

INDEX.

	PAGE
Notice of Motion	1
Petition for Modification	2
Affidavit in Opposition	6
Order Appealed From	9
Opinion Denying Motion	10
Petition for Divorce	11
Answer and Cross Petition	13
Minutes of Final Hearing	17

TESTIMONY.

George W. Campbell	
Direct	18
Cross	41
Redirect	46
Recross	47
Annie L. Campbell	
Direct	47
Cross	52
Decree <i>Nisi</i> in Petitioners Favor	54
Final Decree	57
Notice of Appeal	59
Petition of Appeal	60
Order to Show Cause	62
Petition for Modification of Decree	64
Affidavit in Opposition to Petition	68
Order Dismissing Order to Show Cause ...	72
Petition for Modification of Decree	73
Petition for Increased Allowance	77
Affidavit in Reply to Petition	80
Order Denying Petitioners Application and Granting Increased Allowance	83

INDEX

1	General Introduction
2	Section I. The Problem
3	Section II. The Method
4	Section III. The Results
5	Section IV. The Conclusions
6	Section V. The Summary
7	Section VI. The Appendix
8	Section VII. The Bibliography
9	Section VIII. The Index
10	Section IX. The Glossary
11	Section X. The Plates
12	Section XI. The Figures
13	Section XII. The Tables
14	Section XIII. The Charts
15	Section XIV. The Maps
16	Section XV. The Photographs
17	Section XVI. The Reproductions
18	Section XVII. The Translations
19	Section XVIII. The Editions
20	Section XIX. The Reprints
21	Section XX. The Supplements
22	Section XXI. The Addenda
23	Section XXII. The Errata
24	Section XXIII. The Corrections
25	Section XXIV. The Amendments
26	Section XXV. The Alterations
27	Section XXVI. The Modifications
28	Section XXVII. The Adjustments
29	Section XXVIII. The Revisions
30	Section XXIX. The Reforms
31	Section XXX. The Reorganizations
32	Section XXXI. The Restructurings
33	Section XXXII. The Reconstitutions
34	Section XXXIII. The Reestablishments
35	Section XXXIV. The Reinstatements
36	Section XXXV. The Reintegrations
37	Section XXXVI. The Reunions
38	Section XXXVII. The Reunions
39	Section XXXVIII. The Reunions
40	Section XXXIX. The Reunions
41	Section XL. The Reunions
42	Section XLI. The Reunions
43	Section XLII. The Reunions
44	Section XLIII. The Reunions
45	Section XLIV. The Reunions
46	Section XLV. The Reunions
47	Section XLVI. The Reunions
48	Section XLVII. The Reunions
49	Section XLVIII. The Reunions
50	Section XLIX. The Reunions
51	Section L. The Reunions
52	Section LI. The Reunions
53	Section LII. The Reunions
54	Section LIII. The Reunions
55	Section LIV. The Reunions
56	Section LV. The Reunions
57	Section LVI. The Reunions
58	Section LVII. The Reunions
59	Section LVIII. The Reunions
60	Section LIX. The Reunions
61	Section LX. The Reunions
62	Section LXI. The Reunions
63	Section LXII. The Reunions
64	Section LXIII. The Reunions
65	Section LXIV. The Reunions
66	Section LXV. The Reunions
67	Section LXVI. The Reunions
68	Section LXVII. The Reunions
69	Section LXVIII. The Reunions
70	Section LXIX. The Reunions
71	Section LXX. The Reunions
72	Section LXXI. The Reunions
73	Section LXXII. The Reunions
74	Section LXXIII. The Reunions
75	Section LXXIV. The Reunions
76	Section LXXV. The Reunions
77	Section LXXVI. The Reunions
78	Section LXXVII. The Reunions
79	Section LXXVIII. The Reunions
80	Section LXXIX. The Reunions
81	Section LXXX. The Reunions
82	Section LXXXI. The Reunions
83	Section LXXXII. The Reunions
84	Section LXXXIII. The Reunions
85	Section LXXXIV. The Reunions
86	Section LXXXV. The Reunions
87	Section LXXXVI. The Reunions
88	Section LXXXVII. The Reunions
89	Section LXXXVIII. The Reunions
90	Section LXXXIX. The Reunions
91	Section LXXXX. The Reunions
92	Section LXXXXI. The Reunions
93	Section LXXXXII. The Reunions
94	Section LXXXXIII. The Reunions
95	Section LXXXXIV. The Reunions
96	Section LXXXXV. The Reunions
97	Section LXXXXVI. The Reunions
98	Section LXXXXVII. The Reunions
99	Section LXXXXVIII. The Reunions
100	Section LXXXXIX. The Reunions
101	Section LXXXXX. The Reunions

Order Appealed From.

IN CHANCERY OF NEW JERSEY.

Between

GEORGE W. CAMPBELL,
Petitioner,

and

ANNIE L. CAMPBELL,
Defendant.Order Dismiss-
ing Petition.

10

This matter coming on to be heard on the First day of October, One Thousand Nine Hundred and Twenty-three, on application of the Petitioner to procure a modification of the Order providing for the custody of the child of the parties hereof and Counsel being heard and Affidavits read,

20

It is on this 15th day of October, One Thousand Nine Hundred and Twenty-three, Ordered, that the application of the Petitioner herein be and the same hereby is dismissed with costs to be taxed and it is further Ordered that a counsel fee of Twenty-five Dollars be and the same hereby is allowed to the defendant to be paid by the petitioner.

30

Respectfully advised

JAMES F. FIELDER

V. C.

E. R. WALKER,
C.

40

Opinion Denying Motion.

IN CHANCERY OF NEW JERSEY.

10

CAMPBELL,

vs.

CAMPBELL.

Motion for modification of final decree.
 J. HARRY HULL, ESQ., for the motion.
 FRANK G. TURNER, ESQ., contra.

20

FIELDER, V. C.—I shall have to deny the motion. I think the welfare of the child, which is the determining factor with the Court, requires no modification of the order.

30

I do not think this child ought to be taken away from the constant care of her mother. A seven-year old child ought not to be harassed by shifting her from one parent to the other for any considerable length of time and I think the conditions under which the child has been living, as disclosed by the affidavits and argument of counsel, on this as well as previous hearings of this matter, show that it is for the best interest of the child that her home should be with her mother, with the right of visitation to the father as fixed by the order now in force.

40

Petition for Divorce.

2.24.9

IN CHANCERY OF NEW JERSEY.

TO HIS HONOR, EDWIN ROBERT WALKER,
CHANCELLOR OF THE STATE OF NEW
JERSEY :

10

The petition of George W. Campbell, of the Borough of Bronx and State of New York, respectfully shows :

1. That your petitioner was lawfully joined in the bonds of matrimony to his present wife, Annie L. Campbell, the defendant in this suit, on the 17th day of June, 1915, by the Reverend W. P. Brush, at Jersey City, in the State of New Jersey.

20

2. The defendant deserted petitioner on, to wit, the 16th day of November, A. D. 1916; ever since which time and for more than two years last past, said defendant has wilfully continued and obstinately deserted your petitioner.

3. Petitioner resided at Jersey City, in the County of Hudson and State of New Jersey, when the cause of action above alleged arose. Petitioner removed to the Borough of Bronx, in the State of New York, in the month of February, 1917, and the defendant has been a *bona fide* resident of the State of New Jersey continually since their said marriage.

30

4. One child was born of the marriage aforesaid, to wit: Arline Louise Campbell, nearly 3 years old, who is in the custody of the defendant, who, by reason of her neglect and disregard of her marriage duties as aforesaid, should not

40

Petition for Divorce.

have the custody of said child; and that the welfare of said child requires that she should be removed from her custody and restored to that of your petitioner.

10 5. Your petitioner prays that the marriage aforesaid 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 a decree may be made awarding the custody of said child of said marriage to your petitioner.

And that your petitioner may have such other and further relief as may be equitable and just in the premises.

20 And your petitioner will ever pray, &c.

GEORGE W. CAMPBELL,
Petitioner.

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

30 GEORGE W. CAMPBELL, being duly sworn, according to law, on his oath deposes and says: that he is the petitioner 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.

GEORGE W. CAMPBELL

Subscribed and sworn to before me,
at Newark, this 24th day of February, A. D. 1919.

JOSEPH E. COHN,
Atty. at Law of N. J.

Answer and Cross Petition.

IN CHANCERY OF NEW JERSEY.

Between GEORGE W. CAMPBELL, Petitioner, and ANNIE LOUISE CAMPBELL, Defendant.	}	On Petition. 10 Answer.
--	---	-------------------------------------

The answer of Annie Louise Campbell, defendant, to the petition of George W. Campbell, petitioner:

1. This defendant admits it to be true that petitioner and defendant were married as in said petition alleged. 20

2. Defendant denies that she deserted petitioner on the 16th day of November, A. D. 1916, and she denies that ever since that time, and for more than two years last past she wilfully, continued 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 counter-claim. 30

3. This defendant admits that the petitioner resided in Jersey City, in the County of Hudson and State of New Jersey, at the times al-

Answer and Cross Petition.

leged in his petition, and that he removed to the Borough of Bronx, in the State of New York, as stated therein, and that defendant has been a *bona fide* resident of the State of New Jersey continually since the marriage of defendant and petitioner.

10

4. This defendant admits that a child was born of the marriage of defendant with petitioner, namely, Arline Louise Campbell, but petitioner avers that said child was born on September 15, 1916. She admits that said child is in her custody. She denies that she has in any way neglected or disregarded her marriage duties with relation to the petitioner, and denies that she should not have the custody of said child and denies that the welfare of said child requires that she should be removed from defendant's custody and placed in the custody of petitioner.

20

5. Defendant avers that the said child is now in the custody of defendant where of right it ought to be and that said child is in her custody pursuant to orders of this Court, under which visitation is permitted the petitioner, and by the terms whereof he is directed to pay a certain sum weekly for the support of the said child; and she avers further that the petitioner has been accorded all rights of visitation pursuant to the terms of the said orders and that said orders are in full force and effect. She begs leave to refer to said orders.

30

40

Answer and Cross Petition.

And the defendant by way of counter-claim exhibited against the petitioner says that:

1. Defendant was lawfully joined in the bonds of matrimony to the petitioner on June 17, 1915 by the Reverend W. P. Brush, a clergyman of the Episcopal Church at Jersey City, aforesaid. 10

2. The petitioner deserted defendant on the 17th day of February, 1917, ever since which time and for more than two years last past petitioner has wilfully, continuedly and obstinately deserted defendant.

3. Defendant has been a *bona fide* resident of the State of New Jersey from the time of said marriage to date and now resides in Jersey City aforesaid. 20

4. A child was born of the marriage aforesaid, namely, Arline Louise Campbell, on September 15, 1916. This child is in the custody of defendant pursuant to orders of this Court, to which she begs leave to refer.

Defendant prays that the marriage aforesaid between her and petitioner may be dissolved for the cause aforesaid according to the statute in such case made and provided and that a decree may be made awarding the custody of said child to defendant; and that she may be permitted by order of this Court to resume her maiden name, namely, Annie Louise Blackshaw; and that de- 30

Answer and Cross Petition.

defendant may have such other and further relief as may be equitable and just in the premises.

And defendant will ever pray, &c.

Defendant.

10 MARSHALL VAN WINKLE,
Solicitor and of counsel with Defendant.

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

ANNIE LOUISE CAMPBELL being duly sworn according to law on her oath deposes and says that she is the defendant in the foregoing counter-claim to which this affidavit is annexed; that
20 her counter-claim is not made by any collusion between her and petitioner George W. Campbell but in truth and good faith for the causes set forth in said counter-claim.

Subscribed and sworn to before me this 28th day of
March, A. D. 1919.

30

40

Minutes of Final Hearing.

IN CHANCERY OF NEW JERSEY.

Between

GEORGE W. CAMPBELL,
Petitioner,

and

ANNIE L. CAMPBELL,
Defendant.

10

Chancery Chambers, Prudential Building.
Newark, N. J., December 24, 1919.

Before:

Honorable JAMES F. FIELDER,
Vice Chancellor.

20

APPEARANCES:

Messrs. BILDER & BILDER, for the Petitioner.

MARSHALL W. VAN WINKLE, Esq. (Represented by FRANK G. TURNER, Esq.),
for the Defendant.

30

(Opening by counsel for respective parties.)

40

George W. Campbell—Direct.

GEORGE W. CAMPBELL, sworn:

Direct examination by Mr. Bilder:

- Q. Where do you reside? A. 1458 Bryant Avenue, New York City.
- 10 Q. How old are you? A. 52 years old.
- Q. What is your occupation? A. I am cashier for Sophus Berendens, Incorporated, 15 Broad Street, New York City.
- Q. How long have you occupied your present position? A. A year ago in September.
- Q. What do you earn? A. \$32.50 a week.
- Q. What was your position before that? A. I was a draftsman and estimator for the Atlantic Terracotta Company.
- 20 Q. How long did you occupy that position? A. About two months.
- Q. Before that what was your position? A. A bookkeeper, with Waldron & Carroll.
- Q. How long did you occupy that position? A. About six months.
- Q. With whom do you reside in New York? A. With my mother; I lost my father when I was five years old.
- Q. What is your mother's age? A. She is in her seventies, about seventy-five.
- 30 Q. Is she active? A. Yes, sir; she does the whole work of the house, and the washing and ironing.
- Q. You and your mother reside there alone? A. Yes, sir.
- Q. When were you married to the defendant in this cause? A. June 17th, 1915.
- Q. By whom were you married? A. I think

George W. Campbell—Direct.

the initials are W. B. Brush; Minister of the Episcopal Church in Jersey City.

Q. Do you know where in Jersey City? A. I could not tell you; I forget the street.

Q. How long had you known the defendant before you married her? A. All my life; she was only two weeks old when I saw her first. 10

Q. How old were you when you married her? A. Forty-eight.

Q. And how old was she? A. I think thirty-four or thirty-five; I don't know which.

Q. After your marriage where did you go to live? A. After our honeymoon we went to No. 68 Monticello Avenue, the home of her father and mother.

Q. Were both her father and mother living at that time? A. Yes, sir. 20

By the Court:

Q. Where was their residence? A. 68 Monticello Avenue, Jersey City.

By Mr. Bilder:

Q. How many people lived in the house? A. Her father and mother and she and I. 30

Q. Were there any servants? A. Oh, no.

Q. Who did the work of the house? A. My wife.

Q. You and your wife occupied one room in that house? A. Yes, sir; we had one bedroom and one bed.

Q. Did you get along all right with your wife after you were married to her? A. Oh, yes.

George W. Campbell—Direct.

Q. She performed her marital obligations? A. Oh, yes; up to a certain date.

10 Q. How long did you continue to live together as man and wife in that house after you were married? A. From the time we came back from our honeymoon from Washington until the baby was born, and then, of course, there was a lapse of two months and then I resumed marital relations on one night, and—

The Court: That was not the question; just answer the question.

Q. How long after you were married did you continue to live together as man and wife in that house? A. Until November 14th.

20 Q. Of 1916? A. Yes, 1916.

Q. In the meantime the baby was born? A. Yes, sir.

Q. When was the baby born? A. September 15th, 1916.

Q. What is the baby's name? A. Arline Louise Campbell.

Q. How old is the child now? A. Three years and three months.

30 Q. What happened on this date in November, that you speak of, November 14th, 1916? A. On November 14th, 1916; well, we looked forward to resuming our marital relations, and she performed her marital relations that night; that was immediately after her menses.

Q. What was the next thing that happened? A. On the night of November 16th, 1916, I tried to fondle her and draw her over towards me, and she said, "Go to sleep, little boy; go to

George W. Campbell—Direct.

sleep," and she turned away from me and turned over on her side, so that I could not very well reach her, and then I tried to draw her shoulder over to me to fondle her more, and she threw me away and said, "Stop."

Q. Had there been any words between you and your wife prior to the happening of this circumstance which made her angry or which made her feel angry towards you? A. Well, she objected to my interfering with her mother's feeding the child, and she said I interfered with the baby. 10

Q. When you went to bed that night, were you estranged? A. Oh, no.

Q. You were on speaking terms? A. Oh, certainly. 20

Q. There had been no altercation which had made you unfriendly towards each other at that time, had there? A. No, sir.

Q. Well, I suppose you did go to sleep? A. I did.

Q. What was the next thing that happened? A. That worried me all the next day; she had never acted that way before, and I approached her the next night, the night of the 17th, and tried to fondle her and kiss her as before, and she said, "Don't bother me; I have been tired today; I have been dragged out a good deal with the child, and I don't want to be bothered," and she drew herself over to the other side of the bed and turned her back towards me, as before. 30

Q. Was there any estrangement between you at that time? A. Oh, no.

George W. Campbell—Direct.

Q. What was the next thing that happened?

10 A. The next night, I got in bed first, and she hadn't undressed yet; I said, "Annie"—she was down at the foot of the bed—I said "Annie, why are you treating me in this manner"; she said, "I will never be a wife to you again as long as I live and I will never bear another child by such a man as you are."

Q. What did you say in answer to that? A. I said, "What is your reason for that," and she hesitated; I suppose she could not formulate an answer.

Q. What did she say? A. You interfered with the baby and you made her cry.

20 Q. What did you say in answer to that? A. I said, "Oh, you are a fool, Annie, to go on that way; you will have to find some other excuse than that."

Q. Any other conversation than that? A. When she got into bed, I tried to be affectionate with her, and she said, "Stop, if you don't stop I will get up and leave the bed."

Q. Did you stop? A. Oh, yes; I tried, of course, to be friendly with her and be affectionate; I always tried to be that.

30 Q. Well, what was the next thing that happened? A. I asked her several times if she was going to continue in that attitude towards me, whether she was going to continue to be a wife, and she said she was going to keep up that attitude; she also told me on one occasion when I asked her; I said, it will only result in going to the divorce court if you keep this up; she said, she didn't care; I asked her if she was willing to testify to such a procedure on her

George W. Campbell—Direct.

part; that she had acted this way in her attitude, and she said she was willing; I said, "Will you make a liar of me," and she said, "No, I will promise you that."

Q. From that on and up until the latter part of January did you try to make up with her?

10

A. I always tried to make up with her.

Q. What did you do in trying to make up with her? A. Oh, I tried to kiss her and to be affectionate with her.

Q. How did she act? A. She turned her face away from me.

Q. Did she begin with this date in November and up until the latter part of January, 1917, to act in an unfriendly manner towards you?

A. From that time until the first of January?

20

Q. Yes. A. Oh, she was very repellant.

Q. Will you just describe generally her attitude towards you, when you were in her home during that period? A. Well, she never got my breakfast or never paid any attention to me; I could not speak to the child without being sneered at or snarled at; I could not ask any ordinary questions; I could not even touch her without her throwing my hand away.

Q. Did she during that period display any affection towards you at all? A. No, sir; absolutely none.

30

Q. Did you endeavor to obtain her affection? A. I did; I realized she was the mother of that baby and I kissed her every morning until I saw it was so objectionable to her so I had to stop.

Q. Did you go towards her? A. She usually had the baby in her arms in the mornings. when I left for the office.

40

George W. Campbell—Direct.

Q. Did she after this date in November resume marital intercourse with you? A. Not since November 14th.

Q. Did you request her to during that period? A. Oh, yes; all the time.

10 Q. What was her answer? A. She said she would never be a wife to me again no matter what happened—no matter what kind of a home I would provide for her; I wanted to get her away from that home and away from that influence that she was under.

Q. Now, things went along that way until February 19th? A. Yes, sir.

20 Q. Will you state the occurrence of February 19th, 1917? A. In the morning, before I got up, my wife said, "You accused me of not paying Mamma for the boarding of the nurse"; I had tried to get what money she had saved for me, so that I could establish a home and add it to what I had already saved, and I said to her, "I did accuse you because you never mentioned that to me until I made a request for money"; she says, "I will prove to you that I did pay it and I will ask Mamma"; she jumped out of bed and went over to her mother's door and opened it, and said, "Mama, didn't I pay
30 Mrs. Shaw's board"; her mother said, "You certainly did"; so she turned around and sneered at me and said, "You think you can get a divorce from me, you don't get a divorce in the Domestic Court, because I had written to Judge Lange; you get a divorce in the Chancery Court"; I said, "I know that all right, and if you persist in doing as you are doing, that is what I will do—that is what it will come to—" and she

George W. Campbell—Direct.

said, "My word, I never refused to make a home for you; my word is as good in court as yours"; I said, "You try to make your word an untruth"; I said, "If that is the case, put on your things and take the baby and come with me"; she said, "Where are you going"; I said, "I am going to take you to a hotel until I get rooms"; she said, "I won't go"; I said, "I demand you to go"; and she said, "I won't go." 10

Q. Where did you go? A. To business on Long Island.

Q. Did you come back that night? A. No, sir; I was too ill to leave the office.

Q. Did you write her a letter? A. No, I was in the office all the time.

Q. You were in the office all night? A. Yes, sir; I had an overcoat over me; I had the chills. 20

Q. Did you write to her on February 20th, 1917? A. I did.

Q. (Handing witness a letter.) Is this the letter that you wrote to her from the office, after you had stayed there all night long—after the occurrence on February 19th? A. Yes, sir.

Mr. Bilder: I offer the letter of February 20th, 1917, in evidence.

(Letter admitted in evidence and marked Exhibit P-1.) 30

"Feb. 20th 1917

Dear Annie:

As you have repeatedly refused to be a wife to me and have refused to go to a

George W. Campbell—Direct.

10 home of my providing, and insist in retaining the money I have given you to save and as your course of action is making me ill, I think it best to remain away until I feel better. I spent last night here at the office as I felt too ill to leave."

Q. Where did you then go after you wrote that letter of February 20th, 1917; where did you spend the night? A. I went to my mother's and asked her if I could remain there.

Q. You went there? A. Yes, sir.

Q. And you have been there ever since? A. I have.

20 Q. When was the next time that you saw your wife after that? A. I think March 16th, 1917.

Q. Did you write her any other letters? A. Oh, I wrote her letters every week sending money for the child.

Q. (Showing witness a letter.) Is this the letter that you wrote her on March 16th, 1917? A. Yes, sir.

Mr. Bilder: I offer that letter in evidence.

30 (Letter of March 16th, 1917, admitted in evidence and marked Exhibit P-2.)

"March 17th 1917

Dear Annie:

I enclose TWO DOLLARS as usual. I sincerely hope if you weigh the baby to-

George W. Campbell—Direct.

morrow that she will show an improvement.
I am worried over the lack of it.”

Q. Did you write to her on March 3rd? A. Yes, sir; I presume that is the date; I don't want to say that it is.

10

Mr. Bilder: I offer that letter in evidence.

(Letter of March 3rd, 1917, admitted in evidence and marked Exhibit P-3.)

“March 3rd 1917

Dear Annie:

I enclose the money \$2.00 for the BABY'S Milk. If there is anything else kindly let me know. I hope you are all well.”

20

Q. I show you a letter dated March 10th, 1917, and ask you whether you wrote her a letter under that date? A. Yes, sir; that is my letter.

Mr. Bilder: I offer that letter in evidence.

(Letter of March 10th, 1917, admitted in evidence and marked Exhibit P-4.)

30

“Mar. 10th 1917

Dear Annie:

I enclose as usual \$2.00 for the baby's milk and ask you to let me know if there

40

George W. Campbell—Direct.

10 is anything else. I am sorry I have been unable to get my trunk ready to send over before but will try and get it over the first part of next week, and then come over and pack it. Kindly receive it when it comes as I have too much there to remove in a suit case."

Q. What date was it that you said you went over? A. I think it was March 16th; it was on a Friday night, I remember.

Q. You say that you went over on March 16th? A. Yes, sir.

Q. And you went to the home on Monticello Avenue? A. Yes, sir; 68 Monticello Avenue, Jersey City.

20 Q. And who did you see there? A. Mrs. Blackshaw, the mother of my wife and the grandmother of the child.

Q. Well, what happened there? A. She opened the door, and I asked her if my trunk had arrived; she said, it had; I walked along the hall, and she called out to my wife, who was in the dining room and said, "Mr. Campbell is here—"

30 Q. Yes. A. (continuing) —and so I went back into the dining room, because the baby was usually lying on the lounge; I wanted to see the child, and she was there, lying asleep; I went over and kissed the child, and my wife said to me, "You can go upstairs and get your things"; I went out in the hall and unlocked my trunk; the trunk was just under the stairway in the main hall; I went out and unlocked it, and I went upstairs and found my things all placed together so that I would not have any

George W. Campbell—Direct.

trouble in removing them; I went down and packed my trunk and I think I took my suitcase in the room, I don't know for sure; I then went down and looked for my music and I found it on the piano all placed together in one pile; I took the music and put it in the trunk and then went into the dining room, and before locking the trunk I asked Mrs. Campbell if I might have the wedding present that Aunt Margaret had sent me from Arizona, that it had my own initials on it and I would like to have it, and she said, certainly, it is there in the dining room in the closet, you know where it is; and she said, while you are about it, you might just as well take the set that Mr. and Mrs. J. Zumbush gave you, and I said I did not want to take that because they were friends of Mrs. Campbell's—wedding presents—and she said, go and take it; I said, I have my own set, and so, rather than have an argument with her, I took it and put it in the trunk and locked it, and I went in and kissed the baby again; I said I had so many things that I can't put them all in the trunk and suit case, and I said, I will be back on Monday night and get them; I said, I will have an expressman call for the trunk, and I went out and took the suit case with me and I dropped the note that I had written to the American Express Company in the box to call for the trunk.

Q. Did she ask you to stay? A. Oh, no.

Q. Did she display any affection towards you at that time? A. Oh, no.

Q. Was her mother around all the time that these things were happening? A. What do you mean by "these things"?

10

20

30

40

George W. Campbell—Direct.

10 Q. Well, this conversation? A. Yes, sir; she was right there all the time in the dining room—I forgot—I called down from up in the room where I was packing the things, going down into the hallway; I said there was no summer underwear there; I said, Annie, where is my summer underwear; she said, it is upstairs on the top floor, and she went off, and she said, wait a minute, I will get a light and I will go up and get and she went upstairs and got the summer underwear; I took it downstairs; as she was coming down the stairs, she said, you can see the baby any time you wish; I said, you will be very fortunate if you do not bring the baby to see me; she said, we are going to do as we like as long as you deserted us.

20 Q. What did you say? A. I said, as a matter of fact, your desertion occurred in the middle of November; she said, it did nothing of the kind; I said, it certainly did; I said, if you read all Mr. Stackle's letter you will know the date, and then she went down the stairs.

Q. Now, did Mrs. Campbell reply to any of the letters that I have already called your attention to? A. I have never had one single word from her.

30 Q. I understand you saw a New York attorney, Mr. Stackle? A. Yes, sir; Mr. Stackle came in to see me.

Q. You consulted him somewhere in the latter part of January, didn't you? A. Yes, sir.

Q. And a letter was written by Mr. Stackle to your wife? A. Yes, sir.

Q. She told you that she received that letter? A. Yes, sir.

George W. Campbell—Direct.

Mr. Bilder: I offer that letter in evidence; it is dated January 11th, 1917.

(Letter admitted in evidence and marked Exhibit P-5.)

(Exhibit P-5 calls attention to the defendant of her persistent refusal to co-habit with her husband and second that she neglected her husband's advice in relation to the welfare of their child and requesting that she notify the writer of her intention regarding the matters in future.) 10

Q. She told you that she had received this letter? A. Yes, sir.

Q. What did she say about answering it? A. I asked her if she was going to answer it, and she said, "No, you had a lot to do to discuss such subjects with a man." 20

Q. What was the condition of the child's health during the period from the time of its birth and up to the time in March, 1916?

Mr. Turner: I object to that question on the ground that the witness has not qualified to answer; he is not a medical man. 30

The Court: The objection will be overruled.

A. The child was in very poor health up to about—I should judge—from the time it was born, and after my wife could not breast-feed the child, the baby was put on the bottle.

George W. Campbell—Direct.

The Court: Oh, just answer the question.

10 Q. (Question repeated.) What was the condition of the child's health after its birth? A. Well, generally speaking, from the time of its birth, up to March 16th, it was very poor.

Q. Did you and your wife discuss the condition of the child's health? A. My wife would not discuss anything; I simply told her they were not doing right with the child.

By the Court:

20 Q. What did you say to your wife concerning the health of the child? A. That her mother was not feeding the child properly.

By Mr. Bilder:

Q. What was her answer to that? A. That her mother knew what she was doing.

Q. Did you ask her to permit you to have a physician brought in? A. Yes, sir.

30 Q. What did she say to that? A. She said, she did not think so; she would see what she could do; she would not allow a physician to come in.

Q. What was the appearance of the child on March 16th, after you had been away? A. She was asleep; I don't know; she was pale.

Q. Did you discuss the condition of the child's health with your wife on the 16th of March? A. Not at all; I did on the 19th.

Q. Well, I call your attention to a letter that

George W. Campbell—Direct.

you wrote to your wife on March 17, and ask you if that letter will refresh your recollection as to the condition of the child's health at that time? Does it refresh your recollection? A. Yes, sir.

Q. Well, what do you say now as to the condition of the child's health when you were there on the 16th? 10

Mr. Turner: I think the letter should be read.

The Court: That might save time, but he can testify, I think.

A. Why, the last time my wife had told me the weight of the baby, the baby had lost weight and that letter shows that I hoped that she had improved in weight. 20

Mr. Bilder: I offer that letter in evidence.

(Letter admitted in evidence and marked Exhibit P-6.)

(Exhibit P-6 is the same as Exhibit P-2.)

Q. When did you next see your wife? A. March 19th. 30

Q. And what happened on March 19th? A. I went there and my wife opened the door, and she said to me, "You can go upstairs and get your things"; instead of going upstairs, I went back into the dining room and found the baby on the couch, as usual, and she was weak and sucking her thumb and—

George W. Campbell—Direct.

Q. Yes. A. (continuing) —I sat down alongside and kissed her and looked at her; I drew her thumb out of her mouth gently and the baby tried to double up and get her thumb back into her mouth; I tried it again and she let out a shriek, and then I saw that her mouth was drawn down on one side, distorted; I turned around to my wife, who was sitting there sewing or embroidering, I don't know which, and I said, "This thing has got to stop, the baby's mouth is deformed now," and she said, "As long as you deserted us, we are going to do as we like"; I said, "As a matter of fact, your desertion began in the middle of November, as I said before"; she said, it did not, it occurred in December; I said, it did not; I said, it occurred in November; I said, look at Mr. Stackle's letter and you will see; I said, "How much does the baby weigh now"; she said, nine pounds and fourteen ounces; I said, then she has only gained two ounces in a month; I said, she is not doing well; I said, I will bring a doctor the next time I come, and I started to go up the stairs; she called out to me as I was going up the stairs and said, who is sick here, I said the baby is if she is not gaining any more in weight than that; I went upstairs and I got my things together as well as I could with a piece of paper and a string which I brought in my pocket and I went down and packed up my things; I said to Mrs. Blackshaw, "Will you let me bring a physician the next time I come"; and she said, "No, I won't"; I said, "No?" "Annie, will you take the baby and go to a doctor the next time I come here?" and she said, "No"; she had the

George W. Campbell—Direct.

baby in her arms, and I said, I will take it where it can be treated properly; I placed my arm on the child, and she said "Don't talk so loud, George, the neighbors will hear you"; I said, "I am tired of trying to do what is right"; and I turned around to Mrs. Blackshaw and said, "You ought to be ashamed to teach this little infant the habit she has got"; she said, "I didn't do it"; I said, "I will prove it by your own daughter and your son"; and I asked her to come with me that night, and she said, she would never be a wife to me again. 10

Q. What did you say to your wife that night?

A. She said, "You have accused me of—"

By the Court:

20

Q. What did you say to your wife about going with her? A. I asked her to come with me, that I had the money in my pocket for to pay for a room at a hotel, if she would come; I had drawn the money out of the bank and I told her I had the money in my pocket; I had over \$100, and she said, she would never be a wife to me again, no matter what kind of a home I got, and she demanded of me the keys and— (interrupted). 30

Q. You had drawn the money from your savings banks? A. I had so as to be prepared to take her in case she would go.

Q. Did she give you a receipt for your trunk?

A. Yes, sir.

Q. (Handing witness a paper.) Is that the receipt? A. Yes, sir.

40

George W. Campbell—Direct.

Mr. Bilder: I offer the receipt in evidence.

(Receipt admitted in evidence and marked Exhibit P-7.)

(Exhibit P-7 is an express co. receipt for a trunk.)

10

Mr. Bilder: I offer four letters in evidence, dated March 27th, 1917; March 31st, 1917; April 2nd, 1917, and April 14th, 1917, respectively.)

(The four letters are admitted in evidence and marked: Letter dated March 27th, 1917, P-8; Letter dated March 31st, 1917, P-9; Letter dated April 2nd, 1917, P-10; and Letter dated April 14th 1917, P-11.)

20

(Exhibits P-8, P-9, P-10 and P-11 are letters from the petitioner to the defendant enclosing an allowance for the support of the child and expressing the hope that the child is well.)

By the Court:

Q. What keys did you refer to that your wife spoke about? A. The keys of the hall door, the front door and the vestibule door.

30

By Mr. Bilder:

Q. Now, you wrote your wife that she had refused to let you in the house on Monday evening; isn't that the fact? A. Yes, sir.

Q. She refused to let you go in? A. Yes, sir.

Q. Can you fix the date? A. I think it was April 19th.

40

George W. Campbell—Direct.

Q. What is Mrs. Campbell's brother's name?

A. Fred J. Blackshaw.

Q. You tried to get him to intercede with your wife in your behalf? A. I sent him a letter of explanation of my position; I told him—

Q. Did you talk to him on Thanksgiving Day?

A. Yes, I did speak to him.

10

Q. And then you followed that up with a letter? A. I did.

Q. (Showing witness a letter.) Is that a copy of the letter that you wrote him? A. Yes, sir.

Mr. Bilder: I offer letter dated March 27th, 1917, in evidence.

(Letter admitted in evidence and marked Exhibit P-12.)

(Exhibit P-12 is a letter to petitioner's brother-in-law telling him that he had left the home, namely, that his wife would no longer have relations with him.)

20

Q. Did you receive a reply to that letter? A. Yes, sir; a month after; I don't think that he wrote me immediately; I think he took some time to answer it.

Q. (Showing witness a letter.) Is that the reply that you received? A. Yes, sir.

30

Mr. Bilder: I offer that letter in evidence.

(Letter admitted in evidence and marked Exhibit P-13.)

(Exhibit P-13 is a reply from the brother-in-law to Exhibit P-12.)

40

George W. Campbell—Direct.

Q. Now, Mr. Campbell, since the 19th day of March, 1917, have you been to the house of your wife? A. Since the 19th of March, 1917?

Q. Yes. Have you been going there repeatedly? A. No, just as soon as I got a court order I went there.

10

Q. And you have been going there every week? A. Yes, sir; every Sunday.

Q. Have you ever missed a Sunday since then? A. Never.

Q. So that, from the date that you have mentioned up to the present time, rain or shine, no matter what the weather was, you have been at that home, No. 68 Monticello Avenue, Jersey City, every Sunday afternoon? A. Yes, sir; from the Bronx.

20

Q. And during those visits have you seen your wife? A. No, she kept out of my way, except, I think one or two times, and then she came to demand the money up to December a year ago, and then I demanded that she get a copy of the court order, because I knew that she had taken the child out of the State, and she ought to have the money personally and I should not have to pay it to any one else, because her mother always came in and got it.

30

Q. Did you ask for her on the different times you went there? A. Yes, sir; I asked for her and her mother said she was out.

Q. And have you asked any one else? A. Yes. I sent Miss Long to ask her if she would see me and she said, "No".

Q. Did you observe on your weekly visits, since the early part of 1917, how the child was being cared for; what is the condition of her

40

George W. Campbell—Direct.

health? A. She is suffering, I think, from what I know of the symptoms, from chronic indigestion.

Q. What generally have you observed about the child's health, her appearance? A. Well, she is pale and looks as though she has been in the house too much or the food does not agree with her; in fact, I am not there really enough to judge; I can only know from the short time I have the child out, and if I take her in a car, she is car-sick right away, and she has a bloated stomach and white puny hands.

10

By the Court:

Q. Did you take the child out yourself on the Sundays while you were there? A. Yes, sir; since the court order I took her down to the Park.

20

Q. Did you take her to a doctor? A. No, sir.

Q. Was there anything in the court order that said you must not? A. There was something in the order that said I must not interfere with the feeding of the child.

By Mr. Bilder:

Q. Did you ask any one to allow you to take the child to a doctor? A. Through my attorney, Mr. Stackle, and he said, if I were not satisfied, I could bring it into court, bring an action into court.

30

Q. Do you know whether or not your wife is now living with her mother; I think you said "Yes"? A. Yes, sir; her mother always opens the door for me.

40

George W. Campbell—Direct.

Q. Did you prior to the time when you left the house and prior to the 16th day of February, 1917, ask your wife to go housekeeping with you; that you wanted to make a home for her?

A. Yes, sir.

10 Q. What did she say and what did you say?
A. I said "Annie" I would like my own home", and she said, "I can't leave Mama now"

Q. Did you repeat that afterwards? A. Yes, sir, for three months, I begged of her to make a home for me.

Q. And what did she say to that? A. She said, she would not; she said, I could not buy butter at 50 cents a pound; that I was a—— and every other epithet that she could call me; she called me anything she liked.

20 Q. Now, have you been willing during the time since February, 1917, to provide a home for your wife? A. Yes, sir, and I so stated it on the stand, I said it in open court.

Q. Are you willing now, since February, 1917?
A. Yes, sir.

Q. Are you willing now to provide a home for your wife? A. Certainly.

30 Q. Are you willing to take her back now? A. Certainly, if she will perform her marital duties and be a wife; I have not forgotten my oath before God and Man, not at all.

Q. Are you in a position to provide a home for your wife and child? A. I am, certainly.

Q. And are you willing to do that now? A. I am.

Mr. Bilder: Take the witness.

*George W. Campbell—Cross.**Cross examination by Mr. Turner:*

Q. At the time of your marriage, what salary did you make? A. At the time of my marriage?

Q. Yes. A. I told my wife I made \$18. a week, before I was married.

Q. Did you tell her the truth? A. Yes, certainly.

Q. Then you did make \$18. a week? A. Certainly.

Q. And how much money did you provide your wife with for the support of yourself, herself and the baby? A. Strike that out.

The Court: You answer the question.

Q. (Question repeated). A. I gave her half of my salary. 20

Q. You gave her \$9. a week? A. Yes, sir.

Q. You never gave her any more? A. She never asked for any more.

Q. And you never gave her any more? A. No.

Q. Was it out of this nine dollars that she was supposed to have saved some money? A. She told me she had it in the Hudson County Trust Company.

Q. How much money did she say she saved? A. She never told me; she saved it for both of us. 30

Q. And that is all you provided, nine dollars, for the support of yourself, your wife and the child? A. Yes, sir.

Q. And you got your meals there? A. Yes, sir, morning and evening.

Q. And your washing was done there and

George W. Campbell—Cross.

everything complete was done for the family?

A. Yes, sir.

Q. Now, your difficulty with your wife over the baby arose out of the fact that the baby sucked its thumb? A. Oh, not at all.

10 Q. Didn't you used to call out in the night and tell your wife that the baby was sucking her thumb? A. No, sir.

Q. Did you ever do it? A. Yes, sir.

Q. How often did you wake your wife up and tell her that? A. I never woke her up.

Q. How often in the night time did you tell her that? A. I don't remember that I ever told her in the night time.

20 Q. Did you ever tell her that after you had gone to bed? A. Yes, sir, when I saw the baby sucking her thumb.

Q. That was in the night? A. Yes, but I never woke her up.

Q. Now, you have been very much disturbed about this baby sucking her thumb? A. Yes, sir.

Q. How many times have you talked with your wife over that? A. Ever since I noticed the child's mouth was deformed.

30 Q. Have you not told your wife about that at least a thousand times? A. No, I was not there a thousand times to talk to her about it.

Q. How many times have you spoken to her about it? A. Now, don't ask me any foolish questions.

The Court: You will please answer the questions direct and never mind an argument.

George W. Campbell—Cross.

Q. In April, 1917, you wrote to Caroline French Benton about this question, did you not?

A. Yes, sir, I did.

Q. And you got a circular "Hand-i-hold Baby Mits" to prevent children from sucking their thumbs? A. Yes, sir.

Q. And you sent this to your wife? A. Yes, sir.

10

Q. (Showing witness a letter) Is that the letter that you wrote? A. Yes, sir, that is the one.

Mr. Turner: I ask that that letter be marked for identification.

(There being no objection, the letter is marked D-1 for identification).

20

D-1 is a circular showing how a child could be prevented from sucking its thumb, together with a letter from Caroline French Benton.

Q. Now, in the month of March, 1917, you sent your wife a diagram of a clock, did you not, showing when and how the baby should be fed? A. Yes, sir, I did.

Q. And with it a letter from B. Wallace Hamilton, M. D. did you not? A. Yes, sir.

Q. (Showing witness a letter) Is that the letter which you sent? A. Yes, sir, that is the one.

30

Mr. Turner: I ask that that letter be marked for identification.

(No objection, the letter is marked D-2 for identification).

40

George W. Campbell—Cross.

D-2 for identification is a picture of a clock from Dr B. Wallace Hamilton showing the hours that a child should be fed and how, together with a letter from the Doctor regarding the feeding of children.

10 Q. (Showing witness a photograph) Is that a photograph of the baby? A. Yes, sir.

Q. Do you remember when it was taken? A. No, I didn't have it taken.

Mr. Turner: I ask to have that photograph marked for identification.

(No objection, the photograph is marked D-3 for identification).

20 Q. Do you remember when the child presented an appearance such as is shown here? (Referring to photograph). A. Yes, sir.

Q. Is that her present appearance now? A. Yes, sir; I should imagine that was taken when she was a little bit younger.

Q. And how long do you think she has looked like that? A. About two or three months ago.

Q. And that is her appearance for the last two or three months? A. Yes, sir.

30 Q. Do you recall how much she weighed three months ago? A. Yes, sir, thirty-one pounds with her clothes on.

Q. Thirty-one pounds? A. Yes, sir.

Q. Now, from the time that that baby was born until now, who has had the custody of the baby and the care and feeding of the baby? A. I have not been there to know, but I know that the child was awarded to the custody of her mother and not her grandmother's care.

George W. Campbell—Cross.

Q. Well, the court order awarded the custody of the child to the mother? A. Yes, sir.

Q. And that was on a proceeding brought by you regarding the custody of the child? A. No, to see the child; it was a *habeas corpus* proceeding to see the child.

Q. And you had seen the child right along up to that time? 10

The Court: Why waste the time, when he said he has seen the child every week.

Q. Now, from the time you went away from that house until the proceedings in court, you sent two dollars each week? A. Yes, sir, I sent two dollars each week.

Q. And that is all that you ever sent? A. 20
Yes, sir, until I was ordered—I had to send more than that afterwards.

The Court: Strike that out. I will not warn you again; I am trying to be as plain and explicit as I can.

Q. Now, after the court order you did send four dollars a week, did you? A. I did.

Q. And that was the amount ordered by the court? A. It requested that I should do so. 30

Q. Now, you have seen the baby from two o'clock on Sunday afternoon until five o'clock? A. Yes, sir, only on the modification of the court order, not the original.

Q. The original was one hour? A. Yes, sir, the original was one hour and then it had to be brought into court afterwards, so that I could get a court order.

George W. Campbell—Redirect.

Q. First you were allowed one hour? A. Yes, sir.

Q. And afterwards it was modified so that you could see the child from two o'clock until five, on Sundays? A. Exactly.

10 Q. You say that you are satisfied to take your wife back at this time? A. I do.

Q. And do you think she is a proper person to take back? A. I certainly do; if she will only act properly, I would be glad to.

Redirect examination by Mr. Bilder:

20 Q. When you have talked with the baby and taken her out on Sunday afternoons, has she said anything to you about how her mother speaks of you?

Mr. Turner: I object to the question on the ground that it would be hearsay testimony.

The Court: The objection will be sustained.

30 Q. Can you say, from your conversation with your daughter, whether or not your wife is trying to influence your daughter against you?

Mr. Turner: I object to that.

The Court: The objection will be sustained. What a three year old child says is not binding on any one.

Q. Prior to the time that you did obtain a court order allowing you to see the child, did

George W. Campbell—Recross.

Annie L. Campbell—Direct.

your wife prevent you from seeing the child?
Up to the time—

Q. (Last question repeated by the stenographer)? A. She prevented me the night that she would not let me in.

10

Recross examination by Mr. Turner:

Q. Mr. Campbell, what is your present age?

A. Fifty-two; I was born in 1867.

Q. You are also an artist, are you not; you paint pictures? A. I am an amatuer; I paint a few pictures.

Q. You do not make any income from that?

A. Oh, no, sir.

Q. That is all.

20

Mr. Bilder: I will call Mrs. Campbell,
the defendant.

ANNIE L. CAMPBELL, SWORN:

Direct examination by Mr. Bilder:

Q. Mrs. Campbell, you are the defendant in this suit? A. Yes, sir.

30

Q. And you live with your mother on Monticello Avenue, Jersey City? A. I do.

Q. What number? A. 68 Monticello Avenue.

Q. And you have lived with your mother all your life? A. Yes, sir.

Q. Did you refuse to perform the marital obligation to your husband? A. I did.

40

Annie L. Campbell—Direct.

Q. On several occasions? A. Yes.

Q. And you persisted in it, didn't you? A. Yes, sir.

10 Q. And did you refuse to go back with him when he said he wanted to take you out and make a home for you on several occasions? A. Yes, sir.

Q. Are you willing now to go with your husband and be a wife to him? A. I am not.

Mr. Bilder: That is the Petitioner's case, your Honor.

Mr. Turner: I will make Mrs. Campbell my witness.

20

ANNIE L. CAMPBELL, *recalled*:

Direct examination by Mr. Turner:

Q. Mrs. Campbell, this picture that I show you, is that a picture of your little girl? A. Yes, sir.

Q. When was it taken? A. That was taken when she was three years old.

30

Mr. Turner: I offer the picture in evidence.

(There being no objection, the picture is marked D-1).

Same picture previously marked D-3 for identification.

Q. Now, Mrs. Campbell, Mr. Campbell said

40

Annie L. Campbell—Direct.

that he spoke to you about bringing a doctor in to see the child, did he do so? A. Yes, sir.

Q. What kind of a doctor was he going to bring in? A. Well, he spoke about Dr. Hamilton.

Q. He is a specialist on feeding, is he? A. Yes, sir. 10

Q. And he sent you a card prepared by Dr. Hamilton? A. He did.

Q. On the amount of food a child should have day and night and the amount of sleep, etc.? A. Yes, sir.

Q. Now, while he was there, did he in any way influence the feeding of the child or the care of the child, in so far as its food was concerned? A. Yes, sir. 20

Q. And when your husband was interested in the food of the child, what was the effect on the child's weight? A. Well, she lost weight.

Q. And after your husband went away, did you take the baby to a doctor? A. Yes, sir.

Q. What doctor did you take her to? A. First, I had Dr. Decker and since then I have had Dr. Franklin Boyer.

Q. And what did you find was the difficulty with the child or the reason she was not gaining weight? A. She was not having sufficient food. 30

Q. And after he went away, did you give her more food? A. Yes, sir.

Q. And was she all right then? A. Yes, sir.

Q. Now, what has your husband said to you on this question of the care of children; did he express himself on the question of the child? A.

Annie L. Campbell—Direct.

Well, he was continually finding fault and told me I did not know how to bring her up.

Q. And did he send you this circular, which I show you? A. He did.

10 Q. Now, how often was it that he would talk to you about the child sucking her thumb? A. Continually, every time she had her thumb in her mouth he would talk about it.

Mr. Turner: I offer the Circular in evidence.

(No objection, the Circular is marked D-2).

Same circular previously marked D-1.

20 Q. Was that the beginning of the difficulty between you and your husband? A. Yes, sir.

Q. Does this little girl now suck its thumb? A. She does not.

Q. Did you ever put any mits on her hand? A. I did not.

Q. It was a natural practice, was it not? A. Yes, sir.

Q. Do not most babies suck their thumbs? A. They do.

30 Mr. Bilder: I object.

Q Now, the babies that you have observed—did most babies that you have observed suck their thumbs and fingers? A. Many of them do.

Q. It is a very common thing for babies to do it and then outgrow it? A. Yes, sir.

Q. And your baby outgrew it? A. She has.

Q. Who takes care of the little girl? A. I do.

40

Annie L. Campbell—Direct.

Q. And is she pale? A. Well, at times she is; she is fair.

Q. She has a natural pale complexion, has she not? A. Yes, sir.

Q. So that her appearance does not indicate sickness? A. No.

Q. Now, when your husband has come to take her out on Sunday afternoon has she sometimes had a cold? A. Yes, sometimes.

10

Q. No more than other children have, that you have observed? A. No more than I have observed in other children.

Q. What is her general state of health? A. She is well.

Q. And how long has she been well? A. Oh, she has been well for a long while.

20

By the Court:

Q. What do you mean? A. Well, she is just getting over a cold.

Q. But when you say she has been well for a long while—a long period—what do you mean to indicate? A. Well, she has not had a cold since last Winter.

By Mr. Turner:

30

Q. Has she had anything else the matter with her besides colds? A. She has not.

Q. Now, you receive from your husband four dollars a week? A. Yes, sir.

Q. Is that a sufficient amount with which to take care of this little girl? A. Well, it is not, no.

40

Annie L. Campbell—Cross.

Q. Who makes up the deficiency—who pays the bills? A. I do.

Q. And you live with your mother? A. Yes, sir.

10 Q. Now, your brother is Fred G. Blackshaw?
A. Yes, sir.

Q. Does he live in the same house with you?

A. He does not, no.

Q. When Mr. Campbell takes the child out on Sunday afternoons, how do you have her dressed or cared for? A. Well, I have a little dark coat and panties on her and black shoes and white stockings and, of course, her underwear.

20 Q. And when he takes her out on Sunday afternoons, she is spick and span. And when he brings her back, how is she? A. Well, sometimes her things are very much spoiled and I have to wash them, and take off her stockings.

Q. What did she have on her stockings and dress? A. Well, mud sometimes.

Cross examination by Mr. Bilder:

Q. Have you told the little girl that her daddy is no good? A. I have not.

30 Q. Had you spoken kindly of your husband to the little girl? A. I have.

Mr. Turner: I object.

The Court: The question has been answered; I will overrule the objection.

Q. You have no affection for Mr. Campbell yourself? A. I have not.

Annie L. Campbell—Cross.

Q. Does the child show a drawing down of the mouth when she cries? A. No, she does not.

Q. Does she ever show that? A. No.

Q. Have you observed personally and carefully that point? A. Well, I have not paid much attention to it.

10

Q. Has not Mr. Campbell called your attention to it? A. He has not.

Q. Didn't he show you that on the day that he called; did he show you the way her mouth had been drawn down? A. He spoke about it.

Q. Did you look? A. No.

Q. Did you go to look? A. No, I was sitting at the table.

Q. You were not interested about it? A. No.

20

Q. Now, Dr. Boyer did not come to the house and you didn't take her to him until after Mr. Campbell had stopped living there? A. After—

Q. And wasn't it because he threatened to get a physician that you got your own physician? A. I had my own physician.

The Court:

Q. The question is, whether you got Dr. Boyer to attend the child as a result of what Mr. Campbell had said to you? A. No, I just wanted to see him about her food.

30

By Mr. Bilder:

Q. You did not see any doctor about the food while Mr. Campbell was there? A. No.

Q. Did he speak to you about having a doc-

40

Decree Nisi in Petitioners Favor.

tor there? A. He spoke about it, yes, and we had Dr. Decker there.

Q. How old was the child then? A. The baby was born in September and he left in February.

10 Q. And it was not until after he left there that you got a physician? A. No.

Mr. Bilder: That is all. That is the petitioners case. Is the defendant going to put in any more testimony?

Mr. Turner: No, the defendant is not going to put in any more testimony.

Decree Nisi in Petitioners Favor.

20

IN CHANCERY OF NEW JERSEY.

Between

GEORGE W. CAMPBELL,
Petitioner,

and

ANNIE L. CAMPBELL,
Defendant.

} Decree Nisi.

30

This cause coming on to be heard in the presence of Bilder & Bilder, of counsel with the petitioner and Marshall Van Winkle of Counsel with the defendant, on petition, answer, cross-petition and answer hereto and oral proofs taken in open court, whereupon and upon duly considering the said pleadings and proof and hearing and considering the arguments of counsel

40

Decree Nisi in Petitioners Favor.

and from all of which it now appears satisfactorily to the Chancellor that the petitioner and defendant were lawfully joined in the bonds of matrimony on or about the 17th day of June, 1915 and that the defendant has been guilty of willful, continued and obstinate desertion for the term of two years, as alleged in the said petition and that at the time the cause of action for divorce for the said desertion arose the petitioner and defendant were *bona fide* residents of this State and that the defendant has continued so to be down to the time of the commencement of this action and it further appearing that jurisdiction herein has been acquired by personal service of process upon the said defendant within this State; as well as by the appearance, answer and cross-petition of the defendant and the defendant having failed to sustain the allegations of her cross-petition and that the same should be dismissed.

It is thereupon on this 19th day of January, 1920, by his Honor Edwin Robert Walker, Chancellor of the State of New Jersey, Ordered, adjudged and decreed and the said Chancellor by virtue of the power and authority of this Court and by the acts of the Legislature in such case made and provided, doth hereby order, adjudge and decree that the said cross-petition of the said defendant Annie L. Campbell be dismissed and that the said petitioner, George W. Campbell and the defendant Annie L. Campbell, be divorced from the bond of matrimony for the cause aforesaid, and the said parties and each of them be freed and discharged from the obligations thereof, unless sufficient cause be shown to the

10

20

30

40

Decree Nisi in Petitioners Favor.

Court why such decree should not be made absolute within six months from the date hereof.

10 And it is further Ordered that the custody of Arline Louise Campbell, the infant child of the marriage of the said George W. Campbell and Annie L. Campbell, be and hereby is awarded to the mother of the said infant, Annie L. Campbell; that the petitioner George W. Campbell is entitled to have access to the said child on every Sunday and every National Holiday, between the hours of two o'clock and five o'clock in the afternoon at the home of the said Annie L. Campbell, upon condition that the said George W. Campbell pay the said Annie L. Campbell the sum of Four Dollars each week for the support and maintenance of the said infant, which 20 said sum said George W. Campbell is hereby ordered to pay to said Annie L. Campbell each and every week. During the visits of the father to the said infant, the mother of the said infant shall have the right to nurse and feed and care for the said infant and during said visits, the said father is not to participate in, or interfere with, the nursing, feeding and caring of said infant, until the further order of this Court.

30 And it is further Ordered, adjudged and decreed that either party be at liberty to apply for a variance or modification of this decree touching said maintenance and custody, as shall be just and equitable.

Respectfully advised:
JAMES F. FIELDER,
V. C.

E. R. WALKER,
C.

Final Decree..

10 doth hereby order, adjudge and decree that the
said decree *nisi* be made and become absolute,
and that the said petitioner George W. Camp-
bell and the said defendant, Annie L. Campbell,
are divorced from the bonds of matrimony for
the cause aforesaid and the marriage between
the said petitioner and the said defendant is here
by dissolved accordingly, and the said parties
and each of them are and is hereby freed and
discharged from the obligations thereof.

E. R. WALKER,

C.

20

30

40

Notice of Appeal.

IN CHANCERY OF NEW JERSEY.

Between

GEORGE W. CAMPBELL,
Petitioner,

and

ANNIE L. CAMPBELL,
Defendant.

10

The petitioner hereby appeals from the order made herein on the 15th day of October, 1923, and from the whole and every part thereof which order dismissed the application of the petitioner to procure a modification of the order heretofore entered in this cause providing for the custody of the child of the parties hereto, to the Court of Errors and Appeals in the last resort in all cases.

20

J. HARRY HULL
Solicitor for and of Counsel
with Petitioner.

Dated, November 23rd, 1923.

30

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

J. HARRY HULL,
of counsel with petitioner.

40

Petition of Appeal.NEW JERSEY COURT of ERRORS and
APPEALS.

	Between	} Petition of Appeal.
10	GEORGE W. CAMPBELL, Petitioner-Appellant,	
	and	
	ANNIE L. CAMPBELL, Defendant-Respondent.	

To the Honorable the Court of Errors and Appeals in the last resort in all cases:

20 The petition of George W. Campbell, the appellant in the above stated cause, respectfully shows:

That your petitioner finds himself aggrieved by an order made in the Court of Chancery by the Hon. Edwin Robert Walker, bearing date the 15th day of October, 1923, wherein the said George W. Campbell, was the petitioner and the said Annie L. Campbell the defendant, in this respect; to wit:

30 That the said order dismissed the application of the petitioner herein which petition requested a modification of an order heretofore entered herein on the 29th day of January, 1923, by awarding the custody of the child of the parties hereto, to the petitioner and appellant. That said order of January 29th, 1923, was a denial of the request of the petitioner and appellant for a modification of the final decree of divorce

Petition of Appeal.

entered herein on July 20th, 1920, in favor of this petitioner and against the defendant but which final decree awarded the custody of the infant of the parties hereto to the defendant. Your petitioner appeals from the whole of the said order of the 15th day of October, 1923, upon the ground that the same is erroneous, in that the Chancellor refused to award the custody of the said child to the petitioner herein. 10

Your petitioner, therefore, prays that the said decree of the said Chancellor be, in the particulars set forth, reversed, set aside and for nothing holden. And that your petitioner have such relief in the premises as to this Honorable Court shall seem meet.

J. HARRY HULL, 20
Solicitor for and of Counsel
with the appellant.

30

40

Order to Show Cause.

IN CHANCERY OF NEW JERSEY.

10	Between GEORGE W. CAMPBELL, Petitioner, and ANNIE L. CAMPBELL, Defendant.	}	On Petition for Modifica- tion of De- cree of Di- vorce. Order to Show Cause.
----	--	---	---

20 This matter being opened to the Court by Irving W. Teeple, Esq., of counsel with the petitioner, and upon reading and filing the verified Petition of George W. Campbell, and the Court being satisfied of the sufficiency of the application made in this cause, it is on this 25th day of January, A. D. 1921, on motion of Irving W. Teeple, Esq., Solicitor for and of Counsel with Petitioner,

30 Ordered that the above named defendant, Annie L. Campbell, or her counsel do show cause before the Chancellor at the Chancery Chambers in the Prudential Building, in the City of Newark, in the County of Essex and State of New Jersey, on Tuesday the 8th day of February, A. D. 1921, at 10 o'clock in the forenoon of that day or as soon thereafter as the matter can be heard why the Final Decree in this Court heretofore made in this cause should not be modified so that petitioner in addition to having access to his child, the said Arline Louise Campbell, every Sunday and every National Holiday, be-

Order to Show Cause.

tween the hours of two o'clock and five o'clock in the afternoon, at the home of said defendant, as provided in and by the terms of said Final Decree, petitioner may have the custody and care of said child from Saturday at 12 o'clock noon until eight o'clock on Sunday Evening, continuously each and every week hereafter, and also that he may visit said child for at least two hours during two evenings of each and every week hereafter, and may also visit said child whenever she may be ill or injured.

10

It is further ordered that a true but uncertified copy of the Petition for Modification of said Decree and of this Order be served upon the above named defendant within five days from the date of this Order.

20

Respectfully advised,
 JAMES F. FIELDER,
 V. C.

E. R. WALKER,
 C.

30

40

Petition for Modification of Decree.
IN CHANCERY OF NEW JERSEY.

	Between <div style="text-align: center;">GEORGE W. CAMPBELL, Petitioner,</div>	On Petition for Divorce.
10	and <div style="text-align: center;">ANNIE L. CAMPBELL, Defendant.</div>	Petition for Modification of Decree.

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

The Petition of George W. Campbell, respectfully shows to your Honor:

20 1. That the above cause came on to be heard before this Court on Petition, Answer, Cross Petition and Answer thereto, and oral proofs taken in open Court, and pursuant thereto such proceedings were had, that on the 19th day of January, A. D. 1920, this Court did Order, Adjudge and Decree that the Cross Petition of the defendant, Annie L. Campbell be dismissed, and that said Petitioner, George W. Campbell, and the defendant, Annie L. Campbell be divorced

30 from the Bond of Matrimony for the cause aforesaid (to wit, that the defendant has been guilty of willful, continued and obstinate desertion for the term of two years), and that the said parties and each of them be freed and discharged from the obligations thereof, unless sufficient cause be shown to the Court why such Decree should not be made absolute within six months from date;

And it was further Ordered that the cus-

Petition for Modification of Decree.

tody of Arline Louise Campbell, the infant child of the marriage of the said George W. Campbell and Annie L. Campbell, be and hereby is awarded to the mother of the said infant, Annie L. Campbell; that the petitioner George W. Campbell is entitled to have access to the said child on every Sunday and every National Holiday, between the hours of two o'clock and five o'clock in the afternoon at the home of the said Annie L. Campbell, upon condition that the said George W. Campbell pay the said Annie L. Campbell the sum of Four Dollars each week for the support and maintenance of the said infant, which said sum said George W. Campbell is hereby ordered to pay to said Annie L. Campbell each and every week. During the visits of the father to the said infant, the mother of the said infant shall have the right to nurse and feed and care for the said infant and during said visits, the said father is not to participate in, or interfere with, the nursing, feeding and caring of said infant, until the further order of this Court.

And it is further Ordered, Adjudged and Decreed that either party be at liberty to apply for a variance or modification of this decree touching said maintenance and custody, as shall be just and equitable.

2. That said child of said marriage, namely, Arline Louise Campbell, is an unusually bright child, is between four and five years of age, and is now in and ever since said last mentioned date has been in the custody and care of the defendant, the mother of said child, residing in

10

20

30

40

Petition for Modification of Decree.

10 Jersey City, in the County of Hudson in this State. That your petitioner has paid the said defendant, Annie L. Campbell the sum of Four (\$4.00) Dollars each week since the making of the aforesaid decree, for the support and maintenance of said child, and has visited said child in accordance with the provisions of said Decree frequently during the past eleven months, but at no times or times other than those fixed in and by the terms of said Decree.

20 3. That this Court made its Final Decree in this cause on the 20th day of July, A. D. 1920, in and by which it was Ordered, Adjudged and Decreed that the aforesaid Decree *Nisi* be made and become absolute, and that the said petitioner, George W. Campbell, and the said defendant, Annie L. Campbell were divorced from the bonds of matrimony for the cause aforesaid, and the marriage between said petitioner and the said defendant was thereby dissolved accordingly.

30 4. That your petitioner desires a modification of the aforesaid Decree so that in addition to having access to said child on every Sunday and every National Holiday between the hours of two o'clock and five o'clock in the afternoon, at the home of said defendant, as it was provided in and by the terms of said Decree, your petitioner may have the custody and care of the said child from Saturday at twelve o'clock noon until eight o'clock on Sunday Evening, each and every week-end hereafter, and also that he may visit said child for at least two hours during two evenings of each and every week hereafter, and also when said child may be ill or injured.

40

Petition for Modification of Decree.

Wherefore your petitioner respectfully prays that an Order of this Court may be made requiring the above named defendant, Annie L. Campbell to show cause at a time and place to be therein designated, why the Final Decree of this Court heretofore made herein as aforesaid should not be modified in the respects aforesaid, and in such manner otherwise as may be just and equitable. 10

And your petitioner will ever pray, etc.

GEORGE W. CAMPBELL,
Petitioner.

IRVING W. TEEPLE,
Solicitor of Petitioner.

State of New Jersey, }
County of Essex, } ss.: 20

GEORGE W. CAMPBELL, of full age, being duly sworn according to law, upon his oath, deposes and says: that he is the petitioner in the foregoing petition named, and that the matters and things contained therein are and each of the same is true to the best of his knowledge and belief.

GEORGE W. CAMPBELL. 30

Subscribed to and sworn to
this 24th day of December,
A. D. 1920, at Newark, N. J.,
before me

PHILIP KLEIN,
A Master in Chancery
of New Jersey.

Affidavit in Opposition to Petition.

The application of the petitioner is to remove the said child of deponent from the State of New Jersey to the State of New York, where the petitioner resides and keep her over night in New York State at No. 1458 Bryant Avenue, Bronx, New York City. Deponent strongly objects to this application of the petitioner covering as it does the entire day of Sunday, because she knows from past experience that the petitioner does not properly care for the child when he takes her out on Sunday. The petitioner has called at the deponents home every Sunday and practically every National Holiday, since the making of the Decree in January, 1920, and as a rule he calls for her at 2 P. M. on Sunday and brings her in at 4 or 4:30 P. M. and then he remains in deponents home until about 5 P. M. When the petitioner takes her out on Sundays she has clean clothes and is nicely dressed and is clean herself and when he brings her back, her clothes are dirty and mussed and her stockings are dirty and her hands are dirty. She usually tells of having been taken by her father to Parks and playgrounds where on Sundays he permits her to go on slides, swings and ladders, wearing her best and cleanest clothes and on one occasion when the petitioner took her out she fell from a swing and was injured and on another occasion she fell from ladders and scratched her nose. The petitioner exercises no judgment or care in taking the child out on Sundays and takes her wherever he seems to want to go,

10

20

30

40

Affidavit in Opposition to Petition.

without regard to her welfare or without regard to endangering her health.

10 The petitioner frequently tells the child that as soon as she is older she is to come to live with the petitioner in the Bronx, New York. The child on occasions returns home and says that her father has said that he would have this deponent in Court. The deponent charges that the petitioner is endeavoring to poison the mind of the child against deponent and lead the child to think that she is to leave her mother as soon as she is a little older.

20 The amount of four Dollars per week which the petitioner pays for the support of the child is not adequate for her needs. It is necessary to pay four or five dollars a pair for her shoes and a coat cannot be bought for less than fifteen or twenty dollars and other clothing is proportionately high, so that a complete outfit for her cannot be bought for less than about fifty dollars. For milk alone the expenses are over One Dollar a week and other food is proportionately high so that deponent should have not less than Eight Dollars per week for the support of said child and this sum of Eight Dollars per week will hardly be sufficient when
30 she commences to go to school as she will in the near future. Whenever the child is sick this deponent has to pay the doctor's bill and bills for medicines as the petitioner pays absolutely nothing except the said sum of Four Dollars per week.

This deponent objects to the petitioner visiting the child two evenings of each week as this

Affidavit in Opposition to Petition.

will break up her rest and sleeping hours. She goes to bed every night at eight o'clock and some nights somewhat earlier and if it is arranged that the petitioner is to see her two evenings per week besides his afternoons on Sundays and Holidays it will interfere with the rest and recreation of the child. 10

ANNIE L. CAMPBELL.

Subscribed and sworn
to before me this
first day of February,
1921

FLORENCE LUTHAUS
Notary Public of
New Jersey. 20

30

40

Petition for Modification of Decree.

IN CHANCERY OF NEW JERSEY.

Between

GEORGE W. CAMPBELL,
Petitioner,

and

ANNIE L. CAMPBELL,
Defendant.

10

The petition of George W. Campbell respectfully shows:

That on the 19th day of January, 1920, a decree *nisi* was entered in the office of the Clerk of this Court in the above entitled action, which granted to your petitioner a divorce from his then wife, the defendant, Annie L. Campbell, upon the ground that the defendant was guilty of continued and absolute desertion for the term of two years. In said decree it was further ordered that the custody of Arline Louise Campbell, infant child of the marriage of the petitioner and defendant herein, be awarded to the mother. That your petitioner was permitted to have access to the said child on every Sunday and every national holiday, between the hours of two o'clock and five o'clock in the afternoon, at the home of the defendant, upon condition that your petitioner pay to the defendant the sum of \$4.00 each week for the maintenance and support of the said child. The said decree *nisi* further provided that either party might apply for a variance or modification of the decree

20

30

40

Petition for Modification of Decree.

touching the maintenance and custody of their infant daughter.

10 Thereafter and on the 20th day of July, 1920, a final decree was entered in favor of your petitioner against the defendant, dissolving the bonds of matrimony upon the grounds set up in the petition.

Your petitioner has duly complied with the terms of the said decree and has paid to the defendant, Annie L. Campbell, the sum of \$4.00 each and every week for the support of the said child and has seen this child on Sundays, and holidays between two and five o'clock in the afternoon.

20 Your petitioner, in accordance with the permission granted him in the decree *nisi* and final decree in this cause, applies to this Court for a modification of the said decree, so that he may be permitted to have the custody of the child from Saturday noon in each week to Sunday night, and that he may also be permitted to see his child for an hour or two several days in each week, between the hours of half-past five and half-past seven P. M.

Your petitioner resides in the Bronx, at No. 1458 Bryant Avenue, with his mother.

30 Your petitioner and his mother live together there, his mother taking care of the house. The home in which they live has a garden with fruit, vegetables and flowers.

That defendant lives at No. 30 Crescent Avenue, Jersey City, N. J., on the top floor of a three-story apartment house containing seven families.

Petition for Modification of Decree.

That in the time allowed your petitioner for access to his child it is hardly possible for his little daughter to see his mother more than from fifteen to twenty minutes each Sunday, after a long journey. That it takes over two and a half hours to make the trip between the defendant's house and his own home. 10

Further than that, your petitioner says that he is desirous of taking his little daughter to hear good music, and your petitioner is desirous by reason of his twenty years' professional career as soloist in opera, oratorio, concert and church, and teacher of soloists, desires sufficient time to educate his child in both art and music for which she has shown a decided inclination by her fourth year, and also sufficient time for her to see and know her father's relatives and talented friends in New Jersey and New York States and elsewhere. As she is now situated she has no opportunity to learn music or art, or to care for it, and as she has a talent in both directions your petitioner thinks that it should be cultivated, which petitioner is willing to do; and also to see that she receives the religious instruction in the denomination and faith which her father and mother were reared and not the one she is now being reared. 20 30

Your petitioner further says that this child was six years of age on the 16th day of September, 1922.

Your petitioner further calls attention of this Court to the fact that the divorce decree was granted to him on account of the fault of the defendant.

Petition for Modification of Decree.

10 Your petitioner, therefore, prays that the decree *nisi* and the final decree entered in this cause be modified so that he may be able to see his daughter once or twice on week days and from Saturday 1:30 P. M. to Sunday evening, about 7:30 o'clock, and on holidays from 1:00 to 7:30 P. M., and your petitioner will ever pray.

GEORGE W. CAMPBELL.

State of New York, }
County of New York, } ss. :

20 GEORGE W. CAMPBELL, being duly sworn, deposes and says that he is the petitioner herein, and that the facts contained in the foregoing petition are true.

GEORGE W. CAMPBELL.

30 Sworn and subscribed to before me the undersigned, a Notary Public, residing in the City, County and State of New York, in said City, County and State aforesaid, this 24th day of November, 1922.

HENRY A. EBERHARDT
Notary Public
N. Y. Co.

Petition for Increased Allowance.

10 loaded stomach over her clothes, my clothes, and the floor of the car, and as she did not seem inclined to tell you for fear of being denied the opportunity of going out last evening hence the communication that you may take the proper steps to restore her to a normal condition. Arline states that you gave her candy the night before. I know it is hard to deny her but don't you think that you might save her and yourself much suffering in the future by a little forethought now. I enclose the money order for \$4.00 for her maintenance for this week as usual."

20 The said George W. Campbell attempts further to interfere with the said child by telling her among other things that if her mother gets married again she will have another little girl and that when the said child is seven years old she is to go to live with the said George W. Campbell. This is an illustration of the various things that the said George W. Campbell tells the said child.

30 3. This petitioner shows that the sum of Four Dollars per week is not adequate for the present support of the said child and the amount should be increased to about Fifteen Dollars per week to cover the cost of living, clothes, support and education of the said infant.

4. The said George W. Campbell causes expenses to this petitioner by his applications to modify the Decree herein. He threatens to con-

Petition for Increased Allowance.

tinue to make such applications from time to time.

This petitioner prays that the amount awarded to her for the support of said infant may be increased and that she may be awarded an appropriate counsel fee in this proceeding.

10

MARSHALL VAN WINKLE,
Solicitor of Petitioner.

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

ANNIE L. CAMPBELL, being duly sworn deposes and says that she has read the foregoing petition and that the same is true of her own knowledge except as to the matters therein stated upon information and belief and as to those matters she believes the said petition to be true.

20

ANNIE L. CAMPBELL.

Subscribed and sworn to
before me this 29th
day of December 1922
FLORENCE LUTTHAUS
Notary Public of
New Jersey.

30

40

Affidavit in Reply to Petition.

stomach was overloaded. Deponent respectfully submits that to call to the attention of the defendant the condition of his daughter on such occasions is certainly not in violation of the order of this Court.

2. Replying further to the allegations in said second paragraph, this deponent says that he never stated to his child that if her mother married again she will have another little girl, nor did he ever say anything to the child which was similar to this statement, or anything that could be likened to it.

10

3. Replying further to the allegation that the sum of \$4.00 a week is not adequate and the request for \$15.00 a week to cover the child's expenses, deponent says that he is employed by the law firm of Stewart & Shearer, of the City of New York, as an accountant and that his salary is \$30.00 per week, and this is the total amount of his income. That prior to his employment by Messrs. Stewart & Shearer the firm by whom he was engaged went out of business and deponent was without work for six months.

20

That deponent lives with his mother and contributes to the support of the house for food, coal, interest on the mortgage, water, gas and electricity, the sum of about \$400.00 a year, repairs to the house about \$50.00, dues for insurance premiums, etc., \$45.00.

30

Deponent further says that he has been informed, and verily believes, that his wife has

40

Affidavit in Reply to Petition.

property and that she recently sold a piece of real estate for the sum of \$17,000.00.

Deponent submits that the amount which he contributes to the support of the child is adequate in view of the fact that his wife is a woman of some substance.

10

4. Replying to the allegations contained in paragraph 4, the statement that deponent threatens to continue to make such applications from time to time, is not true. Permission was given deponent to make these applications and he does not think that he should be penalized by being compelled to pay to the defendant's solicitor a counsel fee on such occasions, as defendant is as fully able to pay these fees as is deponent.

20

GEORGE W. CAMPBELL.

Sworn to before me in the
City, County and State of
New York, this
day of January, 1923.

ALEXANDER HOWELL

Foreign Commissioner
of Deeds for the State of New
Jersey in the State of New York.
(Seal)

30

40

*Order Denying Petitioners Application and
Granting Increased Allowance.*

10 L. Campbell, upon condition that the said George
W. Campbell pay the said Annie L. Campbell
the sum of Six Dollars each week for the sup-
port and maintenance of the said infant, which
said sum said George W. Campbell is hereby
Ordered to pay to said Annie L. Campbell, each
and every week. During the visits of the father
to the said infant, the mother of the said in-
fant shall have the right to nurse and feed and
care for the said infant and during said visits
the said father is not to participate in or inter-
fere with the nursing, feeding and caring of the
said infant until the further order of this Court,
and also upon condition that the said George W.
20 Campbell shall pay to the said Annie L. Camp-
bell, a counsel fee in the sum of Fifty (\$50.)
Dollars and the costs of this motion to be taxed.

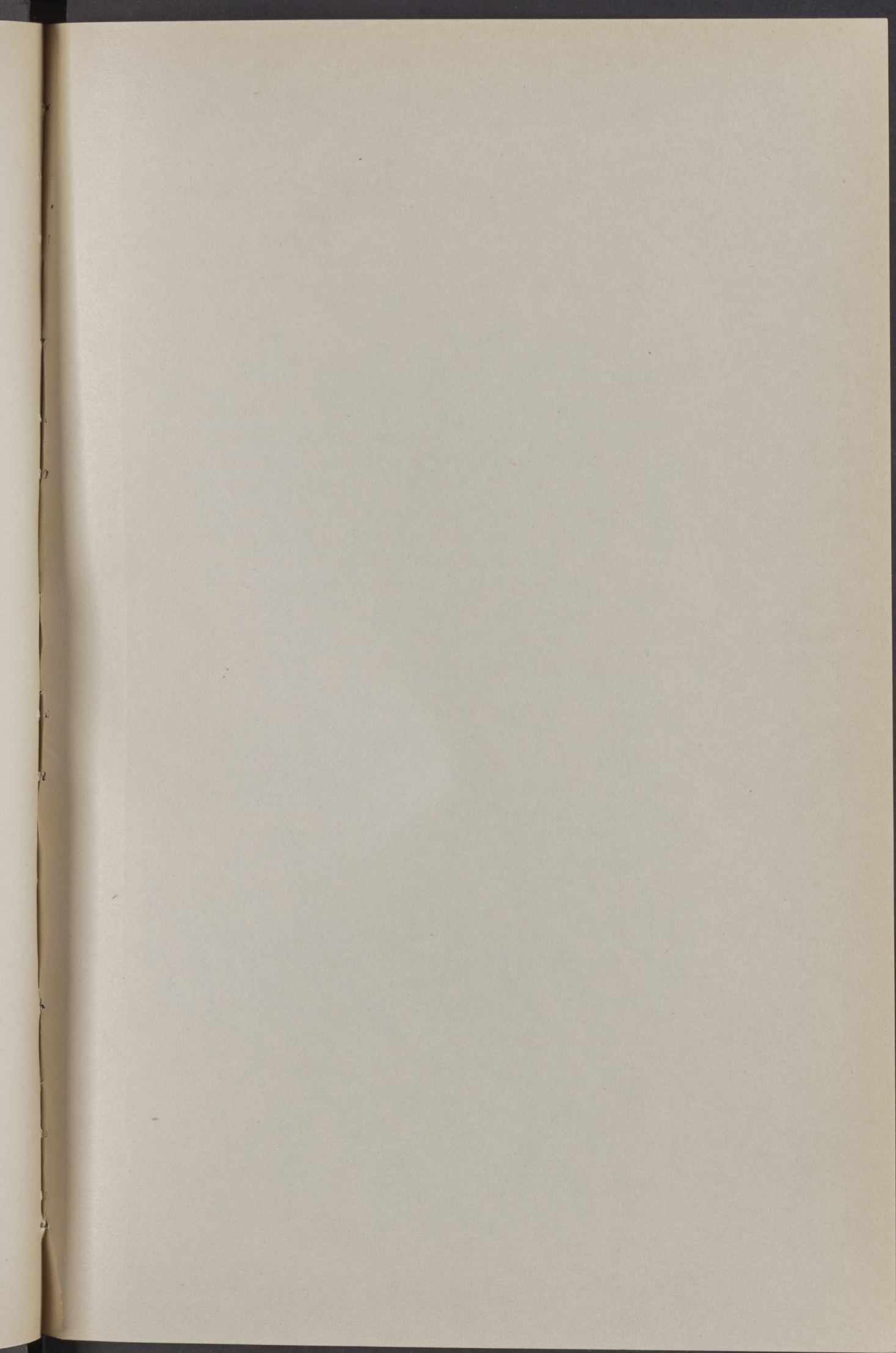
Respectfully advised

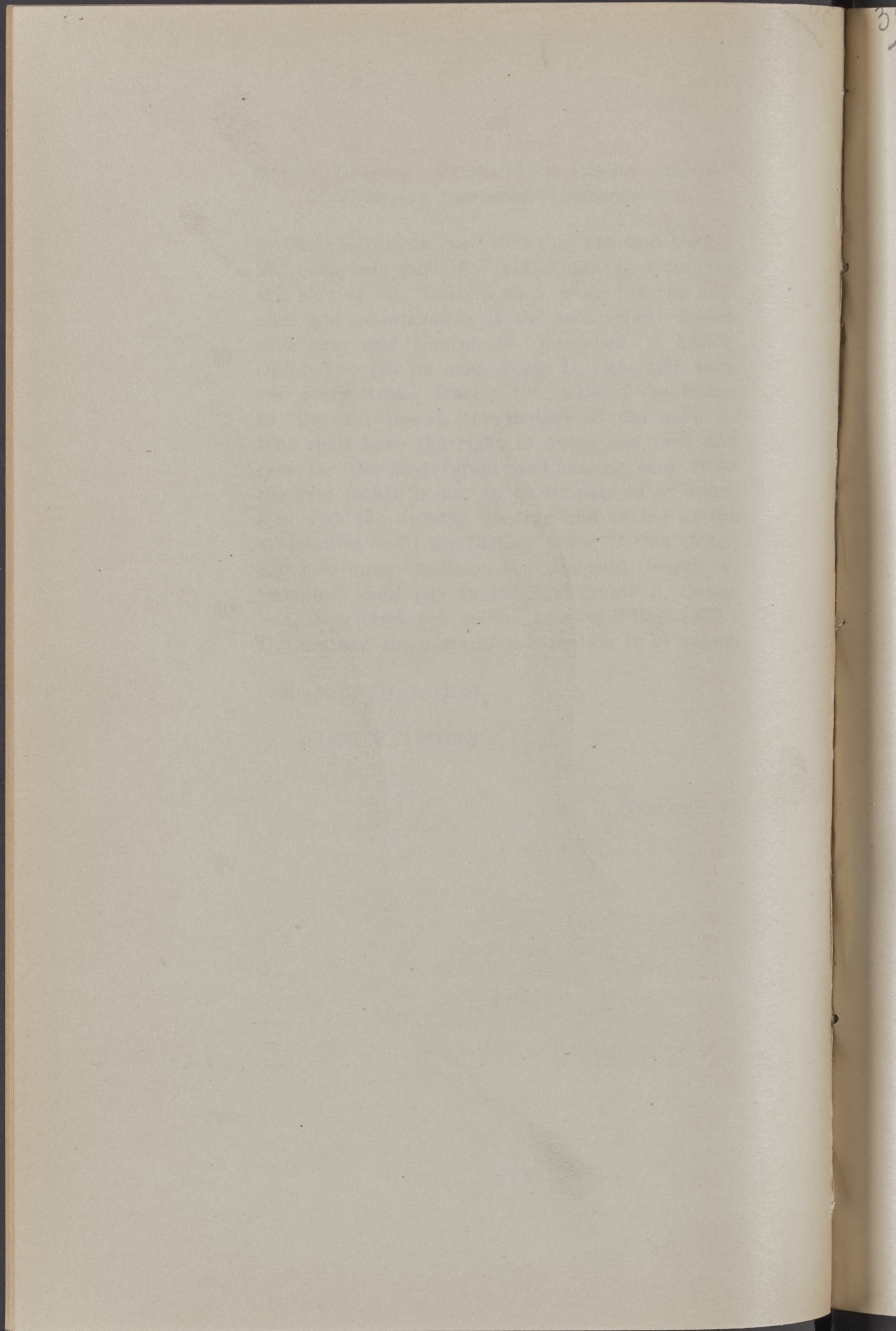
JAMES F. FIELDER
V.C.

E. R. WALKER, C.

30

40





30
To be argued by
MR. HULL.

New Jersey Court of Errors and Appeals

Between

GEORGE W. CAMPBELL,
Petitioner-Appellant,

and

ANNIE L. CAMPBELL,
Defendant-Respondent.

APPELLANT'S BRIEF.

This is an appeal from an order of the Court of Chancery advised by Vice Chancellor Fielder and filed October 15th, 1923. This order denied the application for a modification of the decree *nisi* and final decree of divorce in favor of the petitioner herein. The decree *nisi* and final decree awarded the custody of the only child of the parties to this action to the defendant, and allowed the father to visit the child on national holidays and on Sundays between two and five p. m.

The facts of this case are as follows:

The petitioner George W. Campbell and the defendant Annie L. Campbell, were married June 17, 1915. The child Arline Louise Campbell was born September 15th, 1916 (p. 14). That on November 14th, 1916, the defendant and the petitioner co-habited (p. 20) and from

that time on the defendant refused to have any further marital relations with her husband (p. 23, 25, 47, 48). She gave as a reason for refusing to co-habit with her husband again that he interfered with the baby and made her cry. The testimony on that point (p. 22) is as follows:

“I will never be a wife to you again as long as I live and I will never bear another child by such a man as you are”.

Q. What did you answer to that? A. I said: ‘What is your reason for that’, and she hesitated, I suppose she could not formulate an answer.

Q. What did she say. A. ‘You interfered with the baby and you made her cry’”.

The defendant made no denial of her refusal: in fact admitted it (p. 47, 48).

The Court of course, granted the petitioner his decree but penalized him for having obtained it, by refusing him permission to see his child other than on National Holidays and on Sundays between two and five p. m.

The court below has refused to modify the decree so that the petitioner can have more time with the child although three applications have been made. Not only that but each denial was coupled with an award of counsel fee against the petitioner. On the first occasion \$25. was awarded; on the second \$50.; and on the third \$25. These allowances were imposed notwithstanding the provisions in the decree *nisi* permitting petitioner to apply for modification of the decree; notwithstanding that no proof was offered by the defendant of her inability to pay counsel fee.

When the decree *nisi* was entered the child was three years four months and six days old.

Upon the date of the next application, namely, January 25th, 1921, the child was four years four months and ten days old.

Upon the second application made about November 24th, 1922, the child was six years two months old.

Upon the date of the third and last application with which this appeal deals the child was seven years and one month old.

The Court below when the decree *nisi* was entered took into consideration of course the tender years of the child in awarding it to the mother with the provision that the father might have the right of visitation, but this right was altogether too narrowly restricted. It was of course proper for the child to be awarded to the mother until it was seven years of age unless she was an improper person morally to care for it, which of course does not enter into this case. There was no reason whatever and there is none now that as the child grew older and circumstances changed why the father should be restricted to three (3) hours a week on Sundays and National Holidays.

The child is now seven years of age: the father was not at fault. Under the law which will be discussed hereafter he is entitled to the possession of his child against everybody. No reason has been shown why Mr. Campbell should not have his daughter or at least see her more than three hours every week.

The Vice-Chancellor says in his opinion (p. 10) that the welfare of the child required no modification of the order and that the conditions under which the child has been living as shown by the affidavits and arguments of counsel in

this as well as previous hearings show that it is for the best interest that the child should be with her mother.

A reading of the facts, all of which are in the state of the case, does not justify the opinion nor the decision of the Court below.

Search this record and answer this question: What has this man done that he should be deprived of his only child?

There has been injected into this case by the defendant an atmosphere which in the opinion of petitioner's present counsel, has militated against his client and it is very difficult to bring to an appellate court the atmosphere which surrounded the case when tried or argued below.

It will be remembered as set forth in this memorandum, the defendant said she would have no more children by the petitioner because he interfered with the baby and made her cry. The petitioner testified (p. 31) that the child was badly fed, that he told his wife that she was not feeding it properly (p. 32-33); that it was losing weight; that the child's mouth was deformed (p. 34); that petitioner wanted to employ a doctor to see the child but that his wife refused to permit it and testimony of a like character was given on p. 39 where he testified that the child was car sick, had a bloated stomach and white puny hands. Most, in fact all, of these occurrences took place after the desertion, as the first refusal of the wife in which she persisted occurred shortly after November 14th, 1916, and the petitioner left the house on March 16th, 1917 (p. 28).

This testimony shows a father's solicitude for the welfare of his only daughter. He had

only three hours a week to see her and it was most natural that he should endeavor to learn and see what her condition was.

Now when the defendant is put on the stand, to what does she testify? Does she testify that her husband deserted her? Is there a word in her testimony to justify that claim? Not one. Now it will be remembered that the defendant set up desertion in her cross-petition and asked a decree of the Court awarding her a divorce on the ground of her husband's desertion. The whole testimony which she gave at the trial is about her husband's anxiety that the child be fed properly and his complaints which were perfectly well founded that his child was not receiving proper treatment. And remember that all of these occurrences took place after the desertion. Her testimony had no relevancy to the question at issue, which was, was the husband or wife guilty of desertion? It had no relevancy as to whom the child should be awarded. Under the law unless the wife was an improper person the Court would, of course, award the custody of the child to the mother and did so, but the appellant's grievance is that the time allowed him was most inadequate and that in spite of the varying changes that have occurred since then, and taking into consideration the child's growing years, he is still bound down to three hours a week. Now this line of testimony was repeated in the affidavits submitted by the defendant on each application.

It seems to counsel that it gave the impression to the Court that the father was concerned about womanly duties, that he was act-

ing outside his province when he sent for "Mits to prevent Children from sucking their thumbs" (p. 43) or a diagram showing when children should be fed (p. 43).

These were duties that should have been left to the mother and it was unmanly and improper, ridiculous and meticulous for him to insist that the child be fed properly or that it be brought up so that its digestion was not impaired.

The effect of all this irrelevant testimony is shown in the unusual provisions of the decree *nisi* (p. 56), which reads as follows:

"During the visits of the father to the said infant, the mother of said infant shall have the right to nurse and feed and care for the said infant and during said visits, the said father is not to participate in, or interfere with, the nursing, feeding and caring of said infant, until further order of this Court."

What chance would a father have to interfere with a child's feeding when he was permitted to see her only three (3) hours a week? Is not this indicative of the atmosphere created?

In the two applications made by the petitioner for the modification his reasons are given for making this request of the Court (p. 75). The defendant answered (p. 77-78) the applications by an affidavit showing or attempting to show that the petitioner is attempting to interfere with the feeding of the child and quotes a letter in which the father protested against giving the child candy which resulted in making her ill as set forth in that letter (p. 77-78).

To the petitioner the attitude of the Court below in denying his last application seems most unreasonable. It will be seen that between the second and third applications, one of which was made in January, 1923, and the other and last in October, 1923, the defendant moved to Ridgewood, N. J., of which the petitioner was given due notice (p. 4). The petitioner (p. 4) lives in the Borough of Bronx, New York City, at 1458 Bryant Avenue. His time for visitation is limited to Sundays and holidays between two and five. He cannot see her either before or after those hours. Taking into consideration the time tables on Sunday trains and the waits he has to make in order to make the necessary connections in order to see the child three hours, he spends eight hours of the day, five in getting to and from Ridgewood and three in seeing his daughter.

Her answer to that contention is (p. 7):

“The train service from New York to Ridgewood is very good and I am sure that Mr. Campbell is not inconvenienced in going to Ridgewood.”

In spite of the fact that he was not at fault and did not create the situation which brought about the divorce and in spite of the fact that the child has become seven (7) years of age since that time, the Vice-Chancellor refused to modify that order in any way whatever. If this order stands, what right has a father to his children.

Counsel has endeavored to call to the attention of the Court the facts which he considers

show that the order of the Court below is unreasonable.

In *Magee vs. Holland*, 27 L. 86 p. 88 is found the law. This was in a charge given to the jury by the Court below and in that charge the Court said:

“By the law of the land, a father unless deprived of it by appropriate legal proceedings, has a right against all the world, to the services and the company of his legitimate children; and no one, not even his wife, the mother of the children, has a right to deprive him of them. It is the duty of the wife to live with her husband, and to take care of their children.”

In the opinion of the Supreme Court which affirms the judgment below Judge Elmer says page 99:

“The right of the father was clearly paramount to that of the mother. * * * Although in cases where a child is before the Court by virtue of a *habeas corpus* they will exercise a discretion and permit the child, if of tender years, to remain under the care of the mother, yet if it is actually in the custody of the father, so absolute is his right considered, that they will not interfere to remove it.”

These considerations are directly applicable to the instant case. It was the duty of this wife to live with her husband and take care of his child unless she was justified in deserting him.

In *Dixon vs. Dixon*, 71 Eq. 281 an application was made by the father for the custody of two children, one about four years old and the other three. The Court refused to grant the application simply on the ground of the tender years of the children, it not being shown that the mother was an improper person to take care of them. But the Vice-Chancellor who was affirmed by the Court of Errors did suggest that the children should be taken by their nurses to the home of their father's parents for such reasonable time during the morning or afternoon of one or two days of each week as might accord with the father's engagements. In our case the child is seven (7) years old living in Ridgewood New Jersey, and in order to see her three hours it takes eight hours to make the visit.

In *Power vs. Power*, 65 Eq. 93 Vice-Chancellor Pitney goes into a long discussion of the rights of the parties to their children when husband and wife are living apart. He says (p. 98):

"For it must be understood that it is altogether a mistake to suppose that the winning party in a suit for divorce is entitled to the child. Ordinarily and often they are. * * * It all depends upon the circumstances; it is not the guilt or innocence of the parties which controls; it is the welfare of the child. That is the question that this Court has to determine. So I entirely repudiate the notion that, necessarily or even naturally, as goes the main suit so goes the custody of the infants. That goes according to the strict rights of the parties."

It is perfectly true in the opinion just quoted that it all depends upon circumstances and that the child's welfare is to be considered first but, as the testimony in this case clearly shows, the mother did not care for the child in the way she should; that the father found evidence of poor nourishment and improper feeding. As between two parties, one who shows solicitude for the child's care and the other who shows neglect, it is not for the best interest of the child to be awarded to the negligent one.

The testimony of the wife discloses no denial of the facts of which the husband complains. She attempted to show that he was fussy, unreasonable and unduly interfered in what she considered her province.

In the Power case one of the children, the one of over five or six years of age, was awarded by Vice-Chancellor Pitney to the custody of the father.

In *English vs. English* the Court of Errors affirmed the judgment below in awarding the children to the mother. A reading however of the prevailing opinion of Judge Knapp discloses that the case presented to the Court of Errors a trying and difficult one to decide. The Court below was affirmed, all of the justices voting for affirmance except Judge Dixon who on p. 750 presents an argument that is hereby submitted by counsel in support of the claim which he now makes.

In the English case the wife removed herself from her husband's home and took the children with her and refused to return to him, although the husband kept the home open and ready to receive her. In the instant case the husband pleaded with the wife to perform her duties.

She refused and gave an excuse that was absurd. In the present case the court placed its condemnation upon her actions by granting to the petitioner his decree of divorce. In the English case no judicial condemnation of the wife's conduct was ever evidenced by a decree of a court but in this case such a decree has been granted, therefore, the reason of Judge Dixon applies with even greater force. He says p. 750:

“But hitherto she has disregarded this legal and sacred duty, and has without lawful cause, withheld from this petitioner the society of wife and children, to which he was entitled. This is I think, misconduct on her part, such misconduct as prevents her from establishing upon the statute, any claim to equality of right with her husband for the possession of her children. To hold the contrary is to put an end to the long-conceded right of the husband to be the head of his family. If a wife may, in the absence of legal justification, remove herself and her children from their father's domicile, and fix their residence in a place where he may not abide, and still stand before the law upon an equal footing with him as to their custody, then is the headship of the husband and father no longer legally recognized. In my judgment that conclusions should not yet be reached, and this controversy should be decided upon the principle that the father is entitled to have his children, unless their welfare requires that they should be otherwise disposed of.”

On more case may be cited, *Baird vs. Torrey*, 21 Eq. 384, which reversed 18 Eq. 194. In this the Chancellor below awarded to the wife six children. On an appeal the chancellor was reversed and the prevailing opinion of Chief Justice Beasley awarded the eldest girl to the mother upon the ground that she was nearly of age and she should remain with her mother if she desired to do so. He awarded the mother the two youngest children who were then apparently under the age of seven. The remaining three were awarded to the father.

Judge Elmer thought that the father was entitled to the possession and control of the children over seven except that considering the age and sex of the eldest daughter he thought she might be permitted to remain with her mother. Regarding the two younger children Judge Elmer said he would be better satisfied if in the order the elder of the two youngest children had been awarded to the father, he being nearly seven years of age, but he would not dissent from the decision of the Court regarding that child.

Judge Dalrimple dissented altogether and thought that the father should have the custody of all the children above seven and considered from the facts in the case that the father was entitled to the custody of the two younger children except that in his application the father did not ask for their custody, being content in view of their tender years that they should remain with their mother.

Counsel therefore urges now that the father is entitled to have his child unless its welfare requires that it should be otherwise disposed of.

To again urge that the testimony shows that the child's welfare will be conserved by its delivery to the mother would be simply a reiteration of what has already perhaps been reiterated too often before in this brief.

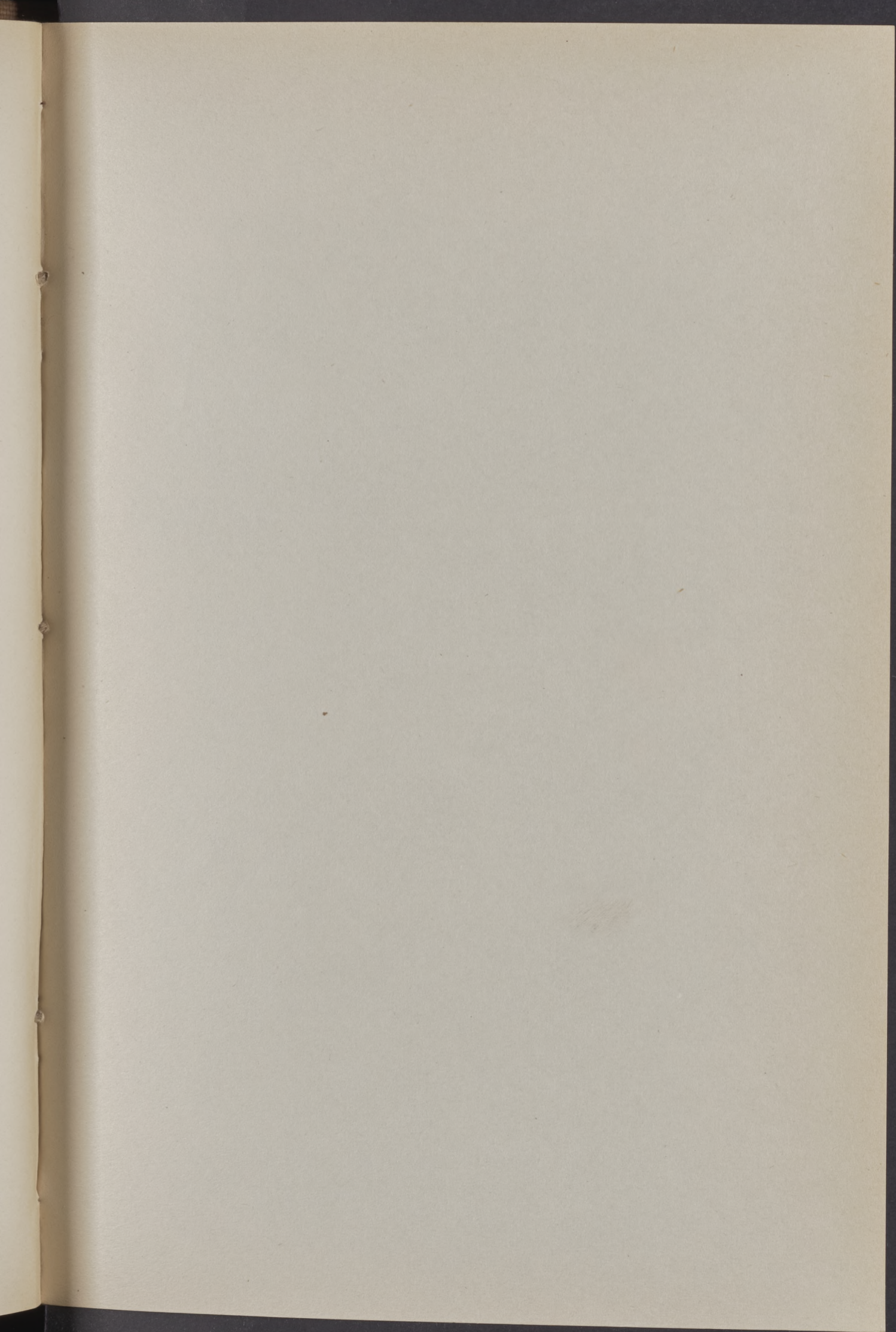
Counsel therefore asks:

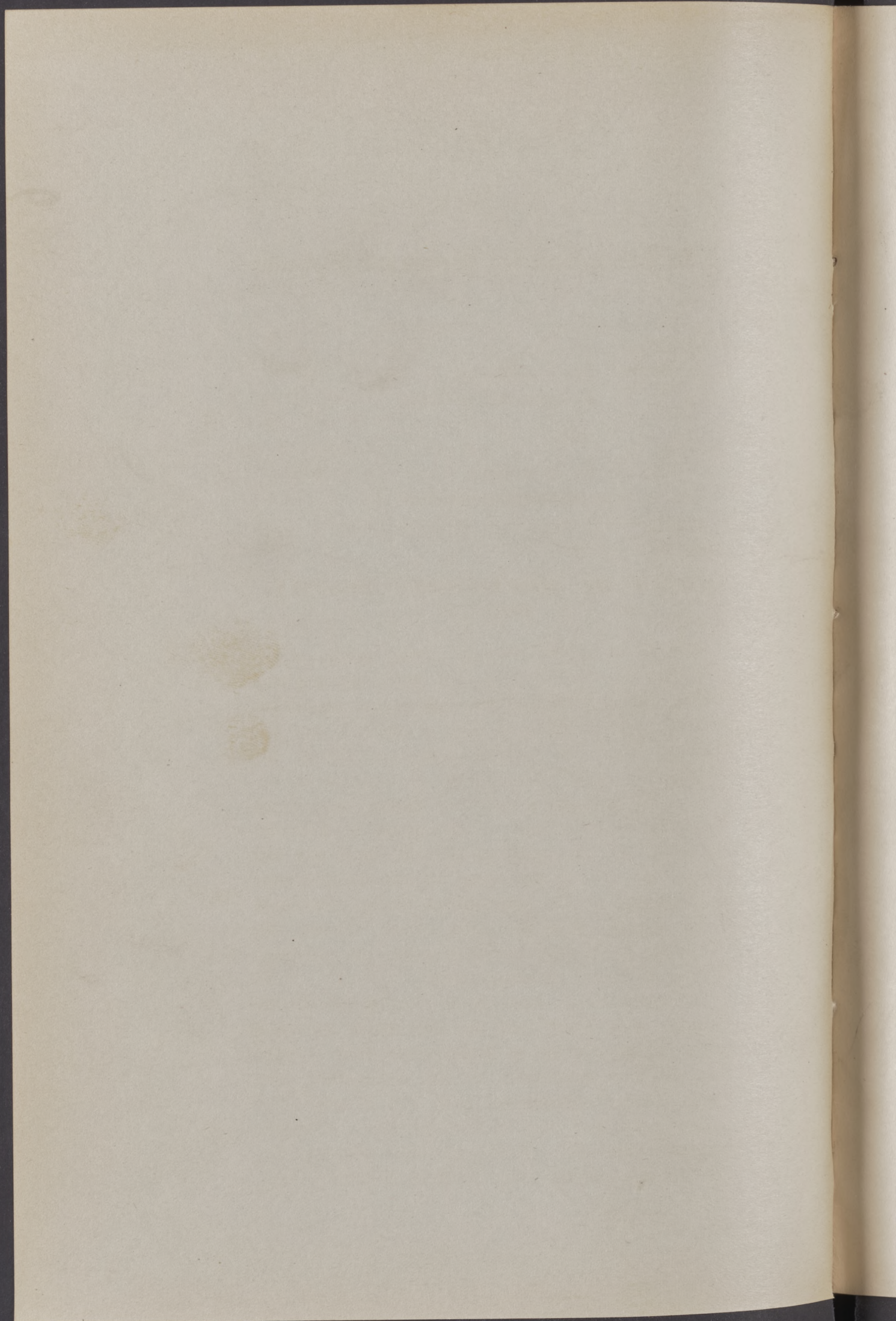
FIRST: That the child having reached the age of seven (7) years, be given to its father.

SECOND: In the event that the Court still thinks that a few more years should pass before this Court would consider this request then counsel asks that his client be permitted to have his child say, two days a week or two days a month to be spent with him and his mother at his home in the Bronx.

J. HARRY HULL,

Solicitor for and of counsel
with the Petitioner appellant.





New Jersey Court of Errors and Appeals.

Between

GEORGE W. CAMPBELL,
Petitioner-Appellant,

and

ANNIE L. CAMPBELL,
Defendant-Respondent.

On Appeal
from Order
as to Custody of
Child.

10

BRIEF OF DEFENDANT-RESPONDENT.

This is an appeal from an Order made on the thirtieth day of January, Nineteen Hundred and Twenty-three, awarding the custody of an infant female child, Arline Louise Campbell, to her mother, Annie L. Campbell and giving to the father, the appellant, George W. Campbell, access to the said child on every Sunday and every National Holiday between the hours of 2 P. M. and 5 P. M., on condition that he shall pay the sum of six dollars per week for the maintenance and support of the said infant child. The said Order directs that the said father, George W. Campbell shall not interfere with the nursing, feeding or caring of said infant.

20

30

The petitioner, Appellant, resides at Bronx County, New York and the defendant with the infant child, resides at Ridgewood, New Jersey. Petitioner is employed as an accountant and makes Thirty Dollars per week (p. 4, case).

The petitioner and defendant were formerly husband and wife. Petitioner filed his Petition for divorce which was verified February 4th,

40

1919 and alleged desertion as of November 16, 1916. A Decree Nisi for divorce was granted to the petitioner on February 19, 1920, and by the said Decree, the custody of the said female child was awarded to the defendant, Annie L. Campbell and gave the petitioner access to the said child on every Sunday and National Holiday between the hours of 2 P. M. and 5 P. M.

10 At the time of the separation that resulted in a divorce between these parties, they resided at Jersey City, in the home of the defendant. The cause of the separation and the divorce was the persistent effort on the part of this petitioner to control and direct the care of the said infant female child, that is now the subject of this controversy. Leading up to the separation, it appears (p. 21, case):

20 "Q. Had there been any words between you and your wife prior to the happening of this circumstance which made her angry or which made her feel angry towards you? A. Well, she objected to my interfering with her mother's feeding the child, and she said I interfered with the baby."

And on page 22 of the case:

"Q. What did she say? A. You interfered with the baby and you made her cry."

30 And on page 23 of the case:

"Q. Did you go towards her? A. She usually had the baby in her arms in the mornings, when I left for the office."

The desertion on which the divorce was granted is shown (pp. 24-25, case):

40 "Q. Will you state the occurrence of February 19, 1917? A. In the morning, before I got up my wife said, 'You accused me of not paying Mamma for the boarding of the nurse'; I had tried to get what money she had saved for me, so that I could establish

a home and add it to what I had already saved, and I said to her, 'I did accuse you because you never mentioned that to me until I made a request for money'; she says, 'I will prove to you that I did pay it and I will ask Mamma'; she jumped out of bed and went over to her Mother's door and opened it, and says, 'Mamma, didn't I pay Mrs. Shaw's board'; her mother said, 'You certainly did'; so she turned around and sneered at me and said, 'You think you can get a divorce from me you don't get a divorce in the Domestic Court, because I had written to Judge Lange; you get a divorce in the Chancery Court'; I said, 'I know that all right, and if you persist in doing as you are doing, that is what I will do—that is what it will come to—' and she said, 'My word, I never refused to make a home for you; my word is as good in court as yours'; I said, 'You try to make your word an untruth'; I said, 'If that is the case, put on your things and take the baby and come with me'; she said, 'Where are you going'; I said, 'I am going to take you to a hotel until I get rooms'; she said, 'I won't go'; I said, 'I demand you to go'; and she said, 'I won't go.'

10

20

Even Mr. Stackle, the attorney of the petitioner in New York, attempted to assist the husband in his interference with the child (p. 31, case):

30

"Exhibit P-5 calls attention to the defendant of her persistent refusal to cohabit with her husband and second that she neglected her husband's advice in relation to the welfare of their child and requesting that she notify the writer of her intention regarding the matters in future."

The petitioner objected to the manner in which the child was fed (p. 32, case):

40

"Q. Did you and your wife discuss the condition of the child's health? A. My wife

would not discuss anything; I simply told her they were not doing right with the child.

“BY THE COURT:

“Q. What did you say to your wife concerning the health of the child? A. That her mother was not feeding the child properly.

“BY MR. BILDER:

“Q. What was her answer to that? A. That her mother knew what she was doing.”

The petitioner quarrelled with his wife because the baby sucked her thumb, even after he had left (pp. 33-34-35, case):

“Q. And what happened on March 19th? A. I went there and my wife opened the door, and she said to me, ‘You can go upstairs and get your things’; instead of going upstairs, I went back into the dining room and found the baby on the couch, as usual, and she was weak and sucking her thumb and—

“Q. Yes. A. (continuing)—I sat down along side and kissed her and looked at her; I drew her thumb out of her mouth gently and the baby tried to double up and get her thumb back into her mouth; I tried it again and she let out a shriek, and then I saw that her mouth was drawn down on one side, distorted; I turned around to my wife, who was sitting there sewing or embroidering, I don’t know which, and I said, ‘This thing has got to stop, the baby’s mouth is deformed now,’ and she said, ‘As long as you deserted us, we are going to do as we like’; I said, ‘As a matter of fact, your desertion began in the middle of November, as I said before’; she said, it did not, it occurred in December; I said, it did not; I said, it occurred in November; I said, look at Mr. Stackle’s letter and you will see; I said, ‘How much does the baby weigh now’; she said, nine pounds and fourteen ounces; I said, then she has only gained two ounces in a month; I said,

she is not doing well; I said, I will bring a doctor the next time I come, and I started to go up the stairs; she called out to me as I was going up the stairs and said, who is sick here, I said the baby is if she is not gaining any more in weight than that; I went upstairs and I got my things together as well as I could with a piece of paper and a string which I brought in my pocket and I went down and packed up my things; I said to Mrs. Blackshaw, 'Will you let me bring a physician the next time I come'; and she said, 'No, I won't'; I said, 'No?' 'Annie, will you take the baby and go to a doctor the next time I come here?' and she said, 'No'; she had the baby in her arms, and I said, I will take it where it can be treated properly; I placed my arm on the child, and she said, 'Don't talk so loud, George, the neighbors will hear you'; I said, 'I am tired of trying to do what is right'; and I turned around to Mrs. Blackshaw and said, 'You ought to be ashamed to teach this little infant the habit she has got'; she said, 'I didn't do it'; I said, 'I will prove it by your own daughter and son'; and I asked her to come with me that night, and she said, she would never be a wife to me again." 10

And on pages 38 and 39, he admits that he could not judge as to the child's health:

"Q. Did you observe on your weekly visits, since the early part of 1917, how the child was being cared for; what is the condition of her health? A. She is suffering, I think, from what I know of the symptoms, from chronic indigestion." 30

"Q. What generally have you observed about the child's health, her appearance? A. Well, she is pale and looks as though she has been in the house too much or the food does not agree with her; in fact, I am not there really enough to judge; I can only know from the short time I have the child out, and if I take her in a car, she is car- 40

sick right away, and she has a bloated stomach and white puny hands."

He testifies (p. 42, case):

"Q. Didn't you used to call out in the night and tell your wife that the baby was sucking her thumb? A. No, sir.

"Q. Did you ever do it? A. Yes, sir.

10 "Q. Did you ever tell her that after you had gone to bed? A. Yes, sir, when I saw the baby sucking her thumb.

"Q. That was in the night? A. Yes, but I never woke her up.

"Q. Now, you have been very much disturbed about this baby sucking her thumb? A. Yes, sir."

He testifies, page 43, that he got mits to put over the baby's hands so she could not suck her thumbs and got a diagram of a clock showing when the baby should be fed and that he gave 20 this to his wife to use for the baby.

Mrs. Campbell testifies that the difficulty with her husband was entirely over the child (p. 50, case):

"Q. And did he send you this circular, which I show you? A. He did.

80 "Q. Now, how often was it that he would talk to you about the child sucking her thumb? A. Continually, every time she had her thumb in her mouth he would talk about it.

"Q. Was that the beginning of the difficulty between you and your husband? A. Yes, sir.

"Q. Does this little child now suck its thumb? A. She does not.

"Q. Did you ever put any mits on her hand? A. I did not.

"Q. It was a natural practice, was it not? A. Yes, sir.

40 "Q. Do not most babies suck their thumbs? A. They do.

"Q. Now, the babies that you have observed—did most babies that you have ob-

served suck their thumbs and fingers? A. Many of them do.

"Q. It is a very common thing for babies to do it and then outgrow it? A. Yes. sir."

When the petitioner takes the child out on Sundays, he sometimes brings her back in a very dirty condition:

"Q. And when he takes her out on Sunday afternoons, she is spick and span. And when he brings her back, how is she? A. Well, sometimes her things are very much spoiled and I have to wash them, and take off her stockings. 10

"Q. What did she have on her stockings and dress? A. Well, mud sometimes."

The Court says in his memorandum dismissing the application of the petitioner:

"I do not think this child ought to be taken away from the constant care of her mother. A seven year old child ought not to be harassed by shifting her from one parent to the other for any considerable length of time and I think the conditions under which the child has been living, as disclosed by the affidavits and argument of counsel, on this as well as previous hearings of this matter, show that it is for the best interest of the child that her home should be with her mother, with the right of visitation to the father as fixed by the order now in force" (p. 10, case). 20 30

This last application is one of numerous applications that have been made by this petitioner to take this infant child out of the jurisdiction of the Court of Chancery. The petitioner lives in New York State and he intends to take the child into New York State.

Mrs. Campbell swears (p. 7, case): 40

"Arline is now seven years old and for several years past her father has kept her

10 in a state of alarm by threatening that when she reached the age of seven years he was going to take her away from me and that she was to live with his aged mother in the Bronx. His mother is now of the age of about 83 years and has had no experience in caring for young children and Mr. Campbell has no knowledge or experience in caring for children. I believe it would be very detrimental to the health of Arline and she would be very unhappy if she spent any time in the Bronx with Mr. Campbell and his mother."

The Law.

Chapter 107 Laws of 1921 (Sections 9 and 10)
 "An Act Concerning Minors, their adoption, custody and maintenance," provides:

20 "In making an order or decree relative to the custody of the children pending a controversy between their parents, or in regard to their final possession, the rights of both parents, in the absence of misconduct, shall be held to be equal, and they shall be equally charged with their care, nurture, education and welfare, and the happiness and welfare of the children shall determine the custody or possession.

30 "The court may make the necessary orders and decrees from time to time in relation to such custody or possession, but the father, as such, shall not have preference over the mother as to the award of custody of such minor child if the best interests of the child otherwise may be protected, and in no case shall the court having jurisdiction in this State over the person and custody of any minor permit such child to be removed from this State where the mother or father resides in the State of New Jersey and is the suitable person who should have the custody of such child for its best welfare."

40

The case of *Richards v. Collins*, 45 N. J. E. 283 holds:

"The chancellor, by virtue of his general jurisdiction over infants, may, under proper circumstances, order an infant, not only to be relieved from illegal restraint, but to be surrendered to its parents, even when the preliminary proceedings show that the statutory remedy is sought, if the subsequent pleadings and proofs touch the right to the permanent custody of the infants. The strict legal right of parents to the custody of their children will not prevail, if it imperils the personal safety, morals, health or happiness of the children, and the court will scrutinize the character, condition, habits and other surroundings of the claimants, as well as consider the preferences of the children, if competent, in determining what will best subserve their welfare."

10

In *English v. English*, 31 N. J. E. 543, the Court holds:

20

"By statute (Rev. p. 318), when the parents of minor children live apart, the court may, on petition of either parent, make a decree concerning the custody, &c., of such children: the parents' rights, in the absence of misconduct, are deemed equal, and the happiness and welfare of the children determine the question of their custody. A decree of divorce for cruelty granted in this court on the application of a wife who had previously separated from her husband, was reversed by the Court of Appeals. Held, that her refusal to return to her husband afterwards was not 'misconduct' within the meaning of the act."

30

"Where, under the above circumstances, a daughter eight years old and a son ten, preferred to remain with their mother, and she was able to provide adequately for their maintenance and education, and was, in all respects, fit to have charge of them, the court refused to change the custody, making reasonable regulations for their father's access."

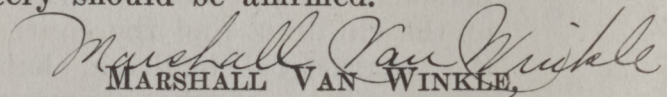
40

In *Cole v. Cole*, 104 Atl. 830, the New Jersey Court of Chancery went so far as to say:

“The court may, in determining the custody of infant children after divorce, award the custody to a stranger if circumstances of weight and importance connected with the welfare of child exist to overbear the strict legal rights of the parents.”

10

It is respectfully urged that the order of the Court of Chancery should be affirmed.



MARSHALL VAN WINKLE,

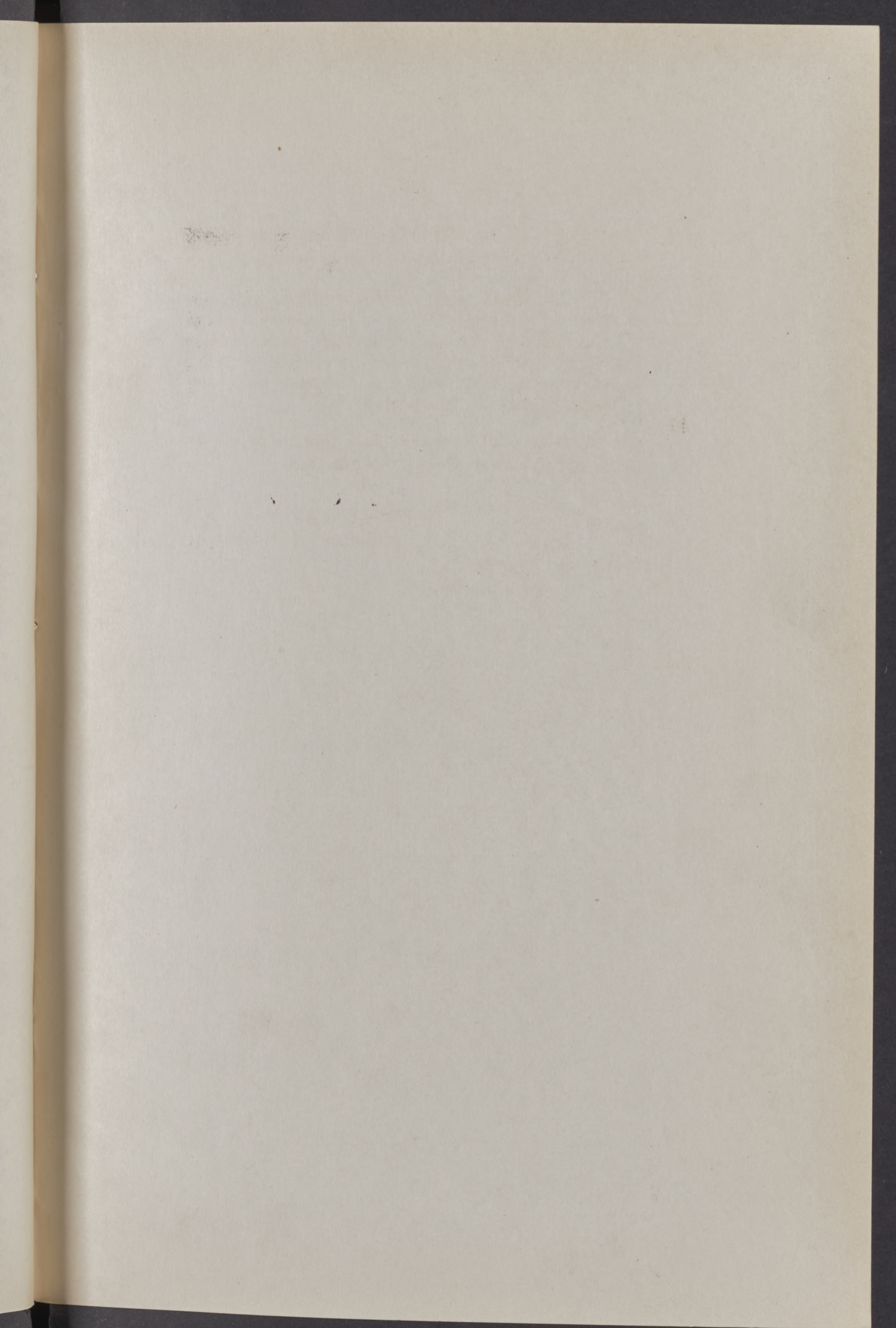
Solicitor of Defendant.

FRANK G. TURNER,
Of Counsel.

20

30

40



In *Case of Child, 184-Ad-230*, the New Jersey
Court of Chancery said as follows in saying:

"The court may, in determining the
rights of infant children after divorce, weigh
the custody in a variety of circumstances
of merit and importance connected with the
welfare of child and to overcome the very
strong presumption of the mother."

It is respectfully urged that the order of the
Court of Chancery should be affirmed.

Respectfully,
MARGARET V. WILSON,
Collector of Defendant.

FRANK G. FISHER,
Of Counsel.

