

DOCKET NO. 175

NUMBER TERM YEAR

383 September 1961

Henry G. Lambert

VERSUS

Effie I. Lambert

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HENRY G. LEMBERT

VS.

EFFIE I. LEMBERT

: No. 383 September Term, 1961  
: IN DIVORCE

MASTER'S REPORT

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

The undersigned Master appointed by the Court to take testimony and report findings with a recommended form of decree respectfully submits his Master's Report made up of the following items:

- I. COMMISSION - Dated December 20, 1961
- II. (a) Docket Entries  
(b) Schedules
- III. COMPLAINT AND FILED PAPERS
- IV. CAUSES OF DIVORCE - Indignities and Desertion
- V. FINDINGS OF FACT
- VI. CONCLUSIONS OF LAW
- VII. RECOMMENDATION
- VIII. SUGGESTED FORM OF DECREE
- IX. TESTIMONY

J. Paul Frank Jr.  
Master

Clearfield County, ss:

The Commonwealth of Pennsylvania, to ..... J. PAUL FRANTZ, JR., ESQ.,

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

Henry G. Lembert ..... Plaintiff ,  
and

Effie I. Lembert ..... 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 ..... and report the same with 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 20th ..... day of ..... December ..... , in the year of our Lord one thousand nine hundred and sixty-one

*Wm T. Hagerup*  
Prothonotary

To the Honorable, the Judge, &c.:

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

*J. Paul Frantz, Jr.*   
COMMISSIONER.

No. 383 September Term. 1961

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Henry G. Lembert

VERSUS

Effie I. Lembert

COMMISSION

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Smith, Smith & Work Attorney.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HENRY G. LEMBERT : No. 383 September Term, 1961  
VS : In Divorce  
EFFIE I. LEMBERT :  
:

DOCKET ENTRIES

OCTOBER 30, 1961, COMPLAINT IN DIVORCE filed: One copy certified to the Sheriff.

NOVEMBER 22, 1961, Sheriff's Return filed:

October 30, 1961, deputized the Sheriff of Philadelphia County to execute this writ. Charles G. Ammerman, Sheriff.

Return of Philadelphia County:

Served Effie I. Lembert, the within named defendant by giving to her a certified copy of Complaint In Divorce at 7964 Providence Rd., in the City of Philadelphia, County of Philadelphia at 11:00 A.M. o'clock on the 1st day of November, 1961, together with notice to appear and answer, and making known to said defendant the contents of the same. So answers, Frederick Siraphin, Deputy Sheriff, William M. Lennox, Sheriff of Philadelphia County.

NOW, October 30, 1961, deputized the Sheriff of Philadelphia County to serve the within Complaint In Divorce on Effie Lembert.

NOW, November 1, 1961, served the within Complaint In Divorce on Effie Lembert by deputizing the Sheriff of Philadelphia County. The return of service of William M. Lennox, Sheriff of Philadelphia County, is hereto attached and made part of this return of service. So answers, Charles G. Ammerman, Sheriff.

NOW, December 20, 1961, J. Paul Frantz, Jr., Attorney, is appointed Master to take the testimony and report the same with form of Decree.

Certified from the record this 20th day of December, 1961

Wm T. Hegerty  
Prothonotary

II. (b) Schedules

1. Date of hearing was set for Thursday, January 25, 1962 at 1:30 P.M. in the office of the Master, 26 South Second Street, Clearfield, Pennsylvania.

2. Notice of said hearing was accepted by Henry G. Lembert, plaintiff, and William U. Smith, Esq., of Smith, Smith & Work, attorney for plaintiff on January 4, 1962.

3. Notice of said hearing was accepted by Effie I. Lembert, defendant, and Joseph T. Coghlan, Jr., Esq., attorney for defendant, on January 6, 1962.

4. Master's Hearing convened at the time and place set with the following persons present: Henry G. Lembert, plaintiff, and William U. Smith, Esq., of Smith, Smith & Work, attorneys for plaintiff.

III. COMPLAINT AND FILED PAPERS

Immediately following this page are the various papers which have been filed in this case as follows:

1. Complaint in Divorce
2. Sheriff's Return of Service

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNA.  
No. 383 Sept. Term, 1961  
IN DIVORCE

HENRY G. LEMBERT

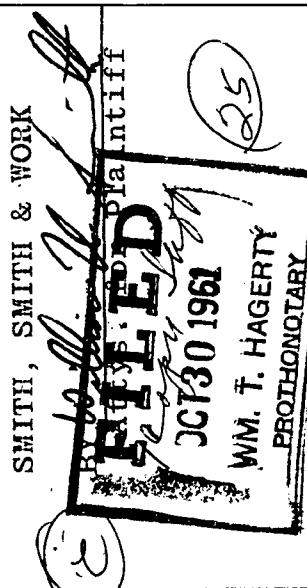
VS

EFFIE I. LEMBERT

COMPLAINT

TO THE WITHIN DEFENDANT:

You are hereby required  
to file defensive pleadings  
to the within Complaint within  
twenty days from service here-  
of.



SMITH, SMITH & WORK  
BY ROBERT SMITH Plaintiff  
**FILED**  
JCT 30 1961  
WM. T. HAGERTY  
PROTHONOTARY  
25  
135-1000 Plaintiff Agt.  
135-1000 Plaintiff Agt.

—Lap-over Margin—

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HENRY G. LEMBERT :  
VS : No. 382 September Term, 1961  
EFFIE I. LEMBERT : IN DIVORCE

C O M P L A I N T

(1). The name of the Plaintiff is Henry G. Lembert, an individual who resides in the Borough of Clearfield, Clearfield County, Pennsylvania.

(2). The name of the Defendant is Effie I. Lembert, an individual who resides at 7964 Provident Road, Philadelphia, Pennsylvania.

(3). The Plaintiff is 55 years old and is employed at Dumont-Airplane & Marine Instruments, Inc.

(4). The Defendant is 56 years old and is a housewife.

(5). The parties to this Complaint are husband and wife, having been married on July 1, 1931, in Atlantic City, New Jersey.

(6). The following children were born of this marriage:

(a). Robert, who was born September 25, 1931, and who resides with his wife and children in Philadelphia, Pennsylvania.

(b). Joyce, who was born January 31, 1945, and who resides with her mother in Philadelphia, Pennsylvania.

(c). Carol, who is 27 years old, and who resides with her mother in Philadelphia, Penna.

(d). Kenneth, age 23, and who resides with his wife and family in Philadelphia, Pennsylvania.

(7). The parties hereto are citizens of the United States of America, and have resided within the Commonwealth of Pennsylvania for a period exceeding twenty-seven years immediately preceding the filing of this Complaint.

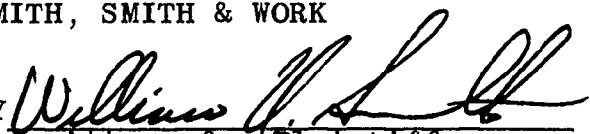
(8). The grounds for divorce are indignities to the person and desertion.

(9). Plaintiff avers the present action is not brought by reason of collusion between the parties.

(10). There has been no prior action for divorce or annulment of marriage between the parties in this Complaint in this or any other jurisdiction.

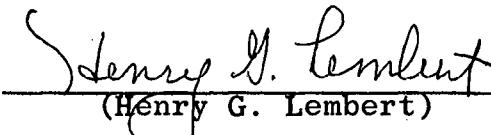
WHEREFORE, Plaintiff prays that a Decree of Divorce a vinculo matrimonii be made by your Honorable Court divorcing the said Plaintiff from bonds of marriage between the Plaintiff and Defendant.

SMITH, SMITH & WORK

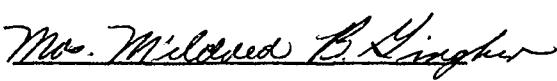
BY   
Attys. for Plaintiff

STATE OF PENNSYLVANIA:  
SS  
COUNTY OF CLEARFIELD :

HENRY G. LEMBERT, being duly sworn according to law, deposes and says the facts set forth in the foregoing Complaint are true and correct to the best of his knowledge, information and belief.

  
(Henry G. Lembert)

Sworn and subscribed to  
before me this 30 day  
of October, 1961.



NOTARY PUBLIC  
My Commission Expires  
JANUARY 7, 1968

In the Court of Common Pleas of Clearfield, County, Pa.

Henry G. Lembert

No 383 Sept Term 1961

vs

Effie Lembert

Complaint In Divorce

Now, October 30, 1961 deputized the Sheriff Of Philadelphia County to serve the within Complaint In Divorce on Effie Lembert.

Now, November 1, 1961 served the within Complaint In Divorce on Effie Lembert by deputizing the Sheriff Of Philadelphia County., The Return of service of William M. Lennox., Sheriff of Philadelphia County is hereto attached and made part of this Return of service.

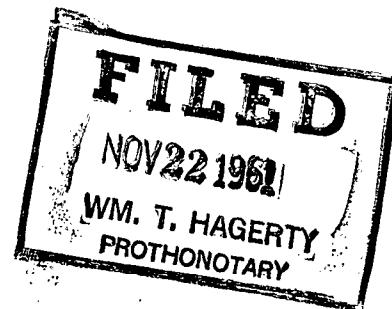
Costs Sheriff Ammerman \$7.50  
Sheriff Of Philadelphia County \$6.00  
(Paid by Attys S.S.W.)

## So Answers

Charles G. Ammerman  
Sheriff

Sworn to before me this 22nd  
day of November 1961 A.D.

Wm. C. Hagerty  
Prothonotary.



Complaint in Divorce  
(Or Annulment of Marriage)

Served Effie I. Lembert the within named Defendant by giving  
to her a certified copy of Complaint in Divorce at 796½ Provident Street  
in the City of Philadelphia, County of Philadelphia, Commonwealth  
of Pennsylvania, at 11:00 o'clock, on the 1 day of November, 1961, together  
with notice to appear and answer, and making known to said defendant the contents  
of the same.

So answers,

Frederick Seraphin  
Deputy Sheriff.  
William D. Donohue  
Sheriff Philadelphia County Sheriff.

COUNTY OF PHILADELPHIA, ss.

Frederick Seraphin, deputy sheriff being duly sworn according to law,  
doth depose and say, that he served Effie I. Lembert the  
within named Defendant with a copy of the within Complaint in Divorce, notice to appear and an-  
swer in manner and form set forth in the above return, and that the person upon whom service was  
made as aforesaid is the Defendant named in the Complaint, deponent deriving his information from  
personal investigation

Sworn and subscribed to before me  
this 21st day  
of December A. D. 1961  
Margaret Anne Jablonski  
12-40 Notary Public, Philadelphia Co.  
My Commission Expires February 1, 1965

Frederick Seraphin

<b>CASH RECEIPT</b> <b>APPEARANCE DOCKET</b>		<b>OFFICE OF THE SHERIFF</b> CITY AND COUNTY OF PHILADELPHIA		BOOK	
No. 49835	COURT	TERM	PROTH. NO.	SERIAL NO. F-157761	
Buy / Det vs. <i>John J. Hart</i>					
IN PAYMENT OF THE FOLLOWING ITEMS					
FEES	CODE	AMOUNT	DEPOSITS AND COSTS	CODE	AMOUNT
Sheriff's Fee	311	2 50	Publication	331	
Statement	311		Deputized Service	332	
Registered Mail	311		State Fee	335	
Mileage	312	2 -			
Affidavit	339	10			
TOTAL					301 6 00
ATTORNEY	APPEARANCE CLERK				11

CUSTOMER'S COPY

11051 1581 600

Know all men by these Presents, That I, Charles G. Norman  
High Sheriff of Clearfield County, State of Pennsylvania, do hereby depelize Sheriff of  
William M. Lenox  
Philadelphia County to execute this writ; this deputation being made at the  
request and risk of the Plaintiff.

Given under my hand and seal this 30th day of October  
A. D. 1961.

*Charles G. Norman*  
Sheriff.

In the Court of Common Pleas of Clearfield County, Pennsylvania

Henry G. Lembert

VERSUS

Effie I. Lembert

No. 383 Sept Term, 19 61

NOW, October 30, 1961, I, CHARLES G. AMMERMAN, High Sheriff of Clearfield County, Pa., do hereby depose Sheriff of Philadelphia County to execute this Writ; this deputation being made at the request and risk of the Plaintiff.

Charles G. Ammerman  
Sheriff of Clearfield Co.

**Affidavit of Service**

NOW, 19 at o'clock, served the  
within \_\_\_\_\_  
upon \_\_\_\_\_  
at \_\_\_\_\_  
by handing to \_\_\_\_\_  
a true and attested copy of the original \_\_\_\_\_  
and made known to \_\_\_\_\_ the contents thereof.

So Answers,

Sworn and subscribed to before me  
this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

Sheriff of \_\_\_\_\_ Co. \_\_\_\_\_

BY: \_\_\_\_\_

COSTS:

Sheriff's Return

COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNA.

No. 383 Sept Term, 1961

Henry G. Lambert

VS.

Effie I. Lambert

Smith, Smith and Work  
Attorney

Now Library 5/1962 service accepted  
and notice of presentment waived

William Frantz  
Atty for Plaintiff

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNA.  
No. 383 September Term, 1961  
IN DIVORCE

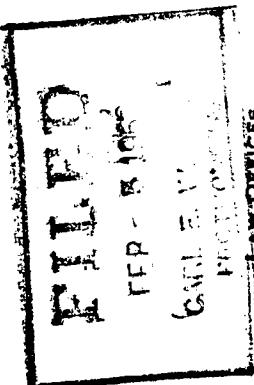
HENRY G. LEMBERT

VS.

EFFIE I. LEMBERT

MASTER'S REPORT  
(Uncontested)

Costs:  
J. Paul Frantz, Jr., \$85.00  
Master's Fee



J. PAUL FRANTZ, JR.  
26 SOUTH SECOND STREET  
CLEARFIELD, PA.

IV. CAUSES OF DIVORCE

The causes of divorce alleged in the Complaint are indignities to the person and desertion.

V. FINDINGS OF FACT

1. Marriage: The parties were married July 1, 1931 in Atlantic City, New Jersey, by a Protestant minister.

2. Residence: From the date of their marriage until the fall of 1931, the parties resided in Atlantic City, New Jersey. From the fall of 1931 until 1934 or 1935, the parties resided with defendant's mother in Philadelphia, Pennsylvania. Thereafter, the parties resided at several places in the Philadelphia area and established a residence at 7964 Provident Road, Philadelphia, Pennsylvania in 1938 or 1939 where defendant has resided since that time. The parties separated in 1945 and plaintiff continued to reside in Philadelphia, Pennsylvania, until June 9, 1961 when he came to Clearfield, Pennsylvania, and established a residence at the Dimeling Hotel where he resides at the present time.

3. Citizenship: Both plaintiff and defendant are citizens of the United States.

4. Age and Occupation: Plaintiff is 55 years of age and is a factory manager. Defendant is 56 years of age and is a housewife.

5. Children: There were four children born to this marriage as follows:

1. Robert Lembert, aged 30 years, is married and lives with his family in Philadelphia, Pennsylvania.
2. Carol Lembert, aged 27 years, resides with the defendant in Philadelphia, Pennsylvania.

3. Kenneth Lembert, aged 23 years, is married and lives with the defendant in Philadelphia, Pennsylvania.

4. Joyce Lembert, aged 17 years, resides with the defendant in Philadelphia, Pennsylvania.

6. Military Service: Defendant is not presently a member of the Armed Forces of the United States.

7. Findings on the Merits: It is found that the parties were married July 1, 1931 and that said relationship still exists.

It is found that the plaintiff has been a resident of the State of Pennsylvania since the Fall of 1931 and of Clearfield, Pennsylvania since June 9, 1961.

It is found that the defendant would not live away from her mother and that this caused quarrels between the parties almost from time of their marriage.

It is found that defendant on at least one occasion threatened the plaintiff with a butcher knife unless they moved back to the neighborhood in which defendant's mother resided.

It is found that defendant's mother moved most of her clothes to the home of the parties and frequently suggested to plaintiff that he leave his home.

It is found that defendant so embarrassed the plaintiff and others at business gatherings by her remarks concerning those who ordered cocktails.

It is found that defendant called plaintiff a drunk in the presence of the children without justification.

It is found that defendant told plaintiff that she did not want him around as he would not accept her mother and that she told him to get out of the house and not come back.

It is found that defendant would waken the plaintiff in the middle of the night to argue with him and when he complained of this, she moved his belongings into a spare bedroom.

It is found that early in 1945, defendant awakened plaintiff by pouring whiskey in his nostrils and when he told her that he couldn't take any more and was leaving, defendant told plaintiff to get out and never come back.

It is found that plaintiff was willing to provide a home for defendant and his family separate and apart from defendant's mother but that defendant was unwilling to accept such a home and resume cohabitation.

It is found that the defendant made no effort to have the parties resume cohabitation since 1945.

It is found that the plaintiff is under a Court Order of the Domestic Relations Court of Philadelphia to contribute \$65.00 per month for the support of his wife and children.

It is found that defendant has engaged in a course of conduct which rendered plaintiff's condition intolerable and his life burdensome.

It is found that the plaintiff is the innocent and injured spouse.

No evidence of any collusion to obtain this divorce is found.

8. Discussion: In the present case, the plaintiff has alleged two grounds, indignities to the person and desertion, in his action for divorce from the bonds of matrimony.

It is true that in this action, the plaintiff was his only witness. However, in Freedman: Law of Marriage and Divorce in Pennsylvania, Section 758, Volume 3, page 1394 it is stated

"The Plaintiff is a fully competent witness. It follows, therefore, that a divorce may be granted upon the uncorroborated testimony of the plaintiff." Further, the Master carefully observed the plaintiff at the hearing and was impressed with his manner of testifying as well as his apparent truthfulness.

Considering first the ground of indignities to the person, in Carter v. Carter, 166 Pa. Super. 499, the Court laid down the rule that indignities to support a decree in divorce must consist of a course of conduct which renders the condition of the innocent party intolerable and his or her life burdensome; and that this must be shown from evidence from which an inference of hate and estrangement may be deduced.

Examining the evidence in this case, we find that from the time of the marriage of the parties, the defendant has preferred her mother over her husband, that she has belittled him to his employer, that she has degraded him before their children, that she continually quarrelled with him, threatened him, and struck him, that she moved his belongings into a separate bedroom, that she ordered him to leave because he would not accept her mother and that there were many other acts which were directly opposite from those which a husband would normally expect of his wife. The course of conduct engaged in by the defendant toward the plaintiff clearly shows a strong inference of hate and estrangement and could not do otherwise than render plaintiff's condition intolerable.

With reference to the charge of desertion, the matter is not as clear. In the recent case of Jeanette v. Jeanette, 196 Pa. Super. 295, 300, Advance Reports for December 15, 1961, the Court said:

"Constructive desertion occurs when either one of the two acts occur, (1) being put out by force or justifiable fear of immediate bodily harm, or (2) being locked out against the will or without the consent of the innocent spouse."

In applying the facts of the instant case to this rule, we find that condition (2) has not been met as plaintiff was not locked out against his will or without his consent, but that the morning following the night when defendant poured whiskey up plaintiff's nostrils, plaintiff advised defendant that he could not put up with things any longer, and when he returned from work that evening, with assistance from the defendant, he moved out. Insofar as condition (1) of the above rule is concerned, it cannot be said that plaintiff was put out by force, so we must determine whether or not he was put out by a justifiable fear of immediate bodily harm. On the present record, your Master can conclude that such was not the case. The evidence shows that plaintiff spent the balance of the night in his home and returned following work to remove his belongings. This does not appear to be justifiable fear of immediate bodily harm. Therefore, the Master is not of the opinion that ground for divorce upon the charge of desertion has been established.

#### VI. CONCLUSIONS OF LAW

1. The Court has jurisdiction over the subject matter and the parties.

2. The proceedings are in accordance with the requirements of law and the Rules of Court relating thereto.

3. The Plaintiff has established cause for divorce upon the ground of indignities to the person.

4. The plaintiff has not established cause for divorce upon the ground of desertion.

VII. RECOMMENDATION:

The Master recommends a decree granting Henry G. Lembert, plaintiff, an absolute divorce from the bonds of matrimony from Effie I. Lembert, defendant, and respectfully submits a form of decree herewith.

J. Paul Trant Jr  
Master

In the Court of Common Pleas of Clearfield County, Pennsylvania

HENRY G. LEMBERT } Of September Term, 1961  
VERSUS } No. 383  
EFFIE I. LEMBERT } DIVORCE

And Now, the 5<sup>th</sup> day of February 1962, the  
*report of the Master is acknowledged. We approve his findings and recommendations; except*  
*as to* \_\_\_\_\_

We, therefore, DECREE that Henry G. Lembert be divorced and forever separated from the nuptial ties and bonds of matrimony heretofore contracted between himself and Effie I. Lembert.

*Thereupon all the rights, duties or claims accruing to either of said parties in pursuance of said marriage, shall cease and determine, and each of them shall be at liberty to marry again as though they had never been heretofore married, except that*

*The Prothonotary is directed to pay the Court costs, including Master's fees, as noted herein, out of the deposits received and then remit the balance to the libellant. No Decree to issue until the costs be fully paid. We do further award to the said Henry G.*

Lembert ~~his~~ *costs expended in this action.*

*ATTEST*

*BY THE COURT*

Carl E Walker  
Prothonotary

THE COURT  
  
John H. Lang  
President Judge

In The Court of Common Pleas  
Of Clearfield County, Penna.

No. \_\_\_\_\_ Term 19 \_\_\_\_\_

*Libellant*

*VERSUS*

*Respondent*

**DECREE**

*Attorney*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HENRY G. LEMBERT :  
VS. : No. 383 September Term, 1961  
EFFIE I. LEMBERT : IN DIVORCE

Master's Hearing convened in the office of the Master,  
26 South Second Street, Clearfield, Pennsylvania, on Thursday,  
January 25, 1962 at 1:30 p.m. with the following persons present:  
Henry G. Lembert, Plaintiff and William U. Smith, Esq., of Smith,  
Smith & Work, Attorney for Plaintiff.

Henry G. Lembert, being duly sworn according to law,  
testified as follows:

BY WILLIAM U. SMITH, ESQ.

Q. What is your name and where do you live?  
A. Henry Lembert and I am presently residing at the Dimeling  
Hotel.

Q. Are you employed?  
A. Yes, with the DuMont Airplane & Marine Instruments Company of  
Hyde, Pennsylvania.

Q. In what capacity?  
A. Factory Manager.

Q. Is this a permanent position to the best of your knowledge?  
A. Yes.

Q. How long have you lived in Clearfield?  
A. Since about June 9, 1961.

Q. Prior to that time where did you live?  
A. I resided in Philadelphia, Pennsylvania.

Q. How long have you lived in the Commonwealth of Pennsylvania?  
A. All my life except for a short period when I lived in Atlantic  
City, New Jersey. I was born in Philadelphia, Pennsylvania.

Q. When did you reside in Atlantic City, New Jersey?

A. For a period in the middle of 1930 to somewhere near the end of 1931.

Q. All the remaining balance of your life you lived in the Commonwealth of Pennsylvania?

A. Yes.

Q. How old are you?

A. 55

Q. Are you married?

A. Yes.

Q. To whom are you married?

A. Effie I. Lembert.

Q. Where does Mrs. Lembert reside?

A. 7964 Provident Road, Philadelphia, Pennsylvania.

Q. How old is Mrs. Lembert?

A. 56.

Q. What is her occupation?

A. She is a housewife.

Q. To your knowledge how long has she lived in the Commonwealth of Pennsylvania?

A. All her life except for a short period when she lived in Atlantic City, New Jersey.

Q. When were you and Mrs. Lembert married?

A. July 1, 1931.

Q. This was in Atlantic City, New Jersey?

A. Yes.

Q. By whom were you married?

A. I don't remember his name, but it was a minister.

Q. Was he a minister of the Protestant Church?

A. Yes.

Q. Were any children born of this marriage?

A. Yes, four.

Q. Will you name them and give their ages?

A. Robert, born September 25, 1931; Carol, born April 9, 1934; Kenneth, born June 25, 1938; and Joyce, born January 31, 1945.

Q. Now of your children, only Joyce is a minor?

A. That is correct.

Q. Does she reside with her mother?

A. Yes.

Q. Where do the other children reside?

A. Carol is unmarried and lives with her mother.

Q. Do the two boys have their own homes and families?

A. The elder boy is married and has his own home, the younger boy is married and lives with his mother.

Q. Do they all live in Philadelphia?

A. Yes.

Q. Is your wife now a member of the armed forces of the United States?

A. Not to my knowledge.

Q. Is there any agreement between you and your wife in getting this divorce?

A. None whatsoever.

BY WILLIAM U. SMITH, ESQ.

Paragraph 10 of the Complaint is amended to read as follows:

"A prior action of divorce was commenced by the plaintiff in Philadelphia County, Pennsylvania and upon his being transferred to Clearfield was discontinued and this action commenced."

Q. Mr. Lembert, after you and your wife were married did you establish a home?

A. No, we did not. We had an apartment in Atlantic City which I had occupied prior to our marriage and we remained there until after Robert was born.

Q. Then you moved back to Philadelphia?

A. Yes. I had a job in Atlantic City in which I was very deeply interested and wanted to remain there. This did not suit Mrs. Lembert and finally I gave in and quit my job and went to Philadelphia as one being unemployed.

Q. With whom did you live?

A. My mother-in-law.

Q. How long did you live with your mother-in-law?

A. Three or four years, until 1934 or 1935.

Q. Did you ever express the wish to establish a home of your own?

A. During the time we lived with my mother-in-law I expressed on many occasions that I wanted a home of my own. We finally rented a home in the neighborhood where we had been living with my mother-in-law.

Q. How long did you remain in that home?

A. Only for a short period. It was during that time we started to quarrel. We quarreled because of the mother-in-law.

Q. Did you again move?

A. Yes.

Q. Where to?

A. We entered into a contract to purchase a home in the suburbs in North Hills.

Q. Did you subsequently move to North Hills?

A. Yes. But we defaulted in the agreement and I had to make a cash settlement. The reason was because Mrs. Lembert refused to live in that home. It was during that time some very violent arguments occurred between Mrs. Lembert and I to the extent that she threatened me. She awakened me one night by sitting on the edge of the bed and tapping me on the chest and telling me this was the end and during the discussion she said if we did not move or agree to move she would kill me and she showed me what it was she was going to kill me with. It was a butcher knife.

Q. What was the reason she expressed for wanting to move?

A. She wanted to be closer to her mother. The traveling facilities weren't very good and she did not have a car to travel back and forth.

Q. Did you subsequently move back to the city?

A. Yes. We cancelled the agreement, made a cash settlement and returned to another house, the one Mrs. Lembert is presently residing in.

Q. That is 7964 Provident Road?

A. Yes.

Q. Is that home in proximity of her mother?

A. It was within a few miles, but she had transportation facilities to get to her mother's.

Q. Could you give me the approximate time this residence was established?

A. In the late 30's. 1938 or 1939.

Q. Up until that time how did you and Mrs. Lembert get along?

A. We quarreled frequently.

Q. How often did you quarrel?

A. Several times a week but mostly over the weekends when I would be home Saturday afternoon and Sunday. More would be over the weekends and being there in the house we would be exposed to each other and continually have the arguments. It was usually over her mother. Her mother did not move in with all her clothing, but most of her clothing had been moved from her home to my home. It was during these quarrels that her mother suggested that I leave so there would be peace with her daughter and her children.

Q. Was the mother widowed, was there any reason for her to live with you?

A. No. She was married and her husband was living.

Q. During the period from 1939 to 1945 did these quarrels become more frequent?

A. More frequent and more violent.

Q. Did you give her any reason to precipitate these quarrels?

A. No.

Q. Did you at any time hold a responsible position?

A. I had secured employment with a company in 1934 and I was most recently retired by that company with a substantial pension. I went there as a plant mechanic and worked up to manager. It was during that period that I traveled for the company and on occasions entertained. I included Mrs. Lembert in these times when it was company business and entertaining. It got so she would always have remarks to make and it proved very embarrassing.

Q. What would she do?

A. Mrs. Lembert was opposed to alcohol. We would have dinner with these people and if one cocktail was ordered she would have something to say about it.

Q. Did this affect your relationship with your employer?

A. Most certainly.

Q. During the last four years when your mother-in-law moved in with you did she join in these quarrels?

A. She would be in the quarrels and on several occasions she told me to get out and never come back.

Q. Had you bought and paid for the house?

A. I did.

Q. Was your name on the deed?

A. Yes. No loans were involved. It was my earnings that bought it.

Q. During these quarrels were you called any names?

A. In front of my children I was referred to as their drunken father.

Q. Did you at that time drink to excess?

A. No.

Q. Were you called any profane names?

A. No.

Q. Did your wife ever tell you she didn't love you?

A. She told me she did not want me around, that I didn't want to accept her mother.

Q. Did your wife ever call your employer?

A. Yes.

Q. Would the calls be commendable to you or derogatory?

A. They would be derogatory. On one occasion when I rented a summer home I invited my employer and his wife for dinner and I told my wife they were invited for dinner. No dinner was prepared that night because her mother and father moved in and wanted to go out for dinner, and during the evening my mother-in-law took the wife of my employer aside and told her what a fool my employer was in employing me, that I was unreliable, I drank to excess.

Q. Did your wife ever accuse you of having affairs with other women?

A. Not specifically, but she told me that when I stopped in a bar that I was exposing myself to another woman and knowing me I would become involved with her.

Q. Just prior to the time you left your wife did a certain incident occur involving a liquid?

A. Yes. I had been away on a trip with a group of men from the plant to Detroit and on the way back I had purchased a pint of Canadian Club. We all had a drink and the remaining I placed in my luggage and carried it home with me. When I arrived at home that night I carried my luggage up to my room and went down for dinner. Mrs. Lembert went through my luggage and found this whisky and we had a violent quarrel. When I couldn't stand it any longer I decided to go to bed. My bedroom was in the back because several years before she had moved my clothing in the small bed room. I was awakened by being strangled. She was pouring the whiskey in my nostrils. That was about midnight. We continued to argue all night. I tried to lock the door. She had on several occasions knocked my glasses off by swinging at me. I asked her to please go to bed as I had a hard day ahead of me and she said no that I had to get dressed and leave.

Q. About two years prior to your leaving had a separate bedroom been established for you?

A. Yes. Several years before when I complained about her awakening me in the middle of the night to bring up some thing that I did that she wanted me to stop doing. I said I didn't want any of this. I told her we would have to make arrangements to discuss them in the evening. She told me there would be one way to stop it. Let her have the house and the children and me to get out and on several occasions her mother joined in with her, and each time her mother told me to get out she agreed with her. Then when I came home this one night from work I noticed that the furniture in our bedroom had been rearranged. I pulled out the drawers and found my clothes weren't there. She told me that she had moved my things to the spare bedroom and that in the future I was to use the spare bedroom.

Q. You were a boarder so to speak in the house?

A. Yes. We had no relations after that.

Q. You made reference to her getting you awake during the night. Do I understand she awakened you from a sound sleep?

A. Yes. During the middle of the night, 2:00 a.m she would call things to my attention that I would have to change. At times when I would have to work late at the office, I would call her and tell her so. When I got home she wanted to know where I had been and I would finally find out she had been checking on me.

Q. She checked on you all the time?

A. Yes.

Q. When did you separate from your wife?

A. Early in the year 1945, January or February.

Q. What occasioned your leaving?

A. That leaving followed the time when she poured the whiskey in my nostrils. When I left for work that morning I told her she had won, that I couldn't put up with it any more. When I returned that night to pack my clothes I found that everything had already been packed. There wasn't a thing left for me to pack.

Q. Did she express any feeling as to your leaving?

A. She told me to get out and never come back.

Q. Since that time have you had any communication with your wife at any time in regards to establishing a home?

A. During a period following that I called my son on the phone to ask him if he wanted to go to a ball game. He was told that it was me on the phone. He told me he was sorry that he was busy. Sometimes I would meet the children in the neighborhood. When I went to the house to see the children, if they were in the yard playing with other children she would come out and call them in the house and wouldn't let me see them. She wouldn't let me in the house.

Q. In other words there has never been any attempt on her part to establish a home?

A. No.

Q. Did you ever attempt to establish this home?

A. Yes, I did. For a period of years up to 1951 I maintained the family by depositing in her checking account and in 1951 we went to Court for a support order and for an increase in the amount I was paying her. I paid her \$70.00 a week and the result of the Court Order was that the Judge reduced what I was paying to \$65.00 and there was a further stipulation that I could visit my children in the home. When I contacted her to get the children ready so I could visit them she would always tell me that they had something else to do that was more important to them. Whenever I approached her to get the children ready to take on a trip she would tell me the order was limited to a visit in the home and when I would visit them in the home her mother would be sitting there making remarks to my wife and the children. I just gave up on that.

Q. Did you attempt to provide a home for your wife and children?

A. Yes, to best of my ability.

Q. Did you yourself cause these quarrels?

A. I certainly don't feel I did.

BY THE MASTER

Q. Mr. Lembert, you left your home in January, 1945?

A. Yes.

Q. Two years prior to that date your wife moved you into a separate bedroom?

A. Yes.

Q. From that date in 1943, you have not lived together as husband and wife?

A. That is correct.

Q. The time you left the common home you did so because you were forced out by your wife and could no longer endure the conditions?

A. That is correct.

Q. Were you willing after you left to establish a home for yourself, your wife and children without your mother-in-law?

A. I was.

Q. Did you tell your wife that?

A. Not in so many words. When I went to the home to see the children I made the request that either we get together again or that I would have access to the home to see the children, hoping that some good would come of it.

Testimony Closed

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HENRY G. LEMBERT

:

VS.

:

No. 383 September Term, 1961  
IN DIVORCE

EFFIE I. LEMBERT

:

MASTER'S NOTICE

TO: HENRY G. LEMBERT  
Clearfield, Pennsylvania

You are hereby notified that I have been appointed Master in your divorce action against Effie I. Lembert, your wife, in the Court of Common Pleas of Clearfield County, Pennsylvania, to No. 383 September Term, 1961, and that I will hold a meeting for the purpose of taking testimony at my office, 26 South Second Street, Clearfield, Pennsylvania, on Thursday, January 25, 1962 at 1:30 P.M., when and where you may attend with witnesses, if you so desire.

J. Paul Brantz, Jr.  
Master

Now, January 25, 1962, service of the above notice is accepted by copy.

Henry G. Lembert  
Plaintiff

William H. Smith  
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

HENRY G. LEMBERT :  
VS. : No. 383 September Term, 1961  
EFFIE I. LEMBERT : IN DIVORCE

MASTER'S NOTICE

TO: Effie I. Lembert  
7964 Provident Road  
Philadelphia, Pennsylvania

You are hereby notified that I have been appointed Master in the divorce action of Henry G. Lembert, your husband, against you in the Court of Common Pleas of Clearfield County, Pennsylvania, to No. 383 September Term, 1961, and that I will hold a meeting for the purpose of taking testimony at my office, 26 South Second Street, Clearfield, Pennsylvania, on Thursday, January 25, 1962, at 1:30 P.M., when and where you may attend with witnesses, if you so desire.

J. Paul Lantz, Jr.  
Master

Now, January 24<sup>th</sup>, 1962, service of the above notice is accepted by copy.

Effie I. Lembert  
Defendant

Joseph A. Lantz  
Attorney for Defendant