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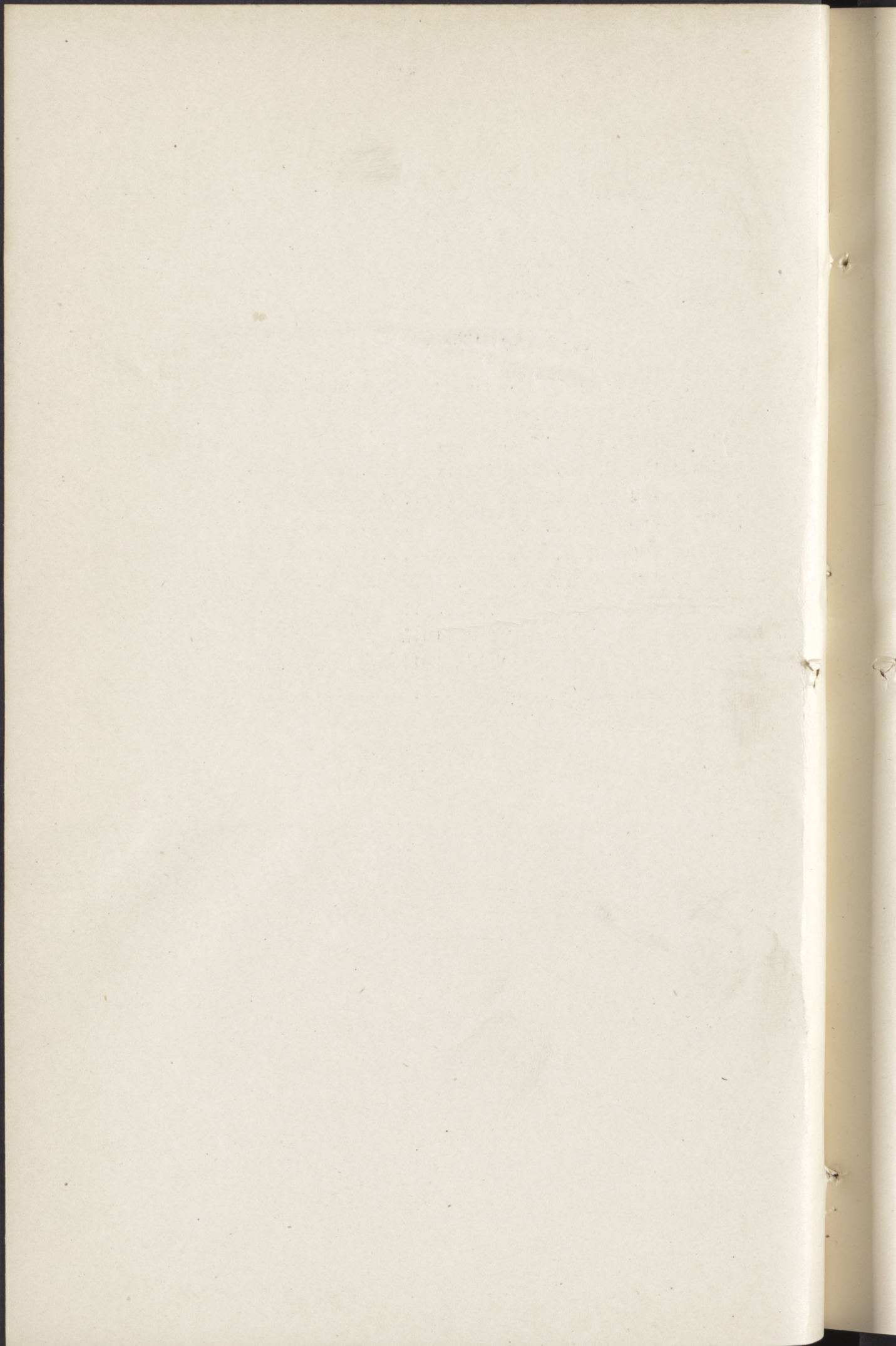
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NEW JERSEY PREROGATIVE COURT.

_____)
In the Matter)
of the)
Probate of a Paper Writing)
Purporting to be the Last) Notice of Appeal.
Will and Testament of) 10
Frederick F. Coleman, De-)
ceased.)
_____)

To John V. B. Wicoff, Proctor for Arietta Coleman and Rolinda Coleman, and James D. Carton, Proctor for Annie E. Wahl.

Take Notice, that Ella McGlathery, the caveatrix and contestant herein to the probating of the will of Frederick F. Coleman, deceased, hereby 20
appeals from the decree and the whole of the order, entered in the above entitled cause, on the 31st day of July, A. D. 1917, admitting said will to probate, to the Court of Errors and Appeals in the last resort in all causes, except that part thereof allowing counsel fees to counsel for the respective parties.

Dated Aug. 16, 1917.

C. RUSSELL ROGERS,

Solicitor and of Counsel with
Appellant.

I conceive that there is a good cause for appeal in the above stated cause.

THOMAS H. BROWN,

Of Counsel with Appellant. 40

PETITION OF APPEAL

TO THE HONORABLE COURT OF ERRORS
AND APPEALS IN THE LAST RESORT
IN ALL CAUSES:—

The petition of Ella McGlathery, the appellant
in the above stated cause respectfully shows:

- 10 That your petitioner finds herself aggrieved by
a decree made in the New Jersey Prerogative
Court, by his Honor Edwin Robert Walker, Ord-
inary of the State of New Jersey, bearing date the
31st day of July, Nineteen hundred and seventeen,
in the matter of the probate of a paper writing
purporting to be the last will and testament of
the said Frederick F. Coleman, wherein and
whereby the said writing was admitted to probate,
20 and your petitioner humbly appeals from the whole
of said order or decree admitting said will to
probate, excepting that part thereof allowing coun-
sel fees to counsel for the respective parties herein,
upon the ground that the same is erroneous, and
illegal, and that the same was contrary to the
weight of the evidence taken in the New Jersey
Prerogative Court, and that inasmuch as a
Sheriff's Jury had previously declared the said
Frederick F. Coleman, deceased to have been of
30 unsound mind, memory and understanding at the
time he made and executed his last will and testa-
ment, the proponents herein did not assume the
burden of proof as required by law, and because
the testimony taken in said cause clearly showed
the said Frederick F. Coleman to have been of
unsound mind, which fact was not overcome by
the proponents herein, so that there was no evi-
dence upon which the Court could predicate its
conclusions, as set forth in the opinion filed herein,
40 and in the order filed herein.

PETITION OF APPEAL

And on the further ground that it was alleged that fraud and misrepresentation had been practised upon Ella McGlathery, by the proponents herein in keeping her away from the first hearing held to probate said will, and finally the proponents after at first objecting to the said Ella McGlathery being admitted as party to said proceeding, the proponents herein withdrew their objections, provided that the said contestant Ella McGlathery be put upon terms, which the learned Ordinary did upon condition that the said Ella McGlathery might become a party to said proceeding and continue in the case from thence on, but that she would not be permitted to recall any of the witnesses who had already testified for cross-examination although several of the said witnesses were still in the Court room, nor would she be permitted to recall them at her own expense for cross-examination, despite the fact that nearly all of proponents witnesses had given their testimony by this time, and particularly those witnesses who had testified to the due execution of said will, this your petitioner humbly submits was contrary to law, as it did not permit your petitioner to have her day in Court.

Your petitioner therefore prays that said decree admitting to probate the will of Frederick F. Coleman, deceased, be reversed, set aside and for nothing holden, and that your petitioner may have such further relief in the premises as to this honorable court shall seem meet.

C. RUSSELL ROGERS,

THOMAS H. BROWN,

Solicitor and of Counsel with
Appellant.

4
ANSWER
COURT OF ERRORS AND APPEALS OF
NEW JERSEY.

_____)
In the Matter)
)
of) Answer of
)
10 The Probate of the Last Will) Arrietta Colemar
)
and Testament of Frederick) et al. to Petitiour
)
F. Coleman, Deceased.) of Appeal.
_____)

The answer of Arietta Coleman and Rolinda Coleman, respondents to the petition of appeal of Ella McGlathery, the appellent in the above cause.

20 1. These respondents not acknowledging all or any of the matters which in the said petition of appeal are contained to be true, for answer thereto nevertheless say and admit that a decree was made and entered in the Prerogative Court in this cause on July 31st, 1917, and as to the substance and form thereof these respondents pray to refer thereto when the same shall be produced.

30 2. These respondents deny that the said decree is erroneous, improper or illegal for any reason alleged in the petition of appeal, or for any other reason, and are advised, believe and submit that the same is agreeable to equity and according to law.

They therefore pray that the said decree may be affirmed in all things with costs to be adjudged to these respondents.

WICOFF & LANNING,
Solicitors and of Counsel with Arrietta
Coleman and Rolinda Coleman, re-
spondents.

5
ANSWER

NEW JERSEY COURT OF ERRORS AND
APPEALS.

_____)	
In the Matter)	
of the)	Answer of
Probate of the Last Will and)	Annie E. Wahl 10
Testament of Frederick F.)	to Petition
Coleman, Deceased.)	of Appeal.
_____)	

The answer of Annie E. Wahl, one of the respondents to the Petition of Appeal of Ella McGlathery, Appellant.

1. Respondent not acknowledging all or any of the matters which in the said Petition of Appeal 20 are contained to be true for answer thereto, nevertheless says and admits that a decree was made and entered in the Prerogative Court on July 31, 1917, but as to the substance and form thereof, respondent prays to refer thereto when the same shall be produced.

2. This respondent is advised, believes, and submits that said decree is just and in accordance with law, and denies that said decree or any part 30 thereof is erroneous, improper or illegal, but on the contrary alleges that said decree in every part thereof is legal, proper and correct.

She therefore prays that the said decree may be in all things affirmed with costs to be adjudged to this respondent.

JAMES D. CARTON,
Proctor for and of Counsel with
Respondent. 40

~~DECREE DENYING~~ ^{granting} PROBATE

NEW JERSEY PREROGATIVE COURT.

	In the Matter of the)	
	Probate of a Paper Purport-)	On Petition for
	ing to be the Last Will and)	Probate Order
	Testament of Frederick F.)	Granting
10	Coleman, Deceased.)	Probate.

This matter being opened to the court by John V. B. Wicoff, proctor for Arrietta Coleman and Rolinda Coleman and James D. Carton, proctor for Annie E. Wahl, proponents, in the presence of C. Russell Rogers proctor and Thomas H. Brown, of counsel with Ella McGlathery.

20 And It Appearing that Arrietta Coleman and Rolinda Coleman and Annie E. Wahl, the executors named in the last will and testament of Frederick F. Coleman, late of the County of Monmouth, deceased, and bearing date the 16th day of October, 1915, heretofore duly presented the said paper to me, the Ordinary, for probate, and although no caveat had been filed with the Surrogate of the County of Monmouth, or Register of this Court against the probate of said will, it

30 appeared that said Frederick F. Coleman had, by a commission in the nature of a writ de lunatico inquirendo, issued out of the Court of Chancery of this State, and executed at Freehold, on November 3, 1916, been found to be non compos mentis without lucid intervals for sevnteen months prior thereto, and an order having been made that said will be proved before this court in solemn form, upon notice to all persons concerned, namely: Arrietta Coleman, Rolinda Coleman and Ella McGlathery, next of kin and heirs-

40 at-law of said Frederick F. Coleman, and David

DECREE ~~GRANTING~~ DENYING PROBATE

R. Reed and Annie E. Wahl, legatees named in said will, and citations having been issued to all such persons in interest and returned served, and the matter coming on to be heard and the court having taken testimony and heard argument of counsel of the proponents and the caveatrix, and examined into the matter, and being of the opinion that said paper writing was duly executed by said Frederick F. Coleman as and for his last will and testament in manner and form prescribed by the statute in such case made and provided, and that said Frederick F. Coleman, at the time of making said will was of sound and disposing mind, memory and understanding, notwithstanding the finding of the jury in said lunacy inquisition, and that said will was not the product of undue influence.

It is, on this 31st day of July, A. D. 1917, Ordered, Adjudged and Decreed that the aforesaid paper writing of Frederick F. Coleman, bearing date the 16th day of October, 1915, be, and the same hereby is established as the last will and testament of said Frederick F. Coleman, deceased, and that the same be admitted to probate, And It Is Further Ordered that letters testamentary thereon be issued to the said Arrietta Coleman, Rolinda Coleman and Annie E. Wahl, the executrices in said will named, upon their duly qualifying as such.

And It Is Further Ordered that a counsel fee of Twelve Hundred and Fifty Dollars be allowed to John V. B. Wicoff, proctor of Arrietta Coleman and Rolinda Coleman and a counsel fee of Twelve Hundred and Fifty Dollars be allowed to James D. Carton, proctor for Annie E. Wahl, proponents, together with their costs to be taxed, and the court being satisfied that the caveatrix

DECREE OF ^{g. Cantary} DENYING PROBATE

herein had reasonable cause for contesting the validity of the said will, it is further ordered that a counsel fee of One Thousand Dollars each be allowed to C. Russell Rogers and Thomas H. Brown proctor and of counsel for the caveatrix together with their costs to be taxed. The afore-
10 said counsel fees to be paid by Robert A. Messler, out of the funds of the estate of Frederick F. Coleman, he has in hand as receiver or administrator pen dente lite.

EDWIN ROBERT WALKER,
Ordinary.

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30

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MEMORANDUM OF OPINION OF
EDWIN ROBERT WALKER.
NEW JERSEY PREROGATIVE COURT.

_____)
In the Matter of the Estate) Memorandum.
of Frederick F. Coleman,) (Not for print).
Deceased.)
_____)

10

On application for probate of will.

Messrs. Wicoff & Lanning and Mr. James D. Carton, for proponents.

Mr. C. Russell Rogers and Mr. Thomas H. Brown, for Ella McGlathery, contestant.
Walker, Ordinary.

On December 8, 1916, a petition was filed in the prerogative office by Arietta Coleman, Ro- 20
linda Coleman and Annie E. Wahl, all residing in this state, the executrices named in a certain paper writing purporting to be the last will and testament of Frederick F. Coleman, late of Monmouth County, who departed this life on November 27, 1916, for the probate of the will and the issuance of letters testamentary thereon, no caveat having been filed in the Monmouth County surrogate's office against the probate of the will or the granting of administration upon the 30
estate of the deceased.

Upon the will being presented to me for probate, the proctors for proponents very properly informed me that the decedent, Dr. Coleman, by a commission in the nature of write de lunatico inquirendo issued out of the Court of Chancery, executed at Freehold, November 3, 1916, some three weeks before his death, the Doctor was, by a jury, found to be non compos mentis and without lucid intervals for seventeen months prior 40

MEMORANDUM OF OPINION OF
EDWIN ROBERT WALKER.

thereto, but asserted that they were prepared to prove that the Doctor was of sound and disposing mind, memory and understanding when he executed the will, October 16, 1915, the inquisition to the contrary notwithstanding. This appearing, I directed that the will should be offered for probate in solemn form, so that everyone interested as heir-at-law or next of kin of the deceased should have notice. Accordingly an order was entered on December 11, 1916, that on January 9, 1917, the petitioners might proceed to prove the will by witnesses and proofs on due notice to the heirs-at-law and next of kin and all persons concerned. Citations were issued and returned duly served, and the taking of testimony was commenced before me in the prerogative court on January 9, 1917. At the end of the day adjournment was had for one week, and on the day of continuance, January 16, 1917, Mrs. Ella McGlathery, a sister and one of the heirs-at-law and next of kin of the deceased, appeared in person and by counsel and desired to be heard in opposition to probate. Counsel for proponents did not object, provided the would-be contestant was put upon terms. Whereupon I ruled, as she had absented herself on the return day of the citation without any sufficient excuse, that the testimony already taken should stand without any right in Mrs. McGlathery to recall the witnesses for cross-examination, but with the right of full participation in the proceedings from that point on. Thereafter considerable testimony was taken before me, and de bene esse by a master in chancery, both in and out of the state.

It will be observed that the finding of the jury in the lunacy inquisition stamped Dr. Coleman as

MEMORANDUM OF OPINION OF
EDWIN ROBERT WALKER.

being non compos mentis on November 3, 1916, and without lucid intervals for seventeen months prior thereto, which would run back to April, 1915, and the will was made within that period, having been executed October 16, 1915.

If the jury's finding of lunacy without lucid intervals were conclusive, that would end the case in favor of the contestant. But the finding is only prima facie evidence of the facts found, and may be overcome by satisfactory evidence of capacity at the time the will was made. The finding raises a presumption against the validity of the testament,—one which is not conclusive but which may be rebutted. 10

The case of *Brady v. McBride*, 39 N. J. Eq. 495, is directly in point. The testatrix made her will in February, 1876. In November, 1879, two years and seven months afterwards, a jury, on inquisition of lunacy, found her then to be, and to have been for three years preceding, of unsound mind, thus carrying her incapacity back for a period of some five months prior to the execution of her will. Chancellor Runyon, sitting as ordinary in the prerogative court, observed, at p. 500: 20

“The finding of the jury that the lunacy had existed for three years, is not conclusive. Any presumption which it raises is rebutted by the proof that the testatrix had testamentary capacity at the time of the making of the will.” 30

In *Sbarbero v. Miller*, 72 N. J. Eq. 248, Vice Chancellor Garrison observed, at p. 264:

“In addition to the oral testimony delivered at the trial, the complainant also produced and put in evidence a finding of a commission in lunacy on the 9th day of Sep- 40

MEMORANDUM OF OPINION OF
EDWIN ROBERT WALKER.

tember, 1903, declaring John Barber a lunatic, of whom subsequently his eldest daughter was appointed guardian. This proceeding as, of course, ex parte, and is only prima facie evidence. Mott v. Mott, 49 N. J. Eq. (4 Dick.) 192 (at p. 196), and cases cited; 10 Kern v. Kern, 51 N. J. Eq. (6 Dick.) 574 (at p. 583). I will not further discuss the weight of this finding, because, while in a doubtful case I should give great weight to the determination of commissioners and a jury, I do not see that it is entitled to any more than prima facie effect in the face of a fully-tried issue in this court."

The testator's reason for not leaving any of 20 his property to his sister, Mrs. McGlathery, undoubtedly was that he had been estranged from her for a long time, and his reason for making Mrs. Wahl one of his beneficiaries undoubtedly was the fact that he was engaged to be married to her.

Counsel for the contestant, Mrs. McGlathery, argues that Mrs. Wahl exercised undue influence upon the deceased, and they do not pointedly 30 argue, that her relations with the Doctor were not altogether proper, because they were engaged to be married while Mrs. Wahl was the wife of another man, between whom and her a divorce case was pending at the time of Dr. Coleman's death.

The testimony does not disclose that Mrs. Wahl in fact exercised undue influence over the Doctor, and even if it were shown that their relations were meretricious, and they were not so shown, that of itself would not operate to defeat 40 the gift to her. See Arnault v. Arnault, 52 N. J.

MEMORANDUM OF OPINION OF
EDWIN ROBERT WALKER.

Eq. 801; In re Willford's Will, 51 Atl. 501; Middleton's Case, 68 N. J. Eq. 584, affirmed IB. 798.

The questions of law being decided against the contestant, the case resolves itself into one of facts. I shall not discuss them. To my mind it is sufficient to say, that they clearly show that the testator was of sound and disposing mind, 10
memory and understanding when he executed his will, that he comprehended the property he was about to dispose of, the natural objects of his bounty, the meaning of the business in which he was engaged, the relation of each of these factors to the others, and the distribution that was made by the will. His mental capacity was at least equal to that. See Clifton v. Clifton, 47 N. J. Eq. 227.

The contest against this will was, however, 20
amply justified. In this situation, the costs and expenses of the contestant, including counsel fees, as well as those of the proponents, will be ordered to be paid out of the testator's estate. These will be settled on application and on notice.

30

40

14
NOTICE OF MOTION

PREROGATIVE COURT OF NEW JERSEY.

10 _____)
 In the Matter) Notice of
 of the) Motion.
Will of Frederick F. Coleman,) Made by
 Deceased.) Caveatrix.
_____)

Sirs:—

20 Please Take Notice that the undersigned will make application to Honorable Edwin R. Walker, Ordinary of the Prerogative Court of the State of New Jersey, at the Court Rooms of said Court, State House, Trenton, New Jersey, on the 3rd day of April, 1917, at 2:00 P. M., in the afternoon of that day or as soon thereafter as counsel can be heard for the following relief, to wit:

I—A supplemental or other order continuing the Commission issued herein to Edward J. Maxson, Special Master, so as to take the testimony of David R. Reed.

30 II—Right to offer in evidence letter written by proponent Rolinda Coleman to caveatrix, dated April 24th, 1916, and the right to recall said Rolinda Coleman for cross examination concerning said letter.

III—Right to call for and cross examine the witnesses produced herein by proponent who testified but who have not been cross examined by caveatrix.

40 And for such other, further or different relief as this Court may deem just, proper and equitable.

15
NOTICE OF MOTION

The undersigned will read at the hearing of this application his affidavit, a copy of which is annexed hereto and served herewith.

Dated, March 26th, 1917.

C. RUSSELL ROGERS,
Proctor for Caveatrix. 10

To:

WICOFF & LANNING,
Proctors for proponents.

J. OTTO RHOME,
Proctor for Annie E. Whal.

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30

40

17
AFFIDAVIT

testator had been incompetent for eight months prior thereto, or in other words five months prior to the execution of the will here offered for probate. On January 31st, 1916, Robert W. Messler was duly appointed Receiver.

On November 2nd, 1916, a jury sitting in the County of Monmouth, inquiring into the sanity of the testator, upon the evidence offered including the testimony of the proponents and Dr. Cotton, found the testator to have been suffering from paresis for eighteen months last past without lucid periods. 10

On the 2nd day of January, 1917, the proponents offered the will herein for probate in solemn form before the Ordinary and on the 9th day of January, 1917, offered testimony to show that the testator was experiencing a lucid period at the time the will was drawn. Mrs. Anna E. Wahl, who claims to have been engaged to the testator and the most substantial legatee in the will, testified on the first day of probate. J. Otto Rhome, her solicitor, and one of the attesting witnesses to the will was also produced by proponents at this first day of probate. It was solely upon the testimony offered by J. Otto Rhome, that Dr. Cotton attempted to modify his testimony and expert opinion as to the mental condition of the testator. Neither Mrs. Wahl nor Mr. Rhome were subjected to cross-examination. Mr. Rhome's testimony concerning the due execution of the will was not responsive and required the leading questions of counsel to elicit the same. 20 30

On the 23rd day of January, 1916, your deponent applied to this Court on behalf of the caveatrix for leave to enter and contest the will on the ground that said caveatrix had been induced to stay away from the probate proceedings through the execution of an instrument later 40

18
AFFIDAVIT

held by the Ordinary to be void upon its face and against public policy. The caveatrix at this time, however, was denied the right to cross-examine the witnesses who had already testified.

10 Your deponent states that at the time of this Ruling by the Court, he had assurances from Dr. David R. Reed, a life long friend of the testator, that he would appear as a witness and testify
concerning the incompetency of the testator and acts showing the same and further the conduct
of Mrs. Wahl towards the testator and especially
at the time the will was executed to show that
she unduly influenced the testator in the execu-
tion thereof. With this assurance in mind, your
deponent knew that Mrs. Wahl would be obliged
to take the stand in rebuttal and thereby submit
herself to cross-examination. On that day of the
20 trial herein Dr. Reed failed to appear as prom-
ised and from that time on deponent has been
unable to personally reach him, although he has
exerted every effort to reach him. Deponent
employed a process server who attempted to lo-
cate Dr. Reed at his residence at 241 North Fifth
Street, Newark, N. J. Thomas H. Brown, of
counsel with caveatrix herein, on several occa-
sions personally tried to locate Dr. Reed. On
30 Wednesday last, however, deponent reached Dr.
Reed by telephone, and was advised that he, Dr.
Reed, would not voluntarily appear as a witness
in this proceeding. Dr. Reed is employed in the
City of New York by the Puffer Manufacturing
Company at 131 West 37th Street, City, County
and State of New York, where he can now be
found.

When the commissions to take the testimony of
witnesses herein were issued, the Ordinary stated
upon deponent's request, that a commission would
40 issue to take Dr. Reed's testimony, but deponent

19
AFFIDAVIT

was unable at that time to give the witnesses' address. Deponent therefore asks this Court to continue the order issued to Edward J. Maxson, Special Master, and to include in said order the testimony of David R. Reed.

Deponent states that this witness is the same David R. Reed who witnesses have testified accompanied the testator when he was taken to the Sanatorium at Connecticut, and who deponent further states was the testator's life long friend and who personally assisted him in conducting the drug business at Asbury Park up to the time of the testator's death. He is a most important witness. Deponent further knows from conversations had with Dr. Reed that he can throw a great deal of light upon the testator's life and mental condition around the time of the execution of this will. 10
20

Deponent has just been handed by caveatrix a letter written by Miss Rolinda Coleman, one of the proponents, a copy of which is hereto annexed and which letter deponent desires to present as evidence to the Chancellor and further to have the right to cross-examine said proponent concerning the statements therein contained.

Deponent appeals to the discretion of this Court to consider all available evidence in such an inquiry as here presented. The testator was an insane person and the findings of a Court in this State raises a presumption against the will. Deponent considers the proceeding to be in the nature of an inquiry and as no harm or injustice can possibly arise upon the continuation of this trial and the receipt of all evidence that will in anywise aid this Court in determining the issues herein raised, therefore prays this Court's indulgence for the following relief: 30
40

AFFIDAVIT

I—A supplemental order continuing the commission issued to Edward J. Maxson, Special Master, so as to take the testimony of David R. Reed.

10 II—The receipt in evidence of the letter of Miss Rolinda Coleman, a copy of which is hereto annexed, with the right to cross-examine her as to its contents and an explanation of the terms thereof.

III—The right to cross-examine the witnesses who testified on the first day of the trial herein and who never have been subjected to cross-examination.

20 Deponent submits that further testimony should be received by this Court so as to afford the Ordinary substantial proof as to the question of the testator's competency and the lack of undue influence at the time of the executions of the will.

A brief summary of the testimony offered will show that available evidence should not be rejected and more light should be given concerning these matters.

QUESTIONS OF LUCID PERIOD

30 (Presumption against will—Burden of proof on proponents.)

For Proponents	For Caveatrix.
1—Testimony of Dr. Cotton modified entirely upon Rhome's testimony.	1—Finding of Jury. No cross examination.
2—Dr. Robertson (refused to testify).	2—Certificate of Robertson, testator was insane. Certificate of Sherril, testator was insane.

21
AFFIDAVIT

- | | | |
|--|---|----|
| 3—Dr. Givens (refused to give opinion). | 3—Admitted testator was insane when at Sanatorium. | |
| 4—Rolinda Coleman. | 4—Petition and affidavits (testator incompetent). | |
| 5—Arietta Coleman. | 5—Petition and affidavits (testator incompetent). | 10 |
| 6—Annie E. Wahl. | 6—No cross examination. | |
| 7—J. Otto Rhome. | 7—No cross examination. | |
| 8—Witness who say they saw no difference in testator's mental condition. (Not cross examined). | 8—Witness who saw numerous delusions before and around time of execution of will. | 20 |

Due execution of will

For Proponents.

- | | | |
|---|-------------------------|----|
| 1—J. Otto Rhome, not responsive—had to be lead to state that testator acknowledged paper as his last will, etc. | 1—No cross examination. | |
| 2—Miss Bills (Mrs. Garabrant) did not recall that testator did declare paper to be his last will. | | 30 |

Undue influence

- (Presumption against Mrs. Wahl as substantial legatee by reason of her opportunity to exercise undue influence over the testator, who was a weak and proper subject).
- 40

AFFIDAVIT

For Proponents.

For Caveatrix.

1—Mrs. Wahl admitted she was constantly with testator—not his wife.

1—Claimed to be engaged when actually the wife of another at that time. J. Otto Rhome, her personal attorney drew will. She was at Rhome's office both day of drawing will and date it was executed.

10

The entire case centres about Mrs. Wahl and J. Otto Rhome with respect to due execution of the will and the question of probable undue influence which the opportunity offered Mrs. Wahl, raises a presumption against her as she appears as the substantial beneficiary in a will executed under such conditions. As to the lucid period of the testator. Dr. Cotton and Mr. Rhome should be thoroughly cross-examined for the reason that Dr. Cotton is the only expert opinion here offered and his opinion has been radically modified entirely upon what Mr. Rhome testified in this Court without either witness being cross-examined.

20

Mrs. Wahl necessarily is an interested witness and outside of Dr. Reed is probably the only available person who can testify as to her influence over the testator.

30

Subscribed and sworn to before me this 26th day of March, 1917.

C. RUSSELL ROGERS.

EDWIN S. OLDIS,

Notary Public, Kings County No. 11.

Kings County Register No. 8009.

Certificate filed in N. Y. Co. No. 26

New York Co. Register No. 8035.

40

Commission expires March 30, 1918.

LETTER ANNEXED TO FOREGOING
AFFIDAVIT.

ASBURY PARK, N. J., April 24th, 1916.

DEAR ELLA—Your easter card received to-day. Thanks for same. Give Fred my sympathy and love. I was sorry to hear of his loss. I hope now you and Fred and Richard will live together, it will be so much better for you all. I think you can look after each other, if you get sick, or when you get old, you would have some one to take an interest in you. I do hope
10 the boys won't drink any more, it don't pay, it ruins their health and mind to sometime—life is to short—you want to be happy in this world and the next if you can, and you never know when trouble is going to over take you—if Richard's wife won't live with him, why don't he get a divorce, so she can't come on him for money. I would think you would rather live in Philadelphia in Winter—and Atlantic in Summer—I would
20 —Etta and I have been in terrible trouble since the day before Xmas—we were sent for that day to come to Asbury Park—as Dr. Coleman wasn't so well. We didn't know he was sick and was frightened to death—we didn't know whether he was dying or not. Etta came right on and I came Xmas morning—and we have been here ever since—only going back and forth to Trenton when we had to on business on at a time, the other staying her and rushing back as quick as we could. We had friends of Dr. take him to a specialist in New York. Dr. didn't know where he was going—
30 they managed it so he wouldn't—that was the day before New Years—brought him back at night—the specialist said we must send him away at once—so the same friends took him to Conn to a private sanatarium on the 6th of January and he has been there ever since—don't improve much as he has brain trouble. Then

22 B
LETTER ANNEXED TO FOREGOING
AFFIDAVIT.

we had Robert A. Messler of Trenton "I guess you know him" appointed by the Court in Trenton as his Guardian to take charge of his affairs—then Mr. Messler put Etta and I here to look after his place—he cant be here all the time—and some one has to be here to get the apartments cleaned ready to rent. We have to make money enough to take care of him, as it is very
10 expensive where he is—and then we have a specialist from New York go up to Conn—to give him a new kind of treatment—We have had it very hard since we came there is so much to see to—this has been coming on Dr. for about a year and a half, but no one told us—you know we didn't come her last Summer but went to the Country—just the Summer that we ought to have been here—and the lady he boarded with had things all fixed to suit herself before we got here—
20 and didn't send for us until she had too, but don't mention that to anyone, as we have to be very careful what we say or we will have more trouble—we will tell you more when we see you. I feel terrible about Dr. but I try not to worry, as I am very miserable and it only makes me worse—at first I cried all night and day and some days. I cant begin to tell you what I have gone through with—we will have to stay here this summer to look after things and close up in the fall—but wont stay another winter—Mr. Messler is an honest fine man and his lawyer is honest from Trenton
30 to—we didnt trust anyone here—as there was reasons why we couldnt—everyone here says we did the right thing and are pleased with Mr. Messler—every one says that they are so glad we got such a good honest man—he has to take every thing to the court for there approval—they have rented the drug store and Dr. offices

LETTER ANNEXED TO FOREGOING
AFFIDAVIT.

—we don't have anything to do with the money—just the work—Etta goes up to see Dr. Mr. Messler went once and they are going again, but I havent been as it is to hard a journey for me—it takes all day starting early in the morning and dont get back until evening—and there isnt much satisfaction in seeing him—he knowes up—they dont let any one but Etta see him —they are very fond of him up there—he has a private attendant with him all the time—it is a very nice place. Dr. is 32nd degree mason and an Elk—and they our up there—and our looking after him fine. The Mason and Elks here are looking after him too—we are doing the very best we know how for him but it is so sad, so young—Etta is pretty nearly played out with so much to see to and running up and down all the time—I am very lane, have to use a heavy cane all the time—it is very cold here—a good many people in Asbury yesterday for Easter but would have been a great many more if the weather had been nice. 10 20

Direct your letter to 201 4th Ave. Asbury Park, N. J. I will be glad to hear about Fred—we have a woman cleaning the apartments—and our colored man that Dr. kept—has been here to taking care of the fire—but he went to Phil. on Wednesday to see his sick brother and said he would be back at night—but he hasnt come yet—so we haven't any fire and it is to cold in this large building without fire. I hope he will come back soon as there is a lot of other thigs for him to do—he can be trusted and knows where everything is—love from LINDA 30

Mary Coleman fell on the ice about 7 weeks ago—and broker her hip and has been in the Hospital ever since—but is better now.

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23
NOTICE OF MOTION

IN THE PREROGATIVE COURT OF THE
STATE OF NEW JERSEY

_____)
In the Matter of the Probate of)
the Last Will and Testament of) Notice of
FREDERICK F. COLEMAN,) Motion.
deceased.)
_____) 10

SIRS:

PLEASE TAKE NOTICE, that Ella Mc
Gathery, sister of Frederick F. Coleman, late
of Monmouth County, New Jersey, upon the an-
nexed affidavit and her appearance in person,
will move this Court before Honorable Edwin
R. Walker, ordinary, on Tuesday, January 23rd,
1917, at 2 o'clock in the afternoon of that day,
or as soon thereafter as counsel can be heard, 20
for leave to appear in the probate proceedings
herein, to caveat and protest against the pro-
bate of the will or wills offered herein as the
last wills and Testaments of Frederick F. Cole-
man, and for all and proper relief in the prem-
ises, to establish her rights in and to the de-
cedent's estate as legatee, heir at law and next
of kin, and for such further and other relief
as may to the Court seem just proper and equit- 30
able.

Dated, January 16th, 1917.

Russell Rogers

Proctor of Ella McGathery, the caveatrix.

To: Messrs, Wicof & Lanning,
Proctors for Arietta Coleman
and Rolinda Coleman.
James D. Carton, Esq., and
J. Otto Rhome, Esq.,
Proctors for Annie E. Wahl.

40

24
AFFIDAVIT

IN THE PREROGATIVE COURT OF NEW
JERSEY

_____)
In the Matter of the Probate of)
the Last Will and Testament of) Affidavit.
FREDERICK F. COLEMAN,)
10 deceased. .)
_____)

State of New Jersey)
County of Mercer) s. s.

ELLA McGLATHERY of the City of Philadelphia, State of Pennsylvania, being duly sworn upon her oath, deposes and says:

20 First: That she is a sister of the late Dr. Frederick F. Coleman of the County of Monmouth, State of New Jersey, who died on the 27th day of November, 1916.

Second: That for many years last past she has not been familiar with her brother Dr. Coleman, having resided a distance from him, and having not communicated with him constantly. Your deponent did not make an appearance for
30 the purpose of contesting the will offered in this Court under date of October 16th, 1915 of her brother, for the reason that she was not at that time cognizant of the facts and circumstances surrounding her brother's mental condition at the time said will was drawn, and for the further reasons hereinafter set forth. Your deponent is now advised that her brother in October 1915 was suffering from paresis and of
40 will of real and personal property. Your de-

AFFIDAVIT

ponent is further advised that her brother on or about October 1915 or shortly thereafter was taken to the City of New York by Dr. David R. Reed and Charles G. Stockton, for the purpose of having her brother examined by Dr. Robertson a noted alienist in the City of New York, and an expert in mental diseases. Your deponent is further advised that Dr. Robertson 10 upon such examination, declared her brother, the deceased, to be suffering from paresis, which condition had existed for over a year previous, and that it was upon the examination and certificate of Dr. Robertson that the deceased was taken to Stamford, Conn. and shortly thereafter on application of his two sisters, committed under an order of the Connecticut Courts to Dr. Given's Sanatorium, at which place Dr. Coleman died on the 27th day of November, 1916. 20

Third: Your deponent is also advised of the incompetency proceedings brought in the State of New Jersey, whereby a Receiver was appointed of the decedent's property, and later on an inquisition was taken declaring the deceased to be a lunatic, without lucid periods for seventeen months last past.

Fourth: Your deponent will be prepared, if 30 permitted by this Honorable Court, to present evidence, expert and otherwise, to show that Frederick F. Coleman on or about October 16th, 1915, was incompetent and unable to make a will of real and personal property.

Fifth: Your deponent is further advised that she is a legatee under the will of Frederick F. Coleman, dated the 12th day of October, 1911, which is now on file in this Court as an exhibit. 40

26
AFFIDAVIT

According to the contents of said will she is named as the residuary legatee.

10 Sixth: Your petitioner further states that shortly after the death of her brother, one Robert Messler, of Trenton, N. J. who was the Receiver of the Estate of said Frederick F. Coleman, an incompetent, sent for her and she went to see him. He showed deponent a copy of her brother's will now offered for probate under date of October 16th, 1915, and told deponent that she could only get \$100. and no more. A few days later said Robert Messler again sent for deponent and when she arrived at his place of business, he stated that he had good news for her, that a Miss Anna Wahl would give deponent \$1000., if she, deponent, 20 would sign a paper. Said Messler said he was pleased indeed because of this offer and advised deponent to sign paper, the contents of which deponent does not recall at this time. Deponent before signing said paper again asked said Robert Messler if it was all right and he said "Yes," that all she could get was \$100. Said Robert Messler then asked deponent to give lawyer Wicof, \$50. which deponent said she would do.

30 Deponent signed the paper presented by said Messler but has received no money from him or any other person. No mention was made to deponent of the existence of the will of her brother made in 1911 wherein she is residuary legatee and she was not represented by counsel at any time during these transactions.

40 On Sunday, January 14th, 1917, your deponent first learned of the true condition of affairs, as heretofore stated in this affidavit and discover-

27
AFFIDAVIT

ed that her signature was placed by her upon some paper at the request of said Messler, upon a untruthful statement as to her rights and interests in and to the estate of her deceased brother. In other words deponent refuses to accept anything from said Robert Messler or Anna Wahl or any other person in order to surrender her rights in her brother's estate and because of the untruthfulness of the representations made as aforesaid, will ask his Honor, the Chancellor, to relieve her of any obligations she may be subjected to by reason of the signing of the paper aforesaid. 10

Deponent states that she was told by said Messler not appear before the Court when the Sheriff served her, but to stay away which deponent did do, and that is why deponent failed to appear in the proceedings before this time.

Deponent has filed a caveat to the probate of all wills of Frederick F. Coleman, in the Orphans Court of Monmouth County, where decedent died, and respectfully begs this Court's indulgence to appear herein and caveat and protest the will or wills here offered for probate. 20

Ella McGlathery

Subscribed and Sworn to
before me this 17th day
of January, 1917.
John R. D. Bower
Notary Public of N. J. 30

27A
ANSWERING AFFIDAVITS

read by proponents in opposition to motion made January 23, 1917, to admit Mrs. McGlathery as a contestant.

STATE OF NEW JERSEY, }
COUNTY OF MERCER. } ss.

I, Robert A. Messler, being duly sworn according to law, on my oath do depose and say:

10 I. That I am a member of the firm of Murray, Griffith & Messler, and reside in the city of Trenton, where I have lived for forty-five years. I became acquainted with Mrs. Ella McGlathery, who was then Miss Ella Coleman, about forty years ago, and have known her family ever since. I also knew Frank McGlathery, whom she married, and later moved to Philadelphia. I had not seen Mrs. McGlathery since shortly after she was married until the summer of 1916, when she came to my place of business with Miss Etta Coleman, her sister,
20 to advise with me about her husband's will and a trust fund created therein for her benefit. I listened to her story and carefully went over the situation, and also asked Mr. Wicoff, who is my personal attorney, to look over the same. It was his advice and mine that it was not advisable for her to spend any money in litigation over said trust fund, as we both believed that her husband's brother, who was trustee of said fund, was doing more for her than he was required under the trust.

30 I next saw Mrs. McGlathery at her brother's funeral at Asbury Park, New Jersey. Thereafter her sisters, Misses Arietta and Rolinda Coleman, told me that Ella had asked for a copy of her brother's will, and told where she was staying in Trenton, and that she would like to come and see me. Thereafter she called at my office and I gave her a copy of her brother's will. Mrs. McGlathery read the will and remarked that she had

ANSWERING AFFIDAVITS.

always understood that the doctor had left her only \$100.00; that she was perfectly satisfied because she and her brother had fallen out a number of years ago and was mad at her, had a perfect right to do as he pleased; that she would not make any objection, and that Mrs. Wahl was entitled to a share of her brother's estate, as they had been friends for a good while. She then told me the trouble she was having with her Philadelphia property and her brother-in-law, and would very likely see me again before she left Trenton. 10

2. On December 7, 1916, Mr. Wicoff called me on the phone and asked if I knew where Mrs. McGlathery could be found as notice would have to be given her of the time her brother's will would be offered for probate. He also said in talking over the matter with Mrs. Wahl and her attorney, while they felt that the will could not be invalidated, yet there was a chance for some attorney to induce Mrs. McGlathery to contest the will, for the fees he might get out of the estate through such a contest; that such a contest would be expensive to the estate and cause delay in settlement of the affairs, and that Mrs. Wahl was willing to give Mrs. McGlathery \$1,000.00 out of her share in case no contest was made to the probate of the will. That Mrs. Wahl had made the offer in writing, of which Mrs. McGlathery should be advised and her acceptance of the offer obtained to make it binding. 20

Thereupon I called Mrs. McGlathery on the telephone, who was stopping in Trenton, and asked her to call at my office as I had some good news for her. She came to see me on December 9, 1916; I gave her the paper signed by Mrs. Wahl agreeing to give her \$1,000.00 in case there was no contest, a copy whereof is hereto annexed and marked Exhibit "A," and she seemed to be 30

ANSWERING AFFIDAVITS.

so overjoyed that she threw herself back in her chair and threw her arms down and exclaimed, "Oh, isn't that grand!" and seemed to be so pleased that she could hardly talk, and then she read the paper (a copy marked Exhibit "B" is annexed) that she was to sign, which I explained to her fully and for quite some time just what it meant and what her rights were, and for her not to sign it if she thought for a minute that she preferred to

10 contest the will. She said that a friend of hers who visited her the evening before in Trenton from Philadelphia, had advised her to get a lawyer and look after her rights, but that her mind was made up that she wouldn't do it. She asked further if the \$100.00 named in the will was included in the \$1,000.00 or separate. I said that this was separate and in addition to that named in the will. She insisted that she wouldn't know how she could ever thank me, but that she would pay me for this great favor, and I said, no, I wouldn't take anything,

20 and that I would advise when she got the money that she might pay Mr. Wicoff at least \$50.00 for his part in the matter. Mr. Wicoff knew nothing whatever about my suggesting that she pay him \$50.00; in fact, when I later told him, a couple of days later, that Mrs. McGlathery was very pleased with the \$1,000.00 Mrs. Wahl has agreed to give her, and that I asked her when she received the same to pay him \$50.00. He replied that he would not take any compensation for his services in the matter, and would accept nothing, as he had

30 not represented Mrs. McGlathery, but two of her sisters.

I asked her how much longer she expected to stay in Trenton, and she said that she expected to go to Atlantic City the first of the week, about Wednesday. I told her that a citation would be served on her by the

ANSWERING AFFIDAVITS.

sheriff to appear at the probating of the will, and asked her if she would remain until that was served so that it would not be necessary to go to Atlantic City to serve the notice. It is not true that I told her not to appear before the Court when the sheriff served her but to stay away. I tried particularly to make it clear to her that she, being a sister, had a perfect right to appear and contest any will that might be offered for probate. I explained to Mrs. McGlathery that she had a perfect right to contest the will, and any expense that she was put to for an attorney and in making said contest would be paid out of the estate.

10

ROBERT A. MESSLER.

Sworn to and subscribed before me this 23d day of January, A. D. 1917.

E. E. BORNEMANN,
Notary Public of N. J.

20

EXHIBIT "A."

In consideration of the will of Frederick F. Coleman dated October 16, 1915, being probated before the Ordinary without contest, I agree to pay to Mrs. Ella McGlathery the sum of one thousand dollars (\$1,000.00).

(Signed) ANNIE E. WAHL.

EXHIBIT "B."

WHEREAS, Mrs. Annie E. Wahl, has offered in case the will of Frederick F. Coleman, dated October 16, 1915 is probated before the Ordinary, without contest, to pay me the sum of one thousand dollars, in addition to the legacy of one hundred dollars to me by said will bequeathed.

30

27E
ANSWERING AFFIDAVITS.

Now therefore I, Ella McGlathery, a sister of said Frederick F. Coleman, deceased, and legatee in said will do hereby agree to accept the offer of said Annie E. Wahl to pay me one thousand dollars in case said will is probated without contest, and I do hereby consent to the probating of said will, and waive any objection I might or could raise against the same.

Witness my hand and seal this 9th day of December
10 A. D. 1916.

(Signed)

ELLA S. MCGLATHERY (L. S.)

EXHIBIT "B" (Cont.)

STATE OF NEW JERSEY, }
COUNTY OF MERCER. } ss.

Be it remembered, that on this 9th day of December, in the year of our Lord one thousand nine hundred and sixteen, before me, the subscriber, A Notary Public for
20 the State of New Jersey, personally appeared Ella McGlathery, who is, I am satisfied, the person named in and who executed the foregoing instrument, and I having first made known to her the contents thereof she did thereupon acknowledge that she signed, sealed and delivered the same as her voluntary act and deed, for the uses and purposes therein expressed.

(Signed) JAMES S. MESSLER,
Notary Public

30 (Seal)

Commission expires 2/4/18

STATE OF NEW JERSEY, }
COUNTY OF MERCER. } ss.

James S. Messler, being duly sworn, on his oath says:
He is a notary public in the State of New Jersey, and was such on the ninth day of December, 1916, and he

ANSWERING AFFIDAVITS.

was present in the office of Murray, Griffith & Messler during a certain interview between Robert A. Messler and Ella McGlathery on that day, although not in the immediate presence of the said two persons; furthermore, that he overheard Robert A. Messler explain at length to the said Ella McGlathery the contents and purpose of a certain paper which she was to sign agreeing to accept the payment of \$1,000.00 from Anna E. Wahl in return for which she was to agree to make no contest 10
 against the probating of a certain will of Frederick F. Coleman, deceased; furthermore, he declares from the manner and tone of said Ella McGlathery's conversation during this interview she was well pleased and willing to enter into this agreement, and at the end of the said interview was profuse in her thanks to said Robert A. Messler for having brought about such an arrangement. Furthermore, he witnessed her signature to a certain paper embodying this agreement, and noted that she had full opportunity to read this paper, and, in fact, 20
 appeared to read it upon two different occasions, once before affixing her signature and once after. He asked her if she understood the contents of the paper and if she acknowledged the same as her voluntary act and deed, and upon her statement that such was the case he affixed his signature and seal to the same, and, with her acquiescence, delivered the said agreement to Robert A. Messler.

JAMES S. MESSLER. 20

Sworn to and subscribed before me this 22d day of January, A. D. 1917.

J. L. BODINE,
M. C. C. of N. J.

TESTIMONY OF VIOLA GARRABRANT
 THE PREROGATIVE COURT OF NEW
 JERSEY.

_____)
 In the Matter of the Appli-) Deposition.
 cation for the Probate of)
 10 the Will of Frederick F.)
 Coleman, Deceased.)
 _____)

Deposition of witness taken before Edward Maxson, Master in Chancery, this tenth day of March, 1917, at the residence of Mrs. Viola Garrabrant, Ocean Grove, New Jersey.

Appearances:

20 C. Russell Rogers and Thomas H. Brown, for
 caveatrix,

James D. Carton,
 John V. B. Wicoff, for proponents.

Deposition taken stenographically by Anna F. Whitlock, after being duly sworn by the master.

30 VIOLA GARRABRANT, being duly sworn ac-
 cording to law on her oath says:

By Mr. Carton: Mr. Maxson, before we
 take up the matter of taking Mrs. Gar-
 rabrant's testimony, may I offer, or hand
 over to you at this time, the photographic
 copy of Dr. Coleman's application given
 to Dr. Givens when he entered his sana-
 torium at Connecticut. You may recol-
 lect when we took Dr. Givens' testimnoy
 40 he had the original but didn't want to

TESTIMONY OF VIOLA GARRABRANT

produce it, but said he would furnish a photographic copy. I now offer this copy.

By Mr. Rogers: I make my objection on its being offered, as not being properly proven; a photographic copy of the paper sought to be offered in evidence.

10

By Mr. Carton: All I can say in respect to that is this, that it was suggested at that time by Dr. Givens that he would have a photographic copy of the paper made and forward to us. He has done so. This is the paper that he has sent to me, and it seems to me it speaks for itself, and we make the offer.

May I offer also at this time, a letter 20 from Dr. Givens addressed to Messrs. Wicoff & Lanning enclosing the photograph?

By Mr. Rogers: I make the same objection with respect to that letter that accompanied the proposed exhibit.

By Mr. Carton: For the purpose of the record I read the letter: 30

DR. GIVENS' SANITARIUM.

Stamford, Conn., Feb. 17, 1917.

Wicoff & Lanning.

Dear Sirs:—I am enclosing to you a photograph of the voluntary commitment of Dr. Coleman, as you request.

Respectfully yours,

Amos. J. Givens.

(Dict. A. J. G.)

40

TESTIMONY OF VIOLA GARRABRANT

By Mr. Rogers: I move to strike the above read letter from the record, for the reasons given as to its inadmissability.

EXAMINATION by Mr. Carton:

- Q. Mrs. Garrabrant, you are Viola Garrabrant? A. Yes.
- 10 Q. And you were formerly Viola Bills? A. Yes.
- Q. Where do you reside? A. Why, I am residing temporarily here with my father, James D. Bills.
- Q. Were you formerly employed in the office of Messrs. Patterson & Rhome? A. Yes.
- Q. As stenographer and clerk? A. Yes.
- Q. How many years? A. Why, from the month of December, 1913, I think it was, to the month of November, 1915, practically two years.
- 20 Q. Were you acquainted with Dr. Coleman? A. Yes.
- Q. How long had you known the Doctor? A. Why, all the time I was with Patterson & Rhome, until I left the office.
- Q. During this period did you have occasion to see the Doctor often? A. Why, yes, I saw him whenever he came to the office; he came quite frequently to see Mr. Rhome about different matters, and of course I saw him then.
- 30 Q. During the times he would come to Mr. Rhome's office would you, or did you engage in conversation with him? A. Why, some of the time I did, and of course some times he went directly in to see Mr. Rohme.
- Q. Do you remember any particular items or transactions of business that was being had by Mr. Rhome for Dr. Coleman, say in the summer and fall of 1915? A. Why, Dr. Coleman I think
- 40

TESTIMONY OF VIOLA GARRABRANT

had a legacy, a small legacy that he wanted Mr. Rhome to try and collect, and Mr. Rhome had to write to the executor in Trenton, I believe, about that; and then he had a mortgage on property of Mrs. Elizabeth Ridder, I think, at Red Bank, in that same year, and he had Mr. Rhome collecting the interest on that; and then there was a suit, I think, of the Asbury Park Realty Company which Dr. Coleman was interested in, against some people by the name of French and Dr. Pratt, and Mr. Rhome was interested in that as his attorney. 10

Q. These are the only particular items of business that you can recollect? A. Why, they are only the particular items in which Mr. Rhome was Dr. Coleman's attorney at that time.

Q. How often would you say, Mrs. Garrabrant, that Dr. Coleman called at Mr. Rhome's office, say in the summer and fall of 1915? A. Well, of course some times he came in very often, if some particular suit was coming up, but I would say probably about once a week on an average; I don't know, it might have been twice a week. 20

Q. What was Dr. Coleman's general appearance as observed by you during this period, Mrs. Garrabrant? A. What period?

Q. Well, say during the period of summer and fall of 1915, for instance. A. Well, before that, of course, as you know, he was a very stout man and very large, and at that time he had lost a great deal in weight, and his flesh seemed to hang in folds, and I know when he talked his speech was a little thick, for at that time he told us he had a slight stroke, and I believe that was what ailed him, as I remember it. 30

Q. Had his condition prior to 1915 appeared different to you than that you have just now de- 40

TESTIMONY OF VIOLA GARRABRANT

described? A. Well, of course he was well before that, and he appeared more like a sick man at that time, summer and fall of 1915.

Q. What have you to say of the general manner of Dr. Coleman when he would come to the office, and during the times he would engage you in conversations, was he jolly?

10

(Objected to by Mr. Rogers as being to indefinite as to time).

Q. Well, during the summer and fall of 1915. A. Why, yes he was always the same. He was what is known in slang as a "jollier," and of course when he used to talk with me it was not on business, it was usually in some such manner, and he really was always the same as I remember, and his sickness did not affect him in that particular.

20

Q. Appeared to be the same in the summer and fall of 1915? A. Yes.

Q. Did any one dictate to you a will for Dr. Coleman? A. Yes.

Q. Who did that? A. Mr. Rhome.

Q. Do you recollect when that was done? A. Why, as near as I can remember it, it was in the month of October, I don't remember the exact date; shortly before I left the office.

30

Q. Do you remember the day the will was actually executed? A. Yes; that is, I remember at the time.

Q. You remember the occasion? A. Yes.

Q. And when was that, if you recall, as compared to the time the will was dictated to you? A. Why, it was the next day, I think, after the will was dictated that Dr. Coleman executed the will.

40

Q. Where was the will dictated to you, in

TESTIMONY OF VIOLA GARRABRANT

one of the rooms of Mr. Rhome's office? A. Yes; Mr. Rhome's private office.

Q. And do you remember when Dr. Coleman came to the office, the day the will was dictated?

A. Yes.

Q. And did he see Mr. Rhome? A. Yes.

Q. Did you go in with him when he first went in to see Mr. Rhome? A. No, I don't think so 10 when he first went in, but I was in there before the will was dictated and while he was talking about it with Mr. Rhome.

Q. You were then called in to take the dictation of the will? A. Yes.

Q. Do you remember any of the conversation taking place between Dr. Coleman and Mr. Rhome at that time? A. Well, yes, he discussed different small matters, I know, about the will, and then of course the main part, as I re- 20 member was, that he divided his estate into three parts, two to go to two sisters in Trenton, and one to Mrs. Wahl.

Q. Are you giving this now from what you remember Dr. Coleman said to Mr. Rhome? A. Yes, I stood there while they discussed the matter.

Q. Do you remember any other particular thing that was said? A. Well, I know that Dr. Coleman had on a diamond ring, and he said that 30 was to go to Mrs. Wahl; he showed it to us there that day, and I know he expressed himself as being very grateful for what Mrs. Wahl had done for him at that time.

Q. And after this conversation was the will then dictated to you? A. Yes.

Q. During the conversation between Dr. Coleman and Mr. Rhome do you remember any particular thing was said by the Doctor concerning any of his sisters? A. Well, I know he 40

TESTIMONY OF VIOLA GARRABRANT

mentioned these two sisters in Trenton, and then he mentioned another sister, I don't remember her name or where she lived, but he did not seem to care very much for her; he seemed to want to remember her in the will so she would not be able to break it.

10 Q. This conclusion that you are giving now is that that you arrived at from what the Doctor had said? A. Yes, from what he said that day.

Q. Do you suppose you can, Mrs. Garbrant, repeat any substance what he did say about this other sister? A. Well, I don't know, he said a great deal that day, talking about his relatives, and then he did say that she didn't care enough for him to come to his wife's funeral, or some such remark, and that he hadn't seen her
20 for a great many years; but I don't remember really just the words he used.

Q. And then was the will dictated to you by Mr. Rhome? A. Yes; they would dictate possibly a part and then discuss a part.

Q. Was there any one else in the room at this time, during the conversation and in the dictating of the will, outside of Dr. Coleman, Mr. Rhome and yourself? A. Not that I recall; unless possibly Mr. Morgan or Mr. England, they
30 were connected with the office, they may have come in and out during that time, or some client may have stepped to the door in the hall, I do not recollect.

Q. And after the will was dictated to you did you transcribe it and turn it over to Mr. Rhome? A. Yes; some time that day.

Q. Do you remember when next Dr. Coleman came to the office? A. That was the
40 next day, I think.

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Q. Do you remember the day the will was dictated whether Dr. Coleman had any old will there to which he was referring? A. Well, I don't think so; I don't remember whether he referred to any other will or not. This was entirely new.

Q. Now, you say that Doctor called the next day, as you recollect? A. Yes.

Q. And what did he do when he came, talk with you? A. No; as I remember, I think he went right back to Mr. Rhome that day. 10

Q. And you were called in Mr. Rhome's office that day? A. Yes.

Q. And what was done, or was being done when you went in his office? A. Why, as I recollect it Dr. Coleman was reading the will over when I went in the room.

Q. And you waited until he had finished it? A. Yes. 20

Q. Did Doctor say anything when he had finished? A. He expressed himself as satisfied with the will as it was written.

Q. Can you remember or recollect just what he said, Mrs. Garrabrant? A. Well, I don't think I can recall the very words, Mr. Carton.

Q. The impression you got that it was satisfactory? A. Yes, I did not have to change it.

Q. There were no changes made? A. No. 30

Q. What was then done? A. Why, Mr. Rhome gave Doctor a pen, I believe, and he signed the will there on Mr. Rhome's desk, in Mr. Rhome's office.

Q. What is the desk in Mr. Rhome's office, the ordinary flat top desk? A. Yes.

Q. And where was the Doctor sitting at the time he signed? A. Well, at the left hand side of the desk; I think it would be to Mr. Rhome's left hand; facing me. 40

TESTIMONY OF VIOLA GARRABRANT

Q. And where were you sitting? A. I was sitting facing Dr. Coleman and Mr. Rhome, as they sat side by side on the other side of the room.

Q. And Mr. Rhome sat in front of the desk?

A. Yes.

Q. Did Dr. Coleman sign this paper? A.
10 Yes.

Q. I show you a paper purporting to be the last will and testament of Dr. Coleman, Marked P-1 in this suit, and ask you if the signature appearing at the end of the attestation clause, Viola Bills, is your signature? A. Yes; that was my signature at that time.

Q. You were then Viola Bills and you have since married and your name is now Viola Garrabrant? A. Yes.

Q. Is that the signature, F. F. Coleman, that you saw Dr. Coleman sign on this occasion? A.
20 Yes.

Q. Did you see him sign his name as appears here to this will? A. I did.

Q. And after he had signed the will what, if anything, did he then do, Mrs. Garrabrant? A. Well, he talked a short time, I know; one of the remarks he made was to ask Mr. Rhome about the charge for the will.

Q. I mean before we get to that part, after he had signed the will did he make any statement about it? A. Well, that it was satisfactory that is all that I remember.
30

Q. At either before or at the signing or after he had signed it, did he make any statement to you or Mr. Rhome about signing? A. Well, we were the witnesses to the will.

Q. How did you come to be a witness? A. Mr. Rhome called me in.

Q. And did Doctor make any statement to
40

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you to indicate to you that he desired you to act as witnesses?

(Objected to as being leading).

A. As I remember it, I don't think he asked me to witness the will; I think that he just simply took it for granted that I was there for that purpose. 10

Q. Did Mr. Rhome say anything to him about this being his will, or anything to that effect?

A. Yes.

(Objected to as being leading).

Q. What did he say? A. Mr. Rhome, after the Doctor had signed, picked it up and asked him if he signed, sealed and declared this paper to be his last will and testament, and Doctor said that he did. 20

Q. After Mr. Rhome asked him if this was his last will and testament, etc., did Mr. Rhome ask him anything further as to whether you should sign as witness or not?

(Objected to as being leading).

A. Well, I really don't remember that he did on that particular occasion. I know that he generally asked the people if he wanted himself and me to witness the wills; but I don't remember on that occasion. 30

(Objected to; Mr. Rhome's general plan on other occasions).

Q. This particular occasion you do not recall whether Mr. Rhome asked him whether he de- 40

TESTIMONY OF VIOLA GARRABRANT

sired you to act as witness or not? A. No.

Q. What you have said is that was Mr. Rhome's custom? A. Yes.

Q. I suppose you have there before and there-after witnessed a great many wills with Mr. Rhome? A. Yes.

10 (Objected to as being indefinite, immaterial and irrelevant, and also as leading the witness to testify when she did recollect what took place at the time, and the things of which she is being interrogated).

Q. It is a fact after Mr. Rhome asked him, that he did acknowledge and declare this to be his will, that Dr. Coleman said it was? A. Yes.

20 Q. Then whether he requested yourself and Mr. Rhome to act as the witnesses on that occasion you can't say definitely now? A. No.

Q. Any more than your general recollection of Mr. Rhome's custom? A. No.

(Objected to upon the same grounds as previously stated).

30 Q. And you then with Mr. Rhome signed the will as witnesses? A. Yes.

Q. I think you said you saw Dr. Coleman sign? A. Yes.

(Objected to. Mr. Carton she has not made any such statement and please don't lead the witness.)

40 Mr. Rogers if you can remember the testimony you can recall that she made such a statement before.

TESTIMONY OF VIOLA GARRABRANT

Q. Mrs. Garrabrant, so that there will be no question, did you see Dr. Coleman affix his signature, this signature here, to this paper? A. Yes, I did.

Q. And was Mr. Rhome present, as you have stated, at the time Doctor affixed his signature? A. Yes.

(Objected to as being leading).

10

Mr. Rhome was present when Dr. Coleman signed the will.

Q. And was Mr. Rhome present and observing you, as far as you know, when you signed the will? A. Yes.

(Objected to as being leading).

20

Q. And did you see Mr. Rhome when he signed his signature to this will? A. Yes.

Q. And was Doctor Coleman yet present when Mr. Rhome signed? A. Yes.

(Objected to as being leading).

Q. And was Doctor Coleman present when you signed? A. Yes.

Q. You were all three, I take it, in the room about his desk when the ceremony took place? A. Yes.

30

(Objected to as being leading).

Q. Do you recollect or remember, Mrs. Garrabrant, whether Mr. Rhome read over the attestation clause to the will at that time? A. Yes.

(Objected to as being leading).

Q. I have reference, of course, to the attesta- 40

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tion clause to this will, this exhibit, to which you and Mr. Rhome subscribed your names. A. Yes.

(Same objection).

10 Q. Mrs. Garrabrant you say you had known Dr. Coleman since 1913, had seen him in the office often, had talked with him, knew of the business transactions he was having attended to by Mr. Rhome; I ask you if in your judgment at the time Dr. Coleman executed this will was he possessed of his full mental faculties, had proper mind, and understood what he was doing at the time he made the will?

20 (Objected to on the ground that it contains an answer to several topics and and should therefore be separated).

A. Why, at that time, I didn't think anything about it; usually you do not think whether a person is sane or insane, but since the question has arisen, and I have thought about it, it is my opinion that Dr. Coleman was sane when he signed that will.

30 (I move to strike that answer out on the ground that the answer is not responsive).

Q. And you give this as your opinion because of your observations and transactions you had with Dr. Coleman and those he had at the office at that time? A. Yes.

40 (Objected to as being framed, and also based upon a statement of facts not already testified to by the witness).

TESTIMONY OF VIOLA GARRABRANT

Q. Do you remember whether Dr. Coleman called at Mr. Rhome's office after the execution of the will, Mrs. Garrabrant? A. Well, I don't remember whether it was after or just before, but at that time this suit against French and Dr. Pratt was under way, and it was just about that time; I am not sure whether it was just before or just after when he called there several 10 times.

Q. And you say that it had to do with the French and Pratt suit as you recollect?

A. Yes; that was one of the matters.

Q. And on these occasions did he converse with Mr. Rhome about these suits?

A. Yes.

Q. Do you recollect, Mrs. Garrabrant, what was done with the will after it was executed?

A. Why, as nearly as I can recall, Dr. Cole- 20 man picked it up and put it in his pocket, and took it away with him that day.

Q. You were about to say some time ago that when I asked you about the execution of the will, that there was something said by the Doctor about the charge, &c., will you please tell us what was said?

A. He asked Mr. Rhome that day what his charge would be, or some such question, and Mr. Rhome said that would be all right, he would 30 send him his bill later, and Doctor made some remark about the charge must be rather high, that he did not present his bill but was going to mail it to him; and that same day too, he was talking to me about my engagement, that had been announced in the paper, and he was jollyng me and remarking about it that day.

Q. That very same day?

A. Yes.

Q. Your engagement to Mr. Garrabrant had 40

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been announced about that time?

A. Yes, and he had read it I believe in the paper.

10 Q. Mrs. Garrabrant, let me ask you this question, will you tell us the facts, observations or conduct of Dr. Coleman, that you observed, at and prior to the making of his will that led you to the conclusion, as you have given us, that he was competent and knew what he was doing at the time he made his will?

(Objected to; based upon conditions that does not exist in the record, and that the witness has not testified to such facts. The witness has stated her conclusion, that the Doctor was sane.

20 I object to having Mr. Carton state what the witness testified to.

I am replying, your Honor, for the purpose of the record. The witness has stated that Dr. Coleman was sane and was possessed of proper mental capacity to make a will, and now I ask her if she will tell us the facts, circumstances and transactions, which from her observations of Dr. Coleman has led her to that conclusion.

30

I think the witness has not testified to facts as set forth in Mr. Carton's question.

A. Well, for how long a period?

Q. These two days, and what you had observed prior to that time?

A. Well, the Doctor came in to Mr. Rhome about these different matters, and usually it would require the writing of a letter, in which I

40

TESTIMONY, VIOLA GARRABRANT.

was called in Mr. Rhome's office, and the letter was usually dictated while Dr. Coleman sat there, as I remember, and he would talk to Mr. Rhome about the matter, and there were receipts required in this suit of the Asbury Park Realty Company, against French and Pratt, and Dr. Coleman brought in his old receipts, and would talk over that matter with Mr. Rhome, and his talk was always sane, as I would judge it, and when he was talking with Mr. Rhome about the execution of the will and about what he wanted done, his remarks were all the remarks of a sane man, in my opinion. 10

EXAMINATION BY MR. ROGERS:

Q. Did you see Dr. Coleman leave the office on the day of the execution of the will? 20

A. Yes.

Q. Who accompanied him when he left the office?

A. Why, Mrs. Wahl accompanied him from the office.

Q. Where was Mrs. Wahl on the day of the drawing of the will, was she there with him?

A. As I recollect it she was not there at all; I don't remember.

Q. She went home with him that day? 30

A. Yes.

Q. You recollect that Mrs. Wahl and Dr. Coleman accompanied each other quite often?

A. Yes.

Q. Mrs. Wahl was a client of the office?

A. Yes.

Q. And she was there quite often, was she not, to see Mr. Rhome?

A. Yes.

Q. And she came over with Dr. Coleman and 40

TESTIMONY, VIOLA GARRABRANT.

got him occasionally?

A. No; not on a good many occasions.

Q. I mean a number of times when Dr. Coleman would call there, Mrs. Wahl would be with him?

A. No.

Q. But she was on this day?

10 A. No; she wasn't with him, she stopped in to go home with him, to ride home with him.

Q. Did you speak with Mrs. Wahl that day?

A. I don't recollect whether I did; I spoke to her but not to talk to her.

Q. Was Mrs Wahl there the day before, do you recollect, to go home with him?

A. I think she was there that day.

Q. Did you see her talking to Mr. Rhome that day?

20 A. Why, yes, she talked to him, I imagine; I don't remember now.

Q. Did you see Mrs. Wahl read over this will after it was drawn?

A. No.

Q. Do you recollect seeing Mrs. Wahl speaking to Mr. Rhome the day before the will was executed?

A. You mean the day it was dictated?

Q. Yes?

30 A. Why, I don't recall her speaking to him; no.

Q. Do you recall her being in Mr. Rhome's office?

A. Yes.

Q. And at the time it was being dictated?

A. No.

Q. Was she in there before or after it was dictated?

40 A. Why, I think she was there before and after the will was dictated.

TESTIMONY, VIOLA GARRABRANT.

Q. But you were not in there to hear any conversation?

A. No.

Q. And did Mr. Coleman and Mrs. Wahl leave together on that day?

A. Yes, as I recollect it; I could not say surely.

Q. Do you recollect seeing them driving about town together occasionally in an automobile? 10

A. Yes.

Q. How often, if you can recall?

A. Why, I can't recall; I can say several times I have seen them around town together?

Q. What was the nature of Mrs. Wahl's business as a client of the office, as you recall?

A. Well, Mrs. Wahl was a bankrupt at one time, and that matter went through our office.

Q. And she was also interested in the Davenport Inn, a corporation of which Dr. Coleman was a stockholder? 20

A. I don't really know anything about that.

Q. Do you recollect the Davenport Inn transaction as being an office matter?

A. No.

Q. You say you did not form any conclusion as to Dr. Coleman's mental condition until this matter came up, is that the first?

A. Well, I think that first I thought of it was when a commission in lunacy was being applied for; at that time I was surprised. 30

Q. You didn't see Dr. Coleman after the drawing of the will?

A. Yes; I saw him around town but I don't remember whether he was actually in the office after that time.

Q. You stated that Doctor had appeared to have fallen away in weight and looked like a sick man? 40

TESTIMONY, VIOLA GARRABRANT.

A. Yes.

Q. Did you notice that he didn't walk as briskly as he used to?

A. Yes, he walked slowly.

Q. And you say that Doctor mentioned that he had a stroke?

A. Yes: some time in the early part of the spring or summer of 1915, I think it was.

10 Q. And he had a little difficulty in speaking clearly; you say talked a little thick?

A. Yes.

A. When did you first notice Doctor talked thick, if you recall?

A. Well, I don't recall; it was some of the times when he came in the office, but I cannot remember now any particular time.

20 Q. And he was talking thick around the time the will was drawn?

A. Yes.

Q. You say you never discussed any business matters with Dr. Coleman?

A. No.

Q. His conversations with you were usually in a joking and casual manner?

A. Yes; about the ordinary topics of the day.

30 Q. Can you recall any conversations in which Doctor was talking with you, except the one you testified to, that occurred on the day of the drawing of the will?

A. You mean on that day?

Q. Before that?

A. I don't recall any particular thing. Of course my engagement was more important to me just at that time than most other matters would be, that he would talk about, and I don't recall any other particular instance.

40 Q. Did you and Dr. Coleman ever discuss the drawing or making of the will prior to the day

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it was dictated?

A. No, not with me; he may have with Mr. Rhome.

Q. When you were receiving the dictation for this will did you notice Mr. Rhome have any memorandum or papers before him?

A. No, I did not notice that he did; I don't remember.

Q. When you typewrote the will did you have any other paper except your book of dictation before you? 10

A. No, not that I recall.

Q. Were there any corrections made to the will after you wrote it?

A. No.

Q. After you wrote the will what did you do with it?

A. Why, I handed it to Mr. Rhome to look over. 20

Q. That was after Dr. Coleman had gone?

A. Oh, yes.

Q. And then that will, as far as you know, remained in the office until you were called in that next day?

A. Yes.

Q. On which day you saw Dr. Coleman sign his name to the paper?

A. Yes. 30

Q. Do you recall Dr. Coleman coming over on the day that the will was executed?

A. Yes.

Q. Do you remember what time of the day it was?

A. I think it was in the morning of that day; it was probably rather lated in the morning.

Q. Was he there very long in executing the will?

A. Well—I don't know just what you mean? 40

TESTIMONY, VIOLA GARRABRANT.

Q. I mean a period of minutes?

A. I suppose he was probably there a half or three-quarters of an hour, as nearly as I can recall.

Q. How long do you suppose it was after you saw Dr. Coleman go in that you were called in Mr. Rhome's office?

10 A. The second day?

Q. Yes?

A. Well, I don't recall; but I don't think it was many minutes after he came in.

Q. Was Mrs. Wahl a client of your office all the time you were there?

A. Why, I think so; in fact I know she was.

Q. When Mrs. Wahl went through bankruptcy, this matter was being handled by your office, do you know whether Dr. Coleman paid
20 any of the expenses?

(Objected to as immaterial).

A. I don't think he did; in fact I am sure that he did not.

Q. Did she pay them herself?

A. As I remember she paid them herself.

BY MR. CARTON.

Q. Mrs. Carrabrant you say that Mrs. Wahl
30 was a client of Mr. Rhome's office, and on the day the will was drawn you say she came in the outer office and went away with the Doctor after the will was signed?

A. Yes.

Q. Was she in the room where the will was executed?

A. No; not that I remember.

Q. She was not there at any rate while you were there?

40 A. No.

TESTIMONY, VIOLA GARRABRANT.

Q. Will you describe for us the situation of Mr. Rhome's office, that is, the location of the rooms, the number of rooms, the room that you were in with Dr. Coleman and Mr. Rhome?

A. Why, Mr. Rhome has a receiving office, where the clients come in and sit until they are approached by the stenographer or clerk, and then they are shown into Mr. Rhome's private office; the receiving office came first, back of that the stenographer's room, next was a hallway and then Mr. Morgan's room opened into that hallway. 10

Q. A patron or client coming to the office first entered this reception room, and then next the stenographer's room, and next after that is Mr. Rhome's room?

A. Yes.

Q. And is the only passage way from the entrance room to Mr. Rhome's room through the stenographer's room? 20

A. Yes; the only open passage way.

Q. And you know where Mrs. Wahl was waiting for Dr. Coleman, after the will was executed; which room was she in?

A. She was in the outer office.

Q. Reception room?

A. Yes.

Q. Did you say that very shortly after the execution of the will you left Mr. Rhome's office? 30

A. Yes.

Q. What I mean by that, you discontinued your services with Mr. Rhome?

A. I was about to be married in two or three weeks after that time.

NEW JERSEY PREROGATIVE COURT.

_____)
In the Matter of the Appli-))
cation for the Probate of))
10 the Last Will and Testa-)) Testimony.
ment of Frederick F. Cole-))
man, Deceased.))
_____)

Testimony taken in the above entitled cause,
at the State House, Trenton, New Jersey, on
20 Tuesday, the ninth day of January, 1917, at two
P. M.

Before Hon. Edward Robert Walker, Ordinary.

Appearances:—

30 Wicoff & Lanning and Mr. James D. Car-
ton, for Rolinda Coleman, Arietta Coleman and
Annie E. Wahl; Executrices named in the
paper-writing purporting to be the last will
of Frederick F. Coleman, deceased, Pro-
ponents. Not opposed, except by counsel who
brought to attention the earlier will, this
morning.

40 Mr. C. Russell Rogers appeared for Lavinia
E. Dodge who, as sister-in-law and legatee un-
der a former will of Frederick F. Coleman,
deceased, filed a caveat against admitting to
probate any will of Frederick F. Coleman until,
etc.

TESTIMONY, 1911 WILL CLAUSES.

William C. Dodge of the New York Bar admitted pro hac vice on motion of Mr. Rogers, as counsel associated with him.

Mr. Rogers called for the production of a will of Frederick F. Coleman made in 1911, which was produced by counsel for proponents. It contained this clause: 10

“FIFTH: Twenty thousand dollars shall be paid to Lavinia Evelyn Dodge or if she be deceased then said twenty thousand dollars shall be equally divided between her children, if both she and the children are deceased then said twenty thousand dollars shall remain in my estate.” 20

which was erased by pen and ink lines drawn through it, and written on the margin were these words:

“Stricken out before execution, F. F. Coleman.”

Beside that, in the body of the instrument further down appeared the following: 30

“The above part of twenty thousand dollars bequeathed to Lavinia Evelyn Dodge, her heirs and assigns forever is hereby revoked and I want it expressly understood that none of my estate either real or personal shall go to the said Lavinia Evelyn Dodge or her heirs or assigns.” 40

TESTIMONY, J. OTTO RHOME—Direct.

The paper-writing had been signed "Frederick Frelinghuysen Coleman"; Witnesses, "Annie Elizabeth Wahl, April 24th, 1911."

10 through which quoted name, words and figures a pen and ink line had been drawn. Underneath which there was an execution of the will as of the date the 12th day of October, 1911.

Mr. Rogers admitted that the paper-writing thus produced was the will upon which he relied as showing an interest in Lavinia E. Dodge; also upon the statement of counsel for proponents that there was no other will of Dr. Coleman in existence, save the will just referred to and the one offered for probate.

BY THE ORDINARY:

20

Q. Mr. Rogers, have you any proof to show that the physical cancellation of the bequest to Mrs. Dodge was fraudulently or unlawfully made?

A. No.

30 Q. Then I will have to rule that upon the face of the paper Mrs. Dodge has no interest in the probate of the paper-writing purporting to be the last will of Dr. Coleman, which is now before me and offered for probate; and as sister-in-law she has no interest in the real or personal property of the decedent, so I hold that she has no standing as a party before me on the question of the probate of the will of October 16, 1915, now offered for probate.

J. OTTO RHOME, a witness produced on behalf of the Proponents, being duly sworn, testified as follows:

40

TESTIMONY, J. OTTO RHOME—Direct.

DIRECT EXAMINATION:
BY MR. CARTON:

Q. Mr. Rhome, are you a practitioner of the Bar of this state?

A. Yes.

Q. Practice your profession in Asbury Park?

A. Yes.

10

Q. And how long have you been practicing?

A. I was admitted in 1898 and have been practicing since that time.

Q. Continuously?

A. Continuously.

Q. Were you formerly associated with Mr. Samuel A. Patterson in the practice of law?

A. I was Mr. Patterson's partner up to the time of his death. I think he died about two years ago. I was associated with him since 20 October, 1895. In fact, I entered his office as a student.

Q. Mr. Rohme, were you acquainted with Dr. Frederick F. Coleman in his lifetime?

A. Yes, I have known him since 1895.

Q. And you have known him from that time and during all the years?

A. Continuously to the time of his death.

Q. And has your acquaintanceship been close or otherwise?

30

A. It has been close, I should say.

Q. With regard to legal business, did you individually or Patterson & Rhome represent Dr. Coleman?

A. My firm and I individually have represented him, and have for the past twenty years.

Q. Did Dr. Coleman visit your office often in the years past?

A. Yes.

Q. Was he particularly intimate with your 40

TESTIMONY, J. OTTO RHOME—Direct.

former partner Mr. Patterson?

10 A. Mr. Carton, up to possibly two years prior to his death, he and Mr. Patterson were continually together. He would be in our office nearly every afternoon. Just about that time they had some tittle friction between them, just shortly before Mr. Patterson's death. I don't know what it amounted to. During that period Dr. Coleman did not come to the office except to see me.

Q. He would only come then on purpose of transacting business?

A. Yes.

Q. You say you did transact business from time to time up until the time he died?

A. Yes.

20 Q. Mr. Rhome, referring to the period particularly during year 1915, take the summer of that year or the fall—did Dr. Coleman call at your office on occasions?

A. Yes, I should say he was in my office on average of every week or two.

Q. Down there on any legal business at that time? A. Yes.

Q. Recall at this time any particular business?

30 A. Yes, and I have made it my business to refresh my memory. Dr. Coleman was interested in a hotel known as "Davenport Inn." He owned some \$15,000 worth of stock, and the balance of the stock was virtually owned by Miss Annie E. Wahl. Dr. came in to see me about that business on several occasions. During the year 1915 or '14, I don't recall exactly, he rented his restaurant in there to a party by name of Alfred French and Mary French and Dr. Thomas Pratt, a dentist in Asbury Park. He left his property—his restaurant—owing Dr. and Hotel Company
40 about \$9,000. Dr. saw me about it and wanted

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me to collect the rent. I issued a distress warrant at his request, and had the Constable make the usual distress levy and through those proceedings I collected an amount between \$50 and \$100., I don't know just the amount, but I was unable to collect any further and Dr. instructed me to bring suit.* In October, 1915, I sued these three people—that is the two Frenchs 10 and Dr. Pratt, in the Common Pleas Court, and obtained a judgment against the Frenchs by default. Dr. Pratt filed an answer claiming that I had not given him credit for two receipts. The Frenchs were absolutely no good financially, and Dr. Pratt was financially responsible. The Frenchs had handed Dr. Pratt two receipts. One receipt was for an amount around \$150 and bore not date, and the other receipt was for an amount something like that and had the corner 20 of the receipt torn off, so that you could not tell the year. Dr. Coleman insisted that they were not receipts on account of the 1915 rent, but insisted that they were receipts which he gave for previous years, and I took his view and it seems a reasonable view. It looks as if these receipts were fraudulent really. In order to convince me of that, Dr. Coleman brought me his accounts—he had some that appeared to be books containing duplicates of his deposit slips 30 in the bank—I think Asbury Park and Ocean Grove bank. He pointed out to me in those books one or two items I think it was 1914—the preceding year—where he had given receipts for the identical amounts that these two receipts called for. Personally, I was under the impression that the Doctor's version was correct. For one of these receipts, however, we could not find any record. I brought this suit as rather a friendly suit against Dr. Pratt and the Frenchs, 40

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and Dr. Pratt retained Judge Taylor of Asbury Park, and I saw Judge Lawrence, and agreed to give us a day in the October Term at Asbury Park in order to try this matter.

THE ORDINARY: Why do we want this of record?

10

WITNESS: You asked me to go into detail.

Q. With regard to point of time and the production of these receipts—with regard to time, can you tell us about when that was?

A. I made a collection through distress warrant proceedings I think in the month of September. My records show that, 1915 That
20 I collected \$70 on September 9, 1915. I brought the suit against the Frenchs and Dr. Pratt on October 20, 1915. I fix that date by the copy of the summons and complaint which I got from my files.

Q. And with it before you, you would fix at the time of Doctor's making this visit as being subsequent?

A. I would say it was about the first week in October. I had several meetings with the
30 doctor over this. I had him come with these receipts and bring them to my office on two occasions. I had him take them to Judge Taylor's office for him to look over and see if they were bona fide or not.

Q. Do you recall any other business transaction you had for Dr. Coleman along in the fall of 1915, Mr. Rhome?

A. Mr. Carton, in the summer of 1915 he
40 came to my office and gave me a will which was made several years ago—I think by a cousin

TESTIMONY, J. OTTO RHOME—Direct.

of his, and I think the name of the cousin was Miss or Mrs. Alvard. Dr. Coleman wanted me to collect for him \$500, which he claimed was due to him from the estate of a cousin,—a man by the name of Benjamin Phillips, I think, was executor of this will, and the other was a woman by the name of Anna M. Meeker. He came to see me a great manytimes about this will. Mr. 10 Phillips paid no attention to any of my letters and wrote him a great many times. I wrote to Mr. Phillips' attorneys here and got no satisfaction.

Q. Was that during the summer of 1915?

A. Yes.

THE ORDINARY: That is objected to.

MR. CARTON: I think it is important. 20

Q. Any other business item that you transacted for him during that year?

A. Dr. Coleman came to my office in the summer of 1915, and had a memorandum giving me the name of a Mrs. Ritter. I have looked for this memorandum and I cannot find it. I have made a search through all my papers.

BY THE ORDINARY:

30

Q. Have you looked for it in every available place where you think it might reasonably be found?

A. I have, your Honor.

Q. With what result?

A. I could not find it. It was a small piece of paper. I should say possibly an inch or two inches, that he had torn from a note-book; evidently thrown away. It simply gave me the 40

TESTIMONY, J. OTTO RHOME—Direct.

name of Mrs. Ritter, and she gave Dr. a mortgage on some property I think in Elizabeth and Newark. I could not tell you the amount of the mortgage, but there was back interest due on it—considerable back interest—and some fire insurance, water rents that doctor had paid for and doctor had also loaned her the sum of \$10.

10 Q. How do you know that?

A. I know that, Your Honor, by referring to the letter which I wrote to Mrs. Ritter at the time doctor came to my office. I have a copy of it in my possession.

Q. Doctor presented this claim to you to collect against Mrs. Ritter?

A. Oh yes, and saw me a great many times about it.

Q. When was that?

20 A. He brought it to me in the middle of June, 1915.

Q. And did you proceed with the collection?

A. I proceeded with the collection of the mortgage and collected, I think, \$80 and turned it over to the doctor.

Q. By foreclosure?

30 A. No. Doctor did not want the property sold—second mortgage on moving-picture house, I think—and doctor did not want me to foreclose and yet he wanted me to use every effort to make collection, and also was insistent upon me obtaining for him some insurance. I handled this matter down to the time of the appointment of Mr. Messler as receiver, and I have really been handling it since.

Q. Do you recall the point of time Mr. Messler was appointed receiver, approximately?

A. I should say around January or February, 1916—31st of January, 1916.

40 Q. And you say you represented doctor up to

TESTIMONY, J. OTTO RHOME—Direct.

that time?

A. Yes.

Q. Any other particular items of business that you now recall having taken care of for the doctor?

A. Had a small matter; came in to see me in the fall regarding dispossession of a tenant and his store; I don't recall his name,—referred to him as a candy man. He saw me about this. He came in several times to see me about his hotel. 10

Q. The Davenport Inn?

A. Yes.

Q. Did you also represent Mrs. Wahl, the other owner of Davenport Inn?

A. Yes, I did. The doctor had a little suit. He was sued by a man by the name of Potter, and was represented by Mr. Cook and Judge Heisley, and I think he possibly went against him once or twice and he came in to talk over with me several times. 20

THE ORDINARY: What did he say about Mr. Heisley?

WITNESS: Your honor, I had some connection with Mr. Edmund Wilson. I had an arrangement with Mr. Wilson whereby he took care of my litigated work after Mr. Patterson's decease, and he wanted to know if I would get Mr. Wilson interested in it. 30

THE ORDINARY: Who did?

WITNESS: Dr. Coleman.

Q. Can you tell us about when it was he came in to have this talk with you, Mr. Rhome? 40

TESTIMONY, J. OTTO RHOME—Direct.

A. In the fall of 1915. I knew the doctor very well. He doctored me (in years gone by.)

Q. Will you tell us about how often the doctor called upon you during the summer and fall of 1915 on various business matters?

A. In the fall of 1915 the doctor was in my office at least once or twice a week. Outside
10 of that I met him (in the fall in his automobile) and have seen him on the streets.

Q. Did the doctor employ you in the fall of 1915 to prepare a will for him?

A. Yes.

Q. Mr. Rhome, I show you a paper-writing purporting to be the last will and testament of Frederick F. Coleman, and ask you if that is your signature attached to the attestation
clause?

20 A. It is.

Q. Whose signature is attached as the other attesting witness?

A. Viola Bills, now one Viola Garrabrandt.

MR. CARTON: I offer paper-writing in evidence.

Said paper is marked "Exhibit P-1."

30 Q. Did you prepare this paper executed by Dr. Coleman?

A. I did.

Q. Will you tell us when you prepared it and under what circumstances?

A. Dr. Coleman during the early part of the summer of 1915 stated to me that he wanted me to draw his will. I think he said re-draw it. And I requested him to let me have the old will and he came to my office. I think the day
40 before that will was drawn, and he brought the

TESTIMONY, J. OTTO RHOME—Direct.

old will with him, dated in 1911.

Q. I show you this paper dated 1911; is this the paper to which you now refer? Is this the paper the doctor brought to your office at that time?

A. That is the paper.

MR. CARTON: I offer paper-writing in 10 evidence.

Said paper is marked "Exhibit P-2."

Q. What did the doctor come to your office for at that time?

A. For the purpose of having me draw his will.

Q. What did he say to you?

A. Said that he wanted to draw his will and 20 told me what he wanted.

Q. Did you take down any memorandum or anything at that time?

A. I did.

Q. Have any extended conversation with the doctor?

A. Oh yes, he was in my office possibly for an hour or an hour and a half.

Q. What was the doctor's conversation about? What matters did he take up with you at that 30 time?

A. To begin with, we were talking about his health. The doctor had had a slight stroke, I think sometime during that summer, and his throat was partly paralyzed—very slightly—but his conversation was rather thick. He was talking about his condition to me. Then he told me that he wanted to make his will somewhat like the old will, with the exception that he wanted to give the property to his two sisters,— 40

TESTIMONY, J. OTTO RHOME—Direct.

I think their names are Rolinda and Arietta, and Mrs. Wahl, share and share alike. There was a clause in the old will whereby he gave to a sister by the name of McGlathery, \$100. I asked him if he wanted to put the same provision in this will. He said yes, he supposed he would have to. I asked him why he thought he was obliged to put that in. Well, he said, unless
10 you give a person something they could break your will. I had no argument with him and let that clause go in. He said, his expression was, that he had no use for this sister; had not seen her in twenty-five or thirty years, and that she didn't even have the decency to come to his wife's funeral—Mrs. Coleman's funeral. Did not want to have anything to do with her or to see her.

20 Q. Did he give you memorandum of \$100?

A. Yes, got that from the old will. He told me about a Dr. Reed that he wanted to get his legacy down. Dr. Reed was mentioned in the old will.

Q. Did he tell you the amount he wished to leave Dr. Reed?

A. Yes, and before he went out I dictated this will to my stenographer in his presence. We had an extended conversation at that time.
30 I was interested in the doctor and we were talking about Mrs. Wahl. She is one of the legatees in his will, and he told me that he was engaged to be married to Mrs. Wahl, and that she always had been a great help. As a matter of fact, she had always been of great deal more help to him than any of his people, and he wanted to see that she was properly taken care of. At that time the young lady in my office—
40 Miss Bills—was there and he had some conversation with her regarding the fact that she was

TESTIMONY, J. OTTO RHOME—Direct.

to be married.

Q. Miss Bills, the other witness appearing on the will, was the stenographer in your office?

A. Yes, she was my stenographer.

Q. Was the will actually executed that day?

A. It was not, Mr. Carton. I told him to come back the next day, and he did come back the next day. I gave him the will, he read it and it was executed by him.

10

Q. What did he say about it.

A. He said it was just what he wanted. The will was executed in my office. Miss Bills, myself and as a matter of fact my brother-in-law, were in the room when the will was executed.

Q. Tell us to the actual circumstances surrounding the execution.

A. There was no one in my room except Dr. Coleman, myself and Miss Bills.

Q. Where did the doctor sit?

20

A. Near my desk.

Q. You say you were present when the doctor signed the will?

A. It was signed right at my desk and he was sitting in front of me.

Q. You saw him sign his signature to this paper?

A. That is his signature and he signed it in my presence, and as is my custom I usually follow literally the wording of the attestation clause.

30

Q. Irrespective of your custom, what did you actually do?

A. I introduced him; I said, "This is Miss Bills, and you request Miss Bills and I to sign (this) as witnesses for you," and he said "Yes." He sat down and signed the will, and after he got through signing it I signed it, and Miss Bills signed it.

Q. Was Miss Bills in the room when the 40

TESTIMONY, J. OTTO RHOME—Direct.

doctor signed it?

A. Yes.

Q. And you were in the room also?

A. Yes.

Q. Did the doctor continue in the room while you and Miss Bills were signing?

A. I think I took up another matter with him
10 —this French matter—the same day.

BY THE ORDINARY:

Q. Where was Miss Bills while he was signing this paper?

A. She was directly at my opposite. At my desk I sit on one side and Miss Bills opposite to take her notes. I have a flat top desk.

Q. What were you doing when he signed the
20 paper?

A. I was sitting at my desk assisting him.

Q. What was Miss Bills doing?

A. She was sitting in her chair watching him sign it.

Q. She saw him sign it?

A. Oh yes. My room is very small. We were at the same flat top desk.

Q. At or before the time of signing, what, if
30 anything—or after—was said by you or the doctor?

A. Before?

A. After he made his signature, was anything said by either of you?

A. I asked him what he would do with his will; whether I should put in my safe—that I kept a great many wills there. He said, no, he would take it with him and I handed it to him.

Q. Prior to that time and before yourself and
40 Miss Bills had signed, what did you ask the doctor and what did he say?

TESTIMONY, J. OTTO RHOME—Direct.

A. Just prior to the making of the will and on the same day—

THE ORDINARY: The question is directed as to the time of the execution of the will. After he had signed it, did Doctor Coleman say anything to you and Miss Bills, or you to him? 10

A. I asked him if he wanted me to put the will in my safe and he said no, he would take it, and sat there quite a time conversing with Miss Bills regarding the fact that she was to be married.

Q. Prior to that time, did he say anything?

A. Previous day.

Q. No, that other day? A. Just as soon as he came in I started with the will; told him I had drawn it and gave it to him and read it to him, and asked him whether it was what he wanted. 20

Q. Then what happened? A. I assume that I then said, "Shall we execute it," or "Shall you sign it."

Q. Did sign it, didn't he? A. He signed it and then I asked him if he requested Miss Bills and myself to act as witnesses and he said "Yes." Then he signed it and we signed it in his presence and in presence of each other. 30

Q. That was all that took place? A. Yes.

A. As to the execution of the will?

Q. Yes. A. Yes, at that time. I then transacted other business. Took up that day this French matter. I think on that day I wanted him to see these receipts that the Frenchs would not let go out of their possession, and I took him up to Judge Taylor's room on the top floor, and Judge Taylor got the receipts from his safe. 40

TESTIMONY, J. OTTO RHOME—Direct.

Q. With regard to the actual execution of the will, what took place immediately at that time? You were about to say something about your custom. Let me ask you again if you won't give me in a little more detail what you said to the doctor, if anything, and what the doctor said to you, if anything, at that time?

10 A. I said, "Doctor, do you declare that you signed, sealed, published and declared this to be your last will and testament," and he said, "Yes." Now do you request Miss Bills and myself to sign it as witnesses, and he said "Yes."

BY THE ORDINARY:

Q. Why didn't you tell that a while ago, when you were asked that over and over again. You were asked to say all that he said and all that you said. A. I went through the execution of this will in just as formal a manner as I could—as I always do.

Q. Mr. Rhome, is Miss Bills here to-day—the other subscribing witness. A. No.

Q. Where is Miss Bills? A. She is at her house at Ocean Grove, ill.

Q. Did you say that she afterwards left your employ? A. Yes, she got married a short time after this will was drawn.

30

MR. CARTON: We had subpoenaed Miss Bills, Your Honor, and this certificate (paper handed to Ordinary) tells the story why she cannot be here.

Q. Mr. Rhome, let me ask you if there was anything about Dr. Coleman's condition at the time he executed this will which you have just described, or at any time prior thereto during

40

TESTIMONY, J. OTTO RHOME—Direct.

his calls at your office, that indicated that he was not possessed of his full mental faculties, and knew the nature of the business he was transacting?

MR. CARTON: It is my idea, Your Honor, to anticipate whatever presumptive force this inquisition may have, and not leave it to someone else. 10

A. There was not.

Q. You have said, Mr. Rhome, that you have known the doctor closely and done business for him for the past twenty years. Was there anything about his mental condition at that time that was anything from what you had observed it to be on former occasions? A. The doctor was sick physically. 20

Q. How sick? A. He was telling me, for instance, on the day I drew the will, I think, that he had lost something like thirty or forty pounds.

THE ORDINARY:

Q. Lose it that day? A. No, he did not.

Q. Was the doctor an active practitioner of medicine in Asbury Park? A. Yes. 30

Q. Conduct any other business? A. He was a druggist.

Q. And devoted considerable of his time in summer season to that work? A. Yes.

Q. After the execution of this will, did the doctor call on you Mr. Rhome on business matters? A. Yes, several times. Up to around December, I saw him.

Q. Let me ask you, Mr. Rhome, you say you have had some business transactions with him; 40

TESTIMONY, J. OTTO RHOME—Direct.

what transactions? A. I had this Ritter mortgage; I was endeavoring to collect this.

Q. Did you converse with him about his business? A. Yes.

Q. Anything in his conduct, as observed by you, that would lead you to believe there had been any change in his mental condition? A.

10 There was not, Mr. Carton.

BY THE ORDINARY:

Q. Mr. Rhome, you are aware I presume that Dr. Coleman was found by a jury under a lunacy inquisition to be of unsound mind, are you not? A. Yes.

Q. And not to possess lucid intervals for a period—at the time the inquisition was taken, which was November 3, 1916, and for a period of seventeen months prior thereto. You are aware of that, are you? A. Yes, I am.

20 Q. When did you first become aware of that? A. When I was before Your Honor the last time, about two or three weeks ago. As to the period of its running back some seventeen months, I saw in the paper that there was a commission of lunacy taken out.

Q. You were then, at or about the time the lunacy commission was executed, cognizant of the fact that Doctor Coleman was said to be of unsound mind? A. Yes.

Q. Had there not been reports and rumors in Asbury Park and among people with whom he lived that he was mentally unbalanced? A. In the latter part of December, Your Honor, Doctor was getting to be a very sick man. I had not heard any around October and November, 1915. Of course, he was taken to and confined in a sanitarium in January or February,

40

TESTIMONY, J. OTTO RHOME—Direct.

1916. I read in the paper, Your Honor, I think in January or February, 1916, that he had been committed to a sanitarium in, I think, Connecticut. That is the first intimation I had that he was in any serious condition.

Q. That is considerably over a year before the lunacy commission was executed? A. Yes, considerably over a year. 10

Q. You said that in January or February, 1916, he was taken to this sanitarium? A. Yes.

Q. Well, the lunacy inquisition was instituted in February, 1916, so that for a considerable period of a year before inquisition was executed he was in a sanitarium. Did you know why it was that he went to a sanitarium? A. I heard common reports. At least, Mrs. Wahl went up there to see him.

Q. Never mind what she said to you. How long was he there, if you know? A. Up to the time of his death. 20

Q. Then he was there at the time the inquisition in lunacy was executed? A. Yes,, he died there.

Q. Where was this sanitarium? A. I think it was in Connecticut.

Q. Do you know what sort of an institution it is? A. No.

Q. Whether asylum for the insane or a hospital for the sick? A. No, not the slightest thing about it. I was advised that he was going there to take some sort of a treatment. 30

Q. He was in your office in Asbury Park in October, 1915, when that paper was executed? Then you were mistaken in saying that when he went to this institution he remained there? A. That was an error in dates.

Q. He went up there after execution of this will? A. Yes, two or three months after. 40

TESTIMONY, DR. HENRY COTTON—Direct.

Q. Were you present at the taking of this inquisition? A. No, I was not.

Q. Not concerned with it in any way? A. No, I was not.

DR. HENRY COTTON, a witness produced on behalf of the Proponents, being duly sworn, testified as follows:

10

DIRECT EXAMINATION by Mr. Wicoff:

Q. Dr. Cotton, you are medical director at the State Hospital? A. I am.

Q. Did you testify in a proceeding before before Commissioners and a jury at Freehold on the lunacy of Dr. Frederick F. Coleman, of Asbury Park, in November, 1916? A. I did, on November 3, if I remember correctly—1916.

20

Q. Do you recall what your testimony was before the jury at that time? A. Yes, I remember it.

Q. You state to the court what your testimony was at that time. A. My testimony was that I had examined Dr. Coleman on October 12th, Columbus Day, 1916, at Dr. Given's private sanitarium at Stamford, Conn.; that I had examined him at that time, talked with him and concluded that he was suffering from paresis, and at that time his condition was such that he was unable to care for himself or any property that he might have. At that time he was considerably demented, did not recognize Mr. Messler who was there with me; could hardly say an intelligent word, rambled, bed-ridden and in rather advanced stage of paresis.

30

BY THE ORDINARY:

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TESTIMONY, DR. HENRY COTTON—Direct.

Q. That is a progressive disease, isn't it? A. It is.

Q. From your observation of Dr. Coleman, as you saw him and conversed with him that day, for how long a period prior to that time, do you think he was suffering from paresis? A. It is almost impossible to state definitely. These cases from a year and a half to three years; that the average life in such a case is about three years, but of course there are many exceptions to that rule. Some cases die in six months after the appearance of the disease. Other cases live seven years. Each case is different. There are no two cases exactly alike. 10

Q. Have you any way satisfactory to your art and science as a medical doctor, who has the care and treatment of insane patients—have you any way of estimating how long Dr. Coleman, subject to this inquisition concerning whom you testify, had been so far deprived of his reason and understanding that he was incapable of governing himself or his affairs? A. I have no way of telling that except by the history of his time in the institution—in conversing with Dr. Givens and conconversing with Mr. Messler, who had visited him on a number of occasions. One stage of the disease—the physical evidences of the disease—may have been present a considerable period before mental dementia; that is a very common occurrence. 20 30

Q. You are at liberty to state what opinion you formed as to the duration of this man's disease, as from the history you got of the case when there. A. My calculation is that the probabilities were he had been suffering from this disease about eighteen months; that is, the physical signs of the disease in the appearance of a stroke or shock that affected his speech, 40

TESTIMONY, DR. HENRY COTTON—Direct.

may have been for some time previous but that would not necessarily affect his mental condition at that time.

Q. And as to whether it did or not you cannot say? A. I can't say, only from history and evidence cited this morning.

10 Q. From what you observed of him when you were there on October 12, 1916, and from your admitted conversations with him and from the history of his case as you received it, what would you say as to his possessing capacity to understand such transactions as he might have been engaged in on October 16, 1915, which was a period of one year before, practically? A. I should say that it is perfectly possible and probable that at that period he was perfectly able to understand the transaction referred to.

20 Q. Any business transaction in which he might have been engaged? A. Any business transaction he might have been engaged in at that time, he was perfectly capable of understanding them.

30 Q. Your assertion was that it was possible or probable. As to "possible and probable," which one do you mean? A. That it was probable; that he understood business on the 16th of October, 1915, I can only state from evidence that has been given this morning, if I am allowed to use it.

Q. You mean the testimony of Mr. Rhome as to what occurred? A. Based on that testimony and the circumstances surrounding it at that time.

Q. Your judgment is that he probably understood business transactions at that time? A. Understood business transactions and was capable of making a will at that time.

40 Q. Dr. Cotton, you have heard the testimony

TESTIMONY, DR. HENRY COTTON—Direct.

of Mr. Rhome, who just preceded you, as to Dr. Colyeman's execution of the will—do you believe that it would have been possible for him in October 16, 1915, while making this will to have comprehended his property, that he was about to dispose of the natural objects of his bounty, and the meaning of the business in which he was engaged at that time? A. I do. I think he 10 was capable.

Q. When you testified before the jury in November, 1916, did you know of this evidence as to his transactions which Mr. Rhome has related? A. I did not.

BY THE ORDINARY:

Q. Doctor, let me ask you now, what is your particular business, and what experience have you had in it? A. I am medical director at the State Hospital at Trenton and have been for nine years, and have been engaged in nervous and mental diseases since 1900, and have devoted my time and attention exclusively to that since 1900. 20

Q. Been a physician how long? A. Since 1899.

Q. How many patients under your management and control at the State Hospital? A. In the neighborhood of 1,700. 30

Q. Dr. Cotton, you testified as to your training and your experience before the jury at Freehold, did you not? A. Yes, I did.

MARTIN L. FERRIS, a witness produced on behalf of the Proponents, being duly sworn, testified as follows: 40

TESTIMONY, MARTIN L. FERRIS—Direct.

DIRECT EXAMINATION by Mr. Carton:

Q. Mr. Ferris, where do you reside? A. Asbury Park.

Q. What is your business or profession? A. My principal business is justice of the peace there. I have various branches—jack of all trades.

10 Q. Also a minister of the gospel? A. Yes.

Q. Mr. Ferris, did you know Dr. Frederick F. Coleman in his lifetime? A. Yes, about fifteen years, I judge.

Q. You resided in Asbury Park during all that time? A. Yes.

Q. Did you know him intimately or otherwise? A. For the last ten years quite intimately.

Q. You are, are you not, secretary of the Asbury Park Lodge of Elks? A. Yes.

20 Q. Dr. Coleman hold any position in that organization? A. He held the various positions through the different chairs up to Exalted Ruler; also as trustee and chairman of the Building Committee.

Q. Was there built for the Lodge of Elks of Asbury Park, in the past few years, a new home? A. Yes.

Q. Dr. Coleman chairman of the Building Committee? A. Yes.

30 Q. Holding that position, did you as secretary have occasion to meet him frequently? A. Very frequently; sometimes nearly every day for a week or two.

BY THE ORDINARY:

Q. When was this home built? A. Two years ago.

40 Q. With regard to the summer and fall of

TESTIMONY, MARTIN L. FERRIS—Direct.

1915, did this association with the doctor continue? The frequency of your meetings with him? A. Yes sir, very frequent.

Q. Until that time, was Dr. Coleman chairman of the Building Committee? A. About the 6th or 7th of October, I don't know jjust the date, but on the 8th of October it was reported to the Lodge Committee that they had elected Mr. Van Cleef as chairman in his place. That was on the 8th of October, 1915. 10

Q. Did you have occasion—remember any instance of meeting Dr. Coleman about that time? A. Yes sir, shortly after.

Q. What do you mean by "shortly after"? A. About a week. He came in my office one day and he seemed to feel quite hurt to think that the Lodge or Board had elected a new chairman in his place; thought we had turned him down, as he expressed it, after all the work he had done for the lodge. I assured him that it was not that, but he was not well and we wanted to relieve him of all extra work we possibly could. He gave a great deal of time to that work, and we relieved him of that so as to make it easier. 20

Q. You say this meeting was held on the 8th? A. On the 8th the announcement was made to the Lodge, aand it was some few days after that.

Q. Anything about the doctor's condition at that time that seemed to be different from what you had observed prior to that time or in past years? A. Physically he did not seem to be as well. 30

Q. Mentally? A. Mentally I saw no difference.

Q. Going about attending to his business? A. Every day.

Q. See him shortly thereafter on any occasion? A. I saw him quite frequently up to a 40

TESTIMONY, CHARLES B. VAN CLEEF

—Direct.

month or more. He used to run in nearly every day; when he came up to the bank he used to run over. My office is just across the street.

CHARLES B. VAN CLEEF, a witness produced on behalf of the Proponents, being duly sworn, testified as follows:

10

DIRECT EXAMINATION by Mr. Carton:

Q. Mr. Van Cleef, where do you reside, and what is your business? A. Asbury Park; sheet metal business.

Q. Were you acquainted with Dr. Coleman in his lifetime? A. Yes.

Q. Hoy long had you known Dr. Coleman? A. Fifteen years.

20

Q. Association been intimate? A. Yes.

Q. Mr. Ferris has referred to Mr. Van Cleef succeeding him as chairman of the Board of Trustees. Are you the Mr. Van Cleef? A. Yes.

Q. When was that? A. I was elected the chairman to succeed Dr. Coleman on October 7, 1915.

Q. Did you meet Dr. Coleman about that time?

A. On November 3, 1915, the papers and money that he had of the Elks at that time were turned
30 over to me by Dr. Coleman.

Q. Turned these papers over to you as his successor? A. Yes sir.

Q. Had the new home been built during Doctor's chairmanship? A. Yes sir.

Q. And the papers turned over to you indicated the handling of considerable money? A. Yes, money realized from the sale of bonds, and was in the neighborhood of \$40,000. It was received in very small sums and necessitated a lot
40 of work.

TESTIMONY, CHARLES B. VAN CLEEF

—Direct.

BY THE ORDINARY:

Q. Who did the work? A. Dr. Frederick F. Coleman.

Q. Did you go over Dr. Coleman's accounts in these papers that were turned over to you, with a view to checking them over? A. Yes; they were absolutely correct in every detail. 10

Q. Any money turned over to you as a balance in former chairman's hands? A. Yes.

Q. By Dr. Coleman? A. Yes, on November 3, 1915, he turned them over.

Q. Can you tell us the amount turned over? A. The balance turned over was \$662.37.

Q. Mr. Van Cleef, let me ask you, was there anything about the doctor's conversation, appearance or conduct at that time indicating to you that he was in a frame of mind other than 20 he had been for years prior to that time? A. I saw no difference.

Q. Did you discuss the papers or accounts in detail? A. Yes sir, the business he had handled was very complicated and necessitated a lot of mind work, and we found everything absolutely correct and after having books and accounts audited there was absolutely no mistake in any particular.

Q. Do you know whether Dr. Coleman actual- 30 ly kept these books or not? A. Yes, he kept them in his own handwriting.

BY THE ORDINARY:

Q. You knew his handwriting, did you? A. Yes.

Q. Seen him write? A. Yes.

HARRY A. BORDEN, a witness produced on behalf of the Proponents, being duly sworn, tes- 40

TESTIMONY, HARRY A. BORDEN—Direct.

tified as follows:

DIRECT EXAMINATION by Mr. Carton:

- Q. Mr. Borden, what is your business? A. Stationer.
- 10 Q. Live at Asbury Park? A. Asbury Park.
- Q. How long have you been in business there? A. Twenty-six years.
- Q. Did you know Dr. Coleman in his lifetime? A. Very well, thirty years.
- Q. Was your association with him close? A. During last ten years I should say very close.
- Q. Met him often? A. Nearly every other day.
- Q. Converse with him? A. Often. He came
20 in my store at least two or three times a week.
- Q. Are you a member of the Asbury Park Lodge of Elks? A. Yes.
- Q. Did that association bring you in contact with him? A. Yes.
- Q. Do you remember the time Dr. Coleman was chairman of the House Committee and building new home? A. Yes.
- Q. During the past two or three years you met him more frequently? A. Yes.
- 30 Q. In the summer and fall of 1915, did you meet him then? A. Yes.
- Q. In October, 1915, do you remember any particular instance of meeting him or talking to him or having business transaction with him? A. In the latter part of September, 1915, I was away on vacation and returned the first week in October, and I remember on one instance meeting him in front of Taylor's, and he asked me how I was feeling and I said fine, and said, "You ant to
40 take just the kind of a vacation I have taken;

TESTIMONY, HARRY A. BORDEN—Direct.

it will do you good." He hadn't been very well. Mrs. Wahl was in the automobile with him, and I said you just take a trip and let Mrs. Wahl go with you—jokingly. It will do you good. He said he was having some trouble over a law suit, and as soon as he got those affairs arranged he expected to take a vacation.

Q. Did he say what law suit it was? A. He mentioned the law suit in reference to theatre, but I can't recall the name. 10

Q. In point of time, you say you went away on vacation about the latter part of September and came back about the first week in October—what is your best recollection about how near after your return you saw the doctor? A. Well, I could not say to be positive, but it was sometime after the first week of October I returned. Know I left the latter part of September and returned the latter part of the first week of October. 20

Q. Dr. Coleman had been practicing his profession in Asbury Park for some years, and was there anything about his condition, when you had this talk with him, that appeared to be different than than on former occasions? A. His health had been failing for some time, but I did not notice anything in his conversation and actions. There was sort of an impediment in his speech; he controlled that. 30

Q. That impediment had existed since the slight stroke? A. Yes, since some time in the summer.

SAMUEL H. CALVERT, a witness produced on behalf of the Proponents, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Carton:

Q. Mr. Calvert, you live in Asbury Park, do 40

TESTIMONY, SAMUEL H. CALVERT—Direct.

you not, and what is your business? A. Yes; real estate and license.

Q. Did you know Dr. Coleman? A. Yes, I did.

Q. Have any business or close association with him? A. I began to know Dr. Coleman quite intimately in the fall of 1913 and all through
10 1914 and 1915. As City Clerk of Asbury Park I was thrown in contact with him. He was chairman of the Finance Committee. He was a member of the Council while I was clerk and a member of the Finance Committee. That was in 1914 until Commission Government.

Q. When was the Commission Government?

A. In January, 1915. Dr. Coleman was a candidate for Commissioner at that time.

Q. You were city clerk during this period?

20 A. Yes, and in this way met Dr. Coleman frequently.

Q. After you went out of office and Doctor went out of office, from that time up to the time he went away, did you meet him? A. For two years preceding leaving Asbury Park, he was my physician and treated me.

Q. Do you remember meeting him in the summer and fall of 1915? A. Yes, quite frequently.

Q. Do you remember any particular business
30 or social transaction with him during September, October and November, 1915? A. The last transaction—real business transaction that I had with him, was November, 19, 1915. I called at his office to settle a bill which I had received as of October, 1915, according to the stub on my check-book. I have the bill as of October 1st; my check is dated November 19th.

Q. What was the circumstance of that meeting? A. I had received the bill and was driv-
40 ing around town. I had not started out from

TESTIMONY, SAMUEL H. CALVERT—Direct.

my office especially to call on him, but drove around the beach and saw him in his front office, and it happened to flash across my mind that I owed him this money, and I went in and asked about the amount. I had already received the bill at my office, and I gave him the check for it.

Q. Did he get out the account? A. Yes. We had conversation about the account. I sort of questioned one item on the bill; finally I said "That is all right," and if he found any difference to let me know. It was getting near time that I should get back to my office. 10

Q. Did you pay him? A. I gave him the check at that time. I have the check with me.

Q. You drew the check that day in the office?

A. I drew the check that day in the office. 20

MR. CARTON: I offer said check in evidence.

(Said check marked Exhibit P-3).

Q. At the time of this meeting in November, Mr. Calvert was there anything about the doctor's condition that suggested that there had been any change? A. Nothing particular, except that he jokingly referred to the fact that his trousers did not fit him as well as they used to. 30

Q. Was it a fact that the doctor had fallen away? A. Yes, he said he was a sight.

Q. Had you observed that the doctor had fallen away? A. I would not have paid particular attention to it if he had not called it to my attention. 40

TESTIMONY, CHARLES THOMPSON—Direct.

CHARLES THOMPSON, a witness produced on behalf of the Proponents, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Carton:

10 Q. Mr. Thompson, where do you live? A. I live in Asbury Park, and my business is in Avon.

Q. What is your business? A. My business is garage and repairs.

Q. Did you know Dr. Coleman in his lifetime. A. I never came in contact with him. I have known him about ten years and have only had business dealings with him, for past four or five years.

20 Q. What were the nature of the business dealings? A. Repairs to automobile.

Q. He called at your shop from time to time? A. Yes, any time he had trouble, or he called me on the phone.

Q. Ever have occasion to meet him in the summer or fall of 1915? A. I met him October 29, 1915. He paid me a bill of \$34. I have a copy of the bill he paid me.

30 MR. CARTON: I show what purports to be a check, signed by Dr. Coleman to Thompson Auto Garage.

Q. Was that check given to you by Mr. Coleman? A. Yes.

(Witness referred to the credit memorandum on his book, dated October 29, 1915).

40 MR. CARTON: The check bears date

TESTIMONY, CHARLES THOMPSON—Direct.

October 27, 1915, and is for the same amount.

Q. That is the same account as my book. This check was given to me that day in payment of that bill by Mr. Coleman.

MR. CARTON: I offer said check in evidence. 10

(Said check marked Exhibit P-4).

Q. Did Doctor call at your place of business at that time? A. I called upon him at his drug-store on Fourth Avenue.

Q. Have your bill with you? A. No, I mailed the bill previously.

Q. Did you have any special talk or conversation with him at the time? A. He talked about the bill and talked about there being so much grease in using the car, and talked about the automobile bills being passed in the Legislature, transfer of license from one car to the other. Spoke about my father being in Assembly, &c. If a man brought a car could he transfer the new car he had bought. 20

Q. Was there anything about the doctor's condition at that time appearing to you to be anything other than normal? A. I noticed he did not seem to be well. I had not noticed anything else. He spoke that he was not feeling very well. 30

Q. Did you observe that he had gotten thinner? A. Did not notice about his physical condition except that he said he was not feeling very well. He was walking on the sidewalk when I came to the door. 40

TESTIMONY, HARRY J. BODINE—Direct.

BY THE ORDINARY:

Q. You refer now to the time when you collected this bill—October 29, 1915? A. Yes sir.

10 Q. You said he did not appear to be ill. How about his mind? Did you notice anything in his conversation or appearance that would indicate any difference in his mind from what you had known him to have? A. No; he always spoke in a joking way about bills; always found some item to joke about.

Q. That was his habit? A. Yes, that was his habit; always had some particular item he could pick out. I collected several bills, and always collected them personally myself, by going there.

20

HARRY J. BODINE, a witness produced on behalf of the Proponents, being duly sworn, testified as follows:

DIRECT EXAMINATION:

BY MR. CARTON:

Q. Mr. Bodine, you live in Asbury Park? A. Yes sir.

30 Q. And what is your business? A. Undertaker.

Q. Did you know Mr. Coleman? A. I did.

Q. Know him intimately? A. Well, I have known him ever since I have been in Asbury Park—about twenty-sevn years. Have known him well ever since I have been in undertaking business—twenty one years.

40 Q. Was he your family physician? A. He was for some three or four years. He doctored my mother, up to the time of his going away.

TESTIMONY, HARRY J. BODINE—Direct.

Q. Did you meet Mr. Coleman the past ten years, as you have suggested, frequently? A. Yes, in my business and doctor's business we meet often; he had to sign death certificates; but I knew him well otherwise.

Q. Did you talk with him in the summer of 1915? A. I met him frequently these last three years, on account of his calling at the house to doctor my mother. He was up there sometimes three or four times a day. 10

Q. Can you fix any time? A. I would be at his office to get medicine, and in the fall around election time he examined me for insurance. That was the last time I think I was in his office to talk to him. I think it was probably in the neighborhood of the fifteenth or twentieth of November. We talked about the election. 20

Q. Did this examination take place at his office? A. At his office, yes. I was there about three hours in his office, and he gave me a rigid examination. I have been examined before for life insurance, but I was never examined like that before?

Q. The thoroughness of it. A. It seemed to me to be very thorough.

Q. Was there anything that he did or said that would indicate that his mind was unbalanced? A. The examination was too thorough. The only thing he did in that examination was that he blurred the paper with ink in making out the papers. 30

Q. Did you notice anything in his conversation or conduct? A. None whatever.

HERBERT STEWART, a witness produced on behalf of the Proponents, being duly sworn, testified as follows: 40

TESTIMONY, HERBERT STEWART—Direct.

DIRECT EXAMINATION:
BY MR. CARTON:

Q. Mr. Stewart, you live in Asbury Park and are teller in the Asbury Park and Ocean Grove Bank, are you not? A. Yes.

Q. Did you know Mr. Coleman? A. Yes.

10 Q. Did the doctor do business at your bank?
A. Yes.

Q. You had occasion to meet him frequently for some years past? A. Yes.

Q. How frequently? A. When he came into the bank with his money, and sometimes every day in the fall he would be in two or three times a week.

20 Q. In the summer and fall of 1915, did that same situation take place as to the frequency of his visits to the bank? A. Yes. I remember particularly him calling there in the fall of 1915.

MR. CARTON: What have you in your hand?

WITNESS: Deposit slips from September, 1915, to November 20, 1915.

30 THE ORDINARY: Covering the period of September, October and November?

WITNESS: Yes sir.

MR. CARTON: I offer said slips in evidence.

(Deposit slips marked Exhibit P-5.

40 WITNESS: Your Honor, the deposit slips are made in duplicate forms: the deposit book is made up in duplicate.

TESTIMONY, CHARLES SCHENK—Direct.

One is taken by the customer and the original filed by the bank.

THE ORDINARY: During the time indicated by these slips, September, October and November, when doctor would call at the bank, was there anything about his condition that you observed different from what had been formerly? 10

WITNESS: Only a slight impediment in his speech.

THE ORDINARY: And that had extended back as far as the summer?

THE WITNESS: As far as the summer.

CHARLES SCHENK, a witness produced on behalf of the Proponents, being duly sworn, testified as follows: 20

DIRECT EXAMINATION:

BY MR. CARTON:

Q. Mr. Schenck, where do you live?

A. Asbury Park.

Q. What is your business? A. Pharmacist and ice cream manufacturer. 30

Q. Wholesale business? A. Yes.

Q. Did you know Mr. Coleman in his lifetime? A. Yes

Q. For a period of how long? A. For a period of eighteen years.

Q. Had business dealings with him during the past year? A. Every year except this summer, 1916.

Q. What was the nature of the business? 40

TESTIMONY, CHARLES SCHENK—Direct.

A. Wholesale ice cream. We sent cream to him twice a day, sometimes three times a day.

Q. This took place during the summer of 1915, and had for some time prior to that time? A. Yes sir.

Q. And did you have dealings with him concerning this ice cream? A. Yes, with Dr.
10 Coleman.

Q. Who would order it? A. Dr. Coleman. Sometimes he would not be there and someone else ordered it.

Q. Did this take place during summer of 1915? A. Yes.

Q. How often did you see or converse with Dr. Coleman? A. Mr. Carton, during the summer of 1915 I did not see him, but conversed with him every day.

20 Q. In taking these orders? A. Yes.

Q. What did you do concerning the collection of the money—the bills? A. Usually have a collector, but Dr. Coleman would never pay a collector, and insisted that I come personally and collect the bill. That had been his custom for years.

Q. Did you call when the summer season of 1915 was over? A. I took final bill to him about October 3 or 4, 1915.

30 Q. Did you get a payment on your bill? A. Dr. Coleman told me at that time that he was going to do something he had never done before; The bill was \$201.50, and he would have to make me a part payment and give me the balance sometime during the holidays. I said that was all right, and he said to come back next Monday and he would give me a check for \$100.

40 MR. CARTON: I show you check dated October 11th to Grenella & Schenck; is

TESTIMONY, CHARLES SCHENK—Direct.

that the check you refer to?

WITNESS: Yes.

MR. CARTON: I offer said check in evidence.

(Said check marked Exhibit P-6.) 10

Q. Had you any association or dealings with Dr. Coleman thereafter—after October 11th?

A. No, I had not.

Q. Let me ask you, Mr. Schenck, during that summer and fall and particularly on these two days in October to which you refer, was there anything about Dr. Coleman's personal condition or appearance that would indicate he was any different from what he had been? A. No, but 20 he had slight impediment in speech, but certainly showed nothing in his business.

Q. Did he go over your bill in detail? A. He made me check up every item when I presented the bill to him. We present duplicate bills with each delivery; he insisted on that, as he always did that with bills he checked up.

Q. He observed that same practice? A. He always had.

30

MRS. ANNA WAHL, a witness produced on behalf of the Proponents, being duly sworn, testified as follows:

DIRECT EXAMINATION:

BY MR. CARTON:

Q. You live in Asbury Park? A. Yes.

Q. And how long have you lived there?

A. I have lived there approximately twelve 40

TESTIMONY, MRS. ANNA WAHL—Direct.

years.

Q. What is your business? A. Hotel business.

Q. Proprietor of Davenport Inn? A. Yes.

Q. Were you acquainted with Dr. Coleman in his lifetime? A. Yes.

Q. How long have you known Dr. Coleman?

A. Since I lived in Asbury Park; known him
10 intimately since 1909.

Q. Have you had any business association with him? A. I have.

Q. What has that been? A. Interest in the company—the hotel.

Q. The Davenport Hotel? A. Yes.

Q. Interested as one of the owners? A. Interested as a stockholder.

Q. Are you the other owner? A. Yes.

20 Q. When did the doctor become interested in the hotel? A. He became interested in the hotel in 1912.

Q. How long did you say that you have been real intimate with Dr. Coleman? A. Since September, 1909.

Q. What has been the nature of your acquaintanceship or association with the doctor? A. Dr. Coleman and I were associated together every day. I was his fiancee since 1911.

30 Q. Engaged to married to the doctor? A. Yes, and since that time have been with him almost every day.

Q. Where were you associated with him? A. In Asbury Park.

Q. Tell us, in a general way, your association and your relation. A. Well, I would see the doctor every day. I would be down-town every day and he would be to the bank, and I would meet him when I was through marketing. I
40 would meet him at one of the banks and we would

TESTIMONY, MRS. ANNA WAHL—Direct.

take a short ride; would meet him at 12.30 or one o'clock—lunch hour. Again in the afternoon we would take a short ride to get away from business—the whole thing—and we would take a ride. At that time I was at leisure at my hotel. In the winter-time we were both at leisure, and during his office hours I would attend to whatever I had to attend to. **We spent our evenings together. I usually had an apartment at his apartment house there. We left the hotel.** 10

Q. How many winters did you have your apartments at the Coleman flats? A. **Four altogether, including the winter the doctor went away.**

Q. You mean 1916? A. Yes.

Q. During the winter season as well as the summer time? A.

Q. You say the doctor in 1913 and 1914 had to be on a diet? A. He had **diabetes** and wanted special things prepared for him. 20

Q. Did you prepare these special items of food? A. Yes.

Q. The doctor was ill on one or two occasions, was he not? A. Yes.

Q. Who took care of him? A. **I did.. With him constantly.**

Q. Anyone else with him? A. **Yes; the doctor wanted me with him all the time. He was very fond of me.** 30

Q. You say you had become engaged to be married? A. Yes.

Q. Did this association that you refer to continue during the summer and fall of 1915, until he went away? A. Yes.

Q. **With him daily.** A. Yes.

Q. **There is some evidence that he had a slight stroke in the summer of 1915? A. He had a stroke in March, on Easter Sunday; right here** 40

TESTIMONY, MRS. ANNA WAHL—Direct.

in the throat. It was very slight, only affect was an impediment in his speech.

Q. Did he attend to his business? A. Oh yes.

Q. Attend to his profession? A. Yes.

Q. Take in the fall of 1915—October—you were still with him then? A. Yes.

10 Q. What about his condition then, as to whether his mind was impaired or otherwise? A. His mind was not; his mind was just the same as always.

Q. Did he transact his profession and other business during that time? A. Yes.

Q. Would you go out with him on his calls? A. Yes.

Q. And do you know that during the summer and fall of 1915 he practiced his profession?

20 A. Yes

THE ORDINARY: Was he a general practitioner?

WITNESS: Yes, one of the leading physicians of Asbury Park.

30 Q. Did he ever have any talk with you about having his will prepared by Mr. Rhome? A. Yes, he said that Mr. Rhome was going to redraw his will.

Q. Did he talk with you on more than one occasion about that? A. No, except that a couple of times he went to Mr. Rhome's office; he said, "If you have anything more to do, do it; I am going to Mr. Rhome's office,"

Q. When was that? A. October, 1915.

Q. Did you know that some years prior to that time he had drawn a will? A. Yes.

40 Q. Did you know that you were one of the

TESTIMONY, MRS. ANNA WAHL—Direct.

beneficiaries in the will—1911 will? A. Yes.

Q. Did he say anything to you as to what he was going to do in this 1915 will? A. He said that in his will he had set aside a certain amount of money for his cemetery plot and afterwards found out that there was no one to take charge of the affair. He said that he had left too much money to the cemetery; that the bequest was too large; then he thought of turning it over to the Elks and asking them to take charge of it, but he did not do that. 10

Q. Do you remember the day he actually executed this will? A. Well he was going up to Mr. Rhome's office; when we went down-town he would say you do whatever you have to do; I am going to Mr. Rhome's office and I will meet you.

Q. These days he was talking about going up there about this will, what have you to say about his mental condition or ability to take care of his business at that time? A. He was just as capable as ever. His mental condition was as perfect as ever; He met everyone on the street and greeted them. 20

Q. Mr. Schenck has referred to being down there a couple of times in October. Do you remember a man looking like Mr. Schenck coming there? A. Yes.

Q. After he had drawn this will, did he speak to you about the matter? A. Yes, said he had his will drawn. 30

Q. Did he tell you what he had done? A. Yes, told me what he had done. He took my will and his will and put them together. My will was drawn in favor of Dr. Coleman.

Q. Mrs. Wahl, who were Dr. Coleman's relatives? Do you know who Dr. Coleman's relatives were? A. I knew his two sisters.

Q. The Trenton ladies? A. Yes. 40

TESTIMONY, MRS. ANNA WAHL—Direct.

Q. Did you know there was another sister?

A. Yes.

Q. Do you know whether he had any other relatives or not? Any brothers or sisters?

A. No, two sisters.

Q. Any brothers or sisters deceased, who left children? A. No.

10 THE ORDINARY: He did not, or you don't know?

THE WITNESS: He did not. He never had but the three sisters.

THE ORDINARY: Do you know that?

20 THE WITNESS: Doctor had always talked about it.

Q. As far as you knew from your talk with the doctor, thoes were his only relatives? A. Yes.

BY THE ORDINARY:

Q. How old was Dr. Coleman? A. Doctor was 52 years old the 31st day of July of the last year of his life. Born in 1864.

30 Q. Was he a batchelor or a widower A. Widower.

Q. When did you say you got acquainted with him first? A. **I got acquainted with Dr. Coleman about twelve years ago.** He was my phycian and he was recommended to me by my physician in Newark.

Q. You went to Asbury Park to engage in business? A. Yes, in the hotel business.

40 Q. And finally the doctor became associated with you? A. Yes.

TESTIMONY, MRS. ANNA WAHL—Direct.

Q. When was it you became engaged to be married to him? A. In December, 1911.

Q. As you state, you were very intimate with him after that, and saw a great deal of him up to the time he went away. When last before he went away do you recollect having seen him?

A. I saw him in the morning he went away. He kissed me good-by.

10

Q. You had a conversation with him? A. In the office, in the hall and at the front door.

Q. What was the occasion of his going away?

A. He was to go away to this private sanitarium for treatment.

Q. For diabetes? A. Not for diabetes; he had auto-intoxication.

Q. Was it for that he went away to be treated? A. He went away for a rest and for treatment.

20

Q. Treatment for what? A. Well, they said that he had some mental trouble. But he hadn't. He did not show it, if he did.

Q. For how long had he had that mental trouble, did they say? A. I think the Thursday before he went away.

Q. That was the first development of it—how long after the stroke? A. He had the stroke on Easter Sunday in March.

Q. And this was the date that he went away? 30
A. He went away on the 6th of January following.

Q. About nine months afterwards, or little more than that? A. Yes.

Q. Now, what do you say as to his mental condition in the month of October, 1915, from all that you had heard him say and saw him do? A. His mental condition was just as perfect as it had ever been, Your Honor.

Q. That you say obtained up to the very 40

TESTIMONY, MRS. ANNA WAHL—Direct.

time he went away? A. Yes.

Q. Were you one of the witnesses on this lunacy inquisition? A. No, I was not.

Further taking of testimony adjourned until Tuesday, January sixteenth, at two o'clock P. M., at the same place.

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TESTIMONY, APPEARANCES—MRS. ELLA
MacGLATHERY.

NEW JERSEY PREROGATIVE COURT.

_____)	
In the Matter of the Appli-)	
cation for the Probate of)	
the Last Will and Testa-)	Testimony.
ment of Frederick F. Cole)	
man, Deceased.)	
_____)	10

Testimony taken in the above-entitled cause, at the State House, Trenton, New Jersey, on Tuesday, the twenty-third day of January, 1917, at two o'clock in the afternoon.

Before Hon. Edward Robert Walker, Ordinary. 20

Appearances as heretofore noted.

BY THE ORDINARY: Mrs. Ella Mac Glathery, a sister and one of the next kin and heir-at-law of Frederick F. Coleman, deceased, who defaulted in appearance on the first day of this hearing, desires now to appear and be heard. Counsel for Proponents do not object, provided she is put upon reasonable terms. The court rules 30 that the testimony already taken shall stand without any right on the part of Mrs. MacGlathery to recall the witnesses for cross-examination. From this point on, she may participate in the proceedings without limitation or restraint. Counsel for Mrs. MacGlathery do not consent to the terms and claim the right to cross-examine the witnesses already examined. This the Ordinary denied. 40

TESTIMONY, ARIETTA COLEMAN—Direct.

ARIETTA COLEMAN, a witness produced on behalf of the Proponents, being duly sworn, testified as follows:

DIRECT EXAMINATION:
BY MR. WICOFF:

- 10 Q. Miss Coleman, where do you reside? A. Trenton, New Jersey.
- Q. You knew Frederick F. Coleman, whose will we are examining into? A. I do; he was my brother.
- Q. Tell us who were his kin? A. Myself, his sister Miss Rolinda Coleman and Mrs. Ella MacGlathery.
- Q. Was he married? A. He had been married twice.
- 20 Q. Any wife living? A. No.
- Q. Any children? A. No sir.
- Q. Father and mother dead? A. Yes sir.
- Q. When, in the year of 1915, did you see your brother? A. I saw him the last of May, and in December—the 24th.
- Q. Where did you see him? A. I saw him at Asbury Park both times, at his home.
- Q. For how many days did you see him at these periods? A. In May I was there about
- 30 three days, I think it was.
- Q. And how long in December? A. I saw him from the 24th of December until the sixth of January.
- Q. Did you see him at any other time, any other place, in the year 1915? A. No.
- Q. You were a witness before the jury in the inquisition of lunacy at Freehold in November, 1916? A. Yes sir.
- 40 Q. When did you see your brother after January 6, 1916? A. After January 6, 1916, I

TESTIMONY, ARIETTA COLEMAN—Direct.

saw him at the sanitarium—January 22nd, March 13th, and July 25th and October 24th.

Q. Where was this sanitarium? A. Stamford, Conn.

Q. Did you converse with him at these times? A. In did.

Q. Do you recall any conversation you had with him at any time in 1916? A. January 22nd 10
Mr. Messler and I went up to see him. I then signed the paper putting him in the sanitarium to be doctored by Dr. Gibens and some other physicians there. March 3rd I talked to him. He asked me some questions about Asbury Park—if Mrs. French had paid her money, and told me about being connected in a real estate way with the Davenport Inn in Asbury Park; how much money he had invested there, and spoke of some other parties in Asbury Park owing him money; 20
can't just remember their names now. On March 13th I had a conversation with him and then told him that I was living at Asbury Park, taking charge of his building—his flats and his store.—

MR. ROGERS: I object to what she told the doctor, unless there was a response made in answer to it.

THE COURT: I will admit it; what she 30
told him will amount to nothing on the issue here before us.

A. And he said, "Good for you." He said, "Are you renting them?" I said "Yes." I did not enter into any business conversation in any other way, because he could not carry on a connected business conversation, and yet he could talk about it.

Q. You saw him in July, 1916? A. I saw 40

TESTIMONY, ARIETTA COLEMAN—Direct.

him in July.

Q. Did he know you? A. He always knew me and was very glad—and in July I mentioned several gentlemen's names in Asbury Park, and asked him if he remembered them. He said, "I do; give them my kind regards when you see them," and said, "Will you take me home." I
10 said, "Whenever Dr. Gibens says you are well enough to go home, I will take you home." And then he asked me about his check-book which I had promised the time before to take up to him. He said, "You did not bring my check-book; the doctor won't receive any common checks, and I want mine with my name in gold letters on them," and he said "I would like to have it." I said, "Come with me and I will take you to Dr. Gibens and explain why I did not bring the check-
20 book, and I said your bills will all be paid and money arrangements all made satisfactory."

Q. Did you have any conversation in July about his business affairs? A. Nothing more than just to say that everything was going along satisfactorily. That day he was so much better that Dr. Gibens provided a special lunch for us in a private room and we were together all day in the yard and in the dining-room eating lunch.

Q. When did you see him after this July
30 visit? A. I saw him November 24th.

Q. Did he know you? A. He did, although his throat was paralyzed, but he made one grand effort and spoke my name.

THE COURT: He did speak your name.

WITNESS: Yes sir, he did.

40 Q. Did you have any conversation with him

TESTIMONY, ARIETTA COLEMAN—Cross.

at this time? A. He could not talk at all, but I asked him to smile and he did, and I asked if he could see me and he shook his head "no;" but he could hear. I asked if he could hear, and he said "Yes"—he shock his head "yes," up and down, indicating yes. That was Friday; he died on Monday....

10

CROSS EXAMINATION:
BY MR. ROGERS:

Q. Miss Coleman, I show you a paper and ask you if that is your signature? A. Yes sir.

Q. Do you recall signing that petition? A. I do.

Q. In January, 1916, praying for the appointment of a receiver of Dr. Coleman's property?

A. Yes sir.

20

MR. WICOFF: If Your Honor please, I do not want to appear technical in this matter, but this cannot be proper examination!

THE COURT: It has not developed yet what it is. Miss Coleman has said that she signed a petition in January, 1916, praying for a receiver of the doctor's property. That in itself does not make for either way. Proceed! 30

Q. I show you, attached to the petition filed in the Court of Chancery under date January 31, 1916, in the matter of Frederick F. Coleman, an alleged lunatic, and ask you if this is your signature to an affidavit annexed said petition? A. Yes sir.

Q. I wish to offer this in evidence.

40

TESTIMONY, ARIETTA COLEMAN—Direct.

(Document admitted in evidence, but not marked as exhibit).

Q. The statements that I have read and that are contained in this petition and affidavit signed by you, are true? A. They are.

10 DIRECT EXAMINATION:
BY MR. WICOFF:

Q. Miss Coleman, please explain what you meant by the statement in this affidavit of January 29, 1916, when you say that "Frederick F. Coleman who is now and as I verily believe has for more than eight months last past, been so far deprived of his reason and understanding that he is altogether unfit and unable to govern himself and manage his affairs?"

20

MR. ROGERS: Your Honor, I object. That is explained in the affidavit attached.

THE COURT: I sustain the objection. I sustain it upon the ground that this lady cannot now be asked to characterize all the statements she made in this affidavit—that she meant that and that; it speaks for itself, and has to be argued.

30

KAYS R. MORGAN, a witness produced on behalf of the Proponents, being duly sworn, testified as follows:

DIRECT EXAMINATION:
BY MR. CARTON:

40 Q. Mr. Morgan, are you a member of the

TESTIMONY, KAYS R. MORGAN—Direct.

Bar of this state? A. Yes sir.

Q. Associated with the office of Patterson & Rhome? A. Yes sir.

Q. How long have you been there? A. About five years I have been in the office.

Q. Were you acquainted with Dr. Frederick Coleman? A. Yes sir.

Q. How long have you known him? A. 10
About five years.

Q. Did you ever see him in the office of Patterson & Rhome? A. I saw him there many times.

Q. What was his conduct or habits as to frequency or otherwise of calling?

MR. ROGERS: I object, on the ground that it is general.

A. He called quite frequently. 20

Q. Take the year 1915—how often did he call during the months of that year? A. He called quite frequently then. I should say two or three times a month.

Q. Do you know whether Mr. Rhome did any legal business for him? A. Yes, he did legal business for him, but I don't know what nature, excepting preparing of this will.

Q. What do you know about that? A. Dr. 30
Coleman called twice about that time.

Q. When was that? A. In October, 1915. The first day he called Mr. Rhome prepared his will, and the second day he called to execute it.

Q. Well, did you see him the first day he called? A. I talked with him, I should say five minutes in the outer room—in the reception-room. I don't just recall what the conversation was about, but I remember one conversation in Mr. Rhome's private office. 40

TESTIMONY, KAYS R. MORGAN—Direct.

THE COURT: When was it?

WITNESS: In October, 1916; the day he called to prepare to prepare the will.

Q. And that was what? A. That particular conversation was between Mr. Rhome and Dr. Coleman. I was in the room at the time. Dr. Coleman said, in talking to Mr. Rhome—he said he wanted to leave Mrs. Wahl one-third of his estate, provided she remained unmarried, and in case she married she was to forfeit her legacy and that was to go into the residuary estate. That was the conversation. I remember one more too, and that was: Dr. Coleman was in a bad condition, nervous condition, I don't know what kind. Mr. Rhome asked him why he didn't go to Battle Creek Sanitarium; Mr. Rhome had been out there twice himself, and I believe Dr. Coleman said he would take it under consideration. Those are the only two specific conversations I can recall.

Q. Now did you notice anything about his mental condition on either of those days that was different from what it had been? A. No sir, I did not. He talked possibly a little bit slower, but he certainly knew what he was talking about.

MR. ROGERS: I object to that answer.

THE COURT: Objection sustained; "but he certainly knew what he was talking about" must be stricken out.

Q. The day that the will was executed,—do you remember that day, Mr. Morgan? A. Yes sir, I remember Dr. Coleman coming in.

TESTIMONY, KAYS R. MORGAN—Cross.

Q. Were you in the room any time while Dr. Coleman was there? A. I was possibly in and about the room, but I don't remember.

Q. Do you remember the day that he actually came in and signed the will? A. Yes sir.

Q. Being in Mr. Rhome's private office? A. Yes sir.

Q. Did you have any talk with Dr. Coleman 10
on that day? A. Yes sir. I possibly did have some conversations with him that day, but I cannot recall them.

Q. Do you remember anything about his conduct or manner as you observed it? Was it different from what it had been theretofore?

A. No, only that he seemed to be sick; he was in a nervous condition and he talked very much slower than he ordinarily would talk. That is the only thing I noticed about it. 20

Q. And was that the only thing about his general condition that you observed from what it had been? A. That is all, yes sir.

CROSS EXAMINATION:

BY MR. ROGERS:

Q. Was Mrs. Wahl a client of your office?

A. I believe she is.

Q. Do you know? A. Yes, she is. 30

Q. Was she a client at the time the will was drawn? A. I believe she was, but I don't know.

Q. Had you seen her there at the office about that time; during those days? A. I had seen her there possibly; but don't know whether she was around that day or not. I have seen Mrs. Wahl and have for the last two or three years.

Q. That was in regard to the Davenport Inn matter? A. That only came up recently, I 40

TESTIMONY, KAYS R. MORGAN—Cross.

MARY CHARLOTTE THURSTON—Direct.

believe. I really can't say what Mrs. Wahl's business was with Mr. Rhome.

Q. I am not asking that particularly, but want to know if he was her attorney at that time? A. I am quite positive he was.

Q. Do you know whether Mrs. Wahl was there at your office on the 15th and 16th of October, when this will was prepared and drawn? A. I don't believe so, but am not positive. I don't think so; I do not remember seeing her.

Q. Were you present at any time when Dr. Coleman was in the act of executing this paper offered here for probate? A. I don't believe so, no.

Q. Did you know a will was being executed by Dr. Coleman in Mr. Rhome's office on the sixteenth? A. Yes, sure.

Q. Were you present when the will was being dictated? A. I may have been in and out. I do not know if I was there when Mr. Rhome was dictating.

Q. Did you assist? A. Not in the preparation of the will; I did not assist.

MARY CHARLOTTE THURSTON, a witness produced on behalf of the Proponents, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Carton:

Q. Miss Thurston, you live in Asbury Park?

A. Yes.

Q. Lived there for some time? A. Yes sir.

Q. You knew Dr. Coleman? A. Yes sir.

Q. How long had you known the Doctor, Miss Thurston? A. I first met him in 1909. Of

MARY CHARLOTTE THURSTON—Direct.

course I had known him by sight before that.

Q. And had you worked for him from time to time, in his drug-store, since? A. Yes sir.

Q. And what particular position? A. In the summer I was cashier and took charge of the candy counter, and in the winter I was office attendant, and took charge of his office.

Q. Were you in the store in the summer of 1915? A. Yes sir. 10

Q. And up until you left in the fall, did you stay there? A. I stayed there until the store closed, and then remained in his employ as office attendant.

Q. Were you in his employ and at his office in October, 1915? A. Yes sir.

Q. Do you remember the occasion of Dr. Coleman's preparing his will in 1915? A. Well, first he made the remark, when he came home that night from the office— 20

Q. When was that? A. That was on the sixteenth of October, 1915. He came in late in the afternoon; came in the office, and when removing his coat he took a legal envelope from his pocket and transferred it to the coat he had on, and as he took it out he said: "Last will of Frederick Frelinghuysen Coleman."

Q. And what further was said by him, if anything? A. The next morning he came down in the office and I spoke of it being a pleasant day and he said, "Yes; I suppose the best thing I can do now is to go down to the pier and jump off, and then I will make three women happy,"—joking. 30

Q. Did he go into any further details? A. I said: "You will make one woman unhappy." He said: "Yesterday I made my will," and he said, "Mrs. Wahl is to share with my sisters, and I am going to leave her the diamond ring 40

MARY CHARLOTTE THURSTON—Direct.

and I am going to leave Reed something.”

Q. Now was the doctor engaged about his practice and in the store at that time? A. The store was closed, but he was engaged about his practice.

10 Q. What do you say now, Miss Thurston, as to the Doctor's condition at that time, as compared with what it had been in former years—as to his competency?

MR. ROGERS: I object to it.

THE COURT: I sustain the objection.

Q. Did the Doctor in his conduct and his transactions with you, appear as he had appeared to you theretofore? A. Yes sir.

20

MR. ROGERS: There is no evidence how he appeared before.

THE COURT: Question overruled.

Q. You say you have known or been acquainted with the Doctor for a great number of years? A. Yes.

Q. And been in his employ? A. Yes sir.

30 Q. And in that way did you have occasion to observe his habits and conduct of transacting business? A. Yes sir.

Q. And in this time, in October, 1915, did his conduct and manner appear anything different from what it had been in the years gone by?

MR. ROGERS: I object to that as leading.

40

MARY CHARLOTTE THURSTON—Cross.

THE COURT: I will admit that.

A. No, I don't think there was anything different.

CROSS EXAMINATION by Mr. Rogers:

Q. You say you have known the Doctor since 1909? A. Yes. 10

Q. The Doctor was enjoying good health, was he not, in 1909? A. As far as I know.

Q. Do you recall that he was a heavy--built man? A. Yes sir.

Q. He was an active practitioner in Asbury Park, was he not? A. Yes sir.

Q. A man prominent in civic affairs, is that so? A. Yes sir.

Q. Was he an active man—get around actively, or not, in 1910 and 1911? A. As far as I know; he might have had some ill spells; he might have been sick once ortwice. 20

Q. Outside of that, he was an active man in his profession? A. I think so, as far as I know.

Q. He used to make his own prescriptions, didn't he, in the drug-store? A. Yes sir.

Q. You have seen him mix prescriptions, have you not? 30

MR. CARTON: I object.

THE COURT: Yes, as to what he did.

A. I saw him make prescriptions.

Q. He had a large drug-store in Asbury Park? A. Yes.

Q. And you were employed there as cashier? A. Yes sir. 40

MARY CHARLOTTE THURSTON—Cross.

Q. And you were employed as cashier in what years? A. In 1909, the summer, I was assistant cashier—that is, for July and August, and after the regular left I took full charge, and that was the summer of 1910.

Q. Did you have charge all winter? A. Yes sir.

10 Q. Were you there in 1911? A. Till May, 1911.

Q. After that period? A. Then I gave up the position, not being very well, and I had other positions in Asbury Park.

Q. When did you go back to work with the Doctor? A. May, 1914.

Q. And you continued there up until December, 1915? A. Yes sir.

20 Q. Continually in the employ of Dr. Coleman? A. Continually.

Q. When did you first notice any change in Dr. Coleman's appearance? A. He began to get thinner I think in the fall; I could not tell exactly—in the fall.

THE COURT: The fall of 1915 I think.

30 Q. Have you any definite recollection as to his appearance in the fall of 1915? A. Only he did not weigh quite as much.

Q. When did the Doctor discontinue mixing his own prescriptions for patrons there? You recall that Dr. Reed was his assistant? A. In the summer; yes sir.

Q. When did Doctor stop mixing his own prescriptions? A. Well, the last patient I remember him having was in December, 1915.

40 Q. When did Doctor discontinue? A. I really don't know when he discontinued, but I think he prepared a prescription for that patient.

MARY CHARLOTTE THURSTON—Cross.

That was about the 10th of December 1915. I know he had a patient and he prepared the prescription I think.

Q. You know the Doctor did not go about practicing as a physician in that summer and fall, as he had before? A. No, I did not know that.

Q. Then he had just as active a practice? 10
A. So far as I know. I was in the store most of the time.

Q. Where was his office in respect to the store? A. On Kingsley Street side, back of the store. The office fronts on Fourth Avenue and the store faced on Kingsley Street, and my position as cashier was with my back to the office and faced Kingsley Street.

Q. So you could not see what business the Doctor did in his office? A. I could not tell 20 exactly. I was more in the store.

Q. Did you know that the doctor had diabetes in 1914? A. I heard he had.

Q. Had the Doctor been complaining at all in the summer or fall of being ill? A. Not to me.

Q. Did you know the Doctor was not feeling well? A. No, I did not know it.

Q. How often during the day would you see Dr. Coleman? A. I would see him every 30 night when I handed him my money. I had the post office to superintend also, and I generally saw him in the morning and perhaps would not see him again until night.

Q. Did you know the Doctor had lost thirty or forty pounds in the fall? A. No, I never hear it.

THE COURT: By observing him, as you sa whim from day to day? 40

JOHN V. B. WICOFF—Direct.

WITNESS: Yes, at one time he was a very stout man, and during the winter of 1914 he got much thinner and then picked up again; he would change.

Q. Didn't you notice any difference in the Doctor's walk, and whether he was as quick
10 in speech in the summer and fall of 1915? A. I did not notice any difference.

Q. Did you notice any difference in his speech? A. No sir.

JOHN V. B. WICOFF, a witness produced on behalf of the Proponents, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Carton:

20

Q. Mr. Wicoff, I think you testified in the Inquisition proceedings to have Dr. Coleman declared incompetent? A. I did.

Q. And whom did you represent at that time? A. I represented the Misses Rolinda and Arietta Coleman.

Q. Doctor's sisters? A. Yes.

Q. You were sworn? A. Yes.

30 Q. Had you made an examination of the Doctor's property or the amount and extent of his property at that time? A. I had.

Q. And did you swear to that before the Commission? A. I did.

Q. Did you know Dr. Coleman, Mr. Wicoff? A. I did not.

Q. Have you ever seen him? A. I never saw him.

40 Q. Mr. Wicoff, in this inquisition who were present? Can you tell us who the witnesses were that were sworn? A. Dr. Henry A.

Cotton, Miss Arietta Coleman and myself.

Q. The Dr. Cotton who testified the other day; Miss Coleman who is here to-day, and yourself? A. Yes sir.

MR. ROGERS: The files and proceedings in the Court of Chancery, in the Matter of Frederick F. Coleman, a lunatic on inquisition, are offered in evidence and received. 10

MR. ROGERS: Your Honor, in view of the prima facie effect of the inquisition and the testimony given by Dr. Cotton, which is based upon improper questions, I would like to make a preliminary motion before I proceed to put in any defence. 20

THE ORDINARY: What is the defence?

MR. ROGERS: Dr. Cotton's testimony in explanation of his testimony given in the inquisition proceedings, showed that he changed his opinion, as to the possibility and probability of the Doctor being competent to understand and transact business, entirely upon an explanation of certain facts given by Mr. Rhome in this Court Room. 30

THE ORDINARY: That is not a ground for excluding or overruling his testimony. That is a matter or argument. I will rule the motion.

MR. ROGERS: Well, then, I will make 40

ROLINDA COLEMAN—Direct.

the motion, if yo uplease, to dismiss the application to probate the will in solemn form, on the ground that the Proponents have not established the competency of the testator to make a will on October 16, 1915.

10 THE ORDINARY: There is testimony in the case which, I think, would justify the conclusion that at the time the testator made this will he was competent to make it, notwithstanding the finding by the jury in the lunacy inquisition. I, therefore, overrule the motion.

20 ROLINDA COLEMAN, one of the Proponents, being duly sworn, on behalf of the Caveatrix, testified as follows:

DIRECT EXAMINATION by Mr. Rogers:

Q. Miss Coleman, I sho wyou a paper purporting to be a petition signed by you and presented in the Court of Chancery in the Matter of Frederick F. Coleman, an alleged lunatic, and filed January 31, 1916, and ask you if this is your signature on the petition? A. It is.

30 Q. And annexed to said petition is what purports to be an affidavit signed by you, and I ask you if that is your signature to the affidavit? A. It is.

(Petition and affidavit offered in evidence and received).

CROSS EXAMINATION by Mr. Wicoff:

40 Q. Miss Coleman, when did you see your

ROLINDA COLEMAN—Cross.

STEWART A. FARRELL—Direct.

brother in 1915? A. On Christmas morning, December 25th.

Q. Had you seen him anywhere, any place, prior to that time in the year 1915? A. I had not.

Q. Are there any children or descendants of any children of your brother, who survive him?

A. There is not.

10

THE ORDINARY:

Q. Did he ever have any children? A. He had some babies, yes. He haad no chlidren who grew to maturity.

STEWART A. FARRELL, a witness produced on behalf of the Caveatrix, being duly sworn, testified as follows:

20

DIRECT EXAMINATION by Mr. Rogers:

Q. Mr. Farrel, what is your occupation? A. I am a lawyer.

Q. In the State of New Jersey? A. Yes.

Q. And when were you admitted? A. About a year and a half ago.

Q. Did you know Dr. Frederick F. Coleman of Asbury Park during his lifetime? A. Yes, 30 I knew Dr. Coleman for about three years prior to his death.

Q. And you live where? A. I live in Ocean Grove.

Q. How long have you lived there? A. About five or six years.

Q. Were you well acquainted with Dr. Coleman—that is to say, did you call upon his as an acquaintance? A. I first went to see the Doctor as a patient.

40

Q. About when was that? A. That was the end of 1913, or the beginning of 1914, to the best of my recollection.

Q. And did the Doctor prescribe and treat you? A. He did.

10 Q. How long before that had you known him by sight? A. I had not known him very long. I had only seen him previous to that on a few occasions.

Q. What was the Doctor's appearance generally? Will you describe the Doctor as you recall him and as you first met him in 1915? A. Well, he was a very heavy man; I think he said he weighed something like 340 pounds; he told me that himself. I don't know whether it is correct or not. He was a robust man when I first knew
20 him. I continued to go to his office until October 15th, off and on.

Q. How tall a man was Dr. Coleman, if you recall? A. He must have been six feet tall, I guess.

Q. How often during 1913 and 1914 did you call upon him for medical treatment? A. It varied. I was then practicing in New York and came down over week-ends and used to stop in to see him Sundays and sometimes I allowed it
30 to go over three Sundays, and sometimes would allow it to go for a month.

Q. What was the nature of your treatment? A. Well, he prescribed for me.

Q. Did he prescribe medicines for you? A. Yes. I was troubled with indigestion and he gave me tonics, etc.

Q. Did you observe any change in the Doctor during that period in 1913 and 1914? A. Why not particularly during that time.

40 Q. When did you first observe any change in

STEWART A. FARRELL—Direct.

Doctor's appearance, either physical or mental?

A. Well, I first noticed it in the spring of 1915.

Q. About when was that? A. I can't place the month; it was early in the spring.

Q. What did you observe? A. He was very much thinner and told me he had lost thirty or forty pounds.

Q. Did you notice that he was thinner? A. 10
Very much so.

Q. Was he thinner in the face? A. Thinner in the face and his collar was very loose on his neck, and before that had been very tight.

Q. Did you notice any difference in his walk or speech? A. He mumbled his words a little bit.

Q. Did you notice any difference in his walk? A. Yes; he walked more slowly and did not seem to have the control of himself he had before. 20

Q. How long did Doctor continue to treat you? A. Until that spring. After that he did not treat me. I went in to see him casually to talk things over with him as a friend.

Q. Why did you discontinue going to Mr. Coleman for treatment?

MR. CARTON: I object to that; it is immaterial. 30

THE COURT: It would seem so.

(Question withdrawn).

Q. Did you notice anything peculiar in the way in which the Doctor treated you as a physician in the spring or summer of 1915? A. Why yes, on one occasion he got the prescriptions mixed up and I had noticed right along the 40

change in his condition, and that was the reason I decided not to go to him any more.

10 Q. When you mention about getting your prescriptions mixed, will you be a little more definite and explain how that occurred? A. Well, he had prescribed two sorts of tablets—one to take before meals and one after—and I came in for a renewal in the spring, and he talked to me a long time in his office before he started to fix the prescription, and I was rather anxious to get away, but he kept on talking and talking, and finally I asked would he mind getting the prescription filled, so he did. He went in and got them mixed up—got one tablet in one box and I noticed it and asked him if he was sure about it, and he looked it up and found he had got them mixed. That was the last I saw him professionally, although I saw him socially.

20 Q. When did you see him socially? A. I saw him a few times in July.

Q. July, 1915? A. Yes.

Q. Did you notice any further change in the Doctor's condition? A. Well, yes, I noticed the change considerably.

Q. How particularly? A. Well, I remember going in to see him one day—

30 Q. When was this? A. In the early summer or late spring of 1915. We were talking and he fell asleep in his chair. I nudged him, and said, "Guess I will go," and he said I had better stay awhile, and he fell asleep again. Finally I left.

Q. When did you next visit the Doctor? A. I saw him possibly once or twice in September, after I came back from Maine.

Q. And called upon him socially? A. Yes, just to pass the time of day with him.

40 Q. What was the nature of your conversation with the Doctor? A. We talked on various

matters. I can't remember the subject of the conversations just now.

Q. Did you notice any decided change in Doctor when you saw him in September after you got back, as you say, from Maine, from what his condition had been in the spring of that year—1915? A. Yes, he seemed worse physically, and then in holding conversations he would talk about one thing and wander off about something else. I did not see him much during this period, because it was useless to go to talk to him. 10

Q. Then you came to some conclusion as to the Doctor's mental condition, did you, in September, 1915? A. I did.

Q. Did the Doctor do anything or say anything during that period that was out of the ordinary for a reasonable man to do? A. Yes, he did. I can't remember the exact conversation, but that was the impression that I received of him at that time. I received that impression in the spring also when I talked to him. 20

Q. Did the Doctor do anything—behave himself in any manner, when you were there in September, that was peculiar? A. When he fell asleep I thought it very peculiar.

Q. Did you recall him carrying any weapon with him, or anything? A. He had a revolver on one occasion; he took it out of the drawer of his desk and held it in his hand. 30

Q. When was this? A. I don't know whether it was in September or in the early summer; one of those occasions.

Q. What did he do or say? A. Did not do anything. I asked what he had that for and he said he always had it with him.

Q. Did he say why? A. No he did not, only that he always had it with him. 40

STEWART A. FARRELL—Cross.

Q. Did you see him in October? A. I don't remember.

Q. You did see him in September? A. Yes. It was in the early fall.

Q. Did Doctor's actions lead you to believe that he was rational or irrational?

10 MR. CARTON: Objected to, Your Honor.

THE COURT: That question is objected to as leading. You may state from what you saw of the Doctor, heard him say or saw him do, what belief you formed.

A. Yes, I did.

20 Q. What was that belief? A. Some of the things he said were very irrational. From things he said he appeared to be all right. My impression of him was that there was something wrong with him mentally, but I did not know what it was.

CROSS EXAMINATION by Mr. Carton:

30 Q. Mr. Farrell, you were in business in New York, I think; when did you come to live in Asbury Park? A. My folks had lived in Asbury Park all during this period. I, myself, was practicing in New York until I opened office last July in Asbury Park.

Q. You took up your office in July, 1916, in Asbury Park? A. Yes sir.

Q. And until that time you came down over week-ends? A. Yes, and occasionally during the week to see my father and mother.

40 Q. During that time did Dr. Coleman treat

you? A. The early spring of 1915 he treated me.

Q. And that was the time when he made the mistake in the "before and after" prescription?

A. Yes, along that time.

Q. And you did not seek him further as a doctor? A. I did not.

Q. But you did call on him as a friend? A. Yes, I did. 10

Q. Did he effect a cure? A. Yes sir, he did.

Q. You did not seek any other doctor, did you? A. No, I did not.

Q. Now, you say you noticed when talking with him on social visits he would get things mixed up. When do you say that was? A. It was in the early summer of 1915, and in the fall of 1915. I did not see him as much. I don't remember so much about it. My impression of him—the difference in him—had increased in the fall. 20

Q. And he had fallen away considerable, as you observed? A. Very much so.

Q. When did you last see him in the fall of 1915? A. It must have been in September.

Q. That is your best judgment? A. Yes.

Q. Where did you see him then? A. At the office. 30

Q. You kept up your social calls until then? A. I did, yes.

Q. And Doctor was during all that period transacting his professional and commercial business? A. I presume so.

Q. Do you know, as a matter of fact, that he was practicing his profession at Asbury Park at that time? A. I knew that.

Q. At some times he appeared irrational and other times all right? A. The things he said 40

STEWART A. FARRELL—Re-Direct & Re-Cross

were irrational.

Q. The last time you saw him was in September? A. To the best of my recollection. I may have seen him after that, but I could not swear to it.

RE-DIRECT EXAMINATION by Mr. Rogers:

10 Q. Did the Doctor appear to be rational or irrational in September, 1915? A. Some of the things he said were highly irrational.

Q. Did you form any opinion as to whether the Doctor was rational or irrational in September, 1915? A. Yes, I formed an opinion.

MR. CARTON: Objected to.

20 THE COURT: On what ground?

MR. CARTON: It seems to me that all he states is that what the Doctor did led him to believe the Doctor was irrational.

Q. What was it? A. That he was irrational.

30 RE-CROSS EXAMINATION by Mr. Carton:

Q. Mr. Farrell, what do you mean by saying he was irrational? A. I mean this: A great many things he said to me were out of the ordinary. I don't mean to say that all of his conversation was, because it was not.

Q. Some of his conversation was entirely rational and coherent? A. It was all right.

40 Q. And some of the things he said appeared to you that he was irrational? A. Yes it did.

STEWART A. FARRELL—Re-Direct.

RE-DIRECT EXAMINATION by Mr. Rogers:

Q. Your impression formed at that time, you said, was that he was irrational?

MR. CARTON: Question objected to.

THE COURT: Objection sustained; it has already been asked and answered. 10

THE COURT: I will continue the case until next Tuesday afternoon at 2 o'clock, and then we will go on on Wednesday, if necessary, to finish the case.

20

30

40

TESTIMONY, EXHIBIT C-1.

NEW JERSEY PREROGATIVE COURT.

_____)
 IN THE MATTER OF THE)
 APPLICATION FOR THE)
 PROBATE OF THE LAST)
 WILL AND TESTAMENT)
 10 OF FREDERICK F. COLE-)
 MAN, DECEASED.)
 _____)

Testimony taken in the above-entitled cause, at the State-House, Trenton, New Jersey, on Tuesday, the thirtieth day of January, 1917, at two o'clock in the afternoon.

Before Hon. Edwin Robert Walker, Ordinary.

20 Appearances as heretofore noted.

MR. ROGERS: Before I offer testimony, I would like to offer in evidence an exemplified copy of the commitment proceedings, whereby the deceased was committed on January 27, 1916, by an order of the Probate Court of the District of Stamford, State of Connecticut, to Dr. Gibens' sanitarium of that city, upon application of Arietta Coleman, one of the beneficiaries in the will. I might add that this proceeding shows that it is based upon the petition and affidavit annexed to the petition.

30

(Paper marked Exhibit C-1.

MR. WICOFF: It is already in evidence in part of the record in the Inquisition here.

40

MARTHA A. RUTH—Direct.

MARTHA A. RUTH, a witness produced on behalf of the Caveatrix, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Rogers:

Q. Where do you reside? A. In New York City. 10

Q. Your occupation is what? A. Practical nursing and electrical treatment, masseuring.

Q. Did you know Dr. Frederick F. Coleman in Asbury Park? A. I did.

Q. For how long? A. Well, I could not say for how long, but I have known him for a number of years. I have been in Asbury Park since I was a child and had known him quite some time. 20

Q. Do you recall the Doctor's appearance, physical appearance, in 1912 or 1913? A. No, I saw Dr. Coleman—the last time I saw him was 1915, in June.

THE COURT: You were asked if you recalled his physical appearance in 1913 and '14, wasn't it?

A. I can't say I recall it very plainly, no, not then. 30

Q. You recall calling upon him in 1915? A. Yes, that is what I do recall.

Q. When was that, as to the date? A. I don't know the date, but it was the first week or part of the second week in June.

BY THE COURT:

Q. 1915? A. Between the first and sixteenth, 1915. 40

Q. What was the reason why you called?

A. I had two reasons. I called with a lady who wanted to consult him about her health, and also about the apartment.

Q. What was the lady's name? A. Well, shall I tell it? Mrs. Warner.

Q. Do you know where she lives? A. I do; in New York City.

10 Q. Is she sick at present, do you know? A. Very ill, yes.

Q. Are you attending her? A. Yes, I am attending her.

Q. Will you state what occurred when you saw Dr. Coleman in this first week in June, 1915? A. Well, quite a few things occurred.

Q. Well, just state them in your own way. A. Well, I went in his office a little after ten o'clock, and I think it was very near one when we left him. We first went into the office, and I said: "Doctor, here is a patient and a tenant; which do you want to see first." He said: "The tenant," and he took me up-stairs. He took me through the apartment and I said that every-
20 thing was fine, except the screens. I asked the price and he said \$300, and he came down to \$275 for me. I had seen the apartments previously, and I gave him a deposit.

30 Q. How much was that? A. Ten dollars. As we were going through the rooms and about to go out on the porch, he turned around and says: "Be sure and keep that door closed there," meaning from the way he pointed, I believe it was a dining-room door. I said: "Sure, we will keep it closed," or something like that. We went out on the porch and I said: "Doctor, there is not very much privacy from the hotel across," and I said couldn't we have curtains.
40 He said: "Yes, have anything you like." He

said that the man over there has new treatments; he let's a man down over there about twelve o'clock every night, and some nights a woman and some nights a child; and I said: "All right," but we looked at one another. Well, anyway, we went down-stairs and the next thing he pulled a chair over and told me to sit down and the lady to sit down. He pulled the chair over very near the door— 10

Q. Was that his chair? A. The chair he was sitting in. He said: "Sit down," kind of cross, in a gruff voice. He did not seem to get so annoyed with the lady I was with as he did with me. He did not get cross with her.

BY THE COURT:

Q. He knew you? A. Yes, he knew her too. She was a sister-mason; she was an Eastern Star. 20

A. He said that he was a very sick man, and all he got fed on was beer and crabs. She spoke to him and said: "What is the matter; why don't you get a nurse?" He said: "I can't afford a nurse, I haven't any money for a nure." He talked about the weather. He said: "Here is my only friend," and took out a little vial of morphine tablets, so he told me. He took out a hypodermic syringe out of his coat pocket, and said there were his best friends, and that only for those he would be dead. We looked at him and humored him. Then I think that was the time, right after that, that he got very cross. Then he turned around, after showing the syringe and tablets—"You know," he says, "I'm a very sick maan." He looked at her, but not as bad at her as he did at me. Then he started to tell about his wife. He said that his wife had 40

always humored him and babied him, and how he missed her, "God bless her." Then he said one night he came home with a knife up his sleeve and said he came home with the full intention, late at night, to kill her. She coaxed him from room to room and finally got him to his lovely bath-tub, and then he gave the knife up.

10 Q. Did he say anything else about his bath-tub at that time? A. He said he could not stay in the house; that the bath-tub was the only thing he loved.

Q. Did he cry at any time? A. Oh yes, he cried on two occasions. He cried after he talked about his wife. He cried a great deal then. And he cried just like a baby.

Q. Did this lady express herself by saying anything in the Doctor's presence? A. No, she
20 did not.

Q. Anything further? A. Then I asked him for my receipt, and he said: "Oh yes," and went over to the desk to write out a receipt and he wrote on two or three pieces—on his prescription blanks, before he got the name and amount right. I had to tell him two or three times to write it, and I think that is about all. When he got up, the lady that was with me, she got to the door, and while he was over to
30 the desk, I left him at the desk writing when we came out.

Q. Did Dr. Coleman say anything about any person that appeared to be in any rooms when you were up-stairs or something annoyed him in any room? A. No, he did not say anything about any particular room. He said that the night he came to the bath-tub, he realized about the knife.

Q. Do you recall Dr. Coleman doing anything
40 when you were up-stairs looking at the apart-

ment—were you in any other apartment at that time? A. Came down-stairs, and if I am not greatly mistaken, I think he bolted right in the other apartment. There was someone in there. I don't think he waited for the lady to come to the door; he went right in and right out quickly. We had not spoken about any other apartment and did not know why he went in there. 10

Q. Did you call upon Dr. Coleman a short time after that occasion? A. Yes, I called on him—well I can't say whether it was two or three days after that.

Q. State what occurred there and why you called on him? A. I called on him to ask what he had done; to see if he had done the little repairs he had said he would do. I did not go in the office, but waited outside until his car came, and I saw him on the pavement. I said: "Doc- 20
tor, did you do those little repairs you said you would do, and get the little hot-water heater." He said: "What are you talking about; I don't know what you are talking about." I said: "You said you would attend to it and have it painted up." He said: "I don't know what you are talking about." I said: "Dr. Coleman, you give me my deposit back." He said: "What do you mean by your 'deposit'?" I said: "I gave you ten dollars," and he said: 30
"No, you did not." I said: "Yes, I did."

Q. How did he look and act? A. He was very cross, very sharp. He was not like I knew Dr. Coleman before that.

Q. What was the change you noticed? A. The longer he talked about money, the more cross he seemed to get.

BY THE COURT:

Q. Did you notice any change in his 40

10 appearance from former days? A. I noticed his collar was larger, his neck all shrunken, and that he had a very wild expression in his eye. Instead of greeting you, as he was in the habit of doing, I don't believe he shook hands with either of us. He said his head hurt him; put his hands to his head.

20 A. Another thing he says: "I want to do things and I try to do them; I know what I want to do, but can't do it." Then we talked about the money and I saw he got very cross about it, and I said: "How do you feel this morning, Doctor?" He said: "I feel all right, only for my head." I said: "Beautiful morning," and he said, "Yes." He started to talk about some patients. I said: "Doctor, will you give me ten dollars; I need ten dollars awfully bad." He took out a big roll of money and pulled ten dollars off and handed it to me, and I gave him his receipt and I left him. That is the last I saw of Dr. Coleman.

Q. You say you noticed a change in Doctor's appearance. Do you recall that the Doctor was a tall, well-built man? A. Wonderfully well-built.

30 Q. How would he greet you in years past? A. Very friendly; we got to know him when he had a drug-store at corner of Kingsley and Cookman Avenue, in a little white building.

Q. Was he a heavy-built man? A. Yes, I should imagine Dr. Coleman weighed three hundred pounds, or near it.

40 Q. When you saw him in June, 1915, what change did you notice? A. His vest was way large, his coat was way loose, and he seemed to be all shrunken.

Q. Did you notice any difference in his manner of speech? A. Yes, because he would try to say so many things and could not say them, and then he would get very cross.

Q. Did you notice anything peculiar about the expression of his eyes? A. Yes, I noticed particularly after he talked about morphine pills; he just put his hand on the chair and just clinched his fist and said: "This is awful, this is awful." 10

CROSS-EXAMINATION by Mr. Carton:

Q. Mrs. Ruth, your best judgment is, this time you are referring to, is the first time in June, 1915? A. It was the first, between the first and sixteenth; it really had to be between the first and fourteenth. 20

Q. And you went there with Mrs. Warner to look over the flat? A. She went there to consult him about her health and to look over the apartment.

Q. His health? A. No, her health.

Q. You first went and looked the flat over? A. Yes, at his own suggestion.

Q. You did go upstairs and went through the various rooms? A. Yes.

Q. He pointed them out to you? A. He went through and spoke more about the beds than anything else. 30

Q. That is an important item. A. Yes sir.

Q. He spoke about the terms being \$300? A. I said: "Doctor, how much are your apartments?" He said: "I used to get three hundred dollars." I said: "Are you getting three hundred dollars," and he said, "Yes," and I said I could not afford to pay that much, and asked him if he would cut it down to \$275, and 40

he said, "Yes."

Q. Did he say so readily? A. Yes, when he spoke he said "Yes."

Q. That \$275 would be satisfactory? A. Yes.

Q. And after you had looked the flats over, you paid him ten dollars deposit? A. Yes.

Q. Who suggested the amount of the deposit?

10 A. I did.

Q. Was there any exception as to the sufficiency of it? A. Yes, no question.

Q. He was anxious to get it? A. He seemed to want money, that is all.

Q. Was he a little cross and harsh with you?

A. At times he was as gentle as a child and other times he flared up.

Q. You have known Dr. Coleman for several years? A. Yes, I have known him quite some

20 time.

Q. Intimately? A. Yes; only in a business way.

Q. In your professional way? A. No, not in that way.

Q. Do you know that Doctor was a little brusque and harsh in his talk on all occasions?

A. Never to me; seemed to be very mild when ever we met him before.

30 Q. This is the first time you noticed it? A. Yes.

Q. When you went out on the front porch and talked about these screens—that everything was fine except the screens, and said you didn't like the hotel opposite; that it was rather public there? That he noticed them let a man down there every night at twelve? A. Yes, and that they let a woman down the next night; he said: "I have seen him."

40 Q. Was that after he had said it was a little public there? A. That was after.

Q. Was the Doctor joking with you? A. I would have believed the Doctor was joking with me if he had not talked the way he had in his office.

Q. You had not noticed anything unusual or out of the way up to that point? A. No, he just seemed to be in a hurry.

Q. Then when he got down to the office he was telling you about his health, and that he was forced to live on crabs and beer? A. He said: "Isn't it awful, a man in my condition to live on crabs and beer." 10

Q. Well, the Doctor stated also that his head hurt him? A. A He stated that down in the office and the last time I saw him around.

Q. Was the Doctor under the influence of liquor that day, do you think? A. Well, I don't think so. 20

Q. Did he act as though he might be under the influence of liquor? A. No, he would be so gentle one minute and cross the next.

Q. Did it look as if he might be under the influence of a drug? A. I tell you candidly that I thought that Dr. Coleman had gone clean mad.

Q. You say he referred to his using hypodermics and morphine—did you notice his eyes? Did you think the condition you observed might be the result of morphine? A. I could not say. I never saw anybody act that way. I might say I was frightened, and I was very glad when I got out. 30

Q. You came back and met Doctor outside, and he denied all knowledge of the water-heater, and asked for the money and he gave it back to you? A. I asked for the deposit and as long as I talked about the deposit he would not hear me, and I just asked him for the money on the 40

MARTHA A. RUTH—Cross.

JOSEPH ALBERT STACKHOUSE—Direct.

impulse and he gave it to me, and I handed him the receipt.

Q. It was ten dollars he gave you; it wasn't more? A. No, ten dollars; he just took it off the outside of the roll.

10 Q. Mrs. Ruth, did you get another apartment in Asbury Park that summer? A. No, I did not spend the season there. I never saw Dr. Coleman after that date.

Q. You do not know whether he continued his profession in Asbury Park? A. No. We did not talk about Dr. Coleman any more, except in a very sympathetic way; we promised not to talk about him.

20 Q. Who did you make the promise to? A. I made it to Mrs. Warner. She says: "Don't tell anything about Doctor," and I said I would not.

JOSEPH ALBERT STACKHOUSE, a witness produced on behalf of the Caveatrix, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Rogers:

Q. Doctor, what is your occupation? A. Druggist.

30 Q. Where is your place of business? A. It was at 608 Cookman Avenue, Asbury Park, until the sixth of this month; sold it at that time.

Q. How long had you been in business at that location in Asbury Park? A. Two years, three months.

Q. How long have you been practicing as a druggist? A. As a druggist about seventeen years. As a licensed druggist.

40 Q. Did you study medicine? A. Slightly, took a few lectures.

JOSEPH ALBERT STACKHOUSE—Direct.

Q. You knew Dr. Coleman in his lifetime? A. Quite well.

Q. How many years? A. I presume about twelve years.

Q. Did you see Dr. Coleman very often in the last three years? A. Yes, I have met him quite frequently in the store.

Q. How often did he use to call? A. Probably about three times a week. Sometimes just socially and sometimes in a business way, leaving prescriptions to be compounded. 10

Q. Did he occasionally drop in to have a soda? A. Yes, he most always would have a soda when he came in.

Q. What was the Doctor's physical appearance in the years previous to 1915? A. Well, I always deemed him to be a healthy, well-built man—well-built. 20

Q. About how tall? A. Well, six feet, probably a little over, and I should judge between two and three hundred pounds.

Q. Did he seem to enjoy good health? A. Yes, prior to that time.

Q. Previous to 1915? A. Yes. I think it was two years previous that he came in and started to ask me about diabetes.

BY THE COURT:

Q. That was two years previous to his death? A. Yes, about two years previous. 30

A. I began to describe the treatments and also the diet that I had given to me. He would drop in often after that and ask me what the Doctor had told me to do; that was previous to 1915.

Q. During his conversation, did you notice any change in the Doctor's appearance and conversation, or attitude towards you then? A. Not prior to 1915, I can't say I did. 40

JOSEPH ALBERT STACKHOUSE—Direct.

Q. When did you first observe any change in the Doctor's appearance? A. The first time I came in contact with Dr. Coleman and noticed his peculiar condition was in the course of a conversation with the Doctor over the probable outcome of a friend running for Assembly. Dr. Coleman came in the room and seated himself
10 at a table and ordered a drink.

Q. When was this? A. That was in the middle part of September, 1915. That was the first time I had really come in contact with Dr. Coleman.

Q. Had you seen him much prior to that? A. I had seen him in the store.

Q. How do you fix this date? A. This petition was being circulated by Mr. Stephens for a friend, a Mr. Dahl, who was running for As-
20 sembly, and he had come in that morning and I had signed the petition, and we were discussing the probability of this man's nomination and along this line.

Q. Anybody with him? A. Mrs. Wahl was present that morning.

Q. Will you state what occurred in that conversation? A. After the Doctor had ordered his drink, he tendered in payment thereof a quarter. I walked over to the register, giving
30 him two ten-cent pieces, and laid them on the table beside him, and said: "Thank you, Doctor." He turned to me and said: "Here Stackhouse, take your money." I said: "Doctor, you have already paid and this is your change." He said: "You can't have grafters coming in every day and drink for nothing." Then he turned to me and said: "What do you think; last night on my way home I went by the Parsons Hotel and seen it was lighted from top to bottom,"
40 and he said, "I walked across the street, went

up the steps and there sat poor Parsons, and he said to me 'Hello Coleman, I am glad to see you; got a tremendous amount of checks to write, and my hand is palsied, and I can't write them,' I then sat down at the desk and wrote two million dollars worth of checks between that time and morning." I asked him if he wasn't afraid to be there, and he said: "Why I wasn't afraid." 10
He said, "All I had to do was to press a button and I had a regiment of artillery at my command." I left Mrs. Wahl and him together. After Doctor finished he went out of the store.

Q. Who was present beside Mrs. Wahl? A. Mr. Stephens was sitting at the table in front of the store.

Q. Did you observe Doctor's appearance during this conversation? A. He did not seem to be excited; he was stating the matter as it was 20
in his mind.

Q. Did he look as robust as usual? A. No, he had not for some time previous to that.

Q. Did his appearance indicate any change as to expression or articulation? A. During the recital of his tale he seemed to be quite serious and at other times quite jovial.

Q. How did his expression appear, as to his eyes? A. When he told me about doing business for nothing, he seemed to be slightly 30
angered.

Q. From the change for the quarter? A. Yes.

Q. He insisted on paying after he had paid? A. Yes, he insisted on paying twice.

Q. And became angry? A. Yes, because I would not take the dime.

Q. Did you notice anything peculiar about his manner of pronouncing his words? A. Yes, his conversation was not quite clear. His tongue 40

was very thick.

BY THE COURT:

Q. You mean his articulation? A. His pronunciation was not clear.

Q. Could you form any opinion in your mind at that time as to whether or not Doctor was
10 rational or irrational? A. In my own mind, I had formed an opinion.

Q. What was that opinion? A. As I have made the remark, Mr. Stephens called my attention to Dr. Coleman's condition. I said: "I am afraid doctor is in the stages of progressive paresis." I said: "It is most unfortunate."

BY THE COURT:

Q. That was your opinion of him? A. That was my opinion.
20

Q. Did Doctor ever speak to you about a black bag? A. He told me on one other occasion, prior to that, that he was going to Mt. Clemens, but he had in mind a law suit and the papers appeared to be in a black bag that he could not locate and this bag withheld him from going to Mt. Clemens, and I think Mrs. Wahl said that morning that she had purchased the tickets and was going with Doctor to Mt.
30 Clemens.

Q. Did he say anything further about how the black bag affected his actions or anything? A. No, he seemed to talk of this law-suit and papers in this black bag, he could not forget.

Q. Did you see Dr. Coleman after that? A. I think he was in the store once or twice, but I did not come in personal contact with the Doctor after that.

Q. Are you sure that this conversation took
40 place sometime in September? A. Yes, I can

JOSEPH ALBERT STACKHOUSE—Cross.

clearly fix it, for the petition was being circulated at that time for Mr. Dahl's candidacy.

Q. Before the primaries? A. Before the primaries.

BY THE COURT:

Q. September, 1915? A. September, 1915. 10

Q. During this conversation, that took place in the drug-store in September, 1915, did Mrs. Wahl express herself or make any remark at all?

A. I think, just before she left, she said something in reference to a sad state of affairs, or something of the sort; made some remark of that character, but what she referred to I do not know. 20

CROSS EXAMINATION by Mr. Carton:

Q. Mr. Stockhouse, will you tell us what she said, or to whom she said it? A. She passed me as she was going out, and made that remark to me.

Q. The Doctor and she walked out together?

A. The Doctor had gone out ahead of her; he was in the automobile in front of the door.

Q. Is this the time of the Mt. Clemens talk? 30

A. He told me that that morning.

Q. Was that in your drug-store? A. Yes.

Q. Do you recall when that was? A. It was time towards the middle part of September; not at all certain of the date.

Q. Are you referring now to the time he was in there when talking about the Assembly petition? A. That was the only conversation I ever had with Doctor at that time.

Q. I understood you to say a little while 40

JOSEPH ALBERT STACKHOUSE—Cross.

ago, on the occasion you had the talk about the Mt. Clemens? A. That was the morning. I did not speak to him; saw him in the store, but not to converse with him.

10 Q. Both these conversations about paying for the soda, and over the Mt. Clemens affair and black bag, all took place on one occasion? A. That was the only time I waited on the Doctor personally.

Q. You fix that then sometime in September?

A. As near as my mind will allow me to say.

Q. Will you tell us, the early or middle part?

A. About the middle part of September.

Q. There was being circulated at that time Mr. Dahl's petition to the Assembly? A. Yes, I believe there was.

20 Q. Do you associate that time with the time the petition had to be filed; when the primaries were? A. Well no; of course, I am not interested politically.

Q. And your best judgment is about the middle of September? A. Somewhere thereabouts, yes sir.

Q. Doctor had been coming in your store from time to time prior to that? A. Yes.

Q. He never came in after that when you came in contact with him? A. No sir.

30 Q. He came in and sat down at the table and had a soda? A. Yes sir.

Q. He handed you a quarter and you handed back to him two ten-cent pieces. Then when he was going out he wanted to pay you again? A. He got up and came towards the counter.

Q. Mrs. Wahl with him? A. No, not that morning.

40 Q. Did he remain at the table long before he started to go out? A. Mrs. Wahl and he were conversing there alone.

JOSEPH ALBERT STACKHOUSE—Cross.

Q. Do you not find it your experience that patrons often forget to pay? A. Yes.

Q. Sometimes pay twice and sometimes do not pay at all? A. Yes sir.

Q. Did you think it unusual that the Doctor thought he had not paid you? A. Only in the manner in which he did it.

Q. Isn't it quite customary when doctors bring business to the store that you often refuse to take it? A. Yes, but the Doctor insisted and I took money for the drink. 10

Q. Insisted that you take it that day? A. Yes sir.

Q. That was the same time he told you about this two million checking out down at Parsons Hotel? A. Yes sir, that day.

Q. Had Doctor been drinking anything beside soda? A. No, I could not appreciate that he had. 20

Q. You knew Doctor did take something? A. Occasionally.

Q. You knew he was that way—called a jollier or kidder? A. Yes.

Q. Some artist at it? A. Yes indeed.

Q. Did you think he might be jollyng or kidding with you? A. I could not make it out first.

Q. You came to the conclusion that he was in the incipient or progressive stages of paresis? A. I did. 30

Q. Did you prior to that reach that conclusion? A. I had seen Doctor's health was deteriorating from some cause.

Q. You saw Doctor in Asbury Park for some months after that? A. I never saw him attending to any business.

Q. You saw him driving his automobile about town? A. I can't say, because I did not pay 40

JOSEPH ALBERT STACKHOUSE—Re-Direct
& Re-Cross.

particular attention. I have heard it said that he did.

Q. You did not come in contact with him?

A. No sir.

RE-DIRECT EXAMINATION by Mr. Rogers.

10 Q. Do you recall Doctor mentioning about treating a large number of patients? A. It seems to me that he had treated an unusual number—about five hundred.

Q. At what time in the morning? A. I presume it was about ten o'clock that he was in the store that morning.

Q. Where had he said he had treated these patients? A. At his office.

20 Q. Did he say he had treated all these patients that particular morning? A. He had seen that number of patients that morning.

Q. You saw him that morning about ten? A. About ten, yes sir.

Q. Did he appear as though he was joking when he made that statement? A. He seemed to be quite serious in all his remarks. That is what I wondered at.

RE-CROSS EXAMINATION by Mr. Carton.

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Q. You think that is what he said? A. I said I thought he said about that number, but he did say it at that time.

JAMES O. STEPHENS, a witness produced on behalf of the Caveatrix, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Rogers:

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JAMES O. STEPHENS—Direct.

Q. Mr. Stephens, where do you reside? A. Asbury Park.

Q. What is your occupation? A. Manager of wall-paper store.

Q. Who owns that wall-paper store? A. Mr. Jacob H. Dahl, former mayor of Bradley Beach.

Q. How long have you been associated with Mr. Dahl? A. Eight years. 10

Q. Where is his place of business located? A. At 605 Cookman Avenue, Asbury Park.

Q. Do you know Dr. Stockhouse? A. Very well.

Q. Where did Dr. Stockhouse conduct his place of business? A. Directly across the street; to be truthful, a little on the bias; across the street, about two doors down.

Q. Right across from your place of business? A. Yes. 20

Q. Did you go over there occasionally? A. Very often.

Q. Did you go over there in the summer of 1915? A. Yes sir.

Q. Do you recall seeing Dr. Coleman and Mrs. Wahl and Dr. Stackhouse in conversation there one day? A. I recall Dr. Coleman and Mr. Stackhouse; I want to be truthful, and I can't exactly state that I remember Mrs. Wahl there. Dr. Coleman was there and Dr. Stackhouse. 30

Q. How long had you known Dr. Coleman prior to this time? A. Well, I had known him I suppose ten years.

Q. You had seen him about ten years? A. I had had business relations with him.

Q. You had been on City Council there? A. I was a member of the City Council.

Q. In what period? A. I served one month in January, 1915; less than a month.

Q. Just before the recall? A. Just before 40

the recall and establishing Commission Form of Government.

Q. Was Dr. Coleman on the Council at that time? A. Dr. Coleman was on the Council and chairman of the Finance Committee.

Q. That was in 1914 you say? A. He had been a member. He filled out an unexpired term of a gentleman by name of Hageman.

10 Q. What was the Doctor's appearance in 1913 and 1914, as you recall him? A. Well, he was a magnificent specimen of manhood; tall and straight, deep chested.

Q. How tall a man? A. Of course, I can't exactly say, but I presume he was six feet; maybe a little more.

Q. How heavy? A. Between two hundred and fifty and two hundred and seventy-five pounds.

20 Q. Was he an active man? A. Very active, very quick, very sharp.

Q. He was an intelligent man in his manner of speech? A. Very.

Q. A man who had been prominent in civic affairs in Asbury Park? A. He had taken a prominent part.

Q. And he had been an active practitioner? A. I believe so, yes.

30 Q. Do you recall having a conversation with Mr. Stackhouse regarding the filing of any petition in September, 1915? A. If I might be allowed I can correct Dr. Stackhouse.

Q. You have testified that you recall overhearing a conversation in the summer of 1915 between Dr. Stackhouse and Dr. Coleman. A. Yes sir.

Q. Can you fix that date, and how? A. Well, Mr. Dahl, my employer, was a candidate 40 for the nomination for Assembly, and I had ac-

JAMES O. STEPHENS—Direct.

tively circulated his petition, and I was over— of course, that petition had to be filed at least twenty days before the election, and—

BY THE COURT:

Q. That is, the primaries? A. Yes, Your Honor.

A. I was over there talking to the Doctor that morning about the chance of Mr. Dahl winning the nomination, when Dr. Coleman came in. 10

Q. What time would you fix as the time that the conversation took place, what month? A. In September, the exact time I cannot say, but to my best knowledge it would be about the middle of September or a little better than the middle—probably the, yes about the middle of September. 20

Q. Now, will you state what conversation you heard take place between Dr. Coleman and Dr. Stackhouse on this particular date? A. Dr. Coleman had ordered a glass, I believe, of coca cola, and he had tendered a twenty-five cent piece to Dr. Stackhouse, and the Doctor handed him his change; of course, what it was I did not see, and he immediately handed it back to Doctor and told him he wanted to pay, and said: "I have not paid yet." Dr. Stackhouse says: 30 "You paid me, Doctor." He says: "You can't stand for grafters like me." Doctor punctured his remarks with other language than I am using.

Q. How was his expression and manner of speech? A. Abrupt.

Q. Did he talk harshly or otherwise? Did he seem angry or not? A. He did not seem to like it and insisted upon paying for this drink, and did not seem to like, the fact that Dr. 40

Stackhouse apparently would not take his money.

Q. Where were you standing with respect to Dr. Coleman and Dr. Stackhouse during this conversation? A. Why, Doctor had a little table just inside of the door, to the left of the window. It had been my habit to sit there and talk to Doctor as he stood by his fountain. That is where I was.

10 Q. How far away would you say you were? A. Oh, I cannot just say; I suppose seven or eight feet.

Q. You could clearly overhear? A. Close enough to clearly overhear, yes sir.

Q. Will you state what other conversation took place at that time? A. Well, the Doctor stated that he had seen these lights burning in this hotel across the street from the top to the bottom.

20 Q. Dr. Coleman stated this? A. Dr. Coleman stated, and that he went across and Mr. Parsons was there, and he asked him what was the matter with him and he said: "I am trying to write these checks, and my hand is palsied, and I can't do it." He said: "I sat down there and between that time and morning I wrote out two million dollars worth of checks." Dr. Stackhouse looked at him and said: "Why weren't you afraid of having so much money at hand," or words to that effect. He said: "Ohno, all I had to do was to press a bottom and a regiment of artillery would rush in there and protect us." That may not be his exact words, but something to that effect.

Q. Was there any other conversation you heard at that time that you recall? A. I can't Mr. Rogers. I believe I went in the back of the store and when I came out Doctor was gone and I asked Dr. Stackhouse—I said: "My, what is

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JAMES O. STEPHENS—Direct.

the matter with the Doctor," and Dr. Stackhouse said—

MR. CARTON: Objected to.

THE COURT: Whom did you ask what was the matter with the Doctor?

THE WITNESS: I asked Dr. Stackhouse. 10

THE COURT: Overruled.

Q. Did you observe the Doctor's physical condition the time this conversation took place—his appearance? A. I did, Mr. Rogers.

Q. Will you kindly explain how his appearance looked—his dress, his physical makeup? 20
A. Well, Doctor looked as though he was sick; he looked tired. He looked a little wan and some—extremely—nervous.

Q. How about his eyes; observe anything peculiar about his eyes? A. I can't say I did. Mr. Rogers; I might at the time, but it has escaped my memory.

Q. Notice any difference in his apparent weight? A. The Doctor looked thinner, yes.

Q. Did you notice how his clothes fit him? 30
A. No, I did not Mr. Rogers, I did not note those little things.

Q. Did you notice anything peculiar in his articulation—his speech? A. I did, yes; Doctor talked as though his tongue was thick; seemed to be difficult for him to pronounce his words.

Q. Did you observe any change in Doctor's appearance from what his appearance had been when he was on the Council? A. Oh yes, yes, I must say that Doctor was considerably changed; 40

from a great, big, strapping, robust man, he had developed into a tired, wan, looking man.

Q. Did you observe how he walked about the time this conversation took place? A. No, I did not, Mr. Rogers.

Q. Did you see Doctor in the fall after that conversation? A. I can't recall ever seeing Doctor again.

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CROSS EXAMINATION by Mr. Carton:

Q. Mr. Stephens, as to the time, had the primary petition then been filed, on this occasion to which you refer? A. Mr. Carton, I am not positive of that, but I think it had been.

Q. Mr. Stackhouse had said that you had been over and he had signed the petition? A. But Doctor did not sign it that morning.

20

Q. How do you fix exactly that it was the middle of September or better now—what is there about the matter, if the petition had actually been filed? A. Because my employer, as I had stated, Mr. Dahl, was running for Assembly, and he being my employer I was greatly interested in that.

30

Q. He had been a candidate for a month, had he not? A. But it is not customary to start to get a petition on file much more time before it is really necessary.

Q. The primaries are, I believe, the fourth Tuesday in September, and the petition would have to be filed at least twenty days before? A. At least twenty days.

Q. And whether petition had yet been filed or not, you don't know? A. I think it was, yes sir.

Q. And after all this, it is more or less whether it was the 8th, 10th, 15th or 20, isn't

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it? A. It is, as far as being exact date, but I am positive it is in September. Yes, sir, I want to be truthful, and I conscientiously believe it was in September some time.

Q. Now then, Mr. Stephens, were you in the drug-store before the Doctor came in? A. I was.

Q. And Doctor came in with Mrs. Wahl? A. 10
I didn't say; I am not positive of that point. I did not look around much.

Q. He took a table some distance from you and had a drink of some kind? A. Not a very great distance.

Q. And he paid for it and then do you say that he immediately handed the change back to Stackhouse? A. To my best knowledge and belief, he did.

Q. As I remember Dr. Stackhouse's testi- 20
mony, he sat at the table some time and until he was going, before he handed back the change? A. He handed Doctor the quarter and Doctor went inside and rang it up and he handed him his change, and he said: "Here, I want to pay for this drink."

Q. That did not impress you particularly as to whether the man forgot to pay for his drink or not, did it? A. I can't say it did right there.

Q. And at this time there came this talk 30
about this money, and that did impress you? A. It certainly did, yes sir.

Q. Had the Doctor been drinking, in your judgment? A. Well, I will tell you the truth, I never heard that the Doctor did drink.

Q. Anything about his conduct that day that indicated he had been that day? A. No, I can't say I would know whether he was drinking or not, unless staggering around or something like that. 40

JAMES O. STEPHENS—Cross.

PETER S. WEIR—Direct.

Q. I mean about his conversation—did it indicate that he had been taking any opiate or anything like that? A. The only conclusion I could draw, if I might be allowed, was that the man was under influence of some sort of drug, or intoxicated, or his mind was disordered.

10 Q. You say his tongue was a little thick; you knew the Doctor's tongue had been thick for almost a year past? A. I did not, no sir.

Q. Had you met the Doctor frequently prior to this time in September, in a conversational way, talking to him? A. I had.

Q. This was the first time you had observed any thickness in his speech? A. Yes sir.

Q. You, I suppose, saw Doctor going about town before and after this date? A. I had seen him before.

20 Q. Did you see him drive about in his automobile after this time? A. I don't remember seeing him, no sir.

Q. The Doctor was on the street a great portion of the time! what was your observation of Dr. Coleman? A. A. I don't remember ever seeing the Doctor again. That is a peculiar thing, but I don't remember ever seeing him after I saw him in Dr. Stackhouse's office.

30 PETER S. WEIR, a witness produced on behalf of the Caveatrix, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Rogers:

Q. Where do you reside, Mr. Weir? A. Asbury Park.

Q. How long have you resided there? A. About thirteen or fourteen years.

40 Q. Are you engaged in business at the pres-

ent time? A. No sir.

Q. Did you know Dr. Frederick F. Coleman in his lifetime? A. Yes sir, not so very intimately, but I knew him well.

Q. Hal you seen Dr. Coleman in 1913 and 1914? A. Oh yes, I have seen him pretty nearly every year since I have been down there, but not to have conversation with him. 10

Q. Do you recall the Doctor's personal appearance prior to 1915? A. He was always a very stout man up to that time. In 1915 he commenced to decline and lose weight, because he called my attention to it.

Q. How big a man was he prior to 1915? A. Oh, I should think he was all the way from 240 to 275, may be more than that; tall man about six feet, one.

Q. Was he robust? A. Seemed to be. 20

Q. And did he seem to get around without any trouble? A. He got around, but did not walk much, he rode, and I have often told him he ought to have a little more exercise to keep his health.

Q. When did you first observe the change in Doctor's physical condition? A. Personally?

Q. Yes? A. You wish me to tell it my way?

Q. Yes? A. I had a bad fall on my porch, in the latter part of June or the first of July, 1915, 30 about eight o'clock in the morning, and I fell over the arm of a heavy rocker, on my right side, and I thought I had cracked my rib, and my neighbor helped me in the house.

THE COURT: Come to the Doctor.

WITNESS: I am telling the reason I saw him.

A. I then called doctor in. He bandaged me, put compress on me and left and came again three or four days after.

Q. What time was this? A. In the morning.

Q. What day of the month was it? A. I don't remember; the latter part of June or the first of July, 1915. He came in again afterwards in about three days. While he was putting this
10 compress on me he fell asleep, and I had to awaken him up to call his attention to what he was doing, to arouse him. After that I went to his office. I think he gave me five or six treatments; one of them he wanted to examine me for a broken rib before the X-ray machine; I told him I was willing. When I got there he said he was afraid to put me through the regular course, I suppose to take impression on the regular plate. He looked at me and said no broken
20 ribs; I was satisfied and did not care for the plate. At one of these times, he fell asleep while bandaging me. He said he was very tired. I told him he should put that business of his in the charge of Dr. Reed and go take a vacation.

Q. What did he say to that? A. He did not want to get away from his business; he was bound up in his business, I suppose, but he never took advantage of my advice. In the prescription—
30 one of these prescriptions he gave me, I don't know whether it was for a tonic or liniment, he gave it into the drug-store and Dr. Reed brought it back for correction. What was wrong I do not know, because I did not listen to the conversation, because it was low and I never listened. May be one of the materials was wrong and Dr. Reed had corrected it, and I was satisfied it was all right. That is the principal thing in that case. In October—I usually went
40 out with my dog for a walk—and I got down as

far as his place and I found him at his driveway looking for a door. Another occasion in the same month, in the latter part of October, he did not have an overcoat on and I did not have one on—in the evening—he said he was called up to go to Lakewood; he took his gun on him and took trolley at twelve o'clock and got back to his house at three o'clock that morning. 10

BY THE COURT:

Q. That is what he said, or what he did? A. That is what he said he did.

Q. Do you know whether there is any trolley line that runs from Asbury Park to Lakewood?

A. I did not question that.

Q. Do you know? A. I think there was a car on the Long Branch road that made the last trip at twelve o'clock. 20

Q. He said he went on a trolley, did he? A. Yes sir; he said he took a trolley to Lakewood and got back at three o'clock in the morning.

Q. Did he say what he did when he got there? A. No sir, I did not ask him; but I knew he had been failing for a long while, and I suppose it had affected him. That is all I know about him; after that he called me in some times and his conversation was—he knew me perfectly, called me in, called me by name and his conversation would result in a mumble which I could not understand. It was not pleasant to listen to—a man talking in that kind of a way, and I would answer yes or no, to please him. 30

Q. How many times do you suppose you saw Dr. Coleman in that early fall? A. How many times? Well, I don't think I know that; I think on those two occasions I speak of; I don't think 40

more than four times altogether.

Q. Do you recall hoy late in the fall you last saw Doctor? A. No, I don't remember; it must have been in November or December.

Q. You speak about the Doctor looking for a door; was there anything peculiar about his statement about looking for a door? A. Well,
10 I never knew there was a door there; there may have been in years past, and barred up.

Q. Where was he standing? A. He was standing and looking in his driveway.

Q. What sort of a driveway is this? A. It is his auto drive-way alongside of his office.

Q. And which way was he looking at the time? A. Looking from the front side, looking in back.

Q. Any building in the front of his office
20 that had any door in it? A. None.

Q. Garage there? A. Garage at the back.

Q. How many feet from where the Doctor was standing? A. I should say ninety feet.

Q. Where did he signify this door should be? A. At the side of his office, I presume; on the drive-way side.

Q. During this time that you saw the Doctor and observed his appearance and his conversation, did you form any conclusion as to whether
30 or not he was rational or irrational? A. Yes, I formed an opinion.

Q. What was that opinion? A. I thought he was failing very fast and it would not be a very long time before he would be in a sad condition.

BY THE COURT:

Q. Did you form any opinion as to what then and there was the condition of
40 his mind? A. Yes.

PETER S. WEIR—Direct & Cross.

What was that opinion? A. I formed the opinion that his mind was failing very rapidly.

Q. You say he was in a sad condition; what do you mean by the expression "a sad condition?" A. I did not say "sad condition"—"bad."

Q. Will you explain what you mean? A. Well, a man failing mentally and physically.

Q. Do you think the Doctor was rational or irrational at that time? A. He seemed to be rational at times there; I stated what I knew about him.

Q. Did he seem to be rational at other times? A. He did not say anything I could understand. If he was speaking correctly with that mumble, I could not understand him—if he was speaking correctly I would not understand him.

CROSS EXAMINATION by Mr. Carton:

Q. Mr. Weir, after he treated you in June or July for a broken rib, he made an X-ray examination, bandaged the rib and satisfied you? A. Yes.

Q. And what you noticed out of the ordinary on that occasion was that he fell asleep. A. Yes, while he was doing it, twice.

Q. Did he complain of being ill? A. He told me he felt very bad and he looked as if he was worn out, and that is the reason I told him I told him I thought he ought to take a change.

Q. That was the early time, in June or July? A. Yes.

Q. Now, this occasion with this Dr. Reed about coming back with the prescription and having talk with Dr. Coleman—you don't know

whether he was asking him to correct it or explain about it? A. No, but judged from him being back that there was something wrong about it.

Q. May be he did not understand it? A. No, because Dr. Reed knew enough about medicine to know more than Dr. Coleman did.

10 Q. You have said also about another occasion you went down there that Doctor was looking for a door; when was that? A. That was in the latter part of November; I know I was wearing an overcoat at the time.

Q. He stood in his doorway on the Fourth Avenue side? A. Yes.

Q. In the roadway I mean? A. Yes, at the commencement to the driveway.

20 Q. Now, Mr. Weir, having gone by there for years, don't you know it was the Doctor's custom to put gates across that driveway in the winter? A. Yes sir, I know that.

Q. And that is where the Doctor was and where he was looking at that time, is it not? A. That gate is half-way back, to shut off his garage; I don't believe, as near as my memory serves me, that that gate is closed.

30 Q. Don't you know that that gate is taken off in the summer and put back in the winter? A. Pushed back.

Q. Do you think it was the door he was looking for at that time? A. It was the door at his office. I understand he used to have a door at the side of his office, and he was under the impression it was there; yes.

Q. You mean a storm door? A. I mean an open door to let light through.

Q. That is the present door? A. No door there; closed up, built up.

40 Q. Did he say he was looking where the door

PETER S. WEIR—Cross & Re-Direct.

was? A. He was looking for the door.

Q. Did he say anything further about the door? A. I did not ask him anything further.

Q. You thought it was a mistake, closing it up? A. No, I saw he was wrong and I did not prolong the conversation.

Q. And had you seen him after the broken rib in June until this November date? A. After 10
I left him after being fixed up?

Q. Yes. A. No, I did not see him for a long while, because I suffered nothing from it and I did not go to him.

Q. And that is all you observed outside of seeing him a few times? A. This latter occurrence.

Q. And you say that in your opinion he was failing fast? A. Yes; I certainly did.

Q. And you say at times he was rational and 20
at other times irrational? A. He would know me and speak to me properly.

Q. You knew Doctor was going about and practically attending to his business A. No, he had very little to attend to.

Q. Well, what he had he was going about attending to it? A. You mean the last month?

Q. Whatever time you are referring to? A. He was going about in the summer-time. I think in the middle part of fall—in October and 30
November he went about very little; he could not walk far.

Q. Doctor never walked much did he? A. No, he used his car almost entirely.

RE-DIRECT EXAMINATION by Mr. Rogers:

Q. Did he seem to have trouble with his walking that fall? A. No, I think it was the lack of exercise; I think he had had a stroke of 40

paralysis some time before, and it had affected his left side. He had got so that he leaned over on his left side a great deal. I rarely ever saw him walking.

Q. You said you are positive that there was something wrong in that prescription. How did Dr. Reed act or say that led you to form that
10 belief? A. I could not be positive; I say I presume so, because they did not show me the prescription, but Reed came in and consulted with him and they talked together and he said to make that correction and he did and filled it. That is all I can say about it; acted to me as if a mistake.

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NEW JERSEY PREROGATIVE COURT.

_____)		
IN THE MATTER OF THE)		
APPLICATION FOR THE)		
PROBATE OF THE LAST)		
WILL AND TESTAMENT)	Testimony.	
OF FREDERICK F. COLE-)		10
MAN, DECEASED.)		
_____)		

Testimony taken in the above-entitled cause, at the State-House, Trenton, New Jersey, on Wednesday, the thirty-first day of January, 1917, at ten-thirty o'clock in the forenoon.

Before Hon. Edwin Robert Walker, Ordinary. 20

Appearances as heretofore noted.

GEORGE GARNEIR, a witness produced on behalf of the Caveatrix, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Rogers:

Q. Mr. Garneir, where do you reside? A. Asbury Park. 30

Q. In what business are you engaged? A. I am in the vulcanizing business, repairing business, general, and automobile.

Q. Were you engaged in that business in 1914 and 1915 and 1916? A. Yes sir.

Q. Did you know Dr. Coleman, of Asbury Park, during his lifetime? A. During that period I did; I have known him for about five years.

Q. Did he ever have work done at your place? 40

A. Yes, he did.

Q. During what period? A. Well, let me see—I started business in 1906 for myself. Up to the present time I have done quite considerable work for Dr. Coleman.

Q. Was it during last of that period you did this work for him? A. Yes, I have.

10 Q. You recall Dr. Coleman as being a man of strong physical appearance prior to say 1915?

A. Yes sir, he was a healthy man.

Q. Can you describe him as to how he looked physically? A. Well, he was a man I should judge a man about five feet eight, stout, weighed about two hundred and some odd pounds.

Q. Was he robust? A. He was, healthy looking at that time, up until 1915.

20 Q. When did you first observe a change in the Doctor's physical appearance? A. Along in August 1915.

Q. Was Doctor calling in August to have his automobile repaired quite often? A. He did in certain parts of it.

30 Q. Can you recall any conversation you had with Doctor with respect to the repair of his automobile in August, 1915? A. Sometime he would come up to the place and say his motor was not running very well. We would come down and look the motor over and find the motor was running in fair condition, and I would say: "Doctor, your motor is all right." "No," he says, "It ain't." I said, "All right," and called a man down from upstairs and he would tune up the carburetor a little bit, but beside that would not touch it; then would drive around the corner and back and then the Doctor thought the carburetor was working in first-class condition.

40 Q. How often did this same or similar oc-

currence happen? A. Well, I could not exactly say, but at various times he would call and it would be that way.

Q. And would you find when Doctor would complain about his motor or automobile being out of order—would you find any trouble with the automobile usually? A. Well, sometimes we would and sometimes we would not.

Q. Most generally how would you find the machine? A. The machine was running in perfect condition.

Q. Do you recall any particular times when the Doctor called when you were engaged in any conversation with him about the automobile? A. Yes, I could not tell the date though, because as a general rule Dr. Coleman paid cash for what work he had done and so I never kept any account.

Q. When was this conversation you are about to testify to; do you recall what part of the season? A. It was in the latter part of September when I noticed that Dr. Coleman—his legs were swelling and he was talking rather thick. He called me up one time to see about batteries in his car. I went down and found that his batteries were in A-1 shape, only he had the switch turned on on his batteries, and we shut the switch off and started the motor going; and again he had the switch on over night and ran the batteries down and we had to put a new set of batteries in. That was the last work I done for Dr. Coleman in November, 1915, I think it was—1915. I think that shortly after that he laid his car up for winter use.

BY THE COURT:

Q. Did he run it himself? A. He

10 had run his car himself. I told him at that time that he should have a driver to run his car, because his legs were swelling so, that I told the Doctor he should have a driver. He did have a colored man around the place, working and helping him at that time, and I told the Doctor that the best thing he could do was to break that colored man in to run the car.

Q. What did he say to that? A. "I don't like to have anybody run the car but myself." I said: "You are your own boss, Doctor, go to it."

20 Q. Did the Doctor ever complain to you about his head hurting him? A. No, he never did.

Q. What change did you notice in the Doctor's physical condition as to his wiegh and his robust appearance? A. Well, his robust appearance always seemed the same to me, only that towards late he began to like stutter a little and talk thick.

30 Q. Did he look any thinner? A. No, he did not, not to my appearance.

40 Q. Did you ever observe anything about the Doctor's condition that seemed peculiar or out of the ordinary in his conversation? A. Well, not exactly in his conversation, only about coming to the place when the car would be running all right and he claimed it wasn't, and of course naturally when people come that way we are out for the money and we generally humor them along and tell them we will fix it up and we do, when there is nothing to be done.

CROSS EXAMINATION by Mr. Carton:

Q. Now, isn't it quite the thing, Mr. Garneir, for people to come to automobile repair shops and claim to have something the matter with the car when really there isn't? A. There is; some people come in the garage and say their car is missing and skipping, and the other thing, and may be a little black dirt, and you take the plug out—which they could do themselves in one minute. 10

Q. Hasn't it been your experience since the year 1906, to have people come to your shop and complain about the car not running all right, and you would look it over and find it running all right? A. Yes, we have such people.

Q. And you say the Doctor would come, and sometimes you would find trouble and sometimes not? A. Sometimes we would not. 20

Q. You noticed that in September he talked a little thick and legs swelling? A. Yes, the right leg he used to have to use, was swelled up pretty bad, and he showed that to me himself.

Q. And it was your idea that because of this swelling on this leg that he could not control the car and should have the colored boy broken in? A. Yes.

Q. The Doctor insisted on running car himself? A. Yes. 30

Q. And he did run it? A. He did.

RE-DIRECT EXAMINATION by Mr. Rogers:

Q. You say that Doctor went to see you or called on you on quite a number of occasions to fix the car, when the car was all right? A. When the car was all right he called on me on those occasions, and we found the car all right, and of course we tinkered over it and went on; 40

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found nothing to do there, and it was a matter of business to make money.

AUGUSTUS H. O'BRIEN, a witness produced on behalf of the Caveatrix, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Rogers:

- 10 Q. Mr. O'Brien, where do you reside? A. Asbury Park.
- Q. Where are you engaged in business? A. In the post-office at Asbury Park.
- Q. Did you know Dr. Coleman for quite a long time during his lifetime? A. Why, I have known of him for really as long as I could remember. Known him personally for about six or seven years.
- 20 Q. You have lived most of your life in Asbury Park? A. Well, really all of it.
- Q. Are you a member of the Elks Lodge, the same lodge that Dr. Coleman belong to? A. I am, yes.
- Q. What was Doctor's physical condition prior to 1915, as you recall him? A. Well, Doctor looked like a healthy man, big, always jolly, never seemed to be much trouble with him.
- Q. How tall would you say Doctor was? A. 30 Well, about five feet ten, about the same height I am.
- Q. How heavy? A. I imagine he weighed over two hundred—230 pounds I should judge.
- Q. His appearance suggested that he was of robust health, did it? A. Yes.
- Q. You don't recall that he was an active man about town in those days? A. He was.
- Q. Prominent in civic affairs? A. Yes.
- Q. And he was what you might call an active 40 member of the Elks Lodge, No. 128? A. Yes, he

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was.

Q. Do you recall that Doctor Coleman was chairman of the Building Committee of the Elks when they built the new home? A. Chairman of the Trustees and the Building Committee.

Q. Do you recall that the new home of the Elks at Asbury Park was started about February, 1914? A. Yes, I think it was right after the first of the year. 10

Q. And you recall when you moved from Madison Avenue into the new home? A. In December, the late part of November or the first of December.

Q. What year? A. 1914.

Q. Was the building practically completed by that time? A. Yes, it was.

Q. Do you recall what difficulties arose with respect to Dr. Coleman's acts as trustee of the Building Committee? 20

MR. CARTON: Objected to, Your Honor.

THE COURT: Objection overruled.

A. Yes.

BY THE COURT:

Q. What were those difficulties? A. The doctor was chairman of the Building Committee and the Lodge was trying to get a report from the doctor in regard to how the building stood, and they had great difficulty in getting the doctor to make his report. 30

MR. CARTON: This witness does not know that. 40

BY THE COURT:

Q. Were you a member of the Building Committee? A. No sir.

Q. Who was it that was trying to get this report—the committee or the Association? A. The lodge itself.

10 Q. You knew this of your own knowledge? A. Yes, sir.

Q. Were you present when this matter was under consideration? A. Yes, sir.

20 Q. Was the doctor there himself? A. Yes, sir, and the Lodge wished the doctor to make a report and the doctor seemed to bring up some kind of a report and we could not get head nor tail out of it.

Q. Do you recall when that was? A. That was in the first part of the summer.

Q. 1915? A. Yes, sir.

Q. Was there any discussion at that time with respect to the payment of bills, &c., that came up during the doctor's report? A. No, sir.

30 Q. Any question about signing any notes? A. Wished the doctor to sign one, but he did not want to do it; I don't know which one.

Q. Are you a member of the House Committee of the Elks? A. I am.

Q. Were you a member in the year 1915? A. Yes.

Q. Did you see doctor on a number of occasions at the Elks? A. Yes.

40 Q. When were they usually, what part of the day? A. Well, in the middle of the day or in the afternoon.

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Q. You came there to have your luncheon?

A. Yes.

Q. Did you notice any apparent change in doctor's physical and mental condition during that spring and summer? A. Yes.

Q. Can you recall any conversation the doctor had in your presence during that time, of any subjects that seemed out of the ordinary? 10

A. Well, the doctor would be in conversation on subjects, and he would change all of a sudden and drift off to another conversation that was entirely different from what we were speaking about.

Q. Did you notice what the doctor ate continually for luncheon? A. He always came up there every day in the week and ate soft crabs.

Q. Ate those regularly, did he? A. That, swiss cheese and saltines. 20

Q. Do you recall the doctor mentioning about any puppy dogs at any time? A. The doctor claimed he had bought a carload of puppy dogs with short tails, and wanted us to come down there to see them.

Q. When did that conversation take place—remember in what season of the year? A. Well, it was after the summer, in September or October.

Q. Did the doctor ever mention that any- 30
body was ever following him or anything like that? A. Only he seemed to have the idea that a man with black beard was always following and watching him.

BY THE COURT:

Q. You say he had that idea; how did you know he had that idea? A. That was what he said. 40

Q. You saw the doctor quite a number of times, did you not, during this time in 1915?

A. Two or three times, sometimes every day nearly.

10 Q. How did doctor's personal appearance impress you as to his physical and mental appearance during that period; any change? A. Doctor looked as if he had failed in health quite a lot. His cheeks were sunk in and his neck had thinned out; he used to be very stout and he used to walk very lame.

Q. Did you notice anything peculiar in his speech? A. He used to talk very thick, hardly understand him; I understood he had some kind of a stroke.

20 Q. Did he ever mention anything about the treatment of patients to you or anything like that? A. Well, he used to talk about treating them; he used to tell that he had just finished treating a lot of women patients.

Q. Was he accustomed to tell about such things in previous years? A. He never talked about his practice.

Q. Did he talk much about his practice in the summer of 1915? A. At times he seemed to talk about that, and at other times he would not say anything about it.

30 Q. How often would this conversation take place about his patients? A. I really could not remember that.

Q. Were they often, on a number of occasions? A. Quite a few occasions during that time.

40 Q. Did you go to Dr. Coleman's place of business in the early fall of 1915, one evening? A. We went up there to sit with him, one night when he was sick; Mr. Daley, Mr. Garneir and myself.

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Q. How did you come to go there? A. Mr. Rhugabber, the exalted ruler of the lodge, asked us to go there.

Q. Did you understand why your presence was requested? A. Claimed the doctor was sick.

Q. Who met you at Mr. Coleman's place of business when you came there? A. Who I couldn't say; some lady that let us in. 10

Q. Do you see her in the court-room to-day? A. No; I didn't knock at the door when we went there. One of the other fellows knocked at the door and they let us in.

Q. When was this, do you recall? A. Latter part of October or the first of November.

Q. How long were you there? A. Stayed there all night; from nine o'clock until the next morning. 20

Q. Were you called upon to do anything to assist the doctor. A. No.

Q. Did you hear or observe anything? A. Just heard the doctor talking once or twice during the night.

Q. Was he talking in a rational or irrational way?

MR. CARTON: Objected to.

THE COURT: I sustain the objection. State what he said. 30

Q. What did you here the doctor say that time? A. I could not quite understand what it was; he was upstairs and we were down in his office.

Q. Did you hear him say anything? A. Not to my knowledge.

Q. About his hotel? A. Not while we were 40

there.

Q. Can you describe how he was talking and some of the sounds that you heard?

MR. CARTON: Objected to. Your Honor, as immaterial.

10 THE COURT: Overruled.

A. I could not say exactly what he said; he seemed to be talking to someone. We were down in the office and the doctor was up-stairs.

Q. Was he talking quietly or in a loud voice?

A. Just loud enough so we could hear him; could not make out what it was.

BY THE COURT:

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Q. Anybody in the room with him?

A. No, sir.

Q. Was Mrs. Wahl there? A. She was not down-stairs.

Q. Did you see her any time that evening?

A. She came in two or three times during the evening.

30 Q. Did she engage in any conversation during that time? A. Wanted to know if we were all right, and then we asked her if she did not want to lay down for awhile; that we would be there.

Q. Did she say anything about the doctor's condition? A. She said he was resting easily.

Q. Do you recall having seen Dr. Coleman after this evening at any time? A. No, I do not.

40 Q. During this period, when you had conversations with Dr. Coleman and listened to

his conversation, did you form any opinion as to whether or not the doctor was rational or irrational? A. Well, when the doctor seemed to be talking in conversation with anybody, he seemed to wander off on something else.

Q. Did you form any opinion as to his sanity? A. I thought he was talking rather funny; a sane person would not talk that way. 10

Q. Well, did you form any opinion as to whether or not he was rational or irrational?

A. I don't understand your question?

Q. Well, from the conversations that you had with Dr. Coleman and what he said to you and how he acted in the summer and fall, did you form any opinion in that time in your mind as to his mental condition? A. Yes.

Q. What was that opinion? A. It seemed to me he was out of his mind; he was not right. 20

CROSS EXAMINATION: By Mr. Carton:

Q. You reached that conclusion Mr. O'Brien, when you had these talks about the business he was doing with these puppy dogs? A. Yes, sir.

Q. You say the doctor was always jolly; he was also a jollier, was he not? A. Yes, sir.

Q. You had known him as such for a number of years, had you not? A. Yes, sir. 30

Q. Good fellow and always making fun? A. Yes, sir.

Q. Now you say that he was chairman of the trustees of the Elks Lodge, and also chairman of the Building Committee and that the house was furnished in the late fall of 1914? A. Yes, sir.

Q. And was that the time that the report was submitted, to which you say that head nor 40

tail could not be had of it? A. That was the time they asked for it.

Q. Was any written report submitted by the doctor at that time? A. No sir, he had a report on paper and read it off.

Q. Was that report filed with the lodge, do you know? A. No, sir.

10 Q. You mean then that Doctor used to give a partial report, and you would have discussion—that it was not satisfactory to the members? A. He used to give a verbal report, which he read from these papers, and the members were not satisfied.

The members who were not on the committee did not understand it and were not satisfied with it? A. Yes, sir.

20 Q. You know that doctor continued as chairman and had charge of the finances of that building until the following fall of 1915, do you not? A. Yes, sir.

Q. You know that Dr. Coleman was replaced by Mr. Van Cleef as chairman? A. Yes, sir.

Q. Dr. Coleman filed his report in the fall of 1915; do you know that? A. Yes, sir.

Q. The signing of the note you referred to—do you know why the doctor refused to sign it?

30 A. He made the statement that he would be responsible if he signed the note.

Q. Personally responsible? A. That was what he said.

Q. That was his point, was it not? A. Yes, sir.

Q. He stated to the lodge at that time it was simply a committee and if he signed the note he would be personally responsible? A. He did not say anything about the committee—that if he signed the note he would be personally responsible for it.

40

Q. That was the Brown note for the furnishings? A. I think it was.

Q. You are a member of the House Committee of the Lodge? A. Yes, sir.

Q. And you often saw the doctor there? A. Yes, sir.

Q. Was that during the summer of 1915? A. Yes, sir.

Q. And his principal diet was soft crabs, swiss cheese and saltines? A. Yes, sir.

Q. Did he drink anything? A. Well, in the early part of the year he did.

Q. What did he drink? A. A bottle of beer.

Q. Have you ever known the doctor on these occasions to drink to excess? A. No, sir.

Q. Would it be on these occasions, around the table, when he would have those talks about the puppy-dogs? A. Yes, sir.

Q. Who else do you recall was with him when he had these talks? A. Well, I don't know that they were with him—all there together—different ones.

Q. You know that the doctor continued in his business and went about town until December of 1915, do you not? A. I don't know whether he went about his business. I saw him around town driving his automobile.

Q. You don't whether he attended to his business or not? A. That I could not say.

Q. You say that Rugabber asked you and your committee to go there in the fall of 1915 and sit with the doctor? A. Yes, sir.

Q. Doctor was sick, was he? A. Yes, sir.

Q. Are you on the sick committee? A. No, but he could not get anybody else.

Q. There is a sick committee in the lodge to perform that duty? A. Yes, sir.

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Q. You did not see the doctor that night?

A. No, we were down-stairs.

Q. You don't mean to say, do you, that it was your opinion that he was always irrational in the summer and fall of 1915? A. Well, during the summer, at times, he was when in the club.

10 Q. And at times he was not? A. At times he was just the same as anybody else.

RE-DIRECT EXAMINATION: By Mr. Rogers:

Q. Do you know whether or not, at the time doctor made his report to the lodge, whether the building itself had been substantially finished, and whether this report, as made, covered his transactions in the house? A. Well, the
20 building was completed so far as I know; there were no workmen around there when we moved in.

Q. When did you move in? A. In December, 1914.

Q. And when was this meeting at which doctor made his report, if you recall—what part of the year? A. In the spring, I think, around July or August.

Q. What year? A. 1915, after we had gone
30 into the building.

Q. Was any complaint made with the respect to the manner in which doctor was conducting himself as chairman of this committee, in the doctor's presence? A. I never heard it.

Q. Do you recall the conversation when you were down at Dr. Coleman's, with respect to the doctor keeping a revolver? A. Why somebody asked Mrs. Wahl if the doctor had a gun or anything, and she says he has a gun but she
40 has taken the bullets out and put blank cart-

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ridges in.

Q. Wasn't something said then about burning down the hotel? A. No.

Q. When was that said?

MR. CARTON: Objected to.

THE COURT: Overruled.

GEORGE J. DALEY, a witness produced on behalf of the Caveatrix, being duly sworn testified as follows: 10

DIRECT EXAMINATION: By Mr. Rogers:

Q. Where do you reside, Mr. Daley? A. Asbury Park.

Q. How many years have you resided there? A. Twenty-eight.

Q. Where are you engaged in business? A. Jamesburg Ice Company.

Q. You knew Dr. Coleman during his lifetime? A. Well, I have known him for a number of years. 20

Q. Intimately? A. Yes, pretty intimately.

Q. How long, would you say? A. For ten or twelve years, I imagine.

Q. You saw Doctor about town for a good many years? A. A whole lot.

Q. Do you recall the doctor's physical appearance? A. Yes.

Q. Describe it generally—I mean prior to 1915? A. Well, he was a good sized man, heavy set; I am no judge of weight, but I imagine he weighed over two hundred. He was a big man, healthy, active. 30

Q. Was he an active practitioner of Asbury Park? A. Yes.

Q. A man accustomed to make speeches on civic matters, &c.? A. Yes.

Q. You belong to the Elks Lodge at Asbury Park? A. I do. 40

Q. You saw Dr. Coleman there occasionally?

A. Lots of times, yes.

Q. As a matter of fact, doctor was what is termed a very active member of that lodge, was he not? A. Oh, yes.

Q. He came to the lodge quite often and worked for the betterment of the lodge,—actively? A. He did.

10 Q. Do you recall that Dr. Coleman was one of the past exalted rulers of the lodge? A. Yes, but that was before I was a member; he was one of the first.

Q. You recall that he was chairman of the building committee? A. He was chairman of the trustees and the trustees appointed a building committee. Dr. Coleman was chairman of that.

20 Q. Do you recall when you went into the new home built by this building committee? A. During the month of December, 1914, we went into the new home.

Q. In what condition was the building at that time? A. Completed.

Q. How long had it been under construction, if you recall? A. Well, I don't know—e year, I imagine. For the corner-stone was laid in April, 1914, I think.

30 Q. Were you present at any meeting of the lodge when Dr. Coleman was called upon for a report as chairman of the building committee? A. Well, I was present at most all the meetings in 1915.

Q. This matter of chairmanship and his acts as chairman of the committee—A. Yes, the members were not satisfied as to what condition the lodge stood in. They kept asking for reports.

40 Q. For how long a period had they been ask-

ing the doctor for reports?

A. Well, during the spring and summer months of 1915—two years ago.

Q. Do you recall anything said on these occasions as to the signing of the notes? A. Well, doctor held up several payments on different things, on account of signing notes; he claimed he was responsible himself by signing as chairman of the committee, and he just held them up. Sometimes there was no note signed. 10

Q. Did he say anything about his sufficiency of funds? A. That was always his cry—short of money.

Q. Do you recall that when doctor accounted there was a surplus? A. The final report, you mean? I don't remember that. There was a surplus, yes, because he promised to turn his account over to his successor. 20

Q. Do you recall when the workmen stopped working on that building, as to what part of the year? A. No, all I know is that we went in December, and the building was completed; that was in 1914.

Q. Were you called upon to go to Dr. Coleman's residence on any evening in the early fall of 1915? A. I was.

Q. Do you know why this request was made upon you? A. Upon me? 30

Q. Yes. A. Yes, I was about the fourth man asked to go. There was Mr. Weinthal; Mr. O'Brien went down first, Mr. Weinthal got cold feet and came back and got me, and I with Mr. Boller went down there and stayed the rest of the night.

Q. Did anybody meet you at doctor's that evening? A. I think Mrs. Wahl.

Q. Did she say anything about doctor being sick? A. They had him up-stairs then and 40

they were all afraid that he might do something to harm himself at that time.

Q. Do you know why they were afraid? A. (answered ordered stricken out.)

Q. Did you have any business transaction just prior to this evening you were talking about, with Dr. Coleman? A. I did.

10 Q. Will you state what the nature of this transaction and what took place? A. All of it?

Q. Yes. A. Mr. Wardell, secretary of the Jamesburg Ice Company, which controls the United, Belmar and Deal Seashore Ice Company, told me to go down to Dr. Coleman's and make a settlement.

Q. Do you have an account with Dr. Coleman? A. We did; we were serving him during the summer. I went down during the week of October—Friday, October 15th. My collection went through with Dr. Coleman's check.

Q. Have you any data that will refresh your recollection? A. On my collection-book.

Q. Were those memoranda made in your own handwriting at that time? A. They were.

Q. Do you know the entries to be correct at the time you made them? A. They are.

Q. At what date did you return the collection from Dr. Coleman? A. On October 30 15th, on a Friday.

Q. Does that date appear in your memorandum-book? A. Yes, I only date my collections once a week; I turned in once a week.

Q. Will you state what occurred during this conversation? A. I went down to Mr. Coleman. When I first went in he was busy with Mr. S. N. Little, an express-man.

Q. Who else was present? A. Mrs. Wahl 40 and Miss Thurston and Dr. Coleman, and I

waited my turn in his office. There was a little misunderstanding between Dr. Coleman and Mr. Little. Dr. Coleman had a bill against Mr. Little for professional services and Mr. Little had his freight bills against Dr. Coleman for the freight and hauling, and when final settlement was made—

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BY THE COURT:

Q. Now Mr. Little was another party; Did you hear this? A. Yes, just before my time came up.

A. Mr. Little's bills were more than Dr. Coleman's bill, and Dr. Coleman owed Mr. Little I think something like \$15 or \$20. The check was drawn by someone, I don't remember who. 20

Q. That is, for Dr. Coleman? A. Yes, and Dr. Coleman signed it. He laid the check down alongside of his check-book and says "How do I know this is right," and Mr. Little then seemed to have been having trouble before and he was a little sore and excited—"Well," he said, "There is your freight bills and every bill must be signed before you receive the stuff," so he—

Q. He had just gone over this matter in your presence? A. Yes, while I was there; he did not believe he owed that money. Mr. Little got sore and he left; he picked up his freight bills and left the office, without the check, and I took up my business with him. 30

Q. State what conversation took place then? A. Well, I handed Dr. Coleman the bill and Miss Thurston said the bill was O. K. that she had checked it up each week. I left a bill each week during the summer, and would go at the end of each season for the final settlement. Dr. 40

Coleman wanted a discount and I told him no discounts coming. Some conversation went on there about it and Mrs. Wahl claimed that there should be a discount; she was present at the time. I asked her what she had to do with the account and she told me she was looking after doctor's business. Well, I would not grant a discount, and then Dr. Coleman told me that
10 Halsey Wardell offered him a discount. He had the first name of my boss and one of the men mixed up; he had mixed their names up. I told him that no one had authority to offer him a discount and none was granted. The bill was \$68.05.

Q. Did doctor have any trouble in making out this check? A. Doctor started to make check out and he had to quit. I think that if
20 you find that check-book you will find where he wrote in "United Ice Company of Asbury Park, United States of America." I know that he handed me the check and Miss Thurston finished writing the check out for him and he signed it. I did not know whether the check was all right or not, because the check looked as if it had been altered, but as they understood his condition at that time I accepted it.

Q. You saw doctor at the Elks Lodge, did
30 you not, during the summer or early fall of 1915? A. Yes.

Q. And you engaged in conversation with him from time to time? A. Nearly every time I was present he would start some kind of an argument.

Q. Did you notice anything peculiar about doctor's speech, his manner of articulation? A. Not until pretty late in the summer or in the fall. He had something come over him, I don't
40 know what it was, and his speech was affected.

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Q. He talked thick, did he? A. Yes, he would.

Q. Did you notice anything peculiar about his statements in the summer and fall of 1915?

A. No head nor tail to them.

Q. Will you describe it a little more; what was his conversation about? A. Well, we would talk about different things; in fact we would speak about that bill we had reference to. I told him several times that he was not to get any discount during that summer's business. We would talk about different things and before you knew it he would branch off on another subject entirely different. 10

Q. Did you ever hear him say anything about a man with a black beard following him? A. Yes, I heard it. 20

BY THE COURT:

Q. From him? A. Yes.

Q. What did he say? A. I think it was the day I got that check; something about that man—"I have to get away from him; that fellow out there is looking for me." I asked him who it was, and he said: "That fellow with the black beard." 30

Q. When was that? A. During that week of October, 1915. I am not sure. I know Mrs. Wahl had left the room then. I do not know if Miss Thurston was in there or not. I know at the latter part of visit no one was in the room but Mr. Coleman, Miss Thurston and myself.

Q. Did you notice anything peculiar about the Doctor's statements to you that spring and 40

fall? A. Well, he would come in and claim his hands were all drawn up by using rubber gloves from operating on several women.

Q. Did he talk quite often about his treatment of persons, etc., during that period? A. Well, he seemed to be off on some object; seemed to run in his mind.

10 Q. As for instance—be more explicit; did he talk about medical treatment of patients? A. Yes, he did.

Q. And do you know whether the Doctor had been accustomed to talk about his patients, etc., in previous years, at his lodge? A. No; I would not know anything about the previous years; I was not there.

Q. Did you see Dr. Coleman down-town in the spring and fall of 1915 in his automobile?

20 A. I did, yes sir.

Q. Did you ever observe how the Doctor drove his machine? A. Very reckless.

Q. Have you driven automobiles and ridden in automobiles? A. I have for six years.

Q. Do you recall any particular instance of seeing Doctor driving his machine that impressed you to his recklessness in driving? A. I remember one time, in the fall, that he drove that machine; he had a closed coupe of some
30 kind—I think you call it a coupe. He drove down Cookman Avenue and went over the curb.

Q. Did you notice how the Doctor walked during this period; did he walk as briskly as he used to? A. Late in the fall of 1915?

Q. Yes. A. No, he used a cane occasionally. way out.

Q. He wasn't the robust man you knew in previous years? A. No, he had fallen away; his collar was way down below his neck.

40 Q. Did you notice anything peculiar in the

expression of his eyes? A. Yes, they bulged way out.

Q. Did he appear to stare at times? What was the expression of his eyes during his conversation in this spring and fall of 1915? A. Well, I don't know; I don't remember that.

Q. Did you ever see this photograph of Dr. Coleman? (Showing newspaper picture). A. 10
Yes, I have seen the print, not this one though; I suppose I have seen one like it.

Q. Does that picture describe his appearance to you as you used to know him in years previous to 1915? A. Yes sir.

Q. Did he look like that picture in the spring and fall of 1915? A. Not in the fall of 1915, no; he fell away.

Q. Do you ever recall the Doctor suddenly laughing or crying, either in conversation or otherwise, in this spring and fall of 1915, at the Elks? A. No, I never saw him cry, but I have seen him sit at a table all alone and burst out laughing, all to himself. 20

Q. How often have you seen him do that? A. do it. Well, I don't know how often I have seen him do it.

Q. Do you recall him doing it more than once at the same sitting? A. Yes, that is when he was starting in to tell you aabout something 30 that he had on his mind, whether in his business or business in the lodge—whatever it was. We used to argue a whole lot on the business of the lodge.

Q. How would he discuss those subjects, intelligently? A. He did not, no sir.

Q. Did you form an opinion during this period of 1915 as to whether the Doctor was rational or irrational? A. Yes, I had to; I figured he was wrong. 40

Q. When you came down there on this request to stay over night at Doctor's, did you form an opinion as to Doctor's mental condition at that time? A. Sure.

Q. What opinion had you formed? A. I figured he was not right in the head; was mentally unbalanced.

10 Q. Did you hear the Doctor say anything or speak that evening while you were there? A. No, I can't say that I did; all I heard was a rumbling talk up-stairs, which didn't amount to anything, as far as I knew, but it must have been pretty loud for us to hear it in his office, for he was on the second floor.

Q. Was he directly over you? A. No, he was not.

20 Q. Did Mrs. Wahl come into the room where you were at any time during that evening? A. Two or three times during the night.

Q. Did she at any time speak about the Doctor's condition to you? A. She said he was resting easily; that he was asleep.

Q. Was anything said by her to you regarding the Doctor carrying a revolver? A. I could not state whether I was present at that time or not. I remember hearing something about it when I went in there that night.

30 Q. Did you see Doctor that evening to talk to? A. No, not to talk to; I did not see him from that day until the funeral.

Q. Did the Doctor usually drive about town alone, or did Mrs. Wahl accompany him? A. Sometimes he drove alone and sometimes Mrs. Wahl accompanied him.

Q. That was in the summer and fall of 1915?
A. Yes sir.

40 CROSS EXAMINATION by Mr. Carton:

GEORGE J. DALEY—Cross.

Q. Mr. Daley, you have stated that the lodge was not satisfied with the Doctor's report. You know, as a matter of fact, that the lodge was not satisfied with a great many reports? A. I think I said some of the members were not satisfied.

Q. That is quite a customary thing in the lodge, is it not? A. No, not after a man submits a report; after a report is in, they all decide either way on the report. 10

Q. What do you say the dissatisfaction was? A. Dr. Coleman would never put in his report until they went after him.

Q. How many members of the Building Committee were there? A. I think three.

Q. Was the matter taken up with the other members of the committee? A. Yes, they could not seem to get it; they went down after it. Dr. Coleman promised to have the report in on meeting-night; he would read it and then stick it in his pocket and say he wanted to have it typewritten. 20

Q. You say the building was completed in the late fall of 1914? A. We went in there in 1914.

Q. You know the building was not furnished until almost a year after that, don't you? A. The building? 30

Q. Yes, furnished? A. What really do you mean, furnished? The building was furnished when we went in; we hold meetings there.

Q. Was the room furnished down-stairs? A. That was not furnished until here lately; the ladies furnished that.

Q. 1915? A. 1916; that was a bare floor for over a year.

Q. And you also say that they were dissatisfied because he held up payments? A. One of 40

the notes that was held up was O. H. Brown, the furnishing man.

Q. And Doctor held up that payment and would not sign the note? A. No, he would not sign it because he would be held personally responsible for it.

Q. He made that claim to the lodge? A. Never mentioned that to the lodge.

10 Q. You got that information somewhere? A. Yes, he would tell us in the social room.

Q. You knew the reason he was holding up the payment, that he did not want to run the risk? A. Yes, that was what he said.

Q. Now, this business transaction to which you have referred—you say happened in October, 1915? A. Yes sir.

Q. And that it was your custom to make 20 weekly reports, and you made weekly report that week on Friday, October 15th? A. Yes sir.

Q. And in that report was the Coleman check? A. Yes.

Q. Do you know when the particular day was you saw the Doctor and got the check? A. No, probably on Tuesday or Wednesday afternoon before that.

Q. You say that he made out the check and 30 had "The United Ice Company of Asbury Park, United States of America," on it? A. He had that on the stub and started to make the check out.

Q. Did you finally agree to take the check? A. I did.

Q. Even though it had this improper marking on it? A. Yes.

Q. What do you you say was on the check? A. Well, I don't know; there were two hand- 40 writings on the check. I will swear to that. He

started to make the check out and Miss Thurston finished it. That same time he asked Miss Thurston whether she knew the bill was correct.

Q. And was it on this check he had written the "United States of America?" A. No, I think on the stub of his check-book.

Q. So the check was obliterated? A. It was in two handwritings. 10

Q. Is that the check? (Showing witness check). A. Yes sir.

Q. Well, is that in two handwritings—the body of the check? A. No.

Q. You are mistaken about that, are you? A. Have you the check-book stub; I think you will find my statement is correct as to that. It took him sometime to write on what year it was.

Q. Well, he did not fill out that at all, did he?

A. I though he started it, but I am wrong on it. 20

Q. And because you are wrong on this, you might be wrong about the stub, because it is over a year, and you might be wrong on other things? A. I don't think so.

Q. If you had not seen this check you would have insisted it was in two handwritings? A. I would, because I was under that impression.

Q. Miss Thurston wrote the body of the check and Doctor signed it? A. Yes sir.

(Check marked Exhibit P-7). 30

Q. No, Doctor was pretty busy that day, wasn't he? A. He was busy when I went in there, with Mr. Little.

Q. This was the fall of the year, and the settling up of his bills, was it not? A. I don't know; I went after mine.

Q. That had been your custom to settle every week? A. No, we only settled once a year with him. 40

Q. And this was a settlement for that year?

A. Yes sir.

Q. And he was having some trouble with Mr. Little about his bill? A. Yes sir.

Q. And you say Mr. Little got sore and excited and went out? A. Yes, he did.

Q. Left the check? A. He did.

10 Q. Did you see the check drawn, the check drawn for Mr. Little, that day? A. Why, the check was there; he had the check on the desk. I know it was mailed to Mr. Little that afternoon, because when we got back at the post-office I said he was a fool for doing it, and he said he could not help it, he had to get out; could not stay there any longer.

Q. Is this the check that Mr. Little left that day? (Showing witness check). A. I imagine it is.

20 Q. Dated October 12th? A. Yes, probably drawn up the day before.

(Check marked Exhibit P-8).

Q. That check appears to have gone through the bank and been paid? A. Yes, the check was mailed to Mr. Little in the afternoon.

Q. You found that out afterwards? A. Yes, Mr. Little told me in the post-office.

30 Q. He accepted the Doctor's version of the settlement? A. Yes, there was no dispute over the amount.

Q. Now, Doctor wanted a discount; that was the dispute with you, was it not? A. Yes.

Q. And he had been given a discount heretofore, had he not? A. He had when he would hold off the payments and they had to take them. The year before his check was held up for over two weeks, and Mr. Wardell would not accept it and until the last week Mr. Wm. R. 40 Hoag was with the company, he was on the

books sometimes, and he turned the check over to Mr. Wardell and he accepted it. The Doctor would make his own discounts and send the check in.

Q. He was pretty close on money matters?
A. Yes; it was to his credit.

Q. He was still doing that when you saw him and Mr. Little saw him? A. Yes.

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Q. Now you had a five cent carfare charge on this? A. No, I told him I was kidding him when I mentioned that to him.

Q. You had a fight with the Doctor sometime prior to that, had you not, Mr. Daley? A. No sir, I had not, Mr. Carton. He was the man that spoke up for me to the Elks.

Q. Didn't you have some trouble at the Elks Lodge? A. No, we could always argue things, whether serious or not.

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Q. And you did argue very seriously in the club house one day, did you not? A. No sir, not that I remember.

Q. You say the Doctor got mixed up in the name of the members of the Ice Company; he said Halsey Wardell, and the other man's name was Harry Wilson? You made that same mistake in telling us, did you not? A. I don't think so. I did not say it two or three times.

Q. You say the Doctor would talk in the lodge about these rubber gloves and the work he was doing? A. In the social room.

30

Q. Doctor was a little prone to blowing a little about his business and the extent of it, and what he was doing? A. Well, he did, yes; he would have to have a whole lot of help to do what he claimed to do.

Q. He did that for some years? A. I don't know, for some years—only, well I was on the house committee; I have been on two years now; 40

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went on in April, 1915.

Q. And you say some subjects he talked on all right and some others he would be off on?

A. Yes, he would be—when do you mean, the fall?

Q. You say he was off on some subjects? A. Yes, sure.

10 Q. And others he would be on, he was all right? A. Yes.

Q. When was it you noticed his eyes were bulging out? A. Why, sitting in the social room of the club on all occasions; you could see them.

Q. Dr. Coleman had bulging eyes, did he not?

A. Yes, towards the last that I saw him.

Q. Didn't Dr. Coleman always have large eyes? A. Large eyes, yes.

20 Q. Protruding and bulging eyes? A. Well, I noticed them more in 1915 than I ever did.

Q. That was because he had been drinking?

A. He never drank very heavy while sick; the last of the time he drank water.

Q. The Doctor was also considerably of a joker, was he not? A. Yes.

Q. Always jolly and kidding everybody around? A. Yes sir.

30 Q. Did you see the Doctor going about Asbury Park in his automobile in the late fall of 1915? A. I saw him at that time, yes, on lots of occasions.

Q. Did he drive his car and go around until Christmas of that year? He did, didn't he? A. I think he did.

Q. And he ran on the sidewalk on one occasion? A. Yes, going down Cookman Avenue; he just went across the curb on the sidewalk and started back again, as if he had caught

40 himself like.

RE-DIRECT EXAMINATION by Mr. Rogers:

Q. Do you recall that Dr. Coleman spoke something to Miss Thurston, did he not, about this check for Mr. Little, and she spoke about checking it up? A. She says she checked up the ice bill each week, as she received them. As far as Mr. Little's bills, he told Dr. Coleman there that day that everything was signed for when he left it; when he would take a load of freight down there he would get someone to sign for it. 10

Q. When you mixed the names of those two members of your company, were you testifying as to what the Doctor said? A. No, on account of knowing these men so well and calling them by that name, when I said: "Halsey Wardell, that is his right name," I meant to say, "Halsey Wardell is the way Doctod said." I would not be apt to mix them up, as I am with them every day. 20

Q. Doctor knew them for a number of years? A. Yes.

Q. Do both of these gentlemen reside in Asbury Park? A. Yes.

Q. Engaged in business long? A. Thirty years in business.

Q. Are they members of the lodge? A. Mr. 30 Wardell is.

Q. Did you go down to settle your account with Dr. Coleman a little bit earlier that fall than usual? A. Yes, Mr. Wardell told me to.

MR. CARTON: Objected to.

BY THE COURT:

Q. Is there any reason as to why you 40

should have gone down there to settle?

A. Yes, I thought Dr. Coleman was getting in pretty bad shape.

Q. And had formed an opinion in your mind as to Doctor's condition, which led you to go down there as you did early in the fall? A. Yes, I mentioned it to Mr. Wardell first.

10 Q. I wish to show you this check drawn to the Ice Company, and ask you if the two hand-writings there, which appear on the face, was what you meant as to the two signatures? A. No; Miss Thurston wrote the check out and Dr. Coleman signed it, but I was of the impression that Dr. Coleman had started the check. Have you the check-stubs; if you can produce the check-stubs I think you will find I am right.

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MR. ROGERS: The files of the Court of Chancery in the case of William M. Wahl, petitioner, and Annie V. N. Wahl, defendant, are offered in evidence, and I offer these for the purpose of showing that a decree nisi was entered in favor of the petitioner on March 2, 1912, and final decree of divorce August 30, 1912. The purpose is (1) to contradict the testimony of the witness on p. 59 of the record, when she says she was engaged to Dr. Coleman in December, 1911; (2) It is offered as presumptive evidence as to the credibility of her testimony, and (3) offered to show the condition surrounding this witness in connection with Dr. Coleman under the claim of Caveatrix, of undue influence exercised by Mrs. Wahl during the period that this will was drawn, or in the neighborhood there of, and for a long period

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prior thereto.

MR. CARTON: Counsel for Proponents objects to the testimony on the ground that it is irrelevant, immaterial and incompetent as to the issue being tried.

THE ORDINARY: I do not think that the record is admissible for the first reason assigned; that is, it does not either of itself or by any construction that I can reasonably give to it, contradict Mrs. Wahl's assertion that she was engaged to the Doctor prior to being divorced from her husband; nor do I think that it is admissible for the second reason assigned, that is, to discredit her. As I understand it, in our state witnesses may be discredited either by showing a conviction of crime against them or by showing that their reputation for truth and veracity in the community in which they live is bad, or by showing that they have made contradictory statements. Sometimes, of course, the discredit goes to the conduct of a party, as for instance, where a party is on trial for assault and battery, he can be discredited by showing his reputation in the community in which he lives for peace and good order, is bad. But here we are dealing only with veracity. As to the first two grounds asserted as to why this evidence is competent, I am adverse, but for the last reason the testimony is offered, namely, to show that undue influence was exercised upon Dr. Coleman in the making of this will, I think the testimony is competent. This woman is a bene-

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GEORGE J. DALEY—Re-Direct.

JOSEPH C. TYNAN—Direct.

10 ficiary under the will, either as legatee or devisee, and if she were engaged to be married to the testator while she was the wife of another man I think that fact, coupled with such other facts as may be shown, is competent on the question of undue influence—because it seems to me that a married woman could not be engaged to a man not her husband without at least some presumption that she was exercising influence over him. That, of course, would depend to some extent at least as to whether or not he knew that she was the undivorced wife of a living husband. On this ground it is admitted.

RECESS, UNTIL TWO P. M.

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AFTER RECESS.

JOSEPH C. TYNAN, a witness produced on behalf of the Caveatrix, being duly sworn, testified as follows:

30 DIRECT EXAMINATION by Mr. Rogers:

Q. Where do you live, Mr. Tynan? A. In Asbury Park.

Q. And what is the nature of your business? A. Cashier of the Adams Express Company.

Q. How long have you been employed there? A. Well, about four years—that is, with the Adams.

Q. How many years have you been at Asbury Park? A. Off and on, about seven.

40 Q. Did you know Dr. Coleman during his

lifetime? A. Well, I have known him for—
how long I could not just say.

Q. Did you know him for three or four years?

A. Yes.

Q. And do you recall Doctor's physical make-up? Was he a robust man? A. Well, when I first met him, he was.

Q. When was that? A. When I was cashier 10
with the United States Express.

Q. That was prior to 1915, was it? A. Yes.

Q. How tall a man do you think Dr. Coleman was? A. Oh I don't know, around six feet.

Q. And he was a heavybuilt man? A. Yes, in fact he used to come into our office to get weighed, and our scales are limited to 250 and there was times he could not weigh on it.

Q. Do you recall a conversation with Dr. Coleman sometime in the summer of 1915? A. 20
Well, I just could not say about the date, but I recall it was in warm weather.

Q. And during what year? A. Well, the year before last.

Q. Will you state where you were and what Doctor said to you? A. I was in the Sea Coast National Bank making a deposit and Dr. Coleman was standing there along side of me, and he said: "Is Otto up-stairs," and I did not pay no attention to him; and a teller there at the bank, 30
Max Cox, he says: "That is not Kays," to Dr. Coleman; so I walked outside and he followed me out, and he says: "Is Otto up there?" I says: "I am not Kays Morgan." I knew well who he meant. He said: "Well, I got some papers I want fixed up; I have had Otto twice fix them up and I want you to fix them up." Then I walked on.

Q. Whom did you understand Dr. Coleman to refer to when he mentioned Kays Morgan? 40

JOSEPH C. TYNAN—Direct & Cross.

A. He didn't mention Kays.

Q. Who did you understand he referred to when he spoke about Otto? A. Mr. Rhome.

Q. Is Mr. Morgan in Mr. Rhome's office? A. Yes.

Q. Did you know Dr. Coleman personally to speak to? A. Yes, I met him lots of times.

10 Q. And Dr. Coleman had seen you previously on a number of occasions for several years? A. Yes, he was all the time in and out of the office; he had business there at times.

Q. That is with the express company where you worked? A. Yes.

Q. And Dr. Coleman knew you in those earlier periods, prior to 1915? A. Yes, he knew me.

20 CROSS EXAMINATION by Mr. Carton:

Q. Your best recollection is that this was in the warm weather of 1915? A. Yes sir.

Q. You could not tell us the month, could you? A. Well, no, I could not very well state the month.

Q. Now, you were not on social acquaintance-ship with the Doctor? A. No sir.

30 Q. And he knew you by coming into your office? A. Yes, and if I met him on the street he knew me.

Q. Doctor spoke to most everyone on the street, did he not? A. Well, I wasn't with him.

Q. And he came over to you and asked if Otto was upstairs? A. Yes.

Q. You heard Mr. Cox say to him that that was not Kays? A. Yes.

Q. Do you know Kays Morgan? A. Yes.

40 Q. Anybody ever told you he looked like you? A. Well, yes, I have heard it.

JOSEPH C. TYNAN—Cross.

J. OTTO RHOME—Rebuttal—Direct.

Q. Good deal of similarity in your looks, is there not? A. Well, that is not for me to say.

Q. Well, you are about the same size and same complexion are you not? A. Well, he has got black hair.

Q. Now, were Doctor's eyes in good shape at that time? A. Well, I did not take particular note of them.

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Q. Did you notice anything particular about his eyes? A. No sir, in fact I did not look at them.

Q. What impression did you get the day he mistook you for Kays Morgan? A. Well, previous to that I had heard different rumors about Doctor, but I did not see any of those things; just heard of them.

Q. And did you think that he took you for Kays? A. Yes sir.

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MR. CARTON: I offer stub-book and check offered in evidence this morning; one page from stub-book marked "Exhibit P-9."

J. OTTO RHOME, a witness produced on behalf of the Proponents, being re-called in rebuttal, testified as follows:

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DIRECT EXAMINATION by Mr. Carton:

Q. Mr. Rhome, I show you a peper (Exhibit P-9), and ask you if you know in whose handwriting is what purports to be a stub of a check dated October 13, 1915? A. That is in Dr. Coleman's handwriting.

CROSS EXAMINATION by Mr. Rogers:

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Q. I show you Proponent's Exhibit P-7, and ask you if you recognize the handwriting in ink on that paper? A. This part here—I would say that was in Dr. Coleman's handwriting, Mr. Rogers.

Q. The entire check? A. "The United Ice Company"; yes, I imagine the whole of the
10 check is.

Q. Do you notice the signature? A. Frederick F. Coleman—yes, that is his signature.

Q. Do you notice any difference apparently in the construction of the letters between Dr. Coleman's signature and the writing on this check-stub? A. Yes, I do so, Mr. Rogers.

Q. One is apparently with a firm hand and the other trembling? A. On signature I see he writes that easier than the rest of the stub;
20 considerable difference, yes there is.

Q. Did you ever notice that peculiarity in his handwriting before? A. I have seen Dr. Coleman write a great many times, Mr. Rogers. His signature was always an easy signature. The rest of his writing—I think you will notice—this looks as if he was hesitating some in writing it. You will notice the October is virtually just the same and the thirteenth in virtually the
30 same.

Q. You identify that signature as being Dr. Coleman's? A. Oh yes, not the slightest doubt about the signature.

Q. And also sure of the words on the check-stub? A. To the best of my knowledge and belief.

Q. Does there appear to be any difference? A. This stub appears to be in a different style of handwriting and appears to be written with a different pen possibly.

40 Q. You notice that both are on the same

date? A. Both dated October 13, 1915.

Q. And the ink is apparently the same color?

A. Same date virtually, the same color, and I notice that the numbers of the check are the same.

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Testimony—BEFORE EDWARD MAXON, Esq.

NEW JERSEY PREROGATIVE COURT

_____)
 IN THE MATTER)
 of the)
 Application for the Probate)
 of the Last Will and Tes-)
 tament of)
 10 FREDERICK F. COLEMAN,)
 Deceased.)
 _____)

Stamford, Connecticut, February 7, 1917.

Testimony taken this 7th day of February,
 1917, before Edward Maxson, Esq., Special Mas-
 20 ter in Chancery, at Stamford, Connecticut, pur-
 suant to an order of the New Jersey Prerogative
 Court made on the 31st day of January, 1917.

Appearances:—

C. RUSSEL ROGERS,
 Attorney for Caveatrix.

THOMAS H. BROWN,
 of Counsel for Caveatrix.

30 JAMES D. CARTON,
 of Counsel for Anna E. Wahl.

JOHN V. B. WICOFF, (of Wicoff & Lanning)
 of Counsel for Rolinda Coleman and Arrietta
 Coleman, Proponents.

40 JOHN MANLY, stenographer, was duly sworn
 to correctly take and transcribe the testi-
 mony.

AMOS J. GIVENS, being called as a witness and being duly sworn by the Special Master, testified as follows:

DIRECT EXAMINATION by Mr. Rogers:

Q. What is your full name, Dr. Givens? A. Amos J. Givens.

Q. Do you recall Dr. Frederick F. Coleman as being one of your patients in your sanitarium?

A. I do.

Q. On what date was Dr. Coleman brought here first; do you recall? A. January 6th, 1915—1916. January 6th, 1916.

Q. Did you see him personally on that day?

A. Yes.

Q. Did he come here alone or in company with others? A. He came here with two friends.

Q. Do you recall their names? A. Well, I recall the name of one of them. The name of the other one I would recognize if I heard it.

Q. Which was the one you recall? A. Dr. Reed.

Q. And the other's name, do you recall, was Stockton? A. Stockton, yes.

Q. Charles Stockton. Did they state the purpose of their call to you? A. Yes.

Q. Did you have a conversation with them and at the time Dr. Coleman was present? A. Yes.

Q. Will you state the substance of that conversation? A. The substance of the conversation was relative to the Doctor's coming to us for treatment; the arrangement for his coming here; the selection of a room and accommodation, and the usual conformity to the custom for admission which the Doctor complied with in

voluntary commitment.

Q. Did you ever see a sister of Dr. Coleman by the name of Arrietta Coleman? A. Yes.

Q. Do you recall that she came here to the sanitarium to see Dr. Coleman? A. Yes.

Q. When was Dr. Coleman committed, if you know, under the order of the Probate Court of the city to your sanitarium? A. January 27th, 1916.

Q. And the commitment was predicated upon the affidavits of Dr. Frank Robertson and George Sherrill? A. Yes.

Q. You know those two physicians; do you not, Doctor? A. Yes.

Q. And they certified that he was insane at the time when they made those affidavits? A. Yes. I suppose they did. I was not present.

20 The usual custom before that to do so.

Q. Do you know whether Dr. Coleman was suffering from any disease while he was at this institution? A. Yes.

Q. What disease was that? A. He had paresis.

Q. Did he have another disease, syphilis? A. Well, I have a good deal of respect for Dr. Coleman, for his memory; and I am not quite sure whether it is the proper thing for me to discuss anything of that kind or not.

30 Q. Dr. Givens, you are aware that syphilis can be acquired innocently; you know that as a physician. A. Yes.

Q. You also know that it is admitted that syphilis is a cause of paresis, in the profession? A. Yes.

Q. Now, you made tests from time to time of Dr. Coleman with respect to his condition, suffering from syphilis; did you not? A. I 40 made very careful professional examinations of

Dr. Coleman from time to time.

Q. What was your method of examination?

A. Conversation; observation.

Q. Did you take any blood tests? A. I don't think I did.

Q. Did you ever give Dr. Coleman the Wasserman tests? A. I don't think I did.

Q. Well, I have asked you twice, Dr. Givens, 10 if you know Dr. Coleman was suffering from syphilis? A. Well,—(interrupted).

Q. Was he or was he not? A. I shall decline to answer that question unless there is some specific reason why that I should and unless I am released from all of the privileges that are given a physician regarding his confidential relationship with a patient.

Q. Is that your only reason for refusing to give this information? A. Well, I don't refuse; 20 I simply tell you I decline.

Q. You don't refuse. A. Under certain conditions, I will answer that. I don't refuse.

Q. Well, will you then answer the question, please? A. I have just answered it.

MR. BROWN: I am going to ask you, Mr. Maxson, as the Special Master sitting in this case, and having the full power that an ordinary would have under 30 the circumstances for the purpose of taking this testimony, if you will, to kindly explain to the Doctor that while ethically speaking he may feel that he has the right to decline that he seems to feel he has, yet from a legal standard it is his duty to answer this question, and that he has not the ordinary privilege that a lawyer would have who would, for example, confer with a client, and the law 40

AMOS J. GIVENS—Direct.

does not throw any such protection around him as it would around a lawyer with regard to confidential communications; and that he is under obligations the same as a bank or trust company in regard to information on bank depositors if they are being examined by proper order of court.

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SPECIAL MASTER: I don't know exactly what Dr. Givens' relation was to this Dr. Coleman—whether he was a patient under the ordinary sense of the physician and patient or not.

WITNESS: Yes; he was.

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SPECIAL MASTER: Of course, I have, as you gentlemen know, no power to rule on the admission of evidence in this case. I am simply here to see that it is properly taken; and I don't think it is within my province to rule as to the admissibility or propriety of the Doctor's answering that question.

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WITNESS: I will give every particle of information that I can properly; but for me as a physician to discuss the venereal state of any patient is recognized as a privileged communication, and I don't want to do it. I don't decline to do it; but if you will give me such assurances as a general release will give me, then I will do so; but otherwise I don't refuse—I simply decline on that basis.

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MR. ROGERS: Mr. Wicoff and Mr. Carton, I ask you to give your consent

AMOS J. GIVENS—Direct.

since Dr. Givens asks for it, that he may testify as to what examinations were made by him with respect to Dr. Coleman's condition in the sanitarium, you knowing full well that there is no privilege there, particularly in this will contest; knowing also that Dr. Coleman was at that time declared by the Court to be insane, and that his commitment was considered an involuntary act, and he was not a voluntary patient. 10

MR. CARTON: As I recall the Doctor's answer, I think just the reverse is true. I have not observed that the Doctor has declined to answer anything about his examination or his dealing with the patient. He has declined under the condition which he has stated, basing this, as I understand it, on what he considers his privilege. We have, of course, no right to intervene in one way or the other and do not. 20

MR. ROGERS: I want to know whether or not you will aid me as well as the Court of Chancery—the Prerogative Court, in getting the facts and true conditions concerning the condition of the deceased with respect to whether or not he was competent to make this will. 30

MR. CARTON: We most assuredly will, and have not entered one objection and consented to your order for that purpose.

MR. ROGERS: Will you then join with me in assuring the witness that he 40

10 is privileged to give such testimony as to the examinations that he made as to the Doctor's condition and the diseases that he was suffering from in this sanitarium, under the laws of the State of New Jersey, in a will contest particularly, under the condition whereby the deceased was not a voluntary patient at the time the services were rendered by Dr. Givens.

MR. CARTON: As I recall the Doctor's testimony, it is just the reverse to what you said. In other words, as I recall what he said, the Doctor was a voluntary patient.

20 (Further discussion off the record).

SPECIAL MASTER: I can't pass on the question. If I could, I would promptly pass on it. I haven't any power. If I was sitting here as a court I would pass on it as to whether or not it is a privileged communication.

30 MR. ROGERS: Mr. Carton and Mr. Wicoff, I once more ask you whether or not you will join me in a statement that the Doctor is perfectly privileged under the laws of the State of New Jersey, in the particular matter at issue, in testifying as to his treatment of Dr. Coleman in the sanitarium, and also to testify from what diseases and ailments Dr. Coleman was suffering—suffering from, and the treatment given to the deceased.

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AMOS J. GIVENS—Direct.

MR. CARTON: I don't understand the Doctor has refused to testify to the treatment. He has stated his opinions about his privilege.

THE SPECIAL MASTER: The situation is like this. The law, as I understand it, in this state—a direction can be had from the Supreme Court—had here in New York, to have the Doctor testify, and then the question as to the propriety of the questions asked as to his professional privilege will come up in the court of the State of Connecticut. If there is any question in your mind, Mr. Wicoff and Mr. Carton, don't you think it better to get it out of the way than to make a technical objection. 10 20

MR. CARTON: We are not offering any objection at all.

THE SPECIAL MASTER: Rather than to refuse to consent to have the testimony go on the record and come back here again.

MR. BROWN: I think all the Doctor wants is to be sure that he is not violating any professional confidence; and if the Doctor feels that the lawyers for all sides are of one common mind that he is not abusing confidences, then the Doctor, I think, will be at liberty to make a full and free statement. Am I right? But if you felt that there was some objection, and you felt you were not justified in taking advantage of what you think is your 30 40

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particular privilege as a doctor in this matter—(interruption)

10 WITNESS: Well, I think the statutes everywhere no matter whether it is in New York, New Jersey, or Connecticut, are rather well defined concerning confidences regarding any venereal trouble. Now, if the physician starts out, under an oath, to disclose confidences of that character, it is improper, unless I have assurances—positive assurances—that it is right. That is the attitude that I have.

20 MR. BROWN: You say assurances. From whom do you want assurances? Now, we are here representing one party to this will contest; Mr. Carton is here representing a second party, and Mr. Wicoff a third party. All the parties in interest are here. Do you want assurances from the attorneys that it is all right?

30 WITNESS: I am not sure whether that would be sufficient or not; but if you gentlemen will excuss me for a few minutes, I will find out.

THE SPECIAL MASTER: By all means, let us thresh this thing out. You don't want to volate a professional confidence.

(Witness calls up his counsel on the telephone; Mr. Maxson and witness then hold a conversation with witness' counsel over the telephone).

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THE SPECIAL MASTER: The Doctor's advice is that: That if his information coming from the patient involves anything that the patient told him, no matter how little that may be, it is a privileged communication, about which he may not—must not testify unless the privilege is waived by the people who stand in the shoes of the intestate or the testator, as it is in this case. That sums it up. Now, if he has any information that he has gained entirely apart from what the patient said to him, from observation or examination that he has made, that is not a privileged communication, and he must testify about that. If I may make a suggestion, rather than come back here again, it seems to me that where a lunatic having been committed here under an order of the Court is involved, that if the Doctor could gain this knowledge without any information from the lunatic that it ought not to be privileged to him. What a lunatic says to him it does not seem to me to be privileged communication nyway; but that is entirely for you, gentlemen.

WITNESS: Well now, I will volunteer this information, if that will help you out. Dr. Coleman repeatedly said to me that he never had had syphilis. Now, that is—I hardly think that that would be a privileged communication, and you may so regard it.

Q. (By Mr. Rogers) Did Dr. Coleman have syphilis when he was at your institution? A

Well, that brings you back to the old question again, which can't be answered just now.

(Discussion off the record).

Q. Is it possible to determine whether a man has syphilis without entering into a conversation with him? A. I believe that it is when there are external manifestations; when, for instance, a man has a rash; when his hair has fallen out; when his throat is sore; when there is an ulcer, which is easily determined by observation; yes.

Q. Did you find any exterior signs of syphilis upon a personal examination of Dr. Coleman?

A. There were none.

Q. Then how did you determine Dr. Coleman did have syphilis?

MR. CARTON: Objected to on the ground there are no premises on which to predicate it.

MR. BROWN: In view of the advice that the Doctor has been given by his attorney, we now call upon Mr. Wicoff and Mr. Carton, as attorneys for the proponents of this will, to waive with us any questions of privilege which the Doctor may think he has with regard to any conversations that he, the Doctor, may have had with the late Dr. Coleman while he was confined in this institution. We want an answer from Mr. Wicoff and Mr. Carton, if they will consent to waive such privilege.

MR. CARTON: As I have told you be-

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fore, Mr. Brown, I have not raised my voice in objection.

MR. BROWN: That is not an answer.

MR. CARTON: I don't have to answer it other than the way I am answering it. The Doctor has, it seems to me, taken a prudent course. Being in doubt about the matter himself, he has talked with Judge Downes, his personal counsel, I take it, and the Master has talked with him. Now, the Doctor must be advised himself as to the result of this conversation and what he shall do. 10

MR. BROWN: And what statement have you got to make, Mr. Wicoff? 20

MR. WICOFF: I think Mr. Carton's answer covers our position in the matter.

MR. ROGERS: As attorney for one of the sisters of the late Dr. Coleman, I ask you, Mr. Wicoff, as representing in conjunction with your partner the other two sisters of Dr. Coleman—those three sisters being the only relatives of the deceased, if you will join with me in waiving any privilege that there may be, in order that Dr. Givens may fully testify as to conversations and examinations that were made of Dr. Coleman while at the sanitarium. 30

MR. WICOFF: Speaking on behalf of my clients, I have not offered any objection not to waive the privilege. 40

Q. (By Mr. Rogers) Dr. Givens, do you recall an attorney by the name of Charles Cook, of Asbury Park, who came to the sanitarium during the past year, I believe with Mrs. Anna E. Wahl? A. I don't recall the Cook. I may have seen him, but many visitors come in here that I just speak to that I don't recall this moment.

10 Q. See if I can refresh your recollection a bit. Do you know a Mrs. Anna E. Wahl who came to see Dr. Coleman? A. Yes.

Q. How often did she call here, to the best of your knowledge? A. Oh, I couldn't say. Her visits were irregular.

Q. Was it as many as ten times; do you think? A. Well, I should guess that that might be the number.

20 Q. Do you recall having a conversation with a gentleman during the past year as to Dr. Coleman's condition—a gentleman from Asbury Park? A. I don't recall this moment.

Q. Do you recall any gentleman who called here concerning Dr. Coleman that every test you had made of—every test and examination of Dr. Coleman had shown a positive test in that he had been suffering from syphilis?

30 MR. CARTON: Question objected to as incompetent, irrelevant and immaterial.

A. I don't recall seeing Dr. Cook at this moment.

Q. Do you recall having such a conversation with any gentleman? A. I do not.

Q. Will you deny that you had such a conversation during the past year with any gentleman? A. I will simply say that I have no

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recollection of seeing Mr. Cook or making any statement to him or to any attorney regarding it. I can't remember seeing this gentleman at all.

Q. When did you first discover that Dr. Coleman had syphilis? A. Well, that brings me right back—brings us back to the same question again.

Q. Well, I would like to get this definitely settled, Dr. Givens, just what your attitude is in this matter, so that there won't be any misunderstanding between you and myself? A. There is not, as far as I am concerned. 10

Q. I mean as to what you are willing and unwilling to testify. A. I am willing to testify as to anything that I can, outside of the privileged communication concerning venereal troubles.

Q. Did Dr. Coleman have syphilis? A. Well, you see that is the same question again. 20

Q. I understand that the attorney has advised you that you may testify to such a question. Am I correct? A. You are incorrect.

Q. And you refuse to answer yes or no to the question whether or not Dr. Coleman had syphilis? A. No, I do not refuse. I decline to answer unless I have assurances from the immediate relatives, which would include the two sisters—the three sisters, and Mrs. Wahl. 30

Q. Mrs. Wahl is not a relative, I might call to your attention? A. Well, she is not, that is true; but she is a legatee in the will, I understand.—Giving me—releasing me from the obligation that every physician is under toward a client—patient when those privileged communications involve venereal troubles. Now, that is definite.

Q. Have you any records here, Doctor, showing the progress and history of the case of Dr. 40

Coleman in so far as paresis is concerned, while confined in your sanitarium? A. Well, I have some indefinite records, but a very good recollection.

10 Q. Will you produce those records? A. No. All records are to be regarded in the light of a privileged communication unless by order of the court. I will give you what information I can.

Q. Who kept those records? A. Well, they were kept by various parties.

Q. In your employ? A. Yes.

Q. Were they daily records? A. No.

20 Q. What do those records consist of as to form, not substance? A. Well, for instance, one record of the diet; the other may be a record of the sleep. Those are the principal things,—the daily chart or records of sleep and diet and bowels and the other functions, including the bladder.

Q. Are those the only records you have now? A. Well, those are the principal ones,—the usual customary records.

Q. Those records contain notations of observations made by you and your employees. A. I suppose that some of them do.

30 Q. Let me understand you, Doctor. You say that no tests were made of Dr. Coleman for syphilis? A. No; I didn't say that.

Q. You said no blood tests? A. I didn't say that.

Q. Were there any blood tests made? A. I said that I didn't make any.

Q. Did anybody else under your employ make blood tests? A. No.

40 Q. Did anybody else make blood tests; do you know? A. Well, the case was really in the hands of Dr. Frank Robertson of New York;

and just what tests that he may have made, or whether he did or did not make any, he didn't tell me.

Q. I understand that Dr. Frank Robertson was in constant communication with you in respect to Dr. Coleman during his commitment here. I mean by constant, I mean say weekly or several times a week? A. Well, he visited Dr. Coleman. He was regarded as Dr. Robertson's patient. 10

Q. Have you any memorandum or records showing any tests made upon Dr. Coleman for any other disease other than paresis and syphilis? A. Well, I haven't any records of examinations that were made by—here—by anyone relative to syphilis.

Q. Then have you any records or anything in the history of the case showing that Dr. Coleman was suffering from any other disease than paresis? A. Yes, I have such, such observations of my own. 20

Q. What other disease was he suffering from? A. For a long period of time, I believe that the Doctor was a stout man physically, and I would consider that he—while there was no actual disease, there was some lack of elimination of urea, and perhaps some defective elimination from skin and kidneys. That can't be called an actual disease. 30

Q. What do you mean by urea, Doctor, may I ask? A. Urea is one of the component parts with urine.

Q. Was the Doctor suffering from diabetes at any time while he was here? A. There was not an actual diagnosis of diabetes, although there was, I believe, some sugar in his urine—found in his urine. I believe that afterwards cleared up. 40

Q. Did you find that he, Doctor Coleman, was suffering from any after effect of paresis at any part of his body? A. Well, while he was here he had characteristic attacks that are designated as congestive or apoplectic form of attacks, and those attacks were of a paralytic nature.

10 Q. Do you know when he had the first attacks? A. Well, I can't think when he had the first attack. He had several.

Q. Have you any memorandum that would refresh your recollection as to that? A. Not as to the frequency.

Q. Couldn't you tell the first time from your records? A. Well, I think about three or four months before he died.

20 Q. Where were those attacks prevalent; what part of the body? A. Paresis, or paresis, or general paralysis of the insane, are all synonymous terms. The word "general paralysis" means partial or a complete paralysis of the entire person. Sometimes it may—we may have for a time one side only paralyzed; usually it is a general paralysis; and it is recognized by the unsteady ataxic gait; by the inability to walk; by a partial or complete paralysis of the entire body.

30 Q. Dr. Coleman had trouble in walking, did he not, when he came here? A. No. No, the Doctor walked very well when he first came here.

Q. Did the Doctor have any affection of the tongue or throat when he came here? A. No; he didn't.

Q. Talk thick at all? A. No; he talked well.

40 Q. Did he have any trouble in talking later on? A. As paresis developed with him, he did have trouble in talking,—as his mental condition

showed deterioration.

Q. Did you examine or make tests as to the condition of his brain while he was here? A. Yes.

Q. Did you watch the progress A. I did, of his mind.

Q. Mind, yes. Is there any practical test that can be made to find how fast the brain cells are dying? A. I think not; I believe not. 10

Q. Did Dr. Coleman suffer from convulsions while here? A. A congestive attack, as apoplectic form in character. An apoplectic attack is oftentimes designated as convulsive seizure; but it is not an active convulsion, as we understand it.

Q. Did Dr. Coleman have these convulsive seizures before he died? A. During the latter part of his trouble he had the tricking of muscles that are characteristic of the attack of paresis; not a well defined convulsive seizure. 20

Q. I want to ask you again, would your reports on Dr. Coleman contain any memorandum as to his physical actions and impressions while he was confined here? A. I think not; but my memory of the case—my intimate knowledge of the case helps me to recall it very fully.

Q. Doctor, how many years have you been practicing physician? A. Thirty years. 30

Q. And you have had what experience with respect to the treatment of insane patients, their care and attention? A. Twenty-nine years of the thirty have been devoted to that specialty.

Q. What have you found to be the average life of paresis from your experience? A. Every man is a law unto himself. When you ask the average, I can only say that I tabulated thirty-nine cases once when I was in the State Hospital. 40

Q. That is here in Connecticut? A. No.

Q. In the State Hospital where? A. I was then in the Massachusetts service at Westbury. I found that in some cases of paresis, life would terminate quickly, in a very few weeks; others would run along some time, perhaps two or three years. I don't know that I can state an average time.

10 Q. How many cases of paresis have you had under your care and attention in the last twenty-nine years, approximately? A. I don't know.

Q. Have you had over one hundred? A. Oh, I think so. I think perhaps—. It would only be a guess. It might be five hundred; it might be eight hundred; and it might be a thousand. I can't tell; I don't know.

20 Q. Would you say that four years was a fairly good average for the disease of paresis? A. Well, you can't exactly say what an average of a case of paresis is.

Q. Considering it approximately, I mean, say? A. It is an impossible thing to say that—to answer that.

30 Q. If I told you that for instance the International—I told you the International Encyclopedia, a recent edition, published by Dodd, Mead & Company in 1916, stated that the average duration of the disease of paresis was four years, would you give that any weight of consideration in your opinion as to an approximate duration? A. Who is the author of that statement?

40 Q. The treatises on paresis are compiled by Mr. Edward L. Angle, Prof. of A. D. at Hamlin, Prof. Dana Carlton Mural, Mr. Irwin Scofield Guernsey, Prof. J. Salwin, Shapiro, and others, and also by Prof. Alvin Saunders Johnson; that is all. A. I don't know any of these gentlemen.

They may be right and they may be wrong. I do know that I see cases that come in here that die in a few months, as Dr. Coleman did; and I have seen a great many other cases who have lasted longer; and I have seen cases that had a remission,—cases of paresis that have a remission and apparently recover and return home; so you can't average these cases and do it intelligently, with any specific degree of accuracy. If these men have had one hundred cases and can take those one hundred cases and state the period of the actual diagnosis of paresis and give the duration of their life and date of death, they could then average them. If they have done that, that might be accurate with those cases, but that might not be a guide for anybody's else experience. It is likely that paresis is something like tuberculosis. Twenty years ago, it was generally supposed that most cases of tuberculosis would die. We find that they were generally believed to be either of two types; the quick consumption, which would carry anyone away in a very few weeks,—two or three or four weeks sometimes; there were other types of tuberculosis that would last along for a number of years. Now we know that many of those cases get well. Now, how could one average them? They could only average by taking an institutional record of history of cases. Any other average would be likely to be inaccurate.

Q. What did Dr. Coleman die from? A. He died of paresis.

Q. What was it superinduced by, in your judgment? A. It is very difficult to tell what it is superinduced by.

Q. Did you form any opinion in your mind while you were treating him, as to what had

been the cause in the first instance of that disease? A. Why, yes; I think I did.

Q. What was that opinion you formed? A. Well, it is a well recognized fact that a paralysis will cause cerebral softening.

10 Q. What kind of paralysis are you referring to? You said a while ago that general paralysis, paresis and paresis were synonymous? A. General paralysis of the insane.

Q. What do you refer to when you mention paralysis as being a probable cause for Dr. Coleman's disease of paresis A. I don't think I recognize that there was any specific—any well defined cause. For instance, I guess that the Doctor drank some.

20 Q. Were there any statements ever made to you by any of his friends or relatives that he had been a heavy drinker? A. That I don't recall now, whether there were any direct statements made or not; but I had the impression that he had drunk some.

Q. Will you kindly explain what you mean by cerebral softening? A. Yes. At the same time perhaps I can explain to you what I mean by paralysis.

30 Q. (By Mr. Brown) No, Doctor, just explain cerebral softening. That is what we are after. A. The explanation of cerebral softening is given in the exact words "cerebral softening;" a softening of the brain.

Q. Did Dr. Coleman have cerebral softening? A. Yes.

Q. Did he have that at the time he came here? A. He had cerebral congestion. That was followed by cerebral softening.

40 Q. How long a period did he have cerebral congestion before he had cerebral softening? A. I should judge that the cerebral congestion was of

short duration; perhaps it may have been a day or a week,—but of short duration, as was indicated by his conduct. That I have no special knowledge of. You will have to go elsewhere.

Q. Doctor, you did not know that from personal observation but received that from other physician's statements? A. I don't know what?

Q. You did not know that from a personal examination of Dr. Coleman? A. Didn't know what? 10

Q. Know of the cerebral congestion? A. Well, that was my own observation.

Q. That observation was made when Dr. Coleman came here. Could you tell from that examination the probability of the life of that cerebral softening—congestion? A. Not with accuracy, no. 20

Q. Now, will you explain how paralysis might cause cerebral congestion? A. Yes. With cases of paralysis we have usually an organic change in the brain that is indicated by a rupture of the capillary blood vessels or by hemorrhage, which may cause one side to be helpless by involving a certain portion of the brain. Now, a paralysis like that is what we refer to when we refer to paralysis. That is the hemorrhagic type of apoplexy which everyone sees more or less of. The paralysis may be very slight; it may involve a finger, all the fingers, a hand or an arm or a leg; and when there is a slight paralysis there is only a slight hemorrhage; or there may be a large hemorrhage and the formation of a clot that is not absorbed, and the person may die from the first hemorrhage or shock, as a proper term. Ordinarily, a person may die—will live and die two or three, very rarely four years later. Now, such conditions 30 40

of hemorrhage and paralysis will create congestion where the clot lies in the brain and softening,—cerebral softening. Now, this should be distinguished from the general paralysis. General paralysis of the insane is a mental disease, as well, as a physical disease, and congestion which may appear suddenly, which may result in a measure from a person's being in the hot sun, from overdoing, from taking a drink of whiskey, or from other external causes; that is the kind of congestion that we see in general paralysis of the insane.

10 Q. Will cerebral congestion be sufficient, in your judgment, to make a man insane before softening of the brain has set in? A. Cerebral congestion may make a man insane or it may not.

20 Q. Now, do you say that Dr. Coleman was suffering from cerebral congestion at the time he came here? A. Yes.

Q. What determination did you make from what was said to you and what examination you made as to what form of paralysis had, in all probability, caused that cerebral congestion? A. I didn't form any opinion that any attack of paralysis caused it, but one influence that might have been aggravation or partial cause

30 was the lack of elimination of urea,—the lessened activity of the kidneys, the fact that the man was in a flabby state physically, that the standard of physical health was not quite what it should be; all of which might have had some influence and bearing on the amount of cerebral congestion that was present.

Q. Might this paralysis that you are now speaking of have exhibited itself in the throat of an individual? A. In advanced cases, yes.

40 Q. Did anybody tell you that the summer be-

fore the Doctor came here, the spring or summer before he came here, that he had had a touch of paralysis in his throat? A. I don't recall that he did.

Q. If you knew as a positive fact that in the spring or early summer of 1915 Dr. Coleman had received a stroke of paralysis in the throat, would that in any wise lead you to believe that that might have in a measure caused cerebral congestion of the brain? 10

MR. CARTON: The question is objected to on the ground that it is in the form of a hypothetical question, and on further ground that it does not contain a history of all facts.

(Question repeated by stenographer.)

A. Probably at that time, from which he probably recovered. 20

Q. Why did you say "probably recovered?"

A. Because it is the history of such cases that they do recover from it.

Q. What was the condition upon your personal examination of Dr. Coleman? A. There were no evidences of any throat paralysis.

Q. Will you state, then, as a positive fact, that Dr. Coleman was able to pronounce his consonants and vowels without difficulty; that is to say, without his tongue appearing thick? 30

A. During the early part of his stay, he was that way, yes.

Q. What way do you mean; able or not able?

A. He was able to talk coherently and well.

Q. If you were treating, Doctor, a patient who was committed to your institution as being insane upon a certificate of two physicians, and a statement was made to you that for a period 40

of six months prior to the time the patient was brought to you he had been speaking thickly, having trouble to formulate and pronounce his words; had been suffering from numerous delusions; had difficulty in walking; had difficulty in writing; would say that those were symptoms of mental disorder such as to indicate that during a period of six months the patient was suffering from insanity or the progress of the disease of paresis?

MR. CARTON: This question is objected to also for the same reason that it is intended to be a hypothetical question; and it is further objected to because it does not properly recite the history of the facts.

20 A. When you ask a question like that, you carefully, apparently, analyze the Doctor's case without going into the pros and cons, the exact mental status, and you pass from the realm of the physician as a witness. I am pleased to give you any information that is possible to the question formed in a hypothetical way, that involves the experience and the conclusions of a medical expert. Now, I don't quite understand that I have qualified as a medical expert to answer hypothetical questions; but I will give you what information I can involving facts.

30 Q. All right, if you please. A. Now, if you add on to that hypothetical question the fact that Dr. Coleman was transacting business in a manner that was regarded as reasonable and responsible, and any number of other facts, perhaps, and mention some of the things that I personally know about, I will give you the information; but I don't want to answer your

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hypothetical question—(interrupted.)

Q. What further facts do you know about that you have just referred to? A. Well, for instance, I know of a—I have an indistinct recollection now of a bank note coming here to him which was either signed or indorsed by him. I have an idea from an indistinct recollection of business matters being transacted upon the visitations of Mrs. Wahl; the character of them I can't tell you. 10

Q. Mrs. Wahl was here quite often, you say? A. Well, "quite often" is indefinite. A guess was that she might have made ten visits, but I can't tell you definitely.

Q. What was the nature of these business transactions that Mrs. Wahl had with Dr. Coleman? A. I can't tell you in detail; I don't know enough about them. 20

Q. When you say you can't tell, do you mean that you won't or that you don't know? A. Well, I have a knowledge of a note or something being sent to the bank; but I have some knowledge of a business transaction involving some real estate, but I don't know the details; they never explained the details. I simply observe these things and I don't inquire into details. It does not concern me. I simply observe something of that character going on. 30

Q. You spoke of certain acts of Dr. Coleman regarding business transactions. Did they carry considerable weight in your mind? A. No, they don't carry any weight in my mind at all.

Q. No weight at all? A. I haven't any interest in them.

Q. You misunderstand my question. I mean to say they carry weight in your mind as to forming conclusions. A. No, I don't form any conclusions from them. 40

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Q. Did you at any time form any conclusion as to the Doctor's mental condition while he was here? A. Yes.

Q. What was that conclusion that you formed?

10 MR. CARTON: The question is objected to for the reason that it does not refer to any particular time.

Q. (resuming) During the time he was here in the sanitarium?

MR. CARTON: I think the question is still objectionable for the reason it should refer to some particular time.

20 MR. ROGERS: I withdraw the question.

Q. Was Dr. Coleman insane at all times while he was here? A. When Dr. Coleman—(interrupted.)

Q. Yes or no, I would like to have as an answer, please. A. Yes, I think he was. He had paresis.

30 Q. Do you recall a Dr. Cotton from the State institution at Trenton, New Jersey, calling here and conversing with you? A. Yes.

Q. Dr. Cotton made a personal examination, did he not, of Dr. Coleman? A. Yes.?

Q. He spoke to you about the history of the case, did he not,—the Doctor's case? A. I think he did.

40 Q. Are you aware of the fact that Dr. Cotton testified before a jury in New Jersey that Dr. Coleman had been suffering from paresis without lucid intervals for a period antedating

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the time of that investigation, for a period of seventeen months without lucid intervals, and that he based his opinion upon a personal examination of the witness and upon the statement and history he made of the case?

MR. CARTON: Objected to on the ground that it is immaterial, and it does not correctly state Dr. Cotton's testimony. 10

Q. Before you answer that question, I will withdraw it, and read from the minutes. For the purpose of framing the question, I read to you from the testimony of Dr. Cotton taken in this proceeding before the ordinary in the Prerogative Court. The following is an answer given by Dr. Cotton to the question made by Mr. Wicoff, as follows: 20

"You state to the Court what your testimony was at that time."

Referring to his testimony given at the inquisition. And the answer was as follows:

"My testimony was that I had examined Dr. Coleman on October 12th, Columbus Day, 1916, at Dr. Givens' private sanitarium at Stamford, Connecticut; that I had examined him at that time; talked with him, and concluded that he was suffering from paresis; and at that time his condition was such that he was unable to care for himself or any property that he might have. At that time he was considerably demented; didn't recognize Mr. Messler, who was there with me; could hardly say an intelligible word; rambled, bedridden, and in rather an advanced stage of paresis." 30

I am reading further his answer to a ques- 40

tion that was put to him, Dr. Cotton, by the Ordinary:

“You are at liberty to state what opinion you formed as to the duration of this man’s disease as from the history you got of the case when there.”

Referring to the sanitarium. Answer:

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“My conclusion is that the probabilities were that he had been suffering from this disease about eighteen months.”

MR. CARTON: You haven’t finished the answer. It will be objected to unless you read the Doctor’s answer.

(Mr. Rogers read further as follows):

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“Eighteen months; that is, the physical signs of the disease and the appearance of the stroke or attack that affected his speech may have been for some time previous, but that would not necessarily affect his mental condition at that time.”

Q. (By Mr. Rogers, continuing) I now ask you what statements you made to Dr. Cotton that he refers to when he makes the statement before the Court?

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MR. CARTON: This question is objected to as entirely irrelevant and incompetent and immaterial.

A. I don’t remember at this time the conversation with Dr. Cotton. As nearly as I can recall, Dr. Cotton talked but very little with me, but went immediately to the patient’s room with Mr. Messler. I was not present; I don’t know about his examinations; I didn’t know that he

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had testified in New Jersey or that there had been a jury trial or any other trial.

Q. Do you know that a jury found in the inquisition proceedings held at Freehold that Dr. Coleman in the month of November, 1916, that Dr. Coleman had been suffering from paresis for a period of seventeen months without lucid intervals? A. I hadn't any knowledge. 10

MR. WICOFF: Pardon me; that is objected to as immaterial.

A. (Witness continues to answer) I have no knowledge of anything down there pertaining to this case. I am trying to give you the facts as near as I can recall them.

Q. How much of a conversation do you suppose you had with Dr. Cotton? A. I can't recall at the present time. 20

Q. Did you tell him anything about the case? A. I may have; I don't remember the interview. He came in with Mr. Messler, if I remember correctly; he is a man who sees such cases; and we very rarely go into details with men who come to see cases like that.

Q. From your knowledge and the examination of Dr. Coleman while he was in your sanitarium, what would you say as to the probability of the length of the disease of paresis that Dr. Coleman had and as to how long he had been suffering without lucid intervals? A. As you read in your paper, the physician who testified calculated. I don't care to speculate and I don't know. 30

Q. So that you have never formed any opinion as to the possible length of continuation of the paresis without lucid intervals prior to the time that Dr. Coleman came? A. No. 40

Q. Would you say, Doctor, that the following are symptoms of insanity, to wit; motor disturbances, such as loss of muscular control, shown in altered handwriting, speech, gait, attitude and so forth, convulsions or paralysis? A. The question is not quite clear.

10 MR. CARTON: Question objected to because it is indefinite, incompetent and immaterial.

(Question revised as follows):

Q. Would you say, Doctor, that the following are physical symptoms of insanity, to wit: motor disturbances, such as loss of muscular control, shown in altered handwriting, altered
20 speech, altered gait, altered attitude, convulsions or paralysis? A. All of those symptoms might be observed in an ordinary case of epilepsy. All of those symptoms might be observed in an ordinary attack of capillary hemorrhage which may be of short duration. They are not necessarily symptoms of insanity. There are a number of types of insanity, and they might, with other mental symptoms, help to form an opinion concerning a mental case.

30 Q. Now, so that I may get a definite answer—(interrupted) A. There are other physical diseases that all these symptoms might be found in.

Q. I ask you, reiterating my question whether or not the different disturbances mentioned in my former question are or are not symptoms of mental insanity?

40 MR. CARTON: I object to the question, and submit that it has been fully and

intelligently answered.

A. They may be found in any insanity, and they may be found in other diseases. Uraemia, for instance.

Q. What is that, doctor? A. That is a defective kidney elimination.

Q. Will it have any effect upon some persons in respect to their mind? A. Well, it may and it may not.

Q. Did Dr. Coleman have uraemia? A. Yes; he had a deficient elimination of urea.

Q. Would you say he successfully recovered from that? A. I wouldn't say that he recovered from it, but he improved from it.

Q. I understand that you will produce your records in respect to the progress of Dr. Coleman's disease and treatment? A. If I remember—(interruption.) 20

Q. In this institution, if I will apply to the court of the state? A. If I remember correctly, I told you that the Doctor's case was very clearly in my mind. I defined to you rather definitely regarding the records. I suppose some of them—most of them have been thrown away. I explained to you that we had the usual nurses' chart. They might, perhaps, in a measure give some definite idea of the patient's condition from day to day, as to the number of hours of sleep, condition of the bowels or bladder or other functions. I don't think I told you that we had any records that showed the progress of the Doctor's disease. That is very clearly in my mind. I don't think I told you we had any record that gave that. I don't think that I told you that I would produce records that I haven't, even upon a court order. 30

AMOS J. GIVENS—Direct.

MR. CARTON: Counsel for proponents wish to state that they would object to any order calling for a production of such records, for the reason that they are not evidential and are not material to the case.

10 Q. What records have you left in connection with Dr. Coleman's case? A. Well, I couldn't tell you without making a search and looking things up.

Q. Could you do it now, and if so how long would it take?

MR. CARTON: Objected to as immaterial.

20 A. It would take considerable time to go back over everything—nurses' reports, when you have a large number of patients.

Q. You have reports here that were made by employees that were submitted to you, haven't you, in respect to Dr. Coleman's case? A. In order that you may have the matter very clearly in your mind, and in order to be very courteous and to give such voluntary information as I can, I will show you the records that

30 came in this morning to me. (produces papers.)
Q. Where did they come in from this morning? A. From the different parts of the institution.

Q. Can you give any other records? A. Those are the ordinary nurses' records that are kept of patients; those are all the records I have to-day.

Q. Have you any other records of any kind with respect to Dr. Coleman's case besides
40 these papers? A. I think there were—I think

AMOS J. GIVENS—Direct.

there are daily nurses' charts.

Q. Will you willingly produce them at the next examination? A. Well, I am not certain just what is the right thing to do about the records or any records. I will give you any information that I can.

MR. CARTON: Counsel for proponents wish to put on the record that they shall object to the production of any such records for the reason stated, that they have no evidential force and are incompetent, irrelevant and immaterial. 10

CROSS EXAMINATION By Mr. Carton:

Q. Dr. Givens, you say that Dr. Coleman came here on January 6th, 1915? A. 1916. 20

Q. January 6, 1916? A. 1916.

Q. Did he come here voluntarily or was he accompanied with any order of commitment? A. Well, I saw him when he arrived here and I talked with him, and he was admitted here as a voluntary patient.

MR. ROGERS: I object to the question as not being responsive. 30

WITNESS: Will you ask the question again?

MR. CARTON: The question has been asked and answered. The counsel has a right to make objections, but we still go on.

MR. ROGERS: I also want to put in that I object to the question on the ground 40

AMOS J. GIVENS—Direct.

that it calls for a conclusion.

MR. CARTON: That is cross-examination on what you brought out.

MR. ROGERS: I didn't bring that out at all.

10 Q. The Doctor was not at that time committed here by any court order? A. He was not.

Q. What do you mean by a voluntary patient, doctor? A. We have a statute in this State that I will read to you, if you want, upon which the action was made; not only that evening, but as made with other patients. (Witness produces book) We have these statutes which read as follows: (reading)

20 "The keeper of any asylum in this state may receive and detain therein as a patient any person who is desirous of submitting himself to treatment and makes written application therefor, but whose mental condition is not such as to render it legal to grant an order of commitment as an insane person in his case under the provisions of this act. No such patient shall be detained for more than three days after having given notice in writing of his intention or desire to leave the asylum."

30 Q. What book are you reading from, doctor? A. Public Acts of the State of Connecticut, passed January session, 1889.

Q. Now, doctor, this provision that you have just read says that a patient may be admitted upon his own motion upon making written application for that purpose. Was that done by
40 Dr. Coleman? A. Yes, sir.

Q. Have you any record to show that? A. I have somewhere a voluntary commitment. (Send for a blank form).

Q. Signed by Dr. Coleman? A. Yes.

Q. Will you produce the Doctor's application A. I can by looking it up. I haven't it right at hand.

Q. Did you, from your observation of the Doctor, and your conversation with him at that time, believe that the Doctor was intelligent and knew what he was doing? A. The Doctor was regarded as a borderland case at that time and was admitted as a voluntary patient, and was considered capable and responsible enough to know what he was doing; and as his case developed, as it did later on, I applied and made affidavit to the Probate Court in Stamford, and he was later on committed on January 26th. 10 20

MR. ROGERS: I move to strike out that answer as being not responsive.

Q. Will you, during the day, doctor, try to find the paper that the Doctor did sign A. I will try to.

Q. You say the Doctor was actually committed by an order of the Probate Court in Connecticut in the latter part of January, 1916? A. 30 January 26th he was legally committed. I think I had his legal commitment here (indicating witness' desk) but I can't find it.

Q. Doctor, in answer to Mr. Roger's question, various questions, concerning the average life of a patient having paresis, you stated it was quite impossible to give any definite average as each case was a law unto itself, and you referred to cases where there would be remission from paresis and the patients would return home. 40

What do I understand you to mean by remissions?

A. It is a well known fact that cases of paresis sometimes improve and get better and get so that their friends think that they are well enough to be cared for at home; and they do do well at their home for a long time. I think Dr. Dana has reported about twenty such cases within the last couple of years.

10 Q. Have you observed any such cases? A. Yes.

Q. Cases coming within your own experience? A. Yes.

Q. Can you give us any particular instance?

A. The first case that came under my observation was in Worcester, Massachusetts, in 1886 or seven; a man apparently recovered and returned home—was home for some period of time. He later broke down and returned and died.

20 Q. Do you know whether this subject to which you refer returned to his business? A. He did.

MR. ROGERS: I object to this line of cross-examination. It is entirely incompetent, irrelevant and immaterial.

30 Q. And did he prosecute his business? A. For a time.

Q. Do you recall any other instance, doctor?

A. Well, I can't think now; but I know that we have had such cases.

Q. And during these periods of remission the patient apparently was normal, as far as attending to his business would be concerned?

A. Yes; been regarded as being normal. In my opinion they have not been exactly normal.

40 I don't know.

AMOS J. GIVENS—Direct.

Q. Has it been your experience that whether they were regarded as normal or not they returned to their business and apparently transacted their business in the regular way? A. Yes.

MR. ROGERS: I make the same objection to the last question and answer. 10

Q. You say it is quite the experience that softening of the brain follows cerebral congestion to which you refer? A. This cerebral congestion; that is found in paresis.

Q. Found in paresis? A. Cerebral congestion may occur in other diseases.

Q. Outside of mental diseases? A. Yes; sunstroke for instance.

Q. Did I understand you to say that Dr. Coleman had eventually softening of the brain? A. Yes. 20

Q. Can you tell us how long that condition developed prior to his death? A. I can't tell.

Q. A short time—(interrupted.)

MR. BROWN: Question objected to, as the Doctor has already fully answered the question and said he could not tell. 30

Q. Can you tell, Doctor whether it was weeks or months prior to his death? A. The evidences were more apparent along about the middle of the summer as his disease progressed; I think along about June or July. As I stated in answer to your question, about three or four months before his death.

Q. Now, you have stated, doctor, that when the Doctor came—Dr. Coleman came here, you observed no evidence of any throat paralysis 40

or anything of that character? A. No, sir.

Q. And you say he talked and walked well at that time? A. Yes.

Q. You say it is your judgment that the Doctor had paresis during the time he was here?

A. I think he had beginning—incipient paresis, when he first came, which developed, which
10 caused his death.

Q. It progressed and finally caused his death?

A. Yes, sir.

Q. You say, doctor, that Dr. Coleman did or did not have lucid intervals during the time after he first came here? A. Well, there were times when he talked coherently and intelligently and in a lucid manner,—during the early part of his stay particularly.

Q. And during the early part of his stay, at
20 the times to which you now refer, is it your judgment that he understood the matters about which he was talking or conversing? A. At times he did; at times he didn't.

MR. ROGERS: I object to this question, as the witness has already testified that he was insane during the time he was in the sanitarium.

30 Q. The symptoms, physical symptoms, to which Mr. Rogers referred in his question,—these symptoms are not entirely peculiar to mental diseases at all, are they? A. No.

Q. That is, the motor disturbances, affecting the handwriting, speech, and gait, and so forth,—they might also be the symptoms of general paralysis; might they not? A. General paralysis, yes.

Q. Or epilepsy? A. Yes.

40 Q. A person might have all of these symptoms

and yet be sane? A. Yes.

Q. You referred, Doctor, to some business transactions had by Dr. Coleman. One was fixing up some bank note, and some other business matters. Were these transactions performed by the Doctor during the early part of his stay here? A. If I remember correctly, they were.

Q. Do you remember particularly anything 10
outside of the note transactions to which you have referred,—any other business transactions the Doctor had up? A. Well, I can't recall definitely now.

Q. Do you remember having any talk with the Doctor about any hotel business he was interested in? A. Yes—(interupption.)

MR. ROGERS: I object to that question
as being leading. 20

MR. CARTON: I have a right to lead
in this cross-examination.

A. (continued) I used to talk with the Doctor regarding medical matters, regarding business matters, and regarding lodge matters. He, I remember, told me at one time that he had a good deal to do with the formation of the Elk's lodge or building—I think the building—at As- 30
bury Park. He discussed Masonic matters with me. He always discussed those matters with me very freely,—more freely, perhaps, than with others, because he had a Shriner's pin and I was a member of it.

MR. ROGERS: I move to strike the
question out as being not responsive.

A. (continuing) Then he used to discuss the 40

AMOS J. GIVENS—Direct.

—some business,—a hotel, I think,—and then medical matters.

MR. ROGERS: I move to strike those answers out as not being responsive.

10 Q. Do you remember any particular thing that the Doctor said to you about the hotel or his interest in it? A. I can't recall now. I remember one time I questioned him about his life insurance policy.

Q. What did he tell you about that? A. There was an assumption that he had more than one policy; and he said that he hadn't and he told me what he had, where he had it, and where he got it.

20 Q. Do you remember what he told you about it? A. I haven't the slightest recollection of it.

Q. About his insistence that he had but one policy? A. Yes; they thought he had two and wanted to find out from him, and I questioned the Doctor very carefully, and—

30 Q. Did he talk coherently with you at that time? A. Yes, and very emphatic. I told him in talking with him—I had the impression that he had more than one, and perhaps had forgotten where the others were, and he was very insistent.

Q. And it was because some of his friends had insisted that you should find out the extent of his property that you interrogated him in this manner? A. Maybe wanted to know about his life insurance policy and premiums, if I remember correctly.

Q. Do you remember whether it was Mesler or not? A. I can't remember.

40 Q. Do you remember where he said he had

this policy?

MR. BROWN: Question objected to as incompetent, irrelevant and immaterial, and improper cross-examination, as the subject matter sought to be investigated has not been brought out in the examination in chief.

10

A. He did tell, but I have forgotten. I didn't pay very much attention.

Q. You say that he talked with you about medical matters. Do you remember any particular instance of anything that the Doctor talked with you about in connection with any medical matters? A. Well, he talked about so many different things on so many different occasions, that I can't recall just now.

20

Q. Is there any particular thing that you recall about his talk on medical matters or diagnosis of cases or treatment of patients, that led you to believe that the Doctor was rational and knew what he was talking about or not?

MR. BROWN: I object to the question as to form, that it is improper cross-examination, and that it is, improper in form, and that it calls for a conclusion, and it is irrelevant and incompetent and not proper examination, especially in view of the fact that this witness has given testimony that during the entire time Dr. Coleman was here, he was insane.

30

MR. CARTON: It calls for facts, and our insistence is that the portion which calls for a conclusion is competent, and further, that the Doctor has already testi- 40

fied that Dr. Coleman had lucid periods while he was here.

Q. Now you may answer if you remember the question, Doctor? (Question read by stenographer) A. I remember his speaking one morning to me. I have forgotten who the patient
10 was he was talking about; but he observed that someone was anaemic, and told me that this man was anaemic and debilitated, and that he ought to have a preparation of iron and arsenic that he used. At the time I noted and remarked that the observation was very correct and that the preparation of iron and arsenic was a very good preparation. On another occasion he told me about a sailor, or someone, on board a ship where he was, on the ship, and the sailor broke
20 a leg, and he told me with a great deal of pride how he fixed the sailor's leg up, when he didn't have very much to do it with—I can't recall, but he used to discuss medical matters and—

MR. ROGERS: I move to strike all this answer out, as it is not proper cross-examination, in view of the witness's previous testimony, and not responsive.

30 Q. Doctor, in those instances where he talked on medical matters to you as a medical man, did he talk coherently and intelligently? A. Those times, I believe so, yes.

MR. ROGERS: I also object to that question.

Q. This patient that he observed here, for whom he suggested treatment,—I suppose that
40 was some patient in the institution here? A.

AMOS J. GIVENS—Direct.

Yes.

Q. And do you say that the diagnosis and medicine prescribed was proper at the time that you observed the patient? A. Yes.

MR. ROGERS: I also object to this question on the ground previously stated.

10

Q. Doctor, will you be good enough to look among your records and see if you can produce the application signed by the Doctor when he first sought admittance to your institution? Will you look among your papers and see? A. I don't know just where to look just now, but I will find it and send it to you or send the original or a certified copy, or anything. That is the form (witness produces blank form) that he signed.

20

Q. Is the paper that I now show you addressed to Dr. A. J. Givens, headed "Application for Treatment," and containing the words "I" blank "request admission and treatment at your sanitarium,"—does this bear the same form—the identical form, as that signed by Dr. Coleman on January 6th, 1916, when he came to your institution? A. It does, yes, sir.

Q. And it is similar to this form, other than the name is filled in and it was signed? A. Yes, 30 sir.

Q. Did Dr. Coleman sign in his own handwriting? A. He did.

MR. CARTON: I offer this paper, this form of application about which I have just questioned the Dr.—

MR. ROGERS: I object to it as not the best evidence and as not competent. I 40

AMOS J. GIVENS—Cross.

mean as not competent at this time, as not being properly proved, as being immaterial to the issues.

MR. CARTON: I ask that it be marked, with the —

10 THE SPECIAL MASTER: Yes, mark it, of course.

MR. CARTON: (continuing)—with the assurance of the Doctor that he can produce the original and will forward it to the Commissioner.

20 WITNESS: I don't know that I could forward the original. I will send you a certified copy or photograph, or anything.

(Paper marked "Exh. P. 2-7-17.")

Q. If you locate the paper, will you forward a photographic copy of it? A. Yes, sir.

CROSS-EXAMINATION by Mr. Wicoff:

30 Q. Dr. Givens, have you ever received Dr. Coleman prior to January 6th? A. I never had ; no, sir.

Q. 1916. I don't think it appears when he died. He died in the institution here? A. November 27th.

Q. 1916? A. Yes.

RE-DIRECT EXAMINATION by Mr. Brown:

40 Q. Doctor, you have testified here, if I understand you correctly, that during the period

of Dr. Coleman's incarceration, he was insane; is that correct? A. I testified that he was insane, and that he was a borderland case during the early stage.

Q. Well now, Doctor, if a man is insane, will you kindly tell us how it is possible for him to be within the purview of what you would characterize as a borderline case? A. Yes. Borderland case is a case that is developing—case that has not developed; that is a borderland case of paralysis. Borderline case of acute mania is a patient who is just commencing to get excited, irrational or disturbed. Borderland case of melancholia is a case that is just beginning and just developing mental symptoms—possibly been developing and anaemic for some time previous. A borderland case is a case that is neither sane or insane. This man was a borderland case when he came to us. The statutes—(interruption)

(Discussion off the record).

A. (continuing) Now this statute is, when analyzed, is self-explanatory. If you analyze it, it says that any person who is desirous of submitting himself to treatment and makes written application therefor, but whose mental condition is not such as to grant an order of commitment as an insane person in his case under the provisions of this act. Now, that statute, when analyzed is just as definite as anything can be; and this man, at the time that he came in here, had a certain degree of cerebral congestion, and he was just as responsible, although a borderland case, borderline case of insanity under asylum treatment, as any patient can be. He was not normal. And a man can be semi-insane and do business, and they do it all the time—in New Jersey and they do it here.

Q. You say, Doctor, that the man was not normal at the time he came here? A. I certainly do.

Q. You say at the time he came in here he was a borderline case? A. Yes.

10 Q. Now, for how long a period of time did he continue to be a borderline case after his entry here in January 6, 1916? A. I can't tell you. As soon as his case had developed sufficiently so that I thought it was proper for him to be legally certified, I made a petition to the court.

Q. Now, the petition to the Court was dated the 26th of January, 1916, is that correct, for his commitment? A. I don't know.

20 Q. You don't know. Didn't you testify before on your direct examination as to the date? A. I didn't, not to that question. I told you the date legally committed.

Q. What was the date of legal commitment? A. It was January twenty—(hesitates)

Q. Well, approximately; I don't want to pin you down. A. January 27, 1917.

Q. 1917? A. In 1916.

30 Q. Now, if he was legally committed on January 27th, 1916, how long a period of time was it before January 27th, 1916, that you made your application asking for his commitment? A. Well, I should judge the records will show; possibly a day before; may be two days before; may be three.

Q. Now, the information upon which you must have made your affidavit in order to make your application must have been received by you over a period antedating the 27th of January, 1916, didn't it? A. It didn't.

40 Q. Do you mean to say this condition developed immediately two days prior to the 27th of January, 1916, and that you discovered it im-

mediately, and that you then went into the court immediately and made this application for the Doctor's commitment? A. No, I didn't testify to anything of the kind.

Q. You have testified that so far as you can recall that you made your application for the commitment, legal commitment, of the Doctor, about one or two days prior to January 27th, 1916. That is correct; isn't it? A. Yes, sir; one, two or three; something about that. 10

Q. Now then, Doctor, that application that you made for the Doctor's legal commitment must have been predicated upon some information. That is correct; isn't it? A. Not necessarily.

Q. Well, I don't care about whether it is necessary, but as to whether it was predicated upon some information of this particular case? A. The petition for the commitment was made as a result of my observations of this patient. 20

Q. And those observations extended over a certain period of time, did they not? A. Yes.

Q. And for how a long a period of time antedating the 24th or 25th or 26th of January, 1916, did those observations start from? A. I can't tell you.

Q. You can't tell me? A. I suppose during the entire period he was here. 30

Q. Would you say that was between January 20th and 24th, 25th and 26th? Is that right? A. Yes.

Q. So that during those periods of time you became convinced that whereas in the beginning when he had entered here as a voluntary patient, as a borderline case, that he had developed progressive paresis; is that correct? A. Yes.

Q. So that at the time you made your application for the Doctor's commitment, you were 40

thoroughly satisfied that the Doctor had paresis and was insane; is that correct? A. Yes.

Q. You spoke of patients at times, doctor, recovering from paresis? A. Yes. I didn't say that they recovered. I said they had a remission.

Q. Pardon me. Those are very rare? A. Exceptional cases.

10 Q. Exceptional cases. And isn't it a fact that insane people oftentimes talk very rationally and very logically on certain subjects? A. Yes.

Q. And you are positive that you are the one that made the application, are you not, for the legal commitment of the Doctor on January 26th? A. I am positive the—I was the party who looked after the application. I didn't say that I made the application.

20 Q. Oh, you didn't make the application? A. I made the remark here that I thought that I had the petition for Dr. Coleman's commitment here on my desk, and I looked for it and didn't find it. I never make a petition or application personally for the commitment of the patient. That is an illegal act. But the petition is usually the direct presentation of a petition to the Judge of the Probate Court—is usually by me in person.

30 Q. Did you present it, do you remember? A. I haven't the slightest recollection of this.

Q. What was the treatment you gave to Dr. Coleman during this period of his incarceration here?

MR. CARTON: This question objected to as not proper re-direct examination. It has been gone into by the counsel for the caveatrix and is therefore objectionable.

AMOS J. GIVENS—Re-Direct.

MR. BROWN: It has not been gone into before as a matter of fact, at all. Will you kindly answer the question?(to witness.)

Q. (question repeated) A. Medical, dietary, exercises; variety of things that were done, done to divert and aid and assist.

Q. Was he given a treatment known as Salvarsan or "606?" A. When you enter the realm of venereal diseases, I can't answer.

Q. Well, I am not entering on the realm of venereal disease, Doctor; I am asking a plain matter-of-fact question. Was he treated by having "606" or Salvarsan prescribed for him?

MR. CARTON: Question objected to for the reason it is not re-direct. In any event, it is objectionable because it is immaterial, incompetent, and irrelevant to the issue.

MR. BROWN: Kindly answer the question.

A. No, I can't answer that question.

Q. Do you refuse to answer because you feel it is privileged? Is that the idea? A. No, sir; I don't refuse.

Q. Do you decline, then? A. Yes, sir.

Q. Do you decline to answer on the ground you consider it is privileged; is that the idea? A. Yes.

Q. Now, doctor, were you compensated for taking care of Dr. Coleman here? A. Yes.

Q. And have you received any compensation since from the Doctor or any members of his family? A. I have not.

Q. Or any agents for him? A. On the contrary, the bills of Dr. Coleman have been held up by the Jersey courts.

Q. Doctor, have you had any conference within the last few days with any of the counsel engaged in this case with regard to Dr. Coleman?

A. Yes.

10 Q. Did you have any conversation with any of them this morning? A. Yes.

Q. And did you suggest to them certain lines of questions that they might ask you? A. I did not. I am under the impression that you are the gentleman that I found a telephone message from. Is your name Rogers?

MR. BROWN: I am Brown. The other gentleman is Rogers.

20

A. (continuing) I found a communication on my desk the other night from Rogers, which has just as much influence as the fact that I saw this gentleman and spoke to him this morning.

MR. ROGERS: I called up your office and left word that the hearing would be on this afternoon.

30 Q. That is what the message was, simply informing you that the hearing was on this afternoon at two o'clock; is that the fact, Doctor?
A. Yes.

BY MR. CARTON:

Q. Doctor, was the conversation that you had this morning with counsel for the caveators, covering any other matter than ascertaining your
40 knowledge or your recollection of Dr. Coleman

while he was a patient in your institution? A. It was in reference largely to the time when it would be convenient to meet here and whether I had heard anything from a commissioner, which I suppose is this gentleman (indicating the Special Master), and whether I knew anything about a Dr. Sherrill, whether he was in town or out of town. 10

Q. Just one question. Do you recall as a matter of fact that the application to the Probate Court here made in January for the legal commitment of Dr. Coleman was not made by you at all but was made by Dr. Coleman's sister?

A. I can't remember who it was by. It is a matter of record; but there are so many of those legal matters passing through my hands, I can't remember.

Q. You don't remember whether it was done 20
by you personally or not? A. No, I don't do that. It is an illegal act. I can only act as an agent for the relatives or friends.

ADJOURNED sine die.

30

40

Testimony—BEFORE EDWARD MAXSON, Esq.

NEW JERSEY PREROGATIVE COURT

)	
IN THE MATTER)	
Application for the Probate of)	BEFORE:
of the)	EDWARD
the Last Will and Testament of)	MAXSON, Esq.
10 FREDERICK F. COLEMAN,)	Special Master.
Deceased.)	
)	

New York, February 13, 1917.

20 Testimony taken this 13th day of February, 1917, before Edward Maxson, Esq., Special Master in Chancery, at No. 120 Broadway, Borough of Manhattan, City and State of New York, pursuant to an order of the New Jersey Prerogative Court made on the 31st day of January, 1917.

Appearances:

30 C. RUSSELL ROGERS,
 Attorney for Caveatrix; and
 THOMAS H. BROWN, of Counsel.
 JAMES D. CARTON,
 of Counsel for Anna E. Wahl.
 JOHN V. B. WICOFF (of Wicoff &
 Lanning), of Counsel for Rolinda
 Coleman, and Arrietta Coleman,
 Proponents.

John F. Manly, stenographer, was duly sworn to correctly take and transcribe the testimony.

40

FRANK WADE ROBERTSON—Direct.

FRANK WADE ROBERTSON, called as witness, being first duly sworn by the

Special Master, testified as follows:

DIRECT EXAMINATION By Mr. Rogers:

Q. You are engaged, are you not, Doctor, in the practice of medicine in the City of New York? 10

A. I am; yes, sir.

Q. Do you specialize in any particular line?

A. I do.

Q. What line is that? A. I make a specialty of mental and nervous diseases.

Q. And for how many years have you been engaged in that line of business as a specialist?

A. Since 1896.

Q. And have you had under your personal care and attention a large number of insane patients during that time? A. I have. 20

Q. Could you state approximately how many you have had? In rough figures. A. Well, I suppose it would be in the neighborhood of fifteen or twenty thousand. I might qualify that. While I was in Bellevue Hospital, I was in charge of the psychopathic ward for a number of years. I think it would be safe to assume during that time I treated ten thousand patients; because they have at least twenty-five hundred to three thousand patients per annum passing through the ward of which I had charge. Subsequently, I was superintendent of the State Reformatory at Elmira, and it was part of my duty there to make mental examination of all the inmates there. I was there a number of years, and we had, I suppose it is safe to say an average of fourteen hundred to fifteen hundred men there all the time. And of course since I have been in private practice I 40 30

FRANK WADE ROBERTSON—Direct.

have seen numerous patients, and especially in view of the fact that I have had various hospital connections during that time.

Q. Do you remember Dr. Frederick F. Coleman, who lived at Asbury Park? A. I do.

Q. Did you see him during his lifetime? A. I have.

10 Q. Was he your patient for a period prior to his death? A. He was.

Q. When did you first become acquainted with Dr. Coleman professionally? A. I first saw Dr. Coleman on the 31st day of December, 1915, in my office at 393 West End Avenue, New York City.

20 Q. Will you please state under what circumstances Dr. Coleman came to your office, if you know, and why? A. Well, Dr. Coleman came to my office to consult with me in regard to his health, and he was accompanied by two friends, Dr. Reed and another gentleman whose name I don't recall.

Q. Do you recall his name was Stockton, Charles G. Stockton? A. I am not sure, but I think that was his name.

30 Q. Did you make a diagnosis of Dr. Coleman's condition at that time on the 31st of December, 1915? A. I don't recall whether I did or not on that date.

Q. Did you later? A. I did.

Q. Do you recall how soon after that time? A. No; I could not say that,—could not answer that.

Q. Was it within several weeks after the 31st day of December? A. I have no very definite recollection. I can't state the time.

40 Q. You will recall that Dr. Coleman was committed to Dr. Givens' sanitarium in January of 1916. A. I know he was in Dr. Givens' sani-

FRANK WADE ROBERTSON—Direct.

tarium about that time.

Q. And that he was committed by the Probate Court of Stamford, Connecticut, upon the affidavit of yourself and Dr. Sherrill? A. Yes, sir.

Q. And that was on or about the 25th of January, 1916. A. Well, it was either then or the first of February; around in then somewhere. 10

Q. Well, between the 31st day of December, 1915, and the date that Dr. Coleman was committed to Dr. Givens' sanitarium, did you make a diagnosis of Dr. Coleman's case? A. I couldn't say; I don't recall.

Q. What was Dr. Coleman suffering from when he was committed to the sanitarium, as you found from your personal examination? A. Well, he was nervous and run down and said he was not sleeping very well and—let me see, 20 what else. I thought he ought to be somewhere where he could be treated and have a regular life, and I thought that could be had at Dr. Givens' sanitarium at Stamford.

Q. Was Dr. Coleman suffering from syphilis at that time? A. Well—I don't think I should answer that question. It seems to me that is in the nature of a privileged communication, and I don't feel that I should answer that question. I feel that it would be—I don't feel that I 30 should say anything about a matter which is strictly within the communications of a patient and physician.

Q. You continued to attend Dr. Coleman professionally during the time he was an inmate in Dr. Givens' sanitarium, did you not? A. Yes, sir.

Q. And you treated him, did you not, during that period? A. I did.

Q. He was insane, was he not, during the 40

time that he was in the sanitarium? A. During the—a part of the time; yes, sir.

Q. What sort of treatment did you prescribe for Dr. Coleman during the time that he was confined in Dr. Givens' sanitarium? A. Well, I prescribed regular exercises, baths, and massage, and the usual things that we use in cases of that character.

10 Q. What did Dr. Coleman die from? A. I did not sign Dr. Coleman's death certificate.

Q. Did you form any opinion as to the cause of his death from your personal attention as physician? A. Yes; I think I did; although I was not present at the time of his death and I had no first hand information.

20 Q. What opinion did you form? A. Well, I formed my opinion on things, I think, which came to me in a professional way, and it seems to me that these communications were privileged, and I should not like to disclose them. If I were to express my opinion, I felt that perhaps in some way it would reflect on the Doctor,—might in some way do some harm or injury to his memory; and I do not feel it would be proper for me to disclose my opinion.

Q. You are aware are you not, Doctor, that syphilis is an acknowledged cause for paresis?

30 A. Why, in many cases of paresis you find perhaps, a history of syphilis.

Q. You find it in a great many cases where they run together, will you not? A. Yes. I think it would be safe to say you do.

Q. You are aware, are you not, Doctor, that syphilis may be acquired innocently. A. Why, they have a form of syphilis which has been described as ministerial syphilis; and I suppose that comes—(interruption).

40 Q. Would you explain that term more fully?

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A. Why, I have heard a joke passed around that when theological students become infected with gonorrhoea, or the more formal disease of syphilis they never contract it in personal contact with another person having it, but acquire it from drinking cups or toilet seats, or something of that character. As a matter of fact, a little more seriously, I do know that in Bellevue Hospital, it used to be a common remark—common opinion of men on the staff there, at least one man attached to the surgical side of the hospital contracted syphilis each year, and there was usually some one physician on the medical side who acquired tuberculosis from contact with patients purely in a professional way and no other. 10

Q. You have testified, have you not, in legal proceedings on a number of occasions previous to this date? A. I have. 20

Q. And you have testified concerning the mental condition of men's minds? A. Frequently.

Q. Do you consider that a diagnosis of a patient as to his various diseases and symptoms are necessarily pre-requisite in determining the full case of the patient in respect to his mental condition? A. I don't know as I grasp just what you mean. 30

Q. I mean, in determining the approximate life of a mental disease, would you not as a physician take into consideration facts showing the patient had been suffering from various other diseases other than immediate mental disease?

A. When you use the word "life," do you mean duration?

Q. Duration, yes.

MR. CARTON: Objected to as imma- 40

FRANK WADE ROBERTSON—Direct.

terial.

A. It seems to me we are getting off the track and you are asking me expert opinions here.

Q. Will you deny, Doctor, that Frederick F. Coleman was suffering from syphilis at the time that he called upon you as a physician?

10

MR. CARTON: Question objected to as leading.

MR. WICOFF: Also objected to as involving the memory of the deceased, disgracing the memory of the deceased.

20

THE SPECIAL MASTER: I can't rule on objections, Doctor. I am merely sitting here as Special Master to see that the testimony is properly taken.

WITNESS: May I ask that that question be read.

(Question read by stenographer) A. Well, I will answer that in this way; that Dr. Coleman denied to me that he ever had syphilis.

30 Q. My question applies from your personal examination? A. I would not feel at liberty to testify from my examination. I feel doubly sensitive in this matter, for the reason that Dr. Coleman was a physician, and you know that physicians have a kindly feeling toward one another, and then there is a relation which I can't overlook, and a certain responsibility which I can't put aside; those communications were privileged and he is not here at the present time to either support or refute any statement which
40 I make. Therefore, I feel it would be unfair

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for me to testify to matters which he communicated to me, or which I observed during my examination of him, which might in any way reflect upon him or his memory.

Q. What was Dr. Coleman suffering from in respect to mental diseases, at the time he was committed by you, or committed upon affidavits which were signed by you and Dr. Sherrill in Stamford, Connecticut? 10

MR. CARTON: The question is objected to for the reason, in the first instance it is leading, and, in the second instance, it calls for an opinion of—Doctor's opinion of matter which he states would involve the violation of a confidential communication, and the same question has been asked before and the Doctor answered it. 20

MR. ROGERS: If you will read the question, we will see Mr. Carton has misunderstood my question.

(Question read by stenographer) A. I think I must decline to answer that upon the grounds I have previously stated.

MR. ROGERS: I will reserve my right 30 to apply for a ruling from the courts of the State of New York as to the question in my further examination of this witness.

Q. (By Mr. Brown) Are you basing your objection or refusal to testify simply on the question of professional privilege, and not upon the fact that you have not been formally served with a subpoena? A. I am not refusing to testify; I am declining, on the ground that I feel if 40

I were to answer these questions the answers might in some way reflect upon Dr. Coleman's good name or reputation.

Q. (By Mr. Brown) And you waive the formal service of a subpoena upon you to bring you here? A. I don't know whether I should waive my rights. I am here as a voluntary witness, and I was willing to appear.

CROSS-EXAMINATION By Mr. Carton:

Q. Dr. Robertson, did you state at the outset of your examination that you were a regular physician practicing your profession in the State of New York? A. I have been duly licensed to practice medicine in the State of New York, and hold a license from the proper authority and am duly registered in the County of New York in the County Clerk's office as a practitioner, and have been such for more than twenty years. I am also licensed to practice medicine in the State of Connecticut and have been in the practice of medicine in the State of Connecticut for more than twenty years.

Q. And you were so engaged in practice at the time Dr. Coleman called upon you for treatment? A. I was.

Q. And your relation with Dr. Coleman was that of a regular physician and patient? A. It was.

Q. And that was true at the time you interviewed the Doctor or observed him or made an examination from which you have formed your conclusions? A. Well, I am not sure that I formed my conclusions the first time I saw him. In fact, I have a rather distinct impression that I did not form a definite conclusion in regard to his condition when I first saw him.

FRANK WADE ROBERTSON—Cross &
Re-Direct.

Q. But, later on, as you continued to treat him, and as the Doctor's disease progressed, you did form a conclusion? A. I did; yes, sir; after a time.

Q. Is it a fact, then, Doctor, that your refusal or your declining to answer these questions is because it is your idea that it would contravene the statute or your right as a physician, being a confidential communication, and as well it might tend to affect the Doctor's good name or disgrace the members of his family? A. It is. And in addition to that, I consulted with my attorney in reference to the matter, and it was his belief that I was correct in declining to answer such questions, as they were privileged communications under the code. 10

Q. You mean an attorney in New York? A. Yes, sir. 20

Q. And would it be possible for you to answer these questions which you have declined to answer without involving the confidential communication, and also without tending to disgrace the memory of the deceased? A. I feel that I could not answer these questions that have been propounded without so doing.

RE-DIRECT EXAMINATION By Mr. Rogers: 30

Q. At any time during the past several weeks have you been retained as a witness in this proceeding by any attorney?

MR. CARTON: I want to offer an objection to the question, it being immaterial whether he is or not.

Q. Let me put the question again. Have you received any compensation for services ren- 40

FRANK WADE ROBERTSON—Re-Direct.

dered or to be rendered for any person in any capacity with respect to this case?

10 MR. CARTON: I wish to renew my objection on the ground that it is entirely irrelevant and immaterial whether he did or not, and particularly to specify it makes no difference whether he has been retained or whether he has received compensation therefor. (Discussion between counsel.)

20 MR. CARTON: Counsel for proponents do not raise any objection to this question. In fact, we are free to say that Dr. Robertson was originally employed by Dr. Coleman, as he has stated, and was in the employ of Dr. Coleman and Dr. Coleman's friends for a great many months prior to his death, and after the contest came up in this case Dr. Coleman's beneficiaries under his will employed him, his services, for this very contest, if those services should be needed.

30 WITNESS: I will say this: that Mr. Carton's answer, or statement rather, is in substance my answer to that question. I am willing to do anything I can to assist the court in ascertaining the facts and to enable them to reach a conclusion as to the facts in this manner. At the same time, I confess I have a very strong feeling in regard to communications which come to me from my patients.

40 Q. It is not perfectly clear as to how far your declination to answer goes. Do you decline to

FRANK WADE ROBERTSON—Re-Direct.

answer questions relating to the examination made by you generally of Dr. Coleman.

MR. CARTON: I object to this question. In fact, it is not a proper question at all. It is simply asking the Doctor's personal views on what he understands his rights are and what his understanding is that the law is on those rights. If you have any question to ask, ask the questions and let them be handled by the Doctor as they proceed. 10

MR. ROGERS: The reason why I asked the last question was that the last question directly asked of the witness what what mental diseases Dr. Coleman was suffering from at the time he was committed to Dr. Givens' sanitarium. 20

MR. WICOFF: That was objected to if the answer would involve any privileged communication or tend to disgrace the memory of the deceased.

Q. I again ask the question of the witness if he will state what the mental diseases were that Dr. Coleman was suffering from at the time he was committed to Dr. Givens' sanitarium? 30

MR. WICOFF: That is objected to if the answer will involve any privileged communications or tend to disgrace the memory of the deceased.

A. Well, I have declined to answer that on the grounds that it would tend to disgrace the memory of the deceased. 40

FRANK WADE ROBERTSON—Re-Direct.

MR. ROGERS: Attorney for the cav-
eatix reserves the right to further inter-
rogate the witness upon application to
proper authority for a determination as
to whether or not the privilege claimed
by the witness does or does not excuse
him.

10

ADJOURNED sine die.

20

30

40

Exhibit P1

FREDERICK F. COLEMAN WILL, 1915

IN THE NAME OF GOD, AMEN.

I, FREDERICK F. COLEMAN, of the City of Asbury Park, in the County of Momouth and State of New Jersey, being of sound and disposing mind and memory, do make and publish this, my last will and testament, as follows:

First: I direct that all my just debts be paid as soon as possible after my decease. 10

Second: I give, bequeath and devise unto my executrices hereinafter named, the sum, of Two Hundred Dollars, in trust, nevertheless, to invest the same and to use the income therefrom for the upkeep and maintenance of my lot in West Long Branch Cemetery, and I express my desire to be buried in the plot in said cemetery between my deceased wives, Emma and Florence.

Third: I give unto my friend, David B. Reed, 20 the sum of One Hundred Dollars.

Fourth: I give unto my sister, Ella McGathery, the sum of One Hundred Dollars.

Fifth: I give unto my friend, Annie E. Wahl, the diamond ring which I now wear.

Sixth: I give, bequeath and devise all the rest and residue of my estate, both real and personal, and wheresoever situate, unto my sisters, Arietta Coleman and Rolinda Coleman, and unto my said friend, Annie E. Wahl, share and share alike, 30 and unto the survivor of them; provided however, that if the said Annie E. Wahl shall, at any time after my decease, marry, then I give, bequeath and devise the share hereby given to her unto my said sisters, Arietta Coleman and Rolinda Coleman, and unto the survivor of them.

Seventh: I hereby constitute and appoint my said sisters, Arietta Coleman and Rolinda Coleman, and my said friend Annie E. Wahl, Executrices of this my will. 40

FREDERICK F. COLEMAN WILL, 1915

I give to my said executrices, and to the survivor of them, full power and authority to grant, bargain, sell and convey any and all of my lands, if they or she shall deem it best.

Eighth: In case any person or persons, to whom any legacy or devise is by this my last will, bequeathed and devised, shall commence any suit
 10 in any court, in order to prevent the probating of this will, or to prevent any person herein named from receiving or enjoying the possession or use of what to him or her is by this will bequeathed and devised, then it is my will that all and every legacy, devise or bequest by this my will bequeathed or devised to such person or persons so commencing such suit or suits, shall thereupon cease and determine and be utterly void. In
 20 such case, I direct that all and every such legacy, devise or bequest which I have bequeathed and devised to such person or persons so commencing such suit or suits, shall be and remain a part of my residuary estate.

IN WITNESS WHEREOF, I have hereunto set my hand and seal, the sixteenth day of October, Nineteen hundred and fifteen.

F. F. COLEMAN (L. S.)

30 Signed, Sealed, Acknowledged, Published and Declared by the said Frederick F. Coleman, as and for his last will and testament, in the presence of us (both being present at the same time), who, at his request, in his presence, and in the presence of each other, have hereunto subscribed our names as witnesses.

J. O. RHOME,

40

VIOLA BILLS.

FREDERICK F. COLEMAN WILL, 1911.

IN THE NAME OF GOD, AMEN.

I, Frederick F. Coleman,
of Asbury Park, N. J.

Being of sound mind, memory and understanding,
do make and publish this my last Will and
Testament in manner following, that is to say:

First: I appoint Arietta Coleman and Rolinda 10
Coleman, Executors of this will, my last one.

First: I give, bequeath and devise the income
from my estate to my beloved sisters, Arietta
Coleman and Rolinda Coleman, to be paid to
them semi-annually by my said executors, and
I direct that said estate shall be invested in good
securities, real estate or otherwise for the pur-
pose of providing said income, and at the death
of either of my said sisters, Rolinda or Arietta—
then I direct that my said surviving sister either 20
Arietta or Rolinda shall inherit the entire income
from my said estate. To my sister Ella Mc-
Glathery I give the sum of one hundred dollars
and no more, she being able to take care of her-
self, having a husband and sons to look out for
her.

Second: I direct my executors to invest the
sum of two hundred and fifty dollars in good
substantial investment at not less than five per
cent., the income to be devoted to the care of my 30
cemetery plot in the West Long Branch Cemetery,
where I wish to be buried,—in the part between
my deceased wives Emma and Florence.

Third: I direct that my sisters or sister, Ro-
linda or Arietta, if found necessary for their
comfort and living in sickness or distress, may
upon application to the Court spend as much
of the principle as said court may deem neces-
sary to provide them with comfort and care.

Fourth: At the death of my said sisters, 40

FREDERICK F. COLEMAN WILL, 1911.

Arietta and Rolinda Coleman, I direct that five thousand dollars in cash shall be paid to my friend David Reynolds Reed, now of Newark, N. J., if he be alive at that time, if deceased, then it shall remain in my estate.

10 ~~*Fifth*, Twenty thousand dollars shall be paid to Lavina Evelyn Dodge or if she be deceased, then said twenty thousand dollars shall be equally divided between her children, if both she and the children are deceased, then said twenty thousand dollars shall remain in my estate.~~

stricken out
before execution
F. Coleman
F.

20 Sixth *Fifth*, The income from the balance of residue of my estate I leave to Annie E. Wahl, of Asbury Park, N. J. However, should the said Annie E. Wahl marry again, then she shall forfeit the income from my said estate and the balance or residue of my estate shall go to my sister, Ella Coleman MacGlathery, her heirs and assigns forever. The above part of Twenty-Thousand dollars bequeathed to Lavina Evelyn Dodge, her heirs and assigns forever, is hereby revoked and I want it expressly understood that none of my estate either real or personal, shall go to the said Lavina Evelyn Dodge or her heirs or assigns, My diamond ring with the three diamonds in, that I am accustomed to wear, I give to Annie Elizabeth Wahl (mentioned above) at my death. I also bequeath to the Asbury Park Lodge of Elks, No. 128, the sum of two hundred and fifty dollars, as a

30 Memorial Fund.

~~FREDERICK FRELINGHUYSEN COLEMAN~~

~~Witness~~

~~ANNIE ELIZABETH WAHL April 24th, 1911~~

In witness whereof, I have hereunto set my hand and seal this 12th day of October, A. D. 1911.

(Signed) FREDERICK F. COLEMAN (L. S.)

40 Signed, sealed, published and declared by the said testator as and for his last will and testament, in the presence of us, who at his request and in his presence, and in the presence of each other, have hereunto set our hands as witnesses.

(Signed) AARON E. JOHNSTON,

(Signed) JOS. S. CONOVER.

Echbit

269
CHECKS AND STUBS

No. 5718 Oct. 12th 1915.
L. M. Little Balance of bill as here presented.
Mr. Little owes \$22.45.

P9

10

No. 5719 Oct. 13th 1915.
United Ice Companies of Asbury Park, N. J.
in full of all demands to date 1915.

P9

No. 5727 Asbury Park, N. J. Oct. 27, 1915

Asbury Park and Ocean Grove Bank 20
of Asbury Park, New Jersey.

P4

Pay to the order of Thomsons Auto Garage
Thirty-four dollars and 82 cents.

For Acct. in full to date.

\$34.82. F. F. Coleman.

30

Asbury Park, N. J. Nov. 19, 1915. No. 692

Asbury Park Trust Company

Pay to the order of F. F. Coleman \$26.25

Twenty-six dollars and 25 cents

S. W. Calvert

P3

40

271
EXHIBIT P 5.

DEPOSIT SLIPS.

ON FORMS OF THE ASBURY PARK AND OCEAN GROVE
BANK, ASBURY PARK, N. J.

BY F. F. COLEMAN.

Sept. 1, 1915.

Large Notes,	\$45.00	10
Small Notes,	50.00	
Check D. R. Reed,	5.00	
	<hr/>	
	\$100.00	

Sept. 16th, 1915.

Large Notes,	\$50.00	
Small Notes,	50.00	
	<hr/>	
Store Dep.,	\$100.00	20

Sept. 18th, 1915.

Large Notes,	20.00	
Small Notes,	2.00	
Checks M. B. & I. C. Brown,	70.00	
.....	3.00	
Carton, Bell Co.,	5.00	
	<hr/>	
	\$100.00	30

Sept. 28th, 1915.

Store,	\$90.00	
Silver,	10.00	
	<hr/>	
	Store	\$100.00

272
DEPOSIT SLIPS.

	October 6th, 1915.	
	Large Notes,	\$30.00
	Small Notes,	16.00
	Silver,60
	Checks, Edward H. Wood, Jr.,	3.40
	H. C. Hurley,	50.00
01		\$100.00

	October 27th, 1915.	
	Cash,	\$35.00
	Checks	
	F. W. Fireo }	29.85
	Wm. O'Brien }	
	Lillian E. Lichtenwoalner,	1.30
20		\$66.15

	Nov. 8th, 1915.	
	Checks	
	Mrs. B. Duss,	\$6.00

	Nov. 20th, 1915.	
	Small Notes,	\$10.00
	Checks	
	S. H. Calvert,	26.25
30	E. E. Milleo,	17.75
		\$54.00

