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Petition.

In Chancery of New Jersey.

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

The petition of Emil Pozzi of 49 Clinton Avenue, West Hoboken, in the County of Hudson and State of New Jersey, respectfully shows: 10

1. Your petitioner was lawfully joined in the bonds of matrimony to his present wife, Emma G. Pozzi, on the twenty-eighth day of September, nineteen hundred and twelve by Rev. Calvin W. Laufer, Pastor of the First Presbyterian Church of West Hoboken, State of New Jersey, at West Hoboken, County of Hudson and State of New Jersey. 20

2. Petitioner on the twenty-eighth day of October, nineteen hundred and twelve made complaint to Frederick Vollmer, the regularly appointed Recorder of the Town of West Hoboken, in the County of Hudson and State of New Jersey that his wife, Emma G. Pozzi, the defendant herein had deserted him and refused to live with him; subpœna was then issued out of that Court for the defendant and her mother, Mrs. Cornelia Wells; that on the twenty-ninth day of October, nineteen hundred and twelve the said Emil Pozzi, the petitioner herein and Emma G. Pozzi, his wife, appeared in Court the Recorder using his utmost endeavors to have Mrs. Pozzi return to her husband, but she refused to have anything to do with him. 30

3. Petitioner and defendant have never cohabited after their said marriage, the said defendant refusing so to do. The petitioner since has made frequent requests that the defendant live with him 40

and he has furnished a home for her but she has refused and for more than two years last past has wilfully, continuedly and obstinately deserted your petitioner.

10 4. Petitioner was a *bona fide* resident of this State, having his permanent home at 102 Palisade Avenue, in the Town of West Hoboken, County of Hudson, when this cause of action arose as aforesaid, and has ever since and for more than two years next preceding the commencement of this action, continued to be such resident, residing successively at 102 Palisade Avenue, and 49 Clinton Avenue, both in the Town of West Hoboken, County of Hudson, at which latter place he resided since November first, nineteen hundred and twelve.

20 5. No children were born of the marriage aforesaid and same has never been consummated.

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

And your petitioner will ever pray, etc.

BENEDICT A. P. LOEWY,
Solicitor of Petitioner.

30

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

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

40

EMIL POZZI.

Sworn to and subscribed before me }
this 23rd day of January, A. D. 1915. }

William F. Huneke,
Attorney at Law,
State of New Jersey.

Answer and Cross Petition.
IN CHANCERY OF NEW JERSEY.

| | |
|--|--|
| <p style="text-align: center;">EMIL POZZI, Petitioner, and EMMA G. POZZI, Defendant.</p> | <p style="font-size: 4em; line-height: 1;">}</p> |
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The answer of Emma G. Pozzi, defendant, to the petition of Emil Pozzi, petitioner.

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

20

2. This defendant denies that she deserted the petitioner in the month of October, 1912, and she denies that ever since that time, and for more than two years next preceding the commencement of this action she has wilfully, continuedly and obstinately deserted the petitioner; but on the contrary defendant says that the petitioner deserted this defendant in manner particularly stated in the succeeding part of this answer which is in the nature of a cross petition.

30

3. This defendant denies the allegations contained in paragraph 3 of petitioner's petition.

And this defendant by way of cross petition exhibited against the petitioner, says:

1. Defendant cohabited with petitioner for about a month after her marriage when petitioner deserted this defendant, ever since which time and for more than two years last past said petitioner has wilfully, continuedly and obstinately deserted this defendant.

40

2. Petitioners have been bona fide residents of the State of New Jersey for the period stated in petitioner's petition.

3. Defendant's maiden name was Emma G. Wells.

10 4. Defendant prays that the marriage between this defendant (as cross-petitioner) and the petitioner (as defendant to said cross-petition) may be dissolved for the cause aforesaid, according to the statute in such case made and provided; and that the petitioner may be compelled by the decree of this Honorable Court to support her; and that she may be permitted to resume the use of her maiden name; and that she may have such further relief as may be just.

And this defendant will ever pray, etc.

20

EMMA G. POZZI,
Defendant.
JAMES C. AGNEW,
Solicitor for Defendant.

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

30 Emma G. Pozzi, being duly sworn, according to law, upon her oath, deposes and says: That she is the cross-petitioner named in the foregoing cross petition; and that her cross-petition is not made by any collusion between her and the defendant therein; but in truth and good faith for the causes set forth in said cross-petition.

EMMA G. POZZI.

Sworn and subscribed to before me }
this 18th day of February, 1915. }

**Jurat, Replication and Answer to Cross
Petition.**

IN CHANCERY OF NEW JERSEY.

| | | | |
|--|---|---|----|
| <p style="text-align: center;">EMIL POZZI, Petitioner, and EMMA G. POZZI, Defendant.</p> | } | <p>Replication and Answer to Cross- Petition.</p> | 10 |
|--|---|---|----|

The petitioner joins issue on as much of the defendant's answer as is not in the nature of a cross-bill, and as to that part of said answer which is in the nature of a cross-bill, he says:

1. The petitioner denies the allegations contained in Paragraph One of defendant's cross-petition. 20

2. The petitioner admits that both parties to this action have been *bona fide* residents of the State of New Jersey for the period stated in the petitioner's petition.

3. The petitioner admits that the defendant's maiden name was Emma G. Wells. 30

Your petitioner, therefore, prays that he may be granted such relief as may be equitable according to the statute in such case made and provided, and that he may have such further relief as may be just.

And your petitioner will ever pray, etc.

BENEDICT A. P. LOEWY,
Solicitor of Petitioner. 40

Decree Nisi.

IN CHANCERY OF NEW JERSEY.

| | | | |
|----|--|---|------------------------------|
| 10 | Between <div style="text-align: center; padding: 5px 0 5px 40px;"> EMIL POZZI, Petitioner, and EMMA G. POZZI, Defendant. </div> | } | On Petition. Decree Nisi. |
|----|--|---|------------------------------|

This cause coming on to be heard before the
 Honorable John Griffin, one of the Vice-Chan-
 cellors of this Court, pursuant to the reference made
 to him, in the presence of Benedict A. P. Loewy, of
 20 counsel with petitioner, and of James C. Agnew,
 of counsel with the defendant, whereupon, and up-
 on duly considering the petition of petitioner and
 answer of the defendant, and the evidence offered to
 sustain the allegations thereof, it now satisfactorily
 appears to the Chancellor that the petitioner and
 the defendant were lawfully married on the twenty-
 eighth day of September, one thousand nine hun-
 dred and twelve, and that the defendant has been
 30 guilty of willful, continued and obstinate deser-
 tion of the said petitioner for the term of two years
 next before the filing of the petition, and that both
 petitioner and defendant were bona fide residents
 of this State when the cause of action arose, and
 ever since, and for more than two years next pre-
 ceding the commencement of this action, have been
 such residents; and that the defendant was person-
 ally served with process within this State.

40 It is thereupon, on this day of October,
 A. D. nineteen hundred and fifteen, by his honor
 Edwin R. 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 Act of the Legislature in such case made, and provided, doth hereby order, adjudge and decree that the said petitioner, Emil Pozzi, and the said defendant, Emma G. Pozzi, be divorced from the bonds of matrimony for the cause aforesaid, and the marriage between the said petitioner and the said defendant is hereby dissolved accordingly, and the said parties, and each of them, are and is hereby freed and discharged from the obligations thereof.

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Memorandum.

IN CHANCERY OF NEW JERSEY.

| | | |
|--|---|-------------|
| Between EMIL POZZI, Petitioner, and EMMA G. POZZI, Defendant. | } | Memorandum. |
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20

APPEARANCES :

30

For the Petitioner, B. A. P. LOEWY, Esquire.

For the Defendant, JAMES C. AGNEW, Esquire.

Submitted Oct. 7. 1915; decided Oct. 8, 1915.

GRIFFIN, V. C. :

The petitioner seeks a divorce from his wife on the ground of desertion.

40

Prior to the marriage petitioner boarded in the family of defendant's mother. The family consisted of the mother, her daughters and a son. Petitioner occupied the back parlor, and defendant a room on the floor above.

10 On September 28th, 1912, the marriage was solemnized by Pastor Laufer of the First Presbyterian Church of West Hoboken. This change in status does not appear to have changed their mode of living; he continued to occupy the back parlor and she the room above.

The petitioner offered to pay the mother for his wife's board \$4.00 a week, being the amount he was paying for his own. This the mother refused, with a clear indication that she did not want her daughter to have anything to do with him.

20 About three weeks after the marriage Lily Wells, a sister of the defendant, seized the petitioner by the coat and pushed him out, telling him to stay out. This is corroborated by Joseph Galli, and was denied by Lillian only on cross examination.

30 On October 28th, 1912, the petitioner had Recorder Vollmer of West Hoboken summon the defendant and her mother to appear before him. The Recorder heard their statements and gave them sound advice, questioned the petitioner as to the causes of her refusal to live with her husband, and she told him she had "particular reasons of her own why she would not live with her husband," but refused to disclose them.

40 Thus failing to secure her return, he visited Pastor Laufer on October 29th, 1912, to enlist his good offices. The Pastor visited the home of the defendant the next day, but did not see her. He next called on Recorder Vollmer to get the facts and advise with him. They concluded, as he puts it, that it would be "best to let matters run their

course." In the meantime the petitioner called on him several times.

In the Spring of 1913, the defendant called to see the Pastor and asked him if he could get the petitioner to see her. He asked her if they had ever lived together, and she said no; and also if they lived together as man and wife, and she said no. He asked her if the petitioner had been willing, or expressed a desire to provide a home, and whether he had rented rooms; she admitted that he had. He never brought them together in his presence.

10

The petitioner rented rooms, and offered to rent rooms several times, and asked the defendant to rent rooms; and in one instance where he rented rooms in agreement with the defendant, he scrubbed the floors, gave her money to buy furniture, and she bought it, and after it was installed refused to take up housekeeping there, compelling him to give up the rooms and place the furniture in storage.

20

Defendant visited the petitioner at various places where he resided, and upon being asked to come to him she was in the habit of saying "You make me sick talking about living together," and frequently said, "Why don't you say that you won't live with me."

After their marriage the petitioner says that neither occupied the same room, nor had they sexual intercourse. This is denied by the defendant, who offered her sister, Lillian, to prove their occupancy of the petitioner's room (the back parlor) after the marriage; but defendant and petitioner are not in accord as to the time. The defendant, prior to her marriage, did not occupy the same room with Lillian; but shared it with another sister who was not called to testify.

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Although there were other sisters, a brother and

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her mother comprising the family, who could testify as to the room the parties occupied, and also the conditions in the household, and his removal, none except Lillian was called to support the defendant's statements.

10 The evidence clearly demonstrates that down to the filing of the petition in this cause the petitioner was anxious and willing to live with his wife; whereas, it is perfectly clear that the defendant had no intention of assuming marital relations with the petitioner.

It is difficult to perceive wherein the petitioner did not do everything that could be reasonably expected from a just man bent upon procuring his wife's return.

A decree will be advised for the petitioner.

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Minutes of Final Hearing.

IN CHANCERY OF NEW JERSEY.

Before—Hon. JOHN GRIFFIN, Vice-Chancellor.

Between

EMIL POZZI,

Petitioner,

and

EMMA G. POZZI,

Defendant.

On Bill for
Divorce.

10

APPEARANCES:

Mr. LOEWY for the Petitioner.

Mr. AGNEW for the Defendant.

20

Chancery Chambers, Jersey City, N. J.,
September 14, 1915.

The case for the petitioner.

EMIL POZZI, sworn.

Direct examination by Mr. Loewy:

Q. Where do you live? A. I live at 116 Hawkshurst Avenue, Weehawken.

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Q. Have you changed your residence since you filed your petition? A. Yes, sir.

Q. When were you married? A. 28th of September, 1912, Saturday evening.

Q. And by whom? A. By Rev. C. W. Laufer.

Q. Of where? A. Of West Hoboken; I don't know the street.

Q. After you were married you and your wife went to live at what place? A. Went to her mother's home—Mrs. Wells.

40

Q. You went to live with Mrs. Pozzi's mother?

A. Yes, sir.

Q. How long did you live there? A. Lived there for about a month.

Q. What happened then—why did you change your residence? A. Well, trouble was going on in the house all that month; I wasn't to live there, and they didn't want me there.

10

The Vice-Chancellor: State what was said and done.

Q. In what way was trouble going on? What do you mean? What was said and done to cause the trouble? A. Well, they didn't want me to have my wife, and they wanted me to get out; the mother didn't allow me to have anything to do with my wife, wanted me to have nothing to do with her at all. They said I would have to look for rooms somewhere else.

20

Q. Any reasons given? A. No, no reasons given; I had to get out, that is all there was to it.

By the Vice-Chancellor:

Q. Well, she told you she wanted you to look for other rooms? A. She told me to go out and look for other rooms to live in.

30

By Mr. Loewy:

Q. And to take your wife with you? A. I said, "Can I have my wife?" She said, "No, you can't have her; you have to go alone."

Q. Well, who said this? A. My mother-in-law.

Q. At the time you stayed there a month what happened at the conclusion of this month? A. Why, my wife says to me, "You had better go; my mother told me to tell you you had better go and look for rooms," and she says, "I will come later; you go and pack the clothes and things, and I will

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come later; I will have to kind of sneak out so my mother must not know it."

Q. Did you go out peaceably? A. I went out peaceably, yes.

By the Vice-Chancellor:

Q. What did you say to her when she said that?

A. To my wife?

Q. Yes. A. I said, "Will you be sure to come, because I want you to come, or I will stay here." She says, "No, I will come within a few days." I said, "When can I come up to see you?" your Honor, and she says, "Well, I will come down to see you." I then found rooms at 102 Palisade Avenue.

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By Mr. Loewy:

Q. When you left was there a quarrel of any kind? A. No, when I left it was on Saturday night; everything was quiet; I got out; nothing was said. I seen my wife there. She says, "Now, I will be around to see you."

20

Q. Did you go back there? A. When I got around to Palisade Avenue, 102, I did not see my wife, I didn't see any signs of her, and so I called one Sunday night, called there and knocked at the door for my wife; I said, "How do you do, Mrs. Wells," I said, "could I see my wife, please?" She said "No, you can't see her; no, you can't"; and I says, "Mrs. Wells, that is my wife; you got married the same way as I did; now, why do you do that?" "Well, you can't have her; get out of here," and closed the door.

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Q. She put you out, then, is that it? A. Yes. I called four times since that.

Q. About what time was this? A. Eight o'clock Sunday evening.

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Q. I mean what part of the year; when was it? A. Oh, that was about October.

Q. What did you do then? A. Then I went across the street, and I seen an officer there; I says "How do you do, Officer", I says, "I have a wife across the street, and they don't seem to let me have her in any way when I call". "Well", he says, "the only thing for you to do, my boy, is to go up to Vollmer; he is the only man who can do anything for you."

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Q. Who is Vollmer? A. Acting Recorder of West Hoboken.

Q. Did you do that? A. I went up on Monday morning; I went up to him, to the Recorder, and asked him to help me. He says "What is your trouble?" "Well," I says, "I married a woman on the 28th day of September, 1912, and she doesn't want to come, she doesn't want a home; they don't want me there and don't want to see me; they want me to keep away, and I don't know what to do."

20

Q. What did he do? A. "Well," he says, "I will have your mother-in-law and your wife subpoenaed here, and you come here tomorrow night, Tuesday night."

Q. Well, on Tuesday night did you go there? A. I called.

Q. Was your wife there? A. My wife was there with a few friends and a few relations.

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Q. Was your mother-in-law there? A. My mother-in-law was there.

Q. What happened? A. I was sitting on the front seat, and my mother-in-law and my wife was calling me down.

By the Vice-Chancellor:

Q. That means nothing; what did your wife say, and what did your mother-in-law say? A. She says, "Now, just because you went as far as this," she says, "you will only get the worst of it; you won't be any better off."

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By Mr. Loewy:

Q. What I mean is, what happened before the Judge? A. The Judge tried the case, called me to the stand, and asked me my troubles. I told him that I was married, so-and-so, on the 28th of September, and wanted to make a home for her, and I didn't know what to do, I couldn't get her. He says, "What have you to say to that?"

10

Q. To whom—Mrs. Pozzi? A. To Mrs. Pozzi—"Well, Mrs. Pozzi, what do you have to say to that?" She stands up and looks at her mother, as though not to say too much, and she says, "I don't want to live with that man; I don't want to live with him."

Q. Did she say that in open court? A. In open court. Then I says, "Well, your Honor, she has never lived with me." He said, "Well, I can't do anything more for you, Mr. Pozzi; I can't force her; the law don't say I can force her. I will dismiss the case. Just a minute," he says, "just a minute, Mrs. Pozzi, just a minute; now, Mrs. Pozzi, don't you call upon this Court for any non-support at any time in the future, because it will be refused." She looks at the Recorder and says, "Well, I don't ask for any and I don't want any."

20

Q. Where did you go after that? A. Well, I went out of the court, and I thought "Who would I go to," I had nobody, and I thought of Pastor Laufer, the minister who married us, and called at his home and rang the bell. He said, "How do you do, Mr. Pozzi, how do you do?" I said, "How do you do, Pastor?" He says, "What is the matter with you?" I says, "My wife has left me; can you help me in any way so I can get my wife, or anything?" He says, "Come in; that is too bad," he says, "well, I didn't think that;" well, he says, "Sit down a minute and wait until you get rested, and I will see what I can do for you." I sat down

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a few minutes. The Pastor says, "Now, you tell me what happened." I told the Pastor what happened to me. "Well," he says, "the only thing I can do for you, Mr. Pozzi (I will do the best I can) I will go and see Recorder Vollmer tomorrow morning, or whenever I can get in touch with him; I will call him up; and then I will call to see your wife."

10

Q. Where were you living at this time, Mr. Pozzi? A. I was living at 102 Palisade Avenue.

By the Vice-Chancellor:

Q. Right there: What did your apartments consist of at 102 Palisade Avenue? Just describe what apartments you had there. A. I had a furnished room.

20

By Mr. Loewy:

Q. Well, did you ever have any apartments at all where your wife could come and live with you? A. Well, now, that week—on Thursday or Wednesday of that week, my wife calls around with a newspaper, rang the bell and came in the house, and says, "Look what you went and done. My mother is awful mad, my mother is awful mad." "Well," I says, "Gussie, I can't help it. Lord, I didn't bring it about; I tried to get you in every way; you say your mother won't let you come; that is the only way I could have helped you." Well, my wife then got around me and says, "Let us go to live together now." Well, being my wife, I wanted to live with her and try to make a home for her.

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By the Vice-Chancellor:

Q. She said, "Let us make up and live together?"

40

A. Yes, she says, "Make up."

Q. What did you say? A. I says, "All right; what do you want to do?" I says, "Now, Gussie,

you know I can't lose time in the office or I will get fired; will you go around and look for rooms?" She said, "All right," so she did.

By Mr. Loewy:

Q. Did you pay her anything? A. She went down and got the rooms, and I paid the rent for the month.

Q. What rooms? A. 517 Savoy Street.

10

Q. Describe that apartment? A. Five rooms and a bath.

Q. Five rooms and a bath—are you sure of that? A. Yes, five rooms and a bath.

Q. Was any attempt made to furnish the apartment? A. Yes; she comes around the next day and says, "Emil I got the rooms," I says, "That's good, now we will get the furniture." "Well, where will we go to get furniture?" She says, "I know Baumann, he has good stuff, and I will go down there." My wife goes down and gets the things that are necessary and comes down to my home in the evening, and says, "Well, I have got the furniture," and I says "All right;" "Now," she says, "I want the money," and I gave her \$120, and she handed me the receipt for the furniture, which I hold to-day.

20

By the Vice-Chancellor:

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Q. Well, what day was that? A. Well, I couldn't remember the date, sir; it was November, sometime in November, very close in the beginning of the month of November; it was right after the trial of the case.

By Mr. Loewy:

Q. I show you a receipt—is that the receipt she handed you when you paid the money? A. Yes.

40

Q. That was November 19, 1912? A. Well, November. I was just saying the year I could not remember.

Q. Now, the apartment was furnished? A. Yes, Baumann moved the furniture from the store to the house, and I called around that evening to see if it was there, and it was there, and I let my wife know that it was there and asked when she could come up; well, she said she didn't know, she would let me know when she could go up there. Well, I went up on Sunday and scrubbed the floors myself; I couldn't afford to pay a woman, I scrubbed them myself; and I got all the carpets fixed down, and I had my brother go up and help me; and it was all furnished; and there comes Monday, and I had to go to work, I couldn't see my wife, I couldn't lose no time, and I came home that evening and went up and asked the lady was my wife here; no, my wife wasn't there, no signs of her.

Q. Was this the following day? A. Yes—one day after the other it happened; there was no time lost.

Q. All right. How long did you maintain the apartments at 517 Savoy Street? A. It was rented for a half a month; that is all there was of the month when we got it.

By the Vice-Chancellor:

Q. You mean to the 1st of December? A. Yes. It was on Thanksgiving Eve, I was told that it did not seem, the woman wanted to come; and at the same time—

Q. Who told you that? A. The lady in the house.

Q. Did you make attempts in the meantime to get Mrs. Pozzi to come there and live with you? A. Well, my wife sends a note to me and says "Meet me up to Mrs. Webber's tonight." I wanted to see my wife and I go to Mrs. Webber's.

Q. Where is the note? A. Well, I couldn't save the note as I wasn't looking for trouble of any kind; I didn't expect to save notes; I didn't save the note.

Q. What time was it when you received the note?

A. Well, it was about half-past six I got home from work. A little boy calls for me.

Q. What month? A. It was then in November.

By Mr. Loewy:

Q. Nineteen hundred and what? A. 1912.

By the Vice-Chancellor:

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Q. Before or after Thanksgiving? A. Before Thanksgiving, the week before Thanksgiving, when she sent for me, as I remember; and I went to Mrs. Webber, and Mrs. Webber tried all she could to get my wife to come, but it seems that company came that was some relation to my wife's mother in some way or another, and my wife was afraid that her mother might know she was meeting me in this place, and they suggested my taking a walk.

20

Q. Taking a walk with whom? A. With my wife. Well, I didn't want to start any trouble; it was not my home; and I says "Well, we will walk around," and I got my wife, and we took a walk. I says, "Let us go down to the rooms." She says, "No, I won't go down." I says, "Come on, let's go down?" "I won't go down." So we took a walk towards the Plank Road, and walked around and came back to Mrs. Webber's again, and the party had gone that they didn't care to let know that I was there, and Mrs. Webber tried to get my wife to go with me.

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Q. What did she say to her? A. She says—Mrs. Webber—"Why don't you go?" She says "If the time comes to go to Court I couldn't go for you, because you are not doing the right thing."

Q. Who said this? A. Mrs. Webber.

Q. Mrs. Webber was her mother? A. Mrs. Webber was a friend of hers; I couldn't tell, she may be a relation; I couldn't say.

40

By Mr. Loewy:

Q. All right, Mr. Pozzi; what happened at the apartments 517 Savoy Street—when did you give them up? A. On Thanksgiving Eve, I went there, and the man says—

Q. Alone? A. I went with Mr. Galli; Mr. Galli and I was there.

10 Q. Only you and Mr. Galli? A. And my brother James.

Q. What was done? A. They helped me pack the furniture. I put a paper around the enamel bed so it would not rust, or anything, and it was ready the next morning for the storage. Furthermore, my wife notified me to put it in storage; she came down to see me afterwards and told me to put it in storage. She didn't want to go there to live.

20

Q. Where was you living then? A. 44 Clinton Avenue.

Q. How long did you live there? A. I lived there about two months.

Q. From there where did you go to? A. To 49 Clinton Avenue.

Q. And at 49 Clinton Avenue did you ever see Mrs. Pozzi while you lived there? Did she see you? A. Yes, Mrs. Pozzi called around.

30

Q. She called there? A. Yes, she called at 49 Clinton Avenue.

Q. Once? A. No, she called at various times.

Q. Several times? A. Several times, yes.

By the Vice-Chancellor:

Q. Now, what time was this? A. Well, this was around December, because I remember it was at Christmas she came down there.

40

By Mr. Loewy:

Q. December, 1912? A. Yes, sir; 1912.

Q. Now, Mrs. Pozzi called, you say—what happened? A. Well, on that very day there seemed to be trouble in the house; I don't know; she says, "There is trouble."

Q. Well, state what she said? A. I was stating what happened; she comes down and tells me there was trouble in the house. I says "The only thing for you to do is to come and live with me." I must tell the story as I know it. She says "Come and live with me." I says, "Well, let us go and get rooms. You know," I said, "Emma, I can't lose time; it would be taken off of me if I am off; I can't afford to lose time; you know how it is." She says, "Well, I will go." She goes, and she says, "I looked around and couldn't find rooms." "Well," I said, "my land, woman, the State of New Jersey is big enough; can't you find rooms?"

10

Q. Did you make any limitation as to the rent? A. I told her she knew what I was getting, and I couldn't pay much, that I could pay twelve or thirteen dollars.

20

Q. You told her that? A. Yes. She was willing that I wouldn't go over that.

Q. She was satisfied with an apartment that rented at twelve or thirteen dollars? A. Yes.

Q. That was one incident you told us about at 49 Clinton Avenue; tell us of a few other times that she was there? A. She was there on an average of one day a week for about three weeks. Then Christmas came—

30

By the Vice-Chancellor:

Q. Three weeks before or after Christmas? A. Before Christmas, your Honor.

By Mr. Loewy:

Q. And on each of these occasions what transpired? A. Well, the same story as I repeated.

40

Q. You constantly asked her to get rooms? A. Yes. I really didn't believe the woman meant right.

The Vice-Chancellor: No, state what you said to her, and what she said to you.

A. Well, I told her to get rooms; I wanted to live with her.

10 Q. What did she say to you? A. She didn't say anything. She says, "No—well, I looked, I can't do anything more than look," she said.

Q. On any of these occasions was anyone else present beside yourself and Mrs. Pozzi? A. Well, when she called there my brother was living with me at Miss Finnegan's there. They were always present. They lived there.

20 Q. How long did you live at 49 Clinton Avenue? A. I lived there, well, about a year and a half.

Q. A year and a half? A. Yes.

Q. All right. Now, did you—

By Mr. Agnew:

Q. From what time to what time, please? A. From December until around—

Q. What year? A. 1913.

30 Q. December, 1913? A. From December, 1912, until around July or August, 1913.

By Mr. Loewy:

Q. That is about nine months or so? A. Yes.

Q. Now, while you were living at 49 Clinton Avenue did you make any other attempt to get an apartment besides that one at 517 Savoy Street, or any place at all? A. Then she started suit against me for alimony and maintenance.

40 Q. She did? A. Yes.

Q. About when was this? A. This was in April.

Q. April of what year? A. 1913.

Q. She started a suit against you for maintenance and support, you say? A. Yes.

The Vice-Chancellor: Where—what court?

The Witness: The Court of Chancery—before the Juvenile Court.

Q. Was it before the Juvenile Court first? A. Yes, it was taken there.

Q. You say she started a suit for maintenance and support—that was in Chancery, wasn't it? A. Yes.

10

Q. As a matter of fact, it was tried before Vice-Chancellor Griffin, wasn't it? A. Yes.

Q. What was the disposition of the case?

The Vice-Chancellor: The record will show that.

Q. All right. Now, you did not answer that question I asked you as to whether or not you made any attempts while living at 49 Clinton Avenue, to furnish any apartments. A. Why, yes; there was rooms offered right in the home where I was living, 49 Clinton Avenue.

20

By the Vice-Chancellor:

Q. What did you say to your wife then, and what did she say to you? A. I says, "Now, there is rooms there; why not go there to live?" "Well," she says, "I will let Miss Finnegan know."

30

Q. When was this? A. This was about before April, some time; I couldn't swear to the date, your Honor.

Q. April of what year? A. It was around in April some time, because I was then served with papers.

Q. What year? A. 1913.

40

By Mr. Loewy:

Q. What sort of an apartment was this? A. Well, it was five rooms, five nice rooms.

Q. And did Mrs. Pozzi come to live with you then? A. No, she notified Miss Finnegan that she didn't want to come there to live. And then we tried next door; we had rooms next door.

By the Vice-Chancellor:

10 Q. You say "We tried"—do you mean you and your wife? A. Yes, my wife went there. Miss Finnegan went next door with her.

20 Q. Did you go with her? A. Well, not right along with them, the very moment; but I was in there five minutes afterwards. When Miss Finnegan went along with her I wasn't quite ready to go. They went upstairs and looked at the rooms; and she didn't know, she didn't know whether she wanted them, or not; and they came down and she asked me, she says, "What do you say, what about it?" I says, "All right, we will make a home there; if you don't like it, after a while we will go somewhere else, just so you can get out of your mother's home; so you come down and live with me and live here for awhile; and if you are not satisfied we can easily move."

By Mr. Loewy:

30 Q. Where did you go to live after you left 49 Clinton Avenue? A. Well, Miss Finnegan then ordered me to leave, that she couldn't stand any more trouble; she couldn't stand the fuss that was going on and be mixed up in the affair; and she ordered me to leave, and said I would have to leave.

Q. Where did you go to live then? A. I went to 359 Ogden Avenue.

Q. Where was that—what municipality, city or place? A. Jersey City.

40 Q. Well, I don't know where it is; I will just have to ask you how long did you stay there? A. I stayed there until about in January.

Q. What year? A. January of 1914.

Q. You stayed there until January, 1914? A. Yes.

Q. And what happened after that; where did you move to? A. I moved to 116 Hawkshurst Avenue, Weehawken.

Q. Well, you must have moved back to 49 Clinton Avenue, because your petition was made when you were living there. Didn't you move back to 49 Clinton Avenue then? When I drew up this petition for you, didn't you tell me you were living at 49 Clinton Avenue? A. No. I don't think I did tell you. You may have misunderstood me. I moved to 116 Hawkshurst Avenue.

10

Q. All right; it don't make much difference—116 Hawkshurst Avenue, where? A. Weehawken.

Q. And that was about how long after you made your attempts to get Mrs. Pozzi to live with you, when you moved to 116 Hawkshurst Avenue—about what space of time was that from the last attempt you made to get Mrs. Pozzi to live with you, that first time she refused in court to live with you? About what length of time was that? A. Well, I furnished rooms, you know, that was ordered by the court; the court ordered that I should get rooms for my wife.

20

Q. When was that? A. At the time the case was in court, the next room, there, before Vice-Chancellor Griffin.

30

Q. What was the address of the rooms? A. 56 Oakland Avenue, Jersey City.

Q. What kind of an apartment was that? A. It was an apartment with four rooms and a bath, and inspected by the Board of Health.

Q. And did you ask Mrs. Pozzi to go and live with you there? A. Yes, I asked her. The Court ordered me to get rooms for her and tell her to come there.

40

Q. Answer the question—did you ask her to

come and live with you there? A. Yes, certainly. I got the rooms and intended my wife to live with me. I got a woman to scrub the floors and things.

Q. Did she come to live with you there? A. No, she wouldn't come there to live.

By Mr. Agnew:

10 Q. Where was this? A. 56 Oakland Avenue.

By Mr. Loewy:

Q. I show you a receipt—is that the receipt you got when you rented those rooms? A. This is the receipt—two of them.

Q. This says 65 Oakland Avenue? A. Yes, sir; that is it.

20 Q. You rented an apartment there and asked Mrs. Pozzi to come and live with you, and she refused and did not come to live with you? A. Yes; she did not come to live with me. So then—

30 Q. Go ahead. A. Then the opposing lawyer told your Honor that she had rooms for me up around West Hoboken, and then your Honor asked me if I wouldn't go up there and live with her—if I wouldn't go up there and live with the wife—and I says to your Honor, "Well, do I have to go up there, your Honor?" You says, "Well, I think if you go up there you will smooth things off; if you cannot get along, you come to me."

Q. What do you mean to tell the Court now—that you had two apartments engaged at this same time? A. She had these engaged. She told the Court that thirteen dollars she thought was too much for me to pay, that she had rooms for ten dollars.

40 Q. Did you ever see those rooms? A. I never seen those rooms; I didn't see my wife for a month afterwards.

Q. Did you ask her to come live with you at 65

Oakland Avenue? A. Yes, I asked her; that is what I got the apartments for. I asked her to live there with me, and she wouldn't live there. At the time she was in Court that morning I said "Come right along and see the apartments;" she wouldn't go; but she called at the rooms and told the lady she wouldn't live there.

Q. At the present time you say you are living at 116 Hawkshurst Avenue, Weehawken? A. Yes.

10

Q. Since residing there you have made no efforts to get Mrs. Pozzi to come with you? A. I couldn't see how I could; I couldn't call at her home, and I couldn't see where I could.

By the Vice-Chancellor:

Q. Since what time was this? A. This here was in—let me see, now—

20

Q. Since April, 1913, what effort did you make to have your wife come to you? A. Well, I couldn't say. I couldn't see my wife. She never would see me.

Q. Well, you could write, couldn't you? Did you write any letters? A. Yes, I wrote letters and asked her to come to me.

Q. And where are the letters? A. I believe you have duplicates there, Mr. Attorney. Haven't you them there?

30

Mr. Loewy: No, I haven't.

A. Well, I made duplicates.

Q. You mean copies? A. Copies.

Q. You sent the letters? A. I sent the letters.

Q. You haven't got the letters you sent? A. No, I only have got the carbons; I haven't the originals. They were registered.

40

Q. Wasn't your wife's objections to moving to Oakland Avenue that it was too far removed from

her parents, that you were away from home all day, and that she would like to live in a position where she could visit her parents during the day while you were at work, is not that the fact? A. Why, your Honor, I think that is so.

10 Q. And wasn't it suggested to you that you take rooms nearer or within a reasonable distance of the mother, so that the wife would have easy access to her parents during your absence? A. I think that is what you suggested to me, your Honor.

Q. Did you take rooms up there? A. Well, I didn't see the rooms.

Q. No, did you rent rooms up in that neighborhood near the mother? A. May I tell my story, your Honor?

20 Q. No, just answer the question—did you ever rent rooms up in that neighborhood? A. No, I did not, she rented them.

Q. Well, did you offer to go into the rooms that she rented? A. Yes, I offered it, I says, "Show me the rooms."

Q. What did you say to her and what did she say to you? A. Well, she said to me a month afterwards—

30 Q. No, I mean right while your case was pending for alimony and maintenance she said she had rooms that she rented for ten dollars a month? A. Yes.

Q. Did you go see those rooms? A. Well, I didn't know where they were, your Honor; no address was given to me.

Q. That is not an answer to my question: Did you go to see the rooms? A. No, I did not, your Honor.

40 Q. Did you ask her where they were? A. I asked her where they were.

Q. Did she tell you? A. No, she didn't tell me. She said the rooms were gone.

By Mr. Loewy:

Q. Oh, she didn't have them at that time? A. I don't know; I couldn't get a thing out of her. That is what she told me.

Q. When she said the rooms were gone, what did you suppose she meant? A. That she didn't have them—that she would have to look for rooms somewhere else.

10

Mr. Agnew: Will you let me ask a question right here?

The Vice-Chancellor: No, wait and cross examine.

Mr. Agnew: Right on this point, your Honor. I think he has a receipt for those rooms.

The Witness: She didn't show me any receipt, your Honor.

20

Q. You say Mrs. Pozzi's family was constantly quarrelling with you, didn't you? What did her family consist of? A. Mrs. Pozzi's mother—

Q. Your mother-in-law, and who else? What other people were up there when you lived there at that time? A. Well, Mrs. Wells and my wife.

Q. Who was Mrs. Wells? A. Her mother—my wife's mother.

Q. Your mother-in-law? A. Yes; and my wife and three sisters and a brother.

30

Q. Did you get along very nicely with them, or what? A. Yes, I got along with the sisters all nicely.

Q. With the whole family? A. Well, sure; they were all right to me.

Q. Didn't you tell me you constantly quarrelled up there? A. Well, they were all right to me until the quarrel came; they didn't ill-treat me in any way until the quarrel started.

40

Q. When did the quarrel come—how soon after

you were married did the quarrel come there? A. Well, that was before it was taken to court, you know.

By the Vice-Chancellor:

Q. How long after your marriage? A. Well, that was about three weeks, your Honor, after we were married the quarrel came.

10

By Mr. Loewy:

Q. They quarrelled with you at that time? A. Yes, they quarrelled with me.

Q. About what? A. They didn't want me there; they wanted me to get out.

Q. Oh, no, what did they say to you? A. Why, your Honor, they didn't say anything, but told me I had to get out, that is all.

20

Q. Who told you that? A. Lily Wells, one of the sisters.

By Mr. Loewy:

Q. Told you you had to get out? A. Yes, the brother was in the next room, he says, "Get that guinea out of here, we don't want him here, get him out;" and the sister grabs me by the coat and pulls me out in the front yard, and so I stayed out. And Mr. Galli was there at the time.

30

Q. Did they put you out? A. Yes, they put me out at the time.

Q. What was the reason for telling your wife that you didn't want her to be in that neighborhood? A. Well, it seemed to me I would be in trouble all the time and I would never be left alone; I would be in trouble all the time.

40

Q. In other words your reason was that you didn't want to be mixed up with her family? A. No, I was mixed up with my wife, I didn't think I wanted to be mixed up with the rest.

Q. You were willing to live with your wife, but you didn't want to be mixed up with trouble, is that it? A. Yes.

Cross examination by Mr. Agnew:

Q. Mr. Pozzi, you were asked by the Court a moment ago as to whether or not you went to look at the rooms which your wife had rented at ten dollars a month—you have the receipt for those rooms, haven't you? You took it from her that night, the night she rented them? A. No, attorney, I have not.

10

Q. Do you deny that? A. I deny it. Now, let me explain—

The Vice-Chancellor: Just answer the question—did you take the receipt for those rooms up in West Hoboken?

20

A. Where she said she had rooms, at the Court? No, your Honor, I did not get the receipt.

The Vice-Chancellor: Never got it?

A. No, never for those rooms, your Honor.

Q. She asked you to look at the floor, didn't she? A. Well, not at those rooms, the ones she was said to get at ten dollars a month; no, she never asked me to see those rooms, she told me she didn't have those rooms, they were gone.

30

Q. Didn't she tell you she rented a floor at 103 Clinton Avenue, consisting of four rooms at \$10 a month? A. You are referring to other rooms.

Q. Listen to the question. Didn't she tell you that she had rented a floor at 103 Clinton Avenue, consisting of four rooms, for \$10 a month rent? A. Well, yes, yes.

Q. Did you look at those rooms? A. Well, I was up in front of the place and looked at them, yes.

40

10 Q. Do you remember what you told her—what you said to your wife? Do you remember what you said to her? A. Why, I didn't say anything, I told her, I said, "Gussie, that is pretty close; that is right in front of your mother, about fifty feet in front of your mother's home; that is very close; you know I have had trouble every day since I knew her; now, if you go there it will make it pretty hard for us."

Q. Didn't you say to your wife, Mrs. Pozzi, to go to hell with the floor; that you wouldn't live on that floor? A. No, attorney, I didn't say that.

Q. And you told her you wouldn't have anything more to do with her? A. No, I did not. I was always willing to live with my wife.

20 The Vice-Chancellor: No, answer the questions and nothing more. You don't need to go into a long-winded explanation of what you say, after you have said it and answered the questions. Your lawyer can ask other questions to bring out what you may want to say.

Q. I show you a letter and ask you to look at it and state whether or not that is in your handwriting? A. Well, this is not my handwriting.

30 By the Vice-Chancellor:

Q. It is not? A. I say it isn't.

By Mr. Agnew:

Q. Do you know anything about that letter? A. I don't remember anything about that letter.

Q. I show you an envelope and ask you to look at it? A. Yes, sir.

40 Q. Is that your handwriting on the envelope? A. Well, I don't know, attorney; I cannot recognize my writing; if that is mine I cannot recog-

nize it, attorney, I cannot recognize it. If that is mine I cannot recognize it.

Q. Do you recall requesting anybody to write such a letter for you and send it to your wife? A. Well, if I write letters—

Q. No, no. A. If I write letters I write them myself, attorney.

Q. Can you tell me, or tell the Court, anything about this letter? Suppose I read it to you: "You kindly get rooms or I will have this stopped at once. I am tired of this, believe me, and I will settle it in a hurry; and let me know when you get rooms and quick. You have been doing this for two almost. Don't you dare to put a step around the house unless you have moved my furniture to rooms." A. It is a good imitation of my writing, but that is not my writing, attorney; I must say that. I must tell the truth. It is not my writing.

10

20

Q. Do you know anything about the letter? A. I don't know anything about the letter. It is a good imitation. I never seen that sort of paper before.

The Vice-Chancellor: What are you going to do with the letter now? Are you going to have it marked for identification?

30

Mr. Agnew: Yes, I will offer it for identification at this time.

The letter and envelope were thereupon marked for identification J. C. A. 1 and J. C. A. 2.

Q. Were you employed at the time of your marriage? A. Yes, sir.

Q. By whom? A. By the Harrison Granite Co., 200 Fifth Street, New York City.

40

Q. Is that the same firm with which you are now employed? A. Yes.

Q. How long had you been employed by them at the time of your marriage? A. Six years—no, four years at the time of the marriage.

Q. What salary were you earning at the time of your marriage? A. \$15 a week.

10 Q. After your marriage where did you go—I mean immediately after the marriage ceremony where did you go? A. I went home to her mother's—Mrs. Wells—my mother-in-law.

Q. And you slept with your wife that night? A. I did not. I was not allowed to.

Q. What room did you occupy? A. I occupied the second floor, a room to the east of the house.

Q. And what room did she occupy? A. Upstairs, where she always did.

By the Vice-Chancellor:

20 Q. That is, you were on different floors? A. Yes; there was three floors to the house.

By Mr. Agnew:

Q. Well, how long did that condition exist? A. One month, or about a month—about three weeks, that is about how long it was—about three weeks.

Q. How many times did you sleep with your wife during the time you lived at Mrs. Wells'? A. I didn't sleep at all; I wasn't allowed to.

30 Q. You mean to tell this Court you never occupied the same bed with your wife at any time you lived at Mrs. Wells'? A. Yes, your Honor, Attorney.

Q. You had intercourse with your wife at that house? A. I never had intercourse with my wife at that house.

Q. Never at that house? A. No, attorney.

40 Q. You had at No. 102 Palisade Avenue, where you rented a room—you had intercourse with your wife at 102 Palisade Avenue? A. No, I never had intercourse with my wife; never had intercourse with my wife.

Q. Didn't you have intercourse with your wife at 44 Clinton Avenue, West Hoboken? A. Yes, at 44 Clinton Avenue.

Q. What did you mean by saying a moment ago that you never had intercourse with your wife at all, and now say you had intercourse with her at 44 Clinton Avenue? A. Well, you were asking me in those rooms, attorney.

10

Q. I didn't say "these rooms," I gave you the number of the house. Now, you say you had intercourse with your wife at 44 Clinton Avenue. A. Yes.

Q. And that referred to a period of how long? A. Well, I don't know how long she was there; she was there about an hour with me, came around to see me.

Q. She visited you while you were living at 44 Clinton Avenue? A. Yes.

20

Q. On an average of two or three times a week, didn't she? A. She did not, no.

Q. Well, did she not visit you on an average of once a week? A. Once a week.

Q. And how long did you continue to live at 44 Clinton Avenue? A. For two months.

Q. Two months? A. Two months.

Q. Just state when those two months were? A. Well, now, let me see, they were around November and December.

30

Q. Of what year? A. 1912.

Q. Then you went to live at 49 Clinton Avenue, did you not? A. Yes, attorney.

Q. And you and your wife had sexual intercourse at that address had you not? A. No, Attorney.

Q. Do you deny that? A. I don't know; I don't know as I can remember, Attorney.

Q. Are you in doubt about it? A. Well, I couldn't say that I am.

40

By the Vice-Chancellor:

Q. Does that mean that you are in doubt, or are not in doubt? A. I don't ever remember, really; I couldn't say whether I was in doubt or not.

By Mr. Agnew:

Q. Who was you landlady at 49 Clinton Avenue?

10

A. Miss Finnegan.

Q. You know that you had intercourse with your wife in your room down there at Miss Finnegan's house, do you not? A. No, I did not. She was never upstairs in my room.

Q. Didn't you and your wife have intercourse in her parlor? A. No; she always stayed in the parlor, too; we had no intercourse, as I remember.

By the Vice-Chancellor:

20

Q. What time did you live at Miss Finnegan's?

A. 49 Clinton Avenue.

Q. When did you live at that place? A. I lived there in February, I think it started.

Q. Commenced in February? A. Yes, 1914.

Q. '14 or '13? A. Because on Christmas I was still at 44.

Q. You were living at 44 on Christmas of 1912, weren't you?

30

Mr. Loewy: February, 1913; I guess you mean.

A. 1913, yes, sir. What did I say?

Mr. Loewy: 1914, you said.

A. That is 1913.

The Vice-Chancellor: Counsel had better take a seat.

40

Q. From 44 Clinton Avenue where did you move? A. 49.

Q. And what date did you move there to 49? A.

Sometime in February, I don't just remember; I couldn't swear to it, but it was sometime along there.

Q. Then did you live at 44 Clinton Avenue in November and December of 1912, and January of 1913? A. No, it was 1914; I was to Clinton Avenue, 49, on 1914—that is when it was, 1914.

Q. How long after you were married? A. About two years and a half.

10

Q. How much? A. About two years—let me see—well, about, a year and eight months; along there; I couldn't just remember.

Q. Well, did you move directly from 44 Clinton Avenue to 49 Clinton Avenue?

The Vice-Chancellor: The witness at this juncture became ill and fainted for some reason or other. Observation of the man for the last fifteen minutes showed that he was not acting right; therefore the testimony he has given in the last fifteen minutes is of little value and ought not to be considered either for or against him. (To counsel): Don't you think it would be wise to lay this case over to some day in October?

20

Mr. Loewy: I am agreeable.

Mr. Agnew: That will be all right.

The Vice-Chancellor: Make it Thursday, the 7th of October.

30

Further hearing of the cause was thereupon by consent adjourned until Thursday, October 7th, 1915, at the Chancery Chambers, Jersey City, at 10 o'clock A. M.

Chancery Chambers, Jersey City, N. J.,
October 7th, 1915.

40

Hearing of the cause resumed at 10 o'clock A. M.

10 Mr. Loewy: If your Honor please, I would like to make a motion now that the testimony given by this petitioner be stricken out because he was not in a fit condition to answer questions. The very second question I asked him at the last hearing was whether he moved since the petition was filed; he actually did move, and he said "No," and he persisted in saying "No," whereas we know he really did move. And from that time he did not answer my questions correctly.

20 The Vice-Chancellor: I think, when the witness fainted, I said that the testimony given for about fifteen minutes before would be disregarded because the witness was not in condition to testify. You can go right on now as far into what he testified to before as you desire.

In considering the testimony, of course I will ignore that part of it which was given at the time when the man was incompetent to testify, or incapable.

EMIL POZZI, recalled:

30 Direct examination by Mr. Loewy:

Q. Where do you live? A. 116 Hawkshurst Avenue.

The Vice-Chancellor: He has testified to all of that.

40 Mr. Loewy: Well, I don't know from what point your Honor wishes me to go ahead, then, because I really don't know what the last fifteen minutes' testimony consisted of.

The Vice-Chancellor: Well, you can

strike all the testimony out, and proceed afresh. It will shorten the thing.

Q. You live at 116 Hawkshurst Avenue, you say?

A. Yes, sir.

Q. You have moved since filing your petition, have you not? A. Yes, sir.

Q. Where did you live at the time of filing this petition? A. 49 Clinton Avenue, West Hoboken. 10

Q. When were you married to the defendant in this case? A. 28th of September, 1912.

Q. By whom? A. By the Rev. C. W. Laufer of West Hoboken, N. J.

Q. At the time of your marriage where did you go to live with your wife? A. I went right to her mother's home, 110 Clinton Avenue, West Hoboken, N. J.

Q. And you lived there how long a time? A. I lived there about a month. 20

Q. About a month? A. Yes.

Q. Well, what hapened at the end of that month? A. Well, regularly, right along, they told me I would have to get out and find rooms somewhere else.

Q. Who did that? A. Well, the mother did the most—the mother and my wife—she was the one that conducted it, and through my wife—they told me I should have to get out. 30

Q. And at the end of the month I went to the Recorder, Vollmer, and asked him to see if he could do anything for me.

By the Vice-Chancellor:

Q. Now, at that time were you living in the home of your mother-in-law? A. Yes, your Honor.

Q. You hadn't left her home at that time? A. Oh, yes, I had left at the time. I finally— 40

Q. No, at the time you went to Recorder Vollmer? A. I was not living at the mother's home.

Q. You were not living there then? A. No, I was living at 102 Palisade Avenue.

By Mr. Loewy:

10 Q. You say you went to Recorder Vollmer for advice—what did you do then? Did you just go up and ask him a question, or what? A. Well, he had my wife and my mother and myself summoned for a hearing.

Q. Well, did anything happen before that to make you leave the house, or did you just peaceably leave it? You say you left the house? A. Well, when I left the house they threw me out.

By the Vice-Chancellor:

20 Q. What do you mean by that? A. Well, they took me—Lily Wells, one of the sisters, took me by the coat and threw me out, pulled me outside and said “Now you stay here; you cause all the trouble in the home here; now” she says “You keep right out of here.”

By Mr. Loewy:

Q. Was anybody present there besides these people when you were thrown out of the house? A. Mr. Joseph Galli.

30 Q. Mr. Joseph Galli was present, was he? A. Yes, sir.

Q. That is, in the house, or out of it? A. He was right in the house, right there.

By the Vice-Chancellor:

Q. Where was your wife? A. Why, right there, your Honor.

Q. Did she see Lily Wells take you by the coat? A. Yes, she did.

40 Q. And force you out of the house? A. Yes.

Q. What did she say, if anything? A. I don't know; she said something in German, I didn't understand.

Q. Did she attempt to cause her sister to refrain from putting you out? A. No, your Honor.

By Mr. Loewy:

Q. When you made this complaint before Mr. Vollmer, what happened? A. Why, I told him about being thrown out, and just the condition.

Q. What did he do? Answer the question. A. He had my wife and my mother and myself summoned to the Court, and I went there—this was in September. 10

Q. Just answer the question, please?

The Vice-Chancellor: He is answering. Now go right on.

Q. You were summoned to Court, what happened in Court. A. I was called on the stand—

By the Vice-Chancellor: 20

Q. First, who appeared? A. Her mother and my wife and myself, and she had six or seven more friends with her, I didn't know who they were.

By Mr. Loewy:

Q. What happened? A. I got on the stand and the Judge asked me what I had to say, and I told him that I married this woman and I would like to make a home for her, and she didn't seem to want to come, and I was thrown out, and they wouldn't let me see her, and I called around to the home there two or three days and they said I couldn't have her or could not see her or "she is not in just now." "You can't have her," "keep away from here, you are a nuisance;" that the mother says—the mother came to the door with Lily Wells, one of the daughters— 30

Mr. Agnew: I object to what the mother said; it is not material unless the defendant was present. 40

The Vice-Chancellor: He said he said this in the presence of the wife and the mother; they were all present, this was at the hearing before Recorder Vollmer.

A. (resuming): Yes; and the Recorder says then, he says to her, "Well, what have you to say about this—what do you intend to do?" Well, she
 10 got up and looked at her mother and said, "I don't want to live with that man, I don't want to live with him."

The Vice-Chancellor: Who said this?

Witness: My wife—"I don't want to live with him," "Well," the Judge says, "Mr. Pozzi, I cannot do any more; I can't force her; I will dismiss the case; I can't do any more," and they was going out,
 20 and he says "Just a minute, Mrs. Pozzi," he says, "don't call around here for any alimony—"

Mr. Agnew: I object to that, if your Honor please.

The Vice-Chancellor: That is unnecessary.

Q. What did you do after that, Mr. Pozzi? A. I went to see Pastor Laufer—I went out on the street and I didn't know who I could go to, and I went
 30 to Pastor Laufer, I thought of him, and I went down to see the minister and told him about my troubles; he says, "Set down, Mr. Pozzi—"

Mr. Agnew: I object to that.

The Vice-Chancellor: Do not tell what he said to you unless your wife was present. Now, did you and your wife meet with Pastor Laufer?

Witness: She was not there. I went there
 40 all alone right the same night as the Court.

Q. Where did you go to live after you left the

house at 110 Clinton Avenue? A. 102 Palisade Avenue.

Q. How long did you live there? A. Well, I lived there—I moved from there, let me see—in about a month I moved from there—may I refer to a paper here? I don't seem to be able to remember the dates, your Honor, and I have them refreshed in my mind by this (referring to a paper produced by the witness). I don't feel very well.

10

The Vice-Chancellor: You may refresh your mind.

A. (continuing): I moved to Clinton Avenue about—

Q. We are at Palisade Avenue now—how long did you stay at 102 Palisade Avenue? About a month, you say? A. About a month, yes.

Q. Did you, during that space of time, make any attempts to furnish a home for yourself and wife? A. Yes, I furnished a home.

20

Q. Where? A. At 517 Savoy Street.

Q. What kind of a place was this? A. Four rooms and a bath.

Q. Did you tell your wife about it? A. Yes, she rented the rooms.

Q. She rented them? A. Yes.

Q. Did you give her any money to pay for them? A. Yes, I gave her the money to pay the rent.

30

Q. She rented the rooms? A. Yes.

By the Vice-Chancellor:

Q. He asked you, did you give your wife the money to rent the rooms? A. Yes, I gave her the money.

By Mr. Loewy:

Q. Well, did she go along with you then? A. No, she came down after she rented the rooms, she came down and went and got furniture; I must

40

say that she got furniture to put in the rooms, and she came down after the money, and I gave her the moneys.

By the Vice-Chancellor :

10 Q. For the furniture? A. Yes, your Honor, and it was moved into the rooms, and that was the last of it, and she didn't come around to live with me. I went there and scrubbed the floors.

Q. Did she arrange to move into the rooms? A. Yes, she arranged that she would come up there, yes. I couldn't call around at the house and see her, I was afraid; and she didn't come around any more. I had all the rooms fixed up, my brother and I, and I scrubbed the floors all nicely so she could come in.

Q. And she did not come? A. She didn't come.

20 Q. Did you give up those apartments? A. Yes, when she didn't come.

By the Vice-Chancellor :

Q. One moment before going to that stage. How long did you occupy the rooms? A. Well, they were rented for half a month.

Q. Half a month? A. Yes, your Honor, that is all she paid for.

30 Q. Did you have any talk with your wife? A. I couldn't see her, your Honor, I couldn't see her. She said she would come up there, and I depended on what my wife said, I believed all she said: She said she would come up there, and one of her sister's came up at the time we had the furniture moved.

By Mr. Loewy :

40 Q. During that half a month how often were you up there? A. I was up on Saturday and Sunday; then on week nights I was up there looking around, and asked the lady if my wife had called, and she

said, "I haven't seen her;" "I haven't seen her, I haven't seen her."

By the Vice-Chancellor:

Q. Did you write your wife while you had these rooms? A. I don't know; I don't think so, your Honor, I can't remember. I don't think I did; I might have telephoned her but I cannot remember; I know I telephoned to her quite often; I can't just remember, your Honor.

10

Q. While you had these rooms? A. Yes, I think I telephoned her; and, as I come to think of it, she notified me to have the furniture removed into storage—now, I come to think, she told me to have it removed into storage, and through her direction, I done it.

Q. Were you talking with her face to face when she told you that? A. No, your Honor—over the 'phone, I think.

20

Q. Did you recognize her voice? A. Yes, your Honor.

Q. And what did she say to you and what did you say to her? A. She says, "You had better have the stuff moved into a furniture storage," she says, "and I don't think I will go there to live."

Q. You put the goods in storage? A. Yes, your Honor.

30

By Mr. Loewy:

Q. And where did you go to live then, Mr. Pozzi? A. I went to live at 44.

Q. 44 what? A. 44 Clinton Avenue, West Hoboken.

The Vice-Chancellor: You are confusing the thing. He has not said that he lived at this new place in Savoy Street.

40

By the Vice-Chancellor:

Q. You never actually lived in Savoy Street? A. No, sir.

Mr. Lowey: I asked him where he went to live after he lived at 102 Palisade Avenue.

The Vice-Chancellor: I want to get it stated in an orderly way.

Q. You never lived at 517 Savoy Street? A. No, I never lived at 517 Savoy Street.

10 Q. Where did you next move? A. I moved to 44 Clinton Avenue, West Hoboken, New Jersey.

Q. When did you move there? A. Sometime in December.

Q. Of what year? A. 1912.

By Mr. Loewy:

Q. How long did you stay there? A. Well, I moved from there in February of 1913—that is the only way I can remember; I can't remember any date, your Honor.

20 Q. Did you attempt to see your wife when living at 44 Clinton Avenue, West Hoboken, any time, or did she see you or talk to you? A. Why, she came down to the house there.

Q. Who came down? A. She came down there.

30 Q. Did you make any proffer to furnish a home for her? A. Yes, I asked my wife that we should live together and make a home for one another; I said, "We ought to go live together like a good man and woman," she seemed to kind of hate to hear that you know, and wouldn't hardly listen to me.

By the Vice-Chancellor:

Q. What did she say? A. Well, "You are always talking about rooms when I come down here," she says, "I come down here to get peace from the home, and when I come here then I get it from you; I have had hell in the house," she says, your Honor.

40 By Mr. Loewy:

Q. Where did you move to after that? A. I moved to 49 Clinton Avenue, West Hoboken.

Q. How long did you live at 49 Clinton Avenue?

A. Well, I lived there about a year, I should say,—about a year and a half, as near as I can remember. Of course I never put any dates down.

The Vice-Chancellor: No, state your best recollection.

A. That is the best I can say.

Q. When you lived at 49 Clinton Avenue did you make any attempts to see your wife or furnish a home? A. Well, she came down there one night and she says, "Well, you have got to live with me," "well," I said "Gussie, I always wanted to live with you but you don't seem to want to live with me," I says, "You don't want to live with me. I always tried to ask you to come but you never wanted to," "Well, you have got to live with me." "Well," I says, "What are you going to do then? Will you go after rooms?" I says, "You have got to help me do a little bit. Don't let me lose any time in the office, I am liable to lose my job, and then what am I to do?" So she went then and I didn't see her any more until a couple of weeks afterwards, I think (about like that, I am just giving you what I think, your Honor); and she came down and she says again, "You have to live with me;" she says "Why don't you say you don't want to live with me if you don't want to?"

Q. Who said that? A. My wife, Mrs. Pozzi. I says, "That is not what I want, I want a home; what do you think I married you for, an ornament? I didn't marry you for an ornament; I want you to make me a home; I want a home; I am all over everywhere now." So I didn't see her any more—

By the Vice-Chancellor:

Q. Well, now, right there—she said she wanted you to live with her? A. Yes.

Q. Did you have any talk about taking a home then? A. Yes, I always did, your Honor.

Q. State what you said to her? A. I says, "Here, now, listen— Can we go tonight and look for rooms?" She said, "I looked all over yesterday and couldn't find anything, they are too high in price." "Well," I said, "Emma, listen here—I found two places in the paper; will you go out and see them?" And I don't know whether she went or not.

10 By Mr. Loewy:

Q. She only visited you twice at 49 Clinton Avenue? A. Well, she would come down there in the street and holler, "Mike, come on"—not even my right name, in the street; everybody would see her. I says, "Come in, now, please, don't holler my name out in the street, it don't sound right, woman; please come in." You can always come in here when you want to, don't holler my name in the street." I says, "What do you want?" "Well," 20 she says, "What do you want to do?" I said, "You came down last week and you said you were going to see if you could get rooms, did you try to get rooms?" She says, "Yes, but I couldn't find anything." So she went home.

Q. What did you say to her? A. I says, "Now, let us see—you ought to be able to get rooms somewhere, Emma, as long as they suit you, I don't care, as long as they suit you; and don't go too high in the price, because you know what I can afford and what I cannot; I won't even look at them as long as you like them; they have got to suit you because you have to live there; I am always out." "Well," she says, "I will see what I can do tomorrow," and I did not see her any more for a week, and some time in April, I guess, she started suit against me, I don't just remember when it was, but she started suit against me for support and 40 maintenance.

Q. April of this year? A. No, April of 1913, your Honor, I think it was.

Q. In what court—before what judge? A. It was taken to the Juvenile Court, before Judge Lange, your Honor, and it was dismissed there on account of no jurisdiction, and it was then taken before your Honor, and your Honor then said or asked if there was any rooms rented at that time, and at that time we brought up that the 517 Savoy Street rooms were rented, and you says, “Well, you had better go out and get rooms right away,” 10
and I then went right out, and my lawyer told me to go and get rooms, and I went to look for rooms and found rooms at 65 Oakland Avenue, and I went there and paid the woman to clean the floors; there were four rooms and a bath; and it was inspected by the Board of Health. I went to the attorney and he said, “Well, you found rooms mighty quick,” he says, “now, you can’t get a barn for her.” 20
“Well,” I says, “Attorney, they are right around the corner here.” He says, “Well, I don’t have time, I will send somebody around, I will send the Board of Health.” And he did. And we came to Court again. “The rooms are rented,” the attorney says to your Honor; and then my wife brings up about that she thought that would save me \$3.00 a week and it would be handy for me to go to work, and she was closer to somebody she knew, anyway, she always had to be home, and she could go and see her mother; and you, your Honor, asked me if I wouldn’t go to live with her there, and I asked your Honor if I had to go there to live. “Well,” you says, “You go up there and live and see how you can get along, and if you don’t get along come down and let me know.” 30

By Mr. Loewy:

Q. I show you here a receipt, is this the receipt you got for the room at 65 Oakland Avenue? A. Yes, sir; attorney. 40

Q. That is the receipt you got for the room at 65 Oakland Avenue? A. Yes, sir.

Q. That was June 23, 1913, is that right? A. Yes, sir.

Q. At that time did Mrs. Pozzi say to you that she was going to come and live with you there? A. No, she said she had rooms for \$10.00, but I didn't know where the rooms were.

Q. That was June 23, 1913, wasn't it? A. Yes, 1913.

10 Q. Did you make efforts to find out what rooms she had? A. Yes.

Q. When? A. The next day I called my wife up on the 'phone.

Q. The 24th of June, 1913? A. 24th of June, 1913—the next day.

Q. What did she say? A. She said she would let me know.

20 Q. Well, did she? A. No, Attorney, she didn't call me up to let me know anything, and I wrote her a letter on the 24th of June—no, the 28th of June 1913.

Q. I show you here a copy of a letter, is that a copy of the letter you sent to Mrs. Pozzi? A. Yes, that is my copy of a letter I sent to Mrs. Pozzi.

30 Mr. Loewy: I offer it in evidence. This is a copy of a letter that Mr. Pozzi sent Mrs. Pozzi.

The Vice-Chancellor: Have you given notice to produce the original?

Mr. Loewy: No, I have not.

The Vice-Chancellor: Have you the original of that letter, Mr. Agnew?

40 Mr. Agnew: I don't think I have, if your Honor please; I told Mrs. Pozzi to let me have whatever letters she had, and I have one letter here, and that is the one that was marked for identification.

The Vice-Chancellor: What is the date of that?

Mr. Agnew: That is July 3, 1913.

The Vice-Chancellor: What is the date of this one?

Mr. Loewy: 28th of June, 1913.

The Vice-Chancellor: Well, you haven't got the letter, have you, Mr. Agnew?

Mr. Agnew: Not here.

Mr. Loewy: Mr. Pozzi told me I had a copy of these letters and I said I had not, but they were sticking in between the pages of the petition. I had in the papers, and I didn't know until yesterday that I had these copies in my file and I didn't have time to give Mr. Agnew notice.

10

The Vice-Chancellor: Well, all right.

Mr. Loewy: I offer the copy in evidence.

Mr. Agnew: I object to it. I thought possibly there might be no dispute as to these letters, but I have just taken the matter up with my client and she says she did not receive such a letter and doesn't know anything about it.

20

The Vice-Chancellor: Well, is that the only objection that she says she has not received such a letter?

Mr. Agnew: Yes, sir.

The Vice-Chancellor: Well, on that view I will admit the letter in evidence subject to her denying that she received it. Of course if she hasn't got the original letter she cannot produce it.

30

Q. What did you do after that?

The Vice-Chancellor: One moment—counsel says his client did not receive this letter. How was this sent to your wife?

40

The Witness: I mailed it to her; to tell you the truth, your Honor, I registered the

letter, but I haven't the slip. To tell the truth, I registered the letter to her, your Honor.

The Vice-Chancellor: The envelope containing this letter, do you mean, was registered?

10 The Witness: Yes, your Honor, it was registered.

The Vice-Chancellor: Where is the registry receipt?

20 The Witness: That is what I am telling your Honor—to tell the truth, I was asking my attorney if I didn't give it to him. I must have lost it. I am telling the truth. But I am sure I registered the letter. If there is any other way of finding out you can find out.

The Vice-Chancellor: You had it duly stamped?

The Witness: It was stamped, your Honor, yes. You know how a registered letter is.

Q. What did you do after that? A. Well, I didn't hear again, from my wife.

30 The Vice-Chancellor (to Mr. Agnew): Show it to your client. She may recognize it.

Q. That was June 28th, 1913, what did you do after that to get your wife? A. On July 3rd, I wrote another letter; I didn't hear from her about these rooms; and in that letter I asked her where our rooms were she said she had.

40 Mr. Agnew: One moment. Maybe I have that letter and you can get this record right (showing witness a letter). I show you that letter and ask you if that is the letter you now refer to?

The Witness: This is the last letter I am now referring to.

Mr. Loewy: This is a copy of that letter (producing a paper).

The Vice-Chancellor: Counsel for defendant produces the original letter and envelope.

The Witness: That is not my writing here on the envelope. The letter is mine, your Honor, but the envelope is not mine, your Honor, it is not my writing; my envelope was registered; it is not my writing, your Honor; that is not my writing on that envelope.

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Mr. Agnew: We are not offering any envelope, but the envelope bears date the 4th of July.

The Vice-Chancellor: What is the date of the letter?

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Mr. Agnew: July 3rd.

By the Vice-Chancellor:

Q. Now, that is the letter, is it? A. Yes, sir.

The Vice-Chancellor (to Mr. Loewy): Now, offer the original in evidence.

Mr. Loewy: I offer it.

The original letter was admitted and marked Exhibit P2.

30

By Mr. Loewy:

Q. You asked her there in that letter whether she decided to live with you, did you not? A. Yes.

The Vice-Chancellor: Well, the letter speaks for itself.

Q. What I want to know, Mr. Pozzi, is did you ever find out where Mrs. Pozzi had these rooms?

A. No.

40

By the Vice-Chancellor:

Q. One moment, did you get a response to this letter (P2)? A. No, your Honor; I did not see my wife. That is the reason I wrote her these letters; I didn't see her.

10 Q. After writing this letter of July 3rd, did you get any reply from your wife? A. No, your Honor. I didn't see her; that is why I wrote to her.

Q. You do not answer it yet—that is why you wrote her; now, after you wrote her did you see her? A. Well, after I wrote the letter, awhile after, your Honor; not immediately but awhile after.

Q. Well, about how long? A. About a week after.

Q. She didn't write any letter to you in response to your letter? A. No, your Honor.

20 Q. Now, where did you meet her? A. She came to the house again.

Q. She came to your house? A. Yes, at 49 Clinton Avenue.

By Mr. Loewy:

Q. Mr. Pozzi, these letters and telephone conversations, etc., were made in an effort to locate the flat, the \$10 flat she said she had? A. Yes, sir.

30 Q. Did she ever let you know where that flat was? A. No, attorney, never.

Q. She did not? A. No.

Q. Did she say she had any other flat? A. Well, she came down there and she says I have got rooms, yes.

Q. When was this? A. This was after the sending of those letters.

40 Q. She said she had rooms? A. She came down and she says, "I have got rooms," and I says, "Where are they, Emma?" I says, "Where are they?"

By the Vice-Chancellor:

Q. Go right ahead. A. I says, "Where are the rooms, Emma?" She says, "Well, now of course, I don't know the date or the address, but I went and got them yesterday or the day before, and I have had it on a piece of paper; I ain't sure, but I guess it is 340 Dumont Street, or something like that."

10

Q. What did she say was the rent of those rooms? A. I asked her the rent and she says, "\$15" "Well," I says, "that is quite a good deal, 15." "Well," she says, "we will both work together and we can get along all right on that." I says, "Well, when will I come up?" She says, "Don't go up near those rooms, don't go up and see them until I let you know when to go," she says, "Don't go in there at all until I let you know." Well, it was a week after and I didn't hear from my wife, you know, and her brother says, "What are you going to do, starve her to death when you get her in those rooms?" I says, "No, I—"

20

Mr. Agnew: I object to what the brother said unless the wife was present.

By the Vice-Chancellor:

Q. Was your wife present? A. No, your Honor.

30

The Vice-Chancellor: It will be stricken out.

By Mr. Loewy:

Q. Did you ever see those rooms, Mr. Pozzi? A. Well, I went to see those rooms and I knew the man, I used to buy shoes from him. I says, "How do you do, Mr. Lawler?" He says, "How do you do, Mr. Pozzi, what can I do for you?" I says, "I don't want no shoes, I just came to see if my wife got rooms here." He says, "Is that your wife? What is the matter with her—"

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Mr. Agnew: I object to that and ask that it be stricken out.

The Vice-Chancellor: It will be stricken out.

By the Vice-Chancellor:

10 Q. You went to look for rooms—now, did your wife go with you? A. No, she did not go; I didn't hear from her and I went there myself to see if she had moved in, and I asked the man—

Q. You located the rooms? A. I was asking the man to let me see the rooms and I told him that the rooms was \$15.00, the rent, I asked him if the rent was to be \$15.00, and he says, "what is \$15.00?" I says, "the rooms." he says, "my rooms are not \$15.00, they are \$19.00 a month, and they won't be a cent less than that." I says, "Oh, \$19.00. I will surely starve that woman. I can't afford to pay \$19.00." So she came down to the house, and I says; "Emma, you are paying \$19.00, and when we left the Court you weren't going to pay over \$10.00. Now, you know that is too much, \$19.00, and then I will surely starve you, then; I cannot do any more." "Well," then, she says, "why don't you say you don't want to live with me, that's all?" and she went right out in a hurry.

30 By Mr. Loewy:

Q. She said that to you after making all these efforts—did you make any further efforts? A. Yes, once or twice.

40 Q. Since that time? A. Yes, since that time; I asked her "Well, what are you going to do about rooms? What are we going to do now?" So Mrs. Finnegan offered rooms where I was living; the rooms happened to be empty. Miss Finnegan asked me "Now," she says "do you want to take my rooms; they are empty, and they are nice, light rooms?" I says, "Well, now, if she is satisfied, Miss Finne-

gan, she can take them; as long as she is satisfied—”

Mr. Agnew: I object to this and ask that it be stricken out.

By the Vice-Chancellor:

Q. Your wife was not present? A. No, sir.

Q. Did you call the attention of your wife to the fact that she could have Miss Finnegan's rooms?

10

A. Miss Finnegan spoke to her, herself.

Q. Was your wife present? A. My wife was present, and I was there.

Q. And when Miss Finnegan spoke to her? A. Yes.

Q. State what was said then? A. Miss Finnegan offered her the rooms.

Q. What did she say? A. I says, “Now, Gussie, I can help you now, if you say you want rooms, now here are these rooms upstairs, and I had paid \$5 deposit on the rooms already and to help you out I will get you those rooms.” She says, “I will let you know.”

20

Q. Your wife said this? A. She said she would let her know, they were doing the talking.

By Mr. Loewy:

Q. How many rooms were there? A. There was four full rooms and no bath; nice light rooms.

30

Q. Did Mrs. Pozzi ever go there and live with you? A. No, she did not.

Q. She did not? A. No, she absolutely refused to go there. She says she doesn't want to go there.

By the Vice-Chancellor:

Q. When you lived with her mother did you occupy the same room? A. No, your Honor, I occupied a room in the second floor, on the east of

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the house, and my wife occupied a room upstairs; where it was I don't know; but I wasn't allowed to—

Q. (Interrupting) Were you ever in her room?

A. No, your Honor; I was never in her room.

Q. Did you ever occupy the same bed with her?

A. No your Honor.

10 Q. Did you ever have sexual intercourse with her? A. No, your Honor.

Q. Did you ever ask for it? A. Well, that was most natural.

Q. Well, did you? A. Yes, I did; most naturally.

Q. Well, what did she say? A. Well, she says, no, she wouldn't do it.

Q. She refused? A. Furthermore, she says, your Honor, she didn't want children.

20 Cross examination by Mr. Agnew:

Q. Have you any recollection of the testimony that you gave at the last hearing of this case?

Mr. Loewy: I object, your Honor has stricken that all out. It is immaterial whether he recollects it, or not.

The Vice-Chancellor: That is proper cross examination.

30 A. I don't remember anything, attorney; I didn't know what I was saying.

Q. You don't remember anything you said at all? A. No.

Q. You don't remember anything that happened? A. No, no.

Q. I show you this paper and ask you to look at it and state whether or not that is your signature?

A. Yes, that is my signature.

40 Q. This is your petition which was filed in this suit, and I would like to have you state whether or not you read this before you signed it, or was

it read to you? A. Why, I don't think it was read; I think I just signed it. I don't think any petition was read to me.

Q. You didn't know what you were signing when you signed that paper? A. No, I signed it the lawyer was doing the work and I told him my story.

Mr. Loewy: I read that to Mr. Pozzi twice, and he read that. I cannot understand that. 10

Mr. Agnew: I object to the solicitor testifying, if your Honor please. I do not undertake, of course, at this time to impeach the integrity of Mr. Loewy in this matter, I want to lay the foundation here for a presentation of the facts, which I think will be material later on.

The testimony of the witness upon this point was repeated at the direction of the Court as follows: 20

"Q. I show you this paper and ask you to look at it, and state whether or not that is your signature? A. Yes, that is my signature. Q. This is your petition which was filed in this suit, and I would like to have you state whether or not you read this before you signed it or was it read to you? A. Why, I don't think it was read; I think I just signed it. I don't think any petition was read to me. Q. You didn't know what you were signing when you signed that paper? A. No, I signed it. The lawyer was doing the work and I told him my story." 30

Q. Is that true, Mr. Pozzi? A. Well, just as I said; I think I just signed it; I thought I signed it, but I don't remember; I was too upset, to tell the truth; I don't remember anything. I could not tell you; if I was made to swear with a gun I couldn't tell you what I done; I am all upset; I don't know anything about my work or anything; I am doing the best I can. 40

Q. You don't remember anything about all of this trouble between you and your wife excepting the specific facts that you have testified to this morning; is that so? A. You will have to talk a little plainer, Attorney; I don't quite understand.

By the Vice-Chancellor:

10 Q. Have you told all you recollect now about your troubles with your wife? A. I think I have, Attorney, or your Honor, I think I have.

By Mr. Agnew:

Q. I desire now to call your attention to the third paragraph of your petition, which reads as follows: "Petitioner" (meaning you) "and defendant" (meaning your wife) "have never cohabited after their said marriage, the said defendant refusing so to do," is that true? A. "The said defendant?"

20 The Vice-Chancellor: No, that is, did you live together in the same house, in the same room, and occupy the same bed, as husband and wife?

A. No, your Honor; that was never done, no.

30 Q. Do you remember testifying upon the last hearing of this case that you did have intercourse with your wife? A. I told you, Attorney, I am just after through telling you I don't remember anything, I wasn't well; I couldn't remember anything. I had to answer you the best I could; I couldn't remember a thing; I don't know what happened.

Q. Where did you live at the time of your marriage? A. At what time of my marriage, Attorney? I have been married three years.

40 Q. Where did you live when you were married? A. I went to her mother's home, 110 Clinton Avenue.

Q. Where were you living at the time that you were married? Where were you living the day you were married, or the day before? A. Oh, the day before I was married I was living at the mother's home.

Q. How long had you been living there? A. I was living there about, well, now, I can't say to that, I couldn't tell just how long I was there.

Q. One week? A. Oh, no, it was more than that.

Q. Two weeks? A. It was more than that.

Q. Three weeks? A. Well, I can't think; if you keep on going I would say "yes."

By the Vice-Chancellor:

Q. Was it a year? A. It was not a year, no.

By Mr. Agnew:

Q. How long? A. About two months.

Q. About two months? A. I will say about two months, I am not sure.

Q. What room did you occupy in that house before your marriage? A. The middle room, in the east.

Q. On the main floor of the building, on the parlor floor? A. The middle floor in the east part of the house.

Q. That is the floor immediately above the basement floor; the parlor floor? A. It is the middle floor. There is two rooms in the house, the front and back, the east room is in the back of the house, the front is the west.

Q. On the parlor floor, or floor above the basement? A. Yes, that is right.

Q. And that was the rear room on that floor, wasn't it? A. It was two rooms.

Q. And you had the rear room? A. Yes.

Q. And did you continue to occupy this rear room during the period that you lived in this house

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after your marriage? A. Well, I didn't have any intention of living there at all—

Q. Answer my question. I did not ask you that. (Question repeated.) A. Yes, I was made to. I was forced to occupy it.

Q. And Mr. Pozzi, didn't your wife, the day following or two days following your marriage, stay with you in those rooms? A. Never.

10 Q. And sleep with you in this room? A. Never, never, Attorney.

Q. Until a day or two before you left the house? A. Never, she never came to live with me in that room, never came in to see even what would happen to me.

Q. Were you working at this time? A. Yes, I was working.

20 Q. And had you been working steady for some time before your marriage? A. Yes, I always kept my job, yes.

Q. And you have been working continuously ever since? A. Yes, I have been working.

Q. Do you mean to tell this Court that your wife never slept with you in this rear room while you and your wife lived together at this house? A. Yes, sir.

30 Q. You say she never came in to see you at all; what do you mean by that? A. She came to the door and she says, "What are you doing?" once in a while. I would see her down at the table when they would call me down to have my supper, when I felt like having it; sometimes I didn't feel like eating at all; but she never came into the room while I was there; she was afraid of the mother, she wouldn't allow her.

40 Mr. Agnew: I did not ask you that, and ask that that be stricken out.

The Vice-Chancellor: It will be stricken

out; it is sufficient to say that she did not come in.

Q. During the time that you lived there at her mother's house were you both in each other's company upon each evening? A. Yes, we were always at the home there. Yes, we were always there. Yes, Attorney.

Q. And was your wife affectionate in her conduct towards you? A. Why, no, she was not. 10

Q. She was not? A. No.

Q. Did you ever kiss her during all this time that you lived there? A. No.

Q. Did you ever try to kiss her? A. Well, I tried to be nice to her in a nice way, but her mother was there; she sat where we were, and the girl was afraid to do anything.

Q. Well, the mother was not around all the time? A. Oh, yes, she was; when I was there she was there; whenever we sat in that room she was there; I know it; I was there. She was there. 20

Q. The mother had her household duties to perform, hadn't she? A. Well, that means house-work?

Q. Yes. They didn't keep any servants, did they? A. No; didn't keep any servant.

Q. And there were other members of the family beside your wife? A. Yes. 30

Q. And you mean to tell the Court that Mrs. Pozzi's mother was spying on you during every minute of the time that you lived in this house? A. Oh, no, it was not every minute of the time that I was home there. I was at work and I would go home and then I would have my supper and the mother would stay in there; she stayed in there at nights. There was three girls in the house besides, and they were doing the work, and the mother would come in and set down, and she stuck to my wife; I couldn't understand it. 40

Q. Now, the mother went out occasionally, did she? A. Well, yes, she did—went out occasionally, yes.

Q. Did you ever take your wife out? A. Yes, I did.

Q. And where did you go? A. Well, I would take her to the moving pictures or wherever she suggested, I couldn't take her too much.

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Q. Is that the only place you took her, to the moving pictures? A. Why, yes, that is all I remember taking her to, the moving pictures.

Q. Any place else? A. No, I don't think I did.

Q. Well, there were many times that you and your wife were alone during that period of three weeks after the marriage, weren't there? A. Never alone, your Honor.

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Q. Well, you were alone when you took her out to the moving picture show? A. Yes.

Q. She never refused going out with you, did she? A. No, Never refused going out.

Q. And did you ever ask her to have any sexual intercourse with you outside of her home? A. Well, now, what do you mean—at the time I was going to the moving pictures, do you mean?

The Vice-Chancellor: No, at any time?

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Witness: Well, I am trying to understand, I want to answer you in the right way.

Q. (Question repeated.) A. No, I never did, not outside of her home.

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Q. After your marriage was there anything said by you and your wife with reference to what contributions you would pay for board or support while you lived there? A. Well, yes, I tried to make her mother understand that I wanted to pay my wife's board.

Q. How much money were you earning at that time? A. \$15.00.

Q. Are you sure about that? A. Yes.

Q. Weren't you earning \$18? A. \$15, Attorney.

Q. \$15? A. Yes.

Q. And you had been earning that for how long? A. Well, I hadn't been earning that very long.

Q. How long before your marriage? A. Well, now, I cannot possibly give you any dates.

Q. Cannot you give us any idea whether it was one or two years? A. I couldn't do it, no, because I wouldn't be swearing to the truth.

The Vice-Chancellor: Just answer the question.

The Witness: No, I couldn't swear to it.

Q. How long after your marriage was this first conversation with reference to your contribution to this home for the support of yourself and your wife? A. Well, immediately. I wanted to, of course; when I went to pay my board I says, "now, can Gussie go to live with me" (or anything like that, or things like that, and I wanted to pay her board)? "Now, she is here; she is my wife." And she refused to take any money, she says, "No, I don't want you to interfere at all; she is to have nothing to do with you, and you are not to have anything to do with her; you have got to get out of here." That was the time of the fight at the house, that is how things were started.

Q. Well, that fight did not occur until a few days before you left, is not that so? A. Oh, there was fighting in the house night after night, Attorney; I know, I was there.

Q. Now, you did pay your wife's mother some money for the support of your wife and yourself, did you not? A. My board only. She says, "I want

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you to understand four dollars is all I charged you before and it is all I charge you now, I don't want a thing for your wife," she says, "she don't belong to you; and if it costs me the last cent I will get rid of you." She says, "I would rather see her six feet under the earth than to see her in the place where she is to-day."

10 Mr. Agnew: I object to that and ask that it be stricken out as not responsive.

Q. How much did you pay her during the time you were there? A. I paid her what she asked. I couldn't pay her any more than four dollars.

By the Vice-Chancellor:

Q. You paid her four dollars before your marriage and you paid her four dollars afterwards?

20 A. Yes, sir.

By Mr. Agnew:

Q. Your wife asked you to provide a home for her, didn't she? A. Yes, she asked me after—

Q. Just answer my question and we will get along very nicely; your wife asked you to provide a home for her and yourself immediately after your marriage, is not that so? A. No, no.

30 Q. How long after? A. When I was thrown out of the house she came around to 110 Palisade Avenue and she came down with a newspaper and she said, "Now, that is what you went and done." She says, "Now, we ought to go to live together, and let me go and get rooms."

Q. Do you mean to tell the Court that your wife never said a word to you about you going out and furnishing a home for her? A. Yes; Attorney.

40 Q. Until after you were, as you say, put out of this house? A. Yes, Attorney, I swear to that.

The Vice-Chancellor: One moment.

Q. Now, when she did speak to you about furnishing a home, you objected to it, didn't you? A. I did not, I forgave the woman, as though nothing had happened.

The Vice-Chancellor: You say you did not object. That is an answer to the question.

Q. Didn't you tell her you didn't have any money to furnish a home? A. I did not your Honor, because I gave her the money. 10

Q. Didn't you tell her that you were giving your mother ten or fifteen dollars a month, every month? A. No, I didn't tell anything of the kind to my wife. She never knew, I guess, that I had a mother.

Q. Never said a word to her that you had been sending money to your mother? A. No, never, never.

Q. Is it true that you were making every effort to provide for your wife? A. Why yes, all I could do. I asked my wife to come and live with me. Yes, I did all I could. 20

Q. Now, Mr. Pozzi, when I say a "home" I mean an apartment. A. Yes, an apartment.

Q. That is so, is it? A. Yes, that's so.

Q. What did you mean in this letter of July 3rd, 1913, when you wrote her "I would like to know whether you have decided to live with me in the room that I have rented for you?" you wanted her to live with you in this room, didn't you? A. What room? 30

Q. The room that you speak of in this letter. A. Rooms—I spoke of no "room" at all; there was rooms rented at 65 Oakland Avenue, and there was rooms at \$10 she was going to rent for me. Those are the rooms I am speaking about. There was no rooms I asked my wife to go to except those two rooms. 40

Q. You did write in this letter, did you, "I would

like to know whether you have decided to live with me in the room that I have rented for you?" A. Well the "rooms" I had rented for her. I rented rooms, hadn't I, at 65 Oakland Avenue, and she was going to get me rooms—either one or the other.

10 Q. When did you rent the rooms on Oakland Avenue? A. At the time your Honor said there was rooms to be gotten. I went right out of the Court and got rooms.

Q. Don't you know that that was not at the time you wrote this letter? A. Well, those are the rooms. You asked me when I rented those rooms, and I am telling you, Attorney, I am trying to tell you when I rented these rooms.

20 Q. As a matter of fact you did not rent these Oakland Avenue rooms, did you? A. I did, sir; I went out myself immediately after the Court and rented them.

Q. Wasn't that flat on Oakland Avenue rented through one of Judge Butler's clerks? A. It was rented by myself.

Q. Was Judge Butler's clerk with you? A. No, sir; not at the time I rented those rooms.

30 Q. We went afterwards to inspect those rooms, did we? A. Yes, and you went back to Butler and said those rooms were good enough for anybody to live in.

Q. Those were the first vacant rooms that you noticed after you left Judge Butler's office on your way up to North Hudson—wasn't that so? A. No, I went to inquire at a real estate office if they had rooms. The rooms were all too high. He wanted about \$15.00. I went over to Oakland Avenue; I saw rooms and went in; they were nice; I asked "How much is the rent?" "\$13.50." I paid so much down.

40 Q. Before you rented them did you say anything to your wife about renting the Oakland Avenue rooms? A. She was told before—

Q. Just answer the question—before you rented those Oakland Avenue rooms had you said anything to your wife about renting those rooms? A. No. I never said anything about renting those rooms.

Q. Do you remember the Vice-Chancellor stating to you at the hearing of this suit for maintenance that was instituted by your wife and was pending in this Court about two years ago, that he thought your wife's wishes should be consulted and considered in the renting of the rooms; that your wife spent her entire time there in the day without you, and that it was fair and reasonable that you should consult her wishes with respect to the renting of rooms; do you remember that? A. Yes, I remember that, yes, Attorney.

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Q. Did your wife, after that, rent rooms in West Hoboken? A. Well, not afterwards. She said she had rooms. She said she had rooms, that is what she said.

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Q. Did she tell you that? A. She told his Honor that in Court, that she had rooms.

Q. Did she tell you that? A. No, I was there when she told it in Court.

Q. How did you know about it then? A. She told the Court when I was there, she told me as well as the Court.

Q. Where were those rooms? A. I don't know; I have been trying to find out ever since.

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Q. Well, you saw your wife and spoke to her a short time afterwards, didn't you? A. No, not a short time afterwards.

Q. Well, how long a space of time was it from that time until the next time that you and your wife talked with one another? A. Well, it was the next day; I talked to her over the phone.

Q. The next day? A. Yes, sir.

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Q. And have you any recollection of the conversation that you had over the phone? A. Well, now,

I wrote her—I had at that time, I don't remember just now.

10 Q. You don't remember now what this conversation was between you and your wife over the telephone? A. Yes, I asked her where are those rooms, that she would please let me know where were those rooms so I could go there, I wanted to help her a little to do all the work I wanted to know where those rooms were.

Q. Just tell us all the conversation? A. Well, I asked her if she would tell me where those rooms were. "Well," she says, "now, I will let you know." There was no conversation that amounted to much. She says "I will let you know."

By the Vice-Chancellor:

20 Q. Then she didn't tell you? A. No, she didn't tell me where the rooms were.

By Mr. Agnew:

30 Q. Well, how long after this conversation over the telephone was it that you met your wife? A. Well, I wrote to my wife another letter after I called her up on the 28th of June, 1913, I wrote a letter asking her where those rooms were; I didn't see her. I asked her the day I called her up "You said you would let me know about those rooms, but you did not," and I got no answer.

Q. Now, I am asking you how soon after this telephone conversation was it that you met your wife? A. Well, that is pretty hard for me to say. I don't remember, I can't remember that.

40 Q. Was it a day or two days or three days? A. No, it was long afterwards, if it was three days, I could tell your Honor, but it was so long after I could not seem to tell you; I wouldn't want to tell you something I don't know.

Q. Well, can't you tell us how long it was? A.

Your Honor, I don't know; I would be telling a lie if I say it.

Q. Well, now, the rental by you of the flat on Oakland Avenue was a rather important factor in the relationship between you and your wife at that time, wasn't it?

The Vice-Chancellor: Does the witness understand that?

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The Witness: I don't understand what you mean. If you will make it a little plainer?

Q. You have a distinct recollection about the Oakland Avenue rooms? A. What is the meaning of "distinct"?

Q. A clear recollection—you remember all about it? A. Yes. I remember what took place.

Q. And you remember your wife stating at that time that she didn't want to move into the apartment on Oakland Avenue? A. I do not, because I did not see my wife after that; I don't know what she said about those rooms; I didn't see my wife; I don't know what she said, Attorney.

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Q. You were in Court at the time, weren't you? A. What time?

Q. When the matter of the Oakland Avenue apartment came up for consideration A. Yes, yes.

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Q. You heard what I said in Court at that time that your wife did not like those rooms and that she thought her wishes ought to be considered? A. Yes, but Attorney, you just asked me how long after the telephone call did I see my wife, that is what you just asked me.

Q. You told me a moment ago, in answer to my question, that the next day you had a telephone conversation with your wife after the talk about the Oakland Avenue apartment? A. Yes.

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Q. Now, then, I want to find out from you if you can tell me— A. Just a minute.

The Vice-Chancellor: If your statement is wrong you have a right to correct it.

10 The Witness: You are saying about the Oakland Avenue apartment, it was either that or the other; I did not see either the Oakland Avenue or the other rooms; I know there was two rooms at the time; either one or the other would have been good enough for this woman—either one. I didn't make it exact that it was about this Oakland Avenue apartment; I did not say that. I wanted to know at the time where were those rooms she had for me; that she hadn't told me. That is what I wanted to know.

20 Q. You haven't any affectionate regard for your wife at all, have you, Mr. Pozzi? A. What do you mean?

Q. You haven't any affectionate regard for your wife, have you? A. Well, I always done what I could for my wife.

Q. Well, if you have why did you just characterize her now as "this woman?" A. Well, now, I am just answering you the truth, Attorney.

30 Q. You are asking me what I done. I am telling you I am trying to tell you the truth.

Q. Well, now, can you tell me how soon after your wife had said that she wouldn't or didn't care to occupy this Oakland Avenue house that you and your wife met together and were in each other's company? A. I don't know. I don't seem to be able to answer you. I don't know what I am to say, Attorney, I don't know, I tell you, Attorney. I can't seem to answer that, Attorney.

40 By the Vice-Chancellor:

Q. One moment. After you left the Court the

day the Oakland Avenue rooms were talked of, how soon after that time did you and your wife talk together or walk together? A. Well, the trouble is, your Honor, I was just saying I don't remember; it was quite a while afterward. You see I wrote her these letters there. It was quite a while after. I did not see my wife.

By Mr. Agnew:

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Q. Where were you living at that time?

The Vice-Chancellor: What time?

Q. At the time that your wife spoke to you, or you spoke to your wife? A. 49 Clinton Avenue.

Q. 49 Clinton Avenue? A. Yes.

Q. Now, then, did your wife come down and visit you at 49 Clinton Avenue after the hearing in this Court where the Oakland Avenue apartment was mentioned? A. Just as I say, Attorney—

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The Vice-Chancellor: No, no.

A. Just as I say—quite a while afterwards she came down; yes, I will say the truth.

Q. And how often did she visit you while you lived at No. 49 Clinton Avenue? A. Well, you know it was so far apart, you don't expect me to give dates?

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The Vice-Chancellor: No.

A. Every once in a while, your Honor, I couldn't say the dates.

By the Vice-Chancellor:

Q. Well, three, or four, or five times? A. Well, now, let me see—I can't tell.

By Mr. Agnew:

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Q. Well, how long did you live at 49 Clinton Avenue? A. I will give it to you about—I guess

I will say about a year and two months, I will say about that; I say I cannot say exactly.

The Vice-Chancellor: I understand you cannot give the date; all you are expected to do is to tell the truth according as you see and understand it.

10 Q. Now, how long had you lived there when this hearing took place in this Court? A. Well, that is the same question you just asked me, Attorney.

By the Vice-Chancellor:

Q. How long had you been living there when you rented the Oakland Avenue property? A. Well, I was living there all the time, you know until I moved. You know, as I say, I can't give any date—a year or something.

20 Q. You were living at 49 Clinton Avenue? A. Yes.

Q. When you rented the Oakland Avenue property? A. Yes.

Q. Now, how long before you rented the Oakland Avenue property did you rent the property at 49 Clinton Avenue? A. I didn't rent no property—do you mean the rooms, when I went there to live?

30 Q. Yes. A. Well, your Honor, when the action was started I was living there; I was then living there.

Q. And how long before had you lived there—was it a month, two months, or what? A. Well, I can't say about that, your Honor.

Q. Well, three months or four months? A. Supposing I say about two months.

By Mr. Agnew:

40 Q. Well, we don't want you to say anything unless it is as near correct as you can give it. A. Well, I am trying to answer correctly.

Q. I want to find out when it was. If you don't understand me, say so; I want to find out, from the best of your recollection; I don't want any specific dates if you cannot give dates; but I want to find out according to the best of your recollection; how long you had been occupying this room at No. 49 Clinton Avenue at the time that you rented the Oakland Avenue flat. Now, that is a simple enough question, is it not? A. I am just telling you, Attorney, I can't remember I wouldn't tell you something I don't know; I was just after saying I lived there before the action was started and I lived there about a year and two months, about. So I can't remember, Attorney.

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By the Vice-Chancellor:

Q. When did you move from 49 Clinton Avenue—about what time—can you fix that? A. (No response.)

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By Mr. Agnew:

Q. You say that your wife visited you at No. 49 Clinton Avenue a number of times; is that correct, Mr. Pozzi? A. Yes, she called on me once in awhile, not a number of times, but she called there every once in a while, yes.

Q. And you and your wife had intercourse there, hadn't you? A. No, your Honor, no Attorney; I never had any intercourse with her.

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Q. When you left 49 Clinton Avenue where did you go to live? A. 359 Ogden Avenue, Jersey City.

Q. How long did you live there? A. I think I could give you that, about two months I lived there.

Q. Did your wife visit you at Ogden Avenue, Jersey City? A. No, she didn't know where I was.

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Q. Did you tell her where you had gone? A. I didn't see my wife to tell her, I tried to go

where I could see her; I knew she would be around there; but I never once got a chance to see her.

Q. Well, you didn't write her at all where you were, did you? A. No, Attorney.

Q. Now, from Ogden Avenue, where did you go to live?

10 The Vice-Chancellor: Right there; did you telephone her while you lived on Ogden Avenue?

The Witness: Not as I remember, your Honor.

The Vice-Chancellor: And you were there about two months?

The Witness: About that, I think it was.

20 Q. Then where did you go to live? A. Well, the people moved and I went to live at 116 Hauxhurst Avenue, where I am living now.

Q. You lived at No. 44 Clinton Avenue for awhile, didn't you? A. Yes, I lived at 44 and then 49.

30 Q. When did you live at No. 44 Clinton Avenue with reference to the time that this other suit was pending? A. I lived at 44 Clinton Avenue—I have the date here to refresh my mind, I have it right here—December was the month, 1912, I don't know just when. Just to refresh my mind I have that (referring to a paper produced by the witness) because I haven't the dates and I am liable to get mixed up. That is when I moved from Clinton Avenue, 44 to 49. You see I just put it there to refresh my mind, to refer to that.

Q. Is it correct that you moved from Ogden Avenue to Hauxhurst Avenue? A. Yes, your Honor, Attorney.

40 Q. Now, your wife wrote you a letter around Christmas time, wasn't it, a year ago? A. No, Attorney.

Q. Didn't you get a Christmas card from your wife about a year ago last Christmas? A. No, Attorney, I don't ever remember receiving a thing.

Q. Can you tell the Court when it was that you were last in your wife's company? A. I couldn't tell you that; that would be more impossible than anything else, Attorney; I couldn't tell you.

Q. You haven't the faintest impression when that was? A. Well, I know it was along in this time that those rooms were rented, the rooms that she was supposed to get for me, around there sometimes; I don't know; I don't just remember, I couldn't say; I wouldn't swear to it because it would not be the truth. I didn't know all of this was coming up.

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Q. She did tell you that she rented an apartment in West Hoboken the rental of which was \$19 a month, is that correct? A. Yes, sir, Attorney.

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Q. Did you go to look at it? A. Yes, Attorney.

Q. And you told her that you would not live with her in this apartment, didn't you? A. Oh, I didn't put it in those words, I asked her in a nice way, I said, now, she ought to sympathize with me. I couldn't afford it, Attorney; I couldn't afford to go into those rooms. How could I afford to go into those rooms? I couldn't afford to pay that rent. I would do anything, for her, but \$19.00 I couldn't afford. I couldn't starve the woman.

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Q. Well, you wanted her to get a floor for about \$10 a month? A. She says the rooms were \$15.00. I said, "Well, I would stand that." She said that we would both work. But afterwards I found the rooms were \$19.00 and what could I do.

Q. Well, did she say she would help you pay the rent? A. She said she would help me pay that \$15.00 rent; but how could she, Attorney? Her intention was that she was going to be home all the time, and she wanted rooms near her mother, where she would have somewheres to go, and she was go-

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ing to help me pay the rent. How could she do it? I had to support the woman and do the best I could to keep her. Now, how could I?

Q. Where were the rooms at \$15 a month? A. Well, at the same place. She said to me that they were \$15.00 a month, until I went to see the rooms and the man that owns them he says, "Get my rooms at any \$15.00! They are all \$19.00."

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Q. Where were they? A. Now, I had the correct address on a slip, Attorney, but I can't show it to you.

Mr. Loewy: It is on a blue slip in your pocket.

Witness produces a paper.

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A. There are the rooms, you see, and I went over the day before I got that and asked the man; I didn't know the name of the street or the number of the house, so I went there and made sure that that was the place.

Q. Were these the last rooms that you looked at? A. Why, no; they weren't the last, because after all that Miss Finnegan offered her rooms, Attorney.

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Q. Your wife told you that she would help you pay this rent for the \$19.00 apartment? A. No, she did not. I didn't understand it that way. If my wife was honest to me and told me it was \$19.00 I would have pleaded with her right there and then and told her I couldn't afford to do it.

Q. You just told me a second ago that she told you she would help pay the rent of the \$15.00 apartment?

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The Vice-Chancellor: No, he said that she said they would work together, or pull together.

A. I am trying to explain to you, if you will let me.

Q. Then the last apartments that were spoken of between you and your wife were the rooms at Miss Finnegan's house, is that so? A. What did you say?

Q. The last rooms you and your wife talked about renting were the rooms in Miss Finnegan's house? A. In Miss Finnegan's house, and next door, too.

Q. And next door? A. Yes; she went there to see if she could do anything.

Q. And when was this talk between you and your wife? A. I can't seem to say; I would have to think, and it would drive me crazy to think back.

By the Vice-Chancellor:

Q. Where were you living at the time? A. Right there at Miss Finnegan's.

Q. You were there then? A. Yes, sir.

Q. Do you recollect what time you lived in Miss Finnegan's? A. How long I lived there?

Q. No, what year or what month? A. It was 1913.

Q. 1913—don't you recollect what month? A. When I moved there, your Honor?

Q. Where did you live before you moved to Miss Finnegan's? A. 44 Clinton Avenue. I moved from 44, and in February I moved to Miss Finnegan's.

Q. February, 1913? A. 1913. In 1914, I was living at 44.

Q. Then from Miss Finnegan's you went where? A. Ogden Avenue—359 Ogden Avenue.

Q. And from Ogden Avenue where did you move to? A. 116 Hauxhurst Avenue.

Q. And from there where did you move to? A. I am living there now, your Honor.

Q. When did you move to 49 Clinton Avenue? A. Well, that is the same house—in February, 1913.

Q. Oh, that is Miss Finnegan's? A. Yes, sir.

The Vice-Chancellor: Oh, yes; that is where I was confused. That is all right.

By Mr. Agnew :

10 Q. What efforts have you made, Mr. Pozzi, during the past two years to get your wife to return to live with you? A. Well, Attorney, I made no efforts at all; I couldn't see my wife; I didn't know how I could get her. I could write her a letter, but I didn't; I didn't know what to do.

Q. Did you contribute to her support before you were compelled to by the order of the Court? Did you send her any money for her support before you were compelled to do so by the order of the Court?

A. No, Attorney. I don't know why I should.

20 Q. You did not feel that you were under any obligations to give your wife any money at all, did you?

The Vice-Chancellor: Now, you are going into a question that is really for the Court to decide. If a wife won't live with her husband, the husband is not bound to support her.

Mr. Agnew: That is true.

30 Redirect examination by Mr. Loewy :

Q. When you wrote this letter, P2, and you wrote the word "room" in here, did you mean just one single room, or did you mean an apartment?

A. I meant the rooms that we had at the time. I mean those rooms.

40 Q. Do you remember that when you came to me in my office I read to you this petition, and after I had read you the petition, Counsellor Huneke being present. I gave him this petition and asked him to read it to you, and he did? A. Yes.

Q. And then you signed it, and made your affidavit? A. Yes, I remember that now.

Q. Now, you say you moved direct from Ogden Avenue to Hauxhurst Avenue—how could you do that, inasmuch as you told me you were living at 49 Clinton Avenue when you filed this petition? Did you not move from Ogden Avenue to Clinton Avenue, and then to Hawkshurst Avenue? A. Oh, yes, I believe I did do that. Now, I have done the best I could, Attorney; I am not trying to lie.

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Q. You said in answer to Mr. Agnew's question "What efforts did you make to see your wife," "No efforts at all"—did you mean that? A. Well, what I said I believe was right, if I said it.

Recross examination by Mr. Agnew :

Q. Mr. Pozzi, your wife rented a floor in the month of June, 1914, at 102 Clinton Avenue did she not? A. Well, I am not going to say, Attorney; I don't know.

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Q. Well, I want you to answer the question? A. I don't know, Attorney.

Q. You don't know anything about it? A. I don't know nothing about the rooms.

Q. Didn't she tell you about the floor at 102 Clinton Avenue? A. Well, I don't know; just as I am saying, I don't know, Attorney, anything about it.

By the Vice-Chancellor :

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Q. He is asking, did your wife say to you that she had rented a floor at 102 Clinton Avenue? A. No, your Honor.

Q. Did you have any talk with her in 1914—do you recollect if you had any conversation with your wife, any talk with her in 1914—that is last year? A. I don't think I did, your Honor; I don't think so.

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By Mr. Agnew :

Q. Mr. Pozzi don't you remember taking this re-

ceipt for this floor at 102 Clinton Avenue from your wife (showing witness a paper)? A. No, Attorney; I don't know; I never heard of those rooms; I don't seem to know about those rooms.

JAMES POZZI, sworn.

10 Direct examination by Mr. Loewy:

Q. Where do you live? A. 49 Clinton Avenue, West Hoboken.

Q. You are a brother of the petitioner, are you not? A. Yes, sir.

Q. Were you ever present when Mr. Pozzi lived at 49 Clinton Avenue, at Miss Finnegan's, when Mrs. Pozzi was there? A. Yes, sir.

Q. Once? A. More than once.

20 Q. At any of those times when Mr. and Mrs. Pozzi were both present, did Mr. Pozzi ever ask Mrs. Pozzi to come and live with him? A. Many times.

Q. Did you ever hear Mrs. Pozzi say she was willing to go and live with him?

Mr. Agnew: I object to that as leading.

The Vice-Chancellor: It certainly is. State the conversation.

30 Q. Did you ever hear Mrs. Pozzi have a conversation with Mr. Pozzi on these occasions? A. Many times.

40 Q. What, if anything, was said? A. Why, they always talked about getting rooms, and the different rooms they were going to get; first it would be here, and then it would be there, and then it would be somewheres else; and it seemed every time they came together they were going to get rooms, either here or there, but never in the same place, always different places. They were always going to get rooms; and that is all the talk was,

that they were going to get rooms and live together; that is about all I heard talked.

By the Vice-Chancellor:

Q. That was while he was living at Miss Finnegan's? A. That is while he was living at Miss Finnegan's.

By Mr. Loewy:

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Q. During those conversations, Mr. Pozzi, did either party ever refuse to live with the other?

Mr. Agnew: I object to that, if your Honor please.

The Vice-Chancellor: No, state what the conversation was.

A. At one time when Mrs. Pozzi called—

The Vice-Chancellor: The question will be stricken out. 20

Q. I want you to tell me what took place at these meetings, and I cannot get you to tell me that in any other way. A. Why, at one time there was a quarrel.

Q. Where? A. In the house.

Q. At Finnegan's? A. Yes, at Miss Finnegan's.

Q. What happened at the quarrel? A. Well, at that time Mrs. Pozzi beckoned me—I was calling at the house next door to where Mrs. Pozzi lived, and she asked me would I kindly tell my brother that she would like to see him; so I told her if she would be on the corner of Lake and Clinton Avenues that I would tell him to meet her there, as I had no authority to invite her down to the house. I went home to my brother that night and I seen him, and he went there to meet her, and he brought her to the house, and she came there, and they talked about rooms, and she got very angry, and 30 40

she says to him, "Oh, you make me sick. Every time I come down here all you talk about is 'live together,' 'live together,' 'live together'; that is all I hear."

Q. Where was this, Mr. Pozzi? A. This happened at Miss Finnegan's.

Q. At Miss Finnegan's? A. At Miss Finnegan's.

10 Cross examination by Mr. Agnew:

Q. Mrs. Pozzi called to see your brother many times? A. Many times; on many occasions.

Q. While he lived at 49 Clinton Avenue, in Miss Finnegan's house? A. Yes.

Q. How often? A. I couldn't tell you how often; she called quite frequently.

Q. An average of once or twice a week, wasn't it? A. That I couldn't say.

20 Q. Well, have you any idea? A. Well, she would call maybe once or twice a week for a week, and then she was going to get rooms; then when she would get these rooms he wouldn't see her again for a month.

Q. Now, where did your brother and his wife hold their conversations? A. Sometimes in the kitchen and sometimes in the front room.

30 Q. Were you always present? A. No, not always.

Q. They were alone many times? A. That I cannot say.

The Vice-Chancellor: You are asking the witness to answer an impossible question, namely, whether he was present at all of their conversations—how can he state that?

Mr. Agnew: I want to find out.

40 The Vice-Chancellor: Well, he could not say.

Mr. Agnew: I wanted to test the accuracy of the witness's testimony.

Q. During the times that you observed your brother and his wife while they were at this boarding house of Miss Finnegan's were there many quarrels between them? A. Why, as far as I remember there weren't many, but there were a few quarrels, and they always seemed to be over rooms.

Q. Well, tell us all about that, so far as you know? A. Well, that quarrel I stated about, she came down that night, and he talked to her about rooms, and at last she seemed to have got tired of hearing about rooms, and she flew into a temper, and she said he made her sick, that she wasn't coming down any more, "all you talk about is 'rooms, rooms, live together, live together.'" "Well," he says "what are you coming down for?" and she says "I am coming down to hear you say you won't live with me; that is what I want you to say," and he answers her that he would see something fall before he would say that.

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Q. Were there any particular rooms mentioned at the time of this quarrel? A. Something about rooms in Jersey City; and she claimed they weren't any good; and he said "Well, the Board of Health inspected them," and I don't know, a whole lot more of it.

Q. Was that the Oakland Avenue apartment you have reference to? A. I don't know, sir; I know it was in Jersey City, and he said that the Board of Health had inspected them and said they were all right.

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Q. Now, how long a period was it that Mrs. Pozzi called upon your brother while your brother lived at No. 49 Clinton Avenue? A. Well, she called there when he first moved there.

Q. Yes. A. And when she stopped calling I don't know, some time after the last time he appeared in Court in Jersey City, and she talked about these rooms in Jersey City, that were inspected by the

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Board of Health; and I think that they had a quarrel at that time; and I don't know that she ever came down any more after that; I couldn't tell you; but she did not come down there while I was present, for I didn't see her there.

Q. Where did your brother go to live after leaving No. 49 Clinton Avenue? A. Somewhere in Jersey City.

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Q. Don't you know? A. Why, the address? I don't know the address.

FREDERICK VOLLMER, JR., sworn.

Direct examination by Mr. Loewy:

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Q. On October 28th, 1912, did you hold any official position in the Town of West Hoboken? A. I was Recorder.

Q. You were the Recorder of West Hoboken? A. Yes, sir.

Q. Do you recollect, on or about that period, of having occasion to summon Mrs. Pozzi and her mother? A. Why, yes, they were summoned to appear to answer to a charge of breach of the peace—Mrs. Wells, I believe is the name, and Mrs. Pozzi.

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Q. And did they appear, Mr. Vollmer? A. They did.

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Q. Will you tell the Court, please, what took place at this hearing? A. This was a hearing held on a complaint by Mr. Pozzi, who charged that his mother-in-law, that he thought that his mother-in-law was conspiring to break up the peace of his home, and he told me some circumstances, and I decided that it would be proper to hold an inquiry as to the facts, and summoned Mrs. Wells, and Mrs. Pozzi. They appeared. It was an evening session; and after Mr. Pozzi had repeated his complaint, under oath, I asked Mrs. Pozzi to testify, and after denying that her mother was interfer-

ing in any way I tried to ascertain how it was that the husband and wife did not live together in that case; and she told me that she had particular reasons of her own why she would not live with her husband.

Q. Mrs. Pozzi said that? A. Mrs. Pozzi said that; and I asked her what those particular reasons were, and she refused to tell me. Inasmuch as there had been no breach of the peace shown there was nothing else for it than to dismiss the complaint against both of them. But I took occasion at that time to tell Mrs. Pozzi that I thought she ought to have more weighty reasons than that, or anyway, reasons that she was willing to tell me, and if that were the arbitrary stand she took it would be absolutely—well, it would be out of the question for her to apply for support under a charge of abandonment, as far as my court was concerned. I did tell her that at the time. That is about all I remember that happened that evening.

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By the Vice-Chancellor:

Q. Did you say anything to her about her duty to return to her husband? A. Oh, yes. Well, I told her that it was the duty of the husband and wife to live together, and they could not, for minor reasons, run away from each other; and therefore I wanted to get what the particular reasons were why she would not live with her husband; I wanted to satisfy myself that there was some cause for the dispute. But she would not tell me anything at all. She took the position, in a very arbitrary manner, to let me feel as though it were none of my business.

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Mr. Agnew: I object to the characterization, if the Court please.

The Vice-Chancellor: Of course the witness is exceeding the limit; still I do not know. I will strike out that part of it, his characterization.

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The Witness: Well, I do not want to hurt Mrs. Pozzi's character at all, but of course you can understand how I felt about it at that time.

The Vice-Chancellor: The Recorder was trying to do his duty, and he did it, as I see it. He took a highly proper course in his treatment of these parties.

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Cross examination by Mr. Agnew:

Q. Did Mrs. Pozzi say anything at that time, before you, Judge, about her wanting her husband to provide a separate home for her? A. No.

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Q. And did she say anything about that her husband wanted to continue in her mother's house, when it was her mother's wishes that they should get out and have a home of their own? A. I think, in answer to a question as to whether it was a fact that her mother was interfering, she did explain that she was living there, but that her mother would be perfectly willing for her to live with her husband.

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Q. And did the mother make a statement to that effect, that she wanted her to get out of the house and live with her husband? A. I could not exactly tell you whether Mrs. Wells made that statement, or not.

Q. There was something said by Mrs. Pozzi, however, that her mother was anxious to have her get out of the house and live with her husband? A. I wouldn't say that she said that, but she did give me the impression that her mother was perfectly willing that she should live with her husband.

Q. Was anything said at that time about household furniture? A. Not that I remember.

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Q. Not that you remember? A. No.

Rev. CALVIN W. LAUFER, sworn.

Direct examination by Mr. Loewy :

Q. Pastor, you married Mr. and Mrs. Pozzi, did you not? A. Yes, I did.

Q. What date was that? A. That was September 28, 1912.

Q. After that period did Mr. Pozzi ever come to see you? A. He came to me on the evening of the 29th of October, just about a month later, in a very nervous state, given to weeping, in a weeping condition, stating the fact that he had just been before the Recorder of West Hoboken and that his wife had refused to live with him, and wanted to know what I could do in the matter.

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Q. Did Mrs. Pozzi ever come to see you since the marriage took place? A. Yes; she came to see me some time in the Spring of 1913.

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By the Vice-Chancellor :

Q. Right at that time, did you send for Mrs. Pozzi? A. No, I called at the house.

Q. I see—after Mr. Pozzi was to see you? A. Yes, the next day.

Q. You made a pastoral visit for the purpose of trying to reconcile them? A. Yes, I called there, and couldn't see them; and from there I called on the Recorder to get his advice in the matter, and he thought probably the best thing to do was to let matters run their course.

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By Mr. Loewy :

Q. You told us that Mrs. Pozzi came to see you sometime in the Spring? A. Yes.

By the Vice-Chancellor :

Q. The Spring of what year? A. 1913.

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Q. What did she have to say? A. She came to me, with her sister accompanying her; she came to

ask whether I could get her to see Mr. Pozzi, or have Mr. Pozzi see her; and of course I knew what relations existed between them, the embarrassed relations, and stated that I thought so. I sent a note to Mr. Pozzi if he would see her; but before doing so I asked her the question in the presence of my wife, whether they had ever lived together; and she said "No." I furthermore asked her whether Mr. Pozzi had been willing, or expressed the desire to provide a home, and whether he had ever rented rooms; and she admitted that he had. And then I sent my son to Mr. Pozzi's home, 44 Clinton Avenue—I think it was 44 Clinton Avenue, for Mr. Pozzi, and he called later in the evening.

By Mr. Loewy:

Q. You say that Mr. Pozzi came to see you on October 29, 1912?

The Vice-Chancellor: Right there, chronologically, now: Mr. Pozzi came that evening—did he meet Mrs. Pozzi at your house?

The Witness: No; they had left.

Q. Did Mr. Pozzi come to see you any time after that, or just that once? A. Oh, he has seen me frequently about the matter.

Q. He did? A. Yes. A short time after that I left for a trip to the West, and in the meanwhile, or while I was away in the West, I believe the proceedings were inaugurated in the courts. I left some time in June for the West and was away nearly seven weeks.

Cross examination by Mr. Agnew:

Q. Mr. Laufer, when Mrs. Pozzi called upon you in the Spring of 1913, did she say at that time that she was desirous of living with her husband? A. I asked her—no, it was not put that way; I put the question to her whether they ever lived to-

gether as man and wife, and she said "No"; and then I furthermore asked her why they were not living together; and she said there was trouble at home.

Q. She did solicit your efforts to have her husband see her or communicate with her? A. Yes.

Q. And what reason, if any, did she advance for the cooperation of your efforts? A. Well, it seemed to me that she was willing to live with him at the time, that is all; but she admitted that there was trouble at home.

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By the Vice-Chancellor:

Q. But you never brought them together in your presence? A. No.

By Mr. Agnew:

Q. Oh, Mr. Laufer, did she say anything to you at that time that her husband wanted her to live with him in a furnished room? A. No, all I knew of the furnished rooms was the one I thought was on John Street, but from the testimony brought out it was on Savoy Street; I knew there had been a room or rooms rented on Savoy Street; that is all I knew about it.

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Mrs. CATHARINE FINNEGAN, sworn.

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Direct examination by Mr. Loewy:

Q. Where do you live? A. 49 Clinton Avenue.

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

Q. And you know the defendant? A. Yes, I know her now.

Q. At 49 Clinton Avenue, Miss Finnegan, you have a boarding house? A. No, sir; I rent the floor upstairs to a tenant, and then I rent out two rooms, one room at a time.

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Q. But, nevertheless, Mr. Pozzi lived with you, is that it? A. Yes, sir; he lived upstairs on the other floor, in a room off the tenant, but I got the rent.

Q. Were you present at any time when Mr. and Mrs. Pozzi had any conversations at your house?

A. Yes, sir.

10 Q. What did you hear them say? A. Well, they quarrelled over rooms; and one time here she came there and she says she had rented rooms, I can't tell what number, on Clinton Avenue over a shoe store; and she told his brother that they were \$16 or \$15 (I couldn't tell you really now, Judge, it is so long) a month; and afterwards he went up there and found out they were \$19.

20 The Vice-Chancellor: No, you cannot testify to that. Tell only what you heard them say.

A. Well, one time she came down to my house, and my floor was vacant at the time, and I think it was 1913; and I asked her if she was willing, I would give her my floor upstairs, either the four rooms or the five rooms. She told me she would let me know in the morning, and in the morning I received a note from the woman saying that she would not take the floor, and she did not come down for some time after, and when she did come I said, "Well, Mrs. 30 Pozzi, come next door; there is a floor to rent there; you will probably like that better," and I went in with her next door and looked at the floor, and she pretended she wanted to pay a deposit, but she paid no deposit. I told her if she paid a deposit she wouldn't get it back from that man; and she went home then, and came down another night and said she didn't want the floor. I am telling the 40 truth.

Cross examination by Mr. Agnew:

Q. Mrs. Pozzi visited her husband, Miss Finnegan,

while he boarded or while he rented this room at your house? A. Yes, sir.

Q. Very often, didn't she? A. Well, not very often. Sometimes she would come pretty regular, and other times she didn't come for quite a while, Mr. Agnew.

Q. What do you mean by "quite a while—a space of a month or weeks? A. The space between? 10

Q. How long? A. Well, sometimes it was a month, and sometimes it was a couple of weeks.

Q. Now, Mr. Pozzi threatened to kill his wife one time, didn't he? A. Down in my house? No, sir.

Q. Didn't you go up to Mrs. Pozzi and show Mrs. Pozzi three bullets? A. Never.

Q. And say that her husband had threatened to kill her? A. No, sir; never such a thing happened.

Q. Didn't you want to go with her up to the Police Station and get a warrant for Mr. Pozzi's arrest? A. Never; that is a lie, all the time; that is dead wrong, Judge; I wouldn't swear to such a thing; I would be ashamed. 20

JOSEPH GALLI, sworn,

Direct examination by Mr. Loewy:

Q. Where do you live? A. At present, 817 Race Street, West Hoboken. 30

Q. Do you know Mr. Pozzi, the petitioner in this cause? A. I do, yes, sir.

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

Q. You know both of them? A. Yes, sir.

Q. Were you ever present at 110 Clinton Avenue, West Hoboken, when Mr. and Mrs. Pozzi were there? A. Yes, sir; I was present there; I don't just exactly remember the date, it was on one Sunday night, and I was there that night when they shoved him outside. They dragged him right out. 40

Q. Did you see anybody do that? A. Yes, sir.

Q. Who did you see do that? A. That was Mrs. Pozzi sister Lillian; and I also went out with Mr. Pozzi then; but they were holding a conversation and speaking in German and I couldn't understand them.

By the Vice-Chancellor:

10 Q. How long was that after his marriage? A. I think it was about two or three weeks after the marriage.

20 Q. Were you ever at 517 Savoy Street? A. Yes, sir. He came up to me in the month of November, 1912, and asked me if I wouldn't come down to 517 Savoy Street and help him pack his furniture; that his wife refused to come to live with him; so I went there and we were there from seven to one packing the furniture. It was to be put in storage the next day.

No Cross Examination.

The Petitioner Rests.

The case of the defendant.

EMMA G. POZZI, sworn.

Direct examination by Mr. Agnew:

30 Q. You are the defendant in this suit? A. Yes.

Q. And where do you live? A. I live at 110 Clinton Avenue.

Q. Do you remember the day of the marriage? A. Yes, September 28, 1912.

Q. And what day was that? A. On Saturday night.

40 Q. You have been present in the Court room during all of your husband's testimony? A. Yes, I have been present.

Q. Is it true that your husband, prior to his

marriage to you occupied a rear room on the parlor floor of your mother's house? A. Yes, the back parlor.

Q. Now, how soon after your marriage did you occupy this room with your husband? A. Two nights after.

Q. Did you sleep with your husband that night? A. Yes, sir.

Q. And did you sleep with him the following night? A. When do you mean?

Q. In that room; did you sleep with him? A. Oh, yes.

Q. How long did you continue to occupy the same bed with your husband while you both lived there? A. Until two or three nights before.

Q. You mean by that until two or three nights before he left? A. Yes, before he left.

Q. Now, did your husband have sexual intercourse with you while you both occupied this same bed? A. Yes, sir.

Q. What was the cause of your husband leaving? A. Well, because he said on that day we had better go and get our own home together and that it was the best way, for us to go and have our own home; that it would be better for him and better for I; and then he started to cut up and raise Cain in the house; and then he said he was going to go out.

Q. Now, the Vice-Chancellor wants to know just exactly what you mean by "cutting up and raising Cain." A. He was fighting with me, calling me bad names.

Q. What names did he call you? A. Oh, it is not fit to mention.

Q. Well, tell us what they were? A. Well, he called me a "son of a b—" and "go to h—" and called me out of my name, anyway. Then he left the house. That was three weeks after. Then he

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was eating supper the night he left the house, we all ate our supper together, and then he went upstairs and he packed up his valise and he walked out. My mother was not there at the time, neither was my brother. And then I went upstairs after him and I asked him what was the reason, and he said he was going to get out; and I said, "where are you going?" He said, "I am going down on Palisade Avenue, but," he says, "I will fix you when I get out of here." So he came in that week, afterwards, after a while; his trunk was left behind; and he came in and took his collars and things; and the first thing I knew I was summoned before Recorder Vollmer; and I went down to my husband that very night when I was summoned—

Q. Do you mean before or after the hearing?
20 A. No, before the hearing I went down to my husband and asked him what he meant by doing anything like that; he said he wouldn't tell me, but I had to go and appear, and then the very night we were served with these papers he came up to my home; he was sitting in the kitchen; I asked him what he meant by doing that; he said it was none of my business, that he was going to have me brought up there.

30 Q. Right in your own kitchen? A. Right in my own kitchen, the very day I was served with my summons, in my home; and I asked him what he meant by it, and I did all I could to keep him away and have the case dismissed, and he promised me first off, he said "I will do it for your sake," and then afterwards he said, "No, I won't do it." He came in the next morning and said he wouldn't do it. And that is how we came to go up there.
40 But he had no home for me, he had only a furnished hall bedroom.

Q. Where was that? A. 102 Palisade Avenue.

Q. Did he want you to live in this hall room with him? A. No, no, he never asked me.

Q. Well, now, after this hearing before Recorder Vollmer, how long following that hearing was it that you next saw your husband? A. I went to him the very next following night.

Q. Where did you meet him? A. Down at 102 Palisade Avenue.

Q. Where he was boarding at that time? A. Where he was boarding; and I told him that it was foolish for him to have me brought up there, I didn't see why he did, and I said "I will go right out now and look for rooms," and I did, "I went to 517 Savoy Street and I paid \$7.50, a half a month's rent, and then the very same day I hired those rooms, I went and got the furniture. But my husband did not give me \$120 as he said, he gave me \$70 and asked me for \$10 back, which was \$60.

Q. Did he go with you to 517 Savoy Street? A. No, I went during the day, and that very night I went down and told him about it, and he cut up because he said the rent was too much.

Q. What did he say about it? A. He said the rent was too much, and he couldn't go there; it was always the rent; whatever I done, nothing was right.

Q. What did you next do with reference to renting any other floor, after this floor at 517 Savoy Street? A. Well, then; don't you know, I went up and spoke to you (Mr. Agnew) about it. He took all of the furniture out of those rooms and had stored it, and he met my sister on the road and told her to go home and tell me that he didn't want anything more to do with me, and he handed the receipt over to my sister for me.

Q. The receipt for what? A. For the furniture he had stored at that time and he said I should let the furniture go to hell; that is what he said.

By the Vice-Chancellor:

Q. That is he told this to your sister? A. Yes, he told my sister.

By Mr. Agnew:

Q. Were you present? A. No.

Q. Oh, you cannot testify to that? A. Well, he sent home the receipt.

10 Q. Now, what did you do after the hearing of this suit of yours, about two years ago last Summer—Summer of 1913? A. Well, then, I went, when I was ordered from here, from the Court, and hired a floor on Clinton Avenue and Cortlandt Street; I did as I was told, I hired a floor.

20 Q. What did you do about it, with reference to your husband? A. I went and hired it on Friday, and on Saturday I went down and told him, and he said he would not pay that rent and it was of no use; and he went home on that following Tuesday, he said he was going home to Westerly, R. I., and he went away and I didn't see him until the middle of October, and then I wouldn't have known he was coming back—

By the Vice-Chancellor:

30 Q. One moment; what rent were you paying for this Clinton Avenue place? A. \$19.00.

Q. Did you tell him that? A. Yes, I told him. He went up to the rooms that very Saturday, and told the lady he wouldn't take those rooms because they were \$19.00.

40 Q. Now, what time of the year was that? A. That was right afterwards, 1913, in the latter part of August, I hired the floor, and he went away then, and I didn't hear a word of him after that until my sister met him and she came home and told me and I went right directly down to 49 Clinton Avenue, where he was.

Q. That was when? A. October.

Q. 1913? A. Yes, 1913.

By Mr. Agnew:

Q. Now, then you visited him at 44 Clinton Avenue from October until when? A. Until June, 1914.

By the Vice-Chancellor:

10

Q. From October to June, 1914? A. From October to June, 1914, the 3rd.

By Mr. Agnew:

Q. And during your visitations to your husband at No. 49 Clinton Avenue, West Hoboken, did you have sexual intercourse with him? A. Yes, sir.

Q. Many times? A. Yes, sir.

Q. Tell us about this floor at No. 102 Clinton Avenue? A. Well, I hired it June 3rd, 1914; I paid \$10.00 rent, one month's rent.

20

By the Vice-Chancellor:

Q. One moment; covering what period of time did Mr. Pozzi live at 49 Clinton Avenue? A. I guess he lived there—let me see—in 1913, he lived at 44 for two months and then he moved over across the street to 49 until 1914, and that is the time I went down, on June 3rd, and told him about the floor on Clinton Avenue, 102.

30

Q. You said you had sexual relations with him in 49? A. Yes, sir.

Q. How late did you have it? A. I stayed generally until about ten; sometimes later.

By Mr. Agnew:

Q. You do not understand the question—what date did you have sexual relations with your husband? A. Well, I couldn't say just exactly.

40

Q. Was it up to within a week of June 3rd? A. Oh, yes; a week before; about a week before.

Q. Well you had sexual intercourse with him at 49 Clinton Avenue, you say, right down practically to the date when he left there? A. Yes, a week before June 3rd.

By Mr. Agnew:

Q. Tell us about this floor at 102 Clinton Avenue? A. I went down and told him about the floor, and he said he wouldn't live there and I says (that was in the morning) I says "Move up tomorrow." He said, "No, I won't go there," he said no, he wouldn't go there. Then he said to me "I won't walk up to those rooms I hate you, I hate you; before I would walk up to those rooms with you I would tramp on you"; and of course I started to burst out, and all I could do was to go home, and a couple of days afterwards I met Miss Finnegan on Division Street. I said "I haven't saw my husband from June 3d until I met him last month."

By the Vice-Chancellor:

Q. June 3d, when? A. Well, June 3d, the last place where he lived I went down there June 3d, and it must have been June 4th or 5th, when he left town, because I had that floor the whole month, I paid a full month's rent.

Q. Then from June 3d, 1914, down to what date did you see your husband? A. The last time I saw him was down here. I inquired where his last boarding place was and she said "There is no use in you coming down to look for your husband because he is not around."

Q. Who said that? A. Mrs. Finnegan. I asked her where he was, and she said she didn't know where he lived.

Q. Did your husband write you or telephone you? A. Never, never—never any telephone.

Q. From June 3d, 1913, down to date? A. No, sir; never heard a word from him. I wrote over to

his place of business, I sent him a letter, I sent him a card. No answer. And I didn't know where my husband was until I met him last month down here.

By Mr. Agnew:

Q. Do you remember an occasion when Miss Finnegan showed you some bullets? A. Yes, she did; she had them in a tissue paper. She said he was going to take my life. 10

Q. That was when? A. That was in 1913. Then she said he was going to take my life, and she told me to go and have him arrested, and I said I wouldn't do such a thing like that, I had too much respect for him.

Cross examination by Mr. Loewy:

Q. Mrs. Pozzi, what room did you occupy before you were married to Mr. Pozzi? A. The back parlor. 20

Q. And what room did Mr. Pozzi occupy? A. The same room.

Q. So, therefore, you occupied the same room with Mr. Pozzi before you were married, do you mean to tell the Court that? A. Oh, no.

Q. I asked you what room you occupied before you were married? A. Oh, upstairs on the second floor, back. 30

Q. And after you were married you changed, and you occupied the back parlor, is that it? A. Yes, sir; with my husband, two nights after.

By the Vice-Chancellor:

Q. Two nights after the marriage? A. Yes.

Q. Well, where did you spend your first night? A. When I was married?

Q. Yes. A. Upstairs, with my sister. 40

Q. Was your husband with you? A. No, he was downstairs in the parlor.

Q. Why didn't you come together the first night?

A. Well, he told me that we would stay a short while in the house, then we would go for ourselves. That is how that came.

By Mr. Loewy:

10 Q. You testified that Mr. Pozzi (I don't remember what date you said) but that he walked out of the house with a valise and that nobody was present, how do you know he walked out of the house?

A. I didn't say nobody was present. My sisters were there at the time. We were all eating supper together when he left. He walked upstairs and packed up his belongings. I went out after him. And he walked out, but he was not thrown out the night he left my home.

20 Q. Who was there at the house? A. Mrs. Pedler and my sister.

Q. Was Mr. Galli there? A. No, he wasn't there when my husband left my home.

Q. He was not? A. No, he was not there when he left my home.

By the Vice-Chancellor:

30 Q. Did you say your husband walked out? A. Yes, sir. He went out, I might say he ran out instead of walking out.

Q. You saw him going out? A. Oh, yes.

Q. When he went out what did he have? A. He had a valise in his hand, but his trunk he left there.

Q. Did your sister try to restrain him from leaving? A. We all did what we could. He went upstairs, we begged of him. He said, "It's no use," he said, "I am going."

Q. What did your sister do? A. She didn't interfere.

40 Q. Did she take him by the coat and hold him back? A. Oh, no, no. He went out peaceably the last time he left my home.

Q. I say did she take him by the coat and try to hold him back, to keep him from going out? A. Oh, no, she didn't interfere any. They never interfered.

By Mr. Loewy:

Q. You testified that the day that you were summoned before Recorder Vollmer, you went to see Mr. Vollmer, is that true? A. The next following day.

10

Q. The following day? A. The next day, after the 28th, I went down to his house, 102 Palisade Avenue.

Q. Quite sure of that? A. Yes, I did.

Q. Was he alone? A. He was alone upstairs in his room.

Q. What did he say to you? A. I asked him what he went up there for to do anything like that, and I told him the best thing was for us to live together; and I went out and two days afterwards I hired a floor and bought the furniture the same day.

20

Q. What place was this? A. 517 Savoy Street, I hired the floor.

Q. You hired the floor? A. Yes, I hired it.

Q. For how long? A. For half a month. I paid \$7.50.

Q. How often in that half a month were you there? A. I was there twice.

30

Q. You knew your husband was working in the day time, didn't you? A. But I only visited my husband—

Q. (interrupting) : Did you know your husband was working in the daytime? A. I knew that, yes.

Q. These two visits that you made at 517 Savoy Street, when were they—what time of the day were they? A. They weren't during the day, they were in the evening.

40

Q. In the evening? A. About eight o'clock.

Q. And was Mr. Pozzi there? A. No, he was not there.

Q. On neither of those two occasions? A. Not either. I was down to visit him in Palisade Avenue.

Q. Mr. Pozzi asked you to come and live with him at 517 Savoy Street, did he not? A. He did not. He said the rent was too much rent, that he wouldn't pay it.

10 Q. You just told the Court you rented that apartment? A. Well, I did rent it.

Q. And do you mean to tell us that Mr. Pozzi refused to live with you in that apartment? A. Yes, he refused.

The Vice-Chancellor: Mr. Pozzi says the same thing. He says it was too much rent.

20 Q. Did Mr. Pozzi at any time tell you how much he was earning, what salary he was making? A. Well, when I married him he made a high salary.

Q. Did he ever tell you that? A. Yes, he did.

Q. Then you knew how much he was making; did he at any time tell you how much he was willing to pay for the rent for an apartment? A. No more than ten dollars.

30 Q. He told you that, and in spite of that you went and rented apartments, and every time it was \$15 or \$19, or \$13; it was more than \$10, when Mr. Pozzi had told you he was only going to pay \$10 rent? A. Well, I was perfectly willing to help pay the rent. I was working at the time.

Q. That is not the question.

40 The Vice-Chancellor: The witness is answering perfectly proper. She says she knew her husband had said he would not pay more than \$10 and the apartments for \$13 and \$19, but she is explaining now how she proposed to make up the difference; that she was working, or something else. Let the witness go on and testify.

A. I was working at that time, and I told him I was perfectly willing. It was I that paid the \$19.

Q. What \$19.?

The Vice-Chancellor: On Savoy Street?

A. No, sir; this was on Clinton Avenue. I paid the rent. My husband did not give me anything towards it.

Q. How much was it? A. \$19.

10

Q. Didn't you testify that you had a receipt for \$7.50 for half a month's rent of that place? A. That was on Savoy Street.

Q. Did you receive a telephone communication from Mr. Pozzi the day after the hearing took place before this Court in 1913, about June, I don't remember the date? A. Not I.

Q. Did you receive a letter from Mr. Pozzi a few days thereafter? A. No, sir.

20

Q. Or any time thereafter? A. Not after the Recorder's hearing.

Q. I am talking now about the time that the hearing took place here before his Honor? A. Oh, yes, I did. Mr. Agnew has the letter.

Q. You did receive a letter? A. Yes, Mr. Agnew has the letter.

Q. Did you see your husband since that time? A. Why certainly; we were friendly off and on up until June 3rd, 1914.

30

Q. You testified that your husband said to you in the kitchen of your home that he wouldn't live with you? A. Yes, he did.

Q. When, about, was this? A. That was the day after the hearing.

Q. The day after what hearing? A. The same day I was summoned; that was the 28th.

Q. The same day you were summoned before Recorder Vollmer? A. Yes, sir.

40

Q. And didn't you testify before that, that he had walked out of the house with a valise? A. Oh, I didn't say that before. I went down and met him. I told you, at 102 Palisade Avenue.

Q. He walked out of the house before that conversation in the kitchen, or afterwards? A. Before.

10 Q. Well, then, he must have come back and talked to you in the kitchen, didn't he? A. Well, I went down for him when I was served with the warrant during the day. I went down that very night.

Q. He came back to the house after he had left with the valise, didn't he? A. He didn't come back. I went down and got him I told you.

Q. You got him and he came back? A. In the kitchen. I was standing in the kitchen.

20 By the Vice-Chancellor:

Q. After you were summoned before the Recorder, you say you went down to your husband? A. Yes.

Q. What did your husband do? A. I went down and I asked him what did he do anything like that for, see?

30 Q. And then where did you go to? A. Then I brought him up to my home, and he was speaking to me over in the kitchen, and he said he was sorry.

Q. Who were present? A. Mamma and my sister. And he was sorry for what he had done; and I told him I would go out directly and get rooms, and I did it.

By Mr. Loewy:

Q. When was this; before or after the hearing? A. Before the hearing; that same night.

40 Q. Therefore, after he walked out with the valise in his hands he must have returned, otherwise

he couldn't have spoken to you in the kitchen, could he?

The Vice-Chancellor: You are speaking of an absolutely—well, I don't know what to characterize it. A man leaves a house and of course if he is found afterwards in the kitchen he must have come back.

Mr. Loewy: What I want to bring out is 10
that he was thrown out of the house and that the occasion she testifies to that he was not thrown out was not the occasion he testifies to at all; it was another time.

The Witness: No, no, he was not thrown out.

By the Vice-Chancellor:

Q. What counsel desires you to answer is this: 20
what night was it that he left the house and did not return—that is, did not return to stay—was it the 28th? A. No, it was not the 28th, it was the week before the 28th when he left my home, and went to live at Palisade Avenue in a furnished room.

By Mr. Agnew:

Q. That would be about the 21st? A. Yes, 30
around like that.

Q. Now, what date was it he returned and had the conversation in the kitchen? A. That was the 28th; the very night I was served with this paper.

Q. That was a week after he left your house? A. Yes, then I went down and spoke to my husband and we came up to my home together.

By the Vice-Chancellor:

Q. By the way, did you tell Pastor Laufer when 40
you called to see him that you hadn't lived with your husband as man and wife? A. Oh, I didn't

tell him that. He asked me if I had rooms and I said, "No, sir," but I told him we were living together in our home.

Q. Well, didn't you tell him that you and your husband had not lived together as husband and wife? A. No, I did not understand him to say that to me. He only asked me—

10 Q. (Interrupting): Did you say to the Pastor that you hadn't lived together as man and wife?

A. No, I didn't really say that; I did not mean that we did not sleep together.

Q. Did you say you hadn't lived together as man and wife because there was trouble at home? A. No. I don't remember saying that; all I remember is he asked me "Mrs. Pozzi, hasn't your husband got a home for you?" I said, "No, sir" and that I went down to see what I could do with my husband, if we couldn't make things all right.

20

Q. Now, you heard the Recorder, Vollmer's, testimony? A. I did.

Q. Did you tell Recorder Vollmer on the hearing before him that you wouldn't live with your husband and you had particular reasons for not telling him why you did not live with your husband, or would not live with him? A. Well, because he had cut up and was fighting, and he said he didn't want to have anything more to do with me.

30

Q. You heard the testimony of the Recorder—how about it—has the Recorder said truly what you said to him? A. About that he had no home for me at the time. I told him I was perfectly willing to live with him providing he provided a home for me; that it was I that always provided the home.

40

MISS LILY WELLS, sworn:

Direct examination by Mr. Agnew:

Q. You are a sister of Mrs. Pozzi? A. Yes, sir.

Q. And were you a member of the same household with your sister at the time of her marriage?

A. Yes, sir.

Q. What do you know of what room your sister and her husband occupied after their marriage? A. The back parlor.

10

Q. And how soon after the marriage, if you know, did your sister occupy that room with her husband? A. Yes, she occupied the room with her husband.

Q. How soon after the marriage? A. Right after they were married.

Q. Well, now, she was married on Saturday, so she says? A. Yes, sir.

20

Q. Did they occupy that same room that Saturday night? A. Yes, sir.

Q. That Saturday night? A. Yes, sir.

Q. And did they continue to occupy it? A. Yes, sir.

Q. Well, how long did they continue to occupy that same room? A. Well, as long as he stayed in the house.

Q. You heard your sister testify that she did not occupy that room with her husband, I think, until the second night after the marriage? A. The second night after the marriage?

30

Q. Yes, that is what she testified to—what do you know about that, anything? A. Well, she occupied the same room with him.

Q. The same night of the marriage—that Saturday night? A. Yes, sir; when they came home.

By the Vice-Chancellor:

40

Q. Well, now is it? Did your sister occupy the

same room with you the same night of the marriage and the night following the marriage? A. No, sir; she occupied the same room with her husband.

Q. That is, down in the back parlor? A. Yes, sir.

By Mr. Agnew:

10 Q. Do you know anything of the rental of this floor down at 102 Clinton Avenue? A. I don't know.

Q. Do you remember an occasion when Miss Finnegan called and showed your sister some bullets? A. Yes, sir; she came up to my house with three bullets in tissue paper and said they was all bullets he was going to kill her with.

Q. Kill your sister? A. Yes.

20 Mr. Loewy: I object to that. Who said that?

A. I said that she came up with them in tissue paper and showed them to my sister and said they was the bullets he was going to kill her with.

The Vice-Chancellor: Well, Miss Finnegan says she did not say anything of the kind.

The Witness: Well, she is lying.

30 The Vice-Chancellor: Well it is the duty of the Court to say which of you are lying and I have not said it. Miss Finnegan makes the assertion that she never did this. This witness says she did. The idea is to impeach Miss Finnegan's testimony.

Cross examination by Mr. Loewy:

40 Q. Now, Miss Wells, are you doing any particular work, or do you do housework? A. No, I stay home.

Q. You stay home and do the housework, don't you? A. Yes.

Q. What room did you say Mr. Pozzi occupied?
A. The back parlor.

Q. And before the marriage what room did Mrs. Pozzi occupy? A. Upstairs over the parlor.

Q. Now, you say, at the night of the marriage, that is to say, September 28, 1912, that Mr. and Mrs. Pozzi occupied the same room? A. Yes, sir.

10

Q. How do you know? A. Because I saw them going up together.

Q. Saw them going out together? A. Going up in the room.

Q. From where? A. From the kitchen.

Q. That is, you were downstairs when they went up, weren't you? A. Yes, sir.

Q. Did you see them go into the room? A. Well, I didn't go into the hall to look, but they went into the room.

20

Q. Well, how do you know they went into the room and slept together? A. Because they were there, they slept together.

Q. Didn't you just tell the Court you were downstairs in the kitchen and they went upstairs and they occupied the same room—now, how do you know they occupied the same room, when you were downstairs? A. Well, I wasn't going up to look in the room. They went in.

30

Q. Oh, they went in the same room—might not your sister have gone out into her room? A. No, she didn't go in her room.

By the Vice-Chancellor:

Q. How many rooms are there in this house? A. Ten rooms.

Q. Ten? A. Yes, sir; four upstairs, and two in the next, and a bath and the kitchen and dining room downstairs.

40

By Mr. Loewy:

Q. Did you go into this room when Mr. and Mrs. Pozzi were in there? A. In where?

Q. In the room? A. When they was in bed?

Q. Well, they didn't have to be in bed, but in the room before that—while they were in that room did you go in there? A. No.

10 Q. At any time during that night, or any other night? A. I was in his rooms, yes, lots of times.

Q. When Mr. and Mrs. Pozzi were in there? A. Yes.

Q. You were there that same night?

The Vice-Chancellor: Oh, well, she did not say "the same night"; she says "lots of times."

20 Q. What I want you to answer now, Miss Wells, is this: That same night when they were married, on the 28th day of September, 1912, after they went upstairs and you were down in the kitchen, did you afterwards, when you came up from that kitchen, go into that room and see that Mr. and Mrs. Pozzi were in there? A. No, sir, I did not go into the room after they was in there.

30 Q. So Mrs. Pozzi might have gone upstairs, and you would not have known the difference, would you? A. No, I would not.

By the Vice-Chancellor:

Q. Mrs. Pozzi, though, did not sleep in the room which you were in that night, or any night after their marriage, did she, while he was there? A. No, sir, not since they were married.

Q. And before the marriage she slept in the same room with you? A. Yes, sir—upstairs all the time.

40 Q. Was it a single or double bed? A. Single bed.

Q. Did your sister and you sleep in a single or a

double bed? A. Well, she did not sleep with me before she was married, she slept with my other sister.

Q. Mr. Pozzi left the house? A. Yes, sir; I was there when he left the house.

Q. Are you the sister that he says took him by the lapel of the coat? A. No, sir; that is a lie.

Q. Well, are you the sister that he says took him by the lapel of the coat and forced him out? A. Yes, I am the sister.

10

Q. You say you did not do it? A. No, sir; he walked out peaceably; nobody threw him out. And his trunk was left behind over a week, and he came in every night and got something out of his trunk.

HELEN ANDERSON, sworn.

Direct examination by Mr. Agnew:

20

Q. Miss Anderson, where do you live? A. I live at 811 Park Avenue, Hoboken, N. J.

Q. Do you know Mr. Pozzi? A. I know Mr. Pozzi by meeting him in Mrs. Well's house.

Q. That is Mrs. Pozzi's mother's house? A. Mrs. Pozzi's mother's house.

Q. And of course you are acquainted with Mrs. Pozzi? A. For a good many years.

Q. Now, after the marriage did you have a conversation with Mr. Pozzi with reference to his wife? A. One night I met him on the boat and we were standing on the boat. I said to him "Mike, what is the trouble?"

30

The Vice-Chancellor: "Mike"?

The Witness: Mr. Pozzi—I called him Mike; and I says, "What is the trouble?" "Well," he says, "I can't stand it." He says, "I don't know what is the trouble, but they are bothering Gussie," his wife, "and I don't think I will stand it any longer."

40

I says, "Oh, Mike, I don't believe that anybody can bother a person if they don't want it." He says "I am going to kill her and kill myself." I said, "Don't be so foolish. Go away for awhile. Take Gussie with you and go away for awhile. Don't be so foolish and kill anybody and get yourself in trouble." I says, "Why don't you go home?" and he says, "No, I will stay in Hoboken, and I will do one thing or the other." I met him on the boat that night.

Cross examination by Mr. Loewy :

Q. Did you work in New York? A. I worked in the National Biscuit Company.

Q. What time did you get home in the evening? A. Well, principally from between half-past four or twenty to twenty-five minutes before five to quarter of six, all according to how the work is being done.

Q. When was it you met Mr. Pozzi on the boat? A. I couldn't say when it was.

Q. About? A. Shortly after they were married.

Q. Shortly after they were married? A. I guess it was about that time, I couldn't say.

Q. What ferry was this? A. Fourteenth Street Ferry. We always crossed there.

Q. Fourteenth Street? A. Fourteenth Street and Twenty-third, New York.

Q. You say that Mr. Pozzi at that time told you that he was going to take rash means and kill his wife, etc.? A. He certainly did.

Q. And how did you happen to talk about such a thing? A. Well, we got into a conversation, and he came out to me, I was standing on the boat, and he came up to me, and we had no hard feelings, he had done nothing to me, so he came up and spoke to me, and I says, "How are you making out, Mike?" He said, "All right, but I can't seem to get along

up there," and I says, "Why don't you go up yourself?" I says, "I wouldn't separate from no man," I said to him. He says, "Why, of course not, you are different." I says, "If I like a person I will go with them." And after that he says, "Yes, but I wouldn't leave Gussie either, and I am going to take her out," and he says, "it will either be one thing or the other, I will either kill her or kill myself." I says, "Don't do anything like that; don't be so foolish; you know you shouldn't do anything like that. Go away and forget it for awhile and then come back and everything will be all right." 10

By the Vice-Chancellor:

Q. How long was this after their marriage? A. I couldn't say, Judge, your Honor.

Q. Do you know what time of the year it was? A. No, I couldn't say. 20

Q. Can you tell what year it was? A. No, to tell the truth, I couldn't say. It was shortly after, I know.

Q. Shortly after what? A. This rumpus that was supposed to be.

Q. Well, you knew when they were married? A. Over three years now they are married.

Q. But you knew of their marriage at the time of their marriage, didn't you? A. No, I happened to go up and they told me that Gussie was married. 30

Q. Well, now, how long after that was it that you had this talk on the ferryboat with Mr. Pozzi?

A. Well, he was still living there.

Q. He was still living there? A. He was still living there.

Q. Anything further? A. No, sir; that is all I know. 40

JACOB WEBBER, sworn.

Direct examination by Mr. Agnew :

Q. Where do you live? A. I live at 373 Morgan Avenue, West Hoboken.

Q. What business are you in? A. Real estate and insurance; also Justice of the Peace of the County of Hudson.

10 Q. Do you know Mr. and Mrs. Pozzi? A. I do.

Q. How long have you known them? A. I have known Mrs. Pozzi from birth; and Mr. Pozzi I have known prior to their marriage and after the marriage.

Q. Now, you remember their marriage, do you? A. Yes, sir; by Reverend Laufer.

Q. And you remember their separation a short time after their marriage? A. Yes, sir.

20 Q. After the separation occurred had you had any conversation with Mr. Pozzi? A. Yes, sir.

Q. With reference to his wife? A. Yes, sir; in the presence of Mrs. Pozzi, through the 'phone; and also before. The one especially on the 'phone was a statement he made to me when I tried to make a reconciliation, and he made the remark to me "She can do as she damn pleases."

Q. Well, go ahead and tell us all about it?

30 By the Vice-Chancellor :

Q. Was this on the telephone? A. Yes, in my office.

Q. That is, he was at the other end of the wire? A. Yes, sir.

Q. How did you know it was he? A. I called for him; I asked for him.

Q. Did you know his voice? A. Positively. He was in my home on more than one occasion.

40 Q. What time was this? A. This was, I should judge, about eleven o'clock in the morning; what date, I could not say.

Q. Well, can't you tell the month, or how long after the separation? A. Well, it was only a short time after the separation.

Q. Well, what does that mean—a week, or a month? A. It might be a couple of weeks, I should judge.

By Mr. Agnew:

Q. And what did you say to him, to which he responded "She can do as she damn pleases"? A. I told him about a certain floor that she was just about to take, in Violet Street—I think the number was 911 Violet Street, that she wanted to take. 10

Q. And what did he say about it? A. He said he wouldn't go with her.

Q. And when did you have the other conversation with him? A. Well, I couldn't say. It was a short time after that, I couldn't just say exactly; it was four or five days afterwards, because I knew Mrs. Pozzi, as I said, from childhood, from birth. 20

Q. Do you remember the subject-matter of that second conversation? A. Well, it was a matter that I was trying to get them to meet me and have a talk together; that was my object and view. As a man of a little judicial authority, I thought I might make a reconciliation, your Honor.

Q. What did he say? A. He said, as I said before, "She can do as she damn pleases." In other words, he meant, in his conversation, that he would have nothing more to do with her—that is what I took from the drift of it. 30

Cross examination by Mr. Loewy:

Q. Mr. Webber, you say you had a telephone conversation with Mr. Pozzi, do you not? A. Yes, sir.

Q. How many? A. One. 40

Q. Just one? A. Yes.

Q. Will you tell the Court when that conversation took place? A. What month?

Q. About? A. No, I could not.

Q. What year? A. Well, I couldn't tell you that, either.

10 Q. Well, as a matter of fact, didn't you have this telephone conversation through the solicitation of Mrs. Pozzi's attorney? A. No, sir. It was in my office, alone.

Q. Did you know that about four days after that telephone conversation a suit was instituted for support and maintenance? A. No, sir.

Q. You did not? A. No, sir, positively not. Had I known it I would have done different.

EMMA MORRELL, sworn.

20 Direct examination by Mr. Agnew:

Q. Where do you live? A. 103 Clinton Avenue, West Hoboken.

Q. Are you acquainted with Mrs. Pozzi? A. Yes, sir.

Q. Did she, in the month of June, 1914, rent from you a floor at 102 Clinton Avenue? A. 103—my own floor.

30 Q. And did she pay you the rent? A. She did.

Q. How much did she pay you? A. Ten dollars—the rent that it calls for.

Q. You did not see Mr. Pozzi there? A. No, I never saw Mr. Pozzi at all—never have seen him.

By the Vice-Chancellor:

Q. What month was it she rented the premises? A. In June.

Q. What year? A. 1914.

40

No Cross Examination.

The Defendant Rests.

Petitioner's Rebuttal Evidence.

EMIL POZZI. recalled.

Direct examination by Mr. Loewy:

Q. Mr. Pozzi, did you ever, at any time, say that you were going to kill your wife? A. Kill my wife?

Q. You know Miss Anderson, don't you? A. Well, I know she used to come into Mrs. Wells' home, yes; I was introduced to her; that is right.

10

Q. Do you know her? A. Yes.

By the Vice-Chancellor:

Q. Did you meet her on the ferryboat one night between, say twenty minutes of five and twenty minutes past five, going over in the ferryboat, shortly after your trouble, while you were still living with Mrs. Pozzi at Mrs. Pozzi's mother's house—do you recollect meeting the lady on the ferryboat? A. No.

20

Q. Were you present in the room when Miss Anderson testified? Did you hear Miss Anderson say she met you on the ferryboat, and that she said— A. I couldn't hear what she said here.

Q. Did she ever address you as "Mike"? A. Yes.

Q. Now, did you have a talk with her on the ferryboat, while you still were living at Mrs. Wells' in which you told her of your troubles at home? A. She knew all the troubles, your Honor. No, no, your Honor.

30

Q. You did not see her on the ferryboat? A. No, I didn't see her on the ferryboat, I didn't see her. She was always at the home there, though.

Q. Did you have a talk with her at any time about your troubles? A. No, not when she was in the home. All she said was, "Now, I wish you luck, Mike." My name was Emil, though.

40

By Mr. Loewy:

Q. Do you know Joseph Webber? A. I do.

Q. You do? A. Yes.

Q. Did you ever have any conversation with him when Mrs. Pozzi was present? A. No; No conversations at all. He was there when we entered he home, at Mrs. Webber's home; he was always there; but the minute we would come in he would go out.

10 Q. Did you ever receive a telephone call from Mr. Webber? A. Yes. I got a telephone call from Mr. Webber.

Q. Do you recollect about when that was, Mr. Pozzi? A. Well, you see I didn't put no note down. How can I say it?

Q. Do you remember what he said over the 'phone? A. He said, "Why don't you live with your wife?" I says, "Why, she doesn't want to live with me." That is all that I said, and "Good bye"—two words, three words, over the 'phone.

20 Q. Did you ever receive any further telephone call from Mr. Webber? A. No, that was all—that once.

Q. Just once? A. Just once.

Q. Now, shortly after that telephone call, is it not a fact that the suit for support and maintenance was instituted in the Court of Chancery against you? A. Yes; I think it was four days afterwards—about a week, I will say—the suit was started against me.

30

No Cross Examination.

CATHERINE FINNEGAN, recalled.

Direct examination by Mr. Loewy:

Q. Were you present in Court and heard the testimony of Mrs. Pozzi in regard to certain bullets that you gave her, or were supposed to have given her?

40 A. Yes, sir.

Q. And you heard what she said? A. I refute that. That never happened.

Q. Did you ever, at any time, give her those bullets? A. Never.

Q. Or did you ever speak to her at any time and say that Mr. Pozzi was going to kill his wife, or had told you that he would? A. Never, never such a thing; and I am a Roman Catholic. Never anything of the kind happened.

By the Vice-Chancellor:

10

Q. Did you have bullets wrapped in tissue paper? A. No, sir; never.

Q. Did you ever see bullets in the house, wrapped in tissue paper? A. No, sir. I did not; I did not see anything of bullets at all. I don't know what that means.

Q. Don't know what a bullet is? A. I don't know what they mean by saying that.

The Vice-Chancellor: Oh, I see. Well, perhaps they do. You may step down.

20

No Cross Examination.

Mr. Loewy: I allowed Mr. Vollmer and Pastor Laufer to go home. I did not think it was necessary to have them stay.

The Vice-Chancellor: Well, they have told their stories.

30

Mr. Loewy: It was merely to refute that part of it, that is all.

The Vice-Chancellor: What more could they say, if put on the stand?

Mr. Loewy: In regard to the Pastor not having said certain things to Mrs. Pozzi that she said he had said.

The Vice-Chancellor: Well, I do not see that that part is material. Have you any more rebuttal?

40

Mr. Loewy: No, sir; that is all.

Testimony Closed.

The Vice-Chancellor (after hearing counsel):
I will consider the case. The evidence is so conflicting that it will be necessary to give it some little thought.

IN CHANCERY OF NEW JERSEY.

| | | | |
|----|---|---|--|
| 10 | Between— EMIL POZZI, Petitioner, and EMMA G. POZZI, Defendant. | } | Notice of Ap- peal. On Petition. |
|----|---|---|--|

20 Emma G. Pozzi, the above named defendant, hereby appeals from the decree nisi filed in the cause and dated October 18th, 1915, and from every part thereof to the Court of Errors and Appeals in the last resort in all causes.

JAMES C. AGNEW,

Solicitor for and of Counsel with Defendant.

Dated April 14, 1916.

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

CHAS. WM. KAPPES,
Of Counsel.

NEW JERSEY COURT OF ERRORS AND AP-
PEALS.

| | | | |
|---|---|--|----|
| Between— EMIL POZZI, Respondent, and EMMA G. POZZI, Appellant. | } | On Appeal from Chan- cery. Petition on Ap- peal. | 10 |
|---|---|--|----|

To the Honorable the Court of Errors and Ap-
peals in the last resort in all causes :

The petition of Emma G. Pozzi, appellant, re-
spectfully shows, that your petitioner finds herself
aggrieved by a decree nisi made in the Court of
Chancery by his Honor, Edwin Robert Walker,
Chancellor of this State of New Jersey, on the
18th day of October, A. D. nineteen hundred and
fifteen, in that the said decree recites and adjudges,
that the defendant is guilty of wilfull, continued
and obstinate desertion of the petitioner for the
term of two years as alleged in the said petition,
and doth decree that the marriage existing be-
tween your petitioner and the respondent be dis-
solved for the cause aforesaid. And your peti-
tioner appeals from the said decree, and from
every part thereof, on the ground that the same is
erroneous, for the said Chancellor should have re-
cited and adjudged that your petitioner was not
guilty of desertion, and should have dismissed the
petition of the respondent. 30

Your petitioner therefore prays, that the said
decree nisi may be reversed, rescinded and for
nothing holden, and that your petitioner may have
such further relief as shall be meet. 40

JAMES C. AGNEW,
Solicitor and Counsel
for Appellant.

NEW JERSEY COURT OF ERRORS AND AP-
PEALS.

Between—

EMIL POZZI,
Respondent,

and

EMMA G. POZZI,
Appellant.On Appeal
from Chan-
cery.Answer to Peti-
tion of Appeal.

10

The answer of the respondent to the petition of appeal of the appellant.

20

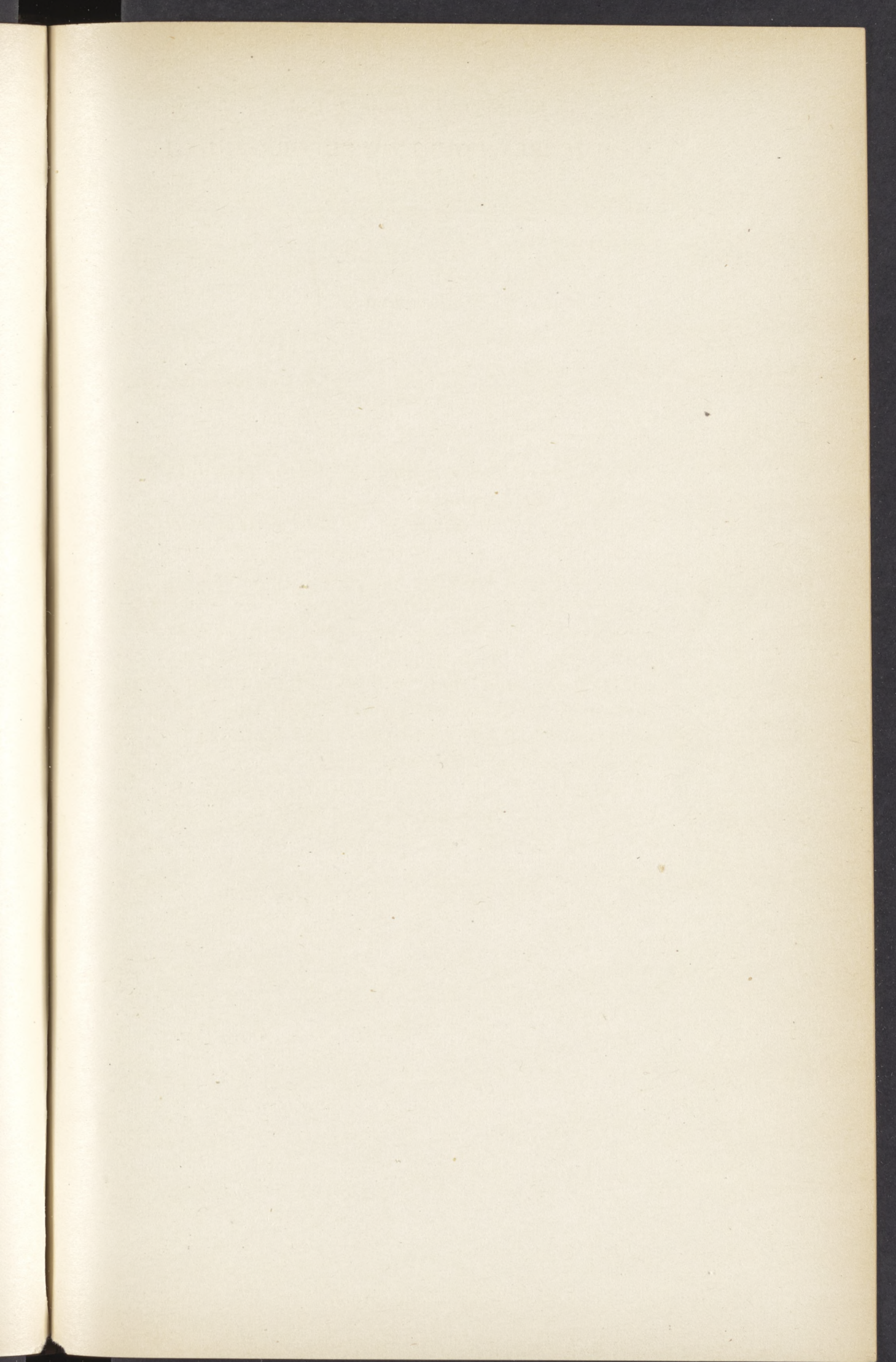
The respondent admits it to be true that a certain decree nisi was, on the eighteenth day of October, nineteen hundred and fifteen, made and entered in the Court of Chancery, as in the petition of appeal is stated; but as to the substance and form thereof this respondent prays to refer there-
to when the same shall be produced. And this respondent is advised and believes that said decree is agreeable to law and equity, and he prays that the same may be affirmed.

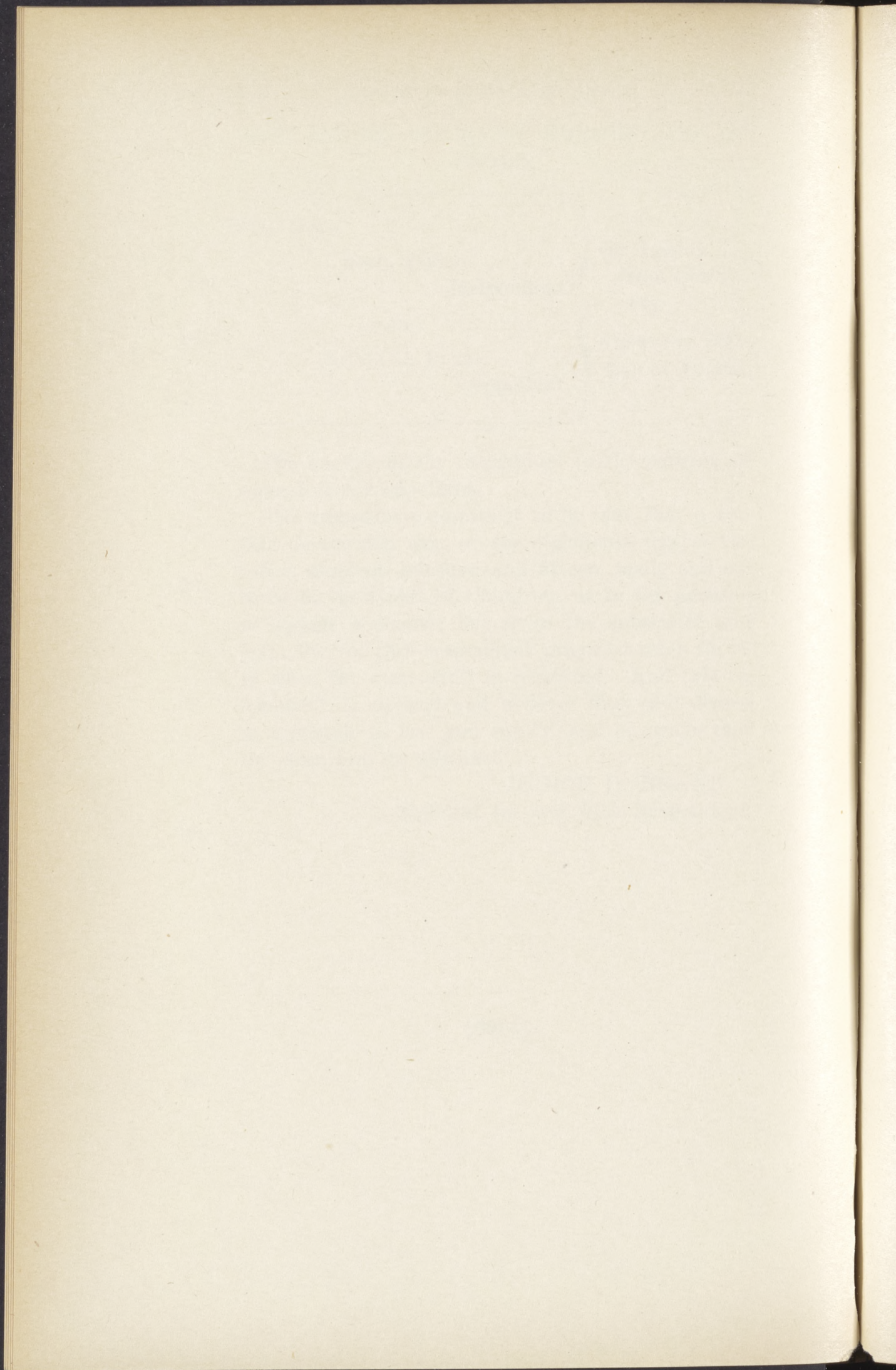
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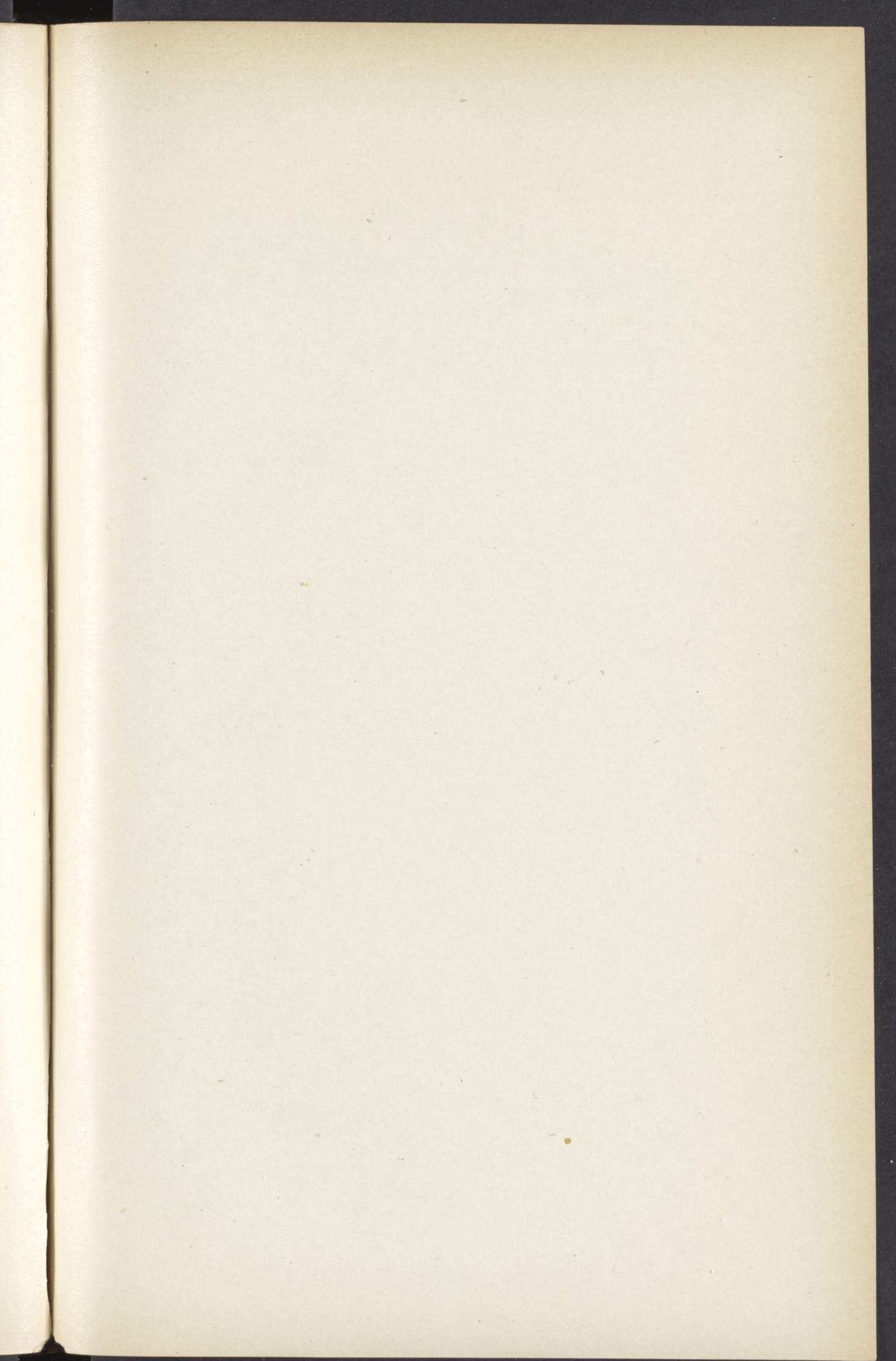
ISIDOR H. BRAND,
Solicitor for and with Respondent.

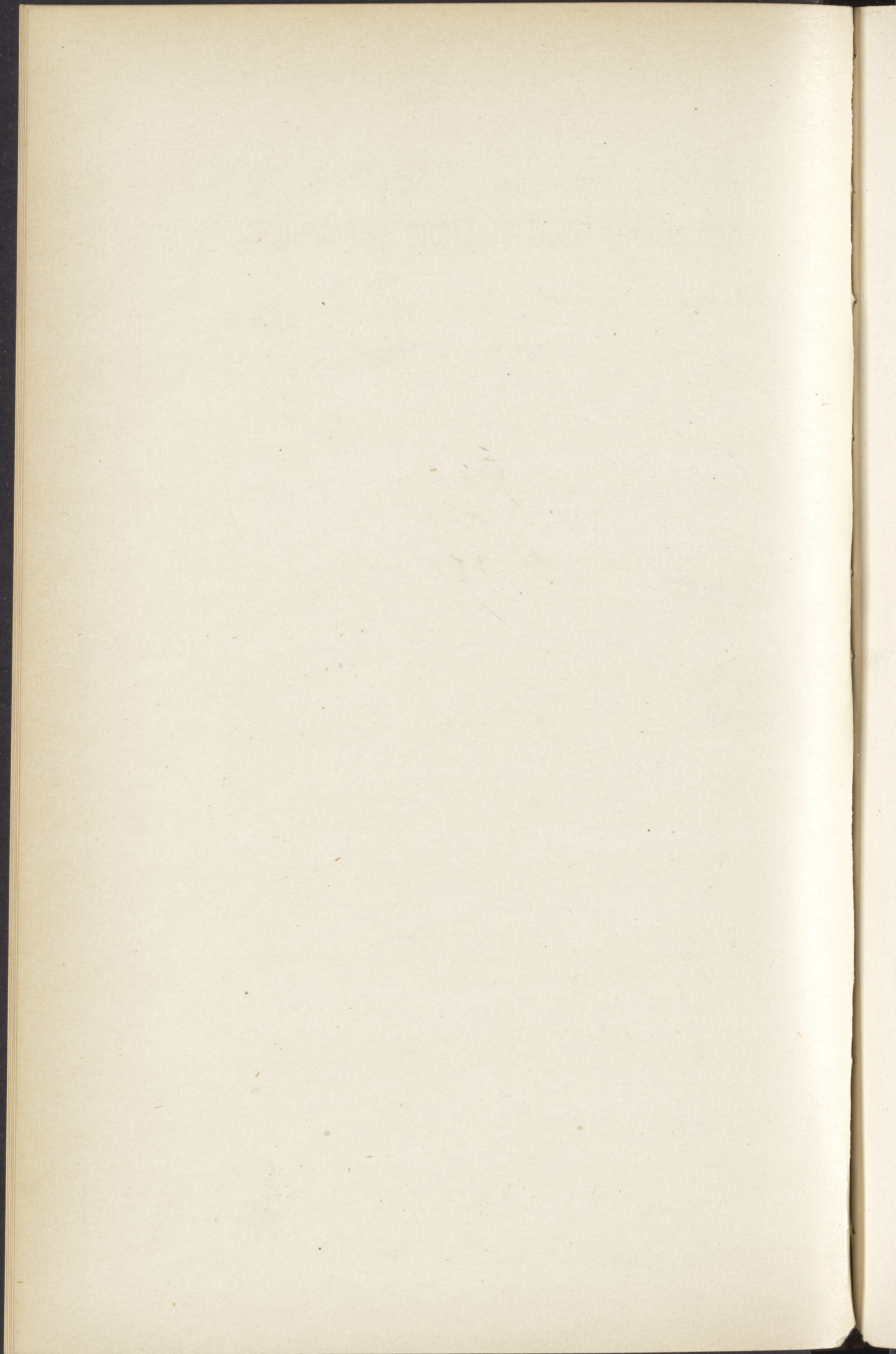
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New Jersey Court of Errors and Appeals.

Between

EMIL POZZI,
Petitioner-Appellee,

and

EMMA G. POZZI,
Defendant-Appellant.

On Petition
For Divorce.
On Appeal.

BRIEF FOR APPELLANT.

This cause was heard before Vice-Chancellor Griffin, upon petition, answer and cross petition, replication and answer to cross petition, and he advised a decree for the petitioner. The petitioner seeks a divorce on the ground of desertion. (See Opinion, p. 7.)

The petitioner's petition should have been dismissed upon the following grounds:

First.—The proofs show conclusively and clearly that the defendant did not wilfully, continuedly and obstinately desert the petitioner for more than two years next preceding the commencement of this suit.

The petitioner's petition was filed in January, 1915.

The proofs offered by both the petitioner and the defendant show that the petitioner and defendant were frequently in each others company until as late as July, 1913 (p. 54), at which time

the defendant called to see the petitioner at his boarding house, No. 49 Clinton Avenue, West Hoboken, when the petitioner said to the defendant: "Emma, you are paying \$19.00 and when we left the Court, you weren't going to pay over \$10.00, and now you know that is too much, \$19.00, and then I will surely have to starve you then; I cannot do any more," and that the defendant replied to the petitioner: "Why don't you say you don't want to live with me, that's all" (p. 56).

The petitioner on July 3, 1913, wrote a letter to the defendant in which he said: "I would like to know whether you have decided to live with me in the room that I have rented for you" (p. 67).

The petitioner in response to his solicitor's question as to whether he made any further efforts to induce his wife to live with him, replied: "Answer—Yes, once or twice" (p. 56), and that the petitioner subsequently called his wife's attention to rooms at Miss Finnegan's and that she might take them if she was satisfied with them. That the petitioner called the defendant's attention to the rooms at Miss Finnegan's, and the petitioner said to the defendant: "Now, Gussie, I can help you now if you say you want rooms, now here are these rooms upstairs and I had paid \$5.00 deposit on the rooms already and to help you out, I will get you those rooms." That the defendant, according to the petitioner's testimony, refused to go there (p. 57).

The defendant testified that she visited her husband many times from October, 1913, to June, 1914, and that she had sexual intercourse with her husband up to within a week of June 3, 1914.

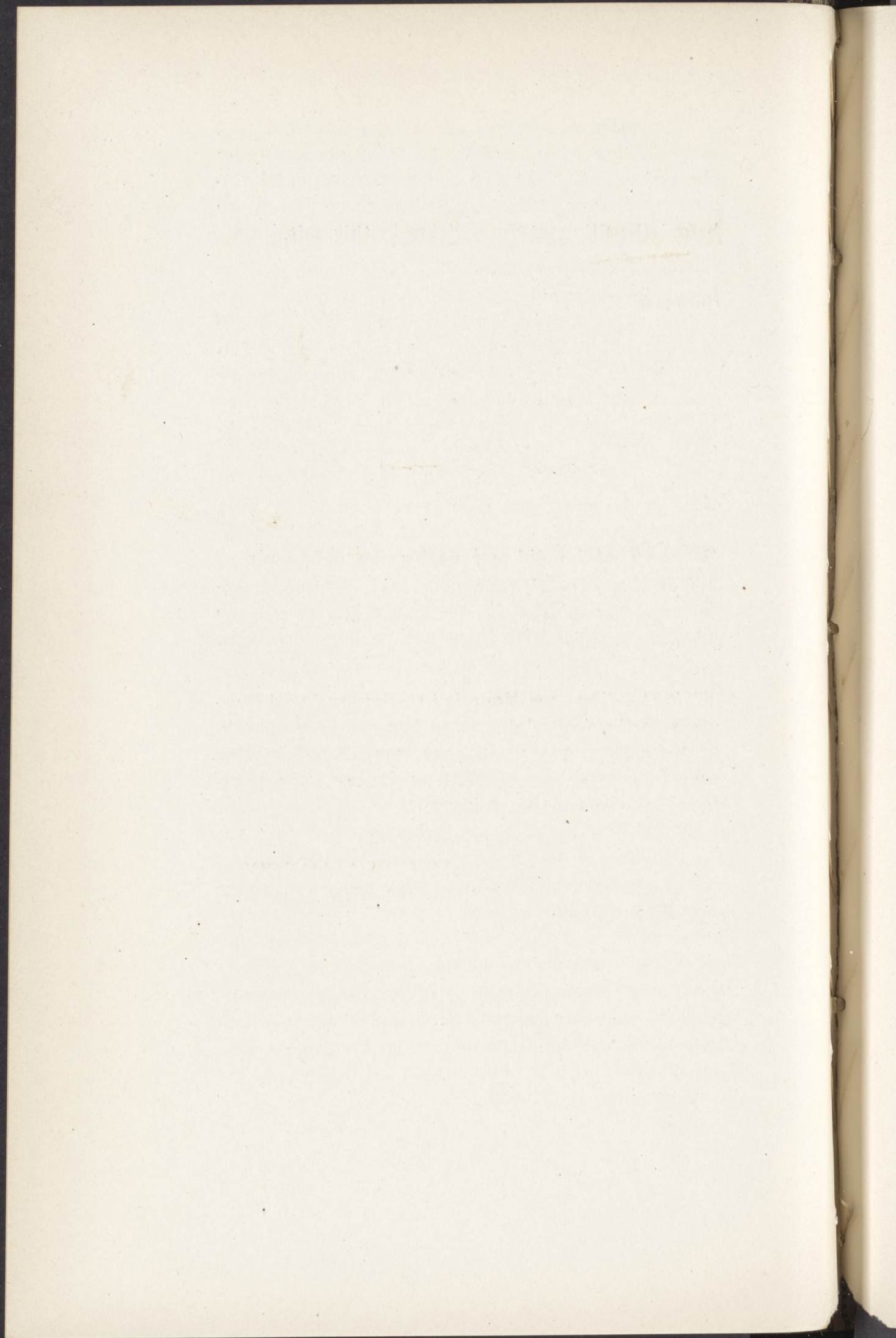
The evidence offered in this case clearly shows that if there was a desertion of the petitioner by the defendant, the same did not arise until the month of June, 1914, much less than two years before the filing of the petition in this suit.

Second.—The petitioner has failed to show that he made reasonable efforts or concessions to the defendant to induce her to live with him. While it is true that the amount of effort or concession required to be shown depends upon the particular circumstances of each case, yet it is obvious that the petitioner's conduct shows that he failed to make such reasonable effort or concession.

The petitioner testified that after he left 49 Clinton Avenue, West Hoboken, he went to live at 359 Ogden Avenue, Jersey City, Hudson County, N. J. That he did not notify the defendant of his change of residence (p. 75). When the petitioner was requested to state what efforts he made to get his wife to return to live with him, replied: "I made no efforts at all" (p. 80).

Third.—The petitioner's testimony with respect to the fact of desertion has not been corroborated. The only proof that was offered in this case to prove the fact of desertion was the testimony of the petitioner himself.

Respectfully submitted,
JAMES C. AGNEW,
Of Counsel with Appellant.



New Jersey Court of Errors and Appeals.

Between

EMIL POZZI,
Petitioner-Appellee,

and

EMMA G. POZZI,
Defendant-Appellant.

On Petition, etc.

On Appeal from
Chancery.

BRIEF OF PETITIONER-APPELLEE.

This is an appeal from a decree *nisi* entered on the 18th day of October, 1915, in favor of the petitioner-appellee. The suit was instituted by the petitioner against the defendant for divorce on the ground of desertion. The parties were married on the 28th day of September, 1912. No children were born of the aforesaid marriage. Defendant denied the allegations of the petitioner, and the cause was referred to the Honorable John Griffin, Vice-Chancellor, who after hearing the evidence of the suit, advised a decree in favor of the petitioner. Wilful, continued, and obstinate desertion for the term of two years is ground for a divorce in this State. No dispute was had as to the residence of either party, neither were there any other facts in dispute, except the desertion. In this case we have not only the fact that there was actual desertion on the part of the defendant, but that there was a wilful refusal to consummate the marriage.

POINT 1.

A spouse's wilful refusal to engage in sexual intercourse is desertion under the statute, making desertion ground for divorce and hence, where a husband refused to consummate the marriage by sexual intercourse, he deserted his wife, even though he supported her, and they lived under the same roof.

Raymond *v.* Raymond, 79 Atl., 430.

The case at bar is analogous to the above. We find the testimony in this case on page 57 is as follows:

"Q. When you lived with her mother did you occupy the same room? A. No, your Honor, I occupied a room in the second floor, on the east of the house, and my wife occupied a room upstairs; where it was I don't know; but I wasn't allowed to.

"Q. (Interrupting): Were you ever in her room? A. No, your Honor; I was never in her room.

"Q. Did you ever have sexual intercourse with her? A. No, your Honor.

"Q. Did you ever ask for it? A. Well, that was most natural.

"Q. Well, did you? A. Yes, I did; most naturally.

"Q. Well, what did she say? A. Well, she says, no she wouldn't do it.

"Q. She refused? A. Furthermore, she says, your Honor, she didn't want children.

"Q. And Mr. Pozzi, didn't your wife, the day following or two days following your marriage, stay with you in those rooms? A. Never.

"Q. And sleep with you in this room? A. Never, never, attorney.

"Q. Until a day or two before you left the

house? A. Never, she never came to live with me in that room, never came in to see even what would happen to me."

This testimony is contradicted by the defendant as appears by (Case, p. 95), in which she positively asserts that her husband had sexual intercourse with her. She says that the first time she had sexual intercourse with her husband was two nights after the marriage. She produces her sister Miss Lillie Wells (Case, p. 109) to corroborate her to testify that on the very night on the day they were married they occupied the same room, and when her attention was called to the fact that the defendant testified that it was two nights after the marriage that they agreed to occupy the room together, witness insisted that it was the same night of the marriage. The testimony was so contradictory that it seems the Vice-Chancellor ignored the defendant's testimony entirely on that point. Petitioner insisted all through the trial that on frequent occasions when he would ask his wife to come to him, she would say: "you make me sick talking about living together." The case of *Raymond v. Raymond* (*supra*), is directly in point and I have no doubt that a decree would have been advised if this had been the only controlling feature at the trial.

POINT 2.

Petitioner, however, proved conclusively that there was an actual desertion on the part of the defendant.

Petitioner testified that immediately after the marriage he resided in the same house where he boarded prior thereto. This was at 110 Clinton Avenue, West Hoboken, where defendant's mother

resided and at which place he paid \$4.00 a week board (Case, p. 39), and immediately after the marriage he was "regularly, right along, told that he would have to get out and find rooms somewhere else." Both the defendant and her mother quarreled with the petitioner continually and that subsequently a sister of the defendant threw petitioner out of the house telling him that he was the cause of all the trouble, and that he was to keep out. That the defendant, his wife, was present and did not interfere. He then went to Frederick Vollmer, Jr., who was then Recorder of the Town of West Hoboken, for advise, and requested the Recorder to do something in his behalf. His wife and her mother were summoned to Court (Case, p. 41). At the hearing the Recorder asked the defendant what she intended to do (Case, p. 42) to which the defendant replied: "*I don't want to live with that man, I don't want to live with him.*"

The petitioner further testified, he then went to see Pastor Laufer, who performed the marriage ceremony between him and the defendant. Petitioner testified that on several occasions he rented rooms and furnished them (Case, pp. 44, 46, 47, 55, 56, 57) but on all of these occasions it seems the defendant had some excuse and it is evident from her conduct that she did not care to live with the petitioner. Petitioner is corroborated by his brother (Case, p. 82) and by Frederick Vollmer, Jr. (Case, p. 86), who testified that he summoned both the defendant and her mother to court, and when he asked Mrs. Pozzi to testify and endeavored to ascertain why she did not live together with her husband, she answered that *she had particular reasons of her own why she would not live with her husband.* The testimony of the

Recorder was of such a character that the Vice-Chancellor commented on same as follows:

The Vice-Chancellor: The Recorder was trying to do his duty, and he did it, as I see it. He took a highly proper course in his treatment of these parties.

The Rev. Calvin W. Laufer, the pastor who performed the marriage ceremony of the parties to this suit testified on behalf of the petitioner as appears by (Case, p. 89). He had a conversation (Case, p. 90) with the defendant during which he asked the defendant whether she and petitioner had ever lived together, and she answered, "No." She admitted that petitioner had been willing, and expressed the desire to provide a home, and had rented rooms. Petitioner was corroborated by another witness by the name of Mrs. Catherine Finnigan (Case, p. 91) and also by Joseph Galli. The defendant denies all the allegations of the petitioner. She insisted that she had sexual intercourse with her husband but could not fix the exact date. There is no denial on her part as to the testimony of the Recorder or of Pastor Laufer. She produces in her behalf her sister who testified. Her mother who seems to be the sole instigator of the trouble is not produced and no reason is given for the same. It seems that the defendant never had any intention of living with the petitioner but whether he was influenced by her mother does not appear. *The testimony clearly shows that the petitioner made every effort to provide a home for the defendant and clearly indicated by his conduct as to his willingness to co-habit with his wife.* He voluntarily married her and attempted to have her live with him away from the influence of her family. He did every-

thing he could do but it is obvious that the defendant was antagonistic from the very day the parties were married. His good faith is shown by the fact that he induced the Recorder of West Hoboken, to intercede, and also of the pastor, who performed the marriage ceremony.

"The husband in a suit for desertion by his wife, is not bound to attempt to induce her to return, when it is clear that ~~no~~^{any} effort in that direction by the husband will be unavailing to terminate the desertion; the duty of making advances and concessions on his part does not then exist."

Marsh *v.* Marsh, 99 Alt., 409.

The learned Judge in this case, on page 410, says:

"It demonstrates, to our satisfaction, the utter futility of any attempted reconciliation by him. In view of this letter, which is in accord with much of the testimony in the case, on this point under discussion, any attempted reconciliation on the part of the husband, it seems to us, would have been a meaningless formality. In this case, no such duty existed on the part of the husband. In cases of this kind, the law exacts no such formality."

The case at bar comes directly within the purview of Marsh *v.* Marsh (*supra*). The parties were married and continued to reside in the house of the defendant's mother for a period of one month thereafter. They had no sexual intercourse at that time. The petitioner was thrown out of the house in the presence of his wife, but she made no attempt to intercede. The conduct clearly indicates that any attempt to effect a reconciliation would have been useless. The petitioner on the contrary did everything he could to

bring about a reconciliation. I believe that the learned Vice-Chancellor in his memorandum (Case, p. 10) shows beyond any doubt that her husband was not derelict in his duty. The memorandum reads as follows:

"The evidence clearly demonstrates that down to the filing of the petition in this cause the petitioner was anxious and willing to live with his wife; whereas, it is perfectly clear that the defendant had no intention of assuming marital relations with the petitioner.

"It is difficult to perceive wherein the petitioner did not do everything that could be reasonably expected from a just man bent upon procuring his wife's return.

"A decree will be advised for the petitioner."

I respectfully submit that the decree of the Court of Chancery be affirmed.

ISIDOR H. BRAND,
Solicitor of Petitioner-Appellee.

JOHN H. SHERIDAN,
Of Counsel.

