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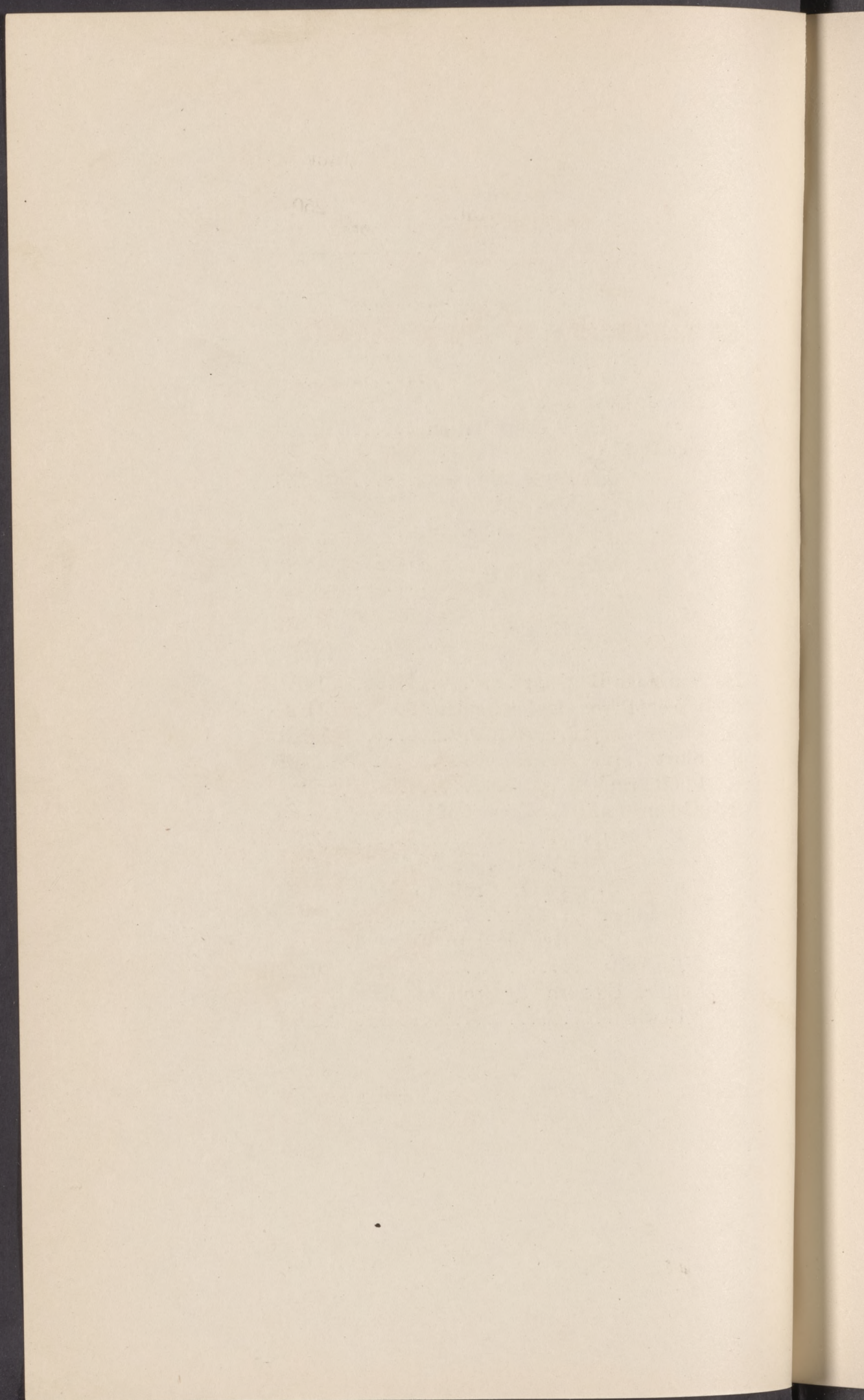
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*Petition.*

**PETITION.**

Filed November 16, 1923.

**In Chancery of New Jersey**

*To his Honor, Edwin Robert Walker, Chancellor  
of the State of New Jersey:* 10

The petition of Thomas N. Bradfield, of the City of Newark, County of Essex and State of New Jersey, respectfully shows:

1. Your petitioner was lawfully joined in the bonds of matrimony to his present wife, Elsie K. Bradfield, the defendant in this suit, on October 22, 1902, by Rev. Thomas I. Coultas, of Roseville Methodist Church, in Newark, New Jersey. 20

2. The defendant since her marriage to your petitioner, and on the 8th day of November, 1923, and at various times theretofore, committed adultery with Thomas P. Fay, in the Borough of Manhattan, in the City, County and State of New York.

3. Your petitioner and the defendant were bona fide residents of the State of New Jersey when this cause of action arose, and ever since the marriage as aforesaid, and they have ever since continued to be bona fide residents of this State down to the commencement of this action, residing at Newark, Essex County, New Jersey, continuously. 30

4. Three children were born of the marriage aforesaid, to wit: E. Doris Bradfield, born on August 26, 1903; Kathryn Bradfield, born on February 5, 1907, and John M. Bradfield, born on July 9, 1909. 40

*Petition.*

5. Your petitioner prays that the marriage between your petitioner and the defendant may be dissolved for the cause aforesaid, according to the statutes in such case made and provided, and that your petitioner may be awarded the custody of the said children, and that he may  
 10 have such other and further relief as may be just.

And your petitioner will ever pray, etc.

EDWARD I. CROLL,  
 Solicitor of Petitioner.

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

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

Sworn to and subscribed before me  
 this 15th day of November,  
 1923, at Newark, New Jersey.

30

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*Answer and Cross-petition.*

**ANSWER AND CROSS PETITION.**

Filed January 30, 1924.

The answer of Elsie K. Bradfield, defendant to the petition of Thomas N. Bradfield, petitioner:

10

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

2. This defendant denies that since her said marriage and on the 8th day of November, 1923, or at any other time, she committed adultery with the person alleged in the Borough of Manhattan in the City, County and State of New York, as in said petition alleged, or that she committed adultery with said person alleged, or any person, at any other time or place, but, on the contrary, this defendant says that she has ever faithfully observed her obligations as the wife of the petitioner.

20

3. This defendant admits it to be true that the petitioner and this defendant were bona fide residents of the State of New Jersey when this supposed cause of action arose as alleged in the petition and that this defendant has ever since continued to be a bona fide resident of this State down to the time of the commencement of this action, residing at No. 283 North 7th street, in the City of Newark. She likewise admits that the petitioner is and has been a bona fide resident of the State of New Jersey, but says that the said petitioner, since the month of March, 1923, has actually deserted the home which he owns at No. 283 North 7th Street, aforesaid in the City of Newark, and has since lived, and now

30

40

*Answer and Cross-petition.*

resides with his sister, Mrs. R. L. Ross, at No. 106 Halsey street in the said City of Newark.

4. This defendant admits it to be true that the children were born of said marriage whose names and ages are as stated in the petition, and alleges that all of the said children are in her custody and prefer to live with her.

5. She prays that the said petition may be dismissed with her reasonable costs and charges in that behalf most wrongfully sustained.

AND THIS DEFENDANT BY WAY OF CROSS PETITION EXHIBITED AGAINST THE PETITIONER SAYS:

1. The defendant cohabited with the petitioner from the time of their marriage as set out in said petition, until some time in the month of December, 1920, when the petitioner deserted defendant, ever since which time and for more than two years last past said petitioner has wilfully, continuedly and obstinately deserted this defendant.

2. Defendant and petitioner cohabited for about fifteen years from the date of their marriage, and during the early part of that period petitioner treated this defendant kindly and maintained and supported her, but in or about the year 1913, petitioner commenced a course of cruel and abusive treatment of defendant and did continue the same without provocation or just cause until defendant was compelled to cease cohabitation with him, and this defendant particularly specifies the petitioner's misconduct in the second cause of action of this cross petition contained, to which for greater certainty she begs leave to refer, and asserts that, by reason of this

*Answer and Cross-petition.*

extreme cruelty and abuse, the defendant feared for her personal safety, her health became impaired, she was no longer able to discharge her duties as petitioner's wife through such fear, anguish and discomfort and, from October 1, 1917, she separated, by agreement, from her said husband; that they continued to live apart under and pursuant to said agreement, till the month of December, 1920, at which time defendant resumed her residence in the house then and still occupied by the defendant and which belongs to the petitioner, but he has ever since lived in said house apart from the defendant and has refused to cohabit with her. The petitioner, by the true intent and meaning of the statute in such case made and provided, has ever since the month of December, 1920, and for more than two years last past, wilfully, continuedly and obstinately deserted this defendant.

10

20

3. Defendant and petitioner have been bona fide residents of the State of New Jersey for the period stated in petitioner's petition and as admitted in the preceding part of this answer.

FOR A SECOND CAUSE OF ACTION AGAINST THE SAID PETITIONER, DEFENDANT ALLEGES:

30

1. That almost from the beginning of her married life defendant suffered from the violent and ill governed temper of her husband, especially when he was under the influence of liquor, in the use of which, particularly in the latter period of their living together, he frequently indulged. That these attacks, together with the use of vile epithets, cruel conduct, indifference and neglect continued at intervals until they culminated in the instances now particularly described.

40

*Answer and Cross-petition.*

As early as the summer months of June, July and August of the summer of 1914, petitioner became inordinately jealous of this defendant, and while at Budd Lake in the State of New Jersey, on several occasions during those months in said year, falsely accused the defendant of lighting bonfires in the back yard of the house where they lived for the purpose of signaling people, her alleged admirers, to visit her. In the month of August, 1914, he built a spite fence in the yard of the house in the City of Newark where they lived, with the avowed object of preventing the defendant from seeing or talking to her next door neighbor, and, on two occasions, during the month of September-October of that year, blew a bugle on the porch when she was leaving the house for the purpose of calling the attention of the public thereto and humiliating her before her friends and neighbors.

In the months of December, January, February, 1915-1916, and constantly thereafter during each and every month until October, 1917, when, by agreement, the petitioner and defendant separated, he would frequently when defendant lay in bed, light matches near and over her face and place them as close as possible to her; threw toilet articles at her, and on one occasion, broke in bathroom door when defendant was using the bathroom, and frequently, without any excuse whatever would fall into violent temper against this defendant and make threats against her. In the month of June, 1921, when this defendant's mother was seriously ill, which necessitated this defendant's absence from home for a few days as defendant's mother had to be removed to a hospital, the petitioner in the presence of the family physician falsely accused defendant of using the

*Answer and Cross-petition.*

illness of her mother to be absent elsewhere and said her illness was a fake or camouflage.

When this defendant was at Avon, in the summer of 1922, where she was staying with her mother and children, defendant was ill with inflammatory rheumatism and under the care of a physician almost the entire summer, petitioner did not write, visit or give her any attention as such illness demanded. 10

Petitioner would frequently come home in an intoxicated condition during the months of the year commencing 1921, and, on one occasion, in the month of June, 1922, in the presence of the defendant's daughter, he came home so grossly intoxicated that he commenced to abuse defendant, took a carving knife and held it in a threatening manner against her. Told her to "Get out and go her own way," with the result that the family physician had to be sent for, who found him in the grossly intoxicated condition which has been described. It was necessary for said physician to take several stitches in petitioner's head due to a fall on the cellar stairs that night on account of his grossly intoxicated condition. He made faces at defendant and did everything he could to humiliate her in the presence of her daughter Doris; on several occasions when either intoxicated or otherwise, and particularly during the month of May, 1922, he seized defendant by the wrists, trying to turn them down and, finally, in the month of March, 1923, without any justifiable cause, but making untrue and unjust accusations that defendant was not taking proper care of him when he was sick, he left the house, belonging to him, where defendant then lived and still lives, and has never returned thereto. 20 30 40

*Answer and Cross-petition.*

Petitioner had a vicious, insulting letter sent to defendant by counsel to which defendant replied just previous to his leaving his home in March, 1923.

10 Petitioner's profession has always been carried on in the home of his sister, Mrs. R. L. Ross, where petitioner has spent most of his time. Petitioner has been entirely under the domination and influence of his sister and her daughter during defendant's married life.

Petitioner's sister and niece have constantly interfered with family matters to the humiliation, annoyance and distress of this defendant.

20 As a consequence thereof and of this constant and continued course of conduct on the part of the petitioner, which acts amount to extreme cruelty, the defendant has been many times in apprehension of her life and has been subjected to the most cruel and inhuman treatment and humiliated in every way possible before her children, her mother, her neighbors and friends until life has been unbearable.

30 2. Defendant repeats the allegation hereinabove contained in the first cause of action with reference to the residence of the petitioner and this defendant, and she prays that the marriage between this defendant, and the petitioner may be dissolved for the causes aforesaid, namely, desertion and extreme cruelty, according to the statute in such case made and provided; that the petitioner may be compelled by the decree of this Honorable Court to support her and that the custody of the said children, who are, respectively, aged twenty, sixteen and fourteen, may be awarded to her and that she may be permitted to  
40 resume the use of her maiden name and may

*Answer and Cross-petition.*

have such other and further relief as may be just.

And this defendant will ever pray, etc.

ELSIE K. BRADFIELD,  
Defendant.

ROBERT H. McCARTER,           10  
Counsel for Defendant.

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

ELSIE K. BRADFIELD, of full age, being duly sworn, upon her oath deposes and says that she is the cross petitioner named in the foregoing cross petition; that her said cross petition is not made by any collusion between her and the petitioner, but in truth and good faith for the causes set forth in said cross petition.   20

ELSIE K. BRADFIELD.

Sworn to and subscribed before me  
this 28th day of January, 1924.

E. IRENE THOMPSON,  
(SEAL)           Notary Public of N. J.

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40

*Answer to Cross-petition.*

**ANSWER TO CROSS PETITION.**

Filed March 1, 1924.

The answer of Thomas N. Bradfield, petitioner, to the cross petition of Elsie K. Bradfield, defendant.

10 1. The petitioner denies that he deserted the defendant as set forth, or otherwise.

2. The petitioner denies that he commenced a course of cruel and abusive treatment of the defendant, or that she feared for her personal safety or that her health became impaired. They separated about a month before September 22, 1917, and on that date formal articles of separation were drawn, in which the defendant was represented by counsel, and under the terms of  
20 which articles, a separation for two years was agreed upon. At their conclusion, she remained away for a further period of over a year, or until about December 22, 1920. During the intervening period, although solicited and invited and urged by the petitioner and his attorney, to return, she remained away continuously, although every effort to have her return was futile, and the home was open to her and she would have  
30 been welcome. As to living apart from her, they have occupied separate rooms for approximately sixteen years. While it is true that there have been no marital relations, this condition has existed since about August, 1917, but there has been no refusal on his part, nor have there been any requests on her part.

By way of answer to the second cause of action set forth in the cross petition:

40 1. It is untrue that the petitioner was ever under the influence of liquor, and that in that

*Answer to Cross-petition.*

condition, he displayed violent temper, or that he used vile epithets, displayed cruel conduct, indifference and neglect.

It is untrue that petitioner became inordinately jealous in 1914. It is true, however, that he objected to the attentions of a neighbor, one Allen, and remonstrated with her about them. The allegation of the spite fence is entirely untrue, as is the bugle incident referred to in the same paragraph, and as is the incident of the lighting of matches near and over her face, or the throwing of toilet articles, or the alleged breaking into a bathroom. 10

It is untrue that in 1922 and 1921, in the presence of their daughter, the petitioner came home intoxicated, and made gestures or threats with a carving knife, or that he told her to get out, or that he fell necessitating physicians taking stitches in his head due to a fall, or that he seized her in May, 1922, or at any time in his life. As to incidents in March, 1923, and charges that he accused her of failing to take proper care of him, while he was seriously and almost fatally ill, it is true that this was the case, she leaving him for days at a time, and attempting to discharge a nurse, who was by order of his physician, in twenty-four hour attendance. As petitioner was thereafter informed, this fact was reported to his attorney, who thereupon wrote her, resulting in the retention of the nurse. Thereafter, when his condition became less alarming, by orders of his physician, he was taken to his sister's home, where he has ever since been. It is not true that he has been under the domination or influence of his sister, or that she or anyone else have interfered or annoyed her. There were no acts of cruelty, extreme or otherwise, nor is there any 20 30 40

*Answer to Cross-petition.*

basis of fact in the alleged apprehension of her life.

3. Soon after he removed to his sister's home, detectives were employed. It had been frequently reported to the petitioner, that his wife had been seen with a white-haired man of apparently advanced years, at many places, in Newark, New York, and at the seashore. After her return to the house in 1920, she remained away many nights, sometimes three in succession. This aroused petitioner's suspicions, and was not explained by her, although he took her to task for it. Soon after the leaving of the house by him, and the engaging of detectives, it was reported by them to him that Thomas P. Fay, of Long Branch, a well-known and prominent lawyer was very frequently in her company, that they met in New York, went to theatres together, that they met in Avon, Long Branch and Belmar, resorting to various subterfuges and deceptions, also that he called at her home, remaining for hours, after driving in taxicabs together, furtively leaving each other, rejoining at his home, going to restaurants, and otherwise practicing various deceptions and sly devices. These incidents culminated on November 8, 1923, when the defendant and Thomas P. Fay were at the Pennsylvania Hotel in New York, registered as man and wife, and were found in the room together, she completely disrobed, except for a bath robe.

This petitioner prays that the cross petition may be hence dismissed with his reasonable costs and charges.

THOMAS N. BRADFIELD,  
Petitioner and Defendant in Cross Petition.

EDWARD I. CROLL,  
Solicitor of Petitioner and Defendant  
in Cross Petition.

*Dr. Thomas N. Bradfield, direct.*

IN CHANCERY OF NEW JERSEY.

*Between*

THOMAS N. BRADFIELD,  
*Petitioner,*

*and*

ELSIE K. BRADFIELD,  
*Defendant,*  
*Cross Petitioner.*

10

Transcript of testimony taken before the Hon. John E. Foster, Vice-Chancellor, at Chancery Chambers, Newark, New Jersey, on Monday, September 15, 1924, at ten o'clock A. M.

Appearances:

20

Edward I. Croll, Esq., for petitioner.

Robert H. McCarter, Esq., for defendant, cross petitioner.

DR. THOMAS N. BRADFIELD, duly sworn on behalf of petitioner, for

*Direct examination* by Mr. Croll.

Q Doctor, what is your business? A I am a dentist. 30

Q How long have you been a dentist? A Since 1891.

The Court: 1891?

The Witness: Yes.

Q Where do you live, doctor? A I live— 283 North Seventh street is my home.

Q Where are you living? A 106 Halsey street.

40

*Dr. Thomas N. Bradfield, direct.*

The Court: Do you mean in the City of Newark?

The Witness: Newark.

Q How long have you lived in Newark? A All my life.

10 Q How old are you? A I am fifty-three years—fifty-four this year.

Q When were you married? A I was married on October 22, 1902.

Q To whom were you married? A To Elsie K. Erwin.

Mr. Croll: By consent I am offering a copy from the marriage register of the Roseville Methodist Episcopal Church.

20 (Marked Exhibit P. 1.)

Q Have you any children? A Three.

Q What are their names and ages?

Mr. McCarter: It is all admitted in the pleadings.

The Court: What are their names?

30 The Witness: Doris Bradfield, she was born August 26, 1903, and Catherine was born February 5, 1907, and Jack was born July 9, 1909.

Q Have you lived continuously in Newark all your life? A All my life.

Q You have never lived anywhere else? A Never lived anywhere else.

Q Has your wife lived in Newark since you have been married? A Yes, sir.

*Joseph M. Thatcher, direct.*

*Cross examination by Mr. McCarter.*

Q You said you lived at 283 North Seventh street. How long is it since you have been in the house at 283 North Seventh? A How long since I have been in there? I went up there this summer with Dr. Morrison.

Q You haven't been living there? A I haven't been living there since March 10th, last year. 10

The Court: Is that the residence of Mrs. Bradfield?

Mr. McCarter: Yes.

Q March 10th—then you left, didn't you? A Then I left, yes.

Q 1922 or 1923? A 1923. 20

Q Well, now, aren't you mistaken there? A No, sir.

The Court: That would be a little over a year ago, or over two years ago?

The Witness: A year.

Mr. Croll: I want to proceed a little bit out of the ordinary because I have a detective here who is employed in the Hotel Pennsylvania. 30

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JOSEPH M. THATCHER, duly sworn for petitioner, for

*Direct examination by Mr. Croll.*

Q Where do you live? A Twenty Carnegie avenue, East Orange. 40

*Joseph M. Thatcher, direct.*

Q What is your business? A House officer.

Q Where? A Hotel Pennsylvania, New York.

Q Were you such house officer on the 8th day of November, 1923? A I was.

10 Q Now your subpoena *duces tecum* called for the production by you of a register—have you produced such register? A I have, sir.

Q This is the register which was produced (indicating)? A Yes, sir.

Q Now, can you tell me what this register is?

The Court: What do you mean by that?

Q Is that the register of the Hotel Pennsylvania? A That is the register.

20 Q For what period is that the register? A That is the 19th sheet of the register, for the period of November 8, 1923.

Q Does the name of Thomas P. Fay appear on that register? A It does, on the first line.

Q Will you be good enough to read that? A Mr. and Mrs. Thomas P. Fay, Long Branch, N. J.

Q What else appears on that register? A The room number 232.

30 Q Does it appear at what hour the registry was made? A Five-thirty P. M.

Q Does anything else appear there? A Nothing but the number of the account.

Q Just what does account mean in that connection—house account, or what account? A It is the booking account.

The Court: The charge for the rooms?

40 The Witness: Yes, sir, the number served to identify the account in the bookkeeping department—the accounting department.

*Joseph M. Thatcher, direct.*

Q Does it appear whether the room was paid for? A No, sir, it doesn't say.

Q That means it was charged? A That means it was charged.

Q Do you know of your own knowledge to whom it was charged? A Yes, sir.

Mr. McCarter: I object. 10

The Court: Does it make any difference?

Mr. Croll: No.

The Court: What is the objection?

Mr. McCarter: He testified—

The Court: Mr. Croll asked to whom it was charged or if it was paid.

The Witness: It is a question of who is charged.

Mr. Croll: I asked him if he knew of his own knowledge by whom it was paid. 20

Q Do you know of your own knowledge? A Yes.

Q To whom it was charged?

Mr. McCarter: I object.

The Court: Do you know?

The Witness: I do. 30

Q To whom was it charged? A Thomas P. Fay.

Q Does Thomas P. Fay have an account at that hotel? A That I can't state, sir, I don't know.

Q Were you present when that registry was made? A No, sir.

Mr. Croll: I offer it in evidence.

(Marked Exhibit P. 2.) 40

*Joseph M. Thatcher, cross.*

*Cross examination by Mr. McCarter.*

Q Are you a bookkeeper? A No, sir, I am a house officer.

Q How many bookkeepers are there? A A great number—I couldn't tell you how many.

10 Q How did you find the hour here? A It is in the left-hand column there.

The Court: Whose handwriting is that?

The Witness: The room clerk's.

Q Charges are on books, are they not? A They are, sir, likewise on the bill.

Q On the what? A On the bill which is made up at the same time as the registry list.

Q And they are records in the office of the  
20 hotel? A Yes, sir.

Q You haven't them here? A No, sir.

Q And in your statement with reference to what charge was made, you are speaking of some documents that are not here? A Yes, sir.

Mr. McCarter: I move that this witness' evidence be stricken out.

The Court: Is that the only ground on which you base your statement?

30 The Witness: The ground on which I base my statement is that I took the man to the bill clerk and seen him pay his bill.

The Court: The man who made the registry?

The Witness: Yes, sir.

Q Do you know Thomas P. Fay, of Long Branch? A I took him from Room 232 and took him down and checked him out, to see that  
40 he paid his bill.

*Joseph M. Thatcher, re-direct.*

Q When was that? A About midnight, November 8th.

Q Do you recall the hour? A About midnight—it was shortly before midnight when I went to his room and possibly a little after when we closed up the book.

The Court: There is a letter “D” on this registry in lead pencil. Can you tell me what that means? 10

The Witness: Letter “D”?

The Court: It seems to be opposite a number of the names registered there.

The Witness: No.

The Court: There are several “G’s” there.

The Witness: I don’t know what that is at all. 20

Q Has that any special significance?

The Court: Well, if he doesn’t know how may he say?

The Witness: It is something that I have no knowledge of whatever.

*Re-direct examination by Mr. Croll.* 30

Q Mr. Thatcher, did you see Mrs. Bradfield on the night of November eighth? A I did.

Q Where did you see her that night? A In room 232, Hotel Pennsylvania.

Q Will you describe her attire? A She was dressed in very dark clothing—that I can remember, at the time I seen her.

The Court: Street costume? 40

*Robert L. Ross, direct.*

The Witness: Street clothing—hat on—coming out of the room.

Q That was the only time you had seen her?

A The only time I had seen her.

10 Q Do you recognize her in court? A I do, sir.

Q Will you point her out? A She is right here (witness points to Mrs. Bradfield).

Q She is the lady alongside of me? A Yes, sir.

The Court: What time of the day or night was it that you saw Mrs. Bradfield?

The Witness: Shortly after midnight.

20

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ROBERT L. ROSS, duly sworn on behalf of petitioner, for

*Direct examination by Mr. Croll.*

Q Mr. Ross, where do you live? A 106 Halsey street.

30 Q You are related to the parties in this action? A Brother-in-law to Dr. Bradfield.

Q How are you his brother-in-law? A His sister is my wife.

Q And is it at your house that the doctor is now staying? A Yes, sir.

Q Do you remember the night of November eighth? A Yes.

40 Q Describe to the Court and counsel what happened that night so far as you were concerned, and eliminate as much as possible all hearsay. A I was called on the telephone by

*Robert L. Ross, direct.*

Detective Corbally to go to New York, to the Hotel Pennsylvania.

Q What time was that, if you remember? A It was along about at ten o'clock at night here. I left here about ten o'clock at night.

Q What time did you get the message; do you remember that? A The message? Oh, I think it must have been nine-forty-five 10

Q What did you do when you got that message? A I immediately called up Dr. Morrison and told him—

The Court: You can't tell us what conversation you had.

A And we met with Detective Corbally at the Tube station. 20

The Court: You and Dr. Morrison?

The Witness: Dr. Morrison and I.

Q And you and Inspector Corbally and Dr. Morrison were the only three? A That went over.

Q Where did you go? A Direct to the Pennsylvania Hotel.

Q Describe what you did there? A Registered there. 30

The Court: At what hour?

The Witness: Ten-fifty.

Q What room were you assigned to? A 233.

Q Do you know where that room is with reference to room 232? A Yes, it is diagonally opposite. It is sort of, well, just on a diagonal point. You can see from 233 standing in the 40

*Robert L. Ross, direct.*

doorway, looking over to 232. It is not directly opposite, but just a little below.

Q Who registered in that room? A Thomas P. Fay and wife.

Q I mean in your room? A Dr. Morrison and myself.

10 Q And what did you do then? A We went up to the room and waited there, and after being there a short time—I don't know just exactly the time—fifteen or twenty minutes, Mrs. Bradfield came in and opened the door to room 232.

Q Was anybody with her then? A No, sir—and went in.

The Court: That would be about eleven o'clock?

20 The Witness: I should say about quarter-after eleven. As near as I can remember, and then we waited some time—probably a half hour or less, and Mr. Fay came in, knocked on the door and was admitted, after which Dr. Morrison, Mr. Corbally and his son and Mr. Flarity and myself entered the room.

The Court: How long after Fay entered the room did your party enter?

30 The Witness: Immediately after.

Q How far had Fay gotten into the room when you entered? A When I came in—I was the last one—he was in the middle of the floor of the room.

The Court: Where was Mrs. Bradfield?

40 The Witness: Mrs. Bradfield was standing back of the door—the entrance door, immediately as I went in.

*Robert L. Ross, direct.*

Q Did you know who opened the door? A I don't know—I presume—

The Court: Not what you presume, what you saw.

The Witness: The door was open when I went in.

10

Q Was anyone in the room outside of Mrs. Bradfield and Mr. Fay? A No.

Q What did you see in the room? A Mrs. Bradfield was wrapped in a blanket and foot marks apparently having come out of the bathroom, and she was entirely disrobed, as far as I was able to see, except for the blanket which was around her.

Q Did she say anything to you? A No.

Q Did you say anything to her? A No.

20

Q What else did you see in the room? A I saw her stockings and her shoes on the floor, immediately outside the bathtub, or the bathroom.

Q Did you see any masculine clothes in the room? A I saw a bag on one of the dressers, and a man's collar lying on the dresser.

Q Do you know to whom the bag belonged? A I couldn't say, sir.

30

Q Do you know to whom the collar belonged?

A I understood it belonged to Mr. Fay, as far as I knew.

The Court: Did you know?

The Witness: I don't know positively; no, sir.

Q Was any other article of masculine attire in that room, so far as you saw? A I saw no other masculine attire.

40

*Robert L. Ross, direct.*

Q Where was that collar? A On the dresser on the further side of the room. There were two dressers in the room.

Q Describe what happened after you got into the room. A Why, we stood there and Mr. Corbally asked Dr. Morrison and myself who this lady was, and we said, both of us, or I said, "Mrs. Bradfield." He asked if we knew her and we said, "Yes," it was Mrs. Bradfield.

Q What else was said or done? A I don't recall.

Q How long did you stay in the room? A In the room? We stayed there a very short time.

Q Who left with you? A We all left together.

Q Mr. Fay and Mrs. Bradfield, you mean? A Mrs. Bradfield went into the closet, clothes closet, and dressed, and immediately went out.

Q She went out before you did? A Went out before we did.

Q Did she go out alone? A She went out alone.

Q What did Mr. Fay do? A Mr. Fay stood there a few moments, or a moment, and then he called her and went immediately out himself.

Q Do you know whether he joined her? A He did not.

The Court: As I understand, Dr. Bradfield was in this party?

The Witness: No, Dr. Bradfield was not, sir.

Q Dr. Bradfield wasn't with you at all? A No, sir.

Q What did you do thereafter? A We immediately came to Newark.

*Robert L. Ross, cross.*

Q Were you in the room at any time before Mrs. Bradfield arrived there? A No, sir.

Q Was any of your party, so far as you know? A I think—in fact, I know Mr. Flarity went in and looked in the room.

Q Mr. Flarity is one of the detectives? A Yes, sir. 10

*Cross examination by Mr. McCarter.*

Q What did you say Flarity did? A He is one of the Corbally Detective agents.

Q Repeat the question, Mr. Stenographer. (Question repeated.) A He looked in the room.

Q Did you see him? A I saw him; yes, sir; go and look in the room before Mrs. Bradfield came in. 20

Q Was the room locked? A No, it was open—there was a maid in there.

Q Did you see the maid? A I saw the maid come out.

Q You saw the maid come out? A Yes.

Q What time was that? A I should say along about eleven-ten or eleven-fifteen.

The Court: That would be about five or ten minutes before Mrs. Bradfield arrived? 30

The Witness: Five or ten minutes before she arrived.

Q You saw the maid come out—what is that maid's name? A I couldn't tell you, sir; I don't know.

Q How far was the door of your room, #233, from the door of 232? A Well, it was across a hall in the hotel, and it was a diagonal position. You could stand in the bathroom of 233— 40

*Robert L. Ross, cross.*

it was on the right, going into the entrance, and you could look from the bathroom across to room 232.

The Court: How many feet away?

10 The Witness: I should say were about eight feet, or nine, away.

Q And do I understand, Mr. Ross, from your statement just made, that the bathroom door was right opposite the door of room 232? A No, sir, not the bathroom door—the bathroom—

Q How could you look from the bathroom? A The bathroom was in 233, in the front of the room, right off the entrance to 233. It wasn't  
20 back any. It was the immediate—if you came in the room of 233, right to your left immediately there was a door and you could stand in the doorway of the bathroom and look across to 232.

Q Look where, into the door? A Out of the open door—the door was open.

The Court: There was no bathroom door in the corridor?

30 The Witness: No, sir.

Q Then, I was right—the bathroom door was opposite the door of 232? A No, sir, I say the bathroom door—the bathroom door was immediately there, inside the door.

Q Whose bathroom are you talking about? A In our room.

Q What room? A 233. You could stand in the door and looked across to the hallway  
40 here, to 232.

*Robert L. Ross, cross.*

Q You would have to have the room door open. A Yes, sir; our room door was open and the lights was out.

The Court: So, you had to have the bathroom door open and the room door open?

The Witness: Yes, sir, the door was never closed. 10

Q What door? A Of 233.

The Court: Was Mr. Fay fully dressed—overcoat and hat—when you found him standing in the room?

The Witness: He had his hat off. His hat was off and his overcoat, I believe, was on his arm, so far as I can recall. 20

Q Now, you reached the room at about what time? A I reached the hotel at ten-fifty, immediately went upstairs, so it must have been along about eleven o'clock.

Q Yes; and there were five of you together? A Yes, sir.

Q Dr. Bradfield wasn't there? A He was not; he was ill, sir.

Q And you ensconced yourselves all in the bathroom? A Oh, no, we didn't. Two of them got in the doorway—the back, a little from the door. Our door of 233 opened this way (indicating) if I can describe it clearly to you—it opened to your left—the door opened to your left. 30

Q The question is, where were you? A I was back further, in the rear of the room.

Q Where were the five gentlemen? A We were distributed in that room—in the entrance 40

*Robert L. Ross, cross.*

to 233. I think one or two of them were in the bathroom looking out from the bathroom, bent on the door.

Q Was there a door from the bathroom to the hall? A A door from the bathroom to the room, but not to the hall.

10 Q Well, three of you were in the bedroom and two of them were in the bathroom? A I am not sure whether there was one or two in the bathroom. I couldn't say to that. I know there was one and I know who the one was.

Q Where were you when Flarity went into room 232? A I didn't go in.

The Court: Where were you when he went in?

20 The Witness: I was standing in the entrance to 233 and saw him go down and look in there.

Q He didn't go in—he just looked in? A I think he just looked in.

Q Did you say you saw the maid come out? A I saw the maid pass.

Q Pass where? A Down the hallway.

Q You didn't see her come out of the room? A No, sir, I did not.

30 Q While you were thus waiting you heard Mr. Fay come down the corridor? A Saw him come down the corridor.

Q You knew him by sight? A No, sir, I didn't know the man at all.

Q He knocked on the door? A Yes, sir.

Q You heard that? A Heard the knock, standing right there. When he went by we all crowded to the front of the room.

40 Q All of you crowded to the front of the room? A To the door of 233.

*Robert L. Ross, cross.*

Q And some immediately went over there?

A Why, we all went over. I was the last one to go over.

Q Then, the four preceded you? A Yes, sir.

Q And the door never got fully shut? A No, sir.

Q Who was next to the door? A I couldn't 10  
say. I was the fifth one going in, so I couldn't see who pushed the door.

Q But before the door was actually closed your companions, at least, were there, and entered the room? A Yes, sir; we entered the room while the door was partly opened.

The Court: Before the door was fully closed after Mr. Fay's entrance into the room those men who had preceded you had 20  
reached the door and some had gone in; is that right?

The Witness: Yes, sir.

Q How far did Mr. Fay stand from the doorway when you got there? A He was about in the middle of the floor.

Q And what time elapsed between the time he passed the door jamb and your party went into the room? A Very little time. I suppose, 30  
two or three minutes, as far as I can tell.

Q What do you mean by a dresser, a bureau?

A Yes, sir; two bureaus.

Q I understood you to say that the bag stood on the dresser? A There was a traveling bag stood on the dresser.

Q What kind of a bag was it? A Black bag.

Q Black bag—sort of alligator skin? A Yes, 40  
sir, as far as I could see.

*John B. Morrison, direct.*

Q That was up on the dresser? A Yes, sir, on the dresser.

Q And one collar, you say, was also on the same dresser? A Yes, sir; a man's collar.

Q Did you notice that Mr. Fay was in evening clothes when he came in? A I know he had, as far as I could see, his dinner coat on, or something of that kind.

10

Q How many beds were there in that room? A Two.

Q Did they show any evidence of having been disturbed? A No, sir.

*Re-direct examination by Mr. Croll.*

Q Did I understand you to say Mr. Fay had a dinner coat on? A So far as I could tell, he had a low cut vest on, which would appear as if he had a dinner coat on.

20

Q Did you see any other clothing in the room of his? A No.

Q Except the collar? Did you see any masculine clothing in the room except a collar? A I didn't see any other clothing but the collar.

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30 JOHN B. MORRISON, duly sworn on behalf of petitioner, for

*Direct examination by Mr. Croll.*

Q Doctor, you are a physician? A Yes, sir.

Q Where do you live? A 97 Halsey street, Newark.

Q How long have you been a physician in Newark? A Twenty-six years—twenty-five years.

40

*John B. Morrison, direct.*

Q Do you know Dr. Bradfield? A I have known him twenty-four years.

Q Do you know Mrs. Bradfield? A I do.

Q How well do you know her? A I have known her twenty-one years—brought her three children in the world.

Q You brought the three children into the world? A Yes, sir. 10

Q Were you present on the night of November 8th in the Hotel Pennsylvania? A I was.

Q Describe what you saw there. A I registered in that hotel in room 233 at five minutes of eleven on the night of November 8th.

Q Who was with you? A Mr. Ross and Mr. Corbally.

Q Which Mr. Corbally? A Inspector Corbally; the father. We went upstairs to the room, I should judge, about five minutes after eleven, and we went in the room and left the door open, with the lights out. Mr. Flarity and myself were in the hall and saw the door of room 232 open and a maid enter to fix the room up. Mr. Corbally asked her— 20

The Court: You can't tell that.

The Witness: She made up the room. One of the beds had been disturbed and she made that bed up. 30

Q Did you see that bed? A I saw that bed being made up.

Q Where were you when you saw that? A I was in the corridor, outside the door.

Q How far out? A Two feet. I was standing directly in front of the door of room 232.

*John B. Morrison, direct.*

Q How many beds were there in the room?

A Two beds.

Q How many beds in the room had been disturbed? A One.

Q What was the character of the beds? A Two single beds.

10 Q Connected or adjacent? A Space between them.

Q Were they what is known as twin beds?

A Yes, sir, twin beds.

Q And one of these beds had been disturbed?

A Yes, sir.

Q What else did you see? A I saw a little traveling bag on a low dresser, and a gentleman's collar on that dresser.

Q What else did you see in the way of attire?

20 A At that time, nothing.

Q Did you thereafter see any other clothing?

A Yes, sir.

Q Masculine clothing? A No.

Q What clothing did you see? A Subsequently when I entered the room I found a lady's silk slip in the bathroom.

Q How long was Mr. Flarity in the room preliminarily? A He wasn't in the room—he was in the corridor with me.

30 Q Was Flarity in the room? A No.

Q He was in the corridor? A Yes.

Q How long did he stay there with you? A Until the maid come out and closed the door.

Q Did the maid know he was looking in the room? A Yes, they spoke to one another.

Q What else did you see? What occurred then or thereafter? A I went back to the room.

40 Q To your room? A Into 233. The room was so arranged—there was a bathroom off

*John B. Morrison, direct.*

there, just as if the bathroom was inside this door (indicating), and we could look over the step of 233 across the hall and into 232 and the view was not obstructed.

The Court: From the bathroom of 233 you could look across to 232?

10

The Witness: Yes, sir.

The Court: You said you went back to the room, and I understood you to say you went back to 232?

The Witness: No, 233.

The Court: You had, from the doorway of the bathroom, through the door of the room, an unobstructed view of the door of room 232?

The Witness: Yes, sir.

20

Q What did you see? A About ten minutes, or quarter-past eleven, I recognized Mrs. Bradfield coming down the hall and she opened room 232 and entered. Probably twenty-five minutes of twelve, or twenty minutes of twelve, a tall, gray-haired gentleman, with heavy glasses came down the corridor, tapped very lightly on the door, and was admitted.

Q Do you know by whom he was admitted? 30

A By Mrs. Bradfield.

Q Were you able to see her? A Subsequently.

Q What happened then? A He entered and the door was partly closed behind him when I put my foot in the door and kept it from being closed and then we all went in.

Q Describe what happened? A Mrs. Bradfield was standing with her arm up on the door, just as she had opened it. She was clad in a 40

*John B. Morrison, direct.*

blanket. Her right arm and shoulder and part  
of her bust was exposed. Immediately when she  
saw someone else was coming in in back of Fay,  
she covered herself with the blanket and kept it  
covered over her the rest of the time we were in  
the room. On the rug were half a dozen wet  
10 footmarks. In front of the dresser were a  
pair of lady's gray silk stockings and a pair of  
gray suede pumps. On the smaller dresser, as I  
said, were a gentlemen's traveling bag and a col-  
lar. On the largest dresser there were some  
trinkets of jewelry with a lavalier or a string of  
beads, and contents of a vanity case. Mr. Fay  
was standing inside the room just ahead of me  
as we entered, possibly three or four feet away.

Q Did Mr. Fay say anything? A No.

20 Q Did Mrs. Bradfield say anything? A No.

The Court: What was said by anybody?

The Witness: The first thing said, that I  
recall was Flarity, I think it was, asked Mr.  
Fay if he didn't recognize him.

The Court: If he didn't recognize  
Flarity?

30 The Witness: Yes, sir. And then Flarity  
called Fay's attention to the fact that he had  
traveled with him over Monmouth County in  
an election campaign.

Q Was it mentioned what campaign? A I  
don't recall that. Then Inspector Corbally asked  
Mr. Ross if he recognized Mrs. Bradfield, and  
asked me the same thing.

40 Q Did you notice the condition of the beds  
when you got in the room? A The beds were  
made up and smoothed.

*John B. Morrison, cross.*

Q The beds seemed not to have been disturbed? A Not to have been disturbed.

Q How long did you stay in that room? A Until a few minutes after midnight, probably ten minutes after twelve.

Q Who left the room at the time you did? A Mrs. Bradfield left first, after a little conversation with Mr. Fay, and then the rest of us left together. 10

Q You returned to Newark? A Yes, sir.

Q And did Mrs. Bradfield leave the room before or after you did? A She left the room before we did.

Q Do you know where she went? A She went home—I saw her subsequently in the tube station, taking the train to Newark. She took the same train we did. 20

Q Do you know where Mr. Fay went? A I don't know—he went out in the street.

Q Mrs. Bradfield took the same train home that you took? A Yes, the same train home we took.

*Cross examination by Mr. McCarter.*

Q Who invited you to go on this errand that night? A Mr. Ross. 30

Q Does your practice of medicine include visits of this character? A No, this was purely a friendly act on the part of a man who has been as close to me as a brother for twenty-odd years.

Q You are very close to Dr. Bradfield? A Yes, sir.

Q Very close to Mr. Morrison?

The Court: This is Mr. Morrison. 40

*John B. Morrison, cross.*

Q I mean Mr. Ross? A Yes, sir.

Q And Mrs. Ross? A Yes, sir, close friends all these years.

Q And when Mr. Ross, after ten o'clock at night asked you to go to New York on this errand, you cheerfully went? A Yes, sir.

10 Q Now it is probably my stupidity, but I haven't yet been able to get, either from you or Mr. Ross, a very intelligent idea of the relative locations of these two rooms. Will you tell us whether 232 is on the north or south side of the corridor? A No.

The Court: Just listen while the question is repeated and then give a responsive answer.

20 Q (Question repeated.) A I don't know.

Q Which way did the corridor run, east or west, or north and south? A I couldn't say.

Q You know east and west? A Yes, but I don't know east and west in a hotel, or in an elevator.

Q How high was this? A I think third or fourth floor.

30 Q You can't say whether the corridor upon which these two rooms fronted ran up and down town, in New York, or east and west? A No, I don't know.

The Court: Let him finish his question—you interject your answer before you hear what he is going to ask you; keep still.

40 Q As you came out of the elevator and went to the room, did you go toward the Battery, or toward Central Park, or toward Newark or toward Brooklyn? A I don't know.

*John B. Morrison, cross.*

Q How far did you go from the elevator?

The Court: To get to this room?

The Witness: Oh, probably three times the length of this room.

Q And you have no idea of which way you went? A I would say no. 10

Q Well, if the gentleman who sits over there at the window, writing, represents the door to room 232, where would be the door to room 233?

A About where I am.

Q And where would be the bathroom of 233?

A Just back of me.

Q Of 233? A Yes, back of me, and a little to my right as I sit here.

Q Was it in sight of room 232—more to an occupant of the bathroom than it was to an occupant of room 233? A It depends upon what you call an occupant. If the occupant was just over the door, no; if he was further in the room, yes. 20

Q How long were you upstairs in the hotel before Mrs. Bradfield arrived? A Oh, I think about fifteen minutes.

Q Did the maid enter the room after you were there? A Yes. 30

Q How long was she in the room? A Five minutes, I should say.

Q Did you get her name? A No.

Q Did you go out of room 233 after you got in there, until you went in the room finally? A I went out when the maid was in 232.

Q What is that? A I went out when the maid was in 232.

Q She left the door open? A No, she came out and closed the door. 40

*John B. Morrison, cross.*

Q Pardon me? A She came out and locked the door.

Q But while she was in the room? A She left the door open.

Q Did she have a light lighted? A Yes, sir.

Q Which of the two beds was disturbed? A  
10 The one next to the door.

Q When you say disturbed what do you mean? A The bed clothes were thrown over.

Q All of them? A I can't say all of them. The bed clothes were thrown over the foot of the bed.

Q Dr. Morrison, haven't you stated on more than one occasion that you didn't see any disturbance of the bed clothes but that the maid said the bed clothes had been disturbed? A No,  
20 sir, I have not.

Q And you say that the maid had, between eleven and twelve at night made up the bed? A Yes, sir.

Q You saw her? A I saw her.

Q Saw her make it up? A Yes, sir.

Q Where were you when she was making up the bed? A In the corridor, outside the door.

Q In the door? A Yes, sir.

Q And yet you can't tell us which side of the  
30 corridor or which way the corridor ran? A In the direction of north and south? No.

Q Who else saw that this bed had been disturbed? A Flarity.

Q When did you first learn that the room was unoccupied, room 232? A I don't remember at any time—it was unoccupied until after we left it.

Q After what? A After we left there it was  
40 unoccupied.

*John B. Morrison, cross.*

Q When you first got there there was nobody in the room, was there? A No.

Q Then it wasn't occupied, was it? A No.

Q When did you first learn that? A When the maid was making it up.

Q You made no effort to get in the room or see in the room previous to the time that the maid entered? A No. 10

The Court: Did you register?

The Witness: Yes, sir.

The Court: Did you notice anything upon the registry?

The Witness: We inspected the registry and saw that Mr. and Mrs. Thomas P. Fay, of Long Branch, were registered in room 232.

The Court: How did you get an assignment to room 233? Did you ask for that particular room? 20

The Witness: No, we asked for a room in that corridor, if possible.

Q Who did the asking? A I don't recall whether it was Mr. Ross or myself—it might have been both of us.

Q Both said it? A I think so. 30

Q You both said it? A As far as I recall. We wanted a room on that corridor.

The Court: Did you give any reason for it?

The Witness: No, we didn't give any reason.

Q What did you say? A We asked for a room on that corridor.

40

*John B. Morrison, cross.*

Q What corridor? A The corridor on which room 232 was.

Q You said you saw a red bag? A Yes, sir.

Q What do you mean by a red bag? A Traveling bag.

10 Q Why do you call it red? A Because it was red leather.

Q Red leather? A Brownish leather.

Q What kind of a bag? A It was a large gladstone bag, I guess you would call it.

The Court: Mr. Ross said he saw a black alligator bag.

20 The Witness: I didn't see a black alligator bag. Subsequently, after Mr. Fay came in, he had a brief case, which I think was black. When he came in he brought a brief case with him. I think that was black.

Q You saw that, too? A Yes, sir, a brief case—he didn't want it opened.

The Court: Was there a lady's bag there?

The Witness: Yes, sir.

30 Q What? A He didn't want it opened. He objected to one of the men opening it.

Q When you were asked by Mr. Ross, over the telephone, to go to New York with him, were you apprised of the nature of the errand that you were undertaking? A Yes, sir.

Q You say that you have been for twenty-one years or so, the family physician of Mrs. Bradford? A Yes, sir.

Q Brought all her children into the world?

40 A Yes, sir.

*George J. Dipper, direct.*

*Re-direct examination by Mr. Croll.*

Q Do you remember, doctor, as to the bags, what became of them when you left the room?

A Mr. Fay took them with him.

Q Both of them? A Yes, sir.

The Court: Did Mrs. Bradfield take any bag when she went? 10

The Witness: No, nothing but her little purse.

Q Did Mrs. Bradfield have a bag with her at the tube station when you saw her subsequently?

A I don't think so—I saw her just back of a post—I don't think she had a bag.

Q What tube station was this? A Down- town tube station at Thirty-third street. 20

Q Thirty-third street and Broadway—Sixth avenue? A Yes, sir, Thirty-third and Broadway.

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GEORGE J. DIPPER, duly sworn for petitioner, for

*Direct examination by Mr. Croll.* 30

Q Where do you live, Mr. Dipper? A At the present time I am living in Hoboken, 626 Bloomfield street.

Q Speak up. A 626 Bloomfield street, Hoboken, N. J.

Q What is your business? A Investigator.

Q Are you now employed by the Corbally Detective Agency? A Yes, sir. 40

*George J. Dipper, direct.*

Q You are now employed by them? A At the present time, yes.

Q You mean at the present minute? A Yes, sir.

Q Have you been employed by them latterly? No.

10 Q How long is it since you have been away from the Corbally Agency? A Last December.

Q But you are acting as an investigator otherwise? A Yes, sir.

Q For whom are you acting? A Siedler & Company, 149 Broadway, New York City.

Q Do you know Mrs. Bradfield? A Yes, sir.

20 The Court: Were you employed by the Corbally Agency in November last?

The Witness: Yes, sir.

The Court: From what time to what time?

The Witness: Why, I was employed there in February, 1923, I went to work there.

The Court: And continued up to when?

The Witness: I worked there until along in June or July and then I left there.

30 The Court: June or July of what year?

The Witness: 1923.

The Court: Then you weren't employed by the Corbally Agency in November last.

The Witness: I went back there.

The Court: When?

The Witness: November, 1923.

The Court: What time in November?

The Witness: November first.

40 The Court: And how long did you stay?

*George J. Dipper, direct.*

The Witness: Until about November tenth.

Q Were you discharged or did you leave? A Left.

The Court: When did you resume employment again? 10

The Witness. The very next day, in New York City.

The Court: When did you resume your employment—you say you are working for the agency now.

The Witness: Not exactly working for them, but I am here to testify in the case on which I worked for them.

Q You are not employed by them except as you are employed in this present case? A That is right. 20

Q Do you know Mr. Fay when you see him? A Yes, sir.

Q Is he in this court room? A Yes, sir.

Q Where is he? A Sitting in the rear.

Q Describe what happened so far as you are concerned, and so far as you know, that you know of your own knowledge, on November eighth. 30

A November eighth, I was taking watch from Roseville avenue and Park avenue down to Park avenue and Seventh street, at the home of Dr. Bradfield, and I observed Mrs. Bradfield leave there; leave her home and walk up to Roseville avenue and take a bus, and whether she went directly to the Pennsylvania station or not I don't know, but I remember I saw her there.

Q Did you mention what time that was? A I believe around two o'clock in the afternoon, or 40

*George J. Dipper, direct.*

two-thirty, I am not sure. She went to the Pennsylvania station and took a train there.

Q Market street or Park Place? A Market street, Pennsylvania Railroad, and boarded a train around four or four-fifteen—I am not sure of that because it is so long ago, and she  
10 went—

Q Are you reading from anything? A No.

Q You made notes at the time, did you not?  
A Yes, sir.

Q You have those notes, if necessary? A Yes, sir.

Q You made them immediately after your observations? A I make them as I go along.

Q But you are testifying now from memory?  
A Yes, sir, that is it—I am stating this as near  
20 as possible. She took a train to the Pennsylvania station, Thirty-third street, New York City, and when she alighted from the train she was met by Mr. Fay, downstairs where the trains come in, and Mr. Fay had his bag with him and they walked upstairs and into the Pennsylvania Hotel, and then Mrs. Bradfield, as you go into the hotel—Mrs. Bradfield went to the left towards the elevators, and Mr. Fay went over to the room clerk,  
30 and there was several people ahead of me in the line. Mr. Fay went up and probably—I don't know whether he registered or not, because I couldn't see that.

The Court: Go on with what you did see.

The Witness: I saw him go up to the line and he wrote something but I was unable to see what he wrote. Mr. Fay then went over and entered the elevator and I then called  
40 Mr. Corbally on the phone.

*George J. Dipper, direct.*

Q Do you know where he went to in the elevator? A I don't.

Q Did you know then, or soon thereafter, what room he occupied? A I didn't, until later in the evening.

Q You then telephoned to somebody? A Yes, sir. 10

Q To whom did you telephone? A Inspector Corbally.

Q What happened as the result of your conversation with Inspector Corbally? A I was joined by Mr. Flarity and Mr. Corbally's son, there, at about nine o'clock.

Q Where were you in the interval? A In the lobby of the Pennsylvania Hotel, watching the elevators.

Q For what purpose were you watching the elevators? 20

Mr. McCarter: I object.

The Court: I can assume he was watching for Mr. Fay and Mrs. Bradfield, as he claims.

Q Did you see either Mrs. Bradfield or Mr. Fay before your associates came into the hotel? A No. 30

Q By whom were you joined? A By Mr. Flarity and Mr. Corbally, Frank Corbally, and Mr. Adams.

The Court: Adams?

The Witness: Yes, sir.

The Court: Is he one of the Corbally Agency?

The Witness: Yes, sir. 40

*George J. Dipper, direct.*

Q Frank Corbally is the son of Inspector Corbally? A That is right.

Q Did you see Mr. Ross or Dr. Morrison? A I didn't know them.

Q You didn't see them? A I saw them later on, in the company of Inspector Corbally, but I didn't know who they were.

10 Q Did I understand you to say Frank Corbally and Mr. Adams came there about nine? A About that.

Q What time was it you telephoned to Newark? A Five-twenty, five-thirty, or quarter to six, I am not sure.

Q And do you know what time they registered?

The Court: He didn't say they registered. He said he saw Mr. Fay go to the room clerk and write something.

Q Do you remember what time it was when Mr. Fay went there and wrote something? A It was very close to five o'clock.

Q What happened thereafter, as far as you know? A As far as I know after I called, or after I was joined?

Q They joined you, and what happened then? A And I sat in the lobby of the Pennsylvania Hotel until about twelve-fifteen, or twelve-thirty, when I was instructed that they had entered the room upstairs.

The Court: You didn't go upstairs to the room?

The Witness: No.

Q You were not in the party upstairs? A No.

40

*George J. Dipper, direct.*

Q Did I understand you to say you had resumed work for the Corbally Agency about the first day of November? A Yes, sir.

Q Did you, theretofore, do any work in this matter? A Yes.

Q From what period? A From March 22, 1923, until April 18th.

Q Did you see Mrs. Bradfield and Mr. Fay during that interval? A Yes. 10

Q Separately or together? A Together.

Q Can you state the times when you saw them together?

Mr. McCarter: I object. Is that material, your Honor?

The Court: I think it is competent—I don't know how material it is.

A I can't state how many times. 20

Q Tell some of the times you saw them together—how frequently?

The Court: Let him state it.

A I saw them the first day I was on the job—I saw Mr. Fay at the house. He didn't enter the house this day. The first day they remained in front of the house.

Q What house? A Mrs. Bradfield's house. 30

Q Where? A Seventh street and Park avenue.

Q Yes. A And I saw them in Long Branch together.

Q When? A I will have to look through my reports.

Q Between what periods was it?

The Court: If he has the information let him give it to you.

*George J. Dipper, cross.*

Q Are you able to find that information here?

A I have all that here.

The Court: Do you want to examine him about these reports before he uses them?

Mr. McCarter: Yes, sir.

10

*Cross examination by Mr. McCarter.*

Q Are these your original notes? A Yes, sir.

Mr. McCarter: They seem to be. Those are turned into the agency.

20

Q Where are the original notes you made at the time you made your observations? A I don't make any original notes.

Q You answered Mr. Croll that you made the note at the time of the occurrence. A On a little piece of paper.

Q Have you any paper to show when you saw them together some time in March? A That is the report I sent to the office.

30

Q That is not your original? A That is all scribbled on a piece of paper.

Q How long after do you make up these reports? A Those reports have to be in the office the following morning.

Q Are these the originals or the copies? A The originals.

The Court: You started to tell us you saw Mrs. Bradfield and Mr. Fay in Long Branch. The question is when?

40

The Witness: I can find it in a moment.

*George J. Dipper, cross.*

Mr. Croll: I have copies of the reports and I might be able to point this out, in order to save time.

Mr. McCarter: I think this young man can read his own writing.

The Witness: I have a report here on April first. 10

Q When was it you say you saw him in Long Branch? A I didn't see him in Long Branch—I saw him in Asbury Park.

Q You wish to correct it—change it from Long Branch to Asbury Park? A Yes, sir.

Q When was it? A April 10, 1923.

Q Where? A What is that?

Q Where were they in Asbury Park, on the street? A You want to know what train they left Newark on? 20

Q You said you saw them in Asbury Park—I want to know where, on the street or where?

A They stood near the station when they got in Asbury Park—they stood near the station for a while. Mrs. Bradfield then walked up Madison street and I stayed with Mr. Fay. He went to a real estate office and then he went to a restaurant on Madison street and then he met Mrs. Bradfield at Madison and Main street and they took a taxi. We were unable to get a taxi, but we got information— 30

Q State what you saw and heard yourself?

A That is all I can say about that.

Q What time of the day was it? A It was at two-thirty when Mr. Fay went into the restaurant and he remained in there for forty minutes. After they took the taxi we immediately lost them. 40

*George J. Dipper, re-direct.*

*Re-direct examination by Mr. Croll.*

Q You didn't see them again that day? A Yes, sir.

The Court: When and where?

10 The Witness: At seven twenty-five I was still looking for them. We took the seven o'clock train out of Asbury Park.

The Court: Who did?

The Witness: I took a seven o'clock train out of Asbury Park. It arrived at Long Branch at seven-twenty. Mrs. Bradfield got on there. We changed trains at Elizabethport and arrived at Newark at nine-thirty. We then discontinued for the day.

20 The Court: Who is "we"?

The Witness: I don't mean we. I discontinued for the day at the Jersey Central station.

The Court: Was anybody with you on that trip?

The Witness: Yes, sir.

Q Who? A Operative 22.

30 Q Who is he? A James Cunningham.

Q Did you ever see Mrs. Bradfield and Mr. Fay out together at any other time, excluding this Asbury Park trip and the New York trip in November? A Yes.

Q Where? A At the Maxine Elliott Theatre in New York City.

40 Q Are you able to point to that time? A I haven't the report on that because I didn't write the report. They went to the Maxine Elliott Theatre.

*George J. Dipper, re-direct.*

The Court: Haven't you any recollection of the date?

The Witness: It was around the latter part of March; I am not positive.

The Court: What else happened?

The Witness: They went to the Maxine Elliott Theatre in the afternoon. Coming out of the theatre we lost them. There was nothing more we could do that day. 10

Q Were they in the theatre together? A That I couldn't say. I saw them enter but I didn't see them together inside.

Q Did you go into the theatre? A I did not.

Q Did you see any other operative go in? A Yes, sir.

Q Did you ever see them in any other part of Monmouth County other than Asbury Park? Did you see her in Long Branch at any other time? A No. 20

Q Were you ever at the Imperial Hotel? A No.

The Court: In Long Branch?

Mr. Croll: In Long Branch.

Q Did you ever see Fay in her house or enter her house? A Yes. 30

Q On more than one occasion? A More than one occasion.

Q How many occasions, approximately? A Probably four or five times more.

Q When were those occasions? A I will have to look at my notes again. He called at her house on March twenty-fourth.

The Court: How long did he remain there? 40

*George J. Dipper, re-direct.*

The Witness: He entered the house at eight-fifty-five.

Mr. McCarter: Morning, afternoon or evening?

The Witness: In the evening.

The Court: When did he leave?

10 The Witness: I am just looking for that. Eleven-twenty.

Q Do you know where he went when he left?

A Yes, sir.

Q Will you describe particularly, as far as your notes and memory will enlighten you, just what happened and the circumstances of that trip on March twenty-fourth?

20 The Court: I take it that is 1923?

Mr. Croll: Yes; 1923.

Q Describe minutely what happened. A At eight-fifty-five Mr. Fay came walking down Park avenue and went into the house. The light was lighted in her room before he came.

The Court: Before he came?

30 The Witness: Yes, sir, before he came, and stayed on while he was there, to the best of my knowledge. They didn't leave the parlor any time he was there. At nine o'clock, Operative 21 left for the tube station.

The Court: Is that Cunningham?

The Witness: That is Cunningham; yes, sir.

The Court: He was with you on that same inspection?

40 The Witness: Yes, sir; watch was kept here until eleven-twenty. Mr. Fay was

*George J. Dipper, re-direct.*

observed leaving the house. He walked to Roseville avenue and took a bus, arrived at the Pennsylvania Station at eleven-fifty-five and went into a nearby saloon. To my knowledge, he didn't take a drink—he was reading a paper in there. He then went to the west side of the station and waited for the twelve-thirty-seven train. He then got on the train and went to Long Branch. He took a taxi at Long Branch and we secured a taxi and followed him and went directly to his home at 96 Second avenue.

10

Q Mr. Dipper, did you at that time know the identity of the man? A I didn't—not until this night. This March twenty-fourth was when I learned his identity.

Q Where did you learn his identity? A In Long Branch.

20

Q You didn't know who he was when you saw him in Newark? A No.

Q You learned his name in Long Branch? A I learned it through following his cab; we learned who he was.

Q Now, are you able to remember any other times when you saw them together? A Yes.

Q Do your notes enlighten you any? A Yes; I saw them on April 7, 1923.

30

Q What did you see on April seventh? A I saw Mr. Fay enter the house at 4.30 P. M. in the afternoon, and he remained in there until 5:30, and then they walked to Roseville avenue and took a jitney.

Mr. McCarter: Who did?

The Witness: Mrs. Bradfield.

Mr. McCarter: And Mr. Fay?

40

*George J. Dipper, re-direct.*

The Witness: No.

Mr. McCarter: You said, "they" left at five-thirty.

The Witness: No.

Mr. McCarter: That isn't right, then?

10 The Witness: No. No; wait a minute—I will scratch that out. Mr. Fay came to the house at four-thirty. He left the house at five-thirty alone. At five-forty-five a yellow taxi came to the house and he and Mrs. Bradfield and her mother got into the taxi. I will say that Mr. Fay was with them in the taxi. Mr. Fay was in the taxi when it came.

Mr. McCarter: You say it was empty, and now you say he was in it.

20 The Witness: I am going along further here.

Mr. McCarter: How could you make the statement that it arrived there empty, and that a little later on it contained Mr. Fay?

The Witness: That is the way I write my reports. I just say it arrived. I don't say he was in it.

30 Mr. McCarter: Don't inject something that isn't in your report.

The Witness: All right; I will read it over first.

Q Won't you try to confine yourself to your report and try to get it in accurately. Have you got the facts in relation to that visit? A Yes, I have it. The three of them.

40 The Court: You told me first that Mr. Fay left alone at five-thirty.

*George J. Dipper, re-direct.*

The Witness: Yes, sir.

The Court: And then at five-forty-five a taxi came up empty and took her and her mother away.

The Witness: I want to correct that, that Mr. Fay was in the taxi.

The Court: At five-forty-five, when they 10  
came out?

The Witness: Yes, sir, Mrs. Bradfield came out of the house with her mother. They drove to the Newark Theatre on Market street, Newark.

The Court: Mrs. Bradfield and her mother and Mr. Fay?

The Witness: That is right.

Q You have straightened those things out? 20

A Yes, sir.

Q Tell what happened on that date.

Mr. McCarter: What date is this, April seventh?

Q Tell what happened.

The Court: On which date is this? 30

The Witness: April seventh.

The Court: You say they got in a taxi, she and her mother and went to the theatre in Newark.

The Witness: With Mr. Fay. They remained in the Newark Theatre until seven-ten. On leaving the Newark Theatre they walked south on Broad street to the Central Railroad and then took a taxi. They drove as far as Simonson's Chop House on Broad 40

*George J. Dipper, re-direct.*

street and alighted from the cab and stood there talking a few moments and then walked to the Hotel Riviera. They arrived here at eight o'clock. They entered the restaurant and remained in there until nine-fifteen, at which time they left.

10 Mr. McCarter: Who is "they"?

The Witness: Mr. Fay, Mrs. Bradfield and Mrs. Bradfield's mother.

Mr. McCarter: Go on.

The Witness: They then took a cab and went to the Lincoln Park Hotel on Broad street, near Lincoln Park, where they left her mother. Mrs. Bradfield and Mr. Fay didn't get out of the cab. They then drove, Mrs. Bradfield and Mr. Fay, to Ninth street and Park avenue. Mrs. Bradfield walked down the street alone, to the house. Mr. Fay walked down behind her and entered the house about five minutes later. There was a light in what is known as the "old playroom," in the house, which was the only light that I was able to observe. Mr. Fay left here at eleven forty-five and boarded a Market street jitney, at which time I dis-  
20 continued.  
30

Q Did it appear from your notes how long they were in the house? A I remember clearly it was more than a half hour.

The Court: He was in there about a half hour?

The Witness: Half an hour, yes.

40 Q Had you finished that? A Yes, sir.

*George J. Dipper, re-direct.*

Q Were there any other occasions when you saw them together? A Yes.

Q Tell us what they were—when they were, first. A April 15, 1923.

Q Tell what happened. A Mr. Fay, at ten minutes past eight—

10

The Court: At night?

The Witness: At night, yes—came walking over on Seventh street near Park avenue and then walked across Park avenue and then walked down Park avenue on the same side of the street as Mrs. Bradfield's house, down to the fire house, turned around, came back and then entered the house at about eight-twenty. A light went up in the girls' room. The light went out at nine forty-five. 20

Mr. Fay came out of the house at eleven-twenty and walked up to Park avenue and boarded a bus, at which time I discontinued.

Q Now were there any other occasions when you saw them together? A April 14, 1923. At nine-thirty Mrs. Bradfield was observed going across Park avenue to the side of the street on which she lives.

Q What date is that? A April fourteenth, and right behind her came Mr. Fay. Mr. Fay left here— 30

The Court: Left where? You have them on the street.

The Witness: Didn't I say they entered Mrs. Bradfield's house?

The Court: No, they walked down Park avenue. 40

*George J. Dipper, re-direct.*

The Witness: They entered Mrs. Bradfield's home.

The Court: At what time?

The Witness: At about nine-thirty.

The Court: Did they enter together?

10 The Witness: Yes. Mr. Fay left here at five minutes past eleven at night and boarded a bus, at which time I discontinued.

Q Do you recall any occasion when there was a church episode in New York? A Yes, I have that right here.

20 Q What was that, and when? A On March 31, 1923, at 5:50 P. M. I observed Mr. Fay leaving Mrs. Bradfield's home and walk to Roseville avenue where he boarded a bus. Mr. Fay arrived at the Pennsylvania station, Market street, Newark, and boarded the six thirty-two train going to uptown New York. Fay sat in the waiting room of the station until seven-forty and then walked to St. John's Roman Catholic Church on Thirtieth street between Seventh and Eighth avenues. Mr. Fay left the church at nine o'clock in the evening. He then walked to the Pennsylvania Hotel and went to the barber shop, where I discontinued at ten o'clock.

30 Q Are there any other occasions developed by your notes—disclosed by your notes, when they were together—or that you otherwise recall? A I didn't think I had a report on the day that I went to the Maxine Elliott Theatre, but I have found that.

40 The Court: Did anything more happen than you told us? I have it that you saw them enter the theatre together and when they came out you lost them.

*George J. Dipper, cross.*

The Witness: 'I have here the time Mrs. Bradfield came home.

Q What time did she come home? A Mrs. Bradfield came home along at twelve o'clock midnight—came walking down Park avenue from Roseville avenue—entered her home alone at twelve o'clock midnight.

10

Q Where were you when that happened?  
A Across the street from her house.

Q Were you there in advance of her arrival?  
A Yes, because we had lost her in the afternoon in New York City and were covering her house to see what time she came home.

Q Have you told us all you have of meetings between them? A Yes.

20

*Cross examination by Mr. McCarter.*

Q Mr. Dipper, that batch of reports you have there—do they relate altogether to the time you were on this job? A Except for about four or five days last November when I worked with Mr. Corbally's son, who wrote the reports himself. I didn't write them.

Q When did you commence work on this job?  
A March 22, 1923.

30

Q And how constantly were you on it? A We weren't on the job every day.

Q Look at your reports and see how constantly you were on the job from the beginning to the end. A All right.

The Court: Any other dates than those you have named were you on this work?

The Witness: No, not that I remember. Yes, other days she didn't meet Mr. Fay—

40

*George J. Dipper, cross.*

other days she went shopping and things like that.

10 Q I want to know what dates you were watching Mrs. Bradfield or Mr. Fay? A All that I have? You want to know how many days, or the dates?

The Court: He wants the dates.

Q Can't you tell when you commenced? A I can, March twenty-second I commenced. But I don't know after that. Occasionally there was a day we didn't work on it.

Q You have got before you the reports you made on this case, haven't you? A That is right.

20 Q Give us the dates when you worked—the dates on your reports on this case. A All right, April seventeenth.

Q Weren't you on this case between March twenty-first and April seventeenth? A Yes, I am giving you the dates I was on it.

Q We will save time by giving them in order. A I had them in order.

30 The Court: Take your time, now, and get them in order.

Q Each report has a date, hasn't it? A Yes, sir.

Q Get them in chronological order as quick as you can. A That is what I am doing.

40 Q Now, Mr. Dipper, either looking at those notes, or from your recollection, during what period of dates were you on this particular job of watching Mrs. Bradfield? A Between March

*George J. Dipper, cross.*

twenty-second and April eighteenth, and from November first until November eighth.

Q Between March twenty-second and April eighteenth were you on the job every day? A No.

Q How often—the dates of those reports? A Yes, sir. 10

Q State how often, going through the reports, you were on the job, between March twenty-second and April eighteenth. A March twenty-second, March twenty-fourth, March twenty-seventh, March twenty-eighth, March thirty-first, April sixth, April seventh, April tenth, April eleventh, April twelfth, April thirteenth, April fourteenth, April sixteenth and April nineteenth—no, I haven't got the nineteenth here. 20

The Court: Then you want to strike the nineteenth out?

The Witness: That is what it says—the nineteenth that it is sworn to. This day where I swore to it is the nineteenth of April.

The Court: That would be the day following the day of your investigation?

The Witness: That would be the eighteenth. Also I have the seventeenth and eighteenth of April. 30

The Court: That would make fifteen dates?

The Witness: Yes, sir.

Q What was that last?

The Court: He said that there were fifteen dates. 40

*George J. Dipper, cross.*

Q During that period you were shadowing Mrs. Bradfield? A Were we shadowing Mrs. Bradfield, yes.

Q Was anybody with you all of the time? A Most of the time.

Q Who, Cunningham? A Yes, sir.

10 Q So that during this period there were at least two operators from the Corbally Agency watching Mrs. Bradfield on those dates? A Yes, sir.

Q Was any operative watching her during the same time, when you were not? A Yes, sir.

Q Or during the same time? A Yes, sir.

The Court: Was somebody else assigned to cover her on the days you didn't cover her?  
20

The Witness: Not to my knowledge. I don't know anything about that.

Q But you do know that on these dates you and Cunningham were watching her? A Yes, sir.

The Court: And commencing on the first of November, until the eighth, you resumed operations?  
30

The Witness: Yes, sir.

Q And were with Cunningham at that time? A I was not with Cunningham.

Q But you were on the job daily? A Yes, sir.

Q Watching her? A Yes, sir.

Q Where are your reports? A Those reports I didn't write. Frank Corbally wrote those reports and included myself in the reports.  
40

*George J. Dipper, cross.*

Q He was with you then? A Yes, sir.

Q Now on those dates you watched for her between March twenty-second and April eighteenth, have you told the Court all the times when you saw Mr. Fay? A To the best of my knowledge I have.

Q During that period how much each day did you shadow her? A From the time she left her house—whatever time that happened to be, until all lights were out in her house at night, or unless it appeared at midnight that something was going to happen we would discontinue. 10

Q You have spoken of “the girls’ room,” and this room and that room—how did you know there were girls in the house? A We saw them going in and out.

Q Two daughters and a son? A Yes, sir.

Q Anybody else? A Occasionally someone who I was told was a— 20

Q What does this house consist of? A That I don’t know.

The Court: What kind of a house is it?

The Witness: Single dwelling.

The Court: How near are the neighbors’ houses—close by or some distance from it?

The Witness: Close by on Seventh street. 30  
Otherwise it is a corner house.

Q Now coming down to the first day you saw them at Asbury Park. A Yes.

Q Where did they separate so far as you saw?

Mr. Croll: Have you mentioned the date?

The Witness: The first day was March twenty-second, when I saw Fay in front of the house and he didn’t go in. 40

*George J. Dipper, cross.*

Mr. Croll: Counsel was referring to Asbury Park.

Q The day I have in mind is Asbury Park on the tenth of April. Did you follow her to Asbury Park that day? A Yes, sir.

10 Q From her house? A Yes, sir.

Q What time did she leave her house? A Twelve-fifteen.

Q Where did she go? A From Market street station of the Pennsylvania.

Q I mean in Asbury Park? A Wait a minute. I was going to change that.

Q Why don't you read the report? Fay wasn't with her, was he? A No.

Q Who was with her? A No one.

20 Q Why did you say that? A Because she joined him later.

Q Describe what occurred on the tenth of April, 1923? A Mrs. Bradfield left home alone at twelve-fifteen and proceeded to the Pennsylvania station, Market street, Newark, and there boarded the twelve fifty-seven train going towards Long Branch. At Long Branch Mrs. Bradfield got up out of her seat and went out on the platform as if to get off the train, but she  
30 met Mr. Fay right there at the station in Long Branch.

Q I thought you said she met him right at the station in Asbury Park? A No, I didn't say that.

The Court: That is the way I have it. Go on—you said Madison street—you meant Madison avenue.

Mr. Croll: That was later.

40 The Court: Go on.

*George J. Dipper, cross.*

The Witness: Mr. Fay met her in Long Branch and they stayed on the same train and went to Asbury Park. They alighted from the train in Asbury Park and stood near the station, where they talked for a few moments. Mrs. Bradfield then walked up Madison avenue. Mr. Fay entered a real estate office—upon leaving the real estate office Mr. Fay entered a restaurant on Madison avenue. This was at two-thirty in the afternoon. Mr. Fay remained in here for about forty minutes, then came out and met Mrs. Bradfield at Madison avenue and Main street. They took a taxi. We couldn't get a taxi so we couldn't follow them. 10

Q Which way did the taxi go? A South. 20

Q South? A Yes, sir.

Q Toward Belmar? A That is right.

Q Go on. A We went to Avon.

Q Who went to Avon? A Cunningham and I.

Q What did you go to Avon for? A Because we found out that they had gone to Avon.

Q Did you know that Mrs. Bradfield's mother lived in Avon? A No.

Q How did you find out they had gone to Avon? A The cab driver told us, that took them down. 30

Q You went to Avon—go on? A I remained in Avon.

Q Where? A At the railroad station, in Avon, until five twenty-one and then I went back to Asbury Park and joined Cunningham, who was covering the railroad station in Asbury Park. We then took the seven o'clock train out of Asbury, arriving in Long Branch at seven- 40

*George J. Dipper, cross.*

twenty. Mrs. Bradfield got on the train at Long Branch.

Q Yes. A We had to change trains at Elizabethport, and we arrived in Newark at 9:30 P. M. We then discontinued.

Q Exactly. Now when was the Maxine Elliott  
10 incident? A I don't remember.

The Court: You said the latter part of March. Now you say you have the report. Give the date of it.

The Witness: I have all that right here. That was on April eleventh.

Q April eleventh? A Yes.

Q That was that night? A Yes.

20 Q Now do you know where the parlor was in the house? A Yes.

Q Did you see them on March twenty-fourth, go in the parlor. Did you see Mr. Fay go in the parlor? A On March twenty-fourth?

Q You said they didn't leave the parlor so far as you saw? A I saw them sitting in the parlor.

Q You could see that, could you? A I could see it from the street, yes.

Q Curtains up? A Yes, sir.

30 Q On this date, April seventh, the occasion that they went down and joined the mother—the mother being with them, and went to the Newark Theatre—they then went to Simonson's? A They didn't enter there.

Q They went there? A Yes, sir.

Q And then they went down to the Riviera Restaurant? A That is right.

Q That is the corner of High street and Clinton avenue? A Yes, sir.

40 Q The three of them? A That is right.

*George J. Dipper, cross.*

Q They had something to eat there? A I didn't see them, but I presume so.

Q They came out of there, didn't they? A Yes, sir.

Q They went to the boarding house of Mrs. Bradfield's mother, the Lincoln Hotel? A Yes, sir.

10

Q And left her there? A Yes, sir.

Q And then what happened? A They were in a taxi at this time they left her. They drove to Ninth street and Park avenue.

Q Mrs. Bradfield's home? A No, her home is Seventh street and Park avenue. They got out of the cab and Mrs. Bradfield walked alone to the house. Mr. Fay walked down behind her.

Q What time was this? A This was probably about quarter-past ten.

20

Q Have you any idea? A Yes, sir.

Q Why do you fix it at half-past ten? A Because they came out of the restaurant at nine-fifteen. I haven't the exact time. That is omitted.

Q Half-past ten, you say? And Mr. Fay followed her in the house? A Yes, sir.

Q Now, you spoke of there being a light on in the old playroom. Where is that? A On the second floor on the south side of the house; away from Park avenue.

30

Q Was that light there when you got there? A Yes.

Q What became of Mr. Fay after he went in the house, so far as you saw? A I didn't see him after he went in the house.

The Court: You said he remained there about a half hour?

The Witness: Yes, sir. I don't know what he did in the house.

40

*George J. Dipper, cross.*

Q You couldn't see in that night? A No.

Q What was the reason you couldn't? A Because at that time the job had been going on so long that I didn't want to stay so near the house.

10 Q So you didn't try to see him? A Not this night.

Q Where were you? A Stood on the corner of Roseville avenue and Park avenue.

Q How far away is that? A One block.

Q And waited until Mr. Fay came out? A Yes, sir.

Q So you don't know anything about what transpired after he entered the house on this day? A No.

20 Q Now, on April thirteenth—this is later on than the incident to which you have just alluded. A That was on the seventh.

Q On April thirteenth Mr. Fay came there, didn't he? Can't you find April thirteenth? A I am just looking to see if he did—yes.

Q Well, what time did he get to the house? A Eight-ten.

Q And did you, as soon as he went in, run away again, as you did before? A No.

30 Q How did you happen to stay around that night, when you were afraid of being caught? A I had a place to go this night.

Q Where did you go this night? A Across the street.

Q Where? A To the home of Dr. Cattach.

Q The veterinary surgeon? A Yes, sir.

Q You went in his house? A Yes, sir.

40 Q Who arranged that for you? A Inspector Corbally.

*George J. Dipper, cross.*

Q So that you had the entree to Dr. Cattanach's house? A Yes, sir.

Q And you went in there? A Yes, sir.

Q And did you watch from in there? A Yes, sir.

Q What room? A Front room.

Q On the ground floor? A Yes, sir. 10

Q What did you see? A We saw a light in the room which is known as the girls' room, which went out at nine-forty-five.

Q What room was the girls' room? A That is on the second floor, over the parlor.

Q That is the room occupied by the girls, as you understand it? A As I understand it.

Q That light went out at nine-forty-five? A That is right.

Q Any other light in the house? A I believe there was a light in the kitchen. 20

Q Where is that? A That is directly back of the parlor—in the rear of the house.

Q Could you see the light in the kitchen from Cattanach's house? A I could.

Q That was behind the parlor? A Yes, sir.

Q Could you see in the parlor? A No.

Q Now, I think you saw them on April fourteenth, didn't you? A Yes.

Q They entered the house together, did they? A Yes. 30

Q Yes; did you go in Cattanach's that night?

A I don't remember positively. Some nights I did—some nights I didn't. As a rule, every night I went in there.

Q And he remained in the house until the time to catch the twelve-thirty-seven train? A That is right—eleven-five when he left the house.

Q Now, coming to the eighth of November—you had been on the job since the first? A Yes, sir. 40

*George J. Dipper, cross.*

Q Watching the house, or watching what?

A Mrs. Bradfield.

Q Mrs. Bradfield? A Yes, sir.

Q You made a report after that? A No, I didn't, no.

10 Q Or Corbally made it? A Yes, sir; that is right.

Q You didn't see Fay until the eighth, is that right? A I am not sure about that.

Q What? A I am not sure about that.

Q Well, the report will show? A Yes, sir, the report will show.

Q You don't know whether you did or not? A I am not sure.

20 Q On the eighth, which is the day of the Pennsylvania Hotel incident, what time did Mrs. Bradfield leave the house? A About two-thirty, I believe.

Q Two-thirty? A Yes, sir.

Q And you followed her immediately? A Yes, sir.

30 Q And she got down to the Pennsylvania Station about what time? As soon as the jitney would take her? A Well, as I said before, I don't remember whether she went directly there or whether she stopped off somewhere, but I believe it was around four-fifteen or four-thirty when we arrived at the station.

Q Well, what do your notes show? A I haven't that here.

Q Where are they? A They are in the other reports.

40 Q You are quite sure she left about two-thirty and didn't get a train until four something? A She must have done something. I can't remember what she did.

*George J. Dipper, cross.*

Q What makes you think she left at two-thirty? A Because I remember it very well, that day.

Q No mistake about that? A No.

Q How do you know she left at two-twenty?

A Well, I know the same as I remember anything. I got a memory, that is all. 10

Q But you have no recollection of what she did. What is the next thing you recall to mind after her leaving the house about two-twenty?

A Taking the train to New York.

Q What train was that? A That I couldn't say.

Q Well, what happened in the meantime? Where did she go after she got to New York?

A Where did she go after she got to New York; is that what you said? 20

Q Yes. A She joined Mr. Fay in the Pennsylvania Station.

Q Immediately upon the arrival of the train?

A Mr. Fay was looking for her.

Q She joined him immediately upon her arrival? A Yes, sir.

Q On the same level the train went in on? A That is right.

Q Upon the arrival of the train that she took with you? A That is right. 30

Q There is no doubt about that, is there? A No, not a bit of doubt about that.

Q And then she and Mr. Fay went together over to the Pennsylvania Hotel? A Yes, sir.

Q Directly there? A That is right.

Q Fay carrying his bag? A Yes, sir.

Q No mistake about that? A No, sir.

Q Do you remember making an affidavit on the twenty-first of July? Before Mary M. Nolan, a notary public? "George J. Dipper, of full 40

*George J. Dipper, cross.*

age, being duly sworn, says: He was employed as an operator by the Corbally Detective Agency on and before November 8, 1923, and thereafter, but not now. On that date he was engaged in making observations on Elsie K. Bradfield and Thomas P. Fay; that he saw Elsie K. Bradfield leave her home at 4:20 P. M., following which she went to the Pennsylvania Station, taking a train at four-fifty-two, which arrived at the Pennsylvania Station at Seventh avenue and Thirty-second street—.” Which is right, forty-two or two-twenty? A I tell you I remembered it as two-twenty, but if it says forty-two there—

The Court: What is your best recollection about it now?

The Witness: Now that I remember it?

Q Which is right? A I still think it is two-twenty.

Q Notwithstanding this affidavit? A I really believe that was the time, although I may be wrong.

Q Now, you say you got Mr. Fay and Mrs. Bradfield over to the hotel and Mr. Fay got in line? A That is right.

Q That is to go up to where the people were registering? A Yes, sir.

Q How long a line was this? A Probably a dozen people in it.

Q Was he the tail end of the dozen? A There was more people come in behind him.

Q How many ahead of him? A Probably two or three people ahead of me.

Q How many ahead of him? A Six or seven people.

*George J. Dipper, cross.*

Q And you saw him write something? A Yes, sir.

Q How long a time did it take him to get there and write something? A Probably five minutes—six minutes.

Q In the meantime were you watching Mrs. Bradfield? A No.

10

Q You don't know what became of her? A I know she went over towards the elevators.

Q After that you don't know anything about her? A I know nothing about her.

The Court: On any of these occasions you have mentioned while you were watching the house, did you see any of the children around the house?

The Witness: Yes, sir.

20

The Court: Going in and out?

The Witness: Yes, sir.

The Court: On how many occasions did that happen?

The Witness: I never made any notes of that.

The Court: Would that be in the daytime or at night?

The Witness: The children would be going in and out all the time.

30

The Court: On any of these occasions you saw Mr. Fay go in there, did you see the children going in and out?

The Witness: I don't remember.

40

*James J. Cunningham, direct.*

JAMES J. CUNNINGHAM, duly sworn for petitioner, for

*Direct examination by Mr. Croll.*

- Q Where do you live, Mr. Cunningham? A 1131 Broad street, Newark.
- 10 Q Were you, in March 1923, employed by the Corbally Detective Agency? A Yes, sir.
- Q For how long were you employed by them? A From March twenty-second until April eighteenth.
- Q Are you with them now? A No, sir.
- Q Were you with them after 1923? A No, sir.
- Q Were you with them in November? A No, sir.
- 20 Q Do you know Mrs. Bradfield? A Yes, sir.
- Q Are you able to point her out in the court room? A Yes, sir, right here. (Witness indicates Mrs. Bradfield.)
- Q Do you know Mr. Fay? A Yes, sir.
- Q Are you able to point him out in the court room? A Yes, sir. (Witness indicates Mr. Fay.)
- Q Did you have occasion to examine the actions of Mrs. Bradfield and Mr. Fay? A Yes, 30 sir.
- Q Starting when, did you begin your observations? A March 22, 1923.
- Q Were you alone or with someone? A Operator 26, Mr. Dipper.
- Q Who was Operator 26? A Dipper, the last witness.
- Q Did you make any notes following your observations? A Yes, sir.
- Q Have you those notes with you? A Yes, 40 sir.

*James J. Cunningham, direct.*

Q When did you make those notes with reference to the occurrence set up in the notes? A Some of them I jotted down temporarily and copied them over in the morning.

Q Well, what is the longest time that elapsed before you made them in the more or less permanent shape they are now? A About fifteen hours. 10

Q Are you able to recall, without referring to your notes things that happened? A Some things.

Q Will you take out your notes there? Did you ever see Mrs. Bradfield and Mr. Fay in Long Branch? A Yes, sir.

Q When was it—what was the date? A March twenty-sixth.

Q Did you see them in Long Branch? A Together? 20

Q Yes. A No, sir.

Q Did you see them in Long Branch? A Yes.

Q You saw them together in Long Branch? A No, sir.

The Court: You saw them both in Long Branch and not together?

The Witness: Yes, sir, that is right. 30

Q Tell what you saw, as far as they were concerned, on that date? A In Long Branch, or do you want me to start from that date?

Q State all you have on that date. A I went to the Pennsylvania Station at Market street at 11:00 A. M. Operator 26 went too. I don't suppose that makes any difference. Do you want me to read the full report?

Q Tell what you saw. You can refresh your memory by the notes. 40

*James J. Cunningham, direct.*

The Court: Is it at all material if he saw Mrs. Bradfield in Long Branch, not with Fay, on that date?

Mr. Croll: This is an incident about a hotel in Long Branch, about which the other witness did not testify.

10 The Court: I am asking what significance it can have if he didn't see them together.

Mr. Croll: The juxtaposition of their movements were such as will indicate its evidential value.

Q What did you see in Long Branch? A I saw Mrs. Bradfield go down to the Imperial Hotel. I saw Mr. Fay standing in front of his office with another woman.

20

The Court: At the time she entered the hotel?

The Witness: No, after she entered the hotel. I saw Mr. Fay stand in front of the hotel and walk away from the hotel, one block, with a lady with him—not Mrs. Bradfield.

Q What happened then? A Mr. Fay came in the store under where I was, in a Chinese restaurant—across from the Imperial Hotel.

30

Q What did Fay do then? A Walked back across the street and went over to the Imperial Hotel.

Q Did he enter the hotel? A Yes, sir.

Q How long was he in the hotel? A That I don't know, because I didn't see him come out again.

Q Did you wait to see him come out? A Yes, sir.

40

*James J. Cunningham, direct.*

Q How long did you wait? A Until a train around five o'clock or five-twenty or something, when Operator Number 1, Frank Corbally and myself went over to the railroad station. I didn't see them again that day.

The Court: Did you see Mrs. Bradfield 10  
come out of the hotel?

The Witness: No, sir.

Q Did you watch for her? A Yes, sir.

The Court: Do you know if there is more than one exit from the hotel?

The Witness: Yes, only one. She came out and took that train for Newark.

The Court: You didn't see her? 20

The Witness: No, sir.

Q Where did you see her? A I didn't see her.

The Court: Somebody told you that?

The Witness: Somebody told me that.

Q I don't know that you testified what time 30  
you first saw her go into the hotel. A Into the hotel?

The Court: March twenty-sixth is all that he has given me.

The Witness: She got off the train at Long Branch at five-five, took a taxi to the station—possibly took her about five or ten minutes.

The Court: Taxi to the station? 40

*James J. Cunningham, direct.*

The Witness: Taxi from the station to the hotel.

Q Were you on that train? A Yes, sir.

Q Had you been watching her during the afternoon? A Yes, sir.

10 Q She took a taxi from the Long Branch Station to the hotel? A Yes, sir.

Q How did you get to the hotel? A Taxi.

Q Following her? A Yes, sir.

Q Now, do you recall any other occasions when you saw F'ay and Mrs. Bradfield? A Yes, sir.

Q What were those occasions? A Once in Asbury Park—once in New York—once in Newark.

20 Q Give the dates, in their order if you can.  
A April seventh I saw them together in Newark.

Q Where?

Mr. McCarter: Where was this?

The Witness: On Broad street.

30 Q Did you say you saw them together? A Yes, sir.

Q What part of Broad street? A Well, Broad and Market street down to the Pennsylvania Station. Near the Broad street station.

Q What happened, so far as you know? A They took a taxi.

Q Going in which direction? A South.

Q South on what street? A Broad.

40 Q Do you know where they went? A They went to one block north of Clinton avenue and Broad. I don't know what is there.

*James J. Cunningham, direct.*

The Court: You don't know what is there?

The Witness: I saw them get off the taxi about one block north of Clinton and Broad street, on Broad.

The Court: At Kinney street?

The Witness: I don't know the name of the street there. 10

Q You didn't watch to see what that place was? A No, sir.

Q What did they do then? A Walked to the Riviera Hotel, Clinton and High street.

Q Who walked to the hotel? A Mr. Fay, Mrs. Bradfield and another woman.

Q What became of the taxicab that went to Broad and Kinney? A I believe they discarded the taxi there. 20

Q Who do you say walked to Clinton avenue and High street? A Mr. Fay, Mrs. Bradfield and another woman.

The Court: Is that the occasion when the mother was with them?

Mr. Croll: Yes, sir.

Q Was that the woman who had been referred to as the mother of Mrs. Bradfield? A Yes, sir. 30

Q How long did they stay in the Riviera Hotel? A I couldn't say exactly, but they left the Newark Theatre about seven-thirty, and they left the Riviera Hotel about nine-fifteen.

The Court: You haven't said anything about their being in the theatre at all on this occasion. You saw them on Broad 40

*James J. Cunningham, direct.*

street, saw them take a taxi and get out within a block of this hotel, and go in with another woman. Wasn't this other woman with them when they took the taxi?

The Witness: Yes, sir.

10 The Court: When did they go to the theatre, before or after they went to this hotel?

The Witness: Before.

The Court: Did you see them go into the theatre?

The Witness: No, sir.

The Court: You are combining your report with what somebody else has reported on?

20 The Witness: What is that?

The Court: You are combining your report with what somebody else reported?

The Witness: I saw them come out of the theatre.

Q You saw them, then, before they took the cab at Market and Broad street? A Yes, sir.

30 Q Where did you see them? A I seen them take a cab on Broad street, somewhere between the Jersey Central and Market street.

Q Had you been following them up to that time? A From the Newark Theatre.

The Court: What time did they leave the hotel?

The Witness: Nine-fifteen.

The Court: Then what happened?

40 The Witness: They went to the Lincoln Hotel, I believe it is, and one lady got out.

*James J. Cunningham, direct.*

The Court: Which lady?

The Witness: The one supposed to be Mrs. Bradfield's mother.

Q And then what did they do? A Mr. Fay and Mrs. Bradfield went to Park avenue and Tenth street.

10

Q Where were you while they were riding up there? A In a car behind them.

Q Whose car was it? A Corbally Detective Agency car.

Q And you followed them all the way up to Roseville? A Yes, sir.

Q What happened when they got to the house? A Why, when they got to the house?

Q Before they got to the house? A Mrs. Bradfield walked down the street to the house.

20

Q What did Fay do? A He followed.

Q How far back? A About fifty yards, approximately.

Q Did she go in the house? A Yes, sir.

Q What happened to Fay? A He went in the house.

Q Who let him in, if you were able to see? A I don't know.

Q Did he get to the door the same time she got there? A I couldn't say, exactly—I don't believe so.

30

Q Did he go into the house after she got there? A Yes, sir.

Q How long did he remain in the house at 7th street? A Until eleven-forty-five.

Q And they got there at what time? A Nine forty-five.

Q Did you cover the house during that time? A Yes, sir.

40

*James J. Cunningham, direct.*

Q Did you see anybody come out of the house at eleven forty-five? A Yes, Mr. Fay.

Q Who came out? A Mr. Fay.

The Court: How long did you say he was in the house?

10 The Witness: From nine-forty-five until eleven-forty-five.

The Court: Dipper says he was there a half hour—now which is right?

The Witness: He was there from nine-forty-five until eleven-forty-five.

The Court: All right, go on.

Q Now did he come out alone, or was anyone with him? A Alone.

20 Q Do you know where he went? A No, I went home.

Q You didn't follow him after he left the house? A No.

Q Is there any other occasion when you saw Fay and Mrs. Bradfield? A Yes, sir.

Q What was that occasion? A In New York

Q Where and when—when, first? A I will have to have the report—April eleven.

Q What did you say, on April eleventh?

30 The Court: Were you alone on that occasion?

The Witness: I will say just as soon as I look over my report. (After looking at paper.) No.

The Court: Who was with you?

The Witness: Operator No. 1 and No. 26.

The Court: Who were they?

40 The Witness: Dipper and Frank Corbally.

*James J. Cunningham, direct.*

Q Describe what happened. A I went to Orange and Roseville avenue at twelve thirty-five. I then phoned Mrs. Cattnach's house. She said that Mr. Fay—

The Court: We don't want that.

The Witness: I took a bus to Park and Roseville avenue and joined Operator No. 1, who was waiting with the Ford car at Roseville and 7th, facing 7th avenue. At one-five Mr. Fay came out of Mrs. Bradfield's house and walked to Park and Roseville avenue. 10

Mr. McCarter: At one-five?

The Witness; Yes, sir.

The Court: In the afternoon?

The Witness: Yes, sir, Mrs. Bradfield came out of the house and met Mr. Fay at the corner at one-ten, at Park and Roseville avenue. They both boarded a Market street bus. Operator 1 and myself followed bus in car to Pennsylvania Railroad Market street station. Mr. Fay went to the cafe in back of the United Cigar Store near the depot. Mrs. Bradfield went into the station and Operator No. 1 followed her and I waited for Mr. Fay to come out of the cafe. Mr. Fay was in the cafe about three minutes when the New York train pulled into the station at one-thirty-three. Mr. Fay run out of the cafe, through the station, and I saw Operator 26 run for the train. He had my ticket so we made the same train to New York. We arrived in New York at the Pennsylvania station around two-something—I don't know just what the time was. Operator No. 1 and No. 26 and myself fol- 20 30 40

*James J. Cunningham, direct.*

10 lowed them in a taxi. They took a taxi and went to Thirty-ninth street, the Maxine Elliott Theatre. Mr. Fay got out of the taxi—Mrs. Bradfield stayed in it. Mr. Fay tried to get tickets at the lobby but came out in about five minutes and got the tickets in another ticket office—in a tailor shop, two doors from the theatre. Mr. Fay then went to the theatre—went past the theatre and got Mrs. Bradfield out of the taxi. It was parked near Broadway and Thirty-ninth street, opposite the theatre. They both went to the show at two-twenty. I purchased a ticket in the balcony right near where Mr. Fay and Mrs. Bradfield had their seats.

20 The Court: Were they sitting together?

The Witness: I don't know—I wasn't in the theatre. Mr. Fay and Mrs. Bradfield came out of the theatre at five-ten. They walked to Broadway and Thirty-ninth street—turned up Broadway, north to Forty-fifth street. They turned around and started back down Broadway. I didn't see them after that, in New York.

30 The Court: Did you see them return, after that on that date?

The Witness: Yes, I saw them in a taxi at Park avenue and Roseville avenue.

Q When? A Somewhere around midnight.

The Court: Do you mean before or after midnight?

The Witness: I couldn't say exactly.

40 The Court: Don't your notes indicate?

*James J. Cunningham, direct.*

The Witness: No, I didn't put that down.

The Court: Where did you say this taxi was?

The Witness: Park avenue and Roseville avenue.

The Court: How far is that from her home? 10

The Witness: One block.

The Court: Was anyone with her?

The Witness: Mr. Fay was with her.

The Court: With you, I mean.

The Witness: No.

The Court: Any other operator on the case at that time?

The Witness: Yes, Operator 26 joined me and we went home. 20

The Court: Didn't you watch what became of her and Fay at that time?

The Witness: Why she walked in from Park avenue down to the house, down from Ninth avenue. She stopped at Ninth avenue and Park. She walked down to the house. Mr. Fay stayed in the cab and went away from there.

The Court: Did you see Fay in the cab? 30

The Witness: Yes, sir.

The Court: Have you got all that detail in the report?

The Witness: Yes, sir.

The Court: How is it Dipper doesn't report so much?

The Witness: I don't know, sir.

The Court: He states on that occasion he only saw her again when she entered the house again at midnight. 40

*James J. Cunningham, cross.*

The Witness: He didn't see Mr. Fay.

The Court: What was to prevent him?

The Witness: He was up at Mrs. Cattanch's house, and I was up at Park avenue and Roseville avenue.

10 *Cross examination by Mr. McCarter.*

Q How long have you been a detective? A From March 22, 1918, until April 18, 1923.

Q In other words your experience on this case is all the experience you have had? A Yes, sir.

Q What was your business before? A Salesman.

20 Q When did you first personally know, so as to recognize, Mr. Fay? A March 23rd or the following morning, March 24th, about two o'clock, around two o'clock sometime.

Q March 24th—how were you able then to recognize him—who he was? A I found out from the taxi driver that drove us over to the central part of the town.

Q What town? A Long Branch.

30 The Court: Did you stay all night on the 22nd, in Long Branch?

The Witness: Yes, sir.

Q Now I understood that you saw them on the 26th of March? Can you refer to your notes? A Yes, sir. Yes.

Q And you say that you left on the Pennsylvania train at 11 A. M., am I right? A I said she left on the Pennsylvania train at what?

40 Q 11 A. M. A On the 26th?

*James J. Cunningham, cross.*

The Court: Yes.

The Witness: Four-nine.

The Court: That was the train she took?

The Witness: Yes, sir.

Q She took the four-nine? A Yes, sir.

10

Q Where had you first seen her that day?

A At the Pennsylvania Market Street Station

The Court: At what time?

The Witness: Three-forty-five.

The Court: I don't understand your answer to my question. First you said to Mr. McCarter that you first knew Mr. Fay on the 23rd or 24th of March—is that right? And then you answer me and said that a taxi driver told you—is that correct—you were not down in Long Branch and were not down on this case until the 26th of March?

20

The Witness: I was on the case the 22nd of March.

The Court: Yet you haven't told me anything about Mr. Fay until the 26th and then you said you were told by the taxi driver on the 24th.

30

The Witness: I have my report of the 23rd.

The Court: The question I am confused about—when did you first know who Mr. Fay was—can you answer that question?

The Witness: Yes, sir, at about two-fifteen March 24th.

The Court: Where did you see him then?

The Witness: Long Branch.

40

*James J. Cunningham, cross.*

The Court: That wasn't the occasion when you saw Mrs. Bradfield go in the Imperial Hotel, or was it the same occasion?

The Witness: No, sir.

10 The Court: Have you referred to having seen him on the twenty-fourth of March, before just now?

The Witness: I think so.

The Court: Not before you haven't.

Mr. McCarter: I haven't any note of it.

Q You were asked to state the times you saw them together and you didn't say anything about the twenty-fourth, if the Vice-Chancellor is correct, and my notes make no mention of it. Do you wish to add that you saw them on the twenty-third or twenty-fourth of March? The first  
20 occasion you saw them was the twenty-sixth. You saw her enter the Imperial Hotel and you saw Fay enter and you didn't see them come out. That is the substance of your testimony.

The Court: Mr. McCarter wishes to know whether you wish to add any prior date to the twenty-sixth of March.

30 The Witness: He asked me about the twenty-sixth before.

Q Do you understand the American language, Cunningham? A Yes, sir.

Q Do you now say that prior to the date at which occurred the Imperial Hotel incident you had seen Mr. Fay and Mrs. Bradfield together?  
A No, sir.

40 Q Had you seen Mr. Fay before then? A Prior to the twenty-sixth?

*James J. Cunningham, cross.*

The Court: Yes.

The Witness: Yes, sir.

Q Where? A The twenty-fourth.

Q Where? A At the Pennsylvania station—  
in the cafe back of the United Cigar Store near 10  
the Pennsylvania station on Market street.

Q On the twenty-fourth? A Yes, sir.

Q Twenty-fourth of what, March? A Twen-  
ty-fourth of March.

Q Well, who told you who he was? Did you  
say it was a cabby at Long Branch? A Yes,  
sir.

Q Well, did you follow him to Long Branch?

A Yes, sir.

Q That night? A Yes, sir. 20

Q Alone? A No, sir.

Q Who was with you? A Operator 26.

The Court: Was anyone with Mr. Fay?

The Witness: No, sir.

The Court: What took you down to Long  
Branch that night?

The Witness: To find out who the gentle- 30  
man was.

Q Had you seen him before? A I would  
have to go over my reports.

Q All right, go on? A Yes, sir, the twenty-  
third, the night of the twenty-third at eleven  
fifty-five.

Q Where? A In the cafe, back of the  
United Cigar Store, at I believe it is Alling and  
Market streets. 40

*James J. Cunningham, cross.*

Q So on that occasion you had seen a gentleman whose name you didn't know? A Yes, sir.

Q Did you go anywhere that night? A Yes, sir.

Q Where? A Long Branch.

10 Q And did you spend the night down there?  
A Yes, sir.

Q The night of the twenty-third? A Yes, sir.

Q And while down there on the twenty-fourth you inquired as to his identity? A Yes, sir.

Q Did you see him on the street and point him out to a cabby? A No, sir.

20 Q How did you find out his identity? A  
We took a cab and told him to follow the cab that went out ahead of us.

Q Wait a moment—what is this now? A This is about two-fifteen in the morning of the twenty-fourth. We told the taxi driver to follow that cab. The taxi driver told me that was Tom Fay, the lawyer from Long Branch in that cab.

Q When did he tell you that? A While we were in his cab behind the other car.

30 Q Your own taxi driver told you that? A  
Yes, sir.

The Court: You haven't told us yet why you took the trouble to follow this unknown man on the twenty-third. What happened on the twenty-second or twenty-third? You were employed on the twenty-second. How did you come to be in touch with this unknown man?

40 The Witness: By a telephone call from Operator 26. He told me to go down

*James J. Cunningham, cross.*

and meet him, that that was the subject we were—

The Court: That you were investigating?

The Witness: That is right.

Q When you were at the residence of Mrs. Bradfield, where were you stationed on each of these occasions you have testified about? A Stationed at Park avenue and Roseville avenue. 10

Q How far away is that? A One block.

Q She lived where? A On the corner of Park avenue and Seventh street.

Q And Roseville avenue is one block away?

A Yes, sir.

Q East or west? A West, I believe.

Q That is to say, Roseville avenue is toward Roseville—toward Orange? A Yes, sir. 20

Q And Seventh street is toward Newark? A Yes, sir. 20

Q And you were stationed there and made observations on this house which was a block away? A Yes, sir.

Q Full block? A Yes, sir.

Q Yes; and now on those occasions when you were a block away, what occurred? A On all the occasions?

Q When you were a block away? A Well, I have to go over my reports. 30

The Court: Can you select the dates when you were a block away?

The Witness: I believe so. On the twenty-third.

Q Of what, March? A March.

Q March twenty-third, then, you were a block away on the corner of Roseville avenue? A No, sir. 40

*James J. Cunningham, cross.*

Q Well, I am asking you to tell us when you stood on the corner of Roseville avenue.

10 The Court: Nothing happened on the twenty-third of March any way, did it? You haven't reported it if it did. Where did you stand on the twenty-sixth of March? Where did you make your observations?

The Witness: Pennsylvania Railroad station, Market street.

The Court: Where did you stand on the seventh of April?

The Witness: Park and Roseville avenues.

Q This point you spoke of? A Yes, sir.

20 The Court: Mr. McCarter wants you to tell him what happened on that day.

The Witness: Seventh of April?

Q What did you say you saw standing a block away? What time was this first? A 12:30 P. M.

Q You mean in the evening? A Yes, sir.

Q 12:30 A. M., isn't it? A Well, it is twelve-thirty noon.

30 Q I just asked you if it was evening. You say now it was noon? A 12:30 noon.

Q Well, what happened? A Mr. Fay arrived at 4:30 P. M., discharged his taxi at Roseville avenue and went to Mrs. Bradfield's house.

Q Discharged the taxi right where you were standing? A Yes, sir.

Q You were in plain view? A Operator No. 1 and I.

40 Q You were in plain view? A Yes, sir.

*James J. Cunningham, cross.*

Q Same side of the street? A Yes, sir, right where he got out of the taxi.

Q He got out of the taxi right by you? A Yes, sir.

Q He paid the taxi driver? A I didn't notice.

Q You by that time knew who he was, did you? A Yes, sir. 10

Q How far from the house was that, about a block? A One block.

Q Which way did he come in this taxi? A Over Roseville avenue, from—

Q From the south? A From the direction of Orange street.

Q Orange street—well that is south, isn't it? A I believe so.

Q And after he discharged the cabby he walked down and entered the house? A Yes, sir. 20

Q Which street is the entrance on—Seventh street or Park avenue? A Seventh.

Q Which side of Park avenue is Mrs. Bradford's house—north or south? A I would say north.

Q The uptown side? A Yes, sir—which part of Roseville avenue or Park avenue? 30

The Court: Park avenue; is her house on the south or north side?

The Witness: I believe it would be the north side.

Q The north side of Park avenue? A Yes, sir.

Q And which side of Seventh street? A South—call it the east.

Q And where is the door? A Where is the door? 40

*James J. Cunningham, cross.*

The Court: Yes.

The Witness: On Seventh street.

Q On the Seventh street side? A Yes, sir.

Q Well, can you see the front door from Roseville avenue? A Yes, sir.

10 Q Now go on—tell us what he did? A Mr. Fay came out of the house at five-thirty.

Q Where had you been in the meantime? A Park avenue and Roseville avenue.

Q You remained there all the time? A Yes, sir.

Q You hadn't gotten in touch with Dr. Catanach, so as to change your position across the street? A Yes.

Q What? A Yes, sir, I had changed my  
20 position from there.

The Court: On that same day?

The Witness: Yes, sir.

Q You had changed or had not? A I had.

Q Then you change your testimony, do you?  
A Yes, sir.

Q Why did you testify before the other way?  
30 Don't you try to tell the truth? A Yes, sir.

Q Now I ask you a second time if you remained on the corner of Roseville avenue and Seventh street for an hour or two hours or three hours while Mr. Fay was in that house? A I was not at Roseville and Seventh. I was at Roseville and Park avenues.

Q Roseville and Park. Did you remain there all the time or did you go somewhere else? A I went over to a cigar store over near Orange  
40 street and called for the office—Corbally's.

*James J. Cunningham, cross.*

Q Then what happened? A Then I came back to Park and Roseville avenue again.

Q Then what, did you stay there all the time until he came out? A Yes, sir.

Q Then you didn't go in Cattanach's? A No, sir.

10

The Court: At what time of the day are you talking about the seventh of April?

The Witness: Between four-thirty and five forty-five.

Q Broad daylight, wasn't it? A Yes, sir.

The Court: How long was he in the house on that occasion?

The Witness: From four-thirty to five-thirty, about one hour. 20

Q You weren't down in front of the house?

A No, sir.

Q Don't know who was in the house? A No, sir.

Q You don't know whether Mrs. Bradfield was in the house? A I didn't—up until five forty-five.

Q Then is when you left, isn't it? A Yes, 30  
sir.

Q So you didn't know, did you—you didn't know at all whether she was in the house? A No, sir.

The Court: Is that the last you saw of him or her on that date?

The Witness: No, sir.

The Court: Where did you see them again?

40

*James J. Cunningham, cross.*

The Witness: I went with them again—  
followed them to downtown.

10 Q Well, go on. A Mr. Fay came out of the  
house at five-thirty and Operator No. 2 went with  
him on Market street bus towards Newark. Mrs.  
Bradfield and her mother took a taxi at five for-  
ty-five and we followed with car to Newark  
Theatre.

The Court: Is that the same occasion  
that Dipper testified to—that an empty taxi-  
cab came up and then he testified that Fay  
was in the taxi, and the two women went off  
with him to the theatre?

Mr. Croll: It is my recollection of the  
testimony.

20 Mr. McCarter: I don't know.

The Court: You say Fay went off on the  
bus and these two ladies went in the taxicab?

The Witness: Yes, sir.

The Court: And they went alone?

The Witness: Yes, sir.

30 The Court: You said at the outset of  
your testimony you saw them meet on Broad  
street and go to the Newark Theatre.

The Witness: No, sir.

Q See if I have got this right, because I am  
anxious to get the truth about it. I can't see any  
reason for confusing it. Mr. Fay went on this  
occasion which I understand is April seventh, to  
the Newark Theatre? A I don't know that.

Q You don't know that? A No.

40 Q Well he left, so far as you were concerned  
—left your observation at about five-thirty when

*James J. Cunningham, cross.*

he left the house and came down and went away?

A Yes, sir.

Q Where did you pick him up again? A Coming out of the Newark Theatre.

Q How late? A Seven-thirty.

Q How did you learn he was at the Newark Theatre? A Operator 21 and I came down in the car to the Newark Theatre. Mrs. Bradfield and the woman that is supposed to be her mother went into the Newark Theatre. Operator 1 said he saw Mr. Fay buy tickets to go in there. 10

Q You followed Mrs. Bradfield, who came from the house with her mother, in a taxicab and followed them down to the Newark Theatre? A Yes, sir.

Q And you learned that Fay had already gone in there? A Yes, sir. 20

Q Then you picked them up later, when they came out of there and the scene down around South Broad street to which you allude followed? A Yes, sir.

Q So that as far as you know, on this occasion, April seventh, Mrs. Bradfield's mother was in the house all the time Mr. Fay was there—so far as you know? A Yes, sir.

Q Now, did you follow them from the Lincoln Hotel back to Mrs. Bradfield's house? A Yes, sir. 30

Q Have you got the time of that? A Nine-forty-five.

Q Nine-forty-five what? A They went to the house.

Q Nine-forty-five? A (Witness nods, "yes.")

Q Where did you stand while they were in the house? A I stayed in the car.

Q Where? A At between Roseville avenue and Seventh street, on Park avenue. 40

*James J. Cunningham, re-direct.*

Q How far away from the house? A About a half a block.

Q You couldn't see in the house, could you? A No, sir.

Q So you waited half a block or so away until Mr. Fay came out? A Yes, sir.

10 Q Is that right? A Yes, sir.

Q And then you followed him to the station? A Yes, sir.

*Re-direct examination by Mr. Croll.*

Q On April seventh did I correctly understand you to say that when you got back to the house, Mrs. Bradfield's mother was in the house?

A When I got back to the house at what time?

Q At nine-forty-five? A No, sir.

20 Q On April seventh at nine-forty-five she came home without her mother? A Yes, sir.

The Court: Left her at the Lincoln Hotel?

The Witness: Yes, sir.

The Court: Where did you stand on April eleventh? That is the occasion when they went to the Maxine Elliott Theatre. Were you at the house that day at all?

30

The Witness: When they went to the Maxine Elliott Theatre? I went to Orange and Roseville avenue at twelve-thirty-five.

The Court: How long did you remain there?

The Witness: I went from there—I don't know just how long I remained there, but I went to Roseville and Seventh—between Roseville and Seventh, on Park avenue and joined Operator No. 1 at one-five.

40

*Frank Corbally, direct.*

The Court: On either of these occasions while you were watching the house, did anyone else go in or out of the house?

The Witness: Yes, other people went in and out of the house.

The Court: Who were they?

The Witness: Mrs. Cattanach's daughters went in and out of there, and other people. 10

The Court: In and out of Mrs. Bradfield's house?

The Witness: Yes, sir.

FRANK CORBALLY, duly sworn for petitioner,  
for

20

*Direct examination by Mr. Croll.*

Q You are connected in business with your father, former Inspector Corbally? A Yes, sir.

Q And you know Mrs. Bradfield? A Yes, sir.

Q And you know Mr. Fay? A Yes, sir.

Q Did you ever see them together? A Yes, sir. 30

Q How many times? A Three times.

Q What was the first of those occasions, if you remember? A The first time was on April seventh.

Q What is your number? A Number 1.

Q You are number 1? A Yes, sir.

Q On April seventh you saw them together? A Yes, sir.

Q Now, have you any notes? A I have, but I didn't bring them with me. 40

*Frank Corbally, direct.*

Q You are able to remember April seventh?

A On April seventh I was covering the home of Mrs. Bradfield with Operatives 21 and 26.

The Court: That is, Cunningham and Dipper?

10 The Witness: Yes, sir, and at 4:30 P. M. I saw Mr. Fay enter Mrs. Bradfield's home. At 5:30 P. M. Mr. Fay came out and walked up to Roseville and Park avenue and entered a jitney bus. I sent number 2, Mr. Adams—I told him to follow Mr. Fay on the bus. Ten minutes later Mrs. Bradfield and her mother came out and entered a taxicab that was waiting outside the door. Operatives 21 and 26 was with me in the car at that time. We followed the taxi to the Newark Theatre.

20

Q Were you with them? A Yes, sir, with Operatives 21 and 26. I told Operatives 21 and 26 to stay in the car and I would see where Mrs. Bradfield and her mother was going. They got out and went to the Newark Theatre and entered the lobby. A few minutes later Mr. Fay came there and bought three tickets. They all entered the theatre.

30 Q Did you go in the theatre? A Yes, sir. back of them.

Q Where were you? A About ten seats in back of them.

Q What happened? A Nothing unusual. They were all looking at the picture.

Q What time did they leave the theatre? A 7:30 P. M.

40 Q And where did they go then? A They walked down Broad street as far as the Central Railroad and boarded a taxi. They alighted from

*Frank Corbally, direct.*

the taxi at Simonson's Restaurant on Broad street, near Kinney. They stood in front of the restaurant a few minutes and then walked to Clinton avenue and west on Clinton avenue to the Riviera Hotel, and all three of them entered the hotel and went into the restaurant.

The Court: Where were you while all this was going on? 10

The Witness: I was riding in my car.

Q How long did they stay in the restaurant?

A Maybe an hour—about an hour.

Q Where did they go then? A They came out of the restaurant at nine-fifteen, entered another taxi and rode to the Lincoln Park Hotel. Mrs. Bradfield's mother got out and went into the hotel. The taxi then proceeded with Mrs. Bradfield and Mr. Fay in it, to Ninth street. They stopped in front of an apartment house on Ninth street, two blocks away from the house. 20

Q Long or short blocks? A Short blocks. Mrs. Bradfield walked down to her home first and Mr. Fay walked very slowly down after her.

Q Did she enter the house? A Yes, alone. When Mr. Fay got to the house and up on the stoop, the door opened and he went in. 30

Q Somebody opened the door? A Somebody opened the door.

Q Do you know how long he remained in the house? A About nine-forty when they got out of the taxi—about five minutes to get to the house, and he came out at eleven-forty-four.

Q Do you know where they went then? A No, sir, I discontinued.

Q Were you there during the whole period, from nine-forty-five to eleven-forty-five? A Yes, sir, I stayed until he came out. 40

*Frank Corbally, direct.*

The Court: Did anybody go in or come out of the house?

The Witness: No, sir.

The Court: Were there any trees or obstructions there?

The Witness: No, sir.

10 The Court: How is the illumination there?

The Witness: You can see Mrs. Bradfield's house very easily if you stood up on the corner of Roseville avenue. You could tell if anybody came out of there any night.

The Court: Plenty of illumination?

The Witness: You couldn't tell exactly who they were but you could tell there was somebody coming out.

20

Q Were you present at the Maxine Elliott Theatre episode? A With Operatives 21 and 26 we covered the home of Mrs. Bradfield from eleven o'clock on April eleventh. At twelve-thirty I saw Mr. Fay enter Mrs. Bradfield's home.

Q How long did he stay there? A And at one o'clock Mrs. Bradfield and Mr. Fay come out of the house and walked up to Roseville avenue and Park avenue.

30

Q Were they together? A Mr. Fay came out first. Mrs. Bradfield came out afterward and talked to a woman on the corner a few minutes and then she walked over to where Mr. Fay was standing and they entered the first jitney bus that came.

40

Q Where did they go to? A They rode to the Pennsylvania Depot on Market street. Mrs. Bradfield went into the depot and Mr. Fay went into the saloon across from the depot. He walked

*Frank Corbally, direct.*

across the street and up on the New York side of the station. Numbers 21 and 26 come up with me and we boarded the train. We got out at the Thirty-third street station and Mr. Fay called a taxi and both Mrs. Bradfield and Mr. Fay entered it. We called another taxi and followed them. They rode to the Maxine Elliott Theatre. Mr. Fay alighted and left Mrs. Bradfield in the car. Fay entered the theatre and he couldn't get any tickets and he walked down the street a couple of doors to a tailor shop and went in. He came out and walked to the taxi and got Mrs. Bradfield and they both entered the theatre. 10

Q What part of the theatre did they occupy?

A Up in the balcony.

Q Did you enter the theatre? A Yes, sir.

Q Were you sitting near them? A Yes, sir, two rows in back of them. I sent Operative 26 in the tailor shop and I told him to ask for two tickets near the gray-haired gentleman. He went in and got the ticket for me and come out. 20

Q Do you remember what the play was? A Yes, sir, "Rain."

Q What time did they come out of the theatre—did you notice anything happen between them when they were at the theatre? A I noticed Mr. Fay nudge Mrs. Bradfield once in a while when something funny would happen on the stage. 30

Q When did they leave the theatre? A About 5:10 P. M.

Q Where did they go? A There was three doors leading from the theatre. They each took one door—the operatives—each operative watched a door. Operative 26 lost them.

Q Did you see them after they left the theatre, that same day or night? A No, sir. 40

*Frank Corbally, direct.*

Q Did you, on any other occasion, see Fay and Mrs. Bradfield, thereafter? A Except on the night of the raid.

Q Do you remember what night that was? A November eighth.

Q Tell what happened so far as you were  
10 concerned. A I went to Inspector Corbally's house about eight o'clock and he told me to go right over to the Pennsylvania Hotel. I met Mr. Flarity and we both went over.

Q What did you do there? A On the way over we talked of how—

Q You got over to the hotel? A Yes, sir.

The Court: And then what did you do?

The Witness: I asked Mr. Dipper where—

20 The Court: Don't tell us that kind of conversation. You can't tell anything that was said in the absence of Mr. Fay or Mrs. Bradfield.

The Witness: I went to the information  
30 desk and asked if Thomas Fay was registered at the hotel. The girl went over to a book and came back and said Mr. Fay was here. She said, "Mrs. Fay is with him; they are in room 232." I thanked her and walked away.

The Court: Did you examine the registry?

The Witness: No, not then—later on I did. I went to the desk and asked for a room for myself. The desk man gave me 280, on the second floor.

The Court: How far away is that from  
40 232?

The Witness: Two corridors away.

*Frank Corbally, direct.*

The Court: What happened next?

The Witness: I went back and told Mr. Flarity what I had done and I called up my father.

The Court: Go on and tell about when Mr. Ross arrived, and the others.

The Witness: Dr. Morrison and Mr. Ross arrived and they had a room on the second floor.

The Court: Up to that time had you seen Mr. Fay or Mrs. Bradfield that day? A No, sir.

The Court: What time did you go in their room?

The Witness: About 11:10 P. M.

The Court: What did you see in their room?

The Witness: Why, we left the door ajar and Mr. Flarity and another gentleman—I don't know who it was—one of the party, stood in the bathroom. I stood further back in the room; and Mr. Flarity called my attention—

The Court: Well, what did you see?

The Witness: I saw a chambermaid open the door.

The Court: Of what room?

The Witness: 232.

The Court: And what did you see or hear?

The Witness: Mr. Flarity walked out in the hall and I walked out after him and I saw the bed was mussed up.

The Court: One of the beds in room 232?

*Frank Corbally, direct.*

The Witness: Yes, sir, the bed nearest the door.

The Court? What else?

The Witness: And the pillow was down in the center. It looked as if a party was sleeping on it.

10

The Court: Not that, but what did you see?

The Witness: It was down in the center. The maid was making the bed. About eleven-fifteen I saw Mrs. Bradfield open the door to 232.

The Court: You mean unlock it?

The Witness: Yes, sir.

20

The Court: Had the maid left at that time?

The Witness: Yes, sir; about eleven-thirty-five or eleven-forty I saw Mr. Fay go to the door and knock lightly on it. In about a minute the door opened and Mr. Fay entered. Just as he entered the room Mr. Morrison came from the room we were in and turned the knob of the door and went in.

30

The Court: Had the door closed behind Mr. Fay, fully?

The Witness: Yes, sir.

The Court: Dr. Morrison said he put his foot in the door.

40

The Witness: Well, so far as I could see, the door was closed. I followed Mr. Corbally into the room. Mrs. Bradfield was standing behind the door. Mr. Fay was standing in the center of the room. Mr. Corbally asked Mr. Morrison if he knew

*Frank Corbally, direct.*

who the woman was and he said, "Yes, that is Mrs. Bradfield." He asked him who the man was—if he knew the man, and he said he didn't know. Mr. Corbally then asked Mr. Ross if he knew the woman. He said, "Yes, she is my sister-in-law." He asked him if he knew who the man was and he said he didn't. Mr. Corbally went over to the bureau and picked up the tie and collar that was lying on the bureau. Mr. Fay grabbed the tie that was in his hand.

10

Q In whose hand? A In Mr. Corbally's hand. But he couldn't get ahold of the collar. Mr. Corbally then picked up a silk shirt belonging to Mrs. Bradfield. Mr. Fay went over and picked up the bags.

Q Was the bag open or closed? A Closed.

20

Q Did you see any of the contents of the bag? A No, sir, I did not.

Q Then what happened? A Mr. Corbally asked him whose bags they were. He said, "They belong to me." Mr. Corbally then told Mrs. Bradfield to get dressed and she shook her head. Mr. Fay told her to go in and get dressed and she went in the clothes closet and she did.

30

The Court: How was she dressed?

The Witness: She had a blanket around her.

The Court: How was Fay dressed?

The Witness: He was fully dressed? He had his coat over his arm.

The Court: How long had he been in the room before you entered?

The Witness: A minute or so.

40

*Frank Corbally, direct.*

Q Then what happened? A Mrs. Bradfield got dressed and went out of the door first. Mr. Fay went after her and talked to her a few minutes and he came back and got his bags and went downstairs.

10 The Court: How many bags were there?  
The Witness: There was one bag and a grip.

The Court: It has been referred to as a brief case; is that what you mean?

The Witness: Yes, sir.

The Court: Was anything said while your party was in the room, by anybody?

The Witness: I can't remember any more than what I have given.

20 The Court: How long were you there in the room altogether?

The Witness: Probably ten minutes.

Q Did you ever see Fay in Long Branch? A Yes, sir; I did.

Q Do you remember when? A On March twenty-sixth.

30 Q What happened March twenty-sixth in Long Branch? A On March twenty-sixth I went to the Pennsylvania depot on Market street. Operatives 21 and 26 were there, shadowing Mrs. Bradfield. Mrs. Bradfield then took the four-nine train for Long Branch. We followed on the train.

Q Four what? A Four-two.

The Court: Four-nine, isn't it?

40 The Witness: Four-nine. Mrs. Bradfield got out at Long Banch and took a taxi. We

*Frank Corbally, direct.*

took a taxi and followed her. She got off at the Imperial Hotel. She entered the hotel and we walked across the street, and up on the second floor of this place was a Chinese restaurant, and we went in there.

The Court: You came across the street?

The Witness: Yes, sir. We sat in the front windows. Mr. Fay came out of his office with a woman and walked about two hundred feet with her down the street. He went to a cigar store, I believe, underneath where we were, and walked back again and entered the hotel. There was two women sitting upstairs in the same restaurant we were in. This woman he was with waved up to the two girls that was in the restaurant where we was. When he left this woman and went back to the hotel he looked up at the window. We covered the hotel until 7:15 P. M. As the last train was leaving at 7:19 we took another taxi down to the railroad station and I told Cunningham to cover Long Branch all night, and I was going back to Newark. 10 20

Q You came back to Newark? A Yes, sir. 30

The Court: Did you see Mrs. Bradfield?

The Witness: Yes, sir, when I got on the train I started to walk through the different cars and the train backed up about three hundred feet. At that time I was in the last car. I noticed Mrs. Bradfield getting on the train. Mr. Fay was standing down on the gravel, just off the steps. He said, "Good night" to her and she got on and she entered the last car—the smoking car. 40

*Frank Corbally, cross.*

The Court: Go on.

The Witness: I followed Mrs. Bradfield direct to her home.

10 Q What time did she arrive at her home? A Nine-thirty, something like that. She went direct home when she got off the train in Newark.

Q That is all you saw that day? A Yes, sir.

*Cross examination by Mr. McCarter.*

Q Did you go in the Imperial Hotel—any of your party? A No, sir.

Q Why not? A Didn't have any reason—we just didn't go in.

20 Q Did you see if anybody registered there? A No, sir.

Q Did you see if anybody took a room there? A No, sir.

Q All that you know about it is that Mrs. Bradfield went in the hotel and that later Mr. Fay went in the hotel and that later you saw them both at the station as the train was going? A Yes, sir.

30 Q You were out for the purpose of seeing whether anything improper went on between Mrs. Bradfield and anyone else. Why didn't you go in the hotel? A Because we didn't see both of them go in together.

Q How many were down there, three of you? A Two.

Q What do you operatives get paid, a day, for your work? A I get paid by the week.

40 Q What do the operatives get a day? A Oh, six or seven dollars a day.

*Frank Corbally, cross.*

Q What is your salary? A Fifty dollars a week.

Q How much time did you personally devote to this thing? A As much as I possibly could.

The Court: A week, three days or ten days, or twenty days—what is it? 10

The Witness: Perhaps about a week.

Q Can't you tell definitely? A Seven days.

Q Where are your reports? A Down at the office.

Q Why haven't you got them here? A Because I can remember just what happened.

Q Will you produce those reports? A Yes, sir.

The Court: Have them here tomorrow morning. 20

The Witness: Yes, sir.

The Court: Unless you want them this afternoon.

Mr. McCarter: I don't care to get them now, your Honor, if they are going to be here tomorrow.

Q Has the counsel for Mr. Bradfield copies of your reports? A Yes, sir. 30

Mr. McCarter: Perhaps he will let me see them.

Mr. Croll: I have prepared a transcript of them.

Mr. McCarter: Is that a copy, or what?

Mr. Croll: I have no secrets from you, Mr. McCarter. 40

*Thomas J. Corbally, direct.*

Mr. McCarter: All I want is this man's reports.

The Court: We will have the reports here. If you prefer to defer your cross examination of this witness until the reports are here you may do so.

10

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THOMAS J. CORBALLY, duly sworn for petitioner, for

*Direct examination by Mr. Croll.*

Q You are the head of the Corbally Detective Agency? A Yes, sir.

Q Do you know Mrs. Bradfield and Mr. Fay?  
20 A I do.

Q On how many occasions did you see them together? A Only one occasion.

Q When was that? A On the eighth of November.

Q Where was it? A Pennsylvania Hotel.

Q And tell the Court and counsel what you saw and what happened, as you remember it.  
30 A I went to room 233, on the second floor.

The Court: At what time?

The Witness: At eleven-thirty.

The Court: All right.

The Witness: Mr. Ross, Dr. Morrison, Mr. Flarity and Frank Corbally was in that room when I got in. In about fifteen minutes later I saw Mr. Fay pass that door.

40 The Court: Pass the door of the room you were in?

*Thomas J. Corbally, direct.*

The Witness: That I was in—I could just see his head. There was a knock at the door and I see the door open and him disappear.

Q A little bit louder, inspector. A Dr. Morrison, he stood near the door where I was and he went out of the door and went to the door that Mr. Fay went in. Mr. Flarity was after him and I was third. After I got in I saw Mrs. Bradfield stand up again' the door with a blanket in front of her, up to her neck. Mr. Fay stood with his hat off in the center of the floor. I asked Dr. Morrison did he know this lady. He says, "Yes, that is Mrs. Bradfield." I said, "Did you know them when she lived with her husband as man and wife?" and he said, "Yes". I asked Mr. Ross the same question, and he said yes. I asked them if they knew the man and they said no. I knew Mr. Fay, and I asked Mr. Fay what he was doing there and he didn't answer me. I went over to the lady, and she says, "Don't take none of my garments."

The Court: Speak as loudly as you can.

The Witness: Yes. I opened the bathroom door and there was water drawn in the bathtub, and there was a ladies shirt on the knob of the door.

The Court: Hanging by the door?

The Witness: Yes, and she said, "Don't take that," and I said, "Yes, I will take that." I told her to dress and she shook her head. I went over to Mr. Fay and I said, "There is no use in being here all night; you had better make this lady dress." He went over to her and told her to dress. She took

*Thomas J. Corbally, direct.*

10 her clothes and went in the bathroom and dressed. Then I went over to the bureau and there was this collar (indicating collar), and a black necktie on the bureau, and the tie was under the collar, and I took the tie from under the collar, and as I did Mr. Fay came over and grabbed the tie. There was a big black bag in the center of the floor and he took the tie and threw it into the bag. In the bag was a soiled shirt. I didn't see anything else in the bag outside of this shirt and the tie he put into it. He closed the bag, and there was a small satchel or brief case there and he put the brief case on top of the other bag in the center of the floor. When Mrs. Bradfield got dressed she came out of the closet where she dressed and stood there for a couple of minutes and then she walked out. Mr. Fay picked up the two bags and walked out after her. At the time she was going out the hotel detective came up.

The Court: Is that the man that was here this morning?

30 The Witness: That is the man that was here this morning.

The Court: And then what happened?

The Witness: That is all—they left the hotel.

The Court: Did Fay have a collar on when you saw him?

The Witness: Yes.

The Court: Was it anything like that collar?

40 The Witness: I couldn't say that.

*Thomas J. Corbally, cross.*

Q How was he dressed? A He had a dress suit on—a dinner suit.

Mr. Croll: I offer these garments in evidence.

(Marked Exhibits P. and P. :)

Q Now did Fay ever come to see you there-  
after? 10

Mr. McCarter: I object. Mr. Fay is not a party to this suit.

*Cross examination by Mr. McCarter.*

Q Did you make a report, inspector, of that occurrence? A The next morning.

Q Where is that report? A That is in what  
they call the "desk blotter," written all in my  
own hand. 20

The Court: Where is it, he asked?

The Witness: Down at the office.

The Court: You didn't make a report to anybody?

The Witness: Only to myself.

The Court: You made a record of it? 30

The Witness: Yes, sir.

Q Where is that record? A In the office.

Q Will you have that here tomorrow? A  
I will.

Q Did you leave the hotel at the same time  
that Messrs. Morrison and Ross did? A I did.

Q And did you go to the room at the same  
time that they did? A No, sir. 40

*Thomas J. Corbally, cross.*

Q What did you do after they started for the room? A I looked up the house detective.

Q And what time did the party, including yourself leave the hotel, to the best of your knowledge? A A few minutes after eleven.

Q Did you go over on the tube? A Yes, sir.

10 Q Do you remember what train you took?

A Why we got to the tubes—I think I met them at the depot about ten o'clock.

Q Did you take the ten-ten train? A That is about it.

Q How did you get from the tube to the hotel?

A We walked from Thirty-third street.

Q And the party registered and applied for a room, and you think you got to the desk of the hotel at about what time after eleven? It might be quite important. A They got to the room.

20 Q Not the time they got to the room? A They left me to go upstairs about eleven o'clock.

Q Do you mean five minutes of, or ten minutes past? A It must be around eleven o'clock.

Q Why do you say that—it must be about eleven o'clock? A Well, I think my records will show that.

30 Q Well, that is what we want to see your record for. Did you look at your watch the time you got to the hotel? A At the time we entered the room I looked at my watch, too.

The Court: Entered 233?

The Witness: Yes, sir.

The Court: Not 232?

The Witness: No.

40 Q Now have you described all that occurred after you got to the room, 233? A I think I have.

*Thomas J. Corbally, cross.*

Q Did you go out of the room? A Never left the room.

Q Did Flarity make a report to you of that occurrence? A He made his own report the next morning.

Q Where is that? A I presume he has it.

Q Don't you know? A He has it on record down there—I know he has. 10

Q I want to see that report, too. A Yes, sir.

Q Now after you got to room 233 where did you stand? A I stood back, about perhaps ten feet from the door. The lights were out and I stood back—

Q How long a time were you and Messrs. Morrison, Flarity and Ross, separated at the hotel? A They must have been upstairs fifteen minutes ahead of me.

Q About fifteen minutes—how long were you there before Mr. Fay came along? A Three or four minutes. 20

Q Had Mrs. Bradfield come in before you got there? A Yes, sir.

Q You didn't see her come in? A No, sir.

Q Did you see the maid? A No, sir.

Q When you were in the room was the spread—the bed spread, thrown down over the foot of the bed? A No, sir. 30

Q Sure about that? A Sure about that, yes.

The Court: Was the bed disturbed at all?

The Witness: No, sir.

Q Don't you know it is customary, in most first-class hotels when the rooms are occupied for the night to throw the bed spread down to the foot—don't you know that? A No, I don't know that. I didn't notice that. The beds weren't disturbed. 40

*Thomas J. Corbally, cross.*

The Court: Were they arranged as if prepared for the night?

The Witness: Yes, they looked that way.

10 Q What do you mean by that? You have answered the Vice-Chancellor that they looked as if prepared for the night. What was there on these beds? A I didn't notice the beds disturbed.

The Court: He asked you if it is the practice for the maid to come in late at night and fix the bed.

The Witness: I have seen that in some hotels—other hotels I haven't seen it.

20 The Court: Was that the condition of these beds—was such preparation made that night?

The Witness: I didn't notice that.

30 Q Will your report show at what time it was—if you looked at your watch—when Mr. Fay and when Mrs. Bradfield both arrived at this room. Will your report show that? A No, the reports won't show what time he arrived, nor she either. I make my reports for myself. Mine is written—the other reports is typewritten.

The Court: I want to ask you a few questions. How long have you been in charge of this case?

The Witness: Well, from we started in March, and were laid off during the summer when she went away.

40 The Court: As I understand it you were employed and used your operatives for the purpose of getting evidence, if any, as to the

*Thomas J. Corbally, cross.*

offense of adultery committed between Mr. Fay and Mrs. Bradfield?

The Witness: Yes, sir.

The Court: As I understand, there wasn't sufficient time from the time Fay entered the room for the act of adultery to be committed?

10

The Witness: No, sir.

The Court: Why did the parties enter so quickly?

The Witness: We didn't do it. Dr. Morrison entered.

The Court: Weren't you in charge of the party?

The Witness: I was in charge, but I had no chance. He rushed out.

20

The Court: Assuming the most favorable aspect to you, Mr. Croll, we will say there was preparation for the commission of adultery, and that they had hardly time to breathe after Mr. Fay stepped in the room and this party followed.

*Further cross examination by Mr. McCarter.*

Q Mr. Corbally, how many men did you have on this job, all told? A Five, from time to time.

30

Q That including yourself? A Yes, sir.

Q Were any men on the job between May, or was it April—April seventeenth, and November first? A No, sir.

Q The watch was given up then? A Yes, sir.

Q You didn't deem at that time that you found enough to make it worth while to continue your watch?

40

*Thomas J. Corbally, cross.*

Mr. Croll: I object.

The Court: It is immaterial.

Q Who called you off? A The counselor.

Q Who, Mr. Croll? A Yes, sir.

10 Q Did you make daily reports to Mr. Croll  
from March until April seventeenth? A The  
next day after we were on the case, Mr. Croll got  
a report the next day.

The Court: Had Mr. Croll been the first  
one to employ you?

The Witness: Yes, sir.

Q And he got these daily reports? A Yes,  
sir.

20 Q And he called you off on the seventeenth  
of April? A Yes, sir.

Q And did he put you on again in November?  
A He did.

Q And did you make daily reports from No-  
vember first? A Yes, sir.

Q And where are they? A He has a copy  
of them and we have a copy of them.

The Court: You have the originals?

30 The Witness: Yes, sir.

Q Will you produce them? A Yes, sir.

The Court: That is what you have called  
upon Frank Corbally to produce.

Q Now who paid you for your work? A  
Dr. Bradfield.

Q Did he pay you directly or did Mr. Croll  
pay you? A Yes, sir.

40 Q His own check? A I think so.

*Stephen P. Flarity, direct.*

Q Well, don't you know? A Mr. Flarity will explain that. He is the secretary and treasurer of this outfit.

The Court: We can assume you were paid or expected to be?

The Witness: We were paid. 10

(Collar offered in evidence marked Exhibit P. 3.)

(Shirt offered in evidence marked Exhibit P. 4.)

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STEPHEN P. FLARITY, duly sworn for petitioner, for

*Direct examination by Mr. Croll.* 20

Q You are secretary of the Corbally Agency?

A Yes, sir.

Q You know Mrs. Bradfield? A I do.

Q How long have you known her? A Well, I knew her first about twenty or twenty-two years ago when she was employed on the Newark Evening News as a copy reader. At that time I was a reporter on the News. 30

Q And did you, yourself, ever see Mrs. Bradfield and Mr. Fay together? A I didn't, except the night of the raid.

Q The night of the raid was the only time you saw them? A Yes, sir.

The Court: I don't know why you call it a raid; the night of the visit.

Q Tell me what you saw? A At nine o'clock that evening Frank Corbally and I went to New 40

*Stephen P. Flarity, direct.*

York. Frank Corbally went to the information clerk and learned—

The Court: As a result of his inquiry you had certain information?

10 The Witness: We had information that Thomas Fay was registered there. Frank Corbally registered and went to room 280. That room was on the same floor as 232, that we were told Fay occupied.

The Court: That you understood Fay occupied?

20 The Witness: Yes, sir. When we got in the room I called up the woman who has a desk on the floor and asked her who was in room 232. At five minutes to eleven I met Mr. Corbally, senior, Mr. Ross and Dr. Morrison at the desk of the Hotel Pennsylvania. Mr. Ross and Dr. Morrison registered and they asked for a room in the same corridor that room 232 was in. They were assigned to room 233. I went up to the room with them.

The Court: What time did you get up in the room?

30 The Witness: About three or four minutes after eleven. At eleven-fifteen Mrs. Bradfield came through the corridor. She had a paper in her hand, and a key. The lights in our room were out. I saw her open the door of room 232. She went in and later we heard the water running in the room, as though somebody was taking a bath. Just prior to the time she came Dr. Morrison and I and Frank Corbally were in the hall. We looked in the room—232—

40

*Stephen P. Flarity, direct.*

and a maid was working in there. The top covers of the bed had been turned over to one side and the maid was fixing them up for the night. There was a hand-bag there, and a brief case on the floor and we could see a collar on the bureau. When the maid came out of that room and went into room 234 I asked her if the occupants— 10

Mr. Croll: Not that.

The Court: How long was the maid in that room?

The Witness: About five minutes.

The Court: Was she there long enough to have made up the bed, or merely to adjust the covers for the night?

The Witness: She dusted up the room a bit and fixed the covers on the bed nearest the door. These covers had been disturbed, and she arranged them as you would go into a hotel and find the bed the way she left it—just as if you would go into a hotel. She left the bed in that condition, all ready for the night. About fifteen minutes after Mrs. Bradfield first got in the room Mr. Fay came along the corridor, and he had a bundle under his arm—a small bundle. He knocked at the door—waited there a moment, and the door was opened and he entered. Mr. Morrison and I were standing in the bathroom of 233. This bathroom is just inside the door leading from the corridor to 233. The bathroom door was open and we could see through the room door, which was also open, to room 232. When Mr. Fay entered the room we went over. Dr. Morrison started first. When I entered the room Mrs. Brad- 20 30 40

*Stephen P. Flarity, direct.*

field was standing behind the door with a blanket over her. She was standing in front of the closet door. Mr. Fay was in the center of the room. Mr. Corbally asked Mr. Ross if he knew the woman and he said, "That is my sister-in-law, Mrs. Bradfield." Mr. Corbally asked Dr. Morrison if he knew the woman and he said, "Yes," it was Mrs. Bradfield, he had known her for twenty years. He didn't know Fay, but I knew Mr. Fay and I spoke to him and he asked me why I didn't tip him off that they were going to do that.

Mr. McCarter: I object to that. When was that?

The Court: In the room, when Mrs. Bradfield was there.

The Court: What did you say when he asked you that?

The Witness: I told him I couldn't do that. I asked him if he remembered me and at first he said he did not and when I told him who I was, he said, "Oh, yes, I remember you." I picked up the brief case and he asked me not to open it. I didn't, and handed it to him. The hand-bag he had was open and there was a shirt in there; it looked as if it had been worn. On the bed was a tie. On the bureau was a collar and another tie. On the dresser was a bag, and a program. It was for Chains, a play. Mrs. Bradfield's stockings were in front of this table. Mr. Corbally told her to get dressed and she shook her head and he told Mr. Fay to tell her to get dressed, and she did. In the bathroom the tub was about half-full of water and the water had been perfumed. After

*Stephen P. Flarity, direct.*

Mrs. Bradfield dressed she went out in the corridor and Mr. Fay went out after her, and they said something and Mrs. Bradfield said to me, "I knew you from school days," and they went on. Mr. Corbally was talking to the house detective.

The Court: Did either one of them offer any explanation for their presence in the room? 10

The Witness: Neither one.

The Court: Were you in charge of the party?

The Witness: Yes, sir.

The Court: What did you think you were going to prove by going into this room as abruptly as you did? 20

The Witness: That wasn't my decision. Dr. Morrison and I were standing in the bathroom, and when Mr. Fay started across the hall he started after him. Later when I went downstairs I was shown the registry.

The Court: So far as you know did any of your party have knowledge of the occupancy of that room before you went in there?

The Witness: Only that I saw the bags there. 30

The Court: Did he have the brief case when he entered?

The Witness: No, they were both in the room.

The Court: Did he have anything with him except the little package?

The Witness: No, sir, that is all he had.

The Court: What sort of a package was that? 40

*Stephen P. Flarity, cross.*

The Witness: Well, it was round and it appeared to be a bottle.

Q It wasn't a bag or a brief case—it wasn't big enough for that? A No.

10 *Cross examination by Mr. McCarter.*

Q You made a report, didn't you? A I did.

Q Where is that? A The original was given to Mr. Croll and I have a carbon copy in my pocket.

Q I would be glad to see one of the other. A Here is the carbon copy.

20 Mr. Croll: That is the report of November 8th?

The Witness: Yes, sir.

The Court: A copy of the original he said it was.

Mr. Croll: Yes. Were the reports that you sent to me the originals? Those that your office has are copies and mine are the originals?

30 The Witness: Yes.

The Court: As to Cunningham and Dipper, those originals are filed?

The Witness: Yes, sir.

Q What disturbance did you say that bed had? A When I first saw it?

Q Yes. A The top covers were pushed over to the bottom and to one side.

40 The Court: Pushed or folded?

*Stephen P. Flarity, cross.*

The Witness: They seemed to be pushed down, ruffled.

Q That was the extent of the disturbance?

A Yes, sir.

Q That was only true of one bed? A One bed—the nearest to the door.

Q Did you make an affidavit in this case? A 10  
I did not.

Q Is your name Frank W. Corbally? A No, my name is Flarity.

The Court: You have reserved your cross examination of Frank Corbally.

Q I call attention to page 3 of this report that you produce which I suppose was accurately made? A Yes. 20

Q Yes; "Twin beds were in the room. A maid went through the room about 11 P. M. brushing them up. Mr. Flarity, Dr. Morrison and Mr. Ross saw the maid arranging the beds which had been disturbed, the top coverings having been pulled down and the sheet showed indications of someone having been on it." A Yes, sir.

Q Did you see that? A Yes, sir.

Q Then both beds had been disturbed? A 30  
No, that is the nearest bed, isn't it?

The Court: Just follow him now.

Q "Twin beds were in the room. A maid went through the room about 11 P. M. brushing them up." That is the beds, isn't it? A Yes, sir.

Q "Mr. Flarity, Dr. Morrison and Mr. Ross saw the maid arranging the beds, which had been 40

*Stephen P. Flarity, cross.*

disturbed, the top coverings having been pulled down." Is that correct? A Yes, sir.

Q Now which do you say it is, the bed or the beds? A I will say the beds just as that report stands. That was made the next morning.

10 Q Then the fact is, isn't it, that what was true about the beds was that the bed spread—you know what the bed spread is, don't you? A Yes, sir.

Q Had been pulled down, and put over the foot of each of the beds? A No.

Q What did you mean when you said the top coverings having been pulled down—what did you mean? A Because they were pulled down.

Q The top coverings—you mean the spread? A I meant the top part of it.

20

The Court: Do you mean to indicate that both beds had been occupied?

The Witness: It looked as though both had been fixed, but one was occupied. I am positive of that.

30 Q When did you see that? A When the maid was fixing in the room. When she was fixing there I saw her fixing the covers on top of both beds.

Q Did you take that maid's name? A I did not.

Q Why not? A I didn't think it was necessary.

40 Q Didn't you think it was pretty important to find out if that room had been occupied at any time before, and the bed or beds had been occupied by either Mrs. Bradfield or Mr. Fay, and this maid had proof of it—didn't you think it

*Stephen P. Flarity, cross.*

was important to get her name? A I did not. I did ask her.

Q Never mind what you asked her. You didn't get her name, did you? A No.

Q I ask you now to tell the Vice-Chancellor and me and Mr. Croll exactly what the condition of the two beds was, when you say you looked in there? A The bed nearest the door had the spread pulled down to the foot and over toward the one side furthest from the door. The maid fixed both beds. 10

The Court: He wants you to tell the condition of both beds. You have told us of one.

The Witness: I didn't go in the room to examine either one of them, but the maid was working at the one bed. 20

The Court: I understood you to say the maid was fixing the bed nearest the door.

The Witness: No, she was fixing the room.

The Court: Did you see her work on the inside bed?

The Witness: I watched her work in the room. 30

The Court: Did you see her do work on the inside bed?

The Witness: I did.

The Court: What was she doing to that bed?

The Witness: She was fixing the top covers of that bed.

Q Fixing the top covers of that bed? A Yes, sir. 40

*Stephen P. Flarity, cross.*

Q Why did you, on your direct examination say only one bed had been disturbed, and why did you in your report talk about both beds having been disturbed, and say, "the top coverings having been pulled down?" A Because when I went in the room later the bed nearest the door  
10 looked as though it had been used. The other bed did not look that way.

Q Well, what did it indicate? A Somebody may have thrown themselves on the bed, but the covers were pulled down completely on the bed nearest the door.

Mr. McCarter: I would like to have this report marked for identification.

(Report marked Exhibit D. 1 for identification.)

20 Q How long after you got into room 233 did you see this maid? A She was cleaning the rooms when we were going into 233. She was cleaning along that corridor.

Q Cleaning the room or cleaning the corridor? A Her cleaning utensils were in the corridor. We went into the room and then went out and looked into 232 and the maid was in there cleaning at that time.

30 Q Were you alone? A No, Dr. Morrison was there and Frank Corbally was there and Mr. Ross was there at that time. I don't know whether they made the same observations that I did.

Q You stood out in the hall? A Stood in the corridor—right in the door.

Q How far is the nearest bed from the door? A About twelve feet.

40 Q Easily that, isn't it? A About that—maybe fifteen.

*Stephen P. Flarity, cross.*

Q Where did you stand? A Right at the door entrance.

Q Where did Morrison stand? A He was alongside of me.

Q And where did Flarity stand? A Mr. Corbally?

Q Yes, where did Corbally stand? A He was there, too, at the door. 10

Q All there together? A Yes, sir.

Q Did you all go out together? A We left the door together.

Q From room 233? A I stayed in the corridor and waited until the maid came out. They went back to 233 first.

Q I ask you if you all went out of 233 together? A Yes, sir, one after the other.

Q Did you go into room 233 first? A Yes, sir. 20

Q And then you all went out together? A Yes, we did.

Q You all stood there? A Yes, sir.

Q Did you go in? A Only to the door.

Q Did any one of your party go in room 232? A No.

Q Why didn't you go in? A Because I was waiting for the maid to come out and we were watching that room. 30

Q How long did you stand there? A Oh, about five minutes.

The Court: How much time elapsed between the time when the maid left the room and Mrs. Bradfield arrived?

The Witness: About ten minutes.

The Court: Did the maid lock the door when she left the room?

The Witness: Yes, sir. 40

*Stephen P. Flarity, cross.*

Q Had you gone back to 233? A She opened the door and closed it and it locked itself.

Q You didn't wait until she went back? A I waited until the maid came out to ask the question.

10 Q As a matter of fact which did you do? A I waited until the maid came out.

Q Now, where was it that Mr. Fay asked you "Why didn't you tip me off?" A In the room.

Q Who was present? A Why, we were all in there at that time.

Q Mrs. Bradfield there? A Yes, sir.

Q Did he recognize you at first? A He did not.

Q You had to explain where you had known him? A Yes, sir.

20 Q How long ago was it you knew him? A I first knew him and have known him since 1920.

Q You explained that to him? A Yes, sir.

Q What was the occasion? A I met him down in Long Branch there when I was with Governor Edwards in the campaign.

Q Campaigning for Governor Edwards? A Yes, sir.

30 Q You just met him casually? A I have met him several times since then. I met him in the State House in Trenton and I have seen him here in Newark.

Q He asked you what you told him as a basis for his having known you, and you informed him? A I told him I had met him in Long Branch campaigning for Governor Edwards.

Q Did he recall it? A Yes, sir.

Q And on that he said, "Why didn't you tip me off?" A A moment or two later, yes, sir.

40 Q It was on the basis of that—of that casual meeting that you say Mr. Fay asked you why

*Frank Corbally, further cross.*

you didn't tip him off—is that right? A Yes, sir.

(Recess until ten o'clock, A. M., on Tuesday, September 16, 1924.)

10

Continuation of the hearing in the above-entitled matter before the Hon. John E. Foster, Vice-Chancellor, at Chancery Chambers, Newark, N. J., on Tuesday, September 16, 1924, at ten o'clock, A. M.

Appearances: (Same as before.)

FRANK CORBALLY, duly recalled for

*Further cross examination by Mr. McCarter.*

20

Q My notes of your evidence given yesterday on direct examination, indicate that you said that you and Flarity stood in the bathroom and saw the chambermaid open the door and that you saw the bed mussed up, the covers off, the pillow in the center, and maid making the bed—is that what you testified to? A No, sir.

Q It is not? A No, sir.

30

Q Nothing of that kind? A I didn't say that Mr. Flarity and I stood in the bathroom, Mr. Flarity was in the bathroom, and another gentleman—I don't know which one of the party.

Q The rest was correct, was it? A Yes, sir.

Q The maid had gone in before you saw the bed, hadn't she? A Yes, sir, the maid entered the room.

Q Where were you when you saw what you say you saw? A In the hallway, or the corridor of that section of the hall.

40

*Frank Corbally, further cross.*

Q Not in the room? A No, sir.

Q Who was with you? A Mr. Flarity was standing alongside of me, and there may have been others in back of me—I didn't notice.

Q Now have you got that right? A As I remember it is right, yes, sir.

10 Q As far as you remember? A Yes, sir.

Q You made an affidavit in this cause, didn't you? A Yes, sir.

Q On the fifteenth of July, before Richard H. Kessel, on an application for counsel fee and temporary alimony? Do you remember making the affidavit? A I made it before Mr. Croll.

Q In Mr. Croll's office, but that is immaterial. A Yes, sir.

20 Q Did you read the affidavit before you signed it? A Yes, sir.

Q Frank W. Corbally is your name? A Yes, sir.

The Court: Mr. McCarter asked you if you read it before you signed it.

The Witness: Yes, sir.

Q That is your signature? A Yes, sir.

30 Q In this affidavit you say, "At about 11:00 P. M., Mr. Flarity, Dr. Morrison and Mr. Ross saw the housemaid in the room which contained twin beds, which had been disturbed," didn't you? A Yes, sir.

Q How do you reconcile that statement with your testimony given yesterday? A In what way do you mean?

40 Q In what way do I mean? Why didn't you say you saw something? A Well, when that was made out I thought that was my statement, that I also saw it.

*Frank Corbally, further cross.*

Q That is your statement? A Yes, sir.

Q Yesterday you said you saw one bed mussed up. Here you say two beds had been disturbed—beds. A There was twin beds in the room, which had been disturbed.

Q That is the best explanation you can give of this discrepancy? A Yes, sir. 10

The Court: Not both beds disturbed, just one?

The Witness: One bed, yes, sir.

Mr. McCarter: The sentence, your Honor, is, "At about 11 P. M. Mr. Flarity, Dr. Morrison and Mr. Ross saw the housemaid in the room, which contained twin beds, which had been disturbed."

Q Well, the morning after the eighth, a report directed to the Corbally Detective Agency was prepared and signed by you for one together with your father and Mr. Dipper and Ray Adams and Stephen Flarity. A Yes, sir. 20

Q You were pretty fresh in mind then, as to what had occurred. That is the very day after the occurrence? A Yes, sir.

Q And you signed it? A Yes, sir.

Q "Twin beds were in the room. A maid went through the room about 11 P. M. brushing them up. Mr. Flarity, Dr. Morrison and Mr. Ross saw the maid arranging the beds which had been disturbed." Why—you said that, didn't you? A Yes, sir. 30

Q Was that right? A The top covering had been pulled down off the bed.

Q That sentence is all that I read to you, bearing in mind that you said you saw a bed disturbed, with a pillow in the center, and you don't 40

*Frank Corbally, further cross.*

remember who was out there, except Flarity. Bear in mind you testified to that here today and yesterday. I ask you why you signed this statement the day after the occurrence. "Twin beds were in the room. A maid went through at about 11 P. M., brushing them up. Mr. Flarity, Dr. Morrison and Mr. Ross saw the maid arranging the beds which had been disturbed." Why, if your testimony that you have given here is correct, did you sign that statement? A Well, the only answer to that, I must have overlooked it.

Q Must have overlooked it? A Yes, sir.

Q Well, this was supposed to be a formal report of the one important event in the whole investigation? A Yes, sir.

Q Signed by you, and your father and Flarity and Dipper and Ray Adams? A Yes, sir.

Q Where is the original of this? A Mr. Croll has it.

Mr. McCarter: Have you the original in your possession?

Mr. Croll: I have all the reports, if they are the originals.

Q Did you, yourself, give the original of this to Mr. Croll? A No, sir, I did not.

Q Who did? A One of the men in our office, I just don't know who.

Q Ray Adams was over at the hotel that night, wasn't he? A Yes, sir.

Mr. McCarter: That is all.

Mr. Croll: That is all. That is our case, if your Honor pleases.

*Elsie K. Bradfield, direct.*

THOMAS CORBALLY, duly recalled for

*Further cross examination by Mr. McCarter.*

Q Mr. Corbally, when you received word from the Pennsylvania Hotel that night before you went over there, who did you notify in connection with Dr. Bradfield, Mr. Ross? A The whole thing is here, Mr. McCarter. 10

The Court: Can you answer his question?

The Witness: Why, I notified—shall I read it for you?

The Court: He didn't ask you to read anything. He asked you who you notified.

The Witness: I called up Mr. Ross.

20

ELSIE K. BRADFIELD, duly sworn in her own behalf.

*Direct examination by Mr. McCarter.*

Mr. McCarter: I take it now we are confining ourselves solely to the defense.

The Court: Suppose you not only put in your defense but put in your evidence on your cross-petition, if that won't cause any confusion. I think we would save time. In any event you will probably go into a history of their relations to a certain extent. 30

Q Mrs. Bradfield, contrary to what I told you I thought might be the procedure, we will take up both cases now, your case against your husband, and your husband's case against you. You 40

*Elsie K. Bradfield, direct.*

were born where? A Rochester, New York, in 1886.

Q And have lived in Newark how long? A About twenty-two or three or four years.

Q And how long had you known Dr. Bradfield before you married him? A About two  
10 years.

Q And you were married, as stated, and have the three children as stated? A Yes, sir.

Q Which of your two children are in court? A My two daughters.

Q How old are they? A Twenty-one and seventeen.

The Court: Are they living with you?

The Witness: Yes, sir.

20 The Court: And the boy also?

The Witness: Yes, sir.

Q As a preliminary question I will ask you whether during all your married life the relations between you and your husband were cordial or otherwise? A During the first period of my married life they were very friendly and cordial.

Q When did they become otherwise? A During our summers at Budd Lake, New Jersey.

30 The Court: What year would that be?

Q What year was that? A 1914.

Q Your husband's family—I don't mean your family—but his own family, consisted of whom? A Then, as now consists of his sister, and brother-in-law.

Q Mr. and Mrs. Ross? A Yes, sir.

Q And their daughter? A Yes, sir.

40 Q How old is the daughter? A I should say thirty-four—I am not positive.

*Elsie K. Bradfield, direct.*

Q And the Mr. Ross you refer to was the gentleman that was on the stand yesterday? A Yes, sir.

Q And his wife is the sister of your husband? A Yes, sir.

Q Were you cordially received by his family?

A In the first part of my married life, yes. We originally lived with them, and we moved away about four years after we were married, and there was a feeling of cordiality up to the time my niece, at Budd Lake, New Jersey, who was with me in the summer time, became peeved at something—I just never knew what—and before the season was over packed up and went home. 10

Q Now, while you were at Budd's Lake during the summer, did your husband make any accusations to you about your own conduct? A Yes, sir. 20

Q What did he say? A He said, "To think—" or he said that I lit bonfires in the rear of our yard to signal to neighbors to draw their attention so they might visit me.

Q What kind of neighbors, male or female? A Male.

Q Had you done any such thing? A The conditions up there were such that one would light bonfires in the back yard but not for that purpose. 30

Q Had you any such purpose? A No, sir, I had bonfires to burn rubbish.

Q Do you mean by that that he became jealous of you? A Yes, sir.

Q And that was one way he manifested it? A One way of putting it.

Q Who was your next door neighbor in Newark at that time? A A Mr. Allen, a Mr. Charles A. Allen. 40

*Elsie K. Bradfield, direct.*

Q Where were you then living? A At the same address as now, North Seventh street.

The Court: Does Dr. Bradfield own that house?

The Witness: Yes, sir.

10 Q Did he make any complaint to you concerning this man Allen? A In the fall of that year, on returning—

Mr. Croll: Is this 1914?

The Court: 1914.

20 The Witness: Upon returning home we went to the kitchen door and opened it to see what flowers there were in the yard—we had been away all summer, and to our surprise we noticed the fence had been built considerably higher toward the house, and at the back of the yard one board was left off, so it was an unfinished, high fence.

The Court: A fence between the yards?

The Witness: Yes, sir.

The Court: Did the doctor have his office in your home?

The Witness: No, sir.

30 The Court: Where was that?

The Witness: With his sister and brother-in-law.

Q Where do Mr. and Mrs. Morrison live, and where did they live in those days? A 97 Halsey street.

Q And your house was up in Roseville? A Yes, sir.

40 Q Your husband's office was in the Morrison's house? A No, with my brother-in-law and his

*Elsie K. Bradfield, direct.*

sister, in the Ross house, directly across the street from the Morrisons.

Q How long has that been the fact? A As long as I can remember.

Q Now, you later entered into an agreement of separation in 1917? A Yes, sir.

Q Won't you tell us what acts he did that were out of the ordinary, to you, previous to the making of that agreement? A I was out one afternoon, and— 10

Mr. Croll: I object unless a time or more definite period is set.

The Court: You must be as definite as you can as to dates, because the doctor can only make a general denial unless you are specific as to the times and places. 20

The Witness: I am referring to an incident whereby he broke in the bathroom.

The Court: What year would you say that was in?

The Witness: About 1915 or 1916—I am not positive.

Mr. Croll: I object to it as too indefinite.

The Court: It is the witness' best recollection. In your denial you can cover it just as generally—if there is to be one. 30

The Witness: I had come in in the afternoon about five-thirty, quarter of six, and I had in my hand a box of candy. I went upstairs to my bedroom and put it in the closet. My husband had seen me come in the house. He came to the door and rattled the knob and because I didn't open it right away he broke in the door. He said, "Where did you get the candy? You never bought it yourself." 40

*Elsie K. Bradfield, direct.*

Q Now, I want you to recite to the Court your experience with lighted matches.

The Court: Prior to 1917?

The Witness: Yes, sir.

10 Q Yes, prior to 1917. A Yes.

The Court: Can you give the dates?

The Witness: It was too general, your Honor, to give dates in that incident.

The Court: Well, frequently, you mean?

The Witness: Yes, sir.

The Court: What happened?

20 The Witness: Very often he remained in the downtown house in the evening and when he would come in, I had retired.

The Court: What do you mean "Downtown house"?

The Witness: Where his office was. He would come in my bedroom and perhaps make a request and I could smell liquor so strongly that I wasn't agreeable. He would hold matches right over my face as close to me as possible and light three or four or five, until I covered my head up.

30

The Court: How often did he do that?

The Witness: At least half a dozen times.

Q This was prior to the agreement of separation? A Yes, sir.

Q You spoke about his breath smelling—did he become intoxicated? A Not so that he wouldn't be able to get home himself.

40 Q He did drink? A Yes, sir, he did.

*Elsie K. Bradfield, direct.*

Q Now, did he ever throw anything at you?

A Yes, sir.

Q What, and when? A He took toilet articles from my dresser on two occasions.

Q Go on.

The Court: When were they? 10

The Witness: Prior to 1917, in the night while I was in bed.

Q What did he do with them? A He took them from the dresser and threw them at me. One was a box.

Q Can you tell how long that was previous to the agreement of separation? A Directly before.

Q Beg pardon? A Directly before the separation. 20

Q Within a month or two? A Yes, sir.

Mr. McCarter: I offer in evidence the original agreement witnessed by Mr. Croll, made the twenty-fourth of September, 1917, between Thomas N. Bradfield and Elsie K. Bradfield, and Edward Dillon.

The Court: This is the agreement of separation? 30

Mr. McCarter: Yes.

(Marked Exhibit D. 2.)

Q Now, Mrs. Bradfield, what series of events had happened that led to the execution of this paper now marked in evidence, the agreement of separation between you and your husband? A The chief antagonism of my husband seemed to be directed against my mother, other than his 40

*Elsie K. Bradfield, direct.*

drinking, until he didn't want me to be with her at any time.

Q Was your mother then a widow? A She had been a widow for thirty years.

Q Did she ever live with you? A Never directly, no, sir.

10 Q Did your husband, during this period anterior to the agreement, after the difficulties arose, take you out at all to any entertainment?

A One night.

Q In how many years? A Over two.

Q How were the money affairs arranged, for the household? A When is this, Mr. McCarter?

Q Before the agreement. A Before the agreement?

20 The Court: Say between 1914 and 1917— you say your troubles chiefly began in 1917?

The Witness: Yes, sir. The money arrangement was always that he gave me what he had with him and that was not any more than was necessary.

The Court: No regular allowance for the house-hold?

The Witness: No, sir.

30 The Court: Did you have any money of your own?

The Witness: Not any.

Q You were all living up in the same place? A Yes, sir.

Q And out of the money he doled out to you you were supposed to run the house? A Yes, sir.

40 Q Did that suffice for the table and your dressing and the children's dressing? A No, sir.

*Elsie K. Bradfield, direct.*

Q What did it average?

The Court: A week, or a month.

The Witness: I think I could tell it better in small proportions. It would be around twenty dollars a week.

The Court: Did you have charge ac- 10  
counts in addition to that?

The Witness: No, I wasn't allowed to have any charge accounts until later.

Q How lately, the Vice-Chancellor wants to know? A Since my husband has been away.

Q He went away March 1922 or 1923, which was it? A March, 1923, I think.

Q Since then you have had some arrangement about charge accounts? A No, sir, I had 20  
one, which he objected to, and which was necessary for clothing.

Q Now, still confining ourselves to the time anterior to the signing of the separation agreement, was your mother in business? A My mother has always been in business.

Q She had a little money? A Well, I don't know.

Q Well, did she entertain you now and then— 30  
take you out? A Yes, sir.

Q Is that what your husband objected to? A Yes, sir.

Q That was the basis of the objection, was it? A Yes, sir, so far as I know.

Q That your husband objected to your mother because she would give you some entertainment? A Yes, sir.

Q Now, I have in mind a scene when your husband came home drunk— 40

*Elsie K. Bradfield, direct.*

Mr. Croll: I object. I have given a great deal of latitude to counsel in these questions. He has been doing the testifying.

The Court: I can't rule until I hear his question.

10 Q When something occurred with a carving knife—was that before or after this agreement?

Mr. Croll: I object to that question as a leading question.

The Court: The question is, "Was it before or after the separation."

Q This agreement—that is all.

20 Mr. Croll: The reference to the carving knife is what I object to.

The Court: I am not taking Mr. McCarter's question as the testimony.

Mr. Croll: If the event is identified without the question being leading I have no objection.

Q Was it before or after the agreement was signed? A After.

30 Q Are you able to tell anything more that he did—that had occurred between your husband and you that was of such significance and importance that you finally agreed to separate? A Do you want it all related?

The Court: Anything to show why you made that agreement.

40 Q Why did you make the agreement? A My husband never wanted me to be out in any

*Elsie K. Bradfield, direct.*

mob or anything of the sort, which I had a natural leaning to, and my aunt, Mrs. Van Brunt called me on the telephone, across the way, asking me if I would participate in a little play given by women for women one afternoon. I asked my husband if I could. He ran and got Mrs. Van Brunt on the phone and he told her to mind her damn business—he didn't want his wife on the stage. 10

Q You said you had a tendency for those things—were you once on the Evening News? A Yes, sir.

Q When was that, before you were married? A Yes, sir.

Q Now, can you remember any other incident? A Another incident would be to show his antagonism toward my mother when she was up there for overnight. The next evening after she had left—during the day a certain sum of money was missing, and there had been no stranger in the house, nor anyone except mother. He suspected her of taking it. I asked him what sum it was and he wouldn't tell me. The next day I was looking through the soiled clothing and I found three one dollar bills in his pajamas. I asked him if that was the sum of money he was having such a time about and he said it was. 20

Q When was it you first noticed he drank to excess? 30

Mr. Croll: I object because there is no evidence that he did drink to excess.

Q Did he drink to excess before the agreement was signed? A He did, but not to the extent of after the agreement, when he came back.

Q When did he start to drink to excess—when did you first notice that he drank to excess? A During 1922. 40

*Elsie K. Bradfield, direct.*

Q You have stated already that the agreement is dated December, 1917. Did he drink to excess before that? A Yes, he did, about 1915, 1916 and 1917.

Q Was he home evenings, or out—before this agreement? A Out, before that agreement.

10

The Court: Did he keep his office open for business at night?

The Witness: No, sir.

Q Did he tell you where he was? A No, sir.

Q Who suggested the agreement, do you know? A I think it was a mutual agreement between Mr. Croll and Mr. Dillon, who was my lawyer at the time, and myself.

20 Q Did you meet Mr. Croll from time to time before this agreement was signed? A No, sir.

Q Never met him before? A No, sir.

Q It was arranged between counsel then? A Yes, sir.

Q Well, now, this agreement provides that you should live apart for two years, and is dated the 22nd of September, 1917. At the end of two years what happened?

30

The Court: Did you return?

The Witness: No, sir.

Q Where did you live during the time that the agreement was in operation? A With my mother.

The Court: At your mother's home or in the doctor's home?

The Witness: In my mother's home.

40

The Court: Where were the children?

*Elsie K. Bradfield, direct.*

The Witness: With me, with my mother, for six months each year.

Q And with him for the remainder in accordance with the agreement? A Yes, sir.

Q Did you return at the end of the two years? A No, sir.

Q Did he request you to return? A I think Mr. Croll and my husband would hold conferences that I would be invited to, and I did see Mr. Croll some time during that period—a few times. 10

The Court: After the agreement was signed?

The Witness: Yes, sir.

The Court: Mr. McCarter asks you did your husband invite you to return home on the expiration of the two years? 20

The Witness: No formal notice, no.

Q Did you see him? A I was with him on two or three occasions, yes, sir

Q Did he on any of those occasions suggest that you go back? A No, he did not.

Q Who did? A Mr. Croll, I think.

Q Did you go? A Not until November 2nd, three years later. 30

Q What? Now just one moment. The agreement expired on the second of September, 1919?

A Yes, sir.

Q How soon, if at all, did you return to the house? A I returned November 2nd, 1921.

Q How long were you away after the agreement expired? A One year.

The Court: You fixed the duration of five years from the date of the agreement; so it would be in 1920? 40

*Elsie K. Bradfield, direct.*

The Witness: November 2nd, 1920, that is true.

Q Where had you been during that third year?

A I had been living with my mother.

10 Q And what about the children during that third year? A I saw the children frequently, but I didn't have them.

The Court: Did the doctor continue to live at the home?

The Witness: Yes, sir, he did.

Q Did you finally return to the house? A I did, sir.

Q You prepared to resume your marital relations? A Yes, sir.

20 Q When you came to the house who was there? A My husband and my children.

Q When you came in the house what did your husband say to you? A Well, "Hello, will you have some supper?" It was just supper time. He didn't know that I was coming home.

Q Was anything said about where you should sleep? A Yes, sir, he told me to go over to my aunt's to sleep.

30 Q Did your daughter hear that remark? A Yes, sir.

Q Your daughter Grace? A And Katherine also, think.

Q Yes; and Katherine also—are they here? A Yes, sir.

Q Did you go to your aunt's? A No, sir.

The Court: Did he give any reason for that direction?

The Witness: No, sir.

*Elsie K. Bradfield, direct.*

Q Where, in fact, did you sleep after you came back to the house in 1920? A In a bedroom which had been occupied by their housekeeper, who was then down at the other house.

Q And has anybody occupied that room again, since that time? A My son Jack has.

Q Have you had marital relations with your husband since the making of the agreement of separation, the 22nd of September, 1917? A No, sir, I have not. 10

Q From the time that you came back in the manner indicated and after he made the remark that he wished you to go to sleep at your aunt's house, has he ever made any request to you to have marital relations? A Never.

The Court: I haven't seen the agreement; I suppose some provision is made for support in it? 20

The Witness: Yes, sir.

The Court: Was that provision paid?

The Witness: Yes, sir, it was paid.

Q Was the arrangement for support that was provided for in the agreement carried out?

A Yes, sir, it was. 30

Q Since the time that you returned as you have indicated, where have you continued to live? A At the same house where I am now.

Q Have your three children been there?

A Yes, sir.

Q And they go to school? A Yes, sir.

Q And Doris has been doing what besides that? A Doris, when her father was taken sick, stopped her school work and took a job with the City Trust Company. 40

*Elsie K. Bradfield, direct.*

The Court: When was that—when was the doctor taken sick?

The Witness: When doctor was taken sick? I think in 1923.

Q Do you remember your mother being ill?

10 A Yes, sir.

Q And having to go to a hospital? A Yes, sir.

Q When was that? A I had returned home, and in the following spring—1921.

Q What happened? A You mean her illness?

Q About your husband in connection with your mother's illness. A Mother had to be removed from a hospital from Asbury Park to  
20 Long Branch. She had a cat scratch on her leg and was there for three weeks. It necessitated my being away from home in order to have her removed from the hospital. When I came home, a matter of a couple of weeks, Dr. Morrison and he were there and Dr. Bradfield made the remark to Dr. Morrison that my visit to my mother was pure camouflage.

Q Now do you recall an incident in this  
30 month of June 1922, that occurred when your daughter was hurt, in the house? Tell us of it.

A In June?

Q Yes. A When my husband came home intoxicated?

Q Yes, A I think it was about two o'clock in the morning. We were asleep.

Q Who? A My family and myself. My daughters, myself and my son. We heard a  
40 noise at the door downstairs. I got up and went down, put a bathrobe over me and opened the

*Elsie K. Bradfield, direct.*

door and my husband was there, in an intoxicated condition.

Q Well, what did he do—what did he say?

A I called Doris immediately and she came down.

Q Did he say anything to you? A Yes, sir, he did, out in the kitchen. Well, he was so intoxicated we were a little bit afraid of him at first. He didn't have so much to say but when there was a beginning he called me vile names. He put his hands up to his nose. 10

Q At you? A Yes, sir.

Q Well, I hate to ask you what those vile names were, but I think you had better say them?

A I would prefer to write them. May I write them?

20

The Court: Yes, you may. (Counsel consent.)

A Witness writes, "You son of a b" "Kiss my ass," "six or seven times."

Q Well, after having written out those expressions—Doris was there, wasn't she? A Yes, he told me to get out.

Q Go on. A Doris said, "If mother puts her foot over the doorstep I go with her." He said, "Well, don't go." 30

The Court: This was in what year?

The Witness: 1921.

Q Now get that right. A June, 1922, I believe—just before my daughter graduated from High School.

Q Well, did anything further occur? A Yes, sir.

40

*Elsie K. Bradfield, direct.*

Q Go on. A He opened the cellar door to go down from our kitchen and he fell against a grating on the side, and he kind of picked himself up and came upstairs and his face was streaming with blood. It frightened my daughter very much and she ran across the street to get Dr. Morrison to come up immediately. We didn't  
10 know just what had happened to him. Dr. Morrison came up and he took stitches in his head, at that time of night.

Q Well, now, before he went down cellar had he taken hold of anything? A Yes, sir, we had a very large carving knife—it is about a foot long and he held it against me. He held it up in the air and he was in an extremely drunken mood and he held it up toward me.

Q Where had it been? A It was lying  
20 around in the kitchen.

Q And he took ahold of it? A Yes, we immediately put away all other sharp instruments in the room.

Q Well, did Dr. Morrison come up? A Yes, sir.

Q And what did Dr. Morrison do? A Dr. Morrison immediately sat him down on a chair in the dining-room and examined his head and  
30 I know he took stitches in the top of his head. He tried to get him to go to bed and he wouldn't do it. Dr. Morrison tried to take him downtown to his sister, or have them come up there, or to take Doris away from him so that she wouldn't see him.

Q Previous to this incident that you have just related do you remember another occasion when he took hold of you, your wrist? A I do.

Q About how long before this incident in  
40 June, 1922, that you have just referred to was

*Elsie K. Bradfield, direct.*

the other to which your attention is now directed?

A About one month.

Q That would be May? A Yes, sir.

Q What occurred then? A He made a remark which I took great exception to, about my family.

The Court: What did he say? 10

The Witness: He said that because Katherine, my daughter, had granulated eyelids, and I have a cousin who had false teeth, or loose teeth, that I had a terrible disease in my family, and I was the carrier of that disease. I took exception to it, and he grabbed me and said, "I will fix you."

Q What did you say? A I said, "Nobody could make a statement like that," because it wasn't the truth. 20

Q Did you have any syphilitic trouble? A Never.

Q And when you said what you related then, what did he do? A He grabbed me by the wrist and said, "I will fix you."

The Court: Did he strike you?

The Witness: No, sir, he did not. 30

Q Did he any way ever retract the charge that he made in that way with reference to the origin of the granulated eyelids? A No, sir.

Q Was your husband taken ill, seriously ill?

A When was he?

Q Was he? A Yes, he was; seriously.

Q When was that? A December 22nd or 23rd, 19— well, I can't just remember. He has been away from the house a year and a half. It was in December—that makes it the last year. 40

*Elsie K. Bradfield, direct.*

The Court: That would be 1922?

The Witness: Yes, sir, December.

Q Did you have trained nurses? A Yes, sir.

Q How many? A Well, night and day for a period. We had a change of nurses on account  
10 of the scarcity of them during the first period of his illness.

Q Who was taking care of him? A I was.

Q And the nurses? A I was.

Q What doctor did he have? A Dr. Morrison.

Q Did he get better? A Yes, he got better. His illness was of a duration of about ten weeks, I would say.

Q Now did you make any suggestions, after  
20 he grew better, with reference to the nurse?  
A Yes, sir.

Q Before I ask you what that suggestion was I want to ask you whether you had, during this time when the two nurses were there, or the one nurse was in the house, any servant? A No, sir.

Q Who did the work? A I did.

Q Who looked after the furnace? A I did, to the best of my ability.

30 Q Was the furnace in good shape? A No, sir.

Q Was that a cold or a warm winter? A One of the coldest winters we had.

Q Were you ill during part of the time yourself? A I was.

Q Do you remember when you were ill? A I would say February, 1923.

Q 1922? A 1923.

40 Q How long were you ill? A Well, I was in bed three or four days. I also called a doctor.

*Elsie K. Bradfield, direct.*

Q Did any of the doctor's family come up to see him while he was ill? A Yes, sir.

Q Who? A Miss Edith Ross.

Q Now what suggestion did you make with reference to the nurse after he grew better?

A I was very worn out from the work I had done and also my illness and I asked Dr. Morrison if he didn't think that a practical nurse, which would mean less expense also, wouldn't be the thing to have now. 10

Q A practical nurse would be able to do what?

A Would be able to help with the housework and not have me wait on her.

Q Was the receipt of this letter the next—no;—what was the next thing that occurred after that inquiry from Dr. Morrison? A Well, Dr. Morrison said no, that he was looking after matters. I believe he paid the nurses. I don't know where the money came from for any part of it. I never had it, except for the table. 20

Q How were you living in the meantime?

A Except for the table—except for the actual necessities needed to provide for the table and for my wants.

Q Who gave you that money? A Miss Ross. 30

Q How often? How did it come to you?

A Well, at first she gave it to me daily—at first when he was very ill. Then after that I made an arrangement whereby doctor told her to give me \$20. a week.

Q And during this period is that all you had?

A Yes, sir.

Q For all your expenses? A Yes, sir, other than I spoke of in a letter.

Q You had the three children? A Yes, sir. 40

*Elsie K. Bradfield, direct.*

Q Two nurses part of the time and one nurse all of the time? A Yes, sir.

Q You had yourself? A Yes, sir.

Q And did Miss Ross stay to lunch, mid-day meal? A No, she never did.

10 Q Well, what later occurred in reference to your husband's staying there? A Why I received a letter that came to me.

Q This seems to be a copy of it. A That was the cause of my going to his bedside and ask him—. That is it.

Mr. McCarter: I offer it in evidence.

(Marked Exhibit D. 3.)

20 Mr. McCarter: I will read it. "March 7th, 1923. Mrs. Elsie K. Bradfield, 282 North Seventh street, My dear Mrs. Bradfield: It is reported to me that you object to the presence of the nurse that is caring for your husband and that you threaten to leave the house unless she leaves. I am informed that Dr. Morrison believes it absolutely necessary for the present nurse to continue. If it becomes necessary to do so, the police will be communicated with, and the Board of Health as well, in order to carry out the physicians requests. If you 30 insist upon leaving you are at liberty to do so. As represented to me, your conduct during his most severe and dangerous illness has been of a shameful character, and perhaps your departure would be an affirmative relief. This is no time for any more of your nonsense. Very truly yours, (signed) E. I. Croll."

40 Q Did you speak to your husband about that letter? A I did.

*Elsie K. Bradfield, direct.*

The Court: Was your husband at home, sick, at the time that letter was received?

The Witness; Yes, sir, he was.

Q I notice this letter says, "It is represented to me that you object to the presence of the nurse that is caring for your husband and that you threaten to leave the house unless she does." Had you made that objection? A No. 10

Q Had there been any other objection than you stated, that he was better and that you thought a practical nurse who could assist around the house would be better? A That is all that occurred.

Q What did you say to your husband when you showed him that? A I wanted to know what it meant. 20

Q What did he say? A I also asked the nurse if she was a party to it. I just didn't know what had occurred, she was there alone so much with him; I was busy doing the work. She claimed she knew nothing of it, and he wouldn't talk.

The Court: Did doctor say he directed it?

The Witness: He said not. 30

Q What next occurred after the receipt of that letter and your talk with your husband? A In about two days then, after the receipt of this letter, when they said a practical nurse wouldn't do for my husband, they took him to his sister's home.

The Court: Who were "they"?

The Witness: Dr. Morrison, the nurse, Mr. Ross and my niece. I didn't know he 40

*Elsie K. Bradfield, direct.*

was going until I saw the bed coverings come down and go to the front door.

Q So that without any further suggestion to you at all these people came and took your husband away? A Yes, sir, they did.

10 Q Was that in cold weather? A March. It was a very damp day—no day to move a sick patient.

Q How did they go down? A Taxicab, or Dr. Morrison's car—I am not positive on that fact.

Q Nothing was said to you at all in explanation of it? A No, I was told they had said I might go down to his sister's later and he said he thought he would be happier there because he hadn't seen his sister during all his illness, and  
20 that it would be all right, but I didn't go.

Q When was that? A While he was ill.

Q How long after the receipt of Mr. Croll's letter was he taken away? A I understood from the conversation with him that when he was able to go he should go.

Q How long before the receipt of the Croll letter was that talk? A Well, he was quite better—it must have been toward the latter part of his illness.  
30

Q Did you reply to the Croll letter? A Yes, sir, I did.

Q Is this a copy, dated March fifteenth, three pages with a postscript? A Yes, sir.

Mr. McCarter: I offer it.

(Letter consisting of three pages marked in evidence, Exhibit D. 4.)

Q Where was this letter typewritten? A In  
40 the Robert Treat Hotel by a public stenographer.

*Elsie K. Bradfield, direct.*

Q And who composed the manuscript? A  
Doris and myself.

Mr. McCarter: I will read it.

“Newark, N. J., March 15, 1923.

Mr. Edward I. Croll,  
810 Broad Street,  
Newark, N. J.

10

Dear Sir:

“Your letter of the seventh inst. received. I am at a loss to understand just what it means and what you think your authority is. I have been informed that even lawyers can so interfere with other people’s business as to make themselves liable to an action. I do not know who would have the authority to tell you that my departure from my home would be “an affirmative relief.” Such interference by anyone in family affairs would be one in which the courts would afford relief even against a lawyer. I am sure the threats contained in your letter of calling in the police and the Board of Health are such that the postal authorities would take cognizance of as an unlawful use of the mails. I intend to call the attention of the postal authorities to the facts in this case together with sending them a copy of your letter.

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My brother-in-law admitted to me on Sunday he was the one who went to you in reference to your impertinent letter to my mother at Thanksgiving time, she after consultation with her attorney decided to treat it with the silent contempt which it deserved. Of course if she had replied his illness would have been attributed to her.

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*Elsie K. Bradfield, direct.*

10 You had occasion to reprimand your client, my husband at your office in my presence in speaking of my mother. I remember it very distinctly. You know when I was separated the effort you made and the promises if I would become reconciled. You might also remember some of the other things you said in which you told me I was married to "an antique"; in fact, "a certain type of dancing master" with manners belonging to a different age. That he was a character and not a man and that you advised me to go back with him and then do as I pleased, as other women, assert my rights and demand fairness, same as other people. Your solicitation to supervise my reading besides some other suggestions led me to believe you did not have a very high opinion of your client.

20 As for myself, since I returned I have been keeping a family of five on \$2.50 a day, or fifty cents each. It has been doled out daily. I have been taking care of the furnace with a broken grate and it inadequately heats the house even after new fire is started. I have carried the ashes out of the cellar when necessary, and attended to all household work.

30 It is a large house. I have received practically nothing for myself for clothing and very little for the children. My husband being a professional man should be able to furnish something better than he does for his family.

I have not received a cent since the twentieth of December for my personal wants and not over \$200 for the last two years.

40 His family is always interfering and has been all my married life. My domestic re-

*Elsie K. Bradfield, direct.*

lations have been disturbed ever since my husband's niece took it upon herself to try and regulate my affairs on other occasions, particularly at Budd Lake, N. J., a few summers ago.

I was compelled to live in the house with his mother and sister for several years after I was married, where I was treated as an intruder and the atmosphere was such that I was really compelled to move and leave him at that time. He has always maintained his office in the home with his sister, his niece and his brother-in-law, and any suggestion by me as to improvement in his profession, change of location for one thing, has been scoffed at. Dentists are supposed to make from \$25 to \$50 a day. So he must find some way of disposing of his money without bringing it home, because he is always in debt. He never supplies the house with anything; there are no carpets on the bedroom floors, and no linen except what are on the beds which have to be washed and dried immediately. I was three days with my husband night and day at the beginning of his illness without taking off my clothes, after the first nurse came, as she was deaf and it was necessary to hear all he said. I had never expected to mention this; I did it gladly. I did not expect abuse. My son and myself slept on a single cot for ten weeks. I waited on two trained nurses night and day for about one month, and kept the house as warm as I could at all times. I was charged with having had \$155, the month of January. I did not keep track; the amount is probably correct. It was doled out daily by my hus-

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*Elsie K. Bradfield, direct.*

band's niece. It had to buy everything needed except medicine.

10 I am supposed to know nothing of his personal affairs except when necessary to affix my signature to a mortgage for \$2,000 which I did first of July and from which I received a \$50 check, the amount given to me for the summer vacation for myself and three children at the seashore. I have never taken the privilege of having a charge account at any store for any personal wants I might consider necessary and when I did charge articles of food at the butcher shop in the neighborhood since I returned, I was humiliated by having my husband tell the proprietor not to allow it. I have always wanted to avoid family scandals, and airing of family skeletons, but I have been driven to such  
20 desperation I will not hesitate to expose them in every detail. The people responsible for this crisis had small consideration for one whom they felt they were protecting. I realized how ill my husband had been but when his improvement was so marked that he could go to the bathroom, needed no medical attention at any time from the nurse (she said so), my objection was due solely to  
30 financial conditions.

I had no personal antagonism and told her so. During the coldest weather I had an attack of grippe and when still weak it was necessary for me to get up, build fires, and attend to household duties which caused a relapse and a more severe illness. Off and on for three weeks I was confined to bed. I had to have the children wait upon the nurse and when my mother called and brought  
40

*Elsie K. Bradfield, direct.*

medicine and looked after the fires and cooked for me and waited on me, on two occasions, it was the subject of an outburst from my husband. He was well enough to work himself into a passion over that, saying he was hounded during his illness. I could add to this indefinitely as to abuses, which could be corroborated by my children. On one occasion, he came home, his condition was not due to illness, but it was necessary to call Dr. Morrison and his conduct and speech was not edifying to his children. I am constantly charged with neglecting family duties. I was dangerously ill last summer with inflammatory rheumatism at the seashore for a month, and my husband did not give me any attention, nor any money with which to employ assistance. Did not even write me a letter. All he did was finally pay the doctor's bill when sent to him. He knows an operation, removing tonsils, is imperative, but he never says, "Well, why don't you have it done?"

His conduct was shameful but he assumes the role of "lord and master," has been abusive and exercised mental cruelty which was the cause of my separating from him the first time. He is absolutely heartless so far as I am concerned, except to cater to his whims and wishes. In reference to your insulting and unwarranted letter, I will have occasion to take that up later.

Very truly yours,

(Signed) Elsie K. Bradfield.

P. S. I am thinking of sending a copy to Dr. Morrison, of this letter, because if the letter I received last week was instigated in

*Elsie K. Bradfield, direct.*

any way by him this will be an answer. When it was stated by him that he considered my husband's condition critical, I told him I would do all in my power and my husband's people were welcome to come at any time or hour.

10 It is hardly necessary to add, they did."

Q Mrs. Bradfield, are the facts stated in that letter correct? A They are.

Q That is a correct statement of the right situation, is it? A Yes, sir, it is.

Q Had you had any conversation with Dr. Morrison previous to writing Exhibit D. 4, this long letter of yours? A Any conversation in regard to what matter?

20 Q The letter of Mr. Croll? A Not Dr. Morrison, no.

Q With whom, Mr. Ross? A I saw Mr. Ross in our house when doctor was taken away. He had come of a Sunday, to give me the money. This Sunday in question he was leaving when I said, "Mr. Ross, were you the one who had that letter sent to me by Mr. Croll?" He said, "I was." I said, "That is all I want to know." He slammed the door.

30 Q During the summer preceding the writing of this letter of March 15, 1923—that is the summer of 1922, were you ill, down at the shore? A I think it was the year previous to that, Mr. McCarter, when I was ill.

Q I say the summer of 1922? A Yes, sir.

Q What was the trouble? A Inflammatory rheumatism.

40 Q How long were you ill? A I was confined to bed about a month or five weeks and ill all summer. I didn't go in the water or hardly get to the beach.

*Elsie K. Bradfield, direct.*

Q Since your husband left the house under the circumstances explained, how often have you seen him, until the commencement of the trial of this case? A I saw him on the street—one time I saw him on the street, that is all.

Q Has he been sending you any regular, certain amounts? A Yes, sir. 10

Q How much? A \$22.00 weekly.

Q You remained in the house, except for the summer months? A Yes, sir.

Q And your three children have been there? A Yes, sir.

Q He hasn't been there since then? A No, sir.

The Court: When you met him on the street these occasions did you speak to him? 20

The Witness: One occasion.

The Court: Was anything said as to his reason for not coming to see the children?

The Witness: No, sir.

The Court: When was that occasion?

The Witness: The spring, of last year.

The Court: The spring—March, 1924, after the alleged occurrence at the Pennsylvania Hotel? 30

The Witness: Yes, sir.

The Court: Did you talk then?

The Witness: No, we just passed on Broad street. I was with my daughter.

Q Have your daughters seen him from time to time since he left? A Yes, sir.

Q Of course you can't testify to what conversation occurred. A No. 40

*Elsie K. Bradfield, direct.*

Q Has any other explanation ever been given you of this letter of Mr. Croll's? A I have never had any explanation of it.

10 The Court: Has any explanation been given you as to why the doctor was removed from your home and why he stayed away from it?

The Witness: Never any reason given to me.

The Court: By him or anyone else?

The Witness: No, sir.

20 The Court: Had anything else occurred in or about March, just prior to his removal from the home that led up to his removal, other than this letter you speak of, from Mr. Croll, and your talk about changing the nurse?

The Witness: Nothing, to my knowledge.

The Court: Nothing that would require his removal?

The Witness: No, nothing that I know of.

Q Did your husband know of your illness with inflammatory rheumatism? A Yes, sir.

30 Q Did you ever hear from him, or have any visit from him, or anything of that kind? A No, sir.

Q You were stopping then with your mother? A Yes, sir.

Q When did you first meet Mr. Fay? A I would say five years ago.

Q Who introduced you to him? A I met him at my mother's home.

40 Q Where was that? A I think it was Asbury Park. Mother has lived along the shore, at Avon, Asbury Park—

*Elsie K. Bradfield, direct.*

Q Tell where she has lived along the shore during the last four or five years. A North Asbury Park, Avon, at the present time, and last summer, Belmar, New Jersey.

The Court: What did she do, rent a cottage at these different places?

10

The Witness: She had up until two years ago, when she built a little place at Belmar.

Q Have you been accustomed to spend your summers with her? A Yes, sir.

Q For how long a period? A Why, five or six summers.

Q At her different houses along the Jersey shore? A Yes, sir, the children also.

The Court: And during the summer months?

20

The Witness: Yes, sir.

Q Your mother is in court, is she not? A Yes, sir.

Q Do you know whether your mother had any such connection that made it necessary for her to meet Mr. Fay? A Yes, sir.

Q And do you know of your own knowledge what that business was? A Well, mother had known Mr. Fay for a long while.

30

Q I understand that. What occasion had she? A The occasion was the re-union of the Elk's Club in Long Branch. Mr. Fay was one of the committee which mother had to see in order to get the concession to publish the book of the line in which she is in business.

The Court: What is your mother's name?

40

*Elsie K. Bradfield, direct.*

The Witness: Mrs. Ida S. Erwin.

The Court: What is her business?

The Witness: Publisher.

10 Q Now, I want to ask you this question and then I will go into detail. Have you ever committed adultery with Mr. Fay? A No, sir.

Q Testimony has been given in this case of some occasions in March and early April, 1923, when you and Mr. Fay were together—you heard the testimony? A Yes, sir, I did.

Q I am not now speaking of the November incident—I am speaking of these earlier ones—March, April and May. Did you at any time see Mr. Fay? A Yes, sir.

20 Q Do you remember each one of these occasions as they are testified to? A I think I could remember the incidents.

Q Well, now, the earliest one that my memorandum speaks of is on the twenty-sixth of March. It is claimed you went to Long Branch and went in the Imperial Hotel and that later you took the train and went home alone. Do you remember that occasion? A I remember I have been in the Imperial Hotel.

30 Q Where is the Imperial Hotel with reference to Mr. Fay's office? A Next door.

Q Now, that occurrence is said to have been on the twenty-sixth of March. Do you still have in mind this letter and the separation of your husband? A Yes, sir, I was going to see Mr. Fay. Mr. Fay came in the restaurant.

The Court: You mean you were going to see him professionally?

40 The Witness: Yes, sir.

*Elsie K. Bradfield, direct.*

The Court: You stopped at the Imperial Hotel for what purpose?

The Witness: Having lunch.

Q And while you were getting your lunch he came in? A Yes, sir, he did.

Q Do you remember what else occurred? A 10  
There was no occurrence, I was simply sitting there in the restaurant.

Q Then you took the train and went home?  
A Yes, sir.

Q Now, do you remember going to see the play called "Rain," at the Maxine Elliott Theatre? A Yes, sir, I do.

Q That was a comedy? A Yes, sir.

Q Do you recall whether Mr. Fay was with you during that evening, after that matinee? A 20  
No, sir, he was not.

Q What did he do? A He took the train to Long Branch.

Q That is what he said he was going to do?  
A Yes, sir.

Q At any rate, he wasn't with you? A No, sir.

Q He was at the matinee with you? A Yes, sir.

Q There is talk that you and your mother 30  
and he all went to a matinee in the Newark Theatre, here? A Yes.

Q And that you all went in a taxicab downtown? A Yes, sir.

Q And that later you and he went up to the house? A Yes, sir.

Q Do you remember whether he went up to the house or not? A I think he did.

Q Your daughters, last year, were how old?  
A They are seventeen and twenty-one now. 40

*Elsie K. Bradfield, direct.*

Q And they have friends in evenings? A Yes, sir.

Q Were your daughters right around the house? A Yes, sir.

Q Did you ever see Mr. Fay alone when the family were not accessible and right there? A No, sir.

10 Q Some statement is made with reference to an incident on the tenth of April, where you and Mr. Fay met in the daytime about two o'clock at Asbury Park, and then separated and went to get something to eat and later you went down to Avon in a cab. Have you any recollection of that? A I have no recollection of that whatsoever.

Q You wouldn't say you didn't go, and you don't say you did? A I have no recollection of it in any way.

Q Have you made a little sketch of the location of your house upon North Seventh street? A Yes, sir.

Q Is Park avenue level there or not? A No, sir.

Q Up and down hill? A Yes, sir.

Q Quite a slope? A Yes, sir.

Q This sketch you produce is what?

30 The Court: What does it show?

The Witness: Well, it shows—I fixed this last night. This is our house on the corner of Seventh street and Park avenue. Park avenue is a very wide thoroughfare and leads into the Oranges. This is the shrubbery. We don't have shrubbery on Seventh street—we don't have shrubbery on this block. There are ten houses—one large house facing Park avenue, one facing Roseville avenue and a deep yard. It is a short block.

40

*Elsie K. Bradfield, direct.*

Q Roseville avenue—is that west or east of your house? A West.

The Court: What is on this side of Park avenue?

The Witness: A church on the corner and houses down here (indicating).

10

Q Do you remember any occasion when you and Mr. Fay alighted separately, or went into the house separately, after you came home in a taxicab to the house? A No, sir. I do recall alighting at Roseville avenue and Park avenue and walking down, but with Mr. Fay.

Q Do you know why you got out there? A Yes.

Q What was the reason? A Because I felt that the neighborhood, which has since proven true, wasn't very cordial to me and I would prefer to walk in my home with a gentleman than to drive up in a taxicab and go in quickly.

20

Q Now, did you know that you were being shadowed? A No, sir.

Q On the eighth of November, 1923, you left Newark to go to New York? A Yes, sir.

Q What were you intending to do there? A I was going to the theatre.

30

Q Had you heard from Mr. Fay that day? A No, sir.

Q Did you know where he was? A No, sir.

Q Do you know what time you went to New York? A Four-thirty—four-twenty in the afternoon.

Q From what station? A Pennsylvania Station, Market street.

Q Someone has said you took the two-twenty-five train, is that a fact? A No, sir.

40

*Elsie K. Bradfield, direct.*

Q Four-thirty? A Yes, sir.

Q Do you remember what time you left the house? A Just in time to take the jitney.

Q Had you determined to what theatre you were going before you left? A No, sir.

10 Q Did you have any arrangement to meet Mr. Fay? A No, sir.

Q Where did you meet him? A I was walking through the main corridor of the Pennsylvania Station after having been in the ladies' room and walking through the waiting room out into the main corridor when I saw Mr. Fay talking with a gentleman and I stepped aside to speak to him. That is where I first saw Mr. Fay.

20 The Court: Some witness said yesterday—one of these detectives, that you got off the train and that he was down in the lower level where the train came in and that you walked upstairs together? Is that a fact?

The Witness: No, sir.

Q You correctly stated where you met him? A Yes, sir.

Q You had no arrangement to meet him? A No, sir.

30 Q Tell us what occurred. A Mr. Fay said, "Hello, what are you doing?" I said, "Well, I came over to the city—I think I will go to the theatre. He said, "Well, I am going to a dinner tonight." We probably talked in a general way previous to that. I said, "I am going to the theatre tonight—I don't know just where. I made arrangements later on to go to the play. He had a bag. He said "I am going to a dinner—I think it is at the Waldorf." He said, "Are you going home?" I said, "Yes, I am go-

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*Elsie K. Bradfield, direct.*

ing home, but I don't like to be out so late at night because my aunt had been held up in Forest Hill about a year previous, and from her description of the experience it had not been pleasant." He said, "Well, I have got to have a room for ten minutes' time to change my suit. You are welcome to have it after that, if you want it." 10

The Court: Welcome to this room to stay all night if you wanted to, instead of going back after the theatre?

The Witness: Yes, sir. I said, "Very well." Mr. Fay went to the Hotel Pennsylvania.

Q Were you with him? A I went in the hotel with him. He left to go over to a desk and I waited at the elevator. He came across the corridor and went in the elevator. I had said to Mr. Fay, "I will wait on the mezzanine floor." Mr. Fay went up—changed to his dinner clothing, came downstairs and he said, "Well, here is the key of the room." I went down in the soda shop and had dinner, or supper—whatever it was, all alone, and looked in the paper to see what play I would like to go to, and picked out "Chains"—a play by the name of "Chains," at the Playhouse. I was a little early so I walked from the Pennsylvania Station—Pennsylvania Hotel, up to Forty-eighth street, and went into the play, all alone. When I came out of the theatre I took a car—trolley car, down I think to Seventh avenue, walked to the hotel and immediately went up to the room, which would be eleven-fifteen or eleven-twenty, or so, which has been testified to. 20 30 40

*Elsie K. Bradfield, direct.*

Q Was the door locked? A Yes, sir.

Q You unlocked it and went in? A Yes, sir.

Q Turned up the light? A Yes, sir.

Q What condition were the beds in? A The beds were turned down as though they had been  
10 prepared for occupancy for the night.

Q What do you mean by that? A As though a maid had fixed them. They didn't have any appearance of ever having been used or slept on.

Q The spread was where? A Turned over—turned down.

Q Over the foot? A Yes, sir.

Q That was the first time you had been in the room, was it? A Yes, sir.

20 Q Had anything happened to your foot? A Yes, sir, I had a new pair of suede pumps on and in taking a long walk I had raised a blister on my heel. I went in the bathroom and put water in the tub and had my foot in the water. I was suffering agony due to the blister on my heel.

Q What time was it when you got there? A Eleven-fifteen or eleven-twenty—just time enough to come down from the theatre.

30 Q Had Mr. Fay told you what time he expected to go home? A He was leaving on the midnight.

Q Well, were you actually taking a bath or were you bathing your foot—which was the fact? A I was bathing my foot.

Q And what then occurred? A A knock came on the door, and it was a hard knock, because the bathroom was so situated that it would have to be in order to hear it in this particular  
40 room.

*Elsie K. Bradfield, direct.*

Q Who did you suppose was knocking? A Well, Mr. Fay's bag was in the room. I thought it was a porter to take his bag. I picked a blanket up as I went through the room and held it around me before I opened the door, and when I opened the door Mr. Fay was there just stepping in the room. I felt a great weight against the door and I didn't know what it was. I know since it was Dr. Morrison, first, Mr. Ross and I think three or four other gentlemen. There was a great pressure. The door never shut. 10

The Court: It had not closed?

The Witness: It had not closed.

The Court: Did they follow Mr. Fay immediately into the room?

The Witness: Yes, sir, immediately. 20

Q Then some conversation occurred and you got dressed and went home? A Dr. Morrison said, "I guess this will do." One of the operatives said to Mr. Fay, "I guess you won't make your train."

Q Mr. Flarity, I think it was, one of the witnesses, spoke of having met Mr. Fay on one occasion, casually, during Governor Edwards' campaign; he said that Mr. Fay said in your presence and the presence of all of them, "Why didn't you tip me off?" Was any such remark made in your hearing? A No, sir. 30

Q Were papers in this case the next thing that you heard, or not? A After it had been in the newspapers I was served with papers.

Q It got in the newspapers first? A Yes, sir.

The Court: What, if anything, did Mr. Fay say to you when you opened the door? 40

*Elsie K. Bradfield, cross.*

What explanation did he give for appearing there, if any?

The Witness: Nothing was said that I can recall.

The Court: There wasn't time, was there?

10 The Witness: No, it was too sudden—I didn't know what it was—the weight of the gentlemen.

The Court: Did you ask Mr. Fay how he had registered?

The Witness: No, sir, I did not.

The Court: Did he tell you?

A No, sir, he did not.

20 Q Did you, or did you not know the way he had registered? A I did not.

Q You didn't know? A No, sir.

*Cross examination by Mr. Croll.*

Q How many times were you in that hotel before, with Mr. Fay? A I had met Mr. Fay in the corridor upon one occasion in talking over matters.

30 Q Did you ever go to a room with Mr. Fay at the Pennsylvania Hotel before that time? A No, sir.

Q Did you ever go to a room with Mr. Fay at any other hotel before that time? A No, sir.

Q When Mr. Fay came to the door, was the door locked? A Was the door locked?

Q When he came to the door, was it locked—did he knock or did he rattle the knob? A He knocked.

40 Q Did you let him in immediately? A I don't know whether it was immediately or not.

*Elsie K. Bradfield, cross.*

Q Did you wait awhile before you let him in?

A No, I did not wait after I heard the knock.

Q You expected it would be the porter? A I did.

Q What time was that, when he came in? A About eleven-forty or eleven-forty-five.

Q Did he tell you he was coming before that? 10  
A He didn't say.

Q Did you expect him back? A No, sir.

Q You didn't think he would be back to the hotel? A No, sir.

Q His bag was in the room, and his train was going back to Long Branch around midnight—twelve-one or twelve o'clock? A Yes, sir.

Q Do you know that of your own knowledge? A I do.

Q Have you ever taken that train? A Upon 20  
one or two occasions.

Q You knew he was going to make that train? A Yes, sir.

Q Had you noticed that his bag was in the room? A Yes, sir.

Q Had you made any arrangements with him about that bag? A No, sir, I had not.

Q You came back to the hotel around half-past eleven, didn't you? A Yes, sir.

Q Did you remove all your clothes? A No, 30  
sir, not all.

Q Did you keep any of your clothes on? A Yes, sir.

Q Now, you had an injury, you say to your foot, and you found it necessary to bathe your foot? A Yes, sir.

Q The round part of your foot? A Yes, sir.

Q The sole of your foot? A The heel.

Q Was it necessary to take off your lingerie to bathe the heel of your foot? A Not always. 40

*Elsie K. Bradfield, cross.*

Q But you had taken off your lingerie nevertheless? A Yes, sir, I had.

Q Did you have anything over your body except the blanket? A I think I had a skirt.

10 Q So that what you would have us believe is that you took everything except a skirt off, in order to bathe or apply some medicinal treatment to the heel of your foot? Is that so? A I have no way, Mr. Croll, of knowing whether the object produced in court is mine.

Q You doubt whether that is yours? A I have no way of identifying it as mine.

The Court: Do you wish to see it?

The Witness: I would like to see it.

20 Q Have you any reason to think that we have fabricated a charge of this sort? A I don't know that.

Q Have you any reason to think that these officers or detectives or operatives would produce a garment of this sort and claim it to be yours when it wasn't? A I have never had any experience with any people of this kind before.

30 Q Well, now, take a look at this garment. Will you look that over leisurely and tell us if that is yours, or if that is somebody else's? A It may be mine, Mr. Croll—it may not.

The Court: Did you see Mr. Corbally take it from your room that night?

The Witness: I saw Mr. Corbally go into the closet. I didn't see what he took.

The Court: Did you see him take anything from the closet?

40 The Witness: Yes, I understand Mr. Corbally did take something.

*Elsie K. Bradfield, cross.*

The Court: Not what you understand.

The Witness: I didn't see him, but I knew he went there for that purpose.

The Court: Did he take that collar?

The Witness: Yes, I believe he did.

Q Did you know why he was taking the collar? A No. 10

Q Did you know it might be for purposes of evidence? A I had so many thoughts at one minute I couldn't be positive of any particular thing.

Q What thoughts did you have at that minute that were so many? A Seeing Mr. Ross; Dr. Morrison, the statement that he made.

Q What statement did they make? 20

The Court: One at a time—let her finish her statement.

The Witness: The strange men—and what I heard Dr. Morrison say, "That will be enough." I might have known they took the collar for that purpose.

Q What statement did they make?

The Court: She said Dr. Morrison said, "This will be enough." 30

The Witness: Yes, sir.

Q Did you notice the bag when you came into the room after you came from the theatre?

A No, I took no particular note of the bag.

Q Did you know it was there? A No, sir, I saw it afterward.

The Court: After when? 40

*Elsie K. Bradfield, cross.*

The Witness: When I got in the room.

Q That is what I am asking you. A I saw it then.

Q Did that make you believe that he would come back—that Fay was coming back? A That he would send a porter for his bag.

10 Q You didn't think by any possibility he would come back? A I did not.

Q That wasn't in your thoughts? A No, sir.

Q And you didn't consider it slightly? A The possibility of his return?

Q You didn't consider the possibility of his return? A I didn't consider the possibility of his return.

20 Q You didn't believe he would return? A No, sir.

Q Didn't he tell you he was going to return? A No, sir.

Q Didn't he tell you he was going to stay in New York that night? A No, sir.

Q Did you know he was going to stay in New York that night? A I did not.

Q Do you know where he had been? A He was going to a dinner.

30 Q Where? A I believe at the Waldorf.

Q That is only two blocks away, isn't it? A I guess it is.

Q Do you mean to say that you didn't meet him by appointment that afternoon? A No, sir, I did not.

Q You would have us understand Mr. Fay was your counsel? A Yes, sir.

Q How many times have you been at Mr. Fay's office? A Just when?

40 Q Any time—altogether. A Oh a dozen.

*Elsie K. Bradfield, cross.*

Q Have you been to his office in the last year?

A Yes, sir.

Q Have you been to his office since March of a year ago? A Since March, a year ago?

The Court: Since the doctor was removed?

10

The Witness: I would say so.

Q Did you meet Mr. Fay at the Imperial Hotel in Long Branch? A Yes.

Q Did you go there to meet him? A No, sir.

Q What did you do when you finished your business with him? A Waited until train time.

Q And then came home? A Yes, sir.

Q You didn't go to his office? A No, sir. 20

Q You saw nobody else in Long Branch? A Not that I remember.

Q You went there to see Mr. Fay? A Yes, sir.

Q Did Mr. Fay—was he ever at your house at half-past eleven of an evening? A He may have been, Mr. Croll.

Q Was he ever there as long as two hours? A It is possible, but I hardly think so. 30

Q Was he ever there as late as half-past eleven at night and for two hours thereto? A He might have been. His train leaves at midnight and if he didn't make a nine-thirty train there is no train between then and midnight.

Q Did you have law business with Mr. Fay? A Yes, sir.

Q Are you willing to tell the nature of the law business you had? A I was going to consult him about myself. 40

*Elsie K. Bradfield, cross.*

Q The case you had against me, is that the case you had in mind? A The case against you?

Q The case you threatened to bring against me—the one referred to in the letter of March 15th, in which you were going to present it—the mail case? A I didn't need Mr. Fay's advice on that. I wanted to know what status I was in.

10 Q Didn't you want advice on that? A I got advice. I took it to the postal authorities.

Q And did you have advice about what lawyers could or could not do about other people's business? A Not from Mr. Fay.

Q Did you have advice from someone else? A Yes, but not competent.

Q Is that what you meant when you said, "I have been informed that even lawyers can so interfere with other people's business as to subject themselves to an action." A That was

20 given to me by people who were not competent in speaking.

Q Just what actions did you contemplate bringing through Mr. Fay? A I have spoken to Mr. Fay about divorce.

Q You had spoken to him about divorce? A I had spoken to him about divorce as far as I was concerned. I felt I had been back at the home and had made such a trial, and the conditions weren't changed when I went back, and doctor had left. There was a period of over two years. There hadn't been any marital relations since 1917 and I was going to ask his advice.

30

Q So that Mr. Fay knew all about your domestic affairs? A Yes, Mr. Fay did.

Q He was informed of the difficulties between you and your husband, and the unhappiness you felt? A Yes, he did.

40 Q Do you know Mr. Fay's wife? A Yes, sir.

*Elsie K. Bradfield, cross.*

Q Do you know how much of a family he has?

A Yes, sir.

Q How much of a family has he? A He has two children.

Q Are they grown children? A Growing children.

Q How old, about? A About ten and thirteen, I believe. 10

Q And you had told Mr. Fay completely about the troubles you had with Dr. Bradfield, had you? A Yes, I think Mr. Fay was apprised of the facts.

Q How many times did you call on Mr. Fay at his office?

The Court: She said about a dozen times.

Q How many times did you consult with Mr. Fay outside of his office? A Just what do you mean? 20

Q How many times did you consult with Mr. Fay outside his office—away from his office?

The Court: At your home or elsewhere.

The Witness: Yes.

The Court: How many times did you consult him at such other places than his office? 30

The Witness: I would say twelve times.

Q How much did you pay Mr. Fay for his advice or services? A I haven't been in a position to pay anybody anything.

Q You haven't paid Mr. Fay anything? A I haven't paid Mr. Fay anything.

Q And what Mr. Fay did for you he did gratuitously? 40

*Elsie K. Bradfield, cross.*

The Court He hasn't done anything yet.

Q Did he advise you? A No, sir.

Q Are we to understand that the meeting in the Pennsylvania depot was entirely an accident?

A Yes, sir.

10 Q Had you intended staying in New York that night? A No, sir.

Q What prompted you to stay in New York, outside of your apprehension on account of the relative of yours who was held up? A Nothing at all that I know of.

Q Was it Mr. Fay's suggestion? A No, it wasn't his suggestion—it was just that he said he was going to have a room for ten minutes to change his clothing.

20 Q Then you knew this was his room? A Yes, I would have known it was his room.

Q Did you know it was his room? A He gave me the key of the room.

Q You didn't register, did you? A No, sir.

Q Nor did you ask him how he registered? A No, I did not.

Q You knew he registered? A I would have supposed so.

30 Q And have you been at hotels before, ever in your life? A Yes, sir.

Q You know in a proper hotel you can't go to somebody's room, except on a visit, without being registered, don't you know that? A Yes.

Q The Pennsylvania Hotel you know to be a reputable hotel, don't you? A Yes, sir.

Q And did you realize you were doing anything improper—not from a moral standpoint alone—in going to another room?

40 The Court: Going to a room—not another one.

*Elsie K. Bradfield, cross.*

Q Did you realize that was improper? A No, sir.

Q Did you know, in a manner of speaking, that was cheating the hotel? A No, sir.

Q Did you know that a lady was registered with Mr. Fay? A I didn't know it—I would have supposed so.

Q You then do know that you were registered, —didn't you? A I didn't know it, except that I did suppose that to be the truth. 10

The Court: Why did you suppose such a thing?

The Witness: Just as he said, it would be necessary for anyone to register in order to be there.

The Court: Mr. Fay had hired the room for the purpose of changing his clothes. 20

The Witness: Yes, sir.

The Court: And told you, you could use it if you desired to stay all night, and he gave you the key?

The Witness: That is true.

Q You knew you were registered, didn't you —you knew someone was registered with Mr. Fay? 30

Mr. McCarter: I object.

The Court: The question is, "Did you know that you were registered with Mr. Fay for that room?"

The Witness: No, sir, I didn't know it.

Q What was the meaning of your answer of a minute ago when you said you might have supposed that, as I understood you to say? 40

*Elsie K. Bradfield, cross.*

What was your meaning? A You just told me it was the custom.

Q I didn't tell you anything. I asked you a question. Am I to understand that you didn't know that Thomas P. Fay and wife were registered, or John Smith, or John Doe, or anybody  
10 else and wife were not registered? A I didn't know it.

Q You thought you were going to a room that had been assigned to Thomas P. Fay alone? A I didn't think the matter over.

Q Was it a matter of so much indifference to you, you, the mother of three children—that you didn't think it over? A I didn't think it over.

Q Did you take it as a matter of course?

20 The Court: Take what?

A I just didn't give it a thought.

Q Was it an every-day affair with you to go to a man's room? A No, sir.

Q It was Mr. Fay who put it in your mind to stay in that hotel, wasn't it? A I don't recall the conversation.

Q Did you make any change in your attire during the afternoon? A No, sir.

30 Q Did you make any change at all during the afternoon? A I was not in the room.

Q Where were you? A Downstairs.

Q How far did you go in the elevator? A To the mezzanine floor.

Q Why did you go there? A To sit there and wait.

Q Wait for whom? A Mr. Fay.

Q What for? A He gave me the key.

40 Q Did he have a bag with him when he came back—came downstairs? A No, sir.

*Elsie K. Bradfield, cross.*

Q How long was he gone? A Oh, he left immediately.

The Court: How long was he gone from the time you got the key until he came back?

The Witness: Just time enough to make a change of apparel.

10

Q Were you embarrassed going up in the elevator with him?

The Court: She didn't say she went to the elevator with him. She went to the mezzanine floor while he went up to change.

The Witness: I think Mr. Fay was in the same elevator from which I alighted at the mezzanine floor.

20

Q It is only a few steps to the mezzanine floor? A Yes, sir.

Q You got off at the mezzanine floor? A Yes, sir.

Q And he went upstairs? A Yes, sir.

Q And you waited? A Yes, sir.

Q Did he ask you to wait? A I had said I would wait.

30

Q Were you unaccustomed to being up late at night? A No, sir.

Q Were you afraid to be out late at night?

A I had not been afraid for a long time, but from the different things I read in the newspaper and my aunt's hold-up, I was afraid.

Q How did you come to the railroad station that afternoon? A I think by jitney.

Q Did you ever come by taxi? A I did, yes.

Q Yes? A Yes, I did.

40

*Elsie K. Bradfield, cross.*

Q Did you know what time the theatre would be over? A The theatre is the usual time anywhere, isn't it?

Q Well, more or less, but did you know about what time it would be over? A No, I didn't know.

10 Q Very seldom after half-past eleven—very seldom later than that? A Around half-past eleven.

Q You knew there was a train at twelve o'clock? A Yes, sir.

Q You knew there was a train at eleven-thirty-five? A No, sir.

Q But you did know there was a train at twelve? A Yes, sir.

20 Q And did that train stop at Newark? A I guess it does.

Q And it stops at Manhattan Transfer? A I guess it does.

Q And you could have taken a jitney bus home? A I could have done that.

Q If you had taken the midnight train or the one before? A Yes, sir.

(Recess for lunch.)

30

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AFTERNOON SESSION.

*Further cross examination by Mr. Croll.*

Q What sort of ticket did you use going to New York that day? A A regular railroad ticket.

40 Q Where did you buy the ticket? A Pennsylvania Railroad Station.

*Elsie K. Bradfield, cross.*

Q How much did you pay for the ticket? A I think sixty-nine or seventy-nine cents.

Q Then it was an uptown ticket? A Yes, sir.

Q Sixty-nine cents is the price of an uptown ticket? A I can't be positive.

Q And you bought a ticket to uptown New York, and from uptown New York. What train did you get going over from Newark? A The first one that came along. 10

The Court: About what hour?

The Witness: Well, I left here—I should say it was about four-thirty or so.

The Court: You left home?

The Witness: Yes, sir.

Q Do you know what time the Long Branch train comes into Newark? A The Long Branch? 20

Q The train from Long Branch? A There are trains in the afternoon.

Q Don't you know it comes in at four-fifty-two? A No.

Q Have you ever taken the four-fifty-two train? A I may have—I take any train that comes in.

Q Didn't you ever take that train and meet Mr. Fay? A Not to my knowledge, no. 30

Q You expected to come back by way of the Pennsylvania Station and Thirty-second street? A Wherever I happened to be.

Q You know you can buy an ordinary ticket for forty cents? A You have to pay the additional charge.

The Court: You mean to downtown New York? 40

*Elsie K. Bradfield, cross.*

Mr. Croll: Yes, sir.

Q And you know it costs fifteen cents each way to go to the uptown station? A Yes, sir.

Q And you know if you had bought a downtown ticket you could have paid the fifteen cents excess on the train? A I don't know as I  
10 thought of it. I know it now.

Q How far away from the Lackawanna Station do you live at Roseville avenue? A Two very long blocks and one usual block.

Q Is it over a five-minute walk? A About five minutes.

Q Why didn't you take a Roseville avenue train instead of taking an uptown train at Market street? A Because I think the Lackawanna rates are still higher.

Q Don't you know that all the railroads from  
20 Newark, except the Lehigh Valley, are forty cents? A I don't know that, but I think our Roseville rate is ten cents more each way, just from Newark.

Q Is that the reason you took the Pennsylvania? A No, that isn't the reason—

Q It cost you five or ten cents on the bus? A That wasn't the reason.

Q Now, there are theatre trains from New  
30 York on the Lackawanna? A There probably are—I don't know.

Q Aren't there trains around half-past eleven and twelve, and as late as half-past twelve on the Lackawanna—do you know that? A I don't know.

Q Aren't there? A I don't know.

Q You know you can take a Lackawanna train—that you can get a Lackawanna train out of Hoboken from Thirty-third street and Sixth ave-  
40 nue?

*Elsie K. Bradfield, cross.*

The Court: You mean by coming on the tube and changing. Do you know that?

The Witness: I never used that.

The Court: Do you know it can be done?

The Witness: I think it can be done.

Q You know as a matter of fact it can be done? A I think it can be done. 10

Q Have you ever gone to New York by way of Roseville avenue and the tubes? A Roseville avenue and the tubes?

Q Roseville avenue station of the Lackawanna, to Hoboken? A No, sir.

Q Is that the first night you were ever away from home? A No, sir.

Q Is that the first time that you stayed at the Pennsylvania? A Yes, sir.

Q Did you go to the theatre often? A Not very often, no, sir. 20

Q Did you ever go with Mr. Fay to the theatre, except on that one occasion?

The Court: She says she went to the Newark Theatre on another.

Q I mean in New York—the time you saw "Rain." Did you ever go to the theatre in New York? A I recall one play when mother was along, too. 30

Q Mrs. Bradfield, was Mr. Fay along, too? A Mr. Fay was there.

Q When was that? A I just can't recall just when it was.

Q Was it a matinee or evening performance? A Matinee.

Q Did you ever meet Mr. Fay in New York at night except on this occasion in November?

A No, sir. 40

*Elsie K. Bradfield, cross.*

Q That is the only time you ever met him at night? A Yes, perhaps I have talked to him in the Pennsylvania lobby on another occasion, when I saw Mr. Ross.

Q Who paid for the tickets for "Rain"? A Mr. Fay.

10 Q Who paid for the tickets for "Chains"?  
A I did.

Q Where did you buy the ticket? A At the hotel.

Q When did you buy them?

The Court: Buy them, you say?

Q When did you buy it? The ticket? A That same evening.

20 Q Before or after you met Mr. Fay? A  
After.

Q Before or after he went to the room? A I can't recall just when.

Q Are you sure he didn't pay for the ticket? A I am.

Q Did you buy it at the theatre ticket agency on the ground floor of the Pennsylvania? A I don't know whether I bought it there or at the window.

30 Q You said a minute ago you bought it at the hotel. A I think I did, sir.

Q You bought it at the hotel? A Yes, sir.

Q What part of the theatre did you sit in? A Some part of the main floor.

Q How much did you pay for the ticket? A It was \$2.75 or \$3.25, I just don't remember.

Q What was the face price of the ticket—what was the ticket marked on its face? A \$2.75, I think.

40 Q Did you have to pay anything extra at the theatre ticket agency? A Yes, sir.

*Elsie K. Bradfield, cross.*

Q How much extra did you pay? A They charged fifty cents.

Q And Mr. Fay didn't buy that ticket? A No, sir.

Q Who was home when you left the house that night? A My mother, Doris—the family and my mother.

Q You expected to return that night? A Yes, sir. 10

Q Did you tell your mother you were coming back? A I called her up in the early evening that I wouldn't be back.

The Court: When you left the house that afternoon did you tell your mother and the family you would not be back?

The Witness: No, I did not. 20

Q Now as a matter of fact, Mrs. Bradfield, you were very much given to staying away nights, weren't you?

Mr. McCarter: That is objected to.

The Court: Sustained, unless it is connected with Mr. Fay.

Q Now when you came home after the separation, what was the principal trouble about with the doctor? A In 1920 after I came home. 30

Q After the separation—after you came home? A The trouble was due to his wanting me to go to my mother's house.

Q Wasn't the great trouble between you and the doctor the fact that you stayed out of the house two and three nights a week? A No, sir, except I was at my mother's house possibly two nights. 40

*Elsie K. Bradfield, cross.*

Q Wasn't it a fact that you would leave your house and come back sometimes after two or three nights, without any account to your children or to the doctor, and he would want to know where you were and you would blow up? A My children always knew where I was.

10 Q Did you tell your husband, the doctor, you would go away and then be away all night long?  
A I think he knew it.

The Court: Did you tell him?

The Witness: Yes.

Q Always told him—is that so? A Yes, sir.

Q And he didn't object to it? A He objected to my mother enough.

20 Q He objected to your staying away over night, didn't he? A Yes, he did.

Q And there were quarrels about that, weren't there? A Yes, sir.

Q And your daughters had to prepare meals for little Jack and themselves? A They never minded.

Q Doctor minded, didn't he? A Very likely.

30 Q Did he or did he not? A I understand he had considerable to say when I wasn't there, but not very much when I was.

Q What did you expect when you stayed away two or three nights a week? A I didn't stay away two or three nights a week. My mother was in the hospital and she had some book in the course of preparation.

Q Your mother was in the house a great deal?  
A I wouldn't say a great deal.

40 Q You knew that the doctor didn't like your mother? A I certainly did.

*Elsie K. Bradfield, cross.*

Q You knew it all the time? A I surely did.

Q And yet you persisted in allowing her to stay there against his objection. A She wasn't there when he was there, Mr. Croll.

Q But she stayed there nights frequently?  
A Not frequently. 10

Q And you say you were sure he didn't like it? A She was my mother.

Q He was your husband? A Yes, but it was my home.

Q And you usually won those arguments?  
A No, sir, I did not.

Q In March, when you got a letter from me you knew the doctor was very ill? A He had been very ill.

Q His life was very much despaired of? A 20  
Yes, sir.

Q And it was feared he would die? A In January.

Q And during some of those periods you left the house, did you not? A Never at night.

Q Did you leave during the day? A The same as anyone would, for recreation, because of the work.

Q Were you ever, during that period, away over night? A No, sir. 30

Q When did that illness of his start? A Just before Christmas.

Q And he was ill until when? A Until March.

Q You wrote me the letter several days after he had gone out of the house? A Yes, sir.

Q And you had never left the house during that time at night? A No, sir.

Q You had never been to see Mr. Fay? A 40  
No, sir.

*Elsie K. Bradfield, cross.*

Q You never went there at other times? A  
My duty was at home.

The Court: Answer the question.

The Witness: No.

10 Q Did you go to see Mr. Fay in Long Branch  
at any time before the 26th of March—did you  
ever go to Long Branch in March before that  
date?

Mr. McCarter: That is the Imperial  
Hotel date?

The Witness: No.

Q That was the first time in March? A  
Yes, sir.

20 Q How long before that had you been to  
Long Branch? A Before when?

Q The 26th of March? A I can't remember  
that. My husband was so ill, and I had been  
there all the time.

Q Hadn't you been there within a few weeks?

The Court: Of March 26th?

The Witness: Not to my knowledge.

30 Q That is the first time you went to Long  
Branch in a considerable period, the 26th of  
March, when you were found there? A Yes,  
sir.

Q I don't know whether I asked you this  
before—I have forgotten. You didn't go to Mr.  
Fay's office that day, did you? A No, sir.

Q Was Mr. Fay the only lawyer you had at  
that time? A Yes, sir.

40 Q When did you first begin to consult with  
Mr. Fay? A In regard to what?

*Elsie K. Bradfield, cross.*

Q In regard to any legal matters. A I have seen Mr. Fay on matters pertaining to mother's business.

The Court: When did you first consult him in a professional way, either for yourself or your mother?

10

The Witness: That day in March. Mr. Fay I think took care of some matter in regard to an unpaid bill at some time.

The Court: For you?

The Witness: I believe so.

Q Judge Dillon had been your lawyer, hadn't he? A Yes, sir

Q Judge Dillon had been representing you when he treated with me, about the separation agreement? A Yes, sir. 20

Q Now when that separation agreement was drawn you had left the house? A Yes, sir.

Q And you had taken the three children away? A Yes, sir.

Q And without any notice?

Mr. McCarter: I object.

The Court: It is part of your case on your counter-claim. 30

Mr. McCarter: I don't think that the period of the agreement is out.

The Court: She has given her various reasons as to what led up to the preparation of the agreement.

Mr. Croll is going into the same subject.

Q You had taken the children away with you, hadn't you? A Yes, sir. 40

*Elsie K. Bradfield, cross.*

Q And you hadn't given him any notice, had you—hadn't told him you were going to take the children away? A No, sir.

Q Or that you were going to leave? A No. He didn't know I was going to leave.

10 Q So that when he came home one night you were gone and the children were gone?

Mr. McCarter: She can't answer that.

The Court: Mr. McCarter objects because he claims she doesn't know whether he ever came home that night or not.

Q Do you know whether that is what led up to the treaty or articles of separation? A Yes, sir.

20 Q Don't you know that is why the articles of separation were drawn? A No, sir.

Q Why were they drawn? A On account of the unhappy differences we had, just as the agreement states.

Q Don't you know the unhappy differences is a legal form that has been in existence for many generations. Did you think that the unhappy differences was any more than a very broad legal term? A I think it was special.

30 The Court: She testifies there were unhappy differences.

Q Doctor was very fond of his children? A He is, or was.

Q And the welfare of the children was very dear to him, wasn't it? A I think so.

Q Now, you testified you were not allowed to have charge accounts until later? A Yes, sir.

40 Q When were you allowed to have charge accounts?

*Elsie K. Bradfield, cross.*

The Court: During recess I glanced over your counter-claim, Mr. McCarter. I see a charge of desertion in 1922. That they ceased cohabitation and that by reason of these conditions he has deserted her for two years or more. According to the proof he left in March, 1923. Two years have not yet elapsed. According to their proof they have not cohabited since 1917, but there is nothing to indicate what caused its cessation in 1917, whether by her request or his, or mutual consent. If there is an actual desertion charged it must relate back to 1923. If it is constructive desertion there is no date established. 10

Mr. McCarter: I didn't prepare the counter-claim. The cohabitation ceased when this agreement was signed. When she came back he never asked her for a resumption of their marital relations. 20

The Court: The desertion did not occur until March, 1923.

Mr. McCarter: She ceased cohabiting with him in 1917.

The Court: Is that what you are basing the desertion on?

Mr. McCarter: The desertion is made up of two elements, the failure to cohabit, commencing in 1917, and its continuation from that time until the time this bill was filed, I think willingly on her part, and he suggesting that she go elsewhere and never return to him. 30

The Court: That is in the counter-claim?

Mr. McCarter: Yes, sir.

Q When did he allow you to have charge accounts? That is with reference to your earlier 40

*Elsie K. Bradfield, cross.*

answer that you were not allowed to have charge accounts until later? A I didn't have charge accounts until after he left home.

Q You were never allowed to have them, were you? A Not in the term of being allowed.

Q Doctor always paid his bills, didn't he?  
10 A His bills, yes.

Q Paid your bills, too, didn't he? A Yes, sir.

Q You were never satisfied, but you got what was needed? A What was necessary.

Q Why do you say you weren't allowed to have charge accounts until later? A Because I did have a charge account at Hahne & Company and he seriously objected to it, since he has been away.

20 Q You did have a charge account? A No.

Q When? A Since he left.

Q Did you have authority to open that charge account?

The Court: Can she answer that? You mean did she have authority from the doctor to do it?

The Witness: No, I didn't have his authority.

30

Q And yet some time after the events of November eighth, you ran up a bill of nearly \$300 in Hahne's store? A Two hundred something—it is nearer \$200 than \$300.

Q You did that without any authority though, didn't you? A My family needed it.

The Court: How is it material?

40

Mr. Croll: As a circumstance magnifying the alleged offense. When she had no ac-

*Elsie K. Bradfield, cross.*

counts before this happened, and afterward in a declarative way attempting to involve the doctor in a fair sized account.

The Court: Assuming that all to be true, how is it material? How does it affect the issue here?

The Witness: It covers a six months' period, Mr. Croll. 10

Q Now did you keep a record of your various grievances against him? A In my mind.

Q Did you keep a record about this terrible bonfire thing in Budd Lake? A No, not a record.

Q That happened in 1914, didn't it? A Yes, sir.

Q And you did make bonfires, didn't you? A I did. 20

Q Doctor didn't approve of these bonfires? A Everybody made them.

Q Well, doctor didn't approve of them, did he? A He said they were signals.

Q He didn't approve of the bonfires?

The Court: He didn't approve of the purpose for

Q You say that the conditions were such that one would set bonfires. What possible conditions would make bonfires all right? A I said one would set bonfires. 30

Q The conditions were such that one would set bonfires A I don't recall that.

The Court: Why did everybody set bonfires?

The Witness: It was a method of burning up refuse. 40

*Elsie K. Bradfield, cross.*

Q Was that why it was done? A Yes, sir.

Q Now, when he broke in the bath in 1915 or 1916 and said, "Where have you been and where did you get the candy—you never bought it yourself," was anyone there? A No, sir.

Q No one heard that? A No, sir.

10 Q And when he held matches close to your face, was anyone there? A My daughter was in the adjoining room.

Q When he threw toilet articles at you was anyone there? A I think Jack was in the bed with me.

Q Asleep? A Yes, sir.

Q This toilet article he threw at you—what was it? A It was a box.

Q Wasn't it a powder puff? A A powder jar and a box.

20 Q Wasn't it the innocent part of the powder puff that collided with you? A No, sir.

Q It was a box, and not a powder puff? A Powder puff box and a jar.

Q How big was that? A About that size—(witness indicates about three inches).

Q These indignities you had to submit to were all very private, weren't they?

30 The Court: What difference does it make if she did submit.

Q Coming now to the night that you said he was drunk. You say he was very intoxicated that night? A Which night?

Q When he was hurt. A He was very ugly drunk.

Q Did I understand you correctly, previously in your testimony, to have said that he did not drink to excess? A Until when I was home.  
40 After I returned home.

*Elsie K. Bradfield, cross.*

The Court: Until after the agreement had expired and she had returned home.

Q After 1920, that was the first time he began to drink to excess? A Yes, sir.

Q And the night he mentioned these words which you wrote out, was he really drunk then? 10

A Was he really drunk?

Q Yes. A Yes, sir, he was real drunk.

Q He held a carving knife over you? A Yes, sir.

Q For what purpose, do you know? A No, sir, I don't know for what purpose.

Q That was in June, 1922, was it? A Yes, sir.

Q He was complaining at that time about your staying away nights? A We quarreled 20 about many things, Mr. Croll.

Q At that particular time did you quarrel about your staying away nights? A No, sir.

Q Now, when you got my letter you knew that the doctor was very ill, didn't you? A He had been very ill.

The Court: Had been, she said.

Q And he was then? 30

The Court: Well, she doesn't agree with you. She said he had been. She said he was improving in March, so much so that the trained nurse, she thought, could be dispensed with, and another one employed.

Q You knew Dr. Morrison felt otherwise about the nurse, didn't you? A That she should be there? 40

*Elsie K. Bradfield, re-direct.*

Q Yes. A Well, he kept her there. He must have felt so.

The Court: He told you so, didn't he?

The Witness: Yes, sir.

10 Q On November eighth—

The Court: I don't see very much to Mrs. Bradfield's case of a desertion, nor very much more than from your standpoint of adultery. I don't care whether she differed with Dr. Morrison or not. I have grave doubts of her case on the ground of desertion, and I have grave doubts of your case on the ground of adultery.

20 Q On the point of the doctor's bag in the room. Did you know that his bag was in the room? Did you?

Q I mean Fay's bag? A Yes, sir.

The Court: She said she did.

Mr. Croll: That is all.

30 The Court: I don't want to curtail anything of importance to you. I don't care to go into outside matters about whether she differed with Dr. Morrison or not.

*Re-direct examination* by Mr. McCarter.

Q I want to ask you one or two more questions. On an occasion—do you remember an occasion when Mrs. Morrison was there at your house? A Yes, sir.

40 Q Was she accustomed to visit you from time to time? A Mrs. Morrison? About once a week.

*Elsie K. Bradfield, re-direct.*

Q Do you remember on one occasion she was there and your husband did something that made her make a remark to you in his presence? A He came home—he was intoxicated. She turned to me and said, “Elsie, are you afraid? Do you want me to stay with you all night?”

Q When was that? A Previous to the separation. 10

The Court: Previous to the 1917 separation?

The Witness: Yes, sir.

Q The letter that you wrote Mr. Croll, Exhibit D. 3, says, “You had occasion to reprimand your client, my husband, at your office in my presence in speaking of my mother. I remember it very distinctly.” “You know when I was separated the effort you made and the promises if I would become reconciled.” What efforts and promises were made to get you to come back? A Well, they said everything was going to be changed. 20

The Court: Who made that statement?

The Witness: Mr. Croll and my husband. I didn't want to go back in the same house and my husband owned another house downtown on Fulton street and I felt if I went back I wanted a complete change of surroundings in every way. They held out the promise that perhaps I could go to the Fulton street house, but I learned from the tenants he had signed their lease and I couldn't go down there. I didn't want to stay away from my children any longer so I went back in the fall. 30

40

*Mrs. Ida M. Erwin, direct.*

The Court: Mr. McCarter is asking about the efforts and promises that had been made you to get you to go back. What promises had been made?

10 The Witness: That conditions would be changed and we would try to be happy and go out and begin again, so to speak.

Q Now, do I understand that you told Mr. Croll that you always had sufficient money from your husband? A Did I ever tell Mr. Croll I had sufficient money?

Q Do you mean to go on record as having said your husband gave you enough money, or not? A No, sir, for necessities, for actual want.

20

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MRS. IDA M. ERWIN, duly sworn on behalf of defendant, for

*Direct examination by Mr. McCarter.*

Q You are the mother of Mrs. Bradfield? A I am.

30 Q How old is Mrs. Bradfield? A Thirty-eight years old.

Q And your present home is where? A Belmar, New Jersey.

Q How long has your husband been dead? A That I am unable to say. I obtained a divorce from my husband in Rochester, New York, in 1895.

Q And since then you haven't been with him? A No, sir.

40 Q Since that time have you supported yourself? A I have, sir.

*Mrs. Ida M. Erwin, direct.*

Q Did you become acquainted with Mr. Fay?

A I should say about eight years ago I met Mr. Fay.

Q How did that come about? A There was the convention of the Elks in Long Branch—the New Jersey State Re-union of the Elks at Long Branch.

10

Q What did you have to do with that? A I published the program or year book for the state re-union. Mr. Fay was chairman of the affair.

Q That was what year? A 1917.

Q Did you have any later business with him?

A I have had the New Jersey State Elks Program for four years, 1917, 1921, 1922 and 1923.

Q During these years where were you living?

A At the seashore in the summer and various places in Newark and New York during the winter on account of the business.

20

Q You knew your daughter's husband? A Yes, sir.

Q And were fond of your daughter and grandchildren? A Yes, sir.

Q Did you receive a welcome at the home? A Not of late years.

Q When did that come about?

Mr. Croll: I don't think this is quite the issue in the case. 30

The Court: I don't know how far Mr. McCarter desires to pursue it. I don't see how it is material.

Mr. McCarter: I can imagine how a daughter might resent ill-treatment of her mother.

The Court: I can too, but the husband would still have the right to control his household. 40

*Mrs. Ida M. Erwin, direct.*

Q Did you seek to give your daughter any outings or amusement? A I did.

Q What attitude did Dr. Bradfield take with reference to that?

10 Mr. Croll: I object on the same grounds—lack of materiality.

The Court: But at the same time it may be, and the only reason I think it possibly competent was that the doctor continually nagged at his wife for causes wholly insufficient. I will receive some of it.

The Witness: He forbade her to go to the theatre with me and said that he did not want his wife to go to New York with me.

20 Q Did you get a letter from him? A From the doctor?

Q From Mr. Croll? A Yes, sir.

Q When was that? A I should say in October.

Q Is that the copy of the letter that you got? A Yes.

30 Mr. McCarter: I offer it in evidence. (Letter from Mr. Croll to Mrs. Erwin marked in evidence, Exhibit D. 5.)

(Mr. McCarter reads letter.)

Mr. Croll: What is the date of that?

Mr. McCarter: November 16, 1922.

Q Did you ever answer that letter? A I did not.

40 Q Did you ever notice liquor on Dr. Bradfield's breath? A At times, yes.

*Mrs. Ida M. Erwin, cross.*

Q Who introduced Mr. Fay to your daughter?

A Why, Mr. Fay was at my home, I think, on business, and my daughter was there. That was the occasion of her meeting him.

Q Do you remember going to the theatre with him? A I do.

Q Was Mr. Fay at the Seventh street house 10  
some time when you were there? A I think he was there once when I was there.

Q On the evening of the eighth of November did you receive a telephone call from your daughter that she wouldn't be home? A I did.

Q Did she get home later? A She did.

Q Did she tell you all that had occurred? A Yes, sir.

*Cross examination by Mr. Croll.*

20

Q You knew, Mrs. Erwin, that you offended the doctor, did you not? A I was in Dr. Bradford's house on very few occasions.

Q You knew you offended him, didn't you?

A He never said it to me but—

Q You knew, nevertheless? A I knew it.

Q You knew he displeased you, didn't you?

A I think he did.

Q Why did you persist in going to the house? 30

A Because it was my daughter's home.

Q Did you find anything to object to, in the form or contents of the letter I wrote you? A I think it was very impertinent.

Q Did you find anything unkind or impertinent or ugly?

The Court: Isn't the whole tenor of it offensive?

Mr. Croll: My thought was—

40

*Mrs. Ida M. Erwin, cross.*

The Court: She isn't taking exception to you. She is taking exception to your client.

Mr. Croll: My thought was that the letter was kind. I want to know if she resented it.

10 The Court: I imagine you presented the objections of the doctor as well as you could.

Q I hadn't said anything that was offensive, had I?

Mr. McCarter: You aren't on trial.

Q Why, if you knew that you were a source of annoyance to the doctor did you persist in coming to the house? A How often did I do it?

20 The Court: You answer it.

The Witness: When I came up from the seashore?

The Court: From 1920 to 1923, how many nights did you spend there?

The Witness: I don't think I was there five nights altogether in that time.

30 Q Did you know Mr. Fay for seven or eight years? A I did.

Q Did you know his family? A Not personally, no.

Q You knew he had a family? A Yes, sir, I did.

Q You knew he had a wife and children? A Yes, sir.

40 Q Why did you go to the theatre and to the restaurant with Mr. Fay in Newark? A Mr. Fay had time to kill and I never knew it was a crime to accept an invitation from a gentleman

*Mrs. Ida M. Erwin, cross.*

to go to a restaurant. I had a room and there was no place to take Mr. Fay except in the reception room where there were other people.

Q Were your relations entirely business relations? A Exactly.

Q Not social relations? A Not any more than a person I would meet in a business way. 10

Q To use your own language you didn't think it was a crime. Did you think it was an imprudence or an indiscretion?

The Court: For what?

Q To go to a restaurant with a man and your daughter? A No, sir.

Q Did you know when they dropped you at the Lincoln Park Hotel where they were going?

A I expected they were going home. They were going to Long Branch. 20

Q Did you know she was calling on him at Long Branch? A On business, yes, sir.

Q Did you know they transacted business at the Imperial Hotel? A I didn't know when—I didn't know of the occasion, but it was a very innocent thing to do.

Q Why should she visit him outside his office?

A There might have been clients in his office. 30

Q Did you transact business with Mr. Fay at the hotel? A Yes, sir, on one occasion.

Q His office is right next door? A Yes, sir.

Q Did you know that your daughter went with Fay to the matinee in New York, to see "Rain"?

A I didn't know it.

Q Did you know she went to the matinee in New York with him? A I believe she told me afterwards.

Q How often did she stay away from home at night? A I don't know. She was with me 40

*Thomas P. Fay, direct.*

ten or twelve weeks during the summer and at that time I can tell every time where she was.

Q Did she ever in November stay away from home at night?

The Court: November, what year?

10

Q 1922. A Well, that, I don't know what you mean.

The Court: In November, 1922, do you recall she ever stayed away from home?

The Witness: You mean the night of the Pennsylvania Hotel?

Q Yes. A She was home that night.

20

Q What night was she home? A She came home that night, later.

Q Did she stay away from home before that?  
A Not unless she was with me.

Q Were you at her house continually during that period? A I was there about three days during that time.

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30 THOMAS P. FAY, duly sworn on behalf of the defendant, for

*Direct examination by Mr. McCarter.*

Q You, of course, are a member of the bar, Mr. Fay? A Yes.

Q How old are you? A Fifty-nine.

Q Do you remember how you became acquainted with Mrs. Bradfield? A I remember  
40 her mother introduced me.

*Thomas P. Fay, direct.*

Q Had you had business relations with the mother? A For a number of years.

Q It has been testified that on the twenty-sixth of March, 1923, Mrs. Bradfield went into the Imperial Hotel and that later you also went into the Imperial Hotel. What is the location of the Imperial Hotel with reference to your office? 10  
A Next door.

Q And what is the fact as to your frequent, or not, going into the Imperial Hotel? A I go in there—I go there once or twice a day.

Q Are you a friend of the proprietor? A I have known them all. There have been several there.

Q Yes; have you any present recollection of the incident of being in the Imperial Hotel Restaurant and seeing Mrs. Bradfield, either March 20 twenty-sixth, or any other time? A I haven't any present recollection, but I have seen her in the Imperial Hotel.

Q Do you recall what date it was? A I haven't the slightest idea.

Q Did you have any appointment with her there? A I did not.

Q Now, do you remember going to the theatre with her and her mother? A I do.

Q In Newark? A Yes, sir. 30

Q And then going downtown and taking dinner? A Yes, sir.

Q And after you took Mrs. Erwin to the Hotel Lincoln where did you go with Mrs. Bradfield? A To Roseville.

Q Do you recall after the matinee of "Rain" at the Maxine Elliott Theatre what you did? A I went home.

Q On what train? A I think the five-ten.

Q From New York? A Yes. 40

*Thomas P. Fay, direct.*

Q Have you any recollection of having seen her during the daytime—Mrs. Bradfield—during the daytime at Asbury Park, and later driving in a taxicab down to Avon? A No, I have not. I have seen her in Asbury Park. I don't have any recollection of the time testified to here.

10 Q Did you call now and then at Mrs. Bradfield's house in Newark? A Several times.

Q Was there anything doing in that neighborhood that called you up there during the spring of 1923? A About that time I had a crippled Long Branch boy who I had had examined by Dr. Lorenz, and I had him taken care of in the Newark Private Hospital in Roseville avenue, and he was up there about ten or twelve days. I went to see him two or three times while he was there.

20 Q Did you ever see Mrs. Bradfield alone in her house? A Never. Her children were there and her mother was there some time. One occasion there were two or three young men there. I chatted with them and was introduced to them.

Q Now, coming to the occurrence of November 8, 1923, do you recall where you were during the day? A I was in Trenton in the Supreme Court with you, arguing a case.

30 Q When you left Long Branch that morning and went to Trenton to argue that case—which I think was the zoning case. A Mandamus.

Q Had you expected to go to the Frank Bergen dinner? A I had not.

Q That was a dinner to be given that night in New York? A Yes, but you called my attention to it at Trenton and told me you were going to preside.

40 Q So that decided you to go, or stay away? A It decided me to go.

*Thomas P. Fay, direct.*

Q That was what time of the day? A That was at lunch. We went back to court after lunch and finished up about three o'clock.

Q Did you have your evening clothes with you? A No, sir.

Q How did you get them? A I telephoned my office and I had my secretary get them.

10

Q Did you telephone Mrs. Bradfield that afternoon? A I did not.

Q Did you have any communication with her that afternoon? A No, I did not.

Q Do you remember what time you left Trenton? A Either three-forty-five or three-seventeen.

Q And what did you do when you got to the Pennsylvania Station, New York? A I went down to meet the train coming in from Long Branch.

20

Q For what purpose? A To get my bag with my dinner suit in it.

Q Did you find it? A No, the baggage master had gone up and the other trainmen didn't know anything about it.

Q Then what did you do? A I went up to the information bureau at the Pennsylvania Station.

Q Had the bag come? A The bag was there with a man who knew me and whom it had been given to at the station in Long Branch.

30

Q Who is the man that brought it up? A George Goles.

Q Whereabouts in the Pennsylvania Station did you get possession of your bag? A At the information bureau.

Q And on what floor is that? A On the main floor of the Pennsylvania Station.

Q Some statement was made by one of these detectives that he saw you get the bag from the

40

*Thomas P. Fay, direct.*

train on the train level and come upstairs with it, and also with Mrs. Bradfield, is that so? A That is not so.

Q You had your brief bag with you? A I did.

10 Q Now, you got your bag—what sort of a bag was it? A A yellow square bag, with my dress suit in it.

Q Dress suit case? A Not a dress suit case—it had my dress suit in it.

Q Having gotten your bag at the information bureau in New York—in the Pennsylvania Station, did you meet Mrs. Bradfield? A As I turned around after getting my bag she was coming through the lobby of the station, from the ladies' room.

20 Q Was that the first you had seen her? A The first I had seen her.

Q Had you any appointment, arrangement, tryst or scheme of any kind by which you were to meet? A No.

Q The meeting was entirely unexpected? A Yes, sir, unexpected.

30 Q What occurred? A I asked her what she was doing. She said coming over to the theatre. She said she was going to see a play—she thought she would see "Chains." But she was a little afraid since her aunt had had some trouble.

Mr. Croll: I object to the conversation. The facts I am interested in. The conversations are not proper.

The Court: We had Mrs. Bradfield's version without objection.

40 A I said to her, "Well, I have got to get a room to change my clothes and put on my dinner suit,

*Thomas P. Fay, direct.*

and you can occupy that for the rest of the night if you want to stay over.”

Q What did she say? A She said she would.

Q What did you do? A Walked over to the Pennsylvania Hotel and I registered.

Q As indicated? A Yes, sir. 10

Q Was she with you? A No, she was over at the elevator. She said she would wait at the mezzanine floor and when I had changed I gave her the key.

Q Now what was the condition of the beds that afternoon when you dressed? A The beds were made.

Q What time did you leave the hotel to go to the Waldorf? A Right away after I had dressed. I don't know the exact time. 20

Q And the dinner took place? A Yes, sir.

Q And I presided? A Yes, sir.

Q And after the dinner what did you do? A I stayed around a few minutes and talked to several of the lawyers and walked down and walked over to the Pennsylvania drug store and listened to a radio a few minutes and about half-past eleven I went up after my bag to catch the train.

Q You went up to the room? A Yes, sir, I 30  
went up to the room.

Q Tell us what occurred. A I stopped at the entrance and asked the woman for the key and she said the key was out. There are two keys to those rooms. One they keep up-stairs. I knocked at the door. The first time there was no answer and then I knocked louder and then the door was opened.

Q Did you knock or rattle the knob? A I did both, I think. 40

*Thomas P. Fay, cross.*

Q And then what? A The door was opened and I walked in—put my hand on the knob and closed it and stood there. I hadn't been in there but more than a few minutes before the door was forced in and I stepped around the other way and four or five people walked right by me.

10 Q Then you were hardly in the room before the others were there? A Right away it happened. They came right in.

Q Now I ask you whether on the 8th of November or at any other time or place, or in the Hotel Pennsylvania, you committed adultery with Mrs. Bradfield? A I did not.

Q Did you tell Mrs. Bradfield how you registered? A Not at the time.

*Cross examination by Mr. Croll*

20 Q When did you tell her how you registered? A I don't know when I did tell her.

Q You said a minute ago you told her how you registered but not at the time. A I didn't say I told her how I registered.

Q Did you thereafter tell her how you registered? A I think I did.

Q When? A I don't know.

30 Q That night? A I don't know.

Q When? A I don't know.

Q Why did you tell her you had registered in that form? A During the case I might have told it to her.

The Court: Why did you register in the form you did?

The Witness: Thomas P. Fay and wife?

The Court: That is not the register?

40 The Witness: That is the way I always register when I go out with Mrs. Fay.

*Thomas P. Fay, cross.*

The Court: But you weren't out with Mrs. Fay. Why did you register that way?

The Witness: I thought that was the proper registry to make.

The Court: Why did you think it was proper?

The Witness: It was my name. 10

The Court: Why did you add Mrs. Fay?

The Witness: Mrs. Bradfield was going to occupy the room for the rest of the night and there would have to be some excuse for the woman occupying the room.

Q So you thought you had to give some excuse for the woman occupying the room? A That is true, yes. 20

The Court: I understand you engaged this room in order to change your clothes?

The Witness: Yes, sir.

Q Was there any other way to do that, that you knew? A None that I knew of.

The Court: Why didn't you get one where the dinner was being given? 30

The Witness: It was usual for me to go to the Pennsylvania.

Q Did you have an overcoat on? A I did.

Q Don't you know if you had changed at the Waldorf you would not have needed that overcoat? A Well, I don't know about that.

Q Have you any idea of about how much you paid for the room? A I think it was something in the neighborhood of five or seven dollars. 40

*Thomas P. Fay, cross.*

Q How much would it have cost you if you were there alone? A It generally costs five to seven dollars.

Q Would it have cost seven dollars for you alone? A If you got a good room.

10 Q It would have cost more with your wife there? A About the same.

Q You mean to say that they charge the same for two as for one? A I generally register so as to get a good room.

Q Why did you get twin beds in the room? A I didn't ask for twin beds.

Q Why didn't you send a porter up for the bag? A Well, perhaps I should have sent a porter up for the bag. I didn't know Mrs. Bradford would be there at that time.

20 Q Did you know where she went? A Went to the theatre.

Q Did you know what theatre she was going to? A I wasn't sure.

Q But you expected she would be back? A I expected she would get back some time, when the theatre got out.

Q You waited around and listened to a radio? A Just a few minutes.

30 Q You could have gotten a key upstairs, couldn't you? A I applied for one but I couldn't get one.

Q You could have gotten a key without any trouble? A Well, I applied for it and they didn't have any.

Q And you gave up? A No, I didn't give up. I went down to the room and knocked at the door.

40 Q Now you knew you could have gotten to the room and into the room before she came there?

*Thomas P. Fay, cross.*

A I could have gotten somebody to open the door.

Q Why didn't you do that? A I wasn't sure.

Q Would it have suited your purposes better if she was back or not back? A Nothing would have suited my purposes. 10

Q Did you realize, Mr. Fay, the possible effect of the registry, Mr. and Mrs. Thomas P. Fay, Long Branch, N. J.? A What do you mean by that?

Q Did you realize the effect of that registry? A I don't know of any effect to be realized of that registry.

Q You don't know of any effect that might be realized by going into a hotel with another man's wife? A Not going with her, except to leave the room with her when I left. 20

Q Did you realize the effect of registering in a hotel as man and wife? A I don't know what you mean, did I realize?

Q Did you realize that you were compromising not only yourself, but a woman? A No, I wasn't compromising under the circumstances.

Q You were not compromising? A Not under the circumstances. 30

Q What particular circumstances do you refer to? A The woman was not with me when I went to the room.

Q But the woman was to occupy the room? A Yes, sir.

Q Was it you who suggested she stay there over night? A I suggested she could stay if she wished.

Q And you don't realize she could be compromised by that? A No. 40

*Thomas P. Fay, cross.*

Q And you have been practicing law for how long? A Thirty-four years.

Q Didn't you realize that? A I didn't consider it so.

Q Have you tried divorce cases in the Court of Chancery? A Yes, sir.

10 Q What did you mean by saying to the detective, "Why didn't you tip me off?" A I didn't say that.

Q He is telling an untruth about that? A I don't know what is in his mind.

Q What did you mean by coming to my office the morning after November 8th? A I came and saw you, yes.

Q Why did you come and see me? A I talked with you over the telephone. You asked  
20 me to come up.

Q I asked you to come up? A Yes.

Q Didn't you call me up? A No, I called you up.

Q Did I invite you to my office? A No.

Q Did I call you? A No.

Q What happened? A You sat down and talked to me.

Q Who did the telephoning? A I did.

30 Q Did you ask permission to come to the office? A Yes.

Q Did you telephone from another man's office? A No, I telephoned from the corner of Market street and Broad.

Q You didn't telephone from another man's office? A I did not, no.

Q Did you have somebody telephone me? A I don't know whether they did or not.

Q And you spoke to me then? A I spoke to you.

40 Q Over the telephone? A Yes, sir.

*Thomas P. Fay, cross.*

Q And I invited you to come around to the office? A Yes.

Q Why did I invite you? A I don't know.

Q Why did you come to my office? A Because you invited me.

Q How did you know about me? A Why I have met you before. 10

Q Where and when? A In Newark.

Q You have met me? A In Newark.

Q Where? A Both in court and in your office.

Q You had been in my office? A Yes, sir.

Q When? A Some couple of years before.

Q In connection with what? A In connection with an estate.

Q What estate? A Some estate that Peter Hauck had charge of. 20

Q And you came to see me? A Yes, sir.

Q How many times did you come to see me?

A A couple of times.

The Court: If he called after this occurrence, I am interested in that.

Q Now, do I understand you called at my office, upon me, on the morning following— 30

The Court: Well, he did, but what was said. What was said?

The Witness: I don't know what the conversation was altogether.

Q Well, tell what you remember of it? A I remember very little of it—there was very little said.

Q Tell what little you do remember? A I think you took out some papers and showed them 40

*Thomas P. Fay, cross.*

to me, and some reports of detectives, and let me look them over.

Q I did? A Yes, sir.

Q You are sure about that? A Quite positive.

Q Well, what was said? A Well, I don't recall what was said.

10 Q Were you interested in coming to see me? A Yes.

Q Did you come to see me on my account or on your own account? A I wanted to look over the reports you had.

Q How did you know I had reports? A You said over the telephone that you had reports.

Q See if I can refresh your lagging memory, Mr. Fay. Didn't you come to my office and ask me what I knew about this raid that had happened the night before—didn't you, first? A No, I didn't ask you what you knew about the raid.

Q Wasn't the first information, so far as you know, that I had about this episode, a telephone call that a certain gentleman made, when he called me up and asked if you might be permitted to see me? A I don't know what information you got from anyone else.

30 Q Did somebody call me at your request? A I wasn't present when anybody called you, over the telephone.

The Court: Did you request anybody to call him?

The Witness: No, I spoke to a gentleman about it.

Q Who was the gentleman that called me up?  
40 A I don't know who called you up.

*Thomas P. Fay, cross.*

Q Oh, you know who called me up? A I don't know.

The Court: Did Mr. Nugent call you up?

Mr. Croll: Yes.

Q Mr. Nugent called me up at your request, didn't he? A I don't know that he called you up. 10

Q You didn't know that he called me up?

The Court: I am going to assume that Mr. Fay called on you to have this case dropped. Very naturally he would want it dropped. I see no impropriety in that.

Q Didn't you ask me if I couldn't make this desertion instead of adultery? A I may have asked you that. 20

Q Didn't you tell me that this meant a great deal to you—that you were a married man, with a family? A I may have said that, too.

Q And didn't you ask me not to do anything until Mr. Nugent saw me? A I don't know.

Q Why did you evade me a few minutes ago? A I didn't evade.

Q Did you soon thereafter call on Mr. Corbally and see somebody in the Corbally office, and ask to be shown these reports? A Not soon thereafter, no. 30

The Court: You did call?

The Witness: Yes, sir, and I didn't see them.

Q But why did you want to see them, if, as you say, I had them? A You showed me some reports. 40

*Doris Bradfield, direct.*

Q Didn't I tell you I knew nothing about what happened the night before until I was telephoned to? A No.

The Court: Here is a man caught in a hotel room with a woman. Is it unusual for him to try to suppress the thing?  
10

Q Why didn't you check your bag that night at the hotel? A What do you mean?

Q Instead of leaving it in the room? A I didn't do it. I don't know of any reason.

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DORIS BRADFELD, duly sworn on behalf of the defendant, for

20 *Direct examination by Mr. McCarter.*

Q You are the oldest daughter, Doris, of Dr. and Mrs. Bradfield? A Yes, sir.

Q And your brother and sister are both younger than you? A Yes, sir.

Q You have lived home all your life? A I have.

Q How old are you? A Twenty-one.

30 Q You are now living with your mother? A Yes, sir.

Q Have you ever observed any unkindness or drunkenness on your father's part? A I have.

Q What have you seen in the way of drunkenness? A I have seen him intoxicated on many occasions.

Q Did you ever hear him make any remark to your mother about getting out? A I have.

40 Q What was that, and when? A When she returned home after the separation. She re-

*Doris Bradfield, direct.*

turned home unexpectedly. I knew she was coming but he didn't. It took him by surprise and he told her to go and sleep at my aunt's.

Q Were you present when a scene occurred with a knife? A I was.

Q Tell us what occurred. A It was in June, 1922, and I had—mother had called me—she had to let him in, and of course I heard the noise downstairs and went down and he was using vile language then, both at me and at mother, and he went downstairs and went down in the cellar and he fell, and I had to go across the street to telephone to the doctor and at the time I went across the street he was holding the knife in front of her. When I came back I stood on the front porch and was just shaking and mother had to come out and bring me in. Where I telephoned from was the Cattanach's house. We didn't have a telephone and the doctor came up shortly afterward. 10 20

Q Do you remember when your father was sick? A I do.

Q What was your mother doing during that time? A She was taking care of him.

Q What else was she doing—busy taking care of the family? A Taking care of the house and the nurses and of the children and preparing the necessary meals, as well as taking care of him at that time. 30

Q Did you, after your father left the house, ever see him and make any request to him about coming back? A I did.

Q When was that? A I don't know the date, but I visited the office occasionally, probably once a week or once every two weeks, and on several occasions I asked him if he was coming home or if he would come home. He just said he wasn't well and didn't know. 40

*Doris Bradfield, cross.*

Q Where was he when you saw him and made these requests? A 106 Halsey street.

Q Attending to business? A No.

Q Nobody was there? A No.

Q Was he well enough to attend to business?

A He would be attending to business occasionally.

10 Q Do you remember any occasion before—I am not referring to the time when your mother came back, but any other occasion when he told her to get out? A The same night that I had to call Dr. Morrison—the carving knife episode—he told her to get out and me too.

The Court: Was he drunk that night?

The Witness: Yes, sir.

20 Q Did you ever see him put his fingers to his nose at your mother? A I did.

Q What about the furnace fire while your father was sick? A It was very hard to attend to because it was so out of order and old-fashioned and it was hard to heat the house; we have such a large house, and we did the best we could with it, both mother and I took care of it.

30 Q Where has your mother slept since she came back? A In the room adjoining my room.

Q Where did your father sleep while he was in the house? A His room adjoined mine to the right.

*Cross examination by Mr. Croll.*

Q Your father and mother were having a lot of trouble for a long time? A Yes, sir.

Q It was largely about her staying away nights? A Not exactly—not entirely.

40 Q That was some of it? A Some of it.

*Doris Bradfield, cross.*

Q Your mother was away frequently at night?

A I wouldn't say frequently.

Q Well, how often? A Once a week.

Q And how long would she stay away? A One night.

The Court: Where would she go?

The Witness: To my grandmother's.

10

Q Did she go to your grandmother's? A Yes, sir.

Q Did you know when she would go to her grandmother's? A I did.

Q Did you know when she was about to go?

A I always had a message.

Q And you know she was with your grandmother because you got a message that she was gone? A She would sometimes tell me before she went.

20

Q Your father objected very much to that, didn't he? A He did.

The Court: Were you ever home when Mr. Fay called at your mother's home?

The Witness: I was.

The Court: Do you remember how many occasions he called there?

30

The Witness: Well, I remember about three.

The Court: In the daytime or at night?

The Witness: Both.

The Court: How late at night, do you know, he has ever stayed at your mother's home?

The Witness: Eleven-thirty.

The Court: Were you up, then, when he left?

40

*Doris Bradfield, cross.*

The Witness: Yes, sir.

The Court: Were you up the entire evening?

The Witness: Yes, sir.

The Court: At any time when in your home, or anywhere else did you ever see any display of affection between your mother and Mr. Fay?

10

The Witness: No, sir.

The Court: Did you hear any words of endearment pass between them?

The Witness: No, sir.

The Court: Did you hear or see anything that would indicate an intimacy existed between them?

20

The Witness: No, sir.

Q Did your mother ever meet Mr. Fay at the seashore in the summer? A Yes, sir.

Q This summer? A Not that I know of.

Q Don't you know Mr. Fay saw her during this summer? A I don't.

Q Don't you have any information that he did? A I have not.

Q Did he see her last year? A I don't know.

30

Q What do you know about it? A I don't know.

Q You know that he saw her? A Yes, he did see her last summer.

The Court: How many times?

The Witness: Not frequently—I couldn't say the number of times.

The Court: Where did he see her?

40

*Katherine Bradfield, direct.*

The Witness: He would come to the house.

Q You mean the summer just past or a year ago? A A year ago.

Q Not this present summer? A No.

Q He did come out often? A I said occasionally. 10

Q He was an occasional caller? A Yes, sir.

Q He was very much at home in the house, wasn't he? A No, sir.

Q Did you ever tell your father about Mr. Fay? A No.

Q Did you ever speak to your mother about it? A No, sir.

The Court: What was it, a social and business call combined? 20

The Witness: Social.

The Court: Social, or social and business?

The Witness: Social, I should say.

Q You never heard any law business discussed? A No, sir.

Q Just social? A Yes, sir. 30

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KATHERINE BRADFIELD, duly sworn for defendant, for

*Direct examination by Mr. McCarter.*

Q You are how old? A Seventeen.

Q And you have lived constantly with your mother? A I have. 40

*Katherine Bradfield, direct.*

Q You have been with her since this trouble?

A I have.

Q Did you use to see Mr. Fay at the house now and then before this trouble?

10 The Court: Did you ever see him call there?

The Witness: Once or twice.

The Court: In the daytime or night?

The Witness: Why, I saw him in the night once.

Q Did you ever see any sign of endearment, hugging and kissing between your mother and Mr. Fay? A Never.

20 Q Now, you heard about this incident in New York, didn't you? A Yes, sir, I did.

Q How soon did you learn about it? A I learned it the night she came home.

Q She told you all about it? A Yes, sir.

Q Your mother told you and Doris, and the grandmother, who was at home? A Yes, sir.

Q Did you see your father or did you see this newspaper account of this thing that came out before this suit was commenced? A Yes, sir, I saw it.

30 Q And did you see your father after that? A I did.

Q Had the suit then been commenced when you saw your father? A It had.

Q Did you have any talk with your father about the suit? A Yes, sir, I did.

Q What was said between you and your father? A He told me about that night at the Pennsylvania Hotel.

40 The Court: What else was said?

*Katherine Bradfield, cross.*

The Witness: I told him I knew of that.

Q Go on. A He asked me about Mr. Fay and I told him that Mr. Fay was a gentleman and that there was nothing between mother and Mr. Fay.

The Court: And was that the truth, that there had not been anything between your mother and Mr. Fay? 10

The Witness: So far as I had seen and heard, and I don't believe there is.

Q Did he say why he had commenced the suit? A He said he had had enough.

The Court: Enough of what?

The Witness: Of her going out. 20

Q Did he say who had suggested commencing the suit? A Yes, he told me. I told him he could have had a divorce—that mother would have wanted a divorce too, and I asked him why he did it in this manner and he told me his sister and her family wanted him to do that.

Q Where was that, Katherine, and when? A That was this day when he came to school, after school, to see me. And I asked him why he had done it and he said that they wanted him to. 30

*Cross examination by Mr. Croll.*

Q Did you tell your father that your mother would have given him a divorce? A I did.

Q Or that mother was thinking of getting a divorce? A I said that mother wanted a divorce, too. 40

*Katherine Bradfield, re-direct—re-cross.*

Q And you asked him why he had done it this way? A Yes, sir.

Q You knew there was a good deal of trouble between them largely because she was away from home at night?

10 The Court: That doesn't make any difference.

Q Your father was a good father to you, wasn't he?

The Court: Why go into that unless you want to show interest.

*Re-direct examination by Mr. McCarter.*

20 Q You know your mother was separated from your father by agreement? A Yes, sir.

Q And then after some time she came back—do you remember that? A Yes, sir.

Q Now, when—do you remember the day she came back? A Yes, sir, I was there.

Q Remember what your father said to her? A He said to go sleep at my aunt's house.

*Re-cross examination by Mr. Croll.*

30 Q Wasn't that because father didn't know that mother was coming home?

The Court: I don't know how she can tell the reason. Do you know why he told her that?

The Witness: I don't know, but he didn't seem very pleased to see her.

40 The Court: Did he give any reason when he told her to go sleep at your aunt's?

The Witness: No.

*Charles Allen, direct.*

Q Did you know mother was coming home that night? A Yes, sir.

Q Did your father know? A I don't think he did.

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CHARLES ALLEN, duly sworn for the de- 10  
fendant, for

*Direct examination by Mr. McCarter.*

Q Mr. Allen, you live where? A 215 North 7th street.

Q Where is that with reference to Mrs. Bradfield's home? A Adjoining.

Q How long have you lived there? A Four- 20  
teen years.

Q Have you been flirtatious with Mrs. Bradfield, or has Mrs. Bradfield been flirtatious with you? A No, sir.

Q You are next door, aren't you? A Yes, sir.

Q Did Doctor Bradfield ever have any talk with you about his wife? A He did.

Q When was that and what did he say? A 30  
As nearly as I can recall, just about ten years ago this month.

Q What did he say? A He said, "I want you to stop being intimate with my wife." He said, "I want to say something to you." I looked up rather surprised. He says, "You call on her too often." I says, "Is that so?" I says, "What do you mean?" He says, "Well," he says, "You run down to the house when we are up at Budd Lake." I went up to Budd Lake for a week or so and the Bradfield's had a cottage 40

*Charles Allen, cross.*

there and to my recollection I don't think I ever saw Mrs. Bradfield but twice, while she was up there—once she was out at the end of the dock in a boat, and another time Mrs. Allen and I walked back from our house to her house with her.

10 Q When you had this talk with him what did you say? A I told him I had always had the highest regard for Mrs. Bradfield and he ought to be ashamed to talk about his wife the way he was. I told him somebody ought to wipe the sidewalk with him.

Q Did anything happen to the fence between your house and theirs? A So far as I know, Dr. Bradfield had an addition put on a line fence between the two houses.

20 Q How much higher did that make the fence? A I should say when it was completed it was higher by about eight inches.

Q Was it maintained for some time? A With the exception of a board or two that I have taken off from time to time to patch other pieces.

*Cross examination by Mr. Croll:*

30 Q How high was the fence normally? A I should say about five feet.

Q And he made it seven or eight feet? A Seven or eight feet.

Q And he objected to what he supposed was a friendship between you and your wife? A Yes, sir, the way he talked.

Q And you resented it? A I did.

Q He had forbidden you to talk to her? A Yes, sir, at that time.

*Charles Allen, cross.*

Q Didn't he forbid you to call on her at his house? Didn't he at one time find you coming from her room? A No.

Q That isn't so? A Positively not.

Hearing adjourned until Wednesday, September 17th, 1924, at ten o'clock, A. M.) 10

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THIRD DAY.

Mr. Croll: I will offer these reports of detectives for the purpose of showing that they did make these reports. I will say to Mr. McCarter that a copy which I prepared in unit form, was prepared by me personally, with my own hand from these originals. He has a copy of them. 20

Mr. McCarter: I don't want any misunderstanding about this. It is a perfectly unheard of doctrine that these reports are admissible.

The Court: I am simply receiving them in corroboration of the testimony of the operatives, that they did make such reports and that these are the reports they referred to. I am only paying attention to what the witness testified to on the stand and I am not paying any attention to what is in the reports. 30

Mr. Croll: In the transcript and the copy which I prepared I underscribed the matters which I think were testified to.

The Court: I have taken quite voluminous notes of the testimony given by the witnesses on the stand. It is on that testi- 40

*Mrs. Jennie Graham Morrison, direct.*

mony, subject to the correction of counsel, that I intend to dispose of the case. Mr. McCarter rested on his direct case and cross-petition, and just as we closed last night Mr. Croll was about to go into his rebuttal.

10 MRS. JENNIE GRAHAM MORRISON, called in rebuttal on behalf of the petitioner, for

*Direct examination by Mr. Croll:*

Q You are the wife of Dr. J. Bennett Morrison? A Yes, sir.

Q Did you at any time have any conversation with Mrs. Bradfield respecting the witness Allen who was last on the stand? A I did.

20 Q When was that conversation, so far as you are able to remember it? A It was about nine or ten years ago.

Q What was that conversation?

Mr. McCarter: I object to it.

The Court: What is the purpose of it?

Mr. Croll: To meet the allegation raised in the cross-petition as to the last witness, Allen.

30 The Court: The allegation is that the doctor, in effect, accused Mr. Allen of being over-friendly with Mrs. Bradfield, and he raised the spite fence, etc.

Mr. Croll: The purpose of this testimony is to bring out the facts.

40 The Court: That she made some admission? You don't charge her with any offense. The only possible ground it can be admissible upon is that it is to meet her

*Mrs. Jennie Graham Morrison, direct.*

claim that the doctor was cruel to her, on that feature of her case, without justification.

Mr. Croll: The purpose is to show justification.

Q What was that occasion? A She told me she went to a meeting at a school and that Mr. Allen put his hand on her leg and he squeezed her leg and I asked her if she thought she was doing right by allowing it. She said she walked home with him. Another time Mr. Allen was in her house and the children were in bed and she saw doctor coming down the street and she ran across to her neighbor, Mrs. Cattanach, and she thought doctor had see Mr. Allen going out of the house. Another time she went in Mr. Allen's house to play cards with him. I said, "Do you think it is wise?" "The neighbors are talking about you." She said, "They have to have something to talk about." Another time at Budd Lake when I was up there for dinner she told me Mr. Allen had been there that afternoon and the children said, "We had such a lot of fun dropping papers down through the floor on mother and Mr. Allen." She said, "Wouldn't that be lovely for their father to hear," and she said, to them, "Don't say that again." At that time I think Doris was about twelve.

Mr. McCarter: Will you read that?

(Last part of previous answer read as follows: "She said, 'Wouldn't that be lovely for their father to hear,' and she said, to them, 'Don't say that again.' At that time I think Doris was about twelve.")

Q Was there anything further said? A She told me Mr. Allen had spoken to her husband

*Mrs. Jennie Graham Morrison, direct.*

about being abrupt with her and she said, "I thought he would wipe up the street with him."

The Court: Strike that out. Just one moment, Mrs. Morrison, you are in too much of a hurry to testify.

10 Q What else was said then? A She told me of Mr. Allen and her husband having a conversation and she said, "I am sorry Mr. Allen didn't wipe the street up with him."

Q Was anything said further at that time or any other time? A Well, she often spoke of Mr. Allen being in there, only that one time Mr. Allen was out on the street and we both were talking and he put his hand on her upper arm and he took hold of it and held it for a few minutes.

20

The Court: Did you tell any of these things that were said or done to Dr. Bradfield?

The Witness: I have never told them to Dr. Bradfield.

Q Did you have at any time any other conversations with Mrs. Bradfield?

30

The Court: About what?

Q About her husband or about Allen?

The Court: If it is about her husband's treatment of her you can go into that as fully as you please. Just pay attention to counsel's question, Mrs. Morrison, and when you have answered the question stop talking.

40 Q Try to comprehend my question.

*Mrs. Jennie Graham Morrison, direct.*

The Court: She comprehends them. The trouble is she keeps on talking.

Q Did she ever tell you anything about her husband's treatment of her? A When she left her husband—

Q At what time? A She left her husband. I have a letter in my pocket. 10

The Court: Won't you fix the time?

The Witness: It was in September, 1917.

The Court: You mean when the separation agreement was signed?

The Witness: When she left her husband.

The Court: Do you mean when the separation agreement was signed?

The Witness: I didn't know there was a separation agreement signed. 20

The Court: In September, 1917—she didn't leave her husband until that time, the 22nd of September, 1917.

The Witness: Well, I have a letter.

The Court: In September, 1917, did she tell you anything then, if so what?

The Witness: I went down to see her to ask her to return to her children and her husband, and I had been her friend for a long time. I asked her what her husband did and she told me he threw a powder puff at her. I said, "Is that all?" 30

The Court: That is all she told you?

The Witness: That is all she told me.

The Court: Do you know whether she had anything else to find fault with?

The Witness: I was in her home very frequently for sixteen years and I never 40

*Mrs. Eva V. Cattanach, direct.*

saw her husband abuse her. He was kind to her but she didn't appreciate it.

The Court: Why do you show such feeling against her?

The Witness: Because of the way she has treated her family and the children.

10 The Court: How do you explain the fact that her children come here in her favor?

The Witness: Because she perjured her children's minds against her husband and against me.

*Cross examination by Mr. McCarter.*

Q Have you ever seen the copy of the letter that Mr. Croll received from Mrs. Bradfield?

20 A No, I have never seen Mr. Croll until I saw him yesterday.

The Court: He didn't show you that?

The Witness: No, I didn't see it.

Q You have said you were an intimate friend of Mrs. Bradfield? A I was until she left her home.

30

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MRS. EVA V. CATTANACH, called in rebuttal by the petitioner, duly sworn for

*Direct examination by Mr. Croll.*

Q Where do you live? A 278 Park avenue.

Q Is it from your house that observations were made? A Some of the time.

40

*Mrs. Eva V. Cattanach, direct.*

The Court: Is that across the street from Mrs. Bradfield?

A Yes, sir, on Park avenue.

The Court: On the opposite corner?

The Witness: Well, down on Park avenue, you know. 10

The Court: Now exactly across the street?

The Witness: No, but just a little bit down.

Q You know Mrs. Bradfield and Dr. Bradfield well? A I certainly do.

Q How long have you known them? A About seventeen years.

Q Did you ever have any conversation with Mrs. Bradfield about her husband? A Yes, sir. 20

Q When were those conversations? A Well, at all times.

Q So far as you can remember within what periods? A Well, the disturbance all started at Budd Lake.

The Court: Between what periods did you have any conversation with her about her husband, or her husband's treatment of her? 30

The Witness: Well, I never had any conversation about her husband's treatment of her except I knew they didn't agree.

The Court: Did she say so?

The Witness: Yes, sir.

Q What did she say? A She didn't like the way things were running at the house, the shingles were coming off little by little and finally the roof would fall down. 40

*Mrs. Eva V. Cattanach, direct.*

Q Did she ever make any other observations?

A No, not any more than I knew—

Q Not what you knew. A No.

Q Do you know Mr. Fay? A I think I would since I saw him here yesterday.

Q Had you seen him before? A Yes, sir.

10 Q Where had you seen him? A Over at 287 North 7th street.

The Court: That is Mrs. Bradfield's house?

The Witness: Yes, sir.

Q Can you recall what periods you saw him?

Mr. McCarter: I object. Is that rebuttal?

20 The Court: I think it is proper.

A Yes, I saw Mr. Fay there at all times.

The Court: All times?

30 The Witness: Even before Dr. Bradfield was taken sick. When Dr. Bradfield was there sometimes I would see him come out in the morning, half-past ten or quarter of eleven and I thought he was a doctor or something. Then I would see him at night.

The Court: Did you ever see any improper conduct between him and Mrs. Bradfield at any time or place?

The Witness: No, nothing further than I knew—

40 The Court: I ask you whether you ever saw or heard of anything of an improper nature between him and Mrs. Bradfield at any time or place?

*Mrs. Eva V. Cattanach, direct.*

The Witness: No, sir.

Q Did you ever see him there at night? A Yes, sir.

Q What hours, if you can recall? A Well, he would come there in the evening about half-past seven, eight o'clock and he would leave there a little after eleven. 10

Q Do you know of your own knowledge whether the children were in the house when he was there? A They were in there lots of times.

Mr. McCarter: I don't think it is rebuttal.

The Court: Still I am going to receive it.

The Witness: They would go out after he came in. 20

Q Did that happen often? A That happened every time that he came in.

Q Do I understand you to say whenever he came there the children would go out? A Yes, sir.

The Court: When did you cease to be friendly with Mrs. Bradfield? 30

The Witness: Well, I never did cease to be friendly with her.

The Court: Have you been in her home frequently?

The Witness: Yes, sir.

The Court: How did her husband treat her?

The Witness: He always treated her fine and was splendid to the children. 40

*Mrs. Eva V. Cattanach, cross.*

The Court: I mean with her particularly?

The Witness: He always treated her fine.

The Court: Did you ever see him abuse her?

10 The Witness: Never; they called each other dear and he would go over every night to the drug store on the corner.

The Court: When did you last visit her?

The Witness: I have not been in the house for some three or four years.

The Court: Why did you cease going there?

The Witness: Because I didn't like the way she acted in leaving home.

20 The Court: Did you know she and her husband had agreed to separate?

The Witness: No, sir, I did not.

*Cross examination by Mr. McCarter.*

30 Q Do you remember Doris coming over to your house to telephone to the doctor, when she told you that Dr. Bradfield was in great trouble, his head was all bleeding? A She didn't say what was the trouble. She only said it was something. She told me her father was drunk.

Q Was drunk? A She said something has happened to daddy that is what she said and my husband said—

Q I asked you what Doris said. A That is what she said.

The Court: Something had happened to her father?

40 The Witness: Yes, sir.

*Mrs. Eva V. Cattanach, cross.*

The Court: And did she telephone?

The Witness: Yes, sir.

Q Who was the doctor she called? A She telephoned Dr. Morrison.

Q You say you have not visited Mrs. Bradfield or you have not had anything to do with her since her husband and she separated? A No, sir. 10

Q You didn't approve of their separation? A I didn't know there was a separation. I just knew she wasn't home. I didn't know there was a separation.

Q How did it happen that you harbored detectives in your house? A I didn't do it, my husband did it.

Q He did it? A Yes, sir. 20

Q You acquiesced in it? A I was right there.

Q How did that happen? A Simply because we were good friends of Dr. Bradfield and had been for years.

Q Do you have any servants? A No, sir.

Q Do I understand that you have done nothing but watch Mrs. Bradfield's house for the last three years? A No, sir.

Q Did you ever go out yourself? A Yes, sir. 30

Q You go out evenings now and then? A Yes, sir.

Q Did you ever see any young people go in Mrs. Bradfield's house? A Yes, sir.

Q What do you do evenings when you are home? A Well, the same as anyone would.

Q I ask you what you do. A I read and sew and we have a victrola and we have lots of company there. 40

*Dr. John B. Morrison, further direct.*

Q Yes.

The Court: About what distance in feet is your home from Mrs. Bradfield's?

The Witness: Well, not very far—I couldn't say exactly in feet.

10 The Court: Twice or three times the length of this room?

The Witness: Just about that.

The Court: Three times?

The Witness: No, just about twice.

DR. MORRISON, duly recalled for

20 *Further direct examination by Mr. Croll.*

Q Doctor, do you recall an occasion when you were summoned to Dr. Bradfield's house to treat a wound in his head? A Yes, I recall the occasion.

Q What was the treatment you gave him? A I cleansed the wound, about three or four inches long and perhaps an eighth of an inch deep, in the scalp, and put in a couple of stitches.

30 Q Did the wound indicate how it had been received? A No, a wound of that kind might be received in any one of a dozen different ways.

The Court: Did he or anyone else tell you how he got the wound?

The Witness: I heard two versions. His wife said he fell downstairs and the doctor said he struck his head against a projection coming upstairs.

40 The Court: Was he under the influence of liquor?

*Dr. John B. Morrison, cross.*

The Witness: No, sir.

The Court: Had he been drinking?

The Witness: He had been drinking but he wasn't under the influence of liquor.

The Court: Do you know whether the doctor was a drinking man?

The Witness: I should say not. 10

Q You have been very intimate with the doctor? A I have seen him daily for almost twenty years.

The Court: Have you ever seen him under the influence of liquor?

The Witness: I have seen him twice when he has been drinking.

The Court: But not intoxicated? 20

The Witness: No, sir. He knew me and knew his wife and he wanted his daughter to go out of the room when he was talking to his wife. He objected to my being present when he hadn't sent for me. An intoxicated man couldn't do those things.

*Cross examination by Mr. McCarter.*

Q How do you know he had been drinking? 30

A From what his wife told me.

Q On that occasion? A Yes, sir.

The Court: Could you smell his breath?

The Witness: No, sir.

Q How did you know the other time? A The other time he referred to it himself.

Q So far as you observed on this particular occasion when you were summoned and went 40

*Dr. John B. Morrison, re-direct.*

there and found he had a wound in his head, he was sober enough to know what he was doing?

A Yes, sir.

Q And he objected to you, did he—to your visit because Doris had sent for you and he had not? A Yes, sir.

10 Q And he said he was having domestic quarrels with his wife? A Yes, sir.

Q Did he say what occurred? A No.

Q Did the wife say what occurred? A No, sir.

*Re-direct examination by Mr. Croll.*

Q Testimony has been adduced in this case about the illness of the doctor up to the time when he left in March, 1922. Did you treat him during that time? A Yes, sir.

Q What did you treat him for? A I treated him for a very severe form of endo-carditis and milo-carditis.

Q How long was he ill? A Before Christmas, up to the tenth of March, when I took him away from his home.

The Court: Why did you take him away?

30 The Witness: The man had been desperately ill, so desperately ill that neither myself nor my consultant considered he would recover. He was so ill that because of my friendship for him I gave up my practice for a week and saw him every three or four hours. I almost lived in his room so that I could give him his medicine. During that period he was bolstered up on pillows, unable to rest except in that position. His  
40 blood pressure, which should have been one

*Dr. John B. Morrison, re-direct.*

hundred and forty, or one hundred and fifty, was sixty-five. The blood was just flowing.

The Court: Get down to about the tenth of March. What were the conditions you had personal knowledge of that caused you to undertake or sanction his removal? 10

The Witness: In conditions like this case, where a grave heart affliction is present, it is absolutely necessary to keep those patients quiet, and the doctor was in a state of nervousness because of what he alleged his wife was doing. He wasn't sleeping and resting and his pulse was getting worse. I wanted to take him to the Presbyterian Hospital and he wouldn't consent. Then I wanted to take him to his sister's home and he wouldn't consent. I saw I couldn't accomplish any more in that man's case under those circumstances, so I insisted upon his coming away, or my leaving the case. 20

The Court: From your own observations what were the home circumstances? How did Mrs. Bradfield treat him?

The Witness: I can't say, except from what I heard from the nurse. I never saw her in the doctor's room except during the first week. During the first week, when she was informed her husband was going to die she was quite attentive to him. After that I never saw her in his room, for perhaps eight weeks or ten weeks. 30

The Court: Did she greet you when you came in the house?

The Witness: Sometimes. 40

*Dr. John B. Morrison, cross.*

The Court: Did she inquire about his condition?

The Witness: Very seldom.

Q Do you know whether his wife, during that period, was ever out of the house during the night? A Of my own knowledge, no.

10

Q Did you ever have any conversation with her about her presence or absence at night? A From the home? No.

Q Do you know whether she was home, of your own knowledge? A Of my own knowledge, I don't.

Q You yourself don't know that? A No.

Q Do you know what their quarrels were about?

20

Mr. Croll: I understood him to say—

The Court: He said from what Dr. Bradfield told him and from his own observation he concluded conditions were not satisfactory. That is correct?

The Witness: Yes, sir.

Q Did Dr. Bradfield ever in the presence of Mrs. Bradfield make any remarks about her presence or absence, or about her treatment of him? A I cannot recall that he did.

30

*Cross examination by Mr. McCarter.*

Q Part of the time he had two trained nurses? A Yes, sir.

Q And part of the time one trained nurse? A Yes, sir, two for five weeks and one for five weeks subsequently.

40

*Dr. John B. Morrison, cross.*

Q And I suppose after the two trained nurses left he was better than he had been before? A Somewhat.

Q And he gradually improved? A Yes, sir.

Q He couldn't have been moved in the condition in which he was at first? A He could not.

Q And when you did move him you took him in an automobile? A Yes, sir. 10

Q He walked downstairs? A He was helped downstairs—partly carried.

The Court: Was his removal at that time intended to be a permanent one from his home and his wife?

The Witness: No, not by any means. I didn't consider his home or wife or children. I considered the patient alone. 20

Q Did the nurse continue at Mr. Ross' house? A Yes, sir.

Q For how long? A I couldn't say how long. I know she went down and I know she was there a few days.

Q Did she leave immediately? A No, sir.

Q She wasn't there more than a day or two? A Not more than a few days—I can't say how many days—a few. 30

Q While you were there did you hear any complaint of Mrs. Bradfield against the furnace fire and the heater? A Oh, yes.

Q Did you go down? A Where?

Q To the furnace? A Yes, sir.

Q Did you find it was in bad shape? A It wasn't in good shape.

Q You found it needed repair badly? A Yes, sir. 40

*Dr. John B. Morrison, re-direct.*

Q And she complained of that, didn't she?

A Yes, sir.

Q Yes; and said it was impossible to keep the house warm? A No, because the house was warm—fairly warm.

10 Q Fairly warm—how about his bedroom? A His bedroom wasn't warm enough to dress him in. I didn't want his bedroom warm. The window was open most of the time.

Q Do you know who paid the nurses? A I believe—yes—I believe that the nurses, I know, in fact the nurses were paid by Miss Ross. I believe I suggested that in order to take all financial burden away from the doctor. It was impossible for the doctor to sign checks and he hadn't any money in his room. I didn't want him bothered.

20 Q Who were these nurses? A Oh, there were three or four nurses on the case. Miss Bishop was the last nurse.

Q Is she here? A No, she isn't here. To my knowledge she isn't here.

Q Is any one of the nurses here? A I don't think so.

*Re-direct examination by Mr. Croll.*

30 Q Did you have any conversation with Mrs. Bradfield about the removal of the nurse or nurses? A Yes, Mrs. Bradfield wanted to know if it was necessary to keep the nurse as long as I was keeping her. I told her it absolutely was. She wanted to know if a practical woman to help around the house some wouldn't answer as well. I answered, certainly not, because a practical woman couldn't give any hypodermics, and the doctor was getting them.

40

*Mrs. Callie A. Ross, direct.*

Q At whose instance was the nurse retained?

A At my instance.

Q Did she have anything to say about her being retained? A She made this objection.

Q Was that objection spirited? A No, it was not spirited.

10

The Court: I understood you to say you had been a friend of the family for about twenty odd years?

The Witness: Yes, sir.

The Court: Had you called there in a social way?

The Witness: Very frequently.

The Court: What did you observe in the treatment of the doctor of his wife?

The Witness: In my presence he always treated her with affection and kindness.

20

The Court: Did she ever complain to you about his treatment of her?

The Witness: No, sir.

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MRS. CALLIE A. ROSS, duly sworn for petitioner, for

30

*Direct examination by Mr. Croll.*

Q You are the wife of Commissioner Ross?

A Yes, sir.

Q It has been testified or pleaded—

The Court: Which is it?

Mr. Croll: I am trying to recall. It is pleaded at any rate.

40

*Mrs. Callie A. Ross, direct.*

Q That you attempted to dominate your brother, Dr. Bradfield. Is that so?

Mr. McCarter: I object.

The Court: I just don't know what you mean.

10 Mr. Croll: My impression is that that is the language of the allegation.

The Court: There is proof in the case on the part of Miss Ross attempting to interfere with the household, to which Mrs. Bradfield took exception. She says the money was doled out daily.

Mr. Croll: Is it your impression that no testimony is in about Mrs. Ross?

20 The Witness: I am the one who furnished the money and asked my daughter to take it to their house.

The Court: Strike it out. You weren't brought into it. Your daughter is reflected upon.

Q You knew that Dr. Bradfield was very ill?

A Yes, I did.

30 Q Were you up to see him? A No, sir, I was not.

Q Do you leave your house at all? A Very, very seldom.

Q Up to Tuesday, when you were in court, when were you out before? A Oh, not in two or three or four years.

The Court: It wasn't from lack of affection or regard for your brother that you didn't call on him?

40 The Witness: No, sir.

*Miss Edith H. Ross, direct.*

Q How many times have you ever called on the doctor at his house?

Mr. McCarter: I object.

Q In seventeen years?

The Court: What is the objection? 10

Mr. McCarter: Objection withdrawn.

Q How many times in seventeen years have you called at his house? A Once.

Q And up to Tuesday you were not out of the house in two or three years? A Yes, sir.

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MISS EDITH H. ROSS, sworn for petitioner, 20  
for

*Direct examination by Mr. Croll.*

Q It has been testified by Mrs. Bradfield, Miss Ross, that at Budd Lake something happened which prejudiced you, and that you made accusations—

The Court: That is very nearly a quotation. I remember Mrs. Bradfield used the expression that she became “peevied.” 30

Q “At that time my niece became peevied at something at Budd Lake,” was her testimony. What was there to that that you recall? A That was a personal matter.

The Court: Personal between you and Mrs. Bradfield?

The Witness: Yes, sir. 40

*Miss Edith H. Ross, direct.*

Q Did it in any way concern Doctor Bradfield?

Mr. McCarter: I object as to her conclusion as to what it concerned.

10 The Court: Mrs. Bradfield suggested that the estrangement was because of Miss Ross becoming peeved on this occasion. If you want to go into that I don't care whether she was peeved or not. She had some feeling, I assume.

Mr. McCarter: My objection was that she ended it in saying it was a personal matter.

Q Were you angry at your aunt? A I didn't like her manner.

20 The Court: You mean at Budd Lake?

The Witness: Her manner toward me after a conversation, was not justified.

The Court: You are talking of a Budd Lake incident?

The Witness: Yes, sir.

Q Was there any feeling between you and Mrs. Bradfield? A After the conversation in July, over the phone.

30

The Court: There was?

The Witness: Her manner toward me was not justified. It was unkind.

The Court: Then there was feeling?

The Witness: Yes, sir.

The Court: In July of what year?

The Witness: The last year they were there.

40

The Court: That would be 1914 or 1915?

*Miss Edith H. Ross, direct.*

The Witness: 1914 or 1915, I am not sure.

The Court: After that, because of her manner over the phone, you had some feeling about it, is that correct?

The Witness: Yes, sir.

Q Did you become unfriendly? A Un- 10  
friendly?

Q Unfriendly. A When I felt unfriendly toward her I left.

Q Did you thereafter remain unfriendly? A I haven't seen her except when doctor was ill.

Q Did you call up at the house then? A Yes, sir.

Q How often were you up to the house? A Every day.

The Court: During the ten weeks of his 20  
illness?

The Witness: Yes, sir.

Q Otherwise you didn't call on Mrs. Bradfield or the doctor except during that period when he was ill? A No, I never did.

Q Did you in any way attempt to dominate or did you attempt to influence the doctor against Mrs. Bradfield? 30

Mr. McCarter: I object.

The Court: I don't think she has said that. But she has said that this woman, by her actions, doling out money and various acts of that kind indicated domination that Mrs. Bradfield objected to.

Q How did you treat Mrs. Bradfield during that period of ten weeks? A I very seldom saw 40

*Miss Edith H. Ross, direct.*

Mrs. Bradfield when I went there, except I gave her five dollars every day.

Q Regularly? A Every day, regularly.

The Court: Who told you to do that, the doctor?

10 The Witness: No.

The Court: Did he know you were doing it?

The Witness: Yes, he did.

Q Whose money was it? A My mother's.

The Court: Why was it doled out daily?

The Witness: Because doctor couldn't write out checks.

20 The Court: From whom did you get the five dollars you gave her daily?

The Witness: Mother.

Q And did you get it every day to give to her? A Every day to give to her.

The Court: That continued for how long?

30 The Witness: I think every day until the last few days of his illness.

The Court: Mrs. Bradfield stated that after some time that was changed to a weekly allowance of twenty dollars, is that right?

The Witness: I don't recall it.

Mr. Croll: I think that was after he came down town.

Q Did you have any conversation with Mrs. Bradfield when you gave her that money? A  
40 No.

*Miss Edith H. Ross, cross.*

Q Did she say anything to you? A No.

The Court: Did you tell her anything when you gave it to her?

The Witness: Yes, sir.

The Court: What did you tell her?

The Witness: I said that was for food. 10

The Court: Did you tell her why you were giving it to her?

The Witness: I said because doctor wasn't able to think about money matters.

The Court: Did you give her any explanation of why you gave it to her?

The Witness: I didn't tell her other than that it was for food.

The Court: How did she receive it, in a pleasant agreeable manner, or otherwise? 20

The Witness: Agreeable manner.

*Cross examination by Mr. McCarter.*

Q You say that you gave five dollars a day to her every day of the ten weeks? A Except the first day or three days and then I took up ten dollars twice and then thereafter five dollars each day. 30

Q The doctor, your uncle, has an office in the house where you live, doesn't he? A Yes, sir.

Q So that you saw him every day there? You had the opportunity of seeing him every day?

A Yes, sir.

Q Did he take his lunch with the family?

A He did.

Q How long did the nurse remain after doctor came down to the house after his illness?

A How long when she came? 40

*Thomas J. Corbally, further direct.*

Q Question repeated. A That day.

Q She left that day? A She did.

The Court: Was any other nurse hired to take her position?

The Witness: After that?

10 The Court: Yes.

The Witness: No, we took care of him.

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THOMAS J. CORBALLY, duly recalled for

*Further direct examination by Mr. Croll.*

20 Q What conversation did you have with Mr. Thomas P. Fay when he came to your office the morning after November eighth?

30 The Court: How is this competent? You have laid no foundation for this. You referred to a conversation between you and Mr. Fay over the telephone, but Mr. Corbally's name wasn't mentioned. You asked Mr. Corbally if Mr. Fay didn't come to his office; Mr. McCarter objected and I sustained it on the ground that Mr. Fay was not a party, not having intervened. If you wish to lay the foundation for a conversation between Mr. Corbally and Mr. Fay I will permit you to recall Mr. Fay and lay your foundation, but as it is now you have nothing to contradict because you have made no reference to Inspector Corbally aside from his presence in the hotel room.

40 Mr. Croll: My recollection was that on the direct examination originally, of Mr. Cor-

*Thomas P. Fay, direct.*

bally, I asked him about the visit of Mr. Fay.

The Court: And Mr. McCarter objected and I sustained the objection on the ground I have just indicated. If you want to contradict Mr. Fay I will let you lay your foundation by recalling Mr. Fay. 10

Mr. Croll: I thought I had asked Mr. Fay—

The Court: You asked Mr. Corbally.

THOMAS P. FAY, recalled by petitioner, for

*Direct examination by Mr. Croll.*

Q You called on Mr. Thomas Corbally at his office? 20

The Court: After November eighth?

A I called at his office, yes.

Q When did you call? A I don't know the time.

The Court: Some time after November eighth? 30

The Witness: A short time after, yes.

Q Was it the day you came to see me? A No, sir.

Q Was it afterwards? A Yes, sir, I think it was.

Q Did you have any conversation with Mr. Corbally? A Very few words. I think I asked him to let me see the reports and he said he didn't have them—he sent them to you. 40

*Thomas J. Corbally, direct.*

Q That was all? A That was all.

The Court: You haven't directed his attention specifically to anything.

10 Q Did you tell Mr. Corbally anything about dropping the case? Did you say anything about dropping the case?

The Court: You ought to direct his attention to the language he used on that occasion.

20 Q Did you say to Mr. Corbally that "you had been sent to him and that you wanted him to do what he could toward having this prospective action withdrawn?" A I have no recollection of making such a statement to Mr. Corbally.

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THOMAS J. CORBALLY, duly recalled for

*Direct examination* by Mr. Croll.

30 Q Did Mr. Fay say anything to you, or if I may be permitted—

The Court: That isn't the way. Call his attention to what you have asked Mr. Fay.

Q Did he say he had been sent to you and did he ask you to do what you could toward getting this action smoothed off or withdrawn or not started?

40 The Court: You are not quoting it correctly. It is substantially what you have

*Dr. Bradfield, direct.*

asked Mr. Fay but it is not what you asked him.

Q Did Mr. Fay say to you he had been sent to you to do what you could to have the case withdrawn because he wanted this prospective action withdrawn. Did he say that? A He didn't say it in that way. 10

Q In what way did he say it?

Mr. McCarter: I object.

The Court: Sustained.

DR. BRADFIELD, duly recalled in rebuttal for

*Direct examination by Mr. Croll.* 20

Q Doctor, what happened at Budd Lake with reference to the bonfires that were mentioned?  
A I was very much surprised when I heard the testimony. I thought when I read the original petition—

The Court: Give us the information. Mr. Croll is asking you what happened at Budd Lake in 1914 in connection with these bonfires? 30

The Witness: I knew nothing about them.

The Court: Did you and your wife ever have any words about bonfires?

The Witness: Never.

The Court: She said you made complaints that she was using the bonfires as signals. 40

*Dr. Bradfield, direct.*

The Witness: That never happened.

The Court: Do you know why she makes any reference to these bonfires?

The Witness: I do not. I thought I was accused of building the fires.

10 The Court: For the purpose of signaling somebody to call on you?

The Witness: When I read the original petition—

Q Outside of the papers you may have seen, was there anything ever between you and Mrs. Bradfield through your complaint, about bonfires? A No, sir.

20 Q It has been testified that in 1915 and 1916 Mrs. Bradfield came in the house one night at five-thirty or six o'clock with a box of candy, and that you broke open the door of the bathroom and that you said, "Where have you been, and where did you get the candy—you never bought it yourself." Is that true? A No, sir.

Q Is anything of that sort true? A I may have asked her where she had been.

Q Was there any quarrel about candy? A No, sir.

30 Q Did you break in the bathroom? A No, sir.

Q Or break in the door of the bathroom when she was in the bathroom? A No, sir.

Q Did you ever hold matches close to her face and light them so that she had to cover her head? A No, never.

Q Did you throw any toilet articles at her? A No, sir, I didn't throw it. I tossed a powder puff at her.

40 Q How far away from you was she? A She went to lie on the bed. I took this little powder

*Dr. Bradfield, direct.*

puff—she was lying on the bed with a little kimono over her. I tossed it in from the bedroom and it made her very angry. She was resting on the bed and I was in the hall.

Q Was it thrown in any quarrel? A No, sir, Jack was a little boy at that time.

Q She said that was directly before the separation, and that you threw other things at her that were on her dresser, a box as I remember it, and a— 10

The Court: And the jar containing the powder.

A I never did.

Q Did you ever? A Never.

Q Did you ever throw anything at her beyond the throwing of that powder puff? A No, sir. 20

Q Did you ever strike your wife at any time?

A Never.

The Court: She says he didn't.

Q What was the trouble that you had with your wife previous to the separation in 1917? A My trouble started in 1912 when Mr. Allen began to pay her attention.

Q Did you ever see Mr. Allen in your house? 30

A I did.

Q Describe what you saw. A I saw him come down from upstairs, from the second floor. I asked her about it. She said he had helped her with a trunk. I said it is too bad when I am here and another fellow named Batten was working up there that she had to get him. She had plenty of other help. But he persisted in coming and he continued to come. I didn't think so much of it first off but it became unbearable. 40

*Dr. Bradfield, direct.*

Q In what respect did it become unbearable?

A His familiarity.

Q What did his familiarity consist of? A I couldn't just describe it.

Q Describe it as best you can.

10 The Court: How was he familiar. In what way did he act familiarly?

The Witness: Looking at her and looking her over and walking around her.

The Court: Would this be done in your presence?

The Witness: I would come out of different rooms and I would have me a fight over Charlie Allen with Mrs. Bradfield.

20 Q Did Mrs. Bradfield ever say anything about Allen to you? A What do you mean?

Q Did she ever say anything to you about Allen? A Oh, she did tell me she would do as she pleased and if I didn't like it what I could do.

Q You were very fond of your wife at that time, were you not? A Extremely fond of her.

Q What was there about the spite fence? A Nothing.

30 Q You knew something about it? A She was in his house when his wife was away and I objected to that any number of times, but she persisted in going in there. I even told her, I says, "If you don't stop it I will get some of the neighbors and come in there and embarrass you. I want you to quit it."

Q I show you a photograph and ask you what that is? A That is the fence.

40 The Court: Between your property and Allen's?

*Dr. Bradfield, direct.*

The Witness: Yes, sir.

Q Who made that photograph? A I did.

The Court: When did you make that photograph?

The Witness: About a week after it was finished. 10

The Court: When was that? After the fence was finished?

The Witness: Yes, sir. Towards the last of August or first of September, 1914.

The Court: Why did you take a picture of it?

The Witness: I don't know the exact time I took that. 20

Q Why did you take a picture of it? A Because Mrs. Bradfield laughed so and said she would fix me or something for having it built. I said, "There isn't a thing in the world the matter with that fence. It is done completely."

The Court: She says you put it up so she and Mr. Allen couldn't speak to each other. Was that your purpose in erecting it?

The Witness: No, my purpose in erecting it was to keep Allen out. 30

Q You frequently take photographs, do you?  
A I did at that time.

Mr. Croll: I offer the photograph in evidence.

(Photograph marked Exhibit C. 6.)

The Court: Does this correctly represent the condition of the fence? 40

*Dr. Bradfield, direct.*

The Witness: There was no difference, absolutely. There was the same boards there, everything—except one board at this end (indicating).

The Court: That made it higher?

The Witness: Made it one board higher.

10

The Court: How high is the fence?

The Witness: Six feet—something like that.

Q When that fence was repaired, did it have any effect on Mr. Allen? A No, sir.

Q Did he continue to call on your wife? A Yes, sir.

Q Did you object to it? A Very seriously I did.

20

Q What did you say to him? A Well, when I go up to Budd Lake unexpectedly I found Allen there. Three different times I did that. We had row over row about him.

The Court: When did you last speak to your wife about the matter?

30

The Witness: He used to go by nearly every night. The last year we were in Budd Lake, September, 1914—I don't recall the date, I tried to see Allen and it was two or three weeks before he come along. Mrs. Bradfield was also looking out of the window and she went over and sat on Mrs. Cattach's stoop. I called Allen and I said, "I want to speak to you. I have something to say to you." I had insulted him half a dozen times before that thinking I could keep him out of my house.

40

The Court: What did you say to him?

*Dr. Bradfield, direct.*

The Witness: I told him, I said, "Don't you ever put your foot in my door again, do you understand me?" He knew what it was about.

Mr. McCarter: What did he say?

The Witness: He said, "Do you mean to infer your wife isn't all right?" I said, 10  
"No, you, damn you."

Q What did he say? A He didn't say anything, he went home.

The Court: Did he ever call at your home after that?

The Witness: Yes, he did.

The Court: When did he last call there, to your knowledge? 20

The Witness: I don't know the date. He called a number of times after that.

Q About what year?

The Court: Did he continue to call up until the year of the separation, which was 1917?

The Witness: Yes, sir.

The Court: After Mrs. Bradfield re- 30  
turned in 1920 did he call?

The Witness: Not to my knowledge.

The Court: Does he still live there?

The Witness: Yes, sir.

Q Who went to Budd Lake, first, you or Allen? A Well, I don't think Allen had a relative up there. I don't know anything about what he did.

*Dr. Bradfield, direct.*

The Court: You needn't pursue that very much more.

10 Q Now, it has been testified that you came home drunk one night and that you called her a very vile name and made a very vile invitation to her.

The Court: That you addressed improper language to your wife.

The Witness: I never did. I may have sworn sometimes.

20 Q Did you say to her (this slip which I show you is the handwriting of Mrs. Bradfield)—did you address her in that form and did you say the last of that to her? A I don't know what that is.

Q It says, "You son of a bitch," "Kiss my ass," "six or seven times." Did you say that? A No, sir, I did not.

The Court: Did you address any similar remarks to her at any time?

The Witness: No, sir.

30 Q Did you use that language, ever? A Never.

Q Never? A I don't think I ever have. I am sure of it.

Q It has been testified that you were very drunk on that occasion and that you used a carving knife and held it against her, is that true? A That is false.

Q Is there any fact which might have been the basis for that accusation?

40 The Court: He said it didn't happen.

*Dr. Bradfield, direct.*

The Witness: No, sir, nothing like that happened.

Q Were you drunk that night? A No, sir.

Q You remember the night? A I remember the night.

Q What happened to you that night? A I had spoken to my wife repeatedly. I never stayed downtown. 10

Mr. McCarter: Won't you please tell us what happened that night?

The Court: What happened? Go on.

The Witness: I had asked her repeatedly if it was not bad enough, her going away and staying away, but she might at least tell me when she was going to stay away, for I never left the children alone. I was always there or I was at my office. 20

The Court: Then what happened?

The Witness: I went home, and I didn't come home drunk. I was home and Doris went to bed and I went down and got a bottle of sherry that I had in the cellar, and I had three or four drinks of it.

The Court: Had you been drinking before you came home? 30

The Witness: No, sir.

The Court: Then what happened?

The Witness: Nothing, except that I hit my head when I came upstairs on an iron grating.

The Court: You didn't fall down?

The Witness: I never fell down.

The Court: Were you ever so intoxicated that you can't remember what happened that night? 40

*Dr. Bradfield, direct.*

The Witness: No, sir, I wasn't intoxicated.

10 Q Did you ever have occasion about that period to say anything to your wife about her absence from home? A We had row after row about that.

Q For how long a period did those rows continue on this score? A A year before I had pleaded with her and begged her and told her that people had come to me and remarked to me about this, who had heard of the white-haired man she was running around with, and she told me to go to hell.

Q Did you know who that white-haired man was? A No, sir.

20 Q Did you know who he was until you got word from the detectives?

The Court: In March, 1923?

The Witness: No, I didn't, and a week before I was taken so very ill I went in her room and pleaded with her. I says, "I know you don't care for me, but you might think a little for the children's sake. You might care a little for them."

30 The Court: You had no knowledge of her going with a white-haired man, except what you were told?

The Witness: I heard it repeatedly from different ones.

The Court: How did that affect her staying out at night?

The Witness: It didn't affect it in the least.

40 The Court: Did you know she was going?

*Dr. Bradfield, direct.*

The Witness: Never.

The Court: Did she tell you she was going to her mother's?

The Witness: I remember once she said she was going to her mother's and I met her mother on the street.

10

Q How often did she stay away from the house? A Every week for the last two years.

Q For what periods—periods of what duration?

The Court: One night or two nights?

The Witness: Two nights and two days, sometimes three days and three nights. For the last she was gone two nights and two days for nearly two years.

20

The Court: Every week?

The Witness: Every week.

The Court: Did you ever make any investigation to find out where she had been?

The Witness: She asked me why I didn't. She said, "If you are blowing so, why don't you have me watched?" I said, "One of these days I will, maybe."

The Court: Did she tell you she had been at her mother's? 30

The Witness: She only told me twice about her mother's.

Q How did she act before the separation?

A She went out before the separation, too.

Q How often did she stay away then? A She didn't go out near as much before that.

Q How often did she go out before the separation? A Over some time once or twice a week for a day and a night, something like that. 40

*Dr. Bradfield, direct.*

Q Did she tell you she was going away? A Sometimes. Very often she was gone when I got home.

Q Which happened the more frequently, that she went without notice or with notice? A Without.

10 Q What became of the children during that period? A They took care of themselves and I helped.

Q Did you have a servant maid then? A Part of the time.

The Court: What has been your annual income, on the average, the last three or four years?

The Witness: Forty-five hundred, the last three or four years.

20 The Court: Prior to that was it more?

The Witness: A little more, yes.

The Court: Did you ever make a regular allowance to Mrs. Bradfield for the house?

The Witness: No, because I was a lot like a lot of other professional men. Sometimes. I had money and sometimes I didn't.

The Court: Did she have credit or was everything on a cash basis?

30 The Witness: We tried to run it on a cash basis.

Q After 1920, when she came back to your house, how often did she remain away from the house? A After what?

Q Before I go into that. What led up to the separation—immediately before the separation?

A Oh, fighting over Allen? You mean in 1917?

40 Q Before the separation agreement was drawn? A Yes, sir.

*Dr. Bradfield, direct.*

Q What did she do before the separation papers were signed? A She left in August and I didn't hear from her—I didn't hear anything until about a week or ten days, one of her relatives come and got the children.

The Court: Where was she, with her mother? 10

The Witness: I don't know—I suppose she was.

Q She had left the children at the house? A With me.

Q Which one of her relatives came to get the children? A I think it was Edna Williams. She is a cousin of Mrs. Bradfield's.

Q Were you home when the children were taken? A I don't know—five o'clock I think it was. 20

Mr. McCarter: I object and move that that be stricken out.

Q Now, did you hear from her after she left the house? A I received a telegram.

Q From whom? A Mrs. Bradfield.

Q From where? A Avon. 30

Q What did the telegram say? A If I wished to communicate with her she was with her mother and gave the address.

Q Up to that time did you know where she was? A No, I did not.

Q Did you make inquiries? A I made inquiries.

The Court: Do you know why she left at that time? 40

*Dr. Bradfield, direct.*

The Witness: I just don't recall. I suppose because we had been fighting so much.

The Court: About Allen?

The Witness: About Allen, yes, sir.

10 The Court: I notice in this separation agreement there is a recital to the effect that because of the treatment you had accorded her and so on. How did that happen to be put in the agreement, that you hadn't treated her properly. How did that happen to be put in the agreement? There is a recital in this agreement to the effect that "Whereas disputes and unhappy differences have arisen between you and your wife for which reasons you have consented to live apart." What were those unhappy differences? Were they due to Allen?

20

The Witness: Yes, sir.

The Court: Was it nothing else but the trouble over Allen that was referred to there?

The Witness: Well, her mother partly, too.

30 The Court: You objected to the presence of the mother in the home?

The Witness: I objected to her taking her out.

Q Was there any discussion or trouble about her absences from home at that time? A What was this time?

Q Before the agreement—antior to the agreement? A Oh, yes.

40 Q Had that been discussed frequently? A Yes.

*Dr. Bradfield, direct.*

The Court: Who suggested you live apart, you or she?

The Witness: She left in August and then the children were taken a week or ten days afterwards and I got a telegram stating where she was and I went down there and immediately asked her to come home and bring the children. 10

The Court: What did she say?

The Witness: She wouldn't consider it. They all cried, and tears were running down their cheeks.

The Court: Did she give any reason why she would not consider it?

The Witness: No, she did not.

The Court: After that what led up to the making of this agreement? 20

The Witness: Well, I don't know what, probably I had that in my possession over a week or ten days before I went to see counsel.

The Court: Hadn't you seen Mr. Croll before this paper was prepared?

The Witness: No, sir, I had not.

The Court: Who had prepared the paper? 30

The Witness: Mr. Dillon.

The Court: And you had no lawyer at that time?

The Witness: I had no lawyer.

Q Don't you mean that you came to me and that Mr. Dillon and I took up the matter and drew this paper, and you hadn't seen me before, except the transaction leading up to the signing of this agreement? A Yes, I am mistaken. 40

*Dr. Bradfield, direct.*

Q That was the fact, was it not? A That is correct.

Q You came to consult me? A Yes, sir.

Q You had never consulted me about it before that time? A No.

Q And Mr. Dillon and I then drew that paper  
10 —Judge Dillon? A Yes, sir.

Q Now, after the period of the agreed separation—

The Court: If your wife was acting in this manner that was so objectionable to you, why did you continue to support her? I can understand why you would agree to support the children.

20 The Witness: I didn't want any notoriety—I didn't know that I could do anything.

The Court: Well, you had counsel to consult with then. I notice in this agreement you agree to pay for her support and for the maintenance of the home a certain sum weekly, and I understand you performed that agreement.

The Witness: I thought it would be best for them.

30 Q Did you lay before counsel at that time the matters which had led to the separation? A I did.

Q The situation which resulted in the separation? A I did.

Q And were you advised by counsel as to your rights or as to what you could or could not do? A I was.

40 Q You weren't considering a divorce at that time, were you? A No.

*Dr. Bradfield, direct.*

Q What were your feelings toward your wife at that time? A I was very fond of her.

Q Even after she had left? A Even after she had left.

The Court: When did you and your wife cease cohabitation? 10

The Witness: Just previous to her leaving.

The Court: Just previous to September, 1917?

The Witness: Yes, sir.

The Court: And at whose suggestion did that occur?

The Witness: It didn't at anybody's instance.

The Court: What brought it about? 20

The Witness: It just happened.

The Court: What brought it about?

The Witness: Well, the rows we had.

The Court: Had you occupied the same room up to that time?

The Witness: We never did occupy the same room.

The Court: Always had separate rooms? 30

The Witness: No, when we lived downtown.

The Court: From what year did you have separate rooms?

The Witness: Ever since we lived in Roseville.

The Court: That would be for how long?

The Witness: Seventeen years.

The Court: Was there any special reason for taking separate rooms at that time? 40

*Dr. Bradfield, direct.*

The Witness: No special reason.

Q Did your wife ever request you to resume marital relations? A No, sir.

The Court: Did you?

10 The Witness: No, sir.

Q The subject was never referred to? A No, sir.

Q Coming back to 1920, when your wife came back. Who arranged the return of your wife?

A I don't know.

Q Was that arranged through counsel in part? A I don't know.

20 The Court: He says he doesn't know. This agreement appears to terminate in two years. That would make it the first of October, 1919. At the expiration of that agreement did you resume marital relations?

The Witness: I had written her a number of letters and I went down to the shore twice.

The Court: In what year?

30 The Witness: No, not after that.

The Court: Before the agreement had expired did you talk to your wife about going back?

The Witness: I met her a number of times and she sent for me a number of times to meet her and I always met her and we went out together and talked things over.

The Court: About her going back to her home? With what result?

40 The Witness: Yes, with no result.

*Dr. Bradfield, direct.*

The Court: What happened?

The Witness: She said she didn't want to come.

Q Did you want her back? A I did.

Q Did you enlist my services in trying to get her to come back? A I did. 10

Q Did you meet her in my office? A I did.

The Court: While the agreement was in force did you try to get her to come back?

The Witness: Yes, sir.

Q Did you?

The Court: He says he did.

Q Did you after the expiration of the agreement, in 1919, try to get her to come back? A I did. 20

Q How often did you meet her in my office for that purpose? A I couldn't say.

The Court: Didn't she give any reason for refusing to go back to live with you and the children?

The Witness: She did not. 30

The Court: When did you last ask her to come back and live with you and the children?

The Witness: I don't remember.

The Court: Before she actually came back?

The Witness: Yes, sir.

The Court: How long before?

The Witness: I couldn't say. 40

*Dr. Bradfield, direct.*

The Court: She returned in November?

The Witness: She returned in December.

The Court: That was unexpected to you?

The Witness: That was very unexpected.

The Court: You had no knowledge of it?

10 The Witness: I was very glad.

The Court: She says you told her she could sit down and eat something and then go to her aunt's to sleep.

The Witness: That is a falsehood.

The Court: What did you say?

The Witness: I was fixing the heater. Katherine calls me and says, "Papa, someone is here." I says "Who is it?" She says, "Mamma." I come up immediately. I was  
20 very glad to see her.

The Court: How did you greet her?

The Witness: Like I always greeted her.

The Court: Did you kiss her?

The Witness: I did.

The Court: Where did she stay that night?

The Witness: Where she always stayed.

30 Q Do you mean to say she stayed there? A Yes, sir, she did.

Q You are not mistaken? A She is.

Q Did you seek to entertain her at any time during that interval of separation? A I did.

Q What form did your entertainment take? A What form?

Q How did you entertain her. A I took her to dinner and to the theatre.

40 The Court: On more than one occasion?

*Dr. Bradfield, cross.*

The Witness: Yes, sir.

Q Where? A We went to Proctor's a couple of times and went to New York two or three times, two positively, I remember distinctly.

Q Now, what was the purpose of this entertainment?

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Mr. McCarter: I object.

The Court: Is it material? If he did entertain her it shows he must have had some feeling for her, some desire to be in her company.

The Court: After she returned home in 1920 did you ever entertain her—take her out?

The Witness: I took her out once. She would never go with me afterwards.

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Q Did you invite her to go? A A number of times.

Q Did she give any reason for not wanting to go? A No, sir.

Q After she came back in March, 1920, what was the fact about her absence at night?

The Court: He has gone into that quite fully—twice a week, two days and two nights, for two years.

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*Cross examination by Mr. McCarter.*

Q Do I understand, Dr. Bradfield, that the sole source of complaint between you and your wife down to the time of the separation in 1917 was the Allen matter? A Until when?

Q Until the separation in 1917? A Yes, sir.

Q The Allen matter? A Yes, sir.

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*Dr. Bradfield, cross.*

Q Nothing else? A Nothing else.

Q That had been going for three years? A Not quite three.

Q Well, 1914, at Budds Lake—you spoke of that. That was the summer of 1914, wasn't it?

A Yes, sir.

10 Q And the agreement was signed in September, 1917, isn't that three years? A Yes, that is correct.

Q So that had been going three years, and was the only source of trouble between you and her at the time you separated? A Yes, sir.

Q You stand on that, do you? A Yes, sir.

Q You had another house in Fulton street, didn't you? A Yes, sir.

Q Didn't your wife want you to move there?

20 A She did.

Q And you declined to move there? A I did not.

Q You didn't? A No, sir.

Q Did you ever move there? A No, because she didn't tell me definitely whether she would come back.

30 Q Didn't she ask you in order to prevent any further talk about the Allen matter, so long as Mr. Allen had bought that house, that you agree to move away, and you wouldn't agree? A I did agree.

Q Why didn't you move?

The Court: Why didn't you move?

The Witness: I wanted to get rid of that house in Roseville first.

Q Did you tell her you would move? A Yes.

40 Q And you didn't do it? A I couldn't.

*Dr. Bradfield, cross.*

Q You owned the house in Fulton street? A Yes, the house was occupied and had a lease on it.

The Court: For how long was the lease?

The Witness: A year.

Q A year from when? A April to April. 10

Q Well, she came back in December, didn't she? A Yes, sir.

Q Why didn't you move the following April? A She didn't tell me she would come back.

Q But she was there—she came back in December. Why didn't you move in April? A The house was rented.

Q But you said the lease expired in April? A Yes, but she hadn't said she would come back. 20

The Court: But the lease expired in April, 1921. She had been home about four months. Why didn't you notify the tenant to get out?

The Witness: I don't know.

Q You don't know—now— A The children, for one thing—Fulton street is a very dangerous place and bad for little kids and the school up at Roseville is on the same block, one of the best schools in the city. 30

Q Now, where is the school adjacent to Fulton street? A The nearest school is Barnes street—it is quite a distance.

Q Did you authorize Mr. Croll to write to Mrs. Erwin, the mother? A I did.

Q Did you see the letter he wrote? A I did.

Q Before it was sent? A No, I didn't see it before it was sent. 40

*Dr. Bradfield, cross.*

Q You saw it afterwards? A I think I did —I am not positive.

Q At any rate you saw it afterwards? A I saw it afterwards.

10 Q What had Mrs. Erwin done that made her, as your attorney says, "A constant source of unrest to you?" A She took my wife away nights and she always had one or two gentlemen friends that she said was perfectly all right.

The Court: Who said this, the mother?

The Witness: Yes, the mother. I said, "I object to your taking my wife away at night." And she wouldn't come in until two o'clock in the morning when she did return. She did that just before I was taken ill.

20 Q How often did that occur? A Well, I don't know how often.

Q Did it ever occur but once? A It did.

Q How often? A A number of times.

Q Just answer the question. A And also about Allen. Mrs. Erwin knew I had objected and she said, "If Elsie couldn't have him she would have him in there," and I said, "Not while I'm around here."

30 Q You said further, "Your presence in his home is distasteful to him, and if you care anything about your daughter you will desist in your visits." Why was her presence distasteful to you? A As I have explained it to you.

Q You felt that the mother was anxious to entertain Mrs. Bradfield too often? A I didn't like the way they did it.

Q Were you ever with them? A No, sir. I was the early part of our marriage.

40 Q What was it you objected to that you knew about? A Keeping her away nights.

*Dr. Bradfield, cross.*

Q You didn't take your wife out? A I took her out weeks before she left. When she come back she wouldn't go out with me.

Q Now, wasn't there a maid in the house when Mrs. Bradfield came home? A Yes, sir.

Q And didn't she occupy that room? A Yes, sir. 10

Q Didn't she occupy it that night? A No.

Q Sure about that? A Positive.

Q You didn't say anything about her going and sleeping with her aunt? A Not a word.

Q You never offered to resume marital relations with her since then, did you? A No.

The Court: Did you ever order her out of the house?

The Witness: Never.

The Court: Ever tell her to get out? 20

The Witness: Never.

Q So that whatever occurred the night you hit your head you were perfectly conscious of? A I was.

Q What had you gone down cellar for? A For the sherry wine.

Q So you hadn't had anything to drink before you went down cellar? A No, sir. 30

Q How soon did Dr. Morrison get there? A Oh, I don't know. It was three or four hours, two hours anyway. It was sometime after Doris went to bed.

Q What time did you get home that night? A I was home at six o'clock.

Q Home all evening? A Yes, sir.

The Court: When did you drink these three glasses of sherry you spoke about, before you got hurt or afterward? 40

*Dr. Bradfield, re-direct.*

The Witness: After Doris went to bed.

The Court: Was that before you got this injury or afterwards?

The Witness: That was afterwards.

10 Q With the blood streaming down your head you drank three glasses of sherry? A It wasn't streaming.

Q Doctor Morrison has explained what he did, and you say there was no blood? A I didn't see any.

Q You mean to say there was no blood? A Yes, sure.

Q Your statement is that you drank three glasses of sherry with the blood on your head? A Yes, sir.

20 Q That is right, is it? A Yes, sir.

Q Do you remember blowing a bugle? A I remember it.

Q What was that? A That was a bugle I had had ever since I was a little boy, that we used to blow New Year's night.

Q I am asking about blowing a bugle when Mrs. Bradfield went out? A I never did.

*Re-direct examination by Mr. Croll.*

30 Q After your wife came home after December, 1920, was it ever suggested by her that you go to Fulton street? A No, not after that. Everything seemed to be forgotten about Fulton street.

Q Was the subject ever referred to? A Never.

40 The Court: I understand after that Allen's attentions to your wife ceased, so far as you observed.

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The Witness: I never saw him there like I used to.

Q She used to call on him? A She certainly did.

Mr. Croll: We rest.

Mr. McCarter: We have no further evidence.

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The Court: I am prepared to dispose of these cases now, unless you desire time to submit a brief. I don't know that I need any brief. I have the facts very fresh in my mind.

Mr. Croll: I would like to say a few words.

The Court: If you are going to say a few words let me suggest that you are suing on behalf of the petitioner for an absolute divorce on the ground of adultery. I ask you to tell me what evidence there is in the case to establish your charge.

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(Mr. Croll makes statement.)

The Court: (Addressing Mr. McCarter.) You need not respond on the adultery charge. I find the same condition in your counter-claim for desertion. You base it on the fact that they ceased cohabitation in 1917 and that that condition has continued to the present time. I am fairly well convinced that the cessation of cohabitation was by mutual consent, both parties were perfectly willing and both acquiescing in it. If that was so it was not a deprivation by Mrs. Bradfield of any marital right, and the rest of the case, the charge of extreme cruelty has not sufficient evidence to support it. If you wish to point out to me anything in the record I will be glad to have it.

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Mr. McCarter: I think we have shown your Honor everything that we can.

The Court: Petitioner charges the offense of adultery as the basis for a decree of absolute divorce; and specifically charges that the defendant since her marriage, and on the eighth day of November, 1923, and at various times prior thereto committed adultery with Thomas P. Fay, in the Borough of Manhattan in the State of New York. As I stated in the course of the argument, I find and it is admitted that there is no direct proof in the case to establish the charge of the petition. I am asked to find the guilt of the defendant from certain circumstances and from the relation that has existed between her and the co-respondent Fay from the twenty-second or twenty-third day of March, 1923, to and including the eighth day of November, 1923. The circumstances as I have them from the record are that about the twenty-second day of March, Dr. Bradfield, the petitioner, through his counsel, employed the Corbally Agency of Newark to secure some evidence to establish the fact that his wife was unfaithful, if she was, and on the twenty-second of March it appears Mr. Dipper, one of the operatives employed by that agency saw Mr. Fay in front of Mrs. Bradfield's home, but did not see him enter the house. The next occasion that Fay appears on the scene, is on the seventh of April, 1923, when Fay entered the Bradfield home at 4:30 P. M., and left at 5:30. He returned in a short time in a taxicab and took Mrs. Bradfield and her mother to a Newark Theatre. Later they went to a hotel, the Hotel Riviera, in Newark, for something to eat, remained there for some time, again got in

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the taxicab and took Mrs. Bradfield's mother, Mrs. Erwin, to her place of residence in the Lincoln Hotel in Newark, and from there they went to Mrs. Bradfield's house, but did not drive directly there, and stopped the taxicab some distance away. Mrs. Bradfield got out and was followed by Mr. Fay at an interval of about five minutes, as the detective states. She entered the house and Fay entered it after her. Mr. Dipper, one of the operatives, says Mr. Fay left the house at eleven-forty-five and is contradicted by Mr. Cunningham, who was with him. Dipper states Fay remained in the house a half hour, and Cunningham says Fay remained in the house two hours. They both say there were lights on in the house all the time Fay was there. 10

The next occasion is the tenth of April. They were seen in Asbury Park that afternoon. They took a taxicab and it appears that the detectives were informed they were taken to Avon. It appears further that Mrs. Erwin has a home in Belmar, near Avon. Mrs. Bradfield and Mr. Fay have no remembrance of this incident and do not deny it, and it appears that the detectives saw Mr. Fay put Mrs. Bradfield on the 7:20 P. M. train from Long Branch to Newark on that occasion. On April eleventh, Fay and Mrs. Bradfield were seen to enter the Maxine Elliott Theatre, in fact they were followed there, and after the matinee they were lost trace of. Mrs. Bradfield was seen to return home about midnight, but returned alone. She does not account for her absence after the close of the matinee, but Mr. Fay states he went home on the five-ten train, and there is no contradiction of it. 20 30

On the seventeenth of April the detectives saw Fay enter the house at 7:30 P. M., and leave at 40

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11:25 P. M. When he entered there was a light burning in the girls' room, which was extinguished at 9.45. The light continued burning in the kitchen, which the detective describes as "back of the parlor."

10 On April fourteenth Mrs. Bradfield was seen walking on Park avenue near her home with Fay following her and they were seen to enter the house at 9:20 P. M., and it is testified that Fay left there at eleven-five. That is all that is testified to with respect to that date. Mrs. Bradfield and her daughters state other members of the family were always at home when Mr. Fay called on her. Next comes the important occasion, the eighth of November. The witnesses for the petitioner state that about two-thirty o'clock in the afternoon Mrs. Bradfield was seen leaving her home. There seems to be some question about where she was for two hours after that but she agrees with the detectives that she took the four-thirty train from the Pennsylvania Station at Market street, Newark, to New York. She arrived at the Pennsylvania Station, claims she went in the ladies' room and after she came out she says she saw Mr. Fay in the main corridor talking to some man, that he stepped aside and spoke to her and then that she explained in answer to his inquiry, that she was over to go to the theatre that night. The witnesses for the petitioner state Mr. Fay did not meet her in the corridor but that he met her down at the lower train shed, where the trains arrive and escorted her through the station to the Pennsylvania Hotel. She states that Mr. Fay escorted her to the Pennsylvania Hotel and she states that when she informed him that she was about to go to a hotel that night, she told Fay that because of an

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experience her aunt had had about a year before in being held up by footpads in the Forest Hill section, she had become frightened and didn't like the idea of returning home late, whereupon Mr. Fay suggested he was going to a banquet and he would have to change his clothes and in order to do so he would have to get a room, that he wouldn't occupy the room over ten or fifteen minutes, and when he had vacated it she was welcome to occupy it for the balance of the night after the theatrical performance. As this conversation was progressing they finally reached the lobby of the Pennsylvania Hotel. Mrs. Bradfield went toward the elevator and Fay approached the room clerk's desk. Apparently he was assigned to Room 232 and registered, as appears in the record, at five-thirty, as "Mr. and Mrs. Thomas P. Fay, Long Branch, New Jersey." He then, according to the admission of Mrs. Bradfield, joined her in the elevator and they went to the mezzanine floor where she got out. She says she remained seated at the mezzanine floor until Mr. Fay came down, having dressed for the banquet, and gave her the key to the room. She then says he left her; she went downstairs in the restaurant and had something to eat and then because she had so much time on her hands she concluded to walk to the theatre at 47th or 48th street, instead of taking any conveyance. She stayed during the entire performance and in walking from the theatre back to the hotel, she had on a new pair of pumps, walking in which caused a blister to form on her heel. That when she reached the hotel, between eleven and eleven-fifteen, having the key which Fay had given her, she went to Room 232. She admits she removed all her clothes, except possibly a

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skirt, although the detectives say she was wholly undressed and was wrapped in a blanket at the time they entered. She had some water running in the bathtub preparing to bathe the blister on her heel when a tap came on the door. She opened it and admitted Mr. Fay. In the meantime friends of the petitioner, his brother-in-law, Mr. Ross, his physician, Dr. Morrison, Inspector Corbally, the inspector's son, and one or two others from the Corbally Agency, had hired and were in room 233, diagonally opposite room 232, and before the arrival of Mrs. Bradfield some of this party had inspected room 232 while a maid was in there preparing it for the night. There is quite a little discrepancy in the testimony as to the condition of that room at that time. Whether one or more of the beds had been disturbed or occupied, whether there was only the bedclothing which had been thrown back by the maid as if preparatory for occupation for the night, whether there was a pillow in the center of the bed, and whether one or both beds were disturbed and whether such disturbance was caused by the maid or not.

In view of the fact that the maid was in the room prior to the time the inspection was made—they do not say how long she was there before they came—she had the opportunity to disturb the bed clothing and put the pillow in the middle of the bed while preparing the beds for the night. At any rate she left the room in a very short time, having tidied it up, fixed the beds and closed the door, and shortly thereafter Mrs. Bradfield entered the room, disrobed as I have stated, and then Mr. Fay entered. Mr. Fay had his overcoat on his arm, his hat in his hand, and had hardly reached the middle of the

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room and the door had not entirely closed on him when the party of friends and detectives of the petitioner came across from Room 233 and entered Room 232. They found Mrs. Bradfield standing by the door wrapped in a blanket, with part of her shoulders exposed. They found Mr. Fay standing in the room with the overcoat over his arm and his hat in his hand. Inspector Corbally asked Mr. Ross and Dr. Morrison for an identification of the woman, and they identified Mrs. Bradfield. He personally knew Mr. Fay. Mr. Flarity says Mr. Fay asked why he didn't tip him off. Fay denies this. Mrs. Bradfield refused to dress until directed to by Mr. Fay and then she complied. Then when she was dressed she left for the street and the others also left for the street. According to the hotel detectives Mr. Fay paid the bill, which was about seven dollars. It appears that Mrs. Bradfield had no bag with her, no evening apparel, no toilet articles of any kind, and apparently if she were going to occupy the room for the night she had come wholly unprepared to do so.

That is the petitioner's case in substance and although there is no direct proof of adultery having been committed, I am now asked to find from these circumstances that there was both a desire for illicit intercourse between Mrs. Bradfield and Fay, and that they had the opportunity to gratify that desire.

There is no evidence of any acts of impropriety that have occurred between them, nor of any manifestation of affection, nor of any act of any kind at any time or place except November eighth to indicate an illicit relation between them. There is nothing from which

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I can draw the inference, until the eighth of November, that there was any desire on the part of these two people to have illicit intercourse. Assuming, however, they had such desire and that they went to the hotel on the eighth of November for the purpose of gratifying it and assuming in view of the form of registration, that Fay intended to occupy that room with Mrs. Bradfield for the purpose of committing adultery, there is not the slightest evidence in the case to indicate that both of them were in the room at the same time prior to about 11:40 P. M., and the rest of the evidence shows conclusively that at that hour they were both together in the room for not over one minute before they were interrupted by the entrance of Mr. Ross, Dr. Morrison and the party of detectives, and there was neither time nor opportunity for the act of adultery to have been committed then, as charged, assuming these people had the desire to commit it.

In the absence of that proof I will have to find that the petitioner's case is not established and that his petition must be dismissed, for there is no proof and it is not seriously contended that adultery was committed on any of the other dates I have mentioned.

On the cross-petition there is scarcely any evidence to support the charges of cruelty and improper treatment and I find no evidence that satisfies me on that score. The only ground which counsel stresses is that Dr. Bradfield and his wife ceased cohabitation some time in 1917. They separated under articles of separation for two years; the separation continued, and as Dr. Bradfield states, his wife refused to return home until December, 1920. After she returned home

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they never resumed marital relations; neither of them requested it, and so far as the record disclosed neither desired it. I think the cessation of such intercourse was entirely agreeable and was by mutual consent. I have no proof to show me anything to the contrary. There cannot be actual desertion in the case because Dr. Bradfield did not leave his wife until about the tenth or fifteenth day of March, 1923, so that the two-year period required by the statute has not expired even now, and had not, of course, expired at the time the counter-claim was filed.

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Under these circumstances I find that the counter-claim has not been established and will have to be dismissed also. You may take your decree accordingly.

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*Decree.*

**DECREE.**

Filed November 6, 1924.

10 This cause coming on to be heard in the presence of Edward I. Croll, of counsel with the petitioner, and of Robert H. McCarter, of counsel with the defendant, on petition, answer, cross petition, answer thereto and oral proofs taken in open court, and it appearing to the Court that the petitioner has not sustained the truth of the allegations of his petition, and is not entitled to the relief therein prayed, it is thereupon, on this fifth day of November, 1924,

ORDERED, ADJUDGED and DECREED that the petitioner's petition be, and the same is hereby dismissed.

20 AND IT IS FURTHER ORDERED, ADJUDGED and DECREED that the petitioner pay to the defendant, or her solicitor, the costs of this action on said petition to be taxed, and a counsel fee of two hundred and fifty (\$250) dollars and that she have execution therefor according to the practice of this court.

30 And it further appearing to the Court that the defendant has not sustained the truth of the allegation of her cross petition and is not entitled to the relief therein prayed, it is thereupon on the day and year aforesaid, ORDERED, ADJUDGED and DECREED that the defendant's cross petition be and the same hereby is dismissed.

E. R. WALKER,

C.

Respectfully advised,

JOHN E. FOSTER,  
V.-C.

*Notice of Appeal.*

**NOTICE OF APPEAL.**

Filed July 28, 1925.

Thomas N. Bradfield, the above-named petitioner, hereby appeals from the decree *nisi* filed in this cause and dated November 5, 1924, and from every part thereof to the Court of Errors and Appeals, in the last resort in all causes. 10

Dated, July 23, 1925.

RIKER & RIKER,  
Solicitors for Petitioner.

ANDREW VAN BLARCOM,  
Of Counsel.

I conceive there is good cause for appeal in the above-stated cause. 20

ANDREW VAN BLARCOM,  
Of Counsel.

*Petition of Appeal.*

**PETITION OF APPEAL.**

Filed July 29, 1925.

**New Jersey Court of Errors and Appeals**

10	<i>Between</i>  THOMAS N. BRADFIELD, <i>Petitioner-Appellant,</i>  <i>and</i>  ELSIE K. BRADFIELD, <i>Defendant-Respondent.</i>	} <i>On Appeal</i> } <i>from</i> } <i>Chancery.</i>  } <i>Petition</i> } <i>of Appeal</i>
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20 *To the Honorable the Court of Errors and Appeals in the Last Resort in All Causes:*

30 The petition of Thomas N. Bradfield, appellant, respectfully shows, that your petitioner finds himself aggrieved by a decree final made in the Court of Chancery by his Honor, Edwin Robert Walker, Chancellor of the State of New Jersey, on the fifth day of November, A. D. nineteen hundred and twenty-four, in that the said decree recites and adjudges that your petitioner has not sustained the allegations of his petition, and is not entitled to the relief herein prayed; and doth decree that your petitioner's said petition be dismissed.

40 And your petitioner appeals from said decree, and from every part thereof, on the ground that the same is erroneous, and that the Chancellor should have found and adjudged the several allegations of your petitioner's petition to have been proved, and the respondent to have been guilty of adultery, and should have ordered,

*Answer to Petition of Appeal.*

adjudged and decreed, that your petitioner be divorced from the bonds of matrimony with the respondent for the cause aforesaid, and that your petitioner should have the other relief prayed in and by his said petition.

Your petitioner, therefore, prays that the said decree may be reversed.

10

RIKER & RIKER,  
Solicitors for Petitioner-Appellant.

ANDREW VAN BLARCOM,  
Of Counsel.

**ANSWER TO PETITION OF APPEAL.**

The answer of Elsie K. Bradfield, respondent, to the petition of appeal of Thomas N. Bradfield, appellant. 20

The respondent admits it to be true that a certain decree final was, on the fifth day of November, A. D. 1924, made and entered in the Court of Chancery, as in the petition of appeal is stated; but as to the substance and form thereof this respondent prays to refer thereto when the same shall be produced.

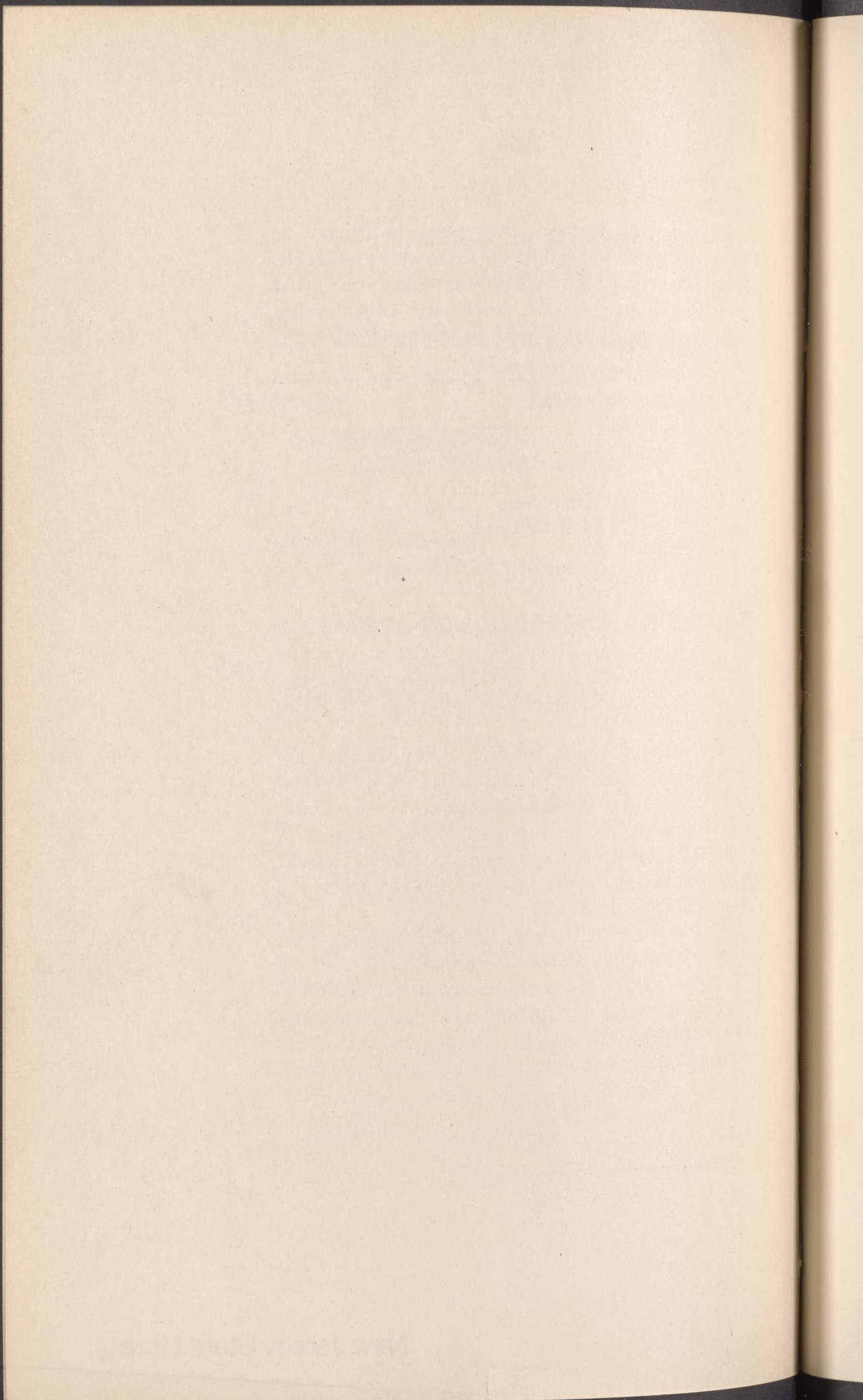
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This respondent is advised and believes that said decree as to the matters complained of by the appellant in his petition of appeal is agreeable to law and equity, and she prays that the same may be affirmed in the particulars aforesaid with costs to be adjudged to this respondent.

McCARTER & ENGLISH,  
Solicitors for Respondent.

ROBERT H. McCARTER,  
Of Counsel.

40



## New Jersey Court of Errors and Appeals

*Between*

THOMAS N. BRADFIELD,  
*Petitioner-Appellant,*

*and*

ELSIE K. BRADFIELD,  
*Defendant-Respondent.*

*On Petition  
for Divorce.*

*On Appeal  
from Final  
Decree in  
Chancery.*

### BRIEF OF APPELLANT.

#### Statement of the Case.

This is an appeal from Chancery from a final decree dismissing the appellant's petition for divorce on the ground of adultery.

#### SPECIFICATIONS.

The specification alleged for reversal in this case is that the Court of Chancery decreed that the appellant did not sustain the truth of the allegations of his petition and was not entitled to the relief therein prayed. This cause is one of fact and, therefore, it will be necessary to discuss in detail the evidence under the next heading.

#### BRIEF OF THE ARGUMENT.

The appellant charged in his petition that the respondent "on the 8th day of November, 1923, and at various times theretofore, committed adultery with Thomas P. Fay in the Borough of Manhattan, in the City, County and State of New York."

On the 8th day of November, 1923, Mrs. Bradfield lived with her children at the corner of Seventh street and Park avenue, which is in the Roseville section of the City of Newark (C., p. 172, l. 30).

Mr. Fay, who is an attorney and counsellor-at-law of the State of New Jersey, resided at Long Branch, in this State.

On November 8th, 1923, Mr. Fay and Mrs. Bradfield went to the Hotel Pennsylvania, in the City of New York, where Mr. Fay registered as follows: "Mr. and Mrs. Thomas P. Fay, Long Branch, N. J." The hour of the registration was 5:30 P. M., and they were assigned to room 232 (C., p. 16, l. 20). This registration was admitted by Mr. Fay at C., page 223, line 10.

The circumstances surrounding this trip are testified to by a number of witnesses for Dr. Bradfield, by Mrs. Bradfield and by Mr. Fay.

The story of the latter will be first discussed.

Mrs. Bradfield commences her testimony with reference to her trip to New York on November 8, 1923, at C., page 173, line 30, and continues her story to C., page 178. The story is as follows:

She left her home the day in question to go to the theatre in New York. She was alone. She took a train at 4:30 or 4:20 in the afternoon at the Market street station of the Pennsylvania Railroad, having gone to the station by jitney. As she was walking through the main corridor of the Pennsylvania Station, in New York, she saw Mr. Fay talking with a gentleman. (One of Dr. Bradfield's witnesses disputes the actual meeting, but this will be discussed later.) She

and Mr. Fay talked together and he told her that he was going to a dinner at the Waldorf.

To interrupt Mrs. Bradfield's story, it seems that Mr. Fay was in Trenton on that day and had not expected to go to New York, and there met the distinguished counsel for Mrs. Bradfield (C., p. 216, l. 30), who told Mr. Fay about a dinner to be given to Frank Bergen, Esquire, at which Mrs. Bradfield's counsel would be the presiding officer. This determined Mr. Fay to attend the dinner. Incidentally, Mr. Fay telephoned to his home at Long Branch to have his evening clothes sent to him (C., p. 217, l. 10). Neither Mrs. Bradfield nor Mr. Fay admitted that during the afternoon of November 8, 1923, there was any telephonic communication between them, but it was a startling coincident that she should go to the Market street station of the Pennsylvania Railroad, which is far out of her way, to get to New York by train from the Roseville section of Newark and meet Mr. Fay in the Pennsylvania Station. The Court's attention is directed to the testimony of Mrs. Bradfield, on cross examination, with reference to the means of getting from her home to New York (C., p. 192, l. 10). At this point Mrs. Bradfield testified that from her home to the Lackawanna station at Roseville avenue were two very long blocks and one usual block—about five minutes' walk—that she went to Market street because she thought the Lackawanna rates were higher, but seeing that the reason was insufficient owing to her fare on the bus, she said that the higher rate was not the reason she went by the Pennsylvania Railroad. Mrs. Bradfield also knew (C., p. 192, l. 40) that she could go by the Lackawanna Railroad, and by changing at the tubes arrive at Thirty-third street and Sixth avenue.

There is also the Hudson & Manhattan tube station at Park Place, in the City of Newark, which connects with the uptown trains on the Pennsylvania, and which station is nearer to Mrs. Bradfield's home than the Market street station of the Pennsylvania. This is pointed out to tend to show that the meeting was not accidental.

To continue with Mrs. Bradfield's testimony (at C., p. 174), Mrs. Bradfield told Mr. Fay that she did not like to be out late at night because her aunt had been held up in Forest Hill, apparently in Newark. It is strange that under these circumstances Mrs. Bradfield did not go to the theatre in Newark, where the shows come directly from New York, and the thought of a hold-up would not have frightened her. Mr. Fay then told Mrs. Bradfield that after he changed his suit she was welcome to his room. Thereupon they went to the hotel, and she waited at the elevator while he went over to the desk; they then went up in the elevator, and she claims that she got off on the mezzanine floor. He went upstairs to dress. Mr. Fay returned from dressing (which, according to Mrs. Bradfield on cross examination, C., p. 189, l. 10) took just time enough to make a change of apparel. As the registration was made at 5:30 P. M. (C., p. 16), no doubt Mr. Fay was back to the mezzanine floor in half an hour. Mrs. Bradfield then went down in the soda shop and had dinner or supper (C., p. 135, l. 30) and then went to the theatre. She returned about 11:15. She had been wearing a new pair of suede pumps, and on taking a long walk had blistered her heel and determined to bathe her foot. Apparently, for this simple purpose she entirely disrobed, ac-

ording to the testimony of the detectives, which will be hereinafter referred to.

Mrs. Bradfield admitted, on cross examination, that she had taken off her lingerie (C., p. 180, l. 1). While she was bathing her foot she heard a knock at the door, and picked up a blanket and put it around her before she opened the door (C., p. 177, l. 10), and when she opened the door Mr. Fay was there, just stepping in the room, and was immediately followed by Dr. Morrison, Mr. Ross and three or four others.

Without going into detail with reference to the testimony of the appellant's witnesses, or with Mr. Fay's testimony, concerning how closely Mr. Fay was followed into the room that night, it must be conceded by the appellant that at the hour of 11:15 P. M., or thereabouts, and when Mr. Fay returned from the Bergen dinner, that sufficient time did not elapse for any wrongdoing between Mrs. Bradfield and Mr. Fay.

Nevertheless, it is the contention of the appellant that there was ample opportunity for wrongdoing between these parties between the hour of registration, at 5:30 P. M., and the hour when Mrs. Bradfield had dinner or Mr. Fay went to his banquet.

Mr. Fay testified, with reference to his trip to New York on November 8, 1923 (C., p. 217, l. 10), that he left Trenton either at 3:45 or 3:17 P. M., and upon arriving at the Pennsylvania Station in New York he went down to meet the train coming in from Long Branch for the purpose of getting his bag with his dinner coat in it. Not finding the bag there, he went to the information bureau, where he met a man named George Goles. Apparently this was the man Mrs. Bradfield refers to as conversing with Mr.

Fay when she first saw him at the station. Mr. Goles might have thrown some light on the subject, but was not produced by Mrs. Bradfield. Mr. Fay testifies to the registration (C., p. 219), and says that Mrs. Bradfield waited for him at the mezzanine floor while he changed his clothes and that he left for the Waldorf right away after he had dressed. Since Mr. Fay registered at 5:30 P. M., which is proved by the books, and knowing that Mrs. Bradfield was waiting for him, it is reasonable to suppose that he did not take more than an hour to dress. While there is no evidence as to the time the Bergen dinner started, it is also reasonable to suppose that it was not called for an hour prior to 7:30 P. M., and probably got under way between that time and 8 P. M. There is no reason why Mr. Fay should leave the Pennsylvania Hotel about 6:30 to go to this dinner. Neither is there any reason why Mrs. Bradfield should have hurried with her supper to attend the theatre, which no doubt commenced, as all theatres commence, between 8:15 and 8:30 P. M. Therefore, there was ample time and opportunity for Mrs. Bradfield and Mr. Fay to have had illicit relations.

The disposition of the parties is shown by the fact that Mrs. Bradfield disrobed knowing that Mr. Fay's bags were still in the room. Other testimony will be hereinafter discussed showing their previous friendship.

Upon behalf of the appellant, the following testimony was offered with reference to the incident at the Pennsylvania Hotel.

Mr. Robert L. Ross, of Newark, a brother-in-law of Dr. Bradfield, testified that he, Dr. Morrison, of Newark, and Inspector Corbally went to the Hotel Pennsylvania and registered at 10:50

(C., p. 21, l. 20). They were assigned to room 233, which was diagonally across the hallway from the room occupied by Mr. Fay. Later, two other detectives joined them in the room. Shortly thereafter Mrs. Bradfield went in room 232 (C., p. 22), and then Mr. Fay appeared, and when he entered the room the others followed immediately afterwards. Mrs. Bradfield was wrapped in a blanket. She was entirely disrobed. Mrs. Bradfield went into the closet and dressed (C., p. 24, l. 20).

Dr. John D. Morrison, a practicing physician of Newark and Dr. Bradfield's physician, testified (C., p. 31, l. 20) that they went up to room 233, which was assigned to them, and Mr. Flarity and he were in the hall and saw the door of room 232 open and a maid enter to fix the room up, and that the witness saw one of the beds had been disturbed and the maid fixed up that bed (C., p. 31, l. 30). At this time Mrs. Bradfield had not returned from the theatre, and it is significant that at this time one of the beds had been disturbed. Later this witness described the appearance of Mrs. Bradfield and then Mr. Fay, and that the witness and the others went into Mr. Fay's room; that Mrs. Bradfield was disrobed (C., p. 33, l. 40), and that the beds were made up and smooth and did not seem to be disturbed. This was after the maid had fixed them before Mrs. Bradfield's arrival from the theatre. Further describing the condition of the bed, on cross examination, the witness testified (C., p. 38, l. 15) that "the bed clothes were thrown over the foot of the bed." This refers to the time when he saw the maid in the room fixing the bed. Later this witness saw Mrs. Bradfield at the Tube Station, at Thirty-third street and Broadway (C., p. 41, l. 20). Appar-

ently Mrs. Bradfield was familiar with traveling from New York to Newark through the Tubes as well as by railroad.

George J. Dipper testified that on November 8, 1923, he followed Mrs. Bradfield from her home, in the Roseville section of Newark (C., p. 43, l. 30), and at C., page 44, she took a train to the Pennsylvania Station at Thirty-third street, New York City, and when she alighted from the train she was met by Mr. Fay and they walked upstairs and into the Pennsylvania Hotel; that he watched Mr. Fay register, and then telephoned to Inspector Corbally. Later he was joined by Mr. Flarity and Mr. Corbally's son, about nine o'clock. He was not with the party upstairs (C., p. 46, l. 40).

Frank Corbally, a son of Inspector Corbally, was at the Pennsylvania Hotel on November 8, 1923, and testified with reference thereto (at C., p. 105). He saw a chambermaid open the door of room 232 and he saw one of the beds in room 232 was mussed up; and at C., page 106, it looked as if a party had been sleeping on it. Later Mrs. Bradfield came and the maid had left in the meantime. Mr. Fay then appeared and the party in room 233 followed him into room 232. Mr. Corbally told Mrs. Bradfield to get dressed and she shook her head, and Mr. Fay then told her to get dressed and she went into the clothes closet and got dressed.

Thomas J. Corbally was one of the party in room 233, and describes entering room 232 substantially as the other witnesses. This witness further testified (C., p. 119) that while he was in charge of the party he had no chance to restrain Dr. Morrison from entering the room as he did.

Stephen P. Flarity testified that he was in room 233 (C., p. 122) and saw the maid in room 232, and that the covers on one of the beds had been disturbed and she arranged them (C., p. 123, l. 20), and about fifteen minutes after Mrs. Bradfield first got in the room Mr. Fay arrived, and he had a bundle under his arm. He entered room 232 with the others. The bath tub was about half full of water, which had been perfumed. Mrs. Bradfield said to him, "I knew you from school days," and in answer to a question by the Vice-Chancellor (C., p. 125, l. 10) he said that neither of them offered any explanation for their presence in the room; that Dr. Morrison was the one who first followed Mr. Fay into the room; and in answer to a question from the Vice-Chancellor (C., p. 125, l. 40)—

Q Did he have anything with him except the little package? A No, sir, that is all he had.

Q What sort of a package was that? A Well, it was round and it appeared to be a bottle.

On cross examination this witness testified (C., p. 127, l. 1) that the bed clothes seemed to be pushed down and ruffled; and further (C., p. 128, l. 20), it looked as though both beds had been fixed, but one was occupied; and further (C., p. 129, l. 10), that the bed nearest the door had the spread pulled down to the foot and over toward the one side furthest from the door, and that the maid fixed both beds.

The above summarizes the events of November 8, 1923.

The previous relations of the parties will now be considered:

Mrs. Bradfield claims that her different meetings with Mr. Fay came about through her

seeking legal advice (C., p. 182, l. 40), and at C., page 85, line 30, that she consulted him twelve times at places other than his office, and on the same page, that she never paid him anything for his services; that he came to her home and on occasions was there as long as two hours and was there as late as 11:30 in the evening (C., p. 183, l. 30).

While Mrs. Bradfield endeavored to have it appear that her meetings with Mr. Fay were purely business, her daughter, Doris Bradfield (who was one of her witnesses), testified (C., p. 233) that Mr. Fay was an occasional caller at their home and that the calls were social and she never heard any law business discussed.

On one occasion, in the latter part of March (C., p. 50, l. 40), Mr. Fay and Mrs. Bradfield went to the Maxine Elliott Theatre together, where they saw the risqué show called "Rain." One naturally wonders what nature of legal advice occasioned this trip. The parties did not deny going to the theatre; they both said (C., p. 171, ll. 10 to 30) that Mr. Fay took the train to Long Branch and was not with Mrs. Fay during the evening.

Mr. Fay testifies (C., p. 215, l. 40) that he took the 5:10 train for New York.

However, one of the detectives, George J. Dipper, testifying from the memorandum made at the time (C., p. 59), said that Mrs. Bradfield did not come home that night until 12 o'clock. The detective followed them to the theatre, but lost them as the crowd came out. The same detective on four or five other occasions saw Mr. Fay at Mrs. Bradfield's home (C., p. 51). These occasions are described with more detail at C., pages 52, 53 and 54. On one occasion

Mrs. Fay took the train at Newark for the shore, and at Long Branch Mr. Fay got on the train and rode with her as far as Asbury Park (C., pp. 54-55).

Mr. Fay took Mrs. Bradfield and her mother to a hotel in Newark and then to the Newark Theatre, and after the theatre took Mrs. Bradfield home, but they did not drive up in front of the house, but Mrs. Bradfield got out and walked down the street, Mr. Fay following about fifty yards behind, and they then went into the house, where he stayed from 9:45 to 11:45 P. M. (C., pp. 80 and 81, l. 38).

Another witness, James J. Cunningham, testified with respect to the theatre party at the Maxine Elliott Theatre; that he followed Mrs. Bradfield and Mr. Fay in New York, but lost them, and later the same night saw them in a taxicab at Park avenue and Roseville avenue, in Newark, somewhere around midnight. They were about a block from her house. She got out and walked on and Mr. Fay went away (C., pp. 84-85).

On another occasion in March, Mrs. Bradfield went to Long Branch; she there met Mr. Fay at the Imperial Hotel, but did not go to his office, although she did not leave for Newark until the last train at 7:19 P. M. (C., p. 109, l. 39).

Mrs. Bradfield admits alighting from a taxicab at Roseville avenue and Park avenue and walking to her home, as she did not want to get out of the taxicab in front of her home, as she did not want to be talked about (C., p. 173, l. 20).

Mrs. Cattnach, a witness produced by the appellant, testified (C., pp. 246-247) that she frequently saw Mr. Fay at Mrs. Bradfield's residence; that he would arrive at 7:30 or 8 o'clock

in the evening and leave a little after 11. The witness also said that the children would go out after he arrived.

The appellant must concede that desire and opportunity must be shown before the charge of adultery is proven.

This proposition is so well established, and the authorities respecting the same so numerous, that it would seem unnecessary to cite the same.

It is contended, on behalf of the appellant, that the desire has been shown by Mr. Fay's calling at Mrs. Bradfield's home; her trips to Asbury Park to see him; his taking her to the theatre, and finally her wilful disregard of proprieties in permitting him to register them at the Hotel Pennsylvania and her disrobing in the room when momentarily she might have expected his return.

It is further contended that the opportunity was present not only after the parties registered at the Hotel Pennsylvania at 5:30 P. M. on November 8, 1923, but on other occasions previous thereto when the parties were together at Mrs. Bradfield's home.

It is respectfully submitted that the decree of the Court of Chancery should be reversed, and the relief prayed for by the appellant in his petition in said Court be granted.

Respectfully submitted,

RIKER & RIKER,  
Solicitors for Appellant.

ANDREW VAN BLARCOM,  
Of Counsel.

May Term, 1926.

## New Jersey Court of Errors and Appeals

Between

THOMAS N. BRADFIELD,  
*Petitioner-Appellant,*  
and

ELSIE K. BRADFIELD,  
*Defendant-Respondent.*

*On Appeal  
from  
Chancery.*

*Brief for  
Respondent.*

### STATEMENT

This appeal presents only one question of fact: Was the late Foster, V.-C., right in deciding that the respondent had not committed adultery?

### ARGUMENT

The appellant's petition charged that the respondent "on the eighth day of November, 1923, and at various times theretofore, committed adultery with Thomas P. Fay, in the Borough of Manhattan, in the City, County and State of New York."

Before discussing the evidence in detail, the Court's attention will be called to the well established principles governing cases of this nature, as laid down by the decisions of our Courts.

In *Berckmans vs. Berckmans*, 16 N. J. Eq., 122 (1863) Chancellor Green said on page 140:

"To establish the existence of adultery, the circumstances must be such as would lead the guarded discretion of a reasonable and just man to that conclusion. It must not be a rash and intemperate judgment, moving upon appearances that are equally capable of two interpretations. 2 *Haggard C. R.* 2; 2 *Greenl. Ev.* §

40; *Bishop on M. & D.* § 423. The facts proven must be such as cannot be reconciled with probability and the innocence of the parties. *Dailey v. Dailey, Wright's R.* 514. Mere imprudence, indiscretion or folly, is not conclusive evidence of guilt. The mind of the court must be satisfied that there was an intimacy between the parties, entirely inconsistent with the duty which a virtuous wife owes to herself and to her husband."

This language has been frequently reiterated and cited with approval both in the Court of Chancery and in this Court.

In *Hurtzig vs. Hurtzig*, 44 N. J. Eq., 329 (1888), Chancellor McGill said on page 330:

"If the circumstances, taken both singly and together, reasonably admit of two interpretations, that interpretation which favors innocence should be adopted."

In *Cartan vs. Cartan*, 93 N. J. Eq., 175, Williams, J. for this Court, said on page 179:

"To justify a decree for divorce on the ground of adultery, the evidence of the defendant's guilt must be clear and satisfactory. A full and explicit denial of the charge by the defendant and her alleged *particeps criminis* should be regarded as decisive in a case of doubt."

How far short of the standard laid down by those cases is the evidence in the case at bar is clear from a cursory reading thereof. Reliance is chiefly placed upon an episode in the Hotel Pennsylvania, in New York City, on November 8, 1923.

This episode is summed up by Foster, V.-C., in his opinion as follows:

(Pg. 299-300)

"They found Mr. Fay standing in the room with the overcoat over his arm and his hat in his hand. Inspector Corbally asked Mr. Ross and Dr. Morrison for an identification of the woman, and they identified Mrs. Bradfield. He

personally knew Mr. Fay. Mr. Flarity says Mr. Fay asked why he didn't tip him off. Fay denies this. Mrs. Bradfield refused to dress until directed to by Mr. Fay, and then she complied. Then when she was dressed she left for the street and the others also left for the street. According to the hotel detectives Mr. Fay paid the bill which was about seven dollars. It appears that Mrs. Bradfield had no bag with her, no evening apparel, no toilet articles of any kind, and apparently if she were going to occupy the room for the night she had come wholly unprepared to do so.

"That is the petitioner's case in substance and although there is no direct proof of adultery having been committed, I am now asked to find from these circumstances that there was both a desire for illicit intercourse between Mrs. Bradfield and Fay, and that they had the opportunity to gratify that desire.

"There is no evidence of any acts of impropriety that have occurred between them, nor of any manifestation of affection, nor of any act of any kind at any time or place except November eighth to indicate an illicit relation between them. There is nothing from which I can draw the inference, until the eighth of November, that there was any desire on the part of these two people to have illicit intercourse. Assuming, however, they had such desire and that they went to the hotel on the eighth of November for the purpose of gratifying it, and assuming in view of the form of registration, that Fay intended to occupy that room with Mrs. Bradfield for the purpose of committing adultery, there is not the slightest evidence in the case to indicate that both of them were in the room at the same time prior to about 11:40 P. M., and the rest of the evidence shows conclusively that at that hour they were both together in the room for not over one minute before they were interrupted by the entrance of Mr. Ross, Dr. Morrison and the party of detectives, and there was neither time nor opportunity for the act of adultery to

have been committed then, as charged, assuming these people had the desire to commit it.

“In the absence of that proof I will have to find that the petitioner’s case is not established and that his petition must be dismissed, for there is no proof and it is not seriously contended that adultery was committed on any of the other dates I have mentioned.”

It is this opinion by Vice-Chancellor Foster, that the petitioner desires to have set aside and reversed by decree of this court.

An examination of the testimony shows the impossibility of any reversal. For some time prior to the incident, the petitioner, who seems to have been much more interested in spying on his wife than in making her happy and more willing to spend money on detectives than in support of his family, had had his wife watched by operators of the Corbally Detective Agency of Newark. On the day in question, a detective named Dipper was covering the respondent’s house in the Roseville section of Newark, and saw her leave the house and take a jitney to the Market Street Station of the Pennsylvania Railroad, where she took a train to the Pennsylvania Station, New York City. There he saw her meet Mr. Fay and go with him to the Hotel Pennsylvania. Mrs. Bradfield testified, without contradiction and with support of surrounding circumstances which will be subsequently adverted to, that she went to New York to go to the theatre, not intending to spend the night in New York, and without having arranged for any meeting with Mr. Fay. She met him accidentally in the Pennsylvania Station, New York (Case, 174). Mr. Fay testified (Case, 216, 217), also without contradiction and with support from the surrounding circumstances, that he had been arguing a case before the Supreme Court at Trenton; had not expected to go to New

York, but, upon being told by Mr. Robert H. McCarter of a dinner to be given on that night in New York in honor of Frank Bergen, Esquire, decided to go to the dinner; telephoned to Long Branch to have his evening clothes sent up in a bag on a certain train, and went to the Pennsylvania Station to pick up that bag, where he accidentally met Mrs. Bradfield. In the course of their conversation, Mrs. Bradfield said she was going to the theatre, and although she expected to return home hated to do so because she was frightened, as a relative of hers had been held up late at night in Forest Hill, a section of Newark adjoining the Roseville section, where the defendant lived. Mr. Fay then said to Mrs. Bradfield that he was going to a dinner, and had to change his clothes, for which purpose he needed a room; that he would require the room only for sufficient time to change his clothes, as he was going back to Long Branch for the night, and that she was welcome to it for the night if she wanted it. This offer was accepted. They went together from the Station to the Hotel Pennsylvania, and Mr. Fay went up to the desk and registered "Thomas P. Fay and Wife," and was assigned Room 232. He registered in this way because he knew that Mrs. Bradfield was going to occupy the room after he left (Case 221), and testified that it did not occur to him that the registration would compromise her (Case 223). He did not, however, tell Mrs. Bradfield how he had registered until some days later at the earliest. Having so registered, Mr. Fay went up to his room and Mrs. Bradfield rode on the same elevator as far as the mezzanine floor. It is interesting to note that Mrs. Bradfield frankly states that she rode on the same elevator with Mr. Fay. There is no other evidence to that effect, except her own state-

ment. Mrs. Bradfield testified, and in this she was not contradicted, that she waited on the mezzanine floor until Mr. Fay came down dressed, whereupon he gave her the key and went on his way to the dinner. His testimony entirely agreed with hers. Dipper, the detective, having followed Mrs. Bradfield to the Hotel Pennsylvania, immediately telephoned his employer's office. Mr. Corbally gathered together a small army, consisting of Mr. Ross, the petitioner's brother-in-law, Dr. Morrison, a friend, and several operators of the Corbally Agency. Room 233, diagonally opposite the room assigned to Fay, was occupied by them, and the eager little band waited with the lights out and door open for developments in 232. Mrs. Bradfield meanwhile, according to her own absolutely uncontradicted testimony, looked at the paper, decided to see a play called "Chains"; dined alone in the Hotel Pennsylvania; walked to the theatre, thereby blistering her heel; saw the play; came back to the Hotel; and went up to her room. She had not brought with her any bag or any clothing for the night at all. She telephoned her mother, who was then living in her house, that she would not be home that night. This telephone call is corroborated by Mrs. Erwin, her mother (Case, 211). The fact that she brought no clothing or toilet articles of any kind whatsoever, and the fact that she telephoned home that she would be away for the night, both tend to show that she left home without any intention of spending the night in New York, and corroborate her testimony as to the accidental meeting of Mr. Fay and the occasion of her spending the night in New York. During the evening, the same eager little band of watchers observed a maid go into Room 232, making the beds, and some of them testified that through the open door they saw that

one of the twin-beds had been disturbed. Dr. Morrison, on direct examination as to this point, said (Case, 31) that "She made up the room. One of the beds had been disturbed and she made that bed up," and on cross-examination (Case, 38), said:

"Q Which of the two beds was disturbed?

A The one next to the door.

Q When you say disturbed what do you mean?

A The bed clothes were thrown over.

Q All of them?

A I can't say all of them. The bed clothes were thrown over the foot of the bed."

Frank Corbally, on direct examination, said that one of the beds was mussed up (Case, 105), and that the pillow was down in the center of the bed when the maid was making the bed (Case, 106), (the position of the pillow in the center of the bed, far from indicating that the bed had been occupied, was evidence that its disturbed condition was due to the maid making it up for the night). Cross examination of this witness (Case, 104-106) brought out the fact that in his daily report, made at the time in question, he said that *both* beds had been disturbed. His efforts to explain the discrepancy between his report and his testimony were very feeble. Detective Flarity, the only other witness who testified as to this bed, on direct examination (Case, 103) said that the covers on the bed nearest the door had been disturbed. On cross-examination (Case, 127), however, his attention was called to his report made the next morning following the occurrence, in which he said, "Mr. Flarity, Dr. Morrison and Mr. Ross saw the maid arranging the beds, which had been disturbed, the top coverings having been pulled down," and when asked if that report was correct said it was. Later, when again asked, he said (Case, 129) "The bed

nearest the door had the spread pulled down to the foot and over toward the one side furthest from the door. The maid fixed both beds."

The Court must remember that all these observations with respect to the bed were made through the open door from the hall, while the maid was tidying up the room. The testimony was given by witnesses who were most anxious to seize on any bit of evidence and distort it toward indications of guilt. This is particularly true because their carefully laid plan following the protracted shadowing of the respondent, resulted in a fiasco. The appellant asks us to believe that this testimony as to the bed is evidence that Mrs. Bradfield and Mr. Fay occupied the room. The Vice-Chancellor was quite right in deciding that this testimony all by itself was not convincing of anything other than such disturbance of the beds that there was had been caused by the maid (Case, 298).

Mrs. Bradfield, having gone to the room, noticed Mr. Fay's bag was still there, but expected a porter would call for it (Case, 177). Having blistered her heel, she wished to bathe, and had partially undressed for the purpose when there was a knock at the door. Putting a blanket around herself—she had no clothing of any kind except the street clothes she arrived in—she went to the door and in came Mr. Fay. He had not any more than entered the room when the door was pushed open and Dr. Morrison, Mr. Ross, Inspector Corbally and Flarity all entered the room. Ross identified Mrs. Bradfield, who went in a closet, dressed, left the hotel, and returned to her house in Newark. Mr. Fay paid the bill and took the midnight train to Long Branch.

Counsel for the appellant is forced to concede on page 5 of his brief that the defendant could not have

committed adultery after the arrival of Mr. Fay in the room, after the theatre and the Bergen dinner. His argument, however, is that the offense was committed after the arrival of the parties in the Hotel Pennsylvania, and before Mr. Fay went to the dinner and Mrs. Bradfield to the theatre. He can point to no evidence that the parties were in the room at the same time until after the dinner and theatre, and would have the Court act only on suspicion. His argument is that there was time for them to have been together in the room, and he asks the Court to find as a fact, because there was time and because they were under the same roof, that adultery was committed. There is not a word of testimony or evidence of any kind to contradict the testimony of the two parties concerned. Mrs. Bradfield says that she waited on the mezzanine floor until Mr. Fay joined her, dressed, gave her the key, and that she went to the room for the first time after the theatre (Case, 176). Mr. Fay tells an equally straight story. Not only is there no evidence to contradict this, but the established fact that neither Mrs. Bradfield nor Mr. Fay left their homes that morning expecting to be away overnight, is a circumstance strongly corroborating the accidental character of their meeting and negating any pre-arranged rendezvous. Furthermore, had Mr. Fay intended any guilty use of the room he would hardly have registered under his own name, nor would have selected an occasion when he would, perforce, be out at a dinner most of the evening.

The testimony of the petitioner's witnesses is contradictory in the extreme.

Mr. Robert L. Ross testifies (Pg. 30, line 8) as follows:

"Q Did you notice that Mr. Fay was in evening clothes when he came in? A I know he had, as

far as I could see, his dinner coat on, or something of that kind.

“Q How many beds were there in that room?  
A Two. Q Did they show any evidence of having been disturbed? A No, sir.”

He further testifies (Pg. 24) that the only other clothing he saw in the room was a collar.

Mr. Ross also testifies (Pg. 25, line 15) that while the room was open for the maid, Mr. Flarity went and looked in the room and that he saw the maid come out.

On page 27, Mr. Ross testifies that Mr. Fay was fully dressed and had his overcoat over his arm, and his hat in his hand, and he says (page 25) that Mr. Flarity looked in the room, that there was a maid in the room, and he saw the maid come out. There is no evidence that shows exactly what the maid did while she was in the room except to fix it for the night as maids in large hotels usually do.

He, however, positively states (Pg. 30, line 13) that there were two beds in the room and they did not show any signs of disturbance.

Dr. Morrison—This witness contradicts Mr. Ross who says there was a black alligator skin bag in the room, and he calls it a red-brownish bag (page 40).

The uncertainty of the testimony of the petitioner is shown by the testimony of George Dipper.

He testifies that he had seen the co-respondent meet the defendant in the Pennsylvania Station. The evidence in the case is that Mr. Fay telephoned to have his dinner suit sent up and that he met the party who brought it up at the station. This witness further testifies (Pg. 48, line 38) that he had seen the co-respondent at Long Branch together with the defendant, and the Court calls his atten-

tion to the fact that he had said he had seen them together in Long Branch (Pg. 49, line 12).

When asked whether he had seen the co-respondent and defendant in Long Branch, he said he did not see them in Long Branch but had seen them in Asbury Park, and on page 50, line 18, testifies, "We changed trains at Elizabethport and arrived at Newark at nine-thirty. We then discontinued for the day." The Court asked him, "Who is 'we'?" He said, "I don't mean we. I discontinued for the day at the Jersey Central Station." And on page 52, line 30 he states, after calling for his notes and in answer to the Court, after stating that the light was lit in the room before the co-respondent came, and the Court says, "Before he came?" A "Before he came, and stayed on while he was there to the best of my knowledge. They didn't leave the parlor any time he was there."

On Pg. 54, the controversy between the witness and Mr. McCarter on cross-examination, shows the uncertainty of the witness, both in keeping his reports and interpreting them.

The witness testified that the co-respondent was in the taxicab when it arrived for Mrs. Bradfield and her mother another witness testified that the co-respondent met Mrs. Bradfield and her mother at the theatre.

Under cross-examination (Pg. 71-72) the witness gave contradictory testimony and was not certain at any time concerning the testimony he was giving.

On Pg. 73 he testifies that on the occasion when he saw the co-respondent at the house, says the children were going in and out of the house all the time.

The testimony of Mr. Cunningham (Pg. 96) disagrees with the testimony of Mr. Dipper.

Mr. Cunningham testifies that the co-respondent was in the car with the defendant when it left the house and states that Mr. Fay came out of the house at 5:30 and Operator No. 21 went with him to the Market Street Station, and that Mrs. Bradfield and her mother took a taxi at 5:45, and that we followed with a car to the Newark Theatre.

The Court, on this occasion, calls attention to the discrepancy of the testimony (Pg. 96) of the case.

This witness also testifies (Pg. 99) that other people went in and out of the house while the co-respondent was there.

Mr. Corbally also contradicts Mr. Dipper on Pg. 100, stating that Mrs. Bradfield and her mother got out of the car at the Newark Theatre, and they were later joined by Mr. Fay.

You will see from Dr. Morrison's testimony (Pg. 37, line 36) that when he went out in the hall the maid was in the room. He also says that only the bed next to the door was disturbed (Pg. 38, line 10). The maid might have thrown the clothes down to prepare the room for the night before Dr. Morrison had a chance to observe it. He says (Pg. 38) "I went out when the maid was in No. 232." The bed clothes were thrown over the foot of the bed next to the door when he got there.

The uncertainty of Dipper's testimony is shown by the production of an affidavit in which he directly contradicts his testimony given in the cause. The affidavit is shown at bottom of page 71 and top of page 72.

He testifies positively that she left the house at 2:20 and the affidavit in cause shows that she left the house at 4:20. His testimony is full of contradictions and while there is nothing material in it, it is almost worthless.

We find another contradiction between Dipper

and Cunningham as to the time co-respondent went in the house. (Pg. 82, line 3 to line 18). "The Court. How long did you say he was in the house? The Witness. From nine forty-five until eleven forty-five. The Court. Dipper says he was there a half hour—now which is right? The Witness. He was there from nine forty-five until eleven forty-five. The Court. All right, go on. Q Now did he come out alone, or was anyone with him? A Alone."

On Pg. 67, line 36, Mr. Dipper was asked by the Court: Q You said he remained there about a half hour? The Witness. Yes, sir. I don't know what he did in the house. Q You couldn't see in that night? A No. Q What was the reason you couldn't? A Because at that time the job had been going on so long that I didn't want to stay so near the house. Q So you didn't try to see him? A Not this night. Q Where were you? A Stood on the corner of Roseville Avenue and Park Avenue. Q How far away is that? A One block. So in answer to the Court, Witness Dipper directly contradicted Cunningham. Questions in both cases were put directly by the Court.

The contradictory testimony of Mr. Cunningham is shown again when he changed his testimony on page 94, line 25. Q You remained there all the time? A Yes, sir. Q You hadn't gotten in touch with Dr. Cattnach, so as to change your position across the street? A Yes. Q What? A Yes, sir. I had changed my position from there. The Court. On that same day? A Yes, sir. Q You had changed or not? A I had. Q Then you change your testimony, do you? A Yes, sir.

The contradictory testimony of Dipper and Cunningham was further shown by the testimony of Frank Corbally (p. 100) showing that Mr. Fay

was not in the car with Mrs. Erwin and Mrs. Bradfield when they went to the theatre. The testimony of Frank Corbally is found on p. 100, down as far as line 30.

Frank Corbally, direct. Q You are able to remember April seventh? A On April seventh I was covering the home of Mrs. Bradfield with Operatives 21 and 26. The Court: That is, Cunningham and Dipper? The Witness: Yes, sir, and at 4:30 P. M. I saw Mr. Fay enter Mrs. Bradfield's home. At 5:30 P. M. Mr. Fay came out and walked up to Roseville and Park Avenues and entered a jitney bus. I sent number 2, Mr. Adams—I told him to follow Mr. Fay on the bus. Ten minutes later Mrs. Bradfield and her mother came out and entered a taxicab that was waiting outside the door. Operatives 21 and 26 was with me in the car at that time. We followed the taxi to the Newark Theatre."

Q Were you with them? A Yes, sir, with Operatives 21 and 26. I told Operatives 21 and 26 to stay in the car and I would see where Mrs. Bradfield and her mother was going. They got out and went to the Newark Theatre and entered the lobby. A few minutes later Mr. Fay came there and bought three tickets. They all entered the theatre."

The other witnesses are contradicted by Mr. Thos. J. Corbally on page 117, line 28 to 33. Q When you were in the room was the spread—the bed spread thrown down over the foot of the bed? A No, sir. Q Sure about that? A Sure about that, yes. The Court: Was the bed disturbed at all? The Witness: No, sir.

The questions very clearly brought out by the Court in the examination of Thos. J. Corbally (p. 118, line 38, to p. 119, line 26).

The Court: As I understand it you were employed and used your operatives for the purpose

of getting evidence if any, as to the offense of adultery committed between Mr. Fay and Mrs. Bradfield? The Witness: Yes, sir. The Court: As I understand, there wasn't sufficient time from the time Fay entered the room for the act of adultery to be committed? The Witness: No, sir. The Court: Why did the parties enter so quickly? The Witness: We didn't do it. Dr. Morrison entered. The Court: Weren't you in charge of the party? The Witness: I was in charge, but I had no chance. He rushed out. The Court: Assuming the most favorable aspect to you, Mr. Croll, we will say there was preparation for the commission of adultery, and that they had hardly time to breathe after Mr. Fay stepped in the room and this party followed.

Page 120, line 7, Thos. J. Corbally, Cross:

Q Who called you off? A The counsellor.

Q Who, Mr. Croll? A Yes, sir. Q Did you make daily reports to Mr. Croll from March until April seventeenth? A The next day after we were on the case, Mr. Croll got a report the next day. The Court: Had Mr. Croll been the first one to employ you? The Witness: Yes, sir. Q And he got these daily reports? A Yes, sir. Q And he called you off on the seventeenth of April? A Yes, sir.

What about the previous relationship of Mrs. Bradfield and Mr. Fay? Mrs. Bradfield was shadowed by operators of the Corbally Detective Agency from March 22nd to April 18th, 1923, and from November 1st to November 8th, 1923 (Case, 61). During this period, she was watched by at least two operators (Case, 62). Out of all this investigation comes the testimony that Mr. Fay and Mrs. Bradfield went to the matinee at the Maxine Elliott Theatre in New York alone to-

gether; that in company with Mrs. Bradfield's mother they went to the Newark Theatre, in Newark, and had supper together, and that Mr. Fay then took Mrs. Bradfield home; that Mrs. Bradfield talked to Mr. Fay in the Imperial Hotel in Long Branch, adjoining his office (there is no suggestion or intimation of any private room); and that they met on a train at Long Branch, rode to Asbury Park, where they got out and took a taxi in the direction of Avon, Mrs. Bradfield's mother living at Belmar, which adjoins Avon. In addition to this, Mr. Fay was seen to call on Mrs. Bradfield at her house in the afternoon and evening on four or five different occasions. There is not the slightest evidence of any affection or undue familiarity. The parties were always in public places or conveyances, except when in Mrs. Bradfield's house, and even while there the detectives say that the parlor light was always burning. Mrs. Bradfield (Case, 172) and Mr. Fay (Case, 216) both testify that on these visits other members of the family were always about. Moreover, Mrs. Bradfield's two grown daughters gave important testimony in this connection. Doris Bradfield, in answer to questions by the Court, testified (Case, 231):

*The Court.* Were you ever home when Mr. Fay called at your mother's home?

*The Witness.* I was.

*The Court.* Do you remember how many occasions he called there?

*The Witness.* Well, I remember about three.

*The Court.* In the daytime or at night?

*The Witness.* Both.

*The Court.* How late at night, do you know, he has ever stayed at your mother's home?

*The Witness.* Eleven-thirty.

*The Court.* Were you up, then, when he left?

*The Witness.* Yes, sir.

*The Court.* Were you up the entire evening?

*The Witness.* Yes, sir.

*The Court.* At any time when in your home, or anywhere else, did you ever see any display of affection between your mother and Mr. Fay?

*The Witness.* No, sir.

*The Court.* Did you hear any words of endearment pass between them?

*The Witness.* No, sir.

*The Court.* Did you hear or see anything that would indicate an intimacy existed between them?

*The Witness.* No, sir."

Katherine Bradfield testified (Case, 234) :

“Q Did you use to see Mr. Fay at the house now and then before this trouble?

*The Court.* Did you ever see him call there?

*The Witness.* Once or twice.

*The Court.* In the daytime or night?

*The Witness.* Why, I saw him in the night once.

Q Did you ever see any sign of endearment, hugging and kissing between your mother and Mr. Fay?

A Never.”

and referring to a conversation with the petitioner, Katherine Bradfield also testified (Case, 235) :

“Q Go on.

A He asked me about Mr. Fay and I told him that Mr. Fay was a gentleman and that there was nothing between mother and Mr. Fay.

*The Court.* And was that the truth, that there had not been anything between your mother and Mr. Fay?

*The Witness.* So far as I had seen and heard, and I don't believe there is.

Q Did he say why he had commenced the suit?

A He said he had had enough.

*The Court.* Enough of what?

*The Witness.* Of her going out.

Q Did he say who had suggested commencing the suit?

A Yes, he told me. I told him he could have had a divorce—that mother would have wanted a divorce too, and I asked him why he did it in this manner and he told me his sister and her family wanted him to do that.”

Mr. Fay explains his presence in Roseville by saying that he was interested in a Long Branch boy who was in a hospital in Mrs. Bradfield's neighborhood, and that he called on her (Case, 216). Mrs. Bradfield says she was consulting Mr. Fay about her marital difficulties. The most that can be said is that they were friendly, and occasionally enjoyed each other's society, but there is nothing that can be twisted into evidence of either love or carnal desire. Mere evidence of friendship, particularly between a mature housewife of 38 and a married lawyer 21 years her senior, has never been held to be proof of inclination to commit adultery. It is well settled that in a circumstantial case inclination to commit the offense is an essential ingredient of the petitioner's case. It was so held by this Court in *Torrens vs. Torrens*, 94 N. J. Eq., 480 (1922). In that case, the defendant lived for years under the same roof with the housekeeper, so that there was ample evidence of opportunity, but the case being devoid of evidence of inclination, a divorce was denied.

In the case at bar, not only is there no evidence of inclination but, as we have seen, no evidence of opportunity. We doubt if a weaker case has ever been presented to this Court, and submit, therefore, that the Vice-Chancellor must be affirmed.

There are two other facts to which allusion may be made. Not only did Mrs. Bradfield at once notify her family of the incident, but her mother and both daughters manifest their belief in her char-

acter and integrity by voluntarily testifying for her in this case.

The other is, that Mr. Fay, would not have packed his bag after dressing for dinner, had he intended to spend the night at the hotel.

Respectfully submitted,

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