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**Citation.**

(Filed 3/19/28.)

NEW JERSEY, to wit:—The State of  
New Jersey to Stanley Plocharski,  
(L. S.)

GREETING: You are hereby cited to answer 10  
the petition of Jeanette A. Plocharski, a copy of  
which petition is herewith served upon you, by  
filing your answer in writing in the office of the  
Clerk of the Court of Chancery at Trenton, within  
twenty days after the 26th day of March, 1926;  
and in default of your so doing such order or decree  
will be made against you as the court shall think  
equitable and just.

WITNESS, his Honor Edwin Robert Walker, 20  
Chancellor of our said State, at Trenton, the 6th  
day of March, 1926.

THOMAS BARBER,  
Clerk.

WILL WEISS,  
Solicitor.

**Petition for Divorce for Extreme  
Cruelty.** 30

(Filed 3/4/27.)

IN CHANCERY OF NEW JERSEY.

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

The petition of Jeanette Adelle Plocharski of the  
City of Hoboken, County of Hudson and State of  
New Jersey, respectfully shows: 40

*Petition for Divorce for Extreme Cruelty.*

10 1. Your petitioner was lawfully joined in the bonds of matrimony to her present husband Stanley Plocharski the defendant in this suit on the Fifteenth day of August, Nineteen hundred and twenty-three, by a priest at Our Lady of Grace Catholic Church in the City of Hoboken, County of Hudson and State of New Jersey.

2. Petitioner's maiden name was Jeanette Adelle Witulski.

3. No children were born of the marriage aforesaid.

20 4. Petitioner and defendant co-habited in the City of Bayonne, County of Hudson and State of New Jersey as hereinafter stated from the date of their marriage until April 24, 1925, when petitioner was compelled to separate from defendant finally because of his extreme cruelty to her as hereinafter set forth.

30 5. Almost from the beginning of her married life the petitioner suffered from the vile and ill-governed temper of defendant. These fits took place usually after the defendant compelled the petitioner to go out and borrow money for him. That these attacks, together with the use of vile epithets continued at intervals until they culminated in the instances now particularly described.

40 6. Immediately after the marriage of the petitioner and defendant on August 15, 1923, petitioner and defendant resided with the defendant's father and mother and also a sister and brother-in-law of the defendant at the defendant's mother's home at 119 West 24th Street, in the City of Bayonne, County of Hudson and State of New Jersey.

*Petition for Divorce for Extreme Cruelty.*

7. Almost from the first week of their marriage the defendant began to borrow money from the friends of the petitioner and when the petitioner requested that the defendant pay back the money he became abusive, called her vile names and struck her many blows. Defendant refused to give petitioner any money for her support as a result of which the petitioner was compelled to go out and seek employment. On August 20, 1923, the petitioner started to work and after receiving her salary the defendant borrowed fifteen dollars, which he promised to pay back during the week. He kept this up for a number of weeks and petitioner always loaned the defendant from ten to fifteen dollars a week. The defendant never paid the money back and petitioner never asked for same.

20 8. During the month of August, 1923, defendant asked the petitioner to borrow one hundred twenty-five dollars from a girl friend who worked with the petitioner and the petitioner did so and the defendant promised to pay the money back within two weeks. At the expiration of two weeks the petitioner requested the defendant to pay back Miss Kallin, from whom she had borrowed the money, and the defendant said he would take care of it in another week. At the expiration of the week petitioner again asked for the money and at that time the defendant became very vile towards the petitioner and told her to "Get the Hell out of the house." The petitioner was about to pack her clothes when the defendant caught her by the throat, threw her on the bed and started striking her and choking her. The petitioner screamed and defendant desisted and after a few hours the defendant apologized and promised to behave himself.

*Petition for Divorce for Extreme Cruelty.*

9. During the month of November, 1923, petitioner became sick and was compelled to leave her employment as her condition was very nervous. While the petitioner was idle the defendant refused to give her any money for her support. Petitioner had some money left from her previous position and when the money gave out the defendant refused to give her any money for eatables and the petitioner was compelled to go to the home of her mother in Hoboken to get something to eat. The petitioner stayed with her mother all day returning to Bayonne each night. This continued from November 1923 until April 24 during which time there were continuous quarrels about the petitioner not looking for work and when the petitioner told the defendant that it was impossible to get a job due to her condition the defendant would use vile epithets and would strike the petitioner until the mother of the defendant would interfere and more particularly in the month of February, 1924, the defendant told the petitioner that she would have to get out and get a job and when the petitioner told the defendant that it was impossible the defendant struck her violently in front of the defendant's mother. The defendant struck the petitioner so hard and abused her so much that she went to the home of her mother and after talking the situation over with her mother the petitioner's mother and father went to the home of the petitioner in Bayonne and straightened matters out for awhile.

10. In the month of April, 1924, the petitioner got another job as petitioner's mother could not afford to support her any longer. Immediately after again secured employment the defendant started to ask for more money. When the petitioner refused him any more money he struck her

*Petition for Divorce for Extreme Cruelty.*

so hard that the petitioner carried bruises on her arms and legs for weeks at a time.

11. In the month of June, 1924, the defendant became so violently abusive that the petitioner was compelled to leave defendant and go to her mother's home. On this occasion defendant struck the petitioner and the petitioner started to scream and it was only through the interference of defendant's mother, Mrs. Michaelena Plocharski, who heard the petitioner's screams, that the defendant stopped beating and striking the petitioner. Petitioner remained at the home of her mother for one day and returned to her husband in order that she might give him one more chance.

12. The defendant, however, did not live up to his promise to behave and would continually strike and abuse the petitioner until the month of August, 1924, when the defendant was severely injured by reason of an accident, and lost the use of his sexual organs. During the defendant's illness, petitioner in order to better care for and treat her husband during his illness left her position. About three weeks after the accident of the defendant, the defendant again started to ill treat and abuse the petitioner. This continued until March, 1925, when the petitioner's life became endangered by reason of the attacks and assaults upon her by the defendant. During this time defendant was out of work and defendant's mother refused to support the petitioner, although she did support and maintain the defendant, and petitioner was compelled to go to the home of her mother every day in order that she might obtain something to eat. Defendant would call at the home of petitioner's mother and escort petitioner back to their home in Bayonne.

*Petition for Divorce for Extreme Cruelty.*

10 13. During the month of March, 1925, while returning from the home of petitioner's mother in Hoboken and while riding on the boulevard bus at 11 P. M., defendant asked the petitioner to accompany him to a dance and when the petitioner told him that it was impossible as she was not dressed and was not well, he became so violent in the bus that he took out of his pocket a pocket knife and dug it into the leg of the petitioner. After this instance the defendant did not speak to the petitioner for a long period of time and when the petitioner during the month of April, 1925, asked the defendant what he intended to do about supporting her, he struck her unmercifully while in their bedroom and the petitioner again screamed and the defendant's mother came to her rescue.

20 14. This treatment continued until the 24th day of April, 1925, when the petitioner left the defendant because her life was endangered. During their whole married life the defendant never gave the petitioner one penny for her support and she became nervous and ill and is now in a nervous and ill condition.

30 15. When the petitioner left the defendant on April 24, 1925, she took up her cohabitation with her parents in Hoboken and has lived there ever since.

16. Petitioner says that from the defendant's past cruel and abusive treatment of her and his present hatred for her, it would be unsafe and improper for her to return to live with him as his wife.

40 Your petitioner prays that the marriage between your petitioner and the defendant may be dissolved

*Petition for Divorce for Extreme Cruelty.*

for the causes aforesaid, according to the statute in such case made and provided; and that she may be permitted to resume the use of her maiden name and that she may have such further relief as may be just.

And, your petitioner will ever pray, etc. 10

WILL WEISS,  
Solicitor of Petitioner.

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

Jeanette Adelle Plocharski being duly sworn, according to law, on her oath deposes and says: 20

That she is the petitioner named in the foregoing petition and that her said petition is not made by any collusion between her and the said defendant, but in truth and good faith for the causes set forth in said petition.

JEANETTE ADELLE PLOCHARSKI.

Sworn to and subscribed before me  
this 24th day of February, 1926. 30

MYRA L. HOGAN,  
Notary Public of New Jersey.  
My commission expires October 27, 1930.



**Order of Referee to a Vice Chancellor.**

(Filed 5/25/26.)

IN CHANCERY OF NEW JERSEY.

10

Between

JEANETTE ADELLE PLOCHARSKI,  
Complainant,  
and

STANLEY PLOCHARSKI,  
Defendant.

On Petition  
for Divorce.

20

This matter being opened to the court by Will Weiss, solicitor of the complainant, and it appearing that Adam P. Zlonczewski, solicitor for the defendant has consented hereto:

It is, on this 25th day of May, nineteen hundred and twenty-six, on motion of Will Weiss, solicitor of the complainant, ORDERED that the above entitled cause be referred to Hon. John Griffin one of the Vice Chancellors of this court, to hear the same for the Chancellor, and to report thereon to him and to advise what order or decree should be made therein.

30

E. R. WALKER,  
C.

I hereby consent to the entry of the foregoing order.

ADAM P. ZLONCZEWSKI,  
Solicitor of Defendant.

A true copy.  
THOMAS BARBER,  
Clerk.

40

**Order of Reference to Special Master.**

(Filed 2/3/27.)

IN CHANCERY OF NEW JERSEY.

Between

JEANETTE A. PLOCHARSKI,  
Petitioner,  
and

STANLEY PLOCHARSKI,  
Defendant.

On Petition  
for Divorce.

10

20

Upon opening this matter to the court by Will Weiss, of counsel with petitioner, and it appearing that by an order of reference made herein on the 25th day of May, last, this cause was referred to Honorable John Griffin, one of the Vice-Chancellors, to hear the same for the Chancellor and to advise what order or decree should be made therein, and that said Vice-Chancellor has since filed his report in compliance with Rule 266a that the defendant had made default at the hearing to be had before him, after due notice had been given in writing of such hearing, and in pursuance to an order of designation theretofore made by him in this cause;

30

It is thereupon, on this 1st day of February, A. D. nineteen hundred and twenty-seven, ordered, that it be referred to J. Stanley Griffin, Esquire, one of the Special Masters of this court, to ascertain and report as to the truth of the allegations of the petition and his opinion thereon; and that the petitioner proceed to take depositions and other evidence before said Special Master, to substantiate

40

and prove the allegations in said petition, and to bring on the hearing of the cause *ex parte*; and that the said Master do return, together with his report, and as a part thereof, such depositions and other evidence as may be taken before him in pursuance of this order.

10

E. R. WALKER,  
C.

Respectfully advised,  
WM. J. BACKES,  
A. M.

A true copy.

THOMAS BARBER,  
Clerk.

20

**Master's Report.**

(Filed 3/21/27.)

IN CHANCERY OF NEW JERSEY.

60-254.

30

Between

JEANETTE A. PLOCHARSKI,  
Petitioner,

and

STANLEY PLOCHARSKI,  
Defendant.

On Petition  
for Divorce.

40

In pursuance of an order of this court made in the above entitled cause, bearing date the first day of February, 1927, whereby it was referred to me,

the subscriber, one of the Special Masters of this court, to ascertain and report as to the truth of the allegations of the petition, and my opinion thereon; and that I do return, together with my report, and as part thereof, such depositions and other evidence as might be taken before me in pursuance of said order:

10

I do respectfully report that I have been attended by Will Weiss, Esq., solicitor of the petitioner, and have in his presence taken the depositions of the witnesses produced before me, and have examined into the matters referred to me.

And I find and report that the said Jeanette A. Plocharski, whose maiden name was Jeanette A. Witulski, and the said defendant, Stanley Plocharski, were lawfully married on the fifteenth day of August, nineteen hundred and twenty-three by a priest at our Lady of Grace Catholic Church in the City of Hoboken, County of Hudson and State of New Jersey, as in the petition alleged.

20

And I find and report, and it is proved to my satisfaction, that the petitioner and the defendant lived together as man and wife from the time of their marriage until the twenty-fourth day of April, 1925.

I do further report that this is an action for absolute divorce brought by the petitioner, Jeanette A. Plocharski, against the defendant, Stanley Plocharski, for extreme cruelty under Chapter 187 of the Laws of 1923.

30

And I find and report respecting the residence of the petitioner, that it is proved to my satisfaction that petitioner and defendant resided in the City of Bayonne, County of Hudson and State of New Jersey, until the 24th day of April, 1925, at which time petitioner took up her residence in the City of Hoboken, County of Hudson and State of

40

*Master's Report.*

New Jersey, and petitioner was a bona fide resident of this State when this cause of action arose, and has continued to be such bona fide resident of the State of New Jersey, as in the petition alleged.

And I find and report that no children were born of the marriage aforesaid.

10 And I do find and report that I have made inquiry of the petitioner whether or not any previous proceedings have been had between her and the defendant, respecting her said marriage or its dissolution, or her maintenance, and I find and report that no previous proceedings have been had between her and the defendant, respecting their said marriage or its dissolution, or the maintenance of the petitioner.

20 And I do further report that the only evidence of extreme cruelty which defendant is alleged to have been guilty of towards petitioner, is contained in petitioner's own testimony, and that petitioner's testimony has not been corroborated by any other witness. Petitioner testified that defendant never supported her from the time that she married him; that she lived with defendant's parents, and never received any money from defendant, and was obliged to go to work to support herself. This is fully corroborated as the witnesses produced by the  
30 petitioner, testified that defendant was not only unable to support petitioner when he married her, but he was unable to support himself.

40 All the acts of extreme cruelty alleged to have been committed by defendant against petitioner were alleged to have been committed in the home of defendant's parents, where petitioner and defendant resided, and the only witnesses which petitioner was able to subpoena to secure corroborating testimony were the close relatives of the defendant, and none of these close relatives of defendant

*Decree of Dismissal on Adverse Report.*

would admit that defendant had been guilty of the extreme cruelty testified to by the petitioner, and petitioner was unable to produce testimony from any other source.

All of which will more fully appear by the testimony of the witnesses produced before me, and the exhibits offered in evidence and marked by me, 10 which are annexed to this, my report, and returned herewith.

And I further report, that it has not been proven to my satisfaction that defendant has been guilty of extreme cruelty towards petitioner, and that petitioner is not entitled to the relief prayed; and I do recommend that the petition be dismissed.

All of which is respectfully submitted this eighteenth day of March, 1927.

J. STANLEY GRIFFIN, 20  
Special Master.

**Decree of Dismissal on Adverse  
Report.**

(Filed 7/8/27.)

IN CHANCERY OF NEW JERSEY.

Between

JEANETTE A. PLOCHARSKI,  
Petitioner,  
and  
STANLEY PLOCHARSKI,  
Defendant.

(On adverse  
report.)

30

This cause coming on to be heard pursuant to the rules and practice of this court, upon the peti- 40

*Decree of Dismissal on Adverse Report.*

tion, proofs and the report of J. Stanley Griffin, the Special Master to whom it had been referred to ascertain the truth of the allegations of the petition, and to report, together with his opinion thereon; Now upon reading the same, whereby it appears that the said Special Master has found that  
10 the petitioner has failed to establish the truth of the material allegations of the petition respecting the cause for divorce and recommending that the petition be dismissed:

And it further appearing that the petitioner has not filed exceptions to said report within the time required by the rules of this court, and no cause being shown or appearing why the said report should not be confirmed:

20 IT IS THEREUPON, on this Eighth day of July, Nineteen Hundred and Twenty-seven, on the court's own motion, ORDERED, ADJUDGED and DECREED, that the said report of the Special Master be confirmed; and that the petitioner's petition be, and the same is, hereby dismissed.

E. R. WALKER,  
C.

30

40

**Order of Substitution of Solicitors.**

IN CHANCERY OF NEW JERSEY.

60-254.

Between

JEANETTE A. PLOCHARSKI,  
Petitioner,  
and  
STANLEY PLOCHARSKI,  
Defendant.

On Petition  
for Divorce.

10

Upon reading and filing the Consent of Will Weiss, solicitor for the petitioner herein, annexed hereto and made part hereof, it is on this 17th day  
20 of March, 1928, Ordered that Anthony P. LaPorta be and he is hereby substituted as solicitor for the petitioner in the above entitled cause in the place and stead of Will Weiss.

E. R. WALKER,  
C.

Respectfully advised.

J. M.??  
V. C.

30

40

**Consent and Order of Substitution.**

IN CHANCERY OF NEW JERSEY.

10 Between  
 JEANETTE A. PLOCHARSKI,  
 Petitioner,  
 and  
 STANLEY PLOCHARSKI,  
 Defendant. } On Petition  
 for Divorce.

It is hereby stipulated that Anthony P. LaPorta be substituted as solicitor in my place and stead in the above entitled cause and that an order to that effect may be entered without notice.

20 Dated, March 14th, 1928.  
 WILL WEISS,  
 Solicitor for Petitioner.

**Notice of Appeal.**

(Filed 3/20/28.)

IN CHANCERY OF NEW JERSEY.

60-254.

30 Between  
 JEANETTE A. PLOCHARSKI,  
 Petitioner,  
 and  
 STANLEY PLOCHARSKI,  
 Defendant. } On Petition  
 for Divorce, etc.

40 The above named petitioner appeals to the Court of Errors and Appeals from the decree of the

*Notice of Appeal.*

Chancellor dated the 8th day of July, A. D. 1927, which dismisses the petition of the petitioner and from each and every part of said decree.

ANTHONY P. LAPORTA,  
 Solicitor for and of Counsel for Petitioner.

10

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

ISIDORE DWORKIN,  
 Of Counsel.

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

20

Charles W. Stover, of full age being duly sworn according to law upon his oath deposes and says that on Monday, the 19th day of March, 1928, he served the within Notice of Appeal on Stanley Plocharski, the above named defendant, personally, at No. 119 West 24th Street, Bayonne, New Jersey, by showing him the original and explaining to him its meaning and at the same time leaving with him a true copy of said notice of appeal.

30

CHARLES W. STOVER.

Subscribed to and sworn before me  
 this 19th day of March, A. D. 1928.

HARRY W. LANGE,  
 Master in Chancery,  
 of New Jersey.

40

**Petition of Appeal.**

(Filed 3/20/28.)

NEW JERSEY COURT OF ERRORS  
AND APPEALS.

10

Between

JEANETTE A. PLOCHARSKI,  
Petitioner-Appellant,

and

STANLEY PLOCHARSKI,  
Defendant-Respondent.

On Petition  
for Divorce.

To the Honorable, the Court of Errors and Appeals,  
of Last Resort in all Causes:

20

The petition of Jeanette A. Plocharski respectfully shows that your petitioner finds herself aggrieved by the decree of the Chancellor made on the 8th day of July, 1927, which dismisses her petition for a divorce on the report of the special master because there was insufficient proof touching the material allegations in said petition. Your petitioner appeals from said decree and every part thereof on the ground that the same is erroneous in that the said special master should have reported that your petitioner was entitled to a divorce and for the relief prayed for, and the Chancellor should have so decreed.

30

Your petitioner therefore prays that the said decree may be reversed and for nothing holden and that it may be decreed that the prayer of your petitioner be granted and that she be divorced from the bonds of matrimony as prayed for in said petition.

40

ANTHONY P. LAPORTA,  
Solicitor for and of counsel with appellant.

*Petition of Appeal.*

I conceive there is good cause for appeal.

ISIDORE DWORKIN,  
of Counsel.

10

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

Charles W. Stover, of full age, being duly sworn, according to law, upon his oath deposes and says that on Monday, the 19th day of March, 1928, he served the within Petition of Appeal on Stanley Plocharski, the above named defendant, personally, at No. 119 West 24th Street, Bayonne, New Jersey, by showing him the original and explaining to him its meaning and at the same time leaving with him a copy of said Petition of Appeal.

20

CHARLES W. STOVER.

Subscribed to and sworn before me this  
19th day of March, 1928.

HARRY W. LANGE,  
Master in Chancery of New Jersey.

30

40

**Order for Hearing.**

(Filed April 21, 1928.)

NEW JERSEY COURT OF ERRORS  
AND APPEALS.

10

Between

JEANETTE A. PLOCHARSKI,  
Petitioner-Appellant,

and

STANLEY PLOCHARSKI,  
Defendant-Respondent.

On Appeal.

20

It appearing to the court that appellant's petition of appeal in the above entitled cause was on the 19th day of March, 1928, duly served upon the above named respondent, and that thereafter on March 21st, 1928, appellant deposited \$100 with the Clerk in Chancery of New Jersey to answer the costs of said appeal; and it further appearing that said respondent has failed to file an answer to said petition of appeal within 30 days after said service and the making of the deposit aforesaid, it is on this 20th day of April, 1928, on motion of Anthony P. LaPorta, of counsel with the above named appellant,

30

ORDERED that appellant bring on her said appeal for hearing.

40

**Depositions.**

(Filed 3/21/27.)

IN CHANCERY OF NEW JERSEY.

60-254.

Between

JEANETTE A. PLOCHARSKI,  
Petitioner,

and

STANLEY PLOCHARSKI,  
Defendant.

On Petition  
for Divorce.

10

Depositions taken in the above entitled cause, this 16th day of February, 1927, at two o'clock in the afternoon, before me, J. Stanley Griffin, a Special Master in Chancery of New Jersey, at my office, Room No. 806, No. 921 Bergen Avenue, Jersey City, Hudson County, New Jersey, in the presence of Will Weiss, Esq., solicitor of the petitioner.

20

J. STANLEY GRIFFIN,  
Special Master.

30

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

I, Margaret McAgbon, do solemnly swear that I will faithfully and truly take stenographically and reproduce in typewriting the testimony to be given in a certain cause now pending in the Court of Chancery of New Jersey, wherein Jeanette A.

40

*Jeanette A. Plocharski—Direct Examination.*

Plocharski is petitioner and Stanley Plocharski is defendant, so help me God.

MARGARET McAGHON.

10 Sworn to and subscribed before me  
this 16th day of February, 1927.

J. STANLEY GRIFFIN,  
Master in Chancery of New Jersey.

20 JEANETTE A. PLOCHARSKI, the petitioner,  
being duly sworn, according to law, on her oath,  
testifies as follows:

Direct Examination by Mr. Weiss:

Q. What is your full name? A. Jeanette Adele Plocharski.

Q. And you are the petitioner in this action?  
A. I am.

Q. How old are you? A. Twenty-six.

Q. What was your maiden name? A. Jeanette Adele Witulski.

30 Q. When were you married? A. August 15th,  
1923.

Q. Where? A. Our Lady of Grace Church,  
Hoboken, N. J.

Q. To whom? A. To Stanley Plocharski.

Q. The defendant in this action? A. Yes.

Q. I show you a certificate and ask you what  
that is? A. A marriage certificate given to me at  
the time of my marriage.

40 Marked Exhibit P-1.

*Jeanette A. Plocharski—Direct Examination.*

Q. When did you say you were married? A.  
August 15th, 1923.

Q. Where did you live prior to the date of your  
marriage? A. No. 118 Clinton Street, Hoboken,  
New Jersey.

Q. How long have you lived in the State of New  
Jersey? A. All my life, twenty six years. 10

Q. Are you still living in the State of New  
Jersey? A. I am.

Q. Where did you go to live when you were  
married? A. No. 119 West 24th Street, Bayonne,  
N. J.

Q. Whom did you live there with? A. With my  
husband's parents and married sister.

Q. Two other families besides yours? A. Yes.

Q. How many rooms were there? A. Nine.

Q. Were any children born of the marriage? A. 20  
There were not.

Q. You instituted a petition for divorce against  
your husband alleging cruelty. Explain in detail  
when the first acts of cruelty occurred? A. Well,  
one week after I was married my husband asked me  
for some money, saying that he did not have any-  
thing to pay board, and I gave him part of my  
salary. He said that he would return it the next  
week, and he didn't return it, and when I asked  
him about it, he insulted me, and told me I 30  
shouldn't worry about it.

Q. Whenever you say he insulted you, you should  
say exactly what he said. A. The exact words?

Q. Yes. A. "What the hell are you worrying  
about the money for, I'll give it to you when I get  
it." Then later on, he came and said that he needed  
one hundred twenty five dollars, to pay some bills,  
and he asked me for it, and I didn't want to ask  
my mother for any more, because I had borrowed  
two hundred and fifty from her, and I didn't return 40

it. So I asked one of the girls where I was working, and she gave it to me, and I promised to return it in a few days, because he said that he would have it, and as soon as he got the goods, he could sell them.

10 Q. Where were you working at that time? A. F. Muller Company on Baldwin Avenue.

Q. What was your salary? A. Eighteen dollars a week.

Q. You say you asked a co-worker for the money? A. Yes.

Q. What was her name? A. Miss Kaelen.

Q. How much did you borrow from her? A. A hundred twenty five dollars.

Q. How long after you were married, did this take place? A. Three weeks after I was married.

20 Q. Is Miss Kaelen here? A. Miss Kaelen is outside.

Q. When your husband borrowed this money from you, what did he say with respect to returning it? A. That he would return it the next day, or in a few days.

Q. Did he say what he wanted it for? A. That there was some goods on the pier, and if he didn't get them, he would lose them all.

30 Q. What business was your husband in? A. Paper supplies, wholesale groceries, etc.

Q. Did you ask your husband for it the next day? A. I did. I asked my husband for it a week after.

Q. What did he say? A. "What the hell are you worrying about? If you don't like the way I am running things, get the hell out of here." And I said, "I can't do that, because I am ashamed to look the girl in the face."

Q. What date was this? A. The early part of September. About September fifth or sixth.

40 Q. What year? A. 1923.

Q. What else happened then? A. Well, when he said that again, I told him I could do that, and he grabbed me by the arm, and threw me against the bed, and struck me. And his mother and sisters came running in.

10 Q. Did they interfere? A. They ran into the bedroom, and asked what we were arguing about, and he said, "Aw, nothing." And they walked out.

Q. Did you remain? A. I stayed, yes.

Q. What was the next trouble that you had with your husband? A. Well, it was about the money, and it always ended up in a quarrel, and him striking me. His people came in, and his sister came in too, but he just told them we were arguing and they went out.

20 Q. When did you stop working? A. In November, 1923.

Q. Why did you leave your place of employment? A. Well, I was compelled to; I was a nervous wreck; my health was failing. I had nothing but quarrels and abuse from him, so I was compelled to leave.

Q. While you were working, where did you eat? A. At his mother's house.

30 Q. What did you do with the money you received? A. I gave it to my husband, and paid for the bedroom set we had.

Q. When you stopped working, during the month of November, 1923, where did you eat? A. From the time, I stopped working, for a year, I was down at my mother's house every day. He would take me down in the morning and call for me at night.

Q. What were you doing down there? A. I was down there eating.

40 Q. Did he give you any money, when you were not working in November? A. Never gave me a cent.

Q. Where did you get the money to go down to your Mother's? A. I had a few cents saved; I saved it and I used that money for carfare. And my mother gave me money at times.

Q. How long did that continue? A. It continued until I resumed work again. That was in April, 10 1924, I believe.

Q. What were your relations with your husband from November, 1923, to April, 1924? Was he kind to you? A. All the time I was out of work, he was very unkind.

Q. What do you mean by that? A. He was always insisting that I go out and look for work, and when I said that I couldn't work, it would always end in a quarrel.

Q. How did these quarrels terminate? A. He 20 would always strike me.

Q. Was anyone present at any time when he struck you? A. Well, one time, his mother was present when he struck me; he struck me before his mother. And I went out and left the house. I was going to Headquarters to have him arrested, and then I thought of all the scandal, and I decided that I wouldn't.

Q. Did your mother ever know he struck you? A. Well, I had bruises and marks on my arms, but 30 I never told my mother what they were from.

Q. Did anybody else see those bruises? A. My Aunt did, and Miss Kaelen did.

Q. How did Miss Kaelen come to see the marks? A. I was up to her house, and I asked her to wait for the money a little longer because I didn't have it, and I told her he struck me.

Q. Where were the bruises? A. I believe they were on my left arm.

Q. You say you went back to work in April, 40 1924? A. Yes.

Q. Where did you work at that time? A. Spring-Meyer Company.

Q. What was your salary? A. Twenty dollars a week.

Q. Where did you eat at that time? A. At my mother's.

Q. Why didn't you use your mother-in-law's 10 home, where you were living, to have your meals? A. My husband insisted that I would not eat at his mother's house.

Q. Why did he do that? Did you give your husband any money? A. I did. I paid for the furniture and I would give him five or ten dollars whenever he needed it.

Q. What were your relations at that time when you started to work? A. Well, he at least respected me enough not to hit me, but he was continually 20 asking me for money.

Q. Did anything occur in the month of June, 1924? A. June, 1924? Yes.

Q. Did you ever leave your husband? A. Well, I left him, but he didn't know I left him. I went down to my mother's house.

Q. At what time? A. Oh, in the morning.

Q. And how long did you stay away? A. Oh, just that day, and my mother and father went back with me that night. And they talked things over 30 with his parents, because he wasn't there, and they said the only time the board is paid is when I work.

Q. Who said that? A. His mother and father. And when I stopped working the board was never paid.

Q. Then you got another position in April, 1924, and the defendant again continued his practice of asking for money? A. Yes.

Q. Did he ever strike you after April, 1924? A. 40

He did. When I referred to him for money, that he said he would pay back, he would strike me. I would ask him to pay back our debts, the money I had borrowed, and he would always start to quarrel, and the result was that he would strike me.

Q. Was anyone present at these times? A. Then?

10 Q. Yes, after you got your job again? A. No, I know his mother was present at one time, but whether it was after or before I went to work, I don't know.

Q. Was it around that time? A. Yes, sir.

Q. Tell us about that? A. It was one morning, I guess it was before I was working, and he asked me what I intended to do, and I said I refused to go to work until he supported me, that I was willing to help; but not support him. Then his  
20 mother came in the room, and he pretended to be so brave before his mother, that he struck me and threw me against the bed, and I ran after him. He called me vile names. He said, "You g——d—— son of a bitch, if you don't get work, get the hell out of here." I said, "I am not going to support you." And I called him the same names back again, and said I wouldn't go to work, and I got dressed and ran out of the house, and I went as far as Headquarters, and then changed my mind.

30 Q. Now tell us what happened in June, 1924—that was after you started to work again. Did he ever strike you in the presence of his mother, after you went to work again? A. Just that once he struck me in front of his mother.

Q. Mrs. Plocharski, you say that Miss Kaelen, one of your co-workers saw some of the bruises that you had as a result of being struck by your husband—was this the first, second or third time he beat you? A. Oh, it was more than the fourth  
40 or fifth time, because it was several months after we were married.

Q. Can you name the month? A. It was some winter month.

Q. Of what year? A. The first year, 1923.

Q. Sometime in 1923? A. It was December, 1923 or January, 1924.

Q. On this particular occasion, Mrs. Plocharski,  
just exactly what caused the argument and what  
caused him to strike you? A. Because I asked  
him to return the money that I had borrowed, be-  
cause I was ashamed to face the girl, and I al-  
ways argued with him to return it, and he would  
say if I didn't like the way he was running things,  
I could "get the hell out of the house." 10

Q. What would you say? A. And I said I wouldn't get out of the house until he gave me the money, and he struck me.

Q. What did he do when he struck you? A. He  
grabbed my arms, and he pushed me, and he  
punched me all over my entire body, until I was so  
weakened that I fell down. Then his mother  
rushed in, and his sisters came in and put me to  
bed. 20

Q. Did his mother or sisters see this particular instance that you testified to? A. No, sir.

Q. Were they in the house at the time? A. Yes, sir; they were in the next room and they ran in.

Q. What was the name of his sister? A. Mrs. 30  
Sadie Barlow is one, and Miss Nellie Plocharski is the other.

Q. Did his mother come in too? A. Well, they came in together. Sometimes it was his mother, and other times it was his sisters. Once they came in and scolded their brother for striking me, and put me to bed.

Q. When was this particular time that they put you to bed? A. It was sometime in 1924, but I just  
don't remember the time. 40

Q. Do you remember the month? A. About March, I should judge.

Q. How often since you were married, did he strike you? A. Oh, I should judge on an average of once a week.

10 Q. And every time he struck you, did you scream and yell? A. Of course, because he hurt me.

Q. And on all these occasions, did anybody come in? A. Not always, but on very many occasions they did.

Q. All these different times were in his folks' home? A. Yes.

Q. So the only persons who were in the house at the times you were struck, would be yourself, and his folks? A. That's all.

20 Q. This continued up until what time? A. Up until August 26th, 1925.

Q. When you got your position in April, 1924, how long a time did you work? A. I worked from April, 1924, until August, 1924, until the time he met with his accident, and I was compelled to leave.

Q. During all this time did you live at the home of the defendant? A. I just slept there; I ate at my mother's.

30 Q. Did he support you during this time? A. No, he never gave me a cent.

Q. What sort of an accident did he have? A. He was struck by a bus, by a Hillside bus, and he received a fractured skull and internal injuries, and after he regained consciousness he was partly a maniac.

Q. How long a time did your husband remain in that condition? A. Ten months. From the time of the accident until the time I left him, and that was about ten months.

40 Q. Were you working at that time? A. No, I

had to nurse him, I had to take care of him; he was like a child; I had to be with him constantly.

Q. What was his treatment of you during this time? A. Why, he was insane at times; he would light matches and throw them at me, and he would take out a revolver and point it at me, and I was afraid of my life. 10

Q. How long a time was he in that condition? A. For ten months. All the time I lived with him he was that way.

Q. Was he ever normal during that time? A. Well, he didn't appear to be until the time his case was settled, and he received a check. He seemed to be better immediately.

Q. When did he receive his check? A. About February or March, 1925.

20 Q. Up until February or March of 1925, you say he constantly struck you? A. Constantly.

Q. Was anybody present at these times? A. His entire family.

Q. Anybody else? A. His mother and my aunt, and Mr. Barlow, and his cousin, John. In fact, Mr. Barlow and John were always watching him, because he was a crazy man.

Q. What was the amount of the check? A. Thirty-four hundred dollars.

30 Q. What did he do with that? A. Why, he carried it around with him for about two weeks, and I asked him to have it cashed and give the money to me to pay back the girl, and he said, "You are always worrying about money; I will do as I please about that." And he grabbed me and started choking me, and his mother and sisters came in and pulled me away from him. And the next morning he came up, got dressed and went out and didn't speak to me at all. He was out all day, and he finally came in with Mr. Barlow, and I went out, 40 and didn't return at all.

Q. Did you cohabit with your husband from the time of the accident? A. No, he lost all sexual desire.

Q. When did he receive the check? A. About February or March, 1925.

Q. And you say he seemed to be a changed man?  
10 A. He didn't act so insane as he did previous to that.

Q. And you had conversations with him at that time? A. After he received the check?

Q. Yes. A. Yes, I did.

Q. Was he normal at that time? A. He appeared to be.

Q. What was his treatment of you after he received the check in 1925? A. Well, I didn't see much of him; he would take me down to my  
20 mother's and leave me there, and then he'd come for me at night.

Q. Did he ever pay you any money from the time he received the check? A. Absolutely not a cent.

Q. Did you go back to the business after March, 1925? A. Well, I had to go away for about five weeks to recuperate. I was in no condition to go back; my health was all broken down.

Q. When did you leave your husband? A. April  
30 24th, 1925.

Q. Why did you leave him? A. Because it was impossible to live with him any more. He refused to give the money to me to pay our debts, and he wouldn't give me any money. There was no use living with a man like that.

Q. When was the last quarrel you had with him? A. April 22nd, I think; two or three days after I left him.

Q. What caused that? A. The same thing about  
40 money.

Q. Did he beat you at that time? A. He did.

Q. Was anybody present then? A. His mother rushed in the room and separated us and his sister came in. After she separated us, I sat on the bed crying, and then I went to bed.

Q. Why did you leave him on the 24th, when this occurred on the 22nd? A. Well I didn't want  
10 to leave him, but when he didn't come home all night long, I decided that I couldn't live in that house alone, so I left him.

Q. Where did you go? A. To my mother's.

Q. Are you living there at the present time? A. I am.

Q. Have you ever heard from your husband? A. No.

Q. Have you ever seen him? A. No.

Q. Have you had any communication with him?  
20 A. No, except a few days after I left, he brought a Civil Service examination that I had taken to my house, but I wasn't home, and I never saw or heard from him.

Q. Are you working at the present time? A. I am.

Q. You say you lived with your mother since the time you separated from your husband? A. Yes.

Q. Where does your mother live? A. No. 118  
30 Clinton Street, Hoboken, New Jersey.

Q. And you still live with her? A. Yes, sir.

Q. Just prior to your marriage, where did you live? A. No. 118 Clinton Street, Hoboken, New Jersey.

Q. And when you were married, where did you live? A. No. 119 West 24th Street, Bayonne, N. J.

Q. How long did you live there? A. From August 15th, 1923, to April 24th, 1925.

Q. Do you wish to resume your maiden name?  
40 A. I want to, yes.

By the Master:

Q. State whether or not any previous proceedings have been had between you and your husband relative to your marriage, or its dissolution or to your support? A. No.

10 Q. Have you ever sued your husband for divorce, or support, or any other reason, before? A. No, sir, I never did.

Q. Has he ever sued you? A. No, sir.

STANLEY E. BARLOW, being duly sworn, according to law, on his oath, testifies as follows:

20 Direct Examination by Mr. Weiss:

Q. Did the defendant ever support the petitioner since they were married? A. So far as I know, I didn't notice anything, I know she worked for a short time, but what she did with her money, I don't know. He was in business, and for four years he didn't give a cent in the house, and he got married in the meantime, and it turned the folks against him.

30 Q. Was he supporting himself before he got married? A. He wasn't supporting himself.

Q. And after he got married he continued the same way and didn't really support his wife, so far as you know? A. I knew they had to support him.

Q. Why wasn't he able to support his wife? A. So far as I know, he invested all his money in the business, and didn't attend to it. He bought goods and sent it out and didn't collect for it, or send statements out.

40 Q. How long did the petitioner live in that house

in Bayonne? A. From the time they got married until she left.

Q. What date did the petitioner leave there? A. That was right after the trial of the accident; right after he got the check.

Q. How much was the amount of the check? A. I don't know to this day; they never told me their 10 business.

Q. Would you say the date he got this check was around March, 1925, as near as you can recall? A. I don't just remember.

Q. Have you any idea when it was? A. All I know was my wife was away and my mother was with her buying property out in New Brunswick; that was the day she left, as I understand it.

MISS KAELEN, being duly sworn, according 20 to law, on her oath, testifies as follows:

Direct Examination by Mr. Weiss:

Q. Where do you live, Miss Kaelen? A. No. 1709 Boulevard, Jersey City.

Q. How long have you known the petitioner, Jeanette Adele Plocharski? A. Almost nine years.

Q. Do you know where she lives? A. No. 118 30 Clinton Street, Hoboken, New Jersey.

Q. Did you know Mrs. Plocharski before she was married? A. Oh, yes.

Q. Did you know where she lived at that time? A. I think it was the same address.

Q. Do you know where she lived after she was married? A. Twenty-fourth Street, I believe, I don't know the number.

Q. Did you ever visit her at that address? A. I 40 did.

- Q. Did you know her husband? A. Yes.
- Q. Where did you work during the year 1924?  
A. C. F. Muller Company.
- Q. Did Mrs. Plocharski work there at the same time? A. Yes.
- 10 Q. Did you ever have any business dealings with Mrs. Plocharski? A. Yes, several weeks after she was married, she borrowed a hundred twenty five dollars (\$125.00) from me for the benefit of her husband, and the money was to be returned within a few days, but the money was not paid back to me at that time.
- Q. When did she actually pay it back? A. Why, it was during the past year. She has managed to pay back the money by making a small payment each week until it was all paid back.
- 20 Q. Did Mrs. Plocharski ever visit you at her home? A. Yes.
- Q. On many occasions? A. Many.
- Q. You were very friendly? A. Yes, very friendly.
- Q. When the money wasn't paid back, as promised by Mrs. Plocharski did Mrs. Plocharski and yourself have a conversation? A. Yes.
- Q. You had a conversation with Mrs. Plocharski? A. Yes.
- 30 Q. Was the money returned at that time? A. No.
- Q. Did you notice anything strange about Mrs. Plocharski? A. Why, she came crying to me after her husband had beaten her, and I noticed bruises on her arms; she showed them to me.
- Q. Can you as near as possible, give us the date and the time? A. I don't remember the date.
- Q. Was it during the winter? A. It was during the winter months, the winter of the year in which she was married.
- 40

- Q. Was it at night? A. Yes, it was at night.
- Q. What sort of bruises were they? A. Why, it was black and blue from a punch.
- Q. Have you seen Mrs. Plocharski since she separated from her husband? A. Oh, yes.
- Q. How often have you seen her? A. Why several times. I visited her at her home. 10
- Q. Did you ever see her husband around? A. Why, no.

SOPHIE WITULSKI, being duly sworn, according to law on her oath, testifies as follows:

Direct Examination by Mr. Weiss:

- Q. You are the mother of the petitioner, Jeanette Adele Plocharski? A. Yes, sir. 20
- Q. Where do you live? A. No. 118 Clinton Street, Hoboken.
- Q. Does your daughter live with you at the present time? A. She does.
- Q. When was your daughter married, do you know? A. 1924, I think it was, 1924 or 1923.
- Q. Did your daughter live with you prior to her getting married? A. She did.
- Q. For how long a time? A. All the time. 30
- Q. At the same address? A. Well, except when she was married, the same address.
- Q. Do you know where your daughter lived after she was married? A. Well, she was living with her mother-in-law.
- Q. Where? A. I forget the address.
- Q. Where? A. In Bayonne.
- Q. How long did she live in her mother-in-law's house in Bayonne? A. Why, close to two years, I guess. As long as she lived with her husband. 40

Q. Did she live in the same house? A. All the time.

Q. Where did she go when she left her husband?  
A. To live with me.

Q. Where has she lived since? A. With me.

Q. Does she still live with you? A. She does.

10 Q. Did her husband ever come to see her? A.  
No.

Q. She never went out with her husband, did she? A. No, he never came to see her; never find out what happened to her.

Q. You know she never went out with her husband? A. Yes, she never went out.

Q. How often did you see your daughter after she was married? A. Pretty near every day.

Q. Where? A. My house.

20 Q. What did she do there? A. Well, she come in; he brought her in in the morning, and she stayed there, and he came up for lunch and then he came up for supper, and they might stay there late in the evening, and then they go home.

Q. Did you ever loan him any money? A. Yes.

Q. How much did you loan him? A. First two hundred fifty dollars; then twenty five dollars.

Q. When did you loan him two hundred fifty dollars? A. Shortly before he was married.

30 Q. Did you ever get paid back by him for any money he borrowed? A. Never; never offered me.

Q. Did he ever support your daughter? A. Never did.

Q. How would she be supported? A. Well, I supported her; she was eating three times a day, him and her.

Q. Was she working? A. She was working, all the time, except a couple of weeks.

40 Further depositions taken in the foregoing matter, before me, J. STANLEY GRIFFIN, a Special

Master in Chancery of New Jersey, this twenty-fourth day of February, 1927, at three o'clock in the afternoon, at my office, Room No. 806, No. 921 Bergen Avenue, Jersey City, Hudson County, New Jersey, in the presence of Will Weiss, Esquire, Solicitor of the petitioner.

J. STANLEY GRIFFIN,  
Special Master.

10

NELLIE PLOCHARSKI, being duly sworn, according to law, on her oath, testifies as follows:

Direct Examination by Mr. Weiss:

Q. Are you the sister of Stanley Plocharski? A. 20  
I am.

Q. Do you know Jeannette A. Plocharski, the petitioner in this action? A. Yes.

Q. Did she live with you at any time? A. Yes, she lived with my mother and father and whole family.

Q. How long did she live there? A. I couldn't say, because I work, and those things don't amount to anything.

Q. Do you remember when she was married? A. 30  
No, I don't. I stood up for her, but I don't remember the date.

Q. Would you say that it was August 15th, 1923? A. I couldn't say.

Q. I show you a paper, Exhibit P-1—is that your name on the bottom there? A. Yes.

Q. After looking at the paper, would you say that your brother and the petitioner in this action were married on August 15th, 1923? A. Yes, they were married, because I stood up for them. 40

Q. Where do you live now? A. No. 119 West 24th Street, Bayonne.

Q. Did the petitioner and the defendant move there after they were married? A. Yes.

Q. And how long did they reside there? A. Well, they lived there ever since they got married.

10 Q. Until they separated? A. Yes.

Q. When was the separation? A. I couldn't say.

Q. Would you say that the petitioner and the defendant separated on or about April 24th, 1925? A. I really couldn't say.

Q. Have they lived together there in the past two years? A. Yes, they have.

20 Q. When was the last time they lived together there? A. Pretty near two years, because this day her mother-in-law bought lots out in Manville, and that was the day they had the quarrel.

Q. Since they were separated, have your brother and the petitioner ever lived together? A. No, sir.

Q. When they first came to live there, what were the relations between your brother and sister-in-law? A. Very good.

30 Q. Did you ever hear any quarrels? A. I don't remember anything about quarreling. When I left in the morning, I didn't see them, and when they came home I was asleep.

Q. Do you know anybody by the name of May Delaner and a girl by the name of Kitty? A. Yes.

Q. Were they ever in your house about April 1st, 1925? A. They were always at my house.

Q. Did you ever go to the room of your sister-in-law and find her crying? A. No.

40 Q. Did you see May Delaner on that day, with Kitty, rush into the room with yourself, and you saw Jeanette Plocharski crying? A. Oh, no, I don't think my girl friends would ever do that.

Q. Were the relations between the petitioner and defendant always nice and tranquil? A. Yes, according to what I saw.

Q. Did you ever hear your sister-in-law scream? A. No.

Q. Do you know whether or not he ever struck her? A. I couldn't say that. 10

Q. Did you ever see him strike her? A. No, only the part where he was sick.

Q. Before he was sick? A. No, I couldn't say that.

Q. Did you ever see your mother rush in and separate them? A. No, I don't remember, because the first time my mother ever said anything to her, about him attending to the books she said, "We are married; we know how to attend to our own affairs." So that kept my mother quiet. 20

Q. Do you know whether or not Jeanette Plocharski ate there? A. Yes, she did.

Q. Ate there all the time? A. Yes, until some-time or other when they had a misunderstanding; they might just be angry, and she would say, "I will buy my own food," or something like that.

Q. What were these misunderstandings? A. I really couldn't say.

Q. Well, you knew they had misunderstandings? A. I couldn't say. See, my brother would come in. and my mother would say something to him, and she would get angry. 30

Q. Miss Plocharski, as a matter of fact, this whole trouble started on account of his borrowing money from them. Was your brother working at that time? A. He couldn't even support himself while he was in that business. She was willing to feed him, she said, when they talked of getting married, so my mother told her if she would only wait a while, things would be alright, but she 40

promised to work, and then she stopped, and after a while I was the only one working, with my father, and at that time my mother was pretty well worn out.

10 Q. The fact is that at the time he got married, he really shouldn't have gotten married at all? A. She thought my mother didn't want her to get married to him, but it was because he couldn't support himself. We are not rich or anything like that; it was just that my mother thought he would make out alone.

20 Q. Then the other members of the family had to support him and her? A. Yes, while my brother was sick, my father and I were the only ones working, and we had to support them. So far as anything being done by them, I couldn't say anything because I worked during the day.

MRS. SABINA BARLOW, being duly sworn, according to law, on her oath, testifies as follows:

Direct Examination by Mr. Weiss:

30 Q. Mrs. Barlow, are you the sister of the defendant in this action, Stanley Plocharski? A. Yes, I am.

Q. And the sister-in-law of Jeanette A. Plocharski? A. Yes, sir.

Q. Where do you live? A. We live at No. 119 West 24th Street Bayonne.

Q. Did they ever reside there? A. Yes, they lived there.

40 Q. How were they getting along while they lived there? A. They were getting along very well as far as I know, and they were always out; they were never in.

Q. What started the disputes between them? A. That I don't know.

Q. You were home constantly? A. Yes, but as far as their business went, I don't know.

Q. As a matter of fact, the trouble between your brother and your sister-in-law started over money matters? A. That I don't know. 10

Q. Your husband was partner with your brother in the paper business? A. Yes, he was, and they were together.

Q. They were hard up for cash? A. Yes, sir. Before they were married, they went in business with my husband. And after they were married, they told us it was none of our business what they did, so we had to keep to ourselves.

Q. Did you ever see your brother strike Mrs. Plocharski? A. No, I never did. 20

Q. Did you ever hear her scream? A. No, I never heard her.

Q. Did you see Jeanette A. Plocharski struck while your brother was sick? A. Yes.

Q. Well, why did you say you never saw her struck? A. Well, that was when he was sick.

Q. That wasn't exactly the truth then when you said you never saw her struck? A. No.

Q. Did they ever have any arguments before he was injured? A. I don't know nothing about them. 30

Q. Did you ever hear them argue about themselves? A. No.

Q. Did you ever see your mother interfere in any quarrel? A. No, I never did.

Q. Did she tell you she did? A. No.

Q. Why did Mrs. Plocharski have to go to work? A. That I don't know. My mother washed all their things, and she put them on the bed, so that when Mrs. Plocharski came home she could put them away. And she took care of all their things. 40

Q. Did Mrs. Plocharski eat there? A. Yes, she ate there all the time.

Q. So that when Mrs. Plocharski said she went to her mother's home every night and every morning, she was lying? A. Well, how do I know her business?

10 Q. Well, she wasn't home? A. She was supposed to be working.

By the Master:

Q. Why do you suppose they separated? A. That I don't know, sir. That was between themselves.

Q. You know they have separated? A. Yes, sir; they separated in April.

Q. What year? A. Since April of 1925.

20 Q. And was your brother self supporting before they were married? A. That I don't know.

Q. Do you know whether he supported his wife after they were married? A. When my father used to speak to him, I believe he told my father to mind his own business.

Q. Who has charge of the family budget and would know whether he supported himself? A. His wife, you mean.

30 Q. No, he and his wife were living in the same house with you. Who would know whether he paid his board or not. A. There was nobody.

Q. Did he give your mother any board? A. No.

Q. Did he have any money? A. No, and she knew that in the beginning, because my mother told her right off the reel, "You know that his business is just started, and I gave him quite a sum of money, and he hasn't got anything." She just ignored my mother, and she married him.

40 Q. In other words, your mother didn't think your brother ought to be married, when he was? A. No.

ADAM PLOCHARSKI, being duly sworn, according to law, on his oath, testifies as follows:

Direct Examination by Mr. Weiss:

Q. You are the father of Stanley Plocharski? A. Yes, sir. 10

Q. And Stanley and his wife lived with you from the time of their marriage until they separated in April? A. Until they separated, yes.

Q. Why did they separate? A. I don't know nothing about that.

Q. Was your son turning in any money in the house? A. I put over five thousand dollars in that business, and all the money she collected, and she came up and collected for eight months, and she left him like a dog. And he said, "Well, what are you going to do?" And now, she sued him for divorce. 20

Q. Did you approve of your son getting married when he did? A. Well, I don't know about that.

Q. Did you think your son should be married when he was? A. I don't know.

Q. You knew your son was going to get married, didn't you? A. Oh, yes.

Q. Did you tell him it was alright and to go ahead and get married? A. I told him everything right. 30

Q. Was he making enough money to get married on? A. Well, he has got a business.

Q. Was he making any money in the business? A. The books tell; she knows about it.

Q. Whom do you mean by she? A. My son's wife.

Q. Did he ever strike her that you know of? A. No, sir.

Q. Did you ever run up into the room and stop 40

them from arguing? A. No, sir; they went out every night in the automobile.

Q. Your wife didn't want to have your son get married, did she? A. They go get married; I don't know nothing about it.

10

MICHAELINA PLOCHARSKI, being duly sworn, according to law, on her oath, testifies as follows:

Direct Examination by Mr. Weiss:

Q. You are the mother of the defendant in this case, Stanley Plocharski? A. Yes.

20 Q. Do you remember the time that your son and his wife got married? A. Yes.

Q. Where did they live after they were married? A. My house.

Q. Did he ever turn any money in for the support of himself and his wife? A. Never.

Q. You supported both of them while they were married? A. Yes, sir.

Q. When did they separate? A. I guess it will be two years in April.

30 Q. Have they ever lived together since the time of the separation? A. Never heard of her, never see her.

Q. She's never been back to live there since she left? A. No.

40 Q. Did they have any trouble while they were married, so far as you know? A. I don't know. The day before they get married last Easter, they come in that night and say they get married, and I said, "Alright, go get married." He only just started the business about two years before they got married.

Q. Did you ever see your son strike his wife? A. Never.

Q. Did you ever go into the room to keep them from arguing? A. Never.

Q. You didn't approve of your son getting married, Mrs. Plocharski? A. I can't stop him.

Q. Did Mrs. Plocharski eat at your place every 10 night? A. Yes.

Q. While she was working? A. I don't know was she working or not, because they were every day out.

I certify that the foregoing depositions were taken by Margaret McAghon, a stenographer selected by me, and by me duly sworn faithfully and truly to take stenographically and reproduce in 20 typewriting the testimony given, and that such depositions were taken in my immediate presence and hearing by said stenographer, sworn as above stated and I believe that they accurately state the said evidence.

J. STANLEY GRIFFIN,  
Special Master.

30

[47348]

40

87 MAY.T.1928

## New Jersey Court of Errors and Appeals

Between

JEANETTE A. PLOCHARSKI,  
Petitioner-Appellant,

and

STANLEY PLOCHARSKI,  
Defendant-Respondent.

On Appeal  
for Divorce.

On Appeal  
from Decree  
in Chancery.  
Brief.

### BRIEF OF ANTHONY P. LAPORTA IN BEHALF OF JEANETTE A. PLOCHARSKI, PETITIONER-AP- PELLANT.

#### Introduction.

This is an appeal from a Final Decree of Dismissal made by His Honor Edwin Robert Walker on the 8th day of July, 1927, on the recommendation of Special Master Stanley A. Griffin, who heard the petitioner's cause for absolute divorce *ex parte* on the Order of Reference made by the Chancellor after the defendant who had filed his Answer did not appear before the late Vice Chancellor, John Griffin, to contest the suit. The suit is brought under the Blackwell Act (P. L. 1923, p. 294) on the ground of extreme cruelty.

#### Statement of Facts.

It appears that the parties were married August 15th, 1923; that her sexual relations with defend-

ant ceased in August 1924, at which time defendant met with an accident; that defendant's last act of cruelty and assault upon petitioner occurred April 22nd, 1925; that petitioner ceased on April 24th, 1925, to live under the same roof with defendant, and physically separated herself and has ever since lived apart from him; that petitioner filed her petition for divorce March 4th, 1927; that a week after the marriage and and at least once a week thereafter defendant abused, assaulted, neglected and ill-treated petitioner down to the 22nd day of April, 1925.

The foregoing dates are given to enable the court to follow the difficulties with its complicated matrimonial history which culminated in the separation complained of.

Among some of the material facts, the testimony reveals the fact that petitioner was never given a chance in life by this defendant. He failed to provide her with a home; he kept her in destitute and necessitous circumstances; he compelled her to support him as well as herself by her own exertions; he was shiftless, indolent and at times a maniac; he sponged upon her, her parents and his own parents as well without any shame or humiliation. Immediately upon his marriage he took her to his parents' home, where he caused her to live with them as one family; there he assigned to her a bedroom, which she furnished at her own cost and expense. She lived at no place with the defendant other than at his parents' home to wit: 119 W. 24th Street, Bayonne, New Jersey; here he subjected her to a course of cruel and abusive treatment. On several occasions without just provocation or legal excuse, he so roughly handled her by choking her that she had to be put to bed; he even borrowed money from her from time to time

causing her to become indebted for him, securing the loans from her under false promises; he beat her up when she requested the refund of the money. As a matter of fact (he beat her at least once a week commencing from the very inception of her marriage down to April 22nd, 1925). His acts of violence and extreme cruelty were all committed in the home of his parents and were behind closed doors.

From his conduct, habits and disposition it is manifest that his matrimonial career could be nothing but a failure. He didn't work prior to the time of his marriage; nor at nor since his marriage. He went into a grocery business with a relative of his upon his marriage only to squander his money and time away; it conclusively appears that he never contributed one cent towards his wife's support; that his board with that of his wife's board was never paid unless his wife paid it. Since the 24th day of April, 1925 (when the petitioner abandoned him and ceased to live with him), he never supported her or sought her out to effect a reconciliation either directly or indirectly or in any manner whatsoever and it also appears that she ceased her entire relations with defendant. She appears to be a sensible, conscientious, industrious girl of 26 years of age; has been since her marriage and still is self-supporting, having resumed her residence with her parents in Hoboken, New Jersey, where she has lived practically all of her life with the exception of the period of time she spent with her husband in Bayonne, New Jersey. This marriage was opposed by defendant's parents and relatives. It is plain therefore that defendant married petitioner as an accommodation and not as a companion.

### Questions Involved.

1. Did the court err by its Decree of Dismissal made July 8th, 1927, whereby the petition was dismissed on the depositions and evidence taken before the Special Master?

2. Did the court err in approving the recommendation of the Special Master? He said in his report:

"That the only evidence of extreme cruelty which the defendant is alleged to have been guilty of towards petitioner is contained in petitioner's own testimony and that petitioner's testimony has not been corroborated by any other witness."

3. Then it would seem that the real question involved is what kind of evidence constitutes corroboration in an extreme cruelty case?

### ARGUMENT.

THE COURT ERRED IN DISMISSING THE PETITION ON THE RECOMMENDATION OF THE SPECIAL MASTER, WHO HELD THAT THERE WAS NO EVIDENCE CORROBORATING THE PETITIONER. THE EVIDENCE SUBMITTED BY THE PETITIONER'S WITNESSES WAS OF A CORROBORATING NATURE, AND THE SPECIAL MASTER SHOULD HAVE SO RECOMMENDED AND THE COURT SHOULD HAVE SO FOUND.

Here you have a case of a poor girl practically imprisoned and surrounded by the family of the

defendant where all of the acts of violence, abuse, mistreatment and quarrels constituting the extreme cruelty took place. The petitioner, notwithstanding, the hardships and difficulties with which she was confronted in establishing herself to be a true and credible person, subpoenaed, among her witnesses, all of the defendant's relatives, consisting of his mother, father, sisters and brother-in-law.

The defendant's brother-in-law, Stanley Barlow, was the first relative to be sworn in and he testified, among other things, that for four years defendant was in business that he didn't give a cent in the house, and that in the meantime he got married, and that this marriage turned the folks against him; that before his marriage he was not supporting himself and that he knew that his parents were supporting him after his marriage; that he didn't attend to business and so failed; that petitioner and defendant separated from each other when defendant received a check after the trial of an accident case in which he was involved.

The defendant's sister, NELLIE PLOCHARSKI, testified that the petitioner has not lived with defendant since their separation. She testified, among other things, as follows:

"Q. Do you know whether or not he ever struck her? A. I could not say that.

Q. Did you ever see him strike her? A. No, only the part where he was sick.

Q. Before he was sick? A. No, I could not say that."

Then she goes on to relate the fact that defendant could not support himself, that he was a failure in business and that petitioner had promised to work, that she worked and then stopped and that

after a while this witness was the only one working with her father, and that at that time her mother was pretty well worn out, and she goes on and admits that her mother was opposed to this marriage because she says he could not support himself, and finally says, "We are not rich nor anything like that; it was just that my father thought he would make out alone"; and that she and other members of her family had to support him and her.

From the drift of the testimony of this witness (of course, I feel that the court ought to read it as well as the testimony of other witnesses in order to get the atmosphere of the case) one can readily see that the irresistible conclusion is, that this witness is suppressing the entire truth of the matrimonial difficulties of the parties to the suit. In fact, all of the witnesses of defendant's family seem to sound very much the same way.

The defendant's sister, MRS. SABINA BARLOW, testified, among other things, that her husband and defendant were in business together; and after the marriage that she and others kept to themselves because they were told it was none of their business and she hesitatingly testified with hostility as follows:

"Q. Did you ever see your brother strike Mrs. Plocharski? A. No, I never did.

Q. Did you ever hear her scream? A. No, I never heard her.

Q. Did you see Jeanette A. Plocharski struck while your brother was sick? A. Yes.

Q. Well, why did you say you never saw her struck? A. Well, that was when he was sick.

Q. That was not exactly the truth when you said you never saw her struck? A. No."

Then she went on and said that she knows they have been separated since April, 1925. She refused to say whether her brother was self-supporting before his marriage; and then she went on and testified as follows:

"Q. Do you know whether he supported his wife after they were married? A. When my father used to speak to him, I believe he told my father to mind his own business.

Q. Did he give your mother any money? A. No.

Q. Did he have any money? A. No, and she knew that in the beginning, because my mother told her right off the reel, "You know that his business is just started and I gave him quite a sum of money and he has not got anything." She just ignored my mother and she married him.

Q. In other words, your mother didn't think your brother ought to be married when he was? A. No."

The drift of this witness's entire testimony as appears in the deposition again shows that the atmospheric truth lies with the petitioner.

ADAM PLOCHARSKI, the father of the defendant, testified that he does not know anything about the separation, and he evaded the answering of the questions, among which were the following:

"Q. Why did they separate? A. I don't know nothing about that.

Q. Did you approve of your son getting married when he did? A. Well, I don't know about that.

Q. Did you think your son should have married when he did? A. I don't know.

Q. You knew your son was going to get married? A. Oh, yes.

Q. Did you tell him it was all right and go ahead and get married? A. I told him everything right."

Then he goes on and professes to know nothing about their matrimonial difficulties, tending to show hostility and trouble between the defendant and petitioner, which in my opinion is of a corroborating nature.

MICHAELINA PLOCHARSKI, the mother of the defendant, testified, among other things:

"Q. Where did they live after they were married? A. My house.

Q. Did he ever turn any money in for the support of himself and his wife? A. Never.

Q. You supported both of them while they were married? A. Yes, sir.

Q. When did they separate? A. I guess it will be two years in April.

Q. Have they ever lived together since the time of the separation? A. I never heard of her, never see her.

Q. She has never been back to live there since she left? A. No.

Q. Did they have any trouble while they were married so far as you know? A. I don't know."

Then she testified further: "The day before they got married last Easter, they came in that night and say they get married, and I said, 'All right, go get married.' He only just started the business

about two years before they get married." She refused, however, to say that her son ever struck petitioner, and that she ever heard them arguing and she also refused to say that petitioner ever worked.

From the drift of this witness's entire testimony as the deposition shows, again it is plain that she is an antagonistic witness suppressing the truth of the case, yet, tending to corroborate the petitioner that there was trouble.

The petitioner is strongly corroborated by an impartial, independent, unrelated witness whose name is Miss KAELEN. She knows both the petitioner and defendant intimately. She testified that she worked with petitioner during the year 1924, that several weeks after she was married the petitioner borrowed from her \$125 for the benefit of her husband, which money was to be returned to her within a few days, but the money was not paid back to her at that time; that it was paid back however by petitioner in installments during the past year. Then she testified:

"Q. Did you notice anything strange about Mrs. Plocharski? A. Why, she came crying to me after her husband had beaten her and I noticed bruises on her arms; she showed them to me.

Q. Can you as near as possible give us the date and time? A. I don't remember.

Q. Was it during the winter? A. It was during the winter months, the winter of the year in which she was married.

Q. Was it at night? A. Yes, it was at night.

Q. What sort of bruises were they? A. Why it was black and blue from a punch."

The petitioner's mother, SOPHIE WITULSKI, testified that her daughter resided with her husband about two years, that during all that time she was at her house almost daily dining with her; that after she separated herself from her husband she resumed her residence with her and that during all that time her husband has never been around to see her. That during her cohabitation with the defendant, the defendant brought her in the morning daily and she testified as follows:

"Q. What did she do there? A. Well, she came in; he brought her in the morning and she stayed there; he came for lunch, and then he came up for supper and they might stay there late in the evening, and then they go home.

Q. Did you ever loan him any money? A. Yes.

Q. How much did you loan him? A. First \$250 and then \$25.00.

Q. When did you loan him the \$250? A. Shortly before he was married.

Q. Did you ever get paid back by him for any money he borrowed? A. Never; never offered me.

Q. Did he ever support your daughter? A. Never did.

Q. How would she be supported? A. Well, I supported her; she was eating three times a day, him and her.

Q. Was she working? A. She was working all the time, except a couple of weeks."

So, it can be readily seen from the foregoing facts that the petitioner is a truthful person, and that her credibility is strengthened and sup-

ported by the forcible admission that at least one act of assault and battery, which was alleged to have been committed by the defendant in the presence of the defendant's mother and also by the bruises on her arms, which were noticed by Miss Kaelen, a witness in this case, which she noticed in the winter of the year in which the petitioner was married; that is to say, the year 1923. Then she is corroborated as to the non-support and the defendant's mental attitude which seem to have undergone no change after her separation from him and also from the dissatisfaction of the defendant's relatives as to her marriage with him and their attitude on the stand, which has been termed and styled as the atmosphere of the case by Vice Chancellor Lane in *Parmley v. Parmley*. Wherefore, it is contended that petitioner has been convincingly and credibly corroborated and the relief prayed for in the petition should be granted.

#### LAW.

CORROBORATION OF EACH ESSENTIAL FACT NEED NOT NECESSARILY BE BY THE TESTIMONY OF OTHER WITNESSES.

In *Parmley v. Parmley*, 90 N. J. Eq. 490; 106 A. 456, 459, the court said:

"The question is whether the rule which has been held to be the law in this state, that a divorce will not be granted upon the uncorroborated testimony of the petitioner and the defendant, operates to prevent a decree in a case such as this. It was said in *Rogers v. Rogers*, 104 A. 32; *Foote v. Foote*, 71 N. J. Eq. 280, 65 A. 205; *Orens v. Orens*, 88 N. J. Eq. 29, 102 A.

436; *Robinson v. Robinson*, 83 N. J. Eq. 150, 90 A. 311, affirmed 84 N. J. Eq. 201, 93 A. 699, that the corroboration necessary need not be corroboration by witnesses, but there may be corroboration from circumstances, corroboration from what may be termed the atmosphere of the case."

IMMEDIATE VERIFICATION IS NOT NECESSARY FOR CORROBORATION.

In *Orcutt v. Orcutt*, 94 N. J. Eq. 303, 119 A. 377, the court said:

"Corroboration means that the Chancellor must be satisfied that the petitioner's testimony is true from what others say, be it immediate verification or of supporting circumstances. *Bissell v. Bissell* (N. J. Ch.) 117 A. 252. Letters of the defendant evincing desertion, proved by the petitioner, and the surrounding circumstances adequately established, meet this test. *Meek v. Meek*, 92 N. J. Eq. 23, 112 A. 409."

THE RULE OF CORROBORATION DOES NOT REQUIRE CATEGORICAL CORROBORATION.

In *Young v. Young*, 126 A. 467, 468, the court said:

"As to the desertion this same neighbor testifies to the disappearance of the husband and baby in November, 1913, and their absence ever since; the distraction of the abandoned wife the night of the desertion and kidnapping, immediately after the happening; that the

petitioner has since been alone, without husband or baby; the coming of the postcard announcing their arrival in Europe; and to many other incidents, all bearing out the petitioner's sorrowful story. Then the detective of the Newark Police Force testified to the issuing of the warrant on the wife's complaint upon the advice of the District Attorney, and he relates his efforts, and those of the wife, to intercept the fugitive husband at the steamship pier. This evidence, supporting, as it does, vital points in the petitioner's testimony is because of that very thing corroborative of the rest of the testimony not touched by the witnesses, and as to which she stands alone. The rule of corroboration does not require categorical corroboration. The rule is satisfied if the attending proof satisfies the Chancellor that the petitioner's testimony on the whole is true. *Meek v. Meek*, 92 N. J. Eq. 23, 112 A. 409."

CORROBORATION MAY SOMETIME PARTAKE OF THE NATURE OF HEARSAY.

In *Haskell v. Haskell*, 99 N. J. Eq. 399, 131 A. 876, 877 the court said:

"Vice Chancellor Leaming, commenting upon the subject of corroboration, in the case of *Robinson v. Robinson*, 83 N. J. Eq. 150, 90 A. 311, affirmed by this court in 84 N. J. Eq. 201, 93 A. 699, said:

Surrounding circumstances, adequately established, may be of a nature to fully supply the office of corroboration which the law requires in Matrimonial cases.

We are therefore of the opinion that the circumstances surrounding this case, as evidenced by the testimony of the witnesses as to the mental and physical condition of the petitioner, and the matters which he confided to them, were sufficient corroborating circumstances to justify granting a divorce."

THE MENTAL ATTITUDE OF THE DEFENDANT MAY BE CONSIDERED AS SOME EVIDENCE OF CORROBORATION.

In *Mountford v. Mountford*, 94 N. J. Eq. 627, 120 A. 634, 635, the court said:

"And then there is the convincing circumstances of his mental attitude to desert \* \* \* he never sought her out, clearly evincing his determination to be rid of his wife. These things are sufficient corroboration. *Hague v. Hague*, 85 N. J. Eq. 537, 96 A. 579.

The desertion was willful on the part of the husband in that he purposely created the situation that made separation inevitable. It was obstinate, and it was persisted in against the will of the wife. The doctrine laid down in *Hahn v. Hahn*, 93 N. J. Eq. 296, 115 A. 652, is applicable."

SPECIFIC WITNESSES ARE NOT REQUIRED FOR CORROBORATION.

In *Knibbs v. Knibbs*, 94 N. J. Eq. 747, 121 A. 715, 716, the court held:

"It is not essential under our cases that specific corroborating witnesses be produced to support the petitioner's allegations; for, as

was stated by Judge Vroom, speaking for this court in *Foote v. Foote*, 71 N. J. Eq. 273, 65 A. 205:

It is sufficient if the circumstances, as shown by the expressions and conduct of the defendant, together with the letters of the parties, corroborate the testimony of the complainant."

LAST ACT OF CRUELTY NEEDS NO CORROBORATION.

In *Wines v. Wines*, 97 N. J. Eq. 55, 127 A. 28, the court said:

"There was no corroboration of the last assault, the immediate cause of the petitioner's departure, which the master mentions and perhaps mistakenly regarded as necessary to a compliance with the rule of corroboration. The rule is defined and applied in *Lasker v. Lasker*, 91 N. J. Eq. 352, 110 A. 27; *Meek v. Meek*, 92 N. J. Eq. 23, 112 A. 409; *Orcutt v. Orcutt*, 94 N. J. Eq. 303, 119 A. 377, and *Smith v. Smith* (N. J. Ch.) 124 A. 777.

The testimony of the wife makes out, beyond question, a clear case of extreme cruelty. The rule of corroboration only requires that belief in its truthfulness as must find support in the testimony of others, or of surrounding established circumstances. That I find in the testimony of the sister of the defendant, and the friend of the petitioner, as to specific instances of assaults by the defendant on his wife, and it is satisfying that she speaks the truth as to his violence on many other occasions when witnesses were not present. If he beat her once, it is fair to assume, in the circumstances that he did it again. If he beat her at the

times as to which her testimony is corroborated, her story is acceptable as true that he assaulted her on the occasions as to which corroboration is lacking.”

LAST ACT OF CRUELTY NEED NOT BE CORROBORATED.

In *Alt v. Alt*, 95 N. J. Eq. 90, 122 A. 607, 608, the court said:

“While the occurrence of that night is not specifically corroborated, I find sufficient corroboration in the corroboration of much, if not all of the rest of her tale of ill treatment. *Orens v. Orens*, 88 N. J. Eq. 29, 102 A. 436; *Lasker v. Lasker*, 91 N. J. Eq. 352, 110 A. 27.”

ONE ACT OF ASSAULT TESTIFIED TO BY DAUGHTER IS ENOUGH CORROBORATION.

In *Coe v. Coe*, 127 A. 39, 97 N. J. Eq. 57, the court said:

“It is contended that, though the petitioner be believed, a decree should be denied because her testimony is not corroborated in accordance with the rule in divorce cases. That rule requires that the truthfulness of petitioner’s testimony be verified by other witnesses to the occurrences, or by the surrounding established circumstances. If *they bear witness to some of the material things sufficient to satisfy the conscience of the court that the petitioner’s testimony as a whole is credible and worthy of belief, that is enough.* *Lasker v. Lasker*, 91 N. J. Eq. 352, 110 A. 27; *Meek v. Meek*, 92

N. J. Eq. 23, 112 A. 409; *Orcutt v. Orcutt*, 94 N. J. Eq. 303, 119 A. 377; and *Smith v. Smith* (N. J. Ch.) 124 A. 777. Such corroboration is found in the testimony of the two daughters, who, as already remarked, witnessed their father’s conduct at home, and saw one of the assaults made on their mother.”

IMPLIED ADMISSION BY NON-APPEARANCE OF THE DEFENDANT.

In *Knibbs v. Knibbs*, 94 N. J. Eq. 747, 121 A. 715, 716, the court held:

“Nor can we overlook the fact in this connection, that, although the defendant was within easy access of the trial court, she was neither present nor represented by counsel; and while that fact per se does not supply the requisite jurisdictional proof, it may be noticed as a corroborating factor, however, slight, where the substantive proofs presented, lend credence to the correctness of the claim of the petitioner, concerning the mental attitude of the defendant.”

IMPLIED ADMISSION BY NON-APPEARANCE.

In *Smith v. Smith*, 96 N. J. Eq. 59, 124 A. 777, the court held:

“The failure of the husband to deny the charges (few self-respecting innocent husbands would let them go unchallenged) is an implied confession of their truth. But the law demands more proof in divorce cases.”

ACTUAL PHYSICAL VIOLENCE IS NOT NECESSARY TO JUSTIFY A WIFE'S LEAVING.

In *Doty v. Doty*, 92 N. J. Eq. 660; 114 A. 546, the court held:

"What that cruel conduct must consist of, in order to justify a wife to leave her home, seems to us was well stated by Vice Chancellor Van Fleet, in *Black v. Black*, 30 N. J. Eq. at page 221, where that learned jurist said:

"To justify a divorce a mensa at thoro, actual physical violence need not be proved, but such conduct by the husband, must be shown as will justify the court in believing that, if he is allowed to retain his power over his wife, and she is compelled to remain subject to him, her life or her health will be endangered, or that he will render her life one of such extreme discomfort and wretchedness as to incapacitate her to discharge her duties of a wife. *Close v. Close* 10 C. E. Gr. 529; *English v. English*, 12 C. E. Gr. 585."

UNWARRANTED ACCUSATION OF SEXUAL INFIDELITY HELD SUFFICIENT TO WARRANT DIVORCE THOUGH NO PHYSICAL VIOLENCE IS SHOWN.

In *Hill v. Hill*, 97 N. J. Eq. 237, 127 A. 584, the court held:

"Unwarranted accusations of sexual infidelity held sufficient to warrant divorce from bed and board on ground of extreme cruelty though physical violence not shown."

THE DUTY OF A HUSBAND TO LOVE AND SUPPORT HIS WIFE IS A PRACTICAL DUTY, AND THE SENDING OF A MILLION KISSES AND NO MONEY DOES NOT SATISFY THAT DUTY. THE DEFENDANT WAS HELD GUILTY OF DESERTION.

In *Coe v. Coe*, 68 N. J. Eq. 157, 59 A. 1059, the court held:

"His letters were full of kisses but no money, \* \* \* The duty of the husband to love and support his wife is a practical duty, and is not performed by a manifestation of sentiment without corresponding conduct. Hence a mere writing of love letters and the making of promises, unaccompanied by a single practical act, amount to nothing. The failure to try in earnest to do anything in the way of supporting and loving his wife is desertion, no matter how much the party may indulge in affectionate language, and send kisses by the thousand in writing."

INADEQUATE SUPPORT IS A DEFENSE TO AN ACTION FOR DIVORCE BASED UPON THE REFUSAL OF SEXUAL INTERCOURSE.

In *Oertel v. Oertel*, 83 N. J. Eq. 39, 90 A. 1006, it was held:

"A husband was not entitled to divorce for desertion consisting of a wife's refusal of intercourse, where the husband failed to provide her adequate support according to his station in life."

DEFENDANT NEED NOT BE ENTIRELY  
SANE TO BE RESPONSIBLE FOR EXTREME  
CRUELTY.

In *Smith v. Smith*, 40 N. J. Eq. 566, 5 A. 109,  
the court held:

"Evidence that the husband has, without cause, accused and still persists in accusing his wife of the crime of incest with her son; that he has at times struck her; that he stealthily watches her; and by his general conduct affords her reasonable grounds for believing her life in peril with him, \* \* \* makes out a sufficient case to warrant a decree of divorce a mensa et thoro, even though the husband does not appear to be entirely sane."

NOT EVEN INSANITY IS A DEFENSE TO  
AN ACTION FOR EXTREME CRUELTY.

In *Youmans v. Youmans*, 3 Misc. 576, 129 A. 122,  
123, the court held:

"Omitting from consideration the questions of the presumption of sanity, that insanity is an affirmative defense which must be pleaded, and was not in this case, and that, as an affirmative defense, the burden of proof thereof is on defendant, it seems to have been definitely determined by the Court of Errors and Appeals in *Smith v. Smith*, 40 N. J. Eq. 566, 601, 5 A. 109, that extreme cruelty is ground for relief, notwithstanding it arises from delusion, at any rate, so long as the defendant be not insane generally. There is in the present case nothing to show that the defendant is in-

sane generally. The *Smith* case was a suit by the wife against the husband for divorce from bed and board, but I am not able to observe that any difference in principal is necessitated or indicated by the fact that the present petitioner is the husband, nor by the fact that the present suit, under the amended statute is for absolute divorce."

PETITION ON GROUND OF CRUELTY,  
FILED SIX MONTHS AFTER LAST CRUEL  
ACT, HELD NOT AFFECTED BY CONTINUED  
RESIDENCE TOGETHER.

In *Hart v. Hart*, 99 N. J. Eq. 373, 131 A. 903,  
the court held:

"Wife's right to file petition for divorce for cruelty more than six months after last act of cruelty complained, as required by Blackwell Act, is complete and fixed at time of the last act of cruelty and is not lost by continuing to live under same roof with husband, nor is separation necessary to start running of six month period. \* \* \* The Vice Chancellor obviously erred in the construction he gave to the Blackwell Act (P. L. 1923, p. 494), which provides:

Divorce from the bonds of matrimony may be decreed for extreme cruelty in either of the parties, whether the acts of cruelty were committed prior to or after the passage of this act; provided that no petition for divorce shall be filed until after six months from the date of the last act of cruelty complained of."

FAILURE TO PRODUCE EVIDENCE FAVORABLE TO PERSON CAPABLE OF PRODUCING IT, RAISES PRESUMPTION THAT IT IS AGAINST PERSON'S TESTIMONY.

In *Jacoby v. Jacoby*, not officially report, 140 A (N. J. Ch. 454), the court held:

"Where person can produce something which will testify in his favor or be proof in his favor, failure to produce raises presumption that it would be against his testimony."

And in *Nelson v. Public Service Transp. Co.*, 5 Misc. 73, 135 A. 467, the court held:

"Where person injured in automobile accident failed to call physicians who cared for her as witnesses in action for injuries, jury had right to infer that, if called, physicians would testify unfavorably."

THE BEST EVIDENCE RULE APPLIES TO WITNESSES AS WELL AS TO DOCUMENTS.

In *Lasker v. Lasker*, 91 N. J. Eq. 352, 110 A. 27, the court held:

"The testimony of the petitioner is in strictness the best evidence because it is the sworn word of one who knows the fact; but, because of the rule in divorce cases which requires that a decree may not be granted unless the complaining party is corroborated, the rule allowing constructive corroboration will be given effect only when better evidence cannot be adduced. Resort to actual corroboration of

parts of petitioner's testimony as tending to show her truthfulness, and thus render her entire story acceptable, will not be resorted to in aid of her case when it appears that actual corroboration of all the salient facts is obtainable but is withheld, unless excusatory explanation is made which satisfies the court. *Why the sister with whom petitioner has lived was not examined as to defendant's continued desertion is in no wise explained.*"

CRYING OUT OF THE REASON FOR AN ASSAULT IS CORROBORATION.

In cases of extreme cruelty there being no eye witnesses to the acts alleged, the presence of the wife, flushed, excited and in tears, crying out the reason therefor, has been considered as a corroborating "surrounding circumstances." *Smith v. Smith*, 96 N. J. Eq. 59.

**Conclusion.**

From an examination of all the facts in this case and the law as to corroboration we respectfully urge that it now satisfactorily appears that the petitioner has been corroborated in contemplation of law. She in compliance with the rule laid down in *Lasker v. Lasker*, 91 N. J. Eq. 352, was obliged to produce all witnesses who might know as to the conduct of the defendant. There the court found that the best evidence rule applies to witnesses as well as to documents, and the petitioner conceiving her duty to be such as explained, brought in witnesses hostile or otherwise to explain to the satisfaction of the court her matrimonial difficulties with the defendant. This we claim that she

has fully done in contemplation of law. What else can be expected from a woman whose life and liberty is placed in the hands of defendant's family. From the very nature of things in the case sub judice there can be no direct proof of what took place behind closed doors (yet, there was one specific incident which the defendant's mother and sister witnessed). The petitioner could not be expected to parade her troubles before the world at large. Nevertheless she has produced an impartial witness who has seen bruises on her arms.

It is therefore again urged that corroboration has been spelled out both from the witnesses and from the surrounding circumstances aforementioned and that the decree of the Court of Equity should be reversed.

Respectfully submitted,

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