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Clerk, Supreme Court of Appeals
Richmond, Va.

Record No. 4962

In the Supreme Court of Appeals of Virginia at Richmond

ALFRED W. NEWTON, ET AL.

v.

RICHARD V. WILSON, ET AL.

FROM THE CIRCUIT COURT OF NORFOLK COUNTY

RULE 5:12—BRIEFS.

§5. Number of Copies. Twenty-five copies of each brief shall be filed with the clerk of the Court, and at least three copies mailed or delivered to opposing counsel on or before the day on which the brief is filed.

§6. Size and Type. Briefs shall be nine inches in length and six inches in width, so as to conform in dimensions to the printed record, and shall be printed in type not less in size, as to height and width, than the type in which the record is printed. The record number of the case and the names and addresses of counsel submitting the brief shall be printed on the front cover.

HOWARD G. TURNER, Clerk.

Court opens at 9:30 a. m.; Adjourns at 1:00 p. m.

NOTICE TO COUNSEL

This case probably will be called at the session of court to be held.

APR 1959

You will be advised later more definitely as to the date.

Print names of counsel on front cover of briefs.

Howard G. Turner, Clerk

IN THE

Supreme Court of Appeals of Virginia

AT RICHMOND.

Record No. 4962

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Wednesday the 26th day of November, 1958.

ALFRED W. NEWTON, ET AL., Appellants,

against

RICHARD V. WILSON, ET AL., Appellees.

From the Circuit Court of Norfolk County

Upon the petition of Alfred W. Newton and Catherine M. Newton an appeal and *supersedeas* is awarded them from a decree entered by the Circuit Court of Norfolk County on the 24th day of July, 1958, *nunc pro tunc* July 14, 1958, in a certain proceeding then therein depending entitled, in the Matter of Adoption of an Infant to be named James Newton Wilson; upon the petitioners, or some one for them, entering into bond with sufficient security before the clerk of the said circuit court in the penalty of three hundred dollars, with condition as the law directs.

RECORD

* * * * *

PETITION.

To the Honorable Judge of the aforesaid Court:

Your Petitioners, Richard Vance Wilson and Florence Newton Wilson, respectfully represent:

1. That they are husband and wife, and reside at 4111 North Highland Avenue, Norfolk County, Virginia, and are members of the white race.
2. That there was born in wedlock to Alfred Weston Newton and Catherine Mahoney Newton, on July 2, 1943, a child named James Edward Legere Newton, which child has since February, 1952, resided, and is presently residing, with petitioners, having been placed with petitioners by his parents.
3. That the parents of the said infant child are willing that said petitioners adopt said child as shown by their written consent, signed and acknowledged by both parents and attached to this Petition and marked Exhibit "A."
4. That Petitioners are financially able and morally fit to care for and train the said child; that the child whose adoption is now proposed is in good mental and physical condition.
5. That they desire the name of the child to be James Newton Wilson.

WHEREFORE Petitioners pray that all proper proceedings be had and inquiries made as by statutes for such cases made and provided; to the end that a final order of adoption of said child by petitioners may be entered and said child may be and become their child by adoption and the said child's name be changed to James Newton Wilson.

page 2 }

RICHARD VANCE WILSON
FLORENCE NEWTON WILSON

* * * * *

page 3 }

* * * * *

Filed in the clerk's office the 31 day of Dec., 1954.

Teste:

MAJOR M. HILLARD, Clerk
By M. J. EVANS, D. C.

* * * * *

page 6 }

* * * * *

ORDER OF REFERENCE.

This day came, Richard Vance Wilson and Florence Newton Wilson and filed their petition to adopt a male child, not theirs by birth, and to change the name of said child to James Newton Wilson.

And it appearing that said petitioners are husband and wife and reside at 4111 North Highland Avenue, Norfolk County, Virginia; that said child is now living at the home of petitioners; and that by statute for such cases made and provided this court has jurisdiction of said petition;

It is Ordered that the Clerk of this court forward a copy of the petition to the Commissioner of Public Welfare, who shall, as requested by statute, make a thorough investigation of the matter and report thereon in writing to the court within sixty (60) days after the copy of the petition is forwarded to him.

And this proceeding is continued awaiting the filing of such report by the Commissioner of Public Welfare.

Enter June 6, 1955.

E. L. OAST.

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* * * * *

INTERLOCUTORY ORDER.

This day came again Richard Vance Wilson and Florence Newton Wilson, petitioners in the above matter, and the Commissioner of Public Welfare having filed his report as required by statute and formal order in this matter; and it

appearing that all requirements of the statutes for this case made and provided have been complied with; that petitioners are financially able and morally fit adequately to maintain, care for and train the child in the petition mentioned; that the child is suitable for adoption and that the best interest of the child will be promoted by adoption.

It is ordered and declared that the male child in the petition mentioned, born of Alfred Weston Newton and Catherine Mahoney Newton, on July 2, 1943, at Los Angeles, California, and now called James Edward Legere Newton; henceforth, subject to the probation period by statute provided for, and to the final order of adoption, be to all intents and purposes the child by adoption of petitioners, Richard Vance Wilson and Florence Newton Wilson, husband and wife.

And the petition having included a prayer for the change of the child's name, and the court being satisfied that such change is for the best interest of the child, it is Ordered that upon entry of the Final Order the name of the child shall be James Newton Wilson.

An attested copy of this Interlocutory Order shall be forwarded forthwith by the Clerk of this Court to the Commissioner of Public Welfare.

Enter June 20, 1955.

E. L. OAST.

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* * * * *

PETITION.

To the Honorable Edward Oast, Judge:

Your petitioners, ALFRED W. NEWTON and CATHERINE M. NEWTON, husband and wife, respectfully represent:

1. That they are the natural parents of the said JAMES EDWARD LEGERE NEWTON, an infant of the age of thirteen years.

2. That they previously consented to the adoption of their said child by their daughter and son-in-law, Nr. and Mrs. RICHARD V. WILSON.

3. That an interlocutory order has been entered in said matter pending the visitations of the Department of Public

Welfare and the approval of the Commissioner of Public Welfare.

4. That the supervision of said matter has been transferred from the State of Virginia due to the fact that Mr. and Mrs. Wilson moved from the State of Virginia.

5. That the said JAMES EDWARD LEGERE NEWTON, is now in the home of your petitioners, ALFRED W. NEWTON and CATHERINE M. NEWTON.

6. That the said JAMES EDWARD LEGERE NEWTON desires to remain in the home of your petitioners and has steadfastly refused to return to the care and custody of the said Mr. and Mrs. RICHARD V. WILSON.

. That your petitioners realize that they made a mistake in consenting to the adoption and that said mistake has been brought home to them very forcefully since their son, JAMES EDWARD LEGERE NEWTON, returned to their home.

8. That their primary reason for consenting to said adoption was their feeling that younger parents could give more natural companionship to a child such as your petitioners experienced while raising their older children; that the said JAMES EDWARD LEGERE NEWTON was born
page 9 } to them fairly late in life and that they felt that he would be happier with younger parents; that they now realize their mistake having learned that their son wants them as they are and that it is his insistent and persistent desire that he remain with them.

9. That the said JAMES EDWARD LEGERE NEWTON has been baptized a Roman Catholic; that it is our earnest desire that the said child be reared in a Catholic home.

10. That the said Mrs. RICHARD V. WILSON has been married four times, having married the said RICHARD V. WILSON in a ceremony believed by your petitioners to have been Mormon; that your petitioners find no fault with other religions but it is their earnest desire that the said child be reared in a Catholic home; that the home of the said Mr. and Mrs. RICHARD V. WILSON is not such a home and your petitioners feel that their rights in this regard are protected by statute even though they have previously executed their consent to the adoption.

11. That in addition to all of the above reasons, your petitioners are fearful of the safetv of their son if he is returned to the home of the said Mr. and Mrs. RICHARD V. WILSON inasmuch as he is so determined that he will not leave the home of your petitioners and they therefore fear that he has built up such a rebellion within himself that he will harm himself rather than return to the home of the said Mr. and Mrs. RICHARD V. WILSON.

WHEREFORE, your petitioners pray that the Interlocutory Order of Adoption which has been entered in this matter be revoked and that the adoption proceeding pending in this Honorable Court be dismissed and that they may be afforded such other relief as to equity may seem meet and just.

ALFRED W. NEWTON
CATHERINE M. NEWTON

* * * * *

page 10 }

* * * * *

Filed in the clerk's office the 30th day of July, 1956.

Teste:

MAJOR M. HILLARD, Clerk
By FRANCES W. ASBLE, D. C.

* * * * *

page 13 }

* * * * *

AMENDED PETITION.

To the Honorable EDWARD OAST, Judge:

Your petitioners, ALFRED W. NEWTON and CATHERINE M. NEWTON, husband and wife, respectfully represent:

1. That they previously filed a petition in this honorable court asking that the Interlocutory Order of Adoption be revoked and that the adoption proceeding be dismissed.
2. That since the filing of their original petition certain other facts have come to light which they feel that the court should be apprised of.

3. That they are therefore filing their amended petition to be considered by the court in conjunction with their original petition already filed.

4. That during a *habeas corpus* hearing held on January 8, 1957 in the county of Yolo, California, the following facts were brought out which facts should be considered by this court:

a. Mrs. Wilson on several occasions threatened to do bodily harm to James Newton and on other occasions has told him that "she would break every bone in his body."

b. Mr. and Mrs. Wilson have also adopted another boy who was a nephew of Mr. Wilson. He was taken by them from a correctional school. The boy was in said school because of stealing and since his adoption he has been guilty of stealing on many occasions. The said boy is definitely a bad influence on James Newton.

c. During the hearing abovementioned, Mrs. Wilson admitted under oath that in addition to the four
page 14 } marriages she has also lived with other men to whom she was not married.

WHEREFORE, your petitioners pray that their amended petition be filed and considered by this court not in lieu of their original petition but in conjunction with it and that the Interlocutory Order previously entered be revoked and that the adoption proceeding be dismissed.

ALFRED W. NEWTON
CATHERINE M. NEWTON

Filed in the clerk's office the 28th day of Jan., 1957.

Teste:

MAJOR M. HILLARD, Clerk
By FRANCES W. ASBLE, D. C.

Filed 1-28-57.

E. L. OAST.

• • • • •

page 29 } CIRCUIT COURT OF NORFOLK COUNTY

Portsmouth, Virginia

EDWARD L. OAST
Judge

July 11, 1958.

Mr. James M. Pickrell, Attorney at Law
Board of Trade Building
Norfolk, Virginia

Messrs. Russo and White, Attorneys at Law
Board of Trade Building
Norfolk, Virginia

Re: Alfred W. Newton et al. *v.* Florence N. Wilson et al.

Gentlemen:

Pursuant to the directive contained in the opinion of Newton *v.* Wilson, 199 Va. 864, this case was heard *ore tenus* July 8, 1958, the evidence being very voluminous and consuming approximately five hours. At the conclusion of the evidence and argument, I stated that I would reserve my opinion until I had reviewed the pleadings and exhibits and had read the 68 pages of depositions of Julia and Kenneth Peak which were taken June 9, 1958. This I have now done, and having fully considered the pleadings, evidence, exhibits, argument of counsel and the opinion of Mr. Justice Eggleston in this case on appeal, my conclusions are as follows:

Since this case has been up on appeal and the facts up to that time fully recited in the opinion previously referred to, and since at the trial on July 8, 1958, the evidence was reported by a court reporter, I can see where no useful purpose will be served by a full recital of the evidence, so I shall content myself with setting forth a few of the salient points brought out at the hearing which influenced my decision in the case. The law governing the case is relatively simple and is fully set forth in the report of this case on appeal. Briefly stated, the issues are as follows:

1. Would the adoption be for the welfare and best interests of the boy involved, James Newton?

2. Does the petition of Catherine M. Newton and Alfred W. Newton and the evidence supporting it constitute "good cause shown" for revoking the interlocutory order of adoption and dismissal of the adoption proceedings?

page 30 } The five principal characters in the case all testified, namely Catherine M. Newton and Alfred W. Newton, the petitioners and natural parents of James Newton, James Newton, the boy proposed to be adopted, Richard Wilson and Florence Wilson, husband and wife, the adoptive parents, the latter being the daughter of the petitioners and sister of the boy, and they will be dealt with in the order in which they testified. This case, where a daughter proposes to adopt her own brother with the consent of her parents originally given, but now attempted to be revoked, is of an unusual nature and presents a complicated family picture, and the characters involved are likewise unusual. Therefore, in order to determine the best interests and welfare of the child, it was necessary for me to attempt analyses of the principal characters involved, and I shall give my impressions of them as revealed by their evidence and manner of testifying, without reviewing the evidence in detail, since this was reported and will be transcribed, if necessary.

Mrs. Catherine Newton, white, age 56 years, stated that she was a parochial school teacher, elementary grade, with three years of college, by faith a Roman Catholic. She stated that when she and her husband signed the consent on December 7, 1954 she was going through change of life, was crying constantly and very nervous. She stated that she had been dominated by her daughter, Florence, and that she feared for the safety of the child if returned to the daughter, since she saw her daughter with a knife in 1946 and the daughter was a woman of violent temper and she did not know what would happen. She said many unfavorable things of her daughter, but it is significant that practically all of them antedated the signing of the consent, and boiling her testimony down, her present objection to the adoption lies in the fact that the boy himself objects to the adoption. Mrs. Newton was a very talkative, nervous woman, quite dramatic at times, and it is my definite impression that she is a most unstable character. She and her husband have no home life as such, since he visits her only on weekends and resides in a different city. Mr. Newton divorced her in 1945

when James was two years old. He returned and resumed living with her in 1947, and they have not since remarried. She stated that a civil marriage is not necessary in her view, and Jimmie's view, and in the eyes of God. Since this is not an ecclesiastical court, I can only say that she has been living in a state of adultery since 1947 and continues so to live. Mrs. Newton made numerous derogatory references to her daughter's four marriages, which in the circumstances, ill became her, for she should have considered the adage about people living in glass houses. In a letter dated June 22, 1956 from the witness, she stated "This adoption is another of my mistakes, of which I have made so many." In a letter of May 7, 1955 to her daughter, she suggests that her daughter adopt a two year old girl, thus showing that she did not then regard her daughter as unfit. In a letter of July 11, 1956 to Mr. Wilson, she states "It is no fault of yours that we are withdrawing consent to the adoption, but he wants to stay with us." When questioned to state in detail with whom Jimmie had lived since birth, she had to pause and give considerable thought to every year up until 1953 (when the Wilsons were married and Jimmie lived with them). The evidence clearly shows that the boy had been passed around from one member of the family to another many times, but principally living with
page 31 } Mrs. Wilson.

Alfred W. Newton, white, age 57 years, stated he doesn't believe in adoptions in the first place and fears for the safety of his son if returned to the daughter. He confirmed the fact that he divorced Mrs. Newton in 1945 and has not since remarried her. He signed the adoption reluctantly, but thought the boy would be better off with younger people. He knows of nothing that has occurred since the consent because he has not been where his daughter and her husband were. Mr. Newton is a millwright by trade, quite a phlegmatic character and as are all of these people, a wandering individual who has lived in many places all over the United States and never anywhere very long.

James Newton, white, age 15 years, very decidedly does not want to be adopted by his sister and stated that he is "not afraid of Rick (Mr. Wilson) but doesn't like Flo (Mrs. Wilson)." He related several incidents, one of which was that if he missed his multiplication table, Mrs. Wilson pulled hairs from his head in number equal to the product. The example given was that if he missed eight times eight, sixty-four hairs would be removed. I do not believe this statement and further state that he now has a full head of hair. Another

incident given was an occasion when he was caught smoking and Mrs. Wilson threatened to make him eat the whole pack of cigarettes, but was prevented by his natural mother from so doing. He wants to be a priest and stated to me that this has been his wish for five years. This young man was so hazy about other dates that I frankly doubt the duration of his ambition and further say that little piety seemed to exude from him, and he impressed me as a thoroughly spoiled, resentful, wilful child, but considering the circumstances of his up-bringing, he is hardly to be blamed for this. He was very reluctant to say "Sir," although requested by the court on one occasion to do so when answering counsel. James has not yet started high school, but wants to go to a junior seminary after he has had one year of high school. He first attended parochial school when sent there by Mrs. Wilson. While I have the greatest respect for the priesthood, or any clerical calling, and certainly mean no disrespect, I find it extremely difficult to give serious consideration to this boy's ambition. It seems to me that this statement was made by him to impress others. He admitted that he had made a statement that he would shoot himself if he were returned to his sister. This statement was apparently taken seriously by his natural mother, but to me it was but a juvenile manner of having his own way about something, just as though a younger child makes a threat of screaming, in order to get what he or she desires at the moment. I believe, however, that his threat achieved his desired end, insofar as his natural mother is concerned in this instance. For, in my opinion, she is under his domination at this point, as she stated she was earlier dominated by her daughter. This young man did not impress me as being of a maturity of mind up to his age level, and definitely needs the guiding hand of someone with a little iron in his system, which I think his natural mother has not.

page 32 } Richard Wilson, white, age 33 years, electronics engineer, U. S. N., earns a monthly salary of $280.00 plus fringe benefits such as hospitalization, commissary, etc. He testified that he has had a wonderful marriage since April, 1953 with his present wife, that James Newton had been with them from the time of their marriage until 1956 (when he and his wife moved to Hawaii, the consent withdrawn, and these proceedings commenced). He further stated that he and the boy fully enjoyed each other, played ball, fished and swam together (numerous pictures introduced attested to these facts), that the boy was originally favorable about the adoption and going to Hawaii, but

apparently changed his mind when left with his natural mother. He also said that he had adopted a nephew named Bob whose father died, since the mother apparently had no way of caring for the boy, and that he thinks matters will work out even though James now opposes it; that they have a comfortable home, two bedrooms, living room and the usual accessory rooms and a nice yard. They plan for the boy to be sent to parochial school and he has no objection to his becoming a priest if he so desires, that he attends Catholic Church every Sunday with his wife though he is not a Catholic himself. The boy Bob, whom he adopted, is now in the Navy. Mr. Wilson seems quite intelligent, frank in his answers, apparently even tempered, and I got the impression that he was the best balanced person among the principal characters. He professes a deep love for the boy and it is my opinion that his influence would be very good. He certainly possesses the ability to fully train a dog, because when court adjourned, the bailiff called my attention to the fact that a dog had been lying behind the bench upon which Mr. Wilson's hat rested throughout the entire hearing and had not made a sound or moved a muscle. This may be a small thing, but it indicates a character trait which may be of some importnce in this case, although I certainly mean no comparison between James and the dog to be implied from my remarks.

Florence Wilson, white, age 36 years. Mr. Wilson is her fourth husband, but she professes to be genuinely happy with him and has been happily married to him since April, 1953. She states that for the first time she realizes the happiness that can come from a good and loving husband. She states that the child had been with her for the most part since the first three months of his life until 1956, when these proceedings were originally started and she and Mr. Wilson were in Hawaii. She stated that she had first entered James in parochial school and would have no objection to his becoming a priest. She and her husband have only missed attending the Catholic Church two Sundays since their marriage although she cannot be an active communicant of the Catholic Church at this time because of her previous divorces, a situation which is being corrected with the help of a priest. She earns $4,325.00 per year in Civil Service. She professes great love for James, said that due to the disparity of his age and his natural mother's, that she had always regarded him as her child. When asked about the boy's objection to being adopted by her, she replied, "the only salvation for the whole family would be the adoption of Jim and the for-

giveness of Mother and Father." Her opinion was that Jim had changed his mind due to over-persuasion by his mother while they were in Hawaii and his tendency to resent any discipline. She denied the incidents related by James as to discipline, but stated that on occasions she did correct him in the usual methods. She manifested no page 33 } bitterness toward her parents. Her testimony was temperately given and she seemed quite poised and well-balanced. I gathered the impression that she could be firm and could supply the necessary discipline. She thinks his attitude would not be any insurmountable barrier and that she and her husband could speedily overcome it when the adoption was concluded. With this, I agree. Although Mrs. Wilson has had a speckled career as to marriage and confessed to living as a man's common-law wife in 1949 in Goble, Oregon, it is somewhat significant that this incident occurred in her own mother's home. I now believe her present marriage, which has existed since April, 1953, has proven its stability and that her present home and morals would be a good environmental situation for the boy.

The depositions of Julia Peak and Kenneth Peak speak for themselves. They convinced me of nothing except the longwindedness of the California lawyers, and I cite lines 6, 7 and 8 on page 48 as being the ultimate high water mark of a purported question by a purported lawyer, in any case anywhere, from the beginning of time to the present date. "Well, I want to tell you I have examined a lot of girls and you have more personality than 99% of them. I love your eyes and I love your charm and that will be the end of the reading." O tempora! O mores! Reference is also made to questions and answers shown on page 47, beginning at line 23, for further enlightening material.

In conclusion, in answering the issues to be decided, I believe that the adoption of James by Mr. and Mrs. Wilson would be for the best interests and welfare of the boy. It must be borne in mind that this is a comparative situation and, in my opinion, Mr. and Mrs. Wilson are better constituted as to age, temperament and home circumstances to do a more competent job of rearing this young man in the few remaining years when he will need parental guidance. My answer to the second issue to be decided is that the evidence is not sufficient for revocation of the interlocutory order and that the adoption should not be dismissed, but the final order should be entered permitting adoption by Mr. and Mrs. Wilson and changing the child's name. The evidence, practically in its entirety, deals with matters which

occurred long prior to the consent given by the natural parents and were known to the natural parents at the time the adoption proceedings were commenced. The evidence, and the reports of the various welfare agents for the entire period, indicates that all was going well until the Wilsons, under Naval orders, went to Hawaii and left the child with his natural mother. From that point the situation rapidly worsened and it is my belief that the child changed his mind, which caused a chain reaction culminating in the present litigation. This brings us to another question to be answered. Should the consent of an immature boy, now fifteen, which consent was not required by law, Code Section 63-351, as amended, at the time the adoption was instituted, be the controlling factor in an adoption proceeding? I think not, for to hold this, would be to let the tail wag the dog and hold for naught all the provisions of the adoption statutes. It is indeed proper that the boy's wishes should be considered, but they should be considered along with all the other facts and circumstances of the case. This has been done in the instant case, and it is my opinion that the petitioners, Mr. and Mrs. Newton, have done nothing more than change their minds about consenting to the adoption, because the boy first changed his mind, and that nothing has been proven which showed developments since the entry of the interlocutory order to cause the revocation of that order or the dismissal of the adoption proceeding.

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I appreciate the able presentation of this case by counsel, and when the order is presented in conformity with the above decision, endorsed by counsel, it will be promptly entered. I would have liked more time in the preparation of this letter, but must start final hearings in *Portsmouth* v. *Norfolk County* on July 14, and thought this case should be decided prior to that time.

Very truly yours,

EDWARD L. OAST.

ELO:dc

In the Circuit Court of Norfolk County, Virginia.

It is hereby ordered that the foregoing letter consisting of 6 pages shall be considered the opinion of the court and is incorporated in the record of the adoption case Alfred W.

Newton and Catherine Newton *v.* Richard V. Wilson and Florence N. Wilson, now pending in this court.

EDWARD L. OAST, Judge.

Entered July 11, 1958.

Filed in the clerk's office the 14 day of July, 1958.

Teste:

MAJOR M. HILLARD, Clerk
By ESSIE E. EMERY, D. C.

page 35 }

* * * * *

FINAL ORDER OF ADOPTION.

This cause came on this day to be again heard upon the papers formerly filed; upon the written reports of the Commissioner of Public Welfare for the Commonwealth of Virginia, dated June 3, 1955, and August 14, 1956, and exhibits and reports of participating out of state welfare agencies filed and attached thereto; the interlocutory order entered June 20, 1955, and the petition of Alfred W. Newton and Catherine M. Newton filed July 30, 1956 and amended petition filed January 8, 1957; depositions duly taken and evidence heard *ore tenus* by the Court on July 8th, 1958, and was argued by counsel.

UPON CONSIDERATION OF WHICH, the Court doth deny the petitions of Alfred W. Newton and Catherine M. Newton for revocation of the interlocutory order previously entered, sufficient cause constituting grounds for revocation not having been shown.

And it appearing from the said reports and exhibits filed by the Commissioner of Public Welfare, and the testimony of the petitioners Richard Vance Wilson and Florence Newton Wilson, husband and wife, heard *ore tenus,* that said petitioners are financially able and morally fit adequately to mintain, care for, supervise and train the said infant child, James Edward Legere Newton; that said infant child is suitable for adoption by said petitioners and that the said Commissioner of Public Welfare raises no objection to the adop-

tion of the infant child by the adopting petitioners, and the Court after mature consideration, including the testimony of the said infant child heard *ore tenus,* giving due regard to the particular facts and circumstances involved herein, deems that the best interests and welfare of the infant child, James Edward Legere Newton, would be best served by the entry of the final order of adoption.

page 36 } WHEREUPON, the Court being satisfied that all of the requirements of law have been complied with and that the best interests and welfare of the child, James Edward Legere Newton, will be served by the entry of the final order of adoption, doth therefore ADJUDGE, ORDER and DECREE that henceforth said infant child, James Edward Legere Newton, shall to all intents and purposes be the child of said petitioners, Richard Vance Wilson and Florence Newton Wilson, his wife, and shall be entitled to all the rights and privileges and subject to all the obligations of a child of said petitioners, Richard Vance Wilson and Florence Newton Wilson, his wife, born in lawful wedlock.

And it further appearing to the Court that the petition in this cause includes a prayer for the change of the name of said infant child from James Edward Legere Newton to James Newton Wilson, the Court doth further ADJUDGE, ORDER and DECREE, that henceforth the name of said child shall be James Newton Wilson.

And the Court doth further ORDER that upon the entry of this order the Clerk of this Court shall forward forthwith an attested copy of this order to the Commissioner of Public Welfare for the Commonwealth of Virginia. And the Court doth further direct the Clerk of this Court to report to the Bureau of Vital Statistics the final adoption of said infant, James Newton Wilson.

The said Alfred W. Newton and Catherine M. Newton duly note an objection and except by counsel to the entry of the final order of adoption in this cause.

Enter July 24, 1958.

Nunc pro tunc as of July 14, 1957.

E. L. OAST.

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NOTICE OF APPEAL AND ASSIGNMENTS OF ERROR.

NOTICE OF APPEAL.

Alfred W. Newton and Catherine M. Newton, petitioners herein to revoke the Interlocutory Order of Adoption and to dismiss the above-styled adoption proceeding, hereby note their appeal in the above-styled case.

ASSIGNMENTS OF ERROR.

Alfred W. Newton and Catherine M. Newton, petitioners herein to revoke the Interlocutory Order of Adoption and to dismiss the above-styled adoption proceeding, hereby assign the following errors:

1. The Court erred in entering the Final Order of Adoption and not revoking the Interlocutory Order of Adoption in that James Newton, the child who is the subject of this proceeding, is now fifteen years of age and expressly stated that he did not wish to be adopted and gave good reasons therefor.
2. The Court erred in entering the Final Order of Adoption in that good cause was shown to revoke the Interlocutory Order in accordance with Section 63-353, Code of Virginia, 1950, as amended.
3. The Court erred in entering the Final Order of Adoption in that such action by the Court was not in the best interests of the child.
4. The Court erred in entering the Final Order of Adoption and not revoking the Interlocutory Order of Adoption in that the religion of James Newton, the child who is the subject of this proceeding, is different from that of the adoptive parents.

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ALFRED W. NEWTON AND
CATHERINE M. NEWTON
By PHILIP L. RUSSO
Of Counsel.

Filed in the clerk's office the 25 day of July, 1958.

Teste:

MAJOR M. HILLARD, Clerk
By ESSIE E. EMERY, D. C.

Julia Peak.

* * * * *

Depositions of witnesses taken on behalf of Petitioners to revoke an Interlocutory Order, pursuant to Notice attached hereto, on the 9th day of June, 1958, at 2:00 P.M., at 306 Courthouse, Woodland, Yolo County, California, before A. V. Smith, Notary Public and Court Reporter, an officer qualified to administer oaths in the County of Yolo, State of California.

Appearances for Petitioners to revoke Interlocutory order: Chalmers and Sans, by Roger Sans, 609 Court Street, Woodland, California. Telephone: MOhawk 2-2859.

For Petitioners for adoption: Calfee, Westover & Calfee, by David W. Calfee and Tsar N. Calfee, 24th Street at Bissell Avenue, Richmond, California. Telephone: BEacon 5-1140.

* * * * *

Dep.
page 2 } Virginia:

In the Circuit Court of Norfolk County.

In the Matter of Adoption of an Infant to be named James Newton Wilson.

JULIA PEAK,

a witness for Petitioners to revoke interlocutory Order, of lawful age, being duly sworn, testified as follows:

Present: Julia Peak, a witness.

Roger Sans, of counsel on behalf of Petitioners to Revoke Interlocutory Order;

David W. Calfee and Tsar Calfee, of counsel for Petitioners for Adoption;

A. V. Smith, Notary Public and official court reporter.

David W. Calfee: May we have a stipulation that all objections except as to the form of question will be reserved without exception to the time of trial?

Mr. Sans: Right.

David W. Calfee: And I think that is the only one.

Mr. Sans: And will be used as evidence, testimony in the case. Pursuant to the order.

Julia Peak.

DIRECT EXAMINATION.

By Roger Sans:

Q. What is your name?

A. Julia Peak.

Q. Where do you live, Mrs. Peak?

A. Esparto, California.

Q. How long have you lived there?

A. About six and a half years.

Q. Are you married?

A. Yes.

Dep. page 3

Q. What is the name of your husband?

A. Kenneth Peak.

Q. What is your occupation?

A. Housewife.

Q. Will you please tell us your relationship to Alfred W. and Katherine M. Newton?

A. Well, he is my father and she is my mother.

Q. What is your relationship to James Edward Leguerre Newton?

A. He is my brother.

Q. What is your relationship to Mrs. Richard B. Wilson?

A. She is my sister.

Q. Are you aware that Mr. and Mrs. Wilson filed a petition in Norfolk County, Virginia, to adopt your brother, James Newton?

A. Yes, I am.

Q. And do you know that your parents filed a petition to have the adoption proceedings dismissed?

A. Yes, I do.

Q. Did you at any time live with Mrs. Richard Wilson prior to these adoption proceedings?

A. Yes.

Q. Will you please tell us when?

A. In 1943 off and on from the time I was about fifteen to seventeen.

Q. From 43 'til when?

A. 45; 1945.

Q. Do you recall how often you were there during that period with her?

A. Well, it has been, oh, maybe a month or two with her. And most of 1943 I was in school at home. Most of—the last of 1943 and first of 44 I was mainly at home. I was with her sometimes; but I was at home most of the time.

Julia Peak.

Q. Uh-huh. During this period that you were with her from the time you were fifteen years of age until the time you were seventeen years of age—

Dep. page 4 } Mr. Tsar N. Calfee: You say "with her." If you would identify her.

Mr. Sans: Referring to Mrs. Wilson, what was the longest period of staying with her?

The Witness: You mean longest period I stayed at any one time?

Q. Yes.

A. That was I believe the latter part of 44 and early part of 45.

Q. About how many months was that?

A. Maybe about four or five months.

Q. How did you happen to be living with Mrs. Wilson during this period?

A. She wanted me to. She was by herself. She would come down and ask Mom if I couldn't go up and stay with her. I went with her.

Q. Where was she living during this period?

A. Well, part of the time she was living in Los Angeles, and part of the time in Long Beach.

Q. Where was your mother living?

A. She was in San Bernardino.

Q. Was Mrs. Wilson married during this period that you lived with her?

A. Yes—it is hard to remember when she was married. She was married there.

Q. To whom was she married?

A. James Springer.

Q. Were they living together as man and wife during this period?

A. Yes. I mean, he was overseas part of the time. But—

Q. But they were man and wife?

A. They were married at that time; yes.

Q. They were not separated?

A. They were always writing back and forth.

Dep. page 5 } Q. Was he ever in the home during this period?

A. Oh, yes. Until what time he went overseas, he was.

Q. During this period that you lived with Mrs. Wilson did you go to school at all?

Julia Peak.

A. I started to school one time when I was with her. I went either just one month or two. I am not sure.

Q. Then what did you do?

A. Then I went back to San Bernardino.

Q. Then following that first time you lived with her did you ever go back to school while you were living with her?

A. I don't think so.

Q. Why was that?

A. You mean, why I didn't go back to school?

Q. Why didn't you attend school while you were living with her?

A. I didn't want to, I guess.

Q. What did you do during this period?

A. Now, I am confused as to when you are talking about.

Q. I am speaking during this period of 19—

A. All of—

Q. Yes. During all this period 43-45.

A. Well, part of the time I worked.

Q. Now, will you please tell us what kind of life you had while you were living with Mrs Wilson? Tell us something of the mode of life you lead during that period.

A. Well, first when she worked at Lockheed she would have me meet her at a bowling alley or someplace when she got off at one o'clock in the morning, or just different places like that. Then I don't know I got so I couldn't go to school and out, too.

Q. What do you mean, you couldn't go out and go to school, too?

A. Well, I couldn't stay out until four or five o'clock in the morning and then go to school.

Q. Who did you stay out with until four or five o'clock?

Dep. page 6 }

A. With my sister.

Q. How often did you stay out this late?

A. Oh, regularly quite often; two or three times a week or sometimes four. I don't know.

Q. Did your school work suffer as a result of it?

A. Well, when I left there I hadn't done enough so I could get a grade in school. So—I know I was always real sleepy in school.

Mr. David W. Calfee: Did you say you hadn't been there enough to get a grade?

The Witness: Some of the teachers gave me a grade, and

others put incomplete as I hadn't been there long enough in some subjects to determine if I knew anything about it or not.

Mr. Sans: Why hadn't you been there enough?

A. Well, I missed quite a lot at school.

Q. Why.

A. Because I wasn't there.

Q. You came at four or five in the morning?

A. Yes.

Q. What did your sister do at four or five in the morning?

A. Oh, bowl, drink, anything to be going all the time.

Q. Did your sister advise you to go home, stay home?

A. No. She wanted me to be with her all the time.

Q. What was Mrs. Wilson's attitude in regard to your attending school in these circumstances?

A. She didn't care much whether I went or not.

Q. You stated you would be drinking and bowling. Did she permit you to drink alcoholic beverages during this period?

A. Oh, yes.

Q. Where did you drink?

A. All the different bars.

Dep. page 7 } Q. You were how old?

A. Well, from the time I was fourteen on.

Q. How were you able to get in a bar at your age?

A. She would have me wear her clothes.

Q. You say "she," you referred to—

A. My sister, Mrs. Wilson.

Q. What does she do?

A. She would have me wear her clothes and she would fix my hair and make-up.

Q. For what purpose?

A. So I would look older so I could get in to the bars.

Q. What would you do when you were in the bar?

A. Just sit there and drink—drink and—I don't know; watch them dance on floor shows, whatever they were doing; sometimes dance.

Q. Did Mrs. Wilson dance at this time, too?

A. Oh, yes.

Q. Did she go alone or anyone else besides you?

A. Well, sometimes she was with other men, you know—but—

Q. I notice this is embarrassing to you, Mrs.—

A. It is confusing.

Q. —Peak just tell us to the best of your recollection just what the situation was.

A. Oh, I don't know. She would go out with other men and she would bring them home, too.

Q. Let me interrupt you. You say she brought men home. Where did she meet these men?

A. Some of them she met in the bowling alley; some of them she would meet in the bar.

Q. At this time was she married to Jim Springer?

A. Oh, yes, Uh-huh.

Q. Was there anything wrong with their marriage?

A. No. Not that I know of.

Dep. page 8 } Q. In other words, it was just that he was away in the service. Is that it?

A. Yes.

Q. What did your sister do when she brought these men home?

A. Oh, sometimes she would feed them; sometimes a round of drinks. I know sometimes she slept nights with them.

Q. Will you be a little more specific on this sleeping nights with men? What do you mean?

A. Well, like, well, I don't know—one particular boy friend she had was a C. B. He would come over and he would bring three or four of his buddies. They would have dinner and something—not something—they would have dinner and her and this boyfriend of hers would be in the bedroom, and, well, there was only the french doors between and—of course, I was in the living room with the other three.

Q. What happened?

A. Well, I imagine she had sexual relations.

Mr. David W. Calfee: We object to what she imagines.

Mr. Sans: Do you know if anything unusual went on in the bedroom while she was there with the C. B.? Could you see them?

The Witness: Well, you could see forms.

Q. You what?

A. There was just a little, you know, like a net curtain that hangs up in the window. That was all that was between the bedroom and front room.

Q. Were these french doors transparent so you could see through them?

A. Oh, yes; they were glass so you could see through them.

Q. What were these forms doing?

A. Well, they were in bed.

Q. Could you tell whether they were clothed or not?

Julia Peak.

A. Well, not while in bed you couldn't tell and you couldn't go up to the door and just look through at anybody like that.

Dep. page 9

Q. Could you hear anything in the bedroom?

A. At times you could hear noises; but I mean we visited outside and tried not to pay too much attention.

Q. What did you hear?

A. Oh, I don't know; just different noises.

Q. Did you recognize any of the noises?

A. Oh,—well, the bed squeeks and—kind of—I don't know, grunts or moaning or something.

Q. What was that?

A. Kind of grunts or moaning.

Mr. Tsar N. Calfee: I wonder if you would have the witness speak a little louder?

Mr. Sans: Yes. Will you speak a little louder, Mrs.—? Can you tell us of anything else you heard?

The Witness: I don't know.

Q. How often did these four C Bs come to the house?

A. Whenever they had a leave. They had, you know, certain intervals they were on the base a certain time and then they were off a couple of days; and then they were back.

Q. Now, what period of time did they come in while you were there? Over what period of time?

A. You mean how many months?

Q. Yes.

A. I can't be sure.

Q. Give your best recollection.

A. About two months. I don't know. Maybe about a month and a half.

Q. About how often a week during that month and a half or two months did these CBs come over?

A. Well, sometimes it was every week and then another might be two days over a week. I don't know.

Dep. page 10

Q. Do you recall what year this happened?

A. I think that was in 1944.

Q. Do you remember what part of 1944? Your best recollection.

A. I keep getting the times all mixed up.

Q. Pardon?

A. I keep getting the times all mixed up. So much happened in a short time.

Q. But your best recollection is it was in 1944?

Julia Peak.

A. In 1944, I believe it was; but at that time I didn't keep track of time.

Q. Now, each time that they came—strike that. How often would this one CB go into the bedroom with your sister?

A. Well, he always spent the night. The others would go, you know, somewhere else, you know, after a time. I mean, sometimes we would all go out somewhere.

Q. What do you mean, he spent the night there?

A. Well, he stayed 'til next morning.

Q. Where did he stay?

A. In the bedroom with sister.

Q. With your sister?

A. Yes.

Q. What sleeping accomodations did she have in that room?

A. There was just one bed.

Q. How often during this six-weeks to eight-weeks' period would you say that he stayed over night with her in the bed over night?

A. I am not certain because she always, not every night, but she usually had somebody with her.

Q. What do you mean?

A. Well, I don't know. She just feels like she always had to have a man with her.

Q. You mean she had a man almost every night sleep with her?

Dep. page 11 } A. Usually.

Q. How often a week during this period would you say she had a man sleep with her?

A. Oh, I don't know. There is nothing regular about her. I mean, one time it might be once a week, and one time she would go for a week, and another time she would have somebody every night.

Q. I see. During this period did you actually ever see her having sexual relations with any of these men?

A. One time I remember—not with the CBs—but one time I remember I came up from San Bernardino with her she wanted to go out with this officer.

Q. Now, will you tell us first when this was?

A. That was in 1945.

Q. What part of 45?

A. The first—the first part.

Q. Do you recall the month?

A. I couldn't be sure of the month.

Q. How old were you at the time?

A. I was seventeen.

Julia Peak.

Q. Just continue.
A. Well, anyhow, we went out and we got a hotel room in L. A. and we went down and met him.
Q. Met who?
A. This officer. She told him to come by after he got off duty. Then we went back.
Q. Where?
A. To the hotel room; and when he came, well, he just took off his clothes and went to bed.
Q. Just a minute. About what time did he come? Your best recollection.
A. It was, oh, I don't know; may be ten or eleven o'clock.

Dep. page 12

Q. In the evening?
A. In the evening.
Q. Where were you?
A. I was there.

Q. In the bedroom?
A. Well, there was just one room. It was a hotel room.
Q. What were you doing at that time?
A. I don't remember.
Q. This man, this police officer came in? Then what happened after he came in?
A. Well, then they took off the clothes and went to bed.
Q. Was there any conversation between them prior to their removal of their clothing?
A. Oh, they must have said something. There must have been.
Q. How long was he there before he removed his clothes?
A. Not there very long; maybe five or ten minutes; not any longer than that.

Mr. Tsar N. Calfee: I don't hear her very well.
Mr. Sans: Will you speak louder? Were they intimate at all during this five or ten minutes?
The Witness: No.

Q. Then they suddenly removed their clothing. Is that it?
A. Yes.
Q. In your presence?
A. Yes.
Q. Both of them removed their clothes?
A. Yes.
Q. Both of them removed their clothing?
A. Yes.
Q. What did they then do?

Julia Peak.

A. Got into bed.
Q. What happened then?
A. They had their sexual.

Dep. page 13

Q. You actually saw both parties have sexual relations?
A. Yes.
Q. You are referring to your sister and this police officer?
A. Yes.
Q. Then what happened?
A. I don't recall.
Q. Do you recall he then left?
A. Well, I know he did. I don't know exactly what happened. I mean, he didn't stay very long. I know that.
Q. Were you asked to leave the room?
A. No.
Q. Do you recall any other occasions when your sister was out with other men besides this regular event? Any particular man or event that may stand in your mind other than it was the regular thing from time to time for her to have men sleep with her?
A. She brought a couple of Marines with her one time.
Q. Can you tell us when this was? Your best recollection.
A. I think it was in 45, too.
Q. Can you tell us why it is hard for you to recall?
A. Well, mainly I have tried to forget all, and she did so much.
Q. Tell us your best recollection.
A. This must have been 45 when we both worked for the Navy in San Pedro.
Q. Please tell us what happened.
A. We went to make a trailer payment and she invited these two Marines back with us.
Q. Where did you meet these Marines?
A. On a bus.
Q. Had you or your sister ever met these Marines before?
A. I don't know.
Q. Proceed.

Dep. page 14

A. We had to go a long ways. It was real late when we got home. They came out to the trailer anyhow. I don't know. We sat and visited for awhile. I kept waiting for them to go; and they didn't; and in the trailer the closest door was open to the bedroom. I went in and closed the doors and went to bed. She told one of the Marines to go in and get in bed with me.

Julia Peak.

Mr. David W. Calfee: Object on the ground there is no foundation.

Mr. Sans: How do you know? Why did you make that statement that she told one of the Marines to go in bed with you?

The Witness: I heard her.

Q. Just tell us just exactly what she said, to the best of your recollection.

A. Well, she just told him he could sleep in there. Something like that. I just made out like I was asleep.

Q. Was that all she said, that he could sleep with you? Or just what was said? Give us your best recollection.

A. Well, she didn't say he could sleep. She said he could go to bed in there.

Q. When she said "there" what was she refering to?

A. In the room with me.

Q. How many beds were in that room?

A. Well, just the one. That was all.

Q. The one you were in?

A. Yes.

Q. All right. What happened then?

A. Well, he came in there, and then the other Marine and her went to bed out in the other room. I just made out like I was asleep because I didn't know what to do.

Q. What happened then?

A. Well, they stayed there until morning.

Q. Did the man stay with you?

Mr. Tsar N. Calfee: I didn't hear her answer?

Dep. page 15 } The Witness: Yes.
Mr. Sans: Did he have relations with you?
The Witness: No.

Q. Did he attempt to?

A. Yes. But I made like I was asleep and moved away.

Q. And that's all that happened as far as you and he were concerned. Is that right?

A. Yes.

Q. What was your sister's attitude regarding your relationship with boys or men?

Mr. David W. Calfee: When?

Mr. Sans: During this period that you lived with her.

The witness: Well, she wanted me to go with them, too.

As far as the sexual relations, she said that any—and there was nothing wrong with it. As long as you didn't think it was wrong, there was nothing wrong with it. That was what she always told everybody.

Q. Did she ever tell you of any sexual experience she had had?

A. Well, she did tell me—

Mr. David W. Calfee: May we have the time and place?

The Witness: This was in San Bernardino that she told me.

Mr. Sans: Now, when was this?

The Witness: This was in 1945.

Q. Do you recall what part of the year?

A. I think it was in—it was in the summer or fall. I think it was in the fall.

Q. Where at San Bernardino?

A. At our home. My mother's home.

Q. Who was present at this conversation?

A. Just her and I.

Q. What was said?

A. Well, she said that David Mannel was the only man who ever gave her satisfaction.

Dep. page 16 } Q. Was she married to him?

A. No. She used to get letters in my name from him, too, so her husband wouldn't see them.

Q. During this period you lived with her, Mrs. Wilson, what was the major topic of conversations by her?

A. Oh, I don't recall too much about what we talked about when we were together, but I know when she would come down to meet me, or something, she would always be talking about some guy she had met and all different things about different men she had met and talked about them.

Q. During this period did she have occasion to discuss your favorite uncle with you?

A. Well—

Q. Just answer yes or no.

A. Yes.

Q. And when was this?

A. When she? I don't know She discussed the family quite often.

Q. This particular incident?

Julia Peak.

A. She has mentioned it at different times, but I didn't put down a specific date.

Q. Did she refer to this uncle of yours during this period of time you lived with her?

A. Yes.

Q. What did she say about him?

Mr. David W. Calfee: May we have the uncle indentified?

Mr. Sans: Yes. Who was your uncle?

The Witness: Jimmie Mahone.

Q. What did she have to say about him?

A. The doctor said he died of cancer, but the doctor said they would have said that, but that he had really died of a venereal disease.

Dep. page 17 } Q. Did this upset you?

A. Yes.

Q. Why was that?

A. Well, he was my favorite uncle.

Q. Did she keep telling you this?

A. Well, not over and over at one time, but at different times she would bring it up when she wanted to say something about the family when she wanted me to stay with her instead of—

Q. What was Mrs. Wilson's attitude towards your personal property?

A. Well, she doesn't have any respect for anybody's property, well, whether it is my money or my clothes, whatever it is, she would take it and use it how she pleased.

Q. Has she ever taken any money of yours?

A. Yes. She took $20.00 from a letter that my father sent me.

Q. When was that? To your best recollection.

A. I think it was in 1944. It could have been 45.

Q. Did she ask you for it?

A. No. I wasn't home.

Q. Was the letter open when she received it?

A. No. It couldn't have been.

Q. Did she open it before you did?

A. Why, yes. I never saw the money. She just told me about it.

Q. Did she ever return it to you?

A. Oh, no.

Q. While you were working during this period you were living with Mrs. Wilson what did you do with your salary or earnings?

Julia Peak.

A. Oh, well, she took it to pay for her trailer. We both paid on it, but it was her trailer in her name and everything.

Q. Did you voluntarily give it to her?

A. Well, she said I had to pay for it. Too.

Q. Did she ever during this period express her ideas as to the relationship of you children?

Dep. page 18 } A. Well, she said—she always said that I was Dad's favorite, because I was the only one of the kids that belonged to him.

Q. What did she say about the other children?

A. Just that he was—I don't know the names, you know, I don't know some of the people's names that she would say my brother belonged to.

Q. What was your feeling towards Mrs. Wilson during this period?

A. Well, I was afraid of her. I kind of felt sorry for her. Well, she was my sister. I liked her, too.

Q. When did you finally leave Mrs. Wilson for the last time?

A. When she got me to quit the Navy because she was fired she wanted me to quit so I did. She worked on the Pike in Long Beach, and she got me a job down there, and I was scared of her and I didn't have any money, so I went ahead and worked one day there; and next day instead of showing up at work I just took the money and went home.

Mr. Tsar N. Calfee: Can we have the time and year?

Mr. Sans: Yes. Will you please tell us?

The Witness: I think it was probably in March of 45; March or April. I am not sure.

Q. During this period, Mrs. Peak, did she ever express her attitude toward small children?

A. Well, she tied a little boy in bed.

Q. Just answer yes or no.

A. Yes.

Q. Just give us an example.

A. Well, one time she tied this little 2-year-old boy in bed.

Mr. David W. Calfee: When?

The Witness: It was the earlier part. That could have been 43 or 44. I am not—

Mr. Sans: Your best recollection.

Dep. page 19 } The Witness: It was either latter part of 43 or first part of 1944. And she went down to that bar down the way and had a few drinks and came home.

Julia Peak.

Q. Where was the boy all this time?
A. He was tied in her bed.
Q. Did she then release him?
A. Oh, yes, when we came home she untied him. It scared me, because the ropes were so loose he would strangle or something.
Q. Did she ever distroy any of her personal property or attempt to distroy any of her property?
A. Of mine?
Q. Of hers?
A. Of hers? When she lived up here in San Pablo, I guess it was.
Q. San Pablo, California?
A. California.
Q. When was this?
A. In—in 1946.
Q. Do you recall what part of 1946? To your best recollection.
A. Well, I was trying to figure if it was and—it might be earlier in 19—no, I think it was in—I can't be sure if it was 1946. She did—Jim Springer had been, you know, going to college up here.
Q. Where?
A. In Berkeley at the University of California. And in the summer time he went down to work for the Forestry and she came down and then after that we saw her next she was mad because she had wanted to get the inside of the trailer fixed and take out the inside and redo it and she had left the iron on the ironing board and left home.
Q. She did these too?
A. Yes.
Q. Did she tell you why?
A. Yes. She left the iron because she wanted to get the trailer fixed. It burned through to the floor; but the woman came in and found it.

Dep. page 20

Q. Why did she want to get the trailer fixed?

Mr. David W. Calfee: Object on the ground there is no proper foundation.
Mr. Sans: I will re-phrase the question. Will you tell us what she said as to why she did it?
The Witness: She said she didn't see why she should have to put up the money to do it when she paid the insurance company for the insurance.

Julia Peak.

Q. While you were living with Mrs. Wilson during this period 1944 and 1945 you have been telling us did you tell your mother and father of your sister's actions?

A. Oh, no.

Q. Why not?

A. Well, I was ashamed of the way she acted. I thought maybe after he came home she would be different and I didn't want to upset mother and Dad.

Q. Did you give your parents any indication of the way she was living?

A. Oh, no.

Q. Did you ever tell your mother or your father about the way Mrs. Wilson was living and how you were being treated during this period?

A. After I found out that the adoption wasn't final.

Q. Do you recall when?

A. That was in June, 56.

Q. Did you then tell her what you have told us here this afternoon?

A. Well, I didn't tell her all of it until later; and she said—asked you know, if I could do it first when I found out it would maybe help Jimmie.

Dep. page 21

Mr. David W. Calfee: I will object to anything that the mother told her.

The Witness: The mother didn't tell me anything.

(Thereupon, there was recess for ten minutes.)

Mr. Sans: Would you please read me the last question, Mr. Reporter, and the answer?

(Thereupon, The Reporter read aloud the question last above propounded to the witness by Mr. Sans, and the witness's answer thereto.)

The Witness: She didn't.

Mr. Sans: As I understand it then, once you recognized that the adoption proceedings hadn't been completed you felt you should tell your mother. Is that your understanding?

The Witness: Yes.

Q. After leaving Mrs. Wilson for the final time at the age of seventeen did you have occasion to see her since then?

Julia Peak.

A. Oh, yes. Yes.
Q. How often?
A. Oh, well, part of the time she came back home and stayed for a week or so and on vacations or anything she would usually stop and see us; or if we were going by, we would stop and see her.
Q. You say you saw her in her home in 1953?
A. Well, yes, I must have.
Q. Would you say you have seen her in 1954?
A. Yes.

Mr. David W. Calfee: Is it yes?

The Witness: Yes.
Mr. Sans: How about 1955?
The Witness: 1955. I think I saw her on vacation. I am not sure.

Q. You are not sure of 1955. Or 1956.
A. I saw her in 1956—if that is she just—I saw her just before she went to Hawaii.
Dep. page 22 } Q. When did she last visit in your home for any period of time prior to the commencement of adoption proceedings?
A. The last time?
Q. Yes.
A. You mean before the adoption was started?
Q. Yes.
A. I am not sure.
Q. To your best recollection.
A. Let's see—before the adoption was started. I can't remember when it was started. The adoption was—I don't know; maybe it was in 1955 sometime. I can't remember when the adoption was started.
Q. Well, 1955 or 56. Is that right?
A. Yes.
Q. Since that period of time that you lived with Mrs. Wilson that you have been relating here this afternoon have you ever had any indication whether Mrs. Wilson had a change in her character regarding the matters you have observed?
A. Oh, no.
Q. Do you have any evidence to show in your mind that she has not changed?
A. The last? Or—well, it was in between that she—

Julia Peak.

Mr. David W. Calfee: Will you speak a little louder, please?

The Witness: This is since I left Mrs. Wilson.

Mr. Sans: Yes.

The Witness: Well, well, she brought a man up to Oregon where we lived, and of course she said she was married to him; and then she said she wasn't after they lived there three months and he left.

Q. What was his name?

A. Don Blacketer.

Dep. page 23 } Mr. David W. Calfee: Don Blacketer?
The Witness: Blacketer.
Mr. David W. Calfee: Blacketer?

The Witness: Blacketer.

Mr. Sans: When was this, Mrs. Peak?

The Witness: He was in 1949, I believe.

Q. Where were you living at the time?

A. In Goble, Oregon.

Q. And do you remember what part of the year this was?

A. It must have been sometime in the springtime.

Q. Of 1949.

A. I am pretty sure it was 49.

Q. Where was Mr. Springer at this time? The previous husband.

A. Oh—I believe he was still going to school.

Q. Was she still married to him, to your knowledge?

A. As far as I know. I don't—but I don't know—he must not have been, because she said she was married to Don. I mean, I just—

Q. Yet you say later she refuted the fact that she was married to him?

A. Yes. She said she was.

Q. How much later did she say she was not married to this man?

A. Well, when he left.

Q. In the same year?

A. Oh, yes. I guess it was the same year.

Q. During the three-months period that they lived together?

A. Yes. She was mad when he left.

Q. Now, do you know of anything else she may have done since that period which might have indicated that there had been no change in her character?

Julia Peak.

A. Oh—oh dear—

Q. To your knowledge has she had any—any other men she was going out with since that time?

Dep. page 24 } A. Oh, yes. I know she brought one fellow to the house one time.

Q. Now, first where were you living?

A. That was when we lived in Esparto.

Q. When you say "we" who are you referring to?

A. My husband and children.

Q. What year was this?

A. I think that was 1954.

Mr. David W. Calfee: fifty what?

The Witness: Four.

Mr. Sans: Do you recall what month? 1954?

The Witness: No. She moved around so much it was hard to tell what she was doing before.

Q. Can you tell us if she was married at that time? I am referring to the period that you remarked she came with another man to your home.

A. I think she was married to Mr. Wilson.

Q. She was then married to Mr. Wilson, her present husband?

A. Yes.

Q. Do you know when they were married?

A. In April. I can't be sure when that was.

Q. Prior to 1954?

A. She must have been married in 1953, I think.

Q. Your best recollection is she was married to Mr. Wilson in 1954. Is that correct?

A. Uh-huh.

Q. All right now, will you please tell us of this incident of coming to your home with another man?

A. Well, she came. And I don't know. She usually stays over night when she would come late, or something, and she had this fellow with her, and—

Q. Do you recall his name?

Dep. page 25 } A. No, I don't.

Q. Did she introduce him to you?

A. Yes. I am not very good at names.

Q. Pardon?

A. I am not very good at names.

Q. Had you ever heard of him before?

A. Oh, yes. She had mentioned him before.

Julia Peak.

Q. She had mentioned him to you prior to that particular evening?

A. Yes.

Q. Do you recall about when she came with this man? The time of day or night?

A. Well, it was at night, but my husband told her she wasn't about to stay in our house with any man at night.

Q. Did she tell you she wanted to stay at your house with this man?

A. She don't tell us anything. She just does it.

Q. What did she say when your husband told her she couldn't stay in your house with this man?

A. She got mad and she left.

Q. And did it become apparent that night that she was going to stay in the house or intended to stay in the house with this man?

A. Oh, I don't know. She usually leaves right after dinner, and she didn't. She stayed on and on and we put all the kids to bed, and—and well, it was just time to go and they didn't go; so finally he told her.

Q. Where was her husband, Mr. Wilson, at this time?

A. Somewhere in the navy. I am not sure.

Q. Was in the service at the time.

A. Ah-hah.

Q. In 1956 did Jimmie Newton come to visit at your home?

A. Yes.

Q. Do you recall what part of 1956 this was?

A. Well, right after Christmas.

Dep. page 26 } Q. And how long was he in your home?

A. Oh, two days.

Q. Where were Mr. and Mrs. Wilson at this time?

A. Well, they were supposed to be in Hawaii, but they came.

Q. Came where?

A. Came to our house while he was there.

Q. Do you know what purpose they had in coming to your home?

A. Well, they came to get him.

Q. Referring to Jimmie.

A. Yes.

Q. Did they take Jimmie with them?

A. No.

Q. Why didn't they?

A. Well, he didn't want to go.

Q. How do you know he didn't want to go?

Julia Peak.

A. Well, I asked him.
Q. When did you ask him?
A. Well, that night—I knew that they wanted him to go.
Q. What night are you referring to?
A. The night they tried to take him; and I wanted to be sure that it was really him that didn't want to go. I didn't want to have anything, just to think what I thought.
Q. Where were you?
A. In the bedroom?
Q. Who was present?
A. Just me and Jimmie.
Q. Tell us what was said by you and Jimmie.
A. I said, "do you want to go with Flo?" And he said, "no."
Q. You are referring to your sister, Mrs. Wilson, when you refer to "Flo." Is that right?
A. Yes.
Q. Did Mr. and Mrs. Wilson at any time that evening ever try to take Jimmie from the home?

Dep. page 27 } A. Well, yes. After he said he didn't want to go we told him he didn't have to go, if he didn't want to. She grabbed him and tried to take him.

Q. When you say "she" whom do you mean?
A. Mrs. Wilson.
Q. What happened? What did Jimmie do, if anything?
A. Well, he tried to get away. They tried to drag him out; so we made them turn him loose.
Q. Where did Jimmie go then?
A. We brought him in to the sisters the welfare.
Q. In Woodland?
A. In Woodland.
Q. Where did he stay with them?
A. No. We called the authorities to see what was the proper thing to do and asked if it would be all right to take him to juvenile home. He just said he would rather go anywhere close, so that is where we took him.
Q. You took him to juvenile home. Then we had these proceedings in juvenile court later. Is that right?
A. Oh, yes.
Q. Do you have idea as to why Mr. and Mrs. Wilson are so persistent in adopting your brother? If you know.

Mr. David W. Calfee: I will object to that question unless it is phrased to eliminate the conclusion and bring forth what they have said or done—

Mr. Sans: I will reframe the question.

Mr. David W. Calfee: —which will tend to lead. I will object to a conclusion.

Mr. Sans: Do you know why Mr. and Mrs. Wilson are so insistent to adopt Jimmie?

Mr. David W. Calfee: I think the question is still improper in form. It would still be her conclusion.

Dep. page 28 } Mr. Sans: I will reframe the question.

(Thereupon, there was discussion off the record.)

Mr. Sans: Has there been any indication as to why Mr. and Mrs. Wilson wish to adopt Jimmie?

The Witness: Well—

Mr. David W. Calfee: I think the answer should be either yes or no.

Mr. Tsar N. Calfee: I think so.

The Witness: You mean like something she had said?

Mr. Sans: Read my question, Mr. Court Reporter, please.

(Thereupon, the Reporter read aloud the question last above propounded to the witness by Mr. Sans.)

The Witness: Well, yes, I guess.

Mr. Sans: Why is it?

The Witness: She just always wanted him. She always was mad because he was mom's instead of hers right from the beginning.

Q. You say the beginning.

A. From the time he was born. Then, well, she always had him do the work, her other boy while she was working in the house. I don't know why; but that's—I don't know why.

Mr. Sans: I have no further questions.

CROSS EXAMINATION.

By Tsar N. Calfee:

Q. Now, what is your mother's name?

A. Catherine.

Q. Catherine?

A. Catherine Newton, with a "C".

Q. I didn't hear the last.

A. Newton.

Julia Peak.

Q. Catherine Newton. And your father's name?
Dep. A. Alfred Newton.
page 29 } Q. And where were they living in 1940 and 1941?
A. 40 and 41.

Q. Maybe we can get at it another way. Where were you born?

A. New York.

Q. In New York. And then when did they come to California?

A. You mean just the last time. You don't want my life history. You mean around in 40.

Q. Yes, 40 or 41 you were talking about 42 and 43.

A. My mother came out here to help my sister in 1940. I guess it was. In 1940.

Q. 1940. Well, your mother and father separated, didn't they, prior to that time?

A. No.

Q. They didn't separate in New York.

A. I said my mother brought us kids out here to be with my sister. My father stayed in New York. He was working. If he didn't have a job—

Q. And your sister was married out here, was she not?

A. Yes.

Q. And do you know what her husband's name was?

A. Frank Guadagnolo.

Q. G-u-a-d-a-g-n-o-l-o?

A. I couldn't be sure.

Q. Now, what is the difference in your age and her age?

A. My sister?

Q. Yes. Mrs. Wilson.

A. Five years.

Q. Five years. Now, she and her Frank, Mrs. Wilson and Frank Guadagnolo—

A. Guadagnolo.

Q. —separated in 1940, didn't they?
Dep. A. They weren't together when we came out here.
page 30 } Q. They what?
A. They weren't together when we came out here. I don't know when they separated. We came out here in September, 1940. She wasn't living with him at the time.

Q. Was she attending high school at that time?

A. Yes.

Q. With whom was she making her home?

A. Eugene Soloman.

Q. She was earning her own way, wasn't she?

A. I don't know. Partly.

Q. By being a waitress when you and your mother came out?

A. I think so.

Q. Yes. And you had a brother that came with you, didn't you?

A. Yes.

Q. She helped take care of you and your brother and your mother until you could get on your feet, didn't she?

A. Well, I don't know about the finances at the time. I wasn't—

Q. Right. In January, 1942, she graduated from high school, didn't she?

A. Yes. Could have been she graduated.

Q. And the father hadn't come out by that time, had he?

A. My father and I wrote.

Q. I am talking about—

A. Not here, no.

Q. Your father wasn't in California from 40 until 42 when your sister graduated, Mrs. Wilson graduated from high school??

A. I am not—I don't think so.

Q. Now, she married, didn't she, a man in August, 1942, Clyde G. Springer?

A. I think it was 1942.

Dep. page 31

Q. Now, do you remember living in Hollywood?

A. Yes.

Q. In what year? 1942?

A. Yes. I guess it was 42 instead of 43. I told you dates mix me up.

Q. Your mother had been employed there, had she not, by the air force? At Murock?

A. Yes.

Q. And when she was employed there who did you stay with and who were you living with, you and your brother?

A. My brother was part of the time with my father and he finished school with a friend. He stayed in Los Angeles with a friend so he could finish school.

Q. Your father came out here to visit you in September, 1942, didn't he?

A. I think that is when it was.

Q. And how long did your father visit with you?

A. I am not sure.

Q. Now, were you and your sister and your brother in one home at that time?

Julia Peak.

A. Was who now?
Q. Your sister, your mother and your brother.
A. In 42 my brother was with my father. I don't think my brother lived with my sister in her home.
Q. Did he ever live with your mother, your sister and you in any one home after your mother and brother came out to visit your sister and to live with her?
A. Yes.
Q. Yes. Well do you remember in (referring to paper) September, 1942, your father coming to visit you in Hollywood?
A. I can remember him coming.
Q. Yes. He spent a weekend, didn't he, with you at that time?
A. I am not sure how long it was.
Dep. page 32 } Q. Then he went to Portland Oregon, didn't he?
A. I think so.
Q. At that time were you, your sister and your mother living together?
A. No. Mom and I were just down there on a holiday.
Q. From where?
A. Murock.
Q. From Murock. Then you and your mother were living in Murock?
A. That's right.
Q. Yes. Now (referring to paper) did you ever know a Sergeant Edward Lagueau, Leguerre?
A. Yes.
Q. And did he ever stay with you and your mother in Murock?
A. No.
Q. He never stayed there.
A. No.
Q. Do you know whether or not your mother knew him?
A. Well, of course she knew him.
Q. And how long a time—

Mr. Sans: Off the record.
Mr. Tsar N. Calfee: Yes.

(Thereupon, there was discussion off the record.)

Mr. Sans: I object to the question just put forth by Mr. Calfee for the reason it is not proper cross examination and

for the further reason that it is incompetent, irrelevant and immaterial, not pertaining to any of the direct examination.

Mr. Tsar N. Calfee: What date did you and your mother first live with your sister, if you know?

Mr. Sans: If it is not anything going to anything here I will object to the question.

Mr. Tsar N. Calfee: She has testified that in 1943 while she was going to school she met the sister coming home from work at midnight.

Dep. page 33

Mr. Sans: All right.

Mr. Tsar N. Calfee: Now we are going into that phase of it to see—I would like to find where she was living. I would like to know where the mother was at that time. I would like to know who was taking care of her. At the time that she says that the sister's behavior was such that it was leading her into the path of unrighteousness.

Mr. David W. Calfee: What was the question?

Mr. Tsar N. Calfee: Now, in 1943 were you, Mrs. Wilson, and your mother living together?

The Witness: For a little while, maybe for about a month or so.

Q. Well now, where—what time in 1943 were you living and where were you living, if you know?

A. I am not sure. In 1943 part of the time in Washington, I guess. Part of the time—

Q. I am talking now about the time that you testified down there when your sister was working for the airplane people and you were fourteen years old.

A. I wasn't fourteen years old when she worked for the airplane people.

Mr. David W. Calfee: You mind if I take over just a few minutes to try to straighten out the chronology?

Mr. Tsar N. Calfee: No.

(Thereupon, there was discussion off the record.)

Mr. Tsar N. Calfee: How old were you?

The Witness: I was trying to think when she—fifteen or almost sixteen, or I was—

Q. When was the first time you went to live with your sister without your mother?

Julia Peak.

A. I think that was in 1943.

Dep. page 34 } Q. And you know what time of the year or month?
A. I am really not sure.
Q. And where were you living when you came to live with your sister? Where did you leave from to go to your sister?
A. San Bernardino.
Q. Where was your sister, Mrs. Wilson, living?
A. L. A. L. A.
Q. Los Angeles And how long a time were you with your sister in Los Angeles?
A. Off and on for two years.

Mr. David W. Calfee: The first time, though.
The Witness: I don't know. I don't remember exactly. My sister writes down everything she does from day to day; but I don't. I don't know.
Mr. Tsar N. Calfee: What was the reason for leaving your mother and going up to your sister?
The Witness: My sister was by herself and she wanted me to come up and stay with her.

Q. Did you go to school in Los Angeles?
A. For a little while.
Q. And do you know what year that was?
A. I think that was 1944.
Q. 1944. In 43 where did you go to school?
A. San Bernardino.
Q. San Bernardino. Do you know what school in San Bernardino. you attended?
A. The only high school there.
Q. You attended high school there in San Bernardino. Under what name did you go by there?
A. Judy Newton. Judy Newton.
Q. Judy Newton. And your mother let you leave school and go to take care of your sister?

Dep. page 35 } Mr. Sans: That is objected to on the ground that it is incompetent, irrelevant and immaterial; not touched upon in Direct examination; has nothing to do with proper cross examination of this witness.
Mr. David W. Calfee: Except the fact was made she wasn't attending school when she lived with her sister. It would tend to indicate her sister's culpability in that period.

Julia Peak.

Mr. Sans: Whether Mrs. Wilson is going to adopt Jimmie has nothing to do with how her mother took care of Judy.

Mr. David W. Calfee: I am not so sure that is true. I would suggest we go ahead and ask the question; you make your objection; and you can ask the notary to instruct the witness not to answer. May we have the question read back?

(Thereupon, the reporter read aloud the question last above propounded to the witness by Mr. Tsar N. Calfee:)

Mr. Sans: I object to the question for the reasons stated, not touched upon in direct examination, and incompetent, irrelevant and immaterial in this case here. The question is whether or not Mrs. Wilson should be permitted to adopt Jimmie; not a question of anyone else adopting the boy. On those grounds I instruct the witness not to answer the questions.

Mr. David W. Calfee: We feel it is a proper question; and ask that the notary instruct the witness to answer.

The Notary Public: Will you answer the question, please?

The Witness: I believe that was during Christmas vacation. That was why she had her operation.

Mr. Tsar N. Calfee: It was during vacation time during each visit to your sister?

The Witness: When I went to take care of her before was before 1943.

Q. Will you read the last to me?

(Thereupon, the reporter read aloud the question last above given by the witness.)

Dep.
page 36 } Mr. Tsar N. Calfee: Where were you living then?

The Witness: Murock.

Q. Now, did you never leave school to visit your sister on any of these occasions?

Mr. Sans: Again I object to the question on the ground it is incompetent, irrelevant and immaterial in this particular action; not proper cross examination in view of the questions asked in direct examination; and instruct the witness not to answer the question.

Julia Peak.

Mr. Tsar N. Calfee: And in the direct examination you, as I remember the testimony, she testified that she went at midnight to meet her sister when she was working and that they would go bowling all night long and that she just didn't do good in school. Now, did I misunderstand that?

Mr. Sans: That's right.

Mr. Tsar N. Calfee: That is what I am getting at, to that part of time as to when that was. Now she says she was going to school in San Bernardino County. I am asking here if she went to school in Los Angeles County. Now the answer is either yes or no.

The Witness: When?

Q. What is the answer?

A. When?

Q. When you were testifying on direct examination that you were visiting with your sister and going to school, living with your sister and going to school you would meet her at midnight and go to the bowling alley and go to the bars and you just couldn't get along in school. Now I am asking at what school you attended in Los Angeles.

A. John Marshall.

Q. John Marshall. And where is the John Marshall school?

A. Los Angeles.

Dep. page 37 } Q. What part of Los Angeles?

A. Oh, right in the Hollywood-Los Angeles border. I don't know.

Q. And what time? What year?

A. I think it was 1944.

Q. Isn't it true that in October, 1942—or 1944, that you and your sister, Mrs. Wilson, and your mother all lived together in San Bernardino?

A. That was 1945.

Q. Do you remember Mr. Wilson—or Mrs. Wilson's husband, returning from overseas in 1944?

A. Well, that was 1945, too.

Q. That was 1945, too. Was it the same year that he returned from overseas that you were all living down in San Bernardino?

A. Yes.

Q. Now, did all of the incidents that you are talking about take place before he got back?

A. I spoke about some things that happened in 1950, something—

Q. I am not talking about that period. I am talking about

things you testified to in 42, 43 and 44; and I am asking you if they all happened during that period before he came back from overseas.

A. Well, yes. They had to.

Q. And was that after your brother, Jimmie, was born?

A. Yes.

Q. Now, what is the longest time between 42, 43 and 44 that you spent with your sister, Mrs. Wilson, in Los Angeles? Or Hollywood?

A. I don't know.

Q. Well, was it—you said you spent four or five months at one time.

A. Part of that was in Long Beach.

Dep. page 38 } Q. Part of that time was in Long Beach. Were you going to school in Long Beach?

A. No. I was working.

Q. You were working in Long Beach. Where were you working?

A. At the navy supply base.

Q. And how old were you?

A. Seventeen. Seventeen.

Q. And what year was that?

A. 1945. 44. I don't know.

Q. When were you born? Maybe we can figure that up.

A. Well, I was born in 1927; but it is easier to figure it up that way. I am not sure if it was the last part of—well, it—I think that was 1945. It was probably 1945.

Q. 1945.

A. I think.

Q. Well, you weren't going to school at that time.

A. Oh, no.

Q. Yes. Well, what I am trying to do is isolate the times that you testified to that you met her after work and you missed school the next day or lost interest in school. I am trying to pinpoint that time down.

A. Oh, I am not sure. You talk about so much I get them all confused. I think that was 1943. Or I think, or maybe it was 1944: 1943. I am not sure.

Q. Do I understand you, was that the time you were working for the government?

A. You said I was going to school.

Q. In 1943, as I understand your testimony, she dolled you up and you would meet her after work.

A. She didn't dress me up to meet her. She couldn't very well, if she was at work.

Julia Peak.

Q. You did go out to meet her and come back and you did meet her in the bowling alley you dressed yourself then?

Dep. page 39 } A. You don't have to dress yourself up to go to the bowling alley.

Q. Did you go into the bars?

A. Not on her days off at night but you can't go—

Q. Were you going to school on her days off?

A. Sometimes. If they happened to fall on a week day.

Q. How long did you stay with her at any time before you went to work at the naval supply base?

A. I don't know.

Q. Well, did you stay with her more than a week at a time?

A. Oh, I know I spent my vacations with her.

Q. You weren't going to school then, were you?

A. Not on my vacation.

Q. No. Now, when you speak of the vacations you mean Thanksgiving, Christmas and Easter?

A. Yes.

Q. And the summer?

A. Part of the time; part of the time no.

Q. Did you go to visit your sister when your brother, Jimmie, was with your sister?

A. When? I mean—

Q. In 1944 and 1945?

A. He wasn't with her in 1944 and 1945.

Q. Well, when was he with her the first time?

A. In—let's see—I can't remember the exact day. I know it was after Jim went to work for the Forestry.

Q. Who is Jim?

A. Her husband.

Q. Jim, what is the last name?

A. Springer.

Q. Jim Springer. Went to work. Was that the time your mother and you and your brother all lived together with the Springers?

A. Well, they stayed with us when he first came home from overseas.

Dep. page 40 } Q. Down at San Bernardino?

A. Uh-huh.

Q. Well now, what is your present relationship with your sister?

A. My present relation.

Q. Yes.

A. You mean—

Q. At this time.
A. You mean how I feel about her, something like that?
Q. Your relations. Do you write back and forth?
A. We never did. Just once in awhile.
Q. Now, coming back to this 1956 when they were on their way to the Hawaiian Islands?
A. Uh-huh.
Q. Do you know what month it was in December? Isn't that what the testimony was?

(Thereupon, there was discussion off the record.)

Mr. Tsar N. Calfee: Now, who had your brother been staying with prior to that time?
The Witness: You mean before she left for Hawaii or when she came back?

Q. No. Before.
A. Before she left for Hawaii? With my sister?
Q. Yes. And they were back in Big Lakes or Great Lakes in Illinois?
A. I think that was it.
Q. How long had your brother been with her back there?
A. Oh, he went to school there, but my mother supported him.
Q. He went to school there. At the Great Lakes. And how long had he been with your sister at the Great Lakes?
A. Well, I don't know. I mean, I don't know exactly what time.
Q. The sister wrote to you and told you she was coming out to pick the boy up on their way to the Hawaiian Islands, didn't she?
Dep. page 41 } A. No.
Q. She didn't. She just dropped in on you? You didn't know she was coming?

(Thereupon, there was discussion off the record.)

Mr. Tsar N. Calfee: Did you have any correspondence with your sister when she was in Hawaii?
The Witness: No.

Q. Did you have any correspondence with your sister when she was in the Great Lakes naval—
A. Once in awhile.

Julia Peak.

Q. You would exchange Christmas cards?
A. Uh-huh.
Q. Yes. At the time that she came up to Esparto—is that the way you say it—

Mr. Sans: Esparto.
Mr. Tsar N. Calfee: Didn't we used to call that Black's Station? Where the Slaymans live?
Mr. Sans: No. That is due north of here.
Mr. Tsar N. Calfee: Did you have a conversation with your sister at that time?
The Witness: You mean when she was going to Hawaii, something like that?

Q. No. Coming back she came back to get the child on the way—
A. Surely. Yes.
Q. —at that time. The conversation you had with her did you (referring to paper) tell her that she could not have Jimmie?
A. Well, he is not mine. It wasn't for me to tell. I didn't tell her that.
Q. What did you tell her?
A. I said that it wasn't up to me who he went with or what he did.
Q. Well, how did it come about that—did they first telephone to you that they would be up?
Dep. page 42 } A. No. They just came.
Q. They came. And they were headed up to Oregon, weren't they, when they stopped by and found the boy with you and not at Oregon?
A. I don't know where they were headed.
Q. When they arrived at the—from Hawaii they immediately telephoned or wrote you a letter, didn't they?
A. No.
Q. That they had returned from overseas?
A. No; they didn't.
Q. They just came up and dropped into see you and Jimmie was there?
A. Uh-huh.
Q. And her husband was there?
A. Not when they arrived.
Q. And did they tell you that they came after the boy?
A. No.

Julia Peak.

Q. Did they say to tell the boy to pack his things and get ready to go with them?
A. Not for awhile. They did after awhile.
Q. And who was there when they did that?
A. Well, my husband and children and them and Jimmie.
Q. How long had the boy been with you?
A. Two days.
Q. Just two days. And he had been with whom prior to that time?
A. His mother.
Q. His mother. And where?
A. Up at Lake County.
Q. Up at Lake County. Up by Adams Springs?
A. Middletown.
Q. Middletown. Up by Middletown. Now, do you know whether or not in 1954 your sister, Mrs. Wilson, was living in Virginia?
A. She probably was.
Dep. page 43 } Q. Your mother went back there to visit her?
A. Yes.
Q. And to take Jimmie on a vacation to New York with them? With her?
A. Yes. I guess.
Q. (Referring to paper) And the relationship was very fine between you and your mother and your sister, was it not, at this time?

Mr. Sans: Well, whatever you know of your own knowledge.
The Witness: It was all right.
Mr. Tsar N. Calfee: And, well, you were, you know that your sister and your mother and Jimmie went together up to Nova Scotia in September? Do you remember that?
The Witness: Yes.

Q. Do you remember a card they sent to you and the letters you wrote to them?
A. Oh, no.
Q. You didn't write any letters to them whatsoever.
A. No, I did not.
Q. Now, you knew that your brother, James, had spent the greatest majority of his life with your sister?
A. It is not true.
Q. Well, from say in the last six years up until the time that you had the trouble first at your house from 50 to 1956?

Julia Peak.

Mr. Sans: I will object to that for the same reasons as before, on the ground that it is incompetent, irrelevant and immaterial in this particular situation in as much as there was no direct examination regarding that matter.

Mr. Tsar N. Calfee: I would like to have you have the witness instructed to answer the question.

The Notary Public: Answer the question, please.

Mr. Sans: If she knows.

Dep. page 44 } The Witness: The arrangement was that he was supposed to go to school with my sister because she said there was so much better schools where she was and it would be much better education for him; but mama paid his way; she sent money regularly to me to take care of him.

Q. Where was your mother living when she sent this money?

A. Roseberg, Oregon.

Q. And where were you living?

A. Esparto.

Q. Did you send any of the money or see any of the money sent?

A. Yes, I did.

Q. Did she send it down to you and you sent it?

A. No.

Q. Well, what? How was it sent?

A. She has visited me and sent it from here.

Q. Do you know any arrangement that they had concerning the adoption of this child?

Mr. Sans: I object—No.

Mr. Tsar N. Calfee: You brought this thing open.

Mr. Sans: That's all right.

The Witness: She always wanted to adopt him and mama said never unless he wanted it and he would have to tell her he wanted it or she would never—my sister stated that he had a bone deficiency in his feet that would have be corrected right away or it may never be able to be corrected and that the navy would do it for her where she could never do it herself, or something to that effect.

Mr. Tsar N. Calfee: Did you know at what time they filed a notice to adopt at Norfolk, Virginia?

The Witness: I didn't know about it until after it was done.

Q. Well, how long after?

Julia Peak.

A. Oh, I am not sure.

Dep. page 45 } Q. Well, you knew prior to 1954 that they were going to adopt the child when they were here in California but they wanted $250.00 for it?

A. Jimmie didn't want it. Jimmie said himself and I have heard him that, "I would like to live with Flo Flo, but I want to belong to my own mother."

Q. Anyhow, what changed his attitude in December, 1956? If you know.

A. His attitude?

Mr. David W. Calfee: Jimmie's.

The Witnes: Oh. He said it didn't change. He said what else could he say on the spot when Flo was standing right there in the room? You don't dare cross her when you are living with her.

Mr. Tsar N. Calfee: Where was the telephone conversation from?

The Witness: Virginia, I guess.

Q. Virginia.

A. That is what happened.

Q. What, now, in Virginia, what year, now is this?

A. You just said 1956.

Q. 1956 in Virginia.

A. I don't know.

Q. But they weren't in Virginia in 1956. They were in Hawaii in 56.

A. Oh, I am sorry. I was thinking what made him change his mind. He hadn't lived with her for a long time. He didn't want the adoption to go through in the first place. He said the only reason he agreed to it was when she made the phone call that was all he could say. He had to say that.

Q. Where was your mother?

A. She was on the other end of the phone.

Dep. page 46 } Q. Here in California?

A. In Oregon.

Q. In Oregon. He always liked to live with her before, didn't he?

A. Part of the time.

Q. Do you know what time your father and mother went back together? Was it after the adoption of before the adoption?

A. Oh, before.

Q. Do you know how long before?

Julia Peak.

A. Well, I don't know. Quite awhile, I guess. You mean before—

Q. Before the adoption.

A. I don't know. I think they went back together to stay in 1949.

Q. When they went back to stay where was Jimmie?

A. Right at the time I am not sure if he was with Mom or Flo, but he was there. I know he was living with Mom and Dad here. I don't know if it was right at the time or just after they went back.

Q. For what period of time did he live with them?

A. I am not sure of the exact time, but Flo did come and want to take him, so Mom did let him go for a little while, but he lived with Mom and Dad.

Q. Well, your father consented to the adoption, too, didn't he?

Mr. Sans: If you know.

The Witness: He says he—what was it—he said he didn't know why he was fool enough to sign the paper. I don't know. Right after he did it.

Mr. Tsar N. Calfee: Well, but my question to you, your father consented for your sister to adopt your brother, didn't he? You can answer yes or no.

Mr. Sans: If you know.

The Witness: I don't know.

Mr. Tsar N. Calfee: Now, you say you don't know. A minute ago you said that your father told you that he didn't know why he did.

Dep. page 47 } The Witness: I said he said he didn't know why he signed the papers.

(Thereupon, there was a discussion off the record.)

Mr. Sans: She didn't see him.

The Witness: I didn't see him.

Mr. Tsar N. Calfee: Now, when was it that you told your mother about the wickedness of your sister?

The Witness: That must have been June, 1956, when I found out that the adoption wasn't final.

Q. And up to that time your mother had no idea as to your sister's morals or any troubles that she had ever been in in any of her marriages?

Kenneth Peak.

A. That is not what I said.
Q. What did you say?
A. I said my mother didn't know her after—she was known for taking such wonderful care of me.

Mr. Sans: You are referring to Mrs. Wilson now?
The Witness: Yes. All her friends—oh—that she always watched out for me, and they were—
Mr. Tsar N. Calfee: Didn't you live with your mother up until 45? And after 45?
The Witness: Partly.
Q. Yes. And you were forthright with your mother, weren't you?
A. You mean, did I tell my mother everything I did?
Q. Yes.
A. Why should I?
Q. I don't think we should sin without confessing it.
A. And to your mother?
Q. Yes.
A. Oh.
Q. No fun sinning, unless you can tell others about it.

Dep. page 48 } A. I liked my sister and I liked to be with her because she wasn't—well—I liked to be with her part of the time, I guess, is the way to put it. I don't know, because once in awhile she was nice.

Q. How could she be otherwise and be your sister?
A. Oh, yes. I forgot you was saying what—
Q. Well, I want to tell you I have examined a lot of girls and you have more personality than 99 per cent of them. I love your eyes and I love your charm and that will be the end of the reading.

JULIA PEAK.

KENNETH PEAK,
a witness for Petitioners to Revoke Interlocutory Order, of lawful age, being duly sworn, testified as follows:

Present: Kenneth Peak, a witness, Julia Peak,
Rogers Sans, of counsel for Petitioners to Revoke Interlocutory Order.
Tsar N. Calfee and David W. Calfee, counsel for Petitioners for Adoption.

A. V. Smith, Notary Public and Official Court Reporter.

Kenneth Peak.

DIRECT EXAMINATION.

By Roger Sans:

Q. What is your name?
A. Kenneth Peak.
Q. Where do you live?
A. Esparto, California.
Q. Are you married?
A. Yes.
Q. Julia Peak is your wife?
A. Yes.
Q. What is your occupation, Mr. Peak?
A. Drier Man.

Dep. page 49 } Q. Now, Mr. Peak, you are acquainted with Alfred W. Newton and Katherine Newton, aren't you?
A. Yes.
Q. They are your wife's parents. Is that correct?
A. Yes.
Q. Are you acquainted with James Edward Leguerre Newton?
A. Yes.
Q. His relationship is brother to your wife. Is that correct?
A. Yes.
Q. He is the son of Mr. and Mrs. Alfred Newton.
A. Yes.
Q. Are you acquainted with Mr. and Mrs. Richard D. Wilson?
A. Yes.
Q. What is Mrs. Richard Wilson's relationship to you?
A. Sister-in-law.
Q. She is your wife's sister. Is that right?
A. Yes.
Q. You are aware that Mr. and Mrs. Richard Wilson have filed a petition in the Circuit Court, Norfolk, Virginia, to adopt James Newton. Is that right?
A. Yes.
Q. Are you also aware that Mr. and Mrs. Alfred Newton have filed a petition to have the petition dismissed?
A. Yes.
Q. When were you and Mrs. Peak married?
A. June 3, 1946.

Kenneth Peak.

Q. How long had you known her prior to that time?
A. Around February 15 of 1946.
Q. Where did you meet her?
A. My mother introduced us.
Q. Where?
A. At her house.

Dep. page 50 } Q. Where did you meet her?
A. In San Bernardino, California.

Q. At the time you married Mrs. Peak did you know Mrs. Wilson?
A. Through reputation.
Q. What was that reputation?

Mr. David W. Calfee: I will object to that on the ground that the reputation at that time was certainly not relevant. What it is today might be; but certainly twelve years ago has no bearing on the matter.

Mr. Sans: Oh, I believe so. We can show a continuity here of reputation of this person. I ask the court reporter to instruct the witness to answer.

Mr. David W. Calfee: There is no—I would like to make the objection that no proper foundation has been laid for the question concerning her reputation.

Mr. Sans: Mr. Peak, when did you first hear of Mrs. Wilson?

Mr. David W. Calfee: Oh, well, I will object to that, too. I don't think that that has any bearing on the subject.

Mr. Sans: I will reframe it. When did you first know Mrs. Peak?

The Witness: Met her a couple of times just shortly before we got married.

Q. Where?
A. San Bernardino.
Q. After that did you have much contact with her?

Mr. David W. Calfee: By "her" are you referring to Mrs. Peak? That is what you said last.

Mr. Sans: Mrs. Wilson. Pardon me.

The Witness: At first quite a bit; then in a few years it dwindled down.

Kenneth Peak.

Dep. page 51

Q. How frequently would you say you saw her after your first year of marriage?

A. That was after the first year of marriage?

Q. No. After your marriage.

A. Oh, after our marriage. Quite a few times.

Q. Did she live very far from you?

A. Oh, I would say at the beginning somewhere in the neighbor of one hundred miles from us.

Q. The first year after your marriage can you state about how often you saw her?

A. I can't.

Q. At first after your marriage can you tell us how often you saw her the first year?

A. Quite a few times I saw her the first year.

Q. Could you tell us how often each month?

A. Practically every weekend.

Q. Did you get to, during this period, get to know her character pretty well and her mode of living?

A. Yes.

Q. During this period was she married to Mr. Springer?

A. Yes.

Q. Was Mr. Springer living with her during this first year?

A. Yes.

Q. And where was he living? Was he at the home from time to time as you recall?

A. I believe for awhile they were in Long Beach; and he got a job as a ranger up in what they call Tabuca Canyon. And then he was not in Long Beach. He was in Tabuca Canyon. And then they moved up here to somewhere around the bay area, Richmond, I think, when he went into the University of California.

Q. While Mr. Springer was away did Mrs. Springer, now Mrs. Wilson, have occasion to visit you without Mr. Springer?

Dep. page 52

Mr. David W. Calfee: May we have that clarified? You said while he was away. I haven't caught the testimony he was away.

Mr. Sans: I thought you said while he was at the ranger station he and she were not living together. Or did I misunderstand?

The Witness: Well, could I have the question back of that please?

Kenneth Peak.

(Thereupon, the reporter read aloud the question appearing on page 51, line 30.)

Mr. Sans: Withdraw the question and reframe it. During this period that you mentioned Mr. Springer was a ranger and was in school did Mrs. Wilson live with him from time to time? Did she go up with him where he worked?

A. Yes, she would go up there.
Q. Was there anytime during this period when she was not living with him?
A. Would several days be?
Q. Yes.
A. Well, there was a period once when I met the man that introduced me, but I did not know the man which she took off and went for several days up to Lake Arrowhead and Big Bear.
Q. Pardon me. That isn't an answer to my question. Do I understand you to mean for a period of time where was Mr. Springer at the time you are now relating?
A. I was living with my mother, Mrs. Katherine Newton, and he stayed there at the house while she was gone.
Q. Now you are referring to Mr.—
A. Mr. Springer.
Q. —Mr. Springer. Now, when was this?
A. Approximately along in July of 1946.
Q. Now, you stated that she—that is Mrs. Wilson, then Mrs. Springer, went with other men for several days? And who was this man?
A. I think he was a police officer from Los Angeles. I am not positive on that.
Q. Do you know his name?
A. No, I do not.
Q. Did you see Mrs. Springer and this man leave, or did she tell you that she was going with this man?
A. I seen them leave.
Q. Where did they tell you they were going, if they did tell you?
A. It was up in the mountains at San Bernardino where lake Arrowhead or Big Bear, either one.
Q. Did they tell you why they were going?
A. No. They just said they were going.
Q. And how long were they gone?
A. About three or four days.

Dep. page 53

Kenneth Peak.

Q. And when they returned did Mrs. Springer return to the house?

A. That I cannot remember whether she came back to the house or not.

Q. Did she and Mr. Springer go back together again after she returned from this trip with this man?

A. Yes.

Q. Did she leave at any other time since you have known Mrs. Wilson, then Mrs. Springer, being with any other man? Not her husband.

A. Will you please repeat that?

(Thereupon, the reporter read aloud the question last above propounded by Mr. Sans.)

Mr. David W. Calfee: I think you ought to clarify it a little.

Mr. Sans: I will reframe my question. Did Mrs. Springer at any time since you became acquainted with Mrs. Wilson, did she go out with any other men not her husband for any period of time overnight or longer? To your knowledge.

Dep. page 54

The Witness: Now if I can make myself, if I can understand that correctly now—now all the time knowing her?

Q. Yes. Since your marriage. To Mrs. Peak.

A. Well, I have known she has been with other men; yes.

Q. Did you know that of your own knowledge?

A. Yes.

Q. How did you know it?

A. Seen her. I have seen her.

Q. Who did you see her with and when and where?

A. This was while she was married. Is that—

Q. No. Just since you and Mrs. Peak have been married.

A. Well, there was Don Blacketer. She lived with him before Springer—her and Springer broke up; and then she went to Oregon—

Q. Where did she live with him?

A. At his home. I believe it was Richmond.

Q. Richmond, California?

A. Yes.

Kenneth Peak.

Q. Do you know how long she lived with him?
A. Approximately six months.
Q. Do you know whether or not she was married to this man?
A. They claimed they were but we found out later that they were not.
Q. How did you find out?
A. She told.
Q. You are referring now to Mrs. Wilson?
A. Pardon?
Q. You mean Mrs. Wilson told you?
A. It was Mrs. Springer then.
Q. Yes. But now Mrs. Wilson?
A. Yes.

Dep. page 55

Q. Told you she was not married to this man?
A. Yes.
Q. During this period that she lived with him?
A. Yes.

Q. Did she live with any other man during that period of time for any period of time or one night or more?
A. Yes. And Mr. Wilson told me and they was having an argument when they went down to pick up their children in 1952. It was in February, 52—

Mr. David W. Calfee: Well, I don't think that Mr. Wilson's testimony would be relevant as to anything he told them about somebody elses conduct.
Mr. Sans: Just tell us what you personally know or what Mrs. Wilson may have told you.
The Witness: You mean on her.

Q. Living with other men.
A. Living with other men and like that. Well, she told me and a few others that was at the table, that if she wanted to live with a man that was her privilege and wasn't anybody elses business.
Q. Did she ever have—

Mr. David W. Calfee: Can we fix a time?
Mr. Sans: Yes. I was going to say, you recall when she may have said that?
The Witness: In 1949; but I couldn't give you an exact month on it.

Kenneth Peak.

Q. Where were you at the time she made that statement?
A. Goble, Oregon.
Q. Who was present at the time she made that statement?
A. Don Blacketer she was living with and my wife and myself and my mother-in-law and my father-in-law and my children and Jimmie.
Q. Did she ever to your knowledge live with a sailor for over night or any longer period than that?

Dep. page 56 } Mr. David W. Calfee: If you have personal knowledge.
The Witness: Yes. Because like when I said her present husband said so she even acknowledged it in the argument they was having.
Mr. Sans: Will you please tell us when this was, where it took place and just what was said by each of them?
The Witness: It was in 1952 in February in Long Beach; and he had taken her car to the base; and when he came back from the base that night he found her with this other man; and so he takes a car and goes out.

Q. Will you please tell us what was said by each one?
A. Well, when we arrived at the house he was in the house.
Q. Who are you referring to when you say "he"?
A. Mr. Wilson.
Q. Yes.
A. And they was having an argument.
Q. You say "they," who do you mean, Mr. Wilson?
A. Mr. Wilson and Mrs. Wilson.
Q. All right. What was the argument?
A. She was mad because he had taken her car and taken this woman to the beach.
Q. Did she accuse him of that?
A. Yes.
Q. What did he say?
A. He said, "that is no more than you being here in bed with a man."
Q. Go ahead. Tell us what Mr. Wilson told you.
A. Then she started arguing over about there was sand in the back end of the car and back floor boards; and he went out to clean it; and he was telling me out there and he said, "that is no more than her sleeping with a fellow while I am gone for one night at the base."

Kenneth Peak.

Dep. page 57 } Mr. David W. Calfee: May we interpose that is for the limited purpose of establishing his state of mind and not for the purpose of establishing the facts that what he said about her was true?

(Thereupon, there was discussion off the record.)

Mr. David W. Calfee: But we ought to put it in the record.

Mr. Sans: Did you have anything more to say regarding this incident?

The Witness: Not any more than that. On that one incident, no.

Q. Do you know of any other incident in which Mrs. Wilson went out with other men over night?

A. I know she went out with other men, but from then on until about 1954 I know she went out with a man, but she did not go out over night. But she brought—her husband left to go back east and he left on a Saturday and she was up here that Sunday with another man and she intended to stay all night.

Q. Now, when was this?

A. In 1954. Approximately 1954. I could not—

Q. Where was it?

A. This was at my house in Esparto.

Q. Tell us what happened.

A. They sat around and everything until it was getting quite late and she had layed down and everything, and being as—

Q. What did she do?

A. She layed on the couch and knowing her like I do and she had a job, and everything, I told her it was getting pretty late and she should go back to the city.

Q. What did she say?

A. She didn't say anything for awhile; and then she finally, I got it through to her that I did not want her staying at my house with a man other than her husband; and she left?

Dep. page 58 } Q. Who was the man? Did she introduce him?

A. Yes, she did. I do not know. She said she had known him over a period of years.

Q. Did you have much conversation with Mrs. Wilson over the years?

Kenneth Peak.

A. Yes.
Q. Did she have any particular topics of conversation that were more prevalent than others?
A. Men.
Q. Will you tell us just what she said?

Mr. David W. Calfee: Over the—
Mr. Sans: Over the years you have known her?
Mr. David W. Calfee: Object to that as too general.
Mr. Sans: I will reframe the question. You made the statement that conversations with Mrs. Wilson were primarily regarding men. Will you please give us conversations regarding them and time and places?
The Witness: Practically all my married life every time she would come to the house. It is not any one set month or year. It has been men.

Q. In other words, it has been the general pattern since you have known her. Is that it?
A. Yes.
Q. What did she say about men?
A. Oh, she had met this man, and he was so nice and everything, and she had met this other one, and so forth. I never heard the woman speak hardly ever of a female. It was always men that dominated the conversation.
Q. Would you say she spoke about men more than the average woman of your acquaintance?

Mr. David W. Calfee: I will object to that. That is irrelevant and it might be embarrassing.
Mr. Sans: During this period that you have known Mrs. Wilson did she ever—did you ever have occasion besides the incident you just related in Esparto of telling her to move out?
Dep. page 59
The Witness: I kicked her out of my house another time.

Q. When and where was this?
A. In Long Beach, California.
Q. When?
A. 1947.
Q. What was the occasion?
A. We lived in a trailer house, and she was running around half naked; and I told her if that was all the better she could

dress I wasn't running a whore house and to get her clothes and get out.

Q. Why did you make that statement?

A. Because I had little children and the windows and doors of the trailer was open and I was outside and I could see her.

Q. Were there other people in the vicinity of your trailer house?

A. Yes.

Q. How close?

A. A trailer about every twenty foot.

Q. Did many people walk by the trailer?

A. Yes. It was for veterans and service men in the trailer court and it was full of people all the time. The rest rooms sat kitty cornered across from my trailer house and it was a community rest room and shower.

Q. Could you see and be seen from that rest room?

A. Yes. She could.

Q. Had you been to the rest rooms and seen her from there?

A. Well, I was outside the trailer when I saw her.

Q. I see. How long a period of time did she remain without any clothing in the trailer house?

Mr. David W. Calfee: I will object on the ground he never said she was without any clothes.

Mr. Sans: Was she scantily clad? I will reframe my question.

Dep. page 60 } The Witness: Not very long after I told her to get her clothes and get on.

Q. Did you at any time in Esparto ever discuss the adoption of children by her?

A. No. You mean prior to the adoption? Or anything?

Q. Yes.

A. No.

Q. Did you at one time tell her that there were some children available for adoption in Woodland?

A. Yes.

Mr. David W. Calfee: I will object to that as immaterial.

Mr. Sans: The materiality is what she said in regard to the discussion about the adoption.

Mr. David W. Calfee: You mean children in general?

Kenneth Peak.

Mr. Sans: No. When was this?

Mr. David W. Calfee: Will you note my objection to this line of questioning on the ground of irrelevancy?

The Witness: Can I go back to the question you asked if I had discussed Jimmie's adoption? Now she could have brought up some remark.

Mr. Sans: Just a moment.

(Thereupon, there was discussion off the record.)

Mr. Sans: When was this?

The Witness: I am trying to go back now. I believe it was—it could have been 55 or 56. 56, I think.

Q. All right. And what was the conversation?

Mr. David W. Calfee: May we fix a time a little more *deffinitely*? That is getting—

Mr. Sans: Can you recall what month in 1956? Your best recollection.

The Witness: My wife might. They were here on leave.

Dep.
page 61 } Q. Was it before or after the adoption proceedings filed by Mr. and Mrs. Wilson for the adoption of Jimmie?

A. It was after the adoption proceedings started.

Q. All right now, what was the subject of your conversation?

A. She was saying she would like to adopt a little girl. I told her I knew of someone that was being put out for adoption. She wanted to know how old; and they ranged from a year and a half to six years old. She stated she wanted hers older where she did not have to take care of them. They could take care of themselves.

Q. As I understand it, Jimmie resided with you or visited, is a better word, for about two days in December, 1956. Is that correct?

A. Yes.

Q. Now, where had he been just prior to coming over to your home?

A. He was out of school from Roseberg, Oregon.

Q. Who brought him to your home?

A. My mother-in-law, Mrs. Newton.

Q. How long was he to stay there?

A. Through the Christmas vacation; approximately two weeks.

Q. Now, during that period of time did Jimmie ever tell you his feelings regarding the adoption by his sister?

A. Yes. He said—

Q. When was this?

Mr. David W. Calfee: Now—

Mr. Sans: When did this conversation take place?

The Witness: Well, he told me one time he was scared of her.

Mr. David W. Calfee: Now, we object to that as not responsive.

Dep. page 62 } Mr. Sans: That's right. When did you and he discuss this adoption during this two-day period?

The Witness: Oh, he—it was between—it was in those two days.

Q. All right.

A. That—

Q. Where did the conversation take place?

A. One took place in the home.

Q. And who was present besides you and Jimmie?

A. The wife. And the other one was the night they came.

Q. Will you please relate the first conversation?

A. Well, he said he didn't want her to have him and he was scared of the woman and he wanted to be with his mother.

Q. Referring to Mrs. Newton?

A. Yes.

Q. Mrs. Alfred Newton. All right now, when did the second conversation take place with Jimmie regarding his adoption?

A. It was over at a friend's house. We was out in the—it was after work and I walked across the street and he told me he had a drink in his cabin and to come on over; so we went over and we was having a drink. My boy and Jimmie came up riding on bicycles and he was hollering, "Flo and Rick are here." And he said, "I'm scared."

Q. Was anything more said?

A. No. The minute when they first drove up I asked them what was wrong because they were wall eyed and everything I thought something had happened at home.

Q. Did he appear scared?

A. Yes.

Q. What happened then?

Kenneth Peak.

A. I went right home.

Q. With Jimmie and your son?

A. They rode the bicycles I drove home.

Dep. page 63 } Q. How long did the Wilsons stay there after they arrived that particular evening?

A. About to ten o'clock at night. I think. Approximately.

Q. For what purpose had they come to your house that evening?

A. Well, it intended, I guess, to be the visit, but after they seen Jimmie it was to take him.

Q. And did they ask Jimmie to go with them?

A. Yes. And he refused.

Q. Then what happened, if anything?

A. She tried to take him by force.

Q. What did she do?

A. She grabbed him up and tried to drag him out the front door.

Q. What did he say, if anything, in defense?

A. He started screaming and fighting and didn't want to go.

Q. What did Mr. Wilson do, if anything?

A. Well, he tried to get her to stop and go on out after I ordered them out of the house.

Q. What happened to Jimmie after this, if anything?

A. After they left we brought him in to the sisters of Atonement here in Woodland; and after that we took him over to the juvenile home in Woodland.

Q. I see. Going back a little bit, did Mrs. Wilson ever discuss with you an incident regarding the burning of her trailer house in Richmond?

A. Yes.

Q. When did this conversation take place? Your best recollection.

A. 47 to 48.

Q. Do you remember—could you say what part of the year it might have been?

A. It was in the summer vacation between terms, because Mr. Springer, her present husband at that time—

Q. Just a moment. Mr. Wilson is her present—

A. Her present husband at that time, Mr. Springer.

Dep. page 64 } Q. Yes.

A. Was on duty down in the national forrest.

Q. I see. All right now, when did you have conversation with her regarding this trailer house?

A. Pardon?

Q. Where did you have conversation with Mrs. Wilson, the then Mrs. Springer, regarding this trailer house?

A. I am not just sure where that was at.

Q. Your best recollection?

A. It was possibly at the ranger station.

Q. Up where her husband was working?

A. Yes.

Q. Where was that again?

A. Tabuca Canyon.

Q. Who was present at this conversation regarding the trailer house?

A. Mr. Springer, My wife and myself and children and Mrs. Newton.

Q. What was said by Mrs. Springer?

A. She said she had left the iron on over the weekend before so it would cause a fire so she would receive some insurance money to fix the trailer up. And she was angry because a neighbor had seen the smoke and went in and unplugged the iron.

Q. Did you at any time between the time—strike that. I have no further questions. You may cross examine.

The Witness: Pardon?

Mr. Sans: I say, I have no further questions. They may cross examine.

CROSS EXAMINATION.

By Mr. David W. Calfee:

Q. In this conversation you testified that took place in 1949 when Blacketer, or is it Blackmer?

A. Blacketer.

Dep. page 65 } Q. Blacketer?

A. I am pretty sure.

Q. When Blacketer was there she told you something to the general effect that if she wanted to live with a man, that was perfectly all right, that was generally the conversation?

A. She said she would any time she wanted to have relationships even in the middle of the street, she said it was her business and nobody elses.

Q. At that time Blacketer was there?

A. Yes.

Q. And her father and mother were both there?

Kenneth Peak.

A. Yes.
Q. Where did that one take place?
A. Goble, Oregon.
Q. Was the whole family living up there at that time?
A. Yes.
Q. Had there been—
A. I beg your pardon. Not the whole family. I don't believe that the brother was there, John.
Q. Her parents and you and your wife and she and Blacketer?
A. Yes.
Q. Then—she has lived with her mother or *vise-versa* ever since you have known them, hasn't she?
A. That was practically the only time.
Q. That was practically the only time?
A. There may have been other times.
Q. Well, in 46, July of 46, you testified she ran off for a weekend with this police officer?
A. I think that is who it was.
Q. Somebody, anyway.
A. Yes.
Q. At that time, Springer, her husband, stayed with you and I think your mother-in-law while she was gone for the weekend?

Dep. page 66 }

A. Yes.
Q. At that time everybody knew where she was gone and who she was with, didn't they?
A. Well, then, no—I am not sure whether her mother was present at that or not—yes; she was present. Yes. She was—will you state that again?
Q. Well, in July of 46, as I understand it, when her husband stayed with you presumably your wife and your mother-in-law while she ran off for the weekend with this guy.
A. Yes.
Q. And Springer knew where she had gone, didn't know who she was with, but knew she was with some man.
A. He tried to stop her.
Q. That was a subject of conversation during the weekend, wasn't it?
A. No.
Q. Didn't everybody in the family know what the situation was? Everybody that was there?
A. I doubt it.
Q. Well, specifically was her dad there at that time? He was off someplace, wasn't he?

Kenneth Peak.

A. He was not there.

Q. You and your wife both you and your wife?

A. I don't know about my wife; but from what I know and heard of her reputation before and what I had seen and heard her talk I knew it.

Q. What I am getting at is this: Isn't it true that over the years her mother has known pretty much what kind of a person she is and what she has been doing? Wouldn't you say that is a true statement?

Mr. Sans: If you know.

Dep. page 67 } Mr. David W. Calfee: If you know. Just from what you have seen. You and she have both been present on enough occasions that you couldn't help know it. Isn't that true?

The Witness: Yes. She did know some of it, but she did not know the majority of it.

Q. Well, she didn't know the details, for example of the expisodes that happened back in the early 40's, probably, did she? Or you wouldn't know about that.

A. Well, excepting for—the only thing is from what my wife told me is that I know.

Q. Wouldn't you say that your mother-in-law knew as much about your sister-in-law's activities during the past 45 to 50 as you did?

A. Yes. She probably did; except that it never—being she was the mother, it never—she never or something let it into her head to the facts.

Q. Do you think that is it; or do you think that the mother is not a person of terribly high moral character and it didn't bother her? Or would you prefer not to answer that question?

A. No. I will answer. I am just thinking. Your question again was—

Q. These things didn't strike the mother as being grossly improper, shocking?

A. The mother worshipped the girl. The mother has told me on numerous occasions that she—oh—I don't know just how to put it, but she worshipped the girl and she never let it enter her head what she was doing.

Q. Even when she ran off for a weekend and left her husband at home?

A. Well, at that time they were supposed to be breaking up; which they never did.

Q. She and Springer?

Kenneth Peak.

A. Yes.
Q. And that was known by everybody in the family.
A. Yes.
Dep. page 68 } Q. Since 1950 you haven't had much to do with her, have you?
A. Since 1950.
Q. You have seen her occasionally?
A. Occasionally; that's all.
Q. But not on any regular basis at all?
A. No.
Q. There has been no communication except casual communication or visit?
A. That's all.

Mr. David W. Calfee: I think that's all.

/s/ KENNETH PEAK.

State of California,
County of Yolo, ss.

CERTIFICATE OF PHONOGRAPHIC REPORTER.

I, A. V. Smith, hereby certify that the foregoing depositions of Julia Peak and Kennneth Peak, were taken and sworn to before me at the time and place stated in the caption, and thereafter reduced to writing and signed by the respective witnesses in my presence in my city and state aforesaid. My commission expires November 28, 1959.

Given under my hand and Notarial seal in my city and state aforesaid, this nineteenth day of June, 1958.

A. V. SMITH
Notary Public in and for the County of Yolo, State of California.

State of California,
County of Yolo, ss.

CERTIFICATE OF COUNTY CLERK

I, Charles S. Paynton, County Clerk and ex-Officio Clerk of the Superior Court in and for said County, a Court of Record

having a seal, do hereby certify that A. V. Smith whose name is subscribed to the certificate of proof, acknowledgment, or affidavit, of the annexed instrument, in writing, was, at the time of taking such proof, acknowledgment or affidavit, a Notary Public in and for said county, duly commissioned and sworn and authorized to take and certify the same; and authorized by the Laws of said State to take the acknowledgments and proof of deeds or conveyances for land, tenements, or hereditaments in said State of California; and further, that I am well acquainted with the handwriting of such Notary Public, and verily believe the signature to the said certificate of proof acknowledgment or affiidavit is genuine.

WITNESS my hand and the seal of the said Superior Court this 19th day of June, A. D., 1958.

By ROSEMARY G. HURLHEY, Deputy Clerk.

CHARLES S. PAYNTON, County Clerk.

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To: Messrs. Kellam & Qellam
(Attention: Mr. Pickerell),
Attorneys for the respondents

NOTICE OF APPEAL.

PLEASE TAKE NOTICE that on the 13th day of August, 1958, the undersigned will present to the Honorable Edward L. Oast, Judge of the Circuit Court of Norfolk County, Virginia, at his office, Portsmouth, Virginia, at 10:00 o'clock A. M., a stenographic report of the testimony and other preceedings in the trial of the above-entitled cause, for certification by said Judge, and will, on the same date, make application to the Clerk of the said Court for a transcript of the said record in same case, for the purpose of presenting the same to the Supreme Court of Appeals of Virginia with a petition for an appeal and *supersedeas* to the final judgement of the trial Court in said cause.

/s/ PHILIP L. RUSSO
Counsel for the Petitioners.

Catherine W. Newton.

Legal service of the above notice is hereby accepted this 11 day of Aug., 1958.

JAMES M. PICKRELL
Attorneys for the respondents.

page 2 } Virginia:

In the Circuit Court of Norfolk County.

IN THE MATTER OF ADOPTION OF AN INFANT TO BE NAMED JAMES NEWTON WILSON.

RECORD.

Stenographic transcript of the testimony introduced and proceedings had upon the trial of the above entitled cause in said Court on Tuesday, July 8th, 1958, before the Honorable Edward L. Oast, Judge of said Court.

Appearances: Messrs. Russo & White (Mr. Russo), attorneys for the petitioners.
Messrs. Kellam & Kellam (Mr. Pickrell), attorneys for the respondents.

page 3 } The Court: Gentlemen, I see no necessity for opening statements.

MRS. CATHERINE W. NEWTON,
one of the petitioners, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Russo:
Q. State your name, please.
A. Mrs. Catherine Newton.
Q. Speak up.
A. Catherine Newton.
Q. What is your address, Mrs. Newton?
A. P. O. Box 58, Esparto, California.
Q. How old are you?
A. Fifty-six years old.
Q. You are the mother of James Newton, are you not?

Catherine W. Newton.

A. I am.
page 4 } Q. How old is James?
A. Fifteen years old.
Q. You previously consented to the adoption of your son by Mr. and Mrs. Wilson?
A. Yes.
Q. Why?
A. Because I thought James might be happier with younger parents. When our earlier children were born we were much younger and I thought he might be happy with young parents and it would be best for his benefit.

Mr. Russo: Speak up.
The Court: You will have to tell her to speak up so we can understand her. I can't hear her.

By Mr. Russo:
Q. Were there any other reasons?
A. At that time the reason for my consenting was because I was going through change of life and I was very nervous, irritable and crying half the time.
I consented to the adoption. It had been discussed before that and I had refused it.
Q. Why are you no longer consenting?
A. Because I have realized from several things that it was not the proper thing to do, and I have learned that he was not happy with Mr. and Mrs. Wilson.
page 5 } Q. What is your religion?
A. Roman Catholic.
Q. What is the religion of James?
A. Roman Catholic.
Q. What is the religion of Mrs. Wilson?
A. Catholic. She was baptized Catholic.
Q. Is she now?
A. No, not according to the Church. She don't participate in the sacrament of the Church.
Q. How many times has she been married?
A. Four times.
Q. Do you, or not, want him raised in a Catholic home?
A. Yes.
Q. Please state whether or not you feel any fear for your son if he is returned to the Wilsons?
A. I do.
Q. Why?

Catherine W. Newton.

A. Because I have seen my daughter in fits of temper and tantrums beat my son pretty bad, and I had to take a knife away from her.

Whether those fits have passed I don't know, but Jimmy has also said he would do violence to himself rather than go back.

Q. Do you have a daughter named Julia Peak?

A. Yes.

page 6 } By the Court:

Q. You say she took a knife to attack your son?

A. Yes. I know what she can do under things or influence of stress. Whether she would or not I don't know.

Q. When was this?

A. My son came home in 1946.

Q. That was 1946?

A. Approximately.

Q. And yet it was just a little while after that you signed for your son to be adopted?

A. Yes.

Q. You knew at the time you signed your consent?

A. Yes, but my daughter had not been showing those tendencies, but I know what she would do under stress.

I have seen her have temper tantrums at home.

By Mr. Russo:

Q. Did Julia ever stay with your daughter, Mrs. Wilson?

A. Yes.

Q. How long?

A. I couldn't say definitely.

Q. Did you, or not, ever discuss with Julia the type of life she was leading, with Mrs. Wilson?

A. I did.

Q. When did you discuss it?

A. I believe in 1956, since this matter has come page 7 } up.

Q. Was that before or after you consented to James' adoption?

A. Yes.

Q. Were you present at the *habeas corpus* hearing held in 1954 in California?

A. Yes.

Q. Did your daughter testify?

A. Yes.

Q. Do you recall what she said?

Catherine W. Newton.

A. Mr. Sans asked her if it was true that she had been married four times and she had lived in a common law marriage with other men and she said yes, and her lawyer objected.

Q. Do you know whether or not Mr. and Mrs. Wilson have adopted another boy?

A. Yes.

Q. What is his name?

A. Robert Wilson, I believe.

Q. State how old he is.

A. I believe seventeen.

Q. Did he ever stay with you?

A. Yes.

Q. When did he stay with you?

A. In the summer of 1956, I am sure.

Q. Can you tell us about his behavior during that time?

page 8 } A. Bobby had a habit of picking things up that were not his. Another difficulty was that I had with him I had forbidden him to go out in the evenings anywhere where he didn't know who he was with.

We had a neighbor and he wanted to go there to watch the T. V. and that was all right as I knew the people.

He asked if he could go to the neighborhood gathering of small children in Middletown, California. I told him no and Jimmy came home early and I said, "Where is Bobby?" He said, "He stayed." I was a bit suspicious about the matter and went to the neighbor's house and found out that Bobby had gone to the gathering I had forbidden him to go to, and he sneaked his good clothes out.

Q. Did he, or not, have a tendency of stealing things?

A. He did.

By the Court:

Q. This is the boy Robert?

A. Yes, sir.

By Mr. Russo:

Q. Did you do anything to try to correct him?

A. Yes. I said, "You know it is wrong," and he said yes. I said, "Why did you do it?" He said, "Because I see them and want them." There was a ring involved and,a purse and ring.

page 9 } He said he had always wanted money, and when he was leaving from his vacation I bought a ring and gave it to him and said, "I am giving it to you because I care about you, and when you start to take anything

that doesn't belong to you, think of this. People will give you things so you don't have to take them."

Q. Can you tell the Court what these are (handing papers to witness)?

A. Yes.

Q. What are they?

A. Schedules my daughter left with me for the boys to use in connection with their activities at home.

Q. That is while they were with you?

A. Yes. They had been posted and she asked me to follow these schedules and do the same thing. It was more or less as a model.

Q. If the Court dismisses this adoption proceeding, what plans to you have for Jimmy?

A. In the first place, I expect to have a larger house at Colusa so that we may have family life. We haven't been, however, due to this situation.

Jimmy will attend high school for a year, and I plan to have him go in a seminary for study for the priesthood.

Because of this his plans have been delayed until there is a normal family life.

Q. What is your occupation?

A. Periodically school teacher in elementary grades.

Q. How much education have you had?

page 10 } A. Three and a half years of college.

Q. Tell the Court how James' refusal to go back with the Wilsons came about?

A. We were at Roseburg, and my husband lived and worked at Middletown, and Jimmy said he didn't want to go back to the Wilsons, and didn't want the adoption. I said, "I will see what I can do about it." I didn't know whether I could or not.

Q. Was it James' idea that he didn't want to go back or did somebody tell him that?

A. It was his idea. He didn't want to go back. When he was ready to go back he would hesitate and ask if he could stay and go to St. Joseph.

Q. State whether or not you have been contributing to James' support with the Wilsons?

A. I have until fairly recently.

Q. What was the amount of your contribution?

A. $40.00 a month. If I can make an explanation, the Wilsons have borrowed a considerable amount of money from us and I have in her handwriting a letter stating that she had taken $40.00 from the money allowed for Jimmy's keep. I have the canceled check.

Catherine W. Newton.

Q. In addition to the $40.00 were you paying for his education?

page 11 } A. From the time he was going to St. Mary's I bought his books and school supplies.

Q. This boy Bob is no longer with you?

A. No.

Q. Tell the Court the circumstances of his leaving?

A. At the time Mr. Wilson got notice of our action in trying to revoke this adoption she called me from Hawaii and said, "I would not want to lose my son," and she was going to fight it. She said she was going to fight it and I was to have the boys ready to leave anytime she might send for them. Until the time to go to Roseburg to teach, I had received no approval papers for the boys, and I went to the welfare man there and asked him about it. He wired to Hawaii and Mrs. Wilson called me about the papers and said she couldn't understand why they had not gotten the papers and, why they were not already there, and that she had made all arrangements and everything was ready. She said it would be a dirty fight.

I went to the Naval Building in San Francisco and they had no record of transportation for the boys. I was down to see my younger daughters trying to check up on some things there and to see my lawyer, and they were there when I got there.

I told him that I had no jurisdiction over Bobby because previously Mrs. Wilson had sent me a letter revoking the power of attorney.

I said, "Jim doesn't wish to go and if he doesn't

page 12 } I would not send him." and I asked Jimmy if he wanted to go and he said no.

Bobby said if he had his choice he would not go.

I asked them if any money had been sent and he said he had sent Jimmy and Bobby a ten dollar bill.

Q. Were you separated when Jimmy was born?

A. No. We were living in separate places but not separated.

Mr. Russo: Answer Mr. Pickrell.

CROSS EXAMINATION.

By Mr. Pickrell:

Q. Did you know that Bobby has been in the United States Navy and is now in the United States Navy as an enlisted man?

Catherine W. Newton.

A. I have no knowledge of his activities since he left me in 1956.

Q. His conduct must have been satisfactory enough for the Navy to accept him.

A. I know nothing of the Navy regulations. I do know I have known of boys being sent in the Navy from the court room. I don't think Bobby was bad.

page 13 } Q. This is a letter from you, is it not? (handing paper to witness)

A. Yes.

Q. This is dated June 4th, 1956. Mrs. Wilson only had the two boys; is that right?

A. I beg your pardon.

Q. She only had the two boys, Jimmy and Bobby?

A. June 4th, 1956?

Q. Yes.

A. They were with me then.

Q. You wrote at that time and spoke of someone who told you something:

"By the way he told me they were very well behaved boys. I'll have to hand it to 'the old grandmother,' as dad says they've had half a dozen compliments here besides several at Roseburg."

After Bobby came into your custody did his conduct change?

A. I don't say that it did. He was a very likeable child.

Q. Mrs. Wilson was training the children properly?

A. She had them do chores for her.

Q. These things had been going on at the home since she had had the child back in 1952, and she had been planning for James since 1952?

page 14 } A. I don't know.

Q. They were happy at her home?

A. Yes, at that time.

Q. There is nothing wrong with these schedules, is there?

A. I think if anyone knows children and have worked with them as long has I have will say there is not too much time—that time has a lot to do with it. I think children should have all the time they need to find themselves and know themselves.

I think they should have some time to themselves and not be regimented.

Q. Do you think it is very acceptable for parents to take the time to make schedules for their time?

Catherine W. Newton.

A. Not to take up every bit of their time.

Q. You said you thought about this consent for some time before you agreed to it?

A. I dismissed it for a long time before I allowed it.

Q. You went to Waukegan, Illinois?

A. Yes.

Q. You were there when one of the social workers came by?

A. Yes.

Q. You said at that time you had seen Jimmy and thought he was getting along fine, that he was well behaved and it was a fine thing, this adoption, did you not?

page 15 } A. Those are not my words, I am sure.

Q. Is the welfare reporter wrong when she said she visited you and interviewed you concerning your attitude toward the adoption of James by Mr. and Mrs. Wilson, and you advised her that James was enrolled in a Catholic parochial school, and that you had given the plan of your oldest daughter adopting your son careful consideration, and believed it would work out well?

A. I believe that is a synopsis, and there were other things I said. She asked me if I consented and I said, "I am not willing to give him up." I told her if I had given it further thought I would not have consented in the first place.

Q. Did you say that the adoption in 1956 is what broke up your home? Isn't it a fact that if you establish a home it will be for the first time?

A. No.

Q. Where do you live now?

A. I am at Esparto, California, my apartment address.

Q. Where do you live?

A. Where do I live?

Q. Yes.

A. Right now, until I go back and get a place, I wouldn't have my own personal residence. I am with my husband at Artois at the present time.

Q. That home is not suitable at the present time?

page 16 } A. No, it is not suitable, but it is the only place we could get where he is working, the only accommodation.

Q. So up until this time you haven't had a suitable home to take James?

A. No, at any time I could have taken him to Colusa.

Q. Who lives at Colusa?

A. A number of people.

Q. Where would you have taken him there?

Catherine W. Newton.

A. At my address, apartment.
Q. Do you have an apartment there now?
A. I gave it up at the end of school.
Q. Your husband was not there?
A. He was there on weekends.
Q. Your husband doesn't live with you during the week?
A. Yes.
Q. Prior to the time these matters came up you were not living together, were you?
A. Yes, we were.
Q. Where did you last live together?
A. Middletown, California.
Q. When?
A. From 1956.
Q. To when?
A. Until he quit work there.
Q. When did he quit work?
page 17 } A. I don't remember when the mill stopped. I couldn't give you the exact date.
Q. Isn't it true that your main concern and your interest is that the boy be raised in a Catholic home, and that is the paramount issue with you?
A. It is not a paramount issue with me, but I don't think I am important and I don't think Mr. and Mrs. Wilson are important, but that boy is important.
I have cried myself to sleep a good many nights while he was with his sister because I was lonely for him. I don't care what happens to me or to them.
Q. You feel that the Catholic Church was of great importance?
A. Yes, as long as he desires to enter the Priesthood.
Q. One of your reasons in opposing this is you don't think he would get the proper influence with the Wilsons?
A. You can put it in any way you want to, but I think the influence of parents is far greater than a lot of lectures.
Q. Isn't it true that the first time this boy ever entered a Catholic school was when Mrs. Wilson put the child in a Catholic school here in Norfolk?
A. Yes.
Q. He was living with them at the time?
A. Yes, because the new St. Joseph school at Roseburg had not been finished. There was no possibility of his
page 18 } entering the old school.
Q. Isn't it true that when they went to Illinois they put the child in a parochial school?

A. Yes, the last term.

Q. Isn't it true that the child has been in a parochial school all that time?

A. Yes, except he was taken out early every year. There was one year he completed the full school term.

Q. Isn't it a fact that the school said James had improved and had worked out his problems in Illinois?

A. I don't know. I had no reports other than second hand reports from Mrs. Wilson.

Q. Isn't it true that he had overcome some of the problems he had?

A. I am sure I would have to be told what you have reference to. I am not aware of the problems he had, and I will tell you James has never been a problem child.

Q. When he came home and you refused to send him to Hawaii, was he an excellent mannered child?

A. Yes, he had good manners. I think the child can say "Yes" or "No" in as nice tone a voice and with proper respect as any child. I am not trying formality.

Q. When he came, James came home, the last time and spent the summer with you he was well behaved?

A. Yes, and always has been.

page 19 } Q. He was a well-adjusted child?

A. I wouldn't say that.

Q. What was wrong with him?

A. He cried very easily, and cried for no reason that I could see and I could not understand his nervous tension.

Q. Could it be effect that you caused the nervous tension?

A. No.

Q. When did James first go with Mr. and Mrs. Wilson?

A. The last time?

Q. In 1953 when they were married, was it?

A. Yes. I think I was in Norfolk and I went back to Chicago, to Illinois with James so he could continue in school and set up an apartment in Illinois until Mrs. Wilson came back from her vacation, and I came on back home to Roseburg by plane.

Q. James was with Mrs. Wilson even before she married Mr. Wilson?

A. Yes, and he was with my other daughter, Julia. The children all loved him. He has been everybody's child.

Q. He has been passed from one to another by you, hasn't he?

A. No, I am sorry. That is a lie. I never passed the child to anyone.

Catherine W. Newton.

page 20 } Q. You thought your best interest would be served at that time if the other children looked after the child rather than you?

A. I don't say my best interest. I mean his best interest, and John and the other daughter, when we were living at Goble, Oregon, it was his second year in school and rather than take him out of school I left him there with my daughter. As soon as we had a suitable place at Roseburg, he came down there.

Q. Isn't it true that the only permanent home for any length of time that this child has had is from 1953 to 1956?

A. No.

Q. Isn't that the longest period of time he has been with anybody?

A. What anybody?

Q. Mrs. Wilson.

A. No.

Q. But he was not with you from 1953 to 1956?

A. No—he was part of the time.

Q. He would come home on visits?

A. He would come home during vacation time.

Q. And when his vacation was over you refused to let him go, in 1956; is that true?

A. I didn't refuse to let him go. He said he didn't want to go.

Q. He went back in the summer of 1955, didn't he?

A. In the summer of 1955?

page 21 } Q. The summer before you refused to let him go back.

A. Yes.

Q. At that time you had no objection to the adoption, did you?

A. I made no formal objection. I was not aware that I could have set it aside at that time.

Q. In 1954 he visited you, didn't he, in the summer?

A. No, I don't think so.

Q. You visited them?

A. That is right.

Q. Everything was all right at that time?

A. I believed it was. I would have to go back to the beginning.

Q. Isn't it true that since Mrs. Wilson married Mr. Wilson you don't know of anything she has done detrimental to the interest of the child, do you?

A. I don't think I would say that.

Catherine W. Newton.

Q. You don't think you would say that?

A. No, but they will tell you numerous times when they were squabbling and screaming and she would get in a tantrum, and James would be told, "Do that," or so and so, or I will do so and so.

I said, "Why don't you try to set an example for him by being calm and he would pay attention to you?"

page 22 } Q. Isn't it true that when James was told to do certain things she had difficulty with him, in telling him what to do?

A. No, I don't think so.

Q. You say Mrs. Wilson has been married four times?

A. Yes.

Q. Therefore, she could not participate in the rites of the Catholic Church?

A. That is true.

Q. Isn't it true that Mr. and Mrs. Wilson had regularly been attending, as far as you know, the Church?

A. But she can't participate in the sacrament.

Q. They have kept the child in Catholic schools?

A. Yes.

Q. And they are bringing him up in the Catholic religion?

A. As far as I know, but I don't believe, since they can't participate with him and do things with him that it is a good influence. That was my reason.

When I consented to the adoption I thought everything would be all right, and when I found out differently it was different.

Unless you can participate with a child and coach them and guide them by good examples, other things don't mean much. I am a second grade teacher and you have to reason with them and let them think for themselves, and have to be

page 23 } consistent with them.

Q. Your biggest objection with Mr. and Mrs. Wilson is the way or the method in which they have been raising Jimmy?

A. My reason has nothing to do with what he wants.

Q. It is not that you have objection but it is what the boy does?

A. I have objection because I am interested in his welfare. I don't think he is bad. I don't think you can bring up a child —if a child is interested in the Priesthood I think he should be encouraged in it and that the child should be brought up and sent to that Church and the parents not going out dancing and gambling and things against the rules of the Church, and I

don't think that would be a good example for a child in preparation for the ministry.

Q. Speaking of examples, haven't you and Mr. Newton been divorced?

A. I am married. I have always been married. The Catholic Church recognizes no divorces.

Q. Didn't Mr. Newton divorce you?

A. Yes.

Q. Did he ever remarry you?

A. He didn't, and I am not interested in that. I have been advised that I am married in the sight of God.

Q. You and Mr. Newton are living together now and haven't been married according to California law.

page 24 } If that is true, why didn't Mr. Newton remarry you?

A. My husband will have to tell you.

Q. Don't you know?

A. I got a notification and I was not in position to fight it. I did go and ask if there was anything I could do about it.

Q. Do you recall what year that was?

A. It was while I was in San Benardino.

Q. If I said around 1943 or 1944, would it refresh your memory?

A. It was in 1945, yes.

Q. Do you tell the court that if you and Mr. Newton have been living together as husband and wife that you could maintain a proper home for this boy when he knew you had been divorced and had not remarried?

A. I didn't say we had been living together and maintaining a home since 1945.

Q. My recollection is you said you had maintained a home for this child.

A. A proper home for him? I think you are twisting around. You said I had never had a proper home for him and I said yes, I had.

Q. You and Mr. Newton haven't had a home for him since 1945?

A. Yes, we have.

page 25 } Q. Have you and Mr. Wilson been maintaining a home together at any time since 1945?

A. Yes.

Q. You have?

A. Yes.

Q. Knowing he is divorced from you?

Catherine W. Newton.

A. In my view and in James' view, I don't think that makes any difference.

Q. Do you, yourself, have any respect for the laws of the State of Virginia, California, and the other forty-eight states?

A. As far as I know, yes, I do.

Q. You know you are supposed to be legally married, do you not?

A. I am supposed to be legally married? You mean I am supposed to have a civil ceremony?

Q. Yes.

A. That is agreeable to me. I don't think a civil ceremony makes a marriage.

Q. Do you think it is a proper example to set for a young boy fifteen years old, living with a man to whom you are not legally married?

A. Whether there is a civil ceremony, or not, parties can live together regardless of whether there is a civil ceremony.

page 26 } We are married under the laws of the Catholic Church and the civil laws of New York. According to my belief, that marriage lasts until death. Neither of us is dead yet.

Q. You think that your example passes on to Jimmy a proper example for a fifteen year old boy?

A. If you are trying to make me out immoral, I don't think you can do it.

Q. Do you think that is a good influence on a child?

A. I don't see why it is any influence. I doubt if it ever entered Jimmy's mind one way or the other.

Q. You have withheld that from him?

A. Suppose I sat down and say now, "Your daddy and I are not married," that makes no difference, does it? Is that a normal thing?

Q. If you got into a conversation about the facts of life with the boy, and Jimmy says, "Mother, suppose I get married and my wife divorces me, can I live with her after that," what would you tell him?

A. I would send him to our pastor. That is where I went.

Q. Your theory is that you have been living with Mr. Newton although you were divorced, and you thought it was all right?

A. My pastor told me I was married to my husband in

page 27 } the sight of God and there was no reason for a remarriage as far as he was concerned.

Q. What did he say about the laws of California?

Catherine W. Newton.

A. My pastor is not too long from the Country of Ireland. I trust him implicitly.

By the Court:

Q. I don't want to cut you off. Mr. Newton divorced you in 1945; is that correct?

A. Yes.

Q. You accepted service?

A. I accepted service, I imagine I did.

Q. You knew that you were divorced?

A. No, I was not divorced.

Q. Under the laws were you divorced?

A. Yes.

Q. Don't quibble and argue about words with me. When we use the word "divorce" that means legal divorce. I am not going into any argument over it with you. In the eyes of the law you were divorced?

A. Yes.

Q. You haven't since married Mr. Newton, you have had no civil ceremony?

A. No.

Q. That is all I wanted to know.

A. It is perfectly acceptable, a civil ceremony. It is not a matter that has come up, and when I discussed it page 28 } with my lawyer, he advised it was not necessary. When the other lawyer asked me about it, my lawyer objected before I could answer my lawyer said he would not worry at all about it, not Mr. Russo, but my lawyer in California.

Q. Mrs. Newton, On June 22nd, 1956—this is a letter of yours, is it not?

A. Yes.

Q. It is dated June 22nd, 1956, is it not?

A. That is right.

Q. You started off this by saying:

"This is probably the hardest letter I'll ever have to write. I guess you've sensed that Dad and I have regretted almost from the time of signing it, that we signed consent papers for Jim's adoption, but we have tried to convince ourselves it was for the best."

This is the letter you wrote when you tried to stop the adoption; is that right?

Catherine W. Newton.

A. Yes.
Q. You also wrote in this letter as follows:

"I don't know if I can say anything to make you understand. I know you love him but can't you see that I love him more than my life?"

In June, 1956, you knew that Mrs. Wilson loved Jimmy?
A. I knew she loved him and she knew that I loved him.
Q. Did you say:

page 29 } "I've exhausted my arguments that he would have so much more with you and all the benefits he would gain. You've done wonderfully for hime and I appreciate that."

A. I think possibly if you will read the entire letter it would be better than just taking parts from it this way.

Mr. Russo: To give you an example of what Mr. Pickrell is doing, she also says, "I can't give him up."
The Court: Are you offering the letter?
Mr. Pickrell: We are offering it, yes, sir.
The Court: You may have an opportunity to examine her on parts of it.
If you are not reading a whole sentence I would not want just part of it. Don't shorten it to that extent.
Mr. Pickrell: "I appreciate that but I can't give him up when I knew he resents it."

By Mr. Pickrell:
Q. Concerning Bob, about whom you have testified, you say:

"Bob is doing wonderfully at vacation school and you can take rightful pride in him. He will be baptized tomorrow and receive first Holy Communion Sunday.
"This adoption thing is just another of my mis-
page 30 } takes of which I've made so many."

A. Yes, I have made many mistakes, and I have broken my life a half dozen times for Flo, and if I don't go her way she will break me.
She had warned me that would happen and said it was going to be a dirty fight.

Catherine W. Newton.

Q. Have you seen any papers Mrs. Wilson has filed against you other than on cross examination?
A. No.
Q. You have made accusations against her?
A. I have made none. I have answered questions.

Mr. Pickrell: We offer these exhibits in evidence, and the underlined portion of the letter was done by other parties.

By Mr. Pickrell:
Q. Is this your letter?
A. Yes.

The Court: The underlined portions were not done by the witness?
Mr. Pickrell: No, sir.
The Court: "Defendant's Exhibit A."

By Mr. Pickrell:
Q. Mrs. Newton, I have a letter here dated May 7th, 1955. At that time you thought your daughter was a proper person to adopt children, did you not?
page 31 } A. I can't tell you what I thought any particular day. It has been hard enough to go back and pick out of the past details I wanted to remember.
Q. In May, 1955, didn't you write your daughter and say:

"Would you guys be interested in a girl about two years old? There's no sureness about it, but a mother died recently and Dad's sister has the little girl. The sister has several children and is expecting another."

You did think at that time she was a proper person to adopt a two year old girl?
A. It is not up to me to decide. If a child needs a home it is up to others to decide.
Q. Isn't it against your religion to recommend people who would adopt a child if you didn't think they were proper, or that they were unfit to adopt children?

The Court: The first letter was received as Defendant's exhibit A, and the letter of May 7th, 1955, is received as "Defendant's Exhibit B".

Catherine W. Newton.

By Mr. Pickrell:
Q. Will you answer the question?
A. What was the question?

(The question was read as follows):

"Isn't it against your religion to recommend people who would adopt a child if you didn't think they were
page 32 } proper, or that they were unfit to adopt children?"

A. I think I had better examine it. I don't think it is up to me to say whether they are fit, or not.
Q. As of today you say it is not up to you to judge whether they are unfit?
A. I think it was my daughter-in-law who told me about this child. I don't even remember the incident. She asked me if I wanted to tell Flo about it and I simply passed the information on.

Mr. Pickrell: Here is a letter dated July 11th, 1956, and the underlined portions were not made by the writer.

By Mr. Pickrell:
Q. Is that your letter?
A. Yes.
Q. This letter was written after you had gone to see your attorney about the boy's adoption?
A. That was written to Rick.

By the Court:
Q. Is that Mr. Wilson?
A. Yes.
Q. This letter reads:

"Dear Rick: I don't know if Flo sent my letter to you or not but I hope you understand that it is no fault of
page 33 } yours that we are withdrawing consent to Jim's adoption. As much as you love him you should be able to understand why. And he loves you enough not to want to hurt you, but he does want to stay with us and we'd be darned poor excuses for people if we let him go."

On the back page you say—

Catherine W. Newton.

A. I think you will find something in there about my refusing to be dominated further by Flo.

By the Court:
Q. By whom?
A. My daughter. She has dominated me and there are people in Norfolk that know it.

By Mr. Pickrell:
Q. Reading this, referring to Jim, you say he still loves you both and "I can't see that I lost anything in being loved as a Big Sister by my brothers and sister instead of as a mother."
A. There is a mistake there. It doesn't read as I wrote it.
Q. Read it, please.
A. "He still loves you both and I can't see that I lost anything in being loved as a Big Sister by my brothers and sisters instead of as a mother. It's awfully hard to try to explain but put yourself in my place and I think you can see it.
page 34 } Jim didn't have the aversion to the Wilsons that he has now.

Mr. Pickrell: I offer this in evidence.
The Court: "Defendant's Exhibit C."

A. (continuing) Mr. Wilson was on a cruise at that time and I didn't know if he had received the letter, or not.
He had called and I talked to him, and Jimmy talked to him and told him—I heard him tell him on the telephone, "I don't want to go. I want to stay with Mama and Dad."

Mr. Pickrell: I object to hearsay by the lady.
The Witness: I was standing by his shoulder.
The Court: I sustain the objection. It would be hearsay.
Mr. Russo: We except to the court's ruling.
Mr. Pickrell: I have no further questions.

By the Court:
Q. Mrs. Newton, I believe you say you now live at Artois, California?
A. My husband has an apartment there.
Q. Then he is the one who lives in Artois?
A. Yes, he has a cabin.
Q. How large a cabin?
A. I don't know.

Catherine W. Newton.

Q. Have you seen it?

A. Yes, but I have no idea how large it is.

page 35 } Q. How many rooms are there?

A. A room, bathroom, and a little kitchen, little kitchen area. One room, bath, bedroom and kitchen.

Q. Does it have a living room?

A. No.

Q. It is a cabin with one room, bath and kitchen?

A. Yes.

Q. Where do you have your residence?

A. I have been residing in Colusa, Californa. I had an apartment where I was teaching.

In preparation for coming back here I gave up my apartment, and I went down to my daughter's and worked to get ready to come here. I want to get a house at Colusa now.

Q. How do you spell Colusa?

A. C-O-L-U-S-A.

Q. Where has the boy been staying?

A. He has been in a boarding school, St. Patrick's at Sacramento, California. The boy is happy there.

Q. I didn't ask you that.

Mr. Russo: I think she should be allowed to tell you how he is getting on there.

The Court: I will bring out what I want and you may examine her later.

By the Court:

Q. What are your financial means?

page 36 } A. I earn $350.00 a month.

Q. How about your husband, how much does he earn? If you know, answer it. Don't ask him. I am trying to find out how close you are to this man.

A. I know how much he makes an hour. I don't think it is—I think it is $1.60 cents or over an hour and after all deduction it is about $60.00 a week.

Q. I think you said you are together on weekends but not during the week?

A. Yes.

Q. How far apart are Colusa and Artois?

A. Thirty-six miles.

Q. What sort of work does he do?

A. Millwright.

Q. Do you know of anything that has developed since you

signed for your daughter to adopt her brother that would make her an improper person to have custody of the child?

A. Sir?

Q. You gave *you* consent in 1954?

A. Yes.

Q. Was she then married to Mr. Wilson?

A. Yes. May I say this—

Q. A little later, but I want you to answer my questions before we get into too many dissertations. She was married to Mr. Wilson then?

page 37 } A. Yes.

Q. Is she any different person now in morality or behavior or anything than she was when you signed or gave your consent for your son's adoption? Do you know of anything she has done that would make her an unfit person anymore so now than then?

A. Between the two there would be no difference unless in a legal status.

Q. There would be no difference in the domestic situation? Your main objection seems to stem from the fact that the boy doesn't want to go back?

A. Yes, sir, and he has said he would do something desperate.

Q. Such as what?

A. He said he would put a revolver to his head if they took him and pull the trigger.

Q. Do you take seriously statements like that from a boy in his teens?

A. If you had seen the child earlier you would understand.

Q. I think you said your daughter has dominated you?

A. Yes. This—for the past two or three years she has.

Q. And now you take seriously the threat of a boy who is fourteen or fifteen years old?

page 38 } A. I think I am responsible. I have done my utmost to see that circumstances are such that it could not happen, and I feel that I am responsible. I have always protected my daughter, and now my interest is there (indicating son).

Q. When you gave your consent to this thing in 1954 you realized then that you were consenting to give away the child to your daughter?

A. I said I would never give him away.

Q. You consented for your daughter to legally adopt him?

A. There is such a thing as honor. When one person says things are not going to be different, it means something.

Catherine W. Newton.

Q. Now, you knew that you were doing something serious in connection with this child's life at that time. You have had three years in college?

A. Yes.

Q. You are a woman how old?

A. Fifty-six.

Q. With that education, having taught school many years, you knew what adoption was and what your consent to that meant.

A. As far as the legal aspects are concerned I knew, but I was considering the legal aspects of the home and the family aspects of it. I still considered Jimmy was my son.

Q. You said you were having change of life?

A. Yes.

Q. That is an experience all women undergo, do they not?

A. Yes. Some don't have the same tension as

page 39 } others, the nervous tension.

Q. I don't understand why you are so concerned over the situation and the child now. You voluntarily consented to his adoption?

A. Yes.

Q. You had other children?

A. Yes.

Q. I don't quite understand—

A. They are all grown now. I told you—I still say I thought it was for his best interest at that time, and I was thinking in a material way rather than emotional way. That is where I made a mistake. Under the circumstances, being in the same family I didn't expect anything that would be any real difference. I felt he would be more or less in the family and under my wings.

Q. I thought you said you had been under the domination of your daughter?

A. Yes, I have been under the domination of her, and sometimes when people are under the domination of other people they can do things with a little bit of thoughtlessness.

page 40 } The Court: We will recess until 2:30 P. M.

Thereupon, at 1:10 o'clock P.M., a recess was taken until 2:30 P.M.

page 41 } AFTERNOON SESSION

Met at close of recess.

Catherine W. Newton.

Appearances: Same as heretofore noted.

MRS. CATHERINE NEWTON,
the petitioner, having been previously sworn and examined in part, resumed the stand for further examination and testified as follows:

RE-DIRECT EXAMINATION.

By Mr. Russo:

Q. Mrs. Newton, do you or do you not own a home at Roseburg, Oregon?

A. We do.

Q. What kind of a home is it?

A. A farm home with sixty-four acres, four rooms and bath.

Q. Who owns it?

A. My husband and I.

Q. Did you formerly live there?

page 42 } A. Yes.

Q. Why are you not living there now?

A. Because this matter came up while we were on vacation in California.

Q. Tell the court about that.

A. My husband was working in Middletown and Jim and I went to visit him on Christmas vacation and while there we stayed at my daughter's and Jimmy asked if he might stay there until we went away on some business?

While we were on that business, Mr. and Mrs. Wilson came to my other daughter's. That would be hearsay on my part. Jimmy can tell you. As a result of their trying to take him from there he asked for refuge with the probation officer.

Mr. Pickrell: I object to what she is testifying to about the probation officer and refuge on the grounds that it is hearsay.

The Court: Sustained.

By Mr. Russo:

Q. You are in California because of the *habeas corpus* proceedings?

A. Yes.

Q. Are you teaching school in California to defray the costs of these proceedings?

A. Yes.

page 43 } Is it or not your intention to return to your home in Oregon?

Catherine W. Newton.

A. When we can.
Q. You have a sixty-four acre farm there?
A. Yes.
Q. Do the Wilsons owe you and Mr. Newton any money?
A. They do.

Mr. Pickrell: I don't see that the question of whether she is owing money by them is relevant here.
Mr. Russo: Your Honor went into the financial conditions of the Newtons.
The Court: I merely asked her how much she made and how much he made.
Mr. Russo: The financial conditions plays a part in these proceedings.
The Court: All right.

By Mr. Russo:
Q. Have they borrowed from you periodically?
A. Yes.
Q. Have you paid bills for them?
A. I have.
Q. I show you this letter. Was that sent to and received by you in the regular course of the mail?
A. Yes.
page 44 } Q. Whose signature is that?
A. Mrs. Wilson's.
Q. In it she stated:

"When I started thinking of how I could swing this deal without the loan, then I started thinking about our other bills, too, and of what our outstanding debts were and this is what came out of it. The last money that we got from John is all that I have separate from what we got from you."

This is March, 1954?
A. Yes.
Q. What loan was she speaking of when she said, "When I started thinking of how I could swing this deal?"
A. I can't think of what loan it was.
Q. Have you made a lot of loans to them?
A. Yes.
Q. As a matter of fact, you hold a mortgage on some property of theirs?
A. Yes.

The Court: This is your witness, Mr. Russo.

By Mr. Russo:

Q. Mrs. Newton, was the signing of the consent a spontaneous thing on your part?

A. No.

page 45 } Q. State whether or not Mr. and Mrs. Wilson were after you for a long period of time to sign this consent?

A. Yes, they were.

Mr. Russo: If your Honor please, I would like to point out to the court reporter that the underlining was not done by the writer in this particular case, and would like to offer tbem in evidence.

The Court: All right. "Petitioner's Exhibits 2 and 3, and the schedules that were introduced will be exhibit 1.

By Mr. Russo:

Q. Was this letter received by you in the regular course of mail?

A. Yes.

Q. Whose signature is that?

A. Mrs. Wilson's.

Q. It is dated October 7th, 1954? She says in this letter:

"For goodness sake, either sign the things and send them back to us or say that you won't because I'm going crazy about balancing on the fence."

What did she have reference to?

A. Signing the adoption papers.

Mr. Russo: Answer any questions Mr. Pickrell

page 46 } may have.

RE-CROSS EXAMINATION.

By Mr. Pickrell:

Q. Mrs. Newton, you said that when your daughter was in Honolulu she revoked the power of attorney you had?

A. Yes.

Q. The reason that was revoked was because you were receiving her allotment checks?

A. And because I was paying her bills and some that was

owing on loans and I think the allotment was sixty some dollars. It changed at various times.

Q. The first letter introduced was written back in 1954, was it not?

A. The first letter that was introduced?

Q. Yes.

A. Yes.That was written when they were in Richmond, California, in the Bay area.

Q. Those debts were known by you at the time you signed the consent?

A. Yes, they were known by me.

By the Court:

page 47 } Q. What was the amount of those debts?

A. At the present time?

Q. Yes.

A. As far as I can remember, it was a little over $800.00 at the time payments stopped.

Q. Was it manifested by any note or any instrument in writing?

A. There is a mortgage filed here in Portsmouth to substantiate the original amount.

Q. A mortgage on what?

A. On their personal property, car and other things. As the allotment came to me Mrs. Wilson would take the amount of the allotment and add the amount on these payments I made for her in the amounts she got. I couldn't tell you the exact amount, but it was in the neighborhood of $800.00 at first, as near as I can remember.

The Court: All right.

Mr. Pickrell: No further questions.

ALFRED W. NEWTON.

one of the petitioners, having been first duly sworn, was examined and testified as follows:

page 48 } DIRECT EXAMINATION.

By Mr. Russo:

Q. State your name, please.

A. Alfred W. Newton.

Q. And where do you live, Mr. Newton?

A. Artois, California.

Q. How old are you?

Alfred W. Newton.

A. Fifty-seven.
Q. You are the father of James Newton?
A. Yes.
Q. You previously consented to the adoption of your son?
A. Yes.
Q. Do you, or not, still consent to it?
A. No. I don't believe in adoptions in the first place.
Q. What do you mean by that?
A. I don't think your own child should be adopted when the parents is capable of taking care of them. The only adoption I would say would be all right was if the kid hasn't got a home.
Q. Are you and Mrs. Newton able to take care of Jimmy?
A. Yes.
page 49 } Q. Do you, or not, have any reason to fear for the safety of your son if he is returned to the Wilsons?
A. Yes, in a way.
Q. Why?
A. They go to extremes in punishment in the way they do. If they make them chew cigarettes to punish them, it is extreme.
Q. State whether or not your son has ever made any statement about his returning in your presence?
A. Yes. He said he wanted to stay with us.
Q. He wants to stay with you?
A. Yes.
Q. Did he make any statement about what he would do?
A. One statement was he wanted to finish school and go into study for a Priest.
Q. State whether or not he has ever said he would kill himself rather than go back?
A. Yes.

The Court: This is your witness, and you gave him every chance to answer it, and then told him what to say, and he said yes.
Mr. Russo: I didn't tell him what to say.
The Court: The record will show it.

By Mr. Russo:
Q. Is your hearing all right?
A. Just fair.
page 50 } Q. Just fair?
A. I am a little hard of hearing.
Q. You have a daughter named Julia Peak?

Alfred W. Newton.

A. Yes.

Q. State whether or not she ever stayed with your other daughter, Mrs. Wilson?

A. Yes.

Q. Did you, or not, ever discuss with Julia the life she was leading while she was living there?

Mr. Pickrell: I object to that, any discussion she had with another daughter.

The Court: Objection sustained.

Mr. Russo: I am laying the foundation for the deposition. Mrs. Newton previously testified she didn't know what type of life her daughter was leading at that time.

The Court: It is in the depositions?

Mr. Russo: Yes, sir.

The Court: But he can't testify to that.

Mr. Russo: I am talking about the deposition Mrs. Newton referred to.

The Court: Is that the one he is going to refer to?

Mr. Russo: Yes, sir.

The Court: All right.

page 51 } By Mr. Russo:

Q. When did she first bring those matters to your attention?

A. After this business came up.

Q. Was that before or after you consented to the adoption?

A. After.

Q. Were you at the *habeas corpus* hearing held on January 7th, 1957, in California?

A. Yes.

Q. Did Mrs. Wilson testify at that hearing?

A. Yes.

Q. Did you hear any statements she made?

A. Her lawyer asked her about how many times she had been married and if she had lived with another man she had not been married to and she said yes.

Q. What is your occupation?

A. Millwright.

Q. What is that?

A. Work on machinery and keep machinery in repair.

Q. How much do you get a week?

A. $70.00.

Q. Do you or do you not want Jimmy to study for the Priesthood?

Alfred W. Newton.

A. I do.

Q. State whether or not you and Mrs. Newton
page 52 } own a home in Roseburg, Oregon?

A. We do.

Q. Why are you not living there now?

A. Because of this case.

Q. Do you intend to return there?

A. Yes.

Q. What do you know about the money loaned to Mr. and Mrs. Wilson?

A. I know money was loaned to them but how much I don't know.

Mr. Russo: Answer any questions Mr. Pickrell may have.

CROSS EXAMINATION.

By Mr. Pickrell:

Q. How old are you?

A. Fifty-seven.

Q. Mrs. Newton testified you divorced her in 1945. Is that correct?

A. That is right.

Q. The other matters that Mrs. Newton testified to concerning your not having remarried are true?

page 53 } A. Yes.

Q. You say the only reason you are not living together at the farm is because of this case?

A. Yes.

Q. This difficulty arose in 1956 when your wife refused to return Jimmy to Mr. and Mrs. Wilson. Why weren't you living together prior to that time?

A. At that time the mill was shut down where I was working and I got the other job in Middletown, California. That was before my wife started teaching school.

Q. When Mrs. Newton testified before recess, I believe she testified she was going to establish a home at some place other than this residence, did she not?

A. While she was teaching school.

Q. The idea of establishing this home on this farm has come about after recess; is that correct?

A. No, I don't think so.

Q. You don't think so?

A. No.

Q. That didn't come about after hearing Mrs. Newton testify about it before recess?
A. No.

Mr. Russo: I object to that. How can he know why she testified to it?
The Court: I sustain the objection.

page 54 } By Mr. Pickrell:
Q. It is true that you and Mrs. Newton had made arrangements to go back and establish a home in California?
A. If we get out of this case I am going where she lives and where she teaches.
Q. You are fifty some years old. You have a rather strong belief about adoption?
A. Yes.
Q. You don't believe a child should be adopted if he had a home in the first place?
A. Yes.
Q. You have had this belief a number of years?
A. Yes.
Q. When you signed the adoption the boy didn't have a home?
A. He did have a home.
Q. Why did you sign it?
A. She was talking about how much better it would be for the boy to be with younger people, and all of that.
Q. You were convinced of it at that time?
A. I thought it might be all right.
Q. Actually, to your knowledge, you know of no actions or conduct on Mrs. Wilson's part that has changed that?
A. I just don't get you?
Q. You don't know of any actions or conduct on
page 55 } the part of Mr. and Mrs. Wilson since you signed your consent that has changed your mind?
A. I haven't been where she was.
Q. Mr. Newton, isn't it a fact that Mrs. Newton is the one who went to the attorney to see about filing suit to stop the adoption?
A. She does all the legal work.
Q. You were not even living in the same city at the time she went to see the attorney.
A. That is right.
Q. You didn't go?
A. I didn't go. I was working.

James Newton.

Q. When the case investigator investigated Mrs. Newton at that time, you knew about that, didn't you?
A. I don't recall that.
Q. Mrs. Newton didn't tell you the investigator had called on her twice?

Mr. Russo: I object to that.
The Court: Objection sustained.
Mr. Pickrell: I have no further questions.

page 56 } JAMES NEWTON,

called as a witness on behalf of the petitioners, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Russo:
Q. State your name, please.
A. James Newton.
Q. Speak up so the Judge can hear you and everybody. How old are you?
A. Fifteen.
Q. Tell the Judge whether or not you wish to be adopted by your sister and her husband?
A. No, I don't.
Q. Tell them why.
A. Because I want to be with my mother and father. I just don't like it with them. I think they should be my sister and brother-in-law, and not my mother and father.
Q. Did you ever make a statement that you would kill yourself if you had to go back?
A. Yes.
Q. To whom did you make that statement?
page 57 } A. To Mrs. Cooke.
Q. Do you still feel that way?
A. Yes.
Q. When you were at Mrs. Wilson's, did she, or not, pull your hair?
A. Yes.
Q. Tell the Judge about this.
A. One time she was arguing about multiplication tables and if we didn't get them right she would pull out that many hairs.

James Newton.

By the Court:
Q. With what?
A. With her fingers.

By Mr. Russo:
Q. Suppose it was 8 times 8, and you didn't have sixty-four, what did she do?
A. Pull out sixty-four hairs.
Q. Did she call you names?
A. Yes, "stupid" and "dumb".
Q. Did she ever threaten to cut your ears off?
A. Yes.

The Court: You are again leading, "did she ever do so and so." The witness has nothing to do but say yes or no.

Mr. Russo: I don't think that was a leading
page 58 } question.

The Court: Read the question.

(The question was read as follows):

"Q. Did she ever threaten to cut your ears off?"

The Court: All he has to do is say "no" or "yes." It is a leading question.

Q. State to the court what she did.
A. One time I was in the kitchen and I was doing some work and was not doing it the way she wanted it, and she started to get mad and went over to the kitchen drawer and got out a knife and grabbed hold of me and said she was going to cut it off, and started through the motions.
Q. Did you wash dishes there?
A. Yes.
Q. Did you ever spill any water on the floor?
A. Yes, one time I did and she came in and said, "I will break every bone in your body."
Q. Did you ever smoke a cigarette while you were with her?
A. One time when we were down on the farm and I was smoking with a neighbor boy and they caught me and Bobby and brought us over to the house, and they were going to make each of us eat a package of cigarettes, and my mother happened to hear her and she didn't do it.

page 59 } Q. While you were living with your sister did she ever get a divorce from anyone?

James Newton.

A. Yes.

Mr. Pickrell I would like to know how old the boy was at that time. I don't think that is pertinent.

The Court: All of this transpired before the consent, didn't it? You are not in dispute as to whether she has been divorced?

Mr. Russo: No, sir, but it is to show the kind of treatment he was subjected to.

The Court: This is prior to any adoption consent.

Mr. Russo: I don't see why that makes any difference because it is to point out the character of Mrs. Wilson and the things this boy was subjected to.

The Court: Let's pinpoint it as to time.

By Mr. Russo:

Q. When was this divorce, how many years ago?

A. I am not sure about that.

Q. Approximately how long ago?

A. I would say about six or seven years ago. I am not sure.

Q. Were you about eight or nine years old?

page 60 } A. I am not sure.

Q. Did you testify in the case?

A. Yes.

Q. Did you tell the truth?

A. No.

Q. Why not?

A. Why the Judge—before she brought me into the place she told me all of the things, and one of the things was that he was drinking and would come home and take her money. I didn't know anything about it.

Q. Did you testify to that?

A. Yes.

Q. Why?

A. Because she told me to do it before that.

By the Court:

Q. Did anybody tell you anything to say today?

A. No.

Q. You just admitted under oath you told a story several years ago because somebody told you to?

A. I know it, but I didn't know it was wrong.

Q. I understand today you are testifying—

A. I didn't know I was wrong then.

James Newton.

Q. You are telling the truth today, but you were not the other time; is that right?
A. Yes.

page 61 } By Mr. Russo:
Q. Have I told you any answer to give today?
A. No.

The Court: There is no implication that you did.
Mr. Russo: I wanted to clarify it.

By Mr. Russo:
Q. Jimmy, when you were living with your sister and her husband, did she, or not, stay fully clothed when around the house?
A. We would be watching the television sometimes and she would come out of the bedroom or bathroom with hardly nothing on and go back in the kitchen or go where she came from.
Q. Was there any form of punishment that was used on you more than others?
A. Yes.
Q. What was it?
A. Whenever we did anything she didn't want us to she would send us down in the basement.
Q. After the *habeas corpus* proceedings, why were you sent to the Juvenile Court?
A. Because I wanted to go there.

The Court: For how long was he in the Juvenile Court?
Mr. Russo: He was in the custody of the court.
page 62 } The Court: I remember something about that at the previous hearing.
Mr. Pickrell: He was placed in custody of the home in August and he was misbehaving and the court wanted him to stay there until this was concluded.
Mr. Russo: Mrs. Newton testified he asked to go there for his protection from Mr. and Mrs. Wilson.

By Mr. Russo:
Q. After the *habeas corpus* hearing, were you sent to the Juvenile Court?
A. Yes.
Q. Why were you sent there?
A. Because I wanted to go there.

James Newton.

Q. Why?

A. Because I was afraid that Flo and Ricky would come and get me. If I was there they couldn't get me.

Q. Tell the court whether you ever had trouble with your ears?

A. Yes.

Q. What was the trouble?

A. I had some operations on it and sometimes I would do something and Flo would slap me across the ears.

Q. What would happen then?

A. I had earache.

page 63 } Q. Jimmy, was there another boy adopted by Mr. and Mrs. Wilson?

A. Yes, there was.

Q. Can you tell the court some of the things he did?

A. Yes. One time I was with him, I think at Lakeport, and when mother went to get some papers *wer* were walking around and he went in a store and picked up a package of cigarettes and when he walked out the man came and took us in a back room, and there was a lady there and she talked to him about it.

Q. Was there any other occasion?

A. Yes. He took some rings and stuff from the next door neighbor.

Q. Whose idea is it that you don't want to go back to Mr. and Mrs. Wilson?

A. Mine.

Q. Tel the court whether or not Mr. and Mrs. Newton put those ideas in your head?

A. No.

Q. Did your mother ask you about your being adopted before you gave your consent? Did she ever consult you about whether you wanted to be adopted?

A. She asked me if I wanted to be adopted?

Q. Yes.

A. Yes, one time.

page 64 } Q. What did you say?

A. I said I did because they were in the 'phone booth with be.

Q. Who was in the 'phone booth with you?

A. Either Flo or Ricky.

Q. And that is why you answered yes?

A. Yes.

Mr. Pickrell: He didn't say that is why he answered yes.

James Newton.

The Court: No, but that is the inference he forced the court to draw.

A. (Continuing) The reason I didn't say no was because I was scared of what they might do.

By Mr. Russo:
Q. Are you afraid of them?
A. I was, yes.
Q. What do you want to do in life?
A. Be a Priest.
Q. Are you making any plans for this?
A. Yes.
Q. What plans?
A. After I get through a year in high school—

By the Court:
Q. How many years in high school?
A. One.
page 65 } Q. You are now fifteen?
A. Yes.
Q. What grade are you in in high school?
A. I am in the ninth grade next year. I want to go to a seminary.
Q. You mean before you finish high school you can go to a seminary for the Priesthood?
A. Yes.
Q. That is another form of parochial school?
A. Yes, junior high school.
Q. It would be equivalent to high school?
A. Yes.

Mr. Russo: Answer any questions Mr. Pickrell may have.

CROSS EXAMINATION.

By Mr. Pickrell:
Q. How old are you?
A. Fifteen.
Q. Do you remember back in 1952 when you were living with your sister?
A. I don't remember when it was.
page 66 } Q. You were living with your sister, were you?
A. I can't remember dates.

James Newton.

Q. You were living with your sister when she married Ricky, were you?
A. Yes.
Q. You lived with them up until 1956 when you went to California, didn't you?
A. No.
Q. You did go back to visit Mrs. Newton during the summers?
A. Yes.
Q. And each summer you came back to Mr. and Mrs. Wilson didn't you?
A. Yes.
Q. Even after the adoption was entered you went out and visited Mr. and Mrs. Newton?
A. Yes.
Q. And came back?
A. Yes.
Q. You remember seeing Mrs. Newton and the welfare worker in Illinois?
A. No.
Q. You never talked to her in Illinois?
A. I talked to her, but I don't remember talking to Mrs. Newton about the welfare.
page 67 } Q. You talked to the welfare worker by yourself?
A. Yes.
Q. Did you talk to her with Mrs. Newton there?
A. They were in the house with us.
Q. Didn't you talk to one of the welfare workers when Mrs. Newton and yourself were there?
A. I can't remember.
Q. You didn't tell the welfare worker that anything was wrong at that time, did you?
A. No.
Q. You didn't tell Mrs. Newton that there was anything wrong at that time, did you?
A. No.
Q. You want to be a Priest?
A. Yes.
Q. Isn't it true that Flo enrolled you in a Catholic school here in Norfolk?
A. Yes.
Q. You were living with your sister at that time?
A. Yes.

Q. She put you in school, and when she took you up to Illinois she put you in a school there, didn't she?

A. Yes.

Q. Your grades have improved since you have been going to those schools, haven't they?

page 68 } A. I don't know.

Q. You didn't have any difficulty, did you?

A. When I was at the other school they didn't teach me right.

Q. The schools she has put you in were Catholic schools?

A. Yes. I couldn't go anywhere else.

Q. They have never stopped you from going to school or church?

A. No.

Q. They have been to church with you, haven't they?

A. Yes.

Q. Do you think they will stop you from being a Priest?

A. No. I asked them once about it and they said I will have to wait. After I had my first Communion I had a chance to make my confirmation. They said no, to wait until afterwards.

Q. They have asked you not to make up your mind to be a Priest at this time; is that correct?

A. Yes.

Q. You want to make your mind up definitely?

A. Yes.

Q. They have never said that you could not be a Priest, have they?

A. No, they never have.

Q. Jimmy, do you recognize this picture (hand-

page 69 } ing photograph to witness)?

A. I can't remember it.

Q. You don't know whether you were happy then, or not, do you?

A. I can remember before that I wasn't happy.

Q. Were you happy then?

A. I can't remember.

Mr. Pickrell: I would like to introduce it.

By Mr. Pickrell:

Q. Here is a picture of you and Ricky taken in 1952 in Illinois; is that true?

A. Yes.

James Newton.

Q. Here is another picture apparently taken at the same time. Is that you?
A. Yes.
Q. You and Ricky have always gotten along, have you?

Mr. Russo: I don't see where he is establishing any dates.
The Court: "Petitioner's Exhibit 4."

By Mr. Pickrell:
Q. Is this a picture of you and Ricky?
A. Yes.
Q. Do you remember when that was taken?
A. No.
Q. He has a sign something about Wisconsin?
page 70 } A. Yes.
Q. Were you happy then?
A. I was happy with Ricky until after Flo started in on me.
Q. Do you remember this birthday party at Great Lakes in 1952?
A. Yes.
Q. You were living with Flo and Rick at that time?
A. Yes.

Mr. Russo: All of these were before the adoption and inquiries in this case should be restricted to that time.
The Court: I have to differ with you. You have brought in lots of things prior to it; for instance, circumstances of when she got a divorce. I will let them come in.

By Mr. Pickrell:
Q. Jimmy, do you remember this picture taken on the lake, at Great Lakes, in 1952?
A. Yes, sir.
Q. Rick was taking you sailing?
A. Yes.
Q. You had a dog, didn't you?
A. Yes.
Q. Here is a picture in 1952 which says it was
page 71 } taken in Virginia. Do you remember that?
A. No.
Q. It is you?
A. Yes.
Q. Do you remember the dog?
A. I think it is the same one that is back there. (indicating)
Q. Here is a picture that shows it was taken at Christmas,

1952, in Norfolk, with yourself, Ricky and Flo. Do you remember that?

A. Yes.

Q. That was at Christmas, was it?

A. I don't know.

Q. Here is a picture of Flo, the dog and yourself and says 1953, Great Lakes. Were you in Great Lakes with them then?

A. I was in Great Lakes, but I don't remember the date.

Q. That is you?

A. Yes.

The Court: Is there any reason to ask him in each one if he was happy?

By Mr. Pickrell:

Q. Here is a picture in 1953. Are you in that picture?

A. Yes.

Q. That shows the four of you, does it, Mr. and
page 72 } Mrs. Newton, you, Jimmy and Flo?

A. Yes.

The Court: How many of these do you have?

Mr. Pickrell: Not too many more.

The Court: You started in 1952.

Mr. Pickrell: I will progress much faster from now on.

By Mr. Pickrell:

Q. Is this a picture of your room?

A. Yes.

Q. Is that you?

A. Yes.

Mr. Russo: We have no objection to the pictures. You may put them all in at once. We have seen them and they are pictures of the principals.

Mr. Pickrell: I will introduce them one after the other and in order.

By Mr. Pickrell:

Q. Jimmy, Flo never touched you with any knife, did she?

A. What do you mean?

Q. You said she said she was going to cut your ears off. She didn't, did she?

James Newton.

A. Not at that time, but I had a big fester on my ear one time when she stuck a needle it.

page 73 } Q. That was for a boil on your ear?

A. Yes.

Q. You didn't think it was right for her to open it with a needle?

A. It was not her job, I don't think.

Q. How old were you at that time?

A. Between nine and eleven, I think.

Q. You were between nine and eleven years old and Flo treated a boil on your ear with a needle and you objected?

A. No, but I didn't think it was her job.

Q. Jimmy, Mrs. Newton testified that when you came out to California in 1956, you used to say "yes, sir" and "no, sir." Did you?

A. Yes.

Q. You haven't said "yes, sir" or "no, sir" to us, have you?

A. No.

By The Court:

Q. Why is that?

A. Because I don't believe in saying "yes, sir" or "no, sir" unless I am some place where it is proper.

Q. Can you think of a more proper place than a court room to say "yes, sir" or "no, sir," where the court is dealing with the question of who gets who?

A. No, sir.

page 74 } Mr. Russo: I believe he has been answering you with "yes, sir" or "no, sir."

The Court: That is the first time he has said it.

Mr. Russo: We Southerners have the habit of saying "yes, sir" or "no, sir," but in the North I don't believe people are in the habit of using that language "yes, sir" or "no, sir," like we Southerners do. I don't think it should be held against him.

A. I am not trying to hold anything against him. Did you ever hear of, "The wicked fleeth when no man pursueth?"

By Mr. Pickrell:

Q. You said at one time Flo caught you smoking a cigarette?

A. Yes.

James Newton.

Q. And she punished you for that?
A. She was going to make me eat a package of cigarettes.
Q. She didn't, did she?
A. No, but she would have.
Q. What stopped her?
A. My mother.
Q. Your mother stopped Flo from disciplining you for smoking a cigarette?
page 75 } A. Yes.
Q. Your mother didn't want any disciplining done, did she?

Mr. Russo: He didn't say that she didn't want any disciplining. He is trying to put words in his mouth. I don't want that in the record because she didn't say it.

By Mr. Pickrell:
Q. Did anybody punish you when Mrs. Newton stepped in and stopped Flo from punishing you?
A. I can't say.
Q. You came across country with Mr. and Mrs. Newton, didn't you?
A. Yes.
Q. You all talked about this case coming across?
A. No.
Q. You didn't talk about it at all, Jimmy?
A. No.
Q. I want you to know there wouldn't be anything wrong about it.
A. We were trying to get it off our minds coming across.
Q. You knew about this case and the 'phone call?
A. She said there was going to be a dirty fight.
Q. When did she say that?
A. That is what she said on the 'phone.
page 76 } Q. You didn't talk to her on the 'phone, did you?
A. No, but you could hear it.
Q. You said you didn't tell the truth back there in the divorce case; is that correct?
A. That is right.
Q. Jimmy, isn't it true that the only operation you have had was to take your tonsils out?
A. No.
Q. What others have you had?

James Newton.

A. I don't know what you call them, but they stuck some tubes in my ears.

Q. What did you have, sinus?

A. I am not sure.

Q. Flo and Ricky took you to the doctor and had you treated, didn't they?

A. My mother did, not them.

Q. When the trouble with your nose came about you were not with Flo?

A. No.

Q. So it could not have been anything Flo did to you to cause your ears to ache or you to have sinus?

A. Except she slapped me where I had it.

Q. She had never inflicted any injury on you, has she?

A. What do you mean by that

Q. She has never cut you or hurt you, or done
page 77 } anything other than to correct you, has she?

A. I told you about when she did it to my ear.

Q. She has been after you to study right hard, hasn't she?

A. I don't know. If she has I don't know, and as far as I know, I don't remember. I didn't have much time to give to study when I had all of the schedules to do.

Q. Didn't you do well in school?

A. Not until last year.

Q. You didn't flunk anything, did you?

A. I am not sure.

Q. Jimmy, where did you last live with Mr. and Mrs. Newton?

A. I think it was in Roseburg.

Q. Before this adoption, where did you live with Mrs. Newton and Mr. Newton?

A. Roseburg.

Q. How old were you then?

A. I am not sure.

Q. How long did you live there in Roseburg with Mr. and Mrs. Newton?

A. I don't know.

By The Court:

Q. You don't know how long you lived there?

A. No. I am not sure of the dates.

page 78 } Q. How about months or years?

A. I don't know how long it was.

Q. You don't know how many months?

A. No.

James Newton.

Q. You don't know how many years?
A. No.
Q. You don't know whether it was two or three years?
A. It couldn't have been over four years. It was in between two, three or four. It was about four years ago.
Q. When was the last time?
A. Between two and four years.
Q. How old were you at that time?
A. I think it was in 1952 or 1953, I am not sure of that.

By Mr. Pickrell:
Q. Didn't they buy the farm in 1950?
A. I am not sure.
Q. Weren't you with them in 1951?
A. I am not sure.
Q. Were you with Flo in 1952?
A. I am not sure.
Q. If they didn't buy the farm until 1950, you know you were with Flo in 1953?
A. I said two to four years.
Q. Was your father there all of that time with her?
A. Yes.
page 79 } Q. All of that time?
A. Yes. He was there longer than that.
Q. Was your mother there all that time?
A. Yes.
Q. Jimmy, isn't it true that the statements you have made about not wanting to live with Flo and Ricky was not made until after Flo and Ricky went to Hawaii?
A. What do you mean?
Q. Is it not true that the statements you made about not wanting to go back to them was not made until after Flo and Ricky went to Hawaii?
A. Is it true?
Q. Yes.
A. No, because I told my mother before that I didn't want to go back and she didn't believe it. She thought I was homesick.
Q. When did you say that?
A. Several times when I came home on vacation.
Q. You are not scared of Ricky, are you?
A. I was when I first knew him. I'm not now.
Q. You were not afraid of him in 1956, were you, when this picture was taken?
A. What does it say underneath the picture?

James Newton.

Q. Do you remember when that picture was taken with the waterfall in the background?

page 80 } A. Yes.

Q. You were not afraid of him then?

A. I was not afraid of him but I don't like Flo.

By the Court:

Q. You don't like Flo?

A. I am afraid of her.

By Mr. Pickrell:

Q. Are you afraid of her because she makes you do things?

A. She gets mad for no reason at all.

Q. You think she ought not to get mad?

A. No. I think she ought to give you a chance to say something to her.

Q. Did you start when you were twelve years old, that you wanted to be able to say what you wanted to?

A. No.

Q. Did it start when you were thirteen years old?

A. No.

Q. Did it start when you were fourteen?

A. What?

Q. Did it disturb you because you were not allowed to say what you wanted to say?

A. Yes.

Mr. Russo: Don't say "yes" before you understand the question.

page 81 } Q. Did you say you didn't like Flo stopping you from saying something?

A. No. I think if I do something wrong I ought to be corrected, and if she says I do something wrong and I didn't do it, I ought to have a chance to say I didn't do it.

Q. When you were twelve years old did she treat you that way?

A. Yes.

Q. When you were eleven years old did she?

A. Yes.

By the Court:

Q. Do you have any objection to saying "yes, sir" or "no, sir"?

A. No, sir.
Q. Has anybody taught you not to say "Sir" or "no, sir?"
A. No, sir.

The Court: Try to do that for a while. It sounds a lot better.

By Mr. Pickrell:
Q. Would your attitude be different if you thought in your own heart that your desires to enter the Priesthood was in any way in danger?
A. No.
Q. It has nothing to do with it?
A. It has something to do with it. It wouldn't make
page 82 } any difference.
Q. It has something to do with it?
A. Yes.
Q. How much does it have to do with it?

Mr. Russo: He says it has something to do with it, and I think that is sufficient.
The Court: I agree that the question would be somewhat difficult to answer percentagewise.

By Mr. Pickrell:
Q. Do you think they won't allow you to be a Priest?
A. No.

By the Court:
Q. How long have you been wanting to be a Priest?
A. About five years, or four years.
Q. Four or five years?
A. Yes, sir.
Q. Are you sure of that?
A. Yes.
Q. Yes what?
A. Yes, sir.

page 83 } MRS. CATHERINE W. NEWTON,
one of the petitioners, having been previously sworn and examined, was recalled for further examination and testified as follows:

Richard Vance Wilson.

DIRECT EXAMINATION.

By Mr. Russo:
Q. Mrs. Newton, who is that a picture of?
A. My son.
Q. When was that taken, Mrs. Newton?
A. That was taken, I believe, in November, 1956. It is one of the school pictures.
Q. Who was he living with at that time?
A. He was living with me.
Q. Was it since or before you took this action?
A. Since I instituted the action.

Mr. Russo: I would like to show the court that the boy appears to be happy at that time. That is all.
Mr. Pickrell: I have no questions.

page 84 } Mr. Russo: If your Honor please, the only other evidence we have is these depositions taken in California and I believe they are with the court. I have a copy here.
The Court: I see no need in going into it today. I am going through the whole record and am not going to give a decision today.
There is right much volume to it, and the Court of Appeals has indicated they wish considerable time taken, and I will accede to their request.
Mr. Pickrell: We have no objection to the depositions but we would like to call the court's attention to the fact that a good deal of matters covered in these depositions had taken place in 1948 and 1949.
Mr. Russo: I would like to say that those comments appearing in the depositions were not known to them at the time they gave their permission or consent.
The Court: I suppose that will be apparent to the court.

page 85 } RICHARD VANCE WILSON, called as a witness on behalf of the respondents, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Pickrell:
Q. Please state your name and occupation.

Richard Vance Wilson.

A. Richard Vance Wilson, and I am an electronics technical 1st class, Great Lakes, U. S. Navy.

Q. How long have you been in the Navy?

A. Fifteen years.

Q. What is your income?

A. My monthly or annual income?

Q. Monthly.

A. $241.00 plus added sources, such as allotment for my dependents, medical expenses, etc.

Q. Are you financially able to care for this boy?

A. Yes, sir.

Q. When did you first meet Jimmy?

A. Shortly after I met my now spouse in 1951.

Q. Where were you at that time?

A. Hunter's Point, California, stationed there.

page 86 } Q. When was that?

A. November, 1951.

Q. Who was Jimmy with at that time?

A. My wife.

Q. From the time you first met your wife, what has been her conduct as far as your marriage is concerned?

A. I have no complaints.

Q. What type of marriage do you have?

A. I think it is a wonderful one.

Q. When were you married?

A. April, 1953.

Q. Who was Jimmy with at that time?

A. With us.

Q. Had Jimmy been with you up until the summer of 1956?

A. Except for summer vacations.

Q. What would happen during summer vacations?

A. Mrs. Newton would come and pick up the boy and take him back with her and he would spend the summer vacation and she would bring the boy back with her.

Q. Did you or did you not at any time discuss the adoption with Mr. and Mrs. Newton?

Mr. Russo: That is the same thing my attention was called to, "did you or did you not."

The Court: Do you agree with me?

Mr. Russo: If it was objectional for me, it is

page 87 } for Mr. Pickrell.

The Court: If you don't agree with me, I will overrule the objection, and if you do, I will sustain it.

Mr. Russo: I suppose I will have to agree.

Richard Vance Wilson.

By Mr. Pickrell:

Q. While Jimmy was living with you, did the question of adoption ever come up?

A. Yes. When I desired to be stationed overseas, at an overseas base, for him to receive medical attention he would have to be my dependent even though he was living with me, and he was not a dependent so far as the Navy was concerned. You had to make it legal.

Q. Did you discuss the matter with Mrs. Wilson?

A. Yes, I brought it to her attention and she talked with her mother about it.

Q. Was that consent given?

A. I beg your pardon.

Q. Was consent given by Mrs. Newton?

A. Yes, sir, it was.

Q. Did Mr. Newton join in the consent?

A. Yes, sir.

Q. Did you ever have any discusion with him?

A No, sir, not personally, not with Mr. Newton, but we had discussed it with my wife, and Mrs. Newton and myself, Jimmy included.

page 88 }

Q. You heard Jimmy testify today. What relationship did you and the boy have until he went to California in 1956?

A. A father and son relationship. We enjoyed playing ball together, fishing on the Great Lakes, sailing, and those things.

Q. Why do you want the adoption completed?

A. Because I love the boy as if he were my own son.

Q. What type of treatment has the boy had when he was in your care?

A. I believe the normal treatment that any child his age has. He has his own activities, and joined the Little League team in Norfolk, and had the same activities that any child normally has.

Q. What was James' attitude toward you and Flo during this time?

A. That time we got along fine.

Q. Is his attitude now the same?

A. It seems to be changed.

Q. In spite of his attitude today, do you still want to adopt him?

A. Yes, I do.

Q. What has been the relationship between Flo and Jimmy during this time?

Richard Vance Wilson.

A. Similar to mine. They got along all right.

page 89 } Q. At any time do you know of any injury being inflicted on the boy by anyone, any bodily harm?

A. He has been spanked probably, and we talked it over before to find out if he knew why he was receiving it, but he has never been injured.

Q. Did the boy ever have any pets while he was with you?

A. Yes, sir, we had one in the back room for him, it is something on the order of mice, called hamster.

Q. During the time you knew Flo and married her until the time you left for Hawaii, did you ever hear Mr. or Mrs. Newton raise any objection to the adoption?

A. I didn't know anything about it, sir, until I was—when I returned from Hawaii it was brought out in Yolo County. I called my wife after we arrived in Seattle and she brought out the fact that consent was withdrawn.

Q. Is that the first you knew of it?

A. That is the first I knew of it.

Q. Is that the first time any complaint on behalf of either Mr. or Mrs. Newton was raised?

A. As far as I know, yes, sir.

Q. At any time before that had you heard Jimmy complain about it?

A. No, not to me.

Q. What was his attitude towards it?

page 90 } A. His attitude seemed favorable, and at the time we talked it over there was no indication given by him that he was not happy with us.

Q. Where did you leave Jimmy before you went overseas?

A. Middletown, California. I reported into the Federal Building and then was flown to Hawaii.

Q. Was there any reason why he didn't go with you at that time?

A. Yes, sir. It had been the policy of the boy to spend summer vacations with Mr. and Mrs. Newton, and another reason is the Navy had advised me to first secure proper quarters before taking my dependents to Honolulu.

Q. What were the plans so far as Jimmy joining you were concerned?

A. We were to get orders that we were to obtain from the Navy and have him arrive there prior to the starting of school.

Q. At the time you left Jimmy in California, what was his attitude so far as joining you in Honolulu was concerned?

A. It was favorable. He had never objected at all to me to

Richard Vance Wilson.

going over. We had been down to a stream and fished the afternoon before we left.

Q. You also adopted a boy by the name of Bobby?

A. Yes, sir.

Q. He was what relation to you?

page 91 } A. My nephew.

Q. What happened to his parents?

A. His father died, and then his mother and the boy just—she had no way of taking care of him and he didn't get along with his stepfather at all. She remarried.

Q. Did you adopt the boy?

A. Yes. I found it to be an offset to the family. He had been placed in a correctional school. I went out and talked to the officials and found out he could be placed in our custody and we could attempt to bring his schooling up-to-date.

At the time we took him he didn't have a fourth grade education and he was thirteen years old.

Q. Did he later join the Navy?

A. Yes.

Q. What education did he have when he joined the Navy?

A. Eighth grade. He just had received the diploma.

Q. Did he want to go in the Navy?

A. At first he was going in the Marine Corps and later on he changed his mind and joined the Navy. He went to San Diego for training.

Mr. Pickrell: No further questions.

CROSS EXAMINATION.

page 92 } By Mr. Russo:

Q. Did you say that you were married to your present wife in April, 1953?

A. Yes, sir.

Q. Were you living with her in February, 1953?

A. She was in Great Lakes and I was in Germany, on board the "IOWA," and I was going out there on leave occasionally—

Q. In February, 1953—

A. The specific date?

Q. Specifically, February 23rd, 1953—

A. I had been up to make arrangements for our wedding, but I am not sure of the date, but I was on leave at that time. I know I had been up there on the fourth of January, and took another leave shortly after that. I am not sure of the dates.

Richard Vance Wilson.

Q. Are you called "Lucky?"
A. In my younger days, I was.
Q. In 1953?
A. Yes.
Q. This is a letter dated February 23rd, 1953, from P. O. Box 566, from Waukegan, Illinois.
It is addressed to, "Dearest Mom, Dad and John, signed, "love Lucky, Flo and Jim."
Are you the same Lucky referred to in that letter?
A. Yes, sir, I believe so.
Q. Now, Mr. Wilson, do you believe that a child
page 93 } should slapped across his ears when it is known he has had ear trouble?
A. No, sir.
Q. You don't think he should be?
A. No, sir.
Q. Was this nephew, Bob, taken from a correctional school or home?
A. That is true.
Q. He was in a correctional home before you got him?
A. Yes.
Q. This might be a personal question but I think it is pertinent. Are you and Mrs. Wilson able to have children?
A. No.
Q. Have you applied to any adoption agency for children?
A. Not through any adoption agency in this area.
Q. Isn't it a fact that you are unable to get a child through an agency because of divorces in the family on both sides?
A. That was never discussed.
Q. Did Mrs. Wilson ever discuss that with you?
A. No, sir,
Q. Now, are you aware of this letter of May 2nd, 1955?
A. I am not sure this was written—
Q. It was written by your wife?
A. Yes, sir.
Q. I will ask her about it. In this adoption was
page 94 } there a Mrs. Hill who was a welfare worker?
A. Yes.
Q. You know about her?
A. Yes.
Q. Did she ever make any visits to your home while you were there?
A. Yes.
Q. Did you ever discuss with her about this adoption?

Richard Vance Wilson.

A. Yes. I talked to a welfare agency. Is that the one in Chicago?

Q. No. I think she was here in Norfolk.

A. I am not sure if I talked to her, or not. I did talk to one of the local ladies.

Q. From the time that you first knew Jim prior to your marriage to your present wife, how long a period of time had you been away from home with the Navy?

A. I will give you the dates as close as I can. I was transferred aboard the "IOWA" in 1951 and I had met my wife previous to the time I was transferred there.

I had been stationed at Hunter's Point. Then the "IOWA" went on a shake down cruise and arrived in Long Beach, and during that time I had been up to visit my wife in Oakland. She was working for the V.A. at that time.

The Court: What is the relevency of this?

page 95 } Mr. Russo: He has testified that everything was fine and that they were getting along fine. I am trying to show that he would have no reason to know what she was doing.

The Witness: This was a time prior to our marriage.

By Mr. Russo:

Q. I am talking about the time you were married.

A. In the latter years, no, sir.

By Mr. Russo:

Q. What do you mean by the latter years?

A. Since 1954.

Q. Mr. Wilson, you and your wife owe Mr. and Mrs. Newton some money?

A. That is a matter of opinion. My wife usually took care of the finances. In some instances whenever there was any doubt it was discussed, and I think she could answer that a little more accurately.

Q. You say your wife took care of the finances? She took care of everything, didn't she?

A. No.

Q. Didn't she rule the roost?

A. No.

Q. Hadn't she ruled you and her mother since you have known her?

Richard Vance Wilson.

A. No, sir.

page 96 } Q. Why do you insist upon the adoption going through when you know Jimmy doesn't want to come back to you? You heard him say that.

A. I still love him and I believe we can take care of him and he will lead a normal life.

Q. Don't you think the boy's wishes ought to play some part in this thing?

A. Yes, I do.

Q. Do you think he will be happy there when he doesn't want to stay there, doesn't want to be there with you?

A. That can only be determined one way or the other. If he will be happy—he was before, was he not?

Q. He said he wasn't. Don't you think by bringing Jimmy back in your home it might lead to a lot of discontent between you and your wife?

A. No.

Q. Don't you think that by having somebody live in your house who is dissatisfied and doesn't want to be there would lead to discontent?

A. I believe it can be worked out.

Q. You believe it can be worked out?

A. I do, sincerely.

Q. Now, before Mr. and Mrs. Newton consented to this adoption, weren't you and Mrs. Wilson asked for their consent for a long time?

page 97 } A. Not that I recall, no lengthy period. I believe the first time it was discussed was after I had brought that up personally.

Q. Did *you* wife inform you when she wrote her mother about it?

A. Yes.

Q. Did you ask her, "When you write next tell them to hurry up and quit delaying?" Don't look at your wife, but answer the question.

A. I am looking at you. I don't recall her saying anything like that in those words.

Q. Didn't you ask her to write Mr. and Mrs. Newton and tell them to stop delaying and either sign the papers or not?

A. I don't recall making any such statement.

Q. What did you say your income is monthly?

A. Monthly income is $280.00 now with fringe benefits.

Richard Vance Wilson.

By the Court:
Q. What is fringe benefits?
A. Commissary privileges, medical privileges and hospitalization.
You don't have to pay a cent for that in case they don't have to have prescriptions?

Mr. Russo: No further questions.

RE-DIRECT EXAMINATION.

page 98 } By Mr. Pickrell:
Q. Where do you live?
A. Great Lakes.
Q. What is your address?
A. 2816 Laine Avenue.
Q. Describe the home.
A. Two bedrooms, living room, bath room, kitchen, full basement, and it is divided for a hobby shop.

By the Court:
Q. Two bedrooms?
A. Yes, sir.

By Mr. Pickrell:
Q. Do you have a yard?
A. Yes, sir, a back yard and a front yard.
Q. Concerning James' school, what plans do you have?
A. Entering him in a parochial school because he is accustomed to that type of school.
Q. Do you have any objection to his being a Priest?
A. If he wants to, no, because I believe it is an honorable profession.
Q. Do you and your wife attend Church?
A. Every Sunday.
Q. What Church do you attend?
A. Catholic Church.
Q. Does Jimmy go with you?
page 99 } A. Yes.

Mr. Pickrell: No further questions.

Florence Newton Wilson.

RE CROSS EXAMINATION.

By Mr. Russo:

Q. During the time you were in Hawaii, did you send any money to Mr. and Mrs. Newton for the boy?

A. No, I didn't.

Q. You are a Catholic?

A. No.

Q. As of this time, of course, you are not a Catholic, and you know your wife cannot receive the Sacraments?

A. (No response).

Mr. Russo: No further questions.

FLORENCE NEWTON WILSON,
one of the respondents, having been first duly sworn, was examined and testified as follows:

page 100 } DIRECT EXAMINATION.

By Mr. Pickrell:

Q. Speak up so everybody can hear you. Please states your name and age?

A. Florence Newton Wilson, thirty-six.

Q. Mr. Richard Vance Wilson is your husband; is that correct?

A. Yes, sir.

Q. Mrs. Wilson, Mr. Wilson is your fourth husband?

A. Yes, sir, he is.

Q. You were married three times previously?

A. Yes, sir.

Q. Concerning Jimmy, when was Jimmy born?

A. On the 25th of July, 1943.

Q. Where did he spend the first part of his life?

A. The first three months he spent in my home and from then on he has been going back and forth to my home, and my husband and I took him and had him several years.

Q. When did you take him?

A. When my husband returned from overseas.

Q. What year?

page 101 } A. 1945, October.

Q. Was that your second husband?

A. My second husband.

Florence Newton Wilson.

Q. How long did the child remain with you?

A. Until 1947 when I divorced my husband and when my mother returned from Oregon.

Q. When again did you take custody of Jimmy?

A. 1951.

Q. 1951?

A. I had him for a short time in 1951 and then I took him again in February of 1952 when I returned my sister's children to her.

Q. When the child was not with you was it always with Mrs. Newton?

A. No. He was at my brother's when it was convenient.

Q. What was the relationship between Mr. and Mrs. Newton as far as living together is concerned?

A. They lived together until 1940 or 1941 when my mother came to California, and in 1947 she returned to him in Oregon and they lived together in Goble, and then they lived together there except for visits to my place in California or when she was visiting my sister, and then they moved down to Southern Oregon in 1950 and they lived together there.

They used to keep a trailer and they lived there in 1950 when my father had a job at Ten Mile, Oregon.

page 102 } Q. When was that?

A. Then they built a house on sixty-four acres, and they started, I believe, in 1951.

Q. You say you have had Jimmy since 1951?

A. I had him a short period of time in 1951, and had him steadily with the exception of vacations since 1952.

Q. Was that before you met Mr. Wilson?

A. No. I met him in 1951.

Q. You have had the boy since 1952?

A. Yes, sir.

Q. Has the boy been with you during your marriage to Mr. Wilson?

A. Yes, he has been with me with the exception of summer vacations.

Q. What was the relationship between you and the boy from 1952 up until 1956, when you delivered the boy to Mrs. Newton in California?

A. He was—we were a family.—Jimmy was cute, a cute toddler, from the time he was born. He was cute up until I returned him to my mother, and he is still cute.

Q. Jimmy says he doesn't want to be adopted by you. Why do you want to complete the adoption?

A. Because I think he has been influenced and I don't think

he truly knows his own heart. I think he has been convinced that he should not be adopted.

page 103 } Q. What was his attitude toward Rick prior to his leaving you all in 1956, and going with Mr. and Mrs. Newton?

A. He was happy with the adoption because it in effect gave him a mother and a grandmother. I think the time my mother was shocked and pleased, too, was when Jimmy kissed me good-by when we were on our way to Hawaii.

Q. You mean Mr. Wilson and you?

A. Yes.

Q. During 1952 and through 1956 had you had any serious problems with him?

A. No real problems. He has a strong will at times, but never anything unsurmountable.

Q. Have you ever injured or abused the boy, physically or mentally?

A. No.

Q. Did he resent your disciplining him?

A. I have to say yes, he did resent it.

Q. Did he at any time before 1956, when you left him with Mr. and Mrs. Newton, state that he didn't want to live with you and didn't want to be adopted?

A. No, not even at times when he was angry he didn't say it.

Q. Is Jimmy the same boy today as when you left him in California in 1956?

A. When you reach through the outer steel, yes.

page 104 } Q. Do you think you can give him the family relationship you had before 1956?

A. I think the only salvation for the whole family is resumption of the relationship we had.

Q. That would mean completion of the adoption?

A. That would mean the completion of the adoption and forgiveness.

Q. When did Jimmy first enter Catholic school?

A. I entered—I made arrangements while he was with my mother on vacation here in Norfolk and they were not sure if they were going to be able to get him in, so they told me they would keep in touch with me, and when my mother came back with him he went in school.

Q. When you went to Illinois, Chicago, where did you enter him in school?

A. St. Anatasia.

Florence Newton Wilson.

Q. If Jimmy wants to be a Priest would you have any objection?
A. No.
Q. What Church do you go to?
A. Catholic church.
Q. Do you go regularly?
A. My husband and I have missed two Sundays since we have been married.
Q. Did the boy go with you?
page 105 } A. Yes, sir.
Q. Is the boy Bobby with you now?
A. No, he is in the Navy now. He was at home on leave for a few weeks.
Q. How did Bobby and Jimmy get along together?
A. Very fine. They had their normal squabbles, and that is the reason I set up the schedule.
Q. Did you make schedules out for them?
A. Yes.
Q. Did they seem to object to them much?
A. No.
Q. Did Jimmy seem to be jealous of Bobby?
A. No, because Jimmy knew where he stood with us long before Bobby came in the family.
Q. Since you have met Mr. Wilson, and I don't mean to infer that you had done anything wrong prior to that time, but since you have met Mr. Wilson in 1951, have you done anything that you are ashamed of, or anything that would prevent you from being able to bring this child up in a proper manner?
A. No.
Q. I believe you have read the depositions given by your sister and her husband; is that correct?
A. Yes, sir.
Q. Are those depositions true?
A. No, they are not.

page 105 } By Mr. Russo:
Q. You say you read them?
A. I did read them, yes.

Mr. Russo: They are with the court.
Mr. Pickrell: I have a copy of them.
The Court: I haven't any. They may be in the file here. Yes, they are in the folder. If there is any question about it we will determine it, but I have no idea of comparing them.

Florence Newton Wilson.

By Mr. Pickrell:

Q. Are those things she said about you any derogatory way true?

A. No.

Q. What has been the relationship between you and your husband?

A. I have found a man who is a husband, a good husband, who has given me a home, security and love.

Q. And Jimmy has been in that home during that time?

A. Yes, and he was a part of that home.

Q. Are you working now?

A. Yes, sir, I am.

Q. How much do you make a year?

A. $4,325.00.

Q. What are your plans so far as Jimmy's education is concerned?

page 106 } A. As far as his education is concerned it is to continue as we had it before. He would go to a parochial school as before, and they are the plans I have before him for the future. I told him when he first mentioned this about two and a half years ago that if he still felt like he wanted to be a Priest that we would do everything possible for him, and we would when he made the decision.

Q. What was the relationship between Jimmy and Mr. Wilson?

A. Father and son, both big boys.

Q. What was the relationship between you and Jimmy?

A. Jimmy has been a part of my life. He is just my boy, and that's all.

Mr. Pickrell: No further questions.

CROSS EXAMINATION.

By Mr. Russo:

Q. Why do you insist on this adoption going through when it is so apparent that Jimmy doesn't want it?

A. I don't think he knows his own mind really. He has been influenced by things such as this deposition here which is enough to hurt.

page 107 } Q. What or why would he be influenced by such things as are in the deposition, if he didn't know what was in them?

A. He has been talked to by my sister.

Q. You say everything she has put in there are lies?

Florence Newton Wilson.

A. Almost. I don't say everything, but the majority of it.

Q. You say what she says about your relationship with other men and running around is not true?

A. Yes.

Q. You said something about Jimmy being so happy because he had a grandmother?

A. Yes.

Q. What grandmother?

A. Cones.

Q. Has she been good to you and Jimmy?

A. I wouldn't say she has been very good.

Q. When you wanted money you turned to Mr. and Mrs. Newton?

A. I would send the money back.

Q. Did you put in letters how much you still owed them?

A. I sent her a statement, and $300.00 I borrowed in 1950. It was always added to the bill. When there was a question of our going overseas, we made out a loan and had it filed in court so that my mother and dad would have money, and I gave up every cent of money I had. I never sent page 108 } the allotment back until this matter started.

Q. I am asking you about the letter of February 23rd, 1956, which has been introduced and addressed to, "Dearest Mom, Dad and John," and which reads:

"By the time you get this letter you'll probably all have regained your equilibrium after the shock of our 'phone call today. We honestly don't think you're the Bank of England or anything of the sort but after exploring all angles of this house deal, I decided it would be a wise investment if we could make it right now."

You were making another loan from them?

A. No. That was the first loan that had been requested by me. If you will look at it you will see it was before our marriage.

Q. I show you a letter dated February 26th, 1953, and will ask you if this is your writing?

A. Yes.

Q. In the letter it says:

"We will be square after the October check. I figure all of that money belongs to you alone and that the $40.00 each month that I deduct for Jim is dad's responsibility in reimbursing him for the $300.00 I borrowed two years ago. That

page 109 } should be fair enough because it has been more than just the $300.00 so it has come off of what I owed you, too."

It has not been one loan but one loan after another?
A. No.
Q. The tenor of every letter you have written them has been about money?

The Court: Gentlemen, I think we have been in that phase of it sufficiently. This is not an action for debt or money owing.

By Mr. Russo:
Q. Mrs. Wilson, when did you first consider the idea of the adoption?
A. My husband suggested it in 1954.
Q. Wasn't it long before that time?
A. No. My mother came back in 1954 and I asked her about the adoption, if she would sign papers and she said yes, she would, and we went out of the State to Nova Scotia and she signed consent papers, and then I went up north to Nova Scotia with my husband.
Q. Did you ask her more than one time to sign?
A. No.
Q. Here is a letter dated October 7th, 1954, which has been introduced, and says:

page 110 } "For goodness sake, either sign the things and send them back to us or say that you won't because I'm going crazy balancing on the fence."

I have another letter here dated November 2nd, 1954, which says:

"I wish that I could make you see what delay does in these things. You say it is a big decision, but I can't see it that way."

A. Why shouldn't it be? The child has been with me his whole life.
Q. The child has been with you his whole life?
A. The biggest majority of his life he has been with me.
Q. Mr. and Mrs. Newton didn't testify to that.
A. They did.

Florence Newton Wilson.

Q. They did?
A. My father had seen the child two times before 1947.
Q. Don't you think there is going to be a lot of discontent in your house if this boy goes back to you?
A. No. I think the family is able to reconcile all problems.
Q. What family?
A. My father, my brother, my mother and my son.
Q. Mrs. Hill was the welfare worker in Virginia?
A. Yes.
Q. The only reason you haven't applied for adoption with an adoption agency was because of your divorces?
A. Not from an agency, but Catholic agency.
page 111 } Q. And no other agency?
A. No. Normally they give Catholic children to Catholics and Protestant children to Protestants.
Q. Did you write this letter of May 2nd, 1955, in which you say, "Mrs. Hill explained that due to our divorces, that we could not get a child from an agency for several years, but if we can find a child or children that the parents consent for adoption it will be processed as a separate adoption."
A. The reason for that was, and doesn't it go on to say, that we had been married only a year?
Q. Your divorce had stood in the way because you made inquiry of Mrs. Hill?
A. This was in 1955, but not today.
Q. Why did you inquire of Mrs. Hill and why did you write your mother about it?
A. At that time the adoption was already in process.
Q. Did you talk about another adoption?
A. We did make another adoption.
Q. You must have inquired of Mrs. Hill about an adoption?
A. We may have.
Q. And she said you could not get one because of your divorces?
A. No, because of the short time of our marriage.
Q. Why did you write that in your letter?
A. Because I wanted my mother to understand it.

page 112 } The Court: There have been several letters placed on my desk. Are you introducing them?
Mr. Russo: Yes, sir.
The Court: If you want this record complete I would like to get them back. There has been no offer to introduce them so that I could mark them.

(Papers last above referred to, and photographs were marked by the court.)

By Mr. Russo:

Q. Where did you say your mother signed the papers?

A. She signed two, one in Stant and Mirman's office and another one at the same time my father signed in Roseburg, Oregon.

Q. What was the purpose in signing two?

A. I don't know.

Q. Are you sure she signed one in Stant and Mirman's office?

A. Yes, because they asked her if she realized the whole affair.

Q. Now, did you testify in the *habeas corpus* proceeding on January 7th, 1957, in California, in the County of Yolo?

A. Yes.

Q. Did they ask you about a man you hadn't married and if you had lived in a common law relationship with him, and was your answer yes?

page 113 } A. Yes, but my attorney objected and it was stopped. I lived with a man as his wife in Goble, Oregon, in a house with my mother and father.

Q. What time was that?

A. In 1950.

Q. Did you know a Jim Springer?

A. I was married to him.

Q. This trailer that you spoke of was his trailer?

A. What a husband has his wife has.

Q. Do you think it has or will have any influence on Jimmy, knowing what your past life has been?

A. I don't think it has any bearing whatsoever.

Mr. Russo: I have no further questions.

Mr. Pickrell: I have none.

MRS. CATHERINE W. NEWTON,

one of the petitioners, having been previously sworn and examined, was recalled for further examination and testified in rebuttal as follows:

DIRECT EXAMINATION.

page 114 } By Mr. Russo:

Q. Mrs. Newton, you heard Mrs. Wilson testify

that Jimmy had been with her just about all of his life. Is that true?

A. No, it is not.

Q. Explain to the judge what period of time he has been with you.

Mr. Pickrell: I think the record clearly shows she went into that.

The Court: If you can make it concise and brief, you may answer it.

A. He was born July 23rd, 1943. When I came from the hospital I came to the home of Mr. and Mrs. Springer.

Q. That is your daughter?

A. Yes. I resumed work at San Bernardino and I took Jimmy and Judy, my younger daughter with me. Judy took care of Jimmy while I was working.

At other times I had somebody to take care of him and I paid them. At various times he was with Flo and her husband, Mr. Springer, and when Flo and her husband split up he was with me, and he was subjected to some very difficult things before he came back to me.

By Mr. Russo:

Q. What period of time was he with you during his life?

page 115 } A. 1943, 1944, 1945. Short periods in 1945 he would visit at the Springer's, and in 1946 my son—he was with us in 1946.

Q. Make your answer so the reporter can understand it. When was he with you?

A. 1943, 1944 and 1945, and in 1946.

Q. Let's go from 1946 on up.

A. I am so distracted. In 1947 and 1948 I believe—in 1947 and 1948 I believe he was with us. He went to Oregon with me. When I quit the civil service in 1949, 1950 and 1951, he was with me, and in 1952 for vacation and in 1953 for vacation, 1954 for vacation, and a couple of times during the year I visited him, or once a year.

Q. You deny he has been with Mrs. Wilson about all of his life?

A. Yes.

Q. Mrs. Wilson said you signed consent papers for this adoption in the office of Stant and Mirman?

A. I did not. I signed nothing. I talked about it.

Catherine W. Newton.

Mrs. Wilson went to their office and talked to Mr. Stant. I told her definitely at that time I would not sign consent papers until my husband signed them. In Oregon I went before Mr. Hicks and signed them.

Mr. Russo: No further questions.

Mr. Pickrell: No questions. May I inquire as to the disposition of the child in your Honor's opinion?

page 116 } The Court: How did the child get here?

Mr. Russo: He came with his mother and father.

The Court: He may go on back with them pending decision of the matter. I will go through my notes and write out what should be done, and will leave it in the papers and the Clerk will notify you.

Mr. Russo: Will we have an opportunity to be heard?

The Court: I am sorry. Do you want to argue it now? If you do, I will hear it and I will give you as long as you want, but you will have to do it now.

(Letters and photographs referred to on page 112 were marked Petitioners' Exhibits 7, 9, 10 and 11, and, photographs were marked Defendants' Exhibits 1 through 28 inclusive.)

page 117 } JUDGE'S CERTIFICATE.

I, Edward L. Oast, Judge of the Circuit Court of the City of Norfolk County, Virginia, who presided over the trial of the case IN THE MATTER OF ADOPTION OF AN INFANT TO BE NAMED JAMES NEWTON WILSON, in said court on July 8th, 1958, do hereby certify that the foregoing is a true and correct transcript of the trial of said cause, including all of the evidence adduced, all of the exhibits offered in evidence, as well as all of the objections to the evidence or any part thereof, admitted, rejected or stricken out, together with all motions and objections of the parties thereto, together with all other incidents of the trial of the said cause.

As to the original exhibits introduced in the evidence as shown by the foregoing report, to-wit: Petitioners' Exhibits 1, 2, 3, 7, 9, 10, and 11, and Respondents' Exhibits A, B, and C, and 1 through 28, inclusive, which have been initialed by me for the purpose of identification, it is agreed between the attorneys for the petitioners and the attorneys for the respondents that they will be transmitted to the Supreme Court

of Appeals of Virginia as a part of the record in this case in lieu of certifying to said court copies of said exhibits.

I further certify that this certificate has been tendered to and signed by me within the time prescribed by Section 8-330 of the Code of Virginia for tendering and signing page 118 } bills of exceptions and certificates of record, and that reasonable notice in writing has been given to the attorneys for the respondents of the time and place at which said certificate has been tendered.

Given under my hand this 13th day of August, 1958.

EDWARD L. OAST
Judge of the Circuit Court of
Norfolk County, Virginia.

page 119 } CLERK'S CERTIFICATE.

I, Major M. Hillard, Clerk of the Circuit Court of Norfolk County, Virginia, do hereby certify that the foregoing is a true and correct copy of all of the testimony, exhibits, and other incidents of the trial of the case of IN THE MATTER OF ADOPTION OF AN INFANT TO BE NAMED JAMES NEWTON WILSON, together with the original exhibits therein referred to, duly initialed and authenticated by the Judge who presided over the trial of the said cause, were lodged and filed with me as Clerk of said Court on the 13th day of Aug., 1958.

MAJOR M. HILLARD
Clerk of the Circuit Court of
Norfolk County, Virginia.

page 120 } VIRGINIA:

In the Clerk's Office of the Circuit Court of Norfolk County, Virginia, on the 13th day of August, in the year 1958.

I, Major M. Hillard, Clerk of the Circuit Court of Norfolk County, Virginia, do hereby certify that the foregoing is a true and correct transcript of the record in the case of IN THE MATTER OF ADOPTION OF AN INFANT TO BE NAMED JAMES NEWTON WILSON, lately pending in the said court.

I further certify that the same was not made up and completed and delivered until the attorneys for the respondents had received due notice in writing thereof and of the intention of the respondents to apply to the Supreme Court of

Appeals of Virginia for a writ of error and supersedeas to the final judgement therein.

Teste:

MAJOR M. HILLARD
Clerk of the Circuit Court of
Norfolk County, Virginia.

A Copy—Teste:

H. G. TURNER, Clerk.

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RULE 5:12—BRIEFS

§1. Form and Contents of Appellant's Brief. The opening brief of appellant shall contain:

(a) A subject index and table of citations with cases alphabetically arranged. The citation of Virginia cases shall be to the official Virginia Reports and, in addition, may refer to other reports containing such cases.

(b) A brief statement of the material proceedings in the lower court, the errors assigned and the questions involved in the appeal.

(c) A clear and concise statement of the facts, with references to the pages of the printed record when there is any possibility that the other side may question the statement. When the facts are in dispute the brief shall so state.

(d) With respect to each assignment of error relied on, the principles of law, the argument and the authorities shall be stated in one place and not scattered through the brief.

(e) The signature of at least one attorney practicing in this Court, and his address.

§2. Form and Contents of Appellee's Brief. The brief for the appellee shall contain:

(a) A subject index and table of citations with cases alphabetically arranged. Citations of Virginia cases must refer to the Virginia Reports and, in addition, may refer to other reports containing such cases.

(b) A statement of the case and of the points involved, if the appellee disagrees with the statement of appellant.

(c) A statement of the facts which are necessary to correct or amplify the statement in appellant's brief in so far as it is deemed erroneous or inadequate, with appropriate references to the pages of the record.

(d) Argument in support of the position of appellee.

The brief shall be signed by at least one attorney practicing in this Court, giving his address.

§3. Reply Brief. The reply brief (if any) of the appellant shall contain all the authorities relied on by him not referred to in his opening brief. In other respects it shall conform to the requirements for appellee's brief.

§4. Time of Filing. As soon as the estimated cost of printing the record is paid by the appellant, the clerk shall forthwith proceed to have printed a sufficient number of copies of record or the designated parts. Upon receipt of the printed copies or of the substituted copies allowed in lieu of printed copies under Rule 5:2, the clerk shall forthwith mark the filing date on each copy and transmit three copies of the printed record to each counsel of record, or notify each counsel of record of the filing date of the substituted copies.

(a) If the petition for appeal is adopted as the opening brief, the brief of the appellee shall be filed in the clerk's office within thirty-five days after the date the printed copies of the record, or the substituted copies allowed under Rule 5:2, are filed in the clerk's office. If the petition for appeal is not so adopted, the opening brief of the appellant shall be filed in the clerk's office within thirty-five days after the date printed copies of the record, or the substituted copies allowed under Rule 5:2, are filed in the clerk's office, and the brief of the appellee shall be filed in the clerk's office within thirty-five days after the opening brief of the appellant is filed in the clerk's office.

(b) Within fourteen days after the brief of the appellee is filed in the clerk's office, the appellant may file a reply brief in the clerk's office. The case will be called at a session of the Court commencing after the expiration of the fourteen days unless counsel agree that it be called at a session of the Court commencing at an earlier time; provided, however, that a criminal case may be called at the next session if the Commonwealth's brief is filed at least fourteen days prior to the calling of the case, in which event the reply brief for the appellant shall be filed not later than the day before the case is called. This paragraph does not extend the time allowed by paragraph (a) above for the filing of the appellant's brief.

(c) With the consent of the Chief Justice or the Court, counsel for opposing parties may file with the clerk a written stipulation changing the time for filing briefs in any case; provided, however, that all briefs must be filed not later than the day before such case is to be heard.

§5. Number of Copies. Twenty-five copies of each brief shall be filed with the clerk of the Court, and at least three copies mailed or delivered to opposing counsel on or before the day on which the brief is filed.

§6. Size and Type. Briefs shall be nine inches in length and six inches in width, so as to conform in dimensions to the printed record, and shall be printed in type not less in size, as to height and width, than the type in which the record is printed. The record number of the case and the names and addresses of counsel submitting the brief shall be printed on the front cover.

§7. Effect of Noncompliance. If neither party has filed a brief in compliance with the requirements of this rule, the Court will not hear oral argument. If one party has but the other has not filed such a brief, the party in default will not be heard orally.

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SUPREME COURT OF APPEALS
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