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Notice of Appeal.

NOTICE OF APPEAL.

(Served September 4, 1925.)

In Chancery of New Jersey

Between

MARY V. HEBBLE,

Complainant,

and

AMOS S. HEBBLE,

Defendant.

*On
Petition, &c.*

*Notice
of Appeal.*

10

To Frank R. Pentlarge, Esq., solicitor of complainant.

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TAKE NOTICE that the defendant Amos S. Hebble hereby appeals to the New Jersey Court of Errors and Appeals, in the last resort in all causes, from so much of the amended decree for payment of alimony made in above-entitled cause the fourth day of August, 1925, as provides for the payment by the defendant to the complainant for the support of herself and her youngest child the annual sum of \$5,700.00, in equal monthly payments in advance, and also from that portion of the said final decree which adjudges and decrees that the net arrears of alimony due to the complainant from the defendant under the decree of November 26, 1920, for the period prior to March 1, 1925, aggregates the sum of \$658.46.

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September 2, 1925.

Respectfully yours,

McDERMOTT, ENRIGHT & CARPENTER,
Solicitors for and of Counsel with Defendant.

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Petition of Appeal.

I conceive there are good grounds for appeal
in above-entitled cause.

JAMES D. CARPENTER, JR.,
Of Counsel.

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PETITION OF APPEAL.**New Jersey Court of Errors and Appeals**

20 30	<i>Between</i> MARY V. HEBBLE, <i>Complainant-Appellee,</i> <i>and</i> AMOS S. HEBBLE, <i>Defendant-Appellant.</i>	}	<i>On Appeal from Chancery.</i> <i>Petition of Appeal.</i>
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To the Honorable the Court of Errors and Appeals in the last resort in all causes:

The petition of Amos S. Hebble, the appellant in the above-entitled cause, respectfully shows that your petitioner finds himself aggrieved by the amended final decree made in the Court of Chancery by his Honor Edwin Robert Walker, Chancellor of the State of New Jersey, bearing date the fourth day of August, 1925, wherein the said Mary V. Hebble was complainant, and the said Amos S. Hebble was defendant, in the following respects, to wit:

(1) That the said decree adjudges that the defendant Amos S. Hebble pay to the complainant Mary V. Hebble for her support and the sup-

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Petition of Appeal.

port of her youngest child the annual sum of \$5,700.00, in equal monthly installments in advance, commencing as of the first day of March, 1925.

(2) That the net arrears of alimony due the complainant from the defendant under the decree of November 26, 1920, for the period prior to March 1, 1925, aggregates the sum of \$658.46, and that the defendant be decreed and directed to pay the same forthwith to the complainant. 10

(3) Because the Chancellor should not have decreed that this defendant pay more than the sum of \$4,000.00 alimony per annum to the complainant.

(4) Because the Chancellor erred in deducting the sum of \$540.00, expended by the defendant below for a new furnace, and the sum of \$294.46 for installation of electricity, from the moneys received by the defendant, and at the same time gave to the complainant below the benefit of the increase of rent caused by the making of such improvements. 20

(5) Because the Chancellor failed and neglected in his said decree to provide that upon Howard Hebble graduating from or leaving college there should be deducted from the alimony payable to the complainant the sum of \$1,400.00 per annum, the same being the amount of said Howard Hebble's expenses in college. 30

(6) Because the Chancellor did not require the complainant below to pay interest on the sums advanced by the defendant to improve the Nineteenth street property, which improvements the complainant was required by decree of the Court below to make, and did not give the de- 40

Petition of Appeal.

pendant in the settlement between the parties credit for such interest.

Your petitioner therefore prays that the said amended final decree may be in the particulars aforesaid reversed, set aside and for nothing holden.

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

McDERMOTT, ENRIGHT & CARPENTER,
Solicitors for and of Counsel with Appellant.

(Formal answer to petition of appeal filed.)

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Order to Show Cause.

**Order to Show Cause Why Allowance of Alimony
Should Not Be Increased.**

Filed October 27, 1924.

IN CHANCERY OF NEW JERSEY.

<p><i>Between</i></p> <p>MARY V. HEBBLE, <i>Complainant,</i></p> <p style="text-align: center;"><i>and</i></p> <p>AMOS S. HEBBLE, <i>Defendant.</i></p>	}	<p><i>Order to Show Cause Why Allow- ance of Alimony Should Not Be Increased.</i></p>	10
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Upon the opening of this matter to the Court by Frank R. Pentlarge, of counsel with the petitioner, and upon reading and filing the affidavit of Mary V. Hebble, the petitioner herein, alleging the insufficiency of the amount of alimony provided for in the decree heretofore entered herein, dated the 26th day of November, 1920, and praying that said allowance of alimony be increased to the sum of \$650.00 per month, and upon reading and filing the petition herein; 20

Now, on motion aforesaid, it is on this 4th day of October, 1924, ORDERED, that said Amos S. Hebble, the defendant above named, do show cause before the Chancellor at the Chancery Chambers, in the City of Newark, New Jersey, on the 11th day of November, 1924, at ten o'clock in the forenoon, or as soon thereafter as counsel can be heard, why the decree for alimony heretofore entered herein on the 26th day of November, 1920, should not be amended and an allowance of \$650.00 per month alimony granted 30 40

Order to Show Cause.

the petitioner herein, and such other and further relief as may, in the premises, be deemed just and proper be had; and it is

10 ORDERED, that a certified copy of this order, together with a copy of the petition and affidavit of Mary V. Hebble upon which this order is founded be served either within or without the State of New Jersey on the said Amos S. Hebble personally, at least twenty days prior to the return date of this order.

E. R. WALKER,
C.

A true copy.

THOMAS BARBER,
Clerk.

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Petition for Increase of Alimony.

PETITION FOR INCREASE OF ALIMONY.

Filed October 7, 1924.

IN CHANCERY OF NEW JERSEY.

Between

MARY V. HEBBLE,

Complainant,

and

AMOS S. HEBBLE,

Defendant.

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*Petition for
Increase of
Alimony.*

The petition of Mary V. Hebble, residing at No. 31 Vernon Terrace, in the City of East Orange, County of Essex and State of New Jersey, showeth:

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(1) The petitioner is the complainant in the above-entitled cause.

(2) The bill of complaint heretofore filed herein was one brought by your petitioner for maintenance wherein your petitioner sought relief from the Court decreeing that the defendant herein be directed to provide suitable support and maintenance for your petitioner and the children of the marriage between your petitioner and the defendant above named.

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(3) Thereafter, the defendant duly answered the bill of petitioner herein and the cause was duly tried in open court before the Honorable James J. Fielder, one of the Vice-Chancellors of this Court, and a decree duly entered herein on the 26th day of November, 1920, providing for the payment of alimony to complainant, for her support and the support of her two youngest children, the annual sum of \$3,000.00 payable in

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Petition for Increase of Alimony.

equal monthly instalments on the first day of each and every month of \$250.00 beginning with the month of November, 1920, as by said decree will appear.

10 Said decree further provided that the complainant retain one-half of the interest on a certain mortgage known as the "Maple Avenue Mortgage," as well as all the dividends on a share of stock of the American Smelting & Refining Company, said mortgage being in the joint names of the complainant and defendant, and said share of stock in the complainant's name. The complainant likewise was to receive the rent from the Nineteenth street property and she was permitted to occupy the premises known as the "Vernon Terrace property," rent free as by
20 said decree will appear.

While the complainant was directed to keep the buildings on the foregoing premises in repair; all the taxes, assessments, water rent and insurance and similar fixed charges thereon were to be paid by the defendant.

(4) Since the filing of the bill for maintenance herein, as heretofore set forth, the defendant has continued to, and still does, without justifiable cause, on his part, abandon the petitioner
30 herein.

(5) The petitioner finds that the alimony awarded her in the aforesaid decree is inadequate for her support and the support of Howard Hebble, the son of the complainant, and the defendant herein, and that the provisions of the aforesaid decree, providing that the rental of certain properties more fully therein set forth should be turned over to the petitioner and that
40 she make certain repairs in connection with such

Petition for Increase of Alimony.

property, are such that the defendant has evaded the payment of the alimony due the petitioner under said decree.

(6) While the petitioner's son, Christian, has ceased to need support from the petitioner, being now self-supporting he in nowise contributes to petitioner's support, his income being but very small. The youngest son, Howard, has entered Princeton University, being a member of the Sophomore class for the coming year. During the last school year the petitioner spent \$1,200.00 to maintain said son at Princeton, this amount being in addition to a scholarship received by him, and in addition to the sum of \$200.00 given him by petitioner for his expenses this summer while on the Pacific Coast doing practical work in civil engineering in connection with his college courses. For the coming school year the petitioner will undoubtedly be forced to expend on the maintenance and education of her said son at best as much (\$1,400.00) as last year, if not more.

In addition to the foregoing expenditures for the education of her son the petitioner finds that her expenses run per month close to \$350.00 for the maintenance of her home, and her general living expenses.

(7) The petitioner has been unable to afford a maid upon the alimony paid her by the defendant under the aforesaid decree, nor has she been able to afford any vacation in the last five years.

(8) The petitioner's general scale of living has been, for lack of funds, far below the scale to which she was heretofore accustomed and is en-

Petition for Increase of Alimony.

titled to, in view of the means of the defendant. Furthermore, as her son grows older, it is important that the petitioner be in a position to maintain an adequate home to which he may bring his friends and that the general social standard of petitioner be maintained.

10 (9) The defendant has failed, as is more fully set forth in a proceeding brought herein to punish him for contempt for failure to pay alimony (the petition and supporting affidavit therein being hereby made a part hereof) to even pay the petitioner the alimony called for in the aforesaid decree; and in particular has failed to pay over to her the rental of the Nineteenth street house and has likewise deducted since November last \$50.00 a month from the \$250.00 monthly payments.

20 (10) In the case of the Board of Missions Extension of the Protestant Episcopal Church of Newark against the petitioner and the defendant herein, wherein the defendant herein claimed ownership to the Vernon Terrace property, this Court decided since the entry of the decree in this case that the sole ownership of the Vernon Terrace property was vested in the petitioner herein, as by said case and the decree therein will appear.

30 (11) The defendant at the time the hearing was heretofore had, wherein the aforesaid decree was entered, claimed an annual salary of \$10,000 per year. This has since been increased to \$15,000 a year, which sum the defendant is receiving from the Southern Pacific Company. Your petitioner has been informed and believes and therefore charges, that the defendant is, in addition to his yearly salary, receiving fees of

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Petition for Increase of Alimony.

considerable size as consulting engineer for other concerns, his yearly income from all sources, as the petitioner verily believes and therefore charges being between \$20,000.00 and \$25,000.00.

In order to adequately maintain her in her proper station in life, provide a home for her two youngest sons, educate the youngest son, and have reasonable funds for proper vacations in accordance with the scale of living, which in view of the very substantial and increased income of the defendant, the petitioner avers she has the right to maintain said alimony heretofore provided herein, which she avers should be increased to the sum of six hundred and fifty dollars per month. 10

Petitioner prays that the decree for alimony heretofore made herein be amended in order to provide for a monthly allowance to the petitioner of \$650.00 per month; and that your petitioner may have such other relief as may be equitable and just. 20

And your petitioner will ever pray.

FRANK R. PENTLARGE,
Solicitor of Petitioner.

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Affidavit of Mary V. Hebble.

IN CHANCERY OF NEW JERSEY.

	<p><i>Between</i></p> <p>MARY HEBBLE,</p> <p style="text-align: right;"><i>Complainant,</i></p> <p style="text-align: center;"><i>and</i></p> <p>AMOS S. HEBBLE,</p> <p style="text-align: right;"><i>Defendant.</i></p>	}	<i>Affidavit.</i>
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STATE OF NEW YORK, }
 COUNTY OF NEW YORK. }*ss.*

MARY V. HEBBLE, being over age, the complainant above named, and the petitioner herein, being duly sworn according to law, upon her oath, deposes and says:

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(1) I am the complainant above named, and the petitioner herein. I have read the foregoing petition, and know the contents thereof, and the same is true to the best of my knowledge, information and belief. By a decree duly entered herein on the 26th day of November, 1920, the defendant herein was ordered to pay me for my support, and the support of my two youngest children "the annual sum of three thousand dollars, payable in equal monthly instalments of \$250.00 each beginning forthwith, and to pay to the complainant the sum of \$250.00 for her allowance for the current month of November, 1920." In addition to the foregoing allowance, I was also allowed the rent of certain premises known as the "Nineteenth street house property," and likewise permitted to occupy my residence, the Vernon Terrace property, now occupied by me. I also was to receive one-half of the interest from a

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Affidavit of Mary V. Hebble.

certain mortgage known as the Maple avenue mortgage, as well as all dividends on a share of stock of the American Smelting and Refining Company which is in my name.

(2) Since the filing of the bill for maintenance, resulting in the aforesaid decree, the defendant herein has continued to, and still without justifiable cause abandons the petitioner herein. 10

(3) Despite the decree aforesaid, and the distinct provisions therein for the payment of alimony to me, the defendant has never complied with the provisions of the decree, but, on the contrary, still owes me \$117.50 alimony and arrears under said decree for the month of November and December, 1920, and likewise the sum of \$50.00 a month which the defendant has deducted from my \$250.00 monthly payments since June, 1923, aggregating to date \$650.00. He has also failed to pay over to me since November, 1923, the \$80.00 per month rent on the "Nineteenth street property," which, under the decree should have been turned over to me, making a still further item in arrears of alimony of \$640.00, or a total arrearage without interest of \$1,472.50. 20

(4) Simultaneously herewith I am bringing contempt proceedings in reference to these payments in arrears. In this affidavit, which is made in connection with the present proceedings to increase the amount of alimony which the defendant should pay me, I am assuming that the defendant hereafter changes his tactics and actually pays alimony in accordance with the decree of this Court, and when I speak of insufficiency of alimony, I do not refer to the amount actually received, but rather the amount actually payable under the decree now in force, as aforesaid. As 30 40

Affidavit of Mary V. Hebble.

a matter of fact the \$2,000.00 which I received as my share of the principal of the Maple avenue mortgage, which mortgage is referred to in the original decree herein, I have had to use chiefly for current expenses.

10 (5) At present I have living with me my second son, Christian, and my youngest son, Howard, the former is now in business, but is unable to do more than actually maintain himself without contributing to the general support of the household. His general overhead expenses to this extent are borne by me. As to my son, Howard, he entered Princeton University last fall, and I have been paying all his expenses there. Although he received a scholarship covering, I believe, a part of his tuition, my actual expenditures for him for the school year were 20 \$1,200.00. In addition, when he went West during the present summer vacation, I found it necessary to give him an additional \$200.00 for his expenses. He has gone West to work as a civil engineer with an engineering firm on the Pacific coast in accordance with the general custom of those taking engineering courses at Princeton University to take practical work during the summer months. This coming year my 30 son will be a Sophomore, and his expenses in all probability will not decrease, but if anything, increase.

(6) My running expenses at present are between \$300.00 and \$350.00 per month. This does not include the hire of a maid which I very much need. I have been unable to afford one upon the income which I have received. To hire a maid will cost from \$65.00 to \$75.00 per month.

Affidavit of Mary V. Hebble.

(7) My husband, the defendant herein, who claimed to have been receiving \$10,000 per year at the time of the hearing resulting in the original decree herein, was had, I now find is receiving \$15,000 per year from the Southern Pacific Company, and I understand that in addition he is in receipt of substantial fees as consulting engineer, being sought after by various firms engaged in marine work. In addition to these sources of income, the defendant has been receiving at least since November 1, 1923, \$80.00 per month rent from his Nineteenth street, East Orange property, and he likewise is the owner of a considerable amount of stocks and bonds, as is more fully set forth in the original bill herein. I fully believe that the actual income received by my husband from all sources is well between \$20,000 and \$25,000 per annum. Since last year, as I verily believe defendant gave his three sons in the aggregate not more than \$50.00. He is either saving each year a large sum of money or else living at the rate of close to \$20,000 a year. In order to live, as I should live according to my station in life and maintain a proper home for my two sons, the oldest being not entirely self-supporting, and the youngest I am sending through college at a very great expense, I should receive an allowance by way of alimony of not less than \$650.00 per month. The defendant herein has taken advantage of the fact that the present decree calls for the making by me of repairs to the "Nineteenth street house," and the "Vernon Terrace property," in which I reside. Without my consent, and in many instances, without my knowledge, he has caused all sorts of improvements and repairs to be made upon these properties, and merely deducts, without explanation, what he sees fit from my ali-

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Affidavit of Mary V. Hebble.

mony. Some of the so-called repairs in question have been the almost complete modernizing of the Nineteenth street house, permanent improvements which can in nowise be considered as repairs. Yet, my husband is not only deducting a sum of money monthly, apparently to cover these expenditures, but he is retaining the entire rent as well.

10 (8) I respectfully contend that the decree in the present form, because of his attitude, works most inequitably for me.

(9) Another reason why I believe that the present decree should be changed, is that since its entry there has been a material difference in the status of the parties, due to the fact that the defendant herein in another suit brought in this Court attempted to establish title to the Vernon Terrace property, and in which action it was decided by this Court that the title in said property vested entirely in me.

20 No previous application has been made by me for the relief herein sought.

MARY V. HEBBLE.

Sworn to before me this 5th
day of September, 1924.

30 PHILIP G. FITZ,
(SEAL) Notary Public,
New York County.
Clerk's No. 96, Register's No. 606.
Commission expires March 30, 1926.

A true copy.

THOMAS BARBER,
Clerk.

No. 90794. Series B.

Affidavit of Mary V. Hebble.

STATE OF NEW YORK, }
 COUNTY OF NEW YORK. }*ss.*

I, JAMES A. DONEGAN, Clerk of the County of New York, and also Clerk of the Supreme Court for the said County, the same being a Court of Record, having a seal, Do HEREBY CERTIFY, That Philip G. Fitz whose name is subscribed to the depositions or certificate of the proof or acknowledgment of the annexed instrument, and thereon written, was, at the time of taking such deposition, or proof and acknowledgment, a Notary Public in and for such County, duly commissioned and sworn and authorized by the laws of said State, to take depositions and to administer oaths to be used in any Court of said State and for general purposes; and also to take acknowledgments and proofs of deeds, of conveyances for land, tenements or hereditaments in said State of New York. And further that I am well acquainted with the handwriting of such Notary Public, and verily believe that the signature to said deposition or certificate of proof or acknowledgment is genuine.

IN TESTIMONY WHEREOF, I have
 (SEAL) hereunto set my hand and affixed the
 seal of the said Court and County, the
 5th day of September, 1924.

JAMES A. DONEGAN,
 Clerk.

Order to Show Cause.

ORDER TO SHOW CAUSE.

Filed October 7, 1924.

IN CHANCERY OF NEW JERSEY.

10	<p><i>Between</i></p> <p>MARY V. HEBBLE,</p> <p style="text-align: right;"><i>Complainant,</i></p> <p style="text-align: center;"><i>and</i></p> <p>AMOS S. HEBBLE,</p> <p style="text-align: right;"><i>Defendant.</i></p>	}	<p><i>Order to</i></p> <p><i>Show Cause.</i></p>
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20 Upon the opening of this matter to the Court by Frank R. Pentlarge, of counsel with the petitioner, and upon reading and filing the affidavit of Mary V. Hebble, the petitioner herein, setting forth that a certified copy of the decree made in this cause on the 26th day of November, 1920, has been duly served upon the solicitor of the defendant, in accordance with the provisions set forth in said decree, and that the said defendant Amos S. Hebble has wilfully violated and disobeyed the directions of said decree in refusing to make the payments of alimony therein

30 provided for and wilfully harasses the complainant by failing to pay the alimony provided for in said decree, as and when from time to time the same becomes due, and praying that said defendant be adjudged in contempt for his contumacy in the particulars aforesaid, and punished accordingly.

40 Now, on motion aforesaid, it is this 4th day of October, 1924, ORDERED, that said Amos S. Hebble, do show cause before the Chancellor at the Chancery Chambers in the City of Newark, New

Order to Show Cause.

Jersey, on the 11th day of November, 1924, at ten o'clock in the forenoon, or as soon thereafter as counsel can be heard, why he should not be held guilty of contempt of this Court in the premises, and punished accordingly.

AND IT IS ORDERED, that a certified copy of this order, together with a copy of the petition and affidavit of Mary V. Hebble, upon which this order is founded, be served either within or without the State of New Jersey on the said Amos S. Hebble personally, at least twenty days prior to the return date of this order. 10

E. R. WALKER,

C.

A true copy.

THOMAS BARBER,

Clerk.

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Petition.

PETITION.

Filed October 7, 1924.

IN CHANCERY OF NEW JERSEY.

10	<p><i>Between</i></p> <p>MARY V. HEBBLE,</p> <p style="text-align: right;"><i>Complainant,</i></p> <p style="text-align: center;"><i>and</i></p> <p>AMOS S. HEBBLE,</p> <p style="text-align: right;"><i>Defendant.</i></p>	}	<i>Petition.</i>
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20 The petition of Mary V. Hebble, residing at 31 Vernon Terrace, in the City of East Orange, County of Essex, and State of New Jersey, respectfully showeth:

1. The petitioner is the complainant in the above-entitled cause.
2. The bill of complaint heretofore filed herein was one brought by your petitioner for maintenance wherein your petitioner sought relief from this Court decreeing that the defendant herein be directed to provide suitable support and maintenance for your petitioner and the children of the marriage between your petitioner and the defendant above named.

30 Thereafter the defendant duly answered the bill of petitioner herein and the cause was duly tried in open court before the Honorable James J. Fielder, one of the Vice-Chancellors of this Court, and a decree duly entered herein on the 26th day of November, 1920, providing for the payment of alimony to complainant for her support and the support of her two youngest children, the annual sum of \$3,000.00, payable in

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Petition.

equal monthly installments on the first day of each and every month of \$250.00, beginning with the month of November, 1920, as by said decree will appear.

Said decree further provided that the complainant retain one-half of the interest on a certain mortgage known as the "Maple Avenue Mortgage" as well as all the dividends on a share of stock of the American Smelting & Refining Company, said mortgage being in the joint names of the complainant and defendant, and said share of stock in the complainant's name. The complainant likewise was to receive the rent from the 19th street property, and she was permitted to occupy the premises known as the "Vernon Terrace property" rent free, as by said decree will appear.

While the complainant was directed to keep the buildings on the foregoing premises in repair all the taxes, assessments, water rents and insurance and similar fixed charges thereon was to be paid by the deponent.

4. Said decree for alimony above set forth was duly consented to by the solicitor for the defendant, as is more fully shown by the endorsement thereon appearing.

5. Thereafter, a true copy of said decree was duly served upon the solicitor for the defendant in accordance with the provisions for service more particularly set forth in the said decree.

6. The said defendant, Amos S. Hebble, has, notwithstanding the aforesaid decree of this Court violated and disobeyed the directions of said decree by failing to pay to your petitioner the full allowance of alimony of \$250.00 each

Petition.

month, commencing with the month of November, 1920, but, on the contrary, the defendant paid but \$200.00 alimony for the month of November, 1920, and but \$182.50 for the month of December, 1920, and has ever since refused to pay said sums, although demand therefor has been made; 10 the defendant Amos S. Hebble has likewise, commencing with the month of June, 1923, deducted the sum of \$50.00 from each monthly payment of alimony under said decree, and has likewise commencing with the month of November, 1923, failed to pay over to your petitioner the rental from the 19th street property referred to in said decree, and which rental was to be paid over to your petitioner as therein provided for. Said rental from November 1, 1923, has amounted to the sum of \$80.00 per month, and the defendant 20 has actually received the same, but wrongfully withheld said rental from your petitioner. The defendant Amos S. Hebble likewise fails to make the payments of alimony on the first of each and every month as provided for in said decree, but, on the contrary frequently fails to make said payments until after the fifteenth, and even as late as the 23rd of the month.

7. Furthermore, that in accordance with a 30 suit brought in this Court by the Board of Missions of the Protestant Episcopal Church of Newark, as complainant against Mary V. Hebble and Amos S. Hebble the Court decided that petitioner was the absolute owner of the Vernon Terrace property.

Petitioner prays that said defendant Amos S. Hebble may be punished for his contempt in wilfully violating in the particulars above stated the terms of the aforesaid decree, and that he be 40

Affidavit of Mary V. Hebble.

punished accordingly; and that your petitioner may have such other relief as may be equitable and just.

AND your petitioner will ever pray.

FRANK R. PENTLARGE,
Solicitor of Petitioner.

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IN CHANCERY OF NEW JERSEY.

Between

MARY V. HEBBLE,

*Complainant,**and*

AMOS S. HEBBLE,

*Defendant.**Affidavit.*

20

STATE OF NEW YORK, }
COUNTY OF NEW YORK. } ss.

MARY V. HEBBLE, being over age, and the petitioner above named, being duly sworn according to law, upon her oath deposes and says:

30

1. I am the complainant above named. I have read the foregoing petition and know the contents thereof and the same is true to the best of my knowledge, information and belief.

2. By a decree duly entered herein on the 26th day of November, 1920, the defendant herein was ordered to pay me for my support, and the support of my two youngest children, "the annual sum of three thousand dollars, payable in equal monthly installments of \$250.00 each be-

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Affidavit of Mary V. Hebble.

ginning forthwith, and to pay to the complainant the sum of \$250.00, as and for her allowance for the current month of November (1920).” It was further ordered by said decree “that the complainant retain one-half of the interest on a certain mortgage known as the Maple avenue mortgage as well as all the dividends on the share of stock of the American Smelting & Refining Company.” The said decree further provided, “that the complainant shall have the rent of the house known as the ‘19th street property’ and that she shall be permitted to occupy the premises known as the ‘Vernon Terrace property rent free.’” Said decree further provided that the defendant should pay the taxes, assessments, water rents and insurance “and similar fixed charges” on both pieces of property. The decree also further provided “that the complainant is to keep the buildings on the premises above set forth in repair.”

3. The defendant from the very inception has failed to comply with the provisions of said decree and has wilfully refused and neglected to make the payments required therein, as more fully set forth in the petition attached hereto. Although the decree for alimony was entered on November 26, 1920, and a true copy thereof served in accordance with the provisions of the decree, upon the solicitor for the defendant. I did not receive the alimony called for in the order for the months of November and December, 1920, but, on the contrary for the month of November, 1920, received \$200.00, which sum the defendant had heretofore been paying me per month. The payment for December was not even \$200.00, but was only \$182.50. This further deduction of \$17.50 representing a like amount

Affidavit of Mary V. Hebble.

which the defendant knew that I was to receive from the American Smelting & Refining Company as a dividend. This, despite the fact that the decree specifically states that the dividends were to be mine.

4. The decree further provides that I am to receive rent from the "19th street house property." 10
Yet, since November 1, 1923, I have received absolutely none of the rent from this property, although I have been advised that the same has been \$80.00 per month commencing November, 1923, and that the defendant has received this amount as rent for each and every month since November 1, 1923.

5. The defendant subjects me to great annoyance and inconvenience, and as I fully believe purposely does so, by wilfully refusing to comply with the decree in sending me my alimony on the first of each month, but, on the contrary 20
remits the same frequently weeks after the lot. Recently, in one instance I did not receive my remittance from the defendant for alimony until the 23rd of the month, despite the fact that the defendant receives his salary from the Southern Pacific Company on the last of each month as I have been informed by officers of the company. 30
Furthermore, as I have been advised by his superior officers of the Southern Pacific Company the defendant's salary is \$15,000 a year and not \$10,000 which was the basis upon which the award was granted me.

6. Again, as I verily believe, solely to harass me, and wilfully contrary to the provisions of the decree aforesaid, which granted to me one-half of the interest in the "Maple Avenue Mortgage," when the mortgagee was desirous of pay- 40

Affidavit of Mary V. Hebble.

ing the mortgage off with accumulated interest, the defendant, who was but the joint owner of the mortgage in question, refused to sign the necessary releases, and not only compelled the Board of Missions Extension of the Protestant Episcopal Church of Newark as mortgagor to
10 start a suit in interpleader, but laid claim to the entire sum which claim, however, was set aside as is more fully set forth in the decree in chancery advised by the Honorable John H. Backes, Vice-Chancellor, dated February 8, 1924.

7. Since the entry of the decree aforesaid, whereby the defendant was thwarted in holding the sum justly due me he has started a series of petty annoyances in connection with the payments of alimony due me, which are absolutely
20 contrary to the alimony decree in this matter. In June, 1923, the defendant started to deduct the sum of \$50.00 per month from the monthly alimony due me, claiming that he was so doing to reimburse himself for alleged repairs on the Vernon Terrace property and the 19th street property. At that time, as I verily believe, no repairs were made by the defendant to either property. Ever since June, 1923, this \$50.00 has been deducted by the defendant. Furthermore,
30 as I have been informed by Mrs. James McGarry, the tenant of the 19th street property, the defendant raised her rent in November, 1923, to \$80.00 per month and she has paid this sum to the defendant ever since, none of which, however, has been turned over in accordance with the decree to me.

In reference to the Vernon street property, the defendant insisted on having the same painted, and did so in the summer of 1923, although it
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Affidavit of Mary V. Hebble.

was not necessary. He now claims that he has the right to reimburse himself by deducting the alleged cost of such painting from the alimony which he is supposed to pay me. Furthermore, in this respect the premises in question are entirely under my control and ownership. The defendant claimed ownership thereto in a suit brought in this Court by the Board of Missions of the Protestant Episcopal Church of Newark, as complainant, against Mary V. Hebble, and Amos S. Hebble, but the Court decided that I am the absolute owner of the property in question. 10

I have demanded of the defendant at various times that he pay me my full alimony and make the payments promptly and cease to harass me, but without avail. 20

No previous application has been made for the relief herein sought.

MARY V. HEBBLE.

Sworn and subscribed to before me
this 5th day of September, 1924.

PHILIP G. FITZ,
(SEAL) Notary Public New York County. 30
Clerk's No. 96, Register No. 6061.
Commission expires March 30, 1926.

A true copy.

THOMAS BARBER,
Clerk.

Affidavit of Mary V. Hebble.

No. 90795 Series B.

STATE OF NEW YORK, }
 COUNTY OF NEW YORK. }*ss.*

I. JAMES A. DONEGAN, Clerk of the County of
 New York, and also Clerk of the Supreme Court
 10 for the said County, the same being a Court of
 Record, having a seal, Do HEREBY CERTIFY, That
 Philip G. Fitz, whose name is subscribed to the
 depositions or certificate of the proof or acknowl-
 edgement of the annexed instrument, and thereon
 written, was, at the time of taking such deposi-
 tion, or proof and acknowledgment, a Notary
 Public in and for such County, duly commissioned
 and sworn, and authorized by the laws of said
 State, to take depositions and to administer oaths
 20 to be used, in any court of said State and for
 general purposes; and also to take acknowledg-
 ments and proofs of deeds, of conveyances for
 land, tenements or hereditaments in said State
 of New York. And further that I am well ac-
 quainted with the handwriting of such Notary
 Public, and verily believe that the signature to
 said deposition or certificate of proof or acknowl-
 edgment is genuine.

30 IN TESTIMONY WHEREOF, I have
 (SEAL) hereunto set my hand and affixed the
 seal of the said Court and County, the
 5th day of September, 1924.

JAMES E. DONEGAN,
 Clerk.

Notice.

NOTICE.

Filed November 19, 1924

IN CHANCERY OF NEW JERSEY.

Between

MARY V. HEBBLE,

Complainant,

and

AMOS S. HEBBLE,

Defendant.

10

On Bill, &c.

Notice.

To—Frank R. Pentlarge, Esq.,
Solicitor of Complainant.

TAKE NOTICE of an application before the
Chancellor, at the Chancery Chambers in the
City of Newark, on Wednesday, November 12,
1924, at ten o'clock in the forenoon of said day,
or as soon thereafter as counsel can be heard,
for an order amending the order of November
23, 1920, made in the above-entitled cause, by re-
ducing the alimony payable by the defendant to
the complainant to the sum of \$2,400.00 per
annum, relieving defendant in future from pay-
ing taxes and assessments on the Vernon Ter-
race property owned by complainant, and by
providing that the complainant shall in the future
receive none of the rents from the 19th
street property, in East Orange, but that the
same shall be paid to and received by the defend-
ant as his own.

20

30

FURTHER TAKE NOTICE that at the same time
and place we shall apply to the Court to approve
the action of the defendant in deducting from the

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Notice.

10 complainant's alimony \$50.00 per month from October 1, 1923, and keeping all of the rents from the Nineteenth street property from October 1, 1923, to reimburse himself for making the repairs to the 19th street and Vernon Terrace properties made necessary because of the failure of the complainant to repair said properties in accordance with the terms of the order of November 23, 1920, and for such other and further relief in the premises as may be equitable and just.

FURTHER TAKE NOTICE that annexed hereto are affidavits that will be read in support of this motion, and also in answer to the two rules to show cause issued herein and returnable November 11, 1924.

20 Dated—November 5th, 1924.

Respectfully yours,

McDERMOTT, ENRIGHT & CARPENTER,
Solicitors for and of Counsel
with Defendant.

Affidavit of Amos S. Hebble.

IN CHANCERY OF NEW JERSEY.

Between

MARY V. HEBBLE,

Complainant,

and

AMOS S. HEBBLE,

Defendant.

On Bill, &c.

Affidavit.

10

STATE OF NEW YORK,
CITY AND COUNTY OF NEW YORK. } ss.

AMOS S. HEBBLE, of full age, being duly sworn according to law, upon his oath deposes and says: I am the defendant in above-entitled cause and am in the employ of the Southern Pacific Company, Atlantic Steamship Lines, and my office is at Pier 49, North River. My business will take me to the Pacific Coast the latter part of the week beginning October 20, 1924, and will necessitate my remaining away until the middle of December. I shall be on the business of my employer all of this time.

20

The order made in this cause on November 23, 1920, directs me to pay to the complainant "for her support and the support of her two youngest children the annual sum of \$3,000, payable in equal monthly installments of \$250.00 each beginning forthwith."

30

Said order further provides:

"that the complainant retain one-half of the interest on a certain mortgage, known as the Maple avenue mortgage, as well as all the dividends on the share of stock of the American Smelting & Refining Company";

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Affidavit of Amos S. Hebble.

and also:

“that the complainant shall have the rent of the house known as the 19th Street property and that she shall be permitted to occupy the premises known as the Vernon Terrace property, rent free.

10 It is further ordered, adjudged and decreed that the complainant is to keep the buildings on the premises above set forth in repair.

It is further ordered, adjudged and decreed that the defendant will be required to pay the taxes, assessments, water rent and insurance and similar fixed charges on both pieces of property.”

20 Since this order was made and served upon me I have complied with it strictly and made all of the payments required to be made until the properties mentioned in the said order got into such disrepair because Mrs. Hebble did not make the necessary repairs, and in order to save the properties from further rapid deterioration and after writing Mrs. Hebble numerous letters I made the repairs for her account, paid the repair bills myself and have been repaying myself month by month out of the rents received as hereinafter stated.

30

Since the said order was made a mortgage held by the Board of Missions and Church Extension of the Protestant Episcopal Church in the Diocese of Newark became payable and that corporation filed a bill of interpleader in the Court of Chancery against Mrs. Hebble and myself, compelling us to interplead as to our rights.

40 I filed a claim to all of the said moneys on the ground that the money represented thereby was

Affidavit of Amos S. Hebble.

all my money and that Mrs. Hebble had no right, title or interest therein, except that the mortgage was made payable in the name of myself and wife together. The case regularly came on for trial before Vice-Chancellor Backes, it was tried and argued, and on January 2, 1924, a final decree was made therein, which was advised by Vice-Chancellor Backes, in which the Chancellor held that Mrs. Hebble was entitled to one-half of the moneys deposited in court, to wit, \$3,612.00, the amount payable on the said mortgage, inclusive of principal and interest, and charged against me and in her favor one-half of \$800.00 that was paid on account of said mortgage before the bill in this cause was filed, and also charged against my share all of Mrs. Hebble's costs, the net result being that out of the \$3,612 that was paid into court I only received \$1,233.09, out of which, after legal expenses, I received \$493, the balance of \$2,378.91, less the taxed costs that went to the solicitors, going to Mrs. Hebble. Said sum of \$1,233.09 was paid by the Clerk to my solicitors February 14, 1924, and I have every reason to believe that Mrs. Hebble received her moneys about the same time, if not a little before that.

Mrs. Hebble resides in the property known as 31 Vernon Terrace, East Orange, which is a large twelve room house, worth approximately \$20,000, which is in her own name. I bought and paid for this property with my own money and put it in her name upon her promise to re-convey it at any time to me upon request.

The property mentioned in the decree for maintenance as the 19th street property belongs to me, but Mrs. Hebble is given the rents of the house in said decree, upon condition that she make all necessary repairs to the property,

Affidavit of Amos S. Hebble.

but I am required to pay the taxes and assessments against both properties.

On September 18, 1922, I wrote the following letter to Mrs. Hebble:

10 “Mrs. Mary V. Hebble,
 31 Vernon Terrace,
 East Orange, N. J.

Dear Mrs. Hebble:

 During my recent visit to #31 Vernon Terrace, East Orange, N. J., I noticed that the exterior of the house is in very bad condition. The paint is badly cracked and flacked off in numerous places, and a large part of the wood work is exposed to the weather. This condition will result during the coming winter season in causing the wood work to rot, which will result in both extensive and expensive repairs.

20

 I also visited the 19th St. property recently and find the house in a deplorable condition. The porch roof leaks and the dampness is causing the structure to rapidly decay. There is a bad leak in the extension of the roof below the front windows. This leak permits dampness to get into the house and can be seen in the ceilings and walls of the front room. Unless immediate repairs are made, this leak will develop into a very expensive job. The shutters on the house are in bad condition. The front and back porch is in need of repairs and the paint is cracked and flacked off more or less all over the exterior of the house. Unless this house is painted before the winter season sets in, extensive repairs will have to be performed. The ceiling and

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Affidavit of Amos S. Hebble.

plaster inside the house in several rooms is in bad shape, and should be repaired promptly, and certain parts of the house is seriously in need of papering. The present paper has fallen off the walls in numerous places.

The Court order issued to both you and myself some time ago in connection with your separate maintenance suit, directs that you maintain the above properties. 10

You are not carrying out this order insofar as the properties are concerned, and I hope you will not make it necessary for me to withhold from your allowance a sufficient amount of money each month to defray the cost of making the necessary repairs. I will be obliged to take this action unless you make the repairs to the properties promptly. 20

In the interest of economy, I suggest that you have several firms who do carpenter work and plastering work, and several firms who do painting work make a survey of the properties and submit estimates covering the work.

In painting the properties only the best materials should be used. 30

You will oblige me by letting me know what you propose to do in connection with this matter at an early date. Something must be done before the winter season sets in

Yours truly,

”

The contents of this letter was true.

Affidavit of Amos S. Hebble.

On October 14, 1922, I wrote Mrs. Hebble the following letter:

“Mrs. Mary V. Hebble,
31 Vernon Terrace,
East Orange, N. J.

10 Dear Mrs. Hebble:—

Under date of September 18, 1922, I wrote you relative to certain repairs to the properties at #31 Vernon Terrace and #98 North Nineteenth St., East Orange, N. J. Up to the present time I have not had the courtesy of a reply. I have since had the properties carefully examined, and in accordance with my report to you in my letter above referred to, they are both seriously in need of repairs. These repairs should have been taken in hand promptly, and something must be done in the interest of all concerned before the winter season sets in.

20

The court order in your maintenance suit is very specific and plain and directs that you maintain the properties, and I should much prefer to have you handle this matter yourself.

Unless I hear from you in writing on or before October 18, 1922, to the effect that you will make the necessary repairs, I will proceed immediately to have the repairs made for your account.

30

It is my desire to make the payment for these repairs as easy as possible for you, and in order to do this, I will pay for the repairs when completed and deduct from your maintenance allowance approximately \$50.00 per month, depending on the total cost, until the work is finally paid for.

40

Yours truly, ”

Affidavit of Amos S. Hebble.

I never received a reply to either of these letters.

On February 1, 1923, I wrote the following letter to Mrs. Hebble, but received no reply from her:

“Mrs. Mary V. Hebble, 10
31 Vernon Terrace,
East Orange, N. J.

Dear Madam:—

I enclose herewith check in amount of \$217.82, also receipted bill in favor of Robert P. Buggeln under date of January 9th, in amount of \$32.18, covering repairs to the 19th St. house.

I brought to your attention some time ago the necessity of maintaining the properties 20
on Vernon Terrace and 19th St. As soon as weather conditions permit, I will arrange to have both of these houses painted and put in proper condition for your account.

Yours truly, ”

Encl.

On June 1, 1923, I wrote Mrs. Hebble the following letter, but received no reply from her: 30

“Mrs. Mary V. Hebble,
#31 Vernon Terrace,
East Orange, N. J.

Dear Mrs. Hebble:—

Referring to my letters to you under date of September 18 and October 14, 1922, also February 1, 1923, relative to repairs to the properties at #31 Vernon Terrace and #98 North 19th St., East Orange, N. J.

Affidavit of Amos S. Hebble.

Up to the present time, I have heard nothing from you relative to this matter, and you have not had any of necessary repairs performed. I am, therefore, arranging to proceed with the work of painting and repairing the above properties, the cost of which will be for your account.

10 I will deduct from your monthly allowance the sum of \$50.00 per month immediately, and perhaps more, depending on the cost of the repairs.

I understand that the repairs to the Vernon Terrace property will cost for painting and burning off the paint where necessary, and certain carpenter work, approximately \$500.00. The repairs to the 19th St. house perhaps \$1,200.00 or \$1,500.00. Estimates are partly in hand for this work and the repairs will be given to the lowest bidder.

20 As soon as the work is completed and bills rendered, a copy of same will be forwarded to you for your information.

Yours truly, ”

On August 27, 1923, I wrote Mrs. Hebble the following letter:

30 “Mrs. Mary V. Hebble,
31 Vernon Terrace,
East Orange, N. J.

My dear Mrs. Hebble:

I understand that the roof on the premises at 31 Vernon Terrace is in a very bad condition and requires immediate attention. Stewart & Co., Carpenters and Builders, tell me that it will cost \$250.00 to make tempo-

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Affidavit of Amos S. Hebble.

rary repairs and that at the end of three or four years, or perhaps less, the entire roof will have to be renewed. The cost of a new roof will be \$825.00. To renew and stain the roof which should be done as a matter of preservation and looks, will cost \$1,000.00.

Will you kindly let me have your opinion as to what should be done in connection with this matter. Or would you prefer to handle the work yourself and have it done in accordance with your own ideas. 10

Remember that sooner or later if this roof is not fixed, water will get in and rot the frame of the building and do damage to ceilings, papering, walls, floors, etc., which would result in a very excessive cost to repair.

Yours truly, ”

20

I received no reply to this letter last quoted, but Mrs. Hebble had some temporary repairs made to the roof, which probably answered all pressing requirements at the time.

After writing Mrs. Hebble as I did in the letters above mentioned, and being absolutely convinced that the repairs mentioned therein were necessary, I had a disinterested real estate agent examine the North Nineteenth street property, and give me his opinion as to whether or not the repairs were necessary to be made, and after being advised what repairs were necessary I had specifications for the repairs prepared, called for bids for the work and let the contracts to the lowest bidder, and actually paid for repairs the following sums: 30

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Affidavit of Amos S. Hebble.

	To McGarry-Norton Co., repairs to gutter and roof	\$15.35
	Stewart & Co., carpenter repairs to steps, cellar, floor, cupboard, etc.....	174.68
10	Meier & Oelhaf Co., supplying and installing Richardson & Boynton furnace, #2 Excelso firepot generator; plastering ceiling, misc. repairs and renewals to equipment in bathroom, cellar, kitchen and laundry	540.00
	Edward Fowler, exterior painting of house	275.00
	Edward Fowler, burning off paint	110.00
	Edward Fowler, painting storm Sash and supplying new glass	6.00
	A. B. James, interior painting of house.	469.74
	M. Neuss & Sons, window shades	36.25
20	New York Telephone Co., calls a/c repair work	2.70
	E. J. Reilly & Co., repairs to plumbing.	1.90
	E. J. Reilly & Co., repairs to toilet.....	4.25
	Total	\$1,635.87

I also paid in addition to the above a paving assessment of \$96.00, which counsel advises me I cannot charge against Mrs. Hebble, but it shows what I spent in putting this property in good condition for Mrs. Hebble's account. While making the above repairs the street was being repaved and I was advised by the city authorities to wire the house for electricity then, before the street paving was finished, because I would not be permitted in the future to open the street to make the electrical connections thereafter. Accordingly, I had the house wired, connected and bought all of the necessary fixtures. All of the material I bought at net cost price, receiving the

Affidavit of Amos S. Hebble.

benefit of all discounts that a jobber would get, and I had the work installed at bare labor costs, without any profit on the labor to anyone. The total amount that I paid for this work was \$395.34. Mr. Carpenter has the receipts for this money, showing in detail every item of the expense.

10

I have given to Mr. Carpenter all of my original receipts for these disbursements, and he will show them to the Court or to counsel for Mrs. Hebble upon request. They are really too voluminous to attach to this affidavit, and there seems to be no necessity therefor. Mr. Carpenter also has the various estimates that I obtained for doing this work, and the Court and counsel may see them upon request. Likewise, my cancelled checks given in payment of the bills above mentioned are in the hands of Mr. Carpenter, showing that I paid every bill with my own funds.

20

I was also advised that the house and garage at #31 Vernon Terrace, in which Mrs. Hebble lives, which is really my own house, but is standing in her name only, was in very bad need of a little carpenter work and painting. At this time a suit was pending in this Court between Mrs. Hebble and myself to determine which of us owned the Vernon Terrace property. This action was determined in Mrs. Hebble's favor by Vice-Chancellor Backes January 2, 1924, and now she is the sole owner of #31 Vernon Terrace, subject to my right of curtesy. At the time the repairs were made it was not determined who was the owner and I concluded the repairs should be made for the benefit of the property itself, irrespective of which of us was determined to be the

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Affidavit of Amos S. Hebble.

owner. I called for bids for doing the necessary work, awarded the bids to the lowest bidder, had the work done and actually paid for the work the following:

	Stewart & Co., carpenter work	\$27.88
10	(Included in bill of \$202.56 for work on both N. 19th street and Vernon Terrace houses.)	
	Edward Fowler, exterior decorating house and garage	285.00
	Burning off paint	78.00
	Painting storm sash, two coats	10.00
		<hr/>
		\$373.00
	Credit a/c blinds not painted on N. 19th street house	12.00
20		<hr/>
		\$361.00
	Total	\$388.88

As above stated, Mr. Carpenter has my original paid checks showing the payment of the money above mentioned.

These repairs were not only made, but they were absolutely necessary and they have resulted in benefit to Mrs. Hebble as follows:

30 Prior to the making of the repairs to the North Nineteenth street property, and from the time of the making of the decree in this case, the rent for the said property was forty dollars per month.

40 Since the repairs were made I myself raised the rent to eighty dollars. The notice raising the rent was written by me September 24, 1923, to James McGarry, 98 North Nineteenth street, East Orange, N. J., as follows:

Affidavit of Amos S. Hebble.

“Dear Sir:

In accordance with my verbal conversation with you some time ago, please be advised that the rent of the premises you are now occupying at 98 North 19th Street, East Orange, N. J., effective October 1, 1923, will be at the rate of \$960.00 per annum, payable on the first of each month in advance at \$80.00 per month. 10

Effective October 1, 1923, you will please arrange to pay the rent to me direct.

The above premises have recently been thoroughly decorated inside and out and put in good condition. I hope you will see to it that the property is maintained in its present condition, ordinary wear and tear excepted.

Yours truly, ” 20

After I returned to New York from a business trip out West in May, 1924, I was informed at my office that Mrs. Hebble had called there and seen Mr. Jungen, my superior, and had also called at the office of the chairman of the board of directors of Southern Pacific Company, #165 Broadway, New York City, and had made a charge against me to the effect that I had had repairs made to two houses in East Orange belonging to me; that the work had been done by Southern Pacific employees, who were working on Southern Pacific time; that the charges had been investigated and were found to be not true. I then went out to visit Mrs. Hebble in East Orange and took along all of my vouchers, calls for bids and the bids I received. I asked my youngest son Howard, who is attending Princeton, to return home that day. I went over all of my bills, cancelled checks, bids, &c., and 30 40

Affidavit of Amos S. Hebble.

showed them to Mrs. Hebble in the presence of my two sons and told her that I wanted her to see for herself what a ridiculous thing she had done by making the charges she did to my superiors in the Southern Pacific Company, Atlantic Steamship Lines. I told her that I had asked
10 the boys to be present so that they would know what their mother had done and would be able to show her, after examining the vouchers, that what I had done was for the best interests of her and the family. Mrs. Hebble then denied that she had told Mr. Jungen the things that I accused her of, to wit, telling Mr. Jungen that I had had work done on the houses by men on Southern Pacific time. She did say, however, that she had been down to see Mr. Jungen.

20 I distinctly remember that when Vice-Chancellor Fielder decided this case he said that he would entertain an application for a reduction of Mrs. Hebble's allowance at a later date when the suit over the Vernon Terrace property was settled. I do not find his statement in the record of the trial, however, or anything to that effect. The title to the Vernon Terrace property is now determined to be in Mrs. Hebble.

30 My salary is now \$15,000 per year, and it is not true that I have income from doing consulting work. I have no other source of income than from my own endeavors as herein mentioned, and I do not get any consulting fees because there is no consulting work in my line to be done at this time and has not been for several years past.

40 Mrs. Hebble has been receiving from me considerably over one-third of my income after deducting personal, income and real estate taxes.

Affidavit of Amos S. Hebble.

Under the order for alimony of November 23, 1920, I have had to pay Mrs. Hebble \$3,000 per annum, for the support of herself and our two youngest children.

I also have to pay the taxes on the Vernon Terrace property, which amount to \$276 this year, and a paving assessment is shortly to be made which will aggregate about \$175, as I verily believe; taxes on the Nineteenth street property this year, amounting to \$165; water rent on the Vernon Terrace property about twenty-five dollars per annum, and last year I had to pay a paving assessment on the Nineteenth street property, which aggregated \$96.00. 10

Mrs. Hebble has living with her at this time our son, Christian Hebble, who is next to the youngest, and who is now employed as an automobile salesman in East Orange, and who either pays board to his mother or should do so for his own good, as well as her benefit. My nephew, Chester Hebble, who is about thirty years old, also boards with Mrs. Hebble, and I am informed and believe that he pays board to her, although I do not know the amount. Mrs. Hebble also rents one-half of the garage at #31 Vernon Terrace and receives \$10 or \$15 per month from such rental, and the other one-half of the garage is occupied by an automobile owned by my son Christian, as I verily believe, who boards with Mrs. Hebble. 20 30

The Vernon Terrace property, as I stated above, is a large twelve-room house, worth at least \$20,000, and is really much too large for my wife, Christian and Chester to live in. I think that Mrs. Hebble ought to rent this house and live in an apartment or in a much smaller house. The Vernon Terrace property should rent for 40

Affidavit of Amos S. Hebble.

10 \$150 per month. Mrs. Hebble could well afford to rent this property, pay the taxes on it and rent a smaller house, and she would make money by so doing. I do not think it is good business for her to occupy this large house, on which I am compelled to pay the taxes and assessments by the order of the Court as above mentioned, when it would be to her financial advantage, as well as my own, for her to live in a smaller house.

During the last twelve months Mrs. Hebble has received, or should have received, the following sums:

	Board and room, 52 weeks, at \$10 per week from Christian Hebble	\$520.00
20	Board and room, 52 weeks, at \$15 per week from Chester Hebble	780.00
	Alimony, paid by me	3,000.00
	Garage rent, at least	120.00
	Share of Board of Missions' mortgage, at least	2,000.00
	Interest on American Smelting & Refining Company bond	70.00
		<hr/>
		\$6,490.00
30	Less amount deducted to apply on expense of repairs, 12 months at \$50.00 per month	600.00
		<hr/>
	Gross income received by Mrs. Hebble in last 12 months, approximately	\$5,890.00

40 Mrs. Hebble owns four lots at Woodside, Long Island, which I purchased and gave to her, and which are worth \$8,000. When I bought these lots and gave them to her, in about 1906, we then decided that it was an investment to provide for

Affidavit of Amos S. Hebble.

the education of our sons in the years to come. Under the New York law she may sell these lots, without the necessity of my signing the deed, as I am advised by counsel.

Although, as I stated above, my gross income is \$15,000 per annum, from this I am obliged to pay income taxes, the alimony due Mrs. Hebble, taxes on the Vernon Terrace and Nineteenth street property as above mentioned; also taxes on unimproved lots at Kingsbridge, New York, which I inherited, \$454 per annum, and assessments thereon, and taxes on two unimproved properties in East Orange, between \$200 and \$300 per annum. My earning ability is now at its peak and I cannot possibly afford to pay Mrs. Hebble any more alimony. Mrs. Hebble does not realize that I should be able to save a little money to provide against the day when I may be totally disabled. I doubt if Mrs. Hebble saves anything, and if I should lose my position—which she evidently desires because of the way she has in the past called at my employer's office and told slanderous things about me—I will not be able to pay her anything, and she would have nothing but the income from the two properties in East Orange and the board which she receives and the garage rent. Moreover, I am partly disabled on account of varicose veins in both legs, which condition has required four operations, the last one being two years ago, when I was confined for seven weeks in the Post Graduate Hospital, New York, at an expense of \$1,400. I am compelled to go under another operation just as soon as I can spare the time from business, which will be in the next few months.

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Affidavit of Amos S. Hebble.

Mrs. Hebble is forty-eight years old; our son Amos is married, living in East Orange, is self-supporting and is twenty-five years old; Christian, who boards with Mrs. Hebble, is twenty-two years old, and Howard, our youngest son, who is a student in Princeton, is twenty years old.

10 It is not true, as stated in Mrs. Hebble's affidavit, that Howard was on the Pacific Coast last summer "doing practical work in civil engineering in connection with his college courses." I, myself, obtained Howard a position with the Southern Pacific Company on the Pacific Coast. If Mrs. Hebble gave him \$200 "for his expenses during last summer," as she claims in her affidavit, it only indicates that she had more money than she needed and was extravagant with Howard, because I personally provided him with
20 transportation from New York to San Francisco and return (and from San Francisco to Los Angeles and return, at his request) and expense money to his position, and he should have earned during the summer enough to pay a large part of his expenses at Princeton during the winter, because, having a scholarship, as Mrs. Hebble says in her affidavit, he has no tuition to pay.

30 I annex hereto copies of two letters I wrote to my son Howard at Princeton, and his replies, which show that Mrs. Hebble is not paying him as much as she claims in her affidavit. I prefer not to ask my son to make an affidavit as to these facts, but take his word as true. It is to be observed that my son says that his board costs \$288 and his room \$250 while at Princeton, and tuition \$350, a total of \$888, and not the sum which Mrs. Hebble mentioned in her affidavit. According to Mrs. Hebble's affidavit, Howard's
40 tuition is free.

Affidavit of Amos S. Hebble.

Moreover during the past year I have advanced for my son Christian some expenses aggregating over \$200, about which Mrs. Hebble knows, and which it is not necessary or advisable to detail in this case.

I deny that Mrs. Hebble needs any additional money to provide her with a maid or to give her vacations. In the first place she has no need of a maid to do the housework for herself only, and if she takes boarders her revenue for a maid should come from that source. With the \$5,890 she received last year she certainly could have taken a vacation had she wanted to. 10

It is to be observed that the order for alimony made November 23, 1920, provides that I am to pay Mrs. Hebble "for her support and the support of her two youngest children the annual sum of \$3,000." Now, that Mrs. Hebble is not supporting our son Christian any longer (he is twenty-two years old), and he, on the contrary, is supporting himself, I think that that sum should be reduced. 20

I deny that I made all sorts of improvements and repairs to the East Orange properties, and deny that I deduct, without explanation, what I see fit from the alimony. The reason I made the repairs to the Nineteenth street property was because I was honestly afraid that if the repairs were not made the Board of Health would order the house closed. It was occupied by my sister at \$40.00 per month, with my wife's entire approval as to the rental, and I believe that anybody else but a relative would have complained to the Board of Health. The furnace was of almost no use and the plumbing was decidedly unsanitary. There were no electric lights in the 30 40

Affidavit of Amos S. Hebble.

10 house. The fact that the moneys that I spent on the house made it possible to receive \$80.00 per month instead of \$40.00 per month, speaks eloquently for the value of the repairs that I made. If I made a mistake in deducting \$50.00 per month from Mrs. Hebble's alimony and in taking the rent from the Nineteenth street house to re-

imburse myself for the repairs, without first obtaining a court order for that purpose, I sincerely regret the mistake, and ask the Court to approve the said disbursements, to permit me in the future to reimburse myself in the manner that I did and approve of the deductions *nunc pro tunc* commencing October 1, 1923.

20 I also request the Court to reduce the alimony which I was ordered to pay Mrs. Hebble under date of November 23, 1920, to \$200.00 per month, or to leave the same at \$250.00 per month and give me all of the rents from the Nineteenth street property from this time forth.

30 If the alimony I have been paying Mrs. Hebble is not reduced, but is continued in accordance with the order of November 23, 1920, as soon as I am reimbursed for the moneys I spent in making repairs to the said properties, Mrs. Hebble will have received from me the following:

Affidavit of Amos S. Hebble.

Alimony	\$3,000 per annum	
Vernon Terrace taxes.	276	
Nineteenth street taxes	165	
Interest on American Smelting & Refining Company bond	70	
Rent from Nineteenth street property	960	10
Rent from garage....	180	
Vernon Terrace house, fully furnished (ren- tal value \$225 per month	2,700	
	<hr/>	
	\$7,351	

I bought and paid for this house and conveyed it to Mrs. Hebble. All the furnishings in the Vernon Terrace property belong to me. Mrs. Hebble also has the benefit of my being compelled to pay all assessments against said properties, water rents, insurance and similar fixed charges, but I should not in future be compelled to pay any charges on the Vernon Terrace house now that it is determined to be owned by Mrs. Hebble. I have not mentioned in this affidavit the amounts spent for insurance and other fixed charges, but they are considerable. The fact that I am leaving on a business trip to be gone for several months and have been extremely busy since complainant's papers were served upon me, has made it impossible for me to get together all of the data which my solicitor has asked for in preparing this affidavit. It does seem hard that I should be compelled to pay the water rents, taxes and assessments on the Vernon Terrace property, which is much larger than my wife requires, in which she has two boarders, and when

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Affidavit of Amos S. Hebble.

she in addition rents a garage and furnishes water to the tenant, while I pay the water charges.

10 Although I repeatedly wrote Mrs. Hebble about making the repairs to the houses she never wrote me a letter in reply. I was given the benefit of
 20 no suggestions or advice from her and accordingly was compelled to act according to my own best judgment. While the repairs cost a lot of money, yet the houses were in crying need of such repairs. I think it only just and equitable that I should under the circumstances be allowed to deduct this money from Mrs. Hebble month by month, at least \$40.00 per month of which comes out of the increased rental because of the repairs, and I should be allowed interest
 20 on my money outstanding until it is repaid.

I therefore ask that my action in the past be approved by the Court and that I be granted the reduction in alimony herein prayed for.

AMOS S. HEBBLE.

Subscribed and sworn to before me
 this 25th day of October, 1924.

30 M. W. THOMPSON,
 (SEAL) Notary Public, 53.
 My Commission Expires March 30, 1925.

Affidavit of Amos S. Hebble.

(Copy of letter written by Mr. Hebble to his son
Howard.)

October 11th, 1924.

Dear Howard:

Your mother has brought a court action against
me in the past few days for an increase in main- 10
tenance, claiming that this increase is necessary
on account of the extraordinary expense of
maintaining you at Princeton. She also states
that it was necessary for you to go West this
Summer in connection with your education and
that she gave you \$200.00 for the trip; also
that it is necessary for her to maintain a home
for you in East Orange so that you can have
some place to entertain your friends, and that
she spent \$1200.00 on you at Princeton last year. 20

You appreciate, of course, that I am depending 20
on a salary for my living and that I am not get-
ting any younger; furthermore, my position is
none too secure at this time on account of the
changes recently made in the Officers of this
Company.

I would be glad to have you advise me prompt-
ly if your Mother's statements as above are true,
and if they are, it occurs to me that you should
be careful about your expenditures. 30

If my health fails, or if I change my position,
it may be that you would have to rely entirely on
your own resources to complete your education.

I received your recent letter and am very much
pleased to note that you enjoyed your trip West
and that the employment and surroundings in
general were so pleasant. I was somewhat dis-
appointed in not hearing from you for such a
long period of time, and was also disappointed
that you did not find time to pay me a visit. 40

Affidavit of Amos S. Hebble.

With kindest regards and best wishes, I remain, affectionately,

Your Father,

A. S. Hebble.

10 (Reply to Mr. Hebble's Letter of Oct. 11, 1924.)
(Copy of Letter.)

21 Chambers Street,
Princeton, N. J.
October 19, 1924.

Dear Pa,

I was very glad to hear from you last week, but I was sorry to learn what the letter contained. Quite a time ago Mother made the slightest mention of some kind of a suit to me, but that was all I had heard. I know nearly nothing of what was going on, and most everything I learn comes from you.

20

I can't see how Mother estimates that my expenses are as high as \$1200. However, I realize that the sum is rather high. Tuition alone is \$350. I had better give you a list of the important items.

30	Tuition	\$350
	Board	288
	Room rent	250
	Laundry
	Books

And there are a number of other smaller items. I've been as economical in every way as I possibly could.

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I haven't been getting along very well in football. I haven't felt very well and have had more or less trouble with my stomach.

Affidavit of Amos S. Hebble.

We beat the Navy Saturday in one of the most exciting games I've ever seen. Princeton won mainly on nerve and fight. The Middies may think they are tough, but three had their noses broken during the game.

I hope the Bienville comes through fine on her trial trip on Nov. 15.

Affectionately,
Pete.

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(Copy of Letter written by Mr. Hebble to his son Howard.)

Oct. 21st, 1924.

Dear Howard:—

I received your letter of Oct. 19th today and am sorry to hear that you have not been feeling well and that you are not getting along well in foot ball. I don't understand why you should have any stomach trouble provided you eat the right sort of food and have regular habits, etc. I hope the Princeton team gets in shape and that they give a good account of themselves this season. I do not expect to see any big games in the East this year for the reason that I will leave for Tacoma, Wash., in a few days to be gone for some time.

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I am anxious to confirm your Mother's statement that she gave you \$200.00 when I sent you out West this summer. On receipt of this letter wire me collect whether or not she gave you this amount of money.

I also note from your letter that your tuition is \$350. per year. I understood that you won a scholarship in Princeton and that you were not required to pay any tuition. Also confirm this in your wire.

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Affidavit of Amos S. Hebble.

I am well and hope this will find you the same,
with best wishes, I remain, affectionately,

Your Father,
A. S. Hebble.

10 Mr. Howard E. Hebble,
21 Chambers St.,
Princeton, N. J.

(Copy of Reply.)

21 Chambers Street,
Princeton, N. J.
October 22, 1924.

Dear Pa:

I have just received your letter and have telegraphed a reply as you directed.

20 Mother gave me about eighty dollars this summer. She also bought a suit for me, which I had intended to wear, but then changed my mind.

I have a scholarship which is worth two hundred dollars a year.

Princeton plays Harvard on November 8, at Cambridge, and I wonder if you could get me a pass to Boston, as I should like very much to go to the game.

30 My stomach trouble can not be laid to my diet. I have been eating at the training table since I returned to college and consequently I have been eating very good food that is very well prepared. I eat nothing between meals.

I hope that I shall be able to see you when you return from the West and tell you about my summer. My best wishes for a very pleasant trip.

affectionately,
Pete.

Affidavit of Amos S. Hebble.

(Copy of Letter.)

ALBERT F. SELLECK
134 Eaton Place
opp. Grove Street Station
E. Orange, N. J.
REAL ESTATE
in All its Branches

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May 7, 1923.

Mr. A. S. Hebble,
care Southern Pacific S. S. Co.,
Pier #49, N. R.
New York City.

Dear Sir:

In accordance with your request of recent date I examined the property at #98 North 19th St., East Orange, N. J., and wish to say that I find same in very poor shape. 20

I find that the following repairs & decorations are absolutely necessary, and if these are done, I consider this house would rent for about \$85.00 per month.

Outside painted 2 coats, quite some carpenter work to be done, roof fixed where leak is in room on top floor, entirely redecorated, floors scraped & refinished on 1st floor, refinished on 2nd floor, heater in bad shape and probably a new one needed. As far as I am able to judge it will require approximately \$1,500 to put in shape. This amount includes installing electricity, which I consider necessary to get the best renting results. 30

Yours very truly,
Albert F. Selleck.

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Affidavit of Carl W. Jungen.

IN CHANCERY OF NEW JERSEY.

	<p><i>Between</i></p> <p>MARY V. HEBBLE, Complainant,</p> <p style="text-align: center;"><i>and</i></p> <p>AMOS S. HEBBLE, Defendant.</p>	}	<p><i>On Bill, &c.</i></p> <p><i>Affidavit.</i></p>
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STATE OF NEW YORK, }
CITY AND COUNTY OF NEW YORK. } ss.

CARL W. JUNGEN, of full age, being duly sworn, according to law, upon his oath deposes and says: I am manager of the Southern Pacific Company, Atlantic Steamship Lines, and at the present time am on leave of absence. I know both Mrs. Hebble and Mr. Hebble, the defendant in this case, who is superintending engineer in the employ of the Southern Pacific Company, Atlantic Steamship Lines, and who at the times hereinafter mentioned was an employee of said company under me.

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Approximately May 14 or 15, 1924, while Mr. A. S. Hebble was out West on a business trip for said company, Mrs. Mary V. Hebble, the complainant in this case, came to my office at Pier 49, North River, New York City, the same pier in which Mr. Hebble has his office, and asked me what Mr. Hebble's salary was. She told me she would summons me to court if I did not tell her. Mrs. Hebble also told me that she knew some things about Mr. Hebble and was surprised that a company like the Southern Pacific Company would keep a man like Mr. Hebble in its employ. She also told me that she did not get

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Affidavit of Carl W. Jungen.

her monthly allowance for that month and told me that she wanted to know if the company wouldn't advance her money on Mr. Hebble's account. My answer was, "No, under no circumstances." Mrs. Hebble then told me that she thought I ought to know that Mr. Hebble had had some work done by men in the employ of the Southern Pacific Company on one of his houses in East Orange, which men the Southern Pacific Company paid for, and she said she thought the company ought to know about it. I told Mrs. Hebble that I had not heard anything of this matter and that I would start a thorough investigation. I did have the matter thoroughly investigated. Our records show where all of the men are working all of the time, at what work they are employed and the money that is paid them by the company. Our investigation showed that certain of our employees were not on our payrolls for a certain time and that they were not paid by the Southern Pacific Company at such times. I also discovered from my investigations that during the time they were not on our payroll and were not paid by the Southern Pacific Company they were doing work personally for Mr. Hebble, in East Orange, and that he paid them for such work. The Southern Pacific Company had no objection whatsoever to this.

I was also informed that about the same time that Mrs. Hebble came to me in May to make complaint against her husband, as above outlined, she went to the office of the chairman of the board of the Southern Pacific Company, at his office in New York City, and endeavored to see him, and in fact told his secretary the same things about Mr. Hebble that she told me. I know this because his secretary gave the information to my office.

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Affidavit of Alfred B. James.

Mrs. Hebble has come to see me on several occasions about her husband, and at one time even went out to my home and talked to my wife about Mr. Hebble.

Mr. Hebble's salary with our company is \$15,000 per year.

10 To the best of my recollection the only times that Mrs. Hebble has called at my office to complain about Mr. Hebble was when Mr. Hebble was away on business.

C. W. JUNGEN,
CARL W. JUNGEN.

Subscribed and sworn to before me
this 27th day of October, 1924.

20 M. W. THOMPSON,
(SEAL) Notary Public 53
My commission expires March 30, 1925.

STATE OF NEW YORK,
CITY AND COUNTY OF NEW YORK. } ss.

30 ALFRED B. JAMES, of full age, being duly sworn, according to law, upon his oath deposes and says: I am foreman painter in the employ of the Southern Pacific Company, Atlantic Steamship Lines, and on August 17, 1923, at the request of Mr. A. S. Hebble, I examined the house #31 Vernon Terrace, East Orange, New Jersey, occupied by Mrs. Hebble, and found the following condition to exist:

40 Two base columns on the front porch were rotten and had to be renewed; also the back door steps, part of which were rotted away, had to be renewed. My inspection of the roof showed that new roof was badly needed, but owing to

Affidavit of Alfred B. James.

the cost of renewal Mr. Hebble decided to have the old roof patched up. Mrs. Hebble wanted to have the old roof stained. I advised Mr. Hebble that in my judgment the roof was in such condition that it would be a waste of money to stain it, and if a new roof was not to be put on I thought that patching was all that was required. 10

The condition of the paint on the house was so badly cracked that it had to be burnt off around the front porch; also side and back of the house in way of porch, columns, rails, clapboards, ceiling on front porch and floor on front porch. On all of the above places where the paint was burnt off, there was applied one coat of oil lead paint, after which the entire house, which needed to be painted very badly, received two coats of cream colored oil lead paint. Mrs. Hebble herself selected the color of the paint. The shingles around the upper part of the house badly needed painting to protect them from the weather and one coat of dark green oil stain was applied to these shingles. In addition the garage, located back of the property, was given two coats of oil paint. 20

All of the above work was badly needed and to my personal knowledge was done on contract, which was awarded to the lowest of several bidders. 30

I examined the property #98 North Nineteenth street, East, Orange, on August 18, 1923, and the following is the condition I found:

A bad leak in the roof over the front bedroom to such an extent that the paper in the room was part hanging from the ceiling and side walls. There was another bad leak in the roof of front porch to such an extent that the sheathing over- 40

Affidavit of Alfred B. James.

head sagged down. This had to be straightened and renailed. New slate was replaced in places where the slate was missing and broken. The front steps of the porch had to be rebuilt, the sides had rotted away, also part of the lattice work in front and sides of the porch had rotted away. This had to be renewed, as did also a part of the porch floor which was rotten. There were some missing and broken clapboards on the back ends and sides of the house that were renewed; also the overhead trim in the back of the house had sagged down in center, causing overflow and rotting away of the wood. This work had to be and was straightened and put back in line to avoid further damage.

The paint was badly cracked and peeled off which made it impossible to save the expense of burning off the old cracked paint in way of front porch, columns and trim around porch, also clapboards and trim on end of house in and over said porch, also part of clapboards on two sides and back ends of said house. The paint was burnt off only where absolutely necessary. All the burnt off wood received one coat of oil lead paint after which the entire house received two coats of oil lead paint. The shingles around the third story, which also were in great need of being protected from the weather, received green oil stain. Some of the window shutters were so badly in need of repair that on my advice Mr. Hebble decided to have all the shutters removed so that the cost of painting and incidental carpenter work might be lessened.

Interior of house: In the front bedroom on second floor the paper was hanging from the ceiling and side walls caused by said leak in the roof; other three bedrooms and hall the paper

Affidavit of Alfred B. James.

was partly off the ceiling and side walls. The old varnish was so badly cracked on all the wood trim of the said rooms and hall and also the staircase in lower hall on the first floor, living room, dining room and kitchen that it was necessary to clean same off with paint remover and refinish said wood with two coats of varnish. The paper on the ceiling and side walls in the lower hall, living room and dining room was bad to such an extent that the old paper was partly off and hanging from ceilings and walls. The floors in said rooms and hall were in bad condition. They had to be cleaned off and finished in shellac and varnish. There were bad cracks and holes in ceilings and walls in said rooms and halls and had to be filled with plaster paris before papering could be done. Part of the plastered ceiling in the kitchen had fallen down and this was renewed.

A new gas stove had to be installed because the old one was completely worn out. Heating plant, hot air furnace, installed in basement. The old one was worn out and absolutely useless. There were leaks in the wash tubs that had to be cemented. The toilet in the basement had to be repaired. There were holes in the basement floor that had to be filled with cement. Part of the floor in the bathroom on the second floor had to be renewed.

The above was from my personal examination of the house and I reported this examination to Mr. Hebble.

The general condition of the house was so poor that it was hardly inhabitable.

To my personal knowledge Mr. Hebble had these repairs all made and had the house wired for electricity and fixtures installed; had the

Affidavit of Alfred B. James.

house properly painted and decorated and made sanitary in every respect, and all the work was done at net cost for materials and actual cost for the amount paid the workmen who did the work.

ALFRED B. JAMES.

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Subscribed and sworn to before me
this 5th day of November, 1924.

M. W. THOMPSON,
(SEAL) Notary Public, 53
My commission expires March 30, 1925.

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Order of Reference to Special Master.

**ORDER OF REFERENCE TO SPECIAL
MASTER.**

IN CHANCERY OF NEW JERSEY.

Between

MARY V. HEBBLE,

Complainant,

and

AMOS S. HEBBLE,

Defendant.

*Order of
Reference to
Special
Master.*

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An order having heretofore been made herein, dated the 4th day of October, 1924, directing the defendant Amos S. Hebble to show cause why he should not be held guilty of contempt of this Court for failure to pay alimony as provided for in a decree of this Court made herein and dated the 26th day of November, 1920, and a further order having heretofore been made herein on the said 4th day of October, 1924, directing said defendant to show cause why said decree should not be modified and the amount of alimony provided for therein increased, and a cross motion having been made by the defendant for a reduction of said alimony, and all said matters having been duly opened to the Court by Frank R. Pentlarge, solicitor for and of counsel for the complainant, and McDermott, Enright & Carpenter, solicitors (James D. Carpenter, Jr., of counsel) for the defendant, and after reading the petitions and affidavits in support of said motion and cross motion;

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IT IS THEREUPON, on this 10th day of February, 1925, ORDERED, that all matters raised by the

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Order of Reference to Special Master.

orders to show cause made herein dated October 4, 1924, and on the cross motion of the defendant, be referred to Charles M. Myers, a Special Master of this Court, to inquire and take testimony thereon and report with all convenient speed.

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E. R. WALKER,
C.

Respectfully advised,

JOHN H. BACKES.

O. K. as to form, McDermott, Enright & Carpenter, solicitors of defendant.

Frank R. Pentlarge for complainant.

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Report of Special Master.

REPORT OF SPECIAL MASTER.

IN CHANCERY OF NEW JERSEY.

Between

MARY V. HEBBLE,
Complainant,

and

AMOS S. HEBBLE,
Defendant.

On
Petition, &c. 10

Report of
Special
Master.

In pursuance of an order of this Court bearing date the tenth day of February, 1925, it was ordered that all matters raised by orders to show cause made herein on October 4, 1924, and on the cross motion of the defendant, be referred to the subscriber, one of the Special Masters of this Court to inquire and take testimony thereon and report. 20

I do report that I have been attended by Frank R. Pentlarge, Esquire, solicitor for the complainant, and James D. Carpenter, Jr., Esquire, representing McDermott, Enright & Carpenter, solicitors for the defendant, and that in their presence I have taken the deposition of the witnesses produced before me, and have examined into the matters referred to me. 30

I do report that it appears by the stipulation entered into by the solicitor of the complainant and the solicitor of the defendant that under a decree of this Court dated November 23, 1920, the defendant was directed to pay to the complainant for her support and the support of her two youngest children, the annual sum of \$3,000 beginning November 1, 1920, and that the com- 40

Report of Special Master.

10 plainant could retain one-half of the interest in a mortgage known as the Maple avenue mortgage, as well as all the dividends on stock of the American Smelting & Refining Company, and that the complainant should have the rent of the house known as the Nineteenth street property, and that she might occupy the premises known as the Vernon Terrace property, rent free, the complainant to keep the building on the premises in repair, and the defendant to pay the taxes, water rent, insurance and similar fixed charges on both properties.

20 And I further report that it appears by the stipulation that the complainant received the rents for the Nineteenth street property in the sum of \$40 each month up to the first of November, 1923, and that since that time the defendant has retained the rents of the Nineteenth street property, at the rate of \$80 a month, amounting to the sum of \$1,200.

30 And I further report that it was stipulated that the expenses of Howard Hebble, son of the parties to this suit, during the calendar year 1924 at Princeton College were \$1,400, that the taxes, assessments and insurance on the Vernon Terrace property amounted to \$325 and that the taxes, assessments and insurance on the Nineteenth street property were \$180.

And I further report that it appears that the income that the complainant should have received under the decree of this Court was approximately \$4,000 each year.

40 And I further report that it appears by the testimony that the time of the making of said decree of November 23, 1920, that the defendant was receiving an income of about \$10,000 each year.

Report of Special Master.

And I further report that it appears by the testimony that the defendant has expended on the Nineteenth street property and on the Vernon Terrace property for repairs and improvements the sum of \$2,323.50 and that he has received from November 1, 1923, to March 1, 1925, for rent of the premises known as the Nineteenth street property the sum of \$1,280. 10

And I find and report that the defendant is in arrears to the complainant in the sum of \$1,017.50.

And I find and report that from the sum of \$2,323.50 expended by the defendant for repairs and improvements there should be deducted the sum of \$540 expended for a new furnace and the sum of \$294.46 for installation of electricity as capital improvements, leaving the sum of \$1,489.04 expended by the defendant for repairs and improvements on the Nineteenth street property and the Vernon Terrace property, which repairs according to the decree should have been made by the complainant. 20

And I find and report that from said sum of \$1,280 received by the defendant for rent of the said premises from November 1, 1923, to March 1, 1925, the complainant is entitled to the sum of \$640, being the difference between the amount of rent of the said premises prior to the making of the repairs and improvements and the amount received after they were completed. 30

And I find and report that there is due to the complainant from the defendant after crediting on said repairs the sum of \$640 received by the defendant and the amount of arrears owing by the defendant on March 1, 1925, the sum of \$148.46. 40

Report of Special Master.

And I find and report that it appears by the testimony that since the entering of the decree on November 23, 1920, the Vernon Terrace property has been decreed to belong to the complainant.

10 And I further recommend that the decree of November 23, 1920, be modified by eliminating therefrom the requirement that the defendant pay the taxes, assessments, water rents and similar charges on the Vernon Terrace property to the extent that he be required to make the aforesaid payments on the Nineteenth street property.

And I further recommend that the decree be modified by eliminating therefrom the requirement that the complainant keep the Nineteenth street property in repair.

20 And I further recommend that the decree be modified by eliminating therefrom that the complainant have the rents of the premises known as the Nineteenth street property.

And I further report that it appears by the testimony that since the entering of the decree of November 23, 1920, that the salary of the defendant has been increased from \$10,000 to \$15,000 a year, so that including the rent of the Nineteenth street property the income of the defendant is approximately \$16,000 a year.

30 And I further report and recommend that the defendant pay to the complainant the sum of \$5,700 per year from the first day of March, 1925.

Respectfully submitted this eighteenth day of July, nineteen hundred and twenty-five.

CHARLES M. MYERS,
Special Master in Chancery
in New Jersey.

Stipulations.

IN CHANCERY OF NEW JERSEY.

Between

MARY V. HEBBLE,

*Complainant,**and*

AMOS S. HEBBLE,

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

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DEPOSITIONS taken in the above-entitled cause, before me, the subscriber, one of the Special Masters of this Court, at two o'clock in the afternoon, on the fourth day of March, 1925, at two o'clock in the afternoon, on the twenty-fourth day of March, 1925, at four o'clock in the afternoon, on the thirty-first day of March, 1925, and at four o'clock in the afternoon on the seventh day of April, 1925, at my office, No. 763 Broad street, in the City of Newark, New Jersey, in pursuance of an order of reference in the above-entitled cause bearing date the tenth day of February, 1925, and in the presence of Frank R. Pentlarge, Esquire, solicitor for the complainant, and Mr. Carpenter, representing the firm of Mc Dermott, Enright & Carpenter, solicitors for the defendant.

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CHARLES M. MYERS,
Special Master in Chancery of
New Jersey.

It is stipulated and agreed by and between the solicitor of the complainant, and the solicitors of the defendant, that under a decree of the Court of Chancery dated November 23, 1920, the defendant was directed to pay to the complainant

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Stipulations.

for the support of herself and her two youngest children, the sum of \$3,000 annually, in equal monthly installments of \$250, beginning on the first day of November, 1920.

10 The decree further provided that the complainant was to retain one-half of the interest in a mortgage known as the Maple avenue mortgage, together with all dividends on the shares of stock of the American Smelting and Refining Company; that the complainant was to receive the rents of the premises on Nineteenth street, and was permitted to occupy the Vernon Terrace property free of rent; that the complainant was to keep the buildings on both premises in repair and the defendant was required to pay the taxes, water rents, and insurance, and similar fixed charges on both pieces of property.

20 It is further stipulated and agreed that by a decree of the Court of Chancery dated February 8, 1924, the title to the Vernon Terrace property was vested in the complainant.

30 It is further stipulated and agreed that from November 1, 1920 to the first of November, 1923, the complainant received the rent for the Nineteenth street property, in the sum of \$40 each month, and that thereafter no rent has been received by her.

It is further stipulated and agreed that since November 1, 1923, the defendant has received and retained the rents of the premises on Nineteenth street, in the sum of \$80.000 each month, which rent totals the sum of \$1,200.

40 It is further stipulated and agreed that the expenses of Howard Hebble, son of the parties to this suit, during the calendar year of 1924, at Princeton College, were \$1,400 and that the

Howard Hebble, direct.

above sum is exclusive of a scholarship, the value of which is \$200 a year.

It is further stipulated and agreed that the taxes on the Vernon Terrace property for the year 1924 amounted to \$288; that there were no assessments; that the water rent was \$12.00; that the insurance was about \$25; and that the taxes, water rents, and insurance on the Nineteenth street property was \$180. 10

HOWARD HEBBLE, a witness produced on the part of the complainant, being duly sworn according to law, on his oath deposes and says:

Examination by Frank R. Pentlarge.

Q Where do you live? A 21 Chambers street, Princeton, N. J. 20

Q Are you the son of the complainant and defendant in this case? A Yes.

Q What will be your expenses for the year 1925 at Princeton University, including the last half of this school year and the first half of your Junior year? A I can't answer that at this time off-hand.

Q Have you any idea what it will be? A My expenses will be what they were last year, plus a \$50 increase in tuition, and a \$50 initiation fee to the cannon club, and beginning in the latter part of September, 1925, I will be required to pay \$4.00 each week more for board, which makes a total of about \$75.00 more for board. 30

Q Will you have any other expenses? A I can't think at this time of any additional fixed charges beyond what I already have.

Howard Hebble, cross.

Cross examination by Mr. Carpenter.

Q How much money did you make in the summer time, at work? A Last year I worked for seven weeks at \$70 a month.

10 Q Was your board furnished you in addition to the \$70 a month? A My board was furnished me.

Q You got \$70 a month net? A Yes, sir.

Q So you actually made during the last summer's vacation \$130? A Approximately less, about \$125.

By Mr. Pentlarge.

20 Q Did you have any expenses chargeable against your board of last summer? A There were no expenses in camp, but expenses incurred getting to and from there.

Q About how much did you expend for that purpose? A I can best say that by stating that I had \$70 when I returned home.

Q When you left home for the camp how much money did you have? A I had approximately \$55.00.

30 Q So that the net profit for the summer was \$15.00? A Yes, sir.

By Mr. Carpenter.

Q Your father gave you your transportation, didn't he? A He gave me railroad transportation, and also paid for Pullman to the camp, but coming back I also had to pay for my own Pullman, and on the way I had to pay for hotel expenses and meals in the dining car.

40 Q What did you do—take a vacation on the way back, and stay in different cities? A Com-

Mary V. Hebble, direct.

ing back I took two weeks, I came from the center of Oregon to San Francisco.

Q In other words you spent on your vacation all you had earned except \$15.00? A Yes, sir. I also had to pay for blankets when I got to the west coast, and shoes and other clothing, which it would not have been advisable to take with me, rough clothing. 10

MARY V. HEBBLE, the complainant in the foregoing suit, being duly sworn according to law, on her oath deposes and says:

Examination by Frank R. Pentlarge.

Q Where do you live? A No. 31 Vernon Terrace, East Orange, N. J. 20

Q And you are the complainant in this action? A Yes.

Q What were your expenses during the year 1924? Give them in detail if you can. A I expended \$1,500 for my son's education in Princeton. My household expenses for butcher and grocery was about \$1,200 for the year; \$100 for telephone bill, \$100 for gas and electricity; for part-time help about \$400. 30

Q Just what help did you have for last year? A For laundry, cleaning and rug cleaning and a girl for part time.

Q How long of the time? A About two months.

Q Did you have any maid or servant any other time during the year? A No, except the days' work.

Q How often did you have the cleaning done? A Two days a week. 40

Mary V. Hebble, direct.

Q Any other item, Mrs. Hebble? A About \$100 for professional services such as doctor, dentist, etc. I guess about \$600 for my clothes and spending money.

Q Now, don't guess. A Well, it will be impossible to say exactly.

10 Q Give it to the best of your ability. A \$600. I paid \$100 on repairs for the house.

Q Which house was that? A At No. 31 Vernon Terrace, East Orange; \$69 on repairs to furniture, \$25 for the church I belong to during the year; \$19 I paid for fire insurance.

Q On what property? A On my furniture.

Q Any other items? A I don't remember without referring to my notes.

20 Q In addition to the items mentioned have you paid anything for heating? A Yes, coal; twelve tons at \$13.90 a ton; \$160 for coal.

Q Do you remember any other item of expenditure? A Yes, my milk was about \$100 during the year.

Q Was it more or less than \$100? A It might have been; I can't say how much it was.

Q How much was it? A About \$90.

30 Q Any other items? Have you made any list of your expenses for last year, Mrs. Hebble? A Well, I didn't put every one right down, but I figured them as best I could.

Q How do you arrive at your figures? A My expenses were \$5,286. Papers and magazines, \$30 during the year. My taxes on the Long Island property was \$612; that also was for three years for assessments that were standing.

40 Q These are in addition to what you have already stated? A Yes. \$25 for the Homeopathic Hospital drive, Essex County; \$40 for ice man.

Mary V. Hebble, direct.

Q Any other additional items, Mrs. Hebble?

A Well, I think I have covered almost everything.

Q What was your income for last year? A From Mr. Hebble, \$2,525; my garage, \$120; \$70 dividend on stock of the American Smelting & Refining Company. That was all, except I had received payment for a mortgage of \$2,001. That was all the receipts. 10

Q Mrs. Hebble, was all of your outstanding debts paid after December 31 of last year? A No.

Q What was still outstanding at that time?

A My coal bill for \$130, of which I had only paid half.

Q Was that item included in the \$166 coal bill you stated before? A Yes, that is the \$166 that I referred to. 20

Q Are there any other items in addition to those you have already given for which you owe or for which you have paid for? A Whether I paid for them all or not, I have considered them as expenses for the year 1924.

Q Have you a maid at this time, Mrs. Hebble? A Now, yes.

Q Well, will you require her in the future?

A Well, I can't possibly get along without her. It is impossible for me to do all the work. 30

Q Why? A I have some trouble with my heart and anything like that affects me.

Q You have to have someone to do the work?

A Yes.

Q What do you pay her? A \$15 a week.

Q Are there any other expenses which you expect to have during this year which you did not have last year? A About \$100 more for my son's expenses at Princeton. 40

Mary V. Hebble, cross.

Q Did you expend any sums last year for a vacation? A No. I have not had a vacation in six years; not one day.

Q Are there any additional expenses you expect to have? A I would like to have a vacation this year and would like to have some money for that.

10 Q Have you a complete wardrobe? A No. I would have to have some clothes. That is one reason why I couldn't take a vacation if I could afford one, because I didn't have any clothes to wear.

Q When did you last buy a coat, Mrs. Hebble? A A winter coat—well, I have not had one in about five years.

Q How much did you spend for hats in the last year? A I can't say exactly.

20 Q About how much? A I don't think I spent more than \$25.

Q Do you find that the amount which you expended during the last year gives you sufficient help to clothe yourself? A Not at all. Why, I should have just about half.

Q Other than the extras that you have spoken about, do you anticipate that your general expenses for this coming year will be approximately the same as last year? A No. I should say about \$1,000 more.

30 Q That's in addition to the other expenses you mentioned? A Yes.

Cross examination by Mr. Carpenter.

Q Mrs. Hebble, you say your telephone bill amounted to \$100. Have you a direct wire or a party wire? A Party wire.

40 Q That figures \$8.50 a month; isn't that pretty high for a telephone? A No, not when I

Mary V. Hebble, cross.

consider all the trips it saves me—to New York, certainly not.

Q Who did you have living with you last year? How many persons? A Chester Hebble, Mr. Hebble's nephew, and my son Christian.

Q How old is Chester Hebble? A Thirty years old. 10

Q How old is Christian? A Just twenty-two years.

Q Christian works, doesn't he? A Yes.

Q He is an automobile salesman? A Yes.

Q How much did Chester Hebble pay you last year? A \$5 a week for room and breakfast. I didn't consider that one way or the other. I didn't consider it a loss or gain.

Q Well, why didn't you make it a gain by charging sufficient? A Well, I will tell you how it was. When he came to me he intended to stay only for a few days, because his mother was living in Bethlehem, and he got this position in New York and he intended to look for a place for his mother, but the rents were so high he couldn't seem to locate anything. In the meantime Chester's brother's wife was taken sick with tuberculosis and she was ordered to the hospital for six months and Chester's mother went down to keep house for her son while his wife was in the hospital for six months. The six months is up now and she expects to return in a few days and they are going to keep house in Long Island. 20 30

Q When did Chester come to live with you? A March, 1924.

Q He gets some of his other meals with you, doesn't he? A Only when I have company I invite him. He goes home week-ends—not to his own home, but to friends. 40

Mary V. Hebble, cross.

Q He could pay you more than \$5 a week, couldn't he? A I guess he could afford it, but I didn't want to ask him for any more because he is Mr. Hebble's nephew.

Q How much has your son Christian been paying you? A Nothing whatever. He can't
10 hardly pay his own expenses.

Q Do you know what salary he is earning? A He doesn't make a complete salary. He doesn't make always the same.

Q What did he make last year? A In 1924 he made \$1,300.

Q Do you mean to say that you didn't ask him to pay any board? A No.

Q Didn't you think it was a good thing for him to pay his board? A He didn't have enough
20 money to pay. He had to buy a car which he needed in his business.

Q And he didn't pay you any board? A No.

By the Special Master.

Q Is he still with you? A Yes.

By Mr. Carpenter.

Q This house that you live in has how many
30 rooms? It is a twelve-room house, isn't it? A Eleven-room house and bath.

Q Three of you have been living in that house, you and your son and your nephew? A Yes. My son, Howard, is often home from Princeton. Then I have a maid and two dogs.

Q Did you have any other boarders during the year? A No.

Q Do you have use for all of the rooms in the
40 house? A Yes.

Mary V. Hebble, cross.

Q Have you ever considered renting that house and taking an apartment? A I love my home.

Q You wouldn't do that? A My home is everything to me.

Q What expenses do you think are going to make your gross expenses \$1,000 or more than last year? A Well, I have to have some more clothes. 10

Q How much do you think you'll have to spend for that? A Well, I can't say offhand.

Q You gave an estimate, what did you base it on? A I can't say.

Q What other items? Telephone? A No.

Q Don't you think \$8.50 a month is quite high for a party wire telephone bill? A No, not when I consider the business I have to take care of. I have to do everything in the home what a man should do. It saves me many trips. 20

Q What business were you doing? What business is there to do? Such business as locate business if I know anything about it. A No. I have telephone calls to New York and other places I can't recall.

Q Why were you telephoning to New York?

A On some occasions I telephoned to my lawyer in New York, and other calls. 30

Q And you telephoned a lot to Mr. Hebble's place of business, to his employers, didn't you?

A No. I never telephoned to his employers.

Q And you also went over and saw his superiors? A When I did not receive my check.

Q Do you remember going to his office last year and talking to his immediate superior, Mr. Jungen?

Mr. Pentlarge: I object to the question. It is clearly no part of the cross examination, 40

Mary V. Hebble, cross.

and further because it is irrelevant, incompetent and immaterial.

A I went to see Mr. Cooper and while I was there Mr. Jungen came in, but I did not go to see Mr. Jungen.

10 Q Who is Mr. Cooper? A He is the assistant manager.

Q He is over Mr. Hebble? A Yes.

Q Didn't you tell him that you were surprised that a company like the Southern Pacific would keep a man like Mr. Hebble in their employ?

Mr. Pentlarge: I object to the entire line of testimony. Mr. Carpenter, will you permit me to object to the entire testimony?

20 Mr. Carpenter: Let your objections stand as to the entire line of testimony.

A I can't recall just those words.

Q What by discharging Mr. Hebble? A No, I wanted them to send me my check every month for my money.

30 Q And did you think by making the statement that your husband was having repairs made to his house by Southern Pacific Company men, that would help you get a check? A I can't answer that question.

Q That, of course, took place about the 14th or 15th of May, 1924, didn't it? A I couldn't say.

Q You know perfectly well that at that time Mr. Jungen was about to step out as manager of the Southern Pacific Company, Atlantic Steamship Lines? A No.

40 Q You knew that either Mr. Hebble or Mr. Cooper or both, were in line for that position, didn't you? A No.

Mary V. Hebble, cross.

Q Didn't you know that Mr. Cooper got the position and not Mr. Hebble? A No.

Q Do you know that after you went down and made those statements about your husband having repairs made to his house at the company's expense that they had an investigation made? A No.

10

Q You also went down to the office of the Chairman of the Board of Directors of the Southern Pacific Company and made the statements about your husband having repairs made to his house at the company's expense, didn't you? A No.

Q You saw the secretary of Mr. Kruttschnitt, the Chairman of the Board of Directors of the Southern Pacific Company, didn't you? A Yes.

Q You also told him, didn't you, as you had told Mr. Cooper and Mr. Jungen, about Mr. Hebble having repairs made by the men of the Southern Pacific Company? A No.

20

Q Well, you know that the Chairman of the Board of Directors of the Southern Pacific Company started an investigation about your husband, didn't you? A No.

Mr. Pentlarge: I object to the question because it is irrelevant, incompetent and immaterial.

30

Q What did you say to the secretary? A Well to begin with, when I inquired about my check at Mr. Cooper's office he told me that I wouldn't be able to get my check without an order from the main office at Broadway and he told me that if I went down there I would get my check every month. So I went direct to the main office and that was simply all I said. He

40

Mary V. Hebble, cross.

told me that he would like to see my decree, so I had a copy of the decree sent to him.

Q You had a copy sent to the secretary? A Yes.

Q When did you send that? A In May.

10 Q How many times after that did you see Mr. Cooper in 1924? A I never saw Mr. Cooper since that day. I saw Mr. Cooper in February and May, both months when I received my check on the twenty-third of the month. That was the times I went to the office. No other time.

Q You knew at the time you went to the office that Mr. Hebble was out West, didn't you? A Not in February. In May I did. When I went there in February and on the nineteenth I did not receive my check, I called up the office and they told me Mr. Hebble was out West. I 20 telephoned to Mr. Cooper's office and they told me to try and get the check by telegraphing. So he had Mr. Quinn telegraph and so I received my check on the twenty-third.

Q As a matter of fact you had received your check fully a week before you went down to the Southern Pacific Company, didn't you? A No, positively not.

30 Q Didn't you also tell Mr. Cooper or some of the employees of the Southern Pacific Company after May, 1924, that Mr. Hebble was grafting from the Southern Pacific Company? A No, I have not seen Mr. Cooper since May.

Q Did you tell any of the employees? A No.

Q Or any of the officers of the Southern Pacific Company? A No.

Q Or words to that effect? A No.

40 Q Didn't you say any such words to any of the officials or employees of the Southern Pacific Company? A No.

Mary V. Hebble, cross.

Q Isn't it a fact that you have done everything you could to have Mr. Hebble discharged from the Southern Pacific Company? A No.

Q Well, you have been talking about it? A No.

Q You said that you hadn't had a vacation for six years. Have you made any attempt to go away during the six years? A No, because I haven't had any money to go. 10

Q Well, you received last January \$2,001, didn't you? A Yes, in February.

Q What did you do with that money? A I took it to help cover my household expenses.

Q Spend it all? A Yes.

Q Every bit? A Yes.

Q You say in your list of expenses for last year you paid \$612 for taxes on Long Island property and assessments for three years. Where is this property in Long Island? A Woodside. 20

Q It consists of what? A Four lots.

Q What are those lots worth? A The last offer that I had was \$1,000 apiece.

Q When did you get that offer? A About a month ago.

Q Well, are you willing to sell those lots for that price? A Not for that price. 30

Q What are you willing to sell them for? A \$10,000.

Q All together? A No. Two and two.

Q What are these lots assessed for, Mrs. Hebble? A Well, I can't say.

Q What are these lots assessed for? Are these assessed for \$120? A I can't say.

Q Are these lots assessed for \$3,000 altogether? A I can't say without looking at my bill. 40

Mary V. Hebble, cross.

Q Do you know that they are not worth anywheres near \$10,000? A No.

Q The most that you have been offered for them is \$4,000. Why have you put a figure of \$10,000 on them? A Because I have been advised by people I know.

10 Q What, your counsel has advised you? A No. Other people.

Q You have been advised to fix this figure of \$10,000, for what you will sell these lots? A It has been my figure right straight along.

Q Those were lots that were purchased and paid for by Mr. Hebble and put in your name?

20 Mr. Pentlarge: I object to the question as irrevelant, incompetent and immaterial, in regard to the record title in Mrs. Hebble and who paid for them.

A Well, I don't feel that way about it. I feel that it was my money as well as his.

Q It was all his money that was earned by him as a result of his work, wasn't it? A I feel that I worked just as well as him.

30 Q You worked at home, of course, I will agree, but the money that was used to purchase the lots was what Mr. Hebble received from his work, wasn't it? A I don't know.

Q Well, you didn't earn that money from your own labor? A Only at home, and by taking care of the children.

Q Mr. Hebble paid the money over for the property, didn't he? A Yes, he paid the money over for the property, but I feel that it is mine just as well as his.

40 Q Well, I don't object to your feeling that way. None of the money came from your own separate estate, did it? A No.

Mary V. Hebble, cross.

Q Likewise this house at #31 Vernon Terrace in which you are now living was purchased by Mr. Hebble, wasn't it, and then given by him to you?

Mr. Pentlarge: I object to the question for the reason that it is irrelevant, immaterial and incompetent and for the further reason that there is direct testimony in this case that the husband was to give the property over to Mrs. Hebble by the Court of Chancery. 10

A Yes.

Q You gave \$1,200 as household expenses, is that for food? A That was for the butcher and grocer.

Q For fruits and vegetables? A Yes. 20

Q For yourself and your son, Christian? A Yes, and for my son, Howard. Last year he was home about fifty days or more.

Q That's once a week, isn't it? A He was home three weeks at Christmas time, ten days in mid-year and three weeks at Easter time and three days at another time.

Q Well, this figure you gave, where did you get that? Did you keep a complete account? A No. 30

Q All of it is your expenses? A Yes.

Q Have you made any savings from it? A No. Last year I overdrew my account \$2.73.

Q Did you put any of it in building and loan?

A Not a cent.

Q Have you any building and loan shares?

A No.

Q Have you any savings account? A No.

Q All of these items were paid by check? A Yes. 40

Mary V. Hebble, cross.

Q You have totalled these up? A No, I haven't.

Q When you give \$400 as the amount paid for part time help is that just a guess? A Yes.

Q When you figure it up right it comes to about \$300, doesn't it? A No. At least \$400.

10 Q How much do you get for your garage? A \$10.00 a month.

Q That's for one half? A Yes.

Q And your son's car is stored in the other half? A Yes.

Q Does he pay you rent for that? A No.

Q Do you ever use the car? A No. I never ride in it. He uses it evenings for his business.

Q You got a number of letters from your husband, didn't you, in reference to repairs to the Vernon Terrace and Nineteenth street properties in 1923? A I have received all letters as set forth in the affidavit on file.

20 Q Are you referring to Mr. Hebble's affidavit? A Yes.

Q You saw all those letters? A Yes.

Q You received all those letters? A Yes.

30 Q Now, Mrs. Hebble in the letter dated October 14th, 1922 Mr. Hebble said this to you: "Under date of September 18, 1922, I wrote you relative to certain repairs to the properties at #31 Vernon Terrace and #98 North Nineteenth street, East Orange, N. J. Up to the present time I have not had the courtesy of a reply. I have since had the properties carefully examined, and in accordance with my report to you in my letter above referred to, they are both seriously in need of repairs." Did you reply to any of these letters? A No.

40 Q Did you look over them to see if they were in need of repairs as stated in Mr. Hebble's letter? A Yes.

Mary V. Hebble, cross.

Q Did you dispute that statement of his in any way? A Yes.

Q Do you find that the repairs were needed? A Absolutely not.

Q Not needed? A No. They were improvements.

Q Then if that is so why didn't you write Mr. Hebble calling his attention to this fact and telling him that you didn't think the repairs were needed? A I paid no attention because I knew the repairs were not necessary. 10

Q If that is so why didn't you write him a letter to that effect? A I didn't wish to write to him.

Q And in his letter quoted aforesaid he said this, "It is my desire to make the payment of these repairs as easy as possible for you, and in order to do this, I will pay for the repairs when completed and deduct from your maintenance allowance approximately \$50.00 per month, depending on the total cost, until the work is finally paid for." You saw that part of his letter didn't you? A Yes. 20

Q Why didn't you write upon receipt of that letter and say something about it? A Because I knew he had no right to do anything like that.

Q Why didn't you write and tell him so? A I didn't expect that he would deduct it from my allowance. 30

Q Well, after that you knew perfectly well, didn't you, that he did have the house repaired and saw the men their frequently? A Yes.

Q You even identified them as the employees of the Southern Pacific Company, didn't you? A Yes.

Q How did you find out they were Southern Pacific Company employees? A I heard them talking about where they came from. 40

Mary V. Hebble, cross.

Q Did you ask them if they were Southern Pacific Company men? A No.

Q You didn't? A No.

Q What did you hear them say that made you think they were employees of the Southern Pacific Company? A I heard them speak of Mr. Hebble and I also saw the automobile out in front of the place with "Meier & Oelhaf Plumbers" on it.

Q Is that the reasons you give upon which you based your statement to Mr. Jungen and Mr. Cooper that your husband was having repairs made to his properties by Southern Pacific Company employees? A No.

Q What other information did you have? A One of the men that I knew for years who was looking after the painting work, Mr. James.

Q After Mr. Hebble had completed these repairs he came out to #31 Vernon Terrace and brought with him all receipts and cancelled checks, calls for bids and bids he received and in the presence of your two sons, Christian and Howard, showed you all of the vouchers and asked you to go over them to satisfy yourself that they were correct.

30

Mr. Pentlarge: I object to the question on the ground that it calls for conclusion on the part of the witness in that it asks whether or not she knew that Mr. Hebble had all of the vouchers.

A We did not look at them.

Q Did you know Mr. Hebble asked your two sons, Howard and Christian, to be there for the interview? A Yes.

40

Mary V. Hebble, cross.

Q He said, didn't he, that he heard that you were down to the Southern Pacific Company telling them that he was having work done by Southern Pacific employees? A Yes. He told me that he took them on personally when he had the work done. That they weren't doing work for the company and he hired them at that time to do the work. 10

Q Didn't Mr. Hebble say in the presence of your two sons that you done him a great wrong by going to his employees and saying what you did and for that reason he asked the two boys to be there when he showed the vouchers and satisfy themselves in your presence that he didn't do anything wrong?

Mr. Pentlarge: I object to the question because it is irrelevant, immaterial and incompetent and is beyond the issues involved in this suit. 20

A I don't remember any explanation like that.

Q Didn't Mr. Hebble produce a lot of bills and cancelled checks and receipts and ask you and your boys to go over them? A No. He never handed them to anyone he simply kept them.

Q Did you ask to see them? A No. 30

Q Didn't you care to go over them? A No, because he took all precautions to have them fixed so I didn't care to read them.

Q What do you mean by that? A Well, I mean he took all precautions when he had the work done and because I didn't think it was necessary for me to go over the checks.

Q Why? A Because it was a waste of time.

Q Why would it be a waste of time? A Well, because it didn't mean anything to me. 40

Mary V. Hebble, cross.

Q You wouldn't be able to understand them?

A No.

Q Well, do you mean that you were satisfied with the work that was done? A No. I was not satisfied with the work or the price.

10 Q What were you dissatisfied with? A Repairs to the house could have been made but not improvements.

Q What work would you say was improperly done, if any?

Mr. Pentlarge: I object to the question as irrelevant, incompetent and immaterial and not proper cross examination.

A He installed electricity in the house.

20 Q Was that improperly done? A It wasn't up to me to make that repair or to put it in.

Q Was the painting improperly done? A A No.

Q Was the carpenter work improperly done?

A I can't say that any work was improperly done. I haven't said that.

Q How much did you spend in 1922 in repairing either of these houses? A I haven't the slightest idea.

30 Q How much did you spend in 1921? A I didn't keep an account.

Q How much did you spend in 1920 in repairing these houses? A I often would send my son to make repairs, such as putting washers on and to making some small repairs that were necessary. It really wasn't any cost to that.

40 Q Have you a single voucher that you have made for repairs to either of these houses from the date of decree to Mr. Hebble's letter to you under date of June 1, 1923? A No. I haven't saved any.

Mary V. Hebble, cross.

Q Can you mention a single item of repair that cost you any money between the date of the decree and June 1, 1923? A I know I put a gas water heater in but I can't remember the date.

Q How much did that cost you? A \$20 I think.

Q Where did you put that gas heater? What house? A Nineteenth street. 10

Q What kind of a heater? A One you can heat water with. Gas heater.

Q Did you paint either of these houses in three years? A No.

Q Did you have any carpenter work done in either of these houses in three years? A I can't recall.

Q Did you have any repairs to the roofs of the houses in those three years? A I can't recall. 20

Q Did you find that the Nineteenth street property was very much run down by the 1st of June, 1923? A No.

Q It was not? A No.

Q Did you find that the roof was in bad condition of the Nineteenth street property? A No, not that I know of.

Q Did you know that the Nineteenth street property needed repairs? A No. Not to my knowledge. I visited there quite often. 30

Q You haven't had much experience in business affairs, have you? A No.

Q Have you had any repairs to the plumbing work of either of these houses in the three years before June 1st, 1923? A Yes.

Q What? A The bathroom.

Q What house? A Nineteenth street.

Q What did you have done there? A I think there was something wrong with the tank. I had it fixed. 40

Mary V. Hebble, re-direct.

Q Did you have it fixed for a quarter? A No. I never had a plumber's bill for a quarter.

Q Have you ever tried to rent the Vernon street property? A No.

Q Neither as a furnished house or unfurnished? A No.

10 Q Neither way? A No.

Re-direct examination by Mr. Pentlarge.

Q Have you ever consulted a real estate agent as to the rental value of the Vernon street house? A Yes.

Q What did they tell you was its rental value?

Mr. Carpenter: I object to the question as hearsay, because it was simply what someone else told her.

20

A If it was in good condition about \$150 a month but in the condition it is now about \$100.

Q Who was the agent you consulted? A Sellick.

Q He has a place of business? A In East Orange.

Q Do you know the rental value of the houses in the vicinity of the Vernon street property? A No.

30

Q Have you any idea as to the rental value of the property? A No. I haven't except what I have just said.

Q Mrs. Hebble before the recent repairs previously discussed by you were made on the Nineteenth street and Vernon Terrace property, did you ever see Meier & Oelhaf men there before? A Yes. That was seventeen years ago.

Q Did Mr. Hebble ever tell you anything about them? A Yes.

40

Mary V. Hebble, re-cross.

Q What did he tell you? A He said that he received a receipted bill from Meier & Oelhaf but he said he didn't pay them anything.

Q A receipted bill for the Vernon Terrace property? A No. I didn't have the Vernon Terrace property at that time.

Q Is that why, Mrs. Hebble, when you saw the same firm again making repairs that you thought they were again doing it for nothing? A Yes. 10

Q Did your husband ever tell you who Meier & Colhaf were? A Marine plumbers.

Q Did he ever tell you anything else about them? A No.

Q Did he ever tell you whose work they did? A Yes, he said they worked for the Southern Pacific Company. 20

By Mr. Carpenter.

Q When did he tell you that they were working for the Southern Pacific Company? A Seventeen years ago.

Q Did he tell you that before or after the work was done on the house? A When the work was being done.

Q This statement about having received a receipted bill was before the work was done? A When it was finished. 30

Q When did he tell about the bill? A He told me about the bill when the work was finished. I can't recall every word, but he told me that he received a receipted bill from Meier & Oelhaf and he hadn't paid anything and he told me it was mighty nice.

Q And when you saw them in front of the Nineteenth street property last year or the year before you told Mr. Cooper and Mr. Jungen, or 40

Mary V. Hebble, re-cross.

both, that your husband was having repairs done to his house at the expense of the Southern Pacific Company, or words to that effect. A It was when I didn't receive my check I went there to inquire about my check.

10 Q And that is the occasion that you told them about this? A No.

Q And you took the occasion to go down and tell them what? A That Mr. Hebble had not sent me my check and had gone out West and it was about the fifteenth of the month and that he was deducting \$50 from my allowance and \$40 from the rent to cover the expense of repairing a house that was in his name and he had Meier & Oelhaf people doing work and charging it up to me. I didn't say anything about the Southern
20 Pacific Company paying for it. I didn't know who was paying for it, whether it was Meier & Oelhaf or the Southern Pacific Company.

Q Mrs. Hebble, you made those statements about your husband to the Southern Pacific Company purposely with the deliberate intention of having him fired, didn't you?

30 Mr. Pentlarge: I object to the question on the ground that it is not proper cross examination and also on the further ground that it has already been asked by the witness on cross examination.

A No.

Q Then what was your purpose in telling what you did?

40 Mr. Pentlarge: I object to the question on the ground that it is not proper cross examination.

Mary V. Hebble, re-cross.

A Just to show them how unreasonably he was with me.

Q What did you think the effect was going to be on his employer?

Mr. Pentlarge: I object to the question on the ground that it is not proper cross examination. 10

A None at all.

Q Was it just mere gossip or was it said for a purpose?

Mr. Pentlarge: I object to the question on the ground that it is not proper cross examination.

A Mere gossip. 20

Q Did you think that the so-called gossip was going to help advance your husband in his position?

Mr. Pentlarge: I object to the question on the ground that it is not proper cross examination.

A I feel that it had nothing whatever to do with my husband. If the company was satisfied with his work the company would never make any changes with him. 30

Q Didn't you try to get him out by telling these slanderous statements about him?

Mr. Pentlarge: I object to the question as heretofore and because the question is leading and calls for conclusion as to matters of law. 40

Mary V. Hebble, direct.

A Positively not.

Q What I want to know is whether you thought you were helping or hurting your husband by making these statements?

10 Mr. Pentlarge: I object to the question because it is not proper cross examination.

A No effect whatever.

Q You had on other occasions gone to Mr. Jungen's house to talk about your husband?

Mr. Pentlarge: I object to the question because it is not proper cross examination.

A No.

Q Have you ever been to Mr. Jungen's house?

20 A Yes.

Q Didn't you ever talk to him about your husband? A No. I went to see Mrs. Jungen to ask her to help me to get my husband home, that was after he went away.

Q How many times have you been out there to see Mr. or Mrs. Jungen? A Once.

Q Is that so? A Yes.

30

MARY V. HEBBLE, being recalled.

Examination by Mr. Pentlarge.

Q Do you recall the amount of alimony that you received from your husband for the month of November, 1920? A \$200.

Q Do you recall the amount of alimony you received from your husband for the month of December, 1920? A \$183.50.

40

Mary V. Hebble, cross.

Q Commencing with the month of June, 1923, to the month of July, 1924, covering a period of fourteen months, how much per month alimony did you receive from your husband? A \$200.

By the Special Master.

Q Between December, 1920, and June, 1923, 10
how much alimony did you receive? A \$250
each month.

Q Since July, 1924, how much have you received per month? A \$225.

Q What month does that include? A That includes the month of March, 1925.

By Mr. Pentlarge.

Q Have you ever computed what the shortage 20
of alimony was during this period? A The ar-
rears amount to \$1,017.50.

Q Mrs. Hebble, is the amount which you have just testified to in addition to the \$1,200 set forth in the stipulation as the rental of the Nineteenth street premises? A In addition. It is rent that I would have received at \$80 a month.

Cross examination by Mr. Cooper.

Q What day in November, 1920, were you 30
paid the \$200? A The first week. I can't say
what day.

Q Whom do you get the alimony from, Mrs. Hebble? A Mr. Hebble.

Q What form does it come in? A Always by check.

Q On December, 1920, what day did you receive the check? A The first week. I can't say what day. 40

Mary V. Hebble, cross.

Q Why do you say the first week? Haven't you any recollection whatever? A I generally got my check between the first and the eighth, with the exception of February and May, 1924, when I did not receive it until the twenty-third day.

10 Q Did you get it on the twenty-third of February and the twenty-third of May, both on the same day? A Yes.

Q What record have you to show that you only received \$200 in 1920? Have you any record at all or just recollection? A Well, I have my bank statements. I can produce them.

Q Have you looked them up in the last three years? A I think I have seen them.

Q When did you look them up? A Mr.
20 Pentlarge has some of them.

Q I call upon Mr. Pentlarge to produce the statements for November and December, 1920. A He hasn't got them as far back as that. Mr. Hebble has the cancelled check to show.

Q Did you ever write Mr. Hebble any letters about this shortage in 1920? A No, because I wrote to Mr. Hebble before, nice letters, and he never answered them, the last letter he finally re-
30 turned to me and I said I would never write him after that.

Q When was that, Mrs. Hebble? A About a year after he went away.

Q When was that? A 1920.

Q When was the last letter you wrote him? A I wrote him about four years ago.

Q What year was it? I ask you whether you wrote him about this alleged shortage of \$50 in 1920? A Yes, I remember now, very well.
40 Quite a lengthy letter.

Mary V. Hebble, cross.

Q What time in November, 1920, did you write such a letter? A In November, 1920.

Q When did you write such a letter? A Previous to that.

Q Previous to what? A November, 1920.

Q What date did you send that letter? A I can't recall the date. 10

Q I ask you when you wrote Mr. Hebble about this alleged shortage of \$50 in 1920? A I have written him so many letters I can't say when.

Q When was the last time you ever wrote him about this shortage? A I don't remember.

Q Do you remember what month? A No.

Q What year was it? A No.

Q How about this shortage of \$77.50 in December, 1920? Do you mean to say that your husband didn't send you a check for \$250? A He sent a check for \$183.50 in December, 1920. 20

Q Have you got any record to show that that was the amount and on what day you received it? A No

Q You have nothing to show except your recollection? A Yes, I positively remember. It was written and sent with a slip of paper, just ordinary pad paper and written across it was: 30
"Any necessary adjustment will be made when the final decree is made," but I never received one cent.

Q Was that written before the decree in this case was signed? A No.

Q The decree was not entered—before he had received the notice. A You haven't got any clear recollection when you received such a letter? A Not the day. I know it was the first week of November. 40

Amos S. Hebble, direct.

Q How do you know it was November and not December? A No, it was November—when I received the dividend on the stock.

Q Have you kept that letter? A I looked for it but I couldn't find it.

Q Did you try to keep it? A Yes.

10 Q Have you kept all of his other letters to you? A Yes—I think I have a good many of them.

Q Did you keep the letters about the properties mentioned in the affidavit? A Yes.

Q Have you all those letters? A Yes.

20 AMOS S. HEBBLE, the defendant in the foregoing suit, being duly sworn according to law, on his oath deposes and says:

Examination by Mr. Carpenter.

Q Mr. Hebble, you are the defendant in this case? A Yes.

Q Mrs. Hebble claims that you only sent her \$200 for the month of November, 1920. What about that as you recall it? A As far as I can recall I sent her the full amount.

30 Q Have you any of your cancelled checks for that period? A I have not.

Q Now for the month of December, 1920, did you deduct \$77.50? A I did not.

Q Have you got the cancelled check for that month? A I have not.

40 Q She claims you only sent her \$183.50. This was after the decree was filed. A If I only sent a check for \$183.50 as she claims, I surely must have made up the difference in cash because the decree was in effect and I am sure

Amos S. Hebble, direct.

I wouldn't have gone back on the decree the first month.

Q Now from June, 1923, to July, 1924, Mrs. Hebble says that you only sent her \$200 a month, is that right? A I think that is substantially correct.

Q And that from July, 1924, to date including this month, you only sent her \$225 a month, is that correct? A I think that is substantially correct. 10

Q She also says that you did not send her \$40 per month mentioned in the order for alimony as the rent of the Nineteenth street property from the month of November, 1923, did you do it and what you have to say about it? A That's true.

Q Explain more fully why you have done this? A It is for the reason that certain repairs were necessary to the two properties and if I may be permitted, I would like to read these letters that I wrote to Mrs. Hebble. 20

Q These letters you wrote to Mrs. Hebble are in the affidavit which you verified on the 25th of October, 1924? A Yes.

Mr. Carpenter: I offer as copies of the letters the copies shown in the affidavit. 30

Mr. Pentlarge: I have no objection to the use of the copies as shown in the affidavit.

Q At the time you wrote these letters what was the condition of these two properties?

Mr. Pentlarge: I object to the question. I object to the entire line of questioning on the ground that it is incompetent, immaterial 40

Amos S. Hebble, direct.

10 and irrelevant. That the question of repairs made by Mr. Hebble and the amount expended by him for repairs can in nowise be introduced as evidence against the claim of the complainant. If Mr. Hebble wished to have the repairs made he had his remedy in the Court of Chancery but he couldn't of his own volition make repairs and charge them to Mrs. Hebble.

Instead of objecting to each question as asked I would like to object to the entire line of testimony with reference to the repairs.

Mr. Carpenter: It will be so understood that it will be subject to your objection.

20 A The exterior of the house at #31 Vernon Terrace was in very bad shape. The paint was falling off and cracked in places. The wood work was exposed in numerous places. This condition would soon cause the wood work of the house to rot and leak through and cause extensive repairs to the frame of the house.

Q What did you do with regard to the paint?
 A I arranged to have the house re-painted and protected and to have the heavy paint scale
 30 burned off the house. I drew specifications for this work and asked for estimates and the work was given to the lowest bidder at cost for performing the work.

Mr. Pentlarge: I object to the question on the ground that there is no evidence to show that the repairs were necessary, nor what they were and hence the mere conclusion as to the cost is immaterial and ir-
 40 relevant.

Amos S. Hebble, direct.

A It cost \$388.88 which included \$27.88 for carpenter work on the front porch, replacing wooden plates at the bottom of the porch columns and for some other parts of the porch.

Q Have you the original bill and the original voucher, Mr. Hebble? Have you the specifications?

10

Mr. Pentlarge: I object to the question as incompetent, irrelevant and immaterial.

A I have. Here's the specifications that I drew.

The specifications are received in evidence and marked Exhibit D. 1, ex-parte defendant.

A Here's the bill from Edward Fowler for painting, showing the payment to him of \$361. The bill was received on October 18, 1923.

20

The bill is received in evidence and marked Exhibit D. 2, ex-parte defendant.

Mr. Pentlarge: I understand that there was expended for necessary repairs to the Vernon Terrace property \$388.88.

I would like to object, however to the entire line of testimony on the ground that Mr. Hebble had no legal right to make repairs on property which belonged to Mrs. Hebble.

30

Q Now what was the condition at that time of the Nineteenth street property? A The Nineteenth street property was in very bad condition. The porch roof leaked and the dampness was causing the structure to rapidly decay. There was a bad leak in the extension of the roof below the front window. This leak leaked

40

Amos S. Hebble, direct.

through the plaster into the house and could be seen on the ceiling and walls of the front room.

Mr. Pentlarge: I would like to note on that record that Mr. Hebble is reading from typewritten paper.

10 A I am refreshing my recollection by looking at a copy of a letter I wrote to Mrs. Hebble, which is part of the affidavit referred to.

Mr. Pentlarge: I ask that it be stricken out. There is no foundation laid for reading from these affidavits.

A The shutters on the house were in very bad condition, broken and hanging from the hinges.
20 The back porch was leaking, partly on top. The weather boarding at the rear of the house was rotted and leaking in places. The interior of the house was in very bad condition. The paper was all hanging off the walls and ceilings and the plaster in the kitchen was in bad condition from a leak through the back room floor directly over the kitchen. The woodwork and moldings around the door openings and the floor basis was in bad condition. The furnace was entirely burned out.
30 The fire box was cracked in several places and the entire top with the connections to the hot air pipes was congealed.

Q The heating furnace? A Yes. The coal stove in the kitchen, the one which was first put in the house some eighteen or twenty years ago, was in bad condition. The castings in the oven were burned out. The castings in the front of the stove were buckled. The stove plates were buckled. It was impossible either to cook or
40 bake in the stove. The toilet in the cellar had

Amos S. Hebble, direct.

several leaks around the flush box. The cement on the cellar floor was broken and missing in places in front of the heater. I am now again refreshing my recollection from the bills. The front steps were rotted both the treads, the rises and the sides. The back steps also required repairs. The roof on the house leaked in numerous places and the copper gutter on the front side of the house. The leak went down into the front bedrooms. The window shades throughout the house were in very bad condition and in some places missing entirely. 10

Q What do you mean by that? A The bottoms were broken off and they were torn and soiled. There were also some repairs on the water pipes in both the kitchen and the laundry. The exterior of the house was in very bad shape. The woodwork was exposed, the paint was flecked off in places and the house was seriously in need of re-painting. It was also necessary to burn some of the flaked paint off the outside of the house. 20

Q What did you do after writing these letters to Mrs. Hebble? A After writing these letters to Mrs. Hebble I concluded that the only thing possible for me to do in order to keep the tenant in the house was to make some repairs. 30

Mr. Pentlarge: I object to the testifying to conclusions.

A Particularly so on account of the fact that the tenant had two small children, probably two or three years old. At that time it was very hard to get labor of any kind, particularly plumbers and painters and I arranged to take some men that were working for the Southern Pacific Com- 40

Amos S. Hebble, direct.

pany, painting their piers, and sent them out to paint the interior of the house. These men were employed at the rate of pay that were paid to house painters and I felt sure that the work could be done much cheaper in that way. I also arranged to purchase through the purchasing agent of the Southern Pacific Company all the materials that were used in connection with painting the house. The material was purchased at the lowest possible price obtainable and much cheaper than it could be purchased otherwise. I gave out the contract for painting the exterior of the house to Edward Fowler. His bid was the lowest bid among four or five submitted.

10
 20
 30
 40

Q On the specifications? A Yes. I arranged with Stewart & Company to make the necessary carpenter and woodwork repairs to the house on the material and labor basis, which was the best I could do. It was practically impossible to estimate on the carpenter work. I arranged with the Meier & Oelhaf Company in New York to supply and install a new furnace and a new range in the kitchen. We do considerable business with these people and as a personal favor to me they supplied this furnace and range at absolutely net cost without any profit. All the labor and material for the installation of the furnace and the range and for repairs in the bathroom, kitchen, cementing floor in the cellar, repairs to the toilet in the cellar and repairs to piping and renewal of cocks in the laundry was done at absolutely net cost to them without profit. I received an estimate on the window shades from M. Neuss & Sons who were the lowest bidders. I arranged with McCarry-Norton Company to make repairs to the roof on a material and labor basis. There were also repairs to plumb-

Amos S. Hebble, direct.

ing by E. D. Reilly & Company on a material and labor basis. There were certain telephone calls for material from the house. They were a charge against this work. I have here all detailed bills covering the work. I paid the following bills:

McCarry-Norton Co., repairs to gutter and roof	\$ 15.35	10
Stewart & Co., for carpenter repairs..	174.68	
Meier & Oelhaf Co., supplying and installing furnace, range, etc.....	540.00	
Edward Fowler, painting exterior of house, burning off paint, and painting storm sash.....	391.00	
A. B. James, who acted for me in employing the painters and paper hangers for the interior of the house. This included painting the house and the wall paper which was purchased from Tebaut & Co. at wholesale.....	469.74	20
M. Neuss & Sons, window shades.....	36.25	
New York telephone calls on account of materials and repair work.....	2.70	
E. J. Reilly & Co., repairs to plumbing	1.90	
	4.25	
	4.30	
My total expense for the Nineteenth street property	\$1,640.17	30

Q Now, in addition to that were there any electric lights in the house at the time you started to make these repairs? A No.

Q Tell about that. A About the time these repairs were started the street in front of this property was opened for repaving. That is the \$96.00 assessment I paid for paving. The Street Department notified me that unless I arranged to 40

Amos S. Hebble, direct.

10 put an electrical connection into the house that the street would not be permitted to be opened for five years. In view of that fact I thought the best thing to do would be to put in electricity and I also thought that it would be a benefit to the property to fit the house with electricity. It would not hinder the rental value which would accrue to Mrs. Hebble or me, or my boys at some time and I thought it a good policy to make that improvement. I gave this job to one of my electricians who did the work at night.

Q Was this extra time? A Straight time and no overtime. I also purchased all of the material or electric wiring fittings and lighting equipment at wholesale price. The entire work costed \$294.46.

20 Q Any profit for anybody in that? A No. All the items above referred to are the total amounts I expended on the Nineteenth street and Vernon Terrace properties amounting to \$2,419.50, including paving assessment and electric repairs.

Q When did these tenants start to pay \$80 a month, Mr. Hebble, why and how? When did you start to get that? A That was in the month of November, 1923, I think.

30 Q You advised the increased rental? A Yes. The house had been entirely cleaned out and repaired, and it was possible to use the range for cooking the food in the kitchen and I thought it reasonable to raise the rent and I notified the tenant that the rent would be increased to \$80 a month, which they paid me.

40 Q Before making the repairs or before writing Mrs. Hebble did you consult a lawyer for advice as to whether or not you had the right to make these repairs in view of the fact that

Amos S. Hebble, direct.

Mrs. Hebble had not answered any of your letters and charge the cost thereof to her as you said you would do?

Mr. Pentlarge: I object to the question on the ground that it is incompetent, immaterial and irrelevant and that it is beyond the issues involved in this case. 10

A I did not.

Q Why not, Mr. Hebble? A Well, I did not think it was necessary to see a lawyer. I thought that inasmuch as Mrs. Hebble had been directed by the Court to maintain the properties in good condition that it certainly was up to her to carry out the Court's order. It was perfectly clear that these repairs had to be made and consequently I thought the best thing to do was to go ahead and make them and try to get back all of the expenses by taking something off her monthly allowance and by taking the rents for a time which I did. 20

Q Have you been repaid as yet for the monies laid out? A Not entirely.

Q You soon will be? A I think I should be entitled to interest on the amount—that was considerable. 30

Q Did Mrs. Hebble write you any letters or communicate with you in any way with reference to the letters which you wrote about these repairs and told her you contemplated making these repairs and charging to cost to her? A She did not.

Q After these repairs were made do you know whether or not Mrs. Hebble went down to your place of business? A She did. 40

Amos S. Hebble, direct.

Q When? A If I may refresh my memory—it was the latter part of last summer. I think it was in May, 1924.

10 Mr. Pentlarge: I ask that the answer be stricken out on the ground that it is beyond the issues involved in this case.

Q When do you remember that and where were you? A I was in Tacoma, Washington, when I first learned of it. I was on a business trip. The information came to me through a letter from my secretary.

Q What is your position? A Superintendent Engineer of the Southern Pacific Company American Steamship Lines.

20 Q An affidavit of your superior is attached to your affidavit, which is offered in evidence, isn't it? A Yes.

Q Did the call that Mrs. Hebble made on your superiors in regard to these matters have any effect on your position?

30 Mr. Pentlarge: I object to the question on the ground that it has already been testified to that the witness was out of New York and that the alleged call is purely hearsay.

A It did.

40 Q What effect did it have? A It had the effect of bringing about an entire checking up of my entire department by a representative from the auditor's office. When I started home on the Northern Pacific Road and arrived at Sand's Point, Washington, I was handed a telegram at the station platform advising me that an entire investigation of my department had

Amos S. Hebble, direct.

been ordered. Of course, this investigation together with Mrs. Hebble's visit and the incidents that took place was rapidly felt on the whole organization. When I arrived home I was looked over like a burglar. The auditor's department had its representatives in my office for three months. Every man in business has rivals and friendly enemies and they lost no opportunity to attack me in every way. Mrs. Hebble also called at the office of the Chairman of the Board of Directors at 165 Broadway and told her grievances to his secretary and asked to see the chairman. 10

Mr. Pentlarge: I object to the latter part of the testimony given on the ground that it is hearsay and not responsive. 20

Q Was there any change made in regard to Mr. Jungen, your immediate superior, about this time?

Mr. Pentlarge: I object to this question on the ground that it is absolutely incompetent, irrelevant and immaterial. Mr. Jungen has no connection whatsoever with the present matter. 30

A Yes.

Q State what it was. A About this time there was a change made in the management of our organization and I didn't receive any consideration although I had been there twenty-eight years and had reason to believe that some promotion was due me. Since that time I have not received the consideration that I formerly received and my position today is far from satis- 40

Amos S. Hebble, direct.

factory. The treatment that I receive is, I believe, largely due to the talk about my domestic affairs and is very embarrassing, and I am positive that I haven't got the standing that I formerly had.

10 Q Before this appearance was made? A Yes.

Q Whose position was open about that time? A Mr. Jungen's.

Q That was one step beyond your position? A Yes.

Q What was his position? A General Manager.

20 Mr. Pentlarge: I object to the question on the ground that it is incompetent, immaterial and irrelevant.

Q Was the position of General Manager just one step beyond yours? A Yes.

Q Who got that position? A The Assistant Manager.

Q Had he the experience that you had?

30 Mr. Pentlarge: I object to the question because it is beyond the issues involved in this case and calls for conclusion.

A He did not have the practical experience that I had. I drew \$15,000 a year and he drew \$7,500 a year.

Q What is your salary now? A \$15,000 a year.

By the Special Master.

40 Q When was your salary increased? A About three years ago.

Amos S. Hebble, direct.

Q What were you getting before that? A \$10,000.

Q What were you getting in 1920 at the time the decree was made? A \$10,000.

AMOS S. HEBBLE, being recalled:

10

Examination by Mr. Carpenter.

Q Now Mrs. Hebble testified at one of these hearings that about seventeen years ago you had the same firm of plumbers that did work for you last year do some work for you then and you said to her, using her words, "It was nice of them to give me a receipted bill and I never paid them anything." Is that so? A No.

20

Q Did anything like that ever take place? A No.

Q Did Mrs. Hebble prior to her marriage to you have any separate estate of her own? A No.

Q Do you know whether she inherited or received any property? A No.

Q The property that she mentioned in Woodside, Long Island—what's that worth?

30

Mr. Pentlarge: I object to the question on the ground that there is nothing to show that this witness has knowledge as to the value of property in Woodside and on the further ground that it has nothing to do with the issues of this suit.

A About \$8,000.

Q Who purchased those lots? A I did.

Q Money you saved? A Yes.

40

Amos S. Hebble, direct.

Q How did you come to place this property in the name of Mrs. Hebble?

10 Mr. Pentlarge: I object to the question on the ground that the testimony is out of the issues of this suit and it is absolutely irrelative.

A I put those lots in the name of Mrs. Hebble with the thought and understanding that they would be used as an estate to educate our boys. I was away from home a great deal of the time, traveling on the railroad and one can never tell what will happen, and I thought that in case of my death there would be no necessity of going into court and having any litigation.

20 Mr. Pentlarge: I ask that the answer be stricken out. Mr. Hebble has stated what his thoughts were in regard to the transaction, which is entirely incompetent and not binding on Mrs. Hebble.

Q Was that understanding that the lots were to be used for the purpose of educating the boys made before they were conveyed? A It was before and after they were conveyed.

30 Q Were those lots used at all for that purpose in any way? A No.

Q Have you any other real estate other than whatever interest you have in the Vernon Terrace property, Long Island lots and the Nineteenth street property? A I have.

Q Do you pay taxes on them? A Yes.

Q What property? A I have a piece of property in Keansbridge, New York, which was left me by my father.

40 Q What were the taxes on that? A \$493.

Amos S. Hebble, direct.

Q What other property? A I have two pieces of unimproved property in East Orange. One piece on Newfield street and the other piece—I can't recall the name of the street—it is the street south of Nineteenth street, out in the Ampere section.

Q What taxes did you pay on these two pieces of property? A I pay about \$143 on one and about \$45 on the other. 10

Q And do you get any revenue from any of these three pieces of property? A Yes.

Q They, these two pieces of property, are unimproved? A Yes.

Q What other taxes did you have to pay last year? A I paid \$168 on the Nineteenth street property and \$288 on the Vernon Terrace property and \$7 or \$8 on a small piece of property I have in Lancaster, Pennsylvania, also unimproved. 20

Q What about income tax? A I paid the Federal Income Tax and the New York State Income Tax.

Q What did that cover? What was your New York tax and what was your Federal tax? A My New York tax was \$143 less 25%, that was \$107.50. I paid \$344 Federal Income Tax. 30

Q Is the Nineteenth street property in first-class condition now? A It is in fairly good condition, but if the tenants should move I feel that I would have to do some re-decorating and have some improvements made, if new tenants come in the house. The wash tubs in the Nineteenth street house are both cracked and I asked Mrs. Hebble some time ago to have them replaced and have the pipes repaired. Through her attorney she advised me that she would not do it. I got an estimate on the work and I think it was 40

Amos S. Hebble, cross.

\$42; that's what it would cost to make the repairs.

Q Since the hearing has started you have paid a quarter's tuition for your son, Howard, in Princeton? A Yes.

Q How much had you paid? A \$383.62.

10 Q Mr. Hebble, in February and in May, 1924, before going on the Western trip did you send checks to Mrs. Hebble for her alimony? A I did. I left the checks with my secretary.

Q Did you give it to him to send before you left? A Yes.

Q What time in the month? A I left perhaps around the middle of the month and I gave him instructions to send it the first of the following month. I was accustomed to giving him the
20 checks to send to Mrs. Hebble while I was away.

Cross examination by Mr. Pentlarge.

Q Mr. Hebble, in 1924, when did you go away?
A I went to the Pacific Coast about six times.

Q When did you go? A I think the first time I went in February.

Q About when in February? A Probably the first week.

30 Q Do you remember the day you went? A I do not.

Q Was it the first day? A I can't say.

Q Do you think it was the first part or the latter part? A I can't say.

Q You have no definite recollection as to when you left? A No.

Q But you left in February? A I think I arrived in February.

Q Do you think or do you know? A I think.

40 Q So you have no recollection? A No.

Amos S. Hebble, cross.

Q You know that on the first day of February the check was due Mrs. Hebble? A Yes.

Q So that if you left in the first week you left when the check was already due? A I didn't leave after the check was due. I must have sent it before I left if I left the first week in February. I might have something here (looking through some papers) to show whether I left in January or February. I know I can't recall as to whether I left in January or February, but I am positive that the check was left with my secretary before I went to send to Mrs. Hebble. 10

Q Then you can't state positively whether you left the first week or the third week? A No.

Q So you don't know whether you left the first week? A No. 20

Q Did you stay away until May, 1924? A No.

Q Were you away in May, 1924? A Yes.

Q When did you leave on that trip? A Sometime in the latter part of April.

Q Mr. Hebble, you stated that you paid \$344 for Federal Income Tax in 1924—was that for the year 1923? A For the year 1924.

Q How much did you pay for 1923? A I paid considerably more. 30

Q Have you any idea how much you paid? A Why, paid considerably more because the rates were higher.

Q How did you arrive at the figure of \$344?

A I just can't follow you, Mr. Pentlarge.

Q How did you compute your tax of \$344?

A Why in accordance with the instructions on the instruction sheet.

Q What was your gross income shown on your sheet? A Something over \$16,000. 40

Amos S. Hebble, cross.

Q What did your items consist of? A They consisted principally of my salary.

Q Which was how much? A \$15,000.

Q What else? A Why I had a small income for several small jobs that I did and some income from some bonds that I had.

10 Q What income did you have from bonds?
A About \$350.

Q What bonds were these? A Railroad bonds.

Q What are their value? A About \$9,000.

By the Special Master.

Q Do you still own them? A Yes.

By Mr. Pentlarge.

20 Q What other income did you have? A I had \$350 from six shares of the United States Steel, preferred.

Q Do you still own this stock? A No.

Q When did you sell it? A About a month ago.

Q And did you invest the proceeds? A No.

Q Have you the proceeds? A No.

30 Q What did you do with the proceeds? A I spent some of it.

Q How much did you receive for this stock?
A About \$6,000.

Q What have you done with the \$6,000? A I spent part of it and paid some debts.

Q How much remains of it? A Nothing remains of it.

Q You spent the \$6,000 in one month? A I paid some debts and spent some of it.

40 Q How much did you use to pay debts? A \$4,000.

Amos S. Hebble, cross.

Q What did you do with the rest of it? A I spent it for some clothes and some other purposes—I spent it on myself.

Q After paying debts you had \$2,000 left to spend on yourself as you pleased? A Yes.

Q And has it all been spent? A Yes.

Q What other income did you have? A 10
I had no other income.

Q You have now, Mr. Hebble, testified to \$15,700 income—how do you account for the balance? You stated that your gross income was over \$16,000. How much did you get for jobs in 1924? A \$200 or \$300.

Q Not more than \$300? A No.

Q What sort of jobs were these? A These were jobs for consulting work.

Q Are you in the habit of doing consulting 20
work? A At times.

Q Have you done any of this work in 1925?
A I have not.

Q What did you do in 1923? A None.
Business was dead in 1923.

Q When business conditions are good you are in the habit of doing this consulting work?
A Not in the habit—occasionally when something comes along.

Q Do you expect in the future to do any more 30
of this work? A I don't expect but if something comes along. I expect to be out of a job very shortly and it might be that I'll have to arrange to do something else.

Q What other source of income did you have in 1924? A No other.

Q You stated originally that your gross income was something over \$16,000? A About \$16,000.

Q Now you want to change it to "about?" 40

Amos S. Hebble, cross.

Mr. Carpenter: I object to that. He stated it was a little bit over.

A It was about \$16,000. It may have been a little over.

Q Mr. Hebble did you keep a record of your income for 1924? A No, except on my income sheet.

Q Did you keep any personal record as to your finances? A I did not. My finances are such that they do not require any books to keep them.

Q No memorandum of any character? A No.

Q Do you keep an account in the bank? A Yes.

Q In what bank? A In the Greenwich Bank of New York.

Q Do you keep the stubs of that account? A Ordinarily not.

Q Have you kept them for 1924? A No.

Q Do you keep the cancelled checks? A No, unless they are especially of some importance.

Q Have you kept your cancelled checks for 1924? A No.

Q Any of them? A No, except those that refer to the repair jobs on the Nineteenth street property.

Q Are those the only checks you have kept? A Yes.

Q And you have absolutely no other written record for 1924 for your receipts and disbursements? A No.

Q Then, Mr. Hebble, how do you arrive accurately at the amount of taxes paid on the various properties? A I get them from the tax bills.

Amos S. Hebble, cross.

Q Have you the tax bills? A No.

Q And how do you recall the Newfield street property was taxed for \$143 for 1924? A I remember that amount.

Q Entirely from recollection? A Yes.

Q Have you a good memory? A Fairly good for some things. 10

Q How do you recall the amounts paid for the East Orange property? A I remembered the amounts.

Q With accuracy? A Yes, fairly good accuracy.

Q And you are quite sure the taxes were \$45? A Yes.

Q Certain about it? A Fairly certain.

Q And all these figures that you testified to as to your disbursements, you are sure of the accuracy of those? A Fairly certain, as well as my memory serves me. 20

Q And you are willing to have those figures taken as the testimony in this case for the disbursements? A That's correct.

Q On relying on your good memory? That's correct? A Relying on my memory.

Q And you feel that they are correct? A I feel that they are reasonably correct. 30

Q Mr. Hebble, now how do you account for the fact that you can't remember what you paid to Mrs. Hebble from 1923 down to August, per week?

Mr. Carpenter: I object to that. He answered that at the last hearing as to what he paid. It agrees exactly with Mrs. Hebble.

Amos S. Hebble, cross.

Q When did you buy the Newfield street property? A I don't remember. Probably 15 years ago.

By the Special Master.

Q Is it in your own name? A Yes, sir.

10

By Mr. Pentlarge.

Q Do you know what it's assessed valuation is? A About \$1,400.

Q Have you ever attempted to sell it? A I can't sell it; there's no use to attempt to sell it.

Q What is the assessed valuation of the other East Orange property that you own? A I think it is \$4,500.

Q How long have you owned that? A
20 About fifteen years, I think.

Q What valuation do you put on that property? A About \$8,000 I guess.

Q What valuation do you put on the Newfield street property? A About \$1,600 or \$1,700.

Q What is the assessed valuation of the Keansbridge property in New York, that you said you owned? A I think that is \$16,000.

Q What valuation do you place on this property? A About \$22,000.

30

Q Besides the Nineteenth street property, the Newfield street property, the Keansbridge property and the other East Orange property that you mentioned, what other property do you own? A A couple of lots in Lancaster, Pa.

Q What are their value? A About \$500.

Q Have you any savings bank account? A No.

Q No other personal property by way of securities other than that you have already testified to? A No.
40

Amos S. Hebble, cross.

Q Absolutely none? A No.

Q What is your bank balance at the present time, Mr. Hebble? A Between \$1,600 and \$1,700.

Q Last week you testified to the repairs made on the Nineteenth street property and more particularly in regard to the furnace. How old was that furnace when it was taken out, do you know? A I bought the house about 1903 or 1904, or probably 1905. The house was then about ten years old, that's fifteen years, and it was taken out in 1924—something over thirty years old. 10

Q And what was its condition?

Mr. Carpenter: I object to the question as to what the condition of the furnace was, anybody can see that. 20

A The furnace depreciated. The fire box and the connections were corroded away. The furnace was almost entirely useless.

Q Then when the furnace was put in did you consider it an improvement? A No. I put in a furnace like the one taken out and I therefor consider it a replacement. If I had put in a better furnace or one of a different type, I would consider it an improvement. 30

Q And the one you put in was a better one than the one that was in at the time you purchased the house? A The one that I put in was like the one I took out.

Q Was the furnace you put in a more valuable furnace? A Since the time the furnace that was first installed in the house, furnaces have increased in price and the one that I put in costed more than the one that was taken out. 40

Amos S. Hebble, cross.

Q You think that it is the only difference in value? A Yes.

Q You testified to a bill of A. B. James for \$469.74. Just what work did that include? A I have an itemized copy of this bill—that I may submit and it will save time.

10

Mr. Carpenter: I offer the bills for all repairs and the cancelled checks in evidence.

They are received in evidence and marked Exhibits Nos.

Mr. Pentlarge: Well, I object to the offering of these papers at this time.

Q Will you state what that A. B. James bill covered? A The bill of Alfred B. James, for material and interior decorating, is as follows:

20

Labor

349 hours @ .75..... \$261.75

Carfare

9 ten trip tickets @ \$2.32..... 20.88

Material

Wall paper..... 63.33

Flour 1.20

30 3 sponges.....@ .30, .90

3 soap powder.....@ .27, .81

5 lbs. dry color paint.....@ .10, .50

25 lbs. plaster of paris.....@ .05, 1.25

50 " Nuresco.....@ .09, 4.50

3 " ground glue.....@ .24, .72

1 smoothing paper brush.... 2.21

5 door bumpers.....@ .05, .25

15 gals. alcohol.....@ 1.05, 15.75

5 " white shellac.....@ 3.65, 18.25

40 8 " paint remover.....@ 1.50, 12.00

Amos S. Hebble, cross.

3	“	piano varnish.....@	4.10,	12.30	
3	“	orange shellac.....@	3.30,	9.90	
4	“	turpentine	@ .97,	3.88	
1	“	Val-spar varnish....		5.00	
75 lbs.		white lead.....@	.12,	9.00	
12	“	white waste.....@	.12,	1.44	
1 gal.		black asphaltum.....@	1.45,	1.45	10

Expressing ladders

\$1.90 each way..... 3.80

—————
\$451.07

Personal expense A. B. James.

6 ten trip tickets.....@ 2.32, \$13.92

25 trips from E. Orange to
Newark

—————
@ .10, 2.50

Lunches 2.25

20

—————
\$ 18.67

Total \$469.74

Received Payment,
(signed) Alfred B. James.

Q Can you describe what the electric work was on the Nineteenth street property? A It was the complete electric light installment made from the street into the house, including wiring installation and all necessary fixtures. 30

Q At that time the only light in the house was by gas? A Yes.

Q Who is the tenant at the premises? A Mr. James McGarrigan, my brother-in-law. He married my sister.

Q How long have they been living as tenants on the premises? A About four years.

Q During the time these repairs were made and prior thereto? A Yes. 40

Amos S. Hebble, cross.

Q Mr. Hebble, in the course of your business do you employ a number of men under you? A Yes.

Q Mr. Hebble, do you advance them from time to time? A Yes.

10 Q Do you always advance them on the length of time they are with you?

Mr. Carpenter: I object to that question on the ground that it is immaterial as to how they are advanced.

A Yes, unless their capability does not warrant it. Seniority always counts first.

20 Q Does capability also count? A Yes, but if two men of the same capability, but one of a longer period of service is in our employ, the man who has the longest term of service is given the promotion.

Q But if you considered a man is more capable than the other he would get the advancement, would he not? A No, unless the other man was more capable.

30 Q So the length of service would advance a man under you as against capability shown by somebody else? A If he were capable, yes. In other words seniority always counts first where two men show the same capability or where a man who has the longest term of service is capable of holding the position, even though the other man may be capable.

40 Mr. Pentlarge: I concede that the work Mr. Hebble says was done was actually done and that the charges for the various work was a reasonable charge, but I do not concede that all of the work was in the nature of repairs. I claim that some of the items

Mary V. Hebble, direct.

of work were in the nature of improvements to the building and not by way of replacement or repairs. I further contend that as a matter of law Mrs. Hebble is not chargeable with any of the sums expended by Mr. Hebble.

10

MARY V. HEBBLE, being recalled.

Examination by Mr. Pentlarge.

Q Mrs. Hebble, do you recall when you received the check from Mr. Hebble in the month of February, 1924? A Yes. February twenty-third on a Saturday morning.

Q How did it come? A By mail, around noontime. It came too late to deposit in the bank and I didn't deposit it until Monday morning.

20

Q I show you this document and ask you what it is? A That's the envelope that it came in. This is the duplicate deposit showing that I deposited it on the twenty-fifth of February.

Mr. Pentlarge: I offer the envelope and deposit slip showing the receipt by the complainant on February 23rd, 1924, of the check.

30

The envelope and deposit slip is received in evidence and marked Exhibits Nos. and respectively.

Q Mrs. Hebble when did you receive the check from Mr. Hebble in May, 1924? A May twenty-third.

40

Mary V. Hebble, direct.

Q I show you this document. Do you recognize it? A Yes.

Q What is it? A The envelope in which the check came and my duplicate deposit slip. The letter is marked "New York, May 22, 1924, Registered #432456 from A. S. Hebble, Southern Pacific Company, Atlantic Steamship Lines, Pier 49, North River, New York."

Mr. Pentlarge: I offer the envelope and deposit slip in evidence.

The envelope and deposit slip is received in evidence and marked Exhibits Nos. and respectively, ex parte complainant.

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Exceptions to Master's Report.

EXCEPTIONS TO MASTER'S REPORT.

IN CHANCERY OF NEW JERSEY.

MARY V. HEBBLE, <div style="text-align: right;"><i>Complainant,</i></div>	}	<i>On Petition,</i>	10
<i>vs.</i>		<i>&c.</i>	
AMOS S. HEBBLE, <div style="text-align: right;"><i>Defendant.</i></div>	}	<i>Exceptions</i>	
		<i>to Master's</i>	
		<i>Report.</i>	

The defendant, Amos S. Hebble, hereby excepts to the report filed in this cause by Charles M. Myers, one of the Special Masters of this Court, bearing date July 18, 1925, for the following reasons:

1. Because the said Master has reported and recommended that the defendant pay to the complainant the sum of \$5,700 per year from March 1, 1925.

2. Because the said Special Master's report does not provide for a reduction of \$1,400 per annum upon the graduation of Howard Hebble from Princeton University or upon his leaving Princeton University.

3. Because all of the complainant's property and its value should be taken into consideration.

4. Because the Master failed to give this defendant sufficient credits for repairs to the North Nineteenth street house.

McDERMOTT, ENRIGHT & CARPENTER,
 Solicitors for Defendant,
 Amos S. Hebble.

Amended Decree for Payment of Alimony.

**AMENDED DECREE FOR PAYMENT OF
ALIMONY.**

Filed August 20, 1925.

IN CHANCERY OF NEW JERSEY.

10	<p><i>Between,</i></p> <p>MARY V. HEBBLE,</p> <p style="text-align: right;"><i>Complainant,</i></p> <p style="text-align: center;"><i>and</i></p> <p>AMOS S. HEBBLE,</p> <p style="text-align: right;"><i>Defendant.</i></p>	<p><i>On Petition,</i> <i>&c.</i></p> <p><i>Amended</i> <i>Decree for</i> <i>Payment of</i> <i>Alimony.</i></p>
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20 An order having heretofore been made herein, dated the 4th day of October, 1924, directing the defendant, Amos S. Hebble, to show cause why he should not be held guilty of contempt of this Court for failure to pay alimony as provided for in a decree of this Court made herein and dated the 26th day of November, 1920, a further order having likewise been made herein on the said 4th day of October, 1924, directing said defendant to show cause why said decree of November 26, 1920, should not be modified and the amount

30 of alimony provided for therein increased, and a cross motion having been made by the defendant for a reduction of said alimony, and all of the said matters raised by the said orders to show cause and the said cross motion having by an order dated the 10th day of February, 1925, been referred to Charles M. Myers, Esq., a Special Master of this Court, to inquire and take testimony thereon and report back to this Court, and the said Master having duly made his report under

40 date of the 18th day of July, 1925, and a mo-

Amended Decree for Paymend of Alimony.

tion having been duly made herein on behalf of the complainant, returnable before this Court on the 28th day of July, 1925, for confirmation of said report and the fixing of a counsel fee for the solicitor of the complainant and the costs herein, and said cause having come on to be heard in the presence of Frank R. Pentlarge, Esq., solicitor and of counsel with the complainant, and James D. Carpenter, Esq., representing McDermott, Enright & Carpenter, solicitors and of counsel for the defendant, WHEREUPON, and upon reading the petition herein, notice of motion, proofs and the report of said CHARLES M. MYERS, one of the Special Masters of this Court, to whom the matters therein were referred to inquire and take testimony and report, as aforesaid;

It is thereupon on this 4th day of August, 1925, by his Honor Edwin Robert Walker, Chancellor of the State of New Jersey,

ORDERED, ADJUDGED AND DECREED, that the report of the said Charles M. Myers, Special Master, as to future alimony, be, and the same hereby is approved and confirmed, and it is further

ORDERED, ADJUDGED AND DECREED, that the original decree for alimony made and entered herein on the 26th day of November, 1920, be and the same hereby is modified so as to provide for the payment by the defendant to the complainant for her support and the support of her youngest child the annual sum of fifty-seven hundred (\$5,700) dollars, in equal monthly instalments in advance commencing as of the 1st day of March, 1925, and it is further

ORDERED, ADJUDGED AND DECREED that the net arrears in alimony due the complainant from the defendant under said decree of November 26, 1920, for the period prior to March 1, 1925,

Amended Decree for Payment of Alimony.

aggregates the sum of \$658.46, less the sum of \$383.62 paid March 5, 1925, which amount the said defendant is ordered and directed to pay forthwith to said complainant, and it is further

10 ORDERED, ADJUDGED AND DECREED, that the aforesaid decree of November 23, 1920, be and the same hereby is modified by eliminating there- from the requirement that the defendant pay the taxes, assessments, water rents, insurance and similar charges on the Vernon Terrace property and likewise the provision that the complainant keep the Nineteenth street property in repair and have the rents therefrom, and it is further

20 ORDERED, ADJUDGED AND DECREED that the said defendant do further pay to the complainant the costs of these proceedings to be taxed, including special allowance to the Master of \$100, and also the sum of \$500, which is hereby adjudged and decreed to be a reasonable counsel fee for the counsel of said complainant; and that the said complainant do have execution for said costs and counsel fee according to the practice of this Court, and it is further

30 ORDERED, ADJUDGED AND DECREED that a copy of this decree be served forthwith upon the defendant or his solicitors.

E. R. WALKER,
C.

Respectfully advised,

JOHN H. BACKES,
V.-C.

Amended Decree for Paymend of Alimony.

Approved as to form and notice of settlement
waived.

JAMES D. CARPENTER,
Solicitor of Defendant.

FRANK R. PENTLARGE,
Solicitor of Complainant.

10

A true copy,

THOMAS BARBER,
Clerk.

20

30

40

*Amended Decree for Payment of Alimony.***Computation Agreed Upon by Counsel on Court's
Decision in Arriving at Figures Included
in Decree.**

COMPUTATIONS

	Improvements and repairs		\$2,323.50
10	Less furnace	\$ 440.00	
	Installation of electricity .	244.46	684.46
			<hr/>
	Gross improvements and repairs chargeable to de- fendant		\$1,639.04
	Less rent of 19th Street house due complainant from November 1, 1923 to March 1, 1925		1,280.00
20	Chargeable to complainant against repairs		359.04
			<hr/>
	Arrears due complainant from defendant		\$1,017.50
	Less net amount due de- fendant from complainant on repair account		359.04
			<hr/>
30	Net arrears due complain- ant from defendant as shown in decree		\$ 658.46
	Less payment of March 5, 1925		383.62
			<hr/>
	Net arrears		\$ 274.84

Amended Decree for Payment of Alimony.

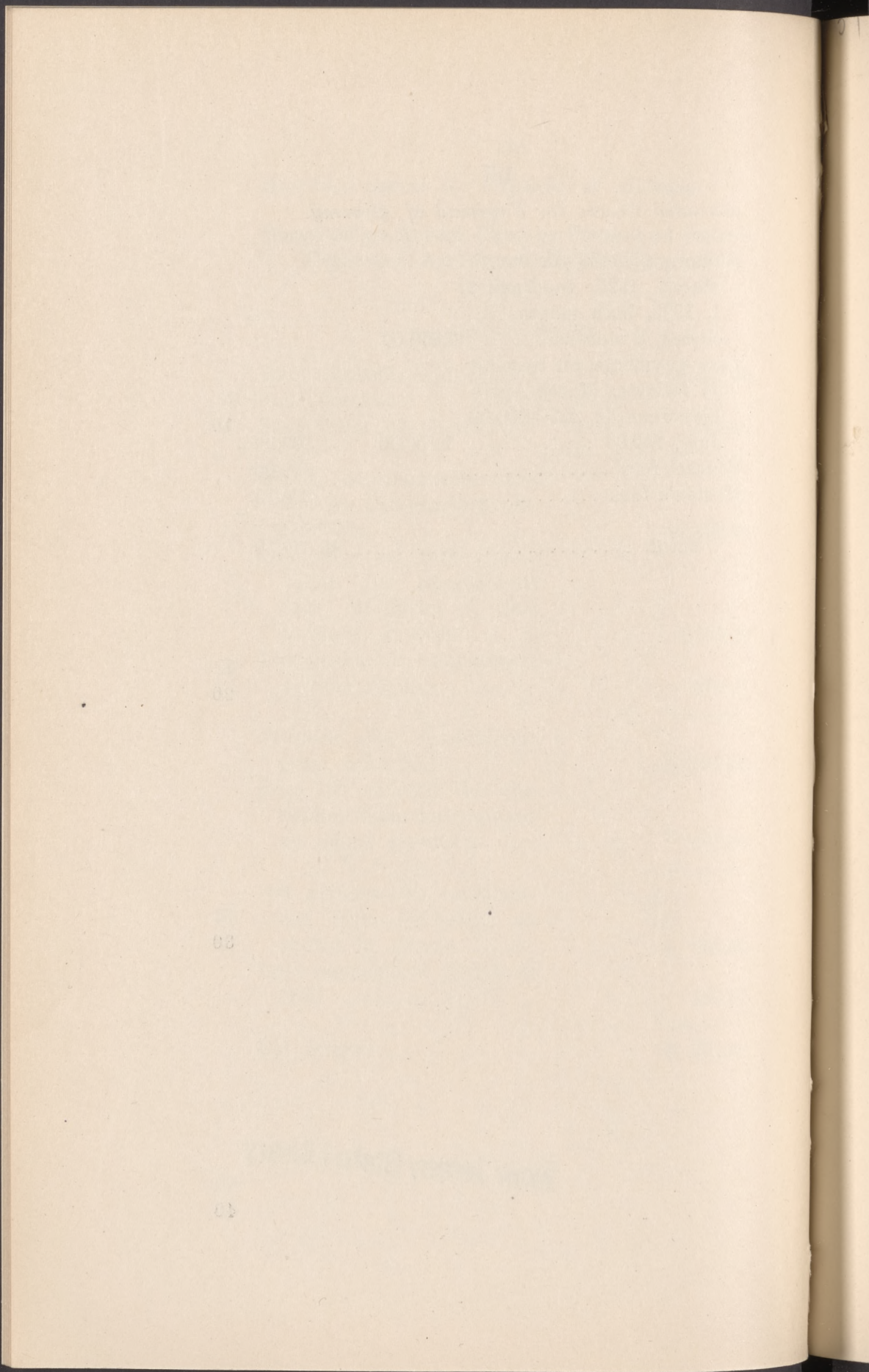
Alimony @ \$475 per month			
March, 1925, to August			
1, 1925, both months in-			
cluded, 6 months	\$2,850.00		
Less payments on account			
as follows: March-April-			
May-June @ 225—900.00			
July, 250.00	1,150.00	1,700.00	10
Counsel fees		500.00	
Master's fees		204.75	
		<hr/>	
Total	\$2,679.59		

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New Jersey State Library

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New Jersey Court of Errors and Appeals

Between

MARY V. HEBBLE,
Complainant-Appellee,

and

AMOS S. HEBBLE,
Defendant-Appellant.

*On Appeal
from
Chancery.*

BRIEF OF McDERMOTT, ENRIGHT & CARPENTER, FOR APPELLANT.

This appeal is from an amended decree for the payment of alimony made by the Chancellor August 4, 1925. The complainant and defendant are husband and wife. By a decree of the Chancellor made November 26, 1920, defendant was ordered to pay to the complainant for the support of herself and her two youngest children \$3,000 per annum, payable in monthly installments. The bill was filed for separate maintenance on the ground of desertion. The decree of 1920 also allowed the complainant to occupy, free of rent, the premises 31 Vernon Terrace, East Orange, title to which was then in dispute, and gave the complainant all the rents of a frame dwelling known as the North Nineteenth street property in East Orange, owned by the defendant, but provided that the complainant should keep both properties in repair. All the taxes, water rents, assessments and insurance on both of these properties were required to be paid by the defendant.

On October 7, 1924, the complainant filed two petitions in the cause, one praying that the alimony might be increased and the other praying

that the defendant be punished for contempt for not making certain payments of alimony claimed to be in arrears. One of the two minor children had by this time passed twenty-one years and was at work and the youngest son was in Princeton University.

The defendant gave notice of an application before the Chancellor to have the alimony reduced from \$3,000 to \$2,400 per annum, praying that the defendant be relieved in the future from paying the taxes and assessments on the Vernon Terrace property, title to which in 1924 had been decreed to be in the complainant absolutely, as a result of a gift from the defendant, and praying that the Court approve the action of the defendant in deducting from the complainant the sum of \$50 per month from October 1, 1923, and keeping all of the rents from the Nineteenth street property from October 1, 1923, to reimburse himself for making necessary repairs to both the Nineteenth street and Vernon Terrace properties, made necessary because of the failure of the complainant to repair said properties in accordance with the terms of the decree of 1920.

The order to show cause and also the motion of the defendant came on for argument before Vice-Chancellor Backes, who made an order referring this controversy to Charles M. Myers Esq., as Special Master, to take testimony and report.

The Special Master after taking testimony reported that at the time of the making of the decree in 1920, the defendant was receiving an income of about \$10,000 per annum (p. 68); that defendant now receives a salary of \$15,000 per annum, and other income, so that his total in-

come now is approximately \$16,000 a year (p. 70, l. 30).

The Special Master also reported that the defendant expended on the Nineteenth street property and on the Vernon Terrace property for repairs and improvements the sum of \$2,323.50, and that he had received from November 1, 1923, to March 1, 1925, for rent from the Nineteenth street property \$1,280, and that the defendant was in arrears to the complainant in the sum of \$1,017.50. He also reported that of this sum \$540 was expended for a new furnace and \$294.46 for the installation of electricity, which he held were capital improvements. He reported that from the sum of \$1,280, received by defendant for rent of premises from November 1, 1923, to March 1, 1925, complainant was entitled to \$640, or the difference between the amount of rent of the premises prior to the making of the repairs and improvements and the amount received after they were completed (p. 69).

The Special Master reported and recommended that the defendant pay to the complainant \$5,700 per annum from March 1, 1925 (Report, p. 70).

The defendant filed exceptions to this report for four reasons:

(1) Because the Master reported and recommended that the defendant be required to pay the complainant \$5,700 per annum from March 1, 1925.

(2) Because the Special Master's report does not provide for a reduction of \$1,400 per annum upon the graduation of Howard Hebble (a son of the parties who is supported directly by complainant) from Princeton University, or upon his leaving Princeton.

(3) Because all of complainant's property and its value should be taken into consideration; and

(4) Because the Master failed to give the defendant sufficient credit for repairs to the North Nineteenth street house.

The exceptions and a motion to confirm the report were brought on for hearing before Vice-Chancellor Backes, who on August 4, 1925, made the amended decree, from which this appeal is taken (Record, p. 132; exceptions, p. 131).

The decree requires the defendant to pay to the complainant for her support and that of her youngest child in Princeton \$5,700 per annum, commencing March 1, 1925; decrees that the net arrears of alimony due from the defendant to complainant, as of March 1, 1925, aggregates \$658.46; eliminates the requirement that defendant pay the taxes, assessments, water rents and insurance on the Vernon Terrace and North Nineteenth street properties, and the provision that the complainant shall have the rent from the Nineteenth street property, and required the defendant to pay costs and counsel fees of the complainant.

The defendant-appellant alleges that the said amended final decree is erroneous in that it adjudges complainant for her support and the support of her youngest child the sum of \$5,700 per annum; because the Chancellor should not have decreed that the defendant pay to the complainant more than \$4,000 per annum; because the Chancellor adjudged that the net arrears of alimony due to complainant as of March 1, 1925, aggregated \$658.46; and because the Chancellor did not allow the appellant interest on the moneys he advanced to make the repairs to the

properties required to be repaired by the complainant.

POINT I.

Alimony of \$5,700.00 per annum to complainant is excessive and exorbitant.

The Special Master found that Mr. Hebble's income was approximately \$16,000 per annum (Report, p. 70, l. 30). This is his gross income. Mr. Hebble's income is as follows:

Salary (Record, p. 114, l. 35) (a year)	\$15,000
Interest on bonds (p. 120, l. 11).....	350
Dividends, U. S. Steel preferred (p. 120, l. 21)	350
Odd jobs, uncertain and occasional (p. 121, l. 15)	300
Total	<u>\$16,000</u>

Mr. Hebble's taxes are as follows:

Federal income tax	\$344.00
New York State income tax (p. 117, l. 29)	107.50
Taxes on lots at Kingsbridge, New York (p. 116, l. 40)	493.00
Nineteenth street property	168.00
Vernon Terrace property	288.00
Lancaster, Pa., lots (p. 117, l. 20).	7.00
Newfield street, East Orange, taxes (p. 117, l. 10)	188.00
Total	<u>\$1,595.50</u>

Recapitulation.

Gross income	\$16,000.00
Deduct for taxes	1,595.50
	<hr/>
Balance for all purposes	\$14,404.50
	<hr/>

It thus appears that the award to the complainant is exactly 39.5% of defendant's net income.

Mrs. Hebble has considerable property which was given to her by her husband when they were living together, as follows:

Four lots at Woodside, Long Island, for which complainant is asking \$10,000. She says she was advised that that was their value (p. 86, l. 10).

Property #31 Vernon Terrace, East Orange, New Jersey, a house with eleven rooms and bath, fully furnished (p. 80, l. 30), value at least \$20,000 (p. 45, l. 35). The house alone, in good condition, would rent for about \$150 per month (Mrs. Hebble, p. 94, l. 22; Mr. Hebble, top p. 46).

All of this property was given to her by her husband when they were living together, and none of the money came from her own separate estate (p. 86, l. 40).

Mrs. Hebble had been offered \$4,000 for the Woodside lots, which were bought by Mr. Hebble and conveyed to her (p. 86).

The Vernon Terrace property was bought and paid for by Mr. Hebble and conveyed to her (p. 87).

Out of her alimony Mrs. Hebble supports herself and her son Howard.

The Master found on a stipulation that Howard's expenses at Princeton for the coming year

would be \$1,400, because he has a scholarship which pays part of his expenses.

In the summertime he works and makes his own expenses (see pp. 73-74).

During the last year Mrs. Hebble had her husband's nephew, Chester Hebble, thirty years of age, and her son Christian, an automobile salesman, twenty-two years of age, living with her (p. 79). Chester pays her five dollars per week for room and breakfast, and her son Christian pays her nothing whatsoever, although he made \$1,300 during the year 1924 (p. 80). She took in no boarders and rented no rooms (bottom p. 80).

There is a two-car garage on the property #31 Vernon Terrace, where Mrs. Hebble lives, one side of which she rents and the other side is occupied by an automobile owned by her son Christian. Mrs. Hebble received \$120 for garage rent in 1924 (p. 77, l. 7).

The Vernon Terrace property furnished would rent for \$225 per month.

The fact that the alimony of \$3,000 per annum, allowed in the former decree, was sufficient is shown by the fact that Mrs. Hebble furnished board and room to her son Christian and rent on one side of her garage, without charging him anything whatsoever, although he was making \$1,300 per annum when only twenty-two years of age, and in addition she was furnishing a room and at least one meal a day to Chester Hebble and charged him only five dollars per week. Moreover, she was living in the large Vernon Terrace property, which has eleven rooms, and was not even renting any of the rooms to anyone.

We therefore submit that Mrs. Hebble having real estate in her own name, free and clear, worth approximately \$30,000, should not be awarded more than \$4,000 per annum, and that it was error for the Vice-Chancellor to award her 39.5% of her husband's net income.

In *Dietrick v. Dietrick*, 88 N. J. Eq. 560, this Court laid down the rule applicable to such cases, as follows:

“No rigid standard can be set up whereby to measure in every case the amount of permanent alimony for the support of the wife, but it is usually about one-third of the husband's income. The amount is not fixed solely with regard, on the one hand, to the actual needs of the wife, nor, on the other, to the husband's actual means. There should be taken into account the physical condition and social position of the parties, the husband's property and income (including what he could derive from personal attention to business), and also the separate property and income of the wife. Considering all these, and any other factors bearing upon the question, the sum is to be fixed at what the wife would have the right to expect as support, if living with her husband. *Richmond v. Richmond*, 2 N. J. Eq. 90; *Boyce v. Boyce*, 27 N. J. Eq. 433.”

In that case, where the husband had net income of forty-five dollars a week, and his wife had an income of five dollars a week as net income from property given to her by her husband during coverture, the Court made an allowance of ten dollars per week as permanent alimony to the wife.

This gave the wife gross a sum equal to one-third of the net income of the husband, one-third of the wife's one-third being derived from property conveyed to her during coverture.

If the same method of calculation should be used in this case, the result would be as follows:

Mr. Hebble's net income for 1924	
was	\$14,404.50
One-third thereof	4,801.50
Less rental value Vernon Terrace property (minimum figure)	1,200.00
	<hr/>
	\$3,601.50

The Vice-Chancellor, however, directed the defendant to pay to Mrs. Hebble	\$5,700.00
per annum in cash, and did not take into account the rental value of the Vernon Terrace property, minimum value	1,200.00
	<hr/>
	\$6,900.00

Mrs. Hebble, therefore, has cash, \$5,700 per annum, and the rental value of the Vernon Terrace property, given to her by her husband during coverture, minimum value, \$1,200. \$6,900 is forty-eight per cent. of the husband's net income.

Should it be argued that the husband has unproductive real estate, namely, vacant lots at Kingsbridge, New York, which he inherited from his father, value	\$22,000.00
two lots in Lancaster, Pa.	500.00
and property in East Orange	9,600.00
	<hr/>

Total	\$32,100.00
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then we contend that Mrs. Hebble also has the four lots at Woodside, Long Island (within the city limits of New York City), which Mr. Hebble says are worth \$8,000 and Mrs. Hebble contends

are worth \$10,000. When the value of the Vernon Terrace property, \$20,000, is taken into consideration it is apparent that Mr. Hebble has placed in his wife's name almost as much realty as he has himself.

Mrs. Hebble, under the New York law, may sell these lots, without her husband's signature, but Mr. Hebble cannot sell any of his property without his wife's signature.

It is to Mrs. Hebble's advantage that none of Mr. Hebble's property be sold, because it will undoubtedly increase in value and her dower right will correspondingly increase in value. Mrs. Hebble's lots in Woodside will likewise increase in value.

Although it is a wife's duty to help and assist her husband, which duty continues even while they are living apart, Mrs. Hebble did all that she could to have her husband discharged from his position.

After Mr. Hebble commenced the repair of the properties, Vernon Terrace and North Nineteenth street, and while he was on a business trip out West for the Southern Pacific Company, Mrs. Hebble went to Mr. Hebble's immediate superior, Mr. Carl W. Jungen, manager of the Southern Pacific Company, Atlantic Steamship Lines, told him that Mr. Hebble had had some work done by men in the employ of the Southern Pacific Company on one of his houses in East Orange, which men the Southern Pacific Company paid for, and she said that she thought the company ought to know about it. Mr. Jungen told Mrs. Hebble that he had not heard anything of this matter and that he would start a thorough investigation. A thorough investigation was conducted and the records of the company

showed that the men at the time the work was done were off of the Southern Pacific Company's payrolls and they were not paid for by the Southern Pacific Company (Mr. Jungen, pp. 58-59).

Mr. Hebble testified that he was the superintending engineer of the Southern Pacific Company, Atlantic Steamship Lines, and that Mr. Jungen was his superior; that when he was in Tacoma, Washington, on a business trip, his secretary informed him what Mrs. Hebble had done and that her complaint had the effect of bringing about an entire checking up of his entire department by a representative from the auditor's office. He says:

"Of course, this investigation together with Mrs. Hebble's visit and the incidents that took place was rapidly felt on the whole organization. When I arrived home I was looked over like a burglar. The auditor's department had its representatives in my office for three months. Every man in business has rivals and friendly enemies and they lost no opportunity to attack me in every way. Mrs. Hebble also called at the office of the Chairman of the Board of Directors at 165 Broadway and told her grievances to his secretary and asked to see the chairman." (Mr. Hebble, pp. 112-113.)

Mr. Hebble says that about this time there was a change in the management of his organization and that he did not receive the consideration that he expected because of his wife's complaint and the resultant investigation; that a gentleman who was under him in position, receiving \$7,500 a year, was advanced over Mr. Hebble (Record, pp. 113-114).

Mrs. Hebble admits going to the Southern Pacific Company at the time that Mr. Hebble

and Mr. Jungen refer to, but she says that she went to get her alimony check and not with the idea of having her husband discharged (pp. 83, 84, 85). She admits that she saw the secretary to Mr. Kruttschnitt, Chairman of the Board of Directors of the Company. Mrs. Hebble also denies that she told officials in the Southern Pacific Company that her husband was grafting, or words to that effect (pp. 84-85).

Later on in her examination Mrs. Hebble admitted that she made certain statements to the Southern Pacific Company as "mere gossip" (p. 97, l. 20).

We submit that this attitude on behalf of Mrs. Hebble should be taken into consideration in the award that should be made to her.

If the husband was not doing his best to earn money with which to support his wife, or had adopted a similar attitude toward her, that would be taken into consideration against the husband in determining the amount of alimony to be paid, as was done in the case of *Andreas v. Andreas*, 88 N. J. Eq. 130, where the husband's attitude toward his wife was most contemptible, and we submit that where a wife maliciously attempts to injure her husband's position with his employer under the pretext of collecting alimony, which is a few days overdue, she should not receive as much as if she evidenced a disposition to help him and secure his advancement, if possible.

We, therefore, respectfully submit that under the rule laid down by this Court in *Dietrick v. Dietrick*, *supra*, it was error for the Vice-Chancellor to award Mrs. Hebble gross more than \$4,000 per annum (including Howard's expenses at Princeton), and that the decree appealed from should for this reason be reversed.

POINT II.

The Vice-Chancellor erred in charging defendant with the increased rent for the Nineteenth street house, and not allowing him the cost of the improvements which produced it.

This question is raised in paragraphs 2 and 4 of the petition of appeal (p. 3).

In the decree of 1920, Mrs. Hebble was awarded the rents from defendant's property on North Nineteenth street, East Orange, and charged her with the duty of making all repairs. Mrs. Hebble made no repairs to the house and it deteriorated to such an extent that Mr. Hebble was required to perform her obligation. He wrote Mrs. Hebble a series of letters (Record, pp. 34, 36, 37, 38), calling her attention to the need of repairs, but she made no replies to any of such letters. He also told Mrs. Hebble that if she did not make the repairs he would do so and would charge the expense thereof to her.

The furnace in the Nineteenth street property was old when Mr. Hebble bought it in 1905. It was over thirty years old and entirely useless when Mr. Hebble made the repairs (Record, p. 125). Mr. Hebble says:

"The fire box and the connections were corroded away. The furnace was almost entirely useless. I put in a furnace like the one taken out and I therefore consider it a replacement. If I had put in a better furnace or one of a different type, I would consider it an improvement." (Record, p. 125, ll. 20 to 30.)

No objection was made by the complainant to the propriety of any of the repairs, nor of the expense of the repairs, and no objection probably could have been made because Mr. Hebble had the work all done at cost. A lot of the work

was done by employees of the Southern Pacific Company, who worked under Mr. Hebble, and he paid the men for the actual time they devoted to this work. The materials were bought advantageously and all possible discounts were obtained. The only objection the complainant made was that the furnace and the installation of electricity in the Nineteenth street house were in the nature of improvements and not repairs. The rent before the repairs was \$40.00 per month; after the repairs and installation of the new furnace and electricity, the house rented for \$80.00 per month. The furnace cost \$540.00 and installation of electricity and fixtures \$294.46.

The Special Master reported that the new furnace, and installation of electricity, were capital improvements, and that the defendant should not be allowed the cost thereof (Record, p. 69, line 20). He also reported that the rent since the improvements aggregated \$1,280, at \$80.00 a month, the increased rent, to March 1, 1925, and that the complainant was entitled to a credit for \$640.00, for this rent at the old rate of \$40.00 per month (Master's report, p. 69, l. 30).

Vice-Chancellor Backes allowed Mrs. Hebble credit for the rent at \$80.00 per month, the new rate, and allowed Mr. Hebble \$100.00 on account of the cost of the new furnace, and \$50 on account of the bill for installation of electricity (Computation, p. 136, ll. 10 and 11; Final Decree, p. 134, l. 1).

The amount of \$658.46, mentioned in the final decree (p. 134, l. 1), is the amount shown in the computation (p. 136, l. 31).

We submit that the complainant was required to replace the old, worn-out furnace under the decree of 1920, and that since she failed to do so

and the defendant did so for her account while that decree was in full force, he is entitled to credit for the full \$540 expended for the new furnace, or an additional credit of \$440.00 over that made by the Vice-Chancellor as per computation (p. 136, l. 10).

The installation of electricity is on a slightly different basis. The electricity was installed on the recommendation of the local authorities, because the street in front of the property was about to be paved and Mr. Hebble was informed that if electricity were to be put in it would have to be done at that time for the street would not be allowed to be opened for sometime, and he therefore, on recommendation of the local authorities, had the electrical work done (Record, p. 109, ll. 35 to 40; p. 110, ll. 1 to 20).

We submit that defendant is certainly entitled to a credit of \$440 and possibly an additional credit for the installation of electricity, \$294.46. These two items unquestionably contributed largely to the production of the increase of rent from \$40.00 to \$80.00 per month, and if the complainant was entitled to a credit for the rent received at the increased rate of \$80.00 per month (Record, p. 136, l. 19), then the defendant was certainly entitled to credit for the money he spent to place the house in a condition to produce that rent.

The defendant also having advanced money with which to pay for repairs to Mrs. Hebble's property, 31 Vernon Terrace, and the North Nineteenth street property, which she was under the decree of 1920 obliged to keep in repair, because of her failure to perform the provisions of the decree, Mr. Hebble, we submit, was entitled to interest on the money thus advanced—

but interest was not allowed by the Vice-Chancellor.

We respectfully submit the decree below should be reversed.

McDERMOTT, ENRIGHT & CARPENTER,
Solicitors of Appellant.

JAMES D. CARPENTER, JR.,
Of Counsel.

*Filed after the Oral Argument
by leave of Court.*

New Jersey Court of Errors and Appeals.

Between

MARY V. HEBBLE,
Complainant-Appellee,

and

AMOS S. HEBBLE,
Defendant-Appellant.

On Appeal
From Chancery

**OPINION OF VICE CHANCELLOR BACKES
TO BE ADDED TO STATE OF CASE.**

ON EXCEPTIONS TO MASTER'S REPORT.

For exceptant-defendant, McDERMOTT, EN-
RIGHT and CARPENTER (MR. CARPENTER).

For complainant, FRANK R. PENTLARGE.

BACKES, V. C.

The bill in this case charged unjustifiable abandonment and refusal to support, and the case came on for trial before Vice-Chancellor Fiedler, who, on November 23, 1920, advised a decree awarding the wife \$3,000.00 yearly alimony, payable in monthly installments; one-half of the yearly interest of a mortgage (\$75.00); yearly dividends on certain corporate stock (\$70.00); the rent of premises called the Nineteenth Street house, Newark (\$480.00); and the use of the homestead (Vernon Terrace); the husband to pay the yearly fixed charges of the two houses, approximately \$500.00; the wife to keep them in repair. The alimony totals \$3,975.00, plus the use of the homestead. This somewhat unusual decree was evidently

agreed upon by the litigants, because it bears the consent of their counsel.

The husband took upon himself to repair the houses, claiming that his wife neglected them, and to reimburse himself collected the rent of the Nineteenth Street house and took the balance out of the alimony. In 1924, he was ordered to show cause why he should not be adjudged in contempt and why the allowance of the wife should not be increased. In an answering affidavit he admitted disregarding the decree in the manner just related and asked to be excused and that his course be approved and his expenditures be allowed, and further that the yearly alimony be reduced to \$2,400.00. The matter was referred to a master to investigate the husband's capacity and the wife's needs and to report on the applications for increase and decrease of the alimony, and also to take an accounting. The master recommended that the alimony be increased to \$5,700.00 annually, and that the decree be modified relieving the defendant of the future payments of the fixed annual charges of the homestead and the Nineteenth Street property (\$500.00), and that he thence have the rent of the Nineteenth Street property (\$960.00); he to make the repairs on the latter. On the accounting, the master reported that the defendant was in

arrears for alimony.....	\$1,017.50	
and that of the \$1,280.00 rent collected by him from the Nineteenth Street house, the wife was entitled at the rate of \$40.00 a month.....	640.00	\$1,657.50
	<hr/>	
The master reported that the defendant expended for repairs.....	\$2,323.50	
That of this amount he should not be allowed for \$540.00 for a furnace and \$294.46 for electric appliances installed in the Nineteenth Street house, because they were capital improvements, not repairs	834.46	\$1,489.04
	<hr/>	
Balance due for alimony, March 1925.....		\$168 46

Exceptions were filed by the defendant to the increase in alimony, and to the failure to give credit for the capital improvements, and were disposed of orally at the conclusion of the argument; the proofs having been previously submitted.

The decree was modified in accordance with the master's recommendation except as to the accounting, which was corrected in this manner:

Arrearage of alimony.....	\$1,017.50		
The wife was allowed all the rents collected from the Nineteenth Street house after the repairs were made, as she was charged with repairs resulting in the increased rent		1,280.00	\$2,297.50
Expenditures for repairs.....	\$2,323.50		
The cost of capital improvement, furnace	\$540.00		
Electrical appliances	294.44		
	\$834.46		
was divided proportionately, per use, based on the life of the improvement, estimated at ten years, and the complainant was charged with.....	150.00	684.46	1,639.04
The decree entered for arrearages, viz.....			\$658.46

Both sides desired a modification of the decree eliminating all matters except a straight money allowance. The reasons for the provisions in the decree which led to the present complications had been removed. At the time it was entered the husband claimed to own the mortgage mentioned in the decree, which stood in his and his wife's name, and also the Vernon Terrace house to which she held title. She claimed to own the Nineteenth Street house, which stood in the husband's name. In *Episcopal Church vs. Hebble*, 95 N. J. Eq. 117, a moiety of the mortgage was given to each and the Vernon Terrace house to the wife. In another suit, as I am informed, the husband succeeded as to the Nineteenth Street property.

At the time of the original decree the defend-

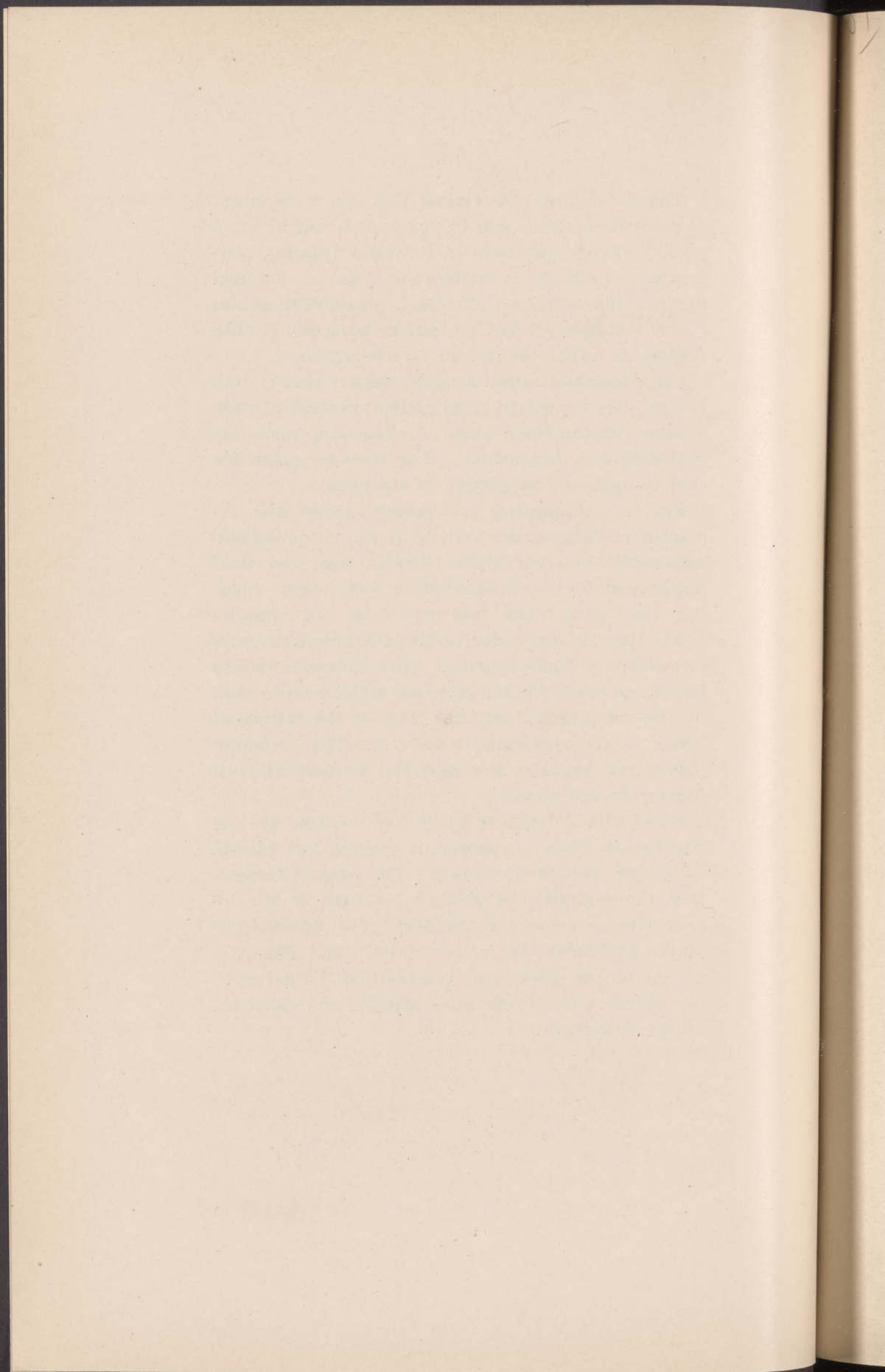
ant's salary was ten thousand dollars annually. For the past three or four years, it has been fifteen thousand dollars. One-third of the husband's income is usually allowed the wife for alimony, and an additional allowance for the support of children. This, of course, is only a guide and not a hard and fast rule. Each case must be separately judged according to the circumstances, which is often a trying task. I felt at the time of the decision, as I do now, that the sum recommended by the master was reasonable and just to the wife. In addition to the up-keep of her home, and supporting and clothing herself, the wife maintains her youngest son at Princeton at a yearly cost of \$1,500.00, which the husband does not criticize, and the needs of another, older, son, now an adult, but not as yet fully self-sustaining, are not overlooked by her. Last year her expenses were, so she testified, fifty-two hundred dollars, and it is not shown that she was not careful. She had to use the money received from the Board of Mission's mortgage. The defendant claims that the homestead is too large for her use and contends that she should rent it and seek smaller quarters. The answer to this is that she is living in the home he provided and only in the style and manner that she would be living if he were living with her; and to that she is entitled. His income and their station in life justifies her conduct. She is not called upon to cheapen her course of living unless his means require it, and that they do not. Her right to her mode of living fluctuates with his earning capacity and style of living, and it does not appear that he is denying himself the luxuries of a gentleman's existence. It may be the fact that the wife's expenses are now nearly as much as when the two were living together, but that should not deprive her of the comforts of the home he created, which he can afford, and which she offers to share with him, but which he declines.

The defendant also claims that his wife ought to compel his adult son to pay board "for his own good." The young man is, it would appear, striving for a foothold in business, and is it to be held against the mother that she is encouraging him in his struggle by feeding and housing him? The defendant-father offers him no assistance.

The exception to the master's report that it does not provide for a reduction of the allowance to the amount of the son's keep at Princeton upon his graduation is premature. The time to apply for that is upon the happening of the event.

Further explaining the correction in the accounting: The master refused to allow the defendant credit for two items—furnace and electrical appliances in the Nineteenth Street house—holding that they were improvements, not repairs. Under the amended decree the defendant resumes ownership of this property. The allowance should have been made for the time the articles were used by the complainant as that time of the estimated life of the articles bears to the cost. The estimated life of ten years is low and the amount allowed favors the defendant.

Until the defendant made the repairs on the Nineteenth Street property, it yielded but \$40.00, as against \$80.00 thereafter. The master thought that the complainant was not entitled to the increase and charged the defendant with but \$640.00 of the \$1,280.00 rent collected by him. She paid for the improvement and was entitled to the resulting benefit. The error was palpable and conceded by the defendant.



**New Jersey Court of Errors
and Appeals**

Between

MARY V. HEBBLE,
Complainant-Appellee,

and

AMOS S. HEBBLE,
Defendant-Appellant.

} On Appeal
from Chancery

**BRIEF ON BEHALF OF
COMPLAINANT-APPELLEE.**

PRELIMINARY STATEMENT.

Nature of Appeal:

The defendant-appellant appeals from a decree of the Chancellor dated August 4, 1925, amending a prior decree made November 26, 1920, awarding the complainant-appellee herein alimony.

Original Decree:

The original decree for alimony unfortunately failed to merely award a specific sum per annum but provided not only for a yearly cash payment, but as well for the payment by the defendant to

the complainant of the rentals of certain property; of the taxes, water rates and similar carrying charges of two pieces of real estate; and for various other payments from specific funds or property.

The exact provisions of the original decree, so far as the obligations of the respective parties are concerned may be summarized as follows: (Original decree p. 139).

(1) That the defendant pay to the complainant for her support and maintenance and the support of her two youngest children the sum of \$3000. per year.

(2) That the complainant retain one half interest in a certain mortgage and all the dividends on ten shares of stock of the American Smelting and Refining Company.

(3) That complainant receive the rents of the "19th Street property", and that she be permitted to occupy "the Vernon Terrace property" without the payment of rent.

(4) That the defendant pay all taxes, assessments, water rents and insurance, etc. etc., on both pieces of property.

(5) That complainant keep the buildings on both premises in repair.

It is self apparent that the decree made as above was fatally defective for want of certainty and was bound to become a "friction breeder" between the parties.

The Proceedings leading up to the present appeal:

In 1924, the complainant finding that the defendant failed to meet his payments under the

decree of 1920, and the status of the parties having materially changed due to the substantial raise in the defendant's salary (from \$10,000. to \$15,000 per annum) obtained under date of October 4, 1924 two orders to show cause as follows: (orders to show cause p.p. 5 and 18)

The first seeking to amend the original decree by eliminating the "trouble features" and reducing the entire alimony to a definite and certain annual figure—\$7800.00.

The second to have the defendant declared in contempt for failure to pay arrears in alimony under the original decree.

The defendant filed a cross motion, likewise asking that the original decree be amended along the lines desired by the complainant other than the amount of alimony to be paid, which the defendant asked to be reduced to \$2400. per year (Notice of Motion, p. 29, et seq.).

All the issues thus raised by the orders to show cause and the cross motion were referred to a Special Master, who, after protracted hearings, recommended alimony at the rate of \$5700.00 per year, and found that the defendant was in arrears in the payment of alimony under the original decree in the net sum of \$148.46 (Report of Special Master, p.p. 67-70).

Upon the motion to confirm the report of the Special Master the Vice Chancellor upheld the rate of alimony of \$5700.00 per year, recommended in the Report, and further found the arrears of alimony to be \$658.46, instead of \$148.46 (Amended decree, p.p. 133-134).

From the amended decree entered as above set forth comes this appeal.

P O I N T I .

THE ALIMONY OF \$5700.00 PER ANNUM AWARDED THE COMPLAINANT-APPELLEE FOR THE SUPPORT OF HERSELF AND SON IS CONSERVATIVE AND FAIR IN THE LIGHT OF THE FACTS.

A. The general status of the respective parties warrant the award.

1. THE COMPLAINANT:

At the time of the entry of the original decree the complainant was living, as at present, in the Vernon Terrace property. With her lived her two minor sons, both at public school.

At present one of the sons has become of age, the other is still a minor and attending Princeton University where he is a sophomore. By stipulation it is conceded that in 1924 his expenses at Princeton were \$1400., over and above his scholarship (stipulation p. 72), and his own testimony is that by reason of his entrance into the usual eating clubs and other upper classmen's activities, his expenses from now on will be considerably higher (Howard Hebble p. 73). Fifteen hundred dollars per annum is a conservative estimate.

While Mrs. Hebble out of her allowance now supports but one child, as against the two in 1920, yet it is manifest that her expenses in this particular have greatly increased, and bids fair to increase in the future. It is self evident that the needs of two school boys living at home are in-

significant in comparison to the financial calls incident to putting a boy through Princeton University in a manner which permits of his entering the general College activities. Furthermore, we take at least \$1500.00 per annum (Vide stipulation and undisputed testimony that this will necessitate and testimony of Howard Hebble, supra).

2. THE DEFENDANT:

In 1920, at the time of the signing of the present decree for alimony herein, the *defendant's admitted* revenue was a salary of ten thousand dollars per annum, and gross rental of \$40.00 per month from the 19th Street property.

Contrasted with the foregoing gross income we now find the defendant's admitted gross income as "something over \$16,000" (Amos Hebble, p. 119).

The Special Master found the sum as "approximately \$16,000" per year but only included the rent from the 19th Street house. In addition we find other ADMITTED items as follows:

Bond interest,	\$350.00	(Amos Hebble, P. 120)
Dividends,	350.00	(Amos Hebble, P. 120)
Jobs for consulting work, \$200. to	300.00	(Amos Hebble, P. 123)
	<hr/>	
	\$1,000.00	
Salary, \$15,000. 19th St. house rent,	960.	15,960.00
	<hr/>	
Total ADMITTED gross income,		\$16,960.00

Doubt is advisedly expressed as to whether the defendant told the entire truth as to his full amount of income in view of the glaring discrepancy between his sworn word in his moving affidavit where (page 44) he deliberately states:

“My salary is now \$15,000 per year, and it is not true that I have income from doing consulting work. I have no other source of income than from my own endeavors as herein mentioned, and I do not get any consulting fees because there is no consulting work in my line to be done at this time and has not been for several years past.”

and his testimony upon the hearing herein whereat upon cross examination he admitted that he has been in the habit of receiving fees for consulting work and actually did receive between \$200.00 and \$300. for such work in 1924 (p. 121).

The fact that the defendant claims to keep no financial records (other than income sheet—which was not produced), not even his bank stub book or cancelled checks (other than checks which he considers of importance such as payments for repairs but NOT of the arrears in alimony in November and December 1920!) does not strengthen our confidence in the exactitude of the defendant's testimony (Amos Hebble pp. 122-123).

In addition the complainant is entitled to alimony based upon the defendant's property holdings and the amount cannot be reduced or limited merely because the defendant chooses to invest in non-productive real estate. The Courts of this State have eliminated this subterfuge.

Bennet vs. Bennet (N. J. Ch.) 59 Atl. 245
(not officially recorded).

Andreas vs. Andreas (88 N. J. Eq. 130)

Fixing the conservative rate of five per cent as the NET income from the defendant's unproductive property there would be added to the \$16,960 admitted income an additional \$1600., or a total of \$18,560., which sum should be regarded as the defendant's yearly income.

3. COMPARISON OF THE MODE OF LIVING OF THE PARTIES, AND THEIR RESOURCES.

The defendant receives an *admitted* income of approximately \$17,000 (\$16,960) per year besides his constructive income of \$1600.00, yet he would have the complainant (see cross motion p. 29) live on \$900. per annum—the amount (at best) which would be left for her out of her husband's munificent offer of \$2400. per annum, after payment for Howard Hebble's expenses of \$1500. for his education. (This sum has been raised to \$2400. by reason of the third ground of appeal (Petition on Appeal p. 3), wherein the defendant now disputes but so much of the award as exceeds \$4000.00).

The complainant lives in the Vernon Terrace property owned by her; (Mary V. Hebble, p. 75); continued to do her own work until she found it physically impossible so to do (Mary V. Hebble, p. 75-76), has been unable to take a vacation since her husband deserted her (Mary V. Hebble, p. 78), and finds that even dressing as befits a woman of her station in life, impossible (Mary V. Hebble, p. 78-79). Her husband, however, enjoys free trips throughout the United States

(a not inconsiderable bonus on his salary), and lives at a rate which would hardly be considered Puritanical severity, when we find that besides his salary, and other income in one month, he spent \$2000.00 "for some clothes and some other purposes." "I spent it on myself" he testified (Amos Hebble, p. 120-121).

The defendant's known income is approximately Seventeen thousand Dollars. "The Wolf" can hardly be said to be at his door. His checking balance is \$1600.00 to \$1700.00 while he is able "to spend on myself" as he puts it—besides his usual income, about Two thousand Dollars in one month (Amos Hebble, pp. 120-121). Besides the ownership of securities of a value of \$1900.00, and the 19th Street house, the defendant owns productive real estate of a value of at least Thirty-two thousand Dollars (Amos Hebble, p. 124).

Turning from the picture of the defendant in affluent circumstances, spending money easily, we find the complainant—the wife—deserted without cause, living quietly in the Vernon Terrace property, doing, until recently, her own housework, not being able because of lack of adequate support to take a vacation; compelled to use the greatest caution in making personal purchases and even with all these financial limitations, finding herself in debt at the end of the year.

The defendant lives at a lavish rate—the complainant in meagreness. *It cannot be disputed that the complainant is entitled to an adequate support from her husband, befitting their station in life, and is likewise entitled to enjoy a reasonable share of the property of her spouse.*

Dietrich vs. Dietrich, 88 N. J. Eq. 560;
Hires vs. Hires, 91 N. J. Eq. 366;
Foote vs. Foote, 68 Atl. 467 (N. J.);
Cooper vs. Cooper, 160 Ill. App. 449;
Decker vs. Decker, 279 Ill. 300.

Even although the wife may have property of her own, the husband is not relieved of his duty to support her if he is able to do so.

Andreas vs. Andreas, 88 N. J. Eq. 130.
Vicker vs. Vicker, 89 W. Va. 236;
Harding vs. Harding, 180, Ill. 481;
Norman vs. Norman, 88 W. Va. 640;

Much has been made by opposing Counsel of the fact that the complainant lives in the Vernon Terrace property, contending that the premises should be rented and the complainant forced to live in an apartment.

In the first place, the rental value of the Vernon Terrace property (between \$100. and \$150. Mary V. Hebble, p. 94), would hardly leave a sufficient net sum to permit of renting a proper apartment without loss on the transaction and the complainant should hardly be penalized for insisting in living in a dwelling which has been her home for many years, and which it is quite apparent holds much sentimental value for her. The complainant's indulgences do not appear to be many.

It must also be borne in mind that the original decree called for an equivalent of approximately \$7000.00 (See point I. B. post), and that since then the complainant's expenses for her son have greatly increased; that she has found that the former allowance has proven insufficient even

for her present mode of living and that to live properly, considerably more will be needed. Lastly, and by no means unimportant, is the fact that the defendant's income has very greatly increased.

B. Fifty-seven hundred dollars per year having been found by the Special Master, as a proper award of alimony, and the sum having been approved by the Vice Chancellor, together with the fact that the sum is even less than the value of the award in the original decree, all points to a conservatism and reasonableness in the award given.

In comparing the present award of \$5700.00 per year with the original sum granted in the original decree we meet the difficulty of reducing to a cash basis the many valuable but indefinite "rights" flowing to the complainant from the defendant under the original decree.

The defendant, however, in his affidavit attached to the cross motion herein (Cross motion, p. 51) sets forth the cash equivalent which he claimed he was compelled to pay under the original decree as follows:

Cash payment,	\$3000.00 per annum
Vernon Terrace taxes,	276.00
19th Street taxes,	165.00
Dividend on American Smelting & Refining Company stock,	70.00
Rent from 19th Street property,	960.00
Rent from Garage,	180.00

Vernon Terrace House, fully furnished (rental) value \$225.00 per month,	2700.00	
	<hr/>	\$7351.00

In the foregoing list water rents and insurance amounting to an additional \$37.00 (Stipulation p. 73) have been omitted. Accepting for the purposes of argument the defendant's contention the original decree herein calls for cash payments or its equivalent of \$7,388.00 per annum, the only deductible item being the amount of normal repairs which under the decree the complainant must make.

Conservatively, therefor, it may be said that the Vice Chancellor in recommending the decree of November 23, 1920, contemplated an award of alimony of approximately \$7000.00 per annum.

It must be borne in mind that at the time of the entry of the original decree calling for alimony *according to the defendant's affidavit on the cross motion* of \$7,000 per annum defendant's salary was but \$10,000 per year instead of the present rate of \$15,000.

We therefore start our examination of the reasonableness of the present award by discovering that at a time when defendant's income was materially less he acquiesced in a decree providing for payments undoubtedly in excess of the present sum.

We further find that the Special Master herein fixed the amount of alimony at \$5700.00 on a finding as to defendant's income of approximately \$16,000, whereas the admitted income as shown by the testimony is within \$40.00 of \$17,000, and

giving effect to his "constructive income, is \$18,560.00 per year. Surely an award of \$5700.00 per year out of which the complainant has to pay a conceded expense of at least \$1500 for the education of her minor son, is not unreasonable or excessive.

POINT II.

THERE IS NO ERROR IN THE CHANCELLOR'S REFUSAL TO PROVIDE IN THE AMENDED DECREE FOR A REDUCTION OF ALIMONY UPON HOWARD HEBBLE LEAVING PRINCETON.

It is elemental that the Court of Chancery may amend its own decrees. It would be contrary to good practice for the Chancellor to have inserted in the amended decree permission for a specific reduction of alimony to take place in the future upon the happening of one certain contingency.

No one can tell at this time what will be the relative status of the parties when Howard Hebble leaves Princeton. The defendant may, if he desires, move at that time for a modification of the decree. It is to be presumed that the Court of Chancery will still be in existence to which the defendant may repair!

POINT III.**THE CHANCELLOR COMMITTED NO ERROR OF WHICH THE DEFENDANT CAN COMPLAIN IN RESPECT TO THE AMOUNT OF ALIMONY ADJUDGED TO BE IN ARREARS.**

In the discussion of this point the Court's attention is respectfully called to the computation agreed upon by counsel for both appellant and appellee as to the figures used by the Chancellor in arriving at the arrears of \$658.46 (less \$383.62 paid by the defendant on account but without prejudice March 5, 1925). This computation found on page 136 of the State of the Case has been inserted for the convenience of the appellate court.

The complainant alleged before the Special Master that the defendant had failed to pay over to her even the full amount of alimony due under the original decree, but, on the contrary, had from month to month deducted various sums on one pretext or another.

The amounts withheld may be classified and tabulated as follows:

A. Arrears in alimony for November and December, 1920,

The evidence is positive that in 1920 the defendant in the very first month rebelled at paying the cash alimony awarded. He had personally been "allowing" the complainant \$200. per month, so when the decree provided for \$250.00

per month he just didn't that's all! Again, for December, 1920, he calmly decided that he knew best and that the complainant would be better off on \$200. a month rather than the \$250.00 allowed, so he again deducted \$50.00, and an additional \$17.50, the same representing the sum which the defendant knew that the complainant would receive as a quarterly dividend upon certain American Smelting and Refining Company's stock, *this despite the fact that the decree specifically decreed that this dividend should belong to the complainant.* These items are still unpaid, despite all demands therefor. The only evidence the defendant offers is that he "thinks" he must have paid the items "in cash." This from a man who carefully keeps all letters, checks, vouchers and receipts (favorable to him), but keeps no other records but an income sheet—a privileged document. At the time of the withholding of the foregoing amounts no question as to repairs has been raised (Mary V. Hebble, pp. 98-99).

THE SPECIAL MASTER FOUND THAT THESE
ARREARS WERE DUE, \$117.50.

B. Deductions for so-called repairs.

The complainant under the original decree was directed to make the necessary repairs to the "19th Street property" and the "Vernon Terrace property." The defendant thereafter caused various repairs to be made to the property, the complainant having failed to do so, and thereupon the defendant made the following deductions from alimony payments.

Rent of 19th Street house
never paid over to the
complainant between No-
vember 1, 1923 and
March 1, 1925, @ \$80.00
per month, \$1280.00

SO FOUND BY THE SPECIAL
MASTER

Deductions from monthly
cash alimony of
\$250. June 1923—

Aug. 1924, 14
months at \$50.00 700.

August 1924—

March 1925 8
months @ \$25.00. 200. 900.00

\$2180.00

Total withholdings,
by the defendant.

\$2297.50

SO FOUND BY THE SPECIAL MASTER

The Special Master further
found that the amount spent
for so-called repairs was \$2323.50
of which the following were
capital improvements:

Furnace	\$540.00	
Installation		834.46
of electricity	294.46	<u> </u>
		\$1489.04

The Special Master further
found that the increased
rental of the 19th Street
house although this rental

was expressly given to the complainant in the original decree, belonged to the defendant. This increased rental from \$40 to \$80 a month amounted to	\$640.00
making the net sum spent by the defendant for repairs charged to complainant by the Special Master,	<hr/> \$2129.04
Resulting in net arrears of alimony of	<hr/> \$ 168.46

AS FOUND BY THE SPECIAL MASTER

(NOTE: The figure of the Special Master was \$148.46 a clear clerical error of \$20.00)

The Vice Chancellor upon the motion to confirm made two changes in reference to the amount of alimony in arrears.

1. The increase of \$640.00 in the rental of the 19th Street house was awarded the complainant. How any other ruling could be made in the light of the express terms of the original decree reading:

“it is further ordered that the complainant shall have the rent of the house known as the 19th Street property.”

is hard to conceive. In this particular the undoubted error of the Special Master was corrected.

2. In reference to the capital improvements to the 19th Street house (owned by the defendant) and consisting of a new furnace and the installation of electricity the Vice Chancellor made the following changes:

Furnace,	\$540.00	
Less depreciation	100.00	
		\$440.00

Installation of electricity	294.46	
Less depreciation	50.00	244.46
		244.46

Total Capital improvements charge- able against the defendant,	\$684.46
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A recapitulation therefor of the amount of alimony in arrears as found by the Special Master, and as fixed in the amended decree is as follows:

As found by the Special Master,	\$168.46
Additional rentals allowed by the Vice Chancellor,	640.00
	808.46
Depreciation on capital items not depreciated by the Special Master,	150.00
	\$658.46

It is manifest that both the Special Master and the Vice Chancellor were liberal to the defendant in reference to his set off for repairs made, especially when the defendant's remedy in

the premises was not to volunteer to make repairs, but if he felt himself aggrieved, to compel the complainant through appropriate action to do so.

As to the alleged grievance of the defendant, in that he has not been awarded interest on the sums spent by him for so-called repairs, the same is without merit.

First: Because he was a volunteer in making the repairs.

Second: Because no interest or interest dates were proven at the hearings.

Third: Because if interest is computed from time to time on the various arrears of alimony due the complainant from as far back as 1920, it will be found that if anyone, the complainant is entitled to interest.

POINT IV.

THE ARGUMENTS RAISED BY THE APPELLANT IN POINTS I. AND II. OF HIS BRIEF HEREIN ARE NOT SUPPORTED BY THE EVIDENCE OR THE FINDINGS BELOW.

The general questions raised by the appellant have it is hoped, been answered in the previous portions of this brief, attention therefore is merely called to various inaccuracies in appellant's appeal brief herein as follows:

APPELLANT'S POINT I.

*Appellant fails to set forth full income
(Page 5).*

In setting forth defendant's income the rent of the 19th Street house amounting to \$960.00 has been omitted. Also his "constructive" income on \$32,000 worth of unproductive property is quite forgotten. The aggregate of \$18,560, rather than \$16,000 represents defendant's income.

*Error to deduct taxes from Gross income
(Page 5).*

As to Mr. Hebble's income taxes, it is, of course obvious, and is so considered by the Federal Courts that income taxes are a part of personal living expenses and hence should not be deducted from gross income.

The \$288. shown as taxes on the Vernon Terrace property are, under the amended decree, paid by Mrs. Hebble, NOT the appellant.

The other taxes are general business investments, being carrying charges on unproductive properties held for investment.

Lastly, if Mr. Hebble's taxes are deductible items from his gross income, then Mrs. Hebble's real estate taxes must be provided for in the award of alimony.

Error as to percentage of income owed complainant (Page 6).

In view of the proper computation of Mr. Hebble's income the percentage is clearly misleading and incorrect.

The percentage, if the appellee's computation as to the appellant's income is correct, would be but thirty per cent of the appellant's income. If only his *admitted* income is considered the percentage would still be but thirty-three per cent. It must also be kept in mind that the decree is not for alimony in the strict sense of the word, but for maintenance of the appellee and her son. As to the latter, the testimony shows an estimated annual expense of over Fifteen hundred Dollars.

*Error as to valuation placed on property, 31
Vernon Terrace, owned by complainant
(Page 6).*

Appellant seeks to show that the old fashioned house occupied by the complainant and owned by her is worth \$20,000, *and refers to his moving affidavit* (p. 45) to support the valuation. While statements in Hebble's affidavit may be taken as admissions against interest, certainly by no rule of law can the affidavit be used by him in lieu of testimony at the hearings. There is not a word as to the value of the property in the testimony other than the testimony of Mrs. Hebble that in good condition it can be leased for \$150.00 per month. There is ample proof that the house is old fashioned valued by Mrs. Hebble largely for sentimental reasons.

As to Howard Hebble's expenses (Page 6).

The Special Master did NOT find that Howard Hebble's expenses would be \$1400., his report being absolutely silent on the ques-

tion. The stipulation shows that his expenses would be AT LEAST \$1400.00. Howard Hebble's testimony shows, however, that to this sum would be additional expenses of at least \$175.

Erroneous conclusions drawn from Dietcher vs. Dietcher (Page 8).

The appellant's case gains but small comfort from this citation first, because his percentages are entirely erroneous as heretofore set forth, secondly, because in the Dietrich case the alimony was for the support of the wife alone and, thirdly, the reasoning becomes rather attenuated when it is considered that the Dietrich case involves a total yearly income of but \$2340.00.

As to Mrs. Hebble's hypothetical income (Page 9).

It is impossible to follow either the figures or the reasoning. If it is meant that Mrs. Hebble should sell whatever property she has and invest the proceeds and partially live thereon, then it is submitted that Mrs. Hebble cannot be forced to sell her property—she not being in the same position as the husband in reference to his duty to support.

As to the argument that Mrs. Hebble hurt her husband's chances of advancement by her alleged complaints to his employer, and should be punished therefor (Page 10).

The argument advanced is totally without merit. Mr. Hebble appears to be

peevd that his employers advanced him from a \$10,000. position to one of \$15,000., arguing that had it not been for Mrs. Hebble having complained of his action he would have received a \$25,000. a year "plum". Again it is urged that self serving affidavits produced by the defendant and unsupported by testimony cannot be considered. It is also urged that a fifty per cent raise in salary is hardly indicative of injury done by Mrs. Hebble to her husband. It is also respectfully urged that Mr. Hebble is hardly the one to decide whether he was the employee to be raised to a \$25,000. job instead of the \$15,000 one given him.

Lastly, if the testimony is read with care it is quite apparent that Mr. Hebble goaded his wife continuously and her indiscretions in this particular became understandable and excusable.

APPELLANT'S POINT II.

It is respectfully submitted that the questions here raised have been answered in Point III. of the brief herein.

P O I N T I V .

**THE AMENDED DECREE OF AUGUST 4th,
1925 SHOULD BE AFFIRMED WITH COSTS.**

Respectfully submitted,

FRANK R. PENTLARGE,
Solicitor and of Counsel for Appellee.

November 2, 1925.

ORDER FOR ALIMONY.

IN CHANCERY OF NEW JERSEY.

Between

MARY V. HEBBLE,

*Complainant,**and*

AMOS S. HEBBLE,

*Defendant.**On Bill, &c.**Order for
Alimony*

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This cause coming on to be heard in the presence of James R. Stewart, Jr., solicitor for the complainant, and W. Eugene Turton, solicitor for and of counsel with the defendant, on bill, answer and oral proofs, taken in open court; whereupon and upon duly considering the said pleadings and proofs, and hearing and considering the arguments of counsel; from all of which it now appears to the satisfaction of the Chancellor that the complainant, Mary V. Hebble, and the defendant, Amos S. Hebble, were lawfully married on or about the 23rd day of February, 1898, and that the defendant, without any justifiable cause, abandons the complainant and separates himself from her and refuses and neglects to maintain and provide for her as the nature of the case and the circumstances of the parties render suitable and proper in the opinion of the Court,

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It is thereupon on this 23rd day of November, 1920, by his Honor, Edwin Robert Walker, Chancellor of the State of New Jersey, ORDERED, ADJUDGED AND DECREED, that the defendant, Amos S. Hebble, do pay to the complainant, Mary V. Hebble, for her support and the support of her two youngest children the annual sum of \$3,000.00

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payable in equal monthly installments of \$250.00 each beginning forthwith, and do pay to the complainant the sum of \$250.00 as and for an allowance for the current month of November, and that the defendant do pay to the complainant the sum of \$250.00 on the 1st day of each and every month thereafter and until the further order of the Court to the contrary.

10 It is further ORDERED, ADJUDGED AND DECREED, that the said defendant, Amos S. Hebble, do pay to James R. Stewart, Jr., solicitor for the complainant a counsel fee of \$250.00 and the costs of this action to be taxed.

It is further ORDERED, that the complainant retain one-half of the interest on a certain mortgage known as the Maple avenue mortgage, as well as all the dividends on the share of stock of the American Smelting & Refining Company, and it is further ORDERED, that the complainant shall have the rent of the house known as the Nineteenth street property and that she shall be permitted to occupy the premises known as the Vernon Terrace property, rent free.

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It is further ORDERED, ADJUDGED AND DECREED, that the complainant is to keep the buildings on the premises above set forth in repair.

It is further ORDERED, ADJUDGED AND DECREED, that the defendant will be required to pay the taxes, assessments, water rent and insurance and similar fixed charges on both pieces of property.

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And it is further ORDERED, ADJUDGED AND DECREED, that a copy of this decree be served forthwith upon the defendant, or his solicitor.

E. R. WALKER,

C.

Respectfully advised,

JAMES F. FIELDER,
V.-C.

I hereby consent to the entry of the foregoing order.

W. EUGENE TURTON,
Solicitor for Defendant.

Filed Nov. 26, 1920.

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THE UNIVERSITY OF CHICAGO

PHYSICS DEPARTMENT

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