

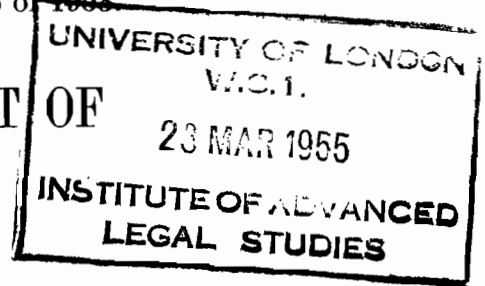
27, 1954

38061

In the Privy Council.

No. 26 of 1953

ON APPEAL FROM THE HIGH COURT OF AUSTRALIA



BETWEEN

ERIC LANG ... (Respondent) Appellant

AND

JEAN WAUCHOPE LANG ... (Petitioner) Respondent.

RECORD OF PROCEEDINGS

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In the Privy Council.

No. 26 of 1953.

ON APPEAL FROM THE HIGH COURT OF AUSTRALIA

BETWEEN

ERIC LANG (*Respondent*) *Appellant*

AND

JEAN WAUCHOPE LANG (*Petitioner*) *Respondent*.

RECORD OF PROCEEDINGS

No. 1.

Petition.

In the
Supreme
Court of
Victoria.

THE PETITION of JEAN WAUCHOPE LANG of 52 Darling Street,
South Yarra, in the State of Victoria, Married Woman, sheweth :

No. 1.
Petition.
29th
October,
1951.

1.—That your Petitioner was lawfully married to the abovenamed Respondent on the 8th day of November, 1924.

2.—That the said Respondent has without just cause or excuse wilfully deserted your Petitioner and without any such cause or excuse left her continuously so deserted during three years and upwards.

10

JEAN W. LANG,
Petitioner.

In the
Supreme
Court of
Victoria.

No. 2.

Request for Further and Better Particulars.

No. 2.
Request for
Further and
Better
Particulars.
10th
November,
1951.

TAKE NOTICE that the Respondent requires the following further and better particulars under the petition herein :—

1. UNDER PARAGRAPH 2.

Particulars of the acts, facts, matters and things relied upon as constituting “ wilful desertion without just cause or excuse ” and set out with respect to each such act, fact, matter and thing—

- (a) The date at which the same is alleged to have taken place.
- (b) i. In case and in so far as the same shall be in writing the identity of the documents. 10
- ii. In case and in so far as the same shall be verbal the dates and substance of the conversations and between whom the same took place.
- iii. In case and in so far as the same is to be implied the acts facts matters and things from which to be implied.

2. UNDER PARAGRAPH 2.

Particulars of “ during three years and upwards ”—stating when the same is alleged to have commenced, and if concluded the date when the same is alleged to have been concluded. 20

No. 3.
Further and
Better
Particulars.
26th
November,
1951.

No. 3.

Further and Better Particulars.

The following further and better Particulars are given by the Petitioner pursuant to the Respondent’s Solicitors’ request dated the 10th November, 1951. The acts, facts, matters and things relied upon as constituting the Respondent’s wilful desertion of the Petitioner without just cause or excuse, and which (having regard to the relations existing between the parties) compelled the Petitioner to leave the Respondent finally, are as follows :—

- (a) On or about the 11th August, 1948, the Respondent returned, after about ten days absence, to the matrimonial home of the parties at No. 3 Balmerino Avenue, Toorak, which he had left after the Petitioner had told him in effect that she could not continue to live with him, and that unless he left the house, she would have to do so. The Respondent returned there after being informed by the Petitioner’s Solicitor that the Petitioner would consent to his returning, provided that he let her alone. In anticipation of his return (which she considered to be on the said condition) the Petitioner moved into an upstairs bedroom, leaving their former bedroom to the Respondent. 30

(b) On the evening of the 13th August, 1948, when the Petitioner and the Respondent were alone in the said house, and when the Petitioner was fully dressed to go out, the Respondent seized hold of her. He kept hold of the Petitioner, who said that surely he would not do that, in view of his promise (that he had returned on condition that he let her alone). The Respondent made some reply, and then lifted Petitioner off her feet, and carried her into his bedroom, where he placed her on the bed. He then threatened that unless Petitioner took her clothes off, he would tear them off. To save her outer garments, the Petitioner removed them. The Respondent then pulled the Petitioner's shoes off and tore at her underclothes. Fearing his violence, the Petitioner removed her corsets, whilst still urging the Respondent to let her alone. The Respondent then forced sexual relations on the Petitioner in the most brutal and repulsive manner.

(c) On the Petitioner trying to leave the bed and put on her clothes the Respondent pulled her back into bed. He then said to the Petitioner— "I'll do it whenever I like, and as often as I like, and that's what I'm going to use you for." The Petitioner made further attempts to get out of bed, and the Respondent kept pulling her back, with threats of violence. That continued from time to time until about 11.30 p.m. Then on the Respondent leaving the bedroom, the Petitioner got out of bed, and in the dark (the electric light having been cut off) gathered some clothing and got partly dressed. Later, after the Respondent had been remonstrated with about his behaviour, he collected some clothes and left the house at or about 12.30 a.m. on the 14th August, 1948.

(d) Shortly prior to the middle of September, 1948 (the precise date cannot be stated), on the Petitioner finding that the Respondent had returned to their said home, with the apparent intention of living there again, she left there finally.

(e) Shortly prior to the said 13th August, 1948, the Respondent told a third person that he was going to rape the Petitioner, adding "The rape of Lucretia will take place."

(f) The desertion herein is alleged to have commenced either on the early morning of the 14th August, 1948, or shortly before the middle of September, 1948. It is alleged to have continued ever since.

No. 4.

Answer.

The Respondent by his solicitor A. C. McLean in answer to the petition herein saith as follows :—

- (1) He admits the allegation contained in paragraph 1 of the petition herein.
- (2) He denies the allegations contained in paragraph 2 thereof.

In the
Supreme
Court of
Victoria.

No. 3.
Further and
Better
Particulars.
26th
November,
1951 —
continued.

No. 4.
Answer.
15th
November,
1951.

In the
Supreme
Court of
Victoria.

No. 5.

Affidavit Verifying Petition.

No. 5.
Affidavit
Verifying
Petition.
29th
October,
1951.

I, JEAN WAUCHOPE LANG, of 58 Darling Street, South Yarra, in the State of Victoria, Married Woman, make oath and say :—

1.—I am the abovenamed Petitioner, and I was lawfully married to the abovenamed Respondent on the 8th day of November, 1924, at the Methodist Church in Kent Town South Australia by the Reverend William A. Dunn according to the rites of the Methodist Church.

2.—The said Respondent has without just cause or excuse wilfully deserted me and without any such cause or excuse left me continuously 10 so deserted during three years and upwards.

3.—I am 52 years of age and was born at Malvern in the State of South Australia, and am domiciled in the State of Victoria.

4.—The Respondent is 50 years of age, and was born at Elsternwick in the State of Victoria, and is domiciled in the said State.

5.—Prior to the said marriage, I was a spinster, and was engaged in home duties. Since marriage I was supported by the Respondent until I was compelled to leave him in September, 1948. Since then (apart from voluntary payments from him for some months) I have supported 20 myself as a clerk.

6.—Prior to the said marriage the Respondent was a bachelor, and was a civil engineer, and since marriage he has followed that occupation.

7.—There are two living children of the said marriage, namely, Barbara Jean Pace, a daughter, who was born on the 17th day of November, 1925, at North Adelaide, South Australia, and Frederick David Lang, a son, who was born on the 21st day of March, 1929, at Elsternwick, Victoria.

8.—Immediately after our said marriage, the Respondent and I lived and cohabited as man and wife. We lived first at North Adelaide, aforesaid for about two and a half years. Then we came to Victoria, and lived at Caulfield for about nine years. Then we went to South Africa, where 30 we lived together for about six months. Then I returned with our children to Australia, and the Respondent joined me about six months later. On returning to Australia, after visiting my mother in Adelaide, I took a flat in Aramadale, Victoria, and at the end of the said six months the Respondent joined me there. A few months later we took a flat in Balmerino Avenue, Toorak, for about a year. Then we moved into a house, Number 3, in the same street, and remained there until our final separation.

9.—The Respondent and I lived happily together for about ten years. Then he began to become increasingly critical of persons with whom he had to associate in his work. He used to tell me in great detail about what he regarded as their faults and mistakes, and indulged in the most wearisome repetition when doing so. He used to enlarge upon the alleged shortcomings of these people, and often became intense and vehement regarding such matters. When I did not always agree with the Respondent, and at times pointed out that there were two sides in every question, he used to become very angry. In these circumstances the Respondent's tendency
 10 towards chronic or very frequent bad temper originated and developed. The first sign of this affecting our married life occurred in differences over the bringing up of the children. The Respondent demanded instant obedience, and used physical punishment too often, and at times too severely with each of the children.

In the
 Supreme
 Court of
 Victoria.

No. 5.
 Affidavit
 Verifying
 Petition.
 29th
 October
 1951—
continued.

10.—As time went on the Respondent became more and more impatient of contradiction, and even resented my holding or supposedly holding opinions or views which differed from his own. When I realised this tendency on his part I used to avoid carefully open disagreements with him, and at a later stage I found it necessary to refrain generally
 20 from expressing my views about anything. About fourteen years ago the Respondent began to try to dominate me physically. This occurred generally at night. He used to start fault-finding and persist in talking so that I could not sleep. On my remonstrating with him, he would punch me about the head. At times when I would get out of bed and try to find some rest in another room, he would get a heavy ruler and hit me about the arms and legs. I then burned the ruler, and he expressed great sorrow at my having done so, saying that it had belonged to his father. He brought home a whip, saying that he would show me that he was master. After he had struck me once with it, I burned it. Once as I lay in bed,
 30 he threw a book at me and cut my lip. These disturbances at night frequently awoke the children, who used to come downstairs to see what was the matter. I generally persuaded them to go back to their own rooms. At the start, and for about a year, the Respondent struck me once in every three months or thereabouts. Then his assaults increased until they occurred about once a week or even more frequently. (About twelve months after the outbreak of War in September, 1939, the Respondent enlisted in the A.I.F. He went to the Middle East, and returned to live with us within two years.)

11.—In or about 1931 or 1933, during the financial depression,
 40 the Respondent's salary was slightly reduced. As he took a very gloomy view of our prospects, I endeavoured to help him in every way possible, and amongst other things dispensed with the services of a full-time maid. Largely on account of increased expenditure as our children got older, the allowance given me by the Respondent became inadequate and I told him so. He would not increase it, and from time to time even threatened

In the
Supreme
Court of
Victoria.

No. 5.
Affidavit
Verifying
Petition.
29th
October
1951—

continued.

to reduce it. As a general rule I managed, though often under great difficulty, to maintain the household on my allowance, rather than run the risk of a violent outburst of temper from the Respondent if he were called on to pay extra. At times such things as the clothing of the children or replacement of broken or damaged articles compelled me to ask the Respondent for extra money. He generally made the extra payment, but only after either a burst of violent temper or protracted argument. In addition to the Respondent's physical cruelty and his attempt to dominate me generally, his attitude in relation to money matters increased the strain of living with him.

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12.—Before the Respondent returned from the Middle East I took a Government position, and continued in that position after his return. My salary was used in helping to maintain the household. I worked long hours, and generally on Saturday mornings. One evening early in April, 1943, some friends called in unexpectedly just as the children and I were finishing dinner. After they left at about 10.30 p.m. I started to wash the dinner dishes. The Respondent, who had been working back, then came in, and at once became very angry at seeing me washing the dishes at that hour. He then struck me, threw water over me, emptied the contents of a kitchen garbage tin over the kitchen floor, and then went out into the garden from which he threw shovelfulls of earth and stones. He also threw over the kitchen floor rice out of a kitchen container. He also went into the furnace-room from which he threw coke ashes all over the kitchen floor. Whilst the Respondent's attention was thus engaged, and being afraid of more personal violence at his hands, I quietly left the house. Wishing to avoid the scandal and disgrace that might have resulted from a disclosure of the Respondent's conduct, I walked the streets all night. On the following morning I returned home and found our two children engaged in cleaning mess and rubbish inches deep off the kitchen floor. I changed my coat, got a hat and left for my work in the city.

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13.—After staying with friends at Burwood for a few days, I took a bed sitting-room at South Yarra. A few days after I had left the Respondent as aforesaid I received notice that my Army allotment of £9 2s. 0d. a fortnight had been suspended. About three weeks after I had left the Respondent he waited for me outside my place of employment and demanded that I return home with him at once. I declined to do so, and asked him to leave me. He refused to do so, and I then told him that I would go to the police for assistance. We then walked to Russell Street Police Headquarters, where I briefly explained the situation and appealed for assistance. I was allowed to telephone to my solicitor, and was then assisted in leaving the building by a back exit, and so got away from the Respondent. About five or six weeks later, in response to a request from a solicitor, I went to his office and there met the Respondent. He asked me to return home with him and said that it would be to "peace and happiness." Relying on that statement, I decided to give the Respondent another chance, and returned home with him in or about the middle of June, 1943.

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14.—On my return to the Respondent we resumed living as man and wife. About two or three weeks after my return he recommenced practically all the conduct which had made life unbearable for me, the one exception being that there was less physical cruelty. I reminded the Respondent of his promise of “peace and happiness,” on the faith of which I had returned to him. He did not deny having broken that promise, and said that he would have promised anything to get me back. From time to time I warned the Respondent that unless his conduct greatly improved, I would have to leave him finally. Outbursts of temper were again violent at times, and even more frequent than previously. Several times the Respondent caught me by the hair and then pulled me to the bathroom, where he forcibly pushed my head and shoulders under the shower. On one occasion, about 5 or 6 years ago, the Respondent was threatening me, and our son heard him shouting, and came and stood between us. The Respondent told him to stop interfering. As our son still stood there, the Respondent punched him violently on the nose. I at once took our son to the doctor. Notwithstanding all the Respondent’s ill-treatment of me, I continued to live with him as man and wife. In addition to all the aforesaid causes of our unhappiness, the Respondent from time to time expressed great opposition to the marriage of our daughter to a young clergyman, which took place early in August, 1948.

15.—Towards the end of July, 1948, I found that the strain of living with the Respondent was affecting my health, and realising that all my previous appeals to the Respondent had been in vain, I told him that I could not continue to live with him, and that unless he left the house (in which we each had a third interest), I would have to do so. Not knowing what to say to the Respondent, in order to make some impression on him, I told him that unless he left me in peace, I would have to speak to the General Manager of the Company employing him. Thereupon the Respondent left the house.

16.—About ten days later I received word from my solicitor that the Respondent had told him that unless he returned to the house, his position with his firm might be endangered. I then authorised my solicitor to inform the Respondent that I would consent to his returning, provided that he let me alone. In anticipation of the Respondent’s return (which I considered to be on the said condition), I moved into an upstairs bedroom, leaving our former bedroom to the Respondent. Neither of us made any comment about this change in our sleeping arrangements. On the evening of the 13th August, 1948, when the Respondent and I were alone in the house, and I was fully dressed to go out, the Respondent seized hold of me and demanded a kiss. He kept hold of me, and realising his apparent intention, I said that surely he would not do that, in view of his promise (meaning that he had returned on condition that he let me alone). The Respondent made some reply, which I do not remember. He then lifted me off my feet and carried me into his bedroom, and placed me on the bed. He then threatened that unless I took my clothes off, he would tear them off. As I wished to

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Court of
Victoria.

—
No. 5.
Affidavit
Verifying
Petition.
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October
1951—
continued.

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No. 5.
Affidavit
Verifying
Petition.
29th
October
1951—
continued.

save my outer garments, I took them off. He thereupon pulled my shoes off, and tore at my underclothes. Fearing his violence, I then removed my corsets, whilst still begging the Respondent to let me alone. He then forced sexual relations upon me in the most brutal and repulsive manner. On my trying to leave the bed and put on my clothes, the Respondent pulled me back into bed. He then said to me—"I'll do it whenever I like, and as often as I like, and that's what I'm going to use you for." I made further attempts to get out of bed, and the Respondent kept pulling me back, with threats of violence. This went on from time to time until about 11.30 p.m. Then the Respondent went to the front door and spoke to someone, whom I learned afterwards was our son. On the Respondent's leaving the bedroom, I got out of bed, but found that the electric light had been cut off. In the dark I managed to gather some clothing, and got partly dressed. Then I heard men's voices at the front door, and went there and found the Respondent in conversation with men who were evidently detectives. A moment later our son appeared. From what I heard said, I learned that the Respondent had previously informed the police that he expected to be assaulted by his son that night. Another car drove up, and more police arrived, and I learned that they had come in response to our son's telephone call on my behalf. At that stage a young girl who had been staying with us returned and our son and she remonstrated with the Respondent about his behaviour. He then collected some clothes and left the house. That was about 12.30 a.m.

17.—To the best of my recollection, there were no communications between the Respondent and me until shortly before the middle of September, 1948, when I learned that the Respondent, who was accompanied by a man, had returned to the house, with the apparent intention of living there again. I then went from my place of employment to stay with friends in Toorak, and have never since resided with the Respondent.

18.—Apart from the night of the 13th August, 1948, sexual relations between the Respondent and me finally ceased in or about the end of July, 1948.

19.—Almost as soon as I had finally left the Respondent he began what amounted to a propagandist campaign to bring pressure on me through various persons to return to him. The first of these was the man mentioned in paragraph 17 hereof, who, as I learned soon afterwards, was employed by a detective agency. The said man interviewed me for the first time on the night of the day in September, 1948, when I finally left the Respondent's home. This man informed me from time to time during the first four months or thereabouts after I had left the Respondent that he (the Respondent) wished me to return to him. For several months after I left him the Respondent sent me a voluntary allowance which was at first £4, then £2, and later £1 a week. Then these payments finally ceased.

20.—About two months after I finally left him the Respondent began to send clergymen and others (including a lady Red Cross worker) to interview me, and he has continued his attempt to influence me by this form of pressure from time to time practically ever since. I always received these people courteously, but replied to the effect that they had heard only one side of the matter, that I did not propose to tell my side, and that I had decided not to return to my husband.

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continued.

21.—On the 22nd November, 1948, I wrote and told the Respondent plainly and fully why I could not return to him. He replied on the 24th November, 1948. In a letter dated the 28th February, 1949, the Respondent enclosed a cheque for £1, and then continued—“As it is now nearly six months since you deserted your home on September 9th of last year, of your own free will, and as you have failed to respond to the many friendly overtures which have been made, and as every latitude has now been given to you, no further payments whatever will be made to you and you will receive no more money from me, unless you return to your home and resume the performance of your marriage vows This is my last approach Otherwise I shall simply have to abandon you and consider my next course of action, both now and in say three years time.” In a letter dated the 16th March, 1949, the Respondent began by mentioning that I had not answered his letter of the 28th February, and concluded—“unless I hear from you within a week—neither you nor the children will receive anything whatsoever under my Will—and I am not bluffing.” By letter dated the 24th March, 1949, the Respondent informed me that he had re-made his Will, excluding both myself and the children from any benefits whatever.

22.—When the Respondent realised that I had decided not to return to him he began to spread reports that I was neurotic. I was greatly shocked on reading in the Melbourne “Herald” on the 10th October, 1949, references to myself when an application was made to the Supreme Court to quash a magistrate’s finding in the year 1902 that the Respondent’s father had committed suicide. The said report showed that amongst statements in support of the said application were allegations that unhappiness had existed between the Respondent and myself because of that finding, that it had “always preyed on my mind, and had, to a great extent, brought about my present neurotic condition.” In fact, before our marriage I had known of the said finding, and it had no influence whatever on my affection for the Respondent. Shortly before our marriage the Respondent informed me that his mother had changed her name by deed poll from “Lange” to Lang, and we agreed that he would do likewise. The Respondent accordingly executed a deed poll, and married me under the name Lang, by which he had long been known. Instead of preying on my mind, the fact of the said finding regarding the Respondent’s father was something which I hardly ever thought about. It never influenced my decision either to leave the Respondent, or to remain apart from him.

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1951—
continued.

The Respondent giving publicity to the said falsehood I regarded as an instance of his hostility towards me. He wrote to me on the 7th December, 1950, a letter suggesting a family reunion next Christmas, which I regarded as plausible and insincere.

23.—When I finally left the Respondent in September, 1948, various things belonging to me, or in which I held an interest, had to be left behind. As these matters could not be adjusted without litigation, I took proceedings in the County Court under the Married Women's Property Act. These came on for hearing on the 1st February, 1950, before his Honour Judge Stretton, and were settled by a comprehensive agreement between myself and the Respondent, who signed it on the 3rd February, 1950. Paragraphs 6 and 7 of the said Agreement were as follows : . 10

“ 6. This Agreement is without prejudice to the rights of
“ either party in respect of any grounds for divorce or judicial
“ separation ; and in the event of the wife hereafter obtaining
“ any such decree, without prejudice to her right to apply for
“ maintenance and/or permanent alimony.

“ 7. Each party will refrain from making statements
“ reflecting on the mental state of the other and from threatening
“ or encouraging publication of their differences and from inciting
“ relatives or friends or strangers against the other ; this provision
“ is exclusive of *bona fide* communications with legal or medical
“ advisers of either party.” 20

24.—Since I finally left the Respondent he has written various letters to my solicitors and also several to me personally. I did not reply to any of his letters (which, in view of his conduct, I regarded as not genuine) except on the 22nd November, 1948. Then I wrote and handed to the detective who represented Respondent a full statement of my reasons for refusing to return to him.

25.—Save as aforesaid there have been no separations between the Respondent and me, and no deed of separation has been executed by us. 30

26.—I distinctly and unequivocally deny all collusion or connivance, past or present, direct or indirect, with the Respondent or any person liable to be made Respondent.

No. 6.

Supplementary Affidavit in Support of Petition.

In the
Supreme
Court of
Victoria.

I, JEAN WAUCHOPE LANG, of 52 Darling Street, South Yarra,
in the State of Victoria, Married Woman make oath and say :—

No. 6.
Supple-
mentary
Affidavit in
support of
Petition.
22nd
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1.—I am the abovenamed Petitioner, and I desire to make a
further Affidavit herein.

2.—As to paragraph 10 of my Affidavit verifying the Petition herein,
wherein I stated that the Respondent “ would punch me about the head.”
10 As punches were more severe and painful than slaps, I did not then mention
that the Respondent had also slapped me with his open hand across the
face and head many times. These blows were incidental to the Respondent’s
attempts during many years to dominate me completely. If I answered
back when he was arguing with me, he would say—“ Shut your mouth,
“ you bitch.” If I kept silent he would say—“ Answer me, you bitch.”
At times his threat has been—“ Answer me, or I’ll smash your face in.”
On a number of occasions he has threatened me saying—“ I’ll show you
“ who is master in this house.” He has repeatedly used the most filthy
language when shouting abuse at me. Once he ripped and tore a quantity
20 of my clothing.

3.—Within a few weeks prior to the Respondent’s covering the kitchen
floor with rubbish, as stated in paragraph 12 of my said Affidavit, he brought
the kitchen garbage container into the dining room and emptied its contents
on to the floor in front of the fireplace. Within a week or two there was
another garbage incident, when the Respondent also emptied ashes on the
floor. At or about the same time the Respondent took a couple of pieces
of crockery and smashed them. On each of these occasions the Respondent
said to me—“ You have messed up my life. I’m going to mess up yours,”
or very similar words. At or about this time the Respondent threw a jug
30 of water over me. He did that to me more than once. (The date of the
main kitchen incident was about the middle of March, 1943, and not in
April, 1943, as mentioned in the said paragraph 12. I now remember
that I had left home immediately afterwards, and was away from home
prior to my son’s birthday.)

4.—In my said Affidavit I omitted to mention the Respondents’
particularly violent conduct towards me one night in July, 1948, a few
weeks prior to our final separation. For some weeks the Respondent’s
conduct had been most objectionable, and I felt too shocked and disgusted
to respond on that occasion when he asked me to kiss him. He then seized
40 hold of me and held me tightly, forcing me backwards over the edge of the

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bed. I called for help, and our daughter came into the room followed by our son. They tried to pull the Respondent away from me, but could not do so. My daughter warned the Respondent that I had had an operation, and that he might injure me internally. The Respondent told her or told them both to go away, saying—"This is between husband and wife." Our daughter warned the Respondent that if he didn't let me go, she would call the police. The Respondent said—"Call the police. Let them see "what a mess your mother has made." The Respondent still kept his hold upon me. The police were telephoned for, and three arrived. When they arrived the Respondent was standing beside me, and holding me with my arms twisted behind my back. The senior policeman told the Respondent to let go of his wife, and only then did he do so. The Respondent falsely stated to the police that I was under psychiatrists. They, however, told him to leave his wife alone, and waited until I went upstairs, and the Respondent stated that he had gone to bed in a room downstairs. The Respondent held me in a physical grip for more than half an hour on that occasion. 10

5.—I wish to describe the movements of the Respondent during the weeks preceding our final separation more fully and accurately than in my said Affidavit. At or about the end of June or beginning of July, 1948, the Respondent suddenly and without any explanation got up in the middle of dinner, left the room, and a few minutes later left the house. A day or two later, he returned, and I then went and slept in another room. About two days later the Respondent demanded that I return to our bedroom, and with the object of avoiding further quarrels, I did so, and sexual relations were resumed, but for one or two nights only, to the best of my recollection. The relations between the Respondent and me were very strained, and it was during the first half of July, 1948 (and not towards the end of that month, as stated in paragraph 15 of my said Affidavit) that I told the Respondent that unless he left me alone, I would have to speak to his General Manager. Then he left the house. The Respondent returned to stay in the house about 10 or 14 days later. To the best of my recollection, I then slept in a different room, to which the Respondent raised no objection. He did not attempt to interfere with me in any way until the occasion mentioned in paragraph 4 hereof. Later in the same day, as the three policemen had called, the Respondent left the house. He did not return to it until about the 10th or 11th of August, 1948. Then I moved into the upstairs bedroom of our daughter (who had married on the 3rd August, 1948), leaving our former bedroom to the Respondent, as stated in paragraph 16 of my said Affidavit. 30 40

6.—I desire to correct the statement made in paragraph 17 of my said Affidavit that there were no communications between the Respondent and me until shortly before the middle of September, 1948. I have since remembered that he did visit the house on two or three occasions during that time while I was there.

7.—Referring to paragraph 18 of my said Affidavit, I desire to correct the statement therein as to the date when normal sexual relations between the Respondent and me finally ceased. To the best of my recollection, it was in the first week of July, 1948.

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8.—The Respondent has persisted until quite recently in an effort to influence me through clergymen to discontinue this suit, and on the 13th of this month at about 1.20 p.m. he began to follow me from the Bourke Street entrance to Selborne Chambers, and continued to follow me almost to Elizabeth Street. He kept on urging me to stop this divorce case, and made various other statements. He left me only after I had threatened to call a policeman.

No. 6. Supplementary Affidavit in support of Petition. 22nd August 1952—*continued.*

10

No. 7.
Petitioner's Evidence.

Petitioner's Evidence.

JEAN WAUCHOPE LANG, Sworn and Examined :

No. 7. Jean Wauchope Lang (Petitioner). 15th September 1952.

Mr. WOOLF: Is your name Jean Wauchope Lang and are you the Petitioner in this case?—*A.* Yes.

Q. Do you live at 52 Darling Street, South Yarra?—*A.* Yes.

Q. Is that the original certificate of your marriage to the Respondent? (Hands certificate to Witness)—*A.* Yes.

20 Mr. WOOLF: I tender that, your Honor.

Exhibit "A."—Certificate of Marriage.

Examination.

Mr. WOOLF: Mrs. Lang, in this case have you made two Affidavits, first of all the original one verifying your Petition, that is the original longer one; and then a later one that you swore last month?—*A.* Yes.

Q. Do those Affidavits, taken together, contain a true account of your married life?—*A.* Yes.

Mr. WOOLF: We shall proceed to put in the correspondence at this stage.

30 HIS HONOR: Are you content to take a verification of the Affidavit as your evidence in chief.

Mr. WOOLF: Almost, with very few exceptions. (*To Witness*): Mrs. Lang, you say in your first Affidavit that before the final separation you found that the strain of living with the Respondent was affecting your health?—*A.* Yes.

Q. In what way did it affect or threaten to affect your health?—*A.* I felt completely exhausted; suffered from lack of sleep. I felt that I could not go on any longer living with the Respondent.

HIS HONOR: You say you felt exhausted. Do you mean that as

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continued.

a daily feeling or that you felt it at times?—*A.* I mean it, your Honor, as a daily feeling.

Mr. WOOLF: Now did the Respondent, during the course of the marriage, make suggestions of you being neurotic or mentally unbalanced in any way?—*A.* Yes, he did.

Mr. WOOLF: Was that just on an isolated occasion or were such suggestions repeated?—*A.* On one occasion

Q. Was that on isolated occasions or were such suggestions repeated?—*A.* They were repeated.

Mr. BARTON: I think this is cross-examination rather than examination in chief. 10

HIS HONOR: I think all *Mr. Woolf* is trying to do is save time. If it is objected to I will stop it, but I think there is so much in the case that where time can be saved by directing attention to an aspect it is properly done, either by you or *Mr. Woolf*.

Mr. BARTON: If it please your Honor.

HIS HONOR: He suggested that you were neurotic?

Mr. WOOLF: The question is, was that on one or two isolated occasions or were such suggestions repeated?—*A.* The suggestions were repeated.

Q. And you were about to tell his Honor what the Respondent actually did on one occasion. Was that with reference to a well-known psychiatrist?—*A.* Yes, Doctor Ellery. 20

Q. What did he do in relation to you and the children and Doctor Ellery?—*A.* On one occasion he insisted I go with him and the children to interview Doctor Ellery.

HIS HONOR: And did you?—*A.* Yes. He had told me beforehand he would endeavour to get me put away for treatment.

Mr. WOOLF: Who was present at the visit?—*A.* The children, my husband and I went to his rooms.

Q. The Respondent was not present?—*A.* Yes. 30

HIS HONOR: About when was this?—*A.* I cannot remember the date, your Honor. It was some time after my husband returned from the Middle East, to the best of my knowledge.

Mr. WOOLF: I do not think there is a dispute. Do you believe he returned from the Middle East in 1942?—*A.* Yes, I believe so.

Q. Will you tell his Honor precisely what took place in your husband's presence so far as any statement that Doctor Ellery made in connection with the apparent health of your children and yourself?—*A.* Doctor Ellery interviewed me by myself and he also interviewed my children. After the interview he said to me 40

HIS HONOR: Is this in the presence of your husband?—*A.* I am not sure, I do not think so.

HIS HONOR: Is this objected to, *Mr. Barton*?

Mr. BARTON: No.

THE WITNESS: He said, "I do not know what your husband wants and why he has brought you and your children. I have spoken to them"

HIS HONOR: That does not seem to complete the sentence?—
 A. “ I do not know what your husband wants and why he has brought
 “ you and your children. I have spoken to your children and they seem
 “ to me to be decent kids.” Those were his words. I then told him that
 my husband had threatened to put me away for treatment and he laughed,
 and said, “ I can assure you, Mrs. Lang, that there is no possibility of
 “ that.”

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Mr. WOOLF: Could you say over what period of time, whether weeks
 or months or what, these suggestions of having you put away were continued,
 10 Mrs. Lang?—A. No, I cannot say. I do not remember many more
 suggestions being made frequently to me.

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Q. From another aspect, has the Respondent referred to your attitude
 in relation to an alleged “ change of life ”?—A. Yes, frequently.

Q. Did that occur over approximately what length of time did
 he suggest that your attitude, which he criticised, was attributable to
 your undergoing “ change of life ”?—A. To the best of my remembrance
 for at least two or three years before I left him.

Examina-
 tion—
 continued.

Q. Will you mention an incident, which is in neither of your Affidavits,
 that occurred on one occasion when the Respondent called at the house
 20 during the month after he left it in the early morning in August, 1948.
 Do you remember the occasion when the Respondent was there and Mr.
 Halford was also present? Will you tell his Honor what this incident
 was—it was something in relation to photographs?—A. As far as
 I can remember, my husband said that he wanted some photographs of me
 to take away with him, and I, feeling disgusted with what I regarded as
 hypocrisy

Mr. WOOLF: What did you say to him?—A. I told him it was
 hypocrisy and I would not give him any. He then raised his hand to strike
 me and Mr. Halford happened to come into the kitchen where we were
 30 standing and said: “ Put down your hand; no man strikes a woman
 “ while I am in the house.”

HIS HONOR: You did not quite finish that. What happened when
 Mr. Halford said that?—A. My husband dropped his hand and left the
 room.

Mr. WOOLF: You say at the end of your second Affidavit that as
 recently as the 13th August the Respondent started to follow you from
 Bourke Street entrance to Selborne Chambers and continued to follow you
 almost to Elizabeth Street and urged you to stop the divorce case, and
 left you only when you had threatened to call a policeman. That did in
 40 fact occur as recently as the 13th of last month?—A. Yes.

Q. And having received a further batch of letters which you have
 heard me mention to his Honor in which he refers to religion, clergymen,
 and how it is wrong for you to go on with this case and so forth, and urging
 you to drop it?—A. Yes, I have.

HIS HONOR: I do not know if you will object to that, Mr. Barton.
 Now we are getting the contents of documents.

Mr. BARTON: I object to that. The documents should be tendered.

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HIS HONOR: I will take it as an introductory remark but I think the letters should be there to speak for themselves.

Mr. WOOLF: I appreciate that. I think a copy of this has been made for the Court and it might save time, if my friend has no objection.

Mr. BARTON: A copy of what?

(Counsel consulted.)

Mr. WOOLF: We will put the originals in at a later stage. The copy has been made for the Court's convenience and it is believed it will save time.

HIS HONOR: We had better indicate that letters will be Exhibit "B." 10

HIS HONOR: I would just like to glance at this. It apparently shows the correspondence with the solicitors, does it not?

Mr. WOOLF: Yes, your Honor. I do not think there is anything at all relevant that is not in that file.

Mr. BARTON: There is that agreement.

HIS HONOR: That correspondence I have marked Exhibit "B." Do you wish to put in any other documents?

Mr. WOOLF: Yes, Sir. The original agreement setting out property matters.

HIS HONOR: What is the date? 20

Mr. WOOLF (*to Witness*): Is that your husband's signature at the foot there, Mrs. Lang?—A. Yes.

Mr. WOOLF: I tender that. It is dated February, 1950. It is 1st February, 1950.

Exhibit "C."—Agreement setting out property matters, dated 1st February, 1950.

HIS HONOR: Those are the two clauses set out in the Affidavit, are they?

Mr. WOOLF: Yes. Otherwise those are of no interest to the Court, I think. (*To Witness*): Now, Mrs. Lang, will you look at this and say 30 if that is a correct copy of a letter which you wrote to the Respondent on 22nd November, 1948?—A. Yes.

Q. What do you say about the words in brackets at the end. Are they included in the original or not?—A. I am not sure.

Q. But saving that, you say it is all correct?—A. Yes.

Mr. BARTON: We have the original of that document. I am quite happy to put it in.

HIS HONOR: That is the proper way to call for the original and put it in.

Mr. WOOLF: It is only that I am trying to save time. Mr. Barton, 40 you have produced the original?

Mr. BARTON: Yes.

Mr. WOOLF: I tender the original.

Exhibit "D."—Original letter written by Mrs. Lang to Mr. Lang on 22nd November, 1948.

Mr. WOOLF: I need not trouble your Honor with that copy. It is included with what your Honor has. I tender the original in that case. (To Witness): Now, Mrs. Lang, did you write this letter. Did you get legal advice before you wrote this letter on 22nd November, 1948?—

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A. No.

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Q. Who was present when you wrote it?—A. Only Mr. McCormack, private detective, and myself.

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10 Q. How soon after you finally left your husband in the middle of August, 1948, did Mr. McCormack start interviewing you on your husband's behalf as far as you can remember?—A. As far as I can remember, some time early in September.

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Q. And was it through Mr. McCormack that you got a message that the Respondent proposed to return and live in the house at Balmerino Avenue?—A. No, I got the message originally through my son who had seen Mr. McCormack.

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Q. How long after early in September, 1948, did Mr. McCormack remain in touch with you?—A. Some months, I cannot remember the exact period.

Examination—continued.

20 Q. So that he was in touch with you on the Respondent's behalf when you wrote this letter?—A. Yes.

Q. And you wrote it in Mr. McCormack's presence and handed it to him to deliver to your husband?—A. Yes, that is so.

Mr. WOOLF: While the original is being looked for, you remember receiving the reply dated the 14th November, 1948?—A. Yes.

Q. Do you remember the statement in which he referred to the incident of August 13th in which he said you were a willing party?—A. Yes.

Q. Did you regard that letter as a genuine approach for a reconciliation?—A. No, I did not.

30 Q. Is that the original letter that you received in reply, signed by your husband?—A. Yes.

Q. I tender that letter dated the 24th November, 1948, from the Respondent to the Petitioner. It has been read.

Exhibit "E."—Letter dated 24th November, 1948, from Respondent to Petitioner.

Mr. WOOLF: Did you receive a letter dated 28th February, 1949, from the Respondent?

HIS HONOR: The Witness will probably want to see the letter before she answers the question.

40 MR. WOOLF: The initial "E" is on this letter. Is that the signature of the Respondent?—A. Yes.

Q. What is the date of the letter?—A. The 28th February, 1949. I tender that letter. It has been referred to.

Exhibit "F."—Letter from Respondent dated 28th February, 1949.

HIS HONOR: I will see that the letters are handed in so that the exhibits do not go astray.

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Mr. WOOLF: I think this is a letter from the Respondent to the Petitioner. It is apparently dated the same—28th February, 1949, and it refers to the education of their son. Is that letter signed by the Respondent?—*A.* Yes.

I tender that letter. I do not know whether it is included in the bundle of copies before your Honor.

Exhibit "G."—Letter from Respondent dated 28th February, 1949.

Mr. WOOLF: What is the date on that letter that you have?—*A.* 16th March, 1949.

Q. Is that the letter from the Respondent to yourself?—*A.* Yes.

Q. And it is signed by him?—*A.* Yes.

I tender the original letter.

Exhibit "H."—Letter from Respondent dated 16th March, 1949.

Mr. WOOLF: Here is another letter. Is this dated 24th March, 1949, also and signed by him and received by you?—*A.* Yes.

Exhibit "J."—Letter from Respondent dated 24th March, 1949.

Mr. WOOLF: Is that letter dated the 3rd May, 1949, also signed by the Respondent?—*A.* Yes.

Exhibit "K."—Letter dated 3rd May, 1949, from Respondent.

Mr. WOOLF: There is an argument about an industrial proposition. So that your Honor may deal with them chronologically I ask Mr. Barton to produce a letter dated the 5th May, 1949, from the Petitioner's solicitors to the Respondent. It is included in the bundle, your Honor.

HIS HONOR: Unless something turns on having the actual document it is convenient to have these copies.

Mr. WOOLF: It is a great convenience at the Bar table. I tender that letter without referring it to the Witness.

Exhibit "L."—Letter from Petitioner's solicitors dated 5th May, 1949.

Mr. WOOLF: We produce this original letter ourselves. This is a long letter dated 7th May, 1949. Is that the signature at the foot of the page, and the initials in the margin—are they those of your husband?—*A.* Yes.

Exhibit "M."—Letter dated 7th May, 1949, from Respondent.

Mr. WOOLF: I should like to refer your Honor to the tone of that letter.

HIS HONOR: This does not appear to be in the copies.

Mr. WOOLF: I am obliged to your Honor for mentioning that. I thought it was included.

HIS HONOR: I thought you said the 10th May, but it appears to be the 7th May.

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Mr. WOOLF: Your Honor will notice that several paragraphs down there is a reference to the change of life. (*To Witness*)—Is this your husband's signature on the letter dated the 4th August, 1949?—A. Yes.

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Exhibit "N."—Letter dated 4th August, 1949, from Respondent.

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Mr. WOOLF: Then this is a short letter dated the 2nd November, 1949. Is that letter in your husband's handwriting right through?—A. Yes.

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Exhibit "O."—Letter dated 2nd November, 1949, from Respondent.

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10 Mr. WOOLF: Perhaps I should ask you what was your general attitude during the period of separation as to making contact with your husband on any occasion such as a wedding or the birthday of one of your children?—A. I wished to have no communication or contact with my husband.

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Q. Why did you feel so definitely that you should maintain that attitude?—A. I had left my husband once and had gone back on promises of peace and happiness which he had broken completely. He had given them first through my solicitors, and on the second occasion he broke the promises and I had no confidence in the promises.

Examina-
tion—
continued.

20 Q. Will you tell his Honor in your own way what was your view after the event of the 13th August, 1948, on the question of being alone with your husband at night on any premises?—A. I would not be alone with my husband day or night.

Q. You felt you could not?—A. I felt I could not.

Q. While the original is being looked for I will ask you this: You stated in the first Affidavit as to your attitude on the question of the manner of the death of your father-in-law. In point of fact, was it a matter that it could be said truthfully that it preyed on your mind?—A. No.

Q. Is it a matter that you and your husband have argued about during your marriage?—A. No.

30 Mr. WOOLF: Was it a matter that influenced you in leaving your husband?—A. No, I knew of it before I married him.

Q. Did it have any influence on your unwillingness to return to your husband?—A. No influence whatsoever.

Q. When you saw the reference in the "Herald" in October, 1949, that this had preyed on your mind and had contributed to a large extent to your alleged neurotic condition what was your feeling about it; did you regard the statement as indicating friendliness to you?—A. I regarded it as a deliberate attempt to try to injure me if possible.

40 Q. Will you look at the letter dated the 7th December, 1950?—A. Yes.

Q. Is that letter signed by the Respondent and was it received by you?—A. Yes.

Exhibit "P."—Letter dated 7th December, 1950, from Respondent.

Mr. WOOLF: This is a short letter. He says "I am glad . . . you say." Had you been previously saying you were interested in that subject?—A. No.

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continued.

Q. He goes on to say—"now that the new verdict has cleared the "air . . . future." Did you regard that letter as a genuine and sincere approach by the Respondent for reconciliation?—*A.* No, I did not.

Q. Will you tell his Honor in your own words why?—*A.* It started with an untruth. I had not worried about the manner of his father's death, and it had not any effect on my leaving my husband. He started with the assumption that I had worried about it and said that now the matter was finished I would not worry about it. That was untrue.

HIS HONOR: Do you want to add anything in regard to that letter. You said that it started with an untruth. Was there anything that made you think it was an insincere offer?—*A.* I am afraid that any offer from my husband was insincere. I was being asked to believe in his sincerity. 10

Mr. WOOLF: Suppose you were asked—do you consider that you should have regarded it as sincere when he spoke of bringing the children together at the Christmas dinner. He refers to the children?—*A.* No. My husband had for years changed. He had no real love of his children.

Q. You felt that for years he had no real love for the children?—*A.* Yes.

Q. Shortly stated—may I ask you is it true as stated in the first Affidavit at the end of paragraph 9? 20

HIS HONOR: She has gone through the Affidavit and has said that it is true. Why go through it again.

Mr. WOOLF: You say that for years the Respondent had not shown any real love for the children?—*A.* Yes.

Q. In a short way, can you state without a long explanation how he showed he had no real love for the children?—*A.* He did not regard them as individuals. He wished them to conform to his wishes. He punished them physically severely, and he used filthy language to them on many occasions.

Q. You say that in view of his conduct to the children you did not regard the letter as genuine?—*A.* I did not. 30

Q. Here is a short letter dated the 29th June, 1951. Was that signed by the Respondent and received by you?—*A.* Yes.

Q. He says that he was sorry that you repelled his requests to have luncheon with him and that you would call the police?—*A.* May I see the letter again.

Exhibit "Q."—Letter dated 29th June, 1951, from Respondent.

Mr. WOOLF: Do you recall what incident had occurred—had you had lunch together?—*A.* No. It was at lunch time. It refers to the time, I think, he had met me in the street. 40

Mr. WOOLF: Do you recall when he met you in the street and asked you to return to him?—*A.* It was on one occasion when I was going back to my place of employment. My husband met me in Collins Street and asked me to return to him. I am not sure whether that was the occasion

when he took me forcibly by the arm. He did on one occasion. I said quietly "leave me or I will call the police." I walked across Collins Street to get away.

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HIS HONOR: It says "at lunch time."

Mr. WOOLF: That is what it would refer to?—A. To the best of my knowledge this is one of the occasions when he stopped me.

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Q. You said in the Affidavit that after the first separation in 1943 he was so persistent that you went to the Police Headquarters in Russell Street?—A. Yes, he waited for me.

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10 Q. It was so?—A. Yes.

Q. Here is a letter dated the 17th October, 1951. Was that written by him and received by you. He wrote, "I am asking you once more . . . children"?—A. Yes.

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Exhibit "R."—Letter dated 17th October, 1951, written by Respondent.

Examination—continued.

Mr. WOOLF: May I ask you whether his boasting or making statements about what he had done to you on the night of the 13th August had influenced your attitude on the question of returning to him?—A. I do not quite understand.

20 Q. I have used the word "boasting." Did you regard his references as boasting about what he had done?—A. Yes.

Q. If you look at it in that way was it one of the things that influenced you about returning to him?—A. The incident itself prevented me returning to him.

Q. The incident itself as referred to in the letter where he boasted?—A. Yes.

Mr. WOOLF: Now we come to the latest approach of this year—the 10th May, 1952.

30 HIS HONOR: Do you want to go through them one by one. They have gone in without any objection. You seem to be taking up a lot of time taking the letters in turn. The witness has given an explanation why she thought the approaches were not genuine. (To Witness)—Does your comment apply to all the approaches made?—A. Yes.

Q. Then I do not think we need go through each one individually.

Mr. WOOLF: I respectfully agree, your Honor.

Cross-examined by Mr. RUSSELL BARTON.

Cross-examination—

Mr. BARTON: You are an educated person, are you not?—A. I don't think there is need for that.

Q. You are a Bachelor of Arts at the Adelaide University?—A. Yes.

40 Q. You realise that it means something when you take an oath?—A. I certainly do.

Q. You are not clear about this story?—A. I am very clear.

Q. Why did you have to swear two Affidavits?—A. You mean the general story and the sequence of events. I misunderstood. It is nearly

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Cross-exam-
ination—
continued.

four years since I left my husband. I did not try to remember things for four years. I had forgotten certain things.

Q. You had forgotten matters?—*A.* I had not forgotten the events altogether. Temporarily I had forgotten or in some cases I had forgotten the sequence of events.

Q. You had forgotten when you swore the original Affidavit?—*A.* I don't know that I had so much forgotten them; it was temporary.

Q. You did not get any assistance from Mrs. Pace?—*A.* My children had not discussed any evidence except in the presence of Mr. Woolf.

Mr. BARTON: At the Adelaide University you were somewhat of an actress?—*A.* I don't know. I was not so much an actress but I was the only one who had a bit of a voice. 10

Q. You played the part of Dr. Davis?—*A.* Because I was the only one with a voice.

HIS HONOR: This conveys nothing to me.

Mr. BARTON: Dr. Davis was the Head?—*A.* He was the Head of the Adelaide Conservatorium.

Q. You played a part as Dr. Davis?—*A.* I was there as a student.

Q. Do you remember you were sent a cheque?—*A.* Yes.

Q. Do you remember that you returned that cheque?—*A.* Yes. 20

Q. Do you remember the reason you gave?—*A.* Yes.

Q. What was it?—*A.* I did not feel that it was right for me to accept the cheque.

HIS HONOR: Do you propose to put in the cheque, Mr. Barton?

Mr. BARTON: Yes.

Exhibit "1"—Cheque.

Mr. BARTON: It was in a letter dated the 14th May of this year?—*A.* It was.

Q. Will you look at the letter and say whether that is the letter?

HIS HONOR: If you want these things in as exhibits you had better tender them. 30

Exhibit "2"—Letter dated 14th May 1952 from Respondent.

Mr. BARTON: In October, 1948, your husband sent you a dress?—*A.* Yes.

Q. Do you remember writing and thanking him?—*A.* No, I did not.

Q. You did not acknowledge it?—*A.* I did not.

Q. You did not send it back to him?—*A.* I did not.

Q. On the 8th November, 1948, your husband sent you a pair of nylon stockings?—*A.* Will you repeat the date.

Mr. BARTON: November the 8th, 1948?—*A.* Yes, that was so. 40

Q. Did you write and acknowledge them?—*A.* No, I did not.

Q. You did not send them back?—*A.* No.

Q. He sent you a letter at that time?—*A.* I cannot remember.

Q. Do you, Mr. Woolf, produce the Letter No. 6 dated November the 8th, 1948, in our notice to produce?

Mr. BARTON: It is No. 9 in our Affidavit of Documents.

Mr. WOOLF : That is one we have not got sir.

Mr. BARTON : Would you just have a look at that letter ? Would you say that is a copy of a letter which you received ?—A. Yes.

I tender that letter.

Exhibit “ 3 ”—Copy of Letter dated 8th November 1948.

Q. And of course, in that letter he says, “ Would you like to have dinner “ with me this evening at the ‘ Latin ’ and perhaps arrange another “ honeymoon at Lakes Entrance again ” That was an offer, was not it ?—

A. Yes.

10 Q. And that was an offer which you could not accept ?—A. That is true.

Q. And of course, the gift of the nylon stockings was incidental to that offer was not it ?—A. I am afraid I did not think of it in that aspect.

Q. But you did think of it in regard to the cheque ?—A. Because with regard to the cheque, I had started and prepared my evidence for legal proceedings.

Q. So it made some difference after the three years had elapsed, did it ?—A. My attitude has been the same all through, that I would not return to him, if that is what you mean.

20 Q. I am talking about returning gifts that have been sent to you. Your attitude has changed in regard to that ?—A. It only changed since the time I told you.

Q. Since the three years were up ?—A. Yes.

Q. And of course, on November 3, 1949, he sent you some flowers and some chocolates, did not he ?—A. Yes.

Q. And you did not acknowledge them or send them back ?—A. No.

Q. And he wrote a letter with them. Do you produce Letter No. 25 in our Notice to produce ?

Mr. WOOLF : We say we have not got it.

30 Mr. BARTON : Just look at that letter please Mrs. Lang. Is that a letter which you received ?—A. Yes.

Q. With the exception of what is written on the top in Biro ?—A. Yes.

Q. That was put on at a later stage, and is in your husband’s writing ?—

A. Yes.

Exhibit “ 4 ”—Copy of Letter dated 2nd November, 1949.

Q. That letter of course says, “ I would like very much to meet you “ on Tuesday evening at 6 o’clock at Menzies, where we stayed on our way “ to the Lakes. I have already reserved a table, perhaps we can talk it “ over, etc. I will be waiting for you in the main lounge at Menzies on “ Tuesday at 6 o’clock and looking forward to seeing you my dear.” Now 40 that was an offer to go to dinner was not it ?—A. Yes.

Q. And you felt you could not accept that ?—A. Yes.

Q. You did not appear at Menzies and you did not send back the gift either ?—A. No.

Q. Do you remember your birthday in 1951 ? He sent you a gift for your birthday on February 21st, 1951 ?—A. Yes.

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Q. And your birthday was on March 1st?—A. Yes.

Q. And you did not acknowledge his gift?—A. No.

Q. And on March 1st, he rang you up about 8.30 in the morning?—
Do you remember that?—A. No, I do not remember that.

Q. It will be sworn that he rang you up on March 1st, 1951, and he said, "I have just rung you up to wish you a happy birthday." Do you remember him saying that?—A. No I do not remember that.

Q. Do you remember whether you said, I do not wish to speak to you?—A. I remember him ringing me up on one occasion and I remember saying I do not wish to speak to you, and I put down the receiver. 10

Q. That could have been the occasion of your birthday?—A. Yes, it could have been.

Q. Nevertheless, you held on to the gift, did not you?—A. Yes.

Q. And you did not acknowledge it?—A. No.

Q. Was that altogether courteous, do you think?—A. I do not think the question of courtesy came into it.

Q. Why did your attitude change after the three years were up?—
A. My attitude did not change.

Q. You have already told us Mrs. Lang that your attitude to the acceptance of presents changed after the three years.—A. Because I realised 20
that I could not accept that cheque for £10 because it was incidental to an offer which I could not accept.

Q. What made you change your mind to come round to that view?—
A. Because I knew that an offer that my husband made was incidental to my returning and living with him, and I could not do that. It was a very different offer from any small presents he might have sent me.

Q. Would you expect a woman to live with a man whom she did not love?—A. No, I would not.

Q. And would you regard the mere fact that you did not love your husband as being sufficient reason for not living with him?—A. Perhaps 30
when I answered you in the first place, I was not quite clear, by living with him do you mean in the same house, or as husband and wife?

Q. Would you expect a woman to live as husband and wife with a man whom she did not love?—A. No, I would not.

Q. And that would be a sufficient reason for a woman not living with a man as husband and wife, that she did not love him?—A. I could not lay down any definite ruling on a subject like that.

HIS HONOR: Are you suggesting the reason why Mrs. Lang did not live with her husband was that she ceased to love him?

Mr. BARTON: I was. 40

HIS HONOR: That is the suggestion, what do you say to that?—
A. I say that over the years my love had been cooled, but it was not definitely cooled until within two years of my leaving my husband.

Mr. BARTON: And that is the only reason why you will not go back to your husband, is not it?—A. Oh no, that is not the only reason.

Q. Do you remember having a discussion about this matter with Canon Hudson?—A. Yes.

- Q. Do you remember Canon Hudson?—A. Yes.
- Q. And do you remember what your conversation with Canon Hudson was about?—A. I can remember some of the conversation.
- Q. Do you think you said this to Canon Hudson—
- HIS HONOR: You might give me some indication of when it took place.
- Mr. BARTON: During the year 1950, you saw Canon Hudson?—A. I could not tell you the date.
- Q. Could it have been at that date?—A. It could have been.
- HIS HONOR: Was it after you left your husband?—A. Yes.
- 10 Mr. BARTON: And Canon Hudson came to 52 Darling Street, South Yarra, your residence?—A. Yes.
- Q. And he said, Mr. Lang has asked me to come and see you to see if there is any chance of making up the marriage. Did he say that?—A. I cannot remember his words, but that would be the meaning of what he said.
- Q. Did you say there is no chance of making up the marriage?—A. Yes.
- 20 Q. A number of other ministers have been here with the same object?—A. Yes.
- Q. But as I have no love whatsoever for him, nothing can be done?—A. Yes.
- Q. You said that?—A. Yes.
- Q. And of course you did not say to him, “ You have heard only one side of the story and I do not propose to tell you my side ”?—A. I could not tell you whether I said that, but I had so many ministers and other people sent to me by my husband, and to most of them I did make that remark, but to none of them did I give them a picture of my side of the story.
- 30 Q. And you did not say to Canon Hudson, “ I am afraid to go back ”?—A. I do not remember whether I said that or not.
- Q. Canon Hudson will say you did not?—A. But that does not alter the fact that it is true.
- Q. The only reason you gave to Canon Hudson was that as you had no love whatsoever for him, nothing could be done?—A. I cannot remember whether that was the only reason, it is possible it was.
- Q. And of course you remember the Rev. Lyall Dixon?—A. Yes.
- Q. Do you remember what you said to him?—A. No, I do not.
- Q. He visited you twice, did he not?—A. I think I only spoke to the
- 40 Rev. Dixon once.
- Q. And this would be in the course of the year 1951?—A. I cannot remember the date but it was quite possibly then.
- Q. Some time in July, 1951?—A. I cannot remember.
- Q. And the Rev. Dixon went to Darling Street about 7 o'clock one evening?—A. Yes, it was in the evening, I cannot say what time.
- Q. And he was at your door?—A. Yes.
- Q. He said, “ I am a minister of Collins Street Church, I have come to have a conversation about your husband ”?—A. I cannot remember what the Rev. Dixon's opening remarks to me were.

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Q. And you replied, "Several ministers have come to see me, and there
" is no object in holding a conversation." ?—*A.* That is quite possible.

Q. And he said, "Whether there is anything to be gained from it or not,
" I hope that we might have a talk." ?—*A.* Yes, I remember him asking for
a talk.

Q. And you invited him inside ?—*A.* Yes.

Q. Was anybody else present ?—*A.* I cannot remember whether the
Rev. Dixon met my son at the end of the interview or not.

Q. And the Rev. Dixon said, " I have been in contact with Mr. Lang,
" and I have come on his behalf, seeking a reconciliation." ?—*A.* I cannot 10
remember his words, but that would be the substance of his remarks, I
expect.

Q. I have known Mr. Lang from earlier days ?—*A.* I do not know
that Mr. Dixon said he knew my husband, I understood him to say that they
had mutual friends.

Q. And did he say I have known of you in Adelaide ?—*A.* No I do
not remember that. It is possible that he may have said so.

Q. And for the sake of the friendship I have, I am doing what I can
on Lang's behalf ?—*A.* I do not remember Mr. Dixon saying that about
friendship for my husband. 20

Q. And you said I have suffered a great deal, my affection for Mr. Lang
has been completely destroyed ?—*A.* It is quite possible that I said that.

Q. And you went on to say you cannot expect me to live with
Mr. Lang when I do not love him ?—*A.* I may have said that.

Q. It is useless to think of reconciliation. Did you say that ?—
A. I cannot remember, but it is quite possible that I did.

Q. And a waste of time to talk about it ?—*A.* I may also have said
that.

Q. And you said emphatically, I would not meet Mr. Lang or have
any conversation of any kind with him under any circumstances ?— 30
A. I possibly said that.

Q. And then about three weeks or one month later, he saw you
again ?—*A.* Who saw me again ?

Q. Rev. Dixon ?—*A.* I do not remember seeing him again.

Q. He was accompanied by your husband on that occasion ?—*A.* If
that was the occasion when they stood at the front door.

Q. That is so ?—*A.* I do not know who was with my husband. There
was no light in the hall and my husband has been at the flat several times
with people I have not recognised.

Q. And did you hear a conversation between your son David and the 40
people outside the door ?—*A.* No, only towards the very end, if that is
the time when I asked my son to come inside.

Q. Lang said I insist that I be given the right to speak to my wife.
Did you hear him say that ?—*A.* No.

Q. Did you hear David say mother does not want any conversation
with you ?—*A.* No, I do not know whether that is the time when my
son came in to me to ask whether I would speak to his father, and
I replied, no.

Q. And did you say to David, I wish to have no conversation with Mr. Lang, shut the door and come inside?—*A.* That may have been the occasion on which I asked him to shut the door and come inside.

Q. And Lang called out to you, I have come up to ask you to return home?—*A.* I do not remember what he said, but on the occasion I asked for the door to be shut, my husband was talking in a very loud voice, and we have a common entrance with the other tenants.

Q. Did you say, I will not return home?—*A.* I may have said so, I do not remember.

10 *Q.* In the end, you appeared at the front door?—*A.* No, I stood at the door of the lounge room and asked my son to come inside and shut the door.

Q. You said emphatically, I wish to have nothing to say to you, and I want you to go away?—*A.* I may have said that.

Q. And you then closed the door in their faces?—*A.* I did not close the door. I was in the lounge room.

Q. You directed it to be closed?—*A.* I may have done so.

Q. And you were perfectly clear throughout those conversations were you, that you meant what you said?—*A.* Yes.

20 *Q.* Well, why did you say to the Rev. Dixon, you cannot expect me to live with Mr. Lang, when I do not love him?—*A.* Possibly I did not realise that the Rev. Dixon did not know what my married life had been like. I had given the Rev. Dixon no picture of what I had been through.

HIS HONOR: Did you ever explain to any of the emissaries from your husband, what sort of conduct you had to put up with?—*A.* No, your Honor.

MR. BARTON: You were prepared to explain to the Rev. Dixon were not you?—*A.* No I did not.

30 *Q.* Did not you say, if you like, I will tell you about it, and he said do not bother?—*A.* No I do not remember saying that, I may have.

Q. And you certainly did not tell the Rev. Dixon any other reason which might have justified you in not returning, except that you did not love your husband?—*A.* No. Do you mean justified in his eyes or in mine. I did not feel there was any necessity.

Q. And you certainly did not as regards Canon Hudson?—*A.* No.

HIS HONOR: Had this process of losing affection for your husband come about over the years?—*A.* Yes your Honor.

Q. You had been in love with your husband when you married him?—*A.* Very much so.

40 *Q.* And can you give me any idea when your feelings towards began to change?—*A.* Yes, it is stated in the Affidavit, that the first ten years of our married life were happy.

Q. Some time after the first ten years was it?—*A.* Yes, your Honor.

MR. BARTON: At what precise time after the first ten years?—*A.* I do not think one can gauge at what particular time their affections change.

Q. There finally came a time when you did not love him?—*A.* Yes.

Q. When was that?—*A.* Finally, very shortly before my daughter's marriage.

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Q. And on the 28th June, 1950, you had decided to return to No. 3 Balmerino Avenue, had not you?—A. 28th June, 1950? I have no recollection of that.

Q. Do you remember you bought some shares on the 28th June, 1950?—A. Yes.

Q. Shares in Huddart Parker and also in the Kauri Timber Co.?—A. Yes.

Q. Do you remember what address you gave?—A. Yes, that address was a mistake, and I wrote immediately to the Companies and asked them to alter that mistake.

Q. What do you mean by immediately?—A. As soon as I got the Share Certificate from the Company and found the wrong address was put on the shares.

Q. Did not you give the address to the Share Clerk?—A. I think that either it was given by me inadvertently to the Share broker or he took it from my previous address, because before I had finally left my home, he had sold some shares for me and may have had my address on his books as 3 Balmerino Avenue.

Q. Do you think you may have inadvertently given him your address as No. 3 Balmerino Avenue?—A. I may have inadvertently.

Q. And it was almost two years since you had left there?—A. Yes, but then I had lived there for many years, and sometimes one forgets, it is the same as signing a maiden name long after you are married.

Q. Part of your case is that you received people courteously is not it?—A. It is the truth.

Q. Do you remember a Mr. Cowie?—A. Yes.

Q. Do you remember in September, 1949, he met you at your place of business?—A. Yes.

Q. And you went out into the street with him?—A. I was just about leaving, so I asked him to wait while I finished up and I went down in the lift with him.

Q. And you went out into the street, and there you saw the Rev. Williams and Mr. and Mrs. Langridge?—A. Yes.

Q. And Cowie introduced you to the Rev. Williams?—A. He may have.

Q. You already knew the Langridges?—A. Yes.

Q. And you said, what sort of a trap is this?—A. I do not remember using those words, and it is very unlike me using that expression.

Q. Did Cowie say, we will go and have tea together, Mr. Williams wants to see if the marriage cannot be patched up?—A. Cowie, my husband's cousin, came up to see me at the office, and started to talk to me in the passage way in front of people, I said would you wait, and I will come down with you. When we were in the lift, he continued to talk, and referred to my neurotic condition.

Q. What did he say?—A. I cannot remember what he actually said. I asked him to be quiet, and he continued talking.

Q. Did you say what sort of a trap is this?—A. No I do not remember saying that.

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- Q. He said we will get some tea, Mr. Williams wants to see if the marriage cannot be patched up. Did he say that?—A. Yes.
- Q. Did you say it is not possible?—A. I do not remember what I said, but I remember feeling most annoyed at him almost ordering me to have dinner with him.
- Q. Do you think you said to him, you are ignorant and uneducated?—
- A. After he had criticised various things, I remember telling him that he was not fitted educationally or any other way, to tell me what I should do.
- Q. Do you think you may have said, you are uneducated and ignorant?
- 10 —A. I may have said so.
- Q. Would you regard that as a courteous mode of address to a man?—
- A. No it would not be, if I had said it, but to go downstairs and find a deputation of people waiting in Collins Street, people who had not been asked to come and see me, and who were trying to interfere, I thought justified my being angry.
- Q. Cowie took no further part in the conversation?—A. I do not remember.
- Q. You would think then, that a person might be justified in saying ignorant and uneducated, provided the provocation is strong enough?—
- 20 A. It might be.
- Q. And the Rev. Williams went on, now Mrs. Lang, we will try and talk things over, a broken marriage is useless?—A. I do not remember what he said.
- Q. Did he say, they can be patched up?—A. I have no recollection.
- Q. Did he finally say, I have been asked by Mr. Lang to try and effect a reconciliation?—A. I have no recollection of what the Rev. Williams said to me.
- Q. Do you remember you said, I refuse to discuss it?—A. I remember saying that.
- 30 Q. Your husband, over these years, has been active in his attempts to get you to go back and live with him?—A. Very active.
- Q. And on the 24th November, 1948, he wrote you a letter, do you produce that letter, it is No. 7 in our Notice to Produce. He said in that letter . . . now that was an offer on his part to receive you into the home?
- Mr. WOOLF: I do not want to interfere unnecessarily, but that may not be quite fair to the Respondent if she is not given the opportunity of looking at the letter of which the quotation forms part
- His HONOR: If she wants to see it, she may see it?—A. I remember the letter.
- 40 Mr. BARTON: That was on the part of him, an offer to receive you back into the home and to take you back to live as man and wife. Do you agree with that?—A. I agree with you on the face of it, it was an offer to take me back to live with him as man and wife.
- His HONOR: I understand you not to deny that you received many offers from your husband to go back and live with him, and you did not believe that they were sincere, and you could not trust yourself with him after your last experience?—A. Yes.

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Q. What is the purpose of going through these documents? She does not dispute them. It all hinges on whether it justifies her taking up the attitude that she did not think he was sincere.

Mr. BARTON: I am not clear sir as to what her real attitude is? Do you regard your husband as genuinely wanting you back?—A. Yes, as wanting me back.

Q. He genuinely wants you to resume—

HIS HONOR: The whole point is on what terms he wanted her back, on his terms to treat her as he had treated her in the past, and if his conduct in the past justified her in leaving him, that is not an offer that the Court will pay any attention to and the real problem is to know what his conduct was when she left, and that is the real problem I have to determine. 10

Mr. BARTON: All I was putting to the Witness was whether she regards his offers as genuine, but does feel scared to go back, or whether she does not regard them as genuine.

HIS HONOR: She can answer herself?—A. I regard the offers as genuine. I think he wished me to go back.

Q. And of course, he had written to you and sought your consent to his repentance for his bad conduct?—A. I do not remember ever having received letters expressing repentance. 20

Q. Do you produce Letter No. 2 in our Notice to Produce of 29th August, 1948.

Mr. WOOLF: As to that letter, we do not produce it, and on your client's documents which were handed over for inspection, my client instructed that she never received it.

HIS HONOR: You do not produce it?

Mr. WOOLF: No sir.

Mr. BARTON: Would you just look at that document, Mrs. Lang?—A. I have no recollection of ever having received that letter.

Q. Could you have received it and forgotten?—A. I think it is very unlikely. 30

Q. Well it will be sworn Mrs. Lang that it was at least sent to you?—A. It may have been, I have no recollection of it.

I tender that if your Honor pleases, for identification at a later stage.

Exhibit "5"—Letter dated 29th August, 1948.

Q. And you had decided that you were never going to let your husband repent of his bad conduct in this case, had not you?—A. No, I would not say that.

Q. You had completely shut the door to him making offers?—A. Yes, I think I had. 40

Q. Therefore, no offer that he could have made would have satisfied you?—A. I would not have believed any offer.

Q. But you have already said Mrs. Lang that you did believe he was genuine in what he offered?—A. Yes.

Q. Why would not you believe his offers?—*A.* What do you mean exactly by his offer? I think there is possibly a misunderstanding.

HIS HONOR: Suppose your husband had written you in terms like this. I confess that my conduct towards you has been quite unjustifiable, I am sorry for it, I repent of it, I can assure you I will never repeat any act of the kind, but I do want you to come back as my wife. Suppose you had received a letter of that kind. Can you tell me what your attitude would have been?—*A.* It is very hard for me to say your Honor.

Q. You were never faced with an offer like that?—*A.* No.

10 *Q.* And you cannot say now what you would have then done?—*A.* No.

Mr. BARTON: Your solicitors made it quite clear that you would never live with him again?—*A.* Yes.

Q. And I suppose that that covered all cases?—*A.* As far as any human being can say.

20 *HIS HONOR:* Well you may not have faced this problem, but suppose your husband had come to a condition of health that he could not use violence towards you and he had asked you to return to him. Do you think you could answer what your attitude would have been in that condition, or is it a question you have never faced?—*A.* I had never faced it. I think it would have depended on whether I felt there was any love left for him.

Q. But you see, one thing I have got to determine Mrs. Lang, is your attitude of mind. Suppose you were satisfied that your husband would not again ill treat you or subject you to indignities and you had been asked to go back to him. Are you able to tell me whether the fact that you had lost any affection for him would have prevented you in that event from going back to him?—*A.* No, if I had been able to feel absolutely certain, in that case I think possibly I would have tried again.

30 *Q.* Even despite the fact that you had lost affection for him?—*A.* Yes, even despite that.

Q. Does that mean you wanted to be quite assured that there would be no further violence and no further indignities suffered by you?—*A.* Yes, your Honor.

Mr. BARTON: Do you remember this letter which your solicitors sent to your husband, undated, letter received on the 3rd September, 1948?—*A.* I have seen that letter.

Q. Do you remember this passage in it, We are instructed by your wife to-day to repeat to you the intimation that she feels that she can under no circumstances, be required to live with you again?—*A.* Yes.

40 *Q.* Now, under no circumstances, I suppose, means what it says, does it?—*A.* Yes.

Q. That circumstances could not have existed under which you would have gone back and lived with your husband?—*A.* Yes.

Q. Of course, he has made many offers to you to come out on social occasions, has not he?—*A.* There have been several offers asking me to meet him and have dinner or lunch.

Q. Why would not you do that?—*A.* I think I have explained very clearly why I would not do that.

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Q. Well you are not going to suggest that your husband would have assaulted you in the lounge of Menzies Hotel or anything like that ?—*A.* No.

Q. Do you produce Letter No. 3. It is a letter of September 6, 1948.

Mr. WOOLF : That is one we have not got.

Mr. BARTON : Would you have a look at that letter, Mrs. Lang, which is a copy— ?—*A.* I do not remember that letter at all.

I tender that for identification, your Honor.

Exhibit " 6 "—Letter dated 6th September, 1948.

Q. It will be sworn Mrs. Lang, that that letter was sent to you.—

A. But that letter would have been accompanied by a cheque. I think I would have remembered it. 10

HIS HONOR : You say quite definitely you did not receive any cheque about that time ?—*A.* I have no recollection of having received that letter accompanied by a cheque book or without it.

Upon resuming at 2.15 p.m.

Mr. BARTON (to Witness) : You received a letter from your husband on the 28th November, 1948. Do you remember that letter ?

HIS HONOR : She is hardly likely to remember it by the date. You had better draw her attention to its contents. She may remember it then.

Mr. BARTON : Very well, your Honor. I call upon my learned friend, *Mr. Woolf*, to produce Letter No. 28 as set forth in our Order to Produce. 20

HIS HONOR : What is the date of that letter ?

Mr. BARTON : It is dated the 28th November, 1948. I have now received it from my learned friend. (*To Witness*) : Will you please look at this letter, Mrs. Lang. Is that a copy of the letter which you received ? (*Letter handed to Witness*)—*A.* Yes, to the best of my knowledge it is.

Q. Thank you. I now ask my learned friend, does he produce a Letter No. 9 in the series under our Notice to Produce ?

HIS HONOR : Well, you are tendering that other letter, of the 28th November, 1948 ? 30

Mr. BARTON : Yes, your Honor, I tender that.

Exhibit " 7 "—Letter from Respondent to Petitioner dated 28th November, 1948.

Mr. BARTON : As regards that letter, your Honor, there are some pencilled notes at the bottom of it, I think. Perhaps I might ask the Witness about them. We say that they were not there at the time that that letter was written.

HIS HONOR : Well, just one minute. Yes, let the Witness see it.

Mr. BARTON (to Witness) : Will you please look at the handwriting on the bottom of that letter ? That was not on the original which was sent to you, was it ?—*A.* I do not imagine so but I would not remember. The only part of the letter that I do remember is the concluding paragraph. 40

Q. Very well. Will you now please look at this letter which I shall hand to you dated the 22nd December, 1948, and say whether you ever

received that one? (*Letter handed to Witness*)—*A.* Yes, I think I would have received that letter, Mr. Barton.

I tender that letter.

Exhibit “8”—Letter dated 22nd December, 1948, from Respondent to Petitioner.

Mr. BARTON (*to Witness*): That letter reads . . . (*reads letter*). Now, you will see that that letter has not asked you to come back to the matrimonial home. It does not do that, does it?—*A.* No.

10 *Q.* It merely seeks to procure a meeting on an occasion of goodwill, does it not?—*A.* Yes.

Q. Why, then, did you not answer his query in that letter and let him know and then meet him on Christmas Day?—*A.* Because I have already said that I had no confidence or trust in my husband. I had no desire to meet him at that time. I would not have believed any promises he had made. I had gone back to him, if you remember, on one occasion.

Q. You thought, I suppose, that he would not have turned up at the hotel?—*A.* Not at all.

Q. That is to say, you did think that he would turn up?—*A.* Yes.

20 *Q.* That he would have turned up. And will you please tell us what happened from then on?—*A.* Well, I had lived with my husband for many years and had put up with very terrible treatment for many years. So I think I know the passions of my husband.

Q. And therefore you expected nothing to come of that letter?—*A.* I had expected nothing to come of it.

Q. You did not expect anything from it, did you, although it was on this festive occasion?—*A.* No, definitely not.

Mr. BARTON: I asked my learned friend if he will now produce Letter No. 28 dated the 21st February, 1951? (*Letter produced.*)

30 (*To Witness*): I hand this letter to you, Mrs. Lang. Will you just look at that and say whether that is a letter which you received? (*Letter handed to Witness*)—*A.* I do not remember receiving the letter but it is quite possible that I did so. I do remember receiving one birthday gift from him which I returned. They were some handkerchiefs. I would not deny receiving that letter.

Exhibit “9”—Letter from Respondent to Petitioner dated February 21st, 1951.

(*To Witness*): That letter reads . . . (*reads letter*). Now, you took no steps in regard to that, did you?—*A.* No, definitely not.

40 *Q.* Now, did he send a gift at that time? He did, did he not?—*A.* Yes.

Q. I suppose that was some indication of his sincerity?—*A.* I am afraid I do not regard it in that light.

Q. I see. Why did you think he would send you a gift if it was not some indication of his sincerity?—*A.* When you speak of his sincerity, his sincerity in what do you mean?

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Q. Well, he wanted to see you. He said he wanted to see you. He was sincere, was he not?—A. Yes, I think he sincerely wanted to see me, but it is the purpose behind his wanting to see me that I had in mind.

Q. He wanted to see you to get you to come back to him. That is fair, is it not?—A. Yes definitely.

Q. And you knew that at the time, did you not?—A. Oh yes, I knew he wanted me to come back to him.

Q. Well, he was sincere—

HIS HONOR: I am not going to stop you, Mr. Barton, but it seems abundantly plain. "I think he was sincere in wanting me to come back 10
"but I had no faith in his sincerity in that he would treat me any differently
"from what he had done when he drove me out."

Mr. BARTON: But he is saying in this letter "I shall also be glad if
"you will meet me and talk things over." (*To Witness*): That is it, is
it not?—A. Yes.

HIS HONOR: Yes. Anybody knows that, of course. I did not understand what the witness was adding, but I understand that what she thought he was not sincere in was that when he got her back he would treat her any differently from what he had done before. (*To Witness*):
Am I misinterpreting your evidence, Witness?—A. No, your Honor, that 20
is the case.

Mr. BARTON (*to Witness*): You thought that no good could come of your seeing him?—A. I definitely did.

Q. Yes, and he has kept on writing these letters to you even up to the present day?—Yes, he has.

Mr. BARTON: I ask my learned friend if he produced Letter No. 31 in our Notice to Produce dated the 12th February, 1952.

Mr. WOOLF: We do not appear to have that.

Mr. BARTON (*to Witness*): Will you just look at this letter which I shall hand to you—it is dated the 12th February, 1952—and will you say 30
if it is a copy of a letter which you received? (*Letter handed to witness*)—
A. I cannot say either yes or no. I think it is quite possible but I must truthfully say I do not remember.

Mr. BARTON: I tender this letter for identification.

Exhibit "10"—Letter from Respondent to Petitioner dated 12th February, 1952.

Mr. BARTON (*to Witness*): You did not write to him about that time, did you?—A. No.

Mr. BARTON: I ask my learned friend if he will now produce Letter No. 32, dated 10th May, 1952. 40

Mr. WOOLF: Yes, we have that there and we produce it.

Mr. BARTON (*to Witness*): Will you just have a look at this letter which I shall hand to you and say whether it is a copy of a letter which you received? (*Handed to Witness*)—A. Yes, that is a copy of the letter I received.

Mr. BARTON : I tender that letter for identification.

Exhibit " 11 "—Letter from Respondent to Petitioner dated 10th May, 1952.

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Mr. BARTON (*to Witness*): And you answered that letter on the 14th May, 1952, did you not?—*A.* I would like to see my letter if I may.

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Mr. BARTON : I think, your Honor, that this letter has been already tendered.

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HIS HONOR : It is part of the file which was handed to me.

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10 Mr. BARTON : I thank your Honor. I ask my learned friend, Mr. Woolf, does he now produce Letter No. 33 dated 19th May, 1952 ?

Mr. WOOLF : We do acknowledge that letter in answer to that of the 14th May.

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HIS HONOR : These are both part of Exhibit " B," which is the file of copy correspondence.

Mr. BARTON : At the time when Exhibit " B " was put in your Honor will recollect that I asked my learned friend about the tendering of the original.

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20 HIS HONOR : Well, if anything turns upon the form in the original, yes. But you are now wanting to put in the original of the letter of the 14th May, 1952. Is that it ?

Mr. BARTON : That is it, your Honor.

Mr. WOOLF : Yes, I have that here and I now tender it to my learned friend.

Mr. BARTON (*to Witness*): Will you just look at that letter and say whether it is a letter which you received?—*A.* Yes, that is the letter.

Mr. BARTON : I now tender that letter.

Exhibit " 12 "—Letter of 14th May, 1952, Respondent to Petitioner.

30 Mr. BARTON (*to Witness*): And you answered that letter on the 2nd June, 1952, did you not?—*A.* I do not remember the date when I answered it.

Q. This letter that I shall hand to you is your answer, is it not ? Will you please examine it ? (*Letter handed to Witness*)—*A.* Yes, that is the answer.

Mr. BARTON : I tender that letter.

Exhibit " 13 "—Letter dated 2nd June, 1952, from Petitioner to Respondent.

Mr. BARTON : I now ask my learned friend, does he produce Letter No. 34 dated the 11th June, 1952 ?

40 Mr. WOOLF : Yes, we acknowledge that one also. I am reminded, your Honor, that there is an original in the bundle of copy correspondence that has been handed up to your Honor with the signature " Eric " ?

HIS HONOR : There is no original of the 11th June. The last which has the original signature is dated the 5th September.

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Mr. WOOLF: Yes, I am sorry, your Honor. That is the one that I had in mind. I would ask my learned friend, Mr. Barton, if he has the original.

Mr. BARTON: I have a copy but I am waiting to ascertain whether my learned friend produces the original.

Mr. WOOLF: Apparently, we cannot find the original at the moment.

Mr. BARTON: Very well. If your Honor pleases, I tender this.

Exhibit "14"—Copy, Letter dated 11th June, 1952,
Respondent to Petitioner.

Mr. BARTON (*to Witness*): Will you please look at this letter which I shall hand to you and say whether it is a copy of the letter which you received? (*Letter handed to Witness*)—A. Yes, that is a copy. 10

Q. I think there was a pamphlet sent to you also, was there not? Will you please look at this pamphlet which I shall hand to you and say whether it is the same pamphlet as was sent to you? (*Handed to Witness*)—A. Yes, I think it was. I did not read the pamphlet and cannot tell you.

HIS HONOR: This is being put in for my benefit, is it, so that I can read it?

Mr. BARTON: Yes, your Honor. I think it should go in as showing my client's state of mind. 20

HIS HONOR: Very well, it can go in with Exhibit "14" included in that letter, and the letter with the pamphlet will be Exhibit "14."

(Added to Exhibit "14"—Pamphlet.)

Mr. BARTON (*to Witness*): He has written to you as recently as September 5th, has he not?

HIS HONOR: Well, now, the original of that is in as part of the correspondence.

Mr. BARTON: If your Honor pleases. (*To Witness*): You answered two of the letters that were written in the course of this year, did you not?—A. Yes. 30

Q. Why did you answer those two letters?—A. Because the first of the two contained an offer which I took to my legal advisers, and it was decided that I should answer it.

Q. Yes. Well, what about your second answer?—A. Could I see the second one again, please?

Q. The first is dated the 19th May, 1952.

HIS HONOR: The second one is dated the 2nd June.

Mr. BARTON (*to Witness*): Will you please look at this letter that I shall hand to you? Examine it from this file. (*Handed to Witness*) It was in that second letter that you made a certain answer?—A. It was in the second one that I could give quite clearly my definite reasons for wishing to go on with legal proceedings. 40

Q. Yes. I think you have written four letters over this whole period. Is that correct?—A. That is so.

Q. And two of them were in the course of the present year?—A. Yes that is the case.

Q. Do you remember that in November, 1948, you boarded a bus in Batman Avenue?—A. Yes, I remember boarding a bus one night, if you are referring to the night when my husband—the one that he mentions in that letter.

Q. And you saw your husband sitting further along in the bus?—A. Yes.

10 Q. Whereupon you immediately got out and left the bus?—A. I immediately got out and took a taxi to the place I was going to.

Q. Yes, there is a reference to that in his letter of the 28th November, 1948, is there not?—A. Yes.

Q. Wherein he says, “Next time you see me on a bus as you did tonight . . . (reads)” that is the occasion, is it not?—A. Yes, that is the occasion.

Q. Now in December of 1950, on the day after the Coroner had given his verdict in the matter of the death of Respondent’s father, he, the Respondent rang you up, did he not?—A. He rang me, yes.

20 Q. And he said, “I hope you saw the verdict in the paper. It “should make a difference”?—A. Yes, I have forgotten his exact words but they were to that effect.

Q. And you said, “I am not interested in the verdict.” And you hung up?—A. I did.

Q. Then, of course, on the 1st March, 1950, in the morning at 8.30, he rang you to wish you a happy birthday, did he not?—A. Yes, and I told you that I could not remember whether it was in connection or on the occasion of my birthday that he rang.

Q. But you said that you did not wish to speak to him?—A. Yes, I remember I did say that.

30 Q. Now, on the 10th May, 1950, you were walking along Darling Street, South Yarra, were you not?—A. Well, I walk along there every day.

Q. Well, he pulled up his car on that occasion. Do you remember him doing that?—A. I remember him doing that on more than one occasion.

Q. And he said to you, “Would you like a lift?”?—A. Yes, he did.

Q. And you just ignored him?—A. I just ignored him, yes.

40 Q. And on the 28th June, 1951, he saw you in Collins Street, Melbourne, did he not?—A. Well, I do not remember the date but he saw me in Collins Street on various occasions.

Q. Well, on this occasion he said to you, “When are you coming home, my little girl?”?—A. He did more than that.

Q. Well, will you please just answer and say whether he said that or not?

HIS HONOR (to Witness): He said what on that occasion?—A. He said, “When are you coming home, old girl?” At the same time he seized me by the arm in Collins Street.

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Mr. BARTON (*to Witness*): Was that on this occasion?—A. Yes.

Q. And did he not take you by the arm gently?—A. No, not at all gently; in a very firm grip.

Q. Did you say to him, "If you dare to speak to me I will call a policeman"?—A. Yes.

Q. And did he say, "I shall be glad to see him"?—A. Yes.

Q. And you then crossed Collins Street and he followed, did he not?
—A. Yes.

Q. And you repeated the threat?—A. Yes.

Q. And he said, "If you think that I will leave you you had better 10
"think differently"?—A. Yes he did.

Q. And you then ran?—A. Yes, I did.

Q. On the 3rd September, 1951, he went to Darling Street to the
Reverend Mr. Dixon?—A. I do not know who the clergyman was.
I could not see him.

Q. Now, it was obvious that you would not talk to him?—A. Yes,
quite obvious.

Q. And moreover, that you would not answer his letters?—A. No.

Q. Do you remember this letter which I shall hand you and which you
sent him on the 22nd November, 1948? (*To His Honor*): This letter, 20
your Honor, has already been tendered but I am not sure of the number
of the exhibit. I am now informed that it is Exhibit "D."

HIS HONOR: This is dated the 22nd November, 1948.

Mr. BARTON: That is so, your Honor. (*To Witness*): Now, in this
letter you say "Don't send anybody to interview me on your behalf as
"I will definitely not see them"?—A. Yes.

Q. That was your intention?—A. It was.

Q. You were not prepared to see these people?—A. I was not.

Q. You were not prepared to talk to them?—A. That is so.

Q. And in consequence of this you were drawing a wall about yourself 30
so far as your husband was concerned?—A. I was drawing a wall?

Q. Did you not draw a wall about yourself?—A. I cannot tell you
that but my first intention was not to receive anyone.

Q. Well, about the 30th August or on the 1st September, 1948, the
Reverend Mr. Cleverden of Malvern, had called to see you. This was while
you were residing at Balmerino Avenue, was it not?—A. Yes, I think
that was the Minister who called while Mr. and Mrs. Halford were still
living in the house. He was the first to call and I refused to see him, and
he made a statement to Mr. and Mrs. Halford.

Q. And you say that you refused to see him?—A. Yes.

Q. Now, on the 15th September, 1948, your solicitor, Mr. Vroland, 40
wrote a letter to Messrs. Walter Kemp & Townsend.

HIS HONOR: It is part of Exhibit "D", for one thing, Mr. Barton.

Mr. BARTON: I thank your Honor. (*To Witness*): Now, that letter
reads, "Unfortunately, ever since the receipt of your letter of the 8th the
"behaviour of your client has been more than ever calculated to increase
"our client's justification for her fears for her safety and to confirm her

“allegations against her husband.” Do you take in that passage which I have just read?—*A.* Yes, I do.

Q. Will you please now tell me what happened between the 8th and the 15th September that was calculated to increase your fears for your safety?

—*A.* I cannot remember what happened but I take it from that letter that it must have been some approach from my husband. Any approach from him was calculated to increase my fears. I did fear my husband.

Q. You say that any approach from your husband would be calculated to increase your fears?—*A.* Yes. That was why I left the bus because I would not have trusted myself to have got out of the bus at night time with the possibility of his following me home. I was living then not very far from my original home.

Q. And I suppose that when you saw him in Collins Street the same thing occurred to you?—*A.* No, not to the same extent as it would be at night time. It would not have been, in Collins Street, the same unpleasantness. There would have been perhaps the raising of his voice and his catching me by the arm but in Collins Street there would be policemen somewhere whom I could get.

Q. In your solicitor’s letter, there are these words, “Unfortunately, ever since the receipt of your letter of the 8th the behaviour of your client has been more than ever calculated to increase our client’s justification for her fears for her safety” You are not able to throw any light on that, are you?—*A.* No.

Q. Your case, of course, is that you were driven from this home?—*A.* I was driven from my home.

Q. Then in your letter of 22nd November, 1948, you say, “Don’t tell the people now or at any other time that I left the house. I was driven from it as you and many other people well know.”

Q. The day on which you left was the 9th September, was it not?—*A.* I cannot remember the actual date when I finally left the house.

Q. I suppose it was on that date that you say you were finally driven out?—*A.* It was on that day that I knew that my husband would be returning to the house to live with this private detective there and I then determined to leave the house.

Q. Was that at the beginning of September, about September the 9th, that you had the locks changed on the front door of the house?—*A.* Yes, that was on the advice of my solicitors.

Q. Now, on this day, the 9th September, you were at work, were you not?—*A.* Yes.

Q. When did you begin first to take a job?—*A.* It was on the 16th August.

Q. On that date, the 16th August, you first took a job?—*A.* Yes.

HIS HONOR (*to Witness*): The 16th of August of what year?—*A.* Of 1948.

Mr. BARTON (*to Witness*): And on this occasion—the 9th September, you were at work, and about 6 o’clock your son David rang you on the phone. Is that so?—*A.* It could not have been as late as 6 o’clock; it must have been by 5 o’clock.

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Q. And do you remember what he said to you?—*A.* He said “Mother don’t come to the house. I will meet you at the bus stop and explain to you.” That is to the best of my knowledge what he said.

Q. I see. He did not say this, “Is that you, Ma?” Did he say that?
—*A.* He may have done so.

Q. Did he go on,—“he just pushed the front door in”?—*A.* I have no recollection of his saying that. I cannot tell you that. He told me that he would meet me at the bus stop.

Q. He did not say to you by any chance, “I am just finding out”?—

A. He may have done so. I have no recollection of anything but what I have told you. 10

Q. What about these words, “Just stay where you are for a couple of hours and I will give you all the glory—”?—*A.* No, I do not remember him saying that. He just told me to meet him at the bus stop.

Q. And you came home?—*A.* I got into the bus and got out at the corner of Balmerino Avenue and Bruce Street. That was my usual point at which I got out.

Q. And you came to the door of the home?—*A.* No, not to my knowledge.

Q. You were not in Balmerino Avenue between 6 o’clock and 7 o’clock?
—*A.* I think it was later in the night. I cannot remember just exactly when I came to collect some of my things. 20

Q. You remember that you came in and had a conversation with Mr. Lang, don’t you?—*A.* I do not remember that.

Mr. BARTON: You came in and he said, “Hello, old girl?”—*A.* He probably did because that was his usual form of address.

Q. You said, “Go to hell”?—*A.* Well, it does not sound like me and I have no recollection of saying it.

HIS HONOR: Is it a form of expression you ever use?—*A.* I am not sure whether I have ever used it, but it would not be a usual form of expression. 30

Mr. BARTON: He went on to say, “I have got you, old girl?”—*A.* He probably would have said that.

Q. “Have you done anything to David?”?—*A.* This is on the night of when?

Q. This is on the night that you finally left the house, Mrs. Lang?—*A.* I have no recollection of that.

Q. And Lang said “nothing whatever”?—*A.* No.

Q. Did you finish up by saying, “Look, I will get a place for David to-morrow”?—*A.* I cannot remember. 40

Q. And, “You can have the place as you have everything else”?—*A.* It is quite possible that I may have said it. I have no recollection of what was said; I was too distressed to remember.

Q. You then walked out of the house?—*A.* Yes.

Q. In your Affidavit you say that you went straight to work. I think, it is in paragraph 7, you said, “To the best of my recollection. . . . I then went from my place of employment to stay—”?—*A.* I do not

remember when I went to the house to get my things. My statement is true. Whether I went to the house on the way to get clothes or whether I went after dinner, I cannot remember.

Q. Now your husband did not lay hands on you from 13th August onwards?—*A.* Except for the one occasion on which he threatened me, when Mr. Halford was present.

Q. I suppose if he had been belligerent you would remember the occasions on which he was belligerent?—*A.* Well, if you mean by “belligerent” if he showed an intention of striking me, yes; but if you just mean he showed that he had no friendly feelings towards me then I should say he was belligerent on occasions when he met me in Collins Street and on other occasions.

Mr. BARTON: And on 2nd September he called at the house, did he not?—*A.* Yes. I do not remember the date but I remember him calling at the house. Would you give me the year of that?

Q. 1948, Mrs. Lang?—*A.* I am sorry. I do not remember that. I was confusing that with a later year when I was in my flat at Darling Street.

Q. He opened the front door with his key and went into the lounge on this occasion and you walked in and you were screaming abuse at him?—*A.* I do not remember that.

Q. Could you have been screaming abuse at him?—*A.* I think I could possibly have been very annoyed and said things I would not have said had I not been laboring under great stress and anxiety. I had to turn round and earn my living and keep my son.

Q. You were screaming abuse at him and he left; walked out of the house?—*A.* When was that?

Q. On 2nd September, 1948. You were still at Balmerino Avenue?—*A.* When Mr. and Mrs. Halford were living there; I do not remember, he called in several times.

Q. On that occasion you saw Doctor Curtis on the evening of that day, of South Yarra?—*A.* I would not remember whether that was the day my husband brought Doctor Curtis to the house.

Q. Yes?—*A.* Yes.

Q. So that it was between the 2nd and 9th September that the locks were changed?—*A.* I cannot remember when the locks were changed.

Q. On 30th August he had returned home, had not he?—*A.* Again, I cannot remember the occasions on which he returned.

Q. Do you remember him sleeping on a couch on this occasion?—*A.* That is something I have tried to recollect. I have a vague recollection of his sleeping on a couch and I could not connect it up with the dates. I tried but was unable to do so.

Q. He will swear he returned on 30th September and found Halford’s occupying his bed and he slept on the couch all that evening in the living room?—*A.* If he was there all night I was not aware at the time he was sleeping in the house; I would be upstairs.

Q. You were in an upset condition then?—*A.* Yes.

Mr. BARTON: Highly abusive, in fact?—*A.* I do not remember.

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Q. Do you remember on the 1st September the phone rang?—A. I do not remember. The phone rang often. Tell me what you mean?

Q. And you answered the phone?—A. If you tell me more I may be able to remember.

Q. You said, "Uncle, Eric is hitting me"?—A. If I said that it would have been true; I have no recollection of it.

Q. It would not have been untrue?—A. No, but I have no recollection of doing it.

Q. No, but it will be sworn that you did say it, and it will also be sworn that it was not true?—A. No. 10

HIS HONOR: Tell me, who was "Uncle"?

Mr. BARTON: It was Mr. Arthur Lang?—A. I expect so.

Q. He is the only person you usually call "Uncle"?—A. Yes.

Q. Lang grabbed the phone out of your hands?—A. When did you say this took place?

Q. The date was 1st September, 1948?—A. I have no recollection whatsoever.

Q. It goes on, "Lang said, 'Is that a new one.'" Do you remember that?—A. I do not remember.

Q. Mr. Lang said, "Yes, what is the matter?" That is Mr. Arthur Lang. Do you remember that?—A. No, I can remember, I think, something that happened a long while before but definitely not at that time. 20

Q. This will be sworn to have happened at that time?—A. I have no recollection.

Q. And Lang said, "I am very sorry this has happened, Uncle; Jean is a bit upset; I must apologise"?—A. I do not remember that.

Q. Uncle said, "All right," and that was the end of the conversation?—A. I have no recollection of that conversation whatsoever.

Q. And then Lang said to you, "You fool, don't you realize what you are doing. Don't you realize that Uncle and Aunt left a legacy for the children? If you go on in this way you may upset it"?—A. I have not the slightest recollection of my husband saying a thing like that to me, and surely that is the sort of thing I would have remembered because I would have despised it. 30

Mr. BARTON: You do not remember it?—A. No, I do not.

HIS HONOR: Do you think you would have forgotten a conversation in those terms if it had taken place?—A. I do not think I would have forgotten it, your Honor.

Mr. BARTON: On the evening of that day when Lang returned home, the 1st September, 1948, his goods were out on the verandah were they not?—A. I have no recollection. When you say, "his goods" what do you mean? 40

Q. His general belongings were stacked up on the verandah?—A. I think that some time after he had promised the tenancy of portion of the house to Mr. and Mrs. Halford and stated he was not coming back it was quite possible some of his goods were taken out of part of the house they were to occupy and put on the verandah. I have no definite recollection.

Q. It will be sworn that on the 1st day of September that happened ?
—A. I have no recollection.

Mr. BARTON : Now, in your letter of 22nd November, 1948, you say, " Finally your unspeakable action on the night of Friday, August 13th . . . " " what a beast you were." Do you recollect that portion ?—A. Yes, I recollect that.

Q. Did Lang ever boast of that to you ?—A. I think that you have produced a letter in which he states, " As to the amount you enjoyed it." Is not that boasting ?

10 Q. Listen ; did Lang ever boast to you of the incident which he called " The Great Rape " ?—A. I do not know what you mean ; before or after ?

Q. Well, before or after. Did he boast to you or did you hear this business of " The Great Rape " from somebody else ?—A. It was my own experience.

20 HIS HONOR : You are asked what he said about the act. Counsel is asking you whether he boasted to you having committed this act, describing it in terms of the letter, or whether you have heard the description from somebody else ?—A. The only comment I can remember is in the letter he wrote to me in which he denied that I in any way objected to the incident ; and I had heard from others that he had boasted.

Mr. BARTON : You heard from Mr. Halford, I suppose ?—A. I cannot remember.

Q. I see. Would you please make an effort and try to remember who you heard it from ?—A. I think my husband admitted it to Mr. Vroland in such a way—

HIS HONOR : That is at a later stage. You are asked at the time. When did you first hear that your husband had boasted of this act ?—A. Not until after the act had taken place. I had no warning.

30 Q. And from whom then did you hear it ?—A. That is what I cannot remember. I think it was an interview that he had had with Mr. Vroland.

Mr. BARTON : And I think if you had heard of it you would remember it ?—A. Yes.

Q. And you obviously do not ?—A. Not beforehand.

Q. At the date of this letter of 22nd November ?—A. Oh, yes.

Q. Why did you call it " The Great Rape " ?—A. Because I understand that he referred to it as that as well.

Q. He referred to it as " rape " ?—A. I believe so. I have forgotten who. I must have thought that or I would not have written it at the time.

Q. Did Halford go to see your solicitors in 1948 ?—A. I think he did.

40 Q. Yes ; and do you remember you were asked for some further particulars under your petition ?—(No answer).

HIS HONOR : Did your lawyers tell you they were asked to give further particulars of your allegation under your petition ?—A. Under my affidavit.

Mr. BARTON : No, under the petition ?—A. I am sorry, I do not know what you are referring to.

HIS HONOR : Perhaps you did not understand the distinction ; but did your lawyers tell you they were asked by your husband's lawyers to give

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better particulars of what you alleged to be the desertion?—*A.* At what time, may I ask?

Q. This would be some time in November, 1951?—(*No answer.*)

Mr. BARTON: It was 10th November, 1951?—*A.* No, I have no recollection of that.

Mr. BARTON: And as to this incident which is described in particulars, "shortly prior to the 13th August, 1948, . . . will take place," that was something you did not give to your lawyers? It came from somewhere else?—*A.* Do you mean when I was preparing my statement? I cannot remember.

10

Q. It must have come from somebody else, obviously?—*A.* Yes.

Q. You were in Court when your Counsel opened this case, were you not?—*A.* Yes.

Q. Did you hear him say this: "Prior to this, although the Petitioner did not know it at the time, your Honor . . . 'Rape of Lucrece'." Did you hear your Counsel say that?—*A.* Yes.

HIS HONOR: That in its turn apparently refers to someone else.

Mr. BARTON: That apparently refers to someone else. Apparently she is not able to refer to it.

Q. What time in August did the Halfords move to Number 3, Balmerino Avenue?—*A.* I cannot remember the exact date but there was an agreement made soon after.

20

Q. How did they come to decide to move in? Was it at your invitation?—*A.* Yes.

Q. And you gave them Lang's bedroom to sleep in?—*A.* Yes.

Q. And I suppose you gave them to well and truly bar the door to him coming back to the house?—*A.* I knew I could not stay in the house if he were there, and I had nowhere to go, and no money.

Q. And you put them in to make sure he would not be able to come?—*A.* I put them in to get some safety and somewhere to live with my son.

30

Mr. WOOLF: I show to my friend an original agreement which may throw some light on the question of the Halfords occupying the house.

HIS HONOR: If Mr. Barton wants it he can tender it, if it is relevant.

Mr. BARTON: We do admit that this is the arrangement, so far as we were concerned, under which the Halfords moved into the house.

HIS HONOR: Is it going to help me in determining the dispute between these parties?

Mr. BARTON: I do not think so, sir, but your Honor can examine it.

HIS HONOR: If I examine it, it must go in evidence.

Mr. BARTON: I tender that, if your Honor pleases.

40

Exhibit "15"—Original agreement concerning tenancy of house by Mr. and Mrs. Halford.

Mr. BARTON: That agreement was executed some time after the Halfords were in the house?—*A.* Yes.

Q. They were already moved in and were there at your invitation. Lang was the part owner of this house?—*A.* That is not so at all.

- Q. Well, why did not they approach Lang and get his consent ?—
 A. They did not approach him to the best of my knowledge. I was told by my lawyer that if I wished to feel safe I should invite anybody I liked to stay in the house with me as I was one of the tenants-in-common. I therefore asked Mr. and Mrs. Halford if they would come and stay with me. After they had been with me for a while my husband either came to them—I do not know how it arose, whether he wrote or came—but he pointed out that he and his mother were also concerned, but they could stay if they paid rent ; he would let them have portion of the house for their use ; the agreement
 10 was drawn up.
- Q. You had been charging them board ?—A. No, not anything.
- Q. Who bought the food ?—A. Mr. and Mrs. Halford got their own food ; I bought mine. We did not have our food together.
- Q. And it was after the Halfords moved in that all Lang's goods were either placed on the front verandah or up in the lumber room ?—A. I can remember things being moved to the lumber room, but I cannot remember the front verandah.
- Q. And some things were then burned ?—A. Only as far as we could see old rubbish, about thirty years old ; old newspapers.
- 20 Q. There was a goat's head which belonged to his father ?—A. All the hair had come out and it was full of moths. I decided, seeing it had become infested with moths, to burn it. We burned several things which were moth affected.
- Q. You knew he was very attached to the goat's head because it belonged to his father ?—A. No, I did not know, but I do not doubt it. Most of the things in the house did belong to his father—most of the older things.
- Mr. BARTON : Immediately after the 14th August, you decided that in future you were going to live your own life, and he could do the same, didn't you ?—A. Yes.
- 30 Q. And that is borne out by that letter of the 22nd November ?—A. I decided I had no alternative but to do that.
- Q. Where you say, " Please try to understand the fact . . . for many years," that was an indication you were going to live your own life in future ?—A. Yes.
- Q. And you looked to your husband to support you ?—A. I thought my husband should contribute something towards my son's education.
- HIS HONOR : Contribute something to what ?—A. My son's education.
- Q. Did you look to your husband to support you ?—A. I was earning
 40 my own living.
- Q. You did look to him to make provision for your son's education ?—A. Yes, your Honor.
- Q. What about his keep, his maintenance—did you look to your husband to do that ?—A. I felt he should provide something for that.
- Mr. BARTON : You say you did not look to your husband to support you ?—A. No, I was earning my living.
- Q. Very well. Your solicitor wrote a letter to Lang, the undated letter received on 3rd September, 1948. Now that letter concludes : " Naturally

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“ the wife looks to you to maintain her and your son . . . £6 per week. “ She in turn undertaking . . . maintenance of herself and your son to “ pay his school fees ” ?—*A.* It seems to me what is intended is partial support for me. £6 per week would not have kept myself and my son.

Q. You told us a minute ago that you did not look to your husband to support you ?—*A.* Yes, I did say so.

HIS HONOR: What am I to conclude from that, Mr. Barton ?

Mr. BARTON: Well, sir, the conclusion is that apparently the solicitor presumed he was properly instructed.

HIS HONOR: Yes ; no doubt you will address me later about it. 10

Mr. BARTON: Yes, if it please your Honor. (*To Witness*) : In any case you have never claimed maintenance ?—*A.* No.

Mr. BARTON: What are your assets ?—*A.* Need I answer that question, your Honor ?

HIS HONOR: What is the relevance of the question ?

Mr. BARTON: Relevance is the question of maintenance, and secondly the question of costs in this case.

HIS HONOR: Neither of them am I investigating at this stage. At a later stage maintenance may be of importance. The question of costs—I am not hearing evidence about that at this stage. 20

Mr. BARTON (to Witness): You had not had sexual intercourse with your husband for a considerable time prior to 13th August, had you ?—*A.* To the best of my remembrance, not for some time.

Q. And your daughter was married on the 3rd August ?—*A.* Yes.

Q. And Lang was not living with you at that time, was he ?—*A.* No.

Q. Do you remember, after the ceremony, having some conversation with Halford ?—*A.* I remember going home with Mr. and Mrs. Halford to their flat.

Q. Did you have any conversation with them about becoming reconciled with Lang on that day ?—*A.* I have no recollection of that. 30

Q. And I suppose you have no recollection of any conversation with them from the 3rd August till the 14th August as far as becoming reconciled with Lang ?—*A.* The Halfords did ask me if there were any possibility of our reconciliation, and they showed me that they hoped it was possible.

Q. When did they do that ?—*A.* I cannot remember whether that was some time before the 3rd August, before my daughter's wedding, or after it.

Q. No doubt you are calling evidence from Mr. Halford and he may be able to assist you ?—*A.* He may be able to.

Q. The time prior to 3rd August you saw your husband was on the 30th July ?—*A.* That I cannot remember. 40

Q. You remember he walked into the house in the day-time. You said, “ Why did you go to Adelaide ? ” ?—*A.* I do not remember that but it is possible, I think, because I had found out from someone that he had been to Adelaide.

Q. And from whom had you found out ?—*A.* I cannot remember. I have tried to remember and find out.

Mr. BARTON: And the time before the 30th July that you saw your

husband was on the 21st July ?—*A.* That I cannot remember. My husband walked in and out of the house several times.

Q. That was the night the police patrol was called. You had not seen him between that time and the time he returned from Adelaide ?—*A.* That I cannot remember.

Q. You did see him on the 21st and 22nd August ; that is when the patrol was called ?—*A.* Of August ?

Q. Of July, I am sorry ?—*A.* If that was the date when the patrol was called, yes.

10 *Q.* Now paragraph 4, your supplementary affidavit, you say, “ In my other affidavit to kiss him.” Would you mind telling his Honor what had been objectionable about the Respondent’s conduct prior to 22nd July for some weeks ?—*A.* I think possibly more than anything his filthy language to me ; his continual bad temper and filthy language ; his attitude towards his daughter, who was engaged.

Q. You are not able to be more plain than that ?—*A.* I think it is sufficient. I do not like to repeat the language.

20 *Q.* Are you quite sure he was home prior to that ?—*A.* Whenever he was home I had to listen to his bad language. I have stated that I do not remember the exact dates of his going in and out of the house.

Q. You were in Court when your Counsel opened, were you not ?—*A.* Yes.

Q. Now did you hear your Counsel say this : “ It seems very strange but she actually omitted from her first affidavit he said he wanted a kiss, etc.” How many days ?—*A.* I have no recollection.

Q. Your mind is just a complete blank ?—*A.* My mind is a blank on the exact number of days and just how my husband went in and out of the house about that period.

30 *Q.* You remember whether you had intercourse with him ?—*A.* I cannot remember the last date.

Q. And of course in paragraph 18 of your original affidavit you said that “ apart from the night of 13th August, 1948, sexual relations between July, 1948 ?—*A.* Yes, and then I realised that was not correct.

Mr. BARTON : And then in your supplementary affidavit : “ Referring to paragraph 18 first period of July, 1948 ” ?—*A.* To the best of my recollection ; it may be quite incorrect.

40 *Q.* So you are not able to explain this statement which was made by your Counsel that on this particular occasion, after a period of days when there had not been intercourse ?—*A.* It was possibly a complete mistake on my part. It may have been wrong.

Q. Could you remember this evening of 21st July after which your husband seized you. You do remember the evening, do you ?—*A.* Yes.

Q. Are you able to tell me whether you had visitors ?—*A.* On the 21st July ?

Q. Who was in the house during the evening ?—*A.* We were alone in the house.

Q. Who is “ we ” ?—*A.* My husband and myself.

Q. The 21st July ?—*A.* That is the night the police were called ?

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Q. Yes?—A. We had a young girl staying with us who had gone out, and my son had also gone out.

Q. What about your daughter?—A. She had also gone out. I think my son was out—

Q. You have made an affidavit on this and it is paragraph 4 of your supplementary affidavit, and there you say: "I called for help and our daughter came into the room—" ?—A. That was not until my husband had held me over the bed for some considerable period. To the best of my knowledge my daughter was out of the house. She may have been upstairs with my son but I had been held in that position for some considerable time before she came downstairs and I called to her. She either came downstairs or in the front door; I do not know exactly which. 10

Q. Do you remember whether you had any visitors on that evening?—A. No, I do not remember whether we had any visitors on that evening.

Q. Would you be prepared to say you did not?—A. I would not be prepared to make any statement because I do not remember.

Q. And you do not remember any discussion between you and the visitors, if there were visitors?—A. No, I do not.

Mr. BARTON: While you and Lang were living together as man and wife, was he ever away on any odd nights during which he stayed away all night?—A. At what period? 20

Q. It is clear from your story that you and Lang were living together up to July?—A. As far as I can remember it is up to July, but I cannot remember whether he was away for some odd nights.

HIS HONOR: Are you speaking of being called away on business?

Mr. BARTON: Just away from the house.

HIS HONOR: Do you mean the whole night?

Mr. BARTON: Yes.

HIS HONOR: And are you suggesting he was away on business or away for some undescribed purpose? 30

Mr. BARTON: I am suggesting he was away for some undescribed, as yet, purpose.

HIS HONOR: Can you remember, Mrs. Lang?—A. I remember as I stated in my affidavit, there was one occasion when my husband walked out and left the dinner table and did not come back until either the next day or a few days later. I cannot remember—

Mr. BARTON: That is given in your affidavit as being the beginning of July?—A. Yes.

Q. Would you just look at that docket (*Hands docket to Witness*). That is a receipt from Carlyon's Hotel?—A. Yes. 40

Q. The date is clearly the 3rd June?—A. Yes.

Q. And it is made out in the name of Mr. E. Lang?—A. Yes.

Q. I tender that. It will be identified at a later stage.

Exhibit "16"—Docket from Carlyon's Hotel dated 3rd June.

HIS HONOR: What is the purpose of the suggestion behind this, that on that night he slept at Carlyon's Hotel?

Mr. BARTON: That is the purpose behind it. (*To Witness*): In fact, your husband first left home on 3rd June?—A. I cannot remember that.

Q. He might have done so?—A. He might have done so for the first time.

Q. And at this time there was a lot of discussion going on in the house over Barbara's marriage?—A. Yes.

Mr. BARTON: And prior to the 3rd June there had been a great argument over whether there should be a pre-wedding party, or a Eucharist breakfast or a wedding breakfast?—A. I remember there being discussion about having some form of reception but just whether it was to take either
10 of those three forms I cannot remember at all.

HIS HONOR: Was your husband present at your daughter's wedding?
—A. Yes, your Honor.

Mr. BARTON: And on this night, the night of 3rd June, Lang asked his daughter, Barbara, how many guests were coming to the pre-wedding party, and where it was to be held?—A. I have no recollection of that particular statement.

Q. And the daughter would not say how many guests but continued to ask whether she could have it. Do you remember that?—A. I remember her asking if she could have a reception.

20 Q. And it was finally said the "Nine Dragons Café" in Toorak, and eighty-six people?—A. I have no recollection of her mentioning "Nine Dragons." I do not say that she did not. I do not remember.

Q. Lang said "That is too expensive; who do you think I am—Baillieu Allard"?—A. I do not remember that.

Q. Do you remember the daughter abusing him?—A. No, I do not.

Q. You remember that he walked out of the house?—A. Yes; I can remember now that he did at some time walk out, but the date I cannot remember.

30 Q. Would it be the 3rd June?—A. I am not prepared to make any statement. I cannot remember.

Mr. BARTON: He was followed into the street by his daughter who abused him?—A. I can't remember.

Q. He went to the bus stop and she abused him in front of the people?
—A. I don't know anything about that.

HIS HONOR: I cannot stop you, Mr. Barton, but if your client goes into the box I may have to say something about it. I do not see the relevance of this as a matter going to anything which I have to decide, although I can understand your using it to test the credit of the witness.

40 Mr. BARTON: We put it that this was the first time he left and he came home. This was the first break.

HIS HONOR: We will see whether it is relevant when you put it. At present if you are putting it to the credit of the witness I cannot stop you. What we are trying here is a case based on an allegation of desertion—constructive desertion. Anything which bears on that, of course, I will hear but when it comes to a dispute whether the daughter should have a wedding breakfast or Eucharistic wedding, it looks as though you are getting out of the range of anything that I have to investigate here.

Mr. BARTON: I agree with your Honor's remarks. It was Thursday,

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the 3rd June, and he was at home the next Sunday?—*A.* I remember his returning on Sunday after one absence.

Q. And nobody spoke to him?—*A.* That is so.

Q. He attempted to speak to you and the members of the family and you would not reply?—*A.* Yes. As far as I can remember nobody would speak to him.

HIS HONOR: That included you?—*A.* Yes.

Mr. BARTON: From the 3rd June it is established that when he came home nobody would speak to him?—*A.* I do not say that happened all the time until the final separation. 10

Q. It was about a fortnight before the 3rd June that you left his bed?—*A.* For the last time?

Q. Except on occasions?—*A.* No. I do not think that is so, but again I cannot state definitely.

HIS HONOR: I want to go back to the statement made by you. There was a condition about June when he having been absent returned and no one would speak to him. You say that did not continue up to the time you left. How long did it continue?—*A.* I can't remember.

Q. Was it a matter of days?—*A.* It was a matter of days to my knowledge. 20

Q. When that condition of silence wore off was there free intercourse in the way of speech by members of the family?—*A.* No, I would not say there was free intercourse because we had reached the stage when there could be no topic of discussion in which we could join.

Q. To what extent was the condition of silence broken up? Was it that you discussed the weather?—*A.* I think there was very little discussion of any sort. I think the main discussion was the usual allegations by my husband against me.

Q. Those allegations were what?—*A.* They covered a wide field. They accused me of everything, of being a bad housewife, a bad mother, a bad cook, a bad housekeeper, and I do not think there was anything which I was not bad in. 30

Q. I suppose the allegations did not lead to an amicable conversation?—*A.* There was no topic on which we could converse.

Q. Did you retort in kind when he accused you of being a bad housekeeper?—*A.* Towards the end, I retorted vigorously and denied the allegations.

Q. What were the main allegations?—*A.* I told him his statements were not true; that he had been cruel to his children; and had behaved to me in a manner that no woman would tolerate. He had tried to dominate me physically and in every way. 40

Q. Was the statement true that he tried to dominate you in every way?—*A.* They were entirely true.

Mr. BARTON: On the 18th May Miss MacDonald was there?—*A.* Yes, we had a young girl of that name.

Q. And she and Barbara occupied the bedroom upstairs?—*A.* Yes.

Mr. BARTON: On the early morning of the 18th May, at about 3 o'clock you moved into that room?

HIS HONOR : Apart from the precise date, which you may not recall, did such an incident happen ?—*A.* I have tried to recall instances when I went up to my daughter's room. I thought I went once before that night when the police called but I cannot remember definitely.

Mr. BARTON : You moved into some sort of a portable bed, a camp ?—*A.* Miss MacDonald was occupying that bed. She slept on the stretcher.

Q. Where did you sleep in Miss MacDonald's room ?—*A.* When ?

Q. From the 18th of May ?—*A.* I did not sleep continuously there.

Q. Where did you sleep ?—*A.* In the dining room on the couch.

10 *Q.* Not in Lang's bed ?—*A.* At intervals.

Q. You did not sleep there when he was there ?—*A.* I thought we had but I am only telling so far as I can remember.

Q. From the time you left his bed on the 18th May until the 3rd June, when he left the house, did you have meals with him ?—*A.* I am afraid I cannot remember much about that period. It was too confused and upsetting.

Q. He was given meals away from the family ?—*A.* I have no recollection of that.

Q. Do you remember after the 18th May having meals with him ?—

20 *A.* Yes, I thought we had meals together.

Q. On the occasion of the 21st July, or early in the morning on the 22nd July, he had only returned home on the evening of the 21st ?—*A.* I don't remember that.

Q. Do you remember whether you were sleeping in his bedroom ?—*A.* No. That is something I tried to remember.

Q. Was this not the position : he was sitting on his bed with a dressing gown on and you came into the room ?—*A.* I can't remember. Do you mean I came into the room to get something ?

Q. Yes. Your clothes were in the wardrobe ?—*A.* I can't remember.
30 He took hold of me and asked for a kiss. Whether I had gone into the room or was at the door I cannot say.

Q. He said " kiss and make it up " ?—*A.* I can remember him saying " come and give me a kiss."

Q. He said, " Old girl this stupid business has gone on long enough " ?—*A.* He had said that very often. It seems strange for a man to say that who has beaten his wife.

Q. The question is did he say that ?—*A.* I can't remember but possibly he did.

Q. He put his arms around you and said, " kiss and make up " ?—
40 *A.* He took hold of me and bent me across the bed.

Q. Did he not put his arms around you ?—*A.* I have no recollection of his doing that.

Q. And you drew away ?—*A.* I could not draw away when he took hold of me.

Q. You attempted to do so ?—*A.* Possibly.

Q. He said, " I will not let you go until we have made it up " ?—
A. I don't remember the words.

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Evidence.

No. 7.

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Cross-exam-
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continued.

Q. Did he attempt to kiss you?—A. I can't remember that.

Q. And he clasped his arms around you?—A. Yes. He got me with a firm grip.

Q. He was facing you?—A. Yes.

Q. And David came in at this stage?—A. I think my daughter came in. I heard her and I called to her.

Q. Lang will swear that the daughter came in.

HIS HONOR: Did they come in before you called out?—A. Not to the best of my knowledge. I called out when I heard one of them.

Mr. BARTON: David came in and said "let my mother alone"?— 10

A. I tell you I don't remember whether David came in; I think it was Barbara.

Q. Lang said, "I am trying to make it up quietly"?—A. Yes. I believe he said something to the children later. They followed him into the room finally.

Q. And David approached and started to hit Lang?—A. I have never known my son strike or try to strike his father.

Q. You are proud of your son?—A. Yes.

Q. You and he live at 52 Darling Street?—A. We do.

Q. And the relations are amiable?—A. Very. 20

HIS HONOR: It is difficult to find a mother who is not proud of her son.

Mr. BARTON: The relations are more amicable than they were at No. 3 Balmerino Avenue?—A. No with my son and myself.

Mr. BARTON: It will be sworn that David approached and started to hit Lang, and that you said "Go away David." There was an affray and you and Lang had fallen over the bed?—A. I have no recollection of falling over the bed. My husband kept me on the bed from the beginning.

Q. You are definite that this was not the result of a physical action to get away from David?—A. Definitely.

HIS HONOR: Before you and your husband got into serious quarrels 30 how did he greet you?—A. We used to say goodbye and kiss each other.

Q. Did he put his arm around you and kiss you?—A. Yes, in the early years of our marriage.

Mr. BARTON: And you cried out when you fell against the bed, "Oh, my wound"?—A. I don't remember; it is possible.

Q. After some minutes Barbara came and waited for a short time?— A. I think Barbara was the one who came in first.

Q. She rushed over and attempted to gouge her father's eyes out. You know nothing of that?—A. No.

Q. That will be sworn. 40

HIS HONOR: You do not know whether it will be sworn. You have instructions. We shall find out what is sworn when the witness goes into the box. Counsel commonly say that but it is improper.

Mr. BARTON: Lang got himself clear and he bellowed "help." Did you hear that?—A. I didn't.

Q. Did it take place?—A. I don't think so.

Q. How big is your son?—A. He was a slight boy. My husband is a strong man as I know.

- Q. When your husband yelled " Help " Barbara and David fell over him ?—A. I have no recollection of Barbara or David falling over him. I remember they tried to pull him away and could not move him.
- Q. Did you hear Barbara say that you had had an operation ?—
A. Yes.
- Q. You had already said that. You said your wound was hurting ?—
A. I don't remember. Probably my wound was hurting because I was stretched in such a position.
- 10 Q. When Lang yelled " Help " and Barbara and David fell, Barbara went to the phone and asked for the police patrol ?—A. Yes.
- Q. And in two or three minutes the patrol arrived ?—A. Yes.
- Q. And the officer in charge said " What is the matter " ?—A. Yes.
- Q. Barbara said " Our father is mad " ?—A. I don't remember her words.
- Q. Did she say " His father shot himself " ?—A. I have no recollection.
- Q. Did she say " We have had him under three psychiatrists " ?—
A. I don't remember that.
- 20 Q. Did Lang say " I am glad to see you officer " ?—A. I don't remember, the exact words. I think he said " Good evening officer."
- Q. And the officer said " Take your hands off your wife " ?—A. The officer may have said first " Take your hands off " or he may have said " What is the trouble." I am not sure.
- Q. At this stage when the officer arrived Lang was leaning against the bed ?—A. To the best of my knowledge, he was still holding me with my arms behind my back. He was holding them together.
- Q. You had twisted yourself until you were at right angles ?—A. I don't remember the position like that but I know he still had me in a grip.
- 30 Q. But you don't know whether he was twisting your arms or holding your arms ?—A. I know he had hold of me and I could not get away.
- Q. The patrol officer told you all to go to bed ?—A. I don't remember his telling us to go to bed but I remember they told him to leave me alone.
- Q. You went upstairs ?—A. I slept with my daughter.
- HIS HONOR : Was there a mention of psychiatrists before the police ?
—A. Yes.
- Q. What was said ?—A. My husband said " I have had my wife under three psychiatrists." The detective said " Brother you are the one who should go to a psychiatrist."
- 40 Mr. BARTON : You are sure of that ?—A. Yes.
- Q. And you are sure Barbara did not say that about her father ?—
A. I am quite sure.
- Q. And that Barbara did not say " His father shot himself " ?—A. I have no recollection of my daughter saying that.
- Q. You went to bed ?—A. Yes.
- Q. Did you hear anything more that night ? Did you hear Barbara come down and abuse her father ?—A. I went straight up.
- Q. You knew Lang left that night ?—A. I believe he left later.

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HIS HONOR : You understand that you are at liberty to sit down if you want to?—A. I think I will.

Mr. BARTON : When did you make application to obtain a position with the Overseas Corporation?—A. I cannot remember. They wanted me to start soon after my interview.

HIS HONOR : Are you still with the Corporation?—A. No.

Mr. BARTON : It would be before the 14th?—A. The 14th was a Saturday. I cannot remember the exact date. I think it was a few days before I started.

Q. At this time before Lang returned home on the 13th August, you had affirmed that you would not live with him?—A. I had resolved that I would not live with him.

Q. There had been some correspondence between the two of you. You remember you wrote a letter which he received on the 8th August?—A. I don't remember the letter.

Q. Will you look at this document and say whether it is in your handwriting?—A. Yes, it is in my handwriting.

Q. He had been seeking to become reconciled at that stage?—A. He had been wanting me to live with him and come back.

Q. I put that letter in.

20

Exhibit " 17 "—Letter received on August 8th from Respondent.

Mr. BARTON : You were determined that you would not live with him again?—A. I was not quite determined. I realised that it was impossible to live with him again ; I could not.

Q. So he answered the letter on the 10th August?—A. I don't remember the date.

Q. Do you, Mr. Woolf, produce Document No. 1 in our notice to produce ?

Mr. WOOLF : It is one that we say we have not.

30

Mr. BARTON : Will you say whether you received this document?—A. I do not remember the letter at all.

Q. I tender that letter for identification at a later stage.

Exhibit " 18 "—Letter.

Mr. BARTON : Is it clear that intercourse took place but you would not live with your husband again?—A. I think that is a question very hard to answer. No one knows what they would do. I had gone back once, and had five years of misery as a result.

Q. If there had been no active intercourse you and he would have remained apart as you were?—A. Yes.

40

Q. You did not allege that your husband had deserted you prior to the 14th of August?—A. No. I cannot remember the date mentioned.

Q. You were asked for particulars for the petition?—A. Yes.

Q. The Respondent requested it on the 10th November, 1951, and you were asked the question in paragraph 2, and your answer was "It . . . ever since" ?—A. Yes.

Q. You made no allegation that he was guilty of desertion before the 14th of August, 1948 ?—A. No.

Q. When you and he were living apart ? This is the time prior to the return on the 12th of August, and you did not regard him as having deserted you ?—A. I felt some relief that he was not in the house. Generally I was too upset and disturbed.

10 Q. About the 11th he asked whether he could come back and live in the matrimonial home ?—A. Yes.

Q. This was communicated to you, and you said that he could come back "provided he leaves you alone" ?—A. What happened was: my solicitor rang and said my husband had seen him, and told him it had come to the ears of his employers that he was living apart from his wife, and they did not approve of that. I asked my solicitor whether that was true. He said "There are cases where the employer does not like the employee to live apart from his wife." I said "If that is the case I do not wish him to lose his job, and if he promises to leave me alone, all right." He made promises

20 to my solicitor.

Q. He was told he could go back if he lived apart from you ; you would be two separate people living two separate lives ?—A. Yes.

Q. You were to live apart ?—A. Yes.

Q. When he returned you did not provide him with any meals ; he was left to fend for himself, and you were independent ?—A. I was working from the Monday after that night.

Q. Before that you had decided that you would take a job ?—A. Yes.

30 Q. And you had decided in future to be in all respects as a single woman, as you understood it when he returned to the house the last sexual intercourse had been had between you ?—A. Yes.

HIS HONOR : You say that he promised to come back and leave you alone. Up to that point, apart from the quarrels, had there been any dispute over your intimate relationships ?—A. Not until he left the house.

Q. You are speaking of the incident of the 13th August ?—A. From his counsel's remarks it would appear that he had left home more than I realised.

Q. What I want to find out is this : when you say he came back on a promise to leave you alone, it was to leave you alone as a wife ?—A. Yes.

40 A. Yes.

Q. Up to that time had there been any quarrels as to your relations to him as a wife ?—A. Not until the beginning of the last period when he was coming into the house at intervals.

Q. When was it ?—A. It seems that it was earlier in June.

Q. Up to June, 1948, there had been no dispute under this heading ?—A. I had always done my duty as a wife.

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Q. From the beginning of June was there a dispute under this topic ?
A. I cannot remember.

Q. What is puzzling me is this : why the condition should be imposed if he came back to leave you alone unless there had been quarrelling ?—

A. The condition was imposed after the night of the 13th of August.

Q. It was a breach of the condition by the incident of the 13th of August ?—*A.* I am sorry. I really cannot remember the months ; they were terrible months.

Q. Suppose nothing had happened on the 13th August—had the marriage broken down before the 13th of August ?—*A.* Yes, it was breaking 10
down.

Q. What do you say was the cause ?—*A.* The cause was my husband's continued ill-treatment of me, and he dominated me.

Q. It was a kind of mental repression ?—*A.* Do you mean on my part ?

Q. No, on your husband's part. He was trying to dominate your life ?
A. Yes, in every way.

Q. In that time did he exercise any physical violence towards you ?—
A. Yes, on many occasions.

Q. How ?—*A.* He used to strike me with a ruler and hit me with his hands. 20

Q. That is the kind of action you refer to in the first affidavit ?—
A. Yes.

Q. Irrespective of anything that happened on the 13th August, had the actions of striking you with a ruler, and hitting you with his hands and the attempt to mentally dominate you brought about the breaking down of marriage life ?—*A.* Do you mean that we had ceased to be man and wife ?

Q. Suppose there had not been the incident of the 13th August—would you have thought his conduct made living with him intolerable, and you would have left him in any case ?—*A.* Yes. The incident served to confirm me. It made me realise I could not trust his word. 30

Q. Without that incident you think the marriage had broken down ?—
A. Yes.

Q. Would you have been firm in your resolution if you had left him on the 12th of August ?—*A.* It is hard for me to say.

Q. It is a hypothetical question ?—*A.* I felt that I could not live with him again, but then I had felt that once before.

Q. Then came the incident of the 13th, and it added indignity to the insults you had had before ?—*A.* Yes.

Mr. BARTON : If this had not happened on the 13th it seems clear the separation would have continued ?—*A.* Yes, unless my husband had 40 altered so much in his treatment of me that I could have believed him.

Q. Was it not prior to his return you regarded yourself as a single woman ? You were getting a job ? He would be there and you would be two separate people ?—*A.* Yes.

- Q. You did not provide him with any meals?—A. No.
- Q. In the evening you were going out?—A. Yes.
- Q. I suppose you did not tell him where you were going?—A. No.
- Q. You were living the life of a single person?—A. Yes.
- Q. Prior to this your sexual relations had been normal?—A. I think they had been normal. I did not discuss sexual relations with other people.
- HIS HONOR: Do you think we need investigate this?
- Mr. BARTON: He had been considerate to you?—A. No.
- 10 Q. In regard to sexual matters?—A. There had been times in which my husband had not shown consideration to me.
- HIS HONOR: I do not see how this will help me. She has indicated the class of act which made life intolerable for her. It is not relied on except for one incident. It seems no purpose is to be served by this line of questioning.
- Mr. BARTON: My client's story is so different from hers that I have to go into it.
- HIS HONOR: I have to rely largely on counsel, but it is a subject that I do not want investigated unless it is clearly relevant to the issue that I have to decide.
- 20 Mr. BARTON: The affidavit relies wholly and solely on acts. (*Reads*) "The particulars given . . . , as follows." We get the general act that he promised the solicitor something. There is the act, and then he returned to the matrimonial home.
- HIS HONOR: I have read that. How does that bear on the general sexual relations?
- Mr. BARTON: It is relevant to the repetition of this act.
- HIS HONOR: Meanwhile you could consider it.
- Tuesday, 16th September, 1952, at 2.15 p.m.
- Mr. BARTON: If it please your Honor, I do not know whether your
- 30 Honor can tell me if you have the copy before you of the first portion of yesterday's transcript.
- HIS HONOR: Apparently I have it.
- Mr. BARTON: I thank your Honor. There are a number of corrections which I think might be made in it—various corrections some of them of a trifling nature.
- HIS HONOR: If there are any of any importance they can be made.
- Mr. BARTON: If it please your Honor.
- HIS HONOR: At what pages do you desire the corrections made?
- Mr. BARTON: The first is on page 49 of the transcript. Your Honor
- 40 will notice these words about half-way down the page. "Well, on this occasion he said to you when are you coming home" the transcript then says—"my little girl." It should be "old girl."
- HIS HONOR: Yes—"old girl."
- Mr. BARTON: Then on page 51A and in the very last line of the page

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the transcript reads, "What about these words, 'Just stay where you are for a couple of hours and I will give you all the glory——' ". It should have been "all the gory details."

HIS HONOR: Yes, I think that is right.

Mr. BARTON: Then on page 52, about half-way down, there is a question "and you can have the place as you have everything else." That should read "as you have had everything else."

HIS HONOR: Do you agree with that, Mr. Woolf.

Mr. WOOLF: I would not dispute it, sir. I should think the alteration might be made. 10

Mr. BARTON: Then at page 54, your Honor, and also about half-way down the page the transcript goes on "Lang said 'Is that a new one?'" Now the words "Is that" are right, and then it should be "you, Uncle?"

HIS HONOR: "Is that you Uncle?" Yes.

Mr. BARTON: Next, on page 57, and about one-third of the way down there is this portion, "Did you hear him say this: 'Prior to this, although the Petitioner did not know it at the time, your Honor'" and then there is a blank or a number of dots in the transcript and those words do not appear anywhere else in the evidence and your Honor has not got a copy of the report of Mr. Woolf's opening address. 20

HIS HONOR: What do you suggest I do?

Mr. BARTON: I suggest, if your Honor pleases, that I should read out now what was said and so put it in evidence.

HIS HONOR: What do you say was said?

Mr. BARTON: The transcript reads—"Prior to this, although the Petitioner did not know it at the time, your Honor,"—

HIS HONOR: You apparently have a transcript of Mr. Woolf's address before you?

Mr. BARTON: Yes, your Honor, and this is on page 7 of his opening address. We have a transcript of this and we are willing to supply it, but whether your Honor wanted it or not I did not know. I do not know if your Honor wishes to have it. 30

HIS HONOR: Well, I do not see any particular need for it at present. How should it go on then?

Mr. BARTON: The transcript continues: ". . . and had no idea that such a thing was planned, the Respondent had said to a gentleman who will be called as a witness that 'the only way to deal with women is caveman stuff. That is all a woman understands. There will be the "Rape of Lucrece" ". That concludes that passage. Then at page 61 the same thing has happened. About two-thirds of the way down that page she was asked "Now, if you hear your Counsel say this 'It seems very strange that she actually omitted from her first affidavit' and then there is a blank. I will read that now if your Honor pleases so that it shall be recorded: "it seems very strange"—I am quoting now, your Honor, from the very bottom of page 4 of Mr. Woolf's opening address—"but she actually omitted from her first affidavit an incident of the utmost importance which occurred only 40

three weeks before the final separation and the incident was as set out in a further affidavit that their married life was drawing to a close pretty obviously although sexual intercourse had been continuing for the most part right through." In the Supreme Court of Victoria.

HIS HONOR : Instead of reading all this out, say that it is on page 4. Petitioner's Evidence.

Mr. BARTON : There is only a small portion left that requires to be read, if your Honor pleases. It continues " On this particular occasion after a period of days where there had not been intercourse he said he wanted a kiss, which, of course, she understood." Now the shorthand report has missed the end of that sentence. My own recollection, which I put to the witness yesterday, was this—" which she understood as a prelude to intercourse." No. 7. Jean Wauchope Lang (Petitioner).

HIS HONOR : Well, what does it matter, because the witness says, at the end, " I have no recollection " ? 16th September 1952.

Mr. BARTON : It probably does not matter. It was simply this, that I felt that what had been said should be recorded. That concludes the corrections that I desired to have made, if your Honor pleases.

HIS HONOR : Yes, very well.

JEAN WAUCHOPE LANG (already sworn).

Mr. BARTON : At what time of day do you say that this act commenced on the 13th of August ?—A. Some time I think between 8 o'clock and half-past 8 in the evening. It may have been between half-past 7 and half-past 8. I cannot say now. Cross-examination—continued.

Q. It may have been half-past 7 to half-past 8. During those two days he had been at home—the 12th and 13th—and you had not spoken to him ?—A. No.

HIS HONOR : That is, the previous two days, is it ?

Mr. BARTON : Yes, your Honor. The 13th and the 12th. This happened on the evening of the 13th. (*To Witness*): You were standing in the hall, were you not ?—A. Yes, I was.

Q. And you were all dressed up ?—A. Yes.

Q. You were going out somewhere, were you ?—A. Yes, I was.

Q. Do you remember where it was that you were going ?—A. Yes, I do.

Q. Where was it ?—A. I was going to see Mr. and Mrs. Halford.

Q. And he came out of the room and into the hall ?—A. Yes.

Q. And he put his arms around you ?—A. I would like you to continue if you would, please.

Q. Well, did he put his arms around you ?—A. I thought possibly you were going to put the wrong sequence. I do not remember at what stage it was, but at one stage he put his arms around me.

Q. Did he take you in his arms and kiss you ?—A. To the best of my remembrance, yes.

Q. And you said, " Oh no, not now, after your promise " ?—A. Words to that effect.

Q. Yes, and he let you go ?—A. No, I have no remembrance of his letting me go from any stage of his putting his arms around me.

Q. You mean, he kept his arms around you ?—A. I mean that he kept his arms around me.

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Q. And he said, "I have wakened up to you at last" ?—A. Yes, I think I can remember those words.

Q. "Go into the bedroom and take off your clothes" ?—A. No, that is not true.

Q. ". . . or I will tear them off" ?—A. My husband carried me into the bedroom forcibly. He did not say "Go into the bedroom."

Q. I see. You did not walk into the bedroom of your own free will ?—A. I did not walk into the bedroom of my own free will.

Q. Very well. How did he carry you into the bedroom ?—A. I cannot remember. I was carried forcibly.

Q. You say you cannot remember how he carried you. Did he sling you over his shoulder ?—A. No, he carried me as I have said.

Q. Well, you arrived in the bedroom and you took off your clothes ?—A. That is not quite an accurate description of what followed.

Q. Well, did you take off your clothes ?—A. My husband put me on the bed and held me down, keeping one hand over my mouth so that I could not call out, and then he said, "Take off your clothes or I will tear them off."

Q. He did not say, "Take off your clothes" as you were still in the hall ?—A. No, he did not.

Q. And you were undressing ?—A. I took off my outer clothes knowing 20 that if I did not—

Q. What do you mean by your outer clothes ?—A. I had a coat and skirt on which I took off because once he tore them off because I would not go to bed, and that was the only suit I possessed.

Q. What did you have on ?—A. A petticoat, a singlet of course—underwear—and shoes and stockings.

Q. It is quite untrue to suggest that you walked into the bedroom, is it ?—A. It is quite untrue.

Q. And it is also quite untrue to suggest that you then undressed ?

HIS HONOR : By that, Mr. Barton, you mean willingly, I suppose ?

Mr. BARTON : I do not know whether it was willingly. It may have been, pursuant to this that I have here.

The WITNESS : I did not willingly undress ; I took off my outer dress unwillingly and the Respondent then started to tear my underclothing.

Q. Was he not then getting undressed ?—A. No, not to my knowledge. He could not have been. He held me down.

Q. Well, you took off your outer things when he held you down, you say ?—A. He held me down by one hand which means, as I realised, as I took off one garment he removed the position of his hand. I was lying on the bed all that time and my husband partially pulled off the undergarments as 40 I started to take them off.

Q. At what stage did he undress ?—A. I cannot remember that.

HIS HONOR (*to Witness*) : Did he undress at all ?

Mr. BARTON : Did he undress ?—A. I think he did but I cannot remember what he did.

Q. He assisted you to take off your shoes ?—A. He pulled my shoes off.

Q. They were the type, I suppose, that you do just pull off ?—A. I am

trying to remember what sort of shoes I had on. I cannot remember whether they were shoes that you just pulled off. I think they must have been as I remember his pulling them off.

Q. And you left your singlet on?—A. I cannot remember that.

Q. And he said, "Take that off"?—A. It is quite possible. I cannot remember.

Q. And you said, "Oh no"?—A. I am certain that I would have said that if it had occurred.

10 Q. And he said, "Take it off" and he took hold of it and gave it a tug downwards?—A. I cannot remember the exact details of removing the singlet because on previous occasions he had torn up my underclothing.

Q. Do you say that you said anything about that in your affidavit?—A. I do not remember whether I did or not. I think I did mention it in one of my affidavits, that he ripped some clothing.

Mr. WOOLF: Corroborative evidence will be given, your Honor, as to clothing having been ripped during the course of the marriage.

Mr. BARTON: Yes, your Honor. In paragraph 2 of the supplementary affidavit there is reference to it. (*To Witness*): In paragraph 2 of your supplementary affidavit you say, "Once he ripped and tore a quantity of my
20 clothes." Is that this type of thing?—A. Yes.

Q. And that is the only occasion on which he did, I suppose?—A. I seem to have some recollection of his going to my wardrobe and taking out some of my garments and either tearing or threatening to tear them, or whether it was in conjunction with an occasion like that or not, I am sorry, I cannot remember.

Q. I suppose that had it happened more than once you would have put it in your affidavit?—A. I may not have done so because so many things happened in those last years.

30 Q. Now, when this singlet was being removed, how were you? Were you standing up?—A. I do not remember that.

Q. You were standing up, were you not? Do you remember what condition he was in—whether he was naked or had his clothes on?—A. I do not remember what condition he was in, whether he put on his night pyjamas or whether he did not. By that time I was far too terrified to know what he was doing. I only knew that I could not get out of the bedroom.

Q. Did he have the door locked?—A. No, he had the door closed. He stood in such a position that I could not get out and he threatened me if I moved.

40 Q. You have a clear recollection, then, of what position he was standing in?—A. No, I have not a clear recollection. I do not think any woman would in the circumstances in which I was placed.

Q. You say you saw him standing. Do you remember whether he had any clothes on?—A. No, I do not remember. I have told you that.

Q. What undergarments of yours did he tear off?—A. The petticoat first.

Q. How did he tear that?—A. He started to pull it.

Q. Down or up?—A. I do not remember whether it was down or up.

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Q. Well, he may have been just going to remove it?—A. It was not just the gentle action of removal, and it was done under protest.

Q. How do you mean, under protest?—A. He used threats of violence.

Q. What did he say?—A. There were the usual threats.

Q. Will you just tell his Honor what he said?—A. I cannot remember just what he said.

Q. They were the usual threats but you do not remember what they were?—A. They were the usual threats, the first words of which were "Do not move or I will smash your face in" or "I will smash you down," generally accompanied by language. I do not remember what he said on that occasion. 10

Q. So they might not have been threats of violence at all?—A. They were threats of the consequences if I moved; if he told me not to, meant threats of violence or forcible restraint. I do not know that there would be very much difference.

Q. And that is all you can tell his Honor in regard to these threats of violence on this occasion?—A. That is as far as I can say.

Q. Apart from that, you forget?—A. He then threatened to tear off my corsets which I took off myself.

Q. And what else?—A. Then he tore off my singlet, I have a vague recollection of that, or whether on that occasion that occurred or it was on another occasion I am confusing with the tearing off of my singlet—that is, on an earlier occasion—I do not remember, but he definitely told me my clothing would be torn off me. I took it off under protest and I not only protested but I prayed. 20

HIS HONOR: What did you say?—A. I said "You promised to leave me alone. You surely would not do a thing like this."

Mr. BARTON: You said that in the bedroom?—A. Yes, in the bedroom.

Q. Did he make any answer to that?—A. Not just at that time except that he said "Take off your clothing or I will tear it off."

Q. That was said in the hall?—A. And also in the bedroom. 30

Q. Are you quite definite that he carried you into the bedroom instead of your walking in?—A. The one thing I am not definite about is whether he threatened to tear off my clothing in the hall.

HIS HONOR (*to Witness*): That is ambiguous. Do you mean that he threatened in the hall to tear off your clothing or that he threatened to tear it off in the hall and not only in the bedroom, for instance?—A. I think he did not threaten to tear it off until he carried me into the bedroom.

Mr. BARTON: And at that stage you were undressed, after removing your corsets?—A. Yes.

Q. And he was undressed?—A. I do not remember.

Q. He then picked you up and carried you to the bed?—A. I was already on the bed. I might have stood up at the edge at one stage for a few seconds and then was thrown back to the bed again. But I cannot remember being up from the bed. 40

Q. And he then sat on the edge of the bed?—A. I cannot remember where he stood—the distance.

- Q. And he put you on top of him ?—A. I cannot remember that.
- Q. Well, at the commencement of intercourse you had your back to him ?—A. I cannot remember.
- HIS HONOR : It is really necessary to go into these details ?
- Mr. BARTON : My client's story is one thing.
- HIS HONOR : What does it matter about the details ? Whatever was done was unwillingly done, not one of a common act but carried out, as the witness has said, with violence and against her will. And I gather that your client contradicts that and says that it was not against her will but with her consent. Now, does it matter what the details of the act are ?
- 10 Mr. BARTON : It seems to me to matter to some extent, your Honor. My client does not suggest that it was done with her will but with her full physical co-operation, that she was abusing him the whole time while this was going on while she was physically co-operating very freely. It seems to me that in the end your Honor will have to attach the significance that is due to this act.
- HIS HONOR : Well, I am very loath to wallow in these details if they can be avoided.
- Mr. BARTON : I assure your Honor I have no desire to wallow in details.
- 20 HIS HONOR (*to Witness*) : Can you tell me whether at any stage of this act upon you you co-operated with your husband ?—A. No, your Honor, not at any stage.
- Mr. BARTON : Well, I think, sir, I shall have to go on and put the details. Otherwise my client will go into the box and put them and then it will be said that this is not an imperative comment by any means. It depends on the nature of the evidence—
- HIS HONOR : If there is any particular feature which you think shows that your client is right and she is wrong you are at liberty to put that.
- Mr. BARTON : If it please your Honor. (*To Witness*) : Well, he sat you on top of him ?—A. I have told you that I do not remember the position or the details of the act itself.
- 30 Q. And you said " Surely not without a contraceptive " ?—A. No, I did not. I do not remember.
- Q. And he said " No, I will do it that way " ?—A. I do not remember that, but I do remember that he used a contraceptive.
- HIS HONOR (*to Witness*) : He did in fact ?—A. Yes, your Honor.
- Mr. BARTON (*to Witness*) : He then got up and got the contraceptive ?—A. Yes.
- Q. And he put it in the position ?—A. Yes.
- 40 Q. And during the time that he was away getting the contraceptive you continued to sit on the edge of the bed ?—A. During that time I can remember that I tried to get out through the door and he turned round and got me and said " Get back to bed."
- Q. You are sure that that did not happen at an earlier stage in the evening ?—A. It happened the first time he left me there. I tried to escape then and later on to the best of my knowledge I tried to escape on every possible occasion.

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Q. And this connection commenced after he had got the contraceptive into position. Is that so?—A. Yes.

Q. And you became very excited during that act, did you not?—A. I would like you to enlarge a little bit on that—"very excited" because I think you may attach a significance to that. Do you mean that I just objected in an excited way?

Q. No, Mrs. Lang. You were kissing him?—A. No, that is not true.

Q. And you did not become excited physically or worked up by this act?—A. No.

Q. Well, do you remember saying such things as this: "You hate 10 everybody. There is nothing but hate in you"?—A. I quite probably did say that.

Q. "You are mad. Your father was mad"?—A. I do not remember saying that. I also may have said it.

Q. Yes. "He committed suicide"?—A. I do not remember saying that.

Q. You might have said it?—A. I might have said it.

Q. "Your uncle and all the Langs were mad"?—A. I am certain that I would not have said that.

Q. "Winnie Wall told me before we were married not to let you 20 dominate me"?—A. That is untrue. I did not make that statement.

Q. You did not?—A. I am quite certain, because that statement was never made to me by Dr. Wall.

Q. "My friends said that you would dominate me"?—A. That is also quite untrue.

Q. And you came to somewhat of a climax in this sexual act?—A. No, none whatever.

Q. You understand what I mean?—A. Yes, I understand what you mean perfectly.

Q. And it would be untrue to suggest that that was the climax of these 30 kinds of acts in your married life?—A. That is absolutely untrue. The whole act to me was one of horror and distaste.

Q. Now, after it was over, you and he later were together for some time on the bed?—A. My husband would not even allow me to move.

Q. And about a quarter to nine in the evening you ceased to have connection. He got up then and you came apart?—A. I do not remember. It seemed hours to me.

Q. He commenced to get dressed and he got dressed?—A. I do not remember whether he got dressed.

Q. And when he was dressed you began to get up and get your clothes? 40 —A. I could not find any clothes. As soon as I was able to get away from the bed I tried to find my clothes. He came back into the room and said, "Get back into bed."

Q. I will come to that, Mrs. Lang. Do not anticipate me. When he was dressed you started to get up and get your clothes?—A. I have told you I do not remember whether he was dressed but as soon as I was allowed to move I got up to try and find some clothing.

Q. And he removed your clothes from you?—A. Do you mean, in the beginning of the evening?

Q. No, Mrs. Lang, he was up and dressed after this act. You got out of bed to get your clothes?—A. And I found them and he removed them.

Q. Yes. You found them and he said, "Give them to me"—something like that?—A. I cannot remember. I can only remember not being able to find them because the place was in darkness. My husband had pulled out a fuse at some period.

Q. You say that the house was in darkness when you first got up after intercourse?—A. I do not remember when he pulled out the fuse, but when I sought to find my clothes the place was in darkness. There was no light
10 whatever. After, when the lights were on, I found that they were not very far from my side of the bed. I could not feel them in the dark.

Q. He said to you, "Now get into bed and go to sleep"?—A. I do not remember what he said.

Q. And he then left the room and went to read in the drawing room. Do you know that?—A. No.

HIS HONOR (*to Witness*): Do you remember whether he left the room?
—A. No, your Honor, I was not able to get out of the room.

Mr. BARTON (*to Witness*): Did he leave the room?—A. Not for more than a few seconds. I tried, as I told you, on several occasions and he
20 intercepted me each time.

Q. He was outside?—A. He may have been outside in the passage. I do not remember.

Q. Your whole memory is terribly hazy, Mrs. Lang?—A. I think it is possible. Naturally, after an experience like that my memory on some things is hazy. I can remember the main points, however.

Q. About 10.30 in the evening he put your clothes back into the bedroom?—A. I do not remember whether my clothes had been removed. I remember that when the lights were eventually put on I was able to find my clothes.

HIS HONOR (*to Witness*): Did you go to bed at that time?—A. I do not quite know what you mean, sir. I was in the bed all that time.

Q. In the bed?—A. Yes, your Honor. Every time I had got up to get dressed—

Q. I did not appreciate that you had got into bed. I thought your description was that you were on the bed.

Mr. BARTON (*to Witness*): Did he say anything at the conclusion of the act of intercourse?—A. Yes.

Q. What did he say?—A. He told me that he was going to just use me for that purpose whenever he wanted to and as much as he wanted to.

Q. What were his exact words?—A. To the best of my remembrance,
40 those were his exact words. There might have been a lot more words but those are standing out as the important words.

Q. You said in your affidavit, you swore, that he said "I will do it whenever I like and as often as I like and that is what I am going to use you for"?—A. I think that is summed up in what I have said.

Q. That sums it up but those were not his actual words?—A. Well, that is the meaning and as far as I remember, those were his words. I know

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that was the meaning of what he said. Those words were used with others, probably.

Q. And about a quarter to 11 that night your son and Miss McDonald came?—A. I think the hour was later than that because I think they had been to the pictures. I am not sure about that. At any rate, it would be some time between a quarter to and half past 11.

Q. And you spoke to them?—A. Before they came home, to the best of my knowledge my husband went to the front door and I heard him speaking to someone. I then found that the lights went on. The fuse had evidently been put on, and I found my clothing and I became practically 10 dressed. Then I went to the front door and he was not at that stage speaking to my son or Miss McDonald. He was speaking to some men whom I found to be detectives.

Q. But your son and Miss McDonald had come home before then?—A. Not to my knowledge.

HIS HONOR (*to Witness*): Was your daughter with them or was it your son and Miss McDonald?—A. My daughter was away on her honeymoon.

HIS HONOR: Very well.

Mr. BARTON (*to Witness*): You say that your son and Miss McDonald had not come home?—A. If they came home I did not see them first—not 20 until I was able to get on some clothing and go to the front door.

Q. Did David say to Lang in your hearing, shortly after arriving home, "You want to calm your sexual impulses"?—A. I have no idea.

HIS HONOR: Did David say to whom?

Mr. BARTON: To the husband, your Honor. "You want to calm your sexual impulses." (*To Witness*): You told David what had gone on?—A. I do not remember. I was not fully dressed and I gathered from what I remember that people just knew what had happened.

Q. And it was at that stage after David had said that to his father, that the Toorak police called?—A. Oh, no, that is not what happened at all. 30

Q. And the Toorak police came and endeavoured to make the peace?—A. No, that is not what I can remember at all of what subsequently took place.

Q. And after they left, David and Miss McDonald came again, abusing Lang. Did you hear anything of that?—A. I remember that my son told his father that he had done a terrible thing in not admitting him to the house when he came home, and I found out, both when the detectives were there and after, what had happened. My husband had rung up Russell Street before.

Q. We do not want to know this?—A. You are asking me questions 40 about what is already in my affidavit and I am answering further questions. What you have stated there is completely incorrect.

Q. This is Mr. Lang's story that I am telling you?—A. Yes, and I just want to tell you that it is completely incorrect.

Q. And the police were then called again—the Russell Street police on that occasion—and they were called by Lang?—A. I am not trying to tell you that, but the first men there when I went to the front door after getting

my clothes on, I understood from the conversation that my husband thought they were men from Russell Street whom he had called.

Q. Well, what was said on that occasion? Do you remember that?—

A. I heard some mention of his son and of being frightened of his son.

Q. And then Lang, after the police had been called on the second occasion, packed up and got out of the house?—*A.* Yes.

Q. And when he left, he left this behind, didn't he? (*Document handed to Witness*)—*A.* I have no recollection of that.

Q. Was that propped up in a position on the piano?—*A.* No, I tell you I have no recollection of that.

Mr. BARTON: If your Honor pleases, I tender that for identification later.

Exhibit "19"—(For identification).

Mr. BARTON (*to Witness*): He returned to the house next morning, did he not?—*A.* I do not remember that.

Q. You had never told Lang that he could not have intercourse with you, had you?—*A.* I had never denied him intercourse.

Q. Prior to that occasion you never told him he could not have intercourse with you in future?—*A.* To the best of my knowledge the only intimation he had was after I had consented to him coming back to the house.

Q. You regarded that as a complete break in the marriage so that there would not be intercourse anyway?—*A.* Yes.

Q. And you did not feel that he intended to bring about any rupture in the marriage by this act, did you?—*A.* The marriage was already ruptured. I had no feeling like that.

Q. I see. You did not believe that he would repeat this act, I suppose, did you?—*A.* I had no confidence whatsoever.

Q. You thought he might?—*A.* Yes.

Q. What did you base that on?

HIS HONOR: I have some evidence. He said "I will use you for this purpose as often as I want to." She has already given evidence of that. She says that. That is some evidence. (*To Witness*): Was it on that statement that you based the belief that he might repeat the act?—*A.* It was mainly on that statement, your Honor.

Mr. BARTON (*to Witness*): What else did you base it on?—*A.* On my general feeling of mistrust towards my husband, his broken promises over five years.

Q. And your health suffered, did it, sometime in the course, of 1948?—

A. As I have already remarked, towards the end I felt continually ill and completely exhausted.

Q. Did you go and see a doctor?—*A.* Yes, I went to a doctor.

Q. Are you calling him to give evidence?—*A.* No.

Q. What was the name of the doctor?—*A.* I went to Doctor Parrington.

Q. Dr. Parrington, of course, had been brought to the house originally

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by your husband?—*A.* Dr. Parrington, to the best of my knowledge, had not been brought to the house. He had asked if he could come and try and help us.

Q. Your husband consulted him?—*A.* Yes, and I went to him about that time because my children said—my husband insisted on it and perhaps it would keep the peace if I did. It was not because I was ill although I felt very exhausted and ill at that time. I did not go to any doctor just for the feeling of exhaustion.

Q. I see. When did you first get this general exhaustion?—*A.* Well, I had a feeling of exhaustion growing for some years, but for the last two months I had it continually.

Mr. BARTON: How do you tie that up with anything that Lang did?— 10

A. For one thing, the lack of sleep, the general atmosphere of misery and unhappiness in the home, domination and lack of freedom, sheer misery. I cannot put it any other way.

Q. Your health had not been too good, had it, over the years, from about 1940 onwards?—*A.* For some years I had gall bladder attacks, but in between those, I would not say my health had been bad.

Q. Did you get migraine in 1948?—*A.* I had had migraines at intervals ever since I was a child, but I only got them occasionally.

Q. And when your husband was at the war, you were worried about him and got migraines?—*A.* I remember getting the gall bladder attacks, 20 and a type of migraine at times.

Q. And sexual intercourse, I suppose, presented no danger to your health?—*A.* No, not to my knowledge.

Q. Were you in Court when your Counsel opened the case?—*A.* Yes.

Q. Do you remember him saying this, it is on page 6, about two paragraphs down, "By this time their married life is drawing to a close . . . and she will have to leave him"?—*A.* I remember that.

Q. And that was the only warning that Lang ever had?—*A.* That is entirely untrue. I have stated in my affidavit that ever since my return from my first separation, I told him from time to time that if he did not 30 improve in his behaviour to me, I would leave him, and I think that his leaving the house is the same thing as my leaving him. It meant that I would not and could not live with him.

Q. Of course, you threatened to go to his General Manager on two occasions?—*A.* Yes, I do not remember whether it was on one or two occasions but I remember threatening that.

Q. And on one of those two occasions, he immediately left the house?—*A.* Yes.

Q. And on the other occasion, he said, "Go to my General Manager, by all means, and tell him"?—*A.* I do not remember that. 40

Q. He did leave the house on one of the two occasions?—*A.* I do not remember the other occasion, that may have taken place.

Q. And the occasion he left the house, was the 2nd September?
—*A.* I do not remember the date.

Q. Could it have been the 2nd September, 1948?—*A.* No, I do not think so.

Q. You did tell him on the 2nd September, that unless he left the house, you would go to his General Manager, and he thereupon got out of the house mighty quick?—*A.* To the best of my knowledge, my husband left the house on the 14th August, and he came back several times, while Mr. and Mrs. Howson (?) were there in the house.

Q. Did you on the 2nd September, say to your husband—that was after he had been back—you will remember yesterday I said his goods were stored out on the verandah on the 2nd September?—*A.* Yes, but I do not remember the date you mentioned.

10 *Q.* You said on the 2nd September, “If you do not leave the house, I “will go to your General Manager,” and he left very swiftly and without saying anything?—*A.* I definitely do not remember that. The occasion I remember was before August 13th, when I said if he did not go, because it was after that he got in touch with Mr. Vroland said it had come to the ears of his firm and they did not like an employee living apart from his wife, and I was asked then to let him come back.

Q. So it was before the end of August that this was said. Now I put it to you that at the end of May you said to him, “I will go to your General “Manager about you, and get you sacked.”—*A.* No, I have no recollection
20 of that.

Q. And he said, “Go to my General Manager by all means and tell him “how you yourself have behaved”—*A.* But I think that is the statement you have just said I made in September.

Q. No, in September he did not reply, he just left.—*A.* The occasion I can remember is the one I have already stated.

Q. And he was told by Mr. Vroland that you could not continue to live with him?—*A.* Yes.

Q. And on what other occasion was he told that?—*A.* Do you mean by myself or an outsider?

30 *Q.* By yourself or an outsider?—*A.* I told him on many occasions that I would not continue living with him if he treated me the way he was doing.

Q. About the beginning of May, you had said, “If you touch me again, “I will divorce you”?—*A.* Yes, I had told him that if I left him again, it would be for good and I would endeavour to obtain a divorce.

Q. If you touch me again I will divorce you?—*A.* Yes.

Q. And that was in the heat of some quarrel that was going on?—*A.* I do not know whether it would be quite correct to call it a quarrel. I do not remember the occasion, if it was a quarrel, it was a one-sided quarrel.

40 *Q.* And he said to that, “You keep your tongue quiet, and you won’t “be touched, it rests entirely with you”?—*A.* When I first came back to my husband after the first separation—

Q. Would you just tell us whether you said that?—*A.* I remember him saying that but not at that time, that was said some years before.

Q. He did not say that early in May?—*A.* I cannot remember him saying that early in May.

Q. And you are not able to give us any more precise details as to these occasions on which you told him that you would divorce him or you would

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not live with him if he continued?—*A.* Well, I have already told you several times that on many occasions I told my husband that.

Q. Are you able to give us the occasions, your husband will deny this. He said at the beginning of May you told him if he touched you again, you would divorce him?—*A.* Within three weeks of my return after I left him for the first time in 1943, my husband continued his abusive behaviour, keeping me awake at night, threatening to strike me, and I told him that if he did not improve, I would have to leave him, and that the next time it would be for good.

Q. Did you tell him that any time close to 1948?—*A.* I told him that at times right through from the period of my return, until 1948. 10

Q. You are not able to be any more precise than that?—*A.* No, only that it was a rather frequent remark.

Q. The first violence used in this house, Mrs. Lang, was in the year 1934, was not it, or the beginning of 1935?—*A.* Yes, I think it was about that time.

HIS HONOR: Is that relied on in this case?

Mr. BARTON: It is just put sir to the general background, which is set out in the affidavit. The wife has said that the first 14 years of the marriage were happy. 20

HIS HONOR: The first ten years.

Mr. BARTON: And I am putting it to her, that there was some violence used even in 1934.—*A.* That was ten years after.

Q. You were living in Lithgow Avenue, Caulfield, at that time, were not you?—*A.* Yes.

Q. And on one Friday night, you were going out somewhere, and you drove to A. B. Thomson's grocery shop?—*A.* I cannot remember that.

HIS HONOR: We will be here endlessly if we investigate every year. Certain things are set out in her affidavit and her further particulars, as to what she relies upon for desertion, beyond that I think we are only 30
wasting time.

Mr. BARTON: Our story is that this marriage had been pretty brutal long before 1948.

HIS HONOR: Brutal on your client's part?

Mr. BARTON: Not merely on our client's part but on the part of the Petitioner. This was the type of house where everybody hit everybody else generally.

HIS HONOR: I am not going to have the Court's time taken up by investigating incidents so long ago which are not relied upon in the Petitioner's petition. It is not necessary to put every allegation your 40
client is going to make to the other side, for admission or contradiction.

Mr. BARTON: No sir, I agree, but this is an occasion when we say the wife struck her husband across the face.

HIS HONOR: I would like to ask you a general question. Was there a great deal of violence between you and your husband in the house?—*A.* Not for the first ten years.

Q. After the first ten years, was there a good deal of violence?—

A. My husband struck me and repeated that, but not at such frequent intervals.

Q. Did you strike him in return ?—A. No, your Honor.

Q. Did you ever strike him in return during the marriage ?—A. I may have tried to in defending myself.

Mr. BARTON : On this occasion in 1934, you went into a shop, you made some purchases, came out and began window shopping ?—A. No, I have no idea of the occasion.

10 Q. And Lang put his head out of the car and said, " Come on old girl, " or we will be late " ?—A. I have told you, I have no recollection.

Q. And you came over to the car and in front of several people, slapped him across the face ?—A. I deny that completely.

Q. That will be sworn as the first violence. Now you and your husband went to Africa in 1935 ?—A. I do not remember the exact year.

Q. You came back about 1937 or 1936 ?—A. 1936 I think.

Q. And there were great troubles immediately you got back ?—A. I came back without my husband.

20 Q. He stayed six months longer than you did, and he had lost financially very heavily on that trip had not he ?—A. I really could not tell you whether he lost very heavily or not.

Q. And in 1937 there was a significant conversation, in October of that year, when he told you that in the past you had run their affairs, and that the Lang affairs were at that time in a mess and in future he was going to run them ?—A. I do not remember when he made that actual statement.

HIS HONOR : Was it made at any time ?—A. Yes, it was made.

Q. Was it a fact that up to the time of making that statement, you had managed the family accounts ?—A. No, your Honor.

30 Q. Was there any difference in the control of the accounts after that conversation from what there was before it ?—A. The only difference was that my husband kept me short of money, but he had been tending that way for some time before we ever went to Africa.

Mr. BARTON : And he also told you that the children must be corrected, as they were being brought up like larrikins ?—A. My husband made that statement on many occasions.

Q. And did he tell you in future, if you would not correct them, he would ?—A. I do not remember him making that particular statement, I think it is quite likely.

40 Q. Now it was shortly after this that he used the one and only act of violence towards you which took place on the 4th August ?—A. That is not true.

Q. One Friday night you were at Brumby's grocery shop on the south east corner of Orrong Road and High Street, there had been a row about something, you came out of the shop with parcels and began to walk back to look in the window, he was sitting in the car and said, " Oh come on " ?—A. You have already said this.

Q. This is the incident which is alleged to have occurred in 1937. Do you remember it ?—A. No I have no recollection of it.

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Q. In front of a number of people and in a loud voice, you said, "Oh, you beast, I am going home without you" ?—*A.* I do not think I said anything of the sort.

Q. And you began to walk towards home. He got out of the car and intercepted you. Do you remember this ?—*A.* No I do not remember it.

Q. Well, in any case, he said to you, "Look, if you ever speak to me "in public like that again, I will hit you" ?—*A.* No, I have no recollection of that.

Q. And you said, "You low beast" ?—*A.* No I deny that.

Q. You were sitting in the car and he gave you a bump with his elbow on the shoulder ?—*A.* I have no recollection of the events you are describing. 10

Q. And you clawed him—

HIS HONOR : That is a bit awkward—with his elbow to hit her on the shoulder. Are they sitting side by side ? Do not you think it is rather an acrobatic feat to hit her shoulder with his elbow ?

Mr. BARTON : It was presumably on her arm near her shoulder. And you clawed at his face with both hands ?—*A.* I deny this entirely.

Q. In any case, you got home and he got his carpet slipper ?—*A.* The first occasion in which I can remember my husband using violence, was he used a ruler or a stick on me. 20

Q. Well he is going to say the first occasion was this time, and you were in the lounge and he said you have been asking for this for some time, and now you are going to get it. You have done this sort of thing before, and I am not going to put up with it any longer ?—*A.* I remember him making a statement to that effect.

Q. Then you began to abuse him and he took hold of you, sat down on a chair and put you across his knee ?—*A.* Well, I do not remember anything like that.

HIS HONOR : He is not likely to impress me with that class of conduct.

Mr. BARTON : I quite agree sir. But he does admit that this house was a pretty horrible place to live in. Now after he came back from the war, there were great arguments over the children were not there ?—*A.* There were arguments over the children before my husband went to the war. 30

Q. Before and after the war ?—*A.* Yes.

Q. And they were one of the most fruitful sources of conflict over the years ?—*A.* No I do not think after his return from the war . . .

Q. There were frequent arguments over the children ?—*A.* Yes, there were frequent arguments.

Q. He objected to the way you were bringing them up ?—*A.* Yes. 40

Q. And you objected to the way he wanted to bring them up ?—*A.* Yes, definitely.

Q. You took the view that no violence should ever be used on a child ?—*A.* No violence ? No, I did not take that view. I thought a decent smack, administered not in temper was quite all right. I had done it myself, but violent smacking when a parent was in a temper, I never approved of, I hated it.

Q. And is not it a fact that you regarded all smacking of children as being a rather German characteristic?—A. Not unless it was accomplished in a brutal fashion.

Q. You have often called your husband a Hun?—A. Not often. That is entirely untrue. I told my husband that his behaviour towards me when he was particularly violent reminded me of a German, and he was trying to make our home like a concentration camp.

Q. You knew he was of German descent?—A. Yes, I knew that.

10 Q. And that would hurt him very much?—A. He had hurt me in every conceivable way.

Q. You say you were hit with a ruler on one occasion?—A. On more than one occasion.

Q. And that was the ruler which he used for correcting David was not it?—A. I do not remember that.

Q. What occasion do you say you were hit?—A. I could not remember, there are so many times I received a thrashing, that I cannot remember one particular occasion.

20 Q. What about this whip?—A. That was a whip that my husband brought after he returned from the war. He came home and said, I have got a whip and I will show you who is master in this house, and you will have a hit every day. Now lay down across the bed and I will thrash you.

Mr. BARTON: I want to put the true story.

HIS HONOR: You have no right to say that.

Mr. BARTON: What I suggest is the true story. On Christmas Day, 1944, was that about the time of the whipping?—A. I do not remember.

Q. On Christmas morning, you and he were staying at Windermere, a guest house near Yarra Glen, that was the occasion when the whip was bought?—A. No, the whip was bought at Balmerino Avenue.

Q. Not at Windermere?—A. No, that is not true.

30 Q. And he took a riding whip out of his suit case, threw it on the bed, and said, this is the Christmas present you deserve?—A. No, that is not true. I do not remember that. I remember him bringing the whip into the bedroom at 3 Balmerino Avenue.

Q. And this question of the book which was thrown at you. Do you remember that?—A. Yes, I remember. He threw a book at me whilst I was asleep.

Q. He will say you were fully dressed and walking about in the bedroom?—A. I was asleep.

40 Q. And you were taunting your husband about his German ancestry? —A. No that is not true.

Q. He told you to be quiet several times?—A. No that is not true.

Q. Then in desperation, he picked up a book called, "Ships of the British Empire"?—A. I do not remember what the book was. The book was thrown at me whilst I was asleep. I woke up and found the book at my face, I picked it up and felt my lip, which was bleeding.

Q. So you do not know whether your husband had anything to do with it?—A. My husband was in the room, perhaps the fairies did it.

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Q. It was not until 1948 that your sleep was ever disturbed?—
A. That is entirely untrue.

Q. He had been restless for well before the war?—A. Yes.

Q. And he was in the habit of waking up and he would read and he
had one of those reading lamps which fixes a very small beam of light on
the book?—A. That is so.

Q. And it was not until 1948 that you were ever disturbed?—

A. I was disturbed for years. I could only sleep with my hand held in
this position over my face and I still sleep like that.

Q. Did you complain to him about this?—A. I asked him quietly 10
if he could read in another room, I could not sleep.

HIS HONOR: What was the purpose of putting your hand there?—

A. To try and keep the light away. I cannot sleep with the light on in
a room.

Mr. BARTON: In 1948 he would be in bed reading, you would wake
up and complain that he had woken you up?—A. That is not true.

Q. Well what would happen?—A. I think I have told you very fully,
from the time of my return in 1943, my husband would wake up himself.
He would go to bed perhaps at 9 and sleep to 12 or 1. He would then
wake up and start shouting at me and screaming and sometimes from 20
12 to 2 or 3 even, he would not stop screaming and using filthy language,
accusing me of everything.

Q. Were the children ever wakened up?—A. Often.

Q. Did they ever come down to see what was wrong?—A. Yes, of
course they did.

HIS HONOR: They were sleeping upstairs?—A. Yes.

Q. And your bedroom is downstairs?—A. Yes.

Mr. BARTON: On how many occasions did they come downstairs?—
A. I could not tell you.

Q. In 1948, David did on a couple of occasions yell out, "Can't you 30
"let me get to sleep"?—A. That is quite possible.

Q. They were the only two occasions?—A. That is not so. I have
often sent my children back to bed when they have come to the door of
the bedroom.

Q. This was in your husband's presence?—A. Yes.

Q. What was he shouting at?—A. A list of all my sins of omission
and commission, and of my failings, and the fact that he had not amassed
the fortune owing to my failings, and the fact that I did not support him
against the fools he was up against, that was the most frequent complaint.

Q. But those complaints about people he was working with, they 40
were before the war?—A. Before, during and after the war.

Q. Did he ever complain about anybody in his present position?—
A. I do not know who he is associated with now, but if he is still with
Dunlop's, he complained a lot at first.

Mr. BARTON: Do you remember a very severe row in 1948, in the early
part of 1948, probably January, or perhaps in December, 1947? On
that occasion you and he were in the bedroom.

- Mr. WOOLF : I do not know whether the witness would like to sit down. In the
 HIS HONOR : She has general permission to sit down when she wishes. Supreme
 Mr. BARTON : Early in 1948 he said something about the children. He Court of
 said " They are growing up to ask that " ?—A. I remember him Victoria.
 asking that. Petitioner's
 Q. He said " We have years of wrong treatment to overcome " ?— Evidence.
 A. I think he might have said that. I would not deny it. I don't remember
 the exact words. No. 7.
 Q. Did he not say " Let us get together " ?—A. I don't remember him Jean
 10 saying that in that tone 1948. Wauchope
 Q. You said " You are a beast and a sadist " ?—A. It is possible that Lang
 I did say that. I have told him that he is a sadist. (Petitioner).
 Q. He said " Don't start this business over again " ?—A. No. 16th
 Q. You put your hand over your face like this ?—A. I don't remember September
 that at all. I don't know why I would do that. 1952.
 Q. On occasions you have done that and leaned forward and hit him Cross-exam-
 on the nose ?—A. No. Perhaps it would have been a good idea if I had ination—
 done so. continued.
 Q. You never did ?—A. No.
 20 Q. He said " Put your hand down " ?—A. I can remember my husband
 saying " Put your hands down " when I had my face covered to protect my
 face from his blows.
 Q. But you have hit him suddenly and swiftly on the nose ?—
 A. Never.
 Q. On this occasion you dropped your hands and flung yourself on the
 back striking him in the face ?
 HIS HONOR : With her feet ?
 Mr. BARTON : Yes.—A. I don't remember that.
 Q. He said " This is the limit " ?—A. I don't remember that.
 30 HIS HONOR : I suppose you had done these things ?—A. Unfortunately
 no.
 Mr. BARTON : Did he take up a military cane ?—A. I remember his
 picking up a military cane early after his return from the war.
 Q. In 1948 ?—A. I don't remember in 1948. I burnt his cane.
 Q. On this occasion he put you across his knee and hit you ?—A. I
 have no recollection of that act of violence in 1948.
 Q. In 1948 ?—A. I have no recollection of it.
 Q. You have told his Honor something about a visit to Dr. Ellery ?—
 A. Yes.
 40 Q. Your story was that your husband had been threatening to put you
 away ?—A. Yes.
 Q. And he demanded that the children should see Dr. Ellery ?—
 A. That is so.
 Q. You went there and told the doctor that your husband had been
 threatening to put you away ?—A. No.
 Q. And Dr. Ellery said " Don't worry. He will not be able to do that,"
 or words to that effect ?—A. That is so.

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Q. And the children were with you at the time?—*A.* I have already told you Dr. Ellery examined the children, and I have told you what he said.

Q. You realise that we cannot call Dr. Ellery to give evidence unless you consent?—*A.* I didn't know that.

Q. Do you realise that?—*A.* I have no knowledge of the position.

Q. You must give your consent before we are enabled to call the doctor to give evidence here?—*A.* If you say that is so I believe that.

Q. Are you prepared to give that consent?—*A.* It is a matter that I will discuss with my legal adviser first. 10

HIS HONOR: Think about it. No doubt you will be asked again to-morrow. A doctor cannot give evidence about a patient's condition or of what a patient has told him except with the patient's consent. Counsel is asking whether you will consent to the doctor giving evidence of his interview with you, of what he saw, and of what you told him. You can think about it?—*A.* Yes, your Honor.

Mr. BARTON: You remember the occasion when some earth was thrown on the kitchen floor?—*A.* Yes.

Q. Incidentally, before I go to that, after you had seen Dr. Ellery did you see your husband outside his rooms?—*A.* I don't remember that. 20

Q. Did Lang ask you what he said?—*A.* I have no recollection of what was said.

Q. Do you think he might have said "You are vain"?—*A.* I think that is extremely unlikely.

Q. Now come to the incident in the kitchen.

HIS HONOR: That is paragraph 12 of the affidavit?

Mr. BARTON: I think it is. For some time before the incident you had been constantly complaining about tiredness?—*A.* Yes. I had a full-time job.

Q. You had been complaining?—*A.* Yes, definitely. 30

Q. And you had been reluctant on that account to have sexual intercourse?—*A.* I don't remember that.

Q. On the evening in question Lang went out about 7 o'clock?—*A.* I don't know whether he was home for dinner. My recollection was he was working back and was not home for dinner.

Q. He said "Leave the dishes and go to bed"?—*A.* He did not say that.

Q. He was back about 11.30?—*A.* I thought it was slightly earlier; it might have been.

Q. When he came in he saw that you were washing up and he said "If you want work you can have it. I told you to go to bed at 8 o'clock"?—*A.* I have no recollection of that; in fact I would go so far as to say I really think it is definitely untrue. 40

Q. He went and got the rubbish tin and threw the contents on the floor?—*A.* I don't remember. I think it was the rubbish tin but I have forgotten.

Mr. BARTON: Did he also throw down some rice?—*A.* It is fully set out in my affidavit.

- Q. Will you answer the question? Did he throw down some rice?—
 A. He did. In the Supreme Court of Victoria.
- Q. He pushed over the ash bin and threw its contents on the floor?—
 A. He did.
- Q. He did not throw any earth down?—A. He did. Petitioner's Evidence.
- Q. Where did he get it?—A. There was a pile of builders' rubble outside the garage door. It might have been from a garden patch.
- Q. When he finished he said this "Now you will have some work. This will teach you to go to bed when you are told"?—A. I left before
 10 my husband that evening while he was outside collecting further rubbish. Lang (Petitioner).
 His HONOR: Do you agree with the statement put by Counsel that he said "This will teach you to go to bed when you are told"?—A. No, your Honor. 16th September 1952.
- Mr. BARTON: He did not hit you?—A. Yes. He got me in a corner in the kitchen before he had finished throwing rubbish over the floor and hit me on the face. Cross-examination—
continued.
- Q. Which corner?—A. In the corner nearest to the laundry. I am not good at directions.
- Q. He hit you on the face?—A. Over the cheeks. I remember that.
 20 He hit me with his open hand.
- Q. It was not a punch?—A. No.
- Q. It was not hard?—A. I don't think it was particularly hard.
- Q. Do you remember an incident in 1944 when Mr. Cowie was at dinner on a Sunday night?—A. He was at dinner at our place on a number of occasions. I don't remember any particular night.
- Q. Do you remember this occasion when he and Mr. Jowett were there?—A. We had friends named Jowett. I don't know whether they were there on the same night as Mr. Cowie.
- Q. You were in the kitchen washing up?—A. I don't remember.
 30 Q. On that occasion Lang said to David that this was a serious conversation "You know nothing about the matter, children should be seen and not heard"?—A. I have no recollection either of the people being there or of the conversation.
- Mr. BARTON: You came to the door and said "David is entitled to have his say"?—A. I don't remember that at all.
- Q. Prior to his going to the war had you attempted to commit suicide?—
 A. On one occasion my husband had been knocking me about and I was in tears, and I got up and shook some Aspros into a glass—half a bottle—and took them.
- 40 Q. You attempted to commit suicide?—A. I don't know whether it was to get sleep.
- Q. You were always threatening to throw yourself into the river?—
 A. That is not true.
- Q. You never made the threat?—A. No I would not.
- His HONOR: Is this put to show the result of your client's conduct towards her?
- Mr. BARTON: It is put to show what went on. In this case we say

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that things were bad but there are two sides to the story. We had a terribly difficult woman to live with.

HIS HONOR: You may have had, but I do not see the point of this evidence. It does not arise out of her case. I don't know how you put it as justifying any action of your client.

Mr. BARTON: It is put mainly to credit.

HIS HONOR: That is another matter.

Mr. BARTON: Do you recall in 1946 when Barbara threatened her father with a rifle?—A. No, I remember when she was younger.

HIS HONOR: What is the use of asking a thing like that? How does that go to justify his conduct or to show anything which the Petitioner relies on? 10

Mr. BARTON: The Petitioner was present when the incident happened, and she did nothing.

HIS HONOR: How does that bear on any issue that I have to try in the case? You cannot rove over the whole field of everything that takes place during married life. If it is to be made relevant to something that I have to determine that is all right.

Mr. BARTON: I must confess that in normal cases I would say "No," but in these divorce cases affidavits are put in, and the whole married life is put on view. 20

HIS HONOR: But it does not follow that you can take up the Court's time with incidents that are trivial. If they lead to some act on the Petitioner's part and you can make it relevant yes, but if not, then it seems that I have nothing to do with it.

Mr. BARTON: I think I have been led into the position by the affidavits. The contents of the affidavits are a series of single instances. I suppose in this case the main portion of the affidavit is that about 1948. (*To Witness*): You were rather given to flinging things around the house yourself, were you not?—A. I don't know what you mean. 30

Q. You threw things about?—A. No.

Q. You remember a torch belonging to your husband?—A. No.

Q. You did not throw it down and damage it?—A. It is possible I did. If at any time he had been thrashing me—it happened on many occasions—it is possible that I did. I taunted him on his German ancestry. I told him he was a sadist, and it is possible I did throw things at him.

Q. Do you set yourself up as a meek and mild lady?—A. No, definitely not; I am just a human being.

Q. There was an occasion when you and your husband were very happy. It was after Dunlops had threatened to dismiss him?—A. I remember the occasion. 40

Q. He came and told you that he would look for another job?—A. Yes.

Q. You said that should not happen?—A. No. I remember that I said if he could not get another job I would be willing that we let our place and go and live in a little place in the country.

Mr. BARTON: You were happy?—A. I would not say that I was happy. I tried to help him.

Q. You have made allegations about your husband putting your head and shoulders under the shower. When did they take place?—
A. I cannot remember the date. I can only say that they took place.

Q. What led up to them?—A. I cannot remember what led up to them.

HIS HONOR: Was that before you left in 1948?—A. It was over the period, I think. There was one occasion not many months before I left, but I cannot remember the exact date.

Mr. BARTON: You say that your husband has been very mean to you financially?—A. I stated that after the depression years he complained bitterly that his salary as a lecturer received a cut, and I offered to manage
10 on less money and do without a full-time maid.

Q. And you dismissed her?—A. Yes.

Q. Do you remember when he went to the war and things were better financially he asked you whether you would get a maid again?—A. No, I don't remember that, but he might have done so.

Q. Will you look at this letter dated January 16, 1941?—A. Yes.

HIS HONOR: It is a question of identifying the handwriting?

Mr. BARTON: Yes. Will you look at the second page—"Once more
20 see that here.

Q. Perhaps it is in the paragraph above?—A. There is a reference but I do not see the word "species."

Q. I am sorry I was thinking of something else. He said, "I cannot
"get one." That indicates that your husband was thinking about the position. I tender the letter.

Exhibit "20"—Letter from Respondent.

Mr. BARTON: The letter indicates that your husband was thinking about the position?—A. I thought at the time he was, but on the other
30 hand he might have furnished further letters which would show that soon afterwards he was complaining about our financial position. Unfortunately I do not know where the letters are that I kept from my husband. They were not returned to me from the house.

Q. In the depression his salary was reduced by 10 per cent.—A. Yes.

Q. He reduced the amount you got by the same percentage?—A. By more, but I do not remember the exact amount, but I know that it was a greater cut. There was the fact that I was doing without a domestic.

Q. He was earning about £350 a year at the time?—A. It is hard for me to remember. I thought it was considerably more than that.

Q. He gave you about half?—A. Yes.

40 Q. All through the married life he gave you substantially half?—
A. Definitely not all through our married life; that is not so.

Q. When were you affected?—A. It started as I said in the affidavit that I did without the services of a maid. Her wage had been 30s. a week. I did without the money for her wages. I took less for the housekeeping because there was not her keep. From then on, my husband was never satisfied. He complained that he had not been able to save enough for a fortune like other men. That was constant with him.

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Q. He lost about £1,800 during the depression?—*A.* I have no idea.

Q. And he lost on the African trip?—*A.* I didn't know that he lost.

Q. It was a fiasco?—*A.* He was given fair remuneration in lieu of serving a further term with the firm. He came back and got a job almost immediately. I do not know how much the trip cost him.

Mr. BARTON: He kept the various insurance policies going, such as the £1,000 policy?—*A.* Yes.

Q. A lot were in your name?—*A.* No, only a small industrial policy with the AMP that I paid for my son. I don't know the terms of the joint insurance policy; I think it was in our joint names. 10

Q. On two or three occasions between 1937 and 1940 you complained about your allowance?—*A.* I complained very often.

Q. He told you that the overdraft had been reduced and that the mortgage on the Linlithgow Avenue property had been reduced?—*A.* Yes.

Q. He met the premiums on the insurance?—*A.* I could not meet them on £3 a week.

Q. He met them?—*A.* Definitely. I had not the money.

Q. He told you he could not give you more than £4 a week?—*A.* I have forgotten.

Q. During the war in addition to other things he paid for the gas?—*A.* No. He paid for the electricity and the telephone. I paid for the gas, the paper and the gardener. 20

Q. He paid the water rates and the municipal rates?—*A.* Yes.

Q. £4 was a fair sum?—*A.* To keep four people on, to dress two children at public schools, I will leave that to anyone with similar experience to decide.

Q. Lang paid for the children's clothing?—*A.* No.

Q. Things were got from Ball and Welch?—*A.* Only on a few occasions did I ask him to pay bills there.

Q. He paid for Barbara's schooling at Merton Hall and for David's at Scotch?—*A.* They got half fees. 30

Q. He complained on several occasions during the war that you had run up bills at Ball and Welch without telling him?—*A.* No. On one occasion I asked whether I could get a coat and tunic for Barbara. He knew I was buying them, but when the bill came there were other articles he had bought, and it was a big bill, and he made a lot of fuss. I did not buy things and put them on the account without asking my husband.

Mr. BARTON: You drew an allotment?—*A.* Yes. I drew the lowest possible. I said I was content to take the lowest allowable.

Q. He went into the army as a private?—*A.* He was not a private when he left. 40

Q. He rose to the rank of major?—*A.* Yes.

Q. It was £9 2s. 0d. a fortnight?—*A.* Yes.

Q. The rest of the military pay went to reduce the overdraft?—*A.* Yes.

Q. The overdraft had been incurred in the purchase in Balmerino Avenue?—*A.* Not only that, but my husband had built a place in the country on which he had spent very much after the war.

- Q. You were a third owner of the Balmerino Avenue property?—
A. Yes.
- Q. That one-third came from Lang?—A. Yes. It came all from him. I did not have any money. I think it was done to evade taxation. I do not know the exact reason.
- Q. After the war he gave you £4 or £5 a week?—A. About £5 out of which I had to give £1 to the gardener. That left £4 to keep house. While I was in a job I paid all the housekeeping expenses, and there were school fees, clothing and building society shares.
- 10 Q. After the war his overdraft was about £1,800?—A. I think it was.
Q. It was substantial?—A. I think he had good assets and could have wiped it off.
Q. He had his car done up?—A. He never had to go without a car, nor did he do his own garden.
Q. He had the car done up, and it cost £200?—A. I don't remember.
Q. Do you think you were badly off?—A. Of the women I knew I had fewer clothes than they had.
- Q. After the war he repeatedly asked you to budget?—A. Yes.
Q. And to let him know how much you wanted?—A. I told him how
20 much I wanted.
Q. How much?—A. I wanted £5. I had to give £1 to the gardener. £4 was not sufficient for clothing and food.
Q. Did you budget?—A. Yes. My husband expected the best of everything, the first fruits and delicacies, which you could not buy with £4.
Q. You say that Lang was difficult over his daughter's marriage, and that increased the strain of living with him?—A. It did definitely.
Q. There were three incidents about Lang and his daughter?—A. I can't remember.
- Q. He opposed the date of the marriage. The marriage was originally
30 set for August 2?—A. I don't remember the original date. I remember that he realised, or found that it was on the anniversary of his father's death. I had a feeling that he was glad of any excuse to cause further unhappiness. He made the period of his daughter's engagement as unhappy as possible.
Q. It was affected by the recollection of his father's death?—A. He had never given me that feeling. It seemed to me he was glad to use that. His father's death had not been discussed.
HIS HONOR: His father died about 1902?—A. I think about then.
Mr. BARTON: Mrs. Lang Senior is still living?—A. Yes.
- 40 Q. She would have been at the wedding?—A. She was not on account of her health.
Q. He thought it would give some pain to his mother?—A. If so it was the utmost solicitude that he had felt for his mother.
Q. You and she did not get on well together?—A. For some years his mother and I did not get on well; she had interfered. Later she asked me to forget and we kissed. From then I do not remember having had an argument or quarrel with his mother.

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continued.

Q. Lang was generous to his daughter with presents?—A. No. My husband was not generous to his daughter. I had to sell shares to provide her with a trousseau.

Q. Who gave the things originally?—A. My husband.

Q. They were shares in a firm?—A. That is so.

Q. He gave his daughter a birch bedroom suite?—A. It was given to my daughter for her use before she was engaged. He said "She can take it when she is married." We had so much furniture that we did not know where to put it.

Q. He gave her shares in Australian Cement?—A. Yes. 10

Q. About £250 worth?—A. I don't remember the monetary value. I think it was £100.

Q. He gave a cheque for £150 before the marriage?—A. I don't remember. I know he gave her something.

HIS HONOR: When was your daughter married?—A. August 3, 1948.

Mr. BARTON: He presented a cheque for £150 at the Toorak Church before she was married?—A. I remember he gave a cheque but I do not know where and how much.

Mr. BARTON: He also gave her a table?—A. He gave furniture we were not using. 20

Q. And a dinner set?—A. An old dinner set we did not use.

Q. What was the cause of the difficulty between Lang and his daughter?—A. You mean regarding the marriage?

Q. You said in the affidavit, "The Respondent expressed great opposition to the marriage of the daughter with a clergyman."—A. He complained to me on numerous occasions of the young man who is now my daughter's husband. There was nothing specific. There were remarks such as "The man is a fool. A fine choice your daughter has made." When I asked what was the matter with him my husband replied "He was not our social equal." 30

Q. There was some conduct that took place on a couch on a Saturday evening. Your husband returned home and found the couple lying on a couch?—A. They were either sitting or lying on the couch. I remember my husband made a remark. Lindsay was lying down; he had not been well. Lang did not say anything so far as I remember to them, but later he attacked me about it. I pointed out that I was in the room. I did not see that it was worse for a young woman to sit on the knee of a young man. It was not unusual. I did not see them being more affectionate than we had been during our engagement.

Q. After you left him in 1943 Lang saw you in a solicitor's office?— 40
A. In Mr. Brian Armstrong's office.

Q. He said "I offer you peace and harmony"?—A. He asked me to go back. I asked him to what I was to go back, and he said "peace" or it may have been to "harmony."

Q. The peace and harmony went on about a month?—A. I do not think it was quite as long. I put it down to two or three weeks only.

Q. About a month later there was a row about the children misbehaving, and he asked you to correct them?—A. I don't remember that.

Q. You said there was a row over the children?—A. There were so many arguments over the question of the children that I am sure I cannot remember which one. On many occasions he promised me peace and harmony.

Mr. BARTON: He said that peace and harmony means both sides working together?—A. I remember that, but working together meant that we were only one person and working only in the way he wanted. Nothing was
10 to be done that I thought was right. Everything was to be done in his way.

Q. He did at least say that harmony means harmony on both sides?—A. I don't remember his saying that but it is more than likely he did.

Q. Did he not say that he would promise almost anything to get you back, and that was in one of your few affectionate moments?—A. On one of the occasions when he had been striking me, or keeping away for a long period, I said "Is this what you promised me?" He said "I would
"promise anything to get you back. I would drag you back by the hairs of
"your head. I would have got some soldiers to kidnap you and drag you
"back."

20 Wednesday, 17th September, 1952.

Mr. BARTON: Mrs. Lang, in your affidavit, you speak of ashes being emptied on the floor. On each of these occasions it was stated that Mr. Lang said, "You have messed up my life, I am going to mess up yours," or very similar words. Did he talk of messing up your life or your floor?—A. No. He used words to the effect "You have messed up my life": I do not know whether he said, "I am going to mess up your life" or "your floor." But he was going to do something in return.

Q. Not necessarily mess up your life?—A. Not necessarily, but it is quite possible.

30 Q. Your Counsel said, "Mess up your kitchen," did he not?—A. Yes.

HIS HONOR: Do you think this meticulous type of examination is going to help me? Whether it is the kitchen or the life? It is the action which is significant.

Mr. BARTON: I am not going to take very long. It is clear that marriage had been broken before the 13th August, 1948, is it not?—A. Yes, I think that is quite clear.

Q. Would you say it had been broken at the time of Barbara's wedding?—A. It is very difficult for me to say when I felt the marriage was definitely going to be broken.

40 Q. Would you say you felt before 3rd August, the date of Barbara's wedding that it would?—A. Yes, I felt before 3rd August that there was no hope of any future to it.

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Cross-exam-
ination—
continued.

Q. And did you feel that before 21st July—that was the night the police came?—*A.* I can only tell you that at intervals for years I have felt it, and the exact date at which I felt it more strongly is very hard for me to fix.

Q. You are not able to be more clear than you are already?—*A.* No.

HIS HONOR: You would help me if you could tell me this. Suppose the incident of the 13th August had never taken place, had the treatment you had received brought you to a state of mind where you would any way leave your husband if he did not leave you?—*A.* Yes, I am afraid it had.

Mr. BARTON: Did Lang's opposition to Barbara's marriage, which 10 you set out in your affidavit, have anything to do with the break off?—

A. It only increased my feeling of certainty that he would not alter in any way.

Q. In paragraph 32 of your original affidavit you refer to the report appearing in Melbourne "Herald" of 10th October, 1949, and you say that the report read that unhappiness had existed between the Respondent and you because of the Coroner's finding, "it had always preyed on my "mind," and you go on further down the page, "the Respondent giving "publicity . . . towards me." It is the untruthfulness of the statement that you are neurotic that you regard as showing his hostility, is it not?— 20
A. The untruthfulness of that statement and the fact that I felt that he must have had some part in its appearance in the paper.

Q. He swore an affidavit . . .?—*A.* He had so often threatened me that if I left him he would try and drag us through "Truth." Naturally when I saw that in the paper I regarded it as another instance of his trying to harm me.

Q. If you thought Lang had any *bona fide* belief in the truth of the statement would you still take it as an instance of hostility?—*A.* It is impossible to say because I knew there was no ground for that.

Q. Have you been treated for any mental disorder since you saw 30 Dr. Ellery?—*A.* No, nor was I treated for it then.

Q. Your Counsel has intimated that you have no objection to Dr. Ellery being called?—*A.* No, I have not.

Q. Your husband had been in the siege of Tobruk during the war?—*A.* Yes.

Q. And he had been highly regarded as an officer?—*A.* My husband was relieved of his command.

HIS HONOR: What has that to do with it?

Mr. BARTON: He is a man of some substance.

HIS HONOR: You cannot direct evidence. If he is cross-examined 40 he can give his own answers. I thought you were going to say that some stress of experience has been responsible for some of his actions. What you are asking now is not relevant.

Mr. BARTON: As your Honor pleases. After the war he suffered from severe headaches, commonly called migraine?—*A.* He suffered from migraines ever since I have known him.

Q. You do not think they became more severe afterwards?—*A.* The incidents seemed to be more frequent, but as to the severity I cannot judge.

Q. And he consulted Dr. Sinclair, did he not?—A. Yes.

Q. Dr. Sinclair treated him?—A. I could not tell you.

Q. Did you go to Dr. Sinclair on one occasion?—A. I did.

Q. Did Dr. Sinclair say to you both that he really could not do anything because the whole cause of the trouble between you was temperamental incompatibility?—A. I do not remember Dr. Sinclair saying that. He may have but I have no recollection.

10 Q. In the period 1947 and 1948 Lang was active in sending people to see you—he sent Mr. Arrowsmith to see you to see if something could not be done to make you live more happily? Before August, 1948?—
A. When Mr. Arrowsmith came to see me, to the best of my remembrance he did not discuss that aspect of it. He only expressed a desire to help me. He said he knew that my life was very difficult and he would try to help me. I do not remember Mr. Arrowsmith talking along those lines; he may have done so.

Q. Did you go to see Mr. Arrowsmith?—A. Yes.

Q. And Dr. Carrington?—A. Yes.

Q. Apart from being a medical man he also is a social worker?—
A. I understand so.

20 Q. Dr. Carrington came to see you?—A. Yes.

Q. You remember receiving this letter, Mrs. Lang? (*Hands letter to Witness*)

HIS HONOR: Does it bear a date?—A. Yes, your Honor, 24th September, 1948.

Mr. BARTON: That is a copy, is it not, Mrs. Lang?—A. Yes.

Q. From the Respondent? It has certain numbers written on the inside. They were not on the inside originally?—A. I do not remember receiving the letter but remember the detective meeting me at a cafe and giving me some money, but I did not say “Yes” or “No.”

30 Exhibit “21”—Letter dated 24th September, 1948.
(*The Witness withdrew*)

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Herbert Edward Rowarth.

HERBERT EDWARD ROWARTH, (Sworn and examined).

Mr. WOOLF: Your name is Herbert Edward Rowarth?—A. Yes.

Q. Are you at present a Senior Constable of Police attached to the Vice Squad of Melbourne?—A. Yes.

Q. In the year 1948, in the month of July, 1948, what section of the police were you attached to?—A. I was then attached to the Wireless
40 Patrol Branch.

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tion—
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Q. Will you speak of what you know of occurrences in the early morning of 22nd July, 1948, in relation to the parties in this case?—

A. On the 22nd July, 1948, at 2.25 a.m. I was in charge of No. 2 Wireless Patrol and in response to a wireless message received we went to premises at No. 3 Balmerino Avenue Toorak. We were met at the door by a young lady whom I now know to be a daughter of Mr. and Mrs. Lang. At her request we entered a bedroom on the ground floor where I saw Mr. and Mrs. Lang. He was standing at the rear and partly to one side of her, had his left arm around her waist, and with his right hand had her left arm pushed up her back in what is known as a hammerlock. Miss Lang, in the presence of the Respondent and the Petitioner, said to me words (I think) like this, "Would you make him let mother go please." I said to Lang "Let her go" and he immediately did so. I do not remember the exact conversation that then took place but from what I remember Mrs. Lang told me that they had not slept together for some time and I gained the impression that he was trying to force her to go to bed with him. She said that all she desired was to be left alone. I advised Mr. Lang to go to bed. He got into the bed and pulled the bed clothes over himself and after a short period I left the premises. I advised Mrs. Lang that if she had any further trouble she should communicate with D.24 and I then left the premises. I did not have occasion to visit the house again. 10

Q. On that occasion were you not with three police?—*A.* I was in charge of a car.

Q. Do you recall anything being said by either Mr. or Mrs. Lang as to whether the other was under treatment at the time?—*A.* I do not remember who said the words but I have a vague recollection of a psychiatrist being mentioned.

Q. And did the Respondent start off as if he was going to make a long statement to you?—*A.* I do not remember. This is only one of thousands of cases. 30

Q. I appreciate that.

Cross-examined by Mr. BARTON.

Cross-exam-
ination.

Mr. BARTON : Constable Rowarth, there was no real pain to Mrs. Lang in the hammerlock?—*A.* That is very hard to say. I do not know if you are familiar with the hammerlock. It can be used to hold but by a small twist and by application of a little more pressure it can cause pain and serious damage.

Q. I know, but in this case you are not able to say whether there was pain?—*A.* I am not able to say.

Q. You spoke to Lang in a rather jocular fashion. You said "Let your wife go you old villain"?—*A.* Something like that. 40

Q. So far as you were concerned it was not anything serious?—*A.* It was just a trivial domestic matter.

HIS HONOR : Did you know these parties before ?—A. It was the only time I have spoken to them until I saw Mr. Lang in my office about a fortnight ago. I did not see Mrs. Lang until I saw her in Court on Monday afternoon.

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Mr. BARTON : Are you quite sure that he did have his arm holding hers behind her back. This is a position which starts off like this (*demonstrates*).

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HIS HONOR : Are you suggesting that this happened in the witness's presence ?

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10 Mr. BARTON : I am suggesting it occurred.

WITNESS : He was standing slightly to one side of her and had his left arm around her waist and with his right hand had her left arm pushed up her back. I could demonstrate, sir, if you wish.

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HIS HONOR : I do not think we need a demonstration.

Mr. BARTON : His arm which was holding hers behind her back would be somewhat hidden, would it not ?—A. I could see them as I walked in the door. They were practically side on to me. I could see what was taking place.

Cross-exam-
ination—
continued.

Q. Did the wife have any expression of pain on her face ?—A. I do not remember.

20 Q. She was standing up ?—A. They were both standing up.

Q. Close to the bed ?—A. In the bedroom. I do not remember.

Re-examined by Mr. WOOLF.

Re-exam-
ination.

Mr. WOOLF : Before you left that early morning did you wait until there was any sign of the parties separating so that the Petitioner went upstairs and he went to a room downstairs before you left ?—A. He went to bed in the room before I left the room. Mrs. Lang's daughter and a young chap I believe to be the son, and Mrs. Lang, we spoke, and from my recollection Mrs. Lang went upstairs and we went out the front door.

30 HIS HONOR : How were the parties dressed ?—A. Mr. Lang was in pyjamas and Mrs. Lang in a nightgown.

Q. Did either of them have a dressing gown on ?—A. I do not think so.

Mr. WOOLF : Do you recall whether you actually waited until Mr. Lang had gone into a room downstairs ?—A. They were in the bedroom and he got into bed before I left.

Q. And Mrs. Lang went upstairs ?—A. I do not remember.

Mr. BARTON : I would like to ask the witness something about the dressing gowns. Are you sure what Mr. Lang had on ? Could he have had a red dressing gown on ?—A. So far as I remember he had on striped pyjamas.

40 Q. They would be showing below ?—A. So far as I remember he had no dressing gown on.

(*The Witness withdrew*)

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No. 9.

Charles Irvine Halford.

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CHARLES IRVINE HALFORD, (Sworn and examined).

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tion.

Mr. WOOLF: Do you reside at 22 Girton Crescent, Manifold Heights, Geelong?—A. Yes.

Q. And are you by occupation secretary of an insurance company?—A. Yes.

Q. About how long ago was it you first met the parties in this case, Mr. and Mrs. Lang?—A. We were living at Caulfield.

Q. Approximately how long ago?—A. About twenty years ago I 10 should think.

Q. Without going into details, did you and your wife have a daughter who was about the same age as their daughter?—A. Yes.

Q. And was it under those circumstances that you and your wife became acquainted with them?—A. Yes, that is how we met.

Q. For a number of years, I understand, you saw the Langs only occasionally?—A. Yes, at periodic intervals.

Q. Would you say that for some time there was no sign of undue lack of affection between them?—A. I did not notice any lack of affection.

Q. Will you now come to early in August, even if you cannot state the exact date. Will you come to early in August, 1948, where were you and your wife living then?—A. In Wattletree Road, Malvern. 20

Q. Do you recall the Respondent coming one night to your home?—A. Yes, he called at our flat one night.

Q. Will you tell the Court something of his relationship with his wife?—A. He came to me more as a friend at that stage. He asked my advice. He told me he was not getting on with his wife. I told him to take things quietly and from his manner I thought he should be more tolerant.

HIS HONOR: "From his manner"—did you mention anything to him about his manner?—A. No. 30

Mr. WOOLF: You said "Take things quietly, you ought to be more "tolerant"?—A. That is so.

Q. Do you recollect his calling again not very long afterwards?—A. Yes, not very long afterwards.

Q. How long afterwards?—A. I do not remember the exact date—about a week.

Q. Will you tell his Honor very particularly of the substance of that conversation with Lang on the second visit?—A. On that evening he told me after speaking on general subjects for a time, he was not getting on with his wife, and the only thing he could do was to adopt the cave-man stuff— 40 it was the only thing a woman understood.

Q. I want you if you can and will to tell his Honor the complete conversation without my having to prompt you on any point. Go on from what you have said and tell his Honor the whole conversation. You said he said

he would have to use the cave-man stuff which was the only thing a woman understood?—A. I said I did not recommend that course, but before he left he told me that the Rape of Lucrece would take place very soon. I told him it would worsen the position, and shortly after that he left.

Q. Are you able to say how soon that later conversation would be, prior to the 13th August, so far as you remember?—A. I do not remember.

HIS HONOR: Have you any reason for fixing the 13th of the month? Is there anything you can fix it by, or is it a date which Counsel suggested to you?—A. It is a date on which Mrs. Lang was to have visited us and
10 my wife was rather concerned.

Q. On the 13th Mrs. Lang was to have visited you—are you able to say whether the talk with her husband took place before the appointment with Mrs. Lang?—A. It definitely did.

Q. Can you say about how long? Nobody expects you to remember accurately?—A. I cannot remember. I should imagine three or four days.

Mr. WOOLF: You do remember that on the night of the 13th the Petitioner was due to visit you and your wife. Did she in fact visit you and your wife on the 13th August?—A. No, my wife awaited her arrival
20 and about nine o'clock she rang No. 3 Balmerino Avenue but there was no response to the telephone call.

Q. Now Mr. Halford, about how long after the night of the 13th August, 1948, did the Respondent again have a conversation with you following your last conversation of which you have told his Honor, where he told you he was going to do something which would only make the position worse? How long after that did Lang have another conversation with you?—A. I do not recall. It was very shortly afterwards, but I do not recall how soon

Q. Will you tell his Honor what you do remember him saying on that
30 occasion after the night of the 13th August?—A. The substance was that the Rape of Lucrece had taken place and Mrs. Lang seemed to enjoy it. I made no comment about it.

Q. Now, Mr. Halford, will you speak about the change of residence which you and your wife made in relation to the matrimonial home of the Lang's at 3 Balmerino Avenue. Did you and your wife go and stay there?—A. Yes, it was agreed that Mrs. Lang would be by herself and wanted company. It was suitable to my wife as they were good friends and I agreed to transfer over with the approval of all parties.

Q. Here is another original document, does it help you fix the date
40 on which you and your wife went into No. 3 Balmerino Avenue?—A. To a few days it does. The lease was drawn up about a week after we went in.

Mr. WOOLF: I tender that document.

Exhibit "S."

Mr. WOOLF: Can you say whether when you and your wife moved to 3 Balmerino Avenue, it would be within a week of the 13th or the 14th of August?—A. Yes.

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Q. For how long were you and your wife living there?—*A.* One to two months.

Q. Were you living there after the Petitioner had left there finally?—*A.* For a short period, yes.

Q. During those weeks when you were living there, perhaps a week after the 13th or the 14th August, did Mr. Lang come on the premises?—*A.* Occasionally.

Q. Did he ever stay on the premises or sleep there all night to your knowledge after the 13th or the 14th August when you were there?—

A. On one or two occasions I have seen him on the premises in the 10 morning.

Q. Indicating that he had slept there all night?—*A.* I found him in the lounge one morning. He said he had been there all night.

Q. So far as you can say, that would be to his wife's knowledge. She would know he was there?—*A.* She may not have.

Mr. BARTON: What is the good of asking the witness that question?

HIS HONOR: On the face of it the witness does not know. Do you know whether Mrs. Lang was in the house when her husband slept in the lounge?—*A.* I don't recall, but possibly she was.

Mr. WOOLF: The lounge is on the ground floor?—*A.* Yes. 20

Q. Where did Mrs. Lang sleep after the 13th or 14th August?—*A.* After we moved in she had a room on the upper floor.

Q. What I am leading to is this: might he have slept downstairs without his wife knowing?—*A.* Unless she came down stairs she would not know whether he was there or not.

Q. Was there contact between Mr. and Mrs. Lang on the occasions of his visits and during the period to which you are referring until you and your wife left there some weeks later?—*A.* May I ask what you mean by "contact"?

Mr. WOOLF: Did you see them in conversation?—*A.* On what 30 date?

Q. Did you see them from time to time in conversation?—*A.* Yes.

Q. Did they appear to be on a friendly footing or not?—*A.* I would not use the word "friendly." At times they appeared to be at variance.

Q. Do you recall one occasion when you intervened between them?—*A.* There was one occasion when I left my room on the ground floor and walked through. I heard an argument or disagreement in progress. Mr. Lang had his hand in a threatening manner. I felt as though he might have struck her. I told him that he would not strike a woman while I was in the house. 40

HIS HONOR: You have said that on one occasion when they left the room or when I left the room?—*A.* When I left my room.

Q. Then you found them in some dispute, and Lang had his hand in a threatening position, and you told him he would not strike a woman in the house while you were there?—*A.* Yes.

Mr. WOOLF: What did Lang do?—*A.* He put down his hand. He left the house shortly afterwards.

Q. During this period did Lang have a man who stayed in the house at night?—A. For a period there was another man there.

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Q. Who was the man?—A. He came to me and said he was a private detective.

Q. Unless the man said that in Lang's presence I cannot ask you the question, but there was a man staying there at night?—A. Sleeping on the premises.

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Q. Was he obviously in close communication with Mr. Lang?—A. They seemed to be in conference on numerous occasions.

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10 Q. I do not know whether you learned the man's name apart from hearsay?—A. I was introduced to him as Mr. McCormack.

HIS HONOR: Who introduced you?—A. Mr. Lang.

Mr. WOOLF: Since the time you and Respondent separated from No. 3 Balmerino Avenue, have you had any contact with him?

HIS HONOR: I do not know that Mr. Halford accepts the word "separated." It might have conveyed imputations.

Examination—continued.

Mr. WOOLF: Since you and your wife left Balmerino Avenue after the Petitioner left there, have you and the Respondent met at all?—A. Yes.

WITNESS: After we left there I met him on one occasion.

20

Cross-examined by Mr. BARTON.

Cross-examination.

Mr. BARTON: It was in the first week of June, 1948, that Lang first approached you in regard to the petition?—A. I don't recall the date.

Q. Was it not at the Café Red Hen?—A. I don't recall the incident at the Red Hen Café. I cannot place the café.

Q. It is a café in the Hotel Australia?—A. I have not a recollection of that incident.

Q. You would not know the café?—A. I cannot recall it.

30 Q. On this incident did Lang tell you that he was having trouble with his wife and family. He was weeping at the time. Do you remember that?—A. I don't recall the time at all.

Q. Did you say that you had heard signs over the telephone over the last weeks and did you say "I have been expecting this"?—A. I may recall the words but I do not recall where it was.

HIS HONOR: Who is Sylvia?—A. My wife.

Mr. BARTON: Did you say that Sylvia and you would help all you could?—A. At one stage in 1948 those comments could easily have been passed. We wanted to bring them together.

Q. Can you think of July 19th and 20th, 1948?—A. Not specifically.

40 Q. Lang was at your flat in Wattletree Road?—A. Yes.

Q. The occasion would have been the 19th and 20th July?—A. They may have been the dates.

Q. You remember on the 21st July about 7 in the evening Lang said "Cannot you do something to bring about a reconciliation between my wife and myself," and you and your wife went out to see Mrs. Lang?—A. We may have done so.

HIS HONOR: I do not understand that the Witness accepts the date

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of the 21st July. Counsel's question was the 21st July. Do you accept that as the date?—A. I cannot recall the date.

Q. I do not want you to be tied down to something that you are not agreeing to.

MR. BARTON: Was it immediately after the two nights he had slept at your place that you went to see Mrs. Lang?—A. I cannot recall the dates. This is four years ago.

MR. BARTON: Did you return about 8.30 and did you say "There is only one thing for you to do and that is to go and put your arms around Jean to make up?"—A. I don't recall those words. 10

Q. Do you recall them at any stage?—A. No.

Q. Did you go and see Mrs. Lang and afterwards tell him that there was only one thing to do and it was to put his arms around his wife and make up?—A. I may have driven my wife to see Mrs. Lang. I did that on occasions. I do not recollect making that statement.

Q. Were you present when your wife made that statement?—A. I do not recall her saying it.

Q. Could she have said it?—She could have.

Q. Do you remember his coming in at 2.30 in the morning to your flat?—A. I recollect an early morning call. 20

Q. Would it have been the next day after this occasion?—A. It could have been. I don't remember the dates.

Q. Did he tell you he had gone and put his arms around his wife?—A. He may have said that.

Q. Did he say that he had been in his bedroom in his pyjamas and his wife had come in to get something?—A. I do not recollect that at all.

Q. And he said "Now, old girl, this stupid business has gone on long enough," and he put his arms around her?—A. I don't recollect the conversation at all.

Q. Did he tell you of the police being called?—A. I am not sure of the police calls. I heard on the 14th August, if I am not digressing from the police calls, but I do not recollect his telling me of the police calls on that morning. 30

Q. You and your wife were together in bed and he talked to you on this occasion at about 3 o'clock in the morning?—A. That is so.

Q. Did he tell you anything about the quarrels on the night or the early morning of the 22nd July?—A. I can recollect nothing specific except that there had been continual quarrels, but nothing on any particular night.

MR. BARTON: And you and Lang went to see the Reverend Arrowsmith?—A. We did visit him. 40

Q. And Lang told him that his daughter was refusing to allow him to give her away at the wedding?—A. If I recollect I was not present at the interview with the Rev. Arrowsmith.

HIS HONOR: Do you remember anything of the kind that Counsel is suggesting to you?—A. Not on that evening with the Rev. Arrowsmith.

MR. BARTON: Did Lang tell the Rev. Arrowsmith that his daughter

had fixed her wedding for the 7th August and it was the anniversary of his father's death?—A. I am a bit confused about the dates. The Rev. Arrowsmith had a conversation with me either the next week or about that time.

Q. Was Lang present?—A. No, he called at my flat.

Q. You saw Lang at his daughter's wedding?—A. Yes.

Q. On the 3rd August?—A. I believe that to be the date.

Q. After the wedding Mrs. Lang went to a car?—A. That is so.

10 Q. And you and Lang talked together. He said "Can you see whether you can do something to bring us together"?—A. You walked to the car and had a few minutes' conversation with Mrs. Lang?—A. I am under the impression that Mrs. Lang went to my car. I may be wrong but I don't recollect it too well.

Q. Do you remember that you visited Lang at the George Hotel St. Kilda?—A. That may be so.

Q. On the 8th August, about five days after Barbara's wedding?—A. Possibly the 8th August.

Q. He asked you whether you would make another attempt to bring him and his wife together?—A. That may be so.

20 Q. You said you would of course?—A. If it were in our power I would make an attempt.

Q. Later that night you rang Lang?—A. Possibly.

Q. You told him that his wife would let him know in one month's time?—A. It may have been my wife who rang or passed that information along. I put that as a suggestion. I am confused as to who passed the remark.

Q. About half an hour later you said "It is all finished"?—A. That may be so.

30 Mr. BARTON: You had talked with Mrs. Lang?—A. It was my wife who generally spoke to Mrs. Lang, although I was present.

Q. Were you present at this conversation on the 8th August?—A. I don't recall it. I cannot be specific.

Q. It could have been that your wife had the conversation with Mrs. Lang and she passed on the conversation to you and you would see Lang?—A. Possibly so.

Q. You went to see Mrs. Lang's solicitors at some stage?—A. That is correct.

Q. When would that be?

40 HIS HONOR: Do you mean some time in 1948?—A. Prior to the signing of the lease.

Mr. BARTON: I suppose you gave them information as to what you knew of the matrimonial affairs generally?—A. No. We discussed the lease. There was the question that Mr. Lang was going to live at the George Hotel for two years.

Q. Who brought that up?—A. It was brought up by Mr. Lang to me in the first instance.

Q. He was not at the conference in the solicitor's office?—A. Mr. Lang was present.

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Q. In Mr. Vroland's office?—A. I am not speaking of that office. There was another solicitor before we called on Mr. Vroland.

Q. When did you first see him?—A. It would have been in August.

Q. You told him all you knew of the matrimonial relations of these parties?—A. That is so.

Q. Did you tell Mr. Vroland that Lang had told you before the 13th August that he was going to commit this act?—A. I may have said that.

Q. You did so?—A. Yes, I did.

Q. You saw Lang at the George Hotel on the 8th August?—A. On 10 one day in August.

Q. Was it before that Lang told you he was going to commit this act?—A. I cannot recall whether it was prior to the 8th August or not.

Q. After the 8th August do you remember on what occasion you saw him?—A. I have no dates. He would call, or we would meet. I kept no records of dates. I thought the matter would have smoothed itself over.

Q. When did you think that?—A. I was thinking that when we were trying to bring them together in or about that time.

Mr. BARTON: How did Mrs. Lang's solicitors get the statement that Lang is alleged to have made—that the only way to treat women is the 20 caveman way?—A. It was brought up.

Q. It was taken down in writing?—A. A note was made of it.

Q. A note was made of the whole story?—A. I cannot follow you.

Q. These are portions you were given—the only thing is to adopt the caveman stand—that was definitely told the solicitors, was it not?—A. It was.

Q. It was said that that is the only thing women understand, and it was told to the solicitors?—A. Correct.

Q. I suppose you have no doubt where the conversation took place before the 14th August?—A. Will you repeat that question? 30

Q. Where were you when Lang told you that?—A. I was in my flat in Wattle Tree Road, Malvern.

Q. You realised that that was in his mind, and he had the intention to bring his wife and himself together by using those tactics?—A. He had the impression it would bring them together. I could do nothing. I attempted to dissuade him from that purpose, but in his opinion it would bring them together. I retired from the scene, attempting to direct Mr. Lang any further.

Q. Could that have been on the 12th August?—A. It might have been. 40

Q. After he was back in his house?—A. I don't know where he was living on the 12th. He could have had a suite at the George or have been living at Balmerino Avenue. He called mainly at the flat or met me in Melbourne.

Q. Could it have been the 13th August when he told you that?—A. I think it most unlikely that it was the 13th.

Q. It might have been on the 12th?—A. It might have been.

HIS HONOR: Are you clear that it was before the night of the appointment for Mrs. Lang to come and see your wife?—A. Definitely, your Honor.

Mr. BARTON: Mrs. Lang was coming at frequent intervals at that time?—A. Yes, they were friends.

Q. Do you remember any other nights when Mrs. Lang came to see your wife?—A. I seem to think she was up a week or so earlier from the date of the 13th August. I would not swear to it.

Mr. BARTON: You are certain about the 13th?—A. Very certain.

10 Q. It could have been the 14th when he said "I have done this"?—A. He might have said on the 14th that he had done this.

Q. Are you able to give any explanation why Mr. Vroland's letter to Lang contained no reference to Lang saying this before the 13th August?—A. Will you repeat that?

Q. Mr. Vroland wrote a letter to Lang on September 2nd. I will read a portion of the letter. There is nothing in the letter which says that Lang told you he was going to do this before the 13th?—A. I cannot pass any comment on that.

20 Mr. WOOLF: May I interpose? My friend's suggestion is only partially correct in view of the previous paragraph in which the witness's name is mentioned.

Mr. BARTON: I will read from the letter. What do you say to this? "Notwithstanding as you admitted . . . fashion." It is clear that at that time that Mr. Vroland had heard of that expression—"there is only one way to treat women; it is to adopt the caveman stuff." Mr. Vroland knew it was before September 2 that Lang had said that to you prior to the 13th August?—A. That is so.

30 Q. There is a further paragraph asking for further particulars. Paragraph (e) "shortly filed . . . Rape of Lucrece will take place." Are you the third person?

HIS HONOR: How does he know that? This is not his document.

Mr. BARTON: You cannot explain why the words are left out in the paragraph of the particulars.

HIS HONOR: The answer is plain. He has had nothing to do with the preparation of this document.

Mr. BARTON: I am trying to find out who was responsible for the words being left out.

HIS HONOR: What you are doing is not assisting the case. I think it is wasting time.

40 Mr. BARTON: After the 13th August, when did he boast to you that he had done the act?—A. I believe it was the next day or the day after.

Mr. BARTON: Did he tell you that he had done it to try to become reconciled to his wife?—A. Yes.

Q. Why do you think that he was boasting?—A. I am using the word "boasting" as he seemed very pleased with himself.

Q. He thought he was getting somewhere?—A. Yes.

Q. Then it is not true to suggest he was boasting?—A. No. It would be better to say he seemed very pleased with himself.

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ination—
continued.
- Q. Are you sure that Lang used the term " Rape of Lucretia " ?—
A. Prior to the 13th August, very definitely.
Q. He did not say that he was enforcing his marital rights ?—
A. Nothing so legal.
Q. It was the term " Rape of Lucretia " ?—A. Yes.
Q. Did you know what the " Rape " was ?—A. Yes.
Q. Where it comes from ?—A. I believe it comes from Shakespeare.
Q. Does it strike you that treating a wife in a caveman fashion might
be called a rape ?—A. It might have been that. I have not read " The Rape
of Lucretia " myself. 10
Q. Did he use that term after the 13th August ?—A. Yes.
Q. You moved into Lang's house shortly after the 13th August ?—
A. Correct.
Q. That was pursuant to an arrangement between you and Mrs. Lang ?
—A. And others.
Q. It was first made between you and Mrs. Lang ?—A. Between
Mrs. Halford and Mrs. Lang.
Q. Do you know what the terms were ? Were you paying board or
anything like that ?—A. They had to be determined with the parties that
owned the house. Mr. Lang explained that there were three owners. 20
Q. Before Lang came into it what were the terms between you and
Mrs. Halford and Mrs. Lang ?—A. There was nothing definite said about
rental. All I recollect is that food would be bought by each party
separately.
HIS HONOR : Will you tell me, Mr. Barton, how this has any bearing
on what I have to determine ?
Mr. BARTON : Only, your Honor, that the previous witness said that
there was not any arrangement.
HIS HONOR : Suppose that there was an arrangement. How does it
bear on anything I have got to determine ? 30
Mr. BARTON : It merely goes to the credit of one of the witnesses, your
Honor.
HIS HONOR : If it merely goes to the credit of a witness, then you are
bound by the answer you get from the witness whose credit you are attack-
ing. You cannot, by evidence, lead evidence as to credit.
Mr. BARTON : If your Honor pleases. (*To Witness*) : Did he say to you,
" I will be very pleased if you will be able to do something to bring us
" together " ?—A. He may have passed that comment but I knew that it
was hopeless in my own mind at that stage.
Q. But he thought that there was a chance ?—A. He thought so, yes. 40
Q. Did Lang ever tell you that he had set out to ensure that his wife
would be alone in the house on the night of the 13th August, or did he
merely say that she was available ?—A. Would you repeat the beginning of
that question, please.
Q. Did Lang ever tell you that he had set out to ensure that his wife
would be alone in the house on the night of the 13th August ?—A. I have
no recollection of his saying that.

- Q. On the 30th August Lang was in the house, was he not?—A. I think he would be in the house on that date, yes.
- Q. You were occupying his bedroom?—A. As per arrangement, yes. And he was sleeping on the couch in the dining room.
- Q. You say he was sleeping on the couch in the dining room?—A. He was, on occasions, sleeping on the couch.
- Q. And during the time that he was home did you hear some words between Lang and Mrs. Lang?—A. Yes.
- Q. Were they angry words?—A. Yes, angry disagreements.
- 10 Q. That would be disagreement, I suppose, on both sides. Was that it?—A. Well, the voices were both very loud at times, yes.
- Q. And you did not hear what they were talking about?—A. No, nothing definitely. No, I did not hear anything definite.
- Q. And you of course thought this was rather an explosive situation and that it would be better if Lang were to leave the house, didn't you?—A. I did think it would be better.
- Q. Yes, and you told Lang so?—A. I did.
- Q. Do you remember on the evening of the 2nd September various goods which Lang owned were placed out on the verandah of the house?—
- 20 A. I have a recollection of some of his property—I do not remember what it was, but some articles were placed on the front verandah.
- Q. Now, on the night of September you and your wife came into the house with Mrs. Lang, didn't you? That was the night when the front door was broken?—A. I came in that door, do you say, on that night?
- Q. Yes, you came in with Mrs. Halford and Mrs. Lang?—A. I may have done so.
- Q. Did you hear Lang say something to his wife? Did you hear Lang say to her "Hullo, old girl"?—A. I heard that expression often.
- Q. Yes, and Mrs. Lang said, "Oh go to hell. I am not your old girl."
- 30 "Have you done anything to David"? Did you hear anything like that?—A. I heard words to that effect. The exact words I do not recall.
- Q. Yes, and Lang said "Nothing whatever"?—A. He may have.
- HIS HONOR: He said what?
- Mr. BARTON: He said "Nothing whatever." (*To Witness*): And Mrs. Lang said, "Look, I will get a place for David to-morrow"?—A. She may have said that.
- Q. "You can have the house as you have had everything else"?—A. I recall the last of that sentence. I remember her saying on one occasion words to that effect.
- 40 Q. Would that occasion be the night when he returned home?—A. I cannot recollect when it occurred.

(*The Witness withdrew*)

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Barbara Jean Pace.

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BARBARA JEAN PACE (Sworn and examined).

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Mr. WOOLF: Is your name Barbara Jean Pace, spelt "P A C E"?—
A. Yes.

Q. And are you a married woman?—A. Yes.

Q. And the elder child of the parties to this case?—A. Yes.

Q. And you live at the Church of England Vicarage, Lara, Victoria?
—A. Yes.

Q. How old were you when you first remember any physical cruelty 10
on the part of your father towards your mother?—A. I was about 11 years
then.

Q. What did you hear or see on that first occasion that you remember?
—A. I was in my bedroom and I heard a noise of my father shouting.

HIS HONOR (*to Witness*): Will you tell me who was shouting?—A. It
was my father shouting, sir.

Mr. WOOLF (*to Witness*): Did you run into the hall?—A. Yes.

Q. Will you tell his Honor what you saw and heard?—A. I saw my
parents in the hall.

Q. Will you relate what you saw happen?—A. My father had hold 20
of my mother by one arm and he was striking her with the other hand.

Q. Did you notice anything about her state?—A. My mother was
crying.

Q. Was that before you came to live at either of the two places in
Balmerino Avenue?—A. That was when we were living at High Street,
Armadale.

Q. Do you recall something like the next incident you remember
and about how long after the first incident you have related?—A. As far
as I remember, it was some months afterwards.

Q. And where were you living then?—A. At No. 18 Balmerino 30
Avenue.

Q. This was before you came to live at No. 3 Balmerino Avenue?—
A. Yes, before we came to No. 3.

Q. Will you tell his Honor what this incident was?—A. It was at
night. I was in my bedroom and I heard the sound of raised voices.
I went out and I saw my father and mother standing in the passageway
on the top of the stairs. We were upstairs at the time, and he had her by
one arm and he pushed her into the bedroom with her arm twisted up
behind her back. And mother seemed very distressed and he pushed her
down on her knees and said—I think it was something like this—"Get 40
"down on your knees and pray to Almighty God to save our marriage."

HIS HONOR (*to Witness*): He said "Pray to Almighty God"—what
else do you say he said?—A. "to save our marriage."

Mr. WOOLF (*to Witness*): Did you say or do anything on that occasion?

—A. Yes, I came forward and said “ Do not, Dad,” “ Pop ” was probably the expression I used. I called him that.

Q. And did he say anything?—A. He said, “ Go away, old girl. “ It will be all right.” So I went back to my bedroom.

Q. Now, from then onwards will you describe to his Honor what you heard from time to time in the way of voices raised, voices raised in anger, angry words? Will you just give a general description before we come to any particular incident?—A. Yes. Every few weeks, perhaps every 4 or 5 weeks, I would hear disturbances. This was actually when we were living at No. 3 Balmerino Avenue. I would hear very loud voices coming from downstairs.

Q. Would you hear the voice of one rather than of the other raised?—A. Well, I could generally hear my father. My mother has a softer voice.

Q. Did you ever hear any other noise or noises or exclamations coming from your mother’s voice?—A. I could hear mother crying once or twice, and once or twice also I heard her saying “ Don’t.”

Q. Did you ever hear the sound of blows being struck?—A. Yes.

Q. And can you say how soon after you moved to No. 3 Balmerino Avenue that you first remember hearing the sounds of blows being struck?—A. No, I cannot say.

HIS HONOR (*to Witness*): Did you hear those sounds frequently or only on rare occasions?—A. When I heard the voices raised it would generally be in conjunction with blows being struck.

Mr. WOOLF (*to Witness*): Well, would you say, as to the married life of your parents as you have described it, that that would be a correct description up to the time when your father went overseas and about up to the year 1940?—A. I should say so.

Q. Did their quarrels usually occur in the day-time or at night-time?—A. They were generally at night-time or over the week-ends.

Q. And you can tell the Court, with reference to some time before he went overseas about the year 1940, how often the disturbances took place on an average? Would it be once in every 3 or 4 weeks?—A. It would be about every 4 weeks or so.

Q. Can you tell his Honor anything as to the frequency of the disturbances over the week-ends?—A. The arguments seemed to be longer, I suppose, because my father was home more over the week-ends.

HIS HONOR (*to Witness*): I do not quite fully understand that. Do you mean that the disturbances were of longer duration over the week-ends?

—A. Yes, sir.

Mr. WOOLF (*to Witness*): Will you tell his Honor what you alone or you and your brother David used to do on those occasions in regard to approaching the room and seeing what was going on in the room?—A. We would be frequently wakened up and we would sit on the top of the stairs, and if I got frightened I would go down.

Q. And what about your brother?—A. I generally sent my brother back to bed because he was smaller than I was.

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Q. Your brother is about 3½ years younger than you, is he not?
—A. That is so.

Q. Do you recall one particular occasion which I will try to indicate to you by any question of the words being used, "Take down your hands"? Will you just describe that occasion, telling his Honor all you know about it?—A. Yes, I heard voices raised.

Q. About what time of the night would this be?—A. I cannot say. I had been asleep. I should say it was shortly after 12 or some in the early hours, the very early morning. I heard the voices raised and I came out of my bedroom and David came out of his. I sent him back to bed and I went down, and as I came down the stairs I could see my father and mother standing in the entrance to the lounge room. He had hold of her upper arm with one hand and she had her hands across her face as if to protect her face. They were in their night attire. 10

Q. Will you tell his Honor anything that you heard said or shouted then?—A. I heard my father say very loudly, "Take down your hands" "you b— bitch or I will hit you again."

Q. Then what happened?—A. My mother took her hands down and my father struck her across the face.

Q. Do you remember anything else that your father may have then said?—A. I must have made a noise. My mother looked up then and said, "Go to bed, darling," and I hesitated and my father said to me, "Do as your mother says." So I then went up and back to bed. 20

Q. Now, Mrs. Pace, will you mention something that you remember from when you were about 15 years old?—A. Yes.

Q. Something concerning a gun or rifle. If you will tell his Honor what this incident was?—A. Yes. It was another time when I heard voices raised downstairs and I came down and my mother and father were in the lounge room, standing in the lounge room, and he had hold of her and was punching her on the arms. 30

Q. Can you give any indication of the number of these blows that you saw?—A. They were fairly repeated. He was shouting at her also.

Q. And about her condition, can you say anything?—A. Mother was crying.

Q. Just go on with the incident. Did you speak?—A. I asked him not to hit mother. He told me to go away, I would only make things worse.

Q. Just tell his Honor what occurred?—A. And he still hit her so I did not know what to do and I picked up a rifle that was in the corner of the lounge room, and I said "If you don't let go I will shoot you." He turned to me and he said, "Don't be a fool, old girl." 40

Q. He said, "Don't be a fool, old girl."?—A. Yes, I started to cry and then he let go of mother and came towards me and took the rifle from me.

Q. By the way, has your father ever struck you in your mother's presence?—A. Frequently.

Q. And can you say as to whether you used to provoke him to anger as far as you can remember?—A. I do not consider that I was unduly provoking.

HIS HONOR (*to Witness*): About what age were you when your father struck you?—*A.* Your Honor, I have been struck from when I can first remember.

Q. Up to what age?—*A.* Up to about the age of 18.

Q. You are speaking of being struck by your father, are you?—*A.* Yes, your Honor.

Mr. WOOLF (*to Witness*): Do you recall the very day when he returned from the war in or about the year 1942?—*A.* Yes. I came home from school and found my father's baggage had arrived, and he was home and he was standing in the hallway shouting abuse at mother.

Q. And what was he abusing her for on that occasion?—*A.* He said she had not sent him enough food parcels while he was away.

Q. Will you now tell his Honor what change you noticed, whether for the better or the worse, in the relationship between your father and your mother from the time he returned from the war in 1942 to their first separation after the kitchen incident in 1943?—*A.* Yes. The disturbances became much more frequent and seemed to be more violent.

Q. Did you witness any smaller incidents that took place before the main kitchen incident?—*A.* Do you mean—?

Q. In the way of his throwing mess or rubbish on the floors?—*A.* Yes.

Q. Will you tell his Honor what these incidents were that you remember, before the main kitchen incident?—*A.* Mother and I were washing up in the kitchen one night and my father came in and he was angry for some reason. And he picked up one or two pieces of crockery—I cannot remember how many—and threw them on the floor—and he said, or shouted, “You ‘have wrecked my life. I will wreck your kitchen.”

HIS HONOR (*to Witness*): Was he addressing that remark particularly to anyone?—*A.* He was addressing that to mother.

Mr. WOOLF (*to Witness*): Do you know anything of the throwing of water over anyone?—*A.* Yes. He once took a cup of water from the kitchen and threw it over mother.

Q. That was without any provocation that you could observe?—*A.* I do not remember the exact circumstances.

HIS HONOR (*to Witness*): How old would you be then?—*A.* I think I would still be at school, your Honor.

Mr. WOOLF (*to Witness*): Well, this incident of “You have wrecked our marriage. I will wreck your kitchen”—how long would that be before the main incident which is fixed at the year 1943?—*A.* I cannot fix any date for you.

Q. Will you now tell the Court what you know about the main kitchen incident which occurred about the year 1943? Do you recall that there were visitors on that particular night to the house?—*A.* I think there were. I do not remember.

Q. Did you hear any sound of noise or commotion after the visitors had left on that night?—*A.* Yes, there was a noise, a great deal of noise.

Q. And then did you go upstairs for the night?—*A.* I was upstairs while the incident was going on. I did not come down.

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tion—
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Q. Does that mean that your father and mother were downstairs?—
A. They were downstairs.

HIS HONOR (*to Witness*): Had your father been home while the visitors were there?—A. I think he came in later, your Honor.

Mr. WOOLF (*to Witness*): Will you tell his Honor about what you observed next morning at about breakfast time. You came to a room and saw a certain state of affairs?—A. Yes. When I came down, my father and brother seemed to be angry and when I opened the kitchen door I saw that there was a great deal of mess on the floor.

Q. Will you describe fully the extent and nature of the mess that you saw on the floor that morning?—A. There were the contents of the rubbish tin and the contents of a great number of kitchen canisters—the rice and flour and sugar. And there were ashes and bits of coke and earth and stones, and it seemed to be covered over with paper bags and bits of brown paper and it looked as though it had had water thrown all over it too. It was very sodden and matted together. 10

Q. Can you say whether any of the floor was visible or whether it was completely covered?—A. I think the floor was completely covered.

Q. Will you now tell his Honor of any conversation that you had with your father at that point?—A. Yes. I said "What happened?" 20

HIS HONOR (*to Witness*): This was addressed to your father, was it?—A. Yes, your Honor.

Mr. WOOLF (*to Witness*): Will you go on now with your recollection of the conversation?—A. And he said, "Your mother has packed her bags "and gone" and I said, "What do you expect with a mess like this?"

Q. Yes. Please go on with the conversation?—A. Then he told me I must clean it up and I refused.

Q. What did you say to him?—A. I said, "You have made it, you must clean it up."

Q. What did he then do to you?—A. He threatened me with a heavy ebony ruler and I still refused. 30

HIS HONOR (*to Witness*): Yes. And what happened?—A. So he struck me several times with it.

Mr. WOOLF (*to Witness*): Did he strike you hard?—A. He struck me very hard.

Q. And where did he strike you?—A. On the legs, and I started to cry and went upstairs.

HIS HONOR (*to Witness*): And what else occurred, did you say?—
A. I went upstairs.

Q. Yes?—A. I returned in about 15 minutes later when I had recovered myself. 40

Q. Yes?—A. And he and my brother had started to shovel up some of the mess.

Q. Yes?—A. Then my father said, "Well, I have to go to work. I will leave you to finish it off."

Mr. WOOLF (*to Witness*): After the Respondent had left, did you and your brother then join in in helping to clean up this mess?—A. Yes.

Q. And while doing so did someone else arrive?—*A.* Yes, my mother came in.

Q. I cannot ask you anything in regard to your conversation with her, but following on that incident of the kitchen do you remember how long your mother remained thereafter?—*A.* About two months, it would be.

HIS HONOR (to Witness): Do you mean that she was out of the house for two months?—*A.* Yes, sir.

Mr. WOOLF (to Witness): Now, during your mother's absence from the house did your father make any remarks to you at that time about her being absent?—*A.* Yes.

Q. Will you tell his Honor what you remember his saying?—*A.* Once or twice he said, "How long is this ridiculous business going on? Why don't you tell your mother to be sensible and come back?"

Q. Do you remember his ever making any reference as to her duties as a wife or some other such expression?—*A.* Yes. He said once or twice, when was she going to resume her duties as a wife.

HIS HONOR (to Witness): What age were you at this time?—*A.* I was about 16 or 17, I should think.

Mr. WOOLF (to Witness): This was in the year 1943. Your age now is 26, is it not?—*A.* Yes, I would be about 16.

HIS HONOR (to Witness): You were born in 1928, were you not?—*A.* In 1925.

Q. Yes, I see. You would be nearly 18, would you not, in 1943?—*A.* Yes.

Mr. WOOLF (to Witness): Do you remember whether your father said anything to you about your mother's address during her absence?—*A.* He asked me several times where she was living.

HIS HONOR: Did you know?—*A.* I knew.

Q. Did you tell him?—*A.* No, your Honor.

Mr. WOOLF: But at length, how did he come to induce you to tell him?—*A.* He told me one day that he had something from a solicitor which would be of advantage to mother, and I gave him her place of business.

Q. Do you recall your mother's return home after being absent for about two months?—*A.* Yes, then she came back.

Q. Can you tell the Court, according to your recollection, about how long passed after your mother's return before the disturbances were resumed?—*A.* It was only a matter of three or four weeks.

Q. Would you say, from your observation and memory, say that physical violence was resumed at once?—*A.* Not at once.

Q. But after your mother returned did you in the period not long after her return, see any threatening conduct on his part towards her?—*A.* I saw him raise his hand as if he would strike her.

Q. You remember hearing her say anything on those occasions?—*A.* Yes, I heard my mother say, "Don't strike me, Eric, or I will leave you again."

Q. Was there a period when you were serving in a Women's Unit in the Navy during the war?—*A.* Yes.

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tion—
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Q. When was that?—A. Approximately August, 1943, to about some time in 1945.

Q. And during that time you were away for most of the time, from the house?—A. I was away, yes.

Q. Now, on your return to the home in Balmerino Avenue in August, 1945, would you describe your father's behaviour as better or worse?—A. I found it was somewhat worse.

Q. Can you give a general description of the kind of thing that used to go on at that stage? Would anything go on for a couple of days at a time?—A. Yes, when a disturbance started, it would seem to continue on perhaps for two days or perhaps right over a week-end, and there seemed to be more violence and more abuse. 10

Q. After your return then from about August, 1945, on an average, how often would you say these disturbances occurred? Did they increase in frequency?—A. They increased in frequency, very much.

Q. And ultimately, how often would you say they occurred, on an average?—A. I should say there would be a disturbance about once a week.

Q. And were there also disturbances and outbursts affecting your brother and yourself in your mother's presence?—A. There were outbursts, yes. 20

Q. During these disturbances, have you ever heard really disgusting language used?—A. I have heard what I considered revolting language.

HIS HONOR: I suppose you are suggesting it was used by her father?

Mr. WOOLF: Yes, your Honor, I want to be careful not to lead the witness. Which one of your parents would use revolting language to the other?—A. My father would use revolting language.

Q. To your mother?—A. To my mother and myself and David.

Q. Have you ever heard the expression, or any reference in the course of heated scenes of disturbance—

Mr. BARTON: If it please your Honor, the wife has given no specific expressions and therefore I object to specific expressions being put to this witness. 30

HIS HONOR: Why?

Mr. BARTON: This is a case between the husband and wife and if—

HIS HONOR: Of course it is. You often get different witnesses speaking as to parts of the evidence, to make up a case. One may have an imperfect recollection, the other a better recollection. This concerns the conduct between the husband and wife.

Mr. BARTON: If it is conduct, if the expressions are going to be sworn that the husband did use them to the wife, rather than did use them to the witness— 40

HIS HONOR: That I understand, is what you are putting?

Mr. WOOLF: It is sir, by the Respondent to the Petitioner in the witness's presence or hearing. So you say, do you Mrs. Pace, that there was language which you considered revolting which you heard at times?—A. Yes.

HIS HONOR: Used by your father to your mother?—A. Yes.

Mr. WOOLF: Have you ever, during the course of any of these

disturbances, between your father and your mother, heard one or the other say something about who is master in this house?—*A.* Yes, I have heard my father say, “I will show you who is master in this house.”

Q. Have you, after your return in August, 1945, and up to the time you left to get married, just before the beginning of August, 1948, have you often seen your mother crying?—*A.* I have come down when I have heard a disturbance at an end, and found my mother crying and sometimes with her clothing torn or badly disarranged.

Q. Would that apply to such a thing as a night dress for example?—
10 *A.* That would apply, yes.

Q. Have you seen bruises on your mother?—*A.* I have seen bruises, yes.

Q. What part of the body?—

Mr. BARTON: How are these tied up with the father? Everybody has seen bruises on everybody else practically. The question is who put the bruises there.

HIS HONOR: Of course it is. You had better make it a little plainer, whether it is concerned with these disturbances.

Mr. WOOLF: I have been trying to be very careful not to lead her.
20 You say you have seen bruises on your mother?—*A.* Yes.

Q. First of all, on what part of the body or limbs have you seen these bruises?—

HIS HONOR: We will have another question before that. These bruises, are they related in any way to the disturbances you have heard?—*A.* Yes, your Honor.

Q. How are they related to the disturbances?—*A.* Because the bruises would be there the day after there had been a disturbance.

Q. And you heard the disturbance and you came down on occasions, and on the day following the disturbance, you would find your mother
30 displaying bruises?—*A.* Yes, your Honor.

Mr. WOOLF: And on what part of the body or limbs would you see these bruises?—*A.* Mostly on the upper arms, once I saw bruises on her body.

Q. Would you tell of a particular incident some few months before the final separation. I suggest it to you that it started with what was described as a dragging from the bedroom. Would you go on and give the whole of the incident?—*A.* I heard a disturbance and came downstairs and I saw my father dragging my mother from the bedroom. She was in
40 the mouth and she was crying.

Q. What did you hear him say to her?—*A.* I heard him say, “I will cool you down you bitch.”

Q. Having said that, what did he do?—*A.* He dragged her into the bathroom and when I entered the bathroom, he had her down on her knees beside the bath tub, her hands were twisted up behind her back and she was bending over the tub and he had turned the cold shower on to her head and shoulders.

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Q. Did you come forward?—*A.* I asked him not to, and he told me to go away but I persisted and he let mother go. I told him that nothing she had done could warrant such treatment.

Q. Did you then assist your mother?—*A.* I helped mother up and helped her dry and rearranged her clothing.

Q. And do you know where your mother slept that night?—*A.* Yes, we made a bed up on the couch in the dining room for her.

Q. And as to whether or not your father repented after that incident?—*A.* He came in once or twice whilst we were making the bed up and laughed or snorted at us.

Q. Now Mrs. Pace, would you give the Court your account of what took place before the police were sent for? You have been in Court this morning, and you have heard the constable's evidence?—*A.* Yes.

Q. Would you tell the Court what took place on the night or early morning between your parents, before the police were sent for. It was the early morning of the 22nd July, 1948?—*A.* Yes.

Q. Would you tell his Honor what took place?—*A.* I had been out, and got home late and had just got into bed, and I heard noises from a disturbance so I went down and went into my parents' bedroom.

Q. What did you see?—*A.* My father was holding my mother bent backwards across the bed with her feet on the floor. He had her arms bent to her side, or pinned to her side, and he was leaning forward over her.

Q. Did you call your brother down?—*A.* I went and I asked him to let go, and he did not, so I called my brother downstairs and together we tried to pull my father away from my mother.

Q. Could you do so?—*A.* We were unable to move him.

Q. Stopping at that point, it has been suggested that you used the incident as an occasion to try and gouge your father's eyes out?—*A.* I may have pulled him back by the hair to try and lift him off my mother.

Q. Did you do anything that could be fairly described as trying deliberately to poke your father in the eye?—*A.* Not that I remember.

Q. Well you tried by perhaps various means did you, to pull him away from your mother?—*A.* Yes, we punched him and pulled him and tried to get him away.

Q. You found you could not do so?—*A.* We were unable to do so.

Q. Will you tell the Court about anything you said to your father about your mother and the reference to an operation?—*A.* Yes, I said my mother has only had her operation for a few months, you might hurt her.

Q. Operation for what?—*A.* For the gall bladder.

Q. Did he make any reply?—*A.* I do not remember him making any reply.

Q. Did he indicate as to whether he wanted you and your brother to stay or go away?—*A.* He told us to go away. He said cannot you see it is between husband and wife, and intimated that we would make things worse by staying.

Q. Did you say anything about the police?—A. I said, “If you don’t let go of mother I will call the police.”

Q. Do you remember what your father said when you first mentioned you would call the police?—A. When I first mentioned it he said nothing. I went out to the phone, but I did not like to ring up and I came back, but he still had her on the bed, and I said “I will call the police,” and he said, “Go ahead, they can see what a mess your mother has made,” and I rang the police.

10 Q. After you rang the police, and before they arrived, were you and your brother then still standing in the room?—A. My brother came out with me when I phoned up and then we both together went back into the bedroom.

Q. Well, you were standing in the room before the police arrived. What was your father’s physical attitude towards your mother?—A. When we came back after phoning, his attitude was exactly as the constable described it this morning.

Q. He was still holding her?—A. Still holding her, but not bent back over the bed any more.

20 Q. They were in a standing position?—A. Yes, but he was holding her exactly as the constable described.

Q. You have heard the policeman’s evidence. The policeman told him to release his wife, and he did so?—A. Yes.

Q. Do you remember anything about the sleeping arrangements that night? Did your mother go upstairs?—A. Yes, mother went upstairs to my bedroom.

Q. And where did your father sleep?—A. I went in and he was still in bed in the main bedroom.

30 Q. I do not know if you recall any detailed conversation which the policeman does not remember. Do you remember any reference being made after the policeman arrived to the subject of anyone being under treatment to psychiatrists?—A. Yes.

Q. Tell us what was said?—A. When the policeman asked my father to let go my mother, he stepped forward and said, “It is all right, constable, I have my wife under psychiatric treatment,” and the constable said, “I do not want to hear anything, from the look of things, it is you who should be under treatment.”

40 Q. Will you come to about the period of June, 1948, when you were engaged to be married. Can you say whether at any time in your mother’s presence, your father showed hostility to you and your future husband, or was aggressive in his attitude?—A. I cannot say that he was aggressive in my mother’s presence. You meant if my fiancée and myself were there also?

Q. In your presence in relation to your future husband?—A. Oh yes, he said he did not like the idea of it.

HIS HONOR: What is the point of this?

Mr. WOOLF: Only in this sense. Could you say whether or not that differences on that subject aggravated the situation before the final separa-

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tion of your parents?—A. I should think that possibly once or twice there would have been differences which started on account of my engagement.

HIS HONOR: Did you hear your father and mother disputing because of your father's attitude to your intended marriage?—A. One night I heard shouting going on and my future husband's name came into it and I naturally assumed that they were talking about him.

Q. That is all you know about his dislike of your intended marriage being the subject of a dispute between them?—A. Yes, your Honor.

Mr. WOOLF: Now after the final separation of your parents in August, 1948, have you and your father ever met for a definite conversation?— 10

A. Twice to my remembrance.

Q. Tell his Honor about the first of these occasions?—A. It was by appointment I met my father and I had a meal with him and he asked me whether I knew that my mother was away from him and he said, "How long is it going on, it is ridiculous, and cannot you do anything about it?"

Q. What did you say?—A. I said that it was none of my business, that it was something for he and mother to decide.

Q. Well then, did you in effect, decline to interfere in the matter?— A. Yes, I declined to interfere.

Q. That is the first occasion, was there a second occasion? 20

HIS HONOR: Is that in 1948, that conversation?—A. Either late 1948 or early 1949, it was after I was married anyway.

Mr. WOOLF: Well then, I think you have said there were two such occasions. Do you remember how long after the first the second would be?—A. I should think it would probably only be about two months or so.

Q. Do you remember the effect or substance of the conversation between your father and yourself on that second occasion?—A. It was to the same effect.

HIS HONOR: And with the same result?—A. With the same result.

Mr. WOOLF: I am not asking you to recall the exact words, but can you 30 say as to whether your father indicated that in his opinion your mother was staying apart from him for no sufficient reason?—A. Well, he said how long is this ridiculous situation going to continue.

HIS HONOR: Apart from that, he did not?—A. He used more expressions than that, but that is the one I can remember definitely.

Cross-exam-
ination.

Cross-examined by Mr. BARTON.

MR. BARTON: On this evening that the police were called the 22nd July, 1948, you say that you did not say that we have had our father under three psychiatrists?—A. I have not even been asked that question.

Q. Well did you say that?—A. No. 40

Q. Did you say his father was mad?—A. No.

Q. I suppose this is the first time you have ever heard it suggested that you could have said that on the 22nd July, 1948?—A. I do not quite understand.

Q. This is the first time you have ever heard it suggested that you could have said we have had our father under three psychiatrists, on the 22nd July, 1948?—A. Yes, as far as I know.

- Q. You have never heard it suggested before that you said that ?—
 A. No. In the Supreme Court of Victoria.
- Q. Now David first of all joined in the fray that night, did he not ?—
 A. I came down first.
- Q. You came down first ?—A. I came down first. Petitioner's Evidence.
- Q. It would be untrue to suggest that David came in first and punched and pummelled his father and you looked on ?—A. My brother came down for a minute—
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- Q. And you looked on whilst he was having a go at your father ?—
 10 A. I was having a go too, I was not looking on. 17th September 1952.
- Q. You were trying to gouge his eyes out ?—A. I was not trying to gouge his eyes out.
- Q. Do you remember the occasion on the 3rd June, 1948, there was some argument over a wedding breakfast ?—A. There were several arguments over the wedding and the wedding breakfast. Cross-examination—continued.
- Q. Do you remember that occasion, the 3rd June ?—A. No I cannot remember the date.
- Q. He said, where do you want it, and how many people do you want ?
 —A. I remember nothing about the details.
- 20 Q. Do you remember it ended up in quite a shindy and you followed him out into the street, abusing him ?—A. I do not remember that.
- Q. You do not remember standing in front of a number of people at a bus stop ?—A. I have never done that.
- Q. Now this loaded rifle incident in 1946 or 1947 ?—A. It was when I was about 15 years of age, 1946 I suppose.
- Q. You were born in 1925, you would be 21 ?—A. It was when I was about 15 years of age that I remember it.
- Q. On this occasion, it took place in the bathroom ?—A. No it was not in the bathroom.
- 30 Q. Did you see Lang with his hand held up covered in blood ?—
 A. No.
- Q. And Mrs. Lang was standing beside him ?—A. He was hitting my mother.
- Q. Actually hitting her ?—A. Hitting my mother.
- Q. He was not merely saying, " You are making a mess of things, let me do it." He had his hand covered with blood ?—A. His hand was not covered in blood, he was hitting her.
- Q. And you presented this rifle, and you said, " If you are hurting my mother I will kill you " ?—A. I may have said that.
- 40 Q. And you presented the rifle at him ?—A. Yes.
- HIS HONOR: Did you know whether the rifle was loaded or not ?—
 A. I have no idea whether the rifle was loaded or not.
- Q. Have you ever fired a rifle ?—A. Yes, I was taught from when I was very young to fire a rifle.
- Mr. BARTON: This rifle was kept in your bedroom ?—A. No, never in my bedroom.
- Q. Kept upstairs ?—A. It has been upstairs when it has been cleaned.

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nation—
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Q. Well on this day, there was a rifle in the corner of the dining room ?
—A. A corner of the lounge room.

Q. Was it usually kept in the lounge ?—A. It was there quite often.
If we had been up the country, we put it there from the car.

Q. And Lang did not say "It is my blood you fool," when you
presented the rifle at him ?—A. No.

HIS HONOR: Was it a rifle that fired bullets or shot ?—A. A 22
Repeater Winchester your Honor.

Mr. BARTON: Your father has been quite generous to you in the
way of presents has not he ?—A. Do I have to answer that ? 10

HIS HONOR: Is there any difficulty in answering it ?—A. I do not
think he has been generous.

Mr. BARTON: Look at that engagement ring ?—A. That was not my
father's.

Q. Your father prevailed on his mother to give it to you ?—A. No
he did not.

Q. Did he give you a cheque for £100 ?—A. It was a paid up policy.

Q. He paid the premiums ?—A. It lapsed for about 18 years.

HIS HONOR: A policy due on your 21st birthday ?—A. Yes, your
Honor. 20

Mr. BARTON: That was for £110 ?—A. Just over £100.

Q. And he added £40 and gave it to you ?—A. No he did not add
anything to it.

Q. The cheque you were handed at the Toorak Church was for £150 ?
—A. I understand it was interest.

Q. He did not add anything ?—A. He gave me a cheque for £20 to
buy my trousseau.

Q. And he had given you all sorts of furniture had not he ?—A. The
furniture was given to me a considerable time before my marriage.

HIS HONOR: This is surely not attacking the witness's credit, is it ? 30

Mr. BARTON: No sir, the hardship on her was the hard way this man
treated his daughter. When you were 11 years old, you went to Africa,
did not you ?—A. It was before I was 11 years old.

Q. When you were 10 years old ?—A. Yes.

Q. And this first incident you have told his Honor about, that was
when you were 11 years old ?—A. It was after we had returned from
Africa.

Q. And did you know what the dispute was over ?—A. No I had
no idea.

Q. In fact, as to most of these disputes, you do not really know how 40
they started you came in at a later stage ?—A. I have heard disputes
start, I have been there when they have started.

Q. Were these disputes which you have told his Honor about, any
that you heard start ?—A. Some may have been, I have heard so many.

Q. This house was in a constant melee over a long period of years ?—
A. Well it was not bedlam all the time.

Q. Most of the time ?—A. A considerable portion of the time.

Q. And Lang was quite a strict father was not he, as far as you were concerned?—*A.* I cannot really answer that I am afraid.

Q. Well, he had strict ideas about things, did not he?—*A.* In some ways.

Q. And your mother had fairly loose ideas?—*A.* Very strict ideas in some ways.

Q. But different ways to the way in which your father thought?—*A.* In the main essentials no, they had just different means of achieving it.

Q. They had quite opposite means of achieving the same end?—*A.* Oh, quite.

Q. Your father struck you until you were about 18 you say?—*A.* As far as I can remember.

Q. That was in his capacity as a parent?—*A.* I suppose so.

Q. You have also heard some rather disgusting language used by your mother to your father?—*A.* Not disgusting.

Q. What is the worst you have heard your mother say to your father?—*A.* Filthy swine, or something of that sort.

Q. Did you hear your mother tell your father on more than one occasion that she would leave him again? You have given his Honor one occasion?—*A.* After the first separation, yes I did hear my mother say that several times, at least once or twice, possibly several times.

Q. I want you to read that letter through and tell me whether that is a copy of a letter which was sent to you by your father?—*A.* The first part is, but I definitely do not recall after page 1. I recall the first part down to paragraph 3.

Q. Have you read that letter all through?—*A.* I can see what it is.

Q. Read it right through?—*A.* I cannot say whether it is definitely this letter or another. I received a letter on similar lines to this.

Q. You signed a card for a letter on the day after —

HIS HONOR: I want to know Mr. Barton how you are putting that a letter written by her father to her is evidence. You may ask her as to some incidents, but the fact that it is a letter written by her father cannot make it evidence in his favour.

Mr. BARTON: I am putting it as credit. That letter clearly alleges that she told the Police that her father had been under psychiatrists. She has already denied that she said it, and denied that she has ever heard it said.

HIS HONOR: If you can show any conduct inconsistent with it, you can show it, but the mere fact he wrote it in a letter does not make it evidence. What is really evidence is her conduct and admissions.

Mr. BARTON: You have already said that you did not know before this case came on that it was going to be alleged that you had told the police that he was under three psychiatrists?—*A.* I had forgotten that letter.

Q. Well read it right through?—*A.* I put it out of my mind after I had read it.

Q. That was why you gave the answer that you did?—*A.* I had forgotten it.

Q. There is also an allegation in that letter that on the 3rd June, you had some dispute with your father over a pre-wedding party.—*A.* Yes.

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Q. And that you did follow him out of the house, abusing him?—
A. There is that in the letter.

Q. And you deny that?—A. Flatly.

Q. I think I have sufficient grounds for tendering the letter at this stage, sir?

HIS HONOR: Why, what evidence do you show on the part of this witness, that she adopts anything in that letter?

Mr. BARTON: But it is relevant to credit, I suggest.

HIS HONOR: What he chooses to say to her in a letter, how can it be?

Mr. BARTON: She has already denied herself this morning, that she 10
ever heard it alleged before by her father that she had said to the police that they had their father under three psychiatrists.

HIS HONOR: That is another matter.

Mr. BARTON: But she has said she never heard it alleged until this case 1
and now this letter is tendered.

HIS HONOR: That would be so, that does show an allegation, if she says she received the letter.

Mr. BARTON: She says she received a letter but denies the allegations in the letter.

Exhibit " 22 "—Letter dated 6th June, 1949, from Respondent 20
to the Witness.

The Witness withdrew

Mr. WOOLF: Before calling the next witness I would like to inform your Honor that I had some conversation during the luncheon interval with the last witness, Mrs. Pace, and she instructs me that that letter which your Honor, in the aspect mentioned by you at the time allowed to be put in evidence, is divided into a number of paragraphs and, according to her, a great deal of the allegations made by the writer to herself about herself are in fact not true.

HIS HONOR: I am only paying attention to it in regard to one matter. 30
As I pointed out to Mr. Barton, a man cannot make evidence for himself by making statements in a letter. The only thing that is evidence is the conduct or the statements of the Respondent, and it is only in regard to the one matter following the allegation as to the wife being under three psychiatrists that I let it in at all.

Mr. WOOLF: In the light of that pronouncement, your Honor, I am not re-examining Mrs' Pace to get her to continue one by one with these various statements.

HIS HONOR: Indeed, I should not allow you to.

Mr. WOOLF: I thank your Honor.

ROBERT NELSON VROLAND (Sworn and examined).

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Mr. WOOLF: You are the solicitor for the Petitioner in this case?—
A. That is so.

No. 11.

Q. Now, during the year 1948 were you consulted by the Petitioner as to her matrimonial troubles and specifically as to the question of herself and the Respondent having to occupy the same house?—A. Yes, I was; in the same residence.

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10 Q. Can you indicate to his Honor when that definite point would arise—when you were first consulted about that?—A. Well, may I refer to my files? I can then give the information.

Examina-
tion.

HIS HONOR: Yes.

WITNESS: Mrs. Lang first saw me on the 26th July, 1948.

Mr. WOOLF (*to Witness*): And when would you say that she saw you about the subject matter I have indicated to you? Following those instructions on that date, did you at that stage communicate with the Respondent or with anyone representing him at that stage?—A. No, I do not think I did.

20 Q. Well, when did you first, according to your records, communicate with the Respondent or any solicitor on his behalf in regard to this subject matter?—A. According to the records I have here, Mr. Stillman saw me on the 11th August, 1948.

HIS HONOR (*to Witness*): Was Mr. Stillman then acting for the Respondent?—A. He was then acting for Mr. Lang.

Q. This was on the 11th August, do you say?—A. Yes, sir.

Mr. WOOLF (*to Witness*): Will you please tell his Honor the substance of the conversation between Mr. Stillman and yourself, he as representing Lang?

30 HIS HONOR: I suppose there is no question of privilege in regard to this. Are you, Mr. Barton, raising any questions?

Mr. BARTON: For the moment, sir, I am not clear how it is put.

HIS HONOR: Well, how is it put, Mr. Woolf?

Mr. WOOLF: I would submit, to this point, your Honor, there can be no question of privilege?

HIS HONOR: Up to the present there is none.

Mr. WOOLF: But the witness is speaking of his interviewing another solicitor.

40 HIS HONOR: Well, perhaps I can say quite plainly, it has no importance. It is a consultation between solicitors on either side and it may be said that what takes place is without prejudice.

Mr. WOOLF: I appreciate that, your Honor. (*To Witness*): Did you have any reason to believe that Mr. Stillman might have regarded that particular conversation with him as without prejudice?—A. No, sir.

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HIS HONOR: Yes. Very well.

Mr. WOOLF (*to Witness*): Will you tell his Honor the substance of the conversation between yourself and Mr. Stillman as representing the Respondent on the 11th August, 1948?—A. I think perhaps, sir, I should amend one aspect of this in relation to what your Honor has raised. Mr. Stillman saw me and we had a conversation of which I have a very brief note, and it is to the effect that we agreed that "time should be allowed to cure, etc." He later phoned me, and it is in regard to the later conversation that there is no question of its being without prejudice.

Mr. WOOLF (*to Witness*): And you are confident at the time it was not regarded as being without prejudice? 10

HIS HONOR (*to Witness*): And what was the time of that conversation?—A. The telephone conversation, your Honor? The same day.

Q. I am afraid I do not quite appreciate the first part of what you said just now?—A. My note is "to cure, etc."

Q. I thought so, but when you telephoned later the same day you have not allowed them very much time, have you?—A. It was a new matter. It was nothing to do with what was taking place at the interview. He phoned me and raised a new matter altogether; the question as to whether Lang should be allowed to return home. 20

Q. And this was all the conversation, was it?—A. Yes, sir. The substance was that his client had been told by his employers, but uncorroboratedly, that unless he went back to live with his wife he would be sacked. I said that I would discuss the matter with my client. This, sir, was on a Friday—no a Wednesday.

Q. Yes?—A. I spoke to Mrs. Lang.

Mr. WOOLF (*to Witness*): Did you speak to Mrs. Lang and get her instructions prior to the night of the 13th August?—A. Yes, this same afternoon of the 11th of August I telephoned Mrs. Lang and told her what Mr. Stillman had said. As a result of my discussion with her I phoned Mr. Stillman and told him that Mrs. Lang had agreed to let Mr. Lang return home provided he behaved himself and left her alone—the present speaking arrangements to pertain. 30

HIS HONOR: To pertain. Yes.

Mr. WOOLF (*to Witness*): What would be the next step in the matter? Did you convey that to Mr. Stillman?—A. By telephone.

Q. And would it be that same day?—A. The same day. There was another question of the relationships of Mr. Lang and either his son-in-law or his prospective son-in-law. That was discussed but it had nothing to do with Mrs. Lang. 40

Q. Well, then, Mrs. Lang's reply to her husband was then conveyed to Mr. Stillman on Mrs. Lang's behalf, still on the 11th August?—A. Yes.

Q. Well now, Mr. Vroland, the next thing would be, would it not, the occasion of her writing a letter to the Respondent?—A. Oh no, I was not contacted by telephone with Mr. Stillman on the 16th August.

Q. Yes?—A. I had had some instructions from Mrs. Lang on Saturday the 14th August. On the 16th August I phoned Mr. Stillman and told him what had happened. That is my memo. here, and I recounted to him the

instructions Mrs. Lang had given me as to the occurrence in the house on the night of Friday, the 13th August. In the Supreme Court of Victoria.

Q. Would there be any other fact or material fact or communication between that and the writing of your first letter?—*A.* No.

Q. Well, as to your writing a letter—or before you wrote this letter that ultimately went forward to the Respondent undated but was answered by another firm of solicitors, Messrs. Kemp & Townsend, this was later, after you had had an interview with the Respondent personally, was it?—*A.* Yes. Petitioner's Evidence. No. 11. Robert Nelson Vroland. 17th September 1952.

10 *Q.* Will you tell his Honor the facts in regard to this?—*A.* The Respondent called at my office, sir, on the 1st September, 1948. He had with him——

HIS HONOR: There is one point that I want to have clear. Was that after or before the writing of your undated letter?—*A.* Before the writing of the letter, sir. I should say that I fix that date by reference to a letter dated the 2nd September. He called and was accompanied by an inquiry agent known to me as Skinner of Dunn's Detective Agency. I might say that I am not certain about this matter. I mean, about the name. I have known the man as Mr. Dunn or Mr. Skinner. Lang and Skinner came into my room. I cannot tell you the precise sequence of the conversation but from reference to my notes I first pointed out to Lang that he had a solicitor acting for him and that he should not be seeing me without his solicitor. From a letter written later, I believe I referred to the fact that he had had several solicitors. Lang insisted that he wished to see me without a solicitor. I said to him, "I must make it clear to you that I am acting for Mrs. Lang." Examination—continued.

20 *HIS HONOR:* There is one point that I want to have clear. Was that after or before the writing of your undated letter?—*A.* Before the writing of the letter, sir. I should say that I fix that date by reference to a letter dated the 2nd September. He called and was accompanied by an inquiry agent known to me as Skinner of Dunn's Detective Agency. I might say that I am not certain about this matter. I mean, about the name. I have known the man as Mr. Dunn or Mr. Skinner. Lang and Skinner came into my room. I cannot tell you the precise sequence of the conversation but from reference to my notes I first pointed out to Lang that he had a solicitor acting for him and that he should not be seeing me without his solicitor. From a letter written later, I believe I referred to the fact that he had had several solicitors. Lang insisted that he wished to see me without a solicitor. I said to him, "I must make it clear to you that I am acting for Mrs. Lang."

30 *MR. WOOLF (to Witness):* Did you ask his companion as to why he was present?—*A.* I did not. I had had other contacts with Mr. Lang in between the time of about the 16th August and the 1st September where questions as to the ownership of the house had arisen. By that stage reference had been made to the fact that there was a bodyguard, and Skinner's presence did not surprise me. I then said to Lang, "Your wife considers that she is no longer bound to live with you, following what happened at your home on the evening of Friday the 13th August." I said to him, "You will remember that I made arrangements with your solicitor that you were to go back home because of your own statement that if you did not go back you would lose your job." I said to him, further, "It now appears that that was quite untrue, that your sole purpose in getting back into the home was to get back to your wife." Lang agreed that that was so.

40 *HIS HONOR (to Witness):* Do you remember what was said?—*A.* No sir. I have a draft letter which I wrote either on the evening of the interview or next morning—I am unable to say which it was—from which I am satisfied as to the substance of what I said. But I cannot remember the precise words beyond what the letter says. May I read the draft letter?

HIS HONOR: Well, not unless you are asked to.

MR. WOOLF: Might the witness refer to the completed letter which is in evidence and which was sent by him to the Respondent?

HIS HONOR: Yes, of course he can. That is the letter that was sent.

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Mr. WOOLF : Then perhaps the witness might be given an opportunity to see the letter and need not refer to the draft.

HIS HONOR : Perhaps you can save time, witness, by looking at the copy, which is part of Exhibit " D " (*Handed to Witness*).

THE WITNESS : Yes, your Honor. I wrote this letter. I fixed the date as the 1st September because the 2nd September, by reference to the fact that on the same day I sent a copy of this letter to Messrs. Plante & Henty who had been acting for Lang and whose employment as his solicitor was under notice of ending. This sets out accurately what did occur on the occasion referred to in the letter. 10

Mr. WOOLF (*to Witness*) : In particular, you will see in the second part of that letter that you quoted what he had done in his own words. Will you quote his expression there ?—A. " The Rape of Lucrece." Well, that phrase was used by Lang himself.

Q. It was used by Lang himself ?—A. Yes.

Q. If you will look three paragraphs down in that letter you will see these words, " On the next day you saw fit . . . and she enjoyed it." Do you remember that those words, or words to that effect were used by the Respondent ?—A. Yes, the substance of what Lang said. I said to him, " Were these the words that you said ? " and he said, " Yes, she did enjoy 20
" it." He was quite arrogant about the whole thing.

Q. And you did, as indicated by the letter, say to him at the time that in view of his conduct as stated in the letter you notified him that his wife could not be expected to live with him again ?—A. Yes, I did.

Q. It was said at the time ?—A. Oh yes, I said it quite specifically.

Q. Is there anything else about the interview that you recall ?—A. No. I remember it as an unpleasant interview at which I set out to obtain admissions from him in the interests of my client and I terminated it as quickly as I could consistent with that.

Q. Then, after that you received a reply from Messrs. Kemp & Towns- 30
end, did you ?—A. Yes.

Q. And you wrote to Kemp & Townsend after receiving their reply to your letter to the Respondent. You wrote to Messrs. Kemp & Townsend on the 15th September ?—A. Yes, that is correct.

Q. After they had said that you had written a remarkable letter to their client ?—A. That is so.

Cross-examined by Mr. BARTON.

Cross-exam-
ination—

Mr. BARTON (*to Witness*) : Your memory about this whole case is rather vague, is it not ?—A. No, it is not vague at all as to the order of the events. The precise dates I cannot pretend to remember. 40

Q. Are you quite sure that there was a man with him on that occasion that you have related ?—A. I am.

Q. You are quite sure it was Skinner ?—A. It was the man whose name I know as Skinner. I have seen him frequently in his office in Swanston Street.

Q. And on this particular occasion you are quite sure that Skinner was there ?—A. The man you refer to, yes.

- Q. He and Lang came to see you some months later, didn't they?—
 A. Not me, personally. I know of only one interview.
- Q. About 4 or 5 months later they came to see you and Skinner acted
 as the main spokesman on that occasion?—A. No. Skinner did not on any
 occasion.
- Q. Did you say to Lang on that occasion, "As to the costs of this action
 you will pay—win, lose or draw"?—A. I might have said something like
 that to him on some occasion.
- Q. That would be the second occasion?—A. I have no recollection of
 10 any second occasion.
- Q. You are quite sure that Skinner was with him on this occasion?—
 A. Skinner was with him on this occasion.
- Q. You had, of course, prior to this seen Mr. Halford?—A. Yes, I had
 taken a statement from Mr. Halford.
- Q. And you wrote this letter on the 15th September in which you say
 "If it were not for the incontrovertible evidence in our possession . . ."
 That was, I suppose, Mr. Halford's evidence?—A. No. But it was also the
 admissions of Lang himself. I saw Mr. Halford on the 25th August, 1948,
 and I took a statement from him.
- 20 Q. In your letter you go on to say "Unfortunately, since the receipt of
 "your letter of the 8th instant the behaviour of your client has been more
 "than ever calculated to increase our client's justification for her fears for
 "her safety and to confirm her allegations against her husband." Do you
 know what you were referring to there?—A. Do you mean that letter—
 "Unfortunately since the receipt of your letter" etc.? What is the date
 of that letter?—A. The date of the letter is the 28th of September?—A. I
 will consult the notes. No, I am unable to say specifically to what it refers.
- Q. You would not claim maintenance on behalf of the wife unless she
 authorised you to do so, would you?—A. I do not think so.
- 30 Q. You would need some instructions, of course?—A. Yes.
- Q. A good deal of this letter of the 2nd September is concerned with
 things which you say both Mr. Halford and Mr. Lang told you?—A. Yes.
- Q. And this is what happened, is it? Lang came in and said, "Can
 "I do anything to get my wife back?" That was the purpose of his visit,
 was it?—A. No. Lang's attitude towards me rather was as if I had been
 the whole cause of his trouble. He was quite arrogant and cheeky.
- Q. I suppose you said, "Well, you did this and you did that." And
 you took it from Mr. Halford's statement?—A. I took it from Mr. Halford
 and from what Mrs. Lang had told me. I make no question of the fact that
 40 I set out to get evidence for my client by way of admissions for my client.
- Q. Would you regard silence as evidence after that expression was
 used—"Rape of Lucrece"—that is, if he sat silent?—A. If he sat silent
 I do not think I would have written as I did. I would not have written as I
 did had he sat silent.
- Q. But you do not remember any of his answers?—A. I do. I remem-
 ber that he admitted stating that to me.
- Q. Just what did he say?—A. Well, for instance, I said to him, "You

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“said your wife had told Mr. Halford that she had ‘enjoyed it.’” I remember that. He made no attempt to hide what had taken place. His attitude about it was arrogant and boastful.

Q. I asked you, what did he say?—*A.* I do not remember precisely.

HIS HONOR (to Witness): He used those words, “The Rape of ‘Lucrece’”?—*A.* He did, according to my instructions, to Mr. Halford. I used the phrase to him at our interview and he said, “Yes, the Rape of ‘Lucrece’ had taken place.” The two things that stick in my mind about this interview are that he used the phrase, “The Rape of Lucrece” and that he had told Mr. Halford that his wife had said she had enjoyed it. 10

Q. You told him that Mr. Halford had told you that?—*A.* Yes, I said it to get him to repeat it.

Q. Are you quite sure as to this first interview—the telephone conversation with Mr. Stillman—that at that interview you said the present dead position was to continue?—*A.* Yes, the present sleeping arrangements.

Q. That does not appear in the Further Particulars of this petition?—*A.* I could not tell you. The conduct of this petition was handed to my partner long before getting to Court. I have not seen the pleadings even.

Q. What is said there is, “responding . . . that the Petitioner would ‘consent to his return . . .’” there is nothing further than that?—*A.* Well, 20 I have not seen the pleadings, as I have said.

Q. I suppose you would have regarded it as something you would get an admission of if possible if Mr. Halford had told you that, prior to the 13th August Lang had told him that the Rape of Lucrece was going to take place?—*A.* Mr. Halford told me he had been told it was going to take place and I accused Lang and said “Your sole purpose in getting into the house ‘was to do this thing, and your story about losing your job was a ‘concoction.’” That was the substance of what I said.

Q. You say in this letter “Moreover on the next day you saw fit to ‘boast to Mr. Halford that you had raped your wife and that she had said 30 ‘she had enjoyed it.’” You make no allegation in this letter that he had said that to Halford before, that he was going to do that?—*A.* No.

Q. This letter, I suppose, you regarded as a fairly valuable record?—*A.* I may have regarded it as a valuable record but not as the complete record of everything we had in our possession in the way of evidence.

Q. Did Mr. Halford tell you about this time anything about “The Great Rape”?—*A.* Mr. Halford told me that Lang had said to him a day or so prior to the 13th August, 1948, at his flat “I am going back home. ‘I am going back home. I am going to rape Jemima to-night.’” Later he said, “The Rape of Lucrece” will take place. This is a statement that I 40 took from Mr. Halford on the 25th August—“A day or so prior to the ‘13th August Lang saw me at my flat. He told me he was going home. He ‘said ‘I am going to rape Jemima.’ Later he said ‘The Rape of Lucrece ‘will take place.’ I told him to go home and take it quietly and I am sure ‘everything will be all right.’”

Q. He did not say anything to you about Lang telling Mr. Halford that there was only one way to treat a woman and that was to give her cave-man

stuff?—*A.* That is all I recall at the moment. May I just look at the statement to see if there was anything further?

Q. Yes. Please look at it?—*A.* Looking at this statement, the only further reference is that he says on the following Saturday afternoon he—that is Lang—returned to my flat and said to me, “The Rape of Lucrece has taken place and she enjoyed it.” He repeated this several times and seemed to gloat over it. I have no reference in my notes to “The Great Rape.”

10 *Q.* Or to anything which Lang said such as that there is only one way to treat women and that is like a caveman or to give them caveman stuff?—*A.* Not in that statement, no.

Q. I direct your attention, Mr. Vroland, to this passage in the letter, “Notwithstanding this, you admitted to the writer yesterday and also you “deliberately said it to ensure that your wife would be alone in the house “with you on the evening of Friday the 13th August.” Did Mr. Halford tell you that?—*A.* In substance he did.

Q. Now, what happened at the interview, I suggest, was this: He came in. He asked for a reconciliation. Could you do something for him. Do you deny that?—*A.* He did not ask me that.

20 *Q.* And you said “I do not know how a man who has done these things “can think of reconciliation.” And you then catalogued the things and he shut up quickly?—*A.* No, I did not have any such conversation with him.

Q. And Skinner was the man—that is, the man named Skinner—was definitely there?—*A.* A man that I know as Skinner was present.

(The Witness withdrew)

No. 12.

Frederick David Lang.

FREDERICK DAVID LANG (Sworn and examined).

30 Mr. WOOLF: Your name is Frederick David Lang?—*A.* It is.

Q. And do you live at Number 52 Darling Street, South Yarra?—*A.* Yes.

Q. And are you a medical student?—*A.* Yes.

Q. And the son of the parties to this case?—*A.* Yes.

Q. What is your age at present?—*A.* I am 23.

Q. So far as your memory goes, about how old were you when you first remember trouble between your parents?—*A.* I was 9 or 10 years old.

Q. And were the first occasions which you remember in the daytime or at night?—*A.* They were at night.

40 *Q.* What is the first occasion of all that you remember of any incidents of violence by your father to your mother?—*A.* One night I was wakened

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by some noises and on going out of my bedroom I found my father had my mother with her arm behind her back and he was half pushing, working her towards the bedroom from the head of the stairs and abusing her as he was doing it. I do not know whether this happened on the same night or on another occasion, but he was forcing my mother into a kneeling position.

Q. Either on that night or on another occasion he forced your mother into a kneeling position?—*A.* I only saw him holding her in a kneeling position, and he was telling her to pray to Almighty God to stop her from wrecking their marriage.

Q. Can you say anything about her condition?—*A.* She was very 10
distressed.

Q. Now, at what home were your parents living when these first two incidents occurred?—*A.* At No. 18 Balmerino Avenue.

Q. Do you remember if there were any other disturbances while you were still at No. 18 Balmerino Avenue, before moving to No. 3 Balmerino Avenue?—*A.* Yes, there were several.

Q. Do you remember the details of them?—*A.* No, except the happening of those disturbances there was nothing to distinguish them from the later disturbances.

Q. It was the same general type of conduct?—*A.* Yes. 20

Q. After you had all moved to No. 3 Balmerino Avenue and until your father went to the Middle East in or about the year 1940, will you tell his Honor how often you heard disturbances on an average?—*A.* On an average they would be about once a month and they did get more frequent as time went on.

Q. Can you say how long, once these disturbances began, how long they would last as a rule?—*A.* Almost always for several hours, and sometimes they would continue for several days.

Q. Now, would you be at times awakened at night by these disturb- 30
ances?—*A.* Yes.

Q. And when you were awakened, will you tell the Court the type of thing—anything that you usually heard and saw on being awakened? What did you hear? Were there voices raised?—*A.* I would be awakened by a voice raised downstairs.

Q. Whose voice?—*A.* It was my father's voice.

Q. And what did you hear? Would you hear what he was saying at times?—*A.* Yes.

Q. And did he use bad language?—*A.* He used very bad language, and I can say he used bad language invariably. I do not think there was any time in which I did not hear him using bad language. 40

Q. You mean, when he was in a temper?—*A.* Yes, when he was in a temper, when I was awakened at night.

Q. Did you, when you were awakened, by yourself or with your sister, go anywhere to listen or to see what was going on?—*A.* Sometimes I listened at the head of the stairs or sometimes it would be downstairs and sometimes it would be through the short connecting passage from the stairs to the door of the bedroom which was usually half open.

- Q. Did you ever hear the sound of blows being struck?—A. Yes.
- Q. More than once?—A. Yes.
- Q. About how many times did you hear the sound of blows being struck? I do not mean exactly, but can you say how often you believe it happened?—A. I cannot put a figure on it but it was regular. The position would be that I did not go down on every occasion, but if I was close to the door, as far as I can remember I would hear blows.
- Q. You say you would hear blows. And you would hear threats?—
A. Yes.
- 10 Q. What would be the nature of the threats?—A. Very frequently he would say, “Put your hands down, you bitch, or I will hit you.” Or “Put your hands down, you bitch, or I will hit you again.”
- Q. About how many times did you see one or another of them through the open door?—A. It would be a number of times.
- Q. When you entered the bedroom when hearing these disturbances, in what physical attitude did you find your father in relation to your mother?—A. He would be standing over her, as it were, frequently with his arm upraised.
- Q. Threatening her?—A. Threatening her.
- 20 Q. Did your father, on any of these occasions—I will put it this way—did your mother see that you had come into the room?—A. Yes.
- Q. Did she or your father say anything to you on these occasions on finding out that you had come into the room?—A. If my mother saw me first she would beckon with her hand for me to go, but if my father saw me, then he would sort of stand away from my mother and tell me to leave the room, and if I was still not leaving, he would say, “Get back to bed, you young bugger,” or some such expression.
- Q. Have you ever at any time spoken to your father and asked him not to hit your mother?—A. Yes, on several occasions on which my father saw me when I came downstairs I would ask him to stop hitting mother.
- 30 Q. On any occasion has your father struck you when you came forward as he was striking or threatening your mother?—A. Yes. I can remember several occasions on which that happened.
- Q. Can you say how often?—A. I would say that it would be about 4 or 5 times.
- Q. Do you remember his ever actually punching you on such occasions?—A. Once I started to go upstairs. He struck me on the back of the neck. I do not know whether it was with his fist or with the back of his hand but it was not an open slap.
- 40 Mr. WOOLF: Did he ever punch you when he was threatening your mother and you went forward?—A. There were two occasions, neither of which happened late at night. There were two occasions later when he was threatening my mother and I feared he was going to strike her. I came forward and got punched. There was an occasion when my mother came out of the dining room. He followed and he told me to get out of the way when he punched me on the temple. On another occasion he punched me on the nose.

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Q. Did your mother take you to a doctor to see whether your nose was fractured?—*A.* Yes.

Q. Apart from the threatening attitude have there been other times when you have seen her struck a blow?—*A.* Yes.

Q. Would the blows be about the face or the body?—*A.* I think on each occasion it was about the face.

Q. Do you remember seeing him with a slipper in his hand?—*A.* Yes.

Q. What was the incident?—*A.* There was a disturbance, and when I came down I could see from the door that he had a slipper in his hand and was threatening to slap my mother. 10

Q. Do you remember seeing your mother in semi-dress, you remember the occasion?—*A.* Yes.

Q. Did you see the condition of her arms on that occasion?—*A.* Yes. There were bruises from the shoulder to the wrist on each arm.

Q. Have you seen your mother acting as if she was trying to cover the marks on her face?—*A.* I have seen the marks she had covered with powder.

Q. Have you seen any of your mother's clothing ripped and torn?—*A.* One morning I saw a heap of torn clothes.

Q. Was that after your father had returned from the Middle East?—*A.* Yes. 20

Q. That was in 1942?—*A.* Yes.

Q. Will you tell his Honor about a conversation you had with your father when you were about 13 years old. I suppose it was a few months after his return from the war and you will recall that?—*A.* Yes.

Q. Was it early one morning?—*A.* Yes.

Q. Did it happen the night before that he thought you appeared to be quiet?—*A.* There had been a disturbance of the type I have spoken of on the night before.

Mr. WOOLF: On the night before that morning you heard evidence 30 of his striking your mother or was it a general disturbance?—*A.* As I remember it it was a general disturbance but that would mean almost certainly that blows had been struck, but I cannot say positively.

Q. Will you tell his Honor what conversation you had. You were quiet?—*A.* I was.

Q. Will you tell his Honor the conversation?—*A.* My father noticed that I was not saying very much and he said "What is the matter with you?"—I said "I have been very quiet because of the way you treated mother the night before." He said "Well, old boy, when you get older you will understand. When I first married your mother I decided 40 "that she and I would be equals in everything, but that was not enough "for her. She wanted to be more than equal."

Q. Give it just as you remember it?—*A.* He said "I had to do something to stop myself from going under. I had to treat her the way I did to stop myself from going under. I made up my mind that if we "would not be equals then I was going to be the boss."

Q. After your father made that statement, did you ask a question, including the words "knock about" in the question?—*A.* Yes.

Q. What was that?—A. I asked him in reference to what he said whether it meant he had to knock mother about the way he had.

Q. Do you remember his answer?—A. He said “At first no, but later “I found it was the only language she understood.”

Q. You recall what is referred to as the main kitchen incident?—
A. Yes.

Q. Do you recollect any other incidents when less rubbish was thrown about that occurred before the main kitchen incident?—A. A fortnight before the main kitchen incident there were several smaller incidents.

10 On the first occasion he emptied the contents of the garbage tin in front of the fireplace. On the second occasion he emptied ashes on the floor and also emptied the kitchen garbage tin. At night he went into the kitchen and threw a few pieces of crockery on the floor.

Q. Did he make any remarks on those occasions?—A. He was saying something to the effect “You have wrecked my life, I will wreck yours.”

Mr. WOOLF: Have you seen him throw water over your mother?—
A. Twice before the kitchen incident he threw a jug of water over my mother.

Q. Will you say what you know about the main kitchen incident which
20 was in 1943. About how old were you then?—A. I was nearly 14.

Q. Your birthday was in what month?—A.—March.

Q. Was the incident before or after the birthday?—A. It was shortly before my birthday.

Q. You remember it that visitors had come?—A. Yes.

Q. Who were they?—A. They were Mr. and Mrs. Halford.

Q. The gentleman who has given evidence?—A. Yes.

Q. Did you go to bed before the visitors left?—A. Yes.

Q. And before your father came home?—A. Yes.

Q. Describe what you saw the following day so far as the kitchen was
30 concerned?—A. When I came downstairs the door of the kitchen was open. I could see that the whole floor was covered with rubbish. Every cupboard in the kitchen had been opened and the contents thrown on the floor.

Q. That would be flour, rice and other things?—A. All the containers had been emptied as well as the kitchen garbage tin and the outside rubbish tin. There were ashes and dirt on the floor. There seemed also to be water. The whole thing was a filthy mess.

Q. Do you remember anything about newspapers and brown paper?—
A. Yes. I did not make a detailed examination, but I could not see any
40 of the floor showing.

Q. What conversation passed between you and your father?—
A. Almost as soon as I saw the floor, father said to me “Mother has cleared “out and left us.” I did not know whether she had decided to leave until later or permanently, and I asked him and he said “Yes, she has gone.”

Q. What did you say according to your recollection?—A. I said “What would you expect to do after you have done that to the floor?” I also said that I had not seen a bigger mess.

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Q. Do you recall your sister coming into the dining room?—*A.* My sister came down a little while afterwards.

Q. Tell his Honor the conversation as you remember it?—*A.* My sister saw the state of the kitchen and father said "Mother has cleared out." My sister made the remark, "What would you expect her to do after "that,"

Mr. WOOLF: What did he say to your sister had to be done?—*A.* He said "It is done and we have to clear it up." My sister point blank refused. He threatened to hit her with a ruler until she went upstairs. Then he and I set about to clear it up and he left a little later. Later my 10
sister returned.

Q. Then your mother returned?—*A.* Yes.

Q. We cannot ask you about the conversation between you and your mother at that stage but do you remember that your mother had been out of the house?—*A.* Yes.

Q. Will you describe your father's treatment of your mother and general behaviour after she returned to the house. Would you say that there was not a disturbance for a little while?—*A.* Yes.

Q. For about how long?—*A.* About a fortnight.

Q. What happened at the beginning of the fortnight after your father 20
had returned?—*A.* Quarrels started again but I didn't hear sounds of violence but his language and threatening attitude were worse than before as if to compensate for not striking.

Q. Can you remember any threats?—*A.* The common one was, "Answer or I will smash your face."

Q. Did he frequently use the word "bitch"?—*A.* It was his most frequent expression. He used it so often that it was like a name.

Q. Do you remember having seen signs of your mother having had water poured over her in the bathroom?—*A.* On two occasions when I heard disturbances downstairs, I heard sounds of water and found my 30
mother in her nightdress with water pouring off her. She had been put under the shower. There was a pool of water and she was sodden from head to foot. I remember on such occasions when I asked him why he had done it he said "to cool her off."

Q. Can you say towards the end of the life of your mother and father together that ended in August, 1948, how long on an average the disturbances went on?—*A.* Once a week.

Q. How long was it once a week, was it a matter of weeks or months?—*A.* For several months.

Q. You remember the stage being reached of your parents separating 40
in August, 1948?—*A.* Yes.

Q. Did you ever hear your father say anything about the attitude of the company employing him if he did not return to his family?—*A.* On one occasion before the final separation when he walked out he explained that the company had told him it did not like its employees living away from their families, and unless he returned it would have to consider his position.

Q. Do you recall having a conversation about that ?—A. After the final separation I was living in the house and I tackled him on that statement and he did not deny it.

Q. He did not deny it ?—A. He did not deny it when I accused him of making up that story ; he did not deny my accusation.

HIS HONOR : Did he answer at all ?—A. I don't think he referred to my accusation ; he tried to switch the conversation as it were.

Mr. WOOLF : Will you give your account of the incident that occurred early in the morning of the 22nd of July before the three policemen came ?—

10 A. I was in bed asleep. I was awakened by someone calling downstairs. I went to the ground bedroom and found my sister there. My father had his arms around my mother and he was forcing her over the bed. He had both his arms locked behind her back. My sister asked him to let mother go but he did not do so. My sister and I tried to pull his arms away, but we could see it was making him worse because he might have tightened his hold. Then my sister said " Do you not realise that mother has had an operation " recently and that you might do her some internal injury." He still would not let mother go. So my sister said if he did not she would call the police. My father said " Ring the police. Ring everybody. The marriage is a wreck. 20 " The whole world might know." My sister rang the police and waited in the bedroom until the police came.

Mr. WOOLF : Did your father maintain his hold on your mother ?—A. Yes. He had his arms around her as before. He did not take his arms away at any stage.

Q. It is common knowledge that three police arrived and one was the principal spokesman ?—A. Yes.

Q. Will you say what took place after the policeman arrived, especially any conversation between them and your father ?—A. The policemen came into the front bedroom and saw father with his arms around mother. The 30 policeman said " O.K., brother, take your arms from your wife." My father did so. The police asked what it was all about, and why he was hanging on to his wife like that. My father went into a long explanation that his wife was under psychiatric treatment. The policeman said to him " From " the look of you you are the one who needs treatment." My father tried to resume his story but the policeman said " I am not interested, brother. " Will you stay away from your wife ? " Eventually my mother left the room and the policeman waited until my father had got into bed. I went upstairs. I heard the police go out after asking " Are you in bed ? " and I heard father say " Yes."

40 Q. Did you or your sister do anything that could be described as gouging your father's eyes out ?

Mr. BARTON : We never alleged that he did.

HIS HONOR : Did you see your sister attempt to gouge your father's eyes out ?—A. No.

Mr. WOOLF : What did you and your sister do to try to get your father to release his hold on your mother ?—A. I think we tried to get our arms

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around his throat to pull him off. I remember definitely we tried to grasp his fingers to pull his arms away.

Q. To unclasp his hold?—*A.* Yes. I tried to put my arms around his throat but I could not.

Q. Coming to the night of the 13th August, 1948, was this the first day after your father's final return to the house when he and your mother were in the house?—*A.* Yes.

Mr. WOOLF : Your father had been leaving the house and coming back?—*A.* Yes.

Q. Do you remember whether it might have been a couple of days when 10 he last came back?—*A.* Yes, it was in the period.

Q. When did you leave the house that night?—*A.* Sometime about 7.30.

Q. Your mother was still in the house?—*A.* Yes.

Q. And your father was?—*A.* Yes.

Q. Was your mother sleeping upstairs or downstairs?—*A.* I can't remember. All I know is that she was not sleeping with my father; they were sleeping in separate rooms.

Q. When did you return to the house that night?—*A.* Sometime after 11. 20

Q. Will you tell his Honor of the events that night; did you see your father?—*A.* Yes, he was standing at the gate on the footpath. When I went up and tried to get off the footpath he blocked my way.

Q. What were the actual words he used?—*A.* He said he would not let me into the house. He said "Your mother and I are going to start a "second honeymoon and no one is coming into it." I was worried and tried to get past him but each time he blocked me.

Q. Did you ask him where your mother was?—*A.* After I had tried to get in and could not I asked him where mother was. He said "She is inside, "she is alright." He was repeating himself, that no one would come into the 30 house. I asked "What about Joan"?

Q. Who was Joan?—*A.* A friend of my sister, living with us. She was Miss McDonald. He said "I have taken a room for her at Delacourt, a boarding house nearby.

Q. You tried to get past him?—*A.* For a matter of several minutes.

Q. When you found you could not get past him what did you do?—*A.* I ran away from him and went around some streets which came at the back of the house and I climbed over the fence. Then I went to the side and to the front. I climbed on the upstairs balcony and tried the windows, but they were closed. 40

Q. They were locked?—*A.* Then I climbed down and went to a house two doors down the street, and rang up the police at Russell St. and asked them to send a car out.

Q. Where did you go?—*A.* I waited outside the house at the corner.

Q. You waited until when?—*A.* I saw a car come up and several men got out. I took that to be the police car that I had sent for. I ran down. There were several men, obviously policemen standing talking to my father.

- I ran straight through the door and found my mother getting dressed in the bedroom.
- Q. Was she completely dressed?—A. She was not.
- Q. You had a brief conversation with her at that point?—A. Yes.
- Q. Where did you go?—A. I went outside where my father was talking to the police.
- Q. I want you to tell his Honor what was said by the police and your father. The police asked you a certain question?—A. My father was in a discussion with the police. I listened to the conversation. I found that they had come in response to my father's call and not to mine.
- 10 Q. Tell us what the police said to you?—A. During the conversation between the police and my father I heard a policeman say, "You feared an assault by your son."
- Q. That was referring to yourself?—A. Yes.
- Q. Did the police say anything to you in your father's presence?—A. Yes, the police said to me that my father had got in touch with them. He said he was taking certain steps with his family, and as a result of the steps he feared an assault by his son. They asked whether I had or intended to assault him.
- 20 Q. What was your reply?—A. I said I had not assaulted him and did not intend to do so.
- Q. What else?—A. I explained that I thought they had come in response to my call. I explained the situation, and that my father would not let me see my mother. I feared for my mother's safety, and I had rung the police.
- Q. Did you tell the police in his hearing that you had rung them because you were concerned about your mother's safety?—A. Yes.
- Q. I cannot ask you the details of the conversation, but did you speak further to your mother?—A. Yes.
- 30 Q. Did someone else go to the house?—A. Yes, I heard Joan McDonald's voice. I heard my father telling her she was no longer wanted there, and that he had taken a room for her, and she could not spend the night in the house. If she wanted to pack her things she could do so next morning.
- Q. He forbade anyone to spend the night in the house?—A. Yes.
- Q. You protested?—A. Yes.
- Q. Will you tell his Honor what you said to your father about his treatment of your mother that night?—A. I was very angry with him. I asked him why he had done it.
- 40 Q. Try and tell his Honor the words you used?—A. I can remember only one definite phrase. I told him I thought it was no better than rape.
- Q. What was your father's reply?—A. He did not enter into an argument with me. He said it was between him and my mother, and that it was none of my business.
- Q. Did you go and have a conversation with your mother?—A. Yes.
- Q. Did you again speak to your father as he was moving about?—A. Yes.

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Q. Did you again refer to the happenings of that night?—A. Yes—
I referred to what had taken place. I asked him whether he was no better
than an animal in control of his feelings.

Q. Did he answer?—A. No.

Q. Did another lot of police arrive?—A. Yes. I was upstairs. I
heard another police car come. I heard sounds downstairs. There was
silence and I realised that father had gone.

Q. Where did you stay for the ensuing three or four weeks?—A. I
stayed in the house.

Q. With your mother?—A. Yes.

Q. How did it come that your mother took the final step of leaving the
house?—A. A message was received that my father intended to come home.

Q. Did a person named McCormack give you the message?—A. Yes.

Q. He told you your father intended to return?—A. Yes.

Q. You reported that to your mother?—A. Yes.

Q. Did you remember that Mr. and Mrs. Halford were staying in the
house before your mother left?—A. Yes.

Q. When your mother left did you go and live with her at once?—
A. I continued to live in the house.

Q. How long?—A. A matter of two or three days.

Q. That is after your mother had left?—A. Yes.

Q. Since then you have seen your father very rarely?—A. Yes.

Q. You remember in 1949 getting a message from him?—A. Yes.

Q. Was it a message in writing?—A. I think it was a letter.

Q. Have you kept it?—A. No.

Q. What was in the letter?—A. He said he wanted to see me and
asked me to ring up and make a date for lunch. I rang him and met him
outside the Town Hall. He was there with a clergyman.

Q. Where did you go for lunch?—A. We went to a café in Swanston
Street.

Q. As you were having lunch do you remember your father asking you
a question or making a general remark?—A. Father made a remark,
“What is all this about, boy? Is there any reason why we should not be
“living together?” I said I thought there was a reason. He asked me what
I meant. I said “Your treatment of mother.” He said “What has my
“treatment of mother been?” I said, “The physical treatment of her, the
“language, the way you wake her so many nights, and what you did that
“night.” I meant the night of the 13th August. He said that I was exag-
gerating as to his physical treatment of her in the house, the language, and
so on. Referring to the night he said “All I can say is she was a willing
“party.”

Cross-examined by Mr. BARTON.

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Mr. BARTON: Is it correct to say that you hate your father?—A. No.

Q. You said you did not regard yourself as your father's son?—A. I
don't think I used those words. I was asked if I realised that he was my
father, and I said “Yes.” I said I did not feel towards him as a son because
he had cut himself off from me.

Q. He had cut himself off from you ? Is this the letter you received after you met your father at the Town Hall ?—A. I could not say. I received several letters from my father.

Q. I tender that letter.

HIS HONOR : It can be marked for identification.

Exhibit “ 23 ”—Letter dated December 10th, 1948.

Mr. BARTON : Will you look at this letter ?—A. Yes.

Q. I tender that letter.

10 HIS HONOR : You received the last one ?—A. I cannot swear to the exact wording. I got a letter with similar words.

Exhibit “ 24 ”—Letter dated March 19, 1951.

Mr. BARTON : You turned 21 a year or two ago ?—A. Yes.

Q. You remember you got a 21st birthday present from your father ?—A. Yes.

Q. Is that the letter in which you thanked him. The thanks are right at the end. Is this the letter ?—A. Yes.

Q. There is the passage, “ I got your 21st birthday present.” You thought that sufficient thanks ?—A. It was not tendered as thanks.

Exhibit “ 25 ”—Letter.

20 Mr. BARTON : You remember the motor car your father gave you, and there was trouble about parts left in the garage at Balmerino Avenue ?

Q. Do you remember that you broke into that garage one day ?—A. Yes.

Q. And you took away parts ?—A. I took away the spare wheel. There were other parts.

Q. Yes. This is the note you wrote to your father, was it not ? (*Document handed to Witness*)—A. Yes.

Mr. BARTON : I tender that document if your Honor pleases.

Exhibit “ 26 ”—Note from F. D. LANG to E. LANG.

30 Mr. BARTON (*to Witness*) : You have, since the file of separation, lived with your mother ?—A. Yes, except for a year.

Q. When you were at the Mildura University ?—A. Yes.

Q. How long have you been at the university ?—A. This is my 4th year.

Q. What year of your course are you now in ?—A. In my 3rd year.

Q. And I suppose you would strenuously oppose your mother going back to live with your father ?—A. I cannot say.

Q. Do you remember Mrs. Dives—the lady now seated in Court ?—A. I can remember this lady. I do not know whether she is Mrs. Dives.

40 Q. Do you remember her coming to see your mother ?—A. Yes.

Q. Do you remember whether you were present on that occasion ?—A. No, I cannot remember. I do not say it is not true.

Q. And Mrs. Dives suggested that there might be some means whereby

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the husband and wife could come together, did she?—*A.* I cannot remember any of the circumstances.

Q. Do you remember saying to her there, "We have heard enough. We do not want to hear anything more."—*A.* I cannot remember.

Q. Do you think it is the kind of thing you could have said?—*A.* I cannot say.

Q. You would be keenly interested in the question whether your mother was coming to live again with your father or not?—*A.* In what way?

Q. If it affected your welfare so that you would find it more congenial. Would you consider it more congenial at No. 52 Darling Street than at No. 3 Balmerino Avenue?—*A.* It would depend entirely on the circumstances. If there was a happy reconciliation, well, naturally I would rather be at No. 3 Balmerino Avenue. 10

Q. I see. How many times have you seen your father hit your mother?—*A.* Not very many times. Several times but not very often.

Q. Can you say how many times altogether?—*A.* I cannot say.

Q. Would it be 5?—*A.* I cannot put a figure on it. It might be somewhere around there but I would not like to specify a figure.

Q. That would be between the time when you first heard quarrels and the time when you lived at No. 3 Balmerino Avenue?—*A.* Yes. 20

Q. What age were you when you lived at Balmerino Avenue?—*A.* I was 19.

Q. Then it was a period of 10 years?—*A.* Yes.

Q. And these disturbances, I suppose you did not have any realisation of how they started. You would not hear them, I suppose, until the thing was fully going?—*A.* No, I would be wakened by voices, voices at night, but I saw the start of several rows after dinner.

Q. How did they start?—*A.* You could tell when a row was coming.

Q. Yes, I know, but how?—*A.* Father was being in a bad mood and criticising something that had happened that day at work, or something of the sort. He would come home and say what had happened and then, upon the slightest pretext he would start abusing my mother. In fact, he might not wait for any pretext at all. 30

Q. On these occasions he started talking about things that had happened at work that day, and criticising. Would your mother be sympathetic or what would be her attitude on these occasions?—*A.* I cannot remember whether this would apply to every case but certainly it was a general rule that she would sympathise with him.

Q. It would be the general rule?—*A.* Yes.

Q. What would she say?—*A.* Usually "Yes, dear" and "No, dear" because he was doing most of the talking. 40

Q. Do you mean that it would make him worse?—*A.* Not that it would make him worse but it would not make him better. He would just keep on arguing, working up to it.

Q. Of course, you have been struck on a number of occasions, haven't you, yourself?—*A.* Yes.

- Q. I suppose that on some of those occasions it was merely a matter of parental discipline?—A. Yes.
- Q. What about those incidents when, for instance, your nose was punched?—A. Yes, I remember that.
- Q. Do you think that that could have been an accident on your father's part?—A. Most definitely, no.
- Q. Do you think he hit out at you like this (*indicating*) and rather on one side and that you sort of dodged or made a movement?—A. To be quite clear, he definitely swung a punch at me.
- 10 Q. He swung a punch? How?—A. Like that. (*Indicating*).
- Q. Do you think that it was your movement that caused you to connect up?—A. No. If I had not moved backwards I would have been struck straight on the face instead of getting a knock on the nose.
- Q. And he apologised afterwards, did he not?—A. He said, "You would not have got that if you had not interfered between your mother and myself," and I think that later in the day he apologised but I would not be sure about that. I think he said, "Old boy, I am sorry for what I did to you this morning but you should not have come between your mother and myself." I think that is what he said.
- 20 Q. You have seen him strike your mother about 5 times. Where would that be? Would it be in the face or where?—A. I think that on each occasion when I saw him hitting her it would be on the face.
- Q. Would it be with the closed hand or an open hand?—A. I think it was an open hand.
- Q. Would it be a very heavy hit?—A. Yes.
- Q. What would her face be like after that?—A. As I remember, not very bad. When I mentioned before that I had seen marks, I would say, a bruise mark on her face.
- Q. The bruise mark—a bruise mark would not be made by a slap, would it?—A. I should not think so.
- 30 Q. And you saw her on one occasion with her arms black from the shoulder down?—A. Yes.
- Q. It would require a lot of violence to do that, would it not?—A. Yes.
- Q. But you are quite sure that your mother's arm was black entirely?—A. I did not say, entirely. I said extensively.
- Q. And what do you mean by extensively?—A. I can tell you that because I have a very clear recollection of it. I could see my mother with her arm—bruise, bruise, bruise, like that (*indicating*).
- 40 Q. How many bruises were there?—A. I would say 6 to 8. They were very large and there was not very much space between them. They were on the outer portion of her arm—bruise, bruise, bruise, right down.
- Q. They were on both arms?—A. On both arms.
- Q. And you saw her with torn clothing at the door on one occasion or at one stage?—A. Yes.
- Q. Did you see anybody tearing your mother's clothing?—A. No.
- Q. On the occasion that Lang went into the kitchen and threw some

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crockery about—this about the time of the garbage incident—what did he say—"You have wrecked my life. I am going to wreck your kitchen" or something like that?—*A.* I cannot remember his using the word "kitchen." The only words I can recall are "You wrecked my life now "I am going to wreck yours."

Q. I see. This house was pretty full of disturbances over a very long period of years, was it not?—*A.* Yes.

Q. With just a very brief interval of peace?—*A.* I do not say that.

Q. There would not be very much peace, would there?—*A.* Between the disturbances there was peace, yes.

Q. These disturbances were pretty frequent, weren't they?—*A.* It depends on which period you were referring to.

HIS HONOR (to Witness): Were you a day boy at your school?—

A. Always, sir.

Q. Where did your sister go to school?—*A.* She went to Merton Hall.

Mr. BARTON (to Witness): On this occasion when the police were called, on the 22nd July, could you have been punching your father before that happened? Did you punch him at any stage of the evening?—

A. No.

Q. You did not hit him about the face at all, or pummel him?—

A. No.

Q. Not at all, and you did not see Barbara go for his eyes?—*A.* No.

Q. Who came into the room first on that night? It was you, was it not?—*A.* No. When I went there my sister was already in the room.

Q. She was standing by something, was she not? You were at the actual affray before your sister was in it?—*A.* No, I do not think so. As I remember, when I went into the room my sister was standing there. She was not doing anything. She was not approaching her father.

Q. No. She was standing back, watching?—*A.* And as I remember, we both tried to pull father away.

Q. You both joined in the affray at the same time?—*A.* I think so.

Q. Yes, very well. When did you ring the police from that house on the evening of the 13th August?

Mr. WOOLF: I do not want your Honor to rule, but I do ask, is that relevant? Might it not have the effect of obliging the witness to disclose the name of some neighbour in connection with this?

HIS HONOR: I thought the question was "When"—not "Where." Is it?

Mr. BARTON: It is 'Where,' sir. "From where."

Mr. WOOLF: I submit it is not material.

HIS HONOR: I cannot say it is not part of the testing of the witness. I will not shut it out.

Mr. BARTON (to Witness): Where was it that you rang from?—*A.* It was the house on the corner of the street, occupied by a person called Brown. Shortly after—as I remember the night—I went into the house. He was sick in bed. As I did not see either of the Browns; I saw a nurse who was there.

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Q. And it is quite clear that you did not go into that house before the police came?—*A.* Actually inside the house?

Q. Inside the house?—*A.* I am quite sure.

HIS HONOR (*to Witness*): I did not hear that answer?—*A.* I am quite sure, sir.

Mr. BARTON (*to Witness*): And the first time you saw your father that night was when he was talking to a number of police who were already there?—*A.* No. The first time I saw my father was when I did return home he was standing outside the house.

10 *Q.* Did you have a key to the front?—*A.* No I do not think so but I could not be sure of that. I do not think so.

Q. Well, how did you usually get into the house?—*A.* The usual practice was that if the door was not left open the key was left under half a brick in the drive at the side of the house.

Q. And on this night did you look under the half brick?—*A.* I do not think so. I think that as I came down the street it was a bright moonlit night—I saw my father standing outside.

20 *Q.* He was out in the street?—*A.* Yes. There is just a very low front fence and no gate at all and he was standing virtually with his toes on the footpath and his heels inside the gate.

Q. And you were pretty hostile that night, were you not?—*A.* Well, I was angry.

Q. How did you find out what had been going on?—*A.* Well, a combination of things. I had fears before the actual night that something like that might happen.

Q. Why did you have fears as to something like that happening?—*A.* Well my father seemed to be working up to something. That is the only way I can put it because until that night I had been careful not to leave my mother and father alone in the house together.

30 *Q.* Did you go out with Miss McDonald that night?—*A.* No, I never went out with Miss McDonald.

Q. I mean, you did not go with her?—*A.* No.

Q. And you came home separately?—*A.* Yes.

Q. You did not both arrive at the front door at the same time?—*A.* No.

40 *Q.* Well, your mother told you that night what had gone on, did she?—*A.* I said to my mother when I saw her some remark—did he do anything to you, I think. I do not know what words I used but I did indicate, had he had intercourse with her under any circumstances, and my mother sort of said, "What do you think," meaning yes.

Q. Had you ever asked your mother any question in the past about any such thing as intercourse?—*A.* No.

Q. Well, why did you ask her that night?—*A.* Because of what had happened.

Q. But you did not know what had happened?—*A.* I had a very good idea what had happened.

Q. What gave you the idea?—*A.* Well, firstly the fact that my father

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had not been sleeping with my mother those two nights, and it seemed from his general attitude that he was trying to work out some scheme for getting at her.

Q. What do you mean by "getting at her"?—*A.* It seemed to me that he was only waiting for an opportunity to get my mother alone in the house and get me out of the house to have relations with her.

Q. How old were you at that time?—*A.* I was 19.

Q. And on the occasion when you saw the Reverend Mr. Williams at this café in Swanston Street you refused to shake hands with your father on that occasion, didn't you?—*A.* I think so.

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(The Witness withdrew)

Mr. WOOLF: That is the case for the Petitioner, Sir.

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Respondent's Evidence.

Thursday, 18th September, 1952.

ERIC LANG (Sworn and examined).

Mr. BARTON: Is your full name Eric Lang?—*A.* Yes.

Q. And do you reside at No. 3 Balmerino Avenue, Toorak?—*A.* I do.

Q. And are you an engineer by occupation?—*A.* I am.

Q. Employed by the Dunlop Rubber Company?—*A.* Yes.

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Q. And you are the Respondent in this case?—*A.* I am.

Q. You were born Frederick Arthur Lange?—*A.* That is correct.

Q. And your mother changed her name when you were a small child?
—*A.* That is correct.

Q. And later you changed your name to Eric Lang?—*A.* I did.

Q. Do you remember an incident very shortly after you were married, between your wife and your mother. You had returned home one day?—*A.* Yes. The first day I was at home after the honeymoon was November 24th, 1924. I came home from work at half past 5 expecting to be greeted with a kiss. My wife met me at the door, she was crying and bawling, she said "Your mother has been rude to me, your mother has been
"rude to me, your mother has been rude to me," She continued to cry.

Q. What did you say?—*A.* I said "Oh my dear" and I put my arms around her. "Don't start married life like that."

Q. Did you ask her what your mother had said?—*A.* I did. I said "What has she said to you"? She continued bawling. She said "I cannot tell you, I cannot tell you." She repeated it again.

Q. Did she eventually tell you what the matter was?—*A.* I could not

placate her for, I should say, nearly three quarters of an hour, and she would not tell me what my mother had said. I said "How can I do anything if "you won't tell me what she said"? In about three years' time she did confess to me that my mother had come to her home and had made the remark "Jean, I thought you would like to know that Eric generally has an "egg for his breakfast." That was the only remark, apparently, that my mother had made.

10 Q. Do you remember an incident in 1925 when your mother was having dinner with you and your wife, it concerned the passing of the salt?—A. I do. We were having Sunday dinner together. My wife was seated at one end of the table, I was seated at the other, and my mother was in between. My mother passed the salt to me and my wife got up and screamed "How "dare you pass the salt to Eric before you pass it to me." She went out of the dining room crying, went into bedroom, and threw herself on the bed and lay there sobbing. I said "Now I know who starts these rows."

Q. Do you remember some quarrels over the issue of Adelaide Electric Supply Company shares?

20 HIS HONOR: Before you go on to that, you said, "Now I know who starts these rows." Had there been rows in the house?—A. There had been continuous rows.

Mr. BARTON: They were mainly between your wife and your mother?—A. And I was dragged in as the bystander who got the effects. Yes.

HIS HONOR: Now you are coming to the question of shares?

30 Mr. BARTON: The Adelaide Electric Supply Company shares?—A. I had been giving my wife a very generous allowance and had left myself short of money. There was a new issue of shares which I was entitled to take up. I had a certain amount of ready cash but not quite enough. I casually remarked to my wife "I say, old girl, have you got any cash?" She said "What do you mean?" I said "Well, there is a new issue of "shares and I want to take them up and have not got quite enough money; "have you got any to spare?" She said "No. I think you are the lowest, "meanest, contemptible thing on earth" in a very spiteful tone. I said "Surely you have not spent all that money you have been getting?" She would not answer me, and the incident made me feel very hurt.

Q. Did she go off to her bedroom?—A. I think she did.

Q. Were she and you on speaking terms the day after that?—A. I was feeling in an extremely hurt condition and I really did not know what I had said to offend and deserve the terms of reproach which she used to me, and the tone in which she used them.

40 HIS HONOR: Apart from the allowance you were making, had she any other source of income?—A. Not of her own.

Q. What allowance were you making her?—A. I was in receipt of £350 a year and she was getting over half of it, and I was giving her occasional amounts out of my private income, paying bills and bringing home food.

Mr. BARTON: From that time on did you and your wife quarrel a great deal?—A. It was practically from that time that her quarrelling turned

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partly from my mother and did not stop entirely with my mother but turned on to me.

Mr. BARTON : Were there ever substantial matters ?—A. They seemed to arise out of the air. Many times I did not know what the quarrel was about. It would start over a trivial incident. I might suggest something in a spirit of helpfulness but she apparently was not willing to receive any suggestions or help from me and regarded it as interference. She would take offence at even the mildest comment.

Q. Your wife called you names ?—A. Many.

Q. Tell us some of them ?—A. On one occasion she screamed "liar" 10
at least six or seven times at me. I said I am not a liar. If there is one thing that I am not, I am not a liar. She continued to scream "liar."

HIS HONOR : At the moment you are only asked for the names she called you. Liar is one of them, what is another ?—A. She called me a cheat and a low beast. I think there may have been others. Those are the ones that I remember principally.

Mr. BARTON : Do you remember the incident in which you said "you
"bitch" ?—A. There was one occasion when she made a remark which I do
not remember but it stunned me. Before I knew what I was saying I said
"Oh you bitch." It came out almost involuntarily. 20

Q. What did your wife say to that ?—A. She flung up her hands,
screamed and ran to the bedroom. She flung herself on the bed, sobbed and
kicked her heels up on the bed. I looked in and thought I had better leave
her alone. A few minutes later she came out, flung her arms around me,
kissed me and said "I am sorry."

Q. Did your wife ever take the initiative in making up quarrels ?—
A. No.

Q. How long did the quarrels last ?—A. A quarrel would start one day.
After it had ceased she would walk around the house with her nose up in
the air as though I was a bad smell. 30

Q. Do you remember an occasion a little time later ?—A. I have not
yet answered the question about the duration of the rows.

HIS HONOR : Do you want to add anything to that ?—A. She would go
around that way for a day, then the second day and the third day.

Mr. BARTON : After that, do you remember another row a few weeks
later ?

HIS HONOR : After this kind of incident how did you get back to
normal relations ?—A. My Counsel was about to bring out that point.

Mr. BARTON : Did you make it up or did your wife ?—A. I endeavoured
to make it up. I was always the one who made it up, to the best of my 40
remembrance.

Q. Do you remember a later row in which you deliberately called your
wife a bitch ?—A. I do.

Q. Will you tell us what that was about ?—A. Possibly a fortnight or
a month after the first occasion I called my wife a bitch, and she had made
it up voluntarily, there was another row. I tried pacific methods. A row
developed but I tried to reason with her and plead with her. I tried to

humour her, and I tried every way I could to stop the quarrels. Then I decided deliberately to call her a bitch and see what the effect would be. Then I deliberately called her a bitch for the second time and it had precisely the same effect. She ran to the bedroom, kicked up her heels, sobbed and then came out and said she was sorry. From that time to the present I have found no other way.

HIS HONOR: It was a kind of open sesame, you called her a bitch, and then she went through this performance, kicking up her heels, and then she came to heel?—A. Yes.

10 Mr. BARTON: Prior to September, 1927, you lived in Adelaide?—A. Yes.

Q. In December, 1927, you obtained a position of Lecturer in Civil Engineering at the University of Melbourne?—A. Yes.

Q. And you removed to Melbourne?—A. Yes.

Q. And except for brief periods you have lived here ever since?—A. Yes, except when I was in Africa and at the war.

Q. Barbara was born in 1925?—A. Yes.

Q. Do you remember rows about Barbara in 1930?—A. Yes. There were a number of rows about Barbara in 1929 and 1930.

20 Q. Did you try to correct Barbara?—A. I would try to correct Barbara.

Mr. BARTON: With what result?—A. Every time I tried to correct her, even verbally, Mrs. Lang would interfere and would break in through what I was doing and call me names in front of the child. She called me a beast or a cad or something like that, and would often give Barbara an entirely opposite direction from what I was trying to give her.

30 Q. The rows were in front of Barbara?—A. Yes, I remember one specific occasion when I told my wife she was ruining the child. She had been a school teacher, and I said she would know there was nothing worse for a child than for the parents to quarrel in front of the child. I said "You are teaching the child to disrespect me, and in the long run it will turn into disrespect for yourself."

HIS HONOR: How did you try to correct the child during the rows?—A. I do not know whether I called her "Barb" and said "it would be a good idea not to do that." If she continued I would say "Do not do that Barbara please." After the third or fourth time I would say "Stop that Barbara." I am afraid that Barbara was a very disobedient child and then I might have to slap her. I tried to avoid slapping her.

40 HIS HONOR: Where did you slap her?—A. Generally over the calves of the legs.

Q. At that time Barbara was 4 or 5 years old?—A. Yes, she would be about 4 or 5 years old.

Mr. BARTON: Can you recollect the incident in 1933 when Barbara was about 8 and she threw stones?

HIS HONOR: At what?

Mr. BARTON: This was in Yarra Glen?—A. In 1932 I bought a derelict property at Yarra Glen and I was improving it. One day the whole

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family including my mother, went there. We were improving the drive on a steep hillside. We were picking up stones off the drive and placing them alongside the outer edge which was steep and dangerous, and I wished to guard it. Barbara stood on the bank which was between three and 4 feet high above the level of the road. She was picking up stones and throwing them down. My mother and my wife were on the drive. David was on the drive. I said "Stop throwing stones Barbara. You will hit somebody." Stone throwing is a particularly cruel thing. I was a little peremptory. She went on and I said "Stop you will hit grandma." Finally she threw a stone about the size of my fist and struck my mother on the side of the head. I 10
picked up a piece of paling, a couple of inches wide, and 15 or 16 inches long, and I gave her one sharp smack across the leg.

HIS HONOR: That is what you did?—A. Yes. My wife started to scream and said "You cruel beast. How dare you strike a little girl." I said "She might have put her grandmother's eye out. It was the only "thing to do." My wife said "You could have sent her to the house." I said "What effect would that have had?" This incident was thrown up to me year after year.

HIS HONOR: Did your mother live in the same house with you and your wife for a number of years?—A. No. She lived in the house in 1930 or 20
1932 during the depression when we had to economise.

Mr. BARTON: Do you remember quarrels when your wife thought she was pregnant again?—A. Yes. A few months after David was born my wife imagined that she was pregnant with no cause for alarm. She got exceedingly hysterical and was crying and sobbing, giving me a bad time. She said she would go to a friend, Mrs. Rogers, and get some pills. I said "Good God, don't you know that is murder?" A few days later my wife's alarms proved groundless.

Mr. BARTON: Do you remember differences over bridge parties?—
A. Yes, shortly after we were in Caulfield. 30

Q. Was that about 1930?—A. Yes, a friend of Mrs. Lang got married and came to Melbourne. They were very keen on bridge.

HIS HONOR: You mean this woman and her husband?—A. Yes. My wife and I took up bridge. We got to playing bridge two or three nights a week until 1 or 2 in the morning. I found that the late hours interfered very much with my work, which was of an exacting nature.

Mr. BARTON: It was in the engineering school?—A. Yes. I objected and said "Could we not get away about 11 o'clock." My wife's invariable reply was "I can't do that." I could not see why one could not excuse oneself at a reasonable hour. That led to many quarrels. Finally, we 40
arranged to have bridge mostly on Friday nights. Even then it went until the small hours of the morning, and it spoilt my golf the next day.

Q. There was a time when you refused to go to the party?—A. About 1934 or 1935 the bridge parties were the cause of very much trouble, and I said, "I am fed up with this thing. You can go on, but I do not enjoy it. "I am doing mathematical work all day and every night, and I would "rather go to the theatre instead of to bridge, where you have to use your

“brains. I will stay at home and work and I will call for you at the bridge party.” My wife took it very badly.

Q. Do you remember an incident when you brought your wife’s brother to Victoria and set him up gem making here ?

HIS HONOR : What have I to do with that ?

Mr. BARTON : Many rows arose out of the incident.

HIS HONOR : What is the date ?—A. About 1930 or 1932.

Mr. BARTON : What is the story ?—A. Her brother was sacked from Holden’s.

10 HIS HONOR : I am not concerned with the details ?—A. I set up her brother but he did not have the capacity for the business. It cost me £150 and it cost him £54.

Q. I take it that the venture was a failure ?—A. Yes. It was cast into my teeth by my wife. I eventually got him a job later.

Mr. BARTON : Did your wife assist him ?—A. No, she belaboured both the brother and myself with her tongue.

20 Q. Do you remember the slamming of doors ?—A. At Caulfield whenever there was an argument my wife would walk out and bang the doors as hard as she could. It occurred on many occasions. This had been going on for some years. Finally she walked out and banged the door and I opened it and slammed it. There was a glass panel and it fell out behind her. Thereafter there was no more banging of doors.

Q. What about stamping on her heels ?—A. She used to walk about and stamp around the house when I was trying to read. When I asked her to walk quietly she stamped all the more.

30 HIS HONOR : You thought it was being done deliberately ?—A. I had that impression, your Honor. One day I said to her “If you can stamp around the house so can I.” She was stamping and I followed her. That ended that business.

Mr. BARTON : Do you remember an incident at A. B. Thompson’s grocery shop ?—A. I do. We were going to the pictures in a small Renault car. We pulled up outside the grocer’s shop. We were always late. She came out of the shop and started looking in the window. I called out “hurry” and she came over and gave me a savage slap across the face. I was shocked. After a few minutes she came back and we drove home. I went to the doctor’s to see what could be done but he could not give me any help.

40 HIS HONOR : You went to see the doctor on account of your health ?—A. No. I wanted to see whether anything could be done in regard to my wife. He was an ordinary general practitioner, Dr. Foreman.

Mr. BARTON : Do you remember some of the bed clothes being put in the lounge of your home ?—A. Yes.

Q. Was that after a row ?—A. It was about 1934. There was a row. My wife grabbed the bedclothes and said she would sleep in the drawing room. She dumped them there. I was gathering them up to take them back when a friend, Mr. H.C. Morgan, came to the door. I am not sure whether

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door was open but I know he caught a glimpse of the bedclothes in the drawing room, and he must have thought it was a peculiar incident.

Mr. BARTON : In December, 1935, you resigned from the University of Melbourne ?—*A.* Yes.

Q. And went to South Africa ?—*A.* Yes.

Q. Were your relations in Africa any better ?—*A.* No. They caused me great distress.

HIS HONOR : In what part of South Africa did you live ?—

A. Johannesburg.

Mr. BARTON : Prior to 1935 you had been receiving £500 from the 10
Melbourne University ?—*A.* Yes, plus a small increment of £20.

Q. What was your salary in Africa ?—*A.* £750 for the first year.

Q. What was the cost of living ?—*A.* It was very high indeed. I calculated I was receiving the equivalent of about £400 and £100 worse off. Our flat cost us £52 a month in Africa.

Q. You returned from Africa ?—*A.* Yes, my wife had returned 11 months previously with the children.

Q. She was living at 666 High Street, Armadale ?—*A.* Yes.

Q. Was there a difference of opinion over the bringing up of the children ?—*A.* There was. 20

Q. And also over money matters ?—*A.* Yes.

Q. Tell the Court the conversation you had with your wife in October, 1937 ?—*A.* Which one ?

Q. Those conversations when you explained the financial position to her and discussed the children ?—*A.* When I came home I found the children were behaving like larrikins. I asked my wife to correct them but she would not. They were very wild. I had to be rather severe. That led to very many quarrels with my wife.

Q. Did you tell your wife that she had brought up the children in the past ?—*A.* No. 30

HIS HONOR : Do you mean that you administered corporal punishment to them ?—*A.* No. I had to be strict. When they were misbehaving I had to be more severe in reprimanding them. Occasionally I had to administer more corporal punishment than I had in the past.

HIS HONOR : How did you administer it ?—*A.* Generally by a smack with a light penny ruler or something equally light.

Mr. BARTON : Was there a conversation over your financial position about that time ?—*A.* Yes. The African trip was a fiasco. I had lost a lot of money. I calculated about £1,200. Our house was leased. My wife had leased it a week before I came back and I do not know why. We had sold 40
up part of our furniture. We had sold a big powered car and a small single seated Renault. I did not have enough money to buy another car or another house without encroaching on capital. I had hoped that my wife would realise the crash we had come, but I saw no signs that she had. I spoke to her and said "We have come an awful crash and we have lost our house." I had also lost the superannuation fund.

Q. That was at the University ?—*A.* Yes. I had lost a secure job,

and was doing a draftsman's job at £7 10s. when I returned. I said "Don't you realise what a crash we have come" but she only abused me.

HIS HONOR: Do you remember what she said?—A. I think there were about 1,500 quarrels and I don't remember what she said.

Q. But she abused you for not having succeeded. You were telling us of the conversation about the financial position and of the nature of her abuse?—A. I think it was to the effect that I should not have gone to Africa or that I was a fool. I pointed out to her that she had made the decision to go to Africa. I told her that she had entire control of the family, that she had control of our finances, that I had done what she wanted, and that I would have to take over control to a greater extent than before. I should mention that I tried to work the marriage on an absolutely equal basis; that is, each should discuss any financial family problem—in fact, I was really content to let my wife carry the responsibility.

HIS HONOR: At this interview, you said you would have to take over more control in future?—A. She was very hostile and there were many quarrels after that.

MR. BARTON: Do you remember a quarrel at Brumby's grocer shop?—A. At the corner of Orrong Road and High Street. We were going out that evening in a Wolseley car which my uncle and aunt had given me as a gift. There had been a quarrel and my wife was in a very bad temper. We pulled up at the corner and she went into the shop. She came out and again started to loiter although we were already late. I said "Come on old girl" or something like that. In front of a crowd of people she said "You low beast. I am going home by myself." She started off.

HIS HONOR: Where was she living?—A. At 666 High Street, Armadale.

Q. Was it far from the shop?—A. No, 200 or 300 yards.

MR. BARTON: What happened?—A. She started to walk past the car homewards. I got out and walked up to her and said in a low voice "Get into the car or I will throw you in." It was a public humiliation for myself.

Q. Did she get into the car?—A. Yes. I did not drive home but I drove down Orrong Road for a quarter of a mile thinking what I should do. Finally I said to her, "If you speak to me like that in public again I will hit you." She said "Beast." I took my hand off the wheel and bumped her with my elbow like that. I can only describe it as the unleashing of her feelings and she clawed into my face with both hands. It drew some blood from my lips. I was driving slowly and I threw the clutch out of gear and put my arms around her and held her. She struggled violently for a few moments and then quietened down. I held her and asked her whether she was going to be quiet. I turned the car round and drove home.

Q. What happened when you got home?—A. We went to the front door. I said to her "Do you know what you are doing. You are wrecking me and the children. You are wrecking our finance and wrecking everything. I woke up in Africa and I hoped that you would wake up too." She started to abuse me. I went upstairs. I got a carpet slipper, came down, and took her and pulled her across my knees. She struggled and I said

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“That is done for the sake of the children. Don't you realise you are wrecking the children, you are wrecking us financially; don't you understand.” These were interspersed with slaps, of course. After a while she burst out crying and said “What a fool I have been. If I had only known what a fool I have been.” As soon as she broke down I had stopped slapping her. I said “don't let it happen again.” We kissed and made it up. For some two or three months after she did co-operate and I led a reasonably happy family life.

Mr. BARTON: Was that the first occasion on which you had used any violence on your wife?—A. Yes. 10

Q. It was in 1937?—A. Yes.

Q. Was that the only occasion prior to your departure for the war on which you used violence towards her?—A. So far as my recollection, yes.

Q. Do you remember saying to your wife “This cannot go on; it will all be in ‘Truth.’”?—A. Yes. Yes, I did say that. One night I said to her “This sort of thing cannot go on without somebody finding out all about it.” I said “Sooner or later somebody will find out about it and it will all come out in ‘Truth.’”

Q. Now, you went to No. 18 Balmerino Avenue, did you not?—A. Yes. 20

Q. And how did you and your wife get along at that house?—A. Very badly indeed.

HIS HONOR: You were renting this place, were you?—A. Yes, your Honor. It was a flat—rather, a maisonette.

Mr. BARTON: And about June or July of 1938 you bought that property No. 3 Balmerino Avenue, did you not?—A. Yes.

Q. Now will you tell his Honor what sort of a house that was?—A. It was a very old type of house—an old type—cast iron balcony, very much cracked and in need of complete renovation.

Q. And did you proceed to reconstruct it?—A. I did. I drew my own 30 plans or at least I engaged an architect, of course.

Q. That was to draw your plans?—A. Yes, but he was unable to draw satisfactory plans.

HIS HONOR: You apparently had some means apart from your earnings, had you?—A. I had. At the beginning of my married life I had had about £350 a year which was left me.

Mr. BARTON: You mean that this was from your investments?—A. Yes, from the investments which my mother had given me on my marriage as a gift.

HIS HONOR: Yes. You were proceeding to say in regard to this house? 40 —A. It was a very difficult job. The problem was to accommodate the new construction to the old and I was able to solve the problem. I drew my own plans, engaged my own, did my own supervision and orderings between 8 o'clock and 9 in the morning and at lunch times and after 5 o'clock at night.

Mr. BARTON: What was your wife's attitude towards this work?—

A. She was not very keen to begin with and after a while she became very hostile. She continually obstructed my work of drawing up the plans by way of fights and squabbles. About half way through the job she suddenly wanted me to sell the whole place and throw the whole project over. I refused to do that and I finished the job.

Q. Yes, and then?—A. If I may say so, it was a house the result of some 20 years' building experience and if I may say so it was well ahead of its time and she was exceedingly proud of it.

Q. That was at the end of your reconstruction?—A. Yes, at the end.

10 Q. Now, while you were at No. 18 Balmerino Avenue were there rows over the children?—A. Yes, there were some rows over the children. I think most of the rows which occurred there were over the children in this house which I was doing up also. There was a good bit of friction owing to the fact that the flat had rather small rooms and rather small passages and people tended to tumble over one another and to bump into one another and that led to friction.

Q. And did you ask your wife at this time to correct the children on any occasion?—A. I cannot remember about that time.

20 Q. How often do you think rows would have taken place while you were at No. 18 Balmerino? Would they be as often as weekly?—A. They would be possibly that before I started to rehabilitate the house. I think they would be, say, almost daily after I had started to rebuild.

Q. Do you remember your wife having a throat affection once at No. 18 Balmerino Avenue?—A. I do.

30 Q. Will you tell his Honor about that?—A. Yes. She had a sore throat. I got the doctor and he said it was streptococci—it was that condition of throat and she went to the Fairfield Infectious Diseases Hospital, the isolation hospital. Apparently she was cured and they kept her there quite a considerable time, I understood, until she was thoroughly convalescent. Then I took her on a trip up into the country. She complained about this and said I should not have taken her. I was doing it with good intentions. I thought that it was doing her good. She made it a series of recriminations which were thrown at me again and again for several years afterwards. She told me that I should not have taken her. I said that the doctor had said nothing to me about it, that he had not told me there was any danger in it, and I apologised to her for having done it although I did not think there was any necessity to apologise.

40 HIS HONOR: Well, what was the ground of the recriminations? Did she say that you had injured her health in any way by doing it?—A. Yes, she said that I had injured her health, that I had shown lack of consideration for her condition.

MR. BARTON: Do you remember about this time an incident of some aspirins or Aspros?—A. Yes. I came home one night and found my wife in bed. She was writhing in agony. I said to her "What is the matter?" She said "I don't know." I said "Have you got the doctor?" She said "Oh, don't get the doctor." We conformed to her wishes. I went out and got myself some tea. I came back very shortly after to see how she was

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getting on and after some time I asked her again about getting the doctor. She did not want one but she was alarmed. I took it on myself to get the doctor. It was Dr. Foreman and I asked him to come over. He did come over and he examined her. I do not know whether he prescribed anything for her or not. She recovered in a couple of days. Some two or three months later she confessed to me that she had swallowed some 60 aspirins. I went afterwards to Dr. Foreman and mentioned the incident to him.

Q. Do you remember threats on your wife's part to throw herself into the river?—*A.* I do.

Q. When were they—can you recall?—*A.* It would be around this 10 period and at later periods also. She has many times threatened that.

Q. And has she ever done anything about it?—*A.* She walked down to the river on a couple of occasions and caused me very great mental stress.

Q. Do you remember an incident in 1939 when your daughter went to join the Eureka Youth League?—*A.* I do.

Q. Will you tell his Honor about that?—*A.* My daughter was growing up and she was interested in various societies, activities. She came home one time and said she wanted to join the Eureka Youth League. I pointed out to her that it was a Communist organisation and that I did not desire her to join it, and there were several very hot arguments over it. 20

Q. Arguments between you and Mrs. Lang?—*A.* And the daughter.

Q. Yes, between the three of you?—*A.* And finally the daughter decided not to join it. It was just as well that she did not because afterwards she entered the Navy. I do not think she would have got in if she had joined up with that organisation.

Q. What was Mrs. Lang's attitude?—*A.* She favoured the daughter.

Q. Your wife has given evidence that you had difficulties in various jobs. Now after you came back from South Africa where were you first employed?—*A.* I was first employed at Australian Paper Manufacturers Ltd. 30

Q. Yes, and what happened there?—*A.* There were no difficulties in the job as far as I was concerned but my chief ran into trouble with his General Manager and the Chief Mechanical Engineer and he was given the sack and the small department which we had formed was broken up and I was told, together with another man, to look for another job. There were no personal difficulties so far as I was concerned.

Q. Where did you go then?—*A.* I went to the State Rivers and Water Supply Commission.

Q. Did you have any difficulties there?—*A.* I went up there and I was put under two previous students of my own. I was fairly well known as an 40 engineer by virtue of my University experience and my writings in engineering activities, and evidently these two men regarded me as a dangerous rival to their positions, or something like that, and they just proceeded to obstruct. I could not get information so I decided that the only thing to do was to seek another job.

Q. And you did?—*A.* I did.

Q. You went then to the Grain Elevators Board?—*A.* I did.

Q. And you went also to the Board of Works ?—A. Yes.

Q. Will you tell his Honor what happened there ?—A. I was given the job of re-designing the Elwood Canal, and by virtue of my engineering knowledge in a particular and specialised field I was able to solve the complete problem.

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HIS HONOR : Well, I am not concerned with the details of all this ?—
A. I was able to solve the problem within a fortnight.

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Mr. BARTON : And you left there ?—A. I passed it up when the job was done and left there.

10 HIS HONOR : I am not interested in the details of your various jobs. It may have been the most admirable work. You went to the Board of Works, you said just now. Where did you next go to ?—A. I went to the Grain Elevators Board.

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Mr. BARTON : What happened there ?—A. I was appointed Inspector and I made a condition that I should stay in town.

Q. Here, in Melbourne ?—A. Yes, in order to finish my house. And within a week I was shifted to the country.

Examina-
tion—
continued.

Q. To what part of the country ?—A. Around Ouyen, Birchip.

Q. In the Mallee ?—A. The Mallee, yes.

20 Q. And that led to some difficulties ?—A. Yes, the hours were very long. They were never less than 56 hours a week, and one week I worked 70 hours.

Q. Did you have difficulties also—

HIS HONOR : How am I concerned in the details of these jobs, Mr. Barton ? The only point you are entitled to get out is to meet the wife's suggestion that he could not keep a job. He tells me that he had a number of jobs and that he left them. He left them either voluntarily or not voluntarily. That is all I want to know. Anything further can come out in cross-examination, but even there I do not think cross-examining Counsel
30 will be interested in the details.

Mr. BARTON : If your Honor pleases. (*To Witness*) : What was your wife's attitude in regard to all this ?—A. That I was a fool and that I was to blame for everything. I brought my difficulties home to discuss them with her in hopes that we could solve some of them together, and I was called a fool.

Q. Now, is it true that since about 1936 you have been restless in your sleep ?—A. It is.

40 Q. Has your wife had her sleep broken over that period, from 1936 up to the present time ?—A. She has generally slept very soundly but I have occasionally broken it. I have been restless.

Q. When was this, approximately ?—A. It was mostly in 1948 and at the end of 1947.

Q. Would it be true to say that before then at any rate you used to find faults with her in bed at night and persist in talking so that she could not sleep ?—A. That is absolutely untrue.

Q. At any stage ?—A. Before the war and also for a period after the war.

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Q. "When I remonstrated with him he would punch me about the head" ?—A. That is absolutely untrue. I never punched her.

Q. Did you hit her about the head ?—A. I slapped her.

Q. When was that ?—A. It was in 1948—possibly it was in 1947.

Q. But before that it just did not exist ?—A. No.

Q. Rows at night had been very infrequent up to about 1947 ?—
A. Yes.

Q. Did your wife ever try to get out of bed and find some rest in another room ?—A. No.

Q. Not at any time ?—A. No.

Q. Do you remember this in your wife's affidavit "He would hit me
"about the arms and legs with a heavy ruler" ? Will you tell his Honor the
full story of that ?—A. Am I expected to say that that statement is untrue.

HIS HONOR : Well, if it is untrue, by all means tell me so.

WITNESS : Yes, it is untrue.

Mr. BARTON : Did you have a ruler which disappeared ?—A. I had a
couple which disappeared.

Q. One of the rulers had been from your father ?—A. Both of them
had been.

Q. Did you hit your wife with a ruler ever ?—A. No.

Q. Did you hit David with it ?—A. I did.

Q. And those rulers just disappeared ?—A. Yes. One was a heavy one
and the other was a light one.

HIS HONOR : A heavy one ? Was that a cylindrical heavy one ?—
A. Yes, your Honor, it was not used.

Mr. BARTON (*to Witness*) : Do you remember an incident in which you
brought home a whip ?—A. Yes. I did not bring it home.

Q. Where were you when you produced this whip ?—A. That was
when we were at Yarra Glen.

Q. When was that ?—A. It was in 1944.

Q. You were at a guest house ?—A. It was at a guest house. At that
time, your Honor, my wife had been behaving a little bit better than usual and
I bought a large box of chocolates as a Christmas present—an extra large
box, and I took that home ; concealed it from my wife, of course.

Q. And was her behaviour bad in the intervening period ?—
A. Between then and Christmas her behaviour became very bad indeed ;
worse than usual.

Q. Was she sulking ?—A. Not just at that stage.

Q. Yes. Well, proceed to describe this incident, will you ?—A. And in
exasperation I went to a saddler's shop in Camberwell. I bought a whip
and put it in my car. And on Christmas Eve we had arranged to go to a
boarding house at Yarra Glen.

Q. Was that called "Windermere" ?—A. Yes, "Windermere," next
door to my property.

Q. Well, what happened ?—A. And we were to stay there over
Christmas. On the way up she was by turns abusive and sulky.

HIS HONOR : I did not hear that. (*To Witness*) : You said ?—A. On the
way up—some 32 miles.

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Mr. BARTON (*to Witness*): She was by turns abusive and sulky?—
A. Yes. I had taken the box of chocolates in the car. When we got up there she was still in a bad mood when she went to bed. When I woke up in the morning she was still in a bad mood. I got up early and went out and thought things over. I came back to the bedroom with the whip in my hand, tossed it on the bed and said “That is the Christmas present you deserve.”

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HIS HONOR: You tossed it on the bed and said?—*A.* Your Honor, I tossed it on the foot of the bed.

Q. And said what?—*A.* “That is the Christmas present you deserve.”
 10 This was Christmas Day, and I walked out of the room. She gave a bit of a scream as I tossed it down.

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Mr. BARTON (*to Witness*): Did you come back later?—*A.* I came back a little while later and the whip had disappeared. She afterwards informed me that she had burnt it.

Q. Did you ever hit her with the whip?—*A.* I did not, and never intended to.

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Q. Did you ever say to her “I will show you who is master”?—*A.* I cannot recollect any occasion on which I did.

Q. You did not give her the box of chocolates, did you?—*A.* No. I do
 20 not know what I did with them. I probably gave them to the daughter.

Q. Now, as to this further allegation—“Once as I lay in bed he threw
 “a book at me and cut my lip.” Do you remember the story of that?—
A. Yes. She was lying in bed and I think that she had gone to bed early. I came in. I was fully dressed and I turned the light on. She started to complain about the light being turned on. I think it was only about 10 o'clock at night. Possibly I had come home from a technical school class or something like that, and she started complaining. I said “It is only ten
 “o'clock” or something. Anyway, an argument grew and finally she taunted
 me with my German parentage.

30 HIS HONOR: Do you remember what she said?—*A.* “Oh, your
 “father, your grandfather was a Hun and you are a Hun,” or something like that. The argument had been going on for some time and it was fairly solid and bitter. She was letting her tongue loose. I had the book in my hand and I threw it at her.

Mr. BARTON: What was the name of the book?—*A.* I think it was called “Ships of the British Navy.” It belonged to David. It struck her on the lip and it did draw a small drop of blood.

Q. Did the children ever come downstairs to see what was the matter
 40 upstairs, “For goodness sake, stop rowing and let a poor fellow get to sleep.”

Mr. BARTON: When were those occasions you remember him calling out?—*A.* I should say in 1948.

HIS HONOR: Who was it called out “For goodness sake, stop rowing”?—*A.* That was David, your Honor.

Mr. BARTON: You went to the war in 1940, did you not?—*A.* I did.

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Q. And you served through the siege of Tobruk?—A. 105 days, that is correct.

Q. And you returned from the war about 1942?—A. That is correct.

Q. And after that, you had a military appointment in Australia?—

A. Yes, at Army Design Division, Gardiner.

Q. Now what were your relations like with your wife after you returned home from the war?—A. They were very unhappy.

Q. There were very frequent arguments, were there?—A. There were.

Q. At this period of your married life, was your wife silent?—A. Oh yes, the usual pattern was a row and then two or three days silence, and then a reconciliation at my instigation. 10

Q. And intercourse would usually follow the reconciliation?—A. Yes.

Q. When Mrs. Lang was being silent, was it only towards you or towards the whole world?—A. On no, not to the whole world. She was a very sweet charming delightful lady to the rest of the world. I fell in love with her because of that and she was like that before we were married.

HIS HONOR: You were one of the rest of the world then?—A. Yes, I was then, your Honor.

Mr. BARTON: Would you tell his Honor whether these rows seemed to have any great effect on your wife?—A. They seemed to have no effect whatever on her. They did not seem to worry her in the least. 20

Q. On the other hand, were you worried by them?—A. I was exceedingly worried by them.

HIS HONOR: Have you been of a worrying nature all your life?—A. I am not of a worrying nature. Normally I have a very philosophic outlook as to life, I hope, but half an hour or even less after one of these rows, she would be going round the house, I can only say, singing like a lark.

Mr. BARTON: What would you be doing?—A. I would be feeling thoroughly miserable.

Q. Did these arguments have some influence on the quality of the work you were doing for the Army Design Section?—A. To some extent, yes. 30

Q. And you realised that at the time?—A. I realised it at the time that I could not devote quite the concentration, although I overcame the difficulties, mainly, I—

Q. And what type of work was it that you were doing at the Army School?—A. It was very exacting detailed work, involving tolerances of plus or minus 1,000 of an inch and orders involving some 7,000,000 bullets, each one of which had to be absolutely correct to the drawing and to be absolutely right. There was no room for error and the design had to be absolutely right, because if one round in half a million misfired or there was a premature burst, it would destroy the confidence of the men in their ammunition. In addition, we had the whole of the tropic proofing of the ammunition and my section was fully responsible for that. 40

Q. And you think that this constant worry spoilt the quality of your work?—A. No, it did not, I succeeded in battling through, but it had interfered in a couple of cases.

Q. What were the couple of cases?—A. One was, I missed a dimen-

sion. I had to check all the dimensions myself and I did not find an error, and I think that error cost the country quite a lot of money before it was picked up.

Q. Now it was some time in 1943 that you consulted Dr. Reg. Ellery, was it?—*A.* Yes.

Q. Why did you consult him?—*A.* Because the condition of affairs was going from bad to worse and by virtue of my army experience, I had learned that there is such a thing as neurosis in the world and I went to see Dr. Ellery.

10 *HIS HONOR:* Did you consult him about your wife or yourself?—*A.* No, for both of us. I thought there might be something wrong with either of us or both of us.

Mr. BARTON: Did you tell your wife before you took her to Dr. Ellery, that you were going to have her put away?—*A.* That is untrue.

Q. Do you remember after consultation with Dr. Ellery, you and your wife were walking along the street and you said to her, "What did he say?"?—*A.* I do.

Q. And what did she say to that?—*A.* Her reply was, "He says you "are mad."

20 *Q.* Now to come to this kitchen incident, Mr. Lang?—*A.* Yes.

Q. Was rubbish thrown on the kitchen floor by you on more than one occasion?—*A.* No.

Q. Did you throw anything, ashes or anything else on more than this one occasion?—*A.* No.

30 *Q.* Now, on this evening, do you remember for some time prior to that your wife had been complaining of tiredness?—*A.* Yes. She had been complaining for some weeks of tiredness. I had been trying to persuade her to go to bed early and to take the housework a little bit more lightly. Her condition was adding to the burden of already very heavy jobs. This evening she was complaining very strongly of being tired. I said, "I have "been telling you to go to bed early for weeks." I said, "Now go to bed at "8 o'clock." I was going out to an Army lecture. I was most emphatic. I made it a command almost, to go to bed at 8 o'clock.

Q. You returned home about 11?—*A.* Yes, about 11 o'clock, and here she was still doing the washing up. I had said leave the washing up until to-morrow. Well, it made me completely lose my temper. I said, "Well, "I told you to go to bed, if you want work, you can have it."

Q. Did you strike your wife?—*A.* I did not.

Q. Did you throw water over her?—*A.* No, I did not.

40 *Q.* What did you do?—*A.* I went out and I got the two rubbish tins and emptied them over the kitchen floor. I went and got the ash can out of the furnace and scattered that over the kitchen floor and I tipped a small canister of sago and I think rice over the floor.

Q. Did you throw shovel fulls of earth and stones?—*A.* I did not. There was garden refuse and brown paper and newspapers and cake and all sorts of oddments like that in the rubbish tins themselves.

Q. And while you were throwing these down, what happened? Where

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was your wife?—*A.* After the second rubbish tin, she bolted out of the kitchen, through the back door with a bit of a scream, and that is the last I saw of her.

Q. For some time?—*A.* Yes.

Q. Did you say to her, "Now you have some work," or anything like that?—*A.* I do not think so.

Q. Did you know at that time that visitors had been on that evening?
—*A.* I did not.

Q. When did you first know that?—*A.* That might have been 12 months or even two years or longer, I could not say. 10

Q. One of the witnesses has given evidence I think Mrs. Pace, that you said to her, while her mother was away, that a solicitor had something of advantage to tell her mother. Can you tell me her address. Did you say anything like that?—*A.* Not to my recollection.

Q. Did you know her address at that time?—*A.* I did know her business address. She had been working there for some years.

Q. And you could have seen her at any time you wanted to, I suppose?
—*A.* I could have.

Q. Now in that few weeks that your wife was away, how did you and your children get along?—*A.* We got along very well indeed. 20

Q. How did they usually get on when your wife was not there?
A. Very happily. When she came on the scene, they at once became difficult.

Q. You said to your wife in this solicitor's office, Mr. Armstrong I think, "I offer you peace and harmony"?—*A.* I did.

Q. And your wife did return to you?—*A.* She did.

Q. And you resumed living as man and wife?—*A.* We did.

Q. And how long did this happy condition of affairs go on?—*A.* About a month.

Q. And what happened then?—*A.* The children were proving difficult 30 and I was trying to correct them, taking particular care not to say anything which could be misconstrued and being as gentle as I could and as guarded as I could, but she would still object.

Q. And you had some row?—*A.* Well I can only say that she apparently considered that I must be an absolute door mat and allow myself to be trodden on. One day the children were getting worse than usual and I said I cannot stand this any longer, you will have to correct them.

Q. What did she say to that?—*A.* She said, "You promised me peace "and harmony."

Q. What did you say?—*A.* I said, "Harmony means harmony on 40 "both sides. I am sorry I did not tell you in Mr. Armstrong's office. It "means harmony on both sides, you are not even co-operating."

Q. Did you ever say that you would have promised anything to get her back?—*A.* I did make use of those words.

Q. On what sort of occasions were those?—*A.* I cannot recollect the occasion.

Q. Did you ever say it seriously, Mr. Lang, or affectionately?—*A.* It

was not said seriously, it was said as a lover's promise. I was very much in love with my wife, even then, very much in love with her. I adored her.

Q. Do you remember an incident, Mr. Lang, in 1944, I think it was, when Mr. Cowie was at the house one Saturday evening?—A. I do.

Q. Would you tell his Honor about that?—A. My cousin, Mr. Cowie, and a young man by the name of Jowett and David and myself were in the dining room after dinner.

Q. Where was Mrs. Lang?—A. She was in the kitchen and the door was open between the two rooms.

10 Q. You were having a discussion about soil erosion?—A. Mr. Jowett was on the land, Mr. Cowie I think was on the land at that time, and I had my own property, and we were discussing soil erosion on a technical basis. David kept chipping in. I said two or three times, "David, that is not right." "David, that is not correct," in an endeavour to quieten him off, but he kept on chipping in. Finally, I said, "David, you know nothing about it, children should be seen and not heard."

Q. What happened then?—A. With that, Mrs. Lang came out of the kitchen and she said "David has a right to have his say."

20 Q. Did she say anything to David?—A. She said to him, "David, you have your say." Anyway, after that, I allowed him to talk as much as he wanted, and I kept silent. I felt it to be rather a humiliating gesture in front of the visitors.

Q. Do you remember one day in about 1944, that you went to the Botanical Gardens for the day?—A. Yes.

Q. What was that after?—A. There had been a very serious row, and I felt I could not bear things, I could not bear staying in the house that day, so I went to the Botanical Gardens, and stayed in the Gardens all day, and went back in the evening to Balmerino Avenue.

30 Q. What was your state of health, Mr. Lang, up to about 1946 or 1947?—A. My general health is very sound, indeed, but at these periods of stress, I have been affected very badly with migraines.

Q. Very severe headaches?—A. Very severe headaches, accompanied with very severe vomiting.

Q. How long would they be in duration?—A. From the first symptoms, which might be two or three days beforehand, I would generally have the headache all day culminating in vomiting attacks, perhaps between 7 and 8 at night. I also had trouble with my stomach during the last 18 months or so of my army service, which was classed by the army as nervous dyspepsia, and it disappeared a month after I got out of the army.

40 Q. And do you think, Mr. Lang, that these quarrels had anything to do with your bad state of health?—A. I can only say that since I have been relieved of the quarrelling, that I do not get a migraine more than once in three or four months, and they are very mild.

Q. You frequently used to have them?—A. At the worst stage, I was getting them once a week and at one period, I had one every second day.

Q. Could you tell his Honor about when that period was?—A. One bad period was when Dunlops had given me notice in 1947, and then later

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on they came on badly in 1948. I may say, your Honor, that I had had migraines ever since I was a child. They are constitutional, hereditary.

Q. Did you consult a doctor over those migraines?—*A.* I have consulted many doctors over a long period of years. I finally found Dr. A. J. M. Sinclair. Apparently he had specialised knowledge of them and he was able to give me a commercial tablet which completely relieves the symptoms.

Q. Did your wife go to Dr. Sinclair at one stage?—*A.* She did pay one visit to Dr. Sinclair.

Q. And what had Dr. Sinclair to say about her?

HIS HONOR: Was it in his wife's presence?

Mr. BARTON: Yes, your Honor—

WITNESS: If your Honor pleases, I think my Counsel made a slight mistake, it was not in the presence of my wife, but he told me that he could not settle my domestic difficulties.

HIS HONOR: You say your wife was not present at this stage?—*A.* Yes.

Mr. BARTON: Then you must not repeat the conversation. On December 3, 1945, you went to work at the Dunlop Rubber Co.?—*A.* Yes.

Q. And do you remember one very severe row, Mr. Lang, at Whitehall Guest House, at Sorrento?—*A.* Yes, after the war period, I was rather tired, and very much in need of an extended holiday, but I went straight to work, because I was engaged by the Dunlop Rubber Co. for their Beaumaris job. At this Christmas, we went to Sorrento, and stayed at Whitehall Guest House and I was taking full advantage of the holiday. I needed it. One day, I was sitting on a seat on the verandah, I just fell asleep and it appears my mouth fell open and I snored.

Q. What did your wife say to this?—*A.* When I woke up, my wife upbraided me, called me an exhibitionist, and told me I had gone to sleep there to humiliate her before all the guests, and was in a very bad temper about it.

Q. Do you remember one occasion when there was a row and David came and stood between his mother and—

HIS HONOR: Is this also at Sorrento?

Mr. BARTON: No, your Honor.

Mr. BARTON: May I ask, does your Honor intend to proceed in the absence from the Court of my learned friend?

HIS HONOR: I do not think Mr. Woolf will be very long away. I think you may go on with your examination. I have no doubt that a note is being taken of what is being said.

Mr. BARTON: If it pleases your Honor.

Mr. BARTON: Mr. Lang, was it very hurtful to you when you were called a Hun?—*A.* It was.

Q. You were very susceptible to that expression, were you not?—*A.* I was, exceedingly so.

Q. And was that one of the reasons why you went to the last war?—*A.* Yes, that was so.

Q. Now, do you remember the occasion that you punched David on the nose?—*A.* I do.

Q. Will you tell his Honor about that incident?—*A.* There was an

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argument going on in the lounge room, near the entrance to the dining room. There was a good bit of shouting on my part and screaming on Mrs. Lang's part, and David came in. Mrs. Lang had her hands up in front of her face like that (*indicating*) and I was shaking my fist. David came and stood between us. I said "Go away, David, you are only pouring oil on the flames."

10 HIS HONOR: You said what?—A. I said, your Honor, "you are only making matters worse." He stood there without moving. I said "Go away, you are only making things worse." I again told him to go away and he stood there, absolutely defying me.

Q. Do you mean anything more than that he did not go away?—
A. He did not go away, your Honor, and I made a movement—a circular pass like that (*indicating*) and at the moment that I made it I did not intend to hit him. He bobbed his head forward and he got it on the side of the nose which had previously been broken in an accident. His mother immediately took him off to have it dressed. Then, later, in the day, I explained to him that it was an accident, that I would not have done it for the world and that I was very sorry. And I did add that if he had not interfered it would not have happened to him.

20 Q. Now, will you tell his Honor about an occasion on which you cut your finger?—A. On one occasion, your Honor, I was in the bathroom. I forget exactly what happened but a bottle had fallen and had been broken and it had cut my middle finger, and it had evidently cut a vein and was bleeding profusely, blood dripping all over the floor rapidly. I held my hand up in order to stop the bleeding and called to Mrs. Lang to come quickly. I said to her that I had cut my finger, and in the meantime I had got a bandage. We stood right at the entrance to the bathroom door. She started to fumble the bandage very badly. I said "Oh, for goodness sake let me do it." She started to abuse me. I do not know what words were said.
30 Barbara evidently heard the sound of the raised voices and she came downstairs. She got a sight, apparently, of some blood. She said, "If you are hurting my Ma I will kill you." She dashed straight upstairs and then came down again. And as she came down with a Winchester repeating rifle with a slide action and I heard her operating the slide action as she came downstairs—the stairs are just outside this little lobby in which the entrance to the bathroom is—as she entered the door she pointed the rifle right at my solar plexus. I realised that I was in grave danger. I flung my hand right up in front of her face and said, "It is my blood, you fool. It is my blood." I flung my hand up so quickly that about half a dozen drops splashed on the
40 wall about six feet high. I afterwards wiped most of them off but marks are still on the wall and there are still some splashes of blood on the wall, if this is any confirmation of what I have said.

Q. What did Barbara do?—A. She just held the rifle for a few moments and then lowered it and went upstairs. Mrs. Lang stood up and did not utter one word of protest or reprimand. I made some remark—"A nice sort—or nice state—of affairs in the family," and I do not think Mrs. Lang ever reprimanded Barbara for it.

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Q. That would be about 1947, would it not?—A. It would be—

Q. Early in the year?—A. Yes.

Q. Do you remember an argument in 1946 in the course of which your torch got broken?—A. Yes, there was an argument in 1946. I think it took place in the kitchen and Mrs. Lang picked up my torch. It was a focussing torch, which type at that time was difficult to obtain. She threw it on the floor and broke the glass.

Q. Do you remember another torch incident?—A. Yes. About a week later she picked up another torch and threw it on the floor. I said "Do you know that that is David's torch you have broken? You had better take 10
"them both to McEwan's and get new glasses put into them." She did not do it. I spoke to her two or three times. I said, "You had better take them
"off and get glasses put in." But she never did so.

Q. Do you remember an iron being thrown about the kitchen?—A. Yes. There was another argument at one time. She picked up the electric iron in a rage and dashed it into the sink. The mark is still in the bottom of the sink.

Q. Do you remember something about a Leica camera?—A. Yes, there was another argument one day. She picked up the Leica camera and was about to throw it down. I said, "You fool, that is worth about £40," 20
and then she lowered it.

Mr. WOOLF: If I may interpose for a second, your Honor, I would point out on my client's behalf that she was never cross-examined about these things. But I take it that nothing can be done about it. Mrs. Lang has had no opportunity of answering questions on a great deal of what is being alleged by the Respondent.

HIS HONOR: Yes. It certainly confirms the view that it was a very unhappy household.

Mr. WOOLF: Oh, unquestionably, sir.

HIS HONOR: Yes. Very well, Mr. Barton. 30

Mr. BARTON (*to Witness*): That Leica camera incident was also about the beginning of 1947, was it?—A. I cannot say exactly.

Q. Do you remember an occasion in 1947 in which a carving knife was broken?—A. Yes. There was another row in the kitchen and she picked up a carving knife and held it like that (*indicating*). I disarmed her. I took her by the wrist and took it out of her hand.

Q. And a pair of Egyptian scissors. Do you remember anything about those?—A. I am not certain that they were Egyptian or ordinary long scissors.

HIS HONOR: Well, at least they were a pair of scissors. Is that true? 40
—A. Yes, your Honor.

Mr. BARTON: What happened with regard to them?—A. There was an argument and she picked them up with the point towards me.

Q. What did you do?—A. I have forgotten.

Q. Now, in 1947 you were told at one stage that Dunlop's had no further use for your services. You recall?—A. Yes.

Q. And did you tell your wife about this?—A. Do you want a reasonable account of it, your Honor?

Q. Tell his Honor just what you told your wife.

HIS HONOR: What took place between you and Dunlop's at present is of no account. They had said they did not want your services further. Was that it?—A. The project was discontinued and my services were no longer required. This is what I was going to explain. The chief engineer told me to look for another job. I went home to my wife and I said, "Old lady, I have been sacked." She said "What?" I said "I have been sacked. The Beaumaris scheme is finished. They are not going on with it and they do not want me." She broke down and cried and said "I never dreamed this could happen to you." I said "Don't you realise that every engineer has to look for another job when his project is finished? I am not the only one." She broke down and she cried and wept.

Mr. BARTON: And how were your relations after that?—A. She kissed me and she became the sweet loving girl that she was when we were engaged. I had practically a perfect month.

Q. Now, what was your mental condition like in 1947?—A. Well, at the beginning of the year I was working extremely hard. I was working on this enormous project of the Beaumaris scheme single-handed. I was also attending classes at the Melbourne Technical School in industrial management, and also to catch up on the loss of time I had suffered in my war years. I was under a very heavy working strain at the beginning of the year. I was also having quite a lot of worry at home. At the end of the year, after I had been invited to come up to the head office by the general manager I was relieved but was still uncertain of my position. It was very uncertain, and as soon as I was invited up to head office and given an improved position by the general manager Mrs. Lang broke out far worse than before.

Q. What was your mental state like then?—A. I was under fairly heavy stress. That is all I can say—which I could carry.

Q. And did these arguments upset you greatly?—A. They did upset me, yes.

Q. Now, do you remember an occasion at the end of 1947 in which you put your wife's head and shoulders under the shower?—A. It would be about that time.

Q. Will you tell his Honor what happened?—A. What the argument was about I cannot say with any certainty. It was probably about my parentage or my father, or something like that which was particularly wounding. She would not stop talking and I could not stop her talking by any means whatever. I could not stop her reviling me so I just grabbed hold of her and pushed her into the bathroom. She was struggling violently. I pushed her into the bathroom and put her head and shoulders under the shower. When it was over she calmed down and said "Oh, what a fool you are," or something.

Q. Did that happen on another occasion shortly after?—A. Yes, it happened on another occasion. She fought a little bit more strongly that time and I had to exert a little more force.

Q. And that was after a severe quarrel?—A. Yes, it did occur after a severe quarrel.

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Q. What effect did this abusive manner of your wife have on you?—
A. It had a most deleterious effect on me. These quarrels left me exhausted and upset. I would frequently go into work and I don't suppose I would do more than perhaps 25 per cent. of my best work. Fortunately, I have always had jobs which have allowed a certain amount of latitude. These quarrels had a most exhausting effect on me and left me in a very unhappy mental condition. I did not know what to do. I thought I was between the devil and the deep sea. I think I was. I could not please her or stop her arguing. I was trying to make peace.

Q. Did you try to make peace?—*A.* Continuously throughout our 10 married life, to the last moment, I was striving and pleading and begging with her to make peace continuously.

Q. Would you be affectionate on those occasions?—*A.* I would try to be, but she would not allow me to be.

Q. How would your efforts to show affection be treated?—*A.* Generally with coldness. She even did not like to be kissed.

Q. Now, do you remember in the course of 1947 that on occasions your wife in the course of a row put up her hands like this (*indicating*) in front of her face?—*A.* On many occasions, yes.

Q. And what would she often do?—*A.* She would put her hands up 20 in front of her face and if I was near enough she would dab at my nose. On two or three occasions she got me on the nose, and it hurt.

Q. What did she do on this particular occasion?—*A.* I did not strike her back on this occasion. I used to tell her to put her hands down and she would keep them up. I remember that on one occasion I told her to put her hands down and she did put them down. And I said "Now we can talk sensibly."

Q. During 1947 you went and saw the Reverend Mr. Arrowsmith, did you not?—*A.* I did.

Q. Was that with the intention of seeking advice?—*A.* Yes, and— 30

Q. Seeking advice on your matrimonial problems?—*A.* Seeking advice and help in my matrimonial problems.

Q. Did you also go to see one Dr. Carrington?

HIS HONOR: Doctor whom?

Mr. BARTON: Dr. Carrington, your Honor. I note that in an earlier part of the transcript the name of this doctor is given as Parrington. It is Dr. Carrington. (*To Witness*): Did you also go to see Dr. Carrington?—*A.* I could not say whether it was in 1947, at the end of 1947, or whether it was at the beginning of 1948, but it was about that time.

Q. Yes. And you asked him for help?—*A.* Yes. 40

Q. This was Dr. Carrington. Now, in 1948 your daughter became engaged, did she not?—*A.* I do not remember the date of my daughter's engagement.

HIS HONOR: Well, was she engaged in 1948?—*A.* She was, your Honor. Yes.

Mr. BARTON: And do you remember a few differences of opinion with your wife over that?—*A.* Not of my daughter's engagement. I was very pleased.

Q. Well, over the marriage at a later stage?—*A.* It was rather over the matter of conduct. There were no differences of opinion over the engagement or the marriage.

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Q. Do you remember your coming home one Saturday afternoon?—

A. Yes. My wife had gone out, and the daughter and her fiance and I were in the house. And I had to go away for about three-quarters of an hour somewhere and I left them together. When I came back I came into the house through the front door through the lounge room and into the dining room. There was a couch under the window and the pair of them were rolled up tightly together inside a rug and lying stretched full length on the couch. I did not say anything. They—

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Q. Was the room darkened?—*A.* Yes, the room was darkened.

Q. You complained to your wife?—*A.* I did not say anything to them. They unrolled themselves rather shame-facedly.

HIS HONOR: While you were there, or afterwards?—*A.* While I was there. The daughter had a thin dress on. Her blouse was loose. She had her shoes off. I am not quite sure whether her stockings were off. The son-in-law had his coat off and he was in his shirt-sleeves and he had his shoes off. I do not think there was anything morally wrong but I did regard it as unseemly conduct particularly in view of the young man's profession.

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Mr. BARTON: Did you afterwards say anything to your wife?—*A.* Afterwards I spoke to my wife and asked her to speak to them, but I have no reason to believe that she did.

Q. And on another occasion?—*A.* There were other occasions when their conduct was not quite what I thought it should be.

Q. Yes, and do you remember an incident in 1948 after which you hit your wife with a military cane?—*A.* After it?

Q. Yes, after it. Do you remember that there was an argument about February or March and that you said to her "Do something about the children"?—*A.* Yes, there was.

Q. This was in February or March of 1948?—*A.* I had been for many years worried about the children's conduct. I had had very little opportunity of training them or teaching them. I had had five years in the army.

HIS HONOR: Well, something happened in February or March of 1948?—*A.* Yes. I am just giving the story, if your Honor pleases. I had had very little of training my children as I wished to train them, and there was this continuous turmoil in the house. I realised that the children were both growing up. Barbara was 20 or 21 and David was 18 or 19. I realised that they would be both leaving the house and that we had to put our whole efforts together, if possible, to training them.

Q. Well, apparently that led you to do something?—*A.* I tried to do it, and I found that I was being allowed to do all of it.

Mr. BARTON: What was the conversation in this instance?—*A.* I said "I have been doing the whole of this training. I am getting unpopular with the children. You are setting them against me. I am not going to do

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“any more of it.” I said “You have made them like this and it is up to you to correct them.” I said “They are only being set against me.”

Q. And did your wife say something about a beast?—A. I do not think so. Not on that occasion.

Q. And did she put her hands up in front of her face?—A. Oh, no.

Q. You are thinking of an occasion in 1946, are you not?—A. Yes, probably.

Q. Well, it is the 1948 occasion that I want to deal with. Do you remember telling your wife that you should both work together on the children?—A. I told her that on many occasions. I cannot recollect this 10 specific one.

Q. No. Well, do you remember an incident in which she put her hands up like this (*indicating*) and hit you and then you got your military cane?—A. If you are referring to the incident in the bedroom, I do remember it.

Q. Yes. Will you tell his Honor about that?—A. In early 1948 there was an argument going on in the bedroom and my wife had her hands up in front of her face and I was telling her to put them down. There was abuse going on on both sides. She took a dab at my face and then suddenly flung herself backwards on to the bed. She had been standing with her back to the bed. It was rather a high bed. She flung herself backwards on to the 20 bed and lashed out at my face with her feet. She had high-heeled shoes on. I dodged sideways and she got me on the face a glancing blow. I said, “Now you have done it,” and I picked up my military cane. I endeavoured to turn her over so that I could smack her bottom. She fought and struggled violently and lashed out at me with her feet. I turned her over as far as I could and lashed her as near as I could get to her bottom with my cane.

Q. Yes. And did that argument start over the children?—A. I cannot say.

Q. Now, after this occasion do you remember rows in bed of a night?—A. I do. 30

Q. How were these rows produced?—A. Well, there were two causes. I had first become sleepless about 1936, and ever since then I have had rather sleepless nights. I used to read in bed. I tried out several reading lamps and finally settled on an A.R.P. pattern which gave a narrow beam so that I would not disturb my wife. I used to occupy my wakeful hours by reading. She complained that it kept her awake. I told her, “I am afraid you have been the “cause of it,” and you are the cause of it.” And from that, arguments would develop. Later on in 1948 particularly I was so very distressed about the behaviour of the children and our own situation and my wife’s behaviour that I used to wake up at night in an absolute agony of mind. I would endeavour 40 to read. I would toss about a little. Then my wife would wake up and start complaining and abusing me. I would ask her to talk sensibly and would ask her to work with me in order to restore harmony or do something with the children. And then she would start abusing me and I would say “For “goodness sake don’t start this business or you will make me swear again.” That might be repeated and she would keep on abusing me, and from that a fierce verbal argument would generally develop, with raised voices. That was the general pattern which took place over a period of many months.

Q. And sometimes you would throw a pillow at your wife, would you not?—A. Yes, on several occasions I threw a pillow at her.

Q. And on occasions you have hit her like that?—A. On occasions I did slap her on the side of the face.

Q. Did that have any effect in quietening her?—A. Yes, it generally reduced her to silence. I never used any more force than I considered necessary.

HIS HONOR: Lawyers have a phrase for that—"Molliter manu sui posuit."

10 WITNESS: I can only say, your Honor, I am honestly ashamed of the whole business.

MR. BARTON (to Witness): It was after a row such as that that your wife departed from your bedroom?—A. It was.

Q. When was that—do you remember?—A. That was about May of 1948.

Q. About what time in the morning would it be?—A. Probably about three o'clock.

Q. Did she ever sleep with you after that?—A. No.

Q. Except for the night of the 13th August?—A. Yes.

20 Q. And do you know where she did sleep?—A. To my recollection, entirely upstairs in the daughter's room.

Q. Yes. And what was the position between you and your wife from that time until the third of June, 1948?—A. There was continuous hostility.

Q. What was your wife mainly complaining about?—A. It was mainly about my alleged bad treatment of my daughter.

Q. Do you think you have treated her badly?—A. I think I treated her very generously. On one occasion I asked her "What have I done? I have not treated her badly."

30 Q. And what did your wife say?—A. I got no answer; just something to the effect of a vague accusation of terrible treatment. I could not understand how I was treating my daughter terribly.

Q. Your wife did prepare your meals?—A. Yes.

Q. She put them on the table. Did you have your meals with them?—A. When I say she prepared my meals, there were cycles of about a fortnight in which I would get one food only. It would start off, perhaps, with a generous serve, and go down and down and down. I would get "Crispies" for a fortnight until I complained about it. Then I would get stewed apples for a fortnight. Finally I was given a couple of slices of toast, and finally
40 I was given nothing. The exact times of these things I cannot say.

Q. Now, on the 3rd of June there was some sort of argument in the house, was there not?—A. Yes.

Q. What was that over?—A. For some two or three weeks the daughter had been asking, what about a wedding party.

Q. This had been in your wife's hearing, had it?—A. Yes, definitely in my wife's hearing.

WITNESS: When my daughter was engaged, I made the remark

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to her " I am happy to see you engaged. I hope you will put off the marriage " long enough to let me save enough to give you a real slap-up wedding break- " fast." At that time my daughter had been asking about a wedding party. I said " How many do you want ? " but my daughter would not say. I said " Of course you can have a wedding party." They would not say how many. At that time I had an £1,800 overdraft and had a mortgage on another house. I had various heavy commitments coming off. So I wanted to know how much it would cost.

HIS HONOR : Keep to the conversation ?—A. My daughter was press- 10
ing about the wedding party, and then something developed. They did not want a wedding breakfast, but a wedding party and a Eucharistic breakfast.

Q. Who said this ?—A. My daughter. I said " Let us have a wedding " breakfast as well." On June 3rd my daughter came in and started pressing me heavily about the wedding party. I said " Where do you want it ? " I told them that I was fairly hard up. After a lot of argument she wanted it at the Nine Dragons Café in Toorak Road. She said that she had a lot of friends and Lindsay had. I said, " How many ? " She said " 86." I said " Do you think I am Ballieu Allard ? " She started to abuse me, and I walked to the gate. She was still abusing me. I walked up the street and she followed me from our residence to the corner of the street. She was 20
abusing me at the corner. I saw some people on the bus stop, and I went over. She came with me and abused me in front of three or four persons at the bus stop. After a minute or two the bus came and departed to town.

Mr. BARTON : It was the first time you had left home ?—A. It was. I came back later that evening and got my car.

Q. There is a docket in evidence from Carlyons Hotel but I do not know the number.

HIS HONOR : It is No. 16.

Mr. BARTON : Is that the receipt from Carlyons Hotel ?—A. Yes.

Q. It is in respect of the day when you left home ?—A. Yes. 30

Q. You were away from home from then on ?—A. Yes.

Q. Do you remember how soon you came back ?—A. It was on Thurs-
day and on Friday I stayed in town. On Saturday I went to my property
at Yarra Glen. On Sunday evening I came home as I usually did from
Yarra Glen.

Q. How were you greeted when you came home ?—A. I was absolutely
ostracised.

Q. Did nobody speak to you ?—A. No.

Q. Did you try to speak to them ?—A. I did. I tried to greet them
cordially. 40

Q. You stayed home for a short time and then you went out ?—
A. Yes.

Q. This state of affairs went on ?—A. It did.

Q. You departed and came back, going again, and that went on until
July 22 ?—A. Yes.

Q. They ostracised you throughout that time ?—A. Yes, they did.

Q. On July 20th where did you stay that night ?—A. I was staying at Halford's flat in Wattle Tree Road.

Q. On the 21st July do you remember having a conversation with them ?—A. Yes. I had many conversations with them about what could be done to secure a reconciliation with my wife, and to have peace.

Q. Did they go out to see her ?—A. They went out. They said they would go to see Mrs. Lang.

HIS HONOR: We cannot go into the conversation you had with the Halfords when your wife was not present. You got certain advice from 10 them ?—A. Yes.

Mr. BARTON: In consequence of that advice you went back home ?—A. Yes.

Q. It was in the evening at about 9 o'clock ?—A. Yes.

Q. You were in your bedroom ?—A. I was.

Q. Did anybody speak to you when you arrived home ?—A. No.

Q. You were sitting on the bed ?—A. No.

Mr. BARTON: You had on pyjamas ?—A. Yes.

Q. Was anybody else there ?—A. No.

HIS HONOR: Did somebody else come in ?—A. Yes, my wife came 20 into the bedroom.

Mr. BARTON: What did she say ?—A. She was going to the dressing-table. I got out of bed, put my arms around her and kissed her. I said "Let us stop this silly nonsense."

Q. Did you say, "I would not let you go" ?—A. I did.

Q. You put your arms around her ?—A. Yes. After I said "I will not let you go until we have made it up."

Q. What happened ?—A. I kissed her. She strained and pulled away from me. There was a bit of noise, and David walked in.

Q. What did he say ?—A. He said, "Let my mother go." I said "Go 30 out, David. I am trying to make it up with your mother." He came over to me. I had clasped my fingers together around my wife. David tried to pry my fingers apart, but did not succeed. He took me around the neck, but I managed to get out of that. He started to pound me on each side of the head, and he tried to hit me in the face. When he was pounding at me wherever he could reach me I was dodging him. While we were in the middle of this Barbara came in and stood at the door watching. Then, David made an extra effort at me. To get out of his way I swung sideways and fell against the bed. I fell over the bed and so did she. She called out "Oh, my wound." Then my daughter lost her head and rushed over. She 40 commenced to pull my hair and she pulled my ears. Then she put her thumbs out and pressed hard on my eyeballs. I wrenched my head free, and raised my voice as loud as I could. I yelled "Help" at the top of my voice. Immediately I yelled "Help" both the boy and the girl dropped me as though I was a hot cake, and got away at least a yard or two. The daughter rushed out of the door. I heard the telephone, and she was asking whether that was Russell Street and asking for a police patrol to be sent.

Mr. BARTON: Did Barbara say, "If you don't let her go I will call the

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“police” ?—A. I don't remember that being said. Did you say, “Call the police. Let them see what a mess your mother is making” ?—A. I deny that.

Q. Or did you say, “Call the police. Our marriage is a wreck. The whole world might as well know it” ?—A. I deny that.

Q. Did Mrs. Lang call for help at any stage ?—A. No. She told David once or twice to go away.

Q. She did not call for help ?—A. No.

Q. The police patrol came ?—A. After Barbara had called the police she came back. I had recovered my position. I was sitting rather easily on the side of the bed to some extent relaxing. I maintained my position as far as possible so that the police could see that as near as possible. When the police came in the officer in charge said, “What is the trouble here ?” The daughter said, “Our father is mad. His father was mad. His father shot himself. We have had him under three psychiatrists.” I said, “I am glad to see you, officer.” The police officer said, “Take your hands off your wife.” I immediately took my hands off my wife. He said, “A fine sort of fellow you are. By the look of you you ought to be under a psychiatrist yourself.” I was in an extremely disturbed state, and I could not reply, and I simply spluttered. He said, “Go to bed, the lot of you.” I got straight into bed, and the others went out of the room. I heard the officer say, “Put it down as a domestic squabble.”

Q. Did you say, “I have had my wife under psychiatrists” ?—A. I did not. I deny that.

Q. Did you have your wife's arms twisted ?—A. To the best of my recollection I was in the same position as I had assumed in the first place.

Mr. BARTON : After the patrol had left you were in bed ?—A. Yes, I was in bed.

Q. And Barbara and David came downstairs ?—A. Barbara came down and said something abusive to me. Afterwards David came down and said something abusive. I think I replied that the police had told you to go to bed. They were both at me. I think I left the house. I put my trousers over my pyjamas and put on a coat, and left in my carpet slippers and went to Halfords. They were in bed.

Q. Next day you went to the George Hotel, St. Kilda ? Will you tell the Court whether at any time you said, I cannot continue to live with you ?—A. I cannot definitely recollect that.

Q. Your wife said something about the beginning of May ?—A. She might have threatened to divorce me.

Q. Did you mention your General Manager at some stage ?—A. She threatened to go to see the General Manager and report my behaviour to him. She said she would get me sacked.

Q. Was that at the same time she said, “I will divorce you” ?—A. It might have been.

Q. Did your wife ever tell you that this life was affecting her health ?—A. Not so far as I can remember, except complaints about being wakened up at night.

- Q. Even if your wife did say, "I will divorce you," you did not leave the house?—A. No.
- Q. That was before she left your bed?—A. I think so.
- Q. What was your reply when she said, "I will divorce you"?—A. To the best of my recollection I said I would not let her divorce me. I said "I don't believe in divorce."
- Q. Did you say something to her about keeping her tongue quiet?—A. I said, "If you learned to keep your tongue quiet there was no reason why we should not live happily," or words to that effect
- 10 Q. The next time you saw your wife after the 22nd July was on the 30th July, when you had returned from Adelaide?—A. Yes.
- Q. What was the conversation that day?—A. I had returned from Adelaide. She asked, "What had you to go to Adelaide for?" As I had my own reasons I did not reply.
- Q. And the time after that was at Barbara's wedding on August 3rd?—A. I would not be absolutely certain whether that was the next time. There was an occasion on which I came into the house, and mentioned the fact to Barbara and Lindsay that they had fixed the date of their wedding on the anniversary of my father's death.
- 20 Q. It would be before the 30th July?—A. Yes, I think.
- Q. Did Barbara and Lindsay answer the query in the presence of Mrs. Lang?—A. No, not in the presence of Mrs. Lang. She came in shortly afterwards. She was in the kitchen and we were in the lounge room. I think she may have heard the conversation. I acquainted her with it shortly afterwards.
- Q. What did you say?—A. I told her that they had picked the anniversary of my father's death as their wedding day.
- Q. Did you tell her you had complained?—A. I was not complaining. I said it was not very happy for my mother, my uncle and my aunt.
- 30 Q. Will you tell us her reply?—A. I could not say.
- Q. On August 3rd you talked to your wife on that occasion?—A. I could not get near my wife.
- Q. She was surrounded by people?—A. Yes.
- Q. On the 9th August you received a letter from your wife?—A. Yes.
- Q. On the 10th August you replied to it?—A. I did.
- Q. It is Exhibit "18." It is the witness's reply. Will you look at that and say whether it is a copy of the letter you sent to your wife?—A. It is a copy of a letter I sent to my wife.
- Q. What is the date?—A. August 10th.
- 40 Mr. BARTON: Where was it posted?—A. In the pillar box at the St. Kilda station.
- Q. I tender that letter.
- HIS HONOR: It will now go in absolutely.
- Mr. BARTON: You went to see your solicitors about this stage?—A. Yes, I did.
- Q. Did you acquaint him with the serious position between yourself and your employer?—A. I did.

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Q. What did you tell him ?

HIS HONOR : How is this evidence ?

Mr. BARTON : Did you tell him that unless you went back to live in your house you would be sacked ?—A. I did not use those words.

Q. Did you convey that meaning, that you would be dismissed ?

HIS HONOR : You cannot go into the conversation between him and Mr. Stillman.

Mr. BARTON : Were those your instructions to Mr. Stillman that if you did not go back to your house, you would be dismissed ?—A. No, they were not my instructions. 10

Q. Did you hear from Mr. Stillman that your wife would permit you to go back ?—A. I did.

Q. Did you hear anything about the sleeping arrangements ?—A. I did not.

Q. Between the 3rd August and the 10th August you sent your wife some flowers ?—A. I did.

Q. You returned home on August 12th ?—A. I did.

Q. Did you speak to anybody ?—A. At home ?

Q. Yes ?—A. Yes.

Q. Did they speak back ?—A. No. 20

HIS HONOR : Have you any reason to think the flowers you sent were received by your wife ?—A. They were sent by a local florist, and he is a very reliable man.

Q. You gave an order to the florist ?—A. Yes.

Mr. BARTON : On the 12th August were any meals served at home ?—A. No.

Mr. BARTON : What do you think Mr. Stillman meant when he said you could return home if you left your wife alone ?—A. I understood that provided there was no physical violence I could return and that marital relations would be resumed and there would be a reconciliation. 30

Q. On the 13th August you went to see Mr. Howard ?—A. I did.

Q. Did you know Mr. Howard ?—A. At Wesley Church. I understand that he has had 14 years' experience in social work.

Q. Had you thought that your wife had a specific condition prior to going to Mr. Howard ?—A. Prior to going to Mr. Howard I did not think of any specific condition. I knew there must be something the matter.

HIS HONOR : This talk with Mr. Howard is not admissible, but he will be asked why he did certain things.

Mr. BARTON : That is what I am assuming.

Q. You had been to see him on several occasions ?—A. I had seen him 40 first in 1947 when Dunlop's had given me notice and I applied for a job. I saw him at frequent intervals.

Q. On the day you went to see Howard you formed the opinion that your wife was a masochist ?—A. I did not form any definite opinion that she might be.

HIS HONOR : By masochist you mean one who takes pleasure in suffering as distinct from sadist—one who takes pleasure in imposing pain on others ?—A. Yes.

Mr. BARTON: Did you discuss with Howard about her being a masochist?—A. I did.

Q. Did he suggest any cure?—A. He did.

Mr. WOOLF: I do not know whether my friend intends to proceed further.

HIS HONOR: The whole point is that sooner or later he will be asked why he did certain things. His answer will be that this was the way to treat a masochist. It was in that attitude that I am admitting the evidence at this stage.

10 Mr. BARTON: What was Howard's advice?—A. He said such women need very firm treatment.

Mr. BARTON: What sort of treatment?—A. He said that they need a little rougher manipulation of their sexual organs than an ordinary woman needs. He said the most important thing for me to do was to get home and get back with my wife. He said, "Forget the legal profession, they will only keep you apart from your wife. Get home. It is most important for you and Jean."

20 HIS HONOR: And exert your roughness on your wife?—A. Exert my marital rights and stimulate her sexual organs somewhat more roughly than usual.

Mr. BARTON: Did you ever discuss about people who were keeping you apart?—A. I informed him of the amount of interference and he said, "You should get rid of the people as soon as possible."

HIS HONOR: Who are the people you are to get rid of?—A. There was a Miss McDonald staying in the house. She was a woman who separated us. David was in the house. He was continuously safeguarding his mother. He was always present. Barbara had been married.

30 Q. Was Mr. Howard's advice to get rid of Miss McDonald and David?—A. Yes, to get my wife and myself together. The people had been interfering.

Mr. BARTON: It was on the 13th August when you saw Howard?—A. It was in between then. I have no note.

Q. Did you see Halford between the time you saw Howard and that night?—A. No.

Q. That afternoon you booked a room at Dell Court?—A. I paid a full week's board, and I said, "I do not know when the person will arrive."

Q. Where is that place?—A. I think it is 18 Wallace Avenue, about five minutes from our house, or less.

Q. You went home that night?—A. Yes.

40 Q. Did you see Mrs. Lang in the hall between 7.30 to 8 o'clock?—A. I did.

Mr. BARTON: What did you do?—A. I said "Give me a kiss."

HIS HONOR: How was she dressed?—A. In a black coat and skirt.

Q. Was she dressed to go out?—A. She had a hat on and was about to go out.

Mr. BARTON: You said to her, "Give me a kiss," and what did she say?—A. She said, "No, not now after your promises."

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Q. Did you kiss her?—A. I did.

Q. Did you keep hold of her?—A. No, I didn't keep hold of her.

Q. What did you say?—A. I said, "Go into the bedroom and take
"your clothes off."

Q. Did she go to the bedroom?—A. She went into the bedroom.

Q. Did you follow her?—A. Yes.

Q. You did not carry her into the bedroom?—A. No, she was standing
in the bedroom. I said, "Take your clothes off, or I will tear them off."

Q. Was she on the bed?—A. No, she was standing.

Q. Was she flat on the bed prior to the commencement of intercourse? 10
—A. No.

Q. Did she take off her clothes?—A. She commenced to take them off.
She took off the coat and skirt. I commenced to take off my coat.

Q. How many clothes did she take off?—A. Her upper garments. I
assisted her to take off her petticoat, her shoes and her stockings.

Q. What about her singlet?—A. She left her singlet on. I said "Take
"it off." She said "No." I gave it a tug upwards. Then she took it off.

Q. Did you tear at her undergarments?—A. Not to my recollection.

Q. Did she beg of you to leave her alone?—A. No.

Q. Did she make any verbal protest?—A. No. 20

Q. That is in the bedroom?—A. No, none whatever.

Q. At that stage you were both naked?—A. We were.

Q. What happened?—A. I carried her to the bed.

MR. BARTON: Did you sit on the bed?—A. Yes, I did.

Q. What happened after that?—A. I commenced to kiss her and to
manipulate her.

Q. Was a contraceptive mentioned?—A. No. When she started to
become excited I commenced penetration. She said, "No, not without a
"contraceptive." I said, "I will do it that way." So I went to get a contra-
ceptive. 30

Q. Did she attempt to run out?—A. No.

Q. Did she show any sign of wanting to get away at any stage?—
A. No.

Q. You got the contraceptive and put it in position?—A. Yes. She
assisted.

HIS HONOR: She assisted?—A. She facilitated matters. She could
have made it difficult, but she made it easy.

Mr. BARTON: While you were getting the contraceptive, what was
your wife doing?—A. She was sitting on the edge of the bed.

Q. And connection took place?—A. Yes. 40

Q. Prior to connection taking place, had your wife said anything?—
A. No, I do not think so.

Q. You continued to manipulate her?—A. Yes, I made the remark,
"I have woke up to you." I continued to manipulate her more strongly
than I usually did. She required fairly strong manipulation.

Q. Did your wife become very excited?—A. She became very excited
and worked up to an orgasm.

Q. Yes?—A. She moved up and down on me, displaying every sign of pleasure, and I was also kissing her and I was kissing her rather roughly, pressing my mouth hard against hers.

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Q. Did she kiss you?—A. Yes, she did.

Q. And how did this orgasm compare with other orgasms experienced in the course of your married life?—A. It was the most violent and explosive orgasm that she had ever had.

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10 Q. Now, towards the end of this act did your wife say anything?—
A. When the orgasm was over she started to talk.

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Q. What did she say?—A. She burst out into a tirade. She said I was mad, my mother was mad, my father was mad, my grandmother was mad. She said all the Langes were mad. She said "Langes."

Q. She mentioned your father's death, did she?—A. No. She said "You are filled with hate." She said "You hate everybody." At this stage I beg your Honor's leave not to mention names. She said "You hate A, and you hated B and you hated C. You hate everybody."

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20 Q. Yes, and then what?—A. Then she burst out again. She said, "Winnie Wall and all my friends said you would dominate me. They said "you and your mother would dominate me. They told me not to let you "dominate me. You try to dominate everybody."

Q. Now, after the intercourse was over, you and your wife lay in position for some time?—A. Yes, for some time.

HIS HONOR: And was it while lying in this position that she burst out into this tirade of abuse that you have been relating?—A. It was after the intercourse and while we were lying relaxed, your Honor.

Mr. BARTON (to Witness): But you had not severed connection?—
A. No.

30 Q. And at about a quarter to nine that night you got up, did you?—
A. Yes, about that time.

Q. And you got dressed?—A. I put my clothes on and said to my wife, "Now get to bed and let us have an end of all this silly nonsense that "is going on."

Q. Yes. And what happened then?—A. She went into bed. I finished dressing and went out into the lounge.

HIS HONOR: Who finished dressing and went out?—A. I did, your Honor.

Q. Yes?—A. I went into the lounge and sat down to read a book.

40 Q. Yes?—A. Presently my wife came out of the bedroom, or rather, I think I went back into the bedroom and found my wife trying to dress. I took her clothes away and said "Get back into bed and stay there."

Mr. BARTON: Did you threaten her with any violence?—A. No. I did not. And she still continued to try and put her clothes on, so I just took them away and left her in the bedroom without any clothes.

Q. Do you remember saying to her anything like this—"I will do it "whenever I like and as often as I like, and that is what I am going to use "you for"?—A. I do not remember it.

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HIS HONOR (*to Witness*): Tell me, was that your intention at the time?—A. No, your Honor.

Mr. BARTON: You thought that this treatment had been successful on one occasion?—A. That it might break the wall.

Q. Yes. Now, about 10.30 that evening you put your wife's clothes back into the bedroom, did you?—A. Yes.

Mr. WOOLF: With respect, I suggest this is a leading form in which the questions are being asked, your Honor.

HIS HONOR: Yes. (*To Witness*): Tell me. Keeping your wife's clothes 10 away from her up till half past ten, was that done with the purpose of preventing her from going out again that evening?—A. I really did not think about her going out again that evening.

Q. Then why did you take her clothes away?—A. I just wanted her to stay in bed until I could come to bed. I realised, your Honor, that I had to deal with the other two people that were out of the house. I had to see that they did not come back.

Q. Yes. Now, the last you say that you saw of your wife, she was without clothing in the bedroom?—A. Yes.

Q. And you took her clothes away. Does that mean, her day clothing 20 only or her outer clothing, her day clothing and her night-dress?—A. Her day clothing and her night clothing.

Q. Was she left without any night-dress in this bed when you left her there?—A. Yes, your Honor. Her night-dress, I presume, was upstairs.

Q. So that you left her naked in bed, did you?—A. I did, your Honor. Yes.

Mr. BARTON (*to Witness*): And you thought that if she could spend that night with you, after that there would be a reconciliation?—A. Exactly. That is correct.

HIS HONOR (*to Witness*): When you intended going to bed later did 30 you intend to treat her in the same way as you had already done?—A. No, your Honor.

Mr. BARTON (*to Witness*): Now, do you remember about 11 o'clock that night, that you saw David?—A. Prior to that. I had put a note out to both David and Miss McDonald telling David to go to the Halfords, and Miss McDonald, that her presence was no longer welcome and that she could go to Dellcourt.

HIS HONOR: Where did you put this note?—A. I put it on the door, your Honor.

Mr. BARTON (*to Witness*): When you went out at 11 o'clock you saw 40 David at the front door?—A. Yes.

Q. And I think he has given some evidence of this. Did he try and push past you?—A. Yes, his evidence is substantially correct on that.

Q. And you told him to go to Halford's?—A. Yes.

Q. And he said, "Where is Ma?" What did you say?—A. I said, "She is inside."

Q. And he said, "What about Joan?"—A. I said, "I am not going to

“ have you people in the house any more. You are giving too much trouble and can get out.”

Q. And you went inside ?—*A.* Yes.

Q. A short time later he and Miss McDonald came into the house ?—*A.* Yes, they did.

Q. And they talked to Mrs. Lang ?—*A.* By that time Mrs. Lang had got dressed. I had restored her clothes and she had got dressed. She came out and pushed past me and commenced talking to Miss McDonald and David. I did not hear what was said. A few minutes later David came to me and said, “ You want to restrain your sexual instincts.”

Q. And did you go outside and get a passer-by to do something for you ?—*A.* They were making so much noise. I never dreamed that Mrs. Lang would acquaint a boy and an unmarried woman of what had happened.

HIS HONOR: I do not understand that. (*To Witness*): Repeat what you said ?—*A.* I never dreamed that Mrs. Lang would acquaint a boy and an unmarried woman with what had happened, but apparently that is what she did. They were talking very excitedly. I went outside and a few minutes later I saw a passer-by, Mr. Longfield, and I said to him, “ Ring up a police patrol.”

HIS HONOR: Very well.

Mr. BARTON (to Witness): And the police patrol came ?—*A.* The Toorak police came. They arrived, I understand, on instructions from Russell Street. Mrs. Lang and Miss McDonald and David rushed out and started talking to them. I stood aside. I do not know what was said. The police were telling them to be quiet and calm down and go to bed.

Q. Then another lot of police arrived ?—*A.* Another lot arrived in a car. They saw the Toorak police there and asked if everything was all right and then went away.

Q. And after that, you went to bed. Did you go to bed and then did David come down the stairs ?—*A.* Yes. I was mixing it up with another date. Yes, I did go to bed and David came down and started abusing me, so I just packed up and left.

Q. And you came back. You got a police patrol to come back ?—*A.* I got a police patrol to come back, and I got my clothes and went.

Q. And before you went you left a note propped up ?—*A.* I did. I took a sheet of foolscap and scribbled a note on it and I left it propped up against a vase in a prominent position on the piano.

Mr. BARTON: That is Exhibit “ 19,” your Honor, which has been tendered for identification.

WITNESS: It was not the piano. It was a table in the corner of a room beside the entrance door.

Mr. WOOLF: My client denies any prior knowledge of this document, of course, your Honor.

HIS HONOR (to Witness): You left this propped up where ?—*A.* I—

Q. Perhaps you had better have a look at it and identify it ?—*A.* This

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is the document that I left propped up in a prominent position on a table beside the front entrance door to the lounge.

Mr. BARTON (*to Witness*): And would your wife in the normal course of events have seen that?—*A.* I think so. It was purposely put in a prominent position so that it could not have been missed.

Q. And you went back next morning?—*A.* Yes.

Q. And that had been moved?—*A.* To the opposite side of the room.

Mr. BARTON: I do not think I can carry this further, if your Honor pleases.

HIS HONOR (*to Witness*): And did you take charge of it on the following 10 morning?—*A.* Yes, your Honor. I put the date on it.

Q. And it has been in your possession or that of your agent ever since? Has it?—*A.* Yes, your Honor.

Mr. BARTON (*to Witness*): You collected some revolvers from the house on that morning?—*A.* David that night had.

Q. Well, was this in the presence of Mrs. Lang?—*A.* It might have been or might not. I could not say. I went back to the house next morning and it was in the presence of both of them I picked up two military pistols. I was on the Reserve of Officers, and one registered pistol.

HIS HONOR: Two military pistols, and what was the other?—*A.* One 20 pistol that had been registered, I think, since about 1928.

Mr. BARTON (*to Witness*): And you surrendered them to the Toorak police?—*A.* I surrendered them to the Toorak police. That is not quite correct. There were two pistols in the house and there was one in the safe deposit, and I took the constable into town and collected that also.

Q. Did you have any idea that this act of yours on the night of the 3rd of August might cause a rupture in the matrimonial relations?—*A.* They were already so completely devastated, shall I say, that I did not think that any act of mine could have made the position any worse than it was already. 30

HIS HONOR (*to Witness*): Did you regard this act and the way of carrying it out as being something entirely within your rights as a husband?—*A.* That is a little difficult to answer. But there was no question of a pregnancy. There was no question of a disease, and the most I can say is that from my point of view perhaps it could have been lacking in consideration.

Q. And although lacking in consideration, did you regard it as something that you were quite entitled as a husband to do?—*A.* I do not think a husband has an absolute right over a woman's body.

Q. Well, perhaps not, but here was an act that you yourself had carried 40 out, and all I wanted to know was whether you thought that that act, carried out in such circumstances as you have described, was something that you as a husband had a perfect right to do?—*A.* I do not think I had a perfect right to do it, your Honor.

Q. Well, we will leave the word "perfect" out?—*A.* No.

Q. Do you think you had a right to do it?—*A.* I have some doubts on the subject, your Honor.

Q. Would you expect any decent woman to submit to treatment of that kind?—A. No, your Honor, I do not think so.

Q. Well then, why did you subject your wife to it?—A. Because, your Honor, for some five years I had been searching for a solution and I was in the depths of desperation, shall we say, your Honor, and it was the only suggestion that appeared to square up with the circumstances with my own experience of my wife and what I had heard. It seemed to me to be a remedy that might act in the case of a woman like my wife.

10 Q. You thought it had acted, didn't you?—A. I thought it had succeeded.

Q. And if you thought it had succeeded, do you think you might have repeated it again?—A. No. In the circumstances I would not have repeated it. It was against my inclinations, definitely. I did not like it.

20 Q. This business of treating your wife rough as you had been advised by Mr. Howard—did you think that that might happen again?—A. No, your Honor. I realised from his description that I had been—well, I was ignorant at the beginning of my marriage of the necessity for any stimulation, and it was not for many years that I realised the necessity, and I did find that my wife needed a great deal of stimulation, and while Mr. Howard's account squared up with my own experience and I thought perhaps I had not been doing what was needed.

Q. Well I still ask you, do you think that if you had gone on, had continued living with her you would have done further what you thought she needed?—A. Not in that fashion. I would have used a little more stronger manual stimulation than I had been using, not in the actual act. I could not have repeated the act that I did that night.

30 Q. Were you quite master of yourself during all this performance on the 13th of August?—A. I am afraid, your Honor, that during that period I doubt whether I was master of myself or anything. I was in such a state of mental confusion, acute grief and sorrow. I loved my wife truly and for years I have not known whether I was on my head or my heels, coming or going. I have never known what to do. I have tried to do things to please her. When I did things—

Q. I understand you had not a happy life, but had you manoeuvred things this evening to get it so that you and she were alone in the house?—A. No, your Honor. It was entirely by chance.

Q. Were you on the look-out for a time when you and she were the only two persons in the house?—A. Yes, naturally.

40 Q. And once you found that you and she were the only two persons there, did you know the time had come to put into operation this technique that Mr. Howard had suggested to you?—A. Things were so desperate and I had been so long separated from my wife that I thought the sooner I took any move whatever to restore our relations, the better.

Q. Very well.

Mr. BARTON (*to Witness*): I suppose you would not have committed this same act again when you would have had intercourse with your wife. This you thought was essential if you were to keep the ship off the rocks?—A. Yes.

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Q. And once it was off the rocks you would have proceeded with your normal course?—*A.* Yes.

HIS HONOR (to Witness): I suppose you realise that a ship that has been on the rocks sometimes founders?—*A.* Yes, your Honor, I do.

Mr. BARTON (to Witness): And you did this, Mr. Lang, with the intention of repairing the breach in your married life?—*A.* Yes, of getting Mrs. Lang and myself back by ourselves instead of all this cloud of interference.

Q. And it just so happened that Mrs. Lang went out on the same evening as the evening of the day that you had seen Mr. Howard?—*A.* Yes. 10

Q. You never had this in mind when you came back home?—*A.* No. I did not know when I would have the opportunity to be alone with her.

Q. Now, the next time you went back to the house—this was on the 29th of August—you sent your wife a letter, did you not?—*A.* Yes.

Mr. BARTON: That is Exhibit "5," your Honor. (*To Witness*): Will you please have a look at it. (*Handed to Witness.*) That is a letter seeking an opinion. It has been tendered for identification your Honor. (*To Witness*): Do you remember posting the original of that letter?—*A.* I cannot say that I remember posting—the actual act of posting. I posted 20 all my letters personally at the nearest pillar box.

Mr. BARTON: If your Honor pleases, it does not appear that I can carry it any further than that. I tender that letter.

HIS HONOR: I think it still remains for identification if you cannot carry it to a point where she receives it.

Mr. BARTON: Yes, your Honor. I do not think the witness has given sufficient evidence that Mrs. Lang received it.

HIS HONOR: No.

Mr. BARTON (to Witness): Now, on the 30th of August you went back to the house at No. 3 Balmerino Avenue?—*A.* Yes. 30

Q. What did you find? Were the Halfords there?—*A.* Yes, I found that the Halfords had moved into my house, that they had moved my furniture out of my bedroom and had taken my wardrobe and bed and also every other article of furniture with the exception of Mrs. Lang's wardrobe and carpet. They had all been stacked up to the roof in the lumber-room upstairs and they had been considerably knocked about in the moving. All my possessions were stacked up. All my technical papers, books and magazines had been just stacked in confusion right up to the ceiling.

Q. Had your wife on the 30th of August accused you of being a mad man?—*A.* She had. 40

HIS HONOR (to Witness): Well, what did she say? Do you remember?—*A.* I for some months had been determined to keep the peace and was refraining from—

Q. I merely wanted to know what she said?—*A.* I did not reply to her.

Mr. BARTON (to Witness): And I suppose you said to her "You said "I was mad."?—*A.* Yes, and I said I was not.

- Q. And what did you say to her? Did you ask her to kiss and make it up?—A. I may have.
- Q. Where did you sleep that night?—A. This was August the 30th that you are speaking of. I slept on the couch in the dining room.
- Q. Yes. The Halfords were occupying the bedroom?—A. Yes, and there was a lock on their door, and I could not even get to my bathroom.
- Q. Now, on Wednesday the 1st of September, 1948, do you remember the phone ringing and your wife answering it?—A. I do.
- Q. Yes. What happened?—A. The phone rang and my wife answered it. And she said “Is that you, uncle?” She said, “Eric is hitting me, “uncle.” I was not anywhere near her. I had not been touching her or even threatening to.
- Q. What did you do?—A. I went up to the phone and I grabbed it out of her hands, and I said “Is that you, uncle?”
- Q. Who answered?—A. He said, “Yes, Eric.” I recognised my uncle’s voice. It is a very characteristic one.
- Q. What is your uncle’s name?—A. It is Arthur Frederick Lange.
- Q. What did you say to him?—A. Then I said I was very sorry that this had happened. I said “I must apologise. She is a bit upset.” And then I hung up, and I turned to my wife and said, “You fool. Don’t “you know what you are doing? Don’t you know the uncle has left “a legacy to the children and you may settle it if you go on in this way.”
- Q. Did she reply?—A. No.
- Q. Now, at 6 o’clock in the evening of that day there was some discussion about your General Manager, was there not?—A. There may have been.
- Q. Did your wife say, “I will go to your General Manager if you do “not leave”?—A. Yes, that is correct.
- Q. What did you do?—A. I decided to get out.
- Q. And when you were leaving, various goods of yours were put out on the verandah, were they not?—A. Not when I was leaving. They were on the verandah one day when I came back.
- Q. I see. That was not the same day?—A. No.
- HIS HONOR (to Witness): How much later was it when you came back and found these goods on the verandah?—
- Mr. BARTON (to Witness): This was on the 1st of September.
- WITNESS: It would be about three or four days later, your Honor.
- HIS HONOR: Yes. Very well.
- Mr. BARTON (to Witness): You got the Reverend Mr. Cleverden, of Malvern, to come and visit your wife, did you not?—A. Yes. I went to see him and asked him to come and see my wife.
- Q. Now, on the next day I think you returned—
- HIS HONOR: Well, Mr. Barton, you still seem to have a good deal more to put.
- Mr. BARTON: Yes, if your Honor pleases. We have still a good deal more.
- HIS HONOR: Then it can be put tomorrow.

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Friday, 19th September, 1952.

ERIC LANG (already sworn).

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WITNESS : If it please your Honor I would like to correct a small item of the evidence of yesterday.

HIS HONOR : Well, what is it ?

WITNESS : It refers to where there were blows struck in bed. I said that I struck her with my hand like that (*indicating*). That is correct. I also wish to add that I also struck her on a couple of occasions like that (*indicating*) but I did not do it with my clenched fist.

HIS HONOR : What incidents were these, or was it quite generally ? 10

Mr. BARTON : I think it was quite general, sir. It was the general conduct in bed after 1948, I think.

HIS HONOR : Well, it is in relation to that ? Yes. (*To Witness*) : To go back to an earlier part of your evidence, did you on occasions restrain yourself for any time after provocation by your wife ?—A. I did on several occasions restrain myself from answering her back. I can remember on one occasion restraining myself for some 3 to 4 weeks but even though I did not answer back the provocation became progressively worse until finally I just had to answer back ; the same applied to meals ; they became progressively worse until I burst out. 20

Mr. BARTON (*to Witness*) : Now, you went to Mr. Vroland, did you, at some time in early September ?—A. I went on the 1st September.

Q. Were you accompanied by anyone on that occasion ?—A. No, I was alone.

Q. You were not accompanied by this man Skinner, or Dunn ?—A. I was not.

Q. And what took place between you and Mr. Vroland on that occasion ?—A. I went to Mr. Vroland and asked him in the name of humanity if he would try and do something with my wife to bring us together. I did not get more than that out before he started accusing me of all the contents in that letter of the 2nd September. 30

Q. That is the undated letter received on the 3rd September ?—A. That is the undated letter, yes.

Q. Yes. Go on ?—A. I realised that I had made a mistake and had met an unrelenting and uncompromising person and I at once became absolutely silent. I noted some of the things in my mind and decided to reply to them by letter in order to refute them by letter. Later when he had nearly finished I made the remark, " Mr. Vroland, I can only tell you " that my wife enjoyed it," and he made some scoffing remark about " Fancy, " wouldn't she enjoy it ? " Well, I said, " I am very sorry, Mr. Vroland, that " you can do nothing to help," or words to that effect, and left. 40

Q. You have already said that prior to the 30th September you had not told Mr. Halford anything that was going to happen ?—A. Definitely.

Q. You are able to fix that by something ?—A. I went to see Mr. Howard that very day. I saw Mr. Howard in the morning.

HIS HONOR: Is your question as to the 13th September or the 13th August?

Mr. BARTON: It should have been the 13th August, your Honor. (*To Witness*) That is so?—A. That is correct.

Q. Did you, after the 13th August, ever say to Mr. Halford that you had committed upon your wife the "Rape of Lucrece"?—A. I did not say that.

Q. When did you first hear those words used?—A. That may have been said, or was it, on the 20th or 21st July.

10 Q. Of July?—A. Yes, of July.

Q. Yes, and it was the occasion when—

HIS HONOR (*to Witness*): Do you mean that you may have said that?—A. Possibly, your Honor, I may have said that.

Mr. BARTON: That was what Mr. Halford had told you to give her and to make it up?—A. Yes. They, the Halfords, had come home to their flat about half past 8 in a state of excitement and at that period I had a sense of humour. I was trying to treat the matter in a somewhat jocular manner. I did not realise the full seriousness of it but I was trying to show to the outer world that I was treating the matter in a jocular manner. And a rather jocular conversation took place and I believe those words may have been used in the course of it.

HIS HONOR (*to Witness*): Both Mr. and Mrs. Halford were present, were they?—A. They were, your Honor.

Q. And can you tell me the context in which you think those words may have been uttered?—A. They were, to the best of my recollection, purely jocular. I could not tell you the context.

Mr. BARTON (*to Witness*): Did you admit to Mr. Vroland on this date in early September that it was your employer's intention to dismiss you?—A. I deny that. I did not.

30 Q. You lied about that?—A. No, I did not.

Q. Did you tell Mr. Halford that you deliberately set out to ensure that your wife would be alone in the house with you on the evening of Friday the 13th August with the view to forcing against her will in intercourse?—A. I deny that.

Q. You did tell Mr. Halford after this that you had done something?—A. I did.

Q. What did you tell him?—A. I cannot remember.

Q. Did you tell him in general terms what had taken place?—A. Yes, because I thought he was a sincere friend.

40 Q. Did you boast about it?—A. I did not.

Q. Either then or at any other time?—A. No I did not.

Q. On the 2nd September, you went to your house, in the morning, did you not, and you say that Mrs. Lang raved at you?—A. Yes.

HIS HONOR: What date did you say?—A. That was the correct date, your Honor. The 2nd September.

Q. And what was this incident?—A. I went to the house in the morning. I opened the front door and had just gone into the lounge when

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Mrs. Lang came from the dining room and she was rather dishevelled and raving. I can only describe it as raving.

Mr. BARTON (*to Witness*): What did you conclude from this?—A. I concluded that she had possibly gone off her head.

Q. Yes, and you brought back that evening a doctor?—A. Yes.

Q. And you were not present while the doctor saw her, were you?—A. I was present for a few moments and he waved me away.

HIS HONOR (*to Witness*): Who was the doctor that you brought to the house?—A. He was Doctor W. B. Curtis.

Mr. BARTON (*to Witness*): Dr. Curtis, of South Yarra?—A. No, of 10 St. Kilda Road.

HIS HONOR (*to Witness*): Well, you say that he waved you away and I suppose you left him with your wife, did you?—A. I did, your Honor.

Mr. BARTON (*to Witness*): You wrote a letter to your wife on the 6th September, 1948. It is Exhibit "6," tendered for identification. I ask you to look at this letter. (*Handed to Witness.*) Did you write it?—A. I did.

Q. Do you remember how you sent that letter?—A. Yes, I posted it.

Q. Where did you post it?—A. In a letter box near Dunlop's.

Q. In Flinders Street, Melbourne?—A. Yes.

HIS HONOR: And how is it addressed? 20

Mr. BARTON (*to Witness*): This was addressed to Mrs. Lang?—A. Yes.

HIS HONOR (*to Witness*): I suppose it was in an envelope, was it?—A. Yes.

Q. How was it addressed? In what terms?—A. It was addressed to No. 3 Balmerino Avenue, Toorak.

Mr. BARTON (*to Witness*): To Mrs. Lang, at that address?—A. Yes, to Mrs. Eric Lang, No. 3 Balmerino Avenue, Toorak.

Mr. BARTON: I tender that, if your Honor pleases.

HIS HONOR: Yes. Well, it can go in absolutely now.

Mr. BARTON (*to Witness*): You did not hear anything in reply to that letter, did you?—A. No. 30

Q. Now on the 9th September you returned to No. 3 Balmerino Avenue, did you?—A. I did.

Q. And at what time of the day was that?—A. It was at half past 4.

Q. What was the lock on the front door like?—A. It was a Yale type of lock which has been put on the front door.

Q. Had that been there on the 2nd September?—A. No, it was not there.

Q. And what did you do?—A. I endeavoured to effect an entry elsewhere but as there was no other means of entry I took the hammer out of 40 my motor car and broke the door in.

Q. Yes. Do you remember David returning home?—A. Yes, David came home about 6 o'clock.

Q. And do you remember that the phone rang?—A. Yes.

Q. Did you hear David answer it?—A. Yes.

Q. What did he say?—A. He said, "Is that you, Ma?" He said, "Stay just where you are."

Q. And what else?—A. “I am just finding out. Stay just where you are.” I am not quite certain whether he said “for a couple of hours.”

Q. Did he mention it?—A. He said, “He just pushed the door in. Stay where you are for a couple of hours. I am finding out all the gory details.”

Q. And some little time later, Mrs. Lang came in, did she?—A. Yes.

Q. Was she accompanied by anyone?—A. She was accompanied by Mr. and Mrs. Halford.

Q. Did you have a conversation with her?—A. I did.

10 HIS HONOR (*to Witness*): What time do you say this was? Almost immediately after, was it?—A. No, it was about 6.30, your Honor.

Q. What was the conversation that followed?—A. I was upstairs and I said, “Hullo, old girl.” She said, “Oh, go to hell. I am not your old girl.”

Mr. BARTON (*to Witness*): Did she mention David?—A. She said, “What have you done to David?” I said nothing at all. And to reassure her I just said, “I am just putting up some light fittings.” I had been.

20 Q. What did she say?—A. She said, “Look. I will get David a place in a couple of days and you can have the place as you have had everything else.”

Q. Did you reply?—A. I did not reply. She then walked out, followed by the Halfords. Mr. Halford made a remark in a rather sneering tone of voice—“Nice sort of people there are in this world.” And that closed the incident.

Q. Yes, and ever since that time you have lived in the house?—A. I have.

Q. And your wife has not lived in the house?—A. My wife has not.

30 Q. And David, has he lived in the house for any period after your wife left?—A. I cannot say.

Q. It was not for long?—A. No. He may have been for one or two days. I cannot say that.

Q. This date was the 9th September. And when you returned to the house did you find a number of your goods had been burnt?—A. I found that the whole of my bedroom furniture, except the wardrobe had been piled upstairs, except Mrs. Lang’s wardrobe, in the lumber room and that my own wardrobe, a very heavy one, had been moved upstairs. The reading table, various books, two or three other tables also. The whole of my technical papers were piled in confusion.

40 HIS HONOR (*to Witness*): Did you not tell me this yesterday?—A. Yes, your Honor.

Q. Well, is this a second moving of it or is it the same incident?—

A. No, sir, it is in reply to Mr. Barton’s question. I am aware that I told you yesterday.

Mr. BARTON (*to Witness*): There was a goat’s head that was burnt, was there not?—A. Yes, it was.

Q. Do you remember if it was moth-eaten?—A. It was a little bit

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moth-eaten down on the base—at the base. My wife objected to it for some unknown reason and I used to spray it to keep moths out. There was no reason why it was burnt. Possibly it was her dislike. A number of my magazines which I should estimate to be worth about £40, about £40 worth had been burnt.

Mr. WOOLF: I do not think, your Honor, the witness said that yesterday in his account of this incident.

WITNESS: My mattress had been put into the outside closet. There were a number of electrical fittings, quite valuable ones, piled out into the garden and 2 or 3 trunks and boxes containing my goods had also been piled into the men's closet until the door could hardly be moved. 10

Mr. BARTON (*to Witness*): Since that time you have sent your wife various gifts?—A. I have.

Q. And I think she has admitted receiving most of them?—A. Yes.

Q. I don't think I had taken you through that. You have written various letters also?—A. I have.

Q. Many of them sought reconciliation. In many of them you sought that?—A. I did.

HIS HONOR: Well, they speak for themselves if you have them in evidence. 20

Mr. BARTON (*to Witness*): And these are quite genuine?—A. Yes, they are quite genuine and sincere.

Q. You have never been of the opinion that you did not want your wife?—A. No.

Q. Do you remember that you wrote a letter on the 28th February, 1949, in which you said "Otherwise I shall simply have to abandon... say, three years' time." What was your purpose in that?—A. That was written under advice to try another course of action and perhaps bring home to my wife that she was taking a serious step. We were trying every possible course of action. 30

Q. You also told your wife on the 16th March 1949, that you would re-make your Will and in fact you did so?—A. I did.

Q. Yes. Why did you do that?—A. Well, that was again to bring home to her the seriousness of the step.

Q. Yes?—A. And to impress upon her that by taking the step that she had taken in taking the children away with her she was making a break.

HIS HONOR (*to Witness*): Was this trying to bring pressure upon her to induce her to return?—A. No, your Honor, not to bring pressure upon her, but to try to induce her to realise the seriousness of the step she was taking. 40

Mr. BARTON (*to Witness*): And was there something in connection with David of which you disapproved?—A. Yes. I heard that he was doing a medical course. I was very much upset. I had, while he was at Scotch College—

HIS HONOR: Well, this has not been objected to, but what on earth has it to do with the issue I have to decide?

Mr. BARTON: It was not merely that he knew the boy was doing well, but that—

HIS HONOR : I am trying an issue between the husband and wife, not between the father and the children.

Mr. BARTON : If your Honor pleases, this is relevant in that he says he wanted his son to do engineering, he was not consulted when the wife put the son to medicine.

HIS HONOR : The parties are living apart at this stage. If this matter is part of the trouble that leads up to a quarrel I can understand its being introduced, but they are living apart. I am not concerned with everything in their lives.

10 Mr. BARTON : No, your Honor. (*To Witness*) : In February or March of 1949 did you again visit Mr. Vroland ?—*A.* It would be about that time.

Q. And somebody was with you on that occasion ?—*A.* Yes.

Q. Who was it ?—*A.* It was a man that I knew as Arthur Dunn.

Q. Skinner or Dunn ?—*A.* I do not know his name. I have heard him addressed as Arthur Dunn. I have also since heard that he is also known as Skinner and under another name.

Q. And did Mr. Vroland request you to bring about a reconciliation ?
— *A.* I left Dunn to do the talking.

20 HIS HONOR (*to Witness*) : Were you present during the talking ?—*A.* Yes. I was present with him.

Q. Yes. What followed ?—*A.* And he said he had come up to beard the lion in his den and he asked whether a reconciliation was possible. Mr. Vroland replied emphatically that it was not possible and then Mr. Vroland turned to me and said these words, "What is more, Mr. Lang, you will have the pleasure of paying, win, lose or draw."

Mr. WOOLF : That was not asked him yesterday, your Honor, I think.

HIS HONOR : Well, that expression was used.

Mr. WOOLF : I did not recall it. I am sorry.

30 Mrs. Lang's solicitors you spoke of "neurotic ladies" ?—*A.* Yes.

Q. Do you regard your wife as being neurotic ?—*A.* I regret to say I do.

Q. And have you been informed by anybody competent to judge that that is the case ?—*A.* I have been informed of something worse than that.

Q. What have you been informed ?

HIS HONOR : Well, Mr. Barton, what is the point of this ?

Mr. BARTON : A doctor will be called, your Honor.

HIS HONOR : Suppose that he is called ?

40 Mr. BARTON : I am putting to the witness that he has reasonable justification for his belief in that it is founded on the opinion of one who knows—an expert medical opinion.

HIS HONOR : Well, you are wanting witness to explain a phrase of his letter ?

Mr. BARTON : That is so.

HIS HONOR (*to Witness*) : And you used that phrase because a doctor had used it to you, is that it ?—*A.* Yes, your Honor. That is why I said there was something worse. That is a modification.

HIS HONOR : Yes.

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Mr. BARTON (*to Witness*): And you have also said that on one occasion you said, I think, that your wife was undergoing the change of life?—A. I did, or that she might be undergoing the change.

Q. Were you very apprehensive about that?—A. I was. I am apprehensive.

Q. Yes, and what is that based on?—A. That was based on the fact that my mother had had a very severe upset.

HIS HONOR: Well, I must stop this. There may possibly be cross-examination bringing this up, when you, Mr. Barton, can re-examine on it. It has got no part in the case in chief at all. 10

Mr. BARTON: Very well, your Honor. (*To Witness*): On the 29th September, 1949, you took proceedings in this Court with a view to quashing the finding at the inquest into your father's death—that he had committed suicide?—A. I did.

Q. Did you think that that finding had had anything to do with the trouble between yourself and your wife?—A. I did.

Q. Had she said at any time to you that your father was mad?—A. She had.

Q. On more than one occasion?—A. Yes.

Q. Did she say that he had committed suicide?—A. I cannot recollect 20 any specific occasion on which she said that.

Q. But you wanted to use this interest—the finding at the inquest—to prove to her that your father was sane?—A. There had been so many accusations as to insanity that I deemed it necessary to clear up the question of sanity.

Q. Will you have a look at this document? (*Handed to Witness.*) It is an Appeal Affidavit. In it appears an affidavit portion of which is assented to by the wife. I suppose, your Honor, it is already in Court. I do not think there is any need to tender it.

HIS HONOR: Well, what is the relevancy of it? The whole of the 30 affidavit appears to which the wife objects. I do not think it has anything to do with this. The only possible bearing that you have got in evidence is that the wife was affected by the belief or statement that your father had committed suicide. He took steps to have the Coronial Inquiry reopened and another verdict obtained. I am not concerned with the details of this.

Mr. BARTON: I do not know whether the result of the second finding can be put to her.

HIS HONOR: The only way is if it formed any part of a communication 40 between him and his wife. I have evidence that he rang up his wife. I know what is said in regard to that. It appears in the affidavit, the story of it, does it not?

Mr. BARTON: So your Honor does not desire me to put this?

HIS HONOR: No.

Mr. BARTON (*to Witness*): On the information of the Coronial finding you rang your wife?—A. I did.

- Q. And you said that you hoped things would be different now that it had cleared the air?—A. Yes, words to that effect.
- Q. And what did she say?—A. She said, "I am not interested in it." And rang off.
- Q. She hung off?—A. Yes.
- Mr. BARTON: You wrote to your wife on 12th February, 1952?—A. Yes.
- Q. The letter is Exhibit "10." Will you look at that and say whether it is a copy of a letter you sent to your wife?—A. Yes.
- 10 Q. You put the letter in an envelope?—A. Yes.
- Q. To whom was it addressed?—A. Mrs. Jean W. Lang, 52 Darling Street, South Yarra.
- Q. You posted it?—A. Yes. At the letter box at the corner of Wallace Avenue on the 12th February, 1952.
- HIS HONOR: The letter can go in now.
- Mr. BARTON: Is that a copy of a letter you sent to your wife?—A. Yes.
- Q. When did you send it?—A. On the date it was written.
- Q. Did you put it in an envelope?—A. Yes.
- Q. And addressed it to your wife?—A. To Mrs. J. W. Lang, of 52 Darling Street, South Yarra. I posted it at the same place as the other letter.
- 20 Q. I tender that letter; it is Exhibit "11."
- HIS HONOR: That can go in now.
- Mr. BARTON: Did you meet your wife in the street on a number of occasions?—A. I have done.
- Q. Have you ever taken her by the arm?—A. Never. I would not risk a charge.
- Q. On the 3rd September, 1951, you went to Darling Street with the Rev. Dixon?—A. I did.
- 30 Q. First of all you had a conversation with David?—A. I did.
- Q. At some stage of the conversation Mrs. Lang came in?—A. She stood inside; there was a passage leading from the front door.
- HIS HONOR: Did your wife come in?—A. She came to the door.
- Q. Was there any conversation?—A. I had been telling David that I wanted to see my wife, and he said, "She will not see you." She called out, "I don't want to have anything to do with you." She also said, "Come inside, David, and she shut the door. There was some other conversation which I do not recollect.
- Mr. BARTON: Was the door shut?—A. It was pushed to in our faces.
- 40 Mr. BARTON: Did the Rev. Dixon ever tell you he had had a conversation with Mrs. Lang?
- HIS HONOR: What is the point? What was said by the Rev. Dixon is not evidence. If this is to show that he made offers to his wife to come back there is abundant evidence on that.
- Mr. BARTON: I want to prove communications to him of his wife's refusal to go back.
- HIS HONOR: This is not in dispute. As I understood the wife's

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evidence it was that she received communications inviting her to go back, and she had refused because although she believed he was sincere he did not want to go back except on any terms except those which had obtained at the time she left. If I am wrong, I will allow the evidence. I do not want to cut evidence short. You might consult your client, Mr. Woolf, on the point.

Mr. WOOLF: My client instructs me that your Honor has stated her attitude with correctness from her point of view.

HIS HONOR: Then I do not think it necessary to go into that.

Mr. BARTON: If Mrs. Lang said "I hate Mr. Lang," she must have told the Rev. Dixon that she did not want anything more to do with Lang. 10

HIS HONOR: If he deserted her he could get rid of that by a *bona fide* effort to restore the matrimonial home. If it is a *bona fide* offer and she refuses, then he gets rid of the desertion and she becomes the deserter.

Mr. BARTON: I think it has been laid down in *Pratt v. Pratt* [1939] P. 117 [1939] A.C. 417 and I think in *Smith v. Smith* [1950] V.L.R. 209 that where one of the parties says it is no use making *bona fide* offers—nothing you can do will affect the issue—that is the termination of desertion. Before I can rely on this document I must prove that the statement of the wife did come to our ears. I will call Canon Hudson and the Rev. Dixon and they will indicate what was said. 20

Mr. WOOLF: May I suggest that if my friend would indicate the names of the several clergymen and others to whom she gave a negative refusal, time might be saved?

HIS HONOR: That is what I thought.

Mr. WOOLF: In the case of the Rev. Dixon my client does not remember but there are other instances where she sent messages of refusal. To the best of her remembrance she told Canon Hudson that she could not discuss the matter.

Mr. BARTON: It appears that I shall have to call Canon Hudson.

HIS HONOR: Then my attempt to save time will not be effective. Your client will have to pay the costs. If you choose to go on, you may. 30

Mr. BARTON: You were told by Canon Hudson that Mrs. Lang had said, "There is no chance of making up the marriage . . . get done"? —A. He did not use those words to me.

HIS HONOR: Is that the effect of what he said?—A. That it was hopeless.

Mr. BARTON: What did the Rev. Dixon say?—A. He also said it was hopeless.

Q. Did he say it is useless to think of a reconciliation?—A. He did not use those words to me.

Cross-exam-
ination

Cross-examined by Mr. WOOLF.

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Mr. WOOLF: It is clear that some years ago you decided to make a definite change in your attitude towards your wife?—A. Not entirely a definite change.

Q. We will leave out the word "definite." You decided to make a change?—A. Yes.

Q. Did you decide also that in future you would use force when you considered it necessary?—A. I did not.

Q. You have told the Court that the first physical violence occurred in 1937 ?

Mr. BARTON : In 1934 ?—A. I did not.

Q. Mrs. Lang hit him in 1934.

Mr. WOOLF : Was this about the time of what you describe as the slipper incident ?—A. No.

Mr. WOOLF : It was in 1937 ?—A. 1937 was the slipper incident.

HIS HONOR : What was the first time when you used violence towards your wife ?—A. It was 1937.

10 Mr. WOOLF : About the time of the slipper incident or of a further incident, had you not decided that your attitude towards your wife would be changed ?—A. I decided on a change of attitude. At the same time I had resolved I would try to persuade my wife to continue to co-operate with me. I did not desire to change.

Q. You say you did not desire to change but the change you decided on was if necessary to adopt a sterner attitude in future ?—A. A stronger attitude. Yes.

Q. The change was made about the year 1937 ?—A. Yes, it was.

Q. At about the time of the slipper incident ?—A. It was.

20 Q. At or about that time when you decided to adopt a stronger attitude you first gave your wife a severe hiding by putting her across your knees and beating her buttocks with the slipper ?—A. I did not.

Q. At any rate you beat her with the slipper on the behind ?—A. If you imply that that was coincident with the change of mind, that is incorrect.

HIS HONOR : Was it before or after the change of mind ?—A. The slipper incident occurred a long time after I had changed my mind.

Mr. WOOLF : You said the slipper incident and the decision to change your attitude occurred about the same time, about 1933 ?—A. I don't

30 think it was my intention.

Q. But the slipper incident was in 1937 ?—A. Yes.

Q. Was that the year in which you decided to adopt a stronger attitude towards your wife ?—A. I have already said it was 1937, and I have said they were not coincident.

HIS HONOR : What was the interval of time between the change of mind and the use of the slipper ?—A. I would say three to six months.

Mr. WOOLF : As to the slipper incident, it was something that happened several years later, about 1942 or 1943 ?—A. That is absolutely incorrect.

40 Q. Was there any occasion at all, whatever the year, that you struck her repeated blows with the slipper apart from the original slipper incident ?—A. No.

Q. There was no occasion ?—A. Not that I can remember.

Q. I suggest that on the other occasions the blows fell not on the buttocks but generally on her body ?—A. I cannot remember any occasion on which that happened.

Q. Do you deny any such occasion ?—A. I cannot remember when the blows fell around her body.

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Q. Did you hear your daughter's evidence that in the bathroom she saw bruises on her mother's body?—*A.* I think I recollect the evidence.

Q. I suggest that the bruises that your daughter saw on your wife's body were caused by blows of the slipper?—*A.* That is untrue.

Q. Can you offer any suggestion how the blows would come on your wife's body?—*A.* What year was that?

Q. It is suggested about 1942 or 1943 after you had returned from the war?—*A.* There was no occasion in 1942 or 1943 when there were bruises on my wife's body.

Q. Were there any other occasions when you can account for the 10
bruises on her body?—*A.* Not in that year.

Q. Apart from the marks on the behind?—*A.* There were no marks on her behind from the slipper incident.

Q. You hit her on the buttocks and not on any other part?—*A.* Yes.

Q. You suggest it could not leave any marks?—*A.* It was a soft slipper, and she was beaten with the foot and not with the heel.

Q. I do not want you to recall dates, but you say no conduct of yours could account for the bruises which your daughter says she saw?—*A.* After the kicking in the face when I took my military cane she was black and blue near her behind

Q. Your daughter has said that she saw bruises?—*A.* That evidence is untrue. 20

Q. You say that if your wife's body was bruised you did not cause it?—*A.* Yes.

Q. About your general attitude towards your wife, you recall the evidence of David of a conversation you had when he was 13 years of age?—*A.* Yes.

Q. The conversation with your remarks that he was very quiet?—*A.* I have some recollection of it.

Q. He was quiet because there had been violent disturbances involving 30
his mother the night before?—*A.* I heard the evidence.

Q. You said to him, "Old boy, when you are older, you will understand. When I married your mother we started on the footing that we would be equal in all things, but your mother was not satisfied with that: she wanted the upper hand. To save myself going under, I had to make it clear to her that I was going to be boss"?—*A.* Words to that effect.

HIS HONOR: The incident is on page 180 of the transcript?—*A.* I don't think they were as strong as that.

MR. WOOLF: Will you agree that that is an account of the conversation, 40
or words to that effect? Do you agree that you expressed yourself to David in words to that effect?—*A.* Less strong words, probably.

Q. But to that general effect?—*A.* There were many things—

Q. I am not asking you about many things?—*A.* As I have said they were words which were less strong.

Q. But to that effect?—*A.* I have replied to that effect but less strong.

I would like to say there were many things which I could not explain to the children.

HIS HONOR: You are asked what was said?—A. I am emphasizing that I would not have used words as strong as that.

Q. Did you say you had to stop yourself from going under?—A. I did.

Q. And that you had to treat your wife in that way to stop yourself from going under?—A. I don't remember those words.

Q. Did you tell him that you told her you were going to be boss?—A. I don't think I used those words.

10 HIS HONOR: What words did you use?—A. Probably I would say I had to make a decision, or something like that.

Mr. WOOLF: Do you remember that David said to you, Does that mean that you can knock mother about?—A. Yes, probably he said that.

Q. Did you answer, "No not in the first place, but as time went on I found it necessary to use some force," or words to that effect?—A. The majority of the words I would not have used.

HIS HONOR: I am looking at the evidence given to the Court. You said, "At first no, but later I found it was the only thing she understood." Did you say that?—A. I may have made use of those words.

20 Mr. WOOLF: That would be after 1937 when you decided that your attitude towards your wife had to be stronger?—A. Yes.

Q. Do you recall that both of your children spoke of an earlier incident in which you forced your wife to her knees and told her to pray to God to save the marriage, and that your wife was distressed?—A. I deny that incident.

Q. So both your children have told untruths?—A. I would say they have not told the truth.

30 HIS HONOR: How long was your wife on her knees?—A. I do not recollect having done so, except on one occasion when I was putting her in the shower, and she fell on her knees in the bathroom.

Q. Did you ever tell her to go down on her knees and pray to God not to wreck the marriage?—A. No.

Q. Or anything to that effect?—A. I told her on many occasions to pray to God but not in that situation.

Q. You have told her to pray to God?—A. To mend things. I deny the whole incident.

40 Mr. WOOLF: You said you could not account for your daughter's evidence of bruises seen on your wife's body. You have since heard your son's evidence that he saw his mother's arm bruised from the wrist to the shoulder?—A. Yes.

Q. What do you say about that?—A. I would say that it is very much exaggerated.

HIS HONOR: Do you think any conduct of yours left the bruises on your wife's arm from the wrist to the elbow?—A. Apart from a couple of bruises on one occasion, I cannot say how they got there.

Q. Were they caused by you?—A. I cannot have caused them. I remember when she had some sort of an accident, but I cannot remember the details.

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Mr. WOOLF: Will you restate what your wife's conduct towards you has been? Do you intend to suggest that she acted through a large part of the married life quite unlike a sensible woman at all?—A. I do.

Q. In fact, more like an hysterical spoilt child than a sensible woman?—A. I regarded her so.

HIS HONOR: Were there any intervals; did she ever behave sensibly for any appreciable period?—A. During the whole course of my married life I can only recall the three months after the slipper incident, particularly a month after Dunlop's had given me notice, one holiday at Peterborough.

Q. You mean only about three months of your married life in which you can recall your wife behaving as a normal sensible woman?—A. I do. 10

Mr. WOOLF: As you say her general conduct was like that, it would not have surprised you at an early stage if she threw herself back on the bed and kicked her heels in the air?—A. It surprised me at the time.

Q. She did the same in 1948 when she flung herself on the bed?—A. It was different.

Q. What was the year of that behaviour? Do you say that was the occasion on which you turned her over and lashed her on the bottom with the military cane?—A. I did.

Q. But before you lashed her with the cane she had thrown herself on the bed and was kicking at you with her feet?—A. She flung herself on the bed, lashed out once with her feet, and caught me on the side of the face.

Mr. WOOLF: It was the same kind of thing?—A. On the earlier occasion she flung herself with her face on the bed. On this occasion she flung herself on her back.

Q. On all three occasions she was kicking up with her feet?—A. On the first occasion—

HIS HONOR: As if she had been riding a bicycle?—A. No. Just up and down. 30

Mr. WOOLF: Your evidence wishes to make it clear there were many quarrels between you and your wife about the children?—A. That is clear.

Q. Because you considered that through her influence the children were being brought up as larrikins?—A. That was in 1937.

HIS HONOR: Particularly on your return from South Africa?—A. Yes.

Mr. WOOLF: Over what period did you consider that through your wife's influence your children were being brought up as larrikins?—A. I arrived home about July, 1937. The next week their conduct was obvious.

Q. Dealing with the tendency of your children towards larrikinism, we will deal with your daughter first. Your daughter was very active in Rev. Arrowsmith's church?—A. She took a sudden and surprising interest in the church. 40

Q. Before your daughter's marriage at the beginning of August, 1948, she had been very active in church work?—A. I think it was a year at the most.

Q. It was exceptional activity?—A. Did she not teach in the Sunday school, and sing in the choir?—A. There were other activities. I considered she was spending too much time there and not helping her mother.

Q. You have given evidence that on one occasion you saw your daughter and her future husband embracing with a rug over them, and your daughter had her stockings off and loose shoes?—A. I didn't say that.

HIS HONOR: He said she had a light dress on and that her shoes were off?—A. I was not certain about the stockings.

10 Mr. WOOLF: You considered it was not right?—A. Not seemly.

Q. I suggest that the incident was something very different; that you came in about 10 o'clock, and your daughter and her future husband were sitting side by side with their backs to a couch in front of the fire. The light was out but the room was illuminated by the glow of the fire. You came in and said, "Do you think this house is a brothel; it is time you went"?—A. I suggest it is a complete and improbable fabrication. I suggest it is absolutely untrue.

Q. Your daughter was embarrassed, and your future son-in-law went home?—A. That is absolutely untrue.

20 Q. Do you suggest she would invent the statement?—A. I did not use the word "brothel."

Q. Can you suggest why your daughter should suggest that if it is untrue?—A. Yes.

HIS HONOR: Did the daughter suggest that in evidence?

Mr. WOOLF: No?—A. If she suggested it I would say it was an untrue suggestion. I would say that one of the things that distress me about the children was their lack of truthfulness.

Q. I do not think the witness said the stockings were off. I have a note—" . . . coats and shoes off."

30 Mr. WOOLF: You have heard my suggestion that after conferring with your daughter the incident was not as alleged but was what I have suggested. You came in and saw the young couple sitting in the darkened room, and you spoke in that offensive way to your future son in law?—A. I would like to reply to this fully.

HIS HONOR: You are asked, is the suggestion made true?—A. The suggestion is absolutely untrue.

Q. Was the word "brothel" mentioned during the interview?—A. No.

40 Mr. WOOLF: Have you at any time in connection with the behaviour of your daughter and her future husband or may be about another couple used the word "brothel" implying there was undue familiarity?—A. In reference to my son in law and daughter I have definitely not used the word "brothel."

Mr. WOOLF: Of course, the reference to the developments over the period in which your wife's influence resulted in the children being larrikins includes your son?—A. Yes.

Q. If you do not remember the exact period you would not deny, I suppose, that your son was a pupil at Scotch College from 1935 to 1948?—A. It would be about that date, thinking it over.

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HIS HONOR (*to Witness*): You would be in South Africa about that time. You were, were you not, from 1935?—*A.* Yes, sir. No, I was in Linlithgow Avenue in 1935 and left for South Africa in January, 1936.

Q. Well, when you were in South Africa the boy was not at Scotch College, was he?—*A.* He was at St. John's College.

Q. Was that after the break, on your return, when he would go back to Scotch College?—*A.* Yes.

Mr. WOOLF (*to Witness*): His Honor has pointed out that during your visit to South Africa David's education at Scotch College would of course be interrupted?—*A.* Yes, it was, during the visit to South Africa. 10

Q. Yes, but apart from that he would be, would he not, a pupil at Scotch College from approximately 1935 to 1938?—*A.* That would be about the age at which he went to Scotch College for a period of about 3 years.

Q. What age would he be, then, in or about 1935?

HIS HONOR: Well, if the dates were right, he would be about 7, would he not?—*A.* Yes, your Honor. About 6 or 7.

Mr. WOOLF (*to Witness*): And about 1948, the year in which you and your wife finally separated, he would of course be about?—*A.* About 19.

Q. So that Scotch College would know about David in regard to his development, in his growing personality and his education over this period of years, would it not?—*A.* Oh, yes. 20

Q. Well, does this description of David—this is officially from Scotch College and is signed by the Headmaster, Dr. Gilray—surprise you?

Mr. BARTON: "Mr. Gilray"—not "Dr. Gilray."

Mr. WOOLF: Is that it?

HIS HONOR: He is not "Dr." Gilray, but it does not matter. What is the date of this report? Is it the 23rd December, 1948?

Mr. WOOLF: That is so, your Honor. (*To Witness*): Will you please listen to this description of your son?—*A.* Will you speak a little more quietly, Mr. Woolf? 30

Q. I am not shouting, Mr. Lang. Will you please listen to this report. It reads, "A mannerly, self-reliant boy who is developing very well (*continues reading*) he will develop well, however."?—*A.* It does not surprise me at all. He was a very good lad except that his mother had taught him complete disrespect for his father.

HIS HONOR (*to Witness*): You were irritated a moment ago by what you said was the loudness of Mr. Woolf's voice?—*A.* Yes.

Q. Did your wife speak more loudly than or not so loudly as he?—*A.* She screamed at the top of her voice. 40

Q. So it would irritate you more than Mr. Woolf has irritated you?—*A.* Well, not very greatly. But I am under great stress at the moment, your Honor. It is very painful.

Mr. WOOLF (*to Witness*): Mr. Lang, I am not asking you questions in an unnecessarily irritating manner?—*A.* Thank you, Mr. Woolf.

HIS HONOR (*to Witness*): You understand, Mr. Lang, you are not bound

to stand in the box if you would rather sit down?—A. I would prefer to stand, your Honor.

Mr. WOOLF (*to Witness*): Were you aware that your son while at school was Cadet-Lieutenant and Captain of the House basket ball, on the athletics side?—A. I was aware that he was a very capable lad, with full qualities of leadership which could be developed. I was very glad that he was being given an opportunity while at school of developing them.

Q. His larrikinism, then, was that limited to his attitude towards yourself through your wife's influence? Is that what you suggest?—A. I suggest that his larrikinism developed during the 11 months while I was away from him in Africa.

Q. I see, and that it was limited then, was it, to this period of 11 months?—A. I took steps to quieten it down.

Q. Never mind the steps you took. Would you say that your son's larrikinism was limited to—?—A. To about 6 months at the most after his return from South Africa.

HIS HONOR (*to Witness*): Did that mean that after that time you had no more complaints about your son's larrikinism?—A. Well, he was very much better behaved, your Honor.

Mr. WOOLF (*to Witness*): Now before we come to one or two of the later outstanding incidents may we clear this matter up, whether or not under provocation, as you say, in the course of your evidence, about how many times have you struck your wife during your life, in one way and another?—A. Well, there was the slipper incident.

Q. Yes. The military cane incident?—A. There was the cane incident.

Q. Yes?—A. And then in Orrong Road, which is before the slipper incident, there was that incident in the car.

Q. Do you remember saying yesterday that on occasions "I did slap her on the face"?—A. Yes, I did.

Q. Can you give his Honor any indications as to about how many times you did slap her on the face?—A. I should say about five. Something like that.

Q. Have you thrust her by the head and shoulders under the shower more than once?—A. I have pushed her under the shower.

Q. About how many times?—A. Twice.

Q. Twice. And you have—I am not going into the question of what you say was the provocation, I am dealing with the things themselves—you have cut her slightly on the mouth by throwing a book at her?—A. I have.

Q. And several times you have thrown a pillow at her?—A. Once or twice, I think.

Q. Yes, and all those later incidents after the first slipper incident, shall we say, were in accordance with your definite policy to adopt a stronger attitude to your wife, were they not?—A. They were not in accordance with any policy. They were incidents that were provoked and I regretted them at the time and ever afterwards but they were not in accordance with any policy.

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Q. You agreed with the question that was put to you earlier this morning that in about the year 1937—?—A. I had to make the decisions.

Q. Yes, that you had to make the decisions. Now you are being asked, did you over a definite period of time endeavour to carry out that decision?—A. To make the decisions?

Q. The decision to make the decisions?—A. I did.

Q. Yes, and one of the original decisions included one to use stronger methods when you considered it necessary?—A. If you are suggesting that it included the intention to use violence you are making an entirely wrong suggestion.

Q. I have not used the word "violence." I said "your original decision, according to your own words, was to use stronger methods "if necessary"?—A. I deny the words "stronger methods."

Q. You used the words "stronger attitude" then, did you not?—A. Possibly.

HIS HONOR (*to Witness*): Well, I would like just to get at your mind if I can. What do you say was the change of attitude which you were adopting towards your wife and about which you spoke to your son when he was about 13 years of age?—A. During the first period of our married life my wife had all her own way. We went where she wanted to go. We bought the house she wanted. We went to the parties she wanted to go to, and I consulted her in my business and personal affairs.

Q. Well, I understand that?—A. I made her the senior partner in the thing. At the end of 1937 we were in such a financial and other mess and I realised that she had made such a mess of our affairs, that I said "You have got to make the decisions in the future."

Q. When you say "You have got to make the decisions in future" you mean, yourself?—A. Yes. I left my wife decide to go to South Africa but I realised that I had made a mistake.

Q. I can understand that. You decided to take the control of matters into your own hands again?—A. Yes, to try to keep marriage on a 50/50 basis as I have always tried to.

Q. Yes, and did you make any decisions as to what measures you were going to take?—A. I did not take any measures as to that except that if there was an argument and I thought my view was right I would just have to insist upon my view being right. I had in mind the decision in regard to going to South Africa.

Q. Did that mean that you were going to insist on your view, no matter what means you took to insist upon it?—A. No.

Q. What did it mean?—A. I was endeavouring to secure our future.

Q. And apparently there were occasions when you did not secure it?—A. There were differences of opinion.

Q. And when that clash came, how did you ensure that your opinion should be the governing one?—A. Well, your Honor, in 1937 I had formed no ideas as to how to do it.

Q. Well, as time went on, apparently you did form ideas, and how in general did you insist that your ideas should prevail?—A. I cannot

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recollect on any occasion when I did have to insist that my ideas should prevail.

Q. Well, apparently, there was one occasion when you did?—A. I will put it in this way: In building my house in Balmerino Avenue I decided that that house was suitable and—well—I bought it. That was the measure I took on that occasion and just did it.

Q. There were some occasions—one of them when you slipped your wife and another in which you took the whip. Well, what determined you to use the slipper on the first occasion and the whip on the second?—

10 A. I did not use the whip.

MR. WOOLF: It was a military cane, your Honor.

HIS HONOR: A cane.

WITNESS: In 1937 when I used the slipper I had told my wife that I would have to make the decisions and she had fought it very violently, and on this occasion when she had humiliated me publicly I realised that things had come to a head.

Q. But did you think that you could only enforce your own opinion there by using a slipper or some other thing such as a military cane?—

A. No. I realised, your Honor, that she needed a lesson of some sort.

20 Q. Well, at least did you hold this view, that if you could not by argument persuade her to your point of view, you were entitled to use force?—A. No, I did not, your Honor.

Q. Why did you use the slipper on her?—A. Well, it gave her a lesson. That is all I can say.

Q. Well, then, you had given her a lesson?—A. In the same way as you give a child a lesson for being naughty.

Q. Were you putting your wife on the same plane as you would a naughty child if she did not do as you wanted?—A. No.

Q. Well, on that occasion you did?—A. No, your Honor.

30 Q. Well, come to the occasion when you used an officer's cane?—A. Yes.

Q. Was that another occasion when you treated her as a naughty child?—A. No, your Honor, that was more impulsive.

Mr. WOOLF (to Witness): Now, you have heard the evidence, and talking about it being impulsive and not deliberate, you have heard the evidence of your daughter that she saw you dragging your wife towards the bathroom, your wife being in a dishevelled condition with her nightdress torn and bleeding slightly from the mouth, and you said to her, "I will calm you down, you bitch." Now, was that just on the impulse of the moment, if 40 it is true and to complete her account of the thing, that you then thrust your wife's head and shoulders under the shower and turned the shower on her as she was bent down on her knees into the bath tub?—A. I would say that that was less impulsive. It arose out of whatever violent argument there was at that time.

Q. That was certainly less impulsive?—A. Yes.

Q. You have heard the evidence not only of your wife but of both children also that from time to time you have used expressions such as "I

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“will show you who is master in this house.” How often have you used such an expression to your wife?—*A.* I deny the use of those expressions.

Q. So that the evidence of those three persons that you used such expressions on such occasions is all untrue?—*A.* I would say it is.

Q. You would say it is. Was it a determination to show who was master in the house as part of your attitude or policy?—*A.* No, I did not desire to be absolute master in my house.

Q. I see?—*A.* As a friend once expressed it, “You should be King and Queen.”

Q. That is very excellent. Well now, will you now let me now just ask you what your real attitude was at the time of the main kitchen incident? This is what you have said, that for some weeks before your wife had been complaining of tiredness and that on that particular day you advised her to go to bed early?—*A.* That is correct. 10

Q. Yes, and that when you came home about 11 o'clock that evening you found her washing up the dishes?—*A.* I did.

Q. Now, following your arrival—it was then about 11 o'clock that evening, the kitchen incident occurred?—*A.* Yes.

Q. Well now, although you did not admit throwing all the things on to the floor that the other three witnesses say were thrown down on the floor, you do admit throwing a very great number of things on the floor?—*A.* Two 20
garbage tins, the ash pan.

Q. Yes. The contents of two rubbish tins, the ashbin, canisters, I suppose, containing such things as granular substances—flour, sugar and salt, and so on?—*A.* I think you are exaggerating.

Q. Well, the contents of some of those canisters were thrown on the floor, were they not?—*A.* I think there were two.

Q. Well, now, was not your conduct on that occasion calculated to—
What do you suggest prompted you to act in that way on that occasion?—
A. I was carrying a military job of the greatest weight. 30

Q. Well, now, will you listen?—*A.* If I may be allowed to say, Mr. Woolf, in my own words, I was carrying a military job of the greatest weight. My wife was worrying me to death. I had been most emphatic about what she should do. I cannot quite express it, whether it was in rage or desperation. I do not know the word to express it but I thought—if I may use some slang, “Well, hang it all, if she cannot do this she has got to “be shown something.” Desperation is the best word for it.

Q. Your attitude then was that “If she is not wise enough to follow my “advice and go to bed early she has got to be shown something.” Was that it?—*A.* You may put it that way if you like. 40

HIS HONOR (*to Witness*): You seem to have had a view on several occasions that if she had done something which annoyed you you would do the same sort of thing, only rather more so, to persuade her not to take that kind of thing on again. For instance, when she was walking about and you were annoyed by the noise made by the heels of her shoes on the floor, you went around stamping your feet, didn't you?—*A.* I did.

Q. And you said that she then did not repeat these things?—A. Yes, your Honor.

Q. And then there was the question of her slamming doors and you followed her around slamming doors after her and a door was slammed so hard that the glass fell out of it and broke?—A. Yes.

Q. Was that a general attitude of yours that you tried to prevent her from doing an act which you did not like by doing the same act in a rather noisier and more objectionable way?—A. It was not that but the only way I found of causing these acts to cease. I tried reasoning with her but it was
10 the only way in which I could ever accomplish anything.

Q. Yes?—A. And no sooner had one act disappeared than something else cropped up. I was at my wits end.

Q. Well, it is the same sort of treatment that you would give a young child which bites you and you bite it back so that it can see what sort of pain is created by it?—A. Yes, your Honor.

Mr. WOOLF (*to Witness*): Now, Mr. Lang, I propose to come to the offence of the 13th August, 1948. Your case is, is it not, that in acting as you did on that night you were very much influenced by advice that you received from this Mr. Howard?—A. I was.

Q. And his advice, shortly put, was as you have described it, that as
20 your wife had been described as of a certain nervous or neurotic type—a masochist, I think the precise term is—his advice to you was to arouse her, to stimulate her sexually in a very vigorous or perhaps slightly different manner and that it might cause the resulting emotional—

HIS HONOR:—response.

Q. Response, sir. It might lead to the establishment of a better basis between you. That was the effect of his advice, was it?—A. Yes, that was really the effect.

Q. You say, do you not, that that advice was given on the very day,
30 the 13th August?—A. It was.

Q. Yes. You have heard the evidence of Mr. Halford that some time prior to the 13th August, 1948, you said this to him, or words to this effect, “I have decided to use caveman stuff. It is the only thing women understand,” and the “Rape of Lucrece”—or the “Rape of Lucretia”—“will take place”?—A. I deny having used those words.

HIS HONOR (*to Witness*): Is it a possible misunderstanding by Mr. Halford of anything you did say, or is it a case that he must have invented it?—A. Is that a question addressed to me?

Q. What I am asking you is whether this is a possible misunderstanding
40 by Mr. Halford of anything you said or if it had no foundation he must have invented it?—A. It was part a mistake and part that he invented it, I think, your Honor.

Mr. WOOLF (*to Witness*): Well, if Mr. Halford invented it, you suggest he is telling a deliberate untruth?—A. I am suggesting it.

Q. Can you suggest why Mr. Halford, who is not related by blood or finance to you or your wife, should come here and tell a deliberate

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untruth?—*A.* I would suggest that Mr. Halford may have been actuated by some resentment at having left my house.

HIS HONOR (to Witness): You had better have it plainly put to you what he said. I will quote from pages 126 and 127 of the transcript, Mr. Halford is asked to come to early in August and he says that he recalls your coming one night to his home, his flat, and he is then asked “Will you tell the Court something of his relationship with his wife?” And he says in reply, “He came to me more as a friend at that stage. He asked my advice. He told me he was not getting on with his wife. I told him to take things quietly and from his manner I thought he should be more tolerant.” I then put it to the witness: “From his manner”—“did you mention anything to him about his manner?” And the witness replied, “No.” Mr. Woolf then put this to him—“You said ‘Take things quietly, you ought to be more tolerant’” and the witness answered, “That is so.” He was then asked “Do you recollect his calling again not very long afterwards?” To which he replied, “Yes, not very long afterwards.” And then he is asked, “Will you tell his Honor very particularly of the substance of that conversation with Lang on the second visit?” And his answer is, “On that evening he told me after speaking on general subjects for a time he was not getting on with his wife, and the only thing he could do was to adopt the caveman stuff—it was the only thing a woman understood.” He was next asked, “I want you if you can and will to tell his Honor the complete conversation without my having to prompt you on any point You said he said he would have to use the cave man stuff, which was the only thing a woman understood. I said, I did not recommend that course, but before he left, he said it would take place very soon. I told him it was worsening the position, and shortly after, he left.” Now, that is what his story is of what took place?—*A.* The story has some foundations, but is highly inaccurate. 10

HIS HONOR: Well you had better tell me what is the foundation?—*A.* Well, in the first place, he has omitted the fact that he and his wife said they were going to visit my wife, and they went out and then came back, in a state of excitement, and said “There is only one thing for you to do, and that is to put your arm around your wife.” I queried whether she would receive me, and they were most emphatic that she would. As I say, on that occasion, the words Rape of Lucretia may have taken place, after which I went home and put my arms around my wife, and the police incident occurred and that night I again left. 20

Q. You say that is all there is about this story that was told me?—*A.* I deny about the caveman. I went at their instigation and on their advice. 40

Mr. WOOLF: Whether you remember using the word caveman or not?—*A.* I do not remember the word caveman.

Q. Do you deny having used the expression that the Rape of Lucretia took place?—*A.* I may have used it.

Q. You may have used it?—*A.* Yes.

HIS HONOR: Tell me, when the incident of the 13th August did take place, would you describe that as cave man stuff?—A. No, I do not think so your Honor.

Q. Was it more severe or not so severe?—A. No, I think cave man would be much more severe than that.

Mr. WOOLF: Perhaps if there had been no contraceptive used, it would have been cave man stuff. That is the only modifying feature in the whole affair apparently sir. So that you do not deny that you may have said to Halford before the 13th August, that the Rape of Lucretia would take place?—A. I did not say that after the 20th July.

10 Q. I am not wishing to trouble you about the precise time?—A. That is a very cunningly framed question sir.

Q. I am not wishing to trouble you about the precise date. May you have said, you do not deny do you, that you may have said that to Halford, that the Rape of Lucretia will soon take place, before the 13th August?—A. On the 20th July.

Q. Well, whenever it was, you may have said it?—A. I may have said it on the 20th July.

20 Q. Is it not a fact then that before you saw Mr. Howard at all on the 13th August, you had the possibility of the Rape of Lucretia in your mind anyway?—A. No I did not.

Q. Well then, you know of course that the Rape of Lucretia, that is the poem of Shakespeare's, and it refers to the sexual interference of a married woman against her will?—A. I have no idea whatever what it refers to. I have only been informed that it is a poem by Shakespeare.

Q. Really, Mr. Lang?—A. I do not know a thing about it.

Q. Are you serious?—A. I am quite serious. I have never read it. I do not know even what it is about.

30 Q. Do you seriously say you do not know it is about, the subject of it is the forcing of sexual relationship upon a married woman against her will?—A. I seriously say that I do not know a thing about it, and it is no use questioning me about it.

Q. You do not know a thing about it?—A. I do not know a thing about it. All I know is that it is a title, and somebody told me that it was written by Shakespeare. I am not acquainted with any of Shakespeare's odes or sonnets.

Q. And even when you received Mr. Vroland's letter in 1948, telling you what he stated you had said to him about the "Rape of Lucretia," you were still not interested to find out what it did refer to really even then?—A. I was not interested.

40 HIS HONOR: The only thing that is really important to me is what did you mean by the expression yourself?—A. As I said, your Honor, it was a purely jocular expression of which I did not know the meaning.

Q. Is it an expression you use without any particular meaning at all?—A. Without any particular meaning at all.

Mr. WOOLF: Of course it is recognised that you are an educated man, highly qualified in engineering, but do you use Latin surnames, or Italian

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words such as Lucretia without troubling about the meaning or what they refer to?—*A.* I do not quite get the object of that question.

Q. Is it your usual custom to use such words without knowing their meaning?—*A.* I have already told you and it is the truth that I know nothing about the poem or sonnet. I know nothing about it. You had better take my word.

Q. You agree, do you not, that if Mr. Halford is speaking the truth, the subject of some definite change in your approach to your wife sexually, must have been in your mind before you saw Mr. Howard at all on that day?

—*A.* No, there was no change in my mind before that day. 10

Q. Look, according to you, Halford said to you, "Put your arms "around your wife," did not he?—*A.* Yes, that was a pure affectionate embrace.

Q. And the subject of embracing her, we won't deal with this sexual act at the moment, but the subject of embracing her would be present in your mind on the 13th August, of course, in any event?—*A.* Mr. Woolf, you are trying to put a lot of things in my mind, that were never there.

HIS HONOR: At present, I have got he does not agree with Mr. Halford, and I doubt whether you will get it past that. I shall have to make up my mind ultimately which I believe. 20

MR. WOOLF: Yes, your Honor. You heard Mr. Vroland's evidence?—*A.* I did.

Q. In which he swore that as stated in his letter to you at the beginning of September, 1948, that you used this expression, the Rape of Lucretia, you remember that do you not?—*A.* Yes, I remember.

Q. Well, do not you think there may be a mistake somewhere, if both Mr. Halford and Mr. Vroland declared you used that expression?—*A.* I think the mistake is entirely on their part.

Q. Entirely on their part. Mr. Halford declared that after the act had taken place, you declared to him that your wife enjoyed it.—*A.* Yes. 30

Q. And Mr. Vroland says that you declared to him at your meeting at the beginning of September, 1948, that in quite as he puts it, an arrogant manner, you said, "Oh, yes, she enjoyed it."?—*A.* The arrogant manner is quite incorrect.

Q. But you did declare that to Mr. Vroland?—*A.* I did tell him towards the end of our conversation that she enjoyed it.

Q. Mr. Lang, this question about the events of the night of the 13th August, is not in chronological order, it refers to just an incidental side for the moment, you did say, did you not in evidence, that David's account of what took place after he came on the scene, was substantially correct?— 40
A. Yes.

Q. And when he came on the scene, you recall do you not, that the policeman said to him in your presence, your father has told us that you were going to assault him. Have you assaulted him or do you intend to assault him, and David replied, no, certainly not. Do you recall that in David's evidence?—*A.* No, I do not.

Q. He came along and the policeman said to him have you assaulted your father or do you intend to assault him?—A. I do not remember that.

Q. Did you telephone Russell Street, and inform Russell Street that you were expecting to be assaulted by your son that night?—A. Is that question addressed to me?

Q. Yes?—A. I did not phone Russell Street, as I said in my evidence. I went to a gate and stopped a passer-by and asked them to send for Russell Street.

10 Q. Are you prepared to state on oath, Mr. Lang, that you did not telephone Russell Street Police Headquarters and tell them on the night of the 13th August, 1948, that you expected to be assaulted by your son?—A. I would state on oath that I did not phone Russell Street and tell them I expected to be assaulted by my son. I told a passer-by to telephone Russell Street, and after I got the police out for protection, I removed my clothes.

HIS HONOR: When the police came, did one of the police say did you fear an assault by your son?—A. I do not remember that, your Honor.

Q. That is page 186 of David's evidence?—A. I may have said that, your Honor.

20 Q. And then he is asked, "Did the police say anything to you in your father's presence?" "Yes, the police said to me, my father had got in touch with them. He said he was taking certain steps with his family, and as a result, he feared an assault by his son. They asked whether I had, or intended to, assault him. I said I did not assault him and did not intend to do so?"—A. I think I mentioned in my evidence that I stood aside while the police were talking to David and Miss McKenzie.

Q. Do you say what I have said is not correct?—A. I do not understand.

30 Q. You had not rung the police and said you feared an assault from your son is that what you say?—A. I have no recollection whatever of ringing the police and telling them I feared an assault from my son. Something like that may have been said when they came, but I have no recollection of it.

Mr. WOOLF: Did you in fact fear an assault from your son that night?—A. Well, I thought something like that might occur.

Q. I suggest you did?—A. There had been a rifle incident previously.

Q. Oh, yes, at this time, 1948, your son was practically a young man, aged 19 years, was not he?—A. He was.

40 Q. Do you not think that after doing what you intended doing to his mother, that David might become very aroused, and that he might strike you when he heard about it?—A. I never dreamt his mother would tell him about it.

Q. You say quite seriously, if you carried out what you were proposing to do with his mother, are you quite serious in saying you thought that David would never hear about it?—A. I never thought his mother would tell him such a thing.

Q. I suppose you would agree, that if as turned out, his mother did tell him that he would rightly or wrongly, be very much aroused by what he thought was ill treatment of his mother?—A. I think any boy would be

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aroused by ill treatment of his mother. I am suggesting that Mrs. Lang did stage such things to arouse resentment.

HIS HONOR: Do you feel any resentment against your wife for telling your son how you treated her that night?—*A.* Not resentment.

Q. Well, what is the feeling?—*A.* The feeling is——

Q. You tell me you were surprised?—*A.* I am shocked at it, your Honor.

Q. Why are you shocked?—*A.* I never dreamt that any woman could tell her son a boy of 18 what went on between her and her husband.

Mr. WOOLF: Was he 18 or 19?—*A.* 19, or bring her son into the inti- 10
mate affairs of a husband and wife.

HIS HONOR: Suppose a stranger had come into the house and treated your wife in the way in which you treated her, would you have thought there was anything very shocking if she had told her son how she had been treated?—*A.* If it were a stranger who had come into the house?

Q. Would you have thought that wrong or not?—*A.* If she had told her son?

Q. Yes?—*A.* No, your Honor.

Q. Well, the objection is because you had done it, you thought your wife ought not to have told her son of the way she had been treated by you?— 20
A. Exactly, what is between husband and wife is not the concern of small children.

Q. It may not be, but do you regard that a husband may treat his wife in any way he pleases?—*A.* No, definitely not.

Mr. WOOLF: Just to digress for a moment, when you held your wife in that grip on the early morning of the 22nd July——?—*A.* 21st.

Q. The 22nd July is in the evidence, until the police arrived and told you to release her, did you not say to your son or your daughter, "You will only make it worse by interfering, can't you see that this is between husband and wife," as you held her in your grip? Do you remember that 30
evidence being given?—*A.* Yes.

Q. Well now you have heard his Honor's enquiry, the question he has just asked you is would you say for instance with reference to that holding her in the grip, as the evidence has been given until the police arrived, that that was simply between husband and wife?—*A.* It was between husband and wife, because it was no more than the affectionate way in which I had hugged her on many occasions.

Q. Since we have referred to this earlier incident about three weeks before the final incident, did you maintain that affectionate grip, as she says in her affidavit, for at least a half an hour?—*A.* When the children 40
started to interfere, I did tighten my grip. I do not know whether it was half an hour, I doubt it.

Q. At any rate, you do not dispute the position in which she was first held, pressed on her haunches or knees, and pressed back?—*A.* That is not true.

Q. And then when the police arrived, she was still in your grip, but standing up with what the constable calls a hammer lock?—*A.* Yes, I do not know what a hammer lock is.

Q. Without arguing about that, did you feel that that too, was an incident just between husband and wife?—*A.* It should have been.

Q. Just allow me to continue, did you feel that incident was between husband and wife and even grown up children had no right to interfere?—*A.* It should have been an incident between the husband and wife, but it was typical of the continual interference between my wife and myself by my family.

Q. And it also involved, I suppose, you consider, wrongful interference by the police?—*A.* No I do not think the police were wrong in interfering
10 when they were called up, I think it would be of very great benefit to the community if the police could quieten these domestic matters.

Q. To come back to the 13th August, you know that your wife has stated in her affidavit and repeated in the witness box, that that incident started by you taking her into your arms and carrying her into the bedroom and placing her on the bed?—*A.* Yes.

Q. And you have denied taking her in your arms and your words are that she walked into the bedroom in front of you?—*A.* Yes.

Q. Now, I am not trying to be funny about a very serious incident, Mr. Lang, but I would like to ask you, do you suggest that she just trotted
20 along happily in front of you?—*A.* She walked quietly into the bedroom.

Q. In front of you?—*A.* Yes.

Q. In front of you and with no apparent feeling of apprehension?—*A.* I cannot say what her feelings were.

Q. None that she showed?—*A.* There was no indication.

Q. Exactly, that is what you say. Now how long, even according to yourself, was she kept in that bed with no clothing, and with her singlet in the room upstairs and her other clothing——?—*A.* Her nightgown was upstairs.

Q. I beg your pardon, her nightgown upstairs, and her other clothing
30 in that room, but out of her reach, for how long was she kept virtually incapable in that bed. I mean of course, after the act itself?—*A.* I could not say exactly, it might be an hour.

Q. And it might I suggest be much longer?—*A.* No.

Q. Do you dispute the incident began somewhere about 8.30?—*A.* Somewhere round that time.

Q. And I suggest to you it was not at least until 11 that first of all the police arrived at the house, or there was a first knock on the door that forced you to get up and leave the room?—*A.* No, the police arrived at the house I think, after David came home.

Q. About what time did he come home?—*A.* About 11 o'clock.

Q. Yes, exactly, do you say that between half past 8 in the evening and 11 o'clock is only about an hour?—*A.* That is $2\frac{1}{2}$ hours.

Q. Exactly?—*A.* She was not in bed all that time.

Q. She was not in bed all that time?—*A.* No.

Q. In your account of that incident, do you intend to deny that your wife tried several times to get out of bed?—*A.* She tried to go out several times, and I told her to go back to bed and stop her nonsense.

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Q. She tried several times and you told her to stop her nonsense?—
A. Not several, two or three.

Q. Very well, two or three. During that period of at least 2 hours, I suggest she tried two or three times then to go out of the bed, and you told her not to?—*A.* Correct that to a period of about 1 hour.

HIS HONOR: Did you take any steps to prevent the lights from going on in the room?—*A.* I did, I pulled the fuse.

Q. And that would prevent any light from going on in the room?—
A. Yes, your Honor.

Q. And for what time was it that the room was not able to be lighted? 10
—*A.* From about 9.30 to 10.30.

Q. So that if your wife had wanted to get her clothes during that period and there were any clothes in the room, she would have to get them in the dark?—*A.* Yes, your Honor, I intended that she should go to sleep.

MR. WOOLF: After this act, the sexual act had taken place, Mr. Lang, you say that of course you and your wife had the natural passive mood of relaxation afterwards?—*A.* Yes.

Q. But shortly after this passive relaxation period, she began to rave at you?—*A.* She did.

Q. I suggest to you that the raving at you and abuse of you on that 20
occasion were her indignant protests at the way you had treated her?—
A. I think that suggestion is entirely wrong Mr. Woolf, I think it really revealed the state of her mind.

Q. What do you claim was the state of her mind after the sexual act?—*A.* The state of her mind for some time past, was that she regarded me and all my family as mad, and that she had been taking the advice of this woman, Winnie Wall, for about 25 years, and I really woke up on that occasion, that one of the big factors in causing my marriage unhappiness had been the advice of this woman, before we were ever married. It really revealed to me a great deal of the state of my wife's mind. 30

Q. Do you wish to say that after the sexual act had taken place on this occasion, your wife quoting to you such things as her friend, Mrs. Dr. Wall of Adelaide and possibly your relatives past or present, and things in general, but that she was not talking about the way you had just treated her?—*A.* She did not say a word about it.

Q. And not a word of protest?—*A.* No, not a word of protest, except at the beginning, when she said, "Oh, not now."

Q. Well of course, you are aware that she has said in her affidavit that after the act had taken place, you said to her, "I will do it to you as often " as I like, and that is what I am going to use you for"?—*A.* I would 40
suggest that that is a pure fabrication. I have had to write to your solicitors instructing you, in one of their letters, saying I considered that they were fabricating evidence.

HIS HONOR: Do you mean by that, that the solicitors were doing it, and not your wife?—*A.* I do not know where it was being fabricated.

Q. Well I wanted to know the meaning of the language you were using?—*A.* To the Solicitors?

Q. What is your suggestion?—A. Well, your Honor, after my interview with Mr. Vroland, in which he endeavoured to put a lot of words into my mouth, I could not reach any other conclusion.

Q. Well is that what you really think, that Mr. Vroland is inventing this story that is, what took place after the conduct of the 13th August?—A. Not inventing the whole story.

Q. Do you think he is inventing any of it?—A. I do not quite get your Honor's meaning.

10 Q. I mean the conversation which took place between your wife and you after this incident on the 13th August?—A. I am not suggesting that Mr. Vroland invented that.

Q. Are you suggesting that your wife's account is one invented by her?—A. Possibly.

Mr. WOOLF: Did not Mr. Vroland—?—A. There were occasions your Honor, that my wife used to make statements and I used to wonder whether I had imagined things happening.

HIS HONOR: We will get along better if we keep to the particular occasions you are asked about.

20 Mr. WOOLF: As Mr. Vroland's name has been mentioned, do you agree with his evidence, that when you and Skinner came to see him together, Mr. Vroland at once reminded you that you had been dealing with him through a solicitor, that he was your wife's solicitor, and he was dealing with your wife's affairs, and that the interview was only proceeding on that understanding?—A. Don was not with me on that occasion.

HIS HONOR: Your recollections are different from Mr. Vroland's as to whether Skinner was present, but did Mr. Vroland tell you at the beginning of the interview, you understand, I am acting for your wife?—A. I think he did on that 1st September, but Don was not present with me then your Honor.

30 Mr. WOOLF: Do you suggest that although Mr. Vroland told you that at the start of the interview, he was nevertheless adopting some unfair attitude towards you? Is that what you suggest?—A. I thought Mr. Vroland was a rather dangerous man and I had made a great mistake to go and see him. I thought it was extremely unlikely after I had seen him that he would make any move to reconcile us.

Q. Your case is, is it not Mr. Lang, that ever since the night of the 13th August, you have been genuinely anxious to get your wife to return to you?—A. Genuinely anxious before and after it.

40 HIS HONOR: Up to the 13th August, if what you have told and what I have seen in the affidavits is correct, you must have had a very unpleasant household?—A. It was not very much worse than before it.

Q. And how would you describe the condition in your household, was it happy or unhappy?—A. It was a perfect bedlam your Honor.

Q. Perfect bedlam, and you wanted to get back to this perfect bedlam after your wife had left you, did you?—A. Not to bedlam your Honor, I want my wife to come and be a wife to me.

Q. That means, does it not—?—A. That I am in love with her.

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Q. That there would have to be a complete reformation on her part to satisfy you?—*A.* She has on two or three occasions, been the sweet woman that she was when we were engaged and if she would allow me to put my arms around her and if she came to me now, and put her arms round me, and we said we were sorry, there is no reason why we should not start again.

Q. Have you any real desire to have your matrimonial home as it was up to the 13th August, as you say it was a perfect bedlam?—*A.* I have no desire to have a bedlam.

Q. So the kind of home you want is one in which your wife becomes 10 that sweet individual she was before you married her?—*A.* In recent years, yes, as late as 1947 she showed she was capable of that.

Mr. WOOLF: You claim do you not that everything you have done, all your actions and moves since this final separation in August, 1948, have been actuated by the desire to get your wife back?—*A.* Yes.

Q. And you began did you not, you remember when Mr. Vroland wrote you that letter in the beginning of September, 1948, he concluded by suggesting that you forward the sum of £6 per week, saying that he could assure you it would be used for the benefit of herself and David?—*A.* I remember that. 20

Q. Well, if you were so anxious to get your wife back, may I ask why you did not at the start consider complying with that suggestion of Mr. Vroland's?—*A.* Because I had already sent money and given money per David and it had had no effect, and I had spent large sums throughout my married life in giving presents and they had no effect.

Q. The course you in fact took, was it not, never to send £6 but at the most £4, which you reduced progressively from £4 to £3 then £2 and finally £1 a week, and subject to correction, by March, 1949, you had discontinued payments altogether?—*A.* I did that on advice, it might have brought my wife to a realisation— 30

Q. Did you think that by pressure of circumstances in the financial sense, that you would force her to come back to you?—*A.* It might bring her to a realisation that her husband was protecting her and prepared to look after her.

HIS HONOR: Was that why you did it?—*A.* I had the advice given to me your Honor.

Q. And was that the purpose as you understood it?—*A.* That was the purpose as I understood it.

Mr. WOOLF: You knew at the time of the final separation, your wife was no longer a young woman and that through leaving you, she had to 40 go out and earn her living?—*A.* She only had to come back to the house and I would have kept her again.

Q. So that financially, if she had accepted your offers and returned to you, she would have followed the line of least resistance and bettered her position?—*A.* I do not quite follow you.

Mr. WOOLF (to Witness): Now Mr. Lang, you remember of course the

exchange of letters between your wife and yourself on the 22nd and 24th November, 1948?—A. Yes I do.

Q. Well, from the time of the final separation at about the middle of August of that year until that exchange of letters in November you had, had you not, been getting a Mr. McCormack who is attached to Dunn's Detective Agency to speak to your wife on your behalf?—A. I had.

Q. In an endeavour to persuade her to return?—A. I hoped so.

Q. Well, was it not to your knowledge that following Mr. McCormack's approaches to her as your representative—

10 HIS HONOR: I notice that Dr. Ellery has just come into the Court. Would you like to interrupt your cross-examination of the witness in order that the doctor's evidence might be taken?

Mr. BARTON: I understand, sir, that my learned friend is not going to be more than 20 minutes longer with this witness. Would it not perhaps be better that his cross-examination should be finished first?

HIS HONOR: Well, as you please.

20 Mr. WOOLF (*to Witness*): I do not propose to continue much longer. Your wife wrote this letter to you, did she, on the 22nd November, 1948, after Mr. McCormack on your behalf had been seeing her a number of times in the previous weeks and had been trying to persuade her to return to you?—A. He told me he had been seeing her and had been trying to persuade her to return.

Q. Well, then, you next received this letter and you remember of course the general purport of the letter, in which your wife alleged all the things that she claimed had forced her to tell you they had made it impossible for her to return to the home?—A. Yes, I remember that letter.

Mr. WOOLF: It is included, if your Honor pleases, in the bundle in the exhibit which was put in at an early stage.

30 HIS HONOR: Is it? I thought it was not. I thought that the answer was in.

Mr. WOOLF: Yes, that is so, sir, but there is a spare copy of it here before me.

HIS HONOR: Well, perhaps if I see it that will do.

40 Mr. WOOLF: That copy has been carefully checked apart from the last passage in it, your Honor. (*To Witness*): Well, now, Mr. Lang, do you remember that your wife wrote that letter which I have handed to you? Towards the end of the letter you will see these words: "Finally, your "unspeakable conduct on the night of the 13th August in what you have "referred to as the 'great rape' you may realise what an unspeakable "brute you were." Do you remember that passage?—A. I remember that.

Q. When you got that letter you realised that the whole letter was your wife's effort to set out plainly and fully the type of conduct which she had complained of for years and which she claimed had caused her or had made it impossible for her to return to you? Rightly or wrongly, she sent you that letter?—A. I realised that that letter was a typical example of the tirades in which my wife had been indulging for years.

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Q. You so regarded it?—*A.* I did.

HIS HONOR (to Witness) : What she sets out in this letter, does that correspond with the kind of complaints that she had been making over the years?—*A.* She had been.

Q. Of course you realised that the incident of August 13th is fixed to a specific date?—*A.* It is typical of the tirades she indulged in, it is full of mis-statements and inaccuracies and sometimes downright falsehoods which could not be denied in detail.

Mr. WOOLF (to Witness) : She speaks about repeated assurances you had given her. You did not deny, this morning, that you had struck her 10 in the presence of the children, did you?—*A.* I do not think I have admitted that I have struck her in the presence of the children.

Q. Well, his Honor has the evidence. You do know that rightly or wrongly your wife has complained for many years of your disturbing her rest at nights so that she lost needed sleep for years through your conduct at night?—*A.* I know what has been complained of from 1948 or 1947—and not longer.

Q. Well, at any rate, whether you regarded it as a tirade of abuse or however you regarded it, it is clear that she was putting in that letter the conduct that she complained of whether you regarded it as abuse or not? 20 —*A.* No. I regarded it as one of her ordinary tirades. I do not regard it as a record. I regard it as valuable evidence of the type of conduct and the thing she had been indulging in.

Q. Did you not pause and hesitate before you came to the opinion before your assessing it as a tirade of abuse? You were wanting to get her back, were you not?—*A.* I was wanting to get her back.

Q. Regarding the night of the 13th August, you had had a most definite protest from her solicitor on her behalf about the way in which you had treated her that night?—*A.* Yes.

Q. Well now, do you think that this portion of your letter would be 30 likely to make her come back to you when you wrote, "As regards "August 13th in which I can only say that you were a willing party and "thoroughly enjoyed it"?—*A.* That was the truth.

Q. Well, Mr. Lang, do you feel that your wife and her solicitor were going in for some feat of play-acting between the two of them in protesting so strongly about what had occurred on the night of August 13th? If you really believed that your wife enjoyed the experience, well then do you suggest that she and her solicitor between them were staging a lot of humbug in their protests? In their protests about their conduct?—*A.* I do not imagine that she and her solicitor were staging a protest. I regarded 40 that merely as an outburst on the part of my wife and I considered that her solicitor might have been very much misled by her in her previous letter.

Q. It is not suggested that this letter was written without legal advice. What I am suggesting to you is that at the beginning of September you had had Mr. Vroland's letter which contained a very definite protest about the way in which you had treated your wife on the 13th August.

HIS HONOR : Do you think anything is to be got out of going into this any further, Mr. Woolf?

Mr. WOOLF : If your Honor pleases. It is just to emphasise his claim that he wants his wife back and yet he still throws at his wife this accusation that she enjoyed the experience on that night.

HIS HONOR : You can argue all that.

WITNESS : I do not regard that letter of Mr. Vroland's as a protest but, as I have said, as an attempt to put words into her mouth—words that she had not uttered.

HIS HONOR (*to Witness*) : With regard to this letter of your wife, do you think it was your wife's own letter or one that she had written under advice?—A. I obtained certain information that Mr. McCormack was co-operating with my wife.

Q. I am not asking you that?—A. I thought it was written in conjunction with Mr. McCormack.

Q. Who was McCormack?—A. McCormack was this agent.

Q. Your agent?—A. I thought he was, your Honor.

Mr. WOOLF (*to Witness*) : I will pass away from that letter. There is only one other topic that I will deal with. Do you recognise this prominent publication which I will hand to you in the Herald of the 10th October, 1949, with these headings at the top of the matter which I point to you (*indicating*)?

HIS HONOR : What is the purpose of this, Mr. Woolf?

Mr. WOOLF : Your Honor will see the purpose of it almost immediately.

HIS HONOR : Well, is this merely to direct the attention of the witness of the publication in the Herald? It is referred to in the affidavit.

Mr. WOOLF : It may be, sir, but the following phrase is relevant as I shall direct the attention of the witness to it. (*To Witness*) : Do you remember seeing this publication?—A. I do.

Q. And do you see this matter under the heading of "Marriage Upset" (*reads article*). Do you note in particular that phrase, "brought about her present neurotic condition"? Now, let us take this step by step. In your application to the Supreme Court to have that inquest on your father's death reopened you made an affidavit, did you not?—A. I did.

Q. And these quotations in the Herald newspapers were from your own affidavit, which is not disputed?—A. Subject to the alterations which generally occur in the Press, yes.

Q. Very well. So the Press reproduced what was in your own affidavit in support of your application.

HIS HONOR : That is not what he said. He said "subject to the alterations that ordinarily occur in the Press."

Mr. WOOLF (*to Witness*) : Do the quotation and the presentation of that to you cause you to recognise the Melbourne Herald on that occasion?—A. Can I see it again, please? (*Document handed to Witness.*) Yes, I recognise that.

Q. I am not talking to you about what was in your affidavit in support of your application but I ask you, was it with your knowledge and approval that that appeared with your reference to your wife as "neurotic" appearing in the public Press?

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HIS HONOR (*to Witness*): Well, do not answer that. Mr. Woolf, how is that going to help me?

Mr. WOOLF: If your Honor pleases, it will appear from the questions that follow.

HIS HONOR: One does know that the Press get hold of these matters, and I do not see how that can help me in determining this dispute between the husband and wife.

Mr. WOOLF: Very well, your Honor. (*To Witness*): When it did appear in the Press, did you not realise—may I take it that still, right through this time about October, 1949, you were wanting your wife to return to you?—*A.* I was. 10

HIS HONOR (*to Witness*): Well, did you not realise that when that reference to her as this publication states, its preying on her mind in her present neurotic condition, that that would come under the notice of mutual friends and relatives and acquaintances?—*A.* If your Honor pleases.

Q. Did you realise that on its publication in the Press many people would see it?—*A.* May I explain?

Q. At present I do not understand the bearing at all, but what do you want to say about it?—*A.* I merely wish to say that in starting the appeal I did not realise the publicity that would be given to it, and the publicity was exceedingly unwelcome to me and I evaded it as far as possible. 20

HIS HONOR: Yes, very well.

Mr. WOOLF (*to Witness*): I accept that, Mr. Lang. When you felt that the publicity was unwelcome did you realise that the feelings of your wife, whom you wanted to return to you, would be very much wounded and hurt by that publicity?—*A.* Again if your Honor pleases, I realised that her feelings would be hurt but the term was used in as mild a fashion as possible.

Q. Did you say that the publication, just referring to her as being “at present in a neurotic condition” was as mild as possible, that it could have been expressed more strongly? Is that what you say?—*A.* It could have been. 30

Q. If you realised after the publication of this that her feelings would be hurt and if you were wanting her to return, did you further write to her and express regret to her that this publication had hurt her feelings?—*A.* I did not write to her throughout that year because I was then far too busy to write and, if your Honor pleases, I thought it better to clean the whole matter up and present her with an accomplished fact before I made any further approach. 40

Q. You heard her evidence in the witness box that the manner of your father's death was something that she never took an interest in at any time. You heard her say that, did you not?—*A.* I heard that evidence.

Q. If you did not write to her did it occur to you that you could have somehow sent a message to her expressing regret that she had been publicised in the Herald as being a neurotic?—*A.* I suppose I could have.

Q. I suppose you could have?—A. But she was not in any condition to think about the finer points.

Mr. BARTON: I do not desire to further re-examine the witness, your Honor.

(*The Witness withdrew.*)

Mr. WOOLF: May it please your Honor, before Dr. Ellery goes into the box I would submit that the Respondent has sufficiently acknowledged this correspondence and I would ask whether the Scotch College report with respect to the son which I read earlier this afternoon can go into
10 evidence now.

HIS HONOR: I do not think that is of the slightest importance. It is not evidence of any kind. You draw his attention to it and ask him whether that is an accurate description of his son's conduct, and that is the beginning and end of it.

Mr. WOOLF: If your Honor pleases.

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Reginald Spencer Ellery.

REGINALD SPENCER ELLERY (Sworn and examined).

Mr. BARTON: Your full name is Reginald Spencer Ellery?—A. It is.

20 Q. And you are a legally qualified medical practitioner?—A. Yes.

Q. And you carry on practice at No. 33 Collins Street, Melbourne?—
A. That is so.

Q. And you are a specialist in mental diseases?—A. Yes.

Q. Do you remember being consulted by Mrs. Lang in 1943?—A. Yes.

Q. And do you remember what went on when you were consulted by
Mrs. Lang?—A. To some extent I think I remember it still.

Q. Will you just tell his Honor what you remember of that
consultation?

30 HIS HONOR: Are you asking the witness for what he observed and
what he was told?

Mr. BARTON: Yes, your Honor, about what he observed and what
he was told.

WITNESS: I was told chiefly about the conduct of Mr. Lang.

HIS HONOR (*to Witness*): This is what Mrs. Lang told you, is it,
doctor?—A. Yes.

Q. Yes?—A. And I observed that she seemed to have an unnatural
bias against Mr. Lang, that he appeared in her mind to annoy her on every
possible occasion and to do it with a purpose. She did not seem able to
realise that it took two people to make a quarrel, and as far as I remember,

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she never gave me any instance of her having tried to make up the quarrel. That is far as my memory goes, I think, about the occasion when I saw her in November of 1943.

Mr. BARTON (*to Witness*): Did she tell you anything about her own acts?—*A.* I cannot remember in detail all that but my impression is that at that time, having been away from Mr. Lang and then having gone back to live with him, she was displaying rather unpredictable conduct and was displaying unaccountable changes of mood.

Q. Did she say anything about doing things which she afterwards realised were outrageous and uncalled for?—*A.* As the result of my questioning, she admitted that that had happened, that she had some-
times done things which she was sorry for. 10

Q. Yes. Are you able to tell us any more?—*A.* As the result of that interview I thought that she could have been suffering from a meno-pausal disability or mental instability. By that I do not mean that she was insane or any suggestion of insanity but that she was simply emotionally unstable as a result of her age and the change of life, that that could have been the case. On one interview I did not feel disposed to make up my mind other than to say to myself that that could have been the case.

Q. Yes. And did you later communicate that to her husband?—
A. Yes. 20

Q. Did you tell Mrs. Lang that her husband was mad?—*A.* No.

Q. Did you see the two Lang children?—*A.* I do not think I ever set eyes on them.

Q. Did you say "I do not know what your husband wants or why he has brought you and the children"?—*A.* I may have said, "I do not know what your husband wants" but I cannot remember anything about the children.

HIS HONOR (*to Witness*): Had the husband come with her at this interview?—*A.* He had been to see me before that and he may have
come with her. He did not come into the room. 30

Q. Was your seeing her as the result of the arrangement made with him beforehand?—*A.* I believe it was.

Mr. BARTON (*to Witness*): Did Mrs. Lang tell you that her husband had threatened to have her put away?—*A.* That could have been so. I have not got a clear recollection of that but it could have been so.

Q. This mental instability that you speak of, would that be something that would continue if it were left untreated?—*A.* Well, there are two factors there. If it was an inherent thing due entirely to some constitutional condition in Mrs. Lang it would continue if it were not
treated. If it was brought about, as she claimed, by the conduct of her
husband, well, it would disappear when she left her husband. 40

HIS HONOR (*to Witness*): You thought it might be due to her age and the change of life?—*A.* Yes.

Q. Suppose that that were the foundation of whatever instability you observed, would that be likely to continue?—*A.* For some time.

Q. For how long?—*A.* For some years.

Mr. BARTON (*to Witness*): Did Mrs. Lang show any sign to you that she saw her own faults?—*A.* Not voluntarily; only as the result of questioning did she admit that on some occasions she had been in the wrong and had regretted it.

Q. Did she show you any tendency to project her behaviour onto her husband?—*A.* I think she did. I thought her attitude to him was one in which he got the blame for everything and so she projected her own idiosyncrasies or deficiencies onto him.

Cross-examined by Mr. WOOLF.

10 *Mr. WOOLF:* This was in 1943, doctor, 9 years ago, was it not?—*A.* That is so.

Q. Did you see Mrs. Lang on more than one occasion?—*A.* I have no recollection of seeing her on more than one occasion nor have I any evidence of it. I have one evidence written down as of the 29th November, as having had an interview with her, and that is the only record I have and the only recollection I have.

Q. Her version of the meeting with you is to the effect that her husband took the initiative in bringing about the interview?—*A.* I believe that is so.

20 *Q.* Yes, and that he then brought the wife and two children in to see you?—*A.* He could have done that and have left the children in the waiting room. My memory might be wrong but I do not remember seeing those children.

Q. Might this be possible although you do not remember it, that you looked at the children and you made some remark at the time, "Well, I do not see anything very wrong with these kids, or these youngsters" or some similar expression? And then after you made this remark about the children, Mrs. Lang said to you, as I understand, in her husband's presence, "My husband says he will have me put away" and that you then said to her, "I can assure you, Mrs. Lang, that you can have "no fear on that account" or "that you have no fear of that"?—*A.* I cannot remember ever interviewing Mrs. Lang when her husband was present. It would be quite likely that I would say to her, "You need "have no fear of that, of having to be put away," because I could not see any reason for it.

Q. Do you recollect that she made any complaint to you that her husband was of the opinion that her condition was such that she should be put away?—*A.* If you tell me that she did say so, I would say now that she did tell me that.

40 *Q.* She says that she did tell you that?—*A.* And I would have assured her, knowing what she had told me, that that was not possible.

Q. Yes. Well that accords with her own recollection. Did you form any opinion as to whether Mr. Lang was a very calm and well-balanced and self-controlled person, as far as you can remember?—*A.* As far as his conduct with me was concerned, he showed evidence of being well-controlled and a reasonable person as far as anything I had to do with him.

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Q. You stated to his Honor what you said you thought you observed about Mrs. Lang. Did he, Mr. Lang, make a number of complaints about his wife, whatever they were?—*A.* Before bringing her in, I think he did, but in the subsequent years it was always to the effect, "I would like to get her treated, I am sure she would be better for it." And after this occasion when I saw Mrs. Lang there was no further reference from Mr. Lang as to getting her put away. It was always a reference to her treatment.

Q. Did he indicate what he wanted her treated for?—*A.* For what I told him. I thought that might have been the condition—a menopausal nervous disability. 10

Q. But did he indicate to you that part of the conduct he alleged against her consisted of alleged hysterical and childish outbursts such as, for example, throwing herself on a bed and kicking her heels in the air? Do you deny he alleged things like that to you at the time?—*A.* He said similar things to that, yes.

Q. He alleged that?—*A.* Yes.

Q. From your observations of Mrs. Lang, and taking into account what you have just said, did you feel those allegations to be warranted by what you observed—a person who would indulge in tantrums like a spoilt child and who would throw herself on the bed and kick her heels in the air? Did you think from your observations that she would be a person capable of behaving in that way as her husband alleged she had done?—*A.* I cannot answer except to say that it could be possible but there was no evidence that I had got from her that it was so. 20

HIS HONOR (to Witness): In regard to Mr. Lang himself, doctor, I want you to listen to this account and tell me whether it indicates any condition recognisable by you? The evidence is—"One evening early in March, 1943, some friends called in unexpectedly just as the children and I"—this is Mrs. Lang—"were finishing dinner. After they left, about 10.30 p.m., I started to wash the dinner dishes. The Respondent who had been working back, then came in and at once became very angry on seeing me washing the dishes . . . over the kitchen floor." Does that indicate any sort of conduct or condition of mind to you on the part of the man who did that?—*A.* Hysteria or some sort of emotional distress. 30

Q. Yes. I want to put two other questions to you. As shown in the evidence, Mr. Lang said, he was annoyed by the sound of his wife's high-heeled shoes. He asked her to stop and she did not and he then stamped around the floor after her and he said that he found that that had an effect on her and she stopped doing it and thereafter she did not stamp around again. On another occasion there was some slamming of doors and he went and slammed a door so hard that it broke the glass in it and the glass fell out, and he said that that stopped her from slamming the doors. On another occasion he called her a bitch and that had the effect of stopping her tirade against him and thereafter on occasions he 40

called her a bitch and found the same effect. Do these indications show any state of mind of the man to you?—*A.* I should think the same as in respect of the first instance which your Honor read, where he could not control himself on account of some hysterical condition, where loss of control seems to be the chief feature.

Q. And I suppose that if you had loss of control on the part of one party to the marriage it might easily lead to a loss of control on the part of the other party to the marriage?—*A.* Yes, it could.

Q. Suppose that incidents of that sort are established to my satisfaction in regard to the man at about the time when you saw Mrs. Lang, do you think that that might account for some of the symptoms of her behaviour that you saw?—*A.* Yes. If those instances of Mr. Lang's behaviour were true it would account for that.

Q. I am not asking you this now as a medical question, and I suppose that if you have that kind of conduct from each of the parties to the marriage it would be a veritable bear garden?—*A.* Yes.

Re-examined by Mr. BARTON.

Mr. BARTON: If you had a man who was emotionally upset and who would do these acts as his Honor has told you of them, then I suppose the conduct would be more or less cumulative, would it? He would do something and there would be a retaliation and it would go on in a cumulative fashion?—*A.* Yes.

Q. And I suppose overwork would cause the tendency to show up?—*A.* It would be one factor, I suppose. All such things are classed as factors of distress that can produce these changes in personality, and so on.

Q. If Mr. Lang was like that, would that be a condition that he would always have had or might have he acquired it?—*A.* I think it would be that he had acquired it.

HIS HONOR (*to Witness*): And if you are told in addition that he had passed through a period of 103 days in the siege of Tobruk would that be a corroborative feature in your view?—*A.* I think it would be.

(*The Witness withdrew.*)

No. 15.

Albert Edward Howard.

ALBERT EDWARD HOWARD (Sworn and examined).

Mr. BARTON: Your full name is Albert Edward Howard?—*A.* It is.

Q. And you reside at No. 4 Murray Street, Abbotsford?—*A.* That is so.

Q. Over the years, Mr. Howard, you have had a lot of experience in social work, have you not?—*A.* I was connected with a mission at one time, yes.

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Q. And you also had some experience in Commonwealth employment, had you not?—*A.* Yes, that is a fact.

Q. You know the Respondent, Eric Lang?—*A.* Yes, I know Mr. Lang.

Q. Now in 1948 he had been coming to you and discussing his problems, had he?—*A.* I cannot recall when I first met Mr. Lang but he did apply for help or assistance from the Commonwealth Employment Service. And I endeavoured to meet his position as an engineer. I understand that at that time the organisation at which he worked had ceased the project on which he had been working and he was anxious to obtain a governmental position or some decent position outside. 10

Q. And in 1948 he came to you more as a friend?—*A.* I think it was prior to 1948 as I have a little boy who is now 4½ years old and I understand it was just about 3 or 4 months before the birth of that child that Mr. and Mrs. Lang gave us the hospitality of their home at Christmas Hills.

Q. Do you remember an occasion in 1948 when he came to you with a book by Havelock Ellis under his arm?—*A.* Yes.

Q. Prior to that you and he had been discussing the causes of unhappy marriages, had you?—*A.* Yes. Mr. Lang first discussed that with me. He discussed his domestic unhappiness in relation to his boy David of whom he was particularly fond, and at the time David was not very friendly towards his father and he enlisted my aid to see what I could do to effect a reconciliation with him and the boy. 20

Q. On this day when he came to you with the book will you tell his Honor what was said?—*A.* I cannot recall the exact details of the conversation but I well recollect the circumstances of Mr. Lang's seeing me when he had the book by Havelock Ellis with him. He had previously spoken to me about sexual maladjustment between he and his wife on several occasions he mentioned this and when he had the book in his hand he said, "I think I have discovered about Mrs. Lang. I think she is a "masochist." And he said in the course of the conversation that there was a case in the book which gave him the impression that his own domestic life was similarly placed as in the case in the book. He told me of their married life; he told me that he and his wife had had innumerable quarrels and that at times these led to blows but were always followed by reconciliation which was always followed up by sexual intercourse. 30

HIS HONOR: Are you clear that the suggestion came from him?—*A.* Mr. Lang said that to me.

Mr. BARTON: Did you say perhaps she could be a masochist?—*A.* I thought when Mr. Lang said that—I cannot recall the actual words—I said perhaps there may be a masochistic tendency; she may not be an actual masochist but a symbolical masochist. 40

Q. You said assume that she is?—*A.* We discussed a lot about Mr. and Mrs. Lang's sexual relationship. I suggested that if what he said in regard to masochism was right it might be the right thing to use a firmer approach in the sexual approach and act the part of the lover and wooer.

Q. Did you not expect that he had been ?—A. I could not say because Mr. Lang was particularly unhappy. It appeared that every effort was being made to bring the family and friends at enmity by outsiders.

HIS HONOR : This is not being objected to but I do not know how it is evidence.

Mr. BARTON : It is corroborative evidence of what Mr. Lang has said.

HIS HONOR : You cannot give evidence of what took place unless it has some relevance to the case. The suggestion is not that he was cruel but that there is constructive desertion ; the actual conduct was such that this woman could not tolerate it. Once you realise that that is the question to be determined, I do not think this is evidence.

Mr. BARTON : A man is entitled to give evidence *prima facie* ; he is to do something.

HIS HONOR : Suppose he had got advice that the proper thing to do was to hit her on the head with a club would it make it better ?

Mr. BARTON : I think it would make it much better. Once he gives evidence that somebody advised him to do something, and he thought by doing it he could achieve some other end then *prima facie* he is surely not so morally culpable as in the first case.

HIS HONOR : It has not been objected to.

Mr. WOOLF : The stage may be reached when I must object.

Mr. BARTON : Was there any conversation about people in the house interfering ?—A. I thought Mr. Lang mentioned there were a number of friends in the house where they were resident, or used to call in, but I am not certain. He said if only he could have his wife alone and plead with her he thought he could make progress, but other friends were constantly interfering. I rather suggested it was his house and he should forbid other people coming in.

Q. Do you remember the conversation with him ?—A. Unfortunately I am not able to place the time.

Cross-examined by Mr. WOOLF.

Mr. WOOLF : Apart from the qualification and experience you have mentioned you do not hold a degree or a special qualification ?—A. None whatever.

Q. In giving Mr. Lang advice, or concurring as it were in his view point, you did so without seeing Mrs. Lang ?—A. I had met Mrs. Lang on one occasion only in friendly circumstances.

Q. It was a question of travelling by car ?—A. Yes.

Q. On that occasion no question was raised in Mrs. Lang's presence about her side of the matter ?—A. It was much subsequent to my visit to Mrs. Lang.

Q. So you have not had Mrs. Lang's point of view presented to you ?—

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continued.

A. I think I did offer to Mr. Lang that I would see Mrs. Lang on his behalf to see what I could do as to a reconciliation.

Q. When told his statement you thought it might be wise to make a firm approach in sexual matters?—*A.* A more objective further approach.

Q. Would you carry that out to the extent that in your opinion he would be wise to make that approach and persist in any way against his wife's will?—*A.* Certainly not.

Q. Have you been told the undisputed facts—that as he said on the night of the same day he consulted you he had relations with his wife in a different manner, in a more physically vigorous manner than ever before, with more bodily manipulation than ever before; and that she was in the bed for some considerable time unable to find her clothing; that he put the light out; that she tried to get out of bed, and he told her not to—would his conduct of that nature come in what you had in mind?—*A.* No.

(The Witness withdrew.)

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Lionel
Douglas
Dixon.
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Examina-
tion.

No. 16.

Lionel Douglas Dixon.

LIONEL DOUGLAS DIXON (Sworn and examined).

Mr. BARTON: You live in 32 Aroona Road, Caulfield?—*A.* Yes.

Q. You are a minister of religion?—*A.* Yes.

Q. You know both parties?—*A.* I know Mr. Lang. I have met Mrs. Lang.

Q. Do you remember going to Mrs. Lang's premises, 52 Darling Street, South Yarra, in the course of 1951?—*A.* Yes.

Q. It would not be later than June or July?—*A.* About July.

Q. You saw Mrs. Lang?—*A.* No, the first time I went there she was away from home. I saw somebody who told me she was away, and that she would not be back for three weeks.

Q. You went again?—*A.* I went probably in August and saw Mrs. Lang. That was by myself.

Q. What was said?—*A.* I told Mrs. Lang that I was a minister of the Collins Street church and had come to talk to her about her husband. She said there was no need to talk about him. Many people had approached her with a view to reconciliation. Many ministers had come, and there was no point in having a conversation. I pressed her for a conversation, and she asked me inside. I said I knew Mr. Lang from other days and had hoped some reconciliation was possible. But she made it clear that no such reconciliation would be possible, and there was no point in having

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the conversation. Although she was very polite I understood there was no chance of a reconciliation.

Q. She mentioned something about not loving her husband?—*A.* She was quite definite that any love that had existed had gone.

Q. Did she say something about a woman living with a man she does not love?—*A.* I think she said I would not expect her to live with a man she did not love, and said I would agree.

10 *Q.* Did she say something about being cruelly treated?—*A.* She said that I had probably one side of the story, and that her own side was something that she really did not want to talk about. I was not particularly interested, but I did understand that she had a side.

Q. Did she say whether she wanted to meet Mr. Lang?—*A.* She was adamant that she did not want to meet him at all under any circumstances, and that it was fruitless for me to pursue the conversation.

Q. About three weeks or a month later you went there again?—*A.* I went with Mr. Lang on September 3.

20 *Q.* There was a certain stage in which Mrs. Lang came into the picture?—*A.* When I went with Mr. Lang I think the son opened the door. I did not see him. Mr. Lang had a conversation with him and asked to see his mother.

Q. Did his mother appear?—*A.* She came not to the front door but to a door leading into the room. I saw her.

Q. What was said while she was there?—*A.* Mr. Lang appealed to her to come back home. The words that I remember particularly were—“I ask you in the name of Jesus Christ to come back home if not for our sakes for the sake of our boy.”

Q. What did Mrs. Lang say?—*A.* I think, “I have no wish to speak with him or to have anything to do with him.” At that point she asked the boy to close the door.

30 *Q.* On the occasion of the first visit did you tell Lang what had happened?—*A.* Yes.

Cross-examined by Mr. WOOLF.

Mr. WOOLF: It is clear that Mrs. Lang told you you had heard only one side of the story?—*A.* Yes.

Q. Would you have regarded it as possible that the other side might have been the story of a woman who had been hopelessly wounded and offended?—*A.* I was prepared to agree that there was another side, but I did not think Mrs. Lang wanted to tell it to me. I was not particularly interested in listening to her.

40 HIS HONOR: Did you know of the incident of the 13th August when you saw this woman?—*A.* I have not been in Court, and so I am not sure what went on that night. Mr. Lang did tell me of certain incidents. I did not listen to the whole story. I hoped there might be some reconciliation.

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HIS HONOR: Will you look at paragraph 4 of the affidavit in support?—*A. (Reads).* He told me some of it.

Q. I would like to add something to that. The whole of her clothing was taken off, and after the act described there the husband removed the fuse from the light switch so that there could be no light in the room. Her clothing was removed from the room and she was left without any clothing, not even a nightdress up to 10.30 or 11 that night. Had you known those details would you have felt you could have asked that woman to overlook conduct of that kind to go back?—*A.* I have known Mr. Lang for nearly 35 years. For the sake of the friendship I would have felt that I could have proposed to talk to her. It was my hope that I could get them together and talk the thing together as a go between. 10

Q. Does it not strike you as repulsive conduct that no decent woman should be asked to tolerate?—*A.* As you have told me it is.

(The Witness withdrew.)

No. 17.
Canon
Raymond
Mansfield
Hudson.
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tion.

No. 17.

Canon Raymond Mansfield Hudson.

CANON RAYMOND MANSFIELD HUDSON (Sworn and examined).

Mr. BARTON: What is your address?—*A.* St. James Vicarage, 18 Noellvan Street, Ivanhoe. 20

Q. You are a minister of religion?—*A.* Yes.

Q. During 1950 at Mr. Lang's request, did you go to 52 Darling Street, South Yarra?—*A.* I did.

Q. Did you see Mrs. Lang?—*A.* Yes.

Q. What was the conversation between you and Mrs. Lang?—*A.* It was really very short. I told her that I was Canon Hudson and that I had come at the request of Mr. Lang to see whether the marriage trouble could be fixed up between them. She told me I was only one of several ministers Mr. Lang had sent out, and that she had no love for him, and there she felt nothing could be done. 30

Q. Did you later tell Mr. Lang?—*A.* Yes.

Mr. WOOLF: I have no questions.

(The Witness withdrew.)

No. 18.

Frederick Yule Cowie.

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FREDERICK YULE COWIE (Sworn and examined).

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Mr. BARTON : Where do you live ?—A. 72 Hope Street, Bendigo.

Q. By whom are you employed ?—A. I am employed by the State Electricity Commission.

Q. You were often in the Lang home in 1928 and onwards ?—A. Yes.

Q. You saw the two Lang children ?—A. Yes.

10 A. I describe them as spoilt brats.
Q. Will you tell his Honor how the children were brought up ?—

A. David was a small kid. I don't know what age Barbara was.

Q. David was born in 1929 and Barbara in 1925—when does your recollection begin ?

Mr. BARTON : They were young children ?—A. Yes.

His HONOR : You mean up to 1948 ?—A. Yes, up to 1948.

Q. You have known them practically all their lives so far as David is concerned, and Barbara's life except the first three years ?

20 A. Definitely spoilt, more so today.
Mr. BARTON : How were they brought up ? Were they spoilt ?—

Q. When you saw them given commands what happened ?—A. They would continue to do as they were doing ; they would take no notice.

Q. Did you see anything done in enforcement of the command ?—A. No.

Q. In 1944 on one Sunday evening you were at Lang's home at dinner ?—A. Yes.

Q. Who else was there ?—A. Mr. Jowett.

Q. After dinner, you, Mr. Jowett, Lang and David were in the dining room ?—A. Yes.

30 Q. Where was Mrs. Lang ?—A. In the kitchen which is off the dining room.

Q. You were having a discussion ?—A. About soil erosion.

Q. You had all had experience of that ?—A. Yes.

Q. It was a serious discussion ?—A. Yes.

Q. What was David's attitude towards the conversation ?—A. He was chipping in ; he was trying to join in the conversation.

Mr. WOOLF : I submit that this is not evidence.

40 His HONOR : The point about this evidence is as to the conduct of the children. That is one of the causes, according to the Respondent, for the trouble between him and his wife ?—A. His father said, " David, " be quiet. Children ought to be seen and not heard."

Mr. BARTON : What happened then ?—A. His mother said, " You " have your say, David. You are entitled to be heard." It was the first time in my life that I had heard her in any sort of a rage.

Q. Was she in a rage on this occasion ?—A. Yes.

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HIS HONOR: At what time did you ordinarily visit the home?—
A. I was there about 1944. I was stationed at Broadmeadows, and used to go there weekends, and sometimes at nights.

Q. You saw them frequently?—A. Yes.

Mr. BARTON: Did Mrs. Lang say anything to Mr. Lang?—A. Not at that time, but she said David was entitled to have his say; it was not pressed generally.

Q. She said, "David, you have your say"?—A. Yes.

Q. Did Lang make any reply?—A. No, he shut up like a book.

Q. Did David do anything?—A. I think Mr. Jowett and I had a funny 10 feeling, and the conversation died out. It was hopeless to carry on.

Q. In September, 1949, did you see Mrs. Lang?—A. I did.

Q. At her place?—A. Yes.

Q. What happened?—A. I went to Mrs. Lang's place of business and was greeted nicely. It was about 5 o'clock. She gave me the impression she was pleased to see me. She said, "I am about to knock off; wait "a minute." I went down in the lift. I introduced her to Rev. Williams.

Q. Was somebody else there?—A. Mr. and Mrs. Langridge. I did not introduce them because I knew she had met them. When I introduced her to Mr. Williams she said, "What sort of a trap is this?" I said, 20 "We'll have tea together." Mr. Williams wants to talk over whether the "marriage can be patched up."

Q. What did she say?—A. She said, "I refuse to discuss it." I said, "We'll have tea together. Then she made a statement that might have hit the nail on the head a bit.

Mr. BARTON: What did she say?—A. "You are uneducated and "ignorant."

Q. Did you take any further part in the conversation?—A. Not after that statement.

Q. Did you hear Mr. Williams say anything?—A. I heard him say, 30 "Now we will talk this over. Broken marriages are hopeless, and usually "they can be patched up when things are talked over." Mrs. Lang's only reply was, "I refuse to discuss it." Then she walked off.

Q. Did you tell Lang?—A. Yes.

HIS HONOR: You had to see her at Lang's request?—A. Yes.

Cross-examined by Mr. WOOLF.

Cross-exam-
ination—

Mr. WOOLF: During the years you went to the house often?—A. That is right.

Q. Starting perhaps in 1928, and then you speak of the incident in 1944. You had gone to the house and seen the husband and wife under 40 varying conditions at different times?—A. That is correct.

Q. Did you see any sign of temper on the part of one towards the other?—A. No.

Q. May it not be said that if Mrs. Lang had been a very bad tempered woman you might have observed signs before 1944?—A. I don't know but she showed none.

Q. Had you been asked by Mr. Lang to get a clergyman and other people as a sort of deputation to see his wife? He would not have a part in getting Mr. Williams and Mr. and Mrs. Langridge to come without Mr. Lang?—A. Not in engaging them to get Mrs. Lang to meet them; I did.

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HIS HONOR: It was not chance that the people went down in the lift; you knew they would be there?—A. Yes, definitely.

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Mr. WOOLF: Mrs. Lang may have expressed herself sharply and not courteously to you, but she made it clear that she did not consider you
10 qualified to intervene between her husband and herself?—A. If that is what she meant I don't think the words covered it.

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Q. She showed she did not wish to discuss the matter with you?—
A. She could have put it in better terms.

Q. I am not suggesting that she spoke to you in an entirely courteous and suitable way, but she made it clear that she did not consider you qualified to intervene in the relations between her and her husband?—
A. I took it as an answer that a really uneducated person could not be up against that sort of person.

Cross-exam-
ination—
continued.

Mr. WOOLF: But she took the same attitude with Rev. Williams—
20 that she did not want to discuss the matter with either you or the Rev. Williams?—A. Yes, she took up that attitude towards Rev. Williams.

Q. And to you?—A. I did not take it by the words "uneducated and ignorant." She could have said—"I do not think you are qualified; I do not want to discuss it with you."

(The Witness withdrew.)

HIS HONOR: Is that your case Mr. Barton?

Mr. BARTON: Yes, if it pleases your Honor.

No. 19.

Judgment of Lowe, J.

30 HIS HONOR: This case has been very elaborately presented to the Court and very elaborately argued on the part of the Respondent. But over the week-end I have had an opportunity of going through the transcript of evidence and looking at the other material which has been put in evidence, and I entertain no doubt as to what my conclusion should be in this case. Under those circumstances nothing is to be gained by reserving my Judgment, and I shall now give it.

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This is a wife's petition to dissolve the marriage on the ground of her husband's desertion. In fact it was she who left the matrimonial home and therefore the case is one of what has come to be known as constructive
40 desertion. The term has been a good deal criticised, but for my part

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I must accept it that constructive desertion, if proved, is sufficient ground for the dissolution of the marriage.

The matter has been very recently discussed in the High Court in the case of *Baily v. Baily*. It is reported in (1952) A.L.R. 715. That case makes it plain that the test which has to be applied in these cases is one either of actual intention by the husband to bring the matrimonial relationship to an end or an intention on his part to persist in a course of conduct which any reasonable person would regard as calculated to bring about such a result. It is the second limb of that test which is relied upon in this case, namely, that the facts are such as to show an intention on the husband's part to persist in a course of conduct which any reasonable person would regard as calculated to bring about a rupture in the matrimonial relationship. 10

Apart from one contention which was put to me by Mr. Barton during the course of his argument, that is practically the whole of the law which I have to apply here. But before I consider the facts I will advert to a proposition which Mr. Barton put to me. He argued that here the facts show that there had been an actual breakdown of the matrimonial relationship before the 13th August when an event occurred which bulks very largely in the Petitioner's case and he put it that where there is so little left of the matrimonial relationship, or nothing left of it, then the act relied upon of the 13th August could not possibly operate in law to terminate the matrimonial relationship. 20

Such an argument disregards the many cases which are presented and accepted in this Court in which the cumulative effect of a series of incidents ultimately brings one party to the conclusion that the state of affairs is so intolerable that that party must leave the matrimonial home.

Proverbially, it is the last straw that breaks the camel's back, but it would be absurd to suggest that all you have to take into account, in considering the camel's condition, is the last straw. I reject that argument. I think it is not in accordance with the law I have to apply. 30

Before stating the facts which I find in this case I propose to indicate my view of the parties to the suit. In the course of the husband's evidence he told me, "Normally I have a very philosophic outlook as to life. I am not of a worrying nature." In the box, however, he showed himself to be a man emotionally and nervously unstable. And at the beginning of his evidence he was overcome in a way I have never before seen in a man witness. His condition was reminiscent of the descriptions one has read of a person who has suffered from shell shock.

That condition in the box made it easy however to understand some of the evidence which I have heard as to his conduct. It may explain but it cannot justify his acts and it cannot alter the effect of those acts. 40

As to the wife's evidence, she gave her evidence clearly and calmly and with dignity, and I think her evidence was not really affected by the cross-examination directed to her. Her story is corroborated too at many points by other evidence which was given before me. I accept the Petitioner's evidence in substance, and where there is any conflict between

the evidence of the parties I think her evidence, corroborated as it is, is more reliable than that of the Respondent.

It is to the credit of both parties that on several occasions they readily made admissions of matters which told in favour of the other party.

10 Having said so much, I shall now indicate what facts I find to be established by the evidence, keeping in mind what the High Court said in *Baily's* case and what every Judge who has experience in this jurisdiction knows, that it is an extremely difficult thing to convey to any Court an adequate picture of the matrimonial situation which has persisted over a number of years. The matrimonial relationship was fairly happy in this case for a number of years though there were some incidents which occurred which resembled those which I shall deal with more particularly at the later period.

20 I think there may well have been some provocation on the Petitioner's part for some of the acts which the Respondent was guilty of. But I take up the story in some detail from the Respondent's return from the Middle East in 1942. He had been on active service, and that was the time of his return. In a conversation with his son—and the substance of it was repeated to others—he said that thence-forward he was going to be master ; and when the son asked him whether that meant that he was going to knock his mother about he said that was the only thing she understood. From this time on, I find a series of constant disturbances and acts of violence on his part.

30 There were slaps and punches which he administered to the Petitioner on the face and the body. He struck her on occasions with a ruler and with a cane and with a slipper and did this in the undignified way, on occasion, of placing her across his knee and administering punishment in that way. There were bruises put upon her body by these means and the bruises on occasion were seen by other people. He twisted her arms behind her back and so caused her pain, and on occasion he so held the twisted arms in a position that continued for nearly an hour, and when the police arrived, on the summons of one of the children, he was still holding his wife's arms in that position. On two occasions at least he dragged her by the hair into the bathroom and held her under the cold shower. He abused her and he constantly called her a bitch, and there were nightly disturbances created by him, destroying his wife's rest.

40 Now, that is a series of incidents and a course of conduct which persisted over several years. She told him on a number of occasions that if he continued that conduct she would have to leave as that conduct was affecting her health. And on one occasion she did leave, and left for some little time. I shall deal with that more particularly, but on another occasion she left and walked the street for the night so that she might not stop in the house.

Then there were a series of incidents of childish conduct on the part of the Respondent and I propose now to mention some of these—which certainly did not tend to make happy the lives of both parties in the house. He was annoyed by what he thought was her deliberate stamping about

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through the house while he was working and in order to stop it he followed her and he himself stamped through the house, and he says that that led to the cessation of her stamping.

Again he was annoyed by the slamming of doors and he on one occasion slammed a door so hard that the glass in the door was thrown out and smashed. And that, he said, stopped her from slamming the doors. He threw crockery on the floor, and on two occasions he created a filthy mess on the kitchen floor, accompanying it with the statement, "You have made a mess of my life and I will make a mess of yours," and, I think, there was a variation of the statement in the form, "You have 10
"wrecked my life and I will wreck yours." He emptied the contents of the two garbage tins on the floor. He threw the contents of canisters from the pantry on the floor. He threw earth on the floor and water on the floor, and he left an almost indescribable mess on the floor for her to clear up.

One of those incidents was the occasion when she left the house and walked the street all night rather than remain longer in it. His justification for the second occasion, as he gave it, was that she had been tired when he went out earlier in the evening; that he told her to go to bed but that visitors having come, she entertained them and on his return 20
she was engaged in washing up the dishes. And this it was that made him embark on this particular instance of messing up the kitchen floor.

I have mentioned that she left on one occasion and at his solicitation she returned, and she remained there, to use her language, for five years of misery as the result. I have said that the conduct was such that the police were called in and that happened on two occasions. One, I think, was in July, 1948, and again, I think, on the 13th of August, 1948. In an attempt to curb his conduct the Petitioner threatened that she would speak to the managing director of his company, and he then left. And then there was a series of communications between his solicitor and the solicitor 30
for her the result of which was that he was allowed to come back into the house but on a promise that there would be peace and harmony when he came back, and she understood him also to say that she would be left alone.

Having returned under such conditions, within a period of two days he took advantage of an opportunity when the two of them were alone in the house and then, on the 13th of August, 1948, he forced sexual intercourse upon her in circumstances of calculated and revolting indignity. She was then a woman of 49 years of age. And having perpetrated this act, he told her that he was going to use her for that purpose whenever he wanted to and as often as he wanted to. He has given some explanation 40
of the act, that apparently he had had advice from one whom he saw and also from the reading of books, and his conclusion was that "caveman stuff," as he described it, was the only thing that women understood. And I suppose one ought to infer from that that what he did on this night of the 13th of August was what he conceived to be "caveman stuff." I, of course, am not called upon to determine whether a cave man would so have acted or even countenanced the kind of action that he took, and it may be

that to attribute such an attitude to a cave man would be to do him an injustice.

What I have to apply is the standard of a more civilised and humane age and that standard is what I have already read from the judgment in *Baily v. Baily*. Now, I have no doubt that the course of conduct which I have described indicates an intention to persist in a course of conduct which any reasonable person would regard as calculated to bring about a rupture of the matrimonial relations, and consequently I think that his conduct does amount to constructive desertion.

10 In reaching this conclusion I have not relied upon the intimation given to a Mr. Halford prior to the 13th of August that the "Rape of "Lucrece" would take place. It was not until after that date that Petitioner learned of that statement and it had in no way operated on her mind in leaving him. But the fact cannot be put out of sight in considering whether the desertion has continued for three years and upwards. It is relevant in considering the sincerity of the Respondent to his offers to end the desertion.

20 It is a trite law that he may end it, by the sincere and *bona fide* offer to re-establish the matrimonial relationship. There is a mass of evidence of offers on his part both by letters and by means of personal emissaries to his wife to come back to him, offers which the Petitioner persistently refused, and I have to consider in the last argument put by Mr. Barton whether these offers were sincere and were such that they ended the desertion or made it necessary at least for his wife to consider them.

30 Now, an offer in order to determine desertion which is running must be an offer of a home which is free from the objectionable circumstances which have brought about the other spouse's departure. If it were otherwise, a renewal of the objectionable conduct would again be justification to the spouse to whom the offer was made to leave again, and so the matter might go on *ad infinitum*.

Moreover it is clear on authority that the offer must be of a normal matrimonial home, and I refer to what was said by Barry, J. in the case of *Merry v. Merry* (1948) V.L.R. 26, at p. 36. Now in this case, having regard to all that had taken place, to this man's prior statements and his statement that he was going to use his wife for the same purpose whenever he wanted to and as often as he wanted to and to his conduct notwithstanding her threats to leave him—all these matters lead me to think that these were not sincere and *bona fide* offers.

40 There is nothing in any of the letters which have been brought to my attention, nothing in any of the offers made which indicates or suggests that if the wife came back to the home it would be a home free of these objectionable features which had brought about her departure.

And for that reason, although in one sense the offers might be said to be sincere—sincere in the sense of the desire of the Respondent to have her back—they are not sincere in the sense that he offers her a normal home, free of all this objectionable type of conduct that had taken place. On the whole of the evidence before me I think the only home he was prepared to establish was a home that would leave him free to resume the same

In the
Supreme
Court of
Victoria.

No. 19.
Judgment
of Lowe, J.
22nd
September,
1952—
continued.

In the
Supreme
Court of
Victoria.

No. 19.
Judgment
of Lowe, J.
22nd
September,
1952—
continued.

course of objectionable conduct as he had pursued in the past and which had led to the wife's departure. But the wife need not go even as far as that to show that the offer was not sincere. It would be sufficient to justify her in refusing the offer if she had a reasonable apprehension that the conduct which had driven her out might be resumed. That is laid down clearly enough in the case cited by Mr. Woolf in his opening address—*Thomas v. Thomas* [1924] P. 194, at p. 199. And in this case, putting the evidence at the very lowest, I think it justified the wife in having a reasonable apprehension that if she accepted any offer made by the husband to return, it would be to a repetition of the kind of conduct that had driven her out of the house. 10

For all these reasons I think that the desertion, which I have found was desertion on the husband's part some time after the incident of the 13th of August, 1948, has never been cured by any action on the husband's part.

I ought to add that desertion is a question of fact and whether a *bona fide* offer has been made is a question of fact and statements taken from the reports of other cases, though appropriate enough to those cases, do not determine what is proper where the facts are very different.

The result is that there must be a Decree Nisi on the ground of 20 desertion, with costs.

No. 20.
Decree
Nisi.
22nd
September,
1952.

No. 20.
Decree Nisi.

THIS CAUSE coming on to be heard on the 12th, 15th, 16th, 17th, 18th and 19th days of September 1952 and this day before this Court in the presence of Counsel learned for the Petitioner and the Respondent AND UPON READING the Pleadings herein AND UPON HEARING evidence of the several witnesses called on behalf of the Petitioner and Respondent respectively taken upon their oral examination at the hearing and what was alleged by Mr. Woolf of Counsel for the Petitioner and by Mr. Barton 30 of Counsel for the Respondent THIS COURT DOETH ORDER AND DECREE that the marriage celebrated between the Petitioner and the Respondent on the 8th day of November 1924 at Kent Town in the State of South Australia by the Reverend William A. Dunn according to the rites of the Methodist Church BE DISSOLVED on the ground that the Respondent has without just cause or excuse wilfully deserted the Petitioner and without any such cause or excuse left her continuously so deserted during three years and upwards UNLESS within three months from the date of this Decree Nisi sufficient cause be shown to this Court why this Decree Nisi should not be made absolute AND THIS COURT DOETH FURTHER 40 ORDER that the questions of alimony or maintenance *pendente lite* and permanent maintenance be reserved AND that the Petitioner's costs of this cause be taxed and when taxed be paid by the Respondent to the Prothonotary for the Petitioner but not to be paid out to the Petitioner until this Decree Nisi shall have been made absolute.

No. 21.

Notice of Appeal to the High Court of Australia.

In the High
Court of
Australia.No. 21.
Notice of
Appeal.
30th
September,
1952.

TAKE NOTICE that the Full Court of the High Court of Australia will be moved by way of Appeal at the first sittings in Melbourne of the said Full Court of the High Court for the hearing of Appeals held after the expiration of one month from the due institution of this Appeal or as soon thereafter as Counsel can be heard by Counsel on behalf of the abovenamed Eric Lang (Respondent) Appellant for an Order or Judgment that the whole of the judgment given or pronounced herein by His Honour Mr. Justice Lowe on the Twenty-second day of September One thousand nine hundred and fifty-two whereby it was adjudged or ordered that a Decree Nisi for dissolution of Marriage be granted on the Petition herein on the ground that the (Respondent) Appellant did without just cause or excuse wilfully desert the (Petitioner) Respondent and without any such cause or excuse left her continuously so deserted during three years and upwards and that the (Respondent) Appellant pay to the (Petitioner) Respondent her taxed costs of and incidental to the Petition and that the question of alimony and maintenance be reserved BE REVERSED AND SET ASIDE and that in lieu thereof there should be pronounced judgment that the Petition be dismissed with costs or alternatively that there be a new trial of the issue whether the (Respondent) Appellant did without just cause or excuse wilfully desert the (Petitioner) Respondent and without any such cause or excuse left her continuously so deserted during three years and upwards and FURTHER TAKE NOTICE that the grounds on which the (Respondent) Appellant intends to rely in support of this Appeal are as follows :—

1. THAT the Judgment was erroneous in fact and in law.
2. THAT the Judgment and/or findings of fact were against the evidence and the weight of the evidence.
- 30 3. THAT the learned Trial Judge was in error in holding that the (Respondent) Appellant did without just cause or excuse wilfully desert the (Petitioner) Respondent and without any such cause or excuse left her continuously so deserted during three years and upwards.
4. THAT the learned Trial Judge was in error in holding that the (Respondent) Appellant was guilty of constructive desertion of the (Petitioner) Respondent by reason of an act committed on the Thirteenth day of August One thousand nine hundred and forty-eight because—
 - (A) There was not any consortium or matrimonial relationship in existence between the parties on the Thirteenth day of August One thousand nine hundred and forty-eight—
 - 40 (B) The act could not have amounted to an expulsion from any matrimonial relationship.

In the High
Court of
Australia.

No. 21.
Notice of
Appeal.
30th
September,
1952—
continued.

5. THAT the learned Trial Judge should have held that the (Respondent) Appellant did not possess the animus or state of mind requisite to the proof of constructive desertion.

6. THAT the learned Trial Judge should have held that the (Respondent) Appellant terminated the alleged desertion prior to the expiration of three years from the date at which it is alleged to have commenced.

7. THAT the learned Trial Judge should have held that by the attitude which the (Petitioner) Respondent took up after the alleged desertion had commenced and before the expiration of a period of three years from the commencement of the alleged desertion— 10

(A) The (Petitioner) Respondent caused the alleged desertion to continue or at least prevented the possibility of its termination—

(B) The (Respondent) Appellant had reasonable cause for not trying to bring the alleged desertion to an end.

8. THAT on the evidence the Petition should have been dismissed with costs.

DATED the thirtieth day of September One thousand nine hundred and fifty-two. 20

No. 22.
Judgment
of Dixon,
C.J.
23rd
February,
1953.

No. 22.
Judgment.

DIXON, C.J. : This is an Appeal from a decision of the Acting Chief Justice of Victoria by which he pronounced a decree nisi in a suit for divorce. It was the wife's suit and the ground of the suit was desertion. The marriage took place on 8th November 1924 and there are two children of the marriage, a daughter born in 1925 and a son born in 1929. The desertion which the learned judge below has found against the Respondent is of that kind which is commonly called, or miscalled, constructive desertion. The separation between the parties finally took place in August 1948, or possibly it might be said that it finally took place in September. The incident which brought it about was a culmination of a long course of ill-treatment which the wife endured at the hands of the husband. When that course of conduct on his part began and how it took its origin is not perhaps easy to say, but there is evidence that as far back as 1937 he expressed some resolve to dominate her physically and from that period onwards there developed recurrent attempts upon his part by all physical means to subject her to his will and to intimidate her, insult her and express his resentment. The occasions calling forth exhibitions of this conduct 30

cannot, of course, at this distance of time be ascertained with any clearness. But he seems to have found in her attitude from time to time some reason or other for saying that his own nature was so worked upon as to result in emotional upsets and in temperamental outbursts on his part in which he behaved in this very reprehensible manner. Indeed, a part of his case seems almost to amount to a claim that allowance should be made for a certain degree of temperamental irresponsibility on his own part. I shall not take the course of recounting these painful incidents, which have been sufficiently described in the course of a dispassionate, clear and

10 painstaking argument by Mr. Barton. It will be enough for me to say that by the expression of his rather passionate nature, the exercise of physical force and the use of insulting methods of speech the Appellant made his wife's life, as I should think, completely unendurable, and I speak from the point of view of one who has only read the evidence. She, however, continued to endure it over a long period of time, until finally she appears to have come to the conclusion, after a dreadful incident of a most extraordinary description on 13th August 1948, that she would be incapable of enduring such conduct any longer and to have determined finally, and I think conclusively, that the relationship between them had to end. The

20 only thing that appears to be remarkable to me is that she did not come to that conclusion years before.

In the High Court of Australia.

No. 22.
Judgment of Dixon, C.J.
23rd February, 1953—
continued.

However, in questions of constructive desertion it is necessary to remember that the desertion depends on a factum and an animus, to use the terms which are now more fashionable than English words. The factum means the physical separation and the animus the intention of the deserting party. The physical separation in this case must probably be regarded as her act in the end, although on 13th August it was he who actually separated himself from her.

The question then is his intention. Now this was a subject with

30 which the Court dealt quite recently in the case of *Baily v. Baily* (1952), A.L.R. 715. The Court consisted of Mr. Justice Webb, Mr. Justice Fullagar and myself. After a great deal of consideration we formulated what we thought was the conclusion which the cases in this Court, in common with the cases in the United Kingdom and those in the various States of Australia, established and it was formulated in very brief terms: "The cases seem to show that what must be proved is either an actual "intention to bring about a rupture of the matrimonial relation, or an "intention to persist in a course of conduct which any reasonable person "would regard as calculated to bring about such a rupture." (p.717). Lowe, J.,

40 found without any hesitation that there was in this case an intention to persist in a course of conduct which any reasonable person would regard as calculated to bring about such a rupture. It is suggested, however, that such a formulation of the criterion is inconsistent with that which the Court of Appeal has recently expressed in the case of *Bartholomew v. Bartholomew* (1952), 2 A.E.R. 1035. I am by no means prepared to concede that there is such an inconsistency. The two ways of expressing the test

In the High
Court of
Australia.

No. 22.
Judgment
of Dixon,
C.J.
23rd
February,
1953—
continued.

are not likely to produce any difference in practical result. Here what the facts suggest is a very general intention to persist in a course of conduct completely inconsistent with the maintenance of any matrimonial relationship. And as pointed out in the course of argument, it is not easy to draw a line between an intention to destroy a thing and an intention to take a course completely inconsistent with its existence. Actually the argument advanced in the present case is that the Appellant, the Respondent in the suit, never desired that his wife should leave him but that he was to a great extent the victim of his own nature and of his own temperament and that his actions were not accompanied by an intention that she should cease to remain on the footing of a wife with him and that the matrimonial relationship should be completely destroyed. That argument appears to me to overlook the fact that his own states of mind were not constant, that when he was exhibiting these temperamental states which were all too frequent and perhaps were less “temperamental” than was represented, he was full of animosity against his wife and full of an intention to cause her pain, do her harm and make her condition as a wife completely intolerable. It may be that, when they passed, or after there had been a reconciliation, the intention also passed. But it quickly arose again. It appears to me to be useless to present this case as one in which an intention of destroying the matrimonial relationship was always absent from his mind. The case to my mind is completely described by the language used by Mr. Justice Isaacs and Mr. Justice Rich in *Bain v. Bain* [1923], 33 C.L.R. 317, at p. 325. Their Honours said:—

“A man may intend to retain his wife’s presence, but also
“at the same time to pursue a certain line of conduct. If at all
“hazards he deliberately pursues that line of conduct, his
“intention to retain his wife’s presence is conditional on or
“subservient to the other intention. If his conduct is such that
“his wife, as a natural or necessary consequence, is morally
“coerced into withdrawing, it cannot be said with any truth that
“the husband intends her to remain. He knows in that case
“that the result of his deliberate act will be and is his wife’s
“withdrawal, and, therefore, in every real sense he intends that
“withdrawal.”

To my mind the facts show that on countless occasions he must have been in the state of mind of knowing that what he was doing would necessitate her withdrawal if she acted as any reasonable creature would. However, he was able time after time to regain a certain amount of her womanly confidence and womanly sympathy. As a result there was no final separation until at last she felt it inevitable.

The second answer made in this case by the Appellant is that she has refused offers of reconciliation, that is offers to terminate the separation. To anybody experienced in cases of this description it should be plain that the history of this marriage shows that it would be practically hopeless to expect sustained and continual reformation on the part of the husband.

Indeed his case is that he acted in accordance with the temperamental and uncontrollable factors of his nature. That he would resume his behaviour of the past is to my mind almost as clear as anything resting in prophecy can be. She acted on that view in refusing these offers. They were offers which one could hardly believe to be completely sincere. At all events she knew that the implications of the offers would never be fulfilled. It is important to observe that they did not contain any express statement of repentance, or contrition, or promise of reform. The most that can be said is that she refused to entertain overtures which no reasonable person could regard as in any degree likely to lead to a tolerable matrimonial life. In my opinion her refusals were entirely reasonable and proper and the desertion which commenced was not terminated by any offer made by her husband. I am therefore of opinion that the Appeal should be dismissed with costs.

In the High Court of Australia.
No. 22.
Judgment of Dixon, C.J.
23rd February, 1953—
continued.

No. 23.

Judgment.

FULLAGAR, J. : I entirely agree.

No. 23.
Judgment of Fullagar, J.
23rd February, 1953.

No. 24.

Judgment.

20 KITTO, J. : I agree.

No. 24.
Judgment of Kitto, J.
23rd February, 1953.

In the High Court of Australia.

No. 25.

Order Dismissing Appeal.

No. 25.
Order dismissing Appeal.
23rd February, 1953.

No. 46 of 1952.

IN THE HIGH COURT OF AUSTRALIA.
PRINCIPAL REGISTRY.

ON APPEAL FROM THE SUPREME COURT OF THE STATE OF VICTORIA
IN ITS DIVORCE AND MATRIMONIAL CAUSES JURISDICTION.

Between

ERIC LANG *Appellant*

and

JEAN WAUCHOPE LANG *Respondent*

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Before their Honours the Chief Justice Sir OWEN DIXON, Mr. Justice FULLAGER and Mr. Justice KITTO.

Monday, the Twenty-third day of February 1953.

THIS APPEAL from the Order of the Supreme Court of the State of Victoria made by His Honor Mr. Justice Lowe on the 22nd day of September 1952 whereby it was ordered and decreed that the marriage celebrated between the Appellant and the Respondent on the 8th day of November 1924 at Kent Town in the State of South Australia by the Reverend William A. Dunn according to the rites of the Methodist Church be dissolved on the ground that the Appellant has without just cause or excuse wilfully deserted the Respondent and without any such cause or excuse left her continuously so deserted during three years and upwards unless within three months from the date of the said Decree sufficient cause be shown to the Supreme Court of the State of Victoria why the said Decree Nisi should not be made absolute coming on for hearing before this Court on the 20th and 23rd days of February 1953 UPON READING the transcript record of the proceedings herein AND UPON HEARING Mr. Barton of Counsel for the Appellant and Mr. Woolf of Counsel for the Respondent THIS COURT DOTH BY CONSENT ORDER that the Appellant be at liberty to amend the grounds stated in the notice of appeal herein dated the 30th day of September 1952 by substituting for ground 4 thereof the following grounds, namely :

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- 4 (a) That in the absence of any finding of fact that the matrimonial relationship was brought to an end by or in consequence of any conduct relied upon, the learned Trial Judge should have dismissed the Petition.

Alternatively :

4 (b) That the learned Trial Judge should have found that the matrimonial relationship was not brought to an end by or in consequence of any conduct relied upon.

AND THIS COURT DOTH FURTHER ORDER that this Appeal be and the same is hereby dismissed AND THIS COURT DOTH ALSO ORDER that the Costs of the Respondent of this appeal be taxed by the proper officer of this Court and when so taxed and allowed be paid by the Appellant to the Respondent.

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By the Court,
J. G. HARDMAN,
Principal Registrar.

In the High
Court of
Australia

No. 25.
Order
dismissing
Appeal.
23rd
February,
1953—
continuel

No. 26.

Order in Council Granting Special Leave to Appeal.

AT THE COURT AT BUCKINGHAM PALACE.

L.S.

The 28th day of May, 1953.

Present :

THE QUEEN'S MOST EXCELLENT MAJESTY.

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LORD CHANCELLOR.
PRIME MINISTER.
LORD PRESIDENT.
VISCOUNT SWINTON.
SECRETARY SIR DAVID
MAXWELL FYFFE.

MR. SECRETARY LYTTLETON.
MR. SECRETARY STUART.
SIR ALAN LASCELLES.
SIR OWEN DIXON.

WHEREAS there was this day read at the Board a Report from the Judicial Committee of the Privy Council dated the 4th day of May 1953 in the words following, viz. :—

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“ WHEREAS by virtue of His late Majesty King Edward the Seventh's Order in Council of the 18th day of October, 1909 there was referred unto this Committee a humble Petition of Eric Lang in the matter of an appeal from the High Court of Australia between the Petitioner Appellant and Jean Wauchope Lang Respondent setting forth (amongst other matters); that the Respondent presented a Petition dated the 29th October 1951 to the Supreme Court of Victoria praying that her marriage with the Petitioner which was

In the
Privy
Council.

No. 26.
Order in
Council
granting
Special
Leave to
Appeal.
28th May,
1953.

In the
Privy
Council.

No. 26.
Order in
Council
granting
Special
Leave to
Appeal.
28th May,
1953—
continued.

celebrated on the 8th November 1924 be dissolved on the sole ground that the Petitioner did without just cause or excuse wilfully desert the Respondent and did without any such cause or excuse leave her continuously so deserted during three years and upwards: that the said ground is that provided by Section 75 (a) of the Marriage Act 1928 (No. 3726) of the State of Victoria which section is in substance in the same terms as Section 1 (b) of the Matrimonial Causes Act 1950 which repeats Section 2 (b) of the Matrimonial Causes Act 1937; that the Supreme Court held that the Petitioner did without just cause or excuse wilfully desert the Respondent and did without any such cause or excuse leave her continuously so deserted during three years and upwards and the Court ordered that a decree nisi for dissolution of marriage be granted with costs and that the questions of alimony or maintenance *pendente lite* and permanent maintenance be reserved; that the desertion found against the Petitioner was of the type which has come to be known as 'constructive desertion' it being the Respondent who in fact left the matrimonial home and withdrew from cohabitation with the Petitioner: that no allegation was made nor was it found that the Petitioner desired or intended that the Respondent should withdraw from consortium or leave the home; that the Supreme Court applied to the facts found by it the test laid down in the case of *Baily v. Baily* 1952 A.L.R. 715; that the Petitioner appealed to the High Court of Australia which Court on the 23rd February 1953 dismissed the Appeal with costs: that the High Court held that the Supreme Court had applied to the facts the proper test as laid down in *Baily v. Baily*: that Counsel on behalf of the Petitioner applied to the Full High Court of Australia for leave to appeal to Your Majesty in Council against the Judgment of the High Court of Australia; that the Full High Court unanimously decided that it did not possess jurisdiction to make the Order sought by the Petitioner and dismissed the Application with costs; that there were two decisions of the Court of Appeal in England after the Petitioner had duly instituted his Appeal to the High Court of Australia: that it is submitted that the Judgments of the Court of Appeal establish that it is an essential element of constructive desertion that the offending spouse 'intends' or 'is determined' to bring the matrimonial consortium to an end and are inconsistent with the principles as expressed by the High Court of Australia in *Baily v. Baily* which were relied upon by the Supreme Court and the Appellate Court in finding the Petitioner guilty of desertion; that the divergence between the law of England and the law of Australia as shown it is submitted in the authorities was not foreseen by the Petitioner at the time of the institution of his Appeal to the High Court of Australia and renders it desirable that the law applicable to the present case should be authoritatively stated by Your Majesty in Council: And humbly praying Your Majesty in Council to grant the Petitioner special leave to appeal from the Judgment of the High Court of Australia dated the

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23rd February 1953 and for such further and other relief as to Your Majesty in Council may seem just :

In the
Privy
Council.

10 “ THE LORDS OF THE COMMITTEE in obedience to His late Majesty’s said Order in Council have taken the humble Petition into consideration and having heard Counsel in support thereof and in opposition thereto Their Lordships do this day agree humbly to report to Your Majesty as their opinion that leave ought to be granted to the Petitioner to enter and prosecute his Appeal against the Judgment of the High Court of Australia dated the 23rd day of February 1953 upon depositing in the Registry of the Privy Council the sum of £400 as security for costs and upon condition that the Petitioner shall pay the costs of the Respondent as between solicitor and client in any event :

No. 26.
Order in
Council
granting
Special
Leave to
Appeal.
28th May,
1953—
continued.

“ AND THEIR LORDSHIPS do further report to Your Majesty that the proper officer of the said High Court ought to be directed to transmit to the Registrar of the Privy Council without delay an authenticated copy under seal of the Record proper to be laid before Your Majesty on the hearing of the Appeal upon payment by the Petitioner of the usual fees for the same.”

20 HER MAJESTY having taken the said Report into consideration was pleased by and with the advice of Her Privy Council to approve thereof and to order as it is hereby ordered that the same be punctually observed obeyed and carried into execution.

Whereof the Governor-General or Officer administering the Government of the Commonwealth of Australia for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

W. G. AGNEW.

EXHIBITS.

" 20."

Letter, Petitioner to Respondent.

In the
Supreme
Court of
Victoria.

Exhibits.

" 20 "

Letter,
Petitioner
to Re-
spondent.
16th
January,
1941.3 Balmerino Avenue,
Toorak, Victoria,
Aust.
16th Jan. 1941.

My dearest,

Your letters (two) arrived yesterday and this morning so they only took 14 days. I simply cannot understand why my letters have not reached you. Have been writing air-mail—2 most weeks—twice only one. 10
The compass was posted to you on the morning I reached Melbourne after my last trip to Albury—I paid for it. Now dearest I do hope by this time many more letters and your watch and other parcels have started to arrive. Re your trouble and the "blowing up" just keep on being yourself and all will come out right. Colonel N.D. writing to his wife said he'd seen you and you were "doing a wonderful job"—It made up for everything to hear that.

Yesterday at our knitting circle in Alexandra Ave. Major S. who saw you in Palestine and is back for a while here met us and will come back with messages from the wives—he has been commissioned to send you all 20
back for a week end. He will kindly take your new uniform back with him and possibly stretcher too—they will then reach you with less delay as I believe parcels are uncertain arrivals—they get to you—some time! Will send the primus parts off with the film (if Small's have them yet) today. Have found the Molesworths pocket book but am not sure of B.Z.P. only two I've found are 1924 and 1930.

Oh—the parcel arrived from Ceylon—I will have to make a plain black or navy frock to show off the pendant—it is lovely and the stone should look well when set—what sort did you say it is? Many thank 30
you's dear.

I have made an appointment to see Miss Ross re Barbara, her secretary said $\frac{1}{4}$ hour for each parent was the usual but I told her it was useless for me—I want at least $\frac{1}{2}$ hour. You know Barbara's reports have encouraged neither her nor us and yet—apart from failure in French—and although it stops her certificate this year—she could not have done much better in the University Exams. I am going to *insist* that the school does more for her this year and helps her to more confidence.

Mr. Tait rang me this morning just to see how I was—he will advertise the office in one of his weekly papers—offered to.

David is at Sorrento with Sheilah and I will go down with Barbara 40
towards the end of next week. Have been advised to write my name (& Mrs.) and address on back of envelopes. Am putting some buttons in the letters.

Now once more about a domestic. I simply can't get one but am sending out the laundry and buying certain clothing for self and Barbara ready-made to save work, so just don't worry. I was told by some one the other night that I look younger every time she sees me. At present with only myself and Barbara home and she leaves at 8.20 and gets back at 6.20 there is a chance to take things very easy. Went to bed at 7.40 last night and didn't get up until 7. The thunder storm made me very sleepy. Be glad there's plenty for me to see to—for the wives who haven't the ties and duties are feeling things most—they have too much time to think.

10 No more for a few days—do hope you've more letters from me and all our love and a big kiss (X).

Ever your loving wife,
JEAN.

In the
Supreme
Court of
Victoria.
—
Exhibits.
—
" 20 "
Letter,
Petitioner
to Re-
spondent.
16th
January,
1941—
continued.

" 17."

Letter, Petitioner to Respondent.

Eric,

I am amazed that you can think of any reconciliation after what has taken place.

(Sgd.) JEAN.

20 Rec. 9/8/48.

" 17 "
Letter,
Petitioner
to Re-
spondent
(undated),
received
9th August,
1948.

" 18."

Letter, Respondent to Petitioner.

George Hotel,
St. Kilda.
10th August, 1948.

My Dearest,

I got your letter—and do sincerely want a reconciliation—I only went away temporarily so that we could both cool down a bit—so when are you going to ask me to come home? You know I am longing to be with you again, and apart from that, every day I am away is costing our David something—every week I am away is costing £5 to £6—and making his medical course more remote—it is to his advantage that we work together and pool our resources—I know that you will think of him and his welfare.

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I am enclosing a cheque for £4 for next week, I have already given you £7 for this week and a new hat—and will let you have the same every week—as long as I can afford it—until we are together again.

Aunt Ruby is desperately ill and dying—I will be going to Bairnsdale one day this week and returning the next—which I don't know—am
40 waiting to hear.

All love,
(Sgd.) ERIC.

" 18 "
Letter,
Respondent
to
Petitioner.
10th
August,
1948.

" 19."

Note, Respondent to Petitioner.

In the
Supreme
Court of
Victoria.

Exhibits.

" 19 "

Note,
Respondent
to
Petitioner.
14th
August,
1948.

My dearest,

I love you—I have *always* loved only you—I shall love you and long
for you until I die.

(Sgd.) E.L.
14/8/48.

" 5 "

" 5."

Letter, Respondent to Petitioner.

Letter,
Respondent
to
Petitioner.
29th
August,
1948.

My dearest,

Will you not forgive me and forget ? For the sake of your children—
our children—will you not meet me and let me ask your forgiveness ?
With all my love—always.

(Sgd.) ERIC.
29/8/48.

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" B " (i)

" B " (i).

Letter, Petitioner's Solicitors to Respondent.

Letter,
Petitioner's
Solicitors to
Respondent
(undated),
received 3rd
September,
1948.

Eric Lang, Esq.,
C/o Dunlop Rubber Co. of Australia, Ltd.,
108, Flinders Street,
Melbourne, C.I.

(Received 3/9/48.)

20

(Private and Confidential.)

Dear Sir,

We refer to the interview which you had with the writer at our office
yesterday concerning your relationship with your wife for whom, as you
know, we have been acting for some time.

As we informed you at the interview your wife considers that she is
no longer obliged to live with you as a wife having regard to your past

treatment of her and in particular having regard to your conduct on the evening of Friday the 13th August last when, as in your own words you committed upon her, "The Rape of Lucretia."

You will recollect that on the 11th August following representations made by you to your then Solicitor, Mr. Stillman, and through him to us that you had been told by your employers, Dunlop Rubber Co. of Australia Ltd. that unless you went back to live with your wife you would be dismissed from the Company's employment, your wife agreed that you should come back and live in the matrimonial home provided you behaved
10 yourself and left her alone which you solemnly promised to do.

Notwithstanding this, as you admitted to the writer yesterday and also on earlier occasions to Mr. Halford, you deliberately set out to ensure that your wife would be alone in the home with you on the evening of Friday the 13th August with a view to forcing her against her will to have intercourse with you. This according to your wife's evidence you did after assaulting her in a brutal and unmanly fashion.

Moreover on the next day you saw fit to boast to Mr. Halford that you had raped your wife and alleged to him, as you did to the writer yesterday, that she enjoyed it.

20 It later transpired and you admitted to the writer yesterday that the story of your employers intention to dismiss you as related above was a complete fabrication concocted by you solely for the purpose of gaining your wife's sympathy and permission to come back into the home.

We are instructed by your wife today to repeat to you the intimation which the writer made to you yesterday that she feels that she can under no circumstances be required to live with you again. Moreover having regard to your deceitful conduct, to the violence you have displayed to her and to your open boasts concerning your sexual relationships with her, she could not reasonably be expected to do so.

30 We are instructed to inform you that if you attempt to force your attentions upon your wife again she will have no alternative but to take legal proceedings to ensure protection from your advances. Having regard to the nature of those advances on other occasions and to the violence which you have demonstrated, your wife appears to be justly afraid for her safety and will unhesitatingly call for Police protection should that become necessary.

Naturally your wife looks to you to maintain her and your son and suggests that you should pay her the weekly allowance of £6 per week, she in turn undertaking to use and apply this money for the maintenance
40 of herself and your son to pay his school fees thereout.

Yours faithfully,

RODDA BALLARD & VROLAND,

Per R. N. Vroland.

In the
Supreme
Court of
Victoria.

Exhibits.

—
" B " (i)
Letter,
Petitioner's
Solicitors to
Respondent
(undated),
received 3rd
September,
1918—
continued.

In the
Supreme
Court of
Victoria.

Exhibits.

“ 6 ”

Letter,
Respondent
to
Petitioner.
6th
September,
1948.

“ 6.”

Letter, Respondent to Petitioner.

c/o Dunlop Rubber (Aust.) Ltd.,
108 Flinders St., Melbourne.
6th Sept. 1948.

My dearest,

Enclosed is cheque for £2. as promised, for this week ending 11th Sept.
When are you going to meet me—say at the Wattle for lunch—so
that we can both talk about David’s future—we are not going to discuss
it through lawyers and people who have not got his future and welfare
at heart. 10

Could you telephone me tomorrow (Tuesday) morning at 12 o’c. to
tell me you will meet me ?

Besides, I want to tell you about something much more important
even than David. You surely realize, my dear, that many people have been
coming between us—can’t we get together for just this once—and talk
things over.

Besides—I still want to tell you I love you—its true.

(Sgd.) ERIC.

“ B ” (ii)

Letter,
Respond-
ent’s
Solicitors to
Petitioner’s
Solicitors.
8th
September,
1948.

“ B ” (ii).

20

Letter, Respondent’s Solicitors to Petitioner’s Solicitors.

Messrs. Rodda Ballard & Vroland,
Solicitors,
430 Little Collins Street,
Melbourne.

8th September, 1948.

Dear Sirs,

We have been consulted by Mr. E. Lang with reference to your
remarkable letter to him.

No purpose would be served by dealing seriatim with the statements
in such letter, beyond our client denying emphatically any ill-treatment of
his wife. As it is Mr. Lang’s determined intention to endeavour to live in
amity and happiness with his wife, any lengthy correspondence and
repetition of counter-allegations could only serve to aggravate differences. 30

Whether the parties adopt the natural relations between husband and
wife is surely a personal matter best left to discussion between themselves,
but if your letter is intended as a final refusal of such relations by your
client to her husband, it is presumed that such decision has been made with
full realization of the consequences thereof to the married life.

Yours truly,

WALTER KEMP & TOWNSEND.

“ B ” (iii).

Letter, Petitioner's Solicitors to Respondent's Solicitors.

Messrs. Walter Kemp & Townsend,
Solicitors,
340 Collins Street,
Melbourne, C.1.

15th September, 1948.

Dear Sirs,

re Lang.

We duly received your letter of the 8th inst., and note what you have
10 to say.

If it were not for the incontrovertible evidence in our possession as to the treatment and attitude of your client to his wife, we would be disposed to react to the allegations made by our client against her husband in somewhat the same way as you appear to have done.

Unfortunately even since the receipt of your letter of the 8th inst., the behaviour of your client has been more than ever calculated to increase our client's justification for her fears for her safety and to confirm her allegations against her husband.

Our “ remarkable letter ” was written by us to your client on his wife's
20 instructions and with a full realisation of the consequences thereof to the married life.

It may interest you to know that you are the third firm of Solicitors whom to our knowledge have been consulted by Mr. Lang. We should also mention that when Mr. Lang saw the writer immediately prior to writing our letter to him, he was told by the writer that he should go to his own Solicitor. He insisted, however, that he had finished with Solicitors and that he wanted to discuss his relations with his wife directly with our firm himself. Having regard to our conversations with his two former
30 Solicitors and knowing their attitude we consented to discuss the matter with Mr. Lang making it clear to him that we were acting for his wife and that he dealt with us on that understanding.

Yours faithfully,

RODDA BALLARD & VROLAND,
Per R. N. Vroland.

In the
Supreme
Court of
Victoria.

Exhibits.

“ B ” (iii)
Letter,
Petitioner's
Solicitors to
Respond-
ent's
Solicitors.
15th
September,
1948.

“ 21.”

In the
Supreme
Court of
Victoria.

Letter, Respondent to Petitioner.

Exhibits.

“ 21 ”

Letter,
Respondent
to
Petitioner.
24th
September,
1948.

3 Balmerino Avenue,
Toorak, S.E.2.
24th Sept. 1948.

My Dear,

As Ron tells me that you do not intend to come back for the time being, and as I do not want you to be short of money, and as I did not send you any last week, I am enclosing £8. for the two weeks (this week and last week) together with £2. which he tells me you paid towards David's School Fees. As soon as the account comes for the remainder of David's Fees, I will pay it. 10

Let David go and choose a suit, and have it put aside. If you will tell Ron how much it will cost, I will pay cash for it on the same day and he can collect the suit straight away.

So that you will not be short of cash, I will send you money each week.

All my love,
(Sgd.) ERIC.

	Bank Notes enclosed		20
£5	R	266013	
	—		
	75		
£1	K	493161	
	—		
	10		
£1	K	379798	
	—		
	43		
£1	K	973912	
	—		
	33		
£1	K	700895	
	—		
	9		30
£1	K	808035	
	—		
	27		

(Sgd.) E.L.

Exhibit " 3."
Letter, Respondent to Petitioner.

In the
 Supreme
 Court of
 Victoria.

Balmerino Ave.,
 Nov. 8th.

Exhibits.
 " 3 "

My Dear,

Today is Nov. 8th—our Anniversary. I have been wondering whether you have been thinking of it—of our night at Aldgate—and our honeymoon at Lakes Entrance—Would you like to have dinner with me this evening at the Latin—and perhaps arrange another honeymoon at Lakes Entrance again ?

Letter,
 Respondent
 to
 Petitioner.
 8th
 November,
 1948.

I am enclosing a little gift—if you do not like the colour you may change them.

If you would like to meet me at the Latin this evening, could you telephone me at the office—if I am not in, leave a message that you rung.

With love,

(Sgd.) ERIC.

" D."

Letter, Petitioner to Respondent.

" D "
 Letter,
 Petitioner
 to Re-
 spondent.
 22nd
 November,
 1948.

I am amazed at your asking for my reasons in leaving you. I left you because after putting up with every form of mental and physical cruelty for many years, I realized that you were as unsafe to try and live with as a wild animal in the jungle.

Your wish to dominate and possess and rule my life and that of the children grew into a monstrous thing and your determinations to get what you wanted or make people suffer became far too strong. Worst of all were the many thrashings you subjected me, even in the presence of witnesses. Your unutterably filthy language to me and to our children, combined with the sadistic cruelty which you inflicted on me, also in the presence of witnesses, were such that I marvel at having been able to live through so many years of intense misery.

Almost as bad was the constant mental cruelty to which you subjected me. I never knew, for many years what it was to have an unbroken nights sleep. Your frequent brutal habit of waking me up and shouting abuse and filthy language at me for hours would have caused any other woman to leave you long before I did. In addition, your unbelievably selfish and cruel treatment towards your daughter before her marriage is something which could never be forgotten

In the
Supreme
Court of
Victoria.
—
Exhibits.
—
“ D ”
Letter,
Petitioner
to Re-
spondent.
22nd
November,
1948—
continued.

People whom you now hate were only too willing to be your sincere friends and as for the Halfords, they did everything in their power to try and bring us together. And neither they nor any other human being have any influence over my action in leaving you and remaining away from you.

Mr. MacCormack has done everything to try and influence me to come back but this is absolutely impossible.

Finally, your unspeakable actions on the night of Friday August 13th which you boasted about both before and after as the “ great rape ” made me realize to the fullest what a beast you were. 10

Do not tell people now or at any other time that I left the house. I was driven from it as you and many other people well know.

The £4. a week which you have promised me is being used for David’s upbringing.

Do not send anybody to interview me on your behalf as I will definitely not see them.

Please try to understand the fact that I have been driven to earn my own living ; that I am leading my own life and you will have to do the same. I have acquired peace of mind now ; something which I have not had for many years. I find it absolutely unnecessary to continue this letter any further as I am most definite in all statements made. 20

(Sgd.) JEAN W. LANG.
22-11-48.

“ E ”
Letter,
Respondent
to
Petitioner.
24th
November,
1948.

“ E.”

Letter, Respondent to Petitioner.

3 Balmerino Ave.,
Toorak, S.E.2.
24th Nov. 1948.

My dearest,

Thanks for writing to me on the 22nd—I can only say, my dear, that you did not write it from your own free mind and judgment—I am certain that you wrote it under the advice and influence of those who are trying to separate us both and harm us both. 30

I am not going to reply in detail at this stage to the tissue of untruths—and you *know* they are untruths—which have been put into your head—except as regards August 13th—to which I can only say that you were a willing party and thoroughly enjoyed it.

As you know, my dear, this is not the first time by a long way in which your habit of running to outsiders for advice has got you into serious trouble—surely you have enough sense to see that you have once again 40

fallen into the hands of people who are ill-advising you—and misleading you—and causing both you and myself distress and misery. You have been listening to outsiders since before our marriage—with the same miserable result every time, and surely your commonsense will tell you that is the main cause of all your troubles and misunderstandings, and of mine too.

10 Why not do what I have been asking you to do all the time—come home and kiss me and start afresh with the one person who has always loved you, kept you, and protected you and rescued you as far as he could from the results of your own unwise actions for so many years—why not for once try to completely disregard the advice of outsiders—and completely trust me—dismiss them and send them away—and stop writing and speaking silly things *under their advice*—which you know in your heart of hearts is untrue—and give me that sweetness and love of which you are really capable and for which I married you—and which is really your own true nature—you will be more than amazed at the results. Won't you think it over?—and meet me—and have a talk, my dear?

With love,

ERIC.

In the
Supreme
Court of
Victoria.
—
Exhibits.
—
“ E ”
Letter,
Respondent
to
Petitioner.
24th
November
1948—
continued.

20

“ 7.”

Letter, Respondent to Petitioner.

3 Balmerino Ave.,
Toorak, S.E.2.
28th Nov. 1948.

“ 7 ”
Letter,
Respondent
to
Petitioner.
28th
November,
1948.

My Dear,

Enclosed is £4 as promised.

30 I am very disappointed that you have not yet answered my letter of the 24th—are you still allowing outsiders to mislead you and poison your mind against me—and lead you and David deeper and deeper into a horrible miserable mess which can only end in ruining both yourself and David?

Again I ask—why don't you come back home and make a fresh start—disregard the advice of the outsiders and tell them to go away—why don't you wake up to them—and come back to the one who has given you a comfortable home—looked after you, kept you—and tried to save you and our children for so many years from the consequences of your own foolish actions, and from the bad advice of those that you thought were friends, but who are really harming both of us—and worse still, harming our children?

In the
Supreme
Court of
Victoria.

Exhibits.

“ 7 ”

Letter,
Respondent
to
Petitioner.
28th
November,
1948—
continued.

You have only got to come back to the house—give me a kiss—cease listening to bad outside advice—and you will be welcomed and loved as you always have been—Why not think it over?—make a fresh start—and let us work together for David’s future good and his and our own welfare?

With love,

(Sgd.) ERIC.

P.S. Next time you see me on a bus, as you did tonight, there is no need for you to put yourself to the inconvenience of leaving it hurriedly, as you did tonight—I certainly am not going to trouble you to speak to you until you are willing to talk to me sensibly.

(Sgd.) E.

10

“ 23 ”

Letter,
Respondent
to F. D.
Lang.
10th
December,
1948.

“ 23.”

Letter, Respondent to F. D. Lang.

3 Balmerino Ave.,
Toorak, S.E.2.

Dec. 10th, 1948.

Dear David,

The enclosed letter came in the post—as I could not read the initial, I opened it and then found it was for you—sorry—but why don’t people address things properly.

20

Thanks for catching the housebreakers on Wednesday—it is one of the best jobs you have done yet—it will be quite an experience for you to have to go and give evidence.

Don’t you think it will be a good idea for you to come into town one day when your exams are over and have a talk with me—you have sense enough and are old enough to realize that the present situation is doing nobody any good—least of all your Mother—in fact you will probably come to realize that it will do her permanent harm—and I am sure that neither you nor I want that.

Can you let me know soon when you will be able to meet me and where?

Love,

(Sgd.) POP.

30

" 8."

Letter, Respondent to Petitioner.

3 Balmerino Ave.,
Toorak, S.E.2.
22nd Dec. 1948.

Dear Jean,

It has been suggested by Mr. Arrowsmith, to whom I have been speaking, that we all have dinner together on Xmas Day, as a gesture of mutual goodwill at this season.

- 10 As I am considering the welfare of all of us, I am falling into line with his suggestion. If you and the children also desire to accept his suggestion, could you ring me at the office as soon as possible, so that arrangements can be made for a suitable time and place—as booking may be difficult at this late time. I shall be glad if you will let me know early.

Yours,

(Sgd.) ERIC.

" F."

Letter, Respondent to Petitioner.

3 Balmerino Ave.,
Toorak. S.E.2.
Feb. 28th, 1949.

20

Mrs. E. Lang,
c/o Overseas Corporation of
Australia Limited,
Collins St., Melbourne.

My dear Jean,

I am enclosing herewith cheque to the value of £1 (one pound) payable to your account.

- 30 As it is now nearly six months since you deserted your home on Sept. 9th of last year, of your own free will, and as you have failed to respond to the many friendly overtures which have been made, and as every latitude has now been given to you, no further payments whatever will be made to you and you will receive no more money from me, unless you return to your home and resume the performance of your marriage vows.

* As you have now had sufficient time to realize that you cannot possibly finance David's education—the official figure is £1500—not to

In the
Supreme
Court of
Victoria.

" 8 "

Letter,
Respondent
to
Petitioner.
22nd
December,
1948.

" F "

Letter,
Respondent
to
Petitioner.
28th
February,
1949.

In the
Supreme
Court of
Victoria.

Exhibits.

“ F ”

Letter,
Respondent
to
Petitioner.
28th
February,
1949—
continued.

mention at least £2000 for a practice later your own commonsense will tell you that for your own benefit and David's there is only one sensible course.

As you have been following outside advice for over 25 years—even before our marriage and during our engagement—and as such advice has continuously led you to wreck our love and happiness—as it has now lost you your home and your security—don't you think that it is time that you put all outside advice out of your mind, and for once tried trusting me, and helping me to repair the damage which has been done by your taking such unwise notice of outsiders and permitting their interference in our affairs? If you do so, you will find me prepared to forget and forgive much that has been said and done. 10

If however you continue to follow outside advice, which has always been against your own real interests and those of your family, you will have to go your own course alone, and end in poverty, because David and others will one day wake up to just what you have been doing, and in the long run will drop you overboard. And—what is more—David will never be able to finish his course—what chance have you of supporting him until he is 26?

This is my last approach, and I am sure that you will realise that the best interests of all concerned will be to take the wise course of returning to your home—which is and always has been open to you to live in—and fulfil your obligations and duties under your marriage contract. Otherwise I shall simply have to abandon you and consider my next course of action, both now and in say three years time. 20

(Signed) ERIC.

P.S. re outside advice—can you deny that your friend Winnie—(she herself did not deny it)—made the remark while we were engaged “ Don't let Eric dominate you ”—that you listened to it with wide open ears and receptive mind—swallowed it hook, line and sinker—let it sink into your mind—let it become one of the main causes of the mess you are in—why didn't you tell her to mind her own business—send her packing—why didn't you tell her you had my love and trust and that you trusted me—why don't you now get such ridiculous rubbish out of your mind and trust to me to look after you as I always have? Anyway who is this woman Winnie—she barely knew me then or now—what is she?—a suburban general practitioner in a small town—and what authority is she or was she on other peoples husbands or fiancées?—and what sense is there in allowing anything she has said to have come between us all our married life as you have allowed it to?—and this applies to a lot of other people you have been listening to—why not disregard the whole crowd of them and for once in your life give yourself your only chance of real happiness and security? 30 40

E.

" G. "

Letter, Respondent to Petitioner.

3 Balmerino Ave.,
Toorak. S.E.2.
28th Feb. 1949.

In the
Supreme
Court of
Victoria.

Exhibits.

" G "

Mrs. Eric Lang.

There is something which it is necessary for me to remind you of before it is too late—and that is that David went through two aptitude tests—one at Scotch College, and one at the Institute of Industrial Management, the Scotch College one being done by the Victorian Vocational Guidance Centre, by Mr. Whately.

The first one showed him to have geometrical and mathematical capacity and said there was much to commend his taking a course in engineering—the second one showed his outstanding abilities to be (A) Number ability (b) Scientific comprehension (c) Fractions and Decimals.

And it is suggested a technical school course in mechanical engineering—obtaining practical experience while he did the course.

In view of the above reports, it is ridiculous for him to be going in for a medical course—what use will number ability and fractions and decimals be in a medical course—except possibly to count the number of appendixes per day he cuts out—I may be entirely wrong—but I think that he would make a very good engineering business executive—and a mighty poor doctor—don't you yourself know that he does not get up early enough in the morning—don't you yourself know that he procrastinates too long—don't you yourself know that he has never yet been conscientious enough to be a good doctor—what chance have you ever given him to learn—or have you ever really tried to teach him the necessary moral qualities for a good doctor ?

I am sorry to have to write the above—but why ignore two reports by two competent authorities on his natural ability ?

(Signed) ERIC.
28/2/49.

" H. "

Letter, Respondent to Petitioner.

3 Balmerino Ave.,
Toorak, S.E.2.
16th March, 1949.

" H "

Letter,
Respondent
to
Petitioner.
16th
March,
1949.

Mrs. Eric Lang,
c/o Overseas Corporation Australia Ltd.,
375 Collins St., Melbourne.

40 My dear Jean,

As you have not answered my letter of 28th Feb., I am regretfully compelled to say that I am taking further steps to finalise the position.

In the
Supreme
Court of
Victoria.
—
Exhibits.
—
“ H ”
Letter,
Respondent
to
Petitioner.
16th
March,
1949—
continued.

You must realise that when those that I loved, brought up, educated, on whom I spent far more than I could afford, whose future prosperity was the main aim of my life, and for whom I spent most of my spare time labouring far beyond my working hours—you must realise that when such show no respect or obedience, set upon me, attempt to put me away, to deprive me of my property, and do nothing but display black ingratitude, the situation regarding my will cannot continue as it was when I was not so keenly alive to their conduct as I am today.

You surely realise that I have by inquiries found out most facts worth finding, and that I am now well aware of what has been going on behind 10 my back for the past couple of years or more. In spite of it all, however, if a proper realisation of error is shown, and real regret is expressed for past bad conduct, I am still prepared to overlook much.

But if such regret is not speedily expressed, I will be compelled to safeguard the future by removing the names of yourself and of both the children from the list of beneficiaries under my will, and to dispose of such property as I may leave otherwise than to my own family.

I feel sure that for the sake of the children you will not let this occur, and that you will meet me very soon to discuss matters on an equitable basis, and without abuse or rancour—I am sure that by now you realise 20 what a serious situation you have been led into through believing blindly bad advice by so-called friends—and I am sure that your basic commonsense will re-assert itself; and you will reach agreement with me, so that I will not be forced to take such an extreme step as to cut my family off without a penny.

Believe me, I am most definitely not bluffing—nor saying anything I do not mean—please understand that if I do not hear from you within a week, and if you do not agree to a conference, I shall at once revise my will as indicated above. Moreover, I shall take every precaution available to me to ensure that it cannot be upset in any way—and please understand 30 that I have already taken precautions against any eventualities.

The responsibility therefore for the whole of our children's future and their children's future rests with you—do not make a wrong decision this time—and do not take wrong advice again as you have so often done in the past.

If you want really sound advice, go by yourself alone, and not with anyone else, to the General Manager of *any* trustee company in Melbourne—I give you my word I have not seen any of them except our own Co., the Perpetual, and if any of them are agreeable to act as arbitrator, I shall be happy to accept him—but don't go pitching him any tales such as you 40 have been telling people, and writing to people to the north, south, east and west of Australia—(and much further)—tell the truth, and do not try to blame me for the mess caused by the bad advice you have taken from your friends—from Winnie onwards.

I repeat—please understand that unless I hear from you within a week—neither you nor the children will receive anything whatsoever under my will—and I am not bluffing.

(Sgd.) ERIC.

" J. "

Letter, Respondent to Petitioner.

3 Balmerino Ave.,
Toorak, S.E.2,
24th March, 1949.

Mrs. Eric Lang,
c/o Overseas Corporation Australia Ltd.,
375 Collins St., Melbourne.

My dear Jean,

As you have not replied to my letter of 16th March, within the stipulated
10 time of one week, nor made any other move regarding a conference, I am
forced to conclude that you are prepared to accept the consequences to
yourself and the children of continued desertion.

Therefore in accordance with the above-mentioned letter, I have
re-made my will, excluding both yourself and the children from any benefits
whatever, and stating the reasons, and leaving the whole of my estate to
a charity. If you desire to verify this, you may call at the Perpetual
Executors Trustees & Agency Co., 99 Queen St., and present this letter
as your identification and authority to the General Manager, Mr. Orr,
personally, and to no one else, as he has been instructed to permit to inspect
20 the will, with the single exception of the name of the beneficiary charity.

In addition, as you have received every consideration and latitude
and ample time to return to your home which has always been open to you,
and as you have not taken advantage of the opportunities offered, I am
taking steps towards divorce proceedings in three years' time.

In the meantime, as you are part owner of the house, you are subject
to certain liabilities, and I am shortly taking steps to secure property and
other adjustments, and a financial adjustment, and shall be glad to have the
name of your solicitor by return mail.

(Sgd.) ERIC.

In the
Supreme
Court of
Victoria.

Exhibits.

" J "

Letter,
Respondent
to
Petitioner.

24th
March,
1949.

30

" K. "

Letter, Respondent to Petitioner's Solicitors.

3 Balmerino Avenue,
Toorak, S.E.2.
3rd May, 1949.

Messrs. Rodda, Ballard & Vroland,
430-434 Little Collins Street,
Melbourne, C.I.

Your ref. 1918-47.

Attention Mr. R. N. Vroland.

40 Dear Sirs,

I am in receipt of your letter of 29th April. I was not aware that
you were still acting for my wife—I was under the impression that you had

" K "

Letter,
Respondent
to
Petitioner's
Solicitors.
3rd May,
1949.

In the
Supreme
Court of
Victoria.

Exhibits.

“ K ”

Letter,
Respondent
to
Petitioner's
Solicitors.
3rd May,
1949—
continued.

relinquished the case, as inter alia—I wrote to her per registered letter on March 24th, April 4th, April 10th, and April 12, requesting the name of her solicitor, and to date have received no reply from her. As her legal adviser will you be good enough to forward a reply at your earliest convenience to the specific matters raised in my letters to her dated 10th April and 12th April.

Re the A.M.P. Industrial Policy No. 1269136 my wife may have some legal rights to the ownership of same, but she certainly has no moral rights, as this policy was taken out for a definite and agreed purpose, which is not being carried out—in fact, to the contrary. 10

Further the premiums were paid by myself, and not by my wife, as she had no income and no assets whatever when I married her, and never has had any assets beyond those I have from time to time placed in her name as a provision for her old age, and which she has since diverted from their original and agreed purpose. Further she has only for a brief period, during the war and lately since deserting me on September 9th of last year, never earned any income, and in addition has never saved any income from any of the investments which I placed in her name.

Her moral right therefore to any monies is somewhat open to question, and no doubt a trial judge would take a suitable view of the matter, 20 especially as she has not answered my letter of 12th April setting out in general terms certain claims which I believe can be legally established.

Re the Policy, presumably it is among a mass of my personal and professional and financial records which I found piled into an almost inextricable mass after my wife deserted me on September 9th last, and as to the best of my belief the policy was in my possession within a recent period, it is probably still in the house.

I would suggest that my wife make an appointment with me at any convenient time mutually arranged, and make a personal search for the document in question. 30

Or, better still, if your firm is genuinely and with honesty of purpose acting in my wife's best interests, you may advise her to desist from her present ill-advised course of action and return to her home, which is always open to her to do so, and resume her marital duties, and co-operate with me in providing to the best of our mutual abilities for the welfare of herself and our children.

Your faithfully,

(Sgd.) E. LANG.

" L. "

Letter, Petitioner's Solicitors to Respondent.

430 Little Collins St.,
Melbourne, C.I.

5th May, 1949.

Eric Lang, Esq.,
3 Balmerino Avenue,
Toorak, S.E.2.

Dear Sir,

10 We are in receipt of your letter of the 3rd instant and note what you have to say.

At this stage we are interested in only two matters. These are, firstly, the A.M.P. Industrial Policy number 1269136 in the name of your wife.

Would you be good enough to make a search through the papers you refer to in the hopes of locating the Policy.

So far as your allegation that your wife deserted you is concerned, your wife alleges, on what appeared to be the strongest of grounds, that your conduct alone caused her to leave the matrimonial home.

20 Unless we hear from you by Tuesday next the 10th instant that the Policy has been located, we will ask you to make an appointment with your wife and a representative of this Firm for the purpose of searching through the papers you refer to.

Your faithfully,

(Sgd.) VROLAND PEARCE & WEBSTER.

" M. "

Letter, Respondent to Petitioner's Solicitors.

3 Balmerino Avenue,
Toorak, S.E.2.

7th May, 1949.

30 Messrs. Vroland Pearce & Webster,
Solicitors &c.,
430 Little Collins Street,
Melbourne, C.I.

Attention Mr. R. N. Vroland.

Dear Sir,

I am in receipt of your letter of 5th May. In reply, I am not particularly interested at this stage in the question of the Industrial Policy

In the
Supreme
Court of
Victoria.

Exhibits.

" L "

Letter,
Petitioner's
Solicitors
to Re-
spondent.
5th May,
1949.

" M "

Letter,
Respondent
to
Petitioner's
Solicitors.
7th May,
1949.

In the
Supreme
Court of
Victoria.

Exhibits.

“ M ”

Letter,
Respondent
to

Petitioner's
Solicitors.
7th May,
1949—
continued.

No. 1269136 to which my wife claims ownership as this matter was only raised recently in your letter of 29th April and is of minor importance.

I am much more concerned with the more important and prior and specific matters raised in my letters to my wife dated 10th April and 12th April to which neither your Firm nor she has yet replied. As these matters were raised before the question of the Industrial Policy was brought up, I must definitely ask that your Firm deal with them without any further delay—I do not desire them to be side-tracked any longer.

In reply to paragraph 3 of your letter of 5th May, I have already made some search, but as my time is very fully occupied, and as Mrs. Lang 10 claims that the policy is her own I see no reason why I should exert myself on what is her own responsibility namely the finding of a valuable asset belonging to herself allegedly and which I have no guarantee will be used for the purpose which was agreed on between herself and myself when I paid out the money for the premiums on the policy.

In reply to paragraph 4 re my wife's desertion, my wife's allegations are rubbish balderdash and the product of a fertile imagination and I would advise your Firm to view her statements with the utmost suspicion and satisfy yourselves completely regarding them.

So far from her being driven from her home as she elsewhere alleges 20 I had the utmost difficulty since early marriage in persuading her from bolting home to her Mother for no valid reasons and it has only been with the greatest efforts and patience that I have held my family together for so many years against her contrary influence.

Far from her being driven out, I myself for more than a decade have been compelled to absent myself from my home for longer or shorter intervals varying from half an hour upwards to escape her tongue, and prior to her desertion I was for some weeks the person who was repeatedly driven from the home, to which I returned repeatedly only to be driven 30 out again until I finally returned under protection, upon which she walked out of her own free will in the presence of a witness on my behalf and without any cause.

As my wife is 49 years of age, I am more than surprised that a presumably reputable firm of solicitors, presumably acting with honest intention in her interest, to whom she was recommended as such, should display so little knowledge or so little apparent experience of women at that critical age as to accept her statements apparently at their face value, and apparently support her in a course of action which is not only against her interests and destroying her own security but also the whole future 40 fortune and welfare of her children, about whom she expresses verbally so much concern but whom her actions have and are gravely injuring both financially and otherwise.

I am still further surprised unless your firm is actually and in fact completely ignorant of the probable needs of a woman of her age, that you have not advised her to seek of her own free will some medical rather than legal advice—but perhaps there is some excuse for your having been

misled—to quote the remark to myself, of a psychiatrist, re women in a condition common to that age—“They have a great line of sales talk.”

I further may say that I caught sight of my wife in the street some days ago, and was shocked at her physical deterioration. I therefore have to give your Firm a most serious and definite warning that if any action or advice whatever on the part of your Firm should in any way prevent my wife from having the medical attention usually necessary to a woman at her age, and any temporary or permanent injury to her health results therefrom; I will hold your firm culpable for such injury and responsible for such damages as may result therefrom.

With the indisputable evidence now in our hands should this matter come to court I have no doubt whatever that any judge having knowledge of women would make appropriate comments. I would therefore advise your Firm to exercise the greatest caution and circumspection in the matter.

In reply to paragraph 5 of your letter—if you still wish to pursue the matter—I am prepared to meet my wife on a Saturday or Sunday in company with a representative of your Firm to enable her to make a search through the papers. I will require a witness to be present on my behalf and I will require the search to be conducted in a tidy and systematic manner so that my papers are not thrown into further confusion and involve me in possible further loss.

I will close by repeating my warning namely that I will most definitely hold your Firm or for that matter any firm liable for any injury to my wife's health should she fail to receive any necessary medical attention as a result of any action or advice on your part. If you have any reason to believe that you may have been misled in any way, I would suggest that you seek a conference with my advisers and myself before taking any further action whatever.

Finally I would comment that your request for a search and a reply by Tuesday 10th instant is unreasonably short—your letter being posted on 5th instant and received on Friday 6th instant, with the week end intervening—are you not aware that a reply sent AR, as my replies are sent, may take up to three days for delivery under present conditions? However this is a minor matter, and I trust that this letter arrives as requested.

Yours faithfully,

(Sgd.) E. LANG.

7/5/49.

In the
Supreme
Court of
Victoria.
—
Exhibits.
—
“ M ”
Letter,
Respondent
to
Petitioner's
Solicitors.
7th May,
1949—
continued.

“ 22.”

Letter, Respondent to Mrs. Pace.

In the
Supreme
Court of
Victoria.

Exhibits.

“ 22 ”

Letter,
Respondent
to
Mrs. Pace,
6th June,
1949.

3 Balmerino Ave.,
Toorak, S.E.2.
6th June 1949.

Dear Barbara,

I am more than a little peeved at your cool impudence in ringing me up on Thursday 31st last, and asking whether you could have your bed collected. I feel that it calls for a reply, and for a much overdue rebuke and reprimand from your father which I hope you will not forget for the rest of your life—this letter is therefore written in plain strong language— not in malice—not in spite—but to tell you some home truths which I hope will penetrate and sink in and make you wake up to yourself and your behaviour. It is written in strong words because hitherto you have ignored hints, suggestions and decently-put requests, and so far have only responded to forcible expression. I hope therefore that you will take it in the spirit in which it is meant—now you have been married nine months, and have had a chance to think for yourself, without listening all the time to your Mother, you may come to realise that you deserve not only one rebuke but many. 10

In the first place I am most certainly *not* going to allow you to collect your bed until you have returned my portable typewriter or paid for it in full—to claim that I gave you two typewriters with permission to sell one of them is absurd—and you know it—it is a down right untruth—and you know that—and in addition you know as well as I do, what I intended to do with the second one. 20

In the second place I am not going to give you access to your share scrip until you have made a redress for the typewriter incident, and also for a few other things which I will mention at a later date.

If you want to discuss the matter quietly with me, you may ring me up and make an appointment to meet me at a suitable time and place, and with sufficient time for me to arrange to have a reputable witness present. 30

The reason why I want a witness present is that I have not forgotten the many previous conversations to which I would have liked a witness—for instance the evening on which you came home from Communion and tried to bulldoze me into giving you a party for no less than eighty people—then berated me until I had to walk out of the house in self-protection—then followed me up the street berating me publicly at the top of your voice—and when I hoped to silence you by walking over to the bus stop, you followed me over and berated me in front of the people waiting there—a nice climax to a Communion—did it not benefit you in any way? 40

Also I have not forgotten the evening when Charles and Sylvia visited you all, and then advised me to go home and try to persuade Mummy to be sensible—I had my arms around her and was kissing her and trying to get her to make things up—and first David came in and punched and pommelled me, pulled my hair, and pulled my nose, while you stood by without protest—then you came into it and tried to gouge my eyes out with your fingers until I yelled at the top of my voice to the neighbours for help—I would have liked a witness then—no wonder you object when I suggest a witness.

10 And I have not forgotten that you then telephoned the police patrol, and when they came that you both told them the lie that I have been under three psychiatrists—when the truth was that I had had your Mother under them—two false witnesses against me—and you to become a clergyman’s wife—don’t you know or remember your Commandments ?

And I haven’t forgotten—though I may have forgiven—that you then graciously refrained from giving me in charge.

As regards shouting, I haven’t forgotten—if you have—the time you and Mummy and David stood on the stairs and screamed and yelled and shouted—while I begged you all—in almost a whisper to be quiet—to
20 think of the neighbours—I haven’t forgotten that the only way I could silence you was to raise my voice and yell louder than you did until the shame of it penetrated even your thick hides—or heads.

I have not forgotten the time when you threatened me with a loaded rifle—nor the continual shouting and yelling between you and David at the dinner table—nor your public disrespect and disobedience in cafes and theatres—until I became ashamed of my daughter—instead of being proud of her—and so stopped taking her out with me—have you forgotten another Commandment—honour your Father and your Mother ?

I have not forgotten that your wedding day was fixed on the anniversary
30 of the day of my father’s death—and when I mentioned it to you both, neither you nor Lindsay had the manners or grace to utter an expression of regret—nor to offer to change the date—until some one else either shamed you or compelled you in some way to alter it—nor that you refused to let me give you away—until again someone else apparently from fear of the scandal somehow shamed you into allowing me to perform my duty as your father.

Nor have I forgotten that in the vestry my wedding present to Lindsay was contemptuously tossed aside—nor that as you left the church you turned around and snarled over your shoulder at me—a disgrace and
40 a profanation of the Cross and the Bible you carried, and which you profess to reverence—are you a hypocrite ?

You said on the telephone that I have given you nothing—have you forgotten your bedroom suite—Russian Birch—what would it cost you

In the
Supreme
Court of
Victoria.

Exhibits.

“ 22 ”

Letter,
Respondent
to

Mrs. Pace,
6th June,
1949—

continued.

In the
Supreme
Court of
Victoria.

Exhibits.

“ 22 ”

Letter,
Respondent
to

Mrs. Pace.
6th June,
1949—
continued.

to buy it (I bought it when I was hard up—for *you*)—what about your dining room table and suite—solid walnut—what would that have cost you to-day?—what about the £20 my cheque book shows, a short time after you wanted your wedding dress material?—what about the £40 I added to your insurance policy of £110—making it up to £150—and handed to you at your church presentation in front of Mr. Arrowsmith and everyone else.—gave you nothing—what about the share scrip you are now wanting—it was worth £250—Gave you nothing?—why don't you take a course of Pelmanism—and try and revive your memory a little bit?

My presents to you don't need a witness—they are on record—but do you expect me to meet you without a witness—honestly—do you think that I am mug enough to meet you again without a witness? 10

In any case, if your conscience is clear—if your soul is lily white—if your character is blameless—why should you object to any witness—why should you have anything to fear from one if your actions are honest and blameless—if your actions are honest and correct you should welcome the presence of some impartial third party. But the funny part about the whole business is that the only person who seems to want a witness to his speech and actions is the so-called villain of the deepest dye—the so-called heartless scoundrel—me—and strange enough I am not afraid to have a witness—nor to answer letters—and in fact I have a witness permanently on tap. Incidentally—as a member of a Christian Fellowship circle—or whatever it is called—have you read St. Matthew Chapter 18, V. 16? 20

You said on the telephone that it is a parents privilege to bring up their children—maybe it is—but *you* were a headache and a pain in the neck—not a privilege and a pleasure but a painful duty and a legal and moral obligation—and it is the duty of the children to honour and obey their parents—again may I remind you—a so-called Christian—of your Commandments?—Haven't you even read them?

I am not wholly blaming you, for while I did *my* best to bring you up as a decent citizen, you well know that your Mother contradicted everything I told you and tried to teach you—you well know that you were consistently taught and “conditioned” to disobey and disregard your father—that whenever I corrected you I was called names—in front of you—by your Mother. You have now had sufficient time away from us both—particularly myself—to think things over, and realise the source of the trouble in the family—if you have not realised it, you have less intelligence and brain-power than I give you credit for. 30

And with that intelligence and brain-power, surely you must realise why I will not hand over your bed, nor your share scrip until you have made sufficient redress and apology—something that your Mother never taught you to do—but which any decent person does of their own free will and without compulsion—you had better learn it quick. 40

May I remind you that you have been married nine months—and I have not been invited to your home—a disgrace—that you have only seen me once and that at my invitation—another disgrace—and that Lindsay has only seen me once—still another disgrace.

Incidentally, there is another reason why I am not handing you the scrip—and that is that money goes through your hands like water—did I not give you £5 for a special purpose—namely to be used only if you were in a desperate emergency and stranded—and did you not blue it on a beer party in Sydney? And have you ever saved anything at all from either
 10 your pocket money, or from your pay—have you got anything solid at all to show for what you have earned? Do you think that I will hand over the scrip to let you sell it and blow away the capital I gave you as a foundation for you to save on and add to—to provide for your future and to provide the beginnings of an income?

If you had shown appreciation, and wisdom, and even commonsense, I would have given you much more—I would have followed my Mother's example, and I would have made over one quarter of my capital to you—but when you behaved the way you did, I had cause to revise my intentions—and not only that.

02 As I said above, it is not wholly your fault, but it is time you woke up to yourself. If you wish to have a talk with me, and express some regrets, I shall be glad to meet you. And if you want someone to be present, why not bring Lindsay—that is, if he can look me in the face after advising my wife to leave me—he is a clergyman—I wonder that the marriage ceremony doesn't choke him when he reads it.

In conclusion, I am well aware that legally both the bed and the scrip are your property, and that I am acting illegally in retaining them in any way, and you are at perfect liberty to go to a solicitor, and take me to court and recover them. Tell your solicitor that I shall be happy to meet
 30 him, accept a summons with pleasure, and appear in court with joy. I want to—but I don't think you do—you have a dirty conscience—and I haven't.

With love,

(Sgd.) POP.

P.S. A copy of this letter will be produced in court—if you go there.

In the
Supreme
Court of
Victoria.

Exhibits.

“ 22 ”

Letter,
Respondent
to

Mrs. Pace.
6th June,
1949—
continued.

" N. "

In the
Supreme
Court of
Victoria.

Letter, Respondent to Petitioner's Solicitors.

Exhibits.

" N "

Letter,
Respondent
to
Petitioner's
Solicitors.
4th August,
1949.

3 Balmerino Avenue,
Toorak, S.E.2,
4th August, 1949.

Messrs. Vroland, Pearce & Webster,
430 Little Collins Street,
Melbourne, C.I.

Attention Mr. R. N. Vroland.

Dear Sirs,

10

I received your letter of 1st August and thank you for at long last communicating in writing.

In reply (a) the date of my wife's visit is incorrect ;

(b) the balance of the letter is your usual tissue of untruths and misleading allegations, apparently designed to manufacture evidence, an unethical practice, which can only redound to your client's disadvantage when rebutted in detail in any Court.

Re the Insurance Policy, my unfortunate wife is firmly of many incorrect opinions about this and many other matters concerning myself—possibly a competent medical man might class her opinions as obsessions or fixations. 20

Re the state of affairs in our home, it is as my wife left it, only furniture essential to my own comfort having been moved, and some tidying up done by two representatives of my adviser, and only papers essential to my business having been moved from the positions in which my wife left them namely piled literally and in fact to the ceiling. I have as far as practicable maintained matters as an exhibit for court purposes.

Re the whereabouts of the insurance policy I have already informed you I do not know where it is except that I last saw it in the house—to be precise, in my wife's own wardrobe. My wife is therefore at liberty to take legal action if she desires. 30

Re her personal possessions, the visit was for the specific purpose of searching for the insurance policy, and no mention was made by you of other matters. The conditions required by myself for the search were :—

- (a) that arrangements be made in writing.
- (b) that the search be made in a tidy and systematic manner.
- (c) that it be carried out in the presence of a representative of your firm.

None of these conditions were observed. On the contrary, my wife came without written arrangements, and with a quite unnecessary police escort. She made an insulting remark to my friend who was present. As a concession for the sake of peace I waived the conditions and permitted 40

her to commence a search upon which she rushed distractedly about the house from room to room, pulling out drawers and leaving them without examining the contents, and pulling my papers about without searching them, until I appealed to her own escort to intervene, which he did, stating that the matter should first be properly arranged between our legal representatives.

10 I therefore regret to inform you that my wife is at liberty to take whatever proceedings—legal or otherwise—she pleases; in fact I will welcome them if they terminate this tiresome and futile business, which often arises with neurotic ladies of her age, when—according to a medical work—they often fall prey to designing persons of either sex.

But if she is foolish enough to institute proceedings, they will at once be met with heavy counterclaims, some of which have already been made, and others which will be made later. In addition I will require an accounting for damage to household goods, missing furniture, missing legal documents, missing technical papers, and the apparent wilful destruction by fire of certain property, and missing personal property of my own.

20 However, I welcome the final paragraph in your letter, namely that it should be possible to settle the dispute without litigation—for my part, at no time during the past twenty five years need any dispute have arisen—and alternatively any difference which did arise could have been settled completely, as far as I was concerned, within half a minute (please do not misinterpret me—I am not exaggerating)—and this whole profitless business can as far as I am concerned be settled equally quickly today, by my wife returning to her home, remaining there at peace, and restraining herself from the verbal and physical violences in which she has indulged and I have endured for the whole of our married life, and which she both initiated and maintained.

30 Should she be prepared to live at peace for once, I am prepared to welcome her home, to give her that care and attention of which she is in need, and to abandon the financial claims which I have made on her, requiring only certain minor adjustments which I previously asked her to make to protect her own financial interests.

Further, under certain conditions, I might even be persuaded to provide for the education of my son, although his conduct towards me has been outrageous, and such as to warrant no consideration for him whatever.

40 You will no doubt agree that this is a generous offer—I have designedly made it generous so that no person in their proper senses would refuse it, and I look to your firm to advise my wife accordingly, and in particular to ask her to refrain from taking advice from the mischief making felines who for years have apparently been interfering with our married life, and whom she has been weak enough to listen to.

I repeat, the offer is a generous one, purposely made generous, and must be taken as it stands, without haggling or bargaining or argument

In the
Supreme
Court of
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—
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—
“ N ”
Letter,
Respondent
to
Petitioner's
Solicitors.
4th August,
1949—
continued.

In the
Supreme
Court of
Victoria.

Exhibits.

“ N ”

Letter,
Respondent
to
Petitioner's
Solicitors.
4th August,
1949—
continued.

of which I have had more than my fill. On her side, my wife must rid herself of her neuroses, complexes, or whatever else may be and has been the sole cause of her troubles.

I will conclude by again reminding you that my wife is an exceedingly sick woman, in urgent need of attention, that I have accordingly disclaimed liability for any costs incurred by you on her behalf, and that I hold you liable and responsible for any permanent damage which may result to her health through lack of medical attention she should have been receiving while your firm has been advising her I therefore expect your firm, without any further delay, to assist my wife for once in her life to come to a balanced 10
sober, and wise decision, to accept my offer, and return home and live in peace for her own welfare and that of her children.

Yours faithfully,

(Sgd.) E. LANG.

“ B ” (iv)
Letter,
Respondent
to
Petitioner's
Solicitors.
29th
August
1949.

“ B ” (iv).

Letter, Respondent to Petitioner's Solicitors.

Messrs. Vroland Pearce & Webster,
Solicitors & Co.,
430 Little Collins Street,
Melbourne, C.I.

3 Balmerino Avenue,
Toorak, S.E.2,
29th August, 1949.

20

Attention Mr. R. N. Vroland

Dear Sirs,

re Policy No. 1269136—Industrial Dept. A.M.P. Society

I have to acknowledge your letter of 25th August enclosing the discharge form for the above policy, and requesting my signature to same. In reply, it is noted that you have not replied to nor acknowledged my generous offer of August 4th and in fact have to date completely ignored it as you have ignored previous letters for many months past.

Therefore, I am advised to reserve my decision as to whether I shall or shall not sign the discharge form for the above policy until you have replied to my satisfaction to my letter of August 4th, and also replied to previous correspondence.

I am also advised that your Firm's consistent and invariable failure to answer correspondence, and your long delays in writing to me particularly in view of my wife's age and her need for medical attention—lend colour to one conclusion and to one conclusion only, which no doubt a magistrate or judge will assess correctly.

Yours faithfully,

(Sgd.) E. LANG.

40

“ 4.”

Letter, Respondent to Petitioner.

3 Balmerino Avenue,
Toorak, S.E.2.
2nd November, 1949.

In the
Supreme
Court of
Victoria.

Exhibits.

“ 4 ”

Letter,
Respondent
to
Petitioner.
2nd
November,
1949.

My Dear Jean,

As you know Tuesday next—November 8th—is the anniversary of our wedding—do you remember going to Holdgate and our trip to Lakes Entrance ?

10 I would very much like to meet you, my dear, on Tuesday evening at 6 o'clock at Menzies Hotel—where we stayed on our way to the Lakes—I have already reserved the same table—perhaps we can talk things over and arrange another honeymoon—perhaps our first honeymoon 25 years ago was started on a wrong basis—perhaps we can make a fresh start on a different footing—what do you think about it ?

Suppose we both delete our lawyers' advice—and spend the money and time on the kids instead ?

I will be waiting for you in the main lounge at Menzies on Tuesday at 6 o'clock—and looking forward to seeing you my dear.

20

With love,
(Sgd.) ERIC.

“ O.”

Letter, Respondent to Petitioner's Solicitors.

3 Balmerino Avenue,
Toorak, S.E.2.
2nd November, 1949.

“ O ”
Letter,
Respondent
to
Petitioner's
Solicitors.
2nd
November,
1949.

Messrs. Vroland, Pearce & Webster,
430 Little Collins Street,
Melbourne, C.1.

30

Attention Mr. Vroland.

Dear Sir,

As I am writing to my wife on the occasion of our wedding anniversary I would like to inform you that my direct approach is not to be construed as any sign of weakness—far from it—I am merely doing what I did on many occasions throughout our married life—as doubtless my wife will inform you.

Yours faithfully,
(Sgd.) E. LANG.

In the
Supreme
Court of
Victoria.

Exhibits.

“ 25 ”
Letter,
F. D.
Lang to
Respondent
19th June,
1950.

“ 25.”

Letter, F. D. Lang to Respondent.

52 Darling St.,
South Yarra, S.E.1.
Monday, 19th June '50.

Dear Father,

I feel that I should write to you concerning one or two parts of your letter.

I am not willing to call at your address for the parts, especially since the arrangement I suggested in my letter would not put you to any inconvenience. 10

Also, as all, or the majority, of the parts are easily accessible in the garage, I cannot see why there should be a delay in their transfer if you wished to give them to me.

The phrasing of your letter, particularly those parts which I have mentioned above, could not help reminding me of the original difficulty you made over transferring the Renault. I may be wrong, but I feel that had you really wanted to give me the parts, they would now be at Bolgers.

(Sgd.) DAVID.

P.S. I got the 21st Birthday present you sent me.

“ P ”
Letter,
Respondent
to
Petitioner.
7th
December,
1950.

“ P.”

Letter, Respondent to Petitioner.

3 Balmerino Avenue,
Toorak, S.E.2.
7th December 1950.

My Dear Jean,

I was glad to hear from your own lips, when I rang you up on the day of the verdict, that you are not interested in the manner of your father-in-law's death—it is indeed a change from what you were previously saying, and I hope that it is a sign that you realise what a great mistake you have been labouring under for so many years, and what mess you have made of our marriage and of our children's lives as a result of those wrong ideas. 30

Now that the new verdict has cleared the air, may I ask that you meet me soon and talk things over—is it too much to hope that you will act soon enough to have Christmas dinner in our own home once again, and that we can have the children there too, and mend the past and build for their future ?

Will you ring me or write to me soon and let me know.

With love,
(Sgd.) ERIC.

" 9."

Letter, Respondent to Petitioner.

3 Balmerino Avenue,
Toorak, S.E.2.
21st February.

My Dear,

As next Thursday is your birthday I am enclosing a small gift and wish you many happy returns.

I shall also be glad if you will meet me and have dinner with me and talk things over.

- 10 For the sake of our children, if for no other reason, I am asking you to do this, and to return to your home, which is open to you, and you will be welcome, could you please let me know where you will meet me ?

With Love,
(Sgd.) ERIC.

In the
Supreme
Court of
Victoria.

Exhibits.

" 9 "

Letter,
Respondent
to
Petitioner.
21st
February,
1951.

" 24."

Letter, Respondent to F. D. Lang.

3 Balmerino Ave.,
Toorak, S.E.2.
19th March, 1951.

My dear David,

- 20 Just a brief line to wish you many happy returns of your birthday. Under separate cover, I am sending you some tobacco, and a pouch—I hope you will find them both useful.

If you would like to have either lunch or dinner with me at the Kelvin Club on the 21st., ring me at Dunlop's or leave a message there with the telephone girl.

With love,
(Sgd.) DADDY.

" 24 "

Letter,
Respondent
to F. D.
Lang.
19th March,
1951.

" Q."

Letter, Respondent to Petitioner.

3 Balmerino Avenue,
Toorak, S.E.2.
29th June, 1951.

30

My Dear Jean,

I am very sorry indeed that you repelled my request to you at lunch time yesterday to return to your home, and still more regret that your only reply was that you would call the police.

Once again, I ask you to consider not only your own future, but that of our children, and to return to your home, where you will be given an unstinted welcome.

With love,
(Sgd.) ERIC.

40

" Q "

Letter,
Respondent
to
Petitioner.
29th June,
1951.

In the
Supreme
Court of
Victoria.

Exhibits.

“ R ”

Letter,
Respondent
to
Petitioner.
17th
October,
1951.

“ R.”

Letter, Respondent to Petitioner.

3 Balmerino Avenue,
Toorak, S.E.2.
17th October, 1951.

My Dear,

I am asking you once more to return to your home, forget the past, and help build for the future, for your own sake and for the sake of our children.

With love, 10
(Sgd.) ERIC.

“ 10 ”
Letter,
Respondent
to
Petitioner.
12th
February,
1952.

“ 10.”

Letter, Respondent to Petitioner.

23 Balmerino Avenue,
Toorak, S.E.2.
12th February, 1952.

My Dear Jean,

I am writing this letter to you to make yet another appeal to your better sense and your better feelings, for the benefit and welfare of both our children and ourselves. 20

I have done my best to induce you to come back to your home—I have asked you again and again to meet me and talk things over for their sakes and ours, and to unite with me to build for the children’s happiness and good and ours.

I now appeal to you at this last moment to discontinue this action for all our sakes—and to return to your home which is and always has been open to you, and where you will be welcomed.

I cannot stop you if you are determined to go on—I can only beg and appeal to you to use your good sense, to remember our marriage vows, and to think not only of ourselves, but of our children—and their children 30 to come—and discontinue, even at this stage, the action. May I hope to hear from you before it is too late ?

With love,
(Sgd.) ERIC.

“ B ” (v) and “ 11.”
Letter, Respondent to Petitioner.

In the
Supreme
Court of
Victoria.

3 Balmerino Avenue,
Toorak, S.E.2,

Exhibits.

10th May, 1952.

“ B ” (v)
and “ 11 ”
Letter,
Respondent
to
Petitioner.
10th May,
1952.

My Dear Jean,

As you well know, I have no wish whatever for any divorce action to occur between us, and I therefore asked Mr. Johnson, the Vicar of St. Luke's, North Brighton, to call and see you. One of his objects was for us to have a conference, with of course any witnesses necessary from the legal aspect present.

He tells me that he did not obtain your consent for such a conference, but that he did discuss the whole situation at some length—and he has also discussed it at equal or greater length with me. His advice to me is that we are both spiritually and emotionally sick in our mutual relations, and that in some of these our attitudes were pathetically identical.

He very strongly advises me not to defend the case. As an impartial outsider, he thinks that I might well succeed in preventing your gaining a divorce on the grounds claimed, with the evidence available in refutation. But he thinks that such a victory would still be a defeat.

Acting on his advice, I am prepared to make the following offer to you, and to substantiate it with the necessary legal documents.

(1) I am prepared to share with you my net income, after taxation and expenses have been deducted, so that we both have equal incomes.

(2) I will revise my will so that you will have the same benefits of income from it, as my wife, on my decease, as previously.

There are no conditions or terms to the above offer, and as an earnest of good faith and sincerity, I enclose a cheque to the value of £10.

If you should decide to go on with the divorce, and did not fare so well at the hands of the judge, then the above offer would still stand.

To make this offer appears to be completely against my own interests, and my legal advisers will probably regard it as absurd, but I am not consulting them in this—I am following the advice of Christ's Church, with prayer and faith, and what I do in faith may prove to be sound God-sent common sense.

Mr. Johnson has spoken very plainly to me about my own present spiritual state, and I am obeying with all humility the course which he has set for me. I do not know what he has said to you, but I hope that it was something equally refreshing, and pray that you will also follow the course which Mr. Johnson himself hopefully considers you will.

With Love,

(Sgd.) ERIC.

In the
Supreme
Court of
Victoria.

Exhibits.

“ B ” (vi)
and “ 2 ”
Letter,
Petitioner
to Re-
spondent.
14th May,
1952.

“ B ” (vi) and “ 2.”

Letter, Petitioner to Respondent.

52 Darling Street,
South Yarra,
Wednesday, 14th May.

Dear Eric,

Your letter of the 10th has been considered carefully by me individually and also by my legal advisers. However, in view of the whole history of our relationship, I feel that I must proceed with the divorce as I could not possibly live with you again. 10

Whether you defend the case or not is, of course a matter for your own decision in the light of any legal or other advice given you.

Regarding the financial matters you have mentioned, if a divorce is granted any question as to my future maintenance could afterwards be settled amicably, if possible. As the £10 cheque which you enclosed was incidental to an offer which I cannot accept I feel bound to return it.

I make no comment on what you say was the opinion of the clergyman whom I received courteously when you sent him to see me.

Yours truly,

(Sgd.) JEAN. 20

“ B ” (vii)
and “ 12 ”
Letter,
Respondent
to
Petitioner.
19th May,
1952.

“ B ” (vii) and “ 12.”

Letter, Respondent to Petitioner.

3 Balmerino Avenue,
Toorak, S.E.2,
19th May, 1952.

My Dear Jean,

Your letter of the 14th was very welcome indeed after so many years of silence, and I was very glad to get it, but I am very sorry that you have not accepted my offer.

And although I am equally sorry that you returned my gift, I am glad 30 that you did the right thing in so doing.

There is one thing in your letter which is outstanding—why do you “ feel that you must go on with the divorce ”—why the “ must ” ?

What good is it going to do you—what good is it going to do the children—our children—is it not on the contrary going to do them untold harm, in the future—in ways you can never envisage? For the sake of our love for our children, I ask you to think deeply before you go on with the case.

I am again following Mr. Johnson's advice, and I am making a further proposal, and that is that I abandon my legal advisers and that you abandon yours, and that we both place the matter in the hands of God—that we meet together—that you bring a clergyman of your own choosing, and
 10 I bring mine, and we submit our differences to them—and not to the publicity and disgrace of the Divorce Court.

May I beg of you to think it over very deeply, and this time to act on the advice of a clergyman?

With love,

(Sgd.) ERIC.

In the
Supreme
Court of
Victoria.

Exhibits.

“ B ” (vii)
and “ 12 ”
Letter,
Respondent
to
Petitioner.
19th May,
1952—
continued.

“ B ” (viii) and “ 13.”

Letter, Petitioner to Respondent.

52 Darling Street,
South Yarra.

“ B ” (viii)
and “ 13 ”
Letter,
Petitioner
to Re-
spondent.
2nd June,
1952.

20

Dear Eric,

2.6.52.

Partly out of courtesy to the clergyman by whom you sent me this further letter I am replying to it.

As to why I feel that I must go on with this divorce—you are aware my case is that your conduct finally compelled me to leave you and made it impossible for me to return.

Since our final separation you have exercised a form of pressure on me to return to you through your statements to Clergymen and others. Your present approach through Mr. Johnson is one more instance of this.

30 For my well being and peace of mind I am convinced that I should be free from our marriage and from direct and indirect communication between us.

In the
Supreme
Court of
Victoria.

Exhibits.

“ B ” (viii)
and “ 13 ”
Letter,
Petitioner
to Re-
spondent.
2nd June,
1952—
continued.

There would be much more force in your reference to our children if they were young instead of adult persons.

I cannot accept your latest proposal and believe that it is morally as well as legally right for me to go on with this case.

Yours truly,
(Sgd.) JEAN.

“ B ” (ix)
and “ 14 ”
Letter,
Respondent
to
Petitioner.
11th June,
1952.

“ B ” (ix) and “ 14.”
Letter, Respondent to Petitioner.

3 Balmerino Avenue,
Toorak, S.E.2. 10
11th June, 1952.

My dear Jean,

I was very glad to get your letter of 2nd June, even though you said that you would not agree to meet me.

In reply, I will content myself with saying that the statements in it are not true, but in reply to the final paragraph, in which you say that you “ believe that it is morally right ” for you to go on with the case. I would ask you to read with open mind the Bible which I gave you some years ago, in St. Matthew, C.5, v. 31, 32 and 1 Corinthians, C. 7 v. 10, 11 and also read the enclosed pamphlet on Divorce and Remarriage, which 20 sets out the views of the Church on divorce, which are also my own views. And when you have read I ask you to consider the morality or otherwise of going on with this case and breaking the vows which we made at the altar, before God.

And then, my dear, I hope that you will agree that we meet together, and at least make some attempt to mend matters.

With love,
(Sgd.) ERIC.

“ B ” (x).

Letter, Respondent to Petitioner.

In the
Supreme
Court of
Victoria.

3 Balmerino Avenue,
Toorak, S.E.2.
September 5th, 1952.

Exhibits.

“ B ” (x)
Letter,
Respondent
to
Petitioner.
5th
September,
1952.

My dear Jean,

I am writing to you yet once more to ask you to use your better judgment before going on with your action, not only for your own welfare and for that of our family, but also for the welfare of our grandchild, and
10 of those children who may yet come.

May I beg of you to use your good sense, and even at this last moment, to meet me in a family conference to talk over our and their future and well-being.

There is not now, and there never has been, any real reason why you and I should not put our arms around one another, and come together as husband and wife. May I appeal to you to think deeply before continuing with any course of action which you may come to regret for the remainder of our days ?

With love,
(Sgd.) ERIC.

20

“ 26.”

Note, F. D. Lang to Respondent.

“ 26 ”
Note,
F. D.
Lang to
Respond-
ent.
Undated.

Tradesmans box broken to obtain key of garage to obtain spare tyre.
Garage door broken for same reason. Please leave key out in future.

In the Privy Council.

No. 26 of 1953.

ON APPEAL FROM THE HIGH COURT OF
AUSTRALIA.

BETWEEN

ERIC LANG ... (*Respondent*) *Appellant*

AND

JEAN WAUCHOPE LANG
(*Petitioner*) *Respondent.*

RECORD OF PROCEEDINGS

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