
NEW JERSEY COURT OF ERRORS AND APPEALS.

BETWEEN

HAZER FEINBERG,

Respondent,

AND

ANNIE FEINBERG,

Appellant.

ON APPEAL FROM CHANCERY.

PRINTED BOOK.

A. J. KING,

Solicitor for Respondent.

JOHN W. WESCOTT,

MATTHEW JEFFERSON,

Solicitors for Appellant.

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BRIEF FOR APPELLANT.

The appellant was a young mother of four children. The decree against her was as much of a surprise to her counsel as it was a crushing blow to her health and happiness. Counsel are unable to escape the conviction that the learned Vice-Chancellor, as a rule, so splendidly just and accurate in his opinions on facts, was seriously wrong in this instance.

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She is a small woman and had borne four children within seven years. Her health and strength were obviously below par. Her demeanor was gentle and refined. It is difficult to conceive that such a woman and mother could have been guilty of the charge disclosed in the printed book. Her husband is the basis for the deductions of perjury to be hereafter drawn. Hence it is well to look critically at his evidence now.

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She left him a year and nine days before the trial (10). The case was tried January 9, 1905. Whether she left her husband or he drove her away, the fact is she filed a bill for alimony and support on January 19, 1904, which he answered. He filed a petition for divorce, on the ground of adultery, on January 22, 1904. On January 19, 1904, the husband was held on a writ of *ne exeat* (see page 8 of the printed book). It is important to note that the husband did not file his petition until after her suit for alimony.

10. Note the following facts: (1) in 1900, he found his wife in adulterous relations with one White (11); (2) they came to blows; (3) she could not give me any at all, she always screamed, &c.; (4) he didn't catch her in the act, he forgave her and lived with her "until some time I did catch her"; (5) her youngest child was about a year old then (25); (6) she was about five months gone in family way (28); (7) read the whole of pages 24, 25, 26, 27, 28, 29. This entire incident should be studied as an index of the man. Of course, the wife denies the circumstance (118). The story is ridiculously impossible. Imagine a frail young mother, who had shortly before borne one child and was then five months advanced in pregnancy, going into a room with a stranger and locking the door with her husband in the house. But the incident shows: (1) the utter baseness, beastiality, meanness and wickedness of the man; (2) his purpose to get a divorce; (3) his purpose to use White as a witness; (4) his watching her for that purpose; (5) their fighting and her injuring him, a hundred and eighty pound scoundrel; (6) her getting angry when he told her the truth; (7) her failure to deny what her husband charged (29); (8) his ability to satisfy any woman (29). These facts alone ought to discredit him, it seems to us, in any mind, and convince any one of his hatred of his wife, her inability to gratify his ab-
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normal appetite, his falsity, his utter untrustworthiness and his capacity for wickedness and perjury.

Another circumstance of great force in estimating the husband's character, credibilty and capacity for evil is this: After, as he says, he discovered his wife's infidelity, he would probably continue to sleep with her, but she would not continue (33), a fact which shows his beastiality and his wife's inability to appease it, ^{and that it} was the real cause of the trouble. Any man who would, as after the White incident, continue to sleep with an adulterous wife, 10 after his dicoverly of her crime, is a poltroon and capable of any offense.

Again, on the same page, he declares that he stopped sleeping with his wife, after October, 1903, because she let John Myers through the window down stairs. Again (35) he preferred getting a divorce to having John Myers arrested. He knew that no jury in the world would have convicted Myers on the evidence furnished.

Again, the best and most conclusive evidence against his wife he never mentioned in his chief evidence. On 20 cross-examination he was suddenly confronted (36) with two bottles of medicine and a male syringe. His embarrassment was painful. These very evidences of his his own perfidy were taken by the wife to Mr. King (116, 117), who told her to keep them, go away and get a divorce. He recovered himself and at once said (37 et seq.) that he would not sleep with his wife because she gave him a disease. He did not produce and could not produce a physician to sustain his lying accusation. And he would not sleep with her because (39) he did not 30 want to get any more disease. Could any one believe this villian?

Again, observe his wilfully false charge (17) that his wife was stealing and robbing, that he advertised her in the papers, and that John Myers "used to be there

continually and pitying her," &c. And so throughout. His whole story is as false as it is impossible.

Again, he knew his wife (34, 35) was having improper relations with Myers, that he was going to the house when Feinberg was absent, and yet he says, had he known it, he would have caught them himself; he had to get others to catch them, which furnishes the basis for the perjury which follows.

10 But he continued to live and fight and quarrel with his wife until Mr. Myers furnished him an opportunity to get rid of her. Myers was 56 years old and the town marshal of Hammonton (127 et seq.). His business was to watch at nights the properties of the residents, Feinberg's amongst them. No man could have seen and heard this man testifying and avoid believing him. His entire evidence is candid and straightforward. Everybody knew him. He frequently stopped in the stores and public places of Hammonton. Hammonton is a small town and everybody knows everybody. It is a
20 common and customary thing for a public man like Myers to visit the stores there and sustain common and frequent intercourse with neighbors and storekeepers whose properties he watched. Myers was on such terms with the Feinbergs (12, 44, 60, 66, 107, 126, 128, 148).

We will now go over the witnesses upon whom Feinberg relied.

30 William Mick saw Myers and Mrs. Feinberg in August turn and go towards the lockup (41) in the evening and they were kind of loving (42). He didn't go out much at nights, but "he noticed he watched around a good bit watching her house" (42). But Myers and Mrs. Feinberg deny this circumstance completely. It is improbable in itself. Besides, Myers had threatened to arrest Mick for misconduct (131). Hence this incident is discredited and should be cancelled from the case.

Dr. Cunningham (43 et seq) saw Myers at Feinberg's twice. One time he was sitting on the porch, in the day-time, enjoying himself (44), at another shortly before 2 o'clock in the morning in the sitting room (45).

Whoever was there was laughing and talking—not much like adultery. He could not say that Mrs. Feinberg was one of them (46). Myers and Mr. Feinberg deny this improbable story, and Mrs. Feinberg explains the circumstance on pages 110 and 111. Myers did sometimes go to Feinberg's house, as he went to others'. If he was seen on the front porch enjoying himself, it was an innocent circumstance (132). 10

Raneri is the first important witness. He was paying attention to a girl at Feinberg's (47). He was going through the dining room and stumbled over something (48). He was going to strike a match when Annie Maxwell took it away from him (48). He was anxious to find what was on the floor, so they went from the dining room into the kitchen and there she closed the door, and we lit a lamp. I wrote my address, stayed ten or fifteen minutes and went away (48). If this could be true at all, how, if he didn't go back, and if he was anxious to find out what he stumbled over, and he went away, did he know it was a man and woman and the top one was Myers? He could not see they were persons (48, bottom) he says flatly. After he went into the kitchen, he heard a window go up (49). What a falsifier he is! One Sunday he saw Myers coming out the back window (50). Myers arrested him once (51). On page 52 he says he stumbled over two persons. He picked himself up, but he did not stumble at all (53). The dining room was not open and he had to open the door (54). It was a fine drama and the Vice Chancellor himself had to stop the witness being coached by some one in the court room (55). The last he saw of it was after he 20 30

stumbled (55). Yet (48) he was anxious to find out what was on the floor. Neither of the persons moved (55) when he stumbled over them. After he fell over them, the girl led him, but she didn't stumble (56). He said nothing, but the girl said go around the table and that way (56). The people on the floor never moved and nobody got frightened (57). The window he saw Myers get out of was in the back of the house and he was in the front of the house, off at one side (58, 59). There
 10 was a door on the side of the house (35), and a back door (80).

Now in all fairness does not this story demonstrate perjury? Feinberg got him to come to Court (58) and he is responsible for the evidence. Aside from the manifest falsity in the narrative itself, could anybody believe that Myers and Mrs. Feinberg would fail to lock the doors, or fail to move when they heard these people coming?

But Annie Maxwell, the next witness, wilted when
 20 she came to take an oath. She would never have been put on the stand had she not corroborated Raneri off the stand. Mr. King was greatly disturbed by her evidence. She denied in toto Raneri's impossible story. She never knew Myers to go out of the window (63), nor did she ever see him come in the back way. He came there when Mr. Feinberg was there (63), which was between March and August, 1903 (63). Can there any longer be a shadow of doubt about Raneri's perjury and that
 30 Feinberg procured it? But both Myers and Mrs. Feinberg indignantly deny the whole of Raneri's self-destructive narrative. Therefore, up to this point there is nothing against this frail broken young mother. But the failure of this perjured effort infects all that follows.

Elmira McLaughlin never saw Myers and Mrs. Feinberg together (65) and never heard her speak of him

(66), but she did hear her express her hate for him and that she would poison her children (65). If they were true, who could blame the poor soul? She worked in the store, kept house, minded the children, and bore them so rapidly that nature revolted. She could not respond to this beast. The learned Vice Chancellor took her detestation of her cruel husband as a reason why she would likely commit adultery, but it is urged that her condition and her hatred of the sexual function, as her brutal spouse had caused it, would in all in probability make such relation, at least at that time, impossible with another. But Mrs. Feinberg (111) explains her conversation with Mrs. McLaughlin and it bears the stamp of truth.

Mamie Rudderow testified to the ice cream incident. It occurred in Feinberg's store in mid-day, practically before the world. She saw him there frequently, both when Feinberg was present and absent. She saw Myers sit by Mrs. Feinberg's side in the store when Feinberg was there (69). Myers' wife was at Atlantic City (68) and Myers said he had to spend his money somehow. He spent fifty cents for ice cream. Why not accuse him of adultery with Miss Rudderow and others with whom he ate ice cream? How this innocent circumstance, likely to occur between any friends, was used to tear asunder the sacred ties between this little mother and all she had dear in life! It was done in the open. In fact, while Miss Rudderow was gone for the dishes of cream, a customer came in the store (112, 136, 137).

Gerstenfeld's testimony was to show (73) that Mrs. Feinberg said repeatedly that she did not love her husband (74, 75), that she was going to leave him, that she showed a lot of money, which she kept in her stocking, and that she had another fellow before she married him (76). There is a basis of truth in these statements, but

they are not entirely true. Mrs. Feinberg's explanation of these occurrences is found on pages 112 and 113. Gerstenfeld did not deny her statements. They are truthful on their face. But Gerstenfeld was a biased, passionate and false witness. He came back to the stand on page 166. He says Myers came to him and told him that Mr. Feinberg claimed he got a disease from his wife and wanted to know why he, Myers didn't get it. Conceive the possibility of such a thing. Myers denied it (141).
 10 But Myers did threaten Gerstenfeld (138, 139) very naturally and this incurred his enmity (67). But (169, 170) he says he simply listened and never said a word in reply to these impossible and unnecessary exhibitions of confidence on the part of Myers to an enemy and a tattler! He was an intermeddler and the chief advisor of Feinberg. There are always in every community characters like this and they are a menace.

We now come to Bertha Schindle, the star witness, on whose evidence the Chancellor based his decree.

20 She was dumb, hesitant, often refused to answer questions, was prompted by her father in the audience, and told a story that destroys itself and was literally impossible. Her evidence, contradicted in all its parts by Mr. Myers, Mrs. Feinberg and her aged mother, Mrs. Steinberg, ought to be critically read. She can't tell what month she was at Feinberg's (76), nor when she went there (77). Counsel had to put everything in her mouth. She didn't know whether it was the evening of Christmas or the evening before and counsel said (77) "What
 30 time was he there on the evening before Christmas?" She put it at about nine o'clock and then at about half-past eight. Time was important.

She testifies to two events: (1) going into the parlor and finding Mrs. Feinberg and Mr. Myers in criminal intercourse; (2) finding them the same evening in the

privy. She took the children upstairs to bed (78) and then went into the cellar for coal when she heard a noise in the parlor and "opened the door and I saw it" (78). After that, same evening, she saw them in the water-closet out in the yard about nine o'clock. After that, same night, she "met them by the drug store" (79) on the street, but she couldn't tell whether she saw them anywhere else. She saw Myers go through the window only once, one Sunday (79). Immediately after she says (79) she often saw him come through the window. He came every Saturday and Sunday nights (80) and sometimes other nights. They sat together on a couch in the parlor (81). She never saw them lying on the floor (81). They locked the door when in there (81), "shut I mean, I didn't mean locked." "She always sent me to bed when he came" (81, 82). Now (83) she didn't see them on the floor in the parlor. On page 78, referring to the same incident, she says "I didn't look, it was dark." On page 85, when asked what their attitude was, she replies, "I didn't look, it was dark." She immediately declares that she saw them on the floor (84), there was no spread or coverlet on the floor, only carpet, he was on top and their clothing was disarranged (84). She saw her throw dishes at him (84, 85). This is all she saw (85). On the fifth of December, she saw Myers come in the back door (86), but, in her affidavit, she saw him come through the back window (88) and Mrs. Feinberg raised the window. After a long wait (89) she accepted the back window route. She denied making the affidavit at all (86, 87, 88). The situation simply means that she was a dumb, but willing instrument in Feinberg's hands. See her entire affidavit (203).

Now, let us take the cellar and parlor incident. She went for coal and was there about ten minutes (89). The noise she heard was somebody opening the window (90).

She went into the parlor (90). Then she minded the child about an hour (90), took it upstairs and went to sleep (90). She didn't go into the parlor at all (90). Is it not manifest that she lies? But continue. The parlor door was shut and the noise she heard was somebody talking (91), not the window rising, and that was why she went into the parlor (92). She heard Mr. Myers and Mrs. Feinberg talking before she went in (92) and then, she says she heard Mrs. Feinberg's voice. Then she says

10 (92) that she did not go in, "only opened the door and looked in." She follows this by declaring that they were not on the couch (92). After exhibiting the most distressing embarrassment, she avers that they were on the floor (93), not far from the door, where she looked at them for about five minutes, when she went into the kitchen (93), after shutting the door (94). She opened the door quietly because she didn't want Mrs. Feinberg to hear her (94). This was about half-past eight (95). She had taken the child to bed, after minding it for an

20 hour, and went to bed herself (90). She saw them in the privy the same evening (94, 95). She walked in, the privy door was not fastened, and she didn't look to see what position they were in (95), but (to the Vice Chancellor) they were standing up (95). Another spell of embarrassment and no wonder. She closed the privy door (96). Now observe: Myers went to the privy from the street; he was not in the house at all (96). And Mrs. Feinberg came from the store. She was in the house minding the children and it was dark outside.

30 Can her story command even notice, much less credence? And she caps the climax of her stupid perjury by saying that she had not seen Feinberg since the suit began (96). On re-direct examination she says Mrs. Feinberg came from the store first and went to the privy, stayed about fifteen minutes, then Myers came (98) and it was half-

past eight by the clock (99). She saw them both come and go to the privy (99), one went one way and the other the other way (99). But this was the very hour she was in the cellar after coal (78), the very hour that Mrs. Feinberg and Myers were in the parlor, where it was so dark she couldn't see, where they were on the coach, where they were on the floor, where she could see even the disarrangement of their clothing, and it was the very hour she minded the child for an hour, took it upstairs to bed and went to bed herself!

Consider now the probability of Mrs. Feinberg and Myers, knowing that this lying servant was in the house, going into the parlor and committing adultery with the door unfastened, talking the while, never moving at all, then hastening to the privy to stand behind unfastened doors while the servant looked! How any mind could crush a feeble mother and disgrace her off-spring forever upon that testimony, it is hard to understand! The affidavit (189 et seq.) ought to be read here, because they conclusively show, what already appears, that this witness' story is a piece of ~~and~~ blundering perjury induced and manufactured by Feinburg himself. Would his wife have first brought a suit for alimony, had she been conscious of such well known and open adultery on her part? Would her husband have suppressed the proof of his wife's disease, had it been true, ^{and} relied upon such a slender reed of falsity as Bertha Schindle? All that was left for Mrs. Feinberg and Mr. Myers was to indignantly deny this ridiculous and impossible story. They did deny it. And under the authority of *Brown vs. Brown*, 18 Dick. 328, the evidence of this perjured witness should fail. Not only do the accused persons deny totally this false and improbable narrative, but Mrs. Steinberg, the old mother of Mrs. Feinberg, also (154 et seq.) in great and convincing detail, contradicts and makes impossible

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Bertha Schindle. Why the distinguished Vice Chancellor should have (see his opinion 182, 183) discredited this old woman because she desired to protect her daughter, while he accepts the story of Bertha Schindle and the cowardly husband, ~~were~~ so palpably false, is beyond our comprehension.

10 Mrs. Roller's evidence is important because it shows how (100, 101) heartlessly she was made to turn against Mrs. Feinberg harmless circumstances. Myers came to her house quite often and Mrs. Feinberg sometimes went there, not to meet each other (100). Yet, same page, counsel said to the witness: "They often met at your house?" Ans. "Yes, sir." This answer may conform to good morals, or not, according to the motive that construes it. But Mrs. Feinberg (126) and Myers (137, 138) candidly stated the truth about this matter.

20 The only other circumstance adduced to incriminate these people is the episode (13, 14) of Mrs. Feinberg sitting on Myers' lap in the store. See also (21, 31). Both Myers and Mrs. Feinberg deny it. But how could any one be expected to believe that they would take mid-day in a public store for such a performance? Nor would they, when caught by a husband on the lookout for such things, have successfully escaped, the one by hiding behind a newspaper, and the other by sticking her head under the counter till she was black in the face! The palpable falsity of the statement by Feinberg should serve only to impeach his whole criminal purpose and plot.

30 Of the rebuttal evidence attention is called only to that of Bertha Schindle (171, 172). This hapless defendant, had she had venereal disease, would not have published it unblushingly to this servant, nor would the husband have failed to use the fact in his chief case. The situation shows the wickedness of both Bertha Schindle and

Feinberg. A dozen persons, including the Vice Chancellor himself, saw Feinberg and Bertha Schindle talking together in the Court room itself; yet (172) she unhesitatingly swore to the contrary.

Of the testimony of Mrs. Feinberg, John Myers, Anna Myers, his wife, and Clara Steinberg counsel wish to make no comment further than to say that for candor, intelligence, straight forwardness and absence of all perversion or concealment it would be difficult to equal their narrative. Circumstances, which were innocent in themselves and unnecessary to disclose, are stated with freedom. There is no mark of crime or falsehood to be found anywhere in their entire testimony. They were fit instruments for the execution of Feinberg's hate, beastiality and crime. The other witnesses simply distorted and magnified innocent circumstances in a way likely to occur in a small town like Hammonton, where mental importance finds great emphasis in dealing with village gossip.

On the proof as it is, this broken little mother ought to be restored to her children and they shielded from the opprobrium of having an adulterous parent. No one could have seen and heard her and failed to be impressed with her physical inability to commit adultery. Worn out by housework, the care of her little ones and the burden of duties in her husband's store, and depleted to a degree of physical weakness, by the rapid birth of children, manifest at a glance, she is the last person in the world to have committed adultery, especially frequently, and the last person in the world to respond to the beastly appetites of her husband.

While the foregoing impliedly criticizes the learned Vice Chancellor and while his oral opinion contains several misstatements of fact and unwarranted conclusions from the facts, we disclaim any other than legit-

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imate criticism. No one had greater respect for the lamented Vice Chancellor, either as a man or a Judge, than Mrs. Feinberg's counsel. We think that a more careful consideration of the proof would have ended otherwise. The opening argument merely suggested the failure of proof. And, when the Vice Chancellor declined to hear Mr. King, we assumed as a matter of course, in view of what had occurred in the presence of the Court that judgment would be in favor of Mrs. Feinberg.

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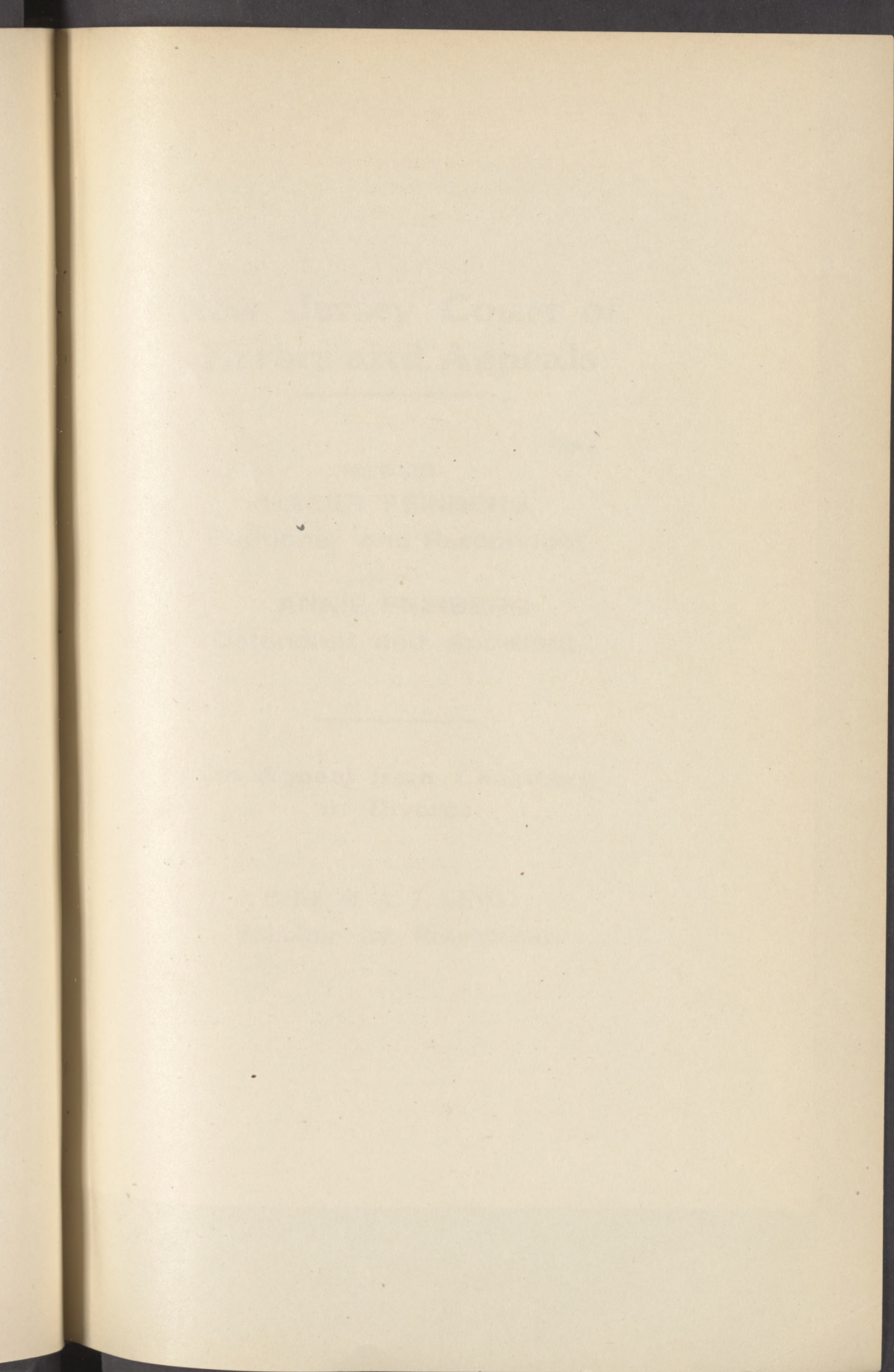
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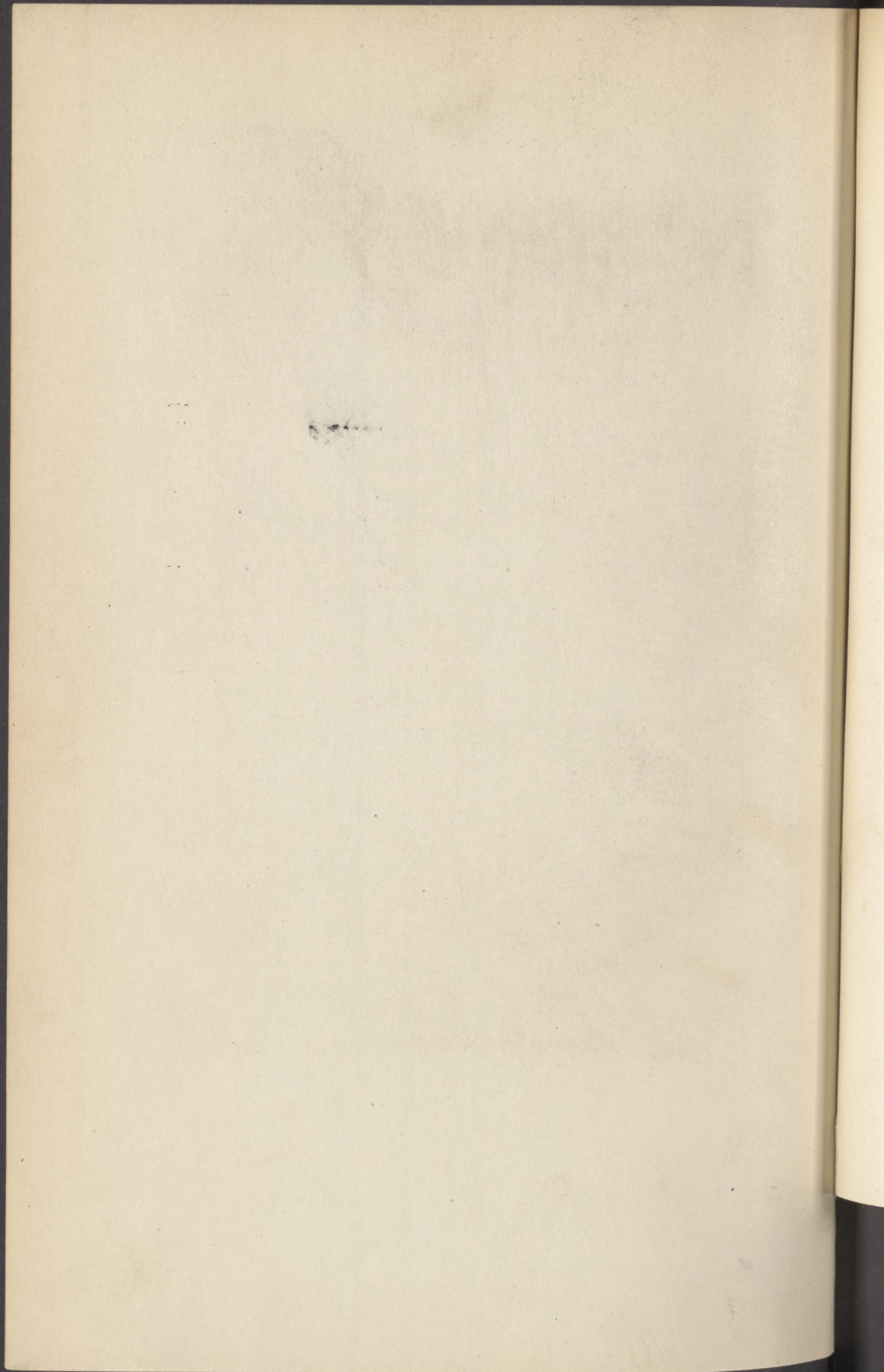
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**New Jersey Court of
Errors and Appeals**

BETWEEN

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Petitioner and Respondent

AND

ANNIE FEINBERG

Defendant and Appellant

**On Appeal from Chancery
in Divorce**

Brief of A. J. KING.

Solicitor for Respondent.

ACTS SHOWING ADULTEROUS DISPOSITION.

Petitioner's Evidence.

Defendant was discovered in the bedroom with one Harry White with door locked. See printed case. P. 11.

In August, 1903, John Myres, being a frequent caller on defendant at petitioner's store, petitioner became suspicious of criminal intimacy, and concluded to try and trap them. See testimony P. 12, L. 20 to P. 15. When Myres was at his store with his wife, he told them he would go some five blocks away to collect a bill and would be gone a half an hour. He went a block and returned in five minutes, and looking through the door to a mirror in the back of the store, saw Myres behind the counter and a pile of goods with defendant on his lap. On petitioner entering the store, she jumped off his lap and stuck her head beneath a shelf and Myres held up a newspaper before his face, pretending to be reading. P. 12, L. 18 to P. 14. On petitioner accusing his wife, she cried and said petitioner sent Myres there "to do that to her;" and said if petitioner would give her \$10, she would go away and I would never see her again. P. 14. Met Myres on street two weeks later and he cried and begged me not to tell his wife about it and not break up his family and mine. He said it was not his fault. I forbid him to come to my store or house. He did not heed this, but came in petitioner's absence. Later petitioner charged his wife with running with other men. She said her body was her own and she could do what she pleased with it and petitioner had nothing to do with it. Occupied separate rooms. P. 15.

On Christmas morning, 1903, petitioner found a bed quilt in his water closet. On inquiry of his wife how it came there, she laid it to the children. He afterwards learned from his servant girl that she found John Myres and defendant in water closet the evening before with the door shut. P. 16, L. 30, and P. 17, L. 10., P. 78, L. 20 to 30. Defendant had a quilt bed and pillow behind counter in the store and she would lie there and John Myres would sit beside her and pity her. P. 17, L. 30.

Wm. Mick's Evidence. P. 41.

"In 1903, in August, about 9 o'clock at night, I was going home, and on Second street, in Hammon-ton, I walked behind Mrs. Feinberg and John Myres to Vine street and they turned down Vine street towards the lock-up and Town Hall, walking slowly and lovingly. This was in opposite direction from defendant's home. I noticed Myres watching at Feinberg's house in evening a good bit." P. 42. Myres had charge of the lock-up and Town Hall. They were usually unoccupied." P. 41. and 42.

Dr. Charles Cunningham's Evidence. P. 43.

"Lived opposite Feinberg's house in 1903. In summer of 1903, saw John Myres in Feinberg's sitting room at 2 o'clock at night; was attracted to him by loud talking and laughing. I had come home from a professional visit. Can't say who was with him." P. 45.

Mrs. Mamie Rudderow's Testimony. P. 66.

In 1903, I sometimes worked for Feinberg in store. I would then see Mr. John Myres and Mrs. Feinberg together three or four times a day. He would come in store both front and back way. This was in summer of 1903. One day before noon I

went there to do some sewing. Mr. Myres was there talking about ice cream, and said he would pay for it if I would go and get some, and Mrs. Feinberg said she would do my work. I went to Feinberg's house and got a pitcher and dishes and spoons, and got the ice cream, Myres giving me 50 cents to pay for it. When I got back I found Mrs. Feinberg had not touched my sewing. After eating the cream, Myres, Mrs. Feinberg and I, she did the sewing. I left my work then and went to the meat market about four squares away, and talked there with my husband some time. I returned to the store and got my work and left Myres and Mrs. Feinberg there together. P. 67 and 68. I know of looking glass behind counter and know one day Mrs. Feinberg said she was sick and made a bed of quilts, and lay behind the counter, and John Myres took a box and sat beside her. They talked and spent quite a while together. John Myres was there a good bit when Feinberg was not there. P. 69, L. 30. One night Myres refused to speak to me, and Mrs. Feinberg told me it was because I wanted to tell his wife everything I had seen. He always appeared very familiar. He never came in to buy anything and had no business but in a social way with Mrs. Feinberg. P. 70.

Samuel Gerstenfeld's Testimony. P. 72.

I heard Mrs. Feinberg say repeatedly, "that she didn't care for her husband, never loved him, never cared for him." P. 73, L. 20 to 30. She told me and wife that she could not live with him, did not care for him; all she wanted was to get all she could out of him and leave him as soon as she could. Said she got goods and money and exhibited money to me. I presume \$50 to \$75. Said she could go to work,

and make from \$8 to \$10 a week, and she did not have to live with him; was forced to marry him by her parents.

Mrs. Catherine Roller's Evidence. P. 99.

I lived just across street from Feinberg's store in 1903. Mrs. Feinberg and John Myres frequently met at my house. One would come and then the other. They usually stayed about a half hour. Did not go away together. P. 100, L. 13 to 30. They came so frequently that I began to feel it was not proper to have them come. I never said anything to them till the last time they came in together. P. 102, L. 7 to 28. One time Mr. Feinberg was standing in his store door when Mr. Myres was in my house, and Mr. Myres went out the back door. P. 105 top. They met at my house for sociability between themselves.

Mrs. Elmira McLaughlin's Testimony. P. 64.

Mrs. Feinberg told me she never cared for her husband; never liked him and that was the reason she wanted to get rid of him. P. 65, line 8, to bottom. She said no woman in Hammonton had a better husband, but she didn't like him and she would not live with him, and if she had a revolver in the house, she would have blown his brains out long ago. She said before she would let him have the children she would poison them. I talked with her the day before she left, and she said she would not live with him, she did not want him and did not like him. P. 65.

**PROOFS OF ACTS OF ADULTERY WITH
JOHN MYRES.**

Peter T. Reneri's Evidence. P. 47, L. 20, etc.

In the spring or summer of 1903, one Sunday night, I went with Annie Maxwell, a servant girl of

Mr. Feinberg's, to Mr. Feinberg's house about 11.30 o'clock. I was taking the lead through the dining room in the dark and stumbled over something. I took my match-box out and was about to strike a light when Annie took the box away from me. She told me to go the other way around table. I was anxious to find out what was on the floor. We went around table and passed into kitchen. I found out there were two persons on the floor, a man and a woman. The top man was John Myres. Could not tell who the under one was. Not enough light. I heard a window go up while in the kitchen. The next Sunday evening I had a date with Miss Maxwell, and in going near the house of Mr. Feinberg while on the street, saw Mr. Myres coming out the back window of Feinberg's house about 8 o'clock. There was a moon and an electric light, so I could see well. P. 47 and 48, 49 and 50.

Miss Bertha Schindle's Testimony. P. 76.

Worked for Mr. Feinberg in December, 1903. P. 76. The night before Christmas Mr. Myres was at Feinberg's. I saw Mr. Myres and Mrs. Feinberg in the water closet together about 9 o'clock in evening with door shut. I opened the door and there they were. I had a bucket of ashes to pour down water closet. P. 78, L. 20 to P. 84. Same night saw Myres and defendant in parlor on floor together. **He was on top.** Their clothes were disarranged. P. 93, L. 11. Opened and shut the door quietly so Mrs. Feinberg could not hear it. Myres went to privy from street, Mrs. Feinberg from store; she went first some fifteen minutes. This was about 8.30 o'clock. I looked at clock in sitting room. Saw them both come and go to privy. In Rebuttal P. 171. Mrs. Feinberg was sick while I was there and used the medicine and syringe. She said she had female sickness and used the medicine and syringe for it.

Mrs. Catherine Roller in Rebuttal. P. 170.

Mr. Myres did not come, I think, to see my father during the summer of 1903. He was not sick till winter, when he came to see him. He used to come in frequently, while Mrs. Feinberg was in town.

Mrs. McLaughlin in Rebuttal. P. 164.

Mr. Myres came to my house on the 6th of January, 1904. I asked him if he knew Mrs. Feinberg's address. He said "No." I said I wanted to write her, and I think she is not guilty, either of you. He then said I will tell you where she lives, and he did. I and husband met Mr. Myres a few days after this and walked about four squares together. I told him that I heard he and Mrs. Feinberg had been found in the water closet together. He said in reply, "if they did find us there, they didn't see us do anything." I said, "you could have been seen with Mrs. Feinberg on the street." "Well," he said, "Mrs. McLaughlin, **she is an easy one for any man, you could not blame me.** I didn't run after her; she run after me. If she did not find me on one street, she would go up another until she found me." P. 165 and 166.

Samuel Gerstenfeld in Rebuttal.

Mr. Myres came to my house about 2nd January, 1904, and asked me what I thought of his troubles. I said it was not very pleasant either for him or Mrs. Feinberg. He said, "it was no fault of his, he wished he would not be accused of anything, that he was merely flirting with her and she was flirting with him." He then called me into the parlor entry and he said, "Gerstenfeld, I know you are pretty well acquainted with Mr. Feinberg. I heard he has got a disease and that he claims he got it off his wife." "Now," he said, "**if he got it off his wife, how is it that I haven't got it?**" I told him that I didn't

know anything about it, but I told him it was a shame, that when he was told to keep away, that he should keep away from Mrs. Feinberg and let her alone. Then he replied, "you know, Gerstenfeld—I don't know whether to say it or not in the presence of ladies—a stiff cock, or a stiff prick, has no conscience," and with that the consultation between Mr. Myres and I stopped. P. 166 and 167. See the court's opinion. P. 175. Granting decree of divorce. On petition of defendant for new trial, see 62nd Atlantic Reporter P. 562, denying a re-hearing. Relying upon the decree of the Court of Chancery and after waiting nearly a year thereafter and having small children needing the care of a mother, the respondent married again and now has a wife and a happy home, where his children are properly cared for under his supervision. In view of the clear, positive and convincing testimony of many witnesses of the adultery of the appellant, it is submitted, that the decree granting the divorce ought not to be disturbed.

A. J. KING,
Solicitor for Respondent.

Addendum,

The affidavits printed in the case should be suppressed,

Because:—

First—They were taken before one of the counsellors in the case. See Den ~~vs~~ Geiger, 4 Hal. 225.

Secondly—The opinion of the V. C. upon them denying their importance is not printed in appellants case. See G. S., p. 1022, Sec. 9.

A. J. KING,
Solicitor for Respondent.

IN CHANCERY OF NEW JERSEY.

Between	}			
Hazer Feinburg,				
Petitioner,			On Petition, &c.,	10
and				
Annie Feinburg,			Notice of Appeal.	
Defendant				

The defendant hereby appeals from the final decree made by the Chancellor in this cause on the eighteenth day of January, one thousand nine hundred and five, and from the whole and every part thereof, and especially from that part of said decree, which orders, adjudges and decrees that the said petitioner, Hazer Feinburg, and the said defendant, Annie Feinburg, be divorced from the bonds of matrimony for the causes set out in said decree and the marriage between them dissolved. 20

Dated March 24th, 1906.

JOHN W. WESCOTT,
Solicitor for Defendant. 30

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

FRANCIS D. WEAVER.

NEW JERSEY COURT OF ERRORS AND
APPEALS.

	Between Hazer Feinburg, Appellee and Annie Feinburg Appellant.	} } } }	On Appeal Petition of Appeal.
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10

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

20 The humble petition of Annie Feinburg, the appellant
in the above stated cause, respectfully shows that your
petitioner finds herself aggrieved by a final decree made
in the Court of Chancery by his Honor William J. Magie,
Chancellor of the State of New Jersey, bearing date the
eighteenth day of January, one thousand nine hundred
and five, wherein the said Hazer Feinburg was petitioner
and the said Annie Feinburg was defendant, in this re-
spect, to wit, that the said decree orders, adjudges and
30 decrees that the said petitioner, Hazer Feinburg and the
said defendant Annie Feinburg, be divorced from the
bonds of matrimony for the causes set out in said decree
and the marriage between them dissolved.

And your petitioner humbly appeals from that part of
the decree of the Chancellor which decrees as aforesaid,
upon the ground that the same was erroneous, for that

the said petitioner Hazer Feinburg and the said defendant, Annie Feinburg should not have been divorced from the bond of matrimony and the marriage between them should not have been dissolved.

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

JOHN W. WESCOTT,
Solicitor for and of Counsel with Appellant.

COURT OF ERRORS AND APPEALS OF
NEW JERSEY

10	Between Hazer Feinburg Petitioner and Respondent and Annie Feinburg, Defendant and appellant	}	On petition for divorce. On appeal from final decree of the Chancellor. Answer to petition of appeal.
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20 The respondent. Hazer Feinburg, not acknowledging all or any of the matters which the said petition contains to be true, for answer thereto nevertheless says, and admits that a decree was made in said cause as mentioned in said petition of appeal but as to the substance and form thereof this respondent prays to refer thereto when the same shall be produced.

30 And this respondent is advised and believes that the said decree is agreeable to equity and the evidence in said cause and he prays that the same may be affirmed with costs to be adjudged to the respondent.

A. J. KING,
Sol'r for and of Counsel with Presendent.

To his Honor William J. Magie, Chancellor of the State of New Jersey.

The petition of Hager Feinberg, of the town of Hammonton, County of Atlantic, in the State of New Jersey, respectfully shows, that on or about the twenty-fourth day of January, eighteen hundred and ninety-six, your petitioner was married to Anna Stinberg now Anna Feinberg, his present wife, at the City of Philadelphia, in the State of Pennsylvania, and that he continued to live with her as his wife until the first day of January, nineteen hundred and four, and that he now is and has been for the past five years an inhabitant of this State; and that the said Anna Feinberg since her marriage with your petitioner, and on the fifth and twenty-fourth days of December, nineteen hundred and three, and on divers other days in the months of July, August, September, October, November and December in said year at Hammonton, in the County of Atlantic, and State of New Jersey, and at Atlantic City and Philadelphia, wickedly disregarded the solemnity of her vows and the sanctity of the marriage state, committed adultery with one John Myers of said town of Hammonton. 10 20

And your petitioner further shows that he has not cohabitated with his said wife since the discovery by him of said acts of adultery.

He therefore prays that he may be divorced from his said wife for the cause aforesaid, according to the statute in such case made and provided, and may have such further or other relief as may be equitable and just.

And he will ever pray, &c. 30

A. J. KING,
Solicitor and of Counsel with Petitioner.

Affidavit in usual Form.

IN CHANCERY OF NEW JERSEY.

Between

HAZER FEINBERG,

Petitioner,

AND

ANNIE FEINBERG,

Defendant.

} On Petition, etc.,

} Answer.

10

The answer of Annie Feinberg to the petition of complaint of Hazer Feinberg, petitioner.

20 This defendant, now and at all times hereafter, reserving to herself all manner of benefit and advantages of exception to the many uncertainties and defects in the petitioner's said petition contained, for answer thereto, or unto so much and such parts thereof as she is advised is material and necessary for her to make answer thereto, answers and says, that it is true, as stated in said petition of complaint, that, on or about the twenty-fourth day of January, eighteen hundred and ninety-six, she was lawfully married to the said petitioner in the City of Philadelphia, that she continued to live with the petitioner as his wife until the first day of January, nineteen hundred and four; and that the petitioner now is and has

30

And this defendant further answering, denies that she ever did, on different days, or any day or time in the months of August, September, October, November and December of the year nineteen hundred and three, or in

either of these months, or at any month or time, at Ham-
monton or any other city, town or places, commit adul-
tery with said John Myers, in the said petition mention-
ed or any other person or persons whomsoever; and she
says that the charge of adultery made in the said peti-
tioner's petition against her is wholly untrue, and a most
unfounded and cruel imputation; and, on the contrary
thereof, this defendant avers the truth to be, that she has
always, since her marriage with the said petitioner faith-
fully regarded towards him her marriage vows, and has
been true and faithful to his bed and her obligations as
his wife. 10

All which matters and things this defendant is ready
to aver, maintain and prove, as this Honorable Court
shall direct, and humbly prays to be hence dismissed,
with her reasonable costs and charges in this behalf most
wrongfully sustained.

JOHN W. WESCOTT,
Solicitor for and of Counsel with Defendant.

20

Replication.

IN CHANCERY OF NEW JERSEY.

	HAZER FEINBURG,	} On Petition for Divorce.
	Petitioner.	
	AND	
10	ANNA FEINBURG,	
	Defendant.	}

CAMDEN, N. J., January 9, 1905.

Transcript of shorthand notes of the testimony in the above cause, given at the final hearing at the Chancery Chambers in the City of Camden, before his Honor M. P. Grey, one of the Vice Chancellors of this State.

20 Messrs. A. J. King and Charles S. King appeared for the Petitioner.

Messrs. Matthew Jefferson and John W. Wescott appeared for the Defendant.

30 The Vice Chancellor: The respective counsel of the petitioner and the defendant state that there are two pending suits between the parties of this case. One suit, this case in which the husband seeks an absolute divorce on the ground of his wife's alleged adultery. In the other case the wife is the petitioner and she asks a decree against her husband for alimony because of his alleged abandonment and refusal to support her. The counsel propose that the causes be tried together, the testimony to be applicable to each case so far as it may be pertinent.

Upon consideration this course cannot be pursued. The decrees asked in the several suits are antagonistic. If the husband should succeed in getting a divorce, his decree will be a complete defense to the wife's alimony suit.

For this reason the effort to try these cases together will have to be abandoned. The husband's case seeking an absolute divorce must be tried first.

Let that cause proceed, and the witnesses be sworn only in that cause.

10

HAZER FEINBURG, sworn for the Petitioner.

Direct examination.

By Mr. A. J. King:

Q. You are the husband of Anna Feinburg?

A. Yes, sir.

Q. When were you married?

20

A. About 9 years ago, in January, 1896.

Q. Where, at what place?

A. Philadelphia.

Q. By whom?

A. By Dr. Berchovitz, of the Montgomery and Broad Street congregation.

Q. Where have you lived since your marriage?

A. I lived in Philadelphia and I lived in Atlantic City, N. J.

Q. And at the time of the commencement of this suit, January 21, 1903, where did you live? 30

A. Hammonton, N. J.

Q. How long had you been living in Hammonton?

A. Over 6 years.

Q. Previous to that time?

A. Yes, sir.

Q. Have you any children by this marriage?

A. Four, we had four and one died.

Q. What is the name of those who are living?

A. Samuel, Herman and Sylvia.

Q. Where are those children?

A. I got the boys, the boys she left me.

Q. Where is the girl?

10 A. The girl she took with her.

By the Vice Chancellor:

Q. How old is the child which she took with her?

A. 2 years, if the child had been older she would not have taken it with her.

Further direct.

Q. When did you separate from your wife?

20 A. I didn't separate, she separated.

Q. When did she leave?

A. Last year on New Year's day.

Q. At what time?

A. New Year's day.

Q. A year ago?

A. Yes, sir; a year and 9 days.

Q. State what the trouble was between you and her that caused her to leave?

A. It was in 1890, I had a visitor come to my house by the name of Harry White.

30

By the Vice Chancellor:

Q. 14 years ago?

A. In 1900, 4 years ago.

Q. And not in 1890?

A. No, it was in 1900. I had a visitor come to my house by the name of Harry White, and that young woman, girl working for me, she watched him and caught him in the room, both of them together in the middle of the day. So she drew my attention, she came down in her stocking feet, she called my attention, I didn't know what it was, I ran up stairs, and the rooms were locked, and I knocked at the door about 5 minutes, and then they opened the door and they were both of them blushed and confused and she could never give me no straight excuse, and at the time she tried to deny, that I never caught her in that room. 10

Q. Did you go into the room yourself?

A. Yes, sir; when it was shown to me by that girl.

Further direct.

Q. You say the door was locked?

A. Yes, sir.

Q. In the bedroom?

A. Yes, sir. 20

Q. And this man and she were in there?

A. Yes, sir.

Q. Alone?

A. Yes, sir.

Q. And that was you say in 1900?

A. Yes, sir.

Q. Did that make any trouble between you?

A. Yes, sir; they came to blows, and she commenced to say that she could not give me any at all, she always screamed and carried on and called me all kinds of names. 30

Q. That difficulty at that time caused you to have a fight together?

A. Yes, sir.

By the Vice Chancellor:

Q. This was in the year 1900. Did you continue to live with her?

A. I didn't caught her in the act, and I didn't have no evidence—

Q. No, I ask you did you continue to live with her?

A. I did forgive her—

Q. No, did you live with her?

10 A. I did, until some time I did catch her.

Further direct.

Q. You condoned that, agreed to overlook it?

A. Yes, sir; overlooked it and forgave it.

Q. After that time in 1903 was there any trouble between you and your wife?

A. Yes, sir.

Q. Now then, state how that trouble arose?

20 A. There was a gentleman named John Myers, an officer in Hammonton, he frequently used to come to my store and got acquainted with my wife and trouble began. Then one day I went away to collect a bill from a party, and it was about four to five squares, and they expected that it would take about half an hour, but I went about a square and turned around and came back.

Q. State if John Myers was in your store at the time?

A. Yes, sir; at the time when I went away.

Q. In the company with your wife?

A. With my wife, yes; he was always with her.

30 The Vice Chancellor:

Q. Never mind about "always" you are asked about this occasion.

A. Yes, sir.

Q. Proceed and tell what you were doing?

- A. I went away to collect a bill.
- Q. Did you state when you went away where you were going?
- A. Yes, sir; I told them I was going to collect a bill.
- Q. And how far away it was?
- A. Yes, sir.
- Q. How long you would be gone?
- A. Yes, sir; I told them it would take about half an hour.
- Q. State whether you came back before that time? 10
- A. I came back in about five minutes, and when I came back in five minutes, there was a big looking-glass, and when I came just opposite the door I saw she was sitting in his lap.
- Q. Where?
- A. In the store, right back by the looking-glass.
- Q. Behind the counter?
- A. Yes, sir; behind a counter with goods laid on the counter, and the looking-glass is kinder back by the wall, between the looking-glass and the counter, behind the counter by the looking-glass. 20
- Q. You could see the looking-glass?
- A. Yes, sir.
- Q. They were in front?
- A. Yes, sir; sitting right by the looking-glass.
- Q. Behind the counter?
- A. Yes, sir.
- Q. Now what did you see?
- A. I saw she was sitting in his lap, and when I got in they got scared and both were flushed, and he took a paper— 30
- Q. What did she do?
- A. She jumped right off his lap and buried her head right under the shelf, so you could not see the face, and he took the paper this way (illustrating).

Q. Held it in front of his face?

A. Yes, sir; so you could not see his face, and when I saw her after that occasion and I called her attention to that matter, what it was going on, and she commenced to cry at that time, and she told me that I sent him to do that to her.

Q. Told you what?

A. Sent him there to do that to her.

Q. Go on and tell what occurred.

10 A. Then she cried more and asked me for \$10, if I give her \$10 she would go away and I would never see her any more.

Q. What occurred after that?

A. After that she commenced to use me wrong.

Q. Right there in the store, what did he do or what did you say to him?

A. After she told him that, he was not to come there, and I didn't speak to him for a couple of weeks.

Q. To whom?

20 A. John Myers, and he met me on the street one time, two weeks later, on a Saturday night, because I told her that I was going to tell his wife, and I guess she told him, and he watched me one night, met him on the street, and begged me I shall not tell his wife about it, and he cried that I shall not break up his home, and I shall not break up my home, and he told me at that time it was not his fault.

Q. Said it was not his fault?

A. It was not his fault.

30 Q. Go on.

A. That is all of that.

Q. Now state whether he did continue his attentions to your wife after that?

A. Yes, then I forbid him to come to the store and house, but he used to come when I was not home. He

always frequently used to come in when I was not there, time and time again, and then he found he could not come to the store he came to the house when I was not there.

Q. Are you telling what you know or what you heard?

A. No, that is what I know.

Q. That is what you know when you were not home?

A. Yes.

Q. Did you charge your wife with these attentions of his when you were away, did that cause any trouble between you? 10

A. Yes, sir; that was all the trouble.

Q. Can you tell how this culminated finally?

A. Right after that I had some hired girls, used to work in the house, and she commenced to misuse them and misuse the children.

Q. Who did.

A. My wife, and she commenced to misuse the children and threaten to poison the children and me, and all such things because I charged her with this offense, that she was running with other men, and she used to tell me that her body was her own, and that she could do what she pleased with it; she was boss over her body and I had nothing to do with it. 20

Q. Did you occupy the same room with her after this?

A. No, she slept down stairs by the window, she slept on the floor, and that is where she used to let them in through the window at night.

Q. I didn't ask you that, be careful and don't run on three or four things at once, but keep a little order. I was inquiring whether you were occupying the same room. 30

A. Not at that time.

Q. And she occupied, you say, the parlor?

A. Yes, sir.

By the Vice Chancellor:

Q. When did you first, after the Myers incident came to your attention, occupy separate rooms from your wife?

A. Didn't occupy any separate room, she used to let them in the room.

Q. No, when did you occupy a separate room from your wife?

A. The same room always, only she changed her room, didn't want to stay in the same room that I did.

10 Q. You narrated that you came home once unexpectedly to your store and there saw your wife sitting in Myers lap?

A. Yes, sir.

Q. Did you separate them?

A. No, sir; not them, because—

Q. Just a moment, I didn't ask you any reason; did you occupy different rooms?

A. Yes, sir.

Q. From that time?

20 A. Yes, sir until some time in October she commenced to bother me again.

Further direct.

Q. You say she occupied a room below and you upstairs?

A. Yes, sir.

Q. Do you remember on Christmas morning a year ago last Christmas?

30 A. Yes, sir.

Q. What did you discover in your privy?

A. I discovered a bed quilt in the privy.

Q. On the morning of Christmas?

A. Christmas morning; yes, sir.

Q. 1903?

A. Yes, sir.

Q. What did you do with it?

A. I took it in the house and asked her how it came there, and she told me probably the children took it out there, she didn't say positively.

Q. What was her appearance when you brought that quilt in, anything special?

A. She didn't like it, because I told her about the quilt.

Q. Did you have anybody work for you at that time? 10

A. I had a young lady by the name of Bertha Schindle.

Q. Did your wife attend the store before the incident you mention, catching her on the lap of Myers?

A. She used to be in the store.

Q. Before that?

A. Yes, sir.

Q. After that did you allow her there?

A. No, not after that, because I found out that she is stealing and robbing the whole business and lots of goods are missing, and I discharged her and I put it in the paper that nobody shall trust her anything either, advertised it. 20

Q. Was she in the habit of charging things to you, getting them charged before that?

A. Yes, sir; always.

Q. State if before this incident you speak of she had a bed in the store?

A. Yes, sir; she used to have a quilt there, with a pillow, and sometimes she played off sick and used to lie down there on the quilt and pillow and John Myers used to be there continually and pitying her, saying what kind of a nice little woman she was, that she needs to go to Atlantic City and he go with her. 30

By the Vice Chancellor:

Q. Did you see Myers there?

A. At Atlantic City?

Q. No, when you say he was pitying her.

A. Yes, sir.

Q. Where?

A. Right back of the counter at that time.

Q. Did you hear her say anything?

A. Yes, sir; I did.

10 Q. Was that after the accident?

A. No, before.

Q. You say Myers used to make these pitying remarks in the room where your wife slept separately from you?

A. Yes, sir.

Q. Did your wife so sleep separately from you before the incident in which you say you saw her setting on Myers lap?

A. That was not in the bedroom.

20 Q. Tell the Court now when it was with relation to your wife sitting in Myers' lap, that you say this man Myers used to pity her, when as I understand she was in her bedroom?

A. No, I didn't say that, I said she used to have a quilt laying down on the floor behind the counter, and she used to lay down once in a while.

Q. This was in the store?

A. Yes, sir.

30 Q. Did this incident of pitying that you speak of took place before or after the time when you saw your wife sitting in Myers' lap?

A. That was before.

Further direct.

Q. Was there a chair back there for anyone to sit on?

A. Yes, sir; there were two chairs.

Q. Did this occur after or before you had forbidden Mr. Myers from coming into your store and talking to your wife?

A. No, after I forbid him to come he didn't come to the store, he used to come to the house at nights when I was not there.

Q. This was before you forbid him? 10

A. Yes.

Q. Did you learn from your servant anything about where that quilt came from, how it came into the privy?

A. Yes, sir; I got to tell this; on Christmas morning this young lady went home for Christmas.

Q. I don't want what she told you.

A. No, but I will tell you how I learned it.

Q. I don't know as you can tell what she told you, that would not be proper evidence. You didn't learn it any other way. We don't want to have anything here that is not straight. 20

Q. Did Myers come to your house while you were there afterwards?

A. Yes, sir; always used to come there when I forbid him not to come to the store he used to come to the house when I was in the store.

Q. Did he come to your house when you were at home?

A. No, he didn't come.

Q. Not once? 30

A. He used to come before—

The Vice Chancellor:

Q. No, after you forbid him the house.

A. He came, but not when I was there.

Q. He didn't come into your home when you were there?

A. No.

Further direct.

Q. And you didn't yourself see him in your office after that time?

A. No.

10 Q. What was your habit as to being at home, at the house?

A. About nine o'clock, a little after nine.

Q. You left your store about a little after nine, to go home?

A. Nine, sometimes half-past nine.

By the Vice Chancellor:

Q. How far distance was your store from the house?

20 A. It is kind of a half square, it is the corner this way and that way.

Further direct.

Q. How far is it?

A. I guess probably 4 or 500 yards.

Q. What girl worked for you previous to this girl you spoke of?

A. There was a young lady used to work there by the name of Annie Maxwell.

Q. What time did she leave you?

30 A. Sometime I believe in May or June, I don't remember when, exactly when she left, sometime during the summer.

Q. Was she working for you in April?

A. Yes.

Q. April and May?

A. Yes, sir.

Q. At that time did your wife help you?

A. Yes, sir; she helped me.

Q. At the store?

A. Yes.

Q. Did you state when it was that you caught him on her lap, and when she didn't come to the store any longer, what time that was?

A. That was in August. 10

Q. You can't tell what date.

A. I can't recollect exactly what date.

Q. 1903?

A. After they came from Atlantic City.

Q. Who do you mean by they?

A. Mr. Myers met her at Atlantic City.

Q. How do you know?

A. People told me.

Q. You didn't see it?

A. Mrs. Myers told me, she told me herself, met them 20
in Atlantic City.

Q. Do you think of anything more you want to tell?

A. Do you want me to tell about Bertha Schindle?

Q. No.

A. Shall I tell how she left home and all the goods she stole?

Q. That don't come in this case, that is all.

Cross examination.

By Judge Wescott: 30

Q. How old are you?

A. 35.

Q. What business do you carry on?

A. I am manager for a business.

- Q. What business?
 A. Dry goods, clothing, shoes.
 Q. All sorts of things?
 A. Yes, sir.
 Q. How old is your wife?
 A. I don't know, I never counted her age.
 Q. How many years do you say you have been married?
 A. About eight years.
 10 Q. And your oldest child is two years of age?
 A. The oldest not, the youngest, it is three years, it is a little over three years when she left.
 Q. Before that your wife had these four children?
 A. Yes, sir.
 Q. Had them in less than six years?
 A. No, seven years.
 Q. And during that time where did you work, down at Hammonton?
 A. Yes, sir.
 20 Q. Carry on your business there?
 A. Yes, sir; I carried on business.
 Q. And during that time your wife helped you in the store?
 A. Yes, sir; she did help me.
 Q. She did the house work besides?
 A. No, sir; had a girl to do the house work, she never did the house work.
 Q. Didn't she do any of the house work?
 A. When the girl was not there.
 30 Q. Well, when the girl was there didn't she?
 A. Some of the house work, very little.
 Q. What time would she go to the store in the morning?
 A. About eight o'clock.
 Q. And stay there about how long?

A. She used to stay there sometimes until eight o'clock at night, sometimes seven and sometimes at nine.

Q. Didn't she do that every day?

A. Most of it every day.

Q. Except when she was home having children.

A. Yes, sir.

Q. You kept her pretty busy between having children and the work in the store, her time was pretty much occupied?

A. No, she had a girl to help her, she had more time 10
to run around.

Q. Besides her being in the store all the time and having these children, she had more time to run around than anything else?

A. Yes, sir.

Q. That is true?

A. Yes, sir; didn't have the time but she took the time.

Q. She did run around?

A. Yes, sir. 20

Q. She ran around all the time you lived at Hammonton?

A. Not at that time, she went around most of the time, which I didn't see, but somebody else told me.

Q. Most of the time you lived at Hammonton she was running around?

A. Yes, sir; in the neighbors' houses, and sometimes during the night with John Myers.

Q. You kept on living with her and having children by her? 30

A. But I didn't know what she was doing until I learned it, and then when I charged her with them she left home just for that reason.

Q. Her waywardness and her conduct with John Myers led to personal collision, fights between you and her?

A. I didn't fight, she used to fight, she used to fight because I told her the truth.

Q. Did you have many of those fights?

A. No, sir; I did not, I used to tell her that she don't behave herself.

Q. And then you would have fights, she would fight you?

A. Yes, sir; she threw a pitcher and pretty nearly split my head open at one time.

10 Q. What else did she do besides split your head open with the pitcher, did she hit you with anything else?

A. She was trying to hit me with a flat-iron but I would not let her.

Q. Did she pull your hair?

A. My hair was short, she could not pull it.

Q. Did she try to hit you with different things, besides a pitcher and flat-iron?

A. Yes, sir; anything that she got hold of.

Q. That happened very often?

20 A. It was very often with her.

Q. Did she hurt you sometimes?

A. She did hurt me when she threw a pitcher she split my head open.

Q. At other times did she?

A. She didn't hurt me because I got out of the way.

Q. You always got out of the way?

A. Yes, sir.

Q. Were you as big as she was?

30 A. Yes, I am bigger, but I don't want to fight with a woman.

Q. You said when she went away she took the youngest child?

A. Yes, sir.

Q. And she would not have taken it if it had been older?

A. Yes.

Q. Why?

A. Because she was ashamed to leave her little baby.

Q. You have spoken of a time when you caught your wife and somebody in bed?

A. It was not in bed, I say it was in a room.

Q. When was that?

A. That was about in 1900.

Q. What time in 1900?

A. Sometime in April. 10

Q. What day in April?

A. I could not recollect, but it was a positive thing, I remember that.

Q. Who was it that was in the room with your wife?

A. A man named Harry White.

Q. Where is he?

A. He is now out in Pennsylvania.

Q. Do you know his whereabouts in Pennsylvania?

A. I could not tell that.

Q. What time of the day was it that you found him there? 20

A. It was somewhere about two o'clock in the afternoon.

Q. How old was your youngest child at that time?

A. The youngest child at that time was about a year old I guess.

Q. Did your wife nurse this child?

A. No, sir.

Q. You say, I believe, that you went home unexpectedly on that occasion? 30

A. Not on that, that was a different time, that was the time with John Myers.

Q. What were you doing home in the afternoon when you saw your wife and White in this room?

A. At that time the little store and the house were together, and I was sitting in the next room to it.

Q. The next room?

A. Not the next room where they were, but down stairs and they were overhead.

Q. And you knew White was in the house?

A. Yes, sir.

Q. What was White doing there?

A. He came there as a visitor to my house.

10 Q. And while you were in the house you say that White and your wife went up stairs?

A. Yes, they got pretty intimate friends.

Q. And they locked the door?

A. Yes, sir.

Q. How long had they been up there before you got interested in the matter?

A. Well, I guess about ten minutes or more, fifteen minutes something like that.

20 Q. Then what made you go up stairs and rap at the door?

A. Because I had the hired girl call my attention, to go up stairs and see what was going on in the room.

Q. Who is that hired girl?

A. She is a Polish girl, I don't know where she is now.

Q. What is her name?

A. Her name was Annie, too, that is all I can tell you.

Q. What did the Polish girl tell you?

30 A. She told me to go up stairs and see something in the room.

Q. How old was White, was he a mature man?

A. He was a man, he had a woman already, got a divorce from a woman at that time.

Q. He was a friend of yours?

A. Yes, sir.

Q. And had good sense?

A. Yes, sir; he had good sense.

Q. And your wife had too?

A. Sometimes she had and sometimes she didn't.

Q. You were all in your senses on that occasion?

A. Yes, sir.

Q. And you went up stairs and rapped on the door for how many minutes?

A. About five minutes.

By the Vice Chancellor:

10

Q. Rapping?

A. Yes, sir; I went all around the rooms until I came to that room and found out where the door was locked?

Q. How many rooms did you go around in order to find out in which room they were in?

A. Two rooms.

Q. Did the girl tell you which room they were in?

A. She did not, she could not tell, she was excited?

Q. Did you get excited?

A. Yes, sir; I got excited, and I didn't know which room to go to first, and I went into the room that was open and looked in on the bed, and with that room that was locked, I knocked on that door and found them.

20

Q. Who opened the door and let you in?

A. Harry White.

Q. What did you do when you got in?

A. I was excited, what shall I do.

Q. What did you see when you got in?

A. I saw both were flushed and Mr. White said he would go home now, and I told him to stay right where he is and I told him I would use him sometime as a witness.

30

Q. You had it in your mind even then to bring a suit for a divorce?

A. I did, but I didn't have evidence enough.

Q. You meant to get a divorce as soon as you could?

A. I leave it to the Court, if the Court thinks that I am not justice, let him not give no divorce.

Q. From the time you caught White in 1900 in your wife's room you made up your mind that you would get a divorce?

A. I made up my mind that I would catch her, and she said I was not smart enough to catch her, if I ain't
10 smart enough to catch her somebody else will.

Q. You kept watching her from that time on?

A. Yes, sir.

Q. And she knew that you were watching her?

A. Yes, sir; she knew it.

Q. At the time White was there is it not true that your wife was about five months gone in the family way?

A. Yes, sir.

Q. After you found White and your wife in the room you had blows about it?

20 A. Yes, sir.

Q. She licked you?

A. She didn't lick me, but we had blows.

Q. She hit you?

A. Yes, sir; she did with plates.

Q. That was right after White was there?

A. Yes, sir; that was right after White was there.

Q. And from that time on she kept hitting you with plates and pitchers.

A. When I told her the truth she didn't like it.

30 Q. When you told her of those things she didn't like it?

A. Certainly she didn't, then she used to tell me she was boss over her body and she could do whatever she pleased with it.

Q. When you told her of those things, she didn't like it, she said it was not true didn't she?

A. She told me I could lump it, it ain't my business.

Q. But she didn't tell you that it was not true?

A. No, she didn't tell me anything about it, she always used to tell me that I could lump it on all such things, and she is boss over her body, I got nothing to do with it.

Q. You did have very considerable to do with it?

A. Yes, sir; I did, because nature is nature.

Q. Is not a good bit of that nature in you? 10

A. I guess enough to satisfy any woman.

Q. Is it not true because your wife was not able to satisfy you you went after other women?

Objected to.

The Vice Chancellor: No such allegation is set up in the defendant's pleadings.

Judge Wescott: If it were true it would defeat his action even now. 20

The Vice Chancellor: It is not pleaded, and while a large amount of liberty in the scope of the evidence is allowed in the cross-examination of a party to a divorce suit, no decree granting affirmative relief can be granted except upon defences set up in the pleadings of one side or the other.

Q. Coming to the first time that you saw Myers in your store with your wife in his lap, tell when that was, give the exact time? 30

A. I could not give the exact time, but I know it was sometime in August.

Q. 1903?

A. Yes, sir.

- Q. What time in the day was it?
 A. Half-past eleven.
 Q. In the morning?
 A. Yes, sir.
 Q. You keep a public store?
 A. Anybody is welcome to come in.
 Q. People come in and out?
 A. Yes, sir.
 Q. And Myers was an officer there in the town?
 10 A. Yes, sir; his place was to sleep at that time, because he is on night duty.
 Q. Did Myers often come around to your store?
 A. Yes, sir. He used to come there frequently.
 Q. Did you know that it was his duty as a public officer to look after the property and stores in the town of Hammonton?
 A. I didn't ask him to look after my property.
 Q. Do you know that he did?
 A. Not during the day.
 20 Q. Did you pay him for helping look after your property?
 A. For night times, for watching at night.
 Q. Where were you when this performance first began?
 A. I was going to collect a bill and I came back too soon for him, that is all.
 Q. And you don't know whether people had been in the store after you went, do you, customers?
 A. There were lots of people use to come in but not
 30 at that time.
 Q. Your wife was sane at that time?
 A. What?
 Q. Nothing the matter with her mind, she was not crazy.
 A. No.

- Q. Do you know whether Myers was crazy?
- A. They claim he is crazy, but I guess he ain't.
- Q. When you came in your wife stuck her head under the counter, and Myers stuck his head behind the newspaper.
- A. Yes, sir; a great big newspaper covers his face.
- Q. And that was to keep you from seeing them blush?
- A. Yes, sir.
- Q. Of course you expected a wife who had done this thing before, and was so cool to you, and had told you these things which you repeated, to blush a good bit, you expected that? 10
- A. I know, but she told me she would behave herself.
- Q. And that is the reason you expected her to blush?
- A. I didn't expect her to blush, but she told me she would behave herself, and when I caught her she blushed.
- Q. How long did Myers stay behind the newspaper?
- A. For about five minutes.
- Q. And how long did your wife keep her head under the counter? 20
- A. About five minutes, until I called her attention.
- Q. She was still hidden under the counter when you wanted to see what kind of a face she had?
- A. She said she was busy, she said she had a hat to trim, and I knew she didn't have any hat to trim.
- Q. And as soon as she came out from under the counter she asked you for \$10.00?
- A. I charged her with it, that there was something crooked going on with her and John Myers, in the German language, so he could not understand. 30
- Q. And then she told you if you would give her \$10.00 she would go away and you would never see her any more?
- A. Yes.

Q. What did you say to Myers?

A. I didn't say anything.

Q. Sometime afterwards, you met Myers on the street?

A. He met me on the street.

Q. And Myers cried?

A. Yes, sir.

Q. And told you not to ruin his family?

A. Yes, sir.

10 Q. And ruin your own?

A. Yes, sir.

Q. And you forbid him coming to your house or store?

A. Yes, sir; to the store.

Q. You also told us if I understood you correctly, that your wife told Myers not to come to the store?

A. I made her tell him not to come to the store.

Q. You made her tell him.

A. Yes, sir.

20 Q. When did your wife begin to misuse your children?

A. Right after I caught her with John Myers.

Q. What did she do to her children?

A. She didn't treat them right, she never treated them right, always left them to the girl to do all the work and she threaten to poison them.

Q. Before that time who took care of the children?

A. All the girls, the girls done most of the work.

Q. Who took care of the children?

30 A. All the girls.

Q. Tell me the exact time when you began to sleep alone in your house?

A. That was right after I caught her with John Myers.

Q. How soon after?

A. A couple of days after.

Q. You never slept with her after that?

A. I didn't sleep with her until sometime in October.

Q. Following?

A. Yes, sir.

Q. But you did sleep with her in October, 1903?

A. Yes, sir.

Q. And how long then did you continue to sleep with her after you commenced in October, 1903?

A. I probably would continue, but she would not 10
continue.

Q. How long did you sleep with her, you began in October, 1903, to sleep with her?

A. Yes, sir.

Q. How long did you continue to sleep with her?

A. I didn't sleep with her very long, only just—

Q. How many weeks?

A. For about a couple of nights after that.

Q. And she slept up stairs with you then?

A. Yes. 20

Q. That was in October, 1903?

A. Yes, sir.

Q. Can you tell us what time in October, what part of the month?

A. No, sometime in October.

Q. Why did she stop sleeping with you in October, 1903?

A. Because she let John Myers through the window down stairs in the parlor to her room.

By the Vice Chancellor: 30

Q. What Mr. Wescott asked you is why it was that your wife whom you say slept with you two nights in October, 1903, ceased to sleep with you at that time,

why did she cease to sleep with you, that is what he asked you, answer that.

A. In what way?

Q. You say she slept with you?

A. Yes, sir.

Q. Why did you stop sleeping together?

A. Because I heard she was running with John Myers and I charged her with it and she commenced sleeping down stairs again.

10

Further cross.

Q. Whereabouts did she sleep down stairs?

A. In the parlor, on the floor, until sometime in October, then she got a better room in the back.

Q. And you knew that the reason that she stopped sleeping with you was because she left John Myers into the room down stairs?

A. I didn't know positively, but I heard it from people that she is running with John Myers. If I had
20 known it I would have caught them both.

Q. Now Myers was the fellow in whose lap she sat, the same Myers?

A. Yes, sir.

Q. And he is the same fellow you had this conversation with on the street?

A. Yes, sir.

Q. And he is the same fellow that you told not to come there?

A. Yes, sir.

30 Q. To your house?

A. Yes, or to the store, I told him I would pay him his quarter on the street, he shall not come to the store.

Q. And he is the fellow that you knew was getting in the window to sleep with your wife down stairs while you were sleeping upstairs?

A. Yes, sir; I got proofs to prove it?

Q. And you told your wife about it?

A. I told her.

Q. Did you see John Myers any more and talk to him about it?

A. I didn't talk to him any more.

Q. When you found that John Myers was getting in the room downstairs while you were sleeping in the room upstairs, and you got proof of it then you made up your mind that you had evidence enough to get a divorce, didn't you? 10

A. Yes, sir; after I got all the evidence.

Q. But you didn't make up your mind to have John Myers arrested for the crime?

A. I did have that in mind, but I didn't want to do that.

Q. You preferred to get a divorce?

A. Yes, sir.

Q. Was your wife working in the store in October, 1903? 20

A. Yes, sir.

Q. From morning till night?

A. Well, sometimes she used to be there by eight o'clock, and sometimes she used to run around somewhere, she went out and I didn't see her any more until to-morrow morning.

Q. Did you ask your wife why she would not sleep with you two nights in October, 1903?

A. I did.

Q. What did she say? 30

A. She told me that she changed her name, her name is Mrs. Myers.

Q. What did you say to that?

A. I told her if her name was Mrs. Myers she can't stay in this house.

Q. How long did she stay in the house after those two days in October, 1903?

A. She stayed until the first of New Years.

Q. The first of January following?

A. Yes, sir.

Q. And did she sleep by herself all that time?

A. Yes, sir; all by herself.

Q. You say that your wife was stealing and robbing?

A. Yes, sir.

10 Q. When did she begin to steal and rob?

A. She used to steal occasionally, but I never knew it until after I found out that she was gone, right after Christmas I found out that lots of goods were missing and I commenced to charge her with it, and I told her she shall not come to the store any more.

Q. What Christmas was that?

A. Just a few days before she left.

Q. Look at those things, those two bottles and that syringe?

20 A. Yes, sir.

Q. Do you recognize them?

A. Yes, sir; I do.

Counsel for Petitioner objects to any of this evidence.

The Vice Chancellor: I cannot tell yet whether your objection is good or bad.

30 Q. The attention of the witness is called to a large bottle, stamped in the bottle, "Spencer, Arch street, corner 15th, Philadelphia," and to a small bottle containing a label on which is written "for Mr. Fineberg, take a teaspoonful at night as directed by Dr. R." Also a syringe, which articles being shown witness: Do you recognize those three articles?

A. Yes, sir; I do.

Q. Is not the reason why your wife would not sleep with you—

A. I would not sleep with her.

Q. Do you mean that you would not sleep with her?

A. She would not sleep with me and I would not sleep with her.

Q. Why would you not sleep with her?

A. Because she made me sick.

Q. She made you sick?

A. Yes, sir; the last time she slept with me, and that was the time she made me sick. 10

Q. What do you mean by that, she made you sick?

A. She had some kind of a disease and she gave it to me.

Q. Did you have these two bottles and that syringe already shown you, because your wife gave a venereal disease?

A. Certainly, I tried to cure myself.

Q. And was that the reason?

A. Yes, sir; that was the reason. 20

Q. That was the reason you would not sleep with her?

A. Yes, sir.

Q. After you found that out in November, 1903?

A. Yes, sir.

Q. Did you tell her that was the reason that you would not sleep with her?

A. Yes, sir; I told her.

Q. Who was your doctor?

A. I had several doctors. 30

Q. Who was her doctor?

A. I don't know, I didn't watch.

Q. You had several doctors, and you don't know who her doctor was?

A. No, because I didn't care, she made me sick and

that is the reason I didn't care what doctor she had. I know she had a doctor, I know she cured herself, I used to buy her medicine and give it to her herself.

Q. Where did you buy it?

A. In a drug store.

Q. Where?

A. In Hammonton.

Q. Of whom?

A. Of a druggist.

10 Q. Of Rogers?

A. No.

Q. Who?

A. Lloyd.

Q. Did your wife go there and get this medicine?

A. No, I did; I got it for her.

Q. Did you tell them when you went after it that it was for your wife?

A. I didn't tell them that, I told them it was for me and I gave it to her.

20 Q. How long were you getting well from this trouble.

Objected to as not bearing on this matter.

The Vice Chancellor: In its present form that it does not have any bearing. This witness is narrating the reason why he separated himself from his wife. They have clearly a right to cross-examine him. He is the complainant in the case, and I don't think there is any doubt about the pertinence of the reasons for the separation. Proceed.

30

Q. How long were you getting well?

A. It took me about three months to get well.

Q. How long did it take your wife to get well?

A. About three weeks.

Q. After you got well and your wife got well, it taking you three months and her three weeks,—

A. She was well when I was not well.

Q. How do you know she was well?

A. I know she used to run around with John Myers.

Q. After she got well in three weeks, and you got well in three months, and after the cause of your not sleeping together had been removed, why didn't you sleep together then?

A. Because I didn't want any more diseases. 10

Q. Did you come to blows because your wife gave you this venereal affliction?

A. Didn't come to blows at all, I only told her about it.

Q. What did she do when you told her about it?

A. She wanted some medicine.

Q. She didn't get mad and fight you?

A. No.

Re-direct.

20

Q. Counsel for complainant produced diagram marked Exhibit C 1, and showing it to the witness: Explain the situation of the house there, state if that exhibits the lower floor of your house?

A. This exhibits all of our rooms down stairs.

Q. Does that exhibit the lower rooms of your house?

A. Yes, sir.

Q. Where you lived in 1903?

A. Yes.

Q. And the out-house, the privy?

A. Yes, sir. 30

Q. The distance is correct, is it, you measured the distance from the house to the privy?

A. Yes; sir; 53 feet from the privy, and the privy is 6 feet long and about 5 feet wide.

Q. Explain about the window of the parlor, is it marked parlor on there?

A. Yes, sir; it is.

Q. The room marked parlor is the place where your wife slept?

A. Yes, sir; she used to sleep in the parlor, and there was a stoop back of one window from the parlor, from the back part of the house, that used to come right up close to the window, and that is where John Myers used
10 to go to that window in the house.

Q. That represents the back side of the house?

A. Yes, sir; the back side of the house.

Q. Where this window is situated?

A. Yes, sir.

Q. And the cellar door that runs up to it is exhibited there on the diagram?

A. Yes, sir.

Q. Where did she sleep after she left?

A. After that she slept in the back room, right close
20 to the closet, that back room 52 feet from the closet.

Q. Is there any access directly into that room from the outside?

A. Yes, sir; windows.

Q. Could a person easily get in that window from the back side?

A. Yes, sir.

Q. There is a hall represented?

A. That is in the front.

Q. That enters into what room?

A. Into the parlor and dining room and it enters into
30 the kitchen.

Q. All from the hall?

A. Yes, sir; all enters in from the hall.

Q. That is all.

At this point a recess was taken until 2 o'clock.

WILLIAM MICK, sworn for Complainant.

Direct examination by Mr. King:

Q. Where do you live?

A. Hammonton.

Q. Where did you live in 1903?

A. Hammonton.

Q. Are you acquainted with the parties?

A. Yes, sir.

Q. Do you know Mr. Myers?

10

A. Yes, sir.

Q. John Myers?

A. Yes, sir.

Q. State if you saw Mrs. Feinburg and Myers together in the evening sometime in August last?

A. Yes, sir; I did, the latter part of the month of August.

Q. State what you saw?

A. I had been down the street, and got home about nine o'clock, they were on Second street.

20

Q. Where?

A. In Hammonton, and I was on my way home. I walked behind them, I walked slowly, I didn't want to go by them, I didn't know who the woman was first, but I knew who the man was, he was Myers, but I thought he had a prisoner. When he got to Vine they turned down to the lock-up.

Q. How far was the lock-up from where you live?

A. I judge it was about half a square.

Q. Who has charge of the lock-up?

30

A. John Myers is supposed to put prisoners in there when he gets one.

Q. What office did he hold?

A. Town Marshall.

Q. Do you know where Mrs. Feinburg lives?

- A. Yes, sir.
- Q. Where was it?
- A. Second street.
- Q. Which part of Second?
- A. The other side of Bellevue.
- Q. Northwest?
- A. Yes, sir.
- Q. Were they going toward her house, or opposite?
- A. Opposite, away from her house?
- 10 Q. What time in the night?
- A. About nine o'clock.
- Q. Does anybody stay in the lock-up as you call it, the Town Hall ordinarily?
- A. No, sir.
- Q. How is it occupied when it is occupied?
- A. Only when there is a council meeting, council meets there that is all.
- Q. He has charge of the lock-up?
- A. Yes, sir; he is under necessity of going there and
- 20 putting prisoners in there.
- Q. That is the place where he detains prisoners?
- A. Yes, sir.
- Q. Is that all you saw?
- A. Yes, sir.
- Q. How did they act in going along?
- A. Kind of loving.
- Q. Go very slow?
- A. Yes, sir; didn't walk very fast.
- Q. Have you seen them frequently after that or before?
- 30 A. I never saw them out together there, I don't go out much at nights myself, but I noticed he watched around a good bit watching her house.
- Q. When did you see him watch her house?
- A. I don't remember, I saw her several times, Saturday evening, I saw him walk down there at Feinburg's house.

Q. Was it previous to that or after that?

A. It was after that that I seen him.

Q. Did she take his arm and walk down the street?

A. No, they were not holding arms, but they were walking pretty close together

Q. Is that all you know about it?

A. Yes, sir.

Cross-examination by Mr. Wescott:

Q. How do you know this was Mrs. Feinburg. 10

A. I know by seeing her, by the looks of her, I am acquainted with her and I ought to know her when I pass her.

Q. But you didn't pass her.

A. I went past her when she went down Vine street.

Q. Did you speak to her?

A. No, sir.

Q. It was nine o'clock about?

A. Yes, sir.

Q. A dark night? 20

A. It was not so dark that I couldn't recognize people.

Q. That is all.

DR. CHARLES CUNNINGHAM, sworn for Complainant.

Direct examination by Mr. King:

Q. Where do you live?

A. Second street, Hammonton. 30

Q. How long have you lived there?

A. Five years.

Q. Do you know Mr. Feinburg and his wife?

A. Yes, sir.

Q. Do you know John Myers?

A. Yes, sir.

Q. Where did Feinburg live with reference to your house?

A. Nearly opposite.

Q. That was in 1903?

A. Yes, sir.

Q. Did you ever see Mr. Myers at Feinburg's house?

A. Yes, sir.

10 Q. How often?

A. That is hard to tell, I have seen him at least once.

Q. Have you seen him more than once?

A. I would not specify.

Q. You would not specify?

A. No, sir.

Q. Can't you tell whether it is more than once?

A. Yes, sir; it is more than once.

Q. Was it more than twice?

A. I won't say as to that.

20 Q. Now state what you saw at the first time, one of the times?

A. One of the times I have seen him sitting on the front porch.

Q. Day time or night?

A. Day time.

Q. What was he doing there besides sitting?

A. Enjoying himself talking.

Q. Who to?

A. That I can't recollect.

30 Q. Do you know whether it was Mr. Feinburg or not?

A. I don't remember seeing Mr. Feinburg there.

Q. Was his wife there?

A. That I don't know.

Q. Do you know whether he was talking to anybody?

A. Yes, sir.

Q. But you don't know who it was?

A. No, sir.

Q. Is that all you saw at that time?

A. Yes, sir.

Q. What was the next time?

A. I saw him in the house one night.

Q. At what time?

A. It was shortly before two o'clock.

Q. Two o'clock in the morning?

A. Yes, sir.

10

By the Vice Chancellor:

Q. What did you say you saw?

A. John Myers.

Q. Where?

A. In Mr. Feinburg's sitting room.

Further direct.

Q. What month was that?

A. That I can't tell you, it was in the summer time. 20

Q. Last summer or the summer of 1903?

A. Yes, sir, in the summer of 1903.

Q. What did you see there?

A. That is all I saw.

Q. You saw him in there?

A. Yes, sir.

Q. What was he doing?

A. What attracted my attention to it was that I heard laughing and talking there and I happened to look across the street and saw them there, I was coming home from a professional visit. 30

Q. Who were the others that you saw?

A. I don't recollect who it was. I guess one man would not talk to himself, and I saw Mr. Myers there.

Q. Was there any other person there than Myers?

A. I believe there was another person.

Q. More than one other person?

A. No, sir; not that I saw.

Q. Were you able so to describe the incident that you could tell then how many people were in that room?

A. Not further than two people.

Q. Are you able to say that there were only two people there?

10 A. No, sir; I am not.

Q. Your attention was drawn by their loud talking?

A. Yes, sir.

Q. Was there anything else but talking?

A. That is all I can recollect, talking and making a noise.

Q. How was the noise made beside talking?

A. That is all, talking and laughing.

Q. Can't you say whether Mrs. Feinburg was one of them?

20 A. No, I can't.

Q. Is that the only time you ever saw him there?

A. I described the other time.

Q. Is there any other time?

A. That I can't recollect, I would not say.

Q. That is all you know about it?

A. I generally try to attend to my affairs and let the neighbors alone.

Q. That is all.

Not cross-examined.

30

PETER T. RANERI, sworn for Complainant.

Direct examination by Mr. King:

Q. Where do you live?

A. At Hammonton, on the main road, opposite the Fair Ground.

Q. How long have you been living there?

A. Ever since I was born.

Q. Do you know Mr. Feinburg and wife?

A. I do. 10

Q. Do you know John Myers?

A. I do.

Q. Were you ever at Mr. Feinburg's in the summer or spring of 1903?

A. I was.

Q. State, will you, how you came to go there and the circumstances that occurred there?

A. Well, I was; I paid attention to his hired girl.

Q. What is that?

A. And one night, Sunday night half-past eleven we were going home and she wanted to know my address, so she invited me in the house, and we went into the hallway, and from there we passed into the dining room and I was taking the lead,— 20

By the Vice Chancellor:

Q. Who were in the party that was going in this way?

A. Annie Maxwell and I.

Further direct. 30

Q. You and the young lady.

A. Yes, sir.

Q. Was there nobody else but you two?

A. No, sir.

Q. Go ahead.

A. I was taking the lead and going through the dining room, and going through I stumbled over something and I took the match box out of my pocket and was going to strike a match, and while I was striking a match Annie Maxwell took the box away from me.

Q. That was the young lady whom you came in with?

A. Yes, and she told me to go the other way, and I
 10 was anxious to find out what was on the floor, so we went around the table and passed from the dining room to the kitchen and there she closed the door, and we lit a lamp and I wrote my address and stayed there ten or fifteen minutes and then I went away.

Q. Where were you stopping at the time she wanted your address, where were you living then?

A. Home with my mother.

Q. That was your home, but why did she want your address there?

A. Because I was working up in Philadelphia here.

20 Q. Did you find out what was on the floor?

A. I did, I found out there were two persons on the floor.

Q. Well?

A. There was a man and woman there.

Q. Was it dark?

A. Not very.

Q. Were the curtains down?

A. The front curtain was pretty near all the way
 down, and the side curtains were not all the way down,
 30 but on the front curtains there was enough light so that you could see the persons on the floor.

Q. You could see they were persons?

A. No.

Q. Could you tell who they were?

A. I could tell the top man was Myers.

Q. Could you tell who the under one was?

A. I could not, there was not enough light.

Q. What time was this?

A. About half-past eleven at night.

Q. What time in the year?

A. In the spring of 1903.

Q. Do you know what month?

A. I could not tell you.

Q. What did you hear, if anything, when you were in the kitchen that night?

10

A. I heard a noise.

Q. What was it?

A. A window going up somewhere, I could not tell where, it was in the building, but I didn't know which window it was.

Q. You heard a window?

A. Yes, sir.

Q. Was that all you heard then?

A. That is all I could hear.

Q. After that do you know anything about seeing Mr. Myers there on another occasion?

20

A. The Sunday after that I had made a date with this young lady, and I was to meet her on Second street, right below the corner, so I went down Horton street and from Horton street I went up Orchard street.

Q. The Court don't know where those streets are.

The Vice Chancellor: Why can't you say you went to the place; did that happen before or after you met the young lady?

A. It was the next Sunday.

30

By the Vice Chancellor:

Q. On the way did you see the thing Mr. King is asking about?

A. Yes, sir; coming up Orchard street, I saw Mr. Myers coming out the back window.

Q. Of what?

A. Of the building.

Q. What building?

A. Where Mr. Feinburg was living.

Q. The back window of his house?

A. Yes, sir; the back window from the parlor.

10 Further direct.

Q. Look at that diagram and point out the window please. Exhibit C 1 shown witness.

A. This is the window, the window on the northeast side of the building.

Q. Is that the back window of the parlor?

A. Yes, sir; here is the cellar door.

Q. There is a cellar door under that window?

A. Yes, sir.

Q. Is that all the time you saw him there?

20 A. Yes, sir.

Q. Tell me what time of the night or evening that was?

A. About eight o'clock.

Q. Was it then, dark?

A. It was not so very dark but the electric light was shining from the corner of Orchard street and Horton street, and you could see plainly back of the house.

Q. That is all.

30 Cross-examination by Judge Wescott:

Q. Where do you live?

A. Hammonton, on the back road.

Q. How long have you lived there?

A. Ever since I was born?

- Q. What is your business down there.
- A. I am a machinist by trade and work in Philadelphia when I do work.
- Q. How long have you worked in Philadelphia?
- A. I worked in Philadelphia about three years.
- Q. Three years last past?
- A. Yes, sir.
- Q. How old are you?
- A. 21.
- Q. And not married?
- A. No, sir. 10
- Q. How long have you known Feinburg?
- A. I have known him for the last seven years.
- Q. Are you and he friends?
- A. No, sir.
- Q. Are you enemies?
- A. No, sir; he belongs to the same lodge I do.
- Q. Why do you keep your chair going back and forth so much, are you nervous?
- A. No, sir. 20
- Q. Myers arrested you once, didn't he?
- A. He did.
- Q. For unlawful riding of a bicycle on the street?
- A. Yes, sir.
- Q. You said you would get even with him if you could?
- A. No, sir.
- Q. Whom did you tell these remarkable things to first?
- A. I was working at the time last spring in Batten's and we were talking back there, I thought this case was all through, I didn't want to be in it, so I was talking back there with a friend of mine. 30
- Q. Who was that friend?
- A. Mateo Cappuicto.

- Q. You told him about it?
 A. Yes, sir.
 Q. Did you tell anybody else about it?
 A. No.
 Q. What is your nationality?
 A. Italian.
 Q. What is Feinburg's nationality?
 A. Russian, I guess; I don't know.
 Q. Did you tell Feinburg about it when you went
 10 out together?
 A. No, sir.
 Q. Now this first thing you testified about, what was
 this girls name that you went with?
 A. Annie Maxwell.
 Q. Where is that girl?
 A. She is right here.
 Q. How long did you go with her?
 A. About five weeks.
 Q. Are you sure of that?
 A. Yes, sir.
 20 Q. Wasn't it the brother of this other fellow whose
 name you mentioned who went with her?
 A. Yes, sir; he did after I.
 Q. After you got through?
 A. Yes, sir.
 Q. This first thing now that you saw, what time in
 the night was it?
 A. About half-past eleven.
 Q. You went through the dining room this girl lead-
 30 ing you?
 A. No, I was leading the girl.
 Q. You stumbled over something?
 A. Yes, sir.
 Q. Was it a person you stumbled over?
 A. No, two of them.

- Q. Did you fall down?
- A. No, I picked myself up before I stumbled.
- Q. You picked yourself up before you stumbled?
- A. Yes, sir.
- Q. Didn't you stumble at all?
- A. No, sir.
- Q. How did you manage to stumble after you picked yourself up?
- A. That was just an accident.
- Q. Do you know that you are in a court room young man and a very serious place. You have told this Judge sitting here that you stumbled over something. 10
- A. I did.
- Q. Now you told me you stumbled over two persons on the floor?
- A. Yes, sir.
- Q. Now you say you didn't stumble at all, what do you mean?
- A. I stumbled over two persons.
- Q. Then you did stumble over two persons? 20
- A. Yes, sir.
- Q. When you stumbled over these two persons what did you do?
- A. We walked around the other way, around the table.
- Q. You walked around this table?
- A. Yes, sir.
- Q. And these two persons were lying on the floor in the dining room?
- A. Yes, sir. 30
- Q. Where was the dining room with reference to the hall that you entered with this girl?
- A. On the right hand side.
- Q. You had to go through the hall before you got to the dining room?

A. Yes, sir.

Q. Was the dining room open?

A. No, sir.

Q. You had to open the dining room door?

A. Yes, sir.

Q. Then when you got in you stumbled over these people?

A. Yes, sir.

Q. And after you stumbled what did you do?

10 A. We walked around the other way, the other side of the table.

Q. You and the girl did?

A. Yes, sir.

Q. And then what?

A. We walked into the kitchen.

Q. Did you have to open the door into the kitchen?

A. Yes, sir.

Q. Then when you got to the kitchen what did you do?

20 A. I closed the door and gave her my address and stayed there about fifteen minutes, and before I gave her my address she struck a match and lit the lamp?

Q. In the kitchen?

A. Yes, sir.

Q. Then you came back into the dining room?

A. No, sir; went out the kitchen door?

By the Vice Chancellor:

30 Q. Was the door between the kitchen and dining room open or shut when the match was struck?

A. It was shut.

Q. I understood you to say in your first story that after you struck the match you came back and found two persons?

A. No, sir.

The Vice Chancellor: You must not communicate with anybody in the room.

Q. Then you came back and found two persons you stated in your examination-in-chief.

A. No, sir; I didn't come back.

By the Vice Chancellor:

Q. That is you didn't come back in the dining room but remained in the kitchen until you went away?

A. Yes, sir. 10

Further cross.

Q. And there was no light in this dining room?

A. No.

Q. When you stumbled over these people you went around the table and went right out into the kitchen?

A. Yes, sir.

Q. And that is the last you saw of it?

A. Yes, sir.

Q. What did these people do when you stumbled over them? 20

A. I can't tell you, didn't move, either of them.

Q. You saw who one of them was?

A. Yes, sir.

Q. In the dark there?

A. It was not very dark, because one of the curtains was not all the way down. There was enough light so that you could tell the figure of the person and tell who the person was. 30

Q. Then after you went out into the kitchen how long had you been there before you heard this window that you speak of?

A. It was not more than four or five minutes.

Q. And then you heard the window go up?

A. Yes, sir.

Q. All of that is true?

A. Yes, sir.

Q. Did you say anything to the girl about it.

A. I did the next Sunday.

Q. Did she say anything to you?

A. She said the Misses was in the house after I had left.

10 Q. When you went into the kitchen did you say anything to the girl?

A. No, sir.

Q. And she said nothing to you?

A. No, sir.

Q. Didn't it frighten you to fall over people in the dark?

A. No.

Q. Where was the girl when you fell over them?

A. She was right in back of me.

Q. Did she fall over them?

20 A. No, sir.

Q. Did you go on and lead her?

A. No, she led me then.

Q. After you fell over these people she led you?

A. Yes, sir.

By the Vice Chancellor:

Q. Did she say anything at that time?

A. She said go around the table and go that way.

Q. You hadn't previously said anything to her?

30 A. No.

Q. No exclamation of any kind proceeded from you when you stumbled against these people.

A. No, sir.

Further cross.

Q. Didn't the people say anything?

A. No.

Q. Never moved?

A. No, sir.

Q. They were not dead people?

A. I don't expect they were.

Q. They didn't get frightened, and you didn't get frightened, and the girl didn't get frightened and nobody said a word? 10

A. When we went into the kitchen, that is the time I started to talk to the girl.

Q. But you talked to her about your address and not about what happened in the dining room?

A. No, sir.

Q. How big was this dining room?

A. I could not tell you because I didn't measure it.

By the Vice Chancellor:

Q. I understood you to say you did not when you got to the kitchen say anything to the girl about what you had noticed in the dining room? 20

A. I did not.

Further cross.

Q. And she didn't say anything to you about it?

A. No.

Q. Have you talked with her about it since?

A. Yes, sir.

Q. When? 30

A. The next Sunday after that.

Q. You and she had quite a talk about it then?

A. Yes, sir.

Q. Did you ever talk to her about it afterwards?

- A. No, sir.
- Q. Who got you to come here to-day?
- A. Mr. Feinburg.
- Q. What did he pay you for coming?
- A. Didn't pay me anything.
- Q. What did he promise to pay?
- A. Nothing.
- Q. Now let us come down to the other incident that you have testified to; about eight o'clock you saw Mr. Myers coming out of the back window, or out of one of the windows of the house?
- 10 A. Yes, sir.
- Q. Where were you at the time?
- A. I was on Horton street.
- Q. How far from Feinburg's house?
- A. About 25 yards.
- Q. Who was with you?
- A. I was alone.
- Q. Where were you going at that time?
- 20 A. I was going to meet Annie Maxwell.
- Q. Where were you going to meet Annie Maxwell?
- A. On Second street, right below Bellevue.
- Q. And you say there was an electric light there so that you could see?
- A. Yes, sir; there was on the corner of Horton and Orchard streets.
- Q. At about eight o'clock you saw Myers coming out of the window in the electric light?
- A. He didn't come out into the electric light.
- 30 Q. So that the electric light showed who he was?
- A. Yes, sir; it was not a very dark night, it was a moonlight night.
- Q. Did you depend upon the electric or the moonlight?
- A. Both.

- Q. Where was this window in front on the street?
 A. No, it was in back.
 Q. On the side of the house?
 A. No, in the back.
 Q. There was a door in the back of the house.
 A. There is a cellar door in the back, below the window.
 Q. Ain't there any door to the back part of the house?
 A. Not that I noticed.
 Q. Any doors the side of it? 10
 A. Yes, sir.
 Q. Was there a door on the side where this window was?
 A. No, sir.
 Q. The door was on the other side of the house?
 A. Yes, sir.
 Q. How near does this house stand to the other house?
 A. I judge about 15 to 20 feet, that is one.
 Q. On which side, the side that this window is on?
 A. No, sir; there is no house on the back, there is a lot. 20
 Q. How near is there a house on the side where the window was?
 A. I judge about 100 or 200 yards.
 Q. How did Myers come out?
 A. Out of the window.
 Q. In what way?
 A. He jumped out.
 Q. How big is this window?
 A. About the size of one regularly built window.
 Q. Head foremost or feet foremost or backwards? 30
 A. Feet foremost.
 Q. How far did he have to jump to get to the ground?
 A. Not very high.
 Q. About how high?

A. I can't tell you.

Q. That is true?

A. Yes, sir.

Q. In preference to going out the doorway and go out easily, he takes his chance of breaking his neck or legs, by jumping out of the window. Who told you to testify to this?

A. Nobody, it is just what I know.

Q. What persons did you tell this thing to?

10 A. All that I told was the same person.

Q. That is all.

ANNIE MAXWELL, sworn for Complainant.

Direct examination by Mr. King:

Q. Did you live with Mr. Feinburg as his housemaid in the year 1903?

A. Yes, sir.

20 Q. What time in that year did you live with him?

A. I came there in March.

Q. When did you leave?

A. In August.

Q. Are you acquainted with Mr. Myers?

A. No, I just know him when I see him.

Q. Did you frequently see him there?

A. I saw him come there.

Q. How often?

A. I could not exactly tell how often.

30 Q. Can you tell whether he came every week or oftener?

A. He used to come there Sundays.

Q. In the day time?

A. Yes, sir; in the day time.

Q. Sometimes in the evening?

A. I don't know that I ever saw him there in the evening.

By the Vice Chancellor:

Q. I didn't quite get the time you lived at Feinburg's

A. From March until August 1903.

Further direct.

Q. While you were living there did you meet Mr. 10
Raneri?

A. Yes.

Q. He was paying some attention to you at that time?

A. Yes, sir.

Q. You heard his testimony just now?

A. Yes, sir.

Q. Do you recollect the occurrence that he spoke of?

A. I recollect him being there.

Q. His coming with you?

A. Yes. 20

Q. Do you remember what occurred after you got in
the house?

A. No, I don't exactly remember that, I remember
going in and giving his address, I don't remember any-
thing further.

Q. Do you remember taking away his match?

A. Yes, sir.

Q. When he was about to strike a light?

A. Yes, sir.

Q. And you telling him not to?

A. Yes, sir. 30

Q. Why did you tell him that?

A. Because I didn't want them to hear me when I
came in.

Q. What?

A. I didn't want them to hear me when I came in.

Q. You didn't want them to see?

A. I don't know why there was any use striking a match, because all you had to do was to turn on the electric light.

Q. You didn't turn on any?

A. Yes, sir; I did in the kitchen.

Q. In that room, in the dining room.

A. No, in the kitchen.

10 Q. But this occurred in the dining room, when you took the match away?

A. No, that was in the kitchen?

Q. You took the match away from him in the kitchen?

A. Yes, sir.

Q. Do you remember going around the table, do you remember his stumbling over something.

A. Yes, but I don't think it was in the dining room, I don't think we were in there at all.

20 Q. Didn't you go through the dining room to go through the kitchen?

A. No, there is a hallway and I think we went through the hallway.

Q. Was it in the hallway that you took the matches away from him?

A. No, it was in the kitchen.

Q. Did he stumble over something in the hallway?

A. No, there is a door goes in the hallway, and then there is a door goes in the sitting room, and we didn't go through the dining room, we went through the hall.

30 Q. What occurred there after that, anything?

A. Nothing.

Q. He gave you his address, did he, in the kitchen?

A. Yes, sir; he gave me his address.

Q. Did you take his matches there and light the lamp?

A. No, there was no lamp.

Q. What was it?

A. Electric lights.

Q. In the kitchen?

A. Yes, sir.

Q. Was Mr. Myers there at the house the next Sunday night?

A. I didn't see him.

Q. Do you know that Mrs. Feinburg was home on the night you first spoke of? 10

A. I could not tell that, I think she was though,— yes, I know she was, because the doors were all locked. I locked the doors after he left.

Q. Did you hear the window go up that night when you were in the kitchen?

A. No, I can't exactly say I did.

Q. Did you ever know of Mr. Myers going out of the window?

A. No, I did not.

Q. Through what door did he come into the house when he visited there? 20

A. I could not say that.

Q. Did he ever come the back way?

A. No, I never seen him.

Q. How often did Mr. Myers come to Mrs. Feinburg's?

A. He came there quite a while, pretty nearly every Sunday, Mr. Feinburg was there then.

Q. At what time in the year was this when he came so often?

A. Well, I can't exactly say. 30

Q. What time in August did you leave there?

A. The first part of August.

Q. Mr. Raneri is mistaken about you being in the dining room?

Objected to as one witness cannot pass judgment upon another.

Question overruled.

Q. As to falling over an object in the dining room, you think he was mistaken about that?

Objected to.

10 The Vice Chancellor: That is objectionable. You must ask for the incident.

By the Vice Chancellor:

Q. You were there that night?

A. Yes, sir.

Q. Did you see any falling over an object in the dining room?

A. No.

Q. That is all.

20 Not cross-examined.

ELMIRA McLAUGHLIN, sworn for Petitioner.

Direct examination by Mr. King:

Q. Where do you live?

A. First road and 11th street, Hammonton.

Q. How long have you lived there?

30 A. Over six years.

Q. Are you acquainted with Feinburg and wife?

A. I was acquainted with them ever since I lived in the town.

Q. Are you acquainted with John Myers?

A. I know him just by seeing him.

Q. State if you saw Mrs. Feinburg and John Myers frequently together?

A. I never saw them speaking together.

Q. Never saw them?

A. No.

Q. Had you any conversation with Mrs. Feinburg in regard to her difficulties with her husband?

A. She told me she never cared for her husband and never liked him, and she told me that was the reason she wanted to get rid of him, because she didn't want him. 10

Q. When did she tell you this?

A. She told me often in her store and in her own house.

Q. What year or month?

A. It was a year before she went away.

Q. Did you have a conversation with her specially just before?

A. Yes, sir; I did, I asked her why she wanted to leave him, you got a good husband. She said she had, there was no woman in Hammonton had a better, but she didn't like him and she would not live with him, and if she had a revolver in the house she would have blown his brains out long ago, that is what she told me. 20

Q. What about the children?

A. She told me, I asked her what about the children, she said before she would let him have them she would poison them.

Q. Did you have a talk with her just before she left?

A. I did the day before. 30

Q. What did she say about it?

A. She said she would not live with him, she said she didn't want him and didn't like him.

Q. Did she tell you anything about John Myers?

A. Never, she never told me anything about John Myers.

Q. That is all.

Not cross examined.

MAMIE RUDDEROW, sworn for petitioner.

10 Direct examination by Mr. King:

Q. Where do you live?

A. I live at Folsom, N. J., at present.

Q. Where did you live in 1903?

A. I lived in Hammonton, New Jersey, on Washington St.

Q. Are you acquainted with Mr. Feinburg and wife?

A. Yes, sir.

Q. Also with Mr. Myers?

A. Yes, sir.

20 Q. State if you worked for Mr. Feinburg in the store occasionally?

A. Yes, sir; I worked occasionally at the store.

Q. State if you saw Mr. Myers and Mrs. Feinburg there frequently?

A. Yes, sir.

Q. How about how often would you see them there together?

A. I would see them three or four times a day, when I was there, coming there.

30 Q. He would come in the store?

A. Yes, sir; sometimes he would come in the front way and sometimes in the back way.

Q. Would he do so when Mr. Feinburg was at home?

A. Yes, sir.

Q. Come in the back way and front, either way?

A. Yes, sir.

By the Vice Chancellor :

Q. What time was it that you worked at the store?

A. Well, I could not just remember, but it was through the summer.

Q. Of what year?

A. 1903, it was the summer before she left home.

10

Further direct.

Q. Now state if Mr. Myers came in there when Feinburg was not there and made a long stay frequently?

A. Well he came there one day, it was in the morning, that is before noon, and I went there to do some sewing, and Mrs. Feinburg told me that she would learn me how to do some work, how to make her corset covers, and he was talking about ice cream, and Mr. Myers said he would pay for it if I would get it, and Mrs. Feinburg said she would do my work. Well I got it, and Mr. Myers gave me fifty cents, and I went over to Mr. Feinburg's house to get a pitcher and some spoons and some saucers, and I went down to Mr. Simon's confectionery store. I got what I guess was one quart and I saw when I came back Mrs. Feinburg hadn't done any of my work, what she promised to do, and we ate the ice cream. I helped eat it, we all ate it together.

20

Q. After you ate your cream, then what did you do?

A. After I ate my cream it was time for me—then Mrs. Feinburg went and sat down and done the sewing for me. She showed me how to do the work, and I left it there, and went to McIntire meat market and when I came back I paid her for the goods I got there, and left Mr. Myers there.

30

Q. He had been there all the time?

A. Yes, sir; it was the time his wife was down to Atlantic City, and he said when he gave the fifty cents, my wife is down in Atlantic City, and I have to spend my money somehow.

Q. How long do you think you were gone from the time you went to get the ice cream and the pitcher and all that sort of thing before you came back?

A. Well of course I didn't time myself, but I judge
10 I was gone—when I went after the cream?

Q. Yes.

A. About twenty minutes.

Q. How long did it take you to do the sewing after you came back?

A. I didn't do any sewing.

Q. Did she?

A. She sat down and done as she promised me to do after I came back.

Q. And then you say you left them there?

A. Yes, sir.
20

Q. How long did it take you to get your meat?

A. I don't know, I was standing out there talking to my husband quite a little while, I don't know how long it took me.

Q. Talking to your husband?

A. Yes sir, he was working in the meat market where I went.

Q. How far was it to the meat market?

A. I judge about four squares.

Q. And when you came back you left them there?

A. Yes, sir.
30

Q. Did you ever see him behind the counter; do you know anything about the looking glass behind the counter?

A. Seeing the looking glass there.

Q. Yes.

A. Yes sir I have looked in it many times.

Q. Are there any goods back there?

A. Yes sir, there were things piled up there.

Q. Do you know of a bed being there?

A. No sir, but in the back where they had lots of things, she said she felt sick one day, and she took a quilt or what it was and she laid down and Mr. Myers got a box and he sat down beside her, but Mr. Feinburg was in the store at that time, it was in July, it was going on the 15th of July. 10

Q. 1903?

A. Yes, sir.

Q. He took a box and sat beside her?

A. Yes sir, and they were talking and spent quite a while, but I didn't pay much attention, and I don't know what they were talking about.

Q. Did you hear what was said?

A. I don't remember. I may have heard it, but I didn't pay any attention, because at that time I didn't think it was any of my business and didn't think I had any right to interfere. I didn't make it my business to stand and listen, because we were busy and Mrs. Feinburg told me she had a pain and didn't feel good and she laid down. 20

Q. After that he was frequently there in the store?

A. Yes sir, he was there in the store.

Q. Who is he?

A. Mr. John Myers, he was there quite a good bit, with Mrs. Feinburg when Mr. Feinburg was not there. He came there quite a good bit when he was not there. 30

Q. Do you remember about the occurrence in August of Feinburg catching her on his lap?

A. I don't know anything about that, only what I heard.

Q. Did you see him there in August much, the last of August?

A. I don't remember that, I really could not say, because I didn't pay much attention.

Q. Did you ever see them on the street together?

A. Well, I have seen them speaking together, and I have seen him sit over on Mr. Hill's stoop one night, and he didn't speak to me after Mr. Feinburg found this out and he would not speak to me and Mrs. Feinburg and I went in the restaurant and got ice cream, and I
10 said something to Mr. Myers and he didn't answer, and I said to Mrs. Feinburg I wonder what he is mad at me for. She said she knew, and I asked why, and she said I wanted to tell his wife everything I had seen, and he didn't speak to me.

Q. That is that Myers didn't speak to you?

A. No sir he would not speak to me. I went up the street with his wife and I never said a word; his wife was talking to me and she said—

20 (The Statement of the witness was objected to and ordered stricken out.)

A. And I always stuck up for him, never said a word about it.

Q. When he came in did he appear to be very familiar?

A. Yes, always did, always seemed so.

Q. Did he have any business except in a social way with her?

A. No sir, didn't come in to buy anything, not while
30 I was there.

Q. On the day that you were there you say he stayed there so long, he had no business?

A. Not while I was there, he didn't ask for anything particularly.

Q. Is that all you know about their intimacy?

A. Yes sir, that is all I remember, I didn't pay much attention to it at that time.

Cross-examination by Judge Wescott:

Q. On this particular day when Mr. Myers bought ice cream, it was in the morning I believe you said?

A. Yes, before noon.

Q. And you were there at a busy time?

A. I was doing sewing for myself.

Q. Were any people coming in and out of the store? 10

A. No, they were not very busy. I was not hired to work that day, I just came for her to show me how to do that work.

Q. You went out after ice cream, and Myers treated the party after it came.

A. I did.

Q. And what happened after you were gone you don't know?

A. No.

Q. But you say Mrs. Feinburg hadn't done the 20 sewing?

A. No, she didn't do any while I was gone.

Q. That was not very terrible, was it, she did it after you came back?

A. That is the question I was asked and I answered it.

Q. Do you know the reason why she didn't do the sewing?

A. No.

Q. Do you imagine it was because she and Mr. Myers got behind the counter? 30

A. I suppose she was sitting back there, for she promised to do the work while I was gone.

Q. If any customers had come in while you were gone, who would have to wait on them, she or Myers?

A. You will have to ask them.

Re direct

Q. Were they sitting behind the counter when you left?

A. No; Mrs. Feinburg was standing there, I don't remember, I don't remember, they were sitting together when I left. Mr. Myers was sitting, but I don't think Mrs. Feinburg was.

10 SAMUEL GERSTENFELD, Sworn for the Petitioner.

Direct examination by Mr. King:

Q. Are you acquainted with the parties in this proceeding?

A. Yes, sir.

Q. Do you know Mr. Myers?

A. Yes, sir.

Q. Where did you live in 1903?

A. Hammonton, N. J., 108 Warren St.

20 Q. How long did you live there?

A. Nine years in the same house.

Q. When did you leave there?

A. In October, 1904.

Q. Where do you live now?

A. South 52nd St., Philadelphia.

Q. Were you intimately acquainted with these parties?

A. Yes sir, I knowed them a while, all friendly.

Q. Were you frequently at the store?

A. Yes, sir.

30 Q. State if you saw Mr. Myers in there frequently and what you know about it?

A. I can't say that I saw him in there frequently, I saw him occasionally going in and coming out, but any further I haven't seen.

Q. Did you ever see Mrs. Feinburg and Mr. Myers together on the street?

A. No, sir.

Q. Tell us if you had conversation with Mrs. Feinburg just before she went away?

A. Before she went away it came to my knowledge all through Mrs. Rudderow, she came to my house, and I was absent at the time. My wife she was home, and Mrs. Rudderow twisted her hand to my wife, she said what do you think.

10

Objected to.

The Vice Chancellor:

Q. She spoke to your wife?

A. Yes, sir.

Q. Don't say what she said, you were not at home?

A. No.

Q. And didn't hear it?

A. No.

Q. What did you hear her say?

20

A. Who?

Q. Mrs. Feinburg.

A. I heard Mrs. Feinburg say to me repeatedly that she didn't care for husband, never loved, never cared for him.

Q. When did you hear that?

A. Right along, ever since they moved to Hammon-ton, I have known them since the day they moved there.

Q. Do you know of any difficulty between them?

A. Mr. Feinburg told me—

30

Objected to.

Q. You can say what Mrs. Feinburg told you about them?

A. He told me—

The Vice Chancellor :

You can't prove what Mr. Feinburg said.

Q. I want to know what you told him.

A. I went to Mr. Feinburg's store in the morning before she left, I judge about two or three weeks, and I told her that I heard all about this trouble about her and Mr. Myers and advised her as a friend to stay there—
Objected to.

10 The Vice Chancellor :

What he said to Mrs. Feinburg is admissible.

A. I came there in the morning, her husband was going to town. It was on Thursday, I believe if I ain't mistaken, and I said Mrs. Feinburg I came to tell you as a friend, I heard that you are very particularly acquainted with Mr. Myers, and as a friend for your good and your husband's good, it will only come out some day ; you stay away from Mr. Myers, take my advice as a friend,
20 for the sake of yourself and your children. She made reply, I ain't doing no harm, not that I know of. I told her somebody will tell her husband, her husband will find it out, all these goings on, and with that I left her.

By the Vice Chancellor :

Q. When was this ?

A. This was in the month of, I judge about December.

Q. 1903 ?

30 A. 1903.

Further direct.

Q. What reply did she make ?

A. Then she came to my house, I was home, and she talked to me, and my wife, told me that she could not

live with Hazer Feinburg, didn't like him, didn't care for him. My wife questioned her about Mr. Myers, she denied it to my wife, but she said she could not live with her husband no how. All she wanted was to try to get all she could out of him and leave him as soon as she could.

Q. She said that in your presence ?

A. Yes, sir, my presence and my wife's both.

Q. Is that all you heard her say ?

A. Then she came to me one day and told me that she was going to get all she could, and I came into her store another day, and she told me she was going to take some goods, for she said she was going to leave him, and she would get all she could out of him by the time she is leaving. So she got quite some goods out of the store, left it there at the house. 10

Q. What house ?

A. My house, and she took it away from there, shipped it herself, and the second time she took it as she went. 20

Q. Where did she ship it ?

A. One I think she shipped to her father.

Q. And the next time ?

A. I could not say where she shipped it.

Q. Do you know what the goods were ?

A. They were ribbons and dry-goods out of the store, valuable articles.

Q. Do you know about money ?

A. Yes, she exhibited money to me, told me she had plenty of it, and she exhibited it to me in our kitchen. 30

Q. How much ?

A. I presume \$50 or \$75, some where around there.

Q. Did she tell you how much it was ?

A. She showed me a pile, but I could not swear how much money was in it.

Q. Where did she keep it?

A. In her stocking.

Q. Is that all she told you?

A. That was what she told me. She told me she could go to work and make \$8. to \$10. per week, and she didn't have to live with him, that she was forced to marry him, and she didn't want to.

Q. Forced to marry him?

A. Yes sir, through her parents, and she didn't want
10 him.

Q. Did she say she liked somebody else better.

A. She had another fellow she claims before she was married to Mr. Feinburg.

Q. That is all.

Not cross examined.

BERTHA SCHINDEL, sworn for petitioner.

20 Direct examination by Mr. King:

Q. Where do you live?

A. Millville, New Jersey, Sharp St.

Q. Where did you live in 1903?

A. Folsom, N. J.

Q. Did you work for Mr. Feinburg that year?

A. Yes, sir.

Q. What months?

A. I can't tell you.

30 Q. When did you work for him, at what time? Dur-
ing what month of 1903?

A. Yes, 1903.

Q. Can you tell what months?

A. I think it was in December.

Q. You were there in December?

A. Yes, sir.

Q. How long?

A. Six months.

Q. When did you go there to live, can't you tell when you went there in the first place?

A. (Witness remained silent)

Q. She don't understand the language very well. Do you remember what time you went there.

A. On Sunday.

Q. Do you remember the month?

A. I guess it was in February. 10

Q. I will draw her attention to Christmas or New Years; Do you remember Christmas, 1903.

A. Yes, sir.

Q. Were you there at that time?

A. Yes, sir.

Q. Now state, will you, what happened, was Mr. Myers there that evening?

A. Yes, sir.

Q. That is the evening of Christmas or the evening before Christmas? 20

A. Yes, sir.

Q. What time was he there on the evening before Christmas?

A. Not the evening, but the night about 9 o'clock.

Q. You tell what occurred there?

A. Sir?

Q. Can you tell what occurred there?

A. Yes, sir.

Q. Did you meet him that night?

A. Yes, sir. 30

Q. What time?

A. About half-past eight.

Q. Where?

A. In the parlor.

Q. Have you stated where you were or where you went?

A. I was in the kitchen.

Q. Where did you go after that?

A. I went up-stairs.

Q. Then what did you do after that?

A. I brought the children to sleep.

Q. Did you come down after that?

A. Yes, sir:

10 Q. Where did you go?

A. I went down in the cellar and I heard some noise in the parlor and I opened the door and I saw it.

Q. What did you see?

A. Mr. Myers and Mrs. Feinburg.

Q. Well, what position were they in?

A. I didn't look, it was dark.

Q. Did you see them after that?

A. There was one Sunday after, no weekday, Saturday.

20 Q. No the night before Christmas, what did you see after that, after the time you spoke of, they were in the parlor, what did you see after that?

A. I saw Mrs. Feinburg and Mr. Myers in the water-closet.

Q. Together?

A. Yes, sir.

Q. What time was that?

A. It was about nine o'clock.

Q. The same night?

30 A. Yes sir, Saturday.

Q. What occurred after that, what did you do after you found them there?

A. I had a bucket full of ashes, I opened the door and looked in and there was Mr. Feinburg and Mrs. Myers,—(Witness paused).

- Q. What did you do.
 A. Went back again in the house.
 Q. Did you go up-stairs?
 A. No, sir.
 Q. Where did you go?
 A. I went into the sitting room.
 Q. Where did they go?
 A. I didn't look.
 Q. Did they come in the house?
 A. No, sir. 10
 Q. Did you see them afterwards that night?
 A. I met them by the drug store.
 Q. You met them by the drug store?
 A. Yes, sir.
 Q. On the street?
 A. Yes, sir.
 Q. How did they go by, did you know them?
 A. Yes, sir.
 Q. Did you see them after that anywheres?
 A. No, I can't tell. 20
 Q. Did you ever see Mr. Myers go through the window of the parlor?
 A. Yes, sir.
 Q. How often?
 A. One Sunday.
 Q. More than once?
 A. Once.
 Q. Would he often come in the house, would it be through the door or window?
 A. Through the window. 30
 Q. The back window?
 A. Yes, sir.
 Q. Through the parlor window?
 A. Yes, sir.

Q. Did you ever see Mrs. Feinburg let him in there?

A. Yes.

Q. When was that?

A. One Saturday.

Q. In the evenings?

A. Nights.

Q. What time of the night?

A. Half past eight.

Q. Was Mr. Feinburg there?

10 A. No, sir.

Q. Was he ever there when Mr. Myers came there in the night?

A. No, sir.

Q. Did you ever see them in the parlor together?

A. Yes, sir.

Q. What were they doing in the parlor?

A. I didn't look, they were about an hour or half an hour in there.

Q. How often would he come there?

20 A. About Saturdays and Sundays nights.

Q. Every Saturday and Sunday night?

A. Yes, sir.

Q. Didn't he come sometimes on other nights?

A. Some night he came down to.

Q. Did he knock when he came in the house ever?

A. Yes, sir, he came and knocked at the door and she opened the back door.

By the Vice Chancellor:

Q. You say he did knock when he came to the door?

30 A. Yes, sir.

Further direct.

Q. When the windows were open would he knock at the window?

A. No.

Q. Open that and come in without knocking?

A. (The witness remained silent)

Q. Did you ever see them on the floor together?

A. They had a couch in the parlor, they sat together.

Q. You saw them on the couch together.

A. Yes, sir.

Q. How were they lying?

A. I don't know, they were sitting on the couch.

Q. Did you ever see them lying down on the floor?

A. No, sir. 10

Q. Would the door be locked when they were in there?

A. Yes, sir.

Q. Shut I mean, I didn't mean locked?

A. Yes, sir.

Q. What did Mrs. Feinburg say to you when he came there?

A. She said take the children and go up-stairs and bring them, the children to bed. I took the children and went back again, and I saw her in the parlor with Mr. Myers. 20

Q. Did she always send you to bed when he came?

A. Yes, sir.

Q. Did she ever give you general instructions what to do when he came there?

A. No, sir.

Q. On the 5th of the month of December do you remember whether he was there on the 5th?

A. Yes, sir.

Q. How did he come in the house that night? 30

A. Opened the back door?

Q. How long did he stay there?

A. About a quarter of an hour.

Q. Where?

A. In the parlor.

- Q. With Mrs. Feinburg ?
A. Yes, sir.
Q. Did they have the door closed ?
A. Yes, sir.
Q. Did they always close that door when he was there ?
A. Yes, sir.
Q. Were you always sent to bed or up-stairs ?
A. Yes, sir.
10 Q. Did Mrs. Feinburg make a present to you on conditions that you would not say anything about it ?
A. Yes, sir.
Q. What was it ?
A. Two rings and one waist.
Q. When was this given to you ?
A. A week to Christmas.
Q. What Christmas is that ?
A. 1903.
Q. What did Mrs. Feinburg tell you when she gave
20 you that ?
A. She said not to tell anything what I am doing, what I am bringing out of the store.
Q. Do you know what goods she brought from the store ?
A. I saw a big box of silk handkerchiefs and silk ribbons and goods.
Q. Where did she keep those things ?
A. Down in the cellar.
Q. What in ?
30 A. In a bag.
Q. How long before Christmas did she begin to bring in things that way, do you know ?
A. I don't know.
Q. Why did you leave Mr. Feinburg's employ ?
A. Because Mamma would not let me stay there.

Q. Why didn't she?

Objected to.

Question overruled.

Q. Did you never see these parties together on the floor?

A. Yes sir, once.

Q. What?

A. One night.

Q. One night you saw them together on the floor?

10

A. Yes, sir.

Q. Where?

A. In the parlor.

Q. State the situation in which they were?

A. Sir?

Q. State how they were, how did they lay. You need not be afraid to tell.

A. (Witness remained silent.)

By the Vice Chancellor.

20

Q. I will ask some questions; where was this, how did you happen to be in the parlor on that occasion?

A. Because I heard a noise.

Q. Is that the occasion which you referred to previously in the testimony as having been about Christmas time, 1903?

A. Yes, sir.

Q. You heard a noise in the parlor?

A. Yes, sir.

Q. Where were you at the time when you heard the noise?

30

A. I went down in the cellar and brought coal up, and I opened the door and I saw Mrs. Feinburg and Mr. Myers there.

Q. Where?

A. In the parlor on the floor.

Q. What was their attitude, were they lying flat?

A. I didn't look.

Q. Was there a light in the room?

A. No, it was dark.

Q. How were you able to see?

A. I saw them down on the floor.

Q. Both?

10 A. Yes, sir.

Q. Can't you tell how they lay on the floor, their relation to each other; tell it in your own way, whatever you saw; was there any spread or coverlet on the floor upon which they were lying?

A. No, there was carpet on the floor.

Q. Can you tell us in your own way what you saw there, where they were?

A. On the floor and he was on top.

Q. Were their clothing disarranged?

20 A. Yes, sir.

Further direct.

Q. That was the same night before Christmas was it?

A. Yes, sir.

Q. To which you referred?

A. Yes, sir.

Q. Did you ever see it more than once that way?

A. No, sir.

30 Q. Did you ever see Mrs. Feinburg attack Mr. Feinburg, strike him or anything of that kind?

A. No, sir.

Q. Throw dishes at him?

A. Yes, sir.

Q. You did see that?

A. Yes sir, on Sunday.

- Q. What did she throw at him ?
 A. He took the child of two years up and she threw the dishes at him.
 Q. What dish was it ?
 A. Dishes.
 Q. What dishes ?
 A. Kind of soup plates.
 Q. Did she hit him with them ?
 A. No sir he had the child, he took the child from the floor, and she didn't like to. 10
 Q. When was that ?
 A. On Sunday.
 Q. When ?
 A. Sunday evening.
 Q. How long before Christmas do you think ?
 A. Just before Christmas.
 Q. Is that all you know about it ?
 A. Yes sir I think so.
 Q. If you have seen anything at all you can tell it.
 A. No, sir. 20
 Q. That is all.

Judge Wescott :

I want to call your Honor's attention to the fact, that this gentleman (pointing to a man in the room) who is the father of this girl, has been prompting her by shaking his head up and down that way.

The Vice Chancellor :

I must say to all persons here present that interference with or suggestions to witnesses on the stand cannot be permitted for a moment. No matter how disinterested the advice given or how it may be communicated either by nodding of the head or by motions or murmurs, it

30

cannot be allowed. The witness on the stand must be wholly uninterested and free from suggestions.

Adjourned until January 18, 1905, at 10 o'clock A. M.

Camden, N. J., January 18, 1905.

10 The hearing in this case was continued pursuant to adjournment. Appearances as heretofore noted.

BERTHA SCHINDEL,

Direct examination continued by Mr. King :

Q. On the 5th of December how did Mr. Myers come into the house?

A. How he came in?

Q. Yes, do you remember?

20 A. Came in the back door.

Q. Was there anything that occurred specially on that evening?

A. No, sir.

Q. Did he occupy the parlor with Mrs. Feinburg that evening?

A. No, sir.

Q. How long did he stay that evening?

A. Fifteen minutes.

30 Cross examination by Judge Wescott:

Q. You say on the 5th of December Myers came in the back door?

A. Yes.

Q. You made an affidavit in this case, didn't you.

A. No, sir.

Q. You signed a paper?

A. No, sir.

Q. Did you in the other case make an affidavit. There are two, one in which Mr. Feinburg seeks a divorce, and the other case is one in which Mrs. Feinburg seeks to compel her husband to support her. Now I am asking you whether you made an affidavit, that is whether you went before some officer and signed a paper and swore to it in the case in which Mrs. Feinburg seeks to make her husband support her. 10

A. No, sir.

Q. Did you make a mark to a paper and swear to it before Joseph P. Garten, a Justice of the Peace? Do you know Joseph P. Garten?

A. No, sir.

By the Vice Chancellor:

Q. Did you ever hear his name spoken of as a Squire or Justice of the Peace?

A. I don't know. 20

Q. Can't you remember such a person?

A. No.

By Judge Wescott :

Q. Will counsel on the other side admit this to be a copy of her affidavit?

Mr. King :

Yes, that is her affidavit.

Q. In this paper, which Counsel admits is your affidavit— 30

The Vice Chancellor :

That paper should be marked.

Counsel for defendant produces a paper purporting to

be a copy of an affidavit made by Bertha Schindel on March 16, 1904, before Joseph P. Garten, J. P., signed Bertha Schindel, her mark, shown to counsel for complainant, and it is without proof admitted by them, that the affidavit in question, being in typewriting is an affidavit, the original of which is on file in this court in the case of Anna Feinburg, complainant, vs. Hazer Feinburg, defendant on bill for Alimony.

10 Mr. King:

That is marked for identification.

The Vice Chancellor :

No, it is not yet marked for identification, for the purpose of proof. If you admit it is a copy, then it may be evidence for all purposes.

Mr. King :

I don't see how it is evidence.

20

The Vice Chancellor :

You do not admit it in evidence ; your admission that it is a copy entitles him to present it for admission in evidence without proving that it is a copy. If it is not pertinent proof it may be ruled out, even though admitted to be a true copy.

Mr. King :

It is a copy.

30

Marked Exhibit D. 1.

Q. In that affidavit you say that sometime about nine o'clock in the evening of the 5th of December last Mr. Myers came to the house of Mr. and Mrs. Feinburg, raised the parlor window and he came in through it.

Today you say he came in the back door on that night.

Which statement is true ?

A. (Witness remained silent).

Q. Answer the question the best you can.

A. Through the back window.

Judge Wescott :

I offer the affidavit in evidence.

Mr. King :

10

We withdraw any objection we might have.

The Vice Chancellor :

Affidavit heretofore referred to marked D 1. I will note the offer. I think it should be offered when the defendant offers his testimony.

Q. How old are you ?

A. I would be 19 the 5th of February.

Q. Do you realize what it is to make an oath and testify in Court.

20

A. Sir.

Q. Do you know what it is to make an oath to testify in Court.

A. (Witness remains silent.)

Q. Do you realize what you are doing when you are sitting there and testifying ?

A. Yes, sir.

Q. You know you are under oath.

A. Yes, sir.

Q. When you went down in the cellar at the time you testified about, what did you go down there for ?

30

A. For coals.

Q. How long were you down there ?

A. About ten minutes.

Q. What were you doing while you were there?

A. Putting coals in the bucket.

Q. Were you doing that all the time, putting coal in the bucket.

A. I took the bucket and carried it up in the kitchen.

Q. But when you were in the cellar, what were you doing all the time you were there?

A. Didn't do anything.

Q. Did you fill up the bucket with coal, and stay in
10 the cellar?

A. No, sir.

Q. As soon as you filled the bucket you went up?

A. Yes, sir.

Q. What sort of a noise did you hear when you were
in the cellar?

A. I heard somebody open the window.

Q. What window was it?

A. The parlor.

Q. When you went up-stairs where did you go, into
20 the kitchen?

A. Yes, sir.

Q. How did you get from the cellar into the kitchen?

A. There was a door there.

Q. Then when you got into the kitchen what did
you do?

A. I mind the child.

Q. How long did you mind the child?

A. About an hour.

Q. When the hour was up what did you do?

30 A. I bring it to sleep and went up-stairs.

Q. Then what did you do.

A. Sleep.

Q. You didn't go to the parlor at all?

A. No, sir.

Q. You have testified that when you went down cellar you heard a noise?

A. Yes, sir.

Q. And then you went up-stairs and went into the parlor.

A. Yes, sir.

Q. And you saw Mr. Myers and Mrs. Feinburg.

A. Yes, sir.

Q. That is true.

A. Yes, sir.

10

By the Vice Chancellor :

Q. Was it the occasion that you were down in the cellar that you came upstairs and went into the parlor?

A. Yes, sir.

Q. What made you go into the parlor?

A. Because I heard the noise.

Further cross.

20

Q. You heard noise, how did you get from the kitchen to the parlor?

A. There was a door there.

Q. You opened the door?

A. Yes, sir.

Q. Was the parlor door open?

A. No sir, it was shut.

Q. Parlor door shut?

A. Yes, sir.

Q. You opened the parlor door?

30

A. Yes, sir.

Q. What did you do that for?

A. Well, I heard somebody speaking.

Q. And that is the reason you opened the parlor door. Did you knock before you went into the parlor door?

A. No, sir.

Q. You just heard somebody speak and walked in there?

A. Yes, sir.

Q. Who was it that was speaking?

A. Mrs. Feinburg and Mr. Myers.

10 Q. You heard that before you went in?

A. Yes, sir.

Q. Whose voice did you hear? Mrs. Feinburg or Mr. Myers.

A. Mrs. Feinburg.

Q. And it was dark in there?

A. Yes, sir.

Q. Could you not see.

A. It was not so very dark.

20 Q. You testified once that you opened the door and it was dark and you opened the door and you could not see.

Mr. A. J. King:

No, she didn't say anything of the kind.

Q. Did you go in?

A. No, I only opened the door and looked in.

Q. What part of the floor were they on?

A. Sir.

30 Q. Whereabouts on the floor were they, whereabouts in the room?

A. In the parlor.

Q. Whereabouts in the parlor?

A. On the couch.

Q. Then they were not on the floor?

A. Witness remained silent.

The Vice Chancellor :

You must answer, we cannot wait so long.

A. (Witness remained silent).

The Vice Chancellor :

Let the records show that the witness does not make any reply or explain why she does not.

Q. If they were on the couch why did you swear they were on the floor. 10

A. They were on the floor.

Q. What part of the floor were they on.

A. Sir?

Q. Whereabouts in the parlor were they on the floor?

A. On the carpet on the floor.

Q. Which part of the room?

A. In the parlor.

Q. Near the door?

A. Yes, sir. 20

Q. Up close to the door?

A. Not so far from the door.

Q. Did they do anything when you opened the door and looked in?

A. Sir?

Q. Did they do anything and opened the door and looked in.

A. No, sir.

Q. How long did you look?

A. About five minutes. 30

Q. Did you say anything to them?

A. No, sir.

Q. After you looked what did you do.

A. Went into the kitchen.

By the Vice Chancellor:

Q. Did you step into the parlor on the occasion when you opened the door.

A. No, sir.

Q. Now having opened the door and having seen as you say this thing, did you still keep your hand on the door?

A. No, sir.

Q. What did you do?

10

A. I opened the door and looked in and went away again.

Q. What did you do with the door, leave it open?

A. No, shut it again.

Further cross.

Q. Did you make any noise when you shut it?

A. No.

Q. You shut it quietly?

A. Yes, sir.

20

Q. Why did you shut it quietly?

A. Because I would not have it—because she hear it.

Q. Did you open the door quietly?

A. Yes, sir.

Q. Why?

A. I can't understand.

By the Vice Chancellor :

Q. He asks you why you opened the door in the parlor quietly?

30

A. Because I would not have Mrs. Feinburg hear it.

Further cross.

Q. When was it you say you saw these people in the privy?

A. It was the same Saturday night.

Q. What time in the night was it?

A. About half-past eight.

Q. How did you happen to find them there?

A. Because I took the ashes from the stove and I
throw the ashes down the water-closet.

Q. Could the door be fastened on the inside?

A. Yes, sir.

Q. It was not fastened?

A. No, sir.

Q. You walked in?

10

A. Yes, sir.

Q. What did you see?

A. I saw Mrs. Feinburg and Mr. Myers in there.

Q. What position were they in?

A. I didn't look.

By the Vice Chancellor :

Q. Didn't you see, without looking what position
they were in, were they standing up or lying down.

20

A. Standing up.

Further cross.

Q. What were they doing?

A. They were doing nothing.

Q. Just standing up there? Did you open the door
quietly?

(Witness remained silent).

Q. Why won't you answer?

30

The Vice Chancellor :

You understand you are asked whether you opened the
door quietly, can't you say? Answer, can't you remem-
ber what they did?

(The question is repeated and the witness makes no reply and gives no reason why she does not).

Q. Did you close the door afterwards?

A. Yes, sir.

Q. What did they do and say when you opened or closed the door?

A. They didn't say anything.

Q. Where did Mr. Myers come from that night when he went to the privy, did he go from the house?

10

A. Went from the street.

Q. Did you see him go from the street to the privy?

A. No, sir.

Q. How do you know he went from the street to the privy?

A. I saw him in the street.

Q. And he was not in the house?

A. No, sir.

Q. When did Mrs. Feinburg go there, did she go from the house?

20

A. She came from the store.

Q. How did she get to the privy from the store, go around the side of the house?

A. Yes, sir.

Q. Did Mr. Myers go around the same side of the house or the other side?

A. I didn't look.

Q. Have you been told what to say here?

A. Sir?

30

Q. Have you been told what to say here on the witness stand? Has anybody told you what to say?

A. No, sir.

Q. Have you seen Mr. Feinburg since the suit commenced?

A. No, sir.

Q. Have you said anything to him about this testimony?

A. No, sir.

Q. Nor he to you?

A. No, sir.

Q. Have you been told that if you were asked that question to say no sir.

Mr. King :

Is that a proper question?

10

The Vice Chancellor :

Yes, questions which tend to throw doubt on the credibility of the witness or to show that she has been influenced or instructed are proper on cross examination.

A. Sir?

Q. Did anybody tell you to say you hadn't been spoken to by Mr. Feinburg?

A. (Witness having the question repeated to her, makes no reply.)

20

Mr. King :

If the questions were worded in a different way I think she would answer.

The Vice Chancellor :

I will ask her: Judge Wescott asks you whether anybody has told you, if you were asked whether Mr. Feinburg has spoken to you about this case, did anybody tell you to say no?

30

A. No, sir.

Q. What did your father say to you about this case?

A. He said nothing.

Q. Didn't say anything to you about it?

A. No, sir.

Q. Your father, has been here, and is here now, he was here the other day?

A. I know he was here, I could not find him in Camden.

Q. He just went out of the Court room.

A. Yes, sir.

Q. What is your father doing here?

A. He was came with me.

Q. That is all.

10

Re direct :

Q. You say that at the night when these parties, Mrs. Feinburg and Mr. Myers were seen by you in the privy, in the water-closet, that he came up from the street, and that Mrs. Feinburg came up from the store, now I ask you if they came together?

A. No, sir.

Q. Which came first.

A. Mrs. Feinburg from the store.

20

Q. She came first?

A. Yes, sir.

Q. And went to the privy.

A. Yes, sir.

Q. And he came after?

A. Yes, sir.

Q. How long after?

A. About fifteen minutes.

Q. She remained out there all the time until he came did she.

30

A. Yes, sir.

Re cross.

Q. What time in the night was that.

A. Half past eight.

- Q. Did you look to see what time it was?
 A. Yes, sir.
 Q. Where was the clock you looked at.
 A. In the sitting room.
 Q. Why did you look to see what time it was.
 A. Because I thought Mrs. Feinburg, that is the
 time she came home.
 Q. You saw her come and go to the privy?
 A. Yes, sir.
 Q. And saw Mr. Myers come and go in the privy? 10
 A. Yes, sir.
 Q. Where were you all this time?
 A. In the sitting room.
 Q. What were you doing in the sitting room?
 A. Minding the children.
 Q. It was dark, was it, or light?
 A. In the sitting-room.
 Q. Yes, was it dark or not?
 A. It was dark.
 Q. Was there a light in the sitting-room? 20
 A. Yes, sir.
 Q. You saw one go away in the privy and the other
 go the other way?
 A. Yes, sir.

CATHERINE ROLLER, sworn for petitioner :

Direct examination by Mr. King:

- Q. Where do you live? 30
 A. Hammonton.
 Q. Are you acquainted with Mr. Feinburg and Mrs.
 Feinburg?
 A. Yes, sir.

- Q. Are you acquainted with Mr. Myers?
 A. Yes, sir.
- Q. Where is your house situated with reference to Mr. Feinburg's store?
 A. Right across the street.
- Q. I ask you if in the summer and fall of 1903 Mr. Myers was Marshal of the town of Hammonton?
 A. Yes, sir.
- 10 Q. Was he frequently at your house?
 A. He came there quite often, yes sir.
- Q. Did Mrs. Feinburg come there frequently?
 A. Yes, sir.
- Q. Did they meet together there?
 A. Well, they used to come together there, one would be there and the other would come in, I don't know whether they proposed to meet there.
- Q. They often met there at your house.
 A. Yes, sir.
- Q. Sometimes coming in one door and sometimes
 20 the other.
 A. Oh, they mostly came in the sitting room door, very seldom came in the store door.
- Q. Sometimes together?
 A. No, I don't think so, I don't remember ever coming in together.
- Q. They met there frequently?
 A. Yes, sir.
- Q. How long did they stay at your house?
 A. Sometimes half an hour, sometimes a quarter of
 30 an hour, I never put the time down and I don't recollect it, sometimes half an hour, I suppose.
- Q. Did they go away together generally?
 A. No, sir.
- Q. Did they frequently?
 A. Go off together?

Q. Yes.

A. No.

Q. Did you frequently see them together on the street?

A. I don't remember ever seeing them together on the street.

Q. Did you notice Mr. Myers standing over by your house frequently and watching over towards the store?

A. Yes, sir.

Q. In the evening?

10

A. Yes, sir.

Q. Would not Mrs. Feiuburg come out under such circumstances and meet him there?

A. No sir, she never came across to meet him as I recollect, she has come across on our porch sometimes in the evening and we would be there together, but I don't remember her ever coming over to the tree to meet him; I have seen her go out of the store door and go up the street, but I don't know that I ever saw her meet him by the street.

20

Q. You have seen him go with her?

A. I never saw them go together.

Q. Did you ever see him after standing there awhile, looking over, follow her up the street?

A. Sometimes he would go up the street and sometimes he would go the other way.

Q. Sometimes would you see them go up together?

A. No sir, never did, never go up the street together.

I saw Mrs. Feinburg go up the street from the store, and

I saw Mr. Myers go up the street from the tree but I

never saw them go together.

30

Q. Did you see him follow her?

A. He would go, I don't know whether he would follow her or not?

Q. Soon after she went?

A. Yes, sir.

Q. What time of the night did she generally leave the store.

A. I would say about half past seven, I don't remember the time.

Q. And you saw him frequently follow her?

A. I saw him go away.

Q. Frequently?

10 A. Well yes.

Q. During the summer?

A. During the Summer, yes sir.

Q. Have you seen them on the street together frequently?

A. Never saw them on the street that I remember together, only across at my house, that is the only time I ever saw them on the street. Did they come there so frequently that you began to feel that it was not proper for you to have them come?

20 A. Well, yes sir.

Q. Did you request them not to come any more?

A. No, sir.

Q. What kind of treatment did you give them, did you make them understand that it was agreeable to you for them to meet there?

A. I never said anything to them until the last time they came in together?

By the Vice Chancellor :

30 Q. When they came to your house was there anybody else there?

A. Sometimes and sometimes there was not.

Q. On the occasion when there was not anybody else, which room were they in?

A. Same as I was.

Q. Were you in the same room ?

A. Yes, sir.

Q. Were you in the same room that they were during the whole period of their stay ?

A. Yes, only to go in and out to the kitchen, not to stay any length of time.

Q. What room was that ?

A. In the dining room.

Further direct.

10

Q. I ask you now if you saw at one time Mr. Feinburg standing in the store door, and Mr. Myers went out of the back door when he left your house, he being in your house ?

A. Yes, sir.

Q. When was that ?

A. It was on a Saturday afternoon.

Q. What time of the year ?

A. I don't remember, in the fall of the year I suppose, he went to the baseball ground. 20

Q. That is all.

Cross examination by Mr. Jefferson :

Q. What kind of a house do you keep there, what business ?

A. Hardware store, my husband is a plumber.

Q. Is it the custom for people to come in and out there ?

A. Yes, sir. 30

Q. Did other people come in and out besides Mr. Myers and Mrs. Feinburg ?

A. Yes sir lots of people came in and out there.

Q. Did they meet at your house different from anybody else?

A. Sometimes Mr. Myers would come in and Mrs. Feinburg come over, sometimes Mrs. Feinburg came and Mr. Myers would come in.

Q. Other people did the same thing, didn't they?

A. Yes, sir.

Q. Did men and women have the habit of coming to your house?

10 A. No sir they did not.

Q. To meet there?

A. No sir they did not.

Q. These people didn't come in different from other people.

A. They came in the same, she would come in and he would come in and sit and talk awhile.

Q. You were always there?

A. Yes sir, only as I say when I went into the kitchen once in a while?

20 Q. You say you saw Mr. Myers watching the Feinburg house?

A. I don't know whether he was watching, I saw him standing by that tree and looking over.

Q. You don't know whether he was looking at the house?

A. He was looking at the store.

Re direct :

30 Q. I will ask you if they did any business, either of them, when they came in?

A. Not that I know of.

Q. Didn't buy anything?

A. No.

Q. It was only a social matter they came over for?

A. Yes, sir.

Q. Between themselves ?

A. Yes, sir.

Q. That is all.

Mr. King :

We have another witness, but she is not here.

The Vice Chancellor :

I cannot compel the other side to put their witnesses
on until you have closed. 10

Have you any more witnesses ?

Mr. King :

Nothing more now.

The Vice Chancellor :

I must have a statement that the case is closed.

Mr. King :

We expected Annie Maxwell would be here, but she 20
is not here. I understand she wanted to make a correc-
tion in the testimony she gave the other day, she is not
here ; she was told to be here.

The Vice Chancellor :

I cannot guess at what a witness will say nor her rea-
son for her absence. If you have no other witnesses you
must close your case.

Mr. King :

If she should come we would like to make the correc-
tion. 30

The Vice Chancellor :

If she comes I will hear you.

Mr. King :

That is all of our testimony.

The Vice Chancellor :

The complainants having declared that they have no further witnesses to be examined, the Court, Counsel not saying anything definite, declares the testimony closed.

Mr. King :

10 We have no further testimony here, but there were witnesses subpoenaed whom we expected to be here.

The Vice Chancellor :

If the witnesses appear you may make a special application to court.

Complainants Rest.

20

ANNA FEINBURG sworn for defendant,

Direct Examination by Mr. Jefferson.

Q. Are you the defendant in this action.

A. Yes, sir.

Q. Where do you live ?

A. At the time I lived in Hammonton, now I live in Philadelphia with my mother and father.

Q. What is your present address?

30 A. 3124 F Street, Kensington.

Q. When did you leave Hammonton ?

A. First day of January 1894,—1904.

Q. Why did you leave Hammonton ?

A. Because I was ill treated and abused and I could not live with my husband.

Q. Do you know John Myers?

A. Yes, sir.

Q. Did he ever come into your store at Hammonton?

A. Yes, sir.

Q. When did he come?

A. He come frequently, he was quite a friend of Mr. Feinburg.

Q. Did he call to see Mr. Feinburg?

A. Yes, sir, he came there both when he was there and when he was not there, he was often in the store. 10

Q. He came into the public store the same as other people.

A. Yes, sir.

Q. No different.

A. No, sir.

Q. Did Mr. Myers ever come into the store to be with you?

A. No sir not that I know of.

Q. What is Mr. Myers business?

A. Town Marshal and Night Watchman. 20

Q. Did Mr. Myers come to your home?

A. Only when Mr. Feinburg was there.

Q. Was he ever there any time when your husband was not there.

A. Once.

Q. When was that?

A. Sunday afternoon, and my husband sent him there before he came, and he stayed to dinner.

Q. During the spring and summer of 1903 did Mr. Myers come to your house in the afternoon when your husband was not there? 30

A. No, sir.

Q. Did he come to the store when your husband was not there?

A. Yes sir, sometimes he would.

Q. Do you remember one time in your store, that Mr. Feinburg in his testimony testifies about, saying that you sat on Mr. Myers lap. Do you remember the incident.

A. I remember his accusing me of it, and I denied it, said it was not true.

Q. Tell the Court what happened on that day?

A. I came in the store about nine o'clock, and I got in front of the store, and he said he is going on an
10 errand.

Q. Who?

A. Mr. Feinburg, he said I am going on an errand, you watch the store. I said all right I will go to the store and sew. He went away and when I got there I found Mr. Myers writing a letter to his wife who went to Atlantic City, and Mr. Feinburg had told me nothing about Mr. Myers being in the store, and when I got there, I could not tell the man to get out, so I waited until he got the letter done, and when he got it done, he
20 sat there and talked, and had a paper in his hands, and he sat down and I stood up, and with that paper he tried to hit me in the face, and I tried to push the paper away, and just as that happened Mr. Feinburg came in the front door, and he came up and said nothing until Mr. Myers went out of the store, and then he said "what were you doing on that man's lap," and I said I was not there, and I called Mr. Myers in again, and I said Mr. Myers I don't want you to come to this store any more because Mr. Feinburg accuses me of doing wrong, and
30 Mr. Myers said all right I don't have to come.

Q. Was this in the daytime?

A. In the morning, nine o'clock.

Q. Did you sit in his lap that day?

A. No.

Q. Or at any time?

A. No, sir.

Q. Never did it any time?

A. No, sir.

Q. Or at any place?

A. No, sir.

Q. Did Mr. Myers ever come to you and cry and ask you not to bring up his name?

A. No, sir, he had nothing to cry for.

10

Mr. Jefferson :

I withdraw that question.

The Vice Chancellor :

Not after it is answered.

Q. Did you ever misuse your children?

A. No, sir.

Q. At the time you were living with your husband at Hammonton, what did you do during the last few years you were there? 20

A. I worked in the store from 7 in the morning until 9 at night, only going home to dinner and supper, sometimes I would go home half an hour earlier.

Q. You were clerking in there?

A. Yes, sir, working for him in the store, we both worked together in the store, done all I could to help him along.

Q. You went every day you were able.

A. Every day I was able.

Q. Did you go out at night with Myers? 30

A. Never did, I came home perhaps half an hour sooner, and he came about nine o'clock, never went out unless I went with Mrs. Gerstenfeld and that is all.

Q. Did you misuse your children?

A. No, sir, only corrected them when it was necessary.

Q. Did you ever tell your husband you could do as you pleased with your body?

A. No, sir.

Q. During the latter part of your living together why didn't you sleep with Mr. Feinburg?

A. It was the last of July we had a quarrel in the
10 store, and he said to me I know all about you, I said
what do you know, he said I know you asked Mr.
Gerstenfeld to go up-stairs with you.

Q. Who.

A. Mr. Gerstenfeld, he is a witness in this case. I
said what. He said yes, Mr. Gerstenfeld told me. I
waited until evening and went to Mr. Gerstenfeld, and
I said, what made you say anything like that to my
husband. He denied it, and I said you will have to
prove it to him. Mr. Gerstenfeld came around and
20 when he got around Mr. Feinburg denied that Mr. Ger-
stenfeld told him. He said it was some woman. I said I
shall not be a wife to you any more until you produce
the woman to prove my innocence. I had enough of
you. He kept telling me all the time different things,
but I thought it was going too far.

Q. When did you stop sleeping with your husband?

A. The last of July or the first of August, and I said
until you produce that woman I will have nothing to do
with you, and I had nothing to do with him since that
30 day.

Q. What year was that?

A. 1903.

Q. You never lived with him after that as his wife?

A. No sir, at first I occupied the parlor, and when it
got too cold I made my bedroom down-stairs, and we had

lots of quarrels because I would not have anything to do with him, and that was the time that Dr. Cunningham testified that he had seen Mr. Myers in my house. Mr. Feinburg and I had a quarrel that night at one o'clock. He came down to my room and we had a quarrel that night.

Q. Did you ever say anything to Mrs. McLaughlin about not going to live with your husband?

A. No sir never did.

Q. Did you ever tell her you were going to poison 10
your children?

A. No sir.

Q. What did you say about poison?

A. The day I left, the night I left, I met Mrs. McLaughlin on the street, and she said what has happened. I said I am going to leave Mr. Feinburg, I said I won't stand it any more, the way he talked to me is enough to make anybody take a dose of poison.

Q. You didn't say you would take it.

A. I said the way he talked about me is enough to 20
make anybody take a dose of poison.

Q. You didn't say anything about your children?

A. No sir.

Q. Do you remember Mrs. Rudderow being on the stand testifying about ice cream.

A. Yes, sir.

Q. Who proposed to get this ice cream?

A. Mrs. Rudderow.

Q. What did she say to Myers?

A. She said it is awful hot, would he go a plate of 30
ice cream. Mr. Myers said I will pay for it if somebodys goes after it.

Q. She asked him to do it?

A. Yes, sir.

Q. Did she go after it?

A. She went and got it.

Q. While she was gone did you have anything to do in the store?

A. When she went I told her I would do the work for her; in the meantime a customer came in and I had to wait on the customer, so the little time she was gone I had no time to work on the cover.

Q. And the reason you didn't work on it you had a
10 customer.

A. Yes sir, I had a customer.

Q. Do you know Mr. Gerstenfeld the gentleman who testified on the stand here?

A. Yes, sir.

Q. Did you have any conversation with Mr. Gerstenfeld about Mr. Myers at any time during the summer of 1903 or fall.

A. When he heard that talk going around he came to the house and told me. I said Mr. Gerstenfeld I am
20 very much obliged for you telling me, I never knew the talk was going around, and I thanked him for it, and I said I will be very careful what I say to Mr. Myers.

Q. Did you tell him you didn't like your husband ever?

A. I told him the way he treated me I can't like him, but I didn't tell him I didn't like him.

Q. You complained about the treatment.

A. Mr. Gerstenfeld was there one day when he licked me, Thanksgiving morning, came between us, and he
30 said if you can't live with a woman, don't lick her. Thanksgiving morning that was.

Q. Did you ever take any goods to Gerstenfeld?

A. Yes one bundle, my father, sent him Christmas a suit of clothes.

Q. Who.

A. No Mr. Gerstenfeld sent it for me. I took the suit of clothes to Mr. Gerstenfeld's house for Mr. Gerstenfeld to send it to my father as Christmas.

Q. When was this?

A. Before Christmas.

Q. 1903?

A. 1903.

Q. Did you take any other bundle?

A. A skirt for myself, a jacket, a dozen handkerchiefs, and several little things that I thought I would need for myself. 10

Q. When was this?

A. I could not tell you exactly. It was before I left.

Q. Did you have any money when you went away?

A. Yes, sir, Mr. Gerstenfeld gave me a dollar for my fare.

Q. This gentleman back here?

A. Yes, sir, he owed me and he gave it to me for my fare. 20

Q. You heard him testify about having some money in your stocking and showing it to him?

A. Not at the time I left, no sir.

Q. Did you ever do that?

A. No, sir, I showed him nothing?

Q. You never showed him money in your stocking?

A. No, sir.

Q. On the evening of Christmas, 1903, do you remember anything about that evening?

A. Yes. 30

Q. Do you remember the evening?

A. Yes, sir.

Q. Who was visiting you at that time?

A. My mother came down on Christmas Eve and stayed over Christmas.

Q. On the day before Christmas 1903 did you work in the store?

A. Up to 10 o'clock at night, because I was very busy at that time, and we worked until 10 o'clock that evening.

Q. After you left the store where did you go?

A. Jacksons' and I got some things, for Christmas, for I had no time during the day, and I got some fruit and things and just as I got to the corner I saw mother in
10 the window, she was watching for me, she had the baby on her lap when I got in the house.

Q. What time did you say you got home that evening?

A. Ten o'clock at night.

Q. You went to Jackson's when you left the store, and then you went home.

A. It would not take but about five minutes to go in to Jacksons' and get what I wanted.

Q. Then what did you do?

A. Sat up and talked up my mother until Mr. Fein-
20 burg came home, he came home a few minutes afterwards.

Q. Did you see Mr. John Myers that night after you left the store?

A. No sir.

Q. Was he in your house?

A. No sir.

Q. You heard Bertha Schindel say that she saw you go out to the privy that night with Mr. Myers that night.

A. No sir.
30

Q. As a matter of fact you were in the store at that time?

A. I was in the store at the time she testified she saw me.

Q. Working for your husband?

A. Yes sir working for my husband.

Q. Why did you stay so much later that night?

A. Because we were busy, it was just before Christmas and we were later than usual.

Q. You remember her testifying to seeing you and Mr. Myers on the floor that night?

A. Mr. Myers was not in our house that night.

Q. Nor any other night.

A. Nor any other night.

10

Objected to.

The Vice Chancellor :

You are teaching the witness.

Q. Was or was not Mr. Myers in your house any other evening that fall in the absence of your husband?

A. Not after I forbid him the store.

Q. He was never in the house after that?

A. No sir.

20

Q. Did Myers ever come in the window at your house?

A. Not that I know of.

Q. Did you ever meet Myers out anywhere.

A. No sir.

Q. Did you ever meet him at Atlantic City?

A. No sir, except with my sister, we met him on the Boardwalk.

Q. Was Mrs. Myers there?

A. No, I and my sister were walking up on the Boardwalk.

30

The Vice Chancellor :

Is this important.

Mr. Jefferson :

No.

The Vice Chancellor :

I do not see that it contradicts anything at all.

Mr. Jefferson :

I withdraw the question.

10 Q. Did you meet him at Philadelphia by appointment to go anywhere ?

A. No, sir.

Q. Did you meet him any place ?

A. No sir.

Q. Did you ever see these bottles before ?

A. Yes, sir.

Q. The bottles referred to in the cross examination of Mr. Feinburg are here exhibited to the witness and she is asked did you ever see those before ?

20 A. Yes, sir.

Q. Will you tell the Court where you got them ?

A. Mr. Feinburg in October told me he was sick with gravel, and I believed him, I didn't know any different.

Q. I ask you where you got them ?

30 A. At home in the cupboard, after I saw him using them. I came in through the vestibule and he was in the kitchen, and I saw him using them, and in the morning I asked him what they were, and he told me it is none of my business. I said you have got a disease, you haven't got gravel, and my mother was there at the time and he said yes he had, and after I seen him use them I took the medicine from him.

Q. Who told you to take the medicine from him ?

A. Mr. King.

Q. This gentleman sitting here?

A. I went to him and I told him my husband was sick with disease, and I was afraid to stay, and he said if you have any proof of it you can go away and get a divorce.

Q. He told you to take the bottles?

A. Yes sir told me to take the evidence and keep it.

Q. Did you sleep with your husband after August 1903?

A. No, sir.

10

Cross Examined by Mr. C. S. King.

Q. When did you have the quarrel, what was the date that you had the quarrel with your husband when you say he was whipping you when Mr. Gerstenfeld came in?

A. Thanksgiving morning.

Q. Of what year?

A. 1903.

Q. What was the occasion of that quarrel?

A. Because I would not let him call me no vile names.

20

Q. Didn't he accuse you of infidelity with somebody at that time?

A. No sir, he has been accusing me of it, and he called me a whore, and I wouldn't allow him to call me a whore.

Q. What did you do to him?

A. Nothing, before I could no anything he grabbed me by the hair.

30

(Mr. Jefferson asked permission to ask one more question, and there being no objection, the cross-examination was suspended and Mr. Jefferson asked the following question):

By Mr. Jefferson :

Q. Were you upstairs or not, with one Harry White?

A. No sir.

Q. Your husband never saw you up there?

A. No, sir.

Q. And nobody else?

A. No, sir.

Cross-examination continued.

10 Q. What did you attempt to do?

A. I didn't attempt to do anything, I could not do anything.

Q. Why did he grab you by the hair?

A. I just got near, I said if you don't stop calling me them vile names there will be trouble.

Q. Did you have any flat iron in your hand?

A. No, sir.

Mr. Jefferson :

20 This is not cross-examination.

The Vice Chancellor:

30 You had quite a wide scope with this defendant, and I did not limit you. She is now on cross examination by the complainant who should be given even a wider scope perhaps, than you had. I think all those relations of these people which explain their separation and differences should be open to cross examination if not too remote and detailed. The witness is the defendant to the suit and she puts herself in as a witness, and the rule limiting cross examination to the matters examined upon in chief does not apply where a party to the record is on the stand. Proceed.

Q. As a matter of fact didn't your husband and yourself quarrel very frequently?

A. Yes, sir.

Q. Wasn't the cause of those quarrels due to his accusing you of infidelity?

A. No.

Q. What was it?

A. Because he called me vile names.

Q. What were they?

A. Whore, and run around, and all them names and I would not stand it. 10

Q. Is not that the same thing as accusing you of infidelity?

The Vice Chancellor :

You are using too big words.

Q. Did he ever accuse you of having illicit relations or sexual intercourse with John Myers.

A. Yes, sir.

Q. Was not that the occasion of the quarrels that frequently happened between you? 20

A. Yes sir because I told him it was not true.

Q. I call your attention to the time that Mrs. Rudderow went after the ice cream. Did Mr. Myers come into the store that evening?

A. No, sir.

Q. When did this occur?

A. I really could not tell you when it occurred?

Q. In the day time or evening?

A. In the morning.

Q. Who was present at that time? 30

A. Mr. Myers and I and Mr. Feinburg.

Q. Mrs. Rudderow suggested that she would like some ice cream?

A. Over the ice cream question—I beg pardon, Mrs.

Rudderow and I and Mr. Myers were present.

Q. Where was this?

A. In the store.

Q. About what time?

A. About half past eleven in the morning, between eleven and half past.

Q. Who suggested that Mrs. Rudderow go after the ice cream?

A. She said it herself, she would go after it.

10 Q. She volunteered she would go after it?

A. Yes, sir.

Q. Did she ask Mr. Myers to pay for it?

A. No she said she would like to have it, and she said she would go for it.

Q. Did Mr. Myers ask her to go for it?

A. I really can't remember, but I know she volunteered to go.

Q. Did she volunteer to go after it?

A. Yes, sir.

20 Q. Did you offer to do her sewing for her?

A. Yes, I said while you are gone I will do some of your sewing.

Q. Didn't you ask her to go to your house to get the dishes?

A. She said what shall I get it in, I said you can go to the house and get saucers and spoons.

Q. Mr. Myers was with you while she was gone?

A. Yes, sir.

Q. Remained in the store?

A. Yes, sir.

30 Q. What happened after Mrs. Rudderow returned with the ice cream; did you eat the ice cream?

A. Yes, sir.

Q. Did Mrs. Rudderow leave the store again after you had eaten the ice cream?

A. Yes, sir.

Q. Where did she go?

A. I don't know where she went.

Q. Was Mr. Myers there at this time?

A. Yes, sir, he was there and then left right after her.

Q. How long after?

A. It was not very long after for it was dinner time.

Q. Did Mrs. Rudderow come back again and find Mr. Myers still in the store after she left the second time? 10

A. I really could not tell you, I don't remember, I don't remember her coming back at all.

Q. You say you worked in the store from early in the morning until nine o'clock at night, and did all you could to help your husband?

A. Yes, sir.

Q. Before you went away didn't you take goods away from the store?

A. Only for my own wear. 20

Q. Did you ask your husband's permission to take them?

A. I never asked him anything for my own wear, always took it.

Q. Where did you get this suit of clothes that you sent to your father?

A. From him, one of his cast off suits of clothes.

Q. Did you ask him for it?

A. I always sent my father his cast off clothes.

Q. Did you ask him for it? 30

A. I never asked him to send off his cast off suits of clothes.

Q. What else did you take away from the store, did you take any ribbons away?

A. Several pieces, no rolls.

Q. Did you take any lace curtains away from the store?

A. Several pair, yes sir.

Q. Did you take any velvets away from the store?

A. No, sir.

Q. Did you take any silk goods away from the store?

A. Never kept any silk goods.

Q. What did you do with those lace curtains and handkerchiefs and ribbons that you took away from the
10 store?

A. What would anybody do with them.

Q. I ask you what you did with them?

A. Kept them.

Q. Did you ship them to Philadelphia?

A. Shipped them to my mother the day before I left.

Q. Did you do this without the consent and permission of your husband?

A. They belonged to me as well as to him, I worked for them as much as he did.

20 Q. Answer the question.

A. No, he didn't know anything about it.

Q. Did your mother send for those goods?

A. No sir, my mother knew nothing about it.

Q. Didn't you intend for some period of time before leaving your husband, didn't you intend to go away?

A. No, sir.

Q. Didn't you take any money out of the drawer?

A. He never had a drawer.

Q. Wherever you kept it?

30 A. I kept what I sold and he kept what he sold, and then we counted it up together. If I wanted to take money I could have taken lots, because the day before Christmas I had \$170 in my pocket and I returned it all to him.

Q. Did Mr. Gerstenfeld together with Joseph Gartens ever come into your house?

A. Yes, sir.

Q. At that time did you have a number of packages and barrels and bundles with tags attached ready to be shipped and sent to Mrs. Steinburg?

A. That is when I was going to leave?

Q. What were the contents of those barrels and packages?

10

Mr. Jefferson :

It don't seem to me this is pertinent.

Mr. King :

I am trying to show that this defendant deliberately intended to leave her husband and it is an incident in this case because it is after they had their quarrel.

The Vice Chancellor :

She has flatly stated on the stand that she would not live with her husband and she said she could not because he was unkind to her. So far as the purpose and object is concerned, she has declared it and justifies it. If you want the reason why—

20

Mr. King :

I want to show that she robbed her husband.

The Vice Chancellor :

I do not see that it has any significance in view of the fact that her declaration of her purpose to separate herself from her husband is complete. It seems to me this phase of the case is too remote from the issue here being tried.

30

Q. Did you meet Mr. Myers frequently outside of your store and dwelling?

A. No, sir.

Q. In the latter part of July did you meet Mr. Myers at the corner of second St. and Bellevue Ave. at Mr. Jackson's store, the latter part of July 1903.

A. In going home from the store I have often seen Mr. Myers at the corner.

10 Q. Did Mr. Myers walk up the street with you at that time?

A. No sir.

Q. Did you walk with Mr. Myers toward the town hall on that evening?

A. No sir.

Q. In his company?

A. No sir.

Q. Have you ever been with Mr. Myers at the Town Hall?

A. Never was in the Town Hall.

20 Q. At night?

A. No sir, I don't know what it looks like.

Q. Did you ever walk up and down Vine St. near Second St. with Mr. Myers?

A. No sir I never walked after nine o'clock nowheres, because my husband was always home at nine o'clock from the store, and I would not dare to go out after nine o'clock.

Q. What was the bed quilt doing in the water-closet the night before Christmas 1903?

30 A. Never knew anything like that to happen, or seen anything like that.

Q. Didn't your husband ask you why the bed quilt was found in the water-closet?

A. No, sir.

Q. Didn't he bring it in and ask you what it was doing there?

A. No, sir.

Q. Didn't you reply to him that you didn't know, and probably the children had left it there?

A. No sir.

Q. Did you know there was a bed quilt in the water closet?

A. No sir not until two months after I left him, and Mr. Gerstenfeld told me of that one day, when I was down there. 10

Q. You swore in your examination in chief that you had never met Mr. Myers in the water-closet, adjoining the dwelling house, is that true?

A. That is true.

Q. You repeat that testimony under oath?

A. Yes, sir.

Q. Did Mr. Myers ever come into your house through the back window?

A. No, sir. 20

Q. Were you ever in the parlor with Mr. Myers?

A. One Sunday afternoon, and Mr. Feinburg was there too.

Q. I mean alone, when nobody was present?

A. No, sir.

Q. Were you ever with Mr. Myers in your house, either in the parlor or in the sitting room, or elsewhere alone after dark.

A. No, sir.

Q. Do you remember the occasion when Mr. Raneri came in the house and fell over Mr. Myers and you in the sitting room? 30

A. No sir, I don't know that there was anybody by that name ever came to my house.

Q. You don't know Mr. Raneri?

A. I know him, I saw him on the street, never spoke to him.

Q. Did you know he was acquainted and kept company with your girl Annie Maxwell?

A. No, sir.

Q. Did you see him in your house?

A. No sir, at the time he spoke of, this young lady went with somebody else by the name of—I can't think of it. At least didn't keep company with him, went with somebody else at that time.

Q. You are acquainted with the girl Lizzie Booze?

A. Yes.

Q. Did you ever show a certain instrument to Lizzie Booze which would prevent conception?

A. No, sir.

Q. Did you offer to get her one of those instruments for \$5.00 from Chicago or any other place?

A. No sir.

20 Q. Did you ever say to her that if she had one she could have lots of fun with the boys without any danger of getting in the family way?

A. No sir, I never spoke that way.

Q. Didn't you meet Myers frequently at John Rollers' house?

A. When I was there I often met him, and sometimes when I was there he would come in.

Q. Didn't you lock the store door frequently and go over there and meet Mr. Myers?

30 A. No sir.

By the Vice Chancellor.

Q. When was it that you met Mr. Myers at Mrs. Roller's house?

A. I was often over there,—

Q. I didn't ask you that, I asked when it was.

A. 1903.

Q. Was it after you had separated from your husband?

A. No sir.

Q. It was while you were still living there?

A. Yes sir sometime while I was living with my husband.

Q. Was it after the time when your husband accused you of sitting in Myers' lap?

A. I really could not say whether it was before or after. 10

Further cross.

Q. The morning that you went away did you send Lizzie Booze to tell your husband that you had got \$500 of his money?

A. No sir.

Q. Did you send Lizzie Booze at any time before your departure from home to tell your husband that you had \$500 of his money? 20

A. No sir.

Q. That is all.

JOHN MYERS, sworn for defendant.

Direct examination by Judge Wescott.

Q. Where do you live?

A. Hammonton, N. J.

Q. What is your age? 30

A. I am 56 years old in February, the 24th day of February.

Q. How long have you lived in Hammonton?

A. 50 years this fall, or last fall, about 50 years at Christmas.

Q. Have you a family living there?

A. I have, sir.

Q. What business have you been connected with or done in Hammonton?

A. During the time I have lived there?

Q. Yes.

A. My father is a brick-maker, and I worked in the brick yard for a number of years, and then I went away from home, and worked some; my home was always
10 in Hammonton. For the last three years I have been Marshal of the Town.

Q. What do you do?

A. I am employed by the Town to look after the interest of the Town, and I am employed by the business people to look after their interest at night.

Q. That includes doing what for instance?

A. Wherever I am paid, I try their doors every night, look carefully after the house all night long, that is about the substance of it.

20 Q. How long have you known Mr. Feinburg and Mrs. Feinburg.

A. I could not say positively, perhaps six years.

Q. During those six years what has been the degree of your acquaintance with those two people?

A. Not very much, until I became Marshal, then we became better acquainted.

Q. Did they ever visit you?

A. Came to my house once, Mrs. Feinburg and Mr. Feinburg with their children, once after that Mr. Fein-
30 burg came.

Q. Did your wife visit Mrs. Feinburg?

A. Never but once at the house, and then she went there because I asked her to go there, as Mr. Feinburg had asked me to bring my family over to make a return visit that he had made to my house.

Q. It has been testified to here that on one occasion Mr. Feinburg found you in his store with his wife on your lap, and when he came in you held a newspaper up before your face to hide your face, and she stuck her head under the counter to hide her face, did anything of that sort ever occur?

A. I was sitting in the store with a newspaper but Mrs. Feinburg didn't put her face under any counter. I was sitting with a paper in my hand reading.

Q. Where were you sitting? 10

A. On a chair in the back of the store where he left me when he went out.

Q. He had left you there?

A. Yes, sir.

Q. What were you doing in the store on that occasion?

A. Nothing any more than usual, went in as I often do, went in when I felt like it and came out.

Q. Were you engaged in any work while you were in the store? 20

A. Nothing whatever.

Q. Writing a letter?

A. At one time I was writing a letter.

Q. You are asked on this particular occasion when Mr. Feinburg came in?

A. I was writing a letter that day, but I could not say positively whether Mr. Feinburg was there or not, I don't know, I wrote a letter that day to my wife in Atlantic City.

Q. In Mr. Feinburg's store did you write it? 30

A. Yes, sir.

Q. How long did you remain after Mr. Feinburg came in?

A. Not more than five minutes I don't think.

Q. Was anything said between you and him after he came in?

A. Not a word, he spoke to her in a language I could not understand.

Q. To whom?

A. To Mrs. Feinburg, in a language that I could not understand.

By the Vice Chancellor :

10 Q. What is their nationality, what language did they speak?

A. I don't know, they are Jews, I don't know what their language is.

Q. Are they American born?

A. I don't know that.

Q. Is there any peculiarity in their speech which indicates foreign birth?

A. Yes in his, there is not in hers.

Further direct.

20

Q. She was not sitting in your lap?

A. No sir, not in my lap.

Q. He furthermore testified that he caught his wife in your lap in August, 1903, after they came from Atlantic City, what have you to say about that?

A. No sir, what he accuses me of was before, I could not say positively, but I think it was before that, I could not say positively, but I don't remember anything of the kind after that.

30

Q. You say what he accused you of, what did he accuse you of?

A. What he accused Mrs. Feinburg of, not me, he never accused me of anything.

Q. Never made any accusations to you?

A. Yes, sir.

The Vice Chancellor:

I had occasion heretofore to call attention to parties in this Court room offending by indications of comment on the testimony being given by a witness on the stand. There must be no expression of approval or disapproval on the part of anybody regarding the testimony of the witness either by smiles, frowns, open speech or any other way.

Q. Do you know William Mick?

A. Yes, sir.

10

Q. William Mick stated as I recollect that in August 1903 you and Mrs. Feinburg were on Second Street and he walked behind you. Do you know anything about that.

A. I know that it is not true.

Q. Do you recollect seeing Mick anywhere?

A. No sir.

Q. Did you at any time in the evening walk with Mrs. Feinburg on Second Street?

A. Never.

20

Q. He stated that you acted kind of loving because you didn't walk very fast.

A. I know nothing about that sir?

Q. Have you ever arrested Mick?

A. (The answer was objected to and ordered stricken out as not responsive.

Q. Had you threatened to arrest him?

A. Yes, sir.

Q. Because of his mis-conduct?

A. Yes, sir.

30

Mr. King:

I don't think that is important.

The Vice Chancellor :

Then you should object to the question. It may explain the testimony of the witness Mick who has testified against the present witness. I think it admissible.

Q. Do you know Dr. Cunningham?

A. I do.

Q. He said in effect that he once saw you sitting on the front porch at Feinburg's. What is your recollection about that?

10 A. I don't remember seeing the doctor, but I do remember sitting on the porch with Mr. and Mrs. Feinburg.

Q. On the front porch?

A. Yes sir.

Q. In the day time?

A. Yes, sir in the day time.

Q. He further says that he saw you once in the house shortly before two o'clock, in the sitting room, which was in the summer of 1903, and he heard laughing and talking there. What is your recollection about that?

20 A. That is not true.

Q. You were not there?

A. I was not.

Mr. King:

At what time?

Mr. Wescott:

1903.

30 Mr. King :

At what time?

Mr. Wescott :

Two o'clock in the morning.

A. That is not true.

Q. Peter Raneri, do you know him?

A. I do.

Q. Did you ever have any trouble with him?

A. Yes, sir.

Q. What?

A. I arrested him riding on the streets without a light.

Q. He says on one occasion he entered in the dining room of the Feinburg house and there were two persons on the floor, he stumbled against them and that some young lady, Miss Maxwell was with him, and he went out in the kitchen and struck a light and wanted to know what it was he ran into, he came back and found Mrs. Feinburg on the floor. 10

Objected to.

The Vice Chancellor :

He didn't say that he came back, however you ask your question in your own way. 20

Judge Wescott :

I understand that he made two statements about it.

Q. Anyhow he says he fell over two persons on the floor and it was you and Mrs. Feinburg, is that true?

A. No it is not true.

Mr. King :

He said he could see it was Myers, but the woman underneath he could not see who it was. 30

Q. Were you there with some woman?

A. I was not there.

Q. On another occasion he said he saw you come out of the back window of the house about eight o'clock.

A. That is not true.

Q. Did you ever come out of that window?

A. No.

Q. Do you know where the back window is?

A. I do, I know all about the back window and every window in it.

Q. Did Feinburg employ you to look after his premises?

A. He did.

Q. That is the way you came to acquire knowledge
10 of the windows and doors?

A. Yes, sir.

Q. Where is this house of Feinburg's located?

A. It is located on Second Street, the second door below Dr. Lodge's drug store.

Q. Is it a public street?

A. Yes, sir.

Q. A frequented street?

A. Yes, sir.

Q. How near the centre portion of the town?

20 A. Near the centre of the business part of the town, but not anywhere near the centre of the town.

Q. But in the center portion of the business part?

A. Yes, sir.

Q. Is the street lighted?

A. There is a light at the corner of Second and Bellevue, and there is one about half a square away.

Q. How near does this house stand to the sidewalk of the street about?

A. Very close, I could not say exactly.

30 Q. Take either side of the house, what is the distance between the Feinburg house and the other house?

A. I should say anywhere from twenty-five to fifty feet.

Q. Are these houses on either side of the Feinburg house inhabited by people?

A. Yes, sir.

Q. Have they been for the last two or three years?

A. Yes, sir.

Q. Who lives on the other side?

A. Mr. Smith on one side, and a lady by the name of—I can't recall the name.

Q. They know you?

A. Yes, sir, Mrs. Smith does, the other lady does not. 10
She may know me, but not personally.

Q. Now calling your attention to the back yard, how large is that?

A. It is quite a big yard.

Q. Are there any houses around?

A. Houses back on the other street.

Q. How far?

A. I should say a hundred feet back perhaps.

Q. Do you know the people that live in those houses?

A. Yes, Mr. Newcomb owns the house, but I think 20
at that time somebody else occupied it.

Q. The windows to this house, how high are they from the ground?

A. I should say fully five feet, and perhaps not so high on the front of the house, I think fully 5 feet on the back.

Q. So that any one who climbed in would have to climb 5 feet?

A. Yes, sir.

Q. And jumping out they would have to jump that 30
distance?

A. Yes, sir.

Q. How many doors are there that enter Feinburg's house?

A. The front door and a door on the side.

Q. One on the side?

A. Yes.

Q. And in the rear?

A. No I think not, there is no door there.

Q. Have you ever been at Feinburg's house?

A. Oh, yes.

Q. Frequently?

A. Yes, sir.

Q. Have you been in the store frequently?

10 A. Yes, sir.

Q. Do you know Mamie Rudderow?

A. Yes, sir.

Q. She says she saw you and Mrs. Feinburg together three or four times a day sometimes you came in the back and sometimes the front way, is that true?

A. It is not true that she saw me doing that, I have gone out the back way.

Q. She says further that you came there one day in the morning and that you said you would pay for the ice cream and she went out and got a quart of ice cream; tell
20 what you know about that?

A. I was sitting in the store, this Mrs. Rudderow working there, Mrs. Feinburg working there, and Mrs. Rudderow said she felt as though she would like to have some ice cream. I took it for granted that she thought I ought to get some, and I didn't want to feel foolish or mean about the matter and I said if you want some ice cream I will pay for it. I gave her half a dollar and she
30 went out and bought a quart of ice cream as she says.

Q. Did she bring it back?

A. Yes sir while I was there.

Q. Who ate it?

A. We all ate, the three of us, Mrs. Feinburg, Mrs. Rudderow and myself.

Q. Where was Mr. Feinburg that day?

A. I could not say.

Q. This was in the daytime?

A. Yes, sir.

Q. Do you know whether there were people coming in the store?

A. I don't think there was any one came in the store, but when Mrs. Rudderow went away a customer came in the store and Mrs. Feinburg waited on her.

Q. Do you know Bertha Schindel who was on the stand? 10

A. I have seen her, but I know nothing of her.

Q. She says in effect that on one occasion, I think it was December 5th, 1903, she went down-stairs and got some coal, and heard a noise in the parlor and came up and opened the door and looked in and saw you and Mrs. Feinburg on the parlor floor in a compromising attitude, is that true.

A. That is not true sir.

Q. She furthermore says that she went out to the privy and found you and Mrs. Feinburg there about 8 or 8.30, is that true? 20

A. It is not.

Q. She further says that you came to the house every Saturday and Sunday nights and sometimes other nights, and you knocked on the door and Mrs. Feinburg let you in; what have you to say about that?

A. It is not true.

Q. Mrs. Roller, do you know her?

A. Yes, sir. 30

Q. She says she saw you watch the Feinburg house across the street?

A. I was never watching the store,—I had a right on the street anywhere, and had a right to stand in any position, and look at any house I saw fit to look at, but

I don't remember ever particularly looking at his store.

Q. Have you ever maintained any improper relations towards Mrs. Feinburg?

A. No, sir.

Cross examination by Mr. C. S. King :

Q. Did you ever have any conference with Mr. Gerstenfeld in reference to this subject matter, your illicit relations with Mrs. Feinburg?

10

A. In what manner?

Q. I ask you whether you ever had any conference with him in relation to the subject?

Objected to.

The Vice Chancellor:

This is, I suppose, laying the basis for future contradiction. The question is whether you had any conference on this subject with a named person. I think that is admissible.

20

Q. On the evening of January 4th did you send for Mr. Gerstenfeld and call him out?

A. I asked him to come out of the store, yes, sir.

Q. What did you say to him?

A. I told him if he didn't stop running around and telling people I was the cause of Mrs. Feinburg leaving home I would make trouble for him.

Q. What did he say to you?

30

A. He said he was not afraid of me. I told him I didn't think he was, I didn't see any reason why he should be afraid of me.

Q. Did you ever come to Mr. Gerstenfeld's house; did you go there on the second day of January, 1904, in the afternoon?

A. I can't say whether I did or not on that date.

Q. Did you have any conversation at any time in his house with reference to Mrs. Feinburg?

A. Yes.

Q. Did you say to him, what do you think of the stories going around about me and Mrs. Feinburg?

A. I don't know that I did.

Q. Did you make any remarks of that character?

A. I don't know that I did.

Q. What did you say to him?

A. I don't know what I said at the time. 10

Q. What did you call on him for?

A. I called on him to speak to him about remarks that were going about town, that is all. I might have asked him what he thought about it.

Q. Did you say to him at that time that you had flirted with Mrs. Feinburg?

A. I did not.

Q. And that she had flirted with you?

A. I did not.

Q. Did you say to him that you had met Mrs. Fein- 20
burg in Philadelphia on 3d and Race Street?

A. I said I saw the lady in Philadelphia.

Judge Wescott :

Was not this part of their case?

The Vice Chancellor :

I think not. The defendant offered this witness. He has denied flatly the charges that he committed adultery with the defendant. Now he is asked on cross examination if he did not at some other time make a statement 30
inconsistent with his present denial, for the purpose, I presume, of calling the witness to whom it is claimed that he made that statement, inconsistent with his present testimony.

(The matter was then argued).

The Vice Chancellor :

The present question challenged is whether the witness on the stand, who is charged with having been the paramour of the defendant, did not say on a certain named occasion that he had flirted with Mrs. Feinburg and she had flirted with him. The witness has denied that he had any improper relations with Mrs. Feinburg, and I think it is fairly to be presumed that this question which is put to him on cross examination, is propounded
10 in the expectation that in case he denies that he made such a statement, another witness will be called, who will testify that he did make such statement. If the witness now on the stand did make such a statement it is inconsistent with his testimony that he never had any improper relations with Mrs. Feinburg. It is not offered as evidence of adultery, but it is a proper question to put to this witness for further contradiction.

In my view this is no part of the petitioners main case which should have been made and exhibited to the defendant before she was called upon to respond with her
20 proofs. Whether it is such part of the main case, can very readily be settled by inquiring, whether when the petitioner was submitting his proof if he had asked the witness yet to be produced whether Mr. Myers had said that he had flirted with Mrs. Feinburg, it would have been admissible? It certainly would not. There is no claim that the defendant was present, when it was said so that it could not be claimed to be part of the complainants main case. It may be of some value to show that
30 the present testimony of the witness is not consistent with other statements made by him at other times touching this matter and therefore I think the question is admissible and I rule it in.

Mr. King :

Before I ask the questions I wish to submit them to the Court.

The Vice Chancellor :

You may put them now to the witness and I will pass on them.

Q. Did you then call Mr. Gerstenfeld into the parlor and have a private conversation with him?

A. I did not.

10

Q. Did you say to Mr. Gerstenfeld during this conference when he advised you to keep away from Mrs. Feinburg, did you use these words, "A stiff prick has no conscience."

A. No sir, I did not.

Q. Did you not admit to Mrs. McLaughlin that you were caught in the privy with the defendant in this case?

A. I did not.

Q. Did Mrs. McLaughlin ever ask you for the defendant's address in Philadelphia?

A. I don't remember.

20

Q. After she left her husband?

A. I don't remember, she might have done so, I don't remember.

Q. Did Mrs. McLaughlin ever meet you on the street or elsewhere after Mrs. Feinburg the defendant left town, and did she ask you for her address?

A. Not that I know of.

Q. Did she say to you on that occasion that she had heard that Mrs. Feinburg and you had been found in the water-closet together?

A. I don't know anything about it.

30

Q. Did she ever say those words to you?

A. I don't know that she did, I am positive she did not; if she had I would have known it.

Q. Did you reply to her that no one could say that they had seen them doing anything wrong in there?

A. I did not.

Q. Did Mrs. McLaughlin ask you if you had met Mrs. Feinburg in Atlantic City or Philadelphia?

A. Did she ask me that?

Q. Yes.

A. She never asked me any such thing.

10 Q. Did you admit to Mrs. McLaughlin at that interview that you had seen and spoken to Mrs. Feinburg in Atlantic City, and had also met her in Philadelphia, and walked a few squares with her?

A. Possibly, I don't remember whether I did or not, if I did it is true, I did see her in Atlantic City and Philadelphia both.

Q. Did she ask you at that time if you had flirted with Mrs. Feinburg?

A. I don't know that she did.

20 Q. Did you reply to her that you had flirted with her but that it was her fault?

A. No, sir.

Q. That she had followed you around and would take you home with her?

A. Never made any such remark to any one.

Q. You deny these statements?

A. I do.

Q. What were you doing in the water-closet on the evening of December 24th, 1903.

30 A. I believe I told you I was not in there.

Q. You were not in the water-closet at that time?

A. No sir.

Q. Did you see Mrs. Feinburg on that evening?

A. I don't know anything about it, could not say whether I did or not, I saw her frequently.

Q. Were you in Mr. Feinburg's house or store on that evening?

A. Might have been in the store but not in the house, I don't think I was in either, I was not in the house, that is certain.

Q. How long were you talking to Mrs. Feinburg on the occasion of the ice cream incident?

A. I don't know, I could not say.

Q. What was your business in Mr. Feinburg's store at that time, that compelled you to go in there? 10

A. Nothing particular, no more than I had been in the habit of going in and out whenever I pleased.

Q. Did you know whether Mr. Feinburg was there or not?

A. I knew nothing about it.

Q. Did you go in there to see Mr. Feinburg.

A. I did not.

Q. Did you go in there to see Mrs. Feinburg?

A. No.

Q. Why did you go in there? 20

A. I was a frequent visitor to the store and went in whenever I felt like it, no particular business that I know of. It is a place where everybody went in and out.

Q. I believe you said you met Mrs. Feinburg over at the Roller house frequently.

A. I never said I met her there.

Q. Didn't you say that in your examination in chief?

A. I said I saw her there.

Q. Then you met her there? 30

A. No, I didn't go there to meet her.

Q. Who did you go there to see?

A. Mrs. Roller's father who was very sick, and I was requested by the gentleman frequently to come in and

see him, I went in the afternoon and evening very frequently but never after the gentleman died.

Q. Never went there after he died?

A. Not to my knowledge.

Q. You went in there solely to see her father?

A. Yes, sir.

Q. Mrs. Roller's father?

A. Nothing else particular that I know of.

Q. Wasn't Mrs. Feinburg frequently there when you
10 were there?

A. She was there sometimes when I went in.

Q. Did she come in to see Mr. Rollers' father too?

A. I don't know anything about it.

Q. What was Mrs. Feinburg doing while Mrs. Rudderow was out after the ice cream?

A. She waited on a customer, the customer had gone out as Mrs. Rudderow came in.

Q. Did it take her all that time to wait on a customer?

20 A. Possibly, I don't know; the customer came in about the time Mrs. Rudderow went out, it didn't take long to get the ice cream.

Q. Where were you in the front or the back of the store?

A. In the back of the store.

Q. Were you not sitting in the front of the store when Mr. Feinburg went out?

30 A. No sir we were all three in the back of the store together when he went out.

Q. Were you near the sewing machine?

A. Very near.

Q. Where was Mrs. Feinburg?

A. I don't know, she was in the store, she might have been at the sewing machine, or not, I don't know anything about it.

Q. She might have been at the sewing machine where you were sitting?

A. Yes.

Q. Your recollection is very poor about that incident, is it?

A. I don't think I am expected to know just exactly.

Q. Was Mrs. Feinburg sitting in your lap on that occasion?

A. No sir never.

Q. Did you hear Mr. Renari testify in the examination of the Complainant's witness? 10

A. Yes sir, I did.

Q. Did you meet Mr. Raneri in the house of Mr. Feinburg's.

A. Never saw the man in the house and never knew he went there.

Q. Were you in a compromising position on the floor of the dining room or sitting room with Mrs. Feinburg at the time when Mr. Raneri states that he came in there and kicked you? 20

A. I believe I told you I was not in the house at that time.

Q. Where were you at that time?

A. I don't know, I think that has nothing to do with this, I was no doubt doing duty on the street. I am positive I was doing duty, but I could not say where I was.

Q. When Dr. Cunningham testified that he saw you at two o'clock in the morning in the house of Mr. Feinburg, he lied, did he?

A. Yes. 30

Q. Positively?

A. Yes, sir.

The Vice Chancellor:

I do not think that is at all important. Courts of

justice have been established for thousands of years to find out whether one set of witnesses tell the truth or another set. It does not at all follow that because they contradict each other that they lie. I do not think questions phrased in that way add anything to the weight of the denial. By so framing the questions it merely asks for an opinion.

Mr. King:

10 I withdraw the question.

The Vice Chancellor:

You cannot do that now. You asked not only whether the thing did not happen, but you asked this witness' opinion upon the motive and intent of the other witness. There is no advantage in that.

Q. You have been to Mr. Feinburg's home frequently, have you as you stated in your examination?

A. Frequently with him.

20 Q. What was your business?

A. Feinburg met me on the street and asked me to walk to the house with him on several occasions and I did so.

Q. Did you meet Mrs. Feinburg there?

A. She was in the house.

Q. What time was this in the evening, at what hour?

A. I could not say.

Q. Was it during business hours?

A. No sir.

30 Q. How late did Mr Feinburg keep the store open?

A. Anywhere from half past eight to ten o'clock, Saturday nights perhaps a little later.

Q. Did you ever go to the house when not accompanied by Mr. Feinburg?

A. Yes, sir.

Q. How often ?

A. Once.

Q. Is that all you ever went ?

A. That is the only time I ever went one Sunday afternoon, and Mr. Feinburg said he would meet me, and when I got to the house Mr. Feinburg was gone, and I stayed probably three or four minutes and walked out and was gone.

Q. You were never in Mr. Feinburg's house but once, except when he was present?

10

A. Not to my knowledge sir.

Q. In your examination in chief you say you were never watching the store; was it not your duty to watch the building there as Marshal of the town ?

A. Not to stand in one position and watch it an hour at a time as they say I did. I was supposed to patrol the streets.

Q. Then you never watched the store ?

A. Might have looked at it and saw it, but never watched it.

20

Q. Were you employed to watch the private houses in town as well ?

A. I was employed to watch Mr. Feinburg's private house.

By the Vice Chancellor.

Q. Was your employment at the instance of the city, or were you a private watchman employed by individuals.

A. The town employs me.

Q. And paid you a salary as Town Marshal ?

30

A. Yes sir, and in order to make my salary large enough to live, all the people employs me to watch their places; the town paid me very little.

Q. That is all

MRS. ANNIE MYERS, sworn for the defendant.

Direct examination by Judge Wescott.

Q. You live in Hammonton?

A. Yes, sir.

Q. And you are the wife of the gentleman who just left the witness stand?

A. Yes, sir.

Q. Do you know Mr. and Mrs. Feinburg?

10 A. Yes, sir.

Q. Have you ever visited them?

A. Yes, sir.

Q. Did they visit you?

A. Yes.

Q. Now did you hear of some rumors about improper relations between your husband and Mrs. Feinburg?

A. Yes.

Q. Can you recall when you first heard it?

20 A. I can't but it was in the summer of 1903.

Q. Now when you heard of that, did you go to see the Mr. or Mrs. Feinburg.

A. Not at that time.

Q. Afterwards?

A. At the time she was going to leave I went to see them both.

Q. Can you recall about what time that was.

30 A. It was between the Christmas and New Years' holidays. I can't recall the date.

Q. What year?

A. 1903.

Q. Did you see them then, Mr. and Mrs. Feinburg.

A. I went to see Mrs. Feinburg and then I went and saw him.

By the Vice Chancellor.

Q. You went and saw Mrs. Feinburg?

A. Yes, sir.

Q. Was Mr. Feinburg present at the time you conferred with Mrs. Feinburg.

A. No, sir.

Q. Then you say you went and saw Mr. Feinburg?

A. Yes, sir.

Q. Was Mrs. Feinburg by when you saw Mr. Feinburg?

A. No.

10

Further direct.

Q. What did Mr. Feinburg tell you then?

A. When I went to the store to see him.

Q. Yes.

A. I asked him what the trouble was, and I said I hoped that any one that is related to me has nothing to do with it. He said I don't blame Mr. Myers at all. He said she is a bad woman, and he said I have talked to her and begged her and have beat her, he said, and she won't mind. So he said I don't care where she goes, if she leaves and goes to hell. That is not a very proper word for a woman to use, but I suppose I have to tell it.

20

Q. Did he say anything about your husband's relations with Mrs. Feinburg.

A. No he didn't say, only he said he didn't blame him.

Q. After you had heard these rumors did you take any action, do anything yourself?

30

A. I used to watch the house, watch my husband till I nearly froze my feet.

Q. What house did you watch?

A. Mr. Feinburg's.

- Q. Can you tell when you began to watch the house?
A. It must have been along in September.
Q. 1903.
A. Yes, sir.
Q. How long did you continue your watch?
A. Until they separated.
Q. About the holidays?
A. Yes, sir.
Q. That is until Mr. and Mrs. Feinburg separated?
10 A. Yes, sir.
Q. Did you watch the house every night?
A. Not every night, I did not, because I could not
always get out.
Q. How frequently did you watch the house?
A. As high as four times a week.
Q. What did you do and where did you go?
A. There is a lot in front of the house, Mr. Fein-
burg's house, and there is a tree standing there, and I
used to stand there as the electric light didn't shine on
20 this lot, nor either did it shine on Mr. Feinburg's house
only right on the porch, and I could stand there and no
one see it. I could see them when they would turn the
corner, on account of coming under the electric light.
Q. What time did you begin your watch, how late
did you keep it up?
A. About eight o'clock.
Q. And stay there how long?
A. Until Mr. Feinburg would go home.
Q. About what hour in the night did he go home?
30 A. Nine or half-past, somewhere, I have seen him go
in as late as ten o'clock, go in and out.
Q. You watched this house for several months?
A. Watched it after I came home from Atlantic City.
I think it was in September, about, along there.

Q. Until when?

A. Until they separated, holiday week, 1903.

Q. With what result? Did you see your husband go in and out very often?

A. No, sir, I didn't see my husband, if I had I should have exposed them both.

Q. Did you ever see anything out of the way in Mrs. Feinburg in any respect?

A. No.

10

Cross examination by C. S. King :

Q. Where you were watching was from the front of the house?

A. Yes, sir.

Q. Could you see the back of the house at this time?

A. No, you could not see the back of the house because it was a low house and the other houses are much taller, and it broke the view of the electric light.

Q. Would it have been possible, for Mr. Myers, your husband, to have entered the house without your seeing him? 20

A. Then he had to jump some fence to get in there.

Q. Is there any fence between this house and the next one?

A. No, there is no fence, but it is fenced on the back and on the side.

Q. Could he not have reached the back of the house from the South without jumping any fences?

A. No, he could not possibly have got in there unless he went in the front way. It is fenced on all sides, only one side a low picket fence. 30

Q. Did you see any improprieties existing between your husband and the defendant in this case?

A. No, I did not.

Q. Have you heard any stories?

A. Yes, I heard lots—

Objected to.

A. I heard lots of stories, but never want me to say anything because they didn't want to get in trouble.

Q. What time in 1903 did you first begin to hear these stories?

A. It was that summer before she left in the Fall, I don't know what month, I could not possibly tell. It was
10 after July, I am positive of that.

Q. Did you watch every night during the week?

A. No, my home requires me.

Q. How often did you watch?

A. I guess four times a week.

Q. The balance of the time you have no knowledge of what occurred?

A. Oh, no, I don't believe anything, only what I see.

Q. At what time would you go there to watch?

A. About eight o'clock, as soon as it got dark enough.
20

Q. How late would you stay?

A. Ten or half-past nine, perhaps later some nights, I don't know, I kept it up till Christmas.

Q. Did any one else see you watch the house?

A. I don't know that they did.

Q. Did your husband know that you were watching the house?

A. I don't think he did, he never told me that he did.

Q. Did you ever say anything to him about your
30 watching the house?

A. Not until after she left.

Q. Why did you watch the house.

A. Because people were talking and I wanted to see for myself.

Q. Were your suspicions of your husband's fidelity aroused?

A. No.

Q. By what you heard?

A. I was much annoyed by the matter, it annoyed me.

Q. Did you imagine it might be true.

A. I don't know, I wanted to see if it was.

Q. Did you ever admit to anybody that you believed that the gossip you heard was true? 10

Objected to.

The Vice Chancellor :

The question is not so far away, so much a matter of opinion that it is inadmissible.

Question withdrawn.

Q. Did you ever meet Mrs. Feinburg and Mr. Myers walking on the Boardwalk at Atlantic City?

A. No sir my husband went down to Atlantic City and met me. 20

Q. Did you see Mrs. Feinburg there?

A. I met her on the street, I never said they were together at Atlantic City at all.

Q. Did you ever see Mrs. Feinburg and your husband together in Philadelphia?

A. No I never saw them together in Philadelphia.

CLARA STEINBURG, sworn for the defendant. 30

Direct examination by Judge Wescott :

Q. Are you the mother of this young woman Mrs. Feinburg?

A. Yes, sir.

Q. You live in Philadelphia, do you?

A. Yes, sir.

Q. Were you down to visit your daughter in Ham-
monton?

A. Yes, sir.

Q. Were you there Christmas eve, 1903?

A. Yes, sir.

Q. How long were you there that evening?

A. I left on the six o'clock train, I left at Phila-
10 delphia.

Q. And went to Hammonton?

A. Yes, sir.

Q. How long did you stay with your daughter?

A. I stay with my daughter until Sunday night.

Q. The following Sunday night?

A. Yes, sir.

Q. Were you in the house all that evening?

A. Yes, sir.

Q. Was your daughter with you all that evening?

A. My daughter was not at home, she was in the store,
20 and then I came, I mind the children, and I play with
the children, and I put the boy to sleep on the couch,
and the little girl I take on my lap and was sitting in
the dining room by the window, and across the window
I could see the main street all over, and I was sitting
there with the children and the child go to sleep and I
sitting up there waiting for her until ten o'clock.

Q. When did she come home?

A. Ten o'clock, I was sitting in the window, I see
30 her in the window at the corner, and I see her come and
she said here what is the matter, so late, I said I was
seven o'clock here and I set here and waited for her.

Q. Do you know Mr. Myers?

A. No, I know Mr. Myers, I saw him once, I was up
there and Mr. Myers fight with Dr. Cunningham and

Mr. Feinburg take him and call him inside, and treat him to a bottle of beer and that is the time I saw Mr. Myers.

Q. Was Mr. Myers in your daughter's house on Christmas eve?

A. No sir.

Q. Do you remember going out to the privy in the yard the next morning, after Christmas eve, early?

A. I have been up early.

Q. And went out there? 10

A. Yes, sir.

Q. Was there any quilt on the floor or anywhere else in the privy?

A. There was nothing there.

Q. While you were down visiting your daughter at Christmas time, 1903, did you say anything to Mr. Feinburg about his disease?

Mr. King :

I think that is objectionable. We object to calling in anything about the disease upon the ground that it is immaterial. 20

The Vice Chancellor :

I am not so sure about that. It is true the answer does not show any cross charges of adultery against the complainant, either by way of recrimination, or as a basis of cross relief, but I think I ought to take in the trial of this case, any evidence which repels the idea that the defendant separated herself from her husband for any other reason than the alienation of her affections from him. 30
She admits that she denied her husband his marital rights, and says that she had reason to do so. The denial by the wife of her husband's marital rights goes to support the claim that she has given her affections in

some other direction. If she had other reason to deny her husband it would refute this interference which might be drawn unfavorably to her. The proof offered tends to show that it was because he was diseased that she denied her husband the gratification to which he was entitled. I think it is admissible.

Q. Did you say anything to Feinburg about the disease?

A. I told him what is the matter with you about
10 your sickness.

Q. What did he say?

A. He said I got them diseases, he told me plain what it was.

Q. Did you know from your daughter anything about this disease? Before you spoke—

A. No not before I heard from Mr. Feinburg.
Objected to.

The Vice Chancellor :

20 I do not think you can prove anything that the daughter said about it, unless it was in Feinburg's presence, but if she said to Feinburg anything that the daughter had told her, you may ask it.

Q. Did you tell Feinburg anything your daughter told you about this disease?

A. No sir.

Q. Did you know at that time anything about these bottles?

30 A. Not when he told me, and I was in the closet and I saw these bottles, then I know he had them sickness.

Q. Did he tell you how he got this sickness?

A. He told me.

Q. What did he tell you?

A. He said I was gone looking for something and I got it, that is what he say.

Q. Was your daughter having a doctor at that time?

A. No, sir, never was sick.

Cross examination by Mr. C. S. King :

Q. How do you know your daughter was never sick?

A. I know.

Q. Were you living there with her?

A. Yes sir I live in Hammonton two years.

Q. You lived there all this time?

A. Four years when I left Hammonton.

10

By Vice Chancellor :

Q. Four years ago?

A. Yes.

Q. But previous to four years ago you lived there two years?

A. Yes, sir.

Further cross :

Q. During what year did you live there?

20

A. I can't tell what years.

Q. Where did you live on Christmas 1903?

A. In Passayunk Avenue, Philadelphia.

Q. It was on Christmas day 1903 that you went down to Hammonton to see your daughter?

A. 1904.

Q. 1904?

A. No. 1903, that is Christmas last year.

Q. What train did you take?

A. I can't tell you the train, I left seven o'clock Philadelphia.

30

Q. Seven o'clock?

A. Six o'clock I left Philadelphia.

Q. What did you have with you when you came down?

A. I know I bring her some pieces of ribbons for a cushion, and she said next day, she was by the table, and she said to Mr. Feinburg I gave mamma 50c for this piece of ribbon what she brought, I don't know what I fetched any more, I can't remember.

Q. What did you take away from there when you went away?

A. Nothing.

Q. Didn't you take anything with you?

10 A. Nothing.

Q. Had no bundle?

A. No, Mr. Feinburg come from the train and I go to the train Sunday night.

Q. What time did you leave Hammonton?

A. When?

Q. That evening when you went down on Christmas eve?

A. Friday, Saturday, Sunday night I left Hammonton.

20 Q. What time did you get to Hammonton that night Christmas eve, on the train?

A. A little after seven, I don't remember.

Q. By Christmas do you mean the night of Christmas or the night before Christmas?

A. Before Christmas the evening.

Q. Were you down at Hammonton the morning of Christmas?

A. No, sir.

30 Q. It was that evening.

A. That evening.

Q. Then it was Christmas night, when you went down there, was it?

A. It was Christmas Eve, not Christmas night.

Q. Was it the evening of Christmas that you went down?

A. Yes, sir.

Q. Was it Saturday or Friday you went down?

A. It was Thursday night, my daughter took me to the train.

Q. Did your son-in-law Mr. Feinburg tell you anything about your daughter's relations to Mr. Myers while you were down there?

A. Christmas evening Mr. Feinburg don't tell me anything.

Q. While you were down there, did he say anything while you were down there? 10

A. He say nothing.

Q. Didn't you say just now that he told you once about Mr. Myers' relations with your daughter?

A. I ask him what is the matter, what you beat her, what you call her names, and Mr. Feinburg said she liked Mr. Myers and not me, and I can't believe him.

Q. How did you come to discover this medicine, how did you find this medicine?

A. When I came up I went all over and cleaned the closet and clean all over, and I came on the closet and I see some medicine and I say what is the matter with the medicine, and she said— 20

Q. How did you know what the medicine was for?

A. I didn't know.

Q. How did you come to ask Mr. Feinburg what it was for?

A. I ask Mr. Feinburg nothing about medicine, I ask him whether he was sick,—

Q. How did you know Mr. Feinburg was sick? 30

A. I see Mr. Feinburg eats nothing sour and nothing bitter, and drinks no beer, and I said Mr. Feinburg, what is the matter with you. He said he was sick of disease and he can't eat nothing. I didn't know anything about medicine, I didn't see it.

Q. You didn't see it?

A. Not before that.

Q. Before this time did you ever cause any trouble between Mr. Feinburg and his wife?

Objected to, as material ; question withdrawn.

Q. Do you know anything about a man named Harry White?

A. Yes, sir, I know.

10 Q. Did he ever stop at your daughter's house, Mr. Feinburg's house?

A. Mr. Feinburg bring him up there, he never stopped, Mr. Feinburg bring him there.

Q. He never stayed there?

A. No, before Mr. Feinburg bring him.

Q. How many days did Mr. White stay at Mr. Feinburg's house?

A. I can't tell you, I don't remember.

Q. A week?

A. More, I can't remember.

20 Q. Did you hear Mr. Feinburg charge his wife at that time of finding Mr. White with his wife in the bedroom?

A. No, sir, I never hear it.

Q. That is all.

ANNA FEINBURG recalled for examination upon the question whether she ever had a venereal disease, which question was inadvertently omitted from the previous examination.

30

Direct examination by Mr. Jefferson :

Q. Did you ever have a venereal disease?

A. No, sir, never was sick in my life unless I had childbirth, that is the only time I was ever sick, since I was married to Mr. Feinburg.

By the Vice Chancellor.

Q. There has been some reference made to the children, how many have you?

A. I have four in less than six years.

Q. How many are at present living?

A. Three, the oldest is seven years old.

Q. What is the name of the oldest?

A. Samuel.

Q. What is the name of the next?

A. Herman. 10

Q. What is the name of the next?

A. Silvia.

Q. How old is Samuel?

A. Seven years old the 17th of May.

Q. How old is Herman?

A. Six on the 31st of August.

Q. How old is the baby Silvia?

A. Three years old Hallowe'en night.

Q. Who has presently charge of the children?

A. I have the baby, and he has the boys; the day I left home, I wanted to take the boys with me, and he had them out all day and I had no chance of seeing them all day, not even to say good-by. 20

Cross examination by Mr. C. S. King:

Q. What was the last date that you he and cohabitated together as man and wife?

A. I could not tell you the last date, it was the week of the first of August or the last of July, 1903.

Q. That is all. 30

Defendant rests.

HAZER FEINBURG recalled in rebuttal.

Direct Examination by C. S. King.

Q. Did your mother-in-law Mrs. Steinburg visit you during the holidays of 1903?

A. Yes sir she came down on Christmas night.

Q. When did she arrive at your house?

A. Friday night.

Q. At what time?

A. Somewhere about half-past seven or eight o'clock.

Q. Did you have any conversation with her about your disease?

10 A. Yes sir.

Q. What was it?

A. She asked me what was the matter, I am sick, I told her all about it, and she begged me,—

Q. What did you tell her?

A. I told her I am sick from your daughter, and she treat me bad, and she run around with other men, I heard about it.

Q. Go on, what further did you say. Is that all?

A. That is all.

20 Q. What did she reply?

A. She replied yes she knows, she knows it, but she want me, I shall tell that I got that from somewhere else, she told me that I shall tell that, not to disgrace her daughter.

By the Vice Chancellor:

Q. Did you in fact get it from somewhere else?

30 A. No sir I get it from her, that is the only woman I had business with, I got it some time in October.

Further direct

Q. When did you last consort with and have sexual intercourse with your wife?

A. Some time in October.

Q. Of what year?

A. 1903.

Q. Was that after you had caught her in Myers' lap?

A. Yes sir after that.

Q. When did you get this disease?

A. Some time in October, I don't remember exactly the date, I know it was some time in October, and it took me over three months to cure it.

Q. When did your wife suffer with this disease?

A. Some part in October and some part in November. 10

Q. After you had discovered that your wife had this disease, and that you had as a result of your intercourse caught it, did you have any further sexual intercourse with her?

A. No, sir, not any more.

Q. At no time from that time up to the present time?

A. No, sir.

Q. Did you accuse your wife of sitting in Myers' lap?

A. Yes, sir.

Q. At the time of this occurrence sworn to in the examination in chief? 20

A. Yes.

Judge Wescott :

That has all been gone over.

The Vice Chancellor :

Yes I understand it has.

Q. What language did you use?

A. I talked in the German language because I was ashamed to talk to her in the English language; I didn't want somebody to come in who might hear it, and I was always trying to shield her, but afterwards when it came out I didn't care how many knew it. 30

Q. You were present and heard Mr. Myers testify this forenoon?

A. Yes, sir.

Q. Did you ever say anything to Mr. Myers about your wife sitting in his lap?

A. I made my woman drive him out of the store, and she did, because I thought that would break the friendship between them, and they would never come together, and for two weeks later he didn't come, but two
10 weeks later he met me on the street somewhere about 12 o'clock when the lights were all out, and he cried, said he heard that I was going to tell his wife, and he said you shall not break up my peace of home, and he said who do you mean, and I said I blamed my wife, and he begged me not to tell his wife.

Q. Did you say to him at that time that he was never to meet or speak to your wife again?

A. Yes, sir, I told him that.

20 Not cross examined.

MRS. ELMIRA MCLAUGHLIN, re-called in rebuttal.

Direct examination by Mr. C. S. King:

Q. On or about the 6th day of January, 1904, did Mr. Myers come to your house?

A. Yes, sir, he came to my house to see my husband and he was not at home, and then he told me—
30

The Vice Chancellor:

The only question is did he come to the house, that is answered.

Q. Did you ask Mr. Myers at that time where Mrs. Feinburg lived?

Objected to.

The Vice Chancellor :

I suppose this is in contradiction of the questions which were put to Mr. Myers when he was on the stand. I remember he was asked about that.

A. I asked him if he knew where Mrs. Feinburg lived in the city, and at first he told me no, and I said I think she is not guilty, either of you, and if I knew where she lived I would write her a note, and he said, I will tell you where she lives, and he told me she lived on Passyunk road below Bainbridge, up a Court, but I forget now. He told me at the time. 10

Q. Did you meet Mr. Myers a few days after this?

A. Yes, sir, with my husband and he walked with us both about four squares.

Q. Did you tell him that you had heard that Mrs. Feinburg and him had been found in the water closet together?

A. Yes, sir, I told him that. 20

Q. What did he say in reply?

A. He said if they did find us there, they didn't see us doing anything, that is what he told me.

Objected to; admitted.

Q. Didn't you ask him then if he hadn't been to Atlantic City or Philadelphia with Mrs. Feinburg?

A. He said he was there and he met her there accidentally both times, didn't say that he went with her there. 30

Q. Didn't you ask him if he hadn't flirted with Mrs. Feinburg?

A. I said you could have been seen with Mrs. Feinburg on the street; well, he said, Mrs. McLaughlin, she is an easy one for any man, you could not blame me, I

didn't run after her, she ran after me. If she didn't find me on one street she would go up another until she found me. That is what he told me.

Q. Did Mrs. Feinburg at any time during any conversation that you had with her tell you that she had a disease?

A. No, she didn't tell me she had a disease, but she had been sick and she was taking medicine, and she went home one evening and scalded herself with a hot bottle that scalded her, what she was using, and after that when she got better she said "Thank Heavens I am rid of that." Anyhow she said, I won't have no child for him to say it was not his. That is what Mrs. Feinburg told me in her store herself.

Q. That is all.

A. She had scalded herself, she had her foot scalded from the water.

Not Cross examined.

20

MR. SAMUEL GERSTENFELD, re-called in rebuttal.

Direct Examination by Mr. King:

Q. Did you meet Mr. Myers on or about the second day of January 1904?

A. Yes, sir.

Q. Was it in your house 108 Vine street, Hammon-
ton.

A. Yes, sir, he came to my house.

Q. What did Mr. Myers say to you?

A. He asked me what I thought of his trouble. I said it was not very pleasant either for him or Mrs. Feinburg.

Q. What further did he say?

30

A. He said it was no fault of his, he wished that he would not be accused of anything, that he was merely flirting with her and she was flirting with him.

Q. Did you ask him if he hadn't met Mrs. Feinburg in Philadelphia at Third and Race?

A. I have, and he said that he did.

Q. Did he then call you into the parlor for a private conversation?

A. He did.

Q. Will you state to the Court what he said? 10

A. Mr. Myers called me into the entry of my parlor, it runs into a little entry, and he explained the thing to me, and he said, Gerstenfeld, I know you are pretty well acquainted with Mr. Feinburg. I heard he has got a disease, and that he claims he got it off his wife. Now he said, if he has got it off his wife, how is it that I haven't got it. I told him that I didn't know anything about it but I told him that it was a shame that when he was told to keep away that he should keep away from Mrs. Feinburg and let her alone. Then he replied you know Gerstenfeld,— I don't know whether to say it or not in the presence of the ladies,—“a stiff cock or a stiff prick has no conscience,” and with that the consultation between Mr. Myers and I stopped. 20

Q. On the evening of January 4, 1904, while you were sitting at Mr. Feinburg's store, did Mr. Feinburg call to you?

A. There was a gentleman came in and called me out; there was a gentleman outside wanted to see me, and I went out. I went out and near the corner I saw Mr. Myers, and I asked him what he wanted, and he said he wanted me to stop talking about me and Mrs. Feinburg. I told him I was not talking about him or Mrs. Feinburg, only what I heard from other people, 30

and he said if I didn't stop he would make me stop. I told him go ahead.

Q. Was that all that was said?

A. That is all the conversation Mr. Myers and I had.

Q. Have you heard Mrs. Feinburg make any statement in reference to Mr. Myers?

A. No, she always said everything was untrue.

Q. Did she ever speak admiringly of Mr. Myers in
10 your presence?

A. I heard her say that Mr. Myers has got a pleasant smile in his face, that is about all.

Q. Did she ever say to you that she disliked or hated her husband?

A. Yes sir, she has made the remark over and over again—

The Vice Chancellor:

I can't remember that that is rebuttal that is part of
20 the original case.

Question withdrawn.

Cross Examination by Judge Wescott:

Q. What is your business?

A. I am a buttonhole machinist.

Q. How long have you been living in Hammonton?

A. About 9 years going on 10.

Q. What is your nationality?
30

A. Austrian Jew, I came here when I was 3 or 4 years of age.

Q. You and Myers have had some trouble?

A. Never, we have always been good friends, the best of friends.

Q. You have taken a pretty active part in this thing?

A. No, it didn't come to my knowledge until last fall.

Q. I ask you if you have taken a pretty active part?

A. Only what I have seen and know of, further than that I am impartial.

Q. You interviewed Mr. Myers you said?

A. He came to see me, I never went to see him.

Q. Did you close your eyes and stick your fingers in your ears or listen to him?

A. What do you mean? 10

Q. Did you listen to him?

A. Most undoubtedly I did.

Q. Did you interview Mrs. Feinburg too?

A. I told her several times, she came to my house.

Q. Did you interview Mr. Feinburg also?

A. Never told him anything about it.

Q. Never talked to him?

A. It was none of my affairs.

Q. It was none of your affairs?

A. No. 20

Q. Except so far as Mrs. Feinburg and Mr. Myers are concerned; did you interview Mrs. Myers.

A. No, sir, never spoke to the lady.

Q. What other people have you interviewed about this trouble?

A. None that I know of.

Q. You have been talking a great deal about it on the streets and in the cigar stores?

A. No I heard plenty of rumors, but I was not the one to do the talking, it was the talk of the town. 30

Q. You didn't do any talking?

A. No I kept my mouth,

Q. Except when these people came to see you then you talked?

A. I didn't talk then either, I just listened to Mr.

Myers' story and Mrs. Feinburg's story

Q. You didn't say anything back?

A. No I just listened.

Q. That is true?

A. Yes sir, every word of it.

MRS. CATHARINE ROLLER, recalled in rebuttal.

10 Direct Examination by Mr. C. S. King.

Q. You were present when Mr. Myers testified this morning?

A. Yes, sir.

Q. You heard his testimony?

A. Yes, sir.

Q. Mr. Myers stated during that testimony that he came to your house frequently to see your father-in-law?

A. Yes, sir, my father.

20 Q. Do you know whether Mr. Myers came to see your father or not?

A. I don't think he did during the summer, because my father was very seldom in, but in the winter my father was taken sick but he used to come in a great deal, that was after Mrs. Feinburg left the town, and my father died afterward.

Q. Before Mrs. Feinburg left the town and before your father was taken sick did he come in frequently?

A. Yes, sir.

30 Q. And did Mrs. Feinburg come in?

A. Yes, sir.

Objected to.

Admitted.

Objection withdrawn.

Q. Did Mrs. Feinburg leave the town before your father got sick?

A. I think she did, my father was taken sick on Sunday after Christmas—no I think she left town the next week.

Q. That is all.

10

BERTHA SCHINDEL, Recalled in Rebuttal.

Direct Examination by Mr. King, Jr.

Q. Please state to the Court whether to your knowledge Mrs. Feinburg was sick while you were living in her house?

A. Yes, sir.

Q. Did she use the medicine and syringe for her sickness?

A. Yes, sir.

20

Q. What did she say to you in reference to it?

A. Sir?

Q. What did she say to you about it?

A. Witness remained silent.

Q. What did Mrs. Feinburg say to you about her sickness?

A. She said I got—

Q. State to the Court in your own way, the best you can, what did Mrs. Feinburg say to you about it?

A. She said I feel so sick.

30

Q. Did she say that she had female sickness?

A. Yes, sir.

Q. Did she say she was using the medicine for it?

A. Yes sir.

Cross Examined by Judge Wescott :

Q. Where was she when she told you that?

A. In her home.

Q. Whereabouts?

A. In the sleeping room.

Q. When was it she told you that?

A. I can't remember that.

Q. You can't remember that? Have you talked to
Feinburg since we adjourned this morning?

10 A. No.

Q. Not a word?

A. No.

Q. Didn't several of us see you talking to him, and
was he not telling you that you were to come here and
swear about this syringe?

A. No, sir.

Q. Didn't he come and see you?

A. No, sir.

Q. And havn't you talked with him about it right here
20 since we adjourned this morning?

A. No, sir.

Q. Where was it you saw her using a syringe?

A. In the sleeping room.

Q. Did she call you in there?

A. I was in there.

Q. You can tell the syringe?

A. Yes sir.

Q. (Showing witness a syringe) Is that it?

30 A. Yes, sir.—

Q. Is that it?

A. No, sir, not—

Q. Is that it?

A. No sir.

Q. That is all.

Complainant rests.

MRS. ANNA FEINBURG recalled in sur-rebuttal.

Direct Examination by Judge Wescott.

Q. Did you ever tell this girl who just went off the witness stand that you ever had any sickness? 10

A. No, sir.

Q. Any female or other kind of sickness?

A. No, sir.

Q. Did she see you use a syringe?

A. No, sir.

Q. Did you ever use any?

A. I have often used a syringe with a long tube, I always use that every month.

Q. Did you ever use any of any other sort?

A. No, sir. 20

Q. Do you know Mrs. McLaughlin?

A. Yes sir.

Q. Did you tell her that you were thankful that you were rid of that?

A. No, sir.

Q. That you didn't have any child that was not your husband's?

A. No, sir, never said anything like that,

Q. What was it you talked to her about?

A. About the scald, what Mr. Feinburg scalded me. 30
One day in October I came home and I was going to take a bath. I had told Bertha Schindel to put a boiler of water on the stove, and she put it on, and went to bed; she asked me shall I wait up; I said no Mr. Feinburg can help me take it off, and he would not do it at first

and so he did afterwards, and he lifted his side higher than mine, and he scalded me from my breast to my feet, and he went to the drug store and got me a two ounce bottle of oil and I was suffering all night and cried, and Bertha Schindel came down and got me some medicine.

Objected to.

Q. Was that all you talked to her about?

A. Yes, sir, I was thankful I got over it, when I got
10 well about the burn.

Q. That is all.

Not cross examined.

Defendant rests.

Mr. King :

If that one affidavit is offered I submit that all ought to be offered.

20 The Vice Chancellor :

No, I know of no such rule here. The defendant has offered a specific affidavit upon one point, and it was claimed and probably will be claimed that the witness' statement on the stand varies from her statement contained in the affidavit. That is all it is here for. I cannot therefore rule that all the other affidavits in the case are in.

Mr. King :

30 Nave you any objection, Mr. Wescott ?

Mr. Wescott :

Why certainly.

CASE CLOSED.

IN CHANCERY OF NEW JERSEY.

Between
 Hazer Feinburg
 Petitioner,
 and
 Anna Feinburg
 Defendant

On bill for divorce,
 answer and proofs.
 Memo.

10

Camden, N. J., January 18th, 1905.

Messrs. A. J. KING and C. S. KING
 for Petitioner.

Messrs. MATTHEW JEFFERSON and JOHN W. WESCOTT
 for Defendant

20

Grey, V. C. (Orally).

I do not care to hear again from Mr. King in behalf of the petitioner, as I am already satisfied that I ought to render the judgment which I will now announce.

The petition in this case is filed for divorce on the ground of adultery, alleged by Hazer Feinburg against his wife, Anna Feinburg. The petition was filed in this Court on January 22nd, 1904. The petition charges that the defendant committed adultery during the last six months of the year 1903 at Hammonton, at Atlantic City, and in Philadelphia, with one John Myers.

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The defendant's answer explicitly denies the petitioner's charge, but makes no counter charge and asks no cross relief.

The proofs in this case submitted on both sides show the marriage to have taken place in 1896 ; the residence of the parties in this State, and the jurisdictional facts which enabled this Court to entertain this case.

Coming to the consideration of that part of the testimony which throws light upon the matters in dispute between the parties, it plainly appears that if the defendant wife ever had any affection for her husband, the petitioner, she had wholly lost it, as early as the month of
 10 August, 1903. From that time till they separated, about January, 1904, the wife had no affection for her husband.

There are mutual recriminations between the parties as to the characters of their married life and the reasons for their separation. The wife insisting that her husband was cruel to her and beat her, and he contending that whatever violence he showed her was the explosion of temper which he was led to give out because of his discovery of her infidelity. She insisting that she left
 20 him for good cause, because of his cruelty, and that she had for some previous time refused him his marital rights, because of her discovery of what had hitherto been unknown to her, that he had a venereal disease. He insists that although he had a venereal disease it was communicated to him by her, and from no other source.

As to these mutual recriminations, there is no credible outside testimony which enables me to come to any conclusion either way. The mother of the defendant is a witness who testified regarding a discovery which she
 30 made about Christmas time when she went down to Hammonton, and an admission which she says the complainant made to her, acknowledging himself to be at fault in relation to the venereal disease. Her testimony was intended to convey that idea, but I am not able to give to the mother of the defendant any such weight as would lead me to accept her statement as establishing

the fact that the husband admitted to her that he had obtained this disease from some one else than his wife. The mother intimates that this admission was made to her by the husband about Christmas time, 1903, but a few days before the separation of the parties. It is most improbable that a husband would tell the mother of his wife that he had acquired a venereal disease by being unfaithful to her daughter, and it is still less probable that he would have made such an admission at a time when he and his wife were at swords points, in open quarrel about their domestic relations and attentions which she was accepting against her husband's forbiddance, from other men. Nor is the testimony of the mother as given on the stand, at all impressive of truthfulness. She appears to be willing to adjust her statements to meet the needs of her daughter's case.

10

I notice, too, that although the wife claims to have known before she filed her answer in this case that her husband was suffering from this venereal disease, and although she now claims in her testimony that she did not communicate it to him, yet in her answer to his petition, she does not set up this alleged unfaithfulness to show that he comes into Court with unclean hands, and that he therefore cannot claim the relief which he seeks.

20

As I am compelled to rely solely upon the testimony of one or other of the parties, in order to find either way upon these charges of unfaithfulness resulting in venereal disease, I pass them by, the more easily as neither party in the pleadings bases any claim for relief upon them.

Dismissing that feature I come back to the statement which I think is proven by the testimony on both sides, that during the last three or four months of the year 1903 this wife had no affections for her husband. The husband claims that she declared, (and he brings other testimony to show it), that she never did have any affec-

30

tion for him, and that she did not want to have anything to do with him.

I think it is clearly established by all the testimony that during the last three or four months of 1903, she hated him. I am not depending upon the husband's testimony for that, but upon that of other witnesses to whom the wife made statements of that character.

10 We start then upon the examination of the proofs, with the established fact that during the last three or four months of her association with her husband, this wife had no affection for him.

20 It is also substantially undenied that during almost the whole of this period she refused her husband his marital rights, and notwithstanding that she knew of her husband's objection to her reception of any attentions from Mr. John Myers, she willingly permitted him to visit her at her home in her husband's absence, and met him elsewhere upon terms of intimate friendship. Myers denies this and she denies it, but the denial of neither of them is in any way conclusive to me, both from their manner when on the stand, and because those denials are opposed to the statements of other witnesses, (not the husband), who saw them together so frequently and under such circumstances that I am obliged to believe that they were on intimate terms, and that their intimacy was of such a character that they both agreed that it should be hidden from observation.

30 We have then this situation. It is established that the wife has no affection for the husband, that he had prohibited her association with another man, that notwithstanding her husband's commands, she secretly sought and received the society forbidden her. Her husband testifies that he saw her sit on the lap of Mr. Myers; I give but little weight to that statement, because there is no corroboration of it whatever, and there is a denial

of it, both on the part of Myers and the wife. Under the rule regarding testimony of that kind it cannot carry conviction. But there is testimony of persons other than the husband, who saw the defendant and Mr. Myers meet under circumstances, where all the probabilities indicated their meetings were pre-arranged and surreptitious. Witnesses testify that they saw Mr. Myers come to Mr. Feinburg's house during his absence, they saw Mrs. Feinburg let him in the house through the back parlor window at night. She testifies that they were in the parlor together with the door shut. Mrs. Feinburg's own statements to her neighbors regarding her relations with her husband and Mr. Myers tend strongly to convict her.

All of the testimony which is directed to this phase of the case, indicates a sympathy and secret understanding between Myers and the defendant wife, which has no occasion in any business relation, and which far exceeds in its intimacy the bounds of reasonable social intercourse. No reason appears for such attentions by Myers to the defendant, and when it is remembered that they were rendered against the husband's protest and under efforts to hide their existence, they certainly bear the indicating marks of a disposition on the part of Myers and the defendant to a criminal intimacy.

This disposition being shown, it is not necessary to prove by eye witnesses that the parties criminally disposed, were actually seen in flagrante delictu. It is enough if under such circumstances, it is proven that they had the opportunity to have committed the crime of adultery.

The testimony shows that Myers and the defendant privately occupied the parlor in her house, at a time and under circumstances when an act of adultery could have been committed. The comings and goings of Mr. Myers into and out of Mrs. Feinburg's house were surreptitious and by modes which indicated not only his confident in-

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timacy with her, but also his intention to avoid discovery of his presence there, and her purpose to aid him to that end. There is no pretense that Myers went to the Feinburg house to visit any one else than Mrs. Feinburg. Myers' own testimony denies that he visited the Feinburg house in any other than the most frank and open manner as a casual visitor. But I am satisfied that the testimony of the other disinterested witnesses contradicting Myers' claim to have no especial interest there, or in
10 Mrs. Feinburg, must be accepted as true.

In addition to this proof of opportunity, when they were privately in a room together, there is evidence regarding two incidents which the petitioner claims show an actual finding of the defendant in the act of adultery.

The first one is that narrated by the witness Renari. He testified that he was paying attention to the young woman who was then employed in the Feinburg house. One night before the time when Mrs. Feinburg had separated herself from her husband, and while she still
20 lived with him, Mr. Renari came into the dining room with this young woman, the room being partly darkened. Renari testifies he stumbled and nearly fell over two persons lying together on the floor. One of those persons he recognized to be Mr. Myers. Renari does not in terms testify that the other was Mrs. Feinburg, but the transaction as related by Renari, took place in her dining room, and the intent of the testimony was to give the impression that the other party was the defendant
30 wife.

Renari testifies that he walked around these persons as they were lying on the floor, and went with the girl into the kitchen, and there he struck a match. I did not understand him to say he came back and identified the parties on the floor any better than he had at the first meeting. Nor that he afterward saw Myers in the house, but

that he heard him go out of the window. If Mr. Renari's testimony was the only evidence touching this incident, it would be more forceful to establish this phase of the complainant's case. The testimony (apparently relating to the same incident), given immediately afterwards by the young woman Miss Maxwell, does not support Mr. Renari's story. If she is in fact referring to the same incident, her statement tends to throw doubt upon the accuracy of the narration of the witness Renari. She says that she and Renari did not go in to the dining room, but entered the house through the kitchen, that they did not have any occasion to strike any match because there was an electric light in the kitchen, where she says they went, and that she did not notice any person on the floor of the dining room as testified to by Mr. Renari.

10

The rule regarding the weight of evidence in such cases I understand to be, that if the inculpatory evidence of the perpetration of an act of adultery is doubtful, the testimony of the accused spouse and of the alleged paramour, proffered in denial, should be accepted as a sufficient refutation. It is within the possibilities that the young woman may, on the occasion named, not have noticed Mr. Myers and the other person on the floor of the dining room. Mr. Renari says that he did not, at the time, mention to her what he had seen. But she was called to corroborate him as to this incident and her testimony on the point threw doubt upon his.

20

I have felt impelled under all the circumstances, to hold that regarding this incident, there is sufficient doubt to enable the denials of Mrs. Feinburg and Mr. Myers (which deny not only the accusatory part of this evidence, but also their presence in the dining room on the occasion referred to, and all improper relations) to be effective.

30

There is another charge at another date, on the even-

ing of Christmas, 1903, which is supported by the testimony of a young girl, nineteen years old named Bertha Schindel. She was at the time a servant in the employ of Mrs. Feinburg and had been so employed for some little time. She knew Mrs. Feinburg and she knew Mr. Myers. She testifies that Mr. Myers had come to the house when Mr. Feinburg was absent, and that he and Mrs. Feinburg occupied a room when nobody else was there, with the door shut. Upon the particular
 10 occasion when the act of adultery was committed, which she discovered, Bertha was in the cellar. She heard a little noise up in the parlor. She came upstairs from the cellar and opened the parlor door. It was somewhat dark in there, but not so dark that she could not see, and she saw Mr. Myers and Mrs. Feinburg on the parlor floor with their clothes disarranged and he on top of her.

This testimony proves an act of adultery by the observation of a witness, who was well acquainted with both of the parties to the crime. She had full opportunity to know their identity. She was then a member of Mrs.
 20 Feinberg's household. Her narration of the attending circumstances adjusts itself to the admitted and proven facts. Her manner on the stand while hesitating and reluctant, is not unnatural in a young woman of nineteen years, when called upon to narrate so shocking an incident in the presence of a crowded court room. She exhibits no hostility towards the defendant. She is not proven to have had any reason to be hostile to her. It
 30 is in my view impossible to refuse belief to this girl's statement.

There is but one element of opposing proof. The mother of the defendant who is quite an old lady, is put on the stand to prove if possible, that Mrs. Feinburg was not at her home at the time when Bertha Schindel testified she saw the criminal incident above narrated, but,

was with her in Philadelphia. In short to prove an alibi. There is evidence which contradicts the old lady's fixing of the time attending this incident. Her own testimony as delivered carried little weight. She evidently desired to protect her daughter in any way she could.

Counsel for defendant insists that the court should disregard the testimony of Bertha Schindel as perjured, and inspired by the malevolence of the petitioner. But there is no proof in the case which would justify such a course. No testimony shows that the petitioner stands in any position to Bertha which might have enabled him to influence her. Nothing shows that he ever tried to prejudice her, nor that she had any inducement to falsify her testimony either to gratify the complainant or to spite the defendant.

10

It is argued that the circumstances narrated by her are in themselves improbable; that parties are not likely to commit adultery in a parlor with an unlocked door. It is impossible to draw a fixed line where (in the opinion of those inclined to adultery) decency ends and open lechery begins. There is enough proof in this case, other than Bertha's, to satisfy a Court that given the opportunity, the defendant would be very likely to take some chances in order to gratify her inclinations. I am unable to believe that a dark parlor in her own house, with no other person conveniently near but the servant, (Bertha), who was taking care of the children in another part of the house, might not have been too inviting.

20

As stated by the witness, Bertha Schindel, the incident does not indicate such an open and shameless disregard for decency that her story is in itself incredible. The guilty parties who were in the parlor and in darkness might readily have supposed that they would not be intruded upon by the servant girl who had duties elsewhere. No theory is suggested upon which I can lodge

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a substantial belief that this witness is either trifling with or coloring the truth, or creating this story.

The witness, Bertha Schindel, also relates that on another occasion she saw the defendant wife with Myers, in the privy of the Feinburg house. She does not say that on this occasion they appeared to be engaged in actual adultery. But they were both in the place named, with the door shut. Such an association of a wife with a man other than her husband, raises a presumption of
10 such a degree of intimacy between them that given proof of their disposition towards the crime of adultery, and leaving the situation unexplained, a fair inference may be drawn that they were upon terms of criminal intimacy.

It is true that both the parties charged, deny that these incidents narrated by Bertha Schindel ever occurred. But they also deny every inculpatory incident narrated by every other witness, no matter how disinterested they may be. Mr. Myers' credibility as a witness is also impugned by the testimony of Mr. Gerstenfeld, an entirely
20 disinterested and intelligent witness. They were discussing the charge made against Myers of improper relations to Mrs. Feinburg. Myers used an illustration which is unmentionable here, but which indicates that Myers' state of mind towards Mrs. Feinburg, was widely variant from the condition of innocence and purity, which by his testimony here given, he wishes this court to ascribe to him.

If the inculpatory testimony were doubtful or inconsistent with the other evidence, the credible denials of
30 the parties charged might be forceful to acquit them. But that is not the present situation. Bertha Schindel's testimony appears to me to be truthful. It agrees with the trend of the other proofs, and no doubt remains which may be solved by the denials of the accused. And these denials are in themselves unsatisfactory, because

against the weight of the credible evidence.

The only theory upon which this conclusion can be avoided is that so energetically insisted upon by counsel for the defendant. That theory is that the petitioner has contrived a plot of perjury, into which Miss Schindel has been drawn. But there is no testimony upon which such a theory can be based. It cannot be assumed that there has been a conspiracy, that Miss Schindel has fallen under the control of it, and that she comes here having pre-arranged a perjury story. That cannot be done, unless some proof is exhibited to support such an argument and there is not proof. On the contrary the other testimony strongly indicates that Miss Schindel is telling the truth. The result is that as to the act of adultery supported by the testimony of the girl Schindel, I find the defendant to be guilty.

10

The complainant is therefore entitled to a decree for divorce, because of the adultery charged in the petition.

There are three children of this marriage. The law requires me in a case of this kind to make a decree disposing of the custody of the children. The two older children are boys of seven and five years of age, and have remained with their father for over a year, during which their parents have lived apart, without any attempt on the part of the defendant to interfere with the petitioner's custody of them. The other child, three years of age, is a little girl. She has remained during the year, in the care of the defendant, who was living separate from her husband. The result is that the custody of those children has disposed of by their parents in a manner which both appear to have accepted as satisfactory to them. They have now been separated more than a year. The decree of this court will make their separation permanent.

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Under these circumstances the statutory authority to

dispose of the custody of the children of the marriage, ought to be exercised now. In case it is found that this decree shall in this respect operate unjustly upon the parties, or against the interests of the children, it may be changed.

10 I will advise a decree that the two older children, Herman and Samuel, who are in the possession of the father, shall remain in his care and custody, he of course to support them, and that the little girl Sylvia shall remain in the care and custody of her mother. The father shall support all of his children. He should pay to the mother for the maintenance and support of the little girl Sylvia, the sum of three dollars per week, each and every week. The decree regarding the custody of the children and for the payment of money for the maintenance of the child Sylvia, shall be until the further order of the Court. Each party shall have the right of visitation to the child or children who are in the custody of the other party. If counsel can draw a decree where the exercise of that
20 right may be arranged according to the mutual convenience of the parties, I will accede to their arrangements; if they are unable to agree, I will make my own order as to how access shall be offered to the parties to see their children.

If I have made any mistake in my judgment as to the custody or support of these children, either party may at time apply to the court to rearrange it, upon any basis which is consistent with the circumstances of the parties and the equities of the situation.
30

Mr. King:

In view of the fact that the little girl is outside of the jurisdiction of the Court, how is the decree of the Court to control that?

The Vice Chancellor :

When any difficulty arises regarding the performance of the order of the Court as to visitation, means of enforcing it will probably be found. The husband succeeding will have no costs of suit allowed him against his wife, but she is entitled to have him pay the expenses of her defence to this suit. I will allow to her a counsel fee of Thirty Dollars, and she should also have the costs of her defence to be taxed.

IN CHANCERY OF NEW JERSEY.

10	Between Hazer Feinburg, Petitioner, and Annie Feinburg, Defendant	} } }	On Petition, &c., Petition for rehearing
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20 To the Honorable William J. Magie, Chancellor of the
 State of New Jersey:

30 Your petitioner, Annie Feinberg, respectfully shows
 that she filed her bill for alimony, on the ninth day of
 January, nineteen hundred and four, against her said hus-
 band, Hazer Feinberg; that her said husband afterwards filed
 a petition against your petitioner for a divorce, that the
 hearing on the petition for divorce came on, on the ninth
 day of January, last past, before the Honorable Martin P.
 Grey, one of the Vice Chancellors of this Court; that said
 Vice Chancellor allowed the prayer of the petition and
 ordered a decree of divorce, and rested his conclusion up-
 on the evidence of one Bertha Schindel; that since said
 hearing, your petitioner has discovered new and material
 evidence tending to discredit the evidence of said Bertha
 Schindle; that the said evidence is set forth in affidavits
 attached to this petition.

Wherefore your petitioner prays that the decree heretofore ordered against her may be opened and that she may be permitted to offer before this Court the witnesses and the affidavits attached to this petition ; and your petitioner will ever pray, &c.

JOHN W. WESCOTT,
Solicitor for Defendant.

IN CHANCERY OF NEW JERSEY.

10

Between
Hazer Feinburg,
Petitioner
and
Annie Feinburg
Defendant

}

On Petition &c.,
Affidavits.

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STATE OF NEW JERSEY, }
COUNTY OF CAMDEN, } SS:

Max Shaffer, being duly sworn, on oath, says that he lives at 307 South Third Street, in Philadelphia, Pennsylvania ; that he is a tailor by profession and thirty-five years of age ; that he has known Hazer Feinburg, the above named petitioner, for somewhat more than five years ; that he knew of difficulties existing between him and his wife, the defendant above named ; that on Friday the eighth day of July, nineteen hundred and four, between three and four o'clock, in the afternoon of that

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day, he saw said Hazer Feinburg sitting in the Ferry at South Street, in said Philadelphia, and talking to a woman ; that deponent stood within two or three feet of said Feinburg and heard him talking to said lady about his wife, and I heard said Feinburg, amongst other things, say that he was going to try to get rid of her and that he had a girl who would say anything he wanted her to say and heard him say that he didn't care what it would cost him ; that, after the conversation between said Feinburg and lady, deponent walked with said Feinburg from said Ferry to Lombard Street and Fifth in said Philadelphia during which time said Feinburg told deponent that his wife's mother went to his house and tried to take his wife away and that his mother-in-law made him lots of trouble; that deponent happened to meet the father of Mrs. Feinburg day before yesterday, and, upon said father telling him about the divorce suit, deponent thought of the above conversation and told said father about it, and that the next day, yesterday, said father asked deponent to come to Judge Wescott's office, and deponent said he would ; that deponent is not related to either party to the suit and has no more friendship for one than the other.

MAX SHAFFER.

Sworn and subscribed before me, this eighteenth day of February, nineteen hundred and five, Ralph W. E. Donges, Master in Chancery of New Jersey.

30 STATE OF PENNSYLVANIA }
COUNTY OF PHILADELPHIA } ss.

Sarah Laberstein, being duly sworn, on her oath says, that she has known Annie Feinberg, the defendant since said defendant was a child and has known said Hazer

Feinberg for nine or more years; that she is not related to either the petitioner or the defendant; that one day last summer, deponent cannot remember the exact day, deponent met said Hazer Feinberg going over the South Street Ferry to Camden from Philadelphia; that on that day she talked with said Feinburg and among other things said Feinberg told deponent that he, Feinberg, did not want his said wife to have him; that she went away because of the influence of said wife's mother, who persuaded his said wife to leave him, said Feinburg; that he knew nothing against his said wife, and that it was only her mother that took his wife away and who made all the trouble between him and his wife; that this deponent told what she has above stated to Mr. Max Steinberg, the father of Mrs. Feinberg, about two weeks ago and then agreed to make a statement before an officer before whom Mr. Steinberg would bring to deponent's home; that deponent never told what she knew to any of Mr. Steinberg's family until two weeks ago and that they or either of them knew that this deponent had had a conversation with Mr. Feinberg and did not know that this deponent knew anything; and that deponent makes the above statement of her own free will.

SARAH LABERSTEIN.

Sworn and subscribed to this twenty-fifth day of February, nineteen hundred and five, before me, Matthew Jefferson, M. C. C. of N. J.

STATE OF NEW JERSEY, }
 COUNTY OF ATLANTIC, } SS.

Annie Myers, of full age, being duly sworn, on her oath says that she testified in the case of Feinburg vs.

Feinburg, and is the wife of John W. Myers ; that, when she testified she had no knowledge of the fact that the alleged adultery between her husband and Mrs. Feinberg was said to have occurred Christmas Eve, 1903 ; that, after learning that the offense was fixed at that time, she began to recall circumstances and events and is now able to say that she and her husband, John W. Myers, on that evening left their home together about seven o'clock in the evening, or a few minutes before, and went down
10 upon the main street for the purpose of making purchases for Christmas ; that they went into Mr. Jackson's store and bought fruit and into Mr. Steel's store, where deponent bought a Christmas present for her husband, while he stood on the street outside the store ; that they then went into Mr. Black's store and made some purchases ; that they then went into Mr. Small's store and bought candy and nuts ; that, during this time deponent talked with Mrs. Phillips in Mr. Black's store ; that the store was so
20 crowded with customers that deponent and her husband were considerably delayed in being waited upon ; that after making these various purchases, deponent and her husband came back home, he carrying the things purchased, and entered the house about nine o'clock ; that some neighbors had arranged to spend the evening at deponent's home and amongst them were Mr. and Mrs. M. K. Boyer, Harry Bobst, Miss Ella Saunders and deponent's son, John O. Myers, who was home from the
30 city ; that deponent's husband then left the house and went down town to get some one to take his place as night watchman and to bring back with him to the house, said Mr. Boyer, who her husband brought back with him not later than a few minutes, perhaps fifteen minutes after nine o'clock, and that her husband remained in the house until twelve o'clock that night ; that deponent is

perfectly clear and sure of the accuracy of this narrative.

ANNIE MYERS.

Sworn and subscribed to this twenty-first day of March, nineteen hundred and five, before me, Matthew Jefferson, M. C. C. of N. J.

STATE OF NEW JERSEY, }
COUNTY OF ATLANTIC, } SS.

John W. Myers, of full age, being duly sworn, on his oath says that, when he testified in the Feinberg case and before that time, he understood that the time of his alleged adultery with Mrs. Feinberg was fixed on Christmas night of 1903, and that his attention had not been called to its alleged occurrence on Christmas Eve of that year, and that the first he knew of it was at the trial; that at that time, all that deponent knew was that the charge was not true; that after reaching home, he and his wife concentrated their attention upon the occurrences of Christmas Eve of that year, that by recalling different circumstances and by interviewing different people, deponent has recalled with clearness and certainty that the persons named in his wife's affidavit had arranged to spend that evening at deponent's home; that deponent and his wife went to the various stores named in her affidavit, that he carried the things home and reached home about nine o'clock and that, up to that time, deponent was with his wife continuously; that, after bringing his wife home, deponent went down town and engaged some one to perform his duties as night watchman up to twelve o'clock, that he met Mr. Boyer, on the street and came back to deponent's home with Mr. Boyer and remained there until twelve o'clock at night. J. W. MYERS.

Sworn and subscribed to this twenty-first day of March 1905, before me, Matthew Jefferson, M. C. C. of N. J.

STATE OF NEW JERSEY; }
 COUNTY OF ATLANTIC, } ss.

Henry C. Bobst, of full age, being duly sworn, on his oath says that he is sixty-four years of age and has lived in Hammonton, New Jersey, sixteen years last past; that on Christmas Eve, of 1903, deponent and his daughter, Emma Boyer, wife of M. K. Boyer, went to the home of John W. Myers, in Hammonton; to spend the evening with him and his wife; that they reached Mr. Myers' home shortly before nine o'clock and that Mr. Myers and Mr. Boyer came to the house a very few minutes after nine o'clock and remained there continuously up to twelve o'clock that night.

HENRY C. BOBST.

Sworn and subscribed to this 21st day of March, 1905,
 Matthew Jefferson, M. C. C. of N. J.

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STATE OF NEW JERSEY, }
 COUNTY OF ATLANTIC, } ss.

Sarah Vaughn, being duly sworn, on her oath says that she lives on Egg Harbor road in Hammonton about one square from the store of Hazer Feinburg, whom deponent knows; that deponent knows Bertha Schindel, who testified in the Feinburg case; that said Bertha Schindel came from said Feinburg's home in Hammonton into the employment of deponent as a servant girl; that she came in December, 1903, and remained until the latter part of the following March; that, during her stay in deponent's employment, said Hazer Feinburg, several times come to deponents home and saw said Bertha

Schindle; that deponent requested her husband to see said Feinburg and request him not to call any more at deponent's house to see said Bertha Schindle; that deponent's husband as she is advised and believes to be true, saw Feinburg, the result of which was that said Feinburg stopped calling at deponent's home to see her.

SARAH E. VAUGHN.

Sworn and subscribed to this 21st day of March, 1905, before me, Matthew Jefferson, M. C. C. of N. J.

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STATE OF NEW JERSEY, }
COUNTY OF ATLANTIC, } SS:

Joseph H. Garton, being duly sworn, on his oath, says that he is a Justice of the Peace in Atlantic County, New Jersey, that he was subpoenaed as a witness by Hazer Feinberg and was present at the trial of the Feinberg case, in Camden recently, but was not called as a witness; that; on the day before New Year's, 1904, Hazer Feinburg came to deponent and requested him to go to his wife, Annie Feinburg, and try to persuade her not to leave her home; that said Hazer Feinburg had not before that time and did not at that time say anything about his wife's adultery; that deponent went to Mrs. Feinburg, expressed to her her husband's wish, to which she replied detailing her slavish condition; and averring her intention to leave; but not one word was said about adultery; and that after she left her husband, deponent then for the first time he heard about the subject of adultery.

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JOSEPH H. GARTON.

Sworn and subscribed to this 21st day of March, 1905, before me, Matthew Jefferson, M. C. C. of N. J.

STATE OF NEW JERSEY }
 COUNTY OF ATLANTIC } ss.

10 Alice Saunders, of full age, being duly sworn, on her oath says, that she is forty-six years of age and has resided in Hammonton for more than thirty years; that she spent Christmas Eve, of 1903, at the home of Mr. and Mrs. John W. Myers in Hammonton; that she reached their home at nine o'clock in the evening and remained there until midnight; that John W. Myers came into his house about ten minutes after she got there and remained there until midnight; that deponent saw there Mr. and Mrs. Michael K. Boyer, Mrs. Myers, and Mr. Henry C. Bobst.

Alice SAUNDERS.

Sworn and subscribed to before me this twenty-first day of March, 1905, before me, Matthew Jefferson, M. C. C. of N. J.

20 STATE OF NEW JERSEY, |
 COUNTY OF ATLANTIC, | ss.

30 Ella V. Naylor, being duly sworn, on her oath says, that she lives on the corner of Vine St. and Egg Harbor Road, Hammonton, and has lived in Hammonton for sixteen years last past and that her husband works for the Pennsylvania Railroad Company; that deponent knows Samuel Gersenfield and his family; that deponent lives in a double house and that said Gersenfield and his family occupy the other half of the same house; that during the spring of 1904, Bertha Schindel lived with said Gersenfield as a servant for a period of about two months; that during that time, Hazer Feinburg, whom deponent knows by sight, frequently came to the Gersenfield house as a visitor and friend, and that said Feinburg visited

said Gersensfeld frequently both before and after Bertha Schindle came to live with them as a servant.

ELLA V. NAYLOR.

Sworn and subscribed to this 21st day of March, 1905,
before me, Matthew Jefferson, M. C. C. of N. J.

STATE OF NEW JERSEY, }
COUNTY OF CAMDEN, } SS.

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David Widlansky, of full age, being duly sworn, on his oath says, that he has known Hazer Feinberg for seventeen years and Annie Feinberg for ten years; that he is not related to either Feinberg or his said wife; that this deponent is a traveling peddler, driving a wagon through South Jersey; that he has often seen said Hazer Feinberg and had talks with him about his family; that on one day last September deponent met said Hazer Feinberg on the road from Egg Harbor to Elwood, near Elwood, where they stopped and talked together about said Feinberg's application for a divorce from his said wife; that said Feinberg there and then among other things told this deponent that he was sure to get rid of his wife; that he had a girl in Hammonton who would tell of his wife's (Annie Feinberg's) conduct with the policeman (meaning John Myers); that he had this girl fixed and knew how she would testify; that said Feinberg there and then told deponent that you could do anything with money and that he Feinberg was sure to get his divorce; that said Feinberg said to this deponent that he would take his said wife back if she would come and beg him to do so; that when deponent asked said Feinberg why he did not try to get his said wife back,

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he replied that he would not give the satisfaction of asking her to come and that if she did not come back of her own self, he would spend all of his money to get witnesses to beat her; that said Feinberg there and then told deponent that he, said Feinberg, caught his said wife in the water-closet with a man (meaning John Myers;) that the above statements were made by said Feinberg to this deponent along the aforesaid road, they having met there while driving along said road; that this deponent
 10 met the father of Mrs. Feinburg in Philadelphia, about two weeks ago and told him what he has above stated, that said father asked deponent if he would go to Judge Wescott's office and tell the Judge what deponent had told said father and that deponent said that he would come to said office the next time he came back to Philadelphia, where deponent lives, from his trip through South Jersey; that according to his promise this deponent this day came to Judge Wescott's office and makes this affidavit; that this deponent did not tell the above facts
 20 to Mrs. Feinberg or any friend of hers until about two weeks ago; and that this deponent has no more friendship to one of the parties to this suit than the other.

Signed, DAVID WIDLANSKY, (Written in Hebrew).

Sworn and subscribed to this fourth day of March, 1905, before me, Matthew Jefferson, M. C. C. of N. J.

30 STATE OF NEW JERSEY, }
 COUNTY OF CAMDEN, } SS.

John O. Myers, being duly sworn, on his oath says, that he is twenty-four years of age, and the son of John W. Myers; that on Christmas Eve of nineteen hundred and three, he was at his parents home in Hammonton,

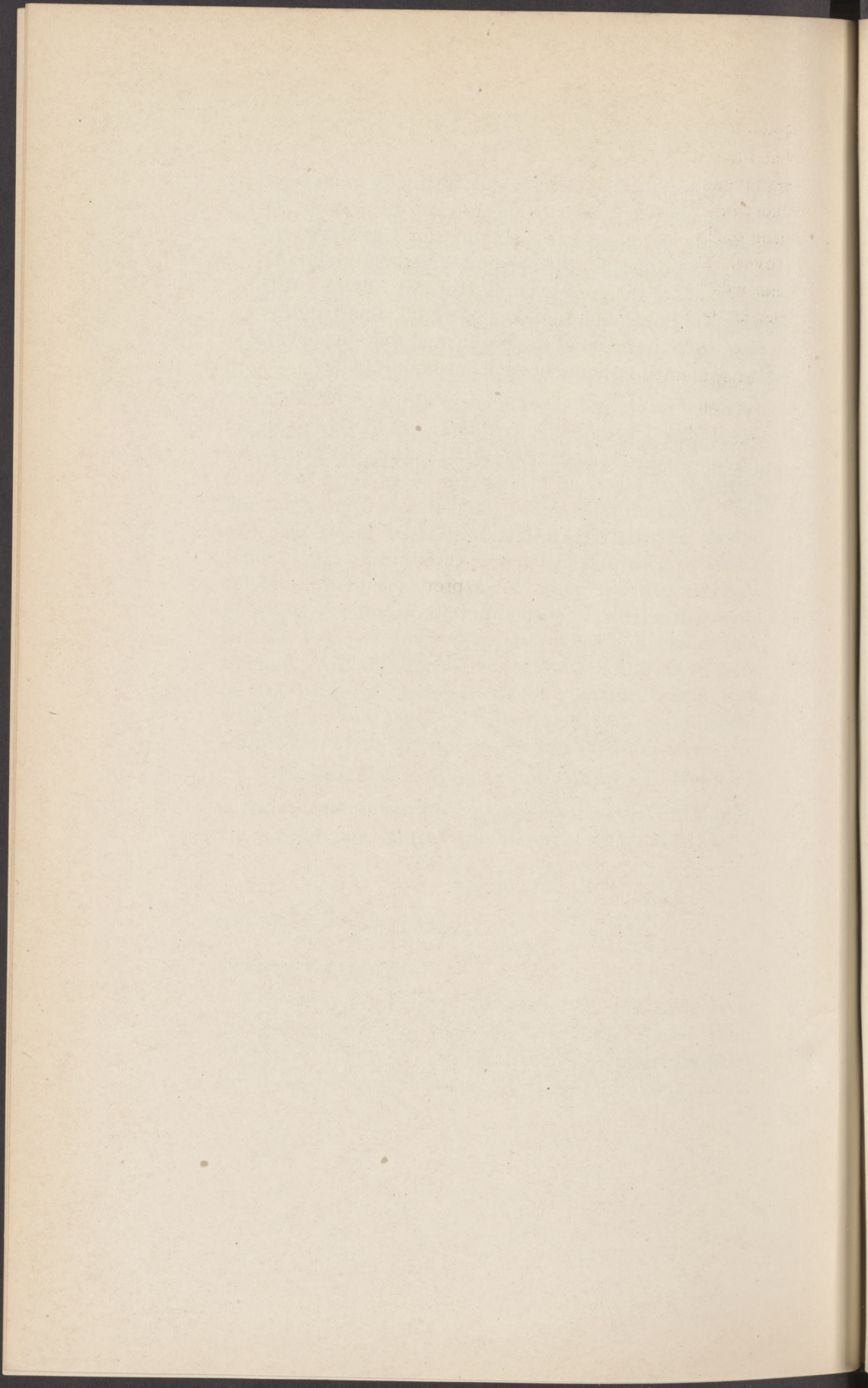
New Jersey; that he clearly and distinctly remembers that his parents left their home early in the evening for the purpose of doing some shopping for Christmas and that they returned to their home a few minutes after nine o'clock of the same evening that Mr. Bobast, Mrs. Boyer, Mr. Boyer and Saunders were all there and remained there until about midnight, and that deponent's father remained at home until about midnight.

JOHN O. MYERS.

10

Sworn and subscribed to this thirtieth day of March, nineteen hundred and five, before me, Matthew Jefferson, M. C. C. of N. J.

REHEARING DENIED.



IN CHANCERY OF NEW JERSEY.

BETWEEN

HAZER FEINBERG,
Petitioner.

AND

ANNA FEINBERG,
Defendant.

ON PETITION FOR DIVORCE.

FINAL DECREE.

10

This cause coming on to be heard before the Honorable Martin P. Grey, Vice-Chancellor of the State of New Jersey, to whom, by a previous order of the Court in said cause it had been referred, in the presence of A. J. King, of Counsel with the petitioner, and John Wescott, of Counsel with the defendant, and the pleadings and proofs having been read and heard and the arguments of the respective counsel having been heard and considered, from all which it appears satisfactorily to the Court that the marriage between the petitioner and the defendant was solemnized and took place in the state of Pennsylvania and that the petitioner was an actual resident of and inhabitant in this state at the time of exhibiting his said petition and that the said defendant has been guilty of the crime of adultery charged against her in the said petition :

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It is thereupon, on this eighteenth day of January, A. D., nineteen hundred and five, by His Honor, William J. Magie, Chancellor of the State of New Jersey, by virtue of the power and authority of this Court and of the acts of the legislature in such cases made and provided, ordered, adjudged and decreed, that the said

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petitioner Hazer Feinberg and the said defendant Anna Feinberg be divorced from the bond of matrimony for the cause aforesaid, and the marriage between them is hereby dissolved accordingly and the said parties and each of them are and is hereby freed and discharged from the obligations thereof.

And it is further ordered and decreed that the petitioner, Hazer Feinberg have the care and custody of their two children, Samuel Feinberg aged six years, and Herman Feinberg aged five years; and that the
 10 defendant, Anna Feinberg have the care and custody of their other child Sylvia Feinberg aged three years, until the further order of this Court, and that the petitioner pay to the defendant the sum of three dollars per week each and every week from the date hereof, for the support of said child, Sylvia Feinberg, until the further order of the Court, and each party, petitioner and defendant shall be permitted to visit and see the child or children in the care and custody of the other party at least twice in each and every month.

20 And it is further ordered and decreed that the petitioner pay a counsel fee of thirty dollars to John W. Wescott, the defendant's counsel, and also the costs of said defendant to be taxed.

Respectfully advised,

M. P. GREY,
 V. C.

W. J. MAGIE,
 C.

EXHIBIT D 1.

STATE OF NEW JERSEY, } ss.
ATLANTIC COUNTY, }

Bertha Schindle first being sworn on her oath says:
That she is eighteen years of age and her home is at Fal-
som, four miles from Hammonton, in Atlantic County,
N. J. I live with my parents when not out at work. I 10
I went to Mr. Hazer Feinburg's to do housework on the
last Sunday of October and remained there until the 28th
day of December last. My mother would not allow me
to stay there any longer. I had told her what I had seen
there. Mr. John Myers was town marshal, was a fre-
quent visitor there. He came at least three times a
week. He came evenings and at night. Mrs. Feinberg
and he would go into the parlor when he came. Mr.
Feinberg was never there when he came. He would 20
generally stay an hour. They always closed the door
when in the parlor. They were alone, the children would
be in bed and I was upstairs. Mrs. Feinberg always told
me to go upstairs when he was there. The night before
Christmas about 9 o'clock, I had occasion to go to
the privy, and when I opened the privy door I was sur-
prised to find said Myers and Mrs. Feinberg in there. I
turned and went into the house. Nothing was said. It
was quite dark, being cloudy, but I could distinguish
who it was there. Mrs. Feinberg gave me a present of
a shirt waist on the day before Christmas, the day I 30
caught them at night in the privy together. I went
home Christmas and told my mother of what I saw and
especially of the privy incident, and my mother would
not allow me to work there longer than to finish out my
week, and I left Monday morning the 28th of December,

at 9 o'clock in the morning, when my mother came after me.

That sometime about 9 o'clock on the evening of 5th of December last, Mr. Myers came to the house of Mr. Feinberg and Mrs. Feinberg raised the parlor window and he came in through it. Mr. Feinberg was not at home, and the two, Mrs. Feinberg and Mr. Myers, occupied the parlor together alone. Mrs. Feinberg told me to go up stairs. He stayed about an hour. I heard
 10 him when he went away. He went out the back door. The window where Myers went in was at the back at the house where people could not see him from the street. I saw him enter the house in the same way on the evening before Christmas, the night I caught him in the privy about a half hour afterwards.

her

BERTHA | X | SCHINDLE.

mark

20 Subscribed and sworn to before me this 16th day of March, 1904.

JOSEPH M. GARTON, J. P.

NEW JERSEY COURT OF ERRORS AND APPEALS

IN SENATE,
JANUARY 11, 1906.
REPORT OF THE
COMMISSIONERS OF THE
LAND OFFICE,
IN ANSWER TO A
RESOLUTION PASSED
BY THE SENATE,
MAY 11, 1905.
ALBANY:

PRINTED BY THE STATE

PRINTING OFFICE, TRENTON, N. J.

