

DOCKET NO. 175

NUMBER	TERM	YEAR
<u>397</u>	<u>September</u>	<u>1961</u>

Wava Maines

VERSUS

David E. Maines

NO. 397 Sept TERM, 19 61.

Joseph G. Dague, Master

NO. TERM, 19

NO. Sept TERM, 1961

NO. Sept TERM, 1961

NO. Sept TERM, 1961

NO..... TERM, 19.....

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..... TERM, 19..... NO.

Clearfield County, ss:

The Commonwealth of Pennsylvania, to

JOSEPH A. DAGUE, 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

WAVE MAINES

Plaintiff ,

and

DAVID MAINES

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 2nd day of December, in the year of our Lord one thousand nine hundred and sixty-One.

Wm. T. Dague

Prothonotary

To the Honorable, the Judge, &c.:

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

Joseph A. Dague

SEAL

COMMISSIONER.

No. 397 September Term. 1961

WAWA MAINES

VERSUS

DAVID E. MAINES

COMMISSION

Smith, Smith & Work, Attorney.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WAVA MAINES : No. 397 September Term, 1961
VS. : IN DIVORCE
DAVID E. MAINES :

D O C K E T E N T R I E S

October 31, 1961, COMPLAINT IN DIVORCE filed. One copy certified to the Sheriff.

December 2, 1961, Sheriff's Return, filed:

NOW, November 1, 1961, at 1:20 o'clock P.M. served the within Complaint In Divorce on David E. Maines at 803 Nichols Street, Clearfield, Pennsylvania by handing to him personally a true and attested copy of the original Complaint In Divorce and made to him the contents thereof. So answers, Charles G. Ammerman, Sheriff.

November 29, 1961, by motion on the watch-book, Joseph A. Dague, Esq., is appointed Master to take the testimony and report the same with form of Decree. John J. Pentz, President Judge.

Certified from the record this 2nd day of December, A. D., 1961.

Wm. J. Haggerty
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WAIVA MAINES :
vs. : No. 397 September Term, 1961
DAVID E. MAINES : :
: IN DIVORCE

REPORT OF MASTER IN DIVORCE

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

The undersigned Master, commissioned by your Honorable Court to take testimony in the above captioned matter and to report the same to the Court together with a suggested form of Decree, respectfully reports as follows:

I.

COMMISSION

The Master's commission is herein before attached.

II.

DOCKET ENTRIES AND SCHEDULE

1. A certified copy of the docket entries is herein before attached.
2. Notice of the Master's hearing was personally served upon the Defendant on December 6, 1961, at Carbon Mines, Lawrence Township, Clearfield County, Pennsylvania. A copy of said notice directed to Defendant, together with the Constable's return of service is herein attached and made a part of this report.
3. Notice of the Master's hearing was accepted by William U. Smith, Esq., Attorney for Plaintiff, on December 5, 1961, and acceptance of said notice endorsed on a copy thereof is attached to and made a part of this report.
4. In accordance with the aforesaid notices the Master fixed Thursday, December 21, 1961, at 10:00 a.m., at his office, County National Bank Building, Clearfield, Pennsylvania, as the time and place for hearing.
5. At the appointed time and place the Master sat for the purpose of his appointment.
6. At the hearing there appeared before the Master: William U. Smith, Attorney for Plaintiff; Wava Maines, the Plaintiff in person and Cecil Norris, witness for Plaintiff.

III

FILE PAPERS

The following file papers are hereinafter respectively attached.

1. The Complaint in Divorce.
2. Affidavit of Service of Complaint in Divorce on Defendant by Charles G. Ammerman, Sheriff of Clearfield County.
3. Copy of Master's Notice of Hearing and acceptance endorsed thereon by Plaintiff's Attorney.
4. Copy of Master's Notice of Hearing and Affidavit of Service on Defendant.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WAVA MAINES

VS

No. 397 September Term, 1961

DAVID E. MAINES

IN DIVORCE

C O M P L A I N T

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

(2). The name of the Defendant is David E. Maines, an individual who resides at 803 Nichols Street, Clearfield, Pennsylvania.

(3). The Plaintiff is 21 years of age and is employed at ClearHaven.

(4). The Defendant is 22 years of age and is employed as a bill collector for Wolf Furniture Store in the Borough of Clearfield, Clearfield County, Pennsylvania.

(5). The parties to this Complaint are husband and wife, having been married on May 16, 1959, by Rev. Keith of the Baptist Church in the Borough of Curwensville, Clearfield County, Pennsylvania.

(6). No children were born of this marriage.

(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-one years immediately preceding the filing of this Complaint.

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

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

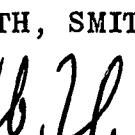
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(10). There has been no prior action for divorce or annulment of marriage between the parties in this Complaint in this or any other jurisdiction.

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 :

WAVA MAINES, 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 her knowledge, information and belief.

Wava Maines

Sworn and subscribed to,
before me this 31st day
of November, 1961.

Mrs. Michael B. Grinley

NOTARY PUBLIC
My Commission Expires
JANUARY 7, 1963

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

NO. 397 Sept. Term, 1961
IN DIVORCE

WAVA MAINES

VS

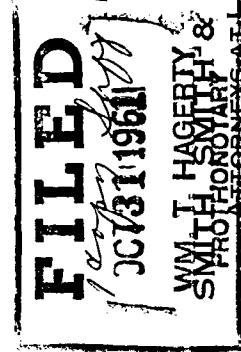
DAVID E. MAINES

COMPLAINT

TO THE WITHIN DEFENDANT:

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

SMITH, SMITH & WORK
BY W. H. Smith
ATTYS. FOR PLAINTIFF



1/31/1961

Affidavit of Service

Wava Maines }
vs. }
David E. Maines }

No. 397 September Term, 1961

Complaint In Divorce

Returnable within _____ days
from date of service hereof.

NOW November 1, 1961 at 1:20 o'clock P.M.
served the within Complaint In Divorce
on David E. Maines
at 803 Nichols Street, Clearfield, Pennsylvania
by handing to him personally
a true and attested copy of the original Complaint In Divorce
known to him the contents thereof. Costs Sheriff Amerman \$8.50 (Paid)

Sworn to before me this 2nd
day of November A. D. 1961
for the City
Prothonotary

So answers,

Charles G. Amerman
CHARLES G. AMERMAN
Prothonotary

Sheriff

Service accepted and notice and waiver
of record waived

W. A. L. H.
atty for Plaintiff

Uncontested

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
No. 397 September Term, 1961

WATIVA MAINES,
Plaintiff

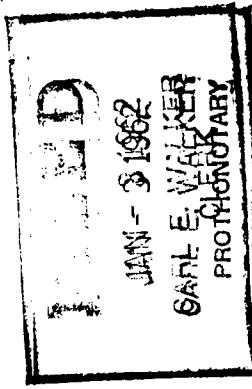
vs.

DAVID E. MAINES
Defendant

REPORT OF MASTER IN DIVORCE

Costs:

Joseph A. Dague, Master	\$85.00
L. E. Strunk, Constable	6.00
	\$91.00



JOSEPH A. DAGUE
ATTORNEY AT LAW
CLEARFIELD, PENNSYLVANIA

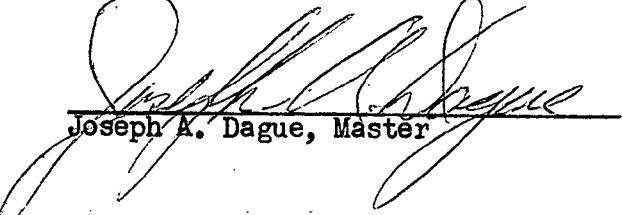
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WAVA MAINES :
vs. : No. 397 September Term, 1961
DAVID E. MAINES : : IN DIVORCE

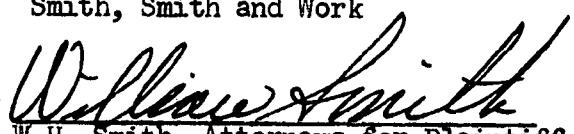
NOTICE OF MASTER'S HEARING

To Wava Maines
Clearfield, Pennsylvania

You are hereby notified that I have been appointed Master in the Divorce Action of Wava Maines vs. David E. Maines, in the Court of Common Pleas of Clearfield County, Pennsylvania, filed to Number 397 September Term, 1961, and that I will hold a meeting for the purpose of taking testimony at my office in the County National Bank Building, Clearfield Pennsylvania, on Thursday, December 21, 1961, at 10:00 a.m., when and where you may attend with witnesses if you so desire.


Joseph A. Dague, Master

Now, December 5, 1961, service of the above notice is accepted and personal service is waived.

Smith, Smith and Work
by 
W.U. Smith, Attorneys for Plaintiff

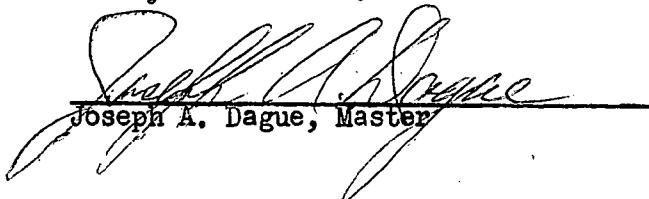
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WAVA MAINES :
vs. : No. 397 September Term, 1961
DAVID E. MAINES : IN DIVORCE

NOTICE OF MASTER'S HEARING

To David E. Maines
803 Nichols Street
Clearfield, Pennsylvania

You are hereby notified that I have been appointed Master in the Divorce Action of Wava Maines vs. David E. Maines, in the Court of Common Pleas of Clearfield County, Pennsylvania, filed to Number 397 September Term, 1961, and that I will hold a meeting for the purpose of taking testimony at my office in the County National Bank Building, Clearfield, Pennsylvania, on Thursday, December 21, 1961, at 10:00 a.m., when and where you may attend with witnesses if you so desire.



Joseph A. Dague, Master

RETURN OF SERVICE OF NOTICE OF MASTER'S HEARING

COMMONWEALTH OF PENNSYLVANIA : : ss
COUNTY OF CLEARFIELD : :

Before me the undersigned authority, personally appeared L. E. Strunk, who being duly sworn according to law, deposes and says that on the 6 day of December, 1961, he served the above Notice of Master's Hearing upon David E. Maines, at Conlon mines 730 PM, Clearfield County, Pennsylvania, by handing to him personally a true copy of the said notice and made known to him the contents therefo, and that the person so served was known to be the within named Defendant by his own admission.

L. E. Strunk

Sworn and subscribed to before
me this 9th day of December, 1961

John J. Dague PROTHONOTARY
My Commission Expires
1st Monday Jan. 1962

IV.

CAUSE OF DIVORCE

The cause of divorce as alleged in the complaint is indignities to the person.

V.

FINDINGS OF FACT

1. Marriage - Plaintiff and Defendant were joined in marriage on May 16, 1959, in the Borough of Curwensville, Clearfield County, Pennsylvania, by a Baptist Minister.

2. Residences - Plaintiff and Defendant are both life-long residents of the Commonwealth of Pennsylvania. Although they live separate and apart they both reside in the Borough of Curwensville, Clearfield County, Pennsylvania, and at the time of filing of the Complaint they both resided in the Borough of Clearfield, Clearfield County, Pennsylvania.

3. Citizenship - The parties are both citizens of the United States of America.

4. Age and Occupation - The Plaintiff is twenty-one years of age and is employed as a nurse at Clear Haven. The Defendant is twenty-two years of age and is employed at Wolf Furniture Store at Clearfield Pennsylvania.

5. Children - No children were born of this marriage.

6. Armed Forces - The Defendant is presently on active duty with any branch of the Armed Forces of the United States of America.

7. Prior Divorce - Pursuant to the Rules of Civil Practice your Commissioner reports that no action of divorce or annulment of marriage has ever been instituted in any jurisdiction between the parties hereto, other than the case at hand.

8. Finding on the Merits-

a. Plaintiff resided with Defendant from May 16, 1959, until October 29, 1961, at the end of which period she withdrew to a separate residence.

b. The treatment complained of by Plaintiff has taken place over a period of approximately one and one-half years.

c. For the period set forth in "b" above, the Defendant quarled with his wife daily.

d. Habitually, during the last year and one-half of their life together, Defendant swore at Plaintiff and called her vile names.

e. Defendant frequently stated to Plaintiff that he had no affection for her and that he did not love or like her.

f. Defendant frequently stated to Plaintiff that he did not desire to live with her and that he would like to be divorced from her.

g. Approximately once a week the Defendant rendered some physical violence to his wife. He hit her about the face, shoved her and bruised her. These acts occasionally took place in the presence of one or more of the parties' parents.

h. Approximately once a week the Defendant accused his wife of licentious relations with men.

i. Defendant made statements of an uncomplimentary nature in regard to Plaintiff's parents.

j. Defendant accused Plaintiff of being lazy and of keeping an improper home.

k. On several occasions the Defendant swore and cursed Plaintiff's father, using base and offensive names.

l. During the time the parties resided together the Plaintiff kept a proper home, contributed her earnings to the household expenses and acted as a proper wife.

m. Defendant's treatment of Plaintiff caused Plaintiff to become quite nervous and affected her work.

n. Plaintiff is a person of somewhat more than average sensitivity.

o. Plaintiff and Defendant have no agreement of any kind in regard to this action.

9. Discussion -

The acts complained of by Plaintiff are all of them, the usual incidents advanced in actions regarding indignities and there are none of them which require involved consideration to determine the issues here involved.

Here the accusations of licentious conduct constitutes acts of indignities. See Krug vs. Krug, 22 Pa. Super. 572. Likewise the mistreatment of Plaintiff's parents is an act of indignity. See Wiley vs. Wiley, 125 Pa. Super. 547. The habitual quarling and physical violence rendered Plaintiff are well founded acts of indignities. The vile language and unfounded accusations are further manifestations of Defendant's settled hate and estrangement of his wife. The requisite mental attitude of the Defendant is further established by the repeated declarations of lack of any affection for Plaintiff.

The fact that these acts of mistreatment continued almost daily for approximately one and one-half years is a more than adequate time period in a consideration of the required course of conduct and the evidence affirmatively established the Plaintiff's status as an injured and innocent spouse. Likewise there is adequate evidence of the fact that Defendant's abusive treatment created the result it was calculated to create in that it impaired the Plaintiff's health and necessitated her withdrawal from the matrimonial domicile.

VI

CONCLUSIONS OF LAW

1. There exists between the parties a legal marriage.
2. The Court of Common Pleas of Clearfield County, Pennsylvania has proper jurisdiction over this action.
3. The proceedings are in accordance with the requirements of the Acts of Assembly and the Rules of Court.
4. That the facts found, establish grounds for divorce a vinculo matrimonii:
 - a. Indignities to the person.

VII

RECOMMENDATION OF THE MASTER

The Master recommends that a Decree of Divorce, a vinculo matrimonii be granted, divorcing the parties pursuant to the following suggested Decree.

All of which is respectfully submitted,



J. M. Dunn
Master

In the Court of Common Pleas of Clearfield County, Pennsylvania

XXXXXX

WAIVA MAINES _____ } Of September Term, 19 61
Plaintiff _____ } No. 397 _____
VERSUS _____ }
DAVID E. MAINES _____ }
Defendant _____ }
DIVORCE

And Now, the 4th day of January 1962, the
report of the Master is acknowledged. We approve his findings and recommendations; ~~except~~
~~as to~~

We, therefore, DECREE that Waiva Maines be
divorced and forever separated from the nuptial ties and bonds of matrimony heretofore con-
tracted between ~~herself~~ and David E. Maines.
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~~

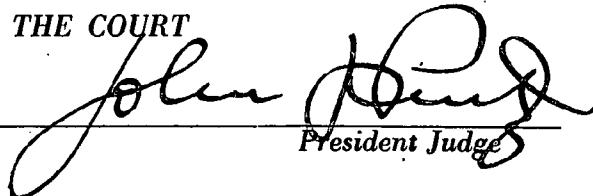
The Prothonotary is directed to pay the Court costs, including Master's fees, as noted herein, out of the deposits received and then remit the balance to the libellant. No Decree to issue until the costs be fully paid. We do further award to the said Waiva Maines

~~her~~ costs expended in this action.

ATTEST

BY THE COURT

Prothonotary


John D. Reed
President Judge

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

No. _____ Term 19

Libellant

VERSUS

Respondent

DECREE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

WAVA MAINES

vs.

No. 397 September Term, 1961

DAVID E. MAINES

IN DIVORCE

TESTIMONY

Pursuant to notice the Master's Hearing in this cause was convened at 10:00 A. M. EST. on December 21, 1961 at the office of Joseph A. Dague, Master, Room 2, County National Bank Building, Clearfield, Pennsylvania

At the hearing there appeared before the Master William U. Smith, Esq., Attorney for the Plaintiff, Wava Maines the Plaintiff in person and Cecil Norris, witness for the Plaintiff.

Wava Maines being duly sworn testifies as follows:

BY MR. SMITH

Q. Your name is Wava Maines is that correct?

A. Yes.

Q. You are the Plaintiff?

A. Yes.

Q. Where do you live Mrs. Maines?

A. Curwensville.

Q. At the time the complaint was filed did you live in the Borough of Clearfield?

A. Yes.

Q. How old are you?

A. 21.

Q. Are you employed?

A. Yes as nurses-aid at Clear Haven.

Q. How long have you lived in the Commonwealth of Pennsylvania?

A. All my live, 21 years.

Q. Are you married?

A. Yes.

Q. To whom are you married?

A. David E. Maines.

Q. Where does he live?

A. Curwensville.

Q. At the time the complaint was filed where did he live?

A. Clearfield.

Q. How old is your husband?

A. 22.

Q. Where is he employed?

A. Wolf Furniture Store.

Q. On what day and in what year were you married?

A. May 16, 1959.

Q. By whom were you married?

A. Reverand John Keith.

Q. Where were you married?

A. Baptist Church in Curwensville.

Q. Are both you and your husband citizens of the United States?

A. Yes.

Q. How long has your husband lived in the state of Pennsylvania?

A. All his life.

Q. Were there any children born of this marriage?

A. No.

Q. Is your husband now in the active service of any division of United States Armed Forces?

A. He was in the service.

Q. He is not in active duty now?

A. No.

Q. Has there ever been a prior action of divorce or annullment between either of you?

A. No.

Q. Do you and your husband have any agreement as to this divorce?

A. No.

Q. After you were married in May of 1959 did you and your husband live together as man and wife?

A. Yes.

Q. Are you living with your husband now?

A. No.

Q. When did you leave?

A. October 29, 1961.

Q. Would you describe for the Master your husbands conduct?

A. Well he just fought continually. He picked and it began to get on my nerves and I couldn't do my work right and my nerves just began to jingle.

Q. When did these fights start?

A. About a year after my marriage.

Q. You say he fought continually how often?

A. About once a day.

Q. Did he swear at you or use profanity to you at this time?

A. Yes.

Q. How often did he do this?

A. Once a day when we would fight.

Q. What names would he call you?

A. Well he called me an old whore and things like that.

Q. Did he ever tell you he wanted a divorce and didn't want to live with you?

A. Yes.

Q. How often did he do that?

A. When we fought.

Q. Would he ever tell you he didn't love you or like you?

A. Yes

Q. How often would he do this?

A. Everytime we fought.

Q. Did you state before this was approximately once a day?

A. Yes, once a day.

Q. Did he ever hit or shove you?

A. Yes.

Q. Where would he hit you?

A. Mostly in the face.

Q. How often did he do this?

A. Once a week.

Q. Did he ever make any comments about your mother or father?

A. Yes.

Q. Were they complimentary or uncomplimentary?

A. Uncomplimentary.

Q. How often did he do this?

A. About once a week.

Q. Did he ever call them on the phone and make these remarks?

A. Yes.

Q. Did he ever accuse you of unproper conduct?

A. Yes.

Q. About parties of the opposite sex?

A. Yes.

Q. How often did he do this?

A. Once a week.

Q. When he hit and shoved you did he ever bruise you?

A. Yes, several times.

Q. Where would he be when he would hit and curse you?

A. Once at his home and once at my home.

Q. Was there anyone present when he did this?

A. Yes, his mother at his home and both my mother and father at my home.

Q. Did he ever tell you you were lazy and didn't keep the house clean and etc.?

A. Yes.

Q. Now in so far as these accusations with the parties of the opposite sex did you give him any reason for them?

A. Not to my knowledge.

Q. Did you ever go out with anyone other than your husband?

A. No.

Q. Did you frequent taverns?

A. No.

Q. At the time you were married were you employed?

A. No, I went to work 8 months after I was married.

Q. Did you contribute your wages to the common support of the household?

A. Yes.

Q. Did you cook your husbands meals?

A. Yes.

Q. Did you clean and dust the house?

A. Yes.

Q. Did you do his wash?

A. Yes.

Q. So far as you know did he have any reason to act in the manner he did to you?

A. No.

Q. Did you attempt to be a good and loyal wife to him?

A. Yes.

Q. Since you have been seperated has he contributed to your support?

A. No.

Q. Has he made any effort to do so?

A. No.

Q. Has he attempted any reconciliation?

A. No.

Q. What effect did this conduct have upon you?

A. I became very nervous and it effected my work and even our friendship with the other people. I became jittery and nervous all the time.

Mr. Norris being duly sworn testifies as follows:

Q. What is your name, Sir?

A. Cecil Norris.

Q. Where do you live Mr. Norris?

A. Curwensville.

Q. Are you the father of the Plaintiff Wava Maines?

A. Yes.

Q. You heard your daughter testify as to a certain incident in your home when her husband struck and cursed her, were you present?

A. Yes.

Q. Did this occur?

A. Yes.

Q. Where did he strike her?

A. In the face.

Q. Did you hear your daughter testify as to unpleasant statements he would make to your wife and yourself, did this occur?

A. Yes.

Q. Did you visit your daughter and her husband in her home?

A. Yes, I dropped in quite often.

Q. As far as you could observe was the house clean?

A. Yes.

Q. Did it appear that your daughter kept a good home?

A. Yes.

Q. Do you know of any reason that your daughter would have given her husband to act in this fashion?

A. No.

BY THE MASTER

Q. What were some of the things the Defendant said to you?

A. He cursed and swore at me.

Q. What were some of the words that he used?

A. He called me a son-of-a-bitch a couple of times.