

hope or expectation of a reconciliation.

TO THE END THEREFORE, Your Complainant prays:

a. That this Honorable Court pass a decree divorcing your Complainant a mensa et thoro from the Respondent;

b. That this Honorable Court pass a decree awarding the care and custody of John R. Laubscher, Jr., David L. Laubscher, and Craig O. Laubscher, the said minor children of the parties hereto, unto your Complainant;

c. That this Honorable Court pass a decree awarding such sum by way of support and maintenance for said minor children out of the Respondent's estate, as may be proportioned to the means and station in life of said Respondent.

d. And for such other and further relief as her case may require.

May it please your Honor to grant to your Complainant an Order of Publication to be published in a newspaper having general circulation in Baltimore County giving notice to the absent non-resident Respondent, John R. Laubscher, of the object and substance of this suit, warning him to be and appear in this Court, in person or by attorney, on some day certain to be named therein, and answer the premises and abide by and perform such decree as may be passed therein.

AND AS IN DUTY BOUND, etc.

James A. Pine
James A. Pine
Solicitor for Complainant
24 W. Pennsylvania Avenue
Towson 4, Maryland
Valley 3-5404

Lillian Lee Laubscher
Lillian Lee Laubscher
Complainant

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY that on this 13 day of July, 1961, before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore County aforesaid, personally appeared LILLIAN LEE LAUBSCHER, Complainant, and made oath in due form of law that the matters and facts set forth in the foregoing Bill of Complaint are true and correct.

JAMES A. PINE
ATTORNEY AT LAW
TOWSON 4, MARYLAND

Stuart C. Gucker Jr.
Notary Public

MY COMMISSION EXPIRES MAY 6, 1963

(Page Two)

59 FILED FEB 19 1963

LILLIAN LEE LAUBSCHER
334 Back River Neck Road
Baltimore 21, Maryland
Complainant

vs.

JOHN R. LAUBSCHER
Hunter Motor Lines
Sanford, Lee County,
North Carolina
Respondent

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
* IN
* EQUITY
*

* * * * *

ORDER OF PUBLICATION
PERSONAL SERVICE

The object of this Bill is to procure a divorce A MENSA ET THORO by the Complainant, Lillian Lee Laubscher, from the Respondent, John R. Laubscher.

The Bill recites that the parties were married by a religious ceremony in Baltimore County, State of Maryland, on December 31, 1949; that three children were born of the marriage; namely: John R. Laubscher, Jr., age 10; David L. Laubscher, age 8; and Craig O. Laubscher, age 1½, who are presently in the care and custody of the Complainant; that the Complainant is a resident of Baltimore County, State of Maryland, and has been for more than one year prior hereto; that the Respondent is a non-resident of the State of Maryland, his last known address being-General Delivery, c/o Postmaster, Town of Sanford, Lee County, North Carolina; that the Respondent deserted the Complainant actually and constructively on May 1, 1961; that because of the violent physical attacks upon your Complainant on numerous occasions, the marriage relationship between the parties has become unbearable and that such desertion is deliberate and final and without any reasonable expectation of a reconciliation.

It is thereupon ORDERED by the Circuit Court for Baltimore County, in Equity, this 21st day of July, 1961, that the Complainant, Lillian Lee Laubscher, cause to be personally served upon the Respondent, a copy of this Order and a copy of the Bill of Complaint, notifying the Respondent, John R. Laubscher, to be and appear in this Court, in person or by solicitor, within fifteen (15) days subsequent to thirty (30) days from the date of service as aforesaid, to show cause, if any he may have, why a decree should not be passed as prayed, provided personal service aforesaid is obtained upon the said Respondent.

JAMES A. PINE
ATTORNEY AT LAW
TOWSON 4, MARYLAND

(2) *JP*

FILED JUL 21 1961

Walter Rasussen
Judge

(5) FILED FEB 19 1963

LILLIAN LEE LAUBSCHER
334 Back River Neck Road
Baltimore 21, Maryland
Complainant

vs.

JOHN R. LAUBSCHER
Hunter Motor Lines
Sanford, Lee County,
North Carolina
Respondent

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
IN
EQUITY

46693
707566

CERTIFICATE OF SERVICE

LEE COUNTY, SANFORD, STATE OF NORTH CAROLINA, to wit:

I hereby certify that on this 29 day of July, 1961,
before me, the subscriber, ~~Notary Public~~ Asst. Clerk Superior Court
North Carolina, personally appeared SHERIFF Loyd Smith Deputy Sheriff
of Lee County, State of North Carolina, who is personally known to me and who,
after being duly sworn, made oath in due form of law as follows, and hereunto
subscribed his name to said oath:

I, SHERIFF Loyd Smith D.S., of Lee County, State of North
Carolina, hereby declare and swear that on the 29 day of July, 1961,
I received a duly certified copy of the Order of Publication in the case en-
titled Laubscher vs. Laubscher, in the Circuit Court for Baltimore County, in
Equity, State of Maryland, and duly certified as a true copy of the Order, to
inform the Respondent, John R. Laubscher, of the substance of said suit, and
to give notice to the said John R. Laubscher, to appear in person or by
attorney and answer the Bill of Complaint filed therein, and that I took said
copy of the Order of Publication, and copy of Bill of Complaint, and upon the
29 day of July, 1961, in Lee County, Sanford, State of North
Carolina, I duly served and read the same to the said John R. Laubscher, and
that I presented the said copy to the said John R. Laubscher, who is personally
known to me, and I personally made service as aforesaid upon the said John R.
Laubscher.

Witness my hand and ~~Notary~~ Official Seal the day and year first above
written.

Matthew Celestio Asst.
~~Notary Public~~

Loyd Smith D.S.
Affiant

~~My Commission Expires~~
Clerk Superior Court, Lee County
North Carolina

FILED AUG 4 1961

JAMES A. PINE
ATTORNEY AT LAW
TOWSON 4, MARYLAND

TOWSON 4, MARYLAND

FILED FEB 19 1963

VS.

BALTIMORE COUNTY

JOHN R. LAUBSCHER

IN EQUITY
Case No. 46693 Docket 70/566

T E S T I M O N Y

Mr. Clerk:

Please file &c.

Herbert L. Wynne
Herbert L. Wynne - Master

REPORT OF MASTER

A Bill of Complaint was filed July 21, 1961 praying for a divorce A Mensa Et Thoro, however, the testimony was not taken in that case until January 21, 1963. At the close of the testimony the Master informed the Solicitor for the Complainant that the proof sustained the warranting of a divorce A Vinculo Matrimonii; however, the prayer being filed for a divorce A Mensa Et Thoro, the Master then advised the Solicitor for the Complainant to file a Supplemental Bill of Complaint praying for a divorce A Vinculo Matrimonii because if a divorce A Mensa Et Thoro was granted to the Complainant she would then be forever barred from claiming a divorce A Vinculo Matrimonii on the same grounds which was desertion. Miller vs. Miller 153 Md. 213-220.

Additional testimony was taken in this case on July 29, 1963 and in view of the fact that the original testimony was taken January 21, 1963 it was believed that it would only be necessary that the original testimony be brought up-to-date, which was done on July 29, 1963. The additional testimony is attached to the original testimony and filed with the proceedings.

In the first case for A Mensa Et Thoro the husband was served a copy of the Bill of Complaint and Order of Publication on July 29, 1961 by the Sheriff of Lee County. Sanford, State of North Carolina. No Answer was filed to the Bill of Complaint as a result of said personal service by Order of Publication. Decree Pro Confesso was filed January 18, 1963. Later, on February 19, 1963 a Supplemental Bill of Complaint was filed praying for a divorce A Vinculo Matrimonii. Order and Certificate of Publication filed, however, apparently the Defendant had moved from his last known address. The Defendant was notified by Registered Mail and the return receipt indicates that it was received by one Alvin Laubscher (who is no doubt a relative of the said Defendant husband). A Copy of the Bill of Complaint and Order of Publication was also sent to the Sheriff of that County who returned same with the information that the Defendant's present address is unknown by his previous employer. Affidavit of Compliance, Military Affidavit and Decree Pro Confesso filed.

Both parties are adults. Residence and marriage proven.

Three children born to the parties: John R. Jr., now twelve years of age David L., now eleven years of age and Craig is now three years of age; all of whom are in the care and custody of the mother Complainant. When testimony was taken on January 21, 1963 it was explained to the Complainant that under this proceedings no money could be awarded to her for the support and maintenance of the said three infant children.

The proof in this case shows that the husband had left the wife several times prior to May 1, 1961, and on that day he had been fighting with his wife and knocked all of the windows out of the house and left. The testimony further shows that since the date of the separation the husband has paid to the wife the sum of about \$300.00 for the support and maintenance of the three infant children. That is over a period of more than two years.

FILED JUL 30 1963

FILED AUG 27 1963

Costs paid, per *ALG*

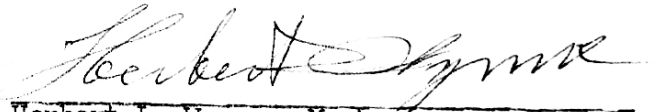
The proof further shows that the husband has made no effort or offer to become reconciled with the Complainant wife and again live with her.

The additional testimony further shows that the husband visited the home in August of 1962 but he didn't stay. He came to the house to say something to the wife's mother, which he did and then left. The wife has not heard from her husband since that time. The testimony of the Complainant is completely corroborated by the testimony of the corroborating witness who is a sister of the Complainant wife.

The proof in this case sustains the allegation of desertion and there is no hope of reconciliation.

RECOMMENDATION:

1. That the Complainant be awarded a divorce A Vinculo Matrimonii.
2. That the care and custody of the three infant children of the parties hereto be awarded to the mother Complainant.
3. That the cost of the proceedings be taxed unto the Complainant.


Herbert L. Wynne - Master

LILLIAN LEE LAUBSCHER : IN THE CIRCUIT COURT FOR
 VS. : BALTIMORE COUNTY
 JOHN R. LAUBSCHER : IN EQUITY
 : : : : : : :

The above cause standing ready for hearing, Decree Pro Confesso having been filed and notice having been given me by the Solicitor for the Complainant of the desire to take testimony in the same, I, HERBERT L. WYNNE, one of the Standing Examiners of this Court, duly appointed, qualified and sworn, met on the 21st day of January, 1963, at the hour of 10:00 A.M. in my office in the Duncan Building, Towson, Baltimore County, Maryland; due notice having been given me of the time and place of such meeting and in the presence of James A. Pine, Esq., Solicitor for the Complainant, proceeded to take the following testimony:

LILLIAN LEE LAUBSCHER, the Complainant, of lawful age, after being duly sworn, testified as follows:

BY THE EXAMINER:

Q. What is your name please?

A. Lillian Lee Laubscher.

Q. What is your present address?

A. 334 Back River Neck Road.

Q. That is in Essex, Baltimore County, Maryland. You are above 21 years of age. Are you employed?

A. Yes.

Q. By whom are you employed?

A. Ponca

Q. That is in the Dundalk section of Baltimore County. Have there been any other divorce proceedings between you and your husband, John, other than this case?

A. No.

Q. How old is your husband, John?

A. 36 or 37.

Q. Is he still residing in Sanford, Lee County, North Carolina as far as you know?

A. As far as I know.

Q. In a case of this type the Court cannot award you any support for the children. I'm sure Mr. Pine has explained that to you, Nor can we award you alimony because your husband is not within the jurisdiction of this Court. Mr. Pine will inform you of the correct procedure.

- 2-
- Q. When, where and by whom were you married to your husband, John?
- A. We were married December 31, 1949 in Baltimore County, Maryland by a Minister of the Protestant faith/
- Q. How long have you lived in Baltimore County?
- A. 20 years.
- Q. How long did your husband reside in Baltimore County?
- A. 10 years
- Q. As a result of your marriage to your husband, John,, were there any children born?
- A. Three.
- Q. That is John R., Jr., age 11, David L., age 9, and Craig, age 3. Who has the care and custody of the children now?
- A. I do.
- Q. In event the Court grants you a divorce, do you desire to retain the care and custody of your children?
- A. Yes.
- Q. Are you and your husband now living together?
- A. No.
- Q. When did you separate?
- A. May 1, 1961.
- Q. Where were you all living at that time?
- A. Middle River Road in Essex.
- Q. Which one left the other?
- A. He left me.
- Q. For approximately six months prior to the separation, had your husband indicated by his words or actions that he was going to leave you?
- A. My husband left me several times before he finally left me on the 1st of May 1961.
- Q. What occurred on May 1, 1961 when your husband left you?
- A. Well, he was fighting with me, knocked all the windows out of the house, and left.
- Q. After that performance did your husband leave you?
- A. Yes.
- Q. When did you next see your husband after May 1, 1961?
- A. The exact date? It was a long, long time, I don't know.
- Q. How many months after?
- A. About two or three.
- Q. How much has your husband given to you for the support of you and the children since he left you?

A. Very little.

Q. How much?

A. Maybe three hundred dollars. He gives it whenever he feels like it.

Q. When was the last time you talked to your husband?

A. Be about six months.

Q. Has your husband ever made any offer to return and live with you and the children?

A. No.

Q. Has the separation of you and your husband, John, continued uninterruptedly since May 1, 1961?

A. Yes.

Q. Did you give your husband any just cause or reason to desert you?

A. No.

Q. Have you lived with, or have you cohabited with your husband since May 1, 1961?

A. No.

Q. Would you consider that the desertion of you by your husband, John, was his deliberate and final act of deserting you with the intention of ending the marital relationship?

A. Yes.

Q. Do you think there is any reasonable hope or expectation of you and your husband becoming reconciled and living together again?

A. No.

Q. If the Court grants you a divorce, it will be a divorce A Mensa Et Thoro which means a partial divorce, and does not permit you to remarry. Do you understand that?

A. Yes

TESTIMONY CONCLUDED

CATHERINE COOK, a witness of lawful age, produced on behalf of the Complainant, after being duly sworn, testified as follows:

BY THE EXAMINER:

Q. What is your name please?

A. Catherine Cook.

Q. What is your present address?

A. 247 Orem Road in Essex.

Q. That is in Baltimore County, Maryland. You are above 21 years of age. Are you employed?

A. No. Housewife.

Q. Do you know the parties to this suit, Lillian Lee Laubscher, her husband, John, either or both of them?

A. I know both of them.

Q. Are you related to either party?

A. My sister, Mrs. Laubscher.

Q. Your sister, Lillian, is above 21 years of age, presently residing at 334 Back River Neck Road in Essex, and is employed.

A. Yes.

Q. How long have you known John Laubscher?

A. About 10 or 11 years.

Q. He, too, is above 21 years of age, and as far as you know he is presently living in Sanford, Lee County, North Carolina. Is that correct?

A. Yes.

Q. Did you attend the marriage ceremony?

A. No.

Q. Did you visit your sister, Lillian, and her husband, John, when they lived together as husband and wife?

A. Yes.

Q. Did they hold themselves out in the neighborhood in which they lived and were they recognized by their neighbors and friends as being husband and wife?

A. Yes.

Q. Your sister has lived in Baltimore County for approximately 20 years and her husband did live in Baltimore County approximately 10 years. Is that correct?

A. Yes.

Q. As a result of the marriage of your sister, Lillian, to her husband, John, were there three children born?

A. Yes.

- Q. That is John R, Jr., age 11, David L., age 9 and Craig O., age 3 and all three children are in the care and custody of your sister, Lillian.
- A. Yes.
- Q. Two of them go to school apparently.
- A. Yes
- Q. Who takes care of Craig while your sister Lillian is employed?
- A. My other sister.
- Q. Is your sister, Lillian, now living with her husband, John?
- A. No.
- Q. Do you recall about when the separated?
- A. May 1, 1961.
- Q. Which one left the other?
- A. He left her.
- Q. Your sister has testified that John had left her on many occasions before. Are you familiar with that?
- A. Oh yes.
- Q. When did you discover that John had left your sister, Lillian?
- A. The next day.
- Q. Your sister told you of course?
- A. Yes.
- Q. Did you go to her home after she phoned you?
- A. Yes I did.
- Q. Did you notice whether or not John had removed his personal belongings and clothing?
- A. Everything that he could.
- Q. What was the condition of the house when you arrive there?
- A. It was a mess. The door was banged in, the windows were out, everything was upside down, it was really a mess.
- Q. Has the separation of your sister, Lillian, and her husband, John, continued uninterruptedly since about May 1, 1961?
- A. Yes.
- Q. Did your sister give her husband any just cause or reason to desert her?
- A. No, not that I know of.
- Q. Have you seen John around since May 1, 1961?
- A. No.
- Q. If he had returned to your sister, you would certainly know about it wouldn't

you?

A. Yes.

Q. He has not returned. Is that correct?

A. That is right.

Q. Would you consider that the desertion of your sister, Lillian, by her husband, John, was his deliberate and final act of deserting her with the intention of ending their marital relationship?

A. Yes, it seemed like that to me.

Q. Do you think there is any reasonable hope or expectation of your sister, Lillian, and her husband, John, becoming reconciled and living together again?

A. No.

TESTIMONY CONCLUDED