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In the Privy Council.

UNIVERSITY OF LONDON

No. 44 of 1950.

-9 JUL 1953

ON APPEAL

INSTITUTE FOR ADVANCED  
LEGAL STUDIES

FROM THE SUPREME COURT OF CANADA.

BETWEEN

MARK T. MCKEE (Defendant) - - - - - Appellant

AND

EVELYN MCKEE (Plaintiff) - - - - - Respondent.

Record of Proceedings - Vol. 3

Pages 401-600

CHARLES RUSSELL & CO.,  
37 Norfolk Street,  
Strand, W.C.2,  
Appellant's Solicitors.

HANCOCK & SCOTT,  
222-225 Strand, W.C.2,  
Respondent's Solicitors.

IN THE SUPREME COURT OF CANADA

APPEAL FROM THE COURT OF APPEAL FOR ONTARIO

IN THE MATTER OF THE HABEAS CORPUS ACT, REVISED  
STATUTES OF ONTARIO 1937, Chapter 129 and amendments  
thereto, and

IN THE MATTER OF AN APPLICATION OF EVELYN McKEE  
as next friend and legal guardian for possession  
of her son Terry Alexander McKee.

BETWEEN:                         EVELYN McKEE,  
   (Plaintiff) Appellant,  
   -and-

   MARK T. McKEE,  
   (Defendant) Respondent.

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MR. BROCK: My lord, with respect to that, I think in choosing some one as a housekeeper to look after my boy I would certainly see them first.

MR. LOCHEAD: There is no evidence she looked after Terry. He had several of his sisters there at intervals and his father was there most of the time.

MR. BROCK: Q. Now, how long did Miss Eastman stay with you?

10 A. Miss Eastman remained until the latter part of August.

Q. Of what year? A. 1946.

Q. And then whom did you obtain as a housekeeper or to look after Terry?

A. I obtained Mr. and Mrs. Shoemaker to take over the house and to live in the house and to take care of Terry.

Q. And you had Miss Eastman and Mrs. Piffer for the same purpose, did you not?

20 A. Well --

Q. Just answer my question.

HIS LORDSHIP: Would you please let the witness answer first. You haven't let him get out three words.

MR. BROCK: You do not require a speech in answer to every question.

HIS LORDSHIP: We have been listening to your speeches all morning. Let us have reciprocity in this. You do have to let him bring the answers out and if they are not satisfactory you can go back at it.

30 THE WITNESS: The difference was that I was staying with the Shoemaker's; Terry and I were with the Shoemaker's in my home. I was not employing the Shoemaker's, the Shoemaker's took over the house and I stayed with them.

Q. You were associated with Mr. Shoemaker?

A. Mr. Shoemaker couldn't find a house so they and their children moved into my home and I boarded with them, Terry and I. I didn't employ them.

40 Q. Now then, you brought Terry to Kitchener following the judgment in December, December 26?

A. I brought Terry to Kitchener on December 26.

Q. And put him under the care of Mrs. Ament?

A. And my own care, we boarded at the Ament's. Terry and I boarded at my wife's cousin's home, my first wife's.

Q. You don't think any one took care of Terry, did you, when you were away?

MR. LOCHEAD: When?

MR. BROCK: At these times.

THE WITNESS: You mean when we were at the Ament home?

MR. BROCK: I mean from October 1st, 1945, until you brought him to the Ament's.

A. Oh, yes, the Shoemakers took care of him just like they did their own children.

10 Q. Yes, but you were boarding there and the reason you were boarding there and had the Shoemakers come in was that you didn't have anyone to take care of Terry, is that not true?

A. That is not true, Mr. Brock, I had the Shoemaker's because they had children and because they were an excellent family and because they were unable to get a house there and it was an arrangement that was mutually convenient.

Q. Then you and Terry boarded at the Ament's?

20 A. We did, yes, sir.

Q. Then you have told us so much about the care and affection given to Terry by the Shoemaker's. Now, you also told us yesterday that they remained at Port Austin in your home until late in May of 1947; then you took Terry away from the Shoemakers and brought him to Kit-chener and the Shoemakers still stayed at this home in Port Austin?

A. The Shoemakers still stayed at the home in Port Austin, that is correct.

30 Q. That is right. Well, I have one admission from you. Now then, you boarded at the Ament's until when, you and Terry?

A. Until after the Easter holidays this year.

Q. Now, Mrs. Ament told us this other roomer or boarder she had just had breakfast. Did you have all your meals at the Ament's?

A. When I was there, yes, sir.

Q. Did Terry have all his meals?

A. Yes, he did.

40 Q. You were the star boarders? A. Yes, we were.

Q. The other boarder just had his breakfast there?

A. That is right, he was away most of the time, he just kept a room.

Q. And then you took Terry to the home of Mr. and Mrs. Moses Stever? A. Yes, sir.

Q. And then where? A. To my own home.

Q. Where you have Mr. and Mrs. Earl Stever looking after him? A. But my own home, yes, sir.

Q. Now, there was Mrs. Piffer, Miss Eastman, the Shoemakers, the Aments, Mrs. Moses Stever and Earl Stever and his wife. They are not blood relatives of Terry, are they, none of them?

A. None of them, that is right.

10 Q. Now then, you have told us that -- is it your brother, Mr. Sareth?

A. My brother-in-law, my sister's husband.

Q. You told us that you purchased together this farm on which Terry is staying, is that right?

A. Yes, sir.

Q. It was Mrs. Sareth who purchased with you?

A. Yes, Mrs. Sareth, my sister.

Q. Now, isn't that deed made out to Carl B. and Sue M. Sareth? A. It may have been, I have not seen the deed.

20 Q. You say that now, do you? A. Yes.

MR. LOCHEAD: He never said anything else.

MR. BROCK: He told his lordship it was made out to his sister.

THE WITNESS: I said the purchase was made by my sister.

MR. BROCK: Q. Didn't you tell his lordship just a moment ago ---

30 HIS LORDSHIP: No, what he told me was he and his sister purchased the property but he did not say how it was conveyed but just said he and his sister purchased it jointly.

MR. BROCK: Q. Do you still say you and your sister purchased the property? A. I do.

Q. But you had the deed to the property made out to Carl B. and Sue M. Sareth?

A. Mr. Brock, I had nothing to do with making out the deed. I never seen the deed.

Q. In spite of the fact you say it is your farm of your home? A. Yes, sir.

40 Q. Now, who is Carl B. Sareth?

A. My brother-in-law, my sister's husband.

Q. And do you know if there is a mortgage on that farm? A. I believe there is, yes, sir.

Q. For how much? A. Perhaps \$3,000.

Q. Did you ever see the mortgage?

A. I did not, no, sir.

Q. Did you sign the mortgage as mortgagor or anything?

A. I did not, the whole transaction was handled by Moses Stever.

HIS LORDSHIP: On your instructions?

A. On my instructions, that is right.

MR. BROCK: Q. Where is this other farm you say you purchased?  
A. The two other farms that I purchased, Mr. Brock, are adjoining. They are adjoining the Widow Konieg's place and the John King place.

10 Q. Now, did Mr. Moses Stever purchase that for you?

A. No, he assisted in the negotiations for the other two places.

Q. You say he didn't purchase them?

A. I made the purchase, he was there with me.

Q. Have you registered those deeds?

A. No, sir.

Q. You didn't? A. No, sir, they were land contracts, what we call land contracts.

Q. Agreements of sale? A. Yes, sir.

20 Q. You didn't register those?

A. They were not registered, no, sir.

Q. Are those agreements of sale in your name?

A. They are.

Q. I would like to look at them? A. I do not have them with me, Mr. Brock.

HIS LORDSHIP: How are they relevant to the issues in this case? You are not conducting an examination into the financial affairs of this witness. If he is not financially capable, Mrs. McKee is not capable because she is dependent on the income she receives from him.

30 MR. BROCK: What I do say, my lord, is that this witness has said and stated in Court he has 350 acres and I would like him to establish that. If your lordship thinks --

HIS LORDSHIP: I am not thinking anything, I am just trying to find out what is the relevance of the evidence, and frankly I suppose it may have some bearing if he does not own this property, if he has not bought them in good faith.

40 MR. BROCK: I will just ask him one more question. Mr. McKee, can you produce this agreement of sale to the Court?  
A. I could get them, they are in Kitchener.

Q. I would be very much interested in seeing them.

HIS LORDSHIP: I don't know that you are entitled to see them. Why would you be entitled to see them?

This is not an examination of this man's entire financial affairs.

MR. BROCK: Q. Now, this farm house of yours is situated how far from Lynwood?

A. Approximately two miles and a quarter.

Q. That is west of Lynwood? A. Yes, sir.

Q. And it is further away from Kitchener?

A. Further away from Kitchener, yes, sir.

10 Q. And it is a county road from Lynwood to the side road on which this farm is?

A. It is No. 11, yes, sir.

Q. And it is a gravel road? A. It is a gravel road, yes, sir.

Q. And the side road is a very narrow road, is it, it is not the travelled portion of it?

A. Well, it is wide enough for two cars to pass.

Q. They have to pass very carefully, isn't that true? A. I wouldn't know how carefully. I know

20 two cars can pass on the road.

Q. On the gravelled part of the road?

A. Yes, sir.

Q. You say that, do you? A. Yes, sir, I do.

Q. That is on the sideroad that you are referring to? A. I am referring to the sideroad that goes up No. 11 to No. 9.

Q. What you are saying is that two cars can pass on the gravelled portion of that road?

30 A. I would think so, Mr. Brock, in other words that all eight wheels would be on the gravel at all times. Now, they may lap over a little bit but I think it would depend a little on the width of the car but I never had difficulty when passing with our car passing another car on that road and all eight wheels were on the gravel. I cannot swear positively but I know we never had difficulty passing.

Q. That is not quite so definite. Now, this farmhouse in which you keep Terry is how far from the school to which you send him?

40 A. Approximately two and one-tenth miles, a little less than two and one-tenth miles.

Q. And it is along this sideroad you speak of until you cross the tracks? A. Yes, and then down No. 9.

Q. And how far down this sideroad from your house to No. 9 is it? A. I would say that it is



approximately a mile, between a mile and a quarter and a mile and a half.

Q. How far down No. 9, the 9th concession road?

A. Oh, it is between two and one-tenth, it is the difference between two and one-tenth and a mile and a quarter.

Q. We will get a mathematician for that.

MR. LOCHEAD: Apparently you need one.

10 MR. BROCK: Q. Now, do you know how old this farmhouse is? A. I don't know, Mr. Brock.

Q. And is there a furnace in it at the present time?

A. The furnace is in the house now, Mr. Brock, in the cellar and to the best of my knowledge the furnaceman is putting in the flues right now. The furnace was there when I left on Monday and they agreed to do it.

Q. Do you know whether they are?

MR. LOCHEAD: He said to the best of his knowledge.

MR. BROCK: To the best of your knowledge?

20 HIS LORDSHIP: Mr. Brock, do not waste time on things like that, let us get on with this.

MR. BROCK: Q. Now then, you have eleven other children, have you not, and three of your daughters live in California, do they not?

A. Meredith and Rose Marie and Cynthia, yes, sir.

Q. And Meredith and Rose Marie are married, are they not? A. Yes, sir.

Q. And you have learned that Cynthia is married?

A. I have, yes, sir.

30 Q. And Joanne I believe you told us lives in Chicago?

A. In Park Ridge, out of Chicago.

Q. And all of your six boys live in Michigan, I mean all except Terry?

A. No, Julian of course is in the army; Julian was with me this summer. He is in the army.

Q. Julian is in the army and where are the other five boys? A. My oldest is in Detroit and Hugh is in Detroit and Mark is in Detroit and Muir is in Ypsilanto attending school and Mark is in Mt. Clemens.

40 Q. Outside of Muir and Julian and Terry, the rest are married? A. Yes, nine children married.

Q. They have families? A. All except Mark and Cynthia.

Q. And they all have either husbands or wives at look after? A. All happily married, fortunately.

Q. Now, didn't Julian live with Jane in Missouri?

A. Julian attended school and stayed with Jane.

Q. Didn't he stay with Jane? A. He boarded with his sister Jane, yes, sir.

Q. Now, you said yesterday that you intended to bring at times these children of yours to live on this farm in Lynwood. It does not seem possible, does it, when they have families and husbands and wives of their own, and children?

10 A. Mr. Brock, most of my children have great love and affection for me and like to be with me and visit with me as often and just as long as they possibly can.

Q. But they all have spouses and children of their own and other children going to school?

A. Not all of them, not all of Joanne's children are going to school.

Q. Now then, you are a director of Pan-American?

A. I am.

20 Q. And you are engaged in the aspect of international relations with regard to that as well as your directorship? A. No, that has been my special study,

my special work with the company. As a member of the executive committee, each member of the executive committee endeavours to familiarize himself with some phase of the company's operation and that is the particular phase I worked on.

Q. Have you anything to do with the company with respect to its international relationships; are you actively engaged in that?

30 A. You mean, do I know about these various countries where we operate?

Q. No, you being one of the executive would be there to advise on these matters?

A. We meet every week and various problems are taken up and the committee passes on them.

Q. You are a director of Sand Products?

A. Yes.

Q. Where is the head office of that?

A. That is at Detroit.

Q. And also at Chicago? A. No, sir.

40 Q. In Milwaukee? A. It has no office in Milwaukee. They have a local dock office there in Milwaukee.

Q. How big is that office?

A. Right out at the dock, one little room at the dock where they unload sand.

Q. No other place of business in Milwaukee?

A. The Sand Products has not but the Steamship Company has.

Q. Doesn't Sand Products own the Steamship Company?

A. It is a subsidiary of Sand Products but Sand Products has no office in Milwaukee.

Q. I would like to know whether it is the office of Sand Products and the Steamship Company. I would like to know where these offices are.

A. I am most happy to inform you that Sand Products' principal office is at Detroit, Michigan. The Steamship Company's principal office is at Milwaukee, Wisconsin.

Q. Why not tell us that in the first place?

A. You never asked me where the head office of the Steamship Company was.

---A short adjournment.

MR. BROCK: Now, Mr. McKee, we were dealing with the office of Sand Products Corporation and you had told us that the Sand Products had an office in Detroit?

A. Their general office is there, their principal office.

Q. And they also have an office in Milwaukee?

A. They have a dock office, it is on the dock.

Q. And the Steamship Company has an office there?

A. Yes, sir.

Q. Now, has Sand Products or the Steamship Company any other offices outside of Detroit?

A. They have a traffic office and I believe a traffic representative in Grand Rapids, Michigan.

Q. Now, during these last few years have you had any other activities beside the Steamship Company and the Sand Products Corporation and the Air Lines this last three or four years?

A. Those are my principal activities.

Q. And that has continued up until the present time?

A. Those are my principal activities, yes.

Q. Those are your principal activities and duties, are they not, in regard to your business?

A. Well, I do not understand what you mean "and duties", Mr. Brock. I am an officer of each of these companies, yes, sir.

Q. Now, then, in the fall of 1946, did Terry go to school in Port Austin?

A. Yes, sir.

Q. And was he going to school up until the Christmas holidays of 1946?

A. Yes, sir.

Q. And then as a fact you took him out of school in Port Austin and brought him to Kitchener?

A. He wasn't in school at the time. It was in the Christmas holidays.

Q. He had been in school up until the Christmas holidays?

A. Yes, sir.

10 Q. He had not finished out the grade at that time, had he?

A. No, sir.

Q. Then I show you a photograph, what is that a photograph of?

A. This is the Port Austin public school.

Q. That is the school that Terry attended in Port Austin, is it?

A. Yes, sir.

20 ---EXHIBIT 25: Photograph of Port Austin School above referred to.

MR. BROCK: Now, my lord, I might as well put in the three pictures.

HIS LORDSHIP: Put them all in as part of Exhibit 25.

MR. BROCK: I show you three pictures of the Port Austin School?

A. Yes, sir, those are the Port Austin school.

Q. Then, when did you obtain this Miss Rennie?

30 A. After the Christmas holidays.

Q. Then, Miss Rennie was the name of a teacher?

A. Yes.

Q. Did Miss Rennie tutor Terry from the opening of school after Christmas holidays in 1947?

A. I think she started about two days afterwards.

Q. You think she started about two days afterwards?

A. Yes, sir.

Q. And where did she conduct these lessons?

A. At the Ament home.

40 Q. That was two days after the start of school?

A. After the Christmas holidays, the beginning of January, yes, sir.

Q. How long did she tutor Terry each day?

A. Approximately two hours, sometimes a little more.

Q. But you did not send Terry to school in Kitchener?

A. No, because I was advised by the principal not to.

Q. I just want an answer to that.

HIS LORDSHIP: He has already said that. I don't think there is any doubt about it.

MR. BROCK: Q. Now, you have mentioned that the principal of the school in Kitchener told you that you should not send Terry to school there?

A. I conferred with the principal of the Victoria School about starting Terry to school in Kitchener.

10 Q. Where is the Victoria School?

A. The Victoria School is approximately one and one-half block off King.

Q. Where, what part of King? A. Well --

Q. It is right downtown? A. It is right downtown about two and one-half blocks from the Ament home.

Q. What is the principal's name? A. For the moment it escapes me, Mr. Brock.

Q. And when did you confer with him?

20 A. I conferred with him early in January with my counsel, Mr. Lohead.

Q. And about what date would that be?

A. It was early in January.

Q. Well, tell me was the 1st or 2nd or 3rd or 4th week in January? A. I think it was the first day school started in January.

Q. I see, now you tell me it was the first day school started? A. That is it, it was early in 30 January and I think it was the first day that school started.

Q. Then, at Easter time, 1947, you took him to Moses Stever's? A. Yes.

Q. And started him to school at this country school?

A. Yes, sir.

Q. A one-roomed school, is that right?

A. Yes, sir, one room upstairs and a room downstairs.

Q. One teacher? A. Yes, sir.

40 Q. No running water in the school; is there any running water in the school? A. They have a pump outside.

Q. With a common cup? A. I don't know, I never drank from the well, Mr. Brock.

Q. You have not looked into that, have you?

A. I have not looked into it.

HIS LORDSHIP: Q. Has Terry been sick since he started to school?

A. He has not, he has been in perfect health.

MR. BROCK: Q. Now, at one time you owned a home in Mt. Clemens in Michigan, did you not?

A. Some 30 years ago, Mr. Brock.

Q. When did you sell that home?

A. Approximately 15 years ago.

Q. And I suggest to you that you sold it just before leaving for Milwaukee or California in 1935 or 1937?

A. No, Mr. Brock.

10 Q. You say that is not true? A. I say that is not true.

Q. And now are you a member of the Detroit Athletic Club?

A. I am, Mr. Brock, a non-resident member of the Detroit Athletic Club.

Q. And where did you give the Detroit Athletic Club as your home address for the year 1946, as your resident address?

A. I don't remember giving it to them in 1946.

20 Q. You don't remember; I am asking you if this "Mark T. McKee, 108 North Broadway, Milwaukee, Wisconsin" is the address you gave for the roster of the Detroit Athletic Club. Just look at it and see.

A. I did not, Mr. Brock.

Q. You did not? A. I did not, Mr. Brock. 108 North Broadway is the address of the Milwaukee Athletic Club, not my address.

Q. You say 108 North Broadway, Milwaukee, is the address of what club?

30 A. The Milwaukee Athletic Club of which I am also a non-resident member.

Q. You just keep them going around in a circle, is that it? A. Do you wish an answer to that question, Mr. Brock?

HIS LORDSHIP: Mr. Brock, I have been very patient. Now will you please confine yourself to the issues in this trial.

MR. BROCK: Q. Now, you told us that you established trust funds for the eleven of your children, or was it eleven?

40 A. Yes, sir, eleven.

Q. In 1936? A. Yes, sir.

Q. And were the trust agreements drawn for each of the trusts? A. Yes, sir.

Q. And you are named, are you not, as trustee in each of these agreements? A. Yes, sir.

Q. You still retain control of the moneys, is that

right, under the terms of the trust agreements?

A. As a trustee I am the trustee of the trust, yes, sir, but the trusts are irrevocable.

Q. I understand you have complete discretion?

A. Yes, I have discretion until such time as they terminate.

Q. Now, you did not establish a trust fund for Jerry McKee, did you? A. For Mrs. McKee's

10 son, no, I did not.

Q. You did not? A. I did not.

Q. And you did not establish a trust fund for Mrs. McKee, did you? A. I did not, Mr. Brock.

Q. And in 1936 you have told us that you were on friendly relations with Mrs. McKee?

A. Yes, sir.

Q. And with Gerald McKee? A. Yes, sir.

Q. And you have also told us that Mrs. McKee raised eight of your eleven sons?

20 MR. LOCHEAD: He has not told us that at all.

MR. BROCK: Might I see Exhibit 21. Now, until the end of 1944 how much money had you paid to Cynthia under that trust fund from 1941 to the end of 1944? A. I don't remember, Mr. Brock. I didn't sign the trust cheques.

HIS LORDSHIP: Mr. Brock, what have the payments to Cynthia to do with this?

MR. BROCK: Really nothing, but it has been brought in.

30 HIS LORDSHIP: You introduced it as evidence yourself and Mr. Lothead examined Mr. McKee about it because of Cynthia's evidence.

MR. BROCK: My lord, if I remember correctly, and with great respect I do not think I examined in chief on this.

HIS LORDSHIP: If you want to go ahead on it, go ahead. I cannot see the slightest connection between the two things.

MR. BROCK: Now, Cynthia did bring an action to investigate the trust which you had set up for her?

40 A. Yes, sir, she looked a gift horse in the mouth, Mr. Brock.

Q. When was that matter finally settled?

A. The action?

Q. The action? A. As I remember, it was dismissed on its merits.

Q. I asked you when it was settled?

A. I don't remember, Mr. Brock.

Q. Was it about the time that you gave Cynthia \$1,000 in December, 1945, December 10, 1945, for medical expenses and dental expenses?

A. I don't remember, Mr. Brock.

Q. And who was Mr. Poss? A. Mr. Poss was counsel for the trustee in the action that Cynthia brought against the trustee.

Q. You were the trustee? A. Yes, Mr. Brock.

Q. And was this cheque one of the cheques in Exhibit 21 made payable to Poss in payment of your costs?

A. I do not know, Mr. Brock. I didn't make out the cheques and I didn't keep the trust books.

Q. Were you handed an account when that matter was settled? A. I presume my son Miles was handed an account.

Q. You were trustee? A. Yes, I was trustee, Mr. Poss -- or, Mr. Brock, pardon me.

Q. No, I am not Mr. Poss, Mr. McKee

And Mr. Scott was your attorney in California in November, 1943? A. Yes, sir.

Q. I show you a cheque dated November 29, 1943, to Joseph W. Scott for \$200 as one of the cheques in Exhibit 21 to these proceedings. Will you look at it?

A. That was for the account rendered by Cynthia to Mr. Poss.

Q. To Mr. Poss? A. To Mr. Scott for certain bills that she wanted paid from the trust and she turned the bills in to Mr. Scott and a cheque was sent to Mr. Scott and he paid the bills for Cynthia.

Q. You remember that, do you? A. I remember that very directly.

Q. But you don't remember about the Poss one which occurred in December, 1945?

A. I do not remember the details of it because I was out in California when the Scott matter was taken up.

Q. Now, I show you a letter dated August 13 addressed to F. Miller Cloud and purportedly signed by Mr. Joseph Scott. Will you read it? Did you give Mr. Joseph Scott the instructions for that letter?

MR. LOCKHEAD: My lord, I object to any instructions between this witness and Mr. Scott.

MR. BROCK: My lord, this is a letter from Mr. McKee's attorney to the attorney for Cynthia and I submit it is not written without prejudice.



MR. LOCHEAD: 'My lord, my objection at the moment is not to the letter but to the instructions giving rise to it.

HIS LORDSHIP: He can ask if he approved of it.

MR. BROCK: Q. Did you approve of it?

A. I did, Mr. Brock.

Q. You did give instructions? A. I approved of this letter.

10 Q. You approved of this letter? A. I did.

HIS LORDSHIP: What is the letter about?

MR. BROCK: My lord, I would like to get the original and the reply to it from my friend and then I will put them in.

MR. LOCHEAD: I have not any of the correspondence.

MR. BROCK: I show you a letter, a copy of a letter dated August 14, 1945, that is the day after the letter from Mr. Scott to Mr. Cloud. I show you a reply; will you read it?

20 HIS LORDSHIP: What are you showing him now?

MR. BROCK: I am going to read both letters.

HIS LORDSHIP: What are you showing him now?

MR. BROCK: I am showing him a copy of the letter in reply.

HIS LORDSHIP: From whom?

MR. BROCK: From Mr. Cloud.

HIS LORDSHIP: Have you not the original of the letter?

MR. BROCK: I have asked my friend for it.

30 MR. LOCHEAD: It was a letter to Mr. McKee's attorney in California, Mr. Scott.

HIS LORDSHIP: Are you prepared to admit these or do you know anything about them?

MR. LOCHEAD: I don't know anything about them, my lord, I have never seen them before. I am not prepared to admit it or deny it.

THE WITNESS: I am not familiar with this letter.

40 MR. BROCK: You say you are not familiar with the letter, that is the reply which purports to be a reply to this letter?

A. That is right.

Q. Is it that you don't remember it?

A. I am not familiar with it at all, Mr. Brock.

MR. BROCK: Q. Now, you said that you gave Mr. Joshua Stever money to buy meals while he was in Port Austin?

A. Yes, Mr. Brock, to buy many meals.

Q. Was that as a result of his complaint to you about the meals at your home?

A. He was disagreeing with Miss Eastman and didn't want to eat there.

Q. Was it as a result of a complaint about meals?

A. It was because he didn't want to eat there because he was disagreeing with Miss Eastman.

Q. You add that to it.

10 HIS LORDSHIP: That is what he said in chief.

MR. BROCK: Q. Now, you mentioned about transferring your membership in the Masonic Lodge; was that done after you brought Terry to Kitchener?

A. Yes, sir.

Q. -Now then, you mentioned about his music lessons in this farm house; do you know the name of his music teacher?

A. Yes, Mrs. Moses Stever, who gives music lessons to other children as well.

Q. Oh, she does? A. She does.

20 Q. Was it on your instructions that each time Terry visited his mother that you sent a detective, Mr. Moyer, along with him? Now, that does not require an explanation, it requires either yes or no.

MR. LOCHEAD: He has not said he did that; there is no foundation for that question.

HIS LORDSHIP: I wonder if it is not better to let it go on.

THE WITNESS: I did not send Mr. Moyer every time but when he did go it was on my instructions.

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--- RE-EXAMINATION BY MR. LOCHEAD:

Q. Mr. McKee, with regard to the last answer you said you had not sent Mr. Moyer every time. Do you recall any visits on which anybody else went with Terry?

A. Julian went with him.

Q. When did Julian go with him?

40 A. In June after he returned from school.

Q. On how many occasions did Julian go with Terry?

A. I believe Julian went with Terry several times without anyone else.

Q. Where did these visits with Mrs. McKee take place?

A. At the Hiller home.

Q. When Julian went along with Terry was Mr. Moyer there too? A. No, he may have been on one occasion.

Q. What about the others? A. He was not.

Q. Now then, there has been reference to the fact that after you came to Kitchener the Shoemaker family remained in your home in Port Austin. How long did they remain there?

10 A. They remained there until May when they moved to our little cottage. They didn't have heat so they had to wait until spring to move in there; there was no other available home for them and Miles and my other children were going up for the summer and they moved into the cottage.

Q. Miles and the other children occupied the big house? A. Yes.

Q. How long did the Shoemaker family remain in the little cottage? A. Until the 1st of September.

Q. Where did they go then? A. To a home they purchased in Port Austin.

20 Q. Is that where they are living now?

A. As far as I know it is.

Q. Then, reference has been made to the fact that the first farm that was purchased was bought in the name of your sister and brother-in-law apparently. Now, as a matter of fact, in whose name is the Port Austin home? A. My brother Max.

Q. How long has it been in your brother Max's name?

A. About 16 years.

30 Q. What is the reason for that? A. Our family is so closely knit together it doesn't make much difference in whose name property is.

Q. Now then, with regard to your recollection of this November 1943 cheque out of Cynthia's trust payable to Mr. Scott; you have told us that was to pay for certain bills sent to Mr. Scott by Cynthia and I believe you said you were in California at that time?

A. I was.

Q. In conference with Mr. Scott? A. In conference with Mr. Scott.

40 Q. Was this cheque issued as a result of that conference? A. As a matter of fact I went up to the hospital to see if arrangements could be made to take care of Cynthia there.

Q. Now then, Mr. McKee, yesterday afternoon there was a lot of talk about the Detroit News. Now then, what was the first relationship, if any, you had with the Detroit News?

10 A. About 30 years ago my then law partner managed the campaign of Truman H. Newberry for the United States Senate. He was very vigorously opposed by the Detroit News and since then the Detroit News have taken every possible occasion to damage me in every possible way, ever since that time for a period of nearly 30 years any time they can print anything unfavourable, they print it and if it should happen to be anything favourable they leave it out.

Q. Does that attitude continue to the present time as far as you know? A. It certainly has continued until the present time. As a matter of fact in the original Newberry trial where I, together with 132 others, consisting of State circuit judges, district attorneys, crown attorneys and State officers who were in our State Republican organization in Michigan, there were 133 indicted.

20 Q. Is that the investigation you referred to yesterday? A. Yes, my law partner and myself and Senator Newberry, and on the front page was shown Senator Newberry and then a larger picture showing Mark T. McKee headed "Principal Conspirators". Ever since then, as a matter of fact for nearly three months the Detroit News carried a story about me on the first page in the first column during the time of that trial, and they have gone after me in every possible way since. Anything they could do against me they did do and they still do.

30 Q. Now, you have referred to the fact that yourself and some 130 odd others were indicted in connection with the Newberry trial. What was the result of that indictment as far as you personally were concerned?

A. I was acquitted by the jury.

Q. What was the result as far as the other inditees were concerned?

A. 116 were acquitted and 17 were convicted and their convictions were reversed by the United States Supreme Court. They reversed it on errors of the trial judge.

40 HIS LORDSHIP: That is always a very good ground.

THE WITNESS: I may say that Chief Justice Hughes, who afterwards was Chief Justice, represented the defendants before the Supreme Court.

Q. Now, did you ever discuss with Mrs. McKee the attitude of the Detroit News towards yourself?

A. Mrs. McKee knew all about it. We discussed it

many times and we knew the Detroit News would do anything in the world to injure me.

MR. LOCHEAD: Now, these political matters referred to yesterday, were they taken into consideration at the California trial?

A. They were.

10 Q Now then, there was some talk yesterday about \$220,000 patriotic fund, and quite frankly I got lost in the maze of names. Will you tell me, please, what happened about that fund?

A During the war in Michigan the County War Boards, and I happened to be volunteer executive named by the government, raised approximately eight to nine million dollars for the Knights of Columbus and the Y.M.C.A. and kindred war organizations. At the close of the war there was a balance of \$220,000, I believe, and it was decided this should be used for the benefit of the returned veterans.

20 Q. Decided by whom? A. By the State Legislature. They created the Michigan County Counsel which was appointed by the government and the Michigan County Counsel, thinking the matter could be best handled by the American Legion, turned it over to the American Legion. Two others and myself were appointed to administer this fund. We had applications, I think, for the first week for something like a quarter million dollars in relief and we could have paid out the whole \$220,000 because there were many thousands of cases to take care of. We decided instead of paying it out in direct relief that we would put an organization in that would go out and get cases, get the evidence and present their case to Washington to the Veterans Administration, and as a consequence not \$220,000 was used but \$22,000,000 was spent as a result of that \$220,000. \$22,000,000 was secured for the veterans of Michigan and the only mistake we made was in fact we paid out \$16,000 in direct relief.

30 Q. Where did that \$16,000,000 come from?

40 A. From the federal government in Washington. The cases were prepared by the American Legion Welfare Department and were sent to Washington and \$22,000,000 was paid. In other words the \$220,000 merely primed the pump, but the Detroit News didn't print that, Mr. Lohead.

---The Court adjourned until 3.20 o'clock p. m.

---The Court resumed at 3.20 o'clock p. m.

10 Q. Now, Mr. McKee, in your cross-examination some reference was made to various payments which you had made from time to time to attorneys in California for Mrs. McKee. Do you recall at any time making a payment of \$650 or having a payment of that amount made to Mr. Haumesch, who was attorney for Mrs. McKee?

A. I do.

20 Q. What were the circumstances of that payment, Mr. McKee? A. There was a deposition to be taken under a commission in Milwaukee and my counsel, Mr. Scott, advised me that Mr. Haumesch desired \$650 to pay the expenses of his going east for the commission. He also told me that if I did not pay it voluntarily Mr. Haumesch would get an order off the court for me to pay it so I remitted \$650 to Mr. Scott and Mr. Scott remitted it to Mr. Haumesch for that purpose.

Q. Pursuant to an arrangement between Mr. Scott and Mr. Haumesch? A. Yes.

30 Q. Now there was also some reference yesterday in cross-examination to some resolution of a committee of the American Legion at one of their annual conventions. Do you recall where that convention was held?

A. That convention was in Paris, France, in 1927.

Q. Were you present at that convention?

A. I was not present.

Q. What position did you then hold on that committee?

40 A. At that time I was chairman of the National Committee. I served for a term of three years and I served out my term and I was re-appointed vice-chairman of the same Committee and served another three years. I was vice-chairman for a second term of three years.

Q. Now, there has also been some reference to the remodelling that has been done to your farm near Lynwood. What is the amount that you have spent on that remodelling this year?

A. To make that the right kind of a home for Terry

and myself I spent approximately \$4,000, a little over \$4,000 as a matter of fact.

Q. Now then, also Mr. Brock referred to the fact that the Sand Products Corporation and the Steamship Company had offices in Detroit and Milwaukee respectively. Now, what meetings of these companies in these two offices are you required to attend?

10 MR. BROCK: My lord, I submit there was nothing asked as to what meetings he attended.

HIS LORDSHIP: No, but you asked about offices and I think he is entitled to re-examine what it involves. I am very interested in that because I think that is the only pertinent thing that arises out of that question. I want to know what time he has to spend with the boy, if he has any.

20 A. We have an annual directors' meeting once a year of Sand Products in Detroit and of the Steamship Company in Milwaukee, and those are the only times I am required to be present in their offices. My work with both companies is now purely advisory.

Q I believe you have already testified they are both family corporations?

A. They are both family corporations headed by my brother Max who is chief executive of both companies.

30 Q. And I believe there is some confusion as to the relative times that Mis Eastman and your daughter Joanne were at the Port Austin home in 1946. Now, just how much of the time Miss Eastman was there, was Joanne there? A. Joanne was there all the time Miss Eastman was there, and later on in the summer.

40 Q. Now then, with regard to the trusts which you have stated were created in 1936 for you eleven children, in cross-examination there was reference to the fact that at the same time no trust had been created for Mrs. McKee and her son Jerry. That is correct, is it? A. That is correct.

Q. What reason did you have for that procedure?

A. The property that I had, I had earned during my marriage with my first wife. She had helped me and we had really accumulated it together, so I felt it incumbent upon me to provide for the children of that marriage

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and that is the reason I created the trusts and put four-fifths of what I had in the trusts for these children. What I did with the remainder of my property under the will, I provided one-half go to Mrs. McKee and one-half to my eleven children and her boy Jerry, in twelve equal shares.

---Witness withdrew.

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MISS NETTIE EASTMAN, sworn:

---EXAMINED BY MR. LOCHEAD:

Q. Now, Miss Eastman, where do you live at the present time? A. I am living at my sister's.

Q. Do you know Mr. McKee? A. Yes, I do.

20 Q. Did you ever work for him? A. Yes, I have.

Q. When was that? A. 1946.

Q. During about what period of time?

A. Oh, it was in May.

Q. May, 1946? A. Yes.

HIS LORDSHIP: Q. How long were you there, Miss Eastman? A. I was there until the latter part of October.

MR. LOCHEAD: Q. And where was this?

A. At Port Austin, Michigan.

30 Q. And prior to that what sort of work had you been doing generally?

A. Domestic work.

Q. For what period of time? A. About ten years.

Q. At whose instance was it you went to Port Austin?

A. It was Mr. Stever's.

Q. Is that Joe Stever? A. Joe Stever.

Q. Did you know his name was Joshua?

40 A. No, I didn't.

Q. And what relations, if any, had you had with Mr. Stever before you went to Port Austin?

A. Nothing, only correspondence.

Q. By the way, have you any of that correspondence?

A. No, I am sorry I have not.

Q. What has happened to it?

A. I destroyed them, not thinking I would ever want them.



Q. And what in a general way was the nature of that correspondence?

MR. BROCK: I object to that. I submit it is not relevant to the issues in this case.

MR. LOCHEAD: My lord, this witness has testified that the correspondence has been destroyed. Mr. Stever admitted there was correspondence.

10 HIS LORDSHIP: Is the nature of the correspondence admissible?

MR. LOCHEAD: I submit it is admissible on the credibility of the witness Stever. Mr. Stever testified as to the nature of that correspondence and as to his relations generally with this witness.

HIS LORDSHIP: Yes, you got his answers.

MR. LOCHEAD: Yes, my lord. I submit it is very relevant, the circumstances under which this witness went to work at Port Austin. She has testified it was at the instance of Mr. Stever and I submit it is relevant  
20 to that point as to how it arose.

HIS LORDSHIP: She has told us that, he asked her to go.

MR. LOCHEAD: I may say I intend to go into it very briefly as to the general situation that prevailed at the Port Austin home. Stever has testified as to the lack of care demonstrated by this witness.

HIS LORDSHIP: I think she is entitled to give evidence on that but as to her personal relations with Stever, it seems to me it has nothing to do with this.

30 MR. LOCHEAD: I submit they are, my lord. One inference one might take from the evidence of Stever, in fact one must take from that evidence, is that the relations between himself and this witness were very bad. That testimony having gone in is certainly relevant to the care and attention of Terry.

HIS LORDSHIP: He said she did not supply him with breakfast, you can ask her that sort of thing. I do not think you can ask about the private life with Stever, you have to ask him and he said there was nothing. I  
40 think you have to accept that. I do not think I can let you do that.

MR. LOCHEAD: I will withdraw that question then, if I may, my lord, but I do want to go on and discuss the relations between these people at the Port Austin home as they affected Terry's welfare.

HIS LORDSHIP: Yes, you can do that.

MR. LOCHEAD: Q. Then, at the instance of Mr. Stever

you did go to Mr. McKee's Port Austin home?

A. Yes, I did.

Q. And what in a general way were your duties in the Port Austin home? A. Well, I was looking after the house and looked after the meals. I was the regular house-keeper of the home.

Q. What were Mr. Stever's duties?

A. His duties were outside work.

10 Q. And who were there at the time outside of yourself and Mr. Stever, or rather in addition to yourself and Mr. Stever?

A. Mr. McKee's daughter, Mrs. Guisalin, and her children were there.

Q. How many children? A. Three.

Q. Anybody else? A. Terry was there.

Terry was there for the first two months.

Q. Then he went out to California?

A. Yes, he did.

Q. Was Mr. McKee living there at the time?

20 A. Yes, he was at home four to five days out of the week.

Q. Mr. McKee was home that period of time when you were there. Did you see any of his other children there besides Joanne and Terry?

A. Yes, his other son was there, Miles, and his wife and their children.

Q. Were they there all the time or just on a visit?

A. Well, they came up on a visit.

30 Q. About how long did they stay? A. About a month.

Q. Was Julian there at all? A. Yes, he was there.

Q. How long was he there? A. He was there and away and then he would come back.

Q. He was generally living there the whole time?

A. Yes.

Q. How about Muir, was he there at all?

A. Yes, he was there but not as much as Julian was.

Q. Was Hugh or his family there at all?

40 A. Hugh's wife was there.

Q. With her children? A. Yes.

Q. Now then, I believe you said you looked after the meals? A. Yes, I did.

Q. And what, if anything, did you do about breakfast?

A. Well, I was up every morning at seven o'clock and always tried to give Terry a good breakfast.

- Q. Did Terry get his breakfast before he went to school? A. Oh, yes, he did.
- Q. As far as you know did he ever have to go to school without his breakfast? A. Never.
- Q. By the way, what was done about Terry's lunch while he was going to school, did he have it at home? A. No, he had it at school.
- 10 Q. Was there a restaurant service in the school? A. Well, it was something like that.
- Q. You didn't prepare it? A. No, I didn't prepare his lunch.
- Q. And how about the other meals for the family, did you prepare them? A. I did.
- Q. And what about Terry's bedtime? A. He was always in bed around 8.30 or 9.00 o'clock.
- Q. Did Terry go to church or Sunday School? A. He did.
- 20 Q. How often? A. He was there regularly.
- Q. And what did you observe as to the relations between Terry and his father? A. Well, Terry loved his dad very dearly and his dad loves him very dearly.
- Q. You observed that while you were there? A. There is nobody under the sun Terry thought any more of than his dad and I think it went the same way with his dad and Terry.
- Q. Now then, what did Joanne do, if anything, with regard to Terry's care? A. Joanne helped me look after Terry.
- 30 Q. I suppose she also looked after her own children? A. Oh, yes.

---

---CROSS-EXAMINATION BY MR. BROCK:

- 40 Q. When you speak of Muir and Hugh's wife and Miles' wife and children, they were there in the summertime, weren't they? A. Yes.
- Q. And Terry wasn't there at that time, he was in California, was he not? A. Yes, I believe Terry was in California.
- Q. You were there in May and June, weren't you? A. Yes, I was.
- Q. Was Terry there then? A. Yes.

HIS LORDSHIP: Q. Who else of the family was there during those months, just keep it to those months; was Mr. McKee there? A. Yes.

Q. And what other children of his were there?

A. Joanne.

Q. Anyone else -- I take it her children were there?

A. Yes, and the two boys Julian and Muir.

MR. BROCK: Q. Muir was not there very much, was he?

10 A. No, he was home off and on.

Q. Then, how many rooms were in this house, do you know? A. There was 14.

Q. And in some of the rooms the plaster was coming away a great deal, wasn't it?

A. Not that I know of.

Q. Pardon me?

A. Not that I know of.

Q. Do you remember the kitchen?

A. I certainly do.

Q. Wasn't the plaster falling down there?

20 A. I know it was broken but I don't remember it falling.

Q. You don't remember it falling? A. No, I know the plaster was cracked.

Q. Now in what other rooms of the house, if any, was the plaster cracked? Isn't it true there were a great many cracks in the plaster all throughout the house?

HIS LORDSHIP: Just a minute now, there are 14 rooms and you have asked her about all these rooms. Give her 30 time. If you cannot remember say so, just tell us what you can remember.

A. I can't remember all of them being cracked up very badly. There might have been a few small ones but I cannot remember them being real bad.

MR. BROCK: Q. Wasn't it true it was very difficult to keep this house clean, it was an old house, wasn't it?

A. I didn't have any trouble keeping it clean.

Q. Did you clean the whole 14 rooms?

A. Yes, I kept the rooms clean.

40 Q. The whole 14 of them? A. Yes.

Q. And what was the condition of the furniture in this house, was it run-down and worn? A. No.

Q. It wasn't new furniture? A. It wasn't brand new furniture but it was good.

Q. You think it was good. What about the upholstery?

A. It was all right.

Q. Now during the time that you were there you looked after the whole 14 rooms and you looked after the meals?  
A. I did.

Q. And Joanne cared for her three children, is that right?  
A. Yes, she did.

Q. Once in a while it is in evidence she would comb the hair of Terry, is that right?

A. She certainly did, she helped look after Terry.

10 Q. Now, do you remember Mr. McKee putting on three or four dances in the village on Saturday nights?

A. He did not.

Q. At any time while you were there? A. No.

Q. Terry was in the habit of wetting his bed, was he not? A. No, he wasn't.

Q. You say he wasn't? A. No.

HIS LORDSHIP: That is what she told you.

---Witness withdrew.

20

MR. LOCHEAD: My lord, that concludes the verbal testimony I have to present to your lordship that afternoon. There are one or two formal matters I would like to read into the record and firstly, my lord, if I may from a transcript of the trial in June of 1945 which resulted in the order of August 1st, 1945, and I would point out to your lordship that the transcript was made an exhibit on the commission by Mrs. McKee.

30 MR. BROCK: My lord, I submit if any part of the depositions taken in 1945 are to be offered as evidence they all should be entered.

HIS LORDSHIP: Why should they; you used them this morning.

MR. BROCK: Yes, but I examined a witness on the evidence he gave.

40 HIS LORDSHIP: As I see it, I do not know what evidential value they have receiving them the way Mr. Lothead proposes to use them. I don't know just how you get it in, Mr. Lothead, unless they are part of some one's evidence.

MR. LOCHEAD: My lord, the transcript was a certified copy of a transcript by a stenographer who took the transcript and was put in on the commission by Mrs. McKee's California attorney.

HIS LORDSHIP: I am certainly not going to have you read the whole thing to me.

MR. LOCHEAD: I will read two or three very short excerpts.

HIS LORDSHIP: It all goes in but I am not going to hear it all, but you may draw my attention to any part of it if you wish.

MR. LOCHEAD: My lord, I cannot put my finger on where this refers to. I can do that over the week-end and put it in next week.

10 HIS LORDSHIP: Yes.

MR. LOCHEAD: Then, my lord, I wish to read in one or two very short excerpts from the evidence on commission of Mr. Vernon. Your lordship will recall he was the witness called to give evidence as to the California law. That evidence, my lord, is in volume 2 and I propose to read firstly on page 227, line 10, to page 228, line 18. I might say, my lord, that part of this has already been read in by Mr. Brock, it has to do with Mr. Vernon's qualification. I propose to read from the

20 commission from page 227, line 10, to page 228, line 18.

---Page 230, line 12, to page 233, line 18

Page 242, lines 21 to 24 inclusive

Page 243, line 19, to page 244, line 9

Page 273, line 3, to page 274, line 12

Page 278, lines 17 to 22.

MR. LOCHEAD: Then, my lord, I wish to read evidence with regard to residence and domicile. I will start at page 300 (a).

---Page 300 (a), line 3, to page 301, line 4

30 Page 302, lines 16 to 23

Page 303, line 3 to 22

Page 310, line 7, to page 311, line 8

Page 312, line 16, to page 313, line 7.

MR. LOCHEAD: That is all the material I wish to put in from that examination, my lord.

---The Court was then adjourned until 10.00 o'clock a.m. on October 3rd, 1947.

40 MR. LOCHEAD: My lord, I regret to state that I have a considerable amount of reading to do this morning and by way of relief I propose to read 20 minutes or half an hour and then call one witness and then conclude my reading. Firstly, my lord, I wish to read from pages 432 to 435 in volume 3.

MR. BROCK: My lord, you note my objection.

HIS LORDSHIP: Yes.

MR. LOCHEAD: This evidence, my lord, is the evidence of P. S. Noon who was the commissioner on these proceedings and who was the reporter in the previous depositions taken in California in connection with Mrs. McKee's Milwaukee action. In these three pages he simply identifies the depositions taken at that time.

HIS LORDSHIP: How can you put that evidence in?

MR. LOCHEAD: My lord, I submit it is evidence of  
10 testimony in a prior proceedings which is admissible in this proceeding.

HIS LORDSHIP: Can you prove it that way?

MR. LOCHEAD: I would refer your lordship to the 7th edition of Phipson, unfortunately the 8th is not in the library.

HIS LORDSHIP: I have the 8th.

MR. LOCHEAD: It is page 422 in the 7th and the heading is "Depositions in the former trials".

20 "(a) At common law, testimony given by a witness  
"in a civil or criminal proceeding is admissible  
"in a subsequent (or in a later stage of the same  
"trial) in proof of the facts stated provided (1)  
"that the proceedings are between the same parties  
"or their privies, (2) that the same issues are  
"involved, (3) that the party against whom, or whose  
"privy the evidence is tendered had on the former  
"occasion a full opportunity to cross-examine, and  
"if the witness is incapable of being called at the  
"second trial."

30 HIS LORDSHIP: Why cannot Mr. Haumesch be called in this trial, why couldn't his evidence be taken?

MR. LOCHEAD: Haumesch was called on the commission and refused to testify on the grounds of privilege. Now, in the Milwaukee case, my lord, Haumesch was called by Mrs. McKee as a witness and he gave evidence on commission in California at which time the privilege was expressly waived and the authorities are that once a privilege is waived it is waived for all time.

HIS LORDSHIP: Now, give me some authority for that.

40 MR. LOCHEAD: On that specific point I would refer your lordship to the only text book statement I was able to find and it is contained in Wigmore, the 8th edition, at page 633:

"Waiver at former trials, waiver by joint clients,  
"sale, assignees,  
"(1) Waiver at one stage of a trial should be final

"for all further stages, and a waiver at the first trial should suffice as a waiver for a later trial, since there is no longer any reason for preserving secrecy."

That would seem to be the basis of the entire submission on that point, my lord, once a waiver has come into operation obviously the evidence is no longer secret and therefore there is no purpose in insisting on a further waiver.

There is another submission I would make if your lordship wishes to hear me on that point as to the admissibility of this evidence and that, my lord, is on the general basis of the operation of privilege regarding communications between solicitor and client, and that is it only applies, as your lordship knows, to communications for the purpose of getting advice and the communications I wish to have reference to in the depositions of Mr. Haumesch were not such communications. They are casual and had nothing to do with litigation.

HIS LORDSHIP: Or the advice he was giving?

MR. LOCHEAD: No, my lord, it was not a matter of advice.

HIS LORDSHIP: I suppose in this case the parties were the same?

MR. LOCHEAD: The parties were the same.

HIS LORDSHIP: Now, what about cross-examination, was Mr. Haumesch cross-examined?

MR. LOCHEAD: Mr. Haumesch was called by Mrs. McKee, therefore there was adequate opportunity for any type of examination.

HIS LORDSHIP: What about this, Mr. Brock?

MR. BROCK: My lord, I submit that the issues here are not the same as the issues involved in the Wisconsin proceedings.

HIS LORDSHIP: They do not have to be the same. Was not the substantial issue in Wisconsin the custody of this boy?

MR. BROCK: I have not had the proceedings in Wisconsin.

HIS LORDSHIP: They have been in Court for several days.

MR. BROCK: But, my lord, I submit with due respect that the issues are not substantially the same because what was involved in the Wisconsin proceedings was, as I understand it, the California judgment.



HIS LORDSHIP: It was an action for custody, wasn't it?

MR. BROCK: As I understand it the grounds on which he claimed custody --

HIS LORDSHIP: But the claim was for custody. It isn't the grounds. The issues are surely identical. Am I right in that, as I understand it, the Milwaukee proceedings was an action for custody of the child?

10 MR. BROCK: What it was, I am informed, was an action for a new trial in Wisconsin of the issues tried in California.

HIS LORDSHIP: What issues?

MR. BROCK: Divorce and custody of the child. Then, my lord, I do submit this, that Mr. Haumesch in this proceedings on the commission refused to give evidence on the grounds that the relationship of solicitor and client had not been waived by his client.

20 HIS LORDSHIP: She previously waived it by calling him on her behalf.

MR. BROCK: Yes, my lord, but I say the test should be determined in the California courts, whether Mr. Haumesch would answer because he is in California and these depositions were taken in California.

HIS LORDSHIP: I have to determine it now, so I am not interested in what he did or did not do in California, I am interested in the problem here.

30 MR. BROCK: Yes, my lord, but if in California counsel for Mark T. McKee had wished he could have applied to the court in California to certify Mr. Haumesch to give evidence on this commission. He did not do so and now it is an attempt to get in the same evidence by reason of a previous hearing.

HIS LORDSHIP: I will admit it subject to your objection, Mr. Brock.

MR. LOCHEAD: Then, my lord, if I may read firstly from the commission at pages 432 to 435 inclusive, that is the end of volume 3.

---Mr. Lohead reads the above evidence to the Court.

40 HIS LORDSHIP: There wasn't a trial in Milwaukee.

MR. LOCHEAD: The case never proceeded to trial, this was evidence taken on commission.

HIS LORDSHIP: It was not presented and it was in the discretion of counsel whether or not they used it in the trial?

MR. LOCHEAD: That is true, my lord.

HIS LORDSHIP: I was thinking it was used at the

hearing in Milwaukee but it wasn't.

MR. LOCHEAD: No, it was not, my lord.

HIS LORDSHIP: Now, can evidence taken on commission in that way, which is not presented to the court, be admitted? The rule is if evidence is given in a previous trial between the parties, and this was never given, and it is in discretion of counsel whether they use it or not but they did not have to use it.

10 MR. LOCHEAD: On that point, my lord, may I refer your lordship to volume 4 C.E.D., pages 635 and the section is 73 and the heading is "Testimony in former proceedings":

20 "Besides its use for purposes of testimonial  
 "impeachment of witnesses (y), or its use as  
 "embodying an admission by a party (z),  
 "testimony given in former judicial proceeding  
 "may be used in a subsequent proceeding in the  
 "same or in another case, provided (1) the  
 "witness cannot be called, (2) the issues and  
 "parties are substantially the same and, (3)  
 "there was adequate opportunity for cross-  
 "examination by the party against whom it is  
 "offered or by the party at the former pro-  
 "ceeding through whom he claims (a) it is said  
 "that the admissibility of the evidence seems  
 "to turn rather upon the right to cross-examine  
 "than upon the identity of either the parties  
 "or the points in issue in the two proceedings."

30 HIS LORDSHIP: Yes, but this was not given in a judicial proceeding. It was taken for the purpose but it wasn't given.

MR. LOCHEAD: My lord, I submit that once an action has been commenced it is a proceeding within the section of the Judicature Act.

HIS LORDSHIP: Was this evidence used in this application?

40 MR. LOCHEAD: Frankly, my lord, I don't know, but I submit once the action was commenced in Milwaukee it is ipso facto --

HIS LORDSHIP: I am not sure at all I can admit it. I will let you put it in subject to the objection, I think, after all, we are not here with a jury and I can reject it later and not consider it.

MR. BROCK: My lord, I am informed it was not used on any proceeding.

HIS LORDSHIP: No, it was taken for the purpose of a trial but it never came to trial. There was not a trial, as I understand it, the application was dismissed as a result of subsequent proceedings in California. It was dismissed with prejudice.

MR. BROCK: Yes, my lord, there was no evidence taken on it at all.

HIS LORDSHIP: I think at this stage it would be best  
10 to let it go in and it might save a further proceeding.

MR. BROCK: At this time, my lord, I wish to take the further objection that it is res judicata. If your lordship should find it is admissible as having been given in evidence at a prior hearing then, my lord, I take the further objection it is not admissible on the grounds that they are issues raised on previous proceedings.

HIS LORDSHIP: That is the objection you have been taking throughout.

MR. BROCK: Yes.

20 MR. LOCHEAD: My lord, if I may make one further comment I would refer to the paragraph I read previously from Phipson; I think it is significant from the wording that by inference that a trial is not necessary in the previous proceeding.

HIS LORDSHIP: I think it depends on the nature of the evidence taken on commission. I will consider that when I come to deal with it.

MR. BROCK: If my friend can state whether this matter which he intends to adduce is evidence that is rele-  
30 vant to the issues here and on what grounds --

HIS LORDSHIP: That will appear when the evidence is put in, I take it.

MR. LOCHEAD: Then, my lord, referring to the depositions of Mr. Haumesch I think they had better be filed as Exhibit 26.

---EXHIBIT 26: Depositions of Mr. Haumesch above referred to.

MR. LOCHEAD: I wish to read three other short extracts, my lord.

40 MR. BROCK: My lord, I wish it to be quite clear that I regard that these are depositions of E. G. Haumesch taken in the Wisconsin proceedings and were never adjudicated upon.

HIS LORDSHIP: There was no hearing in Milwaukee, I understand that.

MR. BROCK: I have never seen these depositions.

HIS LORDSHIP: I think that is your responsibility. If you had asked for it I am sure it was here in Court, one of the exhibits to the commission.

MR. BROCK: Pardon me.

HIS LORDSHIP: It was one of the exhibits to the commission and it has been in Court since the trial started.

MR. BROCK: I have not seen it, my lord.

10 HIS LORDSHIP: I am not going to hold the trial up because you didn't look at it at this stage. Even if you had not seen it I do not think it makes any difference, it is either admissible or it isn't. You can say it should not go in and I may eventually agree with you and therefore not consider it, but it has to go in or stay out.

MR. BROCK: At this time if any part goes in the whole thing should go in.

HIS LORDSHIP: If the whole thing goes in but Mr. Lochead will draw my attention to certain parts of it.

20 MR. LOCHEAD: My lord, there are three extracts from this deposition, the first of which is at page 3, line 14, to page 5, line 7.

---Page 62, line 5, to page 63, line 2

Page 66, line 10 to 18

Page 42, line 1 to page 44, line 16.

MR. LOCHEAD: Then, my lord, I propose to read from the commission itself, volume 1. From now on, as far as reading is concerned, perhaps your lordship will agree with my submission that I read for a while and then call  
30 oral testimony.

MR. BROCK: You will note my objection, my lord.

HIS LORDSHIP: On the ground it was raised in 1945?

MR. BROCK: No, on the ground that it was a matter which ought to have been raised.

HIS LORDSHIP: It was not raised?

MR. BROCK: No, my lord.

MR. LOCHEAD: Your lordship will recall I questioned Mr. McKee on that point and he stated he learned nothing about it except in an indirect manner late in 1946  
40 and not definitely until 1947.

My lord, I propose to read pages 4 to 24 inclusive.

My lord, perhaps I should put in these photographs, they are newspaper clippings, for the purpose of identification.

HIS LORDSHIP: What are they?

MR. LOCHEAD: Newspaper photographs of Mrs. McKee.

---EXHIBIT 27: Two newspaper photographs of Mrs. McKee above referred to.

MR. BROCK: My lord, I would like the opportunity to put in cross-examination.

MR. LOCHEAD: As a matter of fact, as in previous testimony, there are parts of the cross-examination that I wish to read in.

10 MR. BROCK: My lord, I will read the whole cross-examination.

---The Court then adjourned until 2.30 p.m.

---The Court resumed at 2.30 o'clock p.m.

MR. LOCHEAD: My lord, I believe it was at page 78 that I left off.

---(Mr. Lohead read the above evidence to the Court)

That is the end of the cross-examination, my lord.

Then, my lord, if I may read from the re-direct examination. There are only two or three short extracts

20 I want to put in. Firstly, at page 104, from lines 4 to 21 inclusive.

---Page 106, lines 1 to 6

Page 106, line 25, to page 107, line 14.

MR. LOCHEAD: Then, if my friend wishes to proceed the re-cross-examination, I am quite satisfied. There are one or two excerpts I want to put in, starting at the bottom of page 112.

MR. BROCK: Yes, I will put it in subject to our reservation. I will put in the entire re-cross-examination.

30 I would like to put in page 107, line 16, to page 108, line 7.

MR. LOCHEAD: My lord, I would like at this time before continuing any further reading to call a witness.

---

RITA ECKENSVILLER, sworn,

---EXAMINED BY MR. LOCHEAD:

40

Q. Where do you live? A. Waterloo.

Q. And what is your address, please?

A. 153 Empire Avenue.

Q. And who lives there with you? A. My husband and two children.

Q. How old are your children? A. The little girl is two and the boy is five.

- Q. I believe you have some roomers as well?  
A. That is right, I have five girls.  
Q. Are you working at the present time?  
A. No, I am not.  
Q. Were you working last winter?           A. Yes, I was.  
Q. Where were you working?  
A. Nicholson's Lunch Bar in Kitchener.  
Q. Do you know the street number?  
10 A. 223 $\frac{1}{2}$  King Street West, Kitchener.  
Q. By the way, are you appearing here under subpoena?  
A. Yes.  
Q. Have you been served with a subpoena?  
A. Yes.  
Q. By whom?                           A. By Mr. Lohead.  
Q. By myself?                        A. Yes.  
Q. Have you ever seen Mrs. McKee, the lady sitting  
on my left?                        A. Yes, I have.  
Q. Where did you first see her?  
20 A. The first time I saw her was at Nicholson's at  
six o'clock in the evening and she was having a cup of  
coffee.  
Q. Was this morning or afternoon?  
A. Afternoon.  
Q. Do you remember approximately when that was, I  
do not mean the date?            A. That was around the  
end of March.  
Q. Of this year?                    A. That is right.  
Q. What happened after you came in and saw her sit-  
30 ting there having some coffee?  
A. Well, there was a gentleman came up from the  
pool-room downstairs and as he was going by they talked  
to each other and he sat down and had a cup of coffee  
with her and they left together.  
Q. Did you overhear any or part of the conversation  
they had?                        A. Not exactly, I didn't.  
Q. Did you hear any words said at all?  
A. He just said he was leaving and asked her if she  
40 wanted to leave with him.  
Q. Then they went out together?  
A. That is right.  
Q. About how long was it after you came in they  
left?                            A. I would say about 15 minutes.  
Q. Did you see Mrs. McKee again that night?  
A. No.  
Q. Have you seen her since then?            A. Oh,  
yes, I have.

- Q. About when did you next see her?  
A. About two weeks later.
- Q. Where did you see her on that occasion?  
A. In the same restaurant.
- Q. About what time of day was it?  
A. This was about 1.30 in the morning.
- Q. Was she alone on that occasion?  
A. No, she was with the same gentleman.
- 10 Q. The same gentleman who had left the restaurant  
with her this time before? A. That is right.
- Q. You were on duty? A. That is right.
- Q. What happened that night or that morning?  
A. They came in and had a cup of coffee and read  
their paper and left.
- Q. Had you seen this gentleman before this night?  
A. Oh, yes, I had seen him practically every night  
since I started working there in October.
- 20 Q. October last year? A. Yes.
- Q. And you say they came in that night about 1.30  
and how long did they stay that night?  
A. About three-quarters of an hour.
- Q. Do you happen to remember what night of the week  
that was? A. No, I don't.
- Q. As a matter of fact, what hours were you working  
at that time? A. 2.00 o'clock from Monday to  
Thursday and 3.00 o'clock on Friday and Saturday.
- Q. That is two and three o'clock in the morning?  
A. That is right.
- 30 Q. And you saw them come in about 1.30 and they  
stayed about three-quarters of an hour?  
A. Yes.
- Q. Was the restaurant closed when they left, do  
you remember? A. Several times it was.
- Q. Did you see them again?  
A. Yes, they came in practically every night for two  
weeks.
- Q. After this second time? A. That is  
right.
- 40 Q. Did they always come in together?  
A. That is right.
- Q. Was it the same chap? A. Yes.
- Q. And approximately what time did they come in?  
A. They averaged between 1.30 and 3.00 o'clock.
- Q. Practically every night for the next two weeks?  
A. Yes.

Q. Were those people always alone or were they with other people sometimes? A. No, I think they were always alone.

Q. Did they as a general rule have something to eat or what happened? A. They had a sandwich and a cup of coffee and read the paper.

Q. Just about every time they came in?

A. Yes.

10 Q. Let me ask you this question, were you on duty each of these nights? A. That is right.

Q. Did you observe anything as to their condition? Perhaps I had better ask you first as to the condition of the man.

A. Well, they had obviously been drinking before.

Q. How often did you observe that?

A. Practically every night they came in.

Q. What, if anything, happened that makes you say that? Why do you say they had obviously been drinking

20 before? A. You could tell, their speech was quite thick when they talked,

Q. Whose? A. Mrs. McKee's.

Q. How about the man's speech?

A. It was several times, too.

Q. With regard to Mrs. McKee, how often during this period of two weeks did it happen you thought she had obviously been drinking before?

A. Quite often.

30 Q. Would you be able to say how many times it was a week? I believe you said they were in about six times each week? A. Yes.

Q. How many times a week would that condition prevail? A. About three times a week.

Q. I believe you have told us they started to come in on an average between 1.30 and 3.00 o'clock?

A. That is right.

Q. And 3.00 o'clock would have to be on Friday and Saturday because you closed at 2.00 o'clock other nights?

A. Yes.

40 Q. As a general rule they stayed until the restaurant closed or did they leave before it closed?

A. Some times they stayed until it closed and other times they left 15 minutes before it closed.

Q. What is the latest you saw them in your restaurant?

A. About a quarter after three.

Q. Did you observe anything about their conduct that was at all unusual? A. Yes, the gentleman used to



come in several times with lipstick on his cheeks and one night in particular I saw him kissing her.

Q. In the restaurant? A. Yes, that is right.

Q. On the lips or any other part of her face?

A. On her cheek.

Q. Was anyone else in the restaurant on that occasion?  
A. Oh, yes, there would be about 10 to 15 people.

Q. Were they sitting at a table when that occurred?

10 A. No, at the counter and sometimes at a table.

Q. I mean Mrs. McKee and this chap, did they sit at a table or at the counter? A. At the counter.

Q. Would you be able to see in from the street from where they were sitting?

A. Very well.

Q. Did this kissing episode happen on more than one occasion? A. Several nights when he put on her coat he used to kiss her.

20 Q. Were they alone in the restaurant on these occasions or were there other people in there?

A. There were always other people.

---

---CROSS-EXAMINATION BY MR. BROCK:

Q. So this is another of these incidents. Now, who approached you for the first time about this evidence?

A. Mr. Lohead.

30 Q. How long ago was that? A. That was a week ago Tuesday.

Q. Where were you? A. At home.

Q. You were at home? A. That is right.

Q. Did any detective approach you with regard to it?

A. No.

Q. You are sure of that? A. I am positive.

Q. Did anyone else discuss it with you first?

A. No, not necessarily.

40 Q. I don't want you to tell me necessarily, I want you to tell me what happened.

A. Well, there was a policeman in the city that mentioned about it. He saw it from the street. He came in that very night and mentioned it to me in the restaurant.

Q. Mentioned it to you? A. Yes.

Q. Is he the only other person that spoke to you

about it? A. That is right.

Q. Did any detective engaged by Mr. McKee ever ask you about it? A. No.

HIS LORDSHIP: How does she know who engages somebody?

MR. BROCK: Q. Did anyone else ask you about it?

A. No, not at all.

Q. Were you paid any money to come here to-day?

10 A. \$5.85.

Q. Were you paid any other moneys? A. No.

Q. Do you expect to have any other money paid to you? A. No, I don't.

Q. Were you promised any? A. Not a thing.

Q. Who is the owner of this restaurant?

A. Chris Nicholson.

Q. And so you say on this occasion he kissed her on the cheek and now you say it was not on the jaw.

MR. LOCHEAD: She never said anything about the jaw.

20 My friend is getting the incidents confused.

HIS LORDSHIP: Q. Where did this man kiss Mrs. McKee?

A. I would say on the cheek, right about there.

MR. BROCK: Q. Do you know any of the other persons that were present besides this man and Mrs. McKee when the kissing took place?

A. No, I couldn't right offhand say.

Q. And you don't recall anyone else that was there any of the times? A. No.

Q. You don't? A. No.

30 Q. Then you say that there were other people present on each of these occasions and you never knew any of them or remember any of them excepting the man and Mrs. McKee?

HIS LORDSHIP: She has said that twice, Mr. Brock.

MR. BROCK: Q. Now then, you said the first occasion was around the end of March?

A. That is right.

Q. Then you said about two weeks before they came in again? A. Yes.

40 Q. Might it have been three weeks? A. No.

Q. What time were you working at Nicholson's?

A. From six at night until two in the morning and on Friday and Saturday until three o'clock.

Q. Might it have been three weeks after the end of March they came in? A. Oh, no.

Q. Then they started to come in about the middle of

March, is that right?

A. No, it was more to the end of March and the middle of April. Around the first week in April they started coming in.

Q. Now, you told us a moment ago it was the end of March when they first came in and two weeks later they started coming in again.

A. I said a week later.

10 Q. Now you are changing that to about a week later, is that it? A. Yes, between one and two weeks after.

Q. Now it is between one and two.

HIS LORDSHIP: Do not let counsel upset you. You think about it and tell us about it. You saw them the first night about six o'clock?

A. Yes.

MR. BROCK: Q. How long after was it, as closely as you can tell me, when you saw them next?

20 A. I would say between one and two weeks.

Q. Between one and two weeks? A. Yes.

Q. How long have you lived in Waterloo?

A. Four years.

Q. Where did you come from to there?

A. North Bay.

Q. Do you know Mr. McKee? A. Yes.

Q. How long have you known him?

A. Just to-day.

Q. Have you ever seen him before? A. No.

30 Q. Did you ever see him in the restaurant?

A. No, I have not.

Q. Now, last Saturday night where were you?

A. At home.

Q. And where were you about three o'clock Sunday morning? A. At Nicholson's Lunch Bar.

Q. There is a gambling place there, is there not?

A. Not that I know of.

HIS LORDSHIP: You have the advantage of the witness, Mr. Brock.

40 MR. BROCK: Q. Who is looking after your children at three o'clock last Sunday morning?

A. My five girls I have living with me.

Q. Are you working there now? A. No.

Q. You were just in there? A. Yes.

Q. When did you quit?

A. I quit at the end of August.

- Q. What do you mean, these five girls who are roomers at your place? A. That is right.
- Q. Mrs. McKee usually orders tea, does she not? A. Right offhand I can't tell you.
- Q. When you said coffee and sandwiches that was what you said? A. I knew she took some beverage.
- Q. When you spoke of coffee and sandwiches that was just a guess, was it? A. Well, I knew she took  
10 a beverage of some kind.
- Q. Was it milk or tea? A. Some times she took milk.
- Q. And tea? A. Right offhand I couldn't say.
- Q. Did you ever know of her to have coffee? A. No, I couldn't say she did.
- Q. Then, when you said before she took coffee and sandwiches that might not have been right, is that it? A. I just knew she took a beverage and I said coffee.
- Q. Now, how wide is this counter?  
20 A. It has 11 stools.
- Q. And how wide is it; that is the length of it. A. I would say about  $2\frac{1}{2}$  feet.
- Q. And you were always behind the counter? A. That is right.
- Q. And is there a box or ice cream fountain there, too? A. On the one end there is.
- Q. Is that where Mrs. McKee was sitting at the time? A. Which time?
- Q. The time she was in. Do you know whether she sat at the fountain? A. She always sat at the fountain.  
30
- Q. That is where the ice cream fountain is? A. That is right.
- Q. How wide is the ice cream fountain? A. About four feet.
- Q. You were behind the counter at all times? A. That is right.
- Q. And do you go back to the kitchen at all? A. Yes.
- Q. Was Mr. Nicholson ever there at any time? A. Oh, yes, he came in Saturday to help us for about  
40 an hour on Saturday nights.
- Q. Was he there any other time? A. No.
- Q. Was he there any time Mrs. McKee was there? A. Not that I can recall.
- Q. Not that you can recall? A. No.

---Witness withdrew.

MR. LOCHEAD: Now, my lord, there are one or two items from the commission I can put in.

Firstly in volume 2, my lord, at page 202 I wish to read all of that page.

---Then, my lord, page 266, in volume 2, from line 6 to page 271, line 4.

10 MR. BROCK: You will note my objection.

HIS LORDSHIP: What are you objecting to this for?

MR. BROCK: My general objection to the admissibility.

HIS LORDSHIP: This has nothing to do with any evidence that could be possibly be res judicata.

MR. BROCK: I submit there is no evidence in this case of what happened in California during the taking of these depositions.

HIS LORDSHIP: I do not know the value of it, frankly.

20 MR. LOCHEAD: I put it in simply in anticipation of reply.

Then, my lord, page 316, lines 19 and 20. Your lordship will recall some time I read in the depositions of Mr. Noon and I read certain excerpts from the evidence of Mr. Haumesch. Without reading it, unless my friend desires me to do it, I wish to direct your lordship's attention to page 203 to page 226 inclusive, being the evidence of E. G. Haumesch.

30 HIS LORDSHIP: As I understand it, Mr. Haumesch claimed privilege and refused to answer any matters having to do with the issues in this case, and he consistently refused to testify on the grounds of privilege.

MR. LOCHEAD: Yes, my lord, there is just one very short excerpt I wish to show to your lordship at page 208, line 26, to page 209, line 11.

Then, my lord, I believe with your lordship's permission I might conclude one further witness, a very short witness, Ruby Sewell, in volume 1, pages 168 to page 176 inclusive, complete.

---Mr. Lohead read the above evidence to the Court.

40 MR. LOCHEAD: Now then, I don't know whether my friend wants to read in the entire cross-examination.

HIS LORDSHIP: If he does he had better put it in now.

MR. BROCK: I might as well put it all in then, my lord, subject to our reservations.

---Mr. Brock read the above cross-examination to the Court.

---The Court was then adjourned until 10.00 o'clock a.m. on Wednesday, the 7th of October, 1947.

HIS LORDSHIP: Are you ready to proceed in McKee v. McKee, Mr. Ferguson?

MR. FERGUSON: Yes, my lord, I am.

HIS LORDSHIP: I understand you are appearing for Mrs. McKee this morning?

10 MR. FERGUSON: Yes, my lord, Mr. Boland is with me. My lord, we have just been instructed and I knew nothing about this case until yesterday. I understand Mrs. McKee's former counsel is ill, suffering from a nervous breakdown.

HIS LORDSHIP: I trust you do not share the same fate.

MR. FERGUSON: I hope not, my lord. I have not been able to get any instructions from anyone except my client.

HIS LORDSHIP: I do not think you need them from anyone else.

20 MR. FERGUSON: I know nothing about what happened in the case, my lord.

HIS LORDSHIP: I do not think it is reasonable because one of the parties to a piece of litigation decides to change counsel that the trial should be held up indefinitely. I think that is the case, is it not?

MR. FERGUSON: No, my lord, I have it on the best of instructions that Mr. Brock simply collapsed, that is all, from a nervous breakdown. He was quite unable to conduct the case.

30 HIS LORDSHIP: All I am telling you is if it does not proceed now it will not be heard until some time next year, because I won't be in Toronto until after the New Year. You will have to decide; there is a great mass of evidence which should be dealt with now while it is fresh in my mind.

MR. FERGUSON: I cannot help but feel, my lord, that my client's rights are important. It is a matter of fairness to her.

40 HIS LORDSHIP: What do you need to acquaint yourself with the details of the case?

MR. FERGUSON: I should have time to be able to read the material.

HIS LORDSHIP: You have had two days; you knew on Monday morning because Mr. Slight spoke to me on Monday morning. You see, I think this thing has gone on interminably and it will be simply scandalous if it cannot be disposed of.

MR. FERGUSON: The trial you mean, my lord?

HIS LORDSHIP: Yes, the trial, and it should be disposed of, it should not be left in the air in this way. It is important that this little boy should know what is going to happen to him. I do not want you to be at a disadvantage at all but I think it has to go on within a reasonable time. Now, I will be here next week. Can you get yourself ready between now and next week, 10 or can you get yourself ready to-morrow? How quickly can you do it?

MR. FERGUSON: I do not think to-morrow, my lord. I think in all fairness we ought to have until next week.

HIS LORDSHIP: You should have made this application to me earlier, but you wait and I have gone on the assumption that we were proceeding and then you come here and ask for a further adjournment.

MR. FERGUSON: Yes, my lord, but you cannot tell how difficult this case is.

20 HIS LORDSHIP: There is a great mass of testimony I agree, but the facts are reasonably simple.

MR. FERGUSON: It depends on what facts you are looking at.

HIS LORDSHIP: I am looking at the facts I have heard over the last ten days trial.

MR. FERGUSON: A great many do not have much bearing on this case if your lordship takes a certain view of the law.

30 HIS LORDSHIP: My own view is the facts are relevant but they have been gone into at great length and sometimes not too profitably.

MR. FERGUSON: My lord, I do not feel I could do justice to my client in the circumstances on this short notice on a case of this kind.

HIS LORDSHIP: I wish you had told me that yesterday, that is all, because you are wasting a whole day. I realize you are in difficulties and I have sympathy with you. You are planted into the middle of a great mass of evidence with very little notice, but I do not appreciate 40 having a day wasted as far as this court is concerned. If you had indicated you were going to make this application you could have done it perfectly well yesterday.

MR. FERGUSON: We did not know whether we could go on with this properly or not until we got into the case yesterday and I could not have applied unless I came to your lordship about five or six o'clock last night.

HIS LORDSHIP: What is your position, Mr. Lohead?

MR. LOCHEAD: My lord, my position with respect is the same as your lordship's. I have every sympathy with my learned friend's position but I understand this situation did develop one or two days ago. Frankly, I am rather surprised that some one did not get in touch with me yesterday or Monday. I came down and I am ready to go on and I made the necessary arrangements in my office and made other arrangements. I have a witness here from Kitchener district. I do not like to be unco-operative, I try to be co-operative in every case.

HIS LORDSHIP: You have been very co-operative.

MR. LOCHEAD: I can only say I would dislike intensely being in the position in which my learned friend finds himself at the moment. Frankly, my lord, I am ready to go on. I have this witness here and I do not know what my position would be about going on next week. I made certain commitments and I am not certain what I will be able to do about them.

HIS LORDSHIP: There is this, there is quite a volume of commission evidence that Mr. Lohead wants to put in and the cross-examination is there. Neither you nor I can alter it. Why don't we get rid of it?

MR. LOCHEAD: Possibly I can assist, my lord. Mr. Brock's procedure has been to let me read the examination-in-chief and have him read the entire cross-examination. I propose this morning, my lord, to read only the evidence of Bentley and if my learned friend follows the practice of Mr. Brock the cross-examination runs about 27 or 28 pages which would get us well along and would get rid of this evidence which has to be done some time.

HIS LORDSHIP: How long would it take you to complete your case after that?

MR. LOCHEAD: I would think, my lord, if we could start it right now, and assuming my learned friend reads in the entire cross-examination, I hope to be finished this morning. I do submit this, my lord, if the case is going to stand over until next week I should not be called upon to close my case at this time. My position this morning, my lord, is quite frankly that I have the rest of the commission evidence that I referred to and one short witness, and if we could finish it I would close my case.

HIS LORDSHIP: Why don't we go that far; that isn't going to embarrass you.



MR. FERGUSON: I do not know what is in the commission.

HIS LORDSHIP: It is the evidence of a Negro chambermaid who observed Mrs. McKee at a dude ranch in California. A great deal of it has already been put in the record.

MR. FERGUSON: I do not object to my friend putting it in this morning; there is nothing I can do about it.

10 HIS LORDSHIP: I can tell you that Mr. Brock has consistently objected to its admission.

MR. FERGUSON: Yes, my lord, I understand he intended his objection to apply to this evidence. When I was consenting to the procedure Mr. Lohead proposed to adopt, I merely consented as a matter of convenience. I did not waive the objection Mr. Brock made.

I do not know who took out the commission.

20 HIS LORDSHIP: I think Mr. McKee did. Mr. Brock read the cross-examination subject to his objection but felt it should go in subject to the effect of his objection.

MR. FERGUSON: I would like to take the same objection.

MR. LOCHEAD: I might also say that the witness I propose to call is a witness who will give only evidence as to the conditions in the farm where Terry is living.

HIS LORDSHIP: I think if we go ahead we can work something out.

30 MR. LOCHEAD: Then, my lord, I propose to read the evidence of a witness Bobbie Bentley. It is in volume 1.

---Mr. Lohead reads the following evidence from the commission:

---Pages 120 to 138 inclusive.

MR. FERGUSON: I do not know just exactly what the proper procedure is, my lord. No objection has been taken to that evidence as it was given on the commission but it is obviously hearsay and I object to it now if it weren't objected to before.

40 HIS LORDSHIP: I am only interested in what she says she saw.

MR. LOCHEAD: She doesn't pursue the point anyway.

HIS LORDSHIP: There is one thing I should tell you, that is that this evidence was taken in California and it was taken subject to any objection counsel in Canada would make except as to the form of questions.

MR. LOCHEAD: That is the examination.

MR. FERGUSON: I have come to the conclusion, my lord, that no useful purpose would be served by me reading the cross-examination.

MR. LOCHEAD: My lord, that places me in a rather embarrassing position. As your lordship knows, when I commenced reading from this particular deposition there were parts of the cross-examination I intended to read in.

10 HIS LORDSHIP: I suppose the evidence is there if you want to use it.

MR. LOCHEAD: I would have to read it.

HIS LORDSHIP: You adopt it as part of your case?

MR. LOCHEAD: Yes, my lord. Firstly, I wish to read pages 140, lines 8 to 19 inclusive.

MR. FERGUSON: My lord, I submit if my friend is reading from the cross-examination he will have to read it all. There is some special rule about that.

20 HIS LORDSHIP: Suppose we look it up and find out right now. If you want to I will read the cross-examination. I do suggest you do not take time to read it all here. I will look at the text when I am trying to deal with it.

Mr. Ferguson, suppose we do this, suppose we admit it subject to your objection. I am marking all the evidence objected to. If in the meantime you find any authorities on the way that evidence should be treated I would be glad to have it. I do not want to put Mr. Lochead in the position that if he wants to put the whole thing in he  
30 does not do so.

MR. LOCHEAD: My lord, if it is of any assistance to the Court and my learned friend I am quite prepared to read the entire cross-examination.

40 HIS LORDSHIP: Suppose we treat it in this way; suppose we treat it as having been put in in its entirety by Mr. Lochead. I do not want to take the time to listen to it all but let him direct my attention to the matters he thinks important and I will read it. I am just suggesting that as a matter of convenience but dealing with it formally it should be treated as read into the record and if there is an appeal I think the whole evidence should go in as part of the record. There is a great deal of it that seems to be entirely irrelevant. I am quite willing to look at it but if you get any authority on the way it should be treated I would appreciate having that from you on the argument.

MR. FERGUSON: Then, it is understood that, although Mr. Lothead is referring to parts of the examination, it is all going in?

MR. LOCHEAD: That is quite satisfactory, my lord. Then, my lord, the first reference is page 140, lines 8 to 19 inclusive.

---Page 146, line 13, to page 147, line 12

Page 148, lines 10 to 23, inclusive

10 Page 157, lines 4 to 8, inclusive

Page 160, lines 3 to 24, inclusive

Page 161, line 15, to page 162, line 6

Page 162, lines 17 to 26, inclusive

Page 163, line 22, to page 164, line 5

Page 165, line 26, to page 166, line 3

Page 165, line 9, to page 166, line 3.

That is all I have to read in from the Commission, my lord.

20

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WESLEY JAMES MOORE, sworn.

---EXAMINED BY MR. LOCHEAD:

Q. Where do you live, Mr. Moore?

A. Right in Millbank.

Q. How far is that from the village of Lynwood?

A. About four miles.

30 HIS LORDSHIP: Lynwood is the village near which Mr. McKee's farm is, where Terry is living.

MR. LOCHEAD: Q. Are you married?

A. Yes, sir.

Q. Any children?

A. Yes, sir, one.

Q. How old is he or she?

A. She was a year

on September 6th.

Q. And how far is Millbank from the farm where Mr. McKee lives?

A. About two and a half to three

miles.

40 Q. Do you know Mr. McKee? A. Yes, sir.

Q. When did you first meet him?

A. In May of this year, I believe.

Q. Have you ever done any work for Mr. McKee?

A. Yes, I wired his buildings on the farm in which Terry is living now.

Q. And where Mr. McKee is now living? A. Yes.

Q. What sort of wiring was that, was it hydro wiring or some special type?

A. It was wiring a Delco plant.

Q. What buildings did you wire in this manner?

A. I wired the home and the barn.

Q. And how long did that work take you to accomplish?

A. Oh, from the time I started until I finished I would say approximately ten days to complete.

10 Q. Was Mr. McKee living on the farm at that time?

A. Yes.

Q. Was Terry living there? A. That is right.

Q. Have you been back on this farm since then?

A. Several times.

Q. And do you know Earl and Mrs. Stever?

A. I know them well.

Q. How long have you known them?

A. Since May, I met them some time in May.

20 Q. Will you tell me what you were able to observe as to the care and attention which Terry was receiving in this home?

A. Well, I would say that Mr. and Mrs. Stever were bringing him up just as if he were their own child. I think Mrs. Stever takes the very best of care of Terry and Earl plays football and baseball with him after his working hours and he is teaching him the fundamentals of farm life.

Q. Were you ever at the farm when Mr. McKee's daughter Joanne was there? A. Yes, I was.

30 Q. On one occasion or more than one occasion?

A. I have been there on more than one occasion, approximately three or four times.

Q. What, if anything, did you observe as to the relations between Terry and Joanne?

A. Well, I think Joanne had three children if I remember correctly, when she was there and she looked after Terry right along with the other three children. Terry was put to bed with them and played with them all the time. They seemed to be enjoying a nice family life.

40 Q. What did you observe as to the relations between Terry and Mr. McKee?

A. Well, Terry, from what he has said to me, seems to be very fond of his dad. While I was there wiring Terry was with me several times. In fact, he helped me in his own way gathering tools and one thing and another, and he also said that on several occasions.

MR. FERGUSON: I object to this.

HIS LORDSHIP: I do not think he should tell us what Terry said.

MR. LOCHEAD: Do not tell us what Terry said; the question was, what did you observe as to the relations between Terry and his father?

A. From my observations I would say Terry was very, very fond of his dad.

10 Q. What did you observe as to the condition of Terry's health?

A. Well, he seemed to be in very good health as far as I could ascertain. He is a good healthy boy and he is very active and there seemed to be nothing wrong with his health at all, he seems to be very healthy.

Q. You have told us about his playing with the three children. Did you ever see him playing with other children in the neighbourhood?

A. Yes, I seen him playing with the Stever boys, playing baseball with them.

20 Q. Are those children of Moses Stever?

A. Yes.

Q. What are the relations between Terry and these children?

A. I would say they are having lots of fun together.

---

---CROSS-EXAMINATION BY MR. FERGUSON:

30 Q. Do you live in the village of Millbank?

A. Yes, sir.

Q. That is, I understand, four miles from Lynwood?

A. Yes.

Q. Your business is that of electrician?

A. Yes, sir.

Q. And are you a friend of the Stevers who run the farm?

A. Yes, I am.

Q. You have known them a long time?

40 A. Well, I have known them since I have been in Millbank. I have been in Millbank since 1941.

Q. Where did the Stevers come from?

A. I couldn't tell you that, I don't know.

Q. You had never met them before?

A. I met them in 1941.

Q. Then, I ask you, are they residents of the district around Millbank?

A. Yes, they are farmers.

HIS LORDSHIP: I think they grow right out of the ground there.

MR. FERGUSON: Q. They are farmers in that neighbourhood? A. Yes.

Q. Had you been on this particular farm before May, 1947? A. No.

Q. Never seen it before? A. No.

Q. Do I understand it is an ordinary farm house on the property? A. Yes, there is an ordinary farm house there.

Q. With a barn? A. And a barn.

Q. And is it a farm house - there were no electric lights on the farm until you wired it?

A. No.

Q. Is there electric light there now? A. Yes.

Q. So before you wired it there certainly wasn't any signs of electricity in that neighbourhood?

A. No, there is no provision for it; the Hydro-Electric Power Co. has not got a power line through that district.

Q. Did you connect up the Delco system? A. Yes.

Q. And there is one on the property now?

A. Yes.

Q. Do I understand this farm is on a main thoroughfare? A. Well, it is on what we call the 11th line of Wellesley township. It is a main road in the township.

Q. Is it on a side road or a concession road?

A. It is on a concession road.

Q. You are quite sure it isn't on a gravel side road? A. Well, the roads are gravel but it is on a concession road, it is not on what we call a side road up there, it is on a main division between the sections of the township.

Q. Am I right in understanding that the farm is two miles from the nearest school house, or do you know that?

A. I am not sure, I would say it is approximately that far.

HIS LORDSHIP: That is the evidence I have.

MR. FERGUSON: Q. Now, you are well acquainted with the district. Do you know this concession road well?

A. Yes.

Q. It is not the kind of road either the township or county or highways department get ploughed out in the winter time?

A. I would say they do because in wiring the Lynwood

school, that is the school about one-half mile west of of Lynwood, I went there and it is on the same road to this farm. I went back to that school several times last winter and each time I went back there the road was ploughed out.

Q. There was quite a bit of snow up there last winter? A. Yes.

Q. Is there a lot of snow there every winter?

10 A. Well, the winters vary.

Q. The snow belt that runs through Ontario goes through that part of the country? A. Yes.

Q. And the winters are bitterly cold some times?

A. Well, last winter was exceptionally bad.

Q. Did you go to school in that country?

A. No, I went to school in Listowel.

Q. You did not have to walk two miles to school?

A. I had to walk slightly over a mile to school.

20 The school was at one end of Listowel and I lived at the other.

Q. Now, who engaged you to put in the electric wiring?

A. Well, Mr. Stever through Mr. McKee engaged me.

Q. Mr. Stever engaged you, why do you say through Mr. McKee? A. Through what Mr. Stever told me, he was given instructions to get an electrician.

Q. From Mr. McKee? A. Yes.

Q. But it was Mrs. Stever who engaged you?

A. Yes.

Q. Do you work from some place in Millbank?

30 A. I have a store.

Q. You went out in the morning to put in the wiring, did you? A. That is right.

Q. And did you go back home at night or stay there?

A. I went back home at night.

Q. Did you quit usually at 5.00 or 5.30?

A. Six o'clock.

Q. Then, you didn't spend any night on the farm?

A. I didn't stay there over night, no.

40 Q. When you were on the farm doing the wiring it would be in what month? A. In May and June.

Q. How long did it take you to do it?

A. Well, I would say ten days; I wired the house one time and the barn at another time.

Q. You were out altogether for ten days? A. Yes.

Q. Or do you mean you were out there a full ten days or on ten different days?

A. The sum total I would say would be ten days.

Q. Would you be there more than ten days working, I do not mean in time, I mean days -- Would you be there days for just an hour or so?

A. Oh, yes, I would be there a half a day.

Q. So, I take it when you went there first to commence your work it was Mr. Stever you saw and not Mr. McKee?

A. The first day I went to do my work Mr. McKee and Mr. Stever were both there.

10 Q. Was Mr. McKee there the second day?

A. No.

Q. Was he there on any other day?

A. Yes, altogether while I was there working about a half a dozen different times, I would say.

Q. Am I right in thinking that is the only time you saw Mr. McKee on the farm?

A. While I was working, yes.

Q. You would be engaged during the day in your own work, would you not? A. Well, how do you mean?

20 Q. That was the only purpose for your being on the farm, was to do the wiring, was it not?

A. Yes, that is true.

Q. And I suppose that Terry, a little boy seven, would be around and interested in seeing what you were doing? A. Yes.

Q. Like any other child; did he say anything about his mother at all to you?

A. No, he did not.

Q. Did he say anything about when he had lived in

30 Michigan? A. No.

Q. Or when he had been in California?

A. No, he didn't.

Q. The child was too young to discuss any of those things? A. Well, I don't know, I never asked him about anything like that.

Q. Well now, was his attitude towards you and towards the Stevers anything different than you would expect in any usual child about his age?

A. No, I wouldn't say so, he would be a typical boy, 40 I would say.

Q. And I suppose there was nothing unusual in his attitude towards Mr. McKee?

A. No, nothing unusual, I would say, but he mentioned his dad several times.

Q. There was nothing unusual in that, was there?

A. No.

Q. Now, you say you are familiar with this farm house?



A. Yes.

Q. Is there any bathroom in the farm house?

A. There is now.

Q. There was no bathroom when you went there in May?

A. No.

Q. Have the Stevers got a motor car? A. Yes.

10

---RE-EXAMINATION BY MR. LOCHEAD:

Q. Just one or two questions, in answer to a question of my learned friend, he said the only purpose for you being there was to do the wiring. Have you been back on the farm since you completed your work?

A. Yes, I have.

Q. On how many occasions, approximately?

A. I don't know, I have been back several times.

20 Q. Were those visits what you would call social visits or in connection with the work you had done?

A. No, just ordinary visits.

Q. That is all, thank you.

---Witness withdrew.

HIS LORDSHIP: Now, does that conclude your evidence subject to formally closing your case?

MR. LOCHEAD: Yes, my lord.

30 HIS LORDSHIP: When can we go on with this? Have you discussed it at all with Mr. Lohead? Mr. Lohead, you may have some difficulty coming up.

MR. LOCHEAD: Monday is a holiday, my lord, and Mr. McKee has to be in New York on Tuesday, he wasn't there yesterday. However, it would not have made any difference in the circumstances.

HIS LORDSHIP: Can you be ready to go on Wednesday morning? I do not suppose you know yet how long the evidence in reply is going to take.

40 MR. FERGUSON: My lord, my difficulty is this; I find that on examining my client that there are some important facts of a vital nature to this case that has not been testified in chief.

HIS LORDSHIP: I cannot allow you to re-open your case. I cannot let in anything that is not in reply. There was ample opportunity to your client to put in any evidence she thought proper.

MR. FERGUSON: If your lordship feels that way of course I am just wasting my time.

HIS LORDSHIP: I cannot let you re-cast your case now. This woman had every opportunity in the world to put in whatever evidence she wanted. I am not going to let her come at the conclusion of the defendant's case and say there is a lot more evidence I want to put in.

MR. FERGUSON: I apologize for mentioning it.

HIS LORDSHIP: You do not need to apologize. I cannot do that or we will be here all year. I do not think  
10 I should allow you to do that unless you can show me very substantial reasons and very substantial authority for it.

MR. FERGUSON: It is a matter for the discretion of your lordship.

HIS LORDSHIP: I won't make up my mind until I hear you. I am not going to let you play ducks and drakes and when I say that I assure you I am not reflecting on you. This case must be disposed of. If you are making some application of that sort I would like to hear it,  
20 if you are in a position to make it now. If you are not, let me know when you will be.

MR. FERGUSON: No, I do not think the application should be made until the evidence is tendered, my lord. Your lordship can rule it out.

HIS LORDSHIP: Probably it shouldn't be made until Mr. Lohead closes his case. I am not going to have further delays. I am telling you if you are going to make some such application we had better go on this afternoon and I will hear you.

30 MR. FERGUSON: I do not want to delay the Court, of course.

HIS LORDSHIP: I mean, please do not assume when I say these things perhaps rather violently that I am reflecting on you. I appreciate your difficulties, really I do, and I want to assist you, but at the same time I have to look upon your client as being a responsible person.

MR. FERGUSON: I think she is, my lord.

HIS LORDSHIP: Having had ample opportunity to pre-  
40 sent her case, there would have to be unusual grounds to allow you to re-open her case when the defence is closed, except by way of reply. If you can get me any authority for that I will be glad to consider it but I do not know of any offhand.

MR. FERGUSON: Well, my lord, I think we should have at least until to-morrow morning. I can undertake to go on to-morrow morning.

WESLEY JAMES MOORE -- Witness for Defendant --

MRS. EVELYN MCKEE -- Witness for Plaintiff --

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Re-Examination  
Dir.-Examination

HIS LORDSHIP: I do not want you to go on to-morrow morning if you need longer time. What I want to be sure of is when we go on we will finish, but I do not want to force you on.

MR. FERGUSON: We can be ready to go on to-morrow morning.

HIS LORDSHIP: Very well, we will go on to-morrow. You are satisfied to do that?

10 MR. FERGUSON: Yes.

HIS LORDSHIP: Very well then. I take it you are closing your case now, Mr. Lohead?

MR. LOCHEAD: If I may leave my case in that position, your lordship, I would be very grateful.

HIS LORDSHIP: As I say, if you have any grounds for wanting to adduce further evidence in chief, I think you should have ample authority for what you are urging upon me. You see, Mrs. McKee has not only been advised by the counsel here but has been advised by American counsel  
20 as well throughout this trial.

MR. FERGUSON: I did not know about that.

HIS LORDSHIP: Mr. Pulfer has been here acting, not as counsel, but he has been here throughout the hearing.

MR. FERGUSON: That is one of the reasons I want an adjournment, I want to consult him.

HIS LORDSHIP: When will you be able to do that?

MR. FERGUSON: I hope to be able to do it this afternoon.

HIS LORDSHIP: I think there is just this, if you  
30 discover for some reason you cannot go on, would you communicate with Mr. Lohead?

MR. FERGUSON: Oh, indeed I shall do that.

---The Court was then adjourned until 10.30 o'clock a.m. on October 8, 1947.

---The Court resumed at 10.30 o'clock a.m. on October 8, 1947.

MR. LOCHEAD: I am closing my case, my lord.

HIS LORDSHIP: Now, Mr. Ferguson?

MR. FERGUSON: I will call Mrs. McKee.

40 REPLY

MRS. EVELYN MCKEE, having been previously sworn, was recalled to the stand:

EXAMINED BY MR. FERGUSON:

HIS LORDSHIP: Mrs. McKee has already been sworn. You understand you are still under oath?

THE WITNESS: Yes, I do.

MR. FERGUSON: I understand you went to Kitchener this last spring, in 1947? A. Yes, that is right.

Q. And just to refresh my memory, about what date did you arrive there? A. About the 1st of March.

Q. Now evidence has been given, as I understand it here that you had been in Kitchener from about the 1st of March, and you were seen in Nicholson's Restaurant.  
10 Have you been in Nicholson's Restaurant in Kitchener?

A. Yes, I have.

Q. In whose company? A. I was with Mr. William Brock, Mr. Gordon Brock's bachelor brother.

Q. What was the occasion of going to Nicholson's Restaurant with Mr. Brock's bachelor brother?

A. Well, I was introduced to Mr. William Brock by Mr. Gordon Brock a few days after I arrived there.

Q. Mr. Gordon Brock was your solicitor?

A. Yes, sir.

20 Q. What did you engage Mr. Brock to do; was it in connection with this case? A. Yes, at that time we were working on this case and I was telling him about it.

Q. I understand by an order filed here of Mr. Justice Smily's that there was an application on a return of a writ of habeas corpus about the 25th of March?

A. Yes.

30 Q. How long before that had you been instructing Mr. Brock? A. Well, I engaged him a few days after I arrived in Kitchener -- I suppose about two or three days after I arrived there.

Q. When did you seriously get down to the business of preparing papers for this application?

A. It was about a few weeks after that, two or three weeks after we actually started going into any of the case and at that time Mr. Brock was handling another case that was taking most of his time.

Q. Where did you do most of your work in connection with the preparation? A. At Mr. Brock's home.

40 Q. That is your solicitor? A. My solicitor's home.

Q. How did you come to be in company with Mr. Brock's brother in connection with this?

A. Mr. William Brock was very often there and he would drive me home from there, and on the way home from Mr. Gordon Brock's we very often stopped, 4 or 5 times we stopped at the restaurant.

Q. Any more than four or five times? A. I never was there more than five times at the most.

Q. You were staying at the Walper House?

A. Yes, and his family lived in Westmount and how I guess he stopped at this particular place was it seemed he got his newspaper there.

Q. You stopped in on the way home to the Walper House?

A. Yes.

10 Q. After you had finished your work?

A. Yes, sometimes we had a friendly game of bridge after our work with the Brocks.

Q. Now, were you ever with Mr. Brock in Nicholson's Restaurant on other occasions other than returning from Mr. Brock's home?

A. No, I never was.

Q. Now, I understand it has been given in evidence here that you were seen with Mr. Brock and he was kissing you or you were kissing him in the restaurant.

20 HIS LORDSHIP: He was not identified in the evidence, the man the witness said was kissing her was not identified. It was just a man she came in with.

MR. FERGUSON: May I ask this question: Were you in Nicholson's restaurant with any person other than Mr. Brock's brother?

A. No.

Q. No gentleman?

A. No.

HIS LORDSHIP: I was just trying to tell you because that was the evidence and you did not hear it.

30 MR. FERGUSON: Evidence has been given that some man was kissing you or you were kissing some man in this public restaurant. What do you say about that?

A. That is completely false. There wasn't anything that could make a person tell I was kissing him or him kissing me and I heard the girl he kissed me when I was putting my coat on. I think she said he kissed me or something when I put my coat on. This is a little place where you sit on stools and we walked in for coffee and  
40 stayed 20 minutes and I never had my coat off for the man to help me put it on.

Q. Now, I understand it is said you were kissing in that restaurant, and then funnily enough on the same track it is said that somebody was kissing you in a restaurant out in California. What do you say about that?

A. I heard the evidence about the McCarthy ranch.

HIS LORDSHIP: Murray's ranch, I think is what he is

talking about.

THE WITNESS: Well, it is absolutely false, there isn't any truth in it. I was there at the ranch.

MR. FERGUSON: Q. You have not a propensity for kissing people in a public restaurant? A. I certainly have not.

MR. LOCHEAD: That is a little leading, my lord.

MR. FERGUSON: It is all on the one track and whoever  
10 thought it up had a one-track mind.

Q. Just while we are on that McCarthy ranch business, were you at the McCarthy ranch?

A. Yes, I was.

Q. What time were you there? A. Well, it seems to me like it was about the 22nd or something like that of February.

Q. Give us the year? A. 1945.

Q. In 1945? A. Yes.

Q. It was about the time, I think you said, you were  
20 having difficulty finding a place to stay and were moving from hotel to hotel?

A. Yes, I found this place through the Chamber of Commerce.

Q. You were looking for a place to stay in California?

A. Yes, I was ill at the time.

Q. Was that something to do with the scarcity of hotel accommodation? A. Yes, people stood in line.

HIS LORDSHIP: Her evidence was you couldn't stay more than five days and then you had to move. There was  
30 some O.P.A. regulation?

A. That is right.

MR. FERGUSON: Q. You have not previously testified about the McCarthy ranch?

A. I believe Mr. Lohead asked me something about it.

MR. LOCHEAD: My lord, in cross-examination I questioned this witness about the McCarthy ranch and she evidently had read the commission and simply gave a categorical denial.

40 MR. FERGUSON: Q. You went there, in fact?

A. Yes.

Q. Now, what was the weather like?

A. The weather was very cold, they had ice and snow while I was there and had to have fires. They had to build fires and stoves in the rooms.

Q. Was there any occasion then or any opportunity for you or anyone who stayed there with you to get into

bathing suits?

A. No, it was horrible weather.

Q. Just say yes or no. A. No, there was not.

Q. I understand there was evidence taken on commis-  
sion, given by a gentleman, a coloured gentleman, Mr.  
Bentley, Wade Bentley, who was a coloured man who was  
working at the ranch where you were. In the first place  
10 tell me about that; was there a man working at the ranch,  
a coloured man?

A. If there was I didn't see him, I never saw a  
coloured man on that ranch.

Q. Did you see any coloured people there?

A. Yes, I saw one coloured girl.

Q. What was she? A. She was called Bobbie.

Q. Would this be Bobbie Bentley?

A. I don't know for sure but I guess so.

Q. Bentley's evidence was he was not employed there  
20 but he hung around and did odd jobs and ran messages for  
guests. His wife was supporting him at the time, she  
was working at the ranch and he was about the place and  
picked up what he could. Did you ever see a coloured  
man working around there?

A. No, I never did.

Q. You were there how long? A. I was there,  
I believe, about ten days, no, I went for two weeks and  
it was so cold and miserable I couldn't stay.

Q. Evidence was given that you went horseback riding?  
30 HIS LORDSHIP: I do not believe there is any evidence  
this witness was horseback riding, it was just Cynthia.  
It is an easy matter to check.

THE WITNESS: This person who says he was Wade Bentley  
testified that.

MR. FERGUSON: Q. If somebody was horseback riding  
it wasn't you? A. I had been injured by a horse  
and I have never been on a horse since then.

MR. LOCHEAD: My lord, this has already been read in  
on page 36 of the cross-examination.

40 MR. FERGUSON: Q. At any rate you say if he saw  
anybody riding a horse it wasn't you?

A. It couldn't have been because I have not been on  
a horse since my accident.

Q. Now, in this commission evidence as I heard it  
yesterday, it was said that you were on an afternoon or  
sometime seen in Dr. Shield's hut, No. 11 I think it was.  
Do you remember Dr. Shields?

A. Yes, I know him.

Q. Did you meet him at McCarthy's ranch?

A. No, I met him before McCarthy's ranch; I saw him twice before.

Q. Where does he reside? A. I don't know where he resides now.

Q. Where did he reside then? A. I believe he was going to Los Angeles, I think he was going to take some kind of a refresher course. That is what he wanted to see us about, he wanted Mr. Cloud to help him do something.

Q. You say you had just seen Dr. Shields on two occasions before going to McCarthy's ranch?

A. Yes.

Q. What occasions? A. I went to see him the first time about Cynthia's dental bill. It was over \$100, and the second time he started to work on a cavity for me and he didn't finish because he sold his office.

Q. You talked to him about the bill for Cynthia?

A. Yes.

Q. This was before you met him at McCarthy's ranch?

A. Yes.

Q. Did you meet him at McCarthy's ranch by any pre-arrangements? A. I wouldn't know if you would call it pre-arrangement, whether I had talked to him about his going there.

Q. Did you make an appointment to meet him at McCarthy's ranch? A. No, I didn't.

Q. Now it is said he came back to the town -- I first should ask you, it is said you were seen in Dr. Shields' hut, is that correct, were you in Dr. Shields' hut?

A. I was there, I believe it was right after dinner, with Mrs. McCarthy and Bill Miller and Cynthia and a girl Frances something. He asked us to come over.

MR. LOCHEAD: My lord, I object to any conversations.

THE WITNESS: We went to see pictures that he had taken on his trip with President Roosevelt in South America.

MR. FERGUSON: Q. You went to his place in company with these people? A. Yes.

Q. You were not there alone? A. I never was there alone, I never was any place alone.

Q. You said it was after dinner, was it a six or seven o'clock dinner? A. I think it was usually around 6.30 or something like that.



Q. This person, Bobbie Bentley, assuming she was the coloured maid, says that she saw you in negligee.

A. I was only there once and that was while these people were there.

Q. You were not in negligee at all? A. No.

Q. Or a housecoat or anything like that? A. No, when I was there I had on blue jeans.

Q. I presume what you mean by blue jeans is slacks?

10 A. It is what they wear on these ranches.

Q. It is a form of trousers? A. Yes.

HIS LORDSHIP: Like overalls? A. Yes.

Q. Blue coarse canvas clothing? A. Yes.

20 MR. FERGUSON: Q. Now, I understand that your husband has given in evidence something about Canadian relatives and the people of Kitchener and he is in some way related to them. All I want to know from you about that is during your married life with Mr. McKee did you ever hear of Canadian relatives on either side of his family?

A. I heard of one person at Mr. McKee's mother's funeral and he was a man by the name of Peiffer, and I understood that man was a relative of the first Mrs. McKee.

Q. Did you ever hear of any of these relatives like Stevers at Kitchener? A. No, I never heard of them before. They never visited us nor had I been here.

Q. Did you ever have any Canadian relatives visit your home? A. No.

30 Q. Did Mr. McKee ever inform you on any occasion on which he visited any of his so-called Canadian relatives?

A. No, he never did.

Q. So far as you know did he ever take any of the children to visit the Canadian relatives?

A. I know he didn't when he lived with me, because I always knew where the children went.

Q. Now, did you ever hear of them having any of the children to Ontario; he said he went to Canada once, to the Maritimes.

40 A. That was this summer.

HIS LORDSHIP: Yes, that was last summer.

MR. FERGUSON: Q. There was evidence by Mr. McKee as to frequent trips on his part to Canada?

A. That is news to me, he never took the children.

Q. I think he referred to a trip he took this last summer. Tell me this, did he ever tell you of any Canadian business interests he had?

A. No, he never did. The only time he ever told me about any Canadians was that he was to see a doctor over here.

Q. Outside of seeing a doctor did he ever inform you of any reason for him coming to Canada? Did Mr. McKee ever bring it to your attention he had any reason whatever to come to Canada?

MR. LOCHEAD: My lord, this is not properly reply.  
10 There is no suggestion by anybody that Mr. McKee had ever told this witness he came to Canada while they were living together.

HIS LORDSHIP: And they have not been living together since 1941.

MR. LOCHEAD: 1940, according to this witness.

HIS LORDSHIP: December 1940, that is right.

MR. FERGUSON: I was speaking about before 1940.

MR. LOCHEAD: Why deny something that has not been raised?

20 MR. FERGUSON: There was evidence that Mr. McKee said he had formed a great affection for Ontario, particularly for the county of Waterloo. His evidence was that during his first wife's lifetime he had visited here frequently with the children. When he re-married he ceased that practice after his first wife's death, but he said he had formed this affection for Ontario.

HIS LORDSHIP: That is right, he said that. I suppose you are entitled to ask what evidence he gave of that affection during the time he was living with his  
30 wife. You have to start somewhere, you can start there.

MR. FERGUSON: Let me get a little closer to the time; since your separation in the fall of 1940, throughout any proceedings since that time or any connection that you have had with him, have you ever heard any reference by Mr. McKee to the fact he had formed any affection for the Province of Ontario or for Waterloo County?

MR. LOCHEAD: My lord, the evidence is they have been separated since that time.

40 MR. FERGUSON: They have had a great many proceedings together; they have been sitting across the courtroom.

MR. LOCHEAD: That is true if my friend's question is limited to that.

MR. FERGUSON: It is not limited at all.

HIS LORDSHIP: I suppose it is limited to anything she heard Mr. McKee say.

THE WITNESS: His affection was for Port Austin,

Michigan, then.

MR. FERGUSON: Q. Was there any statement made by him?  
A. Yes.

Q. What was it? A. His affection was for Port Austin, Michigan, and I heard that throughout all the trials.

Q. Did you ever hear anything about Ontario?

A. I never heard a word about Canada until this  
10 came up.

Q. Neither Canada nor Waterloo County?

A. No.

HIS LORDSHIP: That coincides with Mr. McKee's evidence. He said he always regarded Port Austin as his home until he made this change. He was very definite about it.

MR. FERGUSON: Mrs. McKee, I understand you and your husband separated in December of 1940. Your husband has testified in answer to questions put to him by his  
20 counsel, he says, "Well, I think we agreed to disagree in December, 1940. Mrs. McKee told me she wanted to get a divorce".

Now, Mrs. McKee, what do you say about that, you agreed to disagree in December, 1940?

A. Mr. McKee came to see me where I had the children at Palm Springs and asked me if I would give him a divorce because he wanted to marry a girl Marjorie Froidend.

Q. Palm Springs is in California? A. Yes.

Q. Did you ever see this Marjorie Froidend?

30 MR. LOCHEAD: My lord, I object to my friend going into this. Mrs. McKee has dragged this answer in now, but I object to it.

MR. FERGUSON: I think you raised it in cross-examination.

HIS LORDSHIP: He has simply asked her if she had seen her, what difference does that make?

THE WITNESS: He took Miss Froidend to the home in Port Austin and had her there for two weeks.

40 MR. LOCHEAD: I object to this witness going into this. Throughout the course of the hearing she has persisted in dragging in all the dirt she can possibly think of. I did not bring that in.

MR. FERGUSON: With respect, I think the speeches are on the other side.

Q. Mrs. McKee, now he said he wanted to marry this Marjorie Froidend; now, did you ask him for a divorce at that time?

A. No, I did not, but he asked me not to get a divorce until after he was elected to the Pan-American board that year. I think it was in June it was going to come up, and he wanted a property settlement worked out before then.

Q. Did he tell you anything else about Marjorie Froidend? A. He said he would get her passage to get a divorce from her husband.

10 MR. LOCHEAD: I object to evidence about this woman. She was not mentioned in my case at all. It is most unfair if this witness is allowed to go into the witness stand and bring up somebody and give testimony I have no opportunity of explaining whatsoever. This person was never mentioned in cross-examination. My friend who preceded Mr. Ferguson went into political dirt back for 30 years. Now, if he knew about all these people why didn't he lay a foundation for this by asking Mr. McKee? I submit my friend cannot go into this business  
20 at this time. Mr. McKee in his evidence wished to explain why he separated from his wife.

HIS LORDSHIP: She denied that and said he asked her for a divorce because he wanted to marry this woman. Isn't that the end of it?

MR. FERGUSON: Mr. McKee said the reason they separated was that Mrs. McKee wanted a divorce. She says that is untrue.

MR. FERGUSON: He holds himself up here as a holier-than-thou person.

30 HIS LORDSHIP: I am not interested in that, I am interested in what the evidence discloses.

MR. FERGUSON: This witness is entitled to give an explanation.

HIS LORDSHIP: She has given an explanation but I do not think you are entitled to adduce a lot of fresh evidence about his relationship with this woman. It is not reply; it doesn't arise out of the defendant's case and surely that is the test, is it not?

MR. FERGUSON: That is the test, of course.

40 HIS LORDSHIP: How does it arise out of the defendant's case?

MR. FERGUSON: He said, "We agreed to disagree in 1940". We have the right to reply to that statement and our reply is not limited if it is not true. He says Mrs. McKee told him she wanted a divorce and we have the right to deny that and the right to reply and the right to explain what he meant by a divorce, and have a

right to show as far as the divorce being on us, it was the other way around.

HIS LORDSHIP: I think you have done that.

MR. FERGUSON: Well, my lord, I submit this question. Do not answer this question until his lordship rules on it. Did Mr. McKee give you any reason, did he state any reason to you why he wanted to marry this 24 year old girl?

10 MR. LOCHEAD: I object to that question. This witness testified Mr. McKee asked for a divorce and I submit it ends there.

HIS LORDSHIP: I think I will admit it, subject to your objection.

THE WITNESS: Well, through the years I was married to Mr. McKee he was sadistic throughout in his sexual relations with me.

MR. LOCHEAD: I must object.

20 MR. FERGUSON: I am not finished yet. Just answer the question.

A. Well, he said he wanted to re-marry and have a new life over again.

Q. Did he say anything about your age?

A. He said I was too old for him. He said he would never be older than a lad of 18.

MR. LOCHEAD: I take it my objection is registered to all that and to the question as well?

HIS LORDSHIP: Oh, yes, that is right.

30 MR. FERGUSON: Well, then, I see by Exhibit 3 there is a settlement of some kind made. I have not read all the document, but when did the negotiations take place which led up to that settlement in Exhibit 3?

HIS LORDSHIP: How is this reply?

MR. FERGUSON: It comes in reply in this way; let me lay a foundation this way --

HIS LORDSHIP: What are you reading from?

40 MR. FERGUSON: I am reading from a transcript of the evidence in chief of Mr. McKee furnished me by the Court Reporter, furnished to Mr. Brock by the Court Reporter. Your husband was asked in reference to the separation in 1940;

"Q. Where were you living at that time?

"A. We were living in the Azusa home.

"Q. How long did you continue to go to the

"Azusa home, until approximately what date?

"A. The last time I was in the Azusa home was,

"I believe, in August, 1941."

MR. FERGUSON: Well, in between your separation in December, 1940, and say August, was there anything going on in connection with the separation agreement?

MR. LOCHEAD: My lord, how can this be reply? There was no evidence in my case about negotiations leading up to the property settlement, no evidence whatever.

MR. FERGUSON: Just a moment, the next question was:

"How long did you continue to go to the Azusa

10 "home, until approximately what date?

"A. The last time I was in the Azusa home was, I believe, in August, 1941.

"Q. What happened then?

A. I came

"home and found in my bedroom closet a perfumed

"bathrobe belonging to a Peruvian gentleman,

"and I found he had been occupying my bed with

"my wife and my baby."

MR. FERGUSON: Now, tell me between September when this man came home and then had there been any negotia-  
20 tions going on with respect to that agreement?

A. Yes.

MR. LOCHEAD: My lord, my friend is simply repeating the question.

HIS LORDSHIP: What has that to do with the evidence you have read?

MR. FERGUSON: It has this to do with it, my lord. The separation agreement is dated the 4th of September, 1941, and the last time this man says he was in the house was in August of 1941, and he puts forward in his  
30 evidence the reason.

MR. LOCHEAD: Because he discovered this affair with a man he calls "a Peruvian gentleman".

MR. FERGUSON: This evidence is directed to the fact that that agreement was signed in September.

HIS LORDSHIP: There is no dispute about that; the agreement shows it.

MR. FERGUSON: All I want to show, my lord, is that in view of the fact he says he was suddenly shocked he still made a property settlement. He says he was sud-  
40 denly shocked into a realization of what was going on and my question to this witness was, "Were these negotiations going on all through the spring of 1941".

HIS LORDSHIP: What difference does it make?

MR. FERGUSON: It indicates that these people had agreed to separate and were in the process of settling their affairs.

HIS LORDSHIP: His evidence was they agreed to separate

in 1940, in December 1940, and he kept his children there and continued to live there in the house? I gather, in a separate way, until when he said he discovered a love affair going on between his wife and the Peruvian gentleman.

MR. FERGUSON: My lord, is it not obviously plain in this agreement of September, 1941, whereby he gives custody of this child --

10 MR. LOCHEAD: Oh, no, he does not, there is no reference whatsoever to custody in that agreement.

HIS LORDSHIP: I do not think it is there, at least as I recollect it.

MR. LOCHEAD: I must apologize to my friend for interrupting in that manner.

MR. FERGUSON: There are no words in the agreement, I have not read it all but I understand there are no words in the agreement saying Mrs. McKee was to have custody of the child.

20 HIS LORDSHIP: You see at that time I do not think the question of custody was discussed because at that time this baby was a little more than a year old.

MR. FERGUSON: My lord, all I can say is that is a matter of argument.

HIS LORDSHIP: It is not a matter of argument, it is a matter of straight fact that the child was born in 1940.

MR. FERGUSON: No, but on the question of whether she had custody of the child.

30 HIS LORDSHIP: Her evidence was she had up until the time of the trial.

MR. LOCHEAD: We do not deny at least the child was with her.

MR. FERGUSON: The clause could have no other meaning as you read English. It says that she was to get \$125 a month until he was 21 years of age for his maintenance. What other meaning could it have if it didn't mean she should have custody. She was getting \$125 for nothing surely.

40 Do you know, as a matter of fact, what was the last time Mr. McKee was at your residence?

A. About the 12th of August.

Q. Was this agreement signed by you on the 4th of September? A. Yes, it was.

Q. And it was signed by you, and was it signed by Mr. McKee when you signed it?

A. No, my attorney sent it on to Detroit.

Q. I show you also clause 5. That clause was in there, of course, when the agreement was signed?

A. Yes, Mr. McKee had it put in.

Q. I understand this agreement is still in force?

A. It has never been attacked.

Q. Has it ever been cancelled? A. No, or been attacked.

HIS LORDSHIP: That is my understanding, it is still  
10 in effect.

MR. LOCHEAD: It was referred to, my lord, in the 1942 judgment.

HIS LORDSHIP: It was approved, wasn't it?

MR. LOCHEAD: Yes, my lord, subject to one or two alterations.

HIS LORDSHIP: It was specifically dealt with in the 1942 judgment?

MR. LOCHEAD: Yes, my lord.

MR. FERGUSON: By the way, your husband has testified,  
20 that is, Mr. McKee has testified, that he has looked after the child well during the time the child has been in his custody since your separation. What have you to say about that?

A. When the child was brought back to me in 1943 he was infested with lice.

MR. LOCHEAD: Just a minute.

MR. FERGUSON: Please.

MR. LOCHEAD: My lord, as far as I recall there was  
30 no evidence by anybody as to the care and attention given to Terry until the time that Mr. McKee was in Milwaukee.

HIS LORDSHIP: The care from there on and up to and including the present.

MR. LOCHEAD: Yes, my lord, the witness just mentioned 1933.

HIS LORDSHIP: She said 1933?

THE WITNESS: I am sorry, I got 1933 and 1943 mixed.

HIS LORDSHIP: Q. When was it?

A. It was in 1943 a doctor testified as to the condition of the child. He had lice they had to take out  
40 of his eyelids.

MR. LOCHEAD: My lord, I object to this witness giving evidence as to a doctor's testimony.

HIS LORDSHIP: I just want her to tell me what she knows herself.

THE WITNESS: He had lice, he had three kinds of lice on his head and in his eyelids. When I tried to remove them I found he had them on his body and when he came



back he weighed one and one-half pounds more than when he took the child in November or December.

MR. FERGUSON: That is for eight or nine months?

A. Yes.

HIS LORDSHIP: Did you do anything at that time, did you take any further steps about his custody?

A. Yes, I did.

Q. Where did you take them? A. In Los Angeles.

Q. In 1943? A. Yes, and the doctor testified as to what happened.

Q. What did you do? A. I lost there.

Q. You lost? A. Yes, they said it was too soon after the first decision.

Q. Then, following that in the spring of 1940 -

MR. LOCHEAD: My lord, I wonder if the witness would state what year this was.

HIS LORDSHIP: I understood it was 1943.

20 THE WITNESS: Yes, it was 1943, he came home in this condition in 1943, the 1st of July.

MR. FERGUSON: Now, speaking about the conditions under which the child lives, you live now, I understand, at Sherman Oaks in California?

A. Yes.

Q. And who are the members of your household?

A. My son.

Q. That is your own son? A. Yes.

Q. By your first marriage? A. Yes.

Q. That is your son Jerry? A. Yes, it is.

30 Q. Who else was living there? A. Cynthia may be there, I don't know for sure.

Q. She isn't there now?

HIS LORDSHIP: She is here.

MR. FERGUSON: She isn't a resident there?

A. No, she really isn't a resident there.

Q. Tell us about the house? A. I did tell the judge.

40 HIS LORDSHIP: I have heard all about it twice, I even have pictures of it. I am willing to accept it is quite a pleasant little place.

MR. FERGUSON: Let me ask you this, are the conditions surrounding your home as good as the conditions were in 1942?

A. I think this is a more desirable place because it is in a community out there and I think the San Bernardino Valley is considered one of the most healthful places in the world to live. I am sorry you cannot

see it because I cannot describe it. Really it is a very pleasant place to live.

Q. And that is the place you intend to have the child if you get custody? A. Yes.

Q. Your lordship has evidence of means of support?

HIS LORDSHIP: Oh, well, she has the money she is entitled to under that agreement. I do not think there is any suggestion that has not been made regularly.

10 MR. FERGUSON: I understand from the evidence it is an irrevocable trust.

HIS LORDSHIP: No, I don't think so, it is just an agreement. The irrevocable trusts are in connection with the other McKee children.

MR. FERGUSON: The child was with you when you and Mr. McKee separated?

A. Yes, he was.

Q. You took the child to wherever you resided?

A. Yes.

20 Q. Was there some of Mr. McKee's children went with you? A. Yes, two of them, Joanne and Cynthia.

Q. And was that in 1940 or 1942?

A. That was in 1941.

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---CROSS-EXAMINATION BY MR. LOCHEAD:

30 Q. Now, Mrs. McKee, with regard to this year 1943 that you have just given evidence about; I believe you referred to the time when Terry was turned over to your possession, as it were, early in July of 1943?

A. Yes.

Q. And is it not true that Terry came out to California that time with his half-sister Joanne?

A. I didn't know that.

Q. Isn't it true that Terry came out with Joanne on that occasion by train?

A. I don't know that.

40 Q. Did you see Joanne after Terry was turned over to you? A. No.

Q. Who turned him over to you then?

A. Well, he was turned over by one of his attorneys, I believe it was, who brought him to the house.

Q. Is it not true that it was discovered at that time that Joanne also had lice and that the Pullman was examined and it was discovered they both got it from the

Pullman car?

A.. It is not true, the doctor testified he had three different kinds.

Q. All these matters of July, 1943, were gone into fully on the application you made in September, 1943?

A. That is correct.

Q. Isn't it true at that time evidence was given to the effect of the question I have just asked you?

10 A. No, they didn't bring a doctor or anything or give any testimony.

Q. Was evidence not given before the presiding judge at that time to the effect that the lice were contacted in the Pullman car on the way out?

A. I don't know who gave it.

Q. I am not asking you who gave it, I am asking you you whether it is true or not?

A. If Mr. McKee gave it I do not remember.

20 Q. Did anybody say it? A. I am trying to remember if I heard something about the Pullman and I don't think I did.

Q. At any rate your application was dismissed?

A. Yes.

Q. And I think the reason you gave my friend a few minutes ago was that it was too soon after the 1st of April? A. That is what my attorney said.

Q. Were you there, did you hear the judge say that?

A. I don't remember hearing him say that.

30 Q. You were advised that? A. I am advised he told Mr. Cloud.

Q. Isn't it true an application was made to the Superior Court in California in June, 1943, and several days' evidence was taken and an order was made on June 28, 1943?

A. I thought that was the hearing to fix the time I was supposed to have the child.

40 Q. You might remember in cross-examination of yourself I went into the question of the 1943 order in June very thoroughly. I recalled it to your attention among other things provided by that order that Cynthia was enjoined from removing Terry from the home and you were enjoined from having Terry when the person de la Fuente was present at any time. Do you recall that order?

A. I recall that testimony.

Q. That is not testimony, that is an order of the Court, and do you remember it?

A. I remember that order, I remember hearing the

judge say that in Court.

Q. Isn't it true that order dated June 28, 1943, was made after the hearing by the Court in California of an application by you, and I believe a cross-application by Mr. McKee to modify the original order?

A. If you will show it to me I would know. I am not trying to be evasive, I do not just remember.

10 Q. It is Exhibit 23. My lord, I refer to Exhibit 23 which your lordship will recall is an exemplification of this witness's complaint in the Milwaukee action. Your lordship will recall that there were a number of exhibits to that complaint.

THE WITNESS: I believe I remember what that was.

MR. LOCHEAD: I will show you the order. I have reference to Exhibit B of the Milwaukee complaint which is filed as Exhibit 23 in these proceedings. Now then, I have already gone into this order at considerable length with you.

20 A. This is the California order?

Q. This is the California order dated June 28, 1943.

HIS LORDSHIP: She brought an action in Wisconsin and apparently these were all filed as part of the proceedings.

MR. FERGUSON: In Wisconsin?

HIS LORDSHIP: Yes, she attacked all proceedings in California in the Wisconsin proceeding.

MR. LOCHEAD: Q. Now, do you recall those proceedings on June 10, 1943?

30 A. That wasn't for me to change the custody.

Q. I am asking you if you recall these proceedings on June 10, 1943?

A. I remember a proceedings to fix the time the child was to be brought to me. I just wanted the baby brought back to me and an order to show the date I was to have him.

Q. Isn't it true these proceedings in June, 1943, were instituted by you or by your attorneys who were acting for you?

40 A. I suppose so. I had not seen the child to know anything about his physical condition.

Q. And the matters you have referred to now, which you discovered as you say in July, 1943, were gone into thoroughly in September, 1943?

A. Yes.

Q. Now then, Mrs. McKee, did you ever meet a Mr. Bowker?

A. Mr. Bowker of the railroad?

Q. Yes? A. I believe he was vice-president of the Grand Trunk Railroad. I think he was in our home.

Q. You met him there? A. Yes, I did.

Q. Isn't it true at certain times, at any rate, he had a private car with the Grand Trunk Railway?

A. Yes.

Q. Did you ever travel in that private car?

A. Once.

10 Q. Isn't it true you went to Montreal with Mr. McKee in that car? A. Once.

Q. On several occasions? A. Once.

Q. Was Bowker along on that trip? A. Yes.

Q. My friend was trying to bring out the fact that nobody had ever been in Canada before. Now, you have told us you went to Montreal once in this private car of Mr. Bowker's, and isn't it true you made other trips to Montreal with Mr. McKee when he was on business?

20 A. No, I went to Quebec one time but he didn't go on business.

Q. On business or pleasure, have you not made trips to Montreal or Quebec?

A. To Quebec when we were married.

Q. Any other occasions you can think about now?

A. I don't remember any others.

Q. I suggest to you you went to Montreal with Mr. McKee on several occasions during your married life?

A. No, I went once.

Q. With Mr. McKee? A. Yes.

30 Q. Were you ever there alone during your married life? A. No.

Q. Ever there with any other members of the family?

A. I believe this one time we went to Montreal it seems to me my son Jerry went with us.

Q. That was during your married life with Mr. McKee?

A. Yes.

40 Q. Now then, in answer to a question as to Dr. Shields back at the ranch I believe you said that no appointment was made to meet him there but you knew he was coming, didn't you?

A. No, I didn't know it until the day he came.

Q. Did you arrive first? A. We were there several days before he arrived.

Q. Did he know that you were there before he got there? A. Yes, because Cynthia had written him a letter about the dental bill and she had said her attorney, Mr. Cloud, was going to handle it.

Q. Are you suggesting that Dr. Shields made the trip up to McCarthy's ranch and stayed for some time?

A. No, he wanted the name of Mr. Cloud.

Q. How long did he stay? A. I remember since the testimony was taken it was about three days, I believe.

Q. How long did you stay? A. I was there about ten days.

10 Q. Now then, Mrs. McKee, with regard to William Brock you testified in answer to a question by my friend, Mr. Ferguson, that your only visits to this restaurant were on your return from Mr. Gordon Brock's home when you had been out there discussing this case? A. That is correct.

Q. You were there four or five times?

A. No, I said I was there about four or five times.

Q. About what time of night were you there?

A. It was usually about one o'clock.

20 Q. I believe you told us you stayed about 20 minutes?

A. It was usually about 20 minutes, just however long it would take to have a glass of milk and look through the paper.

Q. Isn't it true, Mrs. McKee, that this restaurant is by no means what is called a first-class restaurant?

A. I think it is only a little place that serves something like that after twelve o'clock.

Q. It is only a little place? A. It is the only one I saw.

30 Q. That is why you went there, you were always late?

A. No, he asked if I would mind stopping, he wanted to pick up a paper and he was a very nice gentleman.

Q. I am not questioning if he was nice or not, but you went in with him? A. Yes, I did.

Q. Do you know anything about the restaurant? Do you know whether there is a pool-room underneath it?

A. I have heard it.

Q. Do you know anything about gambling activities in connection with this restaurant?

40 A. Evidently there is or Mr. Brock would be on the case.

Q. Now then, aside from these occasions to which you referred being with Mr. Brock, were you ever out with Mr. William Brock socially on other occasions?

A. Yes, he took me to the badminton matches and I saw you and your wife there.

Q. That is the Granite Club? A. Yes.

Q. That was sometime in March or April?

A. Yes.

Q. Is that the only time you were out with him socially?  
A. I have seen him other places, he came and picked me up to take me to that. He introduced me to his girl and took me over to his house.

Q. You know what I mean by going out with a chap; I am asking you if you ever went out socially with Mr. Brock other than the times you have referred to?

A. I would say no.

Q. Would you deny it?  
A. I deny it. He is a very nice person and he is a bachelor.

Q. I don't know whether that is a qualification or not. Is it not true that on several occasions Mr. William Brock has either driven you to or called for you at the home of Mrs. Ament?

A. No, he never drove me there once.

Q. Did he ever call for you there?

A. No -- yes, he did one time.

Q. Do you know where Mr. William Brock lives?

A. No.

Q. Isn't it true you know he lives just a few doors from the Ament home?  
A. No, I didn't know that, does he?

Q. I am asking you if you do know.  
A. No.

Q. Did you know it then?  
A. No, I never heard it until now.

Q. Now then, Mrs. McKee, I want to show you Exhibit 10 which you have already identified and it is a clipping from the Globe & Mail of March 19th. It is one showing a picture of Mrs. McKee and Mr. Pulfer looking in the door of the house at 49 Hinds Avenue. You recall that is the picture that was taken?  
A. Yes.

Q. This is a picture from the Detroit News but I would like to direct your attention to the words appearing immediately under the picture on the right hand side. Am I correct in saying that that picture was taken by the Detroit News staff photographer?

A. Yes.

Q. Is that the photograph that you refer to as having been taken when they came over with you on the Friday?  
A. They came over because there were two or three purple gang after me.

Q. I am not asking you why they came over; I have my own ideas on that. Was that the picture taken by the photographer from the Detroit News whom you told us

before came over to Kitchener from Detroit with you?

A. Yes.

Q. Also in that party was Rex White, staff correspondent of the Detroit News?

A. That is correct.

Q. Was it at your instance these two men came?

A. No, when they heard of the purple gang they thought there was going to be a killing.

10 HIS LORDSHIP: Q. How did you get in touch with the Detroit News? A. Two people were following me.

Q. How would they know anything about you at all?

A. That was after I got to Detroit.

Q. After you got to Detroit did you get in touch with the Detroit News? A. No, I went to my lawyers, that is Mr. Pulfer's, and two very ugly thugs tried to break into my room and ever since, on several occasions since, my room has been broken into and I have been followed by thugs ever since I arrived the first  
20 day and when I walked into Mr. Pulfer's office Mr. Pulfer's detective detected them as members of the purple gang who had followed me.

HIS LORDSHIP: Who is the "purple gang"?

A. They are people Mr. McKee used to represent.

Q. What is the purple gang? A. It is a gambling and gangster gang.

Q. How did you get in touch with the Detroit News?

A. Mr. Pulfer said the only thing is if the news prints anything about it, that scares this type of people  
30 away from you because they are afraid of the newspaper.

Q. Who got in touch with them?

A. I wouldn't know but I met Mr. White through Mr. Pulfer.

Q. How did you get in touch with Mr. Pulfer?

A. I have known Mr. Pulfer through friends for years.

Q. Has he acted for you before this? A. No.

Q. Is the Detroit News in any way financing your conduct of this case? A. They have done nothing. They came over on this trip when I came over.

40 Q. You mean they came over on their own?

A. Yes.

Q. Did they bring you over? A. Yes, they did. I came over in their car.

Q. They drove you over to Kitchener? A. Yes.

MR. LOCHEAD: Q. Do you know whether or not Mr. Pulfer has any professional contact with the Detroit News?



HIS LORDSHIP: The photographer and Mr. White I take it are from the Detroit News?

A. I do not know the name of the photographer.

Q. Mr. Pulfer and yourself came over?

A. Yes.

Q. Anyone else? A. No.

Q. You came from Detroit in a car to Kitchener?

A. Yes.

10 Q. Then it was that day you had that picture taken, was it?

MR. LOCHEAD: The evidence was it was Saturday. It was Saturday and I understand the evidence is that you went to the Ament house without any previous arrangement and knocked at the door?

A. I tried to make arrangements.

Q. You tried? A. I went down to Mr. Lohead's office and he was out of town and I talked to Mr. Bray.

Q. Then you went up and had these pictures taken?

20 A. I went to the house alone and knocked the first time.

Q. You went back with the photographer and the reporter? A. No, they were driving on their way home and they just dropped me.

Q. They thought it was a good place to get news?

A. I believe on their part it was publicity, yes, and I didn't think it was very good because I did not feel that way about it. I have not wanted publicity nor did I want to be in it myself.

30 MR. FERGUSON: I suggest, my lord, you might enquire on what basis Mr. McKee engaged the detectives to follow this woman.

MR. LOCHEAD: No, you don't need to. Detectives have never been engaged to follow this woman.

MR. FERGUSON: That's surely not so; they were engaged to follow her in California.

MR. LOCHEAD: I am speaking since her arrival in Ontario.

40 THE WITNESS: Your lordship, they have broken into my room even since I have been at this hotel.

MR. FERGUSON: I would like to know who did that.

MR. LOCHEAD: The hotel is quite interested too.

MR. FERGUSON: It does not arise from our side.

HIS LORDSHIP: Well, to come back to the Detroit News, you had the pictures taken and did you go away?

A. No, I stayed here.

Q. You left the Ament home? A. I went back

to the hotel and they were just on their way back.

Q. It was a very fortunate coincidence.

A. I think so, I think they took advantage of it.

Q. You brought them over? A. I am just  
stupid in things like that.

MR. LOCHEAD: You are still stupid in things like  
that after six years publicity in every newspaper in the  
United States?

10 MR. FERGUSON: My lord, there have been columns of  
publicity and counsel has no right to make a comment of  
that sort.

HIS LORDSHIP: I think under the circumstances it is  
perfectly true. Have you any arrangement of any sort  
with the Detroit News about this case at the present  
time?

A. Your honour, I have none whatsoever.

20 MR. LOCHEAD: I may have misunderstood you, and if  
I did I want you to correct me, but I understood you to  
say or suggest to his lordship that you didn't know any-  
thing about the fact that the Detroit News were coming  
over here to get publicity on this case? A. I do  
not know just what you mean.

Q. I understood you to say or suggest to his lord-  
ship that you didn't know or realize that these two  
Detroit News people came over to Kitchener to get pub-  
licity in connection with this case?

A. I thought they were going to write something  
about the case.

30 Q. What else would they have come to Kitchener for?

A. I thought they were very curious when they saw  
how badly I was being abused.

Q. I take it they came from a sense of chivalry?

A. I don't know why people do these things.

Q. Did I also understand you to say to his lordship  
that you had a very unfavourable attitude towards the  
publicity that ensued from this visit?

40 A. No, I don't think I said that. I told him I  
thought they were taking advantage, taking a picture  
like that.

Q. If they weren't going to take pictures why would  
a photographer drive 200 miles with you?

A. I think he thought it was going to be in Court  
right away because we were working on the habeas corpus  
and in our country it works in 24 hours.

MR. FERGUSON: Somebody wanted to take pictures of  
me yesterday.

HIS LORDSHIP: You see where this case is getting you.

MR. FERGUSON: I wondered if they would drive 200 miles for that.

HIS LORDSHIP: I think it would be a worthy trip.

MR. LOCHEAD: Now, let us get this straight, Mrs. McKee. You say you think they believed it was coming up in Court right away?

10 A. Yes, I did.

Q. And that is the reason they came over from Detroit on Friday, March 14, is that correct?

A. I don't know whether it was Friday or Saturday.

Q. You were at the house on Saturday. but you drove over from Detroit on Friday?

A. I guess it was Friday.

Q. Friday, March 14? A. Yes.

Q. And isn't it true at that time there were no proceedings of any kind instituted by any person in Ontario?

20 A. Mr. Pulfer said it only took two days.

Q. Isn't it true at that time there was no proceeding instituted by anybody in connection with this case?

A. I think that was before it, yes.

Q. Now then, if you didn't like the idea of this publicity why did you come over from Detroit to Kitchener with two Detroit news people?

A. I had a chance to come without going on the train and I had been frightened very badly that morning. I didn't mind some one coming with me and sticking with me.

30 Q. And you didn't mind if they happened to be employees of a Detroit newspaper?

A. I thought that was a very true and reasonable answer that the thugs would be afraid.

Q. Mr. McKee testified in his evidence that he had told you on several occasions of the attitude of the Detroit News towards him?

A. No, he told me about the Free Press.

Q. I am just asking you if that is correct?

40 A. I saw an article out of his strongbox that his wife left for the children about this co-respondent thing and he said it was a Free Press article.

Q. He told you the paper he had a quarrel with in Detroit was the Free Press?

A. He didn't say he had a quarrel with anybody; he said the Press was always bitter.

Q. He said here that owing to political interests he had a fued with the Detroit News?

A. No, as a matter of fact Mr. White asked me that, he called me and he said, "Is there a fight between the News and McKee"; and I said if there is that is the first I heard of it.

Q. You didn't hear of it? A. No, I didn't hear anything about it.

Q. Now then, in cross-examination of Mr. McKee, Mrs. McKee, your then counsel, Mr. Brock, had photostatic  
10 copies of the Detroit News going back 30 years. Where did you get them?

A. Mr. Pulfer had them.

Q. Where did Mr. Pulfer get them?

A. He had them when he came here; I don't know how he got them.

Q. Do you mean in Kitchener in March?

A. That is the first time I have seen them.

Q. Did Mr. Pulfer bring them to Kitchener in March or to Toronto?

20 MR. FERGUSON: Mr. Pulfer is an attorney as I understand it in Detroit.

HIS LORDSHIP: He is not being questioned, he is entitled to find out what she knows about them.

MR. FERGUSON: My lord, there is some restriction and I think the witness ought to know before she is questioned too much that she has some privileges.

HIS LORDSHIP: She hasn't any privileges in this Court except to tell the truth. Pulfer may have privileges  
30 but he is not here. I do not think she can be forced to disclose what passed between them, her communications with him, but if she knows when and where that information came from I want to know it. If she doesn't tell me, I still want to know it; it was most disgraceful, it was the most disgraceful thing I have ever listened to. She is not being asked as to her advice; she is being asked a simple fact if she knew that some clippings from the Detroit News had been obtained and where they came from.

40 MR. FERGUSON: All I am asking you, my lord, is that the witness ought to understand she does not have to disclose what was told to her by her solicitor.

HIS LORDSHIP: She was not being asked that, she is being asked when certain things were obtained.

MR. LOCHEAD: My lord, as I understand it the witness said that Mr. Pulfer brought the photostatics here.

HIS LORDSHIP: You do not have to say if Mr. Pulfer gave you advice, there has to be conversation between

yourself and your legal advisors, but if you know as a fact where these photostatic clippings came from I would like to know.

A. I saw them the first day in Court here other than the one about the co-respondent which I have seen before.

MR. LOCHEAD: You say now that other than that one, the first time you saw the photostatics was when they were produced in Court one day last week?

10 A. Yes, the day before they were brought in.

Q. Do you know who brought them from Detroit?

A. Mr. Pulfer had them.

Q. He had them here in Court? A. Yes.

MR. FERGUSON: With great respect also I suggest the whole enquiry into the Detroit News is not admissible.

MR. LOCHEAD: Who retained Mr. Pulfer to act for you in this matter?

A. I asked him, Mr. Brock did not understand about the habeas corpus.

20 Q. Have you retained Mr. Pulfer as your attorney?

A. He has just been acting as a friend of my friends in Detroit.

Q. Has any one else retained him for you?

A. I don't believe so.

Q. Have you paid anything to him?

HIS LORDSHIP: I am not interested in that, I wondered if he was your attorney.

A. He is in an advisory capacity, yes.

Q. He has been since last March? A. Yes.

30 MR. LOCHEAD: Let us get back to these photostatics, do you know where they came from?

A. Well, I don't know other than Mr. Pulfer.

MR. FERGUSON: My lord, has this got anything to do with this case?

HIS LORDSHIP: It has a great deal to do with it, if you want to know. They started asking Mr. McKee questions about his father's business founded 30 years ago when he was a boy of 15, and I am rather interested in knowing where this came from because I have to determine who is  
40 best entitled to this child and I think this is of great interest to me; it has to be.

MR. FERGUSON: Then, with respect I submit there doesn't seem very much connection with the case.

HIS LORDSHIP: I am sorry, Mr. Ferguson, but to me it has quite a bit.

MR. FERGUSON: If this man took this child out of the Michigan control because of the order which he knew had

been made, then probably this girl had a perfect right to give publicity in the United States.

HIS LORDSHIP: I want to find out what she did, I am not saying she shouldn't have done it. I want to know what happened and I want to know the relationship she has to this publicity, that is all.

MR. FERGUSON: With respect, my lord, I do not know what it has to do with the custody of the child.

10 HIS LORDSHIP: I do not know. It may affect my opinion of her. You not having heard that evidence are at a disadvantage in the matter, but frankly I think it is important and I want to know whether this woman is really bringing this application herself or somebody else is directing it. It very definitely relates to that in my view.

MR. LOCHEAD: Q. Mrs. McKee, just one question I want to ask you about 40 Hinds Avenue, I believe I understood you to say that this picture was taken, the picture filed  
20 as Exhibit 10 was taken by the Detroit News photographer quite coincidentally while they were on their way back to Detroit?

A. No, I didn't say that, they were on their way back and they dropped me there.

Q. Did you have any arrangements when you stopped at the Ament house for them to take a picture of you?

A. No, there wasn't, they had stopped and asked me for a picture by that little park.

Q. In the park? A. Yes, on that road.

30 Q. What were they doing at 40 Hinds Avenue?

A. They just drove me and I was going to stop.

Q. They drove you down so you could see Terry?

A. Yes.

Q. You understood they were on their way back to Detroit?

A. Yes.

Q. I presume you will agree with me that Hinds Avenue is a side street in Kitchener well off the road from Kitchener to Detroit?

40 A. I don't know about it, I said I was going to see him.

Q. So they kindly volunteered to drive you down?

A. Yes.

Q. You had no idea they would be taking a picture or sending publicity out of any kind?

A. I didn't have any idea they were going to take a picture of me there at the house.

Q. You didn't think they were going to take a picture of you at the house?

A. No, I didn't.

Q. How long had they been in Kitchener before they started back to Detroit?

A. They were going back that next day. I remember we had come on Friday and that was Saturday.

Q. They stayed overnight and were going home then?

10 A. Yes, Mr. Pulfer was going to stay and help Mr. Brock with the work on the habeas corpus.

Q. Mr. Pulfer was going to stay in Kitchener?

A. Yes, he was.

Q. Now then, do you know where these photostatic copies came from?

A. I heard them say they were from the News.

Q. Do you know how they were obtained for the purpose of this trial?

A. No, I don't.

Q. Were they tendered on your instructions?

20 A. No.

Q. Before you saw them in Court last week did you know they were being obtained and would be here?

A. No, I didn't.

MR. FERGUSON: Where are they now; these documents are not exhibits.

HIS LORDSHIP: No, they were used in cross-examination of Mr. McKee. They were handed by Mr. Pulfer to Mr. Brock and he referred to them one after another.

MR. FERGUSON: They were not admitted?

30 HIS LORDSHIP: They were used as the basis for Mr. Brock's cross-examination but they were not filed as exhibits.

MR. LOCHEAD: Now then, is it not true that this Rex White, the staff correspondent, was present in Toronto last March on the return of the habeas corpus application?

A. Yes, he was.

Q. Did you know he was going to be present?

A. No.

40 Q. Did you tell him that application was going to be made? A. No, I suppose Mr. Pulfer did, maybe the Court did, I don't know.

Q. Isn't it true that on your way back from California to Kitchener in early September of this year you had an interview with Mr. White in Detroit?

A. Yes, I came to Mr. Pulfer's office.

Q. Isn't it true Mr. White was in attendance during the first three or four days of this trial? A. Yes.

Q. Did you tell him when the trial was going to be?

A. No, I didn't know and as a matter of fact I told him he had misquoted a few things the day he left here.

Q. Did anybody on your behalf tell Rex White when the trial was going to be, as far as you know?

A. He must have been told or read the order or something, I don't know.

10 Q. Did you tell him where it was going to be?

A. No.

Q. Between the time of the adjournment in Kitchener to Toronto did you tell Mr. White it was adjourned to Toronto?

MR. FERGUSON: Surely if she did tell him it is not a secret.

THE WITNESS: I remember he was there.

MR. LOCHEAD: Did you tell him the trial had been transferred to Toronto?

A. No.

20 Q. Did anybody on your behalf tell him that as far as you know?  
A. I don't know. He knew because he was here.

Q. I am just asking you if anybody on your behalf told him that?  
A. They may have, Mr. Lothead, I don't know.

MR. FERGUSON: For the life of me I cannot see what harm there is in having a Detroit newspaperman here. There were about four local reporters.

HIS LORDSHIP: I cannot see any harm either.

30 MR. LOCHEAD: I am through with my cross-examination, my lord, but now my learned friend has referred to the members of the Press who are here and I think reference should be made to the fact that they are all local people.

HIS LORDSHIP: What of it?

MR. FERGUSON: You brought it up. If somebody from the London Times was to be here there is nothing wrong with that.

MR. LOCHEAD: It would be a lot more respectable than the Detroit News anyway.

40 THE WITNESS: I wish I could say to your honour that I borrowed all the money from Mrs. Stevens to stay here. I haven't any money.

HIS LORDSHIP: You get \$300 a month?

A. Yes.

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---RE-EXAMINATION BY MR. FERGUSON:

Q. Mr. Lohead was asking you some questions about your trip from Detroit to Kitchener?

A. Yes.

Q. I don't know whether it is clear or not but you were referring to the time you drove over here?

A. Yes.

10 Q. Was that your first trip to Kitchener?

A. No, that was the second trip.

Q. When did you come to Kitchener? A. About the 1st of March.

Q. And was the purpose of your coming to see the child? A. Yes, it was to see the child and see about getting him.

Q. By the way, how did you find out the child was in Kitchener? A. Mr. McKee's son-in-law brought a letter to the house in February some time.

20 Q. Saying what?

MR. LOCHHEAD: My lord, in the first place, how is this re-examination, and in the second place how can the witness tell what a letter from a son-in-law said?

HIS LORDSHIP: I take it in some way she found out and wanted the child.

MR. FERGUSON: It is all connected with your lordship's question whether somebody else had something to with this case.

HIS LORDSHIP: Oh, yes.

30 MR. FERGUSON: Q. It was in February you found out?

A. Yes.

Q. It was found out by a letter written by McKee giving the address of the child?

A. Yes, where Terry and him were residing.

Q. Between September and February were you looking for the child? A. Yes, my lawyers endeavoured to find him because Mr. McKee substituted himself as his own attorney.

40 Q. Having found out in February where the child was residing, when did you leave California?

A. I believe about the 28th.

Q. Did you come directly to Kitchener?

A. I stayed one day with friends in Detroit.

Q. Had you met Mr. Pulfer up to that time?

A. No. I knew of him by reputation in Detroit.

Q. Through whom? A. Through my friends, the O'Briens.

Q. Was anybody with you when you arrived in Kitchener?

A. No, I came alone.

Q. When did you go back to Detroit?

A. I went back after I talked to Mr. Brock and he sent me over.

Q. How long after you arrived in Kitchener did you go back to Detroit? A. It seems to me like a matter of days.

10 Q. How many times had you seen the child between the time of your arrival in Kitchener and the date you went back to Detroit?

A. I believe twice; I might be confused on that but I know I had seen him once.

Q. The first time you saw him was when Mr. Lohead and Mr. Brock were there? A. Yes.

Q. Did you see him the next day alone or shortly after? A. I think the next time I saw him I had this altercation with Mr. McKee.

20 Q. Was it on the third occasion you had the altercation? A. Yes, it was the third visit.

Q. So that before you went back to Detroit you had the altercation? A. Yes, I believe it was, I am confused on that.

Q. Evidence has been given of some altercation you had with Mr. McKee in Mrs. Ament's house; was that before you went back to Detroit?

A. I couldn't say for sure because I don't remember.

Q. Why did you go back to Detroit?

30 A. Mr. Brock asked me to go back to work on this thing as a habeas corpus.

MR. LOCHEAD: My lord, surely this witness cannot tell what a lawyer told her to do.

MR. FERGUSON: I am only going into it because you went into it thoroughly. I want to go into it in a proper manner; everybody seems to want to know.

HIS LORDSHIP: I think you are quite right, Mr. Ferguson.

40 MR. LOCHEAD: All I am thinking of, my lord, is that this witness should not give evidence of conversations between herself and Mr. Brock.

MR. FERGUSON: Up to the time that you went back to Detroit at the beginning of March, had you met Mr. Pulfer at all? A. No, I had not.

Q. To what place did you go when you got back to Detroit? A. To the Brook Cadillac and then there was trouble with these two people following me who broke

into my room and I went to the O'Briens.

Q. You had seen Mr. McKee in Kitchener before you went back to Detroit? A. I am not sure, I think so, yes.

Q. Had you demanded custody of the child in Kitchener? A. Yes, I had.

Q. Who did you make your demands on?

A. On Mrs. Ament first and Mr. McKee entered into  
10 it.

Q. I am not quite clear myself in the recollection of the evidence, but my recollection is that occurred on a Sunday?

A. Yes, it was the third visit.

Q. Was that the Sunday after the photographs were taken?

MR. LOCHEAD: My lord, that was gone into very thoroughly by Mrs. Ament, Mr. McKee and this witness.

MR. FERGUSON: I am trying to fix the time.

20 THE WITNESS: That was the day after the time I knocked on the door.

MR. LOCHEAD: My lord, it was Sunday, March 16.

HIS LORDSHIP: That would be after she came back from Detroit.

MR. FERGUSON: The first altercation?

MR. LOCHEAD: Yes.

THE WITNESS: That is when he refused to turn the baby over to me.

30 HIS LORDSHIP: You see, Mrs. McKee went to the house by arrangement on a Sunday afternoon and demanded the child. Mrs. Ament said she could take it and Mrs. Ament said she didn't wish to be mixed up in it but she couldn't do anything to help her and Mr. McKee came in and there was an altercation between the two of them and Mrs. McKee left. There was quite a lot of evidence about that in her examination-in-chief. I think Mr. Lohead has agreed that took place the day after these photographs referred to now were taken.

40 THE WITNESS: No, I do not believe that is correct, of course I wouldn't have gotten back in because there was some trouble I had to work out before I could go.

HIS LORDSHIP: I do not think there is any real dispute about it.

MR. LOCHEAD: My lord, perhaps I can refresh the witness's memory again. Mrs. McKee may recall it was that night upon my return from Peterborough I telephoned Mrs. McKee and Mr. Brock and I saw Mrs. McKee in

her room at the Walper House on Saturday night and at that time arrangements were made to go to the house the following day and the following day the altercation occurred.

THE WITNESS: That is correct, but you didn't make the arrangements. Mr. Brock called me directly.

HIS LORDSHIP: I think all he means is he got in touch with Mr. Brock about it.

10 THE WITNESS: No, I got in touch with Mr. Brock and told him Mr. Lohead was coming to see me.

HIS LORDSHIP: In any event the three of you were there? A. Yes, I remember that now this happened, that is correct.

MR. LOCHEAD: This may further recall the witness's mind to the happening and this again was in cross-examination. Your lordship will recall there was some discussion about remarks made to Terry the next day as to split custody and Mrs. McKee in cross-examination related  
20 that conversation we had the night before.

HIS LORDSHIP: So, that would be after she came back from Detroit.

MR. FERGUSON: I want to make it clear there had been a refusal to give you custody before you returned to Detroit? A. Yes, Mr. Lohead had already said

to Mr. Brock they wouldn't turn the baby over to me.

Q. Was it following that you went to Detroit?

A. Yes.

Q. Had you any connection with Mr. Pulfer until you  
30 went to Detroit?

A. I am sorry, Mr. Ferguson, I came to Kitchener once and I had not seen Mr. Pulfer then.

Q. It was on a subsequent trip, the second trip to Kitchener the newspapermen came? A. Yes.

Q. They brought you over? A. They did.

Q. Did you make any arrangement with the newspapermen to bring you over here?

A. No, I didn't. Mr. Pulfer was going to come over with me and I knew that morning before I left they were  
40 going to be along in the car with Mr. Pulfer. Mrs. O'Brien was going to come with me and later they called me at the hotel and he said that two members of the newspaper were going to come, I believe he said there was one and I found out later this was the photographer.

Q. Is there anybody at all interested in your case financially or otherwise except yourself?

A. Mrs. Stevens is the one who has paid up the money.

MRS. EVELYN McKEE -- Witness for Plaintiff --

MRS. CYNTHIA POLLOCK -- Witness for Plaintiff --  
Re-Examination  
Dir.-Examination

490

I think last night we all heard it was \$6400 after we paid you.

Q. But the Detroit News has nothing to do with the case at all? A. I think not.

Q. Has it? A. Not with me. Certainly I am more than surprised and chagrined. I thought they were just noseys.

10 Q. You thought they were just noseys like other newspaper people? A. I am sorry, I shouldn't have said that.

Q. But you did.

HIS LORDSHIP: Oh, well, gentlemen, that is their business.

---Witness withdrew.

MR. FERGUSON: Mr. Boland will take the next witness.

---The Court then adjourned until 2.30 o'clock p.m. on October 8, 1947.

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MRS. CYNTHIA POLLOCK, sworn,

---EXAMINED BY MR. BOLAND:

Q. You are still under oath, you understand that?

A. I understand that.

Q. Mrs. Pollock, I think you were present at all the hearings of this case?

30 A. Most of it.

Q. Now, did you hear read into the record the evidence of the witnesses, Mr. Cunningham, whose evidence I think was taken on commission in California?

A. I did not hear it read here.

Q. I think the evidence was taken when you were present? A. I was present when it was taken until I was ousted.

40 Q. Mrs. McKee was present during a great deal of the hearings in California. She said she was ousted before Mr. Cunningham's evidence was taken.

This, I might say, my lord, is direct evidence in reply to the evidence of Cunningham. You were there, Mrs. Pollock, and heard the evidence of Mr. Cunningham to the effect that Mr. de la Fuente was seen to enter your mother's residence at Azusa, California, I think in the year 1942. Do you recall Mr. de la Fuente staying at your mother's and father's home at Azusa at that

time? A. Yes.

Q. Did he on occasion stay at your home overnight?

A. Yes, he stayed several times.

Q. Who was present at your home on these occasions?

A. There was my sister Joanne and my step-brother Jerry and Terry, my half-brother, and my mother and other guests at the time.

10 Q. And by your mother you mean Mrs. McKee, the plaintiff? A. Yes.

Q. Do you know where de la Fuente slept on any occasion he stayed overnight? A. Yes, in the guest room.

Q. Whereabouts in the house is that room?

A. There is one downstairs.

Q. Did he sleep in the one downstairs? A. Yes.

Q. Where did you sleep? A. I had a bedroom upstairs on the second floor.

20 Q. Where did Mrs. McKee sleep? A. She slept in the bedroom with my sister Joanne.

Q. On what floor? A. On the second floor.

Q. And the evidence of Mr. Cunningham, I might just briefly refer to it. It is page 333 of volume 3. Now, you are the Cynthia McKee referred to in that evidence, are you? A. Yes.

Q. Was there an occasion or occasions when you went driving with Mrs. McKee and Mr. de la Fuente?

A. Yes, there was.

Q. How many of such occasions were there?

30 A. I imagine there were three or four. There was one trip to San Luis Opisbo and the other trips would be to Pasadena or Los Angeles.

Q. On any of these occasions when you were present did Mr. de la Fuente kiss Mrs. McKee?

A. I never saw any such incident.

Q. Turn now to the trip to San Luis Opisbo. There was evidence that you were present on that occasion?

A. I was, yes.

40 Q. Do you recall the name of the hotel where the three of you stayed? A. I think it was the only hotel in this small town.

Q. How many rooms did your party occupy that night?

A. Mother and I shared a room with twin beds.

Q. Was there any other room engaged by Mr. de la Fuente? A. I assume he had a room of his own. I didn't see it.

Q. Were you and your mother together in company all

afternoon and evening? A. Yes, we were together.

Q. The whole time? A. Yes.

Q. Now, I would like to ask you this, at any time when you were present did you observe any indication of any friendliness or intimacy of any kind between Mrs. McKee and Mr. de la Fuente?

A. No, I did not.

10 Q. Nothing such as hand-holding or kissing or his arm around her waist or anything of that kind?

A. Certainly not.

Q. You never saw any such thing? A. No.

Q. I would like to next direct your attention to the early part of the winter of 1945 to the occasion when you were at the McCarthy Dude Ranch. Now, am I correct in thinking that was about February, 1945? A. Yes, it was the latter part of February.

Q. And you and Mrs. McKee were present at that time?

A. Yes.

20 Q. And how long were you there when Dr. Shields arrived? A. We had been there several days.

Q. And was Dr. Shields an acquaintance of yours prior to him coming there?

A. Yes, he was my dentist in Wisconsin.

Q. And had you known him over some previous years?

A. No, I had just met him; it was the second year that we went back to Wisconsin. I met him in the fall of 1944, around October.

30 Q. And during the time that Dr. Shields was there did you see him in the company alone of Mrs. McKee at any time? A. I do not understand what you mean.

Q. Perhaps I did not put my question very well. During the time you and Mrs. McKee and Dr. Shields were staying at the McCarthy Dude Ranch, during any period of that time did you see Mrs. McKee and Dr. Shields alone?

A. We all travelled around in a group. There was Mr. Miller and two or three guests that were there and Dr. Shields. We were always in a group.

40 Q. What I am asking you is, was there any occasion you saw Mrs. McKee and Dr. Shields, just the two of them, without anyone else being near by?

A. No, there wasn't any occasions because when we were dining we would all be in a group. I went horse-back riding with Dr. Shields in a group but there wasn't any such time that I saw Dr. Shields and mother alone, no.

Q. To your knowledge, was Mrs. McKee ever in Dr.

Shields' cabin?

MR. LOCHEAD: How would this witness know?

MR. BOLAND: I don't know, that is what she is being asked. Do you know if she was ever there?

A. No, not to my knowledge.

Q. At any time when you were present was your mother there? A. Yes.

10 Q. Was there any night that she didn't spend with you? A. No, we were both in bed at the same time and retired at the same time. They were twin beds.

Q. Was there any occasion when she wasn't there?

A. No.

Q. Now, there has been evidence put in by one Bobbie Bentley, the negress maid, to the effect that Dr. Shields was seen kissing Mrs. McKee in the dining-room. Now, were you present with Mrs. McKee at meal time always?

A. I was present at meal times all the time. Mother didn't go in for breakfast but I was present at all meals

20 Q. You were present at all meals but she didn't go in for breakfast? A. That is true.

Q. At any time, at any meal when you were present, did you observe Dr. Shields kiss her?

A. I never did observe such an incident.

Q. Did you ever observe any familiarity between Dr. Shields and Mrs. McKee? A. No, I did not.

Q. Now, I would like to direct your attention to the gentleman, William Miller; where did you first make his acquaintance?

30 A. Mother and I met him the first day we were at the ranch and at first we thought he was the host there because he welcomed everybody and seemed to know all about the ranch. When we met him he said just call me "Uncle Bill" because he was a sort of social character there.

Q. What age would he be? A. He is well into his sixties because he referred to his age.

Q. Now, did you subsequently visit his home or summer place at Big Bear Lake?

40 A. Yes, he has a cabin up there.

Q. When did you visit him there, do you recall?

A. It was the first part of September in 1945.

Q. Who was present along with yourself on that occasion? A. Terry and --

Q. That is the young lad Terry? A. Yes, and Mr. Miller's granddaughter Diane who was about Terry's age, and Mr. and Mrs. Cloud, that is mother's attorney



and his wife, and mother and myself.

Q. Was there some occasion when some of the party went boating? A. Yes, it was kind of an occasion because it was the first time Terry had gone fishing so Uncle Bill said he wanted to take us fishing in his boat.

Q. Who went? A. Uncle Bill and Terry and I think it was just Terry and Uncle Bill and mother and myself.

10 Q. Just the four of you? A. Yes, because it was a small boat.

Q. Now, at any time when you were present have you ever seen any indication of any friendliness or anything improper in any way intimate or anything of that kind between Mr. Miller and Mrs. McKee?

A. Certainly not, he is just a friendly person to everybody.

Q. I assume you lived with your father for a great number of years, is that so?

20 A. Yes, up until the time our family split up.

Q. That would be about 1941? A. Yes, 1941.

Q. Up to the time or since then, have you had any discussion with your father in which he has mentioned any relatives in Canada?

A. No, I recall there was one relative, an uncle, whom I recall meeting for the first time. His name was Uncle Will and he was at mother's funeral in 1931. Other than that I do not recall any relatives in Canada and I never heard of any in Kitchener before.

30 HIS LORDSHIP: Q. How old were you when your mother died? A. She died in 1931 so I would be about nine.

MR. BOLAND: Q. At any time when you were with your father did you ever hear him speak of Canada?

A. No, I didn't.

---CROSS-EXAMINATION BY MR. LOCHEAD:

Q. Mrs. Pollock, do you know Mr. and Mrs. Peiffer?

40 A. It is the Mr. Peiffer I just mentioned, I saw him for the first and last time at my mother's funeral.

Q. Isn't it true they stayed with you for a period of about six months at one time?

A. Not that I recall.

Q. Now then, at the beginning of Mr. Boland's examination I believe you were referring to Mr. de la Fuente staying at your home. Now, I want you to take your mind

back to the house in Azusa. Isn't it true there was no bedroom downstairs in the Azusa house? A. Oh, I am sorry, I thought they were referring to Pasadena.

HIS LORDSHIP: That was the El Molino house?

A. Yes. No, there wasn't.

MR. LOCHEAD:

Q. Did Mr. de la Fuente ever stay overnight in the Azusa house? A. Yes.

10 Q. I believe that was between March and September, 1941, he stayed overnight in the Azusa house?

A. I couldn't tell you the exact date.

HIS LORDSHIP: Q. You lived in the Azusa house in September, 1941? A. Yes.

MR. LOCHEAD: Q. Was it before that?

A. Yes.

Q. Would it be that year? A. Yes, it would be in the summer of 1941.

Q. And he stayed overnight several times?

20 A. Yes, with other guests.

Q. And there was no bedroom downstairs in the Azusa house? A. No, there were guest rooms upstairs.

Q. Just to get it straight, I take it from what you said he also stayed overnight in the El Molino house?

A. Yes.

Q. That was after your father and stepmother had separated? A. Yes, but my understanding was they separated in December of 1940.

30 Q. Well then, I believe the evidence is you left the Azusa house towards the end of September and went to the house at Pasadena on Prospect Circle where you stayed for several months? A. Yes.

Q. That is in Pasadena? A. Yes.

Q. I believe Mr. de la Fuente stayed overnight in that house as well? A. Not that I recall. We lived there about two months.

Q. At any rate you went from Prospect Circle to the El Molino house? A. Yes.

Q. That is also in Pasadena?

40 A. Prospect Circle is in South Pasadena and we moved to Pasadena.

Q. I take it your answer to Mr. Boland was that Mr. de la Fuente stayed overnight in the El Molino house?

A. Yes.

Q. On several occasions? A. Yes, with other guests.

Q. I believe you gave evidence at the 1942 trial in

California? A. Yes, I did.

Q. I believe you gave evidence covering the question of Mr. de la Fuente staying in these two houses of yours?

A. Yes, I do recall giving evidence.

Q. Now then, I believe you said that Dr. Shields was your dentist when you were in Milwaukee in the fall of 1944?

A. Yes.

Q. Then, is it true he was in Los Angeles after that 10 because he was in the navy?

A. No, you see he was in the navy and he told us he was going to Los Angeles to take a refresher course.

Q. In dentistry? A. Yes, and he wanted to meet some lawyer who could help him out and I told him about Mr. Cloud.

Q. Where did you tell him about Mr. Cloud?

A. I think I probably mentioned Mr. Cloud in Wisconsin.

Q. Yes? A. And when I saw Dr. Shields at the 20 ranch I told him where Mr. Cloud was and gave him a letter of introduction.

Q. That was from you, was it? A. Yes.

Q. You mentioned about his being in the navy; he had been in the navy, had he? A. Yes.

Q. Do you know when he was discharged from the navy?

A. He wasn't discharged, he retired.

Q. Whatever it was, do you know when he left the navy? A. No, I don't, but he was out when I met him because he wasn't in uniform.

Q. That was at McCarthy's Ranch? A. No, when 30 I met him as a dentist.

Q. That was in Wisconsin? A. Yes.

Q. That would be in the fall of 1944? A. Yes.

Q. Do you know whether or not he may have re-established his commission with the navy after that?

A. I really couldn't say.

HIS LORDSHIP: Q. How big a man was Dr. Shields, 40 how tall was he, do you know? I do not mean precisely but he was tall or was he short or medium or was he over six feet or what?

A. No, he is about medium height. He would be a little taller than I am.

Q. You are how tall? A. Five foot six and a half without shoes.

Q. Then he would be about five foot eight?

A. About five foot eight.

Q. What colour hair has he? A. Dark hair.

Q. Dark? A. Yes.

Q. What about his weight, Mrs. Pollock?

A. I really don't know, I am not good at sizing at all.

Q. Was he a slim man or a heavy man?

A. Let us say medium weight.

Q. He wasn't fat and he wasn't heavy? A. No.

10 Q. And you said he had dark hair. Did he have a tendency to baldness at that time?

A. I would say slightly, yes.

Q. Was he smooth shaven? A. He didn't have a moustache.

Q. What about his complexion, was it fair or swarthy?

A. Like yourself.

Q. I am afraid I can't file myself as an exhibit.

HIS LORDSHIP: Q. Was he dark?

A. The same complexion as Mr. Lohead.

20 HIS LORDSHIP: I would say that Mr. Lohead tends to be dark.

MR. LOCHEAD: I think I had better change the subject, my lord.

Q. Now, then I believe you testified that Dr. Shields arrived at the ranch a few days after you had been there?

A. Yes.

Q. Had you seen him between the time you saw him in the fall of 1944 in Milwaukee and the time you saw him at the ranch?

30 A. No, the last time I saw him was when he finished working on my teeth.

Q. That was in the fall of 1944? A. Yes.

Q. Did you know before you went to McCarthy's Ranch that he was going there as well? A. No.

Q. Did you find out before he arrived that he intended to go? A. Yes, I think he wired me as soon as he got to San Bernardino he was stopping en route to Los Angeles and he would stop there. I do not mean San Bernardino; he was on the way from the east to California.

40 Q. He was on the way from Milwaukee to California?

A. I don't know where he was coming from, he came from the east.

Q. To Los Angeles? A. Yes.

Q. Did he wire you or Mrs. McKee that he was going to stay off? A. He wired me because I was the one that had written to him about my dental statement.

Q. How long did he stay? A. He stayed

approximately three days.

Q. Do you know where he went when he left?

A. No, I think he left one night before mother and I left.

Q. Presumably he went to Los Angeles? A. Yes.

HIS LORDSHIP: When he left was he on friendly terms with both of you? A. Yes.

Q. Did he say good-bye to you? A. Yes, I think he left before we all had dinner at the ranch. He said good-bye to all of us.

Q. Mr. Boland also questioned about the visit of Big Bear Lake early in September of 1945 and I think it was an over-sight on your part -- I believe you told us Terry was there and Mr. Miller's granddaughter Diane and yourself and Mr. McKee. I take it Mr. Miller was there and Mr. and Mrs. Cloud? A. Yes.

Q. Did Mr. and Mrs. Cloud go up with you?

A. We went up in separate cars. They drove their car up but we all arrived at the same time Charabanc style.

Q. How long did you stay? A. We left Labour Day and the Clouds left the day before Labour Day.

Q. Clouds left on Sunday then? A. Yes.

---Witness withdrew.

MR. FERGUSON: That is the case, your lordship.

HIS LORDSHIP: You warned me yesterday you were going to apply for some fresh evidence that was vital to Mrs. McKee's case. What about that?

MR. FERGUSON: My lord, we are not going to make that application; had it been at an earlier stage in the case we would have made it.

HIS LORDSHIP: This applies to both parties to this. I do not want this thing to go on forever, it has taken a great deal of time now and I do want both parties to put everything before the Court they think they should, and I want them to feel that they have had a proper and full hearing so if there is anything of that sort you think whould be brought up I would like you to consider it. You may have to re-consider the matter.

MR. FERGUSON: It couldn't be presented in this short time anyway, my lord.

HIS LORDSHIP: I just wanted to be clear on that.

MR. FERGUSON: That is the position I have adopted, my lord.

---Counsels present argument to his lordship.

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HIS LORDSHIP: I will reserve my decision in this case.

10

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CERTIFIED CORRECT.



Official Reporter, S.C.O.

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Depositions of witnesses in the above-entitled action, taken at the times and places hereinafter set forth, before P.S. Noon, Commissioner, pursuant to the annexed Commission.

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APPEARANCES OF COUNSEL:

10 MAURICE ROSE, Esq., for Respondent Mark T. McKee.  
F. MILLAR CLOUD, Esq., for Applicant Evelyn McKee.

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MR. CLOUD: Before we commence, Mr. Rose, I think we might cover some matters by stipulation, and will read this stipulation which I wrote up a few minutes ago. I think it will probably be to the benefit of both parties.

20 It is stipulated that at the time of reading of the hereinafter depositions, and or offer in evidence of the contents thereof at the trial of the issues in Canada, the parties, through their respective counsel or barristers, shall have, and they are reserved, the right to object upon any ground to any question asked of the witnesses, excepting an objection to the form of the question.

30 It is further stipulated that at such time of reading of these depositions, and or offer in evidence of the contents thereof at the time of trial of the issues in Canada, the parties, through their respective counsel or barristers shall have, and they are reserved, the right to move to strike any or all answers of the witnesses upon any ground.

It is further stipulated that no grounds of objection or motions to strike are waived by participation of counsel in the cross-examination of witnesses.

What I am attempting to do, counsel, is to reserve all rights of counsel in Canada as to all matters which come up here.

40 MR. ROSE: Yes. Is it also stipulated that the agents of the respective parties received due notice of the taking of the depositions we are about to take, those of the four witnesses present - Wade Bentley, Mrs. Bobby Bentley, Mrs. Comelia Wallace and Mrs. Ruby Sewell?

MR. CLOUD: So stipulated. It is also understood and agreed between counsel that the depositions scheduled for the 29th of May, 1947, will be set at some subsequent time satisfactory to both counsel.

MR. ROSE: Yes. There will be some other witnesses, and I will set them at such times as you will find convenient.

MR. CLOUD: Thank you. May it be understood that

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these same stipulations apply to each and every deposition, of each and every witness.

MR. ROSE: So stipulated.

WADE BENTLEY, having been, prior to the commencement of his examination, duly sworn by the Commissioner in the form and manner prescribed, deposed and testified as follows:

10 DIRECT EXAMINATION

BY MR. ROSE:

Q You are Mr. Wade Bentley?

A Yes, sir.

Q Where do you live?

A I live about 11 miles - between 10 and 11 miles northwest from Victorville, California.

Q Do you have any street address?

20 A No street or nothing. It's a ranch out there in the desert.

Q Do you have a post office box address?

A I have a post office box there in Victorville.

Q What is the number of it?

A Box 774, Victorville, California.

Q You are married, Mr. Bentley?

A Yes.

Q What is the name of your wife?

A The name of my wife is Bobby Bentley.

30 Q How long have you been living at your present place of residence?

A I have been living there five years and a half.

Q With your wife?

A With my wife.

Q In January of 1945 where, if anywhere, was your wife employed?

A At Mrs. McCarthy's guest ranch.

Q How far is that from where you live?

A Two miles.

40 Q How far is this McCarthy's guest ranch from San Bernardino, where you are now testifying?

A It's supposed to be about 47 miles from San Bernardino.

Q How far is it, approximately, from Los Angeles, California?

A It's supposed to be 110 miles from Los Angeles.

Q When your wife was employed at McCarthy's guest ranch in January, 1945, what was the nature of her employment?

A She was room maid; she cleaned up the rooms; that is, she was the maid there, and also she would go in during lunch hour and help wait on tables.



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WADE BENTLEY -- Defendant's Witness -- Dir. Examination

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Q What was her means of transportation from the home to the place of her employment?

A I took her to and fro to work.

Q Was this McCarthy's guest ranch a hotel or a group of cottages, or just what?

A It was a group of cottages there, and things was served family style, only they had a maid there to clean up the rooms.

10 Q How many cottages were there at this place?

A It's listed as 28 cottages.

Q What else, if anything, was connected with the ranch?

A Well, they had one cottage there that they called the honeymoon cottage, if I get what you mean.

Q No, I mean were there any horses or stables, anything of that sort?

A There were some horses there, yes, they had riding there.

20 Q Were those riding horses for the guests?

A They were for the guests.

Q About how many horses were kept there?

A During that time she had 11 head.

Q Did you have anything to do with the keeping of the horses?

30 A Well, I was just something like a handy man. I knew Mrs. McCarthy well, so I would go out - I wasn't busy during the time - and I would saddle up the horses, and lots of guests came out and they wasn't equipped for riding, and I would teach them how to ride, show them how to sit on a horse, how to make him go and get along, things like that, and I would go out and feed the horses, things like that.

Q What were the hours of your wife in January, 1945?

A She would arrive there somewhere around 7:30, and she would be there most of the time until 8:00 o'clock.

Q That is, at night?

A At night

40 Q Then you would take her home?

A I would take her home.

Q Would you be on the ranch working around all day?

A I would be on the ranch there all day.

Q Were there any other employees on the ranch?

A There was Ruby Sewell, and at that time Mrs. Brooks was there. Her name then was Comelia Brooks,

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WADE BENTLEY -- Defendant's Witness -- Dir Examination

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which she married, and her name now is Comelia Wallace.

Q What did Mrs. Wallace do there?

A She was the dish washer, and Ruby Sewell - she was there; she was the cook.

Q Are Comelia Wallace and Ruby Sewell and your wife, to whom you refer, all present in the next room here?

A That's right, yes.

10 Q Is this dude ranch on a desert?

A Yes, it's on a desert.

Q Are there any other places of amusement within sight of this McCarthy's guest ranch?

A There is Murray's dude ranch.

Q How far is that from McCarthy's guest ranch?

A As near as I can get at it, in my estimation, it's about a mile and a quarter from there.

Q Is that within sight of McCarthy's guest ranch on the desert?

20 A That's right, it's in sight.

Q About how far is McCarthy's guest ranch from Victorville?

A McCarthy's guest ranch from Victorville? It's called seven and a half miles from Victorville.

MR. ROSE: I will ask the commissioner to mark these two clippings as Respondent's Exhibit 1 and Respondent's Exhibit 1-A for identification, respectively.

30 (The instruments in question are annexed hereto, marked respectively Respondent's 1 and Respondent's 1-A by the Commissioner).

MR. ROSE Q: Mr. Bentley, showing you two newspaper photographs, which the commissioner has marked respectively Respondent's Exhibit 1 and 1-A for identification, do you know the lady who is represented by those two photographs?

A I have seen the lady and know what they called her, sure.

Q Where did you see her?

40 A I saw her at Mrs. McCarthy's guest ranch.

Q In January, 1945?

A In January, 1945.

MR. CLOUD: Mr. Rose, may we note this further objection, without limiting the right of counsel in Canada to enter additional objections to all testimony, that as to any facts and circumstances which occurred prior to August, 1945, such matters are res adjudicata,

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and a court of competent jurisdiction has determined and adjudicated all such facts and circumstances with respect to this matter which may have occurred prior to August 1, 1945?

MR. ROSE: As I understand it, that objection is already reserved, in that counsel in Canada have the right to make any objection as to materiality, relevency or competency, and the like - all excepting as to form,  
10 That would be such an objection.

MR. CLOUD: That's right. I just call it to your attention at this time.

MR. ROSE Q: Was this lady one of the guests at McCarthy's ranch?

A She was one of the guests at McCarthy's ranch.

Q By what name did you know her?

A I knowed her through my wife as Mrs. Alexander.

Q Was she accompanied by anyone as a guest at that time at McCarthy's guest ranch?  
20

A Well, there was a fellow I knew that said she was his company, that's all I know. I saw them together several times.

Q You saw what?

A I saw her with a fellow I knew several times, and he said that she was his company.

Q Well, did you see her with a young lady?

A With a young lady? I saw Mrs. Alexander with her daughter, yes.

Q Is the daughter this lady who is seated in the room as you are testifying?  
30

A Yes, absolutely.

Q At that time did this young lady have the same color of hair that she now has?

A No, she didn't.

Q What was the color of her hair then?

A Her hair was dark brown, and now she is a blonde.

MR. ROSE: Is it stipulated, Mr. Cloud, that Miss Cynthia McKee, the daughter of Mark T. McKee, is present in the room here at this time?

MR. CLOUD: Yes, but I don't know anything about her hair. It is stipulated she is present in the room.  
40

MR. ROSE Q: This (indicating) is the lady that you referred to as the daughter of Mrs. Alexander?

A Yes, that's the lady that was referred to as the daughter.

Q For how long a period of time did you see Mrs. Alexander and her daughter as guests at that McCarthy

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WADE BENTLEY -- Defendant's Witness -- Dir. Examination

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guest ranch in January, 1945?

A They was there, as near as I can remember now, about two weeks, to my knowing.

Q Did you know a man by the name of Doctor William Shields?

A Yes, sir, I did.

Q Was he one of the guests at that same time at that same ranch?

10 A Yes, sir, he was.

Q That is, at this McCarthy's guest ranch?

A Yes, he sure was.

Q How long was he a guest there at that time?

A Well, Mr. Shields was there about two weeks, to my knowing that he was there.

Q Did you know a man by the name of Mr. Millar?

A I sure do.

Q Was he a guest at McCarthy's guest ranch at that same time?

20 A Yes, he was.

Q For how long, about, was he there?

A Well, Mr. Millar had been there some time. I just can't give any definite answer about the date, but Mr. Millar had been there at least three weeks, because he would go away and come back, and I coundn't just say definitely to the date Mr. Millar arrived and when he left, but I know he was at the ranch for some time, and remained about three weeks or better.

30 Q Was he there during the weeks when Mrs. Alexander and her daughter was there?

A Yes, he was.

Q Did either Doctor Shields or Mr. Millar use any of the saddle horses there?

A I don't just remember whether Mr. Millar ever used one, but Mr. Shields - I know he used a horse, because sometimes he would go out riding, and sometimes I would drive him over to Murray's. He wouldn't feel like riding.

Q You would drive him where?

40 A Over to Murray's ranch.

Q That is this dude ranch which is a mile and a half away from McCarthy's?

A That's right.

Q How often did you drive him over there?

A Well, occasionally. I will say he was a fellow that was very fond of drinks, and when I would be going into town - I got acquainted with him out around the

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WADE BENTLEY -- Defendant's Witness -- Dir. Examination

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horses there, and then he asked me to pick him up a bottle at Victorville, you know.

Q A bottle of what?

A Bottle of liquor, and I would bring it back and he would offer me a drink sometimes, and sometimes he wouldn't, and he says "By the way, I have got no way of going over to Murray's, and how about running me over to Murray's?" and I would drive him over to Murray's.

10 It happened quite often during the time he was there, because he would tip me very well, so I would get in the car and drive him over there. Sometimes I noticed him, and Mr. Millar would go out together, but where to I wouldn't know.

Q You say he kept you well, and what do you refer to?

A Well, you know, when I would drive in town he would give me \$4.00 or \$5.00 for a tip.

Q I see. You mean he tipped you well?

20 A That's right.

Q Did anything unusual occur between you and Mr. Shields, or Doctor Shields, while he was there in January, 1945?

30 A Well, it didn't nothing occur between me and him, but one night me and him was together, and he kind of got upset, you know, and was drinking, and wanted me to go over and catch a woman friend of his that had gone on ahead of him. I didn't think at the time what it meant, but I thought we would drive over and have a few drinks, and then this lady was in there, so he said that was his woman.

MR. CLOUD: Is it necessary to go into all of this hearsay evidence?

MR. ROSE: This is not hearsay, as we will show. This is an important matter.

Q Who was this woman, by the way?

A That was the woman that was pointed out to me as Mrs. Alexander.

40 Q How long before Mrs. Alexander left the McCarthy guest ranch in January, 1945, did this occur?

A Well, that happened one evening somewhere around about 7:30, and I can't remember the facts of ever seeing her again when she was at the ranch.

Q That was the last night you saw Mrs. Alexander?

A The last night I saw Mrs. Alexander, that night over at Murray's.

Q Was this Murray's dude ranch a colored dude ranch?

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A It was a colored dude ranch.

Q Then on this evening did you drive Doctor Shields over to this Murray's dude ranch?

A I did.

Q When you arrived there it was about 7:30 in the evening, as I understand you?

A It was about 7:30 in the evening.

Q When you arrived there did you see Mrs. Alexander?

10 A I didn't at the moment I arrived, because we gets out of the car and goes around the building and has a drink - he was feeling pretty good - and we goes into the building.

Q Where in the building?

A We goes into the dining room in there, and there was quite a few people in there - I don't know just how many people was there, but quite a number in there, and during that time there was quite a few soldiers out there, so he was stirring around there, and he comes  
20 back to me, and he said "Come here, I want to tell you something," and he hands me his hat, and he says "She is making love to another guy," and he seemed to be very angry over it.

Q What were these people doing on the floor - these soldiers and persons to whom you referred?

A Well, they was dancing, just dancing with each other.

Q When he handed you his hat just what did he say?

A He said "There's the woman I am after, there on  
30 the floor."

Q Did you see the woman?

A I seen the woman.

Q Who was the woman?

A It was Mrs. Alexander.

Q What was she doing?

A She was dancing.

Q With whom?

A She was dancing with a soldier. I don't know his name at all.

40 Q Was he a white man?

A He was a white man.

Q What did you observe, if anything, as to what occurred while she was dancing with this soldier?

A He was kissing her.

Q Did you see the soldier kiss Mrs. Alexander while they were dancing?

A I seen that for sure.

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WADE BENTLEY -- Defendant's Witness -- Dir. Examination

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Q Then what, if anything, did Doctor Shields do when he handed you his hat?

A He walked over to her and he struck her.

Q Where did he strike her?

A Struck her on the face, on the left side of her face.

Q What happened to Mrs. Alexander then, if anything?

A She fell, of course.

10 Q Where did she fall?

A On the floor.

Q As she laid on the floor did the soldier with whom she had been dancing say anything?

A He didn't say a word, he didn't say nothing that I know of.

Q Did anyone say to Doctor Shields "I didn't know she was your wife?"

A It was spoken, yes, by someone.

20 Q Who said to Doctor Shields "I didn't know she was your wife?"

A It was just spoken - "I didn't know the lady was your wife."

Q Well, who said that?

A I couldn't say. I don't know the name.

Q But was it the man that was dancing with her?

A I wouldn't be positive. There was a bunch of soldiers there. He struck the lady and she fell, and he walks back, and then some soldiers just pulled this man back.

30 Q Some soldiers pulled who back?

A They pulled this other soldier. They walked up to him and somebody said "I didn't know that was your wife," and he said "That isn't my wife; that's my woman."

Q That is what Doctor Shields answered?

A That's the way Doctor Shields give answer to that.

Q As the group of soldiers pulled back the soldier with whom Mrs. Alexander had been dancing, what, if anything, happened to Mrs. Alexander on the floor?

A Some women picked her up.

40 Q What did they do with her?

A They went down into the bar room where they serve beer down there.

Q How many women picked up Mrs. Alexander?

A I couldn't give you a definite answer about just how many it was, like when anything exciting happens, you know, but just a bunch of women comes up, you see, and they cuddled up there.

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WADE BENTLEY -- Defendent's Witness -- Dir. Examination

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Q A group of women cuddled up there?

A That's right.

Q When they picked her up and they went to the bar room did Mrs. Alexander walk by herself, unaided, or was she aided by some of these women?

10 A She was aided to walk, that's true enough, but they just got around and carried her down in there or went down there, because she was struck in the face, and I don't say she was knocked out or nothing like that, and who it was I don't know, but they just walked her right down into the bar, and I couldn't say what happened then.

Q When Mrs. Alexander was struck, or while she was on the floor, or while she was being accompanied to the bar room, did you hear her say anything?

A I didn't hear her say a thing.

20 Q From the time that Doctor Shields struck Mrs. Alexander what happened to Doctor Shields, or what did he do?

A As they was talking to him I don't know just exactly what they were saying, and then after he spoke and said that wasn't his wife, that it was his woman, some of the men got him under the arm and he walked back, and they asked me to give them his hat, and I handed them his hat.

Q You handed Doctor Shields' hat to this group of men?

30 A That's right. So he told me to come on, he said "Let's go."

Q Who told you "Let's go?"

A Doctor Shields told me "Come on, let's go back to the ranch," so I wouldn't carry him back to the ranch, because he was angry, but he said "Yes, I came with you, and I am going back," and then they told him "We will take you back to the ranch."

Q This group of men told him that?

A That's right.

40 Q These soldiers?

A The soldiers, yes.

Q Then did they take Doctor Shields back to the ranch?

A Well, they took him to the car, and these women, this bunch of women, came out of the front of the bar and started toward the car as I was pulling off, and whether they carried him back to the ranch or no I couldn't say.



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WADE BENTLEY -- Defendent's Witness -- Dir. Examination

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Q You left before he did?

A That's right.

Q Then this group of women who had accompanied Mrs. Alexander into the bar room came out?

A They was coming out of the front, but they had not made it to the car when I drove off.

Q What became of the hat Doctor Shields had, which he had handed to you before he struck Mrs. Alexander?

10 A When it left my hands I couldn't say what happened to it, because I didn't watch the hat any more.

Q How did it leave your hands?

A Well, this man that reached for his hat - I handed the hat to him.

Q You handed Doctor Shields' hat to whom?

A I handed Doctor Shields' hat to a soldier.

Q A soldier reached for his hat?

A He reached for his hat, a soldier that was holding him under the arm.

20 Q Before you started on your trip with Doctor Shields to this Murray's dude ranch on that occasion were you in the company of Doctor Shields?

A I was for sure.

Q Beginning at what time on that day?

30 A Well, they have lunch, or dinner you see, at 6:00 o'clock there in the afternoon, so when he came out I was out in the yard fooling around, and there was some more people there, and I was riding a horse around the yard, showing off, and he wanted to go to Murray's, and I told him "I will take you over." He seemed to be kind of sore about something, to be cross, and so when we was going over to overtake the woman he didn't call any name, but he says "I will beat the hell out of her if I catch her," talking along like that, first one way or another, but that's all he spoke about, was this woman.

Q Did he mention the name of Mr. Millar?.

40 A He mentioned Mr. Millar, and he and Mr. Millar seemed to be kind of on the outs that evening, for some cause, something happened.

Q Did he say what?

A He didn't say what it was at the time, but somehow or other they had been spatting.

Q Mr. Bentley, did you see Doctor Shields with Mrs. Alexander on other occasions, either at Murray's dude ranch or McCarthy's guest ranch?

A I did for sure.

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WADE BENTLEY -- Defendant's Witness -- Dir. Examination

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Q Did you see them at Murray's dude ranch?

A I saw them at Murray's together, and I have saw them come into the dining room together at Mrs. McCarthy's.

Q Did you observe whether or not they were drinking when they went to Murray's?

A Practically any time you seen Mr. Shields he was drinking.

10 Q How about Mrs. Alexander?

A I couldn't swear that she was drinking, but I know she seemed like a lady that was very 'toxicated.

Q How often did that happen?

A It happened quite often.

Q At what places?

A Well, several times they come in during the lunch hour you know, and they seemed like they was very 'toxicated then, and at times it would be over to Murray's, I seen them over there, I seen them dancing  
20 while they was 'toxicated. I know he was, but I couldn't swear she was.

Q On any of these occasions was Miss Cynthia McKee with Doctor Shields and Mrs. Alexander?

A That I don't know.

Q Did you ever observe Doctor Shields and Mrs. Alexander at the dining room table in McCarthy's while at dinner at 6:00 o'clock?

A I have seen them there, sure.

30 Q What did you observe as to their conduct at the table?

A Well, it would make you feel, you know, like they would be high, something like that. He would come in during the lunch hour, having lunch, and he would be holding her hand, something like that (indicating), and take his hand and put it around her like that (indicating).

Q That is, his arm?

A His arm, put it around her.

Q What part of her?

40 A Around her shoulders.

Q At the table?

A At the dinner table, yes.

Q Was that a public dining room?

A A public dining room, yes.

Q How many people would be seated at that table?

A Well, as near as I can remember, they fed as high  
as 50 in the dining room, but at the table - I don't

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WADE BENTLEY -- Defendant's Witness -- Dir. Examination

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know just the number of people that would be around a table.

Q Would there be more than 20?

A No, there wouldn't be more than 20 around one table that they would be sitting at.

Q I mean in the dining room at the same time.

A Oh, yes.

Q Well, how many would there be, about?

10 A There would be sometimes around 40 to 50 people in there.

Q On some of these occasions when Doctor Shields put his arm around Mrs. Alexander was Miss Cynthia McKee present at the table?

A Yes. You know, they would come in and sit down like this (indicating).

Q Abreast?

A Just abreast, seated at the table, sitting alongside of each other.

20 Q That is, the three of them sat together?

A That's right.

Q Miss Cynthia McKee, Mrs. Alexander and Doctor Shields sat next to each other?

A That's right.

Q Did you ever see Doctor Shields kiss Mrs. Alexander?

A For sure I did.

Q How often?

30 A I saw it twice to my knowing.

Q Where?

A At the table.

Q The dining room table?

A The dining room table.

Q In the public dining room?

A In the public dining room.

Q Was Miss Cynthia McKee present when that happened?

40 A Truthfully I couldn't swear that she was there during that time. At lunch occasionally people finish lunch and get up and pass out, you know, passing on, and it didn't strike me that much to pay that close attention to whether she was sitting there or not.

MR. ROSE: You may examine, counsel.

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WADE BENTLEY -- Defendant's Witness -- Cross-Examination

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BY MR. CLOUD:

Q Mr. Bentley, how do you spell your first name?

A W-a-d-e B-e-n-t-l-e-y.

Q How old are you?

A 33 years old.

Q You are a negro?

A That's right.

Q What is the name of your wife?

10 A Her name is Bobby.

Q Bobby Bentley?

A Yes.

Q She is likewise a negress?

A She is a negress.

Q When were you married to her?

A I was married to her in August, 1944.

Q Where were you married?

A I was married in Los Angeles.

Q Where were you born, Mr. Bentley?

20 A I was born in Tulsa, Oklahoma.

Q How long have you been in San Bernardino County?

A I have been in San Bernardino County eight years.

Q When did you go to work for the McCarthy ranch?

A I wasn't employed there.

Q You were never employed there?

A I was never employed there.

Q You were there, then, because your wife was employed there?

30 A I was there because my wife was employed there, yes.

Q You were married at the time she was employed there?

A I was married at the time she was employed there, yes.

Q Where were you employed in 1945?

A I wasn't employed anywhere in 1945.

Q Where are you employed now?

A At the Victorville Cement Plant.

Q How long have you been working there?

40 A I was working there one year this past December.

Q What did you do between January of 1945 and December of 1946?

A Fooled around the ranch.

Q Did you have any income during that time?

A No other than my wife's, and a few chickens and a few hogs.

Q Where did you live during that period?

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A I lived right where I am living now, just above Mrs. McCarthy two miles.

Q Who first contacted you regarding your testifying at this hearing?

A This gentleman right here (indicating).

Q What is his name?

A I don't really know his name.

MR. ROSE: James F. Leahan.

10 MR. CLOUD Q: He was present here in the room at the time you have been giving your testimony?

A That's right.

Q When did he first get in touch with you?

A I don't know just what date it was, but one Sunday evening he arrived at our home.

Q Was it during the month of January or February or March of this year?

20 A It was this year, but it wouldn't be no use for me to try to tell you what date or what month it was. I didn't pay that close attention to it - not until here about a week ago, because he was looking for my wife during the time he came up there.

Q Would you say it was a month ago that he called on you the first time, or longer than that?

A It would be just my guessing what time it was when he first arrived and called for the wife. He was looking for my wife.

Q Well, when was he looking for your wife the first time?

30 A I believe, if my assumption is right, it was better than a month ago, or longer.

Q Was it this year?

A It was this year.

Q It was after January 1st of this year?

A Well, I couldn't say that, to be truthful.

Q You are not positive?

A I am not positive what date it was on.

Q Are you positive of the month?

A No, I am not.

40 Q You have referred to the year 1945, and you stated that part of the time you helped at the McCarthy ranch, taking care of the horses?

A Right.

Q What period of the year was that, Mr. Bentley?

A That was along in from July and August into the latter part of September.

Q July, August, to the latter part of September,

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1945?

A That's right.

Q When did you first go to the McCarthy ranch?

A When did I first go to the McCarthy ranch?

Q In July, 1945.

A Well, that was not the first time I had been down there.

10 Q Well, I mean you testified you looked after the horses there and helped the guests, and was that during the months of July, August and September, 1945?

A It was during the month of July and August, 1945.

Q So these incidents you have testified to previously during your examination occurred during the months of July, August and September, 1945?

A That occurred along in July and August, somewhere along there, those two months.

Q Are you sure it was not in June?

A I wouldn't swear it wasn't.

20 Q Are you sure it was not in September?

A I wouldn't swear to that.

Q Are you positive it was in the summer months some time?

A It was in the summer months some time, yes.

Q Are you positive it would be after June 1st?

A I wouldn't swear to that.

Q Would it be as far back as May?

A I wouldn't swear to that.

30 Q You just do not have any recollection, except that your best recollection is that it was in June, July and August, 1945?

A I know it was during the summer months at that time.

Q How many cottages are there on the McCarthy guest ranch, Mr. Bentley?

A It's listed as 28.

Q Who is the owner of the ranch?

A Mrs. Irene McCarthy.

Q Do you know her?

40 A Do I know her? Yes.

Q When was the last time you talked to her?

A I haven't seen Mrs. McCarthy, any more than passing by and speaking to, for better than - it's been around six months or more.

Q Did anybody else talk to you about testifying at this hearing, that is, other than Mr. Leahan?

A There is no one else that talked to me but this

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gentleman right here (indicating).

Q You mean Mr. Rose?

A Mr. Rose.

Q And Mr. Leahan?

A That's right.

Q Did you make an affidavit as to any of the facts or circumstances previous to this hearing?

10 A Not that I know of. He really didn't talk to me about it, but he came out one Sunday evening, and I was quite busy, and he talked to my wife, and then we was in Los Angeles to talk to this gentleman here (indicating), Mr. Rose.

Q Have you been served with any subpoena or any order to appear at this hearing?

A He told me ----

Q Who do you mean by "he?"

20 A I mean this man here, Mr. Leahan - he asked me would we cooperate with him and come down and talk to this gentleman here (indicating).

MR. ROSE: You mean Mr. Rose.

THE WITNESS: Mr. Rose - and that for the time I was losing on my job, and my expenses, he would take care of that.

MR. CLOUD Q: Have you been paid anything to come here?

A I haven't been paid a cent.

Q Have you been promised anything?

30 A No, I have not.

Q How much are your wages?

A I makes \$9.80 a day.

Q Is your wife working now?

A No, my wife is not working.

Q Did you ever work in a stable?

A You mean livery stable? Not a public one.

Q Did you ever work in a private stable?

A Yes.

Q Where?

A At home.

40 Q Where is home?

A Tulsa.

Q Have you ever been arrested, Mr. Bentley?

A I have never been arrested in my life.

Q Who were the guests who were there at this McCarthy ranch during this period you have testified to, other than Doctor Shields and Mrs. Alexander and her daughter Cynthia McKee?

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A You mean who the other guests were that were there?  
I couldn't go back and tell you that.

Q You do not remember any of them?

A I remember lots of them for sure, just getting acquainted with them but at that time I couldn't go back and tell you the people that were there, because people come and go there every day, coming and leaving.

10 Q Well, during this time you are talking about there were 40 or 50 people there at the ranch?

A That's right.

Q Did they have a swimming pool there?

A Absolutely.

Q During these luncheon periods 40 or 50 people ate lunch at the same time?

A I wouldn't be able to tell you that, because I didn't count the people in there for lunch.

20 Q What is your best estimate as to the number of people who were eating lunch there at the time of these so-called incidents?

A It could be that some of them wouldn't come in to lunch. They rang two bells there, and they were supposed to come in to lunch, but whether they did or no I wouldn't swear, but they waited no lunch for anybody.

Q Did you ever look in the dining room during the luncheon or dinner period and observe whether or not there were any persons eating lunch or dinner there?

30 A Was there anybody eating lunch or dinner?

Q Yes.

A Sure I have.

Q What is the largest number of people you ever saw eating lunch together there?

A They can seat and feed over 60 people, and I have looked in the dining room and every table in there was full.

Q That was during the period ----

A During the period of lunch.

40 Q That was during the period when Mrs. Alexander, or as we also know her, Mrs. McKee, was there?

A It was during the period they was there.

Q How many guests, if you know, do the 28 cottages accommodate?

A How many they would accommodate?

Q Yes, how many people could stay overnight, if you know?

A I don't know how many people could stay there.



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Q Where did you stay at night?

A I stayed home.

Q Back to Victorville?

A I didn't stay in Victorville.

Q Did you stay at Murray's ranch?

A No, I didn't stay at Murray's. I have a ranch of my own.

Q How far is that from McCarthy's ranch?

10 A From McCarthy's ranch it's two miles.

Q So you went home at night with your wife, and brought her back to work in the morning?

A That's right.

Q You say there was a swimming pool there?

A At Mrs. McCarthy's? There most certainly is.

Q Did you ever see guests using the swimming pool?

A I have saw them going into the pool, but I didn't go up there and look in. I have seen them go in there.

20 Q At the time we are talking about there was water in the swimming pool and guests were using it; is that right?

A That's right.

Q We are now referring to the time you have testified to on direct examination, as to when these alleged incidents occurred.

A That's right.

Q Did you ever see Mrs. Alexander, or Mrs. McKee, by which name we know her, use the swimming pool?

30 A No, I didn't see them. I never saw them go into the water.

Q Did you ever see Mrs. Alexander, or Mrs. McKee, around in a bathing suit?

A I have seen them in bathing suits.

Q Did you see Cynthia McKee in a bathing suit?

40 A At a place like that I would see her pass by, things like that, but I wouldn't try to go back that far and say for sure and be truthful I have seen her in a bathing suit, because she passed me up just like I was nothing, but I would see her the same way I would everybody, and never came in closer contact with her. I just know I seen her pass by and recognized her, seen her some time or other, but not to pay any close attention to her. I have seen coming and going there maybe a hundred or two people one week, all of them wearing bathing suits, because that's what they came there for - a sun suit or bathing suit.

Q Well, what I am trying to get at is this: out

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there during the period when Mrs. Alexander was there with her daughter everybody was using the pool?

A That's right.

Q Do you do any drinking yourself?

A Me?

Q Yes.

A Yes, I drink.

Q Did you drink with Doctor Shields?

10 A I have drank for sure with him, yes.

Q How many horses were there at the ranch at this time?

A There was 12 head to my knowing at the ranch at that time.

Q Did you ever teach Mrs. Alexander or Cynthia or Doctor Shields to ride?

A I have showed them what position to sit on a horse, how to hold the reins to get him to go or to stop him, make him get along.

20 Q Who do you mean by "they?" Do you mean all of them?

A Mrs. Alexander and Doctor Shields.

Q Did you ever show Cynthia McKee?

A No. There was a soldier boy by the name of Earl there, and Earl knowed quite a bit about horses, and she would be around with Earl.

MR. ROSE: You are talking now of Miss Cynthia?

THE WITNESS: Yes, talking of her daughter.

30 MR. CLOUD: Q Did you teach Doctor Shields to ride at all, or show him how to ride?

A I have showed him things about riding. He could ride, you know.

Q Did you go out with him on rides?

A I have been out with him, but not just me and him to go out, no. I have been there when the horses would go out.

Q So when you would go out and Doctor Shields happened to go with you, he would be just one of a number of people who went together?

40 A One of a number of people who went together yes.

Q Did Mrs. Alexander and Doctor Shields and you ever go out for a ride?

A No.

Q Did you ever see Mrs. Alexander and Doctor Shields go off on horses together?

A I never have seen them just go out together; I have seen them come in together on horses.

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Q Did you see Mrs. Alexander riding a horse?

A Yes, I saw her riding a horse.

Q On more than one occasion?

A I wouldn't swear how many times I saw her ride, but I saw her riding.

Q To your best recollection did she ride every day or every other day?

A No, I won't say she rode every day.

10 Q Well, did she ride every other day, or more or less than that?

A I wouldn't get down to try to remember that, for the simple reason you realize that's been better than two or three years ago, and I wouldn't say the days I have seen her ride, I wouldn't say that, but I have seen her ride; she did ride a horse for sure.

Q You mean it has been three years since then?

A About three years ago, that I know of.

20 Q At any rate you are positive she rode a horse on some occasions?

A I know she rode a horse. I couldn't give you the dates.

Q Where is this Murray's dude ranch with respect to McCarthy's ranch?

A Murray's dude ranch is north of McCarthy's.

Q Is that toward Victorville?

A Toward Victorville.

Q That's a dude ranch and bar?

A That's a dude ranch, and it has a bar in it.

30 Q That place has been frequented by such people as Jack Benny, Rochester and Joe Louis?

A Joe Louis has been there for sure.

Q Where they have pictures of these Hollywood notables around on the walls? You have seen those pictures there?

A I have seen lots of pictures around on the walls, but I can't tell you what now. I have seen those pictures, but I wouldn't swear to them.

40 Q You do not recollect of whom they are pictures?

A That's right.

Q When you go into this Murray's dude ranch what is the entrance like, Mr. Bentley?

A When you drive in?

Q Yes.

A Coming from McCarthy's there you is headed north, and you turn off the main road going to Victorville, you turn to your left and goes on heading right into

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Murray's, and you come alongside down a fence, and there is a gate, still to your left, where you can turn in, or you can drive straight down the fence and make a sharp turn to your left in on the cattle guard, then you is headed back, you is going south - that's the way you are going, south - and when you come in the cattle guard coming back to Murray's you is headed back north.

10 Q Well, what is the first door you come to when you get to the ranch, with respect to its location?

A Coming from McCarthy's the first door you come in, if you come in on the back, you know, is into the kitchen door.

Q That is not the main public entrance, is it?

A At the main public entrance you enter into the bar.

Q Where is that door - is that in the corner there?

A No, that's right in the center.

Q Right in the center of the bar?

20 A Right in the center.

Q When you enter there that's where they have the bar and stools, and that's where they serve cocktails?

A I don't know anything about serving cocktails. They sell beer there; that's all I ever knew them selling.

Q Did they serve any drinks at McCarthy's ranch?

A No, they don't serve drinks at McCarthy's.

Q They do not have a license; is that right?

A I don't know whether they had a license or no.

30 I know they didn't serve any drinks, and in fact Mrs. McCarthy didn't like for it to be on the place, but, you know, guests bring anything they want to, and she don't try to stop them, as I know anything about.

Q So the nearest place to McCarthy's at which liquid refreshments are obtainable is Murray's dude ranch?

A Murray's, yes.

Q Is that where the guests from McCarthy's usually went?

40 A That's where guests from McCarthy's usually come and drink beer and dance.

Q That was a common evening occurrence, was it?

A Yes, a common evening occurrence.

Q As a matter of fact, Mrs. McCarthy had a notice posted to that effect, didn't she?

A Not that I know of.

Q You don't know anything about that?

A No.

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Q Did you ever hear her tell guests that there was a dude ranch where they could get liquid refreshments in the neighborhood?

A I never did.

Q When you go into the bar at Murray's is the bar and the dance floor there all one room?

A No, it isn't. They have really no dance floor, but they got one of these nickel machines in the dining  
10 room.

Q What they call a juke box?

A A juke box, and they can go in there and play the music and dance in the dining room, in there where people eat.

Q At the time you testified to being there with Doctor Shields were all of the people on the dance floor white people or were they mixed white and colored?

A There was colored people there, and white.

20 Q Were the colored people dancing with the white people?

A They didn't couple off that way with white women, but they just mixed up.

Q There were soldiers there?

A Soldiers, yes.

Q They were dancing with white women?

A They were dancing with white women.

Q Was there a piano in that room?

A Yes.

30 Q You have been there many times, have you?

A At Murray's?

Q Yes.

A I have been there a number of times.

Q How many people does the dining room at Murray's accommodate, if you know?

A I don't know just how many.

Q Do you know how many tables there are, or were then?

40 A No, I don't know how many tables there are at Murray's. They have cafe style; they don't have long tables.

Q What I am getting at, Mr. Bentley, is that this is really a dining room, and if people wanted to use the juke box and do any dancing they danced around between the tables; is that right?

A No, they didn't dance around between the tables.

Q Is there a regular dance floor there?

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A No, not a regular dance floor. It's a dining room, and has a hall between the tables that they serve on, like here, you know, there is a line of tables (indicating), sitting along this wall, and a line of tables sitting over against this wall here (indicating), and all of this aisle here (indicating) is open.

Q That is, between the rows of tables there is a space where they dance?

10 A That's right, a space there where they can have dancing.

Q How many people were in this Murray's dining room the night you went in there when you testified this incident occurred with Doctor Shields?

A There was quite a number of people, but just to give you the exact number I couldn't do that, but I know there was more than 15, somewhere up into around 20 people there, or more.

20 Q These women that you state picked up Mrs. Alexander, or Mrs. McKee, were they white or colored?

A They was white.

D Did the colored women do anything about any of this affair?

A No.

Q Where was Cynthia McKee at the time?

A I couldn't say where she was.

Q Was she in Murray's dining room?

A I didn't see her if she was. I didn't see her to recognize her.

30 Q You have mentioned a Mr. Millar. What is Mr. Millar's first name, do you know?

A No, I don't know his first name; all I know is Bill Millar.

Q Is that M-i-l-l-a-r or is it M-i-l-l-e-r, or do you know?

A No, I don't know.

Q Was he there that evening at Murray's?

40 A No, Bill Millar wasn't there, not as I know anything about. He wasn't over at Murray's, or if he was I didn't see him.

Q How old a man is Mr. Millar, if you know?

A Mr. Millar - he looks to be around turning his fifties.

Q Pretty nearly 60?

A Pretty near 60, if I am not estimating too high, just by looking at him.

Q How old a man is Doctor Shields, if you know,

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or what is your best opinion?

A My best opinion about him is - just a rough guess, because I don't pretend to be any expert guessing a person's age - I estimate him about somewhere around 38 or 39.

Q Do you know whether he is a M.D. or Doctor of Philosophy, or what kind of a doctor he is?

10 A That I didn't ask him, and I don't know. All I know is he was a Doctor Shields.

Q You went out on several occasions with him took him to Victorville and to Murray's?

A I have drove him to Victorville and to Murray's, yes.

Q What time of day were these trips usually made?

20 A He would have breakfast at 9:00 o'clock in the morning, and during the day I was fooling around, lallygaging around, talking around, and he would come along and we went to run down to Victorville maybe around 10:00 o'clock. They have lunch at 1:00 o'clock, and we would run in sometimes around 10:30 or 11:00 o'clock, and we would be back around 12:30 for lunch.

Q How many times did this happen during the period he was there then, if you can recall?

A Well, I know it happened more than twice, I know it happened more than three times, but what times I couldn't say.

Q How long was Doctor Shields there at the ranch?

A As near as I remember he was there two weeks.

30 Q Do you know how long Mrs. Alexander, or Mrs. McKee, was there?

A When I paid attention to them being there - from the time I would see them and know who I was looking at, they was there two weeks, to my mind.

Q Do you know when Mrs. Alexander, or Mrs. McKee, left the dude ranch - I mean left McCarthy's ranch?

A No, I don't. I wasn't even there the day she left.

40 Q Do you remember when Doctor Shields left?

A I wasn't there the day he left either. If I was I didn't see him leave.

Q When did you leave the McCarthy ranch the last time?

A When did I leave there the last time?

Q Yes.

A I left there the last time along about December.

Q Of what year?

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A 1946.

Q That was last December?

A Last December.

Q Can you now tell us the first time you went there, approximately?

A The first time I went to McCarthy's ranch?

Q Yes.

10 I don't know what day or what month it was, but I got acquainted with Mrs. McCarthy about five years ago, and how I come to get acquainted with Mrs. McCarthy five years ago was Mrs. McCarthy came to the house and she wanted my wife to work for her.

Q Let's make it a little more definite. During the year 1945 when was the first time you went there, that is, during that year?

A I had been going there off and on.

Q Off and on?

20 I had been going over there.

Q Did you ever receive any money from Mrs. McCarthy?

A No more than what I borrowed from Mrs. McCarthy.

Q You say no more than what you borrowed?

A No more than what I borrowed. That's all the money I ever received from Mrs. McCarthy.

Q What I am getting at is this: during all of these five years you were never paid anything by her?

A No. I wasn't working for her.

Q Do you know how long Mr. Millar was at the ranch?

30 A That I couldn't say. Mr. Millar had been coming to that ranch off and on a year or more when I first knew that it was Mr. Bill Millar.

Q Was he there after the summer of 1945?

A I have seen Bill Millar come in there, but he just lodged there no more than a night, something like that, because he was going up to his home up there in Big Bear.

Q Mr. Millar was a kind of an old time customer there, was he not?

40 A Well, they had knowed Mr. Millar for some time. I don't know just how long, or nothing like that, but he was pretty well known around the place.

Q You testified, I believe, that Mr. Millar and Doctor Shields went out somewhat together; is that right?

A They went out several times together. Mr. Millar had a car and Mr. Shields didn't, not that I know



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anything about.

Q But the two of them would go out together?

A I have seen the two of them out together, and I have seen Mrs. Alexander and Mr. Shields and Mr. Millar and her daughter there in the car together.

Q That is, leave the ranch in the car?

A Yes.

Q What time of day was that?

10 A Well, I wouldn't just come out and tell you just exactly what time of day it was.

Q Well, was it in the morning or afternoon, do you recall?

A It was just in the day some time.

Q Some time during the daytime?

A Some time during the daytime, yes.

Q Is it not a fact, Mr. Bentley, that Mr. Millar usually went down to pick up the mail every day?

20 A I know he would drive into Victorville, but I didn't know he was going in to pick up the mail, and I wouldn't say.

Q But he went there, as a rule, pretty nearly every day?

A Well, he went into Victorville some time during the day, but I don't say every day, because I don't know whether he went in every day, but I know he would go into Victorville.

Q Did the McCarthy ranch have a means of conveyance to and from Victorville for their guests?

30 A No more than just their own transportation. She didn't have no special transportation, only Mrs. McCarthy usually makes it a rule that she leaves about 10:00 o'clock or 9:30 every day and go into town.

Q That is, they do not have a station wagon or a bus, or anything of that sort?

A Not anything like that.

Q You stated you had a conversation with someone wherein that person pointed out Mrs. Alexander as Mrs. Alexander, and with whom was that conversation?

40 A That pointed her out as Mrs. Alexander?

Q Yes, pointed out a certain woman as Mrs. Alexander.

A Well, the first I knew her as Mrs. Alexander is there at the ranch, and then from then on most anywhere I would see her I would know that was the lady they said was Mrs. Alexander.

Q What I am getting at is this: I believe you

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testified on direct examination that you had a conversation with someone, and that person pointed out a woman and said that was Mrs. Alexander. Who was that?

A That was my wife.

Q Your wife told you that?

A My wife told me it was Mrs. Alexander.

Q Did you ever see Mrs. Alexander after this Murray ranch incident that you have testified to?

10 A I didn't ever see her again.

Q Did you ever see Doctor Shields after that?

A No, I didn't see him.

Q Did you ever see Mr. Millar after that?

A Sure I seen Mr. Millar.

Q Mr. Millar stayed there after that occurrence?

A Mr. Millar was there a day or two after that, to my knowing.

Q Do you know how Mrs. Alexander and her daughter got to the McCarthy ranch, by what means of transportation?

20 A That I don't know.

Q Was Mrs. Alexander there when Doctor Shields arrived, or was Doctor Shields there when Mrs. Alexander arrived?

A When I knew that was Doctor Shields and I knew that was Mrs. Alexander they both was on the ranch, but how they arrived or who arrived first I don't know, I couldn't tell you.

Q You don't recall that?

30 A No, I just don't know. When I knew them they was on the ranch.

Q The reason you are positive about these incidents, and about Doctor Shields, is because he gave you tips; is that right?

A I knowed him because I became closely acquainted with him by talking and fooling around with horses, like he would come out and he would talk to me, and he got to be quite friendly with me.

40 Q Did he tell you he liked horses because he was a cavalry officer in the war?

A He didn't tell me anything about that.

Q Did he tell you about his war experiences?

A No, he didn't ever tell me anything about his war experiences or anything like that.

Q Did he tell you he was a veteran?

A No, he didn't.

Q You didn't know whether he was or not, then?

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A I didn't know. I don't know.

Q Have you been with Doctor Shields on more than one occasion when he was drunk?

A I never have been with Doctor Shields when he was just exactly what you would call drunk, but the man did drink and was feeling pretty good, kind of 'toxicated. You see, when he talked more than usual it don't mean he is down drunk, and I have never seen him pass out or be  
10 helpless, anything like that, but I have seen him when he was feeling pretty tipsy.

Q Did you ever get that way?

A Not that I know anything about.

Q Were there any soldiers who stayed at the McCarthy ranch?

A There was three soldiers that would spend the week end there. In come cases there was some lieutenants and some colonels that would come out there just over the week end, that I would see around there, but there was  
20 one boy - they called him Bill - and Earl - he was the soldier, and Earl he worked there on his off days, and this other boy - I know his name, but I just can't call it now.

Q He helped around there?

A Yes, he would come out around the ranch there. They had bought them a couple of ponies and they had them there. I remember no - Bill and Dick. They would come out, you know, and for what they eat during the day and for lodging at night they would just do little  
30 things around the ranch for Mrs. McCarthy, like haul manure or dirt, something like that, or haul sand, things like that - just to have somewhere to go to get away from camp.

Q Did you ever work at a dude ranch?

A Have I ever worked at a dude ranch?

Q Yes.

A No more than just fooling around Mrs. McCarthy's. I never seen a dude ranch until I came to California.

Q Do you know what guest entertainers are at a  
40 dude ranch?

A What guest entertainers are?

Q Yes.

A No, I wouldn't know.

Q Do you know what a guest host is at a dude ranch?

A I don't know anything about that.

Q Sometimes these dude ranches have local atmosphere, like cowboys who ride bucking broncos; is that right?

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A I see what you mean.

Q Did you see any of those people at McCarthy's?

A The only thing that came down there that could ride a bucking horse at McCarthy's ranch was myself.

Q You are a bucking horse rider?

A I have rode them all my life.

Q Referring to these soldier boys, did they entertain guests at all?

10 A Well, they would usually be around where the guests was, and some of the young girls would come around and they would kind of be around with them, friendly like, you know, playing around with them, but that I didn't nose into.

Q Mr. Bentley, did you ever hear of a little boy by the name of Terry McKee?

A I might have heard it, but I better not say, because I really don't know.

Q You don't know?

20 A I don't know, I don't remember.

Q You are positive about the things you have testified to heretofore, are you?

A I tried to testify to what I know, not what I believe.

Q Did Mrs. Alexander, whom we also know as Mrs. McKee, ever have any little boy out there with her?

A I didn't see any if she did, not that I know anything about. There was several kids there but I wouldn't say they was Mrs. Alexander's and I wouldn't say they wasn't.

30 Q Were the children who were there permitted to go into the swimming pool?

A I wouldn't go around that swimming pool, and I wouldn't say the kids was and I wouldn't say they wasn't, because that was out of my line.

Q Well, what I am really getting at is this: did the children run around in sun suits or play suits?

A Yes, sure, all the kids was in sun suits.

Q And they were over near the swimming pool?

40 A Near the swimming pool.

Q And the guests there were in swimming suits or play suits?

A Yes.

Q Enjoying the sun?

A That's right.

Q As far as you know the children were using the swimming pool, but you are not positive about it?

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A I didn't go by and see it, because there was ladies clear up there in bathing suits laying out in the sun, and that's out of my line, I had no business there.

Q You saw Mrs. Alexander and Cynthia lying there with other guests?

A I didn't see them lying down.

Q Did you see them in swimming suits?

A I saw them walking across the yard with swimming suits on.

Q Where is the pool with respect to the dining room?

A I will have to raise up to try to map it out to you, to show you where it is at, but the directions or things like that I just couldn't get down to and tell you. This is the dining room, and that was the kitchen part (indicating).

Q Well, using the directions, east, west, north or south, in which direction is the pool from the dining room?

A It's south of the kitchen, more to the left hand side of the kitchen door.

Q Is the pool next to what they call the bunk house?

A It used to be the bunk house, but there is no more bunk house there.

Q There is not?

A No, there is not.

Q Did they move it?

A No, it burned down.

Q When did that burn down?

A I don't know just what time, what month or what day, or nothing like that, or just what year it was, but it burned down during that time, some time or other this bunk house burned down.

Q Where did Mrs. McCarthy live with respect to the dining room, in which direction?

A You come into the driveway, and when you come into the driveway you is headed north, when you are coming into the dining room you is headed north, and you pass by Mrs. McCarthy's room, between Mrs. McCarthy's room and the dining room door, where you go into the dining room.

Q Can you tell us in which direction Mrs. McCarthy's quarters are from the dining room - east, west, north or south?

A It isn't just straight east, but from the road it comes right through by the dining room door, and it's

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setting to the east, which would be kind of about 50 yards or more to the south of the front of the dining room door.

Q Is it southeast or northeast or northwest or southwest?

A That I ain't going to say.

Q You do not know your directions out there?

10 A I just can't get right down to it, sitting down here, but I know just the spot in my mind, but I ain't going to tell you the directions, just what the directions is.

Q Which way are the barns from the dining room?

A The barns from the back of the kitchen is north, straight out north of there.

Q Which way are the guest cabins from the dining room?

A All over out there, on both sides, come straight down on both sides.

20 Q Does anybody live in the building which houses the main dining room?

A The main dining room?

Q In that building which houses the main dining room.

A No, no one is living there.

Q Mr. Bentley, you stated on direct examination that you saw Doctor Shields kiss Mrs. Alexander; is that right?

A I did for sure.

30 Q Where did that occur the first time you saw it?

A Setting at the dining room table, in the dining room.

Q That is, in the McCarthy ranch dining room?

A The McCarthy ranch dining room.

Q What time of day was it?

Q Well, it would be during the lunch hour, which they served lunch at 1:00 o'clock, supposed to serve at 1:00 o'clock, but sometimes occasionally it might be 10 or 15 minutes later.

40 Q About 1:00 o'clock at noon, or shortly after 1:00 o'clock?

A Yes, or shortly after 1:00 o'clock.

Q Who were present on that occasion?

A I couldn't tell you who was present, but the dining room was full of people. I couldn't tell you who they were by name.

Q Was Mrs. Alexander standing or seated?

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A She was sitting down.

Q Where was Doctor Shields?

A He was sitting by the side of her.

Q And he just reached over and kissed her?

A He was mushing her, loving her, petting her along.

Q What do you mean by mushing her?

A Well, like you or I went to make love to a woman  
- put our arm around her, hug her up, something like  
10 that.

Q At the dining room table he put his arms around  
her and hugged her up?

A Yes.

Q Did he put both arms around her?

A No, not both, but he would have her by the hand  
like that (indicating), and reach out and put his arm  
around her.

Q He would hold her one hand with one of his hands,  
and put his arm around her, his free arm; is that  
20 correct?

A Yes.

Q Where was Cynthia at the time?

A That I wouldn't say.

Q Was she seated alongside of Mrs. McKee?

A During the time they were having lunch she was  
sitting alongside, but when he would kiss her I wouldn't  
say she was sitting there, I wouldn't go to look and  
see whether Cynthia seen it or was sitting there or not,  
I wouldn't do that.

30 Q Your first name is Wade?

A That's right.

Q Wade, were there any vacant chairs alongside  
of them at that time?

Q Well, people finishing lunch gets up, and there  
might be, yes.

Q At the time you saw Doctor Shields kissing Mrs.  
Alexander the first time, as you have testified to,  
were there vacant chairs on either side of them?

A No, I wouldn't say there was vacant chairs on  
40 both sides of them, but just like somebody was sitting  
here (indicating), on the opposite side or something,  
and as soon as they finished they would be up and gone.

Q Well, were there other people in the dining room  
across the table, Wade?

A I do know there was other people in the dining  
room, but just exactly to say that somebody was setting  
on either side of him when they was sitting there and

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making love to each other, I wouldn't swear to that, but I know there was other people in the dining room, and why I know is because they were making love to each other so long that in the kitchen amongst the help they would pay attention, and distract my attention, and I would just pass by the dining room door and look in and see it.

Q You were looking in from the kitchen?

10 A I was looking in from the kitchen and seeing it.

Q Did you help with the work in the kitchen?

A I would go in and dry dishes or something like that during the lunch hour when the dishwasher was swamped under by a lot of dishes, and let my wife come on out and get about the room.

Q From the kitchen could you see all the tables?

A You can see all the tables from the kitchen, yes.

Q Is there any way that you have of determining the approximate date of this incident, this first incident?

20 A Just the date definitely that date? No.

Q Do you know what month it was?

A What month it was? No, I don't.

Q Was it in the month of June or July, 1945?

30 A It wouldn't make sense for me to try to go back and tell you what month it was, because I didn't pay that much attention, and the fact of the business is the next day it was practically off of my mind, and I never would have thought any more about it, it didn't interest me that much, but that I just do know I seen that went on.

Q Was that during the early part of Mrs. Alexander's stay, or toward the latter part?

A That was just along between the two weeks she was there.

Q You mean about the middle of the two weeks some time?

40 A I wouldn't say it was right in the middle, and I won't say it was right at the first beginning, but it was between in the two weeks she stayed there, either the last of the first week or the first of the second week she was there, to my knowing.

Q In other words, it was some time, a few days, after she had been there?

A Some time after she had been there.

Q Where did he kiss her?

A He kissed her on the jaw.

Q On the jaw?



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A On the jaw, that's right, along about the cheek.

Q On the cheek?

A Yes.

Q Did he kiss her on the lips?

10 A I wouldn't say he kissed her right on the lips, because they were sitting like this (indicating), and she was turned around in the chair like this (indicating); he is sitting here (indicating), and here I am behind them, like this gentleman is here (indicating), you see, and as she bent her face he would reach over and kiss her. I know he kissed her on the jaw, but the lips I wouldn't say.

Q Did you ever see him kiss her on the lips?

A No, I didn't see him kiss her on the lips.

Q In other words, all of this time to which you have testified you were behind them?

A I was standing behind them, in the kitchen.

20 Q How far from the kitchen where you were standing was it to where they were seated at the table, approximately?

A The length across this room, to the first table.

Q Will you estimate that?

A Well, across this room here I would estimate it to be about 12 feet, across this room. That's my estimation, and I might be wrong, but just about like that.

Q What else did he do at that time, except kiss her on the jaw?

30 A He would get up and assist her outside, and what he did after that I don't know.

Q He got up and helped her from her chair?

A Helped her from the chair and assisted her outside.

Q Took her arm and walked out of the dining room?

A Yes.

Q Did you hear any conversation between them?

A No, I didn't.

40 Q Did they go from the dining room at any time directly out and go horseback riding?

A They wouldn't go from the dining room directly out horseback riding, but occasionally he would come back to the kitchen and he would give the girls a compliment, and sometimes she would come through and give the girls a compliment - "The lunch was fine, we had a very nice dinner," something like that.

Q Did you ever help Mr. Millar horseback riding?

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A Help Mr. Millar? No, I didn't.

Q Did you ever explain to him about riding horses?

A No, I didn't explain to Mr. Millar about riding horses, because he seemed to get along with horses just about as well as I did.

Q He was a pretty good horseman himself?

A He seemed to be.

10 Q As a matter of fact he is an old ranch hand, isn't he?

A Well, he never said he was an old ranch hand, but he was kind of a handy man around, he had been through that line before and he knowed something about it. I didn't hear him say he was an old ranch hand.

Q He was familiar with horses, though?

A He was familiar with horses.

Q Just like you are?

A That's right.

20 Q When he rode horses did he appear to be a man who knew how to handle and ride a horse?

A He appeared to be a man who had been on horses before.

Q Did you ever see him ride?

A I have seen Mr. Millar on a horse, to my knowing, but I have never seen Mr. Millar ride like the rest of the guests did.

Q That is, he used a horse to ride to go somewhere, or get somewhere?

30 A That's right. I remember I have seen Mr. Millar on a horse.

Q Did he and Mr. Shields ride away together?

A I have never seen them ride away together.

Q Did you see Mr. Shields ride away alone?

A I have seen Mr. Shields ride alone.

Q Did you see Mr. Millar ride horses alone?

A Absolutely.

Q At the same time that Mr. Shields and Mr. Millar were both there?

A Not the same time, not together, no.

40 Q I mean during the same week?

A The same week? I have seen them do it sometimes.

Q You don't know where they went, or either of them?

A That I don't know.

Q You don't know what that spat you referred to was about?

A No, sir, I don't, and I didn't try to find out.

Q They did not come to blows, or anything of that

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sort?

A They didn't come to blows, or nothing like that, but just a kind of misunderstanding between them.

Q Well, you have related the first occasion when, as you say, you saw Doctor Shields kiss Mrs. Alexander, and when was the second time?

A It was during that week - the next day probably.

10 Q All the times you saw Doctor Shields kiss Mrs. Alexander were at the dinner table or luncheon table?

A That's the only onliest time I saw him kiss her, was there.

Q How many times did that occur?

A I saw it twice to my knowing. You are not asking for hearsay; you are asking what I saw?

Q I only want actually what you saw.

A I am telling you what I saw.

Q You saw him kiss her only a couple of times?

A I saw him kiss her a couple of times.

20 Q And those times you say were at the dining room table?

A It was at the dining room, at the table.

Q That was at noon time, was it?

A Once at breakfast time and once at lunch time.

Q At breakfast time where were they seated then?

A They was seated at the same place.

Q In the same chairs?

A The same chairs.

30 Q Do the same guests have the same chairs at all times?

A Well, they was in the same place. I don't say exactly the same chairs, but the chairs were sitting at the same place.

Q Well, at the McCarthy ranch did the guests have a definite seating arrangement at the tables?

40 A Well, they do like this - you go out to the ranch and if you sit on the north side of the table when you first come there, you see, you are seated there until you leave, and if you sit on the south side of the table you usually will sit there until you leave; that's the way it is.

Q In other words, you kind of pick out your chair and then you stick to it?

A You stick to it.

Q If you don't do that you don't get anything to eat; is that right?

A No, I don't say you don't get anything to eat, but

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that's usually the way everybody does it.

Q Well, on this breakfast occasion, at the time this incident occurred, as you say, how many people were eating breakfast in the dining room at the time this incident happened?

A Well, usually it's the number of people there, because they serve them at each meal - breakfast and lunch and supper time.

10 Q Well, this time when you saw him at the breakfast table would it be your estimate that there were about the same number of people that were at lunch on the first occasion?

A At breakfast time usually not exactly the same number, because some are very late sleepers, and they won't get up.

Q What time did they serve breakfast?

A They had breakfast at 9:00 o'clock.

Q Did they have more than one call for breakfast?

20 A Well, they go out and ring the first bell then.

Q What time does that ring?

A Five minutes until 9:00.

Q Then what time does the second bell ring?

A 9:00 o'clock sharp.

Q So that this breakfast kissing incident you testified to occurred around 9:00 o'clock in the morning?

A It couldn't occur at 9:00 o'clock in the morning, because sharp at 9:00 o'clock they ring the bell, and you have got to allow them time to come in and get seated.

30 Q I am sorry - it was then some time between 9:00 and 9:30; is that right?

A That's right.

Q I am not trying to confuse you. We just want to get your version of the story.

A I don't mind it at all.

Q At the time there were other guests at the tables?

A Other guests, yes.

Q Could you estimate the number of guests?

40 A I couldn't estimate the number of guests, but during the time they did their loving it was after they finished eating - like, you know, some of the guests will sit around and they will have a second cup of coffee, you see, and there would be a number of guests sitting around the tables, they would be sitting around there talking to each other.

Q But there were always other people around.

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A Always other people sitting around.

Q Do you remember any other people who were there at the time of this breakfast incident?

A Well, there was several people I knew there, you know - not acquainted with like I was him, but I wouldn't say so and so and so was in there and call them by name, I wouldn't do that.

Q You don't remember them now?

10 A I don't remember now whether they was in there. That I couldn't say.

Q What time did Cynthia go for breakfast, do you know?

A Cynthia would come in about 9:00 o'clock.

Q She and her mother would come in together?

A Her and her mother wouldn't come in together all the time. She would be either in front or behind.

20 Q The point is Cynthia and her mother would eat their breakfast together following either the first or second call?

A When her mother would come in for breakfast, but several mornings her mother wouldn't even come in for breakfast. I don't know any morning that I can give witness to, but I know she wouldn't come in and get her breakfast.

Q Well, as a rule all the guests came in at the time they rang the last bell; is that right?

30 A What was coming in, all of them would come in, and them that didn't come in they was sleeping late, or didn't care for breakfast.

Q In other words, if they did not come in at the second bell they had to wait for lunch, as far as food was concerned?

A You had to wait for lunch, unless you was out riding and got in late and would ask the girls in the kitchen to fix you something, and they would fix you something.

40 Q On the occasion of this kissing incident at breakfast time, did Doctor Shields come in with Mrs. Alexander that morning?

A When they did come in he came in with her.

Q They came in together as a rule?

A That's right.

Q What did you observe, in detail, as to what you call making love on this breakfast occasion?

A What did I observe?

Q What did you observe with respect to this making

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love, as you term it?

A Make love to each other?

Q Yes, what did you observe, what did you see?

A Well, to my estimation it's like this - if a woman let me put my arms around her and hold her hand and hug her, talk close talk to her, I think I am making love, but I don't know what you would call it.

Q That's the way you make love?

10 A That's the way I would make love, and I consider him doing the same thing I would have been doing.

20 Q I believe you know something about making love, don't you, Wade?

A I have tried to make love a few times in my life.

Q Well, what did you see Doctor Shields do to Mrs. McKee or Mrs. Alexander, on this particular morning?

A On this particular morning?

Q Yes.

20 A They would come in from the cabins, and they would be walking along and talking - what about I don't know, but they would be walking along, coupled off, and he would come up and open the door and assist her in, move her chair back and assist her down, and have his seat, and they would sit there, and there was a conversation between each other while they was having breakfast, until they would get through and was sipping coffee.

Q Well, what did you see him do that you term love making?

30 A I saw him put his arm around her.

Q Which arm was it, do you remember?

A He would be sitting to the right of her, which he would have to take his right hand and put it into her hand.

Q With his right hand he would hold one of her hands?

A One of her hands, yes, and he was sitting to the right of her, and naturally he would be holding her right hand, and put his left arm around her.

40 Q Around her shoulders?

A Yes.

Q They sat there several minutes doing that, did they?

A Several minutes, and he would kiss her and sit back again.

Q He kissed her, did he?

A He kissed her.

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Q Where did he kiss her on this occasion?

A On the jaw.

Q On the jaw?

A That's right.

Q More than once?

A No, I didn't see him kiss her more than once at the same time.

Q You did not see him kiss her more than once?

10 A Not at the same time.

Q Well, during this breakfast incident did you see him kiss her more than one time?

A During this breakfast time I didn't see him kiss her but once, during the breakfast time there.

Q The only other time you saw him kiss her was at dinner time, as you have testified?

A When he came in to dinner, that's right.

Q You saw them when they came in from the outside to get their breakfast, did you?

20 A I saw him coming to the dining room.

Q Did he have his arm around her then?

A He would have hold of her hand.

Q Hold of her hand?

A That's right.

Q Did you see her kiss him, Mr. Bentley?

A No, I didn't see her kiss him.

Q Did you ever see her kiss him?

A No, I didn't.

30 (At this point, 1:15 p. m., by stipulation and agreement of counsel an adjournment was taken until 2:30 p. m. of the same day. At 2:30 p. m. of the same day, at the same place, the taking of the depositions was resumed, the same parties appearing).

CROSS-EXAMINATION (Resumed)

40 BY MR. CLOUD:

Q Mr. Bentley, you testified as to a trip you took to Murray's ranch with Doctor Shields. Will you tell me what month that was taken in?

A I can't tell you what month it was taken in, but it was taken during the time he was there. You know, it's quite a while back, and it's just something that

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passes, though the more you talk about it, you know, the farther back you remember sometimes - you see what I mean? The thing about it is it was nothing to me, and I try to tell the truth as near as I possibly can, but the thing about it is I can't tell you just what month it was, but during the time that I was going around with him I would take him over to Murray's, and it was some time during that time that I carried him over there.

10 Q That is, during the period you have testified to, when Mrs. Alexander and Cynthia were at the McCarthy ranch?

A Yes, and when he was down at the McCarthy ranch, that's right.

Q What time of day did you pick up Doctor Shields on the occasion you have mentioned?

A To carry him over to Murray's dude ranch?

Q Yes.

20 A It was after lunch, some time around 7:00 o'clock, that I picked him up, and we arrived at Murray's ranch along about a quarter after 7:00.

Q That same day?

A That same day.

Q That was in the afternoon, or evening?

A In the afternoon, yes.

Q Did you have any conversation with Doctor Shields before you went to Murray's ranch that day?

30 A Well, during that day no more than just passing by and saying "How are you doing today?" "Doing fine." "Beautiful day." He asked all like that, you know.

Q Who went with you to that ranch with Doctor Shields?

A No one went with me.

Q What car did you use?

A We used mine.

Q What kind of a car was it?

A 1935 Ford four door sedan.

Q Do you still have it?

A I still have it.

40 Q You had it when you were at the ranch in 1945?

A That's right.

Q When you arrived at this dude ranch - we call it Murray's ranch ----

A That's right.

Q ---- what did you see on the outside of the ranch, with respect to cars or people?

A There was people out there and there was cars there,



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to my remembrance of it, sure, but I didn't pay no close attention to who they were. When we arrived at the ranch we gets out of the car and walks around for a moment, has a drink of liquor, and we walks in.

Q You know Mr. Millar had a car at that time?

A That's right.

Q Did you see Mr. Millar's car there?

A Not that I remember did I see Mr. Millar's car.

10 Q Did you have a drink with Doctor Shields before you went into the ranch house or bar?

A I really did, sure.

Q Did you drink out of the bottle?

A Sure we drank out of the bottle.

Q You took a drink out of the bottle and he took one out of the bottle?

A That's right.

Q What kind of liquor was it?

A Schenley's Black Label.

20 Q Where did you get it?

A I got it in Victorville, at the Bal House.

Q Did you pay for it or did Doctor Shields?

A He paid for it himself - at least he gave me the money to go in and pick it up.

Q Then you went from the McCarthy ranch to Victorville, then from there to Murray's ranch?

A No, I didn't do that. I drove in and I picks up the bottle and comes back to the ranch and gives it to him.

30 Q Then Doctor Shields sent you into Victorville to buy some liquor?

A To buy some liquor, yes.

Q That is, while you were at McCarthy's?

A When I was at McCarthy's.

Q When you came back from purchasing the liquor then you and Doctor Shields went to Murray's?

40 A Not immediately, no, sir. It was during the day somewhere, it must have been around about 3:00 o'clock, when I goes in to Victorville, which it takes me a little better than half an hour - I will say it takes me about 45 minutes, as near as I can get at it - and when I comes back later on, in about an hour or an hour and a half or two - you see, they have lunch in the afternoon, which was around 6:00 o'clock, when we were in for lunch, and of course it was after 6:00 then, and he came out along about 7:00 o'clock and he wanted to go over there. I was outside piddling around, doing nothing, and he wants

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to know if I would drive him over, and I says "Of course I will drive you over there."

Q After you bought this liquor for Mr. Shields in the afternoon of that day you took it back to McCarthy's ranch?

A To McCarthy's ranch, yes.

Q Did you have any drinks then with Mr. Shields?

A I didn't have any drinks with him then.

10 Q Did he pay you for going to Victorville?

A He offers to give me a couple of dollars, and he gave me a dollar.

Q And money for the whiskey?

A And money for the whiskey, for me to pay for the whiskey.

Q Then did you see Doctor Shields again that afternoon after you brought the liquor to him?

A When I carried him to Murray's later on that evening.

20 Q Let's get back to the time after you brought the liquor and gave it to Doctor Shields that afternoon - did you then see him again before you took him over to Murray's ranch?

A Not until he was coming to me and asking me.

Q He had the whiskey with him?

A I couldn't swear, because I didn't see it until after we were in the car.

Q What size bottle was it?

30 A It was a fifth, what they call a quart, and it's a fifth.

Q Do you know what it cost?

A It cost \$4.05, as near as I can remember now.

Q You had purchased whiskey at that particular place before for yourself, had you?

A I really had.

Q When you went to Murray's ranch that night with Doctor Shields was anybody else with you?

A No one else was with me.

Q Where did he sit in the car?

40 A In the front seat with me.

Q Was there anybody in the back seat?

A No, nobody in the back seat.

Q You left McCarthy's ranch about 7:00 o'clock?

A I left there around 7:00 o'clock.

Q You testified, I believe, that you arrived at Murray's ranch along about 7:15?

A About 7:15.

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Q There were cars and people on the outside

A There was cars and people going to and fro on the outside.

Q Do you recall whether or not there was more than one car there?

A I know it was more than one car.

Q Were there more than two cars?

A Well, yes, there was more than two cars, but how many more than two cars I wouldn't say, because I didn't notice.

Q Did you recognize any of the cars?

A Any of the cars on the outside? Sure I recognized cars on the outside.

Q Whose cars were those?

A That was Murray's car, Murray's car was there, and some boys from town's car was ther .

Q Did you recognize anybody standing around by the cars?

A No, I didn't recognize anybody just standing at the cars, I sure didn't.

Q Did you see people walking about?

A I seen people walking about, people on the outside, and some talking.

Q Do you recall the names of any of them?

A No, I wouldn't dare to.

Q Did you know them at the time?

A Well, definitely I couldn't say at the present time, not paying attention to that. I remember them, but I wouldn't try to say now that I did know some of them.

Q Were any of them from McCarthy's ranch, if you know?

A There was some of them from McCarthy's ranch, I recognized they was at McCarthy's ranch.

Q Then you went into the bar with Doctor Shields?

A I didn't go into the bar. We went into the dining room from the back.

Q You went into the back door?

A That's right.

Q You did not go into the front door?

A Not into the front door, no.

Q When you go in the back door what room do you go into first?

A There is two back doors. One will carry you into a little kind of waiting room or sitting room, whatever you is a mind to call it, with a kind of a slot machine

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out there, in the back, where you enter that just before you enter into the dining room, and there is one where they fix vegetables and things, and you enter that before you enter the kitchen, and on the side door, which is in the east, you go into that and you enters into the bar - not to the bar, but to the dining room, you enters the dining room.

Q Do they employ colored help at Murray's ranch?

10 A All I have ever seen there was colored, but I have knowed a white girl that worked there since that time.

Q Did you show Doctor Shields this back door to go into?

A No, I didn't.

Q Had you been through that door before?

A I had been through that door a number of times.

Q Before and afterward?

A That's right, I have.

20 Q Did you help Doctor Shields through the door?

A I didn't have no right to help him through the door.

Q Did you go in first or did he go first?

A He went in first.

Q What was the first room you entered into, what do you call that?

A We can call that just practically, I would say, either a waiting room or just a little extra room into the back of this dining room.

30 Q It was not the main entrance at all?

A It isn't the main entrance at all. Once you come into this room you have to go up to another door to get into the dining room.

Q Did you have any conversation with Doctor Shields at the time you went into that little room?

A No, not any particular conversation that I had with him at all.

Q Was there anybody in the room when you went in there?

40 A Quite a number of people in there, several people in there.

Q Who were they?

A I wouldn't say who they were, because I couldn't call them by name. There was white and colored there.

Q How many were there?

A Well, as far as telling you the number of people that was there, that's impossible for me, and I wouldn't

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try to tell you the number of people there, but I do know there was more than 10 or 15.

Q We are talking about this little hallway or this little waiting room. There were probably 10 or more people in there?

A No, there wasn't no people in there.

10 Q You misunderstand me, Wade. When you went into that little waiting room from the outside door was there anyone in the waiting room?

A No one in there, no, no one in there at all, because the only business people have out there is going to and fro from the dining room, or probably somebody over there playing the slot machine. I didn't recognize too much, but there wasn't anybody playing the slot machine, because if they had it would have drawn my attention.

Q Is there a slot machine in this little waiting room?

20 A There used to be.

Q Was there at that time?

A There was one there at that time, yes.

Q There was no one in there when you and Doctor Shields entered?

A No one in there.

Q Is there an opening from that little waiting room to the dining room, or is it an archway?

30 A It's a door between that little room and the dining room, and then there is a door that lets you out of that little room on the outside.

Q Referring to the door between the dining room and the waiting room, was that closed?

A No, it wasn't closed.

Q That was open then?

A That was open.

Q Could you hear music?

A Sure. You can hear music on the outside.

Q You looked through this door from the waiting room to the dining room and you saw people dancing?

40 A Well, going in, sure, when we entered.

Q I believe it is your testimony that there were 10 or 15 people in the dining room; is that right?

A There was more than that for sure. Not being definite or saying any definite amount of people in there, but I know it was that many people or more.

Q Some of them were colored and some white?

A That's right.

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WADE BENTLEY -- Defendant's Witness -- Cross-Examination

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Q The colored people were dancing with the colored people and the white people with the white people?

A What few there was, sure.

Q Some were eating at the tables?

A No, I didn't say anything about anybody eating.

Q Were they drinking?

A I didn't see anybody sitting there drinking.

There could have been, but I didn't notice.

10 Q Did you notice any beer glasses or beer bottles on the table?

A That I wouldn't say, because more than likely it was, but it didn't seem to attract my attention that much to look.

Q How large is this dining room? Give us your best estimate.

A Well, my best estimate on that dining room, taking off the bar on the end, and that little waiting room on the end there - my best estimation on it would  
20 be that dining room is about 24 feet long.

Q And how wide?

A Well, every bit, from wall to wall, say - not to overestimate it too high, but rather be a little under, that's 12 feet from wall to wall.

Q With tables on each side of it at the wall?

A Each side, yes.

Q There is a juke box at one end?

A A juke box at one end.

Q Then there is an upright piano in there?

30 A That's right.

Q Did you hear anybody playing a harmonica?

A Not that I can remember of at all.

Q Did you ever hear anybody playing a harmonica around there?

A Around Murray's?

Q Yes.

A No, I wouldn't tell you that; I don't remember it.

Q Did you ever hear anybody playing a harmonica around McCarthy's ranch?

40 A A piano?

Q A harmonica.

A No, I didn't; I don't remember it.

Q Well, we are about now to enter the dining room from this little waiting room, and who entered first, you or Doctor Shields?

A Doctor Shields went in first.

Q You were right behind him?

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A I was behind him.

Q What was the first thing you observed after you entered the dining room?

A The first thing I observed when I entered the dining room was the kitchen door to the left, and I speaks to the cook, stops there and chats with him, and about five or six minutes later ----

Q What is that cook's name?

10 A His name is - they call him Keys, and his name is Malcolm, but Malcolm what I don't know.

Q Proceed.

A About five or six minutes later he came back to me and asked me "You are going to be around with me. Wait a while."

Q Who said that?

A Doctor Shields.

Q This was after you had been there five or ten minutes?

20 A That's right.

Q Where were you all of this time?

A I was still at the end, about four feet from where we came in at.

Q Talking to the cook?

A Talking to the cook, and I said "Sure, I will be around here," so he asked me who was he?

Q Who asked you who he was?

A Keys, the cook.

Q That is, he asked you who Doctor Shields was?

30 A Who Doctor Shields was, yes.

Q What did you next observe?

A Well, Doctor Shields told me his name was Bill Shields, and I told him - I said "That's Bill Shields, a very nice fellow. Keeps liquored all the time." So he walks away then.

Q That is, Doctor Shields walked away?

A Doctor Shields walks away.

Q What did you observe next, then?

40 A About four mintues later - I was standing out looking at the people - he came back and says "Do you mind holding my hat? I am going over and knock hell out of her." I said "Who?" He says "That lady over there, dancing with that guy. You see her?" I said "Yes," and I said "No use in that," and he said "Yes, I am too." Well, it was none of my business, and I didn't say any more to him.

Q Did he tell you why he was going to knock hell

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out of her?

A No, he didn't tell me why.

Q Did you hold his hat?

A Sure I held his hat.

Q What kind of a hat was it?

A It was kind of a gray looking hat.

Q Ranch style?

10 A No, it wasn't ranch style, but kind of dress  
style hat.

Q A plug hat?

A I wouldn't tell you, because I don't know what  
brand hat it was, but I do know it was kind of blue-  
gray.

Q A soft hat?

A A soft hat like.

Q So you stood there and held it for him?

A I held it for him.

Q What did you observe next?

20 A I observed seeing the excitement, and the women  
fall.

Q Did you see somebody hit her?

A Yes, sure, I seen him hit her.

Q Who do you mean by "him?"

A I mean Doctor Shields.

Q Who was the woman he hit?

A It was the woman that I was told was Mrs.  
Alexander.

30 Q You were told it was Mrs. Alexander by your wife?

A I was told by my wife, yes.

Q Where was Mrs. Alexander when she was struck,  
with respect to her position in the dining room?

A She was near the bar room door, kind of in the  
front of the juke box, and she was facing west, more  
than likely, and he catches her by her right arm with  
his left hand and turns her around, and raps her.

Q He hauled off and hit her?

A He didn't haul off, but he hit her.

Q Where did he hit her?

40 A He hit her right here by the eye (indicating),  
along about the cheek bone.

Q Did he hit her hard?

A According to what it would take to knock her  
down.

Q She just fell down in a heap?

A No, she didn't; she fell flat on her back.

Q Was she out cold?



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A No, I won't say she was cold, but I know she went down. I don't say she was cold, because she was more than, I think, 13 feet from me, or maybe more, and I didn't go up there.

Q When he hit her did you hear the blow?

A You can imagine what it takes to knock her down. It didn't sound like you would hit a hollow log, nothing like that, but it sounded.

10 Q You could hear the impact?

A You could hear it.

Q And you heard it?

A Absolutely I heard it.

Q And she just went right down?

A She fell.

Q She fell back then?

A Call it what you want to, but she hit the floor.

Q You have been to prize fights haven't you?

20 A No, I never have been to no prize fights. I have been to wrestling matches, and I seen boxing, but just to go to big prize fights, I never have.

Q Did you ever get hit?

A Me? I reckon I have.

Q Were you ever knocked down?

A Yes.

Q So you have had some experience?

A Yes, sir, a little bit.

Q In your opinion would you say that was a severe blow?

30 A Well, to my opinion he didn't just come right out and haul away and just slug her, like he would me or you; he seemed to have a little sympathy with her, and he didn't try to break her jawbone or nothing; he just gave her to understand she could be knocked down.

Q He wanted to kind of put her away; is that right?

A That's right, I reckon.

Q Did you recognize anybody in the dining room besides this woman, Mrs. Alexander?

40 A I didn't recognize anyone that came to her, except - she didn't go and put her hands on her or nothing, but I do know that Miss Murray came out of the bar, she came out of the bar there.

Q That is Miss Murray?

A That's Miss Murray.

Q What did she do?

A She stood there and probably she asked what was the matter, what was happening, but I couldn't say

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WADE BENTLEY -- Defendant's Witness -- Cross-Examination

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she did, because I wasn't that close to her.

Q Well, did you recognize anyone in the dining room at the time of this incident you have testified to, that is, positively?

A Did I recognize anybody positive?

Q Yes.

A That I really know?

Q Yes.

10 A No one but Miss Murray and Doctor Shields, and the other one that I was told was Mrs. Alexander - I recognize them, that I can testify, that I know that was there. Besides that there was other people, but their names I wouldn't try to give to you.

Q Wade, you mean Miss Murray came from the bar?

A She came from the bar.

Q I am talking about the dining room.

A That was in the room then?

Q What I want to say is ----

20 A You mean did I recognize anyone that was in the room at the present time when he struck her?

Q That's right.

A Well, I wouldn't try to give you names of anyone in there, because I might give you some false names, because I really don't know anyone that I could say I know that was there and seen it.

Q Did you see all of the people there?

A A portion of them I seen, just people mixed up. I don't say I seen them all.

30 Q If Cynthia McKee had been there would you have recognized her?

A If I had seen her, if she got in the way where I seen her, I believe I would have recognized her.

Q If Mr. Millar had been there would you have recognized him?

A If I had seen him there, sure, I would have.

Q Did you hear Mrs. Alexander say anything at any time?

A I didn't hear her say a word.

40 Q What was she doing at the time you state Doctor Shields hit her?

A She was dancing with a soldier, and they had just stopped dancing around fast, so he reaches up and puts his arms around her shoulders like this, you see (indicating).

Q From behind?

A No, he was in front of her.

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Q The soldier was?

A That's right, and she had him like this (indicating), and just about the time that he walks over to her they goes back to start to dancing, and catches her by the right arm.

MR. ROSE: Who caught her?

THE WITNESS: Doctor Shields.

10 MR. CLOUD Q: Referring to this soldier that you testified to as having put his arms around Mrs. Alexander, did she put her arms around him?

A Sure she put her arms around him.

Q So they had their arms around each other?

A Around each other.

Q Was that near the juke box?

A That was pretty close to the juke box.

Q Had the music stopped?

A No, the music hadn't stopped.

20 Q Other people were dancing?

A There was other people dancing.

Q How close to them?

A I wouldn't try to tell you just how close they was to them, but they wasn't close enough to bump up against them or touch them. I was just standing off and looking on; you can just imagine for yourself just what a person would know, what he seen, because the people around then didn't interest me, but it was the excitement.

30 Q You went over there then, did you?

A No, I didn't go over.

Q What had you done with Doctor Shields' hat?

A I still held it.

Q What happened to Doctor Shields after he hit Mrs. Alexander?

A There didn't a thing in the world happen to him.

Q What did he do then?

40 A He just stepped back, and this guy, whichever one it was, he said "Well, I didn't know that was your wife," and he says "That ain't my wife, that's my woman," and some of them taken him by the arms, and he says "Wait, I want to get my hat," and he walks back and asked me for the hat, and I reaches them the hat, and he said "Let's go" and I said "I will not take you home, because you are angry."

Q Who said that?

A That's what I told him, and he says "Yes, you will. You brought me over here."

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Q Then what did you say?

A I didn't say anything, and I was going to take him home, but the boys says "We will take him back."

Q What boys were those?

A The soldier boys.

Q Where were they from, do you know?

A All the soldiers I seen during that time - I would say they was from Victorville Airport. They  
10 could have been from San Bernardino - I didn't know.

Q Referring to these soldiers who offered to take him home, was one of them the soldier who was dancing with Mrs. Alexander?

A I couldn't say whether he was one of them or not.

Q You don't know?

A I don't know whether it was one of them or not.

Q Do you know what became of this soldier who you testified was dancing with Mrs. Alexander?

A No, I don't know what became of him.

20 Q What kind of a looking fellow was he?

A Very fair looking, a white boy. He had brown hair, kind of dark eyes - awful nice kid.

Q Did you talk with him?

A No, I didn't.

Q How much did he weigh?

A It wouldn't be no use trying to go about telling you what he weighed, because I don't know; I didn't try to size him up.

30 Q Will you give us your best estimate as to his weight?

A He wasn't no little bit of a man, nothing like that, but he was a medium size man, and I would take a medium size man to be all the way from 165 to around 170. It don't have to be a very big man for that.

Q How tall was he?

A Well, at that time, standing there and looking at him, he was taller than I am, and that would make him about around five foot seven or five foot eight, somewhere along there.

40 Q Did he have a uniform on?

A Sure he had a uniform on.

Q Did his uniform indicate any rank?

A Well, to be truthful I don't just get you right there, what you mean, but I can't tell you about what he had on, but it seemed he must have been a Sergeant or something, because he had three stripes on, and he was in a kind of khaki uniform.

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Q Did anybody mention his name or call him by name?

A No, nobody called him by his name, I didn't hear his name called.

Q Did any of the other people say anything to him?

A Well, the boys that caught him back - they could have said lots to him, but I couldn't say what was said.

Q Nothing was said within your hearing?

A Nothing within my hearing of what they said to him.

10 Q What was he doing besides putting his arms around Mrs. Alexander when Doctor Shields hit her?

A When he got to him and hit her they wasn't doing anything but dancing, starting up dancing, but before he got to them they kissed.

Q Did you see him kiss her?

A I saw him kiss her, yes.

Q Did you see her kiss him?

A You can call it her kissing him or him kissing her, but they both of them had their lips together.

20 Q This was on the dance floor?

A This was there in that dining room.

Q In front of the juke box?

A In front of the juke box.

Q He kissed her and she kissed him, and they started to get ready to dance, and then Mr. Shields hit her; is that right?

A That's the way it was, but that kissing part - they both had their lips together, and I don't know which one went to kiss first, but they both met up.

30 Q Was it just a short smack or did it take some time?

A They kind of held each other while they kissed for some time.

Q After Mrs. Alexander went to the floor who went over to her first, if you know?

A Well, you know how it is - a bunch of women in the place, and when something kind of happens like it kind of excites them, and I wouldn't say who went to her first, but I know the women got around her and assisted her up.

40 Q Where did they take her?

A She went out into the bar.

Q Was she able to walk or did they have to carry her?

A I don't know how much weight she was on them, but they still had her by her arms, and she was making her legs move along.

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Q She made no comment within your hearing?

A No, she didn't.

Q Well, they went to the bar, and then where did they go from there, if you know?

A I don't know where they went from there.

Q Did you ever see Mrs. Alexander after that?

10 A When I was leaving they was out in the front coming toward the cars, and I couldn't even now swear to you that it was Mrs. Alexander, wouldn't try to swear to that, but the women that assisted her up I do know by the clothes they had on at that time, and I just from that still recognized that they was some of the women, and they still was with somebody, but just to say who it was, that is, who they was bringing to the car, I don't know.

Q That was when you were ready to go home?

A That's when I left and went home.

Q How did Doctor Shields get home, if you know?

20 A I don't know how he got home.

Q Who went home with you?

A Nobody went home with me, or went back to McCarthy's ranch with me, but from McCarthy's ranch to my home there was my sister-in-law and my aunt and my wife and myself.

Q What time did you get back to McCarthy's guest ranch that night?

A I got back to McCarthy's ranch around about a quarter to 8:00.

30 Q So you went directly from Murray's after this incident occurred to the McCarthy guest ranch?

A That's right.

Q Did you stop any place?

A No, not any other than McCarthy's.

Q And you were alone?

A I went alone for sure.

Q As you were leaving Murray's you saw these women coming out of the bar?

A As I was leaving Murray's?

40 Q Yes, as you were leaving Murray's you saw some women come out of the bar with some woman who you believe was Mrs. Alexander?

A I didn't really say that I believed it was, I couldn't even see her.

Q You do not know, then, what happened to Mrs. Alexander after you saw her go into the bar with these women?

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A Not after she went into the bar with the women.

Q Did you ever at any time see Mrs. Alexander after that?

A Not that I remember.

Q What happened to Doctor Shields' hat?

A I gave it to that fellow, and I don't know what he done with it.

Q He was a soldier?

10 A He was a soldier.

Q Were any of these soldiers you have been talking about men who used to work around McCarthy's ranch, as you previously mentioned?

A No.

Q They were total strangers?

A Total strangers to me.

Q Did you discuss this incident with Mrs. McCarthy?

20 A No, I didn't talk to Mrs. McCarthy, and Mrs. McCarthy hasn't said a thing in the world to me, didn't mention it at all, and I didn't, and the fact of the business is I forgot about it until this gentleman (indicating) arrived and begin to pin my remembrance.

Q That is the investigator here?

A That's right.

Q That is Mr. James F. Leahan?

A That's Mr. Leahan.

Q Did you relate this incident to anyone other than your wife?

30 A No, I didn't tell it to anyone other than my wife, and of course she seemed to have been kind of hot because I was late, and I was supposed to have been there to take them home, and she was up in the air, and anyhow later on that night I tried to make up and I told her.

Q You just didn't want your wife to pour it on you?

A That's right.

MR. ROSE: You told her what?

40 THE WITNESS: I told her about the excitement over at Murray's.

MR. CLOUD Q: Have you discussed these matters with anyone else, that is, besides Mr. Leahan and Mr. Rose?

A I haven't discussed them with anyone else.

Q You testified on direct examination somewhere that somebody said that he was going to beat the hell out of someone?

A I did.

Q Who was that?

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A That was Doctor Shields said that.

Q When did he make that statement?

A When we was driving over there.

Q Did you ask him who he was going to beat the hell out of?

A No, I didn't.

Q Did you have any drinks with him on the way there?

A We didn't have a drink until we got there.

10 Q You had a drink before you went into the bar?

A Before we went into the bar?

Q Or before you went into the dining room.

A That's right.

Q What do you mean by 'toxicated?

A Well, when you have been drinking you kind of feel kind of woozy in the head, kind of dizzy.

Q Have you been that way?

A I think I have.

20 Q You testified, I believe, that Mrs. Alexander at times looked like a lady who might be intoxicated; is that correct?

A That's correct.

Q When did you observe this condition that you have testified to with respect to Mrs. McKee, or Mrs. Alexander, being intoxicated?

A When I observed her and recognized or she looked like she had been 'toxicated?

Q Yes.

30 A Even down that night over to Murray's she looked like a lady who had been drinking then, and during some times of the day when I seen her pass by, and I came into the kitchen part, she looked like a lady that had been drinking, because if you have been around people very much you know they have been drinking, you can tell different expression on their face.

Q Did you ever smell liquor on her breath?

A No, I didn't get that close.

40 Q At this time over at Murray's you were about 12 feet from her, I believe you testified, when Doctor Shields hit her; is that right?

A That's right.

Q From that distance could you tell by looking at her in this room that she was intoxicated?

A Absolutely you can. I could.

Q Did she have her face toward you or have her back toward you?

A Well, people moving around you can tell - by



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moving around you can tell the way they act the way they carry themselves, whether it's liquor that got them worked up, because a person at that time has got more nerve, more spirit to them?

Q Are you testifying from personal experience or from observation

A I am testifying from what I seen.

Q And from what you know too?

10 A And from what I know about drunks.

Q You have been around quite a few drunks?

A Around them every day of my life.

Q Did you ever see Cynthia McKee look as though she were intoxicated?

A No, sir, I did not.

Q Did you ever see Mrs. Alexander take a drink?

A I didn't see her take a drink, no.

Q Did you see her having any bottles of beer over at Murray's?

20 A I did not.

MR. CLOUD: That is all.

REDIRECT EXAMINATION

BY MR. ROSE:

Q Mr. Bentley, to clear up the record, during the winter season in the period when your wife was working at the McCarthy guest ranch did people use the pool?

30 A Well, there is people that have come out there during the winter season, and it was cold enough for me to have a jacket on, and jump in that pool.

Q Do they take sun baths then?

A They take sun baths, because it's out on the desert, it's just a hot desert.

Q Well, are there days in the winter season when people take sun baths?

A There is days in the winter season when people will lay out and take sun baths, yes.

40 Q When they take sun baths and use the pool do they wear swimming suits and sun suits?

A Yes, that's correct.

Q Will you state whether or not the woman you referred to as Mrs. Alexander, whom Doctor Shields struck at the Murray ranch, was the woman represented by these pictures marked Respondent's Exhibits 1 and 1-A for identification. Is that the same woman?

A I testify that's the same woman.

Q Now, with respect to Doctor Shields, the man who you say struck Mrs. Alexander, was he tall or short or a medium sized man?

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A He wasn't no great, big, high, tall man, seven or eight feet, nothing like that, but he was kind of tall and stout, a well built man.

Q Could you estimate his weight?

A I estimate that man to weigh around, I will say - I will say he will pull closer to 200 than he will to 190.

10 Q And about how tall would you say he was, as best you can tell us?

A I will say he was six feet or more.

Q Was he smooth shaven or did he have a mustache or beard?

A He was smooth shaven.

A I saw Miss Murray come from the bar into the dining room where they was dancing.

Q With relation to the time when Mrs. Alexander was struck, or when she was lying on the floor, when did Miss Murray come into the dining room?

20 A After the lick occurred.

Q After what occurred?

A After the lick was passed.

Q The blow, you mean?

A Yes, after the blow was passed and the woman was down, and the other women were there, and Miss Murray came in.

Q Then Miss Murray walked in when Mrs. Alexander was still on the floor?

A That's right.

30 Q By Miss Murray you refer to the owner of the Murray dude ranch; is that right?

A That's right.

RE CROSS-EXAMINATION

BY MR. CLOUD:

40 Q Referring to Doctor Shields, what color was his hair?

A Doctor Shields' hair was beginning to kind of turn. He was a man that was getting bald.

Q Was it light in color?

A Kind of light like.

Q Light, turning gray?

A Turning gray. He wasn't like a blond.

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WADE BENTLEY -- Defendant's Witness -- Recross-Examination

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Q Was he redheaded?

A No, sir, I wouldn't want to say he was redheaded.

Q Did he have black hair?

A No, he didn't have black hair.

Q Just light hair, turning a little gray?

A Light, turning a little gray.

Q Did he have a mustache?

A He was clean shaved.

10 Q Wade, you testified about certain relatives, and I am afraid I didn't get that. Who is Mrs. Bobby Bentley?

A My wife.

Q Who is Mrs. Comelia Wallace?

A My auntie.

Q On your mother's or your father's side?

A My mother's side.

Q Who is Ruby Sewell?

A My wife's sister.

Q They are all colored people?

20 A That's right.

Q With reference to this man Earl, the handy man, was he over at Murray's ranch on the night of this striking incident?

A If Earl was there I didn't know anything about it.

Q Was either Dick or Bill there?

A No, not Dick or Bill, either one, wasn't there at the time, that I know about.

Q Could you give me the name of anyone else who was there besides Doctor Shields and Mrs. Alexander?

30 A I couldn't give you the name of anyone, excusing myself and Miss Murray and the cook that I know, that was there, if you are speaking of in the dining room when it happened, and I wouldn't try to.

Q You cannot give me the name of anyone who was in the dining room when Doctor Shields was supposed to have hit Mrs. Alexander?

A Not other than myself and them two.

Q Mrs. Murray was in the bar, and she came in afterward?

40 A I wouldn't say she was in the bar, but I said she came from the bar. I wouldn't swear she was in there.

Q She was not in the dining room at the time of this incident?

A She wasn't in the dining room at the time.

Q Is that slot machine still there?

A I heard the other day that somebody stole it.

COMMISSION EVIDENCE

WADE BENTLEY -- Defendant's Witness -- Recross-Examination

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I haven't been out there to see whether it's still there or not.

Q Did you ever play the slot machine there?

A Sure I played the slot machine.

Q Was that one of the attractions for the McCarthy guests?

10 A I don't know whether they went over there to play the slot machine or went over there to drink beer or went there to dance.

Q A combination of beer and some dancing and playing the slot machine, and the juke box?

A Well, it was all over there for entertainment.

Q How far is the McCarthy ranch from Victorville?

A The McCarthy ranch from Victorville?

Q Yes.

A It's called seven miles. I will say seven and a half.

20 Q Is Victorville the nearest, we will say, settled community?

A Victorville is the nearest settled community.

Q There are no other little towns around there?

A No other little towns around there. The only thing you could speak of is some of them would go to Lucerne Valley, and Lucerne Valley is better than 20 miles from there, to have what they call a dance up there at the Hitching Post every Saturday night. Whether they went there or not I don't know, but that's over there.

30 Q Was this soldier kissing Mrs. McKee while they were dancing or standing still?

A They had been dancing, and they just come up and stopped, you know.

Q And was standing still there?

A They could be dancing, but they wasn't dancing and moving around and kissing.

Q They were not dancing and kissing at the same time, then?

A No.

40 Q Did Mrs. McKee have her back to you or was she facing toward you?

A They was broadside to me.

Q So you got a profile view of both parties?

A Yes, that's right.

Q Do you know of any other instance when any other lady fell on the floor of Murray's?

A Do I know of any other one that fell? You mean

COMMISSION EVIDENCE

WADE BENTLEY -- Defendant's Witness -- Recross-Examination

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that night?

Q Any night.

A They have had a few free for alls over there some time or other, but who they was or what it was about I don't know.

Q Well, have you been there at any time when any woman has fallen down or been on the floor?

10 A I haven't seen anyone down scuffling on the floor, not in there. I have seen them start in a good mood to get on the floor, but they kind of stopped it.

Q I mean do you know of any other instance where any woman was hit at Murray's bar?

A I don't know of anyone that was hit in the bar that I know of, that was hit at Murray's.

Q Do you know of any other instance where any woman was hit in the dining room at Murray's?

A I have knowed of several of them to be slapped in there, but I didn't see it.

20 Q Have they gone to the floor?

A I couldn't say. I didn't see them on the floor.

Q Did you hear that they were?

A I didn't hear they were on the floor; I just heard they got slapped.

Q They got slapped down?

A They said down, but I didn't see them.

Q Then this is the only time you ever saw anybody in Murray's dining room who was hit by a man and fell to the floor?

30 A That's the onliest time I saw anyone in the dining room that was hit by a man and fell.

Q Did Mrs. Murray discuss this matter with you?

A No, Mrs. Murray hasn't said a thing to me.

Q You have never talked to anybody about it excepting Mr. Rose and Mr. Leahan----

A I never have.

Q --- and your wife?

A And my wife.

MR. CLOUD: That is all

40 MR. ROSE: That is all.

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COMMISSION EVIDENCE

MRS. BOBBY BENTLEY - Defendant's Witness - Dir. Exam.

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DIRECT EXAMINATION

BY MR. ROSE:

Q You are Mrs. Bobby Bentley?

A Yes, sir.

Q Where do you live?

A Victorville, California.

10 Q You are married?

A Yes.

Q What is your husband's name?

A Wade Bentley.

Q He is the witness who just preceded you?

A Yes.

Q When were you married?

A We were married about four years ago, in July.

Q Where?

A Texas.

20 Q May I ask your age?

A 32.

Q I show you two newspaper photographs, which have been marked by the commissioner as Respondent's Exhibits 1 and 1-A, respectively, and I will ask you whether you ever saw the person represented by those photographs?

A Yes, I have.

Q Where did you see her?

A At McCarthy's guest ranch.

Q By what name did you know her?

30 A Alexander.

Q Mrs. Alexander?

A Mrs. Alexander.

Q Were you employed at that guest ranch?

A Yes, I was.

Q Was Mrs. Alexander a guest at that McCarthy's guest ranch while you were employed there?

A Yes, she was.

Q Was there anybody with her at that time?

A Her daughter.

40 Q Do you know her daughter's first name?

A No, I don't.

Q Is it this young lady who is here present - Miss Cynthia McKee?

A Yes, it's her.

Q How long had you been working at the McCarthy guest ranch?

A At that time I couldn't exactly say, but about

COMMISSION EVIDENCE

MRS. BOBBY BENTLEY - Defendant's Witness - Dir. Exam.

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a year at that time, I guess.

Q I mean altogether, all the time you have worked there.

A Oh, I have been there about three years now, almost four.

Q Well, are you still there?

A No.

Q When did you stop working there, Mrs. Bentley?

10 A In December.

Q You mean last December?

A Yes.

Q So you worked there approximately three or four years before December, that is, up to last December?

A Yes.

Q In what capacity were you employed there, or what did you do there?

A When I first started out I washed dishes, later I was maid, then at the last I was a cook.

20 Q Will you tell us just how many cottages there were at this McCarthy ranch?

A They are listed as 28 units.

Q What does each unit consist of; is it a separate cottage?

A Some of them are separate, but most of them are connected.

Q What are they connected by - a walk?

30 A They are all under the same roof, and why I said connected is most of them are connected with a bath, but they are houses built under one roof, like this hotel here, and you would say they were connected with a walk. They are all under the same roof.

Q In other words, there is a long roof, and underneath this roof is each separate unit, room and bath?

A Yes.

Q Then the room and bath are right next to each other; is that it?

A Or two rooms and a bath in between them.

40 Q Is this bathroom sometimes used by the occupants of the room on either side of it?

A Yes.

Q Do some of the units have their own private baths?

A Yes.

Q Do these units have any connection, so that you can go from one directly into the other?

A Not unless they are connected with a bath. If they are not you would have to go out of the front door

COMMISSION EVIDENCE

MRS. BOBBY BENTLEY - Defendant's Witness - Dir. Exam.

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to get in the other one.

Q That is, unless they have a bath in between that the occupants of the two units use in common, you cannot get from one to the other unless you go outside the front way and go in the other front way?

A That's right.

10 Q But when they have a connecting bathroom, which they use in common, either one can go into the bathroom and from the bathroom go into the other room, if the doors are unlocked?

A That's right.

Q Is there one unit there which has a special name?

A The honeymoon cottage.

Q Honeymoon cottage?

A Yes.

Q Is that together with other cottages?

A No, it's off by itself.

20 Q Can you reach it from the other cottages?

A By a walkway.

Q By a walkway?

A Yes.

Q You can reach any of these cottages, can you, on a walk?

A Yes.

Q Is that a wooden walk?

30 A One is wooden. The one from the other cottage that connects the honeymoon cottage is a wooden walk, because they irrigate under that one. The others are cement.

Q Are these cottages numbered?

A Yes, they are.

Q Do you recall how they are numbered - from one to a certain number?

A Yes, from 1 to 28.

Q 1 to 28?

A Yes.

40 Q Do you remember whether Mrs. Alexander and her daughter occupied one or more units?

A They occupied one.

Q What was the number of their unit?

A No. 6.

Q Do you remember the period when Mrs. Alexander and her daughter occupied unit No. 6 at the McCarthy guest ranch?

A Yes, I remember.

Q When was that?



COMMISSION EVIDENCE

MRS. BOBBY BENTLEY - Defendant's Witness - Dir. Exam.

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A Well, I don't know the exact time, but I know it was the first of the year some time about a couple of years ago.

Q About 1945?

A Yes.

Q For how long a period of time were they there?

A Well, a week or more. I am not just sure.

Q At that time did you know a Doctor Shields?

10 A Yes.

Q Was he also a guest there?

A Yes, he was.

Q What unit did he occupy?

A He occupied the honeymoon cottage.

Q Was he alone in that unit?

A He came there alone, yes.

Q What was the cottage nearest to the honeymoon cottage; was that No. 1?

20 A No. 6 was the nearest cottage. The honeymoon cottage is No. 11.

Q No. 6 was the cottage which was nearest to the honeymoon cottage?

A Yes.

Q There was no unit between unit No. 6 cottage, which was occupied by Mrs. Alexander and her daughter, and No. 11 cottage, which was occupied by Doctor Shields?

A No.

30 Q How many beds were there in Doctor Shields' unit, No. 11?

A Two.

Q Twin beds?

A Yes.

Q How many beds were in Mrs. Alexander's unit, No. 6?

A There were two, twin beds.

Q During the time when Mrs. Alexander and her daughter and Doctor Shields were there was it your duty to clean these rooms?

40 A Yes, it was.

Q You did the maid service?

A I did the maid service.

Q Did you do any work in the dining room?

A I helped to wait on the table in the dining room.

Q Now, did you in the course of your duties from time to time go to cottage No. 6?

A Yes, I did.

COMMISSION EVIDENCE

MRS. BOBBY BENTLEY - Defendant's Witness - Dir. Exam.

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Q For the purpose of cleaning it?

A Yes, I did.

Q Did you always clean it?

A No, I didn't.

Q What happened in that connection?

A I was told that they would clean the room themselves.

Q Who told you that?

A Mrs. Alexander's daughter.

10 Q Did she on those occasions let you inside of the room?

A I remember a couple of times I got in, but not any more.

Q On the occasions when Miss Cynthia McKee told you they would clean the room themselves were you permitted to go into that room?

A No.

Q Did she on any of these occasions tell you why they would do the room themselves?

20 A Because her mother was sleeping.

Q On how many occasions did she tell you that they would do the room themselves, or she would do it herself, and you need not come in because her mother was sleeping?

A Well, quite a few.

Q On any of those occasions when Miss Cynthia McKee told you that her mother was sleeping, and for that reason you did not get into the room, did you see her mother ----

30 A No, I didn't.

Q --- outside of the room?

A No, I didn't see her then at all.

Q Did you go to the honeymoon cottage, Doctor Shields' cottage, to clean it?

A Yes, I did.

Q Did you on any such occasion see Mrs. Alexander in that room?

A Yes, I have seen her in that room.

40 Q On any of the occasions when Miss Cynthia McKee told you that her mother was sleeping in her own cottage did you see Mrs. Alexander in Doctor Shields' cottage?

A Yes, I did.

Q What was the condition of her dress then?

A She was in a lounging robe, negligee.

Q What time of day was that?

A In the afternoon.

Q About what time?

COMMISSION EVIDENCE

MRS. BOBBY BENTLEY - Defendant's Witness - Dir. Exam.

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A Well, it would be around 2:00 or 2:30.

Q You did from time to time clean Doctor Shields' room?

A Not very often.

Q Who did it?

A Well, I guess Mrs. Alexander did. She said she did.

Q Were you told not to come in there?

10 A I was told not to come in there by her, because she said not to bother.

Q Mrs. Alexander told you that?

A She told me not to bother, yes.

Q Did she tell you she would clean it herself?

A I think she did. She didn't exactly say she would clean it, but she said not to bother.

Q Not to come into Doctor Shields' room to clean it?

A Yes.

20 Q How did you see Mrs. Alexander in her negligee in Doctor Shields' room?

A Sitting in a chair.

Q Through what means did you see her?

A Through the screen door, just like this (indicating). We have to come in this way (indicating), and the chairs were something like this table here (indicating), then you could see in that way.

Q Were there occasions when you did clean Doctor Shields' cottage, No. 11?

A Were there occasions?

30 Q Some occasions.

A Yes, there were some occasions.

Q On those occasions when you came in what did you observe as to the two beds, the twin beds you mentioned?

A I had to clean up both beds.

Q Were they both unmade?

A They were both unmade.

Q As though both had been slept in?

A Yes.

40 Q You did on some occasions get into Mrs. Alexander's room to clean, did you not?

A Yes, I think once, and she was still in bed then.

Q She was still in bed?

A She was in bed then, but I cleaned up the floor, because at that time they got it very dirty.

Q On that occasion you were permitted to come in when she was still in bed?

A Yes.

COMMISSION EVIDENCE

MRS. BOBBY BENTLEY - Defendant's Witness - Dir. Exam.

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Q Did you ever come into Mrs. Alexander's room when one bed was made up and the other was not?

A Not that I can remember of.

Q Did you on any occasion when you were in Doctor Shields' unit, No. 11, find any wearing apparel of Mrs. Alexander's?

A Not that I can remember.

Q Any house slippers?

10 A I might have, but I can't remember.

Q Did you observe Doctor Shields when he came into the dining room there to eat?

A Yes, I did.

Q Also Mrs. Alexander?

A Yes.

Q Also Miss Cynthia McKee?

A Yes.

Q You waited on them?

A Yes, I did.

20 Q What from time to time did you observe as to the conduct of Doctor Shields toward Mrs. Alexander as they approached together into the dining room?

A Usually they would come in hand in hand, or they would come in arm in arm, with her hand in his arm, and he was very attentive at the table to her, then he would put his arm around her at the table sometimes and talk to her.

Q You said they would come in either arm in arm or hand in hand?

30 A Yes.

Q What do you mean by hand in hand?

A Well, he would hold her hand in the dining room.

Q Would they sit together?

A Yes, they did.

Q Would they always come in together?

A Most all the time, as far as I remember.

Q Did they always sit together?

A Yes, they did.

40 Q What else did you observe, if anything, that Doctor Shields did with respect to Mrs. Alexander while they were seated at the table?

A Sometimes if he had been drinking he would try to kiss her at the table.

Q Did he kiss her?

A Yes, I have seen him kiss her at the table.

Q Did he do anything else, did he do anything with his arms?

COMMISSION EVIDENCE

MRS. BOBBY BENTLEY - Defendant's Witness - Dir. Exam.

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A Well, he would have his arm around her most all the time, up until he was eating.

Q Did you ever observe Mrs. Alexander drinking?

A Yes, I have seen her drink.

Q Where?

A I have seen her drink in her room.

Q Do you know what she was drinking?

A She was drinking wine at that time.

10 Q Did you ever see Doctor Shields drink?

A Yes, I have seen Doctor Shields drink.

Q What was he drinking?

A He drank mostly whiskey.

Q Did you ever see Doctor Shields together with Mrs. Alexander when either was drinking?

A Yes, they were in the room drinking.

Q Which room?

A His room, No. 11.

20 Q You saw them together drinking in Doctor Shields' room, No. 11?

A Yes.

Q Was Miss Cynthia McKee present then?

A No, she was out riding.

Q They were alone in this room?

A Yes.

Q Do you know what they were drinking then, when they were sitting there drinking alone?

A They were drinking whiskey, I imagine.

Q It looked to you as though it was a whiskey bottle?

30 A Yes, and they were making cocktails out of it, because they had more than one thing on the table.

Q What time of day was that?

A It was in the afternoon.

Q Did you ever hear Doctor Shields address Mrs. Alexander by endearing names?

A He called her "dear" or "dearest," something like that.

Q Did you ever hear him call her "honey" or "darling"?

40 A Not necessarily, not that I can remember, but mostly "dear."

Q Did you know a Mr. Millar?

A Yes, I did.

Q Was he there the same time when Doctor Shields and Mrs. Alexander and her daughter were there at the McCarthy ranch?

A Yes, he was.

Q Had you seen him there before?

COMMISSION EVIDENCE

MRS. BOBBY BENTLEY - Defendant's Witness - Dir. Exam.

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A Mr. Millar?

Q Yes.

A Yes, I had.

Q He had been a guest there frequently before, had he?

A Yes, he had.

Q Did you ever notice Mr. Millar and Mrs. Alexander together?

10 A Yes. Their rooms - Mr. Millar's room was connected with her room with the bath.

Q What was the number of his unit?

A His was No. 7.

Q So you could get from No. 6 into No. 7 through the connecting bathroom; is that right?

A Yes.

Q Either one could go into the other room?

A Yes, that's right.

20 Q Do you recall any occasion when your husband told you of an incident which occurred at Murray's ranch?

A Yes, I do.

Q After that occasion, after your husband told you, did you see Doctor Shields and Mrs. Alexander the next day at the ranch?

A No, I didn't. They were there, I knew they were there, and I saw him, but I didn't see her, because after he told me what had happened then I heard some of the other guests talking about it.

30 Q The other guests spoke of the incident which happened at Murray's ranch the night before?

A Of the incident the night before, yes.

Q Was that common talk among the guests?

A Yes, it was common talk among the guests, because a lot of people didn't understand Mrs. Alexander, and they didn't like the way she and the doctor were acting at the table, and a guest ranch is quite a gossipy place.

Q You never saw Mrs. Alexander after that time, when these guests were talking about what had happened the night before?

40 A You mean during the next day? Not the next day, no.

Q Well, the second day or the third day?

A Yes, I seen her after then.

Q About how long after that incident did she continue to be a guest at the McCarthy guest ranch?

A I don't remember, but I think it was a couple or three days later. I don't just remember.

COMMISSION EVIDENCE

MRS. BOBBY BENTLEY - Defendant's Witness - Dir. Exam.

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Q Did she come to the dining room during those two or three days?

A I think she did.

Q Was her daughter with her?

A Yes, she was with her.

Q During those two or three days at any time did you see Doctor Shields come to the dining room?

A Yes, he came there by himself.

10 Q They were not sitting together?

A No, not during that time, because they seemed to be mad at each other after that.

Q Was Mr. Millar at the table?

A Yes, he was at the table.

Q Were there any occasions when Mrs. Alexander did not come into the dining room for breakfast?

A Very seldom she came in for breakfast.

Q Who would get her breakfast for her?

20 A Her daughter would come in and get her some coffee and a piece of toast.

Q About what time would that happen?

A I guess about 9:30, because we served breakfast at 9:00.

Q Miss McKee would have her breakfast in the dining room?

A Miss McKee?

Q Miss Cynthia McKee.

A Oh, yes.

Q She would have her breakfast in the dining room?

30 A Yes, she would.

Q Then get breakfast for her mother after she finished?

A That's right.

Q On these occasions when Miss Cynthia McKee was in the dining room for breakfast, without her mother, was Doctor Shields there?

A Sometimes, and sometimes he wasn't.

Q Do you know where Doctor Shields was when Mrs. Alexander did not come in for breakfast?

40 A I imagine he was in his room.

Q You don't know, though?

A No.

Q Do you know where Mrs. Alexander was when she did not come in for breakfast?

A I imagine she was in her room.

Q But you don't know?

A No.

COMMISSION EVIDENCE

MRS. BOBBY BENTLEY - Defendant's Witness - Dir. Exam.

573

Q Do you know whether or not the conduct of Doctor Shields and Mrs. Alexander at the dining room table was a subject of discussion in the kitchen?

A Yes, it was.

Q That is, among the help?

A It was, yes.

Q Was it a subject of discussion among the guests?

A Yes, the help and the guests.

10 Q During the dinner hour or luncheon hour when this conduct occurred was Miss Cynthia McKee present?

A Yes, she was at the table.

MR. ROSE: You may examine.

CROSS-EXAMINATION

BY MR. CLOUD:

20

Q You are the young lady they call Bobby?

A Yes.

Q For the purpose of the record, you are a negress?

A Yes.

Q You are married to Wade Bentley?

A Yes.

Q How old is your husband?

A I guess he is about 32 or 33.

Q When did you first start working for Mrs. McCarthy?

30

A About four years ago, three or four years ago.

Q Have you had any talk or discussion about what you are to testify to here today?

A Did I discuss it with anybody?

Q Yes.

A Only Mr. Leahan.

Q Did you discuss the matter with Mr. Rose?

A Oh, yes.

Q Anyone else?

A No.

40

Q When were you first approached regarding the matter?

A About a month ago, a month and a half ago maybe.

Q By Mr. Leahan?

A Yes.

Q Are you working at this time?

A No.

Q When did you last work?



COMMISSION EVIDENCE

MRS. BOBBY BENTLEY - Defendant's Witness - Cross-Exam.

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A In December, around the first of December or the middle of December, last December.

Q Your husband is working now?

A Yes, he is.

Q What compensation are you getting for coming here to testify?

A None.

Q You are not being paid anything?

10 A Not a thing.

Q You are doing this at the request of Mr. Leahan?

A Beg pardon?

Q You are doing this solely at the request of Mr. Leahan?

A That's right.

Q As an accommodation?

A That's right.

Q Where were you born?

20 A I was born in Dallas, Texas.

Q When?

A 1914, on July 20th.

Q Where were you married?

A Texas.

Q Where in Texas?

A Dallas, Texas.

Q When did you leave Texas?

A I left Texas in 1924.

Q Where did you go?

30 A Los Angeles, California.

Q You stayed there how long?

A I stayed there until 10 years ago, when I went to Victorville.

Q What did you do in Los Angeles?

A Went to school.

Q To what school did you go?

A I went to Jeff, Lafayette, and went to Nevin.

Q Then after you finished high school ----

A I got married.

Q Then you went to Victorville?

40 A I went to Victorville.

Q What did you do in Victorville?

A I was a housewife until I started to work doing day work, and then later on I started working for Mrs. McCarthy.

Q When did you start to work for Mrs. McCarthy?

A I don't know exactly the date, but it's about three or four years ago.

COMMISSION EVIDENCE

MRS. BOBBY BENTLEY - Defendant's Witness - Cross-Exam.

575

Q It was prior to 1945?

A Yes, it was.

Q Do you know what month it was when Mrs. Alexander, to whom we refer often as Mrs. McKee, arrived at McCarthy's guest ranch?

A No, I don't. I know it was the first of the year some time, but I don't know what month it was.

Q The first part of the year 1945?

10 A Yes.

Q You do not remember the month?

A No.

Q Do you have any way of refreshing your memory?

A As to the time?

Q Yes.

A No, not what time exactly of the year, because that happened so long ago, and there isn't anything to bring it back, only I know it was in the winter time.

Q Were there other guests there at the time?

20 A Yes. There wasn't as many as usual, but about 14 or 15 there.

Q At that time were the cottages all filled or partially filled?

A They wasn't all filled wasn't half filled.

Q Do you know Mr. Millar, who has been referred to?

A Yes, I do.

Q What is his first name?

A Bill, or William.

30 Q Had he been there at the ranch as a sort of regular guest from time to time?

A Yes, he had.

Q Was he there after the Alexanders left?

A Oh, yes.

Q As far as you know he has kept going there off and on for the last several years?

A That's right.

Q How old is Mr. Millar?

A Mr. Millar I imagine is about 50 or 52, maybe older than that.

40 Q How old would you say Doctor Shields is?

A I would say Doctor Shields is in his late 30's or early 40's.

Q Do you know when he arrived at the McCarthy ranch?

A No, I don't know exactly when he arrived.

Q Did he arrive at the same time Mrs. Alexander did?

A He arrived after they arrived.

Q By "they" do you mean Mrs. Alexander and her

COMMISSION EVIDENCE

MRS. BOBBY BENTLEY - Defendant's Witness - Cross-Exam.

576

daughter, Miss Cynthia McKee?

A Yes.

Q Do you know how they arrived at the ranch?

A No. I think they came out in a taxi, as far as I know.

Q From what town?

A Victorville.

10 Q This place that we call the McCarthy guest ranch is a dude ranch, is it not?

A Yes.

Q What activities do they have there besides riding horses?

A Swimming and table tennis, a lot of them play poker, and they have a piano in the dining room, and they can dance there.

Q Do they play horseshoes?

A Yes.

Q They take hikes?

20 A Take hikes, and have wienie roasts.

Q They take trips to the nearby mountains or desert?

A If they prefer.

Q Everyone does these things, that is, they carry on activities similar to a family style place?

A They eat family style, but they carry on activities the way they want to.

Q In other words, they have organized parties to go to the mountains, but they will go or not go, leaving it up to each individual person?

30 A That's right.

Q But the meals are all served in a common dining room, family style?

A That's right.

Q Do they serve any liquor there?

A No.

Q Where is the place they go to when they want to have a glass of beer?

A Over to Murray's, about a mile and a half or two miles from McCarthy's.

40 Q Do you remember that there is a sign there put up by Mrs. McCarthy indicating that there is a bar at Murray's?

A No.

Q You do not remember any such thing?

A No.

Q Were you ever present when Mrs. McCarthy informed her guests that the nearest bar where they could get

COMMISSION EVIDENCE

MRS. BOBBY BENTLEY - Defendant's Witness - Cross-Exam.

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cold drinks was Murray's?

A Yes, she told quite a few of them that when they asked her.

Q That is where everyone from the ranch went when they wanted to have a glass of beer?

A That's right.

Q It was not an uncommon occurrence for most of the people or part of the people to go over there in the evening?

A No, it was not.

Q This Murray's Ranch or bar is a place where people from Hollywood had gone, and there were pictures around the walls ----

A Yes.

Q --- of Jack Benny and Joe Louis and Rochester?

A That's right, quite a few of them - Maxine Sullivan, Kate Smith - she has got her picture taken there with Mrs. Murray - quite a few of the notable actors and actresses.

Q A sort of, we might say, spot of local color in the desert?

A That's right.

Q It's quite the thing for everybody to go over there when they are on that McCarthy's ranch?

A That's right, because that's where Joe Louis went when he went for training, that's where he went out on the desert.

Q When you first started working there what did you do?

A At Mrs. McCarthy's?

Q Yes.

A When I first started there working I washed dishes.

Q When was it that you washed dishes, in what year?

A I don't know. I would have to look in my Social Security for that; I don't know.

Q Was that before Mrs. Alexander arrived?

A Yes, quite some time before.

Q At the time she arrived what was your main duty?

A I was maid.

Q You kept up the various cabins, cleaned them?

A Yes.

Q Were there any other maids there?

A When I was maid?

Q Yes.

A No.

Q You were the only one?

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MRS. BOBBY BENTLEY - Defendant's Witness - Cross-Exam.

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A I was the only maid.

Q Did you do any other work besides performing maid service?

A Waiting on tables, and helping out in the kitchen when they were late.

Q You washed dishes, and helped the cook?

A No, I didn't have to wash dishes then, because they had a dishwasher, but I would make salads and maybe  
10 dish up the food, if they were running slow in there.

Q When did you leave McCarthy's for good?

A December.

Q December of last year?

A Yes.

Q What time did they have breakfast there?

A 9:00 o'clock.

Q Do they have more than one call for breakfast?

A Yes.

Q People usually came in singly or in groups when  
20 the bell rang?

A Well, they came in just as soon as they heard the bell, in groups or singly.

Q Was there as a rule more than one person in the dining room, or were there other people in the dining room, other than those that were eating?

A Well, people were eating, and my aunt and myself waiting on them.

Q Were you cleaning up the table at the time?

A Well, I was serving coffee, things like that.

Q Did you ever see Doctor Shields kiss Mrs. Alexander  
30 in the dining room?

A Yes, I did.

Q On more than one occasion?

A As near as I can remember it was more than one occasion.

Q On how many occasions?

A I know it was about two or over.

Q What time of day was the first occasion?

A The afternoon.

Q What time, approximately?  
40

A 1:00 o'clock, because that's when they would have lunch, and very seldom Mrs. Alexander would come in to breakfast.

Q Who got her breakfast for her?

A Her daughter got her breakfast.

Q Do you remember Cynthia going to the kitchen and

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MRS. BOBBY BENTLEY - Defendant's Witness - Cross-Exam.

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getting coffee or breakfast for Mrs. Alexander?

A Yes, she would.

Q That was a sort of morning routine, was it?

A That's right.

Q Did you ever see Mrs. Alexander eat breakfast there?

A In the dining room?

Q Yes.

10 A Not that I can remember at the present time.

Q Did Doctor Shields eat breakfast there?

A Yes, he would eat breakfast there quite often.

Q Did Cynthia eat breakfast there?

A Yes, she would eat breakfast.

Q Did Mr. Millar eat breakfast there?

A He ate breakfast there all the time.

Q He ate everything; is that right?

A That's right.

20 Q With reference to this cottage No. 6, how far is that from cottage No. 11?

A Just good walking distance, say from here to over to that building (indicating).

Q You would say 100 feet?

A Approximately, I guess.

Q There is no connection, no roof, between the two buildings?

A No.

Q This honeymoon cottage was a cottage by itself?

A It was fenced off from the rest of it, yes.

30 Q Do you know where Doctor Shields stayed when he first arrived?

A In the honeymoon cottage.

Q He was there all the time?

A As far as I know.

Q Where did Mrs. McCarthy stay?

A Mrs. McCarthy stayed in the old house, you would call it.

Q Near the dining room?

40 A No, it wasn't connected with the dining room, but it was off from the dining room, like this is the dining room here (indicating), and there was a driveway and the water tower dividing the dining room and Mrs. McCarthy's room.

Q Were there other rooms alongside of Mrs. McCarthy's room?

A Yes.

Q Were there guests staying in those rooms?

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MRS. BOBBY BENTLEY - Defendant's Witness - Cross-Exam.

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A Yes.

Q Did Doctor Shields ever stay in the room next to Mrs. McCarthy's room?

A I don't think so. If he did he stayed there maybe while they was getting a room fixed up for him, but I don't think so; I think he went to the honeymoon cottage as soon as he got there.

Q He did not stay there overnight, then?

10 A I don't think so.

Q Did you clean up the rooms next to Mrs. McCarthy's?

A Yes, I cleaned up all of the rooms.

Q Did you clean all the rooms every day?

A All I could get into.

Q Did you change the bedding every day?

A No.

Q Why didn't you change the beds every day?

20 A It was our rule to change the bedding once a week, or when the guests checked out of course we put fresh linen on.

Q Who took care of Mr. Millar's room?

A I did.

Q Did you make the bed every day?

A I did.

Q What time did you make your rounds to make the beds?

30 A Different times, when I could get to it, because I had from about 9:30 to do the rooms until 6:00 o'clock that night, to finish them, and I didn't have any special time to clean up any particular room.

Q Did Mr. Millar ever complain to you about lack of maid service?

A No.

Q Did Mrs. Alexander?

A No.

Q Did Miss Cynthia McKee?

A No.

Q Did any of the guests ever complain?

A Not that I know of.

40 Q Did any of the guests have to make their own beds?

A If they wanted to they made them.

Q But if they did not want to the maid service was available?

A That's right.

Q You had ample time to take care of that?

A I did.

Q You mentioned that Mr. Millar's cottage was next

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MRS. BOBBY BENTLEY - Defendant's Witness - Cross-Exam.

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to No. 6; is that right?

A Yes.

Q What was the number of his cottage?

A No. 7.

Q Between those two cottages there is a connecting bath?

A Yes.

10 Q There was a lock on the door from the bath to unit No. 6?

A Yes.

Q Also a lock on the door from No. 7?

A Yes.

Q Anybody using the bathroom can lock the other side?

A That's right.

Q Then for all purposes it's a private bath?

A It's a private bath there.

20 Q Is that quite a common practice at the ranch, to have rooms like that?

A There are some of them that are different, some with private baths, some that are connected by a bath, and some during the time didn't have any bath at all.

Q Who assigned people to the various rooms?

A Mrs. McCarthy did.

Q Did you know whether or not Mrs. McKee complained to Mrs. McCarthy about the unit she occupied, No. 6?

A If she did she didn't say anything to me about it.

Q So you don't know, then?

30 A No.

Q Do you know whether or not Cynthia McKee complained to Mrs. McCarthy about No. 6?

A I don't know.

Q Did anyone to your knowledge ever complain about the bathroom arrangement in any of the cottages while you were there

A There has been some complaints, but none of these particular people that I know of complained.

Q There were twin beds in No. 6?

40 A Yes.

Q How about the beds in No. 7?

A There is a double bed in No. 7.

Q That's where Mr. Millar stayed?

A Yes.

Q You testified to some cocktails being served in Doctor Shields' room?

A I didn't say they were served; I said I saw them drinking them there.



COMMISSION EVIDENCE

MRS. BOBBY BENTLEY - Defendant's Witness - Cross-Exam.

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Q Do you remember one time when Mrs. McCarthy and several guests were in there with Doctor Shields and they were having wine and cocktails?

A No, I don't remember.

Q You do not remember any such occasion?

A No.

Q At this time when you state you saw Mrs. McKee in Doctor Shields' cottage, the screen door was open?

10 A The door? Yes.

Q The windows were open?

A I didn't notice whether they were or not.

Q The shades were up?

A Yes the shades were up.

Q The light was on?

A No, because it was in daytime.

Q It was in daytime?

A Yes. The lights don't go on in the daytime.

Q How many times did you see Mrs. Alexander in 20 Doctor Shields' cottage?

A I saw her in there a couple of times, to my knowledge now.

Q Both times were in the daytime?

A Yes, because I wasn't there at night.

Q Was it in the afternoon?

A Yes, in the afternoon.

Q She was fully dressed?

A No.

Q She had clothing on?

30 A Yes, she had clothing on, but you wouldn't call negligee or something like that fully dressed.

Q Her body was not exposed, was it?

A Not that I could see.

Q She had on shoes or slippers?

A She had on something.

Q You never found any negligee or any wearing apparel in Doctor Shields' cottage, did you, that might belong to a woman?

A No.

40 Q Did you find any men's clothing in Mrs. McKee's cottage?

A No.

Q Do you remember Mr. Millar playing a harmonica?

A Yes.

Q He did that quite often?

A Yes, he did, he entertained the guests quite often.

Q He entertained all the guests?

COMMISSION EVIDENCE

MRS. BOBBY BENTLEY - Defendant's Witness - Cross-Exam.

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A Yes.

Q That was in the dining room or outside?

A Mostly in the dining room or in the recreation room over in the big house.

Q Did you ever hear him playing the harmonica in any of the cottages?

A Not that I can remember.

10 Q You have heard him referred to as "Uncle Bill," have you?

A I can't remember it now, whether he was or not.

Q What did they usually call him around there?

A Bill Millar. At a guest ranch very few people know the other person's last name, and they all call them by their first name usually.

Q It's very informal?

A Very informal, yes.

Q There is a swimming pool there, is there not, Bobby?

20 A Yes, there is.

Q Was there water in it at the time?

A Water is in it most all the time.

Q All the year around?

A Yes.

Q Did you see Mrs. Alexander and Cynthia McKee at the swimming pool?

A I think I have.

Q Did they have on their swimming suits?

A I think so. I am not sure.

30 Q Did you see them taking sun baths in their swimming suits?

A I can't remember. They might have.

Q Did you see any children around there?

A No, not at that particular time.

Q Did Mrs. Alexander bring any children with her?

A No, only her daughter.

Q When you speak of her daughter you speak of Cynthia McKee?

40 A Yes, that's all I knew her by, as her daughter, because that's what she said at the time, that it was her daughter.

Q Did you know whether or not Mrs. Alexander was then convalescing from illness?

A I think I heard someone say she had, but I am not sure who it was.

Q Where had she been, do you know, before she went to the ranch there?

COMMISSION EVIDENCE

MRS. BOBBY BENTLEY - Defendant's Witness - Cross-Exam.

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A No, I don't know.

Q You waited on the table in the dining room, did you?

A Yes.

Q For breakfast, lunch and dinner?

A Yes.

Q What time did you usually serve luncheon?

A 1:00 o'clock.

10 Q Did everyone eat lunch as a rule?

A That wanted to eat lunch, if they were there, yes.

Q How many as a rule did you have for luncheon?

A It all depended on how many guests were there.

Q Well, on the average how many, Bobby?

A On the average? Are you talking about this particular time?

Q Yes.

A About 14 there, or maybe not that many.

20 Q Some days 10, some days 15 perhaps?

A Well, there was one table, and that one table can hold 16. It can hold 18 crowded and 16 pretty comfortable, and 14 very comfortable.

Q That table was filled most of the time, you would say?

A Yes.

Q Was that situation true with respect to dinner in the evening also?

A Yes.

30 Q Did you observe Doctor Shields kissing Mrs. McKee at any time other than at noon?

A At the table, you mean?

Q Yes.

A No.

Q Did you observe Doctor Shields kiss Mrs. McKee at any other time?

A No.

Q So the only time you saw any kissing was once or twice during the lunch hour?

40 A Yes, that's all.

Q Did they come in together to lunch?

A Most all the time.

Q Did he have his arm around her?

A He was holding her hand, and he had his arm around her sometimes, had his arm around her when he was sitting at the table, until he started eating, of course.

COMMISSION EVIDENCE

MRS. BOBBY BENTLEY - Defendant's Witness - Cross-Exam.

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Q That is, he put his arm around her like anyone who was sitting next to a friend?

A Yes.

Q Did you see Mrs. McKee kiss him?

A No. She was very modest, but he kissed her.

Of course I don't guess she could help that.

Q She was a very modest lady, as far as you observed?

10 A As far as I observed. She didn't kiss him; he kissed her.

Q Did you observe anything else out of the ordinary?

A Other than when he would come in to the table and put his arms around her, and kiss her at the table, and sometimes if he had been drinking quite a bit he acted as if he wanted to bit her or eat her up at the table, something like that.

Q Did Doctor Shields show any affection of any kind for Cynthia McKee?

A What do you mean by affection?

20 Q Did he put his arms around Cynthia at any time?

A I don't know, unless like a daughter, something like that.

Q Well, did you see him at any time put his arm around Cynthia?

A Not that I can remember.

Q Or hold her hand?

A Not that I can remember.

Q Did Bill Millar put his arm around Mrs. Alexander?

30 A Not that I can remember either. I know they were friends, seemed to be very friendly, but as far as putting his arm around her I can't say he did and I can't say he didn't.

Q Then all these things you observed were things which were initiated by Doctor Shields; is that right?

A Yes.

Q Do you know whether or not Cynthia made the beds in No. 6 sometimes?

A She apparently did. I didn't make them all the time.

40 Q You stated you went into Doctor Shields' room sometimes and found both beds had been slept in?

A Yes.

Q What called that to your attention?

A What called it to my attention? I had to make them up, and that called it to my attention.

Q What time of day was that?

A It all depends upon what time I could get in

COMMISSION EVIDENCE

MRS. BOBBY BENTLEY - Defendant's Witness - Cross-Exam.

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there. Mostly in the afternoon.

Q Did you make the beds in Doctor Shields' apartment every day?

A No.

Q Sometimes you went for several days without going in there to make the beds?

A I went over to make the beds, but couldn't get in there all the time.

10 Q He was there sleeping?

A He was there sleeping, and sometimes he had company.

Q Mrs. Alexander I believe you testified told you not to bother about cleaning No. 6?

A Yes.

Q You testified she also told you not to bother about cleaning No. 11?

A Yes.

20 Q Did she say anything further as to who was to clean up there?

A No, she said to just don't bother.

Q You did clean No. 6 when you saw Mrs. Alexander in bed?

A Yes.

Q Where was Cynthia at the time?

A She was in there too.

Q In the same room?

A Yes.

30 Q Did you ever see Doctor Shields in Cynthia and Mrs. Alexander's room?

A No.

Q Did you ever see Mrs. Alexander and Cynthia in Doctor Shields' apartment?

A I have seen Mrs. Alexander in the apartment. I can't remember whether her daughter was in there with her or not.

Q I believe you testified that if Doctor Shields was intoxicated that was the time he would try to kiss Mrs. Alexander?

40 A He stayed intoxicated most all the time to a certain extent, but sometimes he was more than other times.

Q Did you ever see Mrs. McKee intoxicated?

A I knew she had been drinking, but I can't say she was intoxicated. She didn't stagger.

Q You saw her drink in her own room, did you?

A Yes.

COMMISSION EVIDENCE

MRS. BOBBY BENTLEY - Defendant's Witness - Cross-Exam.

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Q Who else was present then?

A Her daughter.

Q Was Mr. Millar there before Mrs. Alexander arrived, or did he come there afterward?

A I can't exactly remember whether he was there before or whether he was there after.

Q Well, he was there during this same period?

A He was there at the same time, yes.

10 Q He has been back to the ranch since that time?

A Oh, lots of times.

Q Did you ever go down to Murray's ranch with any of the guests?

A No, I did not.

Q Were you ever there at any time when guests were there?

A Not these particular guests, no.

Q Who were some of the guests who complained about the way Doctor Shields acted?

20 A Quite a few of them, because during that time I think it was the slack part of the year, and you would see a lot of old maids and different ones there, and there was one old maid in particular that was there that complained about it, and Mrs. Mac didn't like it so well herself, because other guests were complaining to her about it.

MR. ROSE: By Mrs. Mac you mean Mrs. McCarthy?

THE WITNESS: Yes.

30 MR. CLOUD Q: Did Mr. Millar usually eat luncheon at the table with Cynthia and Mrs. Alexander?

A Yes, he did.

Q And Doctor Shields?

A Yes.

Q Is it not a fact, Bobby, that Mr. Millar arrived at the ranch after Mrs. Alexander arrived on this particular visit?

A It could have been. He was there during the same time, but I am not sure when he arrived.

Q You have no independent recollection of that?

40 A No.

Q What is this honeymoon cottage, what is that made up of?

A Made out of adobe and stucco.

Q What I really mean is this: is it two bedrooms and bath or one bedroom?

A One bedroom and bath.

Q Twin beds, with bath?

COMMISSION EVIDENCE

MRS. BOBBY BENTLEY - Defendant's Witness - Cross-Exam.

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A Yes.

Q It has a little fence around it?

A Yes.

Q Was that there when you first started to work there?

A Yes, it was.

Q Was it there when you left?

A Yes, it was.

10 Q Were you there when the barns burned down?

A Yes, I was.

Q When was that?

A During the same year Mrs. Alexander was there, I think somewhere along in there.

Q Are all of these events which you have testified to events that occurred to June 1, 1945?

A Yes, it was prior to that, because it was in the winter time.

MR. CLOUD: That is all.

20

REDIRECT EXAMINATION

BY MR. ROSE:

Q You were asked about Mrs. McCarthy complaining about the conduct of Doctor Shields with Mrs. Alexander. Did Mrs. McCarthy say that if they did not stop it she would have to tell them to get out?

30 A Yes, she did.

Q You were asked about occasions when you did not clean Doctor Shields' cottage, because he had guests. Was the guest Mrs. Alexander?

A Yes, it was.

Q With reference to the other working ladies at the time when Mrs. Alexander was there, who was the cook?

A Ruby Sewell, my sister.

Q She is present here now?

A Yes, she is.

40 Q Who was the dishwasher?

A Comelia Brooks at that time. She is Mrs. Wallace now.

Q She has married since then?

A Yes.

Q She is also present here?

A Yes.

MR. ROSE: That is all.

COMMISSION EVIDENCE

MRS. WADE BENTLEY - Defendant's Witness - Recross-Exam.

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RE CROSS-EXAMINATION

BY MR. CLOUD:

Q Bobby, you testified, I believe, that Mrs. McCarthy told you that she wished Doctor Shields to leave?

A No, I didn't testify to that.

10 Q Did she tell you that or did somebody else tell you that?

A No one did as I can remember.

Q Where did you get the information that Mrs. McCarthy had made some complaint about this alleged conduct?

A Mrs. McCarthy told me herself.

Q So what you have testified to is what Mrs. McCarthy told you?

A Yes.

20 MR. CLOUD: That is all.

MR. ROSE: That is all.

RUBY SEWELL

DIRECT EXAMINATION

BY MR. ROSE:

Q Your name is Ruby Sewell?

A Ruby Sewell.

Q Are you married?

30 A No, I am not.

Q Where do you live?

A I live in Victorville.

Q How long have you lived there?

A Since 1941.

Q Have you a street number?

A 206, but I get my mail at post office box 774.

Q 206 what?

A E Street.

40 Q Have you ever been employed at the McCarthy guest ranch?

A I have.

Q For how long?

A About a year and a half.

Q During what period?

A From the latter part of 1944, I guess you would say, until September, 1946.

Q September of 1946?

A Yes.



COMMISSION EVIDENCE

RUBY SEWELL - Defendant's Witness - Direct-Examination

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Q What was the nature of the work you did there?

A Domestic, cooking.

Q Cooking?

A Yes.

Q You were the cook?

A I was the cook.

Q Who were the other employees at the place at that time?

10 A My sister, Mrs. Bentley.

Q What did she do?

A She was the maid, and she helped in the dining room, and Comelia Brooks was the dishwasher, and helped also in the dining room. She was Brooks at that time; it's Wallace now.

Q Are both of those persons here today?

A Yes, they are.

Q One has already testified?

A Yes.

20 Q Was Wade Bentley there at the ranch at all?

A Yes, he was; he brought us there, and he would help with the horses and all that out in the yard; he was a handy man. He brought us to and fro.

Q You say he brought you to and fro?

A To and fro, from home to work.

Q Did he take you too?

A Yes, he brought us all.

Q He brought all of you there?

A Yes.

30 Q And took you all home?

A Took us all home.

Q I show you two newspaper photographs which have been marked by the Commissioner as Respondent's Exhibits 1 and 1-A respectively, and ask you whether you know the person who is represented by those photographs?

A Yes, I do.

Q When did you first see her?

A I saw her in the dining room.

Q Where?

40 A At McCarthy's dude ranch.

Q Was she a guest there?

A Yes, she was.

Q By what name did you know her?

A Mrs. Alexander.

Q Was she with anybody?

A She was accompanied by her daughter.

Q Is that Miss Cynthia McKee?

COMMISSION EVIDENCE

RUBY SEWELL - Defendant's Witness - Direct-Examination

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A Yes, she is the one.

Q The lady who is sitting at the table here (indicating)?

A Yes. She would come in and get her mother's coffee some mornings.

Q During what period of time were Mrs. Alexander and her daughter Miss Cynthia guests there at the McCarthy guest ranch?

10 A Well, it was the first of the year.

Q What year?

A 1945.

Q For how long a time were they guests?

A To my remembrance around a week and a half or two weeks. I am not sure. I didn't give much time to the guests, but I cooked, and I just saw them when they were in the dining room, that was all.

Q Did you know a Doctor Shields?

A Yes, I knew of him.

20 Q Well, did you know him?

A Just when I would see him, when he would enter the dining room.

Q Was he also a guest at the McCarthy guest ranch?

A Yes, he was.

Q His name was William Shields?

A Yes.

Q Was he a guest at the time when Mrs. Alexander and her daughter were there?

A I think they came a day apart, if I remember right.

30 Q Did they leave on different days?

A That I don't know.

Q You don't remember?

A I don't remember.

Q Did you know a Mr. Bill Millar?

A I did.

Q Was he a guest there at the ranch at the same time when Doctor Shields was there and when Mrs. Alexander and her daughter were there?

A Yes.

40 Q Had Mr. Millar been a guest before that?

A Lots of times before.

Q During all the time when you worked there?

A Yes, off and on.

Q He would come there off and on?

A He would come up, and then he would go to his ranch at Big Bear.

Q How many meals a day did you have at the guest ranch?

COMMISSION EVIDENCE

RUBY SEWELL - Defendant's Witness - Direct-Examination

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A Three meals - breakfast, lunch and dinner.

Q At what times did you have these meals?

A At 9:00 o'clock we would serve breakfast, 1:00 o'clock we would serve lunch, and 6:00 o'clock we served dinner.

Q Did you observe Doctor Shields and Mrs. Alexander and Miss Cynthia McKee, the daughter, when they came into the dining room?

10 A Well, I noticed Mrs. Alexander and Doctor Shields, because they would come in either playing with one another, or had one another's hands - they were very affectionate, I would say.

Q Did you observe that at different times?

A Yes, I did, because they were the only couple at that time that did a lot of playing and loving in the dining room.

Q Did you observe them when they came into the dining room?

20 A Yes, because they always came in joyfully, you know - not overly, but anyway enough for a person in the kitchen to notice them when they came in.

Q What were they doing when they came, as they were approaching the dining room?

A He would either have his arm around her or have her by the hand, then he would draw out her chair from the table and seat her, and evidently he would kiss her on the forehead or pat the back of her neck - that's what I saw from the kitchen.

30 Q Did you see anything else?

A I saw him kiss her on the side of the face at the table.

Q Did you ever see him have his arm around her at the table?

40 A Yes, kind of. They would always sit with their back to the kitchen. Every person that came there when they got their seats would have the same seats every time, generally they will have the same seat, and he and Mrs. Alexander sat with their backs to the kitchen door - there was a swinging door between the kitchen and the dining room - and I could stand there from the dishwashing tray and look completely in the dining room, and see this.

Q Did you observe them frequently?

A Yes.

Q Were they always together?

A Every time I would see them together.

Q That is, Doctor Shields and Mrs. Alexander?

COMMISSION EVIDENCE

RUBY SEWELL - Defendant's Witness - Direct-Examination

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A Yes, and sometimes the daughter would either come in front or behind them.

Q Were they all three seated together, next to each other?

A Well, not all the time, because sometimes she would be out riding, that lady there (indicating).

Q That is, the daughter?

A Yes.

10 Q When the daughter came in with the mother and Doctor Shields were they seated next to each other?

A They were.

Q When Doctor Shields came in with Mrs. Alexander were they always seated together?

A Yes, they were. He would sit at the left of her.

Q Was the conduct of Doctor Shields toward Mrs. Alexander a subject of discussion among the help in the kitchen?

A Well, we would just laugh at them in the kitchen.

20 Somebody would say he ought to put salt on her and eat her up, something like that, but just between the help, that's all.

Q You would discuss it?

A Yes, but we wouldn't say it so they could hear it in the dining room.

Q But just among yourselves?

A Just among ourselves.

Q Did you ever observe Doctor Shields in his cottage?

30 A No, I never went out there. My sister Bobby was taking care of all that, and I never went outside, unless I wanted to walk out and find my sister for something, but it wasn't out in that cottage.

Q Did you ever see Doctor Shields drinking?

A No, but I cracked ice for him, I would send pitchers of ice to him.

Q Who asked you to do that?

A My sister would come in and ask me to fix some ice for them.

Q What would you do with this ice?

A Put it on the tray, and she would carry it to them.

Q Did you ever see Doctor Shields intoxicated?

40 A Well, every time I would see him come in the dining room he would act something as though he had been drinking. He was always jolly, and very affectionate toward Mrs. Alexander.

Q Did you ever observe whether or not Mrs. Alexander was intoxicated?

A Well, not being around her closely I couldn't hardly say that, you know.

MR. ROSE: You may examine.

COMMISSION EVIDENCE

RUBY SEWELL - Defendant's Witness - Cross-Examination

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BY MR. CLOUD:

Q Ruby - that is your first name, isn't it?

A Yes.

Q Where were you born?

A I was born in the State of Texas.

Q When did you come to California?

A In 1923, I think.

Q Where did you first reside after you came to California? A In Los Angeles.

10 Q With whom did you live there? A My mother.

Q What was the address?

A I think it was 1236 East 27th Street, if I remember right. That's pretty far back.

Q When did you leave there?

A You mean when did I leave that address?

Q Yes. A Oh, when I left that address - I really can't tell you definitely. I was young.

Q What year was it? A It must have been the last of 1924 when we moved from that address.

20 Q Where did you go after that?

A Where did we live after that?

Q Yes. A We lived on 18th and Palomar.

Q How long did you live there? A We lived there until 1930, I believe, then my mother was married again and we moved to Boyle Heights. That was in 1930.

MR. ROSE: Boyle Heights is a district in Los Angeles?

THE WITNESS: Yes.

MR. CLOUD Q: Where did you go after that, Ruby?

30 A We lived there until we sold the home in 1938, and my mother and dad moved to the home in Victorville, then I moved to - it's on Dalton Street, but I can't remember the number I went to exactly.

Q What is the approximate number?

A It was in the 2700 block on Dalton Avenue.

Q In Los Angeles? A On the west side, near Western.

Q How long did you live there?

A I lived there from 1938 until 1941.

Q Do you have a brother living in Los Angeles?

40 A No, I have no brother living there. I have a foster brother living in Victorville with me.

Q What is his name? A Leroy Sewell.

Q Did he live in Los Angeles with you?

A With the whole family.

Q With the family? A Yes.

Q When did you first start to work at the McCarthy ranch? A The latter part of 1944.

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RUBY SEWELL - Defendant's Witness - Cross-Examination

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Q Do you know what month it was when Mrs. Alexander arrived at the McCarthy ranch?

A It was the first of the year. I just don't remember the month.

Q Would that be in January? A January or February, one of those months, but I am not sure.

Q January or February of 1945? A Yes.

Q You are sure it was 1945?

10 A Yes I am sure it was 1945.

Q How old are you? A 40.

Q You are a negress? A Yes - I hope so.

Q Did you ever have any trouble with Mrs. McCarthy?

A Not at all.

Q Did any of the help have any trouble with Mrs. McCarthy? A Not one bit that I know about.

Q Not that you know about?

A Not that I know about, no.

20 Q When did you leave the employment of the McCarthy ranch? A 1946.

Q In the fall of 1946? A The fall of 1946.

Q Did you and Wade Bentley and Bobby Bentley and Comelia Wallace leave at the same time? A No.

Q When did they leave? When did Wade Bentley leave if you know? A I don't know exactly when he left.

Q What year was it? A My sister left just this last December.

Q What is your sister's name? A Bobby Bentley.

Q When did Comelia Wallace leave, it at all?

30 A She is still there now, but she left - well, I couldn't answer that, I don't know. I don't remember when she left then.

Q Did she leave there at any time for a few months in 1946? A No, but I think she left in 1945 for a few months.

Q You do not remember what months?

A No, I really don't.

Q Do you remember Doctor Shields? A Yes, I do.

40 Q How large a man is Doctor Shields? A Well, he looked to be from the dining room - I am a poor judge on size - he was baldheaded, I know that - he was about six feet, I imagine.

Q Did he have a mustache? A I didn't notice that much about him, to tell the truth.

Q Was he light or dark complexioned?

A Well, I didn't observe that much, to say what color he was. I just saw him in the dining room, come in the dining room. He was about your color of complexion.

Q He was light, then?

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RUBY SEWELL - Defendant's Witness - Cross-Examination

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A As near as I can place him just now.

Q Smooth shaven?

A Yes, I think so.

Q The only time you ever saw Doctor Shields was when he was in the dining room; is that right?

A The only time, yes.

Q What did Bill Millar do there?

10 A Nothing particular, but just rode around, stand out there and watch them saddle up horses, and take different ones back and forth to town.

Q Did he ride horses?

A I never saw him ride a horse.

Q You were there all during the year 1945 prior to August 1st?

A Yes, but I never saw Bill Millar ride a horse.

Q Did the ranch have a car or station wagon or any means of conveyance to get people from and to Victorville?

20 A Mrs. McCarthy has a personal car.

Q Her own private car?

A Yes.

Q But they did not have a station wagon, like some dude ranches do?

A No, they don't.

Q Did Mr. Millar go back and forth from the dude ranch to the town of Victorville practically daily?

A He did.

Q To get the mail?

30 A Well, no, Mrs. McCarthy picked up all the mail, but he would go and take quite a few people in, then he would leave the ranch to go to Big Bear, to his place - he has a place in Big Bear - and he would go over to Murray's dude ranch after dinner, some evenings after dinner.

Q He always had his car full of people, did he?

A He always had the car with someone in. I couldn't name them, but I know he would have the car with different people in it.

40 Q Did he help Mrs. McCarthy?

A What do you mean - help her with the work?

Q I mean help Mrs. McCarthy entertaining the guests, or taking them back and forth from town to the ranch?

A He did that, yes, he would take a load into town, because I would see him ask in the dining room "Who wants to go to town this morning?" and he would carry them, like that.

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RUBY SEWELL - Defendant's Witness - Cross-Examination

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Q As a matter of fact, he sold Mrs. McCarthy the mattresses that were used on the ranch, didn't he?

A I don't know.

Q You don't know about that?

A No, I don't know about that. The only thing I know is he was about the onliest guest I really knew just quite a bit about, because he would come in the kitchen a lot.

10 Q Everybody liked Bill, didn't they?

A They seemed to like him quite a bit. He would come in the kitchen quite a lot, and Mrs. Millar she would come in there and kid us, and say "How do you fix this or that?" That's the way we knew him, or at least I knew him better than I did any of the rest of the guests - he and the three soldiers, because I knew them; they would come in the kitchen a lot.

Q With reference to the three soldiers, what did they do around the ranch?

20 A Helped with the feed, they would haul hay, they would help around the ranch.

Q They helped the guests saddle horses?

A Yes.

Q And took care of the horses?

A Yes.

Q Mr. Millar played the harmonica, didn't he?

A If he did I didn't hear him.

Q You did not hear him?

A No.

30 Q You testified, Ruby, that Doctor Shields came on a different day than the day on which Mrs. Alexander arrived; is that correct?

A Yes, I did.

Q Was it before or after her arrival, if you know

A I really don't know which came in first, but I do remember that they didn't come the same day.

Q Did they leave the same day, if you know?

A No, I don't know that.

40 Q You testified on direct examination that Doctor Shields and Mrs. Alexander were very affectionate. What do you mean by that?

A Well, this is the way I term it - they would come in laughing and talking - I couldn't understand what they were saying, but you can tell by the working of the mouth that they were talking - and he would either have hold of her hand or have his arm around her shoulders, and when he would come to the table he would draw



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her chair out for her, and if her daughter was with him he would pull her chair out too, then he would seat himself.

Q He helped Cynthia at the table, helped her to her chair, and he helped Mrs. Alexander with her chair?

A Yes, I could say that.

Q Did any other men help any other women there that way?

10 A Mr. Millar did occasionally.

Q You considered that was the act of a gentleman, didn't you?

A Well, I feel like all the gentlemen didn't do that, because some there had their wives there, and they didn't do that.

Q That is, some of these husbands were not gentlemen?

A I guess that's the way you would put it.

Q That's a nice thing to do, isn't it - help a lady with her chair?

20 A That's a very polite thing to do, but he didn't help a whole lot of them with chairs, and he could have went around and helped everybody, I guess.

Q Do you mean Doctor Shields should have helped everybody, no matter how many ladies were there at that time?

A At that time there was very few guests out there - around 16, I think, because they all ate at one table.

Q I believe you also made the remark that when they came into the room they were playing with one another.

30 What do you mean by that?

A Oh, had hold of one another's hand, and he had his arm around her, kind of loving her up a little, like I would like my husband to do me every once in a while.

Q Is there anything wrong about that, Ruby?

A Anything wrong about him hugging her like that?

Q Anything wrong about a man kind of loving a woman a little.

A It depends on what woman it was, or it is.

Q You wouldn't want your husband to do that?

40 A Love another woman, or let me hear of him loving another woman? No.

Q You testified that you saw Doctor Shields kiss Mrs. Alexander on her forehead and pat her on the back of the neck?

A Yes.

Q And kiss her on the cheek?

A Kissed her on the left side of her face.

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Q How many times did you see this occur?

A I don't remember any more than about twice or three times that I know of.

Q Was that at noon or in the evening?

A At the evening meal when I noticed it.

Q You didn't notice anything at noon?

A No.

Q You were there at noon?

10 A Yes, I was there at noon. Let's see now, what meals she had. Now, I think when I first noticed that it was one noon, the first time I think it was at noon when I noticed it.

Q Did you notice them carry on in this way at breakfast?

A I don't remember her being to breakfast, because her daughter would always come in the kitchen and say to me "May I have a cup of coffee for my mother?" and I would put it in a pitcher, and I would ask her "Please  
20 bring the pitcher back, because we are short of pitchers."

Q The daughter Cynthia accompanied Doctor Shields and Mrs. Alexander at meals, did she not?

A Yes, sometimes she did.

Q When this business of kissing Mrs. McKee on the forehead occurred there were other people at the table?

A Yes, they were sitting around - 15 or 16.

Q That was always in the daytime?

A What do you mean?

30 Q These events you have testified to as having occurred - that was always in the daytime?

A Oh, yes, I have never seen them after they left the dining room, I didn't see nothing but right then.

Q You and the rest of the help in the kitchen thought it was a kind of a joke, didn't you?

A Sure, that's what we took it - just a very affectionate man, that's all.

Q You have testified, I believe, that you saw Doctor Shields when he was intoxicated; is that right?

40 A Well, I said this - that I never was around him that much to really observe or to know whether he was intoxicated.

Q You couldn't tell?

A I couldn't tell from the distance.

Q The same thing is true with respect to Mrs. Alexander?

A The same thing.

Q Did you ever see Cynthia McKee intoxicated?

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RUBY SEWELL - Defendant's Witness - Cross-Examination

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A No.

Q Or take any drinks?

A No, I never seen any of them have a drink.

MR. CLOUD: That is all.

MR. ROSE: That is all.

10 MR. CLOUD: It is our understanding that as to all of these depositions we have the same stipulation which we had with respect to the depositions taken in San Bernardino.

MR. ROSE: Right.

MR. CLOUD: With respect to the testimony of Mr. Cunningham, I do not wish to proceed with that examination unless we can have Miss Cynthia McKee present.

MR. ROSE: As I understand it, Mr. Cloud, you had an arrangement or an appointment with Miss McKee to be present here?

20 MR. CLOUD: That is correct.

MR. ROSE: And through some unknown or unforeseen situation - let the record show that at this point Miss Cynthia McKee entered.

E. G. HAUMESCH: having been, prior to the commencement of his examination, duly sworn by the Commissioner in the form and manner prescribed, deposed and testified as follows:

30

DIRECT EXAMINATION

BY MR. ROSE:

Q Mr. Haumesch, will you be good enough to state your full name?

A E. G. Haumesch, spelled H-a-u-m-e-s-c-h.

Q The E stands for what?

A Edward.

40 Q Are you an attorney at law admitted to practice in the State of California?

A I am an attorney at law duly admitted to practice in all courts of the State of California, including the Federal Courts.

Q For how long have you been so admitted?

A Since 1930.

Q Do you have an office for the practice of law in