

DOCKET NO. 175

NUMBER TERM YEAR

375 November 1961

Clifford S. Simcox

VERSUS

Amber Marie Simcox

Clearfield County, ss:

The Commonwealth of Pennsylvania, to RICHARD A. BELL, ESQUIRE

Greeting:

Know you, that in confidence of your prudence and fidelity we have appointed you, and by these presents do give unto you full power and authority, in pursuance of an order made in our County Court of Common Pleas, for the County of Clearfield, in a certain cause there depending, wherein

Clifford S. Simcox

Plaintiff ,

and Amber Marie Simcox

Defendant ,

to call before you at a certain day and place by you for that purpose to be appointed, all and every person who may be named to you on the part of the parties

as witnesses in the said cause, and then and there to examine each of the said witnesses upon their oath or solemn affirmation touching the premises and reduce their testimony to writing to take testimony and report a form of Decree. and when you shall have done so, you are to send the name before our Judge at Clearfield, at our said Court, together with the interrogatories and this writ, and under your hand and seal.

In Testimony Whereof, we have caused the seal of our said Court to be hereunto affixed.

WITNESS, the Hon. John J. Pentz, President of our said Court, at Clearfield, the Fifth (5th) day of February, in the year of our Lord one thousand nine hundred and Sixty-Two.

Carl E. Walker

Prothonotary

To the Honorable, the Judge, &c.:

The execution of this commission appears in a certain schedule hereunto annexed.

Richard A. Bell 
COMMISSIONER.

No. 375 NOVEMBER Term. 1961

Clifford S. Simcox

VERSUS

Amber Marie Simcox

COMMISSION

Clarence R. Kramer Attorney.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CLIFFORD S. SIMCOX :
vs. : No. 375 November Term, 1961
AMBER MARIE SIMCOX : IN DIVORCE

MASTER'S REPORT

The undersigned Master appointed by your Honorable Court to take testimony and report the same with form of Decree reports as follows:

I. DOCKET ENTRIES AND SCHEDULE.

January 2, 1962	Complaint in Divorce filed in the Court of Common Pleas of Clearfield County, Pennsylvania, to No. 375 November Term, 1961. One copy certified to the Sheriff.
January 12, 1962	John K. Reilly, Jr., Esquire, enters his appearance for the Defendant.
January 13, 1962	Praeclipe for Rule for Bill of Particulars filed by the Defendant.
January 15, 1962	Petition for alimony pendente lite and counsel fees filed by the Defendant.
January 15, 1962	Service of Petition for alimony and counsel fees accepted by attorney for Plaintiff.
January 15, 1962	Rule to show cause why Defendant should not have alimony pendente lite and counsel fees returnable January 29, 1962, made by the Court
January 18, 1962	Service of praecipe for Rule for Bill of Particulars accepted by attorney for Plaintiff.
January 19, 1962	Answer to Complaint filed by Defendant.
January 19, 1962	Service of Answer to Complaint accepted by attorney for Plaintiff.
January 26, 1962	James B. Reese, Sheriff, makes return that on January 11, 1962, at 9:15 a.m. he served the within Complaint in Divorce personally on Amber Marie Simcox, the Defendant, at her place of residence on Third Street, Clearfield Borough, Clearfield County, Pennsylvania.
January 29, 1962	Answer to Petition for alimony and counsel fees filed by the Plaintiff.

January 29, 1962	Service of Answer to Petition for alimony and counsel fees accepted by attorney for Defendant.
January 29, 1962	Order of Court awarding alimony pendente lite and counsel fees.
February 5, 1962	By Motion on the Watchbook, Richard A. Bell, Esquire, is appointed Master to take testimony and report the same with form of Decree.
February 7, 1962	Bill of Particulars filed by Plaintiff.
February 7, 1962	Service of Bill of Particulars accepted by attorney for Defendant.
February 8, 1962	Service of Notice of Master's Hearing accepted by attorney for Defendant.
February 8, 1962	Service of Notice of Master's Hearing accepted by Plaintiff and attorney for Plaintiff.
February 27, 1962	Master's hearing held in accordance with the Notice of Master's Hearing, at which time both Plaintiff and Defendant were present with their counsel and their witnesses.
March 29, 1962	Order of Court extending time for Master's Report filed.

II. SERVICE OF PROCESS.

A copy of the original Complaint in Divorce was served on the Defendant personally by the Sheriff, as set forth in the Docket Entries and Schedule. Copies of the Notice of Master's Hearing and all other pleadings were accepted by the attorneys for the Plaintiff and Defendant, as set forth in the Docket Entries and Schedule.

III. CAUSE OF DIVORCE.

- (1). Deserotion.
- (2). Indignities.

IV. FINDINGS OF FACT.

(1). Marriage:

The Plaintiff and Defendant were married on May 9, 1953, at the St. Francis Catholic Church at Clearfield, Clearfield County, Pennsylvania.

(2). Residence:

At the time of the marriage, the Plaintiff was living at 116 South Second Street, Clearfield, Clearfield County, Pennsylvania; and the Defendant was living at the St. Charles Apartments on Reed Street, Clearfield, Clearfield County, Pennsylvania. Following the marriage, they resided for two or three months on Reed Street in the St. Charles Apartments, following which they moved to 116 South Second Street, where the Plaintiff is still residing. Following the separation on October 26, 1961, the Defendant has lived in the St. Charles Apartments on the corner of Reed and Third Streets, Clearfield, Clearfield County, Pennsylvania.

(3). Citizenship:

Both Plaintiff and Defendant are residents of Clearfield Borough, Clearfield County, Pennsylvania, and both are citizens of the United States.

(4). Age and Occupation:

The Plaintiff is sixty-one (61) years of age and is a locomotive engineer; the Defendant is sixty (60) years of age and is a housewife.

(5). Children:

There were no children born to this marriage.

(6). Armed Forces:

Neither Plaintiff nor Defendant are at present in the military services of the United States or any foreign country.

(7). Findings on the Merits:

The Plaintiff and Defendant lived together from the time of their marriage on May 9, 1953, until the time of the separation on October 26, 1961. When the parties were first married, the Defendant spent some of her own money and bought some furniture. Other than that, the Plaintiff has supplied the Defendant with \$25.00 per week from which she bought the groceries. At times, the parties had roomers in their apartments, and the Defendant was allowed to

keep the money from these roomers, which sometimes amounted to \$12.00 a week and sometimes \$24.00 a week. The property where they lived was owned by the husband and, therefore, the money which the wife received was all provided by the husband, and she was not accountable to him for it.

The Defendant, either with or without help, adequately maintained and kept the apartment in which she and the Plaintiff lived but did very little to maintain the rest of the house in which there were other apartments.

The wife Defendant regularly drank some whiskey, the quantity of which was in dispute. It was not disputed that Dr. James Murphy had prescribed two shots of whiskey per day for her. It was also undisputed that the Defendant was told by a Dr. Tornatore nine or ten years previously that she had had a heart attack and that she had been told by Dr. Covalla within a few weeks prior to the hearing that she suffered from coronary insufficiency. These facts rest upon the testimony of the Defendant but were not disputed. Dr. Tornatore has since died, but the other doctors are living and practicing in the area and were not called as witnesses to contradict the Defendant's testimony. Both parties drank both whiskey and beer, although apparently not to excess.

There was some testimony concerning the Plaintiff hitting the Defendant but the same was contradicted by the Plaintiff and the blows were of the type that could have been accidental.

The Defendant has been in the hospital several times.

The Defendant is a lover of bingo games and plays regularly at various clubs in the area. The Plaintiff has occasionally accompanied her and did not object to her attending the games without him.

Prior to the separation of the parties, the Plaintiff asked Mrs. Ruth Reinke for a date, and following the separation of the parties, asked Mrs. Ann Myrter for a date. Also, prior to the separation of the parties, the Plaintiff has been seen in the company of Mary Marino and has so conducted himself with her so that, at the least, the Defendant had reasonable grounds for suspicions.

(8). Discussion:

A. Deserotion.

Deserotion was alleged in the Complaint. Prior to the taking of testimony, the Master stated to counsel for Plaintiff that he assumed since the hearing was held only four months after the date of the alleged deserotion, the Plaintiff was not relying on and did not intend to prove that charge. Although not made a matter of record, it is the Master's recollection that counsel for the Plaintiff agreed that they were not relying upon deserotion. In any event, it is obvious that the statutory period has not elapsed and, therefore, the divorce could not be granted on the grounds of deserotion.

B. Indignities.

Under the divorce law, the charge of indignities is stated to be that Defendant "shall have offered such indignities to the person of the injured and innocent spouse as to render his or her condition intolerable and life burdensome". The Courts have stated that it is impossible to lay down any general rule as to what constitutes indignities but that such matters depend upon the circumstances of the particular case and the position in life, character and disposition of the parties. A single act or isolated incident are not sufficient. There must be a course of conduct established. An indignity is said to be an affront to the personality of another, a lack of reverence for the personality of one's spouse. The offense is complete when a continued and persistent course of conduct demonstrates that the love and affection upon which the marriage rests has been permanently replaced by hatred and estrangement. Indignities may consist of vulgarity, unmerited reproach, habitual contumely, studied neglect, intentional incivility, manifest disdain, abusive language, malignant ridicule, and every other plain manifestation of settled hate and estrangement. Boyer vs. Boyer, 183 Pa. Superior Ct. 260 (1957).

The burden of proving his case by clear and satisfactory evidence is upon the Plaintiff and there must be a preponderance of the evidence in his favor. Boyer vs. Boyer, supra.

On the issue of credibility, the Master feels that the witnesses, other than the parties, gave believable testimony. The parties were naturally biased in their own favor. Except for that, the testimony of the Defendant was worthy of belief. While the Master has no wish to discredit the testimony of the Plaintiff, there were times when his testimony was evasive; for example, his testimony concerning whether he ever saw the Defendant drunk (see Testimony, page 10). There were some contradictions in the testimony, which the Master resolves against the Plaintiff as will appear later.

The complaints of the Plaintiff on the charge of indignities against the Defendant can be summarized as follows:

- A. That she drank to excess.
- B. That she went out without him and conversely would not accompany him on trips to Kittanning and Bradford.
- C. That she did not clean the entire building in which they lived.
- D. That she threatened him with poison.
- E. That she came in late at night and awakened him, thus interfering with his needed rest.
- F. That she accused him of infidelity with other women.
- G. That she used some profanity and called him names.

We will first consider these complaints separately:

- A. On the issue of her drinking, the Plaintiff claimed that the Defendant drank half a pint of liquor a day and, in addition, would drink several bottles of beer in the evening before retiring. The quantity which he stated she drank was contradicted by her own testimony and by the testimony of the Plaintiff's own witnesses, including his son and daughter. The testimony of all other persons indicated that the Defendant would drink two "drinks" or "shots" of liquor each day and perhaps a third on occasion. There was nothing to indicate the size of the "shots" but the term is used in common parlance to indicate an amount from perhaps three-fourths of an ounce to an ounce and one-half. In any event, two or three shots per day would not equal half a pint.

In addition, the Defendant testified that Dr. James Murphy had prescribed two shots of whiskey per day for her and the Plaintiff apparently believed that this was true. He testified that he did not question the doctor as to whether it was true or not and did not call the doctor as a witness at the hearing. It would be difficult to believe that the Plaintiff considered the Defendant's drinking much of a problem when he made no inquiries of the doctor and on many occasions purchased the Defendant's liquor for her. In addition, the substance of the Plaintiff's testimony was that he never saw the Defendant drunk. The only incidents in all of the testimony to indicate that the Defendant was ever under the influence of liquor were two occasions testified to by the daughter of the Plaintiff. On the first occasion, the Defendant drove the daughter home in her car one evening after bingo and after having consumed some beer, and, according to the witness, stated, "Oh, Betty, I think I feel my drinks tonight". On the second occasion, the daughter stated that the Defendant came home in the evening and was not walking straight and stated that her words were slurred and her eyes glassy but stated, however, that the Defendant had driven her own car. The Plaintiff had complained about buying the Defendant beer on occasion but still did not state that he ever saw her under the influence of either beer or liquor. Furthermore, the Plaintiff was not a teetotaler himself and when he and the Defendant were out for an evening they both did some moderate drinking.

It has long been accepted that mere drunkenness as such is not an indignity particularly where the other spouse is not particularly sensitive on the subject. Here, except for two isolated incidents, there was no evidence of drunkenness.

Giving the Plaintiff's testimony the interpretation most favorable to him, the Master concludes that the drinking of the Defendant was not serious enough to constitute an indignity.

B. It was an admitted fact that the Defendant did go out to play bingo without the Plaintiff on many occasions due part of the time to the fact that he had refused to go. Furthermore, the Plaintiff testified that it was

allright with him for her to go (see Testimony, page 6). As to her refusal to accompany him on the trips out of town, she stated that she refused because of her health. There was no testimony as to how often this occurred. Whether she was justified in the reason she gave or not, there was nothing to indicate that her refusal was directed by a hatred or estrangement for the Plaintiff. It was nothing more than a difference of opinion of a rather trivial matter.

C. As to her ability as a housekeeper, the testimony indicated that she did keep the apartment in which the parties lived in good shape, although admittedly she sometimes had a hired girl help her. It was further testified that she prepared the dinners for the Plaintiff. We know of nothing in the marriage vows that requires a wife to maintain apartments or rooms that are rented out.

D. As far as the threats with poison were concerned, the Defendant gave a different version from that of the Plaintiff. The Master has no way of reconciling the two versions or of deciding which version is the true one. However, the Plaintiff's testimony indicated that he didn't take the incident very seriously and seemed to feel the Defendant was kidding (see Testimony, page 17). In any event, he continued to have the Defendant prepare his dinners, which indicates that he did not regard these threats, if they existed, as being dangerous to him.

E. The Plaintiff testified that the Defendant came in late from playing bingo and woke him up, interfering with the rest he must have. He would not state whether this happened often or not. The Defendant did not deny that he woke up occasionally when she came in. The Plaintiff did not testify that the Defendant deliberately awakened him in order to interfere with his rest. At one point he stated, "Sometimes she came in quiet, sometimes not". While a deliberate awakening in order to harass the other spouse would no doubt constitute an indignity, it is not clear from the testimony that this is what occurred. Further, on cross-examination the Plaintiff testified that it happened only intermittently.

F. There seems to be no question that the Defendant did accuse the Plaintiff of some improper conduct with other women. In the Plaintiff's Bill of Particulars he states that these accusations were untrue and without any foundation of fact. The testimony indicates that this was not the case. The Defendant testified as to his kissing Mary Marino on the dance floor and the way he danced with her; that he did some repairs in her apartment and would not take any money; that she saw him bringing her home at 3:00 a.m. Other witnesses testified as to seeing him with Mary Marino and hearing the Plaintiff and Mary Marino arrange for a dinner to be eaten in her apartment. The Master feels that the testimony of these witnesses is entitled to be believed and that the accusations of the Defendant did have a basis. Charges of infidelity, where there are reasonable grounds for suspicions, even if the charges are false, do not constitute an indignity. Coon vs. Coon, 173 Pa. Superior Ct. 60 (1953).

G. The Defendant admitted calling her husband a son-of-a-bitch but not as often as he claimed. She stated she did so in anger when provoked by his conduct with other women. The Plaintiff testified that she called him names on some occasions without reason.

Summarizing the conclusions and considering all of the complaints of the Plaintiff together as we are required to do on a charge of indignities to see whether a continuous course of conduct is established which would render the Plaintiff's condition intolerable and life burdensome, it seems that the only matters which would constitute an indignity, as explained in our previous discussion, are that the Defendant awakened the Plaintiff on occasion when she came in, that she called him some names on occasion, and that she refused to take some out of town trips with the Plaintiff. The Master concludes that these elements are not sufficient to establish the charge of indignities.

Even if the charge of indignities were established, it would be difficult to consider the Plaintiff as an innocent and injured spouse. The testimony of Mrs. Ruth Reinke is that he asked her for a date prior to the separation from the Defendant, and that she heard he and Mary Marino make plans

for a dinner and that she had seen them together at the S.O.I. Club. As before stated, we consider the testimony of this witness to be fully entitled to belief. Mrs. Ann Myrter also testified that the Defendant called her for a date and, while this took place after the separation and, therefore, cannot be held against the Plaintiff, it does help to explain the attitude of the Plaintiff, both before and after the separation. The testimony of these witnesses, together with the conduct of the Plaintiff with Mary Marino, as previously mentioned, is enough in the opinion of the Master to remove him from the position of an innocent spouse.

In conclusion, the Master can only say that neither of these parties made an ideal spouse for the other and neither of them did all that they could to make the marriage a success. In weighing the complaints and counter-complaints, it can be concluded that the Defendant may not have been as industrious as she could have been and may have overemphasized her ill health; however, we would be bound to say that the conduct of the Plaintiff was the more serious of the two because of his conduct with other women.

From the facts and the law applicable thereto, the Master is of the opinion that the evidence does not justify a divorce decree on the grounds of desertion or the grounds of indignities.

V. CONCLUSIONS OF LAW

(1). The proceedings are in accordance with the requirements of the Divorce Code and the Rules of Court applicable thereto.

(2). The Court has jurisdiction of the parties and subject matter of this action.

(3). The legal domicile of both Plaintiff and Defendant is Clearfield County, Pennsylvania.

(4). The facts do not establish a cause of action for a divorce on the grounds of desertion or on the grounds of indignities.

VI. RECOMMENDATIONS.

The Master, therefore, recommends that a Decree of Divorce a vinculo matrimonii be denied and that the Complaint be dismissed.

Respectfully submitted,

Richard A. Bell
Master

Clifford S. Simcox

Plaintiff

vs.

Amber Marie Simcox

Defendant

In the Court of Common Pleas

of Clearfield

County

No. 375 November Term, 1961

COMPLAINT IN DIVORCE

1. The name of the plaintiff is Clifford S. Simcox, who is an adult and the name of the defendant is Amber Marie Simcox, who is an adult
2. The residence of the plaintiff is 116 South Second Street, Clearfield, Pa.
3. The defendant is a citizen of United States, and of Pennsylvania and her last known residence was St. Charles Apartments Third Street, Clearfield, Pa. ; the present whereabouts of the defendant is the same
4. The plaintiff has been a resident of the Commonwealth of Pennsylvania since birth which is a period of 56 years, ----- months, and ----- days immediately preceding this action.
5. The plaintiff and defendant were married on the 9th day of May, 1953 at St. Francis Church, Clearfield, Pa.
6. The ground upon which this action is based is as follows:
 - (a) Indignities to the complainant extending over a course of upwards of three years whereby his life was rendered burdensome and his condition intolerable.
 - (b) That the defendant willfully and maliciously and as a part of her effort to harass plaintiff deserted him on the 26th day of October, 1961, and has willfully and deliberately continued in such desertion since that time.
- 6½. That no children were born to this marriage
7. This action is not brought through collusion between the plaintiff and defendant, but in sincerity and truth for the reasons hereinabove set forth.
8. No action for divorce or annulment of marriage between the parties hereto has been brought in this or any other jurisdiction.

Wherefore, plaintiff prays that a decree be entered divorcing plaintiff and defendant from the bonds of matrimony heretofore contracted between them.

Clarence P. Tramer
Attorney for Plaintiff

State of Pennsylvania

County of Clearfield

ss.

Before me, the subscriber, personally appeared Clifford S. Simcox

who, being by me duly sworn according to law, deposes and says that the averments contained in the foregoing complaint are true on personal knowledge as to those facts of which he has personal knowledge, and on information and belief as to those facts of which he does not have personal knowledge.

Sworn and subscribed to before me this
2 day of January

A. D. 1962

Carl E. Walker

PROTHONOTARY

My Commission Expires
1st Monday Jan. 1966

Clifford S. Simcox

Plaintiff

In the Court of Common Pleas

of Clearfield County

No. 375 November Term, 1962

Clifford S. Simcox Plaintiff
vs.
Amber Marie Simcox Defendant

Complaint in Divorce

To Amber Marie Simcox

You are hereby notified to plead to the enclosed complaint within twenty (20) days from service hereof.

Carl E. Walker
Prothonotary

Attorney for Plaintiff

241

FEB 1 1962
JAN 2 1962

CARL E. WALKER
PROTHONOTARY, Plaintiff

155.00 day

Clearfield, Pennsylvania

Clifford S. Simcox | IN THE COURT OF COMMON PLEAS OF
VERSUS | CLEARFIELD COUNTY, PA.
Amber Marie Simcox | No. 375 Term November 1961

To _____ Prothonotary.
Sir: Enter my appearance for defendant
in above case.

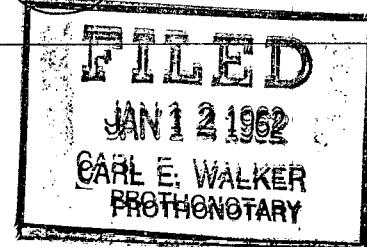
John K. Kelly, Jr.
Attorney for Amber Marie Simcox

No. 375 Term Nov. 1961

VS.

APPEARANCE

For



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA.

CLIFFORD S. SIMCOX

* No. 375, November Term, 1961

-VS-

*

*

*

AMBER MARIE SIMCOX

* IN DIVORCE

PRAECIPE FOR RULE FOR BILL OF PARTICULARS

TO CARL E. WALKER, PROTHONOTARY

Enter a rule upon the plaintiff to file a bill of particulars within twenty days from the service of the rule on him.

John K. Reilly, Jr.
Attorney for Defendant

Jan 18 1962 served on me leg copy
of Lawrence of Thamer
atty for Plaintiff

Lawyer

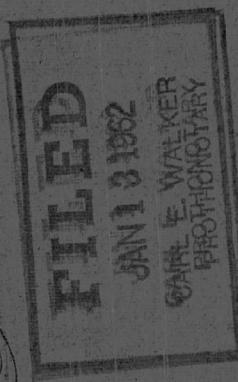
IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
NO. 375, November Term, 1961
IN DIVORCE

CLIFFORD S. SIMCOX

-VS-

AMBER MARIE SIMCOX

PRAECLPICE FOR
RULE FOR BILL OF PARTI-
CULARS



WILLIAM C. CHASE
ATTORNEY AT LAW
KEYSTONE BUILDING
CLEARFIELD, PA.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA.

CLIFFORD S. SIMCOX

* No. 375, November Term, 1961

-VS-

AMBER MARIE SIMCOX

*

*

*

* IN DIVORCE

PETITION FOR COUNSEL FEES AND ALIMONY PENDENTE LITE

1. Your Petitioner is Defendant in an action in divorce from the bonds of matrimony.
2. Your Petitioner is unable to support herself and to pay the counsel fees and expenses incidental to this action.
3. Your Petitioner is unemployed due to a heart condition and is unable to meet expenses such as rent, groceries and incidental expenses.
4. Your Petitioner has suffered from a heart condition for the past ten (10) years and incurs great expenses for the care and treatment of this illness.
5. That the Plaintiff in the above divorce action is well able to support the defendant in that he is working steadily for the New York Central Railroad and owns one apartment house, one store building with apartments above and one other rented house in Clearfield County from all of which it is estimated that he grosses \$550.00 a month.
6. Your Petitioner requests that the Court award the Defendant and order the Plaintiff to pay the Defendant alimony pendente lite commencing as of January 15, 1962 and counsel fees in the above-captioned matter.

John K. Reilly, Jr.
Attorney for Defendant

STATE OF PENNSYLVANIA

COUNTY OF CLEARFIELD

AMBER MARIE SIMCOX, being duly sworn according to law, deposes and says that the facts set forth in the foregoing Petition are true and correct to the best of her knowledge, information and belief.

Amber Marie Simcox

Sworn and subscribed to before

me this 15th day of January, 1962.

Paul E. Walker PROTHONOTARY

My Commission Expires
1st Monday Jan. 1966

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA.

CLIFFORD S. SIMCOX * No. 375, November Term, 1962

*

-VS-

*

*

AMBER MARIE SIMCOX * IN DIVORCE

O R D E R

rule to show cause why
NOW, January 15, 1962, counsel fee awarded the Defendant in the sum
for
defendant should not have counsel fee

per week to begin as of January 15, 1962.
and temporary alimony
returnable Jan 29, 1962 at 2 P.M.
BY THE COURT,
John F. Peck
P.D.

Nov. Jan 15 1962, service accepted without
receiving copy

Clarence P. Thawer
attorney for Plaintiff

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
NO. 375, November Term, 1961
IN DIVORCE

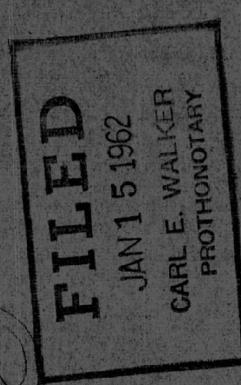
CLIFFORD S. SIMCOX

VS

AMBER MARIE SIMCOX

PETITION FOR COUNSEL FEES
AND
ALIMONY PENDENTE LITE

cc
100
25
Am. court
teleconference
filed
1/15/62



WILLIAM C. CHASE
ATTORNEY AT LAW
KEystone BUILDING
CLEARFIELD, PA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA.

CLIFFORD S. SIMCOX

* No. 375, November Term, 1961

-VS-

*

*

*

AMBER MARIE SIMCOX

* IN DIVORCE

A N S W E R

The Defendant, Amber Marie Simcox, files Answer to the Bill of Complaint as follows:

1. Admitted.

2. Admitted.

3. Admitted.

4. Admitted.

5. Admitted.

6. Denied Generally. The Defendant herein makes a general denial to Paragraph Six of the Plaintiff's Complaint and alleges that she is not guilty of any conduct that would be a cause for the Plaintiff to get a divorce, and further alleges that the Plaintiff is not an innocent spouse.

6-1/2. Admitted.

John K. Reilly, Jr.

Attorney for Defendant

STATE OF PENNSYLVANIA

COUNTY OF CLEARFIELD

Before me, the undersigned officer, personally appeared AMBER MARIE SIMCOX, who, being duly sworn according to law, deposes and says that the facts set forth in the foregoing Answer to Complaint in Divorce, are true and correct to the best of her knowledge and belief.

Amber Marie Simcox

Sworn and subscribed to before me this

19 day of January, 1962.

Carl E. Walker

PROTHONOTARY
My Commission Expires

Now Jan 19 1962 served on me by copy
Plaintiff's attorney
atty for Plaintiff

Kennedy
IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
NO. 375, November Term, 1961
IN DIVORCE

CLIFFORD S. SIMCOX

-VS-

AMBER MARIE SIMCOX

ANSWER TO COMPLAINT
IN DIVORCE



WILLIAM C. CHASE
ATTORNEY AT LAW
KEYSTONE BUILDING
CLEARFIELD, PA.

Affidavit of Service

Clifford S. Simcox

vs.

Amber Marie Simcox

No. 375 Nov. 19 61

Complaint in Divorce

Returnable within _____ days
from date of service hereof.

NOW January 11 1962 at 9:15AM o'clock

served the within Complaint in Divorce

on Amber Marie Simcox

at her place of residence, Third St., Clearfield, Pa.

by handing to her personally

a true and attested copy of the original Complaint in Divorce known to her the contents thereof. Costs. \$8.50. — *Carl E. Walker*

Sworn to before me this 20

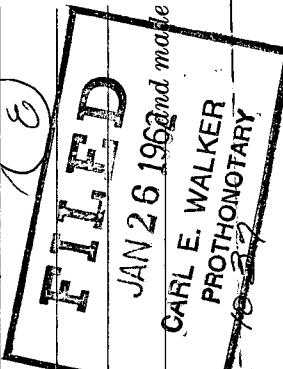
day of January A. D. 19 62

Carl E. Walker
Carl E. Walker
Prothonotary

So answers,

James B. Reese
James B. Reese

Sheriff



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CLIFFORD S. SIMCOX :
VS. :
AMBER MARIE SIMCOX :

No. 375, November Term, 1961
IN DIVORCE

ANSWER TO PETITION
FOR COUNSEL FEES AND
ALIMONY

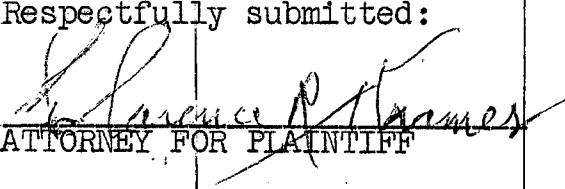
Plaintiff answers the Petition as follows:

1. Admitted
2. Denied.
3. It is denied that Petitioner is unemployed due to a heart condition; it is denied that she has a heart condition.
4. It is denied that Petitioner is presently suffering from a heart condition or that she has any unpaid expenses for such care and treatment. When last admitted to the hospital about October, 1961, the doctor found she had no heart trouble but merely at that time needed rest and relaxation. She had only a slight nervous condition.
5. It is admitted that Plaintiff is employed by the New York Central Railroad Company. While he holds a few properties for renting, they are not continuously rented; one apartment has been vacant for upwards of a year; other apartments are vacant from time to time; the cost of upkeep is much of the time greater than the income; the properties are centrally located in Town and taxes are high; the heating cost is very expensive and costly so that very little profit and sometimes no profit is derived therefrom.

6. That the Petitioner left the home of Plaintiff without justification or adequate excuse and was all the time being paid adequate sums of money for her own and home needs. She did not do the housework to any large extent, but only part of it, leaving the great bulk of such work for Plaintiff, notwithstanding the fact that she was not sick and could have taken care of the same.

WHEREFORE, Plaintiff asks the Court to dismiss the claim for counsel fees and alimony.

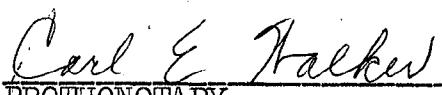
Respectfully submitted:


ATTORNEY FOR PLAINTIFF

COMMONWEALTH OF PENNSYLVANIA :
COUNTY OF CLEARFIELD : SS.

Before me, Carl E. Walker, the Prothonotary, personally appeared Clifford S. Simcox, who being duly sworn according to law deposes and says that the facts set forth in the foregoing Answer are true and correct.


Sworn to and subscribed before me
this 27th day of January, 1962.


PROTHONOTARY

PROTHONOTARY
My Commission Expires
1st Monday Jan. 1966

After Jan 29, 1962 service accepted

John K. Reilly, Jr. Esq.
Atty. for Defendants

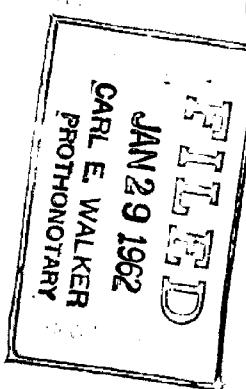
IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
No. 375 November Term, 1961
IN DIVORCE

CLIFFORD S. SIMCOX

VS.

AMBER MARIE SIMCOX

ANSWER TO PETITION
FOR COUNSEL FEES AND
ALIMONY



LAW OFFICES
CLARENCE R. KRAMER
CLEARFIELD, PA.

217 MARKET STREET

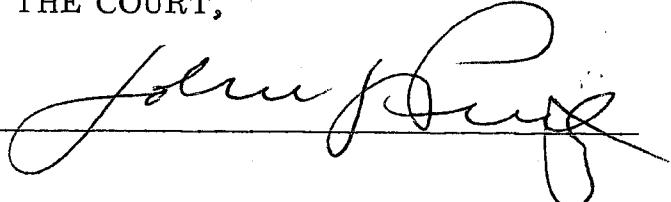
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA.

CLIFFORD S. SIMCOX * No. 375, November Term, 1961
*
-VS- *
*
AMBER MARIE SIMCOX * IN DIVORCE

O R D E R

NOW, January 29, 1962, counsel fee awarded the Defendant in the sum
of One hundred dollars and alimony pendente lite at the rate of
~~\$25.00~~ per week to begin as of January 29, 1962.

BY THE COURT,



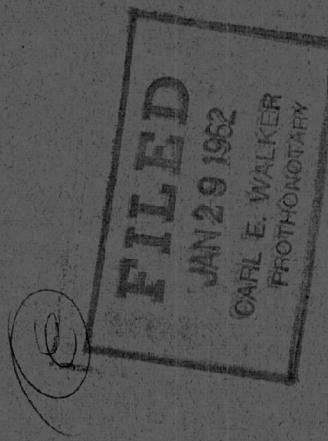
IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
NO. 375, November Term, 1961
IN DIVORCE

CLIFFORD S. SIMCOX

-VS-

AMBER MARIE SIMCOX

O R D E R



WILLIAM C. CHASE
ATTORNEY AT LAW
KEystone BUILDING
CLEARFIELD, PA.

BILL OF PARTICULARS

Clifford S. Simcox, the plaintiff answers the rule for Bill of Particulars stating the following facts:

INDIGNITIES

That shortly after their marriage on May 9, 1953, she started sitting around a lot, complaining she was tired and unable to work, whereupon, Plaintiff hired household help for her for upwards of three years incurring household expense thereby which was not necessitated by her condition and to which he, in his station of life, was not accustomed. Such household help other than for approximately one hour per day working in the apartment, she would spend her entire time in the domestic duties of the household of plaintiff and defendant. At the same time that she required this, she was able to go out evenings and nights and stay to very late hours in the pursuit of happiness and diversion, indicating that her condition was not one of bad health but of fatigue and lack of care.

Many times she threatened plaintiff by saying that he should have poison, implying that he should be given poison sufficient to kill. This happened many times and she had a habit of talking in that manner. These implied threats were made in the dwelling house of the parties.

She accused Plaintiff of going with other women, which was utterly untrue, baseless and without any foundation of fact and was known by her so to be, said accusations being made for the purpose of irritating and annoying plaintiff. Included with these accusations was profanity and swearing, at and about plaintiff, her choice epithet was "son-of-a-bitch" which she applied to plaintiff again and again.

In the year 1954, or thereabouts, while her son-in-law still had his vision, Plaintiff and defendant were at the home of the son-in-law and defendant's daughter in the Borough of Curwenville. At that time, she became profane for no reason at all, repeatedly calling Plaintiff "son-of-a-bitch". Her repetition of this became so annoying and distressing, made in the presence of defendant's daughter and son-in-law, that the Plaintiff got up and went home. The next day the son-in-law drove her to Clearfield to the home of the parties. When she arrived, she was very silent.

Throughout their married life, she insisted on going out at night to bingo games and to places where drink was served; she would spend considerable money on the games and would drink spending money for such purpose. She would return home as late as one or two o'clock in the morning, sometimes having been at Curwenville and sometimes at Clearfield; and occasionally returned approximately as late as three o'clock in the morning, long after her husband would have gone to bed. Frequently, on these returns, she would be in a vile temper, would start arguments about various matters, about going places and also about not going places and make things generally unpleasant, irritating and unbearable for Plaintiff; and disturbing his sleep, depriving him of rest preparatory to his work the following day.

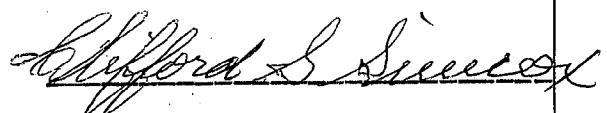
On one of these occasions when she had been to a bingo game she caused herself to be so over-wrought when she returned home that her heart flared up, her blood pressure became very high and necessitated her going to the hospital to correct the temporary heart condition. This involved an expense of between two and three hundred dollars in hospital bills for Plaintiff to pay.

That these indignities were a constant course of conduct persisted in from shortly after marriage until the time she

finally left on October 26, 1961, and rendered the condition of Plaintiff intolerable, unbearable and such that if she had not left he would have had to cease living with her or otherwise solved the condition or it would have impaired him to such an extent he would have been unable to pursue his daily work.

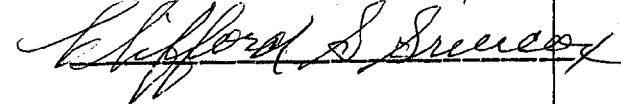
DESERTION

That the defendant willfully and maliciously and as a part of her effort to harass Plaintiff deserted him on October 26, 1961, by leaving their dwelling house at Number 116 South Second Street, Clearfield, Pa., and going to the St. Charles Apartments where she now resides. Such separation was without any fault on the part of the plaintiff who provided for her, furnished her excellent home, treated her as a husband should treat a wife and endeavored to make their marriage a continued affair and a happy and homey situation between the parties; in which respect he lacked the co-operation, the consideration, concern, interest and forbearance of the defendant whereby she inflicted upon him the indignities hereinbefore set forth and thereupon without just cause or provocation willfully and maliciously deserted him.



STATE OF PENNSYLVANIA :
: SS.
COUNTY OF CLEARFIELD :

Before me, Carl E. Walker, Prothonotary of Clearfield County, personally appeared Clifford S. Simcox who being duly sworn according to law deposes and says that the foregoing Bill of Particulars is true and correct.



Sworn to and subscribed before me
this 2nd day of February, 1962

PROTHONOTARY

My Commission Expires
1st Monday Jan. 1966



PROTHONOTARY

Now Feb. 7, 1962 service accepted.

John K. Reilly, Jr.
Attorney for defendant.

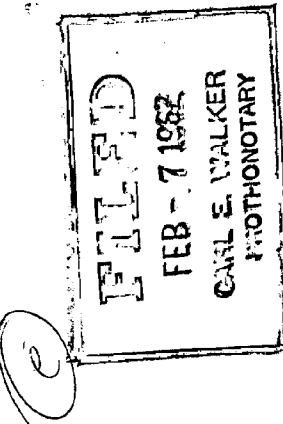
IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
NO. 375 NOVEMBER TERM, 1961
IN DIVORCE

CLIFFORD S. SIMCOX, Plaintiff

vs.

AMBER MARIE SIMCOX, Defendant

BILL OF PARTICULARS FOR
INDIGNITIES COMMITTED BY
AMBER MARIE SIMCOX AGAINST
CLIFFORD S. SIMCOX



LAW OFFICES
CLARENCE R. KRAMER
CLEARFIELD, PA.

217 MARKET STREET

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CLIFFORD S. SIMCOX : No. 375 November Term, 1961
vs. : IN DIVORCE
AMBER MARIE SIMCOX :

NOTICE OF MASTER'S HEARING

To: Clifford S. Simcox
116 South Second Street
Clearfield, Pennsylvania

Amber Marie Simcox
Third Street
Clearfield, Pennsylvania

You are hereby notified that the undersigned has been appointed Master to take testimony in the above case and report the same to the Court. In furtherance of that purpose, the undersigned will hold a Master's hearing on Tuesday, February 27, 1962, at 9:30 a.m. e.s.t. at the offices of Bell, Silberblatt & Swoope, Fifth Floor, Clearfield Trust Company Building, Clearfield, Pennsylvania, at which time you may attend together with your witnesses and give testimony, if you desire.

Richard A. Bell
Richard A. Bell, Master

Service of within Notice accepted this 8 day of February, 1962.

Defendant

John K. Reilly, Jr., Esq.
Attorney for Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CLIFFORD S. SIMCOX : No. 375 November Term, 1961
vs. :
AMBER MARIE SIMCOX : IN DIVORCE

NOTICE OF MASTER'S HEARING

To: Clifford S. Simcox
116 South Second Street
Clearfield, Pennsylvania

Amber Marie Simcox
Third Street
Clearfield, Pennsylvania

You are hereby notified that the undersigned has been appointed Master to take testimony in the above case and report the same to the Court. In furtherance of that purpose, the undersigned will hold a Master's hearing on Tuesday, February 27, 1962, at 9:30 a.m. e.s.t. at the offices of Bell, Silberblatt & Swoope, Fifth Floor, Clearfield Trust Company Building, Clearfield, Pennsylvania, at which time you may attend together with your witnesses and give testimony, if you desire.

Richard A. Bell
Richard A. Bell, Master

Service of within Notice accepted this 9th day of February, 1962.

Clifford S. Simcox
Plaintiff

Lawrence P. Kramer
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA.

CLIFFORD S. SIMCOX

*

-VS-

* No. 375 November Term, 1961

AMBER MARIE SIMCOX

* IN DIVORCE

MOTION FOR EXTENSION OF TIME FOR FILING MASTER'S REPORT

TO THE HONORABLE JOHN J. PENTZ, PRESIDENT JUDGE OF SAID COURT:

The petition of Richard A. Bell, Master, respectfully represents:

1. Your petitioner was appointed Master on Feb. 5, 1962.
2. Master's hearing was held on Feb. 27, 1962.
3. This is a contested case and the testimony is lengthy and not yet completely transcribed.
4. Counsel intend to submit a memorandum of law to the Master and counsel for plaintiff has not yet done so.

WHEREFORE, your petitioner requests that the time for filing his Master's Report be extended for an additional thirty days.

Richard A. Bell

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA.

CLIFFORD S. SIMCOX

*

-VS-

* No. 375 November Term, 1961

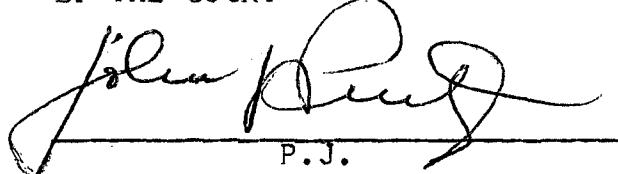
AMBER MARIE SIMCOX

* IN DIVORCE

ORDER OF COURT

NOW, this 29th day of March, 1962, upon consideration of the within petition and on Motion of Richard A. Bell, Master, the time for filing the Master's Report in the above case is hereby extended for an additional thirty days.

BY THE COURT


John P. Jones

P.J.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PA.

CLIFFORD S. SIMCOX

-VS-

AMBER MARIE SIMCOX

MOTION FOR EXTENSION OF TIME
FOR FILING MASTER'S REPORT

CLIFFORD S. SIMCOX
AMBER MARIE SIMCOX
MARCH 3, 1982
CARL E. BELL
PROTHONOTARY
CLEARFIELD, PENNA.

BELL, SILBERBLATT & SWOOPPE
ATTORNEYS AT LAW
CLEARFIELD TRUST CO. BLDG.
CLEARFIELD, PENNA.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CLIFFORD S. SIMCOX : :

-vs- : No. 375 November Term, 1961

AMBER MARIE SIMCOX : :

DOCKET ENTRIES

January 2, 1962, Complaint in Divorce filed. One copy certified to the Sheriff.

January 12, 1962, On praecipe filed, John K. Reilly, Jr., Attorney, enters his appearance for the Defendant.

January 13, 1962, On praecipe filed, Rule for Bill of Particulars filed by John K. Reilly, Jr., Attorney for Deft.

January 18, 1962, Served on me by copy. Clarence R. Kramer, Atty. for Plaintiff.

January 15, 1962, Petition for Counsel Fees and Alimony Pendente Lite, filed by John K. Reilly, Jr., Attorney for Defendant.

ORDER: NOW, January 15, 1962, Rule to show cause why defendant should not have counsel fee and temporary alimony. Returnable Jan. 29, 1962 at 2:00 P.M. By the Court, John J. Pentz, P. J.

Now, January 15, 1962, Service accepted without receiving copy. Clarence R. Kramer, Attorney for Plaintiff.

January 19, 1962, Defendant's Answer to Complaint filed by John K. Reilly, Jr., Attorney.

Now, January 19, 1962, Served on me by copy. Clarence R. Kramer, Atty. for Plaintiff.

January 26, 1962, Sheriff's Return filed: NOW, January 11, 1962 at 9:15 A.M. o'clock served the within Complaint in Divorce on Amber Marie Simcox at her place of residence, Third St., Clearfield, Pa. by handing to her personally a true and attested copy of the original Complaint in Divorce and made known to her the contents thereof. So answers, James B. Reese, Sheriff.

January 29, 1962, Answer to Petition for Counsel Fees and Alimony, filed by Clarence R. Kramer, Attorney.

Now, January 29, 1962, Service accepted. John K. Reilly, Jr., Esq. Atty. for Defendant.

ORDER: NOW, January 29, 1962 counsel fee awarded the defendant in the sum of One Hundred Dollars, and alimony pendente lite at the rate of \$25.00 per week to begin as of January 29, 1962. By the Court, John J. Pentz, P. J.

February 5, 1962, By motion on the Watch Book, Richard A. Bell, Esq. is appointed Master to take testimony and report in form of Decree.

February 7, 1962, Bill Of Particulars for Indignities Committed by Amber Marie Simcox against Clifford S. Simcox, filed by Clarence R. Kramer, Attorney.

Now, Feb. 7, 1962, Service accepted. John K. Reilly, Jr.
Attorney for Defendant.

Certified from the record this 8th day of February A. D. 1962.

Carl E. Walker
Prothonotary.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

Clifford S. Simcox :
vs : 375 NOVEMBER TERM, 1961
Amber Marie Simcox :

DOCKET ENTRIES

JANUARY 2, 1962, COMPLAINT IN DIVORCE filed: One copy certified to the Sheriff.

January 12, 1962, On praecipe filed, John K. Reilly, Jr., Attorney, enters his appearance for the Defendant.

January 13, 1962, On praecipe filed, Rule for Bill of Particulars filed by John K. Reilly, Jr., Attorney for Deft.

January 18, 1962, Served on me by copy. Clarence R. Kramer, Attorney for Plaintiff.

January 15, 1962, Petition for Counsel Fees and Alimony Pendente Lite, filed by John K. Reilly, Jr., Attorney for Defendant.

ORDER: NOW, January 15, 1962, Rule to show cause why defendant should not have counsel fee and temporary alimony. Returnable Jan. 29, 1962 at 2:00 P.M. By the Court, John J. Pentz, P.J.

Now, January 15, 1962, Service accepted without receiving copy. Clarence R. Kramer, Attorney for Plaintiff.

January 19, 1962, Defendant's Answer to Complaint, filed by John K. Reilly, Jr., Attorney.

Now, January 19, 1962, Served on me by copy. Clarence R. Kramer, Atty. for Plaintiff.

January 26, 1962, Sheriff's Return filed:

NOW, January 11, 1962, at 9:15 A.M. o'clock served the within Complaint in Divorce on Amber Marie Simcox at her place of residence, Third St., Clearfield, Pa., by handing to her personally a true and attested copy of the original Complaint in Divorce and made known to her the contents thereof. So answers, James B. Reese, Sheriff.

January 29, 1962, Answer to Petition for Counsel Fees and Alimony, filed by Clarence R. Kramer, Attorney.

Now, January 29, 1962, Service accepted. John K. Reilly, Jr., Esq. Atty. for Defendant.

ORDER: NOW, January 29, 1962, Counsel fee awarded the defendant in the sum of One Hundred Dollars, and alimony pendente lite at the rate of \$25.00 per week to begin as of January 29, 1962. By the Court, John J. Pentz, President Judge.

February 5, 1962, By motion on the Watch Book, Richard A. Bell, Esq., is appointed Master to take testimony and report a form of Decree.

Certified from the records this 5th day of February, 1962.

Carl E. Walker.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CLIFFORD S. SIMCOX :
vs. : No. 375 November Term, 1961
AMBER MARIE SIMCOX : IN DIVORCE

DECREE

AND NOW, the _____ day of _____, 1962, the Report of the Master is acknowledged. We approve his findings and recommendations; except as to _____.

We, therefore, decree that the prayer of Clifford S. Simcox, Plaintiff for divorce a vinculo matrimonii from Amber Marie Simcox, Defendant, is refused and it is hereby ordered and decreed that the Complaint filed in the above case be dismissed.

The Prothonotary is directed to pay the Court costs, including Master's fee, as noted herein, out of the deposits received and remit the balance to the Plaintiff. All costs shall be paid by the Plaintiff.

ATTEST:

BY THE COURT:

Prothonotary

President Judge

Kramer
Kramer to file
IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA,
No. 375 November Term, 1961 -
IN DIVORCE

CLIFFORD S. SIMCOX

vs.

AMBER MARIE SIMCOX

MASTER'S REPORT

Contested *4/10/62*
Master's fee \$ 90.00

Conc.
BELL, SILBERBLATT & SWOPE
ATTORNEYS AT LAW
CLEARFIELD TRUST CO. BLDG.
CLEARFIELD, PENNA.

COMMERCIAL PRINTING CO., CLEARFIELD, PA

Service accepted and Notice of filing waived.

May 9, 1962

Barbara P. Kramer
Attorney for Plaintiff

April 10, 1962

John K. Miller
Attorney for Defendant



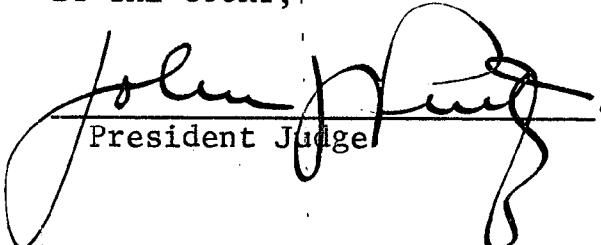
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CLIFFORD S. SIMCOX : No. 375 November Term, 1961
-vs- : In Divorce
AMBER MARIE SIMCOX :
|
|
|

O R D E R

NOW, May 16, 1962, the conclusion of the Master
that plaintiff has failed to establish the right to a divorce
is affirmed, and the cause dismissed. Plaintiff to pay
all the costs.

BY THE COURT,


John J. Huns
President Judge

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
No. 375 November Term, 1961

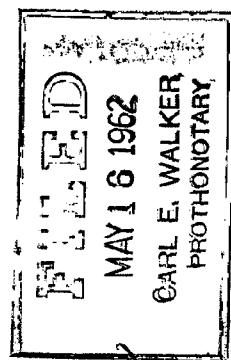
In Divorce

CLIFFORD S. SIMCOX

-vs-

AMBER MARIE SIMCOX

O R D E R



JOHN J. PENTZ
PRESIDENT JUDGE
CLEARFIELD, PENNSYLVANIA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CLIFFORD S. SIMCOX

: No. 375 November Term, 1961

vs.

: IN DIVORCE

AMBER MARIE SIMCOX

:

MASTER'S HEARING

Master's hearing held on February 27, 1962, at 9:30 a.m. in accordance with the Master's Notice of Hearing and adjourned from the offices of Bell, Silberblatt & Swoope to the Grand Jury Room in the Clearfield County Courthouse. Present was the Plaintiff, Clifford S. Simcox, together with his counsel, Clarence R. Kramer, Esquire, and his witnesses: Mr. Torrence Simcox, Mrs. Joyce Hetrick, Mrs. Martha Withey, Mrs. Jean Miller and Mrs. Betty Lou Cochran. The Defendant, Amber Marie Simcox, was present, together with her counsel, John K. Reilly, Jr., Esquire, and her witnessess: Mr. Joseph Gillingham, Mrs. Jean Miller, Mrs. Ruth Reinke, Mr. Dominic Mollura, Mrs. Ann Myrter, Mrs. Freida Copek, Mr. Joseph Kuna, Mrs. Joseph Kuna, Mr. Charles Ryder, Mrs. Mary Elizabeth Brink and Mrs. Violet Nulph.

CLIFFORD S. SIMCOX, being duly sworn, testified as follows:

By Mr. Kramer:

Q. Your name is Clifford S. Simcox?
A. Yes.

Q. And you are the Plaintiff in this case?
A. Yes.

Q. What is your age?
A. Sixty-one (61).

Q. Where do you live?
A. 116 South Second Street.

Q. Clearfield, Pennsylvania?
A. Yes.

Q. What is your occupation?
A. Locomotive engineer.

Q. And you are a citizen of the United States?
A. Yes.

Q. And did you marry Amber Marie Simcox?
A. Yes.

Q. On what date and what place?
A. At Clearfield on the 9th of May, 1953.

Q. At St. Francis Catholic Church?
A. Yes.

Q. And what is the age of your wife?
A. About sixty (60).

Q. She is a citizen of the United States?
A. Yes.

Q. Were any children born to this marriage?
A. No.

Q. Did I ask you your occupation?
A. Yes.

Q. What is your wife's occupation?
A. As far as I know, just a housewife.

Q. Following your marriage, where did you go to live?
A. Well, for about two or three months we lived down on Reed Street in the St. Charles Apartments. I think it would be about that.

Q. Was that the apartment she had before your marriage?
A. Yes.

Q. And following this where?
A. 116 South Second Street.

Q. And that house is owned by you?
A. Yes.

Q. Have you lived there continuously since then?
A. Yes. I have and she did up until, I guess, October the 26th, 1961.

Q. Since then you have not lived together?
A. No.

Q. Following your marriage, for a time did you get along allright?
A. Well, yes, we did get along fairly good.

Q. Later did troubles develop?
A. Well, yes, one thing and another.

Q. About when did these troubles start to develop?
A. Well, I wouldn't know. I think the cursing started shortly after we got married. We went out to the mountains to a reunion they had and there was a poker game and when Amber and I were coming home we got into an argument and she swore at me and gave me the rings, and I think that would be two or three months after the marriage.

Q. Would you say that the troubles started between you about the time of the poker game?
A. No. After that we got along, I would say, normally.

Q. Later on then, did troubles arise between you which constituted these indignities?

A. Well, yes, but then we would have arguments here and there but it got so she would curse and swear at me so that.....

Q. Approximately when did this kind of conduct start on her part?

A. I would say about five years ago.

Q. And was this conduct intermittent or continuous?

A. More or less continuous, and then it would cease for a while and then start over new again.

Q. When she would curse and swear, what would be the occasion for it?

A. I wouldn't know when it would be. I can tell you an example. It happened last summer. We had been away and coming home, we were coming out of Lewistown, she was lighting her cigarette with a match. Well, the car had a cigarette lighter and she didn't close the book of matches and it caught fire and burned her hand. I told her, "If you would close the book of matches and then light the match, they wouldn't get on fire." She threw them out and I told her to be careful and she said she didn't give a Goddamn where they went.

Q. Did that quarrel last longer than that?

A. Just a short time and then it was all over.

Q. Where were you traveling at that time?

A. We were heading home from down at Newark. We had been down to the Thousand Islands and came down around Newark and we got along fairly good.

Q. When you were home, what was her conduct in the last five years?

A. Well, sometimes good, sometimes not. At different times up at the Firemen's we would be up there for an evening and she would leave her pet names.

Q. What names?

A. Well, usually son-of-a-bitch.

Q. Would that be in public in the hearing of other people?

A. Yes, it would be, and in the hearing of her daughter and son-in-law.

Q. In what public places would she call you a son-of-a-bitch?

A. At the Firemen's and Moose.

Q. At what towns?

A. Curwensville. We went to visit her son-in-law and daughter.

Q. And while there, you went to social clubs?

A. Yes, the Firemen's and Moose.

Q. How many different times can you tell us in public places such as social rooms like that she called you such names as you mentioned?

A. Well, I wouldn't be able to say offhand.

Q. Was it numerous?

A. I didn't keep track.

Q. Numerous?

A. No, I wouldn't say numerous, no. They were numerous enough that you didn't want it.

Q. Were they embarrassing to you?
A. Yes.

Q. You say at her son-in-law's house she called you the same names, did she?
A. Yes, she did.

Q. Can you tell us any particular occasion?
A. One time we had all been up to the Firemen's and went down to Andy's and Frieda's for something to eat. That was when Andy had his eyesight. We got down there and for no reason....Frieda was getting something to eat and I don't know what time it was - I suppose around eight o'clock, and she just started one son-of-a-bitch after another so I got up and got in the car and went home. She didn't come home and the next day Andy brought her home and she didn't say anything and everything was all over.

Q. Did she seem submissive?
A. Yes.

Q. Did she talk?
A. She came in and a short time later spoke. Nothing was said about it. Neither one of us said anything about it after that.

Q. After several days, how did she act?
A. Okay.

Q. What have been her habits as to the use of intoxicating liquors?
A. Well, for anyone who is supposed to have a heart condition, I would say excessive.

Q. That is a conclusion.
A. I wouldn't be able to state excessively because I really don't know. A lot of time it would take a half pint a day. I suppose three pints a week.

Q. Why did she say she wanted liquor?
A. Because of her heart condition. It acted as a stimulant.

Q. Did you later talk to the doctor about her heart condition?
A. Yes. The last time she was in the hospital. She was admitted for a nervous condition and was put in as a gall bladder patient. She had tests and X-rays for the gall bladder. That is why he kept her there.

Q. Did she have a gall bladder operation?
A. No.

Q. How often did she insist on having liquor and making purchases of it?
A. She always had whiskey.

Q. Do you have any idea how much was purchased a week by her?
A. I wouldn't know because I never kept track of it. I would say it would average six half pints a week. That would be pretty close.

Q. Did she ever ask you to buy whiskey for her?
A. Yes, I have bought it for her.

Q. Did you make any protest about her drinking?
A. Different times, yes. Once I did say that it took a hell of a lot of whiskey for a heart condition.

Q. What did she say to that?
A. She said it was the only way she could get along.

Q. In addition to whiskey, was there any other alcoholic beverage she drank?
A. Beer.

Q. What was her consumption of beer?
A. Maybe from two to three or four bottles an evening.

Q. To consume that much, was beer had in the house?
A. Yes, a good many times and if it wasn't it was sent out for and got.

Q. Who sent out for it?
A. She did or maybe I would so we could both have a bottle.

Q. Did she insist on going places where alcoholic drinks were served?
A. Well, that is where we always wound up at.

Q. Was there any particular places she would patronize?
A. We would go to the S. O. I. and play bingo and to the Firemen's at Curwensville.

Q. And while playing bingo, would she consume alcoholic drinks?
A. Yes.

Q. To what extent?
A. Sometimes three bottles an evening, maybe more.

Q. How frequently did she go to these clubs?
A. Two or three times a week.

Q. Did she have any particular reason for going? Did she like any particular activity there?
A. Well, no, just to see people.

Q. She didn't care particularly about bingo?
A. She liked bingo.

Q. Well then, she would go to bingo?
A. Yes.

Q. In addition to the social clubs, did she go elsewhere for drinking purposes?
A. No.

Q. She never went to any taprooms?
A. At one time or another maybe we would go.

Q. If you would go to these places, at whose instance, hers or yours?
A. Most times, hers. She would have to have a drink. I suppose if you said anything you just got into an argument. We went to New York and went to Radio City and we got the car parked and first thing she had to have a drink to settle her nerves.

Q. Did you get the drink?
A. Oh, yes.

Q. Mr. Simcox, you are a locomotive engineer, I believe?
A. Yes.

Q. You are quite moderate in your drinking?
A. I've got to be.

Q. Did she consume much more of alcoholic beverages than you did?
A. Yes, I would say, because she had it at home and I would not be at home, and she would send out at different times for it.

Q. When she would go to these places, who insisted on the length of time that you would remain there?
A. Usually we would be with a crowd and she would want to stay. If there was a dance going on, we would both want to stay.

Q. Later on in your marriage experience, did she go out to these places without you?
A. Yes. She has gone to bingo but I never put anybody in jail and she could go to those places. It was allright with me.

Q. When she came in, what hour of the night did she come in?
A. Sometimes midnight, sometimes one, sometimes two.

Q. In order for you to perform your work, you had to have your rest, did you?
A. You have got to have your rest; you have got to be awake.

Q. When she came in late at night, did it ever have any effect on your rest?
A. Yes. Sometimes she came in quiet, sometimes not. When...

Q. When she didn't come in quiet, what happened?
A. Sometimes we started to argue.

Q. What effect did that have on your rest?
A. Well, I would try to get things quieted down and go back to sleep.

Q. Do you remeber any particular occasion where such an argument occurred?
A. No.

Q. But you remember an occasion without a date?
A. There were different times.

Q. When she came home from being out alone, did she ever protest to the fact that you hadn't gone with her?
A. Yes. She said I never went anywhere with her.

Q. Is that all?
A. That would be about all. I couldn't remember what all was said.

Q. Did she ever protest to the fact that you wanted to go places and she didn't want to go?
A. Yes. I would want to go different times to my daughter's at Kittanning for the day and she wouldn't want to go along. It would be nice weather but she would say the drive was too much for her. But she could go out and stay half the night around these places but wculdn't be able to ride 180 miles in a good car about ten or twelve hours, but could go out and stay at night at drinking places.

Q. And she had a habit of going to these places and staying late?
A. Yes. We usually stayed for the dance. Some anyhow.

Q. Did you want her to go to Bradford with you?
A. Yes, on different occasions but she said the trip was too much.

Q. That's about 80 miles one way?
A. Yes, about 160 miles round trip. I don't even know if it is that much.

Q. What was her habit about getting up in the morning?
A. Well, she usually got up when she was ready to.

Q. When would that be?
A. Anywhere from ten until noon.

Q. Did she give any reason for staying in bed that long?
A. As far as I know, she was just resting. She said she didn't sleep at night so she slept during the day.

Q. Did she prepare your breakfast?
A. No, I usually got my own.

Q. Did you pack your own lunch?
A. Yes.

Q. You live in an apartment in this house at 116 South Second Street?
A. Yes.

Q. There are other apartments, are there?
A. And rooms.

Q. Did she clean up the apartment and take care of that?
A. She cleaned the apartment, yes, and sometimes I helped her. I would run the sweeper and sometimes I scrubbed the apartment.

Q. Most of the time, who did the work?
A. Most of the time, I did. In the other side of the house, I helped with the work in the house and in the apartment and I helped with the washing of the clothes and stuff like that.

Q. That was the tourist rooms?
A. No, that concerned her own clothing.

Q. You washed her own clothing?
A. I helped. I put up and took down the lines and carried the washing out. Everything from the tourist rooms, except the towels, was sent to the laundry.

Q. In spite of the fact that she got up from ten until noon, where did she spend her afternoons?
A. Working around the house.

Q. Did she go to bed in the afternoon?
A. Yes, she would lay down.

Q. Did she give you any help towards keeping the tourist rooms?
A. Very little.

Q. Did you have to do most of that?
A. I did most of it.

Q. Did she complain of lack of a housekeeper for your house?
A. Yes, different times. For the first couple years, we had a girl that worked in our house.

Q. After that, what was her reason for wanting a housekeeper?
A. I suppose to help with the work so I wouldn't have to do so much work and she wouldn't have to do anything.

Q. Did the conditions as time went along get worse between you?
A. Yes, they did.

Q. What was the final occasion for her leaving you?
A. Well, one night she started to swear and I came in late and she came out cursing and swearing at me and after that nobody would talk so she decided to leave, I guess. She didn't have to.

Q. Did you try to provide her with sufficient money?
A. Yes. I would say she had sufficient money to get along very nicely.

Q. Did you try to make your married life a success?
A. Yes, I did. I put up with a devil of a lot to make it go.

Q. Is there some other instance you want to tell us about?
A. I was going to state that a couple years ago during Fair time, some of her relatives came in and stayed and as a result she had to go to the hospital and was in the hospital I don't know how many days, and the folks came there and stayed and there was nothing said about it. They never paid anything, they just made work. When they left there was a lot of cleaning up to do.

Q. Who did that?
A. Her uncle, aunt, niece and nephew and baby.

Q. And she didn't even help clean up?
A. No, she was in the hospital. I think that was one of the things that caused her to go to the hospital; too much company, too much work.

Q. Did all of this conduct of hers make things unbearable for you?
A. Yes, it did.

Q. Could you have continued to go along with her conduct being what it was?
A. No, I couldn't, because it was such that it was causing you to be discontent and you never felt right and first thing you know you are having sickness come up, and you cannot get along that way.

Q. Did that disturb you in your work?
A. Eventually it did. You get to thinking about one thing that happened at home and you neglect your work.

By Mr. Reilly:

Q. Mr. Simcox, you say this all started at a poker game?
A. No, not all of it started at the poker game.

Q. Was this the first instance that you can recall where your troubles started?
A. Yes.

Q. Where was the poker game?
A. Out at Parker Dam. They had a reunion and that is what Amber did in the afternoon.

Q. She was playing poker?
A. Well, yes, I would say.

Q. Were you?
A. No. I can't afford it.

Q. Did it embarrass you that your wife was playing poker?
A. No, but I would say it was a heck of a way to spend an afternoon, wouldn't you.

Q. I don't know, I've spent a lot of afternoons playing poker.
You say your wife swore at you, is that right?
A. That is right, and coming home that night when I said something about it, she said something and I think I told you that she handed her rings back.

Q. She swore at the reunion?
A. When we were coming home.

Q. Was anybody with you?
A. No, just the two of us.

Q. Nobody heard her swear at you?
A. No.

Q. Has she sworn at you since then?
A. Yes, different times.

Q. Several times?
A. Yes.

Q. Just several times?
A. I wouldn't say how many, I don't keep track.

Q. What did she call you?
A. A son-of-a-bitch.

Q. Why?
A. I don't know.

Q. Did she have any reason for calling you that name?
A. Maybe she thought she did.

Q. Do you have any idea what reason she had for calling you that name?
A. While her daughter was getting sandwiches, she just said it.

Q. Do you have any idea why she might have called you that name?
A. No.

Q. You say she called you that name in the presence of her daughter?
A. The daughter and son-in-law at different times.

Q. Are they the only two who have heard her call you that name?
A. No, different people.

Q. Are they here to testify today?
A. No, not that I know of.

Q. Do you not have anything other than your own word to substantiate the fact that she called you names?
A. No, just my word, and the son-in-law has heard it and he brought her down before he lost his eyesight. I came on home the night when she started that and the next day Andy brought her down home.

Q. She never gave you any reasons for calling you names?
A. No, and I'm not that kind of man anyhow, and you had better stop trying to put words in my mouth, young man, I....

By Mr. Kramer:

Now, wait a minute.

By the Master:

Now, just a minute, Mr. Simcox. If you say anything like that again, I'm going to have to take some action against you. Just answer the questions.

By Mr. Reilly:

Q. You say that after you were playing bingo in Curwensville one night, you went to the daughter and son-in-law's?

A. We usually always did.

Q. This one incident I have in mind is the night you say that she called you names and you jumped up and ran out.

A. I got up and went out and got in the car and went home and the next day Andy brought Amber down.

Q. Who was present at that time?

A. It would be Marlene, the daughter, and Andy and Frieda. I think that they could hear; they couldn't help but hear it.

Q. You say that Mrs. Copek's husband was present?

A. Yes, at that time.

Q. You say your wife drank a lot?

A. I am no judge of that.

Q. Did you ever see her drunk?

A. I wouldn't know, I am no doctor.

Q. Did she ever stagger? Was she ever unable to work?

A. She was always able to work.

Q. Was her speech ever slurred?

A. Yes.

Q. From drinking?

A. I am still no doctor.

Q. Was it ever slurred after she had been drinking?

A. I suppose it would be.

Q. Can you state of your own knowledge whether it was or not?

A. No, I am still no doctor.

Q. Was she ever unable to drive a car?

A. No, she always got home.

Q. Did anybody ever have to drive her home?

A. Not that I know of.

Q. You say she asked you to buy beer and liquor for her at different times?

A. Different times I went to the liquor store for liquor.

Q. Did you ever refuse to go?

A. I believe I have.

Q. Can you state for sure whether you have or not?

A. Yes, I would say for sure for beer but I wouldn't say for whiskey because whiskey was used for a stimulant and since I am no doctor I didn't know whether she had to have it or not, but excessively I don't think it would be good.

Q. Did you ever ask the doctor whether it was necessary for her to have whiskey?

A. No.

Q. You never refused to buy it?

A. I did tell her at one time that when I went for whiskey it took an awful lot.

Q. Did you ever refuse to buy it?

A. No.

Q. Did you ever try to prevent her from drinking?

A. No. As far as drinking, I never told her anything about it.

Q. In other words, you are trying to set up drinking as indignities yet you never did anything to prevent or correct it?

A. I suppose that would be right.

Q. You say she went to different clubs around town to play bingo?

A. Yes.

Q. Did she ever go alone?

A. Yes, without me.

Q. Did she go with any other people when she went without you?

A. I don't know, sometimes, yes, that I know of. Mostly there was other women went with her to Curwensville and sometimes she would go by herself or with her daughter.

Q. Do you know any certain incidents when she would go to these different clubs by herself without any other women or anyone with her?

A. I didn't keep track of her and if she did, I don't know. If she did, I wouldn't have any objection.

Q. Whose money did she play with when she played bingo?

A. I suppose it would all come out of the property.

Q. Pardon?

A. It would come out of the money she got from up home. It would be her own money because she was a housewife and it would be.....

Q. How much money did you give her to buy groceries and keep the house up?

A. The groceries alone was every week \$25 and she had an income anywhere from \$12 to \$24 of her own and I gave her extra and she had money from the girls she rented rooms to, and that came out of the property.

Q. How much extra money did you give her?

A. I didn't keep track.

Q. You say \$25 a week every week?

A. Yes, that was for the groceries besides the money I would spend when we would go to different stores and I would buy.

Q. Did she ever spend her own money on the house?

A. When she moved in, she used her own money and bought furniture and she wasn't asked to do it. She was asked not to do it.

Q. Did she buy linoleum?

A. She used house money.

Q. That was not her own money?

A. That was from income from the house, from the girls that stayed there.

Q. Who put it down?
A. I put some down and Mrs. Brink put the rest of it down.

Q. Did Mrs. Simcox put any down?
A. If she did, I don't know of it.

Q. Did she tell you?
A. No.

Q. Did Mrs. Brink tell you?
A. Yes, she did. I think Mrs. Simcox helped to put it down maybe a small part but Mrs. Brink did most of it.

Q. You say you also played bingo on different occasions?
A. Yes. Maybe on Sunday evenings we would go to bingo and stay for the dance.

Q. Did you ever drink?
A. Yes.

Q. Beer or whiskey?
A. Beer, sometimes. Sometimes, whiskey; sometimes beer and whiskey.

Q. If you were just drinking beer, how many bottles in an evening?
A. I never kept track.

Q. Was it too many to keep track of?
A. No.

Q. Would you say you had four?
A. Yes, maybe four, or maybe one, two, four or five bottles.

Q. If you drank four, would you be drunk?
A. No, I wouldn't say.

Q. You say that when she would go out to play bingo, she would get home at twelve, one or two o'clock?
A. That is right.

Q. Did you wait up?
A. No, I went to bed.

Q. Did she wake you up?
A. Yes.

Q. And is this what you base your time on, the time she woke you up?
A. Yes, that would be the time. Naturally if you got awake and could hear the clock strike, you could tell what time it was.

Q. It was always on an even hour that she came in?
A. No.

Q. Did you look at a clock when you woke up?
A. Not always; unless I got up.

Q. How many times did she get you out of bed?
A. If she woke me up maybe I got up and got a drink and I would naturally look at the clock but I don't know how many times.

Q. Once?
A. I wouldn't say.

Q. You say that you would argue when she came in at night. What about?
A. Well, I don't know exactly what it was about. Maybe I would ask her where she was. I usually didn't ask anybody anything.

Q. Who would start the argument?
A. Well, if it was started, a lot of times by her.

Q. You lived with Mrs. Simcox for eight years?
A. Yes.

Q. How many times in that eight years did she wake you up?
A. I don't know.

Q. Has it been going on for the full eight years?
A. No, intermittent.

Q. Just off and on.
A. Yes.

Q. Not very often?
A. I wouldn't say.

Q. How many rooms are in the house at 116 South Second Street?
A. In the apartment or in the house?

Q. In the house?
A. About eighteen (18).

Q. You say your wife didn't clean the whole house?
A. She only took care of the apartment. On the opposite side, nobody took care of it much but me and the girl that worked there and sometimes the people that lived there would help.

Q. You are saying that because your wife didn't clean an eighteen-room house for you that..
A. No.

Q. Then I don't...
A. You are trying to put words in my mouth.

Q. You brought it up.
A. I didn't bring that up.

Q. You said she didn't clean the whole house. Then she did clean the apartment?
A. Yes, some, and had some help from girls for about two years.

Q. Mrs. Simcox did clean the apartment, partly anyhow?
A. Yes.

Q. And you say you had a girl in to help her part time?
A. For about two years.

Q. But the other six years she cleaned the apartment herself?
A. Partly.

Q. Who paid the girls?
A. I did.

Q. You say you did?
A. Yes.

Q. What would you say the reason for her leaving you last October was?
A. Well, as far as I know it was the last time she swore and we didn't get along and we didn't talk and she moved out. I told her she didn't have to; she could stay there and live.

Q. Did you ever tell her to get out of the apartment?
A. Well, it might be in an argument. I might have, yes.

Q. Did you tell her often to pack her clothes and get out?
A. No. It might be you get mad and I suppose I did.

Q. How many times when you were married was Mrs. Simcox in the hospital, Mr. Simcox?
A. I don't recall but I have the bills.

Q. How many times did you have to pay the bills?
A. Well, everytime she went I had money to pay.

Q. Did she have insurance?
A. I had it but it didn't cover the condition she had.

Q. Didn't she have insurance when you married her?
A. Yes.

Q. Didn't you let it lapse?
A. I put her on mine.

Q. Why didn't it cover her? What was the condition?
A. Heart. That was why she went to the hospital each time, for her heart and blood pressure, except the last time.

Q. Then she did have a heart condition?
A. She was supposed to. That is why she went to the hospital.

Q. Mr. Simcox, while you were married and living together, did you ever date other women?
A. No.

Q. Did you ever call another woman for a date?
A. No.

Q. Did you ever try to date other women?
A. No, I never did. Not while we were living together.

By the Master:

Q. Mr. Simcox, have you or your wife had any prior actions for divorce?
A. No.

Q. At the time you and your wife were married, where were you living?
A. Before I was married you mean?

Q. Just before you were married.
A. Up at 116 South Second Street.

Q. And where was your wife living?
A. At the St. Charles Apartments.

Q. Have you lived all your life in Pennsylvania?
A. Well, yes, I have.

Q. And I take it that neither you nor your wife is in the military service at the present time?

A. No.

Q. Who was your wife's doctor?

A. Dr. Covalla. When we were married, it was Dr. Tornatore and later it was Dr. Murphy and later Dr. Waterworth and Dr. Covalla. At the present time, Dr. Covalla.

Q. At the time of these visits to the hospital, was her doctor Dr. Covalla?

A. No. The first time I think that...I believe it was Dr. Tornatore. That was until after he died and then it was Waterworth and then Dr. Covalla.

Q. Did you ever talk to any of these doctors about your wife's condition?

A. Just once, the last time she was admitted to the hospital.

Q. And which doctor was that?

A. Dr. Covalla.

Q. And did you ask him whether she had a heart condition?

A. Yes, I did. I asked him what her trouble was and if she had a heart condition.

Q. What did he tell you?

A. He said no, that her heart was normal and her blood pressure was normal; the only trouble was a slight nervous condition and she was admitted for gall bladder tests and X-rays and that he would have her discharged in three or four days.

Q. When was that?

A. That must have been in October.

Q. This past October?

A. Yes, 1961.

Q. 1961?

A. Yes.

Q. You had not talked to any doctor about her condition prior to that time?

A. No, I never had. Any time she went to the doctor or hospital, I never said anything. I never even called the doctor.

Q. And she left shortly after she came back from the hospital?

A. Yes. I think it might have been a week or two.

Q. Did you continue to get her whiskey after she got out of the hospital?

A. Yes, I believe I did get her some or she sent for it. I think she mostly sent for it.

Q. Did you get it for her?

A. Well, yes, the money would be got from the house to get the whiskey.

Q. Well, you say she sent for it?

A. I may have got her some whiskey, yes, and different times she would send down with someone else to get it.

Q. What I am driving at is that you would get her some after you knew she had no heart condition?

A. Yes, as a stimulant that she was supposed to have.

Q. Do you know whether any doctor at any time prescribed whiskey for her?
A. I believe that they did.

Q. Did any doctor ever tell you that?
A. No.

By Mr. Kramer:

Q. Mr. Simcox, in her bickering, did she ever mention poison?
A. I don't know whether she meant it or not but she said, "I should give you poison".

Q. Does that imply to you sufficient poison to kill?
A. I suppose it would.

Q. This happened how many times?
A. Many times.

Q. Where would you be when this happened?
A. At home.

Q. Was anybody present any of those times?
A. Yes, I believe that there would be the girls that stayed there; they would be around and hear it one time or another.

Q. This Bill of Particulars says that she accused you of going out with other women?
A. That is correct.

Q. Is that statement true or false?
A. False. While we lived together, I never did.

Q. And that would be up to October 26 of last year, you never went with other women?
A. That is right.

Q. Do you think she knew that such accusations were false?
A. I don't know. If she didn't, she should have.

Q. Do you think she made them for the purpose of irritating and annoying you?
A. I think so.

Q. Now, you say that she came home late at night from these bingo games or her evenings out. At one time, did her conduct after that time have a physical effect on her?
A. Yes.

Q. What was that?
A. That was the first time she went to the hospital. I would say it would be back in '56.

Q. How soon after that incident did she go to the hospital?
A. About three days.

Q. During the time between her return home that night and her going to the hospital, what was her attitude and conduct towards you?
A. Not very friendly.

Q. How did she act?
A. Well, I told her about staying out late too much and she told me to mind my own damn business.

Q. And the argument flared up?

A. Yes, it flared up and the only thing was she went to the hospital and it was forgotten.

Q. How long was she at the hospital on that occasion, if you remember?

A. Ten days as I recall.

Q. That is your best recollection?

A. Yes.

Q. You testified about these rooms and it was brought out that the entire house there contained eighteen rooms. Are there some apartments?

A. Yes.

Q. And they are rented to people?

A. Yes, there are two apartments there and they are rented to people and they take care of them.

Q. She wasn't expected to do that work?

A. No.

Q. How many two-room apartments are in the house?

A. Three.

Q. You spoke about other rooms and girls. Do some young ladies room there?

A. Yes.

Q. And those rooms, was she expected to do anything for them?

A. Yes, between her and the girls that stayed there, they took care of them.

Q. Now, you testified on cross examination about \$12 to \$24 a week that you classified as her own money.

A. That was what those girls paid in for rent, \$12 each.

Q. And that \$12 or \$24 was allowed to her for whatever purpose she chose?

A. That is right.

Q. In whose name is that house?

A. Mine. There was never anything said about the money, what she did with it; it was hers.

By Mr. Reilly:

Q. Mr. Simcox, you say that she threatened you with poison?

A. I don't know. She would maybe not be in a very good humor. Maybe she meant it as a joke, I don't know.

Q. Did she indicate that you were the one to take it or she?

A. No, she said, "I should give you poison".

Q. How often did she say that?

A. I wouldn't say how often.

Q. More than once?

A. A good many times.

Q. Was anyone present?

A. I suppose some of those girls that stayed there or somebody around maybe. Maybe it was a joke; I wouldn't say definitely that she meant it.

Q. Can you think of anyone specifically that was present when this was said?
A. I suppose...if they are not here as a witness, I wouldn't think so.

Q. You say you never went out with other women?
A. That is right.

Q. Did you call other women for dates?
A. No.

Q. Mr. Simcox, do you know Mary Marino?
A. Yes.

Q. Did you ever date her?
A. After, yes.

Q. Did you ever date her before she left, before Amber left?
A. No. We never went out, we had nothing to hide, before Amber left. I never had anything to do with other women except we went to dances and I would dance with other women and they would go home and as far as going out, I never did.

Q. Did you ever drive Mary Marino to DuBois for a shopping trip?
A. No.

Q. Did you ever drive her to Williamsport before Amber left?
A. No.

Q. Did you ever spend much time in Mary Marino's apartment before Amber left?
A. No. I used to go down and she would have different work to do and I would go down and do it and if I would see her we would stop and talk and nobody tried to hide anything from Amber or anyone else.

Q. When you went down to Mary Marino's, was anyone else present?
A. Yes, people would be coming in and out of the beauty shop, maybe neighbors would come in.

Q. Did Mary Marino spend much time in your apartment before Amber left?
A. Yes, she did.

Q. A lot of time?
A. Quite a lot. Mary would come up and stay with Amber. Amber didn't want to stay alone because of her heart condition and not too long before she left she called Mary from her father's place to come up and stay with her and Mary came up. It was just more like a sister. She would come up and stay there with Amber at nights and then she would get up in the morning and go down to her own apartment. I worked last winter between here and Newberry and I would be away all night about 90% of the time and Mary would be up there to stay with her, that is if there was no girl there.

Q. Do you know if Mrs. Simcox ever asked Mary to stay away from you?
A. I don't know.

Q. Do you think that it is possible that she might have?
A. I do not know. I suppose she has.

Q. Now, you say that one night Mrs. Simcox came home and had to go to the hospital?
A. That was two or three days after she came home on that particular occasion.

Q. Did you ever hit your wife?
A. No, I never did.

Q. Wasn't the reason she went to the hospital because you hit her with your elbow?
A. No. I never hit no woman.

By Mr. Kramer:

Q. Did she ever ask you to dance with Mary Marino?
A. Yes, she did, and I asked other women to dance with me, too. Everything that was said was said in front of Amber.

MARTHA WITHEY, being duly sworn, testified as follows:

By Mr. Kramer:

Q. Your name is Martha Withey?
A. Yes.

Q. Where do you live?
A. Woodland.

Q. Do you know the Simcoxes?
A. Yes.

Q. Did you from time to time while they lived together have occasion to talk to Mrs. Simcox?
A. Yes, I did.

Q. Did you have occasion to observe some of her habits?
A. Yes.

Q. Did you at one time help fix up an apartment there at the house?
A. Yes.

Q. How long did that take?
A. Two weeks.

Q. That was an apartment upstairs?
A. Yes.

Q. What part of the house did the Simcoxes live in?
A. Downstairs.

Q. Their apartment was on the first floor?
A. Yes.

Q. On that occasion, you had a chance to observe Amber Simcox each day?
A. Yes.

Q. What were her habits with reference to intoxicating liquors?
A. She had her drinks. She said she had to have it on account of her heart.

Q. Can you give us any amount of liquor you knew her to consume?
A. I never sat and watched that much.

Q. What did you observe?
A. She would get nervous and she said she had to have a drink.

Q. How frequently did she drink during the two weeks you were there?
A. I would say at least twice a day.

Q. And what did she drink?
A. Whiskey.

Q. How much whiskey did she drink? Did she drink it in a glass or take it out of the bottle?
A. In a glass.

Q. Did she tell you anything about her drinking whiskey?
A. She said she had to have it on account of her heart.

Q. Did she carry some in her purse?
A. Yes.

Q. Did she carry it even to church?
A. Yes.

Q. Did she comment about members of the Simcox family coming to the house?
A. Well, she said it made a lot of work for her when the one daughter came in from Kittanning.

Q. Did she say whether she wanted them to come?
A. She said she just as soon they wouldn't.

Q. And she said what about her when she came?
A. She would just as soon she didn't come with all the children because it made all the more work for her.

Q. You were there any other times in addition to this two weeks?
A. Yes.

Q. Was Mrs. Simcox ever complaining?
A. Yes, she complained of her sickness one time, particularly her leg bothering her and she had pains and aches and she always had something wrong that she complained about.

Q. While you were there, where did she spend most of her time?
A. In the kitchen sitting in a rocking chair.

Q. Did she seem to do much of the work around the house?
A. She would get meals ready. That is about all I could see.

Q. You didn't observe her doing much other work?
A. If she did it, she did it while we were upstairs or weren't there.

Q. For how many years have you been visiting up there?
A. Off and on for almost seven years.

Q. Did this situation you testified to always exist, she was always complaining?
A. Yes.

Q. And spending much of her time in the rocking chair?
A. Yes.

By Mr. Reilly:

Q. Mrs. Withey, you say you have seen Mrs. Simcox take a drink now and then?
A. Yes.

Q. Have you ever seen her drunk?
A. No.

Q. Did you ever notice her drinking in any way affect her?
A. No.

Q. You never saw any effect on her at all?
A. No.

Q. Did she ever give you any other reason other than heart for drinking?
A. No.

Q. You say she told you she didn't like to see the girl from Kittanning come, because it made more work?
A. When she didn't feel good, she said she would just as soon they wouldn't come because it made more work.

Q. When she didn't feel good?
A. When she was talking to me.

Q. How many children did the girl from Kittanning have?
A. Four, I think.

Q. Five extra people?
A. Six with her husband.

Q. Do you know yourself how much extra work that would mean?
A. I have an idea but I think the girl helped.

Q. Even so, with five extra people, it would mean more work?
A. Yes.

Q. Quite a bit more?
A. Yes.

Q. If they came very often, it would be natural for her to complain?
A. They didn't come very often.

Q. How many times?
A. Once a year.

Q. How long did they stay, in particular the time they came in for the Fair?
A. A week. I don't know whether they stayed a full week or not.

Q. Did you spend much time in the Simcox apartment?
A. Each day I was there helping.

Q. Other than the two weeks?
A. Well, just visiting in and out.

Q. Then you can't say whether Mrs. Simcox did any work in the apartment?
A. Well, I never saw her do it.

Q. You were never there to see her?
A. Yes.

BETTY LOU COCHRAN, being duly sworn, testified as follows:

By Mr. Kramer:

Q. You are Betty Lou Cochran?
A. Yes.

Q. Where do you live?
A. 542 Mt. Joy Road.

Q. Are you the lady that lived at Kittanning?
A. Yes.

Q. Are you the daughter of Mr. Simcox?
A. Yes.

Q. How long did you live in Kittanning?
A. About three and one-half years.

Q. Before that where did you live?
A. Out near the Armory on Coal Hill, on Fletcher Street.

Q. When did you return to 542 Mt. Joy Road?
A. June.

Q. 1961?
A. Yes.

Q. Now, you have a husband and four children?
A. Yes.

Q. Did you come back home from time to time while you lived at Coal Hill?
A. Yes.

Q. You would visit there from time to time?
A. We would come in on weekends on Saturday and leave on Sunday.

Q. From Coal Hill?
A. No, Kittanning.

Q. Did you also visit before that?
A. Yes.

Q. Did you come to the house frequently?
A. Yes. If I was downtown on Saturday I would stop in and see Dad and Amber.

Q. While you lived at Kittanning, you came up occasionally for weekends?
A. Yes.

Q. How frequently?
A. Maybe every three or four months, and, of course, we came for the week of the Fair.

Q. And brought the children?
A. Yes.

Q. While you were there, of course, you had a chance to observe Amber, had you?
A. Yes.

Q. Did she ever ask you to make any purchases for her?
A. A couple of times.

Q. What?
A. I had to go to the liquor store and get whiskey.

Q. What size container?
A. Half-pint.

Q. Did you have occasion to observe while you were there her habits towards consuming intoxicating liquors?
A. Yes.

Q. What was her habit?
A. She said that her sleeping pills didn't do any good so she said if she had two or three bottles of beer, she could sleep the whole night through.

Q. Did she ever drink that much?
A. Occasionally, yes.

Q. Did you observe her habits of drinking whiskey?
A. Yes. If she would get nervous or worked up, she would take a shot of whiskey.

Q. To what extent in any given day would you see her consume whiskey?
A. Maybe two or three times a day.

Q. From the purchases you made of, did you say half-pints, can you give us any idea from that standpoint how much she drank in a day?
A. I only went when I was in for the Fair and I would get a half-pint then and maybe some other time. I didn't go all in the same week.

Q. Were you ever at Curwensville at a bingo game where she was?
A. Yes.

Q. On more than one occasion or do you have in mind one occasion?
A. I went to Curwensville quite a bit to bingo.

Q. Did you have any occasion there to notice her drinking habits?
A. Yes.

Q. What did you notice?
A. She drank beer at bingo games and sometimes afterwards we would stay and she would have beer.

Q. Did you ever see her drink whiskey?
A. No.

Q. Did that have any effect upon her condition?
A. One time Amber did bring me home and I had to tell her where to turn in. She said, "Oh, Betty, I think I feel my drinks tonight".

Q. You wouldn't be able to give us the date of that?
A. No.

Q. That was when you lived on Coal Hill?
A. Yes.

Q. Do you recall being at the Sons of Italy when she was there?
A. Yes.

Q. Do you recall any of her dancing there?
A. Yes.

Q. Can you tell us about it?
A. This Mitch Mollura asked Amber to dance and she said she didn't think she should because it was too fast and he said, "Oh, come on Mom, it won't hurt you".

Q. What type of dance was it?
A. It was a rather fast one. It was no waltz.

Q. How long did it last?
A. The usual dance.

Q. Have you seen her drink any at the S.O.I.?
A. Yes.

Q. To what extent?
A. She drank her beer during bingo and afterwards.

Q. Did she drink anything other than beer?
A. No.

Q. Did you sit sometimes at the same table when you were at any of these places?
A. Yes.

Q. Did you hear her say anything to her husband about his dancing?
A. Out at the S.O.I., I heard her say, "Why don't you dance with Betty or Mary or Frieda?"

Q. Mary is who?
A. Mary Marino.

Q. She is the girl mentioned before in this testimony?
A. Yes.

Q. Did he dance with her?
A. Yes. He danced with Betty Kuna and Frieda and myself.

Q. Did he dance with Mary before she asked him to?
A. No.

Q. Not until after she asked him. Did she ask him or tell him?
A. She said, "Cliff, why don't you ask so and so to dance?"

Q. Who is Betty Kuna?
A. Her daughter-in-law.

Q. She was married formerly to a man named Kuna?
A. Yes.

Q. And Betty Kuna's husband is her son?
A. Yes.

Q. You mentioned a third name. What was it?
A. Frieda.

Q. Frieda who?
A. Copek.

Q. Amber's daughter?
A. Yes.

Q. And Frieda is her own daughter?
A. Yes, and she lives at Curwensville.

Q. After she asked him to dance with these girls, did he sometimes dance with them?
A. Yes, and sometimes he would say, "Oh, I don't want to dance".

Q. Did he dance when he said that?
A. No, not when he said he didn't want to.

Q. So you heard her make requests that he didn't honor?
A. Yes.

Q. Did you ever see her dance with your father?
A. Yes.

Q. From all that you observed in these dances with Mary Marino and Betty Kuna and Frieda Copek, did you ever see anything out of order or out of line?
A. No.

Q. Did you ever see anything out of line with any of these or other girls with your father?
A. No.

By Mr. Reilly:

Q. Mrs. Cochran, you say Mrs. Simcox asked you to buy whiskey for her at different times. Is that correct?
A. Yes, a couple times.

Q. And you did buy it?
A. Yes.

Q. Did Mr. Simcox ever tell you not to?
A. No.

Q. Did he ever say it might be better if you didn't?
A. No.

Q. Did he ever say anything at all to you about his wife drinking?
A. No, not the whiskey part. Dad never said a word about it but he did say he thought there was a little too much beer.

Q. Did he ever try to prevent her from drinking beer or whiskey?
A. Amber said the doctor ordered the whiskey as a heart stimulant. I know I have been there and she asked Dad to buy beer and he refused.

Q. Did he ever try to prevent her in other ways from drinking?
A. No.

Q. You played bingo with Mrs. Simcox?
A. Yes.

Q. Where have you gone on the nights you played with her?
A. Firemen's at Curwensville, the Eagles and Moose and the S.O.I.

Q. You went with her quite often. Is that right?
A. Yes.

Q. Did you drive or did Mrs. Simcox?
A. Sometimes Amber drove and sometimes I would drive.

Q. What time would you usually get home from these bingo games?
A. Well, sometimes we left right after bingo down at the Eagles but up at the Firemen's some nights it would be 1:30 or 2:00 and also out at the S.O.I. on Sunday nights, and some nights I would meet them out there and then I would leave. I would take my car and leave.

Q. On these nights when you would get home at 1:30 or 2:00, was Mr. Simcox along?
A. No, some nights he wasn't.

Q. You say you saw Mrs. Simcox dancing with Mitch Mollura at the S.O.I..
What sort of dance was it?
A. It wasn't a waltz but it was a little fast because Amber said, "I don't think I should".

Q. Was it a jitterbug?
A. No. It was faster than a two-step.

Q. What is in between a two-step and a jitterbug?
A. It is more or less that it takes a faster movement. There are slow two-steps and the waltz and then between you have more fast movement.

Q. It would be a two-step wouldn't it?
A. Yes, but a fast one.

Q. Mrs. Cochran, you are Mr. Simcox's daughter?
A. That is right.

Q. You are very fond of your father, aren't you?
A. Yes.

Q. You would like to see him get this divorce?

By Mr. Kramer:

I object.

By Mr. Reilly:

I was just trying to show bias of the witness.

By the Master:

Since she is his daughter, the bias is apparent.

TORRENCE SIMCOX, being duly sworn, testified as follows:

Q. Your name is Torrence Simcox?
A. That's correct.

Q. And you are the son of the Plaintiff?
A. Yes.

Q. Where do you live at this time?
A. I reside at Woodland, Pennsylvania.

Q. Did you reside at home part of the time that your father has been married to Amber?
A. Yes. I have been there on two or three occasions. I have lived there two or three weeks.

Q. When you haven't lived there, did you visit frequently?
A. Yes.

Q. Did you have a chance to observe the habits of Amber?
A. Yes.

Q. What did she do towards the house work that you noticed?
A. Well, she never cleaned the apartments or the sleeping rooms but as far as I know she took care of her own apartment. When I was living there she had at one time a girl staying with them and she helped Amber take care of the apartment they lived in.

Q. And after the girl left, did she make any complaints?
A. Yes, I heard her ask several times to get a girl to help her clean the apartment.

Q. How many rooms are in that apartment?
A. Living room, bedroom, bathroom, kitchen and hall and laundry room. Two bedrooms rather.

Q. And that is all on the first floor?
A. Yes.

Q. That is the apartment they occupied?
A. Yes.

Q. Where did the tourists....there is a tourist sign out there, where did tourists sleep?
A. Tourists had two rooms on the first floor and on the second there was one two-room apartment and there were four rooms on the second floor.

Q. Did she do any of this work on the upstairs?
A. No.

Q. What were her habits as to getting around in the morning?
A. You mean....

Q. Getting up in the morning?
A. Oh, around ten or eleven.

Q. And do you know anything about her habits in the afternoon?
A. Several times I would come in from out where I live now around two o'clock and I would knock on the door and get her out of bed.

Q. Do you have any knowledge of how much of the afternoon she spent in bed?
A. No, I haven't.

Q. Were you there once in 1954 around your father's breakfast time?
A. Yes.

Q. What was the situation at that time?
A. I was working at Johnsonburg and my father was working here in the yards and we both got up at the same time of day and he would get up and make breakfast and call me and we would pack our own lunches.

Q. Were you there enough to know whether or not she would customarily pack his lunch or weren't you there that much?
A. No. I worked odd hours but when I came in in the afternoon he would be packing his own lunch.

Q. You didn't attend any of these social clubs where she went and don't know anything about her conduct at those places?
A. Well, I went to the S.O.I. when they played bingo and then I would have a beer.

Q. Were you there long enough to know how much she drank in those evenings?
A. One time we went to the Firemen's with them and we were there until it closed.

Q. How much did you see her drink that night?
A. I would say half a dozen bottles of beer.

Q. You have no knowledge of her drinking of whiskey?
A. Yes.

Q. What knowledge?
A. Well, I have got whiskey for her myself. She said the doctor told her she had to have it so I would go down and get a bottle.

Q. What size?
A. Half-pints.

Q. How many times did you get her whiskey?
A. In the course of a year, I would say three or four times.

Q. You don't have any idea how much whiskey she consumed in a day?
A. I would say about two shots a day, maybe three shots a day.

By Mr. Reilly:

Q. You said when you started to testify that she kept the apartment clean?
A. I said, yes, it was clean. She and the girls that lived there cleaned it.

Q. I am talking about the apartment she and Mr. Simcox lived in.
A. Yes.

Q. Who did the cooking in this apartment?
A. Well, she would cook dinner.

Q. Who prepared the meals?
A. Well, that all depended. If my dad was working, she would get supper for her and the girl that was working there. If she wasn't feeling well or was tired, the girl would get her own supper.

Q. Who prepared Mr. Simcox's meals?
A. To my knowledge, she cooked them.

Q. You say one day you came there and got her out of bed in the afternoon?
A. Yes.

Q. How often did that happen?
A. I wouldn't know how many times I have done that.

Q. More than once?
A. Yes.

Q. More than five times?
A. Yes.

Q. This was over a period of eight years?
A. Yes.

Q. Did she ever tell you why?
A. She said she was resting.

Q. Was she in bed or lying on it?
A. I don't know.

Q. You say you have bought whiskey for Mrs. Simcox?
A. Yes.

Q. Did your father ever tell you not to buy it?
A. No.

Q. Did he ever say it was not a good idea?
A. No.

Q. Did he ever try to prevent it?
A. No, not when it was recommended....

Q. Was it recommended?
A. I assumed it was.

Q. Did a doctor ever tell you that?
A. No.

Q. Did you ever see a doctor's report saying she should drink whiskey?
A. No.

JANE MILLER, being duly sworn, testified as follows:

Q. You are Mrs. Jane Miller?
A. I am.

Q. And where do you live?
A. 116 South Second Street.

Q. You and your husband rent one of the apartments from Mr. Simcox?
A. That is right.

Q. How long have you lived there?
A. Since August of 1961.

Q. Did you ever hear Mrs. Simcox call him any foul names?
A. I have.

Q. Will you tell us when and the circumstances and what it was?
A. Well, I can't tell you the exact date but I know it was on a Sunday morning, Monday morning rather, about 3:00 and I heard her call him a dirty rotten son-of-a-bitch.

Q. Where was he and she at that time?
A. He had pulled in the garage and she had pulled in behind him.

Q. And where were you?
A. I was in bed and had the window up.

Q. And what wakened you?
A. Well, it was this noise.

Q. And when you got wakened, what did you do, go to the window?
A. No, my bed is beside the window and I heard it.

Q. Could you see who it was?
A. No, but I knew it was he and her.

Q. You say he drove into the garage and she pulled in right behind him?
A. She was driving, also?
A. Yes.

Q. Then where did they go?
A. Well, they came in the house.

Q. After that did you hear anything?
A. No.

Q. Your apartment is on the second floor, is it?
A. Yes.

Q. To the rear of the house?
A. Yes.

Q. And the garage is to the rear of the house?
A. Yes.

Q. On the next day, did you talk to Amber?
A. I did.

Q. And what did you say to her?
A. Her and I always did our laundry together and I went down and she was in bed and she said to come in the bedroom and I went in and she told me what happened.

Q. Did she send you on any errand to a doctor?
A. She asked me to call her doctor.

Q. Who did you call?
A. Dr. Covalla.

Q. Did you go up to the doctor's office for her?
A. Yes, he told me to come down and he would give me pills for her.

Q. Did she make any other request of the through you?
A. She said to ask the doctor if she should be put in the hospital for a few days.

Q. What did you do?
A. I asked the doctor.

Q. What did he do?
A. He called the hospital.

Q. Then you know of her going to the hospital?
A. Yes.

Q. Was that shortly before they separated?
A. Oh, no. I don't remember the date.

Q. Did she say anything about the bill of the hospital?
A. She said he would have a bill to pay.

Q. How did she say it? As if she meant she was going on purpose?
A. She just told me to ask the doctor about the hospital and if he wanted the bill, he would pay it.

Q. If he, her husband, wanted the bill, he would pay it?
A. Yes.

Q. Did you observe her habits and practices with reference to doing the housework there?
A. No, I didn't do any house work for her.

Q. Did you observe her practice with reference to her doing the house work?
A. Well, I have seen her have his meals ready and I never saw her apartment dirty and he had, I guess, his niece come in on Saturday and I have seen his niece down in their apartment.

Q. And you observed his niece doing part of the work there?
A. Yes. I have seen her down there.

Q. Did you ever see Clifford doing the house work, such as changing the beds?
A. Yes.

Q. In what part of the house?
A. The other side, the rooms he had rented.

Q. In the tourist rooms?
A. Yes.

Q. Did you ever see Amber do any of the work in these tourist rooms?
A. No.

Q. Did you have occasion to observe her daily conduct as to what she did with her time, where she seated herself?
A. Well, whenever she wasn't busy I have been down there and we sat in the kitchen and she sat in the rocking chair.

Q. Did you notice any of her habits with reference to alcohol?
A. I have sat there and drank beer with her, yes.

Q. Do you know to what extent?
A. Well, I never saw her drunk.

Q. Have you seen her when she showed any effects of drinking alcoholic beverages?
A. You mean how many?

Q. Did you ever see any physical effects upon her from drinking?
A. No.

Q. Can you tell us how many beers you would see her drink?
A. Maybe a couple when I was down there.

Q. Do you know anything of her drinking whiskey?
A. I have seen her drink whiskey, yes.

Q. Just once or occasionally or what?
A. I didn't see her just once take a few drinks of whiskey but I never saw her drunk.

Q. Do you know whether or not she was a steady drinker of whiskey?
A. I have seen her carry a little bottle of whiskey in her purse for her heart, she said. That is all I know.

By Mr. Reilly:

Mrs. Miller is also our witness and I would rather wait until Mr. Kramer is done and call her at that time.

By the Master:

No cross examination then?

By Mr. Reilly:

No.

JOYCE HETRICK, being duly sworn, testified as follows:

By Mr. Kramer:

Q. Your name is Joyce Hetrick?
A. Yes.

Q. Miss Hetrick, you live where?
A. 410 Martin Street.

Q. You have known the Simcox family for a long time?
A. That is right.

Q. And you have visited there frequently, have you?
A. Well, not too frequently, but quite often.

Q. Your children are grandchildren of Clifford Simcox? You were at one time the wife of Torrence Simcox?
A. That is right.

Q. Did you visit the house shortly before Mrs. Simcox left on last October 26 or within a year thereof?
A. I have been there within a year.

Q. You have two boys?
A. Yes.

Q. How old?
A. One is twelve (12), and one is fourteen (14).

Q. Did you take the boys to visit their grandfather?
A. Yes.

Q. Now, from these visits, did you have a chance to observe some of the conduct of Amber?
A. On one occasion I had taken the boys up to deliver the X-ray bills and Amber had asked me if I would like a bottle of beer and also asked both of the boys if they would like that, and at that time they were a year younger and I told her that I didn't allow them to drink and she said she had been drinking since she was a child and it never hurt her and that her granddaughter drank beer, and her granddaughter came in and opened it and drank it with her.

Q. How old is her granddaughter?
A. A year older than my son. That was about a year ago and Kip would have been 13 so she would be around 14.

Q. And except for you, she would have given your children beer to drink?
A. If they would have accepted it.

Q. Did you have occasion to observe how much and to what extent she drank alcoholic beverages?
A. Not, not too much. I didn't go as often as I would have liked to have gone up there. I would go up to have a conversation with Pap but as soon as you entered the house you heard, "I have this wrong with me and I have that wrong with me", so I would sooner stay away than listen to her complaining.

Q. Who was doing the complaining?
A. Amber was.

Q. You say that every time you went there, this was the constant course of conversation?
A. As soon as you went in and asked how she was, that is what you heard.

Q. Did you have a chance to observe how she worked or kept house?
A. No, I wasn't there that often. I do know that I went over one time and she wasn't in the house and Pap was cleaning the halls, and another time he came over to my place to give the boys a birthday present and he had to

get back home to do the housework and I made the remark that he would make somebody a good wife.

Q. And that is about the extent of your knowledge?
A. Yes.

By Mr. Reilly:

Q. Did you ever see Mrs. Simcox drunk?
A. No, I was never around that much.

Q. You can't of your own knowledge say how much of the housework she did around the apartment?
A. No.

BETTY LOU COCHRAN, being recalled, testified as follows:

By Mr. Kramer:

Q. Mrs. Cochran, I didn't ask you anything about the housework, I believe, when you were on the stand. While you were at your father's house both before you moved to Kittanning from Coal Hill and when you visited there while at Kittanning and since your return, have you from time to time had occasion to observe the working habits and the tendency to work in the house and take care of it of Amber?
A. Yes.

Q. Would you tell us what you know?
A. Like it was said, he did the work over on the other side, on the side that was rented, and in their apartment, why Amber would do that, and then there were times whenever I would be there that Dad would have me help Amber with the dishes or run the sweeper, and when she had people living in the apartments like Mrs. Brink here, Mrs. Brink would do the majority of the housework.

Q. Even in the apartment Amber lived in?
A. Yes.

Q. While you were visiting there, did you help with the housework?
A. When we came home from Kittanning, we had two bedrooms on the other side of the apartment and I always cleaned them before going back so Dad didn't have to do it and I would help Amber with the dishes and set the table and a lot of times I would have the kids away visiting.

Q. Did you try to do your full share of the work you made by coming home?
A. Yes. I was home for the Fair and Amber went to the hospital and Mary Brink and I did the work.

Q. Do you remember what year that was?
A. It must have been in 1960.

By Mr. Kramer:

The Plaintiff rests.

By Mr. Reilly:

I have three witnesses that have to leave early and I would like to call them before I call Mrs. Simcox.

MRS. RUTH REINKE, being duly sworn, testified as follows:

By Mr. Reilly:

Q. Mrs. Reinke, you live at 1404 Daisy Street in Clearfield?
A. Yes.

Q. Are you acquainted with Mr. Clifford Simcox?
A. Yes, I am.

Q. And Mrs. Amber Simcox?
A. Yes.

Q. Now, Mrs. Reinke, at one time since Mr. and Mrs. Simcox have been married, has Clifford Simcox called you and asked you for a date?
A. He didn't call, he stopped me on the street.

Q. And asked you for a date?
A. Yes.

Q. He asked you to go out with him?
A. Yes.

Q. Mrs. Reinke, are you acquainted with Miss Mary Marino?
A. Yes, I am.

Q. Have you ever seen her in the company of Mr. Simcox?
A. Yes, I have.

Q. At one time while you were in her apartment, did you hear them order dinner together?
A. Yes, I did.

Q. At the time Mr. Simcox asked you for a date, Mrs. Reinke, was Mrs. Simcox still living with him?
A. Well, that was over a year ago.

Q. She was still living with him then?
A. Yes.

By Mr. Kramer:

Q. Where abouts on the street were you?
A. In front of the Clearfielder Hotel.

Q. What hour was that?
A. I think it was about bingo time because I was going to bingo.

Q. What did he say?
A. He asked where I was going and would I like to go someplace. I said, "You know me better than that".

Q. Did you go to the bingo game?
A. Yes.

Q. Did he go?
A. I don't know. I think he was headed towards home when I saw him.

Q. What time is bingo time?
A. Around eight o'clock.

Q. And he was heading for home and you were in front of the Clearfielder. Had you been in the Clearfielder?
A. No, I came from home.

Q. And you were going to bingo at the Moose?
A. No, the Eagles.

Q. He definitely asked you?
A. He just said, "Would you like to go someplace? Would you like to go out for a drink?"

Q. When you go to these bingo games...do you frequently go to them?
A. Yes, I do.

Q. And you frequently play games with the men there?
A. I always sit by myself or with another lady.

Q. And you drink when you go to the bingo games?
A. Like anybody else, I have a drink or two.

Q. How long had you known him?
A. 25 - 30 years.

Q. Then this is the only time he asked you for a date?
A. Definitely, yes, that he asked me definitely.

Q. You say you saw Mary Marino in his company. Where were they?
A. S.O.I. club.

Q. And they ordered dinner there together?
A. No, not that time. I said I saw them there but it was in her apartment when they ordered dinner.

Q. Was he in the apartment?
A. No, he called her on the phone.

Q. How did you know it was him?
A. Because they ordered dinner and I was at the Moose club when he picked it up.

Q. Who picked it up?
A. Clifford.

Q. How do you know it was for he and Mary Marino?
A. I was there and they wanted me to pick it up and I said I didn't have time.

Q. You heard Mary Marino on the telephone order dinner?
A. He called her.

Q. Simcox called her? And she was in her apartment?
A. In the beauty shop. I was getting my hair done.

Q. And you were in the beauty shop, so it wasn't in the apartment?
A. That's right.

Q. Then she called the Moose for a dinner?
A. That is right.

Q. What did she say?
A. She said to make two chickens in the basket and he would pick it up and she said over the phone, "We might as well eat here instead of going out."

Q. How did you know she was talking to Clifford?
A. She used his name.

Q. Did she use Clifford or....
A. She knows him that well. I think she could say just Clifford.

Q. Did she say Clifford, Clifford Simcox or Mr. Clifford Simcox?
A. Clifford.

Q. You assumed it was Clifford Simcox?
A. Yes.

Q. Do you know whether or not Mary Marino knows some other Clifford?
A. I know when they ordered it, she said, "Why don't you pick it up and bring it up".

Q. What hour of day was that?
A. It was a Friday because I was going shopping.

Q. They got the dinner, did they?
A. He came down and picked it up and I was there eating when he came.

Q. Where did he take it?
A. I didn't watch when he left.

Q. He took out of the Moose two dinners?
A. That is right, two chickens in the basket.

Q. How long have you known Amber Simcox?
A. I would say I have known Amber for about fifteen years, more or less, at least that.

Q. You are pretty well acquainted with her?
A. Not any more than with Clifford. I speak and talk when I see her.

Q. How did she come to find out that he had talked to you about a date and that Mary had ordered these dinners? How did Amber find it out?
A. Well, after he started to run around with other women, I said, "That's nothing, he asked me a long time ago".

Q. When did you tell her?
A. I never told her until their troubles started.

By the Master:

Q. When you heard Mary Marino call the Moose, did you say that she told them Clifford would pick up the dinners?
A. Yes.

Q. Did she say that Clifford Simcox would pick up the dinners?
A. Yes.

By Mr. Kramer;

Q. Now you tell the Master that she used the name Clifford Simcox?
A. Yes, when she talked on the phone to him, she used Clifford.

Q. When she was talking on the phone, she called him Clifford Simcox?
A. When she called the Moose.

Q. You say she used both names, Clifford and Simcox, on the telephone?
A. To the Moose she said that Clifford Simcox would pick up the dinners.

MRS. FRIEDA COPEK, being duly sworn, testified as follows:

By Mr. Reilly:

Q. Your name is Mrs. Frieda Copek?
A. That is right.

Q. And you are Mrs. Simcox's daughter?
A. That is right.

Q. Now, Mrs. Copek, are you acquainted with Mr. Clifford Simcox?
A. Yes.

Q. Did you hear Mr. Simcox's testimony?
A. Yes.

Q. You heard him testify that while visiting Mrs. Simcox's daughter and son-in-law she called him names and forced him to get up and leave?
A. That is right.

Q. Was it at your house that this occurred or allegedly occurred?
A. Yes.

Q. On this evening that he testified to, who was present at your house?
A. My daughter, myself, mother and Clifford.

Q. Your husband was not present?
A. He was not there that night.

Q. On this night in question, did you hear your mother call Mr. Simcox any names at all?
A. Not to my knowledge, no.

Q. She didn't repeatedly call him any names?
A. I didn't hear anything like that.

Q. Do you remember Mr. Simcox jumping up and leaving?
A. Yes.

Q. Do you know of any reason for his doing so?
A. No, I wondered what happened. I was making a lunch and making coffee, which I often did.

Q. But you don't know of any reason for his doing this?
A. No.

Q. He just got up and ran out?
A. Yes.

Q. Do you play bingo with your mother, or in the past did you play?
A. Yes.

Q. Where did you play?
A. At the Firemen's. I played off and on.

Q. With your mother?
A. With my mother.

Q. What time did you generally get home?
A. Well, sometimes it would be right after bingo, sometimes a little later.

Q. What is the latest you ever got home?
A. Around 11:30 or 12:00.

By Mr. Kramer:

Q. On the evening he left there and came to Clearfield from your residence in Curwensville, would you tell us when that was? How long ago?
A. It was a Friday evening and it was a mighty long time ago.

Q. And on that evening, who made the coffee, you or your mother?
A. Myself. When I invite people in for a lunch, I make it myself.

Q. And you made coffee in the kitchen, did you?
A. That is right.

Q. The people were mostly in the living room? Watching television?
A. Yes. I think everyone was in the kitchen if I recollect correctly.

Q. Was the coffee made when he left?
A. I don't know whether it was finished or not. I know I was making sandwiches and coffee.

Q. Where did you serve the sandwiches and coffee?
A. We always ate at the kitchen table. Very common.

Q. In preparing the sandwiches and coffee, were you out of the kitchen any?
A. No.

Q. Not out at all?
A. No.

Q. How long were you engaged in the preparation of this evening snack?
A. I would say about a half hour or so.

Q. You say your husband wasn't there?
A. No, he was doing extra bar tending at the Firemen's club.

Q. He hadn't lost his eyesight?
A. He has lost his eyesight since then.

MRS. JEAN MILLER, being recalled, testified as follows:

By Mr. Reilly:

Q. Mrs. Miller, while Mrs. Simcox was living with her husband, did you ever hear them argue about Mary Marino?
A. Well, I have heard them argue but I don't know whether it was about her or not.

Q. Was it about women?
A. I don't know. That night that they came in.....

Q. Mrs. Miller, didn't you tell me you had heard them argue about his carrying on with Mary Marino?
A. Well, that must have been the day she asked him where he went down the street and he said he had lost his hat and she said, "Where?", and he said, "Cherry Street".

Q. Mrs. Miller, did you ever see Mr. Simcox hit Mrs. Simcox?
A. No, I never did.

Q. Did you ever see bruises on Mrs. Simcox's body?
A. That Monday morning I went down whenever she was in bed and I saw marks on her arm.

Q. Did they appear to be hand marks?
A. Just marks like that.

Q. As though they were made by fingers?
A. Yes.

Q. Like you would grasp somebody by the arms?
A. Yes.

Q. Did Mr. Simcox ever tell you that he had told Amber to get out of the house?
A. He told me whenever she came home from the hospital that he said she thought she was moving to Frieda's and he asked her why she came back there.

Q. Did he ever tell you he told Amber to leave?
A. I think he told me that he asked why she came back there when she knew she wasn't wanted there.

Q. Mrs. Miller, did you play bingo with Mrs. Simcox?
A. Never.

Q. You never went to a bingo game with her?
A. No.

Q. Do you know generally what time Mrs. Simcox would get home?
A. Well, we were down watching their TV and she would go out to bingo and she would be home about 10:30.

Q. Did you notice while she was living there how much housework she did?
A. Well, like I said, I never saw her apartment dirty.

Q. Did you see Mary Marino ever take Mr. Simcox's car?
A. I have.

Q. She drove it herself?
A. Yes.

Q. More than once?
A. I saw her take it different times.

Q. Did you ever see Mrs. Simcox drunk?
A. No.

Q. Did you ever hear her complain about anything?
A. What do you mean?

Q. About working or anything like that. How tired she was.
A. No.

By the Master:

We will adjourn until 1:30 this afternoon.

Hearing resumed at 1:30 p.m.

AMBER MARIE SIMCOX, being duly sworn, testified as follows:

By Mr. Reilly:

Q. Your name is Amber Marie Simcox?
A. Yes, sir.

Q. And you are married to Mr. Clifford Simcox, the Plaintiff in this action?
A. Yes.

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

Q. Mrs. Simcox, you are presently living in the St. Charles Apartments on Third Street?
A. Yes.

Q. How long have you been living there?
A. Since October 27.

Q. 1961?
A. That is right.

Q. Now, previous to October 27, 1961, where did you live?
A. 116 South Second Street.

Q. Did you live with your husband at that time?
A. Yes.

Q. How long had you been living at that address with your husband?
A. A little over eight years.

Q. Approximately eight years?
A. Yes.

Q. Mrs. Simcox, first we will consider the question of your playing bingo and staying out late. Did you play bingo while you were living with your husband?
A. Yes, sir.

Q. Approximately how many nights a week did you go out to play bingo?
A. On Friday and Sunday nights. Not always on Sunday. Years back, I only went one night a week, sometimes down at the Eagles on Saturday, but recently two nights a week, Friday and Saturday.

Q. Was it ever more than twice a week?
A. Yes.

Q. What was the most?
A. Maybe three or four times if I was winning.

Q. Did you ever go alone?
A. Yes, sir.

Q. Very often?
A. Quite often.

Q. By alone I mean were there other women with you?
A. Many times I was alone.

Q. Did you ever go with other women?
A. Yes.

Q. Did you ever go with your husband?
A. Yes.

Q. Did you go with other people more often than you went alone?
A. Yes. Most always I tried to get someone to go along.

Q. Mrs. Simcox, when you would come home from playing bingo, would you call your daughter?
A. Yes, sir.

Q. How many people would you call when you got home?
A. I always called before I left and told them where I was going and when I came back I always called my daughter, always.

Q. That is Mrs. Copek?
A. That is right.

Q. What is the latest you have got home from playing bingo?
A. 11:00, 11:30, 12:00.

Q. Ever later than 12:00?
A. Not unless we went up to Frieda's and stopped to have a lunch.

Q. Did you ever wake your husband up when you came home?
A. No.

Q. Did you drink while you were out playing bingo?
A. Yes.

Q. Very much?
A. Three or four bottles of beer.

Q. Over an evening?
A. Over an evening.

Q. Were you ever drunk when you left?
A. No.

Q. Were you always able to drive a car?
A. Yes.

Q. Were you always able to navigate a car under your own power?
A. Yes.

Q. Now, Mrs. Simcox, when you played bingo, whose money did you use to pay for your cards and beer?
A. I used money I had from girls who roomed with me.

Q. Was it your own money?
A. Yes.

Q. Did Mr. Simcox ever pay for your evening?
A. No, not unless he played splits with me, and if I won, he got his share.

Q. Do you drink whiskey?
A. Yes, sir.

Q. Do you drink very much whiskey?
A. No, sir.

Q. Do you carry a small bottle of whiskey in your purse?
A. Yes, sir.

Q. Did you ever drink enough whiskey in one day to make you drunk?
A. No, sir.

Q. Since you have been married to Mr. Simcox, have you ever been drunk?
A. No.

Q. Has Mr. Simcox ever complained about your drinking?
A. Not whiskey. He would maybe holler if I would ask him to get some beer in the evening to watch TV. In the evening when I am alone, I like to have some beer when I watch TV.

Q. Why should he holler?
A. Sometimes he wouldn't want to go or something. When he would go, I would pay half of it.

Q. Did your drinking bother Mr. Simcox in any way?
A. I don't see how.

Q. Did it ever interfere with your housework?
A. No.

Q. You did the housework at your house?
A. I did.

Q. Now, you don't mean you cleared all eighteen rooms?
A. No, I mean my apartment.

Q. The living quarters of you and Mr. Simcox were cleaned by yourself?
A. Yes.

Q. Did you ever have help?
A. When we first moved up there, we had two girls. One was with me from December until the following fall, early in the fall, and the other was with me from the time that girl left in the fall until early spring.

Q. How long were both girls with you put together?
A. Not more than two years, both of them put together.

Q. Who paid the salary of the first girl?
A. The first girl was hired by myself to help me pack up down at my apartment and move to 116 South Second Street and help me also to redd up there for two weeks, and I paid that girl those two weeks' wages.

Q. Who paid the wages of the other girl?
A. He did.

Q. Who hired the other girl?
A. I don't know how that came to be about that we got her. When Nellie quit us we got her cousin to come and work for us. And for a time after....we kept Nellie on for a while up there and I paid half of her wages and he paid the other half. Then I quit paying and he paid her.

Q. Except for the two years that those girls worked up there for you, have you done all the housework in your apartment?
A. Yes, with the exception of when Mary Brink lived with me. If I was doing anything when she came down, she would help me.

Q. Did you keep your apartment clean?
A. Yes.

Q. Did Mr. Simcox ever complain that it wasn't clean?
A. No.

Q. Did you prepare the meals for Mr. Simcox?
A. Yes.

Q. Did Mr. Simcox ever complain that his meals weren't being prepared?
A. No.

Q. Did Mr. Simcox ever hit you Mrs. Simcox?
A. Yes.

Q. Do you recall the testimony this morning that you were in the hospital and he had to pay the hospital bill?
A. Yes.

Q. What was the cause of your going to the hospital that time?
A. That time was the night that his daughter, Betty, was down at my place in the afternoon. They lived up at Coal Hill at that time and she asked me if I was going to bingo. Mr. Simcox was getting over the flu and I said I didn't know. He said it would be allright for me to go and I went to bingo with his daughter and met my son out there, and that was the night that I danced with Mitch Mollura. When I came home, Betty had brought me home about a quarter of twelve. I was in bed before twelve and just a little bit before two o'clock I got up and went to the bathroom and when I came back I was getting in bed when the two o'clock bell struck and he woke up and swore at me and said it was a hell of a time for a married woman to get in. I said, "What are you talking about? I've been home for two hours." He called me a liar and when he did he came down over me like this with his elbow. He said he would go up to his daughter's and tell them and I said that Betty went home at the same time because she took me home. He said, "You can't tell me what I can tell my daughter", and came back again and hit me again and that is when I went to the hospital. I didn't go the next day, I did my laundry and the next day I went down over the table.

Q. You fainted?
A. I was just awfully sick and he came up and was going to call the doctor but instead I went down and he sent me to the hospital.

Q. On this visit to the hospital, who paid the hospital bill?
A. He did.

Q. Now, when you married Mr. Simcox, did you carry hospital insurance?
A. Blue Cross.

Q. After you were married, was that kept up?
A. For a while I kept it up, yes.

Q. Was it in force when you went to the hospital?
A. I dropped it. I said he would have to keep it up or I would drop it and he said to drop it. I couldn't keep up on all the insurance I was carrying and that is when he put me on the New York Central insurance.

Q. Is this the only time he hit you?
A. No.

Q. How many times while you were living together did he hit you?
A. One time before that when we came home we were arguing. He was blaming me for things I didn't do and he hit me hard right here and I fell against the kitchen chairs and knocked them over and when we got stopped I was clear across the room against the wall. I carried bruises on my chest for days.

Q. Do you know Mary Marino, Mrs. Simcox?
A. Yes.

Q. When you were living at the apartment with Mr. Simcox, did he spend much time with her?
A. Where do you mean, Mr. Reilly?

Q. When you were living at 116 South Second Street?
A. She was up at my place a lot.

Q. Did he spend much time in her apartment?
A. I saw him coming out of there one day and saw him talking to her last Thursday.

Q. Do you know if they ever took a trip together?
A. Yes.

Q. Where did they go?
A. When he came back, he said Williamsport but I saw him pick her up at two in front of Bell Telephone and I made up my mind to catch them, and I searched this town for hours and hours until I caught them, and when I did catch them he was parked in front of her apartment at three in the morning.

Q. This was before you left him?
A. Yes.

Q. Did he take her anywhere else besides Williamsport?
A. Yes.

Q. Did you tell me that it was Philipsburg?
A. That was after I left.

Q. Did the fact that he was so interested in Mary Marino bother you while you were living together?
A. Yes, it did.

Q. Did you at any time ask Mary Marino to keep away from your husband?
A. I certainly did. Three months before.

Q. Did you call your husband names?
A. Yes.

Q. The name that was mentioned this morning?
A. Yes.

Q. Why did you call him that name?
A. When I caught him bringing her home at three in the morning, I was pretty mad.

Q. So in this instance you had provocation for calling him this name?
A. Yes.

Q. Did you call him this name very often?
A. When he came out of her apartment that day right in front of Cherry Street when he came home for supper, yes.

Q. Because you had seen him come out of her apartment?
A. Yes.

Q. Did you ever call him that name for any other reason?
A. No.

Q. Just for his going out with other women?
A. When he did things like that.

Q. Do you know of his asking other women for dates?
A. Yes.

Q. Do you know of your own experience or of your own knowledge that he has called other women for dates?
A. Yes, because they came and told me.

Q. Were you ever present when he asked them?
A. No, he didn't ask them in my presence.

Q. Did you ever suggest that your husband should poison himself?
A. I suppose because.....

By Mr. Kramer:

That wasn't in the testimony.

By the Master:

It wasn't in the testimony exactly that way but he can ask it.

By Mr. Reilly:

Q. Do you recall the testimony this morning concerning poison?
A. Yes.

Q. Did you in any way while you were living with Mr. Simcox intimate that you should give him poison?
A. No.

Q. Do you recall any incident or conversation with your husband while you were living with him in which poison was mentioned?
A. Yes.

Q. How many times?
A. One time.

Q. Would you relate that incident?
A. Yes. We were having an argument about Mary Marino and I told him that.... this was shortly before I left up there....and I told him that if I had a wife that I hated as bad as he hated me, I would give her a dose of arsenic and he said, "Oh, I don't want to kill you", and I said, "Outright I don't think you do; you just want to do it slow and easy like", because I was awfully sick for about three months up there.

Q. Was that the only time poison was mentioned while you were living together?
A. Yes.

Q. When you were taking whiskey for your heart condition, would you drink half a pint a day?
A. No.

Q. How much did you drink?
A. I took two shots of whiskey a day unless something would happen that would upset me pretty bad and I would have to take it again but that was my doctor's orders.

Q. Now, Mrs. Simcox, when you were staying there at the house, how much money did he give you to live on?
A. Twenty-five dollars a week.

Q. Did you ever get more than that?
A. When it was full of roomers I got \$30.

Q. Ever more than \$30?
A. No.

Q. Did you ever spend money to repair or remodel the house up there?
A. Yes.

Q. What did you spend money on?

A. Well, the rooms upstairs I thought if they had linoleum on the floor they would look nicer and I bought linoleum for two bedrooms and shower room and hall, and a carpet for downstairs and drapes for the tourist side of the house.

Q. Did Mr. Simcox ever help you in cleaning house?

A. Yes, he used to dry the dishes and things quite often.

Q. Did he ever do things a normal husband didn't do?

A. He ran the sweeper sometimes for me and cooked his breakfast in the morning. Things like that he did.

Q. What was the reason for your leaving Mr. Simcox last October?

A. Because of Mary Marino.

Q. Did you ever tell your husband that it would be allright to dance with other women?

A. Yes.

Q. Why?

A. I wasn't allowed to dance and because I couldn't dance I would have been very selfish if he couldn't.

Q. Did you tell him to dance with Mary Marino?

A. Before this started, before things started that they got to going together and things started to happen between them, when we went out I used to tell him to dance with Mary and all the girls.

Q. Did he ever embarrass you while dancing with Mary Marino?

A. Yes.

Q. Could you explain that please?

A. Well, I saw him kiss her on the Eagles dance floor one night and we had an argument about that, and when they danced it was so lovey-dovey and I would tell him about it. I told her and I told him because people told me and she said she knew people were talking about it but she didn't seem to care.

Q. Did you ever stay in bed all day?

A. Not unless I was real sick.

Q. Did you hear Mr. Simcox's son testify that he had gotten you out of bed in the afternoon?

A. Yes.

Q. Is that a fact?

A. No.

Q. Did you ever go to bed when you were not sick?

A. Sometimes I would lie down when I had my work done. I slept late in the morning but not between ten and twelve. Maybe nine or nine-thirty.

Q. Is there anything you would like to add that I haven't asked you?

A. No, not unless about my going to the hospital the last time. That was not my heart this last time.

By Mr. Kramer:

Q. Your heart proved allright your last trip to the hospital?

A. Yes.

Q. Was your blood pressure favorable, too?
A. No.

Q. Was it adverse?
A. Well, when I went it was very low.

Q. It came up, did it, before you came out of the hospital?
A. Yes.

Q. Then there was only a brief time there wasn't hospitalization for you?
A. It was quite a while as far as my heart was concerned.

Q. And during that time you only had one occasion to use it?
A. For my heart.

Q. I am referring to hospitalization insurance. There was only one time that there wasn't hospital service, that there wasn't any insurance?
A. Yes, just one time that his insurance didn't take care of me.

Q. And that time he paid the bills?
A. Yes.

Q. You said on direct examination that you never got in later than twelve at night?
A. No, usually about 11:30 down at the Eagles, a quarter after ten....it depended where I went and if I went up to Frieda's. I would take my daughter and her husband home and have a lunch before I went home.

Q. And on those times it could have been later than twelve?
A. A little later but not two or three.

Q. Could it be one in the morning?
A. Maybe once in a while. I never looked at the time.

Q. And when you would come in, would it sometimes disturb him, wake him up?
A. If I would wake him up, he would ask me if I won or if the jackpot went.

Q. Did you on several occasions have words?
A. After I came from bingo, no.

Q. Was there ever any time that he was called a name by you on any of those occasions?
A. After a bingo game?

Q. Yes.
A. No.

Q. At these bingo games, did you ever drink any whiskey at all?
A. No, beer.

Q. No whiskey whatsoever?
A. No.

Q. Did you drink whiskey before you went to bingo?
A. No.

Q. Did you drink it when you came back?
A. Sometimes, if I felt I needed it.

Q. Did you object at first to dancing with Mr. Mollura?
A. No, when Mr. Mollura, he asked me to dance and I said if it was fast I couldn't and it wasn't fast so I got up and danced with Mr. Mollura.

Q. Had the music started when you got up?
A. I think the piece was finishing and then Mitch asked me to dance and I said if it wasn't fast I would.

Q. Did it prove faster than you thought it would be?
A. No.

Q. Had you been drinking that night?
A. Beer, yes.

Q. Anything else stronger?
A. No.

Q. You claim that he struck you with his elbow on the upper chest twice in this one evening?
A. Three times.

Q. Now, could the two times he hit you with his elbow been an accident?
A. No.

Q. Are you very sure of that?
A. Positive.

Q. What was the incident about falling over the kitchen chairs and table?
A. On Sunday night and on Monday I did the laundry and I was sprinkling the clothes and just went down over the table, and he was in the cellar and when he came up I was taking ammonia, I wasn't taking whiskey at that time, and when he came in he said he would call for the doctor and I said I would go down and I did.

Q. What doctor was that?
A. Dr. Tornatore.

Q. Then that was quite a while ago?
A. Yes.

Q. How much whiskey were you consuming at any time by the week while you lived with him at 116 South Second Street?
A. Well, I took at least two shots of whiskey a day and if something would come up to upset me in the meantime, I would take a little whiskey. I still do.

Q. Did you consume four or five half-pints of whiskey in a week?
A. No.

Q. Then the testimony to the effect that you did is wrong, is it?
A. Yes.

Q. And do you drink whiskey or did you then drink more than just what the doctor prescribed for you?
A. No.

Q. How much did the doctor prescribe for you?
A. Two shots a day. He told me to drink a little whiskey twice a day.

Q. For what reason?
A. For my heart and my blood pressure.

Q. What doctor prescribed that?
A. Dr. Murphy.

Q. That was after Dr. Tornatore died, was it?
A. Yes.

Q. And you have ceased to doctor with Dr. Murphy, have you?
A. Yes.

Q. And how long ago did you cease doctoring there?
A. I took my last heart attack two years ago last August that would be and I had called for Dr. Covalla and I couldn't see him until Tuesday afternoon but they told me I could see Dr. Waterworth and Mary Brink took me down to Dr. Waterworth.

Q. And what was your heart condition at that time?
A. Well, he asked me what had happened and I told him I had a terrific pain in my chest and it grabbed me in the neck and he said, "Amber, you had a heart attack".

Q. Did he have a cardiogram taken at that time?
A. Dr. Covalla's machine was at the hospital and Mary Brink went to the house and took me to the hospital for a cardiogram.

Q. Then you had one taken?
A. Yes.

Q. What was the result?
A. The next day Dr. Waterworth called me and said that the cardiogram didn't show anything and I didn't have to stay in bed.

Q. When did this happen? That wasn't your last trip to the hospital?
A. No.

Q. How many times after that did you go to the hospital?
A. I was in for my leg once and I was in for this nervous upset about twice.

Q. About twice?
A. Yes.

Q. And so since that cardiogram turned up that there was no heart affliction at that time you have never had any trouble with your heart?
A. No. On Monday I took the heart attack and on Tuesday I got out of bed for a while and didn't feel too well so Betty, his daughter, told me to go back to bed and I did go back to bed, and Wednesday morning I thought if I didn't have to stay in bed I would go to the kitchen so they wouldn't have to bring my meals in and Betty asked me what I wanted for breakfast and I said nothing and then I took another spell.

Q. But it wasn't a heart attack?
A. No.

Q. Approximately when was it that you went out to the hospital on Dr. Waterworth's recommendations and the cardiogram showed nothing affecting the heart?
A. Two years ago last August.

Q. Then since two years ago last August, you have not had that you know of any heart condition?
A. No.

Q. Since that time, have you continued to drink whiskey?
A. Yes.

Q. How much?
A. Two shots a day.

Q. The same as before?
A. Yes, and I carry it in my purse.

Q. Do you drink two shots a day on Dr. Waterworth's prescription?
A. No.

Q. On Dr. Covalla's?
A. No.

Q. But under a prescription given you before you had your last heart attack?
A. Dr. Covalla knows I take it and so did Dr. Waterworth because he asked me what I had and I said I carried nitro glycerin with me and took two shots of whiskey.

Q. So as far as you know now, you don't need whiskey for your heart condition?
A. No.

Q. But you do use it the same?
A. Yes, I get nervous and upset.

Q. And you still sent your husband down to get it?
A. He gets it but I pay for it.

Q. And you sent some of the rest of the family for it?
A. Yes.

Q. Since two years ago last August?
A. Yes.

Q. You admit, do you, that you do on occasion use the word son-of-a-bitch?
A. Yes.

Q. Do you admit that when you saw him come out of Mary Marino's apartment as you testified you used that term?
A. Not on the street.

Q. After you got home?
A. Yes.

Q. Do you admit that when you encountered him and you say he was in a car with her, you used the term to him?
A. Yes.

Q. In all of your married life, are those the only two times you have called him that?
A. Yes, that I can remember. If I had a reason for it, I would call him that. I wouldn't call him that unless I had a reason.

Q. When you called him that, you were pretty angry?
A. Yes.

Q. And you figured you had adequate provocation to call him that name?
A. Yes.

Q. And you never at any time other than that called him a son-of-a-bitch in any quarrel you had?
A. Yes.

Q. There were quarrels from time to time, were there?
A. Yes.

Q. And you never suggested to him that you should give him poison?
A. No.

Q. But you did mention arsenic once?
A. Yes.

Q. And only once?
A. Yes.

Q. And you never mentioned the word poison at any other time?
A. No.

Q. Were you serious when you made the mention of it?
A. Well, the way I felt about it was that I had Mary for breakfast, dinner and supper. It was getting on my nerves. I warned him and her at least three times before so the day I caught him coming out of her apartment.... she came up three weeks later and said he had come down to fix a leaky faucet and the first time he went down she sent him away.

Q. You are telling what she said?
A. Yes.

Q. Go on.
A. This is what she told me. He had gone down to fix a leaky faucet and when he came down there she said she had a customer and sent him away, and I said, "Wouldn't it have been better for him to fix the leaky faucet while you had a customer?", and she said he wouldn't take any money for it so she shampooed his hair, and I said he was a big boy so he could do his own.

Q. There was no harm in shampooing his hair, was there?
A. There was no reason for it.

Q. Before that, you had been in the habit of inviting Mary Marino to the house?
A. Before things started going on.

Q. You were the one that invited her?
A. Yes.

Q. She came and you drank beer together?
A. Yes.

Q. You drank whiskey together?
A. No.

Q. You never drank any whiskey there?
A. Not that I remember. It was mostly beer because I don't even like whiskey.

Q. But you could have drunk whiskey and forgot?
A. Beer is my drink.

Q. You claim that he gave you \$25 a week and when the house was full with paying guests \$30?
A. That is right.

Q. Didn't he give you more money than that?
A. No.

Q. Didn't he buy whiskey for you?
A. No.

Q. You bought it yourself?
A. Yes.

Q. So the beer, you paid half on the beer?
A. Yes.

Q. And where did you get your money for clothes?
A. I got that from my own.

Q. And where did you get money for bingo?
A. If a girl was living there, she paid \$12 and that was what I spent for bingo.

Q. And that was the use of his house and his furniture and it was income he left you have?
A. I would say it was his house but not his furniture.

Q. And he left you have that income and that was in addition to the \$25 or \$30 per week?
A. Yes.

Q. Didn't he give you other money at times?
A. No. On my birthday or something like that, yes.

Q. You bought some linoleum, you say?
A. Yes.

Q. And you did that voluntarily?
A. Yes.

Q. And the linoleum was put in what part of the house?
A. Two bedrooms upstairs and the shower room.

Q. You used your own money?
A. Yes.

Q. By your own money, do you mean money that came from these sources we have been talking about?
A. The money that he gave me mostly went for groceries.

Q. So that the money you did use came from keeping boarders?
A. Yes.

Q. And that was for the linoleum?
A. Yes.

Q. Did he buy groceries for those boarders?
A. Yes.

Q. And provided for those boarders?
A. Yes, he gave me \$25 a week for groceries.

Q. And did he pay the taxes on the house, did he?
A. Yes.

Q. And kept up the repairs?
A. Yes.

Q. And the water and utilities?
A. Everything.

Q. And you got \$12 per week when you had roomers?
A. Sometimes \$12 or \$24.

Q. Did you ever get as much as \$24?
A. I had two girls until July 3 so that would be \$24.

Q. And he let you have the extra money from that?
A. Yes.

Q. Was there one who stayed from December until spring and slept in the living room?
A. No, she was sleeping on the sunporch and it got too cold and she slept in the living room for a time and then left.

Q. And you had the income from that?
A. Yes.

Q. Was that for a period of a few months?
A. She didn't sleep in the living room that long.

Q. Did she leave because she got married the following spring?
A. Yes.

Q. There was some testimony here about you sleeping in late in the morning?
Did you sleep in as long as ten or eleven in the morning?
A. I didn't sleep very well at night so I would sleep until nine-thirty or ten in the morning.

Q. Were you ever out as much as four nights a week?
A. No.

Q. Did you complain to your husband because he didn't take you places and go places?
A. Yes.

Q. And did this cause any dissention between you?
A. Yes.

Q. And were there some quarrels or bickering over that fact?
A. Yes, because he never wanted to take me out and I would ask to go to the Firemen's to bingo and he wouldn't go so I would go and then he would go to the Moose to bingo and we would have an argument.

Q. How do you know he went to the Moose?
A. He told me.

Q. Are you sure he wasn't joking about it?
A. No, if he would win, he would tell me; if he lost, he told me.

Q. Did you object sometimes when he would go out?
A. Yes.

Q. Did you object to him asking you to accompany him and refuse to go?
A. Yes. On long trips, I did.

Q. So that sometimes you complained because he wouldn't go with you and other times because he wanted you to go and you didn't want to?
A. Yes. After I had my heart attack I didn't see that it was necessary for me to take long trips and come back on the same day. I didn't mind staying overnight and coming back the next day but making the trip up and then come right back I couldn't see.

Q. Do I understand that since the period of two years ago last October, he never asked you to make these trips?
A. Since my heart attack.

Q. In the last two and one-half years has he ever asked you to make these long trips and you refused?
A. Yes.

Q. So you weren't very companionable with him were you?
A. If he wanted to go someplace else, I would go, but not on long trips.

Q. You had relatives at Kittanning and Bradford?
A. Yes. Mine at Bradford, his at Kittanning.

Q. How late did you sleep in the mornings?
A. 9:30 - 10:00.

Q. Would he have to get up and get his own breakfast?
A. He always got his own breakfast.

Q. Did you ever offer to get up and offer to get it for him?
A. If he wanted me to....he always wanted to get his own. He always did.

Q. Did you complain considerably about the fact that you had no hired help after about a year and a half of married life?
A. I told him once that we should have a girl come in every two weeks to clean the upstairs.

Q. Did you make an issue of it?
A. No, but I thought it would save him some work.

Q. If you had done your share of the work, would it have saved him?
A. When he was out one day I made the beds each morning and kept the rooms.

Q. Upstairs?
A. Yes.

Q. Did you do that continually?
A. When he was on the job, yes.

Q. You changed the beds when they needed to be changed?
A. He changed the beds on the weekend.

Q. Is it true that you complained all the time about your health?
A. No, not all the time.

Q. Did you sit a whole lot in a rocking chair?
A. No. I didn't sit in a rocking chair and let him do the work.

Q. Did you complain a whole lot about your health?
A. When I had a bad leg and things like that, yes.

Q. One of the witnesses testified that there was no pleasure going there, that you would complain from the time she arrived until the time she left. Is that true?
A. No.

Q. Did you insist upon telling people your ills and ailments?
A. Maybe I did when I had this bad leg. I don't remember.

Q. How long did that bad leg last?
A. I still have it.

Q. When did you first have it?
A. I don't recall.

Q. Two years ago?
A. More than that. They were going to operate on it two years ago last January.

Q. Did they operate on it?
A. No.

Q. You said at the Eagles you saw him kiss Mary Marino on the dance floor.
When did that happen?
A. Before I had my X-rays, a year ago.

Q. After he danced with her, did he come over and sit down at your table?
A. Yes.

Q. Did you say anything then?
A. Not then.

Q. When?
A. After we went home and I told him about it and I said that if I saw it a lot of other people did, too, and I didn't want it to happen again.

Q. Did he really kiss her?
A. Yes.

Q. You said they were dancing lovey-dovey?
A. Well, they always danced lovey-dovey.

Q. What do you mean?
A. I hardly know myself because I don't dance that way either.

Q. Then you have no definition for lovey-dovey?
A. No, but people were talking.

Q. Was there any talk about the mistletoe at the Eagles?
A. Yes.

Q. Tell me about that?
A. After he kissed her at the other end of the dance hall and I saw it.... when they got down to where the mistletoe was she hollered, "Hey, Amber!", and I looked and so did everybody else and she grabbed him and kissed him, because everybody was doing that.

Q. There was a lot of kissing going on?
A. Yes, they had mistletoe up.

Q. And that is a carte blanche signal for kissing?
A. Yes, but that wasn't the first time.

Q. Maybe he didn't see there was no mistletoe down there?
A. I don't think so.

Q. They only danced one dance together that night?
A. No.

Q. How many did Mary and Clifford dance?
A. I couldn't say. They danced most all of the time. I did dance once or twice but right now I am only allowed to dance two slow pieces in an evening.

Q. Is it a fact, Mrs. Simcox, that through the years you have spent very lavishly on bingo games, beer and whiskey?
A. No, I wouldn't say that.

Q. You have consumed a substantial portion of what he has given you in other directions?
A. When I went to bingo I never asked him for money. If I had money left over from the girls paying me after I bought the groceries I would go and play bingo. If I didn't, I wouldn't go.

Q. But you always had some left because you did go?
A. Yes. About twice a week.

Q. And you would have no idea of what proportion of the money that came from his funds from the roomers you spent on groceries? You would have no idea what proportion from him, like this money from the girls at \$12 or \$24, went for the purpose of bingo, whiskey and beer?
A. I wouldn't say that everything went for whiskey, beer and bingo. I took care of my home and the groceries first and then what was left over was mine.

Q. How much per week went for these purposes?
A. I never figured it out, but when I went to Curwensville I split with my daughter. It would be \$2.75-\$3.00 a piece.

Q. Would you want to go back with him now?
A. I couldn't live with him now.

Q. You are gone for keeps?
A. I couldn't live like that. I would be pushing up daisies if I would have stayed there.

Q. There was no agreement for you to go?
A. He didn't even try to stop me or once say not to go.

Q. You wouldn't have stayed there, would you?
A. I might have. In fact, one day I did try to talk it over with him and I said that two people our age....who would think two people our age would come to this when we could have such a nice home and he said, "What nice home?", and I said if he would behave himself and he said he didn't want to have anything to do with me or speak to me. I lived there for two weeks after that and left.

Q. You were married twice before weren't you?
A. Yes.

Q. And he was married once before?
A. Mr. Simcox...I think he was married twice before.

By Mr. Reilly:

Q. Mrs. Simcox, on this complaining about your illnesses, did you complain constantly?
A. No.

Q. Did you complain often?
A. Not unless there was something really wrong with me.

Q. Did that happen often?
A. I wouldn't say it happened often. Not unless my heart would act up or my leg would bother me.

Q. The only time you called him a name was because he was out with another woman?
A. Yes.

By the Master:

Q. You and your husband were married here in Clearfield at St. Francis Church?
A. Yes.

Q. You say that Dr. Murphy prescribed these two shots of whiskey per day for you?
A. Yes.

Q. When was that?
A. That was after Dr. Tornatore died and I don't recall what year he died.

Q. How many heart attacks have you had?
A. Three.

Q. When did the last one occur?
A. Two years last August. One was the year before that and he was with me the last two I had. He was with me both times and the first one was... I don't know if it was 1951, I am not sure....I was in the hospital seventeen days and spent the next three months in bed.

Q. Was Dr. Murphy your doctor when you had the second heart attack?
A. Yes, I was doctoring with him at that time but I wanted to have Dr. Covalla and when I called him I couldn't get him and I went down to Dr. Waterworth that day.

Q. On this first heart attack, did the doctor come to your house and then send you to the hospital?
A. I didn't know I had one. I knew something terrible had happened and I just walked down to Dr. Tornatore's and he said I had a heart attack and I didn't know then that there was anything wrong with my heart.

Q. And the second time, did you go to the doctor?
A. No, Dr. Murphy was out of town. We were watching TV and I went that way and he ran and got whiskey and gave me a drink and as soon as that was over I called Dr. Murphy's nurse and she told me to go to the hospital on Monday morning for a cardiogram and she would call and make the arrangements, which she did, and if there was anything seriously wrong she would turn me over to Dr. Covalla until Dr. Murphy returned.

Q. Did you go and have the cardiogram made?
A. Yes.

Q. Did that show anything?
A. No.

Q. Did you have one made after your first heart attack?
A. I had several.

Q. What did they show?
A. I don't know; Dr. Tornatore never told me.

Q. Did Dr. Murphy tell you to take the shots of whiskey at any particular time during the day?
A. No.

Q. After the last heart attack, you said that Dr. Waterworth sent you out for a cardiogram and that cardiogram didn't show anything. Did they tell you you had not had a heart attack?
A. No, they didn't tell me I didn't have one.

Q. Did they tell you you didn't need to have any treatment?
A. No, the last time I visited Dr. Covalla he told me that what was wrong with my heart was coronary insufficiency.

Q. When was this time you last saw Dr. Covalla?
A. I go once a month and my appointment was March 7 so it must have been around the 7th.

Q. You mean you have been to see him in February and that was when he told you you had coronary insufficiency?

A. I asked him why I would take these spells and the electrocardiogram didn't show anything and he said what he would call that was coronary insufficiency.

Q. And you mean you have seen him within the past month and he said that?

A. Oh, yes.

Q. You took these drinks of whiskey whenever you felt upset?

A. Yes, and I carry it with me. I passed out at the A. & P. one day and it was a good thing I had it with me.

Q. You haven't had any further trouble with your heart for two and one-half years?

A. I have had no heart attacks.

Q. This money that you had, did you have any left over after you paid for groceries and played bingo, etc.?

A. Yes.

Q. In other words, you didn't always use up the \$25 to \$30 plus the money you had for the rooms?

A. No.

Q. You have saved that money, have you?

A. I didn't save it. I kept it in case I needed something around the house. I kept it and paid insurance or whatever came up.

Q. You said something about your husband bringing Mary Marino home around 3:00 a.m.; did you say they were coming home or coming out of the apartment?

A. He was parked in front of her apartment.

MRS. ANN MYRTER, being duly sworn, testified as follows:

By Mr. Reilly:

Q. Your name is Mrs. Ann Myrter?

A. Yes.

Q. And you are acquainted with Mrs. Simcox?

A. Yes.

Q. And Mr. Simcox?

A. Yes.

Q. Now, Mrs. Myrter, did you accompany Mrs. Simcox on her bingo games?

A. Different times, yes.

Q. Were you with her very often?

A. Yes, pretty often for a while.

Q. When you went, did you generally go in Mrs. Simcox's car?

A. Yes, we did.

Q. And she would take you home after the game?

A. Yes.

Q. What is the latest you would get home?

A. I would say we stayed up until twelve and go to Frieda's but most of the time we came right back after visiting.

Q. What time would you say generally?
A. 11:30 or 12:00.

Q. When she went out to play bingo, did she drink beer?
A. Yes.

Q. How many bottles?
A. I would say three or four bottles, sometimes she didn't drink that much.

Q. Did you ever see Mrs. Simcox drunk?
A. No.

Q. Was she ever unable to drive her car?
A. No.

Q. Have you ever noticed that she was affected at all by beer?
A. I never noticed, never.

Q. Did Mr. Simcox ever ask you for a date, Mrs. Myrter?
A. Yes.

Q. Did he call you on the phone?
A. Yes.

Q. What time did he call you?
A. Around a quarter of one.

Q. In the morning?
A. In the morning, on a Saturday.

Q. Was it more or less a joke or was he serious?
A. I would say it was no joke.

Q. What did he say?
A. He said, "Let's go out and celebrate."

Q. Did you go with him?
A. No, I didn't.

Q. What did you tell him when he said that?
A. I just told him no.

Q. And approximately when was it that he called you, Mrs. Myrter?
A. I think it was after...I didn't know Amber and Cliff were parted at the time and it was around that time.

By Mr. Kramer:

Q. Your best impression is that it was after the time they separated?
A. Yes, I think it was.

Q. Where do you live?
A. South Third Street.

Q. What hour in the morning was it?
A. Quarter of one.

Q. He called you on the telephone?
A. Yes. We were drinking coffee and sitting at the table on a Saturday evening.

Q. Who was there?
A. Mr. Ryder was there and my two children and the phone rang.

Q. That is the only time he called you and asked for a date?
A. Yes.

Q. You are a widow, I believe?
A. Yes.

Q. So there was no impropriety from your standpoint for asking for a date?
A. What?

Q. From your standpoint there was no impropriety...as far as you are concerned being a widow.
A. No. I didn't go with him. I understood he told Amber I did go with him.

Q. That is just what you got from Amber?
A. Well, I believe it.

Q. And he didn't suggest any particular destination or place to go?
A. No.

Q. How long did your telephone conversation last?
A. Not very long.

Q. And you told him you wouldn't go out and he accepted it?
A. Yes.

CHARLES RYDER, being duly sworn testified as follows:

By Mr. Reilly:

Q. Mr. Ryder, you are acquainted with Mrs. Myrter who just testified?
A. Yes.

Q. And do you know the Plaintiff?
A. Yes.

Q. Were you present one night when Mr. Simcox called and asked Mrs. Myrter for a date?
A. Yes.

Q. Do you recall when it was?
A. I don't know the date but it was a Saturday night.

Q. How long ago?
A. I'm not positive. I know it was on a Saturday night. We didn't come to town. We went out with some neighbors and went back home.

Q. Were you present when the conversation occurred?
A. Yes.

Q. Did you know who was on the other end?
A. Yes.

Q. How did you know?
A. Well, when the phone rang and she picked it up, I was standing not far from her and her children were sitting at the table and she turned to me and said it was Cliff. Of course, I recognized his voice.

Q. Did you hear his voice?
A. Yes, I could hear it.

Q. Did you know what he wanted?
A. I could hear him and some of the conversation between them.

Q. What happened when she found out what he wanted?
A. As I recall, she said, "Oh, no, I am getting ready to go to bed because the children have to go to church". Then she said it was Cliff, and after it was over, she said he said, "Let's go out and celebrate", and she, of course, said no.

Q. After he hung up, did you go and look for him?
A. Yes. I went to the Eagles and couldn't find him. I went home and called the Moose and he wasn't there, and I called his home and he answered. I told him I didn't want him calling my woman on the phone. He said, "Who is this?", and I said, "You know who it is", and he didn't make any other answer, and I said if he called my woman again, he and I were going to mix up and he hung up.

By Mr. Kramer:

Q. Were you engaged to Mrs. Myrter?
A. No.

Q. And you are not married to her?
A. No.

Q. Just a friend of hers?
A. Yes.

Q. He didn't admit in the telephone conversation that he had called her, did he?
A. He practically did. He knew who I was and I told him I was standing alongside of her at the time.

By the Master:

Q. What is your first name, Mr. Ryder?
A. Charles.

JOSEPH KUNA, being duly sworn, testified as follows:

By Mr. Reilly:

Q. You are Joseph Kuna?
A. Yes.

Q. Mr. Kuna, you are Mrs. Simcox's son, is that correct?
A. Yes.

Q. And you are acquainted with Mr. Simcox?
A. Oh, yes.

Q. Now, Mr. Kuna, were you ever present at any of the places when your mother was playing bingo?
A. Yes. I used to go out every Sunday at the S.O.I.

Q. And you have seen her playing bingo?
A. Yes.

Q. Generally, who left first?
A. Mother.

Q. Then you are in a position to say what time she left?
A. Yes, anywhere from eleven, sometimes even before that, to eleven thirty.

Q. Was it ever later than eleven thirty?
A. Well, on occasions when Clifford was with her, sometimes it was later, yes.

Q. Was it ever later than eleven thirty when her husband wasn't with her?
A. No.

Q. Did you see her drink beer at the S.O.I.?
A. Yes.

Q. Did you ever see her drink whiskey there?
A. No.

Q. Approximately how much beer did she drink?
A. Three or four bottles an evening.

Q. Did you ever see her drunk out there?
A. No.

Q. Did you ever see her stagger when she left?
A. No.

Q. Have you ever known that she was unable to drive her car home?
A. Not to my knowledge.

Q. Have you ever seen your mother drunk at all?
A. No, I haven't.

Q. Have you been in the company of your mother and Mr. Simcox much?
A. I wouldn't say too much. On a Sunday, I would go to the S.O.I. and play bingo and they have beer at the tables and they would sit at the tables and I would sit at the bar and after bingo I would go over and sit with them for a while.

Q. Did you ever hear your mother call Mr. Simcox a name?
A. No, I never have.

By Mr. Kramer:

We haven't any questions.

MRS. JOSEPH KUNA, being duly sworn, testified as follows:

By Mr. Reilly:

Q. Mrs. Kuna, you are married to the man that just testified?
A. Yes.

Q. You are Mrs. Simcox's daughter-in-law?
A. Yes.

By the Master:

John, could we have the first names of the witnesses?

By Mr. Reilly:

Q. What is your first name, Mrs. Kuna?
A. Betty.

Q. Mrs. Kuna, did you play bingo with your mother-in-law on occasion?
A. A couple of times, yes.

Q. What is the latest you ever left?
A. Up at Curwensville around eleven or eleven thirty. I very seldom ever went to the daughter's for a lunch.

Q. Did Mrs. Simcox have a habit of calling you when she got home?
A. Yes.

Q. Even though you were along?
A. Yes.

Q. What is the latest she has called?
A. No later than eleven thirty because I am in bed.

Q. Did you ever see her drink beer?
A. Yes.

Q. What was the most she drank?
A. Three or four bottles.

Q. Did you ever see her drunk?
A. No.

Q. Was she ever unable to drive?
A. No.

Q. Did anybody ever have to help her home?
A. No.

By Mr. Kramer:

Q. Mrs. Kuna, did she always call you after she came home from bingo?
A. Oh, yes.

Q. You mean she called you every Friday evening for several years?
A. Oh, yes. I knew where she was and when she got home.

Q. Has she ever called as late as midnight?
A. Yes, but not much after that.

Q. For how many years has this been her custom?
A. For years that has been the family tradition.

Q. Was there any particular reason why she would call you?
A. Well, to let us know she was home if we needed her.

Q. Is bingo night in Curwensville Friday night?
A. Yes.

Q. At bingo at the S.O.I. is Sunday night?
A. Yes.

Q. Did she call you on Sunday nights?
A. Around midnight my husband would come home and I would know.

Q. When was bingo at the Eagles?
A. Saturday.

Q. Did she call you afterwards?
A. Oh, yes.

Q. Do you know how often she went to the Eagles?
A. I don't know.

Q. Do you know how many Saturday nights she called you?
A. I would always hear from her, seven nights a week, bingo or no bingo.

Q. Would it be at that late hour every night?
A. Oh, no.

Q. It would be earlier some nights?
A. Yes.

Q. What hour?
A. Maybe nine, maybe nine thirty, something like that.

Q. And you say this has been going on for years?
A. Yes.

Q. You couldn't tell whether she called from the Eagles or a bingo game in Curwensville or whether from home?
A. Well, I knew she was home. If I needed her, I knew she would be there. If she said she was home, I knew she was home.

Q. Did she always tell you she was home?
A. Yes. She had come in from bingo.

Q. She would always say that?
A. Yes.

Q. And you are fully depending on the fact that she was home because she said she was?
A. That is right.

Q. And she didn't call you from any other place?
A. No.

Q. And on that you just have her say so?
A. Yes.

Q. At these bingo games, did you see her lose some money?
A. Well, at times when I have been along maybe she didn't win.

Q. Did you go very often?
A. Not very often.

Q. She drank no whiskey at these games?
A. No. She is a beer drinker.

Q. And you saw her drink about how many?
A. Two, three or four bottles. It depended on how she felt.

Q. And you never saw her under the influence at all?
A. Not drunk.

Q. Have you seen her at any time when the amount of alcoholic content would have influenced her at all?
A. No.

Q. A person can be influenced but not drunk.
A. I know that.

Q. But you never saw her influenced at all by the quantity she had drunk?
A. No.

By Mr. Reilly:

Q. Mrs. Kuna, when your mother-in-law would call you and say she was at home, did you ever hear any noise in the background to suggest she was anywhere else?

A. No. I might hear TV.

Q. There was no noise of a crowd?

A. No.

Q. Did you ever have occasion to find out she was any place else?

A. No.

MARY ELIZABETH BRINK, being duly sworn, testified as follows:

By Mr. Reilly:

Q. What is your full name?
A. Mary Elizabeth Brink.

Q. And you are acquainted with Mrs. Simcox?
A. Yes.

Q. And Mr. Simcox?
A. Yes.

Q. Mrs. Brink, you lived at 116 South Second Street when Mrs. Simcox moved in for the first time?
A. Yes.

Q. How long after that did you live there?
A. I was back three or four times after that.

Q. And you lived there for a while after she moved in?
A. Yes.

Q. How long?
A. The first time it was a year and a half or over.

Q. And did you have occasion to notice whether Mrs. Simcox did her own housework?
A. She did her own work and if I came down I would help her.

Q. But as far as you know, she kept her own apartment clean herself?
A. Yes.

Q. Did she cook her own meals?
A. Yes.

Q. And did her own washing?
A. Yes, we washed together.

Q. During the time you were living at the house or visiting, did you ever see Mary Marino in the Simcox apartment?
A. Yes.

Q. Very often?
A. No. I couldn't say how many times she was down there.

Q. Did you ever hear Mr. Simcox order his wife out of the apartment?
A. I heard him say once that if she didn't like things the way they were, she could leave.

Q. Did you play bingo with Mrs. Simcox?
A. Yes.

Q. You went with her?
A. Yes, or I met her there.

Q. What was the latest you got home?
A. I came home right after the game because I told my husband I would be home.

Q. What was the latest?
A. Around 11:30.

Q. Did Mrs. Simcox drink beer on these occasions?
A. Yes.

Q. How much?
A. Two or three bottles and sometimes gingerale.

Q. Did you ever see her drunk?
A. No.

Q. Was she always able to drive her car?
A. Yes.

By Mr. Kramer:

Q. When you went to bingo, did you go to Curwensville?
A. Yes.

Q. Did you go out to the S.O.I.?
A. Sometimes.

Q. At the time you were going to these games and saw her there, you were no longer living there?
A. What?

Q. When you went to bingo games and met her, you had ceased to live at 116 South Second Street?
A. Yes. We always got an apartment when we came back to town.

Q. So you were living there?
A. Yes.

Q. Do you know when she got home?
A. It would be sometime after eleven.

Q. But do you know when she actually came in the house? Did she come in with you?
A. Yes. I went through her kitchen and up to my apartment.

Q. During all this time, have you been a particular friend of Amber Simcox?
A. Yes, both of theirs. Amber and Clifford both.

MRS. VIOLET NULPH, being duly sworn, testified as follows:

By Mr. Reilly:

Q. What is your full name?
A. Violet Nulph.

Q. You are acquainted with Mrs. Simcox?
A. Yes.

Q. And Mr. Simcox?
A. Yes.

Q. Now, Mrs. Nulph, did you accompany Mrs. Simcox on her bingo games?
A. Usually when I was here on a visit.

Q. You did go with her then?
A. Yes.

Q. What is the latest you got home?
A. Right after bingo unless we would go to her daughter's for a lunch. Sometimes we stayed late.

Q. What was the latest when Mr. Simcox wasn't along?
A. I suppose after midnight.

Q. Was it ever later than two?
A. If we would be at a dance.

Q. If Mr. Simcox wasn't along?
A. No, we never stayed if he wasn't along.

Q. While you were out at these bingo games, did you see Mrs. Simcox drink beer?
A. Yes.

Q. How much?
A. Sometimes two or three bottles. It depended what she felt like. If she didn't feel well, she drank gingerale.

Q. Did you ever see her drunk?
A. No.

Q. Was she ever unable to operate a car?
A. No.

Q. Are you acquainted with Mary Marino?
A. Yes, I have met her.

Q. Have you seen her in the company of Mr. Simcox?
A. Well, just at the apartment I saw them go in the car.

Q. You saw them in a car?
A. Amber and I saw them getting in the car. I think it was in January.

Q. Was anybody else with them?
A. Another girl.

Q. Have you heard him mention her name often?
A. Yes.

Q. Does he seem to be constantly talking about her?
A. At one time he mentioned her name quite often.

Q. Were they still living together then?
A. Yes.

Q. On one occasion when you were staying with the Simcoes, did you see Mr. Simcox hit his wife?
A. I didn't see him but I heard her holler and there was a crash and she was up against the sink when I got to the kitchen.

Q. Would you say he hit her?
A. Well, he must have if she went that far.

Q. Did you say anything to Mr. Simcox?
A. Yes. I said, "Don't ever do that again when I am around".

Q. Did you see any marks on Mrs. Simcox's body?
A. Yes.

Q. Were they marks that might have been made by being struck by someone?
A. Yes.

Q. Did you ever hear Mr. Simcox tell his wife to get out?
A. Yes, I did. He said, "If you don't like it here, why don't you leave?"

By Mr. Kramer:

Q. When did you hear him say that?
A. The time he hit her for one time.

Q. Shortly before she left?
A. That was a good while before she left.

Q. And that is the one occasion you heard that, was it?
A. Yes.

Q. Who was this other girl in January, 1962?
A. I didn't know her.

Q. Did you later see Clifford that night or early next morning?
A. No. I saw his car in front of her apartment.

Q. Mary's apartment the following morning?
A. Yes.

Q. Where were you that you saw the car?
A. I was with Mrs. Simcox.

Q. Did you stay with Mrs. Simcox that evening?
A. Yes.

Q. She testified that she cruised around town.
A. I went with her.

Q. When you saw the car, it was on Cherry Street?
A. Yes.

Q. And that is where Mary Marino has her beauty shop?
A. Yes.

Q. You talk here about Mary Marino's apartment, but she has a beauty shop, too, there, doesn't she?
A. Yes.

Q. When you first saw the car there early that morning, who was in the car?
A. No one was in the car.

Q. All along Cherry Street they park, don't they, on both sides of the street?
A. Yes.

JOSEPH GILLINGHAM, being duly sworn, testified as follows:

By Mr. Reilly:

Q. Your name is Mr. Joseph Gillingham?
A. Yes.

Q. Are you acquainted with Mrs. Simcox?
A. Yes.

Q. And Mr. Simcox?
A. Yes.

Q. Mr. Gillingham, have you ever seen marks on Mrs. Simcox's body?
A. Yes, I have on her arms.

Q. Do they appear to have been struck....

By Mr. Kramer:

Wait a minute.

By Mr. Reilly:

Q. What did she tell you these marks were caused by?
A. By her husband taking her by the arms with his hands.

Q. Mr. Gillingham, are you acquainted with Mary Marino?
A. I know her but am not acquainted with her.

Q. Have you ever seen Mary driving Mr. Simcox's car?
A. Yes.

Q. Was anybody with them?
A. Just her when I saw her going down Third Street.

Q. She is allowed to drive his car?
A. She must be, she was driving it.

Q. Did you help Mrs. Simcox move from 116 South Second Street to her apartment
at St. Charles?
A. I did.

Q. When you went to help her move her things down, where were her belongings?
A. The last time some was out on the porch.

Q. Just thrown out on the porch?
A. Yes, I gathered them up.

Q. Did Mr. Simcox throw them out there?
A. I don't know.

Q. You don't know who did but it wasn't Mrs. Simcox?
A. No.

By Mr. Kramer:

Q. What relation are you to Amber?
A. Brother.

Q. Where do you live?
A. 714 Turnpike Avenue.

By Mr. Reilly:

That is all we have.

By Mr. Kramer:

We would like to call in rebuttal, Mrs. Joyce Hetrick.

JOYCE HETRICK, being recalled, testified as follows:

By Mr. Kramer:

Q. Mrs. Hetrick, on Good Friday of last year, did you stop at the Clifford Simcox residence on South Second Street?

A. Yes, I did.

Q. What hour of the day?

A. It was in the afternoon because we had attended Good Friday services, my mother and I, at the Trinity Methodist Church.

Q. When you stopped, what did you find there?

A. I rapped at the door and didn't get any response for quite a while, and after a while Amber unlocked the door and said she had been in bed, and I apologized for getting her up, and that was in the afternoon.

By Mr. Reilly:

Q. This was on Good Friday?

A. Yes.

Q. Did Mrs. Simcox say she had been ill?

A. No, she was tired and sleeping in late.

Q. Good Friday is a holiday isn't it?

A. Mr. Simcox was working so it wasn't for him.

Q. But it is a holiday generally?

A. Generally, yes.

Q. And generally people don't work on a holiday?

A. No. I didn't say anything about working.

Q. Was she fully dressed?

A. No.

Q. In her night clothes?

A. Yes.

Q. And what time was it?

A. In the afternoon.

Q. What time?

A. After twelve. It was after services.

Q. Did she say she had been up and had gone back to bed?

A. No, she said there was no reason for getting up.

Q. Is this the only occasion this has occurred?

A. That I got her out of bed?

Q. Yes.

A. I had gone there when she was lying down.

BETTY LOU COCHRAN, being recalled, testified as follows:

By Mr. Kramer:

Q. Mrs. Cochran, one year during the Fair, you came to Clearfield, didn't you?

A. Yes.

Q. Did you see Amber drive in to the driveway at your father's house?
A. Yes.

Q. What was her condition?
A. Amber was drunk.

Q. Do you recall what year that was?
A. Oh, that must have been a year before last.

Q. The Fair of 1960?
A. Yes.

Q. Were you at the S.O.I. at the dances when she was there?
A. Yes.

Q. What is the latest you know of her coming home when her husband wasn't with her?
A. One thirty or two because my husband has told me that bingo didn't last that long.

Q. Did you come home from Curwensville from bingo with her at any time after midnight?
A. Yes.

Q. How much later?
A. Twelve thirty or a quarter of one.

Q. Do you know of any other cases of leaving bingo some time after midnight when her husband wasn't along?
A. Well, when we would go to Curwensillle, we went and visited with Frieda and Andy.

Q. Did you come home late several times?
A. Yes, usually always.

Q. How late?
A. Twelve thirty or one o'clock.

By Mr. Reilly:

Q. How often did you play bingo with Mrs. Simcox?
A. When we lived at Coal Hill very near every Friday.

Q. And you always got home at twelve thirty or one o'clock?
A. Well, everybody was in bed.

Q. Did anybody ever say anything to you about it?
A. Once in a while my husband would say it must have been an awful long bingo game.

Q. Was he angry?
A. No.

Q. Did he ever have reason to get angry?
A. No.

Q. Do you see anything wrong with coming home that late?
A. No, it is just that I said it and everyone else denied it.

Q. Was anybody else with you?
A. Mary Brink was one Friday night and we didn't get in until late because we didn't go right home.

Q. Is there anything wrong with getting home late?

By Mr. Kramer:

Objected to. This witness was called for the purpose of rebutting the fact that they never got home late.

By the Master:

Objection sustained.

By Mr. Reilly:

I withdraw the question.

Q. You say you saw Mrs. Simcox pulling into the driveway at 116 South Second Street?

A. Yes.

Q. Where were you?

A. I was standing on the back porch. My aunt and I.

Q. What happened?

A. We stood there....how we saw her....I thought it was Dad and my aunt and I were standing on the back porch and Amber pulled in the driveway and put her car away, and when she came across the yard she was not walking straight and was laughing, and she said she was at Frieda's and asked if Dad was home yet and I said he wasn't and she said, "I better drink some black coffee before he gets home."

Q. When was this?

A. At the Fair.

Q. You base the fact she was drunk because she wasn't walking steady?

A. No.

Q. Was her speech clear?

A. Well, it was to the point she was repeating herself.

Q. Was she slurring?

A. When you laugh and double over like that....she came up and stood beside me and said, "Betty, you better hold me up."

Q. Was she slurring her words?

A. I suppose so.

Q. Well, was she? You heard her speak, were her words slurred?

A. Well, I will say yes.

Q. Are you sure?

A. I am sure.

Q. Were her eyes glassy?

A. Yes.

Q. She was able to drive though?

A. She must have been.

Q. She drove from Curwensville?

A. That is where she said she was.

By the Master:

Q. What time was it?
A. Around midnight, and Dad came in that night when Amber and I were sitting at the table from work.

CLIFFORD SIMCOX, being recalled, testified as follows:

By Mr. Kramer:

Q. Clifford, you heard your wife testify a little while ago about you hitting her?
A. Yes, I did.

Q. Do you remember the occasion when those blows were said to be struck?
A. Yes, I remember.

Q. What happened?
A. For some reason or other, we came to the house and went to this room and Amber continued to proceed to pound me on the chest and was going to slap my face. And when she was going to slap my face, I pushed her back and she sat down in the chair.

Q. Did you intentionally hit her or just enough to resist her blows?
A. Yes, just took my hand and pushed back on her shoulder and she sat back on the rocking chair and it didn't upset.

By Mr. Reilly:

Q. You say you just pushed her?
A. You know, to keep her away from me.

Q. Then how do you account for the fact that it left marks on her?
A. I have known Amber....she can be sitting down and black and blue marks will appear on her legs or arms and that comes from busted veins.

Q. Then you hit her enough to break a vein?
A. No, I didn't hit her hard enough.

Q. But you did hit her hard enough to leave marks?
A. No, I didn't hit her, I just pushed her away and she sat down in the rocking chair.

Q. But it did mark her?
A. It did, I suppose. I have a right to protect my face.

Q. You say she hit you. Did she hit you often?
A. I would say several times.

Q. Mr. Simcox, this is a very good basis for the grounds of indignities in a divorce. Why didn't you allege this as a foundation for your charge?

By Mr. Kramer:

We object to that. We have alleged indignities.

By Mr. Reilly:

I withdraw it.

End of Testimony

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me at the hearing on the above case, and that this is a correct transcript of the same.

Sandra A Scott
Stenographer

April 7, 1962

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA,
No. 375 November Term, 1961
IN DIVORCE

CLIFFORD S. SIMCOX

vs.

AMBER MARIE SIMCOX

TESTIMONY

APR 26 1961
CARL E. VITALE
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