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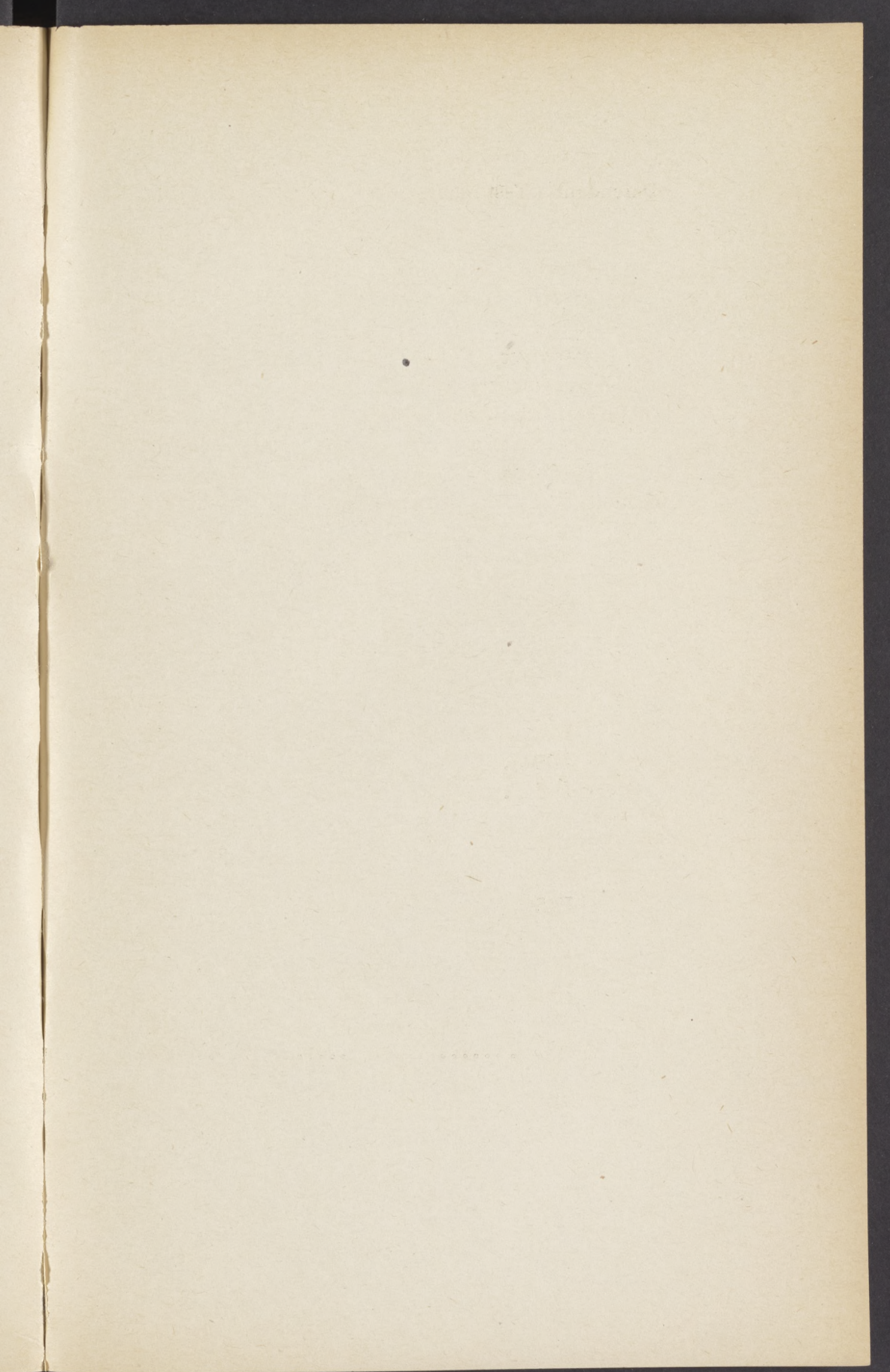
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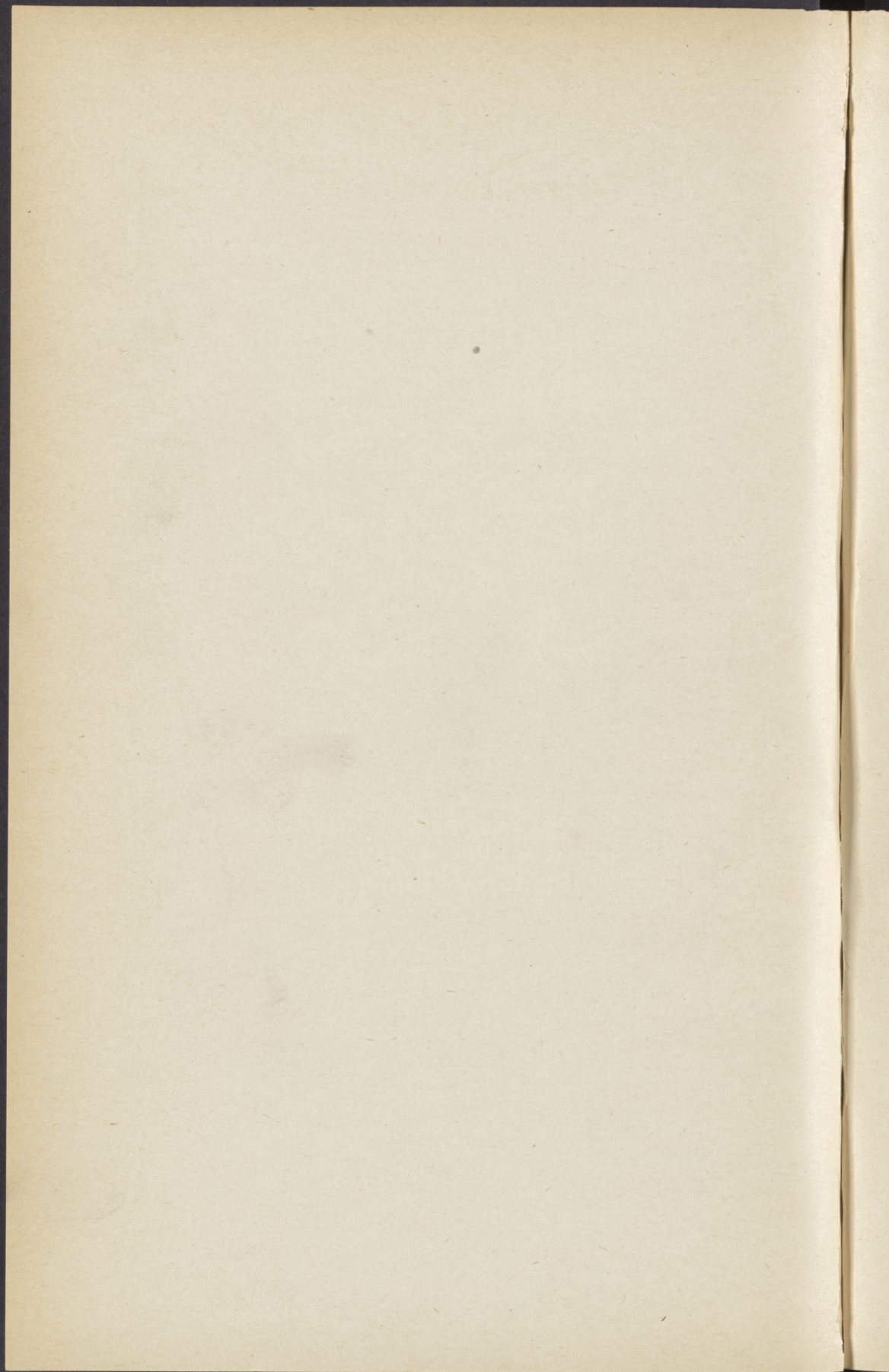
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PETITION FOR DIVORCE.

(Filed June 8, 1915)

IN CHANCERY OF NEW JERSEY.

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

The petition of John L. Baker, of the city of Jersey City, county of Hudson, and state of New Jersey, respectfully shows as follows:

10

1. Your petitioner was lawfully joined in the bonds of matrimony to his present wife, Margaret Baker, the defendant in this suit, on the 12th day of December, eighteen hundred and eighty-four, by a minister of the Gospel, at Washington, in the District of Columbia.

20

2. The defendant deserted the petitioner in the month of December, nineteen hundred and eight, ever since which time and for more than two years last past, the said defendant has wilfully, continuously and obstinately deserted your petitioner.

3. The petitioner has been a *bona fide* resident of the state of New Jersey, continuously, since February, nineteen hundred and eight, residing at 34 Magnolia Avenue, Jersey City, and 107 Grand Street, in the said city of Jersey City.

30

4. One child was born of the marriage aforesaid, to wit, J. Edward Baker, who is of age, and does not reside with either the petitioner or the defendant.

Your petitioner therefore prays, that the marriage between the petitioner and the defendant may be dissolved for the cause aforesaid, according to the statute in such case made and provided, and that your petitioner may have such other relief as may be just.

And your petitioner will ever pray, &c.

ROE, RUNYON & AUTENRIETH,
Solicitors for Petitioner.

10 Dated June 3, 1915.

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

JOHN L. BAKER, being duly sworn according to law, upon his oath, deposes and says that he is the petitioner named in the foregoing petition, and that his
20 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.

JOHN L. BAKER.

Sworn and subscribed to before me, this 3rd day of June, nineteen hundred and fifteen.

JULIUS J. SEIDER,
Attorney at Law
of New Jersey.

30

A true copy.
ROBERT H. McADAMS,
Clerk.

ANSWER AND CROSS-PETITION.

(Filed Aug. 30, 1915)

IN CHANCERY OF NEW JERSEY.

Between JOHN L. BAKER, <i>Petitioner,</i> and MARGARET BAKER, <i>Defendant.</i>	}	ON PETITION FOR 10 DIVORCE. ANSWER AND CROSS- PETITION.
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The answer of Margaret Baker, defendant, to the petition of John L. Baker, petitioner. 20

1. This defendant admits it to be true that petitioner and defendant were lawfully married as alleged in paragraph 1 of the petition, with the exception that they were married on the 11th day of December, 1884, and not the 12th, by Rev. John Murphy.

2. This defendant denies the truth of the allegations contained in paragraph 2 of the petition. 30

3. This defendant admits the truth of the allegations contained in paragraph 3 of the petition.

4. This defendant admits the truth of the allegations contained in paragraph 4 of the petition, but

alleges that five children were born of the marriage aforesaid, to wit, J. Edward, Katharine, Raymond, Florence, and one being still born and was not named, all the five, with the exception of J. Edward being now dead.

5. This defendant prays to be hence dismissed with her reasonable costs and charges in that behalf most wrongfully sustained.

10

And this defendant, by way of cross-petition exhibited against the defendant respectfully shows:

1. Cross-petitioner was lawfully joined in the bonds of matrimony to her present husband, John L. Baker, on the 11th day of December, 1884, by Rev. John Murphy, a minister of the Gospel, at Washington, District of Columbia.

20

2. Cross-defendant cohabited with cross-petitioner from the date of their marriage as aforesaid until December, 1909, with several interruptions for a short period of time. For about two years after their marriage as aforesaid, the cross-defendant treated cross-petitioner with kindness and maintained and supported her, but that within about two years after their marriage cross-defendant commenced a course of cruel and abusive treatment towards cross-petitioner and did continue the same without any justifiable cause until cross-petitioner was compelled to leave defendant's house. At one time, to wit, on or about June or July, 1898, cross-petitioner secured a separation from cross-defendant in the courts at Richmond in the state of Virginia, on account of cruel and abusive treatment of the cross-petitioner by the cross-defendant. After a

30

period of six months, cross-petitioner and cross-defendant began to live together again for about two years, and the cross-defendant treated cross-petitioner more kindly than he had during the time just previous to their said separation, but in or about the year 1901 the cross-defendant again commenced a course of cruel and abusive treatment towards cross-petitioner and did continue the same without any justifiable cause until his course of conduct became unbearable and cross-petitioner was compelled to leave cross-defendant's house. 10

By reason of which cruelty and abuse, the cross-petitioner feared for her personal safety. Her health became impaired and she was no longer able to discharge her duties as wife through such fear, anguish, maltreatment and discomfort and therefore did in December, 1909, leave cross-defendant's house and went to the home of friends and has resided separate and apart from her husband in the city of Washington, District of Columbia, ever since, with the exception of a trip which she took with her husband for one week in the summer of 1912, during which trip cross-defendant alleged to cross-petitioner that he would under the same conditions treat her in the future just as he had in the past. 20

Cross-defendant has never given cross-petitioner any assurance that if she would resume cohabitation with him he would treat her as a just man and husband should. 30

3. The cross-defendant, by the true intent and meaning of the statute in such case made and provided, has, ever since December, 1909, and for more than two years last past, wilfully, continuedly and obstinately deserted cross-petitioner.

4. Cross-defendant was a *bona fide* resident of this state, having his permanent home at Jersey City in the county of Hudson, when this cause of action arose as aforesaid, and has ever since and for more than two years next preceding the commencement of this action continued to be such resident residing continuously at Jersey City aforesaid, he having become a resident of the city of Jersey City, this state, immediately after cross-petitioner was compelled to
10 leave his house as aforesaid.

5. Petitioner's maiden name was Margaret Jones, and she has no means of support except from her own exertions. Five children were born of the said marriage, to wit, J. Edward, Katharine, Raymond, Florence and one being still-born and was not named, all of which died, except J. Edward Baker, who has reached his majority and is married.

Your cross-petitioner prays that the marriage be-
20 tween her and the cross-defendant may be dissolved for the cause aforesaid according to the statute in such case made and provided; and that the cross-defendant may be compelled by the decree of this Honorable Court to support her, and that she may have such further relief as may be just.

And your cross-petitioner will ever pray, &c.

30

J. WARREN DAVIS,
*Solicitor for and of Counsel
with Defendant and Cross-
Petitioner.*

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

MARGARET BAKER, being duly sworn, according to law, upon her oath, deposes and says that she is the cross-petitioner named in the foregoing cross-petition; and that her cross-petition is not made by any collusion between her and the petitioner hereñ, who is the defendant in the cross-petition, but in truth and good faith, for the causes set forth in said cross-petition. 10

MARGARET BAKER.

Subscribed and sworn to before me this 27th day of August, A. D. 1915.

B. F. HAVENS,
Notary Public
of New Jersey.

Com. ex. Nov. 11, '15.

20

ANSWER TO CROSS-PETITION.

(Filed Sept. 16, 1915)

IN CHANCERY OF NEW JERSEY.

Between JOHN L. BAKER, <i>Petitioner,</i> and MARGARET BAKER, <i>Defendant.</i>	}	ON PETITION FOR DIVORCE. ANSWER TO CROSS- PETITION.	30
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The answer of the petitioner to the cross-petition of Margaret Baker:

1. That this cross-defendant admits the allegations set forth and contained in paragraph one of said cross-petition.

2. This cross-defendant denies that the said cross-petitioner cohabited with him until December, nineteen hundred and nine, and alleges the fact to be as set forth in the petition for divorce filed herein; the cross-defendant further says that the said cross-petitioner deserted him without any justifiable cause therefor on a number of occasions prior to December, nineteen hundred and eight, and on each occasion the cross-petitioner resumed cohabitation with the cross-defendant only after repeated efforts on the part of the cross-defendant for her to do so; that for a period between eighteen hundred and eighty-six, to nineteen hundred and eight, the said cross-petitioner deserted the said cross-defendant on four or five occasions without any just cause therefor, and that the said cross-defendant had always during said period, provided a home and maintained the said cross-petitioner to the best of his ability, and that the said cross-defendant denies that the said cross-petitioner ever secured a separation from the courts of Virginia, and denies that he ever ill treated or abused the said cross-petitioner at any time during their married life, and alleges the fact to be that he always treated the cross-petitioner with kindness and consideration and always took her back to his home on each occasion when she left the cross-defendant, and that since the said cross-petitioner left this cross-defendant in nineteen hundred and eight, he has repeatedly requested her to return and live with him, and has offered to provide a home for her, but the said cross-petitioner refused to live with this cross-defendant in any other place except Washington,

D. C., and although this cross-defendant was required to live in Jersey City because of his business, yet the said cross-petitioner refused to come to Jersey City and live with him, and stated as her only reason therefor, that she desired to live in Washington.

3. This cross-defendant denies the other allegations and facts set forth and contained in paragraph two of said cross-petition.

4. This cross-defendant denies the allegations and facts set forth and contained in paragraph three of said cross-petition.

10

5. This cross-defendant admits the allegations set forth and contained in paragraph four of said cross-petition, except the allegation that the cross-petitioner was compelled to leave the home of the cross-defendant.

6. This cross-defendant denies that the said cross-petitioner has no means of support except from her own exertions and alleges the fact to be that he has on frequent occasions provided the said cross-petitioner with sufficient money for her support. The cross-defendant admits the other allegations and facts set forth and contained in paragraph five of the said cross-petition.

20

7. This cross-defendant prays that the said cross-petition may be dismissed and that he may have such other and further relief as may be just.

30

ROE, RUNYON & AUTENRIETH,
*Solicitors for and of Counsel
with Cross-Def't.*

REPLICATION.

(Filed 10/6/1915)

IN CHANCERY OF NEW JERSEY.

10	Between JOHN L. BAKER, <i>Petitioner,</i> and MARGARET BAKER, <i>Defendant.</i>	}	ON PETITION FOR DIVORCE. REPLICATION.
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20 The replication of cross-petitioner to the answer
 of John L. Baker, cross-defendant.

30 1. This cross-petitioner denies the allegations contained in paragraph 2 of the answer to cross-petition, and alleges the fact to be that she left the home of petitioner several times between their said marriage on December 11, 1888, and December, 1909, but alleges that she left with justifiable cause and on account of the cruel and abusive treatment of cross-petitioner by cross-defendant; that she resumed cohabitation with cross-defendant without solicitation on his part; that since the final separation in December, 1909, cross-defendant has not requested cross-petitioner to return and live with him, and has not offered to provide a home for her in Jersey City, in Washington, or at any other place, and has not

assured or given cross-petitioner any intimation that he would treat her kindly and not abuse her if she returned to live with him.

2. This cross-petitioner, in reply to the allegation contained in paragraph 6 of the answer to the cross-petition, "that he (cross-defendant) has on frequent occasions provided the said cross-petitioner with sufficient money for her support," says that cross-defendant gave to cross-petitioner \$35.00 per month from December, 1909, until in June, 1915, but that he has not paid to her or to any person for her any money since the said last-mentioned date, and that at present cross-petitioner is absolutely destitute and is without means of support except from her own exertions.

10

J. WARREN DAVIS,
Solicitor for and of Counsel
with Cross-Petitioner.

20

30

DECREE NISI.

(Filed 10/9/16)

IN CHANCERY OF NEW JERSEY.

10 Between

JOHN L. BAKER,
Petitioner,

and

MARGARET E. BAKER,
Defendant.

ON PETITION FOR

DIVORCE.

DECREE NISI.

20 This cause coming on to be heard in the presence
of Runyon & Autenrieth, of counsel with the peti-
tioner, and J. Warren Davis, of counsel with the de-
fendant, on petition, answer and cross-petition and
oral proofs taken in open court whereupon and upon
duly considering the pleadings and proofs, and hear-
ing and considering the arguments of counsel, from
all of which it now appears satisfactorily to the
Chancellor that the petitioner and the defendant were
lawfully joined in the bonds of holy matrimony on
or about the eleventh day of December, 1884; and
30 that the defendant deserted the petitioner in the
month of December, 1909, and for a period of two
years immediately preceding the filing of the petition
herein, the defendant has wilfully, obstinately and
continuedly deserted the said petitioner; that the
petitioner has been a *bona fide* resident of the state
of New Jersey for a period of two years next pre-

ceding the filing of the petition herein; that jurisdiction herein has been acquired by publication of notice to the defendant of this suit followed by personal service upon the defendant of a certified copy of the petition and copy of the notice of this suit, as well as by the appearance and answer of the defendant;

It is thereupon on this ninth day of October, 1916, by his Honor, Edwin Robert Walker, Chancellor of the state of New Jersey, Ordered, Adjudged and 10 Decreed, and the Chancellor by virtue of the power and authority of this court, and of the acts of the legislature in such case made and provided, doth hereby Order, Adjudge and Decree that the said petitioner, John L. Baker, and the said defendant, Margaret E. Baker, be divorced from the bonds of matrimony for the cause aforesaid, and the said parties and each of them be freed and discharged from the obligations thereof, unless sufficient cause be shown to the Court why this decree should not be 20 made absolute within six months from the date hereof.

E. R. WALKER,
C.

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

NOTICE OF APPEAL.

(Filed Nov. 21, 1916)

IN CHANCERY OF NEW JERSEY.

10 Between
 JOHN L. BAKER,
Petitioner,
 and
 MARGARET E. BAKER,
Defendant. } NOTICE OF APPEAL.

20 The defendant herein appeals from the final decree made in this court, in the above-stated cause, as from the whole and every part of the final decree to the Court of Errors and Appeals in the last resort in all causes.

JAMES MERCER DAVIS,
*Solicitor and of Counsel with
 the Defendant.*

Dated November , 1916.

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

JAMES MERCER DAVIS,
*Of Counsel with the
 Petitioner.*

PETITION OF APPEAL.

(Filed Nov. 21, 1916)

NEW JERSEY
COURT OF ERRORS AND APPEALS.

JOHN L. BAKER, <i>Respondent,</i> vs. MARGARET E. BAKER, <i>Appellee.</i>	}	PETITION OF APPEAL.	10
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Margaret E. Baker, the appellee in the above-stated cause, finds herself aggrieved by a final decree made in the Court of Chancery, by his Honor, Edwin Robert Walker, Chancellor of the state of New Jersey, bearing date the day , 20 in the year of our Lord, nineteen hundred and sixteen, wherein the said John L. Baker was petitioner and the said Margaret E. Baker was defendant in this respect, to wit:

1. That the learned Court adjudged that the petitioner was a resident of the state of New Jersey and had been prior to the filing of the petition in this cause.
2. That the learned Court adjudged that it had 30 jurisdiction in this cause.
3. That the learned Court made a decree of divorce between the parties hereto.

Your petitioner, therefore, prays that the said decree of the said Chancellor may be, in the particulars aforesaid, reversed, set aside and for noth-

ing holden. And that your petitioner may have such relief in the premises as to this Honorable Court shall seem meet.

JAMES MERCER DAVIS,
*Solicitor and of Counsel with
the Appellee.*

ANSWER.

10 NEW JERSEY COURT OF ERRORS AND
APPEALS.

JOHN L. BAKER,	}	ON APPEAL.
<i>Respondent,</i>		
VS.		
MARGARET BAKER,	}	ANSWER.
<i>Appellant.</i>		

20 The answer of the above-named respondent to the petition of appeal of the above-named appellant not acknowledging all or any of the matters which in the said petition of appeal are contained to be true, for answer thereto nevertheless says and admits that a decree was made and entered in the Court of Chancery in the case for that purpose mentioned in said petition as is therein stated, but as to the substance and form thereof this respondent prays to refer
30 thereto when the same shall be produced, and this respondent is advised and believes that the said decree is agreeable and clear, and he prays that the same may be affirmed with costs to be adjudged to this respondent.

RUNYON & AUTHENREITH,
*Solicitors of and Counsel with
Respondent.*

TESTIMONY.

IN CHANCERY OF NEW JERSEY

Between 10
JOHN L. BAKER,
Petitioner, }
AND } ON PETITION, &C.
MARGARET BAKER, }
Defendant. } TESTIMONY.

Testimony taken in the above-entitled cause, at 20
the State House, Trenton, New Jersey, on Thursday,
the ninth day of March, 1916, at 10.30 A. M.

Before Hon. JOHN H. BACKES, Vice-Chancellor.

APPEARANCES:

ROE, RUNYON & AUTENRIETH, Esqs., by MR. AUT-
ENRIETH for the petitioner.
J. WARREN DAVIS, Esq., for the defendant.

30

JOHN L. BAKER, the above-named petitioner, being duly sworn, testified as follows:

Direct examination.

By Mr. Autenrieth:

10 Q. Mr. Baker, you are the husband of Margaret Baker, the defendant in this suit?

A. I am, sir.

Q. When were you married?

A. On December 11, 1884.

Q. Where?

A. At Washington, D. C.

Q. By whom?

A. By the Rev. Father Murphy.

Q. Do you have the marriage certificate with you?

A. No.

20 Q. Have you any idea where it is?

A. I have not, now; we had just a pen and ink copy from Father Murphy, which I don't know where it is.

Q. Who is Father Murphy?

A. The priest who married us.

Q. Located where?

A. In Washington, D. C.

By the Court:

30

Q. Is he a priest of the Catholic Church?

A. Yes, sir.

Q. And you were married where?

A. In the parsonage of St. Aloysius.

Q. Where?

A. North High Street; the church and the parsonage are adjoining.

By Mr. Autenrieth:

Q. How long did you live in Washington with your wife?

A. I was in Cincinnati for about six months, and my wife came on a short time afterwards. I was hurriedly called away. That was on the 11th; she came to Cincinnati on December 24th, and we lived together in Cincinnati for six months, and I made my home in Washington after that; I went to Wash- 10
ington.

Q. And how long did you live there?

A. We lived in Washington until 1899.

Q. And did you change your residence then to any other city after that?

A. In 1889, I went to the Pacific Coast with the idea of locating there.

Q. How long were you away?

A. The best part of a year; I returned in the spring of 1901. 20

Q. You subsequently lived in Atlanta?

A. I remained in Washington a short time and then went to Richmond, and was there about a year and a half, and then went to Atlanta and engaged in the restaurant business there.

Q. When did you return?

A. I returned from Atlanta in February, 1905.

Q. How long did you live in Washington since 1905?

A. I had a house in Washington from 1905 to 30
1909.

Q. When did you first go to Jersey City?

A. In February, 1905.

Q. Did you also have a house in Washington at that time?

A. I had taken a house previous to coming to Jersey City.

Q. What business were you engaged in in 1905?

A. When I came from Atlanta I was not in any business at all; I came back for the purpose of re-locating in Washington, and I secured a position on the Pennsylvania Railroad as a dining car steward, or conductor they were called then.

Q. What was your purpose in going to Jersey City?

10 A. As an employee in the employ of the Pennsylvania Railroad Company as a dining car conductor, Jersey City was the headquarters of the dining car department.

Q. Where did you live in Jersey City when you first went there?

A. At 34 Magnolia Avenue.

Q. When did you first go to your present home on Grand Street?

A. It was about 1907.

Q. You moved to 107 Grand Street?

20 A. Yes, sir.

Q. And at this time, you still kept the Washington house?

A. Yes.

Q. State why it was you had a house or rooms in Jersey City at this period.

30 A. The dining car department had its headquarters in Jersey City at that time, as well as them in New York; they still have them there in New York—and dining car employees, both conductors, stewards and cooks are provided with quarters at all points outside of Jersey City.

Q. Were you at home in Washington every night?

A. No, sir; my run would vary; there were times when I would be, and then there would be a period I would be there every other night—I would be in New York one night and in Washington another;

and then, sometimes, I wouldn't be in Washington for five or six or seven days.

Q. Then, where would you have your headquarters?

A. In Jersey City during my lay-over; I might run to Altoona or Harrisburg, but I would lay over in Jersey City —

Q. Was that the purpose of having your home in Jersey City?

A. Yes.

10

Q. The purpose of having your home in Jersey City at the same time you had the house in Washington was for the times you would lay overnight in the Jersey City district?

A. Yes, sir.

Q. How long did you continue the home in Washington?

A. Until December, 1909.

Q. Did Mrs. Baker, the defendant, live with you at the home in Washington?

20

A. She did.

Q. Up until what time?

A. The last time that I know of her being there, or seeing her in the home, was about the 15th of November, 1909, about.

Q. Do you know whether she had come to the house after that time?

A. I have reason to believe she was there during my absence.

Q. Well, how do you know it?

30

A. Well, I would see things that looked like— there was a servant in the house, and she would tell me that Mrs. Baker —

Mr. Davis: That is objected to.

Q. Did you see her at the Washington house after November 15?

A. Yes, sir; it was between the 1st and 15th of December; the exact date I cannot say.

Q. What sort of a house was this you had in Washington?

A. A large rooming house, a house of, let me see, 13 rooms.

Q. And who ran the house?

10 A. Mrs. Baker looked after the house, of course, during my absence.

Q. Your position at that time was what?

A. Dining car conductor.

Q. And this, you say, was a rooming house?

A. Yes.

Q. What do you mean by that?

A. It was more of a house than we needed for our own two selves, and the idea was in taking a larger house, that it would enable us to live in a little better
20 locality and a much better house by renting a few rooms out and reducing our expenses.

Q. Did you let rooms out?

A. We did.

Q. For how long?

A. During the whole time we were there.

Q. From 1905 to 1909?

A. From 1905 to 1909, until it was vacated.

Q. The last time you saw Mrs. Baker, or the last time she lived there, was November 15, 1909?

30 A. The last time I saw her there, about that time.

Q. Did you meet her there afterwards?

A. She came to the house afterwards while I was at home during my lay-over.

Q. Had you, prior to November or December of 1909, discussed with Mrs. Baker the question of moving to Jersey City?

A. Many times, sir.

Q. Just tell what the discussion was.

A. Immediately after, or, I would say, shortly after, in 1905, when I came to work for the Pennsylvania Railroad Company—at the time I had taken this house I was not working for the railroad company; we had contracted for the house, signed the lease, etc., and I secured a position with the railroad company; almost immediately afterwards, I discussed with my wife the desirability of living in Jersey City, that it was necessary for me to have headquarters there, and I had to pay room rent, and I was provided with accommodations by the railroad company at all points outside of Jersey City, and it would be economical for us to live in Jersey City; it would be more economical than living in Washington. 10

Q. You told her that?

A. Yes, sir; we discussed it; she didn't fall in line, as it were; she didn't agree to the proposition.

Q. What did she say? 20

A. She didn't say anything definite at that time; later on, she made visits to Jersey City with me, and we looked around Jersey City, and she said, "I wouldn't live here if you would give me the town." Then we visited in Newark, and while she liked the appearance in Newark a little bit better, she would say—she positively refused for us to remove our home to New Jersey. That was not only on one occasion, but all the visits she made to New Jersey with me. 30

Q. How long did this discussion regarding your moving to Jersey City take place?

A. It would be frequent. My idea was to give up this expensive house I had in Washington, and I would say that every month or two we would have a discussion in regard to going to Jersey City.

Q. Did she ever at any time prior to November, 1909, state that she would go to Jersey City with you?

A. Never.

Q. Shortly before November, 1909, did you have any discussion with her about your moving to Jersey City?

A. I would say we had.

Q. And what did you say then?

10 A. Before November 15, you mean?

Q. Yes.

A. Well, it was only a general discussion; we would talk about the house being so expensive, and we were unfortunate in not getting roomers in; it was a burden on me financially; and I would bring up the question of giving up the house and moving to Jersey City, and Mrs. Baker wouldn't agree to it.

Q. Did you ever indicate to her your intention to move to Jersey City at that time?

20 A. Shortly after that, while she was away from our home —

Q. Give us the date, as near as you can.

A. Along about the 6th or 7th of December, 1909, Mrs. Baker was away from her home, and she had told me she didn't intend to return; but, however, I was anxious for her to do so, and I looked around and I went to Newark in one of my lay-overs, looking for apartments; I secured a small apartment there, and paid a deposit on it; I wired Mrs. Baker that day
30 before leaving Jersey City, that I would like to have her meet me on my arrival, I wanted to have a discussion with her, as well as I could in the few words that I could write in the telegram.

Q. I show you what purports to be a receipt, dated December 4, 1909, and ask you if that is the receipt

which you obtained at the time you made this deposit?

A. It is, sir.

Mr. Autenrieth: I offer the receipt in evidence.

Mr. Davis: It is objected to.

The Court: Objection overruled.

(Said receipt is marked "Exhibit P1.")

10

Q. Did you receive from your wife any reply to the request by you to come to Newark to this apartment?

A. I received a reply to my message; my message, probably didn't say I wanted to see her on this particular occasion.

Q. What reply did you receive?

A. A reference to Mr. Jefferts.

20

Q. Who was he?

A. An attorney in Washington. I found a note in my home in Washington when I arrived there.

Q. Did you go to see Mr. Jefferts?

A. I did not, sir.

Q. What did you do with this apartment on which you paid a deposit?

A. I forfeited \$10.00.

Q. How long after you made the deposit?

A. The second trip; I was in Washington every third night at that time—about six days afterwards. I notified Mr. Roemmele I wouldn't be able to take the apartment.

30

Q. Has your wife, Mrs. Baker, ever lived with you since this December, or since you saw her in December or on November 15, when she left the house, up to the present time?

A. She has never been to my particular apartment in Jersey City, but we have been together.

Q. That is, you have seen her?

A. I have seen her.

Q. Frequently?

A. I don't know whether you would call it frequently; during the latter part, I think it was, of 1910, I saw Mrs. Baker quite frequently during my trips to Washington.

10 Q. Did you ever have any conversation with Mrs. Baker after December, 1909, regarding the question of living together?

A. We have had many of them.

Q. And did you ever request her to resume your relations, your cohabitation?

A. I have, sir.

Q. And what did she say on such occasions?

A. Well, the usual language was: "Johnnie, you know we can't get along together, and I am better
20 satisfied the way I am; I am independent, and I have no restraint over me," and those kind of things; the gist of it was, that I should know that we couldn't get along together.

Q. How frequently did you ask her this question about living together?

A. I might say it would be every time we would be together.

Q. Where was Mrs. Baker living after 1909?

A. She first went to the apartments "Iowa."

30 Q. In what city?

A. Washington, D. C.

Q. She continued to live in Washington?

A. She continued to live in Washington ever since.

Q. Did you make any effort in 1912 with respect to getting your wife to live with you?

A. If I may repeat something in connection with 1910 to indicate what —

Q. Confine yourself to 1912 now.

A. We met frequently in 1912.

Q. I call your attention to a sea trip.

A. Yes.

Q. Will you please state what you said to her?

A. I called at her apartments in Washington, and I would meet her at the railroad station, and we would go uptown and have breakfast together in my trips into Washington; and we would discuss conditions generally, and the proposition was made that she take a trip; she had been down and visited me at the hotel; I had a room provided by the railroad company, and I wouldn't use the room the railroad company provided; I would register and get another room; that had happened on two or three occasions. 10

Q. Well, I call your attention to the sea trip —

A. Well, it was during these visits and interviews I had with her that we discussed a little trip for her, with the result that she came up to Jersey City.

Q. Did you state to her your idea about this trip, why you wanted her to take this trip? 20

A. Yes.

Q. What did you say?

A. I thought that we would get away for a few days together, and that it might be beneficial to both of us; my idea was, to bring her around to my way of thinking so we would resume the proper relationship with one another.

Q. Did you subsequently take a sea trip?

A. We did. 30

Q. What was it?

A. From New York to Norfolk, by boat.

Q. How many days did it take?

A. We were out two nights; it took three days. We returned to New York and she remained that night in New York.

Q. After the sea trip where did she go?

A. Back to Washington.

Q. She didn't continue to live with you?

A. No, sir.

Q. I show you a letter, dated June 25, 1912, addressed "Dear Johnnie"; is that in her handwriting?

A. Yes, sir.

Q. Is that her signature?

10 A. Yes, it is, sir.

Q. I show you also an envelope, addressed "John L. Baker, Hotel Harris, Washington"; is that the envelope in which the letter was sent?

A. It is.

Mr. Autenrieth: I offer the letter in evidence.

(The said letter and envelope are marked "Exhibit P2.")

20

Q. On that trip mentioned in that letter, is that the sea trip?

A. It is, sir.

Q. Did you discuss with Mrs. Baker on this trip the question of your living together?

A. Yes, sir.

Q. What did you say to her?

30 A. The discussion was, I was endeavoring to convince Mrs. Baker that the way in which we were living was not right; she seemed to agree that we should be together; she said, "I know Johnnie Baker, that you need me; you are not the kind of a man a good many men are"; and she said, "I know that I need you at times"; but she never would come around to the point of saying she would resume relationship with me.

Q. What did you say to her about living together on this trip?

A. I don't know that I could repeat the exact words, but it was to the effect that I would appreciate very much, and it was my heart's desire that she should return to her home. We sat down at Old Point Comfort, I remember, for three hours, she and I, in one of the booths there, and my whole effort was to show her the proper thing for her to do was to return to her home.

10

Q. This house, Mr. Baker, in Washington, in which you and your wife lived, what happened to that after December, after Mrs. Baker left?

A. I proceeded—I surrendered the house and proceeded to pack up the furniture for the purpose of storing such as I wished to retain, and sending to the auction house that which I thought I would have no further use for.

Q. Where did you go?

A. To the Hotel Harris —

20

Q. Where did you go?

A. I took my personal effects to Jersey City, and I took what personal effects I need to Jersey City; I had a home there, and I took my trunk and other personal effects than what I already had there.

Q. You say you saw Mrs. Baker at the house during the early part of December?

A. During the time I was packing up the furniture, I did.

Q. Did you have any conversation with her at that time about where you were living?

30

A. I don't know that I had any at that time, for I was endeavoring to get the furniture packed up, and I had very little time, and it was more of a disturbance on her part than anything else.

Q. Did you, subsequent to leaving this house in

December, 1909, in any conversation with Mrs. Baker, tell her where you were living?

A. I don't know that I did; it was not necessary.

Q. Why?

A. She knew very well; she had been to the house.

Q. Did you receive correspondence from her at Jersey City?

A. Yes, sir.

10 Q. This apartment at Newark which you paid the option on in December, 1909, you say you gave that up?

A. Yes.

Q. Why?

A. Because Mrs. Baker had practically refused to go to Newark, or to resume living with me. I had no use for the flat alone.

Q. I show you a letter, dated June 21, 1913, addressed to "Dear Johnnie," and signed "Maggie"; is that Mrs. Baker's handwriting?

20 A. It is.

Q. Is that her signature?

A. It is.

Mr. Autenrieth: I offer the letter in evidence.

(Said letter is marked "Exhibit P3.")

Q. Had you at that time had any conversation with Mrs. Baker other than that about resuming your cohabitation?

30 A. I had.

Q. What was this letter a reply to?

A. To our conversation we had; I was in Washington on a Sunday, and called on Mrs. Baker; she came downtown and we had breakfast together; she had had her breakfast, but I had mine. I discussed the manner in which we were living, and further dis-

cussed the desire on my part for us to re-establish our home; she didn't give one word of encouragement to me. We spent probably two hours together; it was a warm day, on Sunday, and we walked up, and I remember it was the last sight I saw of Mrs. Baker until today.

Q. Has she lived with you since 1909 up to now?

A. This letter is 1913.

Q. Has Mrs. Baker lived with you, or have you lived with her, since December, 1909?

10

A. Not at my own apartments; we have lived together at the hotel; she has visited me, at least, has gone with me to my room in the hotel at Washington, and she was with me on this trip to Norfolk.

Q. Did you occupy the same room on that trip?

A. We occupied the stateroom together.

Q. You had no home together?

A. No; not since 1909.

Q. Have you seen her in any way except just to meet her, since the sea trip?

20

A. That was in July; I think I saw her several times during that month and the following month of August of the same year, and called at her apartment that she was maintaining in Washington.

Q. On these occasions, was there the usual discussion of living together?

A. I doubt whether we were ever together unless there was a discussion in regard to the manner in which she was living.

30

Cross-examination.

By Mr. Davis:

Q. Mr. Baker, when were the times that you have seen her since 1909; you say you have been together

and lived together at certain times, but not at your home. When were those times and where?

A. They were at the Hotel Harris, the exact date I can't give.

Q. About when?

A. I think they were in the latter part of 1911, along in, as near as I can remember—Mr. Davis, my mind is not very clear on those dates; I would see Mrs. Baker frequently during the first part of
10 1910; she didn't come there, and my impression is, it was about a year later when she was employed at the Female Workhouse.

Q. In 1911, you lived with her at the Hotel Harris?

A. She would meet me on my arrival in Washington, and we would go to the hotel, on two or three occasions.

Q. After that, when did you live with her?

A. I take your meaning of "living with her" that we have been associated together overnight.

20 Q. Yes.

A. In 1912, it was in July.

Q. That was your sea trip?

A. Yes, sir; that 1912.

Q. When and where since then?

A. Once in her apartments at the Plymouth Apartments in Washington, in the following August.

Q. 1912?

A. Yes.

Q. Where, after that?

30 A. Never, sir.

Q. From August, 1912, until the present time, what relations have you had with Mrs. Baker of any kind?

A. Practically none, aside from a few letters. I have never seen her but once since that time.

Q. You have seen her once since 1912?

A. Yes.

Q. When and where did you see her then?

A. I saw her in Washington on June—the day that letter was written, it was in the latter part of June, 1913.

Q. June 21, 1913?

A. Yes, sir; I think it was June 20; I think the letter was probably wrote the next day, it was on Sunday.

Q. Is that the first time you saw her after this sea trip—no, after August, 1912?

10

A. Yes, I saw her once on the street, but not to speak to.

Q. This is the first time you spoke to her after August, 1912; that was on June 20, 1913?

A. Yes.

Q. Where did you see her then?

A. She met me at the Ebbett House in Washington.

Q. How did you come to see her there?

A. I called her up on the phone and requested her to come to see me. 20

Q. And she came down to see you?

A. She did.

Q. How long did you stay together?

A. We went to the cafe of the Ebbett House, and I had breakfast; Mrs. Baker had had her breakfast; and we talked over the trouble for probably an hour or more, and I walked up the street with her and left her at her apartments.

Q. Then, when did you see her again after that? 30

A. Today.

Q. Was the first time?

A. Yes, sir.

Q. Now, what communication have you had with her since June 21, 1913?

A. I am reasonably sure that I have had none

direct; I think I can safely say I have never wrote her a line since then.

Q. From August, 1912, until June, 1913, what communication had you had with her?

A. I can't recall exactly; there might have been a letter or two, I won't be sure that there was or not.

Q. If there is a letter communicating from you to her, you have no present recollection of it?

A. I have not, sir.

10 Q. And so, if I understand you correctly, then, the only communication you have had with Mrs. Baker since August 12, 1912, is the letter of June 21st, and one time that you saw her on June 20, 1913?

A. Yes.

Q. That constitutes your entire communications and relations to her from that time until today?

A. It does, sir.

Q. And this sea trip from New York to Norfolk, you and Mrs. Baker occupied the same stateroom
20 on that trip?

A. We did.

Q. And cohabited in the relation of husband and wife?

A. We did, sir.

Q. What did you say to her on June 20, 1913, when you saw her in the hotel?

A. It was a re-statement of what I had —

Q. No; what did you say to her?

A. Well, Mr. Davis, I don't know that I can re-
30 member the exact words.

Q. Give me the substance, as best you can.

A. The substance is this: I was not living in the way I should; we were not living in the way we ought to, that I was making acquaintances that if I had only my own home they would prove valuable to me as social acquaintances, and I said to her

that it would make it so much better, in my opinion, for us both if we had our own home; it was merely to encourage or persuade, if possible, that she should return to the home that I was willing to provide for her.

Q. Have you given the substance and the words as best you can, of all you said to her on that occasion?

A. I have, sir.

Q. Now, then, what did you say to her in August, 1912, when you saw her at her apartments the first time you had seen her after this sea trip?

A. That wasn't the first time I saw her after that.

Q. You had the sea trip in July, 1912?

A. Yes, sir.

Q. The last time you had seen her then before June 20th, 1913?

A. I was a frequent visitor for a few minutes during the day when I was in Washington.

Q. Did I understand you correctly that you saw her at her apartments in Washington in August, 1912?

A. Yes, sir.

Q. And that the next time you saw her was on June 20, 1913?

A. Correct, sir.

Q. At this last time you saw her before June 20th, 1913, at her apartments, what did you say to her about your relations, and about living together again, if anything?

A. It was along the same line, Mr. Davis; I can't remember.

Q. Tell me what your recollection is of what you said to her.

A. My recollection is, that we discussed the fact of our living in these apartments there; she was

sharing apartments with another lady, and I had seen her at this same apartment several days before that, and we discussed the advisability; we had been discussing an apartment and Mrs. Baker even went so far as to tell me another apartment was in that same building that had a little more room to it, and the lady that shared her apartment with her, Mrs. Edwards, said: "I see where I am going to lose my happy home." I said, "I don't wish you
10 any bad luck, Mrs. Edwards, but I only hope you will. I have a hard time getting this girl to my way of thinking." That's the substance of our conversation. The night of this visit to her apartments there, I was at the Hotel Harris; it was a regular lay-over at the quarters provided by the railroad company; Mrs. Baker, I had seen her on a number of occasions, and I sat and chatted with her for an hour or two, and I said something to her—I said,
20 "When I get in on the next trip I'll run up to the house;" she said, "Oh, no, don't you come unless I call you." About 11 o'clock that night she did call over the phone, and I was talking there with a couple of railroad men, and I said, "That's my wife calling," and I went up.

Q. What did you say to her on this occasion to induce her to come back to you, if anything?

A. No more, Mr. Davis, than my general conversation with her was, that I wanted her to come back at all times; I can't recall the specific words.

30 Q. You told her that you wanted her to come back?

A. To the best of my knowledge and belief, I did.

Q. What else did you say in addition to that?

A. Well, I can't recall what our conversation was exactly; I remember that the next morning we left, and I went down the street with her to her work.

Q. The next morning; did you stay overnight in the apartment?

A. I did, and Mrs. Baker and I went out the next morning and went down the street together, and we had a conversation about some furniture, and I went down to the furniture store and bought her a nice easy rocking chair.

Q. Have you stated, in substance, all that you said to her as an inducement to bring her back to you?

A. As far as I can remember, sir.

10

Q. And that was, in substance, that you wanted her to come back to you?

A. That I wanted her to, and that she understood and knew that my heart's desire was for her to return to her home.

Q. You told her that?

A. I don't know whether I did on that particular occasion; it was not necessary to tell her every time I saw her; she knew that; she knew it was the motive of my visits to her.

20

By the Court:

Q. You had told her that before?

A. I had told her that before, yes.

By Mr. Davis:

Q. You made her no promise in any way if she would return?

30

A. No, sir.

Q. And gave her no assurances of any kind if she would return to you?

A. I don't know that I was asked for any.

Q. Did you?

A. No.

Q. You didn't volunteer any?

A. No, sir.

Q. Did she request any?

A. To my knowledge, she did not.

Q. On June 20, 1913, did you at that time give her any promise or assurance if she would return to you?

A. No, sir.

Q. Did she request any?

10 A. My recollection is, she did not.

Q. I am talking about the conversation on the 20th, and at that conversation she made no request for any assurances or any promises whatever, and you gave her none?

A. My recollection is, I did not, no, sir.

Q. And at any of the other conversations you had with her prior to this time, you gave her no promises or assurances and she made no requests of any kind?

20 A. I will say this, in a general way, if I may refer to this during our life together —

Q. No, I am talking about since 1909, when you were living separate and apart, did you make any promise voluntarily, or give her any assurances, or did she request any from you?

A. The only promise would be, that I would do my honest part, as I always had done.

Q. Did you make any?

A. My recollection is, I did not, only that.

Q. Did she request any?

30 A. To my recollection she did not.

Q. And so, the first idea that came to you of any assurance that she wanted between 1909, November or December, and June 21, 1913, came suddenly in this letter?

A. Do you mean in regard to finances? Mrs. Baker would —

(Stenographer repeats the question.)

A. So far as finances are concerned, Mrs. Baker had talked with me many times about that.

Q. So far as finances are concerned, between those dates, you had regularly been paying to her \$35.00 a month, hadn't you, between those two dates, that is, between 1909 and June 20, 1913, you had regularly been contributing support at the rate of \$35.00 per month, hadn't you?

10

A. The exact dates I paid her that, I haven't got at my fingers' ends.

Q. And you continued to pay that amount per month up until you filed this petition for divorce?

A. Yes.

Q. Now, there was no necessity as you understood it, was there, about the request for finances, so long as you were living separate and apart?

A. Mr. Davis, I was not paying her \$35.00 a month at the time this letter was wrote; it was in July, 20 1913, I —

Q. How long had you not been paying her?

A. I can't recall, but it was probably the best part of a year.

Q. And you resumed it in July, 1913?

A. Yes, sir.

Q. And continued until you filed this suit?

A. Yes.

Q. Now, then, aside from any request or promise relative to money at any of these other conversa- 30
tions you had had with her between December, 1909, and June 20, 1913, had she made any requests of you to give her any promises or assurances if she came back to you?

A. I can't recall, sir, that she did.

Q. Would you say she did or did not?

A. I would say she did not; my recollection is, she did not.

Q. And you gave her none?

A. No more than I would say to her that she knew she would be properly treated, and that she was the only woman in the world for me as far as that part went.

Q. You did tell her then, on June 20, 1913, that she would be properly treated, did you?

10 A. I don't know whether I told her on that particular date, but that was my general trend of conversation in my general efforts to get her to return.

Q. That is another idea that you have just put into your conversation as an inducement to bring her back to you?

A. No, sir; it is not.

Q. You didn't state that awhile ago when you said that was the substance of all you told her, but now you say you incorporated another idea and told
20 her she would be properly treated?

A. Yes, sir; the same as she always had been treated.

Q. That's what you told her, that she would be treated the same as she was always treated?

A. I presume it is.

Q. Did you tell her that she would be properly treated, or the same way she always had been treated?

A. If there was any promise made; I couldn't see
30 that there was any reason for me to promise to treat her different.

Q. Were there any promises made?

A. To the best of my knowledge, there were not.

Q. To the best of your recollection, there was no promises asked?

A. No, sir.

Q. And to the best of your knowledge and belief, there was no basis for any promises to be asked?

A. No, sir.

Q. In other words, if I understand you, Mr. Baker, do you mean to say that during your entire married life you had treated her in a proper manner as a loving and faithful husband?

A. I did, sir.

Q. And had never in any way abused her?

A. I don't think that I have, sir.

10

Q. You have never struck her?

A. I have smacked her jaws, sir, years ago.

Q. When did you do that?

A. That was in 1902, if my recollection is right; we had many quarrels.

Q. Where were you living then?

A. In Richmond.

Q. Did you do anything else to her at that time in the way of abuse?

A. I don't think so, sir.

20

Q. Either by threats or profane language or by physical punishment?

A. No, sir.

Q. You didn't do anything else to her at that time?

A. No, sir.

Q. Did you ever, before or after that, strike her again?

A. No, sir.

Q. That was the only time that you had ever struck her?

A. Yes.

Q. Did you at any time choke her?

A. No, sir. I have had occasion, Mr. Davis, to take hold of her to restrain her, but so far as choking her was concerned, I deny having done that,

there has been occasions that I have had to take hold of Mrs. Baker to restrain her from ——

Q. Hurting you?

A. No; I won't say that, but her attacks on me. I don't want to assume to say that I had to defend myself against an attack, but to hold her, to keep her away from me.

Q. In other words, she, because of her violent temper, would attack you?

10 A. Yes.

Q. And you would have to take hold of her to defend yourself?

A. Yes, sir.

Q. And you didn't attack her?

A. Oh, no, I don't think that I did.

Q. You know, don't you?

A. I know I would not attack her.

Q. You know whether you did or not?

A. I know I did not.

20 Q. And at any other altercation or any time that you laid your hands upon her in any altercation during your married life, except this one time in Richmond in 1902, was to prevent her from hurting you when she had attacked you; is that right?

A. Well, yes.

Q. And if I understand you then, Mr. Baker, all this time that she has been away from you since 1909, you wanted her to come back to you and live with you and be your wife?

30 A. Yes, sir.

Q. And you kept telling her that every time that you saw her?

A. Yes.

Q. In substance, one way or another?

A. Yes, sir.

Q. And at the time that she left you, you didn't want her to leave you?

- A. No, sir.
- Q. And it was against your will?
- A. Yes, sir.
- Q. She had left you on some other occasions, hadn't she?
- A. Yes.
- Q. And during those times, did you want her to leave?
- A. No, sir.
- Q. She left against your will? 10
- A. Yes.
- Q. And you tried your best to keep her with you at the times she left?
- A. Most assuredly I tried, during my whole married life, to have my wife remain under the roof I provided for her.
- Q. And her leaving you at other times and her staying away from you, was not with your consent?
- A. No, sir.
- Q. But against your will? 20
- A. Yes, sir.
- Q. And against your consent?
- A. Yes, sir.
- Q. And since 1901, you have not consented that she live separate and apart from you?
- A. No, sir.
- Q. But it was against your consent?
- A. Yes.
- Q. And that the other times when she was separated from you, that was against your will and against your consent, too? 30
- A. Yes, sir.
- Q. And you didn't consent to that either?
- A. To her remaining away from me?
- Q. Yes.
- A. No, sir.

Q. Every time she went away from you, and during the time she stayed away from you, was against your will and without your consent?

A. Yes, sir.

Q. I show you what purports to be an agreement between you, **John L. Baker**, and Maggie E. Baker, and signed by John L. Baker and Maggie E. Baker, and ask you if that is your signature?

A. It is, sir.

10

Mr. Davis: I offer the paper for identification.

(Said agreement is marked "Exhibit D1" for identification.)

Q. Mr. Baker, at the time that you slapped your wife's jaws in Richmond in 1902, there was some little court litigation over that, wasn't there?

A. Yes, sir.

20 Q. And in that letter that Mrs. Baker wrote to you on June 21, 1913, she spoke about trusting you; did you have any idea of what she meant?

A. No, sir; I haven't very much idea as to what she would mean in regard to that, because I knew she had confidence in me.

Q. You didn't think, Mr. Baker, that she meant that you had entered into improper relations with Mrs. Smith or anybody else?

A. I don't think she thought for a minute she
30 meant that.

Q. She had no cause to?

A. No, sir.

Q. Had not Mrs. Baker, when she had left you on other occasions, exacted a promise from you to treat her differently before she would come back to you?

A. No, sir; I don't think so.

Q. And had you not broken those promises time and again, and had she not told you on occasion after occasion, that she couldn't trust your word in regard to your treatment of her?

A. She has told me that, but there has been no promises to be broken.

Q. Did she not, on this sea trip, tell you that if you would agree and give her any assurances that you would treat her differently from what she had been treated by you, she would be glad to live with you as your wife? 10

A. Absolutely, she did not.

Q. And didn't that very phrase of those words in that letter referring to trusting you, they referred to your treatment of her?

A. No, sir; I only would take it in regard to finances.

Q. In this letter which she had written to you, in a certain paragraph she had referred to finances? 20

A. Yes, sir.

Q. You recall that?

A. Yes, sir.

Q. And did you not understand that she had stated all that she intended to state about finances in that paragraph when she was dealing with that subject?

A. No, sir; I didn't understand that, because I have had so many letters from Mrs. Baker.

Q. In this particular letter?

A. Well, I thought it was one purely and simply in regard to finances; there was no promise made or anything, but our discussions we had had previous was along that same line of money. 30

Q. And so your understanding, when you read this letter was, that the whole contents related to finances, purely and simply?

A. Practically to that.

Q. Did it relate to that exclusively, in your mind?

A. That's the impression it would have on my mind, that it was purely in regard to finances.

Q. And so, when you read this letter, it was your idea that there was no differences at all in Mrs. Baker's mind between you and her, except the difference that related to finances?

A. Yes; there are other differences.

10 Q. But you didn't think this letter referred to any differences at all that might exist between you and Mrs. Baker, except the differences as to finances?

A. Yes, sir.

Q. And the letter arose entirely, as you understood it, out of conversations which you had had the day before?

20 A. Well, I don't know, Mr. Davis, that I could say that I would feel that that letter arose entirely from the conversations we had the day before, because the previous circumstances of our life would assist in prompting her to write that letter, not purely the conversation we had the day previous.

Q. It related to the conversation you had had before, the day before, or your previous life?

A. I doubt whether we discussed finances the day previous.

Q. And there was nothing so far as you can recall, on your part to bring forth this letter relative to finances on this particular occasion?

30 A. No, sir; I can't recall anything on that particular interview that would bring forth that letter?

Q. And you had said nothing to her that day to bring it forth?

A. I can't recall that there was anything said.

Q. And you had written nothing to her to bring it forth?

A. No, sir; my recollection is, that I had not.

Q. Do you recall what she referred to: "I was quite surprised at the contents of your letter received this morning." Do you recall that, the very opening sentence of her letter?

A. I am trying to refresh my mind; if I wrote the letter to her, I can't recall what was in the letter.

Q. If you wrote the letter to her, you don't now recall it, and don't recall its contents?

A. No, sir.

Q. You don't deny that you did? 10

A. I won't say that I didn't, no, sir.

Q. Assuming that you wrote a letter to her, would it be about finances?

A. I wouldn't think it would be, sir.

Q. And so, then, that part of this letter didn't refer to finances in your mind, did it?

A. I didn't pay very much attention to that part of it (witness leaning over and extending his hand for the letter).

Q. What did you understand, Mr. Baker, this 20 sentence in the letter to mean: "I am very much afraid you are the Johnnie of old"?

A. It would be very hard for me to answer that question, Mr. Davis, because the "Johnnie of old" might have been —

By the Court:

Q. Johnnie, the jaw-slapper?

A. Yes, sir; Johnnie who slapped the jaw, or 30 Johnnie, the loving husband, I don't know which.

By Mr. Davis:

Q. What did you understand her to mean?

A. I would take the letter as a whole—I don't

know that I could take any understanding of different clauses.

Q. Now, "She will now have something else to gloat over;" did you think that referred to money?

A. No, sir.

Q. Then you knew all this letter didn't refer to money?

A. Yes.

Q. Your statement awhile ago was not correct,
10 and you want to change that?

The Court: Aren't we taking up a great deal of time on unnecessary matters?

Mr. Davis: Perhaps we are.

Q. Mr. Baker, you stated that when you requested her to resume cohabitation she said, "We can't get along together;" is that true?

20 A. She had said that on a number of occasions.

Q. Now, was there any reason for her to make that statement if your relations, so far as you were concerned towards her, had always been perfectly proper?

The Court: Don't that take us into a very wide field?

Mr. Davis: Yes, sir. I will withdraw the question.
30

Q. I show you a letter.

A. That is my signature.

Mr. Davis: I offer the letter in evidence for identification.

(Said letter is marked "Exhibit D2" for identification.)

Q. And, Mr. Baker, all this time you have been wanting Mrs. Baker to come back and live with you, and you would treat her properly, and she understood that?

A. Yes, sir.

Q. Do you want her now to come back and live with you, and will you assure the Court that you will treat her as a loving and faithful husband? 10

Mr. Autenrieth: That is objected to.

The Court: Objection sustained.

Q. Mr. Baker, you saw her at the time you were packing up your furniture there in the apartment which you and she had occupied?

A. Yes, sir.

Q. At that time you didn't say anything to her, as I understand you? 20

A. I don't recollect that there was anything said in regard to her resuming her home, it was —

Q. At the time you were breaking up your home and packing your furniture, crossing the Rubicon, as it were, you didn't say anything to her about coming back to you, you being a loving husband to her, then?

A. May I say why? 30

Q. I wish you to answer my question.

A. No; I did not; may I say why?

Q. Mr. Baker, after you left her in 1909, up until 1913, you had, from time to time, told her you wanted her to go to Jersey City and live with you?

A. After 1909 to 1913?

Q. Yes; you had on different occasions kept assuring her that you wanted her to go to Jersey City and live with you?

A. Yes; to resume cohabitation and restore our home.

Q. And live with you as husband and wife in a proper way?

A. Yes, sir.

Q. And she had steadfastly refused all the time
10 to do so?

A. Yes; so far as I could judge from what she said.

Q. And has never given you any assurances at all that she would do so?

A. None to my recollection, sir.

Q. All that she had said and her attitude in the whole matter was to assure you that she wouldn't do it?

A. Most assuredly.

Q. Now, in the face of that, why did you go off
20 and rent a house?

A. You are talking about 1909 to 1913?

Q. I am talking about 1909 to 1913?

A. This house was rented immediately after she left her home, before there had been a distinct understanding between her and I, or I had got a distinct assertion from her that she didn't wish to return to my home. She left her home about the middle of November, and I hadn't seen her from that
30 time until—I had communication with her—I would leave a note for her and get one from her, with the possibility of healing up different sores that there might be left. I wanted her to have an apartment in Newark.

Q. Then, if I understand you, without having any idea whether she would come to Newark or Jersey

City, without having spoken to her about it at all, you went off and rented a house?

A. We had talked about it on numbers of occasions.

Q. And what did she say to you?

A. She said she wouldn't go to Jersey City or Newark, not to New Jersey, she wouldn't go.

Q. You believed she meant what she said?

A. I don't know that I always believed that she meant what she said. 10

Q. With reference to going to Jersey City?

A. I knew she didn't want to go to Jersey City; I couldn't say whether she would go or not.

Q. Wasn't it simply to have this receipt show that if you ever started a divorce proceeding, which you were contemplating then and there, that you went off and got this apartment, having no idea that she would come?

A. Absolutely not. 20

By the Court:

Q. Did you do it for a bluff?

A. No, sir.

Q. Did you do it to bluff her into coming?

A. No, sir; I never entertained a thought, and I think she will bear me out, that I never entertained an idea for a divorce at all, until after I saw her ——

By Mr. Davis: 30

Q. That was before you had packed up your goods and broken up down there in Washington?

A. The house had been surrendered.

Q. Mr. Baker, what is your idea as to why your wife would not live with you?

Mr. Autenrieth: Objected to.

The Court: Objection overruled.

10 A. I have an idea that Mrs. Baker's desire at all times during our life was to be free and independent, to do as she pleased, without any restrictions whatever. If I saw Mrs. Baker doing something I might think was indiscreet, she wouldn't care for me to tell her about it. There has been incidents in our married life that might not be brought out in this trial, that would justify me in offering restraint to her on certain occasions. Mrs. Baker's desire for absolute independence to do as she pleased. If I didn't find her at home when I came home from a trip, and she didn't come home until 12 o'clock at night, or if I went home and found things that were not right, if I offered any question, or if I had said nothing about it and went along that way, it would have been all right, but if I hadn't, then it wouldn't.

20 Q. And your idea is, that it is simply the desire for independence and freedom of action that has brought about her whole attitude towards her marriage relations with you?

A. I won't say that is the only thing in regard to her; I think that Mrs. Baker probably got tired of me, maybe, although she expressed a regard for me since 1909 on a number of occasions; we have had pleasant hours together, and as far as she is capable, I think she thought as much of me as she ever did of any other man.

30 Q. Do you think she thought any more of you?

A. Well, now, I would rather not answer that question, if it is not necessary.

Q. When this house was rented down there and rooms were let, Mrs. Baker conducted that and did her part in it, didn't she?

A. In a measure she did, yes, sir.

Re-direct examination.

By Mr. Autenrieth:

Q. Mr. Baker, at the time you rented this apartment in Newark, concerning which this receipt "P1" was given, did you communicate that fact in any way to Mrs. Baker?

A. Only by telegrams to Mrs. Baker that I would care to see her on my arrival in Washington that 10 night.

By the Court:

Q. Did you indicate to her this fact that you had leased this apartment?

A. No, sir.

By Mr. Autenrieth:

Q. Did you afterwards, at any time, see Mrs. Baker and advise her of the fact that you had rented an apartment? 20

A. I didn't see Mrs. Baker for quite some time after that.

Q. At the time you were packing up at your Washington home, will you tell us what happened when Mrs. Baker arrived at the house?

A. I had an assistant there, and I only had a short while, and when I was trying to get the furniture packed up, Mrs. Baker appeared on the scene, and she was very much excited and interfered, and started in with quarrelling and contentions. 30

Q. With whom?

A. With me.

Q. Tell us what was said and done.

A. She would rip out an oath, and declare she would smash everything up that was there —

Q. What kind of oaths?

A. She would call me most any kind of names.

Q. What did she say and what did she do?

A. She would say, "God damn you, Johnnie Baker, I will break up everything in this house before you shall have anything out of here to go to that auction house I won't get a cent of money out of."

10 I had a brother-in-law of mine assisting me, and she upbraided him in strong language for interfering there; she secured a bottle of liquor from some source or other, and the first I saw of it, it was nearly empty behind a pitcher on the mantelpiece, but she took up a hammer and she takes that hammer and banged it down and smashed as much as she could. Previous to that she had done what she cared to do, and she had taken what she cared to from the house.

20 Q. On that date, you didn't ask her to return to you?

A. No, not under the circumstances.

Q. Now, Mr. Davis has asked you about assurances; what assurances did Mrs. Baker want you to give and what did she make, exactly, on these various occurrences you had meeting with her after December, 1909; was there any discussion of finances on these various meetings with Mrs. Baker?

30 A. There wouldn't be if at that time I was making the regular allotment to her; there was times I saw her when I was not making the payments —

Q. Prior to November 15, 1909, had you and Mrs. Baker had any discussion of finances between you?

A. A great many, sir.

Q. How long prior?

A. I might say for—since 1894, there was no finances previous to '94 for her to discuss.

Q. Since you went to the Washington House, between 1905 and 1909, was the question of finances discussed?

A. Many times.

Q. Acrimoniously or otherwise?

A. Well, I don't know what you mean by that, but I guess it was.

Q. Pleasant or unpleasant?

A. Unpleasant.

Q. How frequently?

10

A. It would depend on her finances; she kept the money from the roomers in the house, and if there was any deficiencies I would pay it; I insisted on it; I was getting \$100 a month salary, and it was costing me \$200 or \$250 or \$275 a month to live, and the little that had been laid by was commencing to get away.

Q. You were paying it for deficiencies?

A. I was paying it for deficiencies.

Q. You have testified that since Mrs. Baker has gone away, you testified you brought things to her, didn't you?

20

A. Oh, I extended little courtesies to her.

Q. Gifts?

A. Gifts.

Q. Will you please state the circumstances under which Mrs. Baker first left in November?

By the Court:

30

Q. How did you eventually come to separate?

A. Her leaving home on November, 1909, was simply because of my going to my home and finding she was not there; there had been a number of circumstances that led up to that.

Q. The time before. This last time you did find her at the house?

A. Yes, sir.

Q. And upon all similar occasions?

A. On some of them.

Q. Where was she on the last day when you didn't find her there?

A. She was out; I found out later, at an apartment of a nurse that had previously cared for her.

Q. Then she had moved away from your house?

A. I don't think she had personally moved away.

10 Q. But she did take an apartment and go to live at some other place?

A. Yes, sir.

Q. Did you find her there?

A. I think the second trip in, I got into communication with her by telephone; the servant told me she would be there during my absence.

By Mr. Autenrieth:

20 Q. And in this telephone communication, what did she say about her actions?

A. She offered no explanation for it; she said, "I am not going to come to that house when you are there; it's no use of bothering me."

Re-cross examination.

By Mr. Davis:

30 Q. At that time, when Mrs. Baker left the house, you were getting \$100.00 a month?

A. Yes, sir.

Q. And had been how long?

A. Since I went to work for the railroad company.

Q. When was that?

A. In February, 1905.

Q. And she was spending \$150.00 to \$200.00 a month to run the house?

A. I say there were months when I would find that I had to put into the house in addition to the rental over \$100.00 out of my own pocket; there were months —

Q. What means had you at that time?

A. I had my \$100.00 a month.

Q. And that was all?

A. I had a little money in addition to that. 10

Q. What are you making now?

A. A salary of \$159.00 a month.

Q. And have been how long?

A. Since May, 1913.

By the Court:

Q. And tips?

A. No tips; the waiters get all them.

20

By Mr. Davis:

Q. What were you making before that?

A. I had for about six months \$125.00.

Q. What property have you got?

A. Real estate, none at all.

Q. What personal property?

A. I have a little fund that Mr. Blair has, I have it with him; the exact amount I don't know.

Q. What is your best judgment? 30

A. I would say—I can't answer very well, because I don't know what Mr. Blair's bill against me is.

Q. Eliminating his bill, how much money is it?

A. Three or four thousand dollars.

Q. Is it three or four?

A. I couldn't say, Mr. Davis.

Q. What is your best judgment?

A. I couldn't say; it is a condition that has been standing for fifteen years or more than that.

By the Court:

Q. Who is Mr. Blair?

A. An attorney of Washington.

10 By Mr. Davis:

Q. Is he an attorney that has represented you in entanglements with your wife?

A. He has represented both of us.

Q. And for fifteen years he has been handling all your finances?

A. Not all, some of them.

Q. And you have had for fifteen years, three or four thousand dollars with him, and don't know how much it is?

20 A. No; not for fifteen years; but I think, eliminating his charges against me, there would be three or four thousand dollars there now.

Q. Is that stocks and bonds?

A. No. I turned it over to him for investment.

Q. Do you have any other property except what is in the hands of Mr. Blair?

A. Not except a bank account.

Q. How much have you in that?

30 A. I think my last balance showed about \$600.00, sir.

Q. Mr. Baker, I show you a letter dated 6/4/13, and ask you if that is yours?

A. Yes, sir.

Mr. Davis: I offer it for identification.

(Said letter is marked "Exhibit D3" for identification.)

Q. I show you another letter, 6/11/13; is that yours?

A. Yes, sir.

Mr. Davis: I offer it for identification.

(Said letter is marked "Exhibit D4" for identification.)

Q. Another 6/27/13?

A. Yes, sir.

Mr. Davis: I offer it in evidence.

(Said letter is marked "Exhibit D5" for identification.)

Q. Who is this brother-in-law that was there with you? 20

A. His name is Quackenbush.

Q. Is he in court?

A. No, sir.

Q. What was your statement about this bottle of whiskey?

A. Mrs. Baker, to the best of my knowledge, sent out and got a bottle of whiskey.

Q. Do you have any knowledge? 30

A. Not absolute knowledge.

MARGARET A. COLEMAN, a witness produced on behalf of the petitioner, being duly sworn, testified as follows:

Direct examination.

By Mr. Autenrieth:

- 10 Q. Mrs. Coleman, where do you live?
A. 107 Grand Street, Jersey City.
Q. You know Mr. Baker, the petitioner here?
A. Yes, sir.
Q. How long have you known him?
A. Well, about, almost nine years, I guess around that time.
Q. When did he first come to your house?
A. He came about eight and a half or nine years, the dates I can't remember.
- 20 Q. Do you know whether or not Mrs. Baker has been living with him since 1909, at your house?
A. Mrs. Baker visited our house several times, I think about four times.
Q. Did she live there for any length of time?
A. Just stopped overnight.
Q. Mrs. Coleman, Mr. Baker came to your place, 107 Grand Street, when?
A. Eight and a half years ago, going on nine.
Q. And has he had a room there ever since?
- 30 A. Yes, sir.

By the Court:

- Q. Has he lived there ever since?
A. Yes, sir.

J. L. BAKER, being recalled in his own behalf, testified as follows:

Further direct examination by Mr. Autenrieth:

Q. When did you first go to Jersey City?

A. The latter part of February, 1905.

Q. Have you lived there ever since; you have lived in Jersey City and had your home in the state of New Jersey ever since?

10

A. Yes, sir.

PETITIONER RESTS.

20

30

Testimony taken in the above-entitled cause, at the State House, Trenton, New Jersey, on Tuesday, the twelfth day of September, 1916, at 2 o'clock P. M.

Before Hon. JOHN H. BACKES, Vice-Chancellor.

10

APPEARANCES:

ROE, RUNYON & AUTENREITH, ESQS., by MR. AUTENREITH, for the petitioner.

JAMES MERCER DAVIS, ESQ., for the defendant.

Mr. Davis: I desire at this time to amend the answer and cross-petition, insofar as they admit the residence of the petitioner, and to deny that the petitioner was at any time for two years prior to the filing of his petition, a resident of the state of New Jersey.

JOHN L. BAKER, being recalled in his own behalf, testified as follows:

Direct examination.

30 By Mr. Autenreith:

Q. Mr. Baker, you were sworn on the former hearing in this cause, were you not?

A. I was, sir.

Q. And do you recall testifying to the question of your residence?

A. I do, sir.

Q. Will you please state when you went to Jersey City from Washington?

A. I went to Jersey City from Washington in February, 1905.

Q. At that time you were living with Mrs. Baker?

A. I was, sir.

Q. And what did you have in Washington in regard to a home?

A. I had just engaged a house; I had my personal effects; they were in the freight warehouse; they had been moved there from Atlanta, and we were in process of establishing ourselves in Washington. 10

Q. What kind of a home?

A. It was a rooming house; we were just going to let out rooms when I went to Jersey City.

Q. Where were you located in Washington in 1905?

A. In 1905 at 25 Magnolia Avenue.

Q. What did you have there?

A. I took enough of my personal effects in case— so I would have enough to take care of me until I could get back to Washington where the principal part of them were. 20

Q. Did you have a room?

A. Yes, a rooming house; it was the home of a number of railroad men.

Q. How long did you continue at 34 Magnolia Avenue?

A. About two years.

Q. Then where did you go? 30

A. To 107 Grand Street.

Q. Jersey City?

A. Jersey City.

Q. When was it that your Washington home was given up by you and Mrs. Baker?

A. December, 1909.

Q. That was the last time you and Mrs. Baker lived together?

A. With the exception of these few trips.

Q. Did you ever express your purpose to Mrs. Baker as to why you located quarters in Jersey City?

Mr. Davis: That is objected to.

10 The Court: Objection overruled.

A. Well, of course, I explained to Mrs. Baker that the railroad company's headquarters was in Jersey City; they provide quarters for all their employees, of that department, when they are away from Jersey City.

Q. The dining car department?

A. The dining car department—

20 Mr. Davis: The objection is, that it is a self-serving declaration.

A. (Continued) and I had to have a home for myself in Jersey City; I had to do that. In Washington, Harrisburg, and all other points, the company provided a room for us.

Q. Did you state that to Mrs. Baker?

30 A. Yes, sir, after I had been there for a while; I didn't as soon as I got the employment,—I didn't go into it very strong, because I didn't know whether I would satisfy them or not; that was when I first tried to get her to give up our house in Washington and go to Jersey City.

Q. You had then, prior to 1909, when you gave up your Washington home, had conversations with Mrs. Baker about living in Jersey City?

Mr. Davis: Objected to.

The Court: Objection overruled.

A. Oh, many times.

Q. Now, you say, after about two years you moved to 107 Grand Street?

A. Yes, sir.

Q. That would be about what year and month, if you recall?

A. As near as I can recall the month, it was in the forepart of 1907, maybe about along April or May of 1907.

Q. Did you ever have any conversation with Mrs. Baker about moving to 107 Grand Street?

A. I only had a room there; it was a rooming house, and I made my home there, and there was never any discussion between her and myself about her making her home at 107 Grand Street, only temporarily until such time as we could get proper quarters for ourselves; a room wouldn't be sufficient for the two of us to live in.

Q. Who ran the 107 Grand Street house?

A. Miss Coleman.

Q. That was a rooming house?

A. Yes, sir.

Q. Do you know how many rooms were let out to lodgers?

A. Why, there were about seven rooms, I think, that she would let out at times, four rooms on the top floor, three rooms on the second floor. She did at times let out the back parlor.

Q. Prior to 1909, how frequently were you at your rooming house, 107 Grand Street, overnight?

A. During the nights I would lay over from my run, it would average from two to three nights a

week; sometimes I might get out of line of my run and keep away from Jersey City for two or three nights, but at all times in laying over in Jersey City, that was where I resided.

Q. Prior to 1909, what did you have at your room, 107 Grand Street, in the way of personal effects?

A. Only such as I might need for a week.

Q. Clothing?

A. Clothing, prior to 1909.

10 Q. What others did you have?

A. Prior to 1909, I had nothing.

Q. After you and Mrs. Baker had broken up the Washington home, did you bring any other articles to 107 Grand Street?

A. I did.

Q. What did you have there after that?

A. I brought all my personal effects, a trunk and whatever I could pack in it, and my handbag, and I had my trunk and clocks and things; my furniture
20 at the time was disposed of, some of it, and the other was stored.

Q. Where?

A. In Washington. Later on a piece of furniture I wanted I got it out of storage, a piece of furniture I desired for my own comfort, and I took that to Jersey City.

Q. What was that?

A. A large mahogany chiffonier or drawers.

30 Q. Did you, after 1909, have any of your clothing or personal effects anywhere else besides at your place on Grand Street?

A. Nowhere else, except the pieces left in Washington.

Q. Your employment changed in 1909 from dining car conductor?

A. Yes, steward.

Q. And that kept you on the road in the same manner?

A. Yes, sir.

Q. And from 1909 up to, we will say, May, 1913, what was your employment?

A. In November, 1914, I was made a service inspector in the same department.

Q. Were you stationed at any one spot?

A. No, sir, on the road about all the time.

Q. You say that as service inspector you also 10
traveled?

A. Yes, sir, and inspected cars in the station at New York, and reported to New York; the headquarters were in New York.

Q. How many nights a week were you in Jersey City from the period of 1909 to 1913?

A. Well, up until the time I was made service inspector; I would get in every run, possibly every second or third night. As service inspector, frequently I wouldn't get in until Saturday night from 20
Monday morning, but I would be on duty all hours, and wherever I would remain over, it would be as an official or inspector of the railroad company; I would go out Monday morning to the superintendent's office, and then go out on some train.

Q. In 1913, there was a change in your employment?

A. Yes, sir. Wait a minute—I think I was a little bit wrong; will you kindly make that November, 1912? 30

Q. That is, when you became service inspector?

A. Yes, sir.

Q. In 1913, you had another change?

A. In May, 1913, I was on duty at Washington, relieving the agent there in my capacity as a service inspector.

Q. How long had you been at Washington?

A. Three or four days; the agent was sick, and I was ordered there to do his duty, and I received orders to report to New York headquarters; I did so, and the superintendent advised me that the steward at Pittsburgh had died, "and I want you to go to Pittsburgh tonight"; he said, "I want you to go to Pittsburgh to relieve the situation." Mr. Ewing had died.

10 Q. What month was that?

A. May, 1913.

Q. What did you do?

A. Went to Pittsburgh and assumed charge of the restaurant at Pittsburgh.

Q. How much notice had you received of that shift?

Mr. Davis: That is objected to as immaterial.

20 The Court: Objection overruled.

A. About 24 hours; I got to New York in the morning—

The Court: You have answered the question.

Q. What was your employment out there?

A. As steward in the Pittsburgh restaurant.

Q. And your title was—

A. Steward.

30 Q. And you have been connected at that Pittsburgh end ever since?

A. I have, yes, sir.

Q. Up to the time that you received this Pittsburgh appointment, where had your home been?

Mr. Davis: Objected to.

The Court: Objection overruled.

A. Jersey City.

Q. Whereabouts?

A. At 107 Grand Street.

Q. Continuously since you first went there?

Mr. Davis: That is objected to as leading.

The Court: Objection overruled.

10

Q. Did you ever make a change?

A. Not after I went to 107 Grand Street.

Q. What did you do with respect to your residence at 107 Grand Street after you went to Pittsburgh?

A. I left part of my personal effects at 107 Grand Street, and continued my room there, and I understood that when I came back, I would go to 107 Grand Street, when I came back from Pittsburgh. 20

Q. What did you take with you?

A. My wearing apparel.

Q. Anything else?

A. Nothing else, sir.

Q. And what did you leave at 107 Grand Street?

A. This piece of furniture previously referred to, and a couple of handbags with some wearing apparel in them that I had no immediate use for.

Q. When you went to Pittsburgh, what arrangements did you make about having a place to live in there? 30

A. I called on a previous acquaintance of mine there, and told them I was in Pittsburgh—

Mr. Davis: That is objected to.

Q. What did you do?

A. I got a place to sleep at at nights with a friend of mine.

Q. Who?

A. Dr. Hughes.

Q. You had known him before?

A. Yes, years before.

Q. And you still have that arrangement with him?

A. Yes.

10 Q. Now, your employment at Pittsburgh is called steward?

A. Yes, sir.

Q. Will you please state whether or not you have ever been withdrawn from the Pittsburgh end since you have been there for other work?

A. I have, sir.

Q. On how many occasions?

A. I can't state definitely; in 1914, I received, I think it was in June or July, I am not sure of the
20 month,—I received orders to report to New York.

Q. How long were you away from Pittsburgh?

A. I think about a week or ten days the first time.

Q. Was this special work?

A. Duties entirely foreign with the Pittsburgh restaurant, in connection with the installation of dining cars.

Q. And after you had completed that work, what happened to you?

A. I returned to Pittsburgh.

30 Q. At whose direction?

A. Mr. H. H. Baker's direction, the superintendent.

Q. Have you been on any other occasions?

A. After that, I was withdrawn up to the Northern Central Railroad, and was gone possibly three or four days at that time; and in October I was

withdrawn to supervise some service of improvised dining cars.

Q. How long, at that time?

A. It takes me away for two days and sometimes three; sometimes a side inspection will take another day.

Q. Do your duties keep you at the restaurant all the time at Pittsburgh?

A. Well, I am in Pittsburgh, and part of my duty is the supervision of dining cars in and out of Pittsburgh. 10

Q. Does your work take you out of Pittsburgh?

A. It does at times.

By the Court:

Q. As steward of the Pittsburgh restaurant, are you required to go to other places?

A. I am frequently required to go to Altoona, Buffalo or Harrisburg, in connection with my additional duties as steward. 20

By Mr. Autenreith:

Q. You have other duties?

A. Yes, sir, in connection with the dining cars.

Q. Can you tell me under what division of the railroad it is that this restaurant operates?

A. As part of the restaurant department in the New York division. 30

Q. Where are the headquarters?

A. In New York City.

Q. And in your line of work at Pittsburgh, in your line of duties at Pittsburgh, is it necessary for you to make trips to New York City?

A. It is, sir.

Q. And since you have been there, how frequently have you gone to New York City in your business?

A. At least once, and frequently two and three times a month.

Q. For what purpose?

A. To report to my superior, or on returning there, to spend my Sundays in Jersey City or vicinity.

10 Q. And that, I understand, averages from one to three times a month?

A. From one to three times a month.

Q. Since you have been stationed at Pittsburgh, have you been to Jersey City on matters other than business?

A. Oh, yes.

Q. And what was your purpose in going back to Jersey City?

20 A. To return back there to visit my friends, and to go to Miss Coleman's house there, and if I have a Sunday off, I can leave there on Saturday night and spend Sunday in Jersey City visiting friends, and leave Sunday night, and I didn't miss any of my duties connected with the railroad there.

Q. How frequently did you do this since May, 1913?

30 A. I would do that on an average of about once a month, as I would spend a Sunday in the east, or I would go to Washington, maybe, and spend a Sunday there; then come up and spend Monday in Jersey City.

Q. And since you have been at Pittsburgh, have you received any mail that has been forwarded to Jersey City?

A. Yes, sir.

Q. How frequently?

A. Well, I haven't a very extensive personal correspondence, but I have had quite a number of letters of different character that have been forwarded on to my address at 107 Grand Street.

Q. And on any of these trips into Jersey City, what did you do with respect to mail and things of that kind?

A. I would call for my mail there; I would go there and leave my bag and wash up after getting off the train, and inquire for my mail and go out, and then call there in the evening before I left and get my bag to go back to Pittsburgh. 10

Q. You did your traveling at night?

A. Principally.

Q. That is, to and from Pittsburgh?

A. To and from Pittsburgh at night.

Q. What have you to say with regards to your custom of stopping at Jersey City when you had to go into New York on your business duties?

A. I very seldom ever missed calling at 107 Grand Street. 20

Q. And at the time you were an inspector, before you were stationed at Pittsburgh, did you have any banking accounts or anything of that kind in Jersey City?

A. I did; I had an account with the Title Guarantee and Trust.

Q. Did you have a safe deposit box anywhere in Jersey City?

A. Yes. 30

Q. Where?

A. At the Five Corners, I think; I think it's the Jersey City Trust; it's the Commercial Trust now, I think.

Q. Have you ever moved those bank accounts?

A. No.

Q. They are still there today?

A. They are still there today.

Q. Now, Mr. Baker, did you ever vote in Jersey City?

A. No, sir.

Q. Did you ever vote anywhere?

A. I did not.

Q. You lived the greater part of your time in Washington?

10 A. Yes, sir, where you are disfranchised.

Q. Did you ever register for voting there?

A. No, sir.

Q. Did you make an attempt to?

A. Well, I wanted to several times, but it just happened I wasn't in there on registration times.

Mr. Davis: I move to strike that out as incompetent, irrelevant and immaterial.

20 The Court: Motion denied.

Q. During the time you were in Pittsburgh, and up until the time Miss Coleman sold the house at 107 Grand Street, what did you do with respect to keeping this residence at 107 Grand Street? Do you know when Miss Coleman sold the house?

A. I think it was along in April of this year, sometime in April; I am not sure of the date.

Q. Shortly after the trial of the case?

30 A. Yes, sir, in March.

Q. After you were stationed at Pittsburgh, what did you do with respect to keeping your residence at 107 Grand Street?

A. I said to Miss Coleman—

Mr. Davis: That is objected to.

Q. What did you do?

A. I continued the room I had there and left my personal effects there, except those I needed for my immediate use from day to day.

Q. Wearing apparel?

A. Wearing apparel.

Q. What did you do with respect to the paying for this room?

A. I would pay Miss Coleman, whenever I come in; I would ask her how much money I owed her, and I would pay her a sum of money. 10

Q. At regular intervals?

A. Rather irregular.

Q. What was that due to?

A. That she was not insistent upon my paying a regular rate for it, and I would only pay her what she would accept as compensation for the room, on account of my not occupying it any more than I did.

Q. Were your trips into Jersey City regular or irregular as far as periods of time were concerned? 20

A. Irregular; sometimes every two weeks or three weeks, or a month, and sometimes not that long.

Q. How long did you continue to pay her?

A. Up until she vacated the house.

Q. Were you able to get in and out of this room at any time?

A. I had the key of the house the same as I always had.

Q. You still retained the key of the house?

A. I did, sir. 30

Q. Did you have any conversation with Mrs. Baker in 1909 about the time you gave up the home in Washington, as to where you were going to make your home?

A. I did.

Q. What did you tell her?

Mr. Davis: That is objected to as a self-serving declaration.

The Court: Objection overruled.

A. It was only our general conversation and my desire to get her to come to New Jersey.

Q. What did you tell her with respect to where you were going to live?

10 A. Well, I told her—the one instance I can recall now,—that I had looked around and secured a suitable apartment, what I considered a suitable apartment, for us.

Q. The time you broke up your home?

A. That was the time. I told her the first opportunity I could, that I had secured a suitable apartment in Newark and had paid a deposit on it. I did that in the hope that we might be able to bring about a reconciliation.

20 Q. Did you have any conversation with her shortly after you separated, as to where your home was?

A. I had several conversations.

Q. What did you tell her?

A. Well, now, I can't recall exactly what I would tell her, only that I felt the need of her to assist me in keeping a home in Jersey City.

Q. What did you tell her with respect to where you were living?

30 A. If I told her, I could only tell her I was living at 107 Grand Street, Jersey City.

Q. Did you receive mail from her at that address?

A. I did.

Q. Frequently or not?

A. At times; sometimes I would not hear from her at a long time.

Cross-examination.

By Mr. Davis:

Q. Mr. Baker, where was this apartment that you paid the deposit for?

A. As to the place, I think the receipt, which is part of the records of the Court, gives the—

Q. It was not 107 Grand Street?

A. No.

10

Q. And you never occupied the apartment?

A. No, sir.

Q. How long were they kept, subject to your deposit?

A. On my return from Washington—I paid the deposit like today and went to Washington that night, and when I found out how she stood on the matter, immediately on my return to Jersey City, I endeavored to regain the deposit.

Q. Upon your return, which was within one or two days after you deposited the money, you gave up these apartments? 20

A. Yes, sir.

Q. And, as a matter of fact, you never occupied them?

A. No.

Q. And the only places you occupied in Jersey City have been 34½ Magnolia Avenue and 107 Grand Street; that is correct, is it not?

A. Yes, sir.

30

Q. This 34½ Magnolia Avenue, was that a home kept by Miss Coleman?

A. No, sir.

Q. That was kept by other parties?

A. Yes, sir.

Q. During the time you had a room at 34½ Mag-

nolia Avenue, you were living with your wife in Washington?

A. Yes, sir.

Q. And maintaining a home there?

A. Yes.

Q. Do you remember when that was that you surrendered your room at 34½ Magnolia Avenue?

A. Not the exact date, but sometime in 1907.

10 Q. At that time you were still living with your wife in Washington?

A. Yes, sir.

Q. Where was that home in Washington?

A. 905 Thirteenth Street.

Q. Is that the rooming apartment?

A. Yes, sir.

Q. You owned the furniture there?

A. Yes sir.

Q. And who made the home in Washington; was your son with you?

20 A. During that time, no, sir.

Q. You have only one child?

A. Yes, sir.

Q. He had gotten large enough to go out for himself?

A. No, sir, he was at school, I think.

Q. During vacation, didn't he make his home with you there?

A. No, sir.

Q. He wasn't living at home at all?

30 A. He came to my home at Magnolia Avenue, Jersey City, when he returned from school.

Q. For how long?

A. I made arrangements for meals for him and I shared my room; I can't say definitely how long he stayed there.

Q. Your home was in Washington?

A. This rooming house was in Washington.

Q. You paid the rent and the household expenses?

A. Yes, sir.

Q. And maintained the home?

A. Yes.

Q. Now, that was in 1907?

A. I think it was; I think I made the change in 1907.

Q. Then you went to 107 Grand Street, Jersey City?

A. Yes, sir.

10

Q. With Miss Coleman?

A. Yes.

Q. Had you known her before you went to this place?

A. Yes.

Q. You just went out to look for a place?

A. A friend of mine was in the house, and he referred me there.

Q. When you went there you were still living with your wife?

20

A. Yes, sir.

Q. And maintaining this same home in Washington?

A. Yes.

Q. You conducted this home in Washington until 1909?

A. Yes.

Q. In 1909 you and your wife broke up that house in Washington?

A. Yes.

30

Q. And you put the furniture in storage?

A. Some of it, yes.

Q. The part you didn't dispose of except this chest of drawers you took with you?

A. We stored some and sold some, and then afterwards sent some off to Mrs. Baker.

Q. And you took a chest of drawers with you to Jersey City?

A. Yes, I stored it for a while.

Q. Your wife was still in Washington at that time?

A. Yes, sir.

Q. In 1907 you were spending more time in Jersey City than you were in 1909, were you not?

A. Well, no, not any more, sir.

10 Q. Well, were your duties the same in 1909 as they were in 1907?

A. They were, sir.

Q. And you were employed in the same sort of work?

A. Yes, sir.

Q. And were your visits, both from the point of view of frequency and duration, about the same in 1909, as in 1907?

A. That depends upon the run.

20 Q. Speaking generally?

A. Speaking generally, the duties are about the same.

Q. You continued in that business of a conductor and steward until November 1, 1912?

A. Yes, sir.

Q. Now, therefore, from 1905 to 1912, the frequency and duration of your visits, generally speaking, to Jersey City, were about the same?

A. About the same, sir.

30 Q. Now, in 1912, November 1st, you were made service inspector, were you not?

A. Yes.

Q. And you traveled all around wherever your business carried you?

A. Yes, sir.

Q. How far west did you go?

A. To Pittsburgh or Buffalo.

Q. And anywhere on the lines of the Pennsylvania Railroad east of Pittsburgh?

A. Yes, sir.

Q. When you were out, where did you sleep?

A. At the hotel or lodging house furnished by the railroad company.

Q. And when you came to Jersey City you went to the room, 107 Grand Street?

A. Yes, sir.

Q. Who occupied that room with you? 10

A. There was different ones, a Mr. Harris at one time, and a Mr. Blaylock at other times; and then at times I had the room all to myself.

Q. In 1907, did someone share the room with you?

A. No, I had it myself.

Q. Did you have someone in 1909?

A. Part of the time.

Q. When you say you had someone to occupy the same room with you, did he occupy the same bed with you? 20

A. Part of the time—I occupied two separate rooms, one was a small room, smaller than the other but in the large room there was a shake-down bed there, and Mr. Blaylock used to sleep on that.

Q. While you were absent?

A. No; when I was in there he would usually sleep on this folding bed.

Q. And when you were not there, he slept in the regular bed?

A. I suppose he did. 30

Q. That was your information, was it not?

A. Yes, sir.

Q. And that continued for how long?

A. Well, I can't say definitely, I never kept any track of it.

Q. Approximately?

A. I couldn't give any idea, because they were coming and going. This young man went out west and come back again, and that probably went on for some time; and this young man Harris got married afterwards, and he wasn't there?

Q. How much did you pay for this room?

A. I paid \$6.00 for one room.

Q. For how long?

A. For a month; and I think \$9.00 for the other.

10 Q. Were the payments made regularly?

A. Well, approximately, yes; I would leave the money there for Miss Coleman.

Q. What did you mean awhile ago in answer to your counsel's question that you paid her different sums that she thought was due to her?

A. That was after I assumed my duties in Pittsburgh.

Q. How much did you pay her then?

20 A. Nothing regularly; I would give her five or ten dollars, as the case might be, when I would come in.

Q. When did you first conceive the idea of a divorce?

A. I won't be sure about that; it was in 1914.

Q. Didn't you consult counsel in Washington shortly after the trouble you had with you wife there in the separation, with respect to a divorce?

A. No, sir.

30 Q. Didn't you talk over with counsel at that time?

A. Positively not, sir.

Q. You had no idea about divorce until when?

A. 1914, or the latter part of 1913.

Q. Can you tell us how much you paid Miss Coleman for that room since May 8, 1913?

A. I can't, Mr. Davis, give you the definite

amount. I would go in, and Miss Coleman—you know I wouldn't be there for a week or two, maybe, at a time and she would use the room and get compensation for it, and I would give her five or ten dollars; I would say, "Now, Miss Coleman, how much more do I owe you?" and she would say, "Now, Mr. Baker, I let the room out"——

Q. You have answered it. She would rent out the room, then, in your absence?

A. During the nights that I was supposed to be 10
away from there.

Q. If you were away for a week and she knew it, she would rent the room in the meantime?

A. With this understanding, that I would have the use of another room in the house.

Q. As a matter of fact, the room you usually had, was at times rented by Miss Coleman to other persons than yourself?

A. So I understood.

Q. That was the understanding you had, and that 20
was the reason you didn't pay the stated rental?

A. Yes, sir.

Q. Mr. Baker, what insurance do you have?

A. Life insurance?

Q. Yes.

A. Two policies with the State Mutual Life.

Q. And did you pay for them by check?

A. Yes.

Q. Did you give changes of address from time to
time to the insurance company? 30

A. I think I did.

Q. And your friend's address with the insurance company is at Pittsburgh?

A. The Pennsylvania Railroad Station, Pitts-
burgh.

Q. What bonding company bonded you with the
Pennsylvania Railroad before January 1, 1915?

A. The American Surety Company.

Q. With their offices in New York, 100 Broadway?

A. I couldn't tell you.

Q. Did you transact the business with the New York office?

A. I transacted the business through my superintendent.

Q. That is, the superintendent in New York?

A. Yes.

10 Q. Now, in January, 1915, you shifted your insurance to the Guarantee Company of North America, did you not?

A. The bonding company, yes, sir; the railroad company did that.

Q. The bonding company that bonded your fidelity to the Pennsylvania Railroad Company; that was in November, 1915, the early part, that it was changed to the Guarantee Company of North America?

20 A. Yes sir.

Q. And didn't you state it was 421 North St. Claire Street, Pittsburgh, Pennsylvania?

A. Yes, sir.

Q. That was the residence you gave?

A. That is the residence in Pittsburgh I gave during my nights that I spent—

Q. You didn't put all that in the application, did you?

A. No, sir; that was my residence in Pittsburgh.

30 Q. That was the residence that you also gave to the American Surety Company in your application to them for a bond?

A. Well, now, originally I gave to the American Surety Company where they could find me overnight; I am not sure whether I gave it at 905 Thirteenth Street, Washington, or 34½ Magnolia Avenue; I might have given them either one of them.

Q. Didn't you just answer my question that you gave them the address to the Guarantee Company—didn't you say in the application to the American Surety Company you gave your residence as St. Claire Street, Pittsburgh?

A. I understood you to ask me for the one—

Q. As a matter of fact, didn't you in your application to the American Surety Company for a bond, prior to the bond which you gave to the Guarantee Company of North America, state in your application that your residence was in Pittsburgh, prior to the application which you made to— 10

A. I made an application in 1905, to the American Surety Company.

Q. Did you make any other application?

A. There was a transfer of the bond to the position of service inspector, and again as restaurant steward.

Q. What address did you give in those changes?

A. Well, I couldn't be sure about that, Mr. Davis. 20

Q. Now, after you became a service inspector, your visits to Jersey City were less frequent than they had been before that time?

A. At times they were.

Q. You made no change with reference to your residence in Jersey City after your wife and you separated, than what it had been prior to that time?

A. I took a larger room.

Q. And you spent less time—

A. Well, not any less time after 1909. 30

Q. Well, you did in 1912?

A. In 1912, my duties as service inspector—

Q. You can answer my question. Do you remember having a conversation with your wife when she had lost, or was about to lose, her position in Washington, and when she appealed to you to use

your influence to secure her position with the congressman of New Jersey?

A. I don't recollect any such request from her.

Q. Do you remember when she had a position in the pension office in 1913?

A. Yes, sir.

Q. Do you remember a conversation she had with you with reference to using your influence with the congressman from New Jersey to make her position
10 secure?

A. I haven't the least recollection of her ever approaching me on that subject.

Q. Do you say she did or didn't?

A. I have no recollection of her doing so, and in my own mind I would say she did not.

Q. Do you remember her asking you to use your influence with the congressman of Jersey City, or New Jersey, in order that her position might be made secure, and you told her at that time that you
20 had no influence with the congressman of New Jersey by reason of the fact that you didn't vote here and had no residence here and didn't claim any?

A. I have no recollection of being approached by her on such a subject.

Q. What acquaintances did you have in the neighborhood of 107 Grand Street?

A. Very few; I can't say I had any outside of the house. Dr. Nelson lived next door; I had a speaking acquaintance with him; I don't know that he knew
30 my name.

Q. So you knew no one in the neighborhood?

A. I had no social acquaintances there.

Q. Did you have anyone that knew you, or that you knew?

A. At the barber shop and the haberdasher; I would get in after dark and leave in the morning.

Q. I am asking you a perfectly clear question, I think. What acquaintances did you have in the neighborhood of 107 Grand Street?

A. None at all.

Q. You knew no one, and no one knew you as a resident there?

A. No.

Mr. Davis: Will the lady stand up? (Referring to a lady in the rear of the room.)

10

Q. Do you know that lady standing there?

A. I know her now.

Q. Did you know her?

A. Not personally, no.

Q. Did you know Miss Herman? (Standing in the rear of the room.)

A. No.

Q. Did you know she lived next door to 107 Grand Street, and has lived there twelve years?

20

A. No, sir.

Q. Did you know this other lady lived on the other side?

A. I have seen Mrs. Degheri there many times; I stopped at her house two weeks.

Q. Who else lived next door?

A. Dr. Nelson.

Q. But he had got a sign out?

A. Yes, sir.

Q. Who else?

30

A. Nobody.

Q. Who lives on the other side?

A. There's an old church there.

Q. Do you know the pastor of the church?

A. No.

Q. Who lives next door beyond the church?

A. I don't know.

Q. Do you know anybody else?

A. Mrs. Degheri is the only one by name I knew. I roomed there two or three weeks in 1901 or 1902.

Q. You never went to her house during all this time?

A. No, sir. What acquaintances I had in Jersey City were in other sections of the city.

Q. When did Miss Coleman sell this house?

A. About—

10 Q. Don't you know?

A. No.

Q. Don't you know, as a matter of fact, that the house had been sold at the time of the final hearing?

A. No, sir; I knew she had been negotiating.

Q. Don't you know, as a matter of fact, that she wasn't living there at the time of the hearing here?

A. Why, I know—no, I don't know that.

By the Court:

20

Q. Whom did you go to visit?

A. Railroad men who lived in another section of the city. You get in at nine o'clock at night and leave the next morning.

Q. After May, 1913, after you took up your residence at Pittsburgh, whom did you visit at Jersey City?

A. Miss Coleman and my friends in Newark.

30 Q. Whom did you visit in Jersey City; did you visit there?

A. No; I had no particular friends.

Q. Why did you visit Miss Coleman?

A. I would go there to look for mail.

Q. But your mail was all sent to Pittsburgh after 1913, wasn't it?

A. Not all of it, no, sir; even to this day I will

get a letter forwarded to Jersey City; some have not changed the address. I would send them a check from Pittsburgh, for instance, to the insurance company.

Q. Are you a member of any orders?

A. Yes.

Q. What?

A. The masonic fraternities.

Q. What others?

A. That's all; the different ones, the shrine. 10

Q. Where is your lodge?

A. In Washington; I joined that in '94 or '95.

Q. And you never removed?

A. Never removed from it, sir.

By Mr. Davis:

Q. Whom did you visit there in Jersey City after May, 1913?

A. No one except Miss Coleman. 20

Q. Nobody but her?

A. No.

Q. Then what did you mean awhile ago when you said you would go in and leave your bag and go out and spend the day, or some time, and come back and get it?

A. I had friends in Newark and friends in New York.

Q. You visited nobody in Jersey City?

A. No, sir. 30

Q. And you were doing that in order that you might maintain a residence in New Jersey?

A. No, sir; I did that before I had any idea—

Q. Before 1913, and afterwards you did it for that purpose?

A. No, I had no purpose in doing that; it was a natural consequence.

Q. Was it a natural consequence when you were spending your time, 27 to 30 days out of the month, in Pittsburgh?

A. My Sundays I would have off I would spend in the east.

Q. You didn't have your room in order that you might spend your time in your room?

A. I wanted to have some place I could call my home in the east.

10 Q. Why?

A. To leave my baggage and clean up, and I didn't keep anything there——

Q. You kept nothing there except this chest of drawers?

A. And underclothes, practically discarded clothes I left there.

Q. Who corresponded with you; who sent your letters to 107 Grand Street?

20 A. The shrine I belong to is in Atlanta, Georgia; they sent their mail there, and I think the commandery also had that address; then there were personal letters; I can't recall what they were,—and some circulars, and some had my address from former times.

Q. Those were people that had you on their circulation list?

A. Yes, sir.

Q. They were people that you were not corresponding with?

30 A. Yes, sir, circulars. I was just trying to refresh my mind who it was from, because I know I have received mail from persons who did know.

Q. They were people you were not corresponding with, those people who sent your mail to 107 Grand Street, were people with whom you were not corresponding, but who were sending letters to you?

A. Well, my notices from my lodges—I would send them a check, and they would send a receipt to 107 Grand Street.

By the Court:

Q. You would send a check on what bank?

A. In Pittsburgh.

Q. When you went, after May of 1913, from Pittsburgh, did you ever register at any hotel? 10

A. Yes.

Q. Where?

A. I registered at the York Hotel in New York.

Q. Where did you register from?

A. Jersey City.

Q. When did you register at the York?

A. Well, I may be wrong about that, since I went to Pittsburgh; maybe I haven't, but when I was at Jersey City I would register from there. I can't recall that I have been to any hotel since being at Pittsburgh. 20

Q. Why, in the month of June you went to Buffalo, didn't you, for three days, and in the month of October you went for two days, didn't you?

A. Yes, sir.

Q. Where did you go to?

A. I was at Kane, Pennsylvania, and stayed there overnight.

Q. Where did you stay?

A. At the Hotel Thompson. 30

Q. Did you register?

A. From Jersey City, I think; I wouldn't be positive.

Q. Where else did you register,—Buffalo?

A. Yes, but I didn't register there; we have quarters in Buffalo and at Harrisburg.

Q. Don't you have to register at those places?

A. No, sir.

Q. Where else did you go after May, 1913, that you had to register?

A. I don't know that I stopped in Washington; I guess I have. I wouldn't be sure where I registered from in Washington.

Q. Where did you stop in Washington?

A. At the Continental Hotel, Washington; I may
10 have registered from Pittsburgh, or maybe from Jersey City.

Re-direct examination by Mr. Autenreith:

Q. This bank account that you have in Jersey City, what kind of an account is that?

A. A savings account.

Q. Have you made deposits in it since you have been in Pittsburgh?

20 A. Yes, sir.

Q. What kind of an account is it in Pittsburgh?

A. A check account.

Q. What kind, large or small?

A. Well, it's not a large amount, it's a check account.

Q. During the period you were running on the dining car, did your runs bring you into Jersey City at any time during the day?

A. After the first few months, they did not, except
30 between trains where I was on duty I wasn't allowed to leave the car.

Re-cross examination.

By Mr. Davis:

Q. Mr. Baker, did you lose any time, or have you lost any time since you have been employed with the Pittsburgh restaurant?

A. No, sir.

Q. You have had vacation?

A. Yes, sir.

Q. That vacation was spent in South America, was it not?

A. Where?

Q. South America?

A. No, sir; I spent it in Asbury Park.

Q. Whereabouts?

A. At—what do they call the house—at Ocean Grove, not Asbury Park.

By the Court:

20

Q. A hotel?

A. No, a rooming house.

By Mr. Davis:

Q. What is the name?

A. The Gilford.

Q. What time did you go there?

A. I went there in July of this year.

Q. July 2nd?

A. No, sir; July 16, I guess.

Q. 1916?

A. 1916.

Q. In 1915, where did you spend your vacation?

A. In 1915, I was down to Willoughby Beach.

30

Q. That is off the coast of Maryland, isn't it?

A. Yes, sir, off Old Point.

Q. Aside from your vacations, you have been continuously employed in Pittsburgh?

A. No, sir.

Q. With the exception of these two or three times which you were sent out?

A. Yes.

10 Q. You have not had any settled place of employment except Pittsburgh during that time?

A. Well, as steward of the restaurant there, my employment is other than with the restaurant.

Q. When you were sent out to Buffalo and Kane, you still continued to act as superintendent of the restaurant?

A. They got a substitute in my place.

Q. You were still there?

A. Yes, sir, a steward is required——

20 By the Court:

Q. Where did you stay at Willoughby Beach?

A. At the Willoughby Hotel.

Q. Did you register there?

A. Yes, sir.

Q. Where from?

A. As I said before, there are times I would register from Pittsburgh and times I would register from Jersey City.

30 Q. After May, 1913, didn't you register from Pittsburgh altogether?

A. No, sir, I don't know that I paid very much attention to it when I was registering; sometimes I would put down Pittsburgh and sometimes Jersey; sometimes I would put down Pittsburgh in view of the fact of my business being principally in Pittsburgh.

Re-direct examination by Mr. Autenreith:

Q. Where do you receive your mail in Pittsburgh?

A. At the station.

Q. Did you receive your mail at your room?

A. No, sir. If I should make a purchase, I would have it delivered to the house.

Q. Your mail?

A. At the station.

10

Re-cross examination.

By Mr. Davis:

Q. Do you know another John Baker in Pittsburgh that is a steward?

A. No, sir.

Q. Have you ever looked through the directory as to whether or not your name appears?

A. I never have, no, sir.

20

H. H. BAKER, a witness produced on behalf of the petitioner, being duly sworn, testified as follows:

Direct examination.

By Mr. Autenreith:

30

Q. What is your position with the Pennsylvania Railroad Company?

A. Superintendent of restaurant service.

Q. You are Mr. John L. Baker's superior?

A. Yes, sir.

Q. You are not related to him?

A. No, in no way at all, no, sir.

Q. Was it pursuant to your order that Mr. John L. was sent to Pittsburgh?

A. Yes, sir.

Q. Will you please state the character of the employment at Pittsburgh?

A. Steward of the restaurant and looking after dining cars, to the extent of our western representative being so far from the New York office, with authority to hire and discharge men, etc., and subject to telegraph or telephone orders from New York.

Q. Your office is at New York?

A. The Pennsylvania station.

Q. Is Mr. John L. Baker's office under your control?

A. Yes, sir, all restaurants and cars.

Q. You have known Mr. Baker, I suppose, ever since he has been in the service?

A. Ever since he has been in the service, yes, sir.

Q. What have you to say with regard to the permanency of the position Mr. Baker now holds?

Mr. Davis: That is objected as incompetent, irrelevant and immaterial.

The Court: Objection overruled.

30 A. His position isn't permanent any more than any steward of any restaurant; he is subject to change from one point to another, and assigned to other duties upon an hour's notice, if I have occasion to change him.

By the Court:

Q. He is restaurant manager at Pittsburgh?

A. Yes; but we use him in many other capacities.

By Mr. Autenreith:

Q. He runs dining cars out of Pittsburgh?

A. Yes, sir.

Q. How frequently does that take him out of Pitts- 10
burgh?

A. Well, I have recollection of having occasions to call him to New York on an average of once a month, and not him alone, but all stewards. He might be sent out once a month or every week; he comes to New York if I send for him.

Q. Do you recall this one occasion when Mr. Baker took the week or ten days' run?

A. Yes, sir.

Q. When was that? 20

A. It must have been about 1914, as we opened a new line up there in September, 1914, I think.

Q. I show you, a card, Mr. Baker, with the name "John L. Baker" at the top, and ask you just what that card is?

A. That is a record from the time he enters the service, and is kept up so long as he continued, with a record of any changes in position, title or salary.

Q. You have another card?

A. Yes, sir. 30

Q. And where is that kept?

A. In my office.

Q. In New York?

A. Yes, sir.

Q. And the employments are noted on that card?

A. Yes, sir.

Q. And the station where employed is also noted on that card?

A. Yes, sir, if it's a restaurant position; if it was a car, it wouldn't be noted here.

Q. You have Jersey City under the head of "Location or Division"?

A. Yes, sir.

Q. And after the employment of conductor and steward?

10 A. Yes, sir.

Q. What does that Jersey City location mean?

A. It means the location at that time of the general head office, the division,—my predecessor's office at that time.

Q. And after the railroad was built in New York you moved to New York?

A. Yes, sir.

Q. What is the custom of the railroad company in providing accommodations for employees in the restaurant service or dining car?

20

A. We furnish accommodations for all employees operating from New York; they are supposed to live in Jersey City, and they are supposed to furnish them themselves in New York.

By the Court:

Q. They can sleep aboard the dining cars, can they not?

30 A. No, sir, positively not.

By Mr. Autenreith:

Q. You have the original of that card?

A. Yes, sir.

Mr. Autenreith: I offer it in evidence.

(Said card, being a copy of the original, is marked "Exhibit PA.")

Q. You live in Jersey City?

A. Yes, sir.

Q. How long have you lived there?

A. Accumulative, about 20 years.

Q. As I understand, you knew Mr. Baker ever since he has been in the service? 10

A. Yes, sir.

Q. Where did you always know his home to be?

A. Jersey city is the only record I have of his residence, 107 Grand Street.

Q. Well, outside of that record?

A. Jersey City; if he came in the evening and I wanted him the next day, I would find him at 107 Grand Street.

20

By the Court:

Q. After he became restaurant manager?

A. Yes, sir.

Q. Is Jersey City his place of call?

A. No, sir.

Q. When he is in New York, or responding to your request to be in New York, and is there for a day or two or three days, is his place of call Jersey City? 30

A. Yes, sir, 107 Grand Street. That's the only address that we have.

Q. That is the address that the railroad company would have, the same as in the case of other men?

A. Yes, sir, that is the address that we have.

By Mr. Autenreith:

Q. You know when you don't send for him he is at the Pennsylvania station?

A. We suppose so; we hope so, anyway.

Q. That he is on the job?

A. Yes, sir.

Cross-examination.

10

By Mr. Davis:

Q. Mr. Baker, you have not had any occasion or necessity to send for Mr. Baker at 107 Grand Avenue since he has been in the Pittsburgh restaurant, have you?

A. Not to my recollection, but it is possible; the office force might have to send for him and I wouldn't know it.

20

Q. So that, so far as you know, the address 107 Grand Street, is purely what might be called a left-over from his former employment?

Mr. Autenreith: That is objected to.

The Court: Objection overruled.

A. No, sir, not at all; I don't consider it any left-over.

30

Q. Well, you have had no occasion to use it since you have been there?

A. It hasn't been changed.

Q. Nor has it been in anywise confirmed since he has been over there?

A. I don't know just what confirmation you want; it is his address.

Q. I am trying to find out why you said that 107 Grand Avenue is his address now, when you know he is located in Pittsburgh and spends his time there?

A. I know he is located at the station in Pittsburgh; I don't know of any address where he rooms.

Q. You do know he is employed at Pittsburgh, and is supposed to spend his time there, with the exception of such times as you send him out under your direction?

10

A. No; he has occasion to go out without my sending him; he has to act on his own——

Q. Well, that is, nevertheless, under your direction; he has your permission to go?

A. Yes.

Q. So far as his time is concerned, it is spent in the Pittsburgh restaurant, unless some particular occasion arises to send him away?

A. Yes, sir.

Q. And when you send for him, you send for him at the Pittsburgh restaurant?

20

A. Yes, sir.

Q. Because you know you will reach him there?

A. Yes.

By the Court:

Q. But when he comes to New York for a stay, under your direction, as it appears he did in June, 1914, for a period of ten days, where do you then reach him?

30

A. 107 Grand Street, which is the only address I have.

By Mr. Davis:

Q. Have you sent for him at 107 Grand Street within the last year?

A. Not that I know of.

Q. What is his address now?

A. 107 Grand Street for all I know.

Q. Although the house has been sold and he don't have any room there?

10 A. I don't know anything about that.

Q. He has not notified you, that in April, 1916, he had changed his address?

A. No, sir.

JOHN L. BAKER, being recalled for further cross-examination, testified as follows:

20 Re-cross examination.

By Mr. Davis:

Q. What is your address now?

A. My Pittsburgh residence is Pennsylvania station, Pittsburgh, Pennsylvania.

Q. Where is your residence?

A. My residence,—I sleep while at Pittsburgh at 421 North St. Claire.

30 Q. Where is your residence?

A. My residence, since Miss Coleman has sold her house—

Q. Where is your residence now?

A. Miss Coleman, when she sold her house, notified me that she was at 222 Washington Street; she had taken an apartment and has purchased another

house, and she told me that they had room enough in the apartments, if I cared to make my home there, but what effects I had at 107 Grand Street the storage man had crated and sent them to Pittsburgh, and they are there today, uncrated.

Q. Have you visited Miss Coleman since the hearing here before?

A. Yes, sir.

Q. At the new number?

A. Yes, sir.

10

Q. When was that?

A. In July.

Q. How long did you stay?

A. A half or three-quarters of an hour.

Q. You didn't stay overnight?

A. No.

Q. Where did you stay overnight?

A. With friends in Newark.

Q. Where?

A. The name is Seymour.

20

Q. Have you been looking around for another home?

A. Not when Miss Coleman told me she would have a room in her new house.

MARGARET A. COLEMAN, being duly sworn in behalf of the petitioner, testified as follows:

30

Direct examination.

By Mr. Autenreith:

Q. You were sworn at the hearing of this case before?

A. Yes, sir.

Q. And you recall testifying regarding the residence of Mr. Baker?

A. Yes, sir.

Q. Where did you live in Jersey City at the time of the last hearing?

A. 107 Grand Street.

Q. And for how long had you lived there?

A. For 18 years.

Q. And did you rent out room to boarders?

10 A. Yes, sir.

Q. For how long a period had you done that?

A. Well, I guess from about—I guess about 17 years we rented out the rooms.

Q. Do you know when Mr. John L. Baker first came to the house?

A. I don't recall the dates.

Q. About what year?

A. Well, I don't—well, from hearing, of course, 1907, but I don't recall the dates at all.

20 Q. About how many years has he been there?

A. About eight or nine years altogether.

Q. When did you sell your house?

A. In April.

Q. What year?

A. 1915.

Q. Did you sell it on short notice or long?

A. Very short notice, about three days' notice.

Q. How soon after you made your contract, did you vacate?

30 A. We made the contract on Tuesday morning and vacated on Friday night.

Q. Was that before or after the trial of this case?

A. That was after.

Q. Mr. Baker, you say, came to you sometime in 1907?

A. Yes, sir, I think so, as far as I can recollect.

Q. You knew his business, of course, at that time?

A. Yes, sir.

Q. What time of the day would he arrive at the house and leave during the period of 1907 and 1909?

A. In the evenings you could always depend upon Mr. Baker coming in between nine and ten every other night; one night he would be in Jersey City and the other night in Washington; that's the way I looked for him.

Q. Take around 1911 or 1912.

10

A. One night it was up in Jersey City and the next night Harrisburg, and then Washington, and then the next night our house again.

Q. And about how many nights a week would you say he spent at the house?

A. Maybe two nights, one week and maybe three nights the next week.

Q. Do you recall whether he spent time during the daytime at the house?

A. Up until that time he went out around 11 o'clock or half-past eleven. 20

Q. In the morning?

A. Yes, sir.

Q. How much did he pay for the rooms or room prior to 1913?

A. Well, Mr. Baker, when he first took it, was in the small room, and I don't know whether it was six or eight dollars a month I charged him.

Q. He didn't eat his meals at your house?

A. No.

30

Q. Just the room?

A. Just the room.

Q. Did he pay more later on for a larger room?

A. He shared a larger room with a young man, Mr. Blaylock, and Mr. Harris.

- Q. What did Mr. Baker have in the way of clothing?
- A. He always had a satchel and underclothing.
- Q. Before May, 1913?
- A. Just his satchel and clothing, that's all.
- Q. Any furniture?
- A. Later on, this mahogany closet or chiffonier.
- Q. How long did his furniture remain in the room?
- 10 A. Oh, I think about three years.
- Q. Up until the time you sold the house?
- A. Yes, sir, up until the time I sold the house; I shipped it to Mr. Baker without letting him know,—we had to get out so quickly.
- Q. You were put out?
- A. Well, very near it.
- Q. Did Mr. Baker receive mail at the house?
- A. Yes, sir.
- Q. Before and after he went to Pittsburgh?
- 20 A. Yes, sir.
- Q. What would you do with the mail?
- A. Transfer it in care of the Pennsylvania station.
- Q. At Pittsburgh?
- A. Pittsburgh.
- Q. How much notice did he give you that he was going to be stationed at Pittsburgh?
- A. Not any; he just told me he was going; he said, "I am going, but not long; Mr. Ewing dropped dead today, and I am going to take his place."
- 30 Q. What was there in the room?
- A. The closet was there, and Mr. Baker had two satchels, a change of clothes, coats and trousers, and underwear and collars, while he was in Pittsburgh.
- Q. Did Mr. Baker pay for his room while he was stationed at Pittsburgh?
- A. Yes, sir.

Q. How?

A. Of course, I didn't think it was right to charge Mr. Baker the whole amount for the room, the same as anybody else; in the meantime, I had a chance to rent the room, maybe for three nights, and sometimes for a week, and then I would charge the difference to Mr. Baker, and he would say, "How much do I owe you?" and I would charge him the difference.

Q. According to how often you rented it? 10

A. Yes, sir.

Q. How frequently would he come to your house?

A. Twice a month, three times a month, or four times; that's the best of my knowledge.

Q. Do you recall whether he came Sundays and week-days?

A. Yes, sir, he would come in the morning and wash up and put on a clean collar and then go out.

Q. Do you know whether he had a key for your house? 20

A. Yes, sir; he never gave it to me at all.

Q. He still has it?

A. No, he gave it back when I sold the house.

Q. When did you see him?

A. He called to my house about the bill of lading on this closet that I shipped to Pittsburgh.

Cross-examination.

By Mr. Davis:

30

Q. Miss Coleman, when Mr. Baker first went to your house, you knew, of course, that he was a married man and had a wife in Washington, did you not?

A. Oh, yes.

Q. And that there was his home?

A. Yes, sir.

Q. And he made that his home, did he not?

A. Yes, sir, I understand so.

Q. And he was living with his wife and doing just as any other railroad man similarly situated, was he not?

A. Yes, sir.

10 Q. And that continued right along with him spending two or three nights per week right along, up until the time he and his wife separated?

A. Yes, sir.

Q. Did he tell you of his family trouble?

A. No, not much. He said, "I am going to send some things here to you; Mrs. Baker and I had some disagreement, and we have given up our home, and I am going to make my home in Jersey City."

Q. He told you that shortly after this thing happened?

20 A. Yes, sir.

Q. But he continued to spend the same number of nights per week as before?

A. I believe his runs were just the same.

Q. Later on, when he got to be car inspector, his runs took him away from your house?

A. Sometimes he would be three or four nights at the house, and sometimes he would be away like that.

Q. It was less certain than before?

A. Yes.

30 Q. Then in 1913, he went to Pittsburgh?

A. Yes, sir.

Q. And he took what with him when he went?

A. Just a change of clothes.

Q. When did he get the rest?

A. He didn't get the rest at all.

Q. He took more than a change of clothes, didn't he?

A. He left all the other things until we sold the house, and then I sent everything on.

Q. He didn't take his clothing?

A. Yes, some.

Q. The clothes he used he took?

A. Yes, sir.

Q. All the clothes he was using at that time in that season of the year, he took to Pittsburgh?

A. Yes, sir.

Q. When did he take more clothes than those he took in the satchel? 10

A. I wouldn't tell you when it was, but some time after.

Q. When did he tell you his position had been made permanent?

A. He never told me, he told me it was just temporary; he didn't know any time when he would be called back. That is what I understood always, all the time.

Q. When did this change take place in the manner of the room rent? 20

A. Well, when he gave up; he told me, "There is no use my paying for a large room."

Q. When did that take place?

A. I can't remember dates.

Q. When, with reference to his going to Pittsburgh?

A. Quite some time after that.

Q. How long after?

A. I couldn't remember. 30

Q. Approximately?

A. I wouldn't like to say; I want to tell the truth.

Q. A week?

A. No.

Q. A month?

A. No.

Q. How many months?

A. I can't say; I wouldn't like to say; I can't say, to tell you the truth.

Q. He did tell you he didn't think he would need the room the same as he had before, and that was the reason you allowed this other man to share the room with him, wasn't it?

A. I didn't understand that.

10 Mr. Davis: Question withdrawn.

Q. He did have a conversation with you about letting this man share his room, did he not?

A. Yes.

Q. And that was the reason you allowed this young man to share the room with him, was it not?

A. Yes, sir.

Q. And can you give us any idea how soon this took place after Mr. Baker went to Pittsburgh?

20 A. Well, it was quite some time afterwards.

By the Court:

Q. A month or two or three months?

A. Yes, all of that.

By Mr. Davis:

Q. About three months?

30 A. Yes, sir, if not more.

Q. Was it less than six months?

A. I couldn't say whether it was more than six months or less than six months.

Q. Did he say anything to you about the divorce that he was getting from his wife?

A. No, sir.

Q. He never talked to you about that?

A. Never.

Q. Do you know who Mr. Baker visited when he came to Jersey City?

A. No, sir.

Q. He never visited any of the neighbors, to your knowledge?

A. No, sir.

Q. Nor had any friends among them?

A. No, sir.

10

Q. Did you have other railroad men in your house besides Mr. Baker?

A. Yes, sir.

Q. Did you have any men in the house that were in the same sort of employment as Mr. Baker?

A. Yes, sir.

Q. Did they all spend their time about the same as Mr. Baker?

A. Yes, sir.

Q. Were they married men?

20

A. One was, yes, sir; and one was not.

Q. The married man, where did he have his home; do you know?

A. There was one man that was not married, that was Mr. Erhart.

Q. Where did he have his home?

A. With us.

Q. Where was his other home?

A. I believe he had a sister in York, Pennsylvania.

Q. And this other married man?

30

A. I don't think we had a married man; I was just thinking I don't think we did.

Q. You noticed no difference between Mr. Baker than this other railroad man in the matter of spending their time?

A. No.

By Mr. Autenreith:

Q. Did you know Mr. Baker's Pittsburgh address?

A. No, I always addressed his letters to the station.

By Mr. Davis:

Q. That reached him?

10 A. Yes, sir.

Q. And that is where he told you to send his mail?

A. Yes, sir.

Q. And you sent his mail to him as fast as it came in?

A. Sometimes he got his mail when he came in his room.

Q. But your custom was to send it on?

A. If I didn't expect him.

20 By the Court:

Q. Up until he went to Pittsburgh, how much did he pay for the room?

A. He shared the expense with the other man, \$2.00 for the room, and the other man paid \$2.00.

Q. And it was not for some six months after that, that Mr. Baker said to you that he thought he ought not to keep the larger room?

A. I don't know how long.

30 Q. And during that time, did Mr. Baker keep on paying his \$2.00?

A. No, not after.

Q. Not after he went to Pittsburgh?

A. For a while he did.

Q. Until he told you?

A. Until he told me, and I didn't want to take any money from him. I said, "Mr. Baker"—

Q. Since that time, you have not charged him \$2.00 regularly?

A. No, sir, because I made it up on the other one, we were in the habit of putting other men——

Q. You were in the habit of letting the room to other men?

A. While I got rent from the other man, I couldn't——

Q. But this other man was in it?

A. No, he was gone.

10

Q. The other man was gone at that time?

A. Yes, sir.

Q. Did he leave about the time Mr. Baker did?

A. Yes, sir; that was the reason Mr. Baker gave up the big room, because the other man went.

Q. After that, did you continue to charge Mr. Baker at the rate of \$4.00 a week?

A. No, sir.

Q. Deducting from the \$4.00 whatever you made from the other people?

20

A. That is what I did.

Q. After this arrangement had been made, after Mr. Baker had gone to Pittsburgh, did you then charge him at the rate of \$4.00 a week, giving him credit for any moneys you might have got for the room from other sources?

A. I gave him the credit, yes, sir.

Q. Was the room at any time empty during his absence?

A. Yes, sir.

30

Q. Would you then charge Mr. Baker the full \$4.00 a week?

A. No.

Q. What credit did you give him?

A. I credited him with what I made from these people.

Q. I asked you whether at any time during Mr. Baker's absence in Pittsburgh, the room for which you had charged him \$4.00 was vacant for any time, for a week or two at a time?

A. Yes, sir.

Q. And during that period of a week or two did you charge Mr. Baker the full \$4.00?

A. No.

Q. How much did you charge him?

10 A. Sometimes it would be \$10.00 a month and \$5.00.

Q. Upon what theory?

A. Only that I would get the difference from somebody else when they come in.

Re-direct examination.

By Mr. Autenreith:

20 Q. Did you ever use this room yourself for your own family purposes while Mr. Baker was away?

A. Yes, sir.

PETITIONER RESTS.

FRANK H. VAN COURT, a witness produced on behalf of the defendant, being duly sworn, testified as follows:

Direct examination.

By Mr. Davis:

Q. Mr. Van Court, you are connected with the Guarantee Company of North America? 10

A. I am.

Q. Is that an insurance or fidelity company?

A. A company guaranteeing the fidelity of employees.

Q. Did you guarantee John L. Baker, or J. L. Baker, for the Pennsylvania Railroad Company?

A. I did.

Q. And did he make an application for that bond?

A. He did. 20

Q. Through whom; do you know?

A. Through the Pennsylvania Railroad Company; just what department I can't tell.

Q. And was an application presented to you?

A. An application was presented to our office in Philadelphia.

Q. And supposedly in whose handwriting?

Mr. Autenreith: I object to that, if the witness did not have charge of the transaction. 30

The Court: The objection is overruled.

Q. In whose handwriting was it supposed to have been written?

A. Supposedly Mr. Baker's.

Q. Did you issue a bond?

A. We did.

Q. Did this application contain a statement of the residence of the applicant?

A. It did.

Q. And what was the residence given?

Mr. Autenreith: That is objected to; it is only proper to prove it by the paper itself.

10

Q. The home office of your concern is where?

A. Montreal, Canada.

Q. Are the original papers—where are they?

A. The investigation is made in Philadelphia, and the original application, along with the results of the investigation, are all sent to Canada.

Q. Was this application sent to Canada?

A. Yes, sir.

Q. After being acted upon?

20 A. Before being acted upon.

Q. Was the proceedings conducted through your office?

A. Yes, sir.

Q. And the paper is now where?

A. In Montreal.

Q. Did you make a record in your office of the original facts, as appear in the application?

A. We do, and we did in this case.

Q. And that is in Philadelphia?

30 A. Yes, sir, in book form.

Q. Is it possible to bring that book here without great inconvenience?

A. I don't believe our company would consent to it.

Q. What is the size of the book?

A. The book is about that size, and that high (indicating about 2 x 2½ ft.).

Q. Is it in daily use?

A. It is in daily use.

Q. What was stated in this application, if anything, with respect to the applicant's residence?

Mr. Autenreith: That is objected to.

(Question withdrawn.)

Q. Do you have charge of the records in Philadelphia? 10

A. I did not.

Q. Who has?

A. No one person has charge of the records; the book is usually handled by several employees, who make entries in that book.

Q. Are you one of such employees?

A. I am one.

Q. Have you examined the record contained in that book, with reference to John L. Baker's application? 20

A. I have

Q. Did you make a copy of it?

A. I made a memorandum.

Q. Is this the memorandum (showing witness a paper)?

A. That is the memorandum.

Q. Do you need it to refresh your memory?

A. I prefer to have it.

Q. Can you say what your records are with reference to John L. Baker? 30

A. The bond number is given as 49248; the record states that it was sent to the home office the 29th day of March, 1915; the application was made—I can't give the exact date—as to January 1, 1915, sometime between January 1, and March 29, J. L. Baker to the

Pennsylvania Railroad Company, Pittsburgh resident, occupation, steward; gave as his residence 421 North St. Claire Street, Pittsburgh, Pennsylvania, bond \$5,000; premium \$5.00. Period for which the bond was written was January 1, 1915, to January 1, 1916. Of course, these bonds are renewed from year to year.

Q. Without additional application?

A. Without additional application.

10 Q. That is the last and only application made to you?

A. Yes, sir.

Cross-examination.

By Mr. Autenreith:

20 Q. Did you personally have charge of the writing of this bond or the matters leading up to the writing of the bond?

A. No, I didn't personally have charge of it; you will understand that in writing a large volume of fidelity bonds, it has got to be distributed among a large number of employees; one investigates, one records it, one does the typewriting, and it is handled by a great many,—several.

Q. But was this transaction, so far as the application was concerned, and so far as Philadelphia was concerned, under your general supervision?

30 A. No.

Q. You knew nothing about John L. Baker's bond until you were asked to look it up?

A. Not until I was asked to look it up.

Q. Then, your mind was a blank, so far as recollection or knowledge is concerned—

A. It naturally would be among several thousand.

MARGARET C. HERMAN, a witness produced on behalf of the defendant, being duly sworn, testified as follows:

Direct examination.

By Mr. Davis:

- Q. You live where? 10
A. 105 Grand Street.
Q. That is next door to 107?
A. Yes, sir.
Q. Do you know Miss Coleman?
A. Yes, sir.
Q. How long have you lived there?
A. About 12 years.
Q. And during all that time, Miss Coleman lived there until April of this last year?
A. Yes, sir. 20
Q. What is your occupation?
A. I teach—a public school teacher.
Q. How long have you been a public school teacher?
A. Since 1903.
Q. And your hours are what?
A. From 9 until 3.
Q. Before 9, are you usually at home?
A. Yes, sir.
Q. And what after three? 30
A. Well, from four, I should say, around four I am home.
Q. Do you know Mr. Baker?
A. No.
Q. Did you ever see him until today?
A. Never, until this morning.

Q. Did you ever know he lived at 107 Grand Street?

A. Never until today.

Q. You are friendly with Miss Coleman?

A. Yes, neighborly.

Q. Did you ever hear anybody else speak of him?

A. I never heard the man's name until the gentleman called at our house Saturday.

Q. And you never saw him?

10 A. Not until this morning.

Cross-examination.

By Mr. Autenreith:

Q. Did you ever visit Miss Coleman in her home?

A. Once or twice.

Q. Once or twice in the 12 years you have lived there?

20 A. I guess so.

Q. There are other men living at Miss Coleman's house?

A. I suppose there were.

Q. And you didn't know any of them?

A. I knew none of them.

Re-direct examination.

By Mr. Davis:

30 Q. You have seen other men that lived there, that you recognized?

A. I don't know that I would recognize anybody who went in or out of the house; I might, but I am not sure.

THERESA DEGHERI, a witness produced on behalf of the defendant, being duly sworn, testified as follows:

Direct examination.

By Mr. Davis:

Q. You live where?

10

A. 108 Grand Street.

Q. Just across the street from 107?

A. Yes, sir.

Q. Do you know Miss Coleman?

A. Yes, sir.

Q. Do you know Mr. Baker?

A. Well, I remember now seeing him going in and out, and that's all.

Q. How many times have you seen him?

A. I can't tell you; I had my work; I don't know; 20
I can't tell you the times; I know I remember seeing him; I know he had a room there, and that's all I can tell you.

Q. How do you know?

A. Of course, he had a room right across the street; I can see him wash his face and dry it and go out; that's all.

Q. Did he ever call to see you or your family?

A. Not that I know; he was telling me today he stopped two weeks at my house; I can't remember. 30

Mr. Autenreith: That's all.

MARGARET E. BAKER, being duly sworn in her own behalf, testified as follows:

Direct examination.

By Mr. Davis:

10 Q. Did you have a conversation with your husband about the time that you had temporary employment in the pension department?

A. Yes, sir.

Q. Did that conversation relate to his residence in New Jersey?

A. Yes, sir.

Q. About what time was that?

A. That was in the early part of the spring.

Q. What year?

A. 1912—no, 1913.

20 Q. Will you tell his Honor what that conversation was?

30 A. I talked to my husband and told him I was about to lose my position; I was simply on the temporary roll of the pension office, and I asked him if he could help me out; I said, "You say you are lodging there in Jersey; haven't you any influence there; do you do any voting?" He said, "No;" I said, "Don't you think it would be well for you to do that; it may help you sometime yourself;" I said, "If you did have a residence there now, it would help me if you would do that, because after the first of July I am to be taken off the rolls, and I haven't anything at all to do." He said, "I will speak to Mr. Blair for you; I don't know what he can do for you; he may be able to do something in the district here, but I am afraid not;" he said

“You know what my standing in Jersey is; I go there and sleep at night, and I go out and I don’t know anybody there; I haven’t any home anywhere, that I could call a home, and I simply stay from time to time.” I asked him wasn’t he going to take up a residence and vote there at any time; he said, “No,” he didn’t care any more for Jersey City than he did for any place.

Q. Was that all the conversation?

A. All relating to that.

10

Q. Did he have a conversation with you, asking you to go to Jersey City and take up a residence, that he was going to make a residence there?

A. No, sir; at no time has Mr. Baker ever asked me to go to Jersey City to live.

Q. Do you mean by letter?

A. He wrote and told me he had rented an apartment in Newark.

Q. But not in Jersey City?

A. No, sir.

20

Q. Did he tell you by conversation that he wanted to take up his residence in Jersey City?

A. No.

Q. At any time?

A. No.

Q. Or that he had done it?

A. No.

Cross-examination.

30

By Mr. Autenreith:

Q. You wrote him letters at 107 Grand Street?

A. Oh, yes.

Q. And before you separated, you lived there two or three days with him, didn’t you?

A. Lived with him?

Q. Stayed with him two or three days?

A. I frequently took trips from Washington.

Q. Answer the question.

A. Yes, if you call it living; I stayed there overnight with Mr. Baker.

Q. You knew he was located at 107 Grand Street?

A. Yes, and 34½ Magnolia Avenue.

Re-direct examination.

10

By Mr. Davis:

Q. And when he had this room there, you were still living with him in Washington?

A. Yes.

Q. His home was where?

A. 905—13th Street.

Q. Washington?

A. Yes, sir.

20 Q. Did he ever claim Jersey City as his home at that time?

A. No.

BOTH SIDES REST.

30

COPY OF EXHIBITS.

EXHIBIT P1.

Dec. 4, 19—
Received from John L. Baker Ten 00/100 Dol-
lars, part pay't on rent of Dec./09.
\$10.00. August Roemmele. 10

EXHIBIT P2.

June 25—12.
Dear Johnnie:— See me Thursday morning. I
had promised to go out Wed. evening, but will call
you up if I get back before 11:30. As the time draws
near I wonder if under the circumstances I am doing 20
right, in taking this trip. I know full well it is best
we live apart and not see much of one another.
Yours,
Maggie.

EXHIBIT P3.

June 21, 1913. 30
Dear Johnnie:—
I was quite surprised at the contents of your
letter received this morning, so much as related to
the telephone message and note, no doubt you were
at Mrs. Smith's at the time I 'phoned, and purposely
humiliated me by having her answer same.

I am very much afraid you are the Johnie of old, surely your actions are. She will now have something else to gloat over, but as in the past, I will try to pass it up for what it is worth. As on former occasions you simply answer my questions in a rambling manner. Now let me assure you that if there is to ever be a change in our way of living, the matter of the past will not be dropped, but will be thrashed out thoroughly, you will have to clear
10 my mind on many points. I will not stand for evasions of any sort. You made your statement about unfair treatment, and when called upon you simply deigned your usual reply that was, if my conscience was clear that I had been honest, you had no criticism to offer. Just another of your sarcasms, leaving another loop hole for yourself. Finances will also be considered in the adjustment. I will have to be placed in a thoroughly independent position in that line. I never was while with you,
20 and to return to you would mean giving up my independence. This may seem harsh to read but to me it is just; my future is at stake; I know what I can and can not put up with, and for me to return without a thorough settlement of financial affairs I could not submit too, it would be entirely different if we were a congenial couple and had the right amount of confidence in one another; we have not, and that is all there is to it, this thing of two people living together and saying they trust one
30 another is all bosh, especially when they show by every act they do not. I know you trust me as much as I do you, but the truth is I don't trust you one bit—my past experience with you has taught me better; in the future it will be black and white for me, thoroughly aproved. I appreciate thoroughly your need for a home and it is only with this view

I am writing you, time alone will have to take care of the other features. Read this well, give it serious thought—if you do not think well of it, simply do not answer.

Maggie.

EXHIBIT P4.

(Nov. 24, 1909) 10

John L. Baker.

I am enclosing telegram I received from Ed., and must say that there is nothing you have left undone. Positively I have never entertained more hatred and disgust for you that I do now. You have used every method that a human being could conceive to force yourself on me, after treating me in the most selfish manner. I refuse absolutely to be brow-beaten any longer and will not be at the house to-morrow evening. I got a from Dr. Basher and promised 20 to go to his office, but after thinking the matter over, have made up my mind not be interviewed by anybody. I had perfected arrangements to be in Phila. to-morrow to eat dinner with Ed, as he had written me asking that I come to see him. Now, since you have decided to bring him home in the face of conditions you must take your medicine, but let me say right here, you *are a coward* to do this, a man that will treat a woman as you have me, and when he knows he has turned her love to hate, to then take 30 the child he has driven from home, and use him as a tool to get near his mother for one reason alone, that is to satisfy his beastly desires, is a coward of the lowest degree. I spoke to you several weeks ago, and told you how very much the boy

wanted to come home; you ignored every request I made in his behalf, even refused to send him the money he had sent you to deposit. Now, when you want to accomplish your own end you are willing to do anything. I will not be at the house until after you leave Friday. If he cannot stay after that I will arrange to go to Phila. to see him. If I have to see you in order to see him I will wait a while. I must tell you frankly if you or any of your friends try
10 to force themselves on me I will be compelled to go to court for peace. *My advice* is that you give the house up as you will only have two tenants on the first. If you do not make some provision for my support, I will go to court for it.

M. E. Baker.

EXHIBIT P5.

20

(Nov. 17, 1909)

John L. Baker.

It seems to me you do all that lies in your power to worry and upset me. I cannot understand why you would have letters from the boy go to J. C. and then not have them for me to read. When I say I do not know that is a mistake it is only a repetition of your long-standing stubbornness; you have acted this way with me for the twenty-five years we have
30 been together. While I may be to blame for some things, yet I can see no good reason for you keeping me upset about matters until you see fit to tell me or I find out through friends. I have come to the conclusion it is utterly useless for us to even try to get along together, and really feel it is up to you to make some arrangements whereby I can have

support, and not leave it for me to push the matter. I would a great deal rather not see you, for I well know how you can talk if you are mad, let everybody know your business, if not just try to force me to do as you want for your own selfish desires only to make me unhappy in a very short while. Now I feel that you owe me a living, that I owe myself peace of mind if I can get, and surely I cannot have that with you.

M. E. Baker. 10

EXHIBIT P6.

(Jan. 2, 1910)

For John Baker.

Your most brutal stubbornness has caused all the unhappiness of my life. I am convinced in my own mind that it is your fault Eddie did not come to see me. From his infancy you have tried to beat me over his back. When he was only a few months old you took him from me and carried him to a sister, then again you took him to another sister; it is you who taught him that leaving his mother was nothing. That same mother went into your mother's home and did all she knew how to please her and make her comfortable. I am sure your refusing to get me up to Phila. was only prompted by brutal selfishness; it would have been a very easy matter for you to have arranged this, without my going in your car, but no, it is your same old stubbornness. Another illustration of the brute in you is the way you acted about selling out the household effects. I know of no real Man who would ever have done this; when you got up and left your home, stayed until you got ready to come back, you found everything there. I

can go back twenty-four years of my life and think of the cold brutal treatment I have received at your hands. Well do I remember the day Raymond died; again do I remember the Sunday evening you left me with Florence and Raymond to care for, just because you had one of your stubborn fits; the next day you came home to find me near death's door. Bear in mind there have been no more babies. Now you still continue your brutal selfishness, with you slick
10 tongue you make that boy believe anything. You knew I wanted him for Thanksgiving. You had him to go to N. Y. for the 11th, again for Xmas. How you can ever pur your head on a pillow is a surprise to me. Your actions in disposing of the household effects and then being selfish enough after you have received all the revenues, has only convinced me that your reason for returning to Atlanta was the fear I might get along and make a respectable living. The pitiance you have offered me only makes it
20 necessary for me to go out to work; you had better far have let me alone where I was, but that only shows just how your stubbornness will do. The whole thing in a nutshell: if I do not submit to all your whims, then I must take what you will do; but thank God this is not all; if your conscience that has been stretched so much does not hurt, you are far more the brutal selfish man than I could ever think possible.

M. E. Baker.

30

EXHIBIT P7.

(Nov. 14, 1910)

Dear Johnie:

This is one of the times I must write you. I have had you on my mind so much of late—think of you

sleep or awake, that it seems you must be in some sort of trouble; sincerely hope not, for while I may feel that it is impossible for us to get real happiness out of one another, yet I can never forget some of our comforts together, and hope and trust that though our paths are divided, you will always fair nicely and be an upright man. As for my part in this life I will do my best in all things. If at any time you may need me and think I can be of comfort in your adversities, call on me, I will come. I have written Eddie (he is on the Hancock) that I would like to have him come here as soon as he was discharged; hope he will do so. 10

He wrote me saying if he could make the necessary deal to get some new clothes he would pay me a visit. I arranged to be with him and the very day he was to arrive he wired impossible to get money, so of course that ended it to my great disappointment. I did not send him any money. He has never written me another line. I knew he should have clothes, and feel he has had enough out of me this last year. 20

I hope you are well. I am except for neuralgia. With love, I am as ever,

Maggie.

EXHIBIT P8.

Jan. 18—15.

30

Dear Johnnie:

I know you will be surprised at hearing from me, but the truth of the matter is I have had you in my mind for several days, that, coupled with the fact that I have been quite sick for a little while, has

prompted me to write you. I had an attack of La Grippe before Xmas; thought I was alright and went out, with the result I have been very sick, but am better. Don't think anything of this, I will be alright, well, as much so as I expect to, as I have not been the least bit so for more than a year. I suffer so much with a nervous rash. There are days at a time I am not able to put on my clothes for having an itching on the body, yet I am still looking pretty
10 decent, but, oh my, I have lost my figure; you know how that hurts my pride, for I always felt I had a good one, for a mother of five children, but I am not going to let that worry me, even though I am 30 inches around the waist, having gained 6 inches in the last year. What do you think? I had a letter from Eddie Xmas, the first in three years. I hope it means something; he could be such a comfort to me if he only would. I am not getting any younger. I met Frank a little while ago, he looks the same
20 Frank. Several months ago I saw Sallie on the street. How much she looks like your mother. Never have seen any other member of your family. Frank said all were well. Ed is back in Mass. Do you know why? I do hope he is doing well. I have always felt he would do the right thing by himself some day. Johnie, I want to ask a favor of you. Will you write to Mr. Blair and ask him to help me in securing a position; I have not had much to do for more than a year; had I of had, am afraid I
30 would not been on duty much, because I could not wear my clothes. I have been under a great deal of expense with medicine and Doctors; the result is I am quite low in finances and must go to work. I am sure if you will ask him he will help. I hope you will not feel I am asking too much of you. I hope you are well and doing nicely with your big job.

I know you will be sorry to hear mother is gradually growing blind. I am in hopes she will be able to throw it off, as her general health is so good.

In your own language, I hope you will not think me presumptuous and will take this in the spirit in which it is intended. I have always said if I ever felt I needed a friend I would try you.

I am living up at Wash. Circle,—looks as though I am trying to get back in Geotown. 10

With best wishes for a prosperous new year,

Maggie.

501—Plaza Apt.

EXHIBIT—P9.

Feb 3, '15

Johnie:

20

Will you be good enough to return my last letter to you? It only seems fair to me that you do this. I realize I made a mistake to write you, and want the letter.

I withdraw my request in regard to Mr. Blair.

Maggie.

EXHIBIT P10.

30

June 16—1913.

Dear Johnie: Monday morning finds me at my desk in a very bad shape, simply because I had no sleep. Thank the Lord, Mrs. Cox did not get here. After thinking, and then thinking some more about

our trouble, I have come to the conclusion that in order to try and do justice by both parties, that it would be well for us to try to have some understanding as to some of your remarks. The first question is, why do you think you have not been treated fair? I have tried to be fair with you as well as myself, and today or any time could I be made to see that I had not done so, would be glad to go to most any end to do the right thing. I was
10 sorry indeed that our separation was such, but I must tell you your manner exasperates me; that, added to your treatment of me is more than I can bear. I mean what I say when I tell you it is just adding to the hopeless side of life for me. I called you over the Drug store phone in Geotown. Mrs. Smith answered and said she would give you the number but would like to know was talking. I did not think it her business. Later I wrote you and sent it to her address. If you did not go back
20 there she will probably forward it. As I said in my note I hope you will forget all of the unpleasant things that were said. I will try not to let my feelings run away with me in the future.

Maggie.

EXHIBIT P11.

30

Apr. 18—10.

My dear Johnie:

I know that you feel I am treating you very 'strangely, but indeed I am doing only what I feel is for the best for both of us, for dear knows, it is only harder for us to come together and then leave. I must tell you I appreciated the hand bag more than

you can ever know. I have been to work for about ten days, but no one at the house knows where. I did not think it best to tell them, as phone messages might do me harm. I have never had a line from Eddie. Well, I will be able to pay some on his bill this month. It about breaks my heart when I think of how I have been treated, but hope to find comfort in work; yet it may be what I deserve. I am very well and hope you are.

With love,

Maggie.

10

EXHIBIT P12.

My Dear Johnie:

I most certainly appreciate the hand bag, it is very pretty indeed. Am going to carry it to-day. If you will bring me your mending, I will be more than glad to do it. 20

With love and best wishes,

Maggie.

EXHIBIT P13.

8/2/12

Dear Johnie:

30

I could hardly resist the temptation to call you up last night, we were all alone. I did want to know how you were. Always do believe me when I say my feelings are the same. I am just as much interested in you to-day as I ever was. Your successes will always be my pleasures. I hope they will be

many. You can never know how very hard it was to tell you what I did Tuesday, but I feel it was for the best. I sometimes feel if I could just go away from everybody, it would be better; yet I have tried that, and was very unhappy. About your leave, I do wish I could spend it with you in the woods with only some books and a hammock, but think what the separation would mean. Johnie, I am going to try and leave you alone. I am not happy without you, neither am I with you. God alone knows what I am coming too. I sincerely hope to find work that will keep me every day, going home and shutting myself up with only to think is putting an end to me. I was there all of Tuesday & Thursday, know I will be there Sat. I had intended to go to Norfolk on Sat. but Mrs. Edwards is not able to stand the expense just now. Johnie, I know the day will come when I will need you badly, that is what seems so hard that I must come to that some day when I have acted as I do when you need me. I try to reason this matter out but cannot. Try to be brave, I hope it is for the best. I have had a very quiet day, so more time to think, the little girl got out. I have cried so much that my eyes seem so small I can hardly see, but I hope to get myself together again. I am going to let you have another book. I am sure you will enjoy it. I tell you I never felt so utterly alone in all of my life. Oh, my, what a great trial to carry your burdens alone; it is utterly impossible for me to go near anyone just now.

I am so thankful for the cool weather,—it makes your life a little pleasanter.

Yours, as ever,

Maggie.

EXHIBIT P14.

Jan. 16—10.

Dear Johnie:

I want to thank you for the tooth paste. Am also sending you the coal bill which was sent to me. The milk man has been here. I hope you have not paid Marie all you owe her, she has a skirt of mine. I have told her to come to me for an order to get her money; have tried to see her but cannot do so. 10
I do not know what to think of Eddie, leaving without one line. I am still hoping to be able to write my thoughts, some day I may.

With love and best wishes for you,

Maggie.

EXHIBIT P15.

Feb. 16—10. 20

Dear Johnie:

I was a little surprised to have Mr. Cox tell me you had been to see him and did not pay the \$3.00 due him. You certainly know I could not do so out of what you give me; it is all that I can do to make ends meet. Since talking to you over the phone I am more convinced that you are still the same man, thinking you are right in every particular. I am really very sorry that you act as you do, since you say you would like to have things differently. 30
If you did not intend to keep your promise to me about the Chiffonier I feel you would have said so. Let me assure you I will try not to annoy you farther; if you would rather I talk to Mr. Blair, it will be satisfactory to me.

With love and best wishes,

Maggie.

EXHIBIT D1.

This Agreement, Made this fifteenth day of April, A. D., 1899, by and between John L. Baker, of the first part, and Maggie E. Baker, of the second part, both of the District of Columbia:

Witnesseth, Whereas differences have arisen between said John L. Baker and Maggie E. Baker, so that they are both satisfied they cannot live together harmoniously as man and wife, and they have
10 agreed to separate and live apart, and each of said parties being willing that said separation shall be made; and

Whereas the said Maggie E. Baker has left the house of said John L. Baker, and is not now living with said John L. Baker, and has not for five weeks last lived with him, as his wife, and under the circumstances there would seem to be but little hope of reconciliation:

20 Now, Therefore, It Is Agreed by and between John L. Baker and Maggie E. Baker:

1. That the said John L. Baker shall and will pay to the said Maggie E. Baker the sum of fifty dollars (\$50) per month, payable in two equal installments on the first and fifteenth days of each month during the period that this agreement shall be in force for the maintenance of the said Maggie E. Baker, the first installment or payment to date from the first day of April, 1899; and the said John L. Baker
30 does hereby bind himself to make the prompt and punctual payment of the sum of fifty dollars (\$50) per month during the continuance of this agreement.

2. Said Maggie E. Baker does hereby agree to accept said sum of fifty dollars (\$50) per month to be paid as aforesaid on the first and fifteenth days of each month for her support and maintenance; and

the said Maggie E. Baker agrees that said sum shall be accepted by her in full of any claim or demand that she may have against the said John L. Baker for her support during the continuance of this agreement; and the said Maggie E. Baker hereby agrees that she will not contract any bills in the name of or on account of the said John L. Baker nor in any way endeavor to interfere with his business or annoy him in the conduct thereof, during the continuance of this agreement.

10

3. It is further agreed between the parties hereto that the child J. Edward Baker may, if he so desires, spend one-half of his evenings and nights with his mother at the home of her mother, and the remaining evenings and nights he shall spend with his father, it being understood, however, that said child shall be at all times in the custody and under the control of his father.

4. It is agreed that this agreement shall continue and be in force until any wilful violation of any of the conditions thereof by either party hereto, or until the said John L. Baker and Maggie E. Baker shall become reconciled and live together as man and wife, or until any proceeding by either party hereto, either for a divorce or maintenance, shall have been instituted, or until said Maggie E. Baker shall attempt to interfere with the business of said John L. Baker or to annoy him in the conduct thereof, and upon the happening of either of said events then this agreement shall immediately cease and be of no effect. The said amount of fifty dollars (\$50) shall be paid under this agreement until it shall appear that the income of said John L. Baker will not justify the payment of that sum, in which event the amount to be paid shall be adjusted by the parties hereto, or if they cannot agree, then the question of

20

30

amount shall be left to be decided by a disinterested third party.

In Testimony Whereof the said John L. Baker and the said Maggie E. Baker have hereunto subscribed their names and affixed their seals on the day and year first above written to this and duplicate of like tenor and effect.

John L. Baker (Seal).

Maggie E. Baker (Seal).

- 10 J. C. Heder as to
Jno. L. Baker.
Witness as to signature of
Maggie E. Baker:
Edward S. McCalmont.

EXHIBIT D2.

- 20 Pittsburgh, 6/19, 1913.

Dear Maggie:

I received your note also the phone call before leaving Washington on Sunday, but could not figure it out that there was anything more to be said by either of us, you have said it all, nothing left for me to do now but simply await you and your wishes.

- 30 As to your treatment of me, whether fair or not, I will leave that question to your conscience, let it be your guide; if it dictates to you that you have been fair, square and honest with me, then I have not a word of criticism to offer. In conclusion want to offer my best wishes that your future with me eliminated therefrom may be one of happiness and contentment.

Johnie.

EXHIBIT D3.

P. R. R. Restaurant,
Pennsylvania Station,
Pittsburgh, Pa. 6/4/13.

Dear Maggie:

I have resisted for nearly five weeks writing you, though daily I have thought of so doing, then let it end here.

About five weeks ago while riding on a G. St. car 10 you crossed the street just as I was passing, you did not see me I am sure, but it appeared to me that you had a look of great anxiety; it impressed me very much, and had it not have been for the words in your last letter to me I should certainly have made an effort to communicate with you. I have thought very much of this expression on your countenance, and finally have concluded to write you even in the face of your last words.

Are you distressed in any way, if so will you 20 advise with me. True, this may find you as you have always been, if so, you will probably curse my persistency, if not, your pride may be keeping you silent; be it any way at all, I want you to know I am the same as ever. You may know it already, if not I will tell you, I am located in Pittsburgh in charge of the Pennsylvania Station Restaurant, it is a very responsible position, but I am trying to make good; time will tell whether I will or not. If 30 on receipt of this you think me presumptuous in writing you and become angry with me, all I can say is, pardon me this time and treat this as though you had never received it, my not hearing anything will tell me my error. If however, you are distressed in any way and you feel so disposed, I will be glad to hear from you, and assure you I am yours to com-

mand in any way consistent with existing conditions.

Hoping this may find you well and in frame of mind to accept this in the spirit intended, believe me,

As ever,

Johnie.

10

EXHIBIT D4.

Pittsburgh, Pa. 6/11, 1913.

Dear Maggie:

I suppose thanks are due for even acknowledgment of letter, but the reading of your answer brings to my mind the thoughts "Just the same as ever, is it to be she will remain the same throughout the balance of her life," if so then I can only bow my
20 head in humble submission and say God's will not mine be done. Thanks for your expression of confidence in my making good in my present position, you have more confidence in me than I have in myself; it is the biggest job I ever tackled in my life. I am not so sure of making good, but I will do my best at any rate. I did have a letter from Ed., but not a word concerning the matter you speak of, but it was a most remarkable letter, rehearsing a number of circumstances; just what it was driving at I do
30 not know, but I presume it meant that he expected either one or both of us to come across (to use a slang phrase) with what was left of the school fund; it was typewritten and initialed J. E. B.

I am sorry to hear you are suffering and would express my sympathies stronger, but in doing so might be tempted to say something offending, in

fact, I hesitate to even write at all. Incidentally, I shall be in Washington next Sunday, not that I have any idea you are the least interested in where I am, though some day you may do what you are hoping your boy will do, see where you are wrong. My position here reminds me much of the old corner 5th & D., The crowd is now beginning to come in and I must look after them.

Just the same,

Johnie. 10

EXHIBIT D5.

Pittsburgh. 6/27/1913.

Dear Maggie:

There is really nothing to say in answer to your letter except that the frame of mind it shows you to be in is such that I do not think it well for either 20 of us that we attempt a discussion of our affairs while you remain in that condition. How unfair you are to me in all things is shown by your accusation concerning the incident of your phone call during my recent trip to Wash., notwithstanding all my assertions and actions to the contrary, you accuse me of things that never enter my mind; the fact is, on this day I did not get back to Jennie's until after 6 o'clock, barely had time to say good-bye and make my train. Still you have allowed your mind to be- 30 come so poisoned against me that you cannot other than think evil of anything connected with me. Until such evil thoughts by you concerning me are abandoned, I cannot see any hope of conditions being improved.

In conclusion can only say that I appreciate the fact, (so you say) that you realize how much I need a home, and that at any time you feel that you should resume the duties of a wife, companion and helpmate, not out of any *sympathy* for me, but from purely a sense of duty, then I shall be glad to hear from you. Until such a change of heart and mind does come over you, I had probably best say good-bye.

Johnie.

10

20

30

NEW JERSEY
Court of Errors and Appeals.

Between

JOHN L. BAKER,
Petitioner-Respondent,

and

MARGARET BAKER,
Defendant-Appellant.

*On Petition for
Divorce.
On Appeal.*

Brief on Behalf of Respondent.

This case is before the Court on an appeal taken from a decree *nisi*, made by the Court of Chancery in favor of the petitioner below, granting a divorce pursuant to the statute on the ground of desertion.

The petition in this case was filed June 8, 1915 (P 1), and the hearing was heard on March 9, 1916, before Vice Chancellor Backes, on the pleadings as they stood, which were petition, answer and cross-petition. The cross-petition of the defendant below setting up extreme cruelty and constructive desertion on the part of the petitioner. The cross-petitioner charged the petitioner with being a resident of the State of New Jersey. The defendant was then and still is residing in Washington, District of Columbia.

After the case was fully tried on March 9, 1916 (page 17), and after the Court had rendered its opinion to the effect that a decree for the petitioner would be made and the cross-petition dismissed, the

defendant, after some delay, then came into Court, on September 12, 1916, on a rehearing (page 62), at which time the defendant desired to make proof that the petitioner was not a resident of the State of New Jersey within the meaning of the statute (page 62), and, of course, at that time withdrew the cross-petition in so far as it charged the petitioner with being a resident of the State of New Jersey. After this hearing, which was held solely on the question of residence, the Court again decided that the petitioner was entitled to his decree, as the proofs showed him to be a resident, and consequently the decree *nisi* was entered on October 9, 1916.

The petition of appeal presents only the question of residence or domicile, and leaves the opinion of the Court below, as to the merits of the case, stand against the defendant.

By arrangement of counsel, only the testimony taken on the second hearing was to have been printed, together with the exhibits offered at the first hearing. We note that the testimony of the petitioner, given at the first hearing, was also printed, but we make no objection thereto. All testimony concerning the question of desertion is practically left out of the case.

FACTS.

The parties were married on December 11, 1884, at Washington, D. C. (page 18), and lived in Washington until 1899 (page 19). In 1899 they went to the Pacific Coast with the idea of making a residence there but returned, after a year's absence, to Washington (page 19). Shortly thereafter, the parties moved from Washington to Richmond, Virginia, and after being there a year and a half moved to Atlanta, remaining at Atlanta un-

til February, 1905 (page 19). The parties then lived in Washington from February, 1905, to December, 1909 (page 19).

Prior to 1905, the business of the respondent was that of operating a restaurant business. In 1905 respondent obtained employment with the Pennsylvania Railroad as a dining car conductor or steward. At that time the headquarters of the dining car service of the Pennsylvania Railroad Company was situated in Jersey City (page 20). Inasmuch as the railroad company only provided accommodations for its employes at points outside of the headquarters territory, the respondent, being obliged to stay over night at Jersey City, where no accommodations were provided by the railroad company, engaged a furnished room at No. 34 Magnolia avenue (page 20), and, in the meanwhile and up until December, 1909, he maintained his home at Washington, where he spent his nights, when his train stopped over in Washington at night, which was quite irregular. This house at Washington was a large house and was operated by the parties as a rooming house. They occupied such rooms as they needed themselves and let out the others to lodgers (page 22). On one of the respondent's trips to Washington, about November 15, 1909, he found that his wife was not at home and, in fact, he did not see her or know of her being at his home after November 15, 1909 (page 21).

It will be well here to sketch briefly the condition of the married life of these parties before going further into the testimony as to the facts of the question of residence.

It appears that practically their entire married life consisted of quarrelling, and that on three or four occasions, after they were married, and up until November, 1909, the respondent's wife had left his

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home and returned after a short absence (page 42-43). The cause of her leaving may have been due to financial troubles between them, or it might have been due to the quarrelling, or to the wife's temperament. At any rate, the reason for her leaving is a matter of no consequence on this appeal, as the Court below has decided that so far as desertion was concerned, the appellant was guilty of desertion, and this she does not dispute in this Court. There was considerable discussion and argument between them prior to the time the appellant left her husband's home in November, 1909. This was brought about because of the fact that the respondent desired to make his home in Jersey City, as it was more economical for him in his employment to have his home in Jersey City, which was the headquarters of the dining car service of the railroad company, than to have it elsewhere, and also because he was at Jersey City more frequently at nights than he was in Washington (page 23), but the appellant would never consider moving to Jersey City to live with the respondent at that place. These discussions continued from February, 1905, about the time when the respondent first took a room in Jersey City, up until November, 1909, when the appellant deserted the respondent at Washington (page 24-64).

In 1907 the respondent moved from his home at 34 Magnolia avenue, Jersey City, to No. 107 Grand street, Jersey City, and lived there continually up until the filing of the petition for divorce in this case (page 20). In December, 1909, after the appellant had deserted the respondent, the respondent rented an apartment in Newark (page 24 and 25), and telegraphed appellant to meet him on his trip to Washington, with the purpose of having her come to Newark and live with him. Her reply was

a reference to a Mr. Jeffers, who was her lawyer (page 25). From 1907 up to 1909, the respondent kept at his room in Jersey City a hand bag and some wearing apparel. When his wife deserted him in November, 1909, he was obliged to give up the home in Washington and store his furniture. Shortly thereafter he moved some furniture to his Jersey City home at 107 Grand street, and took all of his personal belongings there (page 66). He also notified his wife that his home was at No. 107 Grand street, Jersey City (page 76).

This condition of affairs existed in December, 1909. At that time his employment was still that of a dining car conductor and steward, and on his trips to Washington after December, 1909, he stopped at the hotel provided for employes by the Pennsylvania Railroad Company, but on the nights when his train stayed over at Jersey City, he stopped at his home 107 Grand street (page 64). He had seen his wife after December, 1909, on a number of occasions, and made repeated requests for her to live at Jersey City with him (page 26). She, however, continued to remain in Washington, and refused to live elsewhere (page 26). His employment as a dining car conductor continued up until May, 1913, although the character of his employment was given a different name on November, 1914, yet his duties remained the same (page 67). In May, 1913, as a service inspector in the employ of the Pennsylvania Railroad Company, he was on duty at Washington, having been there three or four days (pages 67-68), when he received notice from his superior to report immediately at Pittsburg, as the steward there had died (page 68), and upon twenty-four hours' notice he took up the duties at the Pittsburg Restaurant of the Pennsylvania Railroad Company (page 68). His home during all this time had

been at No. 107 Grand street, where all his personal belongings, wearing apparel and articles of furniture remained, and he had none elsewhere. On that shift to Pittsburg, on such short notice, he visited a friend, Dr. Hughes, and advised him that he was stationed at Pittsburg temporarily, and made arrangements to have a room at the home of this Dr. Hughes, where he slept nights while in Pittsburg (p. 7).

He was still stationed at Pittsburg at the time of the filing of the petition in this case in June, 1915, but from May, 1913, to June, 1915, he had been withdrawn on several occasions from the service at Pittsburg and had been sent on other routes or lines of the company for other service (p. 70). When the respondent was first stationed at Pittsburg he took with him only such wearing apparel as he required for immediate use, and left at his home, 107 Grand street, Jersey City, all of the rest of his personal effects (p. 69). His employment at Pittsburg was uncertain as it was subject to change at a moment's notice, so he still maintained his room at Jersey City, and kept the key to the house and continued to pay rent for his room, although stationed at Pittsburg (p. 75). He also kept some of his belongings which he did not require for immediate use, at his home in Jersey City and kept an article of furniture at his home which had always been there (p. 75). His station at Pittsburg was under the supervision of the Department at New York (p. 96) and both the respondent and his superior officer testified that his position at Pittsburg was not permanent, but was subject to change from one point to another, and in fact he was changed to other points since he went to Pittsburg, although his main duties were confined to the restaurant at Pittsburg (p. 96). The respond-

ent was obliged to report in person to his superior at New York at least once a month, and on these occasions he always went to his room, 107 Grand street, changed his clothes, attended to other personal matters before returning to Pittsburg (p. 71). In addition to coming to New York on his duties he would return to Jersey City at least once a month or sometimes when he would have a day off from his employment, and on these occasions would always go to his room, get additional wearing apparel, leave some, and visit friends in the vicinity (p. 72). Since being stationed at Pittsburg the respondent was withdrawn on three or four occasions for work elsewhere (p. 70-71). On one occasion for ten days he was in the vicinity of New York and stayed at his home, 107 Grand street, during that time. While in Jersey City, prior to 1913, the respondent opened a savings account in the New Jersey Title Guarantee & Trust Company of Jersey City (p. 13), and also rented a safe deposit box in what was then the Jersey City Trust Company, in Jersey City. Since being stationed at Pittsburg, he did not remove either the savings account or his safe deposit box, but kept his moneys on deposit and his papers of value in the safe deposit box in the Jersey City Trust Company (page 74), and since being at Pittsburg he has made deposits in his savings account in the Title Company at Jersey City (p. 92). The bank account which he opened in Pittsburg was a small check account necessary to have in carrying on his duties at that point. After being stationed at Pittsburg, the respondent continued to receive his mail at his residence, No. 107 Grand street, and still does receive mail there (p. 73).

With respect to the question of voting, it appears that the respondent lived most of the time since his

marriage, at Washington, D. C., where the inhabitants or residents do not have the right or franchise to vote (p. 74) and that after 1909 when the respondent was living solely in Jersey City he attempted to register on several occasions but because of the character of his employment, his train happened to be out of town on registry days (page 74), and in fact it appears that the respondent never voted anywhere, and has not voted in Pittsburg since May, 1913, nor has he attempted to exercise the right or franchise in Pittsburg. The respondent's employer and his associates have always understood that his residence was in Jersey City (page 99). His immediate superior officer has always understood that his residence was in Jersey City, although he knew him to be stationed at Pittsburg, and the character of his employment at Pittsburg was subject to change without notice as is the employment of all other men in this branch of the railroad service (page 96).

The weight of evidence clearly shows that the respondent was a resident of and domiciled in the State of New Jersey at the time of the filing of the petition for divorce in this cause.

In supporting the facts testified to by the respondent as set forth herein, the other witnesses, to wit: Miss Coleman, his landlady, from whom he rented his room at No. 107 Grand street, Jersey City, corroborates him in every respect concerning the character of his residence, the fact that he still continues to pay rent for it, has the key of the house and occupies his room on an average of three times per month, sometimes more frequently and sometimes less (pp. 106-107). That he has his belongings therein, including wearing apparel and an article of furniture (p. 105).

His superior officer, Mr. H. H. Baker, the superintendent of the Pennsylvania Railroad Dining Car Service, corroborates him with respect to the uncertainty of his position in his employment, and the temporary character of his present employment at Pittsburg.

One of the witnesses produced by the respondent, a Mrs. DeGheri (p. 121), who is one of the neighbors at No. 107 Grand street, testified that she has seen him going in and out of No. 107 Grand street, seen him wash his face and dry it, and she always knew that he lived there (p. 121). All of the circumstances surrounding the situation, namely, that long before the appellant deserted the respondent, the character of his employment was such that he was not in Jersey City any more frequently before the desertion than he was afterwards, and the other facts and circumstances all tend to substantiate the testimony given by the respondent, whereas the appellant produced on this hearing to show that the respondent was not a resident of the State of New Jersey, within the meaning of the statute, some of the neighbors, one a Miss Herman (p. 119), who was a school teacher who was not home during the hours between 9 A. M. and 3 P. M., who lived there twelve years and who in that time visited No. 107 Grand street once or twice, and who testified that she did not recognize the respondent as one of the neighbors. Yet she frankly admits that she knew that men took rooms at 107 Grand street, knew that men lived there as lodgers or boarders, but she is not sure that she would recognize anyone who went in or out of the house (p. 120). Another neighbor, Mr. DeGheri, corroborates the respondent's testimony.

A witness, Mr. Van Court, was produced to prove the fact that when the respondent made application

for a surety company bond in his capacity as steward of the Pittsburg restaurant, he wrote his residence as Pittsburg. This man's testimony was incompetent to prove this fact as he did not produce the original application and his testimony was based on copies which he had in his office. This bond is renewed from year to year under the original application.

The other witness produced was the appellant herself, and, of course, she testified only to statements made by the respondent to the effect that he did not consider his home to be in Jersey City (p. 123). These conversations, however, the respondent denies, but it does appear, however, from the appellant's testimony that she wrote him letters at No. 107 Grand street, and even had spent the night there and lived with him for two or three days before she deserted him in 1909 (pp. 123-124).

If the respondent's position in Pittsburg was permanent, or if the nature of his employment was such that he was not constantly subject to change from various points in the railroad service one might question the reason why he should continue his home at Jersey City, but although he was personally present in Pittsburg after May, 1913, for the greater part of the time, yet it appears that his duties took him to other points and took him to New York with frequency, and the possibility of being shifted from Pittsburg for long periods of time, were such that there is every reason why the respondent should have maintained his home in Jersey City, which he had occupied continually from 1905 to 1913. Even before 1913, the time spent in Jersey City was only over night, after his train got from its run from Washington or other points, and at its best the home could not have any more permanency afterwards than it

had before. It must be apparent that considering the testimony and the respondent's circumstances, that the weight of evidence clearly preponderates in his favor, for with the exception of the appellant, the testimony is not contradicted by anyone. We also note by the exhibits, that he wrote several letters to his wife from Pittsburg (pages 140-141-142-143), but even these letters, bear the address of the Pittsburg Station (page 141), when the appellant corresponded with him at Pittsburg, as she did occasionally, she did not address him at his Pittsburg residence but on the contrary wrote to him at the Station.

The respondent was domiciled in New Jersey within the meaning of the statute.

Domicile may be divided into three classes, domicile of origin, domicile of choice and domicile by operation of law.

"Domicile of choice is that which the individual has elected and chosen for himself to replace the domicile previously obtained."

14 Cyc., 837.

It appears that the respondent, prior to November 1909, had repeatedly urged the appellant to move to Jersey City, as it was more convenient for him to carry on his employment at that place and that he desired the appellant to move to Jersey City with him and live there (page 23 and 64) and on one occasion, in December, 1909, even after the appellant deserted him, he rented an apartment in the City of Newark (she having objected to Jersey City) to see if he could not bring her back to him and live with him in the vicinity of Jersey City (page 24).

It is apparent, therefore, that there was every

reason for the respondent to change his domicile from Washington to Jersey City, or its vicinity, prior to the time that the appellant deserted him.

In November, 1909, when the appellant deserted the petitioner, the home was broken up in Washington, the furniture was stored, and afterwards some of it was sold; the balance the appellant took with her, and the respondent took one article of furniture in Jersey City, with all of his personal belongings (p. 66). His frequent requests to his wife to come to Jersey City to live, together with the character of his employment and the necessity for his residing in Jersey City, undoubtedly established Jersey City as the domicile of choice, from and after December, 1909.

He opened a bank account in Jersey City, also rented a safe deposit box for keeping papers of value.

His employment, after December, 1909, continued to be the same, so that until May, 1913, he spent only three nights a week at his home in Jersey City, but after December, 1909, he spent his nights in Washington at the hotel provided by the Railroad Company for that purpose (p. 36). He at that time gave his employer his home address as No. 107 Grand street, Jersey City (p. 99).

Certainly, therefore, the respondent made Jersey City the domicile of choice, that is, he changed his physical residence, or at least made Jersey City his only residence, and he showed his intention that Jersey City should be his domicile by taking all of his personal belongings to Jersey City, depositing his money in bank, and papers of value and other things of interest to him in the banks of Jersey City. Change of residence plus intent to create a new domicile are the necessary steps to effect a change and they are present in this instance as fully as they ever could be in any case.

The question which now presents itself to the Court is this, did the respondent, after May, 1913, choose another domicile? Or, since he has been stationed at Pittsburg, has he, by act and intent, changed his domicile to Pittsburg?

“Domicile of choice is entirely a question of residence and intent or, as it is usually put the factum and the animus, both must concur in order that the domicile may be deemed established.”

14 Cyc., 838.

Cases cited.

“Intent, of course, excludes any idea of returning to the place of previous domicile.”

14 Cyc., 841.

Cases cited.

The fact that the respondent had two residences does not of itself indicate that his domicile had changed.

“Again a man may have two or more residences, but only one domicile. * * * He chooses which one of the residences shall be his domicile and his choice is final if made in good faith, although he may spend less time at his domicile than at his residence, * * * But the marks of domicile are numerous; they include the character of the place, and the act and declarations of the party in connection therewith, provided, of course, the declarations are made in good faith, sincere and ante litem motam.”

Duke vs. Duke, 70 N. J. Eq., 139.

In the case at bar we have a man with two residences, one of necessity, because his employment detained him at Pittsburg the greater part of the time; the other in Jersey City, which the respondent chooses to call his home and his domicile.

Under the facts he is either a resident of and domiciled in New Jersey, or else he is a resident of and domiciled in the State of Pennsylvania. In order for him to have changed his domicile from Jersey City to Pittsburg it became necessary that the two elements, viz., that of residence and that of intent to make it a domicile, should be present.

It appears that there was a residence at Pittsburg for a large part of the time after May, 1913, but the intent is entirely lacking.

Considering these two elements, the first, residence, we find that because the respondent's employment compelled him to be physically present in Pittsburg during the entire day, it was necessary that he have a place to sleep at night. He, therefore, obtained a room at the home of a friend of his, a Dr. Hughes, who gave him a room as a friend, who did not let out rooms to boarders.

The respondent still retained, however, his residence in Jersey City. He therefore did not change his residence, but what he did do was to acquire another residence which was used by him while in Pittsburg, but on all of his trips to New York, both on business and on pleasure, he always spent his time at his home in Jersey City.

The determining factor, however, is clearly shown when we consider the question of intent. Was the conduct of the respondent such that it can be said he intended to make Pittsburg his permanent home? When he went there in May, 1913, he took only his personal belongings, that is, wearing apparel,

and he left other wearing apparel and an article of furniture and his hand bags and grips in Jersey City. He arranged to continue his room at Jersey City; he kept the key to the house so that he might come and go as he pleased, as he always had done at Jersey City. He continued to pay rent for his room in Jersey City during all the time that he was at Pittsburg. At the time of the filing of the petition in this case, he still had his room in Jersey City, which he stopped at frequently. He still had the key to the house, his bank accounts which had been opened in Jersey City, which was a savings account, and a deposit box in Jersey City was continued by him and still remains in Jersey City. He has made deposits in his bank account since he has been at Pittsburg; he has continued to pay the rent for the safe deposit box in Jersey City. His employment is such that it is a matter of business necessity to maintain and continue a residence and a home in the district of the headquarters of the Dining Car Service of the Railroad Company, for in no other place could he have a home with as much permanency to it as he could in Jersey City or its immediate vicinity. He receives his mail at Jersey City, and on his various trips to New York headquarters would call for his mail at Jersey City. On his vacations, or times when he had a day off, he came to Jersey City or State of New Jersey, spending one vacation at Asbury Park or Atlantic City.

By every act and statement of the respondent made or uttered by him since May, 1913, he has clearly demonstrated that it was his intention that Jersey City was still his residence and domicile, and not Pittsburg.

If we now look to what has been done at Pitts-

burg as compared to his actions and conduct in relation to his home in Jersey City, we find that he has wearing apparel at his room in Pittsburg, and a small check account for business purposes, and that is all. He does not receive mail at his residence in Pittsburg, nor does he vote at Pittsburg, and only one time has he stated that Pittsburg was his residence, and that was in signing an application for a bond, and that of itself is no indication that he considered Pittsburg his domicile, but on the contrary the inference might as well be drawn that he gave his Pittsburg address in a business transaction which took place at that point, as a matter of convenience for the bonding company or himself.

It is a well settled doctrine that the change of domicile is only accomplished by an actual removal to a new locality, coupled with the present intent to make it a permanent home.

“A change of domicile is affected by an actual removal to the new locality with *intent to remain* * * * and so long as either such personal presence is wanting, or the intent to remain is not fully performed, the old domicile continues.”

Bishop on Marriage and Divorce (6 Ed., Vol. 2, Section 118A).

It is true that the respondent took up his employment in Pittsburg in May, 1913, and physically was present in Pittsburg the greater part of his time until the filing of the petition in this case in June, 1915. The time, however, has only a slight bearing on the situation as the duration of absence from the domicile will not of itself change the domicile of the person.

Duke vs. Duke, 70 Eq., 139.

In the case of Hibbert vs. Hibbert, 72 N. J. Eq., 778, a petition for divorce was filed by the wife. She was deserted by her husband in Atlantic City, more than two years prior to the filing of the petition, and the petitioner for more than two years prior to the filing of the petition was absent from the State. Soon after the desertion she sold most of her household goods, and stored the remainder with a friend in Atlantic City, and accepted employment as a demonstrator. Her duties as a demonstrator were almost wholly out of this State, and were chiefly in Philadelphia, New York, Washington and other large cities. She *seldom* returned to Atlantic City, but when there boarded with a friend, with whom her goods were stored. It was held in this case that:

“The domicile of matrimony having been in Atlantic City, and the husband having there abandoned complainant, to avoid his matrimonial obligations, the domicile of the complainant continued in Atlantic City, and is still there, unless a new domicile has been acquired by her elsewhere. * * * The testimony clearly discloses that the complainant has not acquired a new domicile *animo et facto*. Since her first departure from Atlantic City, she has not made for herself a semblance of a home elsewhere, and it is manifest that she has at no time entertained any fixed purpose to do so. The utmost that can be said adverse to her continued domicile at Atlantic City, is that she may not have retained a fixed purpose to return there permanently. I think a fair deduction from the testimony is that during most

of the period during her absence from Atlantic City, she did not know whether it would ever be possible for her to return to that city permanently, but that she wished to do so, and only remained away from necessity."

It was held in that case that the petitioner was domiciled in the State of New Jersey.

If we compare the case at bar to the above mentioned case, we find that the respondent demonstrated to a greater degree of certainty what his intentions were in relation to his home at Jersey City. Not only did he return to his home at intervals, and not, as expressed in the opinion of the case last above cited, "seldom returned," but, on the contrary, respondent herein returned to his home at every opportunity, and frequently and on every occasion when business brought him in the neighborhood of his home or when he had a day's leave from his duty he visited his home, so that it is evident that with respect to his conduct the case, so far as domicile is concerned, is much stronger and the conclusions are much more certain than in the opinion in *Hibbert vs. Hibbert, supra*.

It must be borne in mind that it was only business which took the respondent away from Jersey City after May, 1913; his position is not permanent and he was sent there on twenty-four hour's notice and, according to his own testimony and that of his employee, he may be removed or changed upon the same kind of notice. He could not, therefore, intend to establish Pittsburg as his home with any degree of certainty or intent to remain.

It has been held in this State that temporary residence, for special purposes, does not, of itself, constitute the domicile of a party.

Watkins vs. Watkins, 68 N. J. Eq., 632.

Harrol vs. Harrol, 39 N. J. Eq., 285.

The point which distinguishes the case at bar from nearly all the other cases which have come before the Court, is that of intention. There is no reason why the respondent should continue to assert his residence to be in New Jersey unless he, in good faith, considered it to be his residence. He does not seek the jurisdiction of the New Jersey Courts because of any advantage in the laws of New Jersey over the laws of the State of Pennsylvania. He petitions for his divorce on the ground of desertion. If he considered himself domiciled in Pittsburg he could have filed his petition in the State of Pennsylvania upon the ground of desertion as fully and to the same extent as he could in New Jersey. The same benefit and the same relief is afforded to him under the laws of the State of Pennsylvania as he had under the laws of New Jersey. He has no ulterior motive in seeking any advantage under our law, and the fact that he files his petition in this State is a complete and direct affirmation on his part of the fact that he considers New Jersey the State of his domicile. His petition could have been filed before he went to Pittsburg.

Another method of determining the respondent's intention, after May, 1913, as to his domicile, is to compare his actions at that time with his actions and conduct at the time he changed his domicile from Washington to Jersey City in 1909 (which was six years before the filing of the petition). He intended then, in December, 1909, to make Jersey City his home and his domicile. He had frequently requested his wife to go to Jersey City and live because his business required him to do so. After she deserted him he broke up his home in Washing-

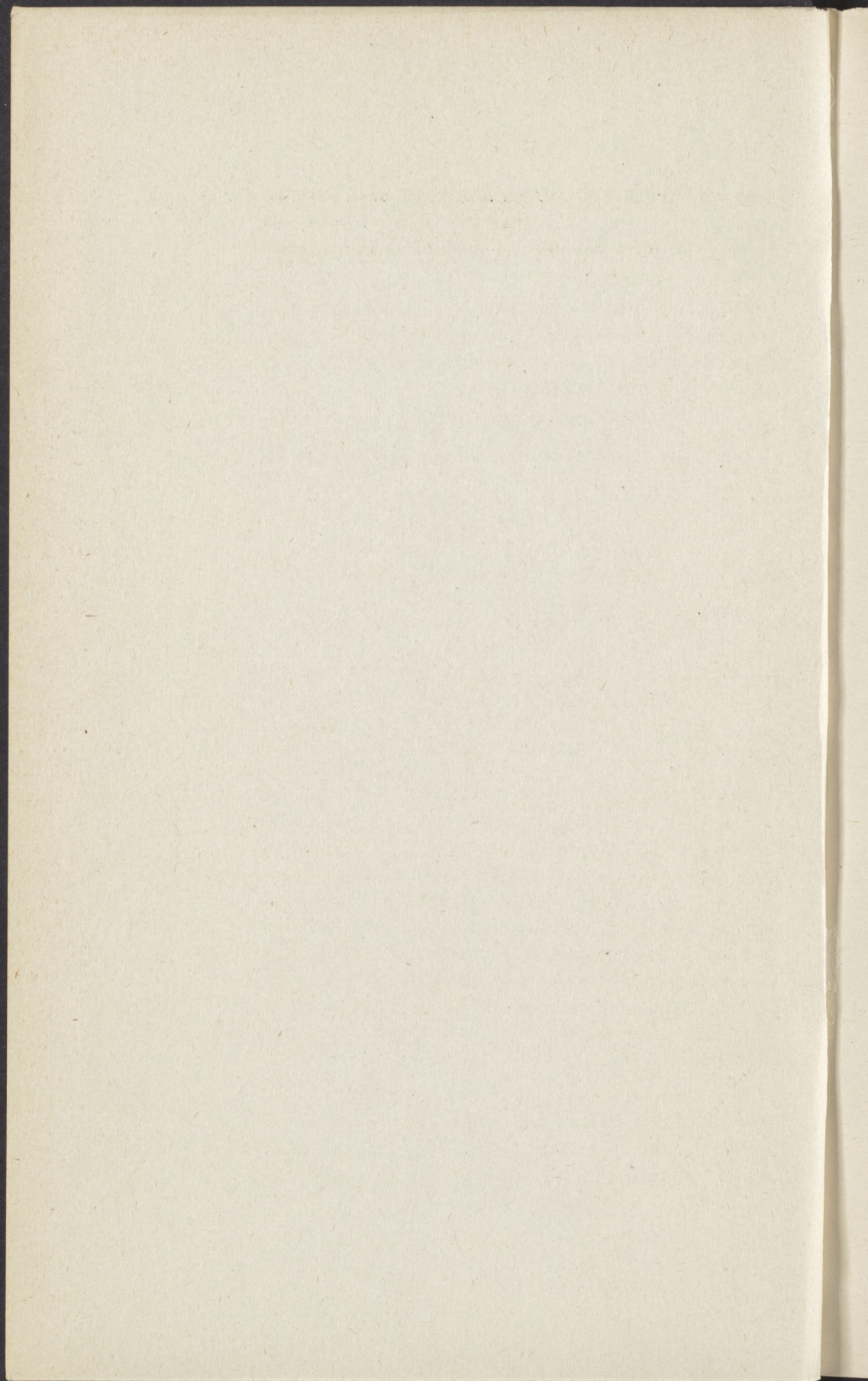
ton, stored all his furniture and later sold most of it, brought all of his belongings of every kind and description to Jersey City, opened his bank account in Jersey City, rented a safe deposit box and notified his superior officer in his employment that he was living at No. 107 Grand street, Jersey City, and after that time, up until May, 1913, he stopped, when on the road, at the hotels provided for his use by the company. He received all of his mail at Jersey City and had everything that he possessed and everything that was of value and interest to him in Jersey City. Certainly there was a complete change of domicile by actual change of residence and by a certain declaration of his intentions. In 1913, when he was confronted with the possibility of again changing his domicile, it will be noted that instead of following the course of conduct which he had attempted in 1909 in making his change complete, he took as little as he could, which was his wearing apparel. Everything else remained in Jersey City and he took advantage of every opportunity to visit his home at No. 107 Grand street, Jersey City, and deposited his money in a Jersey City bank. Certainly one cannot say that he intended to make Pittsburg his permanent home, for if he continued to pay rent for his home in Jersey City he must have desired to retain his residence with the idea of not remaining permanently in Pittsburg, but of returning to Jersey City in the future, and, as a matter of fact, he used and occupied his room in Jersey City at every opportunity. His residence in Pittsburg was entirely lacking of any intention on respondent's part to remain there or to make that his permanent home.

It is also apparent from the letters which respondent wrote to his wife in Pittsburg, that he still desired his wife to return to him, that he at that time

had no intention of getting a divorce and his conduct must be judged as that of a man without any motive or purpose, and his actions being in good faith.

It is respectfully submitted that the respondent was and still is a resident of the State of New Jersey, and that the decree of the Court of Chancery should therefore be affirmed.

RUNYON & AUTENRIETH,
Solicitors for and of Counsel for Respondent.



NEW JERSEY COURT OF ERRORS AND
APPEALS.

Between	}	ON PETITION FOR
JOHN L. BAKER,		DIVORCE.
<i>Petitioner-Respondent,</i>		
and		ON APPEAL.
MARGARET BAKER,		
<i>Defendant-Appellant.</i>		

BRIEF ON BEHALF OF DEFENDANT.

The appellant and respondent were married in Washington, D. C., on March 11, 1884. Six months immediately thereafter they lived in Cincinnati. Thereafter, until 1899, they lived together in Washington, D. C., except from 1889, until the spring of 1891, they lived on the Pacific coast. From 1899, for about a year and a half, they lived together in Richmond, Virginia, and then went to Atlanta, Georgia, where they lived until February, 1905. At that time, they removed to Washington, D. C., where the husband and wife had apartments and continued to live together as husband and wife. In 1905, the respondent secured a position as dining car steward on the Pennsylvania Railroad, with headquarters in Jersey City. Somewhere about 1907, the respondent obtained quarters at 107 Grand Street, Jersey City,

which he occupied when it was necessary for him to lay over at that end of his run. At that time he was spending less than one-half of the nights in the week in Jersey City, the remainder of the time he was spending with his wife in Washington, D. C. The parties maintained their home in Washington, living together as husband and wife until about November 15, 1909. The parties did not maintain a joint residence thereafter, however, they did live and cohabit together as husband and wife several times thereafter, and especially on a sea trip from New York to Norfolk and back to Washington.

When they ceased to keep house together in November, 1909, the respondent and appellant divided the furniture—the respondent going to the Hotel Harris, Washington, to live, and taking some of his personal effects to Jersey City. The respondent testified (State of Case, pp. 65-16 and following) that the quarters occupied by him at 107 Grand Street, Jersey City, N. J., were not proper quarters for him and his wife; that after 1909, all the personal effects that he had at this place was “a trunk and whatever I could pack in it, and my handbag, and I had my trunk and clocks and things.” The balance of his furniture was stored in Washington (State of Case, pp. 66-20), later a mahogany chiffonier was taken to the Grand Street address. The respondent’s employment continued the same until November, 1912, at which time he was made service inspector with headquarters in New York and he would spend every second or third night in New York and the balance of the time in different parts of the country. In May, 1913, he went to Pittsburg and assumed charge of the depot restaurant at that place as steward and has continued in that position ever since with one or two exceptions, when he was

sent upon special trips. There he has continuously resided and has been away from his employment only one or two days a month from that time until the date of the final hearing. He has been accustomed to make reports to the chief office in New York once or twice a month and on those occasions to occupy a room at 107 Grand Street, and during the time the respondent has resided in Pittsburg, Pa., to wit, from May, 1913, this room has been occupied by another person and arrangements were made to take care of the respondent when he arrived, but without reference to any particular room at this house (State of Case, pp. 81-10), and during this time no regular rent has been paid by the respondent, but only from time to time as he would use the room (State of Case, pp. 82 and following).

In January, 1915, a bond was issued by the Guarantee Company of North America, bonding the fidelity of the respondent to the Pennsylvania Railroad Company, and an application was signed by the respondent in which he set forth his residence as Pittsburg, Penna.

The respondent was unknown to the persons occupying the adjoining house; a church was next door to 107 Grand Street. He did not know the name of the pastor, nor the people who lived next door to the church. The house, No. 107 Grand Street, in which the petitioner claimed that he lived, was sold by Miss Coleman, from whom the petitioner claimed to rent the house, in April, 1915. The contract for the sale was made on Tuesday morning and they vacated the house on the following Friday night (State of Case, pp. 104-22 and following). The respondent never claimed to have lived at any other place than 107 Grand Street during the statutory period of his residence, and it is very clear that he

did not live at 107 Grand Street at the time he filed his petition, because the petition in this case was filed on June 6, 1915. The petitioner, therefore, at the time of the filing of his petition in this cause had absolutely no domicile at 107 Grand Street, Jersey City, N. J. He claimed none and had no other place.

The final hearing in this cause was begun on March 9th, 1916, namely, eleven months after the sale of the house. There is not a scintilla of testimony anywhere in the cause that the petitioner had ever spent an hour in the state of New Jersey between the date of the sale of the property, to wit, April, 1915, and the beginning of the final hearing, to wit, March 9, 1916. The petition in this cause was filed after the sale of the house in which the petitioner averred that his residence was 107 Grand Street, Jersey City, N. J. Apparently the petitioner did not know that the house in which he claimed his residence had been sold before the filing of his petition by the very person by whom he intended to prove his residence. His goods that he had at 107 Grand Street were crated and sent to Pittsburg at the time that Miss Coleman moved from 107 Grand St., to wit, in April, 1915. Between March 9, 1916, the day of the beginning of the taking of final testimony and the conclusion thereof, September 12, 1916, the petitioner did not reside at 107 Grand Street, or any other place in Jersey City, but rather stayed with friends in Newark, N. J.

It is very clear that the testimony of the petitioner is unworthy of belief as to his residence in Jersey City, because, (State of Case, p. 74) the petitioner testified that "Miss Coleman had sold the house sometime along in April of this year, shortly after the trial of the case" whereas Miss Coleman testified that the premises were sold in April, 1915.

Therefore, during the whole period in which the divorce proceedings were filed, the premises that he claimed to have rented had been sold by his landlady and she had moved to another location apparently without the knowledge of the petitioner.

It is assumed in this cause that until 1909, the petitioner maintained his residence in Washington, D. C., where he lived with his wife. For two years prior thereto, he had maintained the same sort of room and arrangement in Jersey City as he maintained thereafter, with this exception that his visits to Jersey City were more frequent before 1909 than they were after 1909. There was nothing in the petitioner's conduct after 1909 to show that he intended to make Jersey City his home any more so than prior thereto, but on the contrary, shortly after the petitioner went to Pittsburg, he gave up his room at 107 Grand Street, and only paid for the room as he used it just as a person would pay for his accommodations in a hotel (State of Case, pp. 109-22 and following). He had no friends in Jersey City—there are no persons that he knew, (State of Case pp. 111-6 and following).

Miss Herman (State of Case, p. 119) testified that she was a school teacher and had lived next door to 107 Grand Street for twelve years; that she had never seen Mr. Baker in her lifetime and had never seen him at the house. Mrs. Baker testified that her husband had told her that he had no home anywhere; that he did not intend to take up a residence in Jersey City. This conversation took place in 1913.

ARGUMENT.

It, therefore, seems to us clear that the petitioner, John L. Baker, had no residence in Jersey City at the time of the filing of his petition and continuously for two years prior thereto.

In **Harral vs. Harral**, 39 Equity, 279, page 285, the Court said: "A person *sui juris* may change his domicile as often as he pleases. To effect such a change, naturalization in the country he adopts as his domicile is not essential. He need not do all that is necessary to divest himself of his original nationality. There must be a voluntary change of residence; the residence at the place chosen for the domicile must be actual; to the *factum* of residence there must be added the *animus manendi*; and that place is the domicile of a person in which he has voluntarily fixed his habitation, not for a mere temporary or special purpose, but with a present intention of making it his home, unless or until something which is uncertain or unexpected shall happen to induce him to adopt some other permanent home."

In the present case, after the separation of the parties in Washington, D. C., there was nothing done by the petitioner as indicating the establishment of a permanent home in Jersey City, more than what had been before that time while he had maintained a room to accommodate him on his trips to New York. Again, there was no fact of residence, the petitioner did not, as a fact, reside in Jersey City. Certainly, he did not at the time of the filing of his petition reside at 107 Grand Street, Jersey City.

In **Sweeney vs. Sweeney**, 62 N. J. Eq. 357, the Court held, "Since a change of residence is evinced by an actual change of habitation continued with

a purpose and intent to make the new habitation a permanent residence for an indefinite and indeterminate period, the Court, whose jurisdiction is invoked by one who claimed to have acquired and maintained such a new residence, must consider, not only the acts and conduct of the claimant, but also whatever tends to indicate the *animus* with which the change was made." "In general, acts and conduct afford more trustworthy proof upon the question than do the declarations of the claimant, and if the latter are inconsistent with the former, it may justify a determination against the residence claimed, or create such doubt or uncertainty as to require jurisdiction to be refused."

In this connection, let me call the attention of the Court to the fact that the respondent was maintaining a permanent home in Pittsburg, Penna.; that after going to Pittsburg, Pa., and in making declaration as to his residence, not connected with his divorce proceedings, he states that his residence is in Pittsburg, Penna.

The respondent, in his brief, mentions the fact that he took "the balance" of his furniture with him to Jersey City and so he testifies. That "balance," however, was a chiffonier, and a handbag, the moving of which clearly does not show an intention of change of residence.

In **Duke vs. Duke**, 70 N. J. Eq. 135, page 139, the Court said "In this country one of the most important indications of a domicile is the exercise of the electoral franchise." In this case the petitioner never attempted to exercise his right of franchise in the state of New Jersey. This case has been cited by the respondent. Certainly, it give him small consolation. The facts of the case there recited are wholly different from the facts in the present case.

In the Duke case, there was ample evidence of residence, likewise the case of **Watkinson vs. Watkinson**, 68 N. J. Eq. 632, affords the respondent no comfort. In the **Watkinson vs. Watkinson** case, the question was whether or not the plaintiff, after having acquired a residence, had acquired another. In the present case, the question is whether or not the respondent ever acquired a residence in New Jersey. It is the claim of the appellant that he never acquired a residence in New Jersey, and if he did, he had none at the time of the filing of his petition in this cause, having quitted this state for Pittsburg, Penna.

The case **Hibbert vs. Hibbert**, 72 N. J. Eq. 778, the learned Vice-Chancellor held, "The domicile of matrimony having been in Atlantic City, and the husband having there abandoned complainant to avoid his matrimonial obligations, the domicile of complainant continued in Atlantic City and is still there, unless a new domicile has been acquired by her elsewhere. The testimony clearly discloses that complainant has not acquired a new domicile *animo et facto*. Since her first departure from Atlantic City she has not made for herself the semblance of a home elsewhere, and it is manifest that she has at no time entertained any fixed purpose to do so." This applies to the respondent obtaining a residence in Jersey City. He claims none before 1909. What did he do after 1909, more than he had done prior thereto, which would establish a residence. The answer is nothing.

1. In conclusion, it is claimed, therefore, by the appellant in this case, that the respondent never acquired a residence in New Jersey; the maintenance of a room in Jersey City was not for the purpose of

establishing his domicile, but purely to accommodate his traveling necessities. This was certainly true before 1909, and equally true thereafter.

2. That if it should be found that the respondent had obtained a residence at 107 Grand Street before 1909 and before 1913, then it is claimed that he lost that residence by

- (a) Moving from the state of New Jersey,
- (b) The declaration of his application for bond with Pittsburg was his residence,
- (c) The sale and loss of his rooming quarters in Jersey City.

It is, therefore, respectfully submitted that the decree of the Court of Chancery should be reversed and the petition of the respondent dismissed.

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with Appellant.

