Return to
FILE COPY
Clerk, Supreme Court of Appeals
Richmond, Va.

202 VA 263

# Record No. 5140

## In the Supreme Court of Appeals of Virginia at Richmond

## FRANCIS B. PLATTNER

v.

## MARGARET J. PLATTNER

FROM THE CIRCUIT COURT OF FAIRFAX 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.

IN THE

# Supreme Court of Appeals of Virginia

AT RICHMOND.

---

## Record No. 5140

---

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Monday the 18th day of January, 1960.

FRANCIS B. PLATTNER, Appellant,

*against*

MARGARET J. PLATTNER, Appellee.

---

From the Circuit Court of Fairfax County

---

Upon the petition of Francis B. Plattner an appeal is awarded him from a decree entered by the Circuit Court of Fairfax County on the 25th day of June, 1959, in a certain chancery cause then therein depending wherein Margaret J. Plattner was plaintiff and the petitioner was defendant; upon the petitioner, or some one for him, entering into bond with sufficient security before the clerk of the said circuit court in the penalty of five hundred dollars, with condition as the law directs.

# RECORD

• • • • •

Filed in Circuit Court Clerk's Office Jan. 15, 1957.

THOMAS P. CHAPMAN, JR.
Clerk Fairfax County, Va.

## BILL OF COMPLAINT.

To the Honorable Judges of the said Court:

Your complainant, Margaret J. Plattner, respectfully shows unto this Honorable Court as follows:

1. That both your complainant and defendant are actual *bona fide* residents of the State of Virginia, domiciled in the County of Fairfax, and have been residents for more than one year immediately prior to the institution of this suit.

2. That on the 19th day of February 1945, your complainant was lawfully married in Baltimore, Maryland, to the defendant, Francis B. Plattner.

3. That the parties have one child, Ann Marie, age 5, who was lawfully adopted by them in Philadelphia, Pennsylvania.

4. That on or about the 15th day of December, 1956, the defendant herein constructively deserted your complainant, even though they have continued to reside in the same household; that although your complainant and defendant jointly share the same dwelling, they have for a period of many months not lived together as man and wife because of the actions of said defendant.

5. That on the 22nd day of May, 1955, the defendant so *severly* beat and physically injured the complainant that she required medical treatment and care and that she had to seek refuge elsewhere than their home to protect herself; that after many promises made by the defendant that page 2 } there would be no further violence against the complainant or their child, that he would properly provide for her and the child with due regard to their station and standard of living and that he would not use any intoxicants, your complainant returned to the defendant; that the defendant has not kept his aforesaid promises and that during the last year the defendant has conducted himself in such a way by his words, acts, conduct and attitude that your complainant is in constant fear of her own safety and that of their child and that such conduct and attitude of the defendant has

become such as to seriously impair and interfere with both her physical and mental condition.

6. That on or about the 15th day of December, 1956, the defendant threw a skillet of eggs at your complainant, which skillet struck her causing her to be burned and injured.

7. That the defendant has not given the complainant the attention and affection which she as his wife has the right to expect and all her efforts to adjust their marital situation have been disregarded by the defendant and he has shown no interest in this respect; that he no longer participates in the family life and indulges excessively in intoxicants.

8. That your complainant has been and is now in fear of bodily injury; that your complainant now feels that further effort on her part to live with the defendant would be detrimental to her health and to the health and welfare of their child.

9. That your complainant is entirely without adequate means to support herself and child during the pendency of this suit; that she is wholely dependent upon defendant for support, maintenance, care and education; that the defendant is an officer in the United States Navy holding the rank of Lt. Commander and earns sufficient money to support the said complainant and child in accordance with the standard to which they have been accustomed.

10. That all during their married life, the com-
page 3 } plainant has been a faithful and devoted wife and
has never given the defendant provocation for the bad treatment to which he has subjected her and the cruel suffering he has inflicted upon her.

11. That the parties hereto last cohabited in Fairfax County, Virginia.

12. That both the complainant and defendant are of the Caucasian Race.

13. That there is no hope or possibility of a reconciliation.

WHEREFORE, the premises considered, your complainant is remediless, save in the Court of Equity where alone all such matters are *releivable,* your complainant prays:

1. That the defendant, Francis B. Plattner, be made a party to this bill and that he be required to answer the allegations contained herein, but not under oath, answer under oath being specifically waived.

2. That all proper process may issue.

3. That the defendant be required to pay your complainant a reasonable sum as alimony and maintenance and support for the child of the parties, namely Ann Marie, during the

pendency of this suit and for such further sums as will enable her to carry on the same and that on final hearing of this cause she may be decreed reasonable alimony and maintenance commensurate with the means, as well as reasonable attorneys fees and costs of this suit.

4. That your complainant be awarded a decree of divorce *A MENSA ET THORO* from the defendant on the grounds of voluntary and wilful desertion without just cause or excuse from the 15th day of December, 1956, because it was solely due to the acts of the defendant herein that your complainant and said defendant have failed to live together as man and wife, such acts being tantamount to a desertion on

page 4 } his part.

5. That your complainant be awarded temporary and permanent custody of the minor child adopted by the parties, namely Ann Marie.

6. That the defendant be required to vacate said residence and permit the complainant and her child to occupy the same in its original manner and condition.

7. That the defendant be restrained, enjoined and inhibited from selling, assigning, encumbering or transferring any of his or their property, both real and personal, until further order by this Court.

8. That the defendant be enjoined and restrained from molesting and otherwise interfering with said complainant and their child.

9. That all property rights between the parties be adjudicated.

10. That your complainant may have such other, further and general relief as the nature of her cause may require or as to Equity shall seem meet and proper.

And as in duty bound, she will ever pray, etc.

MARGARET J. PLATTNER
By Counsel.

L. FARNUM JOHNSON, JR.
Attorney for Complainant
100 N. Washington St., Suite 5
Falls Church, Va.

• • • • •

page 6 }

• • • • •

Filed Jan. 15, 1957.

THOMAS P. CHAPMAN, JR.

Clerk of the Circuit Court of
Fairfax County, Va.

PETITION FOR RESTRAINING ORDER.

To the Honorable Judges of the said Court:

Your petitioner, Margaret J. Plattner, respectfully represents unto the Court as follows:

1. That on or about the 15th day of December, 1956, the defendant, Francis B. Plattner, threw a skillet of eggs at your *complaining,* which skillet struck her causing her to be burned.

2. That on or about the 22nd day of May, 1955, the defendant *severly* beat your complainant causing severe injuries over her entire body.

3. That the attitude of the defendant towards the petitioner remains such that she is now in fear of her life; health and safety; and, that the petitioner remains in their mutual abode because she is unable to seek residence elsewhere and because her child is presently in said abode.

4. That on many occasions the defendant has annoyed, harrassed, and treated your petitioner in such a way that she is in fear of her life, health and safety causing considerable disturbances of her peace of mind and nervous system and the said conduct of the defendant has seriously impaired and interfered with her physical and mental condition, and continues to do so.

page 7 } 5. Your petitioner is advised and believes and therefore alleges and avers that she is without relief, save from this Honorable Court, and that without such relief irreparable injury will be done to her health, safety and well being.

WHEREFORE, upon consideration of the premises, the petitioner prays that this Honorable Court issue a temporary restraining order, enjoining the defendant from annoying, harassing, molesting or abusing the petitioner, and for such other further and general relief as the nature of her case may require or to equity shall seem meet.

And as in duty bound, she will ever pray, etc.

MARGARET J. PLATTNER.

State of Virginia,
County of Fairfax, to-wit:

Margaret J. Plattner, being first duly sworn on oath according to law deposes and says that she is the person named in the petition by her subscribed; that she has read said petition and understands the contents thereof, and that those things stated therein upon her personal knowledge are true, and those stated as upon information and belief, she verily believes them to be true.

MARGARET J. PLATTNER.

Subscribed and sworn to before me this 11th day of January, 1957.

G. WILLIAM HAMMER
Notary Public.

My Commission Expires January 28, 1959.

L. FARNUM JOHNSON, JR.
Attorney for Complainant
100 N. Washington Street, Suite 5
Falls Church, Virginia.

• • • • •

page 14 }

• • • • •

Filed Feb. 6, 1957.

THOMAS P. CHAPMAN, JR.
Clerk of the Circuit Court of
Fairfax County, Va.

ANSWER.

The Answer of Francis B. Plattner to a Bill of Complaint filed against him in the Circuit Court of Fairfax County, Virginia, by Margaret J. Plattner, complainant.

The defendant, reserving to himself the benefit of all just exceptions to the said Bill of Complaint, for answer thereto, or to so much thereof as he is advised that it is material he should answer, answers and says:

1. That he admits the allegations contained in paragraphs numbered 1, 3, 11, 12 and 13; and

2. That he denies the allegations contained in paragraphs numbered 4, 5, 6, 7, 8 and 10; and

3. That he neither admits nor denies the allegations contained in paragraph numbered 2, and calls for strict proof thereof; and

4. That no answer is required of him to paragraph numbered 9, but he alleges affirmatively that he has been and is now supporting entirely adequately the complainant and their child.

AND NOW, having fully answered the complainant's Bill of Complaint, the defendant prays that her Bill be dismissed at her cost, that her prayers therein contained, some of which are not proper and exceed the Court's authority to page 15 } grant in this proceedings, not be granted, that he be awarded custody of the minor child adopted by the parties, and that the complainant take nothing by her said Bill of Complaint. The defendant states further that it is his intention prior to the hearing of this divorce cause on the merits to file his Cross-Bill herein.

FRANCIS B. PLATTNER
Defendant, by counsel.

THOMAS MONCURE
Solicitor for defendant
121 South Royal Street
(P. O. Box 31)
Alexandria, Virginia.

• • • • •

page 18 }

• • • • •

Filed Apr. 10, 1957.

THOMAS P. CHAPMAN, JR.
Clerk of the Circuit Court of
Fairfax County, Va.

CROSS-BILL.

The defendant, Francis B. Plattner, files at this time his

Cross-Bill of Complaint and prays that his Answer, heretofore filed herein, may be treated as incorporated in this Cross-Bill, and further, the defendant charges and alleges:

That the complainant, Margaret J. Plattner, is not entitled to the relief prayed for in her Bill but, to the contrary, he, the said defendant, should be decreed a divorce *a vinculo matrimonii* or an annulment, or, in the alternative, a divorce *a mensa et thoro,* and other relief, by reason of the following:

1. That when defendant met (in the spring of 1944) and courted the complainant prior to their purported marriage in Baltimore, Maryland, on February 19, 1945, complainant went by the name of Margaret J. Giordano, and she represented specifically to the defendant that she was a widow, that she had been married to one Anthony Giordano, that he was in the United States Army, and that he had been killed early in World War II in Manila, P. I.; that complainant, who was an enlisted WAVE in the United States Navy for part of World War II, went by the name of Giordano in said service, and from time to time on its records gave information page 19 } corroborative of what she had told defendant, as heretofore set forth; that it has just come to the attention of the defendant since the complainant instituted this divorce action, defendant having been informed of and believing the matters hereinafter set forth, and based on such information and belief he alleges, that complainant, prior to marrying him, actually lived out of wedlock for periods of time as man and wife with the said Anthony Giordano in various places, and held herself out as the wife of the said Anthony Giordano, he, the said Anthony Giordano, at the time he was living with the complainant, being already married, which fact was known to the complainant; that the said Anthony Giordano is now living and married; that the defendant alleges that the complainant perpetrated a fraud upon him, in that he would not have married her had he known of the foregoing lewd and lascivious conduct, that the complainant made a material representation to him concerning her status prior to their marriage, that he relied upon her representation, that her representation he has now discovered to be entirely false, and that such falsity is to his detriment.

2. That on February 1, 1957, the complainant, without just cause or excuse, deserted and abandoned the defendant from their home at 1909 Holly Hill Drive, Falls Church, Virginia, taking her personal possessions with her and declaring and evidencing her intention not to return; that by reason of the

foregoing conduct on the part of the complainant, the defendant alleges that she is guilty of desertion and abandonment from February 1, 1957, and continuing to the present.

WHEREFORE, the defendant repeats the prayer of his Answer that the complainant's Bill of Complaint be dismissed at her cost and that she take nothing thereby; that page 20 } the said Margaret J. Plattner be made a party to this Cross-Bill of Complaint and be required to answer same, answer under oath being waived; that the defendant be awarded a divorce a *vinculo matrimonii* from the complainant, or an annulment, on the ground of fraud, or, in the alternative, a divorce a *mensa et thoro,* on the ground of desertion and abandonment, without just cause or excuse, from February 1, 1957, with the right to merge said divorce into a divorce a *vinculo matrimonii* at the expiration of the statutory period; that the defendant be awarded sole care, custody and control of the infant child of the parties, Ann Marie Plattner; and that this prayer of his Cross-Bill be deemed to include those prayers and relief as set forth in Rule 2:2 of the Rules of Supreme Court of Appeals of Virginia, dated February 1, 1950, as amended.

And your defendant will ever pray, etc.

FRANCIS B. PLATTNER
Defendant and cross-complainant.

THOMAS MONCURE
Solicitor for defendant
121 South Royal Street
(P. O. Box 31)
Alexandria, Virginia.

• • • • •

page 24 }

• • • • •

Filed May 31, 1957.

THOMAS P. CHAPMAN, JR.
Clerk of the Circuit Court of
Fairfax County, Va.

## DEMURRER AND ANSWER TO CROSS CROSS-BILL.

### DEMURRER.

The Complainant and Cross-Defendant, Margaret J. Plattner, says that paragraph number 1 of the Cross-Bill filed by Defendant and Cross-Complainant, Francis B. Plattner, is not sufficient in law for the following reasons:

1. It complains of alleged conduct which occurred prior to the time the parties met; that the face of the Cross-Bill shows that the Defendant and Cross-Complainant courted the Complainant and Cross-Defendant from the Spring of 1944 until their marriage on February 19, 1945, and that the Defendant had sufficient time to inform himself as to the character and background of the person he intended to marry and that in fact he did marry her; and that he can not now assert and is estopped from asserting that the marriage is void or voidable.

2. Paragraph one of the Cross-Bill does not assert facts sufficient to void the marriage for fraud.

MARGARET J. PLATTNER
By Counsel.

### ANSWER TO CROSS-BILL.

The Complainant and Cross-Defendant, Margaret J. Plattner, for answer to the Cross-Bill exhibited against her in the above styled suit by the Defendant and Cross-Complainant, answers and says:

1. She admits she went by the name of Margaret J. Giordano at the time she met the complainant prior
page 25 } to their marriage; that *that* she admits she enlisted in the Navy as Margaret J. Giordano; that she denies each and every other allegation of paragraph one and states affirmatively that the defendant was fully informed of her background and that he married her under her maiden name, Margaret J. Hannon.

2. That she denies each and every allegation of paragraph two and states affirmatively that she last resided at 1909 Holly Hill Drive on or about February 1, 1957, and that she resolved to live elsewhere when a restraining order entered in this suit against the Defendant and Cross-Complainant was vacated by the Court on February 15, 1957, and that she did so in fear of her life, health and safety and that of there

daughter Ann Marie Plattner; and that she repeats the allegations contained in her Bill of Complaint.

WHEREFORE, the Complainant and Cross-Defendant, repeats the prayers of her Bill of Complaint and prays that the Defendant and Cross-Complainant's Cross-Bill be dismissed at his cost; and that the Complainant and Cross Defendant be awarded a divorce a *mensa et thoro* from the 15th day of December, 1956, as alleged in the Bill of Complaint, with the right to merge said divorce into a divorce a *vinculo matrimonii* at the expiration of the statutory period.

And your Complainant and Cross-Defendant will ever pray.

MARGARET J. PLATTNER
By Counsel.

L. FARNUM JOHNSON, JR.
Attorney for Complainant and
Cross-Defendant.

• • • • •

page 26 }

• • • • •

Filed May 31, 1957.

THOMAS P. CHAPMAN, JR.
Clerk of the Circuit Court of
Fairfax County, Va.

PETITION TO MODIFY VISITATION PRIVILEGES.

1. That upon notice and motion filed and upon hearing evidence presented on February 15, 1957, this court entered an order granting your complainant temporary custody of Ann Marie Plattner, daughter of the parties hereto, and granting the defendant, Francis B. Plattner, visitation privileges and the right to have the said child with him from 1:00 p. m. to 6:00 p. m. every Sunday.

2. That your complainant, Margaret J. Plattner, has made every reasonable effort to comply with the said order and has had the child available for the defendant at 1:00 p. m. every Sunday, with the one exception, February 24, 1957, when it was mutually agreed by the parties that the defendant

would not insist on his rights so that Mrs. Plattner could visit her family in New Jersey with the child. That the only occasion when the child was not available to the defendant was Sunday, March 24, 1957, at which time Commander Plattner did not arrive to pick up the child at the appointed time and that due to the fact that the child was sick and running a high fever your complainant did not remain at the appointed place but returned home with the child.

3. That the child has shown an increasing reluctance to go with the defendant at the time ordered by the court and that during the last month has refused to accompany the defendant when he has called for her.

4. That your complainant has done everything possible to make the child accompany her father, short of
page 27 } physically forcing her into the defendant's automobile and has done nothing to alienate the child from her father.

5. That the child is under great emotional strain and becomes morose and unhappy as each Sunday approaches and shows great fear of being taken from your complainant.

6. That your complainant believes that the best interests of the child will be served if the visitation rights of the defendant be amended to provide that he not be allowed to take the child with him, but that he be allowed visitation privileges at your complainant's residence or such place as your complainant may designate.

WHEREFORE, your complainant, Margaret J. Plattner, respectfully requests that the order granting your complainant temporary custody and the defendant the right of visitation and having the child with him on Sunday, each week-end from 1:00 p. m. to 6:00 p. m., be amended to allow the defendant, Francis B. Plattner, the privilege of visitation at the residence of your complaniant or such other place as she may direct as seems just and proper to this court and that the privilege of having the said child with him be revoked.

And she will ever pray, etc.

MARGARET J. PLATTNER
Complainant.

L. FARNUM JOHNSON, JR.
Attorney for Complainant
100 N. Washington St., Suite 5
Falls Church, Virginia.

* * * * *

page 29 }

* * * * *

ORDER.

On the 12th day of July, 1957, there came on to be heard the complainant's Demurrer to paragraph numbered 1 of the defendant's Cross-Bill, and the Petition of the complainant to modify the visitation privileges of the defendant as set forth in the Order entered herein on April 15, 1957, together with the defendant's Answer to Petition; the parties were present in person and by counsel, and the Court heard testimony by the complainant and her witnesses, and argument of counsel;

UPON CONSIDERATION WHEREOF, the Court was of the opinion that the complainant's Demurrer should be overruled ,and that the prayer contained in the defendant's Answer to Petition should be granted;

THEREFORE, it is ORDERED and DECREED:

1. That the complainant's Demurrer to paragraph numbered 1 of the defendant's Cross-Bill be, and the same hereby is, overruled, and leave is given to the complainant to file such further pleadings as she might be advised in the premises to said paragraph numbered 1, within twenty-one days from July 12, 1957; and

2. That the visitation privileges of the defendant, as set forth in the Court's Order entered on April 15, page 30 } 1957, are hereby modified and clarified to provide that the defendant pick up Ann Marie Plattner each Sunday at 1:00 p. m. at the apartment of the complainant located at Apartment 201, 6416 Arlington Boulevard, (Williston South Apartments) Falls Church, Virginia, and return the said child to this apartment by 6:00 p. m. on that Sunday.

To the action of the Court in overruling the Demurrer to paragraph numbered 1 of the defendant's Cross-Bill, counsel for the complainant noted an exception.

AND THIS CAUSE IS CONTINUED.

Entered: July 26th, 1957.

HARRY L. CARRICO, Judge.

Seen and exception noted:

L. FARNUM JOHNSON, JR.
Attorney for Complainant.

Seen:

THOMAS MONCURE
Attorney for Defendant.

• • • • •

page 31 }

• • • • •

Filed Jun 27, 1957.

THOMAS P. CHAPMAN, JR.
Clerk of the Circuit Court of
Fairfax County, Va.

ANSWER TO PETITION.

COMES NOW the defendant, by counsel, and files this his answer to the complainant's Petition to Modify Visitation Privileges heretofore filed herein. Answering said Petition seriatim, the defendant says:

1. That he admits the allegations contained in Paragraph 1 thereof; and
2. That he denies the allegations contained in Paragraph 2 thereof; and
3. That he admits substantially the allegations contained in Paragraph 3 thereof; and
4. That he denies absolutely the allegations contained in Paragraph 4 thereof; and
5. That he denies the allegations contained in Paragraph 5 thereof; and
6. That he denies the allegations contained in Paragraph 6 thereof, but concurs in requesting the Court to order a change in the existing visitation arrangement, as is more particularly hereinafter set forth; and
7. That he alleges that he has been attempting to exercise his visitation privileges, which he looks forward
page 32 } to and very much desires to have, by calling for the child, at the time designated by the Court's order,

at the residence of friends of his wife; that this came about because his wife and their child stayed with these friends when his wife left the home of the parties; that for some months past his wife has had her own apartment, the exact address of which is unknown to him, but complainant persists in having the child at the home of her friends at one p. m. on each Sunday for his visitation; that this is unsatisfactory for many reasons, among others, distance from defendant's residence, distracting influences on the child, entertainment arranged for the child so as to compete with his visitation, and encouragement of the child to be impudent to her father and disobey him; and

8. That he denies that the complainant has done everything possible to make the child accompany him and has done nothing to alienate the child from him; that he alleges that the child, since she has been in complainant's temporary custody, has on occasion been disrespectful and impudent to him, abusive in her address of him, wilful and disobedient, and has indicated plainly that she had been informed that she could go with her father or not, as she saw fit; that entertainment attractive to the child or playtime with other children, has been arranged for the time of defendant's visitation, with the result that the child has refused to accompany him; that on May 24, 1957, he was informed, through his counsel, that his child had been hurt several days prior on a bicycle and that it would be best not to exercise his visitation privilege the next ensuing Sunday (May 26th), and that the complainant would call him, as her attorney had firmly agreed with defendant's attorney, about the matter on the evening of May 24th or during the day on May 25th; that com-
page 33 } plainant did not call him at all and when he finally located complainant at her friends' home about mid-afternoon on Sunday, May 26th, he was informed by complainant that she did not have to kowtow to him and that the child had been available since one p. m.; that hence still another visitation period was lost to him; that on the majority of Sundays since February 15, 1957, visitation has been either materially curtained in length to an hour or two, or else has been non-existent.

WHEREFORE, these premises considered, defendant prays that the existing visition Order be maintained as to him having the right to visit with the child and having the child with him on every Sunday, from one p. m. until six p. m., but that it be modified to direct that the child be available at

complainant's apartment and be returned there upon the conclusion of his visitation.

AND your defendant will ever pray, etc.

FRANCIS B. PLATTNER
Defendant, by counsel.

THOMAS MONCURE
Attorney for defendant
121 South Royal Street
(P. O. Box 31)
Alexandria, Virginia.

• • • • •

page 60 }

• • • • •

Filed Jul 17, 1958.

THOMAS P. CHAPMAN, JR.
Clerk of the Circuit Court of
Fairfax County, Va.

COMMISSIONER'S REPORT.

To the Honorable Judges of the Circuit Court of Fairfax County, Virginia:

The undersigned Commissioner in Chancery for the Circuit Court of Fairfax County, Virginia, pursuant to that certain Decree of Reference entered in this cause on the 15th day of November, 1957, wherein your Commissioner was directed to proceed with the taking of testimony and upon the completion thereof to report his findings of fact and make his recommendation to the Court, begs leave to file this, his report.

The depositions of the parties and their witnesses were taken before me on the following days during the year 1958:

| | |
|---|---|
| February 4th | April 9th |
| February 5th | April 10th |
| February 19th | April 23rd |
| March 26th | April 25th |
| April 7th | May 1st |
| April 8th | May 2nd |

The original hearing date was held pursuant to notice signed by counsel and the matter was thereafter continued from day to day. At each hearing both parties were present in person and by attorney and the aforesaid depositions are filed herewith and are asked to be made a part hereof.

In accordance with the aforesaid Decree of Reference your Commissioner reports as follows:

• • • • •

page 61 }

• • • • •

2. Did the defendant commit constructive desertion and abandonment of the complainant on or about December 15, 1956, as alleged in complainant's Bill, or did the complainant perpetrate a fraud upon the defendant as alleged in paragraph 1. of his Cross-Bill, or did the complainant desert and abandon the defendant on or about February 1, 1957, as alleged in paragraph 2. of his Cross-Bill?

The testimony introduced by the parties in this case took parts of twelve days to present and numerous witnesses were presented, mostly by the Complainant. On some points the testimony of the parties is diametrically opposed. Some of the points on which the testimony is in conflict are in the opinion of your Commissioner not material but some are. Numerous questions as to the admissible evidence have been raised and are discussed in Section 5 of this report, except the extremely material question as to the admissibility of the medical records of Margaret J. Plattner.

The first question that must be decided by the Commissioner and ultimately by the Court is whether or not Complainant perpetrated a fraud upon the Defendant as alleged in Paragraph 1 of Defendant's Cross-Bill.

The basis for the Defendant's claim to an annulment is that prior to the marriage of the parties hereto Complainant went by the name of Margaret J. Giorano and represented to Defendant that she was a widow; that she had been married to a certain Anthony Giordano who had been killed in the war; that Complainant, while in the service as an enlisted Wave, went by the name of Giordano; that Defendant learned for the first time after the institution of this suit that Complainant had never been married but had lived out of wedlock as man and wife with a certain Anthony Giordano; and that she had held herself out as the wife of Anthony Giordano.

The Defendant and Cross-Complainant then set forth that Anthony Giordano was living and married and page 62 } that Margaret Plattner had perpetrated a fraud upon him since he would not have married her had he known of her conduct which he characterized as lewd and lascivious. The Complainant and Cross-Defendant in her testimony admitted substantially all of the allegations as to her conduct with Anthony Giordano, but testified that she had told her husband the true facts long before her marriage.

As corroboration of his story, Francis Plattner attempted to introduce the medical record of Margaret Plattner (then known as Margaret Giordano) while she was in the service. The portion of the medical report which was particularly in issue was that portion dealing with certain statements by Mrs. Plattner as to her "husband." According to Mrs. Plattner any statements of this nature were made in connection with medical assistance rendered to her by a navy doctor. (See transcript, Monday, April 7, 1958, Page 114) In the opinion of your Commissioner this medical report and the communications contained therein, as well as the other communications contained in the medical report, comes squarely within Section 8-289.1 of the Code and your Commissioner has therefore not considered any evidence in the medical report in making his report and recommends that this medical report be rejected as an exhibit.

The evidence contained in the medical report does not in anyway bear on representations which Mrs. Plattner was supposed to have made to her prospective husband but does differ in some details from the version which she told in Court. Your Commissioner feels that there is no corroboration of Mr. Plattner's testimony as to the representations made by Mrs. Plattner and that he has not carried the burden of proof as to this important point.

In this connection the marriage license and marriage certificate issued to the parties clearly shows the marriage to be between Francis B. Plattner and Margaret J. Hannon who is described as single. Mr. Plattner's explanation of why this did not put him on notice of the true facts is not persuasive to the Commissioner and he feels that this written evidence supports Margaret Plattner rather than Francis page 63 } Plattner.

There is a further fact which in the opinion of your Commissioner tends to nullify the claim made by Francis Plattner. That is, his own testimony that he and his wife had sexual relations substantially from the beginning of their courtship. It would seem that if Mr. Plattner's testimony be taken as true, he could not complain of his wife's

past conduct with Anthony Giordano. Your Commissioner has been unable to find any Virginia cases dealing with this point. However, this question is discussed in a note in 15 A. L. R. (2d) 714 where the Court cites *Donnelly* v. *Strong,* 175 Mass. 157, *Lindquist* v. *Lindquist,* 130 N. J. Eq. 11, and *Wirth* v. *Wirth,* 175 Misc. 342. Your Commissioner feels that the decision of these three strong Courts is in accordance with reason and principle and submits that Francis Plattner's Cross-Bill for annulment on the ground of fraud must be denied.

This brings us to the much more difficult question as to whether or not the original Complainant is entitled to a divorce on the ground of constructive desertion, as to whether the original Defendant is entitled to a divorce on his Cross-Bill for desertion, or as suggested by Complainant's counsel whether neither party is entitled to a divorce.

Your Commissioner does not propose to discuss in minute detail the evidence on these points. Much of it is in substantial agreement, except on minor points. There seems to be little complaint by Mrs. Plattner during the early years of her marriage. Starting in 1953, according to Mrs. Plattner, several incidents occurred. For instance, she testified to an incident at a navy base cocktail party. (Stenographic transcript, April 7, 1958, Page 25) However, there was no corroboration as to this incident. There was apparently an incident at Christmas of 1953 or 1954 when Mr. Plattner became angry at his wife when she presented him, as a Christmas present, a box containing an old tube and a bill for four tires which she had bought for her car. There is considerable testimony in the record on this incident and the facts seem to be reasonably clear that Mrs. Plattner apparently thought her action in presenting this bill was a joke and her page 64 } husband failed to see the humor in the situation. Under the circumstances your Commissioner feels that Mr. Plattner's reaction was more or less normal. There was certainly no physical threat to Mrs. Plattner and the matter seems to have passed off. There appears to be no other serious complaint until May 22, 1955 when a serious incident occurred as set forth below.

During this period Margaret Plattner, Francis Plattner, and their friends, Mr. and Mrs. Louis Jullien were close friends and saw much of each other in a social way. Many of their evenings were spent in bridge and alcoholic beverages were consumed by all of the parties except Mrs. Plattner. The testimony seems clear that she seldom, if ever, drank. The testimony likewise seems clear that Mrs. Jullien drank sparingly on these occasions. Mr. Jullien and Mr. Plattner

both imbibed freely. There is some dispute as to whether Mr. Plattner drank more than Mr. Jullien, and if so, how much more. On his testimony in chief Mr. Jullien testified that Mr. Plattner drank approximately one more drink than he in the course of one evening and that he *hold* his liquor very well. On another occasion he testified that Mr. Plattner drank a fair amount of liquor but that he held it well.

Mr. Jullien struck your Commissioner, particularly on his direct testimony, as being fair. While other witnesses have attempted to emphasize the drinking habits of Francis Plattner, your Commissioner can find no plausible testimony that would indicate Mr. Plattner could be considered drunk or not in possession of his faculties, except on the one occasion around May 22, 1955. In this connection your Commissioner should make it plain that he disregards the testimony of Mrs. Plattner's mother, Reine Hannon, that Mr. Plattner and Mr. Hannon (the witness' husband) drank four fifths of *whisky* in two nights during the Christmas of 1956.

There is evidence that when drinking Mr. Plattner was argumentative and that he disliked losing at bridge. Despite the criticism of Mr. Plattner by both the Julliens, they continued to play bridge with him until May 22, 1955 and resumed playing bridge at a later date after the page 65 } reconciliation of Mr. and Mrs. Plattner. In fact the parties continued on friendly terms up to the inception of this law suit.

On May 22, 1955, after drinking a considerable amount of *whisky,* Mr. Plattner was apparently guilty of an act of physical cruelty against his wife. Although there was some dispute as to exactly what happened, your Commissioner reports that in his opinion this action was sufficiently well established. The parties at that time separated but after some three weeks resumed cohabitation. The exact terms of the reconciliation appear to be in some dispute. There is a letter in the record (Complainant's Exhibit 8) setting forth certain demands made on behalf of Mrs. Plattner. In any event the parties lived together from June, 1955 until December, 1956 without serious difficulty arising.

Mrs. Plattner testified as too several occurrences which disturbed the domestic harmony and further testified that her husband resumed drinking in the summer of 1956. There is no testimony in the record to corroborate any serious drinking by Mr. Plattner at this time. It does appear that he was going to night school and carrying a heavy load. Mrs. Plattner apparently objected to this but seems to have made no request that he discontinue his school.

The various occurrences testified to by Mrs. Plattner in the

fall of 1956 were not corroborated. In any event they do not appear to the Commissioner to be sufficiently serious to constitute constructive desertion. If true, they appear to be evidence of lack of harmony in the home.

The crucial point in this entire case appears to be the incident which is referred to throughout the case as the "egg incident" which occurred on December 9, 1956. According to Margaret Plattner her husband refused to eat some eggs which she had prepared, picked up the skillet of eggs, and threw them at Mrs. Plattner. She further testified that the eggs hit her in the chest and burned her and went all over the room. Mrs. Plattner then became extremely upset but not too upset to call her friend, Mrs. Pagliuca. Mrs. Pagliuca testified that when she arrived there were some
page 66 } eggs on the stove, on the floor, and on the wall. She was unable to testify as to whether Mr. Plattner had thrown the eggs or not, but did testify over objection that Mrs. Plattner had advised her the eggs were thrown by Mr. Plattner. In your Commissioner's opinion this evidence is admissible under the rule of *res gesta*. See discussion in 1 Jones on Evidence, starting at Page 630.

While the Commissioner feels that this statement is admissible, he feels that it is entitled to little weight. Even accepting Mrs. Plattner's testimony as true, there was no real threat of further bodily harm to Mrs. Plattner and the sole purpose of calling Mrs. Pagliuca seems to have been for the purpose of having a witness to this occurrence.

Mr. Plattner's version was substantially different from that of Mrs. Plattner and was to the effect that there was a struggle over the eggs and that in the course of the struggle the skillet and the eggs were spilled. Your Commissioner feels that on the important point as to how this occurred the testimony of Ann Marie Plattner is significant. This witness, the 7 year old adopted child of the parties, was placed on the stand by Mrs. Plattner over the objection of Defendant, and was allowed to testify with some hesitancy by the Commissioner. However, in the opinion of the Commissioner she made a good witness and seemed to tell the truth. She directly contradicted her mother's testimony in one instance in that she testified that she (the child) was watching television; that she heard the noise and went to the kitchen and found eggs all over the place; that Mommie was crying and that Daddy got mad. Mrs. Plattner testified that Ann was in the kitchen at the time of the incident and was standing behind her. Mr. Plattner's testimony was the same as that of Ann Marie's, namely, that the child was in the other room and came in later. Under the circumstances your Commis-

sioner feels that on this point the testimony of Mr. Plattner should be accepted rather than that of his wife.

The Commissioner further feels that it is significant that on the weekend following the "egg incident" page 67 } Mrs. Plattner's mother and sister visited the Plattners on the occasion of Ann having her tonsils removed and at that time Mrs. Plattner made no complaint as to the "egg incident." Mr. and Mrs. Hannon (Mrs. Plattner's parents) visited at Christmas time and again no mention was made of this "egg incident." The Commissioner feels that this incident has been blown up out of all proportion to its true significance and fails to find any evidence of physical mistreatment of Mrs. Plattner at that time.

It is true that Mrs. Plattner testified that after this incident she and Ann slept in a separate bedroom and that she pushed a bureau in front of the door. There is no evidence from Mrs. Plattner or anyone else that Mr. Plattner ever made any attempt to enter the bedroom or that there was any reason for pushing the bureau in front of the door except to dramatize the situation.

Ann Plattner in her testimony (February 19, 1958, Page 312, and again at Page 316) testified that while her mother sometimes slept with her after December 9th, certainly on some occasions Mrs. Plattner was in the same room with her husband. Again the Commissioner points out that this witness was introduced by the wife and insofar as the Commissioner is concerned her testimony is entitled to as much, if not more, weight than any of the other witnesses who frankly showed their partiality.

There is some evidence as to Mr. Plattner's actions at the time when Ann had her tonsils removed (See Mrs. Hannon's version, stenographic transcript, February 19, 1958, Page 225, see also testimony of Bessie McDonald, March 26, 1958, Page 328). The most that this testimony shows, if taken at its full face value, is that Mr. Plattner attempted to tease his little girl which under the circumstances was probably ill-advised. Certainly there is nothing here to show anything malicious or wrongful on his part.

The Plattners continued to reside in the same house until after the filing of this divorce suit. Whether or not they occupied separate rooms is in dispute, except that page 68 } Mr. Plattner testified they did occupy separate rooms continuously after the filing of the divorce suit. Mrs. Plattner placed the date somewhat earlier as we have set forth above.

Despite the evidence as to the general relations between the parties, on December 15th when Ann's tonsils were removed

relations between the parties seems to have been fairly good. At Christmas time of that year Mr. Platter and his father-in-law took an all day trip together and while Mrs. Plattner and her mother testified he went reluctantly and only to keep peace in the family, this testimony is contradicted by the testimony of Mr. Plattner and by the testimony of Mr. Palmer. (See Mr. Palmer's testimony, May 1, 1958, Page 463) According to Mrs. Hannon, her husband and Mr. Plattner sat up late at night drinking drink for drink and apparently had a pleasant time. Mr. Hannon was not called to speak for himself on these points.

After Christmas Mrs. Plattner left to visit her mother and testified that had he wished to Mr. Plattner would have been welcome to accompany her. A serious disagreement apparently arose between the parties with respect to plans for New Year's Eve. Mrs. Plattner apparently returned unexpectedly on New Year's Eve and Mr. Plattner had made plans to spend New Year's Eve with Mr. and Mrs. Palmer. Mrs. Plattner made other plans to be with the Julliens. Apparently attempts were made both by Mr. and Mrs. Plattner to have the Palmers go to the Julliens. When these attempts were unsuccessful, Mr. Plattner adhered to his original plans and Mrs. Plattner went to the Julliens. Mrs. Plattner arrived at the Palmer house on January 1st while her husband was still there. He left shortly thereafter. From this time on relations between the parties seem to have deteriorated rapidly. The cause of the actual rupture would appear to have been Mr. Plattner's action in reducing his wife's monthly check on the ground that she was not doing her part as a wife. Thereafter Mrs. Plattner consulted an attorney and this suit was actually filed on or about January 15th.

Mrs. Plattner continued to live in the home house with Mr. Plattner until at least February 1, 1957. Either
page 69 } on that day or on February 8, 1957 she left the house and has continuously resided away from the house up to the present time.

The most recent case in the Court of Appeals on cruelty appears to be *Green* v. *Green,* 103 S. E. (2d) 202. In the Green case there was a severe beating of such a degree that the daughter of the parties called the police which culminated a series of incidents, arguments, etc. The Court of Appeals in the Green case distinguished the earlier case of *DeMott* v. *DeMott,* where the Court of Appeals stated:

"It is generally held that a single act of physical cruelty does not constitute ground for divorce, unless it is so severe and atrocious as to endanger life, or unless the act indicates

an intention to do serious bodily harm or causes reasonable apprehension of serious danger in the future, or the precedent or attendant circumstances show that the acts are likely to be repeated."

In the instant case, had Mrs. Plattner filed suit for divorce after the incident of May 22, 1959, your Commissioner feels that there would be a very close question as to whether or not this act, together with the other one or two incidents, would be sufficient to bring it within the rule of the DeMott case as modified by the Green case. However, the evidence is clear that after this there was a reconciliation of the parties and that at least for a period of one year there was no serious difficulty. The wife contends that starting approximately 14 months after the reconciliation certain incidents occurred, most of which were uncorroborated, which culminated in the so-called "egg incident." This incident again was not corroborated.

Your Commissioner does not feel that there is sufficient evidence in the record to justify a finding that there was constructive desertion by the Defendant, Francis Plattner, as of December 9th, the date of the so-called "egg incident," nor was there anything after that time of sufficient seriousness to justify a finding of constructive desertion. Your Commissioner feels that these parties were high-strung and somewhat temperamental people. The testimony as to Mr. Plattner's conduct at the bridge table, while possibly page 70 } somewhat reprehensible, seems to the Commissioner to be not unlike that of many other bridge players who take their game seriously. It was apparently not regarded as sufficiently serious to break off the series of bridge games and in the Commissioner's opinion has been blown up out of all proportion to its true significance. The facts in the instant case are readily distinguishable from the facts in the case of *Hensley* v. *Hensley*, 198 Va. 414, 94 S. E. (2d) 211, *Williams* v. *Williams*, 152 Va. 896, 148 S. E. 579, *Bennett* v. *Bennett*, 179 Va. 239, 18 S. E. (2d) 911. Disregarding the "egg incident," there appears to have been only one case of actual physical cruelty which took place in privacy. As pointed out by E. A. Prichard in his article "Cruelty as a Ground for Divorce a *mensa et thoro* in Virginia," 42 Virginia Law Review 125, the Court of Appeals has apparently placed greater weight on physical cruelty where it is coupled with the humiliation of being inflicted in front of other persons.

In addition to this act your Commissioner feels that the most that can be found from the creditable evidence is that

Mr. Plattner was a hard but not excessive drinker and that he had on occasion criticized his wife in public, particularly when engaged in playing bridge. There is a further charge from certain members of Mrs. Plattner's family that he called her stupid and a stupid bitch but these charges are a little vague as to the time and place of occurrence and none of them seem clearly to have been pin pointed as occurring after the reconciliation in 1955. The facts in this case seem much like the facts in the case of *House* v. *House*, 102 Va. 235, 42 S. E. 299. Your Commissioner therefore recommends that Margaret Plattner not be granted a divorce from her husband on the grounds of constructive desertion.

There is ample evidence in the record that Mrs. Plattner left her husband on February 1st or February 8th. Apparently the fact of the matter is that she left to visit her mother on February 1st, returning to the house on February 8th, and at that time removed her clothes and other belongings and failed to return. This was after the filing of this page 71 } this divorce suit. In the opinion of your Commissioner this, unless justified, constitutes wilful desertion. The facts in this case are quite different from those in *Hudgins* v. *Hudgins*, 23 S. E. (2d) 774, 181 Va. 81, where the Court held that the husband was forced to leave because of the cruelty of his wife. In this case, if the Court accepts the recommendation of the Commissioner, it would have to find that Mrs. Plattner was not justified in leaving and the Commissioner therefore recommends that the husband be granted a divorce for the wilful desertion and abandonment of him by his wife on or about the 8th day of February, 1958.

Before making this recommendation, your Commissioner has considered the statement in *Hudgins* v. *Hudgins, supra*, that the absenting of one spouse from the other after institution and during pendency of a suit for divorce is not desertion in law. This case follows an earlier statement to the same effect in *Craig* v. *Craig*, 118 Va. 284, 87 S. E. 727. In both of these cases, however, the person whom the Court found to be the innocent person was the one who left the home. Your Commissioner has further read other cases in other jurisdictions which have gone so far as to hold that the leaving of the home by the guilty party after the institution of the divorce by the guilty party does not constitute desertion. It is submitted that this is unsound and that under the circumstances of this case, if the husband was to be denied a divorce, it would open the way for the filing of all sort of flimsy suits which would put the other party in a most unfair position. In this case your Commissioner feels there was no

real justification for the filing of this suit and that there was no ground for leaving the home and recommends as aforesaid that the husband be granted a divorce.

3. Custody of the adopted minor child of the parties and the property rights of the parties.

The Commissioner finds it difficult to make a recommendation with respect to the custody of the adopted minor child. The mother, Margaret Plattner, is apparently a good mother and takes excellent physical care of her child. However, the Commissioner is concerned at the attitude shown page 72 } by the child towards her father and feels that the mother, who has had continuous custody of the child, must be held responsible for this. Although Mrs. Plattner denies any attempt to influence the child and testified that she told the child she must go with her father, she at no time testified that she really encouraged the child in the visitation rights. Mrs. Plattner testified that she was not open minded about her husband seeing the child. ( Tr., April 8, 1958, Page 240) Furthermore, her evidence with respect to the child's toys shows clearly that Mrs. Plattner led the child to believe her father was refusing to let her have certain toys when the truth was that Mrs. Plattner had failed to take the toys when she left.

The Commissioner feels that the father has some rights in this matter. In view of the age and sex of the child he recommends that for the present custody be continued in the mother. However, he recommends that the husband's visitation rights be considerably expanded to the extent that he be allowed to have the child, if he wishes, over weekends. He recommends in this respect that Mr. Plattner have the child during every other weekend rather than during the present rather restrictive hours. He further recommends that Mr. Plattner shall have the right to have the child with him for an extended period of at least 30 days during each summer vacation. This recommendation is made so that the father will have a better chance again to know his little girl and to combat the apparent efforts on behalf of his wife and her family to discredit him. A reading of the testimony of the members of Mrs. Plattner's family shows clearly their dislike of Mr. Plattner and their tendency for finding fault with everything he did, particularly so far as the child was concerned.

However, so far as the Commissioner can find there is no evidence in the record as to any wrongful conduct against the child with the possible exception of the incident at Christmas of 1953 which was precipitated by Mrs. Plattner. While the

Commissioner does not feel Mr. Plattner's actions were entirely justified, nonetheless he find his reaction to have been normal. Furthermore, Mr. Plattner denies any act
page 73 } of physical violence to the little girl at that time and your Commissioner on this occasion is inclined to accept his testimony rather than that of his far from unbiased inlaws.

As to property rights of the parties your Commissioner feels that the question of the real estate is not before him at this time. The parties apparently own the real estate as tenants by the entireties and presumably are each entitled to a one-half interest in the property upon the entry of a decree of divorce. No evidence has been submitted as to the value of the property and no recommendation with respect to this will be made.

Mrs. Plattner introduced a summary of her needs totaling $617.75 which is more than two-thirds of her husband's gross pay. The Commissioner indicated to Mrs. Plattner and her attorneys that he felt in view of the large sum which she was asking she should introduce proof to justify these demands. No such proof was forthcoming.

There appears to be no reason why Mrs. Plattner cannot work and in fact she has apparently been doing much work in connection with political activities. In the absence of some adequate breakdown of necessary expenses, your Commissioner finds it difficult to make an exact recommendation as to alimony and support. According to Mrs. Plattner she received from her husband during recent years approximately $240 to $250 a month. It is, of course, true that certain expenses were borne by her husband in addition to this. In view of the fact that the Commissioner is recommending the divorce be granted to the husband rather than to the wife and in further view of the fact that there appears to be no reason why the wife cannot work, he feels a monthly figure for alimony and support of $225.00 a month would be fair. In making this recommendation the Commissioner feels that Mrs Plattner should be able to contribute substantially to her own living expenses.

4. Is complainant entitled to the relief which she seeks, or is the defendant entitled to the relief which he seeks?

page 74 } Your Commissioner has answered this inquiry under 2 above, namely, that he finds the Complainant is not entitled to the relief which she seeks but that the Defendant is entitled to a divorce *a vinculo matrimonii* on the grounds of wilful desertion and abandonment.

* * * * *

page 89 }

* * * * *

EXCEPTIONS OF DEFENDANT AND CROSS-COMPLAINANT TO COMMISSIONER'S REPORT.

Filed Aug. 8, 1958.

THOMAS P. CHAPMAN, JR.
Clerk of the Circuit Court of
Fairfax County, Va.

* * * * *

page 90 }

* * * * *

3. That he excepts to the Commissioner's recommendation set forth in the concluding paragraph on page 14, of the Report, that the complainant and cross-defendant be awarded alimony and support in the amount of $225.00 per
page 91 } month, and for ground of exception the defendant and cross-complainant asserts that the Commissioner's recommendation is contrary to the law and the evidence, that it is contradictory to the Commissioner's finding that he, the defendant and cross-complainant, is entitled to a divorce *a vinculo matrimonii* based on the willful desertion and abandonment of him by Margaret J. Plattner from on or about February 8, 1957, that the Commissioner's recommendation is contradictory to this finding set forth on page 12 as follows:

"In this case your Commissioner feels there was no real justification for the filing of this suit and that there was no ground for leaving the home and recommends as aforesaid that the husband be granted a divorce."

and that it is the consistent law of this State that a wife guilty of desertion is not entitled to alimony, unless the justification for her desertion would be a sufficient foundation to support a divorce decree in her favor, which does not here exist. The defendant and cross-complainant submits that Margaret J. Plattner is not entitled to any alimony, and that

he should only be required to support the infant child of the parties, in such amount as the Court may direct. The defendant and cross-complainant states that it is his intention to present oral argument and to cite authorities in support of the exceptions contained in this paragraph, at the hearing on exceptions to be held by the Court.

At the hearing on exceptions to be held by the Court, the defendant and cross-complainant will resist the award of any substantial fee to the attorneys for the complainant and cross-defendant, and will also ask the Court to apportion the costs accrued herein between the parties, notice of which was given to the attorneys for the complainant and cross-defendant during the Commissioner's hearing.

FRANCIS B. PLATTNER
Defendant and cross-complainant
by counsel.

page 92 } THOMAS MONCURE
Solicitor for defendant and
cross-complainant
121 South Royal Street
(P. O. Box 31)
Alexandria, Virginia.

• • • • •

page 120 }

• • • • •

NOTICE.

To: Margaret J. Plattner
c/o Lytton H. Gibson, Esquire
Gibson, Hix, Millsap and Hansbarger
156 Hillwood Avenue
Falls Church, Virginia

TAKE NOTICE that on the 22nd day of June, 1959, at 2:00 P. M., E. D. S. T., Honorable Paul E. Brown, Judge of the Circuit Court of Fairfax County, will hold a hearing to determine the visitation privileges of Francis B. Plattner with Ann Marie Plattner, to resolve other matters now pending in this divorce cause or which may be properly brought on for hearing, and to evolve a decree embodying the Court's

action on March 27th and April 3, 1959, together with the Court's determination to be made on June 22, 1959.

Given under my hand this 10th day of June, 1959.

FRANCIS B. PLATTNER
defendant and cross-complainant
by counsel.

THOMAS MONCURE
Solicitor for defendant and
cross-complainant
121 South Royal Street
(P. O. Box 31)
Alexandria, Virginia.

Filed Jun 11, 1959.

THOMAS P. CHAPMAN, JR.
Clerk of the Circuit Court of
Fairfax County, Va.

* * * * *

page 122 }

* * * * *

DECREE.

THIS CAUSE came on to be heard upon the complainant's Bill of Complaint, Notice, Petition for Restraining Order, and upon the restraining Order entered on January 14, 1957; upon the defendant's Answer; upon the Order entered herein continuing certain preliminary motions of the complainant and the restraining Order to February 8, 1957, on which date the restraining Order was dissolved; upon the Order entered herein on April 15, 1957, granting the complainant temporary custody of the adopted infant child of the parties, awarding temporary maintenance and support to the complainant and said child, providing for visitation by the defendant, and awarding the attorney for the complainant a preliminary fee; upon the Cross-Bill of the defendant; upon the Motion and Order extending the time for the complainant to file her Demurrer and Answer to defendant's Cross-Bill; upon said Demurrer and Answer to Cross-Bill; upon the complainant's

Petition to Modify Visitation Privileges; upon the defendant's Answer to Petition; upon the Order entered herein overruling the complainant's Demurrer to Paragraph 1 of the defendant's Cross-Bill and modifying the visitation privileges of the defendant as requested by him in his said Answer to Petition; upon the complainant's Amendment
page 123 } (answer) to Paragraph 1 of the defendant's Cross-Bill; upon the Decree of Reference entered on November 15, 1957, after due Notice by the defendant to the complainant of the tender thereof; upon the Petition of the defendant to secure from the Secretary of the Navy certain medical and other records of the complainant; upon the Order entered on January 10, 1958, directing the production of said records; upon the Notice of Edward D. Gasson, Esquire, Commissioner in Chancery, of the commencement of execution by him of the Decree of Reference; upon the complainant's Affidavit and the Commissioner's summons to the defendant to produce certain records; upon the testimony taken and filed herein; upon the Report of the Commissioner filed on July 17, 1958, after due Notice of the filing thereof; upon the Exceptions of Defendant and Cross-Complainant to Commissioner's Report; upon the Exceptions to Commissioner's Report by Complainant; upon the complainant's Motion for Leave to Amend Bill of Complaint and Answer of Margaret J. Plattner and the Notice affixed thereto; upon the Answer to Complainant and Cross-Defendant's Motion for Leave to Amend, Etc., and Motions by Defendant and Cross-Complainant; upon the Order continuing said Motion for Leave to Amend, Etc.; upon the complainant's Motion for Clarification of Order for Alimony, Etc., and Notice affixed thereto; upon the Order relative to disposition of the Motion for Clarification of Order for Alimony, Etc., and upon the Order apportioning the temporary alimony between the complainant and the child of the parties; upon the withdrawal on March 27, 1959, of L. Farnum Johnson, Jr., Esquire, and Vail W. Pischke, Esquire, as attorneys for the complainant and cross-defendant, Margaret J. Plattner; upon the entry of appearance of record that date by Lytton H. Gibson, Esquire, as the attorney for the complainant; upon
page 124 } the hearing before the Court on March 27, 1959, on the exceptions of the parties to the Commissioner's Report, and covering certain other matters; upon the hearing held by the Court on April 3, 1959; upon the hearing held before the Court on June 22, 1959, after due Notice thereof by the defendant to the complainant; upon the other papers filed herein; and upon argument of counsel;

AND IT APPEARING UNTO THE COURT from the testimony taken herein that both the complainant and defendant are *bona fide* residents and domiciliaries of this State and had been such for more than one year next preceding the commencement of this suit; that both the complainant and the defendant resided in this County when this suit was instituted and that this County is the County in which the parties last cohabited; that the parties were married lawfully in Baltimore, Maryland, on February 19, 1945; that the parties are properly before the Court; that the Court has jurisdiction to hear and determine this cause; and that the parties are members of the white race;

AND LET THE RECORD SHOW that on March 27, 1959, there were present in open Court for the hearing on the exceptions by the parties to the Commissioner's Report, the parties in person, Thomas Moncure, Esquire, in behalf of Francis B. Plattner, defendant and cross-complainant, and L. Farnum Johnson, Jr., Esquire, and Lytton H. Gibson, Esquire, in behalf of the complainant and cross-defendant, Margaret J. Plattner; that at the commencement of said hearing, L. Farnum Johnson, Jr., Esquire, and Vail W. Pischke, Esquire, with the consent of Margaret J. Plattner, complainant and cross-defendant, withdrew as her counsel, their only further connection with this cause being the matter of the fee to be awarded them to be paid by the defendant page 125 } and cross-complainant; that thereupon Lytton H. Gibson, Esquire, entered his appearance of record in behalf of Margaret J. Plattner, the complainant and cross-defendant; that then the said Lytton H. Gibson, Esquire, withdrew, without prejudice, the complainant and cross-defendant's Motion for Leave to Amend Bill of Complaint and Answer of Margaret J. Plattner; that thereupon the Court heard argument by counsel on the exceptions by the parties to the Commissioner's Report, at the conclusion of which

THE COURT WAS OF THE OPINION that a divorce should be denied to either party; that the complainant and cross-defendant, Margaret J. Plattner, was not justified in leaving the defendant and cross-complainant, Francis B. Plattner, and that the said Francis B. Plattner was not guilty of constructive desertion of Margaret J. Plattner from on or about December 9, 1956 (December 15, 1956, being set forth in the Complainant's Bill, which date was changed by complainant to December 9, 1956, at the Commissioner's hearing); that Francis B. Plattner was not entitled to a divorce from

Margaret J. Plattner on the grounds of desertion and abandonment commencing on or about February 1, 1957; that the complainant and cross-defendant's twelve exceptions to the Commissioner's Report should be overruled; that the first exception of the defendant and cross-complainant to the Commissioner's Report, relative to the rejection as evidence by the Commissioner of the medical records of Margaret J. Plattner, should be sustained, the Court being of the opinion that said medical records were and are admissible in evidence; that the second exception by the defendant and cross-complainant should be overruled; that the third exception of the defendant and cross-complainant should be overruled, the Court deeming the complainant and cross-defendant entitled to separate maintenance; that the total fee to be
page 126 } paid by Francis B. Plattner to L. Farnum Johnson, Jr., Esquire, and Vail W. Pischke, Esquire, the attorneys for Margaret J. Plattner, including $50.00 heretofore paid, should be $750.00, to be paid within sixty days of March 27, 1959, the Court having been requested by all counsel to fix the total fee for the services of Messrs. Johnson and Pischke to the said Margaret J. Plattner; that L. Farnum Johnson, Jr., Esquire, noted his exception to the amount of fee thus awarded by the Court, contending that a reasonable fee would be $5,000.00, and representing to the Court that Margaret J. Plattner had agreed with him and with the said Vail W. Pischke on such value for their services and had promised to pay them said sum; that the Court fixed, effective March 27, 1959, $150.00 per month to be paid by Francis B. Plattner to Margaret J. Plattner for her separate maintenance and support, and the sum of $75.00 per month to Margaret J. Plattner for the support and maintenance of Ann Marie Plattner, the infant child of the parties; that the Court asked Messrs. Gibson and Moncure to attempt to resolve enlarged visitation privileges on the part of Francis B. Plattner with Ann Marie Plattner, and also to resolve payment by Francis B. Plattner of certain sums claimed to have been incurred by Margaret J. Plattner for dental treatment of said child; and that the existing visitation privileges of Francis B. Plattner with the child, as set forth in the Order of April 15, 1957, should continue pending the entry of a decree to be prepared by counsel embodying the actions of the Court taken on March 27, 1959;

AND LET THE RECORD FURTHER SHOW that on April 3, 1959, the parties again appeared before the Court, at the instance of Francis B. Plattner, there being present in

open Court the parties in person, Lytton H. Gibson, Esquire, in behalf of Margaret J. Plattner, and Thomas Moncure, Esquire, in behalf of Francis B. Plattner, and that Francis B. Plattner, by counsel, represented to the Court that on March 31, 1959, Margaret J. Plattner had broken the door and entered premises 1909 Holly Hill Drive, Falls Church, Fairfax County, Virginia, the former home of the parties, owned by them as tenants by the entirety with the common law right of survivorship, and which had been occupied solely by Francis B. Plattner from on or about February 1, 1957, to March 31, 1959, and that the reentry by the said Margaret J. Plattner was with the intention of resuming residence there, but not with the intention of effecting a reconciliation with Francis B. Plattner nor of resuming living with him as man and wife; that thereupon Francis B. Plattner removed on March 31, 1959, from said premises and has not since returned to live there; that the foregoing facts being confirmed by the complainant and cross-defendant, Margaret J. Plattner, the Court entertained the motion by counsel for Francis B. Plattner to reduce the separate maintenance of Margaret J. Plattner; that the Court reduced the separate maintenance of Margaret J. Plattner from $150.00 per month to $21.00 per month, and directed Francis B. Plattner to continue to make the payments for principal, interest, taxes and insurance on said property in the amount of $133.00 per month, the reduced separate maintenance to be paid Margaret J. Plattner to be effective on April 3, 1959; and that counsel represented to the Court that the enlarged visitation privileges on the part of Francis B. Plattner with Ann Marie Plattner would be attempted to be resolved, as well as the matter of the payment of certain dental expenses incurred for Ann Marie Plattner;

page 127

AND LET THE RECORD FURTHER SHOW that the matter came on to be again heard on the 22d day of June, 1959, on motion of counsel for Francis B. Plattner, after due Notice to counsel for Margaret J. Plattner, for the Court to determine the enlarged visitation privileges of Francis B. Plattner with Ann Marie Plattner; to fix the amount, if any, to be paid by Francis B. Plattner for dental treatment of Ann Marie Plattner, and to evolve this Decree;

page 128

Whereupon, the Court, having heard argument of counsel on June 22, 1959, doth ORDER and DECREE as follows:

1. That the relief prayed for in the Bill of Complaint of

complainant and cross-defendant, Margaret J. Plattner, be, and it is hereby, denied; that the annulment on the ground of fraud prayed for in the Cross-Bill of the defendant and cross-complainant, Francis B. Plattner, be, and it is hereby, denied; and that the divorce on the ground of desertion and abandonment prayed for in the Cross-Bill of the defendant and cross-complainant, Francis B. Plattner, be, and it is hereby, denied; and

2. That separate maintenance is hereby awarded to Margaret J. Plattner, in the amount of $21.00 per month, retroactive to April 3, 1959, to be paid her by Francis B. Plattner on or before the fifth day of each and every month until the further order of this Court; that Francis B. Plattner is to make the payment on the home of the parties located at 1909 Holly Hill Drive, Falls Church, Fairfax County, Virginia, in the amount of $133.00 per month, including principal, interest, taxes, and insurance, until the further order of this Court; that Francis B. Plattner is to pay to Margaret J. Plattner for the care and support of Ann Marie Plattner, age eight, the infant adopted child of the parties, the sum of $75.00 per month, on or before the fifth day of each and every month until the further order of this Court, such payment being retroactive to March 27, 1959; and

3. That custody of Ann Marie Plattner is hereby awarded to Margaret J. Plattner, Francis B. Plattner to be
page 129 } permitted to pick up Ann Marie Plattner each Sunday at 1:00 p. m. at the residence of Margaret J. Plattner, and return the said child to such residence by 6:00 p. m. on that Sunday; and

4. That the total fee of L. Farnum Johnson, Jr., Esquire, and Vail W. Pischke, Esquire, the attorneys for Margaret J. Plattner, for their services to March 27, 1959, is fixed at $750.00; that Francis B. Plattner is to pay said fee; that Francis B. Plattner paid $50.00 thereof as preliminary fee, and he is to pay within sixty days from March 27, 1959, the sum of $370.00 to Margaret J. Plattner to reimburse her for payments heretofore made by her to her said attorneys, and the sum of $330.00 to Messrs. Johnson and Pischke for the remainder of their fee; that it has been stipulated to the Court by the parties that the foregoing $700.00 has been paid; and

5. That Margaret J. Plattner is to make available forthwith to Francis B. Plattner the following articles of his personal property located at premises 1909 Holly Hill Drive, Falls Church, Fairfax County, Virginia: Grammar school diploma, ensign's and lieutenant commander's commissions,

law books, mechanic's tools, carpenter's tools, uninstalled bathroom fixtures, and aviator's flight equipment; and

6. That the Court will, upon proper application by the parties, determine the division of their tangible personal property, and the liability, if any, of Francis B. Plattner to pay dental treatment bills incurred for Ann Marie Plattner.

AND THIS DECREE IS FINAL.

To the foregoing actions of the Court in denying the defendant and cross-complainant, Francis B. Plattner, an annulment on the ground of fraud; in denying him a final and absolute divorce based on desertion and abandon-
page 130 } ment on the part of Margaret J. Plattner from on or about February 1, 1957, and continuing to the present time; in awarding separate maintenance to the said Margaret J. Plattner; and in refusing to enlarge the visitation privileges of Francis B. Plattner as recommended in the Commissioner's Report, the said defendant and cross-complainant, Francis B. Plattner, took exceptions, on the ground that said actions of the Court were contrary to the law and the evidence.

To the foregoing action of the Court in denying the complainant and cross-defendant, Margaret J. Plattner, a final and absolute divorce based on constructive desertion on the part of Francis B. Plattner from on or about December 9, 1956, the said complainant and cross-defendant, Margaret J. Plattner, took exception, on the ground that said action of the Court was contrary to the law and the evidence.

PAUL E. BROWN, Judge.

Entered: June 25th, 1959.

Seen and exception noted:

LYTTON H. GIBSON
Attorney for Margaret J. Plattner,
complainant and cross-defendant.

Seen and exceptions noted:

THOMAS MONCURE
Attorney for Francis B. Plattner,
defendant and cross-complainant.

* * * * *

page 133 }

* * * * *

Filed Aug. 6, 1959.

THOMAS P. CHAPMAN, JR.
Clerk of the Circuit Court of
Fairfax County, Va.

NOTICE OF APPEAL AND ASSIGNMENTS OF ERROR.

The defendant and cross-complainant, Francis B. Plattner, files this, his notice of appeal from the final Decree entered herein on June 25, 1959, and assigns the following errors:

1. The ruling and decree of the Court in denying the defendant and cross-complainant, Francis B. Plattner, a final and absolute divorce based on desertion and abandonment on the part of Margaret J. Plattner, complainant and cross-defendant, from on or about February 1, 1957, is contrary to the Commissioner's Report and recommendation, which should have been confirmed by the Court, is contrary to certain findings of the Court set forth in the final Decree, and is contrary to the law and the evidence.

2. The ruling and decree of the Court in awarding separate maintenance to Margaret J. Plattner, complainant and cross-defendant, is contrary to the law and the evidence.

3. The ruling and decree of the Court in refusing to enlarge the visitation privileges of Francis B. Plattner, defendant and cross-complainant, with Ann Marie Plattner, when that matter came on to be heard on June 22, 1959, is contrary to the Commissioner's Report and recommendation, which should have been adopted by the Court, and is contrary to the law and the evidence.

page 134 }

FRANCIS B. PLATTNER
Defendant and Cross-
Complainant
by counsel.

THOMAS MONCURE
Attorney for Francis B. Plattner
Defendant and Cross-Complainant
121 South Royal Street
(P. O. Box 31)
Alexandria, Virginia.

• • • • •

Vol. I
2/4/58
page 33 }

• • • • •

LOUIS HONORE' JULLIEN,
having been duly sworn by the Commissioner, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Johnson:

• • • • •

Vol. I
2/4/58
page 43 }

• • • • •

Q. Do you recall the circumstances of an evening in May of 1955?

A. Yes, sir.

Q. Will you please tell the Commissioner what happened on that particular evening? Did you ever have occasion to have a social occasion of any sort at your home in May of 1955, at which Mr. and Mrs. Plattner were present?

Vol. I
2/4/58
page 44 }

A. Yes, sir.

Mr. Moncure: Is this the final question you are asking him?

Mr. Johnson: Yes. It is the last one.

By Mr. Johnson:

Q. Will you please tell the Commissioner what happened on that occasion?

A. As I recall, that night the Plattners had attended some function at the station and after it was over there was a cocktail party, I believe, for the Commander Fleet Air Quonset staff, and they stopped by our home after the affair was

over, and, as I recall it, at that time we were finishing dinner, and after we were through we later started to play bridge.

Q. Did they have dinner with you at your home that evening?

A. I think that they ate something because they had been to a cocktail party. My mind is not clear on that. We were out in the breakfast nook where we were sitting at the time.

Commissioner Gasson: Was this May of 1955, Commander?

The Witness: Yes, sir. As I recall it, I think Mr. Plattner did sit down and eat something.

Vol. I
2/4/58
page 45

By Mr. Johnson:

Q. Do you recall, sir, what went on during the rest of that particular evening?

A. A little while later, after the children were put to bed, why, we started our usual bridge game, and, why, during the evening Frank and I were having drinks. Of course, this game went on and on, and that was one of the times that Peggy and I were ahead.

As it got closer to three o'clock I was getting pretty tired and I wanted to call it quits. At that time we had a game and part score on a game, and a hand was dealt and my partner had apparently a good hand. She opened with a two no trump bid, which you ordinarily wouldn't pass. But we only needed part score and I had a bust hand, so I passed. With that, Commander Plattner jumped up and threw his cards on the table and said he was quitting, and we were cheating the eyeballs out of him, and raving and shouting around, and I just laughed at him and that ended that.

Q. Will you tell the Court what transpired as the evening and morning progressed?

A. Well, after they left actually we went right to bed.

In the morning my wife awakened, maybe because she heard pounding on the front door.

Mr. Moncure: Did you hear it?

The Witness: No, sir. Not until after I awakened.

Vol. I
2/4/58
page 46

Mr. Moncure: I ask your testimony be stricken as to what your wife heard.

The Witness: I did hear it after I was awakened.

Commissioner Gasson: I don't think it makes any particular difference, Mr. Moncure.

*Louis Honoré Jullien.*

Mr. Moncure: All right, sir.

The Witness: So I went down to see what was going on, and it was Mrs. Plattner. She was crying and visibly upset, and she had a big lump on her forehead and bruises on her leg. So I took her in the front room and went upstairs and got my wife.

After we found out what had happened we tried to calm her down and we made coffee. We told her she should see a doctor.

Mr. Moncure: I object to that, sir. It is not in the presence of the defendant. I object to any conversation had between them. He can testify what he observed, and so forth, but I don't think he can testify what conversation took place not in the presence of Commander Plattner.

The Witness: I observed my wife calling—

Mr. Moncure: Wait a minute, Commander.

Commissioner Gasson: I will let it in subject to your objection.

Mr. Johnson: May I state that the only evidence that can be presented in a case is something that occurred outside of the presence of the defendant?

Vol. I 2/4/58 page 47

Commissioner Gasson: Mr. Moncure's objection, which I think is well taken, is as to what he told Mrs. Plattner. I don't think it is very material one way or another, but technically I think it probably is objectionable and I will disregard it.

Mr. Moncure: What she told him or any conversation among them is hearsay.

Commissioner Gasson: I will rule on that when it comes up.

By Mr. Johnson:

Q. What did Mrs. Plattner say when you opened the door to her?

Mr. Moncure: I object, and before you answer on that, let the Commissioner rule on it. That is purely hearsay unless he can show Commander Plattner was present with an opportunity to hear it or refute it or react to it.

Commissioner Gasson: He has testified she came in very much upset, Mr. Moncure.

He further testified that she had a lump on her forehead and was quite excited.

I am going to receive this subject to your objection, on the theory that it might constitute part of the *res gestae.* I think

it would have to be connected up to be admissible, but I will accept that subject to your objection.

Vol. I 2/4/58 page 48 } Mr. Moncure: *Res gestae* of what? Of her condition?

Commissioner Gasson: I don't know. I say it might be possible to show.

Mr. Moncure: I am going to note an objection to any testimony as to—

Commissioner Gasson: I am going to let the evidence come in subject to your objection, and if you wish to have that continue as to any statements she made either to Commander Jullien or his wife, I will rule on it when all of the evidence is in.

Mr. Moncure: Yes, sir, but I don't think, Mr. Commissioner, that this can be like my other objection, a continuing objection, because it gives him *carte blanche* to testify on anything.

Commissioner Gasson: All right. You can renew your objection at this point. At least I am going to hear what she had to say.

Mr. Moncure: First of all, will you establish what time this was with relation to when she left the house and when she got back, because if it is *res gestae* there has to be some proximity of time.

Commissioner Gasson: I think he established it is in the morning.

By Mr. Johnson:

Vol. I 2/4/58 page 49 } Q. What time did the Plattners finally leave your home?

A. I think it was in the neighborhood of three o'clock in the morning.

Q. What time was it when your wife awakened you?

A. I believe that was around six or six-thirty in the morning.

Q. When you opened the door to Mrs. Plattner, what was her overall physical appearance?

A. Well, she was on the verge of hysterics and, as I said, she was crying and visibly upset, and she had a lump on her forehead and bruises on her arms and legs.

Q. Did it appear that she had had time to rearrange herself? What was the appearance of her hair and general clothing?

A. As I recall now—and, of course, this was a long time

ago—she wasn't all dolled up, or, you know, all dressed up. She was clothed. Yes.

Q. How was she attired when she came to your house?

A. I can't recall exactly how she was attired.

Q. Was she fully dressed, or wearing bed clothes, or what?

Mr. Moncure: He said he can't recall. I think you are leading him now.

The Witness: I think she was fully dressed, but I'm not sure.

Vol. I
2/4/58
page 50 } By Mr. Johnson:

Q. What did she say, if anything, when you went to the door?

A. Well, she told what had happened.

Q. And what did she say?

A. And Frank had come home—

Oh, one thing prior to that time I forgot to tell was that we got a phone call after we had gone—we were upstairs—

Mr. Moncure: I object further as his answer is not responsive to Mr. Johnson's question.

Commissioner Gasson: Let us take what you started to say first. If you want to go into a phone call later, Mr. Johnson can ask you questions, but let us continue this.

The Witness: What is the last question, please?

By Mr. Johnson:

Q. The question was, what did she say, if anything, when she came to your house when you let her in the door?

A. Well, that she had been beaten up.

Q. Who did she say beat her up?

A. Her husband, Frank.

Q. Did she tell you how it happened?

A. Well, he had come home because he had apparently spent the night—

Vol. I
2/4/58 Commissioner Gasson: I don't think this can
page 51 } go in. You just limit yourself specifically to what she told you. To this extent I think Mr. Moncure's objection is good. This philosophizing is improper.

*Louis Honoré Jullien.*

By Mr. Johnson:
Q. What did she say to you when you let her in the house?
A. That she had been beaten up by Frank.

Commissioner Gasson: Did she say when this had happened?
The Witness: It had apparently just occurred, shortly before.
Commissioner Gasson: Is that just your idea, or did she tell you that?
The Witness: No, she told me at the time.

By Mr. Johnson:
Q. What did she tell you about their daughter, if anything?
A. Well, Ann was still there, but I don't recall—

Mr. Moncure: Where is "there"?
The Witness: In her home.

By Mr. Johnson:
Q. Do you recall any statements she might have made with respect to her daughter at that time?

Commissioner Gasson: What is the purpose of this, Mr. Johnson?
Vol. I 2/4/58 page 52 } Mr. Johnson: We want to show the hysterical state of mind she was in, and what happened to her on that occasion.
Commissioner Gasson: I am going to admit it subject to my own objection at this point.
Mr. Moncure: I am waiting until he finishes this train and then I am going to move to strike all of his testimony.
Commissioner Gasson: I think you ought to object to all of this.
Mr. Moncure: I hate to keep on interrupting.
Commissioner Gasson: I know, but—
Mr. Moncure: I object to the last several questions beginning with the one where Commander Jullien testified as to what Mrs. Plattner told him when he answered the door. I object to all of the questions from then on because they are hearsay and it is conversation not in the presence of Commander Plattner.
I further object to the leading question as to what, if any-

thing, she said about her daughter, for all of the foregoing reasons, and, in addition, it is nonmaterial.

Commissioner Gasson: I am going to admit all of this subject to objection, and as far as the first questions of counsel are concerned I feel they are or may be admissible under *res gestae.*

However, go ahead.

Mr. Johnson: Now, going back to the occasion of the evening when you were playing bridge—

Vol. I 2/4/58 page 53

Commissioner Gasson: Are you dropping that question now, Mr. Johnson?

Mr. Johnson: Will you read that question back, please?

(Whereupon the question referred to was read by the reporter.)

The Witness: She was concerned for the safety of her daughter, but I cannot recall the exact words. I am sure you appreciate that.

By Mr. Johnson:

Q. Did you do anything at her request with respect either to herself or her daughter at that time?

A. Well, my wife—

Mr. Moncure: I think the question is leading and I have an objection on that ground.

Commissioner Gasson: I think that question is proper, Mr. Moncure. He said "did you do anything." He can testify what, if anything, he did.

Mr. Moncure: Mr. Commissioner, can I get a ruling from you now as to the ground rule up here when you admit something subject to my objection. Of course, it comes in anyway as we all know. Is it understood each and every time I say exception noted?

Commissioner Gasson: I don't think you have to.

Vol. I 2/4/58 page 54

Mr. Moncure: You can save my exception?

Commissioner Gasson: I think you can save your exception. At this time it will be understood an exception will be saved as to any testimony which comes in over objection.

Mr. Moncure: All right, sir.

Commissioner Gasson: What I will do on this is, when I

make my report I will try and cover all of these points. It looks like there will be a good many of them and I will state what I feel is admissible at that time; but I don't think I am going to try to do that now.

Mr. Johnson: Will you read the last question?

(Whereupon the question referred to was read by the reporter.)

The Witness: Well, there were two things that were done. My wife and Mrs. Plattner went back to the Plattners' residence and picked up Ann, and I called Captain Smith of the Naval Air Station, who was senior medical officer.

Commissioner Gasson: Wait just a minute.

Mr. Johnson: He can certainly testify as to what he did with respect to Mrs. Plattner when she came to his home.

Commissioner Gasson: All right.

Mr. Moncure: He can testify as to what he did, but he cannot, as he is, continually interject as to what was said and say that, "I called Captain Smith, the senior medical officer."

Pol. I 2/4/58 page 55 } Commissioner Gasson: That is all right. He can certainly testify as to that.

Mr. Johnson: Please continue.

The Witness: So I made arrangements with Mr. Smith to look at Mrs. Plattner, because I was very concerned about her physical well-being.

* * * * *

Vol. I 2/4/58 page 61 }

* * * * *

Q. You stated that you went out to the car and saw Commander Plattner sleeping in the car. Did you do anything at that time with respect to Commander Plattner?

A. I tried to get him to come in the house and at least sleep in our house, but he refused.

Vol. I 2/4/58 page 62 } Q. Did Commander Plattner appear to be drunk at that time?

A. I don't think I can really say. He was asleep and kind of groggy and I shook him and got his

attention and told him it was cold out and he had better come in and we had a bed and he could sleep there.

Q. Did you know where Mrs. Plattner might be at that time?

A. That's what I tried to go back to before.

Commissioner Gasson: I don't see how he can answer that unless he knows of his own knowledge.

By Mr. Johnson:

Q. Do you know of your own knowledge where Mrs. Plattner was at that time?

A. I had a telephone call from Mrs. Plattner and—can I say what she told me?

Q. Yes.

Mr. Moncure: I object to it, of course.

Commissioner Gasson: Subject to objection.

The Witness: She told me that she had walked home and had taken the keys with her, and that Frank was in the car. That's when I went out to the car and tried to get Frank to come in and spend the night at our house.

By Mr. Johnson:

Vol. I 2/4/58 page 63 } Q. Did Commander Plattner ever come in?

A. No, sir, he didn't. That was the last I saw of him.

• • • • •

Vol. I 2/4/58 page 72 }

• • • • •

Q. On the occasions when you had had an opportunity to play bridge with them prior to this May incident, how much would he usually consume in the course of an evening?

Vol. I 2/4/58 page 73 } Mr. Moncure: May it please the Court, this is too indefinite; it is repetitive and it has been asked before.

*Louis Honoré Jullien.*

Commissioner Gasson: I don't think he has gone into this before.

Mr. Moncure: It is too indefinite, sir, as to the time and place and occasion. It is something that is impossible for me to refute. If he will single out an instance, or something of that nature—

Commissioner Gasson: I am going to receive it subject to your objection.

Mr. Moncure: All right, sir.

The Witness: I would say on any of these occasions when we played he always had at least six drinks, and maybe more.

By Mr. Johnson:

• • • • •

Vol. I
2/4/58
page 79 }

• • • • •

Q. Did Mrs. Plattner ever have occasion to come and move in with you again following the earlier time in Quonset?

A. Yes.

Q. When was that?

A. I believe that was in January of 1957.

Q. How long did Mrs. Plattner stay with you?

A. Well, I'm not sure. I believe it was over a month. I didn't keep track.

Vol. I
2/4/58
page 80 } Mr. Moncure: May it please the Court, this is clearly, I think, inadmissible, because this is after the divorce suit was filed, and I think by stipulation we can concede she came to the Juliens at the beginning of February—February 1, 1957—and for some period of time thereafter; but that was after the divorce suit was filed.

Commissioner Gasson: What do you want to show by this, Mr. Johnson?

Mr. Johnson: Frankly, I have switched up to the point where it is, of course, in the jurisdiction of this hearing to determine the question of the custody and visitation. Commander Jullien's home was the place where she was living

and also was the place where some of the visitation did take place.

Commissioner Gasson: You might also have in mind it would be necessary to show the residence of the parties as of January 15, 1957.

By Mr. Johnson:

Q. Do you recall when Mrs. Plattner moved into your home? In January? What part of the month was it? If you cannot state specifically what part of the month, can you tell approximately when it was that Mrs. Plattner moved in with you?

Vol. I 2/4/58 page 81 } A. I think it was in the latter part of the month.

Q. Did her daughter Ann come along with you?

A. Yes.

Q. On how many occasions did Commander Plattner visit the child during that period of her visit?

A. I can't recall the exact number of times. As I remember, he came nearly every Sunday.

Q. Did he ever come into the home?

A. I think only the first time that he was there.

Q. What was done with Ann when he came to visit?

A. Her mother always dressed her and had her ready to go.

Q. Was Ann available to meet her father on the occasions when he came by to see her?

A. Well, sometimes she would have been outside and she had run off in the neighborhood, and then Peggy would go and call her and get her back.

Q. Were you ever able to observe Commander Plattner himself during the occasions when he would come to visit Ann?

A. The only time I had anything to do with Commander Plattner was on Easter Sunday. Our children wanted an Easter egg hunt so we were having this party for all of the little children in the neighborhood, and it was going to start at one o'clock. They were going to play a few games and hunt Easter eggs that were hidden around, and have ice cream and cookies and ginger ale. So naturally—I am getting, I think, ahead of myself, because I don't think—

Vol. I 2/4/58 page 82 } Q. Go ahead. I think what you want to bring in is—how long did Mrs. Plattner stay with you?

A. I don't recall exactly how long that—

Q. Where did she move after she left you?

*Louis Honoré Jullien.*

A. She moved to an apartment out by Seven Corners, in that new development.

Q. Did she bring Ann over to your home on any frequent occasions?

A. Yes, because she still brought Ann there to be picked up on Sundays.

Q. And she always during that period made Ann available to Commander Plattner at your home?

A. Yes.

Q. Now do you want to proceed?

A. On this one instance, as I say, I did not have much to do with Frank. I would say hello and that would be about it. Naturally, having this party, and Ann was a friend of my children, she was invited. So when Frank came up I went out and explained what we were going to have and wanted him to let Ann attend the party. He wasn't the least bit receptive to the idea and immediately started spouting the law to me, that the child was to be available at one o'clock. So at that time I just told him I didn't come out to argue with him, but I just came out to tell him what was going on and we would like Ann to attend, and it would be about twenty-five minutes.

Vol. I
2/4/58
page 83

So I turned around—we were going to invite him in the house, but I got annoyed and I just turned away and turned around and I walked away.

Q. Were you able to observe Ann on the occasions when her father visited her before—

A. Yes, she was always very upset on Sunday.

Q. When you say she was upset, can you say what her attitude was?

A. Well, she was just kind of mean and she wouldn't behave. She didn't act like she normally did during the week, playing around with the children.

Q. Did she ever show, or did she look forward to her father's visits?

A. No.

Q. Was she afraid of her father's visits?

A. Yes.

Mr. Moncure: That is a leading question. This whole series has been leading questions and has been entirely without foundation as to what the child did, or said, or something of that nature.

Now, Commander Jullien is being put in the role of a child

*Louis Honoré Jullien.*

Vol. I
2/4/58
page 84 } psychologist to testify on Ann's feelings here. If he wants to testify, which is still not admissible, as to what she did or said, it is still not admissible unless Commander Plattner was present; but it certainly has no bearing on it. I object to all of his recent testimony.

Commissioner Gasson: I will receive it subject to your objection.

Let me ask you a question while counsel is pondering.

Commander, did you ever see Commander Plattner do anything that would tend to make her fear her father, or misbehave towards her in any way?

The Witness: Did I see him do anything?

Commissioner Gasson: Yes.

The Witness: No, I didn't see him do anything.

• • • • •

Vol. I
2/4/58
page 88 }

• • • • •

CROSS EXAMINATION.

By Mr. Moncure:

• • • • •

Vol. I
2/4/58
page 114 }

• • • • •

Q. Beginning February 1, Mrs. Plattner and Ann moved in with you and Mrs. Jullien. Is that right?

A. Yes. They moved in. I don't know the exact date.

Q. Now, Mrs. Plattner contends in her pleading that Commander Plattner is guilty of constructive desertion from December 15, 1956.

Let me ask you this, sir: Of your own knowledge where

did Commander Plattner and Mrs. Plattner live from December 15, 1956, until she and Ann moved in with you?

Mr. Johnson: I object. He is now asking this witness to decide what constructive desertion is.

Mr. Moncure: No, I am not.

Commissioner Gasson: No. He asked a question. I don't know whether the witness can answer but he asked a question as to where they lived.

Mr. Moncure: That's right.

The Witness: When I was personally there they were living in a house in Broyhill Park, but whether they were living there the rest of the time I wasn't around, I don't know.

Vol. I
2/4/58 By Mr. Moncure:
page 115 } Q. To the best of your knowledge wouldn't your answer be they were living in their regular home?

A. To the best of my knowledge, it would be, yes.

Q. Did you or Mrs. Jullien assist Mrs. Plattner in moving on or about February 1, 1957, from that home to your home?

A. I didn't.

Q. Do you know whether your wife did?

A. My wife went over once with Mrs. Plattner as far as I am aware.

Q. Where did she get things from?

A. From the house, I suppose. I wasn't there.

Q. So your home was the headquarters for Mrs. Plattner and the child for how long?

A. Well, let me see. I would say at least two months.

Q. Two months?

A. I think that's about right.

Q. Did you not appear in the Circuit Court of Fairfax County as a witness in behalf of Mrs. Plattner?

A. I did.

Q. In July of 1957?

A. Yes.

Q. And at that time it was on a joint petition to modify the Court's original visitation order, was it not?

Vol. I
2/4/58
page 116 } A. I know that was what was going on. I didn't see the court order.

Q. Mr. Johnson asked you on direct examination how many times while Mrs. Plattner and the child were staying at your house—and you testified this was

*Louis Honoré Jullien.*

about a two-months period—how many times did Commander Plattner show up to visit the child? I believe your answer was about once a week?

A. On Sundays.

Q. Yes, sir. Wasn't it your understanding that that was the limit of his visitation privilege?

A. Yes.

Q. That was all he could visit?

A. That's right.

Q. All right. So he exercised to the fullest extent what he was permitted by the order to do.

Mr. Johnson: I object. That is counsel's own conclusion.

Mr. Moncure: I am asking him if he knows. Mr. Jullien has a right fair knowledge of what is going on in this case. If you can answer, he was exercising to the greater extent what he was permitted to do, was he not?

Mr. Johnson: I object. He stated he didn't know what the court order said specifically.

Vol. I 2/4/58 page 117

The Witness: I don't know what the court order said specifically. No. I was under the impression he had visitation rights on Sunday from one to six.

Commissioner Gasson: I think the court order should speak for itself.

By Mr. Moncure:

Q. From one to six?

A. That's right.

Q. Isn't it a fact that during this period of a possible eight visits during the two months, eight or nine visits, that his actual time with the child averaged somewhere between a half an hour or three-quarters of an hour, or perhaps an hour?

A. I couldn't say on an average what it was. As I recall, the first few times he had Ann for the full period and the other times he didn't. As I say, I wasn't—I didn't usually stay around to interfere. I tried to keep out of the way and I was working around the house, so I wasn't keeping track.

Q. During this two-months period they were actually under your roof, and, furthermore, until the order was modified by Judge Carrico in July on our petition, the visitations were still maintained at your house, weren't they?

A. Yes.

Q. And Mrs. Plattner insisted every Sunday on bringing the child from where the child lived over to your house, and

for him to drive six miles to meet the child there?

Vol. I 2/4/58 page 118

A. That's right.

Q. Until we got the court to change it?

A. That's right.

Q. Isn't it a fact that during the latter part of that period—and I am talking about the period from February to July 1957—his visits with the child were averaging perhaps three-quarters of an hour, or something of that nature? They were getting less and less in time?

A. They were not long, as a rule, but I would have no idea how long they were.

Q. Isn't it a fact that increasingly the child became hostile toward him?

A. I wouldn't say it was increasing because she was hostile to start with.

Q. Hostile toward him and did not want to be with him?

A. That's right.

Q. And he would take her out, and within a short time she would demand to be taken home?

A. Apparently. Yes.

Q. And he would bring her home, would he not?

A. As far as I am aware, he did.

Q. Directing your attention to Easter Sunday, you knew that that was his regular visitation Sunday, did you not?

A. Yes, I did.

Vol. I 2/4/58 page 119

Q. And when he came there to pick up the child, you went out and informed him a party was in progress?

A. That's right.

Q. And that the child would be delayed, perhaps?

A. I didn't say the child would be delayed.

Q. What did you say?

A. I asked him if it would be all right for her to attend. That's why I went out and spoke to him, because I knew he had the privilege of taking his daughter at one o'clock.

Q. You asked him if it was all right and his plain answer to you was that it would not be all right.

A. That's right. Then he started—

Q. You said he started quoting a lot of law to you.

A. That's right. About the court order.

Q. And what he said was the truth, was it not?

A. There's no question about it being the truth.

Q. Did you then go in and get the child and bring her to him?

A. I never got his child and brought her to him.

Q. As a matter of fact, the child did exactly as she pleased and stayed and attended the party?

A. She did.

* * * * *

Vol. I
2/4/58
page 135 }

* * * * *

MARJORIE FOWLER JULLIEN,
was called as a witness and, after having been duly sworn by the Commissioner, was examined and testified as follows:

Vol. I
2/4/58
page 136 } DIRECT EXAMINATION.

By Mr. Johnson:

* * * * *

Vol. I
2/4/58
page 137 }

* * * * *

A. Well, when we first started out Mrs. Plattner didn't know a great deal about bridge, so my husband said, "I'll take her and you play with Frank." So I might say Frank and I had a ball for a while because Peggy was just learning.

However, after Peggy learned how to play—I might add, to begin with, Frank and I used to beat them all the time, but after Peggy learned to play Louis and Peg would beat us. Frank didn't like the fact that he was beaten by his wife and my husband and he very often during the course of the bridge games would come back at me for some bid I made, and I used to say, "Now, Frank, you play your hand and I play mine."

*Marjorie Fowler Jullien.*

You're laughing, Frank, but it's true.

But Frank played a very good game of bridge, I'll say, but if he wanted to take five minutes to make the play and Peggy was the next one who made the play it used to make him nervous because Peggy would take a long time, and he used to say, "Come on, Peg; come on, Peg, hurry up." And she would say, "But I don't know what to play," and he would say, "You don't have to take so long; come on, hurry up. Why do you have to take so long?"

Vol. I 2/4/58 page 138

In other words, he wanted her to play just like that, but he, or my husband, or myself, could take forever and a day and he wouldn't say anything.

Q. Now you mentioned on the occasions when you got together, drinks were served. How much would the respective persons present ordinarily drink?

A. Mrs. Plattner does not drink. Now, when I say she does not drink, occasionally she would have a drink of creme de menthe, or occasionally she would have a Tom Collins, but ninety-nine per cent of the time Peggy would drink about three or four glasses of ginger ale. The rest of us all drank liquor.

My husband would pour the first drink round and he would say to them, "Frank, the bottle is out there and if you want a drink you go and get it." So that was the extent of it. I mean, he had as much as he wanted and my husband had as much as he wanted and I had as much as I wanted, which probbly was one or two drinks an evening, and as far as the consumption of each individual, I don't know.

Q. Do you know how many drinks Mr. Plattner would ordinarily consume, or approximately how many he would ordinarily consume in an evening?

Vol. I 2/4/58 page 139

Mr. Moncure: During what period is this?

Mr. Johnson: This is the period prior to May 1955.

The Witness: In an evening of bridge? Well, I can't say that I ever counted them. I didn't pay a great deal of attention, because as I say, my husband always told him after he poured the first one that he could pour the rest for himself, and I really can't say how many Mr. Plattner consumed in an evening.

I can say this: He consumed more than any of the rest of us.

*Marjorie Fowler Jullien.*

• • • • •

Vol. I
2/4/58
page 140 }

• • • • •

Q. I was going to direct your attention to an evening in May of 1955.

A. Yes. That is just what I was going to tell you. The night that this occurred we were playing bridge and again, as I already said, there was liquor served. Peggy and my husband, of course, were playing together. It was almost three o'clock in the morning. They needed—they had one game on and partial score on the second game, which would have ended the rubber and finished the bridge game for the evening. Mrs. Plattner opened on a two bid—a demand bid—and my husband passed. And with that Frank got up, threw the cards on the table and said, "You can't do this; you can't do it; you can't do it. That's not right. I'm not going to play. You cheat." And just acting like a raving maniac.

Vol. I
2/4/58
page 141 }

And my husband said, "Maybe you can't do it, but I just did it."

Q. How long did this outburst last?

A. I should say for probably three or four minutes. Frank always used the expression, "Marge, they'll cheat the eyeballs out of us." I said, "Well, if they are going to cheat the eyeballs out of us then we'll cheat the eyeballs out of them."

However, that was just talk between the two of us. But he was very, very upset that night because that had happened, and, of course, that in turn won the game for Louis and Peggy and they beat us that night at bridge.

Q. Had there been any other time when you had seen this type of outburst from Commander Plattner either before or since that occasion, whether connected with bridge or otherwise?

A. It was only—just let me think a moment. There was another occasion when he got mad. I wouldn't say that he had quite such a violent outburst of temper, but he got—we were having a discussion one evening here on a case that appeared—I can't recall the name—in the paper; a case that appeared in the paper. It was a legal case and Mr. Plattner was explaining some of the things to us.

*Katherine Pagliuca.*

Vol. I
2/4/58
page 142 }

Well, I'll tell you right now, I have very high standards and a very high code of ethics, and I can't quite see through some of the things that are used in the courts today. In reading this case and discussing it Mr. Plattner was telling us something about it, and from his standpoint, and I said to him, "Well, Frank, that may be law, but to me it is dishonest," and I said, "I can't go along with your standards." "But Marge, be reasonable."

I said, "Don't Marge me. I don't believe in it. It's crooked as far as I am concerned." And with that Frank kept after me and after me and got all excited about the issue and tried to, I will say, shove it down my throat, but I wouldn't accept it.

In the meantime my husband had come into the conversation trying to tone him down and trying to show what we meant, and he turned to us and he said, "I could never be your attorney because you're too honest." And I said, "That's all right with me because I wouldn't have you for my attorney."

Mr. Moncure: Now will you establish when this was, Farnum?

By Mr. Johnson:

Q. About what date did this take place?

A. This was after we moved in our home, our present address, a year ago last August. I believe around the 3rd. I'm not sure of the date, but within the first week of August, and this was sometime, I would say, it was in the late fall of that year. That is as near as I can tell you.

Mr. Moncure: The fall of 1956?

• • • • •

Vol. II
2/5/58
page 148 }

• • • • •

KATHERINE PAGLIUCA,

was called as a witness and, having been duly sworn by the Commissioner, was examined and testified as follows:

*Katherine Pagliuca.*

DIRECT EXAMINATION.

By Mr. Johnson:

• • • • •

Vol. II
2/5/58
page 149 }

• • • • •

Q. Do you recall any occasion in December of 1956 when Mrs. Plattner contacted you regarding an egg incident?

A. Yes.

Q. Will you please tell the Court all that you can recall regarding that?

Vol. II
2/5/58
page 150 }

A. I don't remember what day it was, but she called me up, I think it was a Sunday, I'm not sure, and she said, "Will you please come over?" She said, "I want to see you." I said, "Just in a little while. I have something to do." And I went over there and she showed me some egg in a pan. She said to me that Mr. Plattner—

• • • • •

Q. I ask you this question: When Mrs. Plattner called, how did she sound to you?

A. She was upset and she started to cry when I saw her, but I didn't know who threw the egg. I just saw it.

• • • • •

Vol. II
2/5/58
page 157 }

• • • • •

Vol. II
2/5/58
page 158 }

Commissioner Gasson: *Mr.* Pagliuca, I want to get one or two things straight.

Now, Mrs. Plattner called you about what time?

The Witness: You mean yesterday?

Commissioner Gasson: No. On this day of the egg incident?

The Witness: Oh, it was in the morning.

Commissioner Gasson: It was early in the morning?

The Witness: Not too early. We had finished breakfast and I think I was cleaning up the kitchen, or getting through.

Commissioner Gasson: Was it on a Saturday or Sunday?

The Witness: Yes. My husband was home that day and I remember saying to him, "Peggy called me over and I am going over."

Commissioner Gasson: When she called you did she sound excited?

The Witness: She was very upset. She was.

Commissioner Gasson: When you went over there was the pan still on the floor?

The Witness: I don't remember. The handle was bent up. It was a frying pan about this large, but I don't remember whether it was on the floor or the table.

Commissioner Gasson: The eggs were still on the wall?

The Witness: Yes, on the stove, on the walls and on the floor.

Vol. II
2/5/58
page 159

Commissioner Gasson: Was she crying?
The Witness: Yes.
Commissioner Gasson: Or upset?
The Witness: She was very upset.

• • • • •

Vol. II
2/5/58
page 160

• • • • •

MARJORIE FOWLER JULLIEN,
resumed her testimony as follows:

DIRECT EXAMINATION (Continued)

• • • • •

Vol. II
2/5/58
page 163

• • • • •

*Marjorie Fowler Jullien.*

By Mr. Johnson:

Q. Mrs. Jullien, what occurred later in the morning?

A. Then we went to bed and I was asleep and my daughter came in and she said—this was just before six o'clock in the morning—and she came in and she said, "Mother, Aunt Peggy is downstairs and she's sick and she wants you to come down."

With that I got out of bed and I went downstairs. Peggy by that time had stepped inside the door and I said, "What's the matter?" I got her in and sat her in a chair in the living room and I helped her in the room. She said, "Frank beat me, Marge, and then knocked me down and kicked me." And I said, "What?" And with that I said, "Just a minute," and I got excited and nervous because I had never witnessesd anything of that nature.

Q. What did Mrs. Plattner look like when she came into the house?

Vol. II
2/5/58
page 164 } Mr. Moncure: I object to all of this testimony, Your Honor.

Commissioner Gasson: I think what she looked like is clearly admissible.

Mr. Moncure: But what I am talking about is the testimony she has been giving the last several minutes.

Commissioner Gasson: Subject to your objection.

Mr. Pischke: The same defense.

The Witness: Mrs. Plattner had a lump on her forehead that stuck out like an egg; her arms were bruised, the upper portions of her arms; her thighs and her legs were bruised and at the back, here, I would say in the kidney and rib area, she also had a big bruise.

The way I can state it best is, she was crying and she was all beaten up, and she looked like a whipped puppy dog to me. That is the best way I can describe it.

• • • • •

Vol. II
2/5/58
page 167 }

• • • • •

*Marjorie Fowler Jullien.*

My husband and I both entered in this conversation and she said, "I don't want to go to the Navy because I don't want to hurt Frank's record." And I said, "Well, if you don't want to go to the Navy then I'll take you over to the hospital and enter you in Emergency." But she said, "If I do that then the police will have to know and they will come out and arrest him for assault, and I don't want that either. I don't want to harm him."

So we finally said to her, "Well, now, look, Peggy. If you want to stay here you'll have to have a medical examination because you have been kicked in the head and you this big goose egg, as I call it, on your temple, and I said we don't know whether or not you're injured, and in all fairness to you—

• • • • •

Vol. II
2/5/58
page 182 }

• • • • •

Q. Do you know what Commander Plattner's general reputation was for drinking?

Commissioner Gasson: In the community.

By Mr. Johnson:

Q. In the community?

A. All I can answer to that is—when you say in the community, all I can again say is that Mr. Plattner had the reputation of drinking a great deal.

• • • • •

Vol. II
2/5/58
page 185 }

• • • • •

CROSS EXAMINATION.

By Mr. Moncure:

*Marjorie Fowler Jullien.*

• • • • •

Vol. II
2/5/58
page 192 }

• • • • •

Q. You were perfectly willing to associate with Commander and Mrs. Plattner on up to the time that she finally left him on February 1, 1957?

A. Yes.

Q. Is it correct, to the best of your knowledge, that she lived in their same home with him from December 15, 1956, to February 1, 1957, when she came to live with you?

A. She lived in the home with him, yes.

Vol. II
2/5/58
page 193 }

Q. Lived under the same roof in the home?

A. Yes.

Q. Then on February 1, 1957, she and Ann moved in with you?

A. I'm not sure of the date.

Mr. Moncure: I think that is stipulated to.
Mr. Johnson: No, it is not.
Mr. Moncure: Off the record.

(Discussion off the record.)

By Mr. Moncure:

Q. Would it be true and correct, to the best of your knowledge, that she lived under the same roof with Commander Plattner from December 15, 1956, to on or about February 1, 1957?

A. Yes.

Q. And you recall approximately when she and Ann moved in with you and Commander Jullien?

A. Well, the interim that is there she went to New Jersey and then spent a few days there, and then came back and stayed with us.

• • • • •

Vol. II
2/5/58
page 212 }

• • • • •

*Marjorie Fowler Jullien.*

Q. Mrs. Jullien, when, following the May 22 incident in 1955, you resumed your friendship with the Plattners, would you say it was due primarily to friendship for Peggy, or Frank, or for both of them?

A. Our friendship with Peggy.

Q. During the last year, during the period you saw Mr. and Mrs. Plattner, you testified as to the headaches. Were you able to observe anything else with respect to her general emotional attitude during the year 1956, prior to the time of the separation of the parties?

Vol. II 2/5/58 page 213

A. Yes. Mrs. Plattner had become very discouraged. She had lost considerable weight by now, by my looking at her, and that is how I determined that. I can tell it. And also she was becoming very nervous. She appeared to me like a balloon which had been deflated. That's what I mean. Her whole spirit had gone down. She no longer had her fire and spirit which she once had.

Commissioner Gasson: What period was this, Mr. Johnson? I am not sure, although you probably asked it in the question.

Mr. Johnson: During the year 1956.

By Mr. Johnson:

Q. Do you know why she seemed to be physically and emotionally upset during that period?

Mr. Moncure: I object to that. It calls for a conclusion of the witness.

Commissioner Gasson: I will admit this question, and answer this one yes or no, Mrs. Jullien.

The Witness: I should answer it yes or no? Yes.

Commissioner Gasson: All right.

By Mr. Johnson:

Q. What reasons do you attribute to that?

Commissioner Gasson: Do you want to make your objection at this point?

Vol. II 2/5/58 page 214

Mr. Moncure: I certainly do. He is calling for a conclusion of the witness. There is no foundation laid for his question and it is obviously a self-serving question in favor of Mrs. Plattner.

Commissioner Gasson: I am going to admit it subject to the objection.

The Witness: May I answer it?

Commissioner Gasson: Yes, go ahead.

The Witness: The reason that Mrs. Plattner became discouraged was because Commander Plattner or Mr. Plattner would not do anything in the household. She had drapes ready to go up. He would not put up the rods there. He would contribute nothing to putting together the home and she had gone as far as she could go and could go no further on her own, and she said what's the use. I can't do anything by myself and I'm just discouraged.

Commissioner Gasson: Let me ask you a question. Did she tell you this or did you know this of your own knowledge? That is, is this what she told you?

The Witness: May I say this—

Commissioner Gasson: And if she told you, did she tell you in the presence of Mr. Plattner?

The Witness: She made that statement many times in the presence of Mr. Plattner and my husband and myself.

• • • • •

Vol. III
2/19/58
page 221

• • • • •

REINE B. HANNAN,

having been duly sworn by the Commissioner, was examined and testified as follows:

Vol. III
2/19/58
page 222 DIRECT EXAMINATION.

By Mr. Johnson:

Q. Will you please state your full name?

A. Reine B. Hannan.

Q. Mrs. Hannan, are you related to the complainant in this case?

A. You mean Margaret?

Q. Margaret.

A. She is my daughter.

* * * * *

Vol. III
2/19/58
page 238

* * * * *

Q. Have any unusual circumstances occurred in your own home with relation to Mr. Plattner when he abused Margaret, as you just testified, that you can recall specifically?

Mr. Moncure: Would you please read that question back?

(Whereupon the question referred to was read by the reporter.)

Mr. Moncure: I have two grounds for objection. In the first place, it is leading; and, in the second place, Mr. Johnson is characterizing the evidence when he describes it as abusing Margaret, which I think in large measure at this stage is a conclusion for the Commissioner or the Court to draw.

Commissioner Gasson: I think I will allow the question subject to your objection.

Vol. III
2/19/58
page 239

The Witness: Well, it is a little difficult for me to answer it in specific terms, but I know one time at Christmas I came there and he was very angry, and abused she and Ann both in words, and he knocked Ann off the stool over a mere incident of her purchasing new tires for the car that she and Ann had ridden down from Rhode Island in. And even the company she had taken the tires back to wouldn't give her any trade-in on them. So he was very angry and left the house and didn't even stop to eat his Christmas morning breakfast. Later we found out he came home to Maryland. He stayed down there until Sunday and then came back.

Commissioner Gasson: When was this?

By Mr. Johnson:

Q. Yes. When was this?

A. 1953.

Q. How long was Mr. Plattner gone before he came back? How many days would you say?

A. Well, let's see. Christmas was on Tuesday, as near as I can recall, and he came back on Sunday.

Q. When you say he cursed Margaret, what would he say?
A. Well, he said—I don't like to say it.

Commissioner Gasson: I'm afraid it will be necessary for you to say it.

The Witness: He said, "that bitch is going to put me in debt. I have debts now and she's going to run me farther in debt." And that was a word he often called her.

Vol. III
2/19/58 By Mr. Johnson:
page 240 } Q. What were some of the other occasions when he used that same word?

A. That was the word he used when they were playing cards, and I had to ask him to stop because we didn't use that word in our house.

Q. Has this occurred since 1953?

A. Yes, it occurred several times.

Q. In your presence?

A. Yes. He didn't make any bones about saying it in anybody's presence.

Q. Would you say that he called her a bitch for other reasons than for money?

• • • • •

Vol. IV
3/26/58
page 326 }

• • • • •

BESSIE McDONALD,

was called as a witness by counsel for the Complainant and Cross-Defendant, and having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Johnson:

Q. State your full name, please.

A. Bessie McDonald.

Q. And where do you live, Mrs. McDonald?

A. I live at 84 Seventh Street, Salem, New Jersey.

Q. What relation are you to the plaintiff, Mrs. Plattner?
A. I'm Margaret's aunt.

• • • • •

Vol. IV
3/26/58
page 339 }

• • • • •

Q. Do you know what the question was?
A. What would provoke an argument—

Vol. IV
3/26/58 (The reporter again read the following pending
page 340 } question:

"Q. What would he do to provoke arguments?")

A. Possibly, the greatest part of it, name-calling, "stupid."
Q. What other names would he use?
A. Didn't have any sense. Many, many times I have heard him call her a "bitch," which is not very good language for any man to address his wife.

• • • • •

Vol. IV
3/26/58
page 342 }

• • • • •

GERALDINE F. BURT,
was called as a witness by counsel for the complainant and cross-defendant, and having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

Vol. IV
3/26/58
page 343 } By Mr. Johnson:
Q. State your name, please.

*Geraldine F. Burt.*

A. Geraldine F. Burt.

Mr. Moncure: What initial was that?
The Witness: "F."
Mr. Moncure: B-u-r-k?
The Witness: B-u-r-t.
Mr. Moncure: "T."

By Mr. Johnson:
Q. Mrs. Burt, where do you live?
A. Salem, New Jersey.
Q. Are you any relation to Mrs. Plattner?
A. Yes. I'm Mrs. Plattner's sister.

* * * * *

Vol. IV
3/26/58
page 357 }

* * * * *

Q. What would you say characterized—or how did Commander Plattner conduct himself towards his wife on these occasions?

A. Well, everything usually started out very peaceful, then, usually, I mean if she did anything to disturb him, why he would lose his temper and become very abusive toward her.

If there were a card game, why he would be very abusive. Although he and she were never partners, if he was losing he was always very abusive, but the abuse was always toward her, never toward his partner.

Q. What would he call her?
A. Well that would be—

Mr. Moncure: There's no testimony that he called her anything, Mr. Johnson.

By Mr. Johnson:
Q. When you say he was abusive, in what manner was he abusive?

A. Well, he was abusive in his language toward her. It was usually that "You bitch, can't you play cards? Don't you know anything? Why do you have to be so stupid? Why

did you block my play? You knew I was going to do that next."

And general attitude of stupidity that he had for her.

Q. Were there other occasions not related to card games on which he would use the same type of language?

Vol. IV 3/26/58 page 358 } A. If she displeased him over anything, he would; and, usually, when she came, it was just like sitting on the edge of a volcano waiting for it to erupt, as to which situation would please and which wouldn't.

• • • • •

Vol. V 4/7/58 page 4 }

• • • • •

MARGARET J. PLATTNER,

the complainant and cross-defendant in this cause, was called as a witness in her own behalf and, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

By Mr. Pischke:

Q. State your full name and address to the Court.

A. Margaret Juanita Hannon Plattner.

Q. You are the complainant in this cause, Mrs. Plattner?

A. Yes, I am.

Q. Mrs. Plattner, directing your attention to the date, August 16, 1955, where were you living at that time?

Vol. V 4/7/58 page 5 } A. I lived at 6404 Arlington Boulevard, Willston South Apartments.

Q. Is that in Fairfax County?

A. That is in Falls Church, Fairfax County.

Q. How long did you reside there?

A. Until December 13, 1955.

Q. Where did you move thereafter?

A. To 1909 Holly Hill Drive, Falls Church, Virginia.

Q. You moved there on December 13, 1955?

A. 1955.

Q. How long did you reside there?

*Margaret J. Plattner.*

A. I remained there until February 8, 1955.
Q. You mean '57?
A. February 8, 1957, yes.
Q. Where did you move thereafter?
A. 2506 North Upshur Street, Arlington, Virginia.
Q. You moved there February 8, 1957?
A. Yes.
Q. How long did you reside there?
A. I was there until March of 1957 and I moved, then I moved into the Wilson Apartments.
Q. What would that address be?
A. 6416 Arlington Boulevard.
Q. Will you speak a little more loudly, please, so the Commissioner can hear you distinctly?
A. 6416 Arlington Boulevard.

Vol. V
4/7/58
page 6 }

Q. That is in Falls Church, Virginia?
A. Falls Church, Virginia.
Q. How long did you live there?
A. I moved, remained there until August 1 of 1957.
Q. 1957?
A. Yes.
Q. And where did you move thereafter?
A. I moved to 1906 North Monroe Street, Arlington, Virginia.
Q. That was August 1, 1957?
A. Yes, and I live there now.
Q. Is that where you are living at the present time?
A. That is where I am living now.

• • • • •

Vol. V
4/7/58
page 13 }

• • • • •

Q. I would call your attention to the question that was previously asked as to what, if anything, transpired between you and your husband on December 9, 1956?
A. Well, on that morning, it was a Sunday morning, we got up and I asked Frank if he wanted scrambled eggs for breakfast and he said, yes.

*Margaret J. Plattner.*

So I went out in the kitchen and prepared them and started looking at the television. And Frank came into the kitchen and he looked at the eggs and said, he didn't want those eggs.

I said, "Well, you told me that was what you wanted when I asked you."

So he started raving and then he said he wasn't going to eat those damned eggs.

So he picked up the skillet and threw it at me. The eggs hit me in the chest and burned me and went all over the room. And then he turned and left and went into his room and got his things and then he left.

I called Mrs. Pagalucia on the phone and asked her to come over—Mrs. Pagalucia, Catherine Pagalucia.

Vol. V 4/7/58 page 14 } And she came over and stayed with the baby and I for a little while.

When she left, I started cleaning the eggs up and and I called an uncle of mine downtown and talked to him, and then he asked me if I was afraid to stay there and I said yes.

Mr. Moncure: Mrs. Plattner, I object, Mr. Commissioner, on what the uncle said to her and what she replied to him unless it was in the presence of Commander Plattner.

The Commissioner: Do you want to put that in?

Mr. Plischke: I would like the Commissioner to hear the evidence even though it is conceded by the Court, or conceded that there is a question of its being hearsay.

The Commissioner: I will admit it subject to objection. Off-hand, it looks like it is not admissible.

Mr. Pischke: It would go to the allegation of counsel that it is part of the *res gestae.*

The Witness: Then he asked me where Frank was. I told him he said he was going to study with some fellow.

The Commissioner: I take it all of this testimony is admitted subject to objection and there will be a ruling on it later.

The Witness: So, he said, you had better check and if you are afraid then, he says, you had better go up to your mother's or something.

Vol. V 4/7/58 page 15 } So I obtained that number and called to find out if he was where he said he was going. So then in just a few minutes after that my mother called, said that my uncle had called her and she wanted to know what we were going to do and I said that we would

stay there because we had nowhere else to go right then. And then I asked her if she would come down because Ann was going to have her tonsils taken out and I was afraid to go by myself.

So they said all right. So we made arrangements for that on the telephone.

And Ann and I that evening, we stayed there in the house and then fairly early we went into the bedroom and pushed the dresser up against the door and slept in Ann's room.

Q. Did Mrs. Pagalucia come to your residence at your request?

A. Yes, Mrs. Pagalucia came over.

Q. How shortly was this after the egg-throwing incident itself, from the standpoint of time?

A. Well, it was about 15 minutes to half an hour after the incident.

Q. What was your physical reaction, if any, to the egg-throwing incident?

A. Well, I was afraid of him because he had promised before that he wouldn't do things like this. I was afraid of Ann's safety and well-being and my own.

Vol. V 4/7/58 page 16

Q. Where was Ann during this occasion?

A. Ann had been in watching television and when he came in and started shouting and everything she came to the dining room door and I moved over so that I stood in front of her, near her, and she got behind me, got behind me and held onto my dress and she was there when he threw the eggs.

Q. Now, you testified that he threw the eggs and the skillet. Where, if you know, did the skillet land?

A. It hit me on the chest and burned there and went to the floor.

Q. Have you had relationships with your husband as a wife since that date?

A. No.

Q. So that your testimony is that your last place of cohabitation is Fairfax County?

A. That is right.

Q. When your husband left, did he tell you where he was going?

A. He had said before that, he didn't say when he left the house, no. He had said before a couple of days or the day before he was going to some fellow's, on the telephone.

Q. Did he tell you on that occasion where he was going when he left?

*Margaret J. Plattner.*

A. No. When he left he stomped out of the house.

Vol. V 4/7/58 page 17

Q. Directing your attention to the date, May 21 and 22 of 1955, what, if anything, transpired between you and your husband on that date?

A. Well, on May 21, 1955, we were invited to a cocktail party at the Naval Air Station, Quonset Point, and we went to that. And then we were also invited to the Julians,' Commander and Mrs. Julian, to play bridge, and went to Commander and Mrs. Julian's house after the cocktail party. We played bridge until, well, I would say roughly 3 o'clock in the morning and Frank had quite a lot to drink.

We came out of the Julians' and I told him since I had not been drinking that I preferred to drive home because the brakes were bad on the car and he got religion about it and said, "Hell, no, you are not driving."

So I said, "Well, the brakes are bad on the car and I am not going to ride in it unless you let me drive."

So he was behind the wheel and I couldn't get him over one way or the other so I took the keys and walked home because it had my house key on it and I went home and I called Commander Julian and asked him to go out and see what they could do, either come in there, or something. Then I went to bed.

Mr. Moncure: I object to her conversation with Commander Julian, sir.

The Commissioner: It is harmless at this point. I will admit it subject to objection.

Vol. V 4/7/58 page 18

Mr. Pischke: Of course, the record shows, should show, that we allege it as far as the *res gestae,* Mr. Commissioner.

The Witness: So then, some time later, there was a loud banging at the window and it was Frank and he wanted in.

So I got up and went to the door and let him in. And he was in a rage. He started shouting at me and he took a swing at me and when he did, I ran to Ann's bedroom and tried to close the door, and he got there shortly after I did and I never finally closed the door.

He hit me several times and then he knocked me to the floor and then he kicked me, kicked me in the head and in the kidney, on the arms and legs, and the head, tore the curtains off the wall.

Then he went in and went to bed, went to sleep.

I got, obtained some clothing, and I walked to the Julians

and when we got to the Julians, their little girl answered the door so I asked her if she would call her mother and *told* her that I wanted to see her mother.

She said, "All right," called her mother and went into the Julians' and I asked if Ann and I could stay with them.

And Mrs. Julian, when she took a look at me, called Commander Julian and they insisted that I go to a doctor.

Vol. V 4/7/58 page 19

Mr. Moncure: I assume this is going to have the same ruling, Mr. Commissioner, but throughout this what she said to the Julians and what they said to her and the suggestions they made, not in the presence of Commander Plattner, we object to.

The Commissioner: That is accepted subject to your objection, sir.

Mr. Pischke: Does the Court see any reason in our alleging this as part of the *res gestae* to tie the time element down as to the exact minute?

The Commissioner: I think it should be tied down.

By Mr. Pischke:

Q. How much time elapsed between the time of the beating you speak of and the time you spoke to the Julians?

A. Well, to tie it down actually to minutes or anything—

Q. Just approximately.

A. Approximately, I would say an hour. About 6 o'clock.

Mr. Moncure: Excuse me. Off the record.

(Discussion off the record.)

The Witness: But Lou said that I tried to talk him out of it about going to a doctor, all I wanted to do was get Ann to their house so she would be safe and she and I could stay there for our safety.

Vol. V 4/7/58 page 20

By Mr. Pischke:

Q. Mrs. Plattner, let me ask you this question: What happened during the lapse of time, during the one hour's period of time you testified to, between the time your husband beat you and the time you talked to the Julians?

A. Well, it took me that long to obtain some clothing and to walk up there.

Q. How far is it from your place to the Julians'?

*Margaret J. Plattner.*

A. It was roughly two blocks or three, between two and three blocks.

Q. What did your husband do immediately after having struck you, as you testified?

A. After he struck me, he kicked me.

Q. What did he do after that?

A. He went to bed, went sound asleep. That is when I obtained my clothing. I looked in Ann's closet to see if I had left a coat or anything I could have put on and I hadn't, in her closet. So, as he went to sleep I went into our bedroom and got some clothing and I went to the Julians' and then Mr. and Mrs. Julian said I would have to go to a doctor because if anything happened they wouldn't be covered, either, and I wouldn't, either.

So Ann would have to be protected. That is what I wanted in case anything happened to me from this.

So I consented and went to a doctor, to see Captani Smith at the Navy Base.

Vol. V
4/7/58
page 21

Q. I believe you testified that earlier this evening you had been playing cards with the Julians, is that correct?

A. That is correct.

Q. What was his attitude toward you personally during the conduct of that game?

The Commissioner: By "his" I assume you mean Commander Plattner?

Mr. Pischke: Commander Plattner, yes.

The Witness: Well, Frank's attitude on that game was the same as it is on almost every game, that I am too stupid to play.

Mr. Moncure: That isn't responsive. If she gives her attitude to that game, it would be responsive, not offer anything gratuitous.

The Commissioner: At this point, limit your answer to this game.

The Witness: Well, he exploded over—I bid two and Lou should have responded, and he said we were cheating and he always, if he wasn't winning that game, any hand he didn't win, then it was my fault and in that game of the evening, the whole evening.

By Mr. Pischke:

Q. This particular evening, did he?

*Margaret J. Plattner.*

A. He exploded and threw the cards on the table and said we were cheating.

Vol. V 4/7/58 page 22 } Q. When you say "we" were those comments directed to you as well, or were they directed solely at you?

A. Well, he threw the cards at me and the remark was made to me. Of course, I guess it would have to affect my partner, too, Commander Julian.

Q. Any other remarks other than those you have testified to?

A. No.

Q. Directing your attention to the date, December 25, 1953, what, if anything, then transpired between your husband and yourself?

A. December 25, 1953?

Q. Yes.

A. Well, I had driven our car down to my mother's in New Jersey for Christmas, Ann and I. Frank came down the 24th of December.

On the morning of the 25th, we gave Frank a box, a gift box. It was all decorated with Christmas seals and everything.

Q. This was an intended Christmas gift, in other words?

A. Yes. And then I can tell you why it was intended. In that box was a tube and a bill for four tires.

While I was at my mother's, we had a blowout on one of the tires, blew out on the car. So I had to purchase tires and being that we were there and someone was there,

Vol. V 4/7/58 page 23 } I thought that was the only way I could tell Frank that we had done it.

Also, then, possibly he would take it the same way he took other things; maybe he would take it as a good thing and not explode at it.

So, Ann and I made a game of it. She put all kinds of Santa Clauses all around the box and we decorated it up.

When he opened it, he came out of there just swearing and he picked Ann off the stool that she was sitting on, the stool in front of—showing him one of her gifts. The child had given him the box to open and then picked one up for herself to open and she turned around to show her daddy what she had gotten and he picked her off the stool and then he started raving around there and carrying on about the tube and finally he said, "You were stupid enough to buy tubes." And then he shouted, "Did you, did you buy tubes?"

*Margaret J. Plattner.*

And I said, "Yes." I said, "I didn't know that you weren't to buy tubes when you went to buy tires."

So he finally told me he was leaving and he took himself off in the other room and got finished dressing and he went down the steps.

Vol. V 4/7/58 page 24

Q. Were there other presents to be opened on that occasion?

A. Yes, sir.

Q. Did you receive anything from your husband on that occasion for Christmas?

A. No, I did not.

Q. Did you receive anything from your husband on Christmases subsequent to that occasion?

Mr. Moncure: What is the materiality of this, Mr. Pischke?

Mr. Pischke: To show the relationship between the parties.

Mr. Moncure: Mr. Commissioner, I don't know if that is grounds for divorce, whether there was or wasn't.

The Commissioner: It is part of the whole picture, Mr. Moncure. I will let it in.

The Witness: Then I have received one box of Yankee Clover Bath Powder marked from Ann and Frank.

By Mr. Pischke:

Q. What was the date of this gift?

A. 1956.

Q. December 25, 1956?

A. Yes.

The Commissioner: It is all right.

Mr. Moncure: Nothing for Christmas '53 or '54?

The Witness: No.

Vol. V 4/7/58 page 25

Mr. Moncure: Did she testify in regard to '55?

Mr. Pischke: Yes, I believe she did because I asked her the question whether or not she had received any Christmas gift subsequent to December 25, 1953.

Mr. Moncure: The only one was '56?

Mr. Pischke: That is correct, sir.

By Mr. Pischke:

Q. Is that correct, Mrs. Plattner?

A. That is correct.

Q. Now, Mrs. Plattner, directing your attention to the sum-

mer of 1953, did anything unusual transpire between you and your husband on that occasion, on that date?

A. Yes. We went to a cocktail party at the Navy Base and the cocktail party moved to the swimming pool and Frank was drinking quite heavily and there was a lady by the pool and Frank pushed her in and her husband got mad about it and there was quite a bit of words and he walked over and was talking to some friends.

I sat down on the edge of a ledge and Frank came over and threw his drink on me. I left the party and went home.

Q. Is this the summer of 1954 or 1953 you are testifying to?

A. 1953.

Q. 1953?

A. Yes.

Vol. V 4/7/58 page 26

Q. Directing your attention to September 1955, what, if anything transpired between your husband and yourself on that night?

A. In September 1955, after I got my title to my car, and got the license tags for Virginia, they told me I had to have a county tag. So I bought the county tag and Frank saw the county tag and he said he wanted to inform me that the money he made was his and it was not mine and I was not entitled to any of it and that when the State of Virginia sent the personal property tax I could get the money from someplace else; he was not paying it.

So, with that he told me that he would deduct the $5 that I had paid for the county tag out of my household money, which he did.

Q. Directing your attention to July 1956, what, if anything, transpired between your husband and yourself in that month?

A. July 1956?

Q. Is that the occasion on which your daughter was struck by an automobile?

Mr. Moncure: You are leading her, Mr. Pischke.

Mr. Pischke: Yes, sir, I am. Do you object?

Mr. Moncure: Yes, sir.

Mr. Pischke: Do you object?

Vol. V 4/7/58 page 27

Mr. Moncure: On direct examination. I think you have gotten it across to her by now, so I suppose she may as well go ahead and answer it.

The Witness: Ann was hit by a Broyhill truck

out in the street. We had returned from shopping and she wanted to play.

Going in our house you have to go upstairs to our kitchen. I took the groceries upstairs. Then I heard a commotion downstairs and I looked out the upper window and saw a neighbor carrying Ann in.

I ran down and I got Ann. They told me that the truck had hit her. So I immediately went to the phone and called the Navy and asked them what to do. I tried to get Frank on the phone and I couldn't get him on the phone. So I asked the Navy what to do, asked the doctor, and he said, "You bring her in."

So I took Ann and went right into the dispensary.

So they checked Ann all over. So then Frank came home. I told him that Ann had been hit by a truck and he says, "Where is the tag number and who was the driver and did you notify the Broyhill Company?"

And I said, "No, I hadn't done any of that."

So he said I was too stupid to know what to do. He started swearing and saying that I didn't have any sense of responsibility or anything.

Vol. V 4/7/58 page 28

I said, "Well, all I wanted to do was find out if Ann was hurt, first. There were enough witnesses to it."

So he raved around for a minute. Then he said, "Well, was she hurt?"

Q. Directing your attention to the month of October 1956, what, if anything, transpired between your husband and yourself on that date?

Mr. Moncure: I move to strike that last testimony because I fail to see the materiality of it in connection with her alleged grounds of divorce.

Mr. Pischke: May it please the Court, this is just another continuing matter of evidence to show the relationship between the parties which counsel respectfully argues is relevant to the case as being repetitious of the events that transpired on the date that is alleged to be the prime date for the constructive desertion, namely, December 9, 1956.

The Commissioner: I will take it subject to objection.

Mr. Moncure: All right, sir.

Would you repeat the last question?

Mr. Pischke: The last question was: Calling your attention to the date, to October 1956, what, if anything, happened between your husband and yourself on that month?

*Margaret J. Plattner.*

The Witness: Frank has some shotguns and they had, when we moved, he had them all wrapped and greased, so when we moved there I put them in the attic and Frank got them out of the attic and was cleaning them. We were sitting in the front room and Ann wanted to see them. He had assembled them and he told her, he told her to come over there.

Vol. V 4/7/58 page 29

She went over and the child is quite fond of playing with guns and he said, "Well, just turn around and shoot your mother."

And Ann from then on, Ann never touched the guns and they sat by his dresser all the time.

By Mr. Pischke:

Q. All right, directing your attention to the date, November 1, 1956, what, if anything, transpired between your husband and yourself on that occasion?

A. Frank got up to go to work and he asked for a coat. He apparently looked in his closet and didn't find it and he called me and wanted his coat, wanted to know where it was. I said, "I am sure it is in your closet if it is here."

He went in his closet again and slam-banged.

So then I went in and looked in the guest bedroom because I keep some of his clothes in there in moth bags and it wasn't in there and he looked in the hall closet. By that time Ann had stirred up her bedroom to see. She was all right. I said I would look in her closet to see if in any way it had gotten in there. By that time Frank was swearing at me saying I had gotten rid of it and gave it away or sent it away or just left it someplace. He was carrying on quite profanely.

Vol. V 4/7/58 page 30

So he left the house to go to work.

Ann got up to go to the bathroom. She said, "Mom, look."

He had torn all of the clothes out of the bedroom closet and the hall closet and thrown them all on the floor.

So that evening we were invited to play cards with the Julians and because I was upset that day Mrs. Julian said, "Well, come over early."

Ann and I went over early. Frank came in from work from school. He was wearing his coat and he turned around and he laughed and he said, "Ha, I left it at Georgetown in the restaurant."

Q. Directing your attention to the date, November 6 of

the same year, 1956, what, if anything, transpired between you and your husband on that date?

A. Well, I was working at the polls on election day, Walnut Hill School is right behind our home—I was working at the polls. Frank knew that I was working there all day. I had made arrangements for Ann to be taken care of and also seeing that his dinner was there. Afterwards we were to go to a party at the Dardanelles Restaurant.

So we were counting the ballots and the door opened up and it was Frank.

Vol. V 4/7/58 page 31 } So they told him he couldn't come into where the ballots were. So I went out.

He started shouting at me and so, rather than create a scene there, I went back and told them I would have to leave. And I left, went home.

Q. Directing your attention to a date, December 15, 1956, what, if anything, transpired between your husband and yourself on that date?

A. December 15th, I took Ann to the hospital to have her tonsils taken out and Frank came in in the afternoon sometime.

Mr. Moncure: May it please the Commissioner, I would like to make an objection for the sake of the record. If December 9, 1956 is relied upon as the crucial date, a date subsequent to that event, subsequent to that is not material to the validity of her cause of action. I don't know that this testimony is material and I think it is redundant. She is relying on constructive desertion commencing December 9, 1956. She is now going into a week later.

The Commissioner: I will take it subject to objection.

Mr. Moncure: All right, sir.

By Mr. Pischke:

Q. I would show as a matter of record that this was a continuing relationship between the parties as being spoken of and that is the reason for the testimony given.

Vol. V 4/7/58 page 32 } Mr. Moncure: What do you mean, continuing relationship? That they were still husband and wife, or what?

Mr. Pischke: Continuing relationship as between the man and wife as will be testified to by the witness to show the

consistency of the previous testimony and the incident of December 15.

The Commissioner: You mean, I take it, that there was a continuously poor relationship?

Mr. Pischke: Yes, sir.

Mr. Johnson: If I may interject a comment here, also, following the date of the constructive desertion, Mr. and Mrs. Plattner, we intend to show, while they lived under the same roof for some time, their relationship was never one of husband and wife from that time and all evidence as to what did occur between them from that time until the time of the actual physical separation of the parties from the house is certainly relevant and should be considered by the Court.

The Commissioner: Well, I think it is admissible but I will note Mr. Moncure's objection.

The Witness: Well, Ann had come to the operation, was back in her room. Frank came in and he started teasing her. He had been asked not to do that because she didn't want him to. She objected very much. So I asked him to let her alone and she got sick from it and had to have her bed changed and everything, so then he left again.

Vol. V
4/7/58
page 33

Then he came back in later, had been to another party.

Then he came back at 1 o'clock in the morning. I had just gotten her settled and he was pretty tight.

By Mr. Pischke:

Q. Now, Mrs. Plattner, you testified that on these various occasions that your husband had been drinking heavily?

A. That's right.

Mr. Moncure: What occasions do you have reference to, sir?

Mr. Pischke : On practically all of these occasions I believe the witness has testified that Commander Plattner had been drinking.

Mr. Moncure: No, sir. I don't believe that is accurate. I don't know whether that is in the record. She has on one or two occasions.

By Mr. Pischke:

Q. As to those occasions where she testified he had been drinking, my question is this:

*Margaret J. Plattner.*

As to what his attitude, his general attitude and demeanor was with her when he had been drinking.

A. He was a—he was very abusive to me and anything that happened regardless of how it happened that didn't suit him was taken out on myself and it got to be where there was a state of fear for the safety of myself and Ann.

Vol. V 4/7/58 page 34

We were afraid to be around him. Regardless of what—

Q. Now, what, if any, effect did these activities on the part of your husband have physically upon you?

A. Well, I had become rather nervous and as long as I was in the house, it was a lack of sleep for fear of when he was coming and going and fear of what he was going to do to us. I never knew just whether he was going to come in and speak to us or whether he was going to come in and start swinging or what he would do. And I have lost weight.

Q. You say you have lost weight. How much weight have you lost?

A. You can put it very exact. I have come from an 18½ dress down to a 12.

Q. How many pounds would that be, approximately?

A. About 30 pounds.

Q. When did your husband begin his drinking habits, as you have described them?

A. Frank has drank for quite some time. He did quit at Quonset after the beating. He quit drinking and then he came down here and when he started law school he joined a fraternity and he started drinking all over again down here.

Q. Now, when you say "drinking," what do you mean by drinking? To excess or to normalcy, or what?

Vol. V 4/7/58 page 35

A. Frank's custom was to walk in the house and even before he got his coat and hat off, to have a shot and a beer. He would take a beer, put the beer on the corner of the dresser when he took his coat and hat off. That would start it off.

Frank said if a man drinks every day, that is the way to do it and not to—a man should drink every day if he is going to drink, or stop.

Q. When you say that your husband drinks excessively, would he stagger at the time he would be drinking excessively?

A. Well, I have seen Frank stagger. I have seen him come in when he couldn't get himself around. But I would say eighty per cent of the time Frank can walk very well when

he is drinking because he is constant. If he is home, there is always beer and whiskey.

Q. Directing your attention to May 22, 1955, the incident where you indicated he had been drinking at the Julians,' you indicated he was not able to drive the car subsequent to the party at the Julians', is that correct?

A. That's right.

Q. For what reason was he not able to drive the car?

Vol. V 4/7/58 page 36

A. Because I had been to the cocktail party with him and I knew how much he drank there. He drank quite a bit.

Q. Was he staggering on that occasion?

A. No, he wasn't staggering but he had drank a lot at the cocktail party and then he continued to drink at the Julians'. Then he lost his temper. Between the two of them, Frank drinking and losing his temper, you never know what is going to come off next.

Q. What other habits would be forthcoming as a result of his drinking?

A. Well, with Frank and his drinking you could never predict him.

Q. When he went to bed, as you testified, subsequent to the incident of the beating at your household on May 22, 1955, did any, was there any evidence of any habits as a result of his drinking that evening?

Subsequent to his going to bed, after the beating incident of May 22, 1955, was there any further evidence to show habits acquired as a result of drinking?

A. No, because after he had beaten me, he had just dropped his clothes by the bed and went to bed and he was sound asleep. He didn't even know how badly he had beaten me until he was told by Captain Smith.

Then when he saw me in the Chaplain's office at the base.

Q. Directing your attention to the period of two months prior to December 9, 1956, what, if any, habits were evidenced then as a result of his drinking?

Vol. V 4/7/58 page 37

A. Pardon me. What date did you say, Mr. Pischke?

Q. Two months prior to the date of your separation, to the date of December 9, 1956, what incident transpired relative to his drinking habit, if any?

A. Well—

Q. By "incidents," I mean personal reactions.

Mr. Moncure: Whose, hers or his?

*Margaret J. Plattner.*

Mr. Pischke: His.

The Witness: The only thing I can think of that occurred with drinking was in December Frank wet the bed twice. He used the guest bedroom as a bathroom once and he wet his own bed once. That was in December.

Mr. Moncure: When in December?

The Witness: It was after the tonsils, Mr. Moncure, before Christmas.

Mr. Moncure: I move that be stricken, sir, as not material to the complaint. I don't think it is material, anyway, and I don't think she can testify it was caused by drinking. It is certainly not covered by the allegations in the bill of complaint, Mr. Gasson.

The Commissioner: I will receive it subject to any objection.

By Mr. Pischke:

Vol. V 4/7/58 page 38

Q. It was my understanding, that I asked you the question, about two months prior to the separation. Mr. Moncure asked you the question when this happened. You indicated that it happened after the tonsilectomy matter, which is December 15, 1956.

Mr. Moncure: That is not responsive—is an additional reason.

Mr. Pischke: My question was with reference to periods prior to December 15.

The Commissioner: She testified to the only thing she knew which is subsequent, is my understanding.

The Witness: Not all of them, but I can't—

The Commissioner: That is my understanding of her testimony at the present time, Mr. Pischke. If I am incorrect, you had better straighten it out now.

By Mr. Pischke:

Q. Did these bed wetting incidents happen at other days other than subsequent to December 9, 1956?

A. No, the bed wetting happened between the 15th of December and the 25th because I had the guest room all cleaned up for Christmas. We had a new bedspread put on it.

Q. 1956?

A. Yes. That is how I remember that one.

But on July 4, 1956, he went to a fraternity party and he had promised—

*Margaret J. Plattner.*

Vol. V
4/7/58
page 39

Mr. Moncure: She is volunteering this testimony, Your Honor. It is not in response to a question.

The Commissioner: All right. Let your attorney ask you the questions.

Mr. Johnson: Will you read back the last statement that Mrs. Plattner made?

The Commissioner: I don't think you are entitled to have that read back. She volunteered that.

• • • • •

Vol. V
4/7/58
page 167

• • • • •

CROSS EXAMINATION.

By Mr. Moncure:

Q. So far as the home is concerned, disregarding the furnishings of that home, were you satisfied with this home at the time you moved into it, wasn't it in December of 1955?

A. Yes, the 13th.

Mr. Pischke: Two questions here: Moved in December of '55, and as I understand it, your question is, was she happy with the home with the exception of the furnishings, is that the question?

Mr. Moncure: That's right.

By Mr. Moncure: Is that correct, Mrs. Plattner?

A. Yes.

• • • • •

Vol. V
4/7/58
page 168

• • • • •

Q. Answer my question, if you can; was your domestic situation substantially happy from the midsummer of 1955 to December, when you moved in?

A. Yes, comparatively happy.

*Margaret J. Plattner.*

• • • • •

Vol. V
4/7/58
page 173 }

• • • • •

Q. Let me ask you this: Is the sum and substance of your testimony that it is your opinion that his going to law school was not necessary, was not in the interest of the family and was solely selfishness on his part?

A. That's right.

• • • • •

Vol. V
4/8/58
page 178 }

• • • • •

Q. Now, do you recall when Commander Plattner started law school?

A. Yes, September of '55.

Q. That has been during your living at Willston?

A. Yes.

Q. And were waiting for your house to be completed?

A. That's right.

Q. Now, am I correct that his hours were from after work until about between 7:30 and 8 o'clock in the evening?

A. I know that he got home at 8 o'clock when he came straight home, yes.

Vol. V
4/8/58
page 179 }

Q. And then he would eat supper when he came straight home, is that right?

A. Yes.

Q. And then he would study until what, 10:30 or 11?

A. Not every night.

Q. Well, most nights, is that correct?

A. No, I couldn't say most nights, either. Sometimes he looked at television or went to bed.

Q. All right, but he did attend school and do some studying five nights a week, is that correct?

A. He attended school.

*Margaret J. Plattner.*

Q. Is it your testimony, then, that most nights he didn't have to study when he got home?

A. Well, he didn't always study. Sometimes he would go in his room but he didn't study. He would go to sleep.

Q. Let me pin it down. Would you say half the nights he would study when he got home?

A. Well, I guess we could say that.

Q. An average of two or three out of the five nights he would study after he got home?

A. Yes, I'd say.

Q. Now, he has gone to law school continuously from September of '55 to the present, is that correct?

A. As far as I know.

Vol. V Q. As far as you know?
4/8/58 A. Yes.
page 180 } Q. And certainly you know he was in law school from September of '55 to February of '57?

A. Yes, I guess that's right.

Q. He went through the summer, too?

A. Yes.

Q. Are you aware that he will graduate in slightly under three years by going at night and summer?

Mr. Pischke: Is this a relevant question, Your Honor? I have tried not to object. I suppose it is groundwork being laid for something here but I don't see the relevancy as to whether he will graduate in three years.

The Commissioner: I think it is relevant, Mr. Pischke. There has been certainly a charge here that he neglected his wife and—

Mr. Moncure: The allegation in paragraph 7.

The Commissioner: And child. And I think this is an explanation of it. I gather that Mrs. Plattner doesn't think it is a valid explanation, but I mean, I think Commander Plattner is entitled to make his case on it.

Mr. Moncure: Paragraph 7 alleges that he has not given her the attention and affection which she, as his wife, has a right to expect.

Vol. V Mr. Pischke: My objection as to the future
4/8/58 action of Commander Plattner.
page 181 } Mr. Moncure: I simply asked if she was aware of it.

Mr. Pischke: Yes, sir, aware of his present intention to graduate, I submit, is irrelevant. Exception.

*Margaret J. Plattner.*

Mr. Moncure: Well, the Commissioner has ruled. I will repeat the question.

By Mr. Moncure:

Q. Are you aware that Commander Plattner will graduate from law school in slightly under three years by going at night and during the summer?

A. He has said so, if he graduates.

Q. Now, you moved into your home in December of 1955?

A. That's right.

Q. I believe you testified yesterday that so far as the home was concerned, you were perfectly satisfied with it?

A. The house itself, yes.

Q. And that from the time you left Quonset to the time you moved into your home, things were substantially pleasant and happy between you?

A. Substantially so.

Q. What say?

A. Substantially so.

Q. Substantially, right.

• • • • •

Vol. V
4/8/58
page 195 }

• • • • •

By Mr. Moncure:

Q. That isn't the question I asked you, Mrs. Plattner. I asked you if it doesn't state in there, and you have just gotten through reading the bill of complaint—My question to you was if it doesn't say there that you were entitled to a divorce on grounds of constructive desertion from December 15, which you have now changed to December 9?

Vol. V
4/8/58
page 196 }

A. It is listed in here.

Q. Yes. Now, you regarded living with Commander Plattner from December 9 to February—From December 9, 1956, to February 9, 1957, as being more or less an intolerable situation?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

*Margaret J. Plattner.*

Q. Now, the week-end following the egg incident on December 9, namely, December 15, was the tonsilectomy weekend?
A. Yes.
Q. At which time your mother and your aunt, and did anyone else come with them?
A. No, sir.
Q. Those two stayed at your home from Friday night until Sunday?
A. Yes, sir.
Q. And there was no incident during that week-end?
A. What do you mean by "incident," Mr. Moncure?
Q. Well, there was no friction with Commander Plattner that week-end?

Mr. Pischke: You mean between the family and Commander Plattner or Commander Plattner and Mrs. Plattner, or what?

Vol. V 4/8/58 page 197 } Mr. Moncure: Any friction. She would be able to answer. What say?

The Witness: The only thing that I can state was that he came over to the hospital and upset Ann and I asked him not to. Then he came back.
Mr. Pischke: Let her finish the answer.
Mr. Moncure: I am not interrupting her; you are.
The Witness: Then came back and waked me up at 1 o'clock. I had just laid down in the bed that was next to Ann's and he had been drinking. And then I didn't see him any more until I brought Ann home.

By Mr. Moncure:
Q. Now, the following week-end, after the 15th, the following week-end after the 15th, on either the 21st or 22nd, did not you and Commander Plattner attend a cocktail party at the Palmer's together?
A. We took Ann to a Christmas party they had for children when she gave some gifts to some other children.
Q. Didn't you and Commander Plattner go over there and wásn't it a social evening together?
A. Oh, yes. Ann was invited and we took her over there, yes.

Q. Didn't you go with Commander Plattner?

Vol. V 4/8/58 page 198 } A. Yes.
Q. And did not you converse and enter into the spirit of the evening?
A. Yes.

*Margaret J. Plattner.*

Q. That was the week-end, two week-ends after the egg incident?

A. I went over to the Palmers.' I couldn't state what the date was.

Q. Would it be approximately correct that it was a week after the tonsilectomy?

A. Mr. Moncure, I think it was, but I am not sure.

Q. Ann was able to go to the Palmers' with you?

A. Yes, she was.

Q. And she had recovered so she could go out in the cold weather, and so forth?

A. She was all right. She could go out there.

Q. Now, that takes care of the week-end of the 22nd, which we decided the 22nd, you believe is correct?

A. Yes, sir.

Q. Now, the 23rd, Sunday, was when your mother and father arrived to spend Christmas?

A. Yes, sir.

Q. And on the 24th your father and Commander Plattner spent the full day together?

A. They left after breakfast and came back.

Vol. V Q. They came back later for dinner?

4/18/58 A. That's right.

page 199 } Q. They had gone to Annapolis?

A. They had gone out.

Q. Well, weren't you told they had gone to Annapolis?

A. I think Frank said something about he was going to Annapolis.

Q. And your father, Commander Plattner, spent the day of the 24th together?

A. Yes, sir.

Q. When they came back late, you all had Christmas dinner?

A. That's right.

Q. And the next morning, early, your parents departed for New Jersey, the 25th?

A. It wasn't until about, I'd say, 1 o'clock or something like that.

Q. So your parents were there from the night of the 23rd until midday, approximately, Christmas day?

A. Yes.

Q. And everything was perfectly all right during that visit, was it not?

A. Mr. Moncure, if I hadn't always let everything be all right, I'd have more witnesses than I have now.

*Margaret J. Plattner.*

Q. That isn't my question to you, Mrs. Plattner.

Vol. V 4/8/58 page 200 } A. I know it isn't. There is no other way I can answer it.

Q. Whenever you come across a question you don't want to answer, you come up with some other?

Mr. Pischke: Would you define what you mean by "all right" between Commander and Mrs. Plattner?

Mr. Moncure: Was there any frictional incident involving Commander Plattner during that period of time?

Mr. Pischke: With anybody concerned?

Mr. Moncure: With anybody concerned.

The Witness: Well, my father came down here to be with Ann and with myself and he had to go to Annapolis for Frank so stated that they were going, so my father goes along with it and when he is in somebody else's home—Frank knew what time dinner was to be that night. He didn't pay any attention to it. Of course, rather than cause a scene there was nothing I could do.

By Mr. Moncure:

Q. Your testimony is that your father went under protest with Commander Plattner to spend the day of the 24th with him?

Mr. Pischke: I don't understand that to be her testimony, Mr. Commissioner.

The Commissioner: Well, it is sort of an implication. I would like to see just what her testimony is on it.

Vol. V 4/8/58 page 201 } By Mr. Moncure:

Q. All right, did your father go willingly with Commander Plattner or not?

A. Well, my father went because of the situation, if that is what you mean.

Q. You know that of your own knowledge?

A. Yes.

Q. Your father has not testified in this case, has he?

A. No.

Q. Your mother, on the other hand, has come down several times from New Jersey, hasn't she?

A. Yes, she has.

Q. But your father hasn't?

A. No.

*Margaret J. Plattner.*

Q. Now, you know your father for a fact did not want to go with Commander Plattner and spend Christmas eve with him?

A. My father would rather have spent it with Ann, yes, sir.

Q. How old is your father?

A. My father is 63.

Q. 63. He is capable of making his own decisions?

A. Yes, very much so.

Q. And the decision he made was to accompany Frank?

A. Yes, he was in our home.

Vol. V 4/8/58 page 202

Q. All right.

Now, that is what you regard as a frictional incident occurring over this two-day period?

A. Well, it wasn't frictional because nobody let it be, but it was a tension.

Q. Then, in your mind, it was frictional?

A. Well—

Q. What say?

A. I wouldn't say whether it was frictional. I know it was deliberate on his part.

• • • • •

Q. That is your conclusion, isn't it, that it was intentional?

A. Well, that is what I would take it, if you invite people to your home and you know that your wife has a dinner ready and everything.

Vol. V 4/8/58 page 203

Q. Now, the following day, the 26th, you went up to visit your parents for Christmas?

A. The day after Christmas.

Q. That would be the 26th?

A. Yes.

Q. Now, did you, or did you not call Commander Plattner at the Navy Department and ask him to take leave and accompany you?

A. No, I didn't.

Q. Are you positive?

A. Well, I am fairly sure I didn't because, Mr. Moncure, the reason I went home, I had no intention of going home until Commander Plattner stated that he wanted no noise around the house and that he intended to study the rest of the time.

Q. All right.

A. Period.

*Margaret J. Plattner.*

Q. The rest of the Christmas holidays?

A. That's right.

Q. He was on duty at the Navy during the Christmas holidays, wasnt' he?

A. Yes, but he had several days off like everybody else.

Q. Weren't you aware that only half of the command could be on leave at any one time?

A. Yes, but, Mr. Moncure, Frank always told me that on holidays, if you don't take the holidays, you don't take your leave on holidays, you are not counted for the days you get off normally, anyway.

Vol. V 4/8/58 page 204 } Q. I am talking about this.

A. This covers the incident. I asked him to take two weeks leave for Christmas many a time and he told me—

Q. Let's pin it down to Christmas of 1956 because that is the important time as far as this case is concerned.

Now, do you state to the Commissioner, under oath, that you did not call him at the Navy and want him to seek leave to accompany you to New Jersey?

A. Well, to the best of my knowledge I didn't call him because I think that we left the house at the same time that morning, or shortly after, and he knew we were going.

Q. He knew you were going to New Jersey?

A. Yes, he definitely did.

Q. If you didn't call him, did you ask him before you left to accompany you?

A. No, because he stated he was going to have peace and quiet in that house and study and I left him the refrigerator full of food and everything so that he could have plenty to eat and I went to my mother's.

Q. You did make those preparations for him?

A. I certainly did.

Q. Did you ask him—when did you first broach to him that you were going to New Jersey after Christmas?

A. When he told me he intended to study the whole time.

Q. And when was that?

Vol. V 4/8/58 page 205 } A. The day after the 25th, after my parents had left.

Q. You said, I am going up home?

A. I said, I might as well go up home for the rest of the holidays.

*Margaret J. Plattner.*

Q. Did you ask him if he wanted to accompany you?
A. I don't think I did.
Q. You don't think you did?
A. No.
Q. Would you have been perfectly willing for him to accompany you on that visit?
A. I was always glad to go home by myself.
Q. That is not the question I asked you, Mrs. Plattner. I asked, would you be willing for him to accompany you on that visit?

Mr. Pischke: I object on the grounds it is supposition on the part of the witness as to what her conclusion was at that time, Your Honor.
The Commissioner: I think she can testify as to what her feeling was at that time.
Overruled.

By Mr. Moncure:
Q. I will ask Mrs. Plattner.
A. I am sure I had just as soon have gone alone at that time and that is what I intended to do as long as I had to make up my mind to go, that I was going.
Vol. V 4/8/58 page 206 } Q. You had made up your mind that you were going to spend several days up there?
A. Yes, sir.
Q. What say?
A. Yes, sir.
Q. Now, would you have denied him, if he could have gotten leave, the privilege of accompanying you?
A. No, I don't suppose I would.
Q. When you left, did you tell him when you would be back?
A. Yes, I told him I would be back. Let me see, I told him I would be back before New Year's.
Q. Before New Year's?
A. Yes, sir.
Q. Did you say whether it would be the 29th, the 30th or the 31st?
A. I don't remember that I set a date.
Q. You did not set a date?
A. No.

*Margaret J. Plattner.*

• • • • •

Vol. V
4/8/58
page 214 }

• • • • •

Q. So the net result was that Commander Plattner went to the Palmers' and you went to the Julians', is that right?
A. I don't know what time Commander Plattner—
Q. I didn't ask you what time. I said, the net result was that Commander Plattner went to the Palmers' and you went to the Julians''?
A. Yes.
Q. Now, is it not a fact that you would have been perfectly willing to have had Commander Plattner accompany you to the Julians'?
A. Yes, I had asked him. I told him that they had invited us and would accept.
Q. And asked him to accompany you?
A. Yes.
Q. You were perfectly willing for you and Ann and the Commander to go to the Julians' to spend this New Year's?
A. Yes.

• • • • •

Vol. V
4/8/58
page 218 }

• • • • •

Q. Thereafter, you consulted Mr. Johnson? You filed your divorce suit on January 15, and you stayed in the house until, according to your testimony, February, was it the 9th of '57?
A. I went to the Julians' on the 9th of February.
Q. The 9th of February.
Now, we have had one hearing before Judge Carrico before you moved out of the house, haven't we?
A. Yes.
Q. You were still living in the same house under the same roof from December 9 to February 9?

*Margaret J. Plattner.*

A. That's right.

Q. Except for such part of that time as you made one or two trips to New Jersey in that period?

A. One.

Q. Didn't you go to New Jersey after the hearing before Judge Carrico and before you moved in with the Julians?

A. Yes, I went to the hearing and then went to New Jersey and stayed until I moved in with the Julians, yes.

• • • • •

Vol. V
4/8/58
page 220 }

• • • • •

Mr. Moncure: You flew that week-end, I think, that's correct.

But I think the correct statement is that because of Commander Plattner's counsel's illness and the fact that he would have to leave on a training flight late that Friday afternoon of February 1, it was continued by agreement and an order was entered continuing it to February 8. So the first time Mrs. Plattner appeared before Judge Carrico was therefore on Friday, February 8 and you were still living under the roof at that time although you had spent from February 1 to February 8 in New Jersey, is that correct, Mrs. Plattner?

A. My sister came down for the hearing and I went home with her, yes.

Vol. V
4/8/58
page 221 }

Q. For the first hearing?

A. Yes.

Q. For the date set?

A. Yes.

Q. Then you went back with her on February 1, that first Friday when the hearing was scheduled but not held?

A. Yes.

Q. You stayed that week?

A. Yes.

Q. So, save for the period from the 28th of December to the 31st of December, 1956, and from the 1st of February to the 8th of February, 1957, you and Commander Plattner stayed under the same roof?

A. Yes.

*Margaret J. Plattner.*

Q. Now, following that hearing, the very next day you moved in with the Julians?

A. Yes, sir.

Q. And you stayed there approximately how long?

A. I stayed there until I moved into the Willston Apartments in March.

Q. In March?

A. Yes, sir.

Q. You stayed at the Willston from March until—

A. August.

Vol. V Q. August?
4/8/58 A. Yes, sir.
page 222 } Q. And from March, that was August 1st, wasn't it?

A. Yes, sir.

Q. From March until August 1st, you required Commander Plattner to visit the child at the Julians'. As a matter of fact, from February 8, when his visitation was established, until August 1, you required him to visit the child at the Julians'? That's correct, isn't it?

A. I didn't require anything.

Q. But that is where you had the child?

A. They gave him visitations. That is the only place that we had to live. We didn't have any money to have anyplace else.

Q. Mrs. Plattner, what I asked you was, he was accorded visitation privileges as a result of the hearing on February 8?

A. Yes, he was given visitation privileges.

Q. As a result of that hearing, it was not specific where the visitation should take place, so you had visitation at the Julians', isn't that correct?

A. That is where he would pick her up, yes.

Q. You refused to have it at your apartment at the Willston from March until August, isn't that right? Is that correct?

A. Refused is kind of a—

Vol. V Q. Mrs. Plattner, you only did it when Judge
4/8/58 Carrico ordered you to do it, didn't you?
page 223 } A. Yes, I let him come there after the Judge said I had to.

Q. That's right. You let him and shortly had to move from there afterwards? You moved there just as soon as you could, as soon as that order was entered, when Judge Carrico ordered Commander Plattner to pick up the child and return to the apartment, you promptly moved from the apartment?

*Margaret J. Plattner.*

A. That was not the reason.

Q. But that is a fact, is it not?

A. That was not the reason.

Q. If you will listen, Mrs. Plattner, I am just asking you if it was the fact. Then you can explain it on redirect examination, why you did it.

A. I don't know what date they put an order in, ir anything. That is where you got me on the visitation here, Mr. Moncure, the date of the order, and things.

Q. Now, Mrs. Plattner, in May you filed a petition, did you not, and this is a matter of record in the file, that on May 24 you filed on May 31, it was dated May 24—I don't know the difference in time but it is stamped in the Clerk's office May 31—you filed a petition to have Commander Plattner's visitation privileges altered so that he would pick up the child at such place or places as you might see fit and that the privilege of having the child with him be revoked. Is this your signature?

Vol. V
4/8/58
page 224 }

A. Yes.

Q. Read there and read right there and see if I have not made an accurate statement of what you asked the Court to do.

A. Yes.

Q. And we came back with counter-petition alleging an unsatisfactory situation which had existed in regard to this visitation from February 15, 1957, up to that time, and we joined issue on *yor* petition and our counter-petition. We had a hearing in July on your petition to modify the visitation privileges the way you wanted and on our petition to modify them so that we could pick up the child, so that Commander Plattner could pick up the child at the apartment from 1 until 6 every Sunday and return the child there. Is that correct?

A. That is what you asked for.

Q. Isn't that what we went to the hearing on?

A. That is what we were supposed to, yes.

Q. Now, we had a hearing on the 12th of July, did we not?

A. Yes, sir.

Q. And didn't the Court modify the visitation provision to provide that Commander Plattner pick up the child at your apartment in Willston Apartments?

Vol. V
4/8/58
page 225 }

A. Yes.

Q. At 1 o'clock each Sunday and return the child there by 6?

A. That's right.

*Margaret J. Plattner.*

Q. Now, that order, may it please the Commissioner, was entered July 26, 1957. Is it not a fact that from the hearing on the 12th and for the next two Sundays until the order was entered, Commander Plattner continued to pick up the child or attempted to see her at the Julians'?

A. Yes, he did come to the Julians'.

Q. As a matter of fact, at most, he at one time picked her up at the apartment in compliance with this order. Isn't that correct?

Mr. Pischke: Mr. Commissioner, is the purpose of this question to seek contempt for violation of the Court's order in this respect?

Mr. Moncure: Mr. Pischke, you know full well that isn't the purpose.

Mr. Pischke: I don't or I wouldn't have asked the question.

The Commissioner: I understand what the purpose is.

Mr. Moncure: Mr. Commissioner, the purpose, I would like to state to you out of the hearing of the witness.

Mr. Pischke: I will object to that, Your Honor.

Vol. V 4/8/58 page 226 } This hearing is, as Mr. Moncure says,—

The Commissioner: Mr. Moncure is entitled to explain his purpose without the witness being present.

Mr. Pischke: Mr. Moncure—

The Commissioner: Then I am going to allow the question. Go ahead.

Mr. Moncure: Repeat the question, please.

(The Reporter read the question referred to.)

By Mr. Moncure:

Q. That was entered on July 26, Mrs. Plattner, which was a Friday; so that Sunday the 28th would have been the first and only time he had to pick her up there before you moved on August 1st?

A. Those are the only dates, yes, sir.

Q. And thereafter, on August 1st, where did you move to?

A. I moved down to 1806 North Monroe Street in Arlington.

Q. With whom do you live?

A. Mrs. Yates.

Q. Commander Plattner, with one or two exceptions where

he has given notice in advance, has attempted to visit his child every Sunday in compliance with this order, has he not, and I am taking about every Sunday from the 15th of February, 1957, to date.

A. Mr. Gasson, may I look at my notes on that?

Vol. V
4/8/58
page 227 } The Commissioner: First, can you remember?

The Witness: No, I can't. Some of the things—

The Commissioner: Do you have notes?

The Witness: On visitation.

Mr. Moncure: Show the times, and so forth?

The Witness: The dates.

The Commissioner: That you made as you went along in your own handwriting?

The Witness: I typed them.

The Commissioner: You typed them yourself?

The Witness: Yes.

Mr. Moncure: I have no objection.

The Commissioner: I have no objection.

Mr. Moncure: To her looking at those.

I said, with one or two exceptions, and on those instances of the exceptions he has notified you in advance. Is it not correct that Commander Plattner has shown up to attempt his visitation with the child every Sunday from February 15, 1957, to date?

The Commissioner: Just let the record show that Mrs. Plattner is consulting the notes that she referred to earlier.

Mr. Pischke: I object to this question on the grounds of relevancy and request that counsel state those wrongs, and if he wishes to approach the bench for that purpose, I have objection.

Vol. V
4/8/58
page 228 } Mr. Moncure: I can state the reasons.

This, as will be established by subsequent questioning, visitation has been completely and entirely unsatisfactory to my client. I will show that his average visitation has been probably a half hour or less out of a possible five hours. I will show that that was taken into account, into consideration by Judge Carrico when he modified this order.

I will show certain other things material to it and the Commissioner is asked to recommend by the decree of reference in regard to visitation.

And while I realize this does not have anything to do with

the merits of the case, it is certainly necessary for you in regard to visitation recommendations.

The Commissioner: I think it is proper.

The Witness: Off-hand, Mr. Moncure, on the 18th day of February, Frank did not show up. No call or no explanation.

• • • • •

Vol. V
4/8/58
page 240 }

• • • • •

Q. Can you answer: Is it not a fact that Judge Carrico addressed your counsel and said, "Is it not a fact that Mrs. Plattner does not want Commander Plattner to see the child at all," and didn't Mr. Johnson admit that such was the case?

A. As I so stated before, Mr. Moncure, I don't know what he said after that.

Q. Is it not a fact that that was your feeling at that time?

A. I didn't have any feeling at that time.

Q. You were perfectly open minded about Mr. Plattner seeing the child?

A. I am not open minded. I am not open minded about Mr. Plattner seeing the child.

• • • • •

Vol. V
4/8/58
page 242 }

• • • • •

Q. Now, Mrs. Plattner, did Commander Plattner see the child this past Sunday?

A. Yes.

Q. For about how long?

A. Time, about ten minutes.

Q. It was shorter than that, even, wasn't it?

A. No. I think it was about ten minutes.

*Margaret J. Plattner.*

Q. The child came back and told him to go; she didn't want him there?

Vol. V 4/8/58 page 243 } A. They were on the porch; I don't know what she said.

Q. You don't know what she said but you know at the time he arrived?

A. I know she came back in.

Q. With a gift?

A. She said the easter bunny had left something over there.

Q. And he was an Easter bunny?

A. Yes, but I haven't told her that. I don't tell her that I am the Easter bunny, either. She is still little.

Q. So he brought her a gift this past Sunday?

A. Yes.

Q. You say the average visit, although it is permissible from 1 to 6 lasts about ten minutes?

A. Somewhere along there.

Q. That is at the volition of the child?

A. That is at Ann's own—

Q. The child is what, now, seven?

A. She will be seven the 10th of May.

Q. Do you encourage her when she comes back and says that she didn't want to stay long with her father, do you encourage her to stay with him?

A. Mr. Moncure, we live in one room. It is hard enough on that child without me pushing her to do the things that she doesn't want to do and if you would go back to the reason the child doesn't want to go with him, then I could answer your question, but I cannot.

Vol. V 4/8/58 page 244 } Q. I asked you if you have encouraged her?

A. I have, during the period of time that Judge Carrico has set up for visitation; I have tried to, yes.

Q. You made her available?

A. I certainly have; she has always been dressed and ready.

Q. But I asked you, if you encouraged her by your conferences with her and your counsel to her to go with her father and be with him from 1 to 6 on Sunday afternoons?

A. We have ceased, Ann and I, to talk about her going with him. I have her ready. She knows that she goes out. Her father told her he would put her mother in jail if she didn't come out there and she is afraid not to go.

Q. Did you hear that?

A. No, but she told me.

* * * * *

Vol. V
4/8/58
page 245 }

* * * * *

Q. You did not hear any such statement yourself?

A. No, I didn't hear it, no.

Q. And you have not encouraged the child to be with her father during the period from 1 to 6?

A. By urging do you mean I take her out there and tell her she has to go?

Q. Or suggest that she go or ask her to go or explain to her her obligation to go? Have you done any of those things?

Mr. Pischke: May it please the Court, I object to the question on the grounds there is no obligation shown as a matter of law to Mr. Moncure that she is obligated to encourage it.

If Mr. Moncure is going to ask the question as to whether or not she encourages the child from visiting with her father, then certainly there is nothing wrong with that question.

The Commissioner: I think Mr. Moncure is entitled to make clear just what the situation is.

By Mr. Moncure:

Vol. V
4/8/58
page 246 }

Q. Have you asked her, urged her, or explained to her her obligation to visit with her father and be with him during those hours?

A. Back in February of 1957 I tried to encourage Ann to go with her father, yes.

Q. At those times, Mrs. Plattner, the visits sometimes lasted as much as for an hour or two, didn't they?

A. That is the reason they are shorter today, Mr. Moncure.

Q. Since that time they have grown steadily shorter until now I believe Sunday's, you said, was 10 minutes. It could have been as little as three minutes, couldn't it?

A. No, I think you will find I am correct about ten minutes.

Q. Now, on Easter Sunday of 1957, did not Commander Plattner bring his child a large rabbit?

A. No, he brought a small rabbit.

Q. A small rabbit?

A. Yes, he did.

*Margaret J. Plattner.*

Q. Was it a nice stuffed rabbit?

A. It was one that I would take to a new baby or a little tiny child if I were going to visit for a week-end or something.

Q. About how big would you say it is?

Vol. V 4/8/58 page 247

A. Well, it was in a large box and the bunny was, oh, *aboot* this size.

Q. Indicating about eight to ten inches?

A. Well, yes, I couldn't, I don't, I am no judge of distance, but it was very small.

Q. And you did not regard it as a nice toy or an appropriate toy, is that correct?

A. I regarded it, it wasn't a question how I regarded it. It is what happened to the child when she opened it.

Q. That is what I am asking you, is how you regarded it, as a nice or expensive or an appropriate toy?

A. You mean now or at the time it was done, Mr. Moncure?

Q. At the time it was done.

A. At the time the child opened the toy, I felt awfully sorry for her because she had told her father what she would like to have and she opened it up and there were big tears in her eyes—all these kids outside—and she had this big box and she thought it was something nice and she knew that in that house, locked up, she has stuffed toys just as big, if not bigger, that she had taken care of.

Q. That isn't my question. I will try for the third time to go back and try to get it out of you. I asked you if you regarded it as an appropriate, nice toy at that time?

Mr. Pischke: Suppose you define what you mean by "appropriate." Help her out a little bit.

Vol. V 4/8/58 page 248

Mr. Moncure: I can't deal in semantics.

The Commissioner: I think she has made her position perfectly clear, Mr. Moncure. She hasn't answered your question, it is true.

Mr. Moncure: She is not going to answer as long as she gets away with this, Mr. Commissioner.

Mr. Pischke: Under what circumstances is it appropriate, or Mr. Moncure deems appropriate, or she does? I would like for Mr. Moncure to define "appropriate," under these circumstances.

Mr. Moncure: Does the Commissioner have any doubt about "appropriate"?

Mr. Pischke: The witness may, Mr. Moncure.

*Margaret J. Plattner.*

The Commissioner: Frankly, it seems to me that the witness has made her position quite clear on this without—

By Mr. Moncure:

Q. The child was a female child five years old at this time?

A. That is right.

Q. You felt sorry because someone had given her a stuffed bunny rabbit?

A. That he would give to an infant.

Q. It is your opinion that you would give it to an infant?

A. Definitely.

Q. What was it the child wanted?

Vol. V 4/8/58 page 249 }

A. She wanted a baseball suit so she could play baseball.

Q. So a female child five years old wants a baseball suit and you feel sorry because her father gave her a bunny rabbit on Easter?

A. Because she felt the baseball suit was in there. I told him what she wanted and she thought that that was what was in there.

Q. You don't think there could be any difference in there but what a baseball suit was more appropriate than a rabbit?

A. That's right. It would have been more appropriate.

Q. Is that the way you are rearing the child, Mrs. Plattner, to let her wishes govern in every respect?

A. No, indeed.

Q. Now, what did she do with this rabbit that her father gave her?

A. She said she threw it back in the car at him.

Q. You heard that testimony before, didn't you, in July of 1957?

A. Well, I mean I heard it from him.

Q. You tell me what did happen to the rabbit. What did happen to the rabbit?

A. She stood there and cried. Then she took the bunny and she went outside and he stated later that—

Q. Did she bring the bunny back?

A. She threw it in the car. No, she didn't.

• • • • •

Vol. V
4/8/58
page 262 }

• • • • •

*Margaret J. Plattner.*

Q. Now, you formulated the intention of seeking a divorce after you had gone to Mr. Johnson on January 3 of 1957?

A. You mean I made up my mind to get a divorce?

Q. Yes.

A. I made up my mind before I went to Mr. Johnson to ask him if I could get one.

Q. Didn't you testify a few minutes ago that you outlined your case to him and said, "Will the law do anything for me?" or words to that effect?

A. Yes, that's right.

Q. Isn't that when you made up your mnid that you would apply your facts to the law and would seek a divorce?

A. When Frank walked down the steps, he said, "I will give you no more money at all in this house and I am getting a divorce."

I went to Mr. Johnson and told him and asked him if we could get some money and if we could get a divorce.

Q. So that was when you made up your mind, January 3rd?

A. Yes.

• • • • •

Vol. V
4/8/58
page 269 }

• • • • •

Q. That check for $15 and the prior check for $95 totaling $110 was the normal amount given you to run the house for a two weeks' period?

A. That is what he gave me.

Q. Just answer my question.

A. That is what he gave me.

Q. That is the normal amount he gave you to run the house for a two weeks' period, is that right, is that correct?

A. Well, with the exception of when he wanted to take money away from me for any reason.

• • • • •

Vol. V
4/8/58
page 285 }

• • • • •

*Margaret J. Plattner.*

Q. All right. Now, Mrs. Plattner, is there any reason that you cannot work?

A. Well, we have a child and Commander Plattner makes enough to support and keep the family when we were married. He said that I was not going to work; that was it. Before we had the child, he wouldn't allow me to work.

Q. That isn't responsive to what I asked you, Mrs. Plattner. I asked you if there is any reason that you are unable to work.

A. You mean today?

Vol. V 4/8/58 page 286 } Q. Yes, now.

Q. Is that the question you want to know? Yes, there is. Number one, mainly, is because I haven't worked for quite some time. Number two is, Ann has to be taken care of. And under the conditions and everything set forth, why, it just wouldn't work.

Q. All right. You are determined that it is not going to work. You haven't sought a job since February 9, 1957, have you?

A. No, I have had to meet each and every thing that has come up with Ann, and with other things.

Q. You have done extracurricular political work as a volunteer, is that correct?

A. That is my only recreation, Mr. Monocure. Since we have inadequate funds, that is my only recreation. Yes, I do.

Q. I am not criticizing you. I am asking you. All that it requires is yes or no.

Have you done extracurricular unpaid political work?

A. Yes.

Q. Since February 9?

A. Yes.

Q. Have you done any typing for the Democratic Committee?

A. No.

Vol. V 4/8/58 page 287 } Q. Making lists, doing things like that?

A. Not for the Committee.

Q. Now, I believe I asked you the same question on February 15, before Judge Carrico, and I asked you if there was any reason you could not work and you finally answered, no, there wasn't. Do you recall that?

A. I think I stated that that day; I am not sure.

Q. So, other than Ann, and your feeling that you should not work, there is no reason you can't work?

A. Otherwise than my nerves are bad and if you have been

called stupid for as long as I have you begin to wonder and the only way I began to go out was to go out and do political work and have gone out and attempted to go out where people were.

Q. But getting back to it, there is no reason that you cannot work other than someone to care for Ann and your feeling that you should not be forced to?

A. Mr. Moncure, I guess I could work if it was a forced issue and I had to.

• • • • •

Vol. V
4/8/58
page 305 }

• • • • •

Q. *Mr.* Plattner, what did you weigh at the time you left Commander Plattner in February of 1957?

A. Truthfully, I can't say right now. I don't know.

Q. About how much?

A. I think I could say about 125.

Q. 125?

A. 125-130.

Q. How tall are you?

A. Five-foot-two.

• • • • •

Vol. V
4/8/58
page 312 }

• • • • •

RE-DIRECT EXAMINATION.

By Mr. Pischke:

Q. Mrs. Plattner, subsequent to December 9, you remained in the same household from the 9th to what date, with your husband?

A. Until February 1st.

Q. Until when?

A. February 1st.

*Margaret J. Plattner.*

Q. With the exception of these trips which you took to New Jersey, is that correct?
A. Yes.
Q. What were those dates, do you recall?
A. That I went to New Jersey?
Vol. V Q. Yes.
4/8/58 A. I went to New Jersey on the 26th day of
page 313 } December.
Q. When did you return from that trip?
A. The day before New Year's, the 31st.
Q. The 31st. Did you have occasion to go a second time?
A. After the 1st I went up there and stayed until the 9th.
Q. You stayed there from what day to what day?
A. From the 1st until the day of the hearing, which was the 9th day of February.
Q. When you resided in the house from the 9th to the 15th, what were the circumstances under which you did so?

Mr. Moncure: From the ninth of what?
Mr. Pischke: From the 9th of December to the 15th of December.
Mr. Moncure: December?
Mr. Pischke: That is correct.
The Witness: Our child was ill and her ears were infected and I was trying to get set up for her operation and everything, and there was nothing I could do about it.

By Mr. Pischke:
Q. Did you continually reside in the same bedroom or a separate bedroom from your husband?
A. Ann and I slept in Ann's bedroom.
Q. Did you take any measures with reference to protecting yourself and your child?
Vol. V A. Yes. We put the dresser up against the
4/8/58 door and we stayed out of his way as much as we
page 314 } could.
Q. Was that during the entire period you stayed in the home?
A. Yes, unless someone was in the house we stayed out of his way.

• • • • •

Q. At the time you filed your divorce action on the 15th of

January 1957, you also obtained a restraining order against your husband, is that correct?

A. Yes.

Mr. Pischke: Will you show that to Mr. Moncure?

The Witness: Yes.

By Mr. Pischke:

Vol. V
4/8/58
page 315 }

Q. What is the date of that restraining order?

A. The 14th day of January 1957.

Q. And this temporary restraining order was in effect until February 8 of that same year, at which time it was dissolved, is that correct?

A. That's right.

Q. Now, when did you remove yourself from the household itself?

A. Well, I went to New Jersey on the 1st of February.

Q. The hearing was before Judge Carrico on February 8?

A. Yes, it was.

Q. On what date did you leave the household itself, that is my question? Could it have been on the same day of the dissolution of this order?

A. On the day we went to Judge Carrico, he said that he couldn't put either Commander Plattner or I out of the house and he removed the restraining order and I said, well, I couldn't take Ann and I to go back because we would have no protection.

Q. This was on February 8?

A. Yes.

• • • • •

Vol. V
4/8/58
page 336 }

• • • • •

RE-CROSS EXAMINATION.

By Mr. Moncure:

Q. Now, Mrs. Plattner, you have made several allusions to the fact that the Easter bunny was considered inappropriate by you and you felt, by your child, because she

wanted a baseball suit. We have established that at that time she was five years old. Right?

Vol. V
4/8/58
page 337 }

A. It was last Easter, so she will be seven in May, close to eight.

Q. Closer to six than she was to five?

A. Closer to six, closer to seven now.

Q. You made repeated reference to the fact that her toys were locked up in the house.

A. That's right.

Q. Now, Mrs. Plattner, when you left, did you not have a commercial storage company pack your belongings and pack silver and pack gifts and pack things of that nature?

A. On the day after the first visitation day, it came to my attention how my home was being used. I called Mr. Johnson and asked him if I could go and pack my things.

Q. Mr. Johnson and I worked it out?

A. Well, I went to the house.

Q. You were given access to it, you know, through our joint efforts, isn't that correct? Isn't that correct, Mrs. Plattner?

A. Well, I was given access to it. I went over, yes.

Q. You know that it was through the joint efforts of Mr. Johnson and myself in working it out, don't you?

A. Yes, I am sure you did the best you could.

Q. Now, that was in February of 1957, wasn't it?

A. Yes.

Vol. V
4/8/58
page 338 }

Q. And did you not, weren't you the one that had her toys packed in sealed cartons?

A. Yes, I had them packed to move.

Q. Packed what?

A. To move.

Q. To move, and they are still in the house?

A. Yes.

• • • • •

Vol. V
4/8/58
page 349 }

• • • • •

Q. So he did give you permission to come to the house at night, get her toys while he was there?

A. Yes, I guess so.

*Francis B. Plattner.*

• • • • •

Vol. V
4/9/58
page 4 }

• • • • •

FRANCIS B. PLATTNER,
resumed the stand and testified further as follows:

• • • • •

Vol. V
4/9/58
page 37 }

• • • • •

CROSS EXAMINATION.

By Mr. Moncure:

• • • • •

Vol. V
4/9/58
page 38 }

• • • • •

Q. Is it correct that on both the Prudential policy and the New York Life policy, your wife was, always has been, and is now the principal beneficiary?

A. Yes, sir.

Q. And is it not a fact that your mother was contingent beneficiary?

A. I think that is the fact.

Q. Is it not a fact that after you adopted Ann that she became the contingent beneficiary?

A. That is the fact.

Q. She is contingent beneficiary now?

A. Yes, sir.

*Francis B. Plattner.*

Q. Is Mrs. Plattner the principle beneficiary with Ann the contingent beneficiary on the two National Life Insurance policies or do you know?

Vol. V 4/9/58 page 39 } A. I am certain that Ann is contingent beneficiary on the NSLI policies. I know that my mother is not and I am certain.

Q. You are certain your wife is principle beneficiary?

A. I know that my wife is.

Q. Was there any objection on the part of Mrs. Plattner when you were living together, say up until mid 1956 or up until December 9, 1956, was there any objection on her part to the insurance program that you were carrying?

A. No, sir.

• • • • •

Vol. V
4/9/58
page 41 }

• • • • •

DIRECT EXAMINATION.

By Mr. Moncure:

• • • • •

Vol. V
4/9/58
page 44 }

• • • • •

Q. When and under what circumstances did you meet Mrs. Plattner?

Q. I met Mrs. Plattner in the early spring of 1944 in a restaurant in Washington. We struck up a conversation and went out that evening.

Q. Thereafter did you date her?

A. Yes, sir.

Q. When was the next time?

A. The following evening.

*Francis B. Plattner.*

• • • • •

Vol. V
4/9/58
page 66 }

• • • • •

Q. Now, it has also been testified that on this occasion you kicked Ann off a stool?
A. That is not so.
Q. What did happen?
A. Ann was sitting on a stool. She was two and a half years old. She was sitting on a stool right by my chair and the child merely slipped off the edge of the stool.
Q. Did you in any way lay your hands on Ann?
A. I did not.

• • • • •

Vol. V
4/9/58
page 85 }

• • • • •

A. I sat in the car for a few minutes, five, six, seven minutes. Mr. Julian came out said, "Frank, won't you come in the house?"
Vol. V I said, "No, I am going home."
4/9/58 Q. Don't testify what you said to him or he said
page 86 } to you.
A. All right, sir.
Q. He invited you and you declined?
A. Yes, sir.
Q. Then what time was this?
A. This was a quarter of three—two-thirty or quarter of three.
Q. Where was Ann?
A. Ann was at the Julians.
Q. Did she spend the night there?
A. As far as I know she did, sir.
Q. Your testimony is that she came there before the cocktail party and stayed there throughout?
A. Throughout the evening.

*Francis B. Plattner.*

Mr. Pischke: This is Ann now.
Mr. Moncure: Ann.

By Mr. Moncure:
Q. Until when?
A. Until two weeks later, she came home.
Q. All right. And then what did you do?
A. After Mr. Julian left, I sat for a few minutes, got out of the car. I thought perhaps Mrs. Plattner would come back. She didn't. I got out of the car and walked home, two blocks.

Vol. V 4/9/58 page 87

Q. What did you do then?
A. When I arrived home, both the front and back doors were locked. I rapped and rapped and rang the bell. There was no answer. So I walked around to the bedroom window where Mrs. Plattner and myself occupied a bedroom.
Q. How long did you ring the bell?
A. I tried to get in for about ten minutes, both doors and the bell.
Q. Then what?
A. I rapped on the bedroom window. Mrs. Plattner, at my bedroom.
Q. What happened then?
A. She said, go to the back door. So I went to the back door and she let me in.
Q. Then what happened?
A. She called me very filthy, dirty names. She called me a son of a bitch. She called me a bastard and said my family was no God damn good. And I slapped her.
Q. Then what happened.
A. She ran to the kitchen and got a butcher knife.
Q. What did you do then.
A. She came at me with the butcher knife. I ran to the rear of the house and to the child's bedroom. I couldn't retreat any more. I was as far as I could go unless I went out the window. So I turned around and I hit her several times and she fell down. She still had the butcher knife in her hand.

Vol. V 4/9/58 page 88

Q. What was your feeling after that beating about what you had done, Commander?
A. I felt very guilty, very self conscious of it.
Q. From that time to this, have you ever laid hands on Mrs. Plattner since?

*Francis B. Plattner.*

A. No, sir. Since that time I made up my mind that I would never do that again. I never have.

• • • • •

Vol. V
4/9/58
page 101 }

• • • • •

Q. All right. Now, what has been your normal hours devoted to work and law school from September 1955 up to the present, if they stayed the same during that period?

Vol. V
4/9/58
page 102 }

A. They have stayed the same. My working hours are from eight o'clock in the morning until four-thirty in the afternoon and the law school is from five forty-five until seven-thirty in the evening.

Then I return home, arriving ten after eight, approximately.

Q. And that is five nights a week?

A. Five nights a week, yes, sir.

Q. Then are there any study requirements after you get home?

A. Yes, sir, there are. I do, I think, perhaps an average of two nights a week I study and do devote either Saturday or Sunday to it leaving, setting aside the evening, if I study on Saturday, I would set aside Saturday evenings to spend with the family, or if I study on Sunday, I would generally be finished at perhaps six o'clock Sunday evening.

• • • • •

Vol. V
4/9/58
page 104 }

• • • • •

Q. All right. And how were relations between you in the first part of 1956?

A. Very good. After we moved in the house, in December, relations were very normal.

Q. Did they change during the course of the year 1956?

*Francis B. Plattner.*

A. Later on in the year in August, relations changed. In the spring of 1956, Mrs. Plattner started to avoid sexual relations. She wouldn't give a complete no but she would say, you go to bed, I want to see this late show. Then I would go to bed and fall off to sleep.

If she was in the bedroom, she would say, I think Ann is awake and she would go in to see about Ann and she wouldn't return. Or she would say she had just taken a bath, or some other reason to avoid sexual relationships. In August—

Q. Let me interrupt you there. Can you tell the Commissioner about how frequently you were able to have relations with your wife from early 1956 until August.

A. Three times.

Q. Three times. You are positive of that?

A. Yes, sir.

Vol. V 4/9/58 page 105 } Q. Now, did you ever solicit relations with her in addition to those three times.

A. Yes, I did, many times. Oh, many, many times.

Q. Now, you have heard her testify that the reason she did not have intercourse with you on these other occasions were that you had been drinking heavily.

A. When I solicited them, but that is not so. I wasn't drinking when I solicited.

Q. Did you ever solicit relations with her on week nights?

A. I certainly did.

Q. Were you drinking heavily on week nights?

A. No, sir, I was not.

Q. Were you drinking heavily during the year 1956, Commander?

A. No, sir, I never drank heavily. I never drink heavily and especially that year I had to work all day and went to school and went to sleep at 10:30 at night and got up at 6:30 in the morning. I didn't have any time for any drinking or any running around.

Q. Are you positive that you were perfectly sober on these occasions when you solicited relations with her and she refused you.

A. I am certain of that.

Q. And you are positive that you did not have relations with her more than three times?

Vol. V 4/9/58 page 106 } A. I am positive.

Q. Then what happened in August of 1956?

A. In August of 1956, in late August of 1956,

Mrs. Plattner absolutely refused. She didn't submit to subterfuge in order to avoid the occasion. She said, "no, absolutely no. Don't bother me."

Q. On those occasions, did you ever solicit intercourse with her from August of 1956 until the time she left on February 9, 1957?

A. Many, many times, Mr. Moncure.

Q. On those occasions, had you been drinking heavily?

A. No, sir.

Q. Had you been drinking at all?

A. No, sir.

Q. And she still refused you?

A. Yes, sir.

Q. Is it your testimony that you had, you never had intercourse with her after August of 1956?

A. That's correct. I did not have intercourse with Mrs. Plattner since August of 1956 until she left.

• • • • •

Vol. V
4/10/58
page 139

• • • • •

Q. Now, you have heard the testimony of several witnesses that you teased Ann and got her crying and she became sick. Now, what is your version of what happened?

A. That is not stated correctly, Mr. Moncure. I didn't tease that child.

Q. Tell the Commissioner what happened.

A. I walked up to her and I remember she was very irritated. She was irritated with everyone; her mother couldn't go near her. I said, "Hi, Ann." I might have patted her or patted her foot or something like that, but she was half conscious and half unconscious. She was vomiting blood. She was like any child like that, just had undergone an operation.

Q. Do you recall teasing her?

A. No, sir, I didn't tease her.

Q. Did you pull at her or tweek at her or even play with her?

A. No, sir.

• • • • •

Vol. V
4/10/58
page 155 }

• • • • •

Q. All right. Now, what was the relationship between you and Mrs. Plattner from January 1 until January 15, 1957?

A. I have taken this up to the night of January 1st.

Vol. V
4/10/58
page 156 }

On January 2nd, was a work day for me. I got up and just as I was leaving the house Mrs. Plattner got up. I called her and on that day her check for the next two weeks, household money, was due. So the check was for $110. And on the morning of the 2nd of January, Mrs. Plattner and I had a little discussion about the subject of marital relations. It had been since August since she had agreed to submit to sexual relations and so she also, during this period from August sometimes was a little lax in meals. But the main thing was the sexual relationship. I gave her a check for $95. I tried everything I knew to find what the trouble was and to correct it. So I gave her a check for $95. I told her that I would give her the other $15 when she was ready to resume her marital duties and if she did not resume her marital duties that I was going to see a lawyer and get a divorce.

She shouted to me and in very foul language, "You son-of-a-bitch; no man is going to divorce me; I will divorce them first."

Q. That was January 2nd?

A. Yes, sir. Morning.

Q. Excuse me. Go ahead.

A. That evening, when I arrived home, Mrs. Plattner informed me that she had been to see a lawyer and that I should go to see him the next day for an appointment. Mr. Johnson was the lawyer. So I ignored the thing. I ignored the appointment.

Vol. V
4/10/58
page 157 }

When I arrived home on Wednesday evening—when I arrived home on Thursday evening, Mrs. Plattner berated me because I did not go to see the lawyer. I told her that I didn't intend to, anyway, when I left that morning.

Q. That what?

A. When I left in the morning of Thursday, the 3rd of January, I told her that I didn't intend to go see him any-

way. So on Friday Mr. Johnson called me at my office. He said Mrs. Plattner had been to see him and she wants a divorce.

So I said, "Well, what shall I do?"

He said, "I want you to come to see me."

I said, "I think I had better get my own lawyer."

Mr. Johnson said, "No, that won't be necessary; I can handle this case all by myself."

So I said, "No, I am going to get my own lawyer."

So that evening when I came home Mrs. Plattner didn't cook dinner for me and I told her that I would get my own lawyer and he would call Mr. Johnson.

So, shall I go further?

Q. Go ahead.

A. So that week-end passed and shortly after that I engaged Mr. Moncure to be my attorney and from there on out to the 15th until I received the papers, the divorce papers, meals were irregular and Mrs. Plattner was adamant, and so forth. I gave her the balance, the other $15 to make up the $110 that she was supposed to have.

Vol. V 4/10/58 page 158 } Q. Thereafter, Commander, it is your testimony that from the January 2nd conversation on the relationship between the two of you got more hostile?

A. It didn't get hostile, Mr. Moncure. It was just—we were just a little uneasy.

After all, she had an attorney and I had engaged an attorney, and it was just a period of uneasiness there.

Q. Was it more tense?

A. A little more tense, yes, sir.

Q. Then you received two papers, the suit papers shortly after January 15?

A. Let's see. I think it was on January 15, sir. It may have been the 16th. I think it was the 15th.

Q. All right. Now Commander Plattner, when, exactly, if you recall, did Mrs. Plattner leave your house or leave the house that you and she owned?

A. The last night that Mrs. Plattner slept in the Holly Hill Falls Church house was January 31, 1957. On the morning of February 1, 1957, Mrs. Plattner left the house and has not returned since.

Q. Can you reconcile your date of February 1st as alleged in your cross bill with her date of February 9th as being the date that she departed? Can you explain that?

A. No, sir, I cannot explain it, except for this fact. Now,

after February 1st, Mrs. Plattner returned to the house for an hour or so to pick up clothes and what-not. But she never slept there. She never prepared any meals, no cleaning, beds went unmade—anything like that.

Vol. V 4/10/58 page 159

Q. To the best of your knowledge, where was she between February 1 and February 9, 1957?

A. Well, I believe she testified she was in New Jersey during that week. We had a hearing before Judge Carrico on the 8th, which was the following Friday. But during that week, the 1st of February to the next time I saw her was on the 8th when we appeared before Judge Carroco.

Q. When she left on the morning of February 1st did she take anything with her?

A. Well, sir, Mrs. Plattner's sister stayed that night with her and I left for work early and she left after I left the house.

Mr. Pischke: Could we ask him to be responsive to the question directly without explaining?

The Witness: I don't know. I wasn't at the house when she left, Mr. Moncure.

Mr. Pischke: Your question was: Did she take anything with her?

The Witness: I don't know.

By Mr. Moncure:

Q. You do not know?

A. No, sir.

Vol. V 4/10/58 page 160

Q. But now that she was not there after the 1st, February 1st to spend the night?

A. She was not in the house to spend the night, no, sir. I can say this much about that last question.

A substantial part of Mrs. Plattner's clothes were missing from the house, her cosmetics, and her daily toiletries.

Mr. Pichke: The question was: Does he know whether or not she took anything when she left on February 1st. He says clothes were missing. I think he has answered the question by saying he doesn't know.

If he is going to say she did take something, but now he is going to say there were clothes missing, it is not responsive to the question.

*Francis B. Plattner.*

The Commissioner: It seems to me he gave an explanation. He doesn't know, but certain things are missing. I don't see that it makes much difference, but I think it is proper.

The Witness: Most of Ann's clothes were gone, too.

By Mr. Moncure:

Q. Now, are you positive that from December 9 to January 31, except for the time that she was in New Jersey, that you and Mrs. Plattner shared the same room in different beds?

A. No, sir.

When these papers were filed, she moved out of our bedroom. After she filed these papers, these divorce proceedings.

Q. When was that?

Vol. V 4/10/58 page 161

A. That was about the 10th of 15th, the 12th of January, or somewhere around there. I can't say with preciseness the exact date.

Q. But up to that time, from December 9, up to the time she filed her divorce suit, you all were in the same bedroom?

A. Yes, sir.

Q. Now, did you hear Mrs. Plattner's testimony concerning your wetting the bed twice, approximately, and approximately between December 15 and 25, 1956?

A. Yes, sir, I heard that.

Q. Is that correct testimony?

A. Yes, it is.

Q. Can you explain the circumstances of why that happened?

A. After it happened I went to see a doctor and he explained that many men my age have prostate gland trouble and that I could have treatments, but once the treatments were started they would have to continue, and they were very painful treatments.

Now, he recommended that if it wasn't frequent, or it might be just an isolated case, this incident, if it wasn't obnoxious, that I shouldn't have these treatments because they were very painful and would have to be kept up for a long period of time. He also intimated that sometimes prostate glands get upsent in a married man when they were sexually active and then a long period of inactivity can affect this particular gland that controls the flow of fluid through the canals.

Vol. V 4/10/58 page 162

*Francis B. Plattner.*

• • • • •

Vol. V
4/10/58
page 163 }

• • • • •

Q. Did you force Mrs. Plattner and the child to leave you on February 1 or February 9?

A. I did not, Mr. Moncure. Mrs. Plattner called at my house on the 10th of February after the hearing before Judge Carrico on the 8th and she gathered up a lot of clothes and things, gathered all my deeds up. I didn't know
Vol. V she was taking them—every paper I had. When
4/10/58 she was leaving I told her I had not seen Ann for a
page 164 } long time and she said, "You can see Ann when Ann can come back into her house," and I said, "Ann can come back anytime," and she says, "Not as long as you are in it."

I didn't force them to leave.

Q. Did you ask or encourage them to leave?

A. No, sir.

Q. Has Mrs. Plattner ever worked during your marriage?

A. No, sir.

Q. So far as you know, is she physically and mentally capable of working?

A. Yes, sir.

Q. During the recent years of her marriage, '55-'56, up to the time of her departure, what, to your knowledge and observation, was the state of her health?

A. She was in very good health. She was always in good health during the marriage. She has never been in the hospital for anything. I can't remember her ever being in the hospital for a cold or anything at all.

Q. Have you heard testimony in this case concerning her loss of weight during 1956?

A. I heard testimony in this case about her loss of weight. Whether it was confined to '56 or not, Mr. Moncure, I can't remember that.

Vol. V Q. Do you remember or do you recall any parti-
4/10/58 cular loss of weight on her part just prior to her
page 165 } leaving you?

A. No, sir.

Q. Did her weight fluctuate during your marriage?

*Francis B. Plattner.*

A. Yes. Mrs. Plattner weighed almost 200 pounds at one time when we were in Corpus Christi. That was in 1949. She gradually began to take that off. She got down to perhaps 135 or 140, somewhere around there, and there she remained until she left. I thought that she lost a little weight after she left me.

Q. Now, can you describe during the year '56 whether she was capable of normal physical exertion and activity?

A. Well, she took care of the house. She drove her car at will wherever she wanted to go. She participated very actively in the political campaign of 1956 and still kept up the house, and so forth, normal activities of a woman.

Q. Did she from time to time go to New Jersey?

A. Yes, sir, she drove the car to New Jersey very frequently.

Q. How did she go?

A. She drove her automobile.

Q. All right, sir.

Commander Plattner, have you ever deprived your daughter, Ann, of her toys?

A. No, sir, I have not.

Vol. V Q. Where are the toys that you know of?

4/10/58 A. She has the majority of her big toys. She page 166 } has her bicycle; she had a tricycle. I think she has got that. Most of her doll babies.

Now, on February 18, 1957, Mrs. Plattner engaged some packers to come to the house and pack up the household things, a lot of the household things. In a lot of those boxes I understand Mrs. Plattner to say there are Ann's toys. The boxes are still there. I haven't gone through all the boxes. But when Mrs. Plattner left, packed all this stuff up, she didn't leave me with any cooking utensils or anything like that, so I had to go back into some of them and get those things out.

Q. Has there ever been a demand on you for the return of any box allegedly containing toys?

A. No, sir. We have an arrangement where if Mrs. Plattner wants anything from the house that she can come there when I am in the house. I have made arrangements for an impartial witness to be there and whenever or whatever she takes, all I want done is to have it written down what she took.

That day Mrs. Plattner took six or seven carloads, automobile loads, of clothes and toys and Ann's clothes and other things that I don't know, household things—six or seven automobile loads.

*Francis B. Plattner.*

• • • • •

Vol. VI
4/23/58
page 169 }

• • • • •

Q. Commander Plattner, would you tell the Commissioner, describe your relationship with your daughter, Ann, from the time of the adoption of the child until early February of 1957.

A. When we adopted Ann, she was two months old when we first got her and we grew up with her. She was five years old when she left my house. The relationship was a very personal father-and-daughter relationship. She and I went to church on Sundays.

When I would arrive home from work she would run to the car to meet me. And during the week and on week-ends she was my constant companion when I wasn't working.

Whenever I had to run errands in the car she would always be right there, ready to jump in.

Vol. VI
4/23/58
page 170 }

It was a very close, personal relationship. I seldom had to scold Ann because when she was naughty she was so full of remorse when I would verbally say something to her, it wasn't necessary for me to spank her.

That is about it.

Q. Have you ever struck the child or mistreated her?

A. I have never mistreated Ann, and I may have paddled her once a long time ago. I can't remember even once that I did it. I think perhaps once I may have given her a little pat.

Q. Now, did the child ever exhibit affection for you?

A. Mr. Moncure, she never exhibited anything else but affection for me when we were living together and I never exhibited anything else but affection for her.

Q. Did she ever exhibit fear of you?

A. No, sir, never.

Q. Now, when you stated that you used to go to church, at about what age did you commence taking her to church?

A. I used to carry her in my arms. She was two, perhaps, eighteen months, two, two years old.

Q. Did you take her regularly to church?

A. I did.

Q. For the next three or four years, until you and Mrs. Plattner separated—

A. I took her to church regularly. Mrs. Plattner did not want me—she objected to me taking the child to church. Toward the end of 1956 she resisted my taking, she wouldn't get the child ready to go to church, and so forth.

Vol. VI 4/23/58 page 171 } Q. Did Mrs. Plattner generally accompany you and Ann to church?

A. I think in the three years or so that Ann and I went to church together, Mrs. Plattner accompanied us perhaps twice or three times.

Q. What faith is Ann?

A. Ann was a foundling. She was found in a theatre in Philadelphia and by order of Municipal Court of Philadelphia she was given a name of Catherine Jennings, and she was assigned a religion of Roman Catholic. She was placed in a Catholic orphanage from whence we adopted her.

Q. What faith are you?

A. I am a Roman Catholic.

Q. And Mrs. Plattner, what faith is she?

A. Mrs. Plattner went through the rituals of coming into the Catholic Church shortly after we were married and continued going to church for several months after she finished her indoctrination.

However—

Mr. Pischke: This isnt responsive to the question. The question was, what religion is she? He is discussing the course of conduct of Mrs. Plattner.

Mr. Moncure: Wait a minute now, Mr. Plattner. I submit that it is—

Vol. VI 4/23/58 page 172 } Mr. Pischke: The questoin very simply was: What was her religion.

The Commissioner: Well, I think he is explaining it.

Mr. Pischke: I am trying hard not to object here, Mr. Commissioner, but the witness continually volunteers testimony beyond the purview of the counsel's question; that is the point.

Mr. Moncure: I think he has a right to give his answer.

Mr. Pischke: If he will give the answer and explain it, yes, sir.

Mr. Moncure: First answer this: What faith is Mrs. Plattner, if she has a fixed faith?

The Commissioner: I think he has answered that, Mr.

*Francis B. Plattner.*

Moncure. I think the question would be: Do you want to explain your answer further?

By Mr. Moncure:

Q. All right. Do you want to explain your answer?

A. Mr. Moncure, Mrs. Plattner was baptized into the Catholic Church and she ceased to go a few months thereafter. I have no personal knowledge—she doesn't go to that church and she may perhaps have switched to another church now that I don't know about from first-hand observation.

The Commissioner: Isn't that the answer to the question? I don't see any use in going into that further.

Mr. Moncure: Right.

Vol. VI
4/23/58
page 173 } By Mr. Moncure:

Q. Now, was Mrs. Plattner a practicing Roman Catholic during the year '56 and until your separation in February of 1957?

A. No, sir.

Q. Do you know what religious training, if any, Ann is getting or has gotten from February 1957 to date?

A. Ann was attending a Sunday School at a little church on Arlington Boulevard—Arlington—it wasn't a Roman Catholic Church, Mr. Moncure; I think it was Arlington Baptist Church. I believe that is the name. It is on the corner, near the corner of Graham Road and Arlington Boulevard.

Q. Who has custody of Ann during Sunday morning hours?

A. Mrs. Plattner.

Q. Now, has there been any change in the relationship between you and Ann since February of 1957?

A. Yes, there has, Mr. Moncure.

Q. Describe the change.

A. She has become at times, she is hostile; at times she is mean and contemptible, nasty, disobedient. And she never was like that before.

Q. Does she treat you with the same affection and respect that she treated you before February 1957?

Vol. VI
4/23/58
page 174 } A. No, sir, she doesn't. These last two or three months, Ann has become increasingly more distant.

Q. Can you tell the Commissioner specific

examples of her, this change in her qualities, or change in her attitude, more correctly?

A. I can summarize her visitations, Mr. Moncure.

Q. Before you do that, can you give specific examples or would they be part and parcel of visitations?

A. The examples as to how she has gotten increasingly more distant would be best explained by going through the visitations rapidly.

Q. Now, those papers you have in your hand, whose writing is that on those papers?

A. These are mine.

Q. Did you make those notes?

A. Yes, sir, I made them last night.

Q. Are they prepared from any other notes?

A. Yes, sir, they are prepared from a more detailed set of notes that I kept of the visitations.

Q. What is this, a resume?

A. A resume.

Q. All right. Then describe—

Mr. Pischke: I should like to examine the document from which the witness is going to testify.

Mr. Moncure: I don't think you can examine his notes.

Vol. VI
4/23/58
page 175

Mr. Pischke: Then I object to the notes, testimony of those notes, to which counsel has not had the advantage of examination.

Mr. Moncure: Mr. Commissioner, would you rule on that? I understood that if it is something we are going to introduce in evidence, then undoubtedly counsel has a right to look at it.

The Commissioner: First, it seems to me, Mr. Moncure, you should ask him if he can testify of his own recollection without reference to notes.

Mr. Moncure: All right.

The Witness: As to any of these matters.

By Mr. Moncure:

Q. First of all, before I ask you that question, what period of time does this resume in your hand cover?

A. This covers from the 21st of April, 1957, in detail, up to September of 1957, and then generally from September of '57 until the present.

Q. Now, is it possible for you, without resorting to those notes, to describe accurately specific instances of visitation?

*Francis B. Plattner.*

A. Yes, sir, I could describe accurately specific instances.

Q. With the dates, and so forth?

A. I couldn't—I have the dates and *everthing* here. I might miss the date.

Vol. VI
4/23/58
page 176 } The Commissioner: Let me take a five-minute recess. I must admit I am not aware of this question ever coming up before and I want to take a look and see if I can satisfy myself on this. So let's take a five-minute recess.

Mr. Pischke: Before doing so, I would state that I object to further testimony on the grounds that my understanding of the law is that the witness has a right to refer to his notes to refresh his memory but first he is obligated to do the best he can with his own testimony, as best he can recall it.

Mr. Moncure: We certainly let Mrs. Plattner do exactly the same thing with her testimony. She had the notes of visitation and she would riffle through them.

Mr. Pischke: No, sir. Mrs. Plattner testified as to exact dates and time without any notes of any kind in her hand.

The Commissioner: No, she didn't, Mr. Pischke, not entirely. She had notes. She read notes during her testimony. I don't know that that is precedent for this being done, but since you have raised this question, I must admit I can't ever remember hearing the question raised before.

Mr. Moncure: What Mr. Pischke is saying is: Tom, show me your file.

Vol. VI Mr. Pischke: I don't want to see your file.
4/23/58 Mr. Moncure: That is the equivalent of it.
page 177 } The Commissioner: He may be entitled to it.

Mr. Moncure: Is there any reason Mr. Pischke can't see these notes?

The Witness: No, sir.

Mr. Moncure: Mr. Pischke, examine the notes, please.

The Witness: Are we off the record?

The Commissioner: I don't think anything should be said at this point.

Mr. Pischke: May we go back on the record?

Mr. Commissioner, counsel has examined the document.

Mr. Commissioner, I think we could obviate any looking up

of the evidence because Mr. Moncure has now submitted these documents to counsel and we notice that they are merely notes which would seek to refresh the witness' memory as to what may or may not have happened and we have no objection to his testifying in a manner to refresh his memory.

Insofar as there is any testimony that would be using these notes as verbatim on the part of the witness, we would object. But the way the notes—

The Commissioner: It is my understanding the notes were merely to be used to refresh his recollection as to dates and specific instances.

Vol. VI 4/23/58 page 178 } Mr. Pischke: Very good; we have no objection.

The Commissioner: If they were made by him, that they are admissible for that purpose, or that he can refer to them for that purpose.

Mr. Pischke: My client has also corrected me in a statement I made a few moments ago. She did use notes with reference to dates on visitation, so I stand corrected in that respect.

Mr. Moncure: All right, sir.

By Mr. Moncure:

Q. Recount the history of this visitation with Ann from approximately February of 1957 to date.

A. Visitations called for in the order entered the 15th of April, 1957, called for visitation from 1 p. m. to 6 p. m. each Sunday.

On the 21st of April 1957, there was an Easter; I called for Ann at the Julians', arriving at 1 o'clock, and there was a children's Easter party in *progess* there. I was told that there was going to be a party and that Ann wouldn't be available and I said that I would come back in an hour, which I did.

When I returned, pulled up in front of the house, Mrs. Plattner went over to Ann and whispered something in her ear and Ann walked a few steps with Mrs. Plattner and told me she wasn't going with me. I gave Ann her

Vol. VI 4/23/58 page 179 } Christmas present. Ann took the Christmas present in the house and accompanied by Mrs. Plattner—

Mr. Moncure: Can we stipulate that was an Easter present?

*Francis B. Plattner.*

The Witness: I meant—I am sorry, Tom, an Easter present.

And in about two minutes Ann came running out of the house, crying; opened up the front door of my car and threw the bunny rabbit at me.

The following Sunday, Ann and I took a fifteen or twenty-minute ride in the neighborhood, the Julians' residence, and that was the extent of her visit on the 28th of April.

On the 5th of May, I took Ann to Glen Echo. We spent a substantial portion of the afternoon there. As we were returning to the Julians', two blocks from the house, Ann said, "I want to kiss you good-bye here because I do not want Mommy to catch me doing it in front of the house."

The following Sunday—

Mr. Pischke: Now, Your Honor, I am going to move to strike that portion of his testimony because of this conversation being obviously hearsay.

Mr. Moncure: Mr. Commissioner, I think it is hearsay and I think from that standpoint Mr. Pischke's objection is well founded, but I think it has also got to be considered in the over-all picture concerning his entitlement to future visitations, and the unsatisfactory nature of the visitations over the past fourteen months.

Vol. VI
4/23/58
page 180

So, for that—

The Commissioner: Mr. Moncure, I am not sure that it is hearsay; I am going to take it subject to the objection because it seems to me that what is here admissible, it would be admissible as evidence of her attitude toward her father; but I will note the objection and make a ruling to that later.

Mr. Pischke: Exception.

The Witness: On the 12th of May, Ann was skating in the street when I pulled up to the Julians'. I asked her not to do it and she said her mother lets her do it. I left in about fifteen minutes, and as I pulled away in the car, she picked a handful of dirt up and threw it at me.

Mr. Pischke: What was that date, sir?

The Witness: The 12th of May.

Mr. Pischke: 12th of May.

The Witness: On the 19th of May, Ann said her mother told her that she did not have to go with me and she would not. I had no visitation, practically two or three minutes, something like that, very short.

The 26th of May Ann was injured and Mrs. Plattner was to

call me on the phone and let me know when and where I could see Ann on that Sunday.

Vol. VI 4/23/58 page 181 } As of 3:30 on a Sunday afternoon I had not received a phone call and I called the Julians and I talked to Mrs. Plattner and Mrs. Plattner said that Ann was available at one o'clock, that she was complying strictly with the Court order and if I wasn't there at one o'clock that was my tough luck.

By Mr. Moncure:

Q. Now, how do you know that Mrs. Plattner was supposed to call you and let you know when and where you could see Ann?

A. It was my understanding that that was the arrangement between you, Mr. Moncure, and Mr. Johnson, that Ann was injured and I may have to forego the visitation that Sunday, but that Mrs. Plattner would call me and let me know where I could see Ann if she was in bed or wherever.

Q. From whom did you learn that Ann had been injured?

A. I learned that from you, Mr. Moncure, the Saturday before.

Q. All right.

A. The following Sunday, June 2, 1957, still, Ann's foot was bandaged and she said she was not going to go with me. I walked her to the door of the Julian's house where we met Mrs. Plattner and Ann said to Mrs. Plattner, "I told him, Mommy."

Mrs. Plattner took Ann inside and that terminated the visitation. It didn't last more than five or ten minutes.

Vol. VI 4/23/58 page 182 } On the 9th of June, 1957, still, I took Ann down to the creek about three blocks from the Julians' residence. We were there a short while, 20 minutes to a half hour, when Mrs. Plattner came down in her convertible and took Ann away. And that ended my visitation on the 9th of June.

On the 16th of June, Ann could not go with me because another picnic had been arranged for that afternoon with some other children. At this visitation Ann indicated that she would not ever be able to go with me in the car until this trial was over with.

Mr. Pischke: What is the date of this, sir?
The Witness: The 16th of June.
Mr. Johnson: Was Mrs. Plattner present at this time?
The Witness: No, Mrs. Plattner was not present.

Mr. Johnson: I object to the testimony on the grounds of hearsay and move to strike.

Mr. Pischke: Move to strike.

The Commissioner: I think one or the other of counsel should cross examine. I think that is the usual rule. I think Mr. Pischke has been doing it up to now, so I would suggest that you continue, Mr. Pischke. Isn't that true, haven't you been doing the cross examination?

Mr. Pischke: Oh, yes, I have been going to object to this but I am trying to exercise as much leniency as possible. We have had a lot of objections in the record.

Vol. VI 4/23/58 page 183

The Commissioner: I realize that, but not making a point on this, I just think in the future it is good—

Mr. Pischke: I think it might be well to request the witness who has some knowledge of these matters not to testify on conversations that didn't take place without Mrs. Plattner's presence.

The Commissioner: I am letting this in subject to the objection. If you want to note a continuing objection to any future testimony of this sort, I will be glad to note that. I am going to let it in subject to the objection.

Mr. Pischke: All right, sir. It would save a lot of taking of time.

Mr. Moncure: That is as I understood your ruling was.

The Commissioner: I am not sure whether it is admissible or not. It goes to a rather small part of this proceeding, anyway.

Mr. Pischke: That has been your understanding as to what the ruling was from the beginning of these rulings, Mr. Moncure?

Mr. Moncure: No, from the beginning of this morning's testimony when he testified the first time what Ann said to him not in the presence of Mrs. Plattner.

The Commissioner: That is right, and I said I was going to accept it subject to the objection.

Vol. VI 4/23/58 page 184

Mr. Moncure: That is right.

The Commissioner: And rule on it later.

By Mr. Moncure:

Q. What date are you now?

A. The following week is 23 June, 1957. We had a 20-minute visitation in the front of the Julians' residence and at the creek.

*Francis B. Plattner.*

On the 30th of June I called at the Julians. There was no one home. There was no phone call. There was just a blank. I waited there 20 minutes to a half hour and I returned in another hour and there was no one there at all so I gave it up for that day.

On the 7th of July I had a 10-minute visitation, approximately, in front of the house.

Mr. Pischke: May we request the witness to go a little bit slower so we can take these down as he is reciting them?

By Mr. Moncure:

Q. Go ahead.

A. On the 7th of July, I had an approximately 10-minute visitation in front of the Julians' residence.

The 12th of July, we had our hearing as to these visitations before Judge Carrico and which the order was modified to call for visitations at the home where Mrs. Plattner was living and not at the home of some friend or wherever else she designated.

Vol. VI
4/23/58
page 185

Q. Let me interrupt you there. Where had the visitations taken place from the time of the separation until July of '57, the time of the hearing?

A. They had taken place a tthe home of a friend of Mrs. Plattner's, Commander and Mrs. Julians'. That is over in Arlington.

Q. All right. Now, in what respect did this matter come on, at whose request?

A. This matter before Judge Carrico, on the 12th of July, came on at the request of Mrs. Plattner.

Mr. Pischke: I am out of ink; excuse me. Hold one minute, sir.

The Witness: The record shows what they—they asked that the order be changed.

The Commissioner: The record will show that, will it not?

Mr. Moncure: That is right.

By Mr. Moncure:

Q. Now, subsequently the visitation was modified to the extent of the same time but at a different place, is that correct?

A. Yes. At the hearings Judge Carrico directed the ques-

tion at Mrs. Plattner and Mr. Johnson saying that what she wants to do is cut off—

Vol. VI
4/23/58 The Commissioner: I am going to object to
page 186 } this entirely.

Mr. Moncure: That is not responsive.

The Commissioner: I don't think that should come in.

Mr. Moncure: Go ahead to the next visitation after that.

The Witness: On the 14th of July, I was ill, unable to make visits. My mother called Mrs. Julian who said she would relay the information to Mrs. Plattner.

The 21st of July Ann would not accept toys I had brought.

Mr. Johnson: What was that date?

The Witness: The 21st of July.

I told Mrs. Plattner that I would be back in an hour or so for Ann after she had settled down. She was a little upset. Mrs. Plattner said that if I left now my visitation was over with and she would not be at the Julians' when I returned.

By Mr. Moncure:

Q. What time did you leave?

A. I left shortly after I arrived. I arrived substantially at 1 o'clock and I left at 20 after 1, at the latest.

Vol. VI Q. What date was this?
4/23/58 A. 21st of July.
page 187 } Q. Why were you still visiting at the Julians' on the 21st of July when Judge Carrico had modified the place of visitation on the 12th of July, if you know?

A. Mr. Moncure, I don't think the order was entered until afterwards.

Q. I see.

A. I think the hearing was on the 12th and the order wasn't signed until later.

Q. All right. Go ahead. Did there come a time when you picked up the child or attempted to visit her at some other place?

A. On the 28th of July, the very next week, I visited the child at Mrs. Plattner's apartment but had no luck with any visitation. It was just a short thing outside the house.

Q. How long?

A. I don't have that in my short notes here, Mr. Moncure. None of these visitations were more than a half hour to three-quarters, at the most.

*Francis B. Plattner.*

Q. All right, go ahead.

A. On the 4th of August, 25-minute visitation at Mom Yates—that is Mrs. Plattner's present residence in Arlington, on Monroe Street.

On the 11th of August, Ann got in the car—

Vol. VI 4/23/58 page 188

Mr. Pischke: Mr. Plattner, are you testifying verbatim from these notes?

The Witness: No, I am just looking at them. On the 11th of August, I did get Ann in the car to go a few blocks down Lee Highway to a pony rides, where she had a few pony rides and we returned to Mrs. Yates' residence. Now, after that visitation, on the 11th of August, 1957, arrangements were made for Mrs. Plattner to go on a vacation with Ann to the mountains and I was asked to forego my visitations for two week-ends or so, which I did.

Mr. Pischke: What's the date of this, sir?

The Witness: Well, between the 11th of August and the 1st of September.

By Mr. Moncure:

Q. You agreed to that?

A. I agreed to forego the visitation. The trip to the mountains didn't come off. Ann stayed with grandparents in New Jersey. On the 1st of September the visitations recommenced and we had about an hour and a half visitation down at the pony rides.

Now, during the winter of 1957 and '58, Ann and I had to carry on our visitations outside the residence of Mrs. Yates in the cold and the rain. I was not permitted to come in the house. She was not permitted to go in the car with me. We would play in the snow, in the creek. Visitations

Vol. VI 4/23/58 page 189

averaged approximately a half hour, perhaps three-quarters; sometimes one visitation might last an hour if it was a nice day and wasn't too cold.

At Christmas time, I asked if I could see Ann on Christmas, take her out somewhere, take her down to see Santa Claus, and I was denied permission.

Sometimes I would come to the house—

Mr. Pischke: When you say "sometimes," Mr. Moncure, can you pinpoint these dates?

Mr. Moncure: If he remembers. If he cannot, he will just have to say something.

*Francis B. Plattner.*

Mr. Pischke: Mr. Commissioner—

The Commissioner: It seems to me it has been pretty specific so far, Mr. Pischke. If you want to cross examine him on that, I think if he wants to testify—

Mr. Pischke: Mr. Commissioner, I don't even know to what question this is being made responsive. We object on those grounds. I would like counsel to—

Mr. Moncure: I asked him to recount—The question some time ago, the basic question, was to recount the history of visitations which I think he has done with great detail.

The Witness: I am about to finish, too.

Mr. Moncure: What is your objection.

Mr. Pischke: I just want to pinpoint the times he is speaking about her so we can have some method of refutation. He says, "sometimes."

Vol. VI
4/23/58
page 190

The Commissioner: Let him finish the answer, Mr. Pischke. The only word he said was "sometimes."

The Witness: While Ann was at the residence of Mrs. Yates, and after September 1 of 1957, three or four times when I would arrive for the visitation at 1 o'clock, Ann would come out and get on the bike and ride two or three blocks away and start playing with other children. I could not do anything with her on these occasions.

Now, from the 5th of May 1957 until the 20th of April, 1958, almost one year, Ann did not go in the car with me outside of going down to the pony rides which was a few blocks from Mom Yates' residence, or to the drug store up on the corner in Cherrydale because Ann was not permitted to do so. Ann would come out of the house and meet me at 1 o'clock and she was not free to go with me.

Whenever I would ask her if she would like to go to the movies, she would say, "I will have to go in and ask Mommy," and she would come out and sometimes she would be crying and she would say, "I can't go."

But this last Sunday I don't know what happened, I asked her if she would like to go down and see the Mayflower and she came out and she was very happy and we went down; we spent the afternoon together.

By Mr. Moncure:

Q. How long were you together last Sunday, the 20th of April?

*Francis B. Plattner.*

Vol. VI
4/23/58
page 191 } Mr. Pischke: Your Honor, prior to Mr. Moncure asking that question, I move to strike those portions of the immediate answer given by the witness on the grounds that they are conclusions on the part of the child, Ann; and for which he has not laid basic explanation as to whether or not this is hearsay or otherwise. Information he has given is to the effect that Ann was not allowed to do this, was not allowed to do that.

The Commissioner: He said Ann told him she was not. At least that I—

Mr. Moncure: Covered by the other ruling.

The Commissioner: I will take it subject to objection. I cannot see that that is any different from what was put on before.

Mr. Pischke: Continue, sir.

The Commissioner: Now, so far as he has stated as his own conclusion that Ann was not free, I will certainly disregard that. I think it is clearly based on what she told him. If that goes out, then the whole thing goes out.

Mr. Pischke: All right, sir.

By Mr. Moncure:

Q. All right, sir.

A. That is substantially the situation as regards to visitations, Mr. Moncure.

Vol. VI
4/23/58
page 192 } Q. How long was Ann with you this past Sunday, April 20?

A. I didn't time myself when I got back but I think it was around 3 or a little after 3 in the afternoon.

Q. Now, do you desire the custody of Ann, Ann Plattner?

A. I certainly do, Mr. Moncure.

Q. If her custody should be awarded to you, what provisions are you prepared to make for her care?

A. I am prepared to give her a house to live in, a room of her own. I am prepared to give her a christian education. I am prepared to give her a college education, if possible, when the time comes. I am prepared to hire a housekeeper to watch after her when she returns from school and until I come home from work or, if need be, I can hire a full-time housekeeper.

I am prepared to give her all the love I can.

Q. Now, was there any change in the relationship between

you and Ann between December 9, 1956, to February 1, 1957?

A. There was none whatsoever, Mr. Moncure.

Q. During that particular time, did she ever exhibit or evidence any fear of you?

A. Never. Ann never in her life exhibited fear of me.

• • • • •

Vol. VI
4/23/58
page 198 }

• • • • •

CROSS EXAMINATION.

By Mr. Pischke:

• • • • •

Vol. VI
4/23/58
page 199 }

• • • • •

Q. You never derided her for not having any collegiate education?

A. No, sir.

Q. Either in front of witnesses or privately with her?

A. To the best of my recollection I have not.

Q. You say, to the best of your recollection; is it possible that you have derided your wife for not having a college education?

A. I think it is highly improbable that I ever did such a thing.

• • • • •

Vol. VI
4/23/58
page 217 }

• • • • •

*Francis B. Plattner.*

A. 1945. Certificate of marriage.

Q. Have you ever seen it before, to the best of your knowledge?

A. I think I may have seen it, yes, sir.

Q. After she had made the application, you went over the next day and picked up the marriage license yourself, is that correct?

Vol. VI 4/23/58 page 218 } A. Well, in Maryland they both have to be there. She tried to get it alone and couldn't get it alone.

Q. What is Mrs. Plattner's last name listed as being in this document?

A. Hannon.

Q. What does the line, fourth line underneath that, say as to what her status was as to being married, a widow, or otherwise?

A. It says, single.

Q. Can you read the line underneath the line "single" and repeat what that says?

A. State here whether single, widow, or living—single, living or divorced, as the case may be.

• • • • •

Vol. VI 4/23/58 page 234 } Q. Did you and your wife ever have occasion to visit the Sullivans prior to your marriage?

A. Yes.

Q. When you went up to the Sullivans on that occasion, did you indicate that Mrs. Plattner was then your wife?

A. She indicated to them and I had to go along with it.

Q. You did not take the initiative in introducing Mrs. Plattner as being your wife, is that correct?

A. No, sir.

Q. And if any one of the Sullivans were to testify to the contrary, they would be incorrect, is that right?

A. After she said that Frank and I are married, I didn't object to it. I had to go along with her.

Q. Do you deny the fact that you introduced her as being your wife?

A. Yes, sir, I would.

Q. What was the occasion of your going up there prior to your marriage?

A. We were going on a vacation trip.

*Francis B. Plattner.*

Q. Now, after she had introduced you as being her husband, and that is your testimony, as I understand it, is that correct, she introduced you as being her husband?

A. Why didn't you ask me what happened?

Vol. VI
4/23/58
page 235

Mr. Moncure: Wait a minute, Commander Plattner. Before you ask him what happened, will you ask him when it happened?

Mr. Pischke: All right, sir.

By Mr. Pischke:

Q. When did this happen?

A. When did what happen?

Q. When did this occasion of going up to Sullivans happen prior to your marriage?

A. It happened in the autumn of 1944, in the fall of 1944.

Q. And you say on that occasion that Mrs. Plattner introduced you as being her husband first, is that correct?

A. No.

Q. What is your testimony in that respect, then?

A. We did not say whether we were married or not.

Q. You didn't—you just say that Mrs. Plattner—

A. Mr. Sullivan said, "When were you married?" And Peggy said, "Some time ago."

Q. How long did you stay there on that occasion?

A. I can't recall; a week, perhaps, ten days.

Q. Did you live together as man and wife on that occasion?

A. Yes.

Q. Did you do anything during that occasion, during those visitations, that week's period to discourage the fact that you were being held out as husband of Mrs. Plattner?

A. No.

• • • • •

Vol. VI
4/23/58
page 277

• • • • •

Q. Now, discussing this Christmas 1953 incident once again, there was testimony that you called your wife " a stupid bitch" on that occasion; is that untrue?

*Francis B. Plattner.*

A. That is.
Q. Did you ever call her that on any occasion?
A. Stupid bitch?
Q. Yes.
A. I can never recall calling her a stupid bitch.
Q. Did you ever call her either one of those words, ever call her stupid?

Vol. VI 4/23/58 page 278 }

A. Not with any malice in my voice. I never did call her stupid.
Q. In other words, it was in a spirit of levity when you mentioned it?
A. I beg your pardon?
Q. It was in the spirit of levity when you called her stupid, is that right?
A. Possibly so.
Q. Do you recall having called her stupid in the presence of other people, company?
A. In a joking manner, I suppose I might have.
Q. Do you recall ever having called her a bitch in company?
A. I think I did on the occasion of Christmas.
Q. Christmas 1953?
A. 1953, I think I did.
Q. Did you call her a stupid bitch or a bitch?
A. I don't think I ever referred to her as a stupid bitch, just to the bitch.
Q. What was the occasion for your calling her that?
A. I cannot recall the precise occasion.
Q. Can you give some justification for calling her a bitch?
A. It was on the morning of—it was on the morning of Christmas.

• • • • •

Vol. VI
4/23/58
page 288 }

• • • • •

Q. Did you ever have an occasion when you were playing cards with the Julians to call your wife a stupid bitch at that time?
A. I can't recall.

*Francis B. Plattner.*

Q. Do you recall whether or not you called her either stupid or bitch? In certain terms?
A. I can't recall.

• • • • •

Vol. VI
4/25/58
page 314 }

• • • • •

Q. While you were there for that week's period, you lived as husband with Mrs. Plattner, did you not?
A. Yes, I did.
Q. You were not then married to her?
A. No, I was not.
Q. Would you not deem that to be lewd and lascivious conduct on your part?

Mr. Moncure: I object to that, that is characterization of the evidence, sir, and it falls for a conclusion of the witness.
Mr. Pischke: May it please the Court, Mr. Plattner has used that exact terminology in his cross bill; he has seen fit to use that language and I am asking him for the interpretation of that language in respect to the trip which he then took with—to the Sullivans. I think it is a proper question.
The Commissioner: I will allow it subject to the objection.
The Witness: Well, the night after I met Mrs. Plattner, we had sexual intercourse at her suggestion.
By Mr. Pischke: I am going to ask you to make a yes or no answer and then explain your answer. May I have that, Mr. Commissioner?

Vol. VI
4/25/58
page 315 }

The Commissioner: Answer the question.
The Witness: I would like to explain my answer.
Mr. Moncure: Wait, Mr. Plattner.
The Commissioner: Go ahead and answer the question.
Mr. Moncure: That's right, and you can explain your answer. Go ahead and answer the Commissioner's ruling.
The Witness: I did not think it lewd and lascivious conduct.

*Francis B. Plattner.*

By Mr. Pischke:

Q. On your part.

A. On my part, any more than lewd and lascivious on her part.

Q. Explain your answer.

A. I will explain it, because the night after we met in a restaurant, at Mrs. Plattner's suggestion, we had sexual intercourse and continued that activity on a frequency of two or three times a week all the way up to the marriage.

Q. When was the first date you had sexual intercourse with Mrs. Plattner?

A. The day after I met her in the restaurant.

Q. Was that her sole suggestion then?

A. It was.

Q. Under what circumstances did it take place—your place or her place?

A. It took place in an automobile.

Vol. VI 4/25/58 page 316 } Q. How many times? What was the next date thereafter you had relations with her?

A. The following night.

Q. Was this first occasion in your automobile?

A. She didn't have an automobile. I don't know who else's it would be.

Q. It was your automobile, wasn't it, Mr. Plattner?

A. Yes, it was.

Q. It was in the back seat or the front seat?

A. Sir, I can't remember.

Q. Your memory is awfully good on some dealings? Do you recall that, back seat or front seat? State where you had relations with Mrs. Plattner?

Mr. Moncure: Which time?

Mr. Pischke: The first time. This is the second night you had met her, is that correct?

The Witness: Yes, sir.

By Mr. Pischke:

Q. All right.

A. I think it was the back seat. My daddy had a seven passenger Chrysler Imperial at that time. I was driving his car. I said it was my car. About a week later I got my own car which was a business coupe.

Q. Did you deem that to be lewd and lascivious act on your wife's part?

A. She wasn't my wife at the time.

Q. Your present wife. You know what I mean, Mr. Plattner.

Vol. VI
4/25/58
page 317 } The Commissioner: Mr. Plattner, just try and answer the questions.

The Witness: Yes, it was lewd and lascivious.

By Mr. Pischke:

Q. Did you feel it was lewd and lascivious for you to participate at that time, Mr. Plattner?

A. It was no more lewd and lascivious for me to participate than it was for her to suggest it and go through with the act.

* * * * *

Vol. VI
4/25/58
page 351 }

* * * * *

Q. Now, you suspected, as you said, that your wife might have been going out with other men, might have been spending money with other men and that may be part of these expenditures? Is that correct?

A. Yes.

Vol. VI
4/25/58
page 352 } Q. Did you make an investigation to find out if your wife was going out with other men and spending your money for that purpose?

A. No. But when people get married and they love one another very much, and then one or the other party is unfaithful, the one, the other one, does not need a steam roller to fall on him to know that something has happened.

Now, what made me suspicious, I managed to get some leave when I was at Pensacola while Mrs. Plattner was in Washington alone and I came home and I arrived at about one o'clock in the morning and there was no one in the apartment. And—

Mr. Moncure: What year is this?

Mr. Pischke: This was all subsequent to when he made

this agreement with Mr. Mulvey, is that correct? I am asking you about—

The Witness: This is before.

Mr. Moncure: All prior?

Mr. Pischke: Prior, excuse me. Prior to the year of Mr. Mulvey.

All right, sir.

The Witness: This is prior.

Mr. Moncure: When was this?

The Witness: This was 1948, early '48, Tom.

I arrived in Washington and I couldn't get in the apartment and I aroused the janitor and he let me in. And Mrs. Plattner arrived about ten o'clock in the morning, the next morning, and she was very nervous and upset. She hadn't had much sleep the night before. I had wondered where she had been and she made an explanation that she stayed with some friends.

Vol. VI
4/25/58
page 353

By Mr. Pischke:

Q. Mr. Plattner, on that occasion, didn't you afterwards find out—

A. This is a very personal thing; I hate to testify to it.

Q. Are you still going to testify on this same point?

A. On what I was suspecting.

Q. On this same night?

A. Same morning.

Mrs. Plattner came to bed. I was still in bed and Mrs. Plattner's physical make-up is such that she has a very small vagina and when she came to bed that morning, she was very nervous and so forth and her vagina was enlarged beyond all proportions. And after this incident, and among our friends from then on out, in our married life, she referred to me many times by nickname, "Little Dick." That is why I suspected my wife being unfaithful.

Q. Did you accuse her of being unfaithful on that occasion?

A. No.

Q. Did you find anything that led you to believe further than that that she may have been unfaithful to you, any evidence at all?

A. Yes.

Vol. VI
4/25/58
page 354

Q. What?

A. In the kitchen were two plates, two cups, two saucers that were dirty, on the drainboard when I arrived that evening and she had no explanation of who had eaten with her

that night. She wouldn't discuss the matter at all. That, coupled with the fact that this vagina incident, Mrs. Plattner's vagina, is so small we always had to use vaseline, but this, coupled with that, coupled with the vagueness as to where she was that night and with her nervousness and upset condition which, when she arrived and found me in the apartment and her lack of sleep during the night, led me to believe that she had spent the night with some man.

• • • • •

Vol. VII
5/1/58
page 452 }

• • • • •

DONALD EDWARD PALMER,

was called as a witness by counsel on behalf of the defendant and cross complainant and, having been first duly sworn, was examined and testified on his oath as follows:

DIRECT EXAMINATION.

By Mr. Moncure:

• • • • •

Vol. VII
5/1/58
page 460 }

• • • • •

Q. Did you ever see Commander Plattner in the company of Ann, his adopted daughter?

A. I did.

Vol. VII 5/1/58 page 461 } Q. Would you describe to the Commission the relationship between them insofar as you observed it? I am talking about the period from the time they moved to Washington and prior to January 1, 1957.

A. Prior to '47?

Q. Prior to January of 1957.

*Donald Edward Palmer.*

A. Well, I didn't detect any discord between the two of them at all. I know that Ann is a little girl who is full of fun and wants to play, wants to run, and I know that Mr. Plattner has, in my presence, has played with Ann.

Q. From what you are able to observe during this period, would you describe Commander Plattner as a good father or not?

A. From what I could have observed, yes.

• • • • •

Vol. VII
5/1/58
page 467 }

• • • • •

Q. Now, did you and Mrs. Palmer continue to receive visits from Mrs. Plattner after January 1, 1957?

A. We did, yes.

Q. For about how long a period of time?

A. The last time that Mrs. Plattner was in our home was July 17.

Q. Of 1957?

A. Yes, sir.

Q. Now, about how many visits did Mrs. Plattner make to your home between January 1, 1957, and July 17, 1957?

Vol. VII
5/1/58
page 468 }

A. She would come by approximately once every three weeks. Sometimes it was more than three, sometimes less than three weeks.

Q. All right. During those occasions, were you ever home or did you ever see her?

A. Yes, sir.

Q. Now, did you ever hear Mrs. Plattner discuss her feelings toward Commander Plattner during these visits?

A. Yes, Mrs. Plattner was very bitter toward Mr. Plattner during these visits. As far as I knew, she had nothing but contempt for the man, nothing good to say about Frank.

Q. Did she ever comment on his flying?

Mr. Johnson: I object to this unless it is pinned down as to the time and instances of these things, to talk about a total period of conversations. I think it would only be proper that they be tied down.

*Donald Edward Palmer.*

By Mr. Moncure:

Q. The remarks that, the attitude of Mrs. Plattner toward Commander Plattner, was that on just a few of these occasions or did it continue throughout this entire period?

A. It continued, sir.

Q. What was the nature of her comment about him?

A. Well, Mrs. Plattner was informed about Mr. Plattner's insurance. She was afraid that he was going to make this insurance over to Ann and that she would be without anything.

Vol. VII 5/1/58 page 469 } She further told me on occasions that flyers go out, some of the good ones don't come back, but that damn Frank always comes back, and that she had hoped that he would be killed.

Q. Now, during this period of time, did she ever discuss Commander Plattner's visitations with Ann?

A. She did. She said that the Court had ordered her to make Ann available to Mr. Plattner. As I recall, that was on the 17th of July she told me that.

Q. Was that her last visit?

A. That was her last visit and she said she'd be damned if she was going to make her available to him, Mr. Plattner.

Q. Now, do you recall a visit by Mrs. Plattner in your home shortly after Easter of 1956?

A. I do. Mrs. Plattner came to our home and she told us about Mr. Plattner giving Ann an Easter bunny for easter, that Ann came running in the house with it. They were at the Julians' at the time, and she, Mrs. Plattner, unwrapped it and saw what it was and gave it back to Ann, put it back in the box and told Ann to take it back and throw it in his damned face.

Q. Was Ann with her?

A. She was.

Q. Did Ann say anything?

Vol. VII 5/1/58 page 470 } A. She did.

Q. Was there any other occasion in the spring of 1957 when Mrs. Plattner indicated respect by Ann for her father or lack of respect?

A. Yes, Mrs. Plattner was sending Ann to bible school at the Baptist Church on Arlington Boulevard, as I remember, and the teacher one day asked what the devil was, and Ann said she knew what the devil was; her daddy was a devil.

I said, "Peggy, what did you do?"

She said, "I just laughed."

*Donald Edward Palmer.*

Q. Was there any other conversation between Mrs. Plattner and you on the 17th of July, the last visit?

A. Yes. Mrs. Plattner came to our house that night in company of Mrs. Julian and she was emotionally upset. She was crying. And she said, made a statement that she would kill that damn Frank before he got away with this, and that Farnum had told her that she had nothing to worry about, that it would all be taken care of.

Mr. Johnson: What date was this?

The Witness: The 17th of July, sir.

Mr. Johnson: And I missed your point as to what this was that was being, what it was she was crying about at that point, the visitation.

The Witness: That was one of the things during that time.

The Commissioner: I think you can cross examine later on.

Vol. VII
5/1/58
page 471 } By Mr. Moncure:

Q. Will you indulge me a minute, sir?

Mr. Johnson: Will you read back the last statement that he had? I just missed a couple of words of what he said.

By Mr. Moncure:

Q. In your opinion, Mr. Palmer, do you consider Commander Plattner a fit person to have custody of Ann in the event the child is awarded to him?

A. I do, of my knowledge of Mr. Plattner's life.

• • • • •

Vol. VII
5/1/58
page 494 }

• • • • •

Vol. VII
5/1/58
page 495 } Q. Now, after Mrs. Plattner left the home of the parties during the period of the spring of 1957, did she ever complain about not getting the furnishings for her home that she wanted?

A. She did. She said she didn't have the things she wanted but that she was going to get them.

• • • • •

Vol. VII
5/1/58
page 507 }

• • • • •

MARGARET J. PLATTNER,
was recalled as a witness on her own behalf and, having been previously sworn, was examined and testified on her oath as follows:

DIRECT EXAMINATION.

By Mr. Pischke:

• • • • •

Vol. VII
5/1/58
page 531 }

• • • • •

Q. Now, Mrs. Plattner, you heard the testimony, I am sure, of your husband with reference to the relationship between you and your husband prior to your marriage beginning with the second date that you had with him on which date he indicated you began, that you and he participated in relationships, sexual relationships, is that a correct statement of fact?

A. That is an incorrect statement of fact.

Q. When is the first time that you had relations with your husband?

A. When we went to the Sullivans' home, when we went to the Sullivan home in October, '44.

Vol. VII
5/1/58
page 532 }

Q. Did you hear your husband's testimony with reference to your introducing him to the Sullivans as your husband first?

A. Yes, I did.

Q. Is that a correct statement of fact?

A. That is an incorrect statement of fact. I didn't even know the Sullivans and he introduced me to them at that time.

• • • • •

Vol. VII
5/2/58
page 635 }

• • • • •

PAULETTE G. PALMER,
was called as a witness by counsel on behalf of defendant and cross-complainant and, having been first duly sworn, was examined and testified on her oath as follows:

DIRECT EXAMINATION.

By Mr. Moncure:

• • • • •

Vol. VII
5/2/58
page 644 }

• • • • •

Q. All right. Directing your attention to Easter of 1957, do you recall any conversation from Mrs. Plattner in regard to the Easter gift Commander Plattner gave Ann?

A. Yes.

Q. What was that conversation?

A. Mrs. Plattner stopped by with Ann and I was there. As I recall, I was out in the yard. She said, "What do you think that son-of-a bitch gave Ann for an Easter present?"

I said, "Well, I don't know."

She said, "He gave her a damn Easter bunny, something for a little baby, and she wanted a baseball bat and mitt."

That's all I remember.

Vol. VII
5/2/58
page 645 }

Q. Did she say anything about what Ann did with it?

A. Said she told Ann to throw the Goddam thing in his face and tell him she didn't want it.

Q. Did Ann say whether she did it or not?

A. No, I don't know that.

Q. Don't recall?

A. No, I don't know whether Ann did it or not but that's all I know.

Q. All right. Directing your attention to mid-July 1957, did you see Mrs. Plattner on that occasion?

*Paulette G. Palmer.*

A. July 1957?

Q. Yes.

A. Yes. I think that was the last time she was at our house.

Q. Specifically directing your attention to July 17, was that the last occasion Mrs. Plattner was in your home?

A. Yes.

Q. And she has not been in your home since then?

A. Not that I recall. I am quite sure that was the last time.

Q. Was she accompanied by anyone on this visit?

A. Marge, Mrs. Jullien. I assume Mrs. Jullien.

Q. You assume that was Mrs. Jullien?

A. Her name was Marge.

Vol. VII 5/2/58 page 646

Q. Now, what conversation, if any, relative to this domestic situation took place between you and Mrs. Plattner on this occasion?

A. Well, when Mrs. Plattner and Marge came to the door, I had company. My kid sister and her two children and her husband were here on their vacation with me. Peggy was upset when I went to the door and I didn't want them to come in but I didn't know what to do. So they came in. Opened the door, they came in and Peggy, Mrs. Plattner, and Marge and I were in the living room. And we sat there and talked a couple of minutes. I don't remember exactly what was said, of course. I asked Marge if she would like a Coca-Cola or something cold to drink. She said she would. I went into the kitchen to get the Coca-Cola. Peggy went in behind me. She said, "Polly, I am in trouble, bad trouble; got no place to go. I don't know what I am going to do."

So with that, I thought, this is where I step out.

So I said, "Well, I will take Marge a Coca-Cola, and I will call Don, talk to him."

So she and Mr. Palmer—I am sorry, she and Mr. Palmer talked in the kitchen. I don't know the subject of the conversation.

Q. Did she make any remarks about Commander Plattner on that occasion?

Vol. VII 5/2/58 page 647

A. On that specific occasion?

Q. Yes.

A. She talked to Mr. Palmer in the kitchen.

Q. I say, did she make any specific remarks about Commander Plattner or addressing him by any terms other than his name?

*Paulette G. Palmer.*

A. Well, she called him son-of-a-*bith* and catbird. She always referred to him as "catbird."

Q. Have you observed Commander Plattner with the child, Ann?

A. Yes, I have.

Q. And what is his relationship with Ann so far as you have been able to observe?

A. He is very kind to her and very fond of her. That is my opinion. Very good to her.

Q. In your opinion, is Commander Plattner a fit person to have custody of Ann?

A. Absolutely.

Q. Have you ever heard Commander Plattner address any threat or abuse, or curse language, to Mrs. Plattner?

A. Never. I don't think I have ever heard Commander Plattner curse.

Q. Directing your attention to February of 1957, did you receive a telephone call from Mrs. Plattner in regard to this divorce suit?

A. I don't remember dates. I don't pay much attention to dates when I got a call.

Vol. VII 5/2/58 page 648

Q. Have you ever received any telephone calls from Mrs. Plattner about this divorce suit?

A. I don't recall right at this moment. I can't recall.

Q. Did Mrs. Plattner ever tell you what she would do if Commander Plattner contested this divorce?

A. Well, she had made the statement—

Mr. Johnson: I object unless there is some groundwork as to time and place, besides which it is certainly a leading question.

By Mr. Moncure:

Q. Did Mrs. Plattner discuss whether this case would or would not be contested? By that, whether he would oppose this case shortly after it was instituted in January of 1957?

Mr. Johnson: I object. It is a leading question.

The Commissioner: I am going to allow the question subject to your objection.

Mr. Johnson: Exception.

Mr. Moncure: Will you repeat the question, please, Mr. Halasz?

*Paulette G. Palmer.*

(The Reporter read the pending question.)

The Witness: I don't understand the question, really.

By Mr. Moncure:

Q. Did Mrs. Plattner tell you what she would do if Commander Plattner contested this suit, what she would do to him or to anyone else?

Vol. VII 5/2/58 page 649

A. Yes, she said she'd kill him. She may not—I don't know whether she realized she was saying it or not. I can't say that.

Q. Did you ever hear or did Mrs. Plattner ever make any comment to you or tell you that she proposed to take Ann on a vacation?

A. She said—

Mr. Johnson: Leading question, I object.

The Commissioner: Can't you rephrase that, Mr. Moncure?

By Mr. Moncure:

Q. All right. Has Mrs. Platter ever discussed with you her relationship and her activities with Ann?

A. Her relationship and her activities with Ann?

Mr. Johnson: At what period?

By Mr. Moncure:

Q. During the year 1957.

A. She has said that she was going to stop the visitation one way or another.

Q. She did say that?

A. She did say that.

Q. Now, specifically, did she discuss with you a contemplated vacation with Ann?

Vol. VII 5/2/58 page 650

A. She didn't discuss it with me. She just said that she was going to take a vacation.

Q. Did she say why?

A. To get Ann away.

Q. To do what?

A. To get Ann away.

Q. To get Ann away?

A. Yes.

Q. Is this the first time you have ever appeared in a court proceeding, Mrs. Palmer?

A. Yes, sir, it is.

Mr. Moncure: All right, I have no further questions.

CROSS EXAMINATION.

By Mr. Johnson:

Q. Mrs. Palmer, when were you married?

A. I was married in 1947, June.

Q. And who was the best man at your husband's wedding?

A. Commander Plattner.

Q. You testified that you had not discussed this testimony or any testimony that was made in this case with anyone?

A. I have not.

Q. Now, have you discussed this case with anyone?

A. With no one.

Q. Haven't even talked about it with your husband?

A. No, siree.

Vol. VII 5/2/58 page 651 } Q. Never discussed this case with Mr. Plattner?

A. I have not.

Q. Never heard it discussed in the presence of Mr. Plattner?

A. No, sir.

Q. Have you ever discussed it with Mrs. Plattner?

A. I have not.

Q. Now, you testified that on July 17, Mrs. Plattner—July 17, 1957—Mrs. Plattner came to visit you. How do you recall it was July 17?

A. Because my sister was here on their vacation and it is my niece's birthday.

Q. And it was on your niece's birthday, on the day she arrived?

A. And I didn't want company that evening. We hadn't invited anyone in.

Q. Now, when Peggy came in, you said that she was very upset and in trouble and didn't know where to go?

A. Yes.

Q. What did you understand her to mean by that?

A. I didn't try to interpret it. I wasn't interested.

Q. You weren't interested in any of these difficulties?

A. No, indeed.

Q. Now, you have also testified that you don't remember any telephone calls between you and Mrs. Plattner.

*Paulette G. Palmer.*

A. Mrs. Plattner has called me three times, to my recollection, since she was there last July 17.

Vol. VII 5/2/58 page 652

Q. And she has talked to you on three different times?

A. I don't know the dates.

Q. But you do recall three different telephone conversations?

A. Yes.

Q. Do you recall a telephone conversation when you said to Mrs. Plattner, "Peggy, what is this business about the sheet?"

A. I didn't say that to her.

Q. Do you remember anything about the sheets?

A. One telephone that she made to me was at my home. She said, "Polly, have you been subpoenaed as a witness for Frankie?"

I said, "No."

She said, "Has Don?"

And I said, "No."

Q. When was this?

A. Do you want this?

Mr. Moncure: Yes.

By Mr. Johnson:

Q. Do you recall when this was?

A. I don't remember dates; I don't put down dates every time somebody calls.

Vol. VII 5/2/58 page 653

Q. Has it been a month ago?

A. Maybe it has been longer than that. Maybe you can look back in your testimony. It was the day that this probably came up here. I don't know. But she called and said that my name had been smeared around in this case, that Frank was smearing my name all round in this case.

Q. At the time, then, it was apparently after Mr. Plattner had been testifying, so far as you know?

A. I don't know who was testifying.

Q. At that time?

A. When it was.

Q. At that time you hadn't been approached nor had your husband been approached about being witnesses?

A. No, sir; and I told Peggy at the time that I would not testify for anybody, that I don't get mixed up with people's troubles.

*Paulette G. Palmer.*

Q. When did your husband agree to be a witness, just recently?

A. I don't know. He did it voluntarily.

Q. To your knowledge, he hadn't planned on being a witness up until—You had no expectation of any member of the family being a witness until just very recently, did you?

A. I don't know anything about when he was called about being a witness. He did it because he wanted to and because he thought it was the right thing to do.

Vol. VII 5/2/58 page 654 } Q. Who asked you to come in and testify this afternoon?

A. I volunteered. I wanted to come.

Q. You wanted to come in. You were mad?

A. I was not mad, no.

Mad, did you say?

Q. Mad because you weren't called this morning.

A. Oh, no.

Q. You just suddenly, after saying here that you didn't want to testify and didn't want to have anything to do with it—

A. I did not want to testify for Mrs. Plattner; I couldn't.

• • • • •

Vol. VII 5/2/58 page 667 }

• • • • •

Q. Have you ever visited in the Plattner home?

A. One time.

Q. One time. And what occasions, other than that, have you had to observe Mr. Plattner in his role as a father to Ann?

A. When they have been at our house.

Q. Those have been the only occasions you have been able to see?

Vol. VII 5/2/58 page 668 } A. Except the one time at their house.

Q. And a time at their house. And this is what you base your opinion on, that he is a good father to Ann?

A. I think he would be an excellent father.

• • • • •

A Copy—Teste:

H. G. TURNER, Clerk.

# INDEX TO RECORD


| | Page |
|---|---|
| Appeal Awarded | 1 |
| Record | 2 |
| Bill of Complaint | 2 |
| Petition for Restraining Order | 5 |
| Answer | 6 |
| Cross-Bill | 7 |
| Demurrer and Answer to Cross-Bill | 10 |
| Petition to Modify Visitation Privileges | 11 |
| Order—July 26, 1957 | 13 |
| Answer to Petition | 14 |
| Commissioner's Report | 16 |
| Exceptions of Defendant and Cross-Complainant to Commissioner's Report | 28 |
| Notice | 29 |
| Decree—June 25, 1959 | 30 |
| Notice of Appeal and Assignments of Error | 37 |
| Witnesses: | |
| Louis Honoré Jullien | 38 |
| Marjorie Fowler Jullien | 54, 59 |
| Katherine Pagliuca | 57 |
| Reine B. Hannan | 64 |
| Bessie McDonald | 66 |
| Geraldine F. Burt | 67 |
| Margaret J. Plattner | 69, 152 |
| Francis B. Plattner | 113 |
| Donald Edward Palmer | 148 |
| Paulette G. Palmer | 153 |