Around the first of November when he came down to move the furniture up.

Q. Had you spoken to him prior to that time over the telephone? A. No, I had not spoken to him.

Q. Do you remember the occasion on your mother's birthday? A. Yes.

Q. What happened on that occasion? A. We went up to give her greetings, and my brother was up there, but my father was not; and he called up later on in the evening, and he said he was down at Perth Amboy.

Q. Did you ask him why he said that, and did

he say why? A. No, I did not ask him, no, he went on to say that he had flowers and everything ordered for her. So I just passed it off, and said, "Well, send the flowers to me instead."

Q. When was the next time you saw or spoke to him? A. Palm Sunday.

Q. Of what year? A. 1929.

Q. You had not seen him before that, had you? A. No.

Q. What did you say to him, and what did he say to you on this occasion? A. Oh, I had seen him on October 15th. When we first opened our apartment he came down to see us—in November, rather, when we were moving the furniture.

Q. What did you say to him? A. I did not say anything to him then. He was just admiring our apartment.

Q. Did he speak to you or did you speak to him about your mother? A. No.

Q. Did you know they were living together? A. No, they were not at that time. They were just preparing to go to Metuchen.

Q. Tell us what happened on this Palm Sunday? A. Well, Mother had been down over the weekend, and he came down to call for her with Mr. Nolan, and they went out and got some drinks, and there was a regular party there.

Q. Well, what happened, did you speak to him? A. Yes, we were talking then.

Q. What did he say to you and what did you say to him? A. In the course of the conversation it came up—he wanted to know when we were going to have a child, and I told him that I did not know, but I thought that if my husband would treat my children like he treated us I would not have any at all.

Mr. Pearse: I move to strike that out, being immaterial to this issue. There is nothing upon which any such statement can be predicated by the daughter. It is not binding on this defendant, and should be stricken from the record.

The Master: Is it injurious in any way to your case?

Mr. Pearse: I do not know how much attention your Honor will pay to it when it comes time to make your final determination.

The Master: I do not think it has any great bearing on the issue.

Mr. De Sevo: I do not think it should be stricken from the record on the ground that it shows what treatment this man was giving to his family.

The Master: You think it is in line of cooperation?

Mr. De Sevo: Yes.

The Master: I will allow it.

Q. What, if anything did he say to that? A. Well, he said he was sorry, and that he thought that Frank would treat his children right, and that he would just love to have a grandchild.

Q. What did you mean when you said about him treating you and your children, what did you mean by that?

(Question repeated.)

Mr. Pearse: I object to that. It does not make any difference what she meant. There is no charge here of cruelty to children, or of the custody of children. This young lady

is a grown woman, and the brother is a grown man, and it does not make any difference so far as this issue is concerned, what she meant.

The Master: I will allow it for the purpose of showing the disposition of the defendant generally toward his family.

(Question repeated.)

A. When we were children we hardly knew that we had a father, and he would just come in once in a while, and, of course, children used to ridicule us because we did not have a father.

Q. How often would you see your father? A. At times we did not see him for a couple of years. Other times we would see him maybe once a year.

Q. Had you known where he was while he was away? A. No, I never knew.

Q. How often has he been over to see you since you have been married?

Mr. Pearse: What difference does it make how often the father has been to see the daughter since she was married?

The Master: I will allow it.

A. Twice.

Q. On these visits has he ever said anything to you about your mother? A. One time he had come down after they had had a quarrel.

Q. What did he say to you and what did you say to him? A. He said he could not understand why she started to argue, because it was the time he had a card party and he left her all alone downstairs until two o'clock in the morning, because she come up to ask him to stop playing cards at that hour.

Q. Is that the only conversation you had with him? A. Yes, that is the only time.

The Master: Where were you living at the time?

The Witness: 1106 Morris Avenue, Bronx.

Q. Did you see your father after that? A. No, I don't think I did.

Q. Have you ever been present on any occasion when your father and mother were quarelling about —— A. No, only after one weekend we went up there. He was upstairs in his room and would not come down, and I went up and asked him to come down and he said no. So then the day passed and he never came out of his room, and the time when it came for supper I went up and said, "Come down, mother said come down for supper", and he said no, he would not.

Q. Did you ask him why he would not come down for supper? A. He said they had an argument and he would not come down.

Q. Did you ask him what the argument was about? A. No, I did not.

WILLIAM DINNEBEIL, sworn.

Direct-examination by Mr. De Sevo:

Q. You are a son of the defendant and complainant? A. Yes.

Q. How old are you? A. Twenty-five.

Q. Where do you live? A. 16 Elliott Place, with my sister.

Q. Where is that? A. In the Bronx.

Q. Did you live with your mother and father

beginning November 4th, 1928? A. Yes.

Q. Where were you living? A. 225 High Street, Metuchen.

Q. How long did you remain there? A. About three months.

Q. When was the first time that you heard any quarelling between your father and mother while living at that address in Metuchen? A. Soon after we got up there, at the time that the woman called at the house.

Q. What woman, do you know? A. That my mother testified to. She asked for my father, and my mother called him.

Q. What did he say? A. Well, there was nothing said until that night at dinner.

Q. Well, what happened at that dinner? A. He said to my mother, "How do you like the girl friend?" and she took it up and had a quarrel with him.

Q. Well, what did your mother say, if anything? A. Well, I do not exactly recall the conversation now.

Q. Well, what happened after that, anything? A. Well, he left.

Q. Where did he go, do you know? A. I believe immediately he went over to his sister's house, because his sister come over to our house and tried to patch it up, his sister-in-law, I mean.

Q. Did your father come back after that? A. Yes, he came back.

Q. How long after? A. A week or so, I guess.

Q. During that week or so did they get in touch with your mother, do you know? A. Well, I believe there was some communication.

Q. When he came back what happened, if anything, how did he get along when he came back on

this first occasion? A. Well, things seemed all right.

Q. Until when? A. Until about Thanksgiving.

Q. Thanksgiving, 1928? A. Yes.

Q. What happened on that occasion? A. That was the occasion my mother taking a knife to the automobile tire.

Q. What happened, what if anything did you hear said by your mother or father prior to the taking of this knife? A. He was upstairs packing his clothes, and he came down with his bags. She asked him where he was going.

Q. What did he say? A. He said he was going to New York, I believe.

Q. What did your mother say to him about going to New York? A. She said, "I suppose you are going to see that other woman."

Q. What did he say? A. He said, "It is none of your business."

Q. What if anything did your mother say or do when he said it was none of her business? A. After that she went out in the kitchen and took the knife off the table, a common ordinary table knife, and—

The Master: You are talking over in that direction, and a large part of the volume of your voice is lost to me.

The Witness: She went to the kitchen and took a knife off the table, and went out, intending to cut the tires, and I went out to prevent that.

Q. Did she say anything when she had this knife in her hand? A. She said she was going to stop him from leaving home before the Holidays, and

probably going to see some other woman.

Q. What happened after you took the knife from her, anything? A. Why, my father left in the car and he came back later with a policeman.

Q. What happened, if anything, when the policeman came in? A. When he had told the policeman that she had attacked me, because the policeman called me down from upstairs, and I had a scrape on my hand, and the policeman insisted on seeing my hand.

Q. Do you know who this policeman was, what his name is? A. No, I do not.

Q. What, if anything, did you say to the policeman about your hand? A. He said, "Were you cut?" I said, "No."

Q. Did your father say anything to the policeman, did he say anything to you? A. Well, he asked me if I wanted to press a charge, I said, "Of course not."

Q. Did you say anything else to your father when he said to you about pressing a charge against your mother? A. Of course, it is ridiculous. I said, "In the first place you should not have brought a policeman in here. It is ridiculous to think that a mother would attack her own son, even if she was big enough to do it."

Q. Did your father then say anything then to the policeman, and what did the policeman then do? A. He asked my mother what she was doing with the knife, and she told him that she wanted to cut a tire, and he said, "Well, what did you want to do that for, to somebody else's car?" "Well", she said, "I understood that was part mine and my husband's car", and he says, "No, she has not anything to do with this, it is not my car

either. It belongs to the Modern Homes Company.

Q. What did he do; did he leave then? A. Yes, sir.

Q. And no one was arrested? A. No.

Q. What, if anything did your father do after that? Did he remain home, or what? A. No.

Q. What? A. He left.

Q. Do you know where he went to? A. No, I do not.

Q. How long was he away? A. About two weeks.

Q. During the two weeks do you know whether he got in touch with your mother? A. Well, he must have, because—

Q. Well, he finally came back, is that right?

Mr. Pearse: Wait a minute, he had not finished his other answer.

Q. Did he have anything else to say? A. No, that was all.

Q. He finally came back, is that right? A. Yes.

Q. Well, what happened when he came back, if anything? A. I believe he moved his belongings into a separate room.

Q. Prior to that had your mother and father been occupying the same room? A. Yes.

Q. Had anything been said by either party when he moved his belongings? A. Yes, he said he was not going to speak to her any more, or have anything to do with her. They would live in separate rooms and he would come and go as he pleased.

Q. Do you remember the occasion of Christmas of 1928? A. Well, about that time there was another scene for the same reason, him going away around the Holidays again.

Q. What happened? A. Well, there was a quarrel.

Q. Do you know what the quarrel was about?

Mr. Pearse: What was said?

The Witness: Well, I cannot exactly give you the conversation.

Q. Can you give us any idea what it was about, what was said by either party?

The Master: State what was said, if you know.

Q. Do you know what was said by either party, your mother or your father? A. No, I cannot give you the positive—

The Master: What was it about?

The Witness: The usual, the other woman, and leaving home on the Holidays.

Q. What would your father say, if anything, when your mother told him he was out with this other woman?

Mr. Pearse: I object to what would your father say.

The Master: What did your mother say to him about this other woman?

Mr. De Sevo: He has already testified that she was saying about him going out with some other woman.

Q. What did your mother say, and what did your father say? A. Well, on that occasion she said, "Why are you going away? Where are you going?"

Q. What did your mother say? A. "I suppose

you are going with some other woman to spend your holidays; you would not enjoy them at home here." He said, "You are probably right when you say I would not enjoy them, but it is not with the other woman."

Q. Do you remember the occasion of September 3rd? A. Yes, my sister's wedding.

Q. Did your father come over to the wedding? A. Yes.

Q. Do you know whether or not he spoke to your mother on that occasion? A. Yes.

Q. And did you hear what your faher said and what your mother said on this occasion? A. No, I did not hear any conversation. At the end of the wedding supper my mother asked me where I was going. I told her I might go down to Long Island. She says, "Well, that is right, you better do that because your father is coming home with me."

Mr. Pearse: Was that said in your father's presence?

The Witness: Yes.

Q. What else was said, if anything, by your mother or father, when your mother said that? A. I do not believe there was anything else said.

Q. Do you remember going to Perth Amboy at any time with your father? A. Yes.

Q. When was that? A. Oh, shortly after we moved up there to his—I would say a couple of weeks.

Q. You mean up to Metuchen? A. Yes.

Q. Who was with you at the time? A. Well, there was one time I was alone with him.

Q. What if anything did you say to your father on that occasion? A. We had been talking about

New Jersey State Library

the past and how the way things would be in the future, and he said—

Q. What do you mean by "in the past", what had been said about the past? A. About my mother's reasons for going up there at one time, or several times—up there to see him—and he said "I have been living with another woman, but that is past, and we hope to turn over a new leaf."

Q. Was anything else said? A. Why, he said, "And another reason, your mother is wrong; I have not been living with this woman for adulterous reasons, it was for the care I got.

Q. What, if anything, did you say to him when he said that? A. Well, I said, "As I understand when I came up here we were to forget the past, so let us drop it."

Q. Were you present on or about the time that your father left your mother in April of 1929? A. No.

Q. Where had you been? A. Down to New York.

Q. When did you leave them? What day was that? A. Some time in January.

Q. Had anything happened at your father and mother's home that caused you to leave? A. Well, he had been away. He had went away then, and I told him—seen him as he was going out. I said, "I am going to leave, if you two people cannot live together peaceably". I says, "You make an effort."

Q. What was that? A. I told him to make an effort to be reconciled, and if they made a go of it I would come back.

Q. What did he say to that? A. He did not say anything at the time.

Q. Did you see your mother and father after the

time you left them? A. I saw them on the occasion of the party at my sisters on Palm Sunday.

Q. What happened on that occasion. Did you speak to your father? A. Yes.

Q. What was it about? A. Well, at that time he said things were going pretty smoothly up there now.

Q. What did you say to him if anything? A. So I says that was good.

Q. Did he say anything to you about coming back? A. No, he did not say anything at the time.

Q. Did he tell you any time after that— A. That was the only time I have seen him since.

Q. You have not seen him since? A. No.

Cross-examination by Mr. Pearse:

Q. What did you do in the way of occupation while you were living in Metuchen?

(Recess).

Q. What is your answer? A. I was working around the Model Building Company property as a carpenter and laborer.

Q. That is a little company there in Metuchen that builds and sells and rents houses? A. As far as I know.

Q. While you were there, you, as I understand it, lived with your father and mother? A. Yes.

Q. What kind of a house was it? A. Eight-room brick house.

Q. Do you know whether or not it was built as a model house? A. No, sir, I never heard anything of the kind. The way I understood it it was a home for ourselves, for the family.

Q. Who told you that? A. My father.

Q. When did he tell you that? A. He told me that previous to the time that we came up there permanently to live. He took us up there and showed us around the place before it was finished.

Q. The house was built by the Model Company? A. That I couldn't tell you.

Q. You do not know? A. My father said that he built the thing himself, he did not say that it belonged to the company.

Q. He did not say it belonged to him? A. He said he put every brick in there for us.

Q. He did not say it belonged to him, did he? A. Well, not in so many words I do not think.

Q. You say there would be quarreling between your father and your mother? A. What was that?

Q. You say there would be quarreling between your father and your mother? A. Yes.

Q. Then your father would go away? A. Yes.

Q. And he would come back? A. Yes.

Q. And they would quarrel some more, then he would go away, then he would come back? A. Two instances that I know of, I remember.

Q. You could not stand the quarreling, so you left, unless they could change the situation, is that right? A. Yes.

Q. Where do you live now? A. With my sister, in the Bronx.

Q. Did you go to live with your sister, Mrs. Vogel, after you left Metuchen? A. Yes.

Q. Do you know where your mother lives? A. Yes.

Q. Whereabouts? A. 15 Marion Place, Jersey City.

Q. You do not live with her? A. No.

Q. In speaking of that occasion when the police officer came to the house—referring now to the in-

cident of the knife and the automobile tire, do you recognize Officer Fouritt as being the officer that came? A. I believe that is the fellow here, isn't it?

Q. Stand up, please. A. (Two men in the audience stand up).

Q. Which one is it? A. I thought it was the one on this side.

Q. Well, that is Officer Frohm that you are pointing to? A. Yes.

Q. You are not sure whether it is Officer Frohm, or Officer Forrest? A. No, not paying any particular attention to an officer's face at the time when he came in. Most of my remarks were addressed to my father.

Q. Isn't it a fact that the officer asked you whether or not you wanted to make a complaint? A. Yes.

Q. And then it was that you replied no, that a son would not make a complaint against his mother or should not make a complaint against his mother, or words to that effect? A. I replied—well, yes.

Q. Did you have any scratch on your hand, or bruise on your hand? A. I had a scratch—I explained to you I got it from the brick wall on the outside.

Q. On that occasion? A. Yes.

Q. How did you get that? A. Taking the knife away from my mother.

Redirect-examination by Mr. De Sevo:

Q. Was it the officer that said to you regarding making the complaint against your mother, or was it your father? A. Well, I believe it was the officer through my father's prompting.

Q. What do you mean by that? A. Well, I think

it was the way he told the officer to ask me if I wanted to press the charge.

Q. I do not know whether I asked you this question or not: When was the last time you saw your father? A. Palm Sunday.

Q. You have not seen him since? A. No.

Recross-examination by Mr. Pearse:

Q. One more question, please. How many times while you were living there were the police officers at the house? A. Once.

Q. Only once? A. Yes.

Q. And was that around Christmas or Thanksgiving? A. I believe it was Thanksgiving.

FRANK VOGEL, sworn.

Direct-examination by Mr. De Sevo:

Q. You are the son-in-law of the parties to this suit, are you not? A. I am.

Q. When was the first time that you had any conversation, or rather when was the first time when you were present when Mr. and Mrs. Dinnebeil had any conversation? A. Well, I was not present when they had their conversations together.

The Master: Where do you reside?

The Witness: At 1106 Morris Avenue.

Q. New York City? A. Right.

Q. Do you remember the occasion of September 1928? A. Yes, the day I was married.

Q. Did Mr. Dinnebeil come there? A. Yes, he did.

Q. What, if anything did you say to him or did he say to you on that occasion? A. Well, we got into a conversation.

Q. About what? A. About the home in Metuchen.

Q. What did he say to you? A. We went outside and he said that he thought it was no more than right that he would give his wife and son a home, and that if I wanted to, why he would put a down payment on a home for me, so as not to take the daughter away from the family altogether.

Q. Did he say anything about Mrs. Dinnebeil at the time? A. He said he thought he should give her a home at the time.

Q. Was anything else said? A. I do not think so.

Q. When is the next time you spoke to him, or saw Mr. Dinnebeil? A. I do not know whether that was the time he came down to my home, or whether it was the time we went up to his home.

Q. What happened at the time he came to your home, if anything, what was said and done? A. Just a general conversation as you would have it at a party.

Q. Was anything said about the conditions at home with Mrs. Dinnebeil? A. No, not that I can remember now. Things seemed to be going along pretty good, from the way that—

Mr. Pearse: I move to strike that out.

The Master: What do you mean?

The Witness: I said things seemed to be going along pretty good, from the way they acted down to my home.

The Master: What do you mean?

The Witness: Well, they seemed to be

friendly towards one another. There was no signs of any arguments, or anything between them.

Mr. Pearse: All right.

Q. Did you visit them at any time after that? A. Not frequently.

Q. Who was present there when you would go— A. Well, my mother-in-law, and that was all.

Q. Was Mr. Dinnebeil there at any time? A. Well, no.

Q. Did you speak to him at any time with respect to what you have already related? A. Only over the phone.

Q. When was that? A. That was the time of the mother-in-law's birthday party.

Q. What did you say to him and what did he say to you? A. He was talking to my wife at first, and then he asked for me, and when I got on the phone he said that he was sorry that he could not come up to the party, that he did not like us to be up there and not to see him there, but he said he found it impossible to stay there with his wife.

Q. Did he say anything—

Mr. Pearse: I did not get that last part.

The Witness: I said he said he found it impossible to stay there with his wife.

Q. Did he say why? A. He did not mention why, no.

Q. Did you ask him anything else? A. No, I did not ask him why; I just told him to forget about it and come home. It was a birthday party, and he said he could not do it.

Q. Did you see him again after that or talk to him? A. No, I did not see him any more.

Q. Did you have any conversation with him relative to the charges made by Mrs. Dinnebeil about his going around with some woman? A. No, I did not.

Q. You did not see Mr. Dinnebeil since that time? A. No.

Mr. De Sevo: That is the plaintiff's case, your Honor.

DEFENDANT'S TESTIMONY.

CHARLES A. FROHM, sworn.

Direct-examination by Mr. Pearse:

Q. You are a police officer of the Borough of Metuchen? A. I am.

Q. Did you occupy that position in the year 1928 and the year 1929? A. I did.

Q. Did you have occasion to go to the house where Mr. and Mrs. Dinnebeil were living on High Street? A. I did.

Q. How many times did you go there? A. Once.

Q. Do you recall what date that was? A. On the 15th of May, 1929.

Q. What was the occasion of your going there? A. Police protection on the part of Mr. Dinnebeil.

Q. Did you go there—

Mr. De Sevo: Now I object on the ground that this is subsequent to the date when the defendant left the plaintiff. I do not see where it has any bearing on the case at all, what transpired subsequent to the date of leaving, which is also subsequent to the date when the alleged acts of cruelty took place.

Mr. Pearse: My purpose is to show the continuing conduct of the complainant even after, as we allege, the defendant was compelled to leave her because of this fact which we have alleged in our bill of complaint.

The Master: It is admitted.

(Question repeated.)

A. I did.

Q. Will you tell us who was present? A. Mr. Dinnebeil and Mr. Dinnebeil, that is Mr. Dinnebeil went along with me from police headquarters, and we met Mrs. Dinnebeil at the house alone.

Q. Were there any other people there at the time? A. Yes, we took in three other men with us.

Q. Do you know from the conversation that took place what Mr. Dinnebeil was there for at that time? A. To move.

Q. What was it he wanted to move? A. He wanted to take a trunk and some loose clothing, a bed—I cannot remember. I have got everything in my own handwriting, what he took. What he took I cannot just recollect.

Q. Have you got a memorandum which you made at the time? A. I have, yes.

Q. Suppose you refresh your recollection by that. (Handing paper to witness.)

Mr. Pearse: Do you want to see it, Mr. De Sevo?

Mr. De Sevo: No.

A. There was a trunk, loose clothes, one table, a bed. That is all.

Q. Tell us what happened while you were there? A. Interference on the part of Mrs. Dinnebeil.

Q. What did she do? A. Blocked the doors, that is stood in front of the doors, so as to cause us to take her away from the door to enter each and every door that she had to get into to get his things out. When we got to the trunk she sat down on to the trunk. I stood there for at least fifteen minutes trying to coax her, to persuade her to get up off the trunk, which she would not do, so I had to take hold of her and lift her up.

Q. Did she say anything on that occasion? A. Well, she hollered and screamed apparently as a demented person. She hollered and screamed.

Mr. De Sevo: I move to strike that out, "apparently as a demented person."

The Witness: I said like a demented person, hollered and screeched at the top of her voice.

Q. What were these other men there for? A. To take the furniture out.

Q. Did they eventually do it? A. Yes.

Cross-examination by Mr. De Sevo:

Q. Who told you to go to this address? A. Mr. Dinnebeil came down and asked for police protection, and I was detailed by the chief of police.

The Master: Police protection for what?

The Witness: Mrs. Dinnebeil is supposed to use the knife on to Mr. Dinnebeil. That was his complaint to headquarters.

The Master: He said that?

The Witness: He said that, yes.

Q. He said Mrs. Dinnebeil used a knife on this

day, that is why you went down there, for protection? A. That is why I was detailed.

Q. Did you take these three other men with you? A. Mr. Dinnebeil took them with him.

Q. Do you know who these three men were? A. Yes.

Q. Who were they? Were they police officers? A. They are in court—no, sir. They are moving men.

Q. You say Mrs. Dinnebeil would not let you come in the house? A. No, sir, I did not.

Q. Did she give you the reason for it? A. She let us come in the house. We walked into the house.

Q. I thought you said she prevented you from going in? A. Into the different room where we wanted to get the furniture out of.

Q. Did she tell you why she would not let you in the rooms? A. She said she did not want the furniture to go out of the house.

The Master: Did she say anything about not wanting him to go?

The Witness: No; she said she did not want none of the furniture to leave the house, especially the trunk. She put up a real fight on the trunk.

Q. Did she say she did not want the home to be broken up? A. No.

Q. Why was she hollering and screaming? A. Because we were taking the things out and she objected to our taking them.

Q. What did she say? A. I do not remember what she said. She was hollering and screeching so that I don't remember what she said. I was

sent there to get the things out, and that is all I paid attention to.

Q. Do you know whether there was a warrant issued? A. I do not know whether there was a warrant issued. I did not have any in my possession.

GEORGE L. DINNEBEIL, sworn.

Direct-examination by Mr. Pearse:

Q. Where do you live? A. I live in Metuchen, 182 Main Street.

Q. How long have you lived in Metuchen? A. About fifteen years.

Q. What is your business? A. I am a carpenter by trade; I am engaged in the Modern Building operations.

Q. Do you occupy any position in the Modern Building Company? A. President.

Q. How many shares of stock do you own? A. One.

Q. Who owns the balance of the stock? A. I could not tell you.

Q. Is your brother interested in the company? A. Yes.

Q. Who has charge of the finances of the company? A. My brother has.

Q. You hold the nominal position of president, is that it? A. Yes.

Q. What is the business of this company? A. To build houses, renting them, and selling them.

Q. Do you receive a salary? A. Regular wages.

Q. What are those wages? A. Forty dollars a week at the present time.

Q. How long have you been receiving forty dol-

lars a week? A. About three years, I should think.

Q. And prior to that time how much were you getting? A. Thirty-three, and less.

Q. This is where you and your wife lived together in Metuchen. To whom does that building belong, or did it belong at that time? A. It belonged to the Modern Building Company.

Q. Did you have any personal interest in it whatsoever? A. Not financially, no.

Q. I mean financial interest? A. No.

Q. The house was built up by whom? A. By the company.

Q. Did you have anything to do with the actual work on the house? A. Yes, I worked all through the job.

Q. Did you pay any rent to the company for the house? A. Yes, sir.

Q. How much? A. Fifty dollars a month.

Q. Was it the usual character of house built by the company, or was there anything unusual about it? A. No, sir; it was the best house that the company built.

Q. Was it built for any particular purpose? A. It was built for the purpose of inducing a better grade of house on that particular location. The Company owned the land around there, and they wanted to create an impression and use it as a show house.

Q. Was it built for you or your wife? A. No, sir.

Q. For what purpose was it built then? A. It was built for a show house.

Q. To be held or to be sold? A. To be held or sold.

Q. Do you own any real estate? A. No, sir.

Q. Do you own any personal property of any kind, outside of your clothes? A. No, sir, that is all.

Q. Do you own any stocks or bonds? A. No.

Q. Other than this one share of stock? A. I own some building and loan shares.

Q. What do they consist of? A. Ten dollars a month.

Q. How long have you been paying on them? A. About six years.

Q. Anything else outside of that in the way of stocks or bonds or money in the bank? A. I had a bank account in Metuchen.

Q. Do you carry any balance there? A. No, very little.

Q. Does any one else hold any stock for you, or securities of any kind? A. No, sir.

Q. Those are your worldly possessions, what you have just enumerated? A. That is all.

Q. For how long did you and your wife live together after you were first married, or after you were married, rather? A. About two years.

Q. And tell us what happened then? A. Well, my wife, she had an idea that I was going out with women, and she would upbraid me about it. She was not in very good habits at that particular time. She used to drink quite a little, and did not keep the house very nicely, and created quite a few scenes.

Mr. De Sevo: I object to this description of scenes unless he describes what the scene was. I do not know what his idea of a scene might be.

The Master: You can examine him on that.

Q. Yes. And she made life miserable for me so I could not stand to live there.

Q. What did she do or say which made life miserable for you? A. She would not keep house, for one thing. She would not cook and take care of things properly, and she accused me wrongfully of having done things and doing things, and hurting my feelings and reputation in every way that she possibly could, and I got tired of it and went off.

Q. Were the children born then? A. The children had been born.

Q. Did you do anything in the way of taking care of them after you left? A. Oh, yes, I sent money every week.

Q. To her? A. Yes, to her.

Q. How long did you keep that up? A. Until 1928, in November.

Q. Until November 1928, and that was when she came back to live with you? A. Right.

Q. Did she ever make a complaint against you in any police court or county court? A. Several of them.

Q. When was the first one made? A. About 1907.

Q. And where was that? A. That was in New York, the Domestic Relations Court.

Q. In the Bronx? A. No, it was in Manhattan. It is not very clear to me just where it was. It was a small affair, and I do not remember.

Q. Were you at that time when she made the complaint sending money home? A. Yes, sir.

Q. Do you recall what the amount was that you were sending? A. Eight dollars.

Q. A week? A. A week.

Q. What was the result of these first proceedings that she began against you? A. My wife

thought it was not enough and she went to this court for redress, for further money—that is what she wanted, and the court reviewed the matter, and the money stayed as it was.

Q. As it was? A. Yes.

Q. How long did that continue? A. Until 1912.

Q. Were any other proceedings taken then? A. In 1912 there was a proceeding in the 59th Street Domestic Relations Court.

Q. What was the occasion of that? A. That was the same thing as the previous one. Mrs. Dinnebeil wanted more money, and had me brought there, and when I was before the judge she told the judge that I had committed some crimes and made the judge accept another charge, and I was arrested in the court room, and I had to get a bondsman to get released, and the case was finally heard, and I proved to the judge that I had paid her money every week, and that there had been an order made by the other court to pay her a certain amount, and I proved to the court's satisfaction that I had paid it, and the court dismissed the case, but I was out my money and my time while I was in jail.

Q. You heard all this in court? A. Yes.

Q. Who was it that made the order for you to pay? A. I could not tell you the name of the judge.

Q. Was that the first time she brought you to the court? A. No, that was the second time.

Q. I thought you were now speaking of the second time? A. I was speaking of the second time.

Q. I understood you to say that you were voluntarily paying her eight dollars a week? A. Before she started any action.

Q. The first action that she took, were you ordered to pay anything? A. Eight dollars a week.

Q. The same amount that you were? A. Yes.

Q. Did she take any further proceedings against you, and if so, when? A. Then in 1917 she made a complaint against me in the Bronx Domestic Relations Court.

Q. Where were you living at that time? A. In Metuchen.

Q. How did she get you over there? A. Why, they sent me a summons.

Q. Were you extradited? A. No, sir.

Q. No action of the governor from New Jersey to New York? A. No, I took the summons and answered.

Q. You went there? A. I went there, yes.

Q. And appeared in court? A. Yes.

The Master: When you say they served you with a summons, what do you mean, somebody handed it to you?

The Witness: They mailed it.

The Master: That is the way you were served?

The Witness: That is the way I received it.

The Master: And then you obeyed the command of the summons and went over there?

The Witness: Yes.

Q. Do you remember the name? A. No, I don't.

Q. What happened with those proceedings? A. When I got to the court building and was entering, Mrs. Dinnebeil was there with a detective, and she had me apprehended before I could reach the

court room, and a thousand dollars bail was fixed. She made a charge of abandonment and White Slavery against me.

Q. Did you have any lawyer? A. I got a lawyer.

Q. I mean at the time you got to the court? A. No.

Q. You went there without counsel? A. Yes.

Q. All right, then tell us what happened? A. Then I got a lawyer, and I was released on bail, and the case was heard, and a ten dollar order was made by that court.

The Master: What do you mean by White Slavery?

The Witness: Why, I could not tell you, your Honor. That is the charge that Mrs. Dinnebeil preferred. She preferred a charge of White Slavery stating that I had taken women out of New York, and had taken them over to New Jersey, and was commercializing on them.

Q. As a matter of fact, had you done any such thing? A. Certainly not.

Q. Were those charges ever pressed; were you ever indicted? A. The charges were made, but the court would not hear them.

Q. The order was increased then, or rather a new order was entered for ten dollars a week? A. Yes.

Q. To whom were you to pay that money? A. To Harry B. Harris.

Q. Who is he? A. A probation officer.

Q. He is in the Charities Department, is he? A. No, sir.

Q. A Probation Officer? A. That is a Probation Officer.

Q. And the payment was for what purpose? A. The support of the children.

Q. Tell us whether or not you continued those payments? A. Yes, I did.

Q. When was the next, if any, complaint that was made? A. The next complaint was made before Judge Gibbs, in the Bronx County Court.

Mr. De Sevo: What date was that?

The Witness: It is not clear in my mind what date it was, but the money orders will tell me if I could see them.

Q. Is this your memorandum of all the checks and orders that you have sent? A. Yes.

Q. Will you just look at these, then watch— A. I have them marked in here when these things happened (referring to folder.)

Q. Then what date would that be, approximately? A. In the fall.

Q. In 1918? A. As near as I can remember.

Q. What happened there, Mr. Dinnebeil? A. Why, my wife made charges again of bringing women from one state to another, and sued for abandonment.

Q. How were you served on that occasion? A. I was arrested.

Q. Where? A. In New York.

Q. Under what circumstances? A. I was going along the street, and was picked up on it.

Q. Well, but you were living in Metuchen at the time? A. Yes.

Q. Whereabouts were you in New York when you were arrested? A. In the Bronx.

Q. What I am getting at what was the purpose of your visit to the Bronx on that occasion? A. My father lived in the Bronx.

Q. And you were going to visit him? A. Yes.

Q. What was the result of that proceeding? A. Well, the jury was drawn and I got an attorney, and the attorney explained the case to the judge, and the judge said that he would not listen to the charges, and dismissed the jury, and asked me then—he asked Mrs. Dinnebeil first what she really wanted from me, whether she wanted me put in jail, or whether she wanted money, and she said to the judge she wanted to see him put in pail, "the skunk", and locked there, and the judge got very angry at her, and reprimanded her, and told her that he never wanted to see her face in the court room again. Then after he was through with that he asked me if I could pay twelve dollars a week, and I told him I would, as long as I was able, because at that time I was pretty sick.

Q. Did you then continue to pay? A. I did.

Q. To whom did you make these payments? A. To Mr. Harris also. He collects all the moneys in those courts.

Q. The Probation Officer. For how long did you pay these moneys to the Probation Officer? A. I was supposed to pay them until the children were sixteen years of age, and I continued to send the payments, and asked him would he accept them, and he said he would, until one day my wife came up to his office and made it very disagreeable.

Q. Do not tell us about that, because you were not there? A. No, but I got a letter from him about it.

Q. You received a communication from him? A. I did.

Q. And as a result of that did you continue or discontinue the payments? A. No, I continued the payments, but I sent the money direct to her.

Q. What, if any, were other proceedings taken against you? A. The 1927—the divorce proceedings.

Q. That was in the Bronx Supreme Court? A. That was in the Bronx Supreme Court.

Q. Are these the papers that were served upon you at that time—just look at the back. I think you can tell readily whether they were or not if you do so? A. Yes.

(Papers marked for identification D-3)

Q. Did you retain counsel on that occasion? A. I did.

Q. What was the result of those proceedings? A. Why, I could not really say.

Q. Have you ever heard any more from them since the return of the rule for temporary alimony? A. No.

Q. As a result of those proceedings was there any decree of divorce? A. No.

Q. As a result of those proceedings were you ordered to pay any more money, or any money at all? A. No.

Q. So far as you know they are still pending? A. As far as I know.

Q. They may or may not? A. They may or may not; I could not say.

Q. What year was it that you say that you felt compelled to leave your wife, owing to the domestic relations that were existing? A. Around 1906.

Q. Did you ever live together with her from that time on up until the time that she came down to Metuchen in November, 1928? A. No.

Q. You recall your daughter's wedding day? A. I do.

Q. Tell us as near as you can the conversation which you had with your wife on that occasion, how it was brought about? A. Why, there was not very much opportunity to converse on that day. I went to my wife's house and greeted the wife and the children. They were there and some other friends, and we proceeded to the church, where my daughter got married, and from the church to a hall where the reception was to be held, and had supper, and spent the evening in that same hall among many friends, and then I took Mrs. Dinnebeil home to her flat on Elton Avenue, after the affair was over. There was not much opportunity for any conversation.

Q. Was anything said at that time about you two resuming marital relations? A. Well, I told her that I think that maybe I would make a home.

Q. Did you say anything about building a house for her? A. Not to her.

Q. Did you say anything about building a home for the family? A. Which family?

Q. Your family? A. My family, no.

Q. What was said, as near as you can recall, about resuming relations? A. Well, the conversation regarding that had already taken place before my daughter's wedding.

Mr. De Sevo: Fix the date, please.

The Witness: That is a very hard thing for me to fix.

Q. Your daughter was married the 3rd of September? A. It was about three or four months before that.

Q. Where did that conversation take place? A. In Metuchen.

Q. And where, and who were present? A. It took place in my room on 18 Lincoln Avenue.

Q. Who was there? A. My wife came to see me.

Q. What did she say to you on that occasion? A. Well, she came out and said she wanted a settlement. I was laying on the bed at the time, and I asked her what she meant by a settlement. She was getting her money weekly, and that was all I could afford to pay, and she said that she was tired of receiving that amount of money and she wanted more, and one thing led to another, and finally she got quieter, and we talked, and then I said that I would make a home if she would come out, and nothing more was said then.

Q. Then the next time it was broached was at the time of your daughter's wedding? A. Yes, we spoke of it then.

Q. But only casually on that occasion? A. Only casually on that occasion.

Q. Before you resumed marital relations in November of 1928, was there any further discussion about living together? A. Before we moved out?

Q. That is, between the daughters' marriage in September, and the time that your wife actually came out, was there any further discussion? A. No, sir, only by mail; there was a couple of letters.

Q. Were there ever any visits to your brother's house in respect to this matter? A. Not that I remember.

Q. And she actually came out to live there in November? A. November 6th.

Q. Did you ever tell her that that house belonged to you? A. No.

Q. After you had resumed this relationship, how long did things remain on an even keel before something happened? A. Well, she practically came into the house fighting, the morning that she came in.

Q. What happened then? A. Something displeased her about the moving van, or the way the taxi approached the house. She came marching into the house. The door was open. The moving men were moving the stuff in, and my son and I were standing in the room, watching the material being brought in. She never said good morning, or anything, just swept right in and started to find fault—that that was a nice way to receive her, and—

Q. How long before that was it that you had seen her? A. I think two or three weeks.

Q. Then tell us what happened next, if anything? A. It was about a week after we had moved in there that we had the first altercation.

Q. What was that about? A. Why, Mrs. Dinnebeil seemed to think that I was entertaining women, and said some one told her when I asked, when I asked her, "Who told you?" "Why," she says, "that is my business, and I am not telling"; and I could not get anything out of her. Of course, I did not pay much attention to it, because I was around there all day long, and all night long. I was not away from the premises for any such thing to happen, and she got very angry when a certain party called to see me about some work to be done that I had to go away with and look the job over. She stormed about that something terrible, and—

Q. Where did this person live that you spoke of, that came to the house? A. I do not know where she lived at that time.

Q. What was the work? A. Redecorating a building that had been occupied—

Q. A building belonging to whom? A. The Modern Building Company.

Q. Right there in that settlement? A. Yes.

Q. Was any one else with this lady when she came to the house? A. Her mother and her father was with her.

Q. How did she come, on foot or in an automobile? A. No, they came in a truck.

Q. What kind of a truck? A. Public Service truck. Her father runs the Public Service truck that repairs the wires in town.

Q. And he and his wife and this young woman were on the truck? A. Yes; she came to the house on the truck.

Q. Did you go away with her in your car , or how did you go away? A. Yes, I took this lady in my car.

Q. And where did you go to? A. We went around to the house.

Q. How far is that away from your own home? A. About three hundred and fifty feet.

Q. Did she ever come to the house again so far as you know? A. I do not know whether she did or not.

Q. What I mean, you never saw her there again? A. No.

Q. As a matter of fact did you know her in any way other than that she was one of the tenants or one of the purchasers? A. I knew her father, but not the woman herself.

Q. Well, did that cause any trouble in your household? A. It caused plenty.

Q. What happened? A. Why, my wife accused me of misconduct with that person, and got quite

violent about it, and called me nasty names, and threw things about, and it was lunch time. Then I went on about my business, and then in the evening she resumed the same argument again, whereupon I took my hat and coat and started to leave the house.

Q. Where did you go to? A. I started for my brother's house.

Q. How near did your brother live to where you lived? A. A little over two blocks.

Q. Did you go, or did you? A. I did go.

Q. How long did you stay over at your brother's house? A. I stayed over to my brother's house about an hour, I should think.

Q. Then what happened? A. In the meantime my sister-in-law went over to see my wife and explained to her that—

Mr. De Sevo: I object. You cannot tell what she said. As a result of what happened—

A. She went over to my wife and came back and said that I should—

Mr. De Sevo: No, I object to what she said.

Q. As a result of what she said, what did you do? A. I went back home.

Q. How long did you stay there then before anything happened? A. Until about Thanksgiving Eve.

Q. Then what, if anything, happened? A. Thanksgiving Eve I told my wife I was going out on my business, and I would not be home until late. She got very excited about it, and accused

me of going out with women, and used a lot of vile language, and I tried to quiet her, but she would not, and I kept on dressing, and finally she came up with a knife, and she started at me with a knife, and said that I was not leaving the house unless I paid her two thousand dollars. Of course, I had no money to pay her. I tried to reason with her.

Q. What kind of a knife was it? A. It was a carving knife.

Q. Where did she have it, was it in the bedroom? A. In her hands. She came up the stairs with it, came into my room.

Q. What did you do? A. I struggled with her and got free of her, and she in the meantime gave up the struggle with me and ran down to the car in the garage driveway, and started to cut up the tires there and throw bricks through the windows —stones, rather, and my son got hold of her, and somehow or other he got a cut on his wrist. When I saw that he was struggling with his mother I run down to get a policeman, because I was afraid that she was going to do some damage, and the policeman came up with me, and the two were in the house then, the son and the mother.

Q. Was that the time when Fouritt came up? A. Yes, Fouritt came up on that occasion.

Q. That is the officer that was just on the stand? A. No, that was Frohm that was on the stand.

Q. Frohm? A. Fouritt is the one you excused.

Q. Well, what happened after the police officer went away? A. The police officer went away and I went to my brother's house.

Q. How long did you stay there? A. About four days.

Q. Did you ever tell your wife that you were go-

ing away over the holidays to stay with some other woman, or call on another woman, or that you were going to New York, or anything of that kind? A. No.

Q. As a matter of fact, when you did leave on this Thanksgiving Eve, where did you go to? A. I went to my brother's. I abandoned my trip to New York.

Q. How long did you stay at your brother's house? A. Four days, about.

Q. Then what happened? A. Then I went back home.

Q. This was then a few days after Thanksgiving? A. Yes.

Q. How did things go on from that time? A. I took a bed up in one of the rooms and a table, and got some cooking utensils, and an electric stove and started to keep house for myself. My sister-in-law could not take care of me very well permanently, so I had to find some place, and I did not want to go anywhere at that time, and I thought I would go back into the house and see whether I could not make things go that way, and I started to cook for myself and care for myself, doing my own housework, and so forth.

Q. How long did you live that way? A. Until about Christmas Eve.

Q. Then what happened? A. It was before Christmas Eve; it was around the 22nd of December, when she flew in a rage again.

Q. What time of the day or night was this? A. That was in the evening, about half past five.

Q. Had you been drinking on that occasion? A. No, sir.

Q. As a matter of fact, are you ever under the influence of intoxicating liquor? A. No.

Q. Do you drink to excess in any way? A. No, sir.

Q. How frequently, as a general proposition do you take a drink? A. I might take a drink once or twice a week.

Q. But outside of that have you ever been in the habit of drinking any quantity of liquor? A. No.

Q. Were you under the influence of liquor on this occasion? A. No.

Q. Well, what did your wife do on that occasion? A. She started to rave, wanting money, and I was not leaving the house unless I left over her dead body, and she again started to attack me, strike at me and kick me, and finally ran down for a knife, and I went out of the house and went down to police headquarters and reported that.

Q. That was just before Christmas? A. Just before Christmas.

Q. Did you on that occasion bring any officer back to the house? A. No, sir, I could not get one.

Q. Where did you go then? A. I went to my brother's house.

Q. How long did you remain there? A. Until the end of January.

Q. And did you see your wife at all in the meantime? A. Yes.

Q. Whereabouts? A. In her house.

Q. I mean, did you call there? A. Yes, every day.

Q. Did you ever compel her to take care of the furnace and clean off the walks? A. No, sir; that is what I went for.

Q. You kept that up for how long, did you say, this going back and forth? A. Until I went back to stay there.

Q. When was that? A. That was the early part of February.

Q. Well, when was the next incident that happened to disturb the domestic situation? A. The next major incident was on February 9th, the occasion of my wife's birthday. I had been out making a call, and on my return I went up to her room, wishing her a happy birthday, and during the course of conversation I asked her in a matter of fact way how old she was now, and she flew right at me—"I am one year older than you are." I said, "Well, that is all right."

Q. Did you on that occasion or any other occasion tell her that you hated her? A. No.

Q. And that you hated her body? A. No.

Q. Did you ever tell her that? A. No.

Q. All right, go ahead? A. Then she got quite excited, and said that my father fixed the birth certificate, that I was a bastard, and that my brother was a bastard, and that before she got through, when she got through with me that she was going to knock my brother's eye out, and a lot of other language that is not really fit to hear. I left the room and went in my own room, and stayed there until morning, and then stayed over to my brother's house for a few days afterwards, thinking she would cool off.

Q. What happened next then? A. Then an attorney came to the house.

Q. Mr. Potter? A. Potter was his name.

Q. What was the conversation that you had with him?

Mr. De Sevo: I object to any conversation that was not in the presence of the complaining witness.

Mr. Pearse: I think that is competent, if

your Honor please; she said that she retained counsel and that counsel was to get in touch with her husband.

The Master: Is this the lawyer for the wife?

Mr. Pearse: Yes.

The Master: Why should not that be competent?

Mr. De Sevo: Of course, I do not know what took place on that occasion, inasmuch as she was not present.

The Master: He went there practically as the agent of the wife, the representative anyhow of the wife. I will allow it.

Q. What was the conversation between you and Mr. Potter? A. Mr. Potter came in and greeted me the time of the day, and I asked him to sit down.

Q. Where? A. In my brother's house, and I did not know what his business was. I thought he had come in on a social—

Q. Just tell us what transpired? A. And he said he came from my wife, and I said, "What does she want?" and he says, "She wants a settlement". I said, "What do you mean by a settlement?" "Well," he says, "Can't you give her a lump sum of money, and then she will move out and go back to New York." I says, "What does she want to do with a lump sum of money?" He says, "She will probably go into some business." I said, I did not know what kind of business she could go in, what business she knew about. So I told him I could not give her any money, because I did not have any, and he went away.

Q. Did he question you about what property you owned? A. He asked me, yes.

Q. What did you tell him? A. I told him the truth about things, I had nothing except what I had in bank at the time, and the Building & Loan shares, and my earnings.

Q. When you were speaking of having money in bank, what is your average bank balance? A. About fifteen dollars.

Q. Well, it might run a little higher than that? A. Hardly.

Q. I mean, do you keep any sums in excess of a hundred or two hundred dollars on deposit? A. No.

Q. And he went away? A. He went away.

Q. Did you ever hear from him from that day to this? A. Yes, I saw him once after that.

Q. What did he say to you?

Mr. De Sevo: I object unless it is proven that at this time this particular attorney was then still representing the complainant.

The Master: Is there any doubt about that?

Mr. De Sevo: Yes, there is.

The Master: Did he not represent her?

Mr. De Sevo: Not on this subsequent occasion.

Q. How long was it after the first conversation that the second conversation took place? A. About ten days.

The Master: Your theory is that he did not represent her about ten days after?

Mr. De Sevo: Will your Honor excuse me for a minute. I still object on the ground

that the complainant had this attorney only on this one occasion. She had nothing to do with him after this one occasion.

The Master: I will allow it for what it is worth.

(Question repeated.)

Q. Well, now, wait a minute. We do not want to have any mistakes. As a result of his conversation with you did anything happen with respect to any suit being brought against you or anything of that kind through him? A. Nothing happened.

Q. What was the next incident which disturbed the situation? A. It was about early in March.

Q. Was that before the boy had left or after he had left? A. That was after the son had left.

Q. By the way, I understood you to say that he stayed with you for about three months, I think it was? A. That is what he said. He left some time in January.

Q. What happened in March, and what part of March, as near as you can recall? A. In the early part of March I took my wife out riding, and showed her about the Highlands, and so forth, and we had quite a nice day. On the way home she suddenly started in about a woman. She mentioned no names, just a woman, "that woman", and started to accuse me of improper conduct with that woman, and acused the woman of enticing her husband away from her, and started a very nice argument. I took her home.

Q. What did you do after you got home? A. I went out.

Q. How long did you stay away? A. Until about 11:30.

Q. Then you came back? A. Then I came home.

Q. Were you under the influence of liquor on that occasion? A. No.

Q. Had you been drinking anything at all? A. I don't think that day I had.

Q. Then what happened? A. When I came in, up to my room, I found all my things strewn about the floor. My trunk was open, my handbag was open, my closet door was open: I had some papers in a bundle in the closet. They were strewn over the floor. I gathered them up as best I could and laid them down on the bed, and my wife came in with a revolver, and we struggled, and she shot, and she went into her own room.

Q. Where did the shot hit? A. Hit in the wall in the rear of the house.

The Master: Whose revolver was it?

The Witness: It was my revolver.

The Master: Where did you keep it?

The Witness: In the trunk.

Q. How long had you had this revolver? A. Four years; I do not know how long, but it was many years.

Q. How near to your head did this shot strike the wall? A. Very close to it.

Q. Well, in feet or inches? A. I should say about eight to ten inches.

Q. Did you say where you were lying at the time? A. I beg pardon?

Q. Did you say where you were at the time? A. I was on the couch.

Q. You were lying on the couch or sitting? A. Lying.

Q. And after the shot had been fired what be-

came of the pistol? A. I took care of that.

Q. What did you do with it? A. I put it under the mattress.

Q. Was there any conversation at that time between you and her to the effect that you had two bullets left in there, one for you and one for her? A. No.

Q. Did you ever threaten to shoot her on that occasion or any other occasion? A. No.

Q. As a matter of fact, did you on that occasion shoot in the air? A. No.

Q. Did you shoot at all? A. No.

Q. Before the shot was fired by her did you have the gun in your hand? A. No.

Q. What happened next? A. The next morning I left.

Q. Where did you go then? A. Went to my brother's house.

Q. On any of these occasions when you left, did you go to New York or any other place outside of Metuchen? A. No, I stayed in Metuchen.

Q. On this occasion did you stay at your brother's house? A. About four or five days.

Q. Then what happened? A. I went back home.

Q. What was said on that occasion when you returned? A. There was nothing said then.

Q. How long after was it that anything happened? A. About the middle of March.

Q. This was the first of March? A. This was the early part of March.

Q. What happened in the middle of March? A. My wife got very excited about the same cause, women, and calling me nasty names.

Q. Well, as a matter of fact were you going out with any women? A. No, sir.

Q. Were you having anything to do with any women? A. No.

The Master: How did your wife get the idea that you did?

The Witness: I could not tell you, your Honor. She has nursed that idea since 1906.

Q. Well, then what happened; did you stay or leave? A. When?

Q. On this occasion that you spoke of in the middle of March? A. She again demanded a large sum of money.

Q. Did she say how much? A. Twenty thousand dollars.

Q. What did she say about that? A. She said that I would not leave the house alive unless I give it to her.

Q. What did you do? A. I struggled with her and got out of the house.

The Master: How did she get the idea that you were worth twenty thousand dollars?

The Witness: I could not tell you.

The Master: Did you ever tell her what you were earning?

The Witness: Yes.

The Master: She knew that?

The Witness: She knew that.

The Master: Was there any relation or any friend from whom you could have gotten twenty thousand dollars that she knew of?

The Witness: I could possibly get it from my brother.

The Master: She knew that?

The Witness: She knew that.

Q. That would not be your money, would it? We are not talking about twenty thousand dollars of your money? A. No.

Q. You have not got any twenty thousand dollars, have you? A. No.

Q. Let me go back for a minute. You are now in the middle of March, and I do not want to interrupt, but I omitted one thing. I wanted to ask you back in the fall of 1928 did you get a letter, or a picture that you showed your wife, of some woman? A. No, I got no letter.

Q. Did you have a picture? A. Yes.

Q. What was the picture? A. A picture of my niece.

Q. You showed that to her? A. I showed it to my wife.

The Master: Have you the picture with you?

The Witness: Not with me.

The Master: Have you it within reach?

The Witness: No, it is home in my belongings.

The Master: Can you bring it here?

The Witness: I could, yes.

The Master: The court might be interested in looking at it.

Q. That is the picture you showed her? A. That is the picture.

Q. And who was this young lady you said it was, your niece? Whose child? A. My sister's child.

Q. Did your wife know her? A. Yes.

Q. Did you make any remarks about the young lady's personal appearance on that occasion? A. I said, "This is a nice picture; will you have a look at it?" and offered her the picture to see.

Q. Did you refer to the young woman in any way, in any lewd way, or do anything of that kind? A. No.

The Master: Didn't she recognize the picture of your niece?

The Witness: She would not look at it. She brushed it aside, and said, "I do not want to see any of your—

The Master: Did you tell her it was your niece?

The Witness: I did.

The Master: And she was acquainted with your niece?

The Witness: She was.

The Master: How old was your niece?

The Witness: She was about twenty-three years old.

The Master: This was a picture of the niece at that time?

The Witness: Yes.

Q. Going back again to the middle of March, tell us what happened then after that? A. The middle of March she again demanded money.

Mr. De Sevo: Is this the second time?

Q. We do not want to repeat what you have already said. Then in the middle of March you had another conversation with her over money? A. That is what I am referring to now.

Q. Do not repeat it. After that, then what happened? A. After that, about April 6th, I came in-

to the house to get some brooms and brushes.

Q. To do what? A. To clean up the house that we were going to occupy.

Q. Now, just tell us about that—before you get to that point, what had been said between you and your wife with reference to this house that you were living in, as to whether you could stay there? A. Why, in March we had a conversation, on one of our reconciliations, and she said that if I could not make a go of the place that we had, that we should get cheaper quarters, and she would be willing to go, and that pleased me very much, and I got another house for less money, and it needed papering and repairing and cleaning up in general, and I did that during the time, and April 6th I went to the house to get some brooms and brushes to complete the job. The work had been done, but it needed sweeping out, and she started to tear my overalls off me, and said I was not going to go out of the house and she was not going to move, and she was going to kill me and drag me out in a box, and I got away from her and went down to police headquarters and made a complaint, and I did not go back again then until I got my belongings.

Q. As a matter of fact on this occasion on the 6th of April, when you went down to the police station, did you take a police officer back with you? A. Not on that day.

Q. Where did you go instead of going back home? A. I went to my brother's house.

Q. Can you tell us whether or not during this period you were in fear of bodily harm? A. Absolutely.

Mr. De Sevo: I object to that. That calls

for a conclusion. That is for your Honor to say whether he was in fear of bodily harm or not.

The Master: He can state what his feelings were.

Mr. De Sevo: I have no objection to that.

The Witness: I was afraid every night I slept in that house. I would keep awake the biggest part of the night, expecting an attack at any time, because during various of her moods she had promised to put poison in my food, and I would never know from which angle the thing would strike me.

Q. You did not return then after this occurrence on April 6th? A. No, sir.

Q. When was the next time you went back to the house? A. When I got my belongings, about May.

Q. Had your wife moved out or was she still there? A. No, she was still there.

Q. Were you able to get her out? A. Well, I did not care whether she got out or not.

Q. It was not your house? A. No, I had the other house ready for her to go into, and I was ready to go into it with her any time that she was ready.

Q. But after this occasion on April 6th, how did you feel about continuing to live with her? A. Oh, I would not live with her.

Q. Why not? A. I was afraid.

Q. These preparations to move had been made back in March? A. In March.

Q. You hoping that conditions would improve? A. Yes.

Q. And as a matter of fact you did go back in

the month of May to get your belongings? A. To get my belongings, yes.

Q. Did you go there alone first, or what? A. No, I sent a man for them.

Q. What man did you send? A. Mr. Hokansen, with the truck.

Q. Did he get the things? A. No.

Q. Did he get in touch with you? A. He did.

Q. And as a result of his having got in touch with you, then what did you do? A. Then I went to get the policeman to help me to go and get them.

Q. And you went down to the police station? A. Yes.

Q. And you brought back which officer? A. Officer Frohm.

Q. Do you recall his testimony with respect to what happened on that occasion? A. Yes.

Q. What did your wife do on that occasion? A. She stood in the doorway and would not let us pass, and we had to push her aside.

Q. Was that the front door or the inside? A. Every door that we approached; she blocked the stairway going upstairs, so that we could not get up there, and she started to kick and scream and fight and Officer Frohm cautioned her to stop—if she did not stop he would have to put the handcuffs on her, and then she did stop a little, and got up on the second floor, and she locked the door to my room, and took the key away, and I took another key, and it fitted the lock, and got in that way, and I took my things out. She was struggling and fighting all the while we were doing this work, finally sitting on the trunk and refusing to let the trunk go out absolutely.

Q. Whose trunk was it? A. My trunk.

Q. What was in it? A. My clothes and things.

Q. Personal belongings? A. Personal belongings.

Q. Finally, you did get— A. I did get the trunk out.

The Master: Did you keep your clothes packed in a trunk?

The Witness: Not the outer garments, but the summer underwear and things I did not need, they were all in the trunk.

Q. Did you have it all in one trunk, your clothes? A. The trunk and a handbag.

Q. And a table and a bed? A. A table, a bed and a chair.

Q. Now, outside of that did you take anything out? A. No.

Q. That was not the bed that she slept in? A. No.

Q. Nor the table that she used? A. No.

Q. And did the trunk contain any of her belongings? A. No.

Q. When did you next see her to speak to her? A. The next time I saw her was on the street as I was going to the bank.

Mr. De Sevo: Please fix the date.

The Witness: It was in early June. I could not tell you the exact date.

Q. What were you doing during this period in reference to her support? A. I was sending her money.

Q. How did you send her the money? A. By check.

Q. You have got the checks here? A. Yes.

Q. Did you ever stop sending this money? A. No.

Q. You say that you met her on the street—

The Master: How much a week was that?

The Witness: I sent her ten dollars a week some weeks, and fifteen dollars other weeks, whatever it was possible to send her. I had to maintain myself at the time and could not give her the full allowance that I had been giving her while we lived there together.

Q. But since she left, and since this suit was started, how much money have you been paying? A. Fifteen dollars a week.

Q. What happened on this occasion when you met her on the street, in Metuchen? A. I was going to the bank to make some deposits for the company, and she accosted me on the street, and talked in a very loud voice, and made demands for money, and I was not going to proceed any further until she got her money. She wanted it right there and then on the street corner, and she made quite a scene of it, and finally she spied the checks and things in my pocket, and made a grab for them, and she grabbed out one check and ran off with it.

Q. How did you get it back? A. Through the court.

Q. What court? A. In Metuchen.

Q. A police court? A. A police court, yes.

Q. The check was handed back how long after she got it—well, a matter of weeks or days? A. It was days, about three or four days.

Q. Was she held in the court? A. Yes.

Q. Who directed her to give the check back to you? A. Recorder Wilson.

Q. At the police station? A. There in Metuchen, yes.

Q. Did she do so on that occasion? A. She did.

Q. Going back to the month of January, I show you Exhibit D-1 for identification—I am wondering, Mr. De Sevo, if you would permit me to have this envelope, and its contents, marked for identification?

Mr. De Sevo: All right.

(Envelope and contents marked D-4 for identification.)

Q. I show you this letter marked D-1 for identification, and ask you if you will tell us the circumstances under which that letter was received by you, whether it was written in your presence? A. No.

Q. Where were you at the time that you received it? A. I received it in High Street.

Q. Is that the envelope in which it was received? A. Yes.

Q. Was that letter and envelope contained in an envelope which had been mailed? A. No.

Q. Tell us the circumstances of your receiving it; was it delivered to you, or how did you get it? A. It laid in the front hall on a sort of a stand with a dish on it, where I had been in the habit of laying my mail as you entered the door right on the right hand side.

Q. Did you ever tell her to write and put it in an envelope and address it to your brother's house, and then for you to put it in another envelope and mail it to yourself? A. No.

The Master: Did you ever answer that letter?

Mr. Pearse: I am just coming to that, Judge, that is the next question I am coming to.

Q. As a result of that letter, what did you do? A. I went over and had a talk with my wife about it.

Q. Did you tell her whether or not you were satisfied with what she said in that letter?

Mr. De Sevo: I won't object, but I think the witness ought to be allowed to tell his story rather than have Mr. Pearse do it for him.

Mr. Pearse: I quite agree with counsel. I am sorry if I ask leading questions. I would not do it for the world.

Q. What happened after you received that letter? A. I went over to my wife and talked with her about different things, and told her that I wanted a clearer understanding of just what she was going to do and what she was not going to do in the future, before I would return to her.

Q. Did you say anything about putting it down in black and white? A. I did; I told her. I requested it, in fact—I wanted it in writing.

Q. What did you say about preparing a letter, if anything? A. I said nothing, but she said, "I don't know what you want written," and asked me would I write it for her and she would sign it.

Q. As a result of that suggestion did you write anything? A. Yes.

Q. I call your attention to Exhibit D-1 for identification, and ask you whether or not you can iden-

tify that as being the letter which you composed? A. Yes, that is the letter.

Q. And whose signature is that? A. My wife's.

Q. Where was it placed on that letter? A. In her home.

Q. Where did you write that letter? A. In the office.

Q. Tell us the circumstances with respect to its being signed—did this all happen in a day, or was it a matter of— A. It was a matter of two days, the one day I wrote the letter and the following day I took it over to her and she signed it.

Q. Tell us whether or not she read the letter on that occasion? A. Yes, she read it.

Q. Was that letter ever mailed? A. No, sir.

Q. And the letter was delivered to you by whom? A. By myself; I took it after she had signed it.

Q. Nobody else was present? A. No.

Mr. Pearse: Now, if your Honor please, I offer in evidence the exhibit marked D-1.

Mr. De Sevo: No objection.

(D-1 for identification received in evidence).

"Metuchen, New Jersey,
January 30, 1929.

Inasmuch as I desire to live with my husband, I will agree to move into cheaper quarters, for I realize you cannot afford to pay the rent on 225 High Street. I will never again make any attempt to destroy your property, or property entrusted to your care or keeping, such as the Gardner car you drive for the Modern Building Company, Inc., which I attacked December 21, 1928, for the purpose of putting it out of commission. I will refrain from using vile language such as I used when

you bought our son William a car, and will promise not to call you the vile names I did the day you brought the car home.

I will comply with your wishes to purchase supplies at the stores of the tenants renting from the company you work for, as I realize your job depends upon cooperation. I will not insult your friends or customers desiring to do business with you or the concern you work for in the future, and will promise to be a real wife and assume all duties a wife should perform.

Knowing that you are a sick man I will try to make life pleasant for you and cater to your needs.

Hoping you will take one more chance and come to live with me, I remain,

(Signed) Hannah."

February 28, 1930.

(Case continued pursuant to adjournment).

GEORGE DINNEBEIL, resumes the stand.

Direct-examination by Mr. Pearse: (*Resumed*).

Q. After your wife came to Metuchen in November, 1928, she has stated that after a quarrel you stated that you were leaving and were going to visit a Mrs. Frolich; did you ever say any such thing to her? A. No, sir.

Q. Did you ever go and visit any such person or stay with any such person? A. No, sir.

Q. You remember the automobile ride that you took with your son that he related on the witness stand, and the conversation which took place between the two of you on that occasion? A. Yes.

Q. Your son stated that you made the remark to him that you had been living with another woman, but it was past; is that your recollection of the conversation? A. It was not just that way. We happened to touch the subject of my wife and my son said that that was past, he did not want to hear her discuss it.

Q. In other words, he said that was past? A. Yes.

Q. In speaking about living with another woman, where did you live for sometime in Metuchen? A. It was Lincoln Avenue.

Q. Who kept the place? A. Mrs. Hackett.

Q. What kind of a place was it? A. A boarding house.

Q. Were you the only boarder? A. No, sir.

Q. Do you recall the evening before your wife's birthday party, which has been testified to by you I think and by the other witnesses? A. Yes.

Q. On that occasion tell us whether or not you had the evening before purchased any gift or any flowers for your wife? A. I had purchased flowers.

Q. What was your purpose in purchasing the flowers? A. To surprise her on her birthday.

Q. And then what did happen? A. We had a disagreement that night when I congratulated her, and in the morning I left the house, ill and upset.

Q. Then you did have a conversation with your daughter and your son-in-law over the telephone, did you not? A. Yes.

Q. What did you say on that occasion? A. I called up the home to speak to the children, because I knew that they were to be there, and to excuse myself and told them that I could not come—I could not be present, rather, is what I said.

Q. Did you say why you could not be present? A. I told them that my wife and I had quarreled and that I was too ill to entertain at any party. In fact, I mentioned that I would perhaps spoil it if I did appear.

Q. Referring again to shortly after she arrived in Metuchen in 1928, just describe, will you, what occurred at the first disagreement—I am referring now to the night when you left and went to your brother's house. A. My wife got upset about a lady that called at the house to see me, and a quarrel ensued, and it continued in the evening on the same subject, and I left the house and my wife followed me and held me by the coat trying to prevent me from going. She hindered me all the way down as far as Main Street and High Street, in Metuchen, kicking and shouting vile names at me, and people stopped and looked. It was a very disagreeable scene.

Q. Where were you headed for? A. For my brother's house.

Q. He lives on Lincoln Avenue? A. He lives on Lincoln Avenue.

Q. Mrs. Dinnebeil testified, if my recollection is correct, that on one occasion she was compelled to go to the Charity Department to get support; will you just tell us what if any connection the Charity Department in New York had with the payment of any money that you made to her? A. It was during the case that my wife brought in the Domestic Relations Court in 59th Street, near Lexington Avenue, where it was agreed that I was to pay her $8 a week; and inasmuch as I had given her money previously, regularly, I told the Judge that I had no way—

Mr. De Sevo: Was she present?

Q. Was she present? A. Yes; she was in the court.

The Advisory Master: Was she listening to you? She heard what you said?

The Witnes: Yes, I think so.

The Advisory Master: You think she heard what you said to the Judge?

The Witness: Yes, your Honor.

Q. As a result of whatever happened there in the court room, to whom did you pay the money? A. I sent the money to the Charity Department.

Q. How long did that continue? A. About two or three years.

Q. Will you tell us why you did not continue to send it to the Charity Department? A. My wife took exception to the checks that the Charity Department sent out, and told me that she did not like to cash them because they had a large stamp on them "Charity Department," and could we arrange for her to get the money in another way.

Q. Did you make other arrangements? A. Yes.

Q. As a result how was the money paid? A. It was delivered personally to her house.

Q. By whom? A. Sometimes by me nad sometimes by my brother.

Q. And did she give a receipt for it? A. She signed it every week.

Q. Is that the sheet which she signed? A. Yes, that is the sheet, $8 a week.

(Foregoing marked for identification D-1).

The Advisory Master: What was it she signed?

Mr. Pearse: When personal payments

were made, Judge, a sheet of paper which was kept for the receipts.

Q. As a matter of fact, Mr. Dinnebeil, have you kept a record of all of the payments that have been made from the first time you started to pay her, after you separated? A. Practically all.

Q. Is that the book which the Judge has in his hand—does that contain the cancelled checks and the post office receipts, and the receipts which she signed herself, or all of these payments? A. Yes.

Q. Will you tell us whether or not in this envelope, those are the receipts which the Charity Department gave you for payment? A. Yes.

(Foregoing marked for identification D-2 of this date).

Q. I show you this bundle of cancelled checks for 1927, are they all payable to Mrs. Dinnebeil? A. Yes.

Q. And endorsed by her? A. Yes.

(Foregoing marked for identification D-3 of this date).

Q. I show you a bundle of checks for the year 1928; will you tell us whether or not they are all endorsed by Mrs. Dinnebeil? A. Yes.

(The foregoing were marked for identification D-4 of this date).

Q. You have sorted them all out, have you? A. Yes.

Q. I show you check for 1929, and ask you whether or not those are the checks which you have paid to her, money that you have paid to her during that period? A. Yes.

(Foregoing was marked for identification D-5 of this date).

Q. Did you continue payments after the suit was started? A. Yes.

Q. That is, this suit? A. Yes.

Q. And she said you were behind three weeks in your payments, I think she said; have you ever been behind or are you behind on any of the payments that you undertook to send to her? A. No.

Q. Where do you send the checks? A. 15 Marion Place, Jersey City.

Q. Tell us whether or not you have sent each week the $15 which you agreed to send? A. Yes.

Q. Have the checks all come back cancelled? A. All but two.

Q. I call your attention to a check dated January 29th, 1930; just look at that and tell us when that check was paid by the bank? A. February 20, 1930.

Q. I show you check dated January 7th; tell us when that was paid by the bank? A. January 31st.

Q. I show you check dated January the 15th; tell us when that was paid by the bank? A. February 18th.

Q. And I show you one dated January 22nd; when was that paid by the bank? A. February 18th.

Q. And I show you one dated February 5th, and ask you when that was paid by the bank? A. February 20th.

Q. That was the date of the hearing, wasn't it? A. That was one day before the hearing.

Q. How soon after these checks are dated, did you send them to your wife? A. Immediately.

Mr. Pearse: I offer in evidence the receipts and the cancelled vouchers showing the payment made to the wife, from the time the parties separated back in 1907 down to date.

Mr. De Sevo: No objection.

The Advisory Master: They may be admitted in evidence.

(Defendant's exhibits D-1, D-2, D-3, D-4 and D-5 for identification, received in evidence).

Q. What is the condition of your health, Mr. Dinnebeil? A. My health is not very good.

Q. How long have you been ailing? A. I have been ailing since 1913.

Q. Have you ever had occasion to go to the hospital for any illness? A. Yes.

Q. When did you go for the first time? A. 1915.

Q. What hospital were you taken to then? A. Flower Hospital.

Mr. De Sevo: I object to that as immaterial and as having no bearing on the case, because our case is based on non-support and abandonment. Whether he is sick or in good condition has no bearing whatsoever, because he has to pay regardless of his condition.

Mr. Pearse: The purpose of introducing this testimony is on the defendant's counterclaim. I desire to show his condition of health; to show that he is in a very delicate condition of health, and has been for many years, and to show the effect which nervous excitement has upon him.

Mr. De Sevo: They have not lived together from 1906 to 1928. He now testifies that his

illness dates back to 1913. So how can he say that the complainant had anything to do with his illness, since it is dated back to 1913 and they were not living together and did not resume cohabitation until 1928, fifteen years later.

The Advisory Master: What is the object of it?

Mr. Pearse: The object is to show the condition of this man's health, not for the purpose of showing that she brought it about, but to show that he is in a delicate condition of health and has been in a delicate condition of health for many years, and the effect following threats and things of that kind have upon his health, as affecting the subject of cruelty.

Mr. De Sevo: I have the further objection also that everything he is going to say relative to his health is hearsay. The best proof of that would be the physician who has been treating this man during that period of time, and let him tell what his condition is. He might tell us he is suffering from illness from a thousand different things.

The Advisory Master: You can cross-examine him as to the details of his illness, what they are and so forth. I will allow it.

Q. You first went to Flower Hospital? A. Yes.

Q. Just describe as near as you can the treatments which you have had from that time. A. I was discharged in Flower Hospital and given under the care of Dr. Moser. Dr. Moser treated me to 1916, when I came to Metuchen. My health became somewhat better after that and until 1926,

when I started to go backward again and consulted several local physicians at home and two physicians in Perth Amboy, Dr. Burko and Dr. Fennele. Neither one of these two doctors helped me, and Dr. Fennele recommended that I see Dr. Ill of Newark, New Jersey. I consulted Dr. Ill and he advised an operation as soon as I was able to stand it. I was pretty sick by that time. He prescribed a diet to build me up, and in two weeks after that he operated.

Q. What year was that? A. 1928.

Q. That was before your wife came to Metuchen? A. Yes.

Q. What hospital did you go to? A. St. Barnabas Hospital in Newark.

Q. Then describe your health after the operation. A. My condition was relieved but not cured. I still suffer pains and had to go periodically to Dr. Ill for re-examination, and I have been treated by local doctors.

The Advisory Master: What is your ailment?

The Witness: My ailment is a chronic fibrous condition of the tissues of the stomach.

The Advisory Master: Stomach trouble?

The Witness: Yes.

Q. Are you still ailing? A. Yes.

Q. Tell us what your condition of health was from November down to the time that you and your wife separated, or rather that you left; what was your condition of health during that period? A. I do not get the question.

Q. During the time that your wife was in Me-

tuchen and you lived there with her, what was your condition of health then? A. My condition was very poor at times. I suffered a great deal of pain, nervousness and weakness.

Q. Will you tell us whether or not at the time—looking back to the time you went to the Flower Hospital—whether or not your wife was cognizant of the fact you were ailing? A. Yes.

Q. Did you ever say anything to her about it? A. No, sir, my sister did.

Mr. De Sevo: I object.

Mr. Pearse: Strike it out.

Q. Will you tell us whether or not a course of diet was prescribed for you in 1928 and 1929? A. Yes.

Q. Did you inform your wife on that subject? A. Yes.

Q. Did she prepare such diet? A. Sometimes.

Cross-examination by Mr. De Sevo:

Q. For the purpose of the record, how tall are you? A. Six feet.

Q. How much do you weigh? A. Now I weigh about 140 pounds.

Q. How much did you weigh during the time you were living with your wife? A. Which time?

Q. Well, you only lived with your wife once? A. No.

Q. November, 1928 until the time you left her? A. About 145 pounds.

Q. How much did you weigh back in 1906? A. 196 pounds.

Q. You say that you first became ill in 1913? A. Yes.

Q. And you had not been living with your wife for how long a period of time? A. About six years.

Q. And you did not live again for fifteen more years? A. Yes.

Q. And during that entire time you were always ill with this stomach trouble? A. Yes.

Q. Now you said that sometimes your wife prepared the diet as prescribed by physicians? A. Yes.

Q. What was the first time she refused to prepare the diet? A. In February.

Q. What was the reason for it? A. I could not answer that.

Q. Is that the only time she refused? A. From February up until the time that we separated she prepared no further diet.

Q. Did you ask her to prepare it? A. Yes.

Q. Did she give you a reason why she refused to prepare it? A. She said I could eat what she cooked, and if I did not I could leave it.

Q. Although prior to that she was willing to prepare your diets? A. Yes.

Q. Your wife is a pretty jealous woman, is she not? A. I do not know if she is jealous or not. I could not answer that.

Q. Well, she has been accusing you of going out with a different woman, has she not? A. Yes.

Q. I understand the first time you left her was in 1906? A. Yes.

Q. Two years after your marriage? A. Yes.

Q. What took place at the date that you left her, in 1906? A. Nothing.

Q. And you left without anything happening, is that right? A. Yes.

Q. You did not live together after that, after 1906 to 1928? A. Right.

Q. And you made no effort whatsoever to go back, is that right? A. No, sir.

Q. Prior to September, 1928, or what happened in September, 1928, do you remember? A. In September, 1928, my daughter got married, I believe.

Q. Had you been in conversation with your wife prior to September, 1928? A. Yes.

Q. Did you go and see her or did she come and see you? A. She came to see me.

Q. Have you written to her or communicated with her prior to coming over there? A. No.

Q. Do you remember the month she came over to see you—well, where were you living at that time? A. In September of 1927?

Q. Where were you living then? A. At 18 Lincoln Avenue.

Q. Do you remember testifying on your cross-examination last week that it was three months prior to September, 1928 when she came out to see you? A. She did.

Q. Why did you say September, 1927 for? A. You asked me when she came to see me.

Q. Did she come again three months prior to September— A. Yes.

Q. What did she say in September, 1927? A. She said she wanted a settlement.

Q. Who was with her, anybody? A. No, sir.

Q. How much were you paying her at the time? A. $12 a week.

Q. Who was present when this conversation took place other than you and your wife? A. No one.

Q. What else did she say that she wanted a settlement for? A. That is all the conversation was about, a settlement.

Q. How did she say this? A. She came in and

I bid her the time of day, and I asked her what brought her to see me.

Q. What did you say? A. That is what I said, I asked her what brought her in to see me.

Q. I understand. What did she say to that when you said that? A. She said, "I came out here for a settlement."

Q. Did she say anything else? A. I asked her what she meant by a settlement, whether she was not receiving her money. She says yes, but she was not satisfied with what she was getting.

Q. And you were giving her then how much? A. $12 a week.

Q. What else did she say? A. I told her I was not in a position to give her a settlement or to pay her any more money than I was paying, and she says she would find a way of getting it.

Q. Is that all that was said? A. That was all that was said at that interview.

Q. What did she do; did she go out? A. Yes.

Q. She did not cause any scene or anything, did she? A. I do not know whether she did or not.

Q. Well, you would know, wouldn't you, if it did happen? A. My room was on the second floor, and she left my room and went downstairs.

Q. I don't care whether your room was on the 19th floor, did she make a scene or not when she left? A. No.

Q. When was the next time you saw her? A. About a week or so afterwards.

Q. Did you go and see her or did she come to see you? A. No, she came to see me.

Q. Where was she living at the time, do you know? A. In New York.

Q. And she telephoned you before she came, didn't she? A. No.

Q. She just came there all of a sudden? A. Yes.

Q. What did she say to you when she first saw you? A. "I have come to get my money."

Q. What did you say? A. I told her I had sent her her money.

Q. Did you ask her what she was doing with that big sum of $12 you were giving her? A. No.

Q. What else did she say to you? A. She said she wanted her money; that is all.

Q. Did she go away peaceably? A. Yes.

Q. When did you see her again after that? A. About in September, 1928.

Q. Where did you see her then? A. In Metuchen.

Q. Where in Metuchen, your home or where? A. Yes.

Q. She came out there again? A. She came out with her daughter and I believe her son-in-law.

Q. What did she say then? A. She informed me that my daughter was about to be married.

Q. Didn't you know your daughter was going to get married? A. Not until then.

Q. Had you ever seen your daughter prior to that date? A. Very seldom.

Q. Did you ever go and see your daughter? A. Yes.

Q. And she never told you she was going to get married in September? A. No.

Q. All right; what happened on this occasion, September, 1928; did you tell her that if she would come out and live with you that you would make a home for her? A. The conversation—

Q. Answer the question, will you?

Mr. Pearse: I submit that counsel already has put two questions without an answer from the witness.

Mr. De Sevo: I withdraw the questions, if I did have two.

Q. Did you tell your wife on this occasion that if she would come home, come out with you, you would make a home for her? A. No.

Q. You did not say that? A. No.

Q. Did you ever say that to her? A. Yes.

Q. When was that? A. That was after the wedding.

Q. After the wedding? A. Yes.

Q. You remember testifying here last week that three months prior to September, 1928, while in Metuchen, your wife came to see you; that she first talked about a sum, that she was tired of receiving the sum of money you were sending her, and that you then said to her, "I will make a home for you if you come out"; do you remember saying that? A. No.

Q. Do you remember also testifying that there was no discussion between you and your wife, between September and November, except through the mail; do you remember saying that? A. No, sir.

Q. Did you say it, or don't you remember it? A. I don't remember saying it.

Q. When did you actually live again with your wife? A. About November 6th, 1928.

Q. At what address? A. 225 High Street, Metuchen.

Q. Did you tell your wife on that occasion or prior thereto that you owned this house? A. No, sir.

Q. What did you tell your wife about this house? A. I told her that I was working on a house in Me-

tuchen, and asked her to some out and see it, whether she would like to live in it.

Q. Did you tell her that if anyobdy wanted to buy this house, you had to get out? A. Yes.

Q. Is that right? A. Yes.

The Advisory Master: If anybody what?

Q. Wanted to buy this house, you had to get out? A. Yes.

Q. Did you also tell her that the house was open to the public? A. Yes.

Q. Why didn't you rent a house where it was not open to the public, where you and your wife would have some privacy? A. The idea was to stimulate business.

Q. Yes. A. The house was a show house, a model house, to attract better properties in that particular section.

Q. You were more interested in business than having a home for you and your wife? A. The ability to make money is my living.

Q. You did not care what happened to your wife? A. Not exactly that.

Q. Why didn't you rent a house and give your wife the privacy of a home, as any other wife is entitled to? A. I believe it was sufficiently private there.

Q. Notwithstanding that, anybody else could walk in at any time of the day and ask to be shown through the house?

Mr. Pearse: That is a statement counsel is making, and it has not been testified to by the witness.

The Advisory Master: He is asking if that is so.

The Witness: It is not exactly so.

Q. I understand that you are president of the Modern Homes Company? A. Yes.

Q. And you own one share of stock? A. Yes.

Q. Who owns the rest? A. I don't know.

Q. How long have you been president? A. Ever since the incorporation.

Q. That was when? A. 1919.

Q. You mean to tell me that you have been president of this corporation since 1919 and you do not know who owns the rest of the stock of this company? A. Yes.

Q. Does your brother own any of the stock of this company? A. Yes.

Q. Has any other relative of yours any of the stock of this company? A. My sister-in-law.

Q. As a matter of fact, is this company owned by you and your relatives? A. Yes.

Mr. Pearse: I object to that. This witness has testified that he owned one share of stock.

The Advisory Master: He said, "By you and your relatives"

Mr. Pearse: He testified as to his brother —well, I will withdraw the objection.

Q. What did you mean then a little while ago when you said that you did not own the rest of the stock, when you know it is owned by your relatives? A. They have owned it at times; they may have sold it. I do not know what they have done with it.

Q. Who owns the stock now—you claim only your relatives own it? A. I believe they do.

Q. Don't you ever look at the books or anything, of the company? A. There aren't anything like that.

Q. They don't have books, you say? A. Not showing anything like that, I don't believe.

Q. I think you also testified that your wife got an idea you were running around with women, as far back as 1906? A. Yes.

Q. Do you know a Mrs. Hackett? A. Yes.

Q. Edith Hackett? A. Yes.

Q. Will you describe this woman to us?

Mr. Pearse: Is that necessary?

The Advisory Master: You mean personal appearance.

Mr. De Sevo: Yes.

A. She is rather a stout woman of medium height, and dark complexion, I should say.

Q. Dark hair? A. Yes.

Q. Dark eyes? A. I could not say as to her eyes.

Q. When was the first time you became acquainted with this woman? A. About 1915.

Q. Did you ever live with her? A. Live with her?

Q. Yes, live with her. A. No, sir.

Q. Were you ever in the same house with her? A. Yes.

Q. In what capacity? A. As a boarder.

Q. Where was she living at the time? A. In Metuchen.

Q. What street in Metuchen? A. 18 Lincoln Avenue.

Q. That is the house in which you are now living? A. No, sir.

Q. That is the house you lived in for a long period of time? A. Oh, for about five or six years.

Q. Who owned that house? A. The Modern Building Company.

Q. Were you paying rent then? A. I was not paying any rent.

Q. Who was paying it? A. Mrs. Hackett was paying the rent.

Q. To whom did she pay it, do you know? A. To my brother, I believe.

Q. Did she ever pay it to you? A. Some times.

Q. How long did you board with this Mrs. Hackett? A. About five or six years.

Q. Do you know whether or not she was ever known as Mrs. Dinnebeil? A. She was never known as Mrs. Dinnebeil, although she has been accused of being known as Mrs. Dinnebeil .

Q. Who accused her? A. My wife.

Q. Besides your wife? A. No one.

Q. Do you know a woman by the name of Mrs. Bosserd? A. Yes.

Q. Where does she live? A. In Metuchen.

Q. How long have you known her? A. About four or five years, I should think.

Q. Did you have any business dealings with her? A. No.

Q. You never did? A. No.

Q. Did she ever speak to you about buying real estate or anything like that, in Metuchen? A. Yes.

Q. What would you call that; a social or a business— A. Well, the conversation was not on a definite deal; it was a general real estate topic.

Q. What kind of a conversation would you call that? A. Well, in reference to the high rate of taxation and interest.

Q. Was she ever in your home on Lincoln Avenue? A. Yes.

Q. Do you know whether or not this so-called Mrs. Edith Hackett was ever introduced to Mrs.

Bosserd, in your presence, as Mrs. Dinnebeil? A. No, sir.

Q. That never happened? A. No, sir.

Q. Did you ever go to the movies or any place with Mrs. Hackett? A. Yes.

Q. How often? A. Very seldom.

Q. Well how often, once a week? A. No, sir.

Q. How often? A. On two or three occasions.

Q. You mean over how long a period of time? A. Over the entire period that I lived in the house.

Q. Did you ever go into any shows other than movies with her? A. No, sir.

Q. Did you ever go on any parties, or anything, with Mrs. Hackett? A. I did accompany her.

Q. How often? A. Probably two or three times.

Q. Did you ever go to any saloons or one of those places where you can get a drink? A. I may have, though I don't recall.

Q. Where did you go, Metuchen? A. No, I don't think so.

Q. Where would you go? A. Could go anywhere I believe. I have not any particular place that I would go to, to anything of that sort.

Q. When your wife accused you of living with this woman as husband and wife, why didn't you leave her? A. Leave who?

Q. Mrs. Hackett's boarding house. A. Why should I leave there?

Q. I say, why didn't you leave her when you knew that your wife was saying that you were living together as husband and wife?

Mr. Pearse: That is not a proper question. There is no reason why this man should leave the place where he is boarding just because his wife makes an accusation against him.

The Advisory Master: What he did under the circumstances I think is material.

Mr. Pearse: What he did, but why he didn't leave, sir, is not material.

The Advisory Master: That is what he did not do. His actions under the circumstances I think are material.

Q. You say that your wife was accusing you of living with this woman as husband and wife, is that right? A. Yes.

Mr. Pearse: I submit that is not what he said.

(Question repeated).

Q. That is true. A. That my wife accused me of living with Mrs. Hackett as man and wife?

Q. All right, no, that your wife was accusing you of such a thing—why didn't you move from there so that there would be no grounds for accusation? A. Because I knew that I was not doing anything wrong, and I was not running away from anything.

Q. How soon after you and your wife were living together did you have your first quarrel? A. About a week.

The Advisory Master: You mean after they were married?

Q. No, after you were living together? A. In Metuchen?

Q. Yes. A. About a week.

Q. What was that quarrel about? A. The quarrel was about a woman that had called at the house to see me.

Q. As a matter of fact, wasn't that a quarrel

about a certain picture of a woman that you showed to your wife; wasn't that the first quarrel that you had? A. That was no quarrel.

Q. Didn't you talk about, didn't she get excited and accuse you of running around with this woman? A. No, sir.

Q. She did not? A. No.

Q. Did you show her a picture of some woman? A. I offered to show my wife a picture.

Q. When was that? A. That was right soon after we took up housekeeping.

Q. Was that before this time this woman came down? A. Yes.

Q. It was before that? A. Yes.

Q. That is what I said to you before. A. You said quarrel.

Q. All right; didn't you tell her on that occasion, "Here is a nice shaped and well looking woman"? A. No, sir.

Q. What did you say to her? A. I offered to show her a picture.

Q. Of whom? A. Of my niece.

Q. And had she known your niece? A. Yes.

Q. What is her name? A. Ella.

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

Q. Was your wife on good terms with your niece? A. Yes.

Q. And when you offered to show this picture, what did she say? A. She brushed it aside, and said, "I don't want to see any of your bitches."

Q. What did you say when she said that? A. I put the picture back in my pocket and said no more.

Q. Have you got that picture in court today? A. Yes.

Q. Will you produce it? A. Yes.

Q. Let us see it. A. (Witness produces picture).

Q. Now, you are sure this is the picture you were showing her on this occasion? A. Yes.

Q. And she had never had a quarrel with your niece, and she referred to her as a bitch, is that right? A. Yes.

Mr. Pearse: If your Honor please, I am sorry to say I omitted to ask Mr. Dinnebeil about that picture on direct-examination, and if Mr. De Sevo wants, that can be put in as an exhibit for the defendant.

Mr. De Sevo: I have no objection.

(The foregoing was admitted in evidence and marked D-6 of this date).

Q. How did that get torn, do you know? A. In my coat pocket.

The Advisory Master: Is this niece married?

The Witness: Yes.

The Advisory Master: Was she married at the time?

The Witness: Yes.

Q. You testified on November 6th that some woman came over to see you; is that right? A. Not on November 6th.

Q. When was it? A. About a week after November 6th.

Q. Had she come there by pre-arrangement, or how? A. By pre-arrangement, yes. It was an appointment.

Q. Who was this woman? A. You want the name?

Q. Yes. A. Mrs. Mohring.

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

Q. Who did she come with? A. She came with her mother and her father.

Q. Where was she living at the time? A. I do not know, sir.

Q. How did you come to meet her? A. I met her in my brother's home.

Q. Did you tell her to go to your house? A. Yes.

Q. What was she to come there for? A. To select some wall paper.

Q. Had you notified your wife that this woman was coming? A. Yes.

Q. What did you tell her? A. I told my wife I expected a lady to call for me, and would she please call me when she arrived.

Q. Did you tell her who this lady was? A. No.

Q. You did not tell her her name or anything? A. No, sir; I did not know her name at the time.

Q. You did not know her name at the time? A. No.

Q. And you met her in your brother's home prior to her coming to your home? A. Yes.

Q. And she was not introduced to you at all? A. No.

Q. And you had a conversation with this woman at your brother's home? A. Yes.

Q. And you made arrangements with her at your brother's home to come to your home? A. Yes.

Q. And yet you did not know her name? A. No.

Q. Who did she come with when she did come to your home? A. She came with her father and her mother.

Q. How did she come there? A. In a truck.

Q. What kind of a truck? A. Public Service Electric truck.

Q. Did you know her father? A. Yes.

Q. How long had you known her father? A. About three years.

Q. Yet during the conversation that you had with this woman in your brother's house, her father's name was not mentioned at all? A. No.

Q. And neither was her mother's name? A. No.

Q. When you came back didn't your wife accuse you of misconduct with this woman? A. Yes.

Q. Did you then tell her who she was? A. I told her where I had gone with her and what I had done.

Q. Did you tell her who this woman was, yes or no? A. Yes.

Q. What did you tell her? A. I told her it was a customer.

Q. Did you tell her what her name was? A. No.

Q. Why didn't you? A. I did not know her name.

Q. Do you mean to tell me that you went even to her house and you did not know her name yet? A. Yes.

Q. When did you first find out her name? A. About a week afterwards.

Q. Did you go in that truck? A. No.

Q. Did you speak to the father at all? A. Yes.

Q. And didn't he say, "Here is my daughter"? A. I learned that it was his daughter then.

Q. But not while you were going to the house? A. While we were in the house.

Q. You did not tell your wife this woman's name? A. No.

Q. You did not tell her where she was living, or anything? A. I did not know.

Q. You did not tell her that her father was such and such a man? A. No.

Q. You did not say, "Well, now, if you think I am misconducting myself with this woman, I will take you to her home and take you to her father's home"; you did not say anything like that; did you? A. No.

Q. Did you have quite a quarrel over this? A. Quite.

Q. You say she called you names? A. Yes.

Q. What were the names—are you afraid to tell us? A. It does not sound good.

Q. Well, if you are too bashful, do not tell us. What did you do after the quarrel? A. I left the house and went to my brother's house.

Q. She did not strike you on this occasion or do anything like that, did she? A. She did.

Q. She did strike you? A. Yes.

Q. Did you tell us last week that she struck you and called you names? A. I do not know whether I did or not.

Q. You do not remember? A. No.

Q. As a matter of fact, didn't you only say that she accused you of misconduct, and called you names, and as a result of that you left? A. Yes.

Q. Now you say that she struck you? A. Yes.

Q. How did she strike you? A. Over the shoulders.

Q. With what? A. I do not know what it was.

Q. Was it her hand, a stick or a club? A. Some object; it was in the street.

Q. I thought you said it was in the house. A. Not where she struck me, no, sir. She follows me out of the house.

Q. How far did she follow you? A. All the way to Main Street and Lincoln Avenue.

Q. You were living where? A. In 225 High Street.

Q. How far is that to Lincoln or Main Street? A. It is about two blocks.

Q. And during that entire time she kept striking you with this object? A. No.

Q. And you were not doing a thing to her? A. I was trying to get away from her.

Q. Did you try to grab her and take the stick from her, or whatever it was? A. I just tried to release myself, get away from her.

Q. Did you have her arrested? A. No.

Q. Didn't a crowd gather around? A. A few people stopped and looked.

Q. Who were they, do you know? A. I know two of them.

Q. What are their names? A. Harvard Hoffenson and Mr. Stillick.

Q. Are they in court today? A. Yes.

Q. Did any of these two people intercede to stop her? A. No.

Q. They just saw you get hit, is that it? A. Yes.

Q. Did they know that this woman was your wife? A. I don't know.

Q. Had they ever met your wife before? A. One of them had.

Q. What did you mean a little while ago when you said you did not know whether they knew that was your wife and one had met her as your wife? A. You ask me if they knew that it was my wife.

Q. Yes, that is what I said, and you said that they did not know.

Mr. Pearse: He did not say that.

A. I do not know whether they did or not.

Q. Had any of them met your wife before? A. One of them had, yes.

Q. Well, you finally got away from your wife? A. Yes.

Q. And you went to your brother's home? A. Yes.

Q. How long did you remain there? A. About an hour and a half.

Q. What did you do after that? A. Went back home.

Q. Did you speak to your wife as soon as you came in the house? A. No.

Q. What did you do? A. Just walked home and went to bed.

Q. Did you see her the next morning? A. Yes.

Q. Did you sleep together that night? A. No.

Q. Where did you sleep? A. In my room.

Q. Where did she sleep? A. In her room.

Q. Prior to your leaving had you been sleeping together? A. Yes.

Q. You did not tell her anything that you were not going to sleep with her that night, or anything like that, did you? A. No.

Q. Did you speak to her the next morning? A. Yes.

Q. What did you say to her the next morning? A. I don't remember.

Q. Didn't you say, "What is the matter with you; you hit me over the head with a club and you made a scene on the street?" Did you say anything like that? A. No.

Q. Didn't you say a word? A. No.

Q. Did you have any marks on you? A. No.

Q. How big was this object that this woman had? A. I should think about eighteen inches or so.

Q. Do you know whether it was wood, iron or wood? A. It probably was a limb of a tree, or something like that.

Q. When did you speak to her again? A. During the course of the day.

Q. What did you say to her and what did she say to you? A. Nothing exceptional that would be remembered.

Q. You didn't speak about this trouble at all? A. No.

Q. You did not tell her, "Where do you get these ideas of my going out with women?" You did not say anything like that, did you? A. No.

Q. Now, things went along all right until when? A. Well, there was continuous nagging.

Q. What happened; what did she do and say to you that caused this nagging? A. Accusing me of running around with women, for one thing.

Q. When was the first time after this quarrel that you had that she accused you of running out with a woman? A. Almost every day.

Q. I am talking about after this quarrel, when was the first time after this quarrel? A. Probably two or three days after.

Q. What did she say? A. Just simply accused me of running around.

Q. With whom? A. With women.

Q. Did she mention the women? A. No.

Q. Didn't you ask her who the women were? A. No.

Q. Notwithstanding she was accusing you continuously, you never asked her who the woman was? A. Yes.

Q. Do you remember telling us last week that she was accusing you every time; did you say that last week also? A. What?

Q. That she was accusing you of going around with women all the time? A. Yes.

Q. What happened that Thanksgiving Eve of 1928? A. I was getting dressed, ready to go out.

Q. You told her you were going out on a business trip, didn't you? A. Yes.

Q. Who was living home at the time? A. My son, my wife and I.

Q. You said you were going out on a business trip? A. Yes.

Q. To where? A. New York.

Q. Who were you going to meet? A. A customer.

Q. What is the name of the customer? A. I cannot tell you.

Q. Where were you going to meet this customer? A. In New York City.

Q. I know, but New York City is a big place; where in New York? A. I do not remember the address.

Q. This was only Thanksgiving of 1928? A. Yes.

Q. Was it in a hotel or where? A. In a home.

Q. You cannot give us any idea where this place was? A. No.

Q. What was the business about? A. About purchasing a home.

Q. Where? A. In Metuchen.

Q. Had you met this person before? A. No.

Q. How do you know who you were going to see? A. I had a letter.

Q. From whom? A. From this party.

Q. Have you got the letter? A. No, sir.

Q. Where had the letter been sent to? A. To the office.

Q. From where? A. From New York.

Q. That is the best you can tell us? A. That is the best I can tell you, yes.

Q. And your wife told you that you were going out with a woman on this occasion? A. My told me that I was not leaving the house until I gave her $20,000.

Mr. De Sevo: I move to strike that out as not responsive.

(Question and answer repeated.)

The Advisory Master: Strike it out.

Q. Didn't your wife say that you were going out with a woman rather than on business, on this occasion? A. She may have said that.

Q. Did she say it? A. I do not remember whether she did or not.

Q. As a matter of fact didn't you testify last week that she did say that you were not going out on business, but you were going out with a woman; do you remember testifying like that last week? A. I don't remember.

Q. Have you a bad memory? A. Well, hardly.

Q. She never mentioned a woman then, is that it? A. Not at that particular time.

Q. What happened then according to your version of it?

Mr. Pearse: I do not think that is a proper question.

The Advisory Master: What happened when?

Mr. De Sevo: On the evening of Thanksgiving Eve of 1928.

The Advisory Master: As you recall it, that is what you mean?

Mr. De Sevo: Yes.

Q. What do you claim happened on this occa-

sion when you had packed up to go to New York on a business trip to see a—

Mr. Pearse: I object to the form of the question, what do you claim? This witness is here to tell the truth about the facts as he understands them and recalls them. It is not what he claims; it is what was said or not said.

The Advisory Master: Suppose you say what was said and done.

Mr. De Sevo: I withdraw the question.

Q. Will you now tell us what happened on Thanksgiving Eve of 1928? A. I was dressing in my room, getting ready to go to New York on a business trip. My wife came up in the room, very much excited.

Q. You had not said anything to her at all before she came up, is that right? A. That is right.

Q. You did not tell her you were going to New York on the business trip? A. No.

Q. Although you were packing up, ready to go? A. I was not packing anything.

Q. What were you doing? A. Dressing.

Q. Well, while you were dressing she came upstairs, and what did she say to you? A. She asked me where I was going.

Q. What did you say? A. I told her I was going to New York on business.

Q. What did she say to you? A. She said I was not going out.

Q. Where did she say you were going? A. She said I was not leaving the house until I paid her $20,000.

The Advisory Master: What time was that?

The Witness: That was around half past four in the evening.

Q. What else did she say? A. She got very much excited and went down to the kitchen and got a knife.

Q. Did you tell her then, "I have to go on this business trip and it means a lot of money to me"? A. I did not mention anything about money.

Q. Did you mention to her that you had to meet a man in New York relative to some business? A. I told her I was going to New York on a business trip.

Q. When she went down, what did she do when she went downstairs? A. She came up again with a knife.

Q. What did she say to you? A. She started to attack me and demand—

Q. Did she attack you? A. No.

Q. All right, what did she do? A. She threatened to attack me, and she made an attempt, but I resisted.

Q. What did she do, did she make a move with the knife, or what? A. Yes.

Q. How did she make the move? A. Just as you did then.

Q. And she did not hit you? A. Well, I would not allow it. I held her hands.

Q. Did you take it away from her? A. No.

Q. While you were holding her hands, what happened? A. Then she got away from me and ran downstairs.

Q. What did she do when she ran downstairs? A. The next I saw her she was out in the driveway cutting away at the automobile tires.

Q. You ran after her? A. No, sir .

Q. Was the son in the house then? A. No.

Q. Will you deny that your wife did not say to you that you are not going on a business trip, but you are going out with a woman? A. No.

Q. She never said anything of the kind? A. I don't remember.

Q. She may have said that, is that right? A. She may have, yes.

Q. And you do not hemember testifying last week that she did say such a thing? A. No, I do not remember.

Q. Did she succeed in cutting the tire? A. No.

Q. I thought you said a little while ago that she did cut the tire to pieces? A. She proceeded to cut the tires, I said, I believe.

Q. And who stopped her? A. My son.

Q. Where was your son at the time? A. In the garage.

Q. What else did she do? A. My son held her.

Q. What else did she do, I said. A. That is all she did do.

Q. Is that the first time she mentioned about $20,000? A. No, sir.

Q. What time prior to this had she mentioned $20,000 to you? A. One time soon after we lived in the house.

Q. When was that? A. Somewhere in November.

Q. This was in November too? A. Yes.

Q. How soon prior to this November? A. I could not exactly state the time.

Q. Did you tell us that last week? A. There were several demands made for money.

Q. In November? A. Yes.

Q. Why did she want this $20,000; did you ever ask her? A. No.

Q. Where did you go after this affair? A. I went to my brother's.

Q. Didn't you run for a policeman? A. I went down to police headquarters.

Q. Before you went to your brother's? A. Oh, yes.

Q. What did you mean before when you said you went to your brothers then? A. I thought you had reference to the termination of the scene.

Q. Did you get a policeman? A. Yes.

Q. Who was the policeman? A. Officer Frohm.

Q. Is that the fellow that testified last week? A. I believe he testified.

Q. What did you do with the policeman? A. I brought him to the house.

Q. Did you tell the policeman then that your wife was crazy cutting up your tires? A. I did not say my wife was crazy.

Q. What did you tell him? A. I told the policeman that my wife was struggling with my son and I was afraid my son was going to be hurt, and I needed some protection for the house.

Q. As a matter of fact, wasn't the only struggling with— A. Who?

Q. Your wife. A. When I left for the policeman she was struggling with my son.

Q. Didn't you tell him she tried to strike you with the knife? A. Yes; I told you that.

Q. And did you then tell the policeman to arrest your wife? A. No.

Q. You asked your son to have her arrested, didn't you? A. No.

Q. You did not do anything of the kind? A. No.

Q. What did you bring the policeman there for? A. To protect my son.

The Advisory Master: What was the danger to your son?

The Witness: My wife still had the knife and my son took her away from the car and had her pinned up against the foundation of the house, and my wife was kicking and fighting with him; and I thought the situation was dangerous. So I went for a policeman to have her quieted.

The Advisory Master: Did you think your wife was going to use the knife on your son?

The Witness: It looked so to me, your Honor.

Q. Well, watching the dangerous condition that your son was in, why didn't you go to his assistance? A. I did go to his assistance by getting a policeman.

Q. Oh, you went for a policeman rather than going and helping your son take the knife away, is that right? A. Yes.

Q. What was this dangerous condition that your son was in; did you see the knife in your wife's hand over your son? A. Not over him, no.

Q. Describe the condition they were both in. A. My wife had the knife in her hand and my son had hold of her wrist.

Q. What was one saying to the other? A. There was not anything said.

Q. How long did your son hold your wife's wrist? A. I do not know.

Q. How long did you remain there? A. I did not remain at all; as soon as I saw the sight I went for the policeman.

The Advisory Master: What kind of a knife was this?

The Witness: A carving knife I took it to be, sir, or meat knife.

The Advisory Master: Couldn't you with the assistance of your son have relieved your wife of the knife?

The Witness: We probably could have.

The Advisory Master: Without going for the policeman?

The Witness: Probably could have.

The Advisory Master: You did not attempt that?

The Witness: It did not occur to me, sir.

Q. As a matter of fact you always ran out for a policeman? A. I did two or three times.

Mr. Pearse: I object.

The Advisory Master: Let it stand.

Q. When you came back with the policeman did you say anything to the policeman about your wife? A. No, I did not say anything.

Q. Did the policeman say anything to you about bringing him on there on a fool's errand? A. He wanted to know what the trouble was.

Q. You had already told the policeman what the trouble was? A. I told him what the trouble was.

Q. All right; why did he want to ask again? A. I don't know.

Q. Did the policeman say anything to your wife? A. Yes.

Q. What did he say? A. He asked her what she was doing.

Q. What did she say? A. And she told him

that she was cutting up the automobile tires to prevent me from going.

Q. To New York? A. Yes.

Q. Didn't she also tell the policeman that the reason she wanted to prevent you from going to New York was because you were going out with some woman? A. No.

Q. She just wanted to prevent you from going to New York? A. Yes.

Q. Didn't she say anything about $20,000 to the policeman? A. No.

Q. How long did the policeman remain then? A. About three or four minutes.

Q. What did the policeman say after—anything after your wife had said she wanted to prevent you from going? A. Yes, he told my wife that running around with a knife in her hand was not being done in Metuchen.

Q. What did the wife say to that? A. I do not know what she answered to that.

Q. You do not remember that, do you? A. No.

Q. Well, the policeman left, is that right? A. Yes.

Q. Where did you go? A. I went to my brother's.

Q. Did you go to your brother's—why did you go to your brother's? A. Because I was nervous and upset.

Q. About what? A. About the scenes that had taken place.

Q. How long were you away?

The Advisory Master: You did not think your wife was going to use this knife on either you or your son, did you?

The Witness: Well, I am not in a position to tell you just what I did think. I was in

a highly nervous state, and the woman was in such a condition that I figured most anything could happen, and for that reason I got the protection of the police.

The Advisory Master: Well, you saw her trying to use the knife on the tire, did you?

The Witness: Yes.

The Advisory Master: She never made any attempt to use the knife on you or your son?

The Witness: She did when she came up first with it, but I restrained her.

The Advisory Master: How did you restrain her?

The Witness: By holding her hands.

The Advisory Master: Why didn't you take the knife out of her hands?

The Witness: I could not get it. She recoiled away from me and ran downstairs.

The Advisory Master: Didn't you think that you and your son could take the knife from her?

The Witness: I did not give it a thought, sir.

The Advisory Master: What did you tell the police?

The Witness: I told the police at headquarters that my wife was attacking my son with a knife. She was out about the grounds and would they please come up and take care of the situation.

The Advisory Master: Did you at that time believe that she was attacking your son with the knife?

The Witness: I did not believe that she was attacking him, but I had fear that she might hurt him in some way.

Q. Your son and your wife were always on good terms, weren't they? A. I believe so.

Q. Don't tell us you believe. Did you ever hear them quarreling at any time? A. Yes.

Q. When? A. Sometime during the time we lived in Metuchen together.

Q. When was that, mention the first time. A. I cannot do it.

Q. As a matter of fact you never saw them quarrel? A. Yes.

Q. What was the quarrel about? A. Oh, trivial things.

Q. Well, for instance, what was it, give us an idea. A. About leaving the lights lit and not eating certain things.

Q. And you call that quarreling? A. Well, it is quarreling.

Q. As a matter of fact, isn't that a motherly quarrel that she wanted him to eat things that were good for him? A. I do not know what kind of a quarrel you would call it, I call it a quarrel.

Q. Was that the same category of quarrels she was having with you? A. You have asked me about the quarrel she has had with me, and I have answered you.

The Advisory Master: Was that anything more than the discussion that usually happens in families, between the children and their parents?

The Witness: Perhaps you can put it that way.

Q. You abandoned the trip, didn't you? A. Yes.

Q. Why did you do that? A. I was too ill to continue.

Q. Did you see that man again after that? A. No, sir, I never saw the man.

Q. Did you ever communicate with him and tell him why you could not get there? A. I did not.

Q. As a matter of fact, you did not have any appointment with anybody that night, did you? A. I had a letter to follow up, sir; that is what we call it in our business.

Q. Have you got that letter? A. No.

Q. Didn't you think it was queer that you should leave your wife and boy on Thanksgiving Eve to go to New York; don't you think it was your place to be home on Thanksgiving Eve? A. Why?

Q. Don't ask me; I am asking you. A. No.

Q. You did not think so? A. No.

Q. You did not think enough about your wife to let your business go until after the holiday? A. I would not put it that way.

Q. How would you put it? A. I attend to my business.

Q. Your business comes before your wife? A. My business comes before my wife.

Q. You came back, you say, four days later? A. About that.

Q. Did you come back on your own initiative or did she come back after you? A. No, I believe I went back.

Q. On your own initiative? A. Yes.

Q. You were not afraid when you went back? A. No, I had rested up.

Q. You had no fear whatsoever from your wife? A. Not when I went back.

Q. What happened after you went back, did you

have another fight, quarrel or whatever you might call it? A. Yes.

Q. What was that about? A. About money.

By the Advisory Master:

Q. Where did you stay while you were away those four days? A. At my brother's home.

Q. Where? A. On Lincoln Avenue, in Metuchen.

Q. Then you did not go to New York? A. No.

Q. On any business? A. No.

Q. You stayed right at home there in the neighborhood, I mean? A. Yes.

Q. Why didn't you stay home Thanksgiving Day? A. I was too nervous and ill, sir.

Q. Did you find it necessary to remain away four days, without going back to the home? A. I felt that way.

Q. Was it that you feared to go home? A. Yes.

Q. What was your fear about? A. The fear of further abuse.

Q. Did you tell your wife and family that you were going to live with your brother for four days? A. No, sir.

Q. That you were going to live there? A. No.

Q. You did not tell them where you were going? A. No.

Q. Why didn't you? A. I do not know why I did not.

Q. Was your brother on good terms with your family? A. I believe so.

Q. How far away was your brothers' home from your home? A. About three blocks.

Cross-examination by Mr. De Sevo: (resumed.)

Q. You say that you were in fear of your wife

during these three or four days? A. Yes.

Q. And yet you came back without having any fear whatsoever, is that right? A. Yes.

Q. You did not make any attempt to see if there was anything for your wife and your son to eat during these four days? A. No.

(Question and answer repeated.)

Q. The answer was, "No", is that right? A. Yes.

Q. When you came back on the fourth or fifth day, as the case might be, did you say anything to your wife, did you say, "Now, we are going to start this trouble all over again", or anything like that? A. No.

Q. Didn't say a word? A. No.

Q. As soon as you came in, where did you go? A. I went to my room.

Q. Where was your wife at the time? A. In the house.

Q. When did you first speak to her after coming back, upon this occasion; how soon after you had come in the house? A. About a week or so.

Q. For one whole week you did not speak to your wife? A. Yes.

Q. Why didn't you speak to your wife? A. There was not any occasion to.

Q. You do not think enough about your wife to speak to her for one whole week? A. I don't know—if you put it that way.

By the Advisory Master:

Q. Did you occupy the same room during that week? A. No.

Q. Adjoining rooms? A. No, sir, across the hall.

George L. Dinnebeil—Cross.

Q. Well, the doors were practically open, weren't they? A. Yes.

Q. Did you eat together at the same table? A. No.

Q. You had your meals at home? A. I prepared my own food and took care of my own room.

Q. Why didn't you ask her to prepare the meals for you? A. She had promised to put poison in my food.

Q. Did she ever attempt it? A. I do not know, sir.

Q. You never had any indication, did you, that she poisoned the food? A. No, sir.

Cross-examination by Mr. De Sevo: (*Resumed.*)

Q. You say that she promised to poison your food? A. Yes.

Q. And is that one of your allegations of cruelty towards you? A. I do not know what you would call it.

Q. Did you ever tell your lawyer that your wife tried to poison your food? A. My who?

Q. Your lawyer; did you ever tell your lawyer that? A. I believe I did.

Q. Do you remember reading the counterclaim that was filed in this case by you, asking for a divorce on the grounds of extreme cruelty? A. Yes.

Q. Did you have in your counterclaim that your wife tried to poison you? A. No.

Q. You did not think that was cruelty, did you, to poison you? A. I do not know what is defined as cruelty in the eyes of the law, sir.

Q. Do you think it is cruel to poison a person?

Mr. Pearse: I submit that that is not a proper question and is argumentative.

Mr. De Sevo: I think it is. Here is a man that makes such a grave accusation against the wife, and not in the counterclaim is any mention of it whatsoever.

(Question repeated.)

The Advisory Master: I will allow it.

A. Yes, I think so.

Q. When you read that counterclaim, before you signed it, why didn't you tell your lawyer, "Why, you left out of there the fact that she tried to poison me." A. I left that matter in the hands of my attorney.

Q. You knew it was not in there though, didn't you? A. It did not occur to me that it was not in there.

Q. As a matter of fact, there was never an attempt made by your wife to poison you, was there? A. Not that I know of.

Q. And she never said that she would poison you? A. She did say so.

Q. When was the first time she said that? A. I could not tell you.

Q. Give us an idea. A. It was some time during the time we lived on High Street. The time was very short, anyway.

Q. Was it near Christmas, before Christmas or after Christmas? A. It was around Christmas, probably between Christmas and Thanksgiving.

Q. What was the occasion of it? A. I could not say that.

Q. You could not give us any idea how it came up? A. No.

Q. After she had said that she was going to

poison your food, did she prepare your food after that? A. I do not know whether she did or not.

Q. Oh yes you do; you know whether— A. I prepared my own food.

Q. Did you prepare your own food because she said she was going to poison you? A. Yes.

Q. Oh, you did? A. Yes.

The Advisory Master: How long did you continue to prepare your own food?

The Witness: For about a month.

The Advisory Master: Why did you stop then?

The Witness: Because she promised that she was going to be different.

The Advisory Master: Did you believe her?

The Witness: Yes.

The Advisory Master: How long did you live with her after that?

The Witness: Until April, the early part of April.

The Advisory Master: Of what year?

The Witness: 1929.

The Advisory Master: How long was that after she began to prepare the food for you?

The Witness: That was about three and a half months.

The Advisory Master: You lost all fear then that she would poison you?

The Witness: Yes.

Q. After she told you that she was going to poison your food, for how long a period was it that you prepared your own food? A. About four weeks.

Q. And the reason you did that you claim was

because you were afraid that she might poison the food? A. Yes.

By the Advisory Master:

Q. What change came over her in the meantime that induced you to believe that she lost that poisonous disposition? A. I received a letter from her stating that she was going to be a good wife and take care of my needs, if I would come back to live with her.

Q. And you were living with her at the time, weren't you? A. Yes; I was taking care of myself, but there had been a time when I did go away from the house entirely, when she wrote me this letter to come back.

Q. Did you come back? A. Yes.

Q. How long did you remain then? A. From about the first of February to April.

Q. Why did you remain so short a time? A. We quarreled, and I was forced to leave the house in about April.

Q. You quarreled about what? A. About my wife accusing me falsely of doing things that I am not guilty of.

Q. What were they? A. Running around with women primarily.

Q. Anything else? A. And demanding moneys that I could not give her.

Q. Anything else? A. Those are the principal things.

By Mr. De Sevo:

Q. Do you remember the Christmas of 1928? A. Yes.

Q. You were packing your clothes on this occasion? A. No, sir, I do not believe I was.

Q. Did you or did you not pack your clothes on that occasion? A. No.

Q. Didn't you tell her then that you were going away for a period of two weeks? A. No.

Q. Did you go away for two weeks? A. I did.

Q. You did not tell her you were going away? A. No.

By the Advisory Master:

Q. Why didn't you tell her? A. Because we quarreled and I went away at the end of the quarrel.

Q. Well, did you always go away when you had a quarrel with your wife? A. Yes.

Q. Why didn't you do that instead of trying to make it up? A. You could not make anything up with my wife, your Honor.

Q. Why? A. She would not listen to reason.

Q. Was there anything abnormal about her then from the time you married her? A. Not that I could see.

Q. How long had you been keeping company with her? A. About two years period.

Q. During that time did you have ample time to form an opinion as to her normality? A. Yes.

Q. Did you realize then that she was normal? A. Yes.

Q. You saw nothing abnormal in her? A. Nothing abnormal in her, no, sir.

Q. Do you think she is abnormal today? A. I think so.

Q. In what respect? A. Well, I believe she is sane of mind and healthy of body.

Q. She is jealous of you though, isn't she? A. I do not know whether it is jealousy.

Q. Well, most women are, aren't they, in your

experience? A. Yes, most women are.

Q. That is because they love their husbands intensely, I suppose? A. I could not say, sir.

Q. On the stand here the other day she said she loved you, didn't she? A. Yes.

Q. Do you believe her? A. No.

Q. You do not? A. No.

Q. Do you love her? A. Yes.

Q. Would you go back and live with her now? A. No.

Q. Why? A. I have had enough experience, and my health would not permit it.

Q. She is a good woman every other way, except the jealous disposition? A. Yes.

Q. She brought your children up properly? A. Very nicely, sir.

Q. You have no fault to find with them? A. No.

Q. They seem to be attached to her? A. Yes.

Q. How do you account for that, that she is so abnormal in that one respect? A. I could not answer that.

By Mr. De Sevo:

Q. If you claim that she accused you of going out with so many women, did you ever ask her to name one woman that you were going out with? A. No.

Q. Did you ever say to her, "I think you are crazy; I do not go out with any women; if you tell me who I go out with, I will go out and bring you to her"; did you ever say anything like that? A. No.

Q. You never made any inquiries whatsoever as to the foundation of her accusations against you? A. No.

Q. You say you still love her and won't go back and live with her? A. Yes.

Q. How can you justify that? A. What do you mean by that?

Q. How can you love a woman and not being able to go back and live with her? A. I do not know how to answer that, sir.

Q. Let us get down to this Christmas event: You had a quarrel on Christmas Eve, was it, or around Christmas? A. About December 22nd.

Q. What happened on that occasion? A. My wife accused me as usual.

Q. What did she accuse you of? A. About going out with women.

Q. Did you ask her who this woman was? A. No.

By the Advisory Master:

Q. When you packed up and went out on these occasions, did you tell your wife where you were going? A. No.

Q. Why didn't you? A. I was so excited and upset, sir, that I said nothing.

Q. Didn't you confide in your wife? A. No.

Q. Most husbands tell their wives even their private affairs. Why didn't you? A. I had no affairs to confide to her.

Q. When you were going away for three or four days and leaving your home and your family behind, didn't they need to know where you were going? A. I did not leave the house with the intent of staying away. It was my condition that made me stay away, after I got over the quarrel. I did not know how long I would be away.

Q. Did you tell her where you were going? A. No.

Q. You could not talk to her. A. No one could.

Q. Did you tell your son where you were going? A. My son was not in the house; my son left.

Q. Did you tell your daughter where you were going? A. My daughter did not live in the home.

Q. Didn't you think that the family was entitled to know where you were going in case anything might happen to you? A. They knew where I could be found.

Q. How did they know that? A. Up to my brother's.

Q. Did they know you were going to your brother's every time you went away for a few days? A. My brother would notify them.

Q. Why didn't you? A. I was too sick.

Q. Didn't you tell your wife where you were going? A. I had no intentions of staying out when I left. I merely wanted to get away from the house and the presence of my house, so that I could get my senses together and my nerves quieted down.

Q. All this time you were doing business as a builder? A. I was working at the business, yes.

Q. And you were in contact with women all the time in doing business in that line? A. Yes.

Q. And your nerves never deserted you there, did they? A. Very often.

Q. You could not carry on a conversation in regard to business? A. Very often there were days when I was unable to do anything.

Q. What did you do then, stay home? A. I went to bed.

Q. In your own house? A. Yes.

Q. Did your wife look after you? A. Yes.

Q. Didn't she treat you? A. No.

Q. Didn't she make the meals for you? A. No.

Q. She did nothing for you while you were home sick in bed? A. No.

Q. How long were you sick in bed? A. Only days at a time. It would be a day or half a day or—

Q. Didn't somebody attend you during that period? A. Once I attended to myself.

Q. Oh, but you said you were in bed. A. Yes.

Q. How did you attend to yourself, how did you get your meals? A. I did not eat.

Q. Did you have a Doctor? A. Not constantly, no.

Q. Why didn't you send for your wife and ask her to look after your needs at that time when you were sick—that is what women do with their husbands. Well, never mind; go ahead.

Q. I understand you had this quarrel on December 22nd? A. Yes.

Q. And you claim it was about the same old thing, about your going out with a woman? A. Yes.

Q. What did she do; did she say anything to you other than saying you were going out with another woman? A. She got excited and demanded money.

Q. Every time she accused you of going out with a woman, she wanted money, is that right? A. Yes.

Q. Did you tell us last week that on the occasion of the quarrel around Christmas, that she demanded money then? A. I do not remember whether I told you last week or not.

Q. There is nothing wrong with your memory, is there? A. Not that I know of.

Q. Did you leave her on this occasion? A. Yes.

Q. Where did you go? A. I went to my brother's house.

Q. How long did you remain there? A. About four weeks.

Q. You did not come back for Christmas, did you? A. No.

Q. Nor did you come back for New Years? A. No.

Q. You did not send her a Christmas present? A. No.

Q. Nor did you send one to your son? A. Yes.

Q. What did you send him? A. I do not remember.

Q. Oh, you ought to remember; this is only about a year ago; do you mean to tell me Christmas is so uneventful to you that you cannot remember what you sent to your own son? A. I do not really remember what I did give him.

Q. Did you send a card to your wife, a Christmas card? A. No.

Q. You did not go near her to give her any Christmas greetings? A. No.

Q. You do not know whether she had anything to eat on Christmas, do you? A. Yes.

Q. How did you know? A. I sent her money.

Q. When did you send her money? A. Every week.

Q. You mean while you were away, no matter where you went, you would send her money? A. Yes.

Q. How much did you send her? A. $15.

Q. Did you send her $15 Christmas, 1928? A. I believe so.

Q. Did you send it? A. The checks are there.

Q. I don't care about the checks. I am asking you if you remember sending $15 then.

Mr. Pearse: Well, here are the checks.

A. I do not remember.

Q. You think $15 was enough to take care of your son and wife over the Christmas holidays, do you? A. Yes.

Q. You remained at your brother's house during this entire period? A. Yes.

Q. Did you ever go back and see your wife, to see if she was sick, crippled or anything the matter with her? A. I would go occasionally.

Q. Would you speak to her? A. No.

Q. How did you come to go back in January? A. I received a letter.

Q. From whom? A. From my wife.

Q. Did you tell her to send this letter? A. Yes.

Q. Why did you tell her to send this letter? A. She wanted me to come back and live with her.

Q. In fact, she wanted you to live with her all the time, didn't she? A. I don't know.

Q. You do not? A. It don't seem so.

Q. Has she ever refused to live with you at any time? A. She has made it practically impossible for me to live with her.

Mr. Pearse: I move to strike that out.

The Advisory Master: Strike it out.

Q. Has she ever refused to live with you at anytime? A. No.

Q. Now, when you came back, what did you say to your wife—oh, you said you got a letter. What was this letter about?

Mr. Pearse: We have the letter.

The Advisory Master: Isn't that the letter that was produced here last week, the same letter?

Q. Is that the letter you are referring to? A. That is one of them.

Q. Is that the letter you are referring to? A. Yes.

Q. It is not the other letter, is it?

Mr. Pearse: Well, do you want this letter?

Q. Wait a minute, Mr. Pearse; I want to get this man pinned down to something.

Mr. Pearse: The Judge asked you the question.

Q. Are you sure that is the letter that was sent to you the time that you were away over the Christmas holidays, is this the letter? A. Yes.

Q. Do you remember the date it was sent? A. No.

By the Advisory Master:

Q. Where were you living when it was sent? A. I was living at my brother's house.

Q. In Meuchen? A. Yes.

Q. Three blocks away from your home? A. Yes.

Q. Why did you want your wife to write a letter from her home to your home at your brother's, where you were staying at your brother's, just three blocks away? A. My wife and I talked about my coming back, and I told her that I would not come back unless she promised me to desist in the future from the abuses that she had showered upon me from time to time almost continuously, and that I wanted her to put that in writing, so that when she felt herself losing control that she could take that letter and read it, and thereby not to commit those acts again.

Q. Did you dictate the letter? A. I dictated the letter.

Q. She wrote it as you dictated it? A. No, sir; she said that I should write the letter and she would sign it.

Q. So you wrote the letter yourself? A. I wrote the letter myself.

Q. Where did you write it? A. In the office.

Q. In your own office? A. Yes.

Q. And she was not there then? A. No.

Q. And you brought the letter back to her? A. Yes.

Q. Did you read it to her or did she read it? A. She read it and I gave her a copy of it.

Q. And she signed it? A. She signed it.

Q. After that did you live together? A. Yes.

Q. How long? A. Until April.

Q. What is the date of the letter?

Mr. De Sevo: There are two letters. I want to examine him on this, if your Honor pleases.

The Advisory Master: Go ahead.

Cross-examination by Mr. De Sevo: (Resumed.)

Q. Which letter did you receive first, do you remember? A. Yes.

Q. Which one, the typewritten letter? A. No.

Q. The other letter? A. Yes

Q. When his Honor was examining you, which one were you talking about, the typewritten letter or the letter in my hands? A. The typewritten letter.

Q. You had received another letter before that, hadn't you? A. Before the typewritten letter, yes.

Q. You told her to write that letter too, didn't you? A. Yes.

Q. Did she tell you she did not know how to write a letter and she wanted you to tell her what to write? A. Yes.

Q. What did you tell her what to write? A. I told her to write and promise not to continue the abuses that she had previously committed.

Q. And she put that in the letter? A. She was supposed to have put it in the letter.

Q. Did she put it in the letter? A. No, sir, it was not satisfactory.

Q. It was not satisfactory to you? A. No.

Q. Why didn't you tell her it was not satisfactory to you? A. I did tell her.

Q. Did you tell her to write another letter? A. Yes.

Q. Did she write it? A. No.

Q. Why didn't she? A. She said I should write it and she would sign it.

Q. Then you typed up this other beautiful letter here? A. Yes.

Q. That is the letter you refer to as the first letter? A. That is the first letter.

Q. Was there any object in your having a letter from your wife which you dictated; was there any joy in having a letter like that? A. Not so much joy for me as a guide for her.

Q. Do you see anything in that letter which states that she is going to do such and such a thing and such and such a thing?

Mr. Pearse: I think the letter speaks for itself, and I object to the question.

Q. I am talking about your first letter—I won't

press it—when did you say you went back? A. Sometime in February, I believe.

Q. What happened when you came back; did you greet her? A. Yes.

Q. Did you ask her how she got along while you were away? A. Yes.

Q. You did ask her that? A. Yes.

Q. You were not afraid when you came back, were you? A. No.

Q. What happened in February, anything? A. We had a quarrel about the 9th of February.

Q. That was your wife's birthday, was it? A. Yes.

Q. Did you give her a gift on that day? A. No, I did not get a chance.

Q. You did not get a chance? A. No.

Q. You knew that the 9th day of February was your wife's birthday? A. Yes.

Q. And you had the quarrel on February 9th? A. February 8th.

Q. You had not had a quarrel prior to February 8th, had you? A. Not in February, no.

Q. Nothing which would have prevented you from buying her a birthday present prior to the 8th, happened? A. No.

Q. And the quarrel took place on the 8th? A. Yes.

Q. What was this quarrel which prevented you from making a birthday present to your wife?

Mr. Pearse: I object. The witness has already testified that he got a birthday present for his wife, the flowers; that is his testimony.

Mr. De Sevo: He just now testified that he was prevented from—

The Witness: Giving you said, sir.

Q. All right, I will take it back. I will apologize if I made a mistake. All right, what happened on this birthday party. A. There was no party.

Mr. Pearse: He was not there, he already testified.

Q. What happened which caused you not to go there, is what I am trying to find out; what quarrel did you have which prevented you from going? A. Going where?

The Advisory Master: To the birthday party.

Mr. Pearse: Nobody said anything about a birthday party, your Honor.

Q. Wasn't there a birthday party at your wife's house? A. Not that I know of.

Q. There was no birthday party at all? A. Not to my knowledge.

Q. You remember telephoning to your children on this occasion? A. I remember telephoning the children, yes.

Q. And didn't you tell them that you could not come because you could not live with their mother? A. No, I did not say that.

Q. What did you telephone there for? A. I telephoned to talk to my daughter.

Q. How did you know that your daughter was going to be there? A. My wife had told me before.

Q. What had she told you? A. That my daughter was going to be there with her husband.

Q. For what? A. On her birthday.

Q. Did she say they were going to have a party? A. No.

Q. What did she say about it, anything? A. Going to visit her.

Q. Just on a visit? A. Yes.

Q. Did they say they were going to have drinks and cakes and stuff like that? A. No.

Q. All right, what happened to prevent you from going there? A. I had a quarrel with my wife the night before.

Q. I know, you told us about that. Let us know what this quarrel was about. A. I had been out that evening and came home.

Q. Where had you been? A. Out to a card party.

Q. Had you told your wife you were going to this card party? A. Yes.

Q. When you said you were going to a card party what did she say, all right, no objection whatsoever? A. Absolutely none.

Q. All right, you went there, and what time did you get back? A. About half past eleven.

Q. Were your nerves all right at this card party? A. Fine.

Q. There was nothing wrong with you? A Not a thing.

Q. How often did you go to card parties? A, About once a week.

Q. And your health was so that these card parties did not affect you whatsoever? A. No.

Q. In fact, they aided your health, didn't they? A. I should say they would.

Q. All right, when you came back what happened? A. I came back and went to my wife's room and greeted her, and wished her a happy birthday.

George L. Dinnebeil—Cross.

By the Advisory Master:

Q. These parties that you attended, I suppose you attended more than one? A. Card parties?

Q. Yes. A. Yes.

Q. Were they made up of men exclusively? A. Exclusively.

Q. Men and women? A. Just men.

Q. Men only? A. Yes.

Q. Right there in the town? A. No, sir, we usually play in different men's houses.

Q. In the town? A. Not always in Metuchen.

By Mr. De Sevo:

Q. Where, what town? A. One was in my house in Metuchen.

Q. What other town other than in Metuchen? A. One was in Newark.

Q. How often would you go to Newark on these card parties? A. Mostly to Newark.

Q. Did you have any drinks there in Newark at these card parties? A. No.

Q. No drinks whatsoever? A. Yes.

Q. Did you do a lot of smoking there? A. Yes.

Q. Do you smoke? A. Yes.

Q. After greeting your wife, what happened; what did she say to you and what did you say to her—what did she say to you when you greeted her?

Mr. Pearse: Give him a chance.

A. She did not say anything when I wished her a happy birthday.

Q. She did not even say "thanks" or anything like that? A. She may have said it, I don't remember.

Q. What else did she say? A. And I asked her then how old she was at this birthday.

Q. These conversations took place after your children had been there, is that right, or was this before the children had been there? A. This was on the 8th I am testifying to, the night before my wife's birthday.

Q. In other words, you greeted her before the birthday? A. Well, it was about midnight. I got ready for bed.

Q. Yes, and what did she say? A. Yes.

Q. And what did she say? A. And she said that she was one year older than I am.

Q. What did you say? A. I said, well, I was forty-four; and she got real excited about that, and wanted to know how come I was forty-four years old.

Q. And that is the quarrel you had? A. I told her I had a birthday certificate to prove my age.

Q. Is that the quarrel you had? A. I am not finished yet.

Mr. Pearse: Why don't you give him a chance to finish.

A. (Continuing). I told her I had birthday certificates I could show, and she said that my father probably forged them because he would forge anything.

Q. What did you say to her when she said that about your father? A. I told her that my father was an honorable gentleman and that I would not have her slander him in that fashion.

Q. What else did you say to her; did you do anything to her? A. I said no more to her, and left the room.

Q. Left her room, you mean? A. Yes.

Q. Where did you go? A. I went in my own room.

Q. And that is the quarrel that you had which prevented you from attending—that is the quarrel you had which caused you to leave your wife? A. I left the next morning.

Q. As a result of this quarrel? A. As a result of this quarrel.

The Advisory Master: Well, do you call that a quarrel?

The Witness: Well, some folks, your Honor, may not be affected by it, but in my condition when my father is accused of the things and doings as my wife stated that night and supplementing it by declaring that I am a bastard and a son-of-a-bitch, sir, it gets into my skin so I cannot control myself. I stood it for that night, and in the morning I left the house.

The Advisory Master: Do you mean to say she said those things that night?

The Witness: She certainly did, sir. I did not want to bring them out, because—

The Advisory Master: Well, it is your duty to bring them out. It is your case.

The Witness: I don't think it is very pleasant.

Q. Why didn't you tell us before when I asked you to tell us what happened on this occasion? A. For the same reason that I just stated to the Judge.

Q. What is that? A. That I did not like to say it.

Q. Well, did you like it when you just said it half a minute ago? A. No, I did not.

Q. But you said it nevertheless? A. I did.

Q. How long were you away?

Mr. Pearse: Now, which time is this?

Q. The time I am talking about—after this quarrel about the age.

The Advisory Master: After the party.

The Witness: A few days.

Q. You stayed away a few days as a result of this little quarrel? A. Yes.

Q. Did you go back? A. Yes.

Q. She did not ask you to come back? A. No.

Q. You were not afraid of going back, that anything would happen to you? A. No.

Q. You were not afraid she was going to say something else about your folks? A. No.

Q. What did you say to her when you came back? A. I don't remember.

Q. Well, did anything happen? A. No, nothing unusual.

Q. Now, you remember in March of 1929 when you took your wife out for a ride? A. Yes.

Q. You were on very good terms then? A. Splendid day.

Q. I am not talking about the day, I am talking about your relations with your wife; were you on good terms with your wife? A. Yes.

Q. Who suggested riding, you or she? A. I did.

Q. What did you tell her? A. I was going to take her for a ride.

Q. And this was in March, is that right? A. Yes.

Q. From February until March you got along all right, is that it? A. Yes.

Q. Did you go out on this ride? A. Yes.

Q. Did anything happen while you were riding with her? A. No; we talked and pointed out different places of interest.

New Jersey State Library

Q. Then you came home, eh? A. Yes.

Q. What happened when you came home, anything? A. Why, about three or four miles from home my wife suddenly started to bring up the subject of women, accused me of going around with women.

Q. What did you say to her on this particular occasion after going out on a splendid day and after a splendid ride, when she accused you of going out with women, what did you say to her? A. I told her that she should compose herself, that this woman that she was talking about was a highly respectable woman.

Q. Who is this woman? A. Mrs. Frolich by name.

Q. Although you never told us—although I asked you before what woman it was that she was accusing you about, you said she did not know of any woman. A. No, sir, she did not; she did not mention any names.

Q. During my cross-examination I have asked you whether or not any woman's name was mentioned and you said no, is that right?

Mr. Pearse: I submit counsel has never asked any such question.

Mr De Sevo: I am asking the question now.

Mr. Pearse: All right, if you are asking it now—if you are trying to accuse this witness of not telling the truth, that is my—

(Question repeated).

Mr. Pearse: That is not a fact. Counsel is stating something which is not so. He has referred this witness to particular occasions and asked if any woman's name was mentioned, and the witness has said no, no wom-

an's name was mentioned. He has never asked any general question as to whether at any time any woman's name was ever mentioned.

Mr. De Sevo: I withdraw the question.

Q. Have I ever asked you whether or not during all of these quarrels about your going out with a woman, whether or not a name of a woman was ever mentioned?

Mr. Pearse: I submit that is not a fair question.

The Court: That is not a fair question.

Mr. De Sevo: I withdraw the question.

Q. When your wife would accuse you of going out with any woman, did you ever ask her to name the woman? A. No.

Q. Was the name of any woman ever mentioned at any time? A. One time.

Q. When was that? A. On the automobile ride.

Q. That is the only time? A. Yes.

Q. How did she come to mention this name; what did she say to you? A. I do not believe I can tell you word for word just what she said.

Q. Give us an idea what she said in the car. A. She started in to talk about my running around with a woman and I asked her, "Who are you referring to?"

Q. Is this the first time you asked her who she was referring to? A. Yes.

Q. Although she has been accusing you of running around with women from 1906 to 1928, that is the first time? A. Yes.

Q. Did she ever accuse you of running around with Mrs. Edith Hackett? A. No, sir.

Q. All right, and what happened? A. And she mentioned Mrs. Frolich's name.

Q. Who was this Mrs. Frolich? A. How can I describe that?

Q. You don't know the woman? A. I know Mrs. Frolich, yes.

Q. Well, who is she? A. She is Mrs. Frolich, the wife of Mr. William Frolich.

Q. Where does she live? A. She lives in New York.

Q. Did you ever meet her? A. Yes.

Q. How often have you met her? A. Oh, for years.

Q. Yet you don't know who she is?

Mr. Pearse: I object.

A. Oh, I do know who she is.

The Advisory Master: The witness stated who she was the wife of.

Q. Did you ever used to visit her? A. Yes.

Q. How often did you used to visit her? A. Very often.

Q. Once a week, twice a week? A. Once a month.

Q. Did you ever take your wife there? A. No.

Q. Did you ever tell your wife— A. Beg your pardon, counsellor, I was a little confused there. I did take my wife.

Q. Oh, you did; when was that? A. I don't recall the date, but it was on one occasion that my wife paid me a visit to Metuchen before we lived together in Metuchen.

Q. When was that? A. Perhaps my wife can tell you that better than I can.

Q. I am asking you. A. I do not remember just when it was.

Q. How many years ago? A. Sometime in 1927 I should think.

Q. 1927 you took your wife to see this woman? A. Yes.

Q. Did you tell her who this woman was that you had been visiting? A. I introduced my wife to her.

Q. Did you go and see this woman after your wife came back in New York? A. I always saw the family, not particularly the woman.

Q. Did you go after November there? A. Yes.

Q. Did you tell your wife you were going there? A. Maybe I did and maybe I didn't; I don't remember.

Q. That is the best answer you can give us?

Mr. Pearse: I submit that that is a proper answer.

The Advisory Master: He says he does not remember.

Q. How often would you say you went after November of 1928 to see this woman and her folks? A. Once or twice.

Q. You never told your wife you were going there?

Mr. Pearse: I submit he did not say that.

Q. Did you ever tell your wife you were going there? A. No.

Mr. Pearse: I submit that he has already asked that question three times and he has gotten an answer.

Q. Why didn't you tell her you were going there? A. Because I did not know just when I would go.

Q. You would not know just when you would go? A. No.

Q. How long would you remain there? A. Half an hour or an hour.

Q. When you came back did you tell your wife you had been over to see this nice woman, Mrs. Frolich?

Mr. Pearse: I ask—

Mr. De Sevo: I withdraw the word "nice" and say "Mrs. Frolich."

A. I did tell her on occasions I stopped in.

Q. What was that? A. I did tell her when I stopped in to see her.

Q. What did she say, anything? A. Nothing.

Q. When she accused you of running around with this woman, Mrs. Frolich, in this car, what did you say to her? A. I told her that she was a very respectable woman and that she should not talk that way about her.

Q. What else did you say to her? A. I took my wife home.

Q. Did you say, "I will take you over there to prove that nothing goes wrong and to speak to her husband"? A. No.

Q. Did you take your wife home after this quarrel in the car? A. Yes.

Q. Did you have any more quarrels that night over that? A. I went out.

Q. Where did you go? A. I went out riding.

Q. With whom? A. Alone.

Q. Why didn't you take your wife out again? A. I wanted to ease my mind a little bit, I got excited over the discussion.

Q. How long were you away? A. Until eleven o'clock.

Q. Where did you go riding to? A. Along the road to the shore.

Q. You came back about what time, eleven o'clock? A. About eleven.

Q. Had you been drinking? A. No, sir.

Q. You did not take a drink at all during this time you went out? A. No.

Q. When you came back, did you see your wife? A. Yes, sir.

Q. Did you say anything to her? A. No.

Q. Were you all right then when you came back after this ride? A. Yes.

The Advisory Master: You got home at what time?

The Witness: About eleven o'clock.

The Advisory Master: At night?

The Witness: Yes.

The Advisory Master: Was your wife up or in bed?

The Witness: I did not see my wife when I entered the house.

Q. Where was she? A. I do not know where she was.

Q. Did you see her that night? A. I saw her that night.

Q. When did you see her? A. I saw her when she came into my bedroom.

Q. What time was that? A. A few minutes after I came in.

Q. What were you doing at the time? A. I was looking my room over and preparing to go to bed.

Q. What else were you doing, anything? A. No.

Q. What did she do when she came in? A. She came in the room and fired a shot.

Q. Without saying a word to you she fired a shot? A. Yes.

Q. At the time where did you say you were? A. On my bed.

Q. I thought you said you were fixing the bed up.

Mr. Pearse: No, he did not say that. You know he did not say that.

Mr. De Sevo: Oh, I don't think you want to accuse me of things like that.

The Advisory Master: He said he was preparing to go to bed.

Q. Now, you say you were on the bed when she shot? A. Yes.

Q. Was it a bed or couch? A. Couch.

Q. Have you a bed there also? A. No.

Q. So when you said, "bed" you meant couch? A. Yes, couch bed.

Q. Without saying a word, as I understand you, she came in and she shot at you? A. Yes.

Q. You were not hit, were you ? A. No.

Q. How far did the bullet go from you? A. About eight or ten inches.

The Advisory Master: Did she aim at you?

The Witness: I do not know whether she did or not.

Q. Didn't she say a word when she came in? A. No.

Q. She just came in and bang went the gun, is that right? A. Right.

The Advisory Master: Didn't she ask you where you had been?

The Witness: No.

Q. What did you do after she shot? A. Took the gun away from her.

Q. Weren't you afraid to go near her when she had a loaded gun? A. Evidently not.

Q. You were not afraid this time? A. No.

Q. But you were afraid at the time when she was attacking your son, to go near and help him? A. Yes.

The Advisory Master: That was the time of the knife.

Q. Or rather the time of the knife? A. Yes.

Q. How far was she away from you when she shot? A. About three paces.

Q. What did you do, jump up and run after her, or what? A. Yes.

Q. Don't say "yes" because I am saying it. All right, did she run away or did she point the gun at you again, or what? A. No, I took the gun away from her.

Q. Did she try to pull the trigger again? A. She had no chance.

Q. You were too fast for her? A. Yes.

By the Advisory Master:

Q. Was it loaded? A. Yes.

Q. How many charges were in it? A. I don't know.

Q. Was it a revolver? A. A revolver, yes.

Q. Where did she get it, do you know? A. In my trunk.

Q. In your room? A. Yes.

Q. Well, you were in your room at the time, weren't you? A. I was not in the room at the time when she got the gun, no, sir. She had that.

Q. Before you came in? A. Yes.

Q. What did you do with the revolver? A. I put it under the mattress and slept over it.

Q. Did she see you doing that? A. No, sir.

Q. Did you have any talk with her about her conduct upon that occasion, afterwards? A. No, sir.

Q. Why didn't you speak to her about it? A. I went away the next morning.

Q. You did not ask her why she took this revolver? A. No, sir.

Q. And fired the shot? A. No, sir.

Q. Weren't you interested in knowing why she did that? A. I don't believe I was.

Q. You didn't even feel curious to know why she did it? A. No.

By Mr. De Sevo:

Q. I want to get this straight, Mr. Dinnebeil. You claim that she shot you without any conversation whatsoever? A. Yes.

Q. Do you remember filing your answer in this case?

Mr. Pearse: He has already said he did.

Mr. De Sevo: I want to refresh his memory.

Q. Do you remember filing an answer in this case relative to this episode of the gun, in which you said you admit the complainant again quarreled about other women, do you remember that?

Mr. Pearse: Where are you reading from, what page?

Mr. De Sevo: Page four of the answer.

Mr. Pearse: Of the answer or the counterclaim?

Mr. De Sevo: Of the answer.

The Court: He admits what?

Mr. De Sevo: That the complainant again quarreled about other women.

Q. Now, which is it. She did not say anything or was it because she had a quarrel with you about other women. A. Not at that time. I admit that we quarreled about other women when we were on the automobile ride. There was not anything said after I came back into the house.

Q. All right, where did she get this gun? A. Out of my trunk.

Q. Was the trunk locked? A. Yes.

Q. How did she get in there? A. She found keys in my hand bag, and opened it.

Q. Whose hand bag was that? A. My hand bag.

Q. Where was this hand bag? A. In my room.

Q. And you found it open, the trunk? A. I found the trunk open and the hand bag open and my belongings scattered about the room.

Q. You did not try to have her arrested on this occasion? A. No.

The Advisory Master: Did you make any complaint to her about the condition of your room and your hand bag and trunk when you came in? A. No.

Q. Did you leave the next day? A. Yes.

Q. Weren't you afraid during that night something would happen to you? A. Not during that night, sir.

Q. All right, where did you go? A. I went to my brother's house.

Q. And how long were you at your brother's house? A. A few days.

Q. Why did you go to your brother's house? A. To rest up.

Q. Did you have a rest during that entire night? A. No.

Q. You came back, didn't you, again? A. Yes.

Q. Were you afraid at that time when you came back? A. No.

Q. What happened on this occasion, anything? A. We had a—

Mr. Pearse: That is not proper cross-examination, what happened after this occasion. Are you cross-examining him on any particular occasion? He is not your witness; he is mine.

The Advisory Master: He is referring to the time that he left the house.

Q. That is the time I am talking about. What happened after the time you came back, anything? A. No.

Q. Until when? A. About the middle of March.

Q. What happened about the middle of March? A. Another quarrel.

Q. About what? A. About women and money.

Q. Did she mention the name of any woman? A. No.

Q. Did you ask her who was the woman you were going out with? A. No.

Q. Did you ever make any attempt to disabuse her mind that you were going out with any women? A. Just on that one occasion that I spoke of previously.

Q. Did you leave again in the middle of March? A. Yes.

Q. Where did you go? A. To my brother's house.

Q. How long did you remain at your brother's house? A. I do not remember, exactly.

Q. You finally left, I understand, on April 6th, 1929? A. Yes.

Q. Did you tell her on that occasion that you

were through with her and you did not like her body and all that? A. No.

Q. What did you say; did you have a quarrel on that day? A. Yes.

Q. What was the quarrel about? A. About money.

Q. What did she say to you? A. She wanted a settlement and brought up the question of women again, and attacked me and pulled the overalls off me.

Q. What did she attack you with? A. With her hands.

Q. What did she do, strike you? A. She struck at me and tore my clothes.

Q. What did you do while she was tearing your clothes and striking you? A. I was trying to get away from her.

Q. What did you come there for? A. For brooms and brushes.

Q. You had been away before this, hadn't you? A. I had been away several times.

Q. I mean prior to April 6th, how long had you been away before that?

Mr. Pearse: I don't understand that question; what do you mean?

Q. On April 6th I understand you left, is that right? A. Yes.

Q. How long had you been living there prior to April 6th?

Mr. Pearse: The witness has already testified. Both witnesses have testified that they came to live in Metuchen in February.

A. I don't get your question.

Q. What was the last time you left prior to Ap-

ril 6th, can you tell me that? A. About the middle of March.

Q. All right, how long were you away, from the middle of March until when? A. About a week, I should think.

Q. And then you came home. Did you leave again after that week? A. I left on the 6th.

Q. Do you mean to tell me from the middle of March to April 6th is one week? A. No, I did not say that.

Mr. Pearse: I object. He said after he came back in March he left again on April 6th.

The Advisory Master: He may explain that.

Q. You left in the middle of March? A. Yes.

Q. How long were you away? A. About a week.

Q. And you came back? A. Yes.

Q. How long did you remain home again before you left? A. Until April 6th.

Q. What happened on April 6th? A. I was getting brooms and brushes from the home to clean out the house.

Q. What were your relations with your wife from the time you came back after the middle of March until April 6th, all right?

Mr. Pearse: He did not come back the middle of April; it was the middle of March.

Q. The middle of March, when you came back after the middle of March, how were your relations with your wife up to April 6th? A. Reasonable.

Q. There were no quarrels at all? A. No.

Q. What happened on April 6th? A. On April 6th I was coming into the house for brooms and brushes.

Q. Where had you gotten those instruments? A. In the cellar.

Q. What were you going to do? A. I was going to clean out a house.

Q. Were you going to clean out this house? A. No, a house—

Q. What house? A. The house I had previously rented to move into.

Q. All right, what happened? A. And my wife refused to let me take them.

Q. Did you tell your wife you were going to this address? A. Yes.

Q. What happened? A. And she got excited and said that she was not going to move into that house.

Q. All right, what did you do? A. And she was not going to be a janitor for anybody.

Q. And then she struck you? A. Then she got abusive, yes.

Q. What did you do, leave? A. I tore away from her and went away.

Q. Went back to the police? A. I reported the incident, yes.

Q. Did you bring the police with you? A. No.

Q. Where did you go then? A. To headquarters.

Q. And you never came back any more? A. No.

Q. To live with your wife? A. No.

The Advisory Master: What date was that?

The Witness: April 6th, 1929.

Q. When did you see your wife again after that? A. About June 9th.

Q. Did you see her in May? A. I don't remember.

Q. Did you go back there with the police in May,

to get your trunk? A. Yes, I did—pardon me—and to remove my belongings.

Q. Had you been in communication with your wife from April 6th until this occasion in May? A. Not in communication, no.

Q. Had you talked to her? A. No.

Q. This house that you had rented where was this place rented? A. That was about two blocks from where we lived.

Q. Did you tell her that you wanted her to come out to live with you at this address? A. Yes.

Q. When did you tell her this? A. Early in March.

Q. What happened in May? A. I sent a man to my home to get my belongings, and my necessary appliances to treat my body.

Q. Why didn't you go? A. I was afraid to go.

Q. You were afraid to go? A. Yes.

Q. What were you afraid of? A. Afraid of attacks.

Q. You were still afraid after almost a month had elapsed? A. Yes.

Q. When you went in May what happened, or when this man went there what happened, do you know? A. She refused to give the goods up.

Q. Then you went with the police there? A. Yes.

Q. Did you go there too? A. Yes.

Q. What did you tell the police; did you get a warrant? A. No.

Q. What did you tell the police when you got there? A. Got where?

Q. To the house? A. I did not tell them anything.

Q. What did they do when they got there? A. We entered.

Q. All right, what happened when you entered? A. My wife, she fought.

Q. With whom? A. Our entrance, particularly me.

Q. What did she say to you? A. That we are not going to get anything out of the house.

Q. How did she know what you were coming there for? A. I told her.

Q. What did you tell her? A. That I came to get my belongings.

Q. Did you tell her then that you can come to the house and live with me on—what was this street, did you say? A. Division Street.

Q. Did you tell her this? A. Yes.

Q. You were not afraid then, were you? A. I was plenty afraid.

Q. If you were afraid, why did you tell her to come and live with you at this Division Street house? A. Because I figured I would have to provide a home for her—primarily to provide a home for my wife.

Q. Even though you were afraid of her, you told her to come over and live with you on Division Street?

The Advisory Master: Did you intend to live with her in that home?

The Witness: No, sir, I did not.

The Advisory Master: You just wanted her to live alone?

The Witness: Absolutely, and counsel will not understand me.

Q. I am trying to understand you as best I can All right, what did the police do? A. The policeman, he just simply stood there.

Q. Did they push her; how did they get in? A. I am coming to it—

Mr. Pearse: May I suggest that we have a recess at this time. It is one o'clock, and I know personally that this witness has been a sufferer a long time, and I know that these two and a half hours have been pretty tough on him.

(Recess until two P. M.)

After Recess, 2 P. M.

GEORGE L. DINNEBEIL, recalled.

Cross-examination by Mr. De Sevo (Continued):

Q. Mr. Dinnebeil, you were telling us about the police officer and yourself being in your home on April 6th, 1929, and that you finally got in the house and Mrs. Dinnebeil, I believe, was sitting on the trunk. A. Not on April 6th.

Q. When was that? A. It was sometime in May, about May 14th or 12th.

Q. May 14th? A. Yes.

Q. Was she sitting on the trunk on May 14th? A. Yes.

Q. Did the officer tell her to get off the trunk? A. Yes.

Q. What did he tell her? A. He said, "This man wants to move his belongings and you will have to get off the trunk."

Q. What did she say and do when the officer told her that? A. She refused to get off.

Q. Didn't she say the reason she wouldn't get off was because she wanted to get two tax bills showing the name of Edith Hackett on the tax bills? A. No.

Q. No such thing happened? A. No.

Q. Did you finally get your things? A. Yes.

Q. Then you left? A. Yes.

Q. Where did you move then? A. 183 Main Street.

Q. And you didn't see her again until June, is that right? A. Yes.

Q. Did you make any attempt to get her back to live with you? A. No.

Q. Although you were willing to have her come and live there, is that right? A. Where?

Q. At this new place that you got? A. Yes.

Q. Did you so tell her? A. Yes.

Q. Weren't you afraid to have her come and live there again? A. No, sir.

Mr. De Sevo: That is all.

Mr. Pearse: I am not sure, if your Honor please, whether the exhibit that is marked "D-6" was marked in evidence or for identification.

The Advisory Master: I think it has already been marked in evidence. However, if not, it may now be marked Exhibt D-6 of this date, in evidence.

Mr. Pearse: It is marked, but I thought only for identification.

(Photograph referred to marked "D-6, February 28, 1930").

Redirect-examination by Mr. Pearse:

Q. You have already testified, Mr. Dinnebeil, of your wife having fired a shot at you, I think it was about the middle of March, unless I am confused about the date. Did that shot make any mark on the wall? A. Made a hole in the wall.

Q. Did you tell anybody about it or show anybody the place? A. I mentioned it.

Mr. De Sevo: I object. I submit this is not redirect-examination.

The Advisory Master: Objection overruled.

A. (Continuing) I showed it to Mr. Nolan and Mr. Hokansen.

Q. Are they both here? A. Yes.

Q. And how long after the shot was fired did you show it to them? A. Mr. Nolan saw it two or three days afterwards and Mr. Hokansen saw it at the time he helped remove my belongings.

Q. Did he call it to your attention? A. He asked me what that hole was.

Q. How long have you known the Frolich family? A. For about twenty years.

Q. What is the family composed of? A. Mr. and Mrs. Frolich and son and daughter.

Q. Where did they live in 1927 at the time you introduced your wife to them? A. In Metuchen.

Q. And how long had they lived in Metuchen? A. About fourteen years.

Q. And where in Metuchen did they live with respect to your various residences? A. You mean how close?

Q. Yes. A. About four blocks.

Q. Was it part of the property that had been developed by your brother's company? A. Yes, sir.

Q. And tell us whether or not the Frolichs were known to your brother and his wife? A. Yes, sir.

Q. And they lived in Metuchen you said for how long? A. About sixteen years.

Q. And then where did they move to? A. They moved to New York.

Q. And on what kind of terms were you with them, socially or business? A. Very friendly terms.

Q. With the wife or husband or what? A. The entire family.

Q. You were in the habit of visiting them frequently? A. Yes.

Q. When did you first suggest to your wife that it would be necessary to move into other quarters? A. About March.

Q. Well, was anything said about it in January? A. We may have mentioned it; I don't recall.

Q. Did you give her any reason? A. Yes.

Q. What was the reason that you gave her? A. I told her we would have to reduce expenses inasmuch as my son was in New York.

Q. The boy had then left the house? A. He left early in the year, and it was necessary to cut down expenses, to get cheaper quarters.

Q. Did you arrange for different quarters? A. I did.

Q. And whereabouts were they? A. About three blocks from where we were then living.

Q. Was it the property of the Modern Home Building Company? A. Yes, sir.

Q. What was the rental of it? A. Thirty dollars a month.

Q. And what were you paying in this other house? A. Fifty dollars a month.

Q. Fifty dollars a month? A. Yes, sir.

Q. And what kind of place was your new place? A. Six-room frame cottage.

Q. What kind of condition was it in? A. It was in fair condition.

Q. Was it a suitable place to live,I mean? A. Yes, sir.

Q. What did she say when you first mentioned the subject to her about moving into other quarters? A. She agreed to move into it.

Q. Then what happened? A. After a while she refused to move into it.

Q. How long did that refusal continue? A. Up to the time I left the house.

Q. Did she say anything at all with respect to that, as to why she wouldn't go? A. Yes, she said she wouldn't be a janitor for the Modern Home Building Company.

Q. She wouldn't be a janitor for the Modern Home Building Company? A. Yes, sir.

Q. What did they have reference to, do you know? A. I couldn't tell you that.

Q. Mr. De Sevo asked you whether at the time she came to the house you knew the name of this young woman, and I think you said her name was Murray. Was that the name you gave? A. Mohring, or something.

Q. Who was her father? A. Mr. Moore, or something like that.

Q. Moore? A. I think it is Moore, or Dorr; I don't know exactly how he spells it.

Q. Is it Roher? A. Yes, sir, Roher.

Q. And what position does he occupy with the Public Service in Metuchen? A. Trouble man.

Q. What does he do? A. Drive a truck.

Q. Did you say whether or not his daughter was married? A. Did I say?

Q. Was she at the time, do you know? A. Yes, sir.

Q. And this house that she was living in belong-

ed to whom? A. The Modern Home Building Company.

Q. And you were showing it to her? A. No, sir; I went with her to select wall paper for the various rooms.

Q. She had already taken the house? A. Yes, sir; she had rented the premises.

Q. Had she rented the premises from you? A. No, sir, from my brother.

Q. In other words, when you say you didn't know her name you mean you didn't know what her married name was? A. No, sir.

Q. You knew her father? A. I knew her father when I saw him. I made the connection.

Q. He is well known in Metuchen, isn't he? A. Yes, sir.

Q. Now, on the occasion in March when your wife tried to cut your overalls off, or cut them, I think you said, was anybody present on that occasion? I think that was the occasion when you came to get the brushes and brooms? A. No, sir.

Q. Or am I wrong on that? A. What time in March are you referring to?

Q. Sometime in March, as I recall your testimony, when you said that she had a knife, I think, and was cutting your overalls? A. Mr. Nolan was present then.

Q. Mr. Nolan was present? A. Yes, sir.

Recross-examination by Mr. De Sevo:

Q. Mr. Dinnebeil, did Mrs. Frolich ever come to your house when you were living with your wife in Metuchen? A. No, sir.

Q. You were on very good terms with Mrs. Frolich, is that right? A. Yes, sir.

Q. When your wife would accuse you of misconduct with this woman would you ever take her over to Mrs. Frolich's— A. She only accused me of misconduct once with Mrs. Frolich.

Q. Did you say on this occasion, "I will take you over to Mrs. Frolich and prove to you that no such thing ever happened?" A. No, sir.

Q. Did you ever tell your wife that you would take her over to Mr. Frolich and prove by him that you had never— A. No.

Q. Why didn't you? A. Because I didn't think it was necessary.

Q. Notwithstanding she kept accusing you of it? A. Absolutely.

Q. Now, this Public Service man you are talking about, you knew he had a daughter, did you not? A. I didn't know her name.

Q. Never did? A. No, sir.

Q. And how long did you know him? A. About five or six years, or more.

Q. Did you ever visit this fellow—what is his name? A. Roher.

Q. How did you know she was married? A. (No answer.)

Q. How did you know she was married when you didn't know her name? A. I knew she was married because she was in my brother's house with her husband.

Q. And yet you didn't know her name? A. (No answer.)

Mr. De Sevo: That is all.

By the Advisory Master:

Q. Mr. Dinnebeil, how old are you? A. Forty-five.

Q. How old is your wife? A. I don't know, sir.

Q. Don't you know her age? A. No, sir.

Q. Never knew her age? A. No, sir.

Q. Never inquired? A. I did inquire.

Q. Have you forgotten? A. No, sir; she said she was one year older than I was.

Q. So she must be forty-six? A. Yes, sir.

Q. And your children are how old? A. Twenty-five and twenty-six.

Q. Is there any possibility of you and your wife living together? A. No, sir.

Q. Not even the interest of the children would bring you together? A. No, sir.

Q. All because you entertain this mortal dread and fear of her, is that the idea? A. Yes, sir.

Q. You don't think you can ever overcome that? A. I am sure I can't, sir.

Q. And you prefer to go through life as you are living in this manner? A. It would be worse the other way.

Q. And support your wife in the way you have been supporting her and looking at your children from the dim distance rather than living together as man and wife and father and son and daughter? Does that never appeal to you? A. Your Honor, it has appealed to me many a time, but I just simply can't stand it. I have tried. I have tried all my life to be nice and kind to them, and it won't work.

Q. You prefer to live apart? A. I must live apart.

Redirect-examination by Mr. Pearse:

Q. Your daughter is married, is she not? A. Yes, sir.

Q. Your wife doesn't live with her, does she? A. No, sir.

Q. And where does the son live? A. With his sister, I believe.

Q. He doesn't live with his mother? A. No, sir.

Q. As a matter of fact, after the son had lived in Metuchen for a couple of months he left, did he not? A. Yes, sir.

Q. And he said why he left, didn't he? A. Yes, sir.

Q. Why was it? A. He couldn't stand the quarreling that was going on in the house.

The Advisory Master: Between the father and mother?

The Witness: Yes, sir.

Recross-examination by Mr. De Sevo:

Q. How do you know where your son lives if you don't— A. He said so.

Q. Said what? A. Where he lived.

Q. But outside of that you don't know where he had been living, do you? He didn't say where he had been living? A. No, sir.

Q. He might have said he was living in some other place and yet still be living with his mother, is that possible? A. It is possible.

Q. And you have never visited your son at any time since you have been separated from your wife, have you?

Mr. Pearse: I object to that question. Why should he?

A. No.

Q. Never even visited your married daughter? A. Not since the separation.

Q. Why didn't you? A. Because invariably the question would arise of discussion about the mother.

Q. Your children want you to live with your wife, don't they? A. No, they didn't want to hear anything about it.

Q. Then why are you afraid to visit your children? A. I am not afraid to. It is disagreeable for me to go there and reopen the subject.

Q. What subject? A. Of the troubles between my wife and I.

Q. That is the only reason you don't go there? A. Yes.

Q. Have you ever gone and visited your daughter and they opened up the subject? A. Yes.

Q. When? A. At a time when we were living together in Metuchen.

Q. I mean since you have been separated? A. No, sir.

Q. So you don't know what the discussion would be if you would go there? A. No, sir; I anticipated.

Redirect-examination by Mr. Pearse:

Q. Has the daughter ever called on you in Metuchen since she left? A. No.

Q. Has the son ever called on you in Metuchen since he left? A. No, sir.

Recross-examination by Mr. De Sevo:

Q. And isn't the reason they don't come over and see you because you won't live with their mother? A. I don't know why they don't come.

By the Advisory Master:

Q. The children have taken sides with the mother in this matter, haven't they? A. Yes.

Q. They seem to be attached to her very much? A. Yes, sir.

(Witness excused.)

FRED H. STILLICK, sworn.

Direct-examination by Mr. Pearse:

Q. Mr. Stillick, where do you live? A. 18 Lincoln Avenue, Metuchen.

Q. How long have you lived there? A. I have lived there since the 28th of March, 1927.

Q. Do you know Mr. George Dinnebeil? A. Yes, sir.

Q. Is this house that you live in one of the Modern Building houses or is it your own? A. It belongs to the Modern Building Company. I pay rent for it.

Q. Did George Dinnebeil ever live with you? A. He lived with me as a boarder, yes, sir.

Q. When? A. In 1927.

Q. How long did he live with you? A. About a year.

Q. How frequently do you see him? A. Now?

Q. Well, how frequently are you in contact with him, or have you been for the last three or four years? A. Well, I would say I would see him practically daily. Maybe I would skip a day or two once in awhile.

Q. You are on social terms with him? A. Yes, sir.

Q. What is your occupation, Mr. Stillick? A. I

am assistant in the high-tension laboratory of the Public Service Company.

Q. Do you know Mrs. Dinnebeil? A. I know Mrs. Dinnebeil, yes, sir.

Q. When did you meet her for the first time? A. In September, 1927.

Q. And what were the circumstances? A. Mrs. Dinnebeil in company with her daughter and a Mr. Vogel called at my house at 18 Lincoln Avenue and requested to see Mr. George Dinnebeil, who at that time was boarding at my house.

Q. Yes? A. Mr. Dinnebeil was not at home, and Mrs. Dinnebeil was so informed. We invited her into the house.

Q. When you say "we" who do you mean? A. My wife and myself. We invited her into the house, and Mrs. Dinnebeil, her daughter and Mr. Vogel stayed at my house for dinner. This happened on a Sunday. That was my first introduction to Mrs. Dinnebeil.

Q. Well, what occurred on that occasion? What was the conversation? A. The conversation was along general topics. Nothing real definite was discussed.

Q. George wasn't home that day? A. George was not home.

Q. Did she say where she had expected to meet him?

Mr. De Sevo: I object on the ground it is leading.

The Advisory Master: I will allow it.

A. She had expected to meet him at my house.

Q. Did she say whether or not she had planned with him to meet her there? A. She did not. That is, she did not say so. She didn't say she

had planned with him to meet him there at that particular time.

Q. Tell us what happened then. A. The three of them, Mrs. Dinnebeil, her daughter and Mr. Vogel, stayed at my house for dinner. We entertained them and they stayed all day, practically; and before they left Mrs. Dinnebeil said that her daughter would be down on the following Tuesday to see her father at my home.

Q. Yes? A. When Mr. Dinnebeil came home we told him that his daughter would be down to see him on the Tuesday following this particular Sunday.

Q. Well, what happened on the Tuesday following this particular Sunday? A. The Tuesday following this Sunday was the Tuesday after Labor Day, and we were expecting Miss Dinnebeil to come down to see her father and he was expecting her; but instead of Miss Dinnebeil coming down to see her father Mrs. Dinnebeil came down to my house alone. At the time she came to my house Mr. Dinnebeil was in his room on the second floor of the house.

Q. Did you hear any of the conversation? A. Mrs. Dinnebeil asked to see her husband, permission was given, and she went to his room and there had an interview with him, I presume.

Q. You didn't hear the conversation on that occasion? A. No, sir; it was behind closed doors.

Q. Did she go away? A. She went away, yes, sir.

Q. How soon after that did George Dinnebeil leave your house? A. He left my house in the latter part of November or first part of December.

Q. November, 1927? A. 1927, yes, sir.

Q. Do you know whether or not he went to the hospital in the meantime?

Mr. De Sevo: I object, if your Honor, please, on the ground that whatever testimony he is about to give will only be hearsay, and not binding on us.

The Advisory Master: He may know from the facts.

Mr. De Sevo: I withdraw the objection.

Q. (Question repeated by the stenographer.) A. I know he left my home to go direct to the hospital.

Q. How long after his wife was there? A. His wife was there just the day after Labor Day, and it was sometime in the last part of November or first part of December that he left my house to go to the hospital.

Q. He left your house to go to the hospital? A. Absolutely.

Q. Did you see him after he came back from the hospital? A. He came directly to my home after he left the hospital.

Q. How long did he stay then? A. He stayed just long enough for my wife and I to tell him that we were in no position to administer to his wants; that they were so great and his condition was such that we did not want to take the responsibility of caring for him.

Q. Did he tell you what was necessary? A. He outlined the care that was necessary, and it was so great that we did not feel like undertaking the responsibility.

Q. And with that where did he go? A. He went to his brother's house.

Q. His brother Will? A. His brother William.

Q. Right there in Metuchen? A. Yes.

Q. Did you notice Dinnebeil's condition after his wife left on this particular Tuesday that you speak of? A. Yes, sir.

Q. Describe it. A. He was very, very much affected by what had evidently taken place.

Q. Can you describe it a little better than that? A. Except he was confined to his bed. He did not leave his bed. The interview took place in his room and he did not leave his bed after that for a couple of days.

Q. For a couple of days? A. Yes.

Q. Did you talk to him during that period? A. Yes, sir, while he was in bed.

Q. Did he discuss with you what had been said by his wife? A. He was apparently in such a high—bad nervous condition that he didn't discuss it very fully with me.

Q. How did he exhibit this extreme nervousness that you speak of? A. He was very sick. He was very restless and appeared to be suffering from what you might say a shock. He was very much disturbed, nervous, so far as his nervous condition was concerned, and it reacted very violently, apparently, on his physical condition.

Q. What about his appetite? Did he eat during that period? A. No, sir.

Q. Did you observe that on any other occasions, that same condition? A. Yes, sir.

Q. That was later, however? A. That was later.

By the Advisory Master:

Q. You mean that he didn't eat at all, any meals in your house? A. Oh, yes, he ate meals in my house, but on this particular occasion he said he

wanted nothing to eat, at the time after the interview with Mrs. Dinnebeil.

Q. How long did he refrain from eating? A. All the balance of that day and until possibly noon of the next.

Q. Went without eating? A. Yes, sir.

By Mr. Pearse:

Q. That was before he went to the hospital? A. Before he went to the hospital.

Q. Do you remember an occurrence between Dinnebeil and his wife just before the middle of November, 1928? A. I recall an incident that happened on High Street about that time.

Q. What time of the day or night? A. It was between seven and seven-thirty in the evening.

Q. And where were you? A. I had left my home after dinner to go to the Y. M. C. A.

Q. Tell us what you saw?

Mr. De Sevo: May I have that date?

Mr. Pearse: November, 1928.

A. As I was crossing Main Street and entering High Street—the Y. M. C. A. building is on High Street—I started through High Street and I heard what apparently was loud talking from persons coming towards me. I recognized them as I approached. I recognized a man and woman who proved to be Mr. George Dinnebeil and Mrs. Dinnebeil. Mrs. Dinnebeil was without hat or coat. Mr. Dinnebeil had his hat and overcoat on. Mrs. Dinnebeil had hold of Mr. Dinnebeil's coat sleeve and was shouting and striking at him on the street.

Q. Did she have anything in her hand? A. What appeared to be a stick.

Q. Did you hear what she said? A. She was

screaming, and I distinctly distinguished the words, "You skunk, I'll kill you!"

The Advisory Master: What?

The Witness: "You skunk, I'll kill you!"

A. (Continuing) At the same time she was using this stick and tearing at Mr. Dinnebeil and shouting and attracting attention.

Q. For how long a time did you observe that? A. While the couple was in sight. I passed by them and while they were in sight the condition still existed.

The Advisory Master: Where was that, on the street?

The Witness: On High Street.

Q. Were there any other people on the street at that time? A. There were people on High Street, yes, sir.

Q. Do you know anyone else that was on the street at that time that you recognized? A. I didn't recognize anybody in particular.

Q. It was dark? A. Between seven and seven-thirty in the evening.

Q. In November? A. In November.

Q. With respect to where this was going on where does his brother Will live? A. His brother Will lives next door to my home. His brother Will lives at 24 Lincoln Avenue and I live at 18. Where I saw this trouble was a little way up High Street from Main. In order to get to William's house it would be necessary, from the scene of the trouble, to cross Main Street and continue down Lincoln Avenue possibly three hundred or four hundred feet.

Q. In which direction were they going? A. Mr. Dinnebeil was walking toward Main Street.

Q. In the direction of his brother's house? A. In the direction of his brother's house.

Q. I call your attention back to 1928 again, shortly after Thanksgiving Day, and ask you whether or not you and your wife had any conversation with Mrs. Dinnebeil at that time? A. Yes, sir, I did.

Q. Where did that conversation take place? A. In my home.

Q. And what was it? A. Mrs. Dinnebeil came to my home. I let her in and asked her what I could do for her, and she said she was after information, and I said, "Of what nature?" And she said, "Information concerning my husband." And I said, "Well, if I can be of any assistance to you I will give you any information I can. What is it you want to know?" And she said, "I came here for my rights." I asked her what she considered her rights, and she said, "I came to Metuchen for a twenty-thousand-dollar settlement."

Q. And what else was said on that occasion? A. I told her that I did not think Mr. Dinnebeil was in any position financially to make any such settlement on her, inasmuch as I knew at that time that he was having difficulty in securing funds to liquidate the indebtedness he had incurred through his treatment both outside and inside the hospital the year previous.

Q. Did she say anything about whether she came to Metuchen for love of her husband?

Mr. De Sovo: I object on the ground it is leading.

The Advisory Master: It is leading.

Mr. Pearse: I had to direct his attention to it. I am not trying to lead him.

The Advisory Master: Did she say why she came to Metuchen on that occasion?

The Witness: She came to Metuchen for her rights.

Q. She didn't say anything else then? A. Except her rights consisted of a settlement of money.

The Advisory Master: Did she mention any regard for her husband?

The Witness: Absolutely none. In fact, there was a very distinct attitude taken the other way. When I made reference to Mr. Dinnebeil's sickness the only reply I received was a sarcastic and very much amused smile on the part of Mrs. Dinnebeil, which would indicate, I thought, disregard for his physical condition, which I knew was very, very bad.

Q. And that was after she had been in Metuchen for a month? A. That was in November, after Thanksgiving in 1928.

Q. Less than a month? A. I believe she came to Metuchen to live in the early part of November.

Cross-examination by Mr. De Sevo:

Q. Mr. Stillick, did you know that Mr. Dinnebeil had left his wife and two youngsters back in 1906 and didn't live together again until 1928? A. When Mr. Dinnebeil—

Q. Answer yes or no, please. Don't give us a long story? Did you know it? A. I did not know that in detail. He told me he was a married man, that is all.

Q. How long do you know Mr. Dinnebeil? A. About five years.

Q. Did you ever work for him? A. No, sir.

Q. Did you ever work for the company that he is president of? A. No, sir.

Q. During these five years you say he boarded with you? A. He boarded with me for one of the five.

Q. And how much did he pay you for boarding with you? A. He paid me $10 a week.

Q. Did he ever discuss his wife with you during this one year? A. Except to admit the existence of a wife and children, that is all.

Q. He didn't seem to have much love for them? A. He never discussed it to that length with me.

Q. Did he ever tell you he liked the woman? A. No.

Q. Did he ever say he disliked her? A. No.

Q. What did he say about her? A. Nothing except that he had a wife.

Q. Did he ever say he had two children? A. Yes, sir.

Q. When did you first meet Mrs. Dinnebeil? A. On the Sunday before Labor Day in 1927.

Q. Who introduced you to her? A. She introduced herself to me.

Q. Do you know how she knew where you lived? A. I do not.

Q. When she came in there what did she say to you? A. She said, "I am Mrs. George Dinnebeil."

Q. What did you say to her? A. I said, "Come in."

Q. Did that surprise you when you heard that she was Mrs. George Dinnebeil? A. I already

knew that there was a Mrs. George Dinnebeil in existence.

Q. Is this the one you thought was in existence, or was it somebody else? A. I never knew who she was until she put in her appearance at my house.

Q. How long have you been living in Metuchen? A. I have been living in Metuchen since 1915.

Q. On this occasion you say Mr. Dinnebeil was out? A. He was not at home.

Q. Did Mrs. Dinnebeil act like a woman, like a lady, when she was in your home on this occasion? A. She absolutely did.

Q. Did you see anything wrong with her? A. No, sir.

Q. Did you see anything abnormal about her? A. No, sir.

Q. I understand she came back again? A. She came back on the following Tuesday.

Q. What did she say to you when she came then? A. She wanted to know if her husband was home.

Q. Was he in? A. He was.

Q. Did you call her husband? A. I did not.

Q. What did you do? A. I sent Mrs. Dinnebeil to her husband.

Q. Where was he at the time? A. In his room on the second floor of my home.

Q. You don't know what took place in there? A. Absolutely not.

Q. You didn't hear any of the conversation whatsoever? A. Nothing, nothing.

Q. And then you said that after that Mr. Dinnebeil was in bed for four days? A. Absolutely not. I said he was in bed for the balance of that day and half of the next, until noon of the next.

Q. Didn't you say a couple of days? A. No, sir.

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

Q. Did he have anything to eat during the time he was in bed? A. Nothing to eat.

Q. You say he was very weak, listless, is that right? A. He was not listless; he was very much agitated.

Q. Was he very weak? A. Apparently, yes.

Q. Well, you said he was weak, didn't you? A. Yes.

Q. Did you call a doctor for him? A. Not at that time; later I did.

Q. I wish you wouldn't volunteer so much. I would like to have you—

Mr. Pearse: Let the Court admonish the witness.

Mr. De Sevo: Then I move to strike it out as not being responsive.

The Advisory Master: I will allow it to stand.

Q. Who told you to call a doctor? A. His brother.

Q. Mr. Dinnebeil didn't tell you to call a doctor? A. No, sir.

Q. Was he too weak to tell you that? A. He was.

Q. Did you go up and see him while he was in bed? A. At that particular time?

Q. Yes? A. Yes.

Q. Did you talk to him? A. Yes.

Q. Wasn't he weak enough then to talk to you? A. He spoke to me. He wasn't so weak that he couldn't talk.

Q. Now, on this November 1928 occasion. You say that you saw two people fighting in the street,

is that right? A. I heard signs—I heard loud talking.

Q. What was the talk about, did you hear it? A. Not until I came close.

Q. And you recognized Mr. Dinnebeil and Mrs. Dinnebeil? A. Yes, sir.

Q. You say you saw Mrs. Dinnebeil striking her husband with a club, or whatever it was? A. It was what appeared to be a stick.

Q. How often did you see her strike him with that? A. Well, not more than twice.

Q. Not more than twice? A. During the time I was watching them.

Q. You knew at that time that Mr. Dinnebeil was in a very precarious position, didn't you? A. He was.

Q. Did you go over there and try to stop Mrs. Dinnebeil from striking him? A. No, sir.

Q. Why didn't you? A. Because I didn't think I should butt in on the affair.

Q. Notwithstanding that you knew this man was in such condition that if he got a good hard blow he would be killed? A. I wouldn't say that.

Q. You heard Mrs. Dinnebeil say, "You skunk, I'll kill you"? A. Yes, sir.

Q. Did you hear Mr. Dinnebeil say that when he was on the stand? A. Beg pardon?

Q. Did you hear Mr. Dinnebeil say that when he was on the stand? A. Did I hear Mr. Dinnebeil say that when he was on the stand?

Mr. Pearse: I submit that is not a proper question on cross-examination, or at any time.

The Advisory Master: I will allow it.

Fred H. Stillick—Cross.

Q. Did you hear Mr. Dinnebeil use that language when he was on the stand? A. No, sir.

Q. You are sure it took place, though? A. Yes, I am sure.

Q. Did you go and get a policeman? A. No, sir.

Q. How long did you have them under observation? A. Oh, possibly five minutes.

Q. And during that five minutes she was pounding him with this stick? A. No, sir. As I said before she struck him possibly twice.

Q. What else was she doing? A. Pulling his coat. She was grasping his coat and screaming and hollering.

Q. Did anybody else make an attempt to stop them? A. Not to my knowledge.

Q. You were on good terms with both parties at the time, weren't you? A. Yes, sir.

Q. You didn't see fit to go over there and intercede? A. No, sir.

Q. Now, you claim that Mrs. Dinnebeil came over to see you after Thanksgiving, 1928? A. Yes, sir.

Q. She came alone? A. Yes, sir.

Q. Did you know she was living with her husband at the time? A. Well, I assumed she was.

Q. I don't want your assumption. Do you know, or don't you know? A. I am not in position to say that I actually knew it, no.

Q. Didn't you see Mr. Dinnebeil practically every day? A. Yes, I did.

Q. And didn't he tell you that he was living with his wife in Metuchen? A. I did not speak to him every day. I would see him on the street and elsewhere.

Q. I understand she came in to you and said she was after her rights? A. Yes, sir.

Q. Did you tell her then that as far as you were concerned you couldn't help her at all? Did you tell her that, yes, or no? A. No.

Q. Did she ask you where her husband was? A. No.

Q. She just came in and said, "I want twenty thousand dollars from my husband?" A. No, she didn't say she wanted twenty thousand dollars from her husband.

Q. What did she say? A. She came in and asked for information concerning her husband. I asked her the nature of the information she wanted and she said she wanted her rights.

Q. Did you tell her to go to the court, to the police, and get her rights? A. No, sir.

Q. Why didn't you?

Mr. Pearse: I object.

The Advisory Master: It is immaterial.

Mr. De Sevo: I withdraw the question.

Q. Then she asked for twenty thousand dollars?

Mr. Pearse: I object, if the Court please. The Witness hasn't said that, that she asked for $20,000.

Q. Didn't she say she wanted twenty thousand dollars in settlement? A. Yes, for her husband.

Q. That is what she said, did she not? A. Yes, sir.

Q. Did you tell her that you weren't interested in her troubles? A. No, I did not.

Q. But you just told her that her husband wasn't in position to give it to her? A. I told her I did not believe her husband was in position to give it to her.

Q. How did you know that? A. Because I knew he was having difficulty at that particular time to liquidate his previous indebtedness.

Q. Do you know what property he owns? A. I know nothing at all about that.

Q. Do you know what building and loan stock he owns? A. No.

Q. Do you know what money he has in the bank? A. No, sir.

Q. Yet you know he couldn't pay her any money? A. I certainly did.

The Advisory Master: Did he pay his board regularly?

The Witness: While he was with me, yes, sir.

Q. Are you still a friend of Mr. Dinnebeil's? A. I am.

Q. Do you still go out with him? A. I have never gone out with him.

Q. How often do you see him now? A. About the same as usual.

Q. When was the last time you spoke to him about his wife? A. Really I can't recall just when.

Q. About? Give us an idea. A. I think the last time I actually had any conversation with him regarding his wife was just before he had gone to the hospital.

Q. When was that? A. 1927.

Q. Did you tell him about Mrs. Dinnebeil coming to see you on Thanksgiving Day and talking about twenty thousand dollars? A. No, sir.

Q. You never made it your business to tell him about that, did you? A. No, sir.

(Witness excused.)

EDWARD NOLAN, sworn.

Direct-examination by Mr. Pearse:

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

Q. How long have you known Mr. Dinnebeil? A. Sixteen years or more.

Q. What is your business, Mr. Nolan? A. Carpenter.

Q. And you work for the Modern Building Company? A. Off and on, yes.

Q. Do you live in Metuchen? A. Yes, sir.

Q. How long have you lived there? A. About fourteen years. I should say twelve or fourteen years.

Q. Were you on friendly terms with George Dinnebeil? A. Yes, sir.

Q. And worked together on jobs? A. Yes, sir.

Q. Tell us whether or not you visited Mr. and Mrs. Dinnebeil after Mrs. Dinnebeil came to live in Metuchen in 1928? A. Yes, sir.

Q. Where did they live? A. 225 High Street.

Q. How frequently did you call there? A. Quite a little bit.

Q. Socially or on business? A. Socially.

Q. Did you have a chance to hear the conversations that took place between the husband and the wife on these occasions? A. Yes, sir.

Q. Can you tell us anything unusual that happened on any of these occasions when you were there to visit? A. Well, not so much on a visit except that there was always more or less bickering back and forth.

Mr. De Sevo: I wish to object, unless this man sets a date.

Q. How soon did you start to visit them after Mrs. Dinnebeil came to live in Metuchen? A. I was there the day Mrs. Dinnebeil moved in.

Q. And from that time on— A. From then on until Mrs. Dinnebeil moved out.

Q. What was the situation in the household so far as you observed when you called there? A. Well, I wouldn't call them happy by any means.

Q. Did you hear any language which she used on any occasion? A. I heard her use very vulgar language.

Q. Will you tell us some of the words you heard her use on the occasions when you were there? A. I heard her call Mr. Dinnebeil a son-of-a-bitch and bastard and every other name I can possibly think of.

Q. Was there anything in the nature of a physical quarrel while you were there? A. I was staying in the house.

Q. No, before you started to stay there? I mean while you were visiting? A. Why no, I guess not.

Q. You came to live at the house did you not? A. I was invited by Mrs. Dinnebeil to stay there.

Q. Are you a married man? A. No, sir.

Q. And when was this invitation extended to you? A. About March; sometime in March.

Q. Did you live there at the house? A. Yes sir.

Q. Did you have a room? A. Yes, sir.

Q. Take your meals there? A. Yes, sir.

Q. What were you doing at that time in the way of occupation? A. I volunteered to help Mr. Dinnebeil make some screens for the house. I wasn't working at the time and I volunteered to do it for nothing.

Q. That is nettings, you mean? A. Yes, sir; screens for the windows to keep the insects out.

Q. And what happened the last day you were there? A. The last day we were there while we were at the lunch table Mrs. Dinnebeil—something seemed to go wrong with her and all at once she took her hand and swept the dishes off the table from what I could see for no reason at all, and then she grabbed a knife and attacked Mr. Dinnebeil.

Q. What kind of knife was it? A. Why I would call it a carving knife.

Q. You would call it a carving knife. Would anybody else call it anything else? A. No, hardly.

Q. Then just describe what she did. A. Then she started to attack Mr. Dinnebeil. Of course, the three of us were on our feet in an instant.

Q. Then what? A. The three of us got up on our feet immediately and I happened to get the knife away from her.

Q. You what? A. I took the knife away from Mrs. Dinnebeil.

Q. You took the knife away from her? A. Yes, sir.

Q. Did you go after anyone at the time? A. I was thinking about going, but—

Mr. De Sevo: I object to what this witness was thinking about.

Mr. Pearse: I consent that it be stricken out.

The Advisory Moster: It will be stricken out.

Q. I don't care what you thought, Mr. Nolan. Did you go after anyone? A. No, sir.

Q. Can you recall anything else that happened

on that particular occasion? Did she lay her hands on him in any way?

Mr. De Sevo: I object to that as leading.
The Advisory Master: It is leading.

A. She called him all the vilest names and attacked him with a knife on that particular instance.

Q. Did you stay in the house after that? A. Not any longer than I could get out.

Q. What was the discussion, if any, which started the fracas? A. Money.

Q. What was said about money? A. Mrs. Dinnebeil, I heard her from time to time arguing she wanted a settlement; that she was not going to come to Metuchen and slave for anybody; that she wanted her rights and she was going to get them; and that after she was through getting her rights from George Dinnebeil she was going to get that big son-of-a-bitch brother-in-law of hers.

Q. Are you now speaking of this occasion? A. Yes, sir, speaking of the week I was in the home.

Q. What did George do, if anything? A. Why just when the arguments would start he would just keep quiet. He would try to go upstairs, and that is all.

Q. Did he stay in the house on this particular occasion? A. No, sir; he went out, and I was the last one. I went out after him.

Q. Where was she? A. In the house. We left her there.

Q. Did you notice while you were living there and while you visited there what effect any of these instances had on Mr. Dinnebeil? A. Well, I know that he was all atremble after any of the arguments were over, and I know so far as work

on the job was concerned he couldn't do any work to speak of.

Q. And you say he was all atremble? A. Yes, sir.

Q. Did you observe how long these spells continued? A. Why probably for—oh, I should say maybe eight or ten hours, and then he would come back again to normal—some where around that.

Q. How did he look? A. He looked very pale and white and trembling.

Q. Did you ever hear him complain of not being well? A. Yes, sir.

Mr. De Sevo: I object on the ground it is hearsay.

The Advisory Master: It is leading; but I will allow it.

A. (Continuing) I know Mr. Dinnebeil hasn't been well for several years. I know he has been to the hospital. In fact, I took him down to the hospital.

Q. Which hospital is that? A. St. Barnabas Hospital, in Newark.

Q. Do you know how long he was there? A. About five weeks—four or five weeks.

Q. Where was he living when he went to the hospital? A. Mr. and Mrs. Stillick's.

Q. By the way, do you know the Frolichs? A. Yes, sir.

Q. How long have you known them? A. For at least twenty years.

Q. What kind of reputation has Mrs. Frolich got in the community? A. Of the best.

Mr. De Sevo: Objected to as incompetent, irrelevant and immaterial and as having no

bearing on this whatever—what this woman's reputation is.

The Advisory Master: I will allow it.

A. (Continuing) I know Mrs. Frolich for twenty years at least, and I have been boarding off and on with Mrs. Frolich and the family for I guess it must be fifteen years.

Q. And I understood you to say her reputation was of the best? A. Of the best, yes, sir.

Q. Did you ever live at Mrs. Hackett's? A. Yes, sir.

Q. How long did you live there? A. Why off and on I guess for a good year or more.

Q. Tell us whether or not you were there when Dinnebeil lived there? A. Mr. Dinnebeil was boarding there and a party by the name of Mr. Clausen was boarding there and another party I can't just think of his name. There were four of us boarding there at the time I was boarding there.

Q. Did you ever visit the house while Dinnebeil was boarding there and when you were not? A. Yes, sir, I did.

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

Q. Do you know where she is now? A. At the present time, no.

Q. She doesn't live in Metuchen any more? A. No.

Q. How long since she left Metuchen? A. I think about three years.

Q. I call your attention to March again, 1929? A. Yes, sir.

Q. Did you have any conversation with Mr. Dinnebeil with respect to any gun shots or pistol shots? A. Yes, sir.

Q. Were you shown anything? A. Yes, sir.

Q. Just describe what you were shown. A. I was shown—

The Advisory Master: Would that be evidence?

Mr. De Sevo: I don't see how it would. We admit that the shot did go off and that there was a hole.

Mr. Pearse: I want to show where the hole was in respect to the place in the building.

The Advisory Master: All right.

A. (Continuing) The hole was about twenty inches off the floor.

Q. And how far from the couch? A. The couch was catty-cornered and the hole was—well, about half way of the couch.

Q. And where was it with respect to the head or the foot of the couch? A. The hole was more towards the head.

Q. More toward the head? A. Yes, sir.

Q. Were you present on the occasion when Mr. Dinnebeil went to the house in May to get his belongings? A. Yes, sir.

Q. What were you doing there at that time? A. Why I was going over there to help Mr. Dinnebeil get his personal belongings.

Q. Yes. Tell us who else was with you. A. There was Mr. Hokansen, one officer, Mr. Dinnebeil and—I don't know—I think there was one more—it will probably come to me.

Q. What took place? A. Mr. Dinnebeil opened the front door with his key. Mrs. Dinnebeil was standing in the hall, and he said he wanted his belongings, his clothing; and she said, "You can't have them." And the officer said, "Now, Mrs. Dinnebeil, don't act like that." And every step that

Mr. Dinnebeil would take she was always in front of him trying to stop him from going upstairs; and we finally got up there, and she didn't bother me no how.

Q. Didn't bother you? A. No, just Mr. Dinnebeil. And he led the way upstairs and then she wouldn't let him take his things, and the officer said, "Mrs. Dinnebeil, if you don't behave yourself I will have to put the handcuffs on you."

Q. Where was she at that time? A. She was standing in the room hollering when that was said.

Q. Was she told what things he wanted to take out? A. What?

Q. Did anybody tell her at the time what things he wanted to take out? A. Yes, sir; the officer told her.

Q. What did he say? A. He said, "Mr. Dinnebeil came for his personal belongings."

Q. What were they, do you know? A. Yes, sir, his clothing, a table and a couch, his handbag and the trunk.

Q. What remarks, if any, did she make while you were there? A. Why she didn't want to let anything out, anything at all. She didn't want him to take them out.

Q. What did she say? A. She called him all the names, all the vile names, and finally she sat on the trunk and said, "You won't take this out." But eventually the officer got her off the trunk and we did get it out.

Q. And this was at the big house on High Street? A. Yes, sir, High Street.

Cross-examination by Mr. De Sevo:

Q. You are not Mr. Dinnebeil's Man Friday, are you? A. No.

Q. Are you still working with the Modern people? A. No.

Q. When was the last time you worked for them? A. Four or five months ago.

Q. And was Mr. Dinnebeil your superior? A. No.

Q. Who was? A. Why the Modern Building.

Q. Did you have any boss over you, or foreman? A. I was foreman.

Q. You were foreman over Mr. Dinnebeil? A. Mr. Dinnebeil was not there working on this particular job.

Q. Didn't you say you worked together? A. We do, off and on.

Q. Well, when you work together who is the boss? A. When we work together sometimes Mr. Dinnebeil is and sometimes I am.

Q. That is a mutual agreement, is that it? A. No, sometimes he don't feel good.

Q. Now you say that you visited the Dinnebeils quite a bit socially, is that right? A. Yes.

Q. Do you visit other officers of the Modern Home?

Mr. Pearse: What is the question?

Q. Do you visit the homes of other officers of the Modern Home Building Company? A. Yes, I do.

Q. Who? A. Yes, I visit them.

Q. I don't think you heard my question. Do you visit the homes of other officers of the Modern Home Building Company?

Mr. Pearse: It doesn't appear that there are any other officers except his brother.

Q. Do you understand my question? A. Why officers—I don't just know what you mean by "officers."

The Advisory Master: Do you know any officers of the Modern Building Company outside of Mr. Dinnebeil?

The Witness: Yes, sir, Mr. William Dinnebeil.

The Advisory Master: Anybody else?

The Witness: No, sir.

The Advisory Master: Do you visit the home of Mr. William Dinnebeil?

The Witness: Yes, sir.

Q. Who invited you to their home, to Mr. and Mrs. Dinnebeil's home? A. Why Mrs. Dinnebeil invited me to stay.

Q. She invited you to stay? A. Yes.

Q. When was that? A. In March, if you are referring to that time.

Q. I am not referring to anything. Who would invite you on the different occasions that you would go to the home of the Dinnebeils? A. Why sometimes there wasn't no invitation at all. I would happen to go around.

Q. You had an open invitation, is that it? A. It seems so, yes.

Q. When you went there you wouldn't call it a happy home, is that right? A. I certainly would not.

Q. And if you knew this wasn't a happy home why did you go there so often? A. It didn't interest me.

Q. It didn't interest you. Notwithstanding you go in a place where you hear two people quarreling all the time you kept going there, is that right? A. Yes, sir.

Q. And on every occasion that you went there you said that Mrs. Dinnebeil would use vulgar lan-

guage? A. I didn't say on every occasion; I said on most occasions.

Q. How often? A. On most occasions.

Q. On most occasions? A. Yes, sir.

Q. Did you ever say anything to Mrs. Dinnebeil for using such fine language? A. Did I?

Mr. Pearse: He didn't describe it as fine language.

Q. Well, vulgar language? Did you? A. Well

Q. Yes or no? A. No.

Q. Never did? A. No.

Q. You also claim that Mrs. Dinnebeil made use of the language, "son-of-a-bitch" and "bastard" and things like that? A. She did.

Mr. Pearse: I object to the form of that question. Counsel keeps saying, "The witness claims" so and so.

The Advisory Master: He has already answered it.

Q. How often did you hear Mrs. Dinnebeil make use of the language "son-of-a-bitch," "bastard" and other names? How often did you hear that? A. Many times.

Q. Many times? Did you like to go to a home where you were likely to hear that kind of language used? A. I can't say I enjoyed it, no.

Q. But you would go there very frequently? A. Yes, sir.

Q. Did I understand you correctly when you said you never saw Mrs. Dinnebeil use any physical violence on Mr. Dinnebeil? A. Except that one occasion, I said, about the knife.

Q. That is the only time? A. That is the only time.

Q. Do you know what would cause Mrs. Dinnebeil to use this language against her husband? A. Do I know? Uncontrollable temper is all I could say.

Q. That is the only reason you know. When Mrs. Dinnebeil invited you to take a room in their home in March, 1929, why didn't you tell her, "I don't want to come to your house because of the scenes that you create?"

Mr. Pearse: I object, if your Honor please on the ground that it is not proper cross-examination.

The Advisory Master: Objection sustained.

Q. How long did you board there? A. I didn't board there.

Q. How long did you have a room there? A. About a week.

Q. Oh, one week only? A. About.

Q. Did you leave? A. Certainly.

Q. Why? A. On account of this argument, this last argument with the knife.

Q. That is the only reason why you left? A. Well, Mr. Dinnebeil left and I wasn't going to stay there after that.

Q. Now I understand that on this day in question, while you were having your meal together, Mrs. Dinnebeil swept the dishes off the table? A. That is correct.

Q. And nothing had happened prior to her doing that, is that right? A. Nothing that I would call of a serious nature, no.

Q. Didn't you testify that Mrs. Dinnebeil swept

the dishes off the table without anybody saying anything? A. I did.

Q. Had nobody said anything to her before she did that? A. No.

Q. You don't know why she did it, do you? A. No, I do not.

Q. And you say she grabbed the knife? A. Yes.

Q. What did you do when she grabbed the knife? A. Why immediately I jumped up. In fact the three of us jumped up.

Q. Where were you sitting at the time? A. Right in front of Mrs. Dinnebeil.

Q. Did she say anything when she grabbed the knife? A. I don't recall, it all happened so quick.

Q. Didn't you say she picked up this knife and said, "I want a settlement?" A. She said that a little bit later.

Q. Oh, she said that a little bit later? A. Yes.

Q. What else did she say? Did she mention the amount? A. She mentioned the amount.

Q. How much? A. Twenty thousand dollars. She wasn't going to be a slave.

Q. She wouldn't take a nickel less than twenty? A. She didn't say anything about taking a nickel less.

Q. When Mr. Dinnebeil ran out—did he run out, or what did he do? A. Mr. Dinnebeil did not run out.

Q. How did he go out, walk out? A. Mr. Dinnebeil walked out.

Q. How did you go out, walk out too? A. Shortly afterwards.

Q. Did Mr. Dinnebeil tell you where he was going? A. No.

Q. Where did he go, do you know? A. I do know since then, yes. He went to his brother's.

Q. How do you know he went to his brother's? A. Because I met him before he got to Main Street.

Q. Now, you claim in all these quarrels George didn't say anything, would just keep quiet and go upstairs, is that right? A. That is true.

Q. Did you ever hear Mrs. Dinnebeil accuse him of going out with any other woman? A. Oh, yes.

Q. How often did you hear that? A. I would say about three times anyway.

Q. Did you ever say to Mrs. Dinnebeil, "I think you are mistaken; I know your husband doesn't do things like that?"

Mr. Pearse: I object to that.

The Advisory Master: I will allow it.

A. No, I can't say that I did.

Q. Now you say that when he would get these spells they would continue through eight or ten hours? A. About.

Q. Where did these take place, in his home or in his work or where? A. They would take place immediately after he was excited.

Q. Where did they take place? A. Whereever the excitement took place.

Q. Did the excitement ever take place outside of the home? A. Not to my knowledge.

Q. Then it all took place in the home, is that right? A. As far as I know, yes.

Q. And you would stay eight and ten hours in the house, is that right? A. No, sir, I would not.

Q. How do you know he was in this condition for a period— A. (Interrupting) Because I saw him immediately afterwards.

Q. What is that? A. I seen him immediately afterwards, immediately after some of these arguments.

Q. And that is the only way you could tell he was in this spell for eight or ten hours, is that right? A. Well, I seen him in his brother's house immediately after the last one.

Q. I am not talking about his brother's house. I am talking about his own house. That is the only place where these spells took place. A. No.

Q. Did spells take place in his brother's house too? A. He was recuperating in his brother's house.

Q. I think you also testified that he hasn't been well for several years? A. Many years, yes.

Q. You say his condition is due to his wife? A. I didn't say anything like that.

Q. Do you say it now? A. I couldn't answer that question; I do not know.

Q. Do you think it is due to his wife's treatment?

The Advisory Master: How is that material, what he thinks? He is not an expert. He is not a physician or a mental expert.

Q. You are not a physician, are you? A. No, sir; I said a carpenter.

Q. Then how do you know he had these different spells and wasn't feeling well and all that? A. Because I am so well acquainted with him I can tell immediately, because he starts to tremble and he gets all white. That is how I know.

Q. Have you seen him trembling in the last six or seven months? A. (No answer).

Q. Have you? A. Yes.

Q. You have seen him? A. Yes.

Q. And he hasn't been living with his wife in the last six or seven months, has he? A. No. He got papers served on him.

Q. How do you know? A. He showed them to me.

Q. Does he always confide with you? A. Not always, no, sir.

Q. Now you say you lived with Mrs. Hackett, is that right? A. I said I boarded with Mrs. Hackett.

Q. How long did you board with Mrs. Hackett? A. About a year, more or less.

Q. What year was that? A. I don't know; I was there at different times.

Q. Who else was there? A. Mr. Dinnebeil and a party by the name of Mr. Clausen and another boarder. I don't seem to be able to think of his name now.

Q. Do you know where Mrs. Hackett is now? A. No.

Q. Did you know Mrs. Hackett was known in Metuchen as Mrs. Dinnebeil?

Mr. Pearse: I object to the question on the ground it is not proper cross-examination. If I had called this witness for any such purpose I say it would be proper cross-examination.

The Advisory Master: Did you refer to Mrs. Hackett at all?

Mr. Pearse: I didn't refer to Mrs. Hackett at all, and I didn't do it on purpose.

Mr. De Sevo: He referred to the fact that he lived with Mrs. Hackett.

The Advisory Master: You might ask him, "Was she known by any other name?"

Q. Do you know whether or not Mrs. Hackett had a reputation in Metuchen as being known as Mrs. Dinnebeil?

Mr. Pearse: I object to that, if your Honor please.

The Advisory Master: You might ask him if she was known by any other name.

Q. Do you know whether or not Mrs. Hackett was known by any other name, other than Mrs. Hackett? A. Never to my knowledge, except Mrs. Hackett.

Q. Did you ever see Mr. Dinnebeil go out with Mrs. Hackett at any time? A. Yes.

Q. Where did they go to, do you know? A. Down to the movies.

Q. Together? A. I would be with them sometimes.

Q. I didn't ask you that?

Mr. Pearse: I submit that is a proper answer.

The Advisory Master: It is hardly responsive, but how can it hurt you?

Q. How often did Mr. Dinnebeil and Mrs. Hackett go to the movies? A. That I don't really know.

Q. Well, about how often—once, twice, fifteen times—how many? How often were you in the company? A. Twice to the movies.

Q. Twice only. Mr. Dinnebeil would go with Mrs. Hackett at times when you weren't there, would he not? A. Yes.

Q. Did you ever go any other places with them except to the movies?

Mr. Pearse: Who are you talking about?

Q. Do you know who I am talking about?

Edward Nolan—Cross.

By the Advisory Master:

Q. Did you ever go with Mrs. Hackett and Mr. Dinnebeil to any other place than the movies? A. Yes, sir.

Q. Where? A. I went to get a glass of beer once in a while.

Q. Where? A. To get a glass of beer.

Q. Where? A. Sometimes to New Brunswick.

Q. And sometimes where? A. Most anywhere.

Q. Well, how often did you go for this glass of beer? A. Not very often.

Q. Did you get it in Metuchen? A. No, sir.

By Mr. De Sevo:

Q. Had you known prior to the time that you and Mr. Dinnebeil and Mrs. Hackett had gone out that Mrs. Dinnebeil was accusing Mr. Dinnebeil of improper relations with Mrs. Hackett? A. Did I know that?

Q. Yes. A. No, sir.

Q. Didn't know it? A. No.

Q. You knew that Mr. Dinnebeil was living separate and apart from his wife though, didn't you? A. Yes, sir.

Q. You claim that Mr. Dinnebeil showed you the hole where this shot was fired, is that right? A. Yes, sir.

Q. You say that the hole was twenty inches from the floor? A. About, yes.

Q. How high was the couch? A. I should say about eighteen inches.

Q. That would be just two inches above the couch is that right? A. Just about.

Q. And you say that the hole was toward the head of the couch, is that right? A. Yes, sir.

Edward Nolan—Cross.

Q. Were you present when this shot was fired? A. No, sir.

Q. How do you know that this hole—that this couch was in the same position at the time when the shot was fired and at the time you were there?

Mr. Pearse: If your Honor please, I object. He did not say that.

Mr. De Sevo: He said the hole was toward the head of the couch.

The Advisory Master: Yes, but he did not say the couch was in the same position.

Q. Did Mr. Dinnebeil tell you how the shot was fired? A. Yes, sir.

Q. How did he tell you the shot was fired? A. He told me his wife fired a shot at him.

Q. Did he say he had a struggle to take the gun away from her? A. No.

Q. In May, 1929, where were you working? A. That is pretty hard for me to answer because I don't keep no dates like that.

Q. Were you working in May, 1929? A. (No answer).

The Advisory Master: Last May?

A. I think I was working down at the shore.

Q. Down where? A. Down at the shore.

Q. Where is that? A. (No answer).

Q. Asbury Park? A. No, this side of Asbury Park.

Q. Long Branch? A. No.

Q. Anyway, down on the shore. That is quite a distance from Metuchen? A. Twenty-eight miles.

Q. And where were you living at that time? A. 183 Main Street.

Q. Were you commuting every night? A. Yes, sir.

Q. Now the time when you went with the policeman, do you remember what day that was in May? A. That I went with the policeman?

Q. Yes, to get Mr. Dinnebeil's belongings. You went with the policeman, didn't you? A. Yes, I went in the house.

Q. That is what I am talking about. A. Certainly.

Q. What day was that? A. I don't know what day it was.

Q. Was it Saturday or Sunday or Monday? A. I can't say; I don't remember the day.

Q. Were you working on that day? A. No.

Q. How long had you been working prior to this day?

Mr. Pearse: He said he worked all his life.

The Advisory Master: He may answer.

A. I don't really know how to answer the question. I don't keep tab.

Q. You said you were working in May down at the shore. Weren't you? Didn't you say a little while ago you were working down at the shore in May, 1929? Didn't you so testify? A. Yes. I am trying to get you those days together, but I can't.

Q. Don't get any of my days together. Now, did you work during the whole month of May down at the shore? A. I can't answer that question because I can't get it clear in my mind where I did work and whether I did actually work down there in May, 1929. It isn't clear in my mind.

Q. Who asked you to go to Mr. Dinnebeil's

house? A. I was walking along the street and Mr. Hokansen came along with the truck.

Q. What happened? A. He said, "Hello, Ed," and I said hello, and he said, "I was just over to George's house to try to get his things and Mrs. Dinnebeil wouldn't give them to me." And I got on the truck.

Q. You went there to help him out? A. I got on the truck with Mr. Hokansen.

Q. Can't you tell me how long you had been out of work prior to this day? A. I don't think I was out very long.

Q. What time of day was this? A. I would say in the afternoon. That is all I would say.

Q. How far were you living then from where Mr. Dinnebeil was living? A. About three blocks.

Q. When you got in the house you said you kept going through the rooms with Mr. Dinnebeil, is that right? A. No, sir; I said Mr. Dinnebeil went in the room.

Q. How do you know that? A. I was right there when he went in.

Q. How many rooms did he go in? A. I think two.

Q. And you followed him when he went in these different rooms? A. Not necessarily followed him.

Q. I don't say necessarily. Did you or did you not? A. No, I did not follow him.

Q. Did Mrs. Dinnebeil say to you, "What are you doing around here?" A. Yes, I believe she did pass that remark to me.

Q. She did pass that remark? A. Yes.

Q. Do you remember testifying on direct-examination that she never bothered you at all? A. I wouldn't call that bothering me.

Q. What did you say to her when she said that

to you? A. I don't believe I passed any remark, any answer at all.

Q. You insisted upon staying there, didn't you? A. Insisted—

Q. You—

Mr. Pearse: Just a minute. The witness didn't answer the last question.

Q. You claim that Mrs. Dinnebeil commenced to call Mr. Dinnebeil a lot of vile names again? A. That is correct.

Q. You said she was screaming? A. Yes, I did.

Q. What was she screaming about? A. I don't know what she was screaming about, but she was screaming.

Q. Didn't she say she wouldn't get off that trunk until she got those two tax bills belonging to Mrs. Edith Hackett? A. I heard no such remark as tax bill at all.

Q. Mrs. Dinnebeil wasn't drunk then, was she? A. No, I didn't say she was drunk.

Q. Do you say she was ever drunk? A. No.

Q. Did she ever attempt to strike you at any time? A. No, I guess not.

Q. What was that? A. No.

(Witness excused).

Thereupon an adjournment was taken until March 6, 1930, at 10:30 A. M. on said date, all witnesses being instructed by the Advisory Master to be present on said date at said time without further subpoena.

March 6, 1930.

(Case continued pursuant to adjournment).

The Advisory Master: I would like to have from counsel as much testimony as they can give on the subject of the ability of the defendant to pay in accordance with the demand of the bill.

Mr. Pearse: I will call the brother a little later.

FRITZ HOKANSON, sworn.

Direct-examination by Mr. Pearse:

Q. You live in Metuchen? A. Yes.

Q. How long have you lived there? A. I have lived there all my life, with the exception of three years I was in the Navy.

Mr. Pearse: You have no objection to these leading questions, have you?

Mr. De Sevo: No.

Q. What is your business? A. Fruit and vegetable and grocery business with my dad just now.

Q. What section of the town do you live in? A. South Main Street, 183.

Q. That is up near where the Dinnebeil's live? A. Yes.

Q. Do you know Mrs. Dinnebeil? A. Yes.

Q. Did you have occasion to go to the house that she was occupying in the month of April, 1929? A. Yes.

Q. Do you recall the incident? A. Yes.

Q. Just state it? A. I was ordered by Mr. Din-

nebeil—I have a small half-ton Ford truck, and I was ordered to go and get Mr. Dinnebeil's belongings, his personal belongings, and move them for him; and I went there and Mrs. Dinnebeil answered the door, and as she did I stated my mission, and she said that, "You go back and tell George to try and get his stuff, his belongings."

Q. Did she say anything else? A. That was all at that time.

Q. Did she say anything further as to what she might do? A. No, sir.

Q. Were you alone on that occasion? A. Yes.

Q. Did you go later? A. I went with Mr. Dinnebeil and an officer.

Q. Who else was there besides Dinnebeil and the officer? A. There was Mr. Nolan, a man by the name of Willie Johnson, and the officer.

Q. And Dinnebeil and yourself? A. Yes, Mr. Dinnebeil and myself.

Q. What happened on that occasion? A. Why, on that occasion as we entered the front door, Mrs. Dinnebeil would not open the door. Mr. Dinnebeil took his key and opened the door, and we entered, and as we went to go up the stairs we stated our mission, that is, the Officer stated the mission that we were there for, and as we went to go up the stairs Mrs. Dinnebeil blocked the stairs, and said that we would not get up if she knew it, and so on right up to the room that Mr. Dinnebeil occupied. And she also blocked that door. She locked the door and took the key—would not give up the key, but Mr. Dinnebeil produced another key and opened the door. And still she resisted, until the officer finally moved her from the door to get in. As we got in the room we started to move the stuff, and she intercepted everything that

we tried to move, intercepted everyone that tried to move anything, but—well, she pointed everything directly to Mr. Dinnebeil, but as each and every one of us tried to move anything, why she would try to block that, but not so much as Mr. Dinnebeil, but of course our—

Q. Did she say anything on that occasion? A. Why, she said plenty. There was all kinds of threats, and that the stuff would not be moved out; and we finally got all of his clothing and everything, except the trunks, out, and the trunks—she sat on the trunk and said that the trunk would not be moved unless it was moved over her dead body.

Q. Did you get the trunk out? A. Officer Frohm finally had to take her off the trunk by force.

Q. Then you took the stuff away? A. Yes.

Q. What did that consist of? A. It consisted of clothing, loose clothing, and there was a day cot, or day bed you might call it, and one little electric stove and a few pots and pans, and his trunk and a hand bag.

Cross-examination by Mr. De Sevo:

Q. How long have you known Mr. Dinnebeil? A. I have known Mr. Dinnebeil since 1918.

Q. Are you on good terms with him socially? A. Yes.

Q. Do you go out together any time? A. Yes.

Q. How often? A. Why, quite often at times, and other times not quite so often.

Q. You say this took place in April of 1929? A. No, sir.

Q. When? A. May 15th, 1929—this moving job, you mean?

Q. Yes. A. Yes.

Q. I understood you to say on direct-examination it took place in April, 1929? A. I did not.

Q. You say you went there originally alone? A. Yes, the same day.

Q. That is in May? A. Yes.

Q. When you got there you told Mrs. Dinnebeil what? A. I told Mrs. Dinnebeil that I had been directed to come and get Mr. Dinnebeil's personal belongings.

Q. What did she say to you? A. She said, "You go back and tell George to try and get his stuff."

Q. Did she say anything else? A. No. I immediately left.

Q. Then how soon after that did you go back? A. In the afternoon.

Q. Who came on the truck with you? A. Who came out on the truck with me?

Q. Who came on the truck with you? A. Why, Mr. Nolan, Mr. Willie Johnson.

Q. And who else? A. It is not quite clear in my mind if there was anybody else.

Q. Mr. Dinnebeil, was he in the truck? A. No, sir, he came in his own.

Q. Who told Mr. Nolan to come along? A. Who told Mr. Nolan to come along?

Q. Yes. A. Mr. Dinnebeil.

Q. I thought you said Mr. Dinnebeil was not on your truck? A. He was not.

Q. Where did Mr. Nolan have his conversation with Mr. Dinnebeil? A. I don't know.

Q. Did you know Mr. Nolan? A. Yes.

Q. How long had you known him? A. Why, I have known him quite a number of years; I cannot state exactly.

Q. When Mr. Nolan got out of the truck, did you ask him where he was going and what he was going to do? A. Yes.

Q. What did he say? A. I asked him, "Are you going with me?"

Q. What did he say? A. He said yes.

Q. Who was this William Johnson? A. He is a laborer for the Modern Building Company.

Q. Who told Mr. Johnson to come along? A. Mr. Dinnebeil, I believe.

Q. Did you know Mr. Johnson before? A. Yes.

Q. Did you ask him what he was doing on the truck? A. Why, I knew what he was doing on the truck.

Q. How did you know what he was doing? A. Because I knew that he worked for the Modern Building Company and that he was sent with me to assist me in moving.

Q. Did you know how many things you were to take away while you were going there? A. I knew that I was to take Mr. Dinnebeils' personal belongings.

Q. Did you think it was necessary to have two other men to assist you in taking such a small amount of clothing? A. Not clothing.

Q. Well, a trunk, one trunk, clothing and what else, a day bed? A. Yes.

Q. Did you think it was necessary to have three men to assist you? A. It was not my position to think.

Q. When you got to the Dinnebeil home the second time you say Mrs. Dinnebeil would not let you in? A. The last time.

Q. I am talking about the second time. A. The second time I had nothing to do with entering.

Q. Who made the first attempt to get in? A.

Why, Mr. Dinnebeil knocked at the door first.

Q. Was Mr. Dinnebeil driving his own car on this occasion? A. I do not believe he has a car. He was driving the car that he does drive.

Q. How did he get there on this occasion? A. I don't know.

Q. Did you find him there when you got there? A. No.

Q. When did you see him? A. Shortly after I arrived.

Q. When you got there and before Mr. Dinnebeil got there, did you attempt to open the door or anything? A. No.

Q. It had been pre-arranged that you should wait for Mr. Dinnebeil? A. Yes.

Q. You say that Mrs. Dinnebeil sat on a trunk and would not let anybody touch it, is that right? A. Correct.

Q. Did she tell you why she would not allow anybody to touch it? A. She said there was something in that trunk that she wanted to have.

Q. Did she say there were some tax bills there with the name of Edith Hackett on them that she wanted to get? A. No.

Q. Did you ask her what she meant? A. It was not my place to ask her.

Q. I didn't ask you that did you ask her? A. No.

Q. Did anybody ask her? A. Not to my knowledge.

Q. You were there? A. I was there.

Q. No one said, "Well, let us have the trunk and we will let you have what you want in there, so that we can get out of there". A. No.

Q. You had never been to the Dinnebeil's home before that? A. Yes.

Q. When? A. I was over one evening.

Q. What evening was that? A. I could not tell you what evening it was; I was invited over there for a card game one evening.

Q. By whom? A. Mr. Dinnebeil.

Q. Who else was there? A. Mr. Nolan, himself and there was another gentleman I could not recall the name of now.

Q. Was Mrs. Dinnebeil home? A. Yes.

Q. Did anything happen when she was there? A. No, with the exception—

Q. You did not hear any vile language used by her? A. No.

Q. She did not disturb your card game; did she? A. No.

Q. You did not see Mr. Dinnebeil in any nervous condition on that occasion? A. Not on that occasion, no.

By the Advisory Master:

Q. Who asked you to go there, to the house? A. At what time?

Q. That day, to get the stuff? A. Mr. Dinnebeil.

Q. When did he request you, that day? A. Yes.

Q. Or the day before? A. No, he requested that day.

Q. In the morning? A. Yes.

Q. Did he tell you what he wanted you to do? A. He told me he wanted to move this—

Q. What? A. He told me he wanted to move his personal belongings.

Q. When you got to the house did Mrs. Dinnebeil seem to know what you wanted? A. Not until I stated.

Q. Had she been told by you or by Mr. Dinne-

beil or anybody beforehand what you wanted? A. No, sir, not until I stated my mission.

Q. The first intimation she had that Mr. Dinnebeil wanted his belongings was when you told her? A. As far as my knowledge goes.

Q. Did she seem surprised? A. Well, I could not say, your Honor, whether—she seemed kind of furious.

Q. Did she know you? A. Yes; I had been at the house before that. She seemed kind of angry.

Q. Did she say that Mr. Dinnebeil himself should come for the things? A. No, she said, "You go back and tell George to come and try and get his stuff."

Q. She said that she would not give it up, did she? A. No, she did not, but she impressed as much as that.

Q. She gave you that inference? A. Yes.

By Mr. De Sevo:

Q. You say that Mrs. Dinnebeil seemed to be angry on the first occasion you went there? A. Yes.

Q. What did she do or say which gave you that impression? A. Just the expression that she used when she says, "You go back and tell George for him to try and get his stuff", and the attitude.

Q. That is all she said?

Mr. Pearse: Wait a minute, he had not finished.

The Witness: The attitude that she used in expressing that was enough to prove to me that she was angry.

Q. Did you ask her why she took that attitude?

A. It was not my place to ask her. I was sent there.

Q. Well, you knew her. A. Yes.

Q. And you went there on a peaceable mission; why didn't you ask her? A. It was none of my business.

Q. Can you describe the attitude a little more definitely, that made you think she was angry? A. I cannot describe any better than just her attitude in saying it and the way she expressed it, is the best I can do.

ARBID HOKANSON, sworn.

Direct-examination by Mr. Pearse:

Q. You are a brother of the Hokanson who was just on the witness stand? A. Yes.

Q. You live in Metuchen? A. Yes.

Q. You also work for your father, in the grocery business? A. No.

Q. Where do you work? A. Here and there and all over.

Q. I am sorry, I thought you still worked for your father. A. No.

Q. How old are you, sir? A. Thirty-three.

Q. How long have you lived in Metuchen? A. Thirty years, all except the three years I was in the Army.

Q. You lived there all your life? A. Yes, outside of the time I was in the Army.

Q. What part of the town do you live in? A. Now at the center of the town, 420 Main Street.

Q. Where did you live in November, 1928? A. At the south end.

Q. Is that where the Dinnebeils and all these other people lived? A. Yes.

Q. Do you know George Dinnebeil and his wife? A. Yes.

Q. You are on social terms with George Dinnebeil? A. Yes.

Q. Do you know a young lady by the name of Mrs. Mohrin? A. Yes.

Q. Did you see her in the early part of November, 1928? A. Yes.

Q. Where was she? A. Mr. Dinnebeil and I—I was working for the Modern Building Company at the time, and we were working together, and we were working at I and Rose Street and around the garage there putting the place in order, and I working there together, and I said to Mr. Dinnebeil I said—

Mr. De Sevo: Just a minute, I object to the conversation.

Q. All right, no conversation that you had with Mr. Dinnebeil; you cannot tell anything you said to Mr. Dinnebeil, if Mrs. Dinnebeil was not there. A. Excuse me. What was that question?

Q. You were starting to tell a conversation—if your Honor will permit me to admonish the witness—you were starting to tell a conversation between you and Mr. Dinnebeil, but you cannot tell any of the conversations between you and Mr. Dinnebeil, if Mrs. Dinnebeil was not there. A. I say Mr. Dinnebeil and I were working around the garage.

Q. Is that the house where he lived? A. Yes, that he did live in at that time; and we were working around there, and I says—

Q. Not what you said. What did you see? A.

Well, I seen coming down the road, down Rose Street was Mr. and Mrs. Roher and daughter.

Q. Who is the daughter? A. Mrs. Mohring.

Q. Then what next did you see? A. And next I see was Mr. Dinnebeil go out and meet them, or they pulled up to the curb and he went out there to meet her, and they had talk there a few minutes, between the three of them, and so I kept going on working, but now and then I glanced, and the next thing I seen was Mr. Dinnebeil go and get the car and Mrs. Mohring get in the car with Mr. Dinnebeil and they go off.

Q. How about the truck? A. The truck followed immediately.

Q. How long was Mr. Dinnebeil gone? A. I would not say. It was not an hour.

Q. Then what happened? A. Then Mr. Dinnebeil came back and Mr. and Mrs. Roher and the daughter went on.

Q. They all came back together then? A. They all came back together then.

Q. Did you hear anything happen then between Mr. and Mrs. Dinnebeil? A. Well, it was around lunch hour and I was downstairs eating my lunch, in the cellar near the furnace where it was warm, and Mr. Dinnebeil come in, and there was an awful rumpus started.

Q. Who seemed to be doing the talking? A. Why, Mrs. Dinnebeil.

Q. Did you hear George's voice? A. All I could hear him say was it was just a customer.

Q. Could you hear anything that she said? A. Yes, I could.

Q. Well, tell us some of the things that you heard. A. Well, she says—your Honor, may I ask your permission to say what she said?

The Advisory Master: What she said, yes.

The Witness: Well, she said "who is that bitch and rotten whore and bastard and son-of-a-bitch coming around here and interfering with me and you"—and carried on something fierce, and then—God, it sounded like a bomb hitting the house—dishes and everything flew.

Q. And where were you at this time? A. Down in the cellar.

Q. Alone? A. Alone.

Q. How long did this keep up? A. Well, it kept up—well, I could not just say what time it was after twelve.

Q. About how long? A. It was going on until after I went out at 12:30, after my lunch hour.

The Advisory Master: To whom was she addressing this language?

The Witness: To Mr. Dinnebeil.

The Advisory Master: Where was Mr. Dinnebeil?

The Witness: Up in the kitchen.

The Advisory Master: Talking with her?

The Witness: Talking to her—well, all I could say as near as I could hear, "It was just a customer."

The Advisory Master: Customer for what, for a house?

The Witness: For a house.

Q. Did you see any more that day later on? A. No, not around the house I didn't see no more of Mr. Dinnebeil.

Q. No, I mean later on. A. 4:30 come and I quit, and went home.

The Advisory Master: Was that house for sale, was that your understanding of it?

The Witness: That was my understanding.

By the Advisory Master:

Q. That house was for sale? A. Yes. I was only a laborer there.

Q. And Mr. Dinnebeil told her that you were a customer to buy the house?

Mr. Pearse: No, Mrs. Mohring.

The Witness: Not me.

Q. Where was Mrs. Mohring? A. Mrs. Mohring come with her father and mother.

Q. Was she there at that time? A. No.

Q. She did not hear this language? A. No, she did not; she had gone. They just transferred from one car to another.

Q. So that those two went off and left Mr. Dinnebeil there? A. Three, it was Mr. and Mrs. Roher and their daughter, and their daughter is Mrs. Mohring.

Q. Those three went off then? A. They went off in a little Public Service truck.

Q. And left Mr. Dinnebeil there? A. And left Mr. Dinnebeil there.

Q. After they had gone then this language occurred? A. Yes, when he put the car into the garage and come back in the house.

Q. They did not hear it? A. No, they did not hear it; they had gone on home.

Direct-examination by Mr. Pearse: (Resumed.)

Q. Did you hear anything more that day between

Mr. and Mrs. Dinnebeil? A. Why, after I had quit and went home and washed and had my supper I got ready and was going up to the Y.

Q. That is the Y. M. C. A.? A. The Y. M. C. A., and I was going up High Street.

Q Now, by the way you say High Street, that is where the Dinnebeil's lived, did they not? A. Yes, they lived on High Street, and the Y. M. C. A. is on High. What I mean by saying going up High Street was I was just going up to the Y, and I was going up, and I heard a lot of loud talking and indecent language and a woman screaming and hollering, and I stopped for a moment, and I could not quite understand it. So then I noticed Mr. Dinnebeil coming down and he was walking real fast.

Q. Which direction was he walking, towards Main Street or away? A. He was coming down towards Main Street, and Mrs. Dinnebeil was screaming and hollering and had a blunt object in her hand, and all indecent kind of language and saying, "I will kill you, you so-of-a-bitch, and when I get finished with you I will do your brother up too." So they proceeded on down the street, and as they went down they got kind of quieter. So I went on to the Y.

Q. Did you do anything to prevent this, to stop them or anything? A. No, sir.

Q. Were you on the same side of the street with them? A. Yes.

Q. Did you pass them? A. Yes.

Q. Did you say anything when you passed? A. No, sir.

Cross-examination by Mr. De Sevo:

Q. How long do you know Mr. Dinnebeil? A. About eight or nine years.

Q. Have you gone out with him? A. No.

Q. You never did? A. No.

The Advisory Master: Were you in his employ; were you under him?

The Witness: No.

Q. Who did you work for? A. When.

Q. When you knew Mr. Dinnebeil on this occasion? A. The Modern Building Company.

Q. That is, the company that Mr. Dinnebeil is the president of, is that right? A. I cannot say.

Q. You do not know who the president of that company is? A. No.

Q. Did you work with Mr. Dinnebeil at any time? A. Yes.

Q. Did you work with him? A. Well, I could not state how long.

Q. Give us an idea, two months, six months, one year? A. Maybe two months or a month, or whenever they were busy now like I worked for them before.

Q. You worked on and off? A. I worked on and off.

Q. With the Modern Building Company? A. Yes.

Q. On all these occasions you always worked with Mr. Dinnebeil? A. Not on all occasions, no.

Q. How long did you work for him? A. What do you mean, how long?

Q. How long did you work together with Mr. Dinnebeil?

Mr. Pearse: I submit, if your Honor pleases—

Q. I understand that you know Mr. Dinnebeil about six or seven years, is that right? A. Right.

Q. And you have worked for the Modern Building Company for how many years, or how long did you work for them? A. About five years off and on.

Q. And during that five years did you ever work together with Mr. Dinnebeil? A. On different jobs, yes.

Q. Who was your superior when you worked on these different jobs? A. Mr. Dinnebeil.

Q. Was Mr. Dinnebeil, the defendant, ever— A. No.

Q. You did not know during that five years that he was president of this company? A. No, sir, I did not.

Q. Did you ever go out with Mr. Dinnebeil socially? A. No, sir.

Q. You never went down to Perth Amboy, to a speakeasy place? A. No.

Q. You said that you were working at the Dinnebeil home in November of 1928? A. Right.

Q. Where were you living at that time? A. South Main Street.

Q. Are you marreid? A. Yes.

Q. Weren't you living with your wife and children in New Brunswick? A. No, sir.

Q. You are positive of that? A. Yes.

Q. Where was your family living? A. The family was livng at South Main Street.

Q. Everybody was at South Main Street? A. Yes.

Q. Did you ever live in Brunswick Street? A. Yes.

Q. When did you live in New Brunswick? A. About 1926.

Q. Until when? A. 1927.

Q. With whom did you live on Main Street besides your wife and children, anybody else? A. That is all.

Q. Did you live with your mother? A. No.

Q. Did you live in the same house with your mother? A. No.

Q. How far was this South Main Street from where the Dinnebeils were living or where you were living? A. It is just betwixt and between.

Q. What do you mean by that, half a block, two minutes walk or what? A. No, they own property on one—

Q. I am not asking you that: I am asking you how far was the place where you were living from where Mrs. Dinnebeil's home was, from where you were living. A. I don't understand the question.

Q. Do you understand it now? A. No, sir, I don't.

Q. You claim you were living on South Main Street, is that right? A. Yes.

Q. Where were the Dinnebeils living at that time? A. I cannot answer that question according to the way you ask me.

Q. Didn't you testify that you heard this conversation down in the cellar? A. Well, I was working there.

Q. All right, where is that address? A. That is on High and Rose Streets.

Q. How far is that from Main Street from where you were living? A. About three blocks.

Q. Why couldn't you understand that before?

Mr. Pearse: I object.

Q. Three blocks, is that right? A. Yes.

Q. What time did you go to work this morning? A. Eight o'clock in the morning.

Q. Where did you go to work? A. What morning are you referring to?

The Advisory Master: The morning that you went there.

Q. The morning that you are talking about. A. Eight o'clock.

Q. Did you go to the Dinnebeil home first or did you report to your company first? A. Went to the High and Rose Street place first.

Q. Had you worked prior to this day at this address? A. Yes.

Q. How long prior to this day? A. I could not say.

Q. Give us an idea; you know how long you were working there? A. No, I don't.

Q. Were you working two days, three days, four days? A. Longer than that.

Q. What were you doing at this home? A. Digging.

Q. Digging what? A. To cover over the electric light fixtures running from the house to the garage.

Q. What else were you supposed to do there? A. And carting.

Q. What else were you to do there? A. And cutting in a road for the garage.

Q. What else? A. That is about all.

Q. How many more men were working there besides yourself? A. Just myself and Mr. Dinnebeil.

Q. You claim that took you about four or five

days, is that right? A. No; I did not claim anything.

Q. How long did that take you? A. I could not say.

Q. You cannot give us any idea? A. No.

Q. When did you finish the job? A. That I could not say.

Q. Was it one, two, three days or a week after this particular day you testified to? A. I could not say.

Q. Was not young Mr. Dinnebeil living home on that occasion? A. Yes.

Q. He was working with you, wasn't he? A. Not at all times, no. He was on one job and I was on another.

Q. Have you been in this court room every day that this case has been on? A. Yes.

Q. What time did—

The Advisory Master: You don't mean in this court room.

Mr. De Sevo: Well, I guess he understood what I meant, otherwise he would not have said.

The Advisory Master: You attended court here.

The Witness: Yes, I attended court here.

Q. What time did Mr. and Mrs. Mohring and the daughter come to the house? A. Never.

Q. Didn't you testify that Mr. and Mrs. Mohring and the daughter came to the house? A. No.

Q. What did you testify to? A. I said Mr. and Mrs. Roher and daughter.

Q. I beg your pardon, I had the names twisted. A. Roher, and the daughter's name was Mohring.

Q. What time did Mr. and Mrs. Roher and Mrs. Mohring come to the house? A. After eleven o'clock.

Q. Did you know they were coming? A. No, sir.

Q. Where were you at the time that they came in? A. Came in where?

Q. When they came to the house? Don't fence with me.

Mr. Pearse: I object to the question. The witness has stated that either Mr. Roher and his wife or Mrs. Mohring came into the house. He has testified that they were out in the front and that Mr. Dinnebeil came out to meet them.

The Advisory Master: Out of the house?

Mr. Pearse: Or out from the garage, from where he was working.

Q. When did Mr. and Mrs. Roher come to the house? A. It was a little after eleven o'clock,

Q. How did they come there, by car? A. Yes, they came with a little Public Service bus.

Q. Did you see the Public Service bus pull up to the house? A. Yes.

Q. How far were you from where the car was parked? A. That I could not say.

Q. Give us an idea. A. I was down near the garage.

Q. That does not mean a thing to me; how far was it? A. I do not know just how far it was.

Q. Was it ten feet, a half a foot, a mile; how far was it; can't you give me any idea?

(Testimony repeated).

The Advisory Master: You want to know where the car was parked.

Q. I want to find out how far that was from where the witness was standing to where the car was parked.

The Advisory Master: How far were you standing away from where the car was?

The witness: Well, the car was on the curb on the street.

The Advisory Master: On the street?

The Witness: On the street, yes; and I was in the back yard where the garage was.

The Advisory Master: How close to the garage were you?

The Witness: Well, I was just—

The Advisory Master: Were you in the garage or outside?

The Witness: No, I was outside of the garage, covering over a ditch in the yard between the garage and the house.

The Advisory Master: What distance was it from where you stood in the garage out to where the car was in the street; that is what he wants to know—oh, just approximate it; you are not tied down.

The Witness: I will say around seventy-five paces.

Q. Had you known Mr. and Mrs. Dinnebeil before that? A. Yes.

Q. Had you known Mrs. Mohring? A. Yes.

Q. Did you know her by name? A. Yes.

Q. After the car arrived there who got out first, do you know? A. That I just could not say.

Q. How long after these people came out to the house did Mrs. Dinnebeil come out? A. He was working with me and he just walked to—

Q. Did anybody call him? A. No.

Arbid Hokanson—Cross.

Q. Did you see Mr. Dinnebeil go to see these people to speak to them, or anything? A. Yes.

Q. You could not hear what they said? A. No.

Q. Do you know whether or not Mr. Dinnebeil knew this Mrs. Mohring? A. That I could not say.

Q. Did Mr. Dinnebeil say anything to you where he was going?

Mr. Pearse: If your Honor pleases, I think I must object. Counsel objected to any testimony between Mr. Dinnebeil and this witness, which was not made in the presence of Mrs. Dinnebeil. If we are going to have both conversations I should have had the right to bring them out on direct-examination rather than on cross.

The Advisory Master: This is not testimony that relates to the woman, to the wife. It has no bearing on her at all. If it was a conversation that affected the merits of the case, I think you would be right. I think he may testify as to what Mr. Dinnebeil said to him, as to where he was going and what he intended to do.

Mr. Pearse: I withdraw the objection.

(Question repeated).

A. No.

Q. How long was Mr. Dinnebeil gone before he came back again? A. It was not an hour.

Q. That would make it about a little after twelve? A. A few minutes after twelve, yes.

Q. Did he come back—did he come in and speak to you as soon as he came back? A. No.

Q. When did you see him next? A. I did not see him until that night.

Q. You saw him come back though, did'nt you? A. No.

Q. What time did you go out to lunch? A. Twelve to twelve-thirty.

Q. You say you went downstairs into the cellar and had your lunch down there? A. Yes.

Q. Why didn't you go home and have your lunch? A. I carried my lunch with me.

Q. I didn't ask you that; Why didn't you go home and have your lunch.

The Advisory Master: He brought his lunch with him.

A. Well, I brought my lunch with me.

Q. Notwithstanding you were living three blocks away, you brought your lunch with you, is that right? A. No, sir; I didn't say any such thing.

The Advisory Master: Well, he asked you, notwithstanding that you were three blocks away, you found it necessary to bring your lunch with you?

The Witness: Yes.

The Advisory Master: Did you do that generally?

The Witness: Always.

Q. Did you bring your lunch on the other three or four days or whatever length of time you were working at the Dinnebeil house, did you always bring your lunch with you when you were working there? A. Yes, providing now and then—

Q. What is that? A. I say, when there were one or two occasions when there was a special meat I would jump home and have it.

Q. You say you heard an awful rumpus upstairs? A. Yes.

Q. Did you know who was upstairs at the time? A. Just Mr. and Mrs. Dinnebeil.

Q. That is all who were there? A. That is all that was there.

Q. How do you know that? A. How do I know that?

Q. That is what I asked you. A. I just heard his voice.

Q. Do you know whether young Mr. Dinnebeil was upstairs? A. No.

Q. How do you know he was not there?

Mr. Pearse: He did not say that.

The Advisory Master: He said he did not know whether he was there or not.

Q. He might have been there, might he not? A. He might have, yes.

Q. The only reason you say Mr. and Mrs. Dinnebeil were the only ones upstairs was because those were the only voices you heard, is that right? A. That is right.

Q. Did Mr. Dinnebeil ask you to have lunch with him upstairs? A. No.

Q. What was the first thing you heard when you started to have your lunch? A. When I started to have my lunch?

Q. What was the first things that you heard upstairs that you called an awful rumpus? A. The first thing I heard Mrs. Dinnebeil holler. "Who is that rotten son-of-a-bitch of a whore around here now?"

Q. You heard that distinctly? A. Yes.

Q. Did you hear anything else by Mrs. Dinnebeil? A. Plenty.

Q. What was that? A. I heard plenty.

Q. Well, tell us what else you heard outside of that language that you repeated? A. "Who is that

bastard? That ain't no son-of-a-bitch of a customer" and so on.

Q. What else? I do not want the "and so on". What was it that she said? A. Just rhyme (?) right back.

Q. All you heard was curse words, is that right? A. That is all.

The Advisory Master: Did you hear any conversations other than swearing between the two?

The Witness: That is all I heard. Mr. Dinnebeil I heard say, "It was a customer."

The Advisory Master: Was that all Mr. Dinnebeil said in return for all this?

The Witness: That is all I could hear him say, "It was a customer; it was a customer."

The Advisory Master: That is all he said?

The Witness: That is all he said.

Q. You did not hear Mr. Dinnebeil say it was Mr. and Mrs. Roher and Mrs. Mohring? A. No, all I could hear him say was it was a customer.

Q. You did not go upstairs, did you? A. No.

Q. How long had you knownMrs. Dinnebeil? A. To tell the truth I have known Mrs. Dinnebeil only through just around the house; that is all.

Q. How long had you known her? A. Since around the first of the month or so when they moved in; that was all.

Q. First of what month? A. November.

Q. And this happened on what day? A. That I don't know.

Q. Give us an idea. A. Around the middle of the month or so.

Q. You are sure it was the middle of the month?

Mr. Pearse: He said around the middle of the month or so.

Q. I want to know what you mean by middle of the month or so? A. I cannot answer.

Q. But you are sure that they moved in on the first of the month? A. I ain't sure; no.

Q. Well, you said so a little while ago.

Mr. Pearse: I submit the witness did not say so. He said about the first of the month when they moved in.

Q. What do you mean by about the first of the month; give me an idea.

By the Advisory Master:

Q. First of what month?

Mr. Pearse: November, he said.

The Advisory Master: What year?

The Witness: 1929.

Q. You had known Mrs. Dinnebeil since she moved in at that time? A. Just all I know her is just around the property.

Q. Well, you know her from seeing her around there? A. That is all.

Q. And you did not know her before she moved in there, is that the idea? A. No; I had never seen the lady before.

Q. How often did you see her after that, frequently or only once in a while? A. Just once in a while when I was around the property and she happened to be there and see her, and I would just say, "Good morning", or "Good afternoon", or whatever it may be.

Cross-examination by Mr. De Sevo: (Resumed)

Q. Did you ever see Mrs. Dinnebeil in your mother's house? A. No.

Q. You say that they moved about the first part of November of 1928?

Mr. Pearse: He did not say that.

Mr. De Sevo: Oh, now, please.

Q. Did you say that they moved about the first of November, 1929? A. I cannot say just what dates it was.

Q. Did you say about the first part of November, 1929? A. I do not know whether it was 1929 or 1928.

Q. Will you please give us as near as you can whether it was 1928 or 1929?

The Advisory Master: Do you remember whether it was 1928 or 1929 that they came to live there; do you remember the year?

The Witness: No, I just cannot say.

The Advisory Master: You are not sure whether it was 1928 or 1929?

The Witness: No.

The Advisory Master: But you think it was around the first of November of either one of those years?

The Witness: Yes.

Mr. De Sevo: I very seldom make a request of the court, except on this occasion I think that Mr. Pearse should be admonished not to interfere too often. Now, this man apparently does not even know the year, and I think I have a perfect right to keep after him to get the date.

The Advisory Master: Well, you may proceed.

Mr. Pearse: I want to apologize to counsel for interfering. I was losing my patience a little bit, as time seems to be going very fast.

Q. How long did this argument continue between Mr. and Mrs. Dinnebeil as far as you know? A. I could not say.

Q. Did it continue during the entire time that you had your lunch in the cellar? A. Yes.

Q. That would be at least for a half an hour? A. No; because I had been in there and had my lunch pretty well eaten.

Q. What was that? A. I had been and had my lunch pretty well ate.

Q. How long did you hear it? A. About fifteen minutes.

Q. What did you do after that? A. Went out and went to work.

Q. Did Mr. Dinnebeil come out after? A. No.

Q. You did not see him? A. No.

Q. When was the next time you saw him? A. I saw him that night, that same night.

Q. Where? A. About between seven and seven thirty.

Q. Where? A. On High Street.

Q. Where on High Street? A. Between Rose Street.

Q. What do you mean, out on the street? A. Yes —you asked me where I seen him.

Q. That is what I am trying to get. A. I said between Rose and High Street.

Q. Out in the street? A. Out in the street.

Q. Did you have any conversation? A. No.

Q. What did you say, "Hello"? A. I did not say anything.

Q. You did not talk to him? A. No.

Q. When was the next time that you saw him, that you spoke to him? A. I could not say.

Q. Can't you give us any idea? A. No.

Q. Did you go back and work on this job again after this day of the quarrel—well, don't you know.

Mr. Pearse: Give the witness a chance. (Question repeated).

A. No, I don't say that I did.

Q. Was the job finished on this day when you left? A. No.

Q. Were you told not to go back or what? A. No, sir.

Q. But you don't know whether you went back or not?

Mr. Pearse: I beg your pardon. Counsel does not repeat what the witness says. The witness says he could not say whether he went back or not.

The Advisory Master: That is what he said, he does not know.

Mr. Pearse: He does not know, he said.

The Advisory Master: Well, that is the same thing.

Q. Are you positive you were there that day at all? A. No, sir.

Q. When did you hear about this quarrel that took place on High Street, when did you hear that take place? A. Between seven and seven thirty.

Q. When, the date? A. On the same day.

Q. You mean that very same night? A. That very same night.

Q. You were going then to the Y. M. C. A.? A. Yes.

Q. What was the first thing that attracted your attention? A. Loud speaking.

Q. How far were you from them? A. In between the block.

Q. How far is that, about? A. That I could not say.

Q. Well, were you five paces, ten paces—you were close enough to hear what they were saying? A. Not exactly, no.

Q. You were close enough to hear the swear words Mrs. Dinnebeil said? A. Not at first, no.

Q. How close were you to them when you heard this swearing that you testified to? A. Side by side practically.

Q. Was Mrs. Dinnebeil doing anything? A. Yes.

Q. What was she doing? A. Hollering and pulling on Mr. Dinnebeil, and walking real fast.

Q. Did she have anything in her hand? A. Yes.

Q. What was it? A. That I could not say.

Q. Was it a club or bat or stick or piece of rope? A. It looked like a stick, or root or something.

Q. Why could not you tell me that before? A. I was not asked it before.

Q. All right, what was she doing with this stick? A. Waving it at—clubbing him right across the neck here (indicating).

Q. Did she strike him? A. Yes.

Q. How many times did you see her strike him? A. That I could not say.

Q. More than once? A. Yes, just as fast as her hand could go up and down.

Q. As fast as you could see the hand go up and down, is that right? A. Yes.

Q. Was anybody near you at the time? A. No.

Q. Do you know Mr. Stillick? A. I know him, yes.

Q. How long have you known him? A. That I could not say.

Q. Give us an idea, won't you? A. No.

Q. You won't even venture a guess? A. No, I could not venture a guess, no.

Q. Did you see him there? A. No.

Q. You claim you were right close by her when this clubbing was going on and this language was being used? A. Yes.

Q. Did you make any attempt to stop Mrs. Dinnebeil? A. No.

Q. Did you know that Mr. Dinnebeil was a sick man? A. Yes.

Q. Was he sick on this occasion, do you know? A. I could not say.

Q. Notwithstanding that you knew he was sick you made no attempt to stop her? A. No.

Q. You did not hear Mrs. Dinnebeil shout, "You skunk, did you"? A. No.

Q. How long did you remain there while this clubbing and swearing was going on? A. Just long enough to pass; that was all.

Q. You must have been on the same side of the street? A. Yes.

Q. You do not know what happened after that? A. No.

Q. Have you seen Mr. Dinnebeil since—did you see Mr. Dinnebeil after this occasion? A. Yes.

Q. Where did you see him? A. On the job.

Q. What job? A. Over on Division Street.

Q. How soon after this particular episode that you testified to? A. That I could not say.

Q. Well, was it a week or a month? A. That I could not say.

Q. You could not give us any idea at all? A. No.

Q. Did you tell Mr. Dinnebeil on that occasion, when you saw him again, "That I saw what Mrs. Dinnebeil did to you, but I did not interfere—"

Mr. Pearse: I object to the question, because whatever this witness may say is not a denial or affirmation of anything that has been testified to. It is a pure fabrication in the mind of counsel, as to what somebody might have said to somebody else.

The Advisory Master: You can ask him what he said to Mr. Dinnebeil.

Mr. De Sevo: Of course, Mr. Pearse forgets that this is cross-examination.

The Advisory Master: You might ask him whether he said anything, any particular phrase. You must lead him on legal and logical lines.

Q. Did you say anything to Mr. Dinnebeil the next time you saw him, anything about what you had seen on this particular night? A. No.

Q. How did Mr. Dinnebeil know that you had seen what you have testified to?

Mr. Pearse: I object to that.

Q. Do you know—

Mr. Pearse: I withdraw the objection.

A. What do you mean?

Q. I withdraw the question. Have you ever spoken to Mr. Dinnebeil about what you have already testified to? A. Yes, I talked to him.

Q. About what you have already testified to? A. Yes.

Q. When was that? A. I could not say.

Q. That is the best answer you can give? A. I just said to him—

Mr. Pearse: I submit the witness has got a right to answer.

The Advisory Master: You may have him explain later on, Mr. Pearse.

Redirect-examination by Mr. Pearse:

Q. When did you first tell Mr. Dinnebeil that you had seen this thing? A. Well, I just got to talking on a job, working together, and I said to him in an offhand way, "What was the matter with your Missus going down the street?"

Q. When did that conversation take place? A. That I just could not say.

Q. Sometime subsequent? A. We were right on a job.

Recross-examination by Mr. De Sevo:

Q. Was that a week or two or three or four or five weeks after this took place? A. That I could not answer.

Q. That is the best answer you can give me? A. That is the best answer I can give you.

The Advisory Master: You do not know how long that was?

The Witness: No.

The Advisory Master: Are you married, you say?

The Witness: Yes.

The Advisory Master: Are you living with your wife?

The Witness: Yes, and have five children.
The Advisory Master: In Metuchen?
The Witness: Yes.

WILLIAM DINNEBEIL, sworn.

Direct-examination by Mr. Pearse:

Q. You are a brother of George Dinnebeil, the defendant in this case? A. Yes.

Q. What business are you engaged in? A. We are in the building line.

Q. Do you have any company that you operate? A. Yes.

Q. What is the name of the company? A. Modern Building Company, Incorporated.

Q. Who holds the stock in that company, do you know? A. Yes, my brother, George, holds one share, and my wife and I hold the balance of it.

Q. How many shares are there altogether? A. Twenty shares.

Q. Outside of that one share, has your brother any financial interest in the company at all? A. No.

Q. Does he work for the company? A. He does.

Q. He is the president, is he not? A. Yes.

Q. You do not have any meetings, do you? A. No.

Q. What position do you occupy? A. I am the secretary and treasurer.

Q. Who has charge of the finances of the company? A. I have.

Q. Does your brother work for the company? A. He does.

Q. What wages does he get? A. Forty dollars per week.

Q. How long has he been getting that? A. For the last two years.

Q. What did he get prior to that time? A. $33-$35.

Q. What work does he do for the company? A. He does—takes care of all the replacements, maintenance—what you would call it.

Q. Do you recall when his wife came to live in Metuchen? A. Yes.

Q. Do you recall the date? A. Yes, the day before Election Day in the year 1928.

Q. What house did they move into? A. 225 High Street.

Q. To whom did that house belong? A. To the Modern Building Company.

Q. For what purpose was it built? A. For the purpose of selling it, showing it, displaying it.

Q. What do you mean by to show and sell? A. We have occasionally people that want to look at a building, to get an idea as to what their money would buy, and that was the purpose of putting up this building.

Q. Your brother occupied it with his wife? A. He did.

Q. Did they pay rent? A. Yes.

Q. How much rent? A. $50 a month.

Q. And that rent was paid to the Modern Building Company? A. Yes.

Q. Was that house built for any other purpose, except as a model and for the purpose of sale? A. No.

Q. It was not built for your brother? A. No.

Q. So far as you have been able to observe from what you have seen of it, what can you say with respect to your brother's health in the last twenty

years? A. Why, he was a very sick man most of the time.

Q. Do you know how frequently he has gone to the hospital? A. Yes.

Q. Do you know how frequently he has consulted with specialists on his trouble? A. Plenty.

Q. And how many doctors has he had, do you know, in the last five years? A. He had every doctor available in our community, and also in New Brunswick and Perth Amboy, a great many.

Q. What was the condition of his health in 1928 and 1929, as you observed it? A. Why, during the year 1928 he just recovered from an operation, in St. Barnabas Hospital.

Q. When he came back from the hospital, to whose house did he come? A. To my house.

Q. How long did he live there before his wife came? A. Until she came.

Q. You are married, are you not, Mr. Dinnebeil? A. Yes.

Q. And live with your wife? A. Yes.

Q. How long had he and his wife been living together before he came back to your house, I mean approximately? A. You mean the early stages of their marriage?

Q. No, in November, 1928. A. Oh, while they lived in Metuchen?

Q. Yes. A. Why, he came back just one week. They moved out on a Monday and the following Monday he came back in the evening.

Q. When he came to your home in the evening, what did you observe so far as he was concerned? A. He was trembling all over, and he was very much upset. He could not speak. He could not utter a word. He just dropped in a chair, and I said to my wife—

Q. Never mind what you said. You cannot testify to that. How long did he stay with you on that occasion? A. For about an hour and a half.

Q. Then what did he do? A. Then he went home with his wife.

Q. Did she come there? A. No, I sent my wife up to her house to explain what had happened.

Mr. De Sevo: I object.

Q. You sent your wife up to their house? A. Yes.

Q. Did then Mrs. George Dinnebeil come to your house? A. She did.

Q. And they went home together? A. And they went home together.

Q. Did you have a conversation at your house then while the four of you were there? A. Yes; she seemed to be—

Q. What was said? A. She seemed to be to my understanding on her part—she thought that this lady who had called during the day—

Q. Wait, now. Are you testifying to an actual conversation that took place at your house now? A. No, after she came to my house she understood that this party—

Q. What did she say?

Mr. De Sevo: I object to his understanding.

Q. You won't have to, because I am trying to keep him straight. What was said in your house in the presence of you and George Dinnebeil and his wife? A. Well, she said she was sorry that she was mistaken. She mistook this person for somebody else.

Q. Well, he went back. How long did he stay

there with his wife before he came back again? A. Around Thanksgiving time.

Q. Before or after Thanksgiving? A. About two days before.

Q. And where was he, if you know, on Thanksgiving? A. He was home with us.

Q. At your house? A. Yes.

Q. How long did he stay with you on that occasion? A. One week.

Q. What was his physical condition during that time? A. Very bad; he was very nervous and very much upset.

Q. What can you say about his diet? A. Why, his diet is a very strict one.

Q. Was it provided or not at your house? A. Always at our house, yes.

Q. After the week was over he went back again? A. He did.

Q. How long was it before he returned again to your house? A. It was just before Christmas.

Q. Did he stay there any length of time then? A. Stayed there about four weeks.

Q. What was his condition of health at that time? A. It was very bad.

Q. Did he then return to the home on High Street? A. Yes.

Q. Then have you any recollection as to his coming backwards or forwards at different periods; how long did they keep up? A. Well, generally about a week.

Q. Then he would return to your house? A. Yes.

Q. Was there any difference in his physical condition on each time that he returned to your house? A. Yes; he was always very much pulled down in health.

Q. Do you know whether your brother took another house there to live in? A. Yes, he did in January.

Q. Did he ever move into it? A. No.

Q. Did she ever move into it? A. No.

Q. Do you know how Mrs. George Dinnebeil was gotten out of the house on High Street? A. Yes.

Mr. De Sevo: I object; unless he was present.

Mr. Pearse: I asked the question and his answer was yes.

Q. Did you take any proceedings? A. I did.

Q. On whose behalf? A. On the company's behalf.

Q. What kind of proceedings did you take? A. To dispossess.

Q. Do you remember what month that was? A. That was in May.

Q. Of what year? A. 1929.

Q. So far as you know outside of his wages that he received, has your brother any property or any money? A. No.

By the Advisory Master:

Q. When was this company organized? A. In 1918.

Q. Who organized it? A. My brother and two other parties.

Q. Your brother and yourself? A. No, not myself, two other parties.

Q. Who were they? A. Mrs. Tumulty and a Mrs. Hackett.

Q. Of Metuchen? A. Metuchen and New Brunswick.

Q. How long did they remain in the company? A. One of them was voted out at the first meeting.

Q. What? A. Was voted out at the first meeting.

Q. What became of the other member? A. The other member stayed in.

Q. And is in it now? A. No.

Q. Who are in it now? A. Just my wife and I.

Q. Your wife and yourself? A. Yes.

Q. And your brother? A. And my brother, yes.

Q. Your brother received nothing from the company, except his earnings, you say, of $40 a week? A. Yes.

Q. Has he ever received more than $40 a week? A. No, less.

Q. He has received less? A. Yes.

Q. Who fixes his wages? A. I do.

Q. You have no meetings of the corporation? A. No, not so often.

Q. Well, you have three members of the corporation? A. Yes.

Q. You and your brother and your wife? A. Yes.

Q. Do you ever hold a meeting for the purpose of regulating the corporation, for the purpose of fixing salaries and overhead expenses? A. No.

Q. Or for the purpose of ascertaining what the financial status of the company is, whether it is making money or losing money? A. No.

Q. How much money did your brother put into the corporation? A. $100.

Q. How much did you put in? A. I put the same in in the beginning, $1900 eventually.

Q. Did your wife put in any? A. Part of that is hers.

Q. So that she put in part of the $1900 and you put in part of the $1900? A. Yes.

Q. How much did she put in? A. $900.

Q. And you put in a thousand? A. Yes.

Q. Do the other two incorporators hold any stock in it now? A. No.

Q. What did they do with their stock? A. I bought it.

Q. How many shares did they each hold? A. Nine and one.

Q. Who held the nine? A. Hackett.

Q. What did you pay her for her nine shares? A. $500.

Q. What did you pay the other man? A. $100.

Q. Did your brother have no money whatever at the time of the organization of this company? A. No, he did not.

Q. Why did you limit it to one share of stock? A. That was the—

Q. He is president of the company, isn't he? A. Yes.

Q. Why did you limit him to one share of stock or why did he limit himself? A. Why?

Q. Why did he limit himself or why did you limit him to one share of stock? A. Just a matter of having somebody that holds one share.

Q. That was all? A. That was all.

Q. He was working with the company right along? A. Yes.

Q. I suppose he is its main builder, isn't he? A. No.

Q. Are you the main builder? A. Yes.

Q. What do you do? A. I do all the planning.

Q. The architectural work? A. Yes.

Q. Do you do any laboring work? A. Not much.

Q. Do you do any carpenter work? A. Very little.

Q. Who does that, he does? A. Yes.

Q. What do you draw out of the company? A. $60 a week.

Q. What does your wife draw out? A. Nothing.

Q. So what you draw represents the drawings of your wife and yourself? A. Yes.

Q. Do you know whether the company is making or losing money? A. They have not made any money in two years.

Q. How do you manage to pay the salaries? A. We have to borrow it.

Q. From the banks? A. From the bank.

Q. Does your company owe any money to the bank now? A. Yes.

Q. For wages? A. Yes.

Cross-examination by Mrs. De Sevo:

Q. Who is this Mrs. Hackett that you mentioned? A. She is a woman.

Q. Sure, she is not a man. A. The way you ask me you would think it was.

Q. What is her first name? A. Edith.

Q. Is that the woman that your brother lived with?

Mr. Pearse: I object to the question in that form. The witness has testified previously that Mrs. Hackett kept a boarding house and that he was one of the boarders there.

(Question repeated.)

A. Explain what you mean, please.

The Advisory Master: Well, was he a boarder there?

The Witness: He was, yes.

The Advisory Master: Then he was living with her in that sense?

The Witness: Yes.

Q. What property does the Modern Building Company own now? A. They own several houses.

Q. Will you give me the addresses of those several houses? A. What?

Q. Give me the addresses.

The Advisory Master: Where are they located?

The Witness: In Metuchen.

Q. I mean what street is it, Hoboken Avenue or what? A. High Street for one.

Q. What number? A. 225.

Q. What is it, one-family, two-family? A. One-family dwelling.

Q. Anybody live there? A. Yes.

Q. Who does?

Mr. Pearse: Have we got to go through all these landlord and tenant lists?

The Advisory Master: I suppose he has the right to.

Mr. Pearse: I suppose he has the right, but I was appealing to him, not objecting.

The Advisory Master: You may proceed.

Q. Who lives there? A. A Mr. Dalton.

Q. Do they pay any rent? A. Yes.

Q. How much? A. $65.

Q. Do you receive any other income other than

these $65 from 225 High Street? A. No.

Q. By the way, what is this property worth, about? A. It is not worth anything until you sell it.

Q. I know, but what would it be worth on the market? A. $12,300.

Q. Would your company take $15,000—all right, would they take $10,000? A. No.

Q. What other property do they own? A. Some houses on Division Street.

Q. What is the address? A. Number one and number three.

Q. Who lives at number one Division Street? A. A party by the name of Pardman.

Q. Do they pay any rent? A. Yes.

Q. How much? A. $45.

Q. Do you receive any other income other than the $45? A. No.

Q. What is that worth about on the market? A. About $6,000.

Q. What is the other property that the company owns? A. What is that?

Q. What other property? A. Oh, I told you number three.

Q. Who lives there? A. Nobody.

Q. You mean it is vacant? A. Yes.

Q. How long has it been vacant? A. Three years.

The Advisory Master: Since it was built?

The Witness: Yes.

Q. What is that worth on the market? A. $5500.

Q. What other property do you own? A. Number 7 Division Street.

Q. Anybody live there? A. No.

Q. When was that built? A. Some time, three years ago.

Q. During the entire three years it has never been occupied? A. No income, no.

Q. How much is that worth on the market? A. $5500.

Q. Any other property? A. Yes.

Q. What other property? A. 24 Sullivan Avenue.

Q. Anybody live there? A. No.

Q. Has anybody ever lived there? A. Yes.

Q. What rent did you get when it was occupied? A. $40.

Q. What is that worth on the market? A. $5300.

Q. Any other property? A. Yes.

Q. Let us have it? A. 23 Sullivan Avenue.

Q. Is that occupied? A. Empty.

Q. How long ago was that built, three years also? A. Yes.

Q. What is that worth on the market? A. $5500.

Q. What other property? A. 27 Sullivan Avenue.

Q. Is that occupied? A. No.

Q. What is that worth? A. $5500.

Q. What other property? A. 70 Charles Street.

Q. Is that occupied? A. No.

Q. Was it ever occupied? A. Yes.

Q. What did you get as rent? A. $45.

Q. What is that worth? A. It is worth $4500.

Q. Are these all one-family houses? A. Yes.

Q. What other property? A. That is all.

The Advisory Master: How much land do you own outside of the houses?

The Witness: We own about 120 building lots.

The Advisory Master: They are not improved at all, just vacant?

The Witness: No, just vacant.

Q. What is that, in the so-called new section or old section? A. New section.

Q. Do you own anything in the old section? A. Not a thing.

Q. What would you say these lots are worth on the market, have you any idea? A. Oh, they are worth a hundred dollars.

Q. A hundred dollars a lot? A. Yes.

Q. Would you sell them now for a hundred dollars a lot? A. No.

Q. What would you sell them for? A. I would not sell them at all.

Q. When did Mrs. Hackett get out of this company? A. In 1927.

Q. What happened, did she resign or what? A. Yes.

Q. Who was the one that was voted out? A. Mrs. Tumulty.

Q. You say that Mr. Dinnebeil gets $40 a week as president? A. No, I did not say that.

Mr. Pearse: I object to the question.

Q. I withdraw the question. What salary does he get as president? A. Nothing.

Q. What is this $40 that he is paid? A. That is his wages.

Q. As a laborer? A. Yes.

The Advisory Master: Well, he is hardly a laborer; he is a mechanic.

The Witness: Yes, as a mechanic, well, for labor.

Q. What position do you hold in the company? A. I am treasurer and the secretary.

Q. Do you get a salary as treasurer of the company? A. No.

Q. What salary do you get? A. $60.

Q. What do you do for the $60? A. I manage the concern.

Q. Did Mr. Dinnebeil's son ever work for the company? A. He did.

Q. As what? A. As a laborer and an apprentice.

Q. What did he get as an apprentice? A. Oh, I don't know. I imagine about 65 cents an hour.

Q. What did he get about a week, or—didn't he get thirty-five dollars a week? A. He did not work by the week.

Q. He was never paid thirty-five dollars a week? A. No, nobody is.

Q. Now, you say your brother has been ill for a long time. A. Are you referring to recent times or back to 1916 or 1918?

Q. The question is simply I want to know how long your brother has been ill. A. Since 1917.

Q. Prior to 1917 he was in good health, is that right? A. I think so, yes.

Q. Do you know, don't think, please.

Mr. Pearse: I submit he has got a right to think. He has got to think if he is going to answer questions.

Mr. De Sevo: I want to know if he does not know. If he does not know he can say so.

Q. Was he ill prior to 1917, do you know? A. Yes, he was.

Q. How long before 1917 was he sick—well, did he become sick after he got married; that is what I want to know? A. Oh, yes, surely.

Q. Was he sick before he got married? A. No.

Q. Did you know that Mr. Dinnebeil and Mrs. Dinnebeil did not live together from 1906 to 1928? A. Yes, I did.

Q. And your brother was ill during this time, wasn't he? A. Yes.

Q. What is the matter with him? A. Why, he has stomach and nervous troubles.

Q. He had this nervous trouble from 1906 to 1928, didn't he? A. Yes.

The Advisory Master: He says stomach trouble too.

The Witness: I said stomach and nerves.

Q. Did he have this nervous trouble between 1906 and 1928?

Mr. Pearse: I submit that the witness did not separate the diseases, therefore the question would be did he have the trouble? I know what counsel is driving at.

(Question repeated.)

The Advisory Master: That may be answered.

A. Yes.

Q. He also had this stomach trouble between the— A. Yes.

Q. You do not know what this nervousness is due to? A. Oh yes, certainly I do. It nearly kills him.

Q. What is it due to? A. That is what it does.

The Advisory Master: What was the cause of the nervous trouble?

The Witness: Oh, excitement.

Q. What excitement did your brother have between 1906 and 1928? A. What excitement? That is a rather funny question.

Q. What excitement did he have between 1906 and 1928 that you know of? A. Why, he had several exciting moments with his wife.

Q. He was not living with his wife between 1906 and 1928, was he? A. No.

Q. What was the first excitement that you know of? A. 1927.

Q. That is the first excitement that you know of? A. Well, I imagine that is what you want to know.

Q. And prior to 1927 was he nervous? A. No.

Q. What did you mean a little while ago when you said he was nervous between 1906 and 1928? A. Just what I said.

Q. Do you know the date when Mr. and Mrs. Dinnebeil lived together in Metuchen? A. Yes.

Q. When? A. It was the Monday before Election Day, in the year 1928.

Q. Did you go and visit the Dinnebeils the day they came to Metuchen? A. No.

Q. Your brother came home that very night, or the next day? A. What do you mean? Just now you tell me they live there. Why should they come to me.

Q. Didn't you testify that he came to your home right after he came to live in Metuchen with his wife? A. I did not.

Q. When was the first time that your brother came to your house after he had been living with

his wife in Metuchen? A. Just one week after he moved out to take up housekeeping, on a Monday night.

Q. What did you observe about him when he came back that one week? A. He was very sick and very ill.

Q. What was he sick from? A. Well, from a row which he had at home.

Q. What was he doing which gave you the idea that he was sick? A. Why, he almost collapsed.

Q. You say he had a row with his wife? A. Yes.

Q. Did he tell you what the row was about? A. Yes, about a half an hour after.

Q. What was he doing during this half an hour? A. Why, he was just recuperating.

Q. Did he talk during this half an hour? A. No, he was out.

Q. What do you mean by out? A. Well, when a person is lifeless then they are generally out.

Q. Was he on the couch or on the floor or what? A. Yes, in an easy chair.

Q. Did you go and get a doctor for him? A. No.

Q. Why didn't you? A. We gave him water.

Q. And that brought him to, didn't it? A. Yes.

Q. All right, when he came to what did he say to you? A. Then he said he had a disagreement with his wife; she abused him.

Q. What did he say? A. He said his wife abused him and accused him—

Q. Did you ask him what he meant by abuse? A. Yes; and she accused him of going out with another woman.

Q. Did he say who this woman was? A. Yes.

Q. Who did he say? A. Mrs. Mohring.

Q. He did say Mrs. Mohring? A. No, he did not say that.

Q. Well, you just said that a little while ago. A. I thought you meant who the woman was.

Q. I did not say anything of the kind. Listen to me, please. A. All right.

Q. Did Mr. Dinnebeil, your brother, tell you who his wife was accusing him of going out with? A. Yes.

Q. Who did he say it was? A. With the woman that called at his house.

Q. Did he mention the name? A. No, he did not mention the name.

Q. When did you find out about this name? A. When did I find out about the name?

Q. Yes. A. Why, the day after.

Q. How did you come to find out? A. When I made out a rent receipt.

Q. Did you speak to this woman? A. Yes.

Q. Did you say to her "My brother's wife accused you of going out"?

Mr. Pearse: Oh, now, now, now, Gee!

The Advisory Master: I will allow it.

Q. Did you say anything to this woman? A. Certainly.

Q. How did you know it was this woman that your brother's wife had accused your brother of going out with? A. She was at my house on a Sunday.

Q. Was that the next day? A. No, it was the day before.

Q. You said you knew about this woman's name the next day? A. I knew her name the next day, I said.

Q. How did you know that was the woman? A. Because I am telling you now.

Q. Well, tell me. A. She was in my house Sunday with her husband, and she inquired about this particular house, and while she was there my brother walked in, and I said, "Will you take this lady over to the house tomorrow morning, and go over and see what has to be done there before they can use the house"; and we made an appointment for her to go over and call at his house the next morning, to take her to this building, and see what had to be done.

Q. How did you still know that that was the woman that Mrs. Dinnebeil said that your brother was going out with? A. Because she told me that she kept her appointment and went over to the house with him.

Q. Was anything said at that time while this woman was there about Mrs. Dinnebeil accusing your brother of going out with her? A. Why certainly.

Q. Did your brother tell you that that was the woman that Mrs. Dinnebeil accused him of going out with? A. This was after; this thing happened the next day.

Q. I am talking about the next day. A. About the next day.

Q. All right, never mind. Your brother went back, didn't he? A. Back where?

Q. To his own home. A. That night, yes.

Q. Did you go to visit them after that? A. No.

Q. Did you ever visit him? A. No.

Q. Why didn't you? A. I just didn't.

Q. I mean any particular reason? A. No, not at all.

Q. When was the next time that your brother came to your house after this particular occasion that you have mentioned? A. Just before Thanksgiving Day.

Q. Was it Thanksgiving Eve? A. No, probably a day or two before; I do not know; it was around Thanksgiving.

Q. What did he say when he came there? A. He said he had another scene at the house.

Q. Was he out on this occasion? A. Pretty nearly.

Q. He was able to tell you he had a scene? A. Yes.

Q. Was he sick and nervous and all upset? A. Very much so.

Q. What did he say the scene was about? A. Why, it was something about a knife and about automobile tires.

Q. Tell me what he said to you. A. He said she attacked him with a knife.

Q. What else did he say? A. That she also ran down in the yard and started to cut the automobile tires.

Q. What else did he say? A. That is about all.

Q. Did you ask him why she was doing such a thing? A. No.

Q. You did not inquire? A. No.

Q. How long did your brother remain at your house on this occasion? A. A week.

Q. During this entire week was he nervous and upset? A. Yes.

Q. The whole week he was nervous and upset? A. Yes.

Q. He did not see his wife during this week, did he? A. No.

Q. Was he in bed during this week? A. Most of the time.

Q. You did not go and see whether his wife needed any food, or anything like that? A. I?

Q. Yes, you. A. Certainly not.

Q. At the end of the week was your brother all right? A. Yes.

Q. By the way, was he receiving his salary while he was home in bed during this week? A. Yes, he was; he did not earn it, but he was.

Q. What happened after he went back, anything? Did he come back to you after that? A. Yes.

Q. How soon after? A. Around Christmas time.

Q. He was in your house, by the way, Thanksgiving Day, wasn't he? A. Yes.

Q. You did not go over and tell Mrs. Dinnebeil and her son to go over and have dinner with you, did you? A. No.

Q. Your brother did not tell you to go over there and ask them to come over, did he? A. No.

Q. Don't laugh—yes or no. A. No, he did not.

Q. Now, you say the next time was around Christmas, is that right? A. Yes.

Q. How soon before Christmas? A. Two days.

Q. Did he come there sick and upset again? A. Right.

Q. How long did he remain there? A. About four or five weeks.

Q. Did you go over to Mrs. Dinnebeil and ask her to come over and have Christmas at your house?

(Question repeated.)

A. I did not.

Q. Did you ask the son to come over? A. I did not.

Q. Did your brother ask you to go over there and ask them to come back to the house and have dinner with you? A. No.

Q. Do you know whether or not your brother went there on Christmas Day? A. What?

Q. Did your brother go there on Christmas Day to see his wife and son? A. I don't know.

Q. Was he sick during this time? A. Yes.

Q. Was he in bed? A. Yes.

Q. Did he remain home during the entire time? A. Yes.

Q. Then you would know, would you not, whether your brother went over to see his wife? A. Oh, when I mean home, I don't mean in person, you know. When a person is home that gives him the privilege to go out of the house, around the corner to buy a paper.

Q. All right; he was at your house on New Years also? A. Yes.

Q. Did anybody go over to Mrs. Dinnebeil and ask her to come to your home and spend New Years Eve? A. No.

Q. What happened after that, did he go back at the end of four weeks? A. He did.

Q. Did he come back to you again after that? A. No.

Q. He never came back to you after that? A. No.

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

Q. When was the next time that you saw Mrs. Dinnebeil? A. What?

Q. When was the next time that you saw Mrs. Dinnebeil? A. After what?

Q. After the time that your brother went back to his home. A. Oh, I should say in May.

Q. In May was the first time? A. I imagine so.

Q. What happened in May? A. She had been served with a dispossess notice.

Q. What was this dispossess notice, to get her out of the house? A. Yes.

Q. Did you serve the notice yourself? A. No.

Q. Did you speak to her? A. I met her in the district court, in New Brunswick.

Q. Did you speak to her? A. She spoke to me.

Q. What did you say to her and what did she say to you? A. She was going to kill me and get me.

Q. What did you say when she said that? A. Not a thing.

Q. During all these quarrels that your brother would have with his wife, did you ever go and speak to Mrs. Dinnebeil about it, to find out why all this trouble should go on? A. No.

Q. You were interested in your brother's welfare, weren't you? A. Yes.

Q. Does your brother own any property in his own name? A. No.

Q. How do you know that? A. I presume he does not.

Q. He might own it and you would not know anything about it? A. I do not say that; I do not know how you can say that.

Q. Do you know whether he owned any Building and Loan shares of any kind? A. He did.

Q. Where? A. In Metuchen.

Q. What did he do with that, do you know? A. Well, I believe, if I remember right, he pledged it.

Q. If you know, please say so; I don't want your belief; if you do not know, say so. A. He pledged them with the Metuchen National Bank, to pay his doctor's bill.

Q. How do you know that? A. Because I was there.

Q. A loan from the bank? A. Yes.

Q. How much of a loan? A. Several hundred dollars.

Q. When was that? A. That was when he came out of the hospital.

Q. That was before he lived with his wife? A. Yes.

Q. Do you know whether he owns any Building and Loan shares now? A. He owns the same one.

Q. How many shares? A. Ten.

Q. How long has he owned them, do you know? A. Well, six or seven years.

Q. Does he own any other Building and Loan shares? A. No.

Q. You would know it, though, wouldn't you? A. Well, I think I would.

Q. He owns a touring car, does he not? A. No.

Q. Did he ever own a touring car? A. Yes.

Q. When? A. Oh, about five years ago.

Q. Did he own a 1928 touring car? A. No, that was a 1912 car.

Q. Do you know where he got the money to buy a car? A. Yes.

Q. Where? A. I gave it to him.

Q. How much was it? A. $50.

Q. What kind of a car was it? A. It was a Pullman touring car.

Q. A what? A. A touring car, a Pullman—seven passengers.

Q. And he paid fifty dollars for it? A. Yes.

Q. What was it, a fifth-hand car? A. Oh, I don't know; it might have been a tenth.

Q. Do you own any property with him other than in this company?

Mr. Pearse: I object to the form of the question.

(Question repeated.)

A. No.

Redirect-examination by Mr. Pearse:

Q. You have related the different properties that belong to the Modern Building Company and their prospective or their estimated values; can you tell us in the aggregate what the mortgages amount to? A. Oh yes.

Q. I did not want you to go through the detail of this, but if you—

The Advisory Master: Mortgage indebtedness?

Q. Yes. On all these properties that the company owns, how much are the mortgages? A. Oh, I should think about $100,000.

The Advisory Master: Held by banks?

The Witness: Yes.

By the Advisory Master:

Q. Since your brother and his wife came to live in Metuchen, did you visit them at all? A. No.

Q. You never called on them? A. No.

Q. At their home? A. No.

Q. Why? A. Because we were never asked to. We had never been asked to call.

Q. Were you on good terms with his wife? A. Yes.

Q. And on good terms with your brother? A. Yes.

Q. Did you think it necessary for a brother to ask you to call on him? A. Well, we did; we en-

tertained them several times in our house.

Q. I mean, did you ever call at their house? A. No.

Q. Why didn't you? A. Because they did not ask us.

Q. You entertained them at your house. Why didn't you return the call by going to their house? A. Well, we were not asked to and we felt we were not wanted.

Q. Had you any animosity against either of them, any feeling of any kind? A. No; my wife did.

Q. Against who? A. Against Mrs. Dinnebeil.

Q. That is the reason you did not visit them? A. That is right.

Q. Did you ever ask Mr. Dinnebeil's children—I think she has two grown-up children—to visit your house?

Mr. Pearse: If your Honor pleases, I submit that only one of the children ever lived in Metuchen, and only for three months.

Q. Did you ever ask either of them to visit you? A. Well, they were to our house.

Q. How often? A. I should say about five times.

Q. Both of them? A. At times.

Q. At different times? A. Yes.

Q. Did they come together? A. Yes, they were together.

Q. Did you entertain them at meals? A. Yes.

Q. About five times? A. Yes.

Q. Did you ever discuss with them, in the presence of Mr. Dinnebeil, the relations of their father and mother? A. No.

Q. You never did? A. No.

Redirect-examination by Mr. Pearse: (*Resumed.*)

Q. During the times that George was at your house recovering from these various illnesses, did his wife ever call on him there? A. No.

Q. Did she ever come to see him and inquire as to how he was? A. No.

Q. I show you Exhibit D-6; do you know whose photograph that is? A. Yes.

Q. Whose? A. A niece of ours.

Q. What is her name? A. Elsie Herrick.

Q. And whose child is she? A. My sister's child.

The Advisory Master: A married woman, is she?

The Witness: Yes, married.

Recross-examination by Mr. De Sevo:

Q. You say that Mrs. Dinnebeil never came to see your brother at your house while he was there during these— A. Yes.

By the Advisory Master:

Q. Did you ever send for her to come? A. Only the first time.

Q. The first time he stopped at your house? A. No, the first row they had, my wife went over there and tried to explain to her what the nature of our business was, and that people would come to our house occasionally to ask for things, and she quieted down, and she brought her back with her to take him home.

Q. She came to the house at that time? A. My

wife brought her. No, she came with her.

Q. After that she never came? A. No.

Q. How many times did your brother call at your house and stay there after leaving his own house? A. About three different occasions.

Q. And the longest period that he stayed there was what? A. From Christmas to January, to the latter part of January.

Q. Practically a month? A. Yes.

Q. Did she come during that month? A. No.

Q. Did you send word to her that he was there? A. Oh, she knew it.

Q. How do you know that she knew it? A. Why—

Recross-examination by Mr. De Sevo: (*Resumed.*)

Q. That is the question I want to press: How do you know Mrs. Dinnebeil knew that your brother was at your house? A. Well, the neighbor's kid inquired about it. The neighbor's children asked us. Her neighbor's children came to our house and wanted to know if her Uncle George was there.

Q. The neighbor's children? A. Yes.

Q. What neighbors? A. Her neighbors.

Q. Who are they, what are their names? A. Roy.

Q. What is the first name? A. I don't know.

Q. Did these children inquire of you? A. Yes.

Q. What is the name of one child that inquired of you? A. I think it is Charlie or Johnnie.

Q. How old is Charlie or Johnnie? A. About fourteen.

Q. Did you tell Charlie or Johnnie to go over and tell Mrs. Dinnebeil that her husband was at

your house? A. Did I tell him?

Q. Did you tell the youngsters? A. Well, they see her in there.

Q. I didn't ask you that. Did you tell these youngsters to go and tell Mrs. Dinnebeil? A. I did not, no; I did not have to; they saw him sitting there.

Q. How do you know that they told Mrs. Dinnebeil that her husband was at your house? A. Well, if they said they were sent over to inquire, naturally she would know. This boy used to go in the same class with our nephew.

Q. He came over to the house and said Mrs. Dinnebeil had sent him over? A. Yes, and wanted to know how George was.

Q. What is the name of this boy? A. I do not know his name.

Q. What did you say to this boy when he came over there and made inquiry? A. I did not have to say anything.

Q. I didn't ask you that: What did you say? A. I did not say anything; did not need to.

Q. You did not say, "Why don't you tell Mrs. Dinnebeil to come over herself"? A. I would not say that anyhow.

Q. You say now that there are a hundred thousand dollars worth of mortgages on this property? A. Yes.

By the Advisory Master:

Q. What is the value of the property covered by these mortgages? A. A little more than that.

Q. The banks would not loan so closely as that? A. Yes, they did.

Q. Up to a hundred per cent.? A. Well, they gave us cost on those buildings. It was at a time

slow and the Equitable Life Assurance Society of New York had a lot of money, and they wanted to dispose of it, and they asked us to put up these buildings on the company's own mortgages.

Q. They hold the entire mortgages? A. Yes.

Recross-examination by Mr. De Sevo: (Resumed.)

Q. Let me refresh your memory: You said that the property on High Street was worth about $12,000? A. Yes.

Q. You said that No. 1 Division Street was worth about $6,000? A. Yes.

Q. You said that No. 3 is worth about $5500? A. Yes.

Q. You said that No. 7 is worth about $5500? A. Yes.

Q. You said that No. 24 Sullivan Avenue is worth about $5300? A. Yes.

Q. You said that No. 23 is worth about $5500? A. Yes.

Q. You said that No. 27 was worth about $5500? A. Yes.

Q. And that the only other property left was Charles Street, worth about $4500? A. Yes.

Q. These properties total about $49,800? A. Yes.

Q. Now, you said that the only other property owned by the company was 120 building lots? A. I did not say that—oh yes, I said that, surely, I said that property.

Q. Is that right? A. Yes, you are right, surely.

Q. You said that each lot is worth about a hundred dollars? A. Yes.

Q. That would make it about $12,000 for these lots, wouldn't it? A. Yes.

Q. $12,000 and $49,000 is $61,000, is that right? A. Yes.

Q. And on $61,000 you have $100,000 worth of mortgages? A. I did not say that.

Q. Will you explain to me what the property is worth then and give me these figures? A. Absolutely.

Q. I withdraw the question. The figures that you gave me, are those correct? A. Yes, as far as they go, surely.

Q. All right, explain. A. There are other properties.

Q. There are other properties? A. Why certainly.

Q. I asked you whether there were any other properties. A. But they are not ours.

Q. Whose are they? A. They are sold; they are properties under contract, what accountants call "accounts receivable" you know.

Q. Explain to me. A. If you buy a house from me today, you do not pay me for it, you owe me the money.

By the Advisory Master:

Q. How does that enter into the mortgage? A. Why, the mortgage was there ahead of our claim.

Q. Then you had other lots outside of these 120? A. No; these are buildings that have been sold, past history.

Q. What lots do you own now that are unoccupied by buildings? A. Which we speak of.

Q. The 120? A. Yes.

Q. What property outside of those 120 lots that

are covered by the mortgage? A. Lots in the neighborhood of this new vicinity.

Q. Other lots? A. Yes, surely.

Q. That you have sold? A. Yes.

Q. And they are covered by this mortgage? A. Yes; they are sold subject to this mortgage.

Q. Then this mortgage of a hundred thousand dollars does not cover these lots that you hold now and these unoccupied houses? A. No, it covers other property.

Cross-examination by Mr. De Sevo: (Resumed.)

Q. How many lots did you sell; about how many lots did you sell within the past four or five years? A. About sixty.

Q. What did you make from these sixty lots? A. That is more than I know.

Q. Well, you ought to know; you run the whole works, don't you? A. Yes.

Q. Well, how much did you make? A. A little while ago I told you we made nothing in two years.

Q. When were these sixty lots sold? A. In 1925 and 1926.

Q. How much did you get per lot about? A. They are not sold in that way.

Q. I don't care how you sold them: How much did you collect in cash; will you please tell me that? A. Why, from a hundred dollars up to five hundred dollars.

Q. What did you do with that money? A. Put it in the bank.

Q. How much have you got in the bank now?

Mr. Pearse: You mean he personally?

Q. Oh, I am talking about the company. You

understand me, don't you? A. Yes. I do not know. Do I have to answer that?

Q. If you don't want to, you don't have to.

The Advisory Master: Not what you have, but what the company has.

The Witness: Probably $500.

Q. Is there any other property that the company owns that you have not told me? A. No.

Q. Are you sure? A. Yes.

Q. Did you sell any other property other than these lots, within the past five years, other than these sixty lots? A. No.

By the Advisory Master:

Q. What property does your company own outside of the lots you have spoken of, the 120 lots, and the houses that you have enumerated here to counsel? Does the Company own any other property? A. No, except what is sold.

Q. Well, you do not own what you have sold? A. No, of course not.

Q. Well, I am asking you what property you own. A. None.

Q. What other lots or land? A. No others.

Q. Then what you have stated here comprises all that the company owns? A. Yes.

Q. And that you say is covered by a hundred thousand dollars mortgage? A. Yes, on part of it, partly.

Q. What do you mean by part of it? A. This includes other properties besides this.

Q. You mean the property that has been sold? A. Yes.

Redirect-examination by Mr. Pearse:

Q. Why, you have sold your property on contract? A. Yes.

Q. Improved property? A. Yes.

Q. And those are what you call contracts? A. Yes.

Q. The title has not actually passed yet, though? A. No, it has not.

Q. How many of those properties are there that you have still out on contract? A. Probably twenty or thirty.

Q. Now then, is this a blanket mortgage held by the Equitable? A. No, they are individual mortgages, but they are all in one item.

Q. Can you tell us what the mortgages are on the property that you have enumerated,that still belongs to the company? A. They would be about 3300.

Q. Altogether? A. No, on each one, individually; our expert can figure that out, over there. (Indicating Mr. De Sevo.)

Q. We do not want any expert; we want you. The house on High Street, what is the mortgage on that? A. $7200.

Q. As near as you can recall? A. $7200 I think.

Q. What is the mortgage on Division Street? A. 3300.

Q. On each house? A. Yes.

Q. How many houses? A. They are seven or eight or ten.

Q. What did you say you own? A. 1, 3, 7, 22, 23 and 25.

Q. Division Street? A. No, the last ones are on Sullivan Avenue.

Q. How many houses have you got on Division Street and what are the numbers? A. 1, 3, and 7, that is all.

Q. 22, 23, and 25, where are they? A. Sullivan Avenue.

Q. How near is that to Division Street? A. Right at the corner.

Q. Are these all one type of houses? A. All one design of house.

Q. How much of a mortgage on each one? A. 3300.

Q. Where are there any other houses—the one on Charles Street? A. On Charles Street.

Q. What was the mortgage on that? A. The same thing.

Q. $3300? A. Yes.

Q. Where are any more that you mentioned, than outside of the High Street house and the Division Street houses and the Sullivan Street houses and the Charles Street house—that is all that is left of the company? A. Yes.

Q. How about Lincoln Avenue, have you got a property on Lincoln Avenue? A. I live there: that is personal property.

The Advisory Master: That does not belong to the company?

The Witness: No, that is mine.

Q. How about those lots, is there any mortgage on that vacant land? A. Yes.

Q. Do you recall what it is? A. About $8,000.

Recross-examination by Mr. De Sevo:

Q. Does the Company own any property on Park Place? A. Yes.

Q. What property? A. An empty lot.

Q. That is included in the 120 lots? A. Yes, one of them.

By the Advisory Master:

Q. How many lots on Park Place? A. Two lots.

Q. The company owns them? A. Yes.

Q. You did not mention them in your statement? A. I mentioned the 120 lots. It is all one development, one tract; one farm is mapped out, and one operation going on at that particular place.

Recross-examination by Mr. De Sevo: (*Resumed.*)

Q. Isn't there a house on the Park Place property? A. There are nine houses there.

Q. On Park Place? A. Yes.

Q. What did you mean by saying only 120 lots before? A. Don't you know what a vacant land is? A piece of land with grass on it.

Q. That is a lot? A. Yes.

Q. And you say now there is a house on Park Place? A. There are nine houses, I said.

Q. Owned by the company? A. No, not by us.

By the Advisory Master:

Q. There is no use of wasting time. A. Why didn't he ask if I owned the house; he asked me if there was a house there.

Q. Who owns those houses on Park Place? A. Different individual owners.

Q. You mean they have been sold? A. They have been sold.

Q. By the Company? A. Yes.

Q. So that the Company no longer owns them? A. That is the idea.

Q. You have already told your counsel that you have property on Park Place? A. I did.

Q. Are they under contract by these various purchasers? A. Some are and some are not.

Q. Have any of these purchasers a natural deed to the property? A. Oh, yes.

Q. How many? A. About fifteen or twenty.

Q. How many of the purchasers of your lots and property generally speaking—houses and lots —or lots alone, are holding their properties under contract with you? A. Most of them.

Q. How much do they pay you by the week or by the month? A. About forty-five on the average.

Q. How many of those people are there paying you forty-five a month? A. About thirty.

Q. So that every month you get thirty times forty-five dollars? A. Yes.

Q. You put that in the bank, do you? A. Yes.

Q. What are your expenses? A. Interest on mortgages, taxes on the lands.

Q. You have water rents? A. No.

Q. They are assumed by the purchasers? A. They are assumed by the purchasers.

Q. You have mechanics and labor charges, like your brother? A. Yes.

Q. And that is the fund out of which you pay all these expenses, is it, what you receive from these various purchasers by contract? A. Yes.

Q. Does the company own any property at all outside of what you have already enumerated, that has not been sold under contract; is there any other piece of property outside of the Lincoln Avenue property that you have just mentioned, that the company is the owner of? A. I just come to think of it, there is a Lincoln Avenue property that we do own.

Q. There is? A. Yes, one house.

Q. And lot? A. Yes.

Q. Is that let? A. Yes.

Q. To a tenant? A. Yes.

Q. What does that pay? A. $40 a month.

Q. The company gets that also? A. Yes.

Q. Is there any other property that the company owns? A. No.

Mr. Pearse: What is the mortgage on the Lincoln Avenue property?

The Witness: $2200.

Q. Is that held by this company in New York, the Equitable? A. No, the Metuchen Building and Loan.

Q. Are you a stockholder in the Building and Loan? A. Yes, I have some shares.

Q. Is your brother also a stockholder? A. Yes.

Q. Who owns stock in it? A. Who?

Q. Who owns stock in it, he? A. Yes.

Q. How much does he own? A. Ten shares.

Q. What is the value of the shares? A. Two hundred dollars.

Q. Two hundred dollars apiece? A. Yes.

Q. So that he owns two thousand dollars? A. Oh, no, they are not paid up.

Q. How far have they to run? A. Probably another five years.

Q. They have run already how long? A. About six or seven years.

Mr. Pearse: He has already answered all these questions on his cross-examination and said it was encumbered with a loan that he had gotten from the bank on that stock.

Q. That has been put up as collateral with the bank? A. Yes.

Q. How much has your brother paid on the Building and Loan stock? A. It is a case of paying ten dollars each month.

Mr. Pearse: It is worth two hundred dollars at the end of about eleven years and he has been paying about five years.

Q. Does he pay that out of the money that you give him as wages or does the company advance it to him? A. No, he pays it.

Recross-examination by Mr. De Sevo:

Q. Doesn't the Company own some apartment houses on Main Street? A. No.

Q. Did they ever own any? A. No.

Q. Did they ever own any property other than lots on Church Street? A. Yes.

Q. What do they own on Church Street, just these lots? A. Yes.

Q. Does the company own any property on Church Street? A. Yes, one or two lots.

Q. No buildings? A. No.

Q. This Lincoln Avenue property that you had forgotten about, how far is that from where you live? A. Two doors.

Q. How did you come to forget that? A. Why you asked me so many things, why, the accountant generally spends several days to try and figure out all we have got.

Q. Do you keep company books showing the moneys that you derive from the sale of property? A. Sure.

Q. Who keeps those books? A. I do.

Q. You did not bring any with you, did you? A. No.

Mr. Pearse: Did the company ever pay any dividends?

The Witness: Never.

Mr. Pearse: Is the Company making any money today?

The Witness: No, losing money.

By the Advisory Master:

Q. You mean you are losing money right along? A. Yes, for the last two years.

Q. But not since the company was organized? A. No; we made for a time; we haven't any sales for the last two years.

Q. No sales now? A. No sales now, no, no new business. That accounts for all these empty houses we have.

Q. Are you putting up buildings now? A. No.

Q. Just at a standstill? A. Just at a standstill.

Q. So that your whole effort now as a company is to sell what you have already constructed? A. Yes.

(Recess until two o'clock.)

After Recess—2 P. M.

COMPLAINANT'S REBUTTAL.

DOUGLAS BURCHARD, sworn.

Direct-examination by Mr. De Sevo:

Q. Where do you live, Mr. Burchard? A. Hillsdale, New Jersey, Bergen County.

Q. How long have you lived in New Jersey? A. Fifteen years.

Q. Do you know the complainant, Mrs. Dinnebeil? A. Yes.

Q. Do you know the defendant, Mr. Dinnebeil? A. Yes.

Q. Are you related to them? A. Yes; Mrs. Dinnebeil is my mother's sister.

Q. Do you remember going to 18 Lincoln Avenue on or about Christmas of 1926? A. I do.

Q. With whom did you go? A. With Mrs. Dinnebeil.

Q. Where did you go?

Mr. Pearse: Now, if your Honor please, I object. I do not see how this is rebuttal in any way. Your Honor will recall that these parties were married in 1906 or 1907.

Mr. De Sevo: 1904.

Mr. Pearse: 1904. That in 1906 or 1907 they no longer lived together until November, 1928, when they resumed cohabitation.

The Advisory Master: They were married when?

Mr. Pearse: In 1904. And they separated in 1906 or 7, and then they resumed marital relations in November, 1928.

The Advisory Master: He has a right to

show the object of her visit in Metuchen.

Mr. De Sevo: We maintain that the reason why this defendant left this woman was because she accused him of going out with other women.

The Advisory Master: I will allow the question.

Q. (Question repeated by the stenographer.) A. 18 Lincoln Avenue.

Q. When you and Mrs. Dinnebeil got there what happened?

Mr. Pearse: I object, if your Honor please. What happened is not binding on us unless it is in our presence.

The Advisory Master: What happened between whom?

Mr. De Sevo: Of course, I can't get this all out in one breath.

Mr. Pearse: I object to the testimony of anything that happened unless it happened in the presence of George Dinnebeil.

The Advisory Master: What do you propose to show?

Mr. De Sevo: I propose to show that when this young fellow and Mrs. Dinnebeil went to 18 Lincoln Avenue, where they understood that Mr. Dinnebeil was living, they made inquiry and this woman came out and introduced herself as Mrs. Dinnebeil.

Mr. Pearse: I object to that.

The Advisory Master: 18 Lincoln Avenue was whose residence?

Mr. De Sevo: That is where the defendant lived.

Mr. Pearse: That is where he was boarding.

The Advisory Master: Whose home was this?

Mr. De Sevo: This was the home of this particular woman that came to the door, this so-called Mrs. Hackett.

The Advisory Master: And this witness went with the wife to that house to see her husband?

Mr. De Sevo: That is right, yes, sir.

The Advisory Master: And you propose to show that?

Mr. De Sevo: Yes, sir.

The Advisory Master: You may show that and all that took place there.

Mr. Pearse: I object to any such testimony or anything that was said by any person on that occasion unless it was said in the presence of Dinnebeil himself. It can't possibly be binding on him. Suppose for the purpose of argument that a woman did say that she was his wife?

The Advisory Master: You could show a common law marriage that way, by a woman introducing herself that way around in the community. You could show that without the presence of the defendant. You can show by general reputation that a certain person was known as Mrs. so and so.

Mr. Pearse: There is no proof in the case of any such fact.

The Advisory Master: But the question has been asked of him.

Mr. Pearse: Is this rebuttal or a reopening of the case?

The Advisory Master: He said he didn't live with this woman.

Mr. Pearse: That was only on cross-examination.

The Advisory Master: He has a right to contradict him. I will allow the question.

Q. When you and Mrs. Dinnebeil went there what did anybody say when you got to this particular address, 18 Lincoln Avenue? A. We got there and Mrs. Dinnebeil asked for Mr. George Dinnebeil. That is, there was nobody at home, and the lady next door came out and said they were both away, that they were both in Newark.

Mr. Pearse: I ask that that be stricken out.

The Advisory Master: Did she say who the "both" were?

The Witness: Mr. George Dinnebeil and his wife. He went to buy a fur coat for her.

Mr. Pearse: If your Honor please, I ask that that all be stricken out. This lady next door, how could she state anybody's wife went with anybody?

The Advisory Master: Who is the woman next door, do you know?

The Witness: No, I don't know.

The Advisory Master: This house where you were calling was the house of Mrs. Hackett, was it?

The Witness: It was sort of a double house.

The Advisory Master: A double house?

The Witness: Yes.

The Advisory Master: And the woman in the other house came out when you went there?

The Witness: Yes.

The Advisory Master: Did she say who she was?

The Witness: She is an elderly woman.

The Advisory Master: Did she say who she was?

The Witness: I don't remember whether she mentioned her name or not.

Q. As a result of what this woman told you, that they weren't in, you went away? A. We went back to the town of Metuchen and went to a movie for a few hours and then returned to 18 Lincoln Avenue.

Q. What happened when you returned? A. Mrs. Dinnebeil knocked at the door of 18 Lincoln Avenue and a lady came out and she asked for Mr. George Dinnebeil.

Q. Who did? A. Mrs. Dinnebeil. And she said he wasn't there at the present time, was there anything she could do? And Mrs. Dinnebeil asked who she was and she said she was Mrs. George Dinnebeil.

Q. What, if anything, did Mrs. Dinnebeil say when this woman said she was Mrs. George Dinnebeil? A. She said, "You are not. I am Mrs. Dinnebeil." And they had a few words; and Mr. Will Dinnebeil and his wife came along just at that time and quieted Mrs. Dinnebeil down and took us over to Mr. Will Dinnebeil's home.

Q. How long did you remain there? A. A few hours. Remained there for dinner and then returned home.

Mr. De Sevo: That is all.

The Advisory Master: Did you see Mr. Dinnebeil on that occasion?

The Witness: No, did not see him at all.

Cross-examination by Mr. Pearse:

Q. I understood you to say that you went to Will Dinnebeil's house that night? A. Yes, sir.

Q. And you say who came down to the Lincoln Avenue house in the afternoon while you were there? A. The second time?

Q. Yes. A. Mr. Will Dinnebeil and his wife.

Q. Do you know who the lady was next door that you spoke to? A. No, I don't remember her name.

Q. Do you see her in court? A. No.

Q. Was there anyone else present when you and Mrs. Dinnebeil had this conversation with Mrs. Hackett? A. Why just Will Dinnebeil and his wife.

Q. Well, the conversation had ended then, hadn't it? A. No, it was still going on when they came along.

Q. Did you make inquiry of this person who lived in the same house? A. No, I didn't. I didn't do any talking or anything.

Q. Did you go to any other place to make inquiry? A. No, I did not.

Q. Do you recall making an affidavit in the case of Hannah Dinnebeil against George Dinnebeil in the Supreme Court of Bronx County, New York, on the 25th of May, 1927? A. No, I don't recall I did.

Q. You didn't make any affidavit? A. I say I don't recall it.

Q. I show you a copy of a paper and ask you to look that over and see whether or not that refreshes your recollection as to whether you made an affidavit or not.

Mr. De Sevo: I object, unless that is the original.

The Advisory Master: If he can refresh his recollection by it, it doesn't make any difference whether it is the original or not.

A. No, I don't remember. I remember telling that to somebody but I don't remember signing it.

Q. Who did you tell it to, O'Brien & O'Brien, Mrs. Dinnebeil's attorneys? A. I think it was.

Q. You told them something and you don't recall signing any paper? A. No, I don't recall it right now.

The Advisory Master: When was that.

Mr. Pearse: May, 1927.

The Advisory Master: Suit for what?

Mr. Pearse: Suit for divorce in New York.

The Advisory Master: Brought by—

Mr. Pearse: Mrs. Dinnebeil against her husband.

Q. You won't say that you didn't make an affidavit? A. No, I won't.

Q. Do you remember swearing on that occasion or making an affidavit to the effect that you inquired of the next door neighbor living at number 20 Lincoln Avenue as to the identity of Mrs. Hackett? A. I don't remember swearing to that particularly.

Q. Did you? A. Did I what?

Q. Make it? A. No, I don't think I did.

Q. Did Mrs. Dinnebeil in company with you make inquiry? A. Yes, she did.

Q. Then you did make it? A. Not directly.

Q. You were present? A. I was present.

Q. And whom did you speak to? A. I didn't speak to anybody.

Q. Whom did Mrs. De Sevo speak to?

Mr. De Sevo: Just a minute. I object to this. Firstly, this is not proper cross-examination. I have only asked this witness one question.

The Advisory Master: Do you want to deprive the defendant of going into the details of that matter you brought out?

Mr. De Sevo: No, I do not.

The Advisory Master: That is all he is doing.

Q. Inquiry was made then of the next door neighbor? A. Yes, sir.

Q. And do you remember that next door neighbor being there on the second occasion, when you and Mrs. Dinnebeil and Mrs. Hackett were talking at the front door? A. I remember her there but I don't remember listening while the conversation went on. We seen her on the second visit.

Q. And don't you remember that Mrs. Hackett had a conversation with this lady next door right in your presence? A. No, I don't remember that.

Q. She was there, wasn't she? A. She was next door.

Q. Well, next door is right on the same porch, isn't it? A. Yes.

Q. Is there a railing between the two? A. No.

Q. All one porch? A. I think it is.

Q. A double house? A. Yes.

Q. One lives on the left-hand and one lives on the right-hand? A. Yes.

Q. And the two front doors are right together? A. Yes.

Q. So they were all in a radius of a few feet, standing together while this conversation took place? A. Yes.

Q. And don't you remember that on that occasion that Mrs. Hackett turned to the next door neighbor and said to her: "This woman"—pointing to Mrs. Dinnebeil—"accuses me of being George's wife. She says that I am known as Mrs. Dinnebeil. Please tell her who I am." And that thereupon the lady replied that it was Mrs. Hackett? A. No, I don't remember that.

Q. You don't remember? A. No.

Q. You don't say the conversation didn't take place though, do you? A. I don't remember the conversation. I wouldn't say it didn't take place.

Q. And then Will Dinnebeil and his wife came up? A. Yes.

Q. And the four of you went back to Will's house? A. Yes.

Q. Did you say anything back there about this? A. There was some talk. Mrs. Will Dinnebeil said to quiet down, and for business reasons she didn't want any scandal, and that is about all there was to the talk.

Q. Did Mrs. George Dinnebeil get very excited while this conversation went on with Mrs. Hackett? A. Yes, she did.

Q. Loud talking? A. Quite loud, yes, sir.

Q. Accused her of various things, didn't she? A.

No. I don't remember of her accusing her of anything.

Q. Don't remember on that occasion, both the first and the second time, that you spoke to Mrs. Hackett—or the second time when Mrs. Hackett was home—when Mrs. Dinnebeil was asked for Mrs. Hackett said Mrs. Dinnebeil lived somewhere in the Bronx in New York? A. No, I don't remember.

Mr. Pearse: That is all.

Redirect-examination by Mr. De Sevo:

Q. Mr. Burchard, when Mrs. Dinnebeil was having this conversation with this Mrs. Hackett was this woman next door present? A. Not to my knowledge.

(Witness excused.)

WILLIAM J. DINNEBEIL, sworn.

Direct-examination by Mr. De Sevo:

Q. Mr. Dinnebeil, do you know Mr. Adam Hokansen? A. Yes.

Q. Was he at your home in the early part of November, 1928, doing work with your father? A. Yes, at times.

Q. And on these occasions were you also working there?

Mr. Pearse: I object. How can he say he was always there?

The Witness: At the time in November I was always there.

Q. You were home practically every day in November? A. That was the only place I worked up there early in November.

Q. Do you remember the occasion when your mother and father had some quarrel about a Mrs. Morey? A. Yes.

Q. Was Mr. Adam Hokensen working at your home at that time? A. No.

Q. You are positive of that? A. I am.

Q. Where was he living at the time, do you know? A. In New Brunswick.

Q. With whom? A. His wife and children.

Q. And did Mr. Hokansen's mother live in Metuchen? A. Yes.

Q. Where did she live? A. On Main Street.

Q. At the time he did do some work with your father at your home do you know whether or not Mr. Hokansen would have his lunch at your home? A. He never had lunch at our home.

Q. Where did he go and have his lunch? A. At his mother's.

Q. Do you know whether or not Mr. Hokansen ever ate lunch down in the cellar of your home in the early part of November, 1928? A. He never did.

Q. When your father would leave your mother did you ever tell any of the children in the neighborhood to go to Mr. William Dinnebeil's home to find out whether or not your father was there?

Mr. Pearse: I object. That is not proper rebuttal.

The Advisory Master: Is there any proof of that kind?

Mr. De Sevo: Certainly. Mr. Dinnebeil said—

Mr. Pearse: Wait a minute. I haven't finished my objection. Mr. De Sevo asked William Dinnebeil on cross-examination whether or not Mrs. Dinnebeil knew that her husband was at William Dinnebeil's house, and his answer was that she must have known, and then went on further, "How did she know it?" "Because one of the neighbor's children came up and inquired whether Uncle George was at my house."

Mr. De Sevo: If your Honor please, that isn't quite what took place, for the simple reason that your Honor made inquiry of Mr. William Dinnebeil as to whether or not Mrs. Dinnebeil would know where her husband was; and following up your questions I asked the question, and he said the children were sent by Mrs. Dinnebeil, or by some of the persons in charge of their home; and I want to show that he is the one that told the children to go there; that they didn't tell the children anything of the kind.

The Advisory Master: You may ask that.

Q. Did you ask any of the children in the neighborhood to make inquiries about your father? A. No.

Cross-examination by Mr. Pearse:

Q. You knew your father was at your Uncle William's, didn't you? A. I did not.

Q. You said you must have known. You said that on direct examination. A. During the day I knew he spent some time over there; at nights I didn't know it.

Q. In other words, you didn't know whether he spent the nights at your uncle Williams? A. I didn't know where he was living.

Q. You knew he was in Metuchen though, didn't you? A. No. How did I know? I didn't follow him.

Q. You said on direct-examination that you did? A. I did not.

Q. I asked you whether you heard from your father within those two weeks he was up at your brother's and you said, "Yes, I must have heard it." A. I did not. You asked me, if I remember correctly, if he communicated with my mother.

Q. What did you say? A. I said I didn't know for sure.

Q. Where did you work during those three months that you were there in Metuchen? A. On the property of the house we were living in, mainly, and on Will Dinnebeil's house—property—house.

Q. Wasn't your father working there at the same time? A. Yes.

Q. You saw them, then, didn't you? A. Yes.

Q. How do you know Hokansen lived in New Brunswick? A. I visited him on two occasions.

Q. Whereabouts? A. I won't be able to tell you the correct address. At one time I drove the car. He gave me the directions. And the other time his father was with me and gave me the directions.

Q. Where did you go? A. To New Brunswick.

Q. How long did you stay there? A. Well, on one occasion—it was one of his children's birthday party—we stayed there until about twelve o'clock.

Q. When was that? A. Oh, that was say about a month or so after we moved up to Metuchen.

Q. That was the first time you visited the house in New Brunswick? A. No, that was the second time, his birthday. Before that was the first time. The first time I went over there to take his sister-in-law to a show.

Q. When was that? A. It was within a short time after we moved up there.

Q. Well, how long after you moved to Metuchen? A. Well, about a month or a month and a half.

Mr. Pearse: That is all.

By the Advisory Master:

Q. How long were you living in Metuchen? A. About two and a half months.

Q. And where are you living now? A. In New York with my sister.

Q. While you were living in Metuchen your father and mother were living there, were they? A. Yes.

Q. In Metuchen? A. Yes.

Q. While you were there did you observe whether your father left the home and went to live with his brother? A. Well, I observed him leaving home. As I said, I really don't know where he lived.

Q. What? A. I don't know where he lived.

Q. Don't you know that he was living with his brother? A. No.

Q. For sometime days and sometimes for a week? A. You see his brother's house or home is used sort of for an office too, you understand? They transact a lot of business there. And of course he would spend most of his time there during the day, when he was not working, of course.

Q. Then you didn't know anything about your

fathers' whereabouts when he left your mother's home? A. No.

Q. Never inquired? A. Well, no.

Q. Did you visit your uncle's house? A. Several times.

Q. Was your father there then? A. Yes; and on one occasion at night time he was doing some wall-papering.

Q. What? A. I say on one occasion at night he was doing some wall-papering.

Q. Well, was he living with your uncle at that time or on any of those occasions that you visited the house of your uncle? Was your father living there? A. I don't know just what to say. I can't define whether he was living there or not. The only time I visited there mostly was immediately after business hours.

Q. Did you make no inquiry of him to know whether he was living home or was living there? A. I knew he was not living at home.

Q. How did you know he was not living at home? A. Because I was living at home at the time.

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

Q. And while you were living at home with your mother did your father leave the house? A. Yes.

Q. On more occasion than one? A. Yes.

Q. You would remember whether he left the home while you were living there with your mother, wouldn't you? A. Yes.

Q. Well, did he? A. He did.

Q. For how long? A. Well, quite a few occasions.

Q. What? A. The two that are sharpest in my

mind are the occasions of Thanksgiving and around Christmas.

Q. Did you inquire where he was going when he left the home—inquire of him? A. No. I believe around the Christmas incident I did inquire, and he told me he was going away for a couple of weeks.

Q. I am speaking now of the times he left the home to go to your uncles' house in Metuchen. Did you know where he was going when he left the house to go to your uncle's house? A. Well, I

Q. Did you ever go to your uncle's house to visit him while he was there? A. No.

Q. You never made any inquiries about him? A. No.

Q. From your uncle or anybody? A. You see I used to see him during the day working around the property, of course.

Q. Did you inquire of him during the day where he was living? A. No.

Q. Why not? A. Well, I felt it was up to him. If he was going to make any advances or going to let us have any information that it was up to him to volunteer.

Q. You knew he wasn't living at home. Weren't you anxious enough to know where he was living to ask him the question? A. Well, no.

Q. You didn't ask him the question? A. No.

Q. How often did he leave home while you were living at your mother's house in Metuchen? A. Oh, three or four times.

Q. How long did he stay away on each of those occasions? A. Well, sometimes he only stayed away a night; and on two occasions I believe—on

one occasion around Thanksgiving he stayed away over a week I think.

Q. Always at your uncle's house? A. As far as I know.

Q. Well, do you know? That is what I am asking you. A. I never inquired where he was living.

Q. You never inquired of him or your uncle or anybody who could tell you? A. No.

By Mr. Pearse:

Q. You saw your father during the day, didn't you? A. Yes.

Redirect-examination by Mr. De Sevo:

Q. While your father was away over the Christmas holidays did he come over and make any inquiries about your mother?

Mr. Pearse: Are you going to open the case again?

Your Honor, he went into this on direct-examination.

Mr. De Sevo: Not with this witness at all.

The Advisory Master: I will allow it. I am more or less hazy on what was testified to on that subject.

Q. Did your father come over to visit your mother on the Christmas holiday? A. No.

Q. And he sent no Christmas gift to you? A. No.

Q. Did he send any to your mother? A. No.

Recross-examination by Mr. Pearse:

Q. How do you know whether he sent any to your mother or not? A. Naturally she would inform me.

Q. Sir? A. I say, wouldn't she inform me if he did?

Q. I don't know. I am asking you. How do you know he didn't?

The Advisory Master: Did your mother tell you he did?

The Witness: No, she told me he did not.

The Advisory Master: Did not send any Christmas gift?

(No answer.)

Q. This quarrel occurred the night before Christmas, didn't it? A. Which one, the last one?

Q. The one that caused him to leave on this occasion? Or was it two nights before Christmas? A. Yes, I believe it was Christmas Eve.

Q. And that is the night your father went away? A. Yes.

(Witness excused.)

MRS. LAURA A. BASSFORD, sworn.

Direct-examination by Mr. De Sevo:

Q. Where do you live? A. 76 Grove Avenue, Metuchen, N. J.

Q. How long have you lived in Metuchen? A. Since 1912.

Q. Do you know a Mrs. Fisher? A. Yes.

Q. Do you remember being introduced by Mrs.

Fisher in 1927 at her home to some person? A. I do.

Q. Who was present on that occasion? A. Several people and George Dinnebeil and a woman who was with him that was introduced to me by the name of Mrs. Dinnebeil.

Q. Was Mr. Dinnebeil present on this occasion? A. Yes.

Q. It was in his presence? A. Yes.

Q. How long had you known Mr. Dinnebeil? A. I think I met him in 1924, but I am not certain as to the date.

Q. When was the first time you became acquainted with Mrs. Dinnebeil, the complainant? A. Just before election.

Q. Of 1928? A. 1928, yes.

Q. Where did you meet her? A. At her home in Metuchen, on High Street.

Q. Did you have any conversation with her about this other woman who was introduced to you by Mrs. Fisher?

Mr. Pearse: If your Honor please, I object to any conversation that took place between this witness and Mrs. Dinnebeil.

Mr. De Sevo: I withdraw it.

Q. Had you ever been out yourself with Mr. Dinnebeil and this woman known as Mrs. Edith Hackett, whom you claim was introduced to you as Mrs. Dinnebeil? Have you ever been out with them? A. Many times.

Q. And how was she addressed on these occasions? A. As Mrs. Dinnebeil.

Q. And Mr. Dinnebeil was present on all of these occasions? A. Yes.

The Advisory Master: How was who addressed?

Mr. De Sevo: This woman, Mrs. Edith Hacket.

The Advisory Master: Was addressed as Mrs. Dinnebeil?

The Witness: Yes.

The Advisory Master: In your presence?

The Witness: Yes.

Q. And in the defendant's presence? A. Yes.

Q. Where would you go together, you, this Mrs. Dinnebeil and Mr. Dinnebeil? Where would you go? A. We went to different places.

Q. Movies? A. Mrs. Dinnebeil and I would go to the movies and Mr. Dinnebeil would meet us after the movies and take us home in his car.

Q. And what home would you go to, what number? A. To 18 Lincoln Avenue.

Q. Was that where Mr. Dinnebeil was living or boarding? A. I knew it as his home, yes. Yes, he was living there.

Q. And was this Mrs. Dinnebeil living there? A. Yes.

Q. When I make use of the words "Mrs. Dinnebeil" you don't understand me to mean this woman back here now? A. No.

Q. Will you describe this Mrs. Edith Hackett, or Mrs. Dinnebeil, as you recollect her? Will you describe her?

Mr. Pearse: Is there any doubt about the lady's identity?

The Advisory Master: Is she in court?

Mr. Pearse: We all admit that it was Edith Hackett of Metuchen, a very respectable married woman.

Mr. De Sevo: I object to this remark of counsel.

The Advisory Master: Of course, that is making testimony.

Mr. Pearse: I ask the Court's pardon, and I ask to have what I said stricken out.

The Witness: May I make an assertion? I am also respectable.

Mr. Pearse: I wasn't commenting on what the witness said. I was commenting on counsel's remarks.

The Advisory Master: Proceed, Mr. De Sevo.

Q. Will you please tell us again how often you went out? When I say "you" I mean you and this woman called Mrs. Dinnebeil—Mrs. Hackett —and Mr. Dinnebeil? A. Well, occasionally. No set time. If they were going to have some friends over at the house they used to leave word for me to come over and visit with them.

Q. Do you know how this Mrs. Hackett was known in the neighborhood, by what name? A. I never heard her called Mrs. Hackett. I always heard her called Mrs. Dinnebeil.

Q. When is the last time you met this woman? A. I think it was two weeks ago Friday.

Q. Where did you meet her? A. On the Plainfield bus.

Q. Were you on this bus also? A. I got on the bus and she was already on the bus.

Q. Where did she get on this bus, do you remember? A. At Main Street and Amboy Avenue.

Q. In Metuchen? A. Yes.

Q. Did you have any conversation with her? A. Yes.

Q. What did you say to her?

Mr. Pearse: Is this binding on us? Is any conversation that took place between this witness and Mrs. Hackett last week binding on us?

Mr. De Sevo: I don't think it is binding, but I think it is for your Honor to pass on.

The Advisory Master: Was it related to Mr. Dinnebeil?

Mr. De Sevo: Practically, yes. Your Honor can give it such credence as you see fit. Your Honor might want to disregard it entirely; and if he objects I withdraw it.

Mr. Pearse: As I understand it, the testimony of this witness is for the purpose of substantiating what the complainant said, that she was charging her husband with running around with other women. They renewed marital relations in 1928, in the month of November. I understand that Mrs. Bassford's testimony with respect to what Mrs. Hackett was known as was concerning matters which occurred prior to November, 1928. How can that possibly have any effect on the issues in this case, a conversation which Mrs. Bassford had with Mrs. Hackett last week?

The Advisory Master: I will allow the question.

Q. (Last question repeated by the stenographer.) A. What did I say to her?

Q. Or what did she say to you? A. The woman I knew as Mrs. George Dinnebeil said: "Do you know I am married, Bass?" My nick name is

Bass. Most of my friends call me Bass. She said, "Did you know I am married?" And as she was getting off at Lincoln Avenue I didn't question her as to what she meant.

Q. That was the last time you saw her? A. Yes.

Cross-examination by Mr. Pearse:

Q. You were a social friend of all these people that are around here in the court room? A. Yes.

Q. And you knew that Mrs. Hackett kept a boarding house there in Metuchen? A. Never heard it.

Q. Weren't you there in the house? A. Yes.

Q. Did you meet Mr. Clausen there? A. Not at her house.

Q. You never saw him there? A. No, I never did see Mr. Clausen.

Q. Did you see Mr. Nolan there? A. Visiting the house, yes.

Q. When did you first meet Mrs. Hackett? A. In 1924 I think it was.

Q. That was when Mrs. Hackett and Mrs. Frolich kept a boarding house down on Amboy Avenue known as the Lincoln House? A. No.

Q. You knew her then? A. No.

Q. You didn't know her as early as that? A. No.

Q. It was after she moved to Lincoln Avenue that you first met her? A. Yes.

Q. How did you happen to meet her? A. You mean Mrs. Hackett?

Q. Mrs. Hackett? A. Why I was introduced to her at Mrs. Fisher's house—Mrs. Helen Fisher, a

widow who lives on Henry Street—as Mrs. Dinnebeil.

Q. And you went around with these people? A. Yes.

Q. You called her by her first name, Edith? A. Yes.

Q. In fact, you all called each other by your first names? A. Yes.

Q. And you have the nickname of Bass? A. Yes.

Q. I never heard it before. This is the first time today. You don't think I was questioning your respectability when I made that remark? A. I hope not, Mr. Pearse.

Q. I have the highest regard for you. A. Well, I also have a high regard for my oath.

Q. And you went around with these people? A. Yes.

Q. They were perfectly respectable? A. Yes.

Q. And you never saw anything out of the way? A. No.

Q. And you met Mrs. Dinnebeil in November, 1928? A. Yes.

Q. You were out electioneering? A. Yes.

Q. For the Democrats. And that was the first time you met Mrs. George Dinnebeil? A. Yes.

Q. And did you become well acquainted with her? A. No.

Q. Not very? A. (No answer.)

Q. When did you tell her about this incident? A. I asked her to register, and she was in doubt as to whether she could register.

Q. No, when did you tell her about Mrs. Hackett? A. I didn't tell her about Mrs. Hackett because I understood that she and Mr. Dinnebeil were living together again.

Q. You were subpoenaed as a witness here, weren't you? A. Yes, because—Shall I tell how?

Q. Did Mrs. Dinnebeil come after you? A. Yes, but only recently.

Q. You weren't here the first day, were you? A. No.

Q. Do you recall anybody that Mr. Dinnebeil introduced Mrs. Hackett to as Mrs. Dinnebeil?

Mr. De Sevo: I object to the question on the ground that there is no testimony given by this witness that Mr. Dinnebeil introduced this woman as Mrs. Dinnebeil. It was done by someone else in Mr. Dinnebeil's presence.

The Advisory Master: I will allow the question.

A. No.

Redirect-examination by Mr. De Sevo:

Q. Mrs. Bassford, on these occasions when you would go out with Mr. Dinnebeil and this Mrs. Hackett, or Mrs. Dinnebeil as you call her, how did Mr. Dinnebeil address her? A. As a man and wife.

Q. What names would he say? Would he call her any names? A. Yes, he had two pet names.

Q. What were they? A. Baby and Poodles.

Recross-examination by Mr. Pearse:

Q. You know that George Dinnebeil had been living at Mrs. Hackett's boarding house for a number of years? A. I didn't know it was a boarding house.

Q. He had been living there at this house? A. Yes, as man and wife.

Q. He never told you she was his wife? A. I called her Mrs. Dinnebeil when I went there.

Q. You called her Edith, didn't you? A. Not until I got better acquainted.

Q. And you say you met her the other day? A. Yes.

Q. You knew she was married, didn't you? A. Not until she told me.

Q. Didn't she tell you she was married last October? A. She told me she was married but she didn't say she was married again, and it puzzled me because I had known her as Mrs. Dinnebeil.

Q. She told you she was married again? A.No. She said she was married and asked if she could come and call on me, and I said I would be delighted to have her call.

Q. You considered her a perfectly respectable woman? A. Yes.

Q. And you were very curious when— A. (Interrupting) I was, and I was very curious about the status of her case.

By the Advisory Master:

Q. Did Mrs. Hackett keep a boarding house? A. Not that I knew.

Q. How near to you did she live? A. I think about two miles. I live in a different section.

(Witness excused.)

HANNAH DINNEBEIL, the complainant, recalled in rebuttal.

Direct-examination by Mr. De Sevo:

Q. Mrs. Dinnebeil, did you ever threaten to poi-

son your husband's food at any time? A. No.

Q. Did you ever say to him that you would poison his food at any time? A. Never.

Q. Do you know this young man by the name of Adam Hokansen? A. Yes.

Q. Was he present at your home or around your home or anywhere near your home on the day that Mrs. Mohring was there? A. No.

Q. Wasn't there at all? A. No.

Q. Did he ever have lunch at your home at any time? A. No.

Mr. Pearse: I object to the question. The witness didn't testify that he had lunch at their home. He said that he had his lunch down in the cellar.

The Witness: He didn't eat his lunch down in the cellar at my home.

Q. Did Mr. Hokansen ever have any lunch at your home at any time? A. No.

Mr. Pearse: Object to that question. The witness didn't testify that he ever had lunch in the house. He said he ate his lunch down in the cellar near the furnace where it was warm.

The Advisory Master: I have an idea that he said something about lunch in the house. I will allow the question.

Q. Did he ever have any lunch at your home? A. No, never.

Q. Did he ever eat his own lunch down in the cellar at any time? A. No, never. He went home to his mother's house.

Q. Now it was testified to that on High Street

you were clubbing your husband with something. Did you ever strike your husband out in the street with anything? A. No, sir.

Q. At any time? A. Never.

Q. Did you ever ask any of the youngsters in the neighborhood to make inquiry of Mr. William Dinnebeil as to the whereabouts of your husband? A. No, never.

Q. Did you ever say a Mrs. Mohring was a bitch and things like that at any time? A. Never used that language in my life.

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

Q. Did he ever board at your house, or live at your house? A. He stayed there at my husband's invitation.

Q. Did you ever invite him to stay there? A. Never.

Q. He testified that on one occasion while you were having lunch together and he was present, without saying anything you swept the dishes off the table. Did anything like that ever occur? A. Never.

Q. Did you ever use any vile language against your husband at any time? A. No, never.

Q. How often did this Mr. Nolan come to your home? A. Well, he stayed there for about six weeks, except the week ends. He would go and come when he felt like it at the week ends.

Q. Did you ever threaten to strike him at any time? A. No.

Q. Do you remember the time in May, 1929, when the strong-arm squad in Metuchen came there to take you out? A. Yes.

Q. Were you sitting on the trunk? A. I was.

Q. Why did you do that? A. I asked my husband for the tax bills I found.

Q. What tax bills? A. Edith Hackett's bills.

Q. Her name on them? A. Yes.

Q. And is that why you were sitting on the trunk? A. Yes.

Q. Did you on that occasion call your husband any vile names? A. No, I did not.

Q. It was testified to by Mr. Stillick that in November, 1928, while you were chasing and striking your husband that you shouted, "You skunk!" Did you ever use such language? A. No.

Q. "You skunk, I'll kill you!" Did you ever use such language? A. No.

Q. Did you ever use such language? A. No.

Q. Did you ever tell your husband, while Mr. Nolan was present, or anybody else was present, that you would kill his brother, William Dinnebeil? A. No, never.

Q. Do you remember the occasion around December, 1926 when you went with Mr. Burchard to 18 Lincoln Avenue, where your husband was either living or boarding? A. I do.

Q. Why did you go there?

Mr. Pearse: I object to this testimony.

Mr. De Sevo: I withdraw the question.

Q. Did you go there and make inquiry of the woman who came out of 18 Lincoln Avenue?

Mr. Pearse: I object to that.

Mr. De Sevo: I withdraw the question.

Mr. Pearse: That is two you have withdrawn.

Q. Do you remember the time when you and Mr. Burchard went to 18 Lincoln Avenue and made inquiry of the woman who was then at this place,

as to the whereabouts of your husband? Do you remember the occasion?

Mr. Pearse: I object to the question as not being proper rebuttal.

The Advisory Master: It is corroboration of that witness who testified that he did go with her, so for that purpose I will allow it.

Mr. Pearse: Your Honor will remember that we haven't denied any such thing.

Mr. De Sevo: If he admits it—

Mr. Pearse: The only question is whether or not there was any justification for Mrs. Dinnebeil back in 1927 having any suspicions concerning her husband. Apparently those suspicions were arroused, and yet, despite those suspicions she renewed marital relations with her husband in November, 1928, knowing all those things.

The Advisory Master: You opened up a large subject.

Mr. Pearse: I didn't open it up.

The Advisory Master: It is in the case, and I am entitled to get all the light I can on it.

Mr. De Sevo: The only reason I ask this witness that question now is because I anticipate that Mr. Pearse will put Mr. Dinnebeil on and deny this.

The Advisory Master: I will allow it.

Q. Do you remember the occasion? A. I do.

Q. How did this woman introduce herself to you?

Mr. Pearse: I object to that question, if

your Honor please. Nothing this woman, whoever she may be, said to Mrs. Dinnebeil has any binding effect on George Dinnebeil.

The Advisory Master: I will allow it for the purpose of showing the reputation she enjoyed in that neighborhood.

Q. How did she introduce herself?

Mr. Pearse: I object to that method of questioning. I think this witness is entitled to say what was said, but not "how did she introduce herself."

The Advisory Master: Suppose you change it to what was said.

Q. What did you say when you went there with Mr. Burchard to this woman that came to the door at 18 Lincoln Avenue where your husband was either living of boarding.

The Advisory Master: Give the conversation.

A. I inquired for Mr. George Dinnebeil and she said, "He isn't in just now." And I said, "Do you expect him?" And she said, "Well, no, not tonight. Is there anything I can do for you?" So I said, "I am Mrs. Dinnebeil."

Q. What did you say to her? A. I said, "How can you be Mrs. Dinnebeil when I am Mrs. George Dinnebeil?"

The Advisory Master: What did she say to that?

The Witness: She didn't say much. She wasn't able to say much then. She was quite shocked. She didn't expect me at the time.

Mr. Pearse: I ask that that "she was quite shocked" be stricken out.

The Advisory Master: Yes, that will be stricken out.

Just what was said in answer to your statement that you were Mrs. Dinnebeil? What did she say?

The Witness: She didn't say anything just then.

Q. Now, Mrs. Dinnebeil, in March, 1929, did you get your husband's revolver and shoot your husband with it? A. I positively did not.

By the Advisory Master:

Q. How do you account for that revolver shot and the hole in the wall? A. Well, it was Mr. Dinnebeil's own acts that explains it.

Q. Did you ever see the hole in the wall? A. Yes, certainly.

Q. Did you ever inquire who made it? A. Yes, I knew he did it the night before.

Q. He fired the revolver? A. He sure did, your Honor—positively.

Q. At whom did he fire it? A. I think in the air.

Q. He didn't fire it at you? A. No.

Q. And you know he fired it? A. Yes, I seen him.

By Mr. De Sevo:

Q. Is that the time he came home and said he had the gun loaded with two bullets, one for him and one for you? A. Yes

Mr. Pearse: This has all been gone over.

The Advisory Master: I will allow it.

Q. Isn't that what happened? A. Yes.

Q. What did you do when he said that?

The Advisory Master: Said what?

Q. What did you do when he said, "I have a gun here with two bullets, one for you and one for me?" A. I begged so hard for his own sake and my sake and the children's sake for him not to do it.

Q. What did he do? A. He jumped up and he said, "You don't want to go to hell, but I am going", he said.

Q. And did the gun go off? A. Yes, the gun went off in the meantime.

Q. Do you know Mr. Stillick? A. Yes, I do.

Q. Did you ever tell him, or rather, did you go to his home and tell him that you wanted twenty thousand dollars from your husband? A. Positively I did not.

By the Advisory Master:

Q. Did you ever demand twenty thousand dollars? A. I didn't know he had twenty thousand dollars.

Q. Did you think he had? A. Never.

Q. Did you know his circumstances pretty well? A. No, not until I went to live in Metuchen.

Q. You found out in Metuchen? A. I heard about his property there.

Q. Before that did you demand twenty thousand dollars? A. No.

Q. Did you ever demand twenty thousand dollars? A. Never.

By Mr. De Sevo:

Q. Did you know a lawyer by the name of Mr. Potter? A. Yes.

Mr. Pearse: This has all been gone over on direct-examination.

The Advisory Master: Maybe, but I am rather hazy about that and I am willing to be enlightened.

Q. Did you ever retain Mr. Potter to represent you in your marital troubles? A. Well, if you would call it retaining him. I called him up.

Q. Did you pay him a fee? A. No.

Q. Did you tell Mr. Potter to go and see your husband to get twenty thousand dollars? A. No, sir, he went of his own accord.

Q. It was testified by Mr. Stillick that while Mr. Dinnebeil was living at his home, or staying there, that you went up to his room on one occasion and that when you left Mr. Dinnebeil became seriously ill. Did you do or say anything to your husband on that occasion? A. I did not.

Cross-examination by Mr. Pearse:

Q. Mrs. Dinnebeil, who were present back in December, 1926, when you and Mr. Burchard came to Metuchen and the conversation was had with Mrs. Hackett? A. Well, at first there wasn't anybody until Mrs. Freda Dinnebeil—

Q. No, while this conversation took place? A. This was while this was going on. She came along and the first thing she said, "Our business!" She seen me talking to Mrs. Hackett, I believe her name was.

Q. You don't believe her name was Hackett. You know her name was Hackett, don't you? A. No, I do not. I had never met the woman before.

Q. Didn't meet her afterwards either? A. No, I didn't.

Q. What I am trying to get at is this: This was a double house? A. Yes.

Q. And you made inquiry of the next door neighbor? A. Yes.

Q. And the next door neighbor is Mrs. Hunter? A. Yes.

Q. This is Mrs. Hunter sitting right here? A. No, that isn't the lady I inquired of. It was an old lady.

Q. Didn't you have some conversation with Mrs. Hunter that day? A. Except called to the door.

Q. What was she called to the door for? A. What was she called to the door for?

Q. Yes. Who called her to the door? A. Mrs. Dinnebeil, as she called herself.

Q. Mrs. Hackett called her to the door. You are Mrs. Dinnebeil, aren't you? A. That is what she called herself. And then Mr. William Dinnebeil came up.

Q. Wait a minute. Let us get the conversation between Mrs. Hunter and Mrs. Hackett, while you were present.

Mr. De Sevo: I object to "Mrs. Hunter." This is the first time I have heard this name of Mrs. Hunter.

The Witness: I don't know who Mrs. Hunter is, no.

Q. Who was the woman that came out? A. Her mother.

Q. Who was the younger woman that came out later? A. I don't know who she was.

Q. Don't you recognize Mrs. Hunter? A. No.

Q. Will you say she wasn't there that day? A. I do not know. She wasn't there.

Q. She wasn't there? A. She wasn't there, not to my memory.

Q. Not to your memory? A. I don't know. I was never introduced to the woman.

Q. Your memory seems to be pretty good as to what happened that day. A. But it wasn't her. It was an old woman.

Q. You said it was her mother. Whose mother? A. Mrs. Hunters' mother.

Q. What? A. I said it was an old lady.

Q. Who was the other lady that came out? A. I don't know who they are. How do I know? I wasn't acquainted up in the town.

Q. You have known them since? A. No.

Q. You lived there for six months. A. I was never allowed to go near the house.

Q. Who stopped you? A. My husband.

Q. Why? A. I annoyed the tenants.

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

Q. That you annoyed the tenants? A. Yes, he did.

Q. And were the tenants where Mrs. Hunter lived or the tenants living next door? A. I don't know who Mrs. Hunter was.

Q. Then what tenants did he say you would annoy? A. Every tenant.

Q. I see. He didn't want you to go near any of the houses of the Modern Home Building Company? A. I would find out too much information.

Q. Is that what he said? A. Yes.

Q. He said, "I don't want you to go to any of the houses around here because you will find out too much information?" Is that what he said? A. Yes, exactly.

Q. So he told you you shouldn't go, and you didn't go? A. No, I didn't go.

Q. You obeyed what he said, right? A. I tried to.

Q. And you didn't go because he told you not to go? A. To avoid trouble I didn't go.

Q. What? A. To avoid trouble I didn't go.

Q. Avoid what trouble? A. Well, he seemed to think there would be trouble there.

Q. In what way? A. He told me about not going there to annoy the neighbors.

Q. To go where? A. To go anywhere to make inquiries.

Q. What do you mean about making inquiries? A. He was very friendly with the neighbors and wanted me to stay away from the houses.

Q. Yes? A. And he told me to keep away from them, not to annoy them or call on them.

Q. How many times did he tell you this? A. Many times.

Q. Was Mrs. Hackett living in Metuchen while you were there? A. No, she was supposed—from an affidavit—that she was living in Denver.

Q. Was an affidavit produced in your divorce suit in New York in May, 1927, from Colorado? A. Yes.

Q. Signed by Mrs. Hackett? A. Yes.

Q. That is right?

Mr. De Sevo: I object to that.

The Advisory Master: I will allow it.

Q. You know that there was an affidavit produced signed by Mrs. Hackett, from Colorado? A. Yes.

Q. And you know that Mrs. Hackett wasn't living in Metuchen while you were there? A. Yes, but I heard that she lived in Plainfield, New Jersey.

Q. You know that now? A. I don't know it; I was told that.

Q. Didn't you just hear Mrs. Bassford— A. (Interrupting) I knew that before Mrs. Bassford told me. My husband bought my pots and pans in Plainfield, New Jersey.

Q. Your husband bought your pots and pans in Plainfield, New Jersey? A. Yes. He has a receipt to show it, if he cares to show it, four sixty-nine.

Q. Four hundred and sixty-nine dollars? A. Amounting to four dollars and sixty-nine cents.

Q. Receipt for what? A. Pots and pans.

Q. Bought of whom? A. At the Plainfield Hardware Store, I believe.

Q. Your pots and pans? A. Yes.

Q. What has that got to do with Mrs. Hackett? A. She was with him when he bought it.

Q. She was with him when he bought the pots and pans in 1928? A. Yes.

Q. In November, 1928? A. Yes.

Q. Did you see her with him? A. I was told about it.

Q. Who told you? A. I don't recall just now who said it.

Q. You don't recall it. When did you hear it? A. In November, about three days after we moved up. That is about the 7th.

Q. You listened to any gossip you could hear, didn't you?

Mr. De Sevo: I object to that.

The Advisory Master: I will allow it.

A. Why should that be called gossip.

Q. Don't you call that gossip? A. No.

Q. I do. Don't you? A. No.

Q. And you were ready to believe anything about your husband, weren't you? A. No.

Q. And you came down to Metuchen once or twice to get something on him? A. I did not.

Q. You came down to get information on him so you could use it in your divorce suit in New York? A. I did not.

Q. You did use it? You made an affidavit? A. Yes.

Q. And Burchard made an affidavit? A. Yes.

Q. And you didn't get your divorce, did you? A. I don't know anything about it. No, I did not get the divorce.

Redirect-examination by Mr. De Sevo:

Q. You are a pretty jealous woman, are you not? Answer yes or no. A. Yes.

Q. You are a pretty jealous woman, are you not? A. No.

Q. You are not jealous? A. Only when there is love concerned.

Q. Are you jealous because you love your husband? A. Yes.

Mr. Pearse: I object to that.

The Advisory Master: I think it is already in on direct-examination.

Recross-examination by Mr. Pearse:

Q. This house that you call 18 Lincoln Avenue, how near did Will Dinnebeil live to that? A. The second house above.

Q. Right next door? A. No.

Q. One more? A. Yes, a lot between.

Q. A lot in between? A. Yes.

Q. It is on the same block two doors away? A. Yes.

Redirect-examination by Mr. De Sevo:

Q. If you knew and you believed that your husband was going out with other women why did you go back and live with him on the different occasions when he left? A. On account of his health. He needed somebody to take care of him.

Q. Is that the only reason? A. And for the love of my two children—to give a home to my children and myself.

Q. Is that the only reason? A. And to take care of him and try to get him away from these people.

Q. Do you still love your husband? A. Yes.

Mr. Pearse: Objected to.

The Advisory Master: Objection sustained.

Q. Is this the picture of the young lady that was shown to you at that time? A. No, it is not.

Q. Are you positive? A. Yes.

Q. Do you recognize that woman? A. No, sir.

Q. Don't you know who she is? A. I positively don't know.

Mr. De Sevo: Showing the witness Exhibit D-6.

Recross-examination by Mr. Pearse:

Q. As a matter of fact you didn't look at the picture that was shown to you? A. I did look at the picture sideways. I didn't look at it while he had it.

(Witness excused).

The Complainant Rests.

DEFENDANT'S REBUTTAL.

WILLIAM DINNEBEIL, recalled in rebuttal.

Direct-examination by Mr. Pearse:

Q. Your brother lived one door away from you up to the time his wife arrived in Metuchen? A. Yes.

Q. Do you know Edith Hackett? A. Yes.

Q. What was her business while she lived in Metuchen? A. To keep boarders.

Q. To keep boarders? A. Yes.

Q. At what place? A. At 18 Lincoln Avenue.

Q. Do you know the boarders that she had? A. Yes.

Q. Are there any of them here in court? A. Yes.

Q. Who are they? A. Mr. Nolan and Mr. Clausen.

Q. And that was two doors away from your house? A. Yes.

Q. Tell us whether or not you are well acquinted with Mrs. Hackett? A. I am.

Q. And for how many years have you been? A. About fifteen or sixteen years.

Q. And she ran a boarding house down on Amboy Avenue, didn't she? A. Yes.

Q. With Mrs. Frolich? A. Yes.

Q. Did you ever hear her called in that neighborhood, or any place else, Mrs. George Dinnebeil or Mrs. Dinnebeil? A. No.

Q. Did you ever hear her introduced to anybody as Mrs. Dinnebeil? A. No.

Q. Your wife lives there with you? A. Yes.

Q. Lived there all this time? A. Yes.

Q. Did she ever visit at your house? A. Occasionally.

The Advisory Master: Is this Mrs. Hackett still in the community?

Mr. Pearse: No. She lives in Plainfield.

Q. How recently have you seen Mrs. Hackett? A. I haven't seen her for years, about three years.

Q. Do you know where she went to after she left Metuchen? A. She went out west.

Q. She went out west? A. Yes.

Q. And do you know whether she came back or not? A. I heard she was back, but I don't know.

Q. Do you know where she lived when she came back? A. No.

Q. Do you know that she is married now? A. Yes.

Q. Did you get an invitation to the wedding? A. Yes.

Q. How long ago was that? A. Last year sometime.

Q. While she lived in Metuchen what was her reputation? A. It was good that I know of. It was good, yes.

Q. Well, is there any doubt in your mind about her reputation? A. No.

Q. I mean, how was she spoken of among the neighbors? A. They seemed to like her.

Q. Well, so far as her reputation is concerned, whether it was good or bad, what was her general reputation among the neighbors? A. It was good.

Cross-examination by Mr. De Sevo:

Q. Did you ever speak to any neighbor about her reputation? A. No.

Q. How do you know what the neighbors thought of her? A. They would tell me if it was otherwise.

Q. If you didn't speak to them how would they tell you? A. By talking to me.

Q. Was she a single woman at the time these boarders were living with her? A. I never questioned her status.

Q. I am asking you whether she was a single woman or a married woman at the time these men were boarding with her? A. She was married.

Q. To whom was she married? A. I believe to her husband.

Q. Who? What is his name? Where did he come from? A. I don't know him.

Q. Did you ever see her husband? A. No; I don't know him.

Q. Do you know whether her husband was dead or alive? A. Possibly dead.

Q. Possibly? Did you ever ask her? A. No.

Q. How often did you go to her house? A. About once a week.

Q. How do you know these men were boarding there? A. Because I saw them sitting down there and eating there, and I saw them sleeping there.

Q. You saw them sleeping there? A. Oh, yes.

Q. How often did you see them sleeping there? A. There were times when I would have to tell them something about the working conditions or working affairs and I would go there of an evening and tell them about it.

Q. Did you ever see your brother go out with her to shows and speakeasies? A. No, not to speakeasies.

Q. Well, they went to moving picture places? A. Yes.

Q. Did your brother call her poodles or—I can't think of the other one? A. No.

Q. Never used that language? A. No.

Q. How did he call her? A. Everybody called her Eve.

Mr. Pearse: Everybody?

The Witness: Yes, everybody.

Q. Did you call her Eve too? A. Yes, certainly.

Q. How often did your brother go out with her, do you know? A. Well, probably twice a month.

Q. Twice a month? A. Yes.

Q. Did any of the other boarders go out with her twice a month? A. Yes.

Q. Who did? A. Nolan did.

Q. Not alone with her? A. No, together in a group, you know.

Q. In a group? A. Yes.

Q. Your brother was the only one that went alone with her, is that right?

Mr. Pearse: I object to that.

A. I didn't say that; I didn't say that.

Q. Did he go alone with her? A. (No answer).

Q. Well, did he go alone with her? A. I don't know.

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

Q. How do you know she went out in groups then? A. Because I saw them.

Q. Were you in the group? A. No.

Q. Where is Mrs. Hackett living now, do you know? A. Just from your witness here, that she was in Plainfield.

Q. Otherwise you wouldn't know that she was in Plainfield, is that right? If it wasn't for that witness you wouldn't know she was in Plainfield? A. I wouldn't be sure, no.

Q. Didn't you get a wedding invitation from her? A. Yes.

Q. Where did it come from? A. From Plainfield.

Q. When did you get it? A. Last year.

Q. Didn't that tell you that she was in Plainfield then? A. That don't mean she is there now. You ask me where she is now. That don't mean she is in Plainfield now. She might be in Honolulu for all I know.

Q. Did you ever go out and see her in Plainfield? A. No, I did not.

Q. Who did she marry, do you know? A. I don't know.

Q. What name was on the invitation? A. I can't recall it. I would know it if I hear it. Why don't you tell me?

Q. Don't ask me. I don't know anything about Metuchen? A. Well—

Mr. De Sevo: That is all.

(Witness excused).

CARL CLAUSEN, sworn.

Direct-examination by Mr. Pearse:

Q. Mr. Clausen, what is your business? A. I am a carpenter.

Q. And you work in Metuchen? A. Yes.

Q. Do you live in Metuchen? A. Yes.

Q. Are you married? A. Yes.

Q. Were you married in 1925 and 1926? A. No.

Q. Where did you live in those two years? A. 1925 I was living at No. 18 Lincoln Avenue. I left there very early in 1925.

Q. And while you were living there who kept the house? A. A lady named Miss Hackett.

Q. And was George Dinnebeil living there too? A. Yes.

Q. Were there any other boarders at that time? A. Yes.

Q. Do you recall any of their names? A. There was a man named Anderson.

Q. And how large a house is this? How many bed rooms? A. Three.

Q. And while you were there did you ever hear Mrs. Hackett called Mrs. George Dinnebeil or Mrs. Dinnebeil? A. No.

Q. Can you tell us whether or not in the neighborhood there of Metuchen she was ever known as Mrs. Dinnebeil? A. No, I couldn't tell you.

Q. Did you ever hear anybody call her Mrs. Dinnebeil? A. No.

Q. What did you call her when you lived in the house? A. I called her Edith.

Q. That is what she was generally known as, wasn't she, around that neighborhood? A. Yes.

Cross-examination by Mr. De Sevo:

Q. How many bed rooms did you say that house had? A. Three.

Q. Three bed rooms. How many beds in each room, do you know? One bed in each room? A. As near as I know.

Q. At the time you were boarding there or living there was Mr. Dinnebeil there? A. Yes.

Q. Was Mr. Nolan there? A. I don't recall. Maybe he was there for a short time.

Q. Who was the other man, Mr. Anderson? A. Yes.

Q. And Miss Edith Hackett was there, of course? A. Yes.

Q. Did she have any children? A. No.

Q. In other words, there were four men and one woman, is that right? A. Three men and one woman.

Q. Yourself, Mr. Dolan and Mr. Dinnebeil? A. No, not at the same time—Mr. Anderson and I.

Q. There were no more than three men at one time, is that what you mean? A. No.

Q. That is right? A. That is what I mean.

Q. Was Mr. Dinnebeil the favorite boarder? A. No.

Q. Was not? A. I wouldn't say that.

Q. Did you ever go out with Miss Hackett? A. No.

Q. Never did? A. No.

Q. Did you ever see Mr. Dinnebeil go out with her? A. No, I can't say I did.

Q. Did you ever see them together at any time? A. No.

Q. Never did? A. No.

Q. Did you ever go out with Mr. Anderson? A. Yes.

Q. She went out with Mr. Anderson? A. No, not her alone.

Q. I am talking about Mrs. Hackett. A. I don't think so.

Q. Did you ever hear Mr. Dinnebeil call her by the name of Poodles? A. No.

Q. Never did?

Mr. Pearse: There was another name. Why don't you ask him that?

Q. Did you ever hear him call her Tootsie? A. No.

Q. Did you ever see Mrs. Hackett go out with

anybody at any time while you lived there? A. I don't think so, no.

Q. Did you ever see her go out in parties? A. No.

Q. Never did? How long were you boarding there? A. A year or more.

Q. Did Mr. Dinnebeil live there or board there this one whole year? A. Yes, I think he was there all the time.

Q. What year are you referring to now? A. The year of 1924. I left there in January, 1925.

Q. You weren't there in 1926 or 1927 or anything like that? A. No.

Q. Did you know when this Miss Edith Hackett was married? Did you know whether she was married or not? A. I know she is married now.

Q. I didn't ask you that. At that time? A. No, I don't know.

Q. How do you know she is married now? A. Because I got an invitation to her wedding.

Q. You got an invitation too? A. Yes.

Q. Who did she marry? A. I do not know the man's name.

Q. Where is she living now, do you know? A. No, I don't.

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

By the Advisory Master:

Q. Was she known as Mrs. Hackett when you were living there or Miss Hackett? A. Miss Hackett.

Q. Not Mrs.? A. No.

(Witness excused).

EDWARD NOLAN, recalled in rebuttal.

Direct-examination by Mr. Pearse:

Q. Since you have been living in Metuchen have you ever heard of Edith Hackett being described as Mrs. George Dinnebeil? A. Never.

Q. Have you ever heard her called that? A. Never.

Q. Did you ever hear anybody call her that? A. No.

Q. How near did she live to Will Dinnebeil's house, about? A. One hundred feet—seventy-five to one hundred feet.

Q. Away? A. Yes.

Q. On the same street? A. Yes.

Q. Right where his wife lives? A. Yes.

Cross-examination by Mr. De Sevo:

Q. Was Mr. Clausen boarding with Mrs. Hackett while you were there? A. For a short time, yes.

Q. Who else was there besides you? A. Mr. Dinnebeil and I was there. Chris was there.

Q. Who is Chris? A. I never did know his last name.

Q. All right. Who else? A. A couple of other men.

Q. A couple of what? A. A couple of other men at different times when I was living there. They kept coming and going. I can't tell you the different names.

Q. How many men lived there at one time while you were there? A. Three of us.

Q. Didn't you testify last week that you had four men living there? A. I testified to myself, Clau-

sen, Mr. Dinnebeil and Chris living there. I didn't say at the same time.

Q. Did they ever live there at the same time, these four men you have just mentioned? A. Those three men and myself, no.

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

Q. Did you ever go out with Mrs. Hackett? A. I did.

Q. Where did you go with her? A. To movie picture shows and different places.

Q. What are these other different places? A. Any place.

Mr. Pearse: Of course, this has all been gone into by counsel on cross-examination.

Q. What is it? A. I have already admitted that I have been out with this lady several times.

Q. You went alone with her? A. On several occasions, yes.

Q. Did Mr. Dinnebeil go with her alone? A. I have been with Mr. Dinnebeil and Miss Hackett—

Q. (Interrupting) Did you ever hear Mr. Dinnebeil call her Poodles or Tootsie? A. No.

Q. Never did? A. No.

The Advisory Master: Did you ever call her Tootsie?

The Witness: No, sir.

Q. Did you know that she was married? A. Miss Hackett?

Q. Did you know that Miss Hackett was married at the time you boarded there? A. I didn't know it. No, I didn't know she was married.

Q. How did you address her? A. Eve.

Q. Only Eve? A. That is all.

Q. Did you ever address her as Mrs. Hackett? A. Never.

Q. Only Eve? A. That is all.

Q. Everybody seemed to call her Eve? A. It was customary in our gathering to do that. We all do it and still do it.

Q. Do you know whether she is married now? A. Yes.

Q. You got an invitation too? A. I received one.

Q. Do you know whether any boarder was left out without getting an invitation?

Mr. Pearse: Objected to.

Mr. De Sevo: That is all.

(Witness excused).

MRS. MARIE HUNTER, sworn.

Direct-examination by Mr. Pearse:

Q. Will you please tell us where you lived in the months of December 1926, and January, 1927? A. At 20 Lincoln Avenue.

Q. At 20 Lincoln Avenue? A. Yes, sir.

Q. Of whom did your family consist? A. My husband and I and my mother.

Q. Your husband, yourself and your mother? A. Yes, sir.

Q. Do you remember an occasion on the front porch when Mrs. George Dinnebeil and a young man came up there to see Mrs. Hackett? A. Yes.

Q. Will you tell us what the conversation was that you heard that day between the parties? A. We were shopping together and we came back—

Q. Who was out shopping? A. Miss Hackett and I. And when we came back we both entered

our own halls, and I was in the house just about ten minutes when I heard loud noises and loud talk outside; and I got a bit curious and someone rapped for me to come, and I opened the door and Mrs. Hackett said to me: "This woman is accusing me of living with her husband." And she wanted me to identify her and tell this woman who she was; and I said, "You are Miss Hackett." And that was all, and I went inside and I don't know any more.

Q. And that was the conversation that took place that day? A. Yes.

Q. How long have you lived in the neighborhood? A. Eleven years.

Q. And had lived there eight or ten years at that time? A. Yes.

Q. And knew Mrs. Hackett well? A. Yes.

Q. What was her general reputation in the community? A. Very respectable woman, and one that always minded her own business.

Q. Did you ever hear her spoken of or introduced as the wife of George Dinnebeil? A. Why no.

Cross-examination by Mr. De Sevo:

Q. What is she, Miss or Mrs. Hackett? A. She is Miss Hackett.

Q. M-i-s-s? A. Miss Hackett.

Q. At the time you knew her? A. Yes.

Q. You never referred to her as Mrs., did you? A. No, I didn't.

Q. What is your name, Marie Hunter? A. Yes.

Q. Do you remember making an affidavit in the case of Hannah Dinnebeil versus George Dinnebeil in the Bronx County Supreme Court?

Mr. Pearse: Mrs. Hunter made an affidavit?

Q. Did you or not make an affidavit in that case? A. No.

Q. You did not? A. No.

Q. You are positive of that? A. I made one affidavit.

Q. Oh, you remember now making one affidavit. What affidavit did you make? A. About Miss Hackett saying that she wanted me to identify her as Miss Hackett.

Q. Who did you make that affidavit for? A. Who did I make it for?

Q. Yes. A. I don't know.

Q. Did you make it in the case in New York? A. No, I wasn't in New York.

Q. You didn't make it? A. No.

Q. Will you look at this affidavit and read it and see if that refreshes your memory (handing paper to the witness)? Do you remember making that affidavit? A. Why, yes, I remember making that affidavit, but it was made—

Q. You made this affidavit, didn't you? A. Yes.

Q. Do you remember saying in this affidavit that you called this woman Mrs. Hackett? A. Miss Hackett. Well, of course, occasionally you may say Miss or Mrs.

Q. I don't care what you may occasionally do.

The Advisory Master: Read what she said.

Q. "I recall the occasion upon which the plaintiff herein visited Mrs. Hackett in January of 1927." Do you remember referring to that woman as Mrs. Hackett? A. Well, probably.

Q. Which is right, Miss or Mrs.? A. To tell the truth I don't know.

Q. You don't whether this woman, whom you claim is a very good woman— A. (Interrupting) Well, I—

Q. (Interrupting) Wait a minute. You don't know whether a woman, whom you claim is a very good woman and has a wonderful reputation, is a Miss or a Mrs.? A. I tell you, I never had much to do with neighbors.

Q. How do you know she had a good reputation? A. From what I heard the people around the town say she was a very respectable woman.

Q. And yet you don't know whether she was a Miss or a Mrs.? A. I never interfered.

Q. You never interfered? A. No.

Q. Did you know Mrs. Dinnebeil, the complainant? A. No.

Q. Did you ever know her? A. Just that time she was on our porch.

Q. Did you know at that time that Mr. Dinnebeil was married? A. Yes.

Q. Did you know to whom he was married? A. Yes.

Q. To whom? A. To a woman in New York with two children.

Q. And when this Mrs. Dinnebeil came up to Mrs. Hackett's home, did you know that was the Mrs. Dinnebeil? A. No, I did not.

Q. Did you tell her she was mistaken? A. I didn't know.

Q. Did you or did you not? A. No, I didn't.

Q. Do you know that Mrs. Hackett is now married? A. Yes.

Q. How do you know it? A. I received an invitation to the wedding.

Q. You received an invitation from her? A. Yes.

Q. How did you come to get an invitation when you weren't on intimate terms with her?

Mr. Pearse: I object to that.

Mr. De Sevo: I withdraw the question.

Q. Were you on intimate terms with her? A. Why certainly.

Q. Will you then tell me, being on intimate terms with her, how it is you did not know whether she was single or married? A. How do I know what people are?

Q. All right. That is all.

(Witness excused.)

DEFENDANT RESTS.

6 OCT.1.1931

Arthur W. Cross, Law Printer, 55-57 Lafayette Street, Newark, N. J.

New Jersey Court of Errors and Appeals

Between HANNAH DINNEBEIL, *Complainant-Respondent,* *and* GEORGE L. DINNEBEIL, *Defendant-Appellant.*	*On Bill, &c.* *On Appeal from the Court of Chancery.*

BRIEF FOR DEFENDANT-APPELLANT.

This is an appeal from a final decree of the Court of Chancery sustaining the bill of complaint and dismissing a counter-claim of the defendant.

Facts.

This is a suit for separate maintenance instituted by the complainant alleging that the defendant deserted her on or about the 8th day of April, 1929. The defendant, by way of answer and counter-claim alleges that he was justified in separating from the complainant because of her extreme cruelty and asks for a divorce for this cause.

The parties were married in 1904 and two children were born of the marriage both of whom are now adults. As early as 1906 the marital troubles of the parties began. The complainant relying on hearsay, as she stated to her husband, accused him of running around with girls although this was immediately denied by the defendant (Rc. pp. 42, 43). Shortly thereafter for business reasons the parties sepa-

rated although they saw each other on several occasions and cohabited for short intervals.

In 1914 there was a definite break in their relationship which continued until November, 1928, although between these dates they cohabited for short periods.

During this prolonged separation the defendant regularly contributed money for the support of his wife and children.

Commencing in 1907 and continuing down until 1927 complainant instituted various proceedings against her husband in New York. Her first action was in the Domestic Relations Court of New York City for maintenance but the action was dismissed when the Court found that the defendant's contribution was sufficient (Rc. pp. 126, 127). A similar action was started in the same court in 1912 where the complainant also caused the arrest of the defendant in the court room charging him with the commission of several crimes but this action also failed when the latter charges were not moved and the Court found that the defendant had not defaulted in his payments (Rc. p. 127). In 1917 she again charged him with non-support and again had him arrested as he was entering the court room, on the ground that he had violated the White Slave Act and again the latter action was dismissed although the Court ordered the defendant to pay $10.00 a week (Rc. p. 129). In 1918 the White Slave Act was again pressed and the action dismissed after a jury had been impanelled (Rc. p. 131). At this time the defendant agreed voluntarily to pay $12.00 a week for the support of the children until they attained the age of sixteen years. The final action in New York was a divorce proceeding instituted in 1927,

which was never heard and the complainant dropped the action (Rc. p. 132). For some time the defendant has been paying $15.00 a week for the support of his wife (Rc. p. 163), and the children are of age and self supporting.

In November, 1928, the parties resumed living together in Metuchen, New Jersey in a home belonging to the Modern Building Company by which the defendant was then employed and of which he was a nominal officer holding one share of stock. However the same quarrels and accusations by the complainant which had prevailed during their whole married life were again renewed.

It appears that about that time when a woman, a Mrs. Mohring came to their house by appointment to see about some decorating work that the defendant was to do in a house that she had rented from the Modern Building Company, Mrs. Dinnebeil became highly incensed and when the defendant returned after a short absence she accused him of misconduct, called him vile names and threw things about (Rc. pp. 135 to 137, 309, 310). The accusations were again resumed that evening for after the defendant left the house complainant ran after him and after following him up the street struck at him and again shouted vile names (Rc. pp. 160, 183). That evening complainant apologized for her actions stating that she had mistaken Mrs. Mohring for another person (Rc. p. 322).

On Thanksgiving Eve, 1928, the complainant made another serious attack upon the defendant. As the defendant was about to leave the house she again accused him of going out with women, used vile and offensive language and then started to attack him with a carving knife, demanding

$2,000.00 from him (Rc. p. 138). She then ran down to the car and started to cut up the tires and was not quieted until a police officer was called to subdue her (Rc. p. 138).

The next serious outbreak occurred just before Christmas Eve. Complainant again demanded money and told defendant that he could not leave the house unless it was over her dead body, struck at and kicked him and finally went down for a knife but this time defendant escaped (Rc. p. 140).

Complainant not only persisted in the use of vile language and without any justification accused him of improper conduct with "that woman," without mentioning names but actually fired a shot at him which struck eight or ten inches above his head (Rc. pp. 144, 145). This time $20,000.00 was demanded of him and defendant was told that he could not leave the house until this sum was given to her (Rc. p. 147).

The last complained act of cruelty occurred on or about April 6, 1929. In March of that year after one of their numerous reconciliations the parties agreed to get cheaper living quarters and defendant made preparations to move into a new house. As he came into the home in which they were then residing to get some brooms and brushes to complete the job in the new house, complainant started to tear his overalls off and said that she was not going to move, that he could not leave the house and that she was going to kill him and drag him out in a box (Rc. p. 149).

The actions of the complainant during this entire period had a serious affect on the health of the defendant and put him in danger of his

life. When the parties came together again in November, 1928, defendant was very ill. Standing six feet in height he weighed only 145 pounds although in 1906 his weight was 196 pounds (Rc. p. 167). The fact that the defendant was ill and has been so for a long time is unquestioned (Rc. pp. 166, 167). The affect of the constant quarreling and unjust accusations seriously undermined his health and after each quarrel when the defendant was compelled to go to his brother's house for short periods he was in a state of nervous collapse and remained without food for days at a time because he was unable to eat (Rc. pp. 335, 338).

Since 1913 he has been suffering from a nervous disorder and stomach trouble (Rc. pp. 164, 166). In 1915 he went to the Flower Hospital in New York and after his discharge was under the care of a physician until 1916 (Rc. pp. 164, 165). In 1928 he was operated upon (Rc. p. 166) and still suffers from nervousness and stomach trouble and is treated by physicians (Rc. p. 166).

The complainant persisted in her attacks and violent outbursts although she knew that defendant was ill, and refused to prepare his meals and attend to him although she knew that a course of diet had been prescribed for the defendant by his physicians (Rc. p. 209). He was publicly humiliated (Rc. p. 253) and because of complainant's conduct was unable to attend to his work, being a carpenter by trade, for he was nervously prostrated after each quarrel (Rc. pp. 267, 268) which left him very much upset and trembling (Rc. p. 321). Defendant himself states that he was in constant fear of bodily harm and was afraid every night that he stayed in the same house with complainant (Rc. pp.

150, 151), and further states that he cannot live with his wife because he is in fear of his life (Rc. p. 151).

The testimony throughout shows a course of conduct by the complainant which aggravated the defendant and undermined his health and endangered his life by unwarranted accusations of infidelity and actual physical violences committed both at home and in public. Defendant's version of the story is fully corroborated in all its details. One Arbid Hokanson was working with the defendant on the occasion of Mrs. Mohring's visit on November 6th. He states that he was eating his lunch in the cellar of the Dinnebeil home when "an awful rumpus started" when the defendant came home. Mrs. Dinnebeil was doing all the talking although occasionally he heard the defendant say "she was just a customer" (Rc. p. 296). She used the vilest language and then he heard dishes and things flying. We refer the Court to this testimony (Rc. p. 297). We further refer the Court to his testimony (Rc. p. 299) with respect to the complainant's actions on the evening of that same day when the complainant continued her violent actions in the street. Fred H. Stillick, called by the defendant, states that when Mrs. Dinnebeil was attacking her husband on that evening she screamed and said "you skunk, I'll kill you" (Rc. p. 254). The complainant admits that on Thanksgiving Eve she attacked defendant's automobile with a knife and attempted to cuts its tires although she naturally denies that she attacked him (Rc. p. 53). The result of the quarrels was to leave him sick, nervous and upset (Rc. p. 338) and he stayed in the house of his brother, remaining in bed during most of the week.

The incidents heretofore enumerated were only a few of the unwarranted attacks by the complainant. One time when she met him on the street in Metuchen, she accosted him in a loud voice, made demands for money and finally seized a check out of his pocket and ran away and did not return it until she was compelled to do so a few days later by Recorder Wilson of the Metuchen Police Court (Rc. pp. 154-155). She continued to nag him and accuse him almost every day of running around with women (Rc. p. 186).

In May, 1929, when defendant came back for some of his personal effects she again attacked him and was not stilled until after a police officer and several men were called to quiet her (Rc. pp. 152, 121, 287, 288, 285, 271). The testimony of Edward Nolan shows that while he lived with the Dinnebeils for five or six weeks she constantly called him vile names (Rc. p. 265).

There is nothing in the testimony in the entire record which proves or tends to prove that the defendant was unfaithful to the complainant. All of the complainant's actions were caused by a fear wholly ungrounded that defendant was having relations with other women. Complainant attempts to prove by innuendo that defendant lived with another woman and even went so far as to visit one Edith Hackett in 1927 with whom defendant was then boarding and accused her of being known as Mrs. Dinnebeil. Complainant states that it was Miss Hackett who called herself by that name but the testimony of Marie Hunter (Rc. pp. 409, 410) shows what actually occurred.

On January 27, 1929 after defendant had left his wife because of her conduct, complainant wrote a letter to her husband which was marked D. 1 in evidence (Rc. p. 80) which is as follows:

"January 27th, 1929.

Dear George:

Thinking over what you have said and requested me to do, I will agree to do all in my power, that is, with your help, to be a helpmeet and not a nuisance of a wife, providing you will be the same as a husband.

"Hoping your health will be regained under my good care, and hoping you will come home to your beautiful house and enjoy it, with plenty of love,

(Signed) Hannah."

Shortly after the receipt of this letter, defendant told her that he would not return to his wife unless she made it perfectly clear in writing what her further actions would be. Defendant thereupon wrote a letter which was signed by complainant and received in evidence and which is as follows (Rc. pp. 156, 157):

"Metuchen, New Jersey,
January 30th, 1929.

Inasmuch as I desire to live with my husband, I will agree to move into cheaper quarters, for I realize you cannot afford to pay the rent on 225 High Street. I will never again make any attempt to destroy your property, or property entrusted to your care or keeping, such as the Gardner car you drive for the Modern Building Company, Inc., which I attacked December 21, 1928, for the purpose of putting it out of commission. I will refrain from using vile language such as I used when you bought our son William a car, and will promise not to call you the vile names I did the day you brought the car home.

I will comply with your wishes to purchase supplies at the stores of the tenants renting from the company you work for, as I realize your job depends upon cooperation. I will not insult your friends or customers desiring to do business with you or the concern you work for in the future, and will promise to be a real wife and assume all duties a wife should perform.

Knowing that you are a sick man I will try to make life pleasant for you and cater to your needs.

Hoping you will take one more chance and come to live with me, I remain,

(Signed) Hannah."

It is evident however that complainant did not refrain from continuing her past actions.

LAW.

I.

The defendant was justified in separating himself from the complainant, has established extreme cruelty and is entitled to a divorce under the Blackwell Act of 1923.

The Court below found that because the complainant was a jealous woman she was warranted in her conduct. This is beside the point because there can be no justification for such conduct especially in view of the fact that the alleged actions of the defendant were fanciful and conceived only by the complainant. All of the complainant's actions were caused by a fear wholly unfounded that the defendant was having relations with other women.

This Court had laid down the following definition of extreme cruelty as a ground for divorce:

"'Extreme cruelty,' as used in our Divorce Act, is such cruel conduct as endangers

> the safety of the person, or the health of the aggrieved party, either actually inflicted or reasonably apprehended. Smith *v.* Smith, 40 N. J. Eq. 566, 5 Atl. 109; Taylor *v.* Taylor, 73 N. J. Eq. 745, 70 Atl. 323."
>
> *Cavileer* v. *Cavileer,* 94 N. J. Eq. 160.

Vice-Chancellor Bentley in *Hill* v. *Hill* (97 N. J. Ed. 237) has held that unwarranted accusations of sexual infidelity are a sufficient cause for divorce on the ground of extreme cruelty where the conduct is such as to endanger life or health.

It is the course of conduct and not a single isolated fact which gives the Court jurisdiction to grant a divorce on the ground of extreme cruelty (*Hill* v. *Hill, supra*). There is no doubt that the defendant stands in mortal dread and fear of Mrs. Dinnebeil. He said in answer to the Master's questions (Rc. p. 245) that he prefers going through life without her because it would be worse the other way and that he can stand it no longer. The testimony of the several witnesses which we have heretofore referred to shows that the conduct of his wife resulted in an aggravation of his illness and entirely incapacitated the defendant for days at a time. Certainly the complainant's actions constitutes extreme cruelty and falls within the definition of that phrase as defined by this Court.

The defendant was justified in leaving the complainant because of her extreme cruelty and it therefore follows that the decree for maintenance should not have been made.

That the defendant was willing to live at the new house with the complainant at any time that she was willing to go there does not prove that the defendant did not stand in fear of

his life. He did not lose his cause of action by acquiescing in living with her, his right vesting in him by this last complained act of cruelty which took place on April 6, 1929. As was said in *Klein* v. *Klein,* 140 Atl. 233:

> "The wife had stood for far more than she was called upon to; but still, feeling that there might be some salvation of the man she had married, gave him opportunity, even the day after the separation. Notwithstanding what she had been compelled to submit to, she offered to go back, or was ready to go back, and resume relations, if he would apologize, meaning thereby, if he would reform his ways, or promise to, and he refused. That does not indicate that, when the woman fled from the house, and even at that time, when she made the approach, she was not apprehensive of a renewal of his misbehavior; but she was willing to take his word and chance that there would not be."

The Court further says:

> "Now the cause of action under the Blackwell Act became fixed the moment the assaults were committed; by that I mean the moment the conduct of the husband amounted to extreme cruelty. It became as fixed as does willful and obstinate desertion at the expiration of two years, or as does adultery. The cause of action for extreme cruelty vests an absolute right to a divorce, which the injured party may exercise after six months—not before."

II.

The defendant should succeed in his counterclaim, as his testimony was fully corroborated.

In the case of *McLean* v. *McLean,* 104 N. J. Eq. 208, the Court of Errors and Appeals, speaking by Judge Kays said:

> "A husband must justify such a separation by him from his wife by proof of extreme cruelty on the part of his wife to the same extent as he would be compelled to prove it if he were suing for divorce from bed and board upon the ground of extreme cruelty. * * * An examination of the testimony in this case disclosed the fact that the testimony of the complainant, which was corroborated, was corroborated by persons who were not related to the complainant, and apparently had no interest in the suit. On the other hand, such testimony of the defendant as was corroborated was corroborated by persons who were relatives either by blood or by marriage of the defendant."

Many disinterested witnesses fully corroborated the defendant's story, and under the above rule the defendant is entitled to a divorce.

III.

The Court erred in awarding the complainant twenty dollars a week permanent alimony.

Complainant testified that the defendant is a part owner of the Modern Building Company of Metuchen, but it appears that he owns only one share of stock and is only the nominal president (Rc. p. 123). This is corroborated by his brother (Rc. p. 319) who testified that outside of that one share, the defendant has no other financial interest in the company and that the other nine-

teen shares of stock are owned by the brother and his wife (Rc. p. 326). The original investment in the company was $2,000 of which the defendant gave $100 for his share of stock (Rc. p. 325). The company owns about one hundred twenty building lots worth a little over $100 a lot, and a number of houses, all of which property is mortgaged for about $100,000 (Rc. p. 343). The company has been losing money for the last few years and has never paid any dividends and business is at a standstill (Rc. p. 358). The only other property owned by the defendant consists of ten shares of building and loan stock which still have about five years to run, and when fully paid will be worth $2,000 (Rc. p. 125). He owns no real estate nor is he possessed of any personal property of any kind outside of his clothing (Rc. pp. 124, 125). His bank balance is seldom higher than $15.00 (Rc. p. 143). He receives weekly wages of $40.00 a week, although prior to three years ago he was receiving only $33.00 a week and sometimes less (Rc. pp. 123, 124). He is fully corroborated by his brother (Rc. pp. 319, 320).

The general rule is that one-third of the husband's income is usually allowed for alimony, although this is only a guide and not a hard and fast rule, each case depending on its own circumstances.

Habble v. *Habble,* 99 N. J. Eq. 53, affirmed 99 N. J. Eq. 885;
Dietrick v. *Dietrick,* 88 N. J. Eq. 560.

The defendant, as has been shown, has, for a number of years been making voluntary contributions of $15.00 per week for his wife's support, the children being of full age. No

application has ever been made by her prior to this suit for an increase of this amount, so that we may assume that this is enough if not more than sufficient. The defendant receives only $40.00 a week and has no other property or income, is ill and is being treated by physicians. The complainant has not seen fit to show what her circumstances are and how much she needs to support and maintain herself in the condition in which she would be living were she not living separate and apart from her husband. In view of these circumstances the ordinary rule of one-third of the husband's income should apply.

IV.

The Court had no jurisdiction to make a decree for support and maintenance.

This action was brought under Section 26 of the Divorce Act and was not one for a divorce from bed and board. Section 26 provides that when a husband separates himself from his wife and refuses or neglects to maintain and provide for her the Court of Chancery may make a decree for maintenance and support. The statute is very clear. Before the Court of Chancery can entertain jurisdiction in a case such as this two jurisdictional facts must be alleged, namely abandonment and refusal to provide support. Both conditions must exist. *Margarum* v. *Margarum* (57 N. J. Eq. 249). Before the Court can make a decree both elements must be proved by competent evidence. The complainant did not introduce any evidence to show that she was not being properly supported. The contrary is true. The defendant has consistently and regularly sent money to his wife and even at

the time of the commencement of this suit she was in regular receipt of weekly allowances as appears by the numerous checks offered in evidence by the defendant (Rc. pp. 162-164). There is no testimony in the record supporting or tending to support the allegation that the amount she is receiving is inadequate. For this reason the complaint should have been dismissed.

For the reasons above expressed we feel that the Court below erred in sustaining the bill of complaint and in denying the defendant a divorce and we urge that the decree for maintenance should be set aside and that the matter be remanded with instructions to enter a decree in accordance with the opinion of this Court.

Respectfully submitted,

FREDERIC M. P. PEARSE,
Solicitor for and of Counsel
with Defendant-Appellant.

MAX MEHLER,
On the Brief.

6 OCT.T.1931

New Jersey Court of Errors and Appeals

Between HANNAH DINNEBEIL, Complainant-Respondent, and GEORGE DINNEBEIL, Defendant-Appellant.	On Bill &c. On Appeal from Court of Chancery.

BRIEF FOR COMPLAINANT-RESPONDENT.

This is an appeal from a Final Decree of the Court of Chancery, made by the Chancellor, on the advice of Advisory Master James F. Minturn, which decreed that the defendant-appellant (hereafter referred to as the defendant), should pay to the complainant-respondent (hereafter referred to as the complainant), the sum of $20.00 a week and a counsel fee of $200.00, because he abandoned and separated himself from the complainant, without any justifiable cause; and that the counterclaim of the defendant, filed under the so-called "extreme cruelty" or Blackwell Act of 1923, be dismissed (S. C., p. 24).

FACTS.

The complainant in her bill asked for support and maintenance from the defendant because he abandoned her on or about the 6th day of April, 1929, and the defendant in his answer admitted

that he did abandon and desert the complainant (S. C., p. 19, line 4).

Although the State of Case fails to reveal the colloquy between the Court and the solicitor for the complainant, a motion was made at the outset of the cause to have the defendant go on first with his counterclaim inasmuch as he admitted in his answer that the had left and deserted the complainant, on the theory that unless the defendant prevailed on his counterclaim, then the complainant, of necessity, should prevail on her bill for separation because of the defendant's abandonment. The Court ruled, however, that since the complainant had instituted her suit first it was incumbent upon her to first establish her case, regardless of the defendant's counterclaim.

The exposition of the facts contained in the appellant's brief is not reliable, since it consists chiefly of extravagant constructions placed upon the appellant's own testimony. I will, therefore, give a short resume of the happenings between the complainant and the defendant as they were brought out on the part of the complainant, which were the occasions of the accusations of cruelty alleged by the defendant.

The complainant testified that she was married to the defendant in 1904, and two children were born as a result of the marriage union, one an unmarried boy of twenty-five and the other a married daughter (S. C., p. 41). From the time of their marriage, until 1914, they lived together on and off, although the defendant testified that they did not live together from 1906 until 1928 (S. C., p. 46; S. C., p. 132, lines 37-40). However, in defendant's brief, page 2, they claim he lived with

her between these dates. In the interim she had him arrested for non-support about 1914 (S. C., p. 47, l. 20), and as the result thereof she received the sum of $12 a week (S. C., p. 48, l. 18).

On or about September, 1928, the defendant came to see the complainant, while she was living in New York City with her married daughter, and on that occasion he informed her that if she would forget everything, he would build a home for her in Metuchen and she said she would and, accordingly, she resumed cohabitation with him in Metuchen, N. J., in November, 1928, the son going with her (S. C., p. 49, ll. 20 to 30).

The first difficulty they had occurred two days after they resumed living together when a woman came to see the defendant. The complainant opened the door and invited this woman in, but she refused to come in. The defendant then went out with this woman and when he returned home, he asked the complainant whether this woman was not a "fine-shaped" woman (S. C., p. 51, ll. 10 to 39). On the following day, this woman phoned and the complainant answered the phone and inquiry was made as to whether George (the defendant), was home, and after the defendant spoke to this woman, over the phone, he immediately left (S. C., p. 52, ll. 10-30).

On the Thanksgiving of 1928, the complainant was preparing dinner for Thanksgiving, when the defendant informed her that he was going out with a certain woman for Thanksgiving. The complainant told him that he was not going, and to prevent him from going away, she picked up a knife and went out to where the defendant's car was parked in preparation to cutting the tires

of the car so that he couldn't use the car (S. C., p. 53, ll. 1-17). She was prevented from doing this by the intervention of her son (S. C., p. 53, l. 26). The defendant called a policeman, and when the policeman came, he asked his son to make a charge against his mother. But the boy refused to do this (S. C., p. 53, ll. 28-39). The defendant left and remained away for a few days (S. C., p. 54, l. 21).

Around Christmas of 1928, the complainant saw her husband packing his trunk and she asked him where he was going and he said that he was going to see an old woman friend of his by the name of Mrs. Froligh in New York (S. C., p. 49, ll. 12-20). Although she begged him to stay, he refused and left and was away for a period of two weeks, and during that interval, he did not communicate with her in any way (S. C., p. 55, ll. 31-37).

About February 9, 1929, the occasion of the complainant's birthday, they had another little squabble, or, as the learned Advisory Master stated in his opinion, "an airy nothing," about the complainant's age, she claiming that she was a year older than the defendant, while the defendant claimed that she was much older (S. C., p. 56, l. 26). As a result of this controversy, the defendant refused to attend the birthday party of his wife, where his children were all present, and he left the home and did not return for a period of about two weeks; although in the interim he would come to the home and make the furnace (S. C., p. 57, l. 31). After they had been reconciled and had been together for a while he took the complainant on an automobile ride, and while they were out riding, he referred to a wo-

man, one Miss Edith Hackett, saying to the complainant that he wanted her to meet this woman, but she refused (S. C., p. 59, ll. 3-15). After taking the complainant home that evening, he left and did not return until about one o'clock the following morning, and was under the influence of liquor. She heard some noise in his room, so she went upstairs and noticed that he was sitting on the bed with a revolver in his hand and when he saw her he said, "There are two shots. One for you and one for me" (S. C., p. 59, ll. 18-29). As she was begging him to put the gun away, he fired the gun, but no one was hurt (S. C., p. 59, l. 32).

Around April 6th or 9th, 1929, the defendant told the complainant that he was going back to the other woman and when she begged him not to go and asked him to come to her room, he said to her that he hated her and her body (S. C. p. 60, ll. 10-22). He left her immediately after that and did not return until May 12, when she was dispossessed (S. C. p. 60, ll. 30 to 40).

This, briefly, concluded the direct-examination of the complainant, and then a colloquy took place in which it was brought to the attention of the court that the suit of the complainant was instituted in June of 1929 and that the answer of the defendant was due in September, 1929, but no answer was filed until November, 1929, at which time a counterclaim was also filed for extreme cruelty under the so-called Blackwell Act. However, if the answer had been filed when due, no counterclaim could have been interposed because the alleged last act of cruelty took place on April 6, and under the circumstances, no counterclaim or new suit for extreme cruelty could be instituted before October 8, 1929.

Cross-examination of Complainant:

The complainant admitted on cross-examination, that she always loved her husband and still loves him (S. C. p. 74, ll. 4-10). She repeatedly stated that she did not want to be separated from her husband and in answer to one of the questions of the defendant's solicitor, she said on page 84, line 37, of the state of case, "I do not want a divorce and I do not want to separate from my husband. It is not my pleasure. I want my husband to be with his children, where he ought to be," and again, she was asked this question by the defendant's solicitor: "Q. You say that you came to Metuchen to live with him because you loved him? A. Positively" (S. C. p. 90, l. 40 to S. C. p. 91, l. 1).

Throughout the entire testimony it will be easily seen that the complainant is undoubtedly a jealous woman, and it would be well to quote the following on this score:

> "Q. You're extremely jealous of your husband? A. Well, I'm in love with him. I suppose you would call that jealousy. I do not like to see other women take him away from his family and me.
>
> Q. Yet you say you have been seeing that since 1907? A. Well, I have been trying to prevent it, too, at the same time, right along" (S. C. p. 92, ll. 22-30).

Complainant's Witnesses:

The first witness produced by the complainant was Gladys Vogel, who testified that she was a daughter of the parties hereto, and that she was married, and that she remembered the parents had been separated when she was a young child

when her father lived with her mother in New York (S. C. p. 100). She stated that she saw her father on the occasion of her marriage in 1928, and nothing was said by her father to her about getting together with her mother. The next time she heard from her father was the occasion of her mother's birthday when she went to extend her greetings to her mother, but her father was not there. He telephoned on that occasion and told his daughter that he could not come (S. C. pp. 101-102). Just before her mother went back to live with the defendant, the defendant asked her when she expected to have a child and she told him that she did not know, but she said to her father that if her husband would treat her child like he treated her and her brother, she wouldn't have any (S. C. p. 102, l. 35, & S. C. p. 103, ll. 28-31). She also testified that when she and her brother were children, they hardly knew their father, as he would come home once in a while, sometimes not seeing him for a couple of years, and they never knew where he was while he was away. Since her father and mother became reconciled, she was only present at their home on one occasion when they spent the week-end there, and at that time the defendant refused to come down and eat and have dinner with the family because he had a slight argument with her mother (S. C. p. 105).

The next witness to testify for the complainant was the son, William Dinnebeil, who stated that he lived with his father and mother after their reconciliation in November of 1928. He stated that the first argument that they had was the occasion when a woman came at the home and his father went out with her, and at dinner that

evening he said to his wife, "How do you like the girl friend?" and it was immediately after this that he left (S. C. p. 106). The defendant's sister-in-law then came over to see the complainant to patch up things and they were reconciled about a week later (S. C. p. 106, l. 35). The next trouble was the occasion of Thanksgiving of 1928, when his mother saw the defendant go upstairs to pack up his clothes and coming down with his bags. He heard his mother ask him where he was going and he only replied, "to New York." The complainant then remarked, "I suppose you're going to see the other woman?" and he said, "It's none of your business." She grabbed a knife and went to the car to cut the tires to prevent him from going, but he stopped her from cutting the tires (S. C. p. 107). His father then left in the car and returned with a policeman and he asked the son to press a charge against his mother, but he refused to do so (S. C. p. 108). The boy testified that he was away on this occasion for two weeks (S. C. p. 109). When he came back he moved his belongings to a separate room and he stated that he would have nothing to do with the complainant (S. C. p. 109, ll. 25-35). The boy next testified that on the occasion of Christmas, 1928, the defendant and the complainant quarreled again about his going away over the holidays and that the defendant did not spend Christmas or New Years home (S. C. p. 109). Shortly after his parents were reunited, the boy went out with the defendant and on that occasion the boy had a conversation with his father, in which the boy spoke about his father's past conduct, and in this connection I wish to quote the boy's own language:

> "We had been talking about the past, and the way things would be in the future, and he said, 'I have been living with another woman, but that is past, and we hope to turn over a new leaf' " (S. C. p. 112, ll. 3 to 18).

Although throughout the trial the defendant stated that the home in which he and his wife were living in belonged to the Model Building Company, yet the boy stated that he and his mother were always under the impression that it was their own home as the defendant had never informed either him or the complainant that the home did not belong to him (S. C. p. 113, l. 38).

The last witness produced by the complainant was one Frank Vogel, who married the complainant's daughter. He testified that on the occasion of his marriage, the defendant came to his wedding, and in his conversation with him, he stated that it was no more than right that he should give the complainant and their son a home (S. C. p. 117, ll. 9-17). He stated that the next time he saw them at their home and they both seemed to be friendly to each other (S. C. p. 118, top of page).

Testimony adduced by the Defendant:

The first witness to testify for the defendant was Officer Frohm, and his testimony related to the time when he went to the defendant's home in May of 1929, after the desertion, to help the defendant get his clothing, furniture, etc., and on that occasion the complainant did not want them to take the things away (S. C. p. 121).

The next witness was the defendant himself, who testified on direct-examination that he lived

together with his wife after they were married for a period of two years only, when he left (S. C. p. 125, l. 25; S. C. p. 132, l. 38), and the reason being that she did not "keep house" and "did not cook and take care of things properly," and because she accused him "wrongfully" (S. C. p. 126, ll. 4-10). He also stated that during the period that they were separated, he gave her $8.00 a week, after she made a complaint in the Domestic Relations Court of New York, an order was made to increase the allowance to $10.00 a week (S. C. p. 129, l. 32). He admitted that he stated to her that he would make a home for her when she came to New Jersey to live with him, which he did on or about November 6, 1928 (S. C. p. 134). He testified that the first trouble they had was over a young woman coming to his home regarding some decorations; she came in a truck with her father and mother and the defendant took her away in his car, yet he did not know her name or where she lived and couldn't account for her absence or the absence of the parents of this girl when the case was tried (S. C. pp. 135 & 136). He said that the next occasion on which they had trouble was on Thanksgiving of 1928, when he informed the complainant that he was going out on business, but she thought that he was going out with some other woman and she tried to prevent him by attempting to cut the tires of his car (S. C. pp. 137 & 138). As a result of this argument, he left his wife and boy and remained away for a period of four days, not spending the holidays with his family. He abandoned the trip to his brother's home (S. C. p. 139, l. 10), and when he returned back to his wife, he remained by himself doing his own cooking, etc., and he testified that things weren't going

fairly well until around the Christmas holidays (S. C. p. 139, l. 30). He stated that on that occasion his wife wanted money from him and that she would not let me leave until he gave her the money. He stated that she struck him and he went away and did not return until about the end of January (S. C. p. 140, ll. 13-28).

He also testified that the next time he left his wife was on the occasion of his wife's birthday, which took place in February of that year, when they had an argument over their relative ages (S. C. p. 141).

The next time that he left was after he and his wife had been out automobile riding, and she had mentioned about the defendant going out with another woman. He left that evening but did not return until midnight, when he went to his room. His wife came upstairs and he claims she had a revolver in her hand, and that during the trouble that ensued, the gun went off (S. C. pp. 144 & 145). He left on this occasion and was away for about four days (S. C. p. 146, l. 28). About April 6, 1929, the time when he left his wife for good, he came to the house to get some brooms and brushes to clean up the house that he and his wife were going to occupy (S. C. p. 149 to p. 150, l. 3).

Although he claims he was afraid of his wife, when he left her on April 6th, yet, in answer to his own solicitor's questions regarding the time when he went back in May to get his belongings, he said:

> "Q. When was the next time you went back to the house? A. When I got my belongings about May.
>
> Q. Had your wife moved out or was she still there? A. No, she was still there.

> Q. Were you able to get her out? A. Well, I didn't care whether she got out or not.
>
> Q. It wasn't your house? A. No. I had the other house ready for her to go into and I was ready to go into it with her any time she was ready" (S. C. p. 151, ll. 20-31).

A letter was introduced, marked Exhibit D-1, which letter had been written and dictated by the defendant himself and he had his wife sign it, which was the occasion of the reconciliation in January (S. C. p. 157).

On cross-examination the defendant admitted that he was six feet tall and weighed about 145 pounds and when he resumed cohabitation with his wife in 1928, he weighed about the same when he separated from her on April 6, 1929, although he claims that he weighed 196 pounds at the time of the first separation in 1906 (S. C. p. 167, ll. 28-38). He admitted that in 1906 he left his wife without anything happening (S. C. p. 168, ll. 32-40). He testified that when she came to see him before their reconciliation, in Metuchen, she came for a settlement, and although nothing was done, she left peaceably (S. C. p. 170, l. 31). He admitted living as a boarder with Edith Hackett for a period of five or six years (S. C. p. 175, ll. 29-38). This is the woman whom the defendant knew his wife accused him of being known as Mrs. Dinnebeil (S. C. p. 176, ll. 13 to 15). He admitted going with this woman to movies, parties and to drinking emporiums (S. C. p. 177, ll. 4-21). Although he knew that his wife was a very jealous woman, and although he knew that his wife was accusing him of living as man and wife with Edith Hackett, still he did not move out of

her home and the reason was, "A. Because I know that I wasn't doing anything wrong and I wasn't running away from anything" (S. C. p. 178, ll. 10-28). With reference to the occasion when they quarreled two days after their reconciliation, the defendant stated that he had made an appointment with a woman who was to select some wall paper at a certain home, yet he admitted that he did not know her name, although he had met her at his brother's home and had talked with her (S. C. p. 181, l. 20). Even after he had come back from his trip with this woman, and his wife had accused him of misconduct, still he did not tell his wife who she was, and the reason he gave was that he did not know her name (S. C. p. 128, ll. 10-25). Regarding the Thanksgiving episode, he stated that he had dressed himself and was going on a business trip to New York, yet he didn't know the name of the person whom he was going to see, nor did he know where he was going to see this person, and he had not met this person before (S. C. p. 187, ll. 1 to 31). He said that his wife grabbed a knife to cut his tires up, and it seemed that his wife was also going to strike his son, but notwithstanding that he thought his son was in a dangerous position, still he ran out to get a policeman, without doing anything to aid his son (S. C. pp. 193-194). Although he gave up the trip, still he did not see this man again nor did he communicate with this man (S. C. p. 198, ll. 3-10). He immediately left his home and went to his brother's home and remained away for a period of four days when he came back and we have the following:

> "Q. You had no fear whatsoever from your wife? A. No, not when I went back" (S. C. p. 198, l. 38).

For a period of one whole week after he came back, he did not speak to his wife (S. C. p. 200, l. 32). In answer to the Master's question, he stated that the complainant had told him that she would poison his food, yet he admitted that she never attempted it nor did he have any indication of it (S. C. p. 201, ll. 10-16).

It is significant, however, to observe that there was nothing mentioned in his counterclaim for extreme cruelty regarding the poisoning of food S. C. pp. 202, and 201). In further answer to the Master's questioning as to why he left his wife, he stated:

> "Q. You quarreled about what? A. About my wife accusing me falsely of doing things that I am not guilty of.
> Q. What were they? A. Running around with women, primarily.
> Q. Anything else? A. And demanded monies that I couldn't give her.
> Q. Anything else? A. Those are the principal things" (S. C. p. 204, ll. 25-34).

He admitted that in Christmas of 1928, he left the complainant and was away for a period of two weeks and that when he left he didn't tell her where he was going, and that he didn't send a gift either to his wife or son, not even a Christmas card (S. C. p. 205, ll. 3-21). He admitted in answering the Master's question, that his wife was a very good woman in every way and he could find no fault with her except that she had a jealous disposition (S. C. p. 206, ll. 16-20). He also admitted that his wife has never refused to live with him (S. C. p. 211, l. 31). He admitted that he left his wife over a dispute regarding the discrepancy in their ages, and also admitted that he was not afraid of his wife when he came back to

live with her (S. C. p. 221, l. 14). Although he admitted that his wife had accused him of running around with women from 1926 to 1928, the first time that he asked her to mention the name of one woman he was running around with was the occasion of the automobile ride in March of 1929 (S. C. p. 223, ll. 34-38). He also admitted that from the middle of March until April 6, 1929, when he left her for the last time, he had no quarrels with his wife (S. C. p. 234, ll. 33-38). He finally admitted that he was not afraid to have his wife with him after their last separation in April of 1929 (S. C. p. 239, l. 15). He admitted, in answer to the Master's question, that the children were very much attached to the mother (S. C. p. 248, ll. 1-4).

The next witness who testified on behalf of the defendant was one Mr. Stillick, who stated that the defendant lived with him for one year and that during this period of time he never discussed either his wife or his children with him (S. C. p. 257, l. 14). He testified that he met the complainant the first time in 1927, when she came to his home to see the defendant, but he wasn't in. This witness admitted that the complainant acted like a perfect lady and he could not see anything wrong with her (S. C. p. 258, l. 13). The next time he saw the complainant was when she came back about a week later, when she went upstairs to see her husband, and although this witness admitted that he could hear nothing whatsoever that was going on, yet he stated that after the complainant left, the defendant was ill in bed for a few days thereafter attempting to give the impression that the complainant had said something to the defendant which caused his illness

(S. C. p. 258, ll. 29-40). He also testified that the complainant came over to see him on Thanksgiving of 1928, and told him that she wanted her rights (S. C. p. 261, l. 4), and that she wanted $20,000 settlement from her husband (S. C. p. 262, l. 31). This witness told her that the defendant could not give it to her notwithstanding the fact that he admitted that he knew nothing at all about the defendant's financial faculties (S. C. p. 263, ll. 4-14). It is going beyond human credulity to think that the complainant would go to this man and make the statements which this witness testified to, when he admitted that the first time he met her was on the occasion when she went to see her husband in 1927, and had only seen her on one other occasion before the alleged conversation.

The next witness produced by the defendant was Edward Nolan, who testified that he knew the defendant for at least 14 years and was on very friendly terms with him (S. C. p. 264). He states that on the occasions that he called at the household of the complainant and defendant he never saw any physical contact between the husband and wife (S. C. p. 265, l. 20). He came to live with the complainant and the defendant in March of 1929, or about two weeks before the defendant left his wife (S. C. p. 265, l. 30). He stated that he came there to help the defendant make screens for the window (S. C. p. 265, l. 40). The most startling piece of testimony given by this witness was that on the occasions when he was present the complainant would call the defendant vile names and the defendant would be "All a tremble," and that this condition would last for ten hours (S. C. p. 268, l. 8). He also admitted that he worked with the defendant and

that the defendant was his foreman (S. C. p. 272, l. 20). Although he admitted that the home of complainant defendant was not a happy home, yet he went there very often even on the invitation of the complainant (S. C. p. 273, ll. 18-30) and notwithstanding that he testified that the complainant used vulgar language on many an occasion, he never said a word to her about it (S. C. p. 274, l. 5) and yet he would continue to go there (S. C. p. 274, l. 35). Although the defendant himself did not say anything regarding the episode of throwing of dishes off the table, the witness testified as follows (S. C. p. 275, ll. 40-45):

> "Q. Didn't you testify that Mrs. Dinnebeil swept the dishes off the table without anybody saying anything? A. I did.
> Q. And had nobody said anything to her before she did that? A. No.
> Q. You don't know why she did it, do you? A. No, I do not."

He testified that Mrs. Dinnebeil accused the defendant of going out with women, and although he admitted being on good terms with the defendant, he never stated to her that she was mistaken about her husband going out with other women (S. C. p. 277, l. 15). This witness also admitted that he has seen the defendant trembling even within a period of seven months AFTER the defendant separated himself from his wife (S. C. p. 278, l. 35). This witness finally admitted that the defendant went out with Edith Hackett to the movies and parties and places where beer was served (S. C. p. 280, l. 33).

The next witness produced by the defendant was Fritz Hokanson, who testified only regarding the time when he went in May, after the sep-

aration of the defendant from his wife, to help move a trunk and some clothes and a day bed, and he stated that it was necessary to have three men to go and help take these few things away (S. C. p. 290, ll. 20-30). He admitted that the complainant sat on the trunk and didn't want anyone to take the trunk away because there was something in it that she wanted (S. C. p. 291, l. 23).

The next witness to testify is a brother of the former witness. He testified seeing the woman who is alleged to have called on the defendant two days after his reconciliation with his wife and he said that he heard the wrangle between the complainant and defendant over this woman, and yet on cross-examination, he didn't know whether the episode he referred to took place in 1928 or 1929, although the hearing at which he testified took place on May 6, 1930 (S. C. p. 312, l. 16). This witness testified that he was present on the occasion when the complainant is alleged to have struck her husband on the street with a club or bat or stick or piece of rope, and although he knew Mr. Stillick, who was supposed to have been present on that occasion, still he would not even venture a guess as to whether or not he was present there (S. C. p. 315, l. 9). Although he knew the defendant and had worked for and with him, and although he knew he was a sick man, and seeing the complainant, to use his own language, "Club her husband as fast as the hand could go up and down," he made no attempt to stop her (S. C. p. 316, ll. 15-22). This witness was very evasive; he would say that a certain episode took place, still he would not even venture a guess as to the probable time of the happening, notwithstanding

that this happening might have taken place no more than three or four months before the date of the hearing in the case (S. C. p. 318, l. 30).

The brother, William Dinnebeil, was called as a witness for the defendant, and he testified that the defendant had been sick for the past twenty years and treated very frequently by doctors within the five years previous to the reconciliation of the complainant and the defendant (S. C. p. 321, l. 10). He stated that Edith Hackett was one of the organizers of the company of which the defendant was president (S. C. p. 324, l. 38). This witness admitted that his brother did not live with the complainant between the years 1906 and 1928, and that during this period his brother was ill with stomach trouble and nervousness (S. C. p. 333, ll. 5-16). In answer to the advisory Master's question, the brother stated that the defendant's nervousness was due to excitement (S. C. p. 334, ll. 1 & 2). Relative to the occasion of the woman who called at the complainant's home the second day after they had become reconciled, this witness testified that he was the one who made the appointment between the defendant and this woman, and yet he did not know the name of the woman until the following day (S. C. p. 336, l. 19; p. 337, ll. 3-15).

REBUTTAL.

The first witness to be called by the complainant on rebuttal was Mr. Burchard, who was the complainant's nephew. He testified that around the Christmas of 1926, he accompanied the complainant to No. 18 Lincoln Avenue, Metuchen, N. J., where the defendant was living, to see the

defendant, and he was not in. They were informed by the neighbor that the defendant and the woman who lived there with the defendant, and who was referred to as the defendant's wife, were both out (S. C. p. 362, ll. 2-23). They left and a few hours later returned to the same address and a woman came to the door and introduced herself as Mrs. Dinnebeil, the wife of the defendant (S. C. p. 363, l. 29).

The next witness on rebuttal was the complainant's and defendant's son, who testified that on the occasion of the trouble between his mother and the defendant in November of 1928, relative to the woman who had the appointment with the defendant to look over some wallpaper, he stated that Mr. Hokanson was not working at their home and that he was then living in New Brunswick (S. C. p. 369, ll. 1-15). He also testified that when this Mr. Hokanson worked at their home, he never ate his lunch there, but would go to his own mother's home which was only a short distance from his home (S. C. p. 369, ll. 20-30).

The next witness to be called in rebuttal was Mrs. Basford, who stated that she had lived in Metuchen since 1912 and that she had been introduced in 1927 to the woman who is known as Mrs. Hackett as Mrs. Dinnebeil and that this introduction was made in the presence of the defendant (S. C. p. 377, ll. 1-12). She stated that she had known the defendant since the year 1924 (S. C. p. 377, l. 13), and that she met the complainant in 1928 (S. C. p. 377, l. 20). She admitted that she had been out with the defendant and Mrs. Hackett, who was introduced as Mrs. Dinnebeil, on many occasions, and this woman was always addressed as Mrs. Dinnebeil in the defendant's

presence (S. C. p. 377, ll. 31-40). She stated that when they returned together from the movies and parties, etc., the defendant and Edith Hackett would return to No. 18 Lincoln Avenue, Metuchen, N. J., where they were both living (S. C. p. , l. 22). She stated that in the neighborhood this woman, Edith Hackett, was known as Mrs. Dinnebeil, and that this witness also called this woman Mrs. Dinnebeil (S. C. p. 379, ll. 26-30). She stated that the last time she met this woman was about two weeks before the hearing, when she was informed by her that she was married (S. C. p. 280, l. 40). The solicitor for the defendant admitted that he had a high regard for this witness, as he lived in the same town with her (S. C. p. 382, l. 18). She further admitted that when she went out with the defendant and Edith Hackett that the defendant would address her, that is, Edith Hackett, as "baby" and "poodles."

The first witness to be called by the defendant in rebuttal was the brother William, who admitted getting an invitation to the wedding of Edith Hackett and that this invitation came from Plainfield and that the invitation was received about one year before the hearing (S. C. p. 400, ll. 19-22; S. C. p. 403, l. 1), and yet no effort was made to get her to testify in the cause or to account for her non-appearance. He also admitted seeing his brother, the defendant, go to the movies with this Hackett woman (S. C. p. 401, l. 36a). Two more witnesses were called in rebuttal by the defendant, Carl Clausen and Edward Nolan, who both admitted receiving invitations to the wedding of Edith Hackett. The last witness to be called on rebuttal by the defendant was Mrs. Hunter who was called to deny that Mrs. Hackett

was known as Mrs. Dinnebeil, and yet on cross-examination she admitted being on intimate terms with Edith Hackett and yet she did not know whether she was single or married.

This was all of the testimony adduced during the long drawn out trial, and when it is all simmered down, we find that some of their quarrels was, to use the learned Advisory Master's language, "airy nothings." Without dwelling much further on the testimony, it can easily be seen that the defendant was not justified in the slightest in separating himself from his wife for he did not establish a semblance of extreme cruelty as called for under the Blackwell Act of 1923.

LAW.

POINT 1.

In order to justify the defendant's abandonment of his wife, he must show that to live with her would be dangerous to his health. In this connection, I wish to cite the case of *Cavileer* vs. *Cavileer,* reported in 94 N. J. Equity, in which Justice Trenchard, speaking for the Court of Errors and Appeals, on page 163, said:

> "We deem the true rule to be that the conditions (other than adultery) which will justify the husband in separating himself from his wife, and refusing her support and maintenance are those which our divorce act has provided as a sufficient cause for the Court to grant to the husband a divorce from bed and board, viz., extreme cruelty on the part of the wife. This is necessarily so, for a husband cannot be jus-

> tified in abandoning his wife and neglecting to support her for causes which will not justify the Court in granting him a divorce. It follows, therefore, that when the husband, as in this case, separates himself from his wife, and she claims suitable support and maintenance under the statute, he must justify that separation by proof of extreme cruelty on the part of his wife, to the same extent as he would be compelled to prove if he was suing for divorce from bed and board on the ground of extreme cruelty."

The defendant seems to rely upon the fact that he should get a decree for divorce on extreme cruelty because of the wife's jealousy. However, the testimony will clearly show that the wife was amply justified in being jealous, for we have the occasion when they quarreled regarding the woman who was alleged to have come to their home to look over some wall decorations although the husband did not seem to know the name of this woman. We also have the occasion when he left his wife to go to New York on Thanksgiving to visit some woman. We also have the quarrels regarding the well-shaped woman that the defendant knew and we also have the testimony regarding Mrs. Edith Hackett who was introduced in the presence of the defendant as Mrs. Dinnebeil.

With reference to jealousy on the part of the wife, I wish to quote from the case of *McLean* vs. *McLean,* reported in 144 Atlantic at page 584, where Judge Kays said:

> "It was contended that the wife had a hot temper and a very jealous disposition. However, it seems from the evidence she was justified in her jealousy, and, naturally, such jealousy is usually accompanied

> by some display of temper, as appears in this case, but we are of the opinion that this was not sufficient to warrant the finding of extreme cruelty upon the wife of the defendant."

See also the case of *Bradbury* vs. *Bradbury,* reported in 74 Atlantic 150, where Chancellor Walker, then a Vice Chancellor, said:

> "Under our statute, the only justifiable cause for abandoning or separating from the wife and refusing or neglecting to maintain and provide for her is a matrimonial offense on her part which would entitle the husband to a divorce."

The defendant quotes the case of *Hill* vs. *Hill* as authority for divorce on the ground of extreme cruelty. That case is entirely different from our case because in the Hill case there was an unwarranted accusation of sexual infidelity without the slightest attempt to prove the accusation.

Although in order to prevail on extreme cruelty proof must be shown that the conduct of one of the parties is such that it endangers the safety of the person or the health of the aggrieved party, still the defendant testified that after he had left his wife for the last time, in April, and upon the occasion of his return for his belongings, that he was willing to take his wife with him if she would go to the new house. This in itself would clearly show that it was not improper or unsafe for him to live with her as husband and wife and that he did not reasonably apprehend that his health or person was in danger. See case of *Cavileer* vs. *Cavileer,* 94 Eq. 163.

To prevail under the Blackwell Act, the courts have been exceptionally stringent in the proof

required because the courts do not wish to dissolve marriages unless it is absolutely in accord with the law, especially since an absolute divorce can be obtained within six months after the last act of cruelty has taken place. In our case, the defendant has made a meager attempt in proving any cruelty at all. See the case of *Wood* vs. *Wood,* reported in 97 Equity, where Chancellor Walker, on page 6, said:

> "Mr. Bishop, in his work on marriage, divorce and separation, volume 1, section 1630, says that 'Causes, both physical and mental, render the infliction of cruelty by the wife on the husband less common than by him on her, yet the law gives the same relief to a complaining husband as to a complaining wife.' And in section 1638, that the wife's petty annoyances of the husband, such as fault-finding, disparaging his common sense, taste and judgment, and other like complainings of him; her absence from home to learn painting, without his consent, her occasionally addressing him angrily and disrespectfully, and for a time refusing to sleep in the same room with him, have severally been held inadequate cruelty for divorce in favor of the husband."

POINT 2.

THE COURT DID NOT ERR IN AWARDING THE COMPLAINANT $20.00 A WEEK PERMANENT ALIMONY.

The testimony regarding the defendant's financial faculties was rather vague as the defendant's brother, who apparently knows more about the defendant's own financial faculties than he himself, was a very evasive witness on this score. However, he stated that he and his brother owned the entire stock in the modern building company of Metuchen, which was engaged in the business of buying, selling and building property. He testified that his brother received $40 a week as a mechanic (S. C. p. 319, l. 40), and as president of said company he received no salary at all, although he himself, as treasurer and secretary, received $60 a week (p. 332). He enumerated a long list of property which was owned by this company from which they received considerable rent and he claimed that on all of this property there was $100,000 worth of mortgages (S. C. p. 343). He also testified that the company was the holder of 120 building lots worth at least $100 apiece (S. C. p. 330).

Under the circumstances, the Court was justified in allowing $20 a week for the support and maintenance of the complainant.

There is no general rule that the wife is entitled to only one-third of the husband's income, for, surely, if, for the sake of argument, the husband needs $20 a week for his support, his wife should receive a similar amount.

The Court of Chancery has allowed in numerous cases more than one-third of the husband's income to the wife and this has been sustained in numerous cases by the Court of Errors and Appeals. In the defendant's brief he sets forth that

he was making voluntary contributions of $15.00 a week for the support of his wife. This is not so, for the testimony shows that while the complainant was separated from her husband and she was then living in New York, it was necessary for her to make a complaint before the Domestic Relations Court of New York where she was granted an allowance of $10.00 a week from a previous allowance of $8.00 a week (S. C. p. 129, l. 32).

When the complainant's bill was filed in this cause, notice of application for alimony *pendente lite* and counsel fee was served on the defendant personally on June 13, 1929, and the return day of said motion was the 24th day of June, 1929. This motion was postponed from time to time upon the request of the defendant's solicitor and finally a settlement was had as to the amount of the allowance whereby the defendant was to pay the sum of $15.00 a week for alimony and a counsel fee of $100.00; the reason the small sum of $15.00 a week was accepted at that time was because an early date can now be obtained in the trial of all domestic causes as these causes are now being referred to advisory masters rather than to Vice Chancellors, and for that further reason, no order was entered. However, the defendant neglected to incorporate in the state of case the notice of the application for *pendente lite* and counsel fee and this was all brought out before the advisory master, when the cause was submitted on brief to him at the conclusion of the taking of testimony.

POINT 3.

THE COURT DID HAVE JURISDICTION TO MAKE A DECREE FOR SUPPORT AND MAINTENANCE.

The defendant in his brief under this point contends that the Court of Chancery had no right to make a decree for the support and maintenance of the complainant upon the ground that there was no refusal to provide support. However, that is not a fact for the defendant did refuse to provide support for the complainant in a manner suitable to her position. Prior to the institution of this suit, the defendant would only send the complainant the sum of $10.00 per week (S. C. p. 6, l. 23). This, of course, was inadequate, for if we concede that the Court of Chancery allows a wife only one-third of the husband's income, she was at least entitled to receive about $14.00 a week from her husband's income of only $40.00 although from the testimony the advisory master was amply justified in not believing that the sole income of the defendant was just the salary of $40.00 a week.

A significant fact to be considered is that the company of which the defendant is president and one of the shareholders, did not bring any books to court to show just what the assets of this company were and the amount of income it was receiving from its properties.

The mere fact that the defendant was gracious enough to send his wife $10.00 a week would not be sufficient for her not to maintain a suit for maintenance on the grounds of failure to support. In the case of *O'Brien* vs. *O'Brien,* reported in

49 N. J. Equity, Vice Chancellor Pitney, on page 438, said:

> "It was argued by the counsel of the defendant that if there was such a provision made by the husband as would enable the wife to live in decency, this Court would not examine into the question of its sufficiency in the same manner and upon the same basis that it would if no provision whatever had been made by the husband. I cannot adopt this view. It seems clear enough that it is the duty of the Court, under circumstances like the present, to determine whether the amount already provided by the husband for the wife is such as the nature of the case and the circumstances of the parties render suitable and proper."

I wish also to bring to the Court's attention the fact that the defendant did not raise in the Court below the point that the Court did not have jurisdiction to make the decree for support and maintenance and that this point was not mentioned in its petition for appeal.

IT IS RESPECTFULLY SUBMITTED THAT THE DECREE OF THE COURT BELOW SHOULD BE AFFIRMED.

ALEX. R. DESEVO,
Solicitor for Complainant-Respondent.

ALEXANDER SIMPSON,
Of Counsel.