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Decree Nisi.

DECREE NISI.

In Chancery of New Jersey

<p><i>Between</i></p> <p>LYNNE A. HELBIG,</p> <p style="text-align: right;"><i>Petitioner,</i></p> <p style="text-align: center;"><i>and</i></p> <p>LOUIS HELBIG,</p> <p style="text-align: right;"><i>Defendant.</i></p>	}	<p><i>On Petition for Divorce. Decree Nisi.</i></p>	10
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This cause coming on to be heard in the presence of George D. Mulligan of Mulligan & Koenig, of counsel with the petitioner, and Henry L. Grosken of Grosken & Moriarty, of counsel with the defendant, on petition, answer, and oral proofs taken in open court; whereupon, and upon duly considering the said pleadings and proofs, and hearing and considering the arguments of counsel; from all of which it now appears satisfactorily to the Chancellor, that the petitioner and defendant were lawfully joined in the bonds of matrimony on or about the Twenty-first day of July, Nineteen Hundred and Seven; and that the defendant has been guilty of wilful, continued and obstinate desertion of the petitioner for the term of two years, as alleged in said petition, and that at the time the cause of action for divorce for the said desertion arose, the petitioner and defendant were bona fide residents of this State, and that the said petitioner and defendant have continued so to be, down to the time of the commencement of this action, and that the petitioner and defendant have been for the two

Decree Nisi.

years next preceding the commencement of this action, bona fide residents of this State, and it further appearing that jurisdiction herein has been acquired by personal service of process upon the defendant within this State:

10 It is thereupon, on this 30th day of September, A. D. Nineteen Hundred and Twenty-six, by his Honor, Edwin Robert Walker, Chancellor of the State of New Jersey, ordered, adjudged and decreed, and the said Chancellor, by virtue of the power and authority of this Court, and of the acts of the Legislature in such case made and provided, doth hereby order, adjudge and decree that the said petitioner, Lynne A. Helbig, and the said defendant, Louis Helbig, be divorced from the bond of matrimony for the cause aforesaid, and
20 the said parties, and each of them be freed and discharged from the obligations thereof, unless sufficient cause be shown to the Court why this decree should not be made absolute, within six months from the date hereof.

And it is further ordered, adjudged and decreed that the said defendant do pay to the said petitioner her costs of this suit, incurred and to be incurred, to be taxed, including a counsel fee of One Hundred and Fifty Dollars to George D.
30 Mulligan, and that the said petitioner do have execution therefor, according to the practice of this Court.

And it is further ordered, adjudged and decreed that the defendant, Louis Helbig, pay to the petitioner, Lynne A. Helbig, or to her solicitors, the sum of Twenty Dollars at the beginning of each and every week from the date of this Order, until the further order of the Court, for her support and maintenance, and that of Louis Milton,
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Decree Nisi.

child of the said marriage, now in the custody of the said petitioner.

And it is further ordered, adjudged and decreed that the custody of Louis Milton Helbig, the child of the said marriage, is hereby awarded to the petitioner.

Permission for the petitioner to resume her maiden name is reserved. 10

E. R. WALKER,
C.

Respectfully advised,

ALONZO CHURCH,
V.-C.

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Petition for Order to Show Cause.

PETITION FOR ORDER TO SHOW CAUSE.

IN CHANCERY OF NEW JERSEY.

10	<i>Between</i> LYNNE HELBIG, <i>and</i> LOUIS HELBIG, 	}	<i>Petitioner,</i> <i>Defendant.</i>	<i>On Petition for Divorce. Petition for Order to Show Cause.</i>
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To his Honor, Edwin Robert Walker, Chancellor of the State of New Jersey:

20 The petition of Louis Helbig, of Lake Como, in the County of Monmouth and State of New Jersey, respectfully shows:

1. A certain decree *nisi* was made on September 30, 1926, and filed in this cause on the 6th day of October, 1926, wherein among other things it was adjudged and decreed that your petitioner, the above-named defendant, had been guilty of wilful, continued and obstinate desertion of the above-named petitioner for the term of two

30 years, as alleged in the said petition; and whereby it was ordered, adjudged and decreed that the above-named petitioner and this defendant be divorced from the bond of matrimony for the cause of desertion and that the petitioner and the defendant be freed and discharged from the obligations thereof, unless sufficient cause be shown to the Court why said decree should not be made absolute within six months from the date thereof. The said decree *nisi* remains in full force and

40 effect and has not been made absolute.

Petition for Order to Show Cause.

2. Your petitioner, Louis Helbig, for cause why the said decree *nisi* should not be made absolute shows that since the date of the decree *nisi* and on the 27th day of March, 1927, the said petitioner, Lynne Helbig, committed adultery with one Max Alberts at No. 189 Central avenue, East Orange, N. J. 10

3. Your petitioner, therefore, prays that the said decree *nisi* may for the cause aforesaid be rescinded, set aside and for nothing holden, and that the petition for divorce filed by the said Lynne Helbig against your petitioner the said Louis Helbig, may be dismissed or that such other order be made in the premises as shall seem to your Honor proper.

And your petitioner will ever pray, etc. 20

CHILD & SHIPMAN,
Solicitors of Petitioner.

FRANCIS CHILD,
Of Counsel with Petitioner.

STATE OF NEW JERSEY, }
COUNTY OF ESSEX. } ss:

LOUIS HELBIG, being duly sworn according to law, upon his oath deposes and says: 30

1. I am the petitioner named in the foregoing petition and know the contents thereof. The same is true to the best of my knowledge, information and belief.

2. Particularly is it true that the said Lynne Helbig did on the 27th day of March, 1927, commit adultery with one Max Alberts at No. 189 Central avenue, East Orange, N. J. The source 40

Petition for Order to Show Cause.

of my information as to the said adultery alleged to have been committed by the said Lynne Helbig is the information received by me from my sister, Charlotte Helbig, and from Thomas J. Corbally, who were witnesses to the said adultery, the details of which are more fully shown on the affidavits of the said Thomas J. Corbally and Charlotte Helbig hereto annexed. 10

LOUIS HELBIG.

Sworn and subscribed to before me this 29th day of March, 1927.

ETHEL I. JACOBUS,
A Notary Public of New Jersey.

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Affidavit of Thomas J. Corbally.

IN CHANCERY OF NEW JERSEY.

Between

LYNNE HELBIG,

Petitioner,

and

LOUIS HELBIG,

Defendant.

*On Petition
for Divorce.*

Affidavit.

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STATE OF NEW JERSEY, }
COUNTY OF ESSEX. }*ss:*

THOMAS J. CORBALLY, being duly sworn according to law, upon his oath deposes and says:

I am the president of Corbally Detective Agency, Inc., which corporation has offices at 849 Broad street, Newark, N. J. 20

The Corbally Detective Agency, Inc., has been following Mrs. Lynne Helbig, the wife of Louis Helbig, for a period of over one month.

From 12 o'clock midnight, on the night of March 26, 1927, I watched the premises No. 189 Central Avenue, East Orange N. J., where Mrs. Lynne Helbig, the above-named petitioner, resides. At 1:50 A. M. on the morning of Sunday, March 27, 1927, an automobile came to the front of the house at 189 Central avenue, East Orange, N. J. In this car were two men and two women; one of the women was Mrs. Lynne Helbig, the above-named petitioner. Mrs. Helbig got out of the car first and opened the door of the house at 189 Central avenue, East Orange, N. J. A man accompanied her and went into the house. The other woman and man followed them in immediately. Right after the four went into the house, the lights on the second floor of the house were lighted in the front and rear and remained 30

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Affidavit of Thomas J. Corbally.

lighted until 2:02 o'clock A. M., when all of the lights were turned out and there was no light burning on the second floor of the house. At 2:12 o'clock A. M., I, in company with Stephen F. Flarity and James Francisco, who are operatives employed by me, and also accompanied by Miss Charlotte Helbig, the sister-in-law of the petitioner, Lynne Helbig, and with William H. Helbig, a nephew by marriage of the petitioner, Lynne Helbig, Frank Corbally and Ray Adams, the latter two being operatives employed by me, forced open the front door of the house and went upstairs. The second floor hall was unlighted. All of these doors were locked. I forced open the door leading into a bedroom, turned my flashlight on a bed which was located in this room. In the bed were a man and a woman. The woman had on nothing but silk underwear and stockings. The man was clad only in his underwear and shirt. I then went from that room into an adjoining room which faces on Central avenue. There was no door on the opening between these rooms. The room in the front was dark and I turned on my flashlight and saw Mrs. Lynne Helbig getting up from a divan or couch; a man was also getting up. He had no overcoat. Mrs. Lynne Helbig had a towel in her hand and ran from the front room into the bedroom that I had first entered and saw the man and woman in the bed. Mrs. Helbig put the towel on the bed occupied by these two. The woman who had been in the bedroom that I first entered, jumped out of bed and ran into the kitchen in her underclothing. I picked up the towel and handed it to James Francisco, my employe. Mrs. Lynne Helbig then attempted to take the towel away from him and she had to be restrained by force from taking it. In the presence of Mrs. Lynne Helbig,

Affidavit of Thomas J. Corbally.

I asked that man that I had found in the room with her who he was. He stated in Mrs. Lynne Helbig's presence that his name was Max Alberts of 335 Harrison street, Passaic, N. J. I asked him if he knew who the woman was that he was with, and he stated that he knew that she was Mrs. Helbig. This statement was made in the presence of Mrs. Lynne Helbig and Miss Charlotte Helbig and William H. Helbig. Before I left the house, Mrs. Lynne Helbig went to the rear of the house and brought her thirteen-year-old son to the bedroom and told him to look at what his aunt had done, remarking that she had brought "these men into the house at this time of the night." At the time this remark was made, the man who was with the other woman was still in his shirt and underwear with no trousers on, nor coat nor vest, and this man proceeded to put on his clothing in the presence of Mrs. Helbig's son. I had taken this man's vest and he appealed to me not to take his vest as he needed it. I kept the vest, however. Mrs. Lynne Helbig said to me, "I knew you were after me, you big Irish son-of-a-bitch." I left the house with my operatives and Miss Charlotte Helbig and William H. Helbig, the nephew, at 2:25 o'clock A. M. on the morning of March 27th. The men were still there with Mrs. Helbig and the other woman when I left. While I was in the house Mrs. Lynne Helbig acted in a very boisterous manner and called me vile and abusive names. Her breath smelled of liquor and I believe that she was under the influence of liquor.

THOMAS J. CORBALLY.

Subscribed and sworn to before me
this 28th day of March, 1927.

ETHEL I. JACOBUS,
A Notary Public of New Jersey.

Affidavit of Charlotte Helbig.

IN CHANCERY OF NEW JERSEY.

<p><i>Between</i> LYNNE HELBIG, <i>and</i> LOUIS HELBIG,</p>	}	<p><i>Petitioner,</i> <i>Defendant.</i></p>	<p><i>On Petition for Divorce. Affidavit.</i></p>
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STATE OF NEW JERSEY, }
COUNTY OF ESSEX. } ss:

CHARLOTTE HELBIG, being duly sworn according to law, upon her oath deposes and says:

20 I am a sister of Louis Helbig, the above-named defendant. I have been acquainted with Mrs. Lynne Helbig, the above-named petitioner, who is the wife of Louis Helbig, for many years. About one month ago or more, I employed the services of Corbally Detective Agency at the request of my brother, Louis Helbig, who was and is ill. He requested that I have his wife watched, to ascertain if she was going with other men.

30 I accompanied different operatives from the Corbally Detective Agency on a number of evenings when they watched the premises 189 Central avenue, East Orange, N. J., where Mrs. Lynne Helbig, the above-named petitioner, has been living. I have seen her a number of times leave her home early in the evening in company with two men and a woman, and have seen her return at late hours of the night or the early hours of the morning. The last time that I saw her prior to March 26 and 27, 1927, was on the evening of March 22 and the morning of March 40 23, 1927, when she drove away in the company

Affidavit of Charlotte Helbig.

of two men and a woman and returned at an early hour in the morning.

On the evening of Saturday, March 26, 1927, at about 12 o'clock midnight, I received a call from the Corbally Detective Agency, and in response to that call, went to the vicinity of and watched the premises 189 Central avenue, East Orange, N. J. I arrived there at about midnight and remained there with my nephew, William H. Helbig, also Thomas J. Corbally and a man named James Francisco, whom I believe is employed by the Corbally Detective Agency. There were other employees of the Corbally Detective Agency in the vicinity. At ten minutes of two in the morning of March 27, 1927, I saw a car drive up in front of 189 Central avenue, East Orange, N. J. There is a light near 189 Central avenue, East Orange, N. J., and I could clearly see four persons get out of this automobile. The first person to get out was Mrs. Lynne Helbig, the wife of my brother, Louis Helbig. She went to the door of the house, 189 Central avenue, East Orange, N. J., opened the outside door, which was unlocked, and opened the door inside of the vestibule. The other three persons; two men and a woman, followed her in. Shortly after this, lights were lighted on the second floor of the house on the premises, 189 Central avenue, East Orange, N. J. These lights remained lighted until about 2 o'clock, when all the lights were put out on the second floor and there were no lights visible in the whole house.

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At about 2:10 A. M. on the morning of Sunday, March 27, 1927, in company with Thomas J. Corbally, my nephew, William H. Helbig, Stephen P. Flarity and other employes of the Corbally Detective Agency, I entered the premises, 189 Cen-

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Affidavit of Charlotte Helbig.

10 central avenue, East Orange, N. J. One of the employes of the Corbally Detective Agency forced open the front door of the premises and the whole party of us went up to the second floor, which was in total darkness. Thomas J. Corbally carried a flashlight. There were three doors opening from the second floor. Thomas J. Corbally forced open the center door and entered a bedroom. In this room in a brass bed I saw a woman who is known to me as Mrs. Pearl Davidson lying in bed with a man who was a stranger to me. Mrs. Davidson was dressed in silk underwear and had no other clothing on. The man was in his underwear, but had on an outside shirt and no shoes. As soon as Thomas J. Corbally forced his way into the bedroom, he immediately went into a front room which is located towards Central avenue from the bedroom. You can look from one room into the other, as there is no door but merely a wide doorway. The entire party went into the front room which was in darkness, and Thomas J. Corbally flashed his flashlight on a divan or couch, which was in the front room. As he did so, I saw Mrs. Lynne Helbig, the above-named petitioner, and a man get up from the couch. Mrs. Lynne Helbig had a towel in her hand. The man had no coat on. Mrs. Lynne Helbig then ran from the front room into the bedroom and threw it on the bed where Mrs. Davidson and the strange man had been. Mrs. Davidson was gone but the man was still in bed. Thomas J. Corbally took the towel from the bed and handed it to one of the operatives whose name is Francisco. Mrs. Lynne Helbig then grabbed the towel from Francisco and Thomas J. Corbally held Mrs. Helbig's hands while Francisco took the towel away from her.

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Affidavit of Charlotte Helbig.

Thomas J. Corbally then asked the man who was in bed with Mrs. Davidson what his name was and he handed him a card which looked like an automobile license card and stated that his name was Sam Rinzler who lived at No. 189 Jefferson street, Passaic, N. J. Thomas J. Corbally took this man's vest and was going to keep it for evidence. The man begged him for his vest saying he needed it. Mr. Corbally kept it, however.

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We were in the house some little time before we could find any switch to turn the lights on. Then I went back to the room where Mrs. Lynne Helbig had been and saw the man who had been with her on the divan. He handed over a card and said that he was Max Alberts. This statement was made in the presence of Mrs. Lynne Helbig, the petitioner, Thomas J. Corbally asked this man, "Do you know the name of the lady who was with you?" He said, "Yes, it is Mrs. Helbig." This statement was made in the presence of Mrs. Lynne Helbig and the rest of the party. Mrs. Helbig made no remark. Mrs. Lynne Helbig said to Thomas J. Corbally, "You big Irish son-of-a-bitch, I knew you were after me." So far as I could see, Mrs. Lynne Helbig had on a dark dress. She had ample time to put on a dress from the time the front door was first forced. Before I left with the rest of the party, Mrs. Lynne Helbig went to the rear of the house and brought her thirteen-year-old son into the bedroom and said, "Look at what your aunt has done, bringing these men into the house at this time of the morning." When she said this, the man who had been in bed with Mrs. Davidson was still in his shirt and underwear. We left the house at 2:25 A. M., March 27, 1927,

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Affidavit of Charlotte Helbig.

leaving Mrs. Lynne Helbig and Mrs. Davidson and the two men there. Mrs. Lynne Helbig appeared to be under the influence of liquor and used vile and indecent language.

10 I am entirely disinterested in this case. My relationship to the defendant is that of a sister, and practically my sole interest is to see that my nephew, the son of Louis Helbig and Lynne Helbig, receives a proper bringing up.

CHARLOTTE HELBIG.

Subscribed and sworn to before me
this 29th day of March, 1927.

ETHEL I. JACOBUS,
A Notary Public of New Jersey.

20 Other affidavits not printed here by stipulation
of counsel.

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Order to Show Cause.

ORDER TO SHOW CAUSE.

IN CHANCERY OF NEW JERSEY.

<i>Between</i> LYNNE HELBIG, <div style="text-align: right; padding-right: 20px;"><i>Petitioner,</i></div> <div style="text-align: center; padding: 0 10px;"><i>and</i></div> LOUIS HELBIG, <div style="text-align: right; padding-right: 20px;"><i>Defendant.</i></div>	}	<i>On Petition</i> <i>for Divorce.</i> <i>Order to</i> <i>Show Cause.</i>	10 20
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This matter being opened to the Court by Francis Child, of Child and Shipman, of counsel with Louis Helbig, intervening to show cause why the decree *nisi* in the above-entitled cause should not be made absolute; now, upon reading and filing the petition of the said Louis Helbig and the affidavits thereunto annexed wherein it is alleged that the petitioner, Lynne Helbig, did on the 27th day of March, 1927, commit adultery with one Max Alberts at No. 189 Central avenue, East Orange, N. J.;

It is, thereupon on this 29th day of March, 1927, ORDERED that the said Lynne Helbig do show cause before the Chancellor at the Chancery Chambers in the Industrial Building, No. 1060 Broad street, in the City of Newark, N. J., on Tuesday the 12th day of April, 1927, at the hour of 10 o'clock in the forenoon or as soon thereafter as counsel can be heard, why the decree *nisi* for divorce made on September 30, 1926, and filed in this cause on the 6th day of October, 1926, should not be rescinded, set aside and for nothing holden and the said Lynne Helbig's petition for divorce from the said Louis

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Order to Show Cause.

Helbig be dismissed, or that such other order be made in the premises as shall be meet.

It is further ORDERED that until further order of this Court, the Clerk of this Court do refrain from entering a final decree in the above-entitled cause.

10 And it is further ORDERED that a true copy of this order and of the petition of the said Louis Helbig and the affidavits thereto annexed upon which this order is founded, be served personally upon the said Lynne Helbig or upon her solicitors, within five days from the date of this order.

Respectfully advised,

ALONZO CHURCH,
V.-C.

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Affidavit of Lynne Helbig.

IN CHANCERY OF NEW JERSEY.

<p><i>Between</i></p> <p>LYNNE A. HELBIG, <i>Petitioner,</i></p> <p style="text-align: center;"><i>and</i></p> <p>LOUIS HELBIG, <i>Defendant.</i></p>	}	<p><i>On Petition for Divorce.</i></p> <p><i>On Petition for Order to Show Cause.</i></p> <p><i>Affidavit.</i></p>	10
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STATE OF NEW JERSEY, }
COUNTY OF ESSEX. } ss.

LYNNE HELBIG, of full age being duly sworn according to law, on her oath deposes and says: I am the petitioner named in the above suit. I live in an apartment on the second floor of a two-family house at 189 Central avenue, East Orange, New Jersey. My son, Milton, fourteen years of age, lives with me and Mrs. Pearl Davidson with her two sons twelve and ten years old respectively, also live in said apartment. Mrs. Davidson pays half of the expenses of maintaining said apartment. The house is located on the southerly side of Central avenue and in the front thereof is placed a large electric street light, the light from which shines in through the windows of the living room and partially illuminates the apartment. My apartment is reached by means of an entrance vestibule on the first floor from which vestibule the front stairs run to the second floor hall from which there is a further stairway to rooms on the third floor of the house now occupied by Mr. and Mrs. Richard Thurston and which rooms are actually a part of my apartment but which are not occupied by me, by which means I reduce my rent expenses.

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Affidavit of Lynne Helbig.

Upon reaching the second floor hall there is a door-way which leads into the dining-room of the apartment which said dining-room has been converted by me into a bedroom and which is used by me and Mrs. Davidson. Adjoining this room toward the front of the house and facing Central avenue is the living room, which, under existing conditions, can only be reached from the afore-said door and through the said bedroom. There are two large glass doors leading from the living room onto the said hall but these are always kept closed and locked and there is a large davenport standing in front of them. Also adjoining the dining room there is a small room called the den bedroom which closes off from the dining-room by sliding doors which, on the night of March 26, 1927, was occupied by my son, Milton, and Mrs. Davidson's son, Irwin. Toward the rear of the house also adjoining the said dining-room (converted into bedroom), there is a small hallway leading to a bathroom on the one side thereof which immediately adjoins the dining room and the kitchen, and to another bedroom on the other side thereof. From the kitchen there is a doorway which leads to a small porch from which the rear stairway runs to the cellar. Because of the occupation of the third floor rooms by Mr. and Mrs. Thurston, which can only be reached through the second floor hallway used by us in common, I find it necessary in order to maintain my own apartment secure and private, to keep the doors leading from my rooms into said hallway, locked.

On the evening of March 26, 1927, at about 9:30 o'clock by appointment, Mr. Max Alberts and Mr. Samuel Rinzler called at my apartment to take Mrs. Davidson and me for an automobile

Affidavit of Lynne Helbig.

ride. They entered my apartment and remained just long enough for Mrs. Davidson and I to put on our coats and hats and then we drove to the Colonial Inn, at Singac, New Jersey. When we left, my son, Milton, and Mrs. Davidson's son, Irwin, were about to retire in the den bedroom which immediately adjoins the dining room (converted into bedroom). Mrs. Davidson's other boy ten years old, was sleeping in the other bedroom approximately opposite the bathroom. I left burning in the living room an electric torch lamp which was standing on a radio in the living room. The light from this lamp partially illuminated the living room and because there is no partition between the living room and the dining room (converted into a bedroom) it also partially illuminated that room. We arrived at the Colonial Inn at about eleven o'clock and had some saidwiches and a few dances. Mr. Rinzler, Mrs. Davidson and I each had two highballs from liquor which Mr. Rinzler brought with him. Mr. Alberts did not drink anything whatever. At about one o'clock we drove directly from the Inn back to my apartment and arrived there at about 1:50 in the morning. Because of the very bad weather conditions and the cold, and because of the long drive back from my apartment to the homes of Mr. Alberts and Mr. Rinzler, I suggested that they go into the apartment for a cup of hot coffee before starting their return journey. I opened the front door and we all went up the front stairway to the second floor hallway and entered my apartment through the door which entrance opens into the dining room (converted into a bedroom). Upon entering, we walked through this dining room into the living room and I turned on another electric

Affidavit of Lynne Helbig.

lamp. Mr. Alberts and Mr. Rinzler removed their hats and coats and laid them on the chair. I said that I was going first to attend to the furnace fire in the cellar and that I would then make some coffee, and Mrs. Davidson and I then went to the rear of my apartment into the kitchen. I left Mrs. Davidson in the kitchen and I went down the back stairway to the cellar, put coal on and attended to the furnace fire and returned by way of the rear stairway to the kitchen. Almost immediately after I entered the kitchen I heard a loud crashing noise and breaking glass. I was terrified and rushed with Mrs. Davidson into the dining room (converted into a bedroom) to the entrance door of the apartment where I saw Mr. Rinzler and Mr. Alberts standing by the door. While we all were inquiring as to the cause of the noise, the door of the apartment leading into the dining room (converted into a bedroom) was smashed in. Five or six men and a woman came into the room. One of the men flashed a flashlight on us though the room was sufficiently lighted without it and one of the entering party inquired who we were and what we were doing there and we told them.

After this apartment entrance door had been broken into, four or five strange men entered with Miss Charlotte Helbig and her nephew William Helbig. One of the strange men inquired what we were doing there and who the men in the apartment with us were. Mr. Alberts and Mr. Rinzler both stated their names and gave such other information as was asked of them. One of the strange men in looking about the bedroom found a towel hanging over the end of the bed which he picked up and kept in his possession.

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Affidavit of Lynne Helbig.

The bed in this bedroom is not a brass bed but a wooden one.

The statement of Thomas J. Corbally in his affidavit dated March 28, 1927, in the above matter, that on the occasion in question there was a man and woman in bed, is absolutely false. At no time on the evening of March 26th, and the morning of March 27th during my presence in said apartment, were any persons in bed except my son and Mrs. Davidson's two sons.

I did not get up from a divan or couch in the living room nor was I at any time during the night sitting there with anybody. The statement that I had gone from the divan in the living room into the bedroom with a towel in my hand, is false, as is also the statement that I put the towel on the bed in the bedroom. Neither Mrs. Davidson nor any other woman jumped out of the bed and ran into the kitchen in her under clothing as stated. I did go into the den bedroom and brought out my son, Milton, but at that time all of the persons were fully dressed except Mr. Rinzler who had his coat and vest off and it is false that Mr. Rinzler put on his trousers in the presence of my son. During the time that these strange men and Miss Charlotte Helbig and her nephew, William Helbig, were in my apartment, I was not boisterous and did not use vile and abusive names. I did not say to Mr. Thomas J. Corbally "I knew you were after me, you big Irish son-of-a-bitch." At no time during the night was I in any particular under the influence of intoxicating liquor. I have never committed adultery with Mr. Max Alberts or anybody else.

After a short while, the strange men and Miss Charlotte Helbig and Mr. William Helbig left

Affidavit of Lynne Helbig.

the apartment and shortly after they had gone out, Mr. Alberts and Mr. Rinzler also left. Immediately after all had gone out Mr. Thurston came in and stated that his wife had suggested that she had heard me moaning and that he was to inquire whether there was anything that Mrs. Thurston could do for me. He stayed a few moments and then returned to his apartment upstairs.

Miss Charlotte Helbig has never liked me and at the time I brought the suit for divorce against her brother she was the main factor in resisting the decree which was granted and about September, 1925, when I left the premises, 16 Garfield Place, East Orange, Miss Helbig said to me, "I will get you yet; money is power." On numerous occasions over a long period of time she has shown animosity to me and has tried to turn my husband's feelings against me and has tried to get my boy, whose custody was awarded to me in the suit, to leave me. I believe she is also greatly chagrined and peeved that her brother should have to pay me the \$20.00 a week decreed by this Court and that her main reason for this raid was to have the allowance stopped and from the conversations at the time of the raid, and the manner in which it was conducted, I am satisfied that Miss Charlotte Helbig has been the moving spirit in the entire matter.

LYNNE HELBIG.

Subscribed and sworn to before me
this 8th day of April, A. D. 1927.

RUDOLPH L. TREUSCH,
Notary Public of New Jersey.

Other affidavits not printed by stipulation of
counsel.

Stephen Flarity, direct.

IN CHANCERY OF NEW JERSEY.

May 9, 1927.

Between

LYNNE A. HELBIG,

Petitioner,

and

LOUIS HELBIG,

Defendant.

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Transcript of shorthand notes of testimony taken in the above-entitled cause before his Honor, Alonzo Church, Vice-Chancellor, at the Chancery Chambers, Newark, New Jersey, in the presence of Francis Child for complainant; Mulligan & Koenig (Mr. Mulligan) for defendant.

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MR. STEPHEN FLARITY, sworn for the petitioner.

Direct examination by Mr. Child.

Q Mr. Flarity, you are connected with the Corbally Detective agency? A I am.

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Q In what capacity? A I am secretary and treasurer.

Q And do you also do investigating on your own account for the agency? A I do.

Q And are you acquainted with Mrs. Lynne Helbig, the petitioner in this case? A Yes; I know her.

Q And about when did you first become acquainted with her? A February 26th.

Q And who pointed her out to you? A Miss Helbig.

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Q Miss Charlotte Helbig? A Charlotte Helbig.

Q Now, from February 26th down to March 27th did you see Mrs. Lynne Helbig? A Yes, I did.

10 Q Upon how many occasions? A About five or six.

Q And what were the occasions of your seeing her? A At night.

Q And for what purpose? A To get evidence for her—with Miss Helbig for her brother.

Q Yes. And who was Mrs. Lynne Helbig with, if anyone, the nights that you saw her? A A woman who lives in her house and two men.

20 Q On how many occasions did you see her with this lady and these two men? A Three or four times and I also saw them go out separately one night, both went out with different men and different cars.

Q What time would Mrs. Helbig return, if you know? A The earliest she returned was the night that she went out alone with a fellow in a Ford coupe. It was twenty minutes to one. The other occasions it was around half-past one, between half-past 1 and 2 o'clock.

30 Q And where did she live? A On Central avenue, right near Birchwood avenue. I think the number is 189.

Q And when you would follow her, where would you see her first? A Come out of her house.

Q And when you say she returned, where would she return to? A To her house.

40 Q What sort of house is this? A It is—there is three families in the house; it is a two-family and attic house. I believe it is frame.

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Q Now, did you see her on the night of March the 26th? A I did.

Q 1927? A I did.

Q And where did you see her that night? A I saw her come out of the house.

Q At what time? A Nine o'clock. 10

Q Who was with her, if anyone? A She was with two men and the woman who lives with her.

Q Do you know the woman's name? A Davidson, Pearl Davidson.

Q And had you seen these two same men with Mrs. Helbig and Mrs. Davidson before? A I had.

Q How many times? A Three or four.

20 Q When Mrs. Lynne Helbig and Mrs. Davidson left the house where did they go and how did they go? A On which night?

Q On the night of the 26th of March? A They went down Central avenue and over Hawthorne avenue.

Q And from there where? A I didn't follow them from there.

Q How did they go? A By an automobile, an Essex coach, P9207.

30 Q And what time did they return? A At about, I should say, ten minutes to two in the morning, Sunday morning, March 27th.

Q And who was in the party that returned to the house that night? A The two men and the two women.

40 Q And what did they do when they got out of the automobile? A Well, Mrs. Helbig got out first and opened the door of the house and the man, who was seated alongside of her in the front of the car, he followed, and after he got

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on the stoop the other man and woman got out of the car and they went in the house.

Q Now, did you observe anything about that house, as soon as they went in? A The house was in darkness and then the lights were turned on.

10 Q On what floor? A There was a light turned on in the hallway. There is a double entrance there, one entrance for the first floor and then to the left as you go in there is an entrance to the apartment upstairs.

Q Mrs. Helbig's apartment? A Yes, sir; and a light went on in that hallway and then, when they went upstairs, the lights were on, and, about five minutes later, I was at the rear of the house and I saw the lights in the kitchen
20 were lighted and then I saw the light in the rear hallway go on, and I saw a woman go up and downstairs.

Q Could you tell who the woman was? A Yes.

Q Who was it? A Mrs. Helbig.

Q Did she go downstairs and then come up again? A She did. She tried the door downstairs in the back. It was locked. We had tried
30 it before that.

Q Now, how long did the house remain lighted, the second floor? A Oh, I should say about five minutes after she went upstairs the lights were out, about 2 o'clock.

Q About 2 o'clock. And then what did you do? A We waited then until about quarter after two and we couldn't see any lights in the place so we went in.

Q Now, when you say "we," who was in your
40 party? A Mr. Corbally, Mr. Corbally's son,

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Mr. Francisco, Mr. Adams and Miss Charlotte Helbig and her nephew.

Q How did you get in the house? A We forced two doors, both locked.

Q Who forced the doors, if you know? A One of our men.

Q And that is the outside door? A The out- 10 side door and upstairs door.

Q After you forced the outside door, what did you do? A I ran upstairs and tried the doors there; there were three doors and they were locked.

Q On the second floor? A On the second floor.

Q Then what happened? What did you do then? A The door leading into a bedroom was forced open and we saw a man and woman on the bed. The man was attired in his B. V. D.'s
20 and the woman had on a pink shirt and stockings, that is all, and in the—(interrupted).

Q What room was that? A That was the bedroom.

Q That was the first room you went into? A The first room I went into.

Q Who was that couple? A That was a fellow named Samuel Rinzler, of Passaic, and Pearl Davidson.
30

Q Was Pearl Davidson the lady who left with Mrs. Helbig? A Pearl Davidson started for the rear of the house—

Q No. Please. Was Pearl Davidson the lady who left with Mrs. Helbig? A She is the lady.

Q Now, when you entered that bedroom, was it light or dark in there? A Total darkness; there was not a light on the floor, in the house.

Q How did you come to see these two people on the bed, as I understand you? A We had
40 flashlights.

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Q And from that room where did you go? A Well, that room opens onto a front room and there is no doorway between. It is a wide opening there, I would say about, oh, eight feet, maybe seven.

10 Q Then what did you do? A We circled around with our flashlights. Miss Helbig and another man were on the couch in the front room. They were getting up. Miss Helbig had a towel in her hand and she started to do something.

Q When you say "Miss," you mean Mrs. Helbig? A Mrs. Helbig.

Q And she started to do something, you say? A To do something.

20 Q What did she say? A She didn't say anything, at first, because she was excited and she seemed to be under the influence of liquor. She started to curse and swear and demand to know by what right we went in there, and we told her by what right we went in there.

Q How was the man that was getting up off the couch attired? A He had his top coat and undercoat off.

Q You mean, his ordinary coat and his vest off; is that right? A No; I mean his top coat.

30 The Court: Overcoat.

Q Overcoat? A Light topcoat and his overcoat.

Q Where was his regular coat? A His regular coat was off. I say, he had both coats off.

Q All right. I understood you to say his top coat was off. A And his other coat.

Q And was his vest on or off? A His vest was on.

Q Eh? A His vest was on, but opened.

40 Q But opened. Now, what happened—

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The Court: Well, how was Mrs.—

Q How was Mrs. Helbig dressed? A Mrs. Helbig was dressed.

Q Now, what happened? A She had her coat off. She was out; she had taken her coat and hat off, but she had a dress on. 10

Q What happened after you got in the front room there? A The first thing that we did, some of the men tried to quiet Mrs. Helbig and a fellow named Max Alberts, who was with her. Mr. Corbally took hold of Rinzler and I prevented the Davidson woman from going out of the room until Miss Helbig and her nephew got upstairs, and Mr. Corbally was asking Rinzler for his name and he was getting his automobile driver's license, and, after he got that, I took his trousers from him and threw them across the bed to Mr. Francisco. Rinzler started to call for his trousers and started to make a kick and said he had no trousers to get home, and we held him for some time and finally Mr. Corbally came over and said to me, "What do you say if we give him his pants?" 20

Mr. Mulligan: I object. Was this in the presence of Mrs. Helbig?

The Witness: In the presence of everybody. 30

The Court: It is not evidential.

Mr. Child: It is not material.

Q Then what did you all do? A We asked Mrs. Helbig—Miss Helbig, if she knew Mrs. Helbig and she identified her, and she didn't know the others, rather, she didn't know the men, and Miss Helbig's nephew identified Mrs. Helbig. 40

Stephen Flarity, direct.

Q What, if anything—(interrupted).

A (Continuing.) Saw the other people there in the condition that they were in, that is, the way they were attired.

10 Q What became of the towel that Mrs. Helbig had, when she got up from the couch? A Miss Helbig came out to the bedroom and threw the towel on the bed.

20 Q When you say "bedroom," what room do you mean? A The front room, where Mrs. Helbig was; that is a living room. There is a couch in there. That is where we saw them first. Next to the living room is a bedroom. That is the room that we entered, that is the room where Rinzler and Miss Davidson were on the bed; that is the room where Mrs. Helbig came to, threw the towel on the bed.

Q Then what happened to the towel? A We picked the towel up and took the towel with us and we took Rinzler's vest.

30 Q And what, if anything, did Mrs. Helbig do with reference to the towel, after it was picked up from the bed where Rinzler was? A When Mr. Francisco picked it up, she grabbed hold of it and fought with him, trying to take it away from Mr. Francisco. She cursed and swore, called us all kinds of names that anybody could call.

Q Now, did Mrs. Helbig make any statements in front of Mr. Corbally, using—what did she say to him? A Sir?

Q What did she say to Corbally, if anything? A She called him—do you mean the names she called him?

40 Q Yes. A She called him a big Irish son-of-a-bitch.

Stephen Flarity, direct.

Q And then, after you had gone back into the bedroom where you first entered, did any other person come into that place? A Yes. Mrs. Helbig went out and she brought a boy in, her son, and said, "This is what your aunt has done."

10 Q Now, did Alberts make any statement to you in front of Mrs. Helbig? A Alberts admitted that he was on the couch.

Q Please don't say "admitted." State what he said. A Alberts said that he was on the couch with Mrs. Helbig and he said that Rinzler was on the bed with the other woman.

Q Did he say where they had been? A He said they were out to a dance.

20 Q Did Mrs. Helbig make any statement, when Alberts said he had been on the couch with her? A No; not that I recall. He may have said something, but there was so much. I don't recall just what she said.

Q All right. Now, when you entered the bedroom where you had to break the door, where was Miss Charlotte Helbig and her nephew? A Coming up the stairs, following us.

Q How close were they to you when you broke the door? A Oh, not very far.

30 Q Well, how far? A Probably, at the top of the steps, when we were breaking the door, and it is, I should say, about three or four feet away.

Q And how soon after you had broken the door and entered the bedroom was it that Miss Charlotte Helbig and her nephew entered the bedroom? A Oh, I should say, almost immediately.

40 Q And with reference to going from the bedroom into the front room or living room, as you

Stephen Flarity, cross.

have termed it, how far behind you was Miss Charlotte Helbig and her nephew? A We— when we entered the bedroom we, like, spread out and she was about three feet or four feet after us, as we entered the door.

10 Q I see. You said something in your previous testimony that you had detained someone until Miss Helbig got there. What did you mean by that? Why was it necessary to detain anyone? A I meant this, that, when we went in, the Davidson woman and Rinzler got up off the bed, and the Davidson woman started to run out through a little hallway—I suppose there is a bathroom outside of it—and I got hold of her and held her there until Miss Helbig and her nephew got in the room.

20 Q I see. Was that before or after you went in? A That is in the bedroom; that is right in the bedroom.

Q Please. Just a minute. Was that before or after you entered the room that you termed the living room? A That was before.

Mr. Child: All right. Cross examine.

Cross examination by Mr. Mulligan.

30 Q Mr. Flarity, did you wait around the house after they went away that night until they returned? A Yes, sir.

Q And where did you stand when the automobile came back? A At the parkway, Central avenue.

Q Across the street from— A Across the street.

40 Q Yes. And, when they got out of the automobile, Mrs. Helbig and so forth, you couldn't tell who it was that got out of the automobile? A

Stephen Flarity, cross.

Oh, yes; there is an electric light right in front of her house.

Q Electric? A Yes.

Q Is it a strong light? A Well, it is an ordinary street light.

Q Right in front of the house. About how high is that light from the ground? A Oh, I should say, about twenty feet. 10

Q About twenty feet. That would be about on a level with the second floor, wouldn't it? A Pretty near.

Q And didn't that light shine in the front living room? A That light shines on the glass. The curtains were drawn that night; there is lace curtains there and there is other curtains there.

Q But it shines on the curtains on the second floor, doesn't it? A Yes, sir. 20

Q And then, after they went in, did you go around the rear of the house? A Yes, sir.

Q How many lights did you see lighted—did you say, when the lights were lighted on the front so you could see the lights lighted? A No; I went to the rear.

Q So that you didn't see the lights lighting up the second floor when they went in there? A Yes, yes, sir.

Q Where did you see them from? A From across the street. 30

Q From across the street. Could you see in the room from across the street? A No.

Q How many lights were lighted on the second floor? A The way I saw it was the light through the windows in the alley way; there is an alleyway there.

Q Well, you were standing beyond that, weren't you? A No, I was not; I was across the street. 40

Stephen Flarity, cross.

Q Oh. A And then, when they had gone in some time, I went to the rear.

Q How many lights did you see lighted up on the second floor? A I couldn't say I saw the lights lighted. I saw the lights through the windows. I didn't see anybody light the lights.

10 Q Then you went around the rear? A Yes.

Q Then you saw the light lighted up there? A There was a light in the kitchen, and I saw a light thrown on like coming down the stairway, either that or the door was open and made the light.

Q And you could tell it was Mrs. Helbig that went down the rear? A Yes, yes, because there is a glass there and I saw right in the alley way, in the yard, really.

20 Q How long did it take Mrs. Helbig to go downstairs and then return? A Not any more than five minutes.

Q Then did you stay in the alley way until she got back? A I did.

Q Did you see any light go out in the rear? A Yes, sir.

Q In the kitchen? A Yes.

Q When did you see that go out? A Right after she went upstairs.

30 Q Right after she went upstairs. And then you saw her—then you went around to the front?

A Yes. And all lights were out on the second floor. We went to the front.

Q All lights were out? A All lights were out.

Q How was the door opened off the street?

A It is a glass door; the glass broke as we were going in.

40 Q How much glass was there in it? A It is a large glass. I would say about—(interrupted).

Stephen Flarity, cross.

Q Two by three, something like that. And didn't Mr. Corbally or one of the men have a hammer and break that glass? A Mr. Corbally didn't have the hammer. One of the men did.

Q And he broke the glass? A Yes, he did.

Q And he reached in and opened the lock? A 10 Yes, sir.

Q There was quite a noise with all that glass smashing, wasn't there? A There was.

Q Then, the whole party went up together, or one by one? A Together, one right after the other.

Q How long did it take them to go from where the glass was broken in the door downstairs up to the first door that they broke in? A Oh, less than half a minute. . . . 20

Q Less than half a minute. All right. And how long after the lights went out did they break open the front door? A About fifteen minutes, I would say.

Q Fifteen minutes. Was the door on the second floor forced open? A It was.

Q Who forced that? A Mr. Corbally.

Q Mr. Corbally. And then, when you went in the door, after it was smashed—that is on the second floor—who went through the door first? 50 A I did.

Q You went through. And where did you go then? A Right upstairs, I ran up, right up.

Q I mean, the second door, after the second door was smashed? A Right into the bedroom.

Q You went right in the bedroom. And the light was still there shining from the street then, wasn't it? A It was very dark there. We had flashlights and we had our flashlights on as soon as the door—(interrupted). 40

Stephen Flarity, cross.

Q I asked you this question: Wasn't the light from the street shining at that time? A It may have been. I didn't notice.

Q And, you say, you saw Mrs. Davidson and Mr. Rinzler in the bed? A Yes, sir.

10 Q And did they say anything to you? A No. Not at first.

Q Did you know who it was in it when you went there? A Not—

Q Did you recognize them? A Not at first, but I did later.

Q How long, later? A As soon as the light flashed on them.

Q And did they jump out of the bed at all? A They did; and she ran to the back of the house.

20 Q And what did he do? A He grabbed his trousers which were on the chair and started to pull them on.

Q And then where did he go? A He stayed there.

Q Did he get his trousers on while you were there? A Not for some time after.

Q Just what do you mean?

30 The Court: I am not interested in that. I am not interested in this couple. The other couple.

Mr. Mulligan: All right.

Q Then you went in the other room? A Yes.

Q And you saw Mrs. Helbig fully dressed? A Rinzler came out to our room.

Q Oh, you saw her when she came out to your room? A I saw her getting off the couch.

40 Q You saw her getting off the couch? A Yes.

Stephen Flarity, cross.

Q Just what do you mean "getting off the couch?" Go into detail. A She was like in a sitting position, getting up.

Q Yes. And you saw— A She had a towel in her hand, coming out to our room.

Q You saw her rising from the couch? A 10 Yes, sir.

Q Where she was in a sitting position? A Yes, sir.

Q And she was fully dressed? A Well, she had her dress on.

Q Yes. Well, there was not anything else missing that you could discern? A I say, she had taken her hat and coat off. I saw her first with her hat and coat on.

Q Then, you also saw the man that was sit- 20 ting there with her rise up, also? A I saw him getting up, yes, sir.

Q You didn't see either one of them lying on the couch did you? A I did not.

Q This couch was an ordinary davenport, wasn't it? A Something like that.

Q And no bedclothes or anything like that on it? A No.

Q No sheet, no covering at all? A No, no.

Q Where was Mr. Max Albert's coat? A It 30 was on one of the chairs in there, in the front room.

Q You did not take that coat, did you? A No.

Q And did anybody take that coat? A No.

Q They did not. You say, she was very much excited? A She was.

Q And she asked you what right you had to break in there? A She didn't address her words to me; she addressed them to Mr. Corbally. 40

Stephen Flarity, re-direct.

Q What did he say? A He told her, just as I said, that Miss Helbig had employed us to get evidence for her husband and—

Q He said that was why you broke in? A And that was the reason we came in there.

10 Q You couldn't see through the windows from any position where you were and see any person in there, could you? A Where was I at the time you are talking about?

Q Any time that night, you could not see from outside through the windows and see any men, could you? A You could see people from the street, when they walked around.

Q Did you see any? A Early in the night; not at this hour.

20 Q No. I mean just before you broke in? A No.

Q You didn't see any men? A No.

Q You couldn't tell what they were doing? A No.

Q When Mrs. Helbig brought her son out there and said, "This is what your aunt has done," what did he say or what did the aunt say?

A I don't think that they said anything.

Q Nothing at all? A Not that I recall.

30 Mr. Mulligan: That is all.

Re-direct examination by Mr. Child.

Q Speaking of the lights in this house, on the previous occasion that you had watched this house, had you seen lights on and off? A I had.

Q And had you ever seen these two men there before? A I did.

40 Q And how long did the lights remain on, after they went in? A On the morning of Feb-

Stephen Flarity, re-cross.

ruary 27th, the month before they went in there, they had been to Paterson that night, they came back, they went in there 1:25 and ten minutes later the lights went out and it was 2:10 when the men came out, and just before the men came out the lights were thrown on again.

10 Q Do you remember on any other occasions whether that was done? A They were in there on another night. That was the night of March the 15th and they were in and out that night and we called you up and told you that—(interrupted).

Q Well, never mind that. A Yes.

20 Q Oh, when Mrs. Lynne Helbig brought her son into the room, how was this man—was this man Rinzler, who had been with Mrs. Davidson, fully dressed when the son was brought in? A I think he had his trousers on, at that time. He didn't have his shirt on.

Mr. Child: That is all.

Re-cross examination by Mr. Mulligan.

30 Q I want to ask you this: You never broke in on any former occasion, when you were watching, did you? A No.

Q Why did you do it this night? A Because we thought it was an opportunity. We talked about it to Mr. Child and we told him the conditions about the two men going in there and he advised us—

Mr. Mulligan: I object. I don't think that is—(interrupted).

The Court: You asked him.

40 Mr. Mulligan: All right.

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The Court: I don't think it is important as to why he did it; he did it. The facts are what you want. That is all.

Mr. Child: Inspector Corbally.

10

THOMAS J. CORBALLY, sworn for the petitioner.

Direct examination by Mr. Child.

Q You are an officer of the Corbally Detective Agency? A Yes, sir.

Q And are you acquainted with Mrs. Lynne Helbig, the defendant in this suit—the plaintiff in this suit, the petitioner in this suit? A I saw her that night.

Q And where did you see her that night? A I went over with Miss Helbig—

Q I say, where did you see her, please? A I saw her on the second floor, 189 Central avenue.

Q And how did it happen that you were there that night? A I—

Q How did you come to be there? A I went there with the expectation of making a raid.

Q And what time did you get there? A A little after midnight.

Q And who did you find there? A I found four or five of the operators, Miss Helbig, that is, the sister-in-law, and her nephew.

Q This was when you first arrived I am now talking about. A Yes.

Q And what did you do after you got there? A We arrived there 1:50 in the morning.

Q And what happened at 1:50 in the morning? A There was a car drove up and stopped in front of 189. Two ladies and two men got out

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and went upstairs, as soon as they entered, and about a minute after the lights were all lit on the second floor.

Q Well, then, what happened? What did you do? A I went in through the side street. Looked the house up, seen the whole second floor lit up; then I went to the front. On Central avenue, and saw the same thing.

Q Yes. A Then I came back to the rear again, and about 2:10 the lights went out.

Q Yes. Then, after the lights went out, what did you all do? A We went to the front.

Q Well, how long after the lights went out did you go to the front? A Probably a minute.

Q And what did you do then? A Oh, I went up the street and—(interrupted).

Q You went to the front door, you say? A Yes.

Q What did you do after you got to the front door? A We got—(interrupted).

Q Did you— A We tried the door and the door was locked; one of the operators had a hammer; it was glass and he broke the glass, put his hand in and turned the latch and Mr. Flarity run upstairs first. I was after him, Miss Helbig and the nephew after me, and the place was in darkness and I had a flashlight out and Flarity had a flashlight and he says the three doors was locked. The center door I put my shoulder to it and shoved it in and run in the room, seen the couple in bed; then I turned the flashlight on the front room, and, as I did, people that was identified after as Mrs. Helbig and Mr. Alberts, they got off—he got off the couch.

The Court: Were they lying down when you saw them?

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The Witness: Lying down, and they were getting up.

The Court: Were they getting up from a reclining position or sitting position?

10 The Witness: Well, he was nearly to the head, and she was near to me, so I couldn't say, your Honor, whether they were lying down or not; they were getting up as I got there. Her hands were on the couch and he was more on the couch than what she was. There was no light in the house and she rushed for the front room screaming. The other two was still on the bed. The girl jumped out of the bed. Mrs. Helbig had the towel in her hand and she threw the towel on the bed. I went over to the man on the bed
20 —no, the other man, he went to put—he had —as soon as he jumped off the chair—(interrupted).

Q Just a minute. What man are you now talking about the man that was in the room with Mrs. Helbig or the other man? A Max Alberts, he went—as soon as got off the couch, he grabbed for his coat, his inside coat.

30 Q Yes. A She run over to me screaming. I threw the towel on the bed. At this time there was only two flashlights in the room. I hollered to put the lights on.

Q Yes. A And it took, probably, two minutes before we could turn the lights on.

40 Q Yes? A And then, after we got the lights on, Mrs. Helbig she commenced to swear and curse about what brought me in there. I told her, and she called me very vile names, and then I went to Alberts and I asked him his name. He showed me a card. I think Flarity asked him

Thomas J. Corbally, direct.

his name, and he abused him, and I asked him his name and he gave me his name, from Passaic, and where he worked. I asked him did he know the lady he had with him on the couch. He said, "Yes." I said, "Who is she?" He said, "Mrs. Helbig." I said, "How long have you known her?" "Oh," he said, "a couple of months." 10 "Where have you been with her?" He said, "We were to a dance."

Q Now, after you had picked up the towel or somebody picked up the towel from the bed, what happened with reference to the towel? A Well, I picked the towel up and I handed it to Francisco.

Q He is one of your operators? A One of our operators. And she said, "You are not going to get that, you son-of-a-B," and she 20 grabbed the towel and she fought with him, and then I held her two hands. She said, "Don't hurt me." I said, "I won't hurt you, but let go of the towel," which finally she let go.

Q Now, who else was there besides these four that were in the room and your party, anyone, when you first entered? A Nobody, not a soul.

Q Did you, afterwards, see Mrs. Helbig's son? A I did.

Q When did he appear on the scene? A 30 Well, this other man was fighting to get his pants—

Q No. When did he appear, please? A He appeared as this man was fighting to get his pants. That was probably—we were in there, maybe, six or eight minutes, at the time.

Q And how was the boy dressed? A He was dressed with his nightclothes on.

The Court: I don't think—

Thomas J. Corbally, cross.

The Witness: And she said, "See what your aunt done."

Q She said what? A She said to the boy, "See what your aunt has done, taken these men in here at this hour of the night." I said to her,
10 "Yes. It is a nice thing for you to take your boy here to see what is in bed here." That was pointing to the other fellow with his clothes off.

Q Now, could you tell whether Mrs. Helbig— what her condition was when you entered there?
A You mean, her dresses?

Q No. Whether she was drunk or sober or had been drinking or what? A She had been drinking, there is no question about that.

Q Was this a warm or a cold night, if you
20 remember? A It was not cold nor it was not warm, either.

Q Now, was there any door leading from the bedroom that you first entered in that living room where you saw Mrs. Helbig and this man?
A No. There was no door. There was a big wide space (indicating with hands). Miss Helbig—Mrs. Helbig, she told me she knew I was after her for a couple of months, "You big Irish son-of-a-B."
30

Mr. Child: I don't suppose your Honor wants to see the vest or the towel?

The Court: No.

Mr. Child: Cross examine.

Cross examination by Mr. Mulligan.

Q Was Mrs. Helbig the only one on whose
40 breath you smelled liquor? A She was the only one that got near enough to me.

Thomas J. Corbally, cross.

Q The only one. You had talked with the other people, though, didn't you? A I did.

Q You talked with Rinzler? A I did.

Q You talked to Max Alberts? A Yes, sir.

Q You didn't notice any liquor on their breaths? A This woman got right up in my face to fight me. I had to hold her back. 10

Q Then, when she got close to your face, you noticed she had been drinking? A No. I meant to smell her breath.

Q Yes. Did you notice that the other people were intoxicated? A Well, I wouldn't say they were intoxicated.

Q You didn't smell any liquor on them? A I wasn't near enough to smell any liquor on them.

Q And they didn't act as if they were? A
20 No. They acted decent, but she was actually boisterous.

Q Now, you knew that it was Mrs. Helbig that you were particularly watching, didn't you?

A Yes, sir.

Q And it was Mr. Alberts, you say, whose coat was off? A Yes.

Q The outside coat? A The outside coat and inside coat.

Q You didn't say about the inside coat in your affidavit, did you? A Yes, sir, I did; yes, I did. 30

Q And, why didn't you take his coat? A I didn't take his coat.

Q You got the vest of the other man. A I—

The Court: I don't think that is important. It doesn't make any difference.

Q You say, Mrs. Helbig was fully dressed, when she was arising from the couch? A At least, as far as I know. 40

Charlotte Helbig, direct.

Mr. Mulligan: That is all.

Mr. Child: Miss Helbig.

10 CHARLOTTE HELBIG, sworn for the petitioner.

Direct examination by Mr. Child.

Q Miss Helbig, you live where? A 123 Roseville avenue.

Q Newark? A Newark.

Q And are you the brother of Louis Helbig, the petitioner in this case?

20 The Court: The sister.

Mr. Child: The sister, I mean, excuse me.

A I am.

Q And how long have you been acquainted with Mrs. Lynne Helbig? A Well, I think about fifteen or eighteen years.

Q Ever since she married your brother? A Ever since she married my brother.

30 Q Now, have you, in company with anyone, followed or watched Mrs. Helbig, recently? A I have.

Q And, about when did you start watching Mrs. Helbig? A March 23rd.

Q March 23rd. And who was with you? A I have got that wrong. A week before March 26th would be March 19th.

40 Q Yes. And who was with you on March 19th? A Mr. Francisco and Mr. Corbally, young Mr. Corbally, Frank Corbally and my nephew.

Charlotte Helbig, direct.

Q What is his name? A William Helbig. And Mr. Flarity.

Q And Mr. Flarity. And where did you watch her? A Corner of Parkway and Central avenue.

Q Where? A East Orange.

Q And did you see her that night? A Yes, 10 sir.

Q And was she alone or in company with anyone? A No. She was with a gentleman.

Q Anyone else besides her and the gentleman? A No.

Q And where did they go, if you know? A Well, they passed us on Park avenue, before they crossed over in front of 189 Central avenue, and stayed there about fifteen minutes and then Mrs. Helbig got out and went in the house and the 20 man went along.

Q Went along? A Went up Central avenue.

Q And do you know who the man was? A No; I don't know who he was.

Q Was he Mr. Alberts that you afterwards saw? A No.

Q Now, when did you next see her? A March the 26th.

30 Q And how did you happen to be there on March the 26th? A I received a telephone call to come to Parkway and Central avenue; from Mr. Francisco.

Q And what time did you get to that address? A About 12 o'clock.

Q Midnight? A Yes, yes, midnight.

Q How long did you remain there? A Well, I think, about 1:50.

40 Q Yes. A And an automobile come up Central avenue and turned around and stopped in front of 189 Central avenue.

Charlotte Helbig, direct.

Q And who was in the automobile, if you know? A Mrs. Helbig got out with a man she was with, and Mrs. Davidson and the other man. There were four in the party.

Q What did they do, when they got out of the automobile? A They went up on the stoop.
10 Mrs. Helbig opened the door. They all went in the house.

Q And what was the condition of the house, at the time they went in? Was it light or dark? A It was in darkness.

Q And did you see any light, after that, in that house? A Yes.

Q About how long after they went in? A Oh, about a couple of minutes. We crossed the street right within a few feet of the house.

Q And what time was it that they— Oh, you said, about 1:50. A 1:50 that they came along.
20

Q And about what time— Strike it out, please. What did you all then do? A Well, first we went to the rear and then somebody lighted in the rear and then we went to the front and the front was lighted. Then we waited about, I should say, ten minutes, and all the lights went out.

Q Yes. A As far as I could see.
30

Q Where were you then standing? A On Central avenue.

Q In front of the house? A Near the alleyway.

Q And, after the lights went out, then what did you all do? A Then we went to the front door and found it locked, and one of the men broke the pane of glass.

Q Yes. A And opened the door. Then we all went upstairs together. Do you want the
40 names of who it was?

Charlotte Helbig, direct.

The Court: No.

Q Your party. A I think there were five of us, and we walked upstairs and it was in darkness and Mr. Corbally had a flashlight and they tried all the doors and they were all locked so he forced in the center door and that led into a
10 bedroom.

Q What did you see, when you got there? A I saw—we were all close together, but I was the last one in.

Q Yes. A And I saw Mrs. Davidson and a man sitting on the side of the bed, undressed.

Q Yes. Then what did you all do? A Then Mr. Corbally flashed the light into the front room. There was a large opening and no door—and I saw Mrs. Helbig with a towel in her hand and
20 Mr. Alberts, he had his coats off, but he had a vest on.

Q Yes? A I could see his shirt sleeves.

Q When you first saw Mrs. Helbig, where was she? A She was in the—in the front room.

Q In what part of the room? A Well, near the couch.

Q You didn't see her getting up from the couch? A No.

Q Now, you say, she had a towel in her hand?
30 A Yes.

Q And what did she do, as soon as you went in the room? A Well, she screamed, and then she came into the room that we had entered and threw the towel on the bed where Mrs. Davidson and the man were.

Q Yes. Then what did she do? A Well, about then Mr. Corbally picked up the towel and handed it to one of his men and she didn't want them to take the towel and she tried to get it
40

Charlotte Helbig, direct.

away and Mr. Corbally held her hand and Mr. Francisco got the towel and took it along as evidence. Then he asked Mr. Rinzler—Mr. Alberts his name, and he told him “Max Alberts of Harrison street, Passaic,” and he said, “Do you know who this woman is that you were with?”
 10 And he said, “Yes; she is Mrs. Helbig,” and he said that in the presence of Mr. Flarity and my nephew and myself and Mr. Corbally himself, the four of us, and—

Q Was Mrs. Helbig there? A Yes; she did not deny it.

Q And what else, if anything, was said? A And then he stepped in the bedroom and asked the other man his name, and he said his name was Samuel Rinzler of Passaic, New Jersey, and
 20 then I identified Mrs. Davidson.

Q You had known her previously?

The Court: Eighteen years.

Mr. Child: No. Mrs. Davidson.

The Court: Oh, Mrs. Davidson.

The Witness: Mrs. Davidson.

Q Yes. A And Mrs. Davidson was un-
 30 dressed. She had on stockings and underwear, and Mr. Rinzler had on underwear and no shoes, but stockings. They stood at the side of the bed, at that time. And just about that time they located the switch and turned on the switch, but before that they had been using their flashlights.

Q Now, what was Mrs. Helbig's condition, when you saw her, if you know? A Well, I would say, the way she raved and the way she abused and the language she used, that she was
 40 intoxicated, and I smelled it on her breath, be-

Charlotte Helbig, cross.

cause she came close to me and put her face into mine and abused me.

Q And did you hear her call Mr. Corbally any scurrilous names? A Yes, she called him—

Q Never mind what she called him. It is not necessary. A No.

Q Now, when, if any time, did Mrs. Lynne Helbig's son come into the room? 10

The Court: I don't—what is the use?

Mr. Child: In their affidavit they make certain allegations as to what this boy saw. That was all I was anticipating, but I don't suppose it is necessary.

The Court: (The Court nods no.)

Q And then— Oh, how was Mrs. Helbig
 20 dressed? A Why, she had on a gown. I can't say whether it was a dress or a house gown, but it was very flimsy and I don't know whether she had anything on under it or not, because women don't wear much nowadays. It is hard to tell.

The Court: Is that all?

Mr. Child: Cross examine. 30

Cross examination by Mr. Mulligan.

Q Miss Helbig, you engaged this detective agency in this matter, didn't you? A Yes; through my brother.

Q And you also testified in the divorce case that was brought here? A Yes.

Q Yes. And, when you got into the room, Mrs. Helbig had already risen from the couch and was standing up. 40

Lynne Helbig, direct.

The Court: That is what she said.

A Right close to the couch.

Q That is what you said? A That is what I said.

10 Mr. Child: William H. Helbig.

The Court: What is he? The same thing?

Mr. Child: The same thing. I merely make the offer so—I have the other detectives here.

The Court: No. I don't want to hear any more.

Mr. Child: All right.

The Court: Have you any witnesses?

20 Mr. Mulligan: Yes, your Honor please.

LYNNE HELBIG, sworn for the defendant.

Direct examination by Mr. Mulligan.

Q Mrs. Helbig, you are the petitioner in this case? A Yes.

30 Q And where do you live? A 189 Central avenue, East Orange.

Q And who lives with you there? A My son, Milton, Mrs. Davidson and her two sons.

Q How old is your son, Milton? A Fourteen years.

Q And how old are Mrs. Davidson's children? A Twelve and ten.

Q And have you any arrangement with Mrs. Davidson about this apartment? A Yes, sir; we rent it together; we pay expenses equally.

40

Lynne Helbig, direct.

Q On what side of Central avenue is that house? A On the southern side.

Q Is there any electric light? A Yes; it has a large arc light in front of the house.

Q Does that illuminate, or not, the second floor? A It does.

Q On this night in question were there any curtains drawn? A There were no curtains drawn.

10

Q What time did you leave that night? A We left our house about half-past nine.

Q And who was with you? A Mr. Alberts, Mrs. Davidson and Mr. Rinzler.

Q Where did you go? A We went out to the Colonial Inn at Singac. We lost our way on the way there.

Q You went in an automobile? A Yes.

20

Q And how long—when you left, who was in the house? A We left Milton and the two boys, Mrs. Davidson's two boys, in the house.

Q What time did you get to the Colonial Inn? A About 11 o'clock.

Q And what did you do there? A We danced and we had sandwiches.

Q And what time did you leave? A We left there about 1:00.

30

Q What time did you arrive at the apartment? A I should imagine, about ten minutes of two.

Q What was the temperature that night? A It was very cold; it had been snowing and it was very cold; coming home we were all of us very cold.

Q When you got to the apartment what was said? A I suggested they come in and have coffee because the boys had a long ride to Passaic after they left us.

40

Lynne Helbig, direct.

Q And then what happened? Who opened the door? A I opened the door; I went in; I switched on the lights, when I first went in. There is a switch at the foot of the stairs, and I switched that on as soon as I went in; and I went upstairs and opened my apartment door,
10 which led into my bedroom, which I have converted into a bedroom.

Q Then where did you go after you opened the door to your apartment? A I went into this dining room bedroom and turned on a light that is between the living room and this dining room bedroom. There was also a torch light burning on the radio, which I always leave burning when I go out.

Q Where was that torch light that you always
20 leave when you go out? A It stands on top of the radio next to the mantelpiece in the living room.

Q And where did you go after you went in the apartment? A And, as I went past Milton's room he called me; he said, "Is that you, mother?" I said, "Yes." I went in to him and kissed him and covered him up; and from there I went into the other bedroom and took my hat and overcoat off, and from there I went out-
30 side and down to the cellar to fix the furnace.

Q Down to the furnace? A Yes.

Q What stairway did you use to go to the cellar? A The back stairway.

Q What did you do in the cellar? A I put on coal, I put on two shovels of coal on the furnace, and I came on back upstairs and tried the door and turned on the light—I had lighted one below and one upstairs—and came into the kitchen and washed my hands, and Mrs. Davidson was in the kitchen when I entered it.
40

Lynne Helbig, direct.

Q Go a little more slowly. When you got in the kitchen, did you hear anything? A When I was only in the kitchen a few seconds, I heard a terrific crash of glass. I didn't know what it was and I ran—Mrs. Davidson and I ran to the front of the house.

Q Where was Mrs. Davidson at this time? A 10
In the kitchen.

Q Where did you both go? A We ran into this dining room bedroom. We stood there listening to see what was happening. We were only there a short while when the door was forced open.

Q Is that the door that was forced open? A Yes, that is the door that was forced open.

Q At the time it was forced open, where were you standing? A Directly in the passage-
20 way of the door.

Q In that room? A In that room.

Q Who was with you? A Mrs. Davidson and the two men were there.

Q When you went to the apartment, where did the two men go? A They went in the front and took their hats and coats off and put them over a big armchair that is there.

Q When these men came into the room, did they have flashlights? A Yes; the one flash
30 light in my face that practically blinded me, and one of the men had a big hammer, or something, in his hand.

Q Now, do you remember anything about a towel there? A Yes; I knew that the towel was hanging over the bed, and the men were there quite a while standing around, didn't know what to do, when Mr. Corbally noticed the towel on the bed and he said, "Look at this," and he handed it to one of his operators, and I took it
40

Lynne Helbig, direct.

out of his hand as I resented his taking my property.

Q Were you on the divan or couch in the front room? A I was not.

Q Did you see Mrs. Davidson at all that evening in bed with anybody? A I did not.

10 Q You did bring out your son, Milton? A My son, Milton, was standing in the door witnessing all this before I realized he was there. He spoke to me and I went to the door and brought him in the room.

Q At that time was Mr. Rinzler putting on his trousers, when the boy was there? A Mr. Rinzler had no trousers off.

Q Did you say to Mr. Corbally, "I knew you were after me, you big son-of-a-B?" A I did not, because I didn't know he was after me.

20 Q Were you intoxicated that night? A I was not intoxicated.

Q Did you commit adultery with this Mr. Alberts that evening? A I did not, and I never did.

Q After the party left, did anybody come in there from the house? A Mr. Thurston came down the stairs after all the others had gone. I was crying when they came down.

30 Q Where does he live? A He lives upstairs, in the three rooms upstairs.

Q Have you been friendly with Miss Charlotte Helbig, who testified in this case? A Miss Charlotte Helbig I have not seen very often, and, all during our married life, I think three times she was in my home.

Q Are you friendly with her? A I am not friendly with her and she is not friendly with me. She has done everything in her power to injure me, since I have been in the family.

40 Mr. Mulligan: Cross examine.

Lynne Helbig, cross.

Cross examination by Mr. Child.

Q When you heard the breaking of glass, where was your party? A When I heard the breaking of glass—

Q Yes. A —Mrs. Davidson and I were in the kitchen, and the two men, I imagine, were in the living room. 10

Q And, you say that Mrs. Davidson was not in dishabille or in any way partly unclothed? A She was not.

Q This was a cold night, was it? A Very cold.

Q Where was it that Mr. Rinzler had his vest off? A Well, I really didn't notice he had his vest off, until my attention was called to it.

Q Your attention was called to it that night? 20 A Yes.

Q And had your coffee on the stove? A Mrs. Davidson was preparing coffee.

Q So she was not in that bed at all? A She was not.

Q Now, when the living room door was broken into—was broken in, where were you all? A Well, it was not the living room door that was opened, it was the dining room.

Q I mean, the dining room was broken in. A 30 We were all there in the room, because we had heard this terrific crash of glass and we all stood there listening to what else was going to happen.

Q They next forced open the door of the bedroom? A That was very easy. Any man could force that by pushing it.

Q Where were you when the door was open? A Right straight in front of the bedroom door.

Q And Mrs. Davidson was there with you? A Was there with me. 40

Lynne Helbig, cross.

Q And these two men were there? A They were there.

Q Had you been drinking that night? A I had had one highball.

10 The Court: And there was no light in any room?

The Witness: There was a torch light in the living room had been burning all the time.

The Court: But no other light?

The Witness: But no other light.

Q Why hadn't you lighted the lights when you heard the crashing— A I had lighted—I had no time.

Q How long had you known this man Alberts?

20 A About two months.

Q How had you become acquainted with him?

A I met him through Mr. Rinzler.

Q Was he a frequent caller at your house?

A Not really a caller.

Q How frequent? A Maybe once a week, maybe less than that.

Q He knew you were a married woman? A He did.

Q And he took you out? A He did.

30 Q And he went in your house frequently? A He went in my house frequently; he knew I was practically divorced; at least, we considered it so.

Q And he came to your house frequently? A I should say, once a week.

Q And you would get back at 1 o'clock in the morning and go in that house with him? A Not always, no.

Q But frequently? A Not frequently, no.

40 Q How often? A Once or twice.

Lynne Helbig, cross.

Q And why would you go in with this man at 1 o'clock in the morning? A Well, there was four of us there and I didn't see any harm in it.

Q Why didn't you light the lights when you went in that house to prepare coffee? A I lit one floor lamp when I went in. 10

Q Why didn't you light the lights in the bedroom? A I did light that light when I went—that is the bedroom living room together, there is a lamp between the two rooms and there is a big arc light in front of the house which illumines the whole room.

Q If Mrs. Davidson was in the kitchen preparing coffee, why wasn't the kitchen lighted? A The kitchen was lighted.

Q It was? A Positively. 20

Q I thought you told us, from the time the crash came until the people came into your house, it was so soon you didn't have a chance to light the light? A I hadn't put the light out at all.

Q I thought you told us, on your direct examination here, that, from the time you heard the crash until the second story door was open, the time was so short that you didn't have any time to light the lights? A I thought you meant 30 the light in the bedroom dining room, that is the only light that had been put out.

Q Why was that put out? A I don't know; I don't know who put it out.

Q They were all lighted just before, when you went in, weren't they? A I light the one light myself, when I went in, and went to the cellar afterwards.

Mr. Child: That is all.

The Court: That is all, madam. 40

Max Alberts, direct.

MAX ALBERTS, sworn for the defendant.

Direct examination by Mr. Mulligan.

Q Mr. Alberts, on March 26, 1927, what time did you call at the house of Mrs. Helbig? A
10 About 9:30.

Q About 9:30. And where did you go then with her? A Upstairs— Oh, you mean, where did I go with her?

Q Yes. A Why, we went down to Singac.

Q Who was with you? A Mr. Rinzler, Mrs. Davidson and Mrs. Helbig.

Q How long did you—where did you go in Singac? A I forget the name of the Inn.

Q Well, how long did you stay there? A
20 About two hours, I should say.

Q And, then, what time did you get back to the apartment? A About ten minutes to two.

Q Why did you go in? A Why, because we were asked to come in by Mrs. Helbig; it was a cold night and she thought we ought to have some hot coffee before we continued home.

Q How far did you have to go? A About ten miles.

Q When you arrived at the house, who went
30 upstairs first? A Mrs. Helbig.

Q And you— A And we followed.

Q —followed? A Yes.

Q What room did you go into? A Why, I went into the room, that is, the living room, that is the first room in the house.

Q And, when you went in there, was the light lighted? A There was a light lit, what they call a torch light, and Mrs. Helbig put another light on, a floor lamp.

40 Q Then did she leave the room? A Yes, sir.

Max Alberts, direct.

Q And who was in the living room with you?
A Mr. Rinzler.

Q How long did you stay there before you heard a noise? A Oh, just a couple of minutes.

Q Where did Mrs. Helbig go? A She went
10 in the back of the room; she said she was on the way down to the furnace to put some fire on the furnace.

Q Where did Mrs. Davidson go? A She went in the kitchen.

Q Do you know what she went in for? A She said, to prepare coffee.

Q Did you take your coat off? A No, sir.

Q Did you take your overcoat off? A My overcoat, yes, sir.

The Court: What happened to the vest? 20

The Witness: I had my vest on all the while.

The Court: Have you—

Mr. Child: The other man was the vest—

The Court: Oh.

Mr. Child: There is no testimony this man's vest was off.

Q Did you see Mr. Rinzler leave the room? A 30
Yes, he says he had to go in the bathroom.

Q Did you see him go in the bathroom? A Yes; I did.

Q When did you hear the noise? A I heard the noise after we were in about ten minutes. I was in the living room practically myself when the noise happened, although Mr. Rinzler was on the way out from the bathroom. I said, "I wonder what that is?" and he said, "I don't know." Just then the women came. 40

Max Alberts, cross.

Q What did you do, when you heard the noise? A I didn't do anything; just waited to see what was going to happen.

Q Where did you go? A Right to the entrance of the apartment.

Q And where were you, when they broke in?
10 A I was standing right there.

Q Were you lying or sitting on a couch with Mrs. Helbig that night? A I was never near the couch.

Q Did you see Mrs. Davidson and Mr. Rinzler in any bed that night? A No, sir.

Q You knew Mrs. Helbig was married? A Yes, sir.

Q Did you know about her divorce? A Why,
20 I thought she had a divorce.

Mr. Mulligan: That is all.

Cross examination by Mr. Child.

Q Where did you hang your coat, when you went in that night? A Over an arm chair.

Q In what room? A In the living room.

Q And you had your inside coat on? A Yes,
30 sir.

Q And your vest on, did you? A Yes, sir.

Q And, you say, you were standing with Rinzler talking, when this crash came? A Not talking; just standing there, waiting to see what was going to happen next.

Q Well, you just stood there? A Yes, sir.

Q You and he together. The women were where? A They were all there, too.

Q In what room? A In the bedroom.

Q And where was Rinzler's coat? A Mr.
40 Rinzler had his coat and vest off, because, when

Max Alberts, cross.

he went to the bathroom, he came out a short while after and he laid the coat and vest on the chair and went back to the bathroom again.

Q In what room? A In what room?

Q Yes. A The coat and vest?

Q Yes. A In the bedroom.

Q Do you know why he did that? A He had
10 to go to the bathroom and I suppose he took his coat and vest off.

Q I see. And he was standing there in his shirt sleeves, was he? A Yes, sir.

Q And this was a cold night? A Yes, sir.

Q And you came in there because you wanted to get warm? A That is the idea.

Q How long had Rinzler had his coat and vest off? A Why, while he was in the bathroom.

Q Well, how long was that? A About a
20 minute or so, I guess, two minutes, I don't know.

Q How long was it after he came out of the bathroom that he stood there alongside of you in his shirt sleeves? A All the while the other gentlemen were in the room, and the ladies, while the whole raiding party was there.

Q Had you been to Mrs. Helbig's house before? A Yes, sir.

Q How frequently? A Why, not more than
30 once every week and several weeks I was not there at all.

Q And you stayed there until 12 and 1 o'clock at night, didn't you? A Stayed there; no.

Q You were in the house there from 1 o'clock or from 12 o'clock on, frequently, weren't you?
A No, sir.

Q What time would you go there to get Mrs. Helbig? A Why, we came down there after I got through work. I worked until 8:30. We would come there 9 o'clock and go to the movies
40 and then go home again.

Max Alberts, cross.

Q Every time you went with her, you went back in her house, didn't you? A Not every time.

Q How frequently? A I was in the house on two other occasions.

Q What time of the night was that? A I don't know exactly what time.

Q It was after 12 o'clock, wasn't it? A Once I think it was.

Q Once it was after 1 o'clock, wasn't it? A Maybe it was.

Q What were you doing around there? A What do you mean "doing around there"?

Q Why were you visiting Mrs. Helbig? A Why, Mr. Rinzler came up there to get Mrs. Davidson to go out with him and he didn't have a car and he asked me to accompany him and I could see no harm in it. He introduced me to Mrs. Helbig and she was, well, rather pleasant company and I didn't mind spending an evening with her.

Q Are you fond of her? A Why, no, just a friend.

Q Well, you saw her about once a week for how many months? A About once a week for how many months?

Q Yes. A I wouldn't say once a week for so many months, but I have been with her about four or five times.

Q Are you married? A No, sir.

Q How old are you? A Twenty-six.

Mr. Child: I guess that is all.

The Court: That is all.

Mr. Mulligan: Mr. Rinzler.

Samuel Rinzler, direct.

SAMUEL RINZLER, sworn for the defendant.

Direct examination by Mr. Mulligan.

Q Mr. Rinzler, you went out in the automobile with this party and returned to Central avenue at what time? A About ten minutes of two, I believe.

Q Yes. And your friend in the party was Mrs. Davidson? A Mrs. Davidson is correct.

Q Now, just tell what happened when you got to the apartment on the return. A When we got to the apartment?

Q Yes. A When I got in the apartment, I remember, we took our hats and coats off and Mrs. Helbig first went into a bedroom, I noticed, and Mrs. Davidson went in the rear of the apartment and Mrs. Helbig said she was going down and fix the furnace, and I remained with Mr. Alberts in the living room. Then, a couple of minutes later, I had to go to the bathroom and I went to the bathroom and, as I went in there, I took my coat and vest off and had no place to hang it there, no chair to put it on, so I came out and I lied it down on the chair in the living room, right next to the bathroom.

Q Where, with respect to the bathroom, is the bedroom? A Oh, it is right next to it.

Q And is that where you left your coat and hat? A Yes, sir.

Q I mean, your coat and vest. A My coat and vest.

Q And why didn't you hang it in the bathroom? A There was no hook there; there was no chair there, or anything.

Q What happened there, after that? A I went in the bathroom a few minutes, four or five

Samuel Rinzler, direct.

minutes, probably, and I was just getting ready to come out and I heard a crash, a very noisy crash, and I came running out. Mr. Alberts and me wondered what it was. Just then the women came from the rear of the apartment, too, and we stood there waiting at the door wondering
10 what the trouble was. We didn't know where the noise was coming.

Q Was that the second door that was forced open? A Yes. I was at the second door. We were waiting there.

Q When it was forced open, where were the four of you? A We were all standing together.

Q Was there any light in that living room? A There was a torch lamp.

Q Had there been a larger light before? A
20 There had been, yes.

Q Do you know who put that out? A I don't remember; either Mr. Alberts or myself; I can't recollect who; one of us put the light out, I remember.

Q After you put the light out, was the room illuminated by anything else except that light? A There was always a big light from the arc light there.

Q What arc light? A The arc light out in
30 front of the house. That is probably why we put that light out.

Q Were the curtains drawn? A No; they were just halfway.

Q When the detective came in, you told him who you were, did you? A He asked me, yes, and I told him and then he grasped my coat that was lying on the chair and he took my wallet out and looked at the license on my wallet.

Q Were you in the bed with Mrs. Davidson at
40 all that night? A Never; never at any time.

Samuel Rinzler, cross.

Q Did you see Mrs. Helbig on the couch with Mr. Alberts that night? A No.

Mr. Mulligan: That is all.

Cross examination by Mr. Child.

Q How many times had you been to the
10 house? A Why, I can't remember; I have been there quite a lot.

Q For how many months? A Oh, I have been there for about three months, maybe four.

Q And when did you first bring Mr. Alberts there? A Mr. Alberts, I believe, about two months ago.

Q And after that you and he went there quite regularly, didn't you? A Well, about once
20 a week; sometimes we would miss a week.

Q And you and he took Mrs. Davidson and Mrs. Helbig out on parties, didn't you, around to different theatres and one place and another? A Yes; we went to the movies.

Q And, after you would drive back to the house there, you and Alberts would go in the house and stay there for quite some time, wouldn't you, before you went home? A Well,
30 never for any long period, no.

Q About half an hour or so? A About half an hour, yes, sir.

Q Why would you do that? A Well, just to converse; we had coffee there several times and sandwiches sometimes, when we came from the movies.

Q Now, did you take off your coat before you went to the bathroom? A You mean this—my regular coat or my overcoat?

Q Your inside coat and vest? A No.

40

Samuel Rinzler, cross.

Q Did you take it off before you went to the bathroom? A I did not.

Q How many trips did you make to the bathroom? A Twice, two trips.

Q And why did you return from the bathroom to the bedroom or living room, whatever it was you returned to, the first time? A I didn't have
10 any place to hang my coat and vest.

Q I see. How long did you have your coat and vest off, Mr. Rinzler? A Well, from the time I took it off, I had it off during the whole raiding party, until they had left.

Q Cold night? A Yes; it was cold outside.

Q You went in there to get coffee because you were cold; is that right? A Right.

Q You were not very cold when you would take your coat and vest off and stand around there? A Well, it is not very cold in the house.
20

Q Now, how old are you? A Twenty-seven.

Q You say you never had your trousers off? A No; I never had my trousers off.

Q That night? A That night.

Q In that house? A In that house.

Q And you did not beg Inspector Corbally not to take them away? A I never did, no.

Q You deny absolutely that you were never in the bed with that woman or lying on the bed with her? A I deny that.
30

Q Was she fully clothed? A She was.

Q Why did you put the light out? A Well, I will tell you: I don't remember that I did put it out. I said, I or Mr. Alberts.

Q All right. Why was the light put out? A Well, probably because there was enough light there; the arc light always shone in there.

Q Was it your habit to put the lights out when you went in that house to visit? A Well,
40

Richard D. Thurston, direct.

it was not a habit; sometimes when I thought there was enough light I did put it out, before that.

Q Uh huh. That is all.

The Court: That is all.

Mr. Mulligan: Mr. Thurston. 10

The Court: What is this man going to testify to?

Mr. Mulligan: This man—

The Court: He came down after it was all over.

Mr. Mulligan: No, no; he saw the party breaking in and he will testify to what he saw when they were breaking in.

The Court: All right. 20

Mr. Mulligan: I will make it short.

The Court: Well, if it is important, you must have it, of course.

RICHARD D. THURSTON, sworn for the defendant.

Direct examination by Mr. Mulligan. 30

Q Where do you live, Mr. Thurston? A I live on the third floor of 189 Central avenue, East Orange.

Q On this night in question, where were you at 2 o'clock in the morning? A Sleeping.

Q And Mrs. Thurston was there with you? A She was.

Q And were you awakened? A I was.

Q What caused you to be awakened? A Well, an awful crash of glass. 40

Richard D. Thurston, direct.

Q What did you do when you heard that crash of glass? A I went down to investigate, partially.

Q And where did you go? A I went down four flights of stairs.

10 Q Four steps you mean? A Four steps, yes.

Q And from your position on the stairs what did you see? A Well, I could see in this dining room which is converted into a bedroom and I saw four or five men there. I saw one of them using a light. At that instant I heard the door crash.

20 Q When, with respect to the breaking in of that apartment door—where were you when that was broken in? A I was peeking around it, the end of the banister.

Q You were peeking over the banister? A Yes.

Q And did you see what was in the room when the door was forced open? A I did.

Q Did you see the bed? A I did.

Q Did you see anybody in the bed? A I did not.

Q Was there anybody there?

30 The Court: Well—

Mr. Mulligan: All right.

The Court: That won't do.

Q I meant, could you see if there was anybody in the bed? A I could.

Q Did you see Mrs. Helbig there? A I did.

Q And who was with her? A Four of them.

40 Q And where were they standing, when the door was broken open? A Right in front of the door.

Richard D. Thurston, cross.

Q Now, was there anybody standing with you?

A My wife.

Q Upstairs? A My wife was in back of me.

Q In what condition was the bed that you saw in front of you? A Just the same as it is ordinarily. It was not mussed or wrinkled or anything. 10

Q Did you see any man or woman in that room there that was not fully clothed? A I did not.

Q Did you talk to Mrs. Helbig afterwards? A I did.

Q How long after the men left? A About ten minutes.

Q And you stayed about ten minutes? A No; about five minutes.

Q In what condition was she? A Hysterical and nervous. 20

Q Did you notice any liquor on her breath? A Very little.

Q Was she under the influence of liquor? A Not in the least.

Mr. Mulligan: That is all.

Cross examination by Mr. Child.

30 Q What first attracted your attention to this raid? A The crashing of glass.

Q You were in bed at the time? A I was.

Q You were asleep? A I was.

Q And how long after the first crashing did you hear the second crash? A Less than a minute.

Q And did you get out of bed and down the stairs and listen a minute? A Not all the way down the stairs. 40

Richard D. Thurston, cross.

Q Did you get down out of your room sufficiently far to see down these stairs what was going on in less than a minute from being waked out of a sound sleep? A Just about.

Q How were you dressed? A Underclothes.

Q Have a bath gown on, wrapper? A No.

10 Q And just describe those steps that you came down so that you could see in this room?

A Well, we have got like an elbow, left-hand turn, there is four steps and there is a platform there.

Q Yes? A When I usually come in, I throw my overcoat over the banister. I have no hat rack.

Q Yes. A When I heard these men coming upstairs and the noise, naturally—

20 Q Yes. A —a man in his own home wonders what it is about. I look there and I see the lights on this door, getting raided.

Q Yes. A Well, they were just going through the door.

Q Now, which way does that door open? Does it open to the north or does it open to the south, the door of the bedroom? A It opens towards the north.

30 Q And which side of the door does the bed stand on? A A little to the left.

Q To the north of the door or south of the door? A To the south of the door.

Q And how close is the door to the wall of the living room, the entrance door? A The entrance to the living room?

Q Yes. A That is about four or five feet.

Q Four or five feet. And is this a single or a double bed? A A double bed.

40 Q And how high above the second floor was this landing you stood on? A I should imagine, eight or nine feet.

Richard D. Thurston, cross.

Q The platform of the landing? A About seven feet.

Q And by standing on there you could see down one flight of steps and see all that went on and where they were in that room, could you? A Most everything that went on in that room.

10 Q Now, as a matter of fact, doesn't that door open to the south, the door of that living room, or, the bedroom? A I can't say.

Q No. Now, in your affidavit you made in this case, you say, "I heard a number of men coming up the stairs from the street entrance and heard them break open the door which leads into the bedroom, which was formerly the dining room." Now, then, according to that affidavit, you didn't get there until after the door was broken and didn't see the breaking? A I was 20 there at the instant the door let go.

Q Why was it that you said you heard them break the door when the fact was that you saw them break it?

The Court: He might have heard it and seen it both.

Q Or put them both in. A (No answer.)

Mr. Child: That is all. 30

Mr. Mulligan: Mrs. Thurston—

The Court: Is this the same thing over?

Mr. Mulligan: The same thing.

The Court: I don't want to hear it.

Mr. Mulligan: Mrs. Davidson.

Pearl Davidson, direct.

PEARL DAVIDSON, sworn for the defendant.

Direct examination by Mr. Mulligan.

Q Mrs. Davidson, you live with Mrs. Helbig at Central avenue? A I do.

10 Q With your two children? A Yes, sir.

Q And you paid half of the expenses? A Yes, sir.

Q On this night in question, did you leave with this party and go to the Colonial Inn? A I did.

Q And you returned at what time? A About 2 o'clock.

20 Q Tell what happened, when you went up to the apartment door, after you went into the apartment. A Why, Mrs. Helbig and I went to the rear and removed our hats and coats. The fellows went in the front and removed their overcoats and hats and Mrs. Helbig went to the cellar to attend to the fire and I was preparing coffee and Mrs. Helbig returned. We were in the kitchen and we heard this awful noise. We both rushed to the front where the fellows were standing and then the door broke open.

30 Q Now, when the door was broken open, where were you and Mrs. Helbig standing? A Standing right in front of the door.

Q And where were the two men, Mr. Alberts and Mr. Rinzler? A They were there also.

Q And where had they been, if you know? A Well, I think Mr. Alberts remained in the front but Mr. Rinzler had been in the bathroom, so he explained after.

The Court: How do you know that?

40 The Witness: He explained later that that is why he—

Milton Helbig, direct.

The Court: He told you?

The Witness: Yes.

Q Was Mr. Rinzler ever in bed with you that night? A Positively not.

10 Q And what light was there shining in this—in the living room that night? A There was a torch burning on the radio and the arc light in front illuminates the rooms, so we didn't even need the light.

Q What torch light is that, what size bulb is it? A It is about a 25-watt bulb, I should imagine.

Mr. Mulligan: I think that is all. Cross examine.

The Court: Any cross? 20

Mr. Child: No, sir.

The Court: That is all.

Mr. Mulligan: Milton Helbig.

The Court: What do you expect to prove by this boy?

Mr. Mulligan: This boy was the one that it was testified came out and brought the mother out and what he saw.

30

MILTON HELBIG, sworn for the defendant.

Direct examination by Mr. Mulligan.

Q Milton, you remember your mother coming back that night? A Yes, sir.

40 Q And, when she came in, what happened? What did she say to you? A Well, she came upstairs, passed my room and I was awake and I

Milton Helbig, direct.

said, "Hello, mother." She came into my room and fixed the covers on my bed and kissed me good night, as she always does.

Q And do you know where she went then? A She went to the rear of the house.

Q Did you hear any noise that night? A
10 Yes, I did.

Q What noise was it? A Crashing of glass.

Q What did you do when you heard the noise? A I got up and put my bathrobe on; first, I was up in bed and then put my bathrobe on.

Q Did you see these men break in? A I didn't see them break into the room, but I got up and saw them right after they broke in.

Q Yes. And, at the time they broke in the room, did you see the bed, this bed? A Yes, I
20 did. My door was partly open.

Q Was there anything in the bed? A There was no one in the bed.

Q Afterwards, your mother brought you out, didn't she? A No. I spoke to her and she noticed me and brought me out.

Q And you saw the crowd there? A I saw the crowd.

Q And did you see Mr. Rinzler? A I saw Mr. Rinzler.

Q Do you know him? A I know him.
30

Q Was he fully dressed? A All but his coat and vest, which he had taken off.

Q Did he have his trousers on? A He did.

Q Did he put them on in your presence? A No.

Q Did you know where Mr. Alberts and Mr. Rinzler were sitting that night, before the crash came?

The Court: No, he does not.

40 Mr. Child: How could he?

Oral Conclusions of Vice-Chancellor.

A Well, I don't know.

Mr. Child: No cross examination.

The Court: That is all, sir. Well, is that all?

Mr. Mulligan: Your Honor please, there is the other boy, who will testify to the same thing. 10

The Court: There is no use in repetition. This is not—it is not a decree for divorce. This is a motion to vacate a decree *nisi*, and the testimony in support of such an intervening motion is not governed by the same strict rules as possibly might apply to a case for divorce on the ground of adultery. But a decree *nisi* means that a decree of divorce will be granted within six months—
20 as it used to be—provided nothing arises in the meantime which might prevent such a decree from operating.

It seems to me, that this performance at 2 o'clock in the morning is such an incident as will fully justify me in advising a decree vacating the decree *nisi*, but, of course, that does not in any way signify that the Vice-Chancellor to whom the new divorce case is referred, if one is brought, will decide that adultery has been actually proven. 30

All I have to do is to say that, in my opinion, the evidence amply justifies me in vacating the decree *nisi*, which I will do.

Mr. Mulligan: I don't have to ask any exception, your Honor please?

The Court: No. You can appeal, if you want to. 40

Order Vacating Decree Nisi, etc.

**ORDER VACATING DECREE NISI AND
DISMISSING PETITION.**

IN CHANCERY OF NEW JERSEY.

10	<p><i>Between</i></p> <p>LYNNE A. HELBIG,</p> <p style="text-align: right;"><i>Petitioner,</i></p> <p style="text-align: center;"><i>and</i></p> <p>LOUIS HELBIG,</p> <p style="text-align: right;"><i>Defendant.</i></p>	<p><i>On Petition for Divorce.</i></p> <p><i>Order Vacat- ing Decree Nisi and Dismissing Petition.</i></p>
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20 WHEREAS, by a decree *nisi* bearing date September 30, 1926, and entered in this cause on October 6, 1926, it was ordered, adjudged and decreed, that the above-named defendant had been guilty of wilful, continued and obstinate desertion of the above-named petitioner for the term of two years, as alleged in the petition, and whereby it was ordered, adjudged and decreed that the above-named petitioner and the above-named defendant be divorced from the bonds of matrimony for the cause of desertion, and that the above-named petitioner and defendant be freed and discharged from the obligations thereof, unless sufficient cause be shown to the Court within

30 six months from the date of such decree why such decree should not be made absolute; and afterwards on the 29th day of March, 1927, the above-named defendant filed a petition of intervention showing cause why the said decree *nisi* should not be made absolute and praying that an order might be made in this cause dismissing the petitioner's petition, alleging in said petition

40 of intervention that the said petitioner had com-

Order Vacating Decree Nisi, etc.

mitted adultery with one Max Alberts at 189 Central avenue, East Orange, New Jersey, on March 27, 1927; and an order to show cause having been made in this cause on the 29th day of March, 1927, directing the said petitioner, Lynne A. Helbig, to show cause before this Court on the 12th day of April, 1927, at the hour of 10 o'clock in the forenoon at the Chancery Chambers in the City of Newark, N. J., why the decree *nisi* for divorce made on September 30, 1926, and filed in this cause on October 6, 1926, should not be rescinded, set aside and for nothing holden, and why the said petitioner's petition for divorce should not be dismissed, and a copy of said order having been duly served upon the petitioner, and the hearing on said order having been continued from the 12th day of April, 1927, until the 9th day of May, 1927, at the hour of 10 o'clock in the forenoon at the Chancery Chambers in the City of Newark, N. J., and the matter having come on to be heard on said last mentioned date in the presence of George D. Mulligan of Mulligan & Koenig, of counsel with the petitioner, and Francis Child, of Child and Shipman, of counsel with the defendant, upon the petition of intervention filed by the said defendant and oral proofs taken in open court upon said intervention, and the Court having duly considered the allegations set out in said petition of intervention and said oral proofs, and being satisfied that the above-named petitioner since the making of the decree *nisi* in this cause and on the 27th day of March, 1927, committed adultery with one Max Alberts, and that said act of adultery has not been condoned;

It is thereupon, on this 23rd day of May, 1927, by his Honor, Edwin Robert Walker, Chancellor

Order Vacating Decree Nisi, etc.

of the State of New Jersey, ordered, adjudged and decreed, that the decree *nisi* bearing date September 30, 1926, and entered in this cause on October 6, 1926, be and the same is wholly rescinded, set aside and made null and void, and that the petition of the said Lynne A. Helbig, petitioner, be and the same is hereby dismissed. This order shall apply to the present suit only.

E. R. WALKER,
C.

Respectfully advised,

ALONZO CHURCH,
V.-C.

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Notice of Appeal.

NOTICE OF APPEAL.

IN CHANCERY OF NEW JERSEY.

<p><i>Between</i></p> <p>LYNNE A. HELBIG, <i>Petitioner,</i></p> <p style="text-align: center;"><i>and</i></p> <p>LOUIS HELBIG, <i>Defendant.</i></p>	}	<p><i>On Petition for Divorce.</i></p> <p><i>Notice of Appeal.</i></p>	<p>10</p> <p>20</p>
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LYNNE A. HELBIG, the above-named petitioner, hereby appeals from the order made and filed in this cause on May 23, 1927, vacating the decree *nisi* and dismissing the petition and from every part thereof, to the Court of Errors and Appeals in the last resort in all causes.

MULLIGAN & KOENIG,
Solicitors for and of Counsel
with Petitioner.

Dated: June 20, 1927.

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

GEORGE D. MULLIGAN,
Of Counsel with Petitioner.

Service of the within notice is hereby acknowledged this 21st day of June, 1927. Child & Shipman, Solicitors for and of Counsel with Defendant.

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Petition of Appeal.

PETITION OF APPEAL.

New Jersey Court of Errors and Appeals

10	<i>Between</i> LYNNE A. HELBIG, <div style="text-align: right; padding-right: 20px;"><i>Appellant,</i></div> <div style="text-align: center; padding: 5px 0;"><i>and</i></div> LOUIS HELBIG, <div style="text-align: right; padding-right: 20px;"><i>Respondent.</i></div>	}	<i>On Appeal from Chancery.</i> <i>Petition of Appeal.</i>
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To the Honorable, the Court of Errors and Appeals in the last resort in all causes:

20 The petition of Lynne A. Helbig, appellant, respectfully shows that your petitioner finds herself aggrieved by an order made in the Court of Chancery by his Honor, Edwin Robert Walker, Chancellor of the State of New Jersey, on the 23rd day of May, 1927, in that the said order recites and adjudges that the appellant, since the making of the decree *nisi* in the above cause, and on the 27th day of March, 1927, committed adultery with one Max Alberts, and doth decree that the said decree *nisi* be wholly rescinded, set aside and made null and void, and that the petition of

30 the said Lynne A. Helbig be dismissed; and your petitioner appeals from the said order and from every part thereof upon the ground that the same is erroneous for that the said Chancellor should have recited and adjudged that your petitioner was not guilty of adultery, and should have dismissed the petition of the respondent to vacate the decree *nisi*.

40

Petition of Appeal.

Your petitioner therefore prays that the said order may be reversed, rescinded and for nothing holden, and that your petitioner may have such further relief as shall be meet.

MULLIGAN & KOENIG,
Solicitors for and of Counsel
with Appellant. 10

Service of within petition of appeal is hereby acknowledged this 1st day of July, A. D., 1927. Child & Shipman, Solicitors of Respondent.

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Answer to Petition of Appeal.

ANSWER TO PETITION OF APPEAL.

**NEW JERSEY COURT OF ERRORS
AND APPEALS.**

10	<i>Between</i> LYNNE A. HELBIG, <i>Petitioner-Appellant,</i> <i>and</i> LOUIS HELBIG, <i>Defendant-Appellee.</i>	}	<i>On Appeal from Court of Chancery.</i> <i>Answer to Petition of Appeal.</i>
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The answer of Louis Helbig, the above-named appellee, to the petition of appeal of Lynne A. Helbig, the above-named appellant:

This appellee, not admitting the truth of all or any of the matters in the said petition of appeal contained, for answer thereto, nevertheless, admits that an order was on the 23rd day of May, 1927, made and entered in the Court of Chancery of New Jersey in the above-entitled cause, for the purposes in said petition mentioned and as therein set forth; but as to the form and substance of said decree this appellee begs leave to refer thereto when the same shall be produced.

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

CHILD & SHIPMAN,
Solicitors for Appellee.

FRANCIS CHILD,
Of Counsel with Appellee.

New Jersey Court of Errors and Appeals

<i>Between</i> LYNNE A. HELBIG, <i>Petitioner-Appellant,</i> <i>and</i> LOUIS HELBIG, <i>Defendant-Respondent.</i>	}	<i>On Petition for Divorce.</i> <i>On Appeal from Court of Chancery.</i>
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BRIEF FOR PETITIONER-APPELLANT.

Facts.

This appeal is taken from an order of the Court of Chancery vacating a decree nisi of divorce and dismissing the petition for divorce.

A petition for divorce was filed by the wife, Lynne A. Helbig, for the cause of desertion, and on September 30, 1926, after a hearing before Vice-Chancellor Church, she was awarded a decree nisi of divorce. On March 29, 1927, one day before the decree nisi would in due course have been made absolute, the defendant filed a petition of intervention, alleging that the petitioner had committed adultery on March 27, 1927 (two days previously) with one Max Alberts at No. 189 Central avenue, East Orange, New Jersey.

An order to show cause was made directing the petitioner, Lynne A. Helbig, show cause why the decree nisi should not be vacated and the petition for divorce be dismissed. On May 9, 1927, the matter was heard before Vice-Chancellor Church on oral proofs taken in open court upon said petition of intervention, and on May 23, 1927, an order was made that because of the adultery of the petitioner as charged, the decree

nisi be wholly vacated and set aside, and the petition for divorce be dismissed. This appeal is taken from that order of the Court of Chancery.

ARGUMENT.

It is respectfully submitted that:

The evidence was insufficient to justify a finding that adultery had been committed.

The charge of adultery in a suit for divorce operates strongly in the nature of a criminal proceeding and must be proved beyond a reasonable doubt.

Johnson v. Johnson, 4 N. J. Adv. Rep. 359.

To the same general effect are:

Gray v. Gray, 135 Atl. 54;

Marchese v. Marchese, 98 N. J. Eq. 379, 129 Atl. 131;

Luderitz v. Luderitz, 88 N. J. Eq. 103, 102 Atl. 661;

Hurtzig v. Hurtzig, 44 N. J. Eq. 392;

Culver v. Culver, 11 Stew. Eq. 163;

Brown v. Brown, 63 N. J. Eq. 348;

Farrow v. Farrow, 70 N. J. Eq. 777;

Smith v. Smith, 91 N. J. Eq. 154;

Sargent v. Sargent, 114 Atl. 428, affirmed by the Court of Errors, 114 Atl. Rep. 439;

Grundy v. Grundy, 92 N. J. Eq. 687;

Letts v. Letts, 79 N. J. Eq. 630, 82 Atl. 845;

Torrens v. Torrens, 94 N. J. Eq. 480.

The apartment where the adultery was alleged to have been committed was occupied as a home by the petitioner and her fourteen-year-old son, and by Mrs. Pearl Davidson (her co-lessee) and her two sons, twelve and fourteen years of age.

The only witnesses who testified for the defendant, the husband, were Charlotte Helbig (his

sister) and two professional detectives, Stephen Flarity and Thomas J. Corbally. In direct denial of their evidence of guilt in every particular, the petitioner offered the following seven "eye-witnesses": The petitioner herself, Pearl Davidson (co-lessee of the apartment), Milton Helbig, Max Alberts, Samuel Rinzler, Irwin Davidson, Helen Thurston and Richard Thurston.

There was no direct testimony in the case to prove the commission of adultery by the petitioner. The testimony offered on this subject was entirely circumstantial in character and utterly improbable and unconvincing.

The following extracts of testimony copied from the printed case contain the defendant's strongest and most favorable evidence:

STEPHEN FLARITY, direct (Case, p. 28, ll. 10-40, and p. 29, ll. 1-10).

Q Then what did you do? A We circled around with our flashlights; Miss Helbig and another man were on the couch in the front room. They were getting up. Miss Helbig had a towel in her hand and she started to do something.

Q When you say "Miss" you mean Mrs. Helbig? Mrs. Helbig.

Q And she started to do something, you say? A To do something.

Q What did she say? A She didn't say anything at first, because she was excited and she seemed to be under the influence of liquor. She started to curse and swear and demand to know by what right we went in there, and we told her by what right we went in there.

Q How was the man that was getting up off the couch attired? A He had his top coat and overcoat off.

Q You mean his ordinary coat and his vest off; is that right? A No; I mean his top coat.

The Court: Overcoat.

Q Overcoat? A Light top coat and his overcoat.

Q Where was his regular coat? A His regular coat was off. I say, he had both coats off.

Q Allright. I understood you to say his top coat was off. A And his other coat.

Q And was his vest on or off? A His vest was on.

Q Eh? A His vest was on, but opened.

Q But opened. Now, what happened—

The Court: Well, how was Mrs.—

Q How was Mrs. Helbig dressed? A Mrs. Helbig was dressed.

Q Now, what happened? A She had her coat off. She was out, she had taken her coat and hat off, but she had a dress on.

STEPHEN FLARITY, cross (Case, p. 37, ll. 1-30).

Q Just what do you mean getting off the couch? Go into detail. A She was like in a sitting position, getting up.

Q Yes. And you say— A She had a towel in her hand, coming out to our room.

Q You saw her rising from the couch? A Yes, sir.

Q Where she was in a sitting position? A Yes, sir.

Q And she was fully dressed? A Well, she had her dress on.

Q Yes. Well, there was not anything missing that you could discern? A I say, she had taken her hat and coat off. I saw her first with her hat and coat on.

Q Then you also saw the man that was sitting there with her rise up, also? A I saw him getting up; yes, sir.

Q You didn't see either one of them lying on the couch, did you? A I did not.

Q This couch was an ordinary davenport, wasn't it? A Something like that.

Q And no bedclothes or anything like that on it? A No.

Q No sheet, no covering at all? A No, no.

THOMAS J. CORBALLY, direct (Case, p. 41, ll. 35-40, and p. 42, ll. 1-15).

A I turned the flashlight on the front room, and, as I did, people that was identified after as Mrs. Helbig and Mr. Alberts, they got off—he got off the couch.

The Court: Were they lying down when you saw them?

The Witness: Lying down, and they were getting up.

The Court: Were they getting up from a reclining position or sitting position?

The Witness: Well, he was nearly to the head and she was near to me, so I couldn't say, your Honor, whether they were lying down or not; they were getting up as I got there. Her hands were on the couch and he was more on the couch than what she was.

THOMAS J. CORBALLY, cross (Case, p. 45, ll. 38-40).

Q You say Mrs. Helbig was fully dressed when she was arising from the couch? A At least, as far as I know.

CHARLOTTE HELBIG, direct (Case, p. 49, ll. 24-29).

Q When you first saw Mrs. Helbig where was she? A She was in the—in the front room.

Q In what part of the room? A Well, near the couch.

Q You didn't see her getting up from the couch? A No.

Analysis of this testimony results in nothing more than statements by two detectives that they saw Mrs. Helbig and Mr. Alberts arising from a sitting position to a standing position, from a davenport. The whole case hangs on their testimony, as Charlotte Helbig did not appear until

after the said parties were in a standing position (Case, p. 49, ll. 1-29). The law requires more convincing testimony than the above to convict a wife of adultery beyond a reasonable doubt.

This case is not to be considered as falling within that class of cases of which *Sturm v. Sturm*, 137 Atl. 892, recently decided, is an example.

It does not depend on the credibility of the witnesses, where the position of the Vice-Chancellor made him better able to judge of their veracity. In the instant case there was no testimony even conceding the veracity of the witnesses which warranted the Vice-Chancellor in finding that the charge of adultery against the wife had been established, and this Court ought, therefore, feel warranted in reversing the order on all the testimony in the record.

There was no evidence given to show that a chemical analysis of the towel offered tended in any way to substantiate or corroborate the charge of adultery.

It is most significant that although the detectives watched the house for a month, from February 26 to March 27, 1927 (Case, p. 24, ll. 3-25) they did not observe anything sufficiently suspicious to warrant their breaking open the door and raiding the house until 2:00 A. M. on the morning of March 27th. On March 30th, the final decree would in due course have become absolute, and these paid, professional evidence seekers were hard pressed for time to discover some evidence of guilt to prevent this final decree from being entered.

Having no other tangible evidence of suspicion except that a light in the front room of the apartment was extinguished, although it was tes-

tified there was a small light burning in the room and a street arc light illuminated the apartment (Case, p. 53, ll. 1-15, and p. 58, ll. 8-11), these operatives smashed two doors leading into the house and the door of the upstairs apartment and invaded the petitioner's private home. After they had ventured upon this hazardous and illegal raid they had to try to justify their conduct, and it is only natural to find all their testimony colored to show that they found good reason for the breaking and entering of the premises.

It should be borne in mind in reading the evidence in the case that the testimony offered by the detectives which would indicate any guilt whatever was particularly limited to evidence that Mrs. Davidson and Mr. Rinzler were found in a compromising situation, but when that testimony is taken out of the case and the record is examined for evidence of adultery on the part of Mrs. Helbig, the charge will appear to be without any foundation.

The testimony of paid detectives should be closely scrutinized and unless strongly corroborated is insufficient to establish adultery.

Rupp v. Rupp, 126 Atl. 162;
Sturm v. Sturm, 135 Atl. 775.

The evidence of professional detectives, spies and the like, employed for money to discover evidence, while not rejected as unworthy of credence, is examined with the utmost caution and subjected to the strongest tests.

Biddle on Divorce, p. 64 (b), citing
Kane v. Kane, 39 N. J. Eq. 148;
Hurtzig v. Hurtzig, 44 N. J. Eq. 329,
and other cases.

Charlotte Helbig's managing interest in her brother's affairs, her bitter prejudice and bias towards the petitioner are clearly shown in the testimony (Case, p. 56, ll. 32-40, and p. 51, ll. 20-35).

Imprudence, indiscretion or folly is not sufficient evidence of guilt of adultery.

The case is wholly barren of evidence to indicate an inclination of the accused parties towards an illicit relation. There was no evidence whatever of lewdness or immorality or criminal desire on the part of the petitioner or her alleged *particeps criminis*.

The reason for Max Alberts' presence in the apartment and his friendly interest in Mrs. Helbig is explained in the following extracts from the testimony:

MAX ALBERTS, cross (Case, p. 64, ll. 14-35).

Q What were you doing around there?

A What do you mean "doing around there?"

Q Why were you visiting Mrs. Helbig?

A Why, Mr. Rinzler came up there to get Mrs. Davidson to go out with him and he didn't have a car and he asked me to accompany him, and I could see no harm in it. He introduced me to Mrs. Helbig and she was, well, rather pleasant company, and I didn't mind spending an evening with her.

Q Are you fond of her? A Why, no, just a friend.

Q Well, you saw her about once a week for how many months? A About once a week for how many months?

Q Yes. A I wouldn't say once a week for so many months, but I have been with her about four or five times.

Q Are you married? A No, sir.

Q How old are you? A Twenty-six.

SAMUEL RINZLER, cross (Case, p. 67, ll. 22-37).

Q And you and he (Max Alberts) took Mrs. Davidson and Mrs. Helbig out on parties, didn't you, around to different theatres and one place and other? A Yes, we went to the movies.

Q And after you would drive back to the house there, you and Alberts would go in the house and stay there for quite some time, wouldn't you, before you went home? A Well, never for any long period, no.

Q About half an hour or so? A About half an hour, yes, sir.

Q Why would you do that? A Well, just to converse; we had coffee several times and sandwiches sometimes, when we came from the movies.

LYNNE HELBIG, direct (Case, p. 53, ll. 12-40).

Q What time did you leave that night?

A We left our house about half-past nine.

Q And who was with you? A Mr. Alberts, Mrs. Davidson and Mr. Rinzler.

Q Where did you go? A We went out to the Colonial Inn at Singac. We lost our way on the way there.

Q You went in an automobile? A Yes.

Q And how long—when you left, who was in the house? A We left Milton and the two boys, Mrs. Davidson's two boys, in the house.

Q What time did you get to the Colonial Inn? A About 11:00 o'clock.

Q And what did you do there? A We danced and we had sandwiches.

Q And what time did you leave? A We left there about 1:00.

Q What time did you arrive at the apartment? A I should imagine about ten minutes of two.

Q What was the temperature that night? A It was very cold; it had been snowing and it was very cold; coming home we were all of us very cold.

Q When you got to the apartment what was said? A I suggested they come in and have coffee because the boys had a long ride to Passaic after they left us.

None of the usual *indicia* of inclination towards guilt were present in this case. There were no letters containing strong expressions of attachment, no clandestine correspondence; no evidence that the parties involved were not of good character.

In the case of *Grundy v. Grundy*, 92 N. J. Eq. 687, there was no proof by any direct evidence of an adulterous act and the Court of Errors and Appeals said:

“A careful examination of the proofs submitted leads us to the conclusion that this decree cannot be supported. There was no direct evidence of an adulterous act committed by the defendant with either of the alleged correspondents. We find nothing in the proofs which justifies the conclusion that prior to the commission of the alleged acts of infidelity the defendant had any affection for either one of the correspondents, or that her earlier association with either the one or the other was suggestive of impropriety. In this situation of the proofs, the most that can be said of her conduct upon the two occasions which are made the basis of the charges against her is that it was indiscreet and ill advised.”

Chancellor Green, in the frequently-quoted case of *Berckmans v. Berckmans*, 16 N. J. Eq. 122, 140, said:

“Mere imprudence, indiscretion or folly is not conclusive evidence of guilt. The mind of the Court must be satisfied that there was an intimacy between the parties entirely inconsistent with the duty which a virtuous wife owes to herself and to her husband. The facts proven must be such as cannot be reconciled with the probability of the innocence

of the parties * * * In order to prove adultery by circumstantial evidence, two points are to be established: The opportunity for the crime and the will to commit it. Where both are established, the Court will infer the guilt.”

The fact that the decree nisi of divorce was awarded to the petitioner in this divorce suit proves that she was the innocent party. The husband, who is now complaining here, was there judicially declared guilty of actual desertion of the petitioner and their son. They were justifiably living separate and apart from the defendant at the time of this outrageous raid of their home.

For the reasons above given, we respectfully submit that the order should be reversed and a final decree of divorce be entered with costs to the petitioner.

MULLIGAN & KOENIG,
Solicitors for and of Counsel with
Lynne Helbig, Petitioner-Appellant.

GEORGE D. MULLIGAN,
Of Counsel.

Arthur W. Cross, Law Printer, 55-57 Lafayette Street, Newark, N. J.

New Jersey Court of Errors and Appeals

Between

LYNNE A. HELBIG,
Petitioner-Appellant,

and

LOUIS HELBIG,
Defendant-Respondent.

*On Petition
for Divorce.*

*On Appeal
from Court
of Chancery.*

BRIEF OF DEFENDANT-RESPONDENT.

Facts.

This is an appeal from the order vacating the decree *nisi* for divorce obtained by the appellant against Louis Helbig, the defendant, on the ground of desertion. The facts stated in the appellant's brief are correct.

ARGUMENT.

Under the decisions of this State, relative to the granting of divorces for the cause of adultery, it is incumbent upon the person alleging such adultery to prove two elements, namely: 1. Inclination; 2. Opportunity; and upon proof of these two elements, a *prima facie* case is established. The above statement of law is so well established, that it is unnecessary to make any extensive citation of cases: *Berckmans v. Berckmans*, 16 N. J. Eq. 122; 2 Bishop on Marriage and Divorce, Sec. 619; and this brief will be confined almost entirely to a discussion of facts which, it is contended, entirely justified the Vice-Chancellor in dismissing the petitioner's petition in this cause and in finding her guilty of the adultery charged.

Both of these necessary elements, that is, inclination and opportunity, are clearly shown in the testimony taken on the application.

Inclination.

Inclination may be shown where a guilty love is shown to exist, as where the parties manifest an unwarrantable affection for each other and seek frequent opportunities to be together alone, and when surprised in their seclusion, appear confused and disturbed. *Culver v. Culver*, 38 N. J. Eq. 163, at 165.

The only question before this Court is whether the Vice-Chancellor had sufficient evidence before him to justify his decision that the petitioner-appellant had been guilty of adultery. The question as to the weight of evidence, or, more properly, the credibility to be given to the evidence produced, was a question for the Vice-Chancellor to determine, and he determined that the testimony of Stephen Flarity, Thomas J. Corbally, both of whom were detectives, and Charlotte Helbig, who was not a detective, but the sister of the defendant-respondent, was true. If this testimony is to be believed, then there is no question as to the petitioner's inclination to commit the crime of adultery. Stephen Flarity testified as follows:

“Q Yes. And who was Mrs. Lynne Helbig with, if anyone, the nights that you saw her? A A woman who lives in her house and two men.

Q On how many occasions did you see her with this lady and these two men? A Three or four times and I also saw them go out separately one night. Both went out with different men and different cars.

Q What time would Mrs. Helbig return, if you know? A The earliest she returned

was the night that she went out alone with a fellow in a Ford coupe. It was twenty minutes to one. The other occasions, it was around half-past one, between half-past one and two o'clock (Case, p. 24).

Q Now, did you see her on the night of March 26th? A I did.

Q 1927? A I did.

Q And where did you see her that night?

A I saw her come out of the house.

Q At what time? A Nine o'clock.

Q Who was with her, if anyone? A She was with two men and the woman who lives with her.

Q Do you know the woman's name? A Davidson, Pearl Davidson.

Q And had you seen these same two men with Mrs. Helbig and Mrs. Davidson before?

A Yes, I had.

Q How many times? A Three or four.

Q When Mrs. Lynne Helbig and Mrs. Davidson left the house, where did they go and how did they go? A On which night?

Q On the night, the 26th of March? A They went down Central avenue and over Hawthorne avenue.

Q And from there, where? A I didn't follow them from there.

Q How did they go? A By automobile, an Essex coach, P9207.

Q And what time did they return? A At about, I should say, ten minutes to two in the morning, Sunday morning, March 27th.

Q And who was in the party that returned to the house that night? A The two men and two women (Case, p. 25).

Q And what did they do when they got out of the automobile? A Well, Mrs. Helbig got out first and opened the door of the house and the man who was seated alongside of her in the front of the car, he followed and after he got on the stoop the other man and woman got out of the car and they went in the house (Case, pp. 25 and 26).

Q Now, did you observe anything about the house as soon as they went in? A The house was in darkness and then the lights were turned on.

* * * * *

Q Now, how long did the house remain lighted, the second floor? A I should say about five minutes after they went upstairs. The lights went out about two o'clock.

Q About two o'clock? And then what did you do? A We waited until about quarter after two and we could not see any lights in the place so we went in (Case, p. 26).

Q How did you get in the house? A We forced two doors, both locked.

* * * * *

Q After you had forced the outside door, what did you do? A I ran upstairs and tried the doors there. There were three doors and they were locked.

Q On the second floor? A On the second floor.

Q Then what happened; what did you do then? A The door leading into the bedroom was forced open and we saw a man and a woman on the bed. The man was attired in his B. V. D.'s and the woman had on a pink shirt and stockings, that is all. * * *

Q What room was that? A That was the bedroom.

Q That was the first room you went into? A The first room I went into.

Q Who was that couple? A That was a fellow named Samuel Rinzler of Passaic and Pearl Davidson.

Q No, please, was Pearl Davidson the lady who left with Mrs. Helbig? A She is the lady.

Q Now, when you entered that bedroom, was it light or dark in there? A Total darkness. There was no light on the floor in the house.

Q How did you come to see these two people on the bed, as I understand you? A We had flashlights (Case, p. 27).

Q And from that room, where did you go? A Well, that room opens onto a front room and there is no doorway between. It is a wide opening there. I should say about eight feet, maybe seven.

Q Then what did you do? A We circled around with our flashlights. Miss Helbig and the other man were on the couch in the front room. They were getting up. Miss Helbig had a towel in her hand and she started to do something.

Q When you say Miss, you mean Mrs. Helbig? A Mrs. Helbig.

Q And she started to do something, you say? A To do something.

Q What did she say? A She didn't say anything at first, because she was excited and seemed to be under the influence of liquor. She started to curse and swear and demand to know by what right we were in there. And we told her by what right we were in there.

Q How was the man that was getting up off the couch attired? A He had his top coat and under coat off. * * *

Q And was his vest on or off? A His vest was on.

Q Eh? A His vest was on, but opened" (Case, p. 28).

The testimony of Thomas J. Corbally is substantially the same as that of Flarity, and is fully corroborated by the testimony of Miss Charlotte Helbig, who was also present. There is ample evidence which, if believed, shows that the petitioner-appellant was on the couch at quarter after two o'clock in the morning with a man, not her husband. That she had in her hand a towel. That in the room opening from the room in which the petitioner-appellant was and having no door there was another couple, Mrs. Davidson and Rinzler, in bed; Mrs. Davidson with substantially no clothing on and Rinzler in his underwear.

There is no question but what Mrs. Lynne Helbig and Max Alberts had been frequently, before the night in question, in each other's society late at night in Mrs. Helbig's house. This is admitted by the witnesses called by Mrs. Lynne Helbig. The testimony of Max Alberts, at page 63, is as follows:

“Q Had you been to Mrs. Helbig's house before? A Yes, sir.

Q How frequently? A Why, not more than once every week and several weeks I wasn't there at all.

Q And you stayed there until twelve and one o'clock at night, didn't you? A Stayed there, no.

Q Every time you went with her you went back in her house, didn't you? A Not every time.

Q How frequently? A I was in the house on two other occasions.

Q What time of night was that? A I don't know exactly what time.

Q It was after twelve o'clock, wasn't it? A Once I think it was.

Q Once it was after one o'clock, wasn't it? A Maybe it was.

Q What were you doing around there? A What do you mean, doing around there?

Q Why, were you visiting Mrs. Helbig? A Why, Mr. Rinzler came up there to get Mrs. Davidson to go out with him and he didn't have a car, and he asked me to accompany him and I couldn't see no harm in it. He introduced me to Mrs. Helbig and she was, well, rather pleasant company and I didn't mind spending an evening with her.

Q Are you fond of her? A Why, no; just a friend.

Q Well, you saw her about once a week for how many months? A About once a week for how many months?

Q Yes. A I wouldn't say once a week for so many months, but I have been with her about four or five times.

Q Are you married? A No, sir.

Q How old are you? A Twenty-six”
(Case, p. 64).

The testimony of Samuel Rinzler under cross examination, is as follows (Case, p. 67):

“Q How many times had you been to the house? A Why, I cannot remember; I have been there quite a lot.

Q For how many months? A Oh, I have been there for about three months, maybe four.

Q And when did you first bring Mr. Alberts there? A Mr. Alberts, I believe about two months ago.

Q And after that you and he went there quite regularly, didn't you? A About once a week; sometimes we would miss a week.”

It is contended that the above testimony shows conclusively that the petitioner-appellant was guilty of adultery with Alberts on the morning of March 27, 1927. That the fact that a married woman was in an unlighted room with a man other than her husband at quarter after two in the morning, either lying or seated on a couch with him, and in the room connected with that room and having no door shutting it off, there was a man clad in his underclothes in bed with a naked woman, conclusively shows that the petitioner-appellant in permitting such conduct to take place in her house had inclination herself to commit adultery, and ample opportunity to gratify such inclination.

In the case of *Berckmans*, 16 N. J. Eq. 122, the Court held, “To establish the existence of adultery, the circumstances must be such as would lead the guarded discretion of a reasonable and just man to that conclusion. It must not be a rash and intemperate judgment, moving upon appearances that are equally capable of two interpretations.”

It is respectfully contended that the evidence in this case sustains the burden laid upon this defendant-respondent by the doctrine laid down in the *Berckmans* case, that the circumstances shown by the evidence in this case are incapable of any other interpretation than that leading to a conclusion that the petitioner-appellant has been guilty of adultery with Alberts.

It is respectfully insisted that the order of the Court of Chancery vacating the decree *nisi* obtained by the petitioner-appellant and dismissing her petition should be sustained.

CHILD & SHIPMAN,
Solicitors for Defendant-Respondent.

FRANCIS CHILD
Of Counsel.