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Filed October 23, 1922

PETITION.

IN CHANCERY OF NEW JERSEY.

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

10

The petition of Louise D. Meyers, of the Village of South Orange, in the County of Essex and State of New Jersey, respectfully shows:

1. Your petitioner was lawfully joined in the bonds of matrimony to her present husband, John H. R. Meyers, the defendant in this suit, on the 10th day of December, 1920, by a minister of the gospel, at Madison, in the State of New Jersey.

20

2. Petitioner and defendant cohabited at Madison from the date of their marriage until July 10th, 1922, when petitioner went to the hospital to have an operation performed, and on August 23rd was compelled to separate finally from her husband because of his extreme cruelty to her, as hereinafter set forth.

3. Almost from the beginning of her married life, petitioner suffered from the stinginess and penury 30 of her husband. Although amply able to provide for his family, and even to employ additional help, defendant was never willing to live according to his means, but petitioner was obliged to seek the assistance of her parents in obtaining needed wearing apparel, in addition to which she did all the house-

work for the family, which consisted of herself, her husband, two children of the husband by a former marriage, and defendant's father, who, on two occasions, threatened to kill the petitioner. During the months preceding the birth of her child, petitioner was obliged to do her own housework, and it was with difficulty that defendant could be persuaded to secure any additional assistance for petitioner in this respect. After the birth of the child, this state of affairs continued. Petitioner was obliged to account for every penny, and if it had not been for the generosity of her parents, would have actually suffered for lack of clothing. Defendant was constantly accusing petitioner of extravagance and incessantly criticizing her and subjecting her to verbal abuse, which in petitioner's physical condition she was unable to stand, so that she was made ill therefrom. Frequently the defendant would slap petitioner and throw things at her, and grab her by her wrists until she would cry out with pain. On July 11th, 1922, petitioner underwent a very serious surgical operation, by which her ovaries and appendix were removed, and which necessitated a cut in her abdomen which required twenty-seven stitches. She was removed from the hospital to her father's home on July 27th, but was unable to do anything without assistance, and was obliged to remain in bed most of the time. On August 23rd, 1922, against the wishes of petitioner, the defendant forced petitioner to submit to sexual intercourse, as a result of which she suffered great pain and suffering and is unable to tell how much damage may have been caused, as she was still bound with bandages, and her wounds far from

healed. Subsequently the defendant stated that petitioner was well able to resume her household duties, and was lazy, and that she was bluffing. During the long course of abuse to which petitioner was subjected, she became nervous and ill, and was rendered unfit to properly discharge her duties as a wife, yet she continued to live with her husband, trusting that she might reclaim him to a sense of duty, until the day last mentioned, when it appeared that further cohabitation with him must be attended with grave danger to her life, and being in great fear, anguish and discomfort, she informed her parents of the situation, and, being unable to cope with it herself, arranged for their assistance in keeping the defendant from her. On one occasion, defendant told petitioner to leave his house. Petitioner says that from his past extreme cruelty and abusive treatment of her and his present hatred for her, it would be improper and unsafe for her to return to him as his wife.

4. Petitioner and defendant were bona fide residents of the State of New Jersey when this cause of action arose, and they have ever since continued to be bona fide residents of this State, down to the time of the commencement of this action, defendant residing in Madison, in the County of Morris, State of New Jersey, and petitioner residing in South Orange, in said State.

5. One child was born to the marriage, to wit, Louise Meyers, who was born October 24, 1921; that by reason of the defendant's cruelty, he is unfit to have the charge and custody of the said infant child.

6. Petitioner has no means of support except from her own exertion and the charity of her relatives. Defendant possesses real and personal property which petitioner believes is upwards of the value of twenty-five thousand dollars, and above the income thereof, is in receipt of earnings over five thousand dollars and upwards.

10

7. Your petitioner prays that she may be divorced from the bed and board of her said husband, for the cause aforesaid; and that the defendant may be compelled by the decree of this Honorable Court to support her and the said child of the marriage and that she may be awarded the custody of the said child and that she may have such further relief as may be just.

20 And your petitioner will ever pray, etc.

HOWE & DAVIS,

*Solicitors for and of Counsel  
with Petitioner.*

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

30 LOUISE D. MEYERS, being duly sworn according to law, upon her oath deposes and says that she is the petitioner in the foregoing petition, and that her said petition is not made by any collusion between her and the defendant, but in truth and good faith, for the causes set forth in the petition.

LOUISE D. MEYERS.

Sworn and subscribed to this 13th day of October, 1922, before me.

MARGARET G. FARRELL,  
*Notary Public of N. J.*

Filed November 21, 1922

10

ANSWER.

IN CHANCERY OF NEW JERSEY.

Between	}	On Petition, &c. 20 Answer.
LOUISE D. MEYERS,		
<i>Petitioner,</i>		
and		
JOHN H. R. MEYERS,	}	
<i>Defendant.</i>		

The defendant, answering the petition, says:

1. He admits paragraph 1. 30
2. He denies that portion of the allegation in paragraph 2 that on August 23, 1922, petitioner was compelled to separate finally from her husband because of extreme cruelty to her as thereafter set forth, but admits the remaining portion of paragraph 2.

3. He denies paragraph 3 except as follows:

Prior to his marriage with the petitioner, he was a widower with two children who lived with him, together with his father, and all of whom continued to live with him and his wife, the petitioner, after their marriage; that the petitioner did from time to time after their marriage do the housework; that  
10 help was secured from time to time, but that it was difficult to secure any help for general housework, and particularly help who would work for wages within the financial ability of the defendant; that the petitioner was young, being still a minor, unacquainted with household work and duties, with very little idea of economy or thrift and prone to extravagance, and, from time to time the defendant did criticize her because of her extravagances, and although at first disposed to let her look after the  
20 purchases for the home, yet, because of her extravagances and desire to live beyond the means of the defendant, he took over unto himself the making of the purchases for the home, but at no time did he deny to the petitioner or to the members of his household such provisions for food and clothing and maintenance as were compatible with their standing in life and his financial means.

On July 11, 1922, the petitioner did undergo a surgical operation but, except as informed in the  
30 petition and said affidavits filed by her in this case, he has had no knowledge that the operation was as stated in the petition; that she was removed from the hospital to her father's home on July 27, 1922, at her own request. He admits that in the month of August, 1922, he did tell the petitioner and her mother, after the petitioner had worked herself into

a rage, that a woman who could carry on in that manner was able to resume her household duties and that her unwillingness to do so must be because she was lazy or bluffing.

Defendant further says, in answer to paragraph 3, that the parents of the said petitioner have been responsible for estranging his wife, the petitioner, and causing her to make demands upon the defendant which he could not afford financially, and due, in part at least, to their erroneous notion as to his income and financial standing; and that the petitioner deserted this defendant in August, 1922, without just cause or excuse. 10

4. Defendant admits paragraph 4, except the allegation that there was any cause of action.

5. He admits that a child was born, as stated in paragraph 5, of the name and age mentioned, but denies the remaining portion of paragraph 5. 20

6. He denies paragraph 6.

7. He denies that the petitioner is entitled to a divorce or support for herself, because of the fact that she has wilfully deserted the defendant and without just cause; and also denies that she is entitled to the custody of the said child, but he is willing to provide for said child and it is not necessary that this Court should make any order whatsoever to secure the proper support and maintenance of such child by the defendant. 30

8. The defendant prays that the said petition may be dismissed.

CHARLES A. RATHBUN,  
*Solicitor of Defendant.*

10

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Filed November 21, 1922

## ORDER.

IN CHANCERY OF NEW JERSEY.

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20	Between LOUISE D. MEYERS, <i>Petitioner,</i> and JOHN H. R. MEYERS, <i>Defendant.</i>	}	On Petition for Alimony and Counsel Fee. Order.
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30 Due notice of this application having been given and the petition coming on to be heard in the presence of Edward L. Davis, of Howe and Davis, solicitors of the petitioner, and Charles A. Rathbun, solicitor of the defendant, and upon reading the affidavits submitted by the petitioner and defendant;

It is, on this November 21, 1922, ordered that the

petition for alimony *pendente lite* and counsel fee  
be and the same is hereby denied, without prejudice.

E. R. WALKER,  
C.

Respectfully advised,  
JOHN H. BACKES,  
V. C.

10

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Filed February 13, 1923

ORDER FOR ALIMONY AND COUNSEL FEE.

IN CHANCERY OF NEW JERSEY.

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Between

LOUISE D. MEYERS,  
*Petitioner,*  
and  
JOHN H. R. MEYERS,  
*Defendant.*

On Petition for  
Divorce.  
Order for Alimony  
and Counsel Fee.

20

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This matter being opened to the Court by Howe  
& Davis, of counsel with the petitioner, and in the 30  
presence of Charles A. Rathbun, of counsel with the  
defendant, and good cause being shown by petition  
and affidavits why the applicant is entitled to relief  
in the premises;

It is thereupon, on this thirteenth day of Febru-  
ary, 1923, ordered that John H. R. Meyers, the

10      *Order for Alimony and Counsel Fee*

above-named defendant, do pay to his wife, Louise R. Meyers, the above-named petitioner, or to her solicitors, the sum of eight dollars per week, at the beginning of each and every week from the date of this order for the support and maintenance of Louise Meyers, the child of the marriage, now in the custody of petitioner.

10      And it is further ordered that the said John H. R. Meyers do pay to the said Louise R. Meyers, or to her solicitors, a counsel fee of seventy-five dollars and the costs of this application to be taxed.

And it is further ordered that the said petitioner shall permit the said defendant to have free access to the child of the parties, at any residence of the petitioner in this State, at such times as he may desire.

E. R. WALKER,  
C.

20      Respectfully advised,  
            JOHN E. FOSTER,  
                            V. C.

Filed March 26, 1931

DECREE DISMISSING PETITION.

IN CHANCERY OF NEW JERSEY.

52/522.

10

LOUISE D. MEYERS,

*Petitioner,*

v.

JOHN H. R. MEYERS,

*Defendant.*

On Petition for  
Divorce.  
Decree Dismissing  
Petition.

Note: At the request of Mr. Meyers, William 20  
Tyacke was appointed his solicitor in place of  
Charles Rathbun, deceased.

This matter being opened to the Court by Wil-  
liam Tyacke, solicitor for the defendant, and it ap-  
pearing that there has been no prosecution of this  
case for over one year, it is, on this 26th day of  
March, 1931, ordered that the said petition be and 30  
the same is hereby dismissed.

E. R. WALKER,  
C.

Respectfully advised,  
NORMAN T. ROGERS,  
A. M.

We hereby consent the entry of the above order.

HOWE & DAVIS,  
*Solicitors of Petitioner.*

A true copy.

FERD GARRETSON,  
*Clerk.*

10

Filed September 16, 1930

PETITION.

IN CHANCERY OF NEW JERSEY.

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

20

The petition of John H. R. Meyers, of the Borough of Madison, in the County of Morris, State of New Jersey, respectfully shows that:

1. He resides at No. 10 Greenwood Avenue, Madison, New Jersey.
2. He was lawfully married to Louise D. Meyers, the defendant in this suit, on the twelfth day of  
30 December, 1920, by Rev. Jacob Cole, a minister of the gospel, at Madison, in the State of New Jersey.
3. Defendant deserted him in the month of August, 1922, ever since which time and for more than two years last past, defendant has wilfully, continuedly and obstinately deserted him.

4. He and defendant were bona fide residents of the State of New Jersey when this cause of action arose and have ever since, and for more than two years next preceding the commencement of this action, continued to be such bona fide residents.

5. The defendant resides at No. 151 Seton Place, South Orange, New Jersey. 10

6. One child was born of the marriage, to wit, Louise May Meyers, age nine years, who is in the custody of the defendant. And petitioner pays the sum of eight dollars a week for the support and maintenance of said child in compliance with a former order of this Court.

7. He prays that the marriage between him and the defendant may be dissolved for the cause aforesaid, according to the statute in such case made and provided; that he may have such further relief as may be just. 20

And your petitioner will ever pray, etc.

WILLIAM TYACKE,  
*Solicitor of Petitioner.*

STATE OF NEW JERSEY, }  
10 COUNTY OF MORRIS, } ss.

JOHN H. R. MEYERS, being duly sworn according to law, upon his oath deposes and says:

I am the petitioner named in the foregoing petition. My said petition is not made by any collusion between me and the defendant, but in truth and good faith, for the causes set forth in the petition.

That the facts, matters and things set forth in the said petition, so far as they relate to the acts  
20 of the petitioner, are true, and so far as they relate to the acts of others he believes them to be true.

JOHN H. R. MEYERS.

Subscribed and sworn to before me this 18th day of September, 1930.

JOSEPH N. KEATING,  
*Notary Public of New Jersey.*

Filed October 15, 1930

ANSWER AND COUNTER-CLAIM.

IN CHANCERY OF NEW JERSEY.

80/589.

10

Between

JOHN H. R. MEYERS,  
*Petitioner,*  
and  
LOUISE D. MEYERS,  
*Defendant.*

On Petition for  
Divorce.  
Answer and Counter-  
Claim.

20

The answer of Louise D. Meyers, defendant, to the petition of John H. R. Meyers, petitioner.

This defendant says:

1. She admits that she and petitioner were married as in said petition alleged, excepting that the date of said marriage was December 10th, 1920, and not December 12th, 1920, as alleged in said petition. 30

2. She denies that she deserted petitioner in the month of August, 1922, and that she has ever since wilfully, continuedly and obstinately deserted said petitioner.

3. She admits that she and the petitioner were bona fide residents of the State of New Jersey when this cause of action arose, as alleged in petition, and that she has ever since continued to be a bona fide resident of this State down to the time of the commencement of this action.

- 10 4. She admits that one child was born of the marriage aforesaid, whose name and age is as stated in the petition, and admits that she is in the custody of defendant. She further admits that the petitioner pays the sum of eight (\$8.00) dollars a week for the support and maintenance of said child in compliance with a former order of this Court.

She prays that the petitioner's petition may be dismissed with costs.

20

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

1. She and the petitioner cohabited until August 26, 1922, at which time the said petitioner deserted her, ever since which time and for more than two years last past the said petitioner has wilfully, continuedly and obstinately deserted her.

- 30 2. Defendant and petitioner have been bona fide residents of the State of New Jersey continuedly since the said desertion, and this defendant has continuedly been a bona fide resident of this State for more than two years next preceding the filing of this counter-claim, residing at No. 151 Seton Place, South Orange, New Jersey.

3. One child was born of the marriage between petitioner and defendant, to wit, Louise May Meyers, age nine years, who is in the custody of this defendant.

4. The petitioner, in compliance with a former order of this Court, is paying the sum of eight (\$8.00) dollars a week for the support and maintenance of said child. 10

5. Defendant's maiden name was Louise D. Stringham.

6. Defendant prays that the marriage between this defendant, as counter-claimant, and the petitioner, as defendant to this counter-claim, may be dissolved for the cause aforesaid, according to the statute in such case made and provided; that the petitioner may be compelled by decree of this Honorable Court to support her and the child of said marriage; that she may be awarded the custody of said child; that she may be permitted to resume the use of her maiden name, and that she may have such further relief as may be just. 20

And this defendant will ever pray, etc.

RICHARD J. FITZ MAURICE,

*Solicitor of Defendant.* 30

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

LOUISE D. MEYERS, being duly sworn, according to law, upon her oath deposes and says:

I am the counter-claimant in the foregoing counter-claim. My said counter-claim is not made by any collusion between me and the said defendant therein, but in truth and good faith, for the causes set forth in said counter-claim.

20

LOUISE D. MEYERS.

Subscribed and sworn to this 11th day of October, 1930, before me.

HELEN A. MCCARTHY,  
*A Notary Public of New Jersey.*

30

Filed October 23, 1930

ANSWER.

IN CHANCERY OF NEW JERSEY.

80/589.

10

Between

JOHN H. R. MEYERS,  
*Petitioner,*  
and  
LOUISE D. MEYERS,  
*Defendant.*

} On Petition for  
Divorce.  
Answer.

20

Answer of John H. R. Meyers, the above-named petitioner, to the counter-claim of Louise D. Meyers, the above-named defendant:

This petitioner denies that he deserted said defendant on August 26, 1922, as set forth in the counter-claim of the defendant, but, on the contrary, says that the said defendant has been guilty of desertion, and for more than two years last past, has wilfully, continuedly and obstinately deserted 30 him.

He prays that the said counter-claim of the defendant may be dismissed and that he may have the relief prayed for in his said petition.

WILLIAM TYACKE,  
*Solicitor of Petitioner.*

Filed November 26, 1930

ORDER OF REFERENCE.  
IN CHANCERY OF NEW JERSEY.

80/589.

10

Between  
JOHN H. R. MEYERS,  
*Petitioner,*  
and  
LOUISE D. MEYERS,  
*Defendant.* } On Petition for  
Divorce.  
Order of Reference.

20

It is, on this 26th day of November, nineteen hundred and thirty, on motion of William Tyacke, solicitor of petitioner, ordered that the above-stated cause be referred to J. L. Newman, Esq., one of the Advisory Masters, to hear the same for the Chancellor and report thereon to him and to advise what order or decree should be made therein.

E. R. WALKER,  
C.

30

I hereby consent to the above order.

RICHARD J. FITZ MAURICE,  
*Solicitor for Defendant.*

A true copy.

FERD GARRETSON,  
*Clerk.*

DESIGNATION.

IN CHANCERY OF NEW JERSEY.

80/589.

10

Between

JOHN H. R. MEYERS,  
*Petitioner,*

and

LOUISE D. MEYERS,  
*Defendant.*

On Petition for  
Divorce.  
Designation.

20

This matter having been referred to the Hon. Jacob L. Newman, one of the Advisory Masters of this court, to hear the same for the Chancellor, and application being now made to fix a day for the hearing of said matter, it is, on this seventeenth day of January, nineteen hundred and thirty-one,

Ordered, that Friday, the sixth day of February, nineteen hundred and thirty-one, at ten o'clock in the forenoon of that day, at the Chancery Chambers, in the City of Newark, New Jersey, be and it is hereby fixed as the time and place for the hearing of the above-stated cause.

JACOB L. NEWMAN,  
*Advisory Master.*

## TESTIMONY.

IN CHANCERY OF NEW JERSEY.

80/589.

10

Between

JOHN H. R. MEYERS,

*Petitioner,*

and

LOUISE D. MEYERS,

*Defendant.*} On Petition, &c.  
} Testimony.

20

Transcript of shorthand notes of testimony taken in the above cause before JACOB L. NEWMAN, Advisory Master, at the Chancery Chambers, 1060 Broad Street, Newark, New Jersey, on Friday, February 6, 1931, at 10 A. M.

30 APPEARANCES:

WILLIAM TYACKE, Esq., solicitor for petitioner.

RICHARD J. FITZ MAURICE, Esq., solicitor for defendant.

JOHN H. R. MEYERS, the petitioner, being duly sworn on his oath, testified as follows:

Direct examination.

By Mr. Tyacke:

10

Q. Where do you live, Mr. Meyers?

A. Madison, New Jersey.

Q. What address?

A. 10 Greenwood Avenue.

Q. Are you the husband of Louise D. Meyers?

A. Yes.

Q. When were you married?

A. December 12, 1920.

By the Master:

20

Q. In the month of December, 1920?

A. That is right and the 12th day.

By Mr. Tyacke:

Q. Where were you married?

A. At Madison.

Q. By whom?

A. Reverend Dr. Cole.

30

Q. At his house or rectory?

A. No, at Mrs. Meyers' house.

Q. Did you live then with your wife after that?

A. Oh, yes.

Q. Where?

A. At 106 Greenwood Avenue.

Q. What place?

A. Madison, New Jersey.

Q. How long did you live there?

A. Together with Mrs. Meyers in the neighborhood of two years, I think.

Q. Were any children born of that marriage?

A. Yes, one girl.

10 Q. How old is she?

A. She will be nine this coming October.

By the Master:

Q. What is her name?

A. Louise.

Q. Who is she living with?

A. Her mother.

20 By Mr. Tyacke:

Q. Now tell us what happened a little later with your wife. You continued to live there how long?

A. In the neighborhood of two years.

Q. Then what happened?

A. She decided to go home with her mother.

Q. Where did her mother live?

A. On Prospect Street.

30 By the Master:

Q. Same town, Madison?

A. Same town. Prospect Street is a continuation of Greenwood Avenue on the other side of Main Street.

By Mr. Tyacke:

Q. Do you know when she went there?

A. Sometime in August, as far as the date goes I could not say that.

Q. August, what year?

A. 1922.

Q. Do you know the circumstances regarding 10 that?

A. In what way do you mean?

Q. Just tell us what you found out. You say she left.

A. Yes.

Q. Tell us about it.

A. I could not see any reason why she left.

By the Master:

Q. Not the reason. Did she tell you she was go- 20  
ing before she went?

A. No.

Q. Had she expressed any intention of leaving?

A. Not to my knowledge.

Q. Tell us what happened on the day she left.

A. When I come home my father was living with me at the time. Of course, I looked for her. He said Louise had gone out. Naturally I expected she would be down home. I went down there. 30

Q. To her mother's home?

A. Yes.

By Mr. Tyacke:

Q. Did you find Mrs. Meyers there?

A. Yes.

Q. Did you talk with her?

A. Yes.

Q. What did she say?

A. As near as I can remember she told me she was through. She wasn't going to live there any more.

Q. Did you try to persuade her to come back?

10 A. Yes.

Q. Did she refuse?

A. Yes.

By the Master:

Q. Won't you tell us what you said to her and what she said to you? This was on the same day she left or the day after.

20 A. The same day. I asked her if she did not think she was making a mistake. She said no, she was through. She wasn't coming back.

By Mr. Tyacke:

Q. Then what else was said?

By the Master:

Q. Anything else said on that occasion?

30 A. Not that I can remember.

By Mr. Tyacke:

Q. Did she ever come back?

A. No.

Q. Did she ever get her things?

A. Yes.

By the Master:

Q. When?

A. She sent the girl we had working there for her clothes. 10

Q. How long was that after she had left you?

A. I should say about a month.

By Mr. Tyacke:

Q. What did the girl take when she came to the house?

A. I came home for dinner and the girl told me — 20

Q. Never mind what she told you. What did you find out for yourself by looking around?

A. It was clothing that she took.

Q. In other words, by looking around and examining you found your wife had taken all her personal belongings?

A. In the clothing line at that time. Later on there were other things taken.

Q. When did she come later on?

A. The 15th of February. 30

Q. What year?

A. 23.

Q. What did she take on that occasion?

A. She had a list that Howe & Davis made up for me to get ready.

Q. I show you a list. Is that what you received from Howe & Davis?

A. That is right.

By the Master:

Q. After you got that list what happened?

10 A. She simply came up and took them.

Q. Did she get all the things on there?

A. As far as I know, yes.

By Mr. Tyacke:

Q. Has Mrs. Meyers ever offered to come back to you?

A. No.

Q. You were served with a petition in divorce  
20 from your wife?

A. Yes.

The Master: That is a matter of record. There is no question about it.

Q. Now on that petition were any proceedings had before Vice-Chancellor Backes?

A. Yes.

Q. What was the result there?

30 A. Of course, I wasn't at the hearing.

Mr. Tyacke: As a result of these proceedings, hearings were had as to temporary alimony on two occasions. As a result of these proceedings an order was entered directing the defendant, John H.

R. Meyers, to pay \$8.00 for the support and maintenance of his child.

Cross-examination.

By Mr. Fitz Maurice:

Q. You are not sure whether it is the 10th or 12th 10  
of December?

A. The 12th day of December.

Q. Not that it is very material, but let us get the records; this is a copy of your marriage certificate?

A. That is a copy.

Mr. Fitz Maurice: I offer it for identification.

Q. Now, Mr. Meyers, after you were married you went to live on Greenwood Avenue, Madison, in a 20  
home that you owned?

A. That is right.

Q. Your father was living there with you?

A. Yes.

Q. And your wife?

A. Yes.

Q. How old were you when you were married, about eleven years ago, ten years ago?

A. About thirty-six.

Q. How old was Mrs. Meyers when you married 30  
her, about eighteen or nineteen, wasn't she?

A. Yes.

Q. You got along all right after you were married?

A. Yes.

Q. On October 24, 1921, this child Louise was born to you and your wife?

A. That is right.

Q. You continued to live together as man and wife and everything was all right; is that right?

A. Yes.

Q. Sometime after the youngster was born Mrs. Meyers began to show signs of failing health, did she not?

A. Not to my knowledge.

Q. She consulted with several physicians, the bills of whom you paid; isn't that right?

A. Yes.

Q. As a result of those consultations she finally found herself in July of 1922 in the All Souls Hospital in Morristown; is that right?

A. Yes.

Q. She had a very serious operation as a result of this child birth?

A. I won't say it was from the childbirth.

By the Master:

Q. She had an operation performed?

A. Yes.

By Mr. Fitz Maurice:

30

Q. She was at the hospital for how long?

A. Two or three weeks.

Q. Every day you would call there to see her?

A. Mostly in the evening.

Q. What is your business by the way?

A. Plumbing business.

- Q. Master plumber?  
A. Yes.  
Q. How long have you been in that business?  
A. Twenty years.  
Q. Up in Madison and vicinity?  
A. Yes.  
Q. Still in it?  
A. Yes. 10  
Q. While Mrs. Meyers was in the hospital the youngster was down at her mother's house?  
A. Yes.  
Q. Her mother and father were living on a street which is the continuation of Greenwood Avenue; isn't that right?  
A. That is right.  
Q. A very short distance from your home?  
A. Four or five blocks.  
Q. You were married prior to your marriage to 20 Mrs. Meyers?  
A. Yes.  
Q. You had two boys by that marriage?  
A. Yes.  
Q. Both of whom are in the neighborhood of 21?  
A. One will be 21 this coming June and the other will be 23.  
Q. Mrs. Meyers was being attended by Dr. Seward?  
A. Dr. Snyder at the hospital. 30  
Q. I asked you about Dr. Seward?  
A. Yes.  
Q. There was a Dr. Seward?  
A. Dr. Seward is now dead.  
Q. Both of them were treating Mrs. Meyers?  
A. Yes.

Q. You came home one night and inquired for your wife and were informed by your father that she had gone to her mother's house, isn't that what you said?

A. That is right.

Q. When was that? I don't want to confuse you. She was in the hospital in July of 1922?

10 A. I would say in the neighborhood of sometime in August.

By the Master:

Q. 1922?

A. 1922.

By Mr. Fitz Maurice:

20 Q. I take it that is after she got out of the hospital?

A. Yes.

Q. She got out of the hospital the latter part of July, 1922?

A. Yes.

Q. As a matter of fact, Mr. Meyers, you called to see your wife every night while she was at the hospital; isn't that right?

A. Yes.

30 Q. And on the day she left the hospital you came there in your Ford car and took her from the hospital; isn't that right?

A. That is right.

Q. You took her directly to the home of her parents from All Souls Hospital?

A. That is right.

Q. So that your wife never went from the hospital back to your home?

A. Not that time, no.

Q. And she went right directly to her mother's home, her mother and father's home a short distance from your home?

A. Yes.

Q. When she went there she went to bed? 10

A. I don't remember that.

Q. Don't you remember that for two weeks after she reached her mother's home due to her delicate condition as a result of this operation that she was confined to her bed?

A. No, not to her bed.

Q. You called there every night, didn't you?

A. Yes.

Q. Came there and had your supper every night, didn't you? 20

A. No.

Q. Didn't you come there to have your supper at all?

A. I might have occasionally.

Q. You think that once in a while you had your supper there?

A. Yes.

Q. You knew your two boys had their lunch there practically every day, at the home of Mrs. Meyers' parents? 30

A. That is possible.

Q. And that your father was living with you up at your house?

A. Yes.

Q. You had a girl come in there during the day to clean the place?

A. Yes.

Q. You had her there for sometime before Mrs. Meyers went to the hospital?

A. Yes.

Q. That was because of Mrs. Meyers' physical condition?

A. According to her story.

10 Q. What did you hire a girl for?

A. I did not hire her.

Q. You paid her?

A. Yes.

Q. Her job was to come in during the day and do the housework?

A. Yes, a few hours a day.

Q. You kept the girl on when you brought Mrs. Meyers to her mother's home?

A. Yes.

20 Q. Who got your breakfast in the morning, you?

A. Yes.

Q. Who got your lunch?

A. This girl that worked for us.

Q. Who got your supper? Be careful about that, will you?

A. If I did not eat at her mother's, I got it myself.

Q. You ate at her mother's practically every night when you came there to see her?

30 A. Oh, no.

Q. You came to see her every night, didn't you?

A. That would be after I came in from work.

Q. What time did you come in from work?

A. Maybe six o'clock.

Q. Plumbers quit at four, don't they?

A. Not when you are a boss.

Q. So that during July and during August, 1922, while your wife was at her parents' home where you took her direct from the hospital in your car, you would call every night to see her?

A. Yes.

Q. Until the night of August 26, 1922, which is the last time that you called to see your wife there?

A. At her house?

10

Q. At her parents' house. August 26, 1922, was the last time you called to see your wife at her parents' home?

A. That is right.

Q. And from August 26, 1922, which was the last night you called to see her at her parents' home, down to this day in this court room you have not spoken one word to your wife, have you?

A. I guess not.

Q. From that time down to this time you have not 20 corresponded either in writing or through an individual or over a telephone in any way, shape or manner with your wife?

A. No.

Q. And on August 26, 1922, you came to see your wife?

A. Yes.

Q. And there was a row, wasn't there? You and your wife had a row?

A. I don't remember a row.

30

Q. I will refresh your memory. Do you remember several days or probably a day before August 26, 1922, you called to see your wife?

A. On the 25th of August?

Q. Yes.

A. Yes.

Q. Do you recall on insisting on having sexual intercourse with her on that night?

A. No.

Q. Do you recall her remonstrance with you, due to her condition, her internal condition that she had been operated upon and could not satisfy your demands? Do you recall that?

10 A. No.

Q. Do you recall Dr. Snyder the next day after you insisted upon it and accomplished what you wanted, Dr. Snyder informing you that you were probably the means of killing your wife?

A. No.

Q. Do you recall Dr. Snyder speaking to you?

A. Never said anything like that.

Q. Do you recall Mrs. Stringham, the mother of Mrs. Meyers, talking to you the next day when you  
20 called?

A. No.

Q. You don't remember her saying to you she could not understand you as a man insisting upon what you did with your wife in the condition she was in or words to that effect?

A. No.

Q. Do you remember telling her it was none of her business?

A. I don't speak like that.

30 Q. Do you remember telling Mrs. Stringham that her daughter was a faker; that she wasn't sick?

A. I might have said that.

Q. Do you remember Mr. Stringham ——

Mr. Tyacke: If your Honor please, they have said Mr. Meyers deserted Mrs. Meyers.

The Master: He is not. He is doing it to show the feeling and he was more likely to be the deserting party. It is quite competent.

Q. Do you recall Mr. Stringham, the father of Mrs. Meyers, coming in to the house from work while this row was going on, and Mrs. Stringham saying to her husband in your presence words to this effect: "Father, our son-in-law says our daughter is faking. She is not sick." Do you recall that? 10

A. No.

Q. Do you recall Mr. Stringham telling you a few things in reply to that?

A. He might have said something to me but not in reply to that.

Q. Do you recall picking up your hat and coat, putting them on and leaving the house without saying a word that night? 20

A. No.

Q. How did you get out?

A. I walked out, but not without saying something.

Q. What did you say?

A. I was pleading with her to come on home where she belonged.

Q. That is what you said?

A. Yes.

Q. You went out. 30

A. Yes.

Q. From that day down to this morning you have never attempted in any way, shape or manner to communicate with your wife?

A. No.

Q. Nor have you spoken one word to her; is that right?

A. That is right.

By the Master:

Q. Did you contribute anything to her support or  
10 the support of your child until the Court compelled  
you by order?

A. I am always willing to support the child.

By Mr. Fitz Maurice:

Q. Now sometime after that your father died?

A. Yes.

Q. And this property that you lived in follow-  
ing your marriage was in your name?

20 A. Yes.

Q. You are renting that property now to someone  
else?

A. Yes.

By the Master:

Q. That is the property you and your wife lived  
in together?

A. Right.

30

By Mr. Fitz Maurice:

Q. Subsequently you bought another piece of  
property which you put in your sister's name with  
whom you are living now?

A. No.

Q. Where are you living now?

A. 10 Greenwood Avenue, which property she bought herself.

Q. Who is she?

A. My sister.

Q. You are living there in the property your sister bought herself?

A. Yes, with her own money.

10

Q. You are certain of that?

A. Money was left by her father.

Q. You are certain of that?

A. Yes.

Q. Shortly after that the Stringhams, the parents of your wife, moved to South Orange?

By the Master:

Q. Shortly after your sister had acquired this 20 property?

A. No, it was before that.

By Mr. Fitz Maurice:

Q. They have been living there ever since?

A. Yes.

Q. You knew where your wife was living from the time in August, 1922?

A. I was down there.

30

Q. You mean you were down to South Orange?

A. Yes.

Q. You were down there how many times exactly, no more than five?

A. Oh, yes.

Q. How many?

A. Generally before Easter and before the holidays, Christmas time.

By the Master:

Q. You mean you went down to the Stringhams to see your child?

10 A. Yes.

By Mr. Fitz Maurice:

Q. Other than what you might call Easter Eve and other than Christmas Eve you never called to see the child or did anything about seeing the child?

A. No.

Q. When you would call to see the child you made no effort to converse with Mrs. Meyers in any way,  
20 shape or manner?

A. No.

Q. When Mrs. Meyers gave birth to this child she was in the neighborhood of 20 years of age?

A. Yes.

Q. And when it came time to leave the hospital she told you that her mother had suggested the intelligent thing to do for her health and so on would be for her to go to her mother's home so that the mother could take care of her until she regained her  
30 strength. As a result of that you drove your wife to her mother's home which was about a block from your home?

A. From the hospital, I did. That is right.

Q. You say that from the latter part of July when your wife left the hospital until August 26, the following month, when you left the house and her, that

she was not more or less confined to her bed all that time while you were visiting there?

A. No.

Q. She occupied a bed which was set up in the living room or parlor adjoining the dining room, isn't that so?

A. Yes.

Q. And you knew that while she was there Dr. 10  
Snyder was continuing his treatments of her, you knew that, didn't you?

A. I knew he called there, yes.

Q. Didn't you know as a matter of fact, honest fact, that your wife was physically in a bad way as a result of this childbirth? You knew that, didn't you?

A. No, I didn't.

Q. Didn't you know that even since you left her? 20

Mr. Tyacke: I object to that "since you left her."

Q. Since the separation. You know this, don't you, that your wife has had a very serious operation at the Homeopathic Hospital in East Orange as a direct result of this one child's birth?

A. Not to my knowledge. I have heard through my oldest boy she said herself she had been sick.

By the Master: 30

Q. He knows there was an operation, but he does not know it was the result of childbirth?

A. I knew she was sick. I did not know there was an operation.

Q. Do you know now as a fact?

A. Outside from what I heard this morning.

Re-direct examination.

By Mr. Tyacke:

10 Q. After your wife came from the hospital in July had she lived in the house with you?

A. After she came back from her mother's home.

Q. Then she was at your house with you?

A. Yes.

By the Master:

Q. You have testified that after you took your wife out of the hospital you took her in your Ford  
20 car to her mother's home, Mrs. Stringham?

A. Yes.

Q. How long did she remain there?

A. I should say in the neighborhood of two weeks.

Q. Then where did she go?

A. Home to our own home.

Q. How did you take her to your own home?

A. In my Ford car.

Q. How long did she remain at your home under your roof?

30 A. Maybe two weeks. I won't say that is exactly right.

Q. Then you now say that after she was about two weeks in your home she left the home?

A. Yes.

Q. And that was the last time you saw her?

A. In her mother's home when I went down there.

Q. The day after?

A. The day after.

Q. So between the time she left the hospital and the time she went back to your home was about two weeks, she remained there two weeks, and then she went back to her mother's home?

A. Yes.

Q. That was the last time she lived under your 10 roof?

A. That is right.

---

MARY M. PURNELL, being duly sworn on her oath, testified as follows:

Direct examination. 20

By Mr. Tyacke:

Q. Were you present at the marriage of your brother and Mrs. Meyer?

A. Yes.

Q. When was that?

A. That was sometime in December. I could not really tell you the date. 30

By the Master:

Q. 1920?

A. Yes.

By Mr. Tyacke:

Q. Who performed the marriage ceremony?

A. It was a minister of the Methodist Church. I think it was Dr. Cole.

Q. Where was it performed?

A. In Mrs. Meyers' mother's house.

10 Q. That was where?

A. In Prospect Street, Madison, N. J.

---

ORA DERRICKS, being duly sworn on her oath, testified as follows:

Direct examination.

20

By Mr. Tyacke:

Q. Where do you live?

A. 541 Bergen Street.

Q. Newark, New Jersey?

A. Newark, New Jersey.

Q. Where did you live in 1920?

A. I lived in Madison on Belmont Avenue.

Q. Do you know Mr. Meyers?

30 A. Yes.

Q. Do you know Mrs. Meyers?

A. Yes.

Q. Do you know where they lived in Madison?

A. Yes.

Q. Did you do any housework there?

A. Yes.

Q. You are the one Mr. Meyers referred to as coming in to do housework?

A. Yes.

Q. In August, 1922, do you remember seeing Mrs. Meyers?

A. I don't know the date. I remember seeing her off and on. I don't know the date.

Q. What were the circumstances? 10

By the Master:

Q. Where did you see her?

A. Just passed by her home going over to work. I had to go right by there.

Q. You mean when you say her home, was that Mrs. Stringham's home you passed to go to Mr. Meyers' home? Is that right?

A. Yes. 20

By Mr. Tyacke:

Q. Did she speak to you?

A. Yes, she spoke to me.

Q. What did she say?

A. She spoke to me most every day or so. Then one morning she asked me to bring her clothes, could I get her clothes for her? I went and asked Mr. Meyers could I take her clothes. He told me to take her whatever she wanted. When I got ready to go that afternoon I took her clothes to her. 30

Cross-examination.

By Mr. Fitz Maurice:

Q. Now, Mrs. Derricks, you went to work for the Meyers about a week before Mrs. Meyers went to the hospital?

10 A. I don't know anything about that. I could not say.

By the Master:

Q. About a week before she left home?

A. I wasn't working there when she left her home. I went after she left.

Q. You came to work after she left?

A. When she was at her mother's.

20

By Mr. Fitz Maurice:

Q. You did day's work, cleaning the house and so on?

A. Yes.

Q. Did you ever prepare meals for Mr. Meyers?

A. Just at noon.

Q. You never prepared any supper for Mr. Meyers at night?

30 A. No.

Q. Where would you see Mrs. Meyers?

A. Usually at Mrs. Stringham's home.

Q. That is about a block from the Meyers home at the continuation of the same street.

A. Yes.

Q. Continuation of the same street?

A. Yes.

Q. You would have to pass that on your way up to the Meyers to do your day's work?

A. Yes.

Q. When you say that one morning Mrs. Meyers asked you to bring her clothes, Mrs. Meyers telephoned you at the Meyers home, didn't she?

A. I don't remember that. 10

Q. You don't remember whether she telephoned?

A. I don't remember.

Q. You did bring them over to the Stringham home?

A. Yes.

Q. How long did you continue to work at the Meyers home?

A. I could not remember.

Q. Did you work for a month or a year?

A. About a couple of months, maybe. 20

By the Master:

Q. Do you know what period you worked there?

A. I don't know.

Q. Now I understand your testimony during the entire time you did work there Mrs. Meyers was living at the Stringham home; is that correct?

A. Yes.

30

Re-direct examination.

By Mr. Tyacke:

Q. Who hired you?

A. Mr. Meyers.

Q. Or did Mrs. Meyers?

A. Mr. Meyers to the best of my remembrance.

---

MARY RYAN, being duly sworn on her oath, testified as follows:

10

Direct examination.

By Mr. Tyacke:

Q. Now, Mrs. Ryan, in the month of August, 1922, were you at Mr. Meyers' house in Madison?

A. Not in the month of August, no.

Q. In September or when were you there?

20 A. I made visits there off and on for all my life until Mr. Meyers brought home his second wife. I was treated so cool when I would go there I never went back again.

Q. When was the last time you met her?

A. Was the day before Christmas.

Q. Day before Christmas, what year?

A. I think '20. The year they were married at Christmas time. She came down to my home in Jersey City and wasn't very agreeable or sociable, and I never went back while she was in the home.

30

By the Master:

Q. So that you never went to Madison to their home while she was there after at least Christmas, 1920?

A. No.

By Mr. Tyacke:

Q. Were you there in February?

A. I was there in February, but Mrs. Meyers was not home. I never was to that house after Christmas, 1920, that Mrs. Meyers was home.

Q. February, what year?

A. I can't just place the year. I know Mrs. Meyers was down to her mother's, Mrs. Stringham's. I was there on a visit which I said before I done regularly. 10

Q. While you were there did Mrs. Meyers come to the house?

A. Whether that was in February I can't just bring to my mind. I was there alone in the house. I was expecting a friend. I was sitting in the kitchen when the door bell rang. When I went to the door it was Mrs. Meyers and a gentleman. She came right in without saying anything to me and stood in the room where you enter, and then she beckoned to this man to come in. She said, "This is my Victrola, take this. This is my lamp, take that," and she had the man bring in some boxes as if she was going to do up some packing. She goes into the dining room. As she mentioned the things I put them on the dining room table. She went to the china closet and asked me would I please remove the things. She said I want all my things. If she knew me, she did not recognize me. 20 30

By the Master:

Q. You were present at the time all the household furniture was gathered together and moved?

A. She went through downstairs. She could not see her things. She asked me about them. I said there are some things upstairs.

Q. Did she get them?

A. She went up and had them all taken down and took them away.

Q. You know this was in the month of February,  
10 but you don't know what year?

A. 1923. It was in the winter of 1923.

---

LOUISE MEYERS, being duly sworn on her oath, testified as follows:

Direct examination.

20 By Mr. Fitz Maurice:

Q. Where do you live?

A. I live at 151 Seton Place, South Orange.

Q. You are the defendant in this case and cross-petitioner, are you not?

A. Yes.

Q. With whom do you live at Seton Place?

A. With my mother and father.

Q. Their names?

30 A. Mr. and Mrs. James Stringham.

Q. When did you go to live at Seton Place with Mr. and Mrs. Stringham, your parents?

A. September 26, 1922.

Q. Have you been living there ever since?

A. Yes.

Q. Prior to September, 1922, where did you live?

A. Prospect Street, Madison.

Q. With whom did you live there?

A. My mother and father.

Q. How long were you living there?

A. I lived there just one month.

Q. Prior to that where did you live?

A. 10 Greenwood Avenue, Madison.

Q. How long did you live there?

10

A. One year and a half.

Q. Prior to that where did you live?

A. At my mother's and father's.

Q. Where did you live with your mother and father?

A. 49 Prospect Street.

Q. How long had you lived there with your parents?

A. Two years.

Q. Prior to that where did you live?

20

A. 21 Heller Parkway, Newark, N. J.

Q. Have you always lived in the State of New Jersey from the time of your birth down to the present time?

A. Yes.

Q. What day did you marry the petitioner in this case?

A. December 10, 1920.

Q. Were you given this certificate as evidence of your marriage?

30

A. Yes.

Mr. Fitz Maurice: I offer the certificate in evidence. Received and marked Ex. D1.

Q. Mr. Meyers was a widower at the time you married him?

A. Yes.

Q. Did he have children by the former marriage?

A. Yes, two sons.

Q. Their ages were about what?

A. Eleven and thirteen.

By the Master:

10

Q. Did they live home with you?

A. Yes.

Q. For a while?

A. Always.

By Mr. Fitz Maurice:

Q. At the time of your marriage how old were you?

A. Eighteen.

20 Q. How old was Mr. Meyers?

A. Thirty-six.

Q. Following your marriage where did you go to live?

A. 10 Greenwood Avenue, Madison.

Q. Who owned that house?

A. Mr. Meyers.

Q. You were married December, 1920, on the 10th, is that right?

A. Yes.

30 Q. From that time down until the time you went to All Souls Hospital you lived with Mr. Meyers and the two children of his former marriage?

A. Yes.

Q. There was a child born of your marriage to Mr. Meyers?

A. Yes.

Q. Her name was what?

A. Louise Meyers.

Q. What was the date of her birth?

A. October 24, 1921.

Q. That child has always lived with you?

A. Yes, with me.

Q. Since the separation the child has been living  
with you? 10

A. Yes.

Q. And is now living with you?

A. Yes.

Q. When did you go to All Souls Hospital?

A. July 11, 1922.

Q. So that from December, 1920, the date of your  
marriage, until July 11, 1922, you and Mr. Meyers  
lived together at this home with his two children  
and your child. Any one else live there?

A. Mr. Meyers' father. 20

Q. Now following the birth of your child Louise,  
did you experience any illness of any kind?

A. Yes.

Q. And did you consult with physicians?

A. Yes.

Q. Who were the physicians?

A. Dr. Seward, Dr. Snyder and Dr. Edward Ill.

By the Master:

30

Q. Dr. Seward of Orange?

A. Of Madison.

By Mr. Fitz Maurice:

Q. You consulted with them as a result of this con-  
dition you found yourself in?

A. Yes.

Q. Who paid for those doctors?

A. Mr. Meyers.

Q. Did you go to a hospital following the consultation with these physicians?

A. Yes.

Q. That was All Souls Hospital in Morristown?

10 A. Yes.

Q. Were you operated on?

A. Yes.

Q. For what?

A. I had an ovary and a half taken out.

Q. July 11, you say you went to the hospital. How long did you stay in the hospital?

A. Two weeks.

Q. During that time did you see Mr. Meyers?

A. Yes, every night.

20 Q. Every night he would call to see you?

A. Yes.

Q. As the two weeks were expiring did you and Mr. Meyers have any conversation as to where you were to go after you left the hospital?

A. Yes.

Q. What was said?

A. I said I was going home to mother for a while. He said all right.

Q. Did you say why?

30 A. There was no one to take care of me at his home.

By the Master:

Q. Did you tell him that?

A. No, it was taken for granted.

By Mr. Fitz Maurice:

Q. You had discussion as to where you were going?

A. Yes.

By the Master:

Q. He had no objection?

10

A. Had no objection at all.

By Mr. Fitz Maurice:

Q. The day you were leaving who called for you?

A. Mr. Meyers and my mother.

Q. In his car?

A. Yes.

Q. You went from the hospital where?

A. To my mother's home.

20

Q. That was at what address?

A. 49 Prospect Street, Madison.

Q. Is that near the Meyers home?

A. Yes.

Q. And I take it that was sometime in the latter part of July, 1922, is that right?

A. Yes.

Q. From that time on until something happened did you stay continuously at your parents' home?

A. Yes.

30

Q. Did you see your husband during that period of time?

A. Yes.

Q. How frequently?

A. Every night.

Q. Did he take any meals at your parents' home?

A. Yes.

Q. What meals?

A. He sometimes came for dinner at night.

Q. But he came to see you every night?

A. Yes.

Q. How long would he stay on those occasions?

A. About an hour and a half.

10 Q. And discuss your condition and things in general?

A. He would just come to pass the time of day. He never asked me how I felt.

Q. What was the last time that your husband came to visit you? Do you recall the date?

A. August 26, 1922.

Q. That is about three weeks after you left the hospital is that right?

A. Yes.

20 Q. Now prior to August 26, 1922, did anything occur between you and your husband on the occasion of his visit and within a few days of that date that occasioned any disagreement between you and your husband as of that date?

A. He came about the third or fourth day after I came from the hospital and forced sexual intercourse with me.

Q. Did you remonstrate?

A. Yes, as much as my power would let me.

30 Q. But he insisted?

A. Yes.

Q. Who was the doctor attending you then?

A. Dr. Snyder:

Q. Did you confide in him when he called as to what occurred?

A. Yes, the next morning.

Q. Did you inform your mother as to what happened?

A. Yes, after Mr. Meyers had gone.

Q. Were you present when your mother said anything to Mr. Meyers about what had occurred?

A. Yes.

By the Master:

10

Q. Was that the next day?

A. The next night.

By Mr. Fitz Maurice:

Q. When he called there?

A. Yes.

Q. So that your mother did have some conversation with your husband about what had occurred in your presence?

A. Yes.

Q. What happened on August 26, 1922?

A. The doctor came in that morning and had ordered some medicine for me. That noontime Mr. Meyers' boys came to lunch and I asked one of those boys to go and get it for me.

Q. Were you on friendly terms with the two Meyers boys?

A. Very much.

30

Q. Did they frequently come to your parents' home?

A. The youngest boy stayed with my mother from June until November until after my child was born.

Q. Very friendly relations?

A. Yes.

Q. The boys would come there to eat?

A. Yes.

Q. Came there while you were there practically every noontime.

A. Yes.

Q. Was that one of the boys who went and got the medicine?

10 A. He went and got it. That night when Mr. Meyers came——

Q. Who paid for it?

A. My mother. That night he asked me why I did such a thing. Why didn't I wait until he came? I said I could not see there was any difference.

Q. You were filling the doctor's prescription. What did that lead to?

A. A few words. Then Mr. Meyers walked to the kitchen and put his finger up to my mother and told  
20 my mother I was a faker.

Q. What did you mother say?

A. "What ails you any way? The idea of your talking like that to my daughter."

Q. Now from the time you came from the hospital to your parents' home from the latter part of July until August 26, what portion of that time did you spend in bed?

A. As a result of this operation I was in bed most of the time.

30 Q. You would get up?

A. Yes.

Q. The doctor telling you to get up when you could to regain your strength?

A. Yes.

Q. Most of this time was spent in bed?

A. Yes.

Q. Now to get back to this conversation on the 26th, was your father present at that time?

A. No.

Q. Did he later come?

A. Came about a half hour later.

Q. Where did your father work?

A. My father worked in Orange and Newark.

Q. What business?

10

A. Sign painter. He worked for Williams, the sign painter up in Orange.

Q. He came home from work?

A. Yes.

Q. Mr Meyers was there?

A. Yes.

Q. You were there and your mother was there?

A. Yes.

Q. That is all that was there?

A. Yes.

20

Q. What did your mother or Mr. Meyers say to your father in the presence of Mr. Meyers?

A. He said nothing. My mother said: "Our son-in-law says that our daughter is a faker." Dad said "You are a liar. You are a God damn liar." Pardon me, your Honor.

Q. What did Mr. Meyers say?

A. He picked up his hat and coat and went out the door.

Q. Did he say anything to you about coming back to his home at that time?

30

A. He never spoke to me.

Q. Did he at any time ask you to come back to him?

A. No.

Q. From that day down to today has he ever talked to you in any shape or manner?

A. No.

Q. Has he ever asked you to come back and live with him?

A. Never.

Q. Has he ever sent any emissary or any friend to try to patch things up?

A. No.

By the Master:

Q. Did he ever write you any letters?

A. No.

By Mr. Fitz Maurice:

20 Q. You never heard from him in any shape or manner down to today from August 26, 1922?

A. No.

Q. Is that correct?

A. Yes.

Q. And the following October you engaged Howe & Davis in Orange to represent you?

A. Yes.

Q. From August until that October had your husband offered to support you in any way?

30 A. No.

Q. Offered to support the child either?

A. No.

Q. Who was taking care of her?

A. My mother.

Q. Then in October you consulted counsel and as

a result of that consultation suit was started in this court?

A. Yes.

Q. That was a suit for separation from bed and board, was it not?

A. Yes.

Q. As a result of those proceedings was there any provision made for the support of the child? 10

A. Yes.

Q. What were they?

A. \$8.00 a week.

Q. From October, 1922 down to now?

A. Yes.

Q. Or in the neighborhood of October, 1922?

A. Yes.

Q. Mr. Meyers has been paying \$8.00 a week for the support of the child, is that right?

A. Yes. 20

Q. The child is nine years of age now?

A. Yes.

Q. Going to school?

A. Yes.

Q. And in your care. You don't work, do you?

A. No.

Q. You have been living with your parents right down to this time and they are taking care of you?

A. Yes.

Q. Mr. Meyers has not supported you in any way? 30

A. No.

Q. Now as a result of these proceedings that I refer to when you were represented by Howe & Davis, did you call at your husband's home with a list of articles that you were to take from your husband's home with a car?

A. Yes.

Q. You called there for that purpose?

A. Yes.

Q. You got those articles?

A. Yes.

Q. I show you a paper marked Ex. P1 and ask you if that paper headed "List of certain property  
10 belonging to Mrs. Louise D. Meyers" contains the articles you got from your husband's home?

A. Yes.

Q. Following August, 1922, did you have any further physical ailments?

A. Yes.

Q. Did they necessitate an operation?

A. Yes.

Q. At what hospital?

A. Homeopathic in East Orange.

20 Q. When was that?

A. August 13, 1929.

Q. Who operated upon you there?

A. Dr. Richard Brown.

Q. At the hospital?

A. Yes.

Q. What was that operation?

A. I had at that time a complete hysterectomy.

Q. From the time of your operation in July, 1922, until the operation in July, 1929, you just referred  
30 to, what was the condition of your health?

A. Very poor.

Q. Could you work?

A. No.

Q. Could you do housework?

A. A little.

Q. Why couldn't you? What made you think you could not work?

A. I was unable.

Q. Why were you unable?

A. I had hemorrhages for two and one-half years which could not be stopped.

Q. Were you consulting with doctors all that time?

A. Yes. 10

Q. Who were the doctors?

A. Dr. Peter Davenport of Newark and Dr. Brown.

Q. Who paid those doctors?

A. My father.

Q. Mr. Meyers ever pay any of your doctor bills from the time in August, 1922, down to now?

A. No.

Q. Since this operation in the Homeopathic Hospital what has been the condition of your health? 20

A. Very poor.

Q. Are you able to work now?

A. No, I am not.

Q. Is your health better than it was before the operation?

A. Yes, it is getting better.

Q. What is the reaction?

A. Nervousness and I still have a little bit of discharge.

Q. Your husband's business is what? 30

A. Plumber, master plumber.

Cross-examination.

By Mr. Tyacke:

Q. In the house in Prospect Street you say there was a bed in the living room?

A. Yes.

10 Q. Just what is the plan of that floor?

A. There was a door as you come into the house making a turn towards the living room. There was a piano on the left-hand side as you came in. In the rear of the room there was a fireplace where the head of my bed was.

Q. On that same floor what other rooms were there?

A. Dining room and kitchen.

20 Q. Mr. Meyers would come there each evening about what time?

A. About seven when he had his meals before he came. When he had his meals there he would be there at six.

Q. And stayed for an hour and a half?

A. Yes.

Q. You say that after you were there four or five days this event happened you described?

A. Yes.

Q. He continued to come after that, did he?

30 A. Yes.

Q. How often did he come?

A. Each night.

Q. All friendly?

A. Well, yes.

Q. Now how was it you came to go to your mother's home when you came from the hospital?

A. That was discussed.

Q. By whom?

A. By Mr. Meyers and I.

Q. Did your mother have anything to say about it?

A. She did not suggest it.

Q. Did she know you were coming there?

A. Yes.

10

Q. Was she willing?

A. Yes, very much.

Q. As a matter of fact she was the one who suggested it, wasn't she?

A. No.

Q. Nothing was said about it?

A. She asked if I was going home or coming to her home. I said I was going to her home where my baby was.

Q. You went there?

20

A. Yes.

Q. How long did you stay there?

A. I stayed there one month.

Q. So that you stayed there until about the 10th of August?

A. I was there until the 26th of August.

Q. You went there July 11?

A. I was operated on on July 11.

Q. About the 25th you went there and stayed there a month?

30

A. Yes.

By the Master:

Q. From the time you left All Souls Hospital up to the 26th of August, the time you say your hus-

band left your mother's house, did you ever go back to his home?

A. Never.

By Mr. Tyacke:

Q. But he was friendly with you right up to the  
10 26th of August?

A. Yes.

Q. Very friendly indeed?

A. No, not very friendly indeed.

Q. You were on good terms with him?

A. Pass the time of day, yes.

Q. Were you cool towards him?

A. No.

By the Master:

20

Q. You had no real serious difficulty whatever might be the feelings between you until the 25th when he had forced you to have intercourse?

A. Often times he told me he wanted to bring his sister back in the home and have a real home. He did not want me any more.

By Mr. Tyacke:

30 Q. He told you that?

A. Yes, often.

Q. Was anything said about your going back to the home?

A. No.

Q. He did not say anything?

A. No.

Q. Then on the 26th of August what happened?

A. Why Mr. Meyers came in—I had that noon asked the boys to get some medicine for me—Mr. Meyers came in and said why didn't I wait until he came and I said I didn't see why I should when I wanted it and had to have it. Then a little quarrel started and he went in the kitchen and told my mother that her daughter was a faker.

10

Q. After that what happened?

A. He just went in the dining room and sat down there for a half hour until my dad came home. My mother told my dad—she said "Our son-in-law says that our daughter here is a faker."

Q. He waited there all that time?

A. He waited there half an hour without saying one word to either one of us.

Q. Then when your father came home and your mother told him what your husband had said, what happened?

20

A. My dad turned around and said "John Meyers, you are a liar. You are a God damn liar." With that Mr. Meyers picked up his hat and coat and left the house.

Q. Now, after that did you ask to go back to him?

A. No.

Q. You made no effort to live with him?

A. No.

Q. From that day to this you have never made an effort?

30

A. No.

Q. You started suit against him alleging extreme cruelty, did you not?

A. Yes.

Q. In that suit of course you did not prevail?

The Master: She did not prevail. The suit was not brought to a complete trial. The suit was never completed nor decided.

Q. You say this was at 10 Greenwood Avenue?

A. 49 Prospect Street.

Q. I mean where you went to live?

10 A. I did not go there after I left the hospital.

Q. No before that?

A. 106 Greenwood Avenue.

Q. You never lived at No. 10?

A. No.

By the Master:

Q. You said 10. You made a mistake in the number?

20 A. Yes.

By Mr. Tyacke:

Q. You had an ovary and a half taken out?

A. Yes.

Q. When was this?

A. Around July 11, 1922.

Q. Who suggested that?

A. Dr. Edward Ill of Newark.

30 Q. Didn't your mother suggest it?

A. No.

Q. Didn't Mr. Meyers ask you to come back with him?

A. No.

Q. Remember the woman next door sitting there when he was pleading with you to come back?

A. No. There never was anyone there in the home.

By the Master:

Q. That thing did not occur?

A. No.

10

By Mr. Tyacke:

Q. I mean the house next door on Prospect Street?

A. No.

Re-direct examination.

By Mr. Fitz Maurice:

Q. It was on Dr. Seward's advice and suggestion 20 that you consulted with Dr. Ill?

A. Yes.

Q. Mr. Meyers went with you to see Dr. Ill?

A. Yes.

Q. As a result of that consultation you were operated on?

A. Yes.

30

ADDIE M. STRINGHAM, being duly sworn on her oath, testified as follows:

Direct examination.

By Mr. Fitz Maurice:

10

Q. Mrs. Stringham, you live where, please?

A. 151 Seton Place.

Q. South Orange?

A. South Orange.

Q. You are the mother of Louise D. Meyers, the defendant and cross petitioner in this case?

A. Yes.

Q. You are married and you live with your husband?

20

A. Yes.

Q. And has your daughter, Louise, lived in the State of New Jersey since her birth down to today?

A. Yes.

Q. At no time was she a resident of any other state, is that right?

A. Yes.

Q. After her marriage to Mr. Meyers in December, 1920, where did she go to live?

A. Greenwood Avenue.

30

Q. Madison?

A. Madison.

Q. 106 was the number?

A. Yes, 106.

Q. Did you visit them there?

A. Every day and twice a day.

Q. You visited there quite often?

- A. Yes.
- Q. Was a child born of the marriage?
- A. Yes.
- Q. Her name is Louise?
- A. Yes.
- Q. Louise, your daughter, the defendant, continued to live with Mr. Meyers at the Greenwood Avenue address from the time of their marriage down 10 to the time she went to the hospital?
- A. Yes.
- Q. What hospital did she go to?
- A. All Souls Hospital.
- Q. Do you remember when this was about?
- A. In July.
- Q. What year?
- A. About nine years ago.
- Q. 1922?
- A. Yes. 20
- Q. How long did she stay in the hospital?
- A. About two weeks.
- Q. Did she undergo an operation.
- A. A very serious operation.
- Q. I take it you visited her every day?
- A. Every night with Mr. Meyers.
- Q. He would bring you there?
- A. Yes.
- Q. The day she was leaving did you accompany Mr. Meyers? 30
- A. Yes.
- Q. And brought your daughter from the hospital in Mr. Meyers' car with him where?
- A. To my house.
- Q. Who cared for her at your house?

A. I did.

Q. In what way?

A. Took care of her and her baby.

Q. In what way did you care for her specifically?

Did you bathe her?

A. Bathed her and fixed her bandages the same as any nurse.

10 Q. Prepare her meals?

A. Prepared her meals and looked after her.

Q. Was she able to do it herself?

A. No, she was not.

Q. How much, if any, time did she have to spend in bed?

A. About two weeks.

Q. Up and down?

A. Up and down, in a chair and in bed.

Q. That would be about the middle of August?

20 A. Just about the middle of August.

Q. From that time on she began to pick up a bit so that she did not spend so much of her time in bed?

A. Just sitting up.

Q. Did Mr. Meyers call there to see his wife?

A. Every night.

Q. Did he take any meals at your house?

A. Yes.

Q. How frequently?

30 A. Very often, sometimes four or five a week.

Q. What meals would he take?

A. Dinner at night.

Q. Were the relations during that time cordial?

A. Well, as close as they could be for her sake.

Q. Do you recall during that period of time prior

to August 26, 1922, and of course subsequent to the time of her coming to your house from the hospital that your daughter complained to you about her husband's treatment of her the night before? Don't tell us what she said.

A. Yes.

Q. When did you next see Mr. Meyers after that?

A. The next night. 10

Q. When you saw him what did you say to him?

A. I told him I thought he was no gentleman for such a thing.

Q. Did you discuss with him what the doctor and your daughter had told you?

A. No, I let her do that. I never interfered.

Q. What did he say to you?

A. Either to mind my business or that was his business. I could not say which.

Q. Did you have any conversation with him or 20 did he come to you and start a conversation respecting the sincerity of your daughter?

A. He came to me and told me Louise was a faker.

Q. Where was this?

A. I was in the kitchen cooking supper. Mr. Stringham was late.

Q. Where was your daughter staying by the way during the time she was there?

A. In the living room on a bed. Mr. Meyers 30 brought down a single bed for her and put it up in there.

Q. Mr. Meyers brought a bed to your house and put it up in the living room?

A. Yes.

By the Master:

Q. Just referring to the conversation when he said she was a faker you meant as to her physical health and condition, wasn't that it?

A. Certainly.

10 By Mr. Fitz Maurice:

Q. The dining room adjoined this room?

A. Yes.

Q. Then I suppose there was a hall there?

A. Very small hall.

Q. Your son-in-law came out to the kitchen?

A. Where I was cooking.

Q. He said "Your daughter is a faker."

A. Yes.

20 Q. What did you say?

A. I said "What do you mean?" He said, "You will find out." I said, "I don't understand you, John Meyers, at all." He turned and went in the dining room and sat in the dark in a rocking chair by the window. Dad had not come home.

Q. When you say "dad" you mean your husband?

30 A. Yes. When he came I met him in the kitchen door. When I met him I said "Dad, our son-in-law says that our daughter is a faker and we will find it out." Dad stepped right up—I never saw him mad before—and said "You are a liar, John Meyers." He was so mad and upset he said "You are a God damn liar."

Q. What did Meyers say?

A. Not a word. He grabbed his coat. He was in

his shirt sleeves. He grabbed his coat and hat and walked out the door.

Q. Mr. Meyers testified about this that he did say something but that he asked his wife to come back to live with him?

A. He never spoke to her.

Q. From that day, that night, down to today, do you know of your own personal knowledge whether your daughter and Mr. Meyers ever lived together as man and wife? 10

A. Never.

Q. Has he ever made any efforts to your knowledge to get your daughter to go back and live with him?

A. No.

Q. Do you know whether he has ever spoken to her from that time down to this?

A. Never. 20

Q. Your daughter has lived with you from that day down to this without any interruption other than the operation at the Homeopathic Hospital?

A. Yes.

Q. Did she have an operation after the All Souls Hospital operation?

A. Yes.

Q. Where was that performed?

A. At the Homeopathic Hospital, East Orange.

Q. Do you know, as her mother, what that operation was? 30

A. Complete hysterectomy if you know what that is.

Q. What was her physical condition?

A. Very bad.

Q. What was her physical condition between the

time of the All Souls Hospital operation and the Homeopathic Hospital operation?

A. Very bad.

Q. And since the Homeopathic Hospital operation she has been better?

A. Very little better. She has been better.

Q. What is troubling her?

10 A. Nervousness and flowing a little.

Q. Can she work?

A. No, she cannot.

Q. Has she tried to work?

A. Yes.

Q. Tried to help you?

A. Tried to help me.

Q. Do you stop her or pet her or pamper her?

A. She does what she can.

Q. Has the youngster been living with you and  
20 your daughter all this time?

A. All this time.

Q. Who has been supporting Louise, your daughter?

A. Her father.

Q. Since she has been living with you has her husband supported her?

A. Her husband has not.

Q. If she needs clothes or food you buy them?

A. We buy them.

30 Q. After you moved from Madison you came to live in South Orange, Seton Place where you are now living?

A. Yes.

Q. During that time some six or seven years or more, how many times have you seen Meyers in your home approximately?

A. A dozen times approximately, I should think.

Q. What time or what season of the year?

A. Day before Christmas. The day before her birthday he never comes but he was there the day before Easter.

Q. Was he there this Christmas eve?

A. No, he sent his youngest son.

Q. Did he ever say anything to you about wanting 10 his wife to come back to live with him?

A. Never.

Q. Ever ask you to use any effort to patch up everything?

A. Never.

Cross-examination.

By Mr. Tyacke:

20

Q. Did you ever ask him about taking your daughter back?

A. Never.

Q. Did your daughter ever say anything to you about she would like to go back and live with him?

A. No.

30

## EXHIBIT P1.

List of wedding presents belonging to Mrs. Louise D. Meyers:

- 10 One red tea set, consisting of six cups, six saucers, one sugar bowl, one cream pitcher and one tea pot.  
Three hand made doilies;  
Ohio Vacuum Cleaner;  
Boston cook book;  
Two pair baby carriage cover holders;  
One electric table lamp with parchment shade;  
One cut glass punch bowl;  
One glass pie dish and holder;  
Four hand-made pillow cases;
- 20 One Japanese bureau, (small);  
One white linen parasol;  
One Sonora (minuet) talking machine;  
One silver bread tray;  
One cut-glass flower case;  
Six silver tea spoons, (black edge);  
Six after dinner tea spoons (silver)  
Six pearl handle nut picks;  
One baby silver cup (dragon on front of cup);  
One casserole.
- 30 All of these presents were given to Mrs. Meyers by friends and relatives.

Filed February 28, 1931

CONCLUSIONS.

IN CHANCERY OF NEW JERSEY.

80/589.

10

Between

JOHN H. R. MEYERS,  
*Petitioner,*  
and  
LOUISE D. MEYERS,  
*Defendant.*

On Petition for  
Divorce.  
Conclusions.

20

February 6th, 1931.

WILLIAM TYACKE, solicitor of petitioner.  
RICHARD J. FITZ MAURICE, solicitor of defendant.

NEWMAN, A. M.:

30

In the above-entitled cause, the petitioner utterly failed to make out a case of desertion, in accordance with the prayer of the petition. There was no corroboration of any of the facts set up in the petition, and the entire case must fall, because the petitioner's testimony is unsupported.

However, on the other hand, the defendant is corroborated as to all the circumstances surrounding the commencement of the desertion, and it clearly appears that she has made out a case in accordance with the counter-claim filed herein, and that the petitioner is guilty of wilful, continued and obstinate desertion within the meaning of the statute in such case made and provided.

I, therefore, will advise a decree in favor of the defendant, upon the counter-claim filed by her, and dismiss the petition filed by the petitioner.

JACOB L. NEWMAN,  
*Advisory Master.*

Filed February 18, 1931

DECREE NISI.

20 IN CHANCERY OF NEW JERSEY.

80/589.

	Between	
	JOHN H. R. MEYERS,	} On Defendant's
	<i>Petitioner,</i>	
	and	} Counter-Claim.
30	LOUISE D. MEYERS,	} Decree Nisi.
	<i>Defendant.</i>	

This cause coming on to be heard in the presence of William Tyacke, Esquire, solicitor of the peti-

tioner, and Richard J. Fitz Maurice, solicitor of the defendant, on petition, answers and proofs taken in open court, and the Court having duly considered the pleadings and proofs, and having heard and considered the argument of counsel, from all of which it appears to the Chancellor that the petitioner and defendant were lawfully married on the tenth day of December, 1920, as alleged in said petition; and that the said petitioner, the defendant in the counter-claim, has been guilty of wilful, continued and absolute desertion of the defendant, counter-claimant, for the term of two years, as alleged in the said counter-claim, and that at the time the cause of action for divorce for the said desertion arose, the defendant, counter-claimant, was a bona fide resident of this State, and that the said defendant, counter-claimant, has continued so to be down to the time of the commencement of this action, and that the defendant, counter-claimant, has been for the two years next preceding the commencement of this action a bona fide resident of this State; and

It further appearing that jurisdiction herein has been acquired by personal service of process upon the defendant, counter-claimant, within this State, as well as by her answer and counter-claim.

It is, thereupon, on this 18th day of February, nineteen hundred and thirty-one, by his Honor, Edwin Robert Walker, Chancellor of the State of New Jersey, ordered, adjudged and decreed, and the said Chancellor, by virtue of the power and authority of this court and the Acts of the Legislature in such case made and provided, does hereby order, adjudge and decree that the petition of the peti-

tioner be, and the same is hereby dismissed, and that the said defendant, counter-claimant, Louise D. Meyers, and the said John H. R. Meyers, petitioner, the defendant in the counter-claim, be divorced from the bonds of matrimony for the cause aforesaid, and that the said parties, and each of them, be freed and discharged from the obligations  
10 thereof, unless sufficient cause be shown to the Court why this decree should not be made absolute within three months from the date hereof.

It is further ordered, adjudged and decreed that the child of said marriage between said petitioner, John H. R. Meyers, and defendant, Louise D. Meyers, be awarded to the said defendant, counter-claimant, Louise D. Meyers, and that the said petitioner do pay to the said defendant, counter-claimant, the sum of eight and no/100 dollars per week,  
20 in advance, on Monday of each week, for the care, support and maintenance of the said defendant, counter-claimant, Louise D. Meyers, and of the (In margin): J. L. N. child of said marriage; and that the said petitioner, the defendant in the counter-claim, do pay to the said Louise D. Meyers, the defendant, counter-claimant, her costs of this suit incurred and to be incurred, to be taxed, together with a counsel fee of two hundred and fifty (\$250.00) dollars, and that  
30 the said defendant, counter-claimant, have execution therefor, according to the practice of this court.

E. R. WALKER,

C.

Respectfully advised,  
JACOB L. NEWMAN,  
*Advisory Master.*

Filed April 30, 1931

NOTICE OF APPEAL.

IN CHANCERY OF NEW JERSEY.

80/589.

10

Between

JOHN H. R. MEYERS,  
*Petitioner,*  
and  
LOUISE D. MEYERS,  
*Defendant.*

On Petition for  
Divorce.  
Notice of Appeal.

20

The petitioner hereby appeals from so much of the decree *nisi* in consolidated causes made in this court in the above-stated cause on the eighteenth day of February, 1931, as orders, adjudges and decrees that the petition for divorce filed by the petitioner, John H. R. Meyers, against the defendant, Louise D. Meyers, be dismissed; and further orders, adjudges and decrees that the defendant, Louise D. Meyers, and the petitioner, John H. R. Meyers, 30 be divorced from the bonds of matrimony for the cause of desertion, and that the said parties and each of them be freed and discharged from the obligations thereof, unless within three months from the date thereof sufficient cause be shown why said decree should not be made absolute; and further

orders, adjudges and decrees that the custody of the infant child of the petitioner and the defendant be awarded to the defendant, Louise D. Meyers, until further order of this Court, to the Court of Errors and Appeals, in the last resort in all causes.

WILLIAM TYACKE,

*Solicitor for and of Counsel  
with Petitioner.*

10

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

WILLIAM TYACKE,

*Of Counsel with Petitioner.*

20

30

Filed May 4, 1931

AMENDED NOTICE OF APPEAL.

IN CHANCERY OF NEW JERSEY.

80/589.

10

Between

JOHN H. R. MEYERS,  
*Petitioner,*  
and  
LOUISE D. MEYERS,  
*Defendant.*

On Petition for  
Divorce.  
Amended Notice of  
Appeal.

20

The petitioner hereby appeals from so much of the decree *nisi* in consolidated causes made in this court in the above-stated cause made by the Chancellor on the advice of Jacob L. Newman, Advisory Master, on the eighteenth day of February, 1931, as orders, adjudges and decrees that the petition for divorce filed by the petitioner, John H. R. Meyers, against the defendant, Louise D. Meyers, be dismissed; and further orders, adjudges and de- 30  
crees that the defendant, Louise D. Meyers, and the petitioner, John H. R. Meyers, be divorced from the bonds of matrimony for the cause of desertion, and that the said parties and each of them be freed and discharged from the obligations thereof, unless within three months from the date thereof sufficient

cause be shown why said decree should not be made absolute; and further orders, ad judges and decrees that the custody of the infant child of the petitioner and the defendant be awarded to the defendant, Louise D. Meyers, until further order of this court, to the Court of Errors and Appeals, in the last resort in all causes.

10

WILLIAM TYACKE,  
*Solicitor for and of Counsel  
with Petitioner.*

---

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

20

WILLIAM TYACKE,  
*Of Counsel with Petitioner.*

30

Filed May 13, 1931

PETITION OF APPEAL.

NEW JERSEY COURT OF ERRORS AND APPEALS.

10

Between JOHN H. R. MEYERS, <i>Petitioner-Appellant,</i> and LOUISE D. MEYERS, <i>Defendant-Respondent.</i>	}	On Petition for Di- vorce in Consoli- dated Causes. On Appeal from Chancery. Petition of Appeal.
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*To the Honorable, the Court of Errors and Appeals,  
in the Last Resort in All Causes:*

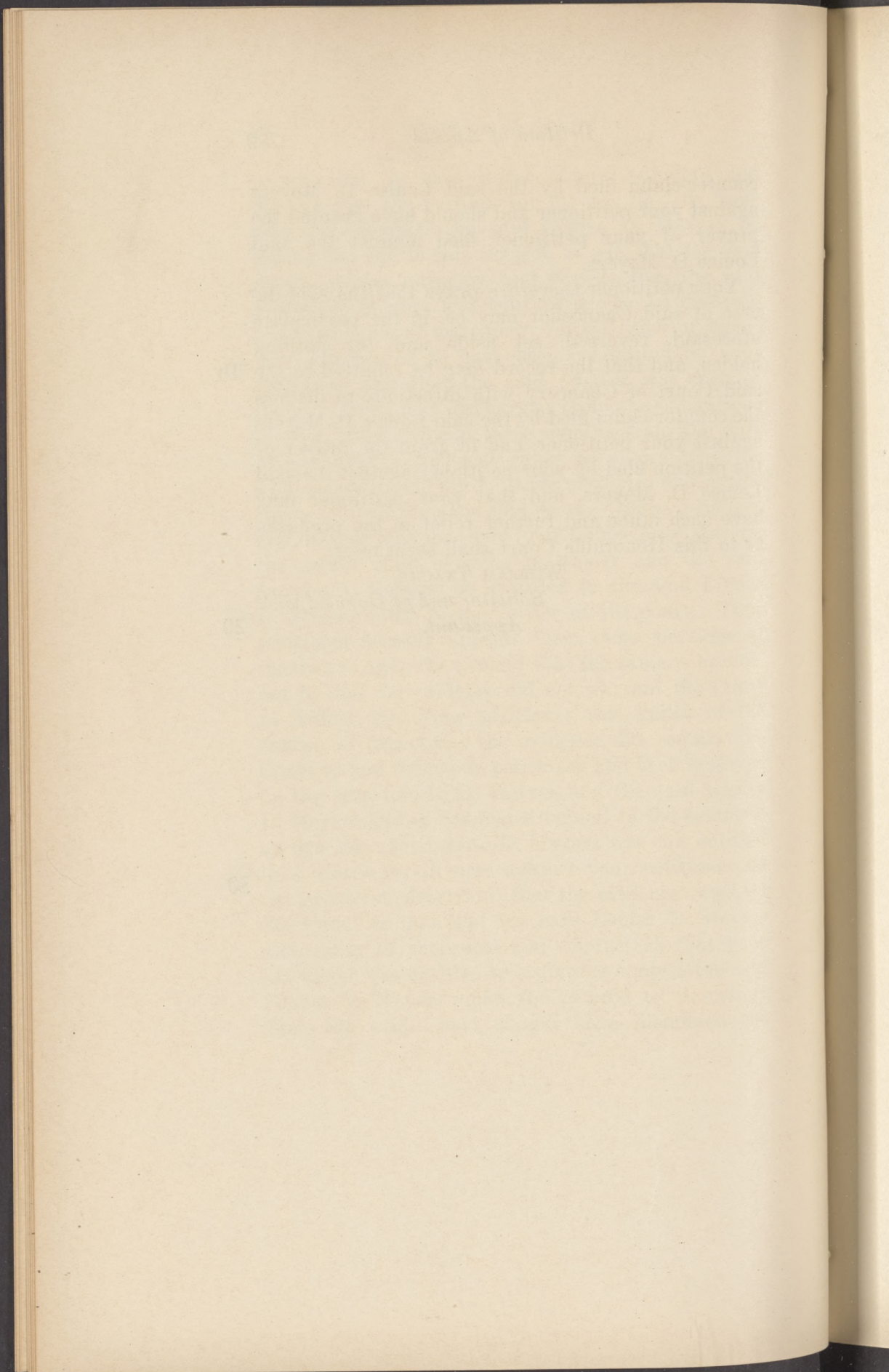
The petition of John H. R. Meyers, the appellant in the above-stated cause, respectfully shows that your petitioner finds himself aggrieved by a decree made in the Court of Chancery by his Honor, Edwin Robert Walker, Chancellor of the State of New Jersey, bearing date the eighteenth day of February, 1931, in a cause above entitled, which said cause is a consolidation of two causes pending in the said Court of Chancery, to wit, an action brought by your petitioner against Louise D. Meyers for divorce for desertion, and an action brought by the said Louise D. Meyers against your petitioner for divorce on the ground of desertion, in this respect,

to wit, that the said decree orders, adjudges and decrees that the petition for divorce filed by your petitioner against the said Louise D. Meyers be dismissed; and in this respect, to wit, that the said decree orders, adjudges and decrees that the said Louise D. Meyers and your petitioner be divorced from the bonds of matrimony for the cause of desertion adjudicated to have been committed by your  
10 petitioner and that the said parties and each of them be freed and discharged from the obligations thereof, unless within three months from the date of said decree sufficient cause be shown why the said decree should not be made absolute; and in this respect, to wit, that the said decree orders, adjudges and decrees that the custody of Louise May Meyers, the infant child of your petitioner and the said  
20 Louise D. Meyers, be awarded to the said Louise D. Meyers until further order of the court. Your petitioner humbly appeals from those portions of the decree upon the ground that the same is erroneous in that the evidence did not warrant the Court in finding that your petitioner was guilty of the charge of desertion; the evidence did require the Court to find that your petitioner had been deserted by the said Louise D. Meyers and the said Louise D. Meyers had so conducted herself in the premises as that the said Louise D. Meyers was not entitled  
30 to a decree for divorce against your petitioner on the ground of desertion; that the evidence required the Court to find that the said Louise D. Meyers was guilty of such acts and conduct as that your petitioner was entitled to a divorce against the said Louise D. Meyers upon the ground of desertion. That the said Court should have dismissed the

counter-claim filed by the said Louise D. Meyers against your petitioner and should have granted the prayer of your petitioner filed against the said Louise D. Meyers.

Your petitioner therefore prays that the said decree of said Chancellor may be, in the particulars aforesaid, reversed, set aside and for nothing holden, and that the record may be remitted to the said Court of Chancery with directions to dismiss the counter-claim filed by the said Louise D. Meyers against your petitioner, and to grant the prayer of the petition filed by your petitioner against the said Louise D. Meyers, and that your petitioner may have such other and further relief in the premises as to this Honorable Court shall seem meet. 10

WILLIAM TYACKE,  
*Solicitor and of Counsel with*  
*Appellant.* 20



NEW JERSEY COURT OF ERRORS AND  
APPEALS.

---

JOHN H. R. MEYERS,  
*Petitioner-Appellant,*

v.

LOUISE D. MEYERS,  
*Defendant-Respondent.*

---

ON PETITION FOR DIVORCE ON APPEAL.

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BRIEF FOR PETITIONER-APPELLANT.

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STATEMENT OF FACTS.

Petitioner and defendant married December 10, 1920, and lived at No. 10 Greenwood Avenue, Madison, New Jersey.

On October 4, 1921, a daughter was born to the marriage.

On July 11, 1922, defendant went to the hospital for an operation, there being a discrepancy in her statements as to what the operation consisted of. At one time stating that she had her ovaries and

appendix removed (p. 2, l. <sup>26</sup>8); and in her testimony stating that an ovary and a half were removed (p. 54, l. 14).

She came from the hospital the latter part of July and went to live either at her husband's house or her mother's. Statements vary as to this.

But she was at her mother's house a little later, and while there, petitioner visited her every night.

Everything was pleasant and friendly. The only jarring note being that defendant, as she stated in her direct examination (p. 56, l. 26), was forced by petitioner about the third or fourth day after she came home from the hospital, to have sexual intercourse with him. Even after that, according to the defendant's testimony, their relations were very friendly (p. 64, l. 33).

While the friendly relationship continued defendant requested a maid, who had been working at the Meyers house, to bring her her clothes, instead of asking petitioner to do so.

On or about the 26th day of August, petitioner wanted defendant to return to his home and when she refused, it is claimed that he called her a "faker." And then petitioner's mother-in-law expressed her opinion, and later his father-in-law did the same thing and petitioner left the house.

Shortly after this defendant moved to South Orange, Essex County, New Jersey, sent for her personal belongings and wedding gifts and then started suit for divorce on the ground of cruelty; made application for alimony which was denied. (See p. 8.) And later made application for support and maintenance of her daughter which was granted (see p. 9).

This was February 13, 1923. And then defendant did nothing further with her divorce suit and it was dismissed for want of prosecution. March 26, 1931 (see p. 11).

Petitioner-appellant filed a petition for divorce and defendant-respondent filed a counter-claim claiming that petitioner deserted her. The Advisory Master advised a decree for the defendant-respondent on her counter-claim and dismissed the petition of the petitioner-appellant.

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POINT ONE.

THERE SHOULD HAVE BEEN A DECREE  
FOR PETITIONER-APPELLANT.

Petitioner was a master plumber, with an extensive business in the Borough of Madison, New Jersey, at that time, having been in business for ten years.

After their marriage petitioner and defendant lived together until some time after the child was born. About seven and a half months after the child was born, defendant went to the hospital for an operation. After she returned from the hospital, which was about July 25, 1922, she apparently went to her mother's house in the same town, a short distance from her own home.

Petitioner claims that later she went to his house, although in her testimony, she denied this. But in her petition for divorce on the ground of cruelty

(p. 3, l. 9), she stated that she continued to live with her husband.

But whether she, for a time, did live at her husband's home with him or continued to stay with her parents, their relations were very friendly, petitioner visiting her every night (p. 55, l. 35; p. 64, l. 33). She stated that their relations were very friendly. This was in contradiction of the allegations in her petition (see pages 2 & 3, State of the Case).

Petitioner tried to persuade defendant to come back to him but she refused, stating that she was through (p. 26, ll. 4 to 10; p. 25, l. 20).

And her intent to desert petitioner is very evident from her actions. For, although, according to her testimony, he called every night and was very friendly, yet she asked a girl, who came to Mr. Meyers' house to do some work, for her clothes (p. 45, l. 27).

Their relationship was very friendly until the twenty-sixth day of August, 1922, when, as she stated (p. 67, l. 8), "A little quarrel started," and petitioner told defendant's mother that defendant was a faker (p. 67, l. 10).

Defendant's mother understood that by calling her a faker, the reference was made to her physical health and condition (p. 74, l. 6).

Petitioner states in his answer to her petition, at the top of page 7, that he did tell her and her mother that a woman who could carry on in that manner was able to resume her household duties and that her unwillingness to do so must be because she was lazy or bluffing.

Defendant tried to justify her action in leaving

him by stating that four or five days after she came from the hospital he insisted upon having intercourse with her against her will, claiming that it would be dangerous to her. This is denied by petitioner (p. 36, l. 1), and is so improbable, considering that it was in the early evening in the summer-time; that the bed was in the living room practically opening upon the street, and the dining room and kitchen were upon the same floor (p. 64, l. 10).

But even if it did occur, it did not affect the friendly relations because defendant stated:

“Q. You say that after you were there four or five days, this event happened you described?

A. Yes.

Q. He continued to come after that, did he?

A. Yes.

Q. How often did he come?

A. Each night.

Q. All friendly?

A. Well, yes.”

And although defendant tried to give the impression that this episode occurred on August 25, the day before they had the quarrel, the defendant's testimony is to the contrary (p. 56, l. 26):

“A. He came about the third or fourth day after I came from the hospital and forced sexual intercourse with me.”

So that, it is very evident that it had nothing to do with her desertion.

The attention of the Court is respectfully called to the fact that in her petition for divorce on the ground of cruelty (p. 2), she stated that her ovaries

and appendix were removed, and a cut in her abdomen required twenty-seven stitches, but in her testimony in the present case, she mentioned simply that an ovary and a half were removed. It will be noticed that while the greater part of her testimony was about her physical condition and operation yet she did not call any of the five physicians mentioned to testify as to her condition.

Another evidence of her intention to desert, is the fact that shortly after this, defendant moved with her parents to South Orange, New Jersey, away from her husband's home.

And as a further evidence of her intention to desert, defendant had her attorneys, Howe & Davis, make up a list of her personal belongings (Exhibit P1, p. 78); went to his home and got them and then filed a petition for divorce against the petitioner on the ground of cruelty. Upon answer being filed, made application for alimony which was denied (p. 8, l. 30); and later made application for maintenance for the daughter, which was granted.

This petition was later dismissed for want of prosecution (p. 11). So, it is very evident that the defendant deserted petitioner, refused to live at his home, which he had provided for her, and the decree should have been in his favor.

#### POINT TWO.

#### DEFENDANT LEFT PETITIONER AT HER PERIL.

In *Suydam v. Suydam*, 79 New Jersey Equity, p. 144, the Vice-Chancellor stated on p. 1059:

“Because a wife who leaves her husband does so at her peril and assumed the burden of making the desertion constructively his by evidencing his guilt by clear and satisfactory proofs.”

Also see *Margarum v. Margarum*, 57 New Jersey Equity, p. 249, holding:

“The wife cannot abandon the husband and then invoke the aid of the statute to secure support from him.”

POINT THREE.

THERE WAS NO JUSTIFICATION FOR THE  
DEFENDANT LEAVING THE HOME OF  
THE PETITIONER.

He had a home for her to go to, a maid to assist in the work (see p. 45).

There is only one alleged act of cruelty which is not corroborated and is denied.

After this alleged cruelty they continued on friendly relations until the time when petitioner insisted that defendant should come home.

POINT FOUR.

PETITIONER WAS NOT OBLIGED TO SEEK  
DEFENDANT OR MAKE ADVANCES  
TO HER.

He tried to persuade her to come back (p. 26, l. 9).

She said that she was through and refused to come back (p. 26, l. 20),

The last time he saw her he was pleading with her to come home where she belonged (p. 37, l. 27).

But, instead of coming to the home which he had provided for her she went with her parents to South Orange, New Jersey, having previously taken her belongings from his home. Later she went up to the house with a gentleman, in the daytime, when petitioner was not at home, and took the wedding presents, a list of which is found on p. 78.

She then started suit against the petitioner for divorce on the ground of cruelty.

Under these circumstances it is very evident that any further effort on the part of petitioner to induce his wife to return to him would have been futile and unavailing.

In *Lammertz v. Lammertz*, 57 New Jersey Equity (p. 649), Vice-Chancellor Reid filed the following opinion, which was affirmed by the Court of Errors and Appeals, stating:

“The wife has at no time expressed her willingness to return. In this posture of affairs I am constrained to the conclusion that her desertion is obstinate and confers upon the husband the right to a divorce.”

In the present case the testimony is as follows (p. 67, l. 27):

“Q. Now, after that did you ask to go back to him?

A. No.

Q. You made no effort to live with him?

A. No.

Q. From that day to this you have never made an effort?

A. No.”

In *Kipp v. Kipp*, 77 New Jersey Equity, 585, which was affirmed by the Court of Errors and Appeals, Vice-Chancellor Leaming stated on page 683:

“It is, however, the well-recognized duty of a wife to make every reasonable effort to prevent or terminate a cessation of cohabitation, and in the absence of such reasonable effort on her part, the element of obstinacy, which is required by our statute, is necessarily wanting. While the reasonableness of her conduct must be largely dependent upon the circumstances of the individual case, yet it is undoubtedly true that the husband may fall far below the ideals of the wife and her duty to prevent cessation of cohabitation remain unimpaired.”

In *Hall v. Hall*, 60 New Jersey Equity, page 469, Chief Justice Gummere, in speaking of the advances required of a husband, said:

“But the law does not impose this duty upon the husband in every case arbitrarily and without regard to the facts and circumstances by which it is surrounded. The husband is bound to make such advances and concessions *only where there is reasonable ground to suppose that such action on his part will terminate the wife's desertion*. Where it is manifest from the circumstances under which the desertion took place, or from her temper and disposition or from any other fact in the case, that honest

effort on the husband's part to terminate the separation would be unavailing; or, if successful in bringing the desertion to an end, would be so only temporarily, the *duty of making it does not exist*" (cases cited).

In *Rogers v. Rogers*, 81 New Jersey Equity, p. 479, Chancellor Walker held that a husband was excused from making approaches to a wife or an effort to induce her to return to him, because it was apparent that it would be futile and unavailing.

In *Marsh v. Marsh*, 99 Atl., 409, Justice Black, speaking for the Court of Errors and Appeals, says:

"The Master, in the conclusion filed by him, based his refusal to advise a decree of divorce on the ground that the husband never made any earnest or sincere effort to secure the wife's return to him, and that it was not shown that if such effort on his part had been made it would not have been accepted by the defendant. The learned Advisory Master applied the rule that it was incumbent upon the husband to endeavor to secure his wife's return to him; the duty was upon him to make the advances, looking to a reconciliation, unless such an effort would be evidently useless, the desertion of the wife having been established. We do not agree with the view taken by the learned Advisory Master of the facts of this case. We think a decree of divorce should have been entered in favor of the appellant, the husband, on the facts as disclosed by record, etc."

In *Fry v. Fry*, 100 Atl., p. 839, the Vice-Chancellor cites *Marsh v. Marsh, supra*; *Hall v. Hall, supra*,

and *Rogers v. Rogers, supra*, and advised a decree for the husband even though he had made no effort to have his wife return to him.

In the case of *O'Brien v. O'Brien*, 103 Equity, p. 214, practically on all fours with the case *sub judice*, the wife filed a petition for divorce alleging acts of cruelty, the same as in the present case, and the Court held in that case the burden of proving a bona fide effort or willingness to effect a reconciliation with her husband was upon her and doubt as to her effort or willingness should be resolved against her; and also stated that a wife who leaves her husband does so at her peril and assumes the burden of making the desertion constructively his by evidencing his guilt by clear and satisfactory proofs. The Court should not, through the medium of allowing alimony to the complainant *sub judice*, encourage her abandonment of her husband; and Vice-Chancellor Fallon also finds that the husband is not required to make any advances.

In the present case, the wife left her husband, refused to go back to him and then later left the town and moved to South Orange, New Jersey, and then filed a petition for divorce on the ground of cruelty. She stated that she had never made any effort to go back to him and her suit for divorce for cruelty was not prosecuted for seven years and was dismissed.

## POINT FIVE.

THE DEFENDANT IN HER COUNTER-CLAIM  
UPON WHICH THE ADVISORY MASTER  
ADVISED A DECREE NISI ALLEGED  
ACTUAL DESERTION.

As all the evidence points very clearly to the fact that she deserted the petitioner without cause and without any act on his part which would make constructive desertion, she is not entitled to a decree.

The petitioner had an extensive business in the Borough of Madison.

He had a home from which the defendant left.

He had it open for her for seven years. He pleaded with her to come back.

She refused and then moved away from the town, showing a clear case of actual desertion on her part.

Nothing, whatever, to show that she would be in any way entitled to a decree.

Furthermore, when her petition for divorce on the ground of cruelty was dismissed it was *res adjudicata*.

---

CONCLUSIONS.

Petitioner had a home in Madison. It was the duty of defendant to live with him, and when she left his home she left him at her peril.

There was absolutely no cause, and her statements of cruelty are uncorroborated. She did not prose-

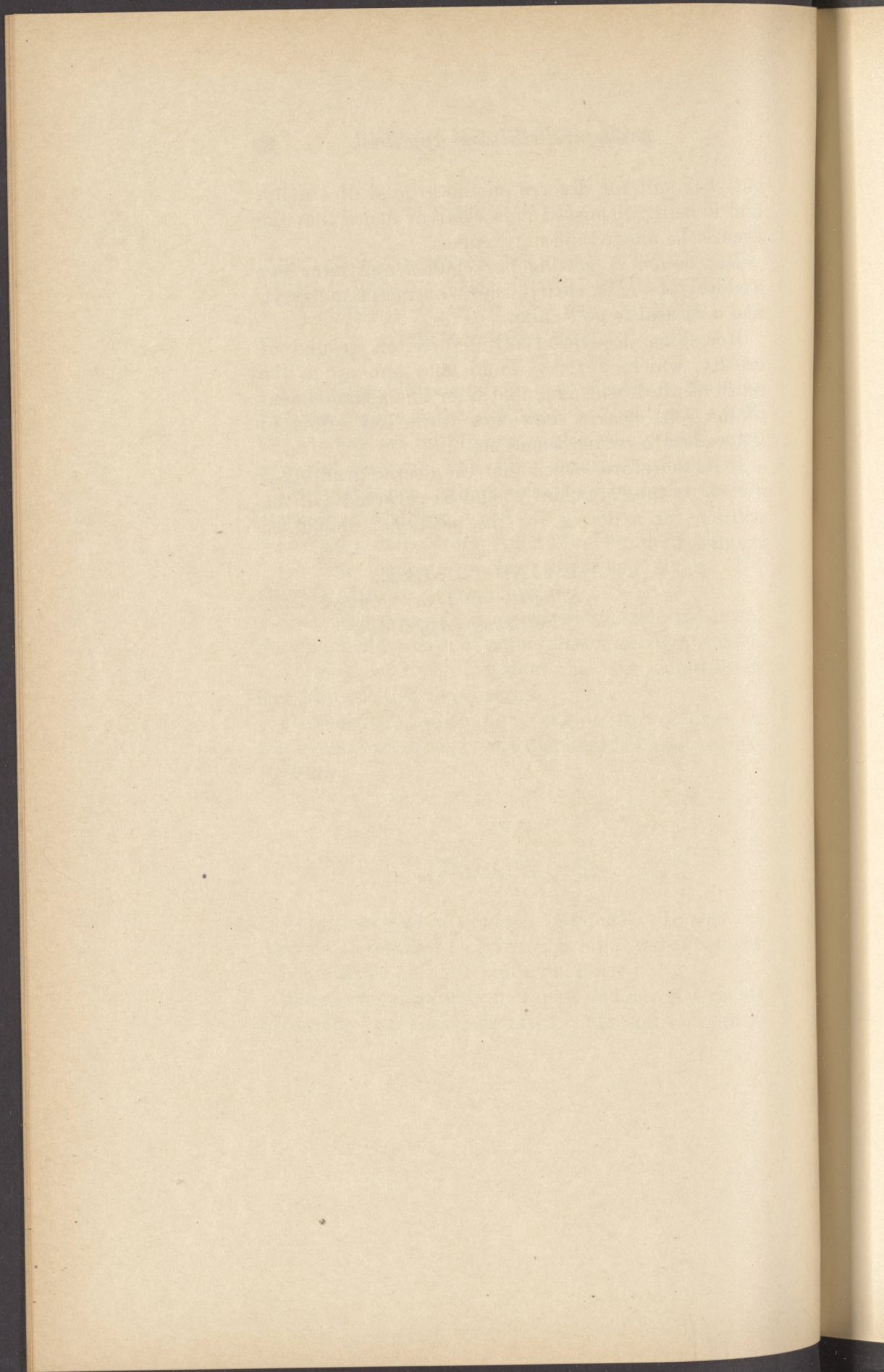
cute her suit for divorce on the ground of cruelty, and it being dismissed it is clear evidence that the events she alleged did not happen.

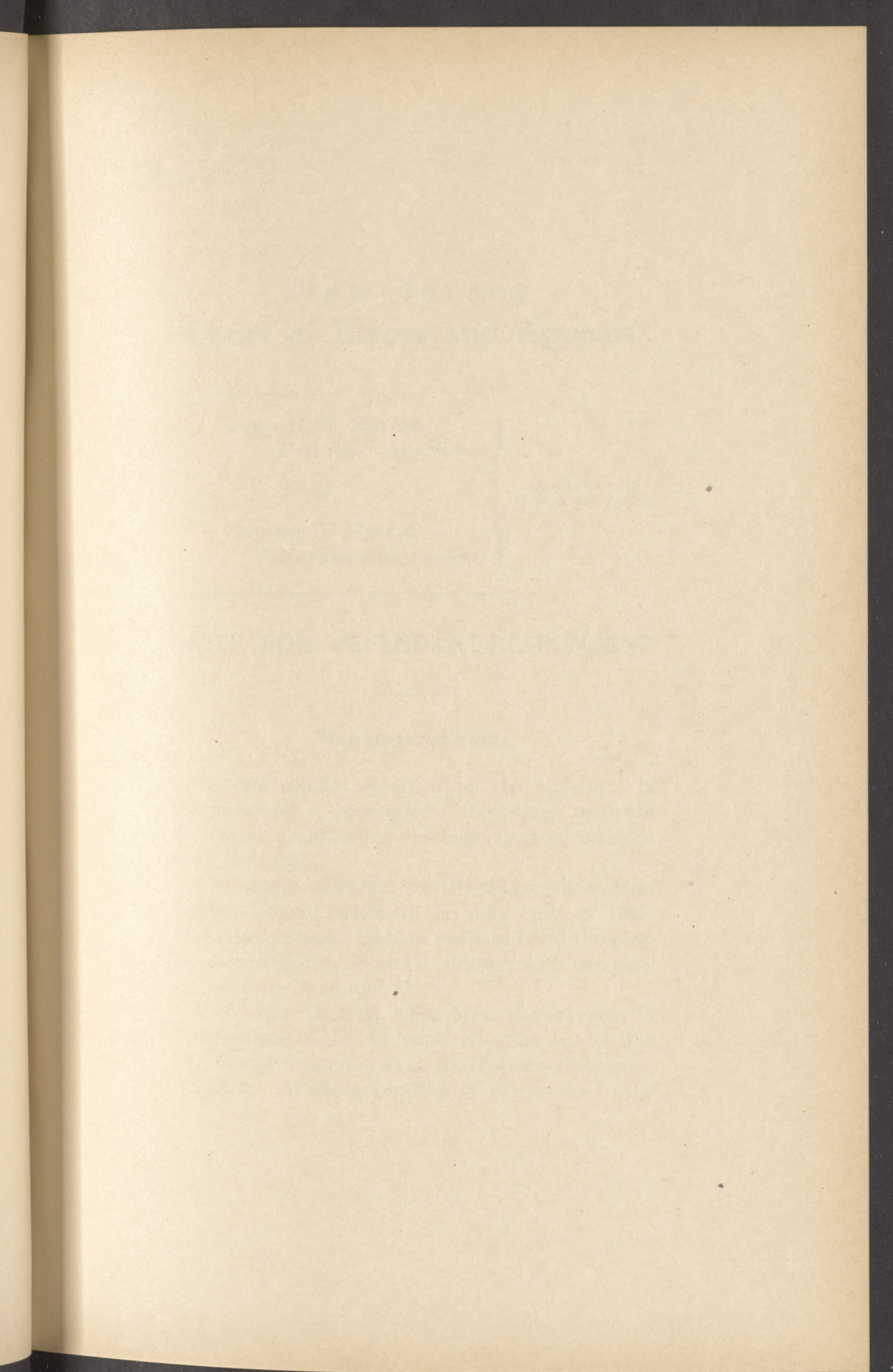
Her action in getting her clothes and later her wedding presents, clearly shows an intent to desert, and a refusal to go to him.

Her filing a petition for divorce on ground of cruelty, which, if true, would hold him up to the scorn of all decent men, and later her abandonment of the suit, clearly show how futile any effort to induce her to return would be.

It is, therefore, urged that the decree granting a divorce to the defendant should be reversed and the petition for a decree for the petitioner should be granted.

WILLIAM TYACKE,  
*Solicitor and of Counsel with  
Petitioner-Appellant.*







26 FEB.T.1932

## New Jersey Court of Errors and Appeals

---

JOHN H. R. MEYERS,  
*Petitioner-Appellant,*

*v.*

LOUISE D. MEYERS,  
*Defendant-Respondent.*

---

On Petition for  
Divorce on Appeal

### BRIEF FOR DEFENDANT-RESPONDENT

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#### Statement of Facts

The statement presented by the appellant is controverted. Respondent, therefore, presents the facts as adduced at the hearing in accordance with Rule 35b.

The counter-claimant and defendant below, Mrs. Louise Meyers, married the petitioner in 1920. Mrs. Meyers was eighteen years old and the petitioner was thirty-six and a widower with two sons (p. 52, lines 3, 19 and 21).

Until July 11, 1922, when Mrs. Meyers went to Morristown, to the All Souls Hospital (p. 53, line 16), the parties resided at 10 Greenwood Avenue, Madison. At the expiration of two weeks in the

hospital, Mrs. Meyers went home to her mother because there was no one in her husband's home to care for her (p. 54, line 30). There was no objection by Mr. Meyers to this; he admitted he himself took her there from the hospital (p. 32, line 36; p. 40, line 33). Mrs. Meyers saw her husband every night at her mother's home (p. 55, line 35). This was admitted by the husband (p. 33, line 18).

About three weeks after Mrs. Meyers left the hospital, or August 26, 1922 (p. 56, line 18), Mr. Meyers made his last visit and from that day to date, he has never talked to his wife, or asked her to come back to live with him or sent an emissary to try to patch things up (p. 60, lines 1 to 10). *The appellant admitted these facts completely* (p. 35, lines 10 to 25).

Appellant called three witnesses. One, Mary M. Purnell, testified as to the fact of marriage (p. 44, lines 1 to 10). Another, Mrs. Derricks, testified in substance that Mrs. Meyers asked her to bring respondent's clothes to Mrs. Meyers, that she first asked Mr. Meyers and that he told her to take whatever she (Mrs. Meyers) wanted (p. 45, line 30). The third, Mrs. Ryan, brought out the fact that Mrs. Meyers didn't like her (p. 48, line 21; p. 49, line 31; p. 48, lines 28 to 30) and that she was present when Mrs. Meyers in February of 1923 (p. 50, line 11) came to get her things (p. 49, line 30).

Respondent called one witness, Mrs. Addie M. Stringham, her mother, who corroborated the essential allegations (pp. 70 to 77).

**A decree was properly advised in favor of respondent.**

Concisely, the facts are as presented herein-above. While there are several incidents occurring as to conversations, commencement and dismissal of another suit, and the taking of clothes, the mute facts are resolved into this simple situation: A husband leaves his wife in 1922, making no provision for her return to his home after her recuperation, making no advances to her, and in 1931 sues her for divorce on the ground of desertion.

It was not academically possible for the court below to have advised a decree in favor of appellant.

Respondent hesitates to cite the multitudinous authorities in this State showing that under the factual situation outlined, no relief could be given the appellant. Suffice to say, the authorities cited by appellant (even though choice excerpts are taken from them) clearly indicate that the husband is the stronger of the two parties and that it is incumbent upon him in the ordinary situation to prevail upon her to return. This, assuming but not conceding respondent's case at its worst, that the wife first left her husband with intention to desert him. A monograph on the subject appears in *New Jersey Divorce* (Child) at page 122, under the head, "Husband's Duty to Make Advances for Wife's Return." It is interesting to note that it is followed by another, at page 124, "Wife Under No Obligation to Make Advances for Husband's Return." Some forty New Jersey cases are aptly cited in support of the statements.

Lest appellant's statement of facts colored its case too strongly, respondent points out several

inaccuracies: At page two of appellant's brief, it is unfairly charged that there was a discrepancy as to the operations Mrs. Meyers underwent. The citation given is "page two of state of case, line 6." Evidently, it was intended to be line "25" or "26." A reading of Mrs. Meyers' testimony shows no discrepancy. Within a year after the birth of her only child, Mrs. Meyers went to the Morristown Hospital and had an ovary and a half taken out (p. 54, line 14).

Seven years later, or on August 13, 1929, (p. 62, line 21) Mrs. Meyers went to the Homeopathic Hospital in East Orange and at that time underwent a complete hysterotomy (p. 62, line 27).

There is no point to the clothes incident inasmuch as appellant admits at page two of its brief that they were requested "while the friendly relationship continued." On the same page, fifth paragraph, the statement, "petitioner wanted defendant to return to his home," is made. If he did, he failed to manifest this desire and there is no corroborating testimony given in support. It is fundamental that in addition to corroboration of the marriage and residence, it is incumbent upon the petitioner to corroborate the facts and circumstances under which the desertion took place, and the fact that such desertion, since the date of the separation, has been willful, continued and obstinate. *New Jersey Divorce* (Child), page 136.

On August 26, 1922, Mrs. Meyers testified her husband called for the last time at her mother's home and made the statement that she was a "faker," while she was still in bed most of the time (p. 58, line 20 and line 35). Appellant in its brief at page two, then says, "Shortly after this, defendant moved to South Orange." Mrs. Stringham, mother of Mrs. Meyers, moved there "some six or seven years later" (p. 76, lines 30 to 40).

There are several more inaccuracies in the argument: At page 5 of appellant's brief, it charges that it was improbable that Mr. Meyers had intercourse with his wife in the living room of her parents because the room is "practically opening upon the street." There was no testimony to that effect. Mrs. Meyers said the head of her bed was "in the rear of the room" (p. 64, line 14). There was no statement that the room was near the street.

At page 12 of the brief, appellant states, "He had a home from which the defendant left. He had it open for her for seven years. He pleaded with her to come back." Inasmuch as the assertion is baldly made, without any citation to testimony, it may be taken that our adversary fully appreciates that this is what *should have been done* but is at a loss in this case to prove that it was done.

### Conclusion

A reading of the testimony clearly establishes the failure of petitioner to make out a case of desertion. All things being equal on the same set of facts, and the husband being the stronger of the two parties, defendant was entitled to a dissolution of the marriage. Inasmuch as the Advisory Master below personally examined the witnesses, his statements as to facts are entitled to great weight—a proposition already stated by this Court several times. After pointing out that the petitioner's case was not corroborated, he said, "However, on the other hand, the defendant is corroborated as to all the circumstances surrounding the commencement of the desertion, and it

clearly appears that she has made out a case in accordance with the counterclaim filed herein, and that the petitioner is guilty of wilful, continued and obstinate desertion within the meaning of the statute in such case made and provided" (State of case, p. 80, lines 1 to 10).

Respectfully submitted,

RICHARD J. FITZ MAURICE,  
*Solicitor for and of Counsel with*  
*Defendant-Respondent.*

ANARD W. LITTMAN,  
*On the Brief.*

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clearly appears that she has made out a case in accordance with the counterclaim filed herein, and that the petitioner is guilty of wilful, continued and obstinate disobedience within the meaning of the statute in such case made and provided" (State of Mass. p. 26, lines 1 to 10).

Respectfully submitted,

RICHARD J. FITZ MAURICE,  
*Solicitor for and of Counsel with*  
*Defendant-Respondent*

ANAND W. LITTMAN,  
*On the Brief*