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Clerk, Supreme Court of Appeals

Record No. 7302

In the
Supreme Court of Appeals of Virginia
at Richmond

JOANNE JUDSON ROWLEE

v.

ELON KEVAN ROWLEE, II

FROM THE CIRCUIT COURT OF CHESTERFIELD COUNTY

RULE 5:12—BRIEFS

§5. Number of Copies. Twenty-five copies of each brief shall be filed with the clerk of this Court and three copies shall be mailed or delivered by counsel to each other counsel as defined in Rule 1:13 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.

IN THE

Supreme Court of Appeals of Virginia

AT RICHMOND

Record No. 7302

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Tuesday the 14th day of October, 1969.

JOANNE JUDSON ROWLEE, Appellant,

against

ELON KEVAN ROWLEE, II, Appellee.

From the Circuit Court of Chesterfield County
David Meade White, Judge

Upon the petition of Joanne Judson Rowlee an appeal is awarded her from a decree entered by the Circuit Court of Chesterfield County on the 10th day of March, 1969, in a certain chancery cause then therein depending, wherein Elon Kevan Rowlee, II, was plaintiff and the petitioner was defendant; upon the petitioner, or some one for her, entering into bond with sufficient security before the clerk of the said court below in the penalty of $300, with condition as the law directs.

RECORD

* * * * *

page 1 }

* * * * *

BILL OF COMPLAINT

To the Honorable Judges of Said Court:

Comes now your complainant, Elon Kevan Rowlee, II, and respectfully represents as follows:

1. On August 14, 1964, your complainant and the defendant, whose maiden name was Joanne Judson, were lawfully married at Syracuse, New York, as will appear from a Certificate of Marriage filed herewith as "Exhibit A" and prayed to be read as a part of this bill.

2. Your complainant and the defendant are both over the age of twenty-one years and are both members of the Caucasian race.

3. Both your complainant and the defendant are now domiciled in and are and have been actual bona fide residents of the Commonwealth of Virginia for more than one year next preceding the commencement of this suit.

4. The defendant resides at 8720 Forest Hill Avenue, in the County of Chesterfield, Virginia.

5. Since the aforesaid marriage the defendant has committed adultery in that beginning the summer of 1966 and continuing thereafter at diverse times and places, the defendant has had carnal and illicit intercourse with a man other than your complainant.

page 2 } 6. During January, 1968, your complainant learned for the first time of the committing of said adultery by the defendant. Since obtaining knowledge of the fact of said adultery, your complainant has not cohabited with the defendant, although for economic reasons your complainant, during such period, has been required to occupy the same residence with the defendant.

7. At the time of the institution of this suit, it had not been five years since the aforesaid adultery occurred and such adultery was not committed by the procurement or connivance of your complainant.

8. There have been born of this marriage two children, Elon Kevan Rowlee, III, who was born in February, 1965, and Elizabeth Brooke Rowlee, who was born in June, 1966.

9. Your complainant further alleges that the defendant has been and continues to live an immoral and improper life in that she has and continues to visit and consort with men other than your complainant, leaving the children of this marriage alone and unattended for substantial periods of time without due regard for their welfare and safety; and further alleges that the defendant is not a proper person to have the care and custody of the aforesaid children or either of them.

Wherefore, your complainant prays that a divorce from the bond of matrimony which was created by the aforesaid marriage be decreed him; that the care and custody of the aforesaid children be awarded your complainant; and that your complainant have such other, further and general relief as the nature of his case may require and as to equity shall seem meet.

Elon Kevan Rowlee, II

By James C. Roberts
Of Counsel

Filed in the Clerk's Office the 8th day of March, 1968

Teste:

Mack T. Daniels, Clerk
By Margaret C. Foster D. C.

* * * * *

page 6 }

* * * * *

ANSWER AND CROSS BILL

To the Honorable Judges of Said Court:

Now comes the defendant, Joanne Judson Rowlee, and respectfully represents as follows:

ANSWER

1. This defendant admits the allegations contained in paragraphs 1, 2, 3, 4 and 8.

2. This defendant has no knowledge of the allegations con-

tained in paragraphs 6 and 7 and therefore demands strict proof of the same.

3. This defendant denies the allegations as set forth in paragraphs 5 and 9.

CROSS BILL

1. Your cross-complainant adopts paragraphs 1, 2, 3, and 8 and incorporates the same as a part of this cross bill.

2. Your cross-complainant alleges that the complainant and cross-defendant deserted and abandoned Joanne Judson Rowlee on the 4th day of March, 1968 without justification or excuse.

Wherefore, your cross-complainant prays that a divorce a *mensa et thora* be decreed her; that the care
page 7 } and custody of the aforesaid children be awarded to her; that she be granted temporary alimony and support; that she be granted attorney's fees with which to prosecute this cause, and that she be granted general relief.

Joanne Judson Rowlee
By Counsel

Received and Filed
Mar 18 1968

Mack T. Daniels, Clerk

By: Margaret C. Foster, D. C.

* * * * *

page 9 }

* * * * *

ANSWER TO CROSS BILL

Comes again the complainant by counsel and for answer to the defendant's Cross Bill, says and alleges:

1. Your complainant admits the allegations contained in paragraph 1 of the defendant's Cross Bill.

2. Your complainant denies each and every allegation contained in paragraph 2 of the defendant's Cross Bill.

3. Your complainant denies that the defendant is entitled to any of the relief prayed for in her Cross Bill.

Elon Kevan Rowlee, II

By James C. Roberts
Of Counsel

Received and Filed
Mar 25 1968

Mack T. Daniels, Clerk (M. F.)

* * * * *

page 29 }

* * * * *

PROCEEDINGS

This action for divorce in which the complainant seeks custody of the two infant children, Elon Kevan Rowlee, III, age 3, and Elizabeth Brooke Rowlee, age 2, was instituted on the 8th day of March, 1968. The defendant filed her Answer and Cross Bill seeking divorce and custody on the 18th day of March 1968.

On the 15th day of June, 1968 proper notice was served by the complainant that he would take the deposition of Sally Anderson in Roanoke, Virginia on the 26th day of June, 1968, to be read on his behalf. Counsel for the defendant attended the taking of these depositions, which depositions were subsequently filed in this cause.

On the 9th day of July, 1968 proper notice to take the depositions of Elsie Raymond LaMacchia, Gary Melvin Fay, Jean Gray, David Woehr, and William R. Burtis in Fulton, New York on the 15th day of July, 1968, was served on the complainant. On the 10th day of July, 1968, after proper notice, the defendant moved to quash the said notice to take depositions and for attorney's fees and expenses. The motion to quash said notice was overruled and the court refused to award counsel fees and expenses with which to prosecute this suit on behalf of the defendant. The court cited the fact that the complainant was paying the defendant all that he could afford to pay at the time of said hearing.

page 30 } Exception was noted.

Counsel for the complainant wrote a letter dated the 15th day of August, 1968 requesting counsel for the defendant to suggest a date for the taking of further depositions in Fulton, New York. Counsel contacted Mrs.

Rowlee in respect to this request but before a reply was received, counsel received a copy of a deposition that had been taken in Fulton, New York, which deposition has been filed in this cause. The defendant was not present and was not represented by counsel at the taking of this deposition.

On the 26th day of August, 1968 counsel for the defendant received notice that the complainant would take the depositions of himself and his father, Elon K. Rowlee, on the 5th day of September, 1968 in Richmond, Virginia to be read on his behalf. The defendant was present and was represented by counsel at the taking of these depositions which have also been filed in this cause.

On the 8th day of October, 1968 counsel for the defendant received notice that the complainant would take the deposition of David E. Parks in Radford, Virginia on the 17th day of October, 1968. On or about the 10th day of October, counsel for defendant contacted counsel for complainant requesting a voluntary payment of attorney's fees. This request was denied and counsel could not get a date to be heard until now. The defendant was not present and was not represented by counsel at the taking of this deposition. Also on the said 8th day of October, 1968 counsel for the defendant received notice that the complainant would take the deposition of William Henry Blohm, Jr. in Cincinnati, Ohio on the 29th day of October, 1968 to be read in his behalf. This is the notice that the defendant now seeks to quash.

FACTS

page 31 } At the first hearing before the Court on this matter the complainant testified that he was earning $626.00 per month and that he was paid biweekly. He further testified that he was paying rent for the house in which his wife and children were living in the sum of $170.00 per month; $50.00 per month for utilities; $50.00 per month for the wife's auto insurance and other miscellaneous items; and the sum of $30.00 per week or $130.00 per month for the support and maintenance of his children.

The complainant testified during the taking of his deposition that he was now receiving a guaranteed salary of $10,000.00 per year and that at the end of the calendar year 1967 he received a bonus of $500.00 from his employer (Rowlee, II, Cross p. 186.) The complainant further admitted that he withdrew all of the money (between $800.00-$1,000.00) which was deposited in a joint savings account before he and his wife separated (Rowlee, II, Cross, p. 188-192).

At page 191 of said deposition, the following questions were propounded and answers elicited from Mr. Rowlee:

"Q. What happened to the $1,000.00 in your savings account?
A. I think that is my business.
Q. I think it is the Court's business. I want you to answer the question.
A. I hired a private detective. I paid off bills—I did not pay off bills, I paid on bills.
Q. Did your wife get any part of it?
A. Yes, sir.
Q. What did she get?
A. The portion of it I paid on the bills was actually going to her."

LAW

Va. Code, §20-103 provides:

"The court in term or the judge in vacation may, at any time pending the suit, in the discretion of such
page 32 } court or judge, make any order that may be proper to compel the man to pay any sums necessary for the maintenance of the woman and to enable her to carry on the suit, or to prevent him from imposing any restraint on her personal liberty, or to provide for the custody and maintenance of the minor children of the parties during the pendency of the suit, or to preserve the estate of the man, so that it be forthcoming to meet any decree which may be made in the suit, or to compel him to give security to abide such decree."

In interpreting the above statute our courts have construed the language to mean that there is very little, if any, discretion vested in the trial court in awarding the wife maintenance and suit money with which to carry on the suit. *Hughes* v. *Hughes,* 173 Va. 293, 4 S.E. (2d) 402.

In *Eddens* v. *Eddens,* 188 Va. 511, at page 518, the Supreme Court of Appeals of Virginia quoted the following from a decision of the highest court of West Virginia:

"Without a preliminary award to the wife for the purpose of carrying on or defending suit, she would be unable to develop properly her side of the cause. Such items are therefore essential to a proper award of alimony upon granting of a divorce. They are bound up in the preliminary award. Why retain the right to enforce a decree for alimony, if the wife, in the first instance, be denied the right to so enforce the advancement of counsel fees and suit costs? Such fees are incidental to and part of the alimony decreed to be paid the wife.

At the time of the divorce, the wife was awarded $150 per month for alimony, as maintenance. It did not contemplate further litigation. Now the husband seeks to have the award decreased. The wife, to protect her interests, must have funds with which to employ counsel and pay court costs. Not to provide her with such funds might possibly defeat her right to alimony. If essential to the obtaining of alimony, it is just and necessary to protect such right, once it is acquired. It is in fact a part of the maintenance, and therefore enforceable by process of contempt."

Even if the wife can support her suit, she is still entitled to sums necessary for her maintenance and to carry on the suit. *Divorce and Alimony in Virginia and West Virginia,* Phelps, §20-1, p. 263. (Citing cases).

ARGUMENT

It appears that in this suit the complainant is putting the defendant to great inconvenience and expense by setting the taking of depositions out of the jurisdiction of this court. Many courts hold that all depositions must be taken within the jurisdiction of the court in which suit is instituted, except by special permission of the court where extenuating circumstances can be shown. Certainly there are no extenuating circumstances to justify the complainant in taking depositions in such distant places as has been done and is being attempted in this case. This is especially true in view of the fact that the complainant is not willing to provide his wife with counsel fees and suit money. The complainant has not only forced his wife to exhaust all of her means in order to try to pay counsel for services rendered thus far, but has also placed her in a position where she cannot possibly take any evidence on her own behalf. Mrs. Rowlee is being put to great expense and inconvenience, which means she cannot properly defend the suit instituted against her for divorce. She will be totally unable to prosecute her alleged cause of action unless counsel fees and suit money are provided for her. The court's attention is called to the fact that the welfare of the two infant children born of this marriage is at stake and may not be best served unless the defendant is given every opportunity to be present and to be represented by counsel at the taking of all depositions. It goes without

saying that she should be provided with ample funds with which to take evidence on her own behalf.

Respectfully submitted,

Emroch, Cowan & Kauffman

By Jay G. Kauffman
Jay G. Kauffman
Counsel for Defendant

Filed: Oct. 25, 1968 Ernest P. Gates, Judge

* * * * *

page 36 }

* * * * *

ORDER

This day came again the parties to this cause by counsel and it being represented to the Court that the defendant moved from the jurisdiction of this Court to Fulton, New York, in June 1968, and that she took with her the children of the parties and has not returned them to this Court's jurisdiction except for a short visit;

And it being further represented to the Court by counsel for the defendant that he has not been paid for his services rendered the defendant to date and that the defendant does not have sufficient funds by which to defend her cause. Upon consideration whereof the Court doth adjudge, order and decree that counsel fees and suit money shall not be awarded in this cause at this time.

Whereupon counsel for the defendant asks leave of the Court to withdraw as counsel of record for the defendant, which motion is hereby denied.

It being further represented to the Court that the Complainant concluded the taking of his depositions in chief in November 1968;

It is adjudged and ordered that unless the defendant returns the children of the parties to a location in Virginia reasonably convenient to the jurisdiction of this Court by February 1, 1969, custody of such children shall be awarded to the Complainant.

page 37 } It is further adjudged and ordered that the defendant do take and complete the taking of her

depositions in chief by February 28, 1969, which time may be extended for cause.

I ask for this:
James C. Roberts, p.q.

Seen and objected to:
Jay C. Kauffman, p.d.

Enter: Jan. 27, 1969 David Meade White, Judge

* * * * *

page 38 }

* * * * *

ORDER

This day came again the complainant, by counsel, and it being represented to the Court that the defendant has not returned the children of the parties to a location in Virginia reasonably convenient to the jurisdiction of this Court, as directed by the order entered herein on January 27, 1969; and it further appearing to the Court from the depositions taken on behalf of the complainant that the complainant is a fit and proper parent to have awarded him the custody of said children;

It is Adjudged, Ordered and Decreed that the care and custody of Elon Kevan Rowlee, III, and of Elizabeth Brooke Rowlee, infant children of the parties, be, and the same hereby is, awarded to the complainant, leave being granted hereby to the defendant to see and visit the said children at reasonable times and places.

It is further Ordered that this cause be retained on the docket for such further proceedings as are provided for in the order entered herein on January 27, 1969.

To the foregoing action of the Court the defendant, by counsel, objected and excepted.

I ask for this:
James C. Roberts, p.q.

Seen and objected to:
Jay G. Kauffman

Enter: February 12, 1969 Ernest P. Gates, Judge

* * * * *

page 39 }

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FINAL DECREE

This cause, which has been regularly matured, docketed and set for hearing, came on this day to be heard upon the bill of complaint and exhibit filed therewith; upon proof of proper and legal service of process upon the defendant; upon the answer and cross-bill of the defendant; upon the depositions of witnesses on behalf of the plaintiff and the defendant, regularly taken after proper and legal notice and filed in accordance with law; and was argued by counsel.

Upon Consideration Whereof, the Court finds from the evidence, independently of the admissions of the parties in the pleadings or otherwise, the following facts: That the parties are members of the White Race and over the age of twenty-one years; that they were lawfully married in the City of Syracuse, New York, on August 14, 1964; that there are two infant children born of this marriage whose names are Elon Kevan Rowlee, III, born in February, 1965, and Elizabeth Brooke Rowlee, who was born in June, 1966; that the plaintiff is domiciled in and is and has been an actual *bona fide* resident of the State of Virginia for a period of more than one year immediately preceding the commencement of this suit; that the defendant was a resident of the County of Chesterfield, Virginia, at the time of the commencement of this suit; that the charge of adultery on the part page 40 } of the defendant as alleged in the bill of complaint has been fully proven by the evidence, and that the plaintiff is entitled to the relief prayed for;

The Court doth dismiss the cross-bill of the defendant and doth Adjudge, Order and Decree that the plaintiff, Elon Kevan Rowlee, II, be, and he hereby is, absolutely divorced from the defendant, JoAnne Judson Rowlee, from the bond of matrimony on the ground of adultery; and that the bond of matrimony created by the marriage between these parties, be, and the same is hereby dissolved.

It is further Adjudged and Ordered that the same provisions regarding the care and custody of Elon Keven Rowlee, III and of Elizabeth Brooke Rowlee, infant children of the parties hereto, as contained in the decree heretofore entered in this cause on February 12, 1969, be continued in full force and effect.

And nothing further remaining to be done herein, it is Ordered that this cause be stricken from the docket and placed among the ended causes.

I ask for this:
James C. Roberts, p.q.

Seen and Objected to:
Jay G. Kauffman, p.d.

Enter: March 10, 1969 David Meade White, Judge

* * * * *

page 45 }

* * * * *

NOTICE OF APPEAL

The defendant hereby appeals to the Supreme Court of Appeals of Virginia from a Final Decree entered by the Circuit Court of the County of Chesterfield in the above styled suit on March 10, 1969, and the defendant hereby gives notice of appeal to the Supreme Court of Appeals of Virginia from said Decree entered on said March 10, 1969.

ASSIGNMENT OF ERRORS

The defendant assigns as error the following actions of the Court:

1. The Court erred, by Order entered January 27, 1969, in putting the defendant on terms "that unless the defendant return[ed] the children of the parties to a location in Virginia reasonably convenient to the jurisdiction of [the Circuit Court of Chesterfield County] by February 1, 1969, custody of such children [would] be awarded to the Complainant".

2. The Court erred, by Order entered February 12, 1969, and in the Final Decree entered March 10, 1969, in awarding custody of the infant children born of the
page 46 } marriage between the parties to the Complainant on the basis that the defendant failed to return said children to a location in Virginia reasonably convenient to the jurisdiction of the Circuit Court of Chesterfield County by February 1, 1969.

3. That the Court erred in awarding custody of the chil-

dren born of the marriage between the parties to the Complainant without consideration and judicial determination of what action was in the best interest of said children.

4. The Court erred in awarding custody of the infant children born of the marriage between the parties to the Complainaint without a determination of the merits of the issues involved.

5. That the Court erred in awarding the custody of the infant children born of the marriage between the parties to the Complainant because such an award was contrary to the law and the evidence.

6. The Court erred in refusing the award of counsel fees and suit money on behalf of the defendant in order that the defendant could properly defend the Bill of Complaint filed on behalf of the Complainant and prosecute the Cross-Bill filed on behalf of the defendant.

7. The Court erred in failing and refusing to give the defendant an adequate and reasonable opportunity to take evidence on her own behalf in defense of the Bill of Complaint filed against her and in prosecution of the Cross-Bill filed on her own behalf.

8. The Court erred in awarding a Final Decree of Divorce to the Complainant without a full hearing and determination of all issues on the merits of the case.

9. The award by the Court of an absolute divorce to the Complainant was contrary to the law and the
page 47 } evidence and the Court erred in entering such decree.

10. The Court erred in depriving the defendant of an opportunity to make a record of all proceedings before the Court by failure of the Court to award suit money from which the defendant could have obtained the services of a Court Reporter.

JoAnne Judson Rowlee,
By Counsel

Jay G. Kauffman
Jay G. Kauffman, Esquire
Emroch, Cowan, Kauffman & Emroch
7122 Forest Hill Avenue
Richmond, Virginia 23225

* * * * *

Received and Filed
Apr 16 1969
Mack T. Daniels, Clerk

By: Margaret C. Foster, D. C.

* * * * *

page 49 } May 1, 1968

Mr. Rowlee:

Salesman for SIROCO N.Y.—paid 2 a month
Pay about 626.00 per mo.
Wife earns $300 per mo.
Two children—3 & 1
Renting house 170 per mo. paid by H and utility bills about 50 and sending about 130 to wife
Pay about 50 per mo. on car
Parties to explore settlement

July 10, 1968

Mrs. Rowlee present
Attys were present

No evidence justifying a change in decision for no attys fee
DMW Jr.

page 50 } MEMORANDUM (DMW)

1. Unless the children are returned to the vicinity of the County of Chesterfield by February, 1969, the custody of the children will be transfered to the father.
2. The defendant is ordered to complete the taking of her depositions by February 28, 1969, at which time maybe extended for cause.

Rowlee v. *Rowlee*

* * * * *

The Deposition of Sally Anderson, taken on the 26th day of June, 1968, at 12:00 noon at the law offices of Dodson, Pence, Coulter, Viar & Young, 517-514 State and City Building, 104 Campbell Avenue, S.W., Roanoke, Virginia, pursuant to notice, to be read in evidence on behalf of the complainant in the above-styled cause.

Sally Anderson

APPEARANCES:

James C. Roberts, Esquire
(Mays, Valentine, Davenport
& Moore)
Counsel for Complainant

Jay G. Kauffman, Esquire
(Emroch, Cowan & Kauffman)
Counsel for Defendant

Dep.
6/26/68
page 1 } SALLY ANDERSON, being first duly sworn, deposes and says as follows:

DIRECT EXAMINATION

By Mr. Roberts:
Q. You are Mrs. Sally Anderson, is that correct?
A. That's right.
Q. Are you married?
A. Yes, I am.
Q. Where do you reside? Where do you live?
A. 1618 Center Avenue, Northwest.
Q. Center?
A. Center Avenue, Northwest.
Q. Is that in Roanoke?
A. Roanoke, Virginia.
Q. All right, now, I want you to talk up loud enough so this lady, the court reporter, can hear you. Did you work for any period of time in the house of Mr. and Mrs. Kevan Rowlee?
A. Yes, I did.
Q. Can you tell us approximately what period of time that covered?
A. I think I went there during August to about
Dep. the 27th of December, 27th or 28th of December.
6/26/68 Q. Of what year?
page 2 } A. 1967.
Q. All right, now, what were you employed to do there?
A. Babysit.
Q. Babysit? Did they—how many children were there?
A. Two.

Sally Anderson

Q. What were their names, do you recall?
A. Well I call one of them Elon and I call the other one Brookie.
Q. Brookie was the girl?
A. Yes.
Q. And Elon the boy?
A. Yes.
Q. How did you come to go to work there? How did it come about?
A. I called and answered an ad in the paper.
Q. An ad?
A. An ad in the paper.
Q. Who employed you? Was it Mrs. Rowlee or Mr. Rowlee?
A. Mrs.

Dep. 6/26/68 page 3

Q. Did she—when you went to answer the ad, did you go to her house?
A. I did.
Q. Did she ask you any questions about your background or your experience, anything of that sort?
A. No, she didn't. ***

* * * * *

Q. Do you remember what day of the week it was you went in to see her?
A. It was on a Thursday.
Q. All right and you went to work the following Monday?
A. I did.
Q. All right, now, what arrangements did you make with Mrs. Rowlee as to how much time you would work and what you were to do?
A. Well she said that one week I would work four days and another week four days and a half.
Q. What time were you supposed to come in to work originally?
A. From eight to five.
Q. From eight to five? Were you to work any Saturdays?
A. No Saturdays.

Dep. 6/26/68 page 4

Q. How about cooking of meals. Were you supposed to cook any meals?
A. None but lunch meals for the children.
Q. Lunch for the children? How about breakfast and dinner? Who was going to take care of that?
A. She was taking care of that when I first went there.

Sally Anderson

Q. All right, now, were you to do anything in the way of house cleaning or anything of that sort?

A. No, until lately. She asked me to run the sweeper and make her bed up for her.

* * * * *

Dep.
6/26/68
page 5 } Q. Now I believe you testified that you were supposed to get off about five o'clock in the afternoon?

A. In the afternoon.

Q. And can you tell us whether or not it worked out that way?

A. No. Sometimes she'd be late. She said she had to work overtime.

Q. What do you mean when you say late?

A. Well once or twice she came in at one or two o'clock.

Q. You mean afternoon or morning?

A. Morning.

Q. When you say one or two o'clock, you mean one o'clock in the morning and two o'clock in the morning?

A. That's right.

Q. What was the average situation? Did she often come home at five?

A. I don't understand you.

Q. Most of the time did she come home at five or was it later or earlier than five?

A. Well sometimes about six o'clock, six-thirty, quarter to seven.

Q. Were there any other times between five and one that she would come in any other hours?

Dep.
6/26/68
page 6 } A. On Thursday she was supposed to get there about 12:30 and sometimes she come in at 3:30.

Q. 3:30 in the afternoon?

A. In the afternoon.

* * * * *

Q. Could you tell us about how many instances you recall of coming in late in the evening that she would come in late in the evening?

A. What you mean? After she'd get off from work?

Q. Can you recall approximately how many times it was?

A. Practically every day after one or two weeks I started working for her.

Q. After one or two weeks then it was late every day?
A. Yes, sir.

Dep. 6/26/68 page 7 } Q. By late, that's what I want to know what you're talking about.
A. Be about six-thirty, quarter to seven, nine o'clock.

Q. Nine o'clock some evenings?
A. The latest.
Q. How often was it when she would come in say one to two o'clock in the morning?
A. It was about two nights. It wasn't but two nights she did.
Q. Two nights of that?
A. Yes.

* * * * *

Dep. 6/26/68 page 8 } Q. Seven o'clock, all right. Now in the morning who fixed the breakfast for the children?
A. I began to fix breakfast, to give them some cereal and things.

Q. When you say you began to, when did you begin to do this?
A. About two or three weeks after I started work.
Q. Did you discuss that with Mrs. Rowlee, who was going to fix breakfast?
A. No, I didn't tell her anything about it. When I'd get there she'd be dressed to leave.
Q. Had the children been fed when you'd get there?
A. No. She asked me would, the children hadn't woke up and wanted me to feed them.
Q. Asked you to feed them?
A. Yes.
Q. How about in the evening? Who cooked the dinner meal, the supper meal?
A. Sometimes I was cooking it for the little boy and fed the little girl.
Q. Why did you do that?
A. Because she said she was going to be late that evening.

Dep. 6/26/68 page 9 } Q. How often would you cook the supper meal, that is, the nighttime meal?
A. Right often.
Q. What do you mean?
A. If she was going to be late, like she said about three or four days out of the week.
Q. Three or four days out of the week she would ask you to cook it?
A. Cook the little boy something to eat.

Q. How about the little girl?
A. Well I feeds her around about five o'clock or five-thirty.
Q. How old was she at that time?
A. I think she was about a year old.
Q. Was she still taking a bottle at that time?
A. Yes.
Q. Now would Mrs. Rowlee always call you up and tell you she was going to be late, or what happened about that?
A. No.
Q. Did she sometimes call up and say she was going to be late?
A. Very seldom she would call me.
Q. Very seldom?
A. Um-hum.

Dep. 6/26/68 page 10

Q. Do you recall any occasion where she called you up and said she had to work late or go to any meetings or anything of that sort?
A. Yes. She told me that—she came home around about a quarter to seven and she asked me if I could go home and come back about nine o'clock, said she was supposed to be at a meeting and was going.
Q. What did you do?
A. Well I went home and brought my husband back with me and so we both stayed there that night till she came in.
Q. Do you remember about what time she got home that night?
A. About one-thirty.
Q. One-thirty? Did Mrs. Rowlee state to you where that meeting was going to be?
A. She didn't.

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Q. Did you ever have any occasion to call down where she worked to speak to her?
A. Yes, I did.
Q. Would you tell us about that?

Dep. 6/26/68 page 11

A. Well when I called in the afternoon to tell her about the baby and the lady that was there, she told me that she left at four o'clock.
Q. And what time was it that you called, about?
A. I called around about ten minutes to five or five o'clock.
Q. And had you talked earlier that day to Mrs. Rowlee at all?
A. Not that day I didn't.
Q. Now do you remember that day about what time she got back?
A. About eight-thirty that night she came in.

Sally Anderson

Q. And did she say anything to you about where she had been?

A. No, sir.

Q. She did not?

A. She didn't.

Q. Did Mrs. Rowlee, when you were working there, wear any type of nurse's uniform when she went to work?

A. Well sometimes she'd wear a uniform and sometimes she'd wear slacks.

Q. Slacks?

A. That's right.

Dep. 6/26/68 page 12 } Q. Were there any times when she took more than one set of clothes with her, more than what she had on?

A. Well she carried a uniform. She wore her uniform and she carried a pair slacks with her.

Q. Carried a pair of slacks with her?

A. Um-hum.

Q. Do you remember how often that was?

A. No, I don't recall.

Q. On those days when she went to work wearing a uniform and taking slacks with her, what would she have on when she got back home?

A. Sometimes a uniform, sometimes slacks.

Q. Sometimes slacks? Do you remember whether or not that was any particular day she wore one thing as opposed to the other? Do you remember whether there were any particular days she took slacks with her?

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Q. During the time that you were working there, was Mr. Rowlee ever at home?

Dep. 6/26/68 page 13 } A. Most of the times he'd be home on weekends.

Q. Were there any week days? Well if he was home on weekends, when would he usually go to work after that?

A. Sometimes if he don't leave on Monday afternoon, he'd leave on Tuesday morning early.

Q. Tuesday morning? Would he generally stay there through most of Monday, stay home through most of Monday?

A. He does.

Q. Do you remember whether or not Mrs. Rowlee would get home on time on Mondays or was she late?

A. She usually come home the regular time on Mondays.

Sally Anderson

Q. On Mondays. Now did you ever get any calls from Mrs. Rowlee inquiring about Mr. Rowlee, when she would ask you about him?

A. She would call me asking me had he done left going out of town.

Q. When would she do that?

A. On Tuesdays.

Q. On Tuesdays?

A. That's right.

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Q. Did she ask you anything about anything else other than had he left?

A. She asked me did he carry a suitcase or what did he carry with him.

Q. Would that happen frequently or not?

A. Most times she'd call and ask had he left to go out of town.

Q. Would she generally call you up every day during the week?

A. No, she don't call every day during the week.

Q. Do you recall whether she called you any other days other than times asking about him?

A. No she don't.

Q. Now on Tuesday if she would call you, would you tell her whether Mr. Rowlee had left town or not?

A. Well I told her I didn't know where he was going and the next time she called me she asked me, wanted to know did he carry a suitcase and I told her he carried something or other that looked like a shaving kit, just a black bag that he carried.

Q. Was that the same day?

A. No, not the same day. Some days I told her yes, that he was gone because he put some suitcases in the car.

Dep. 6/26/68 page 15

Q. Now on those days when she called, if you told her that he was gone, what time would she get home on those evenings?

A. About a quarter to seven, seven o'clock, maybe eight.

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Sally Anderson

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page 16 }

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Q. How often did this happen when she would come in and go back out?
A. Two or three times.
Q. Two or three times?
A. That's right.
Q. On those occasions about what time was it she got in at night?
A. Well one time it was one o'clock, one-thirty and another night it was two o'clock.

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page 17 }

Q. During all of this time did you stay there with the children?
A. I did.
Q. Was there anybody else with them other than you during this time?
A. Keeping them?
Q. Yes.
A. I don't think so. I was in the house with them those nights by myself, me and my husband.
Q. Did you ever notice at the beginning of the week any mud or grass or anything like that on the automobile that Mrs. Rowlee drove?
A. It would be some grass stuck in the fender.
Q. In the fender?
A. That's right.
Q. Where was the car parked at the house?
A. In the driveway.
Q. In the driveway? Is that a grass driveway?
A. Cement driveway.
Q. How about the road that comes up to their house? Any mud or grass on the road?
A. All cement, hardtop road.
Q. Was this located in the City of Roanoke, do you know?
A. It's in Cave Springs.

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page 18 }

Q. In the Cave Springs area?
A. That's right.
Q. Did you know the place where Mrs. Rowlee worked? Do you know where that was?
A. It was out on Williamson Road.
Q. Do you know how to get there from her house?

Sally Anderson

A. No, I don't.
Q. All right. How long have you been doing what you do, babysitting?
A. Oh, about fifteen or twenty years.
Q. All right. During the time that you were keeping those children, did you ever have any occasion to find either of them sick?
A. I did. Both of them has been sick.
Q. Did you ever say anything to Mrs. Rowlee about that?
A. I asked her once how come, I told her, I says, "Didn't you know Elon was sick before you left going to work?" and she said no. I said, "Well he had done throwed up in his bed."
Q. In his bed?
A. In his bed.
Q. Was that before you got there?

Dep. 6/26/68 page 19

A. When I come in the house she was driving out and I went on and checked on the children to see how they was doing and when I went in Elon had done throwed up in his bed.
Q. Was that right after you got there you went in and checked?
A. That's right, I did.
Q. And you found that as soon as you got there?
A. I did.
Q. Did you ever talk to her about calling a doctor at any time for the children?
A. I did about Brookie and Elon.
Q. Would you tell us about that?
A. Well she said she would take them down and get them a checkup and I said well I won't be in to work in the morning and she said, "Okay, I'll just take Brookie on down and get a checkup," and she carried Brookie down that morning and she had a infected ear and her throat was sore. She was right sick for a little over a week.
Q. For a week?
A. Over a week.
Q. Before that had you said anything to her about taking Brookie to the doctor or the fact that Brookie appeared to be sick?

Dep. 6/26/68 page 20

A. Yes. I told her that Tuesday afternoon. I said, "Brookie needs to go to the doctor." I said, "She's sick."
Q. What did Mrs. Rowlee say about that?
A. She said, "I want you to keep giving her baby aspirin."

Sally Anderson

Q. That was on Tuesday?
A. Yes, on Tuesday.
Q. Did you say anything the next day about it?
A. Wednesday I did. I said, "I want to take Brookie to the doctor but you all are going to have to pay for it," but she said, "I'll take her tomorrow." I said, "I'm not coming in tomorrow," that's supposed to be on Thursday. I did come in on Friday and she had carried Brookie to the doctor.

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Q. During the time you were working there, Mrs. Anderson, did Mrs. Rowlee ever receive any telephone calls from men?
A. She did.
Q. Do you know whether or not the person talking to you was Mr. Rowlee?
A. No, it wasn't him when he called and asked me for her.
Dep. 6/26/68 page 21 }
Q. Who?
A. Mr. Hale called and asked me for Mrs. Rowlee.
Q. Mr. Hale?
A. Mr. Hale.
Q. How do you know it was Mr. Hale?
A. Well Mr. and Mrs. Rowlee was back in the bedroom and when he called and I said, "She can't come to the phone right now," she always told me to ask and see whose call comes through and he told me, he said, "Just Mr. Hale," and I said, "Well I'll have her to call you," and he said okay.
Q. Did you tell her to call Mr. Hale?
A. I told her that Mr. Hale called.
Q. Was Mr. Rowlee there when you told her?
A. No, he wasn't.
Q. He was not?
A. He wasn't around when I told her.
Q. Do you know whether he called on any other occasions?
A. Well he called her on the day they was moving.
Q. The day they were moving?
A. That's right.
Q. Did he say who it was at that time?
A. He said it was Mr. Hale.

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Sally Anderson

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Q. Who generally bought the groceries, did the weekend shopping for the groceries, Mrs. Anderson?
A. Mr. Rowlee.
Q. Did he go by himself or did Mrs. Rowlee go with him?
A. He'd go by himself and take Elon with him.
Q. Would there be enough to last during the week?
A. Definitely it does, all except the milk.
Q. The milk?
A. All except we ran out of milk sometimes.
Q. What did you do when you ran out of milk?
A. I go to the store and buy it.
Q. Did you ever ask Mrs. Rowlee about what to do when the milk ran out?
A. No. Mr. Rowlee told me if the milk ran out to get Mrs. Rowlee to give me the money and get it and when the milk ran out she told me to go ahead and get it and she'd give me the money.

Dep. 6/26/68 page 23 }
Q. What kind of milk did you buy, bottle milk?
A. Pet milk.
Q. Pet milk? What size?
A. Half gallon.
Q. Half gallon?
A. Half gallon or either a gallon.
Q. Was there ever any other kind of milk in the house, any canned milk, evaporated milk?
A. None but this dried milk they had for the dogs.
Q. For the dogs?
A. Yeah.
Q. Did you ever use that for the children at all?
A. No. Mrs. Rowlee told me all I had to do was just mix a little bit up for the children if I didn't have time to go down to the store to get some, but I did take the children in the car and went and got some milk.

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Dep. 6/26/68 page 24 }

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Q. Mrs. Anderson, when you would come into work in the

Sally Anderson

morning, what kind of condition was the house in when Mr. Rowlee was away?

A. Pretty bad condition.

Q. What do you mean by that?

A. Beer bottles and things all in the house.

Q. Beer bottles?

A. That's right.

Q. What other things are you talking about?

A. Cigarette trays all sitting around. I'd just straighten up.

Dep. 6/26/68 page 25

Q. When you would come in in the morning the house was in this condition when you got there?

A. That's right.

Q. What would you do? Would you clean the beer bottles up and stuff of that sort?

A. Yes.

Q. Would they be cleaned up out of the house by the time you left that day?

A. The house would be clean and straightened up when I got ready to leave.

Q. Where would the beer bottles be?

A. In the garbage.

Q. In the trash?

A. That's right.

Q. How about when you would get to work the next morning? What would the house look like?

A. One or two in the living room on the floor and the little baby would be playing out of the ash trays.

Q. Were any cigarette butts in the ash trays?

A. That's right.

Q. Was the baby playing with those or not?

A. That's right.

Q. Do you mean the little baby?

A. Brookie, the girl.

Q. The little girl?

A. That's right.

Dep. 6/26/68 page 26

Q. Would she have any of the stuff in her mouth?

A. Well sometimes she does and sometimes she don't.

Q. Well was Mrs. Rowlee there when you got there in the morning?

A. She'd be there but when I'd come in most of the time she'd be ready to go out.

Sally Anderson

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Q. There would be? How about if he left to go to work on Mondays and Tuesdays and you came there during the rest of the week, would you find this condition there during the rest of the week?

A. Yes.

Q. What about the sheets and bed clothing, what was the condition of them when you would come in the morning?

A. They'd be dirty and she'd ask me to wash them.

Q. To wash them? How often would you do this?

Dep. 6/26/68 page 27

A. I washed about once or twice a week, once a week, but I washed the children's things practically every day.

Q. Practically every day?

A. That's right.

Q. When you say they needed washing, what was wrong with them?

A. I'd rather not say.

Q. I think you're going to have to testify what was wrong with them, Mrs. Anderson.

A. They was dirty on the bed, blood stains on them.

Q. Blood stains on the bed?

A. That's right.

Q. You are talking about her bed or the children's bed?

A. Her bed.

Q. On Mrs. Rowlee's bed?

A. That's right.

Q. All right, now, how about on the children's bed clothing?

A. Well I washed their clothes practically every other day, sometimes most every day, it just depended on how dirty they are and if they spits up on the bed.

Dep. 6/26/68 page 28

Q. And you say that was practically every day?

A. Every day. I practically washed every day.

Q. Would the small child, the little girl, would she be asleep most of the mornings when you got there or awake?

A. Sometimes she'd be awake.

Q. When she was awake would she still be in bed or would she be out?

A. Most of the time she'd be in bed.

Q. Still in bed?

A. Sometimes.

Q. Was she wearing diapers at that time?

A. She was.

Sally Anderson

Q. What would be the condition of them when you got there?

A. Well she'd be soaking wet and I had to put cornstarch on her to get the rash off her, the soreness off her.

Q. Was that a bad condition, the rash?

A. It was pretty bad for rash.

* * * * *

Dep.
6/26/68
page 29 } Q. What was he like from the standpoint of was he a happy child or crying much or how did he behave most of the time?

A. Most of the time just looked like he was just nervous and scared. He'd whine all the time.

Q. Was that while you were there?

A. That's right.

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Dep.
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page 30 }

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Q. How about the time when the little girl was sick, did she call any of those days to find out about her?

A. No, the only thing she would say when she call was to keep giving her baby aspirin.

Q. Do you remember about when Mr. Rowlee left going to Richmond?

A. To live?

Q. Yes.

A. It was on the 26th or the 27th. I don't remember.

Q. Before he actually left, had he ever said anything to you about moving to Richmond, that he was going to have to move to Richmond?

A. He did.

Q. Did he ever tell you what he was going to have to do?

A. What you mean?

Q. Did he tell you why he was going to have to move to Richmond, anything of that sort?

Dep.
6/26/68 A. He told me he was going to move to Rich-

Sally Anderson

page 31 } mond because the company told him that they were going to have to place him down there and I says, "Where is you all going to stay at down there?" and he said he didn't definitely know right then. That's when they first come off the trip. Then he told me he had told Mrs. Rowlee he was going to Richmond and said she didn't believe that he was going to move.

Q. Did you ever talk to Mrs. Rowlee about them moving to Richmond? Did you ever have any discussion with Mrs. Rowlee about the two of them moving to Richmond?

A. I did.

Q. Would you tell us what she had to say about it?

A. She said no she wasn't going to move down there and she said she was going to stay here.

Q. She was going to stay in Roanoke?

A. That's right, said she wasn't going with him.

Q. Did she say why?

A. She said they just couldn't get along.

Q. Was this actually before they moved?

A. Before they moved.

Dep. 6/26/68 page 32 } Q. How long before that was it? Do you remember?

A. That's before they taken—before the van came and they moved. I think it was either around about the 14th or 15th of December, something like that.

Q. Would you say then about two weeks before they moved you talked to her about it?

A. That's right.

Q. And that's when she said she wasn't going to move with him?

A. She said she wasn't going to move with him. That's after they had done been, after that trip.

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Dep. 6/26/68 page 33 }

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Q. When Mr. Rowlee left, did he leave any money for Mrs. Rowlee?

A. He did. He left me $20.

Sally Anderson

Q. What did he tell you to do with it, do you remember?
A. He told me to tell her if she wanted to come to Richmond she could get a ticket and come on down.
Q. Did you give her the money?
A. I give her $20.
Q. Did you give her the message that he had gone?
A. I did give it to her.
Dep. Q. Did she go to Richmond that day?
6/26/68 A. No, she hadn't left when I left the house
page 34 } that day they moved.

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Dep.
6/26/68
page 35 }

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Q. Did she, when the children were up, would
Dep. she tell them goodbye and kiss them goodbye or
6/26/68 not?
page 36 } A. She used to.
Q. What do you mean, used to?
A. When I first started working she used to kiss both of them.
Q. Did that continue?
A. No.
Q. How long did that last?
A. It didn't last very long.
Q. What would you say? A week or two weeks, a month, what?
A. About two or three weeks.

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Q. All right, now, around the house on Mondays sometimes, I gather from your testimony Mr. Rowlee would still be there, is that correct?
Dep. A. That's right.
6/26/68 Q. What would he be doing during that time?
page 37 } A. Well he'd be cleaning the floor up and on the back porch, he'd clean that up and he'd mow the grass and he'd take Elon to get haircuts and he comes back.
Q. Were you ever there any times when Mr. and Mrs. Rowlee both were there?

A. About once or twice.
Q. Would Mr. Rowlee be working around the house then or not?
A. That's when he'd be out there cutting the grass or feeding the dogs or doing something.
Q. Did he help you with cleaning up on those days he was there?
A. Well he would run the mop and things in the bedroom or clean out the bathroom once in a while.
Q. Was this mostly on Mondays?
A. On Mondays.

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Dep.
6/26/68
page 38 } CROSS EXAMINATION

By Mr. Kauffman:

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page 41 }

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A. Well sometimes, once she stayed out. She came home and she was going back out again at nine o'clock that afternoon and told me that she was going to the meeting.
Q. To the dental assistants meeting?
A. That's what she said. She told me not to tell Mr. Rowlee anything about it.

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page 42 }

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Q. And after you had been working for Mrs. Rowlee for a while she asked you to feed the children when you came in

in the morning because very frequently they wouldn't be awake when she left before eight o'clock?

A. If they were up she didn't feed them.

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Q. Now I object to your surmise. Mrs. Anderson, it's true that you would feed the children most every morning?

A. That's right.

Q. And you were expected to feed them every morning?

Mr. Roberts: I object to what she was expected to do.

Q. Did Mrs. Rowlee tell you to feed them?

A. She asked me, she said, "The children hadn't been fed," and she said, "I'll see you later."

Q. Well didn't she leave instructions with you to feed the children every morning?

A. No she didn't. She asked me to feed the children at lunch time. That was the rule when I first got there.

Q. I understand when you first got there, but when she started going earlier, didn't she ask you to feed the children?

A. She didn't come out and ask me to feed them, she just said, "The children haven't ate."

Q. Well you took it from that she intended for you to feed them?

A. I just went on and fed them because they needed to be fed.

Dep. 6/26/68 page 44

Q. Do you have any children, Mrs. Anderson?

A. No, I don't.

Q. You've babysat for many other people that have children?

A. I sure have.

Q. Do most households feed children before seven o'clock?

Mr. Roberts: I object to what most households do. It's not relevant.

Q. Now I want you to answer the question if on a lot of times, households that you work, you haven't had to feed children after eight o'clock in the morning instead of before eight o'clock in the morning?

A. The Rowlees was the only set I had to feed the children. None I have been babysitting with that I ever remember.

Q. Have you ever worked for anybody else that had to leave home at twenty minutes to eight or eight o'clock?

Sally Anderson

A. I'm working for a lady now, she leaves home at seven-thirty.

Q. How old are her children?

A. One is eight and one is six and one is three and the other one is two.

Q. And did Mrs. Rowlee ever have the children up by the time you got there?

Dep. 6/26/68 page 45

A. Part time.

Q. Part of the time?

A. That's right but they wouldn't be dressed. They'd be up watching T. V. or laying around on the floor.

Q. And she asked you to dress them for her?

A. Yes, she did.

Q. And wash their clothes for her?

A. Yes, she did.

Q. And you did that?

A. I did.

Q. And did she ask you to stay at the home until she got home?

A. She did.

Q. And you stayed?

A. I did.

Q. You never left until she got home?

A. That's right. I couldn't go off and leave the little children by themselves.

Q. And she paid you for overtime or Mr. Rowlee?

A. Not all the time.

Q. Did you object to working until she got home?

Dep. 6/26/68 page 46

A. Did I tell her about I was gonna quit or anything, you mean?

Q. Yes.

A. No.

Q. Now when you were at the Rowlee home, Mrs. Anderson, and Mr. Rowlee was home, did you ever see him drinking?

A. Once.

Q. As a matter of fact he was passed out in the kitchen once?

A. He was laying on the kitchen floor once.

Q. Did he appear to be drunk?

A. He drank two cans of beer and he layed in the kitchen floor.

Q. Now this sickness that you have talked about as far as Brookie was concerned, would you describe that as the

Sally Anderson

flu? Didn't you think she had the flu or was it an upset stomach?

A. She couldn't keep no food on her stomach. She had an infected ear and infected throat.

Q. And when you explained this to Mrs. Rowlee she couldn't take the child to the doctor on Wednesday but did take *him* on Thursday a day after?

A. Yes, she carried *him* to the doctor.

Q. And had she told you that you could take her to the doctor and Mr. Rowlee would pay for it if the child got sick?

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6/26/68
page 47 }

A. No, she didn't tell me to take the baby to no doctor.

Q. Did she tell you you could take her if she got sick?

A. No, she didn't tell me if the child got sick to take her to no doctor. She didn't mention it.

Q. But the child did get all right after she took her to the doctor on Thursday?

A. No, it was about a week after she carried her to the doctor she began to get better.

Q. Do you know whether or not she took her to the doctor on the weekend?

A. I wouldn't know.

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page 49 }

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Q. He called twice I believe you said?

A. He had been calling there. A man had been calling there and I never did ask who he was. Sometimes I told Mrs. Rowlee a man had been calling there for her and she said, "From now on, if they call ask who it is."

Q. And the only man that called that you know of was Mr. Hale?

A. Some of them called wouldn't give me the name but Mr. Hale told me his name.

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Sally Anderson

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6/26/68
page 54 }

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REDIRECT EXAMINATION

By Mr. Roberts:

Q. Mrs. Anderson, let me ask you just a couple more questions and I think we can let you go fairly soon. You testified when Mr. Kauffman was asking you some questions that there was one time when Mrs. Rowlee came home and then asked you if you could come back so she could go to a meeting around nine o'clock.

A. That's right. That was when she came in that morning at one-thirty.

Q. And it was on that night she told you not to tell Mr. Rowlee about her going out, was that correct?

A. That's right.

Q. Did she tell you why she didn't want you to tell him?

A. She didn't say. She just said not to mention it to him.

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Dep.
7/15/68
page 1 }

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The depositions of GARY MELVIN FAY, JEAN ANN GRAY, ELSIE LA MACCHIA and DAVID Y. WOEHR, taken before me, Sophie H. Galini, a Notary Public for the City of Fulton, State of New York, pursuant to notice hereto annexed, and pursuant to consent of counsel for both parties, at the law offices of Hillick, Conley, Hillick & Conley, 306 East Broadway, Fulton, New York, on the 15th day of July, 1968, between the hours of 12:00 o'clock noon and 4:00 o'clock p. m. of that day, to be read as evidence on behalf of Elon Kevan Rowlee, II, in a certain chancery suit pending in the Circuit Court for the County of Chesterfield, wherein Elon

Gary Melvin Fay

Kevan Rowlee, II, is Complainant, and Joanne Judson Rowlee is Defendant.

PRESENT:

James C. Roberts, Esquire,
for the Complainant;

Elon Kevan Rowlee, II,
the Complainant, in person;

Jay G. Kauffman, Esquire,
for the Defendant;

Joanee Judson Rowlee,
the Defendant, in person.

Dep.
7/15/68
page 2 } GARY MELVIN FAY, sworn, testified as follows:

By Mr. Roberts:
Q. How old are you?
A. Twenty-three.
Q. Where do you live?
A. R. D. #2, Fulton.
Q. R. D. #2, Fulton, New York?
A. Yes.
Q. How long have you lived there?
A. Off and on all my life.
Q. In Fulton?
A. In Fulton.
Q. Are you married?
A. Yes.
Q. Do you have any children?
A. Yes.

* * * * *

Dep.
7/15/68
page 3 } Q. Do you know the Defendant, Joanne Judson Rowlee?
A. Yes.
Q. How long have you known her?
A. Six or seven years, I guess, eight years maybe.
Q. Was there any period of time prior to her marriage to Kevan Rowlee that you were going with her or dating her?

Gary Melvin Fay

A. Yes.
Q. During that period of time, did you ever have sexual intercourse with her?
A. Yes.
Q. Was that once or twice or often or infrequent or what?
A. Often.
Q. Often?
A. Yes.
Q. After she was married to Kevan Rowlee, which I believe took place in 1964, have you since then heard anything from her?
A. Just once.
Q. Would you tell us approximately when that was?
A. Around 1966. I couldn't tell you exactly when.
Dep. 7/15/68 page 4 } Q. 1966?
A. Right.
Q. Was it in the day or night or what?
A. Night.
Q. How did you hear from her?
A. She called me on the telephone.
Q. At home or work?
A. Home.
Q. What did she want?
A. She wanted me to meet her in the Nestle's parking lot.
Q. She wanted you to meet her at a parking lot?
A. Yes.
Q. When you say Nestle's parking lot, where is that located?
A. Fay Street and Seventh and Sixth Street.
Q. Did she state to you what she wanted?
A. No, she didn't.
Q. What did you do?
A. I didn't go. I told her no.
Q. And, you did not go?
A. I did not go.
Q. What was the reason for that?
A. I don't know. What—for not going?
Q. Yes.
A. I was married at the time.

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Jean Ann Gray

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Q. Was it ever stated to you by Joanne that she was going to have a baby by you?
A. Yes.

* * * * *

Q. Did you do anything about it?
A. I give her money to go to California to have the baby, yes.
Q. Do you know whether or not she went to California?
A. Yes, I know she went to California.

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page 10 } JEAN ANN GRAY, sworn, testified as follows:

By Mr. Roberts:

Q. Mrs. Gray, will you speak up loud enough so that both Mr. Kauffman and the Court Reporter can hear you. Are you Jean Gray?
A. Yes.
Q. What is your address?
A. 305 West Third Street, Fulton.
Q. Fulton, New York?
A. Yes.
Q. How old are you?
A. Twenty-five.
Q. Are you married?
A. Yes.
Q. Do you have any children?
A. Yes.
Q. How many?
A. Two.

* * * * *

Jean Ann Gray

Dep. 7/15/68 page 11 } Q. Have you lived generally in the Fulton and Syracuse area most of your life?

A. Since I was seventeen, yes.

Q. Do you know the Complainant in this case, Kevan Rowlee?

A. Yes.

Q. Do you know the Defendant, Joanne Rowlee?

A. Yes.

Q. How long have you known the two of them?

A. I have known Kevan since I met my husband which was approximately six years ago, and I have known Joanne just prior to her marriage to Kevan.

Q. Since Kevan and Joanne have married, have you and your husband had any occasion to be out with them?

A. Yes. We went out quite a few times, and we visited back and forth at times.

Q. You mean in each others homes?

A. Yes.

Q. When you say go out, what do you mean, go out for entertainment in the evening?

A. Yes.

Q. Generally, what are you talking about, what kind of places would you go?

Dep. 7/15/68 page 12 } A. We went to bars and places where they have a band, such as the Bowlarama, Lakeview. I believe we went to Bodi's, any of the places we went to, were in the habit of going to.

Q. On the occasions of your going out with the Rowlees, have you ever had any opportunity to talk to Mrs. Rowlee about any of the people who were there at these places?

A. On several occasions, Joanne pointed out a certain fellow in the room and remarked that he turned her on, or he gave her hot pants on one occasion. That was the occasion I said to her she was married and shouldn't talk like that.

Q. Do you recall what she said, if anything?

A. She said it doesn't do any harm if you look around.

* * * * *

Dep. 7/15/68 page 13 } Q. Did you and your husband ever have occasion to visit in the Rowlees' home anywhere other than here in the Fulton area?

A. Yes. We visited them—I don't know whether it was in Virginia or Maryland, when they lived upstairs by the river.

Jean Ann Gray

Q. Do you remember about how long you stayed on that visit?

A. I think we stayed two days, maybe three. I think it was two or three days.

Q. Did the Rowlees have any children at that time?

A. Yes, they had Elon.

Q. He's a boy?

A. Yes.

Q. How old was he at the time?

A. He was just a baby at that time, I think.

Q. Could you recall how old he was?

A. I'm trying to recall. He's about a year younger than my boy. He must have been around a year, maybe. I'm not sure. He was little. I'm not sure about the age.

Q. During that time, did you have an opportunity to see how the child was sleeping in its bed?

A. Yes. When he was put to bed, he was put in a harness that went over his shoulders, around his waist, and was tied to the sides of the bed in such a manner that he couldn't move if he wanted to.

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Q. Was he face down or face up?

A. Face down. He could just about turn his head. He was in such a way that he was held down.

Q. Did you notice whether he tried to move or not?

A. Yes, on occasions he seemed to try, but he would make little noises like he was frustrated. He could manage to kind of bend to the side, but that's all.

Q. Who put him in bed in that fashion?

A. Joanne.

Q. Was there any conversation about what the reason was for that?

A. The first time I saw her I told her it was barbaric. He was a little baby, and he wasn't going any place. Then, she said that was so he knew when he went to bed he was to go to sleep and not fool around. Those were her exact words.

Q. Did you have occasion during this visit or at any other time to see who fed the child and changed the child?

A. Joanne did on occasion, and Kevan also did. Kevan was the one who gave the child the love and affection. Joanne wasn't particularly interested in him at all except to keep him out of her way.

* * * * *

Elsie La Macchia

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* * * * *

Q. Did you have occasion to visit them there?
A. In Binghamton, yes.
Q. About how long afterwards was that that you saw them again?
A. That we saw them in Binghamton?
Q. Yes.
A. I was pregnant for my daughter, I think. I don't remember times. I remember it by where they lived.
Q. Did you have any later occasion to see the child, Elon?
A. I saw him when we visited them there.
Q. Could you state for us how he was being handled at that time?
A. In the same manner.
Q. Do you mean from the standpoint of this bed and harness, or what?
A. Yes.
Q. Did you ever have an opportunity to see Mrs. Rowlee at any parties or anything when her husband was not there?

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A. She came to Vinnie's camp one day when several couples in our crowd were there swimming and water skiing, and Joanne came with another girl. I don't recall who she is. I don't think I knew the girl, and she made the remark sort of in offhand manner that she couldn't go swimming or skiing because she didn't want to get her hair wet because she had a date.
Q. What time of day was this going on?
A. In the afternoon, I believe. We were swimming.
Q. Do you know where Kevan was at the time of this?
A. I believe he was out of town, perhaps New York or something, on a business trip.

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ELSIE LA MACCHIA, sworn, testified as follows:

By Mr. Roberts:
Q. Are you Elsie Raymond La Macchia?

Elsie La Macchia

A. Yes.
Q. Where do you live?
A. 1013 Emery Street.
Q. What city is that?
A. Fulton.
Q. How old are you?
A. Twenty-four.
Q. Are you married?
A. Yes.
Q. Do you have children?
A. Yes.
Q. How long have you lived in the Fulton area?
A. Two years.
Q. Do you know the Complainant in this case, Kevan Rowlee?
A. Yes.
Q. Do you know the Defendant, Joanne Rowlee?
A. Yes.
Q. Would you state for us how long you have known these two people?

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A. I don't know. As long as they have been married.
Q. As long as they have been married?
A. Yes.
Q. Have you ever had occasion, Mrs. La Macchia to go out in the evenings with Joanne Rowlee?
A. Yes. I have.
Q. Was this at a time when either of your husbands were with you?
A. No.
Q. What type places did you go to?
A. Places where they had a band or not.
Q. Was this a place where they served drinks or anything of that sort?
A. Yes.
Q. On the occasions of your going out with her to any of these places, did you observe her with any men?
A. Yes.
Q. Can you state when this was, the best of your recollection?
A. In the winter of '66, '67.
Q. Would you state what happened on the occasion that you're talking about now?
A. We were sitting at the bar, and this fellow come in that Mrs. Rowlee was supposed to know her brother,

Dep. 7/15/68 page 24 } she danced with him, and she gave him her address.

Q. She gave him her address?

A. She wrote it down.

Q. She wrote it down on a piece of paper, and gave the paper to him?

A. Yes.

Q. How did you all get there?

A. We drove there. She drove.

Q. In her car?

A. Yes.

Q. Had she picked you up?

A. Yes.

Q. After she gave her address to this man, did you all stay there any longer?

A. Yes.

Q. How long did you stay there after that?

A. I don't remember how long we were there.

Q. Was it early or late in the evening?

A. Late in the evening.

Q. After you left, did you go any place else?

A. No.

Q. What happened after that?

A. She dropped me off, and she went home, to my knowledge.

Q. Dropped you off at your home?

Jep. 7/15/68 page 25 } A. Right.

Q. Did you have any occasion after that to get in touch with her the next day?

A. Yes. I called her from work because I wasn't feeling well.

Q. About what time was that?

A. It was close to noon, about eleven o'clock.

Q. About eleven o'clock in the morning?

A. Yes.

Q. What did you call her for?

A. I called her to come and take me home.

Q. Who answered the telephone?

A. I reckon it was this fellow that was with her.

Q. Did you recognize his voice?

A. Yes. It was the same fellow because he came with her.

Q. What do you mean, to pick you up at work?

A. Yes.

Q. The two of them still were together the next morning?

A. Yes.

Elsie La Macchia

Q. What happened, did she take you home then?
A. Yes.

* * * * *

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page 26 } Q. Did she have any children at that time?
A. Yes, two—a boy and a girl.
Q. Were they with her?
A. Yes.
Q. Were they with her when she came to pick you up?
A. Yes.
Q. Was she carrying her children?
A. He was holding the baby.
Q. Had you ever seen this man before that?

* * * * *

Q. Do you know where Mr. Rowlee was at the time that is, the night and the next morning?
A. Mr. Rowlee was away.
Q. Out of town?
A. Yes.
Q. Do you know whether he was working or what?
A. I take it he was working.
Q. Mrs. La Macchia, did your husband have
Dep a camp anywhere?
7/15/68 A. Yes, he did. He didn't own the camp, but
page 27 } he used it on the river.
Q. When he was down there at the camp, would you ever be down there with him?
A. Yes.
Q. Do you know of any occasions when Mrs. Rowlee would come down to the camp?
A. She came down with a girlfriend.
Q. Was Kevan with her then?
A. No.
Q. Do you know a man named Dave Woehr?
A. Yes.
Q. Do you know whether or not when she came down to the camp Mr. Woehr was with her?
A. I think so. I can't be positive.
Q. Was this in the day time or night time?
A. Late afternoon.
Q. What sort of camp was it?

A. Just a camp. There's a river on the other side of it.
Q. How many people would be there ordinarily on one of these occasions that you're talking about?
A. I don't know, probably a few couples.
Q. Do you know whether Mr. Woehr had anybody with him at that time when he would come?

Dep. 7/15/68 page 28 }
A. I don't think so.
Q. You think he came alone?
A. Yes.

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By Mr. Roberts:
Q. Mrs. La Macchia, on this occasion you're referring to, were you married at that time?
A. No.
Q. But, Mrs. Rowlee was?
A. Yes.
Q. Since you have married and had children, have you gone out with her any more like this?
A. No.
Q. Would you do so now?
A. No.
Q. During the time you knew her when she was married, did you go on any other occasions out with her?
A. Yes.
Q. Did you dance on those occasions with men or boys in these places?
A. Yes.
Q. Did she?
A. I believe so, yes.
Q. Was her husband there on those occasions?
A. No.

* * * * *

Dep. 7/15/68 page 1 } Statement of David Y. Woehr taken at Beneficial Finance Company, Liverpool, New York, on July 15, 1968.

David Y. Woehr

DAVID Y. WOEHR, sworn, testified as follows:

By Mr. Roberts:
Q. Would you please state your full name, Mr. Woehr?
A. David Young Woehr.
Q. Where do you reside?
A. R. D. #3, Fulton, New York.
Q. How old are you?
A. Twenty-four.
Q. How long have you been living at that address?
A. Approximately one year.
Q. Are you married?
A. I am separated.

* * * * *

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page 2 }

* * * * *

Q. Do you know the Complainant in this case, Mr. Kevan Rowlee?
A. Yes, I do.
Q. Do you know the Defendant, Joanne Rowlee?
A. Yes, I do.
Q. How long have you known them?
A. I have known Kevan for twelve years, and Joanne for two, three—how long have I—four or five years.
Q. During any of this time that you have known them, did you live in Fulton?
A. Yes, I did.
Q. Did you have occasion during the time that you lived there in Fulton, and after Joanne and Kevan were married, to go out with her—that is, Joanne?
A. Yes, I did.
Q. Do you recall approximately the first time that you had contact with her?
A. I believe it would be the Fall of '65.
Q. The Fall of '65?
A. Or excuse me, the Spring of '66.
Q. How did you happen to meet her?
A. I met her through Kevan. She was married.
Q. Was Kevan working out of town at that time, or do you recall?

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page 3 }

David Y. Woehr

A. I believe at the time, Kevan was employed by a Catering Service, wasn't it?

Q. Whatever you recall?

A. I believe it was a Restaurant Service, and he would go out of town.

Q. At that time, did the Rowlees have any children?

A. Yes, they had children—a boy.

Q. Would you be able to recall and tell us whether or not during any of this time you had sexual intercourse with Mrs. Rowlee?

A. Yes, I did.

Q. Do you recall any specific occasions during this time in 1966 that you were talking about, a specific occasion during this time of 1966?

A. I believe in May of '66. I went down to the Rowlees' house, and she and I went out on my motor cycle.

Q. What caused you to go down there the first time?

A. Mrs. Rowlee stopped at the apartment we were living in at Syracuse—University apartment.

Q. Were you married at that time?

Dep. 7/15/68 page 4 } A. Yes, and when I walked her back to the car, she invited me to stop down.

Q. She invited you to come to her house?

A. Yes.

Q. Did she and Kevan have a place at that time, a house or apartment?

A. They were renting a house on Oneida Street.

Q. Did you accept her invitation and go there?

A. Yes, I did.

Q. Was it at this occasion you went riding with her on the motor cycle?

A. Yes.

Q. What did you all do on that occasion when you rode—where did you go?

A. Just rode and stopped frequently at different bars.

Q. Did you all have drinks?

A. Yes.

Q. Do you know whether or not either of you got intoxicated?

A. I believe we were both feeling pretty good.

Q. What period of time did this cover?

A. Early afternoon until 8:30 or 9:00 that evening.

Q. 8:30 or 9:00?

Dep. 7/15/68 page 5 } A. I believe—it was dark.

Q. Did she bring her children with her?

A. No, she didn't.

David Y. Woehr

Q. Where were they?
A. I believe the child was in bed.
Q. At her house?
A. Yes.
Q. Was there anybody else there when you went to pick her up?
A. No, not that I recall.
Q. Just the child?
A. Yes.
Q. How many hours were you all gone, would you say?
A. At least eight hours—seven or eight.
Q. Did you all go to any motel on that occasion?
A. No, I didn't have enough money.
Q. Was it suggested that you go to a motel?
A. Yes.
Q. By whom?
A. I believe it was kind of a mutual understanding. She wanted it and so did I.
Q. You didn't have money to do it at that time?
A. No.

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Q. Did you have sexual intercourse with her on this occasion?
A. After we got back to the house.
Q. Was her child there at that time?
A. It was in the crib.
Q. Was the child in the same room or a different room from where you all were when the intercourse took place?
A. In the same room.
Q. When you got back to the home, was there anybody there other than the child?
A. No one other than.
Q. Was the child awake?
A. The child was sleeping.
Q. After that occasion, did you hear from Mrs. Rowlee any further?
A. Yes, she would call.
Q. She would call?
A. Yes.
Q. Where would she telephone you?
A. At the apartment in Syracuse. Then, when I was in Fulton I could stop and see her.
Q. How frequently would this thing be, her calling you?
A. We would talk to each other once a week.

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Q. Over how long a period of time did this go?
A. I left Syracuse in November, so that would be all summer.

David Y. Woehr

page 7 } Q. All of the summer?
A. Yes.

Q. During that period of time, did you have any other occasions where there was sexual intercourse between the two of you?

A. Yes.

Q. How frequent would that be?

A. At least once a week, once every other week.

Q. Once a week or once every other week?

A. Sometimes twice a week. It would depend on my exams. I had to study quite a bit, and couldn't get down all the time.

Q. Did this cover the entire period you refer to up to November of that year?

A. Yes. It was November I left school and went to work for a construction firm in Oswego—Nine-Mile Point, and the Rowlees moved to Oswego, and Kevan was away selling, so they moved into their new house, so I helped them a little bit, and everything, so it was convenient for me to stop in sometimes when it was a rainy day and I didn't go to work on construction—if they didn't work, or sometimes after I got out of work I would stop.

Q. Did you on these occasions also have sexual
Dep. intercourse at their house?
7/15/68 A. I would say probably ninety-five percent of
page 8 } the time.

Q. During all that period of time, was the child you referred to in the house?

A. Yes, the children were in the house.

Q. Was anyone else in the home at that time?

A. No.

Q. I believe you testified earlier about receiving some telephone calls from Mrs. Rowlee. What did she say when she called you?

A. This would be just—well, Kevan was away selling.

Q. Did she invite you over on those occasions?

A. Yes. By the time they moved to Oswego, I knew Kevan's schedule pretty well then.

Q. You were going there that frequently that you knew his schedule?

A. Probably I would stop in at least a couple of times a week while I worked in Oswego.

Q. Who took the initiative during this early period of time starting off as between you and Mrs. Rowlee?

A. I would say Joanne took the initiative.

Q. Would you tell us what she would say to you when she took the initiative?

David Y. Woehr

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A. It wasn't so much say.
Q. What did she do?
A. Just friendly—hug and kiss.
Q. Were there ever any occasions when she took hold of you or took hold of any part of your body?
A. I remember it well, the first time when we went on the motor cycle she grabbed my penis.
Q. She did?
A. Yes.
Q. That was the first time?
A. Yes.
Q. Did she say anything at that time?
A. Just that she wanted to go to bed.
Q. And, you all did so on that first occasion?
A. Yes.
Q. Thereafter, this continued on into the time when they moved to Oswego. Is that correct?
A. Yes, it did.
Q. Do you know when they moved away from Oswego where they went?
A. Yes, they moved to Virginia—Roanoke, Virginia.
Q. Do you remember approximately when that was?
A. I helped them pack and everything else—approximately, it must have been December or January. I really —I went down to visit them over Easter.

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Q. You went to Virginia to vist them?
A. Yes, over Easter.
Q. Was that at anyone's invitation?
A. Kevan's invitation.
Q. Did you on the occasion of that visit have sexual intercourse with Mrs. Rowlee?
A. No, I didn't.
Q. Since the time they moved to Virginia, have you had any occasion to see Mrs. Rowlee at all?
A. Yes. I have seen her once since then. She came up for Christmas.
Q. She came to Fulton?
A. Yes, she was at her parent's house.
Q. That is, Christmas of 1967?
A. Yes.
Q. How did you come to see her on the occasion of that visit?
A. I was here at the office. She called and said she was home. I said, "All right, I'll be down to see you after work." I didn't get out of work here until 9:00, 9:30. I believe I was at Joanne's mother's house probably 10:30.

Q. 10:30 that night?
A. Yes.

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Q. Who was there at the house when you got there?
A. I don't—I didn't see anyone else there.
Q. No one else was there?
A. I didn't see anyone.

Q. Did you go in?
A. Yes.
Q. How long did you stay in the house?
A. I was in the house probably fifteen, twenty minutes.
Q. Did you, while you were there at the house, did she say anything about anybody else being there?
A. No, she didn't.
Q. Do you know if the children were there in the house at the time?
A. I don't know. I didn't see them.
Q. You didn't see them?
A. No.
Q. Did you have sexual intercourse with her on that occasion?
A. Yes.
Q. Did you all have it there at the house or somewhere else?
A. No, we went out in the car and drove in the back.

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Q. And, drove—
A. There's a road back of the house, and we drove there.
Q. What did you do that evening after you all had sexual intercourse?

A. There was a snow storm, so I took her back to the house and she went inside, and I drove home.
Q. Did you go back in with her?
A. No, I didn't.
Q. Have you seen her since that time?
A. No, I haven't.
Q. Have you received any telephone calls from her since that time?
A. Yes, I have received one.
Q. Will you tell us approximately when that was?
A. It must have been May or April or May, I believe it was.
Q. Of this year?
A. Yes.
Q. Where did she call you?
A. Where I live now, my parents' residence.

David Y. Woehr

Q. Do you recall what your telephone number is there?
A. LY 31249.
Q. Did you talk with her on that occasion?
A. Yes, I did.
Dep. 7/15/68 page 13 } Q. What did she have to say at that time?
A. She asked me if I was going to testify against her, and I said that I am going to tell the truth.
Q. What did she have to say?
A. She said if I did, she was going to make sure my wife heard about it, make sure she got back at me that way.

* * * * *

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Q. During your testimony, you referred to a number of occasions of having intercourse with Mrs. Rowlee, you're referring to sexual intercourse in your testimony?
A. Yes, I am.

* * * * *

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Q. Mr. Woehr, aside from normal sexual intercourse with Mrs. Rowlee, have you had any other sexual activity with her other than normal male and female intercourse?
A. There was a couple of times when she did put her mouth on me, so to speak.
Q. She would put her mouth on your penis?
A. Yes.
Q. How often did that happen?
A. Just a couple of times.

* * * * *

David Y. Woehr

By Mr. Kauffman:

* * * * *

Q. I believe you have been a life-long friend of Mr. Kevan Rowlee?
A. Yes.
Q. Did you all go to school together?
Dep. 7/15/68 page 16
A. No. We were never in school together, I don't believe.
Q. You have been close friends all your life though?
A. Yes, we have.
Q. Are you still close friends?
A. As far as I'm concerned.
Q. Notwithstanding this close friendship, you have been carrying on an affair with his wife?
A. Would you mind lowering your voice. This is a business office.
Q. It's your choice we're taking this deposition here, you know. Is that not true?
A. Yes, that's true.
Q. This went on for a period from May of 1966 through Christmas of 1967?
A. Let's—yes, it certainly did.
Q. The first time that you had sexual intercourse with Joanne Rowlee, according to your testimony, was in the month of May, 1966?
A. I believe it—put the motor cycle on the road I believe it was May—yes.
Q. What makes you say it was May, 1966?
A. Because I licensed my motor cycle probably the third week of April, so I would say it would be May.
Q. This was shortly after you licensed your motor cycle?
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A. Yes.
Q. On this particular occasion, Mrs. Rowlee got on the motor cycle behind you?
A. Yes.
Q. And, you went for a ride?
A. Yes.
Q. Where did you go?
A. We went on Route #3, I believe it's Route #3, and quite a few back roads through there. I don't know the names.
Q. You were married at this time?

David Y. Woehr

A. Yes, I was.

Q. On that particular occasion, where did you say you ran into Mrs. Rowlee?

A. At her house.

Q. At whose invitation were you there?

A. Mrs. Rowlee's.

Q. She called you up and asked you to come there?

A. No. She invited me down when she stopped at the apartment in Syracuse.

Q. Did you know at the time you went by that her husband was not home?

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A. Yes.

Q. You went there for the purpose of trying to put the make on her?

A. I thought I would go down to see what happened.

Q. In other words, you were interested in Mrs. Rowlee at that time?

A. Yes.

Q. Yet, you tell this Court at the time you went there and got on the motor cycle that you made no overtures whatsoever to her?

A. No, I didn't.

Q. It was her suggestion that you take the ride on the motor cycle?

A. No, the motor cycle was there.

Q. Whose suggestion was it that you ride it?

A. My suggestion we ride the motor cycle.

Q. Then, had you been drinking any at her house?

A. Yes, we had a couple of bottles of beer.

Q. Was her mother and her father there?

A. No.

Q. Anyone there besides her?

A. No, just the children.

Dep. 7/15/68 page 19

Q. As you were riding down the road, she reached around from behind you and grabbed ahold of your penis?

A. I don't recall that. It's hard to hold onto a motor cycle. You have to hold on where you can.

Q. That was the handiest thing she could hold on. Are you trying to tell the Court that this girl out of a clear blue sky reached around and started playing with your penis while you were riding on a motor cycle?

A. I didn't say that.

Q. What are you saying?

A. I don't understand the question.

David Y. Woehr

Q. What led up to her getting ahold of your penis as you were riding on the motor cycle the first time you had ever been out with her?

A. I didn't say she did while riding on the motor cycle. We stopped at several bars and danced.

Q. Can you be specific then if you did not say while it was while you were riding on the motor cycle where this event occurred?

A. At her house.

Q. After you got off the motor cycle, you went back to her house?

A. Yes.

Q. What time did you get back to her house?

A. 8:30, 9:00 o'clock, 9:30—it was dark I recall.

Dep. 7/15/68 page 20

Q. You went back in the house, and that's when she began to get fresh and started playing with your penis?

A. If you want to term it like that.

Q. That's what you testified to.

A. That's the way—it was pretty much mutual.

Q. When you testified on your direct testimony, you said she was the one that made the overtures to you, that you made none to her. Are you changing your testimony?

A. No, I'm not.

Q. Then, it was she who made the advances?

A. She made the initial advance, yes.

Q. Yet, you had gone there for the purpose of trying to put the make on her. Isn't that the reason you went by her house—you knew her husband was out of town?

A. She was a beautiful girl.

Q. When did you get back to her house that evening—I assume it was in Fulton?

A. Yes, Oneida Street.

Q. Her mother's and father's house?

A. No, it was Kevan's house.

Q. You got back there what time?

A. Between 8:30 and 9:30. I didn't have a watch.

Q. How long did you stay there?

A. I was there for about one hour.

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Q. During this time, she made these advances and you went to bed with her?

A. Yes.

Q. It was on this same first occasion that you wanted to go to a motel, but didn't have the money to do it?

A. Right.

David Y. Woehr

Q. This was a mutual thing that you discussed while out in a bar?

A. We discussed it while riding back on the motor cycle. It was so cold. We were thinking about stopping. It was freezing.

Q. Where was her baby at that time?

A. The baby was in the bed.

Q. The baby was in the bed?

A. It was in the bed when we left, and in the bed when we came back.

Q. Asleep?

A. Yes.

Q. Was it asleep when you left?

A. Yes, it was.

Q. You stayed out eight hours?

A. Yes.

Q. It was still asleep when you got back?

A. Yes.

Dep. 7/15/68 page 22

Q. Did it stay asleep during the entire time you were making love to her?

A. Yes, I believe it did.

Q. You are telling this Court that you continued to have an affair, carry on an affair with this woman at least once a week—you would go by and see her at least once a week when Kevan was out of town until you left Syracuse, and then you went to Oswego, New York?

A. Yes.

Q. That at the time you left Syracuse, and you went to Oswego, that she and her husband also moved there?

A. Yes.

Q. And that—when was this—this was in November?

A. Yes.

Q. Was this in November, 1966?

A. Yes.

Q. Did you continue to carry on this affair in Oswego, New York?

A. Yes.

Q. Up until what time?

A. Up until the time they moved to Virginia.

Q. Which was in December of that year—they had lived in Oswego two months?

A. Yes.

Q. Approximately two months?

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A. Approximately.

Q. It wasn't over three months?

A. I don't know.

David Y. Woehr

page 23 } Q. Was it over three months—you're sure it was not over three, but you think it was about two months they lived in Oswego?

A. I believe so.

Q. So, then, you didn't see her again until Christmas of 1967, one year later approximately?

A. No. I saw her when I went down to her house in Virginia over Easter.

Q. Easter of 1967?

A. Yes.

Q. That was at her husband's invitation?

A. Yes, it was.

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Q. You're telling the Court that she made some threats to you on the telephone at that time about telling your wife?

A. Yes.

Q. When did you separate from your wife?

A. March, 1967.

Q. This was after you had become estranged from your wife?

A. March, 1967.

Q. This telephone call was after that time?

A. Yes.

Q. Up until this time, had you told Kevan Rowlee that you had a change of heart and that you had been screwing his wife for a year and a half, and now you wanted to testify for him?

A. Pardon me.

Q. I said, at that time had you changed your mind and decided to tell Kevan that you had been screwing his wife, and you now wanted to testify for him?

Dep. 7/15/68 page 27 } A. No. It took quite a bit of soul searching before I could do it.

Q. When did you come to him, or did he come to you?

A. I went to him.

Q. Why did you go to him?

A. I felt I had to get it off my chest.

Q. This was your good friend, and did you know at that time that he was at least contemplating filing a suit asking for custody of his children?

A. No, I didn't.

Q. You didn't know that?

A. No.

Q. When was this you did this?

A. When I told him?

Q. Yes.

A. It must have been last February or January. At least.

Q. At the time you received this telephone call from Joanne, you had already gone to him and told him the whole thing?

A. Yes.

Q. And, he forgave you, of course?

A. I hope so.

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page 1 }

* * * * *

The deposition of William R. Burtis, taken before me, Sophie H. Galini, a Notary Public for the City of Fulton, State of New York, pursuant to notice hereto annexed, and pursuant to consent of counsel for both parties, at the law offices of Hillick, Conley, Hillick & Conley, 306 East Broadway, Fulton, New York, on the 20th day of August, 1968, between the hours of 4:00 o'clock p.m. and 5:00 p.m. of that day, to be read as evidence on behalf of Elon Kevan Rowlee, II, in a certain chancery suit pending in the Circuit Court for the County of Chesterfield, wherein Elon Kevan Rowlee, II, is Complainant, and Joanne Judson Rowlee is Defendant.

PRESENT:

J. Sheridan Hillick, Esq.
Attorney at Law

Dep.
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page 2 } WILLIAM R. BURTIS, sworn, testified as follows:

William R. Burtis

By Mr. Hillick:
Q. What is your name?
A. William Burtis.
Q. Where do you live?
A. R. D. #2, Fulton.
Q. Who do you live there with?
A. My wife.
Q. Anyone else?
A. My daughter. My dog.
Q. How old are you?
A. Twenty-eight.
Q. Where do you work?
A. Matthews & Boucher in Rochester.
Q. Are you acquainted with Kevan Rowlee?
A. Yes, I am.
Q. How long have you known him?
A. Twenty years.
Q. Are you acquainted with Joanne Rowlee, his wife?
A. Yes.
Q. How long have you known her?
A. Taking a rough guess, I would say about three and a half years.

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Q. Did there come a time when you visited Virginia?
A. Yes.
Q. How did that come about, how did you happen to visit them there?
A. Just decided to go down to see them. It wasn't an invitation basis.
Q. Who went with you?
A. My wife and I went down together, and Dave Woehr rode down with Kevan Rowlee and also Joanne's younger brother. I think his name was Timmy.
Q. Just you and your wife drove down?
A. Yes.
Q. That's all you know about that?
A. Right.

William R. Burtis

Q. How long did you stay there—a few days?
A. About three days.
Dep. Q. Where did you stay down there?
8/20/68 A. With the Rowlees.
page 5 } Q. Where were they living at that time?
A. Roanoke, Virginia. The address, I think was 29 Brauma Road. I'm not positive. That was the name of the road.

Q. What was Mrs. Rowlee's behavior pattern at that time?

A. She seemed to want to argue with Kevan just about constantly. In fact, we left the house once or twice.

Q. What kind of language did she use?

A. Quite profane at times.

Q. Could you repeat the profanity that you remember?

A. You Son-of-a-Bitch, you Bastard, and so on and so forth.

Q. I don't want so on and so forth if we can avoid that. Do you know what she said?

A. Bastard and Son-of-a-Bitch, and a Whoremaster. That's about the trend of it.

Q. She did this in front of you?

* * * * *

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* * * * *

Q. Then, you stayed home, and did something happen around the next Christmas?

Q. Would it be the Friday before Christmas, 1967?

A. It could very well be.

Q. What happened at that time?

A. Joanne came up—I don't know—I can't remember now if it was before Christmas. I think it was before Christmas.

A. She stopped up to pay us a visit.

Q. What was her condition at that time?

A. When she got there, she was in pretty good shape.

Q. Had she been drinking?

A. I would say she had had a few drinks before she got there, and she consumed a good portion of a quart of whisky before she left. But, the main purpose of her being there, as far as I could tell, was all I did was make phone calls and

try to find Dave Woehr for her, and she tried to find Dave Woehr.

Dep. 8/20/68 page 7 } Q. Did she ask you to make a phone call?
A. Yes.
Q. Did you make a phone call for her?
A. Yes.
Q. Who did she want you to call?
A. Dave Woehr.
Q. Did you call David Woehr?
A. I made about three or four attempts to call him. I called numerous different places.

* * * * *

Q. Have you ever observed her at any other time under the influence of whisky or drink, alcoholic beverage?
A. Yes.
Q. How many times?
A. Three or four, two or three.
Q. Did there come a time that you saw her drinking beer in her car?

Dep. 8/20/68 page 8 } A. Yes.
Q. Where was that?
A. I think it was in my driveway.
Q. Were her children with her?
A. Yes, they were. It was quite awhile ago. Things are kind of vague.
Q. It was in your driveway, and can you give me the time when that was?
A. I couldn't.
Q. Was it since they have been married?
A. Yes.
Q. Was it after this Christmas visit?
A. No.
Q. It was before that?
A. I think it was before the Christmas visit.

* * * * *

page 9 } Q. There was a time when Kevan and Joanne lived on Oneida Street in Fulton. Do you remember that?
A. Yes.
Q. Do you remember the time when she was pregnant?
A. Yes.

William R. Burtis

Q. Did you ever see David Woehr there?
A. Quite regularly.
Q. Was Kevan there?
A. Generally not. I would see David's car there, more or less.
Q. Did you know that he was on the road traveling?
A. Yes. In fact, Kevan even asked Dave and I and Vin LaMacchia when he was away to look in on Joanne and make sure she was all right.
Q. Did you notice anything special about David Woehr being there?
A. Yes, he was there most of the time when he was supposedly should have been working. He was married and living with his wife, and he was supposedly working on construction, and he wouldn't be working and was down to Joanne Rowlee's home.
Q. What did you observe about them when you came in the house. Were they drinking?

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A. I came in at times, and they had been drinking beer, and I came in and they were drinking coffee and just watching television.
Q. What was the state of her clothing—was she fully dressed?
A. Every time that I ever have been there, she was fully dressed.
Q. How about Mr. Woehr, how was he dressed?
A. Maybe without a shirt on.
Q. Stripped down to the waist?
A. Yes, but at different times—it was in the summer time.
Q. Did you notice anything about the children around, were they around?
A. Yes, but most of this with David Woehr being there took place before the little girl was born.

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page 1 }

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DEPOSITIONS ON ORAL EXAMINATION FOR COMPLAINANT

September 5 and 6, 1968

Richmond, Virginia

APPEARANCES:

Mays, Valentine, Davenport & Moore
By: James C. Roberts, Esq.
Of counsel for complainant.

Emroch, Cowan & Kauffman
By: Jay G. Kauffman, Esq.
Of counsel for defendant.

ADDITIONAL APPEARANCES:

Henry M. Massie, Jr., Esq., of the firm of Mays, Valentine, Davenport & Moore.

Joanne Rudson Rowlee, the defendant.

Dep.
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page 2 } Depositions *de bene esse* on oral examination of Elon Kevan Rowlee, II and Elon K. Rowlee taken in behalf of the complainant before Margaret H. Dutrow, a notary public in and for the Commonwealth of Virginia at large, pursuant to Notice, copy of which is hereto annexed, commencing at 10:00 o'clock a.m., September 5, 1968 in the offices of Mays, Valentine, Davenport & Moore, Attorneys at Law, 1200 Ross Building, Richmond, Virginia.

ELON KEVAN ROWLEE, II, was sworn and deposed in his own behalf, as follows:

DIRECT EXAMINATION

By Mr. Roberts:
Q. Is your name Elon Kevan Rowlee, II?

Elon Kevan Rowlee, II

A. Yes, sir.
Q. And your age?
A. Twenty-eight.
Q. What is your present address?
A. 1721½ Grove Avenue, Richmond.
Q. What is your occupation?
A. Salesman.
Dep. Q. With whom?
9-5/6-68 A. Syroco, Syracuse, New York.
page 3 } Q. Just generally speaking, what type of work do you do with Syroco and what products?
A. I sell furniture accessories to different stores, gift shops and furniture shops and our territories are both the Virginias, Western portion of Maryland and District of Columbia.
Q. And I assume that you are required, in connection with your work, to do some traveling?
A. Yes, sir.
Q. Are you married to Joanne Judson Rowlee?
A. Yes, sir.
Q. What is her age?
A. Twenty-two.
Q. And what is the date of your marriage?
A. August 14, 1964.
Q. And where were you married?
A. Syracuse, New York; James Street Methodist Church, Syracuse, New York.
Q. Is that in Oswego County?
A. That is in Onondaga County.

* * * * *

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Q. Did your wife move down here with you to Roanoke?
A. Yes, sir.
Dep. Q. How long did you live in Roanoke?
9-5/6-68 A. One year, twelve months.
page 12 } Q. And you continued to work for Syroco throughout that period?
A. Yes, sir.
Q. Where did you move from there?

Elon Kevan Rowlee, II

A. 8720 Forest Hill Avenue.
Q. Is that in Chesterfield County?
A. Bon Air, Chesterfield County, Zip Code 23235.
Q. That made you move to your address in Chesterfield County approximately January of 1968, is that correct?
A. Yes, sir. I believe I actually moved, it was the last couple of days of December but it was close enough to January.
Q. And did you live there with your wife until you came to bring this present divorce suit?
A. Yes, sir.
Q. And after that did you move out of the house?
A. Yes, sir.
Q. All right, now, do you have any children?
A. Yes, sir, a son, Elon Kevan Rowlee, III; he was born in February of 1965—and a daughter, Elizabeth Brooke Rowlee, she was born in June, 1966.

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page 14 }

Q. Did she work outside the home while you all were living at Phoenix, New York?
A. Yes, sir, for Dr. Stanley Major on James Street in East Syracuse.
Q. And when you moved to Alexandria, Virginia, did she work then?
A. No, sir, she was pregnant.
Q. All right, the first child was born, I think you testified, in Alexandria in February, 1965; after that child was born did she work any in Alexandria?
A. No, sir, she never worked in Alexandria.
Q. So you then moved to Severna Park, Maryland, did she go to work there?
A. Yes, sir.
Q. At that time were you making sufficient income to support yourself and her and the child?
A. Yes, sir, but first, let me say that we just barely—we had enough to get by on, yes, sir, but we didn't have enough money to live very high but we had enough. I made enough money that Joanne didn't have to leave the baby.

Elon Kevan Rowlee, II

Q. How did the subject of her going to work come about in Maryland?

A. Well, she told—after the baby was born she got—after Elon was born, by the time we moved to Severna Park, Maryland she was sick of taking care of the the child, she was sick of giving him the bottle and diapering and being with him all the time.

Dep. 9-5/6-68 page 15

Q. How do you know this?

A. She told me so many times that she had to go to work, that she was too young and goodlooking to be home with a baby.

Q. This began how long after Elon was born?

A. This began about three months after Elon was born.

Q. What was your response to this?

A. I couldn't understand it because I couldn't see how—I couldn't see why she wouldn't want to stay home with a little baby; he was sick, he was in the incubator, he almost died, he needed a lot more love and attention and care than a normal baby; from the time of birth he was very thin and sickly and we almost lost him.

Q. Well, did you and Joanne discuss her suggestion of going to work?

A. No, not at that time, no. I was working and came home and Joanne wasn't home and Elon wasn't there, either, and then Joanne—well, Joanne came home, I think it was about 5:00 o'clock or 6:00 o'clock whenever she got off work, and I didn't know that she had gone to work.

Q. She had said to you earlier that she was sick of staying there?

Dep. 9-5/6-68 page 16

A. Yes, but she didn't say she got a job, she never told me that.

Q. She never told you until after the job was taken?

A. Yes, sir.

Q. Now the morning, that day that you came back, when you left to go to work that morning did you know she was going to work that day?

A. No, sir, I didn't know it.

Q. And was there anybody else there in the house when you left for work?

A. Just Joanne and Elon.

Q. No baby-sitter there?

A. No, sir.

Q. When you came back and found she was gone and the child was gone, what did you do? Did you wait for her to get home?

Elon Kevan Rowlee, II

A. Yes, I didn't know where she went. I thought she went to see a neighbor, I didn't know where she went.

Q. What time, do you remember—

A. She came home, I can't recall her exact hours; if she got off work at 5:00 o'clock, it was about a half hour later; however long it would take her to get from work to home.

Q. Where was Elon during the time she worked?

Dep. 9-5/6-68 page 17

A. Elon was with this woman across the street who, I might add, was a very untidy person that was not very clean, didn't keep her body very clean and her teeth were in very poor condition.

Q. And this was the first day that you knew anything about this woman across the street?

A. I knew she lived there.

Q. You didn't know anything about her having Elon?

A. No, I didn't know anything at the time until I saw Joanne go over and get the baby.

Q. Did you ask Joanne on that occasion where she was working?

A. Yes, and she was very evasive in her answer, she told me she worked for a dental technician in Annapolis, Maryland. She never did tell me the man's name or give his address. I never did know that. She wouldn't give it to me.

Q. Did you ask her for it?

A. Yes, sir.

Q. What did you and Joanne discuss, if anything, about her job on that first night?

A. I told her I wanted her to quit. I said, "Please, you have got to stay home with the baby, it is your duty as a mother and your place is with this child."

Q. And what response did you get on that?

Dep. 9-5/6-68 page 18

A. "I am all done staying home, you are not keeping me locked up in this cage, I am not staying in here and taking care of a baby."

Q. Did she remain with that job?

A. She stayed there. I was after her every day to please quit but she stayed there, I can't remember, it was two or three months, I believe; I don't know, approximately two or three months.

Q. Did the lady across the street keep the child during all of that period of time?

A. Yes.

Q. During this period of time, I recall your testimony, you were working fairly long hours?

A. Yes, sir.

Elon Kevan Rowlee, II

Q. When you would get home at night would she be home from work then? Would Joanne be home from work?

A. Yes, sir.

Q. How about the baby, was he asleep by the time you got home?

A. Yes.

Q. Now did you have any time off during this period—we are still back at Maryland, now?

A. Yes, sir, as I said before I was allotted two days a week free time and usually it was more on Monday or Tuesday, or Tuesday and Wednesday of the week; over the week end, I worked.

Dep. 9-5/6-68 page 19

Q. On those days you had off would Joanne be working?

A. Yes, sir.

Q. During those days where would the child be?

A. I would take care of the child.

Q. In taking care of the child did you have anything to do with his meals?

A. Oh, yes, sir, I fed him his meals.

Q. How about when the child needed a diaper change?

A. I changed his diapers, bathed him.

Q. Would you generally take care of him during the time she was away?

A. Yes, sir, I performed the role of a mother and I was glad to take care of the baby.

Q. Were there any periods of time during this stay in Maryland after she started to work when the two of you were there together with the child for any period of time?

A. Yes, sir.

Q. Other than during the nighttime when you were all sleeping, I mean?

A. Yes, sir, occasionally.

Q. On those occasions who would take care of the child?

A. I would.

Q. Was there any particular reason for that?

Dep. 9-5/6-68 page 20

A. I answered "I would" too quickly. At this time Joanne would still take care of the child. She would take care of the child 75% of the time at this time.

Q. Were there any occasions when the child was waking up in the evening when both of you were there?

A. Yes, sir, then I would get up.

Q. Would your wife get up on those occasions?

A. Now for me to say she never got up, of course, would be untrue but the bulk of the time I was the one who would get up with the child.

Q. Did you mind that?

A. No, sir, I loved the baby, I didn't mind getting up with him. I was tired from work, I needed my sleep.

Q. Was there any discussion about who would get up or anything of that sort that took place?

A. Well, we would both wake up and I would be the one to get up out of bed.

Q. What would that involve, change of diaper?

A. More than likely get a bottle for Elon or warm it up and give him the bottle and change his diapers.

Q. Would she tell you to get up or would you just automatically get up?

Dep. 9-5/6-68 page 21 }

A. Sometimes she has told me but most times I would just automatically get up and do it, but she would be awake at that time, also.

Q. Would she try to stop you and say, "I will take care of it?"

A. No, never.

Q. During this period of time when were you leaving for work in the morning?

A. I left at all different hours. I was the night manager there and the night manager would go to work at approximately noon and stay for a minimum of ten hours. Like I say, a minimum, and it was a rule, actually, that each management person would work about four hours overtime without pay.

Q. When she was working there during this period of time were you still there when she left for work?

A. In the morning, yes.

Q. Were you up?

A. I was—a lot of times I would still be asleep because I would just be getting in, I would get in at 3:00 o'clock and 4:00 o'clock in the morning.

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Q. Before you get to that, let me ask you this, on the occasions you asked her about quitting her job did she give you any reasons other than the one you have already stated

about her being too young and not sticking around the house and so forth?

A. No, that was her whole reason, because when you figure up going to work and baby-sitters and you go into another tax bracket, you don't make any money at all by her going to work at this time.

Q. Now you mentioned something a minute ago about a boss' automobile, is this while she was working in Annapolis?

A. Yes, sir.

Q. What do you mean about getting the boss' automobile?

A. I remember some evenings she would come over to where I worked, out at Friendship International Airport and she had her boss' car, a red Corvair Monza.

Q. Did you say anything about it?

Dep. 9-5/6-68 page 24

A. I said, "What are you doing?" She said, "We are friends, he lets me drive it around." And she would come home for lunch with it, drive her boss' car home to lunch and at nights. Sometimes she had the baby with her when she would come to the airport and on other occasions she would leave the baby somewhere else and always answered me very evasively when I asked her where the child was.

Q. Did she ever tell you where the child was?

A. No, she would tell me she was going to a drive-in to get a milk shake or hamburger.

Q. How far was this place from the water, the Chesapeake Bay area?

A. One block.

Q. Was this a house or apartment?

A. We lived in the upper flat, it was a house but it was the upper flat.

Q. Did you have any occasion, while you were living there in Severna Park, to see Joanne down in the area of the beach?

A. Yes, sir, she finally quit her job, and I knew that there was a little beach down there that the neighborhood families used to go to; it was more or less just a bank leading down into the area, the swimming area.

Q. I assume Elon was there, too, is that correct?

Dep. 9-5/6-68 page 25

A. Yes, she would put Elon in a car seat and carry Elon down there with her and she would go down and get a suntan, and swim.

Q. Did you have any occasion during this period of time to leave work early and come home?

A. Yes, Mr. Mintz, whom I represented, said to me on one

of my days off, I was downstaris and we were talking and he told me—

Mr. Kauffman: I object to that.
Mr. Roberts: Don't state any hearsay, no matter what Mr. Mintz told you.

Q. Did you have occasion to come home early?
A. Yes, sir, I did.
Q. What day of the week was it, do you remember?
A. Yes, sir, it was on Fridays and Saturdays.
Q. Do you recall any particular day your coming home early?
A. Yes, sir.
Q. When you got to the flat did you find Joanne there or not?
A. No, sir, Joanne was not there.
Q. Where did you go from the flat when she was not there?
A. I got in the car and went right down to the beach.
Q. When you got down to the beach did you or did you not find Joanne?
Dep. 9-5/6-68 page 26
A. Yes, sir, I found her there.
Q. About what time of the day was it?
A. This was in the afternoon, 2:00 o'clock, I would imagine.
Q. Was the baby Elon there?
A. Yes, sir.
Q. And was there anyone else there?
A. Yes, sir.
Q. Was it a man or woman?
A. It was a man.
Q. Can you tell me where he was in relation to Joanne?
A. Yes, sir, he was laying on the blanket with Joanne.
Q. And were they far apart or close or what?
A. He was laying right next to her and had his arm around her.
Q. Where was the baby?
A. The baby was in the sand, strapped in a car seat and out in the sun, he was just an infant at that time.
Q. How far away was the baby from your wife and this man?
A. Six to ten feet, I guess.
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Q. You say there was no shade?
A. No shade at all, he was right in the sun.
Q. What was the condition of the baby at the time?

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A. The baby was very sunburned.

Q. When you got down and saw this scene, what did you do?

A. I looked down on the beach and there were other couples there, there were other married people there and children playing about and when I pulled up, I pulled the car up and looked down and I saw Joanne down there with that man, with his arm around her, and when I opened up the car door I let out a yell or something, I started charging down the beach and when I got down—well, anyway, the man jumped up and ran and ran out and jumped in his boat. He had his shoes and socks on. He didn't know who I was, I had never seen him before. He got in the boat and left.

Q. Did you say anything to Joanne about the baby then?

A. Yes, sir, I asked Joanne—when we got back, I said, "How can you leave a little baby out there in the sun?" She said, "Well, he is all right, I put suntan oil on him." I said, "He is not all right, little babies are not supposed to be exposed to the sun like this."

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Q. Did you say anything to her about the man?

A. Yes, sir, I believe I said mostly about the and she said—I said, "What was that guy doing there on the blanket with you?" She said, "What man?" I said, "That man who just ran off through the water." She said, "Oh, he just asked if he could share the blanket with me, he had a radio, so I told him he could share the blanket with me."

Q. Did you admonish her not to do that?

A. Of course.

Q. What was her answer to that?

A. She said, "Well, I didn't think it was anything wrong with it." I said, "What do you mean, you are a married woman with a child," and, anyway, she agreed, she said "Well, it won't happen again." At that time she said, "It won't happen again."

Q. That was on what day of the week, do you remember?

A. Friday or Saturday.

Q. Did you have any later occasion to go down to the beach?

A. The very next day I came back, I left for work like I normally would. I put my uniform on and went to work and when I got to work I told them I was sick and came back.

Q. Did you find her at home when you got back?

A. No, sir.

Dep.

Q. Was the baby there?

A. She used to have this strap that she

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9-5/6-68 page 29 } strapped the baby in. Elon was strapped in his crib and he was crying. When I came up the stairs he was crying and he was all wet, mussed his pants.

Q. Was anybody else in the flat?

A. No, sir, the baby was alone.

Q. What do you mean by "strapped?"

A. She had a sheet and she had cut it up into a harness.

Q. Like a bed sheet?

A. It was a bed sheet, right, and she had sewn it or stitched it so it looked like an"H" on his back and it was tight, it was fastened to each side so the baby couldn't roll over or get up; it would hold him down on his belly.

Q. In the crib?

A. In the crib, yes, sir.

Q. The baby was crying when you got there?

A. Crying bloody murder.

Q. What did you do when you got there then?

A. When I got there I took the harness off of him and changed him, and soothed him down, got him a bottle. When we got through I took him downstairs and put him in the car and I went right down to the beach again and as soon as I pulled up this time the fellow had a bathing suit on.

Q. What fellow?

Dep. 9-5/6-68 page 30 } A. The same man she was with the day before.

Q. Where was she this day?

A. He was walking, running—he was running away from the blanket where she was, and he left.

Q. Did you see him actually on the blanket?

A. I saw him actually get up and leave the blanket.

Q. And he ran away from the scene?

A. Yes, sir.

Q. Did you talk to her on that occasion?

A. Yes, sir, then she said, "All we did was go water skiing."

Q. Did you say anything about the fact that she left the child?

A. I said, "How could you leave the baby alone?"

Q. Did you get any answer?

A. Then she started giving me this, "You don't tell me what to do, I am all done, I quit my job for you, now you don't want me to come on the beach, you keep me tied up, you don't want me to smoke," and she just went on and on; and, well, it was within a week later, I guess, a week or two later she left me.

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Q. Did you have any conversations on the subject of her leaving?

A. Yes, she said she wasn't living down there—see, at that time she was eighteen and the drinking age was 21 in Maryland, I believe, and she didn't like it down there because she couldn't get served.

Q. Did she say that to you?

A. Yes, sir, because she couldn't—yes, she did say that to me but I could see her reasoning a little bit behind it because —well, you couldn't actually—it was hard even if I was to take her out because of her age, we couldn't get in any place.

Q. Did she give you any reason or did she state—first of all, did she state that she wanted to leave this area?

A. Yes, sir.

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Q. Did she give you any reason for wanting to do so?

A. Yes, sir, all of her friends and family were up there, up there meaning Fulton, New York.

Q. Was anything further said along the line of what you had earlier testified to about her not being tied down with the child?

A. Yes, sir, this was daily, this was talked about on a daily basis, no "buts."

Q. Approximately a week after this last instance you referred to, she did leave?

A. Somewhere within a couple of weeks, yes. She said she wasn't staying there, she was going back up home, and there wasn't any changing her mind or anything. You can't talk with Joanne, she makes her mind up and that is it. There is no reasoning with her.

Q. Did you discuss with her where she would go when she got up there?

A. I called my parents and asked them if they would please let her stay there because I knew at the time her mother didn't have the room in the house at the time.

Q. And did she, in fact, leave and go up to New York to stay with your parents?

A. Yes, sir, I took her over to Washington and put her on an airplane.

Dep. 9-5/6-68 page 33 } Q. And do you know what happened after she got there? Did she go to your parents' home?

A. Yes, sir.

Q. How long was it that she stayed up there at their home?

A. Just a few weeks.

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Dep. 9-5/6-68 page 34 } Q. When you went north again did you go directly to Endicott or go to your father's home in Fulton?

A. I believe, to begin with, I went right to Endicott and then I came up on week ends; I believe that is the way it was.

Q. Did you have any conversations with Joanne to let her know you were in Endicott or anything of that sort?

A. Oh, yes, I let her know. Well, prior to that while we were still in Maryland I called her up and begged her to come back to Maryland and she refused, she said, "I am never coming back down there with you."

Q. You called at your father's home?

A. Yes, sir.

Q. Were there any occasions—how often would you call her?

A. I called every night.

Q. At your father's home?

A. Yes, sir.

Q. About what time of night would you call?

A. 10:00 o'clock, I think, around 10:00 o'clock.

Q. Were there ever any occasions when you called and were unable to speak to her?

A. Yes, sir, quite a few occasions.

Dep. 9-5/6-68 page 35 } Q. Was she there on those occasions at your father's home?

A. No, sir, she wasn't.

Q. What time would these calls be made?

A. 10:00 o'clock.

Q. On an evening when you were unable to get her would you make any calls to any other place?

A. Yes, sir, I was told that she had gone over to her mother's so I called over and asked her mother and her mother told me that Joanne had not been there; on one occa-

sion I got Joanne over there but on other occasions Joanne's mother said "No, as far as I know she is over to your parents' house."

Q. Had you previously called there?

A. Yes, previously called over to my parents' house and she wasn't there.

Q. On these evenings when you were unable to get her like that would you call later on in the evening or wait until the next day to call again?

A. I would call sometimes until after midnight.

Q. Would you then get her or not?

A. No, I wouldn't get her, she wouldn't be back.

Q. On these occasions that you didn't call her, was the baby still at your home, your father's home?

A. Yes—I don't know, I wasn't there. Yes, I believe the baby was still there; yes, she had left the child at my parents.

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Dep.
9-5/6-68
page 38 } Q. During that period of time who was taking care of the child, its daily needs?

A. When I was there, about this time I would start taking care of the child.

Q. What did that involve?

A. Giving it breakfast, et cetera, changing diapers; Joanne still helped but I would come in and pitch in, too.

Q. Were you all sleeping in the same bedroom together at that time?

A. Yes, sir.

Q. Would your mother have anything to do with caring for the child at that time?

A. Not so much while I was there. I think Joanne took care of the child all right. I don't believe she washed the child's clothes but that was just put them in a washing machine. I think Joanne performed her motherly duties satisfactorily at that time, yes.

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Q. Was anything said there in Endicott about her wanting to leave or was she satisfied with that spot?

A. She wanted to get out of there, she wanted to go—she felt like she was stuck out in the country, she wanted to go back home.

Q. Did she state this to you?

A. Yes, sir.

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Q. What ultimately did that end up in?

A. I quit my job and moved up there.

Q. To Fulton?

A. Yes, sir.

Q. Why did you do that?

A. I wanted to keep my family together and she—I just stated—she didn't say she was going to divorce me but she said she wasn't going to live there, she wanted to live up there.

Q. Up where?

A. Fulton.

Q. Was it as a result of this that you did finally quit that job?

A. Yes, sir.

Q. When you quit that job did you have employment already in Fulton?

A. No.

Q. You just up and quit?

A. Yes, sir.

Q. And I believe you testified earlier that you then moved in—

A. 514 Oneida Street in Fulton.

Q. That would have been February, 1966, is that correct?

A. Yes, sir.

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Q. Approximately?

A. Approximately.

Q. All right, now, during the period of time that you were working at the Ford dealership there in Fulton, this was after you first moved there, what type hours were you working then?

A. I was required to be at a sales meeting at 8:00 o'clock every morning, Monday through Friday.

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Q. To what hour would you work in the afternoon?

A. This was strictly commission so I would normally—I would work there ten or twelve hours a day.

Q. Did you have any days off?

A. Yes, I had Sunday off, every Sunday off, but, again, this is a commission job. If you want to make money, if you want to make your bread and butter, you have to be there to sell; if you don't sell something for Monday, you aren't paid for Monday, so you have to do it on Tuesday.

Q. During this period of time that you were working there, and I believe you testified Joanne was pregnant, when you would come home in the evenings what would the situation be like with Elon, then?

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A. At this time, as far as I could see, other than always tying him down in bed with a harness, she would be home with the child, either that or she would be at her mother's. She would go over to her mother's. I think right then—I think right then was—

(The deponent began crying, whereupon a short recess was taken.)

By Mr. Roberts:

Q. We were talking about the period of time you were first living there in Fulton and I had asked about the situation regarding the child, Elon, when you would get home in the evenings; would you continue on with what you were saying?

A. Yes, sir. At that point I think it was probably the happiest times Joanne and I had ever had together and she seemed to me at that time to always make a strong effort—to make a go of it, she had a—

(The deponent began crying.)

Q. Were you away from home during this period of time during the day?

A. Yes, sir.

Q. Now after you changed jobs and went with Syroco, still living in Fulton, what did that do to your working hours?

A. When I went to work for Syroco they advised me of the fact that I would be a traveling salesman eventually and that I would have to leave the Fulton area, more than likely, but at this time we are talking about I worked 9:00

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Dep. 9-5/6-68 page 44 } o'clock to 4:00 o'clock; at the time that you are talking about, five days a week in Syracuse, I was home every night.

Q. Were you away from 9:00 o'clock to 4:00 o'clock every day during the work week?

A. Yes.

Q. Now was there any period of time when you all were there—strike that. I believe you testified earlier it was in June, 1966 that Brooke was born there in Fulton, is that correct?

A. Yes, sir.

Q. After the birth of Brooke was there any time that your wife said anything about going back to work or went back to work or anything of that sort?

A. Yes, sir, she wanted to go back to work. Yes, sir, she had said that as soon as she was able she wanted to work.

Q. Did she go back to work there?

A. No, sir.

Q. After Brooke was born were there any other occasions that you would come home or telephone and she was not there?

A. Yes, sir.

Q. Will you tell us about that, please?

Dep. 9-5/6-68 page 45 } A. I would call up—I was assigned to the New York City office and I worked down there, I would leave Monday morning on a flight and return home Friday afternoon on a flight and during the course of a week I would call Joanne every single night and several—many, many occasions—now it comes to the point that 90% of the time I called she is never there and I called her mother's and she wouldn't be there; no one would answer the phone at our address on Onieda Street.

Q. Was there any time when someone else would answer?

A. A lot of times it would be baby-sitters who would answer.

Q. Do you know who they were?

A. Little children that lived next door. I believe one was a freshman in high school and one was in the Sixth or Seventh Grade.

Q. Do you know how old the youngest was?

A. However old you would be to be in the Sixth or Seventh Grade, 11, I guess.

Q. You testified a few minutes ago that you were working something like 9:00 o'clock to 4:00 o'clock in Syracuse, was this before you were given this New York City job?

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A. Right after I was hired I worked right out of the factory to get familiar with the product and operation of the plant, to know how the product is made, the background, et cetera. I worked there and then I worked in New York City out of the show room.

Q. It was while you were there you were making these phone calls you referred to?

A. Yes, sir.

Q. Did you talk to Joanne at all about why she wasn't there when you called?

A. Right after Brooke was born Joanne became very defiant again, "You don't tell me what to do," and I got all this business; she would tell me she had gone over to a friend's house or went for a ride or—now, mind you, this isn't during the day, this is at night, so in my mind back in New York she knew I was going to call, that is all I lived for all day long, was to call her and then she wouldn't be there and if she had to go away to visit somebody she could have done that—

Q. Let's not get argumentative, I am asking you questions about whether or not you discussed it with her. Did you discuss with her why she wasn't there or where she was?

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A. Yes, sir, she just wouldn't answer me, she would say I don't have that much control over her, just because she was married to me doesn't mean she was a prisoner. I would ask her, "Why can't you stay home with the babies? You have two babies with diapers, most young mothers would stay home with children, why?"

Q. What was the response?

A. I would get the response that just because she was married and had two children didn't mean she had to stop having good times.

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Q. Was there any occasion that you came home earlier than your usual time from New York City?

A. Yes.

Q. What did you do on that occasion?

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A. Well, I knew she had her hands—would have her hands full with the children during the day and everything and I came home and it was Thursday morning, they told me I could take the rest of the week off, so I got a flight out and went to Syracuse. I knew Joanne would have her hands full with the children so I called my father and asked dad to meet me at the airport so it wouldn't inconvenience Joanne.

Q. Did you do so?

A. Yes, sir, he and my mother and—he and my mother came out and picked me up.

Dep. 9-5/6-68 page 49 } Q. At the Syracuse Airport?

A. Yes.

Q. Where did they take you?

A. They took me right then to Oneida Street, Fulton, New York, where I lived.

Q. When you got there to your home about what time of the day was it?

A. It was in the afternoon, I would say 2:00 o'clock or 3:00 o'clock in the afternoon, something like that.

Q. Had you advised Joanne that you were going to be home early?

A. No, sir.

Q. Would you explain to us what you found when you got there?

A. As soon as we pulled into the drive I saw Dave Woehr's motorcycle parked in the back yard.

Q. Who is he?

A. He was a friend of mine and later became a friend of the family.

Q. You found his motorcycle where?

A. Parked out behind the house.

Q. Could you see that when you drove up?

A. As soon as we pulled back in the drive we saw the back wheels sticking out.

Dep. 9-5/6-68 page 50 } Q. Did you have any bags or suitcases with you?

A. Yes, sir.

Q. What did you do and what did your parents do?

A. Well, there was my brief case and a suitcase and a clothes hanger, everybody got out of the car and everybody grabbed a bag and, well, walked immediately right on into the house.

Q. Did you knock?

A. No, sir, it was my house.

Q. Just walked in the front door?

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A. Yes, sir.

Q. What did you find?

A. As soon as I opened up the front door I saw my wife, Joanne, she had run from around the corner and was running into the kitchen.

Q. Around what corner?

A. As you enter our house you enter the front room and at the opposite end of the front room, directly in front of the door, in front of the front door, is an entranceway to the kitchen and also an entranceway to a bedroom; it was a two bedroom house.

Q. Which bedroom was that?

A. As you come in Elon's bedroom was to the left, straight ahead on the right would be the bedroom where Joanne and I had and Brookie; Brookie's room was in there, too, and the kitchen was adjacent to it and to the left.

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Q. In relation to what you explained to us, you say your wife was running; where was she running from and to?

A. She was coming around from the bedroom, she had swung the door. As soon as I opened the door she had come around and swung the door around and the bedroom door did not latch, just swung around.

Q. What bedroom door are you talking about?

A. Our bedroom, Brookie's and ours.

Q. She did what?

A. Just went around the corner into the kitchen.

Q. How was she dressed?

A. Had on a pull-over dress, one of those slip over type dresses.

Q. What was she doing?

A. Went in there and started combing her hair in the kitchen.

Q. Did you see anyone else?

A. Yes, sir; I said, "What is Dave Woehr's motorcycle doing here?" and I still didn't think anything wrong at this time.

Q. What did you see? Did you see anyone else?

A. Yes, sir, I saw Dave Woehr.

Q. Where was he?

A. Then, he come walking out of the bedroom that Joanne had just left.

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Q. How was he dressed?

A. He was barefooted, didn't have his shirt on, bare

chested and was buckling his pants and came out smiling and said, "Oh, how you doing, how you doing, Elk?"

Q. Did you say anything to either Joanne or him as to what was going on there?

A. Yes, sir.

Q. Was Joanne present when you said it?

A. Yes, sir.

Q. What did you say?

A. I said, "What is going on here?" and Dave come over and put his arm around me and said, "I got out of work early and just stopped down here and got a little sandwich and went in and took a nap."

Q. On your bed?

A. Yes, in my bed, took a nap in my bed and he didn't live eight blocks from there, just down the other side of the hill across the river. He was a married man, he was one of my very best friends at the time.

Q. Where was the baby Brookie?

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A. Brookie was in the bed, in her little crib in our room.

Q. Was that the same room?

A. That was the same room that they were in; "they" meaning Joanne and Dave.

Q. Were your parents still with you at that time?

A. Yes, sir, all three of us, we just came in to drop the bags off and were going to go but they came in and saw all this.

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Q. Where was Elon at the time?

A. Elon was strapped in his bed in his crib.

Q. When you got there?

A. Yes.

Q. Did Dave Woehr ever put his shirt on and his shoes on?

A. Oh, yes, he put his shirt on, I think he asked me if I wanted to go for a motorcycle ride.

Q. On this same day?

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A. This was the same day, yes, said, "Come on and go for a motorcycle ride."

Q. Did your parents stay there?

A. They left immediately.

Q. And I assume that Dave Woehr finally left, himself?

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A. I didn't hear you.

Q. I assume that Dave Woehr left shortly after that?

A. Yes, he left about fifteen minutes later.

Q. Did you have any discussion with Joanne after he left about what was going on there?

A. Yes, sir, I said, "This doesn't look very good, coming home and finding him in my bed." She says, "Well, he is one of your very best friends, I didn't think there was anything wrong with it."

Q. Did you all have any argument about it or anything of that sort?

A. We had words.

Q. Were you at this time still sleeping, when you were at home there, in the same bed with your wife?

A. In Fulton, New York, yes, sir, and I would come home and—well, I would be away all week and I would, you know, feel affection toward my wife and at this time—well, when I was coming home, she would say during the day, "Oh, no, no, no, not now, no, wait until later," and then night it would be, "No, no, no, wait until tomorrow, I am tired," this and that.

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Q. Had there been any period of time in your married life to Joanne that you all had sexual intercourse on a fairly frequent basis?

A. Yes, sir.

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Q. Now I believe you have testified earlier that after staying there on Oneida Street in Fulton about nine months you moved to Oswego, New York?

A. Yes, sir, and right after Brooke was born my wife was fitted with a diaphragm. She didn't want any more children. She had herself fitted with a diaphragm.

Q. Was this before you moved to Oswego, New York?

A. It was right about—yes, it was right after Brooke was born, I think; whenever she was able to have it put in, she had it put in, and I would say from then on that is when things changed right then.

Q. What do you mean "changed?"

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A. Then there was no telling her what to do. She has always been very independent but now she becomes defiant and she is a flashy looking girl, anyway, and she would always be glancing toward other men and it would be embarrassing.

Q. When did you see this?

A. She slimmed down—she did, like even with Elon. God bless her for the fact she was able, but after she would have a baby, three weeks later you wouldn't know she had a baby, she looked just like a bathing beauty and as soon as she got her figure back, which wasn't any time at all, it was, "Don't tell me to do this, I am not doing that."

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Q. What were the occasions you were talking about her giving the eye to other men?

A. She would flirt even in my presence.

Q. Where?

A. We would go to a restaurant or something and she would make a point of always running out of cigarettes or making a long walk to some place in front of other men, and, well, it was always—there were always men coming over talking to her. She was a very good looking girl and I guess it was normal.

Q. Was that in your presence?

A. Yes, sir.

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Q. I don't want you to do that. You moved, then, to Roanoke, Virginia, is that correct?

A. Yes, sir.

Q. After you moved down to Roanoke did you at any time invite any of your friends from the Fulton or or Oswego area to come down and visit you? Did you hear my question?

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A. No, sir, I didn't.

Q. After you moved down to the Roanoke area did you invite any of your friends from the Fulton or Oswego area to come down and visit you?

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A. Yes, sir, I asked Bill Burtis and Dave Woehr to come down to Roanoke to see us over some week end.

Q. And did they do so?

A. Yes, sir, I had to go pick up my car. It was delivered to Oswego instead of Virginia so I had to go there, anyway, so Dave Woehr—and I brought Timmy Judson, that is Joanne's little brother, on down to Virginia with me and Bill Burtis and Julie drove down to Roanoke in their car.

Q. Now when you all were there were you settled down in your place?

A. Yes, sir, we had been settled.

Q. Who was cooking the meals for these folks at the time?

A. I would get up in the morning and prepare breakfast for everybody and for lunch. I don't know if Joanne prepared anything or not. I think we just made ourselves sandwiches and at night I would cook out.

Q. Were you off from work during this period of time?

A. Yes, sir.

Dep. 9-5/6-68 page 60 } Q. Who was taking care of the children at this time?

A. Who was taking care of the children?

Q. Yes.

A. While the company was there?

Q. Yes, sir.

A. 50-50; Joanne, 50% of the time and myself, 50% of the time.

Q. By that you are talking again about feeding them and changing the diapers and so forth?

A. Yes, sir.

Q. Was anything said during this period of time while the company was there about Joanne going to work?

A. She had mentioned it right along, that she was going to work and we had quite a discussion on it there in front of the company and I said I didn't want her to go to work, I had just had a pay raise and I moved to that locality, which is one of the nicest in Roanoke, so she would be happy and would be proud to live there and at this time she had a car—and she could drive—that I made available for her, and I wanted her home with the children and told her I didn't want her to work because I thought she should be with them, that in a child's tender years they need their mother. She said that was old-fashioned.

Dep. 9-5/6-68 page 61 } Q. Was this said in front of the people that were there?

A. Yes, sir.

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Q. Did you have two automobiles at this time?
A. Yes, sir.
Q. Do you recall approximately what sort of salary you were making at this time?
A. I think $7,500.00 or $8,000.00.
Q. Were you living in a nice neighborhood?
A. Very nice neighborhood. There was a young salesman, it was a young neighborhood, growing neighborhood, new homes, up on a mound overlooking the whole Roanoke area.
Q. Were you buying your home?
A. No, I rented, at least with an option to buy it but I never did buy it.
Q. Was anything said about Joanne along the lines you referred to earlier about her not sitting there with the kids all day long, anything of that sort?
A. Yes, she said that this day and age women work and I shouldn't expect her to stay home with the children. She said that nine out of ten mothers work today. I don't want to get into any ramifications.
Q. After these folks left did she or did she not go to work?

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A. Yes, sir, and I still at this time didn't know that she was going to go to work.
Q. Did she tell you she was going to work at a specific time?
A. No, all she ever said to me was that she wanted to go to work.
Q. How did you find out when she finally did go to work?
A. She had a girl come in to baby-sit.

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Q. Where did she go to work?
A. She went to work for Dr. E. K. Adams on Williamson Road in Roanoke.
Q. A medical doctor?
A. A dentist.
Q. Who was the baby-sitter she got?
A. Sandy Poff.
Q. Do you know how old she was?
A. Seventeen or eighteen.

Elon Kevan Rowlee, II

Q. The first day Sandy came in to work there did your wife go to work that morning or did she wait for a day or what?

A. The girl came the Sunday prior to Joanne going to work and she stayed for about an hour and a half and the next day she came to meet the children. She came to meet the children, and the next day Joanne went to work.

Q. The next morning?

Dep. A. Yes, sir.

9-5/6-68 Q. Were you there?

page 64 } A. Yes, sir.

Q. Were you supposed to be there or did you go out on the road?

A. I didn't go.

Q. Why didn't you?

A. I didn't go out that week until Wednesday.

Q. Did you stay there at home Monday and Tuesday?

A. All day Monday and all day Tuesday.

Q. Did you say anything to your wife that you were doing that, rather than she?

A. Yes, sir, and she said she knew the facts, said she didn't care, she was going out to work, that those children were small, they wouldn't care, anyway, but they cried for their mother.

Q. During these first two or three days?

A. Yes, sir, every day. They didn't want her to go and when I would go out on the road they would cry for me.

Q. You said you stayed there until Wednesday and then went out on the road?

A. Yes, sir.

Q. What time was your wife to get off from work?

A. 5:00 o'clock; 4:30 or 5:00, something around there, pm.

Dep. Q. Did you make any telephone calls home after

9-5/6-68 you started going out on the road?

page 65 } A. That first week?

Q. Yes, sir.

A. Yes, sir, I called home every single night, every single night that I was away from Joanne I called her. I called Joanne every night.

Q. What was your schedule running about this time?

A. That I would call?

Q. No, when you were going out and coming back?

A. As soon as Joanne went to work I ended up going out like Tuesday afternoon instead of Monday morning.

Q. Why was that?

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A. Because things had to be done with the children—well, they just tore me up, I just couldn't leave them there with just a baby-sitter and at the time I should have been on the road selling I wasn't, I stayed at home.

Q. So what was your schedule running?

A. I was going out Tuesday afternoon and coming back Thursday. I would be gone Tuesday night and Wednesday night, generally.

Q. And you would call her each of these nights?

A. Right.

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Q. So you were calling her about twice a week while you were gone?

A. Right.

Q. What time were you calling, generally?

A. 8:00 o'clock, that is when the rates went down at that time, 8:00 o'clock.

Q. Were there any occasions when you would call and Joanne wouldn't be there?

A. Yes, sir, it was just about every single night I called she wouldn't be there.

Q. That would be around 8:00 o'clock?

A. 8:00 o'clock, 9:00, 9:30, sometimes she would be home at 10:00, sometimes she would be there at 8:00 o'clock, but that was very, very rare.

Q. Would there be anybody there with the children when you called?

A. I don't know, a lot of times nobody would answer the phone and other times a baby-sitter would answer the phone so somebody was there if the baby-sitter would answer.

Q. When the baby-sitter was there and answered the phone could you determine whether or not Joanne had been home?

A. No, sir, she would say, "Mrs. Rowlee—no, that was Sandra Poff, she would say she hadn't come home from work yet.

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Q. How long did you keep Sandy Poff as a baby-sitter?

A. I don't know, I think a couple of months, she and I talked and she said that she didn't see how Mrs. Rowlee—

Mr. Kauffman: I move to strike that.

Mr. Roberts: Don't state what anybody else told you.

Q. How long did she work there?

A. Two months, approximately.

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Q. Did you get another baby-sitter after that?

A. Joanne got another girl that lived up the street, another teenage girl.

Q. How long did she stay?

A. About a week or two weeks.

Q. Then what happened after that?

A. Well, she quit also. She quit because she didn't want to work the long hours.

Q. Then who did your wife obtain as a baby-sitter after that?

A. It was Sally Anderson.

Dep. 9-5/6-68 page 68 } Q. Who was Sally Anderson?

A. She was a colored woman that lived over in Roanoke City.

Q. About how old was she?

A. I can't tell their ages, I think she was about—

Q. Was she a teenager?

A. Oh, no, about 45, 55.

Q. How long did she stay there?

A. She stayed there until we moved to Richmond, Virginia.

Q. During the time that these three baby-sitters were there you have testified earlier about calling home in the evenings, did you continue to do so throughout this time?

A. Yes, sir.

Q. Did the situation change with regard to finding Joanne at home or not?

A. Yes, sir, it got so she was never home and then Joanne would tell me—I would call, call, call and no one would answer and she would say our phone had been out of order. Prior to that I had called the telephone company and she checked the phone out and said the phone was in working condition and they would ring the number and evidently no one was there. She told me she was home.

Dep. 9-5/6-68 page 69 } Q. Was there any occasion when Sally Anderson answered the phone?

A. Yes, sir.

Q. Would your wife be in on those occasions?

A. No, sir.

Q. How late in the evening would these calls be running?

A. I would call until I would get her, 8:00, 8:30, I would call every half hour.

Q. What is the latest you ever had to call to get her, do you remember?

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A. I have called as late as 12:00 o'clock, 1:00 o'clock in the morning and no answer and then I called back, it was almost 2:00 o'clock and she answered and she said she had been there all along.

Q. On week ends, when you got home, I think you said late Thursday, what kind of condition would your home be in?

A. Well, the corners were never cleaned in the house like a house should be; the ash trays, a lot of times, would be full, messy; the bed wouldn't be made, things like this. The children's cribs were all dirty.

Q. Were there ever any occasions that you ran across any containers of alcoholic beverages?

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A. Yes, sir, I usually kept a six-pack of beer in the refrigerator.

Q. Yourself?

A. Yes, myself.

Q. Would you find any empty containers when you came back?

A. Yes.

Q. Were they from beer you had drunk?

A. No, because I had just gotten back.

Q. Were there any whiskey bottles?

A. There were whiskey bottles there also.

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Q. On the Friday that you are home in Roanoke, now, did your wife work on those days?

A. Yes, sir.

Q. What would you do?

A. I would take care of the children.

Q. Was the baby-sitter there?

A. Yes, sir, but I would always, like I would take one of the children, play with them, mow the lawn, put Elon on my shoulders and mow the lawn. I would go down and get the week's groceries.

Q. When would you do that?

A. Friday, usually.

Q. Who was feeding the children along about that time?

A. I was.

Q. Was your wife doing any of it?

Dep. 9-5/6-68 page 72 } A. Now my wife has come to the point where she just refused to take care of the children.

Q. When did this start?

A. Right after she went to work for Dr. Adams.

Q. By refuse, did you discuss it with her?

A. Oh, yes, on many occasions. I would come home and the children—well, their little beds were just nasty looking, they hadn't been cleaned. She would take the cloth she would wipe dishes with, turn around and wipe the floor with it and then wipe one of my children's mouth with it.

Q. Did you see this?

A. Yes, sir, I said, "Don't do that." I would take it out of her hand. She would say, "Don't tell me what to do," and about this time she would call me "fat son-of-a-bitch," and "I hate you." Then she tells me she is not married to me and at this time she is telling me that the children aren't mine.

Q. All through here? This is all after you had gone to Roanoke?

A. After she went to work for Dr. Adams. She told me she hated me, wanted a divorce, wanted to leave me, that the sight of me made her sick.

Q. Did you ever discuss with her the question of divorce?

Dep. 9-5/6-68 page 73 } A. I said I wasn't going to divorce her, I wouldn't. I said, "We have got to straighten this thing out." She wouldn't go to church with me, she wouldn't sleep with me, and about June she went out on the couch.

Q. Slow down a minute, now. We were talking, or when you were talking about divorce she was talking about getting a divorce, did she say anything about what would happen to the kids?

A. At this time she told me she didn't care what happened to the kids. At this time she told me if I would give her a divorce I could have the children. I said, "I want you to stay with the children, too."

Q. This was when?

A. All from June all the way through to December.

Q. Of when?

A. 1967. She wouldn't—they would get sick; little Elon would be in his room crying. Instead of rocking him or warming up a bottle, she would go in and actually pound him. I would go in and stop her and say, "If you have got to hit somebody, hit me, don't hit that baby."

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Q. What would she do?

A. She said, "I can't hurt you but I can hurt these children." I said, "Joanne, you are sick, you have got to be sick, you can't do these things to children you love." I would say, "I just don't understand it." She would lock little Elon in the room, he would beat on the door and she would go in and curse at him. She would lay in bed until she couldn't stand the screaming any more and she would go in and beat him and little Elon would sneak out. He was scared to be locked in. She would lock the door and leave him.

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Q. Was there any time Elon was on any medication for nerves?

A. Yes, sir, she took Elon to the doctor. Elon has always been a very sickly child, very nervous and a very high strung little boy and when he got to be about a year or year and a half old he was sick or something; anyway, she got a prescription, got him some sleeping medicine. It came in a bottle, and it soothed him, relaxed him; he would go to sleep. That was okay for a week or two weeks but, you know, then the sickness should have been over but Joanne just kept giving them to him, instead of taking care of the child she would give him this sleeping medicine; not like one teaspoon, like he would get drowsy.

Q. Did you say anything?

A. Yes, sir. On one occasion I poured the contents of the bottle down the drain.

Q. Did she get more after that?

A. Yes, sir, and that—you just could not talk to Joanne, you couldn't reason with her. I said, "What have I done? Is it me?" And she would say, "Yes, it is you," and then she would swear at me. Now she is swearing in front of the children. On one occasion—I have a scar on my arm where she bit me, bit the flesh right off my arm.

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Q. Was this in front of the children?

A. No, this was not in front of the children.

Q. Let's confine it now—

A. She has burned me with her cigarette in front of the children. While I was sleeping she put the cigarettes on my arm.

Q. What about the language you say she was beginning to use at this time? Was this said often in front of the children?

A. Yes, sir, on a daily basis, on a regular basis, and I would call up nights and request to talk to my children on

the phone and she would say, "No, they are not yours, to begin with, you are not going to talk to them."

Q. Was the harness that you refered to earlier being used during this period of time?

A. She never used the harness on Brooke, it was Elon. She tied Elon in the bed even in Virginia.

Q. What would you do when you found him?

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A. I would take the harness off of him. On many occasions I have seen—when I lived in Oneida, on occasions I went down—I went to the bank or something, I would come back and Joanne wouldn't even be in the house with the children, she would be across the road or up the road someplace and the children would be alone in the house. She had been over to Wayne Hall's house.

Q. Wayne who?

A. Hall, he lived right across the road from us.

Q. Where would your children be?

A. Elon would be locked in his room, tied down with a harness.

Q. Where would Brooke be?

A. In bed. A lot of times Elon would be standing up in bed crying.

Q. I believe you said earlier it was during this period of time you all stopped sleeping together?

A. Back in, I believe it was June or July she stopped sleeping with me, went out on the couch.

Q. Of 1967?

A. Yes, sir.

Q. Did she thereafter sleep on the sofa?

A. Yes, sir.

Q. Did you ask her to sleep with you?

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A. I begged her. I would come off the road and say, "Please come in." She wouldn't, she would say, "You make me sick."

Q. Where would the children be sleeping during this time?

A. Elon had his room and Brooke had her room.

Q. Separate rooms?

A. Yes, sir.

Q. During this period of time would the children ever waken at night?

A. Yes, sir, I would get up and take care of the children.

Q. Was she taking care of the children?

A. No, sir, not at this time. She said she wanted to get out

of it. She took her rings off, never wore her rings from that time on.

Q. What would she do with the children while you were there?

A. She just refused to take care of them. I would come home—she always made it a point to get home when I got home. She would get home the hour she was supposed to get home on the day I generally arrived, like Friday; she would be home like 5:30 or 6:00, she would come rolling up in the drive. For supper—the children in the winter, she never even warmed up the food, she would just give them that brand baby food; here it was cold, she handed it to them cold.

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Q. That stuff in a jar?

A. That stuff in a jar, like Gerber's. She would give them the milk cold, she wouldn't cover them up in bed; I would cover them up, I would have to tell her to make their beds, she would throw a dirty mattress over them that the dog had slept on half the time, that would be out on the floor.

Q. When the children would wake up at night would they need cleaning?

A. Yes, sir.

Q. Who would do that?

A. I would. Joanne wouldn't get out of bed, she would say, "I am not taking care of those children."

Q. How about in the mornings on a day you were off from work and were there at home, would she get up in the mornings?

A. No, sir, she wouldn't get up.

Q. Who would fix the children's breakfast?

A. I would, I would fix their breakfast, take them for walks.

Q. Now on Friday she would be working, right?

A. Yes, sir.

Q. How about Saturday?

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A. She would still lay in bed, she wouldn't get up; then she would make excuses, she would say, "I have got to go shopping, is that all right?" I would say, "Sure, that is okay." She would go shopping and she would tell me before she left she would be gone an hour. She would leave like at 11:00 o'clock in the morning and be back at 6:00 o'clock in the evening.

Q. She didn't have to work on these days?

A. No, she would leave the children with me. I never minded taking care of the children but she wouldn't stay with the children.

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Q. Who fixed the children's lunch on these days?
A. I did.
Q. How about supper on Saturday evenings?
A. I barbecued every evening, I cooked out.
Q. Was Brookie old enough to eat what you were cooking at that time?
A. No, little Elon was.
Q. Who would feed her?
A. I would.
Q. You were beginning to testify a few minutes ago that at first she would be home, generally, when you got there, either on Thursday or Friday; did that ever change?
A. Yes, sir, in November and December she just flat—she just wouldn't come home, she would get in at 9:00 o'clock, 10:00 o'clock at night. I would be there, I would call the office, she would tell me she was working late. I would call the office and nobody would be there.

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Q. This was after you were back in town?
A. Yes, sir, and on other occasions I would come home and I would call over there at 3:00 o'clock trying to get Joanne and she would be gone to lunch and hadn't been back yet.
Q. When you got there the baby-sitter was still there, I assume?
A. Yes, sir.
Q. Would you relieve the baby-sitter then or would she continue to stay there or what?
A. Fifty percent of the time I would relieve the baby-sitter and fifty percent of the time I would ask the baby-sitter to stay because when I would come back off the road I was tired out; well, I needed help.
Q. On these occasions, toward the tail end there, when she would come in late after you had gotten there, would she be in normal shape?
A. She would be drinking. This time—well, since she worked for Dr. Adams she was drinking—no beer, but whiskey; I could smell whiskey on her breath.
Q. Did you ever say anything to her?
A. Yes, sir, she would say, "You don't tell me what to do, you fat son-of-a-bitch, I hate you, I am not married to you."

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Q. Were any of these occasions in front of the children?
A. Yes, sir. Now all the time she is talking it doesn't matter who is around, she is belittling me, swears at me,

refuses to bathe the children, feed them, care for them when they are sick; she would beat them, lock them in their rooms at night, drugging them, leaving them alone in the house.

Q. When she would go off shopping on Saturdays and stay, I believe you said from 11:00 a.m. until sometime 5:00 o'clock or 6:00 p. m., would she come back with a whole lot of stuff she had brought?

A. Most of the time she wouldn't come back with anything. She would always go over in the Williamson Road area. I said, "Why didn't you go in the Towers Shopping area? That is close by." She would say, "I go where I want to go." She would always go in the Williamson Road area.

Q. Where was Dr. Adam's office?

A. Williamson Road.

Q. Close to the shopping center?

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A. Right close, but it was on the extreme other end of town, it was about a half hour's drive to get there. The other way was only ten minutes away, and also Fridays and Sundays I would wash the cars and Friday I would wash that car—well, when I washed the car I would find grass and hay and everything hanging out from under the car.

Q. Would you clean it off?

A. Yes, sir, I would get under there and hose it off.

Q. When you would come back the next week end was it there?

A. Not only the next week end, sometimes the very next day, Saturday; when I would clean the car, there would be these weeds and grass hanging up from under the car.

Q. Was the area you lived in an area with paved streets?

A. There weren't any weeds or grass or hay in the roads anywhere in Roanoke, as far as I know. There were paved roads from there to every shopping center.

Q. How about the Williamson Road Shopping Center?

A. Yes, sir, that was a macadam.

Q. During the time you were living in Roanoke did you have occasion to have a wedding anniversay to come up?

A. Yes, sir.

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Q. Were you in town prior to that?

A. No, I was out of town on the road.

Q. And did you do anything different from your normal routine on the day of your wedding anniversary?

A. Yes, sir, I thought I would surprise Joanne. We had been having a rough go of it and I wanted to surprise her, take her out to dinner. I came home about—I think it was

4:00 o'clock I got home, 3:30 or 4:00 o'clock, and waited for her to come home.

Q. You had not advised her you were going to come home?

A. No, I was going to surprise her and take her out to dinner.

Q. This was August, 1967?

A. Yes, sir, August 14.

Q. When you got there who was there at the house, if anybody?

A. The baby-sitter. I forget which one it was.

Q. And you got there about 4:00 o'clock, you say?

A. 3:30, 4:00 o'clock.

Q. Did you relieve the baby-sitter on this occasion?

A. I waited there—no, I asked the baby-sitter to baby-sit that night while I took Joanne out and she said "All right."

Q. When did Joanne get home?

Dep. 9-5/6-68 page 84 } A. She didn't get home until about 9:30 that evening.

Q. Was anything said between the two of you on that occasion?

A. Yes, sir, she came into the house and her hair was all messed up, she had chew marks on her neck, her blouse was misbuttoned, like this (indicating). She didn't have her nurses uniform on, had her street clothes on.

Q. Did she ordinarily wear a nurses uniform?

A. She is required to wear a nurses uniform to go to work.

Q. Did she have it on?

A. No, sir, street clothes.

Q. Was she drinking?

A. Yes, sir, she was drunk, had whiskey on her breath.

Q. Did you get into an argument?

A. Yes, sir. I asked her where she had been, she said, "I hate everything you represent." I asked her to put the children up, and she told me to go right straight to hell.

Q. Were all these comments made in front of the children?

A. Both children were there.

Q. When you asked her to put the children up, she told you to go to hell?

Dep. 9-5/6-68 page 85 } A. Told me to go right straight to hell, and called me a fat son-of-a-bitch again.

Q. Did you go out that evening?

A. No, sir.

Q. And did the baby-sitter leave?

A. Yes, sir. Yes, sir, and she admitted—I asked her, I accused her of everything right then and she admitted this

time, I believe, she was drinking. She said she stayed after work and was drinking cocktails with Dr. Adams.

Q. She told you that?

A. Yes, sir, she told me that. She said that I wasn't going to do a thing about it because she wasn't about to listen to me.

Q. Did you all have any blows on that evening?

A. When she said all this to me I was hot, I grabbed her and shook her by the shoulders and shook her quite violently and I said, "Joanne, you are sick," and as soon as I shook her she lit right into me.

Q. What do you mean: lit into you.

A. Started swearing, hitting and kicking me right in front of the children.

Q. Did this affect the children at all?

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A. Yes, sir, my little son was crying and he was saying—he was saying, "Daddy, daddy, daddy; mommie, mommie, mommie."

Q. After this evening did you stay home for for the rest of that week?

A. Yes, sir.

Q. What happened?

A. It was just ice cold. Our relationships between Joanne and I were just ice cold. She wouldn't want anything to do with me.

Q. Did she go to work the next morning?

A. Yes.

Q. What time did she come home the next evening?

A. I think it was 11:00 o'clock that night.

Q. Did you say anything to her about the drinking at that time?

A. Yes, sir, but after a while words don't mean anything. After you talk and talk to somebody and they keep defying you, words don't mean anything so after a while you just do things, you come home and start doing the chores that have to be done in the house. I begged her, I broke down and cried on many occasions, like I shouldn't have, of course; she just said I made her sick.

Q. Did she have anything to say about her relationship to the kids at this time?

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A. Right along this time I have already testified, she told me she didn't want anything to do with them, she was too young and pretty to be tied down.

Q. Let me carry you up to the Fall of 1967; did you and

your wife have any occasion to take a trip during that Fall or Winter?

A. Yes, sir, we went to Nassau. We flew to New York City and took an ocean cruise to Nassau.

Q. When was that?

A. The first week in December.

Q. What arrangements had you made for baby-sitters for the children?

A. We had asked my parents to come down and stay with them for the week.

Q. In Roanoke?

A. Yes, sir.

Q. Did they do so?

A. Yes, sir.

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Q. Now, tell us, did the two of you go on the trip to Nassau?

A. Yes, sir.

Q. Was it a boat trip?

A. Yes, sir.

Q. Was this something sponsored by your company?

A. Yes, sir.

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page 90 } Q. Was there any time on the trip that you noticed her with any other men?

A. Yes, sir, she used to always hang around—the bars were open almost 24 hours a day. There were many little bars on the cruise, on board the ship, and they were open just about—when six closed down, the other six opened. She had this one she went to all the time. The bartender's name was Romulo. She went there all the time. Most of the women would go to have coffee or breakfast; Joanne would go to the bar at 8:30 in the morning with this Romulo. She was always with him and this other individual at dances instead

of dancing with her husband she wouldn't dance with me, she danced a few times with me and she would dance with this other man, not that I was such an extremely jealous person; one dance was sufficient, and he was holding her the way I was supposed to be holding her. She had her eyes shut, he had his eyes shut. Where I was sitting at the table they would get right off in the corner.

Q. I assume you are talking about at nighttime?

A. Yes, sir.

Q. After you would finish whatever you were doing at nighttime, would you go back to your staterooms, generally?

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A. Yes, sir. Prior to that, however, one day after we had been to Nassau, here we had been on the ship for two or three days, then we went to the beach, down on the beach. Well, we get to the beach, I would get some drinks or something to bring down to the beach, there would be all these Italians. It was an Italian liner; all of these crew members would be hanging around my wife.

Q. Would there be any other women there?

A. No, she was the only one. On many occasions she wouldn't get up to come and meet me, she would look up and sort of smile, I would have to push these Italians to get them out of the way to get in there. They would look at me and laugh and she told me not to bother. So we had been on the ship and we only had three days, two and half days of time on the beach so just about all the couples, all the people wanted to spend their time on land to see the sites. It is Romulo's day off, the bartender's; Joanne didn't come to shore, she stayed, she said she didn't feel good, she was staying on the boat. I didn't find out until that night that Romulo had his day off and didn't go to shore, either.

Q. Did you?

A. Yes, I went to shore. She told me she didn't want to be with me, anyway.

Q. Could you tell us what, if anything, unusual occurred on the last day of the trip coming back?

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A. Yes, on the last day there everybody went out to have their last fling on the cruise and everything and there was a lot of partying going on. The last night on board ship I was tired out, we had done a lot of things; I was just physically exhausted and I said, "We will go to bed early tonight, be to bed by midnight and get up early in the morning to see the Statue of Liberty," and she said, "Boy, if you aren't a square, if you

want to watch something like that." She said, "I am not going to bed," so we went out that night and we stayed until probably midnight. She didn't want to go back to the stateroom and this other couple came in about this time and came over and sat down and I was cold toward the individuals because he was pushing himself and my wife was making herself available to him all during the trip, all during these cocktail parties the business people would have she would be off in the corner with him and not with me. Anyway, as soon as she sat down he asked her to dance and she got up. Most people had gone to private parties, now—you wouldn't call it public, it was—by this time people were in these various cabins having parties, other people had retired; she danced three or four dances with him.

Q. What were you doing?

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A. Sitting there with this other fellow's wife. She was embarrassed and I was. They were dancing up close and whispering in each other's ear, dancing way far away from us, not coming back. They left their arms around one another between songs; he had his hands on her hips, looking down in her face.

Q. How long did this last?

A. Four or five dances, and then they came off the floor and the other party says, "Well, I am going to turn in now," and they got up and left and he said, "Well, I will see you all tomorrow morning when we pick up our baggage in New York," and he said, "Good night," and right after they left I said, "I am tired." Joanne said, "Let's turn in," so I said, "Great, let's go back and go to bed."

Q. Did anything happen after that?

A. Yes, sir, we both got undressed and I assumed she went to sleep. I laid down in my bunk and went to sleep, she went to sleep, then I had fallen asleep and then I heard somebody open the cabin door. I heard the door open and shut and then I heard the bathroom latch turn and open and I laid there. I said myself: you are just in a long row of cabins and somebody had too much to drink and got in the wrong room, so I got up and didn't even look over to see if Joanne was in bed. I got up and I was in my

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skivvies and the bathroom door was open and Joanne was there, standing over the commode and she didn't have her pants on, she did have her skirt on; she was all messed up, wiping herself off with a wash cloth.

Q. Was the light on in the bathroom?

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A. Yes, sir, the light was on and I started crying, and asked Joanne, "How can you do this?" She said, "I hate you;" she said, "I hate you."

Q. When you say "wiping herself off," you mean between her legs?

A. Between her legs, she had a wash cloth, then she came back and we had a violent argument. I shouted at her, she shouted back and swore at me. I said to go to bed and she said, "I am not going to bed." I sat her in bed and said, "Go to sleep, you have embarrassed me enough on this trip." She said, "You think you are embarrassed now, you haven't seen anything," and she laid down on her bunk. Again I woke up in half an hour and woke up and, lo and behold, she is gone again. This time she is not any place in the cabin. She had gotten dressed and left. There was a party going on down the hall; I went looking for her. She was standing, she had all her clothes on and was alone, everybody else was in their shirt sleeves, it was hot; she was standing over by herself, not with anybody, just standing there. She had on her clothes like she had been out on the deck.

Q. Did she come back with you then?

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A. No, as soon as she saw me she rushed out the door and I was embarrassed enough that she was in there without her husband, anyway. I didn't want to make a commotion. When I came in other people grabbed, "Let's do this, let's do that." I tried to be bright, it took me two or three minutes to get out of there and she had already left, and then I went looking for her and I went around the corner and I heard voices and I hear her talking and she says, "You have got to get out of here, Kevan knows what is going on." I heard these voices and I heard laughter, "I am not worried." She said, "You better be worried, if he sees you, you are going to be in trouble." I came around the corner then and at that time he left the stateroom, he ducked out. The door wasn't too far from the deck. He ran about five steps and opened the door and went out on the deck and Joanne came out and went the other way. She saw me and rushed the other way trying to get out of there.

Q. Did you get her?

A. Yes, I actually had to take her by the wrist and lead her to the room. She said, "I am never going back there with you."

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Q. Was that the last time she went out or tried to?
A. Yes, sir.

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Q. I believe you said this was in December of 1967 and you then came on back to Roanoke and you lived there in Roanoke until the latter part of December or the first part of January, 1968, is that correct?

A. Yes, sir.

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Q. Did the general attitude of Joanne change during that time?

A. Oh, yes, sir, she knew at this time I was instructed to move to Richmond and, in fact, they asked her on the ship how she would like it. She never gave any comment. She told me personally she wasn't going to move to Richmond. She refused to move to Richmond. She said—now all of a sudden—she told me she had seen a lawyer, she had been to a lawyer. Now all of a sudden she told me, said, "You should have got out while the going is good." She said, "I have been to the lawyer; I know I can get you for some money." She says,"You will never get these kids now."

Q. Before you moved had you told her you were going to have to be transferred?

A. Yes, sir, she knew about it.

Q. And she said she was not going with you?

A. That is right. The day I moved she said, "What are you doing? What are you going to do today?" I said, "The moving van is coming, I am moving." She said, "If you are moving, leave the children's things here and my things here," and she said goodby and went to work.

Q. This occurrence that you referred to that happened on the boat where you woke up at night and she was gone, did that ever occur in Roanoke?

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A. Yes, sir, it did. It happened twice in Roanoke. One night I went in and went to sleep and the phone rang. I thought she was up watching T.V.; the phone rang, I got out of bed and answered the phone and it was Mrs. Poff, Sandra Poff's mother.

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She said—

Q. Don't tell us what anybody said, tell us whether your wife was there?

A. My wife was not there.

Q. What time of night was it?

A. Around 1:00 o'clock in the morning.

Q. Had she been there earlier when you went to bed?

A. Yes, sir.

Q. Where were the kids?

A. In their beds.

Q. What was the second occasion you referred to?

A. Let me finish that occasion. She didn't get home until 1:20 or 1:30 or 2:00 o'clock and then she snuck in.

Q. Were you up?

A. Yes, sir. She drove in without the lights, she had her shoes in her hand; she opened the door so she wouldn't make any noise and then I cut the lights on.

Q. Did you have a discussion at that time?

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A. Yes, sir, she said it was none of my business. I said, "Don't you think you should let somebody know where you are going?" She said, "No, I hate you."

Q. Was there any other occasion this happened?

A. Yes, sir, around Thanksgiving, a friend, Hank Blohm, 2336 Fair Oaks Lane, Cincinnati, Ohio, he came down and spent Thanksgiving and we went to bed about 9:30, 10:00 o'clock one evening and Joanne again watching the television; anyway, this particular occasion I heard the children crying, I woke up; I think it was Brooke, I got up and tended to her. When I walked past the living room nobody was in there so I got the bottle, gave it to the baby, rocked her; I gave her the bottle, changed her, rocked her, put her to sleep and put her to bed and I woke Hank up and said,"Did Joanne say anything to you about going out?" He said, "No, isn't she here?" So we both waited up and she didn't get in this morning until 3:00 o'clock in the morning.

Q. She had been there when you went to bed?

A. Yes, sir.

Q. Did you wait up for her then?

A. Yes, sir.

Q. Did you have any discussion with her then?

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A. You don't have discussions with her at this point, she defies you. Of course, I talked with her. There is nothing you can do; she had made up her mind, she had asked me for a divorce, didn't wear her wedding

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9-5/6-68 page 100 } rings, told me I made her sick, and that particular occasion she wouldn't fix Thanksgiving dinner. I had to fix Thanksgiving dinner. Another occasion there while we lived in Roanoke, she left prior to Christmas and went up to Fulton, New York, took both kids and drive—it is from Roanoke, Virginia, up there, nonstop with two little babies. It is a handful to drive up there nonstop by yourself. She drove up there with two children, without my knowledge, against my wishes. It was snow, the tires were bad on the car, she drove all the way up there, a twelve-hour trip, with two children and left me in Roanoke and, well—

Q. Let me ask you this question, were you present in Liverpool, New York, I think it is, when the deposition of Mr. Dave Woehr was taken?

A. Yes, sir.

Q. Did you hear his deposition being taken?

A. Yes, sir.

Q. Is this the same occasion that he referred to in his deposition where he said he had sexual intercourse with your wife during December, 1967?

A. Yes, sir.

Q. That is the same one?

A. Yes, sir, that was right after our trip to Nassau.

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Q. Did you come to Richmond with the children?

A. Yes, sir.

Q. Did she later come to Richmond?

A. Yes, sir.

Q. How long was it after you arrived that she got there?

A. I think it was a day or two days later.

Q. Had you made arrangements before you got here for a place?

A. Yes, sir.

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Q. When we left to go to lunch you had just told us about having gotten to Richmond and the fact that Joanne came either the next day or the following day after you arrived and I would like to start at that point. Your father, you testified, came down to help you get squared away. Did he stay there any time after your wife got there?

A. Yes, sir, he spent practically a week there.

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Q. Would you tell us what, if anything, transpired with regard to taking care of the children?

A. Well, you see by what I said that things were quite hairy and as far as meals were concerned, when it was time to eat supper, she would just hand the children a piece of baloney; that would be their supper.

Q. Were any meals cooked for you during this period of time?

A. None.

Q. During the time that you and your father were there how did the two of you eat? Did you cook it or your father, or what?

A. Yes, I cooked some meals. We just ate sandwiches. I don't think anybody ate on a regular basis that entire week.

Q. How about the children?

A. No, sir—well, I attended to them most of the time during this period. Joanne was mad at me so to get back at me she would yank the children around.

Q. Did this happen during this period of time after you moved to Richmond?

A. Yes, sir.

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Q. Do you remember any specific examples of it?

page 107 } A. Yes, sir. One example, my son Elon went in after breakfast to watch Howdy Doody, Popeye, some cartoons in the morning; it was either breakfast-time or evening, the cartoons come on twice a day; he went in, turned the television on; Joanne shot in there and hit him just as hard as she could hit him.

Q. She hit him where?

A. In his head, in his head with her fist.

Q. Was her hand open or closed or what?

A. I don't recall. All I know is she hit him and he went into a wrench.

Q. What did you do about it?

A. I picked him up and said, "Don't put your hands on these children again in this manner." She said, "You don't tell me what to do."

Q. Was your father present?

A. Yes, sir.

Q. He was.

A. Yes, sir.

Q. Was anything said during this period of time whether these were your children?

A. Yes, sir, she told me again, "You shouldn't have any concern over these children, they aren't yours to begin with."

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page 108 } Q. Was any of this said in the presence of your father?

A. Yes, sir.

Q. Were the children present when it was said?

A. No, sir.

Q. Were there any other things that occurred during this period after you moved to Richmond before you left, involving the children, that you can recall?

A. Yes, my supervisor came down to travel with me for a week and he came down on a Monday. I met him at the Richmond airport. He came over to the house; I showed him where I lived. Anyway, we went out on the road and I called—each night I called again to see how the children were and nobody answered the phone. I called one night until 3.00 in the morning and no one answered the phone. I finally called the neighbor next door to see what happened and he said—

Mr. Kauffman: I object.

Mr. Roberts: Don't go into what somebody else told you.

Q. How long did you call?

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A. I called for four days.
Q. And you got no answer?
A. No answer.
Dep. 9-5/6-68 page 109 } Q. Can you tell us the times that you were calling?
A. Well, all night long I called one night.
Q. You never got any answer?
A. Never got any answer.

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Q. Was anything said at all about Joanne getting another job after you got here?
A. Right, she started right in on this going to work business again. She said she had to go to work and I said, "Joanne, you can't go to work; with your past record you just can't, you have got to stay home." I said, "You have got to learn to be a mother and assume your responsibilites and please don't go to work." I begged her again.
Q. Did she say what she was going to do?
A. She said she was going to go to work, it was none of my business what she did.
Q. Kevan, I have here what appears to be a portion of the classified ad section of the Richmond Times-Dispatch dated Wednesday, February 21, 1968 and under the column headed "Help Wanted - Female" I direct your attention to an item which reads, "Baby Sitter - in your home, 2 children, must be in Bon Air section, 272-4732, $15 week," and I will ask you if you can identify what that is?
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A. Yes, sir, that is an ad my wife ran to get a *babby*-sitter to take care of the children.
Q. Do you recognize the telephone number on that?
A. Yes, sir, that is my number in Bon Air.
Q. Was it your number on February 21, 1968?
A. Yes, sir, and the reason it says "your home," she didn't want me to be around the children.
Q. At this particular time were you still living there?
A. Yes, sir.
Q. Was anything said to you by her about running this ad in the paper before it was run?
A. No, sir.
Q. Did you know about the ad before seeing it in the paper?
A. No, sir.

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Q. Kevan, I am going to show you now what purports to be a bill from C&P Telephone Company covering long distance telephone calls charged for the period from April 24 through May 19 and I will ask you can you identify what telephone number that bill covers?

A. The number that it was charged to?

Q. That is correct.

A. My number in Bon Air, 272-4732.

Q. Do you recognize any of the numbers called on that one?

A. Yes, sir, to David Woehr in Fulton, New York.

Q. What date and number?

A. The 29th of April, Area Code 315, 593-1249; 65¢.

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Q. Do you know whether that call was made before or after you filed your present divorce suit?

A. That was filed after.

Q. Which was which, now?

A. The phone call came after I had filed for a divorce.

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Q. Did you make the call that is listed on there to David Woehr?

A. No, sir.

Q. Did you authorize anyone else to make a call to David Woehr?

A. No, sir.

Q. Was your wife living in the house of this telephone number at this time?

A. Yes, sir.

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(The said telephone bill was marked for identification as Complainant's Exhibit No. 4.)

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Q. While you were living at your address in Bon Air, Forest Hill Avenue, did there come any time when you were advised that your wife had committed adultery prior to that time?
A. Yes, sir.
Q. And do you remember approximately when that was?
A. Approximately the latter part of December or the first part of January, somewhere in there.
Q. That would be either 1967 or—
A. 1968.
Q. Since that time that you were so informed or advised have you had acts of sexual intercourse with your wife?
A. No, sir.
Q. Did you after that time live in the same house with her?
A. Yes, sir.
Q. What sleeping arrangements existed at that time?
A. I slept in my office—she wasn't sleeping with me anyway from since last June but I slept in my office, had a bed up in my office down in the cellar.

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Q. Was there any time after you learned of this alleged adultery and the time that you left the home that you slept with your wife?
A. No, sir.
Q. Was there any reason why you did not immediately leave?
A. Yes, sir, I didn't have the funds, I couldn't afford to leave.
Q. After you were advised of this did you consult an attorney as to what to do?
A. Yes, sir, yourself.
Q. And did there come a time when you did move out?
A. Yes, sir.
Q. When was that?
A. I think it was in March.
Q. Of what?
A. 1968.
Q. Did you at that time or did you not advise your wife as to why you were leaving?
A. Yes, sir, I did. I told her when she went to work, to go

to work, she was jeopardizing our marriage and she laughed and said, "You won't leave."

Q. Did you say anything to her about the act of adultery?

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A. I asked Joanne to please come clean with me and tell me what she had done and there was still time to save our marriage, that all she has got to do is admit things to me and she said, "Kevan, I haven't done anything, I wouldn't do anything to you."

Q. Did you then leave after that?

A. Yes, sir.

Q. Are you and your wife both over the age of twenty-one years?

A. Yes, sir.

Q. Are you both white?

A. Yes, sir.

Q. Have you both been residents of and domiciled in the State of Virginia for at least one year prior to your bringing this divorce suit?

A. Yes, sir.

Q. At the time the suit was instituted where did your wife reside?

A. Bon Air, Chesterfield County, Virginia, 23235 Zip Code.

Q. At the time of the institution of this suit had it been more than five years or less than five years since the alleged act of adultery that you learned of?

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A. Less than five years.

Q. Were any of these alleged acts of adultery procured by you; if you asked that they be done?

A. No, sir.

Q. During the time since you left where have you been living?

A. 1721½ Grove Avenue.

Q. Is she living there now?

A. No, sir.

Q. Have you since that time been making any payment on account of bills that you and Joanne had incurred prior to that time?

A. Yes, sir.

Q. Just in a general fashion what do they relate to?

A. In a general fashion, clothing, women's clothing.

Q. Were these bills incurred by you or by your wife?

A. A portion of one bill was incurred by me at Heironimus, and I had, I would say, maybe $50.00 or $60.00 worth; the rest was charged by my wife Joanne.

Q. Have you continued to make payments on these bills?

A. Yes, sir.

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Q. Have you paid any of them off that you had?

A. Prowda's, in Fulton, New York, a dress shop; Harpers Dress Shop, Fulton, New York; McDonald's Dress Shop, Fulton, New York; Irving Saks Smart Wear Store, Roanoke, Virginia; Heironimus Department Store, Roanoke, Virginia; and Lazurus Dress Shop, Roanoke, Virginia, and for tires that she charged against me.

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Q. Tires?

A. Tires, that was to Phillips 66.

Q. Did you pay them off?

A. Yes, sir; gasoline that she charged to me without a charge card.

Q. Did you pay that?

A. Yes, sir, although I deducted that, the gasoline bills, from what I was paying her a week for food. She went out and had the car repaired against my wishes because I couldn't afford to have it repaired and she charged that up to Charge Plan in my name.

Q. Have you been paying that?

A. Yes, sir.

Q. Now has she had an automobile during all this period of time?

A. Yes, sir.

Q. Is this the same automobile you testified to earlier that you got?

A. Yes, sir.

Q. Has there been insurance on the automobile?

A. Yes, sir.

Q. Who paid the insurance premiums on it?

A. I did.

Q. Were any car payments made on it?

A. Yes, sir.

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Q. What were they?

A. They were $40.00 to $50.00 a month.

Q. Who paid those?

A. I did.

Q. We have seen a lot of telephone bills that have been introduced here, who were the telephone bills paid by during this period?

A. I paid the telephone bills.

Q. Was that house rented?

A. I rented it for $170.00 a month.

Q. Who paid that?

A. I did.

Q. Were any utility bills paid, coming in on the house?

A. Yes, sir.
Q. Who paid those?
A. I did.
Q. Is this taking place during all the period of time since you left up to the time your wife moved?

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A. Yes, sir.
Q. Were you under any Court Order to make these payments?
A. No, sir.

Q. In addition to the payments you have already referred to have you made any periodic cash payments directly to Joanne?
A. Yes, sir.
Q. What does that amount to?
A. $50.00 a week or $130.00 a month.
Q. When was the last payment you made on that?
A. Last week.
Q. When did you begin making those payments?
A. Since I left there.
Q. Are you under any Court Order to do that?
A. No, sir.
Q. Are there any other bills that you know of that you have been paying during this period of time?
A. Not that I can recall offhand.
Q. After making all these payments have you had sufficient money for living yourself?
A. No, sir.
Q. You had to borrow any sums of money?
A. Yes, sir, on my insurance policy.
Q. How much did you have to borrow?
A. I forget now, I think it was $500.00.

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Q. Now I believe you testified back early that in working for Syroco you have what is called a territory, is that correct?
A. Yes, sir.
Q. That territory now is what?
A. Presently it is Virginia, West Virginia, the very western tip of Maryland and the District of Columbia without the department stores.

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Q. You have asked in your Bill of Complaint that you be awarded custody of the two children of this marriage?

A. Yes, sir.

Q. Would you state to us what arrangements you would be able to make for taking care of these kids if the Court awards you custody of them?

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A. Yes, sir. If I am awarded custody of the children my parents are retired and they would move to Virginia and live in my home and take care of the children until such a time that I could get a good christian lady recommended through the church to come in and live there in my home seven days a week.

Q. Have you discussed this with your parents?

A. Yes, sir.

Q. Have they indicated whether or not they would be in position to do this on an indefinite basis until you could get such a person?

A. Yes, sir they are able to come down.

Q. Are they willing to come down?

A. Yes, sir.

Q. Now I am going to hand you now a piece of paper which has a column running up the left side of it entitled "Days," and has the numbers 1 through 7, and then along the bottom of the paper it has the months of the year, with 1, 2, 3, 4 under each month and I will ask you if you can identify this piece of paper for me and tell me what it is?

Mr. Kauffman: I would like to reserve any objections until I know what it is.

Mr. Roberts: All right.

Q. Would you identify it for me?

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A. Yes, sir, this is the time I am able to be home, the portion of the—

Q. Before you start getting into it, tell us who made it up and what it is designed to show?

A. I made the graph up and it is designed to show how much time I can be at home.

Mr. Roberts: Let's have it marked for identification, first. Mark this as Complainant's Exhibit No. 7 for identification.

(The said graph was marked for identification as Complainant's Exhibit No. 7.)

Mr. Kauffman: I object until its relevancy is shown and its authenticity and clarification as to what it purports to show.

Mr. Roberts: All right.

Q. Now, Mr. Rowlee, I am going to hand you back the same piece of paper I have been talking about which has now been marked for identification by the Court Reporter as Complainant's Exhibit No. 7 and ask you now if you will explain what this does show and how you made it up?

A. Yes, sir, it shows here, looking at it, that there are four weeks of the year I am gone; two of the weeks I am gone five nights; two of the weeks I am gone seven nights. I have given up a portion of my territory to enable me to be home just about every night with my children.

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Q. Let's talk about those weeks you are away, first of all. Apparently, you are saying there are some weeks out of the year, or two that you are away for five nights and two that you are away for seven nights?

A. Yes, sir.

Q. Will you tell us when those weeks fall and why you are required to be away during those periods?

A. The first week I am gone five nights and that is approximately the second week of January and that is to the furniture market in High Point, North Carolina.

Q. Now start right there. Will you tell us how you can have somebody reading this graph determine that?

A. I can write in there, "High Point Market."

Q. You will write in the space that you are talking about where you are gone.

A. (Marking.)

Q. So now that space on this graph you have the words, "High Point Market?"

A. Yes, sir.

Q. Will you go to the next spot you are talking about?

A. That is in April, and I am gone for seven nights. I am in High Point then also to attend a market.

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Q. When you say market, what kind of market are you talking about?

A. Furniture market. (Marking)

Q. In that space you have written the words "High Point Furniture Market?"

A. Yes, sir.

Q. Now, the next?

A. July, I am gone for five nights, same place, High Point Furniture Market.

Q. Would you write that in? And in that space you have written the words, "High Point?"

A. Yes, sir.

Q. What is the next one?

A. October.

Q. How long are you gone then?

A. Seven nights.

Q. Where is that?

A. High Point. (Marking)

Q. All right, in that space which is in October you have written the words, "High Point?"

A. Yes, sir.

Q. Going beyond those four weeks that you are talking about, there are a number of areas on this graph which are in blue?

A. Yes, sir.

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Q. What does the blue represent?

A. The blue designates the nights I am able to be home.

Q. What do the other white areas that you have not already marked designate?

A. They are trips, mostly, to Charleston, Huntington, Ashland, and my territory.

Q. Let's take the first period of time after the first High Point Market that you have listed which appears to me to be in about the first week of February?

A. Yes, sir.

Q. Can you explain for us how many nights you are gone that week?

A. I am gone three nights.

Q. Out of how many?

A. Out of seven.

Q. And then after that I see a blue space which has three dots at the top of it, what does that signify?

A. I am not quite sure if I follow you. The blue area is when I am home; the dots are the nights I am home. That dot is on the 7th line; I am home that week.

Q. Each dot represents a week?

A. Yes, each dot represents a week.

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Q. How does it come out from the standpoint of weeks at home, that is, weeks when you are home every night?

A. I gave you that information but I can't recall it right now. This was done on an approxi-

mate forty-eight week basis, and there are thirty-seven weeks there, I believe I counted correctly, that I am able to be home seven nights a week.

Q. All right, the other eleven weeks include the four weeks you have already talked about, is that correct?

A. Yes, sir.

Q. So that leaves seven weeks that you are away part of the week, is that correct?

A. Yes, sir.

Q. And what is the average on that that you are away?

A. On the average, I am away two nights.

Q. In those seven weeks?

A. There are two or three nights I am gone.

Q. During that seven week time?

A. Yes, sir.

Q. Do you feel, under these circumstances, that you are in position, if you are able to secure the type of help you want, to adequately take care of these two children?

A. Yes, sir.

Mr. Roberts: Would you like to see this now?

Mr. Kauffman: Yes. (The document was shown to counsel for the defendant.)

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page 135 } A. (Continuing) I would like to add that the bulk of my territory now in dollar volume sales lies between the Washington, D. C. and Norfolk, Virginia area and, therefore, I am able to leave at 7:00 o'clock in the morning, be in Washington by 9:00; leave there at 3:30 and be home by 5:30; going either to the Washington area or to the Norfolk area.

Q. Is that what you would propose to do if you were awarded custody of these children?

A. Yes, sir. The bulk of my rural business is done, I would say, 85% of it is done during these markets.

Q. Do you feel that you are financially able to take care of these children in the fashion you have already testified to if you are awarded their custody?

A. Yes, sir.

Q. I am going to show you another piece of paper now and ask you if you can identify this for me as to who made it up and what it purports to show?

A. Yes, sir, I made this graph up, also, and this—both of these graphs were made up at different dates. This is a rough draft here and shows roughly where I am week to week.

Q. And does that conform generally to the other graph?

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A. Yes, sir, it might be a week or two off.

page 136 } Mr. Roberts: I would like to have this marked for identification as Complainant's Exhibit No. 8.

(The said graph was marked for identification as Complainant's Exhibit No. 8.)

Q. Would you explain how this one works?
A. Yes, sir, the blocks I have—
Q. What does a block stand for?
A. One week; there are four blocks to a month and they are each numbeked 1, 2, 3, 4, meaning the weeks.
Q. What does the red indicate?
A. The red indicates the weeks that I am at home, that I will be home.
Q. By that you mean all week or part of the week?
A. That means all week.
Q. Now the white?
A. The white designates the time I will be gone, two or three nights, sometimes; sometimes it is to the market.
Q. So the white indicates, in some cases, an entire week that you are gone and in other cases indicates a week in which you are gone two or three days, is that correct?
A. Yes, sir. Now I know this does not add up each time, they come up to 48 weeks; they come up to 52; however, I do not have figured on there any vacation time.

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page 137 } Q. How much vacation time are you permitted?

A. Two weeks a year.
Q. How would you plan to spend your two weeks?
A. With my children.

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CROSS EXAMINATION

By Mr. Kauffman:
Q. Mr. Rowlee, I believe you testified that you are now making somewhere in the neighborhood of $10,000.00 a year?
A. Yes, sir.

Elon Kevan Rowlee, II

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A. Well, I will have to be truthful, after that trip to Nassau where she embarrassed me, it entered my head but I still wanted to save my marriage. I thought if we left the locality and left her boy friends behind, if we got to Richmond, things would be different but things weren't different and I guess it would be after we lived in Richmond.

Q. You said "Leave her boy friends behind," to whom are you referring?

A. Well, I am referring to Duke C. Hales, who lives on Sherwood Road in Roanoke, Virginia; he worked right next to Joanne. She worked for Dr. Adams and he worked two businesses up.

Q. And are you accusing or attempting to accuse your wife of carrying on an affair with this man?

A. No, I don't believe you can twist what I said into that I am accusing, she knows what she did.

Q. You said that was her boy friend, that is the reason you had to leave Roanoke?

A. Well, that was a pretty good reason, I guess, yes, sir.

Q. Yes you have testified here that the big thing you were leaving for was that Joanne wouldn't quit work?

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A. That is why she wouldn't quit work, because it gave her an outlet to see these other men.

Q. That is what you really believed?

A. Yes, sir, I tried not to believe that fact but after a while, after so much dirt is kicked in your face, your shoulders can only be so broad and you begin—and you finally wake up and face the fact that your wife doesn't love you at all, she actually hates you, despises you, won't sleep with you. It is not natural for a young woman and young man, for her to go out and sleep on the couch.

Q. Perhaps she had good reason.

A. I tried to talk to her, tried to ask her her reasons. She told me her reasons.

Q. Let's go back to this work situation again. She went to work here in Richmond, did she not?

A. Yes, sir.

Elon Kevan Rowlee, II

Q. I believe you said shortly after the ad that she ran in the paper on the 21st of February, this year?

A. Yes, sir.

Q. And you had plenty of time to follow her and check on her and she didn't go out with the men she worked with here, did she?

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A. I don't know, sir, I never followed her or checked on her.

Q. You didn't hear anything about it, did you?

A. It is a big city.

Q. She stayed on with the children here and has been a very dutiful mother?

A. Where, sir?

Q. Here in Richmond?

A. No, sir, she worked.

Q. Except when she was working?

A. Well, she worked five days.

Q. She didn't work at nights, did she? And didn't she work four and a half days?

A. Well, four and a half days; still she is not getting up and giving them their meals, et cetera.

Q. And she had a very competent baby-sitter?

A. I don't know, she never told me who she went to work for again and never told me where the children were.

Q. She didn't tell you that?

A. She didn't tell me that.

Q. You didn't know she worked for Dr. Fralin, a very prominent dentist here in town?

A. She did not ever tell me. Another nurse or somebody with that office called there one day and said "This is Dr. Fralin's office, is your wife there?" and that is when I learned where she worked.

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Q. Are you saying he did that?

A. Yes, sir, my wife admitted to me that she was drinking with him.

Q. On how many occasions?

A. Many occasions.

Q. Did you ever talk to him about it?

A. No, sir. You should have to talk to the wife and I feel this way, if I had mentioned it to my wife, my wife should have considered my feelings enough to come home and at least think of the children if she is not going to think of me; on one occasion she was over there drunk and came back and smashed the car up and left the scene of the accident.

Q. You don't know that, do you?

A. All I know is what she told me, sir.

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Q. And isn't it a fact that she objected to that strenuously and that is when your real problems began?

A. No, sir, my wife—no, sir; no, sir.

Q. Isn't it a fact that she led you to believe that she couldn't stand having intercourse with you after that point?

A. No, sir.

Q. She never made any objections to it?

A. No, sir, not at that time. She made objections—she told me she was too tired on occasions back then, I would have to wait and in Roanoke she objected; in Roanoke she slept on the couch.

Q. She had never objected before?

A. No, sir.

Q. Now in reference to the many bills, the amounts of which you have never attempted to testify that you paid since you and your wife separated—

A. Yes, sir.

Q. Isn't it a fact that most of those were incurred while you were still married?

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A. Of course, we are still married right to this day.

Q. I mean while you were still living together?

A. Yes, sir.

Q. They were incurred at that time with your knowledge, as far as most of them are concerned?

A. Yes, sir.

Q. And you didn't object to her clothing herself and the children in the manner she did?

A. I wanted her to dress well and wanted her to dress the children well but, then again, there is an extreme to going out; you can beat a horse into the ground.

Q. She was not extravagant in what she bought?

A. No, I would say as far as—as long as we were married, as far as clothing, up to the time she started going out on the couch in Roanoke, she was a thrifty, frugal person as far as spending money. She was a good wife, she didn't blow money up to that point.

Q. Did she begin to blow your money?

A. Yes, sir.

Q. At what point?

A. Didn't I just say? I think I just said when she moved out on the couch in Roanoke.

Q. When was that?

Dep. A. The Summer of 1967.

9-5/6-68 Q. You haven't given her any money with
page 177 } which to defend this accusation you have made against her, have you?

A. I have been giving her $30.00 a week, plus paying the bills, and she didn't have to leave. She lived there in the house and she moved on her own accord, moved out without my knowledge.

Q. You didn't call her on the phone and harass her?

A. I don't know what you mean by harassing; I did call her on the phone and at that time I guess we had a few words.

Q. On numerous occasions on the telephone?

A. I called her on the phone, yes, sir.

Q. On numerous occasions?

A. I wouldn't say numerous occasions, no, sir; what is numerous? More than once?

Q. Once a week?

A. I would say once a week.

Q. Sometimes twice a week?

A. Yes, I would call to find out about the children.

Q. On many of these occasions you had severe words with her?

A. Well, when we got off the subject of the children she wanted to know why I wouldn't come back, I may have said severe words, yes, sir.

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Q. And you have been extremely emotional with her during many arguments, right?

A. We have not had many arguments.

Q. Now on the 2nd of February you testified as to two telephone calls to a telephone number in Charlottesville which you identified as the Downtowner Motor Inn and you said that you were not home to make those call?

A. Yes, sir.

Q. Isn't it a fact that on the 2nd of February you were home and did have access to the phone?

A. What day was the 2nd of February?

Q. It was before you left home.

A. What day was that, a Monday? Can you tell me?

Q. I think it was a Friday.

A. I can't recall a specific day.

Q. But you could have been home on that day, you could have been in Richmond?

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A. Yes, I could have been home and I could have been in Richmond at that time, yes, but I did not make that phone call.

Q. Yesterday you testified in reference to your salary and told us you had a guaranteed salary of $10,000.00 a year at this time?

A. Yes, sir.

Q. Last year, the calendar year 1967, did you not also have that same guarantee, in 1967?

A. In 1967?

Q. 1967.

A. No—this is January, 1967?

Q. From January 1967 through December 6.

A. Yes, sir.

Q. Did you not, at the end of the year, get a $1,000.00 bonus from your employer?

A. No, sir.

Q. What kind of bonus did you get?

A. Is this relevant to the case?

Mr. Roberts: Yes.

A. $500.00.

Elon Kevan Rowlee, II

By Mr. Kauffman:

Q. You did get $500.00?

A. Yes, sir, this is gross, this is not net; they tax that.

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Q. Based on your commissions and sales you got an additional $500.00?

A. No, sir, not based upon my sales. This was because I did a good job for the company. My territory, actually, lost money last year. However, I had a substantial increase in my territory but the territory still lost and did not pay for me being there but because I did the job I was given a bonus.

Q. You developed a new territory and did it well?

A. It was not a new territory, it was an old territory.

Q. A territory that had not been producing well? Let's put it that way?

A. I made it produce; it is still not producing well, it is producing a bit better, I will say.

Q. Well, when you and your wife lived in Roanoke and the other various places you lived, you had joint bank accounts, did you not?

A. Yes, sir.

Q. And when you moved to Richmond did you also maintain a joint bank account?

A. No, sir.

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By Mr. Kauffman:

Q. When you were in Roanoke you and your wife deposited your pay checks in your joint bank account?

A. Yes, sir.

Q. And at the time you left Roanoke you had a savings account, which money had been withdrawn over a period of time and put into the savings account in you bank account that amounted to about a thousand dollars, is that not right?

A. No, that is not right.

Q. You deny that you had a savings account?

A. I do not deny that I had a savings account.

Elon Kevan Rowlee, II

Q. Then what was the status of the savings account at about the time you left Roanoke, Virginia?

A. The savings account was approximately—when I left Roanoke, Virginia?

Q. Tell us what happened to the savings account for the last six months before you left Roanoke, Virginia?

A. It grew substantially.

Q. And then how much was in the savings account during the latter part of the year, 1967?

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A. Approximately a thousand dollars.

Q. And you were — and you withdrew $2,800.00—

A. Now this was not money that came out of my earnings, from my pay check, this was money I saved going without dinner on the road; this was money I should have been spending to eat, and money—I am allotted to stay in a good motel and I would go to a second rate motel. I was saving money this way to make a down payment on a home. This came out of my expenses, my savings.

Q. Didn't your wife help you save money?

A. My wife, when we lived in Roanoke, before I was made a—well, for my wife to go to work cost me more money than she was actually making because she would go to work, it put me in another tax bracket. She had to have a car, tax, money she had to have to pay for a noonday meal, tires; no, sir, she did not contribute to the income but just to maintain herself at her job she would spend a lot of money.

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Q. Did she not contribute and help you save money that could go in this account?

A. No, sir.

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Q. Now you deny, then, that she put her pay check into your joint account?

Elon Kevan Rowlee, II

A. No, sir, I did not deny that.
Q. But that didn't help you any?
A. No, sir, because she had to maintain herself to work.
Q. What did she make up there?
A. I can't ask my wife a question, can I?

Mr. Roberts: Just say you don't know.

A. I honestly don't know.
Q. Do you know if it was more than $300.00 a month?
A. That would be $75.00 a week. I believe she ended up before she left making $300.00 a month. I think that was it. This is gross, now, this is not net money; she did not come home with that much money.
Q. What happened to the $1,000.00 in your savings account?
A. I think that is my business.
Q. I think it is the Court's business. I want you to answer the question.
A. I hired a private detective. I paid off bills—
Dep. I did not pay off bills, I paid on bills.
9-5/6-68 Q. Did your wife get any part of it?
page 192 } A. Yes, sir.
Q. What did she get?
A. The portion of it I paid on the bills was actually going to her. It cost money for us to go on the Nassau trip; it cost money to go to Nassau; that was $300.00 there.
Q. $200.00 or $300.00?
A. I believe it was $300.00.
Q. You took the savings book from her? Why don't you produce it and let's see what it was?
A. I don't have it.

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page 193 }

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Q. She destroyed the savings account book after you withdrew the money?
A. I have never found it, I will put it like that. She also took papers, business papers of mine.
Q. Did she admit this? Do you know this to be a fact?

A. Yes, sir.

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By Mr. Kauffman:

Q. The first time you decided you would try to take custody of the children, at least away from your wife, was in December or January of 1967 or January, 1968, is that right?

A. I don't think you can answer that with a date.

Q. What caused you to first make up your mind that was the course of action you were going to take?

A. I don't know how I can answer that question. Naturally, I thought about that when my wife ran around and flaunted and threw herself on these other men right in front of me. Of course, you have to start thinking things like that.

Q. Isn't it a fact that it was pursuant to a letter from your sister encouraging you to do that?

A. No, sir.

Q. Do you deny that you got a letter from your sister encouraging you to try to get the children from Joanne?

A. No, sir.

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Q. You don't deny that, do you?

A. No, sir.

Q. And as a matter of fact, she encouraged you to try to take the children away from her and said she would like to get ahold of those children herself?

A. Not that she would want to, that she would give them a proper home that she knew they were not getting now.

Q. And she was encouraging you and your father, as she encouraged from the beginning, to try to get these children?

A. No, sir, that is way wrong because my parents have tried to keep us together, that is way wrong because we have tried to—I have tried to—no, sir, that question is wrong; we have tried.

Q. You deny that your sister was the one that first encouraged you—

A. Of course, I deny it. I just told you I denied it.

Q. But she did encourage you?

Elon Kevan Rowlee, II

A. What is the date of the letter you have?

Q. Did you receive a letter in December of 1967?

A. I may have, I don't recall.

Q. Now one further question in respect to your car and to your expenses on the road and so forth. Your company furnishes that, at least reimburses you for the expense of travel?

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A. Yes, sir, they do. This, however, comes out of commissions at the end of the year, so, therefore, no, they do not reimburse me; this is subtracted from the sales at the end of the year. In other words, if I didn't have to travel I would make much more money, but I don't. I mean, I do travel.

Q. Are you willing to file copies of your tax returns in this cause?

A. Of course, yes, sir. Joanne destroyed them but I imagine you can get them through the State Department or some place.

Mr. Kauffman: I believe that is all.

REDIRECT EXAMINATION

By Mr. Roberts:

Q. Kevan, let me ask you about this letter, that has been referred to right here at the tail end, that you got from your sister. Do you recall whether or not you had discussed with any members of your family your decision to seek a divorce and to seek custody of the children?

A. Yes, sir, I think I asked if it came to this—naturally, I wanted the children, I had to think: What would I do? Where would I go at this time? What would I do with the children? And I think I may have mentioned something to my sister and asking her if they could come—if they could make room in their home for my children on a temporary basis.

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Q. Did you get a letter from her dealing with this subject?

A. Yes, sir, I think I got two letters.

Q. Do you recall, in effect, what the letters said?

A. No, sir.

Q. Did it also suggest to you that you seek custody or did they suggest to you that your family would help if you sought custody? They would help the children? They would help with the children?

A. Well, it is my youngest sister who wrote the letter. I truthfully can't recall; she may have, can't answer the question, I can't recall the letter.

Q. Did the letter you received from her, or did any conversations that you had with her make you decide to seek the custody of your children?

A. Oh, no, sir.

Q. Did anything that your father said or your mother said to you make you seek the custody of these children?

A. No, sir.

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Dep.
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page 202 } Q. After you instituted this divorce suit I believe you testified that some time in March, 1968 you left the residence there in Bon Air?

A. Yes, sir.

Q. Was it after this time that you testified yesterday that you were making the rent payments on it? Did you continue to make the rent payments on it?

A. Yes, sir.

Q. Did Joanne continue to live in that house until fairly recently?

A. Yes, sir.

Q. Were you continuing to pay the utility bills that you referred to?

A. Yes, sir.

Q. Were you continuing, during that period of time, to make payments on the bills that had been incurred earlier?

A. Yes, sir.

Q. Were you continuing to make payments on the automobile?

A. Yes, sir.

Q. Was there a time when Joanne left that place in Bon Air?

Dep.
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page 203 } A. Yes, sir.

Q. Where did she go?

A. I believe she went to her mother's house in Oswego County, New York State.

Q. Were you notified by her that she was leaving or had left?

A. No, sir.

Q. How did you find out about it, ultimately?

A. I believe you told me.

Elon Kevan Rowlee, II

Q. Between the time that she left and the time I told you about it, did you continue to make rent payments?

A. Yes, sir.

Q. Did you have a written lease on this?

A. I took over a lease, Mr. Roberts.

Q. Did the lease require you to have the place in clean condition when you left there?

A. Yes, sir, and I was to give 90 days notice.

Q. Was the 90 days notice given under the lease?

A. No, sir.

Q. Have you been called upon by the real estate people who were leasing this property to you to do anything?

A. Yes, sir.

Q. Did you go out after Mrs. Rowlee had left there, and you found out about it, to see the premises?

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A. Yes, sir.

Q. What was the condition of the premises?

A. Shrubbery was all grown up, windows were broken out, basements windows broken, glass strewn, broken bottles in the backyard, neighbor children could have gotten cut up; everything was gone out of the house except the old second hand desk I got.

Q. Did the house have draperies that didn't belong to you?

A. Yes, sir.

Q. Were they gone?

A. Yes, sir.

Q. Had the place been cleaned out inside?

A. Upstairs had been swept clean and the floors were swept and I believe it had been dusted. I found her wedding dress in the trash.

Q. Who, if anybody, has been called upon to pay for what has got to be done to satisfy the landlord?

A. They have told me that I will have to pay for all the damages and also when I went there the plumbing was stopped up in the upstairs bathroom, there was residue floating around the water; the other two bathrooms, there was urine in them and had not been flushed; the heat had been turned up.

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Elon Kevan Rowlee, II

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page 206 }

Q. Did you, in connection with your employment—I think you testified earlier about receiving some sort of expenses from the company?
A. Yes, sir.
Q. How did you get these?
A. I got those in the mail.

* * * * *

Q. Did you have some checks come to your—did you have some checks come from your company there?
A. Yes, sir.
Q. Do you know what happened to them?
A. Yes, sir.

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page 207 }

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Q. Did you ask her about them?
A. Well, she denied it every week. I said, "What happened to the checks?" I called up the factory and they said, well, they had been mailed. She denied it, said they hadn't come.
Q. After you found the checks did you talk with her about it?
A. Yes, sir.
Q. What did she say them?
A. She said, "This money is as much mine as it is yours." She said, "I can do anything I want to do," and also she deposited the checks and she opened up another account, unknown to me, in the State Planters Bank.
Q. Did she deposit any of those checks to that account?
A. Yes, sir.

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Elon Kevan Rowlee

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page 209 } ELON KEVAN ROWLEE, was sworn and deposed in behalf of the complainant, as follows:

DIRECT EXAMINATION

By Mr. Roberts:
Q. Will you please state your full name and address?
A. Elon K. Rowlee, 808 Emory Street, Fulton, New York.
Q. What is your age?
A. Sixty-nine.
Q. And your occupation?
A. I am retired right now.
Q. What was your work before you retired?
A. I have always been in the dairy business.
Q. What position did you occupy in the dairy business?
A. I was owner.
Q. Owner of what?
A. Rowlee's Fulton Dairy Farm, Incorporated; I was the president.

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Q. How long did you own or operate that business?
A. Well, from 1921 until 1964.
Q. Did you retire in 1964?
A. I retired January 1 of 1966.
Q. Have you lived all of that time in Fulton, New York or in the Fulton area?
A. Yes, sir.
Q. And I trust you are the father of the complainant, Elon Kevan Rowlee, II?
A. Yes, sir.
Q. Are you the Mayor of Fulton, New York now?
A. Not now, I was Mayor.
Q. When was that?
A. I was Mayor in Fulton, New York from January 1, 1942 until January 1, 1950. I was Mayor again from January 1, 1960 until January 1, 1966.
Q. What brought about your retirement?
A. Illness.
Q. Have you recovered from your illness?
A. Pretty much.
Q. Is your wife living?
A. Yes, sir.
Q. How old is she?
A. Sixty-nine.

Elon Kevan Rowlee

Q. Do you have other children other than Kevan?
A. Six other children.
Dep. 9-5/6-68 page 211 } Q. Are they all grown?
A. Yes, sir.
Q. Are they all living away, now, married?
A. Away from home?
Q. Yes.
A. Yes, sir.
Q. Do you have any obligations that require you stay in Fulton, New York on a day to day basis, I mean?
A. None whatsoever.
Q. I believe you have been present, have you not, during all the taking of the depositions of your son yesterday and today?
A. I have.

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Q. You stayed there several days?

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A. The next morning, subsequent to this day, my wife and I have friends in Baltimore, Maryland so we took our car to drive to these friends to drive us around the whole area, to drive us to real estate men to show us homes; Joanne didn't like the ones so they were discounted. We drove back that night and left. We might have stayed that night, I don't know. We did not find a home for them when we left.
Q. You were there a maximum of two days?
A. I would say two days.
Q. Did you have any subsequent occasion to visit them in Alexandria after that?
A. One more time, I believe. There was a Mayor's Conference in Washington, D. C. called by the President of the United States and my wife and I flew down at this Conference and stayed at the New Americana Hotel in Washington and called Joanne and Kevan from there, telling them the day we would be through with the Conference. Joanne and

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Kevan and the baby came to the hotel, picked us up and we went back and stayed that night with them and a friend of Kevan's took us to the airport the next morning. That situation again, Kevan had asked, we had paid part of the $150.00 and he asked could I loan him another $150.00 because bills were pressing, he was having to pay double rent; and we did.

Q. What was the situation between the couple and so far as the child was concerned on this occasion?

A. Practically normal.

Q. Were there any altercations that took place on the occasion of any of these visits you referred to in Alexandria?

A. Not altercations. There was a little upset one evening—is that what you are talking about?

Q. I don't know, it is up to you.

A. There was a little disturbance. Joanne had tried to, this evening, put on a good dinner and she had on a pork loin. I remember her asking Kevan how long does it take to bake potatoes and she really arranged a nice dinner that evening and Kevan started to kid her about it, said something to me when I started to eat the loin, "If this is tough, excuse my wife, she is just a girl," and Joanne got away from the table that night hurt and mad and didn't go back to the table. That is all that happened.

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Q. Was there nothing else that took place?

A. No, there wasn't.

Q. Then I believe that the couple moved to Severna Park, Maryland?

A. That is right.

Q. And you were not there during any of that time, is that correct?

A. That is correct.

Q. Did there come an occasion when Joanne, while the couple was living in Maryland, came up with the children to visit with you and your wife?

A. Yes, sir.

Q. I think that probably, Mr. Rowlee, we can short cut a little of this by referring back to testimony you have heard and I will ask you if it is correct or incorrect? Was this pursuant to the telephone call that Kevan has already testified about when he called and asked you folks to pick up Joanne at the airport?

A. That is right.

Q. Did you then take her to your home?

Dep. A. That is right.

9-5/6-68 page 222 } Q. How long did she stay with you there at the home?

A. Again, it is a guess but she was there probably two and a half to three weeks.

Q. During that time did she have the children there at your house, too?

A. She had the boy, Brookie wasn't born.

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Q. Now did Joanne have an automobile there at that time?

A. No.

Q. Did you have an automobile in your home at that time?

A. Yes.

Q. Did you ever have any telephone calls made there by Kevan to speak to his wife?

A. Yes, sir.

Q. How often was that?

A. Every evening.

Dep. 9-5/6-68 page 224 } Q. About what time would he call?

A. Between 10:00 and 11:00 o'clock p. m.

Q. Was Joanne always there when the phone calls came?

A. No, sir.

Q. Can you recall for us any occasions when she was not there and what happened?

A. Yes, sir.

Q. Would you do that for us, please?

A. The first night Joanne stayed home—the second evening, the very second evening she put Elon to bed upstairs in her room and came down dressed to go out and said, "I am going to go out a little while."

Q. Did she have a car then?

A. No.

Q. Did she use your car?

A. No, sir.

Q. What time of evening was it?

A. I presume 8:00 o'clock.

Q. Did she go out?

A. She went out.

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Q. Do you know where she went?
A. I didn't at the time.
Q. Do you know how long she was gone?
Dep. A. Yes, sir.
9-5/6-68 Q. How long?
page 225 } A. She come in at 1:30 in the morning.
Q. Did Kevan call that evening?
A. Yes, sir.
Q. Where was the baby during all this time?
A. Upstairs in the room Joanne was occupying.
Q. What type of bed was that that the baby was in? Was it a crib?
A. A little bed with sides.
Q. It had side rails on it? Did either you or your wife have occasion that night she was gone to go up and check on the baby?
A. My wife did. The baby started crying. I don't know what time, sometime after Joanne left. She waited a few minutes; we were reading, she went up, said, "Come up here a minute." She said, "Look at the way Joanne has this baby strapped down."
Q. Did you see it?
A. I did.
Q. Testify to what you saw.
A. A cloth harness around the child, two cloth ends that long (indicating) and pinned beneath the baby, very tight. The child was on the pillow with his face side-
Dep. ways and my wife said, "If he attempts to pull
9-5/6-68 his head back there, it will smother him in the
page 226 } pillow."
Q. Did she loosen it?
A. Yes, the strap.
Q. How old was the child at this time?
A. Eight or nine months.
Q. Do you know whether it was able to walk?
A. No, I don't think so.
Q. Were the rails on the side of the bed sufficiently high to keep the child in?
A. A child that age, yes.
Q. It was or was not?
A. It was sufficiently high if the sides had been brought up. I don't remember if the sides were brought up or not but there were sides on the bed.
Q. Were you up that evening when Joanne got home?
A. I was.

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Q. Was anything said that evening about where she had been?

A. No.

Q. Did she have any conversation with you folks when she came in?

A. No.

Q. What did she do?

Dep. A. Went upstairs.

9-5/6-68 Q. All right, you said that was the second
page 227 } evening she was there?

A. That is right.

Q. What happened on the third evening?

A. Joanne stayed home. My wife went to a Shakespear Club and took Joanne with her.

Q. How about the fourth evening?

A. The fourth night she went out again.

Q. Approximately what time was that? What time did she go out?

A. About the same time.

Q. Do you recall when she came back that night?

A. A little after 1:00 o'clock.

Q. Did Kevan call that evening?

A. He did.

Q. Had Joanne told you where she was going?

A. No.

Q. Did she have an automobile there at that time?

A. Not to my knowledge.

Q. On either of these occasions did you see anyone pick her up outside?

A. We didn't go out with her, she simply went out through the house and out the back door.

Q. Do you live in the middle of town, so to

Dep. speak?

9-5/6-68 A. No, it is a little on the southeast side of
page 228 } the town, not in the middle of the town.

Q. How far would you have to go to get to a movie?

A. It is a very small city.

Q. And how was Joanne dressed on these two occasions?

A. Street clothes. She looked good.

Q. On the second evening did you or your wife have occasion to check on the child?

A. My wife took the occasion. She went up and loosened the straps on the child, the child didn't cry that night.

Q. Did not cry? Were any instructions given to you or

your wife by Joanne before she left as to what to do with the child if anything happened?

A. No, I don't remember a thing being said.

Q. When she came back on the second evening was there any conversation when she came back?

A. No.

Q. And did she just go upstairs on that one, also?

A. That is right.

Q. During any of the time that Joanne was staying there did she have an automobile?

A. No.

Dep. 9-5/6-68 Q. Did she use your automobile?

A. Well, it is hearsay, probably, my wife said—

page 229 } Mr. Kauffman: Objection.

Mr. Roberts: Don't tell us what she said.

A. To my knowledge, no.

Q. Now you said she stayed some weeks there with you, is that correct?

A. Yes, it is correct.

Q. Was she always there after these first two occasions that you referred to at night or was she out?

A. If I remember right she was there. I don't remember other than the two nights she didn't come in until after 1:00 o'clock.

Q. Did you discuss it with her at all?

A. No, sir.

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Dep. 9-5/6-68 page 232 } Q. Then after that Kevan and his wife moved to Fulton, New York?

A. That is correct.

Q. And I believe you have testified earlier that you did have some occasion to visit with him there in Fulton?

A. That is right.

Q. Did you hear the testimony given yesterday by Kevan

concerning an occasion when he was picked up at the airport by you and your wife and brought home and a motorcycle was in the yard when you arrived?

A. I heard it.

Q. Would you tell us in your own words what you observed as you all went into the house on that occasion?

A. As we went into the house?

Q. Yes, sir.

A. Practically the same thing that you heard in Kevan's testimony. We went in very innocently. My wife and I did, certainly. The front door opens directly opposite the room from the bedroom door; Joanne was rushing out of the bedroom door hurriedly and stood in the kitchen door combing her hair and very shortly after that out of the door came David Woehr.

Q. Was he dressed?

A. He had nothing on his feet, nothing above his belt; he came out kind of stretching and rubbing his hair and made some silly remark and Kevan remarked, "What is going on here?" And I heard him say, "I got off work early, I came up here to get a sandwich. I was tired and Joanne said "Why don't you take a nap on the bed?" And my wife and I left.

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Q. You left after that?

A. Absolutely.

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Q. After they moved to Oswego I believe you testified that there were some occasions when you would call on them over there?

A. That is right.

Q. Do you recall any occasions having gone there to their house in the evening when Kevan was away?

A. Yes, sir.

Q. Would you tell us about that, please? What was the purpose of your visit and who was with you?

A. I had business in Oswego and we went down, Syracuse

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Avenue, in the City of Oswego, which is little. I simply pulled up to the curb and we got out.

Q. Who is we?

A. My wife and I. I tapped on the door and my wife said, "You should knock." Anyway, we went on in and Joanne wasn't there neither was Kevan.

Q. Were the children there?

Dep. A. The children were there.

9-5/6-68 Q. What room were they in?

page 235 } A. A front room; as you went into this little sun porch and turned on the right you went into a kitchen that was immediately to the right; as you enter the kitchen it was a door right into the front room, strictly ahead of that was a television that was running.

Q. Were the children there?

A. The little boy sat on the floor and the baby sitter or somebody sitting there; a boy would lay on top of a girl and we startled them and my wife backed right out. I was embarrassed, too, and I said, "What is going on here? Tell Joanne we stopped," and we went on.

Q. What were the approximate ages of the girl and boy?

A. I didn't see her face, I saw the back of her head. The boy looked up, he looked to be 16, 17, along in there. The only light in that room was the television light.

Q. How were the boy and the girl dressed?

A. I told you all I know.

Q. Was he fully on top of her?

A. Absolutely.

Q. Was she on her stomach or back?

A. She was on her back.

Dep. Q. Was he on his stomach or back?

9-5/6-68 A. He was on his stomach. He raised his head;

page 236 } it startled him as much as it did me.

Q. Was Kevan out of town at this time?

A. That is right.

Q. What time of night was it?

A. I assume it was 8:30 or 9:00, I didn't look at my watch. I know I had business down there, it was dark.

Q. Had you all gone by to see Joanne?

A. Simply stopped to say hello as we would any of our children as we went by.

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Q. I believe your third trip there in Roanoke was on the occasion when they went to Nassau?
A. That is right.
Q. Did you get there several days prior to their leaving?
A. We intended to get there Wednesday night we would have two days with the children to get acquainted.

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Q. Did you do that?
A. We did that.
Q. What was the stituation at that time?
A. Terrible.
Q. In what way?
A. She just wouldn't converse with Kevan at all, not at all.
Q. Who was taking care of the kids?
A. Sally Anderson was the baby-sitter.
Q. Was there any time when Sally wasn't there?
A. Let's see, she would go home when 5:30 came.
Q. Who was taking care of the kids?
A. Kevan was taking care of them then if they needed care.
Q. Was Joanne taking care of them at all?
A. No.
Q. Did you feel—
A. I say no, I have seen her set up a little food for the little boy at this time with no attention to whether he ate it or not. Things were entirely wrong on this trip, and she would not speak to Kevan. She did not speak to my wife on this trip. She would converse with me; I talked with her and Kevan had asked her Thursday, "Please don't go to work, we have to leave early Saturday morning, Joanne," and these were the times she would say—I have heard her in a loud voice—"I hate you, you fat son of a bitch." She would do this (demonstrating) often, constantly, when she thought somebody wasn't looking. The boy was a nervous wreck.

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Q. What boy?
A. The little boy, Elon. And he would get to crying every night and he did get these severe spankings every night.
Q. By whom?

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A. Joanne.

Q. Was the harness that has been earlier referred to being used at this time?

A. No, I don't think so.

Q. How about Brookie?

A. She was sleeping in our room and, of course, this commotion would wake her up and my wife would get up and take her in bed with her and she would quiet down.

Q. Was any effort being made by Kevan at this time to take care of the children?

A. When Joanee was spanking the baby?

Q. Yes.

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Q. All right, and you and your wife took care of the kids for a period of how long?

A. From Saturday—they got back the following Saturday —I met them Saturday night at 9:30.

Q. Did you notice anything during this period of time unusual about the children, their behavior?

A. Again, the little boy was a nervous little wreck and and we—I asked Sally Anderson to stay because I didn't want my wife to do all the work and I told her I would pay her for that week, which I did. So there was some kind of a brown liquid medicine that Sally was giving to—I don't know whether she was giving to both children but she was giving it to the boy with his food and when the boy would wake up he was cross and whining and crying and you couldn't quiet him for a long, long time and my wife said to Sally, "What is this?" She said, "I don't know, it is something Joanne got for his cold and she wants us to give it to him." My wife took it away from her because she thought she knew what it was and by Wednesday there wasn't a sweeter pair of children that ever lived. She told the little boy, "I will not lock the door and if you want to get up and come grandma's room and get in our bed, you can," and he did do this and came in and he would ask to go back to his bed

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and there wasn't a morning he wouldn't sleep until 9:00 or 10:00 and get up very pleasant.

Q. Did the condition of the children improve any as the week progressed?

A. Yes, two very pleasant children.

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page 256 } Q. Was Joanne working during that time or staying at home?

A. In Bon Air?

Q. Yes.

A. No, she wasn't working.

Q. Were you staying there during that week?

A. I did.

Q. Will you tell us who was taking care of the children during that time?

A. I would say 99% of the time, Kevan.

Q. How about in the morning for breakfast, who took care of them?

A. Joanne didn't get up until 10:00 or 11:00 any morning that week.

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page 257 } Q. Was Joanne ever asked by anyone to shape up with regard to what was going on with these children?

A. Well, I certainly didn't intend to say what I said, it wasn't planned, I will tell you that, because I liked Joanne and I tried to get this family going right, and she went into the diningroom this day I said, "I come down to help you settle, you little pig," and I tried to talk to her then. She said, "What am I supposed to do?" I accused her of running around. This all was said by me. I said, "Joanne, you are running around with other men, you have got a family," and I said, "Why don't you stay home?" She said, "What am I supposed to do while my husband is roaming the roads five days a week?" I said, "As a proper mother and wife your job is here twenty-four hours a day."

Q. Was there any occasion while you were

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Dep. 9-5/6-68 page 258 } staying there in Richmond where either of the children were kicked or hit by Joanne?

A. I saw her hit the little boy most viciously in the front room.

Q. What was the occasion?

A. Then, the little fellow went in and turned the television on and she hit him with her hand that knocked him against the davenport, viciously.

Q. Was he sitting down?

A. No, no, he had run up and turned the television on.

Q. Was he knocked off his feet?

A. You bet he was knocked off his feet.

Q. I believe there was testimony by Kevan yesterday, and after they had moved here to Richmond, that something was said about his not being the father of these children; did you overhear any such conversation?

A. Yes, sir.

Q. What was it?

A. I sat in the diningroom reading, in front of the door that went right into the kitchen, and right there at the table in the kitchen I heard Kevan say, "Isn't there something we can do to straighten this situation out?" And he mentioned his family and she said, "What do you care about the family? You know it isn't yours." He said, "What about Brookie? and she said the same thing goes for Brookie.

Dep. 9-5/6-68 page 259 } Q. During this week that you were there did Joanne stay home in the evenings?

A. All but one.

Q. What happened on that evening?

A. Keven and I came back with groceries about 8:00 o'clock on a Tuesday evening, January 2nd; I noticed—Kevan did too—she hung some pictures in the kitchen, started to do things around the house, and he got a big kick this night and said, "I am going to fix a beautiful dinner," so I started putting groceries in the icebox and he went into Joanne and said, "I have got a nice steak and I am going to prepare a nice dinner." She said, "I don't care about your dinner." So we proceeded to put the groceries up. She then came throught the kitchen and I spoke to her everytime and she hasn't answered until she went throught the kitchen and said, "Hi," and I was happy she said it and she went up to Kevan very pleasantly and said, "Can I take the station wagon?" and he said, "What for?" She said, "I want it." He said, "You smashed one already," he said, "What do you want to do?" She said, "I want to call my mother," and he said, "Right up there is the telephone on the drugstore side, maybe

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a city block, get in the car and I will drive you right up there." She said, "I don't want you driving the car, I want that car." Kevan said, "You can't take it." She went back and got a frock on and evidently got the keys to the car and said, "I have had all of this goddamned house I can take," and out she went. The kids were sound asleep.

Q. Did you see her any at all later in the evening?

A. Yes, sir.

Q. What did you see?

A. We didn't see her again until about half past 12:00 or quarter of 1:00 a. m. Wednesday morning and she tried the back door, it was locked; tried the front door, it was locked. When she rang the bell Kevan cut the lights on and let her in.

Q. Did you see how she arrived back?

A. I sure did.

Q. How was that?

A. I will have to tell the whole story.

Q. Go ahead.

A. When we came in with the groceries the Ford had been moved and he said, "Joanne has been out with the car and I think she has called someone in Roanoke—

Mr. Roberts: You don't have to tell that.

By Mr. Roberts:

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Q. Did you see Joanne come back up to the house?

A. Yes.

Q. Was she in her car when you saw her come up or somebody else's car or was anybody with her?

A. I saw her go by in a car with a man driving, and I wouldn't have identified them; Kevan said, "I identified the car."

Q. What did you see? She was in a car with another man? Did you see that?

A. I certainly did.

Q. After that did you then see her come up to the house?

A. I did.

Q. How did she do then?

A. She drove back in Kevan's car with the coupe following, she pulled in the drive and the coupe shot down somewhere, Forest Hill Avenue.

Q. After you left their home, after staying there for a week, I assume you went on back to your home at Fulton?

A. 5:00 Wednesday morning.

Q. Have you discussed with Kevan the possibility that he referred to yesterday of you and your wife assisting him until he can get somebody on a permanent basis in keeping these children, if he is awarded their custody?

A. That is right.

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Q. Are you and your wife in position to assist in the fashion that he outlined yesterday?

A. We absolutely are.

Q. Are you willing to do so?

A. We are willing to do so.

Q. Do you realize it might entail your moving on some sort of temporary basis to this area?

A. Yes.

Mr. Roberts: All right, answer the questions of Mr. Kauffman.

CROSS EXAMINATION

By Mr. Kauffman:

Q. Now, Mr. Rowlee, the latest thing you testified about or one of the latest things was concerning Joanne's leaving the house on a Tuesday night here in Richmond before you left the next morning back for Fulton, New York?

A. That is right.

Q. What time did she leave home that night?

A. About 8:00.

Q. And then you testified that the next time you saw her was driving by in front of the house that night?

A. Yes.

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Q. You saw her driving by in front of the house that night about midnight or after?

A. Yes.

Q. And it was Joanne in a convertible?

A. I will have to qualify this answer, I wouldn't have known it was Joanne until Kevan—

Q. You didn't recognize it as being Joanne?

Mr. Roberts: Let him answer.

A. Kevan stood at the front window and said, "Here they come, I recognize the car," and I got to the front window and I could see in the light two faces as they come up the street. I couldn't tell who they were. I wouldn't know the car today.

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Kevan said, "That is Joanne's profile," and I could agree with him after he said because I could see the profile.

Q. You recognized Joanne after 12:00 o'clock? You were inside the house, looking through a window?

A. No screen, looking through a front window.

Q. Pursuant to a statement made by your son you agree that was Joanne in a car he recognized?

A. I could agree that it was her profile.

Q. But you couldn't recognize her, couldn't see any facial features?

A. That is true, I have told you all I know about it.

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Q. Before she left that night isn't it true that she had keys of her own to that car of Kevan's and left in the car with keys that she had in her own possession?

A. She didn't leave in the station wagon, she left in the Ford.

Q. Did she have to get any keys from your son?

A. I couldn't tell you about that.

Q. When you and Joanne got into the argument that you got into after she jumped on your son, they had gotten into a violent argument, wasn't the principal thing you were complaining about with her was the fact that she was working and not staying at home with the children?

A. No, that wasn't the principal thing.

Q. Hadn't you, in fact, on numerous occasions complained to your son about that and to Joanne about the fact that she worked?

A. I never complained to him.

Q. Did you not say to her on numerous occasions, "Joanne, you shouldn't work?"

A. Not numerous, I spoke to her about it, certainly, but I never—but I had never been told to by Kevan because I could see what was happening in this family.

Q. And, really, the first that you noticed that anything was seriously wrong between Kevan and Joanne was in your visit to Roanoke in October, 1966?

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A. That is right.

Q. And you thought you patched that up?

A. I thought I did.

Q. But when you returned in December it became apparent to you again that things weren't going as well as you hoped?

A. That is true.

Q. But as to whose fault that was, you really don't know, do you?

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A. In my mind I know and things I had observed and heard previously, not from Kevan.

Q. You really don't know, you weren't there and have no idea whose fault, where the fault actually lies or whether or not it was on both sides?

A. There are two sides to every story but I did know things that I had heard, not from Kevan.

Q. But nothing of your own knowledge other than what you testified about?

A. That is right.

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Q. It is true, is it not, that Joanne's principal complaint to you were the beatings that had been perpetrated on her by your son, the fact that he drank excessively and the fact that he had been known to have telephone numbers of various and sundry women in his possession and that she resented that?

A. It isn't all true. Here is what she didn't mention, she didn't mention anything about his drinking, she used the term "pounding on her," until he explained in her presence, "I have never pounded on you, I have slapped you hard once." She didn't deny that and in that statement I repeat the only comeback from Joanne was correcting him when she said—he quoted her saying, "you goddamned fat son of a bitch." She corrected that by saying, "I said, "you goddamned fat bastard." That was the end of that.

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Q. At any rate, after that conversation Kevan and Joanne did sleep together?

A. I don't know, I positively don't know.

Q. But they left the room together?

A. I left them and went to bed.

Q. Now concerning the testimony that you gave concerning the fact that you went into the home, Joanne and Kevan's home in Oswego, New York at a time when you saw a baby-sitter and a boy on top of a baby-sitter—

A. That is right.

Q. That was not Joanne, was it?

A. Oh, no.

Q. Joanne and Kevan were out together that night?
A. I don't know. We said nothing to either one of them about the incident we saw.
Q. Until January of this year?
A. I guess, probably.
Q. When you mentioned it to Joanne?
A. I think so.
Q. And that is the first time you mentioned it to her?
A. I think so.
Q. And that is during the argument here in Richmond?
A. That is probably right.

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Q. Now the illness from which you suffered spent long months in the hospital, I believe, did you not—
A. That is right.
Q. The nature of it is a bleeding peptic ulcer?
A. Duodenal.
Q. You still do have considerable trouble with that?
A. Well, I am coming along good.
Q. And have to take medication for it?
A. Not much any more.

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The deposition of David E. Parks taken before me, Zelda Simpson, a Notary Public in and for the State of Virginia and the City of Radford, on Thursday, the 17th day of October, 1968, commencing at 4:00 P. M., at the Law Offices of Goldsmith & Jenkins, 1067 Norwood Street, Radford, Virginia, pursuant to notice heretofore given as required by law, said deposition to be read as evidence in behalf of the complainant in the above-styled chancery cause now pending in the Circuit Court of Chesterfield County, Virginia.

* * * * *

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DAVID E. PARKS, a witness of lawful age, after being first duly sworn, deposed as follows:

David E. Parks

Direct Examination by Mr. Cronk

Q. What is your full name please?
A. David E. Parks.
Q. Whereabouts do you live Mr. Parks?
A. In Dublin, Virginia.
Q. What is your occupation?
A. I am a student at V.P.I.
Q. How old are you?
A. Twenty-Six (26).
Q. Now Mr. Parks, do you know E. Kevan Rowlee?
A. Yes sir, I know him.
Q. How long have you known him?
A. I have known him for seven (7) years.
Q. Do you know JoAnne J. Rowlee, his wife?
A. Yes.
Q. How long have you known her?
A. Approximately four (4) years.
Q. Now Mr. Parks, did you have occasion to see Mr. and Mrs. Rowlee during Thanksgiving holidays, 1967?

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A. Yes. It was the weekend before Thanksgiving.
Q. What was the occasion on which you saw them?
A. It was just a friendly visit. He called me to come over and spend the weekend with him and I did.
Q. Where did he live at that time?
A. Roanoke, Virginia.
Q. Now, how long did you stay in his home?
A. This time, how long did I stay?
A. Yes. On that particular occasion, how long did you stay?
A. I spent Saturday night with them.
Q. You spent Saturday night with them?
A. Yes, and left Sunday at noon.
Q. Did you see the Rowlee children present in the home?
A. Yes sir.
Q. How many children are there?
A. Two (2).
Q. Now, was Mrs. Rowlee present in the home during your stay?
A. Yes sir.
Q. With reference to the Rowlee children, did you notice any peculiar conduct of Mrs. Rowlee with regard to the children?
A. She appeared to neglect them.

David E. Parks

Q. In what manner?

A. She did not feed them or bathe them in the morning when they were crying.

Dep. 10/17/68 page 4 } Q. Now, what do you mean? Can you describe more fully her conduct toward the children?

A. Well sir, Kevan and I were up drinking coffee and they began to cry.

Q. What time of morning was this?

A. This was approximately seven thirty (7:30), and the children crying awakened my wife and she got up. Then Kevan and my wife proceeded to feed the babies and bathe them. All this time JoAnne was awake, and she was lying on the couch and watching it all happen. She didn't get up until it was over with.

Q. Now, where had Mrs. Rowlee slept that night?

A. She slept on the couch.

Q. And where is this couch with reference to where you fed the children?

A. The couch is in the living room and the children were in the kitchen.

Q. Did the children go to their mother to be fed?

A. No. Kevan brought the children into the kitchen, and he put the little baby in the high chair. He set his son on the kitchen sink.

Q. Did you observe Mrs. Rowlee's attitude toward the children? Did you see her while the children were being fed?

Dep. 10/17/68 page 5 } A. Yes sir, I could see her. I couldn't really tell. She was just lying on the couch. I figured she should have gotten up and at least helped.

Q. Did she ask her husband and your wife to take care of the kids?

A. No sir.

Q. Did Mr. Rowlee ask her to care for the children?

A. No sir.

Q. Did he make any comment regarding this?

A. Not to her he didn't. I feel since his friends were there he didn't want to create a bad situation in front of us. That was probably the reason he didn't say anything.

Q. How long did the children cry before anyone attended to them?

A. Not long, maybe a minute.

Q. Did Mrs. Rowlee give any explanation for her behavior?

A. No.

Q. Did she appear to be sick?

A. No sir.

David E. Parks

Q. Had she been up late the night before?
A. Yes, we had all been up late that night.
Q. Had she been up any later than the rest of them?
A. She and I were the last ones to go to bed. It was no longer than five (5) minutes after everyone else had gone to bed. As a matter of fact, I was the last one to go to bed. I stayed up to read a magazine.

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Q. Can you characterize Mrs. Rowlee's attitude in any manner? That is, did she appear to be in good spirits or sullen or angry or . . .
A. With my wife and I she was nice; and while we were around, she had a good appearance. She acted friendly to us.
Q. I mean on this one particular incident that you have described concerning the children just how did she appear while this was going on?
A. It seemed to me that she appeared indifferent.

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The deposition of Sina Mae Shepherd, taken before Howard Keith Crane, a Notary Public in and for the Commonwealth of Virginia at Large, pursuant to Notice hereto attached, on the 18th day of October, 1968 at 9:25 a.m. at the law offices of Emroch, Cowan & Kauffman, 7122 Forest Hills Avenue, Richmond, Virginia; said deposition taken to be read as evidence in behalf of the defendant in the above styled cause.

APPEARANCES:

Mays, Valentine, Davenport & Moore, 1200 Ross Building, Richmond, Virginia, counsel for the complainant, by: Mr. James C. Roberts

Emroch, Cowan & Kauffman, 7122 Forest Hills Avenue, Richmond, Virginia, counsel for the defendant, by: Mr. Jay G. Kauffman

* * * * *

Dep.
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page 3 } SINA MAE SHEPHERD, a witness of lawful age, introduced on behalf of the defendant, first being duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Kauffman:

Q. Please state your name and address, please.
A. Sina Mae Shepherd, 5808 Jahnke Road.
Q. How old are you, Mrs. Shepherd?
A. Twenty-five.
Q. Are you presently married and living with your husband?
A. Yes, sir.
Q. How old is he?
A. He is thirty-four.
Q. Do you have any children?
A. Two.
Q. What are their ages?
A. Three and five.
Q. One boy and one girl?
A. Two boys.
Q. How long have you been living at your present address?
A. Three years.

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page 4 }

Q. Do you attend church here in Richmond?
A. I did for awhile, but I don't any more.
Q. Where were you attending church when you were going regularly?
A. At Bon Air Methodist.
Q. Since you have been living at this address, have you had occasion to meet Mrs. Joanne Rowlee?
A. Yes, sir.
Q. On what was that occasion?
A. I met her through church.
Q. Where?
A. At Bon Air Methodist.
Q. Do you know where she was living at the time?
A. Forest Hill Avenue, but the address I don't recall.
Q. Did you meet her husband at that time?
A. No, sir.
Q. Do you know whether or not she was living with her husband at that time?
A. No, she wasn't.

Sina Mae Shepherd

Q. When did you first meet Mrs. Rowlee, Mrs. Shepherd?
A. February, I think.
Q. Of this year?
Dep. A. Yes, sir.
10/18/68 Q. Since you have met Mrs. Rowlee I will ask
page 5 } you if you have had occasion to care for her children for her?
A. Yes, sir.
Q. When did you first begin caring for her children?
A. It was around the first week in March, I believe.
Q. At the time you met Mrs. Rowlee, do you know whether or not she was working at that time?
A. Yes, she was working. She was working. She wasn't working at the time I met her at church, you know. She just started working after that, I believe.
Q. After that.
A. I think so. Yes, sir.
Q. What were the circumstances under which you first began keeping her children for her? Who approached whom?
A. Joanne had asked me about watching them. Is that what you mean?
Q. Yes.
A. She had asked me about watching them.
Q. What arrangements did you make with her concerning keeping the children?
A. What do you mean?
Dep. Q. What financial arrangements did you make?
10/18/68 A. You mean what she was paying me?
page 6 } Q. Yes.
A. She was paying me fifteen a week.
Q. Did you go to her house to keep the children or did she bring them to you?
A. She would bring them to my house.
Q. At what time in the morning would she bring them to your house?
A. 7:30. Somewhere along about 7:30—quarter to 8:00.
Q. What time would she pick them up?
A. I think it would be around 5:00. Somewhere like that.
Q. Did she pick them up at a certain hour every day, or did those hours vary some?
A. Oh, some days she got there early and she would usually get there around 2:12 to get them then.
Q. Do you remember what day it was?
A. Sometimes it was Tuesday and some days it was on Wednesdays.
Q. On those days she would come by and get them early.

Sina Mae Shepherd

A. Yes.

Q. What were the names of her children?

Dep. A. Elon and Brookie.

10/18/68 Q. How long did you babysit for her?

page 7 } A. I guess it was around three months. Something like that. It may have been a little longer.

Q. Did you continue to keep her children as long as she lived here in Richmond?

A. Yes, sir.

Q. You apparently don't know when she moved from here?

A. No, sir. Not the exact date.

Q. How would you describe the condition of her children when she would bring them to you when you first started seeing the children?

A. Well, they were always neat and clean. Brookie was always dry.

Q. Was the older child Elon?

A. Elon. Yes, sir.

Q. Is that what you called him?

A. I called him Elon.

Q. He was not in diapers.

A. No, sir.

Q. And the younger one was the little girl, she was in diapers?

A. Yes, sir.

Q. Did you have any problems with the children?

Dep. 10/18/68 page 8 } A. No. They seemed to be well behaved children. I could ask them to do something and they would do it. They were always polite.

Q. With your *whildren* being three and five, were they at home at this time?

A. Yes, sir, they were.

Q. How did your children and Mrs. Rowlee's children get along together?

A. They got along real good. Other than the two oldest ones every now and then they would have a little quarrel, but—

Q. Did either of the children appear to be nervous or upset?

A. No, sir.

Q. Did you do or perform any other services for Mrs. Rowlee other than to keep her children?

A. What do you mean?

Q. Did you do any housework for her or anything of that nature?

Sina Mae Shepherd

A. Oh, no, sir. No, sir.
Q. You just kept her children.
A. Yes, sir.

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page 20 }

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CROSS EXAMINATION

By Mr. Roberts:

* * * * *

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* * * * *

Q. Joanne is a very good friend of yours, isn't she?
A. Yes, sir.

* * * * *

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page 44 }

* * * * *

Q. When was the last time that you were in the house out there, of Mrs. Rowlee's house?
A. The last time was the day she moved.

* * * * *

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page 46 }

* * * * *

Q. Did she stay here then?

Dep. 10/18/68 page 47 } A. No, sir. After she come back from the hearings and stuff, that's when she had—I was at her house at that time, I believe, when she come back. And then that's when she decided to get a truck and move.

Q. You mean just sitting there in the house, that's when you decided?

A. Well, the Judge had told her to move, from what I hear.

Q. So she had told you that the Judge had told her to move.

A. Uh huh.

Q. So she decided then she would get things packed up and get on away, is that right?

A. Yes, sir.

* * * * *

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page 1 }

* * * * *

Transcript of the deposition of William Henry Blohm, Jr., taken before V. R. Stevens, a Notary Public in and for the State of Virginia at Large, pursuant to notice, on the 15th day of November, 1968, beginning at 2;00 o'clock p.m.; said deposition being taken pursuant to the applicable Rules of the Supreme Court of Appeals of Virginia, and to be read as evidence in the above entitled cause in behalf of the complainant.

Dep.
11/15/68
page 2 } APPEARANCES:

Mays, Valentine, Davenport & Moore, 1200 Ross Building, Richmond, Virginia,

By: James A. Roberts, Esquire, of counsel for the Complainant;

Emroch, Cowan & Emroch, 7122 Forest Hill Avenue, Richmond, Virginia,
By: Jay G. Kauffman, Esquire, of counsel for the Defendant.

* * * * *

Dep.
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page 4 } WILLIAM HENRY BLOHM, JR., called as a witness in behalf of the complainant, first being duly sworn, deposes and states as follows:

DIRECT EXAMINATION

By Mr. Roberts:
Q. All right, Mr. Blohm, will you please state your name and address for the record?
A. William Henry Blohm, Jr., 2336 Fair Oaks Lane, Cincinnati, Ohio 45427.
Q. How old are you, Mr. Blohm?
A. 29.
Q. Are you acquainted with the complainant in this case, Kevan Rowlee?
A. Yes.
Q. How long have you known him?
A. Since October of 1962.

* * * * *

Dep.
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page 5 } Q. Did you have occasion during November or December of 1967 to visit with Kevan and his wife, Joanne, when they were living in Roanoke, Virginia?
A. Yes.
Q. Was that during the Thanksgiving holidays, or do you recall?
A. It was just right around Thanksgiving; it was right along Thanksgiving.
Q. Did you at the time of that visit spend any time in their home?
A. Yes.
Q. How long did you stay there?
A. I would say about 10 days.

William Henry Blohm, Jr.

Q. During that period of time were you sort of living with them, staying there at night and soforth?
A. Yes.
Q. I will ask you, Mr. Blohm, whether or not you recall an occasion where during the night you and Mr. Rowlee and Mrs. Rowlee all retired for bed and you were later awakened during the night?
A. That is correct.
Q. Do you recall who awakened you?
A. Kevan Rowlee awoke me.
Q. Up until that time had you been asleep?
A. Yes.

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page 6 }

* * * * *

Q. Well, let me ask you this question. When you all went to bed, did she go to bed, too?
A. Yes.
Q. When you were awakened by Kevan, was she in the house at that time?
A. No.
Q. Were you all in your pajamas or nightclothes?
A. Yes, and I got dressed.
Q. Did Kevan get dressed also?
A. Yes, I believe so.
Q. Do you recall whether or not she later came in that evening at all?
A. Yes, later on during the evening.
Q. About what time was it that she got in?
A. Around 3:00 o'clock.
Q. Was that a.m.?
A. Yes, 3:00 o'clock in the morning.

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* * * * *

CROSS EXAMINATION

By Mr. Kauffman:
Q. What time did you retire that evening, Mr. Blohm?
A. I would say 9:30 or 10:00 o'clock.

William Henry Blohm, Jr.

Q. 9:30 or 10:00?
A. Yeah, about that time.
Q. What time were you awakened by Mr. Rowlee?
A. 3:00 o'clock in the morning.
Q. At 3:00 o'clock?
A. That's right.
Q. That is when Joanne came back—oh, you saw her come into the house then?
A. If I remember correctly, yes.

* * * * *

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page 8

REDIRECT EXAMINATION

By Mr. Roberts:
Q. I want to make sure I understand you correctly. Were you awakened by Mr. Rowlee at the same time his wife came back, or prior to the time?
A. Prior to.
Q. Could you estimate how much time it was that you all sat up and waited for her?
A. 5 or 10 minutes, I would say.

* * * * *

A Copy—Teste:

Howard G. Turner, Clerk.

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